

**FIRST AMENDMENT OF AGREEMENT
FOR AIRPORT STORMWATER DRAINAGE IMPROVEMENTS**

PARTIES

This FIRST AMENDMENT OF AGREEMENT FOR AIRPORT STORMWATER DRAINAGE IMPROVEMENTS ("First Amendment"), is made by and between MARTIN COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners ("County"), and SUA FL Holdings, LLC, a Delaware limited liability company registered to do business in Florida ("SUA FL"), the successor-in-interest and assignee of Stuart Jet Center, LLC ("Stuart Jet") having offices located at 2501 S.E. Aviation Way, Stuart, Florida 34996 ("SUA FL"). Collectively County and SUA FL shall be referred to as "the parties".

RECITALS

WHEREAS, County owns and has jurisdiction over the development, operation and maintenance of Martin County/Witham Field Airport ("Airport") located in Martin County, Florida; and

WHEREAS, Stuart Jet, as a Fixed Based Operator, leased certain land from County at the Airport pursuant to the Fourth Amendment, Consolidation and Complete Restatement of Agreement of Lease entered into on November 14, 2017 (the "Lease"); and

WHEREAS, on April 13, 2021, County and Stuart Jet entered into an Agreement for Airport Stormwater Drainage Improvements (the "Agreement") to improve stormwater drainage to fill the two airside wet ponds on the leased premises and convert them to open space/turf and fill in the dry retention area between Runway 12/30 and taxiway Alpha in order to comply with FAA Advisory Circular 150/5200-33B (the "project"); and

WHEREAS, the project will include site grading and construction of drainage pipes, inlets and other structures to facilitate proper drainage of the leased premises; and

WHEREAS, County initially obtained certain design and engineering plans and specifications for the project with a cost estimate of \$600,000.00; and

WHEREAS, pursuant to the Agreement, County applied for a grant from the Florida Department of Transportation's ("FDOT") Aviation Grant Program in the amount of \$480,000.00 toward the project (the "Grant Application"); and

WHEREAS, pursuant to the Agreement, Stuart Jet agreed to contribute to County the balance of the project cost in the amount of \$120,000.00; and

WHEREAS, pursuant to the Agreement, Stuart Jet duly submitted a certified check to County in the amount of \$120,000.00 pursuant to the original agreement; and

WHEREAS, the project was put out to bid and the bids came in higher than the original cost estimate, specifically, the cost estimate is now \$700,000.00, such that FDOT

is contributing \$560,000.00 and thus requiring a local match of \$140,000.00, resulting in a shortfall of \$20,000.00; and

WHEREAS, on or about June 30, 2021, SUA FL, pursuant to an Asset Purchase Agreement, acquired all of the assets of Stuart Jet including all rights in and to the Lease;

WHEREAS, County and SUA FL desire to amend the original agreement so that SUA FL would contribute an additional \$20,000.00 to cover the shortfall;

NOW, THEREFORE, in consideration of the mutual terms, conditions, and promises hereinafter set forth, County and Lessee hereby agree as follows:

1. Recitals. The parties hereto acknowledge and agree the foregoing recitals are true, correct, accurate, and proper form and fully binding upon them in all respects, which recitals in their entirety are hereby incorporated in this First Amendment.

2. As used herein, revisions shall be underlined and deletions struck through.

3. Paragraph 2 of the Agreement for Airport Stormwater Drainage Improvements is amended as follows:

Payment of the Project Balance. The parties acknowledge Stuart Jet agrees to submit already submitted a certified check in the amount of one hundred and twenty thousand dollars (\$120,000.00) to County's Airport Manager or designee on or before March 22, 2021, which is being will be held by County in a separate account. SUA FL, as Stuart Jet's successor-in-interest and assignee, agrees to provide an additional certified check in the amount of twenty thousand dollars (\$20,000.00) to County's Airport Manager or designee within 30 days after the full execution of the First Amendment of this Agreement, which also will be held in the separate account. Submission of such additional check is a condition precedent to County submitting this Agreement and the Grant Application to its Board of County Commissioners for approval. Failure to submit such certified check will result in County withdrawing this Agreement and the Grant Application from the Board's agenda. The parties acknowledge and agree this Agreement is expressly contingent upon the Board of County Commissioners authorization to submit the subject Grant Application as well as approval of such grant application by FDOT. If either of such approvals do not occur, County agrees to promptly return such funds to SUA FL. County acknowledges and agrees that Stuart Jet's/SUA FL's one hundred and forty thousand dollar (\$140,000.00) contribution to the project will not be increased.

4. Reaffirmation. In all other respects the Agreement remains unchanged, and County and SUA FL hereby reaffirm all of the obligations set forth in the Agreement, and agree to perform each and every covenant, agreement and obligation in the Agreement, and to be bound by each and all of the terms and provisions of the Agreement as herein modified.

5. Authority. This First Amendment shall be subject to the approval of the County's Board of County Commissioners in its discretion.

6. The parties agree any copy of any signature to this First Amendment, including but not limited to a photostatic copy, scanned copy sent by email (i.e., pdf), or copy sent by facsimile transmission, is as effective as an original for any purpose.

IN WITNESS WHEREOF, the parties have made and executed this First Amendment of Agreement for Airport Stormwater Drainage Improvements on the respective dates under each signature: MARTIN COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chair, authorized to execute same by Board action on the _____ day of _____, 2021, and SUA FL HOLDINGS, LLC, signing by and through its Chief Operating Officer duly authorized to execute same.

WITNESS:



SUA FL HOLDINGS, LLC

By:

Print Name: Sandra L. Farmer Print Name: John ("Cy") Farmer

Dated: 7th day of September 2021 Title: Chief Operating Officer

MARTIN COUNTY

BOARD OF COUNTY COMMISSIONERS MARTIN COUNTY, FLORIDA

ATTEST:

Carolyn Timmann
Clerk of the Circuit Court
and Comptroller

Stacey Hetherington
Chair

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

Sarah W. Woods
County Attorney