

Office of the
City Clerk

**City of
Pensacola**



*America's First Settlement
Established 1559*

**NOTICE OF SPECIAL MEETING
CITY COUNCIL
OF THE
CITY OF PENSACOLA**

**THURSDAY, SEPTEMBER 22, 5:30 P.M.
COUNCIL CHAMBERS,
1ST FLOOR, CITY HALL**

AT THE REQUEST OF THE MAYOR, the City Council of the City of Pensacola, Florida will hold a **SPECIAL MEETING** on **THURSDAY, SEPTEMBER 22, 2016**, beginning at **5:30 P.M.**, Council Chambers, 1st Floor of City Hall, 222 West Main Street, Pensacola, Florida, for the following purpose:

ACTION ITEMS:

1. AIRPORT – VT MOBILE AEROSPACE ENGINEERING, INC. PROJECT AT PENSACOLA INTERNATIONAL AIRPORT – FINANCING - SERIES 2016 NOTE WITH BBVA/COMPASS BANK

Recommendation:

That City Council approve the attached resolution authorizing a financing with BBVA/Compass Bank not to exceed \$6,299,600 to finance a portion of the cost of the construction of a hanger and related facilities at the Pensacola International Airport. Further, provisions of the loan agreement and Series 2016 Note, each described in the resolution, will conform to the final terms negotiated with the lender, subject to the parameters provided in the resolution. Finally, that City Council authorize the Mayor to take all actions necessary to execute the transaction.

(AGENDA ITEMS CONTINUE ON THE NEXT PAGE)

Item 1 cont'd:

RESOLUTION NO. 42-16

A RESOLUTION AUTHORIZING THE ISSUANCE BY THE CITY OF PENSACOLA, FLORIDA OF A TAXABLE AIRPORT FACILITIES GRANT ANTICIPATION NOTE, SERIES 2016, IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$6,299,600 TO FINANCE A PORTION OF THE COST OF THE CONSTRUCTION OF A HANGAR AND RELATED FACILITIES AT THE PENSACOLA INTERNATIONAL AIRPORT IN ANTICIPATION OF THE RECEIPT OF PROCEEDS OF A GRANT FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION, ALL AS MORE FULLY DESCRIBED HEREIN; PLEDGING THE PLEDGED FUNDS FOR THE PAYMENT OF SAID SERIES 2016 NOTE; PROVIDING FOR THE PAYMENT OF THE SERIES 2016 NOTE; AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT; AUTHORIZING EXECUTION OF AN ISDA MASTER AGREEMENT AND A SCHEDULE AND CONFIRMATION RELATED THERETO WITH COMPASS BANK; AUTHORIZING THE EXECUTION OF OTHER RELATED FINANCING DOCUMENTS IN CONNECTION WITH THE SERIES 2016 NOTE; AUTHORIZING THE AWARD OF THE SALE OF THE SERIES 2016 NOTE TO COMPASS BANK ON A NEGOTIATED BASIS; AUTHORIZING FURTHER OFFICIAL ACTION IN CONNECTION WITH THE DELIVERY OF THE SERIES 2016 NOTE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

2. AIRPORT – VT MOBILE AEROSPACE ENGINEERING, INC. PROJECT AT PENSACOLA INTERNATIONAL AIRPORT – AMENDMENT NO. 1 TO THE REAL PROPERTY LEASE WITH VT MOBILE AEROSPACE ENGINEERING

Recommendation:

That City Council authorize the Mayor to execute Amendment No. 1 to the Lease with VT Mobile Aerospace Engineering to conform the agreement to the finalized project. Further, that City Council authorize the Mayor to take all actions necessary related to the execution of the amendment.

3. AIRPORT – VT MOBILE AEROSPACE ENGINEERING, INC. PROJECT AT PENSACOLA INTERNATIONAL AIRPORT – AMENDMENT NO. 1 TO ARCHITECTURAL AND ENGINEERING DESIGN SERVICES

Recommendation:

That City Council authorize the Mayor to execute Amendment No. 1 to the contract with Atkins North America in the amount of \$351,449 for additional architectural and engineering services for the VT Mobile Aerospace Engineering project at Pensacola International Airport. Further that City Council authorize Mayor to take all actions necessary related to the execution of the amendment.

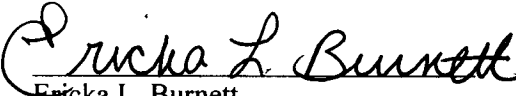
4. AIRPORT – VT MOBILE AEROSPACE ENGINEERING, INC. PROJECT AT PENSACOLA INTERNATIONAL AIRPORT – AMENDMENT NO. 1 TO THE CONSTRUCTION MANAGER AT RISK CONTRACT FOR CONSTRUCTION PHASE SERVICES

Recommendation:

That City Council authorize the Mayor to execute Amendment No. 1 to the contract with Greenhut Construction Company, Inc. to incorporate the costs for Construction Phase Services of the VT Mobile Aerospace Engineering project at Pensacola International Airport with a Guaranteed Maximum Price of \$37,576,696, plus a project contingency in the amount of \$1,864,452, for a total project cost of \$46,030,447, and providing procedures for owner-direct purchases of materials. Further that City Council authorize Mayor to take all actions necessary related to the execution of the amendment.

If any person decides to appeal any decision made with respect to any matter considered at such meeting, he will need a record of the proceedings, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The City of Pensacola adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to City services, programs and activities. Please call 435-1606 (TDD 435-1666) for further information. Request must be made at least 48 hours in advance of the event in order to allow the City time to provide the requested services.


Ericka L. Burnett
City Clerk



COUNCIL MEMORANDUM

Council Meeting Date: September 22, 2016

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor *AJH*

SUBJECT: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Financing - Series 2016 Note with BBVA/Compass Bank

RECOMMENDATION:

That City Council approve the attached resolution authorizing a financing with BBVA/Compass Bank not to exceed \$6,299,600 to finance a portion of the cost of the construction of a hanger and related facilities at the Pensacola International Airport. Further, provisions of the loan agreement and Series 2016 Note, each described in the resolution, will conform to the final terms negotiated with the lender, subject to the parameters provided in the resolution. Finally, that City Council authorize the Mayor to take all actions necessary to execute the transaction.

AGENDA: Regular Consent
Hearing Required: Public Quasi-Judicial No Hearing Required

SUMMARY:

On December 18, 2013, the Mayor informed City Council that the City had executed a nonbinding Memorandum of Understanding (MOU) with ST Aerospace of Mobile, Inc. ("ST Aerospace") which allowed the City to begin contract negotiations for the leasing of Airport property.

On February 13, 2014 a Discussion Item was presented to City Council concerning the funding of an economic development opportunity called Project Stallion at Pensacola International Airport ("Airport"). Project Stallion is a collaborative effort between the Mayor, City Council, the Escambia County Board of County Commissioners ("County Commissioners") and the Greater Pensacola Chamber to attract ST Aerospace to the Airport. ST Aerospace is proposing to expand their current aircraft maintenance, repair and overhaul ("Aircraft MRO") business operations to the Airport.

On February 27, 2014 City Council approved the Interlocal Agreement with Escambia County and the City of Pensacola for Funding of Economic Development Project – ST Aerospace. The total estimated Project Cost of the facilities for ST Aerospace's Aircraft MRO business operations was \$37,344,300 with ST Aerospace agreeing to fund \$7,244,300 of the project cost. The \$30,100,000 balance of the project cost will be funded from the following sources:

- a) \$11,600,000 grant from the Florida Department of Transportation;
- b) Up to \$7,000,000 grant from the Industry Recruitment, Retention, and Expansion Fund (IRREF) obtained by ST Aerospace;
- c) \$3,500,000 grant from the Airport's FY 2014 Federal Airport Improvement Program entitlement funds;
- d) \$8,000,000 of Local Funds from the County of which the City will repay \$3.2 million of the Local Funds provided by the County no later than December 31, 2019.

Council Memorandum

Subject: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Financing - Series 2016 Note with BBVA/Compass Bank

Council Meeting Date: September 22, 2016

Page 2

Since the February 27, 2014 meeting, ST Aerospace has redesigned the initial plans to increase the facility from 160,000 square feet to 173,000 square feet in order to accommodate 757 aircrafts which are typically found in many of the aircraft maintenance, repair and overhaul jobs they perform now. In addition to the increase in the facility size, ST Aerospace has requested additional internal design elements in order to make the facility more operationally efficient.

The change in project design has increased the total project cost from \$37,344,300 to an estimated \$46,030,447. The \$8,686,147 in increased cost will be covered by additional Florida Department of Transportation grants. ST Aerospace's contribution will remain at the \$7,244,300 of the project cost. The \$38,786,147 balance of the project cost will be funded from the following sources:

- a) \$23,786,147 grant from the Florida Department of Transportation;
- b) Up to \$7,000,000 grant from the Industry Recruitment, Retention, and Expansion Fund (IRREF) obtained by ST Aerospace;
- c) \$8,000,000 of Local Funds from the County of which the City will repay \$3.2 million of the Local Funds provided by the County no later than December 31, 2019.

On April 14, 2016, City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation ("FDOT") Joint Participation Agreement # 43571769401 in the amount of \$8,599,600 for construction of a hangar at the Airport which will be required to accommodate ST Aerospace. Funds will not be available for drawdown from FDOT until the State's 2018 and 2019 budget year. In order to start project construction, a bridge loan was needed to cover the funding gap until grant funds would be available for drawdown.

City Staff, upon consultation with the City's Financial Advisor and Bond Counsel, explored financing options which would allow the City to pledge the grant proceeds as the sole source of repayment for a financing in an amount not to exceed \$6,299,600. A Request for Proposal for a Bank Loan was issued. The structure requested was to provide a taxable not to exceed \$6,299,600 draw-down bank loan with repayments on October 1, 2018 and October 1, 2019 secured solely by grant # 43571769401 proceeds. BBVA/Compass Bank had the structure that best matches the needs of the Airport.

The financing team consists of Mitch Owens, the City's Financial Advisor with RBC Capital Markets, LLC and Duane Draper, Esq., and Randy Clement, Esq., each with Bryant Miller Olive, the City's Bond Counsel.

PRIOR ACTION:

December 18, 2013 - Mayor Ashton Hayward informed City Council of an executed a nonbinding Memorandum of Understanding with ST Aerospace which allowed the City to begin contract negotiations.

June 13, 2013: City Council adopted a resolution to support the acceptance of a grant offered by the Florida Department of Transportation as a Joint Participation Agreement # 43360229401 in the amount of \$11,090,000 for air commerce park phases I and IA – Infrastructure Development.

Council Memorandum

Subject: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Financing - Series 2016 Note with BBVA/Compass Bank

Council Meeting Date: September 22, 2016

Page 3

February 13, 2014 - City Council Discussion Item and Presentation on the ST Aerospace Economic Development Project at the Pensacola International Airport.

February 27, 2014 - City Council approved the Interlocal Agreement with Escambia County and the City of Pensacola for Funding of Economic Development Project – ST Aerospace of Mobile, Inc.

September 9, 2014 - City Council approved the lease with VT Mobile Aerospace Engineering.

September 17, 2015: City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571729401 in the amount of \$1,531,546 for construction funding to expand the cargo apron and construct a taxiway connector at the Pensacola International Airport of which \$1,121,242 will be used towards taxiway connecting future VT MAE facility to runway 17-35.

March 17, 2016: City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreements # 42030029401, # 42960929401, and # 42960939401 in the amount of \$2,975,305 for construction of a taxiway connector at the Pensacola International Airport.

April 14, 2016: City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571769401 in the amount of \$8,599,600 for construction of a hangar at the Pensacola International Airport.

FUNDING:

Budget:	\$ 15,186,547	FDOT Grant Entitlements
	7,000,000	Industry Recruitment, Retention, and Expansion Funds (IRREF)
	8,000,000	Interlocal Agreement between City and Escambia County
	<u>7,244,300</u>	VT Mobile Aerospace Engineering, Inc.
	<u>37,430,847</u>	Sub-total
	<u>8,599,600</u>	FDOT Grant Entitlements (Available 7/1/18)
	<u>\$ 46,030,447</u>	

Actual:	\$ 2,690,189	Architectural/Engineering Fees – Design and Construction
	1,279,298	Program Management Fees – Design and Construction
	219,707	Environmental Assessment
	581,002	Federal Aviation Administration Equipment Modification
	461,513	Professional Services
	152,901	Geotech/Survey/Airport Layout Plan
	150,000	Construction Manager at Risk Fees – Design
	304,689	Miscellaneous
	750,000	Bridge Financing
	37,576,696	Construction Manager at Risk – GMP
	<u>1,864,452</u>	Project Contingency
	<u>\$ 46,030,447</u>	

Council Memorandum

Subject: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Financing - Series 2016 Note with BBVA/Compass Bank

Council Meeting Date: September 22, 2016

Page 4

FINANCIAL IMPACT:

The Airport is responsible for all closing cost incurred to issue the loan, estimated to be \$50,000 as well as interest expense (Bridge Financing) over the life of the loan estimated at \$750,000. Debt service payments would occur on October 1, 2018 and October 1, 2019. Principal payments would be paid solely from grant # 43571769401 proceeds while interest payments would be paid from other project fund sources.

CITY ATTORNEY REVIEW:

Yes - Date of Review
9/16/2016

No - N/A

STAFF CONTACT:

Eric W. Olson, City Administrator
Richard Barker, Jr., Chief Financial Officer
Daniel E. Flynn, Airport Director

ATTACHMENTS:

1) Resolution authorizing \$6,299,600 financing. (Exhibit E to be distributed)

PRESENTATION: Yes No

RESOLUTION NO. 42-16

OF THE

CITY OF PENSACOLA, FLORIDA

ADOPTED SEPTEMBER 22, 2016

RELATING TO:

NOT EXCEEDING

\$6,299,600

CITY OF PENSACOLA, FLORIDA

TAXABLE AIRPORT FACILITIES GRANT ANTICIPATION NOTE, SERIES 2016

TABLE OF CONTENTS

	Page
Section 1. Authority for this Resolution.....	1
Section 2. Definitions.....	1
Section 3. Findings.....	3
Section 4. Authorization of Series 2016 Note and Project.....	5
Section 5. Approval of Form of Loan Agreement and Series 2016 Note.....	5
Section 6. Authorization of Swap Transaction and Approval of Swap Agreement.....	6
Section 7. Authorization of Other Action.....	6
Section 8. Application of Proceeds of Loan.....	7
Section 9. Repeal of Inconsistent Provisions.....	7
Section 10. Severability.....	7
Section 11. Amendment.....	7
Section 12. Effective Date.....	8

EXHIBIT A – FORM OF LOAN AGREEMENT

EXHIBIT B – FORM OF LENDER’S CERTIFICATE

EXHIBIT C – FORM OF DISCLOSURE LETTER

EXHIBIT D – COMMITMENT

EXHIBIT E – SWAP AGREEMENT

RESOLUTION NO. 42-16

A RESOLUTION AUTHORIZING THE ISSUANCE BY THE CITY OF PENSACOLA, FLORIDA OF A TAXABLE AIRPORT FACILITIES GRANT ANTICIPATION NOTE, SERIES 2016, IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$6,299,600 TO FINANCE A PORTION OF THE COST OF THE CONSTRUCTION OF A HANGAR AND RELATED FACILITIES AT THE PENSACOLA INTERNATIONAL AIRPORT IN ANTICIPATION OF THE RECEIPT OF PROCEEDS OF A GRANT FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION, ALL AS MORE FULLY DESCRIBED HEREIN; PLEDGING THE PLEDGED FUNDS FOR THE PAYMENT OF SAID SERIES 2016 NOTE; PROVIDING FOR THE PAYMENT OF THE SERIES 2016 NOTE; AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT; AUTHORIZING EXECUTION OF AN ISDA MASTER AGREEMENT AND A SCHEDULE AND CONFIRMATION RELATED THERETO WITH COMPASS BANK; AUTHORIZING THE EXECUTION OF OTHER RELATED FINANCING DOCUMENTS IN CONNECTION WITH THE SERIES 2016 NOTE; AUTHORIZING THE AWARD OF THE SALE OF THE SERIES 2016 NOTE TO COMPASS BANK ON A NEGOTIATED BASIS; AUTHORIZING FURTHER OFFICIAL ACTION IN CONNECTION WITH THE DELIVERY OF THE SERIES 2016 NOTE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, that:

Section 1. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of Chapter 166, Part II, Florida Statutes, as amended, the municipal charter of the City of Pensacola, Florida (the "Issuer"), and other applicable provisions of law (collectively, the "Act").

Section 2. Definitions. The following terms shall have the following meanings when used in this resolution unless the context clearly requires otherwise. Words importing singular numbers shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Loan Agreement (herein defined).

"Bond Counsel" means Bryant Miller Olive P.A. or any subsequent nationally recognized bond counsel acceptable to the Issuer.

"Charter" means the municipal charter of the Issuer.

“Chief Financial Officer” means the Chief Financial Officer of the Issuer, or his or her designee.

“City” means the City of Pensacola, Florida, a municipal corporation of the State.

“City Administrator” means the City Administrator of the Issuer, or any acting or interim City Administrator, or his or her designee.

“City Attorney” means the City Attorney of the Issuer, or his or her designee.

“City Council” means the City Council of the Issuer, as the governing body of the Issuer.

“Clerk” means the Clerk of the Issuer, any acting, deputy, or assistant Clerk, or his or her designee.

“Commitment” means the Commitment for purchase of the Series 2016 Note and the provision of the Loan, submitted to the Issuer by the Lender and accepted by the Issuer with such changes as agreed to by the City and the Lender.

“FDOT Grant” means the grant received by the Issuer pursuant to the FDOT Grant Agreement.

“FDOT Grant Agreement” means the Public Transportation Joint Participation Agreement between the Issuer and the State of Florida Department of Transportation dated September 9, 2016, Financial Project Number 43571769401.

“Fixed Swap Payment” shall mean the regularly scheduled periodic amount which the Issuer is obligated to pay to the Lender pursuant to the Swap Agreement as a fixed rate of interest on the notional amount of the Swap Agreement. The Fixed Swap Payment shall not include any Termination Payment.

“Fixed Swap Rate” shall mean the fixed rate of interest required to be paid by the Issuer on the notional amount of the Swap Agreement, which rate shall not exceed the fixed rate set forth in Section 6 hereof.

“Financial Advisor” means RBC Capital Markets, LLC.

“Grant Proceeds” means the proceeds received by the Issuer from the FDOT Grant.

“Lender” means Compass Bank, an Alabama banking corporation, and its successors and assigns.

“Loan” means the advance of moneys from the Lender to the Issuer pursuant to the Loan Agreement.

“Loan Agreement” means the agreement between the Lender and the Issuer setting forth the terms and details of the Loan, in substantially the form attached hereto as Exhibit A with such changes, modifications, insertions or deletions as are authorized herein.

“Mayor” means the Mayor of the Issuer or the City Administrator on behalf of the Mayor or the Chief Financial Officer on behalf of the Mayor.

“Pledged Funds” means (i) the Grant Proceeds, (ii) moneys on deposit in the funds and accounts created under the Loan Agreement, and (iii) certain investment earnings. Pledged Funds shall include any net receipts from periodic payments received by the Issuer under the Swap Agreement.

“Project” means the construction of a hangar and related facilities more fully described in the FDOT Grant and located at the Pensacola International Airport.

“Resolution” means, collectively, this resolution and all resolutions amendatory hereof and supplemental hereto.

“Series 2016 Note” means the City of Pensacola, Florida, Taxable Airport Facilities Grant Anticipation Note, Series 2016, authorized herein, in substantially the form attached to the Loan Agreement as Exhibit A, with such changes, modifications, insertions or deletions as are authorized herein.

“State” means the State of Florida.

“Swap Agreement” shall mean collectively, (i) the International Swaps and Derivatives Association (ISDA) Master Agreement between the Issuer and the Lender, (ii) a Schedule to the ISDA Master Agreement between the Issuer and the Lender, (iii) a Confirmation between the Issuer and the Lender, whereby the Issuer is entitled to receive a variable rate of interest on a notional amount equal to the outstanding principal amount of the Series 2016 Note and is obligated to pay to the Lender the Fixed Swap Rate and (iv) the Terms of Business Agreement for Swap Transactions.

“Termination Payment” shall mean an amount payable by the Issuer or the Lender upon early termination of the Swap Agreement.

Section 3. Findings. It is hereby found, declared, and determined by the City Council:

(A) The Issuer owns and operates as an enterprise fund the Pensacola International Airport (the “Airport”).

(B) The undertaking of the Project, as defined herein, will promote the economic development of the Airport and the Issuer and the improvement of the health, safety and welfare of the inhabitants of the Issuer, is in the best interests of the Issuer and the inhabitants thereof and serves a paramount public purpose of the Issuer.

(C) The State of Florida Department of Transportation ("FDOT") has committed to provide grant funding in an amount up to \$8,599,600.00 pursuant to the FDOT Grant Agreement, as defined herein, to reimburse costs of the Project.

(D) It is in the best interests of the Issuer to obtain the Loan (as defined herein) to finance costs of the Project in anticipation of receipt of proceeds of the FDOT Grant.

(E) The Series 2016 Note will be payable from the Pledged Funds and as may be further described in the Loan Agreement. The Pledged Funds are anticipated to be sufficient to pay the principal of and accrued interest on the Series 2016 Note as the same becomes due.

(F) The Financial Advisor has solicited proposals for the purchase of the Series 2016 Note pursuant to a negotiated private placement and is recommending the Issuer award the Series 2016 Note to the Lender pursuant to the terms in the Commitment. The City Council has determined that the Lender's Commitment contains terms favorable to the Issuer.

(G) The Financial Advisor is recommending the Issuer enter into the Swap Agreement with the Lender, based on the terms offered by the Lender, the Lender has agreed to enter into the Swap Agreement with the Issuer, and the Issuer has determined that entering into a variable to fixed rate interest rate swap transaction is in the best financial interests of the Issuer.

(H) Because of the characteristics of the Series 2016 Note, prevailing market conditions, and additional savings to be realized from an expeditious sale of the Series 2016 Note, it is in the best interest of the Issuer to sell the Series 2016 Note at a private negotiated sale to the Lender. The Issuer has received the Commitment from the Lender for the Loan, and, based upon the advice of the Financial Advisor, it is in the best interests of the Issuer that the Commitment be accepted. Prior to the issuance of the Series 2016 Note, the Issuer shall receive from the Lender, a Lender's Certificate, the form of which is attached hereto as Exhibit B and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, a form of which is attached hereto as Exhibit C.

(I) The obligation of the Issuer to repay the Series 2016 Note in accordance with its terms and to make the payments required under the Loan Agreement and the Swap Agreement is hereby declared to be and shall be parity special, limited obligations of the Issuer, secured solely by the Pledged Funds and as may be further described in the Loan Agreement. The obligation of the Issuer to repay the Series 2016 Note in accordance with its terms and to make any other payments, if any, required under the Series 2016 Note, the Loan Agreement or the

Swap Agreement shall not be or constitute a general obligation or indebtedness of the Issuer and neither the Series 2016 Note, the Loan Agreement nor the Swap Agreement shall be or constitute a general obligation or indebtedness of the Issuer. Neither the Lender nor any successor owner of the Series 2016 Note shall be entitled to compel the exercise of the ad valorem taxing power of the Issuer or the payment of the principal of or interest on the Series 2016 Note or the making of any payments required under the Series 2016 Note, the Loan Agreement or the Swap Agreement from any moneys of the Issuer other than the Pledged Funds and any other moneys of the Issuer as may be more fully described in the Loan Agreement and the Swap Agreement.

(J) It is necessary and desirable to provide for the securing of the Loan and for the execution and delivery of the Loan Agreement, the execution and delivery of the Swap Agreement, the issuance of the Series 2016 Note and the taking of all other action in connection with the consummation of the Loan.

(K) It is necessary and desirable to approve the estimated costs of issuance to be paid by the Issuer in connection with the delivery of the Series 2016 Note, the Loan Agreement and the Swap Agreement.

Section 4. Authorization of Series 2016 Note and Project.

(A) Subject and pursuant to the provisions hereof, the issuance by the Issuer of its Series 2016 Note, in an aggregate principal amount of not to exceed Six Million Two Hundred Ninety-Nine Thousand Six Hundred Dollars (\$6,299,600), to be dated, to bear interest, to be payable, to mature, to be subject to prepayment, to have such other characteristics as provided herein and in the Series 2016 Note, the Loan Agreement and the Commitment, and to be secured as provided in the Loan Agreement is hereby authorized.

(B) The financing of the Project is hereby authorized. The City Council and the proper officers of the Issuer are hereby directed to take all action and steps deemed necessary to construct the Project, which are not inconsistent with the terms and provisions of this Resolution, the FDOT Grant Agreement, the Swap Agreement or the Loan Agreement.

(C) The Chief Financial Officer is authorized to execute and deliver the Commitment attached hereto as Exhibit D; provided, however, in the event of any inconsistencies as between such Commitment and the Series 2016 Note, the Loan Agreement or this Resolution, the Series 2016 Note, Loan Agreement and this Resolution shall control.

Section 5. Approval of Form of Loan Agreement and Series 2016 Note. The Loan Agreement, in substantially the form attached hereto as Exhibit A, and the Series 2016 Note, in substantially the form attached to the Loan Agreement as Exhibit A, are hereby approved, subject to such changes, amendments, modifications, omissions and additions as shall be consistent with the terms of this Resolution and approved by the Mayor upon the advice of the

City Attorney, Chief Financial Officer, Bond Counsel and/or Financial Advisor, execution of the Loan Agreement and the Series 2016 Note by the Mayor to be conclusive evidence of such approval. Pursuant to Section 4.01(1) of its Charter, the Issuer hereby authorizes and directs the Mayor to execute the Loan Agreement and Series 2016 Note, such execution to be attested under seal by the City Clerk, approved as to substance by the Chief Financial Officer and designated as legal in form and valid as drawn by the City Attorney and further authorizes and directs the Mayor to deliver the Loan Agreement and the Series 2016 Note to the Lender, and to take such other actions as shall be necessary to consummate the Loan. The Chief Financial Officer is hereby authorized to submit requests for Advances on behalf of the Issuer in accordance with and for the purposes provided in the Loan Agreement.

Section 6. Authorization of Swap Transaction and Approval of Swap Agreement.

The Issuer hereby authorizes an interest rate swap transaction (the “Swap Transaction”) with the Lender in which the Issuer will be the fixed rate payer provided that (a) the notional amount and amortization thereof shall match the anticipated draw-down of the principal amount and amortization of the Series 2016 Note, (b) the Issuer shall receive a floating rate equal to LIBOR, as defined in the Loan Agreement, adjusted monthly, plus 178 basis points, and (c) the Issuer shall pay a fixed rate not to exceed 4.00%.

The Swap Agreement, in substantially the form attached hereto as Exhibit E, is hereby approved, subject to such changes, amendments, modifications, omissions and additions as shall be consistent with the terms of this Resolution and the Loan Agreement and approved by the Mayor upon the advice of the City Attorney, Chief Financial Officer, Bond Counsel and/or Financial Advisor, execution of the Swap Agreement by the Mayor to be conclusive evidence of such approval. Subject to the issuance of the Series 2016 Note and satisfaction of the criteria provided herein, the Issuer hereby authorizes the Mayor to execute the Swap Agreement, such execution to be attested under seal by the City Clerk, approved as to substance by the Chief Financial Officer and designated as legal in form and valid as drawn by the City Attorney and further authorizes the Mayor to deliver the Swap Agreement to the Lender, and to take such other actions as shall be necessary to consummate the Swap Transaction.

Section 7. Authorization of Other Action. The Mayor, City Administrator, City Attorney, the Clerk, the Chief Financial Officer and such other authorized officers, employees and agents of the Issuer are each designated agents of the Issuer in connection with the execution and delivery of the Loan Agreement and the Series 2016 Note and are authorized and empowered, collectively or individually, to take all action and steps to execute and deliver any and all instruments, documents or contracts on behalf of the Issuer which are necessary or desirable in connection with the execution and delivery of the Loan Agreement and the Series 2016 Note to the Lender, including, but not limited to, the making of modifications to the Loan Agreement and the Series 2016 Note to conform the provisions thereof to the provisions of the Commitment.

Section 8. Application of Proceeds of Loan. The proceeds of the Loan shall be used as more fully described in the Loan Agreement and includes the payment of related associated costs of issuance (including but not limited to legal and financial advisory fees and expenses).

Section 9. Repeal of Inconsistent Provisions. All resolutions or parts thereof in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 10. Severability. If any one or more of the covenants, agreements, or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions, and in no way affect the validity of all other provisions of the Resolution or of the Series 2016 Note or Loan Agreement delivered hereunder.

Section 11. Amendment. This Resolution may not be amended or repealed following the issuance of the Series 2016 Note except with the prior written consent of the Lender.

[The remainder of this page intentionally left blank]

Section 12. Effective Date. This Resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the Charter of the Issuer.

Adopted: September 22, 2016

[SEAL]

Approved: _____
Council President

ATTEST:

City Clerk

EXHIBIT A

FORM OF LOAN AGREEMENT

[Follows]

LOAN AGREEMENT

by and between

CITY OF PENSACOLA, FLORIDA

and

COMPASS BANK

Dated September 23, 2016

relating to

NOT EXCEEDING

\$6,299,600

CITY OF PENSACOLA, FLORIDA

TAXABLE AIRPORT FACILITIES GRANT ANTICIPATION NOTE, SERIES 2016

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1. DEFINITIONS.....	5
SECTION 2. INTERPRETATION.	8
SECTION 3. DESCRIPTION OF SERIES 2016 NOTE.	8
SECTION 4. EXECUTION OF SERIES 2016 NOTE.....	9
SECTION 5. REGISTRATION AND TRANSFER OF SERIES 2016 NOTE.....	9
SECTION 6. SERIES 2016 NOTE MUTILATED, DESTROYED, STOLEN OR LOST.....	10
SECTION 7. LOAN AND LOAN LIMIT.	10
SECTION 8. PROJECT FUND.....	11
SECTION 9. FORM OF SERIES 2016 NOTE.....	12
SECTION 10. SECURITY FOR SERIES 2016 NOTE; SERIES 2016 NOTE NOT DEBT OF THE ISSUER	12
SECTION 11. COVENANTS OF THE ISSUER.	12
SECTION 12. REPRESENTATIONS AND WARRANTIES.....	14
SECTION 13. CONDITIONS PRECEDENT.....	14
SECTION 14. NOTICES.	16
SECTION 15. EVENTS OF DEFAULT DEFINED.	16
SECTION 16. NOTICE OF DEFAULTS AND MATERIAL LITIGATION.	17
SECTION 17. REMEDIES.....	17
SECTION 18. NO PERSONAL LIABILITY.	17
SECTION 19. PAYMENTS DUE ON SATURDAYS, SUNDAYS AND HOLIDAYS.	18
SECTION 20. AMENDMENTS, CHANGES AND MODIFICATIONS.	18
SECTION 21. BINDING EFFECT.....	18
SECTION 22. SEVERABILITY.....	18
SECTION 23. EXECUTION IN COUNTERPARTS.....	18
SECTION 24. APPLICABLE LAW.....	18
SECTION 25. VENUE; ATTORNEY'S FEES.	18

SECTION 26. ASSIGNMENT.....18

EXHIBIT A - FORM OF SERIES 2016 NOTE

EXHIBIT B – FORM OF ADVANCE REQUEST

LOAN AGREEMENT

This **LOAN AGREEMENT** is made and entered into as of September 23, 2016 by and between **CITY OF PENSACOLA, FLORIDA**, a municipal corporation of the State of Florida (the "Issuer"), and **COMPASS BANK**, an Alabama banking corporation (together with its successors and/or assigns, the "Lender").

WITNESSETH:

WHEREAS, the Issuer owns and operates as an enterprise fund the Pensacola International Airport (the "Airport");

WHEREAS, the Issuer has determined that the undertaking of the Project hereinafter described will promote the economic development of the Airport and the health, safety and welfare of the Issuer and its inhabitants, is in the best interest of the Issuer its inhabitants, and that the Project serves a paramount public purpose of the Issuer; and

WHEREAS, the State of Florida Department of Transportation ("FDOT") has committed to provide grant funding in an amount up to \$8,599,600.00 pursuant to the FDOT Grant Agreement, as hereinafter defined, to reimburse costs of the Project; and

WHEREAS, the Lender has agreed to lend the Issuer an aggregate principal amount of not exceeding \$6,299,600 to be used to pay a portion of the costs of the Project upon the terms and conditions provided herein in anticipation of receipt of proceeds of the FDOT Grant, as hereinafter defined; and

WHEREAS, the Issuer has determined it is in the best interests of the Issuer to obtain the Loan as provided herein to finance costs of the Project in anticipation of receipt of proceeds of the FDOT Grant; and

WHEREAS, the Issuer has determined that the receipt of Pledged Funds (as herein defined) are anticipated to be sufficient in to repay the debt service coming due on the Series 2016 Note; and

WHEREAS, pursuant to the Resolution (as herein defined), the Issuer has determined that it is in the best interests of the Issuer and the inhabitants thereof that the Issuer pledge the Pledged Funds to secure the obligations of the Issuer to repay the principal of and interest on the Issuer's Grant Taxable Airport Facilities Anticipation Note, Series 2016 (the "Series 2016 Note") when due on a parity with certain payments due under the Swap Agreement (as hereinafter defined) entered into with respect to the Series 2016 Note; and

WHEREAS, the obligation of the Issuer to repay principal of and interest on the Series 2016 Note will not constitute a general obligation or indebtedness of the Issuer as a "bond" within the meaning of any provision of the Constitution or laws of the State of Florida, but shall be and is hereby declared to be a special, limited obligation of the Issuer, payable solely from

and secured solely by the Pledged Funds on a parity with the payment obligations of the Issuer under the Swap Agreement, all as more fully described herein and in the Resolution; and

WHEREAS, the Issuer is not obligated or authorized to levy taxes on any property of or in the Issuer to pay the principal of or interest on the Series 2016 Note or to make any other payments provided for herein; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS. Capitalized terms used in this Loan Agreement and not defined in this Section 1 shall have the meanings assigned in the Resolution. The following terms shall have the following meanings herein, unless the text otherwise expressly requires:

“Authorized Investments” means any investment, obligation, agreement or other financial instrument to the extent not inconsistent with the terms of the investment policy of the Issuer and applicable law.

“Bond Counsel” means Bryant Miller Olive P.A. or any other nationally recognized bond counsel subsequently appointed by the Issuer.

“Business Day” means any day of the year other than a day on which the Lender or the Issuer are lawfully closed for business.

“Chief Financial Officer” means the Chief Financial Officer of the Issuer, or his or her designee.

“City Administrator” means the City Administrator of the Issuer, or any acting or interim City Administrator, or his or her designee.

“City Attorney” means the City Attorney of the Issuer, or his or her designee.

“City Council” means the City Council of the Issuer, as the governing body of the Issuer.

“Clerk” means the Clerk of the Issuer, any acting, deputy, or assistant Clerk, or his or her designee.

“Confirmation” means the Confirmation between the Issuer and the Lender, whereby the Issuer is entitled to receive a variable rate of interest on a notional amount equal to the outstanding principal amount of the Series 2016 Note and is obligated to pay to the Lender the Fixed Swap Rate. Representations and opinions with respect to the Swap Agreement herein described shall be subject to the execution and delivery of the Confirmation by the Issuer and the Lender.

“Date of Delivery” means September 23, 2016.

“Default” means an Event of Default as defined and described in Section 15 hereof.

“Draw-Down Period” shall mean the period commencing on October 1, 2017 and ending on January 1, 2018.

“FDOT Grant” means the grant received by the Issuer pursuant to the FDOT Grant Agreement.

“FDOT Grant Agreement” means the Public Transportation Agreement between the Issuer and the State of Florida Department of Transportation dated September 9, 2016, Financial Project Number 43571769401.

“Fiscal Year” means the period from each October 1 to the succeeding September 30.

“Fixed Swap Payment” shall mean the regularly scheduled periodic amount which the Issuer is obligated to pay to the Lender pursuant to the Swap Agreement as a fixed rate of interest on the notional amount of the Swap Agreement. The Fixed Swap Payment shall not include any Termination Payment.

“Fixed Swap Rate” shall mean the fixed rate of interest required to be paid by the Issuer on the notional amount of the Swap Agreement.

“Grant Proceeds” means the proceeds received by the Issuer from the FDOT Grant.

“Interest Payment Date” means each October 1 of each year commencing October 1, 2018, and continuing through the Maturity Date.

“Lender” or “Purchaser” means Compass Bank, an Alabama banking corporation, and its successors and/or assigns.

“LIBOR” shall have the meaning ascribed to such term in the Series 2016 Note.

“Loan” shall have the meaning ascribed thereto in Section 7 hereof.

“Loan Agreement” means this agreement between the Lender and the Issuer setting forth the terms and details of the Loan.

“Maturity Date” means October 1, 2019.

“Mayor” means the Mayor of the Issuer or the City Administrator on behalf of the Mayor or the Chief Financial Officer on behalf of the Mayor.

“Paying Agent” means an officer of the Issuer or the bank or trust company which the Issuer may from time to time designate to serve as paying agent for the Series 2016 Note.

“Payment Date” means any Interest Payment Date or Principal Payment Date.

“Person” or words importing persons, means firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities, and natural persons.

“Pledged Funds” means (i) the Grant Proceeds, (ii) moneys on deposit in the funds and accounts created hereunder, and (iii) investment earnings on amounts held in the funds and accounts created hereunder. Pledged Funds shall include any net receipts from periodic payments received by the Issuer under the Swap Agreement.

“Principal Amount” means the aggregate principal amount advanced under the Series 2016 Note not to exceed Six Million Two Hundred Ninety-Nine Thousand Six Hundred Dollars (\$6,299,600).

“Principal Payment Date” means October 1, 2018 and October 1, 2019.

“Project” means the construction of a hangar and related facilities more fully described in the FDOT Grant Agreement and located at the Airport.

“Register” means the books maintained by the Registrar in which are recorded the name and address of the Registered Owner of the Series 2016 Note.

“Registered Owner” means the person in whose name the ownership of the Series 2016 Note is registered on the books maintained by the Registrar. The initial Registered Owner shall be the Lender.

“Registrar” means the Person maintaining the Register. The Registrar shall initially be the Clerk.

“Resolution” means Resolution No. __-16 adopted by the Issuer on September 22, 2016, as may be amended and supplemented from time to time.

“Series 2016 Note” means the Taxable Airport Facilities Grant Anticipation Note, Series 2016, of the Issuer, substantially in the form attached hereto as Exhibit A.

“State” means the State of Florida.

“Swap Agreement” shall mean collectively, (i) the International Swaps and Derivatives Association (ISDA) Master Agreement between the Issuer and the Lender, (ii) a Schedule to the ISDA Master Agreement between the Issuer and the Lender, and (iii) the Confirmation and (iv) the Terms of Business Agreement for Swap Transactions.

“Termination Payment” shall mean an amount payable by the Issuer or the Lender upon termination of the Swap Agreement.

SECTION 2. INTERPRETATION. Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Loan Agreement and all the terms and provisions hereof (a) have been negotiated between the Issuer and the Lender; (b) shall not be construed strictly in favor of or against either party hereto; and (c) shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

The titles and headings of the Sections and subsections of this Agreement, which have been inserted for convenience of reference only and are not to be considered part hereof, shall not in any way modify or restrict any of the terms and provisions hereof, and shall not be considered or given any effect in construing this Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

SECTION 3. DESCRIPTION OF SERIES 2016 NOTE. The obligation of the Issuer to repay the Loan shall be evidenced by the Series 2016 Note. The Series 2016 Note shall be dated as of the Date of Delivery; shall mature on the Maturity Date; and shall be in registered form.

Interest shall accrue from the date of the initial Advance under the Series 2016 Note on the outstanding principal balance thereof and shall be payable on each Interest Payment Date at a variable rate per annum equal to LIBOR, adjusted monthly to reflect any change in LIBOR, plus 178 basis points; provided, however, that the interest rate on the Series 2016 Note shall never exceed the Maximum Lawful Rate (as defined below). Interest on the Series 2016 Note shall be calculated on the basis of a 360-day year and the actual number of days elapsed.

Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any amounts payable under the Series 2016 Note, together with all fees, charges and other amounts which may be treated as interest with respect thereto under applicable law (collectively, the “Charges”), shall exceed the maximum lawful rate of interest (the “Maximum Lawful Rate”) which may be contracted for, charged, taken, received or reserved in accordance with applicable law, the rate of interest payable in respect of such amounts payable under the Series 2016 Note, together with all Charges payable in respect thereof, shall be limited to the Maximum Lawful Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such payment obligations but were not payable as a result of the operation of this paragraph shall be cumulated and the interest and Charges payable in respect of amounts payable under the Series 2016 Note shall be increased (but not above the Maximum Lawful Rate therefor) until such cumulated amount, shall have been received by the Registered Owner.

Principal on the Series 2016 Note shall be paid in two installments on the Principal Payment Dates, in amounts specified in Schedule 2 attached to the Series 2016 Note.

The Series 2016 Note is subject to prepayment prior to maturity at any time, in whole or in part at 100% of the outstanding principal amount thereof plus accrued interest to the date of prepayment; subject to payment of any required Termination Payment owed by the Issuer under the Swap Agreement occasioned solely by such prepayment.

SECTION 4. EXECUTION OF SERIES 2016 NOTE. The Series 2016 Note shall be executed in the name of the Issuer by the Mayor, attested under seal by the City Clerk, approved as to substance by the Chief Financial Officer, and designated legal in form and valid as drawn by the City Attorney. The Series 2016 Note may be signed and sealed on behalf of the Issuer by any person who at the actual time of the execution of the Series 2016 Note shall hold the appropriate office in the Issuer, although at the date thereof the person may not have been so authorized. The Series 2016 Note may be executed by the facsimile signatures of the Mayor, the Clerk, the Chief Financial Officer and/or City Attorney, provided that at least one of the Mayor or Clerk's signatures must be a manual signature.

SECTION 5. REGISTRATION AND TRANSFER OF SERIES 2016 NOTE. Ownership of the Series 2016 Note shall be registered on the Register. There shall be a Registrar who shall be responsible for maintaining the Register. The person in whose name ownership of a Series 2016 Note is shown on the Register shall be deemed the Registered Owner thereof by the Issuer and the Registrar, who may treat the Registered Owner as the absolute owner of the Series 2016 Note for all purposes, whether or not the Series 2016 Note shall be overdue, and any notice to the contrary shall not be binding upon the Issuer or the Registrar.

Ownership of the Series 2016 Note may be transferred or assigned only as a whole and only upon the Register and upon assumption by the transferee of the obligations of the Lender hereunder. Upon surrender to the Registrar for transfer or exchange of the Series 2016 Note accompanied by an assignment or written authorization for exchange, whichever is applicable, duly executed by the Registered Owner or its attorney duly authorized in writing, the Registrar shall deliver in the name of the Registered Owner or the transferee, as the case may be, a new fully registered Series 2016 Note of the same amount, maturity and interest rate as the Series 2016 Note surrendered. Provided however, any assignment or transfer by the Registered Owner of the Series 2016 Note shall be in whole and not in part.

The Series 2016 Note presented for transfer, exchange, redemption or payment (if so required by the Issuer or the Registrar) shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guaranty of signature satisfactory to the Registrar, duly executed by the Registered Owner or by his duly authorized attorney.

The City Administrator and the Registrar may charge the Registered Owner a sum sufficient to reimburse them for any expenses incurred in making any exchange or transfer after

the first such exchange or transfer following the delivery of such Series 2016 Note. The Registrar or the City Administrator may also require payment from the Registered Owner or his transferee, as the case may be, of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto by any governmental entity other than the Issuer. Such charges and expenses shall be paid before any such new Series 2016 Note shall be delivered.

The new Series 2016 Note delivered upon any transfer or exchange shall be a valid obligation of the Issuer, evidencing the same debt as the Series 2016 Note surrendered, shall be secured under this Loan Agreement, and shall be entitled to all of the security and benefits hereof to the same extent as the Series 2016 Note surrendered.

Whenever a Series 2016 Note shall be delivered to the Registrar for cancellation, upon payment of the principal amount thereof, or for replacement, transfer or exchange, such Series 2016 Note shall be cancelled and destroyed by the Registrar, and counterparts of a certificate of destruction evidencing such destruction shall be furnished to the Issuer.

SECTION 6. SERIES 2016 NOTE MUTILATED, DESTROYED, STOLEN OR LOST. In case the Series 2016 Note shall be mutilated, or be destroyed, stolen or lost, upon the Registered Owner furnishing the Registrar satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur, the Registrar shall issue and deliver a new Series 2016 Note of like tenor as the Series 2016 Note so mutilated, destroyed, stolen or lost, in lieu of or substitution for the Series 2016 Note, if any, destroyed, stolen or lost, or in exchange and substitution for such mutilated Series 2016 Note, upon surrender of such mutilated Series 2016 Note, if any, to the Registrar and the cancellation thereof; provided however, if the Series 2016 Note shall have matured or be about to mature, instead of issuing a substitute Series 2016 Note, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Series 2016 Note be lost, stolen or destroyed, without surrender thereof. Any Series 2016 Note surrendered under the terms of this Section 6 shall be cancelled by the Registrar.

Any such new Series 2016 Note issued pursuant to this section shall constitute an original, additional contractual obligation on the part of the Issuer whether or not, as to the new Series 2016 Note, the lost, stolen or destroyed Series 2016 Note be at any time found by anyone, and such new Series 2016 Note shall be entitled to equal and proportionate benefits and rights as to security for payment to the same extent as the Series 2016 Note originally issued hereunder.

SECTION 7. LOAN AND LOAN LIMIT. Subject to the terms and conditions hereof, the Lender agrees to make advances to the Issuer from time to time (each, an "Advance," and together with the outstanding principal balance of all such Advances from time to time, as the context requires, the "Loan") during the Draw-Down Period in an aggregate principal amount outstanding not to exceed Six Million Two Hundred Ninety-Nine Thousand Six Hundred Dollars (\$6,299,600) (the "Limit"). The Loan shall be evidenced by the Series 2016 Note.

During the Draw-Down Period, the Issuer may borrow up to the maximum principal amount of the Loan Limit, subject to the terms and conditions set forth herein. The Issuer shall request each Advance by written notice (or telephonic notice promptly confirmed in writing) to the Lender not later than 3:00 P.M. eastern standard time, at least two Business Days prior to the date of the requested funding of the Advance. Such written notice shall be in substantially the form attached hereto as Exhibit B. Each such request for an Advance shall specify aggregate principal amount to be borrowed and describe the costs of the Project, including capitalized interest on the Series 2016 Note, to be financed with such Advance. After the expiration of the Draw-Down Period, the Issuer shall not be entitled to receive any further advance under the Loan. The outstanding principal balance of the Loan and interest thereon shall be repaid in accordance with the terms hereof and the Series 2016 Note.

Advances shall be made only to the extent that, taking into account costs of the Project to be paid with the proceeds of such Advance, costs of the Project eligible for reimbursement from the FDOT Grant have been incurred by the Issuer in an amount at least equal to the aggregate amount of all prior Advances and the Advance being sought, together with interest to accrue thereon at the Fixed Swap Rate to the applicable Principal Payment Date such that the Issuer shall be entitled to receive proceeds of the FDOT Grant in an amount at least equal to the aggregate amount of all such Advances and accrued interest. The Issuer hereby agrees that no Advance, other than Advances to pay accrued interest on the Series 2016 Note, will be requested by the Issuer until other Dedicated Resources have been expended for the payment of costs of the Project; provided, however, that the foregoing notwithstanding, the Issuer may obtain Advances prior to expending all of the Dedicated Resources to the extent necessary to cause the outstanding principal amount under the Series 2016 Note to match the notional amount under the Swap Agreement. Dedicated Resources are defined as: (i) proceeds from the Industry Recruitment, Retention and Expansion Funds, in the amount of \$7,000,000, (ii) other FDOT grants in the amount of \$15,186,000, (iii) VT MAE capital, in the amount of \$7,244,000, and (iv) local funds contributed by Escambia County, Florida, for payment of a portion of the Project in the amount of \$8,000,000 (of which the Issuer will reimburse Escambia County \$3,200,000 from legally available funds).

SECTION 8. PROJECT FUND.

A separate account is hereby created and established to be known as the "City of Pensacola, Florida Taxable Airport Facilities Grant Anticipation Note, Series 2016 Project Fund" (the "Project Fund"). Proceeds of each Advance (other than Advances for the payment of accrued interest on the Series 2016 Note which may, at the direction of the Issuer, be paid or credited to the Registered Owner in payment of such accrued interest) shall be deposited to the credit of the Project Fund and shall be applied by the Issuer to pay costs of the Project. Monies in the Project Fund may be invested in Authorized Investments, and all income derived therefrom shall be deposited in the Project Fund.

To the extent there are no other available funds held hereunder, the Issuer shall use any remaining funds in the Project Fund to pay principal and interest on the Series 2016 Note when due.

Such fund shall be kept separate and apart from all other funds of the Issuer and the moneys on deposit therein shall be withdrawn, used and applied by the Issuer solely for the purposes set forth herein. Such proceeds shall be and constitute trust funds for such purpose and there is hereby created a lien in favor of the Series 2016 Note upon such money until so applied by the Issuer solely for the purposes set forth herein.

SECTION 9. FORM OF SERIES 2016 NOTE. The Series 2016 Note shall be in substantially the form attached hereto as Exhibit A, with such variations, omissions and insertions as may be necessary, desirable and authorized or permitted by this Loan Agreement.

SECTION 10. SECURITY FOR SERIES 2016 NOTE; SERIES 2016 NOTE NOT DEBT OF THE ISSUER. The payment of the principal of and interest on the Series 2016 Note and all obligations of the Issuer under the Swap Agreement shall be payable solely from and secured solely by a first priority lien upon and pledge of the Pledged Funds which is hereby granted and created on a parity with the payment obligations of the Issuer under the Swap Agreement. The principal of and interest on the Series 2016 Note and any obligations of the Issuer under the Swap Agreement shall not constitute a general obligation or indebtedness of the Issuer, but shall be limited obligations of the Issuer payable solely from the Pledged Funds to the extent and as provided herein. The Registered Owner and the Lender shall never have the right to compel the levy of taxes upon any property of or in the Issuer for the payment of the principal of and interest on the Series 2016 Note or any obligations of the Issuer under the Swap Agreement.

SECTION 11. COVENANTS OF THE ISSUER. Until the principal of and interest on the Series 2016 Note shall have been paid in full or provision for payment of the Series 2016 Note shall have been made in accordance with the provisions of this Loan Agreement, the Issuer covenants with the Registered Owner of the Series 2016 Note as follows:

A. Establishment of Debt Service Fund and Accounts Therein. There is hereby created and established a Debt Service Fund (and the Principal Account and Interest Account therein). The Debt Service Fund and any other special funds herein established and created shall constitute trust funds for the purposes provided herein for such funds. All such funds shall be continuously secured in the same manner as deposits of governmental funds are authorized to be secured by the laws of the State.

The cash required to be accounted for in any funds established hereunder may be deposited in a single bank account, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the cash on deposit therein for the various purposes of such funds as herein provided.

The designation and establishment of the various funds and accounts in and by this Loan Agreement shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues for certain purposes and to establish certain priorities for application of such revenues and assets as herein provided.

The moneys in the Debt Service Fund and the accounts therein until disbursed pursuant to the provisions hereof may be invested and reinvested only in Authorized Investments, in the manner provided by law. All income on such investments shall remain in such Fund and used for the purposes herein described. Authorized Investments in the funds and accounts under this Agreement shall be valued at the market value thereof, exclusive of accrued interest, by the Issuer as frequently as reasonably deemed necessary by the Lender but not less often than annually nor more often than monthly.

B. Disposition of Pledged Funds.

Upon receipt of Pledged Funds by the Issuer, such amounts shall be deposited into the Debt Service Fund established hereunder and shall be applied on each Payment Date, first to the payment of accrued interest on the Series 2016 Note and second to the payment of any principal amount of the Series 2016 Note then due and any payments due under the Swap Agreement.

C. Financial Statements. At no cost to the Lender, the Issuer shall provide to the Lender (i) unaudited quarterly financial statements prepared by the Issuer within 45 days after the end of each fiscal quarter; and (ii) audited year-end financial statements prepared in accordance with generally accepted accounting principles within five days of receipt of such audited statements but not later than 180 days after the end of each Fiscal Year.

D. Annual Budget. The Issuer will prepare its annual budget in accordance with applicable law, and will provide at no cost to the Lender a copy of its final annual budget for each Fiscal Year within 30 days of adoption thereof by the City Council.

E. Other Information. The Issuer will provide the Lender such other financial or public information as the Lender may reasonably request.

F. FDOT Grant Compliance. The Issuer covenants to comply and remain in compliance with the provisions and assurances contained in the FDOT Grant Agreement. The Issuer covenants and agrees to pay costs of the Project that qualify for reimbursement under the FDOT Grant Agreement in amounts at least sufficient to qualify the Issuer to receive proceeds of the FDOT Grant in amounts sufficient to pay the principal of and to the extent not paid with proceeds of the Series 2016 Note, interest on the Series 2016 Note. The Issuer covenants and agrees to take all action required under the FDOT Grant Agreement to enable it to receive

proceeds of the FDOT Grant at the times and in the amounts necessary to make all payments under the Series 2016 Note when due.

G. Maintenance of Existence. The Issuer shall not permit the termination of its existence as a municipal corporation under the laws of the State.

SECTION 12. REPRESENTATIONS AND WARRANTIES. The Issuer represents and warrants to the Lender that:

A. Organization. The Issuer is a municipal corporation, duly organized and existing under the laws of the State.

B. Authorization of Loan Agreement and Related Documents. The Issuer has the power and has taken all necessary action to authorize the execution and delivery of and the performance by the Issuer of its obligations under, this Loan Agreement and the Series 2016 Note in accordance with their respective terms. This Loan Agreement and the Series 2016 Note have been duly executed and delivered by the Issuer and are valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except to the extent that such enforcement may be limited by laws regarding bankruptcy, insolvency, reorganization or moratorium applicable to the Issuer or by general principles of equity regarding the availability of specific performance.

C. Pledged Funds. The Issuer is legally entitled to pledge the Pledged Funds to the payment of the principal of and interest on the Series 2016 Note and all obligations of the Issuer under the Swap Agreement when due as provided herein and therein. The Issuer estimates that the Pledged Funds will be available in amounts sufficient to pay the principal of and interest on the Series 2016 Note as the same become due prior to the Maturity Date, to pay all obligations of the Issuer under the Swap Agreement and to pay all principal of and accrued interest due on the Series 2016 Note on the Maturity Date. The Issuer shall diligently enforce by all lawful action its right to receive the FDOT Grant proceeds.

D. Financial Statements. The audited financial statements of the Issuer for the Fiscal Year ended September 30, 2015 (the "Financial Statements"), previously provided to the Lender were prepared in accordance with generally accepted accounting principles, are correct and present fairly the financial condition of the Issuer as of such date and the results of its operations for the period then ended.

SECTION 13. CONDITIONS PRECEDENT. The obligation of the Lender to make the Loan is subject to the satisfaction of each of the following conditions precedent on or before the Date of Delivery:

A. Action. The Lender shall have received a copy of the Resolution certified as complete and correct as of the closing date, together with an executed Loan Agreement, the executed Series 2016 Note and the customary closing certificates.

B. Incumbency of Officers. The Lender shall have received an incumbency certificate of the Issuer in respect of each of the officers who is authorized to sign this Loan Agreement, the Series 2016 Note, and the related financing documents on behalf of the Issuer.

C. Opinion of City Attorney. The Lender shall have received a written opinion of the City Attorney as to (1) the valid existence of the Issuer as a municipal corporation of the State; (2) the due adoption of the Resolution; (3) the due authorization and execution of this Loan Agreement, the Series 2016 Note, the Swap Agreement and the transaction contemplated hereby and thereby; (4) the Loan Agreement, the Swap Agreement and the Series 2016 Note constituting valid and binding obligations of the Issuer, enforceable against the Issuer, in accordance with their respective terms; and (5) the absence of litigation against the Issuer relating to (a) its existence or powers, (b) its authority to issue the Series 2016 Note or pledge the Pledged Funds, (c) the procedures governing the authorization and issuance of the Series 2016 Note, and (d) any other matter which may result in any material adverse change in the business, properties, assets or financial condition of the Issuer in a form and substance satisfactory to the Lender.

D. Certificate of Chief Financial Officer. The Lender shall have received a certificate from the Chief Financial Officer that: (1) since the date of the Financial Statements, referred to in Section 12.D. above, there has been no material adverse change in the financial condition, revenues, properties or operations of the Issuer; (2) there are no liabilities (of the type required to be reflected on balance sheets prepared in accordance with generally accepted accounting principles), direct or indirect, fixed or contingent, of the Issuer as of the date of such financial information which are not reflected therein, other than its \$12,465,000 Airport Refunding Revenue Note, Series 2015, issued on October 16, 2015, and its \$14,314,000 Local Option Gas Tax Revenue Bond, Series 2016, issued on July 25, 2016; (3) there has been no material adverse change in the financial condition or operations of the Issuer since the date of such Financial Statements (and to the Chief Financial Officer's knowledge no such material adverse change is pending or threatened); and (4) the Issuer has not guaranteed the obligations of, or made any investment in or loans to, any person except as disclosed in such information.

E. Representations and Warranties; No Default. The representations and warranties made by the Issuer herein shall be true and correct in all material respects on and as of the Date of Delivery, as if made on and as of such date; no Default shall have occurred and be continuing as of the Date of Delivery or will result from the consummation of the Loan; and the Lender shall have received a certificate from the Issuer to the foregoing effect.

F. Lender Certificates. The Issuer shall have received the fully executed Lender's Certificate substantially in the form attached to the Resolution as Exhibit B and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, substantially in the form attached to the Resolution as Exhibit C.

G. Other Documents. The Lender shall have received such other documents, certificates and opinions as the Lender or its counsel shall have reasonably requested.

SECTION 14. NOTICES. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered, delivered by telecopier, mailed by registered or certified mail, postage prepaid, or delivered by courier service to the parties at the following addresses:

Issuer: City of Pensacola, Florida
222 West Main Street
Pensacola, Florida 32502
Attention: City Administrator, with a required copy to the City Attorney at the same address, and a required copy to the Clerk at the same address.

Lender: Compass Bank
5055 Bayou Boulevard
Pensacola, Florida 32503
Attention: Eric Nickelsen

Any of the above parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Communication via telecopier shall be confirmed by delivery by hand, mail, or courier, as specified above, of an original promptly after such communication by telecopier.

SECTION 15. EVENTS OF DEFAULT DEFINED. The following shall be "Events of Default" under this Loan Agreement, and the terms "Default" and "Events of Default" shall mean (except where the context clearly indicates otherwise), any one or more of the following events:

A. Failure by the Issuer to make any payment of principal of or interest on the Series 2016 Note within three (3) days of the date due.

B. Failure by the Issuer to observe and perform any other covenant, condition or agreement on its part to be observed or performed under this Loan Agreement or the Swap Agreement for a period of thirty (30) days after written notice of such failure was or was by the terms hereof required to be delivered to the Issuer by the Lender unless the Lender shall agree in writing to an extension of such time prior to its expiration;

C. The making of any warranty, representation or other statement by the Issuer or by an officer or agent of the Issuer in this Loan Agreement, the Swap Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement which is false or misleading in any material adverse respect;

D. The filing of a petition against the Issuer under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, if an order for relief is entered under such petition or such petition is not dismissed within sixty (60) days of such filing;

E. The filing by the Issuer of a voluntary petition in bankruptcy or seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or the consent by the Issuer to the filing of any petition against it under such law;

F. The admission by the Issuer of its insolvency or bankruptcy or its inability to pay its debts as they become due or that it is generally not paying its debts as such debts become due, or the Issuer's becoming insolvent or bankrupt or making an assignment for the benefit of creditors, or the appointment by court order of a custodian (including without limitation a receiver, liquidator or trustee) of the Issuer or any of its property taking possession thereof and such order remaining in effect or such possession continuing for more than sixty (60) days; or

G. The occurrence of a suspension or termination of, a default under, or a failure of the Issuer to comply with the Issuer's obligations under the FDOT Grant Agreement.

SECTION 16. NOTICE OF DEFAULTS AND MATERIAL LITIGATION. The Issuer shall within five Business Days after it acquires knowledge thereof, notify the Registered Owner of the Series 2016 Note in writing (a) of any change in any material fact or circumstance represented or warranted by the Issuer in this Loan Agreement, the Swap Agreement or in connection with the issuance of the Series 2016 Note, including any litigation which may result in any material adverse change in the business, properties, assets or financial condition of the Issuer; (b) upon the happening, occurrence, or existence of any Event of Default that the Registered Owner is not otherwise aware of, or (c) any event or condition which with the passage of time or giving notice, or both, would constitute an Event of Default, and shall provide the Registered Owner of the Series 2016 Note, with such written notice, a detailed statement by the Chief Financial Officer of all relevant facts and the action being taken or proposed to be taken by the Issuer with respect thereto. Regardless of the date of receipt of such notice by the Registered Owner of the Series 2016 Note, such date shall not in any way modify the date of occurrence of the actual Event of Default.

SECTION 17. REMEDIES. For all Events of Default, the Lender may sue to protect and enforce any and all rights, including the right to specific performance, existing under the laws of the State, of the United States of America, or granted and contained in this Loan Agreement, and to enforce and compel the performance of all duties required by this Loan Agreement or by any applicable laws to be performed by the Issuer, the City Council or by any officer thereof, and may take all steps to enforce this Loan Agreement to the full extent permitted or authorized by the laws of the State or the United States of America.

The Issuer and the Lender each waives, to the fullest extent permitted by law, any right to trial by jury in respect of any litigation based upon the Series 2016 Note or arising out of, under or in conjunction with the Series 2016 Note or this Loan Agreement.

SECTION 18. NO PERSONAL LIABILITY. No recourse shall be had for the payment of the principal of and interest on the Series 2016 Note or for any claim based on the

Series 2016 Note or on this Loan Agreement, against any present or former officer or employee of the Issuer or member or officer of the City Council or any person executing the Series 2016 Note.

SECTION 19. PAYMENTS DUE ON SATURDAYS, SUNDAYS AND HOLIDAYS. In any case where the date for making any payment or the last date for performance of any act or the exercise of any right, as provided in this Loan Agreement, shall be other than a Business Day, then such payment or performance shall be made on the succeeding Business Day with the same force and effect as if done on the nominal date provided in this Loan Agreement, provided that interest on any monetary obligation hereunder shall accrue at the applicable rate to and including the date of such payment.

SECTION 20. AMENDMENTS, CHANGES AND MODIFICATIONS. This Loan Agreement may be amended only by a writing approved with the same formality as this Agreement, signed by the Issuer and the Registered Owner.

SECTION 21. BINDING EFFECT. To the extent provided herein, this Loan Agreement shall be binding upon the Issuer and the Lender and shall inure to the benefit of the Issuer and the Lender and their respective successors and assigns. This Loan Agreement shall be discharged and neither the Issuer nor the Lender shall have any further obligations hereunder or under the Series 2016 Note when the Issuer shall have paid the principal of and interest on the Series 2016 Note in full and shall have paid in full all other amounts, if any, due under the Series 2016 Note or this Loan Agreement.

SECTION 22. SEVERABILITY. In the event any court of competent jurisdiction shall hold any provision of this Loan Agreement invalid or unenforceable such holding shall not invalidate or render unenforceable, any other provision hereof.

SECTION 23. EXECUTION IN COUNTERPARTS. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 24. APPLICABLE LAW. The laws of the State shall be the law applied in the resolution of any action, claim or other proceeding arising out of the Resolution, the Series 2016 Note or this Loan Agreement.

SECTION 25. VENUE; ATTORNEY'S FEES. The parties agree that jurisdiction and venue for the enforcement of the Resolution, this Loan Agreement or the Series 2016 Note shall be in the state and/or federal courts of Escambia County, Florida. The prevailing party in any action, claim or proceeding arising out of the Resolution, the Loan Agreement or the Series 2016 Note shall be entitled to attorney's fees and costs from the losing party

SECTION 26. ASSIGNMENT. The Lender may assign its rights hereunder to any party to whom it sells or transfers the Series 2016 Note as permitted hereby.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Loan Agreement as of the date first above written.

CITY OF PENSACOLA, FLORIDA

By: _____
Ashton J. Hayward, III, Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney

[Signature Page of Loan Agreement]

COMPASS BANK

By: _____

Name: Eric Nickelsen

Title: Senior Vice President

[Signature Page of Loan Agreement]

EXHIBIT A TO LOAN AGREEMENT

FORM OF SERIES 2016 NOTE

No. R-1

Lesser of \$6,299,600
or the Principal Amount
Advanced and Outstanding Hereunder

**CITY OF PENSACOLA, FLORIDA
TAXABLE AIRPORT FACILITIES GRANT ANTICIPATION NOTE, SERIES 2016**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Issue</u>
Variable	October 1, 2019	September 23, 2016

REGISTERED OWNER: COMPASS BANK

PRINCIPAL AMOUNT: NOT EXCEEDING SIX MILLION TWO HUNDRED NINETY-NINE THOUSAND SIX HUNDRED DOLLARS (\$6,299,600)

KNOW ALL MEN BY THESE PRESENTS, that the City of Pensacola, Florida (the "Issuer"), for value received, hereby promises to pay to the Registered Owner designated above, or registered assigns, solely from the sources hereinafter mentioned, in installments, on the Principal Payment Dates indicated in Schedule 2 attached hereto and on the Maturity Date, or sooner as provided herein, the principal sum advanced hereunder (as described in Schedule 1 attached hereto), up to the maximum Principal Amount shown above and the interest on the outstanding Principal Amount hereof from the date of the initial Advance hereunder or from the most recent date to which interest has been paid, whichever is applicable, until payment of such Principal Amount, at the Interest Rate described below, with all unpaid accrued interest being due on the Maturity Date or upon the earlier payment of principal hereunder upon presentation and surrender hereof at the office of the Clerk for the Issuer, as Registrar and Paying Agent. The principal of and interest on this Note are payable in lawful money of the United States of America.

Interest shall accrue on this Note from the date of the initial Advance hereunder on the outstanding principal balance and shall be payable annually commencing October 1, 2018, and continuing on each October 1 thereafter until the full amount of principal due hereunder has been paid, at a variable rate per annum equal to LIBOR (as defined below), adjusted monthly to reflect any change in LIBOR, plus 178 basis points; provided, however that the interest rate on this Note shall never exceed the Maximum Lawful Rate. Interest on this Note shall be calculated on the basis of a 360-day year and the actual number of days elapsed.

"LIBOR" is the London Interbank Offered Rate for the applicable Reference Period, as determined by the ICE Benchmark Administration Ltd (or any successor or substitute therefor), as obtained by Registered Owner from Reuter's, Bloomberg or any other generally recognized financial reporting source providing such quotations as may be designated by Registered Owner from time to time (the "Rate Source") as of the date that is two (2) Business Days before each Reset Date (or, in the event no such rate is stated as of such date, on the day most immediately preceding such date for which a rate was stated), as adjusted from time to time in Registered Owner's sole discretion for changes in applicable reserve requirements, deposit insurance assessment rates and other regulatory costs. If the Rate Source states a rate that is less than zero, the applicable rate shall be deemed to be zero, except to the extent so adjusted by Lender. Any change in the index rate based on a change in the rate stated by the Rate Source will occur on the first Business Day of each calendar month (each a "Reset Date"); provided, however, that the initial index rate shall be determined as of the date of this Note. Each change in the index rate based on a change in the rate stated by the Rate Source shall be effective from and including the Reset Date as of which such change occurred. The Reference Period is one month. The Reference Period is for reference purposes only, and the index rate hereunder may continue for a period that is longer or shorter than the Reference Period, depending on, among other things, whether the end of the Reference Period in a given month falls on a day other than a Business Day. "Business Day" means each day other than a Saturday, a Sunday, or any day on which Registered Owner is closed for business. Notwithstanding the foregoing, if for any reason Registered Owner is not able to determine a rate as described above, it becomes illegal for Registered Owner to maintain the credit referenced herein based on the rate so determined or Registered Owner determines that such rate will not adequately and fairly reflect its cost of maintaining or funding such credit, then upon notice to the Issuer and until Registered Owner gives notice that such conditions no longer exist, Registered Owner shall have the right to substitute an alternative index rate providing a reasonably equivalent interest rate, selected by Registered Owner with the approval of the Issuer, which approval will not be unreasonably withheld or delayed, for that rate. The index defined in this paragraph (however determined) is referred to as "LIBOR."

The Issuer may make draws of principal of this Note until and including January 1, 2018, or until the occurrence of an Event of Default. Draws under this Note, unless an Event of Default, or event that with the giving of notice or the passage of time would constitute an Event of Default, then exists, may be made in the manner prescribed in the Loan Agreement (as herein defined).

This Note is subject to prepayment prior to maturity at any time, in whole or in part at 100% of the principal amount thereof plus accrued interest to the date of prepayment; subject to payment of any required Termination Payment owed by the Issuer under the Swap Agreement occasioned solely by such prepayment.

This Note is being issued to finance the costs of the Project under the authority of and in full compliance with the Constitution and Statutes of the State of Florida, including particularly Chapter 166, Part II, Florida Statutes, as amended, the municipal charter of the Issuer and other

applicable provisions of law, and Resolution No. __-16, duly adopted by the City Council of the Issuer on September 22, 2016 (the "Resolution"), and pursuant to a Loan Agreement between the Issuer and the Registered Owner, dated September 23, 2016 (the "Loan Agreement"), to which reference should be made to ascertain those terms and conditions. The terms and provisions of the Loan Agreement and the Resolution, including, without limitation, the definitions therein, are hereby incorporated as a part of this Note. The principal of this Note shall be disbursed by the Registered Owner hereof to the Issuer in immediately available funds by making periodic Advances in accordance with the Loan Agreement.

This Note is payable solely from and secured solely by the Pledged Funds on a parity with certain payment obligations of the Issuer under the Swap Agreement, all in the manner provided in, and subject to the terms and conditions of, the Resolution and the Loan Agreement. This Note shall not constitute a general obligation or indebtedness of the Issuer, but shall be a limited obligation of the Issuer payable solely from the Pledged Funds as provided in the Loan Agreement. The Registered Owner hereof shall never have the right to compel the levy of taxes upon any property of or in the Issuer for the payment of the principal of and interest on this Note. Reference is made to the Loan Agreement for the provisions relating to the security for payment of this Note and the duties and obligations of the Issuer hereunder.

The Registered Owner may sue to protect and enforce any and all rights, including the right to specific performance, existing under the laws of the State of Florida, of the United States of America, or granted and contained in the Loan Agreement, and to enforce and compel the performance of all duties required by the Loan Agreement or by any applicable laws to be performed by the Issuer, the City Council or by any officer thereof, and may take all steps to enforce the Loan Agreement to the full extent permitted or authorized by the laws of the State of Florida or the United States of America. The Issuer waives its right to trial by jury in the event of any proceedings in state or federal courts to enforce the terms of this Note or of the Loan Agreement, and the Registered Owner, by its acceptance of this Note, waives its right to trial by jury in any such proceedings.

This Note is subject to all the terms of the Loan Agreement.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of Florida to be performed, to exist and to happen precedent to and in the issuance of this Note, have been performed, exist and have happened in regular and due form and time as so required.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the City of Pensacola, Florida, has issued this Note and has caused the same to be executed by the manual signature of the Mayor, attested under seal by the City Clerk, approved as to substance by the Chief Financial Officer, and designated legal in form and valid as drawn by the City Attorney, as of the Dated Date set forth above.

CITY OF PENSACOLA, FLORIDA

[SEAL]

By: _____
Ashton J. Hayward, III, Mayor

ATTEST:

By: _____
City Clerk

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney

CERTIFICATE OF AUTHENTICATION OF REGISTRAR

This Note constitutes the Taxable Airport Facilities Grant Anticipation Note, Series 2016, as herein described. The Principal Amount, Interest Rate, Maturity Date and Registered Owner shown above are correct in all respects and have been recorded, along with the applicable federal taxpayer identification number and the address of the Registered Owner, in the Register maintained at the principal office of the undersigned.

CITY CLERK OF THE CITY OF
PENSACOLA, FLORIDA, as Registrar

Date of Authentication

SCHEDULE 1 TO SERIES 2016 NOTE

PRINCIPAL AMOUNT

<u>Date of Advance</u>	<u>Principal Advance</u>	<u>Outstanding Principal After Advance</u>
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
Principal Amount		\$

SCHEDULE 2 TO SERIES 2016 NOTE

ESTIMATED PRINCIPAL PAYMENTS FOR THE SERIES 2016 NOTE

Principal Payment Date (October 1)	Installment
2018	\$1,099,600
2019 ⁽¹⁾⁽²⁾	5,200,000
Total ⁽³⁾	<u>\$6,299,600</u>

(1) Maturity Date

(2) Or remaining Principal Amount outstanding, if less.

(3) Or aggregate principal amount advanced, if less.

EXHIBIT B TO LOAN AGREEMENT
FORM OF ADVANCE REQUEST

Compass Bank
5055 Bayou Boulevard
Pensacola, Florida 32503

Re: City of Pensacola, Florida Taxable Airport Facilities Grant Anticipation Note, Series 2017

The City of Pensacola, Florida (the "Issuer") does hereby request the following Advance Request made pursuant to a Loan Agreement by and between the Issuer and Compass Bank (the "Lender") dated September 23, 2016 (the "Agreement"). All terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto pursuant to the Loan Agreement.

1. This Advance Request shall be designated as the "City of Pensacola, Florida, Taxable Airport Facilities Grant Anticipation Note, Series 2016 – Draw No. ____."
2. The principal amount of this Advance Request shall be \$_____ and the Advance Request date shall be _____, 20__.
3. The Advance Request is for the payment of the following:

4. The requested disbursement(s) has/have not been subject to any previous Advance Request.
5. No notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable herein to any of the persons, firms or corporations named herein has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of this Advance Request.
6. The Issuer remains in full compliance with the terms of the Agreement, the FDOT Grant Agreement and the agreements which are incorporated therein by reference, and no Event of Default currently exists thereunder and no Event of Default would exist with the passage of time or the giving of notice.

7. Each amount requested for payment in this Advance Request will be used by the Issuer promptly upon the receipt of funds from the Lender to make the payments to third parties described in this Advance Request.
8. The Issuer has incurred costs of the Project eligible for reimbursement under the FDOT Grant Agreement in amounts at least equal to the aggregate amount of the Advance requested hereby and all Advances previously made thereunder, together with interest to accrue thereon to the anticipated Principal Payment Date at the Fixed Swap Rate.
9. All Dedicated Resources as defined in Section 7 of the Agreement have been expended for the Project.

Dated _____, 20__ (must be at least one Business Day prior to advance).

CITY OF PENSACOLA, FLORIDA

By: _____
Name: _____
Title: _____

EXHIBIT B

FORM OF LENDER'S CERTIFICATE

This is to certify that Compass Bank, or its assignee (the "Lender") has not required the City of Pensacola, Florida (the "Issuer") to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the Issuer in connection with the issuance by the Issuer of its not to exceed \$6,299,600 Taxable Airport Facilities Grant Anticipation Note, Series 2016 (the "Series 2016 Note"), and no inference should be drawn that the Lender, in the acceptance of said Series 2016 Note, is relying on Bond Counsel or the City Attorney as to any such matters other than the legal opinions rendered by Bond Counsel and by the City Attorney. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in Resolution No. 42-16 adopted by the City Council of the Issuer on September 22, 2016 (the "Resolution").

We are aware that investment in the Series 2016 Note involves various risks, that the Series 2016 Note is not a general obligation of the Issuer or payable from ad valorem tax revenues, and that the payment of the Series 2016 Note is secured solely from the sources described in the Resolution.

We have made such independent investigation of the Issuer and the Pledged Funds as we, in the exercise of sound business judgment, consider to be appropriate under the circumstances. In making our investment decision, we have relied upon the accuracy of information which has been provided to us.

We have knowledge and experience in financial and business matters and are capable of evaluating the merits and risks of our investment in the Series 2016 Note and can bear the economic risk of our investment in the Series 2016 Note.

We acknowledge and understand that the Issuer has determined that the Resolution is not required to be qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"), and that the Series 2016 Note is not required to be registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, Section 517.051(1), Florida Statutes, and/or Section 517.061(7), Florida Statutes, and that neither the Issuer, Bond Counsel nor the City Attorney shall have any obligation to effect any such registration or qualification.

The Series 2016 Note has been purchased for the account of the Lender for investment purposes only and not with a present view to the distribution, transfer or resale thereof. The Lender intends to hold and book the Series 2016 Note as a loan in its loan portfolio; the Lender acknowledges that the use of the word "note" in the name of the debt instrument is not intended to indicate that the instrument is or is not a security within the meaning of the Securities Act of 1933. The Lender currently intends to hold such Series 2016 Note for its own account and for an

indefinite period of time and does not currently intend to dispose of all or any portion of such Series 2016 Note. The Lender hereby covenants that if the Lender subsequently decides to distribute or resell the Series 2016 Note, it shall comply in all respects with all laws then applicable with respect to any such distribution or resale. We understand that the Series 2016 Note may not be transferred in a denomination less than the par amount outstanding at the time of transfer.

We are a bank, trust company, savings institution, insurance company, dealer, investment company, pension or profit-sharing trust, or qualified institutional buyer as contemplated by Section 517.061(7), Florida Statutes. We are not purchasing the Series 2016 Note for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

We are an "accredited investor" within the meaning of the Securities Act of 1933, as amended, and Regulation D thereunder.

DATED this ___ of September, 2016.

COMPASS BANK

By: _____

Name: Eric Nickelsen

Title: Senior Vice President

EXHIBIT C

FORM OF DISCLOSURE LETTER

The undersigned, as Lender, proposes to negotiate with the City of Pensacola, Florida (the "Issuer") for the private purchase of its not to exceed \$6,299,600 Taxable Airport Facilities Grant Anticipation Note, Series 2016 ("Series 2016 Note"). Prior to the award of the Series 2016 Note, the following information is hereby furnished to the Issuer:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us (the "Lender") in connection with the issuance of the Series 2016 Note (such fees and expenses to be paid by the Issuer):

\$[____]
Legal Fees

2. (a) No other fee, bonus or other compensation is estimated to be paid by the Lender in connection with the issuance of the Series 2016 Note to any person not regularly employed or retained by the Lender (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Lender, as set forth in paragraph (1) above.

(b) No person has entered into an understanding with the Lender, or to the knowledge of the Lender, with the Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer and the Lender or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Series 2016 Note.

3. The amount of the underwriting spread expected to be realized by the Lender is \$0.

4. The management fee to be charged by the Lender is \$0.

5. Truth-in-Bonding Statement:

The Series 2016 Note is being issued primarily to finance the cost of the Project, as defined in Resolution No. 42-16 adopted by the Issuer on September 22, 2016 (the "Resolution"). Unless earlier prepaid, the Series 2016 Note is expected to be repaid by October 1, 2019 (the "Maturity Date"). At the Fixed Swap Rate, as defined in the Resolution, of _____%, and assuming all funds are drawn [in accordance with the estimated draw schedule provided by the Issuer], total interest paid over the life of the Series 2016 Note is approximately \$_____. Based on the foregoing assumptions, issuance of the Series 2016 Note is estimated to result in an

annual average of approximately \$_____ of Pledged Funds of the Issuer not being available to finance other services of the Issuer during the life of the Series 2016 Note.

6. The name and address of the Lender is as follows:

Compass Bank
5055 Bayou Boulevard
Pensacola, Florida 32503

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Letter on behalf of the Lender this ___ day of September, 2016.

COMPASS BANK

By: _____

Name: Eric Nickelsen

Title: Senior Vice President

EXHIBIT D
COMMITMENT

[Follows]

Summary of Terms and Conditions of Proposed Credit Facility

RE: Up to \$6,299,600 Taxable Term Loan Facility

This summary of indicative terms and conditions is not a commitment to lend or to provide any other service related to a financing. Any such commitment or undertaking will be issued only in writing subject to appropriate documentation, the terms of which are not limited to those set forth herein. This summary of indicative terms and conditions is intended as an outline of certain of the material terms of a proposed financing and is not intended to summarize all of the conditions, covenants, representations, warranties and other provisions that would be contained in definitive loan documents, and is subject to, among other things, completion of due diligence and credit approval by BBVA Compass.

Borrower:	The City of Pensacola, Florida (“Borrower” or “City”)
Lender:	Compass Mortgage Corporation (“BBVA Compass” or “Lender” or “Bank”)
Facility:	Up to \$6,299,600.00 Taxable Loan (“Term Loan” or “Facility”).
Purpose:	Proceeds to be used as partial funding for the construction of a building for lease to VT Mobile Aerospace Engineering at Pensacola International Airport.
Maturity:	October 1, 2019
Draw Period:	The Facility is currently anticipated to close on September 23, 2016 and will be drawn down from October 1, 2017 until January 1, 2018. The Facility will be termed out on January 1, 2018 until maturity, October 1, 2019.
Repayment:	Annual interest payments beginning October 2017 and annual principal payments beginning January 2018 until maturity October 1, 2019 when all unpaid principal and interest is due. See Exhibit A for principal amortization schedule.
Interest Rate:	As of September 15, 2016 if the facility were to close and fully fund the indicative taxable variable rate would be of One-Month LIBOR, adjusted monthly, plus 178 basis points (the “Applicable Margin”). Interest will be calculated on the basis of a 360 day year and the actual number of days elapsed.

Derivative: Borrower will maintain 100% of total borrowing synthetically fixed via an interest rate swap with a counterparty acceptable to the Lender. In the event that Compass Bank is the counterparty to the swap the current indicative rate is 3.08% as of September 15, 2016.

Disclaimer: The information in this term sheet has been provided at your request and is not (and does not constitute) (1) a solicitation for you to enter into an interest rate protection (i.e., swap) transaction with Lender (or any of its affiliates), or (2) a recommendation that you enter into the above described swap transaction (or any other swap transaction). The information in this term sheet is only for indicative purposes and is subject to, among other things, market changes. This term sheet is not an offer to provide the swap transaction described above. All swap transactions are subject to: credit and risk approvals; product suitability; and verification that Borrower and any Guarantors are (or will be) an eligible contract participant.

Prepayment:	Loan may be prepaid at any time without premium. However, there may be a payment due from the Borrower to unwind the swap prior to maturity in the event of early termination of the swap for any reason. At no point shall the notional balance outstanding on the swap be greater than the actual amount outstanding on the Loan.
--------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

CONFIDENTIAL

This term sheet does not represent a commitment to lend and may not be relied upon as such.

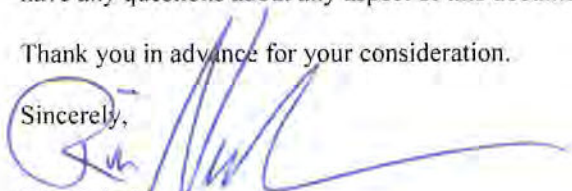
- Security:** Loan to be secured with grant proceeds from Public Transportation Joint Participation Agreement between the State of Florida Department of Transportation and The City of Pensacola; Financial Project Number 43571769401.
- Financial Reporting:**
- Annual audited financial statements of Borrower prepared in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Governmental Auditing Standards*, issued by the Comptroller General of the United States, due within 5 days of receipt, however in no event later than 180 days of fiscal year end.
 - Quarterly company prepared financial statements due no later than 45 days of quarter end.
 - Annual Borrower Prepared Budget shall be due within 30 days of the beginning of each fiscal year. Budget shall include at a minimum: income statement, balance sheet, with details on capital expenditures and financing plans.
 - Borrower shall furnish at Lender's request such additional information that Lender may from time to time reasonably request.
- Covenants:**
- The City must remain in compliance with their grant agreement and all of the grant assurances contained in the Public Transportation Joint Participation Agreement.
- Representations, Warranties and Additional Covenants:**
- Maintenance of existence.
 - Notices of (i) default, (ii) material litigation.
 - Proceeds of this facility shall be injected into the construction project on a "last in" basis after all other identified construction appropriations have been fully utilized.
 - Additional representations and warranties, and other affirmative and negative covenants that Lender considers customary and reasonably appropriate for the Facility. Such representations may include, but are not limited to: (i) a written opinion from Borrower's Counsel, in form and substance acceptable to Lender and Lender's Counsel, that all documents are valid, binding and enforceable in accordance with their terms, that execution and delivery of documents has been duly authorized, and addressing such other matters as the Lender and the Lender's Counsel deem appropriate (ii) Receipt of written opinion from Bond Counsel in form and substance satisfactory to Lender, which shall include, without limitation, opinion that the interest on the Bond is excludable from gross income of the owners thereof for federal income tax.
- Closing Costs:** Borrower will pay all reasonable, out-of-pocket costs and expenses incurred by Lender in connection with due diligence and the preparation of loan documentation, regardless of whether or not the Facility is closed. These out-of-pocket costs may include, but are not limited to, legal costs.
- Conditions Precedent:**
- Legal opinions of Borrower's counsel
 - Properly executed documents in form and substance satisfactory to Lender and/or Lender's counsel evidencing or supporting the Facility, which may include, but are not limited to, a promissory note and/or credit agreement, pledge or security agreements, financing statements and general/unlimited/unconditional guarantees.
 - Additional conditions precedent that Lender considers customary and reasonably appropriate for the Facility.

**Note, all of the foregoing are subject to Lender's receipt and satisfactory review.*

We sincerely appreciate the opportunity to present you with this Summary of Terms and Conditions. Should you have any questions about any aspect of this document, please do not hesitate to contact me at 850-857-5074.

Thank you in advance for your consideration.

Sincerely,



Ric Nickelsen
Relationship Manager
Pensacola, Florida

CONFIDENTIAL

This term sheet does not represent a commitment to lend and may not be relied upon as such.

This term sheet is issued in reliance on the accuracy of all information, representations, schedules, and other data and materials submitted by Borrower, all of which are deemed material. This term sheet does not contain all of the terms and conditions or other provisions that may be included in the final documents evidencing the Facility, and is issued at a time before Lender has undertaken a full business, credit, and legal analysis of Borrower and the Facility.

The terms and provisions of this correspondence are confidential and may not be disclosed by Borrower to any other person or entity. However, the foregoing restrictions on disclosure shall not apply to disclosure(s): (i) to Borrower's legal counsel for purposes of advising Borrower with respect hereto and provided, however, that such counsel agrees to preserve the confidentiality of this correspondence; or (ii) in response to any properly issued subpoena from any court or other governmental authority with jurisdiction over Borrower, provided that Lender has been furnished reasonable advance notice of the intended disclosure and the opportunity to prevent or limit the scope of any such disclosure.

This term sheet is intended for the sole and exclusive benefit of Borrower and Lender and may not be relied upon by third parties.

CONFIDENTIAL

This term sheet does not represent a commitment to lend and may not be relied upon as such.

Exhibit A: Principal Amortization

Principal Amortization Schedule	
<u>Date</u>	<u>Amount</u>
10/1/2018	\$1,099,600.00
10/1/2019	\$5,200,000.00
Total:	\$6,299,600.00

CONFIDENTIAL

This term sheet does not represent a commitment to lend and may not be relied upon as such.

EXHIBIT E

FORM OF SWAP AGREEMENT

(Local Currency-Single Jurisdiction)

ISDA[®]

International Swaps and Derivatives Association, Inc.

MASTER AGREEMENT

dated as of _____

Compass Bank, Birmingham, AL, an Alabama banking corporation ("Party A"), and the City of Pensacola, Florida, a municipal corporation organized under the laws of the State of Florida ("Party B"), have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement (the "Master Agreement"), which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows:—

1. Interpretation

- (a) **Definitions.** The terms defined in Section 12 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.
- (b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.
- (c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

- (a) **General Conditions.**
 - (i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.
 - (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.

(iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

(b) **Change of Account.** Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) **Netting.** If on any date amounts would otherwise be payable:—

(i) in the same currency; and

(ii) in respect of the same Transaction,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of branches or offices through which the parties make and receive payments or deliveries.

(d) **Default Interest; Other Amounts.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into) that:—

(a) **Basic Representations.**

(i) **Status.** It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing;

(ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this

Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorize such execution, delivery and performance;

(iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;

(iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and

(v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

4. Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:—

(a) **Furnish Specified Information.** It will deliver to the other party any forms, documents or certificates specified in the Schedule or any Confirmation by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

(b) **Maintain Authorizations.** It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) **Comply with Laws.** It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

5. Events of Default and Termination Events

(a) **Events of Default.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an "Event of Default") with respect to such party:—

(i) **Failure to Pay or Deliver.** Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(d) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

(ii) **Breach of Agreement.** Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(d) or to give notice of a Termination Event or any agreement or obligation under Section 4(a)) to be complied with or performed by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) **Credit Support Default.**

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party; or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) **Misrepresentation.** A representation made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) **Default under Specified Transaction.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) **Cross Default.** If "Cross Default" is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due

date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

(vii) **Bankruptcy.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party:—

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) **Merger Without Assumption.** The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer:—

(1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) **Termination Events.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, and, if specified to be applicable, a Credit Event Upon Merger if the event is specified pursuant to (ii) below or an Additional Termination Event if the event is specified pursuant to (iii) below:—

(i) **Illegality.** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):—

(1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or

(2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;

(ii) **Credit Event Upon Merger.** If "Credit Event Upon Merger" is specified in the Schedule as applying to the party, such party ("X"), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or

(iii) **Additional Termination Event.** If any "Additional Termination Event" is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).

(c) **Event of Default and Illegality.** If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. Early Termination

(a) **Right to Terminate Following Event of Default.** If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party (the "Non-defaulting Party") may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

(b) **Right to Terminate Following Termination Event.**

(i) **Notice.** If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

(ii) **Two Affected Parties.** If an Illegality under Section 5(b)(i)(1) occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.

(iii) **Right to Terminate.** If:—

(1) an agreement under Section 6(b)(ii) has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

- (2) an Illegality other than that referred to in Section 6(b)(ii), a Credit Event Upon Merger or an Additional Termination Event occurs,

either party in the case of an Illegality, any Affected Party in the case of an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) ***Effect of Designation.***

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(d) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) ***Calculations.***

(i) ***Statement.*** On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) ***Payment Date.*** An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment), from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) ***Payments on Early Termination.*** If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss," and a payment method, either the "First Method" or the "Second Method." If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method," as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) ***Events of Default.*** If the Early Termination Date results from an Event of Default:—

(1) ***First Method and Market Quotation.*** If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the

Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party over (B) the Unpaid Amounts owing to the Defaulting Party.

(2) *First Method and Loss.* If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party less (B) the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(ii) **Termination Events.** If the Early Termination Date results from a Termination Event:—

(1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(i)(3), if Market Quotation applies, or Section 6(e)(i)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(2) *Two Affected Parties.* If there are two Affected Parties:—

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount ("X") and the Settlement Amount of the party with the lower Settlement Amount ("Y") and (b) the Unpaid Amounts owing to X less (II) the Unpaid Amounts owing to Y; and

(B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss ("X") and the Loss of the party with the lower Loss ("Y").

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

(iii) **Adjustment for Bankruptcy.** In circumstances where an Early Termination Date occurs because "Automatic Early Termination" applies in respect of a party, the amount determined under this Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).

(iv) **Pre-Estimate.** The parties agree that if Market Quotation applies an amount recoverable under this Section 6(e) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.

7. Transfer

Neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that:—

(a) a party may make such a transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and

(b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(e).

Any purported transfer that is not in compliance with this Section will be void.

8. Miscellaneous

(a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.

(b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.

(c) **Survival of Obligations.** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.

(d) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.

(e) **Counterparts and Confirmations.**

(i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.

(ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex or electronic message constitutes a Confirmation.

(f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.

(g) **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.

9. Expenses

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

10. Notices

(a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received;
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or
- (v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.

(b) **Change of Addresses.** Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

11. Governing Law and Jurisdiction

(a) **Governing Law.** This Agreement will be governed by and construed in accordance with the law specified in the Schedule.

(b) **Jurisdiction.** With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably:—

- (i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City, if this Agreement is expressed to be governed by the laws of the State of New York; and
- (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient

forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) **Waiver of Immunities.** Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

12. Definitions

As used in this Agreement:—

"Additional Termination Event" has the meaning specified in Section 5(b).

"Affected Party" has the meaning specified in Section 5(b).

"Affected Transactions" means (a) with respect to any Termination Event consisting of an Illegality, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions.

"Affiliate" means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"Applicable Rate" means:—

(a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate;

(b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate;

(c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate; and

(d) in all other cases, the Termination Rate.

"consent" includes a consent, approval, action, authorization, exemption, notice, filing, registration or exchange control consent.

"Credit Event Upon Merger" has the meaning specified in Section 5(b).

"Credit Support Document" means any agreement or instrument that is specified as such in this Agreement.

"Credit Support Provider" has the meaning specified in the Schedule.

"Default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum.

"Defaulting Party" has the meaning specified in Section 6(a).

"Early Termination Date" means the date determined in accordance with Section 6(a) or 6(b)(iii).

"Event of Default" has the meaning specified in Section 5(a) and, if applicable, in the Schedule.

"Illegality" has the meaning specified in Section 5(b).

"law" includes any treaty, law, rule or regulation and **"lawful"** and **"unlawful"** will be construed accordingly.

"Local Business Day" means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

"Loss" means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except, so as to avoid duplication, if Section 6(e)(i)(1) or (3) or 6(e)(ii)(2)(A) applies. Loss does not include a party's legal fees and out-of-pocket expenses referred to under Section 9. A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets.

"Market Quotation" means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the "Replacement Transaction") that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably

practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

"Non-default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount.

"Non-defaulting Party" has the meaning specified in Section 6(a).

"Potential Event of Default" means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Reference Market-makers" means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable, from among such dealers having an office in the same city.

"Scheduled Payment Date" means a date on which a payment or delivery is to be made under Section 2(a)(i) with respect to a Transaction.

"Set-off" means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

"Settlement Amount" means, with respect to a party and any Early Termination Date, the sum of:—

(a) the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and

(b) such party's Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result.

"Specified Entity" has the meaning specified in the Schedule.

"Specified Indebtedness" means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

"Specified Transaction" means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these

transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

"Terminated Transactions" means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if "Automatic Early Termination" applies, immediately before that Early Termination Date).

"Termination Event" means an Illegality or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.

"Termination Rate" means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts.

"Unpaid Amounts" owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

COMPASS BANK (“PARTY A”)

CITY OF PENSACOLA, FLORIDA (“PARTY B”)

By: _____

Name:

Title:

Date:

By: _____

Name: Ashton J. Hayward, III

Title: Mayor

Date: September 23, 2016

ATTEST:

By: _____

City Clerk

(SEAL)

Approved as to Substance:

By: _____

Richard Barker, Jr.

Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____

Lysia H. Bowling

City Attorney

SCHEDULE
to the
ISDA Master Agreement

This **Schedule** (the "Schedule") to the **ISDA Master Agreement** (the "Agreement"), dated as of _____, 2016, by and between **Compass Bank**, Birmingham, AL, an Alabama banking corporation ("Party A"), and **City of Pensacola, Florida**, a municipal corporation organized under the laws of the State of Florida ("Party B"), and which is incorporated by reference into the Agreement, amends, modifies and supplements the same as follows:

Part 1. Events of Default and Termination Provisions.

- (a) Credit Agreement. "Credit Agreement" means that certain Loan Agreement by and between City of Pensacola, Florida and Compass Bank dated August __, 2016, relating to the [\$6,299,600.00] City of Pensacola, Florida Taxable Airport Facilities Grant Anticipation Note, Series 2016, as the same may be amended, modified, restated or replaced from time to time.
- (b) Specified Entity. "Specified Entity" shall not apply to Party A or Party B.
- (c) Specified Transaction. "Specified Transaction" will have the meaning specified in Section 12 of the Agreement.
- (d) Cross Default. The "Cross Default" provisions of Section 5(a)(vi) of the Agreement will apply to Party A and Party B, and is hereby amended by the addition of the following at the end thereof:

"provided, however, that notwithstanding the foregoing, an Event of Default shall not occur under either (1) or (2) above if, as demonstrated to the reasonable satisfaction of the other party, (a) the event or condition referred to in (1) or the failure to pay referred to in (2) is a failure to pay caused by an error or omission of an administrative or operational nature; (b) funds were available to such party to enable it to make the relevant payment when due; and (c) such relevant payment is made within three Business Days following receipt of written notice from an interested party of such failure to pay."

"Specified Indebtedness" will not have the meaning specified in Section 12 of the Agreement, and such definition will be, and is, replaced with the following: "(i) with respect to Party A, any obligation in respect of the payment of moneys (whether present or future, contingent or otherwise, as principal or surety or otherwise), except that such term shall not include obligations in respect of deposits received in the ordinary course of Party A's banking business; and (ii) with respect to Party B, the [\$6,299,600.00] City of Pensacola, Florida Taxable Airport Facilities Grant Anticipation Note, Series 2016."

"Threshold Amount" means with respect to Party A, an amount equal to 3% of the shareholders' equity of Party A determined from time to time in accordance with generally accepted accounting principles, and with respect to Party B or any Specified Entity or Credit Support Provider of Party B, zero

- (e) Credit Event Upon Merger. The "Credit Event Upon Merger" provisions of Section 5(b)(ii) of the Agreement will apply to Party A and to Party B. Section 5(b)(ii) of this Agreement is hereby amended to read in its entirety as follows:—

"(ii) **Credit Event Upon Merger**. If "Credit Event Upon Merger" is specified in the Schedule as applying to the party, such party ("X"), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity (or, without limiting the foregoing, if X is Party B, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, X, any Credit Support Provider of X or any Specified Entity of X) and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving, transferee or successor entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or"

- (f) Automatic Early Termination. The “Automatic Early Termination” provision of Section 6(a) of the Agreement will not apply to either Party A or Party B.
- (g) Payments on Early Termination. For the purpose of Section 6(e) of the Agreement:
- (i) Market Quotation will apply.
 - (ii) The Second Method will apply.
- (h) Termination Currency. “Termination Currency” means United States Dollars.
- (i) Events of Default. Section 5 of the Agreement is hereby amended as follows:—
- (i) **Bankruptcy**. Clause (6) of Section 5(a)(vii) of the Agreement is amended to read in its entirety as follows:—

“(6)(A) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets or (B) in the case of Party B, any Credit Support Provider of Party B or any applicable Specified Entity of Party B, (I) there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, or declare a financial emergency or similar state of financial distress with respect to it or (II) there shall be declared by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it;”
 - (ii) **Merger Without Assumption**. Section 5(a)(viii) of this Agreement is hereby amended to read in its entirety as follows:—

“(viii) **Merger Without Assumption**. The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity (or, without limiting the foregoing, if such party is Party B, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, such party or any Credit Support Provider of such party) and, at the time of such consolidation, amalgamation, merger, transfer or succession:—

 - (1) the resulting, surviving, transferee or successor entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or
 - (2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving, transferee or successor entity of its obligations under this Agreement.”
- (j) Additional Termination Event. For the purposes of Section 5(b)(iii) of the Agreement, it shall be an Additional Termination Event with Party B being the Affected Party if (i) any Credit Support Document expires, terminates or ceases to be in full force and effect for the purpose of the Agreement unless this Agreement is expressly amended in writing to reflect that it is no longer a Credit Support Document under the Agreement; (ii) at any time the obligations of Party B to Party A hereunder shall, other than by the election of Party A, for any reason not be secured or guaranteed equally and ratably and on a *pari passu* basis with the obligations of Party B under the Credit Agreement; (iii) any Covered Document expires, terminates or ceases to be in full force and effect; (iv) Party A or Party B ceases to be a party to the Credit Agreement; provided, however, that no Additional Termination Event shall be deemed to have occurred under this subsection if the events described occur as a direct result of Party A voluntarily selling or otherwise voluntarily transferring its interests in the Credit Agreement; (v) the Loan is paid in full or otherwise ceases to be outstanding; (vi) Party B fails to obtain the FDOT Grant in accordance with the terms of the FDOT Grant Agreement; or (vii) any of the provisions of any Covered Document are amended in any material respect without the prior written consent of Party A.
- (k) Additional Events of Default. The Agreement is amended by adding the following new subsection (ix) to Section 5(a):
- “(ix) **Additional Events of Default**. With respect to Party B, it shall constitute an Event of Default under this Agreement if there shall occur any default (howsoever defined) under any Covered Document.”

- (l) Optional Termination. Party B, but not Party A, has the option to terminate and cancel any Transaction, in whole or in part, on any Business Day (an "Optional Termination"). Upon an Optional Termination, the Calculation Agent shall determine the amount owed in connection with such termination using its commercially reasonable judgment and shall provide Party B with notice of such amount. If Party B disputes such calculation, the Calculation Agent shall determine the amount that would otherwise have been payable with respect to the termination of the Transaction under Section 6(e)(ii)(1) (applying 6(e)(i)(3)), assuming that the Optional Termination was a Termination Event for which Party B was the sole Affected Party, the applicable Transaction was the sole Affected Transaction and the effective date of the Optional Termination was an Early Termination Date. Party B agrees that it shall not optionally terminate this Transaction unless it shall have sufficient funds to pay any Settlement Amount to Party A which may be due as provided herein.
- (m) The term "Illegality" with respect to Party B is hereby amended to include an Incipient Illegality.
- (n) Partial Early Termination -- Aggregate. For the purposes of Section 5(b)(iii) of the Agreement, the following shall be an Additional Termination Event (and is referred to below as a "Partial Early Termination") with Party B being the Affected Party:

In the event that Party B pays prior to scheduled maturity (whether upon voluntary or mandatory repayment, redemption, prepayment, acceleration or otherwise) a portion of the Loan or the Lender terminates a portion of the commitments to make the Loan, and the effect of such prepayment or termination would cause the aggregate notional amount of all Subject Transactions under the Swap Agreement to exceed 100% of the aggregate outstanding principal balance of the Loan made by, or committed to be made by, the Lender under the terms of the Credit Agreement (the amount of such excess being the "**Aggregate Swap Excess**"), then Party B shall, upon notice to Party A, simultaneously terminate a portion of the Subject Transactions in accordance with this Part 1(n), in an amount not less than the Aggregate Swap Excess, in such a manner that the aggregate notional amounts of all other Swap Agreements does not exceed 100% of the aggregate outstanding principal balance of the Loan made by, or committed to be made by, the Lender under the terms of the Credit Agreement. In the event Party B fails to effect the required Partial Early Termination pursuant to this Part 1(n), Party A shall effect such Partial Early Termination. Any reduction in the Notional Amount of the Subject Transaction pursuant to this Part 1(n) will be permanent and unaffected by any subsequent increase in the amount of the Loan.

In the event of a Partial Early Termination under this Part 1(n), the Subject Transaction will be deemed and treated for all purposes to have been divided into two separate Transactions as if the parties had initially entered into two separate Transactions. The terms of each of the two deemed Transactions will be identical to those of the Subject Transaction, except for the notional amounts thereof which, when taken together, will equal the same Notional Amount as the Subject Transaction immediately prior to such division, and one of such deemed Transactions (the "**Terminated Portion**") will have a Notional Amount corresponding to the reduction designated in the notice of Partial Early Termination issued by Party B in accordance with the terms hereof, and the other of such deemed Transactions (the "**Non-Terminated Portion**") will have a Notional Amount corresponding to the Notional Amount of the Subject Transaction less such reduction designated in the notice of Partial Early Termination. The Terminated Portion will be deemed to have been terminated on and as of the effective date of such Partial Early Termination as specified in the relevant notice (such date being referred to herein as the "**Partial Early Termination Date**"). Payment of the Settlement Amount by Party A or Party B (as the case may be) in respect of the Terminated Portion will be calculated and due and payable as though an Additional Termination Event had occurred hereunder, with the Early Termination Date being the Partial Early Termination Date and with only such Terminated Portion being treated as an Affected Transaction for purposes of this Additional Termination Event.

Each of Party A and Party B hereby acknowledges and agrees that a Partial Early Termination will not constitute a Termination Event under this Agreement with respect to the Non-Terminated Portion of the Subject Transaction, which will continue in full force and effect without regard to any such Partial Early Termination.

- (o) Partial Early Termination – Party A. For the purposes of Section 5(b)(iii) of the Agreement, the following shall also constitute a Partial Early Termination with Party B being the Affected Party **only** if Party A is the source of less than 10% of the loan or the commitment to make a loan:

In the event that Party B pays prior to scheduled maturity (whether upon voluntary or mandatory repayment, redemption, prepayment, acceleration or otherwise) a portion of the Party A Loan or Party A terminates a portion of the commitments to make the Party A Loan, and the effect of such prepayment or termination would cause the aggregate notional amount of all Subject Transactions under this Agreement to exceed 100% of the outstanding

principal balance of the Party A Loan made by, or committed to be made by, Party A under the terms of the Credit Agreement (the amount of such excess being the “**Party A Swap Excess**”), then Party B shall, upon notice to Party A, simultaneously terminate a portion of the Subject Transactions in accordance with this Part 1(o), in an amount not less than the Party A Swap Excess, in such a manner that the aggregate notional amounts of all other Swap Agreements does not exceed 100% of the aggregate outstanding principal balance of the Party A Loan made by, or committed to be made by, Party A under the terms of the Credit Agreement. In the event Party B fails to effect the required Partial Early Termination pursuant to this Part 1(o), Party A shall effect such Partial Early Termination. Any reduction in the Notional Amount of the Subject Transaction pursuant to this Part 1(o) will be permanent and unaffected by any subsequent increase in the amount of the Loan.

In the event of a Partial Early Termination under this Part 1(o), the Subject Transaction will be deemed and treated for all purposes to have been divided into two separate Transactions as if the parties had initially entered into two separate Transactions. The terms of each of the two deemed Transactions will be identical to those of the Subject Transaction, except for the notional amounts thereof which, when taken together, will equal the same Notional Amount as the Subject Transaction immediately prior to such division, and one of such deemed Transactions (the “**Party A Swap Terminated Portion**”) will have a Notional Amount corresponding to the reduction designated in the notice of Partial Early Termination issued by Party B in accordance with the terms hereof, and the other of such deemed Transactions (the “**Party A Swap Non-Terminated Portion**”) will have a Notional Amount corresponding to the Notional Amount of the Subject Transaction less such reduction designated in the notice of Partial Early Termination. The Party A Swap Terminated Portion will be deemed to have been terminated on and as of the effective date of such Partial Early Termination as specified in the relevant notice (such date being referred to herein as the “**Party A Swap Partial Early Termination Date**”). Payment of the Settlement Amount by Party A or Party B (as the case may be) in respect of the Party A Swap Terminated Portion will be calculated and due and payable as though an Additional Termination Event had occurred hereunder, with the Early Termination Date being the Party A Swap Partial Early Termination Date and with only such Party A Swap Terminated Portion being treated as an Affected Transaction for purposes of this Additional Termination Event.

Each of Party A and Party B hereby acknowledges and agrees that a Partial Early Termination will not constitute a Termination Event under this Agreement with respect to the Party A Swap Non-Terminated Portion of the Subject Transaction, which will continue in full force and effect without regard to any such Partial Early Termination.

(p) Definitions.

- (i) “**Lender**” has the same meaning set forth in the Credit Agreement.
- (ii) “**Loan**” has the same meaning as set forth in the Credit Agreement.
- (iii) “**Party A Loan**” means the loan made by Party A pursuant to the terms of the Credit Agreement.
- (iv) “**Swap Agreement**” has the same meaning as set forth in the Credit Agreement.
- (v) “**Subject Transaction**” means the Transaction, evidenced by a Confirmation, entered into on the date hereof.

- (q) Credit Agreement Effective Date. For the purposes of Section 5(b)(iii) of this Agreement, it shall be an Additional Termination Event with both Party A and Party B being an Affected Party if the Credit Agreement is not executed on or before the ninetieth (90th) day following the Trade Date (as set forth in the applicable Confirmation) (the “Credit Agreement Deadline”). If the Credit Agreement is not executed on or before the Credit Agreement Deadline, then either Party A or Party B shall have the right (but not the obligation) to terminate the Transaction in accordance with the terms contained in Section 6 of the Master Agreement. This Additional Termination Event shall cease to apply, and shall be of no further force and effect, upon execution of the Credit Agreement.

Part 2. Agreement to Deliver Documents.

For the purpose of Sections 4(a)(i) and (ii) of the Agreement, each party agrees to deliver the following documents, as applicable:

(a) Tax Forms, Documents, Certificates. Tax forms, documents or certificates to be delivered are:

Party required to deliver document	Form/Document/ Certificate	Date by which to be delivered
Party A and Party B	Any document allowing any Party to the other to make or receive payments under this Agreement without withholding or deduction on account of any Tax or with such withholding or deduction at a reduced rate.	(i) Upon execution of this Agreement, (ii) promptly at the reasonable demand by the other party and (iii) promptly upon learning that any such form previously provided by such party has become obsolete or incorrect.

(b) Other Documents. Other documents to be delivered are as follows:

Party required to deliver document	Form/Document/ Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
Party B	Annual consolidated financial statements certified by independent certified public accountants and prepared with generally accepted accounting principles consistently applied	As soon as available and in any event within 180 days after the end of each fiscal year	Yes
Party A	A copy of the most recent call report filed by Party A with its primary federal bank regulatory authority	Upon request as soon as publicly available provided, however, that such annual reports are "deemed" to be delivered hereunder when the same are made publicly available at www.ffiec.gov	Yes
Party B	Unaudited consolidated financial statements for each fiscal quarter prepared in accordance with generally accepted accounting principles, subject to any applicable regulatory requirements, on a basis consistent with that of the annual financial statements	As soon as available and in any event as often as such statements are delivered in connection with any Specified Indebtedness, or if there is no Specified Indebtedness, within 45 days after the end of each fiscal quarter	Yes

Party A and Party B	Certified copies of all corporate authorizations and any other documents with respect to the execution, delivery and performance of this Agreement and the Transactions hereunder (or, in the case of Party B, certified copies of documents evidencing each action taken by Party B to authorize its execution, delivery and performance of this Agreement and the Transactions hereunder)	Upon execution and delivery of this Agreement	Yes
Party A and Party B	Certificate of authority and specimen signatures of individuals executing this Agreement, Confirmations and Credit Support Documents	Upon execution and delivery of this Agreement and thereafter upon request of the other party	Yes
Party B	Opinion of counsel as to the authority of Party B to enter into this Agreement and the Credit Support Documents and the enforceability of this Agreement and the Credit Support Documents against Party B	Upon execution and delivery of this Agreement	No

Part 3. Other Provisions.

(a) Obligations. Section 2(a)(iii) of this Agreement is hereby amended to read in its entirety as follows:—

“(iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default, Potential Event of Default or Incipient Illegality with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated, and (3) each other applicable condition precedent specified in this Agreement.”

(b) Representations.

(i) The introductory clause of Section 3 of this Agreement is hereby amended to read in its entirety as follows:—

“Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(a) and 3(e), at all times until the termination of this Agreement) that:—”.

(ii) Section 3(a)(ii) of this Agreement is hereby amended to read in its entirety as follows:—

“(ii) **Powers**. It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action and made all necessary determinations and findings to authorize such execution, delivery and performance;”.

(iii) Section 3(b) of this Agreement is hereby amended to read in its entirety as follows:—

“(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Incipient Illegality (in the case of Party B) or Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.”

(iv) Section 3 of this Agreement is hereby amended by adding the following subsection “(e)” thereto, which subsection shall only apply to Party B:—

“(e) **Non-Speculation.** This Agreement has been, and each Transaction hereunder will be (and, if applicable, has been), entered into for purposes of managing its borrowings or investments and not for purposes of speculation.”

(v) Section 3 of this Agreement is hereby amended by adding the following subsection “(f)” thereto:—

“(f) **No Immunity.** It is not entitled to claim immunity on the grounds of sovereignty or other similar grounds with respect to itself or its revenues or assets (irrespective of their use or intended use) from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) or (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be made subject to in any Proceedings (as defined in Section 11(b)) in the courts of any jurisdiction and no such immunity (whether or not claimed) may be attributed to such party or its revenues or assets.”

(c) Agreements.

(i) The introductory clause of Section 4 of this Agreement is hereby amended to read in its entirety as follows:—

“Each party agrees with the other (or, in the case of Section 4(d) and (e), Party B agrees with Party A) that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:—”.

(ii) Section 4 of this Agreement is hereby amended by adding the following subsections “(d)”, “(e)” and “(f)” thereto:—

“(d) **Compliance with Covered Documents** Party B will observe, perform and fulfill each provision in the Covered Documents applicable to Party B, as any of those provisions may be amended, supplemented or modified for purposes of this Agreement with the prior written consent of Party A (the “Incorporated Provisions”), with the effect that such other party hereto will have the benefit of each of the Incorporated Provisions (including without limitation, covenants, right to consent to certain actions subject to consent under the Covered Documents and delivery of financial statements and other notices and information). In the event the Covered Documents cease to be in effect prior to the termination of this Agreement, the Incorporated Provisions (other than those provisions requiring payments in respect of notes, warrants or other similar instruments issued under the Covered Documents) will remain in full force and effect for purposes of this Agreement as though set forth herein until such date on which all of the obligations of Party B under this Agreement have been fully satisfied. The Incorporated Provisions are hereby incorporated by reference and made a part of this Agreement to the same extent as if such provisions were set forth herein. Any amendment, supplement, modification or waiver of any of the Incorporated Provisions without the prior written consent of the other party thereto shall have no force and effect with respect to this Agreement. Any amendment, supplement or modification for which such consent is obtained shall be part of the Incorporated Provisions for purposes of this Agreement. Party B shall not assign or transfer its rights or obligations under the Covered Documents without the prior written consent of Party A.

“Covered Documents” means (i) the Credit Agreement, (ii) the Series 2016 Note, (iii) the FDOT Grant Agreement, (iv) the Resolution, and (v) any other documents that provide security for Party B’s obligations under this Agreement or with respect to the Loan; in each case as amended, supplemented, or modified from time to time.

(e) **Notice of Incipient Illegality.** If an Incipient Illegality occurs, Party B will, promptly upon becoming aware of it, notify Party A, specifying the nature of that Incipient Illegality and will also give such other information about that Incipient Illegality as Party A may reasonably require.

(f) **Security and Source of Payment of Party B's Obligations.** Party B hereby represents and warrants that payments and other obligations required to be made by Party B under this Agreement are limited obligations payable and secured solely by a first priority lien upon and pledge of the Pledged Funds, and shall rank pari passu with Party B's payment obligations with respect to the Series 2016 Note. The obligation of Party B to make any payments under this Agreement shall not be or constitute a general obligation or indebtedness of Party B, or a pledge or lien upon the ad valorem taxing power of Party B."

(d) **Jurisdiction.** Section 11(b) of this Agreement is hereby amended to read in its entirety as follows:—

"(b) **Jurisdiction.** With respect to any suit, action or proceedings relating to this Agreement ('Proceedings'), each party irrevocably:—

(i) submits, to the fullest extent permitted by applicable law, to the non-exclusive jurisdiction of each of the courts of the State of New York, the United States District Court located in the Borough of Manhattan in New York City, the courts of the State of Florida, and the United States District Court for the Northern District of Florida located in Pensacola, Florida; and

(ii) waives, to the fullest extent permitted by applicable law, (1) any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, (2) any claim that such Proceedings have been brought in an inconvenient forum and (3) the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction."

(e) **Definitions.** Section 12 of this Agreement is hereby amended to add the following definitions in their appropriate alphabetical order:—

"**Covered Documents**" has the meaning specified in the Schedule.

FDOT Grant has the meaning set forth in the Credit Agreement.

FDOT Grant Agreement has the meaning set forth in the Credit Agreement.

Incipient Illegality means (a) the enactment by any legislative body with competent jurisdiction over Party B of legislation which, if adopted as law, would render unlawful (i) the performance by Party B of any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of a Transaction or the compliance by Party B with any other material provision of this Agreement relating to such Transaction or (ii) the performance by Party B or a Credit Support Provider of Party B of any contingent or other obligation which Party B (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction, (b) any assertion in any proceeding, forum or action by Party B, in respect of Party B or in respect of any entity located or organized under the laws of the State of Florida to the effect that performance under this Agreement or similar agreements is unlawful or (c) the occurrence with respect to Party B or any Credit Support Provider of Party B of any event that constitutes an Illegality.

Pledged Funds has the meaning set forth in the Credit Agreement.

Resolution has the meaning set forth in the Credit Agreement.

Series 2016 Note has the meaning set forth in the Credit Agreement."

Part 4. Miscellaneous.

(a) **Addresses for Notices.** For the purpose of Section 12(a) of the Agreement:

Address for notices or communications to Party A:

Address: Compass Bank
Attn: **Middle Office CIB Operations TX-HO-HT-WBS**

P.O. Box 4444
Houston, Texas 77210-9830
Telephone Number: 1-877-559-3780

Address for notices or communications to Party B:

Address: City of Pensacola, Florida
222 West Main Street
Pensacola, Florida 32502
Attn: _____

Email:
Telephone Number:

(b) Calculation Agent. The Calculation Agent is Party A; provided, that if an Event of Default with respect to Party A as the Defaulting Party has occurred and is continuing, the Calculation Agent shall be a Reference Market-maker selected by Party B and acceptable to Party A.

(c) Credit Support Document.

Credit Support Document means, in relation to Party A: None.

Credit Support Document means, in relation to Party B: the Credit Agreement and the FDOT Grant Agreement.

(d) Credit Support Provider.

Credit Support Provider means in relation to Party A: None.

Credit Support Provider means in relation to Party B: None.

(e) Governing Law. This Agreement will be governed by and construed in accordance with the law of the State of New York (without reference to choice of law doctrine); provided, however, that the power and authority of Party B to enter into this Agreement and the performance by Party B of its obligations under the Incorporated Provisions of the Covered Documents shall be governed by and construed in accordance with the laws of the State of Florida.

(f) Affiliate. "Affiliate" will have the meaning specified in Section 12 of the Agreement.

(g) Recording of Conversations. Each party to the Agreement acknowledges and agrees to the recording of conversations between trading and marketing personnel of the parties to this Agreement whether by one or other or both of the parties or their agents, and that any such recordings may be submitted in evidence in any proceedings relating to the Agreement.

(h) Additional Representation. With respect to Party A and Party B, the following provisions are added as new subsections (e) and (f) at the end of Section 3 of the Agreement:

(e) Additional Representation. Party A and Party B represent and warrant to the other that at all times until termination of this Agreement that:

(i) it is authorized under all applicable laws and by its regulatory or supervisory authorities, if any, to enter into and perform its obligations under this Agreement, each Swap Transaction and each Credit Support Document to which it is a party,

(ii) this Agreement and each Credit Support Document to which it is a party (a) have been duly approved by a resolution of its board of directors, (b) have been executed by a duly authorized officer, and (c) will be, continuously from the time of their execution, maintained as part of the Party's official books and records. Each party recognizes and intends that each transaction entered into under this Agreement is, and shall constitute, a "swap agreement" as defined in the U.S. Bankruptcy Code and as a "qualified financial contract" as that term is defined in

Section 212 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as the same may be amended, modified or supplemented from time to time,

- (iii) it is an "Eligible Contract Participant" as such term is defined in Section 1a(18) of the U.S. Commodity Exchange Act, as amended (7 U.S.C. § 1a(18)) (the "CEA"), or the rules and regulations promulgated thereunder in effect on the date the parties enter into such Transaction.
- (iv) Party B represents and warrants that it has entered into this Agreement (and it will enter into each Transaction hereunder) to hedge its exposure to movements in interest rates and not for purposes of speculation.
- (vi) it is entering into this Agreement, including each Transaction, as principal and not as agent of any person or entity.
- (f) Generally Accepted Accounting Principles. The parties agree that all financial information delivered pursuant to this Schedule, including the related schedules and notes thereto, shall be prepared in accordance with accounting principles that are generally accepted in the United States of America, applied consistently throughout the periods involved.
- (i) Set-off; counterclaim. (i) Without affecting the provisions of the Agreement requiring the calculation of certain net payment amounts, all payments under this Agreement shall be made without setoff or counterclaim and will not be subject to any conditions except as provided in Section 2 of the Agreement and except as provided in the following clauses (A) through (D):
 - (A) if there is a Defaulting Party, the Non-defaulting Party will have the right to set off, counterclaim or withhold payment of any obligation, whether contingent or absolute or matured or unmatured, arising under this Agreement or under the Specified Indebtedness, against any payment or performance obligation, whether matured, absolute or contingent or unmatured, of the Defaulting Party under this Agreement or under the Specified Indebtedness, and the Non-defaulting Party's obligations hereunder or thereunder to the Defaulting Party shall be deemed to be satisfied and discharged to the extent of such setoff, counterclaim or withholding;
 - (B) if an obligation is unascertained, the Non-defaulting Party may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained;
 - (C) upon the occurrence and during the continuance of an Event of Default or a Potential Event of Default, the right of an Affiliate of the Non-defaulting Party to receive payment from the Defaulting Party may be assigned to the Non-defaulting Party and the Non-defaulting Party's obligations hereunder shall be set off and shall be deemed to be satisfied and discharged pursuant to clause (A) above to the extent of such assignment; and
 - (D) any obligation of a Non-defaulting Party hereunder shall in any event be conditioned upon and subject to the condition precedent that, and shall arise only upon, the date that all indebtedness and obligations, including Specified Indebtedness, whether contingent or absolute or matured or unmatured, of the Defaulting party to the Non-defaulting Party shall have been paid in full.
- (ii) Nothing in this Part 4(i) shall be effective to create a security interest. This Part 4(i) shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise).
- (iii) Party A waives any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise) that it may have against Party B or any of its accounts, moneys or assets, it being agreed that the sole and exclusive right to any payment hereunder is subject to the Covered Documents and is governed thereby.
- (j) End-User Exception to the CEA Mandatory Clearing Requirement. Party B hereby provides notice of its election not to clear any Transaction that is subject to a mandatory clearing determination under Section 2(h) of the Commodity Exchange Act, as amended (the "CEA"). In connection with such election, Party B represents that it is eligible for an exception from mandatory clearing with respect to any Transaction executed pursuant to this Agreement under Section 2(h)(7) of the CEA and Commodity Futures Trading Commission

(the "CFTC") Regulation 50.50. In addition, Party B represents to Party A as of the date of this Agreement and is deemed to represent to Party A on the date on which it enters into a Transaction the following:

- (i) Party B is not a "financial entity," as defined in Section 2(h)(7)(C)(i) of the CEA;
- (ii) Party B is entering into this Agreement and each Transaction executed pursuant to this Agreement in order to hedge or mitigate commercial risk as provided in CFTC Regulation 50.50(c);
- (iii) Party B generally meets its financial obligations associated with entering into non-cleared Transactions out of its available financial resources, a written credit support agreement, or a written guarantee from a third party; and
- (iv) Party B is not an issuer of securities registered under Section 12 of the Securities Exchange Act of 1934, nor is it required to file reports under Section 15(d) of the Securities Exchange Act of 1934.

Party B agrees that it will notify Party A promptly in the event that any of the information provided above changes. Party B acknowledges and agrees that Party A is placing substantial reliance on the representations of Party B provided above.

Notwithstanding anything to the contrary in this Agreement or in any nondisclosure, confidentiality or similar agreement between the Parties, each Party hereby consents to the disclosure of information related to the election contained herein to the extent required by the CFTC. Each Party acknowledges that disclosures made pursuant to this Part 4(j) may include, without limitation, the disclosure of trade information, including a party's identity (by name, identifier or otherwise) to a Swap Data Repository ("SDR") and relevant regulators. Each Party further acknowledges that, for purposes of complying with regulatory reporting obligations, an SDR may engage the services of a global trade repository regulated by one or more governmental regulators, provided that such regulated global trade repository is subject to comparable confidentiality provisions as is an SDR registered with the CFTC. For the avoidance of doubt, to the extent that applicable non-disclosure, confidentiality, bank secrecy or other law imposes nondisclosure requirements on the Transaction and similar information required to be disclosed by the CFTC but permits a party to waive such requirements by consent, the consent and acknowledgements provided herein shall be a consent by each party for purposes of such other applicable law.

Part 5. Other Provisions.

- (a) Waiver of Right to Trial by Jury. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to a trial by jury with respect to any legal proceeding arising out of or relating to this Agreement or any transaction contemplated hereby.
- (b) Non-Reliance. In entering into this Agreement, Party B understands that there is no assurance with respect to the direction in which interest rates in the financial markets may move in the future and that Party A makes no representation or warranty in this regard or with respect to the suitability of the terms of the Agreement or any Transaction or the particular needs and financial requirements of Party B. Party B represents to Party A, which representation shall be deemed to be restated with respect to and at the time of each Transaction, that it: (i) has had the opportunity, independent of Party A or any of Party A's Affiliates, officers, employees and agents, to consult its own financial advisors (including its independent registered municipal advisor) and has independently determined that it is in Party B's best interests to enter into the Agreement and any Transaction; (ii) is not relying and has not relied on Party A for investment advice or as a recommendation to enter into a Transaction; (iii) has not received any assurance or guarantee from Party A as to the expected results of any Transaction; (iv) it is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction. Further, Party B expressly acknowledges that Party A is not acting as an agent, fiduciary or advisor for Party B in any respect, and that it has fully read and understands the disclosures provided in Exhibit A hereto regarding the risks inherent in swaps and derivative transactions and freely assumes such risks.
- (c) Severability. If any term, provision, covenant or condition of this Agreement, or the application thereof to either party or any circumstance, is held to be unenforceable, invalid or illegal (in whole or in part) for any reason (in any Relevant Jurisdiction), the remaining terms, provisions, covenants and conditions of this Agreement, modified by the deletion of the unenforceable, invalid or illegal portion (in any Relevant Jurisdiction), will continue in full force and effect, and such unenforceability, invalidity, or illegality will not otherwise affect the enforceability, validity or legality of the remaining terms, provisions, covenants and conditions of this Agreement so long as this Agreement as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the deletion of such portion of this Agreement will not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise

be conferred upon the parties to this Agreement; provided, however, that this severability provision shall not be applicable if any provision of Section 2, 5, 6, or 11 (or any definition or provision in Section 12 to the extent it relates to, or is used in or in connection with any such Section) shall be so held to be invalid or unenforceable. The parties will endeavor in good faith negotiations to replace the prohibited or unenforceable provision with a valid provision, the economic effect of which comes as close as possible to that of the prohibited or unenforceable provision.

- (d) Additional Condition Precedent. Notwithstanding anything to the contrary included in the Agreement, the Obligations of a party under the Agreement, including those set forth under Section 2(a)(i) with respect to each Transaction entered into pursuant hereto, are, in the event that any Credit Support Document is specified for such party's benefit in this Agreement or in any Confirmation, subject to the condition precedent that such party shall have received all Credit Support Documents so specified, in form and substance satisfactory to it.
- (e) Definitions. This Agreement incorporates, and is subject to, the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. (the "**Definitions**") and the 1992 ISDA U.S. Municipal Counterparty Definitions published by the International Swaps and Derivatives Association, Inc. (the "**1992 Muni Definitions**").

In the event of any inconsistency between any of the following documents, the relevant document first listed shall govern: (i) a Confirmation, (ii) this Schedule, (iii) the relevant Product ISDA Definitions, (iv) the 1992 Muni Definitions, (v) the Definitions, and (iv) the 1992 ISDA Master Agreement (Local Currency – Single Jurisdiction edition).

"Product ISDA Definitions": means any definitions published by ISDA by product type (otherwise as amended, supplemented or modified from time to time) that are, or may be, incorporated by reference to this Agreement from time to time.

- (f) Errors and Omissions. Party B agrees that Party A may correct and adjust this Schedule and any other documents executed in connection with the Agreement or any Transaction thereunder on Party B's behalf, as if Party B were making the correction or adjustment which Party A believes are necessary or desirable, in its reasonable discretion, to correct clerical errors in the documents. If any such corrections are material changes or if Party A believes that it is necessary or desirable to execute additional documents to properly effect any Transaction, Party B agrees to fully cooperate in connection with a request from Party A to do so within 30 days of the date Party A mails such a request to Party B.
- (g) Notice of Events. Party B agrees that it shall give written notice to Party A immediately upon the occurrence of any of the following and shall include in such notice reasonable details thereof: (1) any event or circumstance that results in any representation or warranty of Party B ceasing to be completely true; (2) any breach of any obligation or agreement of Party B under this Agreement; or (3) any event of default or termination event with respect to Party B.
- (h) Independent Obligations. Party B has found and determined, and certifies to Party A, that this Agreement and each Transaction hereunder is entered into for the purpose of hedging against an interest rate, investment, payment, or other similar risk that arises in connection with or incidental to the proper activities of Party B. Although Party B may be entering into one or more Transactions under the Agreement to hedge against the interest expense of, or other risks associated with, an existing or future loan or other financing (such as any Specified Indebtedness (including the Credit Agreement)), the Agreement and each Transaction shall be an independent obligation of Party B separate and apart from any such loan or other financing, and therefore, except as otherwise provided herein: (i) each party's rights and obligations under the Agreement or any Transaction shall not be contingent on whether any loan or other financing closes, is outstanding or repaid, in whole or in part, at any time; and (ii) no amendment, modification or waiver with respect to any loan or other financing shall in any way affect the Agreement or any Transaction or either party's rights or obligations under the Agreement or any Transaction. Further, if at any time Party B receives from Party A (or any of its affiliates) any payoff statement or other written statement regarding any loan or other financing, nothing in such statement shall be deemed to apply to the Agreement or any Transaction except as expressly provided in that statement and then only to the extent so provided. Nothing in this paragraph shall be construed as impairing or limiting any set-off rights; any cross default, credit support default, cross collateralization, reverse default, or any other provisions contained in the Agreement or any Confirmation.
- (i) Regulatory Reporting. To the extent that any applicable law or regulation requires that the terms of any Transaction be reported to a regulator with jurisdiction over such Transaction or a data repository or analogous

entity, and such law or regulation does not expressly provide which party is required to comply with such reporting obligation, the parties hereby designate Party A as the party to comply with any such reporting obligation. The parties agree to use commercially reasonable efforts to cooperate and exchange any information necessary for compliance with the foregoing reporting obligations or as otherwise necessary to fulfill the parties' obligations under this Agreement.

- (j) Incorporation. The covenants, terms and provisions of, including all representations and warranties of Party B contained in the Covered Documents, as in effect as of the date of the Agreement, are hereby incorporated by reference in, and made part of, the Agreement to the same extent as if such covenants, terms, and provisions were set forth in full herein.
- (k) Effect. The parties agree that no Transaction entered into prior to or subsequent to the date hereof shall be controlled by and subject to this Schedule and the Master Agreement entered into and related hereto unless otherwise provided in the Confirmation of such Transaction.
- (l) Interpretation of Confirmation. If a Confirmation uses terms which do not reflect the Definitions, the 1992 Muni Definitions or the relevant Product ISDA Definitions, then market practice and, if applicable, any common course of dealing between the parties, shall be used in order to construe the terms of the Confirmation as consistently as possible with the Definitions.
- (m) Procedure for Entering into Transactions. With reference to the introductory paragraph of this Agreement, the parties anticipate that Transactions will usually be entered into through binding oral agreements concluded over the telephone by their authorized representatives. Each party shall promptly exchange written confirmations by facsimile, Swift, e-mail or any other means agreed between the parties. Each party shall be responsible for checking receipt and content of these Confirmations and any discrepancies must be promptly raised with the respective counterparty and corrected Confirmations exchanged.

Any Confirmation may be executed in counterparts each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument, and signatures evidenced by facsimile transmission shall be deemed an original signature. The parties agree that, with respect to any Transaction, a legally binding agreement shall exist from the moment that the parties agree (whether orally or otherwise) on the essential terms of such Transaction, which the parties anticipate will occur by telephone. Accordingly, failure to send or agree upon a Confirmation shall not affect a Transaction entered into by the parties.

- (n) Fully Paid Transactions. The condition precedent in Section 2(a)(iii)(1) does not apply to a payment and delivery due to a party if such party shall have satisfied in full all its payment or delivery obligations under Section 2(a)(i) of this Agreement and shall at the relevant time have no future payment obligations, whether absolute or contingent, under Section 2(a)(i).
- (o) Change of Account. Section 2(b) of this Agreement is hereby amended by the insertion of the following at the end thereof after the word "change":-

"; provided that if such new account shall not be in the same jurisdiction having the power to tax as the original account, the party not changing its account shall not be obliged to pay any greater amounts and shall not receive less as a result of such change than would have been the case if such change had not taken place."

- (p) Additional Condition Precedent. Notwithstanding anything to the contrary included in this Agreement, the Obligations of a party under this Agreement, including those set forth under Section 2(a)(i) with respect to each Transaction entered into pursuant hereto, are, in the event that any Credit Support Document is specified for such party's benefit in this Agreement or in any Confirmation, subject to the condition precedent that such party shall have received all Credit Support Documents so specified, in form and substance satisfactory to it.
- (q) Calculation Agent. At the end of Section 5(a)(ii), the following wording shall be added after the semicolon:

"however, if a party to this Agreement is designated as the Calculation Agent for a Transaction, then failure by that party to comply with its obligations as Calculation Agent in the time required shall not constitute an Event of Default and the sole remedy of the other party for such failure shall be the right, upon notice to the Calculation Agent, to designate itself or a third party as replacement Calculation Agent;"

- (r) Electronic Confirmation. Where a transaction is confirmed by means of an electronic messaging system that the parties have elected to use to confirm such Transaction, (i) such Confirmation will constitute a "Confirmation" as

referred to in this Agreement even where not so specified in the Confirmation, and (ii) such Confirmation will supplement, form part of, and be subject to this Agreement and all provisions in this Agreement will govern the Confirmation except as modified therein.

- (s) ERISA. Each party represents to the other party at all times hereunder that it is not (i) an employee benefits plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”), or a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the “**Code**”), subject to Title I of ERISA or Section 4975 of the Code, or a plan as so defined but which is not subject to Title I of ERISA or Section 4975 or the Code (each of which, an “**ERISA Plan**”), (ii) a person or entity acting on behalf of an ERISA Plan, or (iii) a person or entity the assets of which constitute assets of an ERISA Plan.
- (t) Intentionally Omitted.
- (u) Financial Statements. To the extent that any representation is given pursuant to Section 3(d) in relation to the Annual Financial Statements referred to in Part 2(b) then the Section 3(d) representation shall be amended by deletion of the phrase “is, as of the date of the information, true, accurate and complete in every material respect” and the insertion instead of the phrase “gives a true and fair view of the financial position of the relevant party in relation to the financial period for which the information has been prepared”.
- (v) No Third Party Beneficiary. Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not a party to this Agreement or imposing any obligations on Party A or B to this Agreement to persons not a party to this Agreement (other than any rights, benefits or obligations related to any applicable Specified Entity of Party A or Party B or any Credit Support Provider of Party A or Party B).
- (w) Transfers. The parties agree that Party A may transfer its rights and obligations under this Agreement, in whole or in part, to (i) any other Affiliate of Party A, or (ii) a Lender to which Party A assigns its commitments and Loan under the Credit Agreement, provided that such assignment will not give rise to a Termination Event or an Event of Default with respect to either Party A or such assignee of Party A. Each party further agrees that Party A may share any information concerning Party B with any Affiliate. Party B may not transfer its rights and obligations under this Agreement without the prior written consent of Party A.
- (y) USA PATRIOT Act Notice. Party A hereby notifies Party B that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies Party B, which information includes the name and address of Party B and other information that will allow Party A to identify Party B in accordance with the Act.

[Signatures on following page.]

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

COMPASS BANK
(Name of Party)

CITY OF PENSACOLA, FLORIDA
(Name of Party)

By:

Name:

Title:

Date:

By:

Name: Ashton J. Hayward, III

Title: Mayor

Date: September 23, 2016

ATTEST:

By: _____
City Clerk

(SEAL)

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney

EXHIBIT A
To the Schedule to the ISDA Master Agreement

Risk Disclosure for Interest Rate Swaps

This document explains in general terms the characteristics of interest rate swaps and the risks associated with such transactions.

An interest rate swap is a legal contract between two parties to exchange a set of cash flows over a specific period of time. In a typical interest rate swap, a party's floating rate payments on a loan are exchanged, or "swapped," for another party's fixed rate payments on a similar loan. Interest rate swaps, if properly selected and structured, may be a useful tool to alter the characteristics of a party's interest payments or receipts. For example, swapping floating rate payments for fixed rate payments in a time of rising interest rates may allow a party to avoid increased interest expense. The particular structure of an interest rate swap will necessarily depend upon the specific objectives and financial condition of the parties involved.

One of the benefits of an interest rate swap is the ability to liquidate the swap contract at any point in time. ***It is important to realize, however, that should you liquidate the swap contract prior to maturity, you may realize a significant financial gain or a loss.***

Swaps Are for Financially Sophisticated Parties. Interest rate swap transactions are designed primarily for sophisticated financial parties. Before entering into such a transaction, you should carefully consider whether the transaction is appropriate for you in light of your objectives, experience, financial and operational resources, risk tolerance, and other relevant circumstances. With respect to risk tolerance, you should ensure that you fully understand the degree of risk associated with the contemplated transaction, and be certain such risk is acceptable to you. If, for any reason, you do not believe that you have a sufficient understanding or appreciation of the risks associated with a particular interest rate swap transaction, you should not enter into it. *Upon request*, Compass' Financial Risk Management Group can provide you with information showing hypothetical gains or losses one might realize under various interest rate scenarios and liquidation strategies. However, because actual results achieved will depend upon market conditions and other factors existing during the term of your swap transaction such hypothetical projections are provided, and should be viewed, only for illustrative purposes. Due to this uncertainty, no representation can be given that the hypothetical projections will be reflective of future conditions or factors, or that any specific return will be realized.

You Should Consult With Your Accounting, Tax and Legal Advisers before Entering into A Swap. It is important to understand the accounting and legal implications associated with the use of interest rate swaps. In general, if you are using the swap as a hedging instrument, changes in market value may have minimal impact on earnings; however, if it is not an effective hedge, changes in market value may have a significant impact on, and must flow through, earnings. ***This issue can be complicated, and should be discussed completely with your accounting, tax and legal advisers before entering into the transaction.***

- 4 ***INTEREST RATE SWAPS ARE NOT OBLIGATIONS OF OR GUARANTEED OR INSURED BY THE U.S. GOVERNMENT, THE FDIC (FEDERAL DEPOSIT INSURANCE CORPORATION), THE FEDERAL RESERVE BOARD OR ANY OTHER FEDERAL, STATE OR OTHER GOVERNMENTAL AGENCY,***
- 4 ***INTEREST RATE SWAPS ARE NOT DEPOSITS OF COMPASS BANK OR ANY OF ITS AFFILIATES, AND***
- 4 ***INTEREST RATE SWAPS ARE SUBJECT TO INVESTMENT RISKS, INCLUDING THE RISK THAT YOU MAY INCUR A LOSS IF YOU LIQUIDATE THE SWAP.***

Please contact our Financial Risk Management Group at (800) 239-1140
if you have any questions or would like to request any additional information.

EXHIBIT A (cont.)

To the Schedule to the ISDA Master Agreement

Generic Risks with Derivative Transactions

Derivative transactions, like other financial transactions, involve a variety of significant risks. The specific risks presented by a particular derivative transaction necessarily depend upon the terms of the transaction and your circumstances. In general, however, all derivative transactions involve some combination of market risk, credit risk, funding risk and operational risk.

Market risk is the risk that the value of a transaction will be adversely affected by fluctuations in the level or volatility of, or correlation or relationship between, one or more market prices, rates or indices or other market factors or by illiquidity in the market for the relevant transaction or in a related market.

Credit risk is the risk that a counterparty will fail to perform its obligations to you when due.

Funding risk is the risk that, as a result of mismatches or delays in the timing of cash flows due from or to your counterparties in derivative transactions or related hedging, trading, collateral or other transactions, you or your counterparty will not have adequate cash available to fund current obligations.

Operational risk is the risk of loss to you arising from inadequacies in or failures of your internal systems and controls for monitoring and quantifying the risks and contractual obligations associated with derivative transactions, for recording and valuing derivative and related transactions, or for detecting human error, systems failure or management failure.

Depending upon the terms of a specific transaction, there may be other risks that you should consider - some of which could be significant. Highly customized derivative transactions, in particular, may increase liquidity risk and introduce other significant risk factors of a complex nature. Highly leveraged transactions may experience substantial gains or losses in value as a result of relatively small changes in the value or level of an underlying or related market factor.

In evaluating the risks and contractual obligations associated with a particular derivative transaction, you also should consider that a derivative transaction may be modified or terminated only by mutual consent of the parties thereto and subject to agreement on individually negotiated terms. Accordingly, it may not be possible for you to modify, terminate or offset your obligations or your exposure to the risks associated with a transaction prior to its scheduled termination date.

Similarly, while market makers and dealers generally quote prices or terms for entering into or terminating derivative transactions and provide indicative or mid-market quotations with respect to outstanding derivative transactions, they are generally not contractually obligated to do so. In addition, it may not be possible to obtain indicative or mid-market quotations for a derivative transaction from a market maker or dealer that is not a counterparty to the transaction. Consequently, it also may be difficult for you to establish an independent value for an outstanding derivative transaction. You should not regard your counterparty's provision of a valuation or indicative price as an offer to enter into or terminate the relevant transaction at that value or price, unless the value or price is identified by the counterparty as firm or binding. In addition, because the price and other terms on which you may enter into or terminate a derivative transaction are individually negotiated, these may not represent the best price or terms available to you from other sources.

This brief statement does not purport to disclose all of the risks and other material considerations associated with derivative transactions. You should not construe this generic disclosure statement as business, legal, tax or accounting advice. You should consult your own business, legal, tax and accounting advisers with respect to proposed derivative transactions and you should refrain from entering into any derivative transaction unless you fully understand the terms and risks of the transaction, including the extent of your potential risk of loss.

In entering into any derivative transaction with, or arranged by, Compass Bank, you should understand that it is acting at arm's length and not in the capacity of your financial, legal, or tax advisor, nor is Compass Bank acting in any fiduciary capacity for you unless it has entered into a formal agreement to do so - and then only to the extent provided in such agreement. Compass Bank expressly disclaims any statements, assurances, warranties or representations regarding the suitability or performance of any derivative transaction (including any statements, assurances, warranties or representations regarding any counterparty of a derivative transaction) you may enter into, whether with Compass Bank or arranged by Compass Bank.



September 19th, 2016

From: BBVA COMPASS ("Compass", "Compass Bank")
OTC DERIVATIVES DOCUMENTATION DEPARTMENT
2200 Post Oak Blvd, 17th Floor
Mail Code TX-HO-HT-WBS
Houston TX 77056
investmentsmiddleoffice.us@bbva.com

To: CITY OF PENSACOLA

OUR REF:

Dear Sirs,

The purpose of this letter agreement is to set forth the terms and conditions of the Transaction entered into between us on the trade date referred to below. This letter constitutes a "Confirmation" as referred to in the Agreement specified below.

1. If you and we are parties to a Master Agreement or Interest Rate and Currency Exchange Agreement that sets forth the general terms and conditions applicable to Swap Transactions between us (the 'Agreement'), this confirmation supplements, forms a part of, and is subject to, such Agreement. If you and we are not yet parties to an Agreement, this Confirmation evidences a complete binding agreement between you and us as to the terms of the Swap Transaction to which this Confirmation relates. In addition, upon the execution by you and us of an Interest Rate Swap Agreement (the 'Agreement'), in the form published by the International Swaps and Derivatives Association, Inc. ('ISDA'), with such modifications as you and we shall in good faith agree, this Confirmation will supplement, form a part of, and be subject to the Agreement. All provisions contained or incorporated by reference in such Agreement upon its execution shall govern this Confirmation except as expressly modified below. The definitions and provisions contained in the 2006 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc., are incorporated into this Confirmation. In the event of any inconsistency between those definitions and provisions and this Confirmation, this Confirmation will govern. Both parties will make each payment specified in this Confirmation as being payable by it by transfer of the relevant amount in freely transferable funds to the account of the other party specified below. The obligations of the parties under this Confirmation will be calculated and payable on the basis of Net Payments. This agreement will be governed by and construed in accordance with the laws of the State of New York (without reference to choice of law doctrine). The Termination Currency will be US Dollars.

2. The terms of the Transaction to which this confirmation relates are as follows:

Interest Rate Swap

Transaction: Swap

Trade Date: September 19th, 2016

Effective Date: November 1st, 2017

Termination Date: November 1st, 2019, subject to adjustment in accordance with the Modified Following Business Day Convention.

Notional Amount: USD 1,780,000.00

NOTIONAL BALANCES

From Date	To Date	Currency	Notional
November 1, 2017	December 1, 2017	USD	1,780,000.00
December 1, 2017	January 1, 2018	USD	3,480,000.00
January 1, 2018	February 1, 2018	USD	5,100,000.00
February 1, 2018	March 1, 2018	USD	6,299,600.00
March 1, 2018	April 1, 2018	USD	6,299,600.00
April 1, 2018	May 1, 2018	USD	6,299,600.00
May 1, 2018	June 1, 2018	USD	6,299,600.00
June 1, 2018	July 1, 2018	USD	6,299,600.00
July 1, 2018	August 1, 2018	USD	6,299,600.00
August 1, 2018	September 1, 2018	USD	6,299,600.00
September 1, 2018	October 1, 2018	USD	6,299,600.00
October 1, 2018	November 1, 2018	USD	6,299,600.00
November 1, 2018	December 1, 2018	USD	5,200,000.00
December 1, 2018	January 1, 2019	USD	5,200,000.00
January 1, 2019	February 1, 2019	USD	5,200,000.00
February 1, 2019	March 1, 2019	USD	5,200,000.00
March 1, 2019	April 1, 2019	USD	5,200,000.00
April 1, 2019	May 1, 2019	USD	5,200,000.00
May 1, 2019	June 1, 2019	USD	5,200,000.00
June 1, 2019	July 1, 2019	USD	5,200,000.00
July 1, 2019	August 1, 2019	USD	5,200,000.00
August 1, 2019	September 1, 2019	USD	5,200,000.00
September 1, 2019	October 1, 2019	USD	5,200,000.00
October 1, 2019	November 1, 2019	USD	5,200,000.00

FLOATING AMOUNTS

Floating Rate Payer:	COMPASS BANK
Floating Rate Payer Payment Dates:	Monthly on the 1 st commencing Nov, 1 st 2017 and ending on Nov, 1 st 2019, subject to adjustment in accordance with the Modified Following Business Day Convention.
Floating Rate Option:	USD-LIBOR-BBA
Designated Maturity:	1 month
Spread:	1.78000%
Floating Rate Day Count Fraction:	ACT/360
Reset Dates:	The first day of each Calculation Period
Compounding:	Inapplicable

FIXED AMOUNTS

Fixed Rate Payer:	CITY OF PENSACOLA
Fixed Rate Payer Payment Dates:	Monthly on the 1 st commencing Nov, 1 st 2017 and ending on Nov, 1 st 2019, subject to adjustment in accordance with the Modified Following Business Day Convention.
Fixed Rate:	TBD% per annum
Fixed Rate Day Count Fraction:	ACT/360
Calculation Agent Agreement:	COMPASS BANK
Business Days for Fixings in USD Holidays:	London Banking Calendar
Business Days for Payments in USD Holidays:	New York Banking Calendar



3. Relationship Between Parties. Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):

(a) Non-Reliance. It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction: it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of that Transaction.

(b) Assessment and Understanding. It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.

(c) Status of Parties. The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.

4. Eligible Contract Participant. Each party represents to the other party that it is an "eligible contract participant", as the term is defined in Section 1a(18) of the Commodity Exchange Act and applicable regulations there under.

5. Please confirm that the foregoing correctly sets forth the terms and conditions of our agreement with respect to the Transaction by signing and returning this Confirmation to Compass Bank (see fax and mail instructions in Section 7 below), within ten (10) business days. Your failure to return an executed copy of this Confirmation, or to otherwise formally acknowledge agreement with its terms, within such period shall not affect the validity or enforceability of the Transaction as against you. Failure to return an executed copy of this Confirmation will be deemed to be an agreement to all terms and conditions contained in this Confirmation.

6. Payment Information

If you elected to pay by wire:

Wire Instructions:

Compass Bank ABA Nbr: 062001186 AC Nbr: 07790126253

7. Addresses for notices or communications to Compass Bank

Address: Compass Bank
Attn: Middle Office CIB Operations
P.O. Box 4444
Houston, Texas 77210-9830

Email: Customer Service: cs.cib.us@bbva.com
Documentation: investmentsmiddleoffice.us@bbva.com

Telephone number: 1- 713-345-1642



Please confirm that the foregoing correctly sets forth the terms of our agreement by executing the copy of this confirmation enclosed for that purpose and returning it to us.

CITY OF PENSACOLA

COMPASS BANK

Authorized Signature

Authorized Signature

Printed Name / Title

Printed Name / Title

DRAFT

TERMS OF BUSINESS AGREEMENT FOR SWAP TRANSACTIONS

This Terms of Business Agreement for Swap Transactions (the “**Agreement**”) between you (the “**Counterparty**”) and Compass Bank (“**Compass**”) is made in contemplation of one or more possible “swap”, “foreign exchange forward” or “foreign exchange swap” (as such terms are defined, respectively, in Sections 1a(47), 1a(24) and 1a(25) of the Commodity Exchange Act and related regulations) transactions between you and Compass (each, a “**Transaction**”). Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (as amended from time to time, the “**DFA**”) and/or the rules and regulations (“**DF Rules**”), some types of swap transactions may not be available to you unless certain eligibility requirements are met. Information and undertakings provided by you pursuant to this Agreement will be relied on by Compass to make these assessments and to satisfy certain regulatory obligations in connection with offering to enter into and conducting Transactions with you. This Agreement also provides certain required notices and disclosures. Any questions about this Agreement or any Transaction should be directed to your Compass representative. The parties agree that this Agreement will apply to all Swaps entered into by the parties pursuant to an ISDA Master Agreement between the parties.

PART I: CUSTOMER INFORMATION

- 1. Counterparty’s True Legal Name: City of Pensacola, Florida
- 2. Counterparty’s Legal Address: 222 West Main Street Pensacola, Florida 32502
- 3. Counterparty’s Email Address: rbarker@cityofpensacola.com
- 4. Counterparty’s Principal Occupation or Business: Municipal entity

- 5. Type of Entity (Corporation, Limited Liability Company, etc.): Municipal Corporation

- 6. Jurisdiction of Organization: Florida
- 7. Counterparty’s Global Markets Entity Identifier (“**GMEI**”) formerly known as the CFTC Interim Compliant Identifier (“**CICI**”) or Legal Entity Identifier (“**LEI**”): 549300Y7HMDKHDFTZ042

(The DFA and DF Rules require the reporting of certain details of many Transactions to a swap data repository (“**SDR**”). A CICI, and ultimately a LEI, is a unique customer identification number used in this reporting process. If you have not yet registered for a CICI or LEI, you may do so at www.gmeiutility.org.)

- 8. Will the Transactions be guaranteed by another entity?
Yes _____ No X
If Yes, then provide the true legal name and address of each Guarantor:

9. Are Counterparty's Transactions subject to control by any person or entity other than the Counterparty?

Yes _____ No X

If Yes, then provide the true legal name and address of the controlling person or entity:

10. Is Counterparty a Special Entity as defined by **17 CFR 23.401**? Any employee benefit plan defined in Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), not otherwise defined as a Special Entity, may elect to be a Special Entity by notifying a swap dealer or major swap participant of its election prior to entering into a swap with the particular swap dealer or major swap participant. **(Please refer to Annex I for the definition of Special Entity)**

Yes X No _____

If Yes, then please also complete Part IV.

11. Will Counterparty clear all trades entered into between Counterparty and Compass that are subject to the mandatory clearing requirements under Section 2(h) of the Commodity Exchange Act ("CEA")?

Yes _____ No X

If Yes, please contact us regarding further procedures and documentation that we may require. If No, please complete Part V: Clearing below.

PART II: AUTHORITY AND GOOD STANDING

1. Counterparty represents that it is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing.
2. Counterparty represents that it has the power to execute this Agreement and any other documentation relating to this Agreement, to enter into Transactions and to perform any obligations arising under this Agreement or in connection with any Transactions and has taken all necessary action to authorize such execution and performance.

PART III: ELIGIBLE CONTRACT PARTICIPANT CERTIFICATION

A. Certain types of transactions may not be available to you if you do not qualify as an eligible contract participant, as defined in Section 1a(18) of CEA and related regulations of the Commodity Futures Trading Commission ("CFTC") (as used herein, an "Eligible Contract Participant"). Please reference criteria in Part III (B) to determine eligibility. Counterparty is only required to meet one of the criteria listed in Part III (B) to meet eligibility.

Counterparty is an Eligible Contract Participant.

Yes X No _____

B. So that Compass may verify your eligibility, please indicate which of the following apply. You must indicate at least one of the following and may indicate more than one of the following as being applicable.

1. Counterparty is a corporation, partnership, proprietorship, organization, trust, or other entity that has total assets exceeding \$10,000,000 AND Counterparty is NOT a commodity pool as defined in Section 1a(10) of the CEA (a “**Commodity Pool**”) (see CFTC Rule 1.3(m)(6)).

2. Counterparty is a corporation, partnership, proprietorship, organization, trust, or other entity AND Counterparty’s net worth exceeds \$1,000,000 AND Counterparty only enters into Transactions in connection with the conduct of its business or to manage the risk associated with an asset or liability owned or incurred, or reasonably likely to be owned or incurred, by Counterparty in the conduct of its business AND Counterparty is NOT a Commodity Pool (see CFTC Rule 1.3(m)(6)).

3. Counterparty is a corporation, partnership, proprietorship, organization, trust, or other entity and its Transactions are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement provided by a corporation, partnership, proprietorship, organization, trust, or other entity that has total assets exceeding \$10,000,000 AND Counterparty is NOT a Commodity Pool (see CFTC Rule 1.3(m)(6)).

4. Counterparty is a corporation, partnership, proprietorship, organization, trust, or other entity and its Transactions are guaranteed by a corporation, partnership, proprietorship, organization, trust, or other entity that has a net worth exceeding \$1,000,000 AND all of the conditions applicable to a particular guarantor or guaranteed swap counterparty as listed in CFTC Letter No.12-17 are satisfied.

5. Counterparty is an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of \$10,000,000.

6. Counterparty is an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of \$5,000,000 AND Counterparty only enters into Transactions in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by Counterparty.

7. Counterparty is a corporation, partnership, proprietorship, organization, trust, or other entity and its Transactions are guaranteed by an indirect proprietorship (as defined in CFTC Letter No. 12-17) that has a net worth (in the aggregate across all indirect co-proprietors, where applicable state law permits proprietorships comprised of more than one individual) exceeding \$1,000,000 or amounts invested on a discretionary basis, the aggregate of which is in excess of \$5,000,000 (in the aggregate across all indirect co-proprietors, where applicable state law permits proprietorships comprised of more than one individual) AND all of the conditions applicable to a particular guarantor or guaranteed swap counterparty as listed in CFTC Letter No. 12-17 are satisfied.

8. Counterparty is a governmental entity (including the United States, a State, or a foreign government) or political subdivision of a governmental entity.

 X

9. Counterparty is a multinational or supranational government entity.

10. Counterparty is an instrumentality, agency, or department of an entity described in items (6) or (7) of this part.

C. If you are a Commodity Pool, please also answer the questions below. If not, please continue to the next section.

1. Counterparty has total assets exceeding \$5,000,000 and is operated by (and, if Counterparty was formed on or after December 31, 2012 or such later date as the CFTC may specify under applicable regulations, is formed by) (i) a person registered as a commodity pool operator with the CFTC, (ii) a person excluded from the commodity pool operator definition under CFTC Regulation 4.5 or otherwise, (iii) a person properly exempt from registration as a commodity pool operator under CFTC Regulation 4.13(a)(3) or otherwise, or (iv) a foreign person performing a similar role or function, subject as such to foreign regulation.

Yes _____ No _____

2. Counterparty (i) has total assets exceeding \$10,000,000, (ii) was not formed for the purpose of evading regulations under Section 2(c)(2)(B) or 2(c)(2)(C) of the CEA or related CFTC rules, regulations or orders, and (iii) is operated by (and, if Counterparty was formed on or after December 31, 2012 or such later date as the CFTC may specify under applicable regulations, is formed by) (A) a person registered as a commodity pool operator with the CFTC or (B) a person properly exempt from registration as a commodity pool operator under CFTC Regulation 4.13(a)(3).

Yes _____ No _____

PART IV: SPECIAL ENTITY CERTIFICATION

If you indicated you are a Special Entity in Part I, Section 10, please complete the following Part IV. If you did not indicate you are a Special Entity in Part I, Section 10 then proceed to Part V.

Please answer the following questions to allow us to confirm whether you are a Special Entity. If you answer "Yes" to any question in this part please contact us regarding further procedures and documentation that we may require.

1. Counterparty is a federal agency.

Yes _____ No X

2. Counterparty is a state, state agency, city, county, municipality, other political subdivision of a state, or any instrumentality, department or a corporation of or established by a state or political subdivision of a state.

Yes X No _____

3. Counterparty is an employee benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) (“ERISA”).
Yes _____ No X _____
4. Counterparty is a governmental plan as defined in Section 3 of ERISA.
Yes _____ No X _____
5. Counterparty is an endowment, including an endowment that is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
Yes _____ No X _____
6. Counterparty is an employee benefit plan defined in Section 3 of ERISA, that is not subject to Title I of ERISA or otherwise defined as a “Special Entity” pursuant to CFTC Rule 23.401(c)(1), (2), (4) or (5). A “Yes” response to this question indicates that the counterparty is eligible and elects to be treated as a Special Entity pursuant to CFTC Rule 23.401(c)(6).
Yes _____ No X _____

PART V: CLEARING

If you indicated you will not clear all trades between you and Compass by answering “No” in Part 1, Section 11, please complete the following Part V. Part V is not applicable if you indicated that you will clear all trades entered into between you and Compass that are subject to the mandatory clearing requirements under Section 2(h) of the CEA by answering “Yes” in Part 1, Section 11.

1. If Counterparty, in reliance on the exception set forth in Section 2(h)(7) of the CEA and CFTC Regulation 50.50, elects not to clear any Transaction that is subject to the mandatory clearing requirements of Section 2(h)(1) of the CEA (such election, an “**End-User Exception Election**”), it will notify Compass of such election in writing before entering into any such Transaction. Counterparty may specify in such notice that its election is a “standing election” or Counterparty may make such standing election by so indicating in the box below, in which event Counterparty shall be deemed to have made the End-User Exception Election with respect to all Transactions entered into with Compass prior to 10 Business Days following the effectiveness of a written notice to Compass pursuant to Section 11 of Part IX of this Agreement revoking such standing election. Notwithstanding any such standing election, Counterparty may elect for the End-User Exception Election not to apply to a particular Transaction by notifying Compass in writing prior to execution of the Transaction that Counterparty wishes to clear such Transaction.

Does Counterparty wish to make a “standing election” of the End-User Exception Election?

Yes X _____ No _____

2. **By executing any Transaction to which the End-User Exception Election applies, Counterparty shall be deemed to represent that:**
 - a. Counterparty is eligible for an exception from mandatory clearing with respect to such Transaction under Section 2(h)(7) of the CEA and CFTC Regulation 50.50;

- b. Unless “No” is checked immediately below, Counterparty has reported the information listed in CFTC Regulation 50.50(b)(1)(iii) in an annual filing made pursuant to CFTC Regulation 50.50(b)(2) no more than 365 days prior to entering into such Swap, such information has been amended as necessary to reflect any material changes thereto, such annual filing covers the particular Transaction for which such exception is being claimed and the information in such filing is true, accurate, and complete in all material respects;

Yes No (If “No”, Counterparty must complete **Annex II Information from Counterparty**);

- c. If Counterparty has checked “No” in Part V, Section 2(b) above, the information set forth in **Annex II** is true, accurate and complete in all material respects;
- d. Counterparty is entering into such Transaction to hedge or mitigate commercial risk as provided in CFTC Regulation 50.50(c); and
- e. Counterparty:
- i. is not a “financial entity” as defined in Section 2(h)(7)(C)(i) of the CEA, without regard to any exemptions or exclusions provided under Sections 2(h)(7)(C)(ii), 2(h)(7)(C)(iii), or 2(h)(7)(D) or related CFTC regulations;
 - ii. qualifies for the small bank exclusion from the definition of “financial entity” in Section 2(h)(7)(C)(ii) of the CEA and CFTC Regulation 50.50(d);
 - iii. is excluded from the definition of “financial entity” in accordance with Section (2)(h)(7)(C)(iii) of the CEA; or
 - iv. qualifies for an exception from mandatory clearing in accordance with Section (2)(h)(7)(D) of the CEA.

PART VI: SUITABILITY

1. Please review **Annex III (Institutional Suitability)** to this Agreement. **Annex III** requires you to make certain representations to Compass that you are exercising your own independent judgment in assessing the suitability of any recommendations made by Compass with regard to a particular Transaction or trading strategy or that you have elected to use a third party evaluation agent in making such determinations. If the representations in **Annex III** are accurate, you may choose to complete **Annex III**, in which case you acknowledge that Compass will only act in its capacity as counterparty and does not undertake to assess the suitability of a Transaction or trading strategy.
2. If you choose not to or are unable to complete **Annex III**, please contact us regarding further procedures and information that we may require.

PART VII: DISCLOSURES AND NOTIFICATIONS

1. You acknowledge and agree that you have received, reviewed, and understood the disclosures and notifications published by ISDA and available on the following website: <http://www.bbvacib.com/disclaimer/compass>
2. In addition to the disclosures and notifications referenced in Part VII, Section 1, above, we may provide additional information relevant to specific Transactions or classes of Transactions that you enter into with Compass.
3. By entering into a Transaction or any amendment or modification thereof, you acknowledge that you have understood the information provided to you that is relevant to that Transaction and that such information is sufficient for you to evaluate and assess the material risks and characteristics of the Transaction, including: (i) market, credit, liquidity, foreign currency, legal, operational, and other applicable risks and (ii) the material characteristics of such Transaction, including the material economic terms of such Transaction, the terms relating to the operation of such Transaction, and the rights and obligations of the parties during the term of such Transaction.
4. We hereby notify you pursuant to CFTC Rule 43.3(b)(2)(iii) that we may disclose transaction and pricing data for a Transaction to our other customers prior to the public dissemination of such data, provided that such disclosure is made no earlier than the disclosure of such data to a registered SDR that accepts swap transaction and pricing data for public dissemination.

PART VIII: REPORTING AND CONFIDENTIALITY

1. Compass and Counterparty hereby agree that, unless the parties agree otherwise in writing, Compass will be the "reporting counterparty" within the meaning of CFTC Regulation 45.8 (the "Reporting Counterparty") with respect to any Transaction between Compass and Counterparty and Compass, as the Reporting Counterparty, will report each Transaction to an SDR or the CFTC pursuant to CFTC Regulation 45.8. In connection with each Transaction which Counterparty elects will not be cleared by a DCO and will instead be governed by a Covered Agreement pursuant to the End-User Exception, Counterparty hereby acknowledges and agrees that Compass, as the Reporting Counterparty, will report all of the information regarding Counterparty specified herein (other than that which is set forth in any Annual Filing) to the relevant SDR or the CFTC.
2. Notwithstanding anything to the contrary in any non-disclosure, confidentiality or other agreement between the parties, Counterparty hereby consents to the disclosure of information to the extent required by the DF Rules which mandate reporting of transaction and other information. Counterparty acknowledges that disclosures made pursuant to this Part VIII, Section 2 may include, without limitation, the disclosure of trade information including a party's identity (by name, identifier or otherwise) to an SDR, the CFTC or other relevant regulators, and that such disclosures could result in certain anonymous Transactions and pricing data becoming available to the public.
3. Counterparty acknowledges that, for purposes of complying with regulatory reporting obligations, an SDR may engage the services of a global trade repository regulated by one or more governmental regulators, provided that such regulated global trade repository is subject to comparable confidentiality provisions as is an SDR registered with the CFTC. For the avoidance of doubt, to the extent that applicable non-disclosure, confidentiality, bank secrecy or other law imposes non-disclosure requirements in respect of a Transaction and similar information required to be disclosed pursuant to the DFA

and/or DF Rules but permits a party to waive such requirements by consent, Counterparty's consent, acknowledgement and agreement to disclosure provided herein shall be a consent by Counterparty for purposes of such other applicable law.

4. Notwithstanding any non-disclosure, confidentiality or similar agreement to the contrary, you understand and agree that Compass is authorized to disclose "material confidential information" (as such term is used in CFTC Rule 23.410(c)) provided by or on behalf of you to Compass to any regulatory or self-regulatory organization or judicial or governmental authority with jurisdiction over Compass or of which Compass is a member that requests or requires such information from Compass (whether by statute, law, rule, regulation, court order, subpoena, deposition, or civil investigative demand).
5. Counterparty agrees that any information provided by (or on behalf of) Counterparty to Compass that is generally available publicly at the time such information is provided by Counterparty to Compass, or that becomes generally available publicly thereafter other than as a result of a breach by Compass or its affiliates of its obligations to Counterparty under applicable law or a binding non-disclosure agreement between Counterparty and Compass, is not "material confidential information" (as such term is used in CFTC Rule 23.410(c)).
6. You consent to and agree that Compass is authorized to disclose information (including without limitation "material confidential information" within the meaning of CFTC Rule 23.410(c)) you provide to us from time to time to our affiliates, and our and their respective agents, advisors, and third-party service providers in connection with (i) the provision by us or by them of any products or services to you, (ii) the performance of obligations or exercise of rights under such products or services by you or by us or by them, (iii) complying with our or our affiliates' internal legal, compliance, accounting or risk management policies, or (iv) hedging or mitigating any exposure created by a Transaction (including anticipatory hedging).
7. You agree that, for any Transaction that is an "international swap" (as defined in CFTC Rule 45.1) you will notify us, as soon as practicable, of the (i) identity of each non-U.S. trade repository not registered with the CFTC to which the you have caused the Transaction to be reported, and (ii) the swap identifier used by such non-U.S. trade repository to identify the swap. An "international swap" is a swap required by U.S. law and the law of another jurisdiction to be reported both to a swap data repository and to a different trade repository registered with the other jurisdiction.
8. You agree that, upon the occurrence of any "life cycle event" (as defined in CFTC Rule 45.1) relating to a corporate event in respect of a Transaction, you will, as soon as practicable, but in no event later than 10 a.m. on the second "business day" (as that term is defined in CFTC Rule 45.1) following the day on which such life cycle event occurs, notify us of the occurrence of such life cycle event; with sufficient detail regarding such life cycle event to allow us to comply with any regulatory reporting requirements imposed on us. Some examples of life cycle events include the transfer of a Transaction, its assumption by a different legal entity as the result of a merger, the availability of a legal entity identifier for an entity previously identified by some other identifier, or a change in your status as a financial entity (as defined in Section 2(h)(7)(C) of the CEA) or an entity that is not a financial entity.
9. Both parties hereby consent to the recording of telephone conversations between the trading, marketing, operations and other relevant personnel and their affiliates, with or without the use of a warning tone, in connection with any Transaction. Both parties

agree to obtain the individual consent of any personnel should such consent be required by applicable law.

PART IX: ADDITIONAL AND UPDATED INFORMATION; NOTICE PROVISIONS

1. Counterparty represents (which representation is deemed repeated as of the time of each Transaction and any amendment or modification thereof) that all information furnished to Compass is true, accurate and complete in every material respect and no information provided herein is incorrect or misleading in any material respect. Notwithstanding the foregoing, each party agrees that an event of default, termination event, or other similar event shall not occur under any Transaction or master or similar agreement governing a Transaction, or any other contract between the parties solely on the basis of a representation herein being incorrect or misleading in any material respect, or a breach of any covenant or agreement set forth solely in this Agreement; *provided, however*, that nothing in this section shall prejudice any other right or remedy of a party at law or under any Transaction or master or similar agreement governing a Transaction or any other contract in respect of any misrepresentation or breach hereunder or thereunder.
2. Counterparty represents (which representation is deemed repeated as of the time of each Transaction and any amendment or modification thereof) that its status as an eligible contract participant (within the meaning of CEA Section 1a(18) and related CFTC rules) as indicated in Part III is true and correct as of that date and that, if there are any qualifications or conditions required for it to be an eligible contract participant for any Transaction (such as total assets, net worth, amounts invested on a discretionary basis, or its entry into the Transaction in connection with the conduct of its business), those qualifications or conditions are true and correct for that Transaction as of that date.
3. Counterparty represents (which representation is deemed repeated as of the time of each Transaction and any amendment or modification thereof) that its special entity status (within the meaning of 17 CFR 23.401 and related CFTC rules) as indicated in Part I and Part IV (each, as applicable) is true and correct as of that date.
4. Counterparty agrees to promptly notify Compass in writing of any material changes to its information or representations made herein, which notification shall become effective one local business day following delivery of such notice. Upon the effectiveness of any notice provided in accordance with this paragraph, the relevant information or representation will be deemed amended in accordance with such notice.
5. In connection with any Transaction outstanding between the parties, you agree to promptly provide Compass any information or written representations or undertakings reasonably requested by Compass necessary for compliance with Title VII of the DFA or any other applicable statute. If you have identified any Guarantors in Part I of this Agreement, you agree that such requests may include written representations and undertakings from or regarding each Guarantor.
6. Counterparty agrees that Compass may deliver any notifications required by regulation and any informational disclosures, including disclosures applicable to multiple Transactions, through any of the following means, each of which Counterparty agrees are reliable: (i) via written notice or email pursuant to the information set forth in Part I of this Agreement, (ii) by web page at a URL provided by Compass to you by written notice, or (iii) by any other means agreed by both parties.
7. Counterparty represents that it is not a “swap dealer” as defined in Section 1a(49) of the CEA and CFTC Regulation 1.3(ggg).

8. Counterparty acknowledges that Compass is not a “swap dealer” as defined in Section 1a(49) of the CEA and CFTC Regulation 1.3(ggg).
9. Unless and until such time as Compass is a "swap dealer" and/or "security-based swap dealer" (as such terms are defined in the CEA) (a "**Regulated Swap Entity**"), Compass will not have the obligations which are specific and exclusive to a Regulated Swap Entity under the DFA, the CEA, the Securities Exchange Act or any rules or regulations promulgated by the CFTC or the Securities and Exchange Commission (including, but not limited to, Daily Mark, Scenario Analysis and Right to Segregation of Collateral) regardless of any information or statements contained in the disclosures provided to Counterparty.
10. Compass and its representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services. With respect to this presentation and any other information, materials or communications provided by Compass: (a) Compass and its representatives are not recommending an action to any municipal entity or obligated person; (b) Compass and its representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to any municipal entity or obligated person with respect to such presentation, information, materials or communications; (c) Compass and its representatives are acting for their own interests; and (d) you have been informed that you should discuss this presentation and any such other information, materials or communications with any and all internal and external advisors and experts that you deem appropriate before acting on this presentation or any such other information, materials or communications.
11. Counterparty shall deliver all notices required under this agreement via overnight mail to the following address:

Address: Compass Bank
 Attn: Middle Office CIB Operations
 P.O. Box 4444
 Houston, Texas 77210-9830

Email: Customer Service: cs.cib.us@bbva.com
 Documentation: investmentsmiddleoffice.us@bbva.com

Part X: Miscellaneous

1. This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter thereof, unless there exists between the parties any present or future master agreement or other agreement governing the Transactions, such as an ISDA Master Agreement, a foreign exchange master agreement or a cleared transaction execution agreement, in which case this Agreement shall be read and construed together with that other agreement, as amended from time to time, except where a conflict exists, in which case, this Agreement shall prevail.
2. No amendment or waiver in respect of this Agreement will be effective unless in writing and executed by each of the parties.

3. Any failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver thereof.
4. This Agreement shall be governed by the law (and not the law of conflicts) of the State of New York.
5. This Agreement may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.
6. As used in this Agreement, the words “you” and “your” refer to Counterparty and the words “we”, “our” and “us” refer to Compass.

In witness of its acceptance and agreement to the foregoing, each of Counterparty and Compass has caused this Agreement to be executed by its duly authorized signatory.

Accepted and agreed:

CITY OF PENSACOLA, FLORIDA

By:

Name: Ashton J. Hayward, III

Title: Mayor

Date: September 23, 2016

ATTEST:

By: _____
City Clerk

(SEAL)

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney

By executing this Agreement, the Agent represents that it is duly authorized to execute this Agreement and make the representations herein on behalf of the Counterparty.

COMPASS BANK

Name:
Title:
Date:

Annex I
Special Entity Definition
(as defined in 17 CFR 23.401)

The term “Special Entity” means:

- (1) A Federal agency;
 - (2) A State, State agency, city, county, municipality, other political subdivision of a State, or any instrumentality, department, or a corporation of or established by a State or political subdivision of a State;
 - (3) Any employee benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002);
 - (4) Any governmental plan, as defined in Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002);
 - (5) Any endowment, including an endowment that is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)); or
 - (6) Any employee benefit plan defined in Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), not otherwise defined as a Special Entity, that elects to be a Special Entity by notifying a swap dealer or major swap participant of its election prior to entering into a swap with the particular swap dealer or major swap participant.
- (d) Swap dealer. The term “swap dealer” means any person defined in Section 1a(49) of the Act and § 1.3 of this chapter and, as appropriate in this subpart, any person acting for or on behalf of a swap dealer, including an associated person defined in Section 1a(4) of the Act.

Annex II

INFORMATION FROM COUNTERPARTY

Counterparty is required to complete this Annex if Counterparty answered “No” to the representation in Section 2(b) of Part V of this Agreement.

1. By answering “No” below counterparty hereby represents that it is not a “financial entity”, as defined in section 2(h)(7)(C)(i) of the CEA;

Is counterparty a “financial entity” as defined in section 2(h)(7)(C)(i) of the CEA?

Yes _____ No X _____

If “Yes” is checked immediately above, Counterparty is a financial entity and hereby represents that **at least one** of the following statements are true and correct (please check all that apply):

- a. _____ Counterparty is exempt from the definition of “financial entity” for purposes of these Transactions under CFTC Regulation 50.50(d), based on the fact that it is a financial entity solely because of section 2(h)(7)(C)(i)(VIII) of the CEA and is (A) organized as a bank (defined in section 3(a) of the Federal Deposit Insurance Act (the “FDIA”)) or a savings association (as defined in section 3(b) of the FDIA) deposits of which are insured by the FDIC, or (B) a farm credit system institution chartered under the Farm Credit Act of 1971, or (C) an insured Federal credit union or State-chartered credit union under the Federal Credit Union Act and has total assets of \$10,000,000,000 or less on the last day of Counterparty’s most recent fiscal year.
- b. _____ Counterparty satisfies section 2(h)(7)(C)(iii) of the CEA because Counterparty’s primary business is providing financing, and it uses derivatives for the purpose of hedging underlying commercial risks related to interest rate and foreign currency exposures, 90 percent or more of which arise from financing that facilitates the purchase or lease of products, 90 percent or more of which are manufactured by the parent company or another subsidiary of the parent company of Counterparty.
- c. _____ Counterparty satisfies section 2(h)(7)(D) of the CEA because Counterparty, acting as agent on behalf of a person that is its affiliate and that is eligible for the end-user exemption, uses the swap to hedge or mitigate the commercial risk of such person or another affiliate of such person that is not a financial entity, and is not:
- i. a swap dealer;
 - ii. a security-based swap dealer;
 - iii. a major swap participant;
 - iv. a major security-based swap participant;
 - v. an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3), but for paragraph (1) or (7) of subsection (c) of that Act (15 U.S.C. 80a–3 (c));
 - vi. a commodity pool, as defined in section 1(a)(10) of the CEA;
- or

vii. a bank holding company with over \$50,000,000,000 in consolidated assets.

- d. _____ Counterparty is a cooperative exempted under CFTC Regulation 50.51(a)
- e. _____ Counterparty satisfies section 2(h)(7)(C)(i) of the CEA, and meets the conditions of No-Action Relief issued by the CFTC's Division of Clearing and Risk on November 26, 2014 (CFTC Letter No. 14-144) when acting on behalf of affiliates can provide a letter to Compass attesting that it is relying on such exemption.

2. Counterparty must satisfy one of the following elections:

- a. X _____ Consistent with the requirements of Section 2(h)(7)(A)(ii) of the Commodity Exchange Act and CFTC Regulation 50.50(c), I certify that the Electing Counterparty will only elect the end-user exception for swaps that hedge or mitigate commercial risk.
- b. _____ Consistent with the requirements of CFTC Staff No-Action Letter 14-144, I certify that the Electing Counterparty meets the General Conditions contained in CFTC Staff No-Action Letter 14-144.
- c. _____ Consistent with the requirements of CFTC Regulation §50.51(b)(1), I certify that the Electing Counterparty will only elect the cooperative exemption for:
- swaps entered into with a member of the exempt cooperative in connection with originating a loan or loans for that member, which satisfies the requirements of CFTC Regulation §1.3(ggg)(5)(i)-(iii); or
 - swaps that hedge or mitigate commercial risk related to loans to or swaps with members (as such swaps are described above).

3. Counterparty hereby represents that it is meeting its financial obligations for these Transactions through (please check all that apply):

- a. _____ A written credit support agreement
- b. _____ Pledged or segregated assets (including posting or receiving margin pursuant to a credit support agreement or otherwise)
- c. _____ A written third-party guarantee
- d. _____ Counterparty's available financial resources, or
- e. X _____ Other means.

4. Is Counterparty an issuer of securities registered under section 12 of the Securities Exchange Act of 1934 or required to file reports under section 15(d) of the Securities Exchange Act of 1934?

Yes _____ No X _____

If "Yes",

- a. Counterparty hereby represents that its SEC Central Index Key is:_____.
The Counterparty does not register nor is it required to register its debt with the SEC.
- b. Counterparty hereby represents that an appropriate committee of its board of directors (or equivalent body) has reviewed and approved the decision to enter into swaps exempt from the requirements of section 2(h)(1) and 2(h)(8) of the CEA.

Accepted and agreed:

CITY OF PENSACOLA, FLORIDA

By:

Name: Ashton J. Hayward, III

Title: Mayor

Date: September 23, 2016

ATTEST:

By: _____
City Clerk

(SEAL)

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney

RESOLUTION NO. 42-16

OF THE

CITY OF PENSACOLA, FLORIDA

ADOPTED SEPTEMBER 22, 2016

RELATING TO:

NOT EXCEEDING

\$6,299,600

CITY OF PENSACOLA, FLORIDA

TAXABLE AIRPORT FACILITIES GRANT ANTICIPATION NOTE, SERIES 2016

TABLE OF CONTENTS

	Page
Section 1. Authority for this Resolution.....	1
Section 2. Definitions.....	1
Section 3. Findings.....	3
Section 4. Authorization of Series 2016 Note and Project.....	5
Section 5. Approval of Form of Loan Agreement and Series 2016 Note.....	5
Section 6. Authorization of Swap Transaction and Approval of Swap Agreement.....	6
Section 7. Authorization of Other Action.....	6
Section 8. Application of Proceeds of Loan.....	7
Section 9. Repeal of Inconsistent Provisions.....	7
Section 10. Severability.....	7
Section 11. Amendment.....	7
Section 12. Effective Date.....	8

EXHIBIT A – FORM OF LOAN AGREEMENT

EXHIBIT B – FORM OF LENDER’S CERTIFICATE

EXHIBIT C – FORM OF DISCLOSURE LETTER

EXHIBIT D – COMMITMENT

EXHIBIT E – SWAP AGREEMENT

RESOLUTION NO. 42-16

A RESOLUTION AUTHORIZING THE ISSUANCE BY THE CITY OF PENSACOLA, FLORIDA OF A TAXABLE AIRPORT FACILITIES GRANT ANTICIPATION NOTE, SERIES 2016, IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$6,299,600 TO FINANCE A PORTION OF THE COST OF THE CONSTRUCTION OF A HANGAR AND RELATED FACILITIES AT THE PENSACOLA INTERNATIONAL AIRPORT IN ANTICIPATION OF THE RECEIPT OF PROCEEDS OF A GRANT FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION, ALL AS MORE FULLY DESCRIBED HEREIN; PLEDGING THE PLEDGED FUNDS FOR THE PAYMENT OF SAID SERIES 2016 NOTE; PROVIDING FOR THE PAYMENT OF THE SERIES 2016 NOTE; AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT; AUTHORIZING EXECUTION OF AN ISDA MASTER AGREEMENT AND A SCHEDULE AND CONFIRMATION RELATED THERETO WITH COMPASS BANK; AUTHORIZING THE EXECUTION OF OTHER RELATED FINANCING DOCUMENTS IN CONNECTION WITH THE SERIES 2016 NOTE; AUTHORIZING THE AWARD OF THE SALE OF THE SERIES 2016 NOTE TO COMPASS BANK ON A NEGOTIATED BASIS; AUTHORIZING FURTHER OFFICIAL ACTION IN CONNECTION WITH THE DELIVERY OF THE SERIES 2016 NOTE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, that:

Section 1. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of Chapter 166, Part II, Florida Statutes, as amended, the municipal charter of the City of Pensacola, Florida (the "Issuer"), and other applicable provisions of law (collectively, the "Act").

Section 2. Definitions. The following terms shall have the following meanings when used in this resolution unless the context clearly requires otherwise. Words importing singular numbers shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Loan Agreement (herein defined).

"Bond Counsel" means Bryant Miller Olive P.A. or any subsequent nationally recognized bond counsel acceptable to the Issuer.

"Charter" means the municipal charter of the Issuer.

“Chief Financial Officer” means the Chief Financial Officer of the Issuer, or his or her designee.

“City” means the City of Pensacola, Florida, a municipal corporation of the State.

“City Administrator” means the City Administrator of the Issuer, or any acting or interim City Administrator, or his or her designee.

“City Attorney” means the City Attorney of the Issuer, or his or her designee.

“City Council” means the City Council of the Issuer, as the governing body of the Issuer.

“Clerk” means the Clerk of the Issuer, any acting, deputy, or assistant Clerk, or his or her designee.

“Commitment” means the Commitment for purchase of the Series 2016 Note and the provision of the Loan, submitted to the Issuer by the Lender and accepted by the Issuer with such changes as agreed to by the City and the Lender.

“FDOT Grant” means the grant received by the Issuer pursuant to the FDOT Grant Agreement.

“FDOT Grant Agreement” means the Public Transportation Joint Participation Agreement between the Issuer and the State of Florida Department of Transportation dated September 9, 2016, Financial Project Number 43571769401.

“Fixed Swap Payment” shall mean the regularly scheduled periodic amount which the Issuer is obligated to pay to the Lender pursuant to the Swap Agreement as a fixed rate of interest on the notional amount of the Swap Agreement. The Fixed Swap Payment shall not include any Termination Payment.

“Fixed Swap Rate” shall mean the fixed rate of interest required to be paid by the Issuer on the notional amount of the Swap Agreement, which rate shall not exceed the fixed rate set forth in Section 6 hereof.

“Financial Advisor” means RBC Capital Markets, LLC.

“Grant Proceeds” means the proceeds received by the Issuer from the FDOT Grant.

“Lender” means Compass Bank, an Alabama banking corporation, and its successors and assigns.

“Loan” means the advance of moneys from the Lender to the Issuer pursuant to the Loan Agreement.

“Loan Agreement” means the agreement between the Lender and the Issuer setting forth the terms and details of the Loan, in substantially the form attached hereto as Exhibit A with such changes, modifications, insertions or deletions as are authorized herein.

“Mayor” means the Mayor of the Issuer or the City Administrator on behalf of the Mayor or the Chief Financial Officer on behalf of the Mayor.

“Pledged Funds” means (i) the Grant Proceeds, (ii) moneys on deposit in the funds and accounts created under the Loan Agreement, and (iii) certain investment earnings. Pledged Funds shall include any net receipts from periodic payments received by the Issuer under the Swap Agreement.

“Project” means the construction of a hangar and related facilities more fully described in the FDOT Grant and located at the Pensacola International Airport.

“Resolution” means, collectively, this resolution and all resolutions amendatory hereof and supplemental hereto.

“Series 2016 Note” means the City of Pensacola, Florida, Taxable Airport Facilities Grant Anticipation Note, Series 2016, authorized herein, in substantially the form attached to the Loan Agreement as Exhibit A, with such changes, modifications, insertions or deletions as are authorized herein.

“State” means the State of Florida.

“Swap Agreement” shall mean collectively, (i) the International Swaps and Derivatives Association (ISDA) Master Agreement between the Issuer and the Lender, (ii) a Schedule to the ISDA Master Agreement between the Issuer and the Lender, (iii) a Confirmation between the Issuer and the Lender, whereby the Issuer is entitled to receive a variable rate of interest on a notional amount equal to the outstanding principal amount of the Series 2016 Note and is obligated to pay to the Lender the Fixed Swap Rate and (iv) the Terms of Business Agreement for Swap Transactions.

“Termination Payment” shall mean an amount payable by the Issuer or the Lender upon early termination of the Swap Agreement.

Section 3. Findings. It is hereby found, declared, and determined by the City Council:

(A) The Issuer owns and operates as an enterprise fund the Pensacola International Airport (the “Airport”).

(B) The undertaking of the Project, as defined herein, will promote the economic development of the Airport and the Issuer and the improvement of the health, safety and welfare of the inhabitants of the Issuer, is in the best interests of the Issuer and the inhabitants thereof and serves a paramount public purpose of the Issuer.

(C) The State of Florida Department of Transportation ("FDOT") has committed to provide grant funding in an amount up to \$8,599,600.00 pursuant to the FDOT Grant Agreement, as defined herein, to reimburse costs of the Project.

(D) It is in the best interests of the Issuer to obtain the Loan (as defined herein) to finance costs of the Project in anticipation of receipt of proceeds of the FDOT Grant.

(E) The Series 2016 Note will be payable from the Pledged Funds and as may be further described in the Loan Agreement. The Pledged Funds are anticipated to be sufficient to pay the principal of and accrued interest on the Series 2016 Note as the same becomes due.

(F) The Financial Advisor has solicited proposals for the purchase of the Series 2016 Note pursuant to a negotiated private placement and is recommending the Issuer award the Series 2016 Note to the Lender pursuant to the terms in the Commitment. The City Council has determined that the Lender's Commitment contains terms favorable to the Issuer.

(G) The Financial Advisor is recommending the Issuer enter into the Swap Agreement with the Lender, based on the terms offered by the Lender, the Lender has agreed to enter into the Swap Agreement with the Issuer, and the Issuer has determined that entering into a variable to fixed rate interest rate swap transaction is in the best financial interests of the Issuer.

(H) Because of the characteristics of the Series 2016 Note, prevailing market conditions, and additional savings to be realized from an expeditious sale of the Series 2016 Note, it is in the best interest of the Issuer to sell the Series 2016 Note at a private negotiated sale to the Lender. The Issuer has received the Commitment from the Lender for the Loan, and, based upon the advice of the Financial Advisor, it is in the best interests of the Issuer that the Commitment be accepted. Prior to the issuance of the Series 2016 Note, the Issuer shall receive from the Lender, a Lender's Certificate, the form of which is attached hereto as Exhibit B and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, a form of which is attached hereto as Exhibit C.

(I) The obligation of the Issuer to repay the Series 2016 Note in accordance with its terms and to make the payments required under the Loan Agreement and the Swap Agreement is hereby declared to be and shall be parity special, limited obligations of the Issuer, secured solely by the Pledged Funds and as may be further described in the Loan Agreement. The obligation of the Issuer to repay the Series 2016 Note in accordance with its terms and to make any other payments, if any, required under the Series 2016 Note, the Loan Agreement or the

Swap Agreement shall not be or constitute a general obligation or indebtedness of the Issuer and neither the Series 2016 Note, the Loan Agreement nor the Swap Agreement shall be or constitute a general obligation or indebtedness of the Issuer. Neither the Lender nor any successor owner of the Series 2016 Note shall be entitled to compel the exercise of the ad valorem taxing power of the Issuer or the payment of the principal of or interest on the Series 2016 Note or the making of any payments required under the Series 2016 Note, the Loan Agreement or the Swap Agreement from any moneys of the Issuer other than the Pledged Funds and any other moneys of the Issuer as may be more fully described in the Loan Agreement and the Swap Agreement.

(J) It is necessary and desirable to provide for the securing of the Loan and for the execution and delivery of the Loan Agreement, the execution and delivery of the Swap Agreement, the issuance of the Series 2016 Note and the taking of all other action in connection with the consummation of the Loan.

(K) It is necessary and desirable to approve the estimated costs of issuance to be paid by the Issuer in connection with the delivery of the Series 2016 Note, the Loan Agreement and the Swap Agreement.

Section 4. Authorization of Series 2016 Note and Project.

(A) Subject and pursuant to the provisions hereof, the issuance by the Issuer of its Series 2016 Note, in an aggregate principal amount of not to exceed Six Million Two Hundred Ninety-Nine Thousand Six Hundred Dollars (\$6,299,600), to be dated, to bear interest, to be payable, to mature, to be subject to prepayment, to have such other characteristics as provided herein and in the Series 2016 Note, the Loan Agreement and the Commitment, and to be secured as provided in the Loan Agreement is hereby authorized.

(B) The financing of the Project is hereby authorized. The City Council and the proper officers of the Issuer are hereby directed to take all action and steps deemed necessary to construct the Project, which are not inconsistent with the terms and provisions of this Resolution, the FDOT Grant Agreement, the Swap Agreement or the Loan Agreement.

(C) The Chief Financial Officer is authorized to execute and deliver the Commitment attached hereto as Exhibit D; provided, however, in the event of any inconsistencies as between such Commitment and the Series 2016 Note, the Loan Agreement or this Resolution, the Series 2016 Note, Loan Agreement and this Resolution shall control.

Section 5. Approval of Form of Loan Agreement and Series 2016 Note. The Loan Agreement, in substantially the form attached hereto as Exhibit A, and the Series 2016 Note, in substantially the form attached to the Loan Agreement as Exhibit A, are hereby approved, subject to such changes, amendments, modifications, omissions and additions as shall be consistent with the terms of this Resolution and approved by the Mayor upon the advice of the

City Attorney, Chief Financial Officer, Bond Counsel and/or Financial Advisor, execution of the Loan Agreement and the Series 2016 Note by the Mayor to be conclusive evidence of such approval. Pursuant to Section 4.01(1) of its Charter, the Issuer hereby authorizes and directs the Mayor to execute the Loan Agreement and Series 2016 Note, such execution to be attested under seal by the City Clerk, approved as to substance by the Chief Financial Officer and designated as legal in form and valid as drawn by the City Attorney and further authorizes and directs the Mayor to deliver the Loan Agreement and the Series 2016 Note to the Lender, and to take such other actions as shall be necessary to consummate the Loan. The Chief Financial Officer is hereby authorized to submit requests for Advances on behalf of the Issuer in accordance with and for the purposes provided in the Loan Agreement.

Section 6. Authorization of Swap Transaction and Approval of Swap Agreement.

The Issuer hereby authorizes an interest rate swap transaction (the “Swap Transaction”) with the Lender in which the Issuer will be the fixed rate payer provided that (a) the notional amount and amortization thereof shall match the anticipated draw-down of the principal amount and amortization of the Series 2016 Note, (b) the Issuer shall receive a floating rate equal to LIBOR, as defined in the Loan Agreement, adjusted monthly, plus 178 basis points, and (c) the Issuer shall pay a fixed rate not to exceed 4.00%.

The Swap Agreement, in substantially the form attached hereto as Exhibit E, is hereby approved, subject to such changes, amendments, modifications, omissions and additions as shall be consistent with the terms of this Resolution and the Loan Agreement and approved by the Mayor upon the advice of the City Attorney, Chief Financial Officer, Bond Counsel and/or Financial Advisor, execution of the Swap Agreement by the Mayor to be conclusive evidence of such approval. Subject to the issuance of the Series 2016 Note and satisfaction of the criteria provided herein, the Issuer hereby authorizes the Mayor to execute the Swap Agreement, such execution to be attested under seal by the City Clerk, approved as to substance by the Chief Financial Officer and designated as legal in form and valid as drawn by the City Attorney and further authorizes the Mayor to deliver the Swap Agreement to the Lender, and to take such other actions as shall be necessary to consummate the Swap Transaction.

Section 7. Authorization of Other Action. The Mayor, City Administrator, City Attorney, the Clerk, the Chief Financial Officer and such other authorized officers, employees and agents of the Issuer are each designated agents of the Issuer in connection with the execution and delivery of the Loan Agreement and the Series 2016 Note and are authorized and empowered, collectively or individually, to take all action and steps to execute and deliver any and all instruments, documents or contracts on behalf of the Issuer which are necessary or desirable in connection with the execution and delivery of the Loan Agreement and the Series 2016 Note to the Lender, including, but not limited to, the making of modifications to the Loan Agreement and the Series 2016 Note to conform the provisions thereof to the provisions of the Commitment.

Section 8. Application of Proceeds of Loan. The proceeds of the Loan shall be used as more fully described in the Loan Agreement and includes the payment of related associated costs of issuance (including but not limited to legal and financial advisory fees and expenses).

Section 9. Repeal of Inconsistent Provisions. All resolutions or parts thereof in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 10. Severability. If any one or more of the covenants, agreements, or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions, and in no way affect the validity of all other provisions of the Resolution or of the Series 2016 Note or Loan Agreement delivered hereunder.

Section 11. Amendment. This Resolution may not be amended or repealed following the issuance of the Series 2016 Note except with the prior written consent of the Lender.

[The remainder of this page intentionally left blank]

Section 12. Effective Date. This Resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the Charter of the Issuer.

Adopted: September 22, 2016

[SEAL]

Approved: _____
Council President

ATTEST:

City Clerk

EXHIBIT A

FORM OF LOAN AGREEMENT

[Follows]

LOAN AGREEMENT

by and between

CITY OF PENSACOLA, FLORIDA

and

COMPASS BANK

Dated September 23, 2016

relating to

NOT EXCEEDING

\$6,299,600

CITY OF PENSACOLA, FLORIDA

TAXABLE AIRPORT FACILITIES GRANT ANTICIPATION NOTE, SERIES 2016

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1. DEFINITIONS.....	5
SECTION 2. INTERPRETATION.	8
SECTION 3. DESCRIPTION OF SERIES 2016 NOTE.	8
SECTION 4. EXECUTION OF SERIES 2016 NOTE.....	9
SECTION 5. REGISTRATION AND TRANSFER OF SERIES 2016 NOTE.....	9
SECTION 6. SERIES 2016 NOTE MUTILATED, DESTROYED, STOLEN OR LOST.....	10
SECTION 7. LOAN AND LOAN LIMIT.	10
SECTION 8. PROJECT FUND.....	11
SECTION 9. FORM OF SERIES 2016 NOTE.....	12
SECTION 10. SECURITY FOR SERIES 2016 NOTE; SERIES 2016 NOTE NOT DEBT OF THE ISSUER	12
SECTION 11. COVENANTS OF THE ISSUER.	12
SECTION 12. REPRESENTATIONS AND WARRANTIES.....	14
SECTION 13. CONDITIONS PRECEDENT.....	14
SECTION 14. NOTICES.	16
SECTION 15. EVENTS OF DEFAULT DEFINED.	16
SECTION 16. NOTICE OF DEFAULTS AND MATERIAL LITIGATION.	17
SECTION 17. REMEDIES.....	17
SECTION 18. NO PERSONAL LIABILITY.	17
SECTION 19. PAYMENTS DUE ON SATURDAYS, SUNDAYS AND HOLIDAYS.	18
SECTION 20. AMENDMENTS, CHANGES AND MODIFICATIONS.	18
SECTION 21. BINDING EFFECT.....	18
SECTION 22. SEVERABILITY.....	18
SECTION 23. EXECUTION IN COUNTERPARTS.....	18
SECTION 24. APPLICABLE LAW.....	18
SECTION 25. VENUE; ATTORNEY'S FEES.	18

SECTION 26. ASSIGNMENT.....18

EXHIBIT A - FORM OF SERIES 2016 NOTE

EXHIBIT B – FORM OF ADVANCE REQUEST

LOAN AGREEMENT

This **LOAN AGREEMENT** is made and entered into as of September 23, 2016 by and between **CITY OF PENSACOLA, FLORIDA**, a municipal corporation of the State of Florida (the "Issuer"), and **COMPASS BANK**, an Alabama banking corporation (together with its successors and/or assigns, the "Lender").

WITNESSETH:

WHEREAS, the Issuer owns and operates as an enterprise fund the Pensacola International Airport (the "Airport");

WHEREAS, the Issuer has determined that the undertaking of the Project hereinafter described will promote the economic development of the Airport and the health, safety and welfare of the Issuer and its inhabitants, is in the best interest of the Issuer its inhabitants, and that the Project serves a paramount public purpose of the Issuer; and

WHEREAS, the State of Florida Department of Transportation ("FDOT") has committed to provide grant funding in an amount up to \$8,599,600.00 pursuant to the FDOT Grant Agreement, as hereinafter defined, to reimburse costs of the Project; and

WHEREAS, the Lender has agreed to lend the Issuer an aggregate principal amount of not exceeding \$6,299,600 to be used to pay a portion of the costs of the Project upon the terms and conditions provided herein in anticipation of receipt of proceeds of the FDOT Grant, as hereinafter defined; and

WHEREAS, the Issuer has determined it is in the best interests of the Issuer to obtain the Loan as provided herein to finance costs of the Project in anticipation of receipt of proceeds of the FDOT Grant; and

WHEREAS, the Issuer has determined that the receipt of Pledged Funds (as herein defined) are anticipated to be sufficient in to repay the debt service coming due on the Series 2016 Note; and

WHEREAS, pursuant to the Resolution (as herein defined), the Issuer has determined that it is in the best interests of the Issuer and the inhabitants thereof that the Issuer pledge the Pledged Funds to secure the obligations of the Issuer to repay the principal of and interest on the Issuer's Grant Taxable Airport Facilities Anticipation Note, Series 2016 (the "Series 2016 Note") when due on a parity with certain payments due under the Swap Agreement (as hereinafter defined) entered into with respect to the Series 2016 Note; and

WHEREAS, the obligation of the Issuer to repay principal of and interest on the Series 2016 Note will not constitute a general obligation or indebtedness of the Issuer as a "bond" within the meaning of any provision of the Constitution or laws of the State of Florida, but shall be and is hereby declared to be a special, limited obligation of the Issuer, payable solely from

and secured solely by the Pledged Funds on a parity with the payment obligations of the Issuer under the Swap Agreement, all as more fully described herein and in the Resolution; and

WHEREAS, the Issuer is not obligated or authorized to levy taxes on any property of or in the Issuer to pay the principal of or interest on the Series 2016 Note or to make any other payments provided for herein; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS. Capitalized terms used in this Loan Agreement and not defined in this Section 1 shall have the meanings assigned in the Resolution. The following terms shall have the following meanings herein, unless the text otherwise expressly requires:

“Authorized Investments” means any investment, obligation, agreement or other financial instrument to the extent not inconsistent with the terms of the investment policy of the Issuer and applicable law.

“Bond Counsel” means Bryant Miller Olive P.A. or any other nationally recognized bond counsel subsequently appointed by the Issuer.

“Business Day” means any day of the year other than a day on which the Lender or the Issuer are lawfully closed for business.

“Chief Financial Officer” means the Chief Financial Officer of the Issuer, or his or her designee.

“City Administrator” means the City Administrator of the Issuer, or any acting or interim City Administrator, or his or her designee.

“City Attorney” means the City Attorney of the Issuer, or his or her designee.

“City Council” means the City Council of the Issuer, as the governing body of the Issuer.

“Clerk” means the Clerk of the Issuer, any acting, deputy, or assistant Clerk, or his or her designee.

“Confirmation” means the Confirmation between the Issuer and the Lender, whereby the Issuer is entitled to receive a variable rate of interest on a notional amount equal to the outstanding principal amount of the Series 2016 Note and is obligated to pay to the Lender the Fixed Swap Rate. Representations and opinions with respect to the Swap Agreement herein described shall be subject to the execution and delivery of the Confirmation by the Issuer and the Lender.

“Date of Delivery” means September 23, 2016.

“Default” means an Event of Default as defined and described in Section 15 hereof.

“Draw-Down Period” shall mean the period commencing on October 1, 2017 and ending on January 1, 2018.

“FDOT Grant” means the grant received by the Issuer pursuant to the FDOT Grant Agreement.

“FDOT Grant Agreement” means the Public Transportation Agreement between the Issuer and the State of Florida Department of Transportation dated September 9, 2016, Financial Project Number 43571769401.

“Fiscal Year” means the period from each October 1 to the succeeding September 30.

“Fixed Swap Payment” shall mean the regularly scheduled periodic amount which the Issuer is obligated to pay to the Lender pursuant to the Swap Agreement as a fixed rate of interest on the notional amount of the Swap Agreement. The Fixed Swap Payment shall not include any Termination Payment.

“Fixed Swap Rate” shall mean the fixed rate of interest required to be paid by the Issuer on the notional amount of the Swap Agreement.

“Grant Proceeds” means the proceeds received by the Issuer from the FDOT Grant.

“Interest Payment Date” means each October 1 of each year commencing October 1, 2018, and continuing through the Maturity Date.

“Lender” or “Purchaser” means Compass Bank, an Alabama banking corporation, and its successors and/or assigns.

“LIBOR” shall have the meaning ascribed to such term in the Series 2016 Note.

“Loan” shall have the meaning ascribed thereto in Section 7 hereof.

“Loan Agreement” means this agreement between the Lender and the Issuer setting forth the terms and details of the Loan.

“Maturity Date” means October 1, 2019.

“Mayor” means the Mayor of the Issuer or the City Administrator on behalf of the Mayor or the Chief Financial Officer on behalf of the Mayor.

“Paying Agent” means an officer of the Issuer or the bank or trust company which the Issuer may from time to time designate to serve as paying agent for the Series 2016 Note.

“Payment Date” means any Interest Payment Date or Principal Payment Date.

“Person” or words importing persons, means firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities, and natural persons.

“Pledged Funds” means (i) the Grant Proceeds, (ii) moneys on deposit in the funds and accounts created hereunder, and (iii) investment earnings on amounts held in the funds and accounts created hereunder. Pledged Funds shall include any net receipts from periodic payments received by the Issuer under the Swap Agreement.

“Principal Amount” means the aggregate principal amount advanced under the Series 2016 Note not to exceed Six Million Two Hundred Ninety-Nine Thousand Six Hundred Dollars (\$6,299,600).

“Principal Payment Date” means October 1, 2018 and October 1, 2019.

“Project” means the construction of a hangar and related facilities more fully described in the FDOT Grant Agreement and located at the Airport.

“Register” means the books maintained by the Registrar in which are recorded the name and address of the Registered Owner of the Series 2016 Note.

“Registered Owner” means the person in whose name the ownership of the Series 2016 Note is registered on the books maintained by the Registrar. The initial Registered Owner shall be the Lender.

“Registrar” means the Person maintaining the Register. The Registrar shall initially be the Clerk.

“Resolution” means Resolution No. __-16 adopted by the Issuer on September 22, 2016, as may be amended and supplemented from time to time.

“Series 2016 Note” means the Taxable Airport Facilities Grant Anticipation Note, Series 2016, of the Issuer, substantially in the form attached hereto as Exhibit A.

“State” means the State of Florida.

“Swap Agreement” shall mean collectively, (i) the International Swaps and Derivatives Association (ISDA) Master Agreement between the Issuer and the Lender, (ii) a Schedule to the ISDA Master Agreement between the Issuer and the Lender, and (iii) the Confirmation and (iv) the Terms of Business Agreement for Swap Transactions.

“Termination Payment” shall mean an amount payable by the Issuer or the Lender upon termination of the Swap Agreement.

SECTION 2. INTERPRETATION. Unless the context clearly requires otherwise, words of masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Loan Agreement and all the terms and provisions hereof (a) have been negotiated between the Issuer and the Lender; (b) shall not be construed strictly in favor of or against either party hereto; and (c) shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof.

The titles and headings of the Sections and subsections of this Agreement, which have been inserted for convenience of reference only and are not to be considered part hereof, shall not in any way modify or restrict any of the terms and provisions hereof, and shall not be considered or given any effect in construing this Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

SECTION 3. DESCRIPTION OF SERIES 2016 NOTE. The obligation of the Issuer to repay the Loan shall be evidenced by the Series 2016 Note. The Series 2016 Note shall be dated as of the Date of Delivery; shall mature on the Maturity Date; and shall be in registered form.

Interest shall accrue from the date of the initial Advance under the Series 2016 Note on the outstanding principal balance thereof and shall be payable on each Interest Payment Date at a variable rate per annum equal to LIBOR, adjusted monthly to reflect any change in LIBOR, plus 178 basis points; provided, however, that the interest rate on the Series 2016 Note shall never exceed the Maximum Lawful Rate (as defined below). Interest on the Series 2016 Note shall be calculated on the basis of a 360-day year and the actual number of days elapsed.

Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any amounts payable under the Series 2016 Note, together with all fees, charges and other amounts which may be treated as interest with respect thereto under applicable law (collectively, the “Charges”), shall exceed the maximum lawful rate of interest (the “Maximum Lawful Rate”) which may be contracted for, charged, taken, received or reserved in accordance with applicable law, the rate of interest payable in respect of such amounts payable under the Series 2016 Note, together with all Charges payable in respect thereof, shall be limited to the Maximum Lawful Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such payment obligations but were not payable as a result of the operation of this paragraph shall be cumulated and the interest and Charges payable in respect of amounts payable under the Series 2016 Note shall be increased (but not above the Maximum Lawful Rate therefor) until such cumulated amount, shall have been received by the Registered Owner.

Principal on the Series 2016 Note shall be paid in two installments on the Principal Payment Dates, in amounts specified in Schedule 2 attached to the Series 2016 Note.

The Series 2016 Note is subject to prepayment prior to maturity at any time, in whole or in part at 100% of the outstanding principal amount thereof plus accrued interest to the date of prepayment; subject to payment of any required Termination Payment owed by the Issuer under the Swap Agreement occasioned solely by such prepayment.

SECTION 4. EXECUTION OF SERIES 2016 NOTE. The Series 2016 Note shall be executed in the name of the Issuer by the Mayor, attested under seal by the City Clerk, approved as to substance by the Chief Financial Officer, and designated legal in form and valid as drawn by the City Attorney. The Series 2016 Note may be signed and sealed on behalf of the Issuer by any person who at the actual time of the execution of the Series 2016 Note shall hold the appropriate office in the Issuer, although at the date thereof the person may not have been so authorized. The Series 2016 Note may be executed by the facsimile signatures of the Mayor, the Clerk, the Chief Financial Officer and/or City Attorney, provided that at least one of the Mayor or Clerk's signatures must be a manual signature.

SECTION 5. REGISTRATION AND TRANSFER OF SERIES 2016 NOTE. Ownership of the Series 2016 Note shall be registered on the Register. There shall be a Registrar who shall be responsible for maintaining the Register. The person in whose name ownership of a Series 2016 Note is shown on the Register shall be deemed the Registered Owner thereof by the Issuer and the Registrar, who may treat the Registered Owner as the absolute owner of the Series 2016 Note for all purposes, whether or not the Series 2016 Note shall be overdue, and any notice to the contrary shall not be binding upon the Issuer or the Registrar.

Ownership of the Series 2016 Note may be transferred or assigned only as a whole and only upon the Register and upon assumption by the transferee of the obligations of the Lender hereunder. Upon surrender to the Registrar for transfer or exchange of the Series 2016 Note accompanied by an assignment or written authorization for exchange, whichever is applicable, duly executed by the Registered Owner or its attorney duly authorized in writing, the Registrar shall deliver in the name of the Registered Owner or the transferee, as the case may be, a new fully registered Series 2016 Note of the same amount, maturity and interest rate as the Series 2016 Note surrendered. Provided however, any assignment or transfer by the Registered Owner of the Series 2016 Note shall be in whole and not in part.

The Series 2016 Note presented for transfer, exchange, redemption or payment (if so required by the Issuer or the Registrar) shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guaranty of signature satisfactory to the Registrar, duly executed by the Registered Owner or by his duly authorized attorney.

The City Administrator and the Registrar may charge the Registered Owner a sum sufficient to reimburse them for any expenses incurred in making any exchange or transfer after

the first such exchange or transfer following the delivery of such Series 2016 Note. The Registrar or the City Administrator may also require payment from the Registered Owner or his transferee, as the case may be, of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto by any governmental entity other than the Issuer. Such charges and expenses shall be paid before any such new Series 2016 Note shall be delivered.

The new Series 2016 Note delivered upon any transfer or exchange shall be a valid obligation of the Issuer, evidencing the same debt as the Series 2016 Note surrendered, shall be secured under this Loan Agreement, and shall be entitled to all of the security and benefits hereof to the same extent as the Series 2016 Note surrendered.

Whenever a Series 2016 Note shall be delivered to the Registrar for cancellation, upon payment of the principal amount thereof, or for replacement, transfer or exchange, such Series 2016 Note shall be cancelled and destroyed by the Registrar, and counterparts of a certificate of destruction evidencing such destruction shall be furnished to the Issuer.

SECTION 6. SERIES 2016 NOTE MUTILATED, DESTROYED, STOLEN OR LOST. In case the Series 2016 Note shall be mutilated, or be destroyed, stolen or lost, upon the Registered Owner furnishing the Registrar satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur, the Registrar shall issue and deliver a new Series 2016 Note of like tenor as the Series 2016 Note so mutilated, destroyed, stolen or lost, in lieu of or substitution for the Series 2016 Note, if any, destroyed, stolen or lost, or in exchange and substitution for such mutilated Series 2016 Note, upon surrender of such mutilated Series 2016 Note, if any, to the Registrar and the cancellation thereof; provided however, if the Series 2016 Note shall have matured or be about to mature, instead of issuing a substitute Series 2016 Note, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Series 2016 Note be lost, stolen or destroyed, without surrender thereof. Any Series 2016 Note surrendered under the terms of this Section 6 shall be cancelled by the Registrar.

Any such new Series 2016 Note issued pursuant to this section shall constitute an original, additional contractual obligation on the part of the Issuer whether or not, as to the new Series 2016 Note, the lost, stolen or destroyed Series 2016 Note be at any time found by anyone, and such new Series 2016 Note shall be entitled to equal and proportionate benefits and rights as to security for payment to the same extent as the Series 2016 Note originally issued hereunder.

SECTION 7. LOAN AND LOAN LIMIT. Subject to the terms and conditions hereof, the Lender agrees to make advances to the Issuer from time to time (each, an "Advance," and together with the outstanding principal balance of all such Advances from time to time, as the context requires, the "Loan") during the Draw-Down Period in an aggregate principal amount outstanding not to exceed Six Million Two Hundred Ninety-Nine Thousand Six Hundred Dollars (\$6,299,600) (the "Limit"). The Loan shall be evidenced by the Series 2016 Note.

During the Draw-Down Period, the Issuer may borrow up to the maximum principal amount of the Loan Limit, subject to the terms and conditions set forth herein. The Issuer shall request each Advance by written notice (or telephonic notice promptly confirmed in writing) to the Lender not later than 3:00 P.M. eastern standard time, at least two Business Days prior to the date of the requested funding of the Advance. Such written notice shall be in substantially the form attached hereto as Exhibit B. Each such request for an Advance shall specify aggregate principal amount to be borrowed and describe the costs of the Project, including capitalized interest on the Series 2016 Note, to be financed with such Advance. After the expiration of the Draw-Down Period, the Issuer shall not be entitled to receive any further advance under the Loan. The outstanding principal balance of the Loan and interest thereon shall be repaid in accordance with the terms hereof and the Series 2016 Note.

Advances shall be made only to the extent that, taking into account costs of the Project to be paid with the proceeds of such Advance, costs of the Project eligible for reimbursement from the FDOT Grant have been incurred by the Issuer in an amount at least equal to the aggregate amount of all prior Advances and the Advance being sought, together with interest to accrue thereon at the Fixed Swap Rate to the applicable Principal Payment Date such that the Issuer shall be entitled to receive proceeds of the FDOT Grant in an amount at least equal to the aggregate amount of all such Advances and accrued interest. The Issuer hereby agrees that no Advance, other than Advances to pay accrued interest on the Series 2016 Note, will be requested by the Issuer until other Dedicated Resources have been expended for the payment of costs of the Project; provided, however, that the foregoing notwithstanding, the Issuer may obtain Advances prior to expending all of the Dedicated Resources to the extent necessary to cause the outstanding principal amount under the Series 2016 Note to match the notional amount under the Swap Agreement. Dedicated Resources are defined as: (i) proceeds from the Industry Recruitment, Retention and Expansion Funds, in the amount of \$7,000,000, (ii) other FDOT grants in the amount of \$15,186,000, (iii) VT MAE capital, in the amount of \$7,244,000, and (iv) local funds contributed by Escambia County, Florida, for payment of a portion of the Project in the amount of \$8,000,000 (of which the Issuer will reimburse Escambia County \$3,200,000 from legally available funds).

SECTION 8. PROJECT FUND.

A separate account is hereby created and established to be known as the "City of Pensacola, Florida Taxable Airport Facilities Grant Anticipation Note, Series 2016 Project Fund" (the "Project Fund"). Proceeds of each Advance (other than Advances for the payment of accrued interest on the Series 2016 Note which may, at the direction of the Issuer, be paid or credited to the Registered Owner in payment of such accrued interest) shall be deposited to the credit of the Project Fund and shall be applied by the Issuer to pay costs of the Project. Monies in the Project Fund may be invested in Authorized Investments, and all income derived therefrom shall be deposited in the Project Fund.

To the extent there are no other available funds held hereunder, the Issuer shall use any remaining funds in the Project Fund to pay principal and interest on the Series 2016 Note when due.

Such fund shall be kept separate and apart from all other funds of the Issuer and the moneys on deposit therein shall be withdrawn, used and applied by the Issuer solely for the purposes set forth herein. Such proceeds shall be and constitute trust funds for such purpose and there is hereby created a lien in favor of the Series 2016 Note upon such money until so applied by the Issuer solely for the purposes set forth herein.

SECTION 9. FORM OF SERIES 2016 NOTE. The Series 2016 Note shall be in substantially the form attached hereto as Exhibit A, with such variations, omissions and insertions as may be necessary, desirable and authorized or permitted by this Loan Agreement.

SECTION 10. SECURITY FOR SERIES 2016 NOTE; SERIES 2016 NOTE NOT DEBT OF THE ISSUER. The payment of the principal of and interest on the Series 2016 Note and all obligations of the Issuer under the Swap Agreement shall be payable solely from and secured solely by a first priority lien upon and pledge of the Pledged Funds which is hereby granted and created on a parity with the payment obligations of the Issuer under the Swap Agreement. The principal of and interest on the Series 2016 Note and any obligations of the Issuer under the Swap Agreement shall not constitute a general obligation or indebtedness of the Issuer, but shall be limited obligations of the Issuer payable solely from the Pledged Funds to the extent and as provided herein. The Registered Owner and the Lender shall never have the right to compel the levy of taxes upon any property of or in the Issuer for the payment of the principal of and interest on the Series 2016 Note or any obligations of the Issuer under the Swap Agreement.

SECTION 11. COVENANTS OF THE ISSUER. Until the principal of and interest on the Series 2016 Note shall have been paid in full or provision for payment of the Series 2016 Note shall have been made in accordance with the provisions of this Loan Agreement, the Issuer covenants with the Registered Owner of the Series 2016 Note as follows:

A. Establishment of Debt Service Fund and Accounts Therein. There is hereby created and established a Debt Service Fund (and the Principal Account and Interest Account therein). The Debt Service Fund and any other special funds herein established and created shall constitute trust funds for the purposes provided herein for such funds. All such funds shall be continuously secured in the same manner as deposits of governmental funds are authorized to be secured by the laws of the State.

The cash required to be accounted for in any funds established hereunder may be deposited in a single bank account, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the cash on deposit therein for the various purposes of such funds as herein provided.

The designation and establishment of the various funds and accounts in and by this Loan Agreement shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues for certain purposes and to establish certain priorities for application of such revenues and assets as herein provided.

The moneys in the Debt Service Fund and the accounts therein until disbursed pursuant to the provisions hereof may be invested and reinvested only in Authorized Investments, in the manner provided by law. All income on such investments shall remain in such Fund and used for the purposes herein described. Authorized Investments in the funds and accounts under this Agreement shall be valued at the market value thereof, exclusive of accrued interest, by the Issuer as frequently as reasonably deemed necessary by the Lender but not less often than annually nor more often than monthly.

B. Disposition of Pledged Funds.

Upon receipt of Pledged Funds by the Issuer, such amounts shall be deposited into the Debt Service Fund established hereunder and shall be applied on each Payment Date, first to the payment of accrued interest on the Series 2016 Note and second to the payment of any principal amount of the Series 2016 Note then due and any payments due under the Swap Agreement.

C. Financial Statements. At no cost to the Lender, the Issuer shall provide to the Lender (i) unaudited quarterly financial statements prepared by the Issuer within 45 days after the end of each fiscal quarter; and (ii) audited year-end financial statements prepared in accordance with generally accepted accounting principles within five days of receipt of such audited statements but not later than 180 days after the end of each Fiscal Year.

D. Annual Budget. The Issuer will prepare its annual budget in accordance with applicable law, and will provide at no cost to the Lender a copy of its final annual budget for each Fiscal Year within 30 days of adoption thereof by the City Council.

E. Other Information. The Issuer will provide the Lender such other financial or public information as the Lender may reasonably request.

F. FDOT Grant Compliance. The Issuer covenants to comply and remain in compliance with the provisions and assurances contained in the FDOT Grant Agreement. The Issuer covenants and agrees to pay costs of the Project that qualify for reimbursement under the FDOT Grant Agreement in amounts at least sufficient to qualify the Issuer to receive proceeds of the FDOT Grant in amounts sufficient to pay the principal of and to the extent not paid with proceeds of the Series 2016 Note, interest on the Series 2016 Note. The Issuer covenants and agrees to take all action required under the FDOT Grant Agreement to enable it to receive

proceeds of the FDOT Grant at the times and in the amounts necessary to make all payments under the Series 2016 Note when due.

G. Maintenance of Existence. The Issuer shall not permit the termination of its existence as a municipal corporation under the laws of the State.

SECTION 12. REPRESENTATIONS AND WARRANTIES. The Issuer represents and warrants to the Lender that:

A. Organization. The Issuer is a municipal corporation, duly organized and existing under the laws of the State.

B. Authorization of Loan Agreement and Related Documents. The Issuer has the power and has taken all necessary action to authorize the execution and delivery of and the performance by the Issuer of its obligations under, this Loan Agreement and the Series 2016 Note in accordance with their respective terms. This Loan Agreement and the Series 2016 Note have been duly executed and delivered by the Issuer and are valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except to the extent that such enforcement may be limited by laws regarding bankruptcy, insolvency, reorganization or moratorium applicable to the Issuer or by general principles of equity regarding the availability of specific performance.

C. Pledged Funds. The Issuer is legally entitled to pledge the Pledged Funds to the payment of the principal of and interest on the Series 2016 Note and all obligations of the Issuer under the Swap Agreement when due as provided herein and therein. The Issuer estimates that the Pledged Funds will be available in amounts sufficient to pay the principal of and interest on the Series 2016 Note as the same become due prior to the Maturity Date, to pay all obligations of the Issuer under the Swap Agreement and to pay all principal of and accrued interest due on the Series 2016 Note on the Maturity Date. The Issuer shall diligently enforce by all lawful action its right to receive the FDOT Grant proceeds.

D. Financial Statements. The audited financial statements of the Issuer for the Fiscal Year ended September 30, 2015 (the "Financial Statements"), previously provided to the Lender were prepared in accordance with generally accepted accounting principles, are correct and present fairly the financial condition of the Issuer as of such date and the results of its operations for the period then ended.

SECTION 13. CONDITIONS PRECEDENT. The obligation of the Lender to make the Loan is subject to the satisfaction of each of the following conditions precedent on or before the Date of Delivery:

A. Action. The Lender shall have received a copy of the Resolution certified as complete and correct as of the closing date, together with an executed Loan Agreement, the executed Series 2016 Note and the customary closing certificates.

B. Incumbency of Officers. The Lender shall have received an incumbency certificate of the Issuer in respect of each of the officers who is authorized to sign this Loan Agreement, the Series 2016 Note, and the related financing documents on behalf of the Issuer.

C. Opinion of City Attorney. The Lender shall have received a written opinion of the City Attorney as to (1) the valid existence of the Issuer as a municipal corporation of the State; (2) the due adoption of the Resolution; (3) the due authorization and execution of this Loan Agreement, the Series 2016 Note, the Swap Agreement and the transaction contemplated hereby and thereby; (4) the Loan Agreement, the Swap Agreement and the Series 2016 Note constituting valid and binding obligations of the Issuer, enforceable against the Issuer, in accordance with their respective terms; and (5) the absence of litigation against the Issuer relating to (a) its existence or powers, (b) its authority to issue the Series 2016 Note or pledge the Pledged Funds, (c) the procedures governing the authorization and issuance of the Series 2016 Note, and (d) any other matter which may result in any material adverse change in the business, properties, assets or financial condition of the Issuer in a form and substance satisfactory to the Lender.

D. Certificate of Chief Financial Officer. The Lender shall have received a certificate from the Chief Financial Officer that: (1) since the date of the Financial Statements, referred to in Section 12.D. above, there has been no material adverse change in the financial condition, revenues, properties or operations of the Issuer; (2) there are no liabilities (of the type required to be reflected on balance sheets prepared in accordance with generally accepted accounting principles), direct or indirect, fixed or contingent, of the Issuer as of the date of such financial information which are not reflected therein, other than its \$12,465,000 Airport Refunding Revenue Note, Series 2015, issued on October 16, 2015, and its \$14,314,000 Local Option Gas Tax Revenue Bond, Series 2016, issued on July 25, 2016; (3) there has been no material adverse change in the financial condition or operations of the Issuer since the date of such Financial Statements (and to the Chief Financial Officer's knowledge no such material adverse change is pending or threatened); and (4) the Issuer has not guaranteed the obligations of, or made any investment in or loans to, any person except as disclosed in such information.

E. Representations and Warranties; No Default. The representations and warranties made by the Issuer herein shall be true and correct in all material respects on and as of the Date of Delivery, as if made on and as of such date; no Default shall have occurred and be continuing as of the Date of Delivery or will result from the consummation of the Loan; and the Lender shall have received a certificate from the Issuer to the foregoing effect.

F. Lender Certificates. The Issuer shall have received the fully executed Lender's Certificate substantially in the form attached to the Resolution as Exhibit B and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, substantially in the form attached to the Resolution as Exhibit C.

G. Other Documents. The Lender shall have received such other documents, certificates and opinions as the Lender or its counsel shall have reasonably requested.

SECTION 14. NOTICES. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered, delivered by telecopier, mailed by registered or certified mail, postage prepaid, or delivered by courier service to the parties at the following addresses:

Issuer: City of Pensacola, Florida
222 West Main Street
Pensacola, Florida 32502
Attention: City Administrator, with a required copy to the City Attorney at the same address, and a required copy to the Clerk at the same address.

Lender: Compass Bank
5055 Bayou Boulevard
Pensacola, Florida 32503
Attention: Eric Nickelsen

Any of the above parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Communication via telecopier shall be confirmed by delivery by hand, mail, or courier, as specified above, of an original promptly after such communication by telecopier.

SECTION 15. EVENTS OF DEFAULT DEFINED. The following shall be "Events of Default" under this Loan Agreement, and the terms "Default" and "Events of Default" shall mean (except where the context clearly indicates otherwise), any one or more of the following events:

A. Failure by the Issuer to make any payment of principal of or interest on the Series 2016 Note within three (3) days of the date due.

B. Failure by the Issuer to observe and perform any other covenant, condition or agreement on its part to be observed or performed under this Loan Agreement or the Swap Agreement for a period of thirty (30) days after written notice of such failure was or was by the terms hereof required to be delivered to the Issuer by the Lender unless the Lender shall agree in writing to an extension of such time prior to its expiration;

C. The making of any warranty, representation or other statement by the Issuer or by an officer or agent of the Issuer in this Loan Agreement, the Swap Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement which is false or misleading in any material adverse respect;

D. The filing of a petition against the Issuer under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, if an order for relief is entered under such petition or such petition is not dismissed within sixty (60) days of such filing;

E. The filing by the Issuer of a voluntary petition in bankruptcy or seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or the consent by the Issuer to the filing of any petition against it under such law;

F. The admission by the Issuer of its insolvency or bankruptcy or its inability to pay its debts as they become due or that it is generally not paying its debts as such debts become due, or the Issuer's becoming insolvent or bankrupt or making an assignment for the benefit of creditors, or the appointment by court order of a custodian (including without limitation a receiver, liquidator or trustee) of the Issuer or any of its property taking possession thereof and such order remaining in effect or such possession continuing for more than sixty (60) days; or

G. The occurrence of a suspension or termination of, a default under, or a failure of the Issuer to comply with the Issuer's obligations under the FDOT Grant Agreement.

SECTION 16. NOTICE OF DEFAULTS AND MATERIAL LITIGATION. The Issuer shall within five Business Days after it acquires knowledge thereof, notify the Registered Owner of the Series 2016 Note in writing (a) of any change in any material fact or circumstance represented or warranted by the Issuer in this Loan Agreement, the Swap Agreement or in connection with the issuance of the Series 2016 Note, including any litigation which may result in any material adverse change in the business, properties, assets or financial condition of the Issuer; (b) upon the happening, occurrence, or existence of any Event of Default that the Registered Owner is not otherwise aware of, or (c) any event or condition which with the passage of time or giving notice, or both, would constitute an Event of Default, and shall provide the Registered Owner of the Series 2016 Note, with such written notice, a detailed statement by the Chief Financial Officer of all relevant facts and the action being taken or proposed to be taken by the Issuer with respect thereto. Regardless of the date of receipt of such notice by the Registered Owner of the Series 2016 Note, such date shall not in any way modify the date of occurrence of the actual Event of Default.

SECTION 17. REMEDIES. For all Events of Default, the Lender may sue to protect and enforce any and all rights, including the right to specific performance, existing under the laws of the State, of the United States of America, or granted and contained in this Loan Agreement, and to enforce and compel the performance of all duties required by this Loan Agreement or by any applicable laws to be performed by the Issuer, the City Council or by any officer thereof, and may take all steps to enforce this Loan Agreement to the full extent permitted or authorized by the laws of the State or the United States of America.

The Issuer and the Lender each waives, to the fullest extent permitted by law, any right to trial by jury in respect of any litigation based upon the Series 2016 Note or arising out of, under or in conjunction with the Series 2016 Note or this Loan Agreement.

SECTION 18. NO PERSONAL LIABILITY. No recourse shall be had for the payment of the principal of and interest on the Series 2016 Note or for any claim based on the

Series 2016 Note or on this Loan Agreement, against any present or former officer or employee of the Issuer or member or officer of the City Council or any person executing the Series 2016 Note.

SECTION 19. PAYMENTS DUE ON SATURDAYS, SUNDAYS AND HOLIDAYS. In any case where the date for making any payment or the last date for performance of any act or the exercise of any right, as provided in this Loan Agreement, shall be other than a Business Day, then such payment or performance shall be made on the succeeding Business Day with the same force and effect as if done on the nominal date provided in this Loan Agreement, provided that interest on any monetary obligation hereunder shall accrue at the applicable rate to and including the date of such payment.

SECTION 20. AMENDMENTS, CHANGES AND MODIFICATIONS. This Loan Agreement may be amended only by a writing approved with the same formality as this Agreement, signed by the Issuer and the Registered Owner.

SECTION 21. BINDING EFFECT. To the extent provided herein, this Loan Agreement shall be binding upon the Issuer and the Lender and shall inure to the benefit of the Issuer and the Lender and their respective successors and assigns. This Loan Agreement shall be discharged and neither the Issuer nor the Lender shall have any further obligations hereunder or under the Series 2016 Note when the Issuer shall have paid the principal of and interest on the Series 2016 Note in full and shall have paid in full all other amounts, if any, due under the Series 2016 Note or this Loan Agreement.

SECTION 22. SEVERABILITY. In the event any court of competent jurisdiction shall hold any provision of this Loan Agreement invalid or unenforceable such holding shall not invalidate or render unenforceable, any other provision hereof.

SECTION 23. EXECUTION IN COUNTERPARTS. This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 24. APPLICABLE LAW. The laws of the State shall be the law applied in the resolution of any action, claim or other proceeding arising out of the Resolution, the Series 2016 Note or this Loan Agreement.

SECTION 25. VENUE; ATTORNEY'S FEES. The parties agree that jurisdiction and venue for the enforcement of the Resolution, this Loan Agreement or the Series 2016 Note shall be in the state and/or federal courts of Escambia County, Florida. The prevailing party in any action, claim or proceeding arising out of the Resolution, the Loan Agreement or the Series 2016 Note shall be entitled to attorney's fees and costs from the losing party

SECTION 26. ASSIGNMENT. The Lender may assign its rights hereunder to any party to whom it sells or transfers the Series 2016 Note as permitted hereby.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Loan Agreement as of the date first above written.

CITY OF PENSACOLA, FLORIDA

By: _____
Ashton J. Hayward, III, Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney

[Signature Page of Loan Agreement]

COMPASS BANK

By: _____

Name: Eric Nickelsen

Title: Senior Vice President

[Signature Page of Loan Agreement]

EXHIBIT A TO LOAN AGREEMENT

FORM OF SERIES 2016 NOTE

No. R-1

Lesser of \$6,299,600
or the Principal Amount
Advanced and Outstanding Hereunder

**CITY OF PENSACOLA, FLORIDA
TAXABLE AIRPORT FACILITIES GRANT ANTICIPATION NOTE, SERIES 2016**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Issue</u>
Variable	October 1, 2019	September 23, 2016

REGISTERED OWNER: COMPASS BANK

PRINCIPAL AMOUNT: NOT EXCEEDING SIX MILLION TWO HUNDRED NINETY-NINE THOUSAND SIX HUNDRED DOLLARS (\$6,299,600)

KNOW ALL MEN BY THESE PRESENTS, that the City of Pensacola, Florida (the "Issuer"), for value received, hereby promises to pay to the Registered Owner designated above, or registered assigns, solely from the sources hereinafter mentioned, in installments, on the Principal Payment Dates indicated in Schedule 2 attached hereto and on the Maturity Date, or sooner as provided herein, the principal sum advanced hereunder (as described in Schedule 1 attached hereto), up to the maximum Principal Amount shown above and the interest on the outstanding Principal Amount hereof from the date of the initial Advance hereunder or from the most recent date to which interest has been paid, whichever is applicable, until payment of such Principal Amount, at the Interest Rate described below, with all unpaid accrued interest being due on the Maturity Date or upon the earlier payment of principal hereunder upon presentation and surrender hereof at the office of the Clerk for the Issuer, as Registrar and Paying Agent. The principal of and interest on this Note are payable in lawful money of the United States of America.

Interest shall accrue on this Note from the date of the initial Advance hereunder on the outstanding principal balance and shall be payable annually commencing October 1, 2018, and continuing on each October 1 thereafter until the full amount of principal due hereunder has been paid, at a variable rate per annum equal to LIBOR (as defined below), adjusted monthly to reflect any change in LIBOR, plus 178 basis points; provided, however that the interest rate on this Note shall never exceed the Maximum Lawful Rate. Interest on this Note shall be calculated on the basis of a 360-day year and the actual number of days elapsed.

"LIBOR" is the London Interbank Offered Rate for the applicable Reference Period, as determined by the ICE Benchmark Administration Ltd (or any successor or substitute therefor), as obtained by Registered Owner from Reuter's, Bloomberg or any other generally recognized financial reporting source providing such quotations as may be designated by Registered Owner from time to time (the "Rate Source") as of the date that is two (2) Business Days before each Reset Date (or, in the event no such rate is stated as of such date, on the day most immediately preceding such date for which a rate was stated), as adjusted from time to time in Registered Owner's sole discretion for changes in applicable reserve requirements, deposit insurance assessment rates and other regulatory costs. If the Rate Source states a rate that is less than zero, the applicable rate shall be deemed to be zero, except to the extent so adjusted by Lender. Any change in the index rate based on a change in the rate stated by the Rate Source will occur on the first Business Day of each calendar month (each a "Reset Date"); provided, however, that the initial index rate shall be determined as of the date of this Note. Each change in the index rate based on a change in the rate stated by the Rate Source shall be effective from and including the Reset Date as of which such change occurred. The Reference Period is one month. The Reference Period is for reference purposes only, and the index rate hereunder may continue for a period that is longer or shorter than the Reference Period, depending on, among other things, whether the end of the Reference Period in a given month falls on a day other than a Business Day. "Business Day" means each day other than a Saturday, a Sunday, or any day on which Registered Owner is closed for business. Notwithstanding the foregoing, if for any reason Registered Owner is not able to determine a rate as described above, it becomes illegal for Registered Owner to maintain the credit referenced herein based on the rate so determined or Registered Owner determines that such rate will not adequately and fairly reflect its cost of maintaining or funding such credit, then upon notice to the Issuer and until Registered Owner gives notice that such conditions no longer exist, Registered Owner shall have the right to substitute an alternative index rate providing a reasonably equivalent interest rate, selected by Registered Owner with the approval of the Issuer, which approval will not be unreasonably withheld or delayed, for that rate. The index defined in this paragraph (however determined) is referred to as "LIBOR."

The Issuer may make draws of principal of this Note until and including January 1, 2018, or until the occurrence of an Event of Default. Draws under this Note, unless an Event of Default, or event that with the giving of notice or the passage of time would constitute an Event of Default, then exists, may be made in the manner prescribed in the Loan Agreement (as herein defined).

This Note is subject to prepayment prior to maturity at any time, in whole or in part at 100% of the principal amount thereof plus accrued interest to the date of prepayment; subject to payment of any required Termination Payment owed by the Issuer under the Swap Agreement occasioned solely by such prepayment.

This Note is being issued to finance the costs of the Project under the authority of and in full compliance with the Constitution and Statutes of the State of Florida, including particularly Chapter 166, Part II, Florida Statutes, as amended, the municipal charter of the Issuer and other

applicable provisions of law, and Resolution No. __-16, duly adopted by the City Council of the Issuer on September 22, 2016 (the "Resolution"), and pursuant to a Loan Agreement between the Issuer and the Registered Owner, dated September 23, 2016 (the "Loan Agreement"), to which reference should be made to ascertain those terms and conditions. The terms and provisions of the Loan Agreement and the Resolution, including, without limitation, the definitions therein, are hereby incorporated as a part of this Note. The principal of this Note shall be disbursed by the Registered Owner hereof to the Issuer in immediately available funds by making periodic Advances in accordance with the Loan Agreement.

This Note is payable solely from and secured solely by the Pledged Funds on a parity with certain payment obligations of the Issuer under the Swap Agreement, all in the manner provided in, and subject to the terms and conditions of, the Resolution and the Loan Agreement. This Note shall not constitute a general obligation or indebtedness of the Issuer, but shall be a limited obligation of the Issuer payable solely from the Pledged Funds as provided in the Loan Agreement. The Registered Owner hereof shall never have the right to compel the levy of taxes upon any property of or in the Issuer for the payment of the principal of and interest on this Note. Reference is made to the Loan Agreement for the provisions relating to the security for payment of this Note and the duties and obligations of the Issuer hereunder.

The Registered Owner may sue to protect and enforce any and all rights, including the right to specific performance, existing under the laws of the State of Florida, of the United States of America, or granted and contained in the Loan Agreement, and to enforce and compel the performance of all duties required by the Loan Agreement or by any applicable laws to be performed by the Issuer, the City Council or by any officer thereof, and may take all steps to enforce the Loan Agreement to the full extent permitted or authorized by the laws of the State of Florida or the United States of America. The Issuer waives its right to trial by jury in the event of any proceedings in state or federal courts to enforce the terms of this Note or of the Loan Agreement, and the Registered Owner, by its acceptance of this Note, waives its right to trial by jury in any such proceedings.

This Note is subject to all the terms of the Loan Agreement.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of Florida to be performed, to exist and to happen precedent to and in the issuance of this Note, have been performed, exist and have happened in regular and due form and time as so required.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the City of Pensacola, Florida, has issued this Note and has caused the same to be executed by the manual signature of the Mayor, attested under seal by the City Clerk, approved as to substance by the Chief Financial Officer, and designated legal in form and valid as drawn by the City Attorney, as of the Dated Date set forth above.

CITY OF PENSACOLA, FLORIDA

[SEAL]

By: _____
Ashton J. Hayward, III, Mayor

ATTEST:

By: _____
City Clerk

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney

CERTIFICATE OF AUTHENTICATION OF REGISTRAR

This Note constitutes the Taxable Airport Facilities Grant Anticipation Note, Series 2016, as herein described. The Principal Amount, Interest Rate, Maturity Date and Registered Owner shown above are correct in all respects and have been recorded, along with the applicable federal taxpayer identification number and the address of the Registered Owner, in the Register maintained at the principal office of the undersigned.

CITY CLERK OF THE CITY OF
PENSACOLA, FLORIDA, as Registrar

Date of Authentication

SCHEDULE 1 TO SERIES 2016 NOTE

PRINCIPAL AMOUNT

<u>Date of Advance</u>	<u>Principal Advance</u>	<u>Outstanding Principal After Advance</u>
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
__/__/__	\$	\$
Principal Amount		\$

SCHEDULE 2 TO SERIES 2016 NOTE

ESTIMATED PRINCIPAL PAYMENTS FOR THE SERIES 2016 NOTE

Principal Payment Date (October 1)	Installment
2018	\$1,099,600
2019 ⁽¹⁾⁽²⁾	5,200,000
Total ⁽³⁾	<u>\$6,299,600</u>

(1) Maturity Date

(2) Or remaining Principal Amount outstanding, if less.

(3) Or aggregate principal amount advanced, if less.

EXHIBIT B TO LOAN AGREEMENT
FORM OF ADVANCE REQUEST

Compass Bank
5055 Bayou Boulevard
Pensacola, Florida 32503

Re: City of Pensacola, Florida Taxable Airport Facilities Grant Anticipation Note, Series 2017

The City of Pensacola, Florida (the "Issuer") does hereby request the following Advance Request made pursuant to a Loan Agreement by and between the Issuer and Compass Bank (the "Lender") dated September 23, 2016 (the "Agreement"). All terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed thereto pursuant to the Loan Agreement.

1. This Advance Request shall be designated as the "City of Pensacola, Florida, Taxable Airport Facilities Grant Anticipation Note, Series 2016 – Draw No. ____."
2. The principal amount of this Advance Request shall be \$_____ and the Advance Request date shall be _____, 20__.
3. The Advance Request is for the payment of the following:

4. The requested disbursement(s) has/have not been subject to any previous Advance Request.
5. No notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable herein to any of the persons, firms or corporations named herein has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of this Advance Request.
6. The Issuer remains in full compliance with the terms of the Agreement, the FDOT Grant Agreement and the agreements which are incorporated therein by reference, and no Event of Default currently exists thereunder and no Event of Default would exist with the passage of time or the giving of notice.

7. Each amount requested for payment in this Advance Request will be used by the Issuer promptly upon the receipt of funds from the Lender to make the payments to third parties described in this Advance Request.
8. The Issuer has incurred costs of the Project eligible for reimbursement under the FDOT Grant Agreement in amounts at least equal to the aggregate amount of the Advance requested hereby and all Advances previously made thereunder, together with interest to accrue thereon to the anticipated Principal Payment Date at the Fixed Swap Rate.
9. All Dedicated Resources as defined in Section 7 of the Agreement have been expended for the Project.

Dated _____, 20__ (must be at least one Business Day prior to advance).

CITY OF PENSACOLA, FLORIDA

By: _____
Name: _____
Title: _____

EXHIBIT B

FORM OF LENDER'S CERTIFICATE

This is to certify that Compass Bank, or its assignee (the "Lender") has not required the City of Pensacola, Florida (the "Issuer") to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the Issuer in connection with the issuance by the Issuer of its not to exceed \$6,299,600 Taxable Airport Facilities Grant Anticipation Note, Series 2016 (the "Series 2016 Note"), and no inference should be drawn that the Lender, in the acceptance of said Series 2016 Note, is relying on Bond Counsel or the City Attorney as to any such matters other than the legal opinions rendered by Bond Counsel and by the City Attorney. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in Resolution No. 42-16 adopted by the City Council of the Issuer on September 22, 2016 (the "Resolution").

We are aware that investment in the Series 2016 Note involves various risks, that the Series 2016 Note is not a general obligation of the Issuer or payable from ad valorem tax revenues, and that the payment of the Series 2016 Note is secured solely from the sources described in the Resolution.

We have made such independent investigation of the Issuer and the Pledged Funds as we, in the exercise of sound business judgment, consider to be appropriate under the circumstances. In making our investment decision, we have relied upon the accuracy of information which has been provided to us.

We have knowledge and experience in financial and business matters and are capable of evaluating the merits and risks of our investment in the Series 2016 Note and can bear the economic risk of our investment in the Series 2016 Note.

We acknowledge and understand that the Issuer has determined that the Resolution is not required to be qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"), and that the Series 2016 Note is not required to be registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, Section 517.051(1), Florida Statutes, and/or Section 517.061(7), Florida Statutes, and that neither the Issuer, Bond Counsel nor the City Attorney shall have any obligation to effect any such registration or qualification.

The Series 2016 Note has been purchased for the account of the Lender for investment purposes only and not with a present view to the distribution, transfer or resale thereof. The Lender intends to hold and book the Series 2016 Note as a loan in its loan portfolio; the Lender acknowledges that the use of the word "note" in the name of the debt instrument is not intended to indicate that the instrument is or is not a security within the meaning of the Securities Act of 1933. The Lender currently intends to hold such Series 2016 Note for its own account and for an

indefinite period of time and does not currently intend to dispose of all or any portion of such Series 2016 Note. The Lender hereby covenants that if the Lender subsequently decides to distribute or resell the Series 2016 Note, it shall comply in all respects with all laws then applicable with respect to any such distribution or resale. We understand that the Series 2016 Note may not be transferred in a denomination less than the par amount outstanding at the time of transfer.

We are a bank, trust company, savings institution, insurance company, dealer, investment company, pension or profit-sharing trust, or qualified institutional buyer as contemplated by Section 517.061(7), Florida Statutes. We are not purchasing the Series 2016 Note for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

We are an "accredited investor" within the meaning of the Securities Act of 1933, as amended, and Regulation D thereunder.

DATED this ___ of September, 2016.

COMPASS BANK

By: _____

Name: Eric Nickelsen

Title: Senior Vice President

EXHIBIT C

FORM OF DISCLOSURE LETTER

The undersigned, as Lender, proposes to negotiate with the City of Pensacola, Florida (the "Issuer") for the private purchase of its not to exceed \$6,299,600 Taxable Airport Facilities Grant Anticipation Note, Series 2016 ("Series 2016 Note"). Prior to the award of the Series 2016 Note, the following information is hereby furnished to the Issuer:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us (the "Lender") in connection with the issuance of the Series 2016 Note (such fees and expenses to be paid by the Issuer):

\$[____]
Legal Fees

2. (a) No other fee, bonus or other compensation is estimated to be paid by the Lender in connection with the issuance of the Series 2016 Note to any person not regularly employed or retained by the Lender (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Lender, as set forth in paragraph (1) above.

(b) No person has entered into an understanding with the Lender, or to the knowledge of the Lender, with the Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer and the Lender or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Series 2016 Note.

3. The amount of the underwriting spread expected to be realized by the Lender is \$0.

4. The management fee to be charged by the Lender is \$0.

5. Truth-in-Bonding Statement:

The Series 2016 Note is being issued primarily to finance the cost of the Project, as defined in Resolution No. 42-16 adopted by the Issuer on September 22, 2016 (the "Resolution"). Unless earlier prepaid, the Series 2016 Note is expected to be repaid by October 1, 2019 (the "Maturity Date"). At the Fixed Swap Rate, as defined in the Resolution, of _____%, and assuming all funds are drawn [in accordance with the estimated draw schedule provided by the Issuer], total interest paid over the life of the Series 2016 Note is approximately \$_____. Based on the foregoing assumptions, issuance of the Series 2016 Note is estimated to result in an

annual average of approximately \$_____ of Pledged Funds of the Issuer not being available to finance other services of the Issuer during the life of the Series 2016 Note.

6. The name and address of the Lender is as follows:

Compass Bank
5055 Bayou Boulevard
Pensacola, Florida 32503

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Letter on behalf of the Lender this ___ day of September, 2016.

COMPASS BANK

By: _____

Name: Eric Nickelsen

Title: Senior Vice President

EXHIBIT D

COMMITMENT

[Follows]

Summary of Terms and Conditions of Proposed Credit Facility

RE: Up to \$6,299,600 Taxable Term Loan Facility

This summary of indicative terms and conditions is not a commitment to lend or to provide any other service related to a financing. Any such commitment or undertaking will be issued only in writing subject to appropriate documentation, the terms of which are not limited to those set forth herein. This summary of indicative terms and conditions is intended as an outline of certain of the material terms of a proposed financing and is not intended to summarize all of the conditions, covenants, representations, warranties and other provisions that would be contained in definitive loan documents, and is subject to, among other things, completion of due diligence and credit approval by BBVA Compass.

Borrower:	The City of Pensacola, Florida (“Borrower” or “City”)
Lender:	Compass Mortgage Corporation (“BBVA Compass” or “Lender” or “Bank”)
Facility:	Up to \$6,299,600.00 Taxable Loan (“Term Loan” or “Facility”).
Purpose:	Proceeds to be used as partial funding for the construction of a building for lease to VT Mobile Aerospace Engineering at Pensacola International Airport.
Maturity:	October 1, 2019
Draw Period:	The Facility is currently anticipated to close on September 23, 2016 and will be drawn down from October 1, 2017 until January 1, 2018. The Facility will be termed out on January 1, 2018 until maturity, October 1, 2019.
Repayment:	Annual interest payments beginning October 2017 and annual principal payments beginning January 2018 until maturity October 1, 2019 when all unpaid principal and interest is due. See Exhibit A for principal amortization schedule.
Interest Rate:	As of September 15, 2016 if the facility were to close and fully fund the indicative taxable variable rate would be of One-Month LIBOR, adjusted monthly, plus 178 basis points (the “Applicable Margin”). Interest will be calculated on the basis of a 360 day year and the actual number of days elapsed.

Derivative: Borrower will maintain 100% of total borrowing synthetically fixed via an interest rate swap with a counterparty acceptable to the Lender. In the event that Compass Bank is the counterparty to the swap the current indicative rate is 3.08% as of September 15, 2016.

Disclaimer: The information in this term sheet has been provided at your request and is not (and does not constitute) (1) a solicitation for you to enter into an interest rate protection (i.e., swap) transaction with Lender (or any of its affiliates), or (2) a recommendation that you enter into the above described swap transaction (or any other swap transaction). The information in this term sheet is only for indicative purposes and is subject to, among other things, market changes. This term sheet is not an offer to provide the swap transaction described above. All swap transactions are subject to: credit and risk approvals; product suitability; and verification that Borrower and any Guarantors are (or will be) an eligible contract participant.

Prepayment:	Loan may be prepaid at any time without premium. However, there may be a payment due from the Borrower to unwind the swap prior to maturity in the event of early termination of the swap for any reason. At no point shall the notional balance outstanding on the swap be greater than the actual amount outstanding on the Loan.
--------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

CONFIDENTIAL

This term sheet does not represent a commitment to lend and may not be relied upon as such.

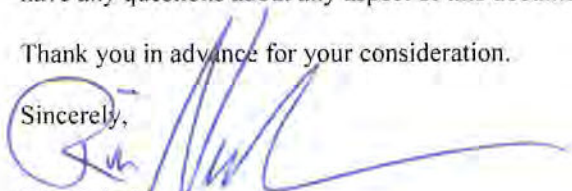
- Security:** Loan to be secured with grant proceeds from Public Transportation Joint Participation Agreement between the State of Florida Department of Transportation and The City of Pensacola; Financial Project Number 43571769401.
- Financial Reporting:**
- Annual audited financial statements of Borrower prepared in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Governmental Auditing Standards*, issued by the Comptroller General of the United States, due within 5 days of receipt, however in no event later than 180 days of fiscal year end.
 - Quarterly company prepared financial statements due no later than 45 days of quarter end.
 - Annual Borrower Prepared Budget shall be due within 30 days of the beginning of each fiscal year. Budget shall include at a minimum: income statement, balance sheet, with details on capital expenditures and financing plans.
 - Borrower shall furnish at Lender's request such additional information that Lender may from time to time reasonably request.
- Covenants:**
- The City must remain in compliance with their grant agreement and all of the grant assurances contained in the Public Transportation Joint Participation Agreement.
- Representations, Warranties and Additional Covenants:**
- Maintenance of existence.
 - Notices of (i) default, (ii) material litigation.
 - Proceeds of this facility shall be injected into the construction project on a "last in" basis after all other identified construction appropriations have been fully utilized.
 - Additional representations and warranties, and other affirmative and negative covenants that Lender considers customary and reasonably appropriate for the Facility. Such representations may include, but are not limited to: (i) a written opinion from Borrower's Counsel, in form and substance acceptable to Lender and Lender's Counsel, that all documents are valid, binding and enforceable in accordance with their terms, that execution and delivery of documents has been duly authorized, and addressing such other matters as the Lender and the Lender's Counsel deem appropriate (ii) Receipt of written opinion from Bond Counsel in form and substance satisfactory to Lender, which shall include, without limitation, opinion that the interest on the Bond is excludable from gross income of the owners thereof for federal income tax.
- Closing Costs:** Borrower will pay all reasonable, out-of-pocket costs and expenses incurred by Lender in connection with due diligence and the preparation of loan documentation, regardless of whether or not the Facility is closed. These out-of-pocket costs may include, but are not limited to, legal costs.
- Conditions Precedent:**
- Legal opinions of Borrower's counsel
 - Properly executed documents in form and substance satisfactory to Lender and/or Lender's counsel evidencing or supporting the Facility, which may include, but are not limited to, a promissory note and/or credit agreement, pledge or security agreements, financing statements and general/unlimited/unconditional guarantees.
 - Additional conditions precedent that Lender considers customary and reasonably appropriate for the Facility.

**Note, all of the foregoing are subject to Lender's receipt and satisfactory review.*

We sincerely appreciate the opportunity to present you with this Summary of Terms and Conditions. Should you have any questions about any aspect of this document, please do not hesitate to contact me at 850-857-5074.

Thank you in advance for your consideration.

Sincerely,


Ric Nickelsen
Relationship Manager
Pensacola, Florida

CONFIDENTIAL

This term sheet does not represent a commitment to lend and may not be relied upon as such.

This term sheet is issued in reliance on the accuracy of all information, representations, schedules, and other data and materials submitted by Borrower, all of which are deemed material. This term sheet does not contain all of the terms and conditions or other provisions that may be included in the final documents evidencing the Facility, and is issued at a time before Lender has undertaken a full business, credit, and legal analysis of Borrower and the Facility.

The terms and provisions of this correspondence are confidential and may not be disclosed by Borrower to any other person or entity. However, the foregoing restrictions on disclosure shall not apply to disclosure(s): (i) to Borrower's legal counsel for purposes of advising Borrower with respect hereto and provided, however, that such counsel agrees to preserve the confidentiality of this correspondence; or (ii) in response to any properly issued subpoena from any court or other governmental authority with jurisdiction over Borrower, provided that Lender has been furnished reasonable advance notice of the intended disclosure and the opportunity to prevent or limit the scope of any such disclosure.

This term sheet is intended for the sole and exclusive benefit of Borrower and Lender and may not be relied upon by third parties.

CONFIDENTIAL

This term sheet does not represent a commitment to lend and may not be relied upon as such.

Exhibit A: Principal Amortization

Principal Amortization Schedule	
<u>Date</u>	<u>Amount</u>
10/1/2018	\$1,099,600.00
10/1/2019	\$5,200,000.00
Total:	\$6,299,600.00

CONFIDENTIAL

This term sheet does not represent a commitment to lend and may not be relied upon as such.

EXHIBIT E

FORM OF SWAP AGREEMENT

(Local Currency-Single Jurisdiction)

ISDA[®]

International Swaps and Derivatives Association, Inc.

MASTER AGREEMENT

dated as of _____

Compass Bank, Birmingham, AL, an Alabama banking corporation ("Party A"), and the City of Pensacola, Florida, a municipal corporation organized under the laws of the State of Florida ("Party B"), have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement (the "Master Agreement"), which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows:—

1. Interpretation

- (a) **Definitions.** The terms defined in Section 12 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.
- (b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.
- (c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

- (a) **General Conditions.**
 - (i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.
 - (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.

(iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

(b) **Change of Account.** Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) **Netting.** If on any date amounts would otherwise be payable:—

(i) in the same currency; and

(ii) in respect of the same Transaction,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of branches or offices through which the parties make and receive payments or deliveries.

(d) **Default Interest; Other Amounts.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into) that:—

(a) **Basic Representations.**

(i) **Status.** It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing;

(ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this

Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorize such execution, delivery and performance;

(iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;

(iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and

(v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

4. Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:—

(a) **Furnish Specified Information.** It will deliver to the other party any forms, documents or certificates specified in the Schedule or any Confirmation by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

(b) **Maintain Authorizations.** It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) **Comply with Laws.** It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

5. Events of Default and Termination Events

(a) **Events of Default.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an "Event of Default") with respect to such party:—

(i) **Failure to Pay or Deliver.** Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(d) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

(ii) **Breach of Agreement.** Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(d) or to give notice of a Termination Event or any agreement or obligation under Section 4(a)) to be complied with or performed by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) **Credit Support Default.**

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party; or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) **Misrepresentation.** A representation made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) **Default under Specified Transaction.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) **Cross Default.** If "Cross Default" is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due

date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

(vii) **Bankruptcy.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party:—

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) **Merger Without Assumption.** The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer:—

(1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) **Termination Events.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, and, if specified to be applicable, a Credit Event Upon Merger if the event is specified pursuant to (ii) below or an Additional Termination Event if the event is specified pursuant to (iii) below:—

(i) **Illegality.** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):—

(1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or

(2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;

(ii) **Credit Event Upon Merger.** If "Credit Event Upon Merger" is specified in the Schedule as applying to the party, such party ("X"), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or

(iii) **Additional Termination Event.** If any "Additional Termination Event" is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).

(c) **Event of Default and Illegality.** If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. Early Termination

(a) **Right to Terminate Following Event of Default.** If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party (the "Non-defaulting Party") may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

(b) **Right to Terminate Following Termination Event.**

(i) **Notice.** If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

(ii) **Two Affected Parties.** If an Illegality under Section 5(b)(i)(1) occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.

(iii) **Right to Terminate.** If:—

(1) an agreement under Section 6(b)(ii) has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

- (2) an Illegality other than that referred to in Section 6(b)(ii), a Credit Event Upon Merger or an Additional Termination Event occurs,

either party in the case of an Illegality, any Affected Party in the case of an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) ***Effect of Designation.***

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(d) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) ***Calculations.***

(i) ***Statement.*** On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) ***Payment Date.*** An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment), from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) ***Payments on Early Termination.*** If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss," and a payment method, either the "First Method" or the "Second Method." If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method," as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) ***Events of Default.*** If the Early Termination Date results from an Event of Default:—

(1) ***First Method and Market Quotation.*** If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the

Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party over (B) the Unpaid Amounts owing to the Defaulting Party.

(2) *First Method and Loss.* If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Unpaid Amounts owing to the Non-defaulting Party less (B) the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(ii) **Termination Events.** If the Early Termination Date results from a Termination Event:—

(1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(i)(3), if Market Quotation applies, or Section 6(e)(i)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(2) *Two Affected Parties.* If there are two Affected Parties:—

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount ("X") and the Settlement Amount of the party with the lower Settlement Amount ("Y") and (b) the Unpaid Amounts owing to X less (II) the Unpaid Amounts owing to Y; and

(B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss ("X") and the Loss of the party with the lower Loss ("Y").

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

(iii) **Adjustment for Bankruptcy.** In circumstances where an Early Termination Date occurs because "Automatic Early Termination" applies in respect of a party, the amount determined under this Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).

(iv) **Pre-Estimate.** The parties agree that if Market Quotation applies an amount recoverable under this Section 6(e) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.

7. Transfer

Neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that:—

(a) a party may make such a transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and

(b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(e).

Any purported transfer that is not in compliance with this Section will be void.

8. Miscellaneous

(a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.

(b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.

(c) **Survival of Obligations.** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.

(d) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.

(e) **Counterparts and Confirmations.**

(i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.

(ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex or electronic message constitutes a Confirmation.

(f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.

(g) **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.

9. Expenses

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

10. Notices

(a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received;
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or
- (v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.

(b) **Change of Addresses.** Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

11. Governing Law and Jurisdiction

(a) **Governing Law.** This Agreement will be governed by and construed in accordance with the law specified in the Schedule.

(b) **Jurisdiction.** With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably:—

- (i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City, if this Agreement is expressed to be governed by the laws of the State of New York; and
- (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient

forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) **Waiver of Immunities.** Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

12. Definitions

As used in this Agreement:—

"Additional Termination Event" has the meaning specified in Section 5(b).

"Affected Party" has the meaning specified in Section 5(b).

"Affected Transactions" means (a) with respect to any Termination Event consisting of an Illegality, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions.

"Affiliate" means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"Applicable Rate" means:—

(a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate;

(b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate;

(c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate; and

(d) in all other cases, the Termination Rate.

"consent" includes a consent, approval, action, authorization, exemption, notice, filing, registration or exchange control consent.

"Credit Event Upon Merger" has the meaning specified in Section 5(b).

"Credit Support Document" means any agreement or instrument that is specified as such in this Agreement.

"Credit Support Provider" has the meaning specified in the Schedule.

"Default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum.

"Defaulting Party" has the meaning specified in Section 6(a).

"Early Termination Date" means the date determined in accordance with Section 6(a) or 6(b)(iii).

"Event of Default" has the meaning specified in Section 5(a) and, if applicable, in the Schedule.

"Illegality" has the meaning specified in Section 5(b).

"law" includes any treaty, law, rule or regulation and **"lawful"** and **"unlawful"** will be construed accordingly.

"Local Business Day" means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

"Loss" means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except, so as to avoid duplication, if Section 6(e)(i)(1) or (3) or 6(e)(ii)(2)(A) applies. Loss does not include a party's legal fees and out-of-pocket expenses referred to under Section 9. A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets.

"Market Quotation" means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the "Replacement Transaction") that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably

practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

"Non-default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount.

"Non-defaulting Party" has the meaning specified in Section 6(a).

"Potential Event of Default" means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Reference Market-makers" means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable, from among such dealers having an office in the same city.

"Scheduled Payment Date" means a date on which a payment or delivery is to be made under Section 2(a)(i) with respect to a Transaction.

"Set-off" means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

"Settlement Amount" means, with respect to a party and any Early Termination Date, the sum of:—

(a) the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and

(b) such party's Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result.

"Specified Entity" has the meaning specified in the Schedule.

"Specified Indebtedness" means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

"Specified Transaction" means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these

transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

"Terminated Transactions" means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if "Automatic Early Termination" applies, immediately before that Early Termination Date).

"Termination Event" means an Illegality or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.

"Termination Rate" means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts.

"Unpaid Amounts" owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

COMPASS BANK (“PARTY A”)

CITY OF PENSACOLA, FLORIDA (“PARTY B”)

By: _____

Name:

Title:

Date:

By: _____

Name: Ashton J. Hayward, III

Title: Mayor

Date: September 23, 2016

ATTEST:

By: _____

City Clerk

(SEAL)

Approved as to Substance:

By: _____

Richard Barker, Jr.

Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____

Lysia H. Bowling

City Attorney

SCHEDULE
to the
ISDA Master Agreement

This **Schedule** (the "Schedule") to the **ISDA Master Agreement** (the "Agreement"), dated as of _____, 2016, by and between **Compass Bank**, Birmingham, AL, an Alabama banking corporation ("Party A"), and **City of Pensacola, Florida**, a municipal corporation organized under the laws of the State of Florida ("Party B"), and which is incorporated by reference into the Agreement, amends, modifies and supplements the same as follows:

Part 1. Events of Default and Termination Provisions.

- (a) Credit Agreement. "Credit Agreement" means that certain Loan Agreement by and between City of Pensacola, Florida and Compass Bank dated August __, 2016, relating to the [\$6,299,600.00] City of Pensacola, Florida Taxable Airport Facilities Grant Anticipation Note, Series 2016, as the same may be amended, modified, restated or replaced from time to time.
- (b) Specified Entity. "Specified Entity" shall not apply to Party A or Party B.
- (c) Specified Transaction. "Specified Transaction" will have the meaning specified in Section 12 of the Agreement.
- (d) Cross Default. The "Cross Default" provisions of Section 5(a)(vi) of the Agreement will apply to Party A and Party B, and is hereby amended by the addition of the following at the end thereof:

"provided, however, that notwithstanding the foregoing, an Event of Default shall not occur under either (1) or (2) above if, as demonstrated to the reasonable satisfaction of the other party, (a) the event or condition referred to in (1) or the failure to pay referred to in (2) is a failure to pay caused by an error or omission of an administrative or operational nature; (b) funds were available to such party to enable it to make the relevant payment when due; and (c) such relevant payment is made within three Business Days following receipt of written notice from an interested party of such failure to pay."

"Specified Indebtedness" will not have the meaning specified in Section 12 of the Agreement, and such definition will be, and is, replaced with the following: "(i) with respect to Party A, any obligation in respect of the payment of moneys (whether present or future, contingent or otherwise, as principal or surety or otherwise), except that such term shall not include obligations in respect of deposits received in the ordinary course of Party A's banking business; and (ii) with respect to Party B, the [\$6,299,600.00] City of Pensacola, Florida Taxable Airport Facilities Grant Anticipation Note, Series 2016."

"Threshold Amount" means with respect to Party A, an amount equal to 3% of the shareholders' equity of Party A determined from time to time in accordance with generally accepted accounting principles, and with respect to Party B or any Specified Entity or Credit Support Provider of Party B, zero

- (e) Credit Event Upon Merger. The "Credit Event Upon Merger" provisions of Section 5(b)(ii) of the Agreement will apply to Party A and to Party B. Section 5(b)(ii) of this Agreement is hereby amended to read in its entirety as follows:—

"(ii) **Credit Event Upon Merger**. If "Credit Event Upon Merger" is specified in the Schedule as applying to the party, such party ("X"), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity (or, without limiting the foregoing, if X is Party B, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, X, any Credit Support Provider of X or any Specified Entity of X) and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving, transferee or successor entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or"

- (f) Automatic Early Termination. The “Automatic Early Termination” provision of Section 6(a) of the Agreement will not apply to either Party A or Party B.
- (g) Payments on Early Termination. For the purpose of Section 6(e) of the Agreement:
- (i) Market Quotation will apply.
 - (ii) The Second Method will apply.
- (h) Termination Currency. “Termination Currency” means United States Dollars.
- (i) Events of Default. Section 5 of the Agreement is hereby amended as follows:—
- (i) **Bankruptcy**. Clause (6) of Section 5(a)(vii) of the Agreement is amended to read in its entirety as follows:—

“(6)(A) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets or (B) in the case of Party B, any Credit Support Provider of Party B or any applicable Specified Entity of Party B, (I) there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, or declare a financial emergency or similar state of financial distress with respect to it or (II) there shall be declared by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it;”
 - (ii) **Merger Without Assumption**. Section 5(a)(viii) of this Agreement is hereby amended to read in its entirety as follows:—

“(viii) **Merger Without Assumption**. The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity (or, without limiting the foregoing, if such party is Party B, an entity such as an organization, board, commission, authority, agency or body succeeds to the principal functions of, or powers and duties granted to, such party or any Credit Support Provider of such party) and, at the time of such consolidation, amalgamation, merger, transfer or succession:—

 - (1) the resulting, surviving, transferee or successor entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or
 - (2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving, transferee or successor entity of its obligations under this Agreement.”
- (j) Additional Termination Event. For the purposes of Section 5(b)(iii) of the Agreement, it shall be an Additional Termination Event with Party B being the Affected Party if (i) any Credit Support Document expires, terminates or ceases to be in full force and effect for the purpose of the Agreement unless this Agreement is expressly amended in writing to reflect that it is no longer a Credit Support Document under the Agreement; (ii) at any time the obligations of Party B to Party A hereunder shall, other than by the election of Party A, for any reason not be secured or guaranteed equally and ratably and on a *pari passu* basis with the obligations of Party B under the Credit Agreement; (iii) any Covered Document expires, terminates or ceases to be in full force and effect; (iv) Party A or Party B ceases to be a party to the Credit Agreement; provided, however, that no Additional Termination Event shall be deemed to have occurred under this subsection if the events described occur as a direct result of Party A voluntarily selling or otherwise voluntarily transferring its interests in the Credit Agreement; (v) the Loan is paid in full or otherwise ceases to be outstanding; (vi) Party B fails to obtain the FDOT Grant in accordance with the terms of the FDOT Grant Agreement; or (vii) any of the provisions of any Covered Document are amended in any material respect without the prior written consent of Party A.
- (k) Additional Events of Default. The Agreement is amended by adding the following new subsection (ix) to Section 5(a):
- “(ix) **Additional Events of Default**. With respect to Party B, it shall constitute an Event of Default under this Agreement if there shall occur any default (howsoever defined) under any Covered Document.”

- (l) Optional Termination. Party B, but not Party A, has the option to terminate and cancel any Transaction, in whole or in part, on any Business Day (an "Optional Termination"). Upon an Optional Termination, the Calculation Agent shall determine the amount owed in connection with such termination using its commercially reasonable judgment and shall provide Party B with notice of such amount. If Party B disputes such calculation, the Calculation Agent shall determine the amount that would otherwise have been payable with respect to the termination of the Transaction under Section 6(e)(ii)(1) (applying 6(e)(i)(3)), assuming that the Optional Termination was a Termination Event for which Party B was the sole Affected Party, the applicable Transaction was the sole Affected Transaction and the effective date of the Optional Termination was an Early Termination Date. Party B agrees that it shall not optionally terminate this Transaction unless it shall have sufficient funds to pay any Settlement Amount to Party A which may be due as provided herein.
- (m) The term "Illegality" with respect to Party B is hereby amended to include an Incipient Illegality.
- (n) Partial Early Termination -- Aggregate. For the purposes of Section 5(b)(iii) of the Agreement, the following shall be an Additional Termination Event (and is referred to below as a "Partial Early Termination") with Party B being the Affected Party:

In the event that Party B pays prior to scheduled maturity (whether upon voluntary or mandatory repayment, redemption, prepayment, acceleration or otherwise) a portion of the Loan or the Lender terminates a portion of the commitments to make the Loan, and the effect of such prepayment or termination would cause the aggregate notional amount of all Subject Transactions under the Swap Agreement to exceed 100% of the aggregate outstanding principal balance of the Loan made by, or committed to be made by, the Lender under the terms of the Credit Agreement (the amount of such excess being the "**Aggregate Swap Excess**"), then Party B shall, upon notice to Party A, simultaneously terminate a portion of the Subject Transactions in accordance with this Part 1(n), in an amount not less than the Aggregate Swap Excess, in such a manner that the aggregate notional amounts of all other Swap Agreements does not exceed 100% of the aggregate outstanding principal balance of the Loan made by, or committed to be made by, the Lender under the terms of the Credit Agreement. In the event Party B fails to effect the required Partial Early Termination pursuant to this Part 1(n), Party A shall effect such Partial Early Termination. Any reduction in the Notional Amount of the Subject Transaction pursuant to this Part 1(n) will be permanent and unaffected by any subsequent increase in the amount of the Loan.

In the event of a Partial Early Termination under this Part 1(n), the Subject Transaction will be deemed and treated for all purposes to have been divided into two separate Transactions as if the parties had initially entered into two separate Transactions. The terms of each of the two deemed Transactions will be identical to those of the Subject Transaction, except for the notional amounts thereof which, when taken together, will equal the same Notional Amount as the Subject Transaction immediately prior to such division, and one of such deemed Transactions (the "**Terminated Portion**") will have a Notional Amount corresponding to the reduction designated in the notice of Partial Early Termination issued by Party B in accordance with the terms hereof, and the other of such deemed Transactions (the "**Non-Terminated Portion**") will have a Notional Amount corresponding to the Notional Amount of the Subject Transaction less such reduction designated in the notice of Partial Early Termination. The Terminated Portion will be deemed to have been terminated on and as of the effective date of such Partial Early Termination as specified in the relevant notice (such date being referred to herein as the "**Partial Early Termination Date**"). Payment of the Settlement Amount by Party A or Party B (as the case may be) in respect of the Terminated Portion will be calculated and due and payable as though an Additional Termination Event had occurred hereunder, with the Early Termination Date being the Partial Early Termination Date and with only such Terminated Portion being treated as an Affected Transaction for purposes of this Additional Termination Event.

Each of Party A and Party B hereby acknowledges and agrees that a Partial Early Termination will not constitute a Termination Event under this Agreement with respect to the Non-Terminated Portion of the Subject Transaction, which will continue in full force and effect without regard to any such Partial Early Termination.

- (o) Partial Early Termination -- Party A. For the purposes of Section 5(b)(iii) of the Agreement, the following shall also constitute a Partial Early Termination with Party B being the Affected Party **only** if Party A is the source of less than 10% of the loan or the commitment to make a loan:

In the event that Party B pays prior to scheduled maturity (whether upon voluntary or mandatory repayment, redemption, prepayment, acceleration or otherwise) a portion of the Party A Loan or Party A terminates a portion of the commitments to make the Party A Loan, and the effect of such prepayment or termination would cause the aggregate notional amount of all Subject Transactions under this Agreement to exceed 100% of the outstanding

principal balance of the Party A Loan made by, or committed to be made by, Party A under the terms of the Credit Agreement (the amount of such excess being the “**Party A Swap Excess**”), then Party B shall, upon notice to Party A, simultaneously terminate a portion of the Subject Transactions in accordance with this Part 1(o), in an amount not less than the Party A Swap Excess, in such a manner that the aggregate notional amounts of all other Swap Agreements does not exceed 100% of the aggregate outstanding principal balance of the Party A Loan made by, or committed to be made by, Party A under the terms of the Credit Agreement. In the event Party B fails to effect the required Partial Early Termination pursuant to this Part 1(o), Party A shall effect such Partial Early Termination. Any reduction in the Notional Amount of the Subject Transaction pursuant to this Part 1(o) will be permanent and unaffected by any subsequent increase in the amount of the Loan.

In the event of a Partial Early Termination under this Part 1(o), the Subject Transaction will be deemed and treated for all purposes to have been divided into two separate Transactions as if the parties had initially entered into two separate Transactions. The terms of each of the two deemed Transactions will be identical to those of the Subject Transaction, except for the notional amounts thereof which, when taken together, will equal the same Notional Amount as the Subject Transaction immediately prior to such division, and one of such deemed Transactions (the “**Party A Swap Terminated Portion**”) will have a Notional Amount corresponding to the reduction designated in the notice of Partial Early Termination issued by Party B in accordance with the terms hereof, and the other of such deemed Transactions (the “**Party A Swap Non-Terminated Portion**”) will have a Notional Amount corresponding to the Notional Amount of the Subject Transaction less such reduction designated in the notice of Partial Early Termination. The Party A Swap Terminated Portion will be deemed to have been terminated on and as of the effective date of such Partial Early Termination as specified in the relevant notice (such date being referred to herein as the “**Party A Swap Partial Early Termination Date**”). Payment of the Settlement Amount by Party A or Party B (as the case may be) in respect of the Party A Swap Terminated Portion will be calculated and due and payable as though an Additional Termination Event had occurred hereunder, with the Early Termination Date being the Party A Swap Partial Early Termination Date and with only such Party A Swap Terminated Portion being treated as an Affected Transaction for purposes of this Additional Termination Event.

Each of Party A and Party B hereby acknowledges and agrees that a Partial Early Termination will not constitute a Termination Event under this Agreement with respect to the Party A Swap Non-Terminated Portion of the Subject Transaction, which will continue in full force and effect without regard to any such Partial Early Termination.

(p) Definitions.

- (i) “**Lender**” has the same meaning set forth in the Credit Agreement.
- (ii) “**Loan**” has the same meaning as set forth in the Credit Agreement.
- (iii) “**Party A Loan**” means the loan made by Party A pursuant to the terms of the Credit Agreement.
- (iv) “**Swap Agreement**” has the same meaning as set forth in the Credit Agreement.
- (v) “**Subject Transaction**” means the Transaction, evidenced by a Confirmation, entered into on the date hereof.

- (q) Credit Agreement Effective Date. For the purposes of Section 5(b)(iii) of this Agreement, it shall be an Additional Termination Event with both Party A and Party B being an Affected Party if the Credit Agreement is not executed on or before the ninetieth (90th) day following the Trade Date (as set forth in the applicable Confirmation) (the “Credit Agreement Deadline”). If the Credit Agreement is not executed on or before the Credit Agreement Deadline, then either Party A or Party B shall have the right (but not the obligation) to terminate the Transaction in accordance with the terms contained in Section 6 of the Master Agreement. This Additional Termination Event shall cease to apply, and shall be of no further force and effect, upon execution of the Credit Agreement.

Part 2. Agreement to Deliver Documents.

For the purpose of Sections 4(a)(i) and (ii) of the Agreement, each party agrees to deliver the following documents, as applicable:

(a) Tax Forms, Documents, Certificates. Tax forms, documents or certificates to be delivered are:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered
Party A and Party B	Any document allowing any Party to the other to make or receive payments under this Agreement without withholding or deduction on account of any Tax or with such withholding or deduction at a reduced rate.	(i) Upon execution of this Agreement, (ii) promptly at the reasonable demand by the other party and (iii) promptly upon learning that any such form previously provided by such party has become obsolete or incorrect.

(b) Other Documents. Other documents to be delivered are as follows:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
Party B	Annual consolidated financial statements certified by independent certified public accountants and prepared with generally accepted accounting principles consistently applied	As soon as available and in any event within 180 days after the end of each fiscal year	Yes
Party A	A copy of the most recent call report filed by Party A with its primary federal bank regulatory authority	Upon request as soon as publicly available provided, however, that such annual reports are "deemed" to be delivered hereunder when the same are made publicly available at www.ffiec.gov	Yes
Party B	Unaudited consolidated financial statements for each fiscal quarter prepared in accordance with generally accepted accounting principles, subject to any applicable regulatory requirements, on a basis consistent with that of the annual financial statements	As soon as available and in any event as often as such statements are delivered in connection with any Specified Indebtedness, or if there is no Specified Indebtedness, within 45 days after the end of each fiscal quarter	Yes

Party A and Party B	Certified copies of all corporate authorizations and any other documents with respect to the execution, delivery and performance of this Agreement and the Transactions hereunder (or, in the case of Party B, certified copies of documents evidencing each action taken by Party B to authorize its execution, delivery and performance of this Agreement and the Transactions hereunder)	Upon execution and delivery of this Agreement	Yes
Party A and Party B	Certificate of authority and specimen signatures of individuals executing this Agreement, Confirmations and Credit Support Documents	Upon execution and delivery of this Agreement and thereafter upon request of the other party	Yes
Party B	Opinion of counsel as to the authority of Party B to enter into this Agreement and the Credit Support Documents and the enforceability of this Agreement and the Credit Support Documents against Party B	Upon execution and delivery of this Agreement	No

Part 3. Other Provisions.

(a) Obligations. Section 2(a)(iii) of this Agreement is hereby amended to read in its entirety as follows:—

“(iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default, Potential Event of Default or Incipient Illegality with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated, and (3) each other applicable condition precedent specified in this Agreement.”

(b) Representations.

(i) The introductory clause of Section 3 of this Agreement is hereby amended to read in its entirety as follows:—

“Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(a) and 3(e), at all times until the termination of this Agreement) that:—”.

(ii) Section 3(a)(ii) of this Agreement is hereby amended to read in its entirety as follows:—

“(ii) **Powers**. It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action and made all necessary determinations and findings to authorize such execution, delivery and performance;”.

(iii) Section 3(b) of this Agreement is hereby amended to read in its entirety as follows:—

“(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Incipient Illegality (in the case of Party B) or Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.”

(iv) Section 3 of this Agreement is hereby amended by adding the following subsection “(e)” thereto, which subsection shall only apply to Party B:—

“(e) **Non-Speculation.** This Agreement has been, and each Transaction hereunder will be (and, if applicable, has been), entered into for purposes of managing its borrowings or investments and not for purposes of speculation.”

(v) Section 3 of this Agreement is hereby amended by adding the following subsection “(f)” thereto:—

“(f) **No Immunity.** It is not entitled to claim immunity on the grounds of sovereignty or other similar grounds with respect to itself or its revenues or assets (irrespective of their use or intended use) from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) or (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be made subject to in any Proceedings (as defined in Section 11(b)) in the courts of any jurisdiction and no such immunity (whether or not claimed) may be attributed to such party or its revenues or assets.”

(c) Agreements.

(i) The introductory clause of Section 4 of this Agreement is hereby amended to read in its entirety as follows:—

“Each party agrees with the other (or, in the case of Section 4(d) and (e), Party B agrees with Party A) that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:—”.

(ii) Section 4 of this Agreement is hereby amended by adding the following subsections “(d)”, “(e)” and “(f)” thereto:—

“(d) **Compliance with Covered Documents** Party B will observe, perform and fulfill each provision in the Covered Documents applicable to Party B, as any of those provisions may be amended, supplemented or modified for purposes of this Agreement with the prior written consent of Party A (the “Incorporated Provisions”), with the effect that such other party hereto will have the benefit of each of the Incorporated Provisions (including without limitation, covenants, right to consent to certain actions subject to consent under the Covered Documents and delivery of financial statements and other notices and information). In the event the Covered Documents cease to be in effect prior to the termination of this Agreement, the Incorporated Provisions (other than those provisions requiring payments in respect of notes, warrants or other similar instruments issued under the Covered Documents) will remain in full force and effect for purposes of this Agreement as though set forth herein until such date on which all of the obligations of Party B under this Agreement have been fully satisfied. The Incorporated Provisions are hereby incorporated by reference and made a part of this Agreement to the same extent as if such provisions were set forth herein. Any amendment, supplement, modification or waiver of any of the Incorporated Provisions without the prior written consent of the other party thereto shall have no force and effect with respect to this Agreement. Any amendment, supplement or modification for which such consent is obtained shall be part of the Incorporated Provisions for purposes of this Agreement. Party B shall not assign or transfer its rights or obligations under the Covered Documents without the prior written consent of Party A.

“Covered Documents” means (i) the Credit Agreement, (ii) the Series 2016 Note, (iii) the FDOT Grant Agreement, (iv) the Resolution, and (v) any other documents that provide security for Party B’s obligations under this Agreement or with respect to the Loan; in each case as amended, supplemented, or modified from time to time.

(e) **Notice of Incipient Illegality.** If an Incipient Illegality occurs, Party B will, promptly upon becoming aware of it, notify Party A, specifying the nature of that Incipient Illegality and will also give such other information about that Incipient Illegality as Party A may reasonably require.

(f) **Security and Source of Payment of Party B's Obligations.** Party B hereby represents and warrants that payments and other obligations required to be made by Party B under this Agreement are limited obligations payable and secured solely by a first priority lien upon and pledge of the Pledged Funds, and shall rank pari passu with Party B's payment obligations with respect to the Series 2016 Note. The obligation of Party B to make any payments under this Agreement shall not be or constitute a general obligation or indebtedness of Party B, or a pledge or lien upon the ad valorem taxing power of Party B."

(d) **Jurisdiction.** Section 11(b) of this Agreement is hereby amended to read in its entirety as follows:—

"(b) **Jurisdiction.** With respect to any suit, action or proceedings relating to this Agreement ('Proceedings'), each party irrevocably:—

(i) submits, to the fullest extent permitted by applicable law, to the non-exclusive jurisdiction of each of the courts of the State of New York, the United States District Court located in the Borough of Manhattan in New York City, the courts of the State of Florida, and the United States District Court for the Northern District of Florida located in Pensacola, Florida; and

(ii) waives, to the fullest extent permitted by applicable law, (1) any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, (2) any claim that such Proceedings have been brought in an inconvenient forum and (3) the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction."

(e) **Definitions.** Section 12 of this Agreement is hereby amended to add the following definitions in their appropriate alphabetical order:—

"**Covered Documents**" has the meaning specified in the Schedule.

FDOT Grant has the meaning set forth in the Credit Agreement.

FDOT Grant Agreement has the meaning set forth in the Credit Agreement.

Incipient Illegality means (a) the enactment by any legislative body with competent jurisdiction over Party B of legislation which, if adopted as law, would render unlawful (i) the performance by Party B of any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of a Transaction or the compliance by Party B with any other material provision of this Agreement relating to such Transaction or (ii) the performance by Party B or a Credit Support Provider of Party B of any contingent or other obligation which Party B (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction, (b) any assertion in any proceeding, forum or action by Party B, in respect of Party B or in respect of any entity located or organized under the laws of the State of Florida to the effect that performance under this Agreement or similar agreements is unlawful or (c) the occurrence with respect to Party B or any Credit Support Provider of Party B of any event that constitutes an Illegality.

Pledged Funds has the meaning set forth in the Credit Agreement.

Resolution has the meaning set forth in the Credit Agreement.

Series 2016 Note has the meaning set forth in the Credit Agreement."

Part 4. Miscellaneous.

(a) **Addresses for Notices.** For the purpose of Section 12(a) of the Agreement:

Address for notices or communications to Party A:

Address: Compass Bank
Attn: **Middle Office CIB Operations TX-HO-HT-WBS**

P.O. Box 4444
Houston, Texas 77210-9830
Telephone Number: 1-877-559-3780

Address for notices or communications to Party B:

Address: City of Pensacola, Florida
222 West Main Street
Pensacola, Florida 32502
Attn: _____

Email:
Telephone Number:

(b) Calculation Agent. The Calculation Agent is Party A; provided, that if an Event of Default with respect to Party A as the Defaulting Party has occurred and is continuing, the Calculation Agent shall be a Reference Market-maker selected by Party B and acceptable to Party A.

(c) Credit Support Document.

Credit Support Document means, in relation to Party A: None.

Credit Support Document means, in relation to Party B: the Credit Agreement and the FDOT Grant Agreement.

(d) Credit Support Provider.

Credit Support Provider means in relation to Party A: None.

Credit Support Provider means in relation to Party B: None.

(e) Governing Law. This Agreement will be governed by and construed in accordance with the law of the State of New York (without reference to choice of law doctrine); provided, however, that the power and authority of Party B to enter into this Agreement and the performance by Party B of its obligations under the Incorporated Provisions of the Covered Documents shall be governed by and construed in accordance with the laws of the State of Florida.

(f) Affiliate. "Affiliate" will have the meaning specified in Section 12 of the Agreement.

(g) Recording of Conversations. Each party to the Agreement acknowledges and agrees to the recording of conversations between trading and marketing personnel of the parties to this Agreement whether by one or other or both of the parties or their agents, and that any such recordings may be submitted in evidence in any proceedings relating to the Agreement.

(h) Additional Representation. With respect to Party A and Party B, the following provisions are added as new subsections (e) and (f) at the end of Section 3 of the Agreement:

(e) Additional Representation. Party A and Party B represent and warrant to the other that at all times until termination of this Agreement that:

(i) it is authorized under all applicable laws and by its regulatory or supervisory authorities, if any, to enter into and perform its obligations under this Agreement, each Swap Transaction and each Credit Support Document to which it is a party,

(ii) this Agreement and each Credit Support Document to which it is a party (a) have been duly approved by a resolution of its board of directors, (b) have been executed by a duly authorized officer, and (c) will be, continuously from the time of their execution, maintained as part of the Party's official books and records. Each party recognizes and intends that each transaction entered into under this Agreement is, and shall constitute, a "swap agreement" as defined in the U.S. Bankruptcy Code and as a "qualified financial contract" as that term is defined in

Section 212 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as the same may be amended, modified or supplemented from time to time,

- (iii) it is an "Eligible Contract Participant" as such term is defined in Section 1a(18) of the U.S. Commodity Exchange Act, as amended (7 U.S.C. § 1a(18)) (the "CEA"), or the rules and regulations promulgated thereunder in effect on the date the parties enter into such Transaction.
- (iv) Party B represents and warrants that it has entered into this Agreement (and it will enter into each Transaction hereunder) to hedge its exposure to movements in interest rates and not for purposes of speculation.
- (vi) it is entering into this Agreement, including each Transaction, as principal and not as agent of any person or entity.
- (f) Generally Accepted Accounting Principles. The parties agree that all financial information delivered pursuant to this Schedule, including the related schedules and notes thereto, shall be prepared in accordance with accounting principles that are generally accepted in the United States of America, applied consistently throughout the periods involved.
- (i) Set-off; counterclaim. (i) Without affecting the provisions of the Agreement requiring the calculation of certain net payment amounts, all payments under this Agreement shall be made without setoff or counterclaim and will not be subject to any conditions except as provided in Section 2 of the Agreement and except as provided in the following clauses (A) through (D):
 - (A) if there is a Defaulting Party, the Non-defaulting Party will have the right to set off, counterclaim or withhold payment of any obligation, whether contingent or absolute or matured or unmatured, arising under this Agreement or under the Specified Indebtedness, against any payment or performance obligation, whether matured, absolute or contingent or unmatured, of the Defaulting Party under this Agreement or under the Specified Indebtedness, and the Non-defaulting Party's obligations hereunder or thereunder to the Defaulting Party shall be deemed to be satisfied and discharged to the extent of such setoff, counterclaim or withholding;
 - (B) if an obligation is unascertained, the Non-defaulting Party may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained;
 - (C) upon the occurrence and during the continuance of an Event of Default or a Potential Event of Default, the right of an Affiliate of the Non-defaulting Party to receive payment from the Defaulting Party may be assigned to the Non-defaulting Party and the Non-defaulting Party's obligations hereunder shall be set off and shall be deemed to be satisfied and discharged pursuant to clause (A) above to the extent of such assignment; and
 - (D) any obligation of a Non-defaulting Party hereunder shall in any event be conditioned upon and subject to the condition precedent that, and shall arise only upon, the date that all indebtedness and obligations, including Specified Indebtedness, whether contingent or absolute or matured or unmatured, of the Defaulting party to the Non-defaulting Party shall have been paid in full.
- (ii) Nothing in this Part 4(i) shall be effective to create a security interest. This Part 4(i) shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise).
- (iii) Party A waives any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise) that it may have against Party B or any of its accounts, moneys or assets, it being agreed that the sole and exclusive right to any payment hereunder is subject to the Covered Documents and is governed thereby.
- (j) End-User Exception to the CEA Mandatory Clearing Requirement. Party B hereby provides notice of its election not to clear any Transaction that is subject to a mandatory clearing determination under Section 2(h) of the Commodity Exchange Act, as amended (the "CEA"). In connection with such election, Party B represents that it is eligible for an exception from mandatory clearing with respect to any Transaction executed pursuant to this Agreement under Section 2(h)(7) of the CEA and Commodity Futures Trading Commission

(the "CFTC") Regulation 50.50. In addition, Party B represents to Party A as of the date of this Agreement and is deemed to represent to Party A on the date on which it enters into a Transaction the following:

- (i) Party B is not a "financial entity," as defined in Section 2(h)(7)(C)(i) of the CEA;
- (ii) Party B is entering into this Agreement and each Transaction executed pursuant to this Agreement in order to hedge or mitigate commercial risk as provided in CFTC Regulation 50.50(c);
- (iii) Party B generally meets its financial obligations associated with entering into non-cleared Transactions out of its available financial resources, a written credit support agreement, or a written guarantee from a third party; and
- (iv) Party B is not an issuer of securities registered under Section 12 of the Securities Exchange Act of 1934, nor is it required to file reports under Section 15(d) of the Securities Exchange Act of 1934.

Party B agrees that it will notify Party A promptly in the event that any of the information provided above changes. Party B acknowledges and agrees that Party A is placing substantial reliance on the representations of Party B provided above.

Notwithstanding anything to the contrary in this Agreement or in any nondisclosure, confidentiality or similar agreement between the Parties, each Party hereby consents to the disclosure of information related to the election contained herein to the extent required by the CFTC. Each Party acknowledges that disclosures made pursuant to this Part 4(j) may include, without limitation, the disclosure of trade information, including a party's identity (by name, identifier or otherwise) to a Swap Data Repository ("SDR") and relevant regulators. Each Party further acknowledges that, for purposes of complying with regulatory reporting obligations, an SDR may engage the services of a global trade repository regulated by one or more governmental regulators, provided that such regulated global trade repository is subject to comparable confidentiality provisions as is an SDR registered with the CFTC. For the avoidance of doubt, to the extent that applicable non-disclosure, confidentiality, bank secrecy or other law imposes nondisclosure requirements on the Transaction and similar information required to be disclosed by the CFTC but permits a party to waive such requirements by consent, the consent and acknowledgements provided herein shall be a consent by each party for purposes of such other applicable law.

Part 5. Other Provisions.

- (a) Waiver of Right to Trial by Jury. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to a trial by jury with respect to any legal proceeding arising out of or relating to this Agreement or any transaction contemplated hereby.
- (b) Non-Reliance. In entering into this Agreement, Party B understands that there is no assurance with respect to the direction in which interest rates in the financial markets may move in the future and that Party A makes no representation or warranty in this regard or with respect to the suitability of the terms of the Agreement or any Transaction or the particular needs and financial requirements of Party B. Party B represents to Party A, which representation shall be deemed to be restated with respect to and at the time of each Transaction, that it: (i) has had the opportunity, independent of Party A or any of Party A's Affiliates, officers, employees and agents, to consult its own financial advisors (including its independent registered municipal advisor) and has independently determined that it is in Party B's best interests to enter into the Agreement and any Transaction; (ii) is not relying and has not relied on Party A for investment advice or as a recommendation to enter into a Transaction; (iii) has not received any assurance or guarantee from Party A as to the expected results of any Transaction; (iv) it is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction. Further, Party B expressly acknowledges that Party A is not acting as an agent, fiduciary or advisor for Party B in any respect, and that it has fully read and understands the disclosures provided in Exhibit A hereto regarding the risks inherent in swaps and derivative transactions and freely assumes such risks.
- (c) Severability. If any term, provision, covenant or condition of this Agreement, or the application thereof to either party or any circumstance, is held to be unenforceable, invalid or illegal (in whole or in part) for any reason (in any Relevant Jurisdiction), the remaining terms, provisions, covenants and conditions of this Agreement, modified by the deletion of the unenforceable, invalid or illegal portion (in any Relevant Jurisdiction), will continue in full force and effect, and such unenforceability, invalidity, or illegality will not otherwise affect the enforceability, validity or legality of the remaining terms, provisions, covenants and conditions of this Agreement so long as this Agreement as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the deletion of such portion of this Agreement will not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise

be conferred upon the parties to this Agreement; provided, however, that this severability provision shall not be applicable if any provision of Section 2, 5, 6, or 11 (or any definition or provision in Section 12 to the extent it relates to, or is used in or in connection with any such Section) shall be so held to be invalid or unenforceable. The parties will endeavor in good faith negotiations to replace the prohibited or unenforceable provision with a valid provision, the economic effect of which comes as close as possible to that of the prohibited or unenforceable provision.

- (d) Additional Condition Precedent. Notwithstanding anything to the contrary included in the Agreement, the Obligations of a party under the Agreement, including those set forth under Section 2(a)(i) with respect to each Transaction entered into pursuant hereto, are, in the event that any Credit Support Document is specified for such party's benefit in this Agreement or in any Confirmation, subject to the condition precedent that such party shall have received all Credit Support Documents so specified, in form and substance satisfactory to it.
- (e) Definitions. This Agreement incorporates, and is subject to, the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. (the "**Definitions**") and the 1992 ISDA U.S. Municipal Counterparty Definitions published by the International Swaps and Derivatives Association, Inc. (the "**1992 Muni Definitions**").

In the event of any inconsistency between any of the following documents, the relevant document first listed shall govern: (i) a Confirmation, (ii) this Schedule, (iii) the relevant Product ISDA Definitions, (iv) the 1992 Muni Definitions, (v) the Definitions, and (iv) the 1992 ISDA Master Agreement (Local Currency – Single Jurisdiction edition).

"Product ISDA Definitions": means any definitions published by ISDA by product type (otherwise as amended, supplemented or modified from time to time) that are, or may be, incorporated by reference to this Agreement from time to time.

- (f) Errors and Omissions. Party B agrees that Party A may correct and adjust this Schedule and any other documents executed in connection with the Agreement or any Transaction thereunder on Party B's behalf, as if Party B were making the correction or adjustment which Party A believes are necessary or desirable, in its reasonable discretion, to correct clerical errors in the documents. If any such corrections are material changes or if Party A believes that it is necessary or desirable to execute additional documents to properly effect any Transaction, Party B agrees to fully cooperate in connection with a request from Party A to do so within 30 days of the date Party A mails such a request to Party B.
- (g) Notice of Events. Party B agrees that it shall give written notice to Party A immediately upon the occurrence of any of the following and shall include in such notice reasonable details thereof: (1) any event or circumstance that results in any representation or warranty of Party B ceasing to be completely true; (2) any breach of any obligation or agreement of Party B under this Agreement; or (3) any event of default or termination event with respect to Party B.
- (h) Independent Obligations. Party B has found and determined, and certifies to Party A, that this Agreement and each Transaction hereunder is entered into for the purpose of hedging against an interest rate, investment, payment, or other similar risk that arises in connection with or incidental to the proper activities of Party B. Although Party B may be entering into one or more Transactions under the Agreement to hedge against the interest expense of, or other risks associated with, an existing or future loan or other financing (such as any Specified Indebtedness (including the Credit Agreement)), the Agreement and each Transaction shall be an independent obligation of Party B separate and apart from any such loan or other financing, and therefore, except as otherwise provided herein: (i) each party's rights and obligations under the Agreement or any Transaction shall not be contingent on whether any loan or other financing closes, is outstanding or repaid, in whole or in part, at any time; and (ii) no amendment, modification or waiver with respect to any loan or other financing shall in any way affect the Agreement or any Transaction or either party's rights or obligations under the Agreement or any Transaction. Further, if at any time Party B receives from Party A (or any of its affiliates) any payoff statement or other written statement regarding any loan or other financing, nothing in such statement shall be deemed to apply to the Agreement or any Transaction except as expressly provided in that statement and then only to the extent so provided. Nothing in this paragraph shall be construed as impairing or limiting any set-off rights; any cross default, credit support default, cross collateralization, reverse default, or any other provisions contained in the Agreement or any Confirmation.
- (i) Regulatory Reporting. To the extent that any applicable law or regulation requires that the terms of any Transaction be reported to a regulator with jurisdiction over such Transaction or a data repository or analogous

entity, and such law or regulation does not expressly provide which party is required to comply with such reporting obligation, the parties hereby designate Party A as the party to comply with any such reporting obligation. The parties agree to use commercially reasonable efforts to cooperate and exchange any information necessary for compliance with the foregoing reporting obligations or as otherwise necessary to fulfill the parties' obligations under this Agreement.

- (j) Incorporation. The covenants, terms and provisions of, including all representations and warranties of Party B contained in the Covered Documents, as in effect as of the date of the Agreement, are hereby incorporated by reference in, and made part of, the Agreement to the same extent as if such covenants, terms, and provisions were set forth in full herein.
- (k) Effect. The parties agree that no Transaction entered into prior to or subsequent to the date hereof shall be controlled by and subject to this Schedule and the Master Agreement entered into and related hereto unless otherwise provided in the Confirmation of such Transaction.
- (l) Interpretation of Confirmation. If a Confirmation uses terms which do not reflect the Definitions, the 1992 Muni Definitions or the relevant Product ISDA Definitions, then market practice and, if applicable, any common course of dealing between the parties, shall be used in order to construe the terms of the Confirmation as consistently as possible with the Definitions.
- (m) Procedure for Entering into Transactions. With reference to the introductory paragraph of this Agreement, the parties anticipate that Transactions will usually be entered into through binding oral agreements concluded over the telephone by their authorized representatives. Each party shall promptly exchange written confirmations by facsimile, Swift, e-mail or any other means agreed between the parties. Each party shall be responsible for checking receipt and content of these Confirmations and any discrepancies must be promptly raised with the respective counterparty and corrected Confirmations exchanged.

Any Confirmation may be executed in counterparts each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument, and signatures evidenced by facsimile transmission shall be deemed an original signature. The parties agree that, with respect to any Transaction, a legally binding agreement shall exist from the moment that the parties agree (whether orally or otherwise) on the essential terms of such Transaction, which the parties anticipate will occur by telephone. Accordingly, failure to send or agree upon a Confirmation shall not affect a Transaction entered into by the parties.

- (n) Fully Paid Transactions. The condition precedent in Section 2(a)(iii)(1) does not apply to a payment and delivery due to a party if such party shall have satisfied in full all its payment or delivery obligations under Section 2(a)(i) of this Agreement and shall at the relevant time have no future payment obligations, whether absolute or contingent, under Section 2(a)(i).
- (o) Change of Account. Section 2(b) of this Agreement is hereby amended by the insertion of the following at the end thereof after the word "change":-

"; provided that if such new account shall not be in the same jurisdiction having the power to tax as the original account, the party not changing its account shall not be obliged to pay any greater amounts and shall not receive less as a result of such change than would have been the case if such change had not taken place."

- (p) Additional Condition Precedent. Notwithstanding anything to the contrary included in this Agreement, the Obligations of a party under this Agreement, including those set forth under Section 2(a)(i) with respect to each Transaction entered into pursuant hereto, are, in the event that any Credit Support Document is specified for such party's benefit in this Agreement or in any Confirmation, subject to the condition precedent that such party shall have received all Credit Support Documents so specified, in form and substance satisfactory to it.
- (q) Calculation Agent. At the end of Section 5(a)(ii), the following wording shall be added after the semicolon:

"however, if a party to this Agreement is designated as the Calculation Agent for a Transaction, then failure by that party to comply with its obligations as Calculation Agent in the time required shall not constitute an Event of Default and the sole remedy of the other party for such failure shall be the right, upon notice to the Calculation Agent, to designate itself or a third party as replacement Calculation Agent;"

- (r) Electronic Confirmation. Where a transaction is confirmed by means of an electronic messaging system that the parties have elected to use to confirm such Transaction, (i) such Confirmation will constitute a "Confirmation" as

referred to in this Agreement even where not so specified in the Confirmation, and (ii) such Confirmation will supplement, form part of, and be subject to this Agreement and all provisions in this Agreement will govern the Confirmation except as modified therein.

- (s) ERISA. Each party represents to the other party at all times hereunder that it is not (i) an employee benefits plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”), or a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the “**Code**”), subject to Title I of ERISA or Section 4975 of the Code, or a plan as so defined but which is not subject to Title I of ERISA or Section 4975 or the Code (each of which, an “**ERISA Plan**”), (ii) a person or entity acting on behalf of an ERISA Plan, or (iii) a person or entity the assets of which constitute assets of an ERISA Plan.
- (t) Intentionally Omitted.
- (u) Financial Statements. To the extent that any representation is given pursuant to Section 3(d) in relation to the Annual Financial Statements referred to in Part 2(b) then the Section 3(d) representation shall be amended by deletion of the phrase “is, as of the date of the information, true, accurate and complete in every material respect” and the insertion instead of the phrase “gives a true and fair view of the financial position of the relevant party in relation to the financial period for which the information has been prepared”.
- (v) No Third Party Beneficiary. Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not a party to this Agreement or imposing any obligations on Party A or B to this Agreement to persons not a party to this Agreement (other than any rights, benefits or obligations related to any applicable Specified Entity of Party A or Party B or any Credit Support Provider of Party A or Party B).
- (w) Transfers. The parties agree that Party A may transfer its rights and obligations under this Agreement, in whole or in part, to (i) any other Affiliate of Party A, or (ii) a Lender to which Party A assigns its commitments and Loan under the Credit Agreement, provided that such assignment will not give rise to a Termination Event or an Event of Default with respect to either Party A or such assignee of Party A. Each party further agrees that Party A may share any information concerning Party B with any Affiliate. Party B may not transfer its rights and obligations under this Agreement without the prior written consent of Party A.
- (y) USA PATRIOT Act Notice. Party A hereby notifies Party B that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies Party B, which information includes the name and address of Party B and other information that will allow Party A to identify Party B in accordance with the Act.

[Signatures on following page.]

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

COMPASS BANK
(Name of Party)

CITY OF PENSACOLA, FLORIDA
(Name of Party)

By:

Name:

Title:

Date:

By:

Name: Ashton J. Hayward, III

Title: Mayor

Date: September 23, 2016

ATTEST:

By: _____
City Clerk

(SEAL)

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney

EXHIBIT A
To the Schedule to the ISDA Master Agreement

Risk Disclosure for Interest Rate Swaps

This document explains in general terms the characteristics of interest rate swaps and the risks associated with such transactions.

An interest rate swap is a legal contract between two parties to exchange a set of cash flows over a specific period of time. In a typical interest rate swap, a party's floating rate payments on a loan are exchanged, or "swapped," for another party's fixed rate payments on a similar loan. Interest rate swaps, if properly selected and structured, may be a useful tool to alter the characteristics of a party's interest payments or receipts. For example, swapping floating rate payments for fixed rate payments in a time of rising interest rates may allow a party to avoid increased interest expense. The particular structure of an interest rate swap will necessarily depend upon the specific objectives and financial condition of the parties involved.

One of the benefits of an interest rate swap is the ability to liquidate the swap contract at any point in time. ***It is important to realize, however, that should you liquidate the swap contract prior to maturity, you may realize a significant financial gain or a loss.***

Swaps Are for Financially Sophisticated Parties. Interest rate swap transactions are designed primarily for sophisticated financial parties. Before entering into such a transaction, you should carefully consider whether the transaction is appropriate for you in light of your objectives, experience, financial and operational resources, risk tolerance, and other relevant circumstances. With respect to risk tolerance, you should ensure that you fully understand the degree of risk associated with the contemplated transaction, and be certain such risk is acceptable to you. If, for any reason, you do not believe that you have a sufficient understanding or appreciation of the risks associated with a particular interest rate swap transaction, you should not enter into it. *Upon request*, Compass' Financial Risk Management Group can provide you with information showing hypothetical gains or losses one might realize under various interest rate scenarios and liquidation strategies. However, because actual results achieved will depend upon market conditions and other factors existing during the term of your swap transaction such hypothetical projections are provided, and should be viewed, only for illustrative purposes. Due to this uncertainty, no representation can be given that the hypothetical projections will be reflective of future conditions or factors, or that any specific return will be realized.

You Should Consult With Your Accounting, Tax and Legal Advisers before Entering into A Swap. It is important to understand the accounting and legal implications associated with the use of interest rate swaps. In general, if you are using the swap as a hedging instrument, changes in market value may have minimal impact on earnings; however, if it is not an effective hedge, changes in market value may have a significant impact on, and must flow through, earnings. ***This issue can be complicated, and should be discussed completely with your accounting, tax and legal advisers before entering into the transaction.***

- 4 ***INTEREST RATE SWAPS ARE NOT OBLIGATIONS OF OR GUARANTEED OR INSURED BY THE U.S. GOVERNMENT, THE FDIC (FEDERAL DEPOSIT INSURANCE CORPORATION), THE FEDERAL RESERVE BOARD OR ANY OTHER FEDERAL, STATE OR OTHER GOVERNMENTAL AGENCY,***
- 4 ***INTEREST RATE SWAPS ARE NOT DEPOSITS OF COMPASS BANK OR ANY OF ITS AFFILIATES, AND***
- 4 ***INTEREST RATE SWAPS ARE SUBJECT TO INVESTMENT RISKS, INCLUDING THE RISK THAT YOU MAY INCUR A LOSS IF YOU LIQUIDATE THE SWAP.***

Please contact our Financial Risk Management Group at (800) 239-1140
if you have any questions or would like to request any additional information.

EXHIBIT A (cont.)

To the Schedule to the ISDA Master Agreement

Generic Risks with Derivative Transactions

Derivative transactions, like other financial transactions, involve a variety of significant risks. The specific risks presented by a particular derivative transaction necessarily depend upon the terms of the transaction and your circumstances. In general, however, all derivative transactions involve some combination of market risk, credit risk, funding risk and operational risk.

Market risk is the risk that the value of a transaction will be adversely affected by fluctuations in the level or volatility of, or correlation or relationship between, one or more market prices, rates or indices or other market factors or by illiquidity in the market for the relevant transaction or in a related market.

Credit risk is the risk that a counterparty will fail to perform its obligations to you when due.

Funding risk is the risk that, as a result of mismatches or delays in the timing of cash flows due from or to your counterparties in derivative transactions or related hedging, trading, collateral or other transactions, you or your counterparty will not have adequate cash available to fund current obligations.

Operational risk is the risk of loss to you arising from inadequacies in or failures of your internal systems and controls for monitoring and quantifying the risks and contractual obligations associated with derivative transactions, for recording and valuing derivative and related transactions, or for detecting human error, systems failure or management failure.

Depending upon the terms of a specific transaction, there may be other risks that you should consider - some of which could be significant. Highly customized derivative transactions, in particular, may increase liquidity risk and introduce other significant risk factors of a complex nature. Highly leveraged transactions may experience substantial gains or losses in value as a result of relatively small changes in the value or level of an underlying or related market factor.

In evaluating the risks and contractual obligations associated with a particular derivative transaction, you also should consider that a derivative transaction may be modified or terminated only by mutual consent of the parties thereto and subject to agreement on individually negotiated terms. Accordingly, it may not be possible for you to modify, terminate or offset your obligations or your exposure to the risks associated with a transaction prior to its scheduled termination date.

Similarly, while market makers and dealers generally quote prices or terms for entering into or terminating derivative transactions and provide indicative or mid-market quotations with respect to outstanding derivative transactions, they are generally not contractually obligated to do so. In addition, it may not be possible to obtain indicative or mid-market quotations for a derivative transaction from a market maker or dealer that is not a counterparty to the transaction. Consequently, it also may be difficult for you to establish an independent value for an outstanding derivative transaction. You should not regard your counterparty's provision of a valuation or indicative price as an offer to enter into or terminate the relevant transaction at that value or price, unless the value or price is identified by the counterparty as firm or binding. In addition, because the price and other terms on which you may enter into or terminate a derivative transaction are individually negotiated, these may not represent the best price or terms available to you from other sources.

This brief statement does not purport to disclose all of the risks and other material considerations associated with derivative transactions. You should not construe this generic disclosure statement as business, legal, tax or accounting advice. You should consult your own business, legal, tax and accounting advisers with respect to proposed derivative transactions and you should refrain from entering into any derivative transaction unless you fully understand the terms and risks of the transaction, including the extent of your potential risk of loss.

In entering into any derivative transaction with, or arranged by, Compass Bank, you should understand that it is acting at arm's length and not in the capacity of your financial, legal, or tax advisor, nor is Compass Bank acting in any fiduciary capacity for you unless it has entered into a formal agreement to do so - and then only to the extent provided in such agreement. Compass Bank expressly disclaims any statements, assurances, warranties or representations regarding the suitability or performance of any derivative transaction (including any statements, assurances, warranties or representations regarding any counterparty of a derivative transaction) you may enter into, whether with Compass Bank or arranged by Compass Bank.



September 19th, 2016

From: BBVA COMPASS ("Compass", "Compass Bank")
OTC DERIVATIVES DOCUMENTATION DEPARTMENT
2200 Post Oak Blvd, 17th Floor
Mail Code TX-HO-HT-WBS
Houston TX 77056
investmentsmiddleoffice.us@bbva.com

To: CITY OF PENSACOLA

OUR REF:

Dear Sirs,

The purpose of this letter agreement is to set forth the terms and conditions of the Transaction entered into between us on the trade date referred to below. This letter constitutes a "Confirmation" as referred to in the Agreement specified below.

1. If you and we are parties to a Master Agreement or Interest Rate and Currency Exchange Agreement that sets forth the general terms and conditions applicable to Swap Transactions between us (the 'Agreement'), this confirmation supplements, forms a part of, and is subject to, such Agreement. If you and we are not yet parties to an Agreement, this Confirmation evidences a complete binding agreement between you and us as to the terms of the Swap Transaction to which this Confirmation relates. In addition, upon the execution by you and us of an Interest Rate Swap Agreement (the 'Agreement'), in the form published by the International Swaps and Derivatives Association, Inc. ('ISDA'), with such modifications as you and we shall in good faith agree, this Confirmation will supplement, form a part of, and be subject to the Agreement. All provisions contained or incorporated by reference in such Agreement upon its execution shall govern this Confirmation except as expressly modified below. The definitions and provisions contained in the 2006 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc., are incorporated into this Confirmation. In the event of any inconsistency between those definitions and provisions and this Confirmation, this Confirmation will govern. Both parties will make each payment specified in this Confirmation as being payable by it by transfer of the relevant amount in freely transferable funds to the account of the other party specified below. The obligations of the parties under this Confirmation will be calculated and payable on the basis of Net Payments. This agreement will be governed by and construed in accordance with the laws of the State of New York (without reference to choice of law doctrine). The Termination Currency will be US Dollars.

2. The terms of the Transaction to which this confirmation relates are as follows:

Interest Rate Swap

Transaction: Swap

Trade Date: September 19th, 2016

Effective Date: November 1st, 2017

Termination Date: November 1st, 2019, subject to adjustment in accordance with the Modified Following Business Day Convention.

Notional Amount: USD 1,780,000.00

NOTIONAL BALANCES

From Date	To Date	Currency	Notional
November 1, 2017	December 1, 2017	USD	1,780,000.00
December 1, 2017	January 1, 2018	USD	3,480,000.00
January 1, 2018	February 1, 2018	USD	5,100,000.00
February 1, 2018	March 1, 2018	USD	6,299,600.00
March 1, 2018	April 1, 2018	USD	6,299,600.00
April 1, 2018	May 1, 2018	USD	6,299,600.00
May 1, 2018	June 1, 2018	USD	6,299,600.00
June 1, 2018	July 1, 2018	USD	6,299,600.00
July 1, 2018	August 1, 2018	USD	6,299,600.00
August 1, 2018	September 1, 2018	USD	6,299,600.00
September 1, 2018	October 1, 2018	USD	6,299,600.00
October 1, 2018	November 1, 2018	USD	6,299,600.00
November 1, 2018	December 1, 2018	USD	5,200,000.00
December 1, 2018	January 1, 2019	USD	5,200,000.00
January 1, 2019	February 1, 2019	USD	5,200,000.00
February 1, 2019	March 1, 2019	USD	5,200,000.00
March 1, 2019	April 1, 2019	USD	5,200,000.00
April 1, 2019	May 1, 2019	USD	5,200,000.00
May 1, 2019	June 1, 2019	USD	5,200,000.00
June 1, 2019	July 1, 2019	USD	5,200,000.00
July 1, 2019	August 1, 2019	USD	5,200,000.00
August 1, 2019	September 1, 2019	USD	5,200,000.00
September 1, 2019	October 1, 2019	USD	5,200,000.00
October 1, 2019	November 1, 2019	USD	5,200,000.00



FLOATING AMOUNTS

Floating Rate Payer:	COMPASS BANK
Floating Rate Payer Payment Dates:	Monthly on the 1 st commencing Nov, 1 st 2017 and ending on Nov, 1 st 2019, subject to adjustment in accordance with the Modified Following Business Day Convention.
Floating Rate Option:	USD-LIBOR-BBA
Designated Maturity:	1 month
Spread:	1.78000%
Floating Rate Day Count Fraction:	ACT/360
Reset Dates:	The first day of each Calculation Period
Compounding:	Inapplicable

FIXED AMOUNTS

Fixed Rate Payer:	CITY OF PENSACOLA
Fixed Rate Payer Payment Dates:	Monthly on the 1 st commencing Nov, 1 st 2017 and ending on Nov, 1 st 2019, subject to adjustment in accordance with the Modified Following Business Day Convention.
Fixed Rate:	TBD% per annum
Fixed Rate Day Count Fraction:	ACT/360
Calculation Agent Agreement:	COMPASS BANK
Business Days for Fixings in USD Holidays:	London Banking Calendar
Business Days for Payments in USD Holidays:	New York Banking Calendar



3. Relationship Between Parties. Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):

(a) Non-Reliance. It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction: it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of that Transaction.

(b) Assessment and Understanding. It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.

(c) Status of Parties. The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.

4. Eligible Contract Participant. Each party represents to the other party that it is an "eligible contract participant", as the term is defined in Section 1a(18) of the Commodity Exchange Act and applicable regulations there under.

5. Please confirm that the foregoing correctly sets forth the terms and conditions of our agreement with respect to the Transaction by signing and returning this Confirmation to Compass Bank (see fax and mail instructions in Section 7 below), within ten (10) business days. Your failure to return an executed copy of this Confirmation, or to otherwise formally acknowledge agreement with its terms, within such period shall not affect the validity or enforceability of the Transaction as against you. Failure to return an executed copy of this Confirmation will be deemed to be an agreement to all terms and conditions contained in this Confirmation.

6. Payment Information

If you elected to pay by wire:

Wire Instructions:

Compass Bank ABA Nbr: 062001186 AC Nbr: 07790126253

7. Addresses for notices or communications to Compass Bank

Address: Compass Bank
Attn: Middle Office CIB Operations
P.O. Box 4444
Houston, Texas 77210-9830

Email: Customer Service: cs.cib.us@bbva.com
Documentation: investmentsmiddleoffice.us@bbva.com

Telephone number: 1- 713-345-1642



Please confirm that the foregoing correctly sets forth the terms of our agreement by executing the copy of this confirmation enclosed for that purpose and returning it to us.

CITY OF PENSACOLA

COMPASS BANK

Authorized Signature

Authorized Signature

Printed Name / Title

Printed Name / Title

DRAFT

TERMS OF BUSINESS AGREEMENT FOR SWAP TRANSACTIONS

This Terms of Business Agreement for Swap Transactions (the “**Agreement**”) between you (the “**Counterparty**”) and Compass Bank (“**Compass**”) is made in contemplation of one or more possible “swap”, “foreign exchange forward” or “foreign exchange swap” (as such terms are defined, respectively, in Sections 1a(47), 1a(24) and 1a(25) of the Commodity Exchange Act and related regulations) transactions between you and Compass (each, a “**Transaction**”). Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (as amended from time to time, the “**DFA**”) and/or the rules and regulations (“**DF Rules**”), some types of swap transactions may not be available to you unless certain eligibility requirements are met. Information and undertakings provided by you pursuant to this Agreement will be relied on by Compass to make these assessments and to satisfy certain regulatory obligations in connection with offering to enter into and conducting Transactions with you. This Agreement also provides certain required notices and disclosures. Any questions about this Agreement or any Transaction should be directed to your Compass representative. The parties agree that this Agreement will apply to all Swaps entered into by the parties pursuant to an ISDA Master Agreement between the parties.

PART I: CUSTOMER INFORMATION

- 1. Counterparty’s True Legal Name: City of Pensacola, Florida
- 2. Counterparty’s Legal Address: 222 West Main Street Pensacola, Florida 32502
- 3. Counterparty’s Email Address: rbarker@cityofpensacola.com
- 4. Counterparty’s Principal Occupation or Business: Municipal entity

- 5. Type of Entity (Corporation, Limited Liability Company, etc.): Municipal Corporation

- 6. Jurisdiction of Organization: Florida
- 7. Counterparty’s Global Markets Entity Identifier (“**GMEI**”) formerly known as the CFTC Interim Compliant Identifier (“**CICI**”) or Legal Entity Identifier (“**LEI**”): 549300Y7HMDKHDFTZ042

(The DFA and DF Rules require the reporting of certain details of many Transactions to a swap data repository (“**SDR**”). A CICI, and ultimately a LEI, is a unique customer identification number used in this reporting process. If you have not yet registered for a CICI or LEI, you may do so at www.gmeiutility.org.)

- 8. Will the Transactions be guaranteed by another entity?
Yes _____ No X
If Yes, then provide the true legal name and address of each Guarantor:

9. Are Counterparty's Transactions subject to control by any person or entity other than the Counterparty?

Yes _____ No X

If Yes, then provide the true legal name and address of the controlling person or entity:

10. Is Counterparty a Special Entity as defined by **17 CFR 23.401**? Any employee benefit plan defined in Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), not otherwise defined as a Special Entity, may elect to be a Special Entity by notifying a swap dealer or major swap participant of its election prior to entering into a swap with the particular swap dealer or major swap participant. **(Please refer to Annex I for the definition of Special Entity)**

Yes X No _____

If Yes, then please also complete Part IV.

11. Will Counterparty clear all trades entered into between Counterparty and Compass that are subject to the mandatory clearing requirements under Section 2(h) of the Commodity Exchange Act ("CEA")?

Yes _____ No X

If Yes, please contact us regarding further procedures and documentation that we may require. If No, please complete Part V: Clearing below.

PART II: AUTHORITY AND GOOD STANDING

1. Counterparty represents that it is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing.
2. Counterparty represents that it has the power to execute this Agreement and any other documentation relating to this Agreement, to enter into Transactions and to perform any obligations arising under this Agreement or in connection with any Transactions and has taken all necessary action to authorize such execution and performance.

PART III: ELIGIBLE CONTRACT PARTICIPANT CERTIFICATION

A. Certain types of transactions may not be available to you if you do not qualify as an eligible contract participant, as defined in Section 1a(18) of CEA and related regulations of the Commodity Futures Trading Commission ("CFTC") (as used herein, an "Eligible Contract Participant"). Please reference criteria in Part III (B) to determine eligibility. Counterparty is only required to meet one of the criteria listed in Part III (B) to meet eligibility.

Counterparty is an Eligible Contract Participant.

Yes X No _____

B. So that Compass may verify your eligibility, please indicate which of the following apply. You must indicate at least one of the following and may indicate more than one of the following as being applicable.

1. Counterparty is a corporation, partnership, proprietorship, organization, trust, or other entity that has total assets exceeding \$10,000,000 AND Counterparty is NOT a commodity pool as defined in Section 1a(10) of the CEA (a “**Commodity Pool**”) (see CFTC Rule 1.3(m)(6)).

2. Counterparty is a corporation, partnership, proprietorship, organization, trust, or other entity AND Counterparty’s net worth exceeds \$1,000,000 AND Counterparty only enters into Transactions in connection with the conduct of its business or to manage the risk associated with an asset or liability owned or incurred, or reasonably likely to be owned or incurred, by Counterparty in the conduct of its business AND Counterparty is NOT a Commodity Pool (see CFTC Rule 1.3(m)(6)).

3. Counterparty is a corporation, partnership, proprietorship, organization, trust, or other entity and its Transactions are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement provided by a corporation, partnership, proprietorship, organization, trust, or other entity that has total assets exceeding \$10,000,000 AND Counterparty is NOT a Commodity Pool (see CFTC Rule 1.3(m)(6)).

4. Counterparty is a corporation, partnership, proprietorship, organization, trust, or other entity and its Transactions are guaranteed by a corporation, partnership, proprietorship, organization, trust, or other entity that has a net worth exceeding \$1,000,000 AND all of the conditions applicable to a particular guarantor or guaranteed swap counterparty as listed in CFTC Letter No.12-17 are satisfied.

5. Counterparty is an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of \$10,000,000.

6. Counterparty is an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of \$5,000,000 AND Counterparty only enters into Transactions in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by Counterparty.

7. Counterparty is a corporation, partnership, proprietorship, organization, trust, or other entity and its Transactions are guaranteed by an indirect proprietorship (as defined in CFTC Letter No. 12-17) that has a net worth (in the aggregate across all indirect co-proprietors, where applicable state law permits proprietorships comprised of more than one individual) exceeding \$1,000,000 or amounts invested on a discretionary basis, the aggregate of which is in excess of \$5,000,000 (in the aggregate across all indirect co-proprietors, where applicable state law permits proprietorships comprised of more than one individual) AND all of the conditions applicable to a particular guarantor or guaranteed swap counterparty as listed in CFTC Letter No. 12-17 are satisfied.

3. Counterparty is an employee benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) (“ERISA”).
Yes _____ No X _____
4. Counterparty is a governmental plan as defined in Section 3 of ERISA.
Yes _____ No X _____
5. Counterparty is an endowment, including an endowment that is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
Yes _____ No X _____
6. Counterparty is an employee benefit plan defined in Section 3 of ERISA, that is not subject to Title I of ERISA or otherwise defined as a “Special Entity” pursuant to CFTC Rule 23.401(c)(1), (2), (4) or (5). A “Yes” response to this question indicates that the counterparty is eligible and elects to be treated as a Special Entity pursuant to CFTC Rule 23.401(c)(6).
Yes _____ No X _____

PART V: CLEARING

If you indicated you will not clear all trades between you and Compass by answering “No” in Part 1, Section 11, please complete the following Part V. Part V is not applicable if you indicated that you will clear all trades entered into between you and Compass that are subject to the mandatory clearing requirements under Section 2(h) of the CEA by answering “Yes” in Part 1, Section 11.

1. If Counterparty, in reliance on the exception set forth in Section 2(h)(7) of the CEA and CFTC Regulation 50.50, elects not to clear any Transaction that is subject to the mandatory clearing requirements of Section 2(h)(1) of the CEA (such election, an “**End-User Exception Election**”), it will notify Compass of such election in writing before entering into any such Transaction. Counterparty may specify in such notice that its election is a “standing election” or Counterparty may make such standing election by so indicating in the box below, in which event Counterparty shall be deemed to have made the End-User Exception Election with respect to all Transactions entered into with Compass prior to 10 Business Days following the effectiveness of a written notice to Compass pursuant to Section 11 of Part IX of this Agreement revoking such standing election. Notwithstanding any such standing election, Counterparty may elect for the End-User Exception Election not to apply to a particular Transaction by notifying Compass in writing prior to execution of the Transaction that Counterparty wishes to clear such Transaction.

Does Counterparty wish to make a “standing election” of the End-User Exception Election?

Yes X _____ No _____

2. **By executing any Transaction to which the End-User Exception Election applies, Counterparty shall be deemed to represent that:**
 - a. Counterparty is eligible for an exception from mandatory clearing with respect to such Transaction under Section 2(h)(7) of the CEA and CFTC Regulation 50.50;

- b. Unless “No” is checked immediately below, Counterparty has reported the information listed in CFTC Regulation 50.50(b)(1)(iii) in an annual filing made pursuant to CFTC Regulation 50.50(b)(2) no more than 365 days prior to entering into such Swap, such information has been amended as necessary to reflect any material changes thereto, such annual filing covers the particular Transaction for which such exception is being claimed and the information in such filing is true, accurate, and complete in all material respects;

Yes No (If “No”, Counterparty must complete **Annex II Information from Counterparty**);

- c. If Counterparty has checked “No” in Part V, Section 2(b) above, the information set forth in **Annex II** is true, accurate and complete in all material respects;
- d. Counterparty is entering into such Transaction to hedge or mitigate commercial risk as provided in CFTC Regulation 50.50(c); and
- e. Counterparty:
- i. is not a “financial entity” as defined in Section 2(h)(7)(C)(i) of the CEA, without regard to any exemptions or exclusions provided under Sections 2(h)(7)(C)(ii), 2(h)(7)(C)(iii), or 2(h)(7)(D) or related CFTC regulations;
 - ii. qualifies for the small bank exclusion from the definition of “financial entity” in Section 2(h)(7)(C)(ii) of the CEA and CFTC Regulation 50.50(d);
 - iii. is excluded from the definition of “financial entity” in accordance with Section (2)(h)(7)(C)(iii) of the CEA; or
 - iv. qualifies for an exception from mandatory clearing in accordance with Section (2)(h)(7)(D) of the CEA.

PART VI: SUITABILITY

1. Please review **Annex III (Institutional Suitability)** to this Agreement. **Annex III** requires you to make certain representations to Compass that you are exercising your own independent judgment in assessing the suitability of any recommendations made by Compass with regard to a particular Transaction or trading strategy or that you have elected to use a third party evaluation agent in making such determinations. If the representations in **Annex III** are accurate, you may choose to complete **Annex III**, in which case you acknowledge that Compass will only act in its capacity as counterparty and does not undertake to assess the suitability of a Transaction or trading strategy.
2. If you choose not to or are unable to complete **Annex III**, please contact us regarding further procedures and information that we may require.

PART VII: DISCLOSURES AND NOTIFICATIONS

1. You acknowledge and agree that you have received, reviewed, and understood the disclosures and notifications published by ISDA and available on the following website: <http://www.bbvacib.com/disclaimer/compass>
2. In addition to the disclosures and notifications referenced in Part VII, Section 1, above, we may provide additional information relevant to specific Transactions or classes of Transactions that you enter into with Compass.
3. By entering into a Transaction or any amendment or modification thereof, you acknowledge that you have understood the information provided to you that is relevant to that Transaction and that such information is sufficient for you to evaluate and assess the material risks and characteristics of the Transaction, including: (i) market, credit, liquidity, foreign currency, legal, operational, and other applicable risks and (ii) the material characteristics of such Transaction, including the material economic terms of such Transaction, the terms relating to the operation of such Transaction, and the rights and obligations of the parties during the term of such Transaction.
4. We hereby notify you pursuant to CFTC Rule 43.3(b)(2)(iii) that we may disclose transaction and pricing data for a Transaction to our other customers prior to the public dissemination of such data, provided that such disclosure is made no earlier than the disclosure of such data to a registered SDR that accepts swap transaction and pricing data for public dissemination.

PART VIII: REPORTING AND CONFIDENTIALITY

1. Compass and Counterparty hereby agree that, unless the parties agree otherwise in writing, Compass will be the "reporting counterparty" within the meaning of CFTC Regulation 45.8 (the "Reporting Counterparty") with respect to any Transaction between Compass and Counterparty and Compass, as the Reporting Counterparty, will report each Transaction to an SDR or the CFTC pursuant to CFTC Regulation 45.8. In connection with each Transaction which Counterparty elects will not be cleared by a DCO and will instead be governed by a Covered Agreement pursuant to the End-User Exception, Counterparty hereby acknowledges and agrees that Compass, as the Reporting Counterparty, will report all of the information regarding Counterparty specified herein (other than that which is set forth in any Annual Filing) to the relevant SDR or the CFTC.
2. Notwithstanding anything to the contrary in any non-disclosure, confidentiality or other agreement between the parties, Counterparty hereby consents to the disclosure of information to the extent required by the DF Rules which mandate reporting of transaction and other information. Counterparty acknowledges that disclosures made pursuant to this Part VIII, Section 2 may include, without limitation, the disclosure of trade information including a party's identity (by name, identifier or otherwise) to an SDR, the CFTC or other relevant regulators, and that such disclosures could result in certain anonymous Transactions and pricing data becoming available to the public.
3. Counterparty acknowledges that, for purposes of complying with regulatory reporting obligations, an SDR may engage the services of a global trade repository regulated by one or more governmental regulators, provided that such regulated global trade repository is subject to comparable confidentiality provisions as is an SDR registered with the CFTC. For the avoidance of doubt, to the extent that applicable non-disclosure, confidentiality, bank secrecy or other law imposes non-disclosure requirements in respect of a Transaction and similar information required to be disclosed pursuant to the DFA

and/or DF Rules but permits a party to waive such requirements by consent, Counterparty's consent, acknowledgement and agreement to disclosure provided herein shall be a consent by Counterparty for purposes of such other applicable law.

4. Notwithstanding any non-disclosure, confidentiality or similar agreement to the contrary, you understand and agree that Compass is authorized to disclose "material confidential information" (as such term is used in CFTC Rule 23.410(c)) provided by or on behalf of you to Compass to any regulatory or self-regulatory organization or judicial or governmental authority with jurisdiction over Compass or of which Compass is a member that requests or requires such information from Compass (whether by statute, law, rule, regulation, court order, subpoena, deposition, or civil investigative demand).
5. Counterparty agrees that any information provided by (or on behalf of) Counterparty to Compass that is generally available publicly at the time such information is provided by Counterparty to Compass, or that becomes generally available publicly thereafter other than as a result of a breach by Compass or its affiliates of its obligations to Counterparty under applicable law or a binding non-disclosure agreement between Counterparty and Compass, is not "material confidential information" (as such term is used in CFTC Rule 23.410(c)).
6. You consent to and agree that Compass is authorized to disclose information (including without limitation "material confidential information" within the meaning of CFTC Rule 23.410(c)) you provide to us from time to time to our affiliates, and our and their respective agents, advisors, and third-party service providers in connection with (i) the provision by us or by them of any products or services to you, (ii) the performance of obligations or exercise of rights under such products or services by you or by us or by them, (iii) complying with our or our affiliates' internal legal, compliance, accounting or risk management policies, or (iv) hedging or mitigating any exposure created by a Transaction (including anticipatory hedging).
7. You agree that, for any Transaction that is an "international swap" (as defined in CFTC Rule 45.1) you will notify us, as soon as practicable, of the (i) identity of each non-U.S. trade repository not registered with the CFTC to which the you have caused the Transaction to be reported, and (ii) the swap identifier used by such non-U.S. trade repository to identify the swap. An "international swap" is a swap required by U.S. law and the law of another jurisdiction to be reported both to a swap data repository and to a different trade repository registered with the other jurisdiction.
8. You agree that, upon the occurrence of any "life cycle event" (as defined in CFTC Rule 45.1) relating to a corporate event in respect of a Transaction, you will, as soon as practicable, but in no event later than 10 a.m. on the second "business day" (as that term is defined in CFTC Rule 45.1) following the day on which such life cycle event occurs, notify us of the occurrence of such life cycle event; with sufficient detail regarding such life cycle event to allow us to comply with any regulatory reporting requirements imposed on us. Some examples of life cycle events include the transfer of a Transaction, its assumption by a different legal entity as the result of a merger, the availability of a legal entity identifier for an entity previously identified by some other identifier, or a change in your status as a financial entity (as defined in Section 2(h)(7)(C) of the CEA) or an entity that is not a financial entity.
9. Both parties hereby consent to the recording of telephone conversations between the trading, marketing, operations and other relevant personnel and their affiliates, with or without the use of a warning tone, in connection with any Transaction. Both parties

agree to obtain the individual consent of any personnel should such consent be required by applicable law.

PART IX: ADDITIONAL AND UPDATED INFORMATION; NOTICE PROVISIONS

1. Counterparty represents (which representation is deemed repeated as of the time of each Transaction and any amendment or modification thereof) that all information furnished to Compass is true, accurate and complete in every material respect and no information provided herein is incorrect or misleading in any material respect. Notwithstanding the foregoing, each party agrees that an event of default, termination event, or other similar event shall not occur under any Transaction or master or similar agreement governing a Transaction, or any other contract between the parties solely on the basis of a representation herein being incorrect or misleading in any material respect, or a breach of any covenant or agreement set forth solely in this Agreement; *provided, however*, that nothing in this section shall prejudice any other right or remedy of a party at law or under any Transaction or master or similar agreement governing a Transaction or any other contract in respect of any misrepresentation or breach hereunder or thereunder.
2. Counterparty represents (which representation is deemed repeated as of the time of each Transaction and any amendment or modification thereof) that its status as an eligible contract participant (within the meaning of CEA Section 1a(18) and related CFTC rules) as indicated in Part III is true and correct as of that date and that, if there are any qualifications or conditions required for it to be an eligible contract participant for any Transaction (such as total assets, net worth, amounts invested on a discretionary basis, or its entry into the Transaction in connection with the conduct of its business), those qualifications or conditions are true and correct for that Transaction as of that date.
3. Counterparty represents (which representation is deemed repeated as of the time of each Transaction and any amendment or modification thereof) that its special entity status (within the meaning of 17 CFR 23.401 and related CFTC rules) as indicated in Part I and Part IV (each, as applicable) is true and correct as of that date.
4. Counterparty agrees to promptly notify Compass in writing of any material changes to its information or representations made herein, which notification shall become effective one local business day following delivery of such notice. Upon the effectiveness of any notice provided in accordance with this paragraph, the relevant information or representation will be deemed amended in accordance with such notice.
5. In connection with any Transaction outstanding between the parties, you agree to promptly provide Compass any information or written representations or undertakings reasonably requested by Compass necessary for compliance with Title VII of the DFA or any other applicable statute. If you have identified any Guarantors in Part I of this Agreement, you agree that such requests may include written representations and undertakings from or regarding each Guarantor.
6. Counterparty agrees that Compass may deliver any notifications required by regulation and any informational disclosures, including disclosures applicable to multiple Transactions, through any of the following means, each of which Counterparty agrees are reliable: (i) via written notice or email pursuant to the information set forth in Part I of this Agreement, (ii) by web page at a URL provided by Compass to you by written notice, or (iii) by any other means agreed by both parties.
7. Counterparty represents that it is not a “swap dealer” as defined in Section 1a(49) of the CEA and CFTC Regulation 1.3(ggg).

8. Counterparty acknowledges that Compass is not a “swap dealer” as defined in Section 1a(49) of the CEA and CFTC Regulation 1.3(ggg).
9. Unless and until such time as Compass is a "swap dealer" and/or "security-based swap dealer" (as such terms are defined in the CEA) (a "**Regulated Swap Entity**"), Compass will not have the obligations which are specific and exclusive to a Regulated Swap Entity under the DFA, the CEA, the Securities Exchange Act or any rules or regulations promulgated by the CFTC or the Securities and Exchange Commission (including, but not limited to, Daily Mark, Scenario Analysis and Right to Segregation of Collateral) regardless of any information or statements contained in the disclosures provided to Counterparty.
10. Compass and its representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services. With respect to this presentation and any other information, materials or communications provided by Compass: (a) Compass and its representatives are not recommending an action to any municipal entity or obligated person; (b) Compass and its representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to any municipal entity or obligated person with respect to such presentation, information, materials or communications; (c) Compass and its representatives are acting for their own interests; and (d) you have been informed that you should discuss this presentation and any such other information, materials or communications with any and all internal and external advisors and experts that you deem appropriate before acting on this presentation or any such other information, materials or communications.
11. Counterparty shall deliver all notices required under this agreement via overnight mail to the following address:

Address: Compass Bank
 Attn: Middle Office CIB Operations
 P.O. Box 4444
 Houston, Texas 77210-9830

Email: Customer Service: cs.cib.us@bbva.com
 Documentation: investmentsmiddleoffice.us@bbva.com

Part X: Miscellaneous

1. This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter thereof, unless there exists between the parties any present or future master agreement or other agreement governing the Transactions, such as an ISDA Master Agreement, a foreign exchange master agreement or a cleared transaction execution agreement, in which case this Agreement shall be read and construed together with that other agreement, as amended from time to time, except where a conflict exists, in which case, this Agreement shall prevail.
2. No amendment or waiver in respect of this Agreement will be effective unless in writing and executed by each of the parties.

3. Any failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver thereof.
4. This Agreement shall be governed by the law (and not the law of conflicts) of the State of New York.
5. This Agreement may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.
6. As used in this Agreement, the words “you” and “your” refer to Counterparty and the words “we”, “our” and “us” refer to Compass.

In witness of its acceptance and agreement to the foregoing, each of Counterparty and Compass has caused this Agreement to be executed by its duly authorized signatory.

Accepted and agreed:

CITY OF PENSACOLA, FLORIDA

By:

Name: Ashton J. Hayward, III

Title: Mayor

Date: September 23, 2016

ATTEST:

By: _____
City Clerk

(SEAL)

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney

By executing this Agreement, the Agent represents that it is duly authorized to execute this Agreement and make the representations herein on behalf of the Counterparty.

COMPASS BANK

Name:
Title:
Date:

Annex I
Special Entity Definition
(as defined in 17 CFR 23.401)

The term “Special Entity” means:

- (1) A Federal agency;
 - (2) A State, State agency, city, county, municipality, other political subdivision of a State, or any instrumentality, department, or a corporation of or established by a State or political subdivision of a State;
 - (3) Any employee benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002);
 - (4) Any governmental plan, as defined in Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002);
 - (5) Any endowment, including an endowment that is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)); or
 - (6) Any employee benefit plan defined in Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), not otherwise defined as a Special Entity, that elects to be a Special Entity by notifying a swap dealer or major swap participant of its election prior to entering into a swap with the particular swap dealer or major swap participant.
- (d) Swap dealer. The term “swap dealer” means any person defined in Section 1a(49) of the Act and § 1.3 of this chapter and, as appropriate in this subpart, any person acting for or on behalf of a swap dealer, including an associated person defined in Section 1a(4) of the Act.

Annex II

INFORMATION FROM COUNTERPARTY

Counterparty is required to complete this Annex if Counterparty answered “No” to the representation in Section 2(b) of Part V of this Agreement.

1. By answering “No” below counterparty hereby represents that it is not a “financial entity”, as defined in section 2(h)(7)(C)(i) of the CEA;

Is counterparty a “financial entity” as defined in section 2(h)(7)(C)(i) of the CEA?

Yes _____ No X _____

If “Yes” is checked immediately above, Counterparty is a financial entity and hereby represents that **at least one** of the following statements are true and correct (please check all that apply):

- a. _____ Counterparty is exempt from the definition of “financial entity” for purposes of these Transactions under CFTC Regulation 50.50(d), based on the fact that it is a financial entity solely because of section 2(h)(7)(C)(i)(VIII) of the CEA and is (A) organized as a bank (defined in section 3(a) of the Federal Deposit Insurance Act (the “FDIA”)) or a savings association (as defined in section 3(b) of the FDIA) deposits of which are insured by the FDIC, or (B) a farm credit system institution chartered under the Farm Credit Act of 1971, or (C) an insured Federal credit union or State-chartered credit union under the Federal Credit Union Act and has total assets of \$10,000,000,000 or less on the last day of Counterparty’s most recent fiscal year.
- b. _____ Counterparty satisfies section 2(h)(7)(C)(iii) of the CEA because Counterparty’s primary business is providing financing, and it uses derivatives for the purpose of hedging underlying commercial risks related to interest rate and foreign currency exposures, 90 percent or more of which arise from financing that facilitates the purchase or lease of products, 90 percent or more of which are manufactured by the parent company or another subsidiary of the parent company of Counterparty.
- c. _____ Counterparty satisfies section 2(h)(7)(D) of the CEA because Counterparty, acting as agent on behalf of a person that is its affiliate and that is eligible for the end-user exemption, uses the swap to hedge or mitigate the commercial risk of such person or another affiliate of such person that is not a financial entity, and is not:
 - i. a swap dealer;
 - ii. a security-based swap dealer;
 - iii. a major swap participant;
 - iv. a major security-based swap participant;
 - v. an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3), but for paragraph (1) or (7) of subsection (c) of that Act (15 U.S.C. 80a-3 (c));
 - vi. a commodity pool, as defined in section 1(a)(10) of the CEA;or

vii. a bank holding company with over \$50,000,000,000 in consolidated assets.

- d. _____ Counterparty is a cooperative exempted under CFTC Regulation 50.51(a)
- e. _____ Counterparty satisfies section 2(h)(7)(C)(i) of the CEA, and meets the conditions of No-Action Relief issued by the CFTC's Division of Clearing and Risk on November 26, 2014 (CFTC Letter No. 14-144) when acting on behalf of affiliates can provide a letter to Compass attesting that it is relying on such exemption.

2. Counterparty must satisfy one of the following elections:

- a. X _____ Consistent with the requirements of Section 2(h)(7)(A)(ii) of the Commodity Exchange Act and CFTC Regulation 50.50(c), I certify that the Electing Counterparty will only elect the end-user exception for swaps that hedge or mitigate commercial risk.
- b. _____ Consistent with the requirements of CFTC Staff No-Action Letter 14-144, I certify that the Electing Counterparty meets the General Conditions contained in CFTC Staff No-Action Letter 14-144.
- c. _____ Consistent with the requirements of CFTC Regulation §50.51(b)(1), I certify that the Electing Counterparty will only elect the cooperative exemption for:
- swaps entered into with a member of the exempt cooperative in connection with originating a loan or loans for that member, which satisfies the requirements of CFTC Regulation §1.3(ggg)(5)(i)-(iii); or
 - swaps that hedge or mitigate commercial risk related to loans to or swaps with members (as such swaps are described above).

3. Counterparty hereby represents that it is meeting its financial obligations for these Transactions through (please check all that apply):

- a. _____ A written credit support agreement
- b. _____ Pledged or segregated assets (including posting or receiving margin pursuant to a credit support agreement or otherwise)
- c. _____ A written third-party guarantee
- d. _____ Counterparty's available financial resources, or
- e. X _____ Other means.

4. Is Counterparty an issuer of securities registered under section 12 of the Securities Exchange Act of 1934 or required to file reports under section 15(d) of the Securities Exchange Act of 1934?

Yes _____ No X _____

If "Yes",

- a. Counterparty hereby represents that its SEC Central Index Key is:_____.
The Counterparty does not register nor is it required to register its debt with the SEC.
- b. Counterparty hereby represents that an appropriate committee of its board of directors (or equivalent body) has reviewed and approved the decision to enter into swaps exempt from the requirements of section 2(h)(1) and 2(h)(8) of the CEA.

Accepted and agreed:

CITY OF PENSACOLA, FLORIDA

By:

Name: Ashton J. Hayward, III

Title: Mayor

Date: September 23, 2016

ATTEST:

By: _____
City Clerk

(SEAL)

Approved as to Substance:

By: _____
Richard Barker, Jr.
Chief Financial Officer

Legal in Form and Valid as Drawn:

By: _____
Lysia H. Bowling
City Attorney



COUNCIL MEMORANDUM

Council Meeting Date: September 22, 2016

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor *AJH*

SUBJECT: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Amendment No. 1 to the Real Property Lease with VT Mobile Aerospace Engineering

RECOMMENDATION:

That City Council authorize the Mayor to execute Amendment No. 1 to the Lease with VT Mobile Aerospace Engineering to conform the agreement to the finalized project. Further, that City Council authorize the Mayor to take all actions necessary related to the execution of the amendment.

AGENDA: Regular Consent

Hearing Required: Public Quasi-Judicial No Hearing Required

SUMMARY:

The City of Pensacola, Escambia County, Greater Pensacola Chamber, and other agencies have been working since 2012 to attract VT Mobile Aerospace Engineering, Inc. to Pensacola to establish a maintenance, repair, and overhaul (MRO) facility on land at the Pensacola International Airport.

The project is expected to create a minimum of 400 full-time, high-skilled jobs with an average salary of \$41,000. The total project cost of \$46,030,447 is being funded by a combination of the VT MAE investment, state grants, and local funds.

The lease between the City of Pensacola and VT MAE contained a general schematic design with respect to the facility to be constructed. Upon the completion of the final plans developed during the design process, the Lease requires that an amendment be made to conform the agreement to the actual project. The Amendment replaces the preliminary plans, specifications, and schedule with the final ones, and amends the sources of funds to include the additional grants obtained from the Florida Department of Transportation.

PRIOR ACTION:

December 2013 - Mayor Ashton Hayward executed a nonbinding Memorandum of Understanding with ST Aerospace which allowed the City to begin contract negotiations.

June 13, 2013 - City Council adopted a resolution to support the acceptance of a grant offered by the Florida Department of Transportation as a Joint Participation Agreement # 43360229401 in the amount of \$11,090,000 for air commerce park phases I and IA – Infrastructure Development.

Council Memorandum

Subject: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Amendment No. 1 to the Real Property Lease with VT Mobile Aerospace Engineering

Council Meeting Date: September 22, 2016

Page 2

February 13, 2014 - City Council Discussion Item and Presentation on the ST Aerospace Economic Development Project at the Pensacola International Airport.

February 27, 2014 - City Council approved the Interlocal Agreement with Escambia County and the City of Pensacola for Funding of Economic Development Project – ST Aerospace of Mobile, Inc.

September 9, 2014 - City Council approved the lease with VT Mobile Aerospace Engineering.

July 16, 2015 - City Council approved the selection of Greenhut Construction and authorized the Mayor to execute the contract.

September 17, 2015 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571729401 in the amount of \$1,531,546 for construction funding to expand the cargo apron and construct a taxiway connector at the Pensacola International Airport of which \$1,121,242 will be used towards taxiway connecting future VT MAE facility to runway 17-35.

March 17, 2016 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreements # 42030029401, # 42960929401, and # 42960939401 in the amount of \$2,975,305 for construction of a taxiway connector at the Pensacola International Airport.

April 14, 2016 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571769401 in the amount of \$8,599,600 for construction of a hangar at the Pensacola International Airport.

FUNDING:

Budget:	\$ 15,186,547	FDOT Grant Entitlements
	7,000,000	Industry Recruitment, Retention, and Expansion Funds (IRREF)
	8,000,000	Interlocal Agreement between City and Escambia County
	<u>7,244,300</u>	VT Mobile Aerospace Engineering, Inc.
	37,430,847	Sub-total
	<u>8,599,600</u>	FDOT Grant Entitlements (Available 7/1/18)
	<u>\$ 46,030,447</u>	

Actual:	\$ 2,690,189	Architectural/Engineering Fees – Design and Construction
	1,279,298	Program Management Fees – Design and Construction
	219,707	Environmental Assessment
	581,002	Federal Aviation Administration Equipment Modification
	461,513	Professional Services
	152,901	Geotech/Survey/Airport Layout Plan
	150,000	Construction Manager at Risk Fees – Design
	304,689	Miscellaneous
	750,000	Bridge Financing
	37,576,696	Construction Manager at Risk – GMP
	<u>1,864,452</u>	Project Contingency
	<u>\$ 46,030,447</u>	

Council Memorandum

Subject: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Amendment No. 1 to the Real Property Lease with VT Mobile Aerospace Engineering

Council Meeting Date: September 22, 2016

Page 3

FINANCIAL IMPACT:

The project is expected to create a minimum of 400 full-time, high skilled jobs with an average salary of \$41,000. The total project cost of \$46,030,447 is being funded by a combination of VT MAE investment, state grants, and local funds. The lease agreement with VT MAE will produce minimum annual revenue to the Pensacola International Airport of \$243,848.88.

CITY ATTORNEY REVIEW:

Yes - Date of Review

9/16/2016

No - N/A

STAFF CONTACT:

Eric W. Olson, City Administrator

Daniel E. Flynn, Airport Director

ATTACHMENTS:

1) Amendment No. to the Real Property Lease with VT Mobile Aerospace Engineering

PRESENTATION:

Yes

No

**AMENDMENT TO REAL PROPERTY LEASE
AT
PENSACOLA INTERNATIONAL AIRPORT**

THIS AMENDMENT TO REAL PROPERTY LEASE AT PENSACOLA INTERNATIONAL AIRPORT (this "Amendment") is made and entered into this ____ day of _____, 2016 by and between VT MOBILE AEROSPACE ENGINEERING, INC., an Alabama corporation (the "Company") and the CITY OF PENSACOLA, a Florida municipal corporation (the "City), in its capacity as owner and operator of Pensacola International Airport (the "Airport").

RECITALS

WHEREAS, the City, as Lessor, and the Company, as Lessee, have entered into a certain Real Property Lease at Pensacola International Airport with an effective date of September 9, 2014 ("Lease");

WHEREAS, the design documents for the Project are now 95% complete and the Construction Manager at Risk has proposed a Guaranteed Maximum Price for the Project of \$37,576,696.00;

WHEREAS, the parties desire to amend the Lease in certain respects as more particularly set forth hereinbelow;

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration, the Company and the City hereby agree as follows:

1. Recitals; Definitions. The foregoing recitals are true and correct and are hereby incorporated herein by reference. Capitalized terms in this Amendment shall have the respective meanings assigned to them in the Lease unless another meaning is clearly intended by the terms of this Amendment.

2. Final Project Plans. The 95% design documents are identified in Exhibit B – Final Project Drawings, Exhibit C – Final Project Specifications, Exhibit D – Final Project Space Program and Exhibit E – Final Project Schedule, each of which exhibits is attached hereto and incorporated herein by reference. City and Company agree that such 95% design documents shall constitute the Final Project Plans.

3. Land. The definition of "Land" set forth in Section 1.01 of the Lease is hereby deleted in its entirety and the following inserted in lieu thereof:

"Land" means the land within the Airport consisting of approximately 19.84 acres plus/minus as depicted on Exhibit A attached hereto, upon which the Facilities will be constructed.

4. Exhibit A. Exhibit A to the Lease is hereby deleted and Exhibit A - Final Land Description attached to this Amendment is hereby substituted in lieu thereof.

5. Exhibit B. Exhibit B to the Lease is hereby deleted and Exhibit B - Final Project Drawings attached to this Amendment is hereby substituted in lieu thereof.

6. Exhibit C. Exhibit C to the Lease is hereby deleted and Exhibit C - Final Project Description attached to this Amendment is hereby substituted in lieu thereof.

7. Exhibit D. Exhibit D to the Lease is hereby deleted and Exhibit D - Final Project Space Program attached to this Amendment is hereby substituted in lieu thereof.

8. Exhibit E. Exhibit E to the Lease is hereby deleted and Exhibit E - Final Project Schedule attached to this Amendment is hereby substituted in lieu thereof.

9. Exhibit F. Exhibit F to the Lease is hereby deleted and Exhibit F (Additional Land) attached to this Amendment is hereby substituted in lieu thereof.

10. Exhibit H. Exhibit H to the Lease is hereby deleted and Exhibit H (FAA Airspace Determination Letter and FAA Approved Airport Layout Plan) attached to this Amendment is hereby substituted in lieu thereof.

11. Section 4.02, Second Paragraph. The second paragraph of Section 4.02 of the Lease is hereby deleted in its entirety and the following inserted in lieu thereof:

“The parties have jointly developed 95% complete design plans for the Project that consist of automobile and aircraft ingress and egress to and from the Land, aircraft hangar (including offices, storage, shops and employee support areas), aircraft apron areas, and aircraft wash rack, and automobile parking, all as described in Exhibit B - Final Project Drawings, Exhibit C - Final Project Description, Exhibit D - Final Project Space Program, and Exhibit E - Final Project Schedule attached hereto and incorporated herein by reference (collectively referred to as the “Final Project Plans”).

The parties hereby approve the Final Project Plans. Based upon the Final Project Plans, the Project Cost is estimated by the Parties to be \$46,000,000.00 (“Estimated Project Cost”).

12. Section 4.02, Third Paragraph. The first sentence of the third paragraph of Section 4.02 of the Lease is hereby deleted in its entirety and the following inserted in lieu thereof:

“The Company acknowledges and agrees that the Final Project Plans are adequate and sufficient for the Company’s use and purposes intended.”

13. Section 4.02, Fourth Paragraph. The fourth paragraph of Section 4.02 of the Lease is hereby deleted in its entirety and the following inserted in lieu thereof:

“After consultation with the Company, the City has selected Greenhut Construction Company, Inc. as the Construction Manager at Risk, and the City has entered in to a certain Construction Manager at Risk Contract with Greenhut Construction Company, Inc. dated September 10, 2015 (“Construction Management Contract”) to construct the Project for a guaranteed maximum price to be determined and agreed upon between the City and the Construction Manager at Risk after the Project Plans are 95% complete. The Company acknowledges that it was afforded the opportunity to review and comment on the terms and conditions of the Construction Management Contract.”

14. Section 4.02, Ninth and Tenth Paragraphs. The ninth and tenth paragraphs of Section 4.02 of the Lease are hereby deleted in their entirety and the following paragraph inserted in lieu thereof:

Based on the Final Project Plans, the Construction Manager at Risk has determined that the Guaranteed Maximum Price for the construction of the Project to which the Construction Manager at Risk is willing to commit is \$37,576,696.00. Because such Guaranteed Maximum Price proposed by the Construction Manager at Risk does not exceed \$46,030,447.00 (less that portion of the Project Costs not included in the scope of the Construction Management Contract), each of City and Company hereby approves such Guaranteed Maximum Price, agrees that this Lease shall continue in full force and effect, and waives any right it may have to terminate the Lease under Section 4.02 of the Lease as hereby amended.

15. Section 4.02, Twelfth Paragraph. The second sentence of the twelfth paragraph of Section 4.02 of the Lease is hereby deleted in its entirety and the following inserted in lieu thereof:

“To the extent that the actual Project Cost is less than \$46,030,477.00, then the amount by which the actual Project Cost is less than \$46,030,447.00 shall reduce the amount borrowed under the “Interim Financing” (as defined and discussed in Section 5.01 below) and thus reduce the amount of the “Additional FDOT Grant” (as defined in Section 5.01 below).”

16. Section 5.01. Section 5.01 of the Lease (excluding the section number and title) is hereby deleted in its entirety and the following inserted in lieu thereof:

“The City anticipates that Thirty-Eight Million Seven Hundred Eighty-Six Thousand One Hundred Forty-Seven Dollars (\$38,786,147.00) shall be available from the following sources (the “Grant Funds”) to be used to pay the Project Costs:

(a) Seven Million Dollars (\$7,000,000.00) from the Industry Recruitment, Retention and Expansion Fund (“IRREF”);

- (b) Eight Million Dollars (\$8,000,000.00) from Escambia County, Florida and the City;
- (c) Eleven Million Ninety Thousand Dollars (\$11,090,000.00) from the Florida Department of Transportation;
- (d) Four Million Ninety-Six Thousand Five Hundred Forty-Seven Dollars (\$4,096,547.00) from the Florida Department of Transportation; and
- (e) Eight Million Five Hundred Ninety-Nine Thousand Six Hundred Dollars (\$8,599,600.00) from the Florida Department of Transportation (“Additional FDOT Grant”).

The Parties acknowledge that the Florida Department of Transportation has committed to fund \$1,099,600.00 of the Additional FDOT Grant identified in clause (e) above in fiscal year 2018/2019 and to fund the remaining \$7,500,000.00 of the Additional FDOT Grant in fiscal year 2019/2020. Because the full amount of the Guaranteed Maximum Price under the Construction Management Contract must be legally assured or encumbered prior to commencement of construction of the Project, interim financing is required in an amount equal to the maximum Additional FDOT Grant of \$8,599,600.00 (the “Interim Financing”). The Interim Financing must be in place at or prior to the execution of the Guaranteed Maximum Price amendment to the Construction Management Contract. The proceeds of the Interim Financing will be used to pay Project Costs until the Additional FDOT Grant is funded, at which time the proceeds of the Additional FDOT Grant will be used first to pay and satisfy the Interim Financing in full. The City shall be responsible for obtaining or providing the Interim Financing. The City in its discretion may fulfill its obligation to obtain or provide the Interim Financing by obtaining a commercial loan or a letter of credit, or a combination of the two. Alternatively, the City in its discretion may elect to provide the Interim Financing by loaning City funds to the Project on the same general terms and conditions as would be available if the City had obtained a commercial loan for such purpose. Regardless of how the Interim Financing is obtained or provided by the City, all principal, interest, costs and expenses of the Interim Financing of every kind, type and nature shall be deemed to be Project Costs. The principal, interest, costs and expenses of such Interim Financing shall include, but are not limited to, repayment of the principal amount of the borrowing, interest expenses until Interim Financing is paid in full, loan fees and expenses, cost of due diligence reviews, attorney and consultant fees, escrow fees and all other fees, costs and expenses actually incurred by the City in connection with the Interim Financing. The Parties further agree that except to the extent otherwise required by the lender providing the Interim Financing, all other funds available to pay Project Costs shall be expended and disbursed for such purpose prior to expending or disbursing the proceeds of the Interim Financing or the Additional FDOT Grant to pay Project Costs.

17. Section 5.04. In each place that the sum of \$1,000,000.00 appears in Section 5.04 of the Lease, such sum of \$1,000,000.00 is hereby changed to \$1,800,000.00.

18. Section 5.07. Section 5.07 of the Lease (excluding the section number and title) is hereby deleted in its entirety and the following inserted in lieu thereof:

“All Grant Funds identified in Section 5.01 have been irrevocably obligated to the Project.”

19. Section 6.05. The second paragraph of Section 6.05 of the Lease is hereby deleted in its entirety and the following inserted in lieu thereof:

“The Parties acknowledge and agree that in order to mitigate the impacts of the Project, the FAA requires certain work to be done at the Airport, including the replacement of the Runway 17 Localizer and the relocation of certain FAA frequencies. The Parties agree that such FAA-required work is a component of the Project and that the cost of such FAA-required work, estimated to be \$700,000.00, is a component of the Project Cost.”

20. Section 9.04. Section 9.04 of the Lease (excluding the section number and title) is hereby deleted in its entirety and the following inserted in lieu thereof:

“In addition to complying with the provisions of this Article 9, the Company shall strictly comply with all obligations under the IRREF Grant (Section 5.01 (a)), as amended from time to time, including all such obligations related to job creation.”

21. Ratification of Lease as Amended. The Lease as hereby amended is hereby ratified, affirmed and confirmed in all respects.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, the undersigned have duly executed this Amendment as of the date set forth below.

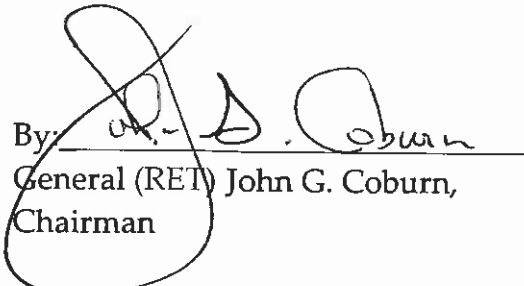
CITY:

COMPANY:

CITY OF PENSACOLA
a Florida municipal corporation

**VT MOBILE AEROSPACE
ENGINEERING, INC.,**
an Alabama corporation

By: _____
Ashton J. Hayward, III, Mayor

By: 
General (RET) John G. Coburn,
Chairman


Date: _____

Date: _____

Attest and Witnessed By:

Witnessed By:

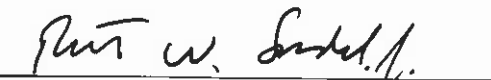
Ericka L. Burnett, City Clerk


Print Name: William Harnett

Witnessed By:

Witnessed By:

Print Name: _____

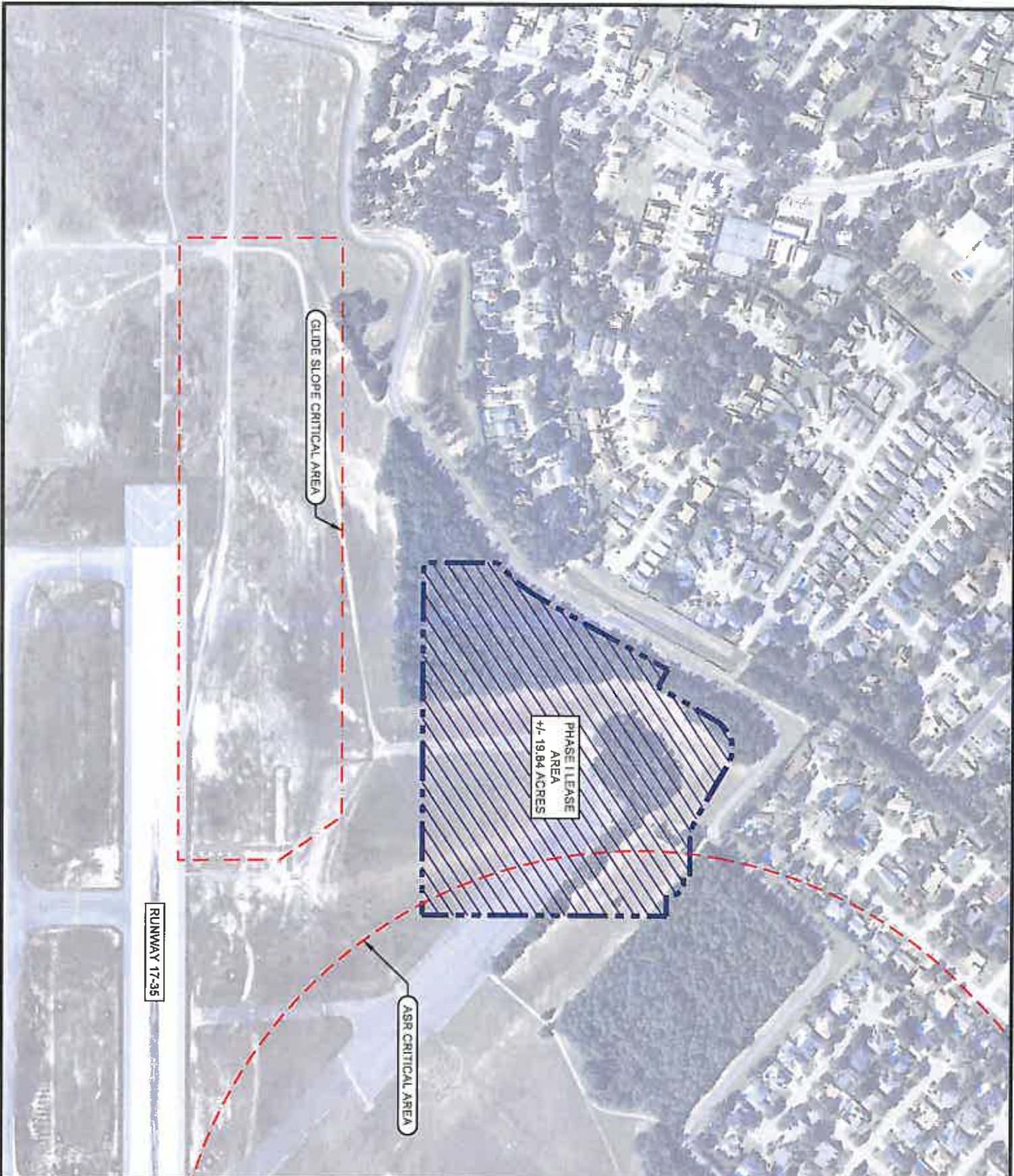

Print Name: Robert W. Seidel, Jr.

Approved As To Content:

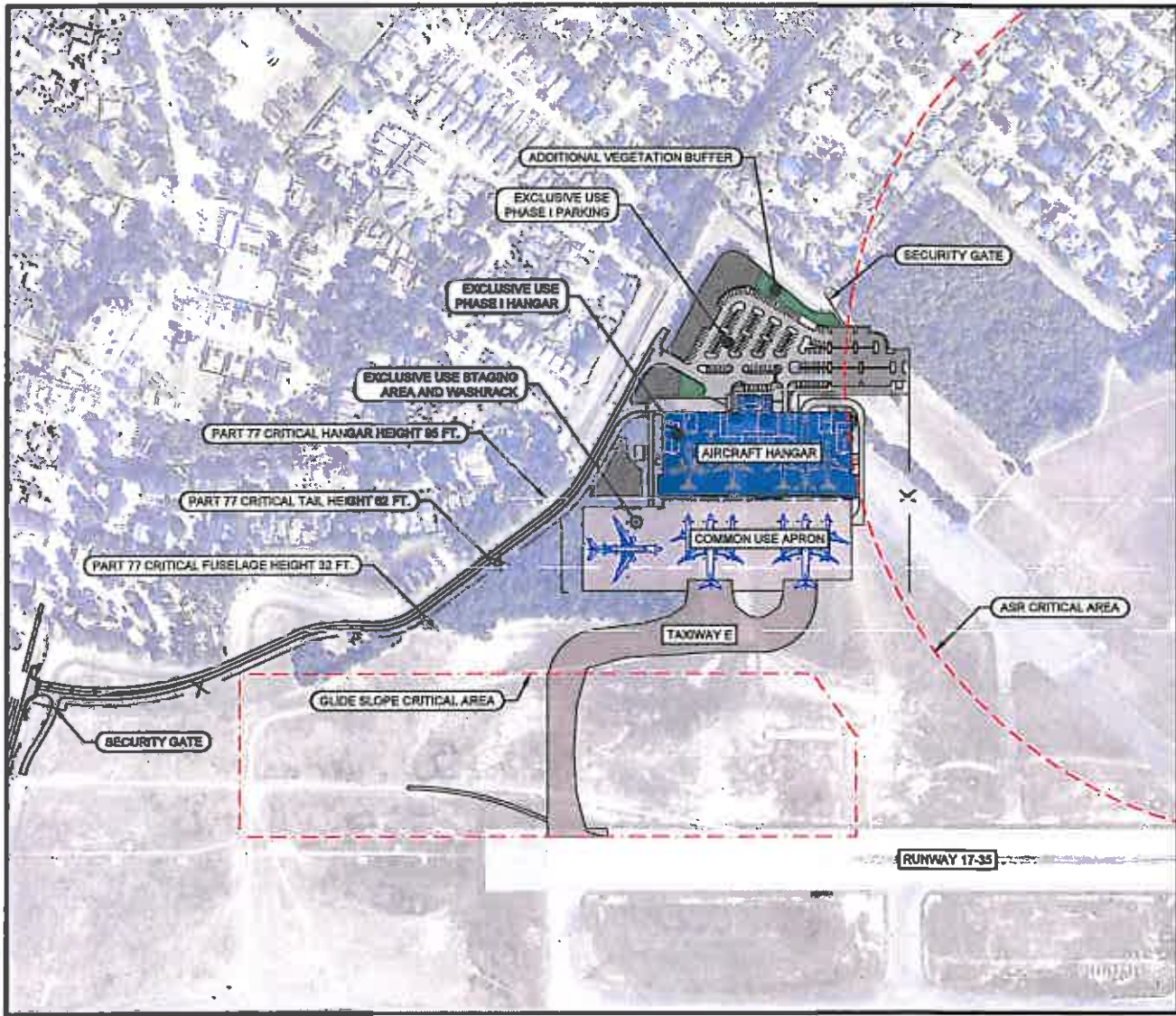
By: _____
Daniel E. Flynn, Airport Director

Legal in Form and Valid as Drawn

By: _____
Lysia H. Bowling, City Attorney



<p>EXHIBIT A</p>	<p>SHEET TITLE</p> <p>LAND EXHIBIT</p>	<p>Scale: 1" = 100'</p>	<p>Location of Scale</p>	<p>ATKINS <small>ATKINS Real Estate Services, Inc. 16.1 East 17th Street, Suite 100 Pensacola, FL 32504 Phone: 904.437.3131</small></p> <p>PENSACOLA <small>International Airport</small></p> <p>PENSACOLA <small>International Airport</small></p>
------------------	----------------------------------------	-------------------------	--------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



PENSACOLA International Airport
PENSACOLA
ATKINS
4000 E. Gulf Beach, Suite 100
 Pensacola, FL 32503
 Tel: 904.437.2222 Fax: 904.437.2222
 www.atkins.com

PROJECT DRAWINGS
 SHEET TITLE:
 SHEET NO.:
EXHIBIT B

EXHIBIT
 11B
 1 of 6

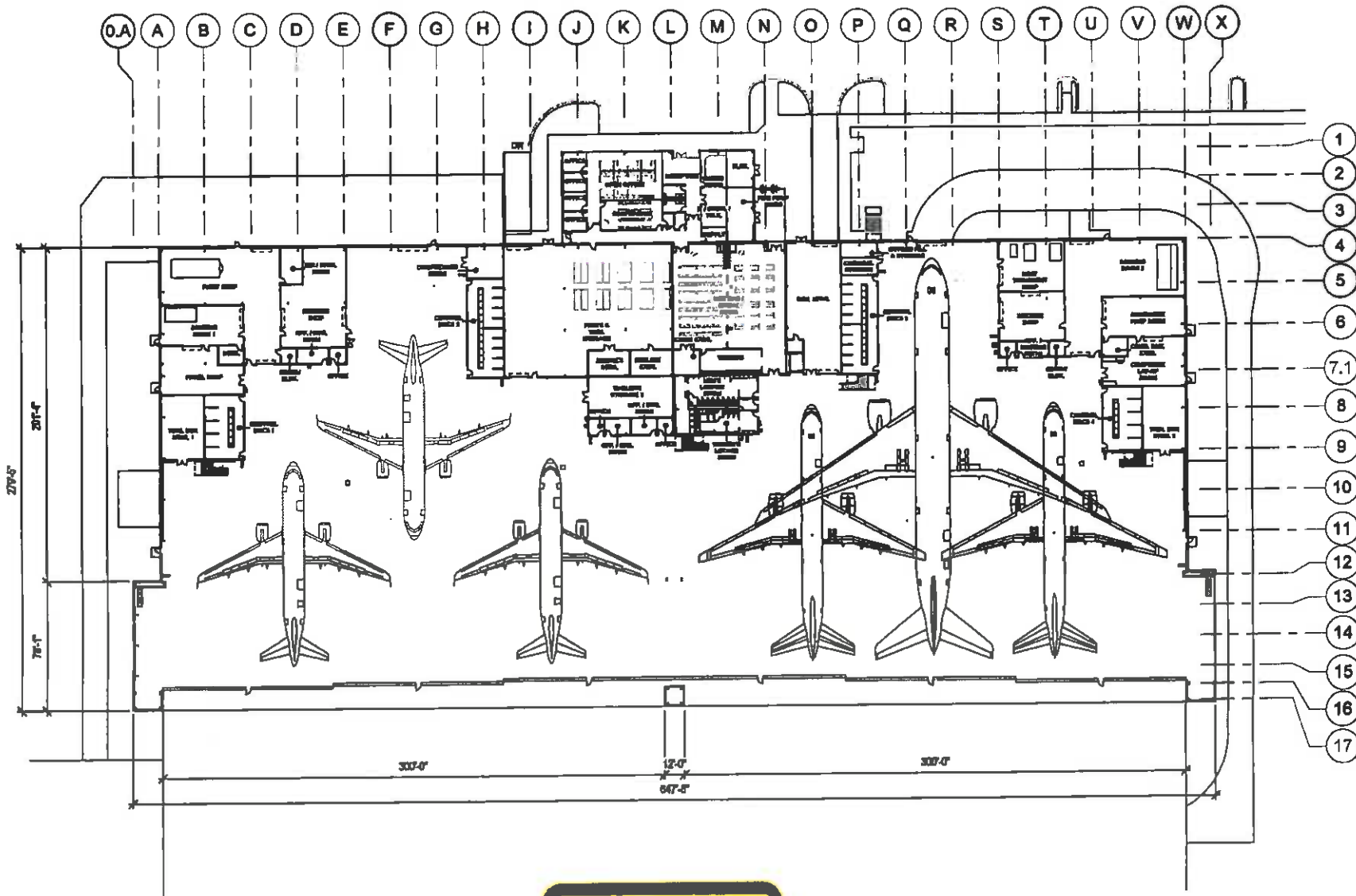


EXHIBIT
 1B
 2 of 6

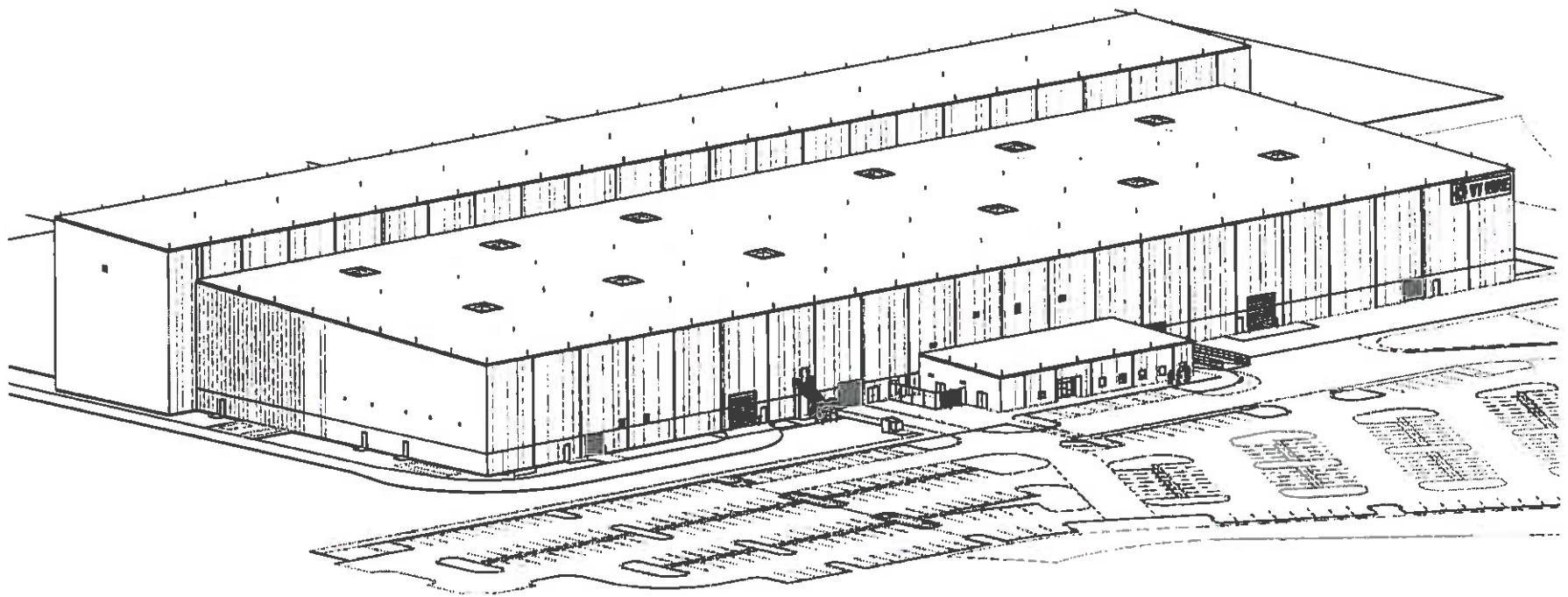


EXHIBIT
"B"
3 of 6

tabbles

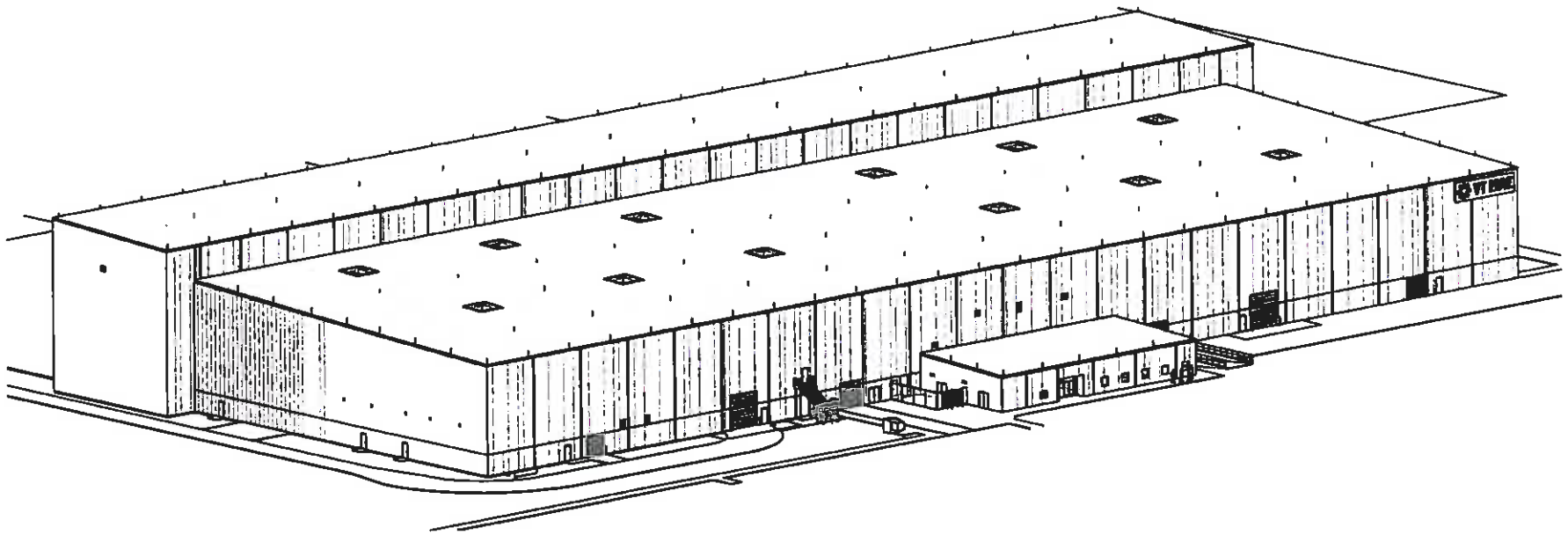


EXHIBIT
"B"
4 of 6

unobscured

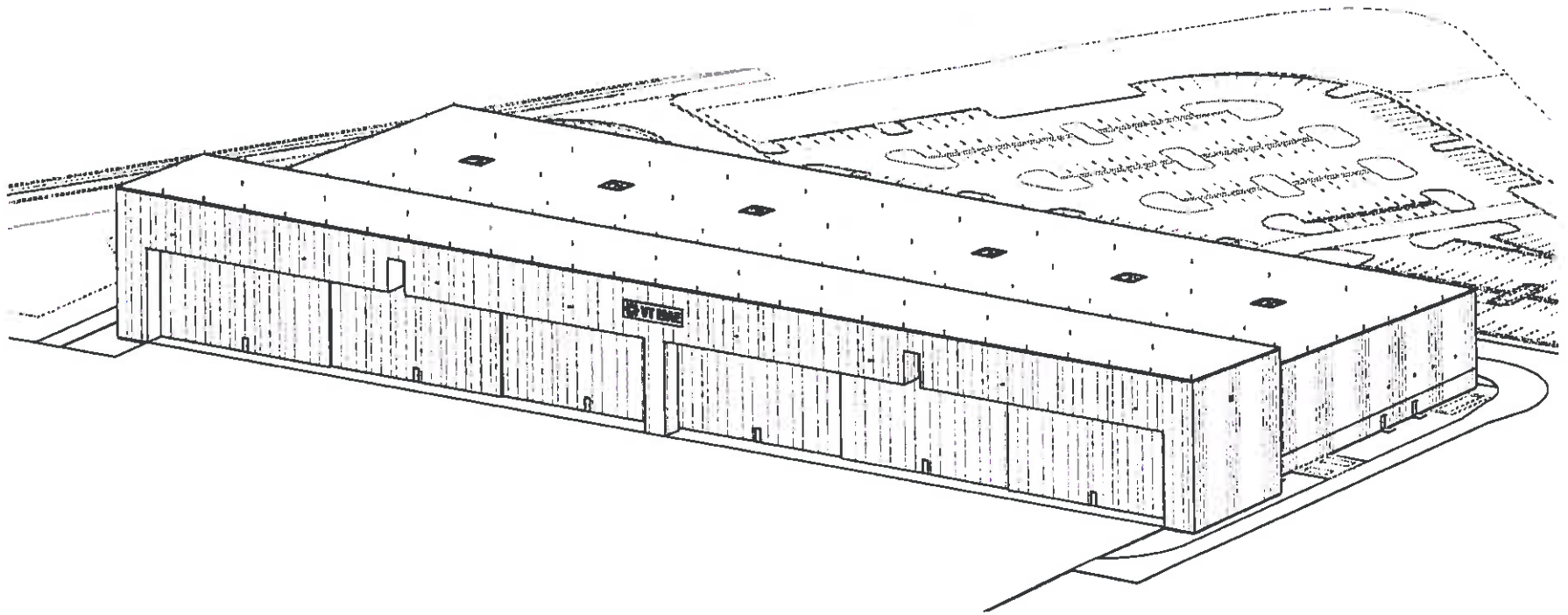


EXHIBIT
"B"
5 of 6

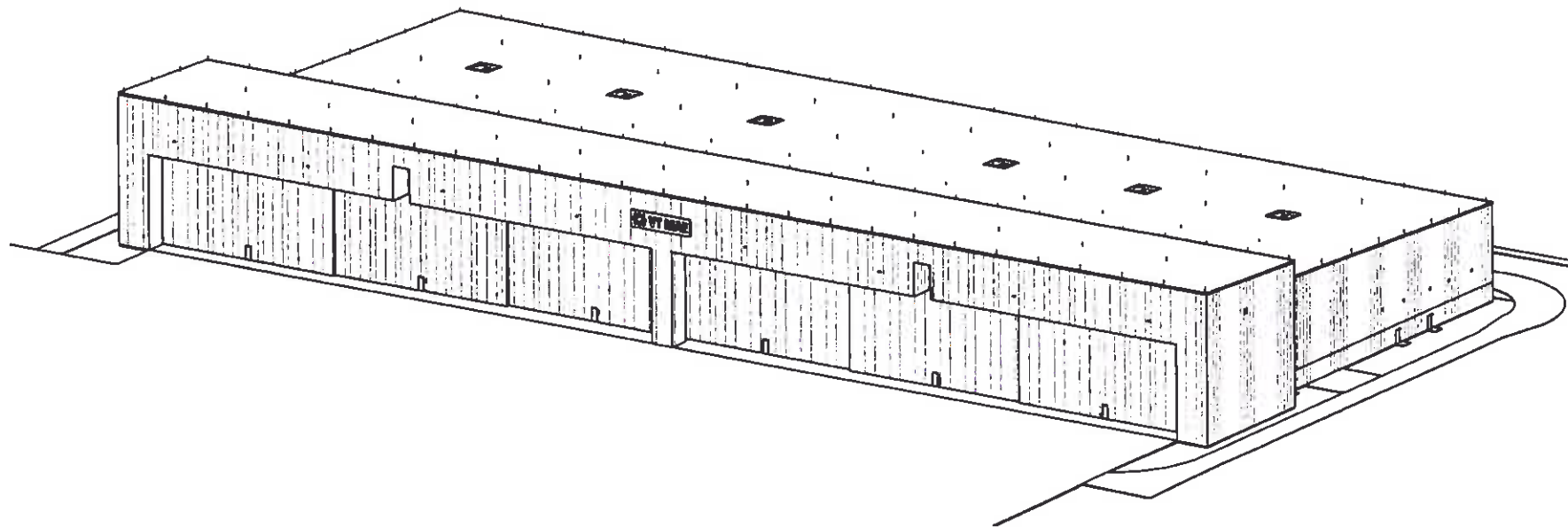


EXHIBIT
"B"
6 of 6

BUILDING DESIGN NARRATIVE

See GMP Plans for space layouts including square footages.

Architectural Design

The final hangar design consists of a 173,452 gross square foot (GSF) pre-engineered metal building (PEMB) system with three, second floor storage PEMB mezzanines with a total 43,996 SF of mezzanine area. A fully enclosed conditioned second floor office area is included with an approximate area of 4,400 SF. The hangar exterior will be pre-finished PEMB metal structural roof and metal wall panels. The primary front entrance and exterior windows will be pre-finished aluminum storefront system. The hangar bay(s) interior will be PEMB components with exposed painted metal frames, roof purlins and wall girts with vinyl faced batt insulation (R-13 walls/R-19 roof) all provided by the PEMB supplier/manufacturer. The conditioned administration area will receive typical office type finishes with suspended acoustical tile ceilings with metal stud infill and painted gypsum board walls. The hangar bay concrete floor slabs will be thickened at aircraft maintenance positions and the remainder of the hangar bay is designed for forklift loading. Hangar doors will be insulated metal motorized rolling bypass doors, three (3) panels per bay, supported on continuous metal tracks, total of three (3) continuous tracks, and overhead door bracing as required. Personnel doors will be located at each panel location for egress as indicated on drawings. Exterior finish of hangar doors will pre-finished PEMB panel full height. Hangar door opening clearances are the same as inside the hangar bay. The interior will be pre-finished PEMB metal liner panel to 10'-0" A.F.F. with exposed vinyl faced insulation above full height of door. The administration areas will be finished to an "office" type environment and the shops and storage areas will be finished to an appropriate level dependent upon the function of the space. Restrooms are included and based upon a building occupancy of the accumulative assembly areas of the building which will accommodate over 300 staff.

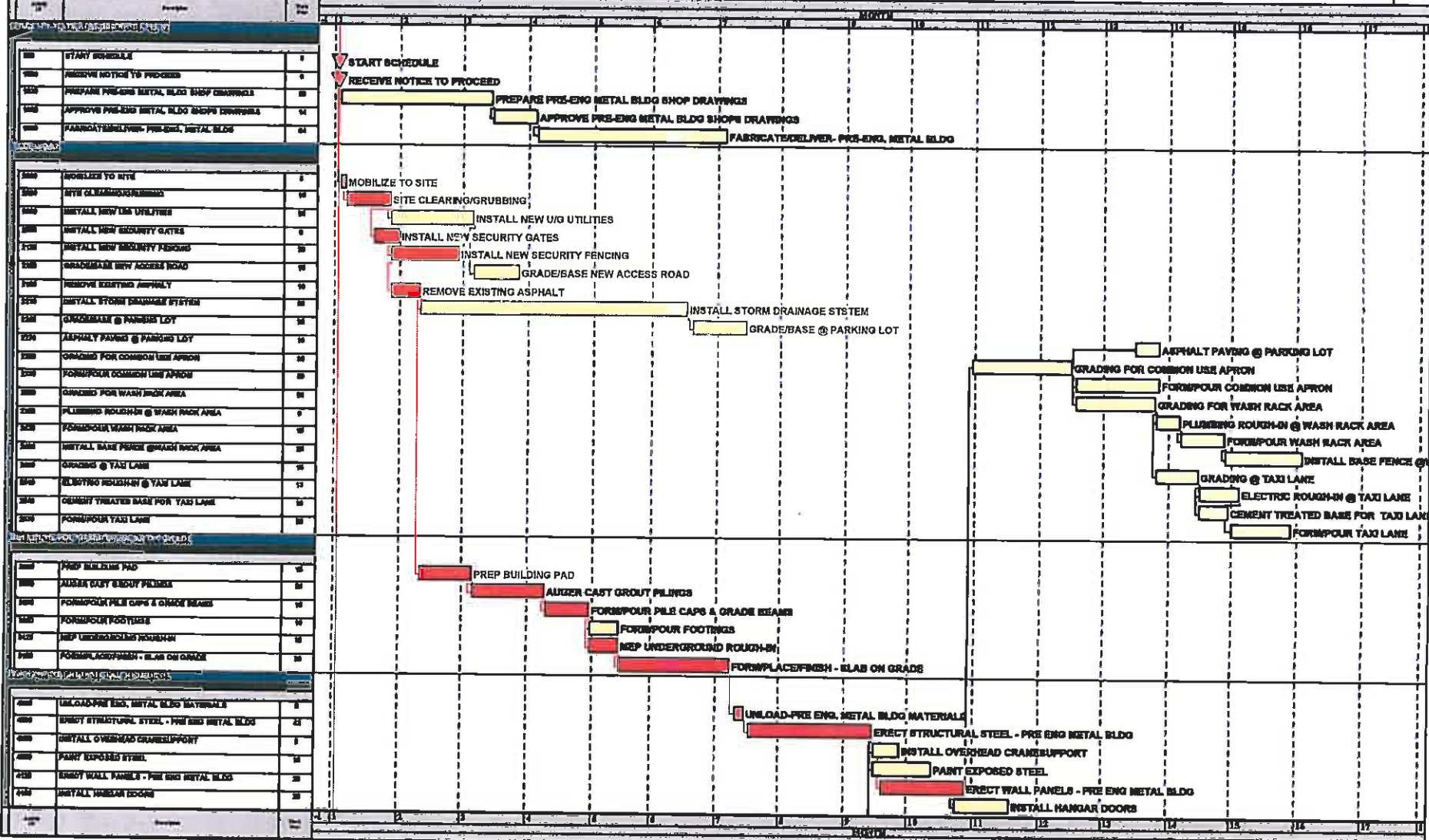
Engineering and Design Assumptions

- Design Aircraft – Boeing 777-300ER, Boeing 757-200, and Airbus A319/320/321
- Foundations – combination of deep and shallow foundations
- Floors – slab on grade
- Structure – pre-engineered metal building (engineered by manufacturer/supplier)
- Structure – Risk Category III, 170 mph wind speed
- Architectural – fall protection included
- Plumbing – fixture counts based upon 300 occupants
- Compressed Air – forty drops for building
- Fire Protection – fire pump, sprinkler system and fire alarm IAW NFPA 409
- Mechanical – administrative, shop, and storage areas heated and cooled
- Mechanical – hangar bays ventilated only, not heated and cooled
- Electrical – fluorescent lighting in restrooms, administrative areas, storage rooms, and shop areas
- Electrical – LED lighting in hangar bay and building exterior
- Electrical – 400Hz power converters provided
- Electrical – provisions for future emergency power, generator provided by tenant
- Telecommunications – no audio/visual
- Security – no electronic security of alarm systems included
- Structure – provisions for future bridge cranes provided by tenant

EXHIBIT "C"

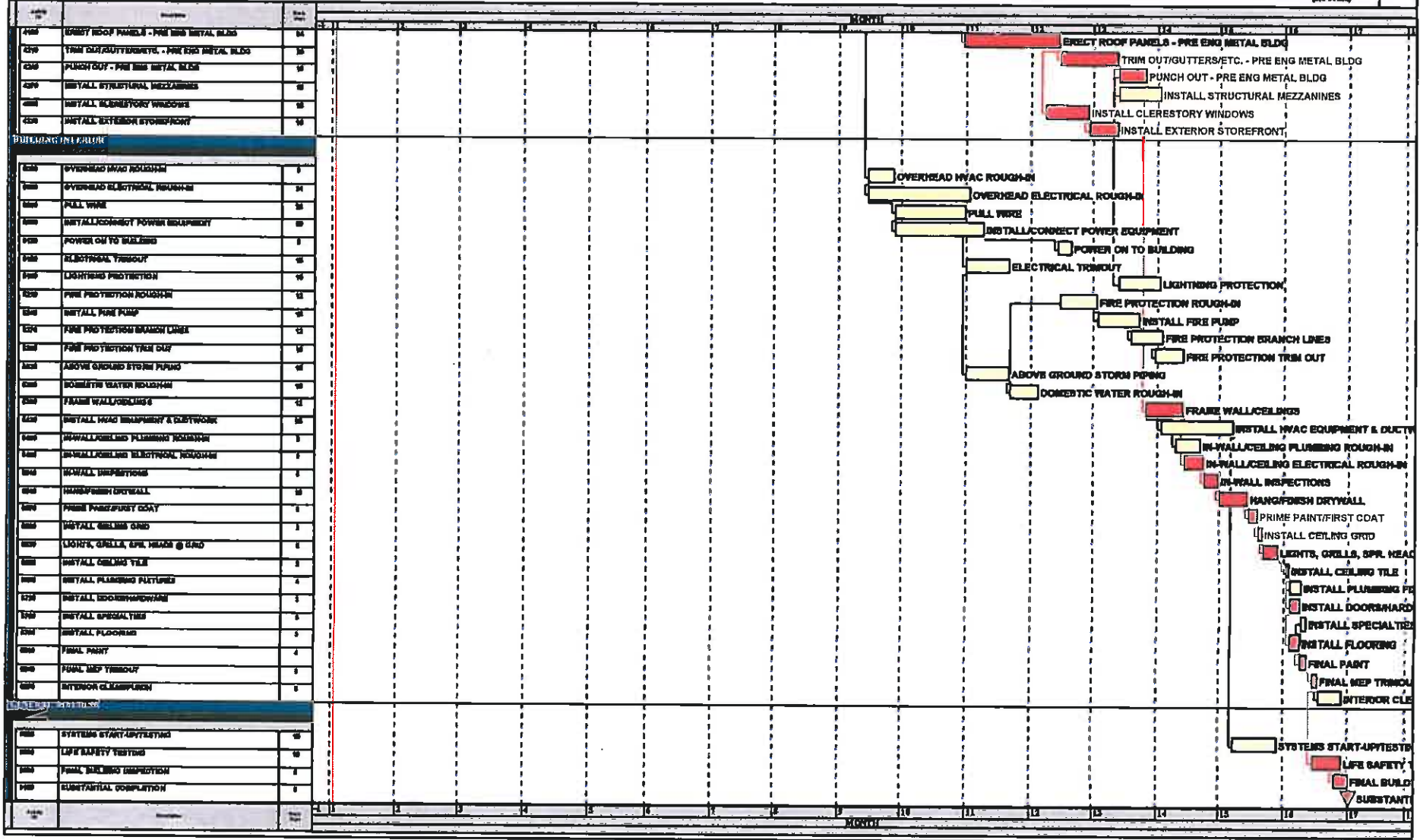
ROOM SCHEDULE	
ROOM NAME	AREA
ADMINISTRATIVE	
CHAIR STOR.	227 SF
CONFERENCE	659 SF
CORRIDOR	708 SF
GUARD ROOM	325 SF
MEETING / BREAK ROOM	4248 SF
MENS LOCKER ROOM	1071 SF
MENS TOILET	99 SF
OFFICE	163 SF
OFFICE	159 SF
OFFICE	155 SF
OFFICE	161 SF
OPEN OFFICE	1395 SF
RECEPTION	560 SF
STOR.	52 SF
VENDING	537 SF
WOMENS LOCKER ROOM	474 SF
WOMENS TOILET	99 SF
SUBTOTAL:	11096 SF
BUILDING SUPPORT	
COMM / ELEC.	81 SF
COMM / ELEC.	81 SF
COMPRESSOR ROOM	417 SF
ELEC.	341 SF
ELEV. EQUIP.	70 SF
ELEVATOR	80 SF
FIRE PUMP ROOM	510 SF
IT / COMM. / TELE.	355 SF
JAN.	64 SF
JAN.	76 SF
SUPPLY	128 SF
SUBTOTAL:	2202 SF
HANGAR	
HANGAR BAY 1	59577 SF
HANGAR BAY 2	59565 SF
	119142 SF
SHOPS	
COMP. MAT. STOR.	162 SF
COMPOSITE LAY-UP ROOM	1246 SF
COMPOSITE PREP ROOM	1153 SF
HEAT TREATMENT SHOP	1180 SF
INTERIOR SHOP	2025 SF
MACHINE SHOP	1127 SF
MIX / STOR. ROOM	284 SF
OFF. / MEETING ROOM	189 SF
OFF. / MTG. ROOM	169 SF
OFF. / MTG. ROOM	151 SF
OFF. / MTG. ROOM	151 SF
OFFICE	90 SF
OFFICE	90 SF
OFFICE	90 SF
OFFICE	90 SF
PAINT SHOP	3175 SF
PANEL SHOP	1245 SF
SANDING ROOM 1	1153 SF
SANDING ROOM 2	3175 SF
STOR.	162 SF
SUBTOTAL:	17087 SF
STORAGE	
AVONICS STOR.	367 SF
CHEMICAL STORAGE	214 SF
CONTROL DOCS 1	879 SF
CONTROL DOCS 2	1200 SF
CONTROL DOCS 3	1200 SF
CONTROL DOCS 4	880 SF
GEN. STOR.	2320 SF
OXYGEN FILL & STORAGE	189 SF
PARTS & TOOL STORAGE	7069 SF
SEALANT STOR.	373 SF
TOOL BOX STOR. 1	880 SF
TOOL BOX STOR. 3	880 SF
TOOLBOX STORAGE 2	1228 SF
SUBTOTAL:	17879 SF
NET TOTAL:	167407 SF
GROSS TOTAL (INCL. EXT. WALLS):	173291 SF



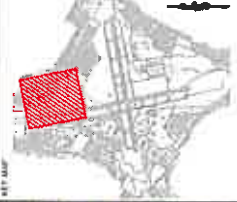


*Schedule is subject to weather and other delays that adversely affect the critical path and are eligible for time extensions under the contract.





*Schedule is subject to weather and other delays that adversely affect the critical path and are eligible for time extensions under the contract.



ADDITIONAL LAND EXHIBIT

EXHIBIT F





Federal Aviation Administration

June 24, 2016

TO:

City of Pensacola
Attn: Daniel Flynn
2430 Airport Blvd.
Suite 225
Pensacola, FL 32504
dflynn@cityofpensacola.com

CC:

ATKINS
Attn: Jonathan Hand
482 South Keller Road
Orlando, FL 32810-6101
jonathan.d.hand@atkinsglobal.com

RE: (See attached Table 1 for referenced case(s))
FINAL DETERMINATION

Table 1 - Letter Referenced Case(s)

ASN	Prior ASN	Location	Latitude (NAD83)	Longitude (NAD83)	AGL (Feet)	AMSL (Feet)
2014-ASO-2287-NRA	2014-ASO-558-NRA	PENSACOLA, FL	30-28-57.46N	87-11-12.44W	66	186
2014-ASO-2288-NRA		PENSACOLA, FL	30-28-55.82N	87-11-12.00W	80	200
2014-ASO-2289-NRA		PENSACOLA, FL	30-28-55.99N	87-11-11.15W	80	200
2014-ASO-2290-NRA		PENSACOLA, FL	30-28-53.11N	87-11-11.28W	80	200
2014-ASO-2291-NRA		PENSACOLA, FL	30-28-53.28N	87-11-10.42W	80	200
2014-ASO-2292-NRA	2014-ASO-560-NRA	PENSACOLA, FL	30-28-51.48N	87-11-10.84W	66	186
2014-ASO-2293-NRA	2014-ASO-559-NRA	PENSACOLA, FL	30-28-52.37N	87-11-07.82W	57	177
2014-ASO-2294-NRA		PENSACOLA, FL	30-28-53.73N	87-11-08.18W	68	188
2014-ASO-2295-NRA		PENSACOLA, FL	30-28-55.09N	87-11-08.54W	57	177
2014-ASO-2296-NRA		PENSACOLA, FL	30-28-56.44N	87-11-08.90W	68	188
2014-ASO-2297-NRA	2014-ASO-557-NRA	PENSACOLA, FL	30-28-57.80N	87-11-09.27W	57	177

Description: Phase-1 Hangar. This hangar is sized to house up to 4 Boeing 757 aircraft, and is intended to be an MRO facility.

We do not object with conditions to the construction described in this proposal provided:

You comply with the requirements set forth in FAA Advisory Circular 150/5370-2, "Operational Safety on Airports During Construction."

Construction shall not start until all of the FAA facility impacts identified by Tech Ops and funded via the reimbursable agreement have been mitigated to ensure no loss of communication in the identified areas, and no loss of navigational capability for the ILS.

Advise local AT and SSC offices of construction activities. SSC POC is Kelly Kilbarger, Pensacola SSC Manager, at 850-444-5600.

This determination is based, in part, on the foregoing description, which includes specific coordinates, heights, frequencies and power. Any change in coordinates, heights, frequencies or use of greater power will void this



determination. Any future construction or alteration, including increases in heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground. In making this determination, the FAA has considered matters such as the effect the proposal would have on the existing airspace structure and projected programs of the FAA, the effects it would have on the safety of persons and property on the ground, and the effects that existing or proposed manmade objects (on file with the FAA) and natural objects within the affected area would have on the airport proposal.

This determination does not include any environmental analysis or environmental approval for this proposal. All local and state requirements and/or permits must be obtained prior to construction of this proposal. It does not include approval of any lease, does not release any surplus or grant agreement acquired airport property, nor does it relieve the airport owner or the proponent of compliance with FAR, Part 155, or any other law, ordinance, or regulation of federal, state, or local government body or organization.

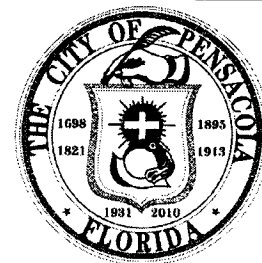
This determination does not constitute FAA approval or disapproval of the physical development involved in the proposal. It is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground.

In making this determination, the FAA has considered matters such as the effects the proposal would have on existing or planned traffic patterns of neighboring airports, the effects it would have on the existing airspace structure and projected programs of the FAA, the effects it would have on the safety of persons and property on the ground, and the effects that existing or proposed manmade objects (on file with the FAA), and known natural objects within the affected area would have on the airport proposal.

When your Airport Layout Plan is updated, please include this new development. In the meantime, we will show this feature on your current ALP approved on file.

If you have any questions concerning this determination contact Bill Farris (407)812-6331 bill.farris@faa.gov.

Bill Farris
Specialist



COUNCIL MEMORANDUM

Council Meeting Date: September 22, 2016

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor *AJH*

SUBJECT: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Amendment No. 1 to Architectural and Engineering Design Services

RECOMMENDATION:

That City Council authorize the Mayor to execute Amendment No. 1 to the contract with Atkins North America in the amount of \$351,449 for additional architectural and engineering services for the VT Mobile Aerospace Engineering project at Pensacola International Airport. Further that City Council authorize Mayor to take all actions necessary related to the execution of the amendment.

AGENDA: Regular Consent

Hearing Required: Public Quasi-Judicial No Hearing Required

SUMMARY:

Atkins North America was selected as the firm to provide the architectural and engineering design services for the development of the hangar facility to be utilized by VT MAE. The initial cost negotiated with Atkins for the work was based on a general schematic design developed while formulating the lease agreement with VT MAE. After commencement of the formal design activity, certain elements of the facility were modified. The overall building was enlarged to accommodate wing modifications now commonly found on the building's design aircraft, the B-757, the interior work areas, treatment, and equipment were modified to provide greater functionality, and additional design and value engineering meetings had to be conducted to account for the changes. As a result of the modifications, Atkins North America expended additional hours not anticipated in their original fee. Given the additional costs incurred during the design phase as a result of the alterations, the overall contract amount needs to be amended to ensure that adequate funds are available for Atkins to perform their necessary services during the construction phase of the project.

PRIOR ACTION:

December 2013 - Mayor Ashton Hayward executed a nonbinding Memorandum of Understanding with ST Aerospace which allowed the City to begin contract negotiations.

June 13, 2013 - City Council adopted a resolution to support the acceptance of a grant offered by the Florida Department of Transportation as a Joint Participation Agreement # 43360229401 in the amount of \$11,090,000 for air commerce park phases I and IA – Infrastructure Development.

February 13, 2014 - City Council Discussion Item and Presentation on the ST Aerospace Economic Development Project at the Pensacola International Airport.

Council Memorandum

Subject: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Amendment No. 1 to Architectural and Engineering Design Services

Council Meeting Date: September 22, 2016

Page 2

February 27, 2014 - City Council approved the Interlocal Agreement with Escambia County and the City of Pensacola for Funding of Economic Development Project – ST Aerospace of Mobile, Inc.

September 9, 2014 - City Council approved the lease with VT Mobile Aerospace Engineering.

July 16, 2015 - City Council approved the selection of Greenhut Construction and authorized the Mayor to execute the contract.

September 17, 2015 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571729401 in the amount of \$1,531,546 for construction funding to expand the cargo apron and construct a taxiway connector at the Pensacola International Airport of which \$1,121,242 will be used towards taxiway connecting future VT MAE facility to runway 17-35.

March 17, 2016 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreements # 42030029401, # 42960929401, and # 42960939401 in the amount of \$2,975,305 for construction of a taxiway connector at the Pensacola International Airport.

April 14, 2016 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571769401 in the amount of \$8,599,600 for construction of a hangar at the Pensacola International Airport.

FUNDING:

Budget:	\$ 15,186,547	FDOT Grant Entitlements
	7,000,000	Industry Recruitment, Retention, and Expansion Funds (IRREF)
	8,000,000	Interlocal Agreement between City and Escambia County
	7,244,300	VT Mobile Aerospace Engineering, Inc.
	<u>37,430,847</u>	Sub-total
	8,599,600	FDOT Grant Entitlements (Available 7/1/18)
	<u>\$ 46,030,447</u>	

Actual:	\$ 2,690,189	Architectural/Engineering Fees – Design and Construction
	1,279,298	Program Management Fees – Design and Construction
	219,707	Environmental Assessment
	581,002	Federal Aviation Administration Equipment Modification
	461,513	Professional Services
	152,901	Geotech/Survey/Airport Layout Plan
	150,000	Construction Manager at Risk Fees – Design
	304,689	Miscellaneous
	750,000	Bridge Financing
	37,576,696	Construction Manager at Risk – GMP
	1,864,452	Project Contingency
	<u>\$ 46,030,447</u>	

Council Memorandum

Subject: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Amendment No. 1 to Architectural and Engineering Design Services

Council Meeting Date: September 22, 2016

Page 3

FINANCIAL IMPACT:

The project is expected to create a minimum of 400 full-time, high skilled jobs with an average salary of \$41,000. The total project cost of \$46,030,447 is being funded by a combination of VT MAE investment, state grants, and local funds. The fees for this amendment will come from a combination of those funds.

CITY ATTORNEY REVIEW:

Yes - Date of Review

9/16/2016

No - N/A

STAFF CONTACT:

Eric W. Olson, City Administrator

Daniel E. Flynn, Airport Director

ATTACHMENTS:

1) Amendment No. 1 to Architectural and Engineering Design Services with Atkins

PRESENTATION:

Yes

No

AMENDMENT NO. 1
AGREEMENT FOR ENGINEERING SERVICES
(VT Aerospace Engineering, Inc. MRO Facility at Pensacola International Airport)

THIS AMENDMENT NO. 1 TO AGREEMENT FOR ENGINEERING SERVICES (this "Amendment") is made and entered into this ____ day of _____, 2016 by and between ATKINS NORTH AMERICA, INC., INC., a Florida corporation (the "Engineer") and the CITY OF PENSACOLA, a Florida municipal corporation (the "City), in its capacity as owner and operator of Pensacola International Airport (the "Airport").

RECITALS

WHEREAS, the City and the Engineer have entered into a certain Agreement for Engineering Services for the VT Aerospace Engineering, Inc. MRO Facility at Pensacola International Airport with an effective date of September 1, 2015 ("Agreement");

WHEREAS, the Project scope has been modified subsequent to the negotiation of the Agreement;

WHEREAS, the modifications to the Project scope have increased the architectural, engineering, and other design services required for the Project;

WHEREAS, the parties desire to amend the Agreement in certain respects and to provide for the modification of the Project Cost Breakdown;

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration, the Engineer and the City hereby agree as follows:

1. Recitals; Definitions. The foregoing recitals are true and correct and are hereby incorporated herein by reference. Capitalized terms in this Amendment shall have the respective meanings assigned to them in the Agreement unless another meaning is clearly intended by the terms of this Amendment.

2. VT Lease. Section 1.6 of the Agreement, beginning at the bottom of page 2 of the Agreement, is hereby deleted in its entirety and the following inserted in lieu thereof:

"Section 1.6 Unless otherwise directed by the City, Engineer shall design the Project in strict compliance with the preliminary design criteria previously prepared by Engineer and set forth in Exhibits B, C and D to that certain Real Property Lease between City and Tenant dated September 9, 2014, as amended by that certain Amendment to Real Property Lease at Pensacola International Airport between City and Tenant dated _____, 2016 (hereinafter referred to collectively as the "VT Lease")."

3. Re-Numbering of Section 1.6; Maximum GMP. Section 1.6, which begins at the top of page 3 of the Agreement, is hereby re-numbered to be "Section 1.7". Further, the third sentence of that section is hereby deleted in its entirety and the following inserted in lieu thereof:

"Engineer understands that the City's maximum budget for the cost of construction of the Project is \$37,600,000.00 (the "Maximum GMP")."

4. Re-Numbering of Section 1.7. Section 1.7 of the original Agreement is hereby re-numbered to be "Section 1.8".

5. Re-Numbering of Section 1.8. Section 1.8 of the original Agreement is hereby re-numbered to be "Section 1.9."

6. Additional Tasks. The following new Section 2.4 is hereby added to the Agreement and made an integral and material part thereof.

"Section 2.4. Engineer has performed and provided, and shall perform and provide, the additional basic design services described as Task A.1 through Task A.19 below. Deliverables for these tasks will be incorporated into the deliverables prescribed for the 60% Design, 95% Design and 100% Design as part of the Agreement. Revised drawings, specifications and narrative sections will be integrated with the appropriate sections in the complete design packages. As such, there will be no specific stand-alone deliverables related to these additional tasks. The additional tasks are as follows:

Task A.1 Engineer will attend and participate in Value Engineering sessions with the City, Tenant, Construction Administrator, and Construction Manager. The purpose of these workshops will be to review project scope, additional Tenant requests, and preliminary cost estimates to establish a revised project definition.

Task A.2 As a result of the Value Engineering sessions, Engineer will revise components of the Preliminary Design to reduce project costs. These revisions will include a new alignment for the entrance taxiway, a revised approach to the landside access road, reevaluation of planned traffic to reduce pavement sections on the airside and landside, and a revision to stormwater piping.

Task A.3 Due to limited water supply by the Emerald Coast Utility Authority (ECUA), the Engineer will layout and design a ground level fire suppression water storage system to be located adjacent to the hangar. Preliminary Design estimates indicate this will be an approximately 100,000 gallon above ground storage tank and supporting infrastructure.

Task A.4 In order to accommodate B757-200 aircraft with winglets in the manner requested by the tenant, the overall gross square footage of the hangar will be increased from 160,000 SF to 173,452 SF. This equates to a material increase of 13,452 SF.

Task A.5 The centrally located mezzanine storage area will be designed to accommodate storage and future office build-out.

Task A.6 The shop areas on both sides of the hangar (approx. 21,000 SF) will be fully conditioned spaces.

Task A.7 An independent "Clean Agent" fire suppression and releasing system will be included for the IT Room.

Task A.8 The hangar shall be designed to accommodate future installation of two 2-ton bridge cranes in the hangar bay by the Tenant. This will include design accommodations for the pre-engineered metal building (PEMB) structure and electrical service.

- Task A.9 The hangar shall be designed to accommodate future installation of multiple 20-foot diameter high volume ceiling fans in the hangar bay by the Tenant.
- Task A.10 Recessed aircraft service pits or retractable pop-up service pedestals with heavy traffic rated covers with aircraft power, general power and looped compressed air manifold connections (11 locations) will be included in the design.
- Task A.11 Cooling air ductwork for aircraft fuselage maintenance will be included in the design.
- Task A.12 Pressurized air piping for aircraft fuselage maintenance (“huffer system”) will be included in the design.
- Task A.13 Wall mounted 200A, 480V power connection in hangar bay for hydraulic mule
- Task A.14 Provision for a future Tenant installed emergency/standby generator for building electrical service will be accommodated in the design.
- Task A.15 Lighting system in hangar bay will be revised to reflect LED lighting.
- Task A.16 Rough-in for Access Control System in the Admin. Areas will be accommodated in the design.
- Task A.17 Rough-in for Closed Circuit Camera Surveillance System will be accommodated in the design.
- Task A.18 Paging system for all common areas will be accommodated in the design.
- Task A.19 Looped Compressed Air Piping System will be accommodated in the design.

7. Engineer Fee. The first sentence of Section 4.1 of the Agreement is hereby deleted in its entirety and the following inserted in lieu thereof:

“The City shall pay to the Engineer, for satisfactory performance of the work and services required by this Agreement, the fixed amount of \$2,630,913.00 (the “Engineer Fee”), which Engineer Fee shall be deemed earned and shall be payable based on work completed according to the Engineer Fee breakdown shown on **Exhibit “B”** attached hereto and incorporated herein by reference.”

8. Supplement to Exhibit “B”. Exhibit “B” is hereby supplemented by adding thereto Exhibit “B-1” attached hereto and incorporated herein by reference. Accordingly, as used in Section 4.1 of the Agreement and elsewhere in the Agreement, Exhibit “B” shall mean and refer to, collectively, Exhibit “B” to the original Agreement and Exhibit “B-1” attached hereto.

9. Florida Public Records Law. Section 18.3 of the Agreement is hereby amended by adding the following thereto:

“Section 18.3.1 Engineer shall comply with the Public Records Law if and to the full extent that Chapter 119, Florida Statutes, is applicable to Engineer and this Agreement.

Section 18.3.2 Engineer shall:

- i. Keep and maintain public records required by the City to perform the service.
- ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following the completion of the Agreement if Engineer does not transfer the records to the City.
- iv. Upon completion of the Agreement, transfer, at no cost, to City all public records in possession of Engineer or keep and maintain public records required by the City to perform the service. If Engineer transfers all public records to City upon completion of the Agreement, Engineer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Engineer keeps and maintains public records upon completion of the Agreement, Engineer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request of the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

Section 18.3.3 In the event that Engineer fails to comply with the provisions of sections 18.3, 18.3.1 or 18.3.2 of this Contract, the City may, without prejudice to any other right or remedy and after having given Engineer five (5) days' written notice, during which period Engineer still fails to comply with said provisions of this Agreement, terminate this Agreement for cause.

IF ENGINEER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ENGINEER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: THE OFFICE OF THE CITY ATTORNEY, 222 WEST MAIN STREET, PENSACOLA, FLORIDA 32502; PUBLICRECORDS@CITYOFPENSACOLA.COM; (850) 435-1715."

10. Ratification of Agreement as Amended. The Agreement as hereby amended is hereby ratified, affirmed and confirmed in all respects.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the undersigned have duly executed this Amendment as of the date set forth below.

CITY:

CITY OF PENSACOLA
a Florida municipal corporation

By: _____
Ashton J. Hayward, III, Mayor

Attest and Witnessed By:

Ericka L. Burnett, City Clerk

Witnessed By:

Print Name: _____

Approved as to substance:

By: _____
Daniel E. Flynn, Airport Director

Legal in form and valid as drawn

By: _____
Lysia H. Bowling, City Attorney

ENGINEER:

**ATKINS NORTH AMERICA,
INC.,**
a Florida corporation

By: _____
Justin P. Jones,
Senior Vice President

Date: _____

Witnessed By:

Print Name: _____

Witnessed By:

Print Name: _____

EXHIBIT "B-1"

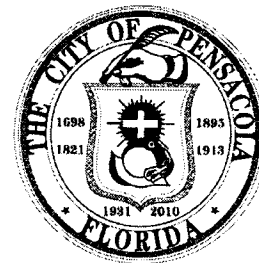
PROJECT COST BREAKDOWN

AMENDMENT TO THE AGREEMENT FOR ENGINEERING SERVICES
(VT Aerospace Engineering, Inc. MRO Facility at Pensacola International Airport)

		PM / CIVIL ATKINS	ARCH BTA	STRUC SCG	MECH SCG	ELEC SCG	FIRE FEI	TOTALS
Task A.1	Preliminary Design Value Engineering	\$ 17,000	\$ 22,500	\$ -	\$ -	\$ -	\$ -	\$ 39,500
Task A.2	Modifications to Site Design due to VE	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,000
Task A.3	Ground level fire suppression water storage	\$ 4,555	\$ 1,720	\$ -	\$ -	\$ -	\$ 1,980	\$ 8,255
Task A.4	Additional building square footage above 160,000 GSF (13,452 GSF)	\$ 16,597	\$ 13,564	\$ 5,616	\$ 5,352	\$ 4,872	\$ 1,240	\$ 47,241
Task A.5	Centrally located mezzanine storage decked area	\$ 5,750	\$ 11,416	\$ 25,680	\$ -	\$ -	\$ 1,240	\$ 44,086
Task A.6	Fully conditioned shop areas (21,000 SF)	\$ 4,860	\$ 8,112	\$ -	\$ 16,320	\$ 7,968	\$ -	\$ 37,260
Task A.7	"Clean Agent" fire suppression and releasing system for IT Room	\$ 2,149	\$ 3,056	\$ -	\$ 2,264	\$ 1,784	\$ 7,220	\$ 16,473
Task A.8	Provision for Two 2-Ton Tenant-Furnished bridge cranes in Hangar Bay incl. PEMB struct. support	\$ 1,422	\$ 6,040	\$ 696	\$ -	\$ 2,744	\$ -	\$ 10,902
Task A.9	Recessed / pop-up aircraft service pedestals	\$ 2,483	\$ 4,056	\$ 2,872	\$ 4,136	\$ 5,488	\$ -	\$ 19,035
Task A.10	Provision for 20' diameter Tenant-Furnished high-volume ceiling fans in hangar bay area	\$ 475	\$ 1,684	\$ -	\$ 696	\$ 784	\$ -	\$ 3,639
Task A.11	Cooling air ductwork for aircraft fuselage maintenance	\$ 2,848	\$ 3,748	\$ -	\$ 15,240	\$ -	\$ -	\$ 21,836
Task A.12	Pressurized air piping for aircraft fuselage maintenance	\$ 714	\$ 2,368	\$ -	\$ 2,392	\$ -	\$ -	\$ 5,474
Task A.13	Wall mounted 200A, 480V power connection in hangar bay for hydraulic mule	\$ 595	\$ 1,700	\$ -	\$ -	\$ 2,264	\$ -	\$ 4,559
Task A.14	Provision for Emergency / Standby Generator (PNS-Furnished) for building electrical service	\$ 1,504	\$ 3,400	\$ -	\$ -	\$ 6,008	\$ 620	\$ 11,532
Task A.15	LED lighting system in hangar bay	\$ 1,073	\$ 3,712	\$ -	\$ -	\$ 3,440	\$ -	\$ 8,225
Task A.16	Rough-in for Access Control System (Admin. areas only)	\$ 1,142	\$ 2,732	\$ -	\$ -	\$ 4,880	\$ -	\$ 8,754
Task A.17	Rough-in for Closed Circuit Camera Surveillance System	\$ 3,118	\$ 4,376	\$ -	\$ -	\$ 16,412	\$ -	\$ 23,906
Task A.18	Paging system for all common areas	\$ 2,001	\$ 2,368	\$ -	\$ -	\$ 10,972	\$ -	\$ 15,341
Task A.19	Looped Compressed Air Piping System	\$ 709	\$ 1,852	\$ -	\$ 2,872	\$ -	\$ -	\$ 5,433

PROFESSIONAL SERVICES TOTAL FEE (LUMP SUM)

\$ 351,449



COUNCIL MEMORANDUM

Council Meeting Date: September 22, 2016

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor *AJH*

SUBJECT: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Amendment No. 1 to the Construction Manager at Risk Contract for Construction Phase Services

RECOMMENDATION:

That City Council authorize the Mayor to execute Amendment No. 1 to the contract with Greenhut Construction Company, Inc. to incorporate the costs for Construction Phase Services of the VT Mobile Aerospace Engineering project at Pensacola International Airport with a Guaranteed Maximum Price of \$37,576,696, plus a project contingency in the amount of \$1,864,452, for a total project cost of \$46,030,447, and providing procedures for owner-direct purchases of materials. Further that City Council authorize Mayor to take all actions necessary related to the execution of the amendment.

AGENDA: Regular Consent

Hearing Required: Public Quasi-Judicial No Hearing Required

SUMMARY:

Greenhut Construction Company, Inc. was selected as the Construction Manager At-Risk to build the VT MAE project. During the design phase of the project, Greenhut has been reviewing the plans developed by the Architects/Engineers in order to provide cost estimates, has developed initial construction schedules, and has provided value engineering services to minimize construction costs. Upon completion of the 95% construction documents, Greenhut solicited bids for the work package and provided the Airport with a Guaranteed Maximum Price of \$37,576,696.

Under the terms of the Construction Manager At-Risk Contract, the amount paid to Greenhut to construct the project will not exceed the maximum (unless the City changes the scope of the project), and should the work be completed for less than the guaranteed maximum price quoted by Greenhut, the savings will be shared with 85% going to the City and 15% to Greenhut Construction.

The proposed price has been reviewed by both the Architects/Engineers and the Construction Management firm and has been deemed acceptable. The Contract requires that the Guaranteed Maximum Price and related items be memorialized through a contract amendment. In addition, the parties have agreed upon procedures to be followed for owner-direct purchases of materials.

Council Memorandum

Subject: Airport – VT Mobile Aerospace Engineering, Inc. Project at Pensacola International Airport – Amendment No. 1 to the Construction Manager at Risk Contract for Construction Phase Services

Council Meeting Date: September 22, 2016

Page 2

PRIOR ACTION:

December 2013 - Mayor Ashton Hayward executed a nonbinding Memorandum of Understanding with ST Aerospace which allowed the City to begin contract negotiations.

June 13, 2013 - City Council adopted a resolution to support the acceptance of a grant offered by the Florida Department of Transportation as a Joint Participation Agreement # 43360229401 in the amount of \$11,090,000 for air commerce park phases I and IA – Infrastructure Development.

February 13, 2014 - City Council Discussion Item and Presentation on the ST Aerospace Economic Development Project at the Pensacola International Airport.

February 27, 2014 - City Council approved the Interlocal Agreement with Escambia County and the City of Pensacola for Funding of Economic Development Project – ST Aerospace of Mobile, Inc.

September 9, 2014 - City Council approved the lease with VT Mobile Aerospace Engineering.

July 16, 2015 - City Council approved the selection of Greenhut Construction and authorized the Mayor to execute the contract.

September 17, 2015 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571729401 in the amount of \$1,531,546 for construction funding to expand the cargo apron and construct a taxiway connector at the Pensacola International Airport of which \$1,121,242 will be used towards taxiway connecting future VT MAE facility to runway 17-35.

March 17, 2016 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreements # 42030029401, # 42960929401, and # 42960939401 in the amount of \$2,975,305 for construction of a taxiway connector at the Pensacola International Airport.

April 14, 2016 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571769401 in the amount of \$8,599,600 for construction of a hangar at the Pensacola International Airport.

FUNDING:

Budget:	\$ 15,186,547	FDOT Grant Entitlements
	7,000,000	Industry Recruitment, Retention, and Expansion Funds (IRREF)
	8,000,000	Interlocal Agreement between City and Escambia County
	<u>7,244,300</u>	VT Mobile Aerospace Engineering, Inc.
	<u>37,430,847</u>	Sub-total
	<u>8,599,600</u>	FDOT Grant Entitlements (Available 7/1/18)
	<u>\$ 46,030,447</u>	

**FIRST AMENDMENT TO CONSTRUCTION
MANAGER AT RISK CONTRACT
BETWEEN CITY OF PENSACOLA AND
GREENHUT CONSTRUCTION COMPANY, INC.**

THIS FIRST AMENDMENT TO CONSTRUCTION MANAGER AT RISK CONTRACT BETWEEN CITY OF PENSACOLA AND GREENHUT CONSTRUCTION COMPANY, INC. (this "Amendment") is made and entered into as of the ____ day of _____, 2016 by and between **CITY OF PENSACOLA**, a Florida municipal corporation ("City") and **GREENHUT CONSTRUCTION COMPANY, INC.**, a Florida corporation ("Construction Manager").

WITNESSETH:

WHEREAS, City and Construction Manager have entered into a certain Construction Manager at Risk Contract dated September 10, 2015 (the "Contract") with respect to the construction of a certain aircraft maintenance, repair and overhaul facility at Pensacola International Airport to be leased to and occupied by VT Mobile Airspace Engineering, Inc.;

WHEREAS, pursuant to the Contract, Construction Manager has submitted a GMP Proposal which City desires to accept;

WHEREAS, the parties desire by this Amendment to memorialize their agreement with respect to the GMP and certain other matters, all as more particularly set forth herein below;

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration, City and Construction Manager hereby agree that the Contract shall be, and hereby is, amended to conform to the following:

1. Recitals; Definitions. The foregoing recitals are true and correct and are hereby incorporated herein by reference. Capitalized terms in this Amendment shall have the respective meanings assigned to them in the Contract unless another meaning is clearly intended by the terms of this Amendment.
2. Guaranteed Maximum Price. The Guaranteed Maximum Price or GMP is \$37,576,696.00. The GMP is comprised of the elements and amounts listed in Exhibit "D" attached hereto and incorporated herein by reference.
3. Direct Construction Costs; Costs of the Work. The estimated Construction Manager's Direct Construction Cost set out in Exhibit "B" attached hereto and incorporated herein by reference. The Contract is hereby amended by inserting Exhibit "B" attached hereto in the place of the blank Exhibit "B" attached to the original Contract.
4. General Conditions Costs. The estimated General Conditions Costs are set out in Exhibit "C" attached hereto and incorporated herein by reference. The Contract is hereby

amended by inserting Exhibit "C" attached hereto in place of the blank Exhibit "C" attached to the original Contract.

5. Construction Manager's Fee. Construction Manager's Fee shall be five percent (5.0%) of the sum of the Cost of the Work and the Construction Manager's Contingency.

6. Construction Manager's Mark-Up on General Conditions Costs. The Construction Manager's mark-up on General Conditions Costs shall be five percent (5.0%) of the sum of the General Conditions Costs.

7. Construction Schedule. As used in the Contract, the term "Construction Schedule" shall mean and refer to the Construction Schedule attached hereto as Exhibit "X" and incorporated herein by reference.

8. Substantial Completion. For purposes of the Contract, including without limitation Section 8.1.3, Construction Manager shall achieve Substantial Completion no later than Four Hundred Eighty-Six (486) calendar days after City's issuance of the Notice to Proceed, which includes Saturdays, Sundays, holidays and other non-work days as provided in Section 5.2.11 of the Contract.

9. Liquidated Damages Payable by Construction Manager. The per diem liquidated damages payable by Construction Manager under Section 8.1.4 for each day after the Substantial Completion Deadline until Substantial Completion is achieved shall be \$1,750.00 per day. After Substantial Completion, the per diem liquidated damages payable by Construction Manager under Section 8.1.4 for each day after the time specified in Section 8.1.3, plus approved time extensions thereof, for Final Completion and readiness for final payment until Final Completion is achieved shall be \$1,000.00 per day.

10. Liquidated Damages Payable by City for Compensable Excusable Delay. The per diem liquidated damages payable by City under the last sentence of the third paragraph of Section 9.6.2 of the Contract for each day the Contract Time for the Work is delayed due to a Compensable Excusable Delay shall be \$1,500.00 per day.

11. Schedule of Job Classifications; Percentage Labor Burden. The "schedule of job classifications", including salaries plus labor burden, referenced in clause (a) of Section 10.3.2 of the Contract, and hereby agreed upon by City and Construction Manager, is attached hereto as Exhibit "Y" and incorporated herein by reference. The "percentage labor burden" referenced in clause (b) of Section 10.3.2 of the Contract, and hereby agreed upon by City and Construction Manager, shall be forty one and 54/100 percent (41.54 %).

12. Owner Direct Purchases. The following subsections are hereby added to the Contract under Section 10.3.4 of the Contract:

10.3.4.1 City certifies and represents that it is properly certified as an entity exempt from the payment of sales and use taxes in the State of Florida. Prior to City's purchase of any materials pursuant to the provisions of Section 10.3.4, City shall provide Construction Manager, upon request, with documentation confirming such exemption,

including City's Certificate of Entitlement. City acknowledges that Construction Manager may rely upon this certification and representation by City.

10.3.4.2 City may purchase materials to be incorporated into the Work directly pursuant to the terms and conditions of this Section 10.3.4.

10.3.4.3 In the event City elects to purchase materials directly, City and Construction Manager shall follow the following procedures:

(a) Prior to City's issuance of the Notice to Proceed, Construction Manager shall provide to City a list of the materials and equipment potentially available for direct purchase by City. Such list shall include (i) an estimate of the value of each such item, (ii) an estimate of the sales/use tax savings on each such item, and (iii) the deadline for ordering each such item, such that the materials can be timely ordered, fabricated and delivered so as not to delay the prosecution of the Work. Construction Manager shall not order any such items until not less than thirty (30) days after such list has been provided to City. City shall notify Construction Manager in writing of the materials and equipment to be used or incorporated into the Work that City has determined that it will purchase directly. This notice must be provided to Construction Manager before the Construction Manager has ordered the materials, and such materials shall be ordered by City on or before the ordering deadline specified in such list.

(b) Construction Manager shall prepare, on City's form, a purchase order directed to the vendor of the materials sufficient to describe and order the materials which City has elected to purchase directly, and shall provide such purchase order to City. Such purchase order shall provide that the purchased item shall be FOB job site. Construction Manager's submission of a completed purchase order form is a representation by Construction Manager to City that the materials described therein comply with the Contract Documents. City may not prepare or issue a purchase order not prepared by Construction Manager.

(c) City shall execute the purchase order and shall issue the purchase order directly to the vendor supplying the materials, including, as an attachment to such purchase order, a copy of the City's Certificate of Exemption in accordance with the provisions of Florida Administrative Code, Paragraph 12A-1.094, Public Works Contracts.

(d) The vendor shall then issue its invoice directly to City, and City shall pay the invoice according to its terms directly to vendor from public funds.

(e) City shall provide Construction Manager with a copy of each invoice and proof of payment.

(f) Upon receipt of each invoice and proof of payment, Construction Manager shall prepare, not more frequently than monthly, a Change Order reducing the Guaranteed Maximum Price by the amount paid by City for the directly purchased materials plus the amount of sales or use tax which Construction Manager would have

paid on such materials had Construction Manager purchased the materials itself. The Change Order shall then be executed as provided in the Contract Documents. However, the Construction Manager's Fee and the Construction Manager's Contingency shall be calculated as if the Guaranteed Maximum Price was not reduced by the amount paid by City for directly purchased materials; provided that the amount of sales or use tax savings resulting from direct purchases by City shall be excluded from the Cost of the Work for the purpose of calculating the Construction Manager's Fee and the Construction Manager's Contingency.

(g) City shall take title to the materials at the time of delivery by the vendor to the job site, and all warranties with respect to such materials shall run directly from the vendor to City; however, Construction Manager shall be deemed a third-party beneficiary of such warranties. City's direct purchase of materials shall not, however, alter any of Construction Manager's obligations under the Contract Documents, including but not limited to Construction Manager's warranty obligations under the Contract Documents.

(h) As provided above, direct purchases by City shall be FOB the jobsite, so the vendor assumes the risk of loss or damage to the materials from the date of submission of the order until the materials are delivered to the job site and properly unloaded and stored at the job site, upon which City shall assume the risk of loss or damage to the materials until Construction Manager exercises control over such materials.

10.3.4.4 The provisions of this Section 10.3.4 do not relieve Construction Manager of its obligations to install any directly purchased materials in compliance with the Contract Documents.

10.3.4.5 If City fails to order any direct-purchase materials on or before the date specified by the Construction Manager pursuant to Section 10.3.4.1 and such failure delays the critical path of the Work, Construction Manager shall be entitled an equitable adjustment of the Contract time, unless Construction Manager is at fault for such delay.

10.3.4.6 City shall indemnify and hold the Construction Manager harmless of and from any liability for sales and use taxes for direct purchases by City should it be determined that the purchases, in fact, are subject to the payment of sales and use taxes or that the methodology described herein is not sufficient to exempt such direct-purchase materials from sales and use taxes.

13. Florida Public Records Act. Article XIII of the Contract is hereby amended by adding the following provisions thereto:

"13.6 Construction Manager shall comply with the Florida Public Records Act to the full extent that it is applicable to Construction Manager and this Contract.

- 13.7 Construction Manager shall:
- i. Keep and maintain public records required by the City to perform the service.
 - ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
 - iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if Construction Manager does not transfer the records to the City.
 - iv. Upon completion of the Contract, transfer, at no cost, to City all public records in possession of Construction Manager or keep and maintain public records required by the City to perform the service. If Construction Manager transfers all public records to City upon completion of the Contract, Construction Manager shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Construction Manager keeps and maintains public records upon completion of the Contract, Construction Manager shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request of the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

13.8 In the event that Construction Manager fails to comply with the provisions of sections 13.4, 13.5, 13.6 or 13.7 of this Contract, the City may, without prejudice to any other right or remedy and after having given Construction Manager five (5) days' written notice, during which period Construction Manager still fails to comply with said provisions of this Contract, terminate this Contract for cause.

IF CONSTRUCTION MANAGER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSTRUCTION MANAGER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: THE OFFICE OF THE CITY ATTORNEY, 222 WEST MAIN STREET, PENSACOLA, FLORIDA

32502; PUBLICRECORDS@CITYOFPENSACOLA.COM; (850) 435-1715.”

14. Ratification of Contract as Amended. The Contract as hereby amended is hereby ratified, affirmed and confirmed in all respects.

IN WITNESS WHEREOF, the undersigned have duly executed this Amendment as of the date set forth above

CITY:

CONSTRUCTION MANAGER:

CITY OF PENSACOLA
a Florida municipal corporation

GREENHUT CONSTRUCTION COMPANY, INC.,
a Florida corporation

By: _____
Ashton J. Hayward, III, Mayor

By: _____
Dudley Greenhut, President

Date: _____

Date: _____

Attest and Witnessed By:

Witnessed By:

Ericka L. Burnett, City Clerk

Print Name: _____

Witnessed By:

Witnessed By:

Print Name: _____

Print Name: _____

Approved as to substance:

Legal in form and valid as drawn

Daniel E. Flynn, Airport Director

Lysia H. Bowling, City Attorney

EXHIBIT B
ESTIMATED CONSTRUCTION MANAGER'S
DIRECT CONSTRUCTION COST
Based on 95% Contract Documents as of 8/12/16

CONSTRUCTION COSTS

Item#	Description	Cost Estimate
DC-1	Material Testing BID	\$311,862
DC-2	Augercast Piling BID (awarded HH Jordan)	\$604,219
DC-3	Earthwork BID	\$2,914,479
DC-4	Asphalt Paving BID	\$2,194,041
DC-5	Concrete Paving BID (awarded Empire Concrete)	\$2,229,500
DC-6	Underground Utilities BID	\$1,751,216
DC-7	Fencing BID	\$246,532
DC-8	Landscape and Irrigation BID	\$88,280
DC-9	Concrete BID (awarded Empire Concrete)	\$2,728,550
DC-10	Polished Concrete Floor BID (awarded Jeffco Concrete)	\$0
DC-11	CMU BID (awarded Bradley Masonry)	\$492,134
DC-12	Architectural Millwork BID (awarded Linn's Prestige)	\$42,144
DC-13	Waterproof BID	\$207,223
DC-16	Spray Applied Insulation BID	\$48,000
DC-17	Fireproofing BID (awarded Safway)	\$32,015
DC-18	Firesafing BID	\$21,400
DC-19	Doors, Frames and Hardware BID	\$128,754
DC-20	Coiling Doors BID	\$113,961
DC-21	Glass & Glazing BID (awarded Hanssen Glass)	\$36,964
DC-22	Drywall/Framing/Insulation BID (awarded Keller Construction)	\$193,019
DC-23	Tile BID	\$84,839
DC-24	Acoustical Ceiling BID	\$37,870
DC-25	Carpet & Resilient BID	\$18,438
DC-26	Painting BID (awarded Peterson Precision Paint)	\$268,508
DC-27	Bathroom Partitions BID	\$15,569
DC-28	Signage	\$6,753
DC-29	Lockers BID	\$10,226
DC-30	Fire Extinguisher/ Cabinets BID	\$4,711
DC-31	Toilet and Bath Accessories BID	\$14,518
DC-32	Movable Wall System BID	\$34,000
DC-33	Fall Protection BID (awarded Hy-Safe Technologies)	\$52,835
DC-34	Dock Leveler BID	\$4,300
DC-35	PEMB - Hangar (awarded Covenant Building Systems)	\$11,481,680
DC-36	Elevator BID (awarded ThyssenKrupp Elevator Company)	\$75,241
DC-37	Fire Protection BID (awarded S&S Sprinkler)	\$592,670
DC-38	Plumbing BID (awarded MMI Mechanical)	\$559,962
DC-39	HVAC BID (awarded Bayou Mechanical)	\$1,910,050
DC-40	Electrical BID (awarded Moody's Electric)	\$2,670,884
DC-41	Termite Treatment	\$29,487
TOTAL ESTIMATED DIRECT CONSTRUCTION COST		\$32,256,834

**EXHIBIT C
CONSTRUCTION MANAGER'S GENERAL CONDITIONS
DIRECT CONSTRUCTION COST**

Included in GMP

Item#	Description	Cost
GC-1.0	<i>On-Site Offices</i>	
	Office Trailer - Set up & Breakdown sgl	\$7,500
	Office Trailer	\$18,870
	Office Trailer Water Line	\$800
	Office Supplies & Equip	\$17,000
	Storage Vans	\$5,400
	Temporary Site Signage	\$8,500
	Project Sign	\$1,700
	Office computers/fax/furniture	\$5,000
	Postage & Shipping	\$2,550
	Telephone	\$2,975
	Telephone Installation	\$1,500
	iPad	\$1,600
	Internet Set up/ Service	\$3,400
	Reproducible drawings	\$3,000
	Temp toilets	\$9,800
	Ice & Cups	\$5,100
	Sales Tax on General Conditions Materials	\$29,657
GC-2.0	<i>Temporary Utilities</i>	
	Temporary Power	\$11,050
	Temporary Water	\$2,550
	Perm Power (.13/sf per mo)	\$67,646
GC-3.0	<i>Temporary Construction Services</i>	
	Superintendent	\$167,612
	Assistant Superintendent	\$129,402
	Sr. Project Manager	\$132,720
	Project Manager	\$167,612
	Admin	\$55,742
	Phones	\$9,705
	Fuel for Vehicles	\$26,000
	Supt/PM Vehicle	\$32,500
	Video and Aerials	\$7,140
	CPM/Schedule	\$42,500
	Layout Services & Survey	\$6,000
	Miscellaneous Layout & Batter Boards	\$5,000

	Skilled Carpenters and Foremen	\$207,130
	Laborers	\$164,073
GC-4.0	<i>Clean Up</i>	
	Final Clean-up and Clean Glass	\$43,363
	Floor Protection	\$17,345
GC-5.0	<i>Safety</i>	
	Safety Officer	\$119,448
	Safety and Barricades	\$20,000
	Drug Testing	\$2,000
	Temp Const Fencing	\$56,400
GC-6.0	<i>Testing & Inspection</i>	
	Inspection and Punch Out	\$10,000
	Call Back and Warranty Work	\$25,000
GC-7.0	<i>Fees & Permits</i>	
	Building Permit	\$47,446
	Builders Risk Insurance	\$324,735
	General Liability Insurance	\$240,019
	Subcontractor Bonds	\$276,945
	P&P Bond	\$232,181
GC-8.0	<i>Equipment</i>	
	Misc.Monthly Purchases	\$5,950
	Miscellaneous Equipment Rental	\$12,000
	Job Tools	\$8,000
	Ride On Sweeper	\$12,000
	Forklift Shooting Boom 9,000 lb	\$33,600
	Backhoe 4WD Extendahoe	\$6,100
	Dumpster Picks	\$36,000
	Fuel for Equipment	\$4,800
	Equip Repairs & Maint.	\$3,200
	Total General Conditions	\$2,895,267

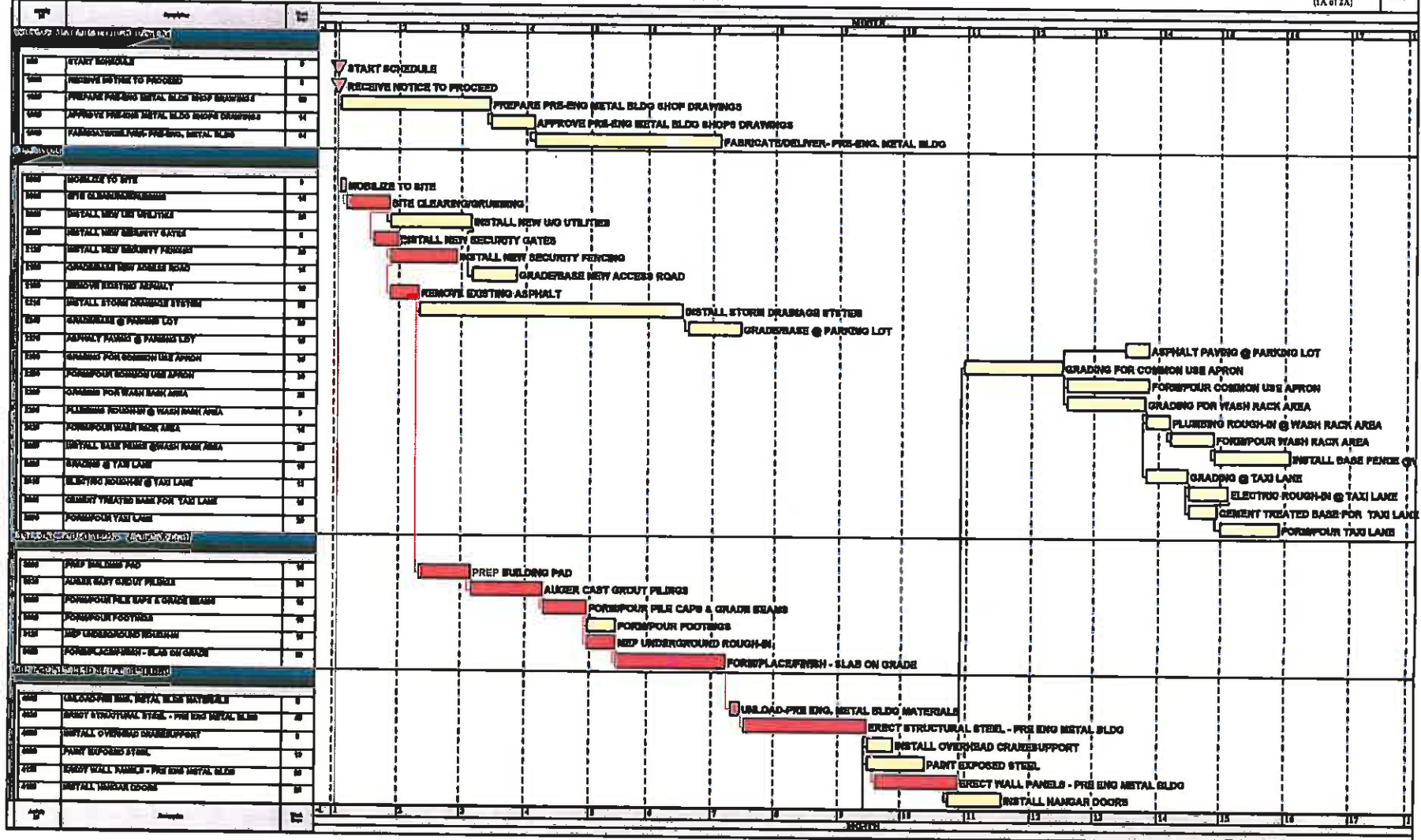
**EXHIBIT D
GMP SUMMARY**

Based on 95% Contract Documents as of 8/12/16

Project # **15-009**
VT Mobile Aerospace Engineering Inc Project at Pensacola
International Airport - Construction Manager at Risk

Project Name: **Services**

GMP Summary				Amount
A.	Cost of Work (Labor, Materials, Equipment, Warranty)			\$32,256,834
INDIRECT COSTS			RATE	
B.	CM Contingency		1.73%	\$650,676
C.	Construction Fee		4.72%	\$1,773,919
D.	General Conditions		7.70%	\$2,895,267
	D1 Payment and Performance Bond	\$232,181	0.62%	
	D2 insurance	\$564,754	1.50%	
E.	Sales Taxes		not tax exempt	included
			F. TOTAL GMP	\$37,576,696
			G. Owner's Contingency	not included



*Schedule is subject to weather and other delays that adversely affect the critical path and are eligible for time extensions under the contract.

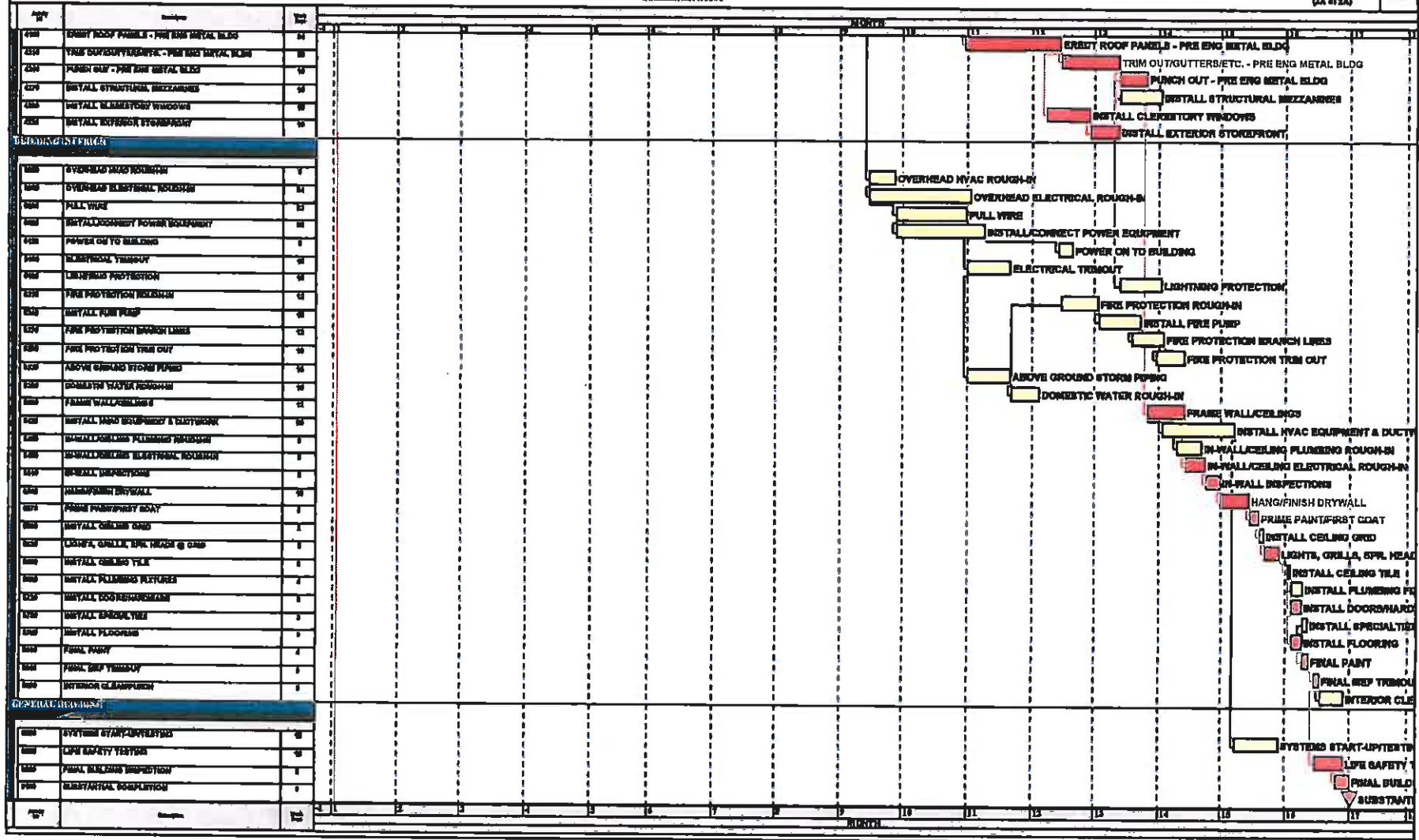


CRENSHAW CONSTRUCTION CO., INC.
SEPTEMBER 12, 2014

PENSACOLA VT BAE HANGAR
PRELIMINARY

PRELIMINARY OVERALL PROJECT SCHEDULE
(A - F3A)

TPC



*Schedule is subject to weather and other delays that adversely affect the critical path and are eligible for time extensions under the contract.

Exhibit "Y"

Schedule of Job Classifications

Classification	Direct Labor Rate (per hour)	Total Labor Rate (per hour)
President	\$111	\$139
Senior Project Manager	\$52	\$69
Project Manager	\$44	\$60
Assistant Project Manager	\$36	\$50
Superintendent	\$48	\$63
Assistant Superintendent	\$36	\$50
Administrative Assistant	\$18	\$25
Safety Officer	\$39	\$52