

## **AGREEMENT**

**THIS AGREEMENT** (“Agreement”) is entered into by and between Pinellas County, a political subdivision of the State of Florida (“County”), and Kimley-Horn and Associates, Inc. (“Kimley-Horn”), (collectively referred to as “the Parties”). This Agreement is effective upon full execution by both Parties.

### **WITNESSETH:**

**WHEREAS**, the County previously had Ajax Paving Industries of Florida, LLC. (“Ajax”) perform substantive pavement work to Runway 18-36: and

**WHEREAS** the above referenced pavement work to Runway 18-36 was done in accordance with plans provided and designed by Kimley-Horn ; and

**WHEREAS** post the pavement work to Runway 18-36, some necessary repair work to the runway has been identified and Kimley-Horn has agreed to bear the reasonable and agreed upon costs for that necessary pavement repair work, including but not limited to, any new plan and design costs, construction administration and construction management costs, including Quality Assurance testing and inspection, and construction related costs to perform the necessary pavement repair work; and

**WHEREAS**, given Ajax’s familiarity with Airport operations and the specific runway work, and to not potentially void any existing warranty issues, if any, the Parties have agreed that the County will enter into a new agreement with Ajax to perform the necessary pavement repair work in accordance with the corrected plans prepared by Kimley-Horn as set forth in a brief version of the Scope of Work below; and

**WHEREAS**, Kimley-Horn will reimburse the County for all the reasonable and agreed upon costs associated with or resulting from the necessary pavement repair work as set forth herein not to exceed \$1,823,098.38; and

**WHEREAS**, the Parties further agree that should it be determined and agreed upon by the Parties that the existing pavement on the parallel taxiway to Runway 4-22 (a/k/a Taxiway G) has developed signs of pavement distresses due to the impacts of inordinate air carrier traffic being placed on it during the Runway 18-36 closure, Ajax may be instructed to perform a milling and overlay operation or other improvements to mitigate these pavement distresses and Kimley-Horn shall be liable for a portion of the reasonable and agreed upon costs for this additional work to Taxiway G, if necessary, Kimley-Horn’s portion to be agreed by the Parties and not to exceed \$499,297.83.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter contained, it is agreed by and between the Parties hereto as follows:

#### **1. SCOPE OF WORK:**

- a) The anticipated work involves the milling and overlay of approximately twelve hundred (1200) linear feet of bituminous pavement, adjustment of centerline and edge line airfield lights,

and procurement and installation of new in-pavement light fixtures in accordance with the plans and technical specifications titled Runway 18-36 Pavement Maintenance, dated July 21, 2022 which will be set forth in greater detail in the Agreement between the County and Ajax.

b) Kimley-Horn, pursuant to an existing Continuing Professional Services Agreement (RFP contract no. 190-0486-CN (SS)), will also, at its sole cost, be providing professional services during the pavement repair work to be done by Ajax, including but not limited to, design/contract drawings, technical specs, construction administration, construction management, and Quality Assurance testing, inspections,., as well as bearing the necessary reasonable and agreed upon Ajax pavement repair construction costs as set forth in the Exhibit 1, attached hereto, which has been provided to, reviewed and approved by Kimley Horn, not to exceed \$1,823,098.38.

c) Additionally, should it be determined and agreed upon by the Parties that during the closure and construction of the Runway 18-36 necessary pavement repair work that the existing Runway 4-22 (a/k/a Taxiway G) pavement has developed signs of pavement distresses due to diverted and inordinate amounts of air carrier traffic being placed on Runway 4-22 during the closure, Ajax may be instructed to perform a milling and overlay operation or other necessary improvements to repair those pavement distresses and Kimley-Horn shall be liable for a portion of the reasonable and agreed upon costs for this additional work, if necessary, Kimley-Horn's portion to be agreed by the Parties and not to exceed \$499,297.83.

## 2. FUNDING OF NECESSARY PAVEMENT REPAIR WORK:

a) The County will be responsible for awarding the construction contract for the necessary and agreed upon pavement repair work to Ajax as a non-competitive emergency project.

b) Kimley-Horn hereby agrees that upon request by the County and based on the amount requested by Ajax in their monthly payment Apps/requests, they will send a payment equal to the requested and agreed upon amount into an account provided by the County. The County will use these funds to pay Ajax as a contractor during construction. Payments by Kimley-Horn will be made within ten (10) business days of mutual approval of the Contractor's pay request by the County and Kimley-Horn.

c) Kimley-Horn shall make all agreed upon deposits due to the County as referenced above via wire transfer to the account provided by the County.

## 3. RELEASE OF CLAIMS RELATING TO REASONABLE AND AGREED UPON NECESSARY PAVEMENT REPAIR WORK:

FOR AND IN CONSIDERATION of Kimley-Horn's obligations undertaken herein, County, for itself and its affiliates and anyone claiming by, through, or under it, has released and discharged, and by these presents does release, acquit and forever discharge Kimley-Horn, and its employees, subconsultants, agents, insurers, and affiliates of and from any and all causes of action, claims, demands, damages, costs, and expenses, based on any theory of law or equity including but not limited to claims for negligence, breach of contract, delay claims, lost profits, and consequential damages ("Claims") which County now has, or hereafter may have, on account of, or in any way


growing out of professional engineering, consulting and other services previously provided by Kimley-Horn for the initial pavement project to Runway 18-36 in Pinellas County, Florida (including but not limited to lost profits and consequential damages sustained during the period in which the repair work discussed in Section 1 above is performed). This release and discharge shall not apply to claims that allege the repair work discussed in Section 1 is deficient.

4. County acknowledges and represents to Kimley-Horn that it has no knowledge of any actual or alleged errors or omissions of Kimley-Horn related to any services provided by it other than the alleged errors and omissions giving rise to the Claims being released hereby
5. This Agreement constitutes a full and complete SETTLEMENT of doubtful and disputed claims, regardless of the adequacy of the consideration described above, and the payment described herein, and the acceptance of this Agreement is not an admission of liability or wrongdoing on the part of the persons and entities hereby released.
6. This Agreement shall be governed by and shall be construed and enforced in accordance with the laws of the State of Florida.
7. This Agreement contains the entire agreement between the undersigned and the parties released hereby.
8. The persons signing the Agreement below represent and warrant that they have full authority to execute this Agreement on behalf of and bind the designated entity and that there has been no assignment or other transfer by the St. Pete-Clearwater International Airport, (PIE), or County of any interest in the claims or matters released hereby.


**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement on the day and year written below.

**PINELLAS COUNTY, FLORIDA**

a political subdivision of the State of Florida

By:   
Name: Barry Burton, County Administrator  
Title:  
Date: September 26, 2022

**KIMLEY-HORN AND ASSOCIATES, INC.**

By:   
Name: Mudassar Alam, P.E.  
Title: Senior Vice President  
Date: 09/14/2022