

Peninsula Airport Commission Board of Commissioners Meeting Packet

Lindsey Carney Smith, Chair

John Borden, Director

Thursday, July 27, 2023

8:00 a.m.

Commission Room

900 Bland Blvd

Newport News, VA 23602

AGENDAS

Newport News Williamsburg Airport

PENINSULA AIRPORT COMMISSION

COMMITTEE MEETING AGENDA

FINANCE & AUDIT COMMITTEE

DATE: July 24, 2023

TIME: 4:00 p.m.

- 1) Call to Order

- 2) New Business

- 3) Old Business
 - a) June Financial Results

- 4) Adjourn

Newport News Williamsburg Airport

PENINSULA AIRPORT COMMISSION

COMMITTEE MEETING AGENDA

PLANNING & DEVELOPMENT COMMITTEE

DATE: July 24, 2023

TIME: 5:00 PM

- 1) Call to Order
- 2) New Business
 - A. Easements
 - B. Master Plan Update
- 3) Old Business
- 4) Adjourn

PENINSULA AIRPORT COMMISSION

MEETING AGENDA

Date: July 27, 2023

Time: 8:00 a.m.

Location: Commission Room

- 1) Call to Order
- 2) Approval of Minutes from June 2023
- 3) Read Instructions for Public Comment
- 4) Public Comment
- 5) Jared Alexander Awards
- 6) Committee Reports
 - a) Finance & Audit
 - b) Planning & Development
- 7) Executive Director Report
- 8) Old Business
 - a) Easements
- 9) New Business
- 10) Closed Session
 - Personnel 2.23711.(A)(1) Discussion of employees of any public body.
 - Prospective Business 2.2.3711.(A)(5) Discussion concerning a prospective business or industry or the expansion of air service.

Adjourn

MINUTES

Peninsula Airport Commission

Board of Commissioners Meeting Minutes

June 22, 2023, 8:00 a.m.

Commissioners in Attendance:

Chair, Lindsey Carney Smith
Vice Chair, Thomas "Tommy" Garner
Treasurer, James "Jay" Joseph
Secretary, Sharon Scott (arrived 8:07 a.m.)

Staff Members in Attendance:

Interim Executive Director, John Borden
Office Manager, Barbara Rumsey
Director of Finance, Mark Adams
Business Development Manager, Bill LaManque
Commission Clerk, Patricia Speno

Public Officials Present:

Assistant City Manager of Newport News, Ralph "Bo" Clayton

Counsel:

Counsel, L. Scott Seymour

Public Attendees:

Kiln Creek HOA representative, David Hause
PHF Hero's Lounge Volunteer Manager, Jacqueline Wade
GA Hangar tenant, Brian Hutchinson

Chair Carney Smith called the meeting to order at 8:00 a.m.

Minutes: Commissioner Joseph moved to accept the May 18, 2023, meeting minutes. Commissioner Garner seconded and the minutes were approved unanimously.

Public Comment: No public comment

Finance and Audit Committee Report: Commissioner Joseph met with Mr. Borden, Mr. Adams, and Ms. Rumsey. There was not a quorum but an informal discussion did occur. Expenses are under control. There was discussion on future revenue sources. Options are few, but we will pursue every opportunity we can.

Mr. Borden stated that having one extra American Airlines flight makes a big difference on revenue. We had five flights in April, four flights in May, and we are back to five flights for June and July and the fill rates are 75-95% which is excellent. Chair Smith asked how many seats are on the flight. Mr. Borden

answered there are 50 seats. Mr. Adams remarked that we can expect more income from rental car agencies due to the extra flight.

Commissioner Garner asked for an update on the status of the bank account that was going to be changed. Mr. Adams said it is on hold. The Primis Bank account needs to be settled first. Mr. Adams has asked Truist Bank to send over documents that need to be completed and they haven't sent them yet. Commissioner Garner asked to get it settled within the next seven days. Mr. Adams said he would contact Truist Bank again to expedite.

Planning and Development Committee Report: There will be a series of meetings regarding the Master Plan which will include public comment. The meetings will begin during the week of July 17.

Take PHFlight restaurant revenues are increasing and doing well. There are adjustments being made with regard to employees. Everything is on track for budget purposes.

With regard to land releases, PAC attorney Scott Seymour gave a briefing. We have received approval for Virginia Natural Gas easement to be put in a permanent easement. Hampton Roads Sanitation Division easement has been approved subject to including FAA required language. HRSD and VNG have not been communicating so had no idea they were both building easements on the same land. The organizations were informed and the engineers are now discussing the easements. The language for the HRSD easement needs to be finalized with their counsel. With regard to VNG, we have to make sure we have the correct easement that was approved by the FAA. Both should be resolved before the next PAC Board of Commissioners meeting.

Chair Smith asked about funding. Mr. Seymour said PHF will receive \$195,000 for the HRSD easement. Mr. Borden said the Habersham parcel was approved and we will be receiving funds for that as well. It was noted that VNG has not recorded their temporary construction easement yet. They have recorded batches. Chair Smith asked Mr. Borden to remain on top of these projects and their funding. Mr. Seymour stated we have received a \$1,000 reimbursement for the recent Right of First Refusal that was discussed at the May Board of Commissioners meeting.

Commissioner Joseph asked if the PAC gets reimbursed for legal fees associated with land releases. Mr. Seymour says it needs to be negotiated. Commissioner Joseph said it should always be negotiated for deals that are not mutually beneficial – where the purchaser reaps the benefit and the PAC does not see continuing generated revenue from the deal. Chair Smith said it should always be included on all future negotiations. Commissioner Joseph asked for a policy to be written and staff trained and familiarized with the policy moving forward.

Air service was also discussed during the Planning and Development Committee meeting and it will be further discussed during closed session.

Commissioner Joseph raised the topic of the airport land at Jefferson and Kiln Creek. We have brought two projects forth to the city of Newport News and both have been denied. He suggests we approach the city and request they find something they will approve to occupy that parcel. Chair Smith said the EDA has done a good job proactively reaching out about what they can do to assist with all of the land, not just specific parcels. She stated they need to be part of the discussion.

Commissioner Joseph requests that staff have a plan on development of a marketing strategy for the next Board of Commissioners meeting in July. We should not wait 18 months for the Master Plan to be presented.

Chair Smith said with regard to the Go Virginia grant, it was approved at the regional and state levels and now needs to be approved by the administration. Consultants have been asked to respond to an RFQ (Request for Quote). Commissioner Joseph asked who has the final authority and the answer was VHCD.

Discussion continued about land parcels, communication with agencies, and the Master Plan and how to coordinate efforts to be of the most benefit to the airport.

Executive Director Report: On June 15, we were notified that PHF received an AIP grant for work on Taxiway Delta.

Virginia Aviation Board meeting held in Staunton was held earlier this month. The first day of the conference was about economic development around airports. The second day focused on the PFAS fire retardant, which is going to be eliminated and replaced with an alternative fire retardant. There is no plan yet on how to make the transition, which will be very costly.

Commissioner Scott asked if during the discussion of economic development, there were any suggestions on the types of projects airports should investigate. Mr. Borden responded that the main suggestions were drones, air commerce, cargo, hangars, aeronautic development, vertiplanes. No vendors were there to present to the attendees. Mr. Borden said some funding rules are being changed to enable airports to be able to develop projects. Mr. Borden further stated that EURP money for PHF will remain unchanged at \$2 million.

The Virginia Department of Aviation approved our bond pay-off. Paying off the bond will help the debt to income ratio for PHF. Mr. Adams said the pay-off was paid.

Also approved was funding for the Delta Taxiway project and another lawn mower.

Old Business: The Virginia Natural Gas easement approval letter from the FAA was reviewed. Per Mr. Seymour, confirmation that the correct version was received. It has been approved in concept. There are no concerns.

New Business: Mr. Borden reminded the commissioners that they received the 2022 Annual Report and asked if there was any feedback. No feedback was given.

Chair Smith asked when registration for the 5k is open. Mr. Borden said it is open and we have already begun to receive sponsorships as well. The date of the 5k on the Runway is September 16, 2023.

Chair Smith opened the floor for nomination of officers for FY 2024. Commissioner Scott nominated Commissioner Tommy Garner for Chair. Commissioner Garner declined the nomination. Commissioner Joseph recommended continuing the board with the officers as now installed. Commissioner Garner seconded Commissioner Joseph's motion. Chair Smith called for a roll call vote. Chair Smith – For, Commissioner Scott – For, Commissioner Garner – For, Commissioner Joseph – For. The motion passed unanimously.

The approval for the rate increase for TSA SAM was removed from the agenda.

Chair Smith asked if there was any discussion needed for Resolution 23-007 Grant Agreement for AIP Funding. Commissioner Scott moved to accept the resolution as presented. Commissioner Garner gave the second. Chair Smith called for a roll call vote. Chair Smith – For, Commissioner Scott – For, Commissioner Garner – For, Commissioner Joseph – For. The motion passed unanimously.

Closed Session: Counsel Scott Seymour read the Virginia code to enter in to closed session: 2.2-3711.A.(5): Prospective business discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made.

Commissioner Scott asked to amend the closed session to include discussion of personnel. Virginia code 2.2-3711.A.(1). Mr. Seymour read the verbiage for section 2.2-3711.A.(1): Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees, or employees of any public body.

A motion was made by Commissioner Scott and seconded by Commissioner Garner. A roll call vote was taken. Chair Smith – For, Commissioner Scott – For, Commissioner Garner – For, Commissioner Joseph – For. The motion passed unanimously.

Closed session began at 8:35 a.m.

Attorney Seymour read the following: “To conclude the closed session meeting and return to the open meeting and that prior to a roll call vote, the Commissioners of the Peninsula Airport Commission shall certify that to the best of their knowledge (i) only such public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened, were heard, discussed or considered in the meeting by the members of the Commission.

Any member of the Commission who believes that there was a departure from the requirements just stated must so state prior to the roll call vote and indicate the substance of the departure that, in such Commissioner’s judgment has taken place.

If there are no such statements of departure, if we could please have a motion and second to end and certify the closed session and return to open meeting.”

A motion was made by Commissioner Scott and seconded by Chair Smith. A roll call vote was taken. A roll call vote was taken. Chair Smith – Yes, Commissioner Joseph – Yes, Commissioner Scott – Yes. The motion passed unanimously. The meeting resumed in open session at 9:25 a.m.

Chair Smith asked if there was any other business to come before the commission. Commissioner Scott thanked Mr. Borden and the PHF team for working so hard to keep PHF afloat.

There being no further business to come before the commission, the meeting adjourned at 9:26 a.m.

FINANCIALS

Peninsula Airport Commission

Operating Income Statement results analysis

June 2023

Revenue from operations for the year came in \$400K less than budget. The main factor in the missed projection was the actual number of passengers. The budget was prepared based on an expectation of 90K passengers. The actual performance for the year came in at 76K. The realized revenue per passenger came in at \$52 each, slightly better than the estimate of \$50.

Expenses for the year were above budget estimates. The categories exceeding budget are as follows:

Category	Unbudgeted expense	Amount
Office	Prior year dues (ACI and US Customs)	36,000
Office	Camera system repairs	24,000
Office	Worker's Compensation insurance audit	37,000
Repairs	Terminal upgrades related to new air service	265,000
Repairs	FAA inspections	417,000
Repairs	Safety Department upgrades	100,000
Utilities	Usage and inflation adjustment	100,000

Virginia Department of Aviation annual Airport support funds were used to cover approximately half of these unbudgeted expenses. Mainly in the area of FAA inspection required repairs.

Labor costs came in relatively close to the budget estimates. There were temporary headcount additions related to efforts to bring in new commercial air service. These unbudgeted expenses were offset by efficiency gains in other administrative and ground maintenance staff.

A projection of unrestricted cash usage for the year ending June 30, 2024 has been included with the monthly operating statement. The projection is based on the approved operating budget for June 2024 year. Capital acquisition expenditures anticipated for the year ending June 30, 2024 are confined to those which will be fully reimbursed through Federal or State support funding.

PENINSULA AIRPORT COMMISSION
JUNE 2023
OPERATING INCOME STATEMENT

DESCRIPTION	JUN 2023 ACTUAL	JUN 2023 BUDGET		YTD ACTUAL	YTD BUDGET		ANNUAL BUDGET		PRIOR YR ACTUAL	
REVENUE										
Airline Fees	29,181	57,676	50.6%	456,075	672,022	67.9%	672,032	67.9%	619,644	73.6%
Fixed Based Operators	52,999	50,202	105.6%	554,806	593,315	93.5%	593,311	93.5%	533,896	103.9%
Property Rental	97,150	94,142	103.2%	1,164,487	1,149,789	101.3%	1,149,785	101.3%	1,563,252	74.5%
Rental Cars	159,832	172,354	92.7%	1,928,402	1,937,987	99.5%	1,937,986	99.5%	1,948,834	99.0%
Parking Lot	50,142	71,398	70.2%	754,483	853,506	88.4%	853,512	88.4%	815,823	92.5%
Restaurant Income	26,648	36,584	72.8%	362,442	411,056	88.2%	411,056	88.2%	341,169	106.2%
TOTAL REVENUE	415,952	482,356	86.2%	5,220,695	5,617,675	92.9%	5,617,682	92.9%	5,822,618	89.7%
EXPENSES										
Labor and Benefits	324,956	358,671	90.6%	4,319,086	4,304,052	100.3%	4,304,073	100.3%	4,252,201	101.6%
Marketing & Advertising	24,390	63,177	38.6%	525,370	723,904	72.6%	793,911	66.2%	647,857	81.1%
Office & Administration	42,950	37,959	113.1%	877,167	786,670	111.5%	786,674	111.5%	758,936	115.6%
Utilities	51,453	47,187	109.0%	798,520	677,488	117.9%	677,486	117.9%	646,068	123.6%
Repairs & Maintenance	118,741	48,977	242.4%	1,398,909	588,642	237.7%	588,618	237.7%	751,540	186.1%
Restaurant Expense	35,593	32,602	109.2%	481,863	367,134	131.2%	367,136	131.2%	361,674	133.2%
Bond Debt	20,534	15,838	129.7%	227,072	190,056	119.5%	190,052	119.5%	246,068	92.3%
TOTAL OPERATING EXPENDITURES	618,617	604,411	102.4%	8,627,987	7,637,946	113.0%	7,707,950	111.9%	7,664,344	22.1%
NET INCOME	(202,665)	(122,055)	166.0%	(3,407,292)	(2,020,271)	168.7%	(2,090,268)	163.0%	(1,841,726)	22.1%
OTHER ITEMS										
Trailer Park	(94)	-		(637,795)	500,000	-127.6%	(500,000)	127.6%	(361,014)	
Expense Subsidy	-	-		689,688	689,689	100.0%	689,688	100.0%	4,300,988	
Sale of Land/Fixed Assets	26,390	-		4,260,310	-		-		302,520	
NET AFTER OTHER	(176,369)	(122,055)		904,911	(830,582)		(1,900,580)		2,400,768	

BALANCE SHEET

	<u>Total</u>
Cash - Unrestricted	3,489,286
Cash - Restricted	12,983,034
Other Current Assets	294,741
Fixed Assets (Net of Depreciation)	78,967,888
TOTAL ASSETS	95,734,949
Current Liabilities	696,388
Long Term Notes Payable - Restricted	-
Long Term Notes Payable - Unrestricted	4,774,133
OPEB	6,441,300
TOTAL LIABILITIES	11,911,821
Net Capital Beginning	58,031,741
Capital Contributions	24,886,476
YTD Earnings Current Year	904,911
TOTAL LIABILITIES AND CAPITAL	95,734,949

**PENINSULA AIRPORT COMMISSION
JUNE 2023
PROJECTION OF CASH**

	YTD 06/23	Total cost	Reimbursement	Budget 06/24
Unrestricted cash beginning	2,775,071			3,489,286
Operating (loss) YTD	(3,407,291)			
Restricted cash expense reimbursement	519,193			-
All other operations FY 06/24		(1,381,084)		(1,381,084)
Expenses reimbursed by Virginia DOA		(397,000)	309,600	(87,400)
Debt principal payments	(1,130,758)	(661,202)		(661,202)
Restricted cash debt reimbursement	659,981			
Other income/(Expense)	4,312,203			-
Capital expenditures	(2,347,498)			-
Restricted cash capital reimbursement	1,908,542			-
Taxiway and Runway		-	-	-
South Corporate		(685,000)	685,000	-
General Aviation		-	-	-
Terminal improvements		(400,000)	400,000	-
Airport land		(11,000)	11,000	-
Airport Equipment		-	-	-
Other Assets/Liability changes	199,843			-
Unrestricted cash received (used)	714,215	(3,535,286)	1,405,600	(2,129,686)
Unrestricted cash ending	3,489,286			1,359,600
Restricted cash beginning	13,468,205			12,983,034
Restricted cash received	2,602,545			
Va Dept of Aviation				2,056,000
FAA Passenger Facility Charges				350,000
Restricted cash expense reimbursement	(1,179,174)			
DOAV Expenses reimbursement				(309,600)
DOAV and FAA Capital reimbursement				(1,096,000)
Restricted cash capital reimbursement	(1,908,542)			-
Restricted cash ending	12,983,034			13,983,434

AIR SERVICE REPORT

Monthly Air Service Report Summary June 2023

- Load factors:
 - 86.01% for American
 - 55.70% Charters
 - 70.85% Overall
- 3620 Flight Ops (landings & take offs)

<u>FY23 Actual PAX</u> <u>(7/1/22 – 6/30/23)</u>		<u>FY23 Budgeted PAX</u> <u>7/1/22 – 6/30/23</u>		<u>FY22 Actual PAX</u> <u>(7/1/21 – 6/30/22)</u>		<u>FY21 Actual PAX</u> <u>(7/1/20 – 6/30/21)</u>	
Jul:	15,044	Jul:	15,830	Jul:	21,586	Jul:	12,409
Aug:	14,280	Aug:	15,208	Aug:	18,582	Aug:	9,589
Sep:	12,372	Sep:	16,055	Sep:	16,210	Sep:	8,384
Oct:	13,649	Oct:	18,812	Oct:	19,044	Oct:	11,463
Nov:	14,626	Nov:	18,921	Nov:	16,375	Nov:	10,113
Dec:	14,860	Dec:	19,552	Dec:	15,846	Dec:	10,201
Jan:	9,029	Jan:	19,552	Jan:	10,538	Jan:	6,929
Feb:	10,879	Feb:	17,660	Feb:	11,864	Feb:	6,775
Mar:	13,322	Mar:	18,812	Mar:	16,810	Mar:	9,116
Apr:	11,596	Apr:	22,902	Apr:	15,896	Apr:	12,840
May:	8,480	May:	22,817	May:	12,719	May:	11,744
Jun:	12,623	Jun:	22,902	Jun:	13,702	Jun:	20,408
Total: 150,760 PAX		Total: 229,024 PAX		Total: 166,770 PAX		Total: 129,971 PAX	

RESOLUTION(S)

PENINSULA AIRPORT COMMISSION

RESOLUTION 23 - 008 AUTHORIZING EASEMENT FOR GAS REGULATOR STATION WITH VIRGINIA NATURAL GAS, INC.

WHEREAS, the Peninsula Airport Commission (the “Commission”) is a political subdivision of the Commonwealth of Virginia, created pursuant to Chapter 22 of the Acts of the General Assembly of the Commonwealth of Virginia of 1946, as amended (the “Enabling Act”), and owns and operates Newport News – Williamsburg International Airport (the “Airport”);

WHEREAS, Virginia Natural Gas, Inc., a Virginia public service corporation (“VNG”), has requested a utility easement for the construction, installation and maintenance of a gas regulator station or stations, including without limitation, regulators, heaters, pipeline gate valves with any bypasses, crossovers, scraper traps, gas main or mains and other appurtenances and equipment used in connection therewith or incidental thereto on certain Airport property designated as a 50’ x 30’ Permanent VNG Regulator Site Easement, 20’ Permanent VNG Utility Easement, and 25’ VNG Ingress/Egress Easement, as depicted on the attached Exhibit A (the “Easement”);

WHEREAS, there has been presented to the Commissioners of the Peninsula Airport Commission, the form of Easement for Gas Regulator Station (the “Deed of Easement”) between the Commission and VNG, and such Deed of Easement has been [reviewed by the Planning and Development Committee and] presented at this meeting; and

WHEREAS, the Commissioners of the Peninsula Airport Commission, after mature deliberation [and upon the recommendation of the Planning and Development Committee], desire to approve the execution and delivery on behalf of the Commission of the Deed of Easement.

NOW, THEREFORE, BE IT RESOLVED THE BOARD OF COMMISSIONERS OF THE PENINSULA AIRPORT COMMISSION THAT:

1. The Deed of Easement providing for a permanent utility easement along the approximate locations set forth on the attached Exhibit A, is approved, and each of the Chair and the Vice-Chair, either of whom may act, is authorized and directed to execute and deliver the Deed of Easement and to cause the Commission to perform its obligations thereunder, consistent with the provisions of this Resolution.

2. This Resolution shall take effect immediately upon adoption.

EXHIBIT A

AREA TABLE								
PARCEL ID	TOTAL PARCEL AREA		50'x30' PERMANENT VNG REGULATOR SITE EASEMENT		20' PERMANENT VNG UTILITY EASEMENT		25' PERMANENT INGRESS/EGRESS EASEMENT	
	SQ. FT.	ACRES	SQ. FT.	ACRES	SQ. FT.	ACRES	SQ. FT.	ACRES
112000101	35,920,796 ±	825	1,623	0.037	1,872	0.043	2,351	0.054

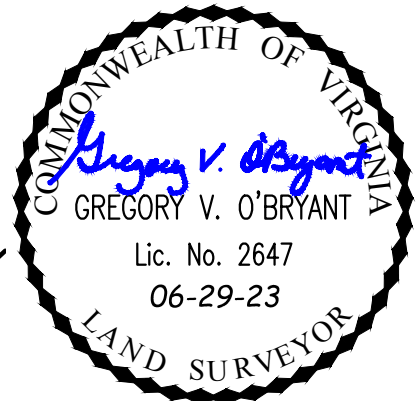
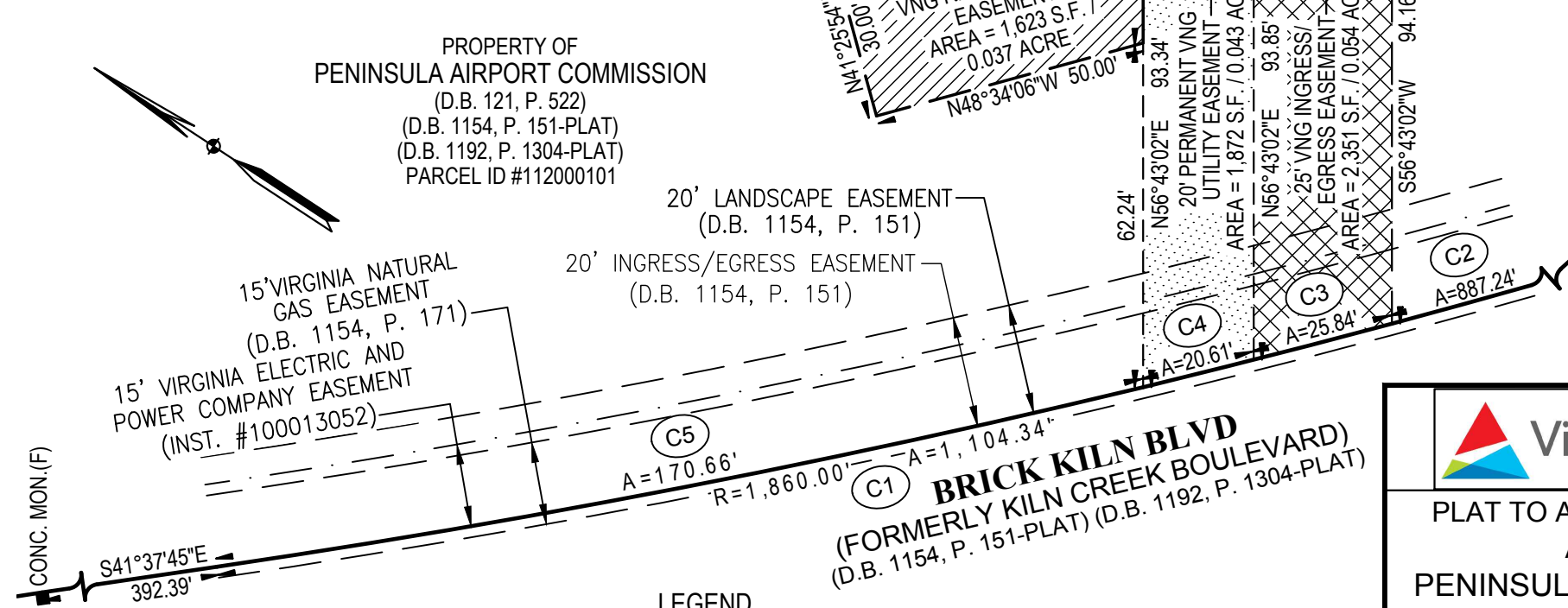
CURVE TABLE						
CURVE	RADIUS	ARC LENGTH	DELTA	TANGENT	CHORD	CHORD BEARING
C1	1,860.00'	1,104.34'	34°01'06"	568.98'	1,088.19'	N58°38'18"W
C2	1,860.00'	887.24'	27°19'50"	452.23'	878.85'	N61°58'56"W
C3	1,860.00'	25.84'	00°47'45"	12.92'	25.84'	N47°55'08"W
C4	1,860.00'	20.61'	00°38'05"	10.30'	20.61'	N47°12'13"W
C5	1,860.00'	170.66'	05°15'25"	85.39'	170.60'	N44°15'28"W

EXHIBIT "A"

SURVEY NOTES:

- MERIDIAN SOURCE IS BASED ON VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE NAD 83. CITY OF NEWPORT NEWS GEODETIC CONTROL STATIONS "832" AND "833" WERE UTILIZED FOR THIS SURVEY.
- THIS PLAT DOES NOT CONSTITUTE A BOUNDARY SURVEY.
- THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, AND THEREFORE MAY NOT SHOW ALL EASEMENTS THAT AFFECT THE PROPERTY.

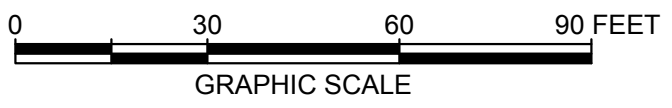
VNG - VIRGINIA NATURAL GAS



SHEET 1 OF 1

LEGEND

- 50'x30' PERMANENT VNG REGULATOR SITE EASEMENT
- 20' PERMANENT VNG UTILITY EASEMENT
- 25' VNG INGRESS/EGRESS EASEMENT



OWNER	DATE	REVISED EASEMENT LOCATION
	06/29/23	
	2	1

Virginia Natural Gas

PLAT TO ACCOMPANY RIGHT-OF-WAY AGREEMENT WITH PENINSULA AIRPORT COMMISSION

900 BLAND BOULEVARD
NEWPORT NEWS, VIRGINIA

SURVEYED BY ROUSE-SIRINE ASSOCIATES, LTD.

SCALE 1"=30'	DATE SEPTEMBER 9, 2021	NO. 001
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This instrument was prepared by
and upon recording return to:
Phoenix Consulting Services, Inc
250 Ryan Lane
ATTN: Donna Coody

PARCEL ID# 112000101

EASEMENT FOR GAS REGULATOR STATION

CITY/COUNTY OF NEWPORT NEWS

COMMONWEALTH OF VIRGINIA

THIS EASEMENT is made and executed this ____ day of _____, 2023 by and between **PENINSULA AIRPORT COMMISSION**, a political subdivision of the Commonwealth of Virginia (“**Grantor**”) and Virginia Natural Gas, Inc., a Virginia public service corporation (“**Grantee**”).

FOR THE SUM OF TEN DOLLARS (\$10.00), and other valuable considerations, the of which is hereby acknowledged, Grantor hereby grants and conveys unto Grantee the right to construct, install, maintain, inspect, operate, repair, replace, change or remove a gas regulator station or stations, including, without limitation, regulators, heaters, pipe line gate valve or valves with any bypasses, crossovers, scraper traps, gas main or mains and other appurtenances and equipment used in connection therewith or incidental hereto, or any part thereof, in and through the following described property of Grantor, which Grantor warrants to be the owner of the fee simple title:

Land lying in GPIN(S) 112000101, City/County of Newport News, Virginia, being described in Warranty Deed recorded in Deed Book/Instrument 0001050039, in the public records of the Office of the Circuit Court Clerk of Newport News, Virginia (“**Property**”).

TOGETHER WITH free right of ingress and egress on the Property to and from said gas main or mains, gas regulator station or stations and appurtenances, in the approximate location as shown on Exhibit "A", attached hereto and made a part hereof.

Grantee shall at all times have full rights of ingress and egress to and from said Property for the full use and enjoyment by said Grantee of the rights herein granted.

TO HAVE AND TO HOLD SAID rights perpetually unto Grantee, its successors or assigns. The rights herein granted may be assigned in whole or in part.

The terms, conditions and provisions of this Indenture shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey these rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

IN WITNESS WHEREOF, the Grantor causes these presents to be executed by its proper officers, thereunto duly authorized and its seal affixed, this the day and year first above written.

GRANTOR: PENINSULA AIRPORT COMMISSION

By: _____

Print Name: _____

Title: _____

**City/County of
Commonwealth of Virginia**

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____ the _____ of the Peninsula Airport Commission, on behalf of said Commission, the Grantor of foregoing instrument.

Notary Public:

Signature

Print Name

My Commission Expires: _____

[Notary Seal]

PENINSULA AIRPORT COMMISSION

RESOLUTION 23 - 009 AUTHORIZING A TEMPORARY ACCESS AGREEMENT WITH HAMPTON ROADS SANITATION DISTRICT

WHEREAS, the Peninsula Airport Commission (the “Commission”) is a political subdivision of the Commonwealth of Virginia, created pursuant to Chapter 22 of the Acts of the General Assembly of the Commonwealth of Virginia of 1946, as amended (the “Enabling Act”), and owns and operates Newport News – Williamsburg International Airport (the “Airport”);

WHEREAS, the Hampton Roads Sanitation District (“HRSD”), a political subdivision of the Commonwealth of Virginia, has requested a utility easement for the construction, installation and maintenance of an underground wastewater and/or water reuse force main and/or gravity main, below ground equipment, accessories and appurtenances thereto on certain Airport property designated as a 30’ Sanitary Sewer Easement being 93,113 S.F. or 2.13758 acres, as depicted on the attached Exhibit A (the “Easement”);

WHEREAS, there has been presented to the Commissioners of the Peninsula Airport Commission, the form of a proposed easement agreement (the “Easement Agreement”) and the form of deed of easement (the “Deed of Easement”) between the Commission and HRSD, and such Easement Agreement and Deed of Easement have been presented at this meeting;

WHEREAS, pending the closing of the transactions contemplated, in the Easement Agreement, HRSD has requested temporary, non-exclusive, access to the Airport property designated in the Easement for purposes of construction activities and has proposed in connection therewith a form of temporary access agreement (the “Temporary Access Agreement”) between the Commission and HRSD, which Temporary Access Agreement has been [reviewed by the Planning and Development Committee and] presented at this meeting; and

WHEREAS, the Commissioners of the Peninsula Airport Commission, after mature deliberation [and upon the recommendation of the Planning and Development Committee], desire to approve the Temporary Access Agreement and its execution and delivery on behalf of the Commission.

NOW, THEREFORE, BE IT RESOLVED THE BOARD OF COMMISSIONERS OF THE PENINSULA AIRPORT COMMISSION THAT:

1. The Temporary Access Agreement, providing for a temporary, non-exclusive, license for access and construction activities along the approximate locations set forth on the attached Exhibit A is approved, and each of the Chair and the Vice-Chair, either of whom may act, is authorized and directed to execute and deliver the Temporary Access Agreement and to cause the Commission to perform its obligations thereunder consistent with the provisions of this Resolution.

2. This Resolution shall take effect immediately upon adoption.

Exhibit A

TEMPORARY ACCESS AGREEMENT

THIS TEMPORARY ACCESS AGREEMENT, made this ___ day of _____, 2023, by and between **PENINSULA AIRPORT COMMISSION, NEWPORT NEWS/WILLIAMSBURG AIRPORT**, a political subdivision of the Commonwealth of Virginia, whose mailing address is 900 Bland Avenue, Newport News, Virginia 23602 (“Landowner”), and **HAMPTON ROADS SANITATION DISTRICT (“HRSD”)**, a political subdivision of the Commonwealth of Virginia, located at 1434 Air Rail Avenue, Virginia Beach, Virginia 23455 (the “Grantee”), and Collectively, Landowner and HRSD shall be referred to as the “Parties.”

WITNESSETH:

WHEREAS, Landowner is the fee simple owner of property known as Tax Map# 112.00-01-01, City of Newport News, VA, which is located at 900 Bland Boulevard, Newport News, Virginia 23602, generally known as the NEWPORT NEWS/WILLIAMSBURG AIRPORT (the “Property”); and

WHEREAS, Landowner and HRSD would like confirm the that HRSD and its agents, employees, and contractors have temporary access to portions of the Property as shown on Exhibits A (attached) for construction activities to include access, laydown, trailers, and parking, and ingress/egress, in connection with construction activities associated with the HRSD Project entitled “JEFFERSON AVE IFM REPLACEMENT PHASE III” (the “Project”);

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

1. **Consent.** Landowner consents and agrees that HRSD and its agents, employees, and independent contractors (collectively, the “Authorized Parties”), may enter upon the Property as designated on Exhibit A (attached) for the purposes of construction activities to include access, laydown, parking, trailers, and ingress/egress (the “Permitted Activities”). This Agreement is intended and shall be construed only as a temporary, non-exclusive license to access the Property for purposes of the Project and not as a grant of an easement or any other real property interest.

2. **Access; manner, and scheduling.** The Authorized Parties may enter upon the Property as designated on the Exhibit for purposes of performing the Permitted Activities. All the work on the Project shall be performed generally within the designated areas. HRSD hereby agrees that all such activities will be performed in a manner causing as little inconvenience and disruption to Landowner, and Landowner’s invitees, licensees, and occupants as is reasonably possible. HRSD and the Authorized Parties shall use all due diligence in performing the Permitted Activities.

It is understood that HRSD agrees and will adhere to the below language provided by Federal Aviation Administration and Peninsula Airport Commission:

(1) A prohibition against the erection of structures or growth of natural objects that would constitute an obstruction to air navigation.

(2) A prohibition against any activity on the land of Landowner that would interfere with or be a hazard to the flight of aircraft over the land or to and from the airport or interfere with air navigation and communication facilities serving the airport.

To the extent applicable to HRSD actions,, HRSD and its successors, assigns, agents, employees, designees and contractors shall comply with the requirements set forth in that letter, dated April 5, 2022 from the Virginia Department of Environmental Quality to Mr. Michael Giardino, Executive Director, Newport News/Williamsburg International Airport, a copy of which letter is attached hereto as Exhibit B.

The Authorized Parties are expressly prohibited from (i) engaging in any activity on the Property that would interfere with or be a hazard to the flight of aircraft over the land of Landowner or to and from the Newport News/Williamsburg International Airport or interfere with air navigation and communication facilities serving the Newport News/Williamsburg International Airport, or (ii) the erection of structures or growth of natural objects that would constitute an obstruction to air navigation.

3. **Insurance.** HRSD shall provide Landowner with proof of coverage of Commercial General Liability insurance in the amount of at least \$1,000,000 per occurrence and at least \$2,000,000 in the aggregate. HRSD will cause each of its contractors to carry at least the same insurance coverages and require that their subcontractors do so as well. HRSD shall provide Landowner with an endorsement designating Landowner as an additional insured on said policy, and HRSD is to have its contractors add Landowner as an additional insured to their coverages and provide certificates showing Landowner as additional insured upon request.

4. **Term.** This Agreement will commence on or about July 1, 2023 and shall terminate when the Permitted Activities are completed or no longer necessary as determined by the Parties, whichever occurs first. If Landowner desires to terminate this Agreement prior to completion of the Permitted Activities, it shall notify HRSD of the same and HRSD and Landowner representatives shall meet to discuss the status of the Project and the Permitted Activities, and a timeframe for demobilization of the Authorized Parties, no later than 14 days from the date of Landowner's request. Notwithstanding anything else in this Agreement to the contrary, HRSD acknowledges and agrees that the Landowner may terminate this Agreement at any time, for any or no reason, by providing sixty (60) days' written notice of termination to HRSD.

5. **Restoration of Property.** HRSD agrees that it will promptly repair any damage to the Property caused by or in connection with any of the Permitted Activities. All such measures shall be at the sole expense of HRSD. If repairs are not made in a timely manner after receipt of written notification from Landowner, Landowner may complete the repairs at the expense of HRSD. No personal property shall be stored or otherwise left unattended on the Property by the Authorized Parties.

6. **Notices.** Notices hereunder shall be addressed to the following:

To Landowner: _____

To HRSD: _____
HRSD Project Manager
2389 G Avenue
Newport News, VA 23606

Copy to: Ayanna Williams, HRSD Real Estate Manager
2389 G Avenue
Newport News, VA 23606

7. **Governing law.** The parties agree that this Agreement shall be governed by the laws of the Commonwealth of Virginia, and that any actions to enforce the terms of this Agreement shall be brought and maintained in the Circuit Court for the City of Newport News.

WITNESS the following signatures and seals:

LANDOWNER:

PENINSULA AIRPORT COMMISSION
NEWPORT NEWS/WILLIAMSBURG AIRPORT

By: _____ (SEAL)
Name: Lindsey C. Smith, Chair, Peninsula Airport Commission

HRSD:

HAMPTON ROADS SANITATION DISTRICT

By: _____ (SEAL)
Name: Ayanna R. Williams, Real Estate Manager

EXHIBIT A
PLAT

EXHIBIT B

April 5, 2022 from the Virginia Department of Environmental Quality to Mr. Michael Giardino,
Executive Director, Newport News/Williamsburg International Airport

PENINSULA AIRPORT COMMISSION

RESOLUTION 23 - 010 AUTHORIZING A 30' SANITARY SEWER EASEMENT WITH HAMPTON ROADS SANITATION DISTRICT

WHEREAS, the Peninsula Airport Commission (the “Commission”) is a political subdivision of the Commonwealth of Virginia, created pursuant to Chapter 22 of the Acts of the General Assembly of the Commonwealth of Virginia of 1946, as amended (the “Enabling Act”), and owns and operates Newport News – Williamsburg International Airport (the “Airport”);

WHEREAS, the Hampton Roads Sanitation District (“HRSD”), a political subdivision of the Commonwealth of Virginia, has requested a utility easement for the construction, installation and maintenance of an underground wastewater and/or water reuse force main and/or gravity main, below ground equipment, accessories and appurtenances thereto on certain Airport property designated as a 30’ Sanitary Sewer Easement being 93,113 S.F. or 2.13758 acres, as depicted on the attached Exhibit A (the “Easement”);

WHEREAS, there has been presented to the Commissioners of the Peninsula Airport Commission, the form of a proposed easement agreement (the “Easement Agreement”) and the form of deed of easement (the “Deed of Easement”) between the Commission and HRSD, and such Easement Agreement and Deed of Easement have been [reviewed by the Planning and Development Committee and] presented at this meeting; and

WHEREAS, the Commissioners of the Peninsula Airport Commission, after mature deliberation [and upon the recommendation of the Planning and Development Committee], desire to approve the Easement Agreement and its execution and delivery on behalf of the Commission and the form of the Deed of Easement to be delivered in connection therewith.

NOW, THEREFORE, BE IT RESOLVED THE BOARD OF COMMISSIONERS OF THE PENINSULA AIRPORT COMMISSION THAT:

1. The Easement Agreement, and the transactions contemplated therein providing for a permanent utility easement designated as a 30’ Sanitary Sewer easement along the approximate locations set forth on the attached Exhibit A and the form of Deed of Easement to be delivered by the Commission at the closing of the transactions contemplated in the Easement Agreement, are each approved, and each of the Chair and the Vice-Chair, either of whom may act, is authorized and directed to execute and deliver the Easement Agreement and to cause the Commission to perform its obligations thereunder, including the execution and delivery of any necessary ancillary closing documents, instruments and certificates contemplated in the Easement Agreement, consistent with the provisions of this Resolution.

2. This Resolution shall take effect immediately upon adoption.

Exhibit A

Prepared by and Return to:
Jones, Blechman, Woltz & Kelly, P.C.
701 Town Center Drive, Suite 800
Newport News, VA 23606
Conway H. Sheild, III (VSB#06893)
PID: 112000101

EXEMPTION CLAIMED PURSUANT TO CODE OF VIRGINIA §58.1-811(A)(3)

DEED OF EASEMENT

THIS DEED OF EASEMENT made this ___ day of _____, 2023, by and between **PENINSULA AIRPORT COMMISSION**, a political subdivision of the Commonwealth of Virginia, **GRANTOR**, and **HAMPTON ROADS SANITATION DISTRICT**, a political subdivision of the Commonwealth of Virginia, **GRANTEE**, whose mailing address is: P.O. Box 5911, Virginia Beach, Virginia, 23471-0911.

WITNESSETH:

That for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, **GRANTOR** does hereby grant and convey, all of their right, title and interest, if any, in the following easement with GENERAL WARRANTY OF TITLE, unto **GRANTEE**, its successors and assigns, forever, the perpetual right, privilege, easement and right-of-way, hereinafter described, for the purpose of laying, erecting, constructing, operating, and maintaining underground only wastewater and/or water reuse force main and/or gravity mains, below ground equipment, accessories, and appurtenances thereto, hereinafter called “facilities,” on the lands of the **GRANTOR**, said Permanent Easement (the “Easement”) being further described as follows:

All that certain easement located in the City of Newport News, Virginia, shown and designated as “PERMANENT 30’ UTILITY EASEMENT TO BE CONVEYED TO HAMPTON ROADS SANITATION DISTRICT - 93,113 S.F. or 2.13758 AC (TOTAL)”, as shown on that certain plat entitled, “EASEMENT PLAT FROM: PENINSULA AIRPORT COMMISSION TO: HAMPTON ROADS SANITATION DISTRICT, PROJECT: JEFFERSON AVE IFM REPLACEMENT PHASE III”, prepared by Michael Surveying & Mapping, P.C., and dated November 18, 2019, a copy of which is attached hereto and made a part hereof, to which reference is here made.

This easement is subject to the following conditions and provisions:

A. The facilities existing or constructed on or under the Easement shall remain the property of **GRANTEE**. **GRANTEE** shall have the right to inspect, rebuild, remove, repair, improve, and make such changes, alterations, additions to or extensions of its facilities within the boundaries of said right of way as are consistent with the purpose expressed herein. All

construction, maintenance, equipment and facilities shall comply with all applicable laws, ordinances, codes and regulations.

B. Any disturbance of the Property of the **GRANTOR** by the **GRANTEE** or its contractor will be restored to its original condition or as nearly as practicable. This includes paving, fences, backfilling of trenches, grass, reseeding, replacing or replanting landscaping, addressing ground sink issues and removal of trash or debris. Landscaping will be replaced with immature trees, shrubs, and ground cover. Restoration for subsequent work shall be completed within 21 calendar days from the date of notification to HRSD.

C. **GRANTEE** shall have the right to trim, cut and remove trees, shrubbery or other obstructions which interfere with or threaten the efficient and safe operation, construction and maintenance of said facilities. All trees and limbs cut by **GRANTEE** shall remain the property of **GRANTOR**. All brush, branches, and other debris resulting from any cutting, trimming, or clearing of said right of way shall be removed from lands of **GRANTOR** for disposal within 15 days. **GRANTEE** is expressly prohibited from (i) engaging in any activity on the Easement Area that would interfere with or be a hazard to the flight of aircraft over the land of **GRANTOR** or to and from the Newport News/Williamsburg International Airport or interfere with air navigation and communication facilities serving the Newport News/Williamsburg International Airport, or (ii) the erection of structures or growth of natural objects that would constitute an obstruction to air navigation.

D. **GRANTEE** shall have the right of ingress to and egress from said right of way over the lands of **GRANTOR**. **GRANTEE** shall exercise such right in such manner as shall not occasion injury and inconvenience to **GRANTOR**. In exercising such right, **GRANTEE** shall pay for or repair any injury to any of **GRANTOR'S** land, structures, roads, fences and other improvements caused by **GRANTEE**, its employees, agents or contractors.

E. **GRANTOR**, its successors and assigns, may use said right of way for any purpose not inconsistent with the rights hereby granted, provided such use does not interfere with the safe and efficient construction, operation or maintenance of said facilities, and further provided that such use is not inconsistent with any laws, ordinances or codes pertaining to the construction, operation or maintenance of said facilities. **GRANTOR** shall not place any permanent improvements within the easement without permission of **GRANTEE**, or its successors, including but not limited to houses, buildings, pools, sheds, signs, or similar permanent structures. **GRANTOR** may install fences, driveways, pavement and landscaping (trees and shrubs shall be varieties that will not exceed 20 feet tall at maturity). Further, there is hereby reserved to the Peninsula Airport Commission, as **GRANTOR**, its successors and assigns, for the use and benefit of the public, a right of flight for passage of aircraft in the airspace above the surface of the Easement Area. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from, or operation on the Newport News - Williamsburg International Airport.

F. It is understood and agreed that the consideration paid to the **GRANTOR** in connection herewith constitutes payment in full for the property hereby conveyed and for

damages, if any, to the residue or other property of the **GRANTOR** resulting from the project and use made of the property conveyed.

G. Notwithstanding the above, should the property on which the aforesaid non-exclusive perpetual easement lies be subdivided, then the access rights to the easement as above enumerated shall be along the publicly dedicated streets within the said subdivision as far as practical, and then the access shall be on subdivided lots within the subdivision which shall efficiently provide access for the purposes of the **GRANTEE** as herein enumerated.

H. **GRANTEE** and its contractors or agents hereby agree that it will perform all such measures in a manner causing as little inconvenience and disruption to **GRANTOR**, and **GRANTOR'S** invitees, licensee and occupants as is reasonably possible. Plans for the Easement have been explained to the **GRANTOR**, and **GRANTEE** warrants that it will not construct above ground facilities, including pumping stations, within the easement area.

WITNESS the following signature and seal all as of the day and year first above written.

GRANTOR:

PENINSULA AIRPORT COMMISSION

By _____
Name: Lindsey C. Smith
Its: Chair

STATE/Commonwealth of _____,
CITY/COUNTY OF _____ to wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2023 by _____, the _____ of Peninsula Airport Commission.

Notary Public

Notary Public Registration No.: _____
My Commission Expires: _____

GRANTEE:

HAMPTON ROADS SANITATION DISTRICT

By: _____ (SEAL)

Name: _____

Title: _____

COMMONWEALTH OF VIRGINIA,

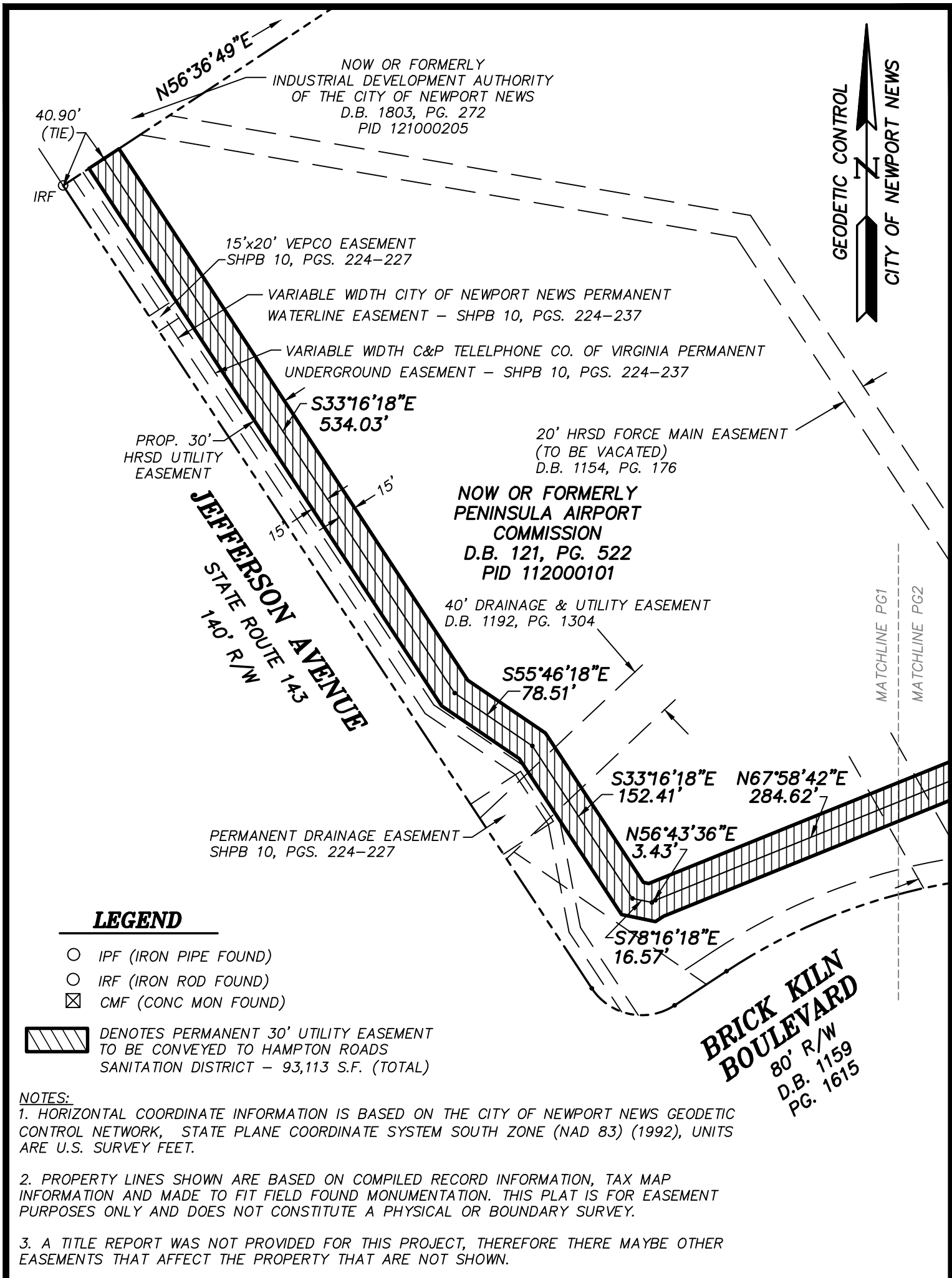
CITY/COUNTY OF _____, to wit:

I, _____, a Notary Public in and for the City/County of _____, in the Commonwealth of Virginia, whose term in office expires on _____, do hereby certify that _____, in his/her capacity as _____ of Hampton Roads Sanitation District, whose name is signed to the foregoing Deed, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of _____, 2023.

Notary Public
Registration No. _____

PLAT



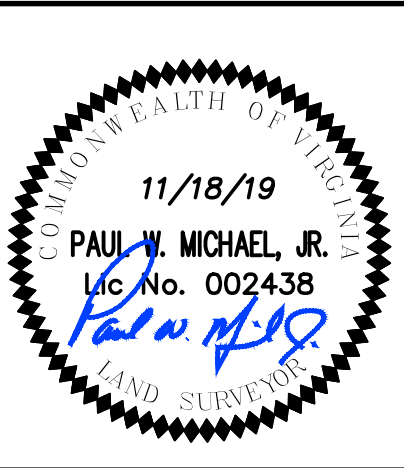
LEGEND

- IPF (IRON PIPE FOUND)
- IRF (IRON ROD FOUND)
- ⊠ CMF (CONC MON FOUND)

DENOTES PERMANENT 30' UTILITY EASEMENT TO BE CONVEYED TO HAMPTON ROADS SANITATION DISTRICT - 93,113 S.F. (TOTAL)

NOTES:

1. HORIZONTAL COORDINATE INFORMATION IS BASED ON THE CITY OF NEWPORT NEWS GEODETIC CONTROL NETWORK, STATE PLANE COORDINATE SYSTEM SOUTH ZONE (NAD 83) (1992), UNITS ARE U.S. SURVEY FEET.
2. PROPERTY LINES SHOWN ARE BASED ON COMPILED RECORD INFORMATION, TAX MAP INFORMATION AND MADE TO FIT FIELD FOUND MONUMENTATION. THIS PLAT IS FOR EASEMENT PURPOSES ONLY AND DOES NOT CONSTITUTE A PHYSICAL OR BOUNDARY SURVEY.
3. A TITLE REPORT WAS NOT PROVIDED FOR THIS PROJECT, THEREFORE THERE MAYBE OTHER EASEMENTS THAT AFFECT THE PROPERTY THAT ARE NOT SHOWN.

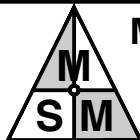


References:
D.B. 121, PG. 522

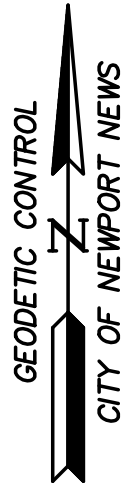
Notes:
Rev. 7/17/23

EASEMENT PLAT
FROM: PENINSULA AIRPORT COMMISSION
TO: HAMPTON ROADS SANITATION DISTRICT
PROJECT: JEFFERSON AVE IFM
REPLACEMENT PHASE III

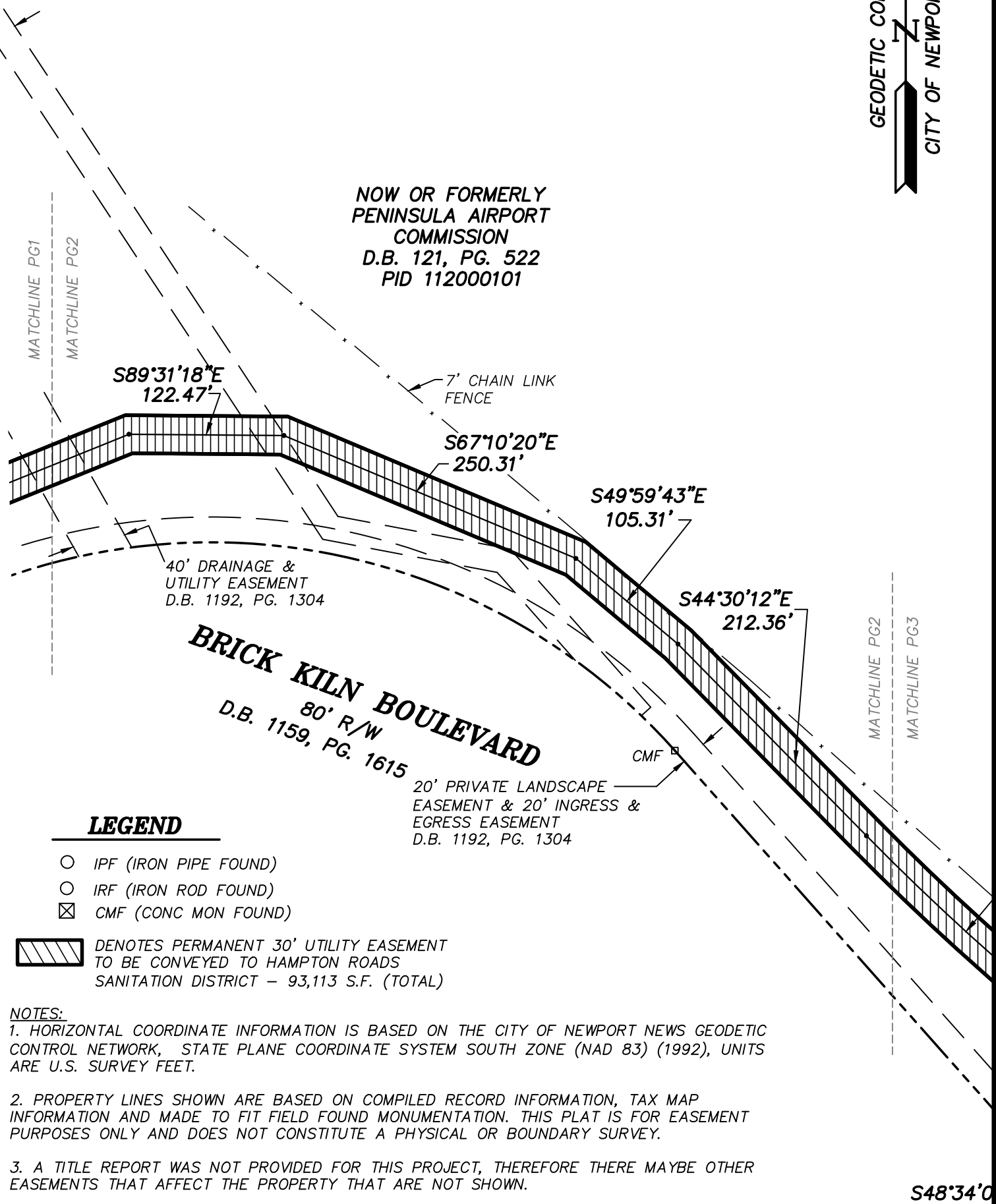
Date: 11/18/19 | Scale: 1"=100' | Job No.: 19-012



MICHAEL SURVEYING & MAPPING, P.C.
41 OLD OYSTER POINT RD. - SUITE B
NEWPORT NEWS, VIRGINIA 23602
TEL 757.873.1762 FAX 757.873.1772



NOW OR FORMERLY
PENINSULA AIRPORT
COMMISSION
D.B. 121, PG. 522
PID 112000101



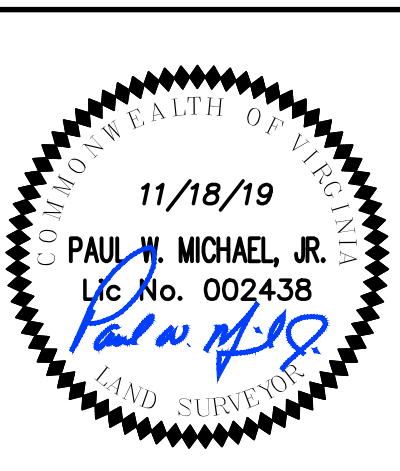
LEGEND

- IPF (IRON PIPE FOUND)
- IRF (IRON ROD FOUND)
- ⊠ CMF (CONC MON FOUND)

DENOTES PERMANENT 30' UTILITY EASEMENT TO BE CONVEYED TO HAMPTON ROADS SANITATION DISTRICT - 93,113 S.F. (TOTAL)

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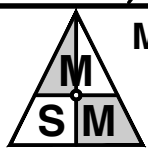


References:
D.B. 121, PG. 522

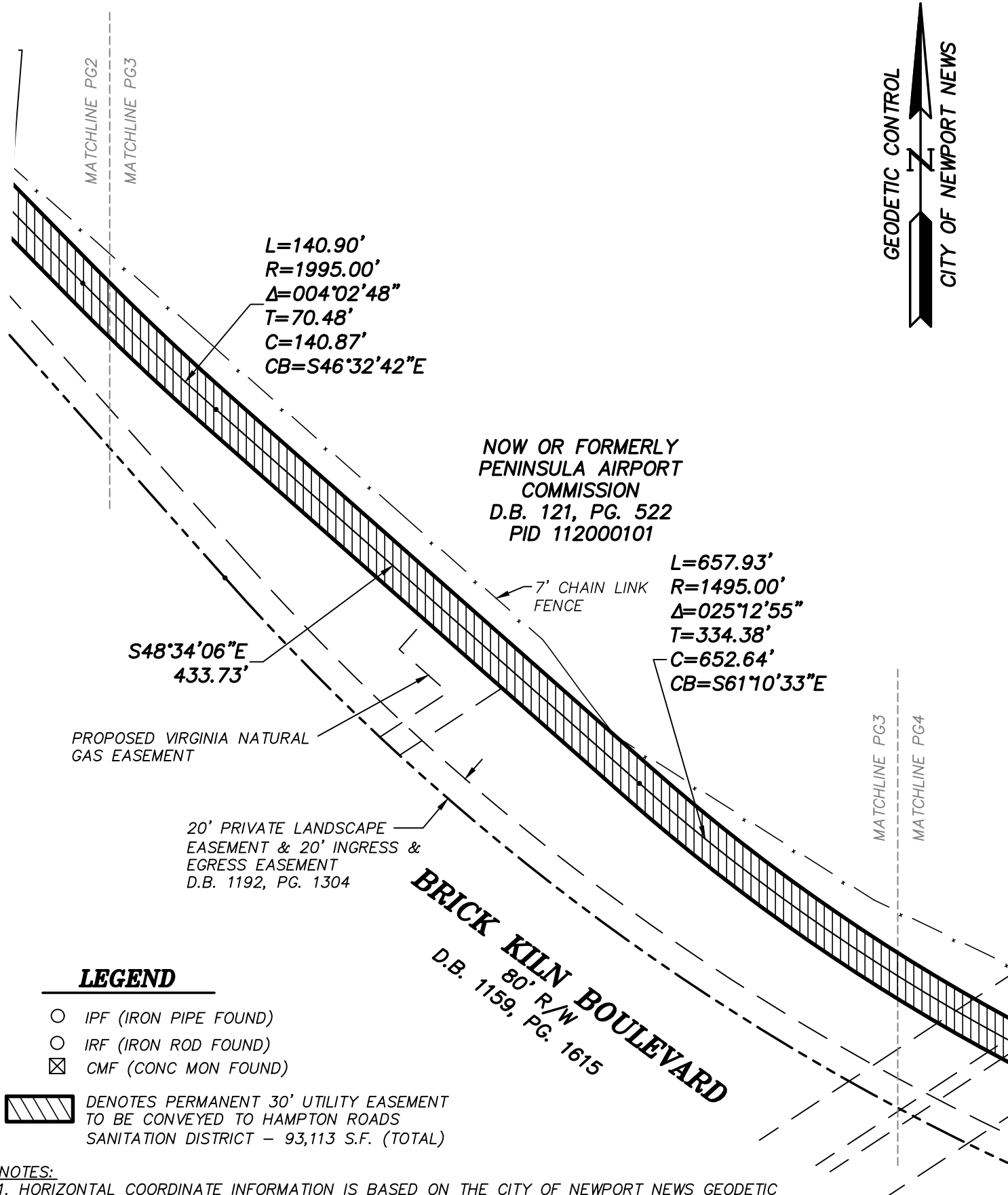
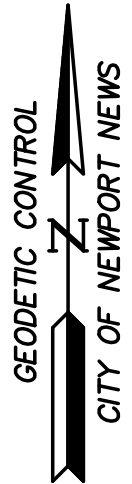
Notes:
Rev. 7/17/23

EASEMENT PLAT
FROM: PENINSULA AIRPORT COMMISSION
TO: HAMPTON ROADS SANITATION DISTRICT
PROJECT: JEFFERSON AVE IFM REPLACEMENT PHASE III

Date: 11/18/19 Scale: 1"=100' Job No.: 19-012



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$L=140.90'$
 $R=1995.00'$
 $\Delta=004^{\circ}02'48''$
 $T=70.48'$
 $C=140.87'$
 $CB=S46^{\circ}32'42''E$

NOW OR FORMERLY
 PENINSULA AIRPORT
 COMMISSION
 D.B. 121, PG. 522
 PID 112000101

$L=657.93'$
 $R=1495.00'$
 $\Delta=025^{\circ}12'55''$
 $T=334.38'$
 $C=652.64'$
 $CB=S61^{\circ}10'33''E$

$S48^{\circ}34'06''E$
 $433.73'$

PROPOSED VIRGINIA NATURAL GAS EASEMENT

20' PRIVATE LANDSCAPE
 EASEMENT & 20' INGRESS &
 EGRESS EASEMENT
 D.B. 1192, PG. 1304

BRICK KILN BOULEVARD
 80' R/W
 D.B. 1159, PG. 1615

LEGEND

- IPF (IRON PIPE FOUND)
- IRF (IRON ROD FOUND)
- ⊠ CMF (CONC MON FOUND)

DENOTES PERMANENT 30' UTILITY EASEMENT
 TO BE CONVEYED TO HAMPTON ROADS
 SANITATION DISTRICT - 93,113 S.F. (TOTAL)

NOTES:

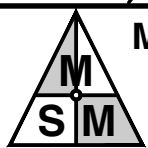
1. HORIZONTAL COORDINATE INFORMATION IS BASED ON THE CITY OF NEWPORT NEWS GEODETIC CONTROL NETWORK, STATE PLANE COORDINATE SYSTEM SOUTH ZONE (NAD 83) (1992), UNITS ARE U.S. SURVEY FEET.
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References:
 D.B. 121, PG. 522

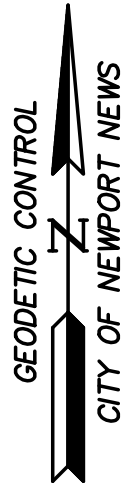
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REPLACEMENT PHASE III

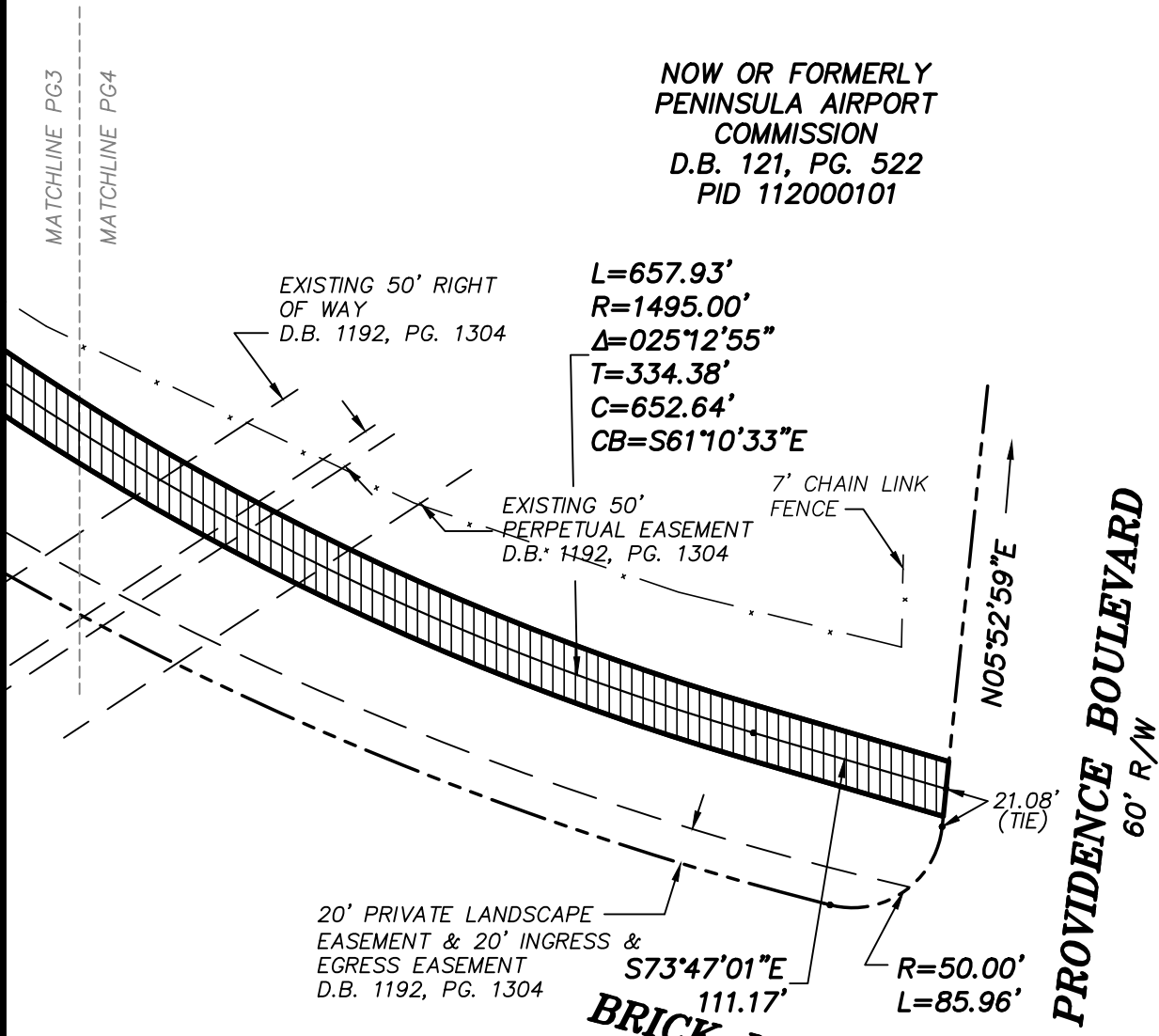
Date: 11/18/19 Scale: 1"=100' Job No.: 19-012



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PID 112000101



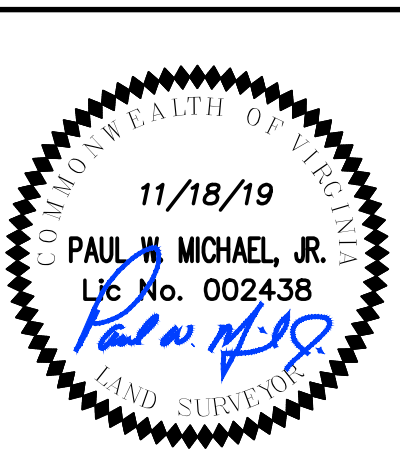
LEGEND

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- ⊠ CMF (CONC MON FOUND)

DENOTES PERMANENT 30' UTILITY EASEMENT TO BE CONVEYED TO HAMPTON ROADS SANITATION DISTRICT - 93,113 S.F. (TOTAL)

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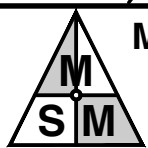


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Notes:
Rev. 7/17/23

EASEMENT PLAT
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AGREEMENT

THIS AGREEMENT, made this ___ day of _____, 2023, by and between **PENINSULA AIRPORT COMMISSION, NEWPORT NEWS/WILLIAMSBURG AIRPORT**, a political subdivision of the Commonwealth of Virginia, whose mailing address is 900 Bland Avenue, Newport News, Virginia 23602 (“Landowner”), and **HAMPTON ROADS SANITATION DISTRICT** (“HRSD”), a political subdivision of the Commonwealth of Virginia, located at 1434 Air Rail Avenue, Virginia Beach, Virginia 23455 (the “Grantee”), and Collectively, Landowner and HRSD shall be referred to as the “Parties.”

WITNESSETH: That for and in consideration of one dollar and other valuable consideration, receipt of which is hereby acknowledged, Landowner agrees to convey to HRSD a Non-exclusive Permanent Utility Easement over, across and through the following described property of the Landowner, by Deed of Easement, properly executed, acknowledged, and delivered.

The land and improvements subject to the Permanent Utility Easement (hereinafter referred to as the “Easement”) is described as follows:

All that certain Non-Exclusive Permanent Utility Easement shown and designated as a “30’ SANITARY SEWER EASEMENT HEREBY DEDICATED 93,113 S.F. OR 2.13758 AC.”, as shown on the attached plat prepared by Paul W. Michael, Jr., Surveyor, Michael Surveying & Mapping, P.C., 41 Old Oyster Point Road, Suite B, Newport News, Virginia 23602 entitled, “EASEMENT PLAT FROM: PENINSULA AIRPORT COMMISSION TO: HAMPTON ROADS SANITATION DISTRICT”, and dated November 18, 2019; and being part of the same property containing 824.63 acres.

Together with all and singular the buildings and improvements, tenements, hereditaments, rights, privileges and appurtenances thereunto belonging or in anywise appertaining (the “Easement”), a copy of which plat is attached hereto as **Exhibit A** and made a part hereof.

The total consideration for the conveyance provided for herein is as follows:

CONSIDERATION: ONE HUNDRED NINETY-FIVE THOUSAND DOLLARS AND 00/100 CENTS (\$195,000.00) in full for the easement described herein before and for all damages, if any.

The consideration hereinabove mentioned represents the value of all estates or interests in such land, and the damages to remaining lands of the Landowner which may result by reason of the use to which HRSD will put the Easement to be conveyed.

It is understood and agreed that the consideration paid to the Landowner in connection herewith constitutes payment in full for the Easement hereby conveyed. Damages, if any, to the

residue or other property of the Landowner resulting from the project and use made of the Easement conveyed for the installation of the facilities shall be covered by the HRSD.

It is understood that HRSD agrees and will adhere to the below language provided by Federal Aviation Administration and Peninsula Airport Commission, which language shall also be included in the Deed of Easement granting the Easement.

(1) A prohibition against the erection of structures or growth of natural objects that would constitute an obstruction to air navigation.

(2) A prohibition against any activity on the land of Landowner that would interfere with or be a hazard to the flight of aircraft over the land or to and from the airport or interfere with air navigation and communication facilities serving the airport.

(3) A reservation assuring the public right to fly aircraft over the land to read as follows:

“There is hereby reserved to the Peninsula Airport Commission, its successors and assigns, for the use and benefit of the public, a right of flight for passage of aircraft in the airspace above the surface of the premises herein conveyed. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from, or operation on the Newport News — Williamsburg International Airport.”

In the event the Landowner is unable to convey clear title to the above Easement to HRSD as herein provided, and HRSD should elect to institute condemnation proceedings for the purpose of acquiring such easement, it is agreed by the Landowner that this instrument may be introduced in such proceedings as evidence of the value of land and damages, if any, to the remaining property of the Landowner.

The Landowner by execution of this instrument acknowledges that the plans for the aforesaid project as they affect the subject property have been fully explained to the undersigned.

HRSD or its contractor will restore Landowner’s land and Parcel affected as a result of construction of the project as closely as is reasonably possible to its pre-construction condition (or better) upon completion of the Project including replacing with acceptable landscaping. Any disturbance of the premises during the life of this Agreement by the GRANTEE or its contractor will be restored by the GRANTEE as nearly as practicable. This includes paving, fences, backfilling of trenches, grass, reseeding, replacing or replanting landscaping, addressing ground sink issues, and removal of trash or debris. Landscaping will be replaced with immature trees, shrubs, and ground cover.

HRSD or its contractor hereby agrees that it will perform all such measures in a manner causing as little inconvenience and disruption to the Landowner, and Landowner’s invitees, licensees and occupants as is reasonably possible. To the extent applicable to HRSD actions with respect to the Easement, HRSD and its successors, assigns, agents, employees, designees and contractors shall comply with the requirements set forth in that letter, dated April 5, 2022 from

the Virginia Department of Environmental Quality to Mr. Michael Giardino, Executive Director, Newport News/Williamsburg International Airport, a copy of which letter is attached hereto as **Exhibit B**.

RIGHT TO ENTER: The HRSD, or its agents, may exercise the right to enter upon so much of the parcel or Land needed for such purposes as may be necessary for the construction of this project with at least 48-hour notice to the Landowner, unless in cases of emergency repair of HRSD facilities.

ETHICS IN PUBLIC CONTRACTING: By executing this Agreement, the undersigned Landowner or its representative, and the representative of HRSD, certify that the prices agreed to in this Agreement were arrived at without collusion or fraud and that they have not offered or received any payment, kickbacks or other inducement from any other party to this Agreement or its agent or employee in connection with this Agreement, and that they have not conferred on any public employee having responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised unless disclosed in this Agreement.

Landowner acknowledges that HRSD has relied upon these covenants, representations and warranties in purchasing the Easement.

Settlement shall be within ninety (90) days, or as soon thereafter, allowing a reasonable time to correct any title defects reported by the title examiner and preparation and signing of the necessary documents to enable the HRSD to take proper title.

THE COVENANTS, AGREEMENTS, REPRESENTATIONS, WARRANTIES OF THE LANDOWNER CONTAINED IN THESE PARAGRAPHS SHALL SURVIVE THE CLOSING AND DELIVERY OF THE DEED OF EASEMENT ACROSS THE SUBJECT LAND.

WITNESS the following signatures and seals:

LANDOWNER:

Peninsula Airport Commission
Newport News/Williamsburg Airport

By: _____ (SEAL)

Name: Lindsey C. Smith *(Signature)*

Title: Chair

COMMONWEALTH OF VIRGINIA

City/County of _____ . to-wit:

The foregoing instrument was acknowledged before me this ____ day of 2023, by _____,
as its Chair, on behalf of Peninsula Airport Commission, Newport News/Williamsburg Airport.

Notary Public

Notary Public Registration No. _____

My commission expires: _____

GRANTEE:

HAMPTON ROADS SANITATION DISTRICT

By: _____ (SEAL)

Name: _____

Title: _____

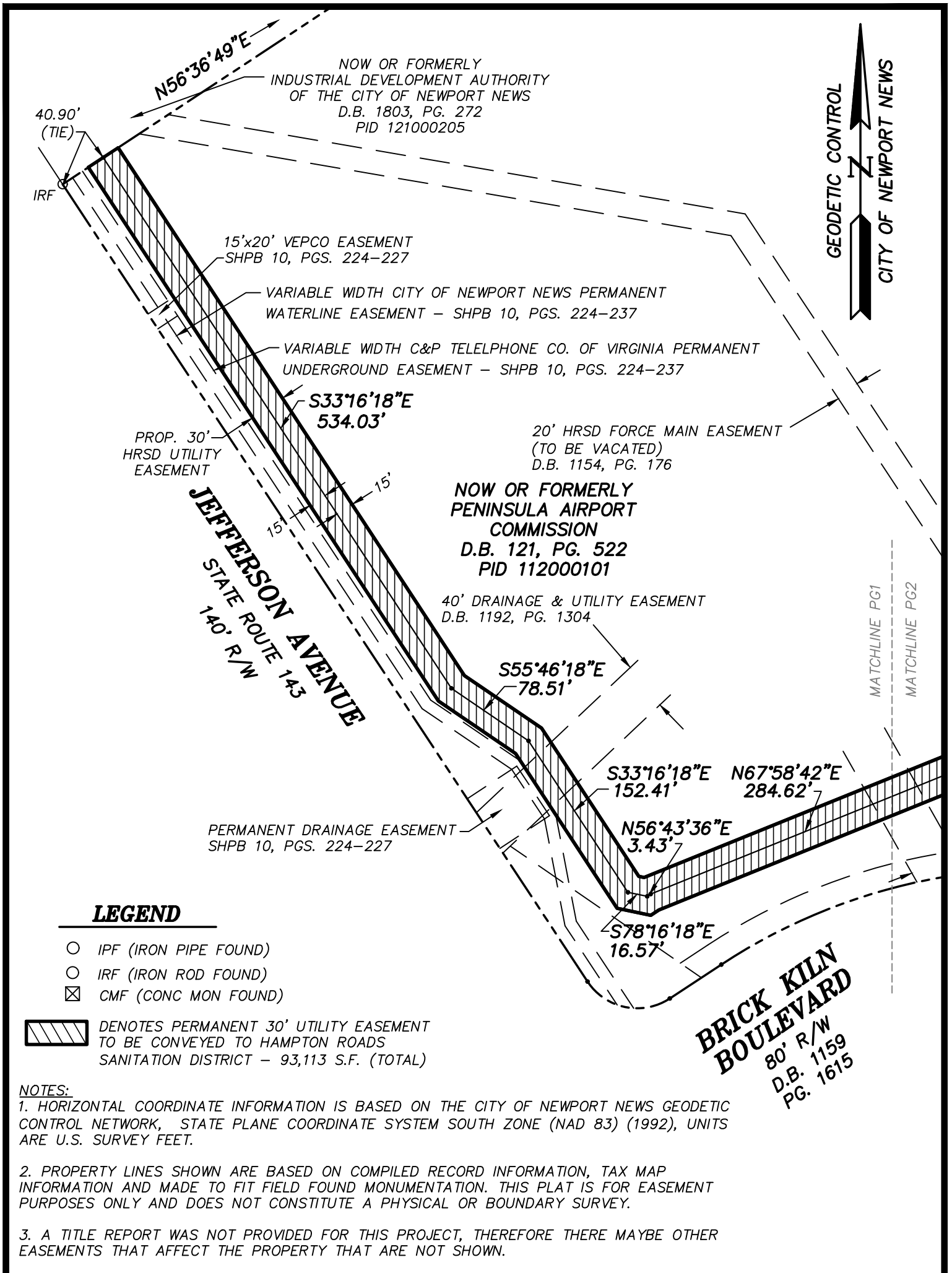
COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF _____, to wit:

I, _____, a Notary Public in and for the City/County of _____, in the Commonwealth of Virginia, whose term in office expires on _____, do hereby certify that _____, in his/her capacity as _____ of Hampton Roads Sanitation District, whose name is signed to the foregoing Agreement, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of _____, 2023.

Notary Public
Registration No. _____

EXHIBIT A
PLAT



LEGEND

- IPF (IRON PIPE FOUND)
- IRF (IRON ROD FOUND)
- ⊠ CMF (CONC MON FOUND)

DENOTES PERMANENT 30' UTILITY EASEMENT TO BE CONVEYED TO HAMPTON ROADS SANITATION DISTRICT - 93,113 S.F. (TOTAL)

NOTES:

1. HORIZONTAL COORDINATE INFORMATION IS BASED ON THE CITY OF NEWPORT NEWS GEODETIC CONTROL NETWORK, STATE PLANE COORDINATE SYSTEM SOUTH ZONE (NAD 83) (1992), UNITS ARE U.S. SURVEY FEET.
2. PROPERTY LINES SHOWN ARE BASED ON COMPILED RECORD INFORMATION, TAX MAP INFORMATION AND MADE TO FIT FIELD FOUND MONUMENTATION. THIS PLAT IS FOR EASEMENT PURPOSES ONLY AND DOES NOT CONSTITUTE A PHYSICAL OR BOUNDARY SURVEY.
3. A TITLE REPORT WAS NOT PROVIDED FOR THIS PROJECT, THEREFORE THERE MAYBE OTHER EASEMENTS THAT AFFECT THE PROPERTY THAT ARE NOT SHOWN.

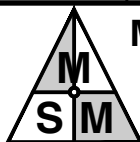
COMMONWEALTH OF VIRGINIA
11/18/19
PAUL W. MICHAEL, JR.
Lic No. 002438
LAND SURVEYOR

References:
D.B. 121, PG. 522

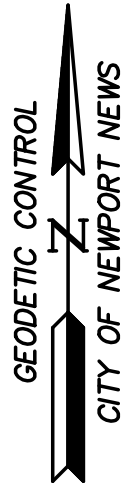
Notes:
Rev. 7/17/23

EASEMENT PLAT
FROM: PENINSULA AIRPORT COMMISSION
TO: HAMPTON ROADS SANITATION DISTRICT
PROJECT: JEFFERSON AVE IFM REPLACEMENT PHASE III

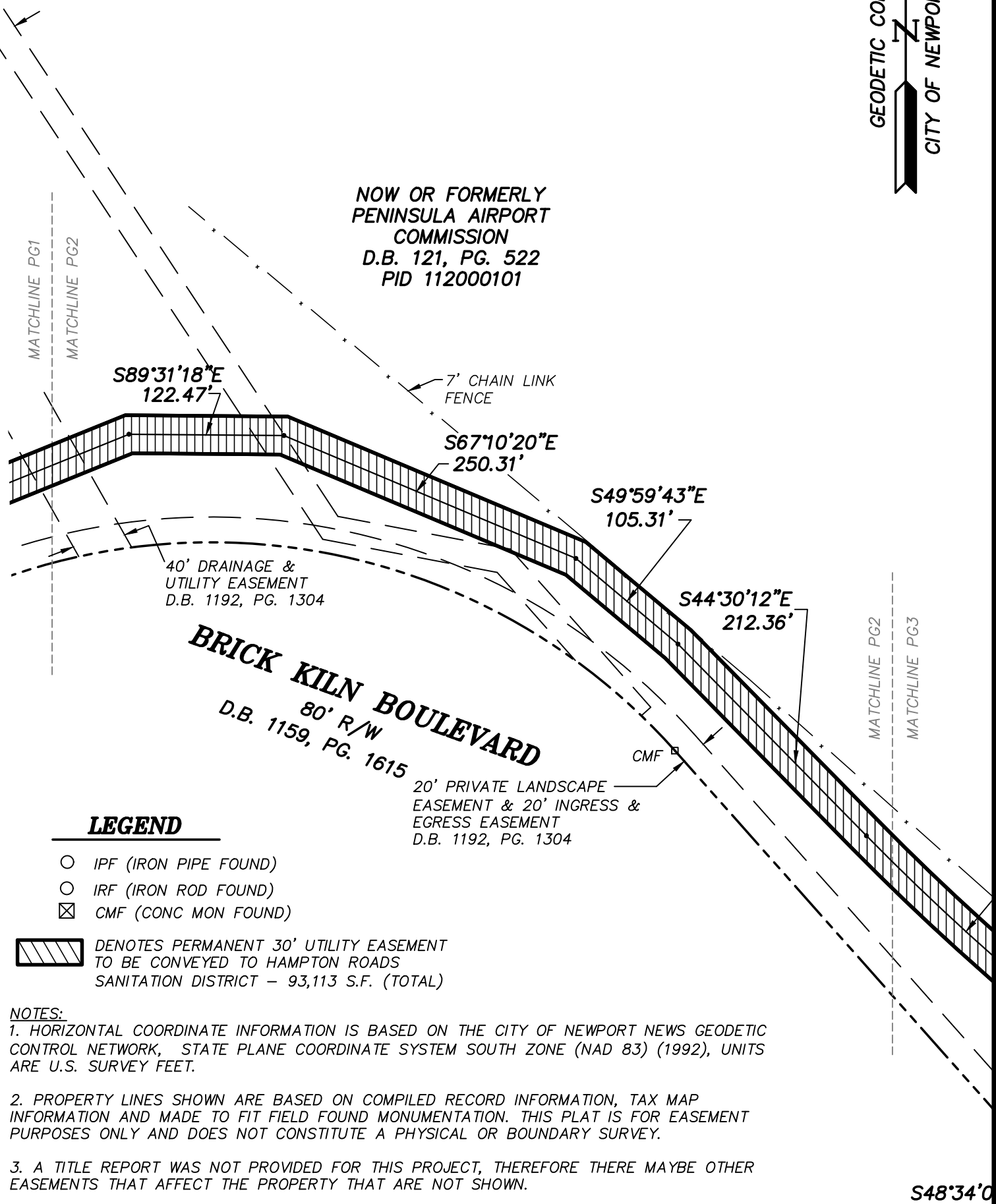
Date: 11/18/19 | Scale: 1"=100' | Job No.: 19-012



MICHAEL SURVEYING & MAPPING, P.C.
41 OLD OYSTER POINT RD. - SUITE B
NEWPORT NEWS, VIRGINIA 23602
TEL 757.873.1762 FAX 757.873.1772



NOW OR FORMERLY
PENINSULA AIRPORT
COMMISSION
D.B. 121, PG. 522
PID 112000101



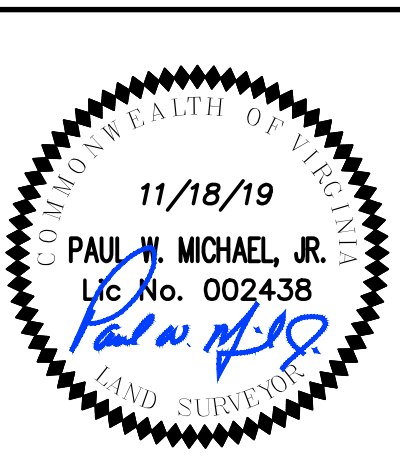
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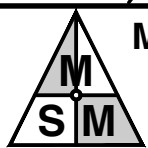


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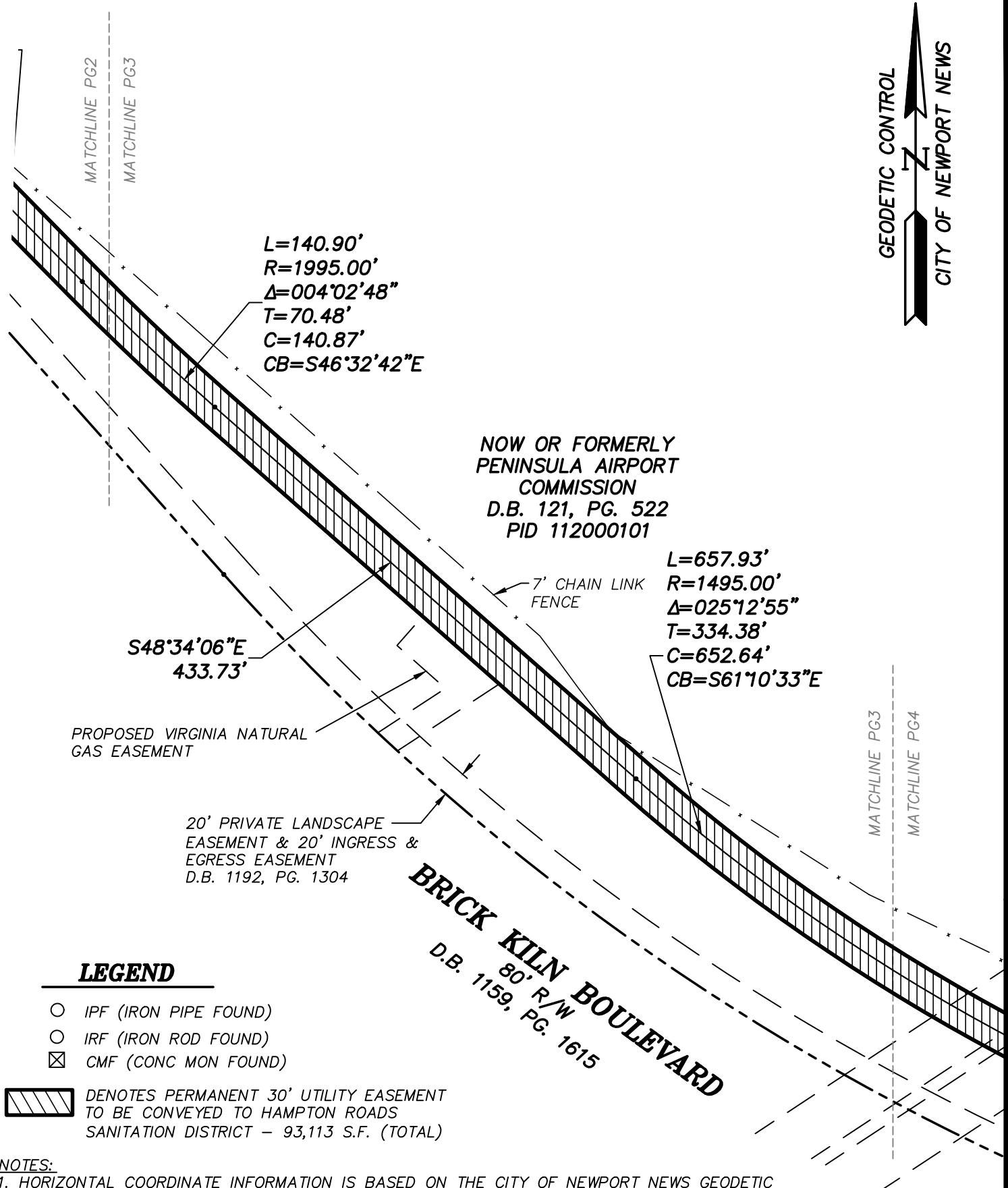
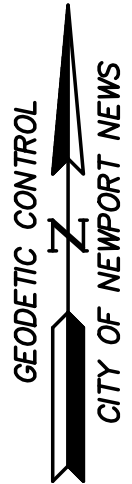
Notes:
Rev. 7/17/23

EASEMENT PLAT
FROM: PENINSULA AIRPORT COMMISSION
TO: HAMPTON ROADS SANITATION DISTRICT
PROJECT: JEFFERSON AVE IFM REPLACEMENT PHASE III

Date: 11/18/19 Scale: 1"=100' Job No.: 19-012



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$L=140.90'$
 $R=1995.00'$
 $\Delta=004^{\circ}02'48''$
 $T=70.48'$
 $C=140.87'$
 $CB=S46^{\circ}32'42''E$

NOW OR FORMERLY
 PENINSULA AIRPORT
 COMMISSION
 D.B. 121, PG. 522
 PID 112000101

$L=657.93'$
 $R=1495.00'$
 $\Delta=025^{\circ}12'55''$
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 $C=652.64'$
 $CB=S61^{\circ}10'33''E$

$S48^{\circ}34'06''E$
 $433.73'$

PROPOSED VIRGINIA NATURAL GAS EASEMENT

20' PRIVATE LANDSCAPE
 EASEMENT & 20' INGRESS &
 EGRESS EASEMENT
 D.B. 1192, PG. 1304

BRICK KILN BOULEVARD
 80' R/W
 D.B. 1159, PG. 1615

LEGEND

- IPF (IRON PIPE FOUND)
- IRF (IRON ROD FOUND)
- ⊠ CMF (CONC MON FOUND)

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 TO BE CONVEYED TO HAMPTON ROADS
 SANITATION DISTRICT - 93,113 S.F. (TOTAL)

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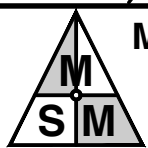
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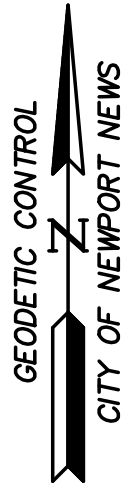
Notes:
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EASEMENT PLAT
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TO: HAMPTON ROADS SANITATION DISTRICT
PROJECT: JEFFERSON AVE IFM
REPLACEMENT PHASE III

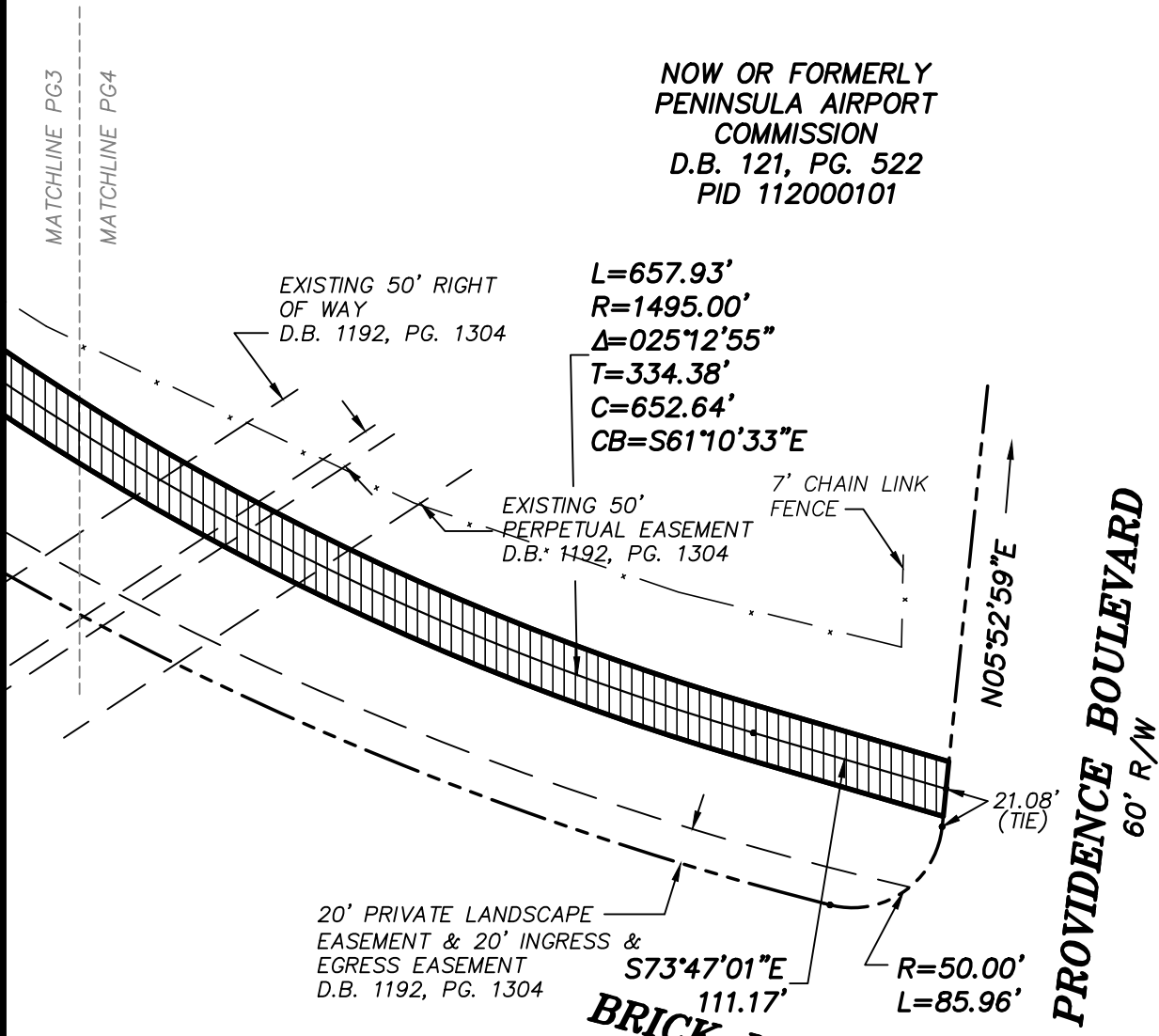
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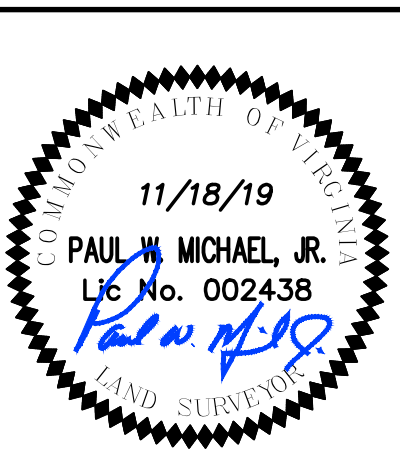
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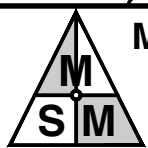


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Rev. 7/17/23

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TO: HAMPTON ROADS SANITATION DISTRICT
PROJECT: JEFFERSON AVE IFM
REPLACEMENT PHASE III

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EXHIBIT B

April 5, 2022 from the Virginia Department of Environmental Quality to Mr. Michael Giardino,
Executive Director, Newport News/Williamsburg International Airport



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

www.deq.virginia.gov

Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

April 5, 2022

Mr. Michael Giardino
Executive Director
Newport News/ Williamsburg International Airport
900 Bland Boulevard
Newport News, VA 23602
Via email: mgiardino@newportnewsairport.com

RE: Federal Consistency Certification for the Newport News/ Williamsburg
International Airport Proposed Utility Easements, Federal Aviation Administration,
City of Newport News, DEQ 22-015F

Dear Mr. Giardino:

The Commonwealth of Virginia has completed its review of the above-mentioned Federal Consistency Certification (FCC). The Department of Environmental Quality (DEQ) is responsible for coordinating Virginia's review of FCCs and responding to appropriate officials on behalf of the Commonwealth. This letter is in response to the FCC included as Attachment C to the Environmental Categorical Exclusion Form dated January 2022 and received on January 25, 2022, submitted by Talbert & Bright on behalf of the Federal Aviation Administration. The following agencies participated in this review:

Department of Environmental Quality
Department of Health (VDH)
Marine Resources Commission (VMRC)
Department of Conservation and Recreation (DCR)
Department of Historic Resources (DHR)
Department of Wildlife Resources (DWR)
Department of Aviation (DOAV)

In addition, the Department of Transportation, City of Newport News, Hampton Roads Planning District Commission were invited to comment on the proposal.

PROJECT DESCRIPTION

The Peninsula Airport Commission (Commission or applicant) is seeking approval from the Federal Aviation Administration (FAA) to grant easements for the installation of utilities on property located on the Newport News/ Williamsburg International Airport. The first project includes granting a 30'-wide utility easement to the Hampton Roads Sanitation District (HRSD) from the Peninsula Airport Commission. The easement is approximately 3,100' in length and would be located along Jefferson Avenue and Brick Kiln Blvd. Any improvements associated with this easement will be underground and not adversely impact the operation of the Airport. The second project includes granting a permanent utility easement to Virginia Natural Gas (VNG) from the Peninsula Airport Commission for the installation of a gas regulator station and associated gas lines. The VNG easements total approximately 4,550 square feet and are located along Brick Kiln Blvd. The total project area including both easements is approximately 97,928 square feet (2.25 acres). All work will be performed entirely on Airport property.

FEDERAL CONSISTENCY PUBLIC PARTICIPATION

In accordance with 15 CFR §930.2, the public was invited to participate in the review of the proposal. Public notice of the proposed action was included in OEIR's Program Newsletter and published on the DEQ website from January 31, 2022 to March 4, 2022. No public comments were received in response to the notice.

FEDERAL CONSISTENCY UNDER THE COASTAL ZONE MANAGEMENT ACT

Pursuant to the Coastal Zone Management Act of 1972 (CZMA), as amended, and the federal consistency regulations implementing the CZMA (15 CFR, Part 930, Subpart D, Section 930.50 *et seq.*), projects receiving federal permits, licenses or approvals, which can affect Virginia's coastal uses or resources, must be constructed and operated in a manner which is consistent with the Virginia Coastal Zone Management (CZM) Program. The Virginia CZM Program is comprised of a network of programs administered by several agencies. In order to be consistent with the Virginia CZM Program, all the applicable permits and approvals listed under the enforceable policies of the Virginia CZM Program must be obtained prior to commencing the project.

FEDERAL CONSISTENCY CONCURRENCE

Based on our review of the FCC and the comments submitted by agencies administering the enforceable policies of the CZM Program, DEQ concurs that the proposal is consistent with the CZM Program provided that prior to implementation of the project all applicable permits and approvals are obtained as described below.

If, prior to implementation, the project should change significantly and any of the enforceable policies of the Virginia CZM Program would be affected, pursuant to 15 CFR 930.66, the applicant must submit supplemental information to DEQ for review and approval.

Other state approvals which may apply to this project are not included in this consistency concurrence. Therefore, the applicant must ensure that this project is constructed and operated in accordance with all applicable federal, state and local laws and regulations.

FEDERAL CONSISTENCY ANALYSIS

According to information in the FCC, the proposed activity will have an effect on the Chesapeake Bay Preservation Areas and Non-Point Source Water Pollution enforceable policies. The remaining enforceable policies will not be affected. The resource agencies that are responsible for the administration of the enforceable policies of the Virginia CZM Program generally agree with the findings of the FCC. The applicant must ensure that the proposed action is consistent with the aforementioned policies. In addition, in accordance with 15 CFR Part 930, subpart D, 930.58(a) (3), the applicant has considered potential project impacts to the advisory policies of the Virginia CZM Program.

1. Tidal and Non-Tidal Wetlands. According to the FCC (page 2), a review of National Wetland Inventory Maps found that there are no wetlands within or around the project area. This was confirmed with a site visit.

1(a) Agency Jurisdiction. The purpose of the policy is to preserve and protect wetlands and non-tidal surface waters, to prevent their despoliation and destruction, and accommodate necessary economic development in a manner consistent with wetlands preservation. Impacts to wetlands and streams shall be avoided or minimized to the maximum extent practicable. Tidal Wetlands are administered by the Virginia Marine Resources Commission (VMRC) under the authority of the Tidal Wetlands Act of 1972 (Virginia Code § 28.2-1301 and -1308; 4 VAC § 20-390-20). Tidal and Nontidal Wetlands are administered by the Department of Environmental Quality (DEQ) through the Virginia Water Protection (VWP) Permit program and includes Water Quality Certification pursuant to Section 401 of the Clean Water Act (Virginia Code §§ 62.1-44.15:20 and -44.15:21; and 9 VAC §§ 25-210-10, -210-45, 210-80, 260-10, -380, -390).

1(b) Agency Findings.

1(b)(i) Virginia Department of Environmental Quality. The DEQ Tidewater Regional Office (TRO) did not indicate that wetlands will be affected.

1(b)(ii) Virginia Marine Resources Commission. VMRC confirmed that there are no tidal wetlands in close proximity to the project area. The proposed project is outside the jurisdictional areas of the agency and no VMRC permit will be required.

1(c) Recommendation. Potential adverse impacts to water quality and wetlands resulting from surface runoff due to construction activities must be minimized. This can be achieved by using Best Management Practices (BMPs).

1(d) Requirement. Any permanent or temporary impacts to surface waters and wetlands will require a permit pursuant to §401 of the Clean Water Act, Virginia Code §62.1-44.15:20, and Virginia Administrative Code 9 VAC 25-210-10 *et seq.*

1(e) Conclusion. The project will be consistent with the tidal and non-tidal wetlands enforceable policy of the Virginia CZM Program, provided that a VWP permit is obtained, as necessary.

2. Point Source Air Pollution. According to the FCC (page 4), no open burning will be conducted. Best Management Practices such as watering will be used to control fugitive dust during construction.

2(a) Agency Jurisdiction. The policy is administered by DEQ through the federal Clean Air Act and Virginia's legally enforceable State Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards. It is the policy of the Commonwealth to abate, control, and prohibit air pollution throughout the Commonwealth (Virginia Code § 10.1-1308), to include: asphalt paving operations in volatile organic compound emission control areas (Virginia Code §§ 10.1-1308 and -1322; 9 VAC §§ 5-20-206 and -45-780), open burning (Virginia Code §§ 10.1-1308 and -1322; 9 VAC §§ 5-80-1105, -130-10, -130-30 to -50, 20-60-30, and 5-60-200), fugitive dust emissions (Virginia Code §§ 10.1-1308 and -1322; 9 VAC §§ 5-50-90 and -40-90), state operation permits (Virginia Code §§ 10.1-1308 and -1322; 9 VAC § 5-80-800), and new source review (Virginia Code §§ 10.1-1308 and -1322; 9 VAC §§ 5-80-1100, -1400, -1605, and -2000).

2(b) Agency Finding. The DEQ Air Division states that the project site is located in an ozone (O₃) attainment area and emission control area for oxides of nitrogen (NO_x) and volatile organic compounds (VOCs).

2(c) Requirements.

2(c)(i) Fugitive Dust. During land-disturbing activities, fugitive dust must be kept to a minimum by using control methods outlined in 9VAC5-50-60 *et seq.* of the Regulations for the Control and Abatement of Air Pollution. These precautions include, but are not limited to, the following:

- Use, where possible, of water or suitable chemicals for dust control during the proposed demolition and construction operations and from material stockpiles;

- Installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials;
- Covering of open equipment for conveying materials; and
- Prompt removal of spilled or tracked dirt or other materials from paved streets and removal of dried sediments resulting from soil erosion.

2(c)(ii) Fuel-Burning Equipment. Fuel-burning equipment (boilers, generators, compressors, etc.) or any other air-pollution-emitting equipment may be subject to registration or permitting requirements under 9 VAC5-80, Article 6, Permits for New and Modified Sources.

2(c)(iii) Open Burning. If project activities include the open burning of construction material or the use of special incineration devices, this activity must meet the requirements under 9 VAC 5-130 *et seq.* of the *Regulations* for open burning, and may require a permit. The *Regulations* provide for, but do not require, the local adoption of a model ordinance concerning open burning. The applicant should contact local fire officials to determine what local requirements, if any, exist.

2(c)(iv) Asphalt Paving. A precaution, which typically applies to road construction and paving work (9 VAC 5-45-780 *et seq.*), places limitations on the use of “cut-back” (liquefied asphalt cement, blended with petroleum solvents), and may apply to the project. The asphalt must be “emulsified” (predominantly cement and water with a small amount of emulsifying agent) except when specified circumstances apply. Moreover, there are time-of-year restrictions on its use from April through October in VOC emission control areas.

2(d) Recommendation. Take precautions to restrict the emissions of volatile organic compounds (VOC) and oxides of nitrogen (NO_x).

2(e) Conclusion. The project will be consistent with the point source air pollution enforceable policy of the Virginia CZM Program, provided it complies with the above requirements.

3. Chesapeake Bay Preservation Areas. The FCC (page 2) notes that a portion of the proposed easement is located within a Resource Management Area (RMA). The easement is not located within any Resource Protection Area.

3(a) Agency Jurisdiction. The policy is intended to protect and improve the water quality of the Chesapeake Bay, its tributaries, and other state waters by ensuring that land use and development performance criteria and standards are implemented in Chesapeake Bay Preservation Areas, which if improperly used or developed may result in substantial damage to the water quality of the Chesapeake Bay and its tributaries. The program is administered by DEQ and 84 Bay Act localities through the Chesapeake Bay Preservation Act (Virginia Code §§ 28.2-104.1, 62.1-44.15:24, -44.15:51, -44.15:67, -44.15:68, -44.15:69, -44.15:73, -44.15:74, and -44.15:78) and Chesapeake Bay

Preservation Area Designation and Management Regulations (9 VAC §§ 25-830-30, -40, -80, -90, -100, -120, -130, -140, and -150).

3(b) Agency Findings. In the City of Newport News, the areas protected by the *Chesapeake Bay Preservation Act*, as locally implemented, require conformance with performance criteria. These areas include Resource Protection Areas (RPAs) and Resource Management Areas (RMAs). RPAs include tidal wetlands, certain non-tidal wetlands and tidal shores. RPAs also include a 100-foot vegetated buffer area located adjacent to and landward of these features and along both sides of any water body with perennial flow. The components of the RMA consist of all lands within one hundred feet landward of the landward boundary of the RPA buffer and in addition includes all land containing slopes greater than fifteen percent, all areas within the one hundred year floodplain, and highly erodible soils. Newport News also has lands designated as industrial waterfront intensely developed areas (IWIDA) that, because of the intensity of their use, are characterized by an absence of natural environmental features and a preponderance of impervious surface and bulk headed or riprapped shoreline.

The proposed project lies within the locally designated Chesapeake Bay Preservation Area (CBPA), specifically the RMA.

3(c) Requirements. Per 9VAC 25-830-150(B) of the Regulations, the construction, installation, operation, and maintenance of public utilities and their appurtenant structures are conditionally exempt from the Regulations. Activities within the CBPA must occur in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law and the Virginia Stormwater Management Act; an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Environmental Quality or local water quality protection criteria at least as stringent as the above state requirements.

3(d) Conclusion. Provided adherence to the above requirements, the proposed activity will be consistent with the *Chesapeake Bay Preservation Act* and Regulations and the Chesapeake Bay Preservation Areas enforceable policy of the Virginia CZM Program.

4. Non-Point Source Water Pollution. According to the FCC (page 5), the proposed action does not include any construction that would result in non-point source pollution and there will be no soil erosion or the input of chemical nutrients and sediments to the Chesapeake Bay, its tributaries and other waters of the Commonwealth. Stormwater runoff will be controlled via silt fencing.

4(a) Agency Jurisdiction. The policy addresses the control stormwater runoff to protect the quality and quantity of state waters from the potential harm of unmanaged stormwater. Virginia's Erosion and Sediment Control Law requires soil-disturbing projects to be designed to reduce soil erosion and to decrease inputs of chemical nutrients and sediments to the Chesapeake Bay, its tributaries, and other rivers and waters of the Commonwealth. This program is administered by DEQ (Virginia Code §§ 62.1-44.15:25, 62.1-44.15:52; 9 VAC §§ 25-840-30, 25-870-20).

4(b) Requirements.

4(b)(i) Erosion and Sediment Control Plan. The applicant is responsible for submitting a project-specific erosion and sediment control (ESC) plan to the locality in which the project is located for review and approval pursuant to the local ESC requirements, if the project involves a land-disturbing activity of 10,000 square feet or more (2,500 square feet or more in a Chesapeake Bay Preservation Area). Depending on local requirements the area of land disturbance requiring an ESC plan may be less. The ESC plan must be approved by the locality prior to any land-disturbing activity at the project site. All regulated land-disturbing activities associated with the project, including on and off site access roads, staging areas, borrow areas, stockpiles, and soil intentionally transported from the project, must be covered by the project specific ESC plan. Local ESC program requirements must be requested through the locality.

4(b)(ii) Stormwater Management Plan. Depending on local requirements, a Stormwater Management (SWM) plan may be required. Local SWM program requirements must be requested through the locality.

4(b)(iii) General Permit for Stormwater Discharges from Construction Activities (VAR10). DEQ is responsible for the issuance, denial, revocation, termination and enforcement of the Virginia Stormwater Management Program (VSMP) General Permit for Stormwater Discharges from Construction Activities related to municipal separate storm sewer systems (MS4s) and construction activities for the control of stormwater discharges from MS4s and land disturbing activities under the Virginia Stormwater Management Program.

The operator or owner of a construction activity involving land disturbance of equal to or greater than 1 acre is required to register for coverage under the General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities and develop a project specific stormwater pollution prevention plan (SWPPP). The SWPPP must be prepared prior to submission of the registration statement for coverage under the General Permit and the SWPPP must address water quality and quantity in accordance with the *Virginia Stormwater Management Program Regulations*. General information and registration forms for the General Permit are available on DEQ's website at: <https://www.deq.virginia.gov/water/stormwater>.

4(c) Conclusion. Provided adherence to the applicable ESC, SWM, and VPDES requirements, the proposed activity will be consistent with the Non-Point Source Water Pollution enforceable policy of the Virginia CZM Program.

ADDITIONAL ENVIRONMENTAL CONSIDERATIONS

In addition to the enforceable policies of the Virginia CZM Program, comments were also provided with respect to other applicable requirements and recommendations. The applicant must ensure that this project is constructed and operated in accordance with all applicable federal, state, and local laws and regulations.

1. Solid and Hazardous Waste Management.

1(a) Agency Jurisdiction. On behalf of the Virginia Waste Management Board, the [DEQ Division of Land Protection and Revitalization](#) is responsible for carrying out the mandates of the Virginia Waste Management Act (Virginia Code §10.1-1400 *et seq.*), as well as meeting Virginia's federal obligations under the Resource Conservation and Recovery Act (CERCLA) and the Comprehensive Environmental Response Compensation Liability Act, commonly known as Superfund. The DEQ Division of Land Protection and Revitalization also administers those laws and regulations on behalf of the State Water Control Board governing Petroleum Storage Tanks (Virginia Code §62.1-44.34:8 *et seq.*), including Aboveground Storage Tanks (9VAC25-91 *et seq.*) and Underground Storage Tanks (9VAC25-580 *et seq.* and 9VAC25-580-370 *et seq.*), also known as 'Virginia Tank Regulations', and § 62.1-44.34:14 *et seq.* which covers oil spills.

Virginia:

- Virginia Waste Management Act, Virginia Code § 10.1-1400 *et seq.*
- *Virginia Solid Waste Management Regulations*, 9 VAC 20-81
 - (9 VAC 20-81-620 applies to asbestos-containing materials)
- *Virginia Hazardous Waste Management Regulations*, 9 VAC 20-60
 - (9 VAC 20-60-261 applies to lead-based paints)
- *Virginia Regulations for the Transportation of Hazardous Materials*, 9 VAC 20-110.

Federal:

- Resource Conservation and Recovery Act (RCRA), 42 U.S. Code sections 6901 *et seq.*
- U.S. Department of Transportation *Rules for Transportation of Hazardous Materials*, 49 Code of Federal Regulations, Part 107
- Applicable rules contained in Title 40, *Code of Federal Regulations*.

1(b) Agency Findings. DEQ's Division of Land Protection and Revitalization (DLPR) conducted a solid and hazardous waste database search (200-foot radius) for waste sites in close proximity to the project area. DLPR identified one RCRA Small Quantity Generator in close proximity to the project area which might impact the project:

RegistryID: 110005213768, WalMart Supercenter 1773, 12401 Jefferson Ave, Newport News, Virginia 23602-4311.

The DEQ TRO noted that DEQ records do not indicate any reported petroleum releases within the proposed project footprint.

1(c) Requirements.

1(c)(i) Contaminated and Generated Wastes. Any soil that is suspected of contamination or wastes that are generated during construction must be tested and disposed of in accordance with applicable federal, state, and local laws and regulations. All construction and demolition debris must be characterized in accordance with the *Virginia Hazardous Waste Management Regulations* prior to disposal at an appropriate facility. It is the generator's responsibility to determine if a solid waste meets the criteria of a hazardous waste and to manage the waste appropriately.

1(c)(ii) Petroleum Releases and Storage Tanks. If evidence of a petroleum release is discovered, it must be reported to DEQ, as authorized by Virginia Code § 62.1-44.34.8 through 9 and 9 VAC 25-580-10 *et seq.*

Installation and operation of any regulated petroleum storage tank(s) either aboveground storage tanks (AST) or underground storage tanks (UST) must also be conducted in accordance with the Virginia Regulations 9 VAC 25-91-10 *et seq.* and / or 9 VAC 25-580-10 *et seq.*

1(d) Pollution Prevention Recommendation. DEQ recommends that the applicant implement pollution prevention principles, including the reduction, reuse, and recycling of all solid wastes generated. All generation of hazardous wastes should be minimized and handled appropriately.

2. Public Water Supply.

2(a) Agency Jurisdiction. The Virginia Department of Health (VDH) Office of Drinking Water reviews projects for the potential to impact public drinking water sources (groundwater wells, springs and surface water intakes). VDH administers both federal and state laws governing waterworks operation.

2(b) Agency Findings. VDH identified two surface water intakes within a 5-mile radius of the project site:

- City of Newport News, Hardwood Mill (PWS ID 3700500)
- City of Newport News, Lee Hall (PWS ID 3700500)

2(c) Recommendations. Utilize Best Management Practices including erosion and sedimentation controls and spill prevention controls and countermeasures on the project site. Properly manage materials while on site and during transport to prevent impacts to nearby surface water.

2(d) Requirement. Potential impacts to public water distribution systems or sanitary sewage collection systems must be verified by the local utility.

3. Natural Heritage Resources.

3(a) Agency Jurisdiction.

3(a)(i) Virginia Department of Conservation and Recreation Division of Natural Heritage (DNH). DNH's mission is conserving Virginia's biodiversity through inventory, protection and stewardship. The Virginia Natural Area Preserves Act (Virginia Code §10.1-209 through 217), authorized DCR to maintain a statewide database for conservation planning and project review, protect land for the conservation of biodiversity, and the protect and ecologically manage the natural heritage resources of Virginia (the habitats of rare, threatened and endangered species, significant natural communities, geologic sites, and other natural features).

3(a)(ii) Virginia Department of Agriculture and Consumer Services (VDACS). The Endangered Plant and Insect Species Act of 1979 (Virginia Code Chapter 39 §3.1-1020 through 1030) authorizes VDACS to conserve, protect and manage endangered and threatened species of plants and insects. Under a Memorandum of Agreement established between VDACS and the DCR, DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species.

3(b) Agency Findings.

3(b)(i) Natural Heritage Resources. DCR searched its Biotics Data System for occurrences of natural heritage resources from the area outlined on the submitted map. According to the information currently in Biotics, natural heritage resources have not been documented within the submitted project boundary including a 100-foot buffer. The absence of data may indicate that the project area has not been surveyed, rather than confirm that the area lacks natural heritage resources. In addition, the project boundary does not intersect any of the predictive models identifying potential habitat for natural heritage resources.

3(b)(ii) State-listed Plant and Insect Species. DCR finds that the current activity will not affect any documented state-listed plant and insect species.

3(b)(iii) State Natural Area Preserves. DCR files do not indicate the presence of any State Natural Area Preserves under the agency's jurisdiction in the project vicinity.

3(c) Recommendations. Contact DCR DNH to secure updated information on natural heritage resources if the scope of the project changes and/or six months has passed before it is utilized. New and updated information is continually added to the Biotics Data System.

4. Floodplain Management.

4(a) Agency Jurisdiction. DCR is the lead coordinating agency for the Commonwealth's floodplain management program and the National Flood Insurance Program (Executive Memorandum 2-97).

4(b) Agency Findings. The National Flood Insurance Program (NFIP) is administered by the Federal Emergency Management Agency (FEMA), and communities who elect to participate in this voluntary program manage and enforce the program on the local level through that community's local floodplain ordinance. Each local floodplain ordinance must comply with the minimum standards of the NFIP, outlined in 44 CFR 60.3; however, local communities may adopt more restrictive requirements in their local floodplain ordinance, such as regulating the 0.2% annual chance flood zone (Shaded X Zone).

All development within a Special Flood Hazard Area (SFHA), as shown on the locality's Flood Insurance Rate Map (FIRM), must be permitted and comply with the requirements of the local floodplain ordinance.

DCR's Floodplain Management Program does not have regulatory authority for projects in the SFHA.

4(c) Requirement. The applicant/developer must contact the local floodplain administrator for an official floodplain determination, and if the project is located in the SFHA, this project must comply with the community's local floodplain ordinance, including receiving a local permit, as necessary. Failure to comply with the local floodplain ordinance could result in enforcement action from the locality.

5. Historic and Archaeological Resources.

5(a) Agency Jurisdiction. The Virginia [Department of Historic Resources \(DHR\)](http://www.dhr.virginia.gov/StateStewardship/Index.htm) conducts reviews of both federal and state projects to determine their effect on historic properties. Under the federal process, DHR is the State Historic Preservation Office, and ensures that federal undertakings - including licenses, permits, or funding - comply with Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulation at 36 CFR Part 800. Section 106 requires federal agencies to consider the effects of federal projects on properties that are listed or eligible for listing on the National Register of Historic Places. Please see DHR's website for more information about applicable state and federal laws and how to submit an application for review: <http://www.dhr.virginia.gov/StateStewardship/Index.htm>.

5(b) Agency Findings. The FAA has consulted with DHR on this project and DHR concurred with their determination of No Historic Properties Affected.

6. Aviation.

6(a) Agency Jurisdiction. The Virginia Department of Aviation is a state agency that plans for the development of the state aviation system; promotes aviation; grants aircraft and airports licenses; and provides financial and technical assistance to cities, towns, counties and other governmental subdivisions for the planning, development, construction and operation of airports, and other aviation facilities.

6(b) Agency Findings. The DOAV has reviewed the FCC and has no comments.

REGULATORY AND COORDINATION NEEDS

1. Point Source Air Pollution. Activities associated with this project may be subject to air regulations administered by DEQ. The state air pollution regulation that may apply to the project are:

- fugitive dust and emissions control (9VAC5-50-60 *et seq.*);
- open burning (9VAC5-130 *et seq.*);
- asphalt paving operations (9VAC5-45-760 *et seq.*); and
- permits for fuel-burning equipment (9VAC5-80-1100 *et seq.*).

Coordinate with DEQ TRO (John Brandt, 757-407-2341) for guidance on minimizing emissions during construction and questions on air pollution requirements.

2. Chesapeake Bay Preservation Areas. The project must be conducted in a manner that is consistent with the Chesapeake Bay Preservation Areas enforceable policy of the CZM Program as administered by the locality pursuant to the Chesapeake Bay Preservation Act (Virginia Code 62.1-44.15 *et seq.*) and the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830 *et seq.*). For additional information related to the requirements for work in the RMA or with general questions contact DEQ (Amber Foster, 804-774-8474).

3. Non-Point Source Water Pollution.

3(a) Erosion and Sediment Control and Stormwater Management. This project must comply with *Virginia's Erosion and Sediment Control Law* (Virginia Code § 62.1-44.15:61) and *Regulations* (9 VAC 25-840-30 *et seq.*) and *Stormwater Management Law* (Virginia Code § 62.1-44.15:31) and *Regulations* (9 VAC 25-870-210 *et seq.*) as locally administered. Land-disturbing activities 10,000 square feet or more (2,500 square feet or more in a Chesapeake Bay Preservation Area) would be regulated by *VESCL&R* and *VSWML&R*. Local erosion and sediment control, and stormwater management plan requirements should be coordinated with the City of Newport News (Engineering- Environmental Services, 757-933-2311).

3(b) General Permit for Stormwater Discharges from Construction Activities (VAR10). For projects involving land-disturbing activities of equal to or greater than one

acre the applicant is required to register for coverage under the Virginia Stormwater Management Program General Permit for Discharges of Stormwater from Construction Activities (9 VAC 25-870-1 *et seq.*). Specific questions regarding the Stormwater Management Program requirements should be directed to the City of Newport News (Engineering- Environmental Services, 757-933-2311).

4. Solid and Hazardous Wastes. All solid waste, hazardous waste, and hazardous materials must be managed in accordance with all applicable federal, state, and local environmental regulations. Contact DEQ TRO, Melinda Woodruff (Melinda.Woodruff@deq.virginia.gov or 757-407-2516), for information on the location and availability of suitable waste management facilities in the project area or if free product, discolored soils, or other evidence of contaminated soils are encountered.

Documentation and / or questions related to ASTs and USTs should be submitted to TRO Tanks at tro.tanks@deq.virginia.gov.

5. Public Water and Municipal Sewer Utility. Potential impacts to public water distribution systems or sanitary sewage collection systems must be verified by the local utility (Newport News Public Works at 757-933-2311 and Hampton Roads Sanitation District at 757-460-2491).

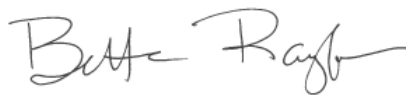
6. Natural Heritage Resources. Contact DCR-DNH, Rene Hypes at (804) 371-2708, to secure updated information on natural heritage resources if the scope of the project changes and/or six months passes before the project is implemented, since new and updated information is continually added to the Biotics Data System.

7. Floodplain Management. Contact the local floodplain administrator for an official floodplain determination and to ensure compliance with the community's local floodplain ordinance. To find flood zone information, use the Virginia Flood Risk Information System (VFRIS): www.dcr.virginia.gov/vfris

To find community NFIP participation and local floodplain administrator contact information, use DCR's Local Floodplain Management Directory: www.dcr.virginia.gov/dam-safety-and-floodplains/floodplain-directory

Thank you for the opportunity to comment on the FCC submitted for the Newport News/ Williamsburg International Airport Proposed Utility Easements in the City of Newport News. Detailed comments of reviewing agencies are attached for your review. Please contact me at (804) 659-1915 or Janine Howard at (804) 659-1916 for clarification of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Bettina Rayfield". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bettina Rayfield, Program Manager
Environmental Impact Review

Ec: Robbie Rhur, DCR
Amy Martin, DWR
Roger Kirchen, DHR
Tiffany Birge, VMRC
Heather Williams, VDOT
Ben McFarlane, HRPDC
Rusty Harrington, DOAV
Arlene Warren, VDH
Ben McFarlane, HRPDC
Cynthia D. Rohlf, City of Newport News
Genevieve Walker, FAA
Jeff Wellman, Talbert & Bright

**DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR PROGRAM COORDINATION**

ENVIRONMENTAL REVIEW COMMENTS APPLICABLE TO AIR QUALITY

TO: Janine Howard

We thank **OEIR** for providing DEQ-AIR an opportunity to review the following project:
Accordingly, I am providing following comments for consideration.

Document Type: Federal Consistency Certification

Project Sponsor: Federal Aviation Administration

Project Title: Newport News/Williamsburg International Airport Proposed Utility Easements

Location: City of Newport News

Project Number: DEQ #22-015F

**PROJECT LOCATION: X OZONE ATTAINMENT
AND EMISSION CONTROL AREA FOR NOX & VOC**


**REGULATORY REQUIREMENTS MAY BE APPLICABLE TO: X CONSTRUCTION
 OPERATION**

STATE AIR POLLUTION CONTROL BOARD REGULATIONS THAT MAY APPLY:

1. 9 VAC 5-40-5200 C & 9 VAC 5-40-5220 E – STAGE I
2. 9 VAC 5-45-760 et seq. – Asphalt Paving operations
3. **X** 9 VAC 5-130 et seq. – **Open Burning**
4. **X** 9 VAC 5-50-60 et seq. **Fugitive Dust Emissions**
5. 9 VAC 5-50-130 et seq. - Odorous Emissions; Applicable to _____
6. 9 VAC 5-60-300 et seq. – Standards of Performance for Toxic Pollutants
7. 9 VAC 5-50-400 Subpart _____, Standards of Performance for New Stationary Sources, designates standards of performance for the _____
8. 9 VAC 5-80-1100 et seq. of the regulations – Permits for Stationary Sources
9. 9 VAC 5-80-1605 et seq. Of the regulations – Major or Modified Sources located in PSD areas. This rule may be applicable to the _____
10. 9 VAC 5-80-2000 et seq. of the regulations – New and modified sources located in non-attainment areas
11. 9 VAC 5-80-800 et seq. Of the regulations – State Operating Permits. This rule may be applicable to _____

COMMENTS SPECIFIC TO THE PROJECT:

All precautions are necessary to restrict the emissions of volatile organic compounds (VOC) and oxides of nitrogen (NO_x).



**(Kotur S. Narasimhan)
Office of Air Data Analysis**

DATE: January 28, 2022



COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

MEMORANDUM

DATE: March 4, 2022
TO: Janine Howard, DEQ
FROM: Roberta Rhur, Environmental Impact Review Coordinator
SUBJECT: DEQ 22-015F, Newport News-Williamsburg International Airport Proposed Utility Easements

Division of Natural Heritage

The Department of Conservation and Recreation's Division of Natural Heritage (DCR) has searched its Biotics Data System for occurrences of natural heritage resources from the area outlined on the submitted map. Natural heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations.

According to the information currently in Biotics, natural heritage resources have not been documented within the submitted project boundary including a 100 foot buffer. The absence of data may indicate that the project area has not been surveyed, rather than confirm that the area lacks natural heritage resources. In addition, the project boundary does not intersect any of the predictive models identifying potential habitat for natural heritage resources.

There are no State Natural Area Preserves under DCR's jurisdiction in the project vicinity.

Under a Memorandum of Agreement established between the Virginia Department of Agriculture and Consumer Services (VDACS) and the DCR, DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species. The current activity will not affect any documented state-listed plants or insects.

New and updated information is continually added to Biotics. Please re-submit project information and map for an update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized.

The VDWR maintains a database of wildlife locations, including threatened and endangered species, trout streams, and anadromous fish waters that may contain information not documented in this letter. Their database may be accessed from <http://vafwis.org/fwis/> or contact Amy Martin at (804-367-2211) or amy.martin@dwr.virginia.gov.

Division of Dam Safety and Floodplain Management

Floodplain Management Program:

The National Flood Insurance Program (NFIP) is administered by the Federal Emergency Management Agency (FEMA), and communities who elect to participate in this voluntary program manage and enforce the program on the local level through that community's local floodplain ordinance. Each local floodplain ordinance must comply with the minimum standards of the NFIP, outlined in 44 CFR 60.3; however, local communities may adopt more restrictive requirements in their local floodplain ordinance, such as regulating the 0.2% annual chance flood zone (Shaded X Zone).

All development within a Special Flood Hazard Area (SFHA), as shown on the locality's Flood Insurance Rate Map (FIRM), must be permitted and comply with the requirements of the local floodplain ordinance.

State Agency Projects Only

[Executive Order 45](#), signed by Governor Northam and effective on November 15, 2019, establishes mandatory standards for development of state-owned properties in Flood-Prone Areas, which include Special Flood Hazard Areas, Shaded X Zones, and the Sea Level Rise Inundation Area. These standards shall apply to all state agencies.

1. Development in Special Flood Hazard Areas and Shaded X Zones
 - A. All development, including buildings, on state-owned property shall comply with the locally-adopted floodplain management ordinance of the community in which the state-owned property is located and any flood-related standards identified in the Virginia Uniform Statewide Building Code.
 - B. If any state-owned property is located in a community that does not participate in the NFIP, all development, including buildings, on such state-owned property shall comply with the NFIP requirements as defined in 44 CFR §§ 60.3, 60.4, and 60.5 and any flood-related standards identified in the Virginia Uniform Statewide Building Code.
 - (1) These projects shall be submitted to the Department of General Services (DGS), for review and approval.
 - (2) DGS shall not approve any project until the State NFIP Coordinator has reviewed and approved the application for NFIP compliance.
 - (3) DGS shall provide a written determination on project requests to the applicant and the State NFIP Coordinator. The State NFIP Coordinator shall maintain all documentation associated with the project in perpetuity.
 - C. No new state-owned buildings, or buildings constructed on state-owned property, shall be constructed, reconstructed, purchased, or acquired by the Commonwealth within a Special Flood Hazard Area or Shaded X Zone in any community unless a variance is granted by the Director of DGS, as outlined in this Order.

The following definitions are from Executive Order 45:

Development for NFIP purposes is defined in 44 CFR § 59.1 as "Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials."

The Special Flood Hazard Area may also be referred to as the 1% annual chance floodplain or the 100-year floodplain, as identified on the effective Flood Insurance Rate Map and Flood Insurance Study. This includes the following flood zones: A, AO, AH, AE, A99, AR, AR/AE, AR/AO, AR/AH, AR/A, VO, VE, or V.

The Shaded X Zone may also be referred to as the 0.2% annual chance floodplain or the 500-year floodplain, as identified on the effective Flood Insurance Rate Map and Flood Insurance Study.

The Sea Level Rise Inundation Area referenced in this Order shall be mapped based on the National Oceanic and Atmospheric Administration Intermediate-High scenario curve for 2100, last updated in 2017, and is intended to denote the maximum inland boundary of anticipated sea level rise.

“State agency” shall mean all entities in the executive branch, including agencies, offices, authorities, commissions, departments, and all institutions of higher education.

“Reconstructed” means a building that has been substantially damaged or substantially improved, as defined by the NFIP and the Virginia Uniform Statewide Building Code.

Federal Agency Projects Only

Projects conducted by federal agencies within the SFHA must comply with federal Executive Order 11988: Floodplain Management.

DCR’s Floodplain Management Program does not have regulatory authority for projects in the SFHA. The applicant/developer must contact the local floodplain administrator for an official floodplain determination and comply with the community’s local floodplain ordinance, including receiving a local permit. Failure to comply with the local floodplain ordinance could result in enforcement action from the locality. For state projects, DCR recommends that compliance documentation be provided prior to the project being funded. For federal projects, the applicant/developer is encouraged reach out to the local floodplain administrator and comply with the community’s local floodplain ordinance.

To find flood zone information, use the Virginia Flood Risk Information System (VFRIS): www.dcr.virginia.gov/vfris

To find community NFIP participation and local floodplain administrator contact information, use DCR’s Local Floodplain Management Directory: www.dcr.virginia.gov/dam-safety-and-floodplains/floodplain-directory

The remaining DCR divisions have no comments regarding the scope of this project. Thank you for the opportunity to comment.



Howard, Janine <janine.howard@deq.virginia.gov>

Utility Easements at Newport News/Williamsburg International Airport (PHF) (DHR File No. 2022-3086 DEQ #22-015F) | e-Mail #03362

1 message

Adrienne Birge-wilson <Adrienne.Birge-Wilson@dhr.virginia.gov>
To: Janine Howard <Janine.Howard@deq.virginia.gov>

Wed, Feb 16, 2022 at 1:52 PM

Janine- The FAA consulted with us and we concurred with their determination of No Historic Properties Affected.

Adrienne Birge-Wilson, Architectural Historian

Department of Historic Resources
Review and Compliance Division
Phone: (804) 482-6092
Adrienne.Birge-Wilson@dhr.virginia.gov



Howard, Janine <janine.howard@deq.virginia.gov>

Fwd: NEW PROJECT FAA NNWIA Proposed Utility Easements, DEQ 22-015F

1 message

Rusty Harrington <rusty.harrington@doav.virginia.gov>
To: Janine Howard <janine.howard@deq.virginia.gov>

Wed, Mar 16, 2022 at 2:41 PM

Good afternoon, Janine,

DOAV has reviewed the project for the Newport News-Williamsburg Airport Utility easements and has no further comments at this time. Thank you for the opportunity to comment.

Sincerely,

Rusty Harrington
DOAV

----- Forwarded message -----

From: **Fulcher, Valerie** <valerie.fulcher@deq.virginia.gov>

Date: Fri, Jan 28, 2022 at 9:50 AM

Subject: NEW PROJECT FAA NNWIA Proposed Utility Easements, DEQ 22-015F

To: rr dgif-ESS Projects <essprojects@dgif.virginia.gov>, Roberta Rhur <robbie.rhur@dcr.virginia.gov>, odwreview (VDH) <odwreview@vdh.virginia.gov>, Roger Kirchen <roger.kirchen@dhr.virginia.gov>, Birge, Tiffany <tiffany.birge@mrc.virginia.gov>, Claire Gorman <claire.gorman@mrc.virginia.gov>, rr EIR Coordination <eir.coordination@vdot.virginia.gov>, Russell Harrington <rusty.harrington@doav.virginia.gov>, Ben McFarlane <bmcfarlane@hrpdcva.gov>, <311@nnva.gov>, Carlos Martinez <carlos.martinez@deq.virginia.gov>, Kotur Narasimhan <kotur.narasimhan@deq.virginia.gov>, Lawrence Gavan <larry.gavan@deq.virginia.gov>, Daniel Moore <daniel.moore@deq.virginia.gov>, Jeffrey Hannah <jeffrey.hannah@deq.virginia.gov>

Cc: Howard, Janine (DEQ) <janine.howard@deq.virginia.gov>

Good morning - this is a new OEIR review request/project:**Document Type: Federal Consistency Certification****Project Sponsor: Federal Aviation Administration****Project Title: Newport News/Williamsburg International Airport Proposed Utility Easements****Location: City of Newport News****Project Number: DEQ #22-015F****The document is attached.****The due date for comments is MARCH 4, 2022. You can send your comments either directly to JANINE HOWARD by email (Janine.Howard@deq.virginia.gov), or you can send your comments by regular interagency/U.S. mail to the Department of Environmental Quality, Office of Environmental Impact Review, P.O. Box 1105, Richmond, VA 23218.****NOTE: The FCC is included as Attachment C of the FCC (PDF page 52/28).****If you cannot meet the deadline, please notify the project coordinator prior to the comment due date. Arrangements may be made to extend the deadline for comments if possible. An agency will be considered to have no concerns if comments are not received (or contact is made) within the review period. However, it is important that agencies consistently participate in accordance with Virginia Code Section 10.1-1192.**



Howard, Janine <janine.howard@deq.virginia.gov>

DWR update: staffing issues Re: NEW PROJECT FAA NNWIA Proposed Utility Easements, DEQ 22-015F

1 message

dgif-ESS Projects, rr <essprojects@dwr.virginia.gov>
To: janine.howard@deq.virginia.gov

Mon, Mar 14, 2022 at 8:25 PM

Thanks for submitting your project for review, it has been received. We are experiencing a temporary, but significant, staffing shortage and will therefore be only addressing priority projects/issues/items and/or those we are required to review. It may take us a little bit longer to respond to your request and we appreciate any additional response time you can provide. However, if you do not hear back from DWR within agreed-upon timeframes and you must move your project forward, please document such in the project files and move on. Please feel free to include this message with your project documents.

If you have any questions or believe your project is a priority that we missed, please contact Amy Martin at 804-367-2211 or amy.martin@dwr.virginia.gov.

We appreciate your patience!

Amy Martin
Department of Wildlife Resources
Environmental Services Section



MEMORANDUM

TO: Janine Howard, DEQ/EIR Environmental Program Planner

FROM: Carlos A. Martinez, Division of Land Protection & Revitalization Review Coordinator

DATE: March 2, 2022

COPIES: Sanjay Thirunagari, Division of Land Protection & Revitalization Review Manager; file

SUBJECT: Environmental Impact Review: 22-015F Newport News/Williamsburg International Airport Proposed Utility Easements in the City of Newport News, Virginia.

The Division of Land Protection & Revitalization (DLPR) has completed its review of the Federal Aviation Administration's January 28, 2022 EIR for Newport News-Williamsburg International Airport Proposed Utility Easements in the City of Newport News, Virginia.

DLPR staff conducted a search (200 ft. radius) of the project area of solid and hazardous waste databases (including petroleum releases) to identify waste sites in close proximity to the project area. DLPR search identified one (1) RCRA Small Quantity Generator within the project area which might impact the project.

DLPR staff has reviewed the submittal and offers the following comments:

Hazardous Waste/RCRA Facilities – One (1) RCRA Small Quantity Generator in close proximity to the project area

- 1. RegistryID: 110005213768, WalMart Supercenter 1773, 12401 Jefferson Ave, Newport News, Virginia 23602-4311.***

CERCLA Sites – none in close proximity to the project areas.

Formerly Used Defense Sites (FUDS) – none in close proximity to the project areas.

Solid Waste – none in close proximity to the project areas.

Virginia Remediation Program (VRP) – none in close proximity to the project areas.

Petroleum Releases – none in close proximity to the project areas.

PROJECT SPECIFIC COMMENTS

None

GENERAL COMMENTS

Soil, Sediment, Groundwater, and Waste Management

Any soil, sediment or groundwater that is suspected of contamination or wastes that are generated must be tested and disposed of in accordance with applicable Federal, State, and local laws and regulations. Some of the applicable state laws and regulations are: Virginia Waste Management Act, Code of Virginia Section 10.1-1400 *et seq.*; Virginia Hazardous Waste Management Regulations (VHWMR) (9VAC 20-60); Virginia Solid Waste Management Regulations (VSWMR) (9VAC 20-81); Virginia Regulations for the Transportation of Hazardous Materials (9VAC 20-110). Some of the applicable Federal laws and regulations are: the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 *et seq.*, and the applicable regulations contained in Title 40 of the Code of Federal Regulations; and the U.S. Department of Transportation Rules for Transportation of Hazardous Materials, 49 CFR Part 107.

Asbestos and/or Lead-based Paint

All structures being demolished/renovated/removed should be checked for asbestos-containing materials (ACM) and lead-based paint (LBP) prior to demolition. If ACM or LBP are found, in addition to the federal waste-related regulations mentioned above, State regulations 9VAC 20-81-620 for ACM and 9VAC 20-60-261 for LBP must be followed. Questions may be directed to Melinda Woodruff at the DEQ's Tidewater Regional Office at (757) 518-2000.

Pollution Prevention – Reuse - Recycling

Please note that DEQ encourages all construction projects and facilities to implement pollution prevention principles, including the reduction, reuse, and recycling of all solid wastes generated. All generation of hazardous wastes should be minimized and handled appropriately.

If you have any questions or need further information, please contact Carlos A. Martinez by phone at (804) 350-9962 or email Carlos.Martinez@DEQ.Virginia.Gov.



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

www.deq.virginia.gov

Andrew R. Wheeler
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

TO: Janine Howard, DEQ Office of Environmental Impact Review

FROM: Amber Foster, DEQ Principal Environmental Planner

DATE: February 17, 2022

SUBJECT: DEQ #22-015F – Federal Aviation Administration, Newport News/Williamsburg International Airport Proposed Utility Easements, City of Newport News

We have reviewed the Federal Consistency Certification submittal for the proposed project and offer the following comments regarding consistency with the provisions of the Chesapeake Bay Preservation Area Designation and Management Regulations (Regulations):

In the City of Newport News, the areas protected by the *Chesapeake Bay Preservation Act*, as locally implemented, require conformance with performance criteria. These areas include Resource Protection Areas (RPAs) and Resource Management Areas (RMAs). RPAs include tidal wetlands, certain non-tidal wetlands and tidal shores. RPAs also include a 100-foot vegetated buffer area located adjacent to and landward of these features and along both sides of any water body with perennial flow. The components of the RMA consist of all lands within one hundred feet landward of the landward boundary of the RPA buffer and in addition includes all land containing slopes greater than fifteen percent, all areas within the one hundred year floodplain, and highly erodible soils. Newport News also has lands designated as industrial waterfront intensely developed areas (IWIDA) that, because of the intensity of their use, are characterized by an absence of natural environmental features and a preponderance of impervious surface and bulk headed or ripped shoreline.

The proposed project includes multiple utilities activities on property owned by the Newport News / Williamsburg Airport. The first project includes granting a 30'- wide utility easement to the Hampton Roads Sanitation District (HRSD) from the Peninsula Airport Commission. The easement is approximately 3,100' in length (93,378 sf total) and would be located along Jefferson Avenue and Brick Kiln Boulevard. Any improvements associated with this easement will be underground and are not expected to adversely impact the operation of the Airport.

The second project consists of multiple easements to Virginia Natural Gas (VNG) from the Peninsula Airport Commission for the installation of a gas regulator station and associated gas lines. The easements include a 50' x 30' VNG Easement for the installation of a gas regulator station measuring approximately 10' x 30'; a 20' x 71' VNG Easement to connect gas lines from the regulator station to existing VNG gas lines that run along the north / east sides of Brick Kiln Boulevard; and a 25' x 65' VNG Ingress / Egress easement for maintenance located over an existing abandoned asphalt road.

The total project area is approximately 97,928 square feet (2.25 acres). All work will be performed entirely on Airport property. The existing 2.25 acre project area is grass field that is regularly mowed. This area has been disturbed during previous airport and roadway construction projects.

As noted in the FAA Environmental Categorical Exclusion Form, the project lies within the locally designated CBPA, specifically the RMA. Per § 9VAC 25-830-150(B) of the Regulations, the construction, installation, operation, and maintenance of public utilities and their appurtenant structures are conditionally exempt from the Regulations. Activities within the CBPA must occur in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law and the Virginia Stormwater Management Act; an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Environmental Quality; or local water quality protection criteria at least as stringent as the above state requirements.

Provided adherence to the above requirements, the proposed activity would be consistent with the *Chesapeake Bay Preservation Act* and Regulations.



Howard, Janine <janine.howard@deq.virginia.gov>

Re: NEW PROJECT FAA NNWIA Proposed Utility Easements, DEQ 22-015F

1 message

Gavan, Lawrence <larry.gavan@deq.virginia.gov>
To: Janine Howard <janine.howard@deq.virginia.gov>

Tue, Feb 1, 2022 at 10:49 AM

(a) Agency Jurisdiction. The DEQ administers the nonpoint source pollution control enforceable policy of the VCP through the *Virginia Erosion and Sediment Control Law and Regulations (VESCL&R)* and *Virginia Stormwater Management Law and Regulations (VSWML&R)*.

(b) Erosion and Sediment Control Plan. The Applicant is responsible for submitting a project-specific erosion and sediment control (ESC) plan to the locality in which the project is located for review and approval pursuant to the local ESC requirements, if the project involves a land-disturbing activity of 10,000 square feet or more (2,500 square feet or more in a Chesapeake Bay Preservation Area). Depending on local requirements the area of land disturbance requiring an ESC plan may be less. The ESC plan must be approved by the locality prior to any land-disturbing activity at the project site. All regulated land-disturbing activities associated with the project, including on and off site access roads, staging areas, borrow areas, stockpiles, and soil intentionally transported from the project must be covered by the project specific ESC plan. Local ESC program requirements must be requested through the locality. [Reference: *Virginia Erosion and Sediment Control Law* §62.1-44.15 et seq.; *Virginia Erosion and Sediment Control Regulations* 9VAC25-840-10 et seq.]

(c) Stormwater Management Plan. Depending on local requirements, a Stormwater Management (SWM) plan may be required. Local SWM program requirements must be requested through the locality. [Reference: *Virginia Stormwater Management Act* §62.1-44.15 et seq.; *Virginia Stormwater Management (VSMP) Permit Regulations* 9VAC25-870-10 et seq.]

(d) General Permit for Stormwater Discharges from Construction Activities (VAR10). DEQ is responsible for the issuance, denial, revocation, termination and enforcement of the Virginia Stormwater Management Program (VSMP) General Permit for Stormwater Discharges from Construction Activities related to municipal separate storm sewer systems (MS4s) and construction activities for the control of stormwater discharges from MS4s and land disturbing activities under the Virginia Stormwater Management Program.

The operator or owner of a construction project involving land-disturbing activities equal to or greater than 1 acre is required to register for coverage under the General Permit for Discharges of Stormwater from Construction Activities and develop a project-specific stormwater pollution prevention plan (SWPPP). The SWPPP must be prepared prior to submission of the registration statement for coverage under the General Permit and the SWPPP must address water quality and quantity in accordance with the *VSMP Permit Regulations*.
(Reference: *VSWML* 62.1-44.15 et seq.; *VSMP Permit Regulations* 9VAC 25-880 et seq.)

Larry Gavan
Please Note New Number (804) 965-3320
larry.gavan@deq.virginia.gov

On Fri, Jan 28, 2022 at 9:50 AM Fulcher, Valerie <valerie.fulcher@deq.virginia.gov> wrote:

**DEPARTMENT OF ENVIRONMENTAL QUALITY
TIDEWATER REGIONAL OFFICE**

Environmental Impact Review
Coordination Review

To: Office of Environmental Impact Review

From: Jeff Hannah, Regional VWPP Program Manager

Date: February 25, 2022

Project: Newport News/Williamsburg International Airport Proposed Utility Easements
DEQ #22-015F

As requested, the DEQ Tidewater Regional Office has reviewed the supplied information and offers the following comments:

Air Compliance Program :

The following air regulations may be applicable: Virginia Administrative Code 9 VAC 5-50-60 *et seq.* which addresses the abatement of visible emissions and fugitive dust emissions, and Virginia Administrative Code 9 VAC 5-130-10 *et seq.* which addresses open burning. For additional information, contact John Brandt, DEQ-TRO at (757)407-2341.

Land Program (Solid and Hazardous Waste):

All construction and demolition waste, including any excess soil, must be characterized in accordance with the Virginia Hazardous Waste Management Regulations and disposed of at an appropriate facility as applicable.

For additional information, contact Melinda Woodruff, DEQ-TRO at melinda.woodruff@deq.virginia.gov .

Stormwater:

A construction general permit (CGP) is required prior to commencement of land disturbing activities greater than 1 acre for the discharge of sediment from construction activities. An approved Erosion and Sediment Control Plan (<1 acre of land disturbance) or an approved Stormwater Management Plan (>1 acre of land disturbance) is required prior to commencement of any land disturbing activities. In addition, DEQ is the review authority for state and federal plan review and approval, within the Tidewater Region, to coincide with permit application processing. For additional information, contact Courtney Smith, DEQ-TRO at (757)493-1072.

Virginia Water Protection Permit Program (VWPP):

Potential adverse impacts to water quality and wetlands resulting from surface runoff due to construction activities must be minimized. This can be achieved by using Best Management Practices (BMPs). Permanent or temporary impacts to surface waters and wetlands may require DEQ authorization under §401 of the Clean Water Act, Virginia Code §62.1-44.15:20, and Virginia Administrative Code 9 VAC 25-210-10 *et seq.* Provided that any and all necessary permits are obtained and complied with, the project will be consistent with DEQ

program requirements. For additional information, contact Jeff Hannah, DEQ-TRO at (757)407-2510.

Water Permit Program (VPDES):

No comments as there does not appear to be any point source discharges of process water or wastewater associated with this project that would necessitate a VPDES permit.

Petroleum Storage Tank Program:

DEQ records do not indicate any reported petroleum releases along the proposed project footprint. If evidence of a petroleum release is discovered during implementation of this project, it must be reported to DEQ, as authorized by CODE # 62.1-44.34.8 through 19 and 9 VAC 25-580-10 et seq. Contact Ms. Melinda Woodruff at (757)407-2516. Petroleum-contaminated soils and ground water generated during implementation of this project must be properly characterized and disposed of properly.

Installation and operation of any regulated petroleum storage tank(s) either AST or UST must also be conducted in accordance with the Virginia Regulations 9 VAC 25-91-10 et seq and / or 9 VAC 25-580-10 et seq. Documentation and / or questions should be submitted to TRO Tanks at Tidewater Regional Office – 5636 Southern Blvd., Virginia Beach, VA 23462. tro.tanks@deq.virginia.gov.

Based on the submitted information, it appears the proposed project will result in a *[Level of impact]* environmental impact.



Howard, Janine <janine.howard@deq.virginia.gov>

Re: NEW PROJECT FAA NNWIA Proposed Utility Easements, DEQ 22-015F

1 message

Warren, Arlene <arlene.warren@vdh.virginia.gov>
 To: Janine Howard <janine.howard@deq.virginia.gov>
 Cc: rr Environmental Impact Review <eir@deq.virginia.gov>

Fri, Feb 25, 2022 at 11:13 AM

Project Name: Newport News/Williamsburg International Airport Proposed Utility Easements

Project #: 22-015 F

UPC #: N/A

Location: City of Newport News

VDH – Office of Drinking Water has reviewed the above project. Below are our comments as they relate to proximity to **public drinking water sources** (groundwater wells, springs and surface water intakes). Potential impacts to public water distribution systems or sanitary sewage collection systems **must be verified by the local utility.**

There are no public groundwater wells within a 1-mile radius of the project site.

The following surface water intakes are located within a 5 mile radius of the project site:

PWS ID Number	System Name	Facility Name
3700500	NEWPORT NEWS, CITY OF	HARWOOD MILL
3700500	NEWPORT NEWS, CITY OF	LEE HALL

The project is not within the watershed of any public surface water intakes.

Best Management Practices should be employed, including Erosion & Sedimentation Controls and Spill Prevention Controls & Countermeasures on the project site.

Materials should be managed while on site and during transport to prevent impacts to nearby surface water.

The Virginia Department of Health – Office of Drinking Water appreciates the opportunity to provide comments. If you have any questions, please let me know.

Best Regards,

Arlene F. Warren
 GIS Program Support Technician
 Virginia Department of Health, Office of Drinking Water
 109 Governor Street, 6th Floor
 Richmond, VA 23219
 804-356-6658 (office/cell/text)

On Fri, Jan 28, 2022 at 9:50 AM Fulcher, Valerie <valerie.fulcher@deq.virginia.gov> wrote:

Good morning - this is a new OEIR review request/project:



COMMONWEALTH of VIRGINIA

Marine Resources Commission
380 Fenwick Road
Bldg 96
Fort Monroe, VA 23651-1064

Andrew R. Wheeler
Secretary of Natural and Historic
Resources

Justin D. Worrell
Acting Commissioner

March 2, 2022

Department of Environmental Quality
Attn: Janine Howard
1111 East Main Street
Richmond, VA 23219

Re: Newport News/Williamsburg International Airport
Proposed Utility Easements, DEQ #22-015F

Dear Ms. Howard,

This will respond to the request for comments regarding the Federal Consistency Certification for the Newport News/Williamsburg International Airport Proposed Utility Easements project (DEQ #22-015F), prepared by Talbert & Bright, on behalf of the Peninsula Airport Commission. Specifically, the Peninsula Airport Commission has proposed to grant the Hampton Roads Sanitation District an approximately 93,378 square foot utility easement and three easements to Virginia Natural Gas totaling approximately 4,550 square feet for the installation of a gas regulator station and associated gas lines adjacent to Jefferson Avenue and Brick Kiln Boulevard in the City of Newport News, Virginia.

We reviewed the provided documents and found the proposed project is outside the jurisdictional areas of the Virginia Marine Resources Commission (VMRC) and will not require a permit from this agency.

Please be advised that the VMRC pursuant to Chapters 12, 13, and 14 of Title 28.2 of the Code of Virginia administers permits required for submerged lands, tidal wetlands, and beaches and dunes. Additionally, the VMRC administers the enforceable policies of fisheries management, subaqueous lands, tidal wetlands, and coastal primary sand dunes and beaches, which comprise some of Virginia's Coastal Zone Management Program. VMRC staff has reviewed the submittal and offers the following comments:

Fisheries and Shellfish: none in close proximity to the project area

Submerged Lands: none in close proximity to the project area

Tidal Wetlands: none in close proximity to the project area

Beaches and Coastal Primary Sand Dunes: none in close proximity to the project area

As such, this project has no foreseeable impact on the VMRC's enforceable policies. As proposed, we have no objection to the consistency findings provided by the applicant. Should the proposed project change, a new review by this agency may be required relative to these jurisdictional areas.

An Agency of the Natural Resources Secretariat
www.mrc.virginia.gov

Telephone (757) 247-2200 (757) 247-2292 V/TDD Information and Emergency Hotline 1-800-541-4646 V/TDD

Department of Environmental Quality
March 2, 2022
Page Two

Please contact me at (757) 247-2250 or by email at lauren.chartrand@mrc.virginia.gov if you have questions. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Lauren Chartrand". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lauren Chartrand
Environmental Engineer, Habitat Management

LC/cg
HM

PENINSULA AIRPORT COMMISSION

**RESOLUTION 23-011
REGARDING LEASE WITH
TRANSPORTATION SECURITY ADMINISTRATION**

July 27, 2023

WHEREAS, the Peninsula Airport Commission (the “Commission”) is a political subdivision of the Commonwealth of Virginia, created pursuant to Chapter 22 of the Acts of the General Assembly of the Commonwealth of Virginia of 1946, as amended, and owns and operates Newport News – Williamsburg International Airport (the “Airport”);

WHEREAS, the Commission is vested with the authority to make provisions for the needs of aviation, commerce, shipping, and travel in, to and around the Airport to promote and develop the Airport, and in the exercise of such power, to enter into leases of Airport property;

WHEREAS, the Commission entered into a lease with the U.S. Transportation Security Administration, as Tenant (the “Tenant”), dated August 12, 2002, as amended (the “Lease”), for Tenant’s occupancy of a portion of the Airport, including part of the Terminal Building (lower floor, Concourse B) (the “Leased Premises”), for the Tenant’s use in providing homeland and transportation security activities with respect to the Airport;

WHEREAS, Staff of the Commission and the Tenant have agreed to the principal terms of an amendment (the “Lease Amendment”) to (i) change the annual rent due under the Lease, and (ii) incorporate FAR Clause 52.204-27 (Jun. 2023) into the Lease, all as more specifically set forth in the form of such Lease Amendment attached hereto as Exhibit A and made a part hereof, and such Lease Amendment has been reviewed by the Planning & Development Committee and presented at this meeting; and

WHEREAS, the Commissioners of the Peninsula Airport Commission, after mature deliberation and upon the recommendation of the Real Estate Committee, desire to approve the Lease Amendment and its execution and delivery on behalf of the Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE PENINSULA AIRPORT COMMISSION THAT:

1. The Lease Amendment is approved, and the Chairman and the Vice-Chairman, either of whom may act, upon advice of counsel to the Commission, are authorized and directed to execute the Lease Amendment consistent with the provisions of this Resolution.
2. Except as otherwise amended by the Lease Amendment, all other provisions of the Lease shall remain in full force and effect, and the Tenant’s occupancy under the Lease is hereby ratified and confirmed.
3. This Resolution shall take effect immediately.

Exhibit A

LEASE AMENDMENT

GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE LEASE AMENDMENT	LEASE AMENDMENT No. 9
	TO LEASE NO. GS-03B-03318
ADDRESS OF PREMISES NEWPORT NEWS REGIONAL AIRPORT 900 BLAND BLVD NEWPORT NEWS, VA 23602-4347	PDN Number: NA

THIS AMENDMENT is made and entered into between

PENINSULA AIRPORT COMMISSION

whose address is: 900 BLAND BLVD STE G
NEWPORT NEWS, VA 23601-4347

hereinafter called the Lessor, and the **UNITED STATES OF AMERICA**, hereinafter called the Government:

WHEREAS the parties hereto desire to amend the above Lease to incorporate FAR 52.204-27 Prohibition on a ByteDance covered application (June 2023) and incorporate a five (5) year, three (3) years firm, renewal option.

NOW THEREFORE, these parties for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, covenant and agree that the said Lease is amended, effective upon execution by the Government as follows:

A. FAR clause 52.204-27 "Prohibition on a ByteDance Covered Application (June 2023)" is hereby incorporated into the Lease Contract and attached as Exhibit A.

B. Paragraph 2, TERM, of the Lease is hereby amended to include the following option:

"This lease may be renewed at the option of the Government, for the following terms and at the following rentals:

One (1) – Five (5) year, three (3) years firm, renewal at an annual rent of \$97,616.99. The Government may terminate this lease in whole or in part at any time on or after August 11, 2026, by giving at least one hundred eighty (180) days written notice to the lessor.

The annual rent of \$97,616.99 breaks down as follows:

Shell: \$58,946.60 per year
Operating: \$38,670.39.00 per year

This Lease Amendment contains 3 pages.

All other terms and conditions of the lease shall remain in force and effect.
IN WITNESS WHEREOF, the parties subscribed their names as of the below date.

FOR THE LESSOR:

Signature: _____
 Name: Lindsey Smith
 Title: Chair
 Entity Name: Peninsula Airport Commission
 Date: _____

FOR THE GOVERNMENT:

Signature: _____
 Name: Helene Pospischil
 Title: Lease Contracting Officer
 GSA, Public Buildings Service, _____
 Date: _____

WITNESSED FOR THE LESSOR BY:

Signature: _____
 Name: _____
 Title: _____
 Date: _____

Provided notice be given in writing to the Lessor at least three (3) days before the end of the original lease term or any renewal term; all other terms and conditions of this lease shall remain the same during the renewal term. Said notice shall be computed commencing with the day after the date of mailing."

INITIALS: _____ & _____
LESSOR GOVT

EXHIBIT A

FAR 52.204-27 PROHIBITION ON A BYTEDANCE COVERED APPLICATION (JUN 2023)

(a) *Definitions.* As used in this clause—

Covered application means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

Information technology, as defined in 40 U.S.C. 11101(6)—

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) Of that equipment; or

(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

(b) *Prohibition.* Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, “No TikTok on Government Devices” Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors. The Contractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor’s employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

(c) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

LESSOR: _____ GOVERNMENT: _____