

**MEMORANDUM OF UNDERSTANDING
PROJECT ECLIPSE**

This Memorandum of Understanding (the "MOU") is hereby entered into as of December 13, 2017 (the "Effective Date"), among the City of Wichita, Kansas (the "CITY"), a municipal corporation of the State of Kansas (the "STATE"), Sedgwick County, Kansas (the "COUNTY"), a political subdivision of the STATE, and Spirit AeroSystems, Inc. (the "COMPANY"), a Delaware corporation (each a "PARTY," and collectively, the "PARTIES"), regarding the construction and financing of a proposed new structure (the "FACILITY"), which has been heretofore described as "PROJECT ECLIPSE" (the "PROJECT").

WHEREAS, the COMPANY currently operates multiple aerospace and related manufacturing facilities and has its corporate offices located at 3801 South Oliver, which is within the boundaries of the COUNTY, but outside the corporate limits of the CITY (collectively, the "CAMPUS"); and

WHEREAS, the CITY, pursuant to the laws of the STATE, has previously issued its industrial revenue bonds ("IRBs") for the benefit of COMPANY in the aggregate principal amount of \$520.5 million US for the period 2005 to 2015, and in conjunction therewith granted ad valorem property and sales tax exemptions applicable under STATE law to the structures and equipment financed by such IRBs; and

WHEREAS, on April 18, 2016, the COMPANY requested that the CITY declare an intent to issue additional IRBs to assist the COMPANY in expanding facilities and equipment on its CAMPUS and represented that the COMPANY would, within a five-year period, make an additional capital investment of at least \$1,105,980,511 US, maintain the then current employment level of 10,800 full-time jobs and add an additional 349 jobs with an average wage of \$33,000 US; and

WHEREAS, in response to such request and representation, on May 3, 2016, the CITY adopted a resolution of intent and the CITY and COMPANY executed a letter of intent (the "LOI") to issue up to \$280 million US additional principal amount of IRBs for the benefit of the COMPANY to finance construction and equipping of additional structures located on the CAMPUS, and declared an intent to grant ad valorem property and sales tax exemptions pursuant to STATE law for such additional structures and equipment financed by such IRBs; and

WHEREAS, pursuant to the LOI, the CITY has issued \$100 million US of IRBs in the period 2016-2017; and

WHEREAS, the CITY and COMPANY have also entered into a Municipal Process Water Purchase and Sale Agreement, with an effective date of December 8, 2015 (the "WATER AGREEMENT"), whereby the CITY, at a capital cost of approximately \$3.5 million US, constructed a direct water line from its wastewater treatment plant to the CAMPUS to furnish non-potable water for use in COMPANY's manufacturing operations; and

WHEREAS, the WATER AGREEMENT provides that the COMPANY makes periodic payments to CITY based on a water-received component (the "USAGE COMPONENT") and a capital component (the "CAPITAL COMPONENT"); and

WHEREAS, the WATER AGREEMENT also provides that periodic 5-year adjustments may be made by the CITY in the USAGE COMPONENT, subject to the consent of the COMPANY; and

WHEREAS, the COMPANY has approached the CITY and COUNTY with respect to the PROJECT, which will represent a substantial investment by the COMPANY and will result in additional employment and payroll at the CAMPUS, and requested that the CITY and COUNTY consider a public-private partnership arrangement be entered into with respect to the constructing and financing of the FACILITY; and

WHEREAS, the FACILITY, has an estimated construction and equipping cost of approximately \$17 million US; and

WHEREAS, the PARTIES collectively agree that the PROJECT and the resultant additional employment and capital injection at the CAMPUS will promote, stimulate and develop the general economic welfare and prosperity of the CITY and COUNTY, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the STATE; and

WHEREAS, in consideration of such factors, the PARTIES hereby declare and intent to enter into this MOU to outline the anticipated duties and responsibilities of each PARTY with respect to the PROJECT and anticipate that the basic provisions of this MOU will be reflected in a definitive written Development Agreement among the PARTIES with respect to the PROJECT (the "DEVELOPMENT AGREEMENT"); and

WHEREAS, the PARTIES understand and agree that the terms of this nonbinding MOU are subject to negotiating, approval and execution of the binding DEVELOPMENT AGREEMENT and in the event that such DEVELOPMENT AGREEMENT is ultimately never executed by all PARTIES, this MOU will be null and void and that no PARTY shall be entitled to any damages or equitable relief from any other PARTY as a result of the failure to formalize and execute such DEVELOPMENT AGREEMENT; and

WHEREAS, the PARTIES will in Good Faith negotiate the terms and conditions of the DEVELOPMENT AGREEMENT. "Good Faith" as used herein means that a PARTY will act honestly in fact with respect to the matter at issue, but also that a PARTY may act solely in its own interests without regard to the interests of any other PARTY and that a PARTY has no obligation to agree to any term or condition preferred by any other PARTY.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, the PARTIES agree to outline their general understanding of the transaction described above and which will be the basis of negotiating the provisions of the DEVELOPMENT AGREEMENT, as follows:

- I.** In order to implement the PROJECT the following actions would be contemplated:
 - A.** The CITY, COUNTY and COMPANY would each take action to establish a new legal entity separate and apart from the CITY, COUNTY and COMPANY for development of the PROJECT (the "ENTITY") which will take such form as the PARTIES may approve.
 - B.** CITY, COUNTY and COMPANY would each have a financial participation in the PROJECT and construction of the FACILITY. The COUNTY participation of \$7 million US is anticipated to be available cash; the CITY participation would consist of cash in the amount of \$3 million US, forgiveness of \$3.5 million US in future COMPANY payments associated with the CAPITAL

COMPONENT and an agreement to make additional capital improvements relating to the WATER AGREEMENT in an approximate cost of \$1 million US.

- C. In order to capitalize the ENTITY, CITY will provide an equity injection in the amount of \$3 million US, COUNTY will provide a equity injection in the amount of \$7 million US and the COMPANY would provide an equity injection for the balance of the costs of construction of the FACILITY.
- D. The CITY and/or COUNTY equity injection could be raised, if necessary, by the issuance of general obligation bonds pursuant to each entity's home rule authority.
- E. CITY, COUNTY, COMPANY and ENTITY would enter into the DEVELOPMENT AGREEMENT that will provide, in addition to the foregoing financial participation, in substance the following and such other terms and conditions as may be agreed by the PARTIES:
 - 1. CITY will approve a resolution of intent and enter into a letter of intent (collectively, the "ROI") with ENTITY that will provide that the CITY will issue IRBs to finance the construction and equipping of the FACILITY, conditioned on the FACILITY being leased to COMPANY for COMPANY's operations.
 - 2. ROI will contain the standard CITY provisions substantially in the form contained in the LOI, unless otherwise modified to conform to the provisions hereof.
 - 3. IRBs will, pursuant to STATE law, provide for a sales tax exemption on materials and labor subject to sales tax necessary to construct and equip FACILITY and also provide for 100% ad valorem tax abatement for 5+5 years pursuant to the COUNTY/CITY Economic Development Policy (the "POLICY").
 - 4. IRBs will have a term of not less than 10 years and will be purchased by the ENTITY in exchange for evidence of payment of costs to construct and equip the FACILITY. IRBs will contain non-transfer provisions without consent of CITY/COUNTY. ENTITY will surrender the IRBs to Bond Trustee in satisfaction of debt service at end of maturity term with no cash payment required.
 - 5. COMPANY will transfer title to the underlying land on which the FACILITY will be constructed (the "TRACT") to ENTITY and grant an ingress/egress easement to ENTITY from such TRACT to the nearest public road access (the "EASEMENT"). ENTITY will enter into a Ground Lease of the TRACT to the CITY and lease back the TRACT and completed FACILITY from the CITY in conjunction with the issuance of the IRBs (the "FINANCING LEASE"). ENTITY will also assign rights in the EASEMENT to CITY in conjunction with the IRBs.
 - 6. Prior to issuance of the IRBs, ENTITY will lease the FACILITY to COMPANY for a term of not less than 20 years (the "PROJECT LEASE"). PROJECT LEASE will be an operating lease on a "triple-net-lease" basis to COMPANY with an annual base rent of \$1 US. COMPANY will also be responsible for all operating costs, utility expenses, repairs, maintenance and insurance for property, contents and other matters approved by the PARTIES, which will also include payment of any ad valorem property taxes imposed after IRB abatement expires.

7. GROUND LEASE and FINANCING LEASE will expire upon payment of the IRBs and will be subordinate to the PROJECT LEASE.
8. In exchange for benefits derived by the COMPANY contained in the DEVELOPMENT AGREEMENT, COMPANY will agree to: (a) maintain the current FTE (as defined below) employment level at its CAMPUS as of October 1, 2017 (10,940 FTE), (b) hire, within a two-year period, an additional 1,000 FTE employees at the CAMPUS with an average base wage level of \$56,000 US per annum, and (c) make a net-new capital investment at the CAMPUS of approximately \$435 million US in addition to the capital investment contained in the LOI.
9. A Full Time Equivalent ("FTE") employee is one that works 2,080 base hours per annum. If an employee works less than 2,080 base hours within a calendar year, a pro-rata portion FTE would apply. For example, an employee that commences work on July 1 of the calendar year and works at least 1,040 base hours in such calendar year would constitute $\frac{1}{2}$ FTE for such calendar year. Average base wage would be calculated on the same basis. For example, 3 FTE's with an annual base wage level of \$45,000 US, together with 2 FTE's with an annual base wage level of \$67,000 US would constitute 5 FTE's with an average wage level of \$56,000 US.
10. Job and salary performance will be measured on an average basis of FTE's for each calendar year, with each year's average then averaged with other appropriate years average over the respective measurement period. For example, assume Year 1 average employment is 800 FTE, Year 2 is 1,000 FTE, Year 3 is 950 FTE, Year 4 is 1100 FTE and Year 5 is 1150 FTE, the weighted average for the cumulative 5-Year period of measurement would be 1000 FTE.
11. The FINANCING LEASE (relative to IRB sales and property tax abatement) shall contain performance agreements (*i.e.* "claw-back" provisions) at 5-year intervals (*i.e.* 5 and 10 years from inception) marks based on capital injection and job levels. Each interval shall have its own performance evaluation and claw-back calculations. For example, if COMPANY achieves 100% performance for years 1-5 and 6-10, no claw-back is required; however, if job creation averaged over Years 1-5 is 900 jobs (90%), COMPANY would repay 10% of abated taxes from Years 1-5; if job creation averaged over Years 6-10 is 900 jobs (90%), COMPANY would repay 10% of abated taxes from Years 6-10; provided other performance requirements are met.
12. The FINANCING LEASE (relative to IRB sales and property tax abatement) shall also contain a provisions for an additional 5-year period after the expiration of the initial 10 years of the FINANCING LEASE that in the event that COMPANY moves its CAMPUS operations to another location outside the COUNTY boundaries or ceases operations at its CAMPUS, the COMPANY shall be subject to claw-back requirements for such additional 5-year period based on the amount of ad valorem tax abatements received during the initial 10-years of the FINANCING LEASE. The amount of such calculated claw-back shall be reduced by 20% for each full year the COMPANY continues operations at the CAMPUS after the expiration of such initial 10 years.
13. The PROJECT LEASE shall provide that at the expiration of 20 years, the COMPANY shall have an option to purchase the FACILITY for \$1 US and associated transfer costs; provided: (a) the IRBs are fully retired; (b) the FINANCING LEASE and GROUND LEASE have terminated; and (c) the COMPANY has achieved and maintained the

average job performance requirements set forth in the DEVELOPMENT AGREEMENT measured over the 20 year period. In the event, the COMPANY shall not have met such job performance level, the purchase option price shall be increased by a percentage of the deficiency times the original equity contribution by the CITY and COUNTY. For example, if the average of job performance over the 20-year measurement period is 900 versus the required 1,000, the deficiency is 10%. That deficiency percentage times the \$10 million US equity contribution would equal \$1 million US. Therefore, the purchase option price would be \$1 million US, plus associated transfer costs. In the event that COMPANY moves its CAMPUS operations to another location outside the COUNTY boundaries or ceases operations at its CAMPUS within such 20-year period , the COMPANY shall be obligated to purchase the FACILITY at a purchase price \$10 million US, plus associated transfer costs.

14. The WATER AGREEMENT shall be modified to provide that if the COMPANY has not achieved and maintained the performance requirements set forth in the DEVELOPMENT AGREEMENT for any of the measurement periods, the CITY will have the right to modify the USAGE COMPONENT after discussion with, but not requiring the consent of the COMPANY; provided any increase shall not be in excess of 20% of the then existing rate in effect at the end of such measurement period (for the measurement periods in the existing WATER AGREEMENT at 5 years and 10 years). For example, if the existing rate is \$0.50 US per measurement unit, the increase shall not be more than \$0.10 US, or a resulting rate of \$0.60 US.
15. With respect to determining performance standards of the COMPANY contained in the DEVELOPMENT AGREEMENT, for each period of measurement, the provisions of the POLICY relating to an economic decline evidenced by a significant decline in the WSU Current Economic Conditions Index contained in Section V(C) thereof shall be applicable. In addition, a separate index relating specifically to the aerospace and/or defense industry will be developed by WSU and be made applicable to consideration of claw-back provisions.

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IN WITNESS WHEREOF, the CITY, COUNTY and COMPANY have duly executed this Memorandum of Understanding in counterparts pursuant to all requisite authorizations as of the Effective Date.

CITY OF WICHITA, KANSAS

(SEAL)

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Jennifer Magaña, Director of Law and
City Attorney

IN WITNESS WHEREOF, the CITY, COUNTY and COMPANY have duly executed this Memorandum of Understanding in counterparts pursuant to all requisite authorizations as of the date first above written.

SEDGWICK COUNTY, KANSAS


(SEAL)

David M. Unruh, Chairman

ATTEST:

Kelly B. Arnold, County Clerk

APPROVED AS TO FORM:



Eric R. Yost, County Counselor

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SPIRIT AEROSYSTEMS, INC.

(SEAL)

Deborah Gann, Vice President

ATTEST:

Kelly Gaide, Assistant Secretary

APPROVED AS TO FORM:

Stuart Collier, Attorney – Legal Dept