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**COOPERATIVE AGREEMENT FOR HANGAR #2 AT THE  
LEE'S SUMMIT MUNICIPAL AIRPORT**

**between the**

**CITY OF LEE'S SUMMIT, MISSOURI,**

**and the**

**REORGANIZED SCHOOL DISTRICT NO. 7 OF JACKSON COUNTY, MISSOURI**

**dated as of**

**\_\_\_\_, 2023**

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## Final for City Meeting Packets

**THIS COOPERATIVE AGREEMENT FOR HANGAR #2 AT THE LEE'S SUMMIT MUNICIPAL AIRPORT** (“**Agreement**”), entered into as of this \_\_\_ day of \_\_\_, 2023, by and between the **CITY OF LEE'S SUMMIT, MISSOURI**, a charter city and political subdivision of the State of Missouri (the “**City**”), and the **REORGANIZED SCHOOL DISTRICT NO. 7 OF JACKSON COUNTY, MISSOURI**, a school district, with an address of 301 NE Tudor Road, Lee's Summit, Missouri 64086 (“**District**”), (the City and the District being sometimes collectively referred to herein as the “**Parties**”, and individually as a “**Party**”, as the context so requires). (All capitalized terms used but not otherwise defined herein shall have the meanings ascribed in **Section 1.2** of this Agreement.)

### RECITALS

#### A. The Hangar #2 Project –

1. The City is preparing for the construction of a new Hangar #2 which is planned to be about 40,250 square feet of total floor space (“**Hangar #2**”) at the Lee's Summit Municipal Airport (the “**Airport**” or “**LXT**”). Hangar #2 is expected to consist of approximately 30,000 square feet of hangar space, plus 18,000 square feet of two-story office space to be split between the City's fixed base operations, common areas and the District's Aerospace Academy (the “**Academy**”). The initial estimate of total project costs is about \$13,900,000, but the formal bidding process will determine the actual total costs.

2. Hangar #2 will be owned by the City and will include space that will be designed for District purposes and leased to the District pursuant to the terms of this Agreement.

3. Hangar #2 will be designed pursuant to the On-Call Agreement between the City and Crawford, Murphy & Tilly, Inc. (the “**Design Consultant**”), dated August 26, 2020, as previously amended as of the Effective Date and as may be amended from time to time. The plans and specification for the Hangar #2 design (the “**Plans and Specifications**”) will be controlled by the City pursuant to the terms of the agreement with the Design Consultant. The District will have the right to review and approve plans and specifications for the District Hangar Space (as defined below) prepared by the Design Consultant. The design and construction of Hangar #2 will be funded by the City and the District according to the terms of this Agreement.

B. District Lease of Hangar #2 Space – It is the intention of the Parties that a portion of Hangar #2, as further described herein, will be leased to the District (the “**District Hangar Space**”). After Hangar #2 is constructed, the District intends to lease the District Hangar Space from the City pursuant to the terms of the District Lease. The District Hangar Space will be used and operated according to the terms of this Agreement and the District Lease. In the event of a conflict between the terms of this Agreement and the District Lease, the District Lease shall control.

C. District Payments for District Hangar Space. It is the intention of the parties that the portion of the Hangar #2 project to be funded by the City consists of all construction costs that

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would be incurred by the City if the District Hangar Space were not included in the project, and any item of construction necessitated by adding the District Hangar Space to the project will be the responsibility of the District.

C. The City and the District desire to enter into an agreement to provide for the rights, duties and obligations of the Parties for the Project and the District Hangar Space.

### AGREEMENT

Now, therefore, in consideration of the premises and mutual promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

#### ARTICLE 1: DEFINITIONS, RECITALS AND EXHIBITS

**Section 1.1. Recitals and Exhibits.** The representations, covenants and recitations set forth in the foregoing recitals and the exhibits attached to this Agreement (if any) are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section, and the appropriate exhibits are incorporated into each Section of this Agreement that makes reference to an exhibit.

**Section 1.2. Definitions.** Words and terms defined elsewhere in this Agreement shall have the meanings assigned therein. Whenever used in this Agreement, the following words and phrases, unless the context otherwise requires, shall have the following meanings:

**“Applicable Laws and Requirements”** means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any unit of government.

**“City Council”** means the governing body of the City of Lee’s Summit, Missouri.

**“City Manager”** means the City Manager of the City, or his/her designee.

**“Commencement Date”** means the date that the Construction Period ends and the City delivers possession of the District Hangar Space to the District in a “substantially complete condition”. For purposes hereof, the terms “substantially complete” or “substantial completion” shall mean that Hangar #2 (and the District Hangar Space) has been completed in accordance with the Plans and Specifications with the exception of minor items which can be completed without material interference with the District’s use of the District Hangar Space (traditionally called the “punch list items”).

**“Construction Period”** means the period of time starting on the Effective Date and ending on the Commencement Date, during which Hangar #2 will be constructed in accordance with the Plans and Specifications.

**“District”** shall have the meaning set forth on page 1.

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“**District Lease**” means the lease of the District Hangar Space by the City as landlord to the District as tenant to be drafted and negotiated substantially in accordance with the terms and conditions of this Agreement, including all rights maintained by the District to occupy and peaceably enjoy the use of such space according to the terms and conditions set forth herein.

“**Effective Date**” means the date written on page 1 of this Agreement.

“**Invitee**” means any person or party who enters Hangar #2 for the purpose of using the District Hangar Space, at the invitation of the District, for the mutual gain of such parties and the District. Invitee may include a licensee, if a written license is executed between the District and such party.

“**Lease Term**” means the period from the Commencement Date until the Termination Date.

“**Termination Date**” means the date that is fifteen (15) years from the Commencement Date, unless the Lease renews pursuant to Section 4.2F.

### ARTICLE 2: REPRESENTATIONS

**Section 2.1. Representations by the District.** The District represents that:

A. The District is a school district organized and existing under the laws of the State of Missouri.

B. The District has authority to enter into this Agreement and to carry out its obligations under this Agreement. By proper action of its Board of Education, the District has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers.

C. The District has no knowledge of litigation or proceedings pending or threatened against the District affecting the right of the District to execute or deliver this Agreement or the ability of the District to comply with its obligations under this Agreement.

**Section 2.2. Representations by the City.** The City represents that:

A. The City is duly organized and existing under the Constitution and laws of the State of Missouri as a charter city.

B. The City has authority to enter into this Agreement and to carry out its obligations under this Agreement, and the Mayor of the City is duly authorized to execute and deliver this Agreement.

C. The City has no knowledge of litigation or proceedings pending or threatened against the City affecting the right of the City to execute or deliver this Agreement or the ability of the City to comply with its obligations under this Agreement.

**ARTICLE 3: FUNDING, DESIGN AND CONSTRUCTION OF  
THE DISTRICT HANGAR SPACE**

**Section 3.1. Funding of District Hangar Space.** The Parties agree that the following provisions will govern the District's participation in the funding of the design and construction of Hangar #2, including the District Hangar Space:

A. Anticipated District Funding Contribution. The Parties agree that the total cost to design, engineer and construct Hangar #2 is anticipated to be about \$13,900,000, subject to the bidding process to be followed by the City for the construction. The Parties further agree that the estimated portion of such costs which are attributable to the District Hangar Space, and for which the District shall be responsible, is estimated to be \$2,550,000 at this time, plus the District's portion of the design costs as discussed below.

B. District Payment for Design Work. Pursuant to the City's current contract with the Design Consultant which is currently being funded by the City, the design work for Hangar #2 includes design for the District Hangar Space. As part of the District Payment, as defined below, the payment will include an amount not to exceed \$131,970 which the Parties acknowledge and agree is the District's portion of the design work currently in progress related to the District Hangar Space. The District's obligation to fund the design work pursuant to this paragraph is in addition to the costs to be funded by the District pursuant to paragraph A of this Section. The District's obligation to fund the design work pursuant to this paragraph shall be due and payable regardless of whether the District elects to proceed with the District Hangar Space as part of the Project according to the process set forth below in part C of this Section.

C. District Payments for Construction.

1. The City will issue a request for bids following the normal City's Procurement Policy requirements. Instructions to the bidders will include a request to separate all cost associated with the District Hangar Space.

2. After receiving bids for the construction of Hangar #2 using the City's Procurement Policy, the City will provide written notice to the District of the successful bid which shall include notice of the portion of the bid associated with the cost to construct the District Hangar Space, plus the District's portion of the costs of the design work as discussed above.

3. The District will evaluate the amount of the proposed District contribution, and provide either (i) written confirmation to the City that the proposed amount is acceptable to the District or (ii) a response which indicates that the amount is unacceptable and further evaluation of such amount is required before it will be accepted by the District. In the event that the amount is found to be unacceptable by the District, the City and the District agree to engage in discussions to either (i) reach agreement on an amount that is acceptable, or (ii) abandon the arrangements to include the District Hangar Space in Hangar #2. In the event that the District elects to not proceed with the District Hangar Space

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included in the project, such decision shall be delivered in writing to the City and the \$131,970 payment for the design work shall be due and payable by the District to the City within fifteen (15) days after such notice. The District's failure to provide written notice shall not alleviate the District's obligation to pay the City for the previously-incurred design costs for the District Hangar Space.

4. If the District Hangar Space will remain part of the project, then after the parties reach an agreement on the amount of the District's contribution, such amount shall be shall be paid as follows (collectively, the "**District Payments**"):

(a) The City shall require the contractor to separately specify the amount associated with the District Hangar Space to be paid by the District, and the remainder of each invoice to be paid by the City. The City will send an invoice to the District for each periodic District Payment which shall be due within fifteen (15) days after delivery by the City.

(b) All District Payments shall be made by check or wire transfer according to wiring instructions provided by the City's Finance Department.

### **Section 3.2. Design of the District Hangar Space.**

A. The Parties acknowledge that the work by the Design Consultant is already occurring, and the design of the District Hangar Space is already occurring by cooperation of the Parties. The specific portions of Hangar #2 which shall be considered part of the District Hangar Space shall be governed by the Plans and Specifications which are approved by the City and the District, which shall include the precise portions of the structure that are designated for the District's exclusive use pursuant to the Agreement and the District Lease. Upon completion and final approval by the City of the Plans and Specifications, the City shall deliver written notice to the District of the precise size and dimensions of the District Hangar Space that will be subject to the District Lease as contemplated by this Agreement.

B. The parties acknowledge that certain portions of the structure will be common areas that are used by both the District and the City for their respective purposes, including the restrooms, hallways, entrance vestibule, mechanical room(s), elevator, main stairs, and other common areas that are designed to be used by both parties as identified in the remaining design process (the "**Common Areas**"). The exact location of the Common Areas will be established by the Plans and Specifications, which may be clarified in writing by the City in the event such clarification is needed after construction is complete and Hangar #2 is operational.

**Section 3.3. Construction of the District Hangar Space.** The City will enter into a contract with the best bidder for construction of Hangar #2, which will include construction of the District Hangar Space according to the approved Plans and Specifications if the District Hangar Space will be included in the project after completing the evaluation process in **Section 3.1**.

**Section 3.4. Opening.** The Parties agree to cooperate for any grand opening events once construction is complete.

**ARTICLE 4: LEASE OF THE DISTRICT HANGAR SPACE**

**Section 4.1. Granting of Leasehold Estate and Possession of District Hangar Space.**

A. All rights and obligations of the Parties hereunder shall commence upon the Effective Date. After the Effective Date, the two time periods that this Agreement is in effect will consist of (1) the Construction Period and (2) the Lease Term. The District will take possession of the Property on the Commencement Date under the District Lease and have rights to use the District Hangar Space and the Common Areas as set forth in this Agreement and the District Lease.

B. The Lease Term will commence on the Commencement Date and shall end fifteen (15) years thereafter, unless sooner terminated in accordance with the terms of the District Lease.

**Section 4.2. Lease Term.**

A. Term. Lease Term of the District Lease shall commence on the Commencement Date and terminate on the Termination Date as specified herein.

B. Duration and Termination Date. The duration of the District's leasehold estate in the District Hangar Space shall last for the duration of the Lease Term, unless the District Lease is earlier terminated at the election of the District. It is the intention of the Parties that the District shall have the right to occupy and use the District Hangar Space for the entire Lease Term, including any renewal terms, regardless of whether Hangar #2 continues to be owned by the City, unless the District elects to earlier terminate the District Lease as provided in paragraph C and vacate the District Hangar Space, or unless the District Hangar Space is deemed abandoned and terminated as provide in paragraph D of this Section. The City may, in the sole discretion of the City Council, cease operation of the Airport at any time as provided by law, provided, however, that the District shall continue to have the right to use the District Hangar Space in accordance with the terms of the District Lease if such option is legally available due to the continued operation of the Airport by a third party.

C. Early Termination by District. In the event that the District elects to terminate the District Lease, the District may deliver notice in writing that the District is terminating the District Lease and turning possession of the District Hangar Space over to the City. Upon such early termination, the District shall promptly vacate the District Hangar Space and remove any personal property of the District or other District Invitees from the District Hangar Space at the District's sole cost and expense. Upon such termination, the District shall leave the District Hangar Space in a broom-clean and in as good condition in all material respects as when the District took possession, ordinary wear and tear excepted.

D. Termination due to Abandonment. In the event that the District abandons use of the District Hangar Space and ceases operations in such space for an uninterrupted period of one hundred twenty (120) or more days, but fails to deliver notice of voluntary termination of the District Lease, the City may deliver written notice that the District Lease will be deemed terminated on a date that is thirty (30) days after the delivery of such notice by the City. The

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District may deliver notice during such 30-day period that the District has not abandoned the District Hangar Space and within such period resume operations and maintenance of the District Hangar Space, after which the District Lease shall not be deemed abandoned and terminated. If the District fails to take such actions during such 30-day period, the City may take possession of the District Hangar Space after such 30-day period and use such space for lawful municipal airport purposes by the City and its Invitees.

E. City Possession After Early Termination. Upon early termination of the District Lease as provided herein, the City shall have sole use and possession of the District Hangar Space, and no cash payments or other forms of consideration shall be due by the City to the District upon and after such early termination.

F. Renewal Options. Upon the expiration of the original Lease Term, the District Lease shall automatically renew for successive one (1) year terms, unless the District provides the City with its desire not to renew the District Lease ninety (90) days in advance of the expiration of the then current Lease Term. Rental payments to be paid by the District for any renewal term shall be at a nominal rate of \$100.00 annually.

### **Section 4.3. Possession and Use of the District Hangar Space.**

A. The City covenants and agrees that as long as the City has not exercised any of the remedies set forth in Section 10.2 following the occurrence and continuance of an Event of Default, subject to any applicable grace, notice and/or cure period, the District shall have sole and exclusive possession of the District Hangar Space, subject to the City's right of access and usage of the Common Areas, and the District shall and may peaceably and quietly have, hold and enjoy the District Hangar Space during the Lease Term.

B. Subject to the provisions of this Section, the District shall have the right to use the District Hangar Space after the Commencement Date. The District shall only use the District Hangar Space for purposes directly related to aviation programs and activities, as allowed by the FAA Airport Compliance Manual and all federal rules and regulations that govern the City's usage of the Airport. The District will not use the District Hangar Space for any purposes that are not directly related to both the District's lawful governmental purposes and aviation programs and activities. The District shall not use the District Hangar Space for any purposes that are not directly related to aviation programs and activities, including the storage of equipment and materials that are not related to aviation programs and activities. The District shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the District to comply with the provisions of this Section.

C. The District may allow its Invitees to use the District Hangar Space for its lawful governmental purposes which are directly related to aviation programs and activities, in accordance with policies and procedures duly approved by the District.

**Section 4.4. Title to the Property.** The City shall be the sole owner of Hangar #2 and the land on which Hangar #2 is located during the Construction Period and the Lease Term.



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**Section 4.5. Consideration for Leasehold Estate; No Periodic Rent Payments.** The Parties acknowledge that no monthly or other periodic rent shall be due and payable to the City during the Lease Term. The parties further acknowledge that the District Payment for design and construction costs of the District Hangar Space, and the costs to be incurred for the maintenance, operations, upkeep and insurance for the District Hangar Space, along with the public benefits associated with the educational functions resulting from the use of such space, are collectively sufficient consideration to the City for the Leasehold Estate for the Lease Term granted by the City to the District under this Agreement.

### **Section 4.6. Assignment and Sublease.**

A. The District may not assign, transfer, encumber or dispose of the District Lease or any part or portion thereof or interest therein to any person or party without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

B. The District may not sublease the District Hangar Space or all or any part or portion thereof or interest therein without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

C. The District may execute one or more licenses for use of the District Hangar Space or portions thereof, and may invite its Invitees to use the District Hangar Space in accordance with the policies and procedures duly adopted by the District to carry out the District's lawful governmental purposes.

D. The District shall not pledge its leasehold interest in the District Hangar Space as collateral for any loan, debt, bond issuance or any other type of financing.

## **ARTICLE 5: OPERATION, MAINTENANCE AND USE OF HANGAR #2 AND THE DISTRICT HANGAR SPACE**

**Section 5.1. Maintenance and Repairs.** Throughout the Lease Term the District shall, in District's discretion and at its own expense, keep the District Hangar Space in as reasonably safe condition as the operation thereof will permit, and keep the same space in good repair and in good operating condition, making from time to time all necessary repairs thereto and renewals and replacements thereof it determines to be necessary. Without limiting the generality of the foregoing, the District shall at all times remain in compliance with all provisions of the City's Code of Ordinances relating to property maintenance and appearance. In the exercise of District's discretion to perform repairs and restoration, such discretion does not relieve the obligation to comply with all City Codes and other Applicable Laws at all times.

### **Section 5.2. Taxes, Assessments and Other Governmental Charges.**

A. The Parties anticipate that ad valorem real property taxes and other taxes, assessments and charges will not be charged to the leasehold estate created by the District Lease. The District may contest taxes and assessments at its option. Notwithstanding the Parties'

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expectations, in the event any taxes and assessments or other governmental charges are lawfully taxed, charged, levied, assessed, or imposed upon or against all or any part of the leasehold estate, the District shall promptly pay and discharge, as the same become due, all such taxes and assessments. The City shall cooperate with the District in any appeal of the assessment of any ad valorem real property taxes.

B. Any taxes, charges and assessments payable in connection with any machinery and equipment at any time installed thereon by the District or its Invitees, or the income therefrom, including any new taxes and assessments to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against personal property, shall be paid by the District or its Invitees. The District may request and make all claims for deductions and depreciation of any such machinery, equipment and personal property within the District Leased Space during the Lease Term.

**Section 5.3. Utilities.** All utilities and utility services used by the District or its Invitees in, on or about the District Hangar Space shall be paid for by the District and shall be contracted for by the District in the District's own name or the name(s) of its affiliates or Invitees, and the District shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

**Section 5.4. Grants.** The District may pursue available state and federal grants associated with operations of the District Hangar Space. All improvements and fixtures to improvements that are constructed within the District Hangar Space with the proceeds of grants shall be owned by the City and shall remain in the ownership and control of City at termination of the District Lease. All equipment and personal property that is acquired by the District with the proceeds of any grants or other funds of the District shall be owned by the District and shall remain in the ownership and control of the District at termination of the District Lease. No grants shall be construed as an amendment to this Agreement, nor change or alter the respective relationship, duties or obligations of either Party hereto.

**Section 5.5. Additions, Modifications and Improvements to the District Hangar Space.** The District shall have and is hereby given the right, at the District's sole cost and expense, to make such additions, modifications and improvements in and to any part of the District Hangar Space as the District from time to time may deem necessary or desirable for its business purposes. All additions, modifications and improvements made by the District pursuant to the authority of this Section shall (a) be made in workmanlike manner and will comply in all material respects with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, be deemed a part of the District Hangar Space.

**Section 5.6. Permits and Authorizations.** As required herein and pursuant to applicable law, the District shall not do or permit others under its control to do any work in the District Hangar Space related to any repair, rebuilding, restoration, replacement, modification or addition to the District Hangar Space, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. All such work shall be done in a good and workmanlike manner and in material compliance with all applicable building, zoning and other laws, ordinances, governmental regulations. In the event of demonstrated

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noncompliance with such laws, ordinances, governmental regulations and requirements the District will take all reasonable steps to comply with laws, ordinances, governmental regulations and requirements.

### **Section 5.7. Operation and Maintenance of the Common Space.**

A. The District shall be responsible for all costs and expense which are necessary for the operation, maintenance and cleaning of the District Hangar Space. The District may separately contract for such services, or may coordinate with the City for the District and the City to jointly engage one or more companies for such services.

B. The City shall be responsible for contracting for the operations and maintenance of the Common Space. The City and District shall coordinate to establish a process for the City to send to the District on a regular periodic basis (monthly or quarterly) a request for payment of the District's proportionate share of the operation and maintenance costs that are applicable to the Common Areas. The District shall promptly pay such invoices when due according to the agreed-upon billing system. The District's "proportionate share" shall mean a percentage determined by the Parties as the amount of square feet in the District Hangar Space divided by the amount of all finished office space in Hangar #2 measured in square feet. The parties shall agree in writing to the District's proportionate share after the Plans and Specifications are complete and agreed by the parties. The Parties may reevaluate the District's proportionate share in the event of any alterations to the finished office space in Hangar #2 in which event the District's proportionate share shall be as reasonably determined by the Parties. The City shall recalculate the District's proportionate share if any increase, decrease or expansion of finished office space occurs in Hangar #2.

### **Section 5.8. Insurance.**

A. The City shall maintain property and liability insurance for Hangar #2 which is customary and reasonable according to the City's insurance practices.

B. The District shall obtain and maintain throughout the Lease Term policies of insurance for the District Hangar Space which is customary and reasonable according to the District's insurance practices.

### **Section 5.9. Mechanics Liens.**

A. The Parties agree that mechanics and materialmen liens cannot attach to the Hangar #2 property and improvements due to public municipal ownership by the City and public ownership of the leasehold estate by the District. The Parties further agreement that payment bonds as required by law are designed to protect workers that perform any work or other services on or to the Hangar #2 property and the District Hangar Space.

B. Whenever and as often as any mechanics' or other similar lien is filed against the District's leasehold estate or the District Hangar Space, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or

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about the District Hangar Space, the District shall discharge the same of record and take all reasonable steps to accomplish the same.

C. At all times when construction work is taking place on the District Hangar Space which could result in mechanic's liens, if the property were privately owned, District shall provide a payment bond as required by Missouri law. Notice is hereby given that the City shall not be liable for any labor or materials furnished the District or anyone claiming by, through or under the District upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the District Hangar Space or any part thereof. The District shall save and hold harmless the City from any loss, costs or expenses the City may incur related to any such filings.

### **ARTICLE 6: SPECIAL COVENANTS**

#### **Section 6.1. Damage or Destruction.**

A. If Hangar #2 is made untenable and if such damage is so extensive that the District Hangar Space cannot be restored by the City within a period of one hundred eighty (180) days (as mutually determined by the City and the District in their reasonable discretion), each Party shall each have the right to terminate the District Lease by notice to the other party given at any time within thirty (30) days after the determination of the time needed to complete restoration. If a portion of Hangar #2 other than the District Hangar Space shall be so damaged that in the reasonable opinion of the Parties that Hangar #2 should be restored in such a way as to alter the District Hangar Space materially, either Party may terminate the District Lease by written notice to the other given at any time within thirty (30) days after the damage determination. If the District Lease is not so terminated, the City shall promptly repair the damage at the City's expense to substantially the same condition which existed prior to such casualty, subject to the availability of insurance proceeds.

B. The City and the District agree that they will cooperate with each other, to such extent as such other party may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other parties such instruments as may be required to facilitate the recovery of any insurance monies.

C. The District agrees to give prompt notice to the City with respect to all fires and any other casualties occurring in, on, at or about the District Hangar Space which damages a material portion of the property.

**Section 6.2. City's Right of Access to the District Hangar Space.** The City has the right to access the District Hangar Space to inspect, ensure and reasonably seek compliance with this Agreement, subject to the terms herein. The City shall provide reasonable, advanced notice of such access to District when accessing the space outside of normal business hours. City staff shall coordinate activities Hangar #2 with the District. During times of emergencies as declared by the Mayor pursuant to the City Code, the City shall have the right to access and use the District

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Hangar Space during such emergency period for the purpose of carrying out the City’s emergency orders.

**Section 6.3. Mutual Defense and Indemnification.** To the extent allowed by Missouri law, the City covenants and agrees to defend, indemnify and hold the District and its officers, directors, employees, and agents harmless from and against any liability, injury, loss, action, suit, proceeding, investigation, fine, fee, lien, damage, claim, cost, attorney(s) fee, or expenses incurred, arising from damage or injury to persons or property occurring or allegedly occurring as a result of any act and/or omission of the City relating to this Agreement. To the extent allowed by Missouri law, the District covenants and agrees to defend, indemnify and hold the City and its officers, directors, employees, and agents harmless from and against any liability, injury, loss, action, suit, proceeding, investigation, fine, fee, lien, damage, claim, cost, attorney(s) fee, or expenses incurred, arising from damage or injury to persons or property occurring or allegedly occurring as a result of any act and/or omission of the District relating to this Agreement.

**ARTICLE 7: GENERAL PROVISIONS**

**Section 7.1. Termination.** The Parties acknowledge that the covenants in this Agreement are necessary to allow for the construction of Hangar #2 to be successfully completed during the Construction Period, and they agree that this Agreement cannot be terminated by either Party during the Construction Period. After the Commencement Date of the District Lease, this Agreement and the District Lease may be terminated as provided in **Section 4.2.**

**Section 7.2. Default and Remedies.** An Event of Default shall occur upon the failure by either Party in the performance of any covenant, agreement or obligation imposed or created by this Agreement and such failure continues for fifteen (15) days after the other Party, as applicable, has given written notice to such Party specifying such failure; provided, however, that if, by the nature of such covenant, agreement or obligation, such failure or breach cannot reasonably be cured within such fifteen (15) day period, an Event of Default shall not exist as long as the defaulting Party commences with due diligence and dispatch the curing of such failure or breach within such period of fifteen (15) days and, having so commenced, thereafter prosecutes with diligence and dispatch and completes the curing of such failure or breach within an additional thirty (30) days. Upon an Event of Default, a Party may take appropriate legally available enforcement actions.

**Section 7.3. Notices.** All notices required pursuant to this Agreement shall be sent as follows:

To the City:

City Manager  
City Hall  
220 SE Green Street  
Lee’s Summit, MO 64063

To the District:

Superintendent  
Lee’s Summit School District  
301 NE Tudor Road  
Lee’s Summit, MO 64086

With a copy to:

With a copy to:

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City Attorney  
City Hall  
220 SE Green Street  
Lee's Summit, MO 64063

W. Joseph Hatley  
Spencer Fane LLP  
1000 Walnut, Suite 1400  
Kansas City, MO 64106

**Section 7.4. Rights and Remedies Cumulative.** The rights and remedies maintained by any Party under this Agreement and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. Any Party shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding availability of an adequate remedy at law, and any Party hereby waives the right to raise such defense in any proceeding in equity.

**Section 7.5. Waiver of Breach.** No waiver of any breach of any covenant or agreement contained in this Agreement shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of an Event of Default, a non-defaulting Party may nevertheless accept from the defaulting Party, any payment or payments without in any way waiving the non-defaulting Party's right to exercise any of its rights and remedies as provided herein with respect to any such default or defaults in existence at the time when such payment or payments were accepted by the non-defaulting Party.

**Section 7.6. Effective Date and Term.** This Agreement shall become effective on the date this Agreement has been fully executed by the Parties. This Agreement shall remain in effect until all of the obligations set forth herein have been fulfilled by the Parties, after which they may mutually agree in writing that the Agreement is deemed to be completed and terminated.

**Section 7.7. Force Majeure.** Notwithstanding anything to the contrary contained herein, neither Party shall be liable for any delays or failures in performance resulting from acts beyond its reasonable control including, without limitation, acts of God, acts of war or terrorism, shortage of supply, pandemic, declaration of local, state or national emergency, adverse market conditions, governmental shutdown or closure, breakdowns or malfunctions, interruptions or malfunction of computer facilities, labor difficulties or civil unrest. Notwithstanding the foregoing, in the event of such an occurrence, each Party agrees to make a good faith effort to perform its obligations hereunder.

**Section 7.8. Modification.** The terms, conditions, and provisions of this Agreement can be neither modified nor eliminated except in writing and by mutual agreement among the Parties. Any modification to this Agreement as approved shall be attached hereto and incorporated herein by reference.

**Section 7.9. Jointly Drafted.** The Parties agree that this Agreement has been jointly drafted and shall not be construed more strongly against another Party.

## Final for City Meeting Packets

**Section 7.10. Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

**Section 7.11. Validity and Severability.** It is the intention of the Parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of State of Missouri, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

**Section 7.12. Execution of Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**Section 7.13. City Approvals.** Unless specifically provided to the contrary herein, all approvals of the City hereunder may be given by the City Manager or his or her designee without the necessity of any action by the City Council. The City Manager may seek the input from the City Council before granting any approval.

**Section 7.14. District Approvals.** Unless specifically provided to the contrary herein, all approvals of the District hereunder may be given by the Superintendent of the District or his or her designee, unless required to be done by and through any action of the Board of Education. The Superintendent may seek the input from the Board of Education before granting any approval.

**Section 7.15. Electronic Transaction.** The transactions described herein may be conducted and related documents may be received, delivered or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 7.16. Entire Agreement.** This Agreement contains the entire agreement and understanding among the Parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof.

*[Remainder of this page intentionally left blank]*

**Final for City Meeting Packets**

**IN WITNESS WHEREOF**, the Parties hereto have set their hands and seals the day and year first above written.

**CITY OF LEE'S SUMMIT, MISSOURI**

By: \_\_\_\_\_  
William A. Baird, Mayor

[Seal]

ATTEST:

\_\_\_\_\_  
Trisha Arcuri, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
David Bushek,  
Chief Counsel of Economic Development and Planning

**STATE OF MISSOURI**     )  
  ) **SS.**  
**COUNTY OF JACKSON**    )

On this \_\_\_\_ day of \_\_\_\_\_, 2023 before me appeared, Mayor William Baird, who being, by me duly sworn, did say that he is the Mayor of the **CITY OF LEE'S SUMMIT, MISSOURI**, a charter city and political subdivision of the State of Missouri, and did say that the seal affixed to the foregoing instrument is the seal of said City, and that said instrument was signed and sealed on behalf of said City, by authority of its City Council, and said Mayor acknowledged said instrument to be the free act and deed of said City.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

\_\_\_\_\_  
Notary Public  
(SEAL)

My commission expires: \_\_\_\_\_



**Final for City Meeting Packets**

**REORGANIZED SCHOOL DISTRICT  
NO. 7 OF JACKSON COUNTY,  
MISSOURI**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Seal]

ATTEST:

\_\_\_\_\_  
District Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
[NAME]  
Legal Counsel for the District

Notary for School District

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF JACKSON    )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, the \_\_\_\_\_, who is personally known to me to be the same person who executed the within instrument on behalf of the School District, and such person duly acknowledged the execution of the same to be the act and deed of the School District.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_