Space Florida as political subdivision

Number: INFORMAL

Date: October 15, 2012

Mr. Frank A. DiBello
President, Space Florida
SPFL Building M6-306, Room 9030
State Road 405
Kennedy Space Center, Florida 32899

Dear Mr. DiBello:

As President of Space Florida and on behalf of the board of directors, you have asked that this office determine and affirm that Space Florida is an independent special district and a political subdivision of the State of Florida. This determination is necessary to Space Florida's effort to win a Federal Aviation Administration (FAA) Unmanned Aircraft System (UAS) Test Site designation to support UAS integration efforts into the National Air Space.

As part of that effort, Space Florida plans to submit requests for Certificates of Authorization to support both the test site and integrated operations as permitted by the FAA. You advise that currently the FAA requires affirmation that the submitting organization is a public entity as part of their approval process in accordance with 49 United States Code section 40102.[1] You have advised that the FAA requires the respective state's Attorney General to make a determination that an applicant is a part of the state government or political subdivision of the state when a state entity is involved.

Part II, Chapter 331, Florida Statutes, is titled the "Space Florida Act."[2] Space Florida is created in section 331.302, Florida Statutes:

"There is established, formed, and created Space Florida, which is created as an independent special district, a body politic and corporate, and a subdivision of the state, to foster the growth and development of a sustainable and world-leading aerospace industry in this state. Space Florida shall promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs. Space Florida has all the powers, rights, privileges, and authority as provided under the laws of this state."[3]

Space Florida, in carrying out its duties and responsibilities, is authorized to "advise, coordinate, cooperate, and, when necessary, enter into memoranda of agreement" with local, state and federal governments and agencies.[4] Space Florida is made subject to the applicable provisions of Chapter 189, Florida Statutes, the "Uniform Special District Accountability Act of 1989,"[5] which characterizes "special district[s]" as "local unit[s] of special purpose, as opposed to general-purpose, government[.]"[6]

Among the powers and duties of the board of directors of Space Florida is the power to execute

contracts, adopt proceedings, and perform all acts necessary to carry out the purposes of the act;[7] provide financial services to support aerospace-related business development within this state;[8] engage in the planning and implementation of space-related economic and educational development within this state;[9] provide strategic direction for the aerospace-related research priorities of the state and its aerospace-related businesses;[10] execute intergovernmental agreements and development agreements;[11] and to adopt administrative rules to carry out the purposes of the act.[12] Space Florida is also authorized to issue revenue bonds for purposes of carrying out its projects.[13]

Space Florida is specifically identified as an independent special district and granted sovereign immunity "in the same manner as the state" pursuant to section 331.328, Florida Statutes.[14] The general definitional section of the Florida Statutes provides a definition of the words "political subdivision:"

"The words 'public body,' 'body politic,' or 'political subdivision' include counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state."[15]

Thus, independent special districts such as Space Florida are generally to be considered political subdivisions.[16]

In sum, under Florida law, Space Florida is generally considered to be an independent special district and political subdivision of this state.

Sincerely,

Pam Bondi
Attorney General

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[1] *See* 49 U.S.C. s. 40102(a)(41)(C) and (D) defining a public aircraft to include, among others, aircraft owned and operated or exclusively leased for at least 90 days by a political subdivision of a state, except as provided in s. 49 U.S.C. s. 40125(b).

[2] Section 331.301, Fla. Stat., provides the short title for the act.

[3] Section 331.302(1), Fla. Stat.

[4] Section 331.302(2), Fla. Stat.

[5] Section 189.401, Fla. Stat., provides the title of the act.