

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-0304R

RESOLUTION APPROVING A BUILDING IN DULUTH 2012
CONDITIONAL GRANT AGREEMENT BETWEEN THE DULUTH ECONOMIC
DEVELOPMENT AUTHORITY AND AAR AIRCRAFT SERVICES, INC.
RELATING TO THE SUBSTANTIAL REHABILITATION OF THE MRO
FACILITY AT THE DULUTH INTERNATIONAL AIRPORT.

CITY PROPOSAL:

RESOLVED, that the city council of the city of Duluth does hereby approve
the conditional grant agreement on file in the office of the city clerk as Public
Document No. _____, between the Duluth economic development authority
(DEDA) and AAR Aircraft Services, Inc. (AAR), related to the substantial
rehabilitation of the MRO facility at the Duluth International Airport in an
amount not to exceed \$350,000.

Approved:


Department Director

Approved for presentation to council:


Chief Administrative Officer

Approved as to form:


Attorney

Approved:


Auditor

PLNG/ATTY JMC:dma 06/13/2012

STATEMENT OF PURPOSE: The purpose of this resolution is to obtain the City Council's approval of the Duluth 2012 Conditional Grant Agreement between DEDA and AAR as is required pursuant to the business subsidy law, Minnesota Statute Section 116J.994, Subd. 3(d) and Paragraph 19 of the amended DEDA Enabling Legislation, Resolution 09-0324. DEDA approved the Agreement at its June 12, 2012 meeting.

AAR is a publicly traded (NYSE: AIR), Illinois-based aerospace services company, providing service in four industry segments, including maintenance, repair and overhaul (MRO) services. AAR leads the nation in outside MRO services and is one of the top 5 MRO services companies in the world. The primary goal of this assistance is the refurbishment of the former Northwest Airlines MRO Facility,

a 189,000 sq. ft. building specifically constructed to provide MRO services. AAR will lease and control the building for up to 32 years under a long-term lease agreement with DEDA. In exchange for this assistance, AAR has committed to the creation of 1 FTE construction job. It is anticipated that at least 20 individuals will be working on this refurbishment project. In addition to creating construction jobs and reestablishing an MRO presence in Duluth, this project is expected to result in 192 FTE positions. This Agreement commits AAR to lease and control the building for a period of five years, or be subject to surrendering all improvements made to DEDA, including \$150,000 of leasehold improvements to be made in addition to the building refurbishment.

Tax Base Impact Statement: The planned refurbishments are required to ensure an operable, safe building for AAR MRO operations and will not add any measurable value to the taxable basis of the building.

**BID AGREEMENT
BUILDING IN DULUTH 2012
CONDITIONAL GRANT AGREEMENT
AAR AIRCRAFT SERVICES, INC.**

THIS CONDITIONAL GRANT AGREEMENT entered into this _____ day of June, 2012, by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority created and existing under Minnesota Statutes (1989) Chapter 469, whose address is 402 City Hall, 411 West First Street, Duluth, MN 55802 (hereinafter referred to as "DEDA") and AAR AIRCRAFT SERVICES, INC., an Illinois corporation, whose address is 2825 West Perimeter Road, Indianapolis, IN 46241 (hereinafter referred to as "Developer").

WHEREAS, Developer is leasing approximately 152,300 square feet of a building owned by DEDA located at 4600 Stebner Road, Duluth, MN 55811 (the "Facility"); and

WHEREAS, Developer desires to re-commission the Facility as described in more detail herein (the "Project") and, in the process, create construction work for up to twenty (20) people which equates to one (1) full-time equivalent construction job in Minnesota and create approximately 192 full-time equivalent jobs in its operation; and

WHEREAS, Minnesota Statutes §469.176 was amended in 2010 and 2011 to authorize cash balances in existing tax increment districts, such as Redevelopment TIF District No. 14 and Housing TIF District No. 10, to be used to spur new construction or substantial rehabilitation of buildings if doing so will create or retain jobs in the state, including construction jobs and the construction begins before June 30, 2012 and would not have commenced before without that assistance; and

WHEREAS, Developer meets the criteria set forth in Minnesota Statutes §469.176 as well as the Building in Duluth 2012 Spending Plan for Tax Increment Financing Districts on file in the office of DEDA; and

WHEREAS, DEDA has further determined that the interests of the citizens of the City of Duluth and the well being and quality of life in the City of Duluth would be enhanced by nurturing and encouraging the rehabilitation and construction of the Facility by Developer; and

WHEREAS, after careful analysis of the projected costs of the Project, and the positive economic impact Developer's Project will bring to the area, DEDA has committed to provide \$324,000 of tax increment proceeds from TIF District No. 14 and \$26,000 of tax increment proceeds from TIF District No. 10, in order for the Developer to begin the Project before June 30, 2012; and

WHEREAS, the public purpose of the tax increment assistance to be provided pursuant to this Agreement is the construction and rehabilitation of the Facility which will: 1) increase the number and diversity of jobs that offer stable employment and high quality wages and benefits, 2) contribute to the economic diversity of the City by growing the City's current aviation industry, 3) enhance and diversify the City of Duluth's tax base, 4) stimulate the redevelopment of underutilized facilities, and 5) achieve development on sites which would not be developed without business subsidies assistance.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

Definitions

For the purposes of this Agreement, the following terms shall have the meanings hereinafter ascribed to them unless a different meaning clearly appears from the context:

- A. City shall mean the City of Duluth.
- B. Eligible Project Costs shall mean the costs of rehabilitation of the Facility estimated to be in excess of \$500,000 and permitted to be reimbursed under Minnesota Statutes §469.176.
- C. Executive Director shall be the Executive Director of DEDA or such person or persons designated in writing by said Executive Director.
- D. Facility shall mean a 152,300 square foot maintenance, repair and overhaul facility to be operated by Developer to provide products and services to the commercial aviation industry serving passenger airlines, cargo carriers, tier two suppliers and aircraft and engine official equipment

manufacturers with diverse maintenance, repair and operations, engineering, logistics and precision fabrication capabilities.

- E. Full-time Equivalent or FTE shall mean employment positions within the State providing 2,080 hours of employment per year unless, prior to job creation, Developer provides documentation showing industry standards vary from 2,080 hours per year.
- F. Interest shall mean the interest rate set at the implicit price deflator defined under Minnesota Statutes §275.70, subdivision 2.
- G. Lease Agreement shall mean that lease agreement between DEDA and Developer dated June ____, 2012 which is incorporated by reference herein.
- H. Project shall mean the substantial rehabilitation of the Facility including but not limited to installation of new lights and fixtures, roof rehabilitation, paint, carpet and rehabilitation of the floor, rehabilitation of the apron and parking described in more detail on Exhibit A, to include substantial rehabilitation work expected to cost in excess of \$350,000 (the "Recommissioning") and leasehold improvements expected to cost in excess of \$150,000 (the "Leasehold Improvements"), the total Project cost of which is estimated to be in excess of \$500,000.
- I. Property shall mean that property located at 4600 Stebner Road, Duluth, MN 55811 Duluth, St. Louis County, Minnesota, which Property is shown on Exhibit B attached hereto and made a part hereof.

ARTICLE II

Developer Deposit

Developer is not required to pay DEDA an application fee deposit.

ARTICLE III

Preconditions to Project Construction

Prior to the commencement of construction of the Project and as a precondition to the commencement thereof, Developer shall provide to DEDA the following items:

A. Construction Costs

An estimate provided by an architect or the general contractor or subcontractors of the total cost of construction of the Project, based on Exhibit A which Exhibit A may be modified from time to time by mutual consent of Developer and Executive Director.

B. Construction Contracts

A copy of executed contracts necessary to complete the construction of the Project in accordance with approved plans and specifications, certified by Developer to be a true and correct copy thereof. The construction contract shall contain a provision requiring the contractor to include in all the subcontracts reporting requirements related to payroll documentation evidencing the number of hours worked by construction workers on the Project.

C. Contractor Approval

Developer agrees that the Executive Director shall have approval over the identity of the contractors, which approval shall not be unreasonably withheld.

ARTICLE IV

Project Plans

A. Drawings, Specifications and Plans

No less than fifteen (15) days prior to the commencement of construction of the Project or such lesser time as approved by the Executive Director, Developer shall submit working drawings, specifications and architectural elevations if relevant for modification or alteration together with detailed site, grading, utility and landscaping plans and elevations, as the Executive Director reasonably deems necessary, to the Executive Director for approval. All such plans, specifications and elevations shall be in conformity with this Agreement, and with all applicable laws, ordinances, rules, regulations and requirements of the City, State of Minnesota and United States of America. The Executive Director shall accept or reject said plans within ten (10) days of receipt thereof. If the Executive Director rejects such plans, specifications

and elevations in whole or in part as not being in compliance with the foregoing requirements, and upon notification to Developer of said rejection together with the reason or reasons therefor, Developer shall submit new or corrected plans, specifications, and elevations meeting said objections within thirty (30) days of said notice. The provisions of this Subparagraph relating to approval, rejection and resubmission of corrected plans hereinabove provided for with respect to the originally submitted plans, specifications and elevations shall continue to apply until said plans, specifications and elevations have been approved by the Executive Director. The Executive Director's acceptance of Developer's plans, specifications and elevations shall not constitute a waiver of building code or ordinance or other developmental duties imposed in the future upon Developer by law. Developer expressly agrees to be solely responsible for all costs, including architectural fees connected with said plans, specifications and elevations and any revisions thereto. Notwithstanding the above, the parties hereby agree that Exhibit A generally sets forth the scope of construction for the Project. Additionally, the parties hereby agree to make all efforts to provide all information and required approvals necessary to commence Project construction prior to June 30, 2012.

B. Changes After Initial Approval

Any changes made to plans by Developer after initial approval of the Executive Director reasonably deemed to him or her to be material or substantial shall be submitted to him or her for acceptance in the same manner provided for in Paragraph A above.

ARTICLE IV

Construction

A. Construction

On or before June 30, 2012, Developer shall cause the commencement of the Project in conformance with the plans approved pursuant to this Agreement. Recommissioning shall be fully completed no later than

December 15, 2012. Leasehold Improvements shall be fully completed no later than June 30, 2013.

B. Developer to Bear All Costs

Except for payments by DEDA provided for herein, Developer specifically guarantees and agrees to bear all costs related to the construction of the Project and any modifications thereto.

C. Progress Reports

Until construction of the entire Project has been completed, Developer shall make reports in such detail and at such times as may reasonably be requested by DEDA as to the actual progress of Developer with respect to the Project.

D. Certificate of Completion

Promptly upon completion by Developer of construction of the Project, Developer shall submit to the Executive Director written evidence in a form satisfactory to the Executive Director of Project completion in accordance with this Agreement after which DEDA shall promptly furnish to Developer an appropriate certificate certifying completion of the Project ("Certificate of Completion"). No such Certificate shall be issued until all elements of the Project have been completed.

ARTICLE V

Reimbursement to Developer

DEDA agrees to reimburse Developer for Eligible Project Costs incurred by it in accordance with this Agreement in an amount not to exceed Three Hundred Fifty Thousand and no/100ths (\$350,000), \$324,000 payable from Fund 865, TIF District 14 (NWA) and \$26,000 payable from TIF District 10 (Jefferson Square) (the DEDA Payment Amount). The request for reimbursement shall be made on or before December 20, 2012 and shall be accompanied by such documentation as the Executive Director shall request including paid invoices or comparable evidence of payment. Reimbursement shall be made upon completion of the Project as evidenced by the Certificate of Completion as set forth in Article IV and creation of construction jobs as set forth in Article VIII.

Notwithstanding the above, no reimbursement shall be made by DEDA to Developer after December 31, 2012.

ARTICLE VI

Term

The term of this Agreement shall commence on the date first shown above and shall continue until five (5) years after the issuance of the Certificate of Completion of the Project as set forth in Paragraph D of Article IV, unless this Agreement is otherwise terminated earlier as provided for herein. Termination shall not terminate any indemnification provisions and shall not terminate other rights or remedies arising under this Agreement due to any event of default which occurred prior to such termination.

ARTICLE VII

Provision Against Liens, Assignments and Transfers

A. Provision Against Liens

Except for encumbrances permitted pursuant to Paragraph B below, Developer shall not create or permit any mortgage, encumbrance or allow any mechanic's or materialmen's liens to be filed or established or to remain against the Facility, Property, or the Project or any part thereof which would materially or adversely affect DEDA's interest in this Agreement during the term of this Agreement, provided that if Developer shall first notify DEDA of its intention to do so, Developer may, in good faith, contest any such mechanic's or other liens filed or established as long as DEDA does not deem its interest or rights in this Agreement to be subject to foreclosure by reason of such context.

B. Provision Against Assignments, Transfers or Change in Identity of Developer

The parties hereto acknowledge that DEDA is relying upon the qualifications and identity of Developer to operate the Facility, the Property and the Project. Therefore, except for the purposes of obtaining financing as described in the Lease Agreement or otherwise approved by this Agreement, Developer represents and agrees for itself, its successors and assigns that it has not made or created, and will not make or create or suffer to be made or created, any total or partial sale, assignment, conveyance, lease, trust, lien or power

of attorney, and has not or will not otherwise transfer in any other way all or any portion of the Facility, the Property, the Project, the Developer, this Agreement or any other contract or agreement entered into in connection with carrying out its obligations hereunder, and except for mortgaging approved in writing by the Executive Director, Developer will not make or create or suffer to be made any such transfer of Developer's rights hereunder without the prior approval of DEDA.

ARTICLE VIII

Development Goals/Reporting Obligations

A. Business Subsidy Goal

DEDA finds that the public purpose of tax increment assistance to be provided pursuant to this Agreement is the substantial rehabilitation of the Facility which will 1) increase the number and diversity of jobs that offer stable employment and high quality wages and benefits, 2) contribute to the economic diversity of the City by growing the City's current aviation industry, 3) enhance and diversify the City of Duluth's tax base, 4) stimulate the redevelopment of underutilized facilities, and 5) achieve development on sites which would not be developed without business subsidies assistance. Achievement of the Business Subsidy Goal in accordance with Minnesota Statutes §116J.994 shall be measured as follows: Developer agrees that on or before December 15, 2012, it shall have completed the Recommissioning on the Property in accordance with this Agreement and shall have created one (1) FTE construction jobs in the State as verified by Developer's construction contractor(s) (the "Business Subsidy Goal").

B. Reporting Requirement

Developer shall provide to DEDA the information regarding the Business Subsidy Goal as set forth in Minnesota Statute §116J.994 subdivision 7. All such reports shall be signed on behalf of Developer by an officer of Developer with authority to bind Developer.

C. Special Event of Default if Business Subsidy Goals Not Met

Developer agrees that if the Business Subsidy Goal of Recommissioning completion is not met by December 15, 2012 as determined in the sole discretion of DEDA, Developer shall not receive any of the DEDA Payment Amount. Developer further agrees that if the Business Subsidy Goal of creating one (1) FTE construction job in the State is not met on or before December 15, 2012, in its entirety as determined in the sole discretion of DEDA, Developer shall receive only a portion of the DEDA Payment Amount which amount shall be determined by multiplying \$350,000 by a fraction, the numerator of which is the number of hours worked by construction workers during the construction period ending December 15, 2012, and the denominator of which is 2,080.

D. Parent Corporation

E. Other Financial Assistance

A list of all financial assistance by all grantors for the project is set forth in Exhibit C.

F. Continued Operations Commitment

Developer agrees to enter into a long term lease with DEDA to utilize the Facility and the Property to be operated by Developer to provide products and services to the commercial aviation industry serving passenger airlines, cargo carriers, tier two suppliers and aircraft and engine official equipment manufacturers with diverse maintenance, repair and operations, engineering, logistics and precision fabrication capabilities, and to not assign, convey, transfer, sell or change its identity in violation of Article VII for at least five (5) years after the issuance of the Certificate of Completion of the Project as set forth in Paragraph D of Article IV (the "Continued Operations Commitment").

G. Special Event of Default for Failure to Meet Continued Operations Commitment

In the event that Developer fails to meet the Continued Operations Commitment, then Developer shall surrender to DEDA ownership of all Recommissioning and Leasehold Improvements.

ARTICLE IX

Operating Covenants

Developer covenants and agrees that during the term of this Agreement, in its operations and use of the Facility and the Project it shall:

A. Maintenance

At all times cause the Facility, the Project and the Property to be maintained pursuant to the requirements set forth in the Lease Agreement.

B. Utilities

Pay or cause to be paid any utilities furnished to the Facility, the Property and the Project as may be required pursuant to the Lease Agreement.

C. Licenses and Permits

Preserve the existence and all of its licenses, permits and consents to the extent necessary and desirable to the operation of its business and affairs relating to the Facility, the Project and the Property and to be qualified to do business in the State of Minnesota.

D. Obey All Laws

Conduct its affairs and carry on its business and operations with respect to the Facility, the Project and the Property in such a manner as to comply with any and all applicable laws of the United States and the State of Minnesota including laws regarding unlawful discrimination, and duly observe and conform to all valid orders, regulations and requirements of any governmental authority related to the conduct of its business and the lease of the Facility, the Project and the Property; provided that nothing herein contained shall require it to comply with, observe and conform to any such

law or regulation or requirement so long as the validity thereof shall be contested in good faith through proper legal action.

E. Payment of Taxes

Promptly pay or cause to be paid taxes and governmental charges as may be required pursuant to the Lease Agreement.

F. Assessment Fees and Charges

Pay or cause to be paid when due or payable all special assessments levied upon or with respect to the Facility, the Project or the Property, or any part thereof, and to pay all fees, charges and rentals for utilities, service or extensions for the Facility, the Project or the Property and all other charges lawfully made by any governmental body for public improvements as may be required pursuant to the Lease Agreement.

G. Obligations and Claims

As may be required pursuant to the Lease Agreement, promptly to pay or otherwise satisfy and discharge all of the obligations and indebtedness and all demands and claims against the Facility, the Project and the Property as and when the same become due and payable other than any thereof whose validity, amount or collect ability is being contested in good faith by appropriate proceedings.

H. Living Wage Covenant

Pay both current and new employees compensation, including benefits not mandated by law, that on an annualized basis is, at minimum, equal to at least 110 percent of the federal poverty level for a family of four or the living wage as set forth in Section 2-137 of the Duluth City Code, 1959, as amended.

I. Little Davis-Bacon

Cause the laborers, mechanics or apprentice-trainees employed directly upon the work site to be paid the wage rates as set forth in Section 2-25 of the Duluth City Code, 1959, as amended.

ARTICLE X

Indemnification

A. Generally by Developer

Developer will to the fullest extent permitted by law, protect, indemnify and save DEDA and its officers, agents, servants, employees and any person who controls DEDA within the meaning of Securities Act of 1933, harmless from and against all liabilities, losses, damages, costs, expenses, including attorneys' fees and expenses, causes of action, suits, claims, demands and judgements of any nature arising from any injury to or death of any person or from any damage to the Property, the Facility or the Project in or upon the Property, the Facility or the Project, or growing out of or in connection with the use or non-use, condition or occupancy of the Property, the Facility or the Project or any part thereof and also, without limitation, any and all acts or operations related to the construction or installation of the Project on any portion of the Property, the Facility or the Project. The foregoing indemnification shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for the Developer, customers, suppliers or affiliated organizations under any Workers' Compensation Act, Disability Benefit Acts or any other Employee Benefit Acts. Provided that the indemnification provided for in this Paragraph shall not extend to any such liability covered by insurance provided by or for Developer's benefit under the terms of the Lease Agreement subject to the limits of such insurance.

B. Environmental Indemnification

In addition to the generality of the foregoing, Developer hereby agrees that for itself, its successors and assigns that it will indemnify and save DEDA and its officers, agents, servants and employees and any person who controls DEDA within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including reasonable attorney's fees and expenses, causes of action, suits, claims,

demands and judgments arising out of any condition existing of the Property, the Facility or the Project arising out of Lessee's use and occupancy of the Facility or the Property or the Project and that indemnification granted hereby shall include all costs of required clean-up, remediation, together with the costs incurred in proceedings before any court of law or administrative agency, including attorney's fees, expenses, the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses, the costs of preparing and securing approval of Response Action Plans, as defined by the foregoing agencies, as may be necessary to meet the requirements of said agencies and any other costs and expenses of any kind whatsoever arising out of conditions existing on the Property, the Project or the Facility.

C. Generally by DEDA

Notwithstanding the foregoing, DEDA will to the fullest extent permitted by law, protect, indemnify and save Developer and its officers, agents, servants, employees and any person who controls Developer within the meaning of Securities Act of 1933, harmless from and against all liabilities, losses, damages, costs, expenses, including attorneys' fees and expenses, causes of action, suits, claims, demands, and judgements of any nature arising from any injury to or death of any person or damage to property in or upon the Property or the Facility arising out of and to the extent of the intentional or negligent acts or omissions of DEDA and its officers, agents, employees and contractors except for environmental conditions identified in the Environmental Report or established by Developer as existing on the Property as of the commencement of the Lease Agreement.

ARTICLE XI

A. Insurance

Except for permanent property insurance provided for in the Lease Agreement, Developer shall procure and continuously maintain insurance covering all injury to or death of persons or damage to property arising in any way out of or as a result of Developer's occupancy of or use of the Facility,

the Property or the Project carried in the names of Developer, any subtenant, and DEDA, as their respective interests may appear, as follows:

1. Liability Insurance

Developer shall procure and maintain continuously in force Public Liability Insurance written on an "occurrence" basis under a Comprehensive General Liability Form with "Broad Form" property damage liability coverage, with XCU exclusion removed, in limits of not less than \$2,000,000 per occurrence for personal bodily injury and death, and limits of \$2,000,000 for property damage liability. If per person limits are specified, they shall be for not less than \$2,000,000 and be for the same coverages. DEDA shall be named as an additional insured therein. Insurance shall cover:

- a. Public liability, including premises and operations coverage;
- b. Independent contractors--protective contingent liability;
- c. Personal injury;
- d. Owned, non-owned and hired vehicles;
- e. Contractual liability covering the indemnity obligations set forth herein;
- f. Products--completed operations.

2. Workers' Compensation

Workers' Compensation Coverage in statutory amounts with "all states" endorsement.

C Requirements for All Insurance

All insurance required in this Article shall be taken out and maintained in responsible insurance companies organized under the laws of the United States and licensed to do business in Minnesota.

D. Policies

The Developer shall be required to supply to DEDA certificates of insurance evidencing that Developer has insurance meeting the requirements of this Agreement. Developer agrees to use its best efforts to supply such

certificates in a form which will require the insurer to give DEDA thirty (30) days' written notice prior to cancellation or modification of said insurance.

ARTICLE XII

Developer Defaults and Remedies Therefor

A. General Defaults and Remedies

1. General Events of Default

In addition to the Special Events of Default set forth in Article VIII, the following shall be deemed to be general events of default by Developer under the terms and conditions of this Agreement to which the remedies set forth in Paragraph A(2) below shall be applicable.

- a. Developer shall fail to observe or perform any of the terms, conditions, covenants or agreements required to be observed or performed by it or any successor or assigns of Developer pursuant to this Agreement and such failure shall continue for a period of 30 calendar days after DEDA has, pursuant to the provisions of this Agreement, given written notice to Developer of such default or, in the event that such default shall be incapable of cure with reasonable diligence during said 30 day period, shall have failed to commence to cure said default within 30 days of the date of said notice and to diligently pursue the same to completion.
- b. Except as permitted in the Lease Agreement, Developer shall permit valid liens, to be placed on the Facility or the Property.
- c. Developer makes an assignment for the benefit of its creditors or admits in writing its inability to pay its debts as they become due; or an adjudication of bankruptcy or insolvency is made as to Developer or its business; or Developer files a petition of bankruptcy or files a petition seeking any reorganization, dissolution, liquidation, or rearrangement, composition, readjustment or similarly under any present or future bankruptcy or insolvency, statute, law or regulation; or

Developer files an answer admitting to or not contesting to the material allegations of a petition filed against it in such proceeding or fails to have dismissed or vacated within sixty (60) days after its filing such a petition or seeks or consents or acquiesces in the appointment of any trustee, receiver or liquidator of a material part of Developer's properties or fails to have dismissed or vacated within sixty (60) days after the appointment without the consent or acquiescence of Developer of any trustee, receiver or liquidator of any material part of Developer's properties.

- d. Developer fails to surrender to DEDA ownership of all Recommissioning and Leasehold Improvements as set forth in Paragraph G of Article VIII.

2. General Remedies

DEDA shall have the following remedies in the event of a default:

- a. Cease any payment due from DEDA and withhold the performance of any obligation owed by DEDA under this Agreement.
- b. Terminate this Agreement and seek and be entitled to ownership of Recommissioning and Leasehold Improvements.
- c. Seek and be entitled to monetary damage from the Developer for any damages incurred by DEDA as a result of Developer's default.
- d. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent violation of the terms and conditions of this Agreement or compel Developer's performance of its obligations hereunder.
- e. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to DEDA.

B. Non-Waiver

The waiver by DEDA of any default on the part of Developer or the failure of DEDA to declare default on the part of Developer of any of its obligations pursuant to this Agreement shall not be deemed to be a waiver of any subsequent event of default on the part of Developer of the same or of any other obligation of Developer hereunder. To be effective, any waiver of any default by Developer hereunder shall be in writing by DEDA.

C. Remedies Cumulative

Except as specifically set forth herein, the remedies provided under this Agreement shall be deemed to be cumulative and non-exclusive and the election of one remedy shall not be deemed to be the waiver of any other remedy with regard to any occasion of default hereunder.

ARTICLE XIII

Representations by DEDA

DEDA represents and warrants that as of the date hereof:

- A. It is a lawfully constituted municipal corporation under the laws of the State of Minnesota, it is not in material violation of any provisions of State law and that it has full power and authority to enter into this Agreement and perform its obligations hereunder.
- B. There are no actions, suits or proceedings pending, or to the knowledge of DEDA, threatened against DEDA or any property of DEDA in any court or before any Federal, State, municipal or governmental agency which, if decided adversely to DEDA, would have a material adverse effect upon DEDA or any business or property of DEDA and DEDA is not in default with respect to any order of any court or government agency.
- C. DEDA has investigated and has no knowledge that a DEDA commissioner or other member, official, or employee of DEDA is directly or indirectly financially interested in this Agreement or in any transactions concluded in connection with this Agreement.

- D. DEDA shall do such things as are necessary to cause any information, document, certificate, statement in writing, or report required under this Agreement or otherwise delivered to any third parties under this Agreement to be true, correct and complete in all material respects.

ARTICLE XIV

Developer's Representations and Warranties

Developer represents and warrants for itself only that as of the date hereof:

- A. That Developer is a lawfully constituted limited liability company under the laws of the State of Illinois, is not in material violation of any provisions of State law and that it has full power and authority to enter into this Agreement and to perform its obligations hereunder.
- B. That Developer is fully competent to lease the Facility and the Property from DEDA and to construct the Project as described herein under all laws, rulings, regulations and ordinances of any governmental authority having jurisdiction and that it agrees to comply with all applicable State or Federal acquisition and relocation laws, wages and hours laws, including Davis-Bacon and local versions thereof or similar laws at its own expense.
- C. That there are no actions, suits or proceedings pending or, to the knowledge of Developer, threatened against Developer or any property of Developer in any court or before any Federal, State or municipal or other governmental agency which, if decided adversely to Developer, would have a material adverse affect upon Developer or the Facility, Property and/or Project, and that Developer is not in default of any order of any court or governmental agency which, if decided adversely to Developer, would have a material adverse effect upon the Facility, the Property and/or the Project.
- D. That Developer is not in default of the payment of principal of or interest on any indebtedness for borrowed money or in default under any instrument or agreement pursuant to which the indebtedness has been incurred.
- E. That Developer shall do such things as are necessary to cause any information, document, certificate, statement in writing, or report required

under this Agreement delivered to any third party under this Agreement to be true, correct and complete in all material and respects.

- F. That without the assistance to be provided by DEDA hereunder, Developer would not have commenced construction of the Project on or before June 30, 2012.

ARTICLE XV

Notices

Any notice, demand or other communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid to:

In the case of DEDA: Duluth Economic Development Authority
Attn: Executive Director
402 City Hall
411 West First Street
Duluth, MN 55802

In the case of Developer: AAR Aircraft Services, Inc.
c/o AAR Corp.
Attn: General Council
1100 N. Wood
Dale Road
Wood Dale, IL
60191

ARTICLE XVII

Applicable Law

This Agreement together with all of its Articles, paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis County, Minnesota. However, litigation in the federal courts involving the parties shall be in the appropriate federal court within the State of Minnesota, and the parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

ARTICLE XVIII

Authorization to Execute Agreement

Developer represents to DEDA that the execution of this Agreement has been duly and fully authorized by its governing body or board, that the officers of Developer who executed this Agreement on its behalf are fully authorized to do so, and that this Agreement when thus executed by said officers on its behalf will constitute and be the binding obligation and agreement of Developer in accordance with the terms and conditions thereof.

ARTICLE XIX

Independent Contractor

It is agreed that nothing herein contained is intended or shall be construed in any manner as creating or establishing a relationship of co-partners between the parties hereto or of constituting Developer as an agent, representative or employee of DEDA for any purpose or in any manner whatsoever.

ARTICLE XX

No Third Party Rights

This Agreement is to be construed and understood solely as an agreement between the parties and shall not be deemed to create any rights in any other person or entity. No person or entity shall have the right to make claim that he, she or it is a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between the parties, may be waived at any time by mutual agreement between the parties.

ARTICLE XXI

Entire Agreement

It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. Any amendment to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.

ARTICLE XXII

Counterparts

This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument. This Agreement may be executed and delivered by a party by facsimile or PDF transmission, which transmission copy shall be considered an original and shall be binding and enforceable against such party.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first above shown.

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

AAR AIRCRAFT SERVICES, INC.

By _____
Its President

By _____
Its _____

By _____
Its Secretary

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of June, 2012, by _____ and _____, the President and Secretary, respectively, of the Duluth Economic Development Authority of Duluth, an economic development authority created and existing under Minnesota Statutes, on behalf of the Authority.

Notary Public

Exhibit A

Recomissioning	
1	Startup on plumbing, mechanical, electrical, motors, doors, etc.
2	Mechanical check all compressors, air handlers, change filters
3	Crane testing to check all cables, wiring harnesses, controls and load test
4	Roof and transition leaks. Identify, evaluate, replace
5	Operational test and repair of A-320 aircraft docking
6	Move docking into aircraft ready position
7	Generator - test full load bank
8	Replace all batteries in facility to include but not limited to generator, fire pumps and compressors
9	Fire pump inspection under full load. Results of testing, maintenance and repair of any non operating items
10	Pond for fire protection, clean in and around pond area
11	Outside lighting for ramp and parking areas make sure sufficient and on timers
12	Mechanical for server room
13	Fire extinguishers to be checked for charge, replace or add as necessary
14	Elevator inspection and annual maintenance
15	Floor pit doors in hangar (Manholes) to be cleaned and patched for water seepage
16	Walkways, emergency exit striping to be stripped and repainted as required by local safety requierments
17	Exit Emergency lights check to make sure all meet current requirements
18	Painting to include interior of all offices specified for AAR use, restrooms.
19	Ceiling tiles to be replaced as necessary. Worn, stained or damaged tiles to be replaced.
20	Carpet, tile, repaired/ cleaned/ replaced for all offices specified for AAR use, restrooms.
21	Concrete floors to be cleaned and buffed
22	Concrete joint to be cleaned out and re-caulked on hangar floor where needed
23	Painting exterior canopy structural and any other required areas
24	Painting handrails (exterior)
25	Aircraft defuling system to be decomissioned
26	Shop/hangar hot water heater check and put in service - replace if necessary
27	Construction cleaning
28	Lighting in hangar to have switches instead of using breaker panel
29	Replace all lighting in facility with T-8/T-5 technology fixtures
30	Parking lot fill cracks, seal lot, re-stripe as needed

Exhibit A

	Leashold Improvements
1	New UPS
2	Badge access door locks
3	Operating Security camera system
4	Certify existing cabling (Cat 5 ,6 and fiber)
5	New wireless access points
6	Install phone system
7	Re-key all doors
8	Gate at entrance and landscape at entry
9	Signage for building, front and large signage facing airport side
10	Test and activate vertical parts storage system

EXHIBIT B



Building Total: 189,000 Sq Ft
First Floor: 152,300 Sq Ft

Leased Property: 1,180,315 Sq Ft

The City of Duluth has tried to ensure that the information contained in this map/electronic document is accurate. The City of Duluth has no warranty or guarantee concerning the accuracy or reliability. The drawings are a representation of records, in some cases not located in various City County and State offices and other sources. The City of Duluth shall not be liable for errors or omissions with the data provided or for any damages in connection with the use of this information contained within.

Duluth Maintenance Facility



Photo Date: 2011
 Printed: 5/8/2012



Exhibit C

Financial Assistance / Grantors

All of the following forms of assistance have been proposed for this project:

1. Duluth Economic Development Authority (DEDA) Lease Subsidy, maximum - \$443,700
2. DEDA Conditional Grant for Substantial Rehabilitation of the Facility - \$350,000
3. State of Minnesota JOBZ tax abatement benefit, estimated - \$2,167,850
4. City of Duluth Tax Abatement, estimated - \$161,000
5. St. Louis County Tax abatement, estimated - \$320,000
6. State of Minnesota, Minnesota Investment Fund Forgivable Loan - \$500,000
((\$250,000 of the Forgivable Loan will be supported by short-term loan guarantees of \$50,000 each to be provided by DEDA, the Duluth Airport Authority, the Northland Foundation, Minnesota Power, and St. Louis County)
7. State of Minnesota, Minnesota Investment Fund Loan - \$500,000
8. Duluth 1200 Fund Loan - \$500,000
9. Arrowhead Regional Development Commission Loan - \$250,000
10. Northland Foundation Loan - \$450,000
11. Minnesota Community Capital Fund Loan - \$1,500,000
12. State of Minnesota, Minnesota Job Skills Partnership - \$400,000