




November 20, 2017

## MEMORANDUM

**TO:** District Board of Trustees

**FROM:** Jim Murdaugh, President 

**SUBJECT:** Memorandum of Agreement between Florida Department of Highway Safety and Motor Vehicles, Division of the Florida Highway Patrol and Tallahassee Community College, Florida Public Safety Institute

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### Item Description

Memorandum of Agreement between the Florida Department of Highway Safety and Motor Vehicles, Division of the Florida Highway Patrol (FHP) and Tallahassee Community College, Florida Public Safety Institute (FPSI) for a high speed driving range on FPSI property.

### Overview and Background

The FHP, in partnership with the Florida National Guard, will construct a 1.3 mile high speed track on College property at FPSI to be used by FHP and other state agencies as approved by FHP, and managed by FPSI.

### Past Actions by the Board

None.

### Funding/Financial Implications

The driving range is to be constructed at no cost to the College. The driving range maintenance and repair will be provided by the Florida Highway Patrol. FPSI will provide landscaping and regular maintenance around the track.

### Staff Resource

Barbara Wills, E.E. Eunice

### Recommended Action

Approve the Memorandum of Agreement.

**MEMORANDUM OF AGREEMENT**  
**BETWEEN**  
**FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES,**  
**THROUGH ITS DIVISION OF FLORIDA HIGHWAY PATROL**  
**AND**  
**TALLAHASSEE COMMUNITY COLLEGE,**  
**FLORIDA PUBLIC SAFETY INSTITUTE**

THIS MEMORANDUM OF AGREEMENT is entered into by and between the FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES, through its DIVISION OF FLORIDA HIGHWAY PATROL, whose address is 2900 Apalachee Parkway, Tallahassee, Florida 32399, hereinafter referred to as the “**FHP,**” and THE DISTRICT BOARD OF TRUSTEES OF TALLAHASSEE COMMUNITY COLLEGE, FLORIDA PUBLIC SAFETY INSTITUTE, whose address is 75 College Drive, Havana, Florida 32333-9735, hereinafter referred to as the “**Owner.**”

WHEREAS, the parties to this Agreement wish to formalize their common desire to have a high-speed driving range (the “Project”) constructed on the Owner’s property; and

WHEREAS, Owner did not solicit bids from contractors for the construction of the Project within the confines outlined in **Exhibit A**, because FHP is constructing the Project at its own expense; and

WHEREAS, FHP is working in partnership with the Florida National Guard (FLANG) to construct the Project using FLANG units training under the “State Civil Military Community Program” (SCMCP); and

WHEREAS, the parties to this Agreement are willing participants in this project and are authorized to execute this agreement and carry out the responsibilities and duties of this Agreement; and

WHEREAS, in consideration of the duties and responsibilities to be performed hereunder, Owner agrees to provide FHP with a nonexclusive license for use of the Project once satisfactorily completed and, in return, FHP agrees to complete the Project pursuant to its partnership with FLANG, and to contract for the design and materials needed for the Project. Both parties agree that the foregoing constitutes sufficient consideration for the formulation of this Agreement.

NOW THEREFORE, in consideration of the mutual benefits to be derived here from, FHP and Owner agree as follows:

**Article 1. THE CONTRACT DOCUMENTS**

- 1.1 The Contract Documents include: (1) this Agreement; (2) any and all exhibits and attachments incorporated herein or attached hereto; and (3) any amendments or addenda executed by the Owner and FHP hereafter.

- 1.2 Documents not included or expressly contemplated in this Article do not, and shall not, form any part of this Agreement.
- 1.3 At all times in the performance of this Agreement, the parties shall comply with the terms of this Agreement and all applicable federal, state and local laws, rules, and regulations.

**Article 2. THE AGREEMENT**

- 2.1 This Agreement is contingent upon FLANG accepting the request of FHP to perform the work under the SCMCP. If FLANG does not agree or is otherwise unable to perform the construction work for the Project, FHP shall provide written notice to Owner, which shall have the effect of terminating this Agreement.
- 2.2 The parties shall endeavor to develop, implement and maintain a spirit of cooperation, collegiality, and open communication so that the goals and objectives of each are clearly understood, potential problems are resolved promptly, and, upon completion, the Project is deemed a success by all parties.
- 2.3 FHP shall coordinate with FLANG the supervision and direction of all work related to the Project conducted at the Project site, which may include staff to handle the following:
  - (i) supervise and coordinate other personnel and act as FHP's primary liaison with the Owner;
  - (ii) coordinate trade contractors and suppliers, and supervise Project construction services;
  - (iii) be familiar with all trade divisions and trade contractor's scopes of work, all applicable building codes, and any contracts for construction of the Project;
  - (iv) check, review and coordinate shop drawings and materials delivered to the Project site, regularly review work completed under the Project to determine its compliance with the Contract Documents, and periodically confer with the Owner and the Owner's designee to assure acceptable levels of quality;
  - (v) prepare and maintain Project records, including process documents and daily logs;
  - (vi) schedule and conduct bi-weekly progress meetings with contractors to review such matters as jobsite safety, job procedures, construction progress, schedule, shop drawing status, and other information as necessary and provide prior notification of, and minutes from, such meetings to the Owner;
  - (vii) schedule and conduct bi-weekly progress meetings with the Owner to review such matters as construction progress, schedule, shop drawing status, and other information, as necessary;
  - (viii) make provision for Project security to protect the Project site and materials stored off-site against theft, vandalism, fire and accidents, as necessary; and

- (ix) provide documentation necessary to the Owner for, and otherwise assist the Owner with, the preparation of the final “as-built” or record drawings.
- 2.4 FHP shall provide a monthly report summarizing the progress of the Project to the Owner, including information on the status of the work completed and the projected time to completion, based upon information provided by FLANG.
- 2.5 Owner shall retain sign-off authority on the scope of work and any change orders outlined in this Agreement, which will not be unreasonably withheld.
- 2.6 Owner shall retain permitting authority for any and all licenses, permits, or other access granted to the Project.

**Article 3. TIME OF COMMENCEMENT AND COMPLETION**

- 3.1 Work on the Project shall commence:
  - 3.1.1 Upon approval by both parties of the final construction and design documents provided by George & Associates Engineers, as contracted by FHP; and
  - 3.1.2 Once the necessary materials have been purchased by FHP and based upon a schedule to be provided by FLANG, which shall be provided to Owner for approval prior to commencement of the work.
- 3.2 Upon satisfactory project completion, FHP will provide for the repairs and maintenance of the road leading to the track and the asphalt surface of the track. Owner will provide landscaping and regular maintenance, excluding the items to be maintained by FHP.
- 3.3 Owner grants FHP a nonexclusive, perpetual license to use the driving range free of charge. Owner will be responsible for reserving and scheduling use of the track pending no conflicts with FHP’s use. FHP will retain the right to approve the use of the track. Owner will provide advance notice to FHP of any other party’s intended use of the track, which FHP will promptly approve or deny.

**Article 4. MISCELLANEOUS PROVISIONS**

- 4.1 Owner and FHP, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors and assigns of such other party with respect to all covenants of this Agreement. FHP shall not assign this Agreement, whether by operation of law or otherwise, without the written consent of Owner.
- 4.2 This Agreement shall be governed by, and construed under, the laws of the State of Florida and venue shall lie in the courts in Leon County, Florida.

- 4.3 FHP represents and warrants that it has not employed or retained any company or person (other than a bona fide employee working solely for FHP) to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation individual or firm (other than a bona fide employee working solely for FHP) any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.
- 4.4 This Agreement may be unilaterally canceled by either party for its refusal to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Fla. Stat., made or received by FHP in conjunction herewith.
- 4.5 FHP warrants that it will neither utilize the services of, nor contract with, any Construction Parties, supplier, subcontractor, or consultant for an amount in excess of \$15,000.00 in connection with this Project if the supplier, subcontractor or consultant has been placed on the State of Florida's convicted vendor list within the past thirty-six (36) months.
- 4.6 Owner is an equal opportunity institution and as such, encourages the use of small businesses including women and minority-owned small businesses in the provision of construction-related services. Small businesses should have a fair and equal opportunity to compete for dollars spent by the Owner to procure construction-related services. Competition ensures that prices are competitive and a broad vendor base is available. FHP shall use good faith efforts to ensure opportunities are available to small businesses including women and minority-owned small businesses on the Project, in accordance with any requirement applicable to FHP as a state agency.
- 4.7 All exhibits referenced herein are attached hereto and incorporated herein by reference.
- 4.8 This Agreement represents the entire and integrated agreement between the Owner and FHP, and supersedes all prior negotiations, representations or agreements, either written or oral, for the Project. This Agreement may be amended only by written instruments signed by both the Owner and FHP.
- 4.9 FHP shall provide Owner and its representatives access to the Project in preparation and progress, wherever located.
- 4.10 Pursuant to Section 20.055, Florida Statutes, Owner understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing related to this Agreement or its subject matter.
- 4.11 Prior to construction beginning on the Project, FHP agrees to provide Owners with a Project Manual to include the following, if applicable to the Project:

- (i) Title page including a statement of compliance by the architect or engineer of record;
- (ii) Signed and sealed table of contents;
- (iii) Schedule of drawings;
- (iv) Time to complete construction;
- (v) Sample forms;
- (vi) General conditions and supplementary conditions;
- (vii) Soil testing results;
- (viii) Specifications, including requirements for materials, equipment, construction systems, standards, workmanship and performance of related services; and
- (ix) addenda.

4.12 Owner and FHP shall comply with the SREF, Rule 6A-2.0010, F.A.C., Florida Statutes, and federal laws in carrying out the provisions of this Agreement and the Project. Specifically, the parties agree:

- (i) Owner will make sure all construction and site development for the Project is coordinated with the local comprehensive plan as required in Section 1013.33, Fla. Stat.; and
- (ii) All building materials will comply with the applicable minimum casualty safety and sanitation requirements.

**Article 5. SOVEREIGN IMMUNITY**

5.1 The Owner and the Department are state agencies or political subdivisions as defined in Section 768.28, Florida Statutes, and agree to be fully responsible for acts and omissions of their own agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by either party to which sovereign immunity may be applicable. Further, nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement.

**Article 6. INSURANCE**

6.1 Owner recognizes that FHP, as a Division of the Florida Department of Highway Safety and Motor Vehicles, is self-insured through Florida's Risk Management Program, pursuant to Chapter 284, Florida Statutes.

**Article 7. NOTICES:**

Whenever under the terms of this Agreement written notice is required or permitted to be given by any party to any other party, such notice shall be in writing and shall

be deemed to have been sufficiently given if personally delivered, delivered by a national overnight courier service (such as Federal Express), transmitted by electronic facsimile, or delivered (or delivery is refused) by United States Mail in a properly stamped envelope, certified or registered, return receipt requested, and addressed to the party to whom it is to be given at the address hereinafter set forth. Any party hereto may change its address by written notice in accordance with this Section:

To FHP: The Florida Highway Patrol, a Division of The Florida Department of Highway Safety and Motor Vehicles  
2900 Apalachee Parkway  
Tallahassee, Florida 32399  
Attn: \_\_\_\_\_

To Owner: The District Board of Trustees of Tallahassee Community College,  
Florida Public Safety Institute  
75 College Drive  
Havana, Florida 32333-9735  
Attn: Barbara K. Wills

IN WITNESS WHEREOF, the parties have affixed their signatures, effective on the date first written above.

The District Board of Trustees of  
Tallahassee Community College

The Florida Department of Highway  
Safety and Motor Vehicles,  
Division of Florida Highway Patrol

\_\_\_\_\_  
Jonathan Kilpatrick  
Chair, District Board of Trustees

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approval as to form and legality:

Approval as to form and legality:

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College Attorney

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Department Attorney

Attachments included as part of this Agreement:

A - Project Location

A-1- FSPI Survey Map



## EXHIBIT A: PROJECT LOCATION

Project Number: \_\_\_\_\_

Project Location: The Project is outlined in black on the FPSI Survey Map, attached as Exhibit A-1, and is located within the following coordinates in U.S. Survey Foot:

277 ACRES WITHIN PARCEL ID: 3-26-2N-3W-0000-00400-0000. FURTHER DESCRIPTION IS AS FOLLOWS:

BEGIN AT THE NWC OF SECT 36-2N-3W, RUN N88\*37'49"E 2640.94 FT TO NEC OF NW1/4 OF SAID SECT 36; S00\*40'14"E ALONG THE APPROXIMATE EAST LINE OF THE W1/2 OF SAID SECT 36 4902.05 FT TO THE NORTH RT/WY OF I-10; N58\*42'35"W 54.07 FT; N54\*39'41"W 701.80 FT; N58\*43'34"W 2489.13FT; N00\*00'00"W 1917.34 FT; N02\*15'59"E 1213.91 FT TO POB.