

# Peninsula Airport Commission Board of Commissioners Meeting Packet

*Lindsey Carney Smith, Chair*  
*John Borden, Interim Director*

Thursday, December 7, 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**

#### **PLANNING AND DEVELOPMENT**

##### **COMMITTEE**

**DATE: December 4, 2023**

**TIME: 5:00PM**

- 1) Call to Order
- 2) New Business
- 3) Old Business
  - a. Parking Access Road Update
  - b. Engineering Services Contract  
Renewal
  - c. Real Estate Purchase Update
- 4) Adjourn

# Newport News Williamsburg Airport

## **PENINSULA AIRPORT COMMISSION**

### **COMMITTEE MEETING AGENDA**

## **FINANCE AND AUDIT COMMITTEE**

**DATE: December 5, 2023 TIME:  
8:00 AM**

- 1) Call to Order
- 2) New Business
  - a. Accept FY24 DOAV Marketing Incentive Grant
- 3) Old Business
  - a. Parking Access Road Update
  - b. Architectural Services Contract Renewal
- 4) Adjourn

# Newport News Williamsburg Airport

## **PENINSULA AIRPORT COMMISSION FACILITIES COMMITTEE MEETING**

### **AGENDA**

**DATE: December 7, 2023**

**TIME: Immediately following  
Commission Meeting**

- 1) Call to Order
  
- 2) New Business
  - a) PHF Facilities Condition Index Review
  
- 3) Old Business
  - a) Window Replacement and Water Mitigation Project Update
  
- 4) Adjourn

# **PENINSULA AIRPORT COMMISSION**

## **MEETING AGENDA**

**Date: December 7, 2023**

**Time: 8:00 a.m.**

**Location: Commission Room**

- 1) Call to Order
  - 2) Approval of Minutes from October 19, 2023
  - 3) Approval of Minutes from November 7, 2023
  - 4) Read Instructions for Public Comment
  - 5) Public Comment
  - 6) Presentation from Newport News Economic Development Authority
  - 7) Committee Reports
    - a) Finance & Audit
    - b) Planning & Development
    - c) Facilities
  - 8) Executive Director Report
  - 9) Old Business
  - 10) New Business
  - 11) Closed Session
    - Personnel §2.2.3711.(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

October 19, 2023, 8:00 a.m.

### **Commissioners in Attendance:**

Chair, Lindsey Carney Smith  
Vice Chair, Thomas Garner  
Treasurer, James "Jay" Joseph  
Secretary, Dr. McKinley Price  
Assistant Secretary, John Lawson

### **Staff Members in Attendance:**

Interim Executive Director, John Borden  
Office Manager, Barbara Rumsey  
Director of Finance, Mark Adams  
Commission Clerk, Patricia Speno  
Facility Director, William LaManque

### **Public Officials Present:**

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

### **Counsel:**

Counsel, L. Scott Seymour

### **Public Attendees:**

John Murray, Hampton University  
Mr. Orestes Gooden, Hampton University  
David Hause, Kiln Creek HOA  
Jacqueline Wade, Hero's Lounge Volunteer Manager

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

**Approval of Minutes:** Chair Smith stated that the Minutes from the last meeting were included in the Board Packet and asked if anyone had comments or edits. There were none. Commissioner Joseph moved to accept the September 21, 2023, meeting minutes. Commissioner Garner seconded the motion, There was a roll call vote and the minutes were approved unanimously. 5-0

**Public Comment:** Chair Smith asked if there was anyone for Public Comment. Ms. Rumsey stated yes and read the instructions for Public Comment. Mr. John Murray from Hampton University addressed the Commission and invited the board to the HU Aviation Summit on Thursday November 2<sup>nd</sup>. Mr. Murray stated there would be seven airlines in attendance and Mr. LaManque will be representing Newport News Airport in a panel discussion.



**Committee Reports:** Chair Smith asked to start the with our newly formed Facilities Committee.

**Facilities Committee:** Mr. Borden reported that this was not a formal meeting, it was more of an introductory meeting to provide an understanding of PFC, State Entitlements, AIG funding, and AIP funding. The meeting was a general overview and not an official meeting. The official, first meeting will take place today after the Commission Meeting.

Mr. Garner stated he and Commissioner Lawson walked with Mr. Borden around the airport. They sighted needed repairs, to include windows, roof, painting, escalator, and elevator among them.

Chair Smith asked for an update on the grant application. Mr. Borden reported there was discussion about the grant during the conversation with Commissioners Garner and Lawson. To repair the roof, PAC would need \$600,000.00 of an estimated \$2,000,000.00. project. Mr. Borden felt, at that time, it was not prudent to put in for the roof. Additionally, Mr. Borden reported he did put in a package for the egress stairwell.

**Finance and Audit Committee Report:** Commissioner Joseph reported the Finance and Audit Committee did not meet. Chair Smith asked the board to look at the financials included in the board packet as well as the one-page summary. She asked if there were any questions or comments. There were none.

**Planning and Development Committee Report:** Chair Smith reported that we will have a resolution to vote on today with regards to the parking access road. Chair Smith stated there was an MOU that has circulated between us and the city of Newport News in regard to the city's assistance to get that access road reconstructed as such so we are not making a hard left turn into the parking lot. Chair Smith reported she received a letter from an airport customer who stated one of the primary issues she had coming to the airport was access to the parking lot. She found the barricade signs very confusing, and our police had to escort her into the parking area. The staff did reach out to the customer and assured her that it was temporary until we can construct the access road.

Chair Smith stated we did not take any action at last month's meeting with regards to the MOU because there was a question whether curb and guttering was going to be required on a portion of the access road. If the curb and guttering were not going to be required, it would be a cost reduction. It has been agreed that curb and guttering is not required and therefore it is a cost reduction. Chair Smith asked Attorney Seymour if he would like to give an update on the MOU.

Attorney Seymour stated the MOU comments came back from the City Attorney's office lowering the cost estimate and accepted what they were willing to accept from our proposed changes. We are comfortable with this. Chair Smith stated that from a payment standpoint, the city is going to pay for it and we are going to reimburse the City. The MOU will be signed after updated prints have been approved by the City of Newport News.

**RESOLUTION 23-011 AUTHORIZING A MEMORANDUM OF UNDERSTANDING PENINSULA AIRPORT COMMISSION PARKING ACCESS ROAD WITH THE CITY OF NEWPORT NEWS, VIRGINIA.** Chair Smith asked for a motion to approve Resolution 23.011. A motion was made by

Commissioner Garner to approve the resolution as presented. Commissioner Lawson seconded the motion. Voice vote by roll call: Chair Smith-For, Commissioner Garner-For, Commissioner Joseph-For, Commissioner Dr. Price-For, Commissioner Lawson – For. **The motion passed unanimously. 5-0.**

**Executive Director Report :** Mr. Borden reported that he had not seen movement on the Regional Airport Study and asked if any Commissioners had any updates. Chair Smith stated that she had spoken with Dan Wolfe and their next step is to look at financials. She added that they will be asking for backup information to support and supplement because they will have to tie it all in. Mr. Borden reported they had a town hall meeting with the GA tenants. Mr. Borden was pleased with the meeting and stated the tenants were open to communication. Mr. Borden reported surveys were given out to our passengers and 98% rated their overall airport experience at Newport News Airport as excellent and 96% rated their car rental experience as excellent. Mr. Borden reported that the State Entitlement quarterly report went in on the 16th of October and the quarterly meeting will be on 17<sup>th</sup> November. We put in for State Entitlement funding this quarter for a wildlife assessment that has to be done. The state will pay 80% of that as well as a mower deck, access control project line was increased because we identified more gates that will help us identify who is going in and out and to stop any security breaches.

Chair Smith asked if we had a date for the next town hall with the GA tenants as she felt it would be helpful if we had PAC representation. Chair Smith asked Mr. Borden to let her know when we have a date. Chair Smith asked Mr. Borden the status on the escalators and elevators. Mr. Borden responded that two elevators have to get new frame boards installed and the escalators are waiting on parts and personnel. Chair Smith asked for a timeline. Mr. Borden responded 2 weeks for the elevators and approximately 3 weeks for the escalators. Mr. Borden confirmed that we have one operable elevator. Chair Smith asked Mr. Borden for an update on the air conference that he and Mr. LaManque attended.

Mr. LaManque reported it was interesting. The discussion was mostly UAV's (Unmanned Aerial Vehicle) and we offered to assist on anything we could help with locally. There are some local companies we are talking with that could lead to hangar leases. Mr. LaManque added that most of the weather information now sensors from airplanes. The National Weather Service base their forecasts on these reports from UAV's.

**Old Business:** Chair Smith reported that there is a resolution in the package to amend the PAC bylaws to change our regular PAC meeting from the 4<sup>th</sup> Thursday of the month to the 3<sup>rd</sup> Thursday of the month.

**Resolution:23-012. We resolve that the Peninsula Airport Commission approve and adopt a Resolution to amend the PAC bylaws to change the regular PAC meetings from the 4<sup>th</sup> Thursday of the month to the 3<sup>rd</sup> Thursday of the month. Chair Smith called for a motion to approve Resolution 23-012. A motion was made by Commissioner Garner to accept the resolution. The motion was seconded by Commissioner Joseph. Voice vote by roll call: Chair Smith – For, Commissioner Joseph – For, Commissioner Dr. Price – For, Commissioner Garner-For, Commissioner Lawson – For. The motion passed unanimously. 5-0.**

**New Business:** Commissioner Joseph stated most organizations such as this one, that are subdivisions of the Commonwealth, usually have at least state or federal related legislation in funding. Commissioner Joseph stated he felt it would be an item to discuss annually whether there is anything we are asking, either funding or legislatively, at either the state or federal level, to follow up on and track any of those. Mr. Joseph stated he did not have a specific item; it was more of a question.

Mr. Borden reported for state or federal action we tend to have the AIP meetings in March and our yearly AIP, which is a 5-year plan, goes on April 1st. Mostly capital, runway, and buildings are all submitted on April 1<sup>st</sup>. Mr. Borden reported the state entitlement is quarterly. Mr. Joseph asked if there is any money allocated to airports in the biannual state budget discretionary funding as opposed to entitlement funding? Mr. Borden stated he did speak to Mike Swain, DAOV, about a discretionary grant for the roof amount and could we get a grant for our portion. Mr. Borden reported he was told our entitlement money would have to be all allocated and used up before we could get a discretionary grant. Mr. Borden stated that most discretionary grants are used for GA airports and not commercial airports. Chair Smith asked if there is line-item appropriation of funding in the Commonwealth's budget for airports and airports other than Patrick Henry? Mr. Borden responded there is no such line-item appropriation. Chair Smith asked if it would be beneficial to us to consider hiring a lobbyist or consultant to help with the grant portion as sometimes having someone actively lobbying or calling to demonstrate the merits of the grant helps to get the award. Mr. Borden agreed and cited help from lobbyist in the past.

**Closed Session:** At this time the Chair will entertain a motion to move that the Peninsula Airport Commission convene in closed session pursuant to the Virginia code section 2.2-3711.A.(1): for the assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees, or employees of the Commission regarding various employee matters of the Commission and 2.2.3711 A (5) regarding the discussion or concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business or industry's interest in locating or expanding its facilities in the community regarding expansion of aviation services.

A motion was made by Commissioner Garner and seconded by Commissioner Dr. Price. A roll call vote was taken. Chair Smith – For, Commissioner Joseph – For, Commissioner Dr. Price -For, Commissioner Garner-For, Commissioner Lawson-For. The motion passed unanimously. 5-0.

Closed session began at 8:25 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 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 Dr. Price and seconded by Commissioner Joseph. A roll call vote was taken. Chair Smith – Yes, Commissioner Joseph – Yes, Commissioner Dr. Price– Yes, Commissioner Garner- Yes, Commissioner Lawson – Yes. The motion passed unanimously. 5-0. The meeting resumed in open session at 9:30 a.m.

Chair Smith asked if there was any other business to come before the commission.

There being no further business to come before the commission, the meeting adjourned at 9:30 a.m.

**KAUFMAN & CAN OLES**  
attorneys at law

Kaufman & Canales, P.C.  
150 West Main Street  
Suite 2100  
Norfolk, VA 23510

*Mailing Address*  
Post Office Box 3037  
Norfolk, VA 23514

T (757) 624.3000  
F (888) 360.9092

kaufCAN.com

L. Scott Seymour  
(757) 624.3113  
lsseymour@kaufcan.com

November 7, 2023

**VIA FEDEX**

John Borden, Interim Director  
Peninsula Airport Commission  
Newport News Williamsburg International Airport  
900 Bland Blvd., Suite G  
Newport News, VA 23602

**Re: Peninsula Airport Commission - Memorandum of Understanding with the City of  
Newport News, Virginia  
Our Matter No.: 0187957**

Dear John:

Enclosed please find an original fully executed Memorandum of Understanding between the Peninsula Airport Commission and the City of Newport News related to the improvements to the parking access road.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



L. Scott #--

LSS:hhv  
Enclosure

**MEMORANDUM OF UNDERSTANDING: PENINSULA AIRPORT COMMISSION  
PARKING ACCESS ROAD**

**THIS MEMORANDUM OF UNDERSTANDING** (“MOU”), made effective the 27<sup>th</sup> day of October, 2023, by and between the **PENINSULA AIRPORT COMMISSION** (“PAC”), a public body corporate and politic, and the **CITY OF NEWPORT NEWS, VIRGINIA**, a Virginia municipal corporation (“CITY”).

**WHEREAS**, PAC is the owner of an approximately 824.63 acre parcel of land in Newport News, Virginia having a Parcel ID of 112.0001-01 and a street address of 900 Bland Boulevard (the “PAC Parcel”); and

**WHEREAS**, CITY owns and maintains that certain right-of-way adjacent to the PAC Parcel known as Bland Boulevard; and

**WHEREAS**, PAC desires to construct or have constructed an access road to provide more direct access from Bland Boulevard to parking lots and other PAC-owned facilities on the PAC Parcel; and

**WHEREAS**, construction of the access road will involve improvements to both the PAC Parcel and Bland Boulevard; and

**WHEREAS**, PAC and CITY agree that it is in the best interest of both parties to have certain improvements to the PAC Parcel and Bland Boulevard constructed as one project in accordance with the agreed upon Final Plans and Specifications, as defined below (the “Project”); and

**WHEREAS**, PAC and CITY desire to enter this MOU to document their understanding and agreement concerning the execution of the Project; and

**WHEREAS**, PAC agrees to reimburse CITY for CITY’s costs in the construction of the Project under the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the above recitals, and the mutual covenants and provisions contained herein, the Parties hereto agree as follows:

I. IMPROVEMENTS

- a. In support of the Project, CITY agrees to construct the following improvements, in accordance with the agreed upon Final Plans and Specifications, upon Bland Boulevard and the PAC Parcel, in the location outlined on Plan Sheet No. C-200 attached hereto as **Exhibit A** (collectively, the “Improvements”):
  - i. Phase I: road cut and grading work, including removal of existing curb, existing material, and construction of road bed
  - ii. Phase II: installation of new asphalt
- b. CITY anticipates using its Public Works department to complete the Improvements.
- c. For purposes of clarity, this MOU only relates to the Improvements outlined above and shown on Exhibit A, and any work necessary or incident to the completion of the Improvements. The Improvements do not include the installation of curb and gutter.

II. DESIGN OF IMPROVEMENTS

- a. At its cost, PAC has employed Talbert & Bright and Popli Design Group (“ENGINEERS”) to prepare plans and specification for the Improvements and additional projects PAC is facilitating.
- b. PAC and CITY, in coordination with ENGINEERS, will coordinate, review, and approve a set of final plans and specifications for the Improvements (the “Final Plans and Specifications”).

- c. PAC will be solely responsible for ENGINEERS' engineering design costs, including but not limited to the cost of preparing the Final Plans and Specifications and any amendments thereto.

III. CONSTRUCTION OF IMPROVEMENTS:

a. Cost of Construction

- i. The total cost of the Improvements (the "Improvement Costs"), as more particularly defined by the agreed upon Final Plans and Specifications, shall include:

- 1. Cost of construction of the Improvements, including costs related to any construction contract and labor, material, and equipment costs attributable to City employees and equipment used to construct the Improvements;
- 2. Cost of advertising for bids, if necessary;
- 3. Cost of approvals and permits required for construction of the Improvements;
- 4. Costs for construction contract administration and inspection; and
- 5. Any related miscellaneous essential expenses.

- ii. The current estimated Improvement Costs is \$60,000 (the "Estimated Improvement Costs").

b. Construction Contract Documents; Contractors

- i. PAC and CITY agree that CITY may employ City staff and/or such qualified and insured contractors and subcontractors (the "Contractors")



as CITY deems fit to complete the Improvements in accordance with the agreed upon Final Plans and Specifications.

- ii. In the event CITY employs a nongovernmental Contractor, CITY shall be responsible for preparing, finalizing, and executing any and all front end documents, construction contracts, bidding documents, bonds, insurance documents, and amendments, revisions, and modifications thereto, relating to the construction of the Project; however, any material modifications to the agreed upon Final Plans and Specifications or the costs or scope of the Improvements shall require the written consent of PAC. Any material change order to construction documentation related to the Project shall require the written consent of PAC.
- iii. CITY shall comply with, and shall obtain all permits, consents and approvals required by local, state or federal laws, ordinances, rules, regulations or requirements in connection with the acquisition, construction, equipping, occupation, operation or use of the Project. Upon PAC request, CITY shall timely furnish copies of all such permits, consents and approvals, in addition to any construction reports regarding the Project. PAC shall have the right to participate in any inspection of the Project, which CITY shall provide reasonable prior notice of to the extent possible. CITY's costs to obtain such permits, approvals, and consents shall be reimbursed as Improvement Costs.
- iv. The procurement of goods and services from nongovernmental sources will be completed by CITY in accordance with the Virginia Public

Procurement Act. Notwithstanding the foregoing, to the extent bids and expected necessary costs for the Improvements exceed the Estimated Improvement Costs, CITY and PAC shall mutually agree on procurement decisions, in accordance with the Virginia Public Procurement Act, including but not limited to revising the Final Plans and Specifications or the scope of the Improvements. Should CITY and PAC be unable to reach such a mutual agreement, this MOU shall terminate.

c. Right of Entry:

- i. During the term of this MOU, PAC consents and agrees that CITY, its employees, agents, and independent contractors, may enter upon the PAC Parcel only for purposes of constructing the Improvements and such other activities as may be reasonably necessary to construct the same. This limited right of entry is intended and shall be construed only as a temporary, non-exclusive license to access and perform construction activities upon the PAC Parcel as may be reasonably necessary to expeditiously complete the Project, and not as a grant of an easement or other real property interest. To the extent feasible, CITY agrees that such right of entry shall be exercised in such a manner as to limit interference with regular operational and business activities on the PAC Parcel, and shall only use so much of the PAC Parcel as is reasonably necessary for the purposes and rights granted herein. Under no circumstances shall CITY take any action that results in the closure

of, or otherwise prevents access to, the PAC Parcel. PAC shall be responsible for any adjustments to its internal traffic controls necessary to facilitate the Improvements.

- ii. All construction work will be performed in a safe and workmanlike manner, and the Improvements shall be maintained in good repair and safe condition during construction, in accordance with all applicable regulations and code provisions. Any damage or disturbance to the PAC Parcel caused by CITY shall be promptly corrected, repaired or restored (as applicable) by CITY.
- iii. CITY shall not engage in any activity on the PAC Parcel that would interfere with or be a hazard to the flight of aircraft over the land of PAC 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, and CITY is prohibited from erecting any structures or causing the growth of natural objects that would constitute an obstruction to air navigation. PAC warrants and agrees that the construction of the Improvements in accordance with the agreed upon Final Plans and Specifications shall not constitute a violation of this subsection.

d. Payment of Improvement Costs

- i. During the course of construction, CITY will compensate the Contractors and other individuals and entities providing materials and/or services related to the Improvements for all Improvement Costs,

using commercially reasonable efforts to complete the Project through the expenditure of no more than the Estimated Improvement Costs.

- ii. PAC will reimburse CITY for all Improvement Costs attributable to the Project in one lump sum payment upon satisfactory completion of the Project (as reasonably determined by CITY). CITY shall provide PAC with an invoice detailing the Improvement Costs. Within thirty (30) days of its receipt of such invoice, PAC shall reimburse CITY for the Improvement Costs detailed in the invoice. If CITY determines that necessary Improvement Costs will exceed the Estimated Improvement Costs, CITY shall within seven (7) days notify PAC and provide an updated estimate of the remaining Improvement Costs necessary to complete the Project. Notwithstanding the foregoing or any other provision herein, PAC shall not be responsible for any Improvement Costs in excess of \$75,000 without its express written consent.
  - iii. Except as provided in this MOU, the parties shall otherwise be responsible for their own fees and costs related to the completion of the Project.
- e. Ownership: Upon completion of the Project, that portion of the Improvements located within Bland Boulevard shall be the property of CITY, and that portion of the Improvements located within the PAC Parcel shall be the property of PAC.

- IV. SCHEDULE: Construction is anticipated to be completed by December 31, 2023 (the “Estimated Completion Date”). CITY agrees to use its commercially reasonable efforts to complete the Project by the Estimated Completion Date.
- V. REPRESENTATIONS AND WARRANTIES: CITY and PAC each agrees that it has the power and authority to enter into this MOU and to perform its obligations hereunder, and all necessary approvals and authorizations to enter into this MOU have been obtained. The parties agree that this MOU constitutes a legal and valid obligation of each party, and is enforceable against each party in accordance with its terms.
- VI. GOVERNING LAW: This MOU shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this contract shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia.
- VII. TERMINATION: This MOU may be terminated by the CITY or PAC in the event that the other party materially breaches this MOU and such breach is not cured within sixty (60) days of the defaulting party’s receipt of written notice of such breach from the non-defaulting party; or by mutual written agreement of the CITY and PAC. Anything herein or elsewhere to the contrary notwithstanding, termination of this MOU shall not relieve the parties of their obligation to pay all of the Improvement Costs incurred prior to termination, whether or not those amounts are due and payable as of the termination date. Remedies provided in this

MOU for enforcement of its respective terms are intended and shall be construed as cumulative rather than exclusive and shall not be deemed to deprive the party using the same from also using any other remedies provided by this MOU or by applicable law.

VIII. NOTICE: Any notice, communication or request under this MOU shall be provided in writing by either (a) certified mail, return receipt requested, postage prepaid, or (b) a nationally recognized overnight delivery service (next business day service), or (c) hand-delivery, if the receipt of the same is evidenced by the signature of the addressee or authorized agent, and addressed to the following:

- a. TO CITY:            Director of Public Works  
                                 513 Oyster Point Road  
                                 Newport News, Virginia 23602
- b. TO PAC:             900 Bland Boulevard  
                                 Newport News, Virginia 23602  
  
                                 Attn: Director

IX. ASSIGNMENT: No party may assign its rights under this MOU without the prior written consent of the other party. This MOU is solely between CITY and PAC and no other party shall be entitled to rely upon any provision hereof for any purpose whatsoever.

X. AMENDMENT: This MOU may be amended only by a written instrument duly executed by the parties.

XI. SEVERABILITY: If any provision of this MOU or the application thereof to any circumstance shall be determined to be invalid, illegal or unenforceable to any

extent, the remainder of this MOU and the application thereof shall not be affected and shall continue to be valid, in effect and enforceable to the fullest extent permitted by law.

XII. TERM: The term of the MOU will commence on the effective date and be completed when each party has completely performed its obligations hereunder. Notwithstanding the foregoing, this MOU shall terminate three (3) years after the date hereof unless the parties hereto agree to an extension. It is understood and agreed that whether or not it is specifically provided herein, any provision of this MOU that by its nature and effect is required to be kept, observed, or performed after termination of this MOU for any reason shall survive termination and shall be and remain binding upon and for the benefit of the parties until fully observed, kept or performed.

XIII. FORCE MAJEURE: In the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond the control of the CITY or PAC or the Contractors and without their fault or negligence, including, but not restricted to, acts of God or of the public enemy, acts of the government, fires, floods, epidemics, pandemics, quarantine restrictions, strikes, freight embargos, and unusually severe weather or delays of subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the parties shall be extended for the period of the enforced delay.

XIV. WAIVER:


- a. No waiver of breach of any term or provision of this MOU shall be construed to be, or shall constitute, a waiver of any other breach of this MOU. No waiver shall be binding unless in writing and signed by the parties waiving the breach.
- b. The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this MOU shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.
- c. The rights and remedies provided by this MOU are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Such rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

XV. INTEGRATION: This MOU constitutes the entire understanding among the parties. No provision of this MOU may be waived, modified or amended except by an instrument signed by the party against whom the enforcement of such waiver, modification or amendment is sought. No waiver by either party of any failure or refusal by the other party to comply with its obligations hereunder shall be deemed a waiver of any other or subsequent failure or refusal to comply. This MOU may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

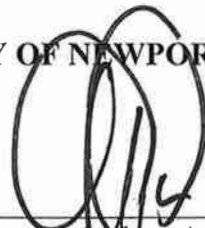


WITNESS the following signatures and seals:

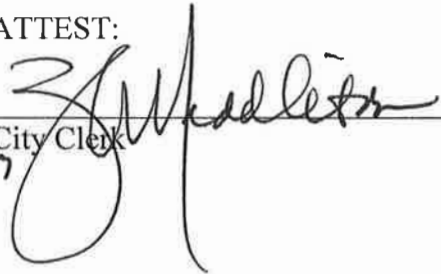
**PENINSULA AIRPORT COMMISSION**

By:   
Name: Lindsay Cagney Smith  
Title: Chair

**CITY OF NEWPORT NEWS, VIRGINIA**

  
Alan K. Archer, Acting City Manager

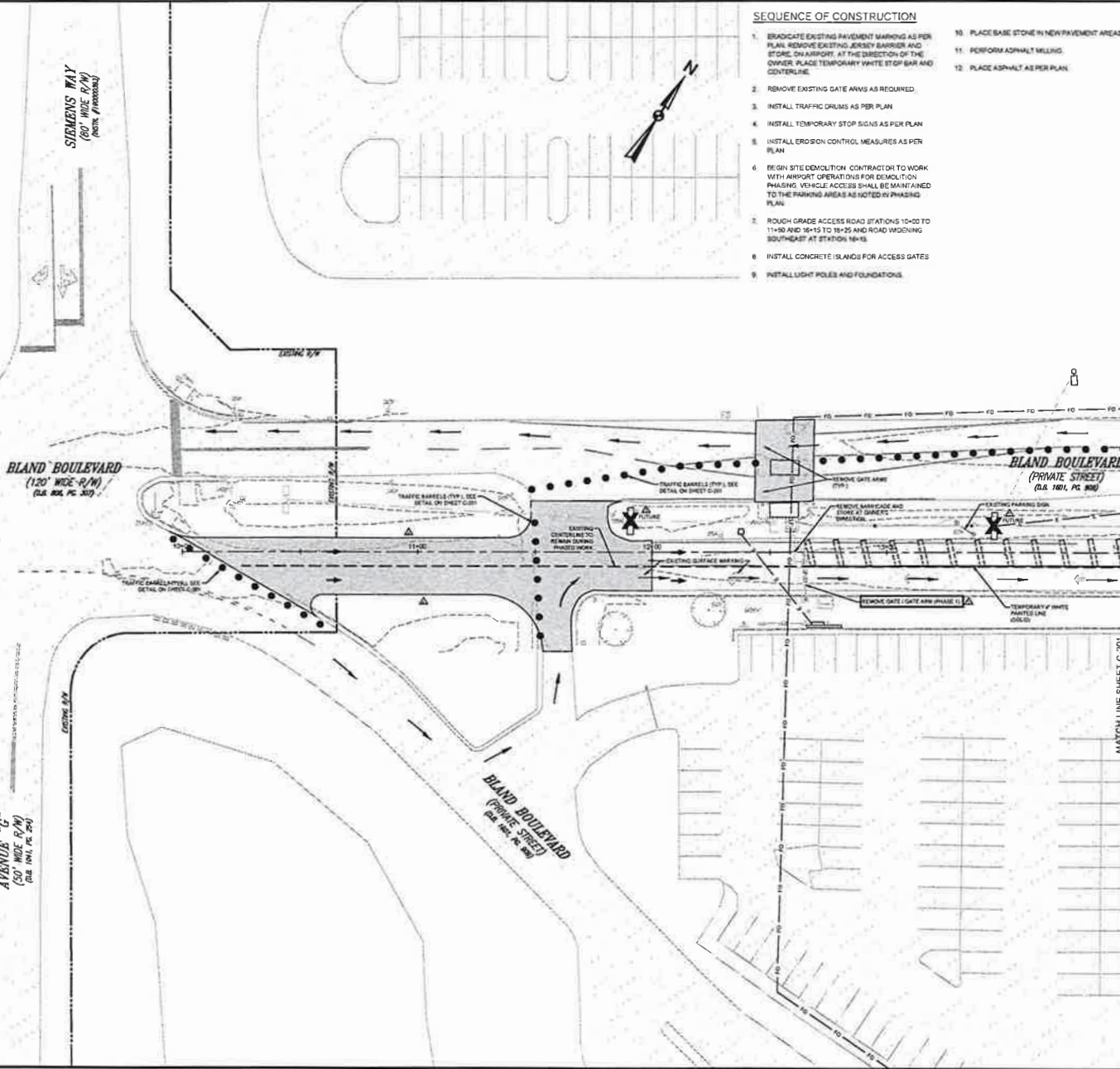
ATTEST:

  
Chief Deputy City Clerk

APPROVED AS TO FORM:

  
City Attorney

**EXHIBIT**  
**A**  
tabbles



**SEQUENCE OF CONSTRUCTION**

1. BRADICATE EXISTING PAVEMENT MARKINGS AS PER PLAN. REMOVE EXISTING JERSEY BARRIER AND STONE ON AIRPORT. AT THE DIRECTION OF THE OWNER, PLACE TEMPORARY WHITE STOP BAR AND CENTERLINE.
2. REMOVE EXISTING GATE ARMS AS REQUIRED.
3. INSTALL TRAFFIC DRUMS AS PER PLAN.
4. INSTALL TEMPORARY STOP SIGNS AS PER PLAN.
5. INSTALL EROSION CONTROL MEASURES AS PER PLAN.
6. BEGIN SITE DEMOLITION. CONTRACTOR TO WORK WITH AIRPORT OPERATIONS FOR DEMOLITION PHASING. VEHICLE ACCESS SHALL BE MAINTAINED TO THE PARKING AREAS AS NOTED IN PHASING PLAN.
7. ROUGH GRADE ACCESS ROAD STATIONS 10+20 TO 11+00 AND 26+15 TO 26+25 AND ROAD WIDENING SOUTHEAST AT STATION 16+15.
8. INSTALL CONCRETE ISLANDS FOR ACCESS GATES.
9. INSTALL LIGHT POLES AND FOUNDATIONS.
10. PLACE BASE STONE IN NEW PAVEMENT AREAS.
11. PERFORM ASPHALT MILLING.
12. PLACE ASPHALT AS PER PLAN.

**LEGEND**

EXISTINGS	PROPOSED
SPOT ELEVATION	SPOT ELEVATION
5' CONTOUR	5' CONTOUR
1' CONTOUR	1' CONTOUR
WOOD FENCE	WOOD FENCE
SABLE WIDE-HOLE	SABLE WIDE-HOLE
SABLE PEDESTAL	SABLE PEDESTAL
UNDERGROUND LABEL POST	UNDERGROUND LABEL POST
ELECTRIC PINS	ELECTRIC PINS
UNDERGROUND ELECTRIC	UNDERGROUND ELECTRIC
LIGHT POLE	LIGHT POLE
FIXED OPTIC WIRE	FIXED OPTIC WIRE
UNDERGROUND LABEL POST	UNDERGROUND LABEL POST
SAS VALVE	SAS VALVE
CATCHMENT POND	CATCHMENT POND
UNDERGROUND PIPE	UNDERGROUND PIPE
SOIL BORING	SOIL BORING
SOIL	SOIL
TEMPORARY SIGN	TEMPORARY SIGN
SAITARY MANHOLE	SAITARY MANHOLE
SAITARY LIFT	SAITARY LIFT
FLARED END	FLARED END
STORM DRAIN	STORM DRAIN
MANHOLE	MANHOLE
DRAIN INLET	DRAIN INLET
SOIL DRAINAGE	SOIL DRAINAGE
STORM RIVES	STORM RIVES
TRANSVERSE POINT	TRANSVERSE POINT
TEMPORARY BENCH MARK	TEMPORARY BENCH MARK
UNDERGROUND TELEPHONE	UNDERGROUND TELEPHONE
TRAFFIC NAME-HOLE	TRAFFIC NAME-HOLE
UNDERGROUND TRAFFIC LIGHT	UNDERGROUND TRAFFIC LIGHT
DRUM	DRUM
TRAILER TYPE	TRAILER TYPE
FIRE HYDRANT	FIRE HYDRANT
IRIGATION VALVE	IRIGATION VALVE
WATER VALVE	WATER VALVE
POST INDICATION	POST INDICATION
UNDERGROUND	UNDERGROUND
SOIL	SOIL
GATE ARM	GATE ARM
STURDIOUS	STURDIOUS
CONCRETE	CONCRETE
BUILDING	BUILDING
STOP BAR	STOP BAR
TRAFFIC BARREL	TRAFFIC BARREL
TRAFFIC FLOW	TRAFFIC FLOW
LIGHT POLE/POSTURE	LIGHT POLE/POSTURE

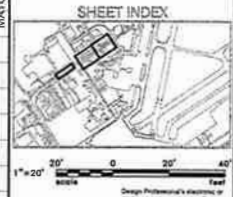


**TALBERT & BRIGHT**  
ENGINEERING & PLANNING CONSULTANTS  
1007 PINEHURST ROAD, SUITE 100  
DANVILLE, VIRGINIA 24041



**SEQUENCE OF CONSTRUCTION & MAINTENANCE OF TRAFFIC - PHASE 1**  
Terminal Access Road Re-Alignment  
Newport News-Williamsburg Airport - Newport News, Virginia

MATCH LINE SHEET C-201



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DATE	DESCRIPTION	BY
11/20/23	PHASE 1 BID PACKAGE	STP
08/24/23	REVISIONS	JAB

DATE: AUGUST 2022  
SCALE: 1"=20'  
DRAWN BY: STP  
PROJECT: C-200

# Newport News Williamsburg Intl Airport

## Peninsula Airport Commission: Facilities Committee Meeting Minutes

Date: October 19, 2023  
Time: 9:35am

### Attendees

Commissioners:  
John Lawson  
Tommy Garner

Staff:  
John Borden  
Barbara Rumsey

The meeting was called to order at 9:35am.

**New Business.** Mr. Borden gave an overview of previous ATP funding requests as well as the one that was just submitted. There was further discussion on the projects that went into each package submitted.

Mr. Borden also provided an overview of the PFC Program and alerted the Committee that we will need to complete a new PFC Application, which will be Application as well as close out some other applications that were unable to be completed due to funding. Mr. Garner asked how the building is indexed. Mr. Borden stated that he will provide the condition index that he implemented upon his arrival and will present next month.

**Old Business.** Mr. Garner and Mr. Lawson are concerned about the roof. Mr. Borden stated that we need to find funding for the roof.

Mr. Lawson requested that any documents to be given to the Committee to be provided in advance for review.

**Staff Task 1:** Provide Roof IFE to Committee.

**Staff Task 2:** Provide Condition Index to Committee before next meeting.

Meeting adjourned at 9:40am.

**Peninsula Airport Commission**  
Board of Commissioners Meeting Minutes  
November 7, 2023, 11:00 a.m.

**Commissioners in Attendance:**

Chair, Lindsey Carney Smith  
Treasurer, James "Jay" Joseph  
Secretary, Dr. McKinley Price  
Assistant Secretary, John Lawson

**Counsel:**

Counsel, L. Scott Seymour

**Guest Attendees:**

Fabio Bendaña – Passero Associates

Chair Carney Smith called the meeting to order at 11:00 a.m.

Chair Carney Smith noted that the purpose of the Special Meeting was to receive a briefing on the progress of the Airport Masterplan project from representatives of Passero Associates, the lead project consultants. The Chair introduced Fabio Bendaña – Aviation Buildings Program Manager with Passero Associates and a member of the Airport Masterplan project team. Mr. Bendaña provided an update on the status of the Masterplan project and expected timeline to completion. He noted the project is taking into consideration, among others, the following areas:

Passenger Experience – terminal design, customer flow, and space usage.

Terminal Sustainability – light management, energy efficiency, potential alternative energy sources, health and security.

Economic Development – air service expansion, cargo facilities, development opportunities, community involvement and education.

Mr. Bendaña's presentation on The Future of Aviation in Newport News was reviewed and discussed with the Commissioners. The Commissioners present provided feedback and questions to Mr. Bendaña and the Chair.

Chair Carney Smith then provided a brief update on the status and timing of the Regional Aviation Study which is progressing in the "data collection" phase. Further updates will be provided as available from the consultants completing the study.

The Commissioners discussed short and long term building repair and maintenance needs, as well as the potential for a future terminal replacement, taking advantage of more modern and efficient construction materials and systems. Mr. Bendaña discussed immediate repair projects to target for potential grant requests. Such Federal grants may require local or state matching funds. The Commission would need to explore the availability of such matching funds with the Commonwealth and participating localities.

There being no further business to come before the Commission, the meeting adjourned at 12:00 p.m.

# FINANCIALS

**PENINSULA AIRPORT COMMISSION  
OCTOBER 2023  
OPERATING INCOME STATEMENT**

DESCRIPTION	OCT 2023 ACTUAL	OCT 2023 BUDGET		YTD ACTUAL	YTD BUDGET		ANNUAL BUDGET	
<b>REVENUE</b>								
Airline Fees	39,858	37,304	106.8%	163,943	151,533	108.2%	450,482	36.4%
Fixed Based Operators	50,753	55,255	91.9%	203,649	222,500	91.5%	664,881	30.6%
Property Rental	101,400	95,433	106.3%	451,469	402,527	112.2%	1,145,311	39.4%
Rental Cars	169,992	138,688	122.6%	697,348	576,259	121.0%	1,690,718	41.2%
Parking Lot	64,152	47,261	135.7%	258,063	189,404	136.3%	567,572	45.5%
Restaurant Income	24,191	23,285	103.9%	106,733	96,826	110.2%	283,947	37.6%
<b>TOTAL REVENUE</b>	<b>450,346</b>	<b>397,226</b>	<b>113.4%</b>	<b>1,881,205</b>	<b>1,639,049</b>	<b>114.8%</b>	<b>4,802,911</b>	<b>39.2%</b>
<b>EXPENSES</b>								
Labor and Benefits	291,971	309,030	94.5%	1,202,380	1,236,120	97.3%	3,808,255	31.6%
Marketing & Advertising	6,034	28,184	21.4%	36,829	112,736	32.7%	338,199	10.9%
Office & Administration	20,169	33,424	60.3%	372,391	392,304	94.9%	665,363	56.0%
Utilities	66,115	50,087	132.0%	260,033	200,348	129.8%	717,766	36.2%
Repairs & Maintenance	29,566	36,950	80.0%	169,041	158,175	106.9%	459,220	36.8%
Restaurant Expense	20,114	23,040	87.3%	90,256	95,649	94.4%	282,592	31.9%
Bond Debt	55,100	55,100	100.0%	220,401	220,400	100.0%	661,202	33.3%
<b>TOTAL OPERATING EXPENDITURES</b>	<b>489,069</b>	<b>535,815</b>	<b>91.3%</b>	<b>2,351,331</b>	<b>2,415,732</b>	<b>97.3%</b>	<b>6,932,597</b>	<b>33.9%</b>
<b>NET INCOME</b>	<b>(38,723)</b>	<b>(138,589)</b>	<b>27.9%</b>	<b>(470,126)</b>	<b>(776,683)</b>	<b>60.5%</b>	<b>(2,129,686)</b>	<b>22.1%</b>
<b>OTHER ITEMS</b>								
Trailer Park	-	-		(52,663)	-		-	
Expense Subsidy	-	-		-	-		-	
Sale of Land/Fixed Assets	195,175	-		228,776	-		-	
<b>NET AFTER OTHER</b>	<b>156,452</b>	<b>(138,589)</b>		<b>(294,013)</b>	<b>(776,683)</b>		<b>(2,129,686)</b>	

**BALANCE SHEET**

	<u>Total</u>
Cash - Unrestricted	3,326,514
Cash - Restricted	13,491,694
Other Current Assets	1,095,574
Fixed Assets (Net of Depreciation)	71,597,669
<b>TOTAL ASSETS</b>	<b>89,511,451</b>
Current Liabilities	1,251,246
Long Term Notes Payable - Restricted	-
Long Term Notes Payable - Unrestricted	4,865,553
OPEB	5,857,078
<b>TOTAL LIABILITIES</b>	<b>11,973,877</b>
Net Capital Beginning	51,981,643
Capital Contributions	25,849,944
YTD Earnings Current Year	(294,013)
<b>TOTAL LIABILITIES AND CAPITAL</b>	<b>89,511,451</b>

## Peninsula Airport Commission

### Operating Income Statement results analysis

October 2023

Airline Fees Revenue above budget due to American fill rates. This is despite a slightly reduced schedule of available seats for October. This revenue line item is expected to be reduced even further for November. Planning for the Thanksgiving and Christmas/New Years holiday time includes short periods of increased seats available. Remaining on budget through the expected slower winter seasonal period is possible but difficult to project. The budget is NOT adjusted for seasonal scheduling. The unusual fluctuations for the past three years are not a good gage to use for seasonal budget allocations.

Rental cars, parking lot and restaurant follow the airline passenger counts. These revenue items will be watched closely during the expected slower season for the next three months.

Property rental revenues remain above budget by keeping the rent rolls managed at very near to 100% occupancy.

The utilities expense usage component compared to budget is expected to even out by June 2024 due to seasonal temperature variations. The impact of price inflation on utility expenses remains an unknown and will be watched closely.

Repairs and maintenance expense reporting (current month and year to date) have been adjusted to show a reduction in costs related to Virginia Department of Aviation annual Airport support restricted funds used. This expense is now reported based on the unrestricted funds used only. The over budget year to date amount is a concern and continues to be monitored closely. Currently there is a requirement to fix the parking garage elevators and outside escalator, both of which were not budgeted. This unbudgeted expense of around \$60K will be recorded once the work is completed, in either November or December. Other deferred maintenance could result in unexpected expenses at any time.

Labor costs are below budget estimates. Controlling the hours worked is the main reason for this below budget amount. This area will be closely monitored monthly.

Marketing and Advertising expenses remain below budget. This area shows no immediate need to increase spending up to the budgeted amount. Passenger counts remain above the budgeted 75% fill rate of available seats. This area will be revisited as needed based on actual fill rates.

**PENINSULA AIRPORT COMMISSION  
NOVEMBER 2023  
OPERATING INCOME STATEMENT**

DESCRIPTION	NOV 2023 ACTUAL	NOV 2023 BUDGET		YTD ACTUAL	YTD BUDGET		ANNUAL BUDGET	
<b>REVENUE</b>								
Airline Fees	37,434	36,946	101.3%	201,377	188,479	106.8%	450,482	44.7%
Fixed Based Operators	48,338	55,027	87.8%	251,986	277,527	90.8%	664,881	37.9%
Property Rental	98,095	95,419	102.8%	549,564	497,946	110.4%	1,145,311	48.0%
Rental Cars	158,025	135,377	116.7%	855,373	711,636	120.2%	1,690,718	50.6%
Parking Lot	59,202	47,205	125.4%	317,265	236,609	134.1%	567,572	55.9%
Restaurant Income	25,482	22,715	112.2%	132,215	119,541	110.6%	283,947	46.6%
<b>TOTAL REVENUE</b>	<b>426,576</b>	<b>392,689</b>	<b>108.6%</b>	<b>2,307,780</b>	<b>2,031,738</b>	<b>113.6%</b>	<b>4,802,911</b>	<b>48.0%</b>
<b>EXPENSES</b>								
Labor and Benefits	291,511	309,030	94.3%	1,493,891	1,545,150	96.7%	3,808,255	39.2%
Marketing & Advertising	1,751	28,184	6.2%	38,580	140,920	27.4%	338,199	11.4%
Office & Administration	87,257	52,870	165.0%	459,649	445,174	103.3%	665,363	69.1%
Utilities	111,550	112,587	99.1%	371,582	312,935	118.7%	717,766	51.8%
Repairs & Maintenance	33,723	36,950	91.3%	202,764	195,125	103.9%	459,220	44.2%
Restaurant Expense	20,227	22,502	89.9%	110,483	118,151	93.5%	282,592	39.1%
Bond Debt	55,100	55,100	100.0%	275,501	275,500	100.0%	661,202	41.7%
<b>TOTAL OPERATING EXPENDITURES</b>	<b>601,119</b>	<b>617,223</b>	<b>97.4%</b>	<b>2,952,450</b>	<b>3,032,955</b>	<b>97.3%</b>	<b>6,932,597</b>	<b>42.6%</b>
<b>NET INCOME</b>	<b>(174,543)</b>	<b>(224,534)</b>	<b>77.7%</b>	<b>(644,670)</b>	<b>(1,001,217)</b>	<b>64.4%</b>	<b>(2,129,686)</b>	<b>30.3%</b>
<b>OTHER ITEMS</b>								
Trailer Park	(92)	-		(52,755)	-		-	
Expense Subsidy	-	-		-	-		-	
Sale of Land/Fixed Assets	776	-		229,552	-		-	
<b>NET AFTER OTHER</b>	<b>(173,859)</b>	<b>(224,534)</b>		<b>(467,873)</b>	<b>(1,001,217)</b>		<b>(2,129,686)</b>	

**BALANCE SHEET**

	<b>Total</b>
Cash - Unrestricted	3,284,767
Cash - Restricted	13,465,485
Other Current Assets	1,153,734
Fixed Assets (Net of Depreciation)	71,397,313
<b>TOTAL ASSETS</b>	<b>89,301,299</b>
Current Liabilities	1,218,818
Long Term Notes Payable - Restricted	-
Long Term Notes Payable - Unrestricted	4,865,553
OPEB	5,857,078
<b>TOTAL LIABILITIES</b>	<b>11,941,449</b>
Net Capital Beginning	51,981,643
Capital Contributions	25,846,080
YTD Earnings Current Year	(467,873)
<b>TOTAL LIABILITIES AND CAPITAL</b>	<b>89,301,299</b>



# AIR SERVICE REPORT

## Monthly Air Service Report Summary October 2023

- Load factors:
  - 91.1% for American
  - 92.3% Charters
  - 91.7% Overall
- 5,065 Flight Ops (landings & take offs)

<u>FY Actual PAX</u> <u>(7/1/23 – 6/30/24)</u>	<u>FY23 Actual PAX</u> <u>(7/1/22 – 6/30/23)</u>	<u>FY22 Actual PAX</u> <u>(7/1/21 – 6/30/22)</u>
Jul: 13,283	Jul: 15,044	Jul: 21,586
Aug: 13,558	Aug: 14,280	Aug: 18,582
Sep: 14,153	Sep: 12,372	Sep: 16,210
Oct: 11,343	Oct: 13,649	Oct: 19,044
Nov:	Nov: 14,626	Nov: 16,375
Dec:	Dec: 14,860	Dec: 15,846
Jan:	Jan: 9,029	Jan: 10,538
Feb:	Feb: 10,879	Feb: 11,864
Mar:	Mar: 13,322	Mar: 16,810
Apr:	Apr: 11,596	Apr: 15,896
May:	May: 8,480	May: 12,719
Jun:	Jun: 12,623	Jun: 13,702
<b>Total: 52,337 PAX</b>	<b>Total: 150,760 PAX</b>	<b>Total: 189,172 PAX</b>

RESOLUTION(S)

## PENINSULA AIRPORT COMMISSION

### RESOLUTION 23 - 012 \_\_\_\_\_ APPROVING AMENDMENT TO CONTRACT FOR ON-CALL PROFESSIONAL ENGINEERING CONSULTING SERVICES

December 7, 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;

**WHEREAS**, the Commission previously issued its request for qualifications (“RFQ”) for on-call professional engineering consulting services pursuant to the Virginia Public Procurement Act, and, after mature deliberation and upon the recommendations of Staff, awarded the engagement for on-call professional engineering consulting services to Talbert, Bright, & Kane, Inc. (“Talbert & Bright”) pursuant to the terms of the RFQ and that certain On-Call Professional Engineering Consulting Services Agreement between the Commission and Talbert & Bright, effective on December 5, 2019 (the “Agreement”);

**WHEREAS**, the Agreement had a one-year term, with four additional one-year renewal periods at the option of the Commission; and

**WHEREAS**, the Commissioners of the Peninsula Airport Commission, after mature deliberation, desire to approve a one-year renewal of the Agreement in accordance with its terms, and the execution and delivery on behalf of the Commission of the proposed Amendment to the Agreement, effecting the renewal, a copy of which is attached hereto as Exhibit A (the “Amendment”).

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

1. A one-year renewal of the term of the Agreement is hereby approved, the form of the Amendment is hereby approved, and each of the Chair, the Vice Chair, and the Executive Director of the Commission is hereby authorized and directed to enter into the Amendment on the Commission’s behalf, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officer executing it, his or her execution to constitute conclusive evidence of his or her approval of any such completions, omissions, insertions and changes. The Agreement shall remain in effect in accordance with its terms except as otherwise modified by the Amendment.

2. This resolution shall take effect immediately.

**ON-CALL PROFESSIONAL ENGINEERING CONSULTING  
SERVICES AGREEMENT**

**AMENDMENT NO. FOUR (4)**

**PENINSULA AIRPORT COMMISSION  
NEWPORT NEWS/WILLIAMSBURG INTERNATIONAL AIRPORT**

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The agreement between the Peninsula Airport Commission and Talbert, Bright & Kane, Inc. (dba Talbert & Bright), originally effective on December 5, 2019, shall be amended as follows:

- Renew the contract for one (1) year - through December 4, 2024.

IN WITNESS WHEREOF, the parties hereto have made and executed this Amendment as of the date and year written below.

**PENINSULA AIRPORT COMMISSION**

BY: \_\_\_\_\_  
(Signature)

PRINTED  
NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

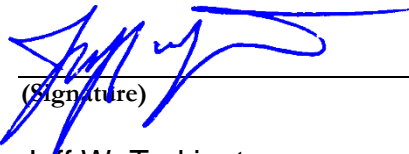
DATE: \_\_\_\_\_

WITNESS: \_\_\_\_\_  
(Signature)

PRINTED  
NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

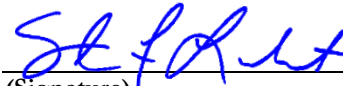
**TALBERT & BRIGHT**

BY:   
\_\_\_\_\_  
(Signature)

PRINTED  
NAME: Jeff W. Tarkington

TITLE: V.P. / Principal

DATE: November 7, 2023

WITNESS:   
\_\_\_\_\_  
(Signature)

PRINTED  
NAME: Steven F. Lambert

TITLE: Project Administrator



**PENINSULA AIRPORT COMMISSION**

**RESOLUTION 2023- 13 \_\_\_\_ REGARDING REAL ESTATE PURCHASE  
AGREEMENT FOR SALE OF APPROXIMATELY .08 ACRES FOR  
JEFFERSON AVENUE INTERSECTION IMPROVEMENTS**

December 7, 2020

**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 empowered to lease, sell or encumber any real property owned by the Commission;

**WHEREAS**, the Commission desires to sell certain real property, consisting of approximately .08 acres (the “Property”), not needed for operation of the Airport and otherwise surplus to the needs of the Commission to the City of Newport News, Virginia, a municipal corporation of the Commonwealth of Virginia (the “Purchaser”);

**WHEREAS**, there has been prepared the form of a purchase and sale agreement between the Commission and the Purchaser (the “Real Estate Purchase Agreement”) with respect to the Commission’s sale of the Property, and such Real Estate Purchase 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 Real Estate Purchase Agreement 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 sale of the Property to the Purchaser upon the terms and conditions set forth in the Real Estate Purchase Agreement is hereby approved. The Real Estate Purchase Agreement, in substantially the form submitted to this meeting, is hereby approved with such changes, insertions or omissions as may be acceptable to the Commission and approved by the Chair or Vice Chair, either of whom may act, upon advice of counsel to the Commission, which approval shall be evidenced conclusively by the execution and delivery of the Real Estate Purchase Agreement. The Chair and the Vice-Chair, either of whom may act, are authorized and directed to execute and deliver the Real Estate Purchase Agreement on behalf of the Commission, together with such deeds, certificates, affidavits, settlement statements and other ancillary documents or instruments contemplated therein, and necessary for the performance of the Commission’s obligations under the Real Estate Purchase Agreement, in such form as may be acceptable to the

Commission and approved by the Chair or Vice Chair, either of whom may act, upon advice of counsel to the Commission, which approval shall be evidenced conclusively by the execution and delivery of such document, certificate, affidavit or instrument.

2. This resolution shall take effect immediately.



PURCHASE AGREEMENT  
WITH TRACK CHANGES AND  
COMMENTS

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT (“Agreement”), made this \_\_\_\_ day of December, 2023, by and between THE PENINSULA AIRPORT COMMISSION, a public body politic and corporate of the Commonwealth of Virginia, (“PAC”) and the CITY OF NEWPORT NEWS, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (“CITY”).

WHEREAS, PAC is the owner of certain real property located at 900 Bland Boulevard in the City of Newport News, Virginia; and

WHEREAS, CITY desires to acquire certain parcels of property for the Habersham Area Traffic Improvement Project; and

WHEREAS, all required approvals from the Federal Aviation Administration necessary for the City’s proposed acquisition have been received.

NOW, THEREFORE, WITNESSETH:

In consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

1. Agreement to convey, buy and sell. Subject to the terms and conditions of this Agreement, PAC hereby agrees to convey and sell, and CITY agrees to buy, a portion of that certain real property which is part of 900 Bland Boulevard (Assessor’s Parcel No. 112.00-01-01), acquired by PAC by Quitclaim Deed of the United States of America, which said property is more accurately described in Exhibit A attached hereto and made a part hereof (hereafter, collectively, the “PAC Parcels”).

2. Purchase price.

The purchase price of the PAC Parcels shall be the sum of Fifty Thousand Dollars (\$50,000.00), full purchase price to be paid at settlement, subject to the credits and proration

described herein.

3. Settlement. Settlement shall occur on a mutually acceptable day within one hundred eighty (180) days of the date hereof. Settlement shall be held through delivery of the documents and funds to the office of the City Attorney, 2400 Washington Avenue, 9<sup>th</sup> Floor, Newport News, Virginia 23607. Title to the PAC Parcels shall be conveyed by special warranty deed that includes restrictive covenants and reservation of avigation and clearance easements to ensure that future uses of the PAC Parcels are compatible with airport operations, as set forth in Exhibit B. Notwithstanding anything to the contrary contained herein, if closing is not completed within one hundred eighty (180) days of the date of this Agreement, for whatever reason, this Agreement shall terminate, unless otherwise extended by written agreement of the parties.

4. Inspections. From and after the date of execution of this Agreement through the date which is one hundred twenty (120) days after the date of this Agreement (the "Inspection Period"), CITY, its agents, employees and assigns shall have the right, at CITY's sole cost and expense, to enter upon the PAC Parcels for the purpose of making surveys, non-invasive engineering studies, soil tests and borings (hereinafter collectively referred to as "Studies"), provided that, notwithstanding anything to the contrary in this Agreement, the CITY shall reimburse PAC, to the extent allowed by applicable law, with respect to losses and damages incurred by PAC, ~~to the extent of applicable law~~, resulting directly or indirectly from the gross negligence or willful misconduct of CITY, its agents, employees or assigns, subject to CITY's sovereign immunity (the foregoing reimbursement obligation shall survive termination or expiration of this Agreement). If CITY determines that the condition of the PAC Parcels is unsatisfactory, CITY shall have the option (a) to terminate this Agreement by written notice to

PAC prior to expiration of the Inspection Period, or (b) to waive such objection and proceed to settlement.

In addition, CITY shall have the right, at any time during the Inspection Period, to inform PAC, in writing, as to any title defects or objections related to the PAC Parcels. PAC shall respond to CITY's notice within ten (10) business days of receipt thereof. In PAC's response, it shall inform CITY whether it is willing or unwilling to cure title defects and objections raised by CITY. If PAC is willing to cure CITY's title defects and objections, it shall promptly undertake to do so and proceed with due diligence to complete the cure as soon as reasonably possible. If PAC is unable or unwilling to cure CITY's title defects and objections, then notwithstanding anything to the contrary, CITY may, at its option, either (a) terminate this Agreement by notice to PAC, or (b) waive said defects or objections and proceed to closing with no reduction in the Purchase Price. If CITY elects to terminate this Agreement, the parties hereto shall have no further liabilities or obligations hereunder, except as expressly survive termination of this Agreement. All items of record not objected to by CITY shall be "Permitted Exceptions" with the exception of liens and encumbrances which may be released on or before closing by payment by PAC of monies to the holders of such liens and encumbrances.

5. Risk of loss. The risk of loss or damage to the PAC Parcels by fire or other casualty (other than loss or damage resulting from making the Studies, which shall be the responsibility of CITY to the extent allowed by applicable law), shall remain with PAC until the deed of conveyance is delivered.

6. Agent and broker commissions. CITY and PAC warrant and represent that they have not engaged the services of, and are not obligated to, a real estate broker or agent for any commission relating to the sale of the PAC Parcels. This Section 6 shall survive the closing of the

transaction or earlier termination of this Agreement.

7. Settlement costs and documents. PAC shall convey the PAC Parcels by special warranty deed. Such deed will contain restrictive covenants and reservation of avigation and clearance easements, substantially in the form of Exhibit B attached hereto, to ensure that future uses of the PAC Parcels are compatible with the airport operations. PAC will pay any and all grantors taxes, prorated real estate taxes, if any, and will pay its own attorney's fees. CITY will pay all grantee taxes, if any, and will pay its own attorney's fees, the cost of settlement and any other costs of recording the deed of conveyance. CITY will also prepare a settlement statement for the PAC Parcels subject to this Agreement and will provide such settlement statement to PAC for its review and approval prior to the settlement date. At closing, the parties shall execute and deliver a mutually acceptable settlement statement. In addition, at or by such closing, PAC shall deliver standard tax documents, evidence of its authority to convey the PAC Parcels and a duly executed lien affidavit in a form reasonably acceptable to CITY to enable CITY to obtain title insurance coverage against mechanic's and materialmen's liens.

8. Representations and warranties of PAC. PAC represents and warrants to CITY, both as of the date of this Agreement and the closing date (unless otherwise indicated), as to the property to be sold, as follows:

a. Other than CITY's prior overtures to condemn the PAC Parcels, which are superseded by this Agreement, there are no pending condemnation proceedings or eminent domain proceedings against the property to be sold, and PAC has no knowledge of any threatened condemnation proceedings with respect thereto.

b. To the best of PAC's knowledge there are no violations of laws, ordinances, rules or regulations of any governmental authority having jurisdiction over the PAC Parcels, and

PAC has received no notices thereof.

c. The signatory executing this Agreement on behalf of PAC has authority to execute this Agreement on PAC's behalf.

d. To PAC's current, actual knowledge as of the date PAC executes this Agreement, but without undertaking any independent investigation, PAC is in material compliance in all respects with all applicable federal, state and local laws (collectively, "Laws") including, without limitation, those related to toxic hazardous substances and other environmental matters, and no portion of the PAC Parcels is being used or has been used at any previous time for the disposal, storage, treatment processing or other handling of hazardous waste or toxic substances. As used in the foregoing sentence, the reference to PAC's "current, actual knowledge" shall mean the actual knowledge of PAC's senior management officials regarding the particular matter referred to as of the date that PAC executed this Agreement and without PAC making or being required to make any independent investigation or inquiry.

e. The execution and delivery of this Agreement and the consummation of the transaction as herein contemplated, in compliance with the terms of this Agreement, shall not conflict with, or result in any breach of any of the terms or provisions of, or constitute default under, any instrument or agreement to which PAC is a party or by which any of the PAC Parcels are or may be bound, or any applicable regulations of any governmental agency, or any judgment, order or decree of any court having jurisdiction over PAC or the PAC Parcels.

f. There are no unrecorded leases, licenses or agreements, orally or written, now in effect with respect to the PAC Parcels.

g. PAC has fee simple title to the PAC Parcels by virtue of the Quitclaim Deed

of the United States of America and will convey the same to CITY at closing by special warranty deed as described in this Agreement, subject only to the Permitted Exceptions, as defined above.

h. This Agreement constitutes the valid and binding obligation of PAC enforceable in accordance with its terms.

i. There are no unrecorded service, maintenance, utility, employment or other contracts or agreements affecting the PAC Parcels to be sold, oral or written.

j. Should any of the representations or warranties set forth in paragraphs 8.a through 8.j. be inaccurate or untrue, as they relate to the PAC Parcels, CITY shall have the option, as its sole and exclusive remedy, of (i) closing subject thereto, or (ii) terminating this Agreement.

9. Representations and warranties of CITY. CITY represents and warrants to PAC, both as of the date of this Agreement and the closing date (unless otherwise indicated), as to the property to be sold, as follows:

a. The signatory executing this Agreement on behalf of CITY has authority to execute this Agreement on CITY's behalf.

b. The execution and delivery of this Agreement and the consummation of the transaction as herein contemplated, in compliance with the terms of this Agreement, shall not conflict with, or result in any breach of any of the terms or provisions, or constitute default under, any instrument or agreement to which CITY is a party or any applicable regulations of any governmental agency, or any judgement, order or decree of any court having jurisdiction over CITY.

10. Selling party's obligations. The obligations of CITY hereunder are subject to the satisfaction, prior to or at closing, of the covenants, agreements, obligations and complied with

conditions required by this Agreement to be performed or complied with by PAC prior to settlement, and no default hereunder by PAC shall have occurred or be occurring, which conditions, if not met at time of closing, shall entitle CITY, at its election, to (i) extend the closing date until the conditions are met, or (ii) terminate this Agreement.

11. Successors and assigns, applicable law. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns. This Agreement shall be construed under the laws of the Commonwealth of Virginia and any legal action that may arise pertaining to this Agreement shall be brought and maintained in the Circuit Court for the City of Newport News, Virginia. CITY may not assign this Agreement without the prior written approval of PAC, in its reasonable discretion.

12. Default. If either party breaches this Agreement or defaults on its obligations hereunder, the non-defaulting party shall notify the defaulting party in writing of such breach or default, and the defaulting party shall have thirty (30) days to cure such failure (other than failure to timely deliver the Purchase Price, for which CITY shall not be entitled to notice and cure period). Upon expiration of such notice and cure period, if applicable, if the breach or default has not been remedied, the non-defaulting party may, as its sole and exclusive remedy, either (i) waive such breach and proceed to closing, (ii) terminate this Agreement by written notice to the defaulting party, or (iii) if CITY is nondefaulting party, pursue an action for specific performance.

13. Captions. The headings and captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of intent of this Agreement, nor any provision herein contained.

14. Survival. The representations and warranties contained in this Agreement shall



survive settlement hereunder for a period of three (3) months and the delivery of the deed of conveyance.

15. Notice. All notices required hereunder shall be in writing and shall be deemed made and delivered when mailed by certified mail, return receipt requested, postage pre-paid to the parties at the addresses set forth below:

a. To PAC:

*Newport News/Williamsburg International Airport  
c/o Executive Director  
900 Bland Blvd., Suite G  
Newport News, VA 23602*

b. To CITY:

*City of Newport News, Virginia  
c/o City Manager  
2400 Washington Avenue, 10<sup>th</sup> Floor  
Newport News, Virginia 23607*

with a copy to:

*City Attorney  
2400 Washington Avenue, 9<sup>th</sup> Floor  
Newport News, Virginia 23607*

Either party may at any time change their addresses for notification purposes by giving written notice of such change to the other party at the notice address.

16. Entire agreement. This Agreement constitutes the entire agreement between CITY and PAC and there are no other prior or contemporaneous agreements, oral or written, and this Agreement may not be supplemented, altered, modified or otherwise amended in any way except

in writing, signed by CITY and PAC. This Agreement may be executed in any number of counterparts which, when taken together shall constitute the entire Agreement. Signatures to this Agreement transmitted by .pdf or other electronic means shall constitute originals in all respects.

WITNESS the following signatures and seals:

PENINSULA AIRPORT COMMISSION

By: \_\_\_\_\_

Its: \_\_\_\_\_

CITY OF NEWPORT NEWS, VIRGINIA

By: \_\_\_\_\_  
Alan K. Archer, Acting City Manager

ATTEST:

\_\_\_\_\_  
Mabel Washington Jenkins, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

EXHIBIT A

PARCEL 1-

ALL THAT certain right-of-way containing 1,151 sq. ft. or 0.0264 acre, and temporary construction easement containing 2,141 sq. ft. or 0.0491 acre from the Peninsula Airport Commission to the City of Newport News, as shown on that certain plat of survey entitled, "RIGHT OF WAY DEDICATION PLAT: FROM: PENINSULA AIRPORT COMMISSION, TO: CITY OF NEWPORT NEWS, PROJECT: JEFFERSON INTERSECTION IMPROVEMENT", prepared by Michael Surveying & Mapping, dated August 2, 2017, as revised on June 27, 2023, which said plat is attached hereto for a more particular description of said right-of-way and easement.

PARCEL 2-

ALL THAT certain right-of-way containing 2,377 sq. ft. or 0.0545 acre, and temporary construction easement containing 4,273 sq. ft. or 0.980 acre from the Peninsula Airport Commission to the City of Newport News, as shown on that certain plat of survey entitled, "RIGHT OF WAY DEDICATION PLAT: FROM: PENINSULA AIRPORT COMMISSION, TO: CITY OF NEWPORT NEWS, PROJECT: JEFFERSON INTERSECTION IMPROVEMENT", prepared by Michael Surveying & Mapping, dated August 2, 2017, as revised on June 27, 2023, which said plat is attached hereto for a more particular description of said right-of-way and easement.

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ALL THAT certain right-of-way containing 78 sq. ft. or 0.0017 acre, and temporary construction easement containing 718 sq. ft. or 0.0164 acre from the Peninsula Airport Commission to the City of Newport News, as shown on that certain plat of survey entitled, "RIGHT OF WAY DEDICATION PLAT: FROM: PENINSULA AIRPORT COMMISSION, TO: CITY OF NEWPORT NEWS, PROJECT: JEFFERSON INTERSECTION IMPROVEMENT", prepared by Michael Surveying & Mapping, dated August 2, 2017, as revised on June 27, 2023, which said plat is attached hereto for a more particular description of said right-of-way and easement.

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ALL THAT certain permanent utility and ingress/egress easement containing 268 sq. ft. or 0.0061 acre, and temporary construction easement containing 2,044 sq. ft. or 0.0469 acre from the Peninsula Airport Commission to the City of Newport News, as shown on that certain plat of survey entitled, "RIGHT OF WAY DEDICATION PLAT: FROM: PENINSULA AIRPORT COMMISSION, TO: CITY OF NEWPORT NEWS, PROJECT: JEFFERSON INTERSECTION IMPROVEMENT", prepared by Michael Surveying & Mapping, dated August 2, 2017, as

revised on June 27, 2023, which said plat is attached hereto for a more particular description of said right-of-way and easement.

EXHIBIT B

AVIGATION and RELATED CLAUSES

The PAC Parcels shall be conveyed subject to the following conditions, covenants, easements, restrictions and agreements, which shall be appurtenant to and for the benefit of the airport, as well as for the public in its use of the airport, including any additions or expansions thereto, wherever located, and for the benefit of PAC and its successors and assigns, together with its guests and invitees, including any and all persons, firms or corporations operating aircraft to and from the airport:

The unobstructed use and passage of all types of aircraft in and through the airspace at any height or altitude above the surface of the land.

The right of such aircraft to cause noise, vibrations, fumes, deposits of dust, fuel particles (incident to the normal operation of aircraft), fear, interference with sleep or communications and any other effects associated with the normal operation of aircraft taking off, landing or operating in the vicinity of the airport.

As used herein, the term "aircraft" shall mean any and all types of aircraft, whether now in existence or hereafter manufactured and developed, to include jet, propeller-driven, civil, military or commercial aircraft; helicopters, regardless of existing or future noise levels, for the purpose of transporting persons or property through the air, by whoever owned or operated.

CITY agrees that it will not construct, erect, suffer to permit or allow any structure or trees on the surface of the PAC Parcels. CITY may not permit any places of public assembly or gatherings within the PAC Parcels.

**Commented [WMM1]:** Question: If it is a public ROW, how would we prohibit this?

CITY agrees to keep the PAC Parcels free of the following: structures (permanent or temporary) that might create glare or contain misleading lights: residences, fuel handling and storage facilities and smoke generating activities and creation of any means of electrical interference that could affect the movement of aircraft over the PAC Parcels.

CITY, for itself and its successors and assigns, does hereby fully waive, remise and release any right or cause of action which it or its successors in title may now have or which they may have in the future against PAC, its successors and assigns, due to such aircraft operations and all other effects that may be caused or may have been caused by the operation of aircraft landing at, or taking off from or operating at or on the airport.

PAC has a perpetual right of ingress/egress in the PAC Parcels and the right to remove any new structure or vegetation that is not mentioned in the deed as "accepted."

CITY does hereby agree to preclude and prevent current and future uses of the land that are incompatible with the current or any future Runway Protection Zone (RPZ) area. These incompatible uses within the RPZ include (a) land use for residences and places of public assembly (churches, schools, hospitals, office buildings, shopping centers and other uses with similar concentration of persons), (b) and land use that attracts wildlife, and (c) other uses inconsistent with airport operations (such as, but not limited to, smoke generating and fuel storage facilities).

PURCHASE AGREEMENT  
AFTER TRACK CHANGES  
ACCEPTED

## REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT (“Agreement”), made this \_\_\_\_ day of December, 2023, by and between THE PENINSULA AIRPORT COMMISSION, a public body politic and corporate of the Commonwealth of Virginia, (“PAC”) and the CITY OF NEWPORT NEWS, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (“CITY”).

WHEREAS, PAC is the owner of certain real property located at 900 Bland Boulevard in the City of Newport News, Virginia; and

WHEREAS, CITY desires to acquire certain parcels of property for the Habersham Area Traffic Improvement Project; and

WHEREAS, all required approvals from the Federal Aviation Administration necessary for the City’s proposed acquisition have been received.

NOW, THEREFORE, WITNESSETH:

In consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

1. Agreement to convey, buy and sell. Subject to the terms and conditions of this Agreement, PAC hereby agrees to convey and sell, and CITY agrees to buy, a portion of that certain real property which is part of 900 Bland Boulevard (Assessor’s Parcel No. 112.00-01-01), acquired by PAC by Quitclaim Deed of the United States of America, which said property is more accurately described in Exhibit A attached hereto and made a part hereof (hereafter, collectively, the “PAC Parcels”).

2. Purchase price.

The purchase price of the PAC Parcels shall be the sum of Fifty Thousand Dollars



(\$50,000.00), full purchase price to be paid at settlement, subject to the credits and prorations described herein.

3. Settlement. Settlement shall occur on a mutually acceptable day within one hundred eighty (180) days of the date hereof. Settlement shall be held through delivery of the documents and funds to the office of the City Attorney, 2400 Washington Avenue, 9<sup>th</sup> Floor, Newport News, Virginia 23607. Title to the PAC Parcels shall be conveyed by special warranty deed that includes restrictive covenants and reservation of avigation and clearance easements to ensure that future uses of the PAC Parcels are compatible with airport operations, as set forth in Exhibit B. Notwithstanding anything to the contrary contained herein, if closing is not completed within one hundred eighty (180) days of the date of this Agreement, for whatever reason, this Agreement shall terminate, unless otherwise extended by written agreement of the parties.

4. Inspections. From and after the date of execution of this Agreement through the date which is one hundred twenty (120) days after the date of this Agreement (the "Inspection Period"), CITY, its agents, employees and assigns shall have the right, at CITY's sole cost and expense, to enter upon the PAC Parcels for the purpose of making surveys, non-invasive engineering studies, soil tests and borings (hereinafter collectively referred to as "Studies"), provided that, notwithstanding anything to the contrary in this Agreement, the CITY shall reimburse PAC, to the extent allowed by applicable law, with respect to losses and damages incurred by PAC resulting directly or indirectly from the gross negligence or willful misconduct of CITY, its agents, employees or assigns, subject to CITY's sovereign immunity (the foregoing reimbursement obligation shall survive termination or expiration of this Agreement). If CITY determines that the condition of the PAC Parcels is unsatisfactory, CITY shall have the option (a)

to terminate this Agreement by written notice to PAC prior to expiration of the Inspection Period, or (b) to waive such objection and proceed to settlement.

In addition, CITY shall have the right, at any time during the Inspection Period, to inform PAC, in writing, as to any title defects or objections related to the PAC Parcels. PAC shall respond to CITY's notice within ten (10) business days of receipt thereof. In PAC's response, it shall inform CITY whether it is willing or unwilling to cure title defects and objections raised by CITY. If PAC is willing to cure CITY's title defects and objections, it shall promptly undertake to do so and proceed with due diligence to complete the cure as soon as reasonably possible. If PAC is unable or unwilling to cure CITY's title defects and objections, then notwithstanding anything to the contrary, CITY may, at its option, either (a) terminate this Agreement by notice to PAC, or (b) waive said defects or objections and proceed to closing with no reduction in the Purchase Price. If CITY elects to terminate this Agreement, the parties hereto shall have no further liabilities or obligations hereunder, except as expressly survive termination of this Agreement. All items of record not objected to by CITY shall be "Permitted Exceptions" with the exception of liens and encumbrances which may be released on or before closing by payment by PAC of monies to the holders of such liens and encumbrances.

5. Risk of loss. The risk of loss or damage to the PAC Parcels by fire or other casualty (other than loss or damage resulting from making the Studies, which shall be the responsibility of CITY to the extent allowed by applicable law), shall remain with PAC until the deed of conveyance is delivered.

6. Agent and broker commissions. CITY and PAC warrant and represent that they have not engaged the services of, and are not obligated to, a real estate broker or agent for any commission relating to the sale of the PAC Parcels. This Section 6 shall survive the closing of the

transaction or earlier termination of this Agreement.

7. Settlement costs and documents. PAC shall convey the PAC Parcels by special warranty deed. Such deed will contain restrictive covenants and reservation of avigation and clearance easements, substantially in the form of Exhibit B attached hereto, to ensure that future uses of the PAC Parcels are compatible with the airport operations. PAC will pay any and all grantors taxes, prorated real estate taxes, if any, and will pay its own attorney's fees. CITY will pay all grantee taxes, if any, and will pay its own attorney's fees, the cost of settlement and any other costs of recording the deed of conveyance. CITY will also prepare a settlement statement for the PAC Parcels subject to this Agreement and will provide such settlement statement to PAC for its review and approval prior to the settlement date. At closing, the parties shall execute and deliver a mutually acceptable settlement statement. In addition, at or by such closing, PAC shall deliver standard tax documents, evidence of its authority to convey the PAC Parcels and a duly executed lien affidavit in a form reasonably acceptable to CITY to enable CITY to obtain title insurance coverage against mechanic's and materialmen's liens.

8. Representations and warranties of PAC. PAC represents and warrants to CITY, both as of the date of this Agreement and the closing date (unless otherwise indicated), as to the property to be sold, as follows:

a. Other than CITY's prior overtures to condemn the PAC Parcels, which are superseded by this Agreement, there are no pending condemnation proceedings or eminent domain proceedings against the property to be sold, and PAC has no knowledge of any threatened condemnation proceedings with respect thereto.

b. To the best of PAC's knowledge there are no violations of laws, ordinances, rules or regulations of any governmental authority having jurisdiction over the PAC Parcels, and

PAC has received no notices thereof.

c. The signatory executing this Agreement on behalf of PAC has authority to execute this Agreement on PAC's behalf.

d. To PAC's current, actual knowledge as of the date PAC executes this Agreement, but without undertaking any independent investigation, PAC is in material compliance in all respects with all applicable federal, state and local laws (collectively, "Laws") including, without limitation, those related to toxic hazardous substances and other environmental matters, and no portion of the PAC Parcels is being used or has been used at any previous time for the disposal, storage, treatment processing or other handling of hazardous waste or toxic substances. As used in the foregoing sentence, the reference to PAC's "current, actual knowledge" shall mean the actual knowledge of PAC's senior management officials regarding the particular matter referred to as of the date that PAC executed this Agreement and without PAC making or being required to make any independent investigation or inquiry.

e. The execution and delivery of this Agreement and the consummation of the transaction as herein contemplated, in compliance with the terms of this Agreement, shall not conflict with, or result in any breach of any of the terms or provisions of, or constitute default under, any instrument or agreement to which PAC is a party or by which any of the PAC Parcels are or may be bound, or any applicable regulations of any governmental agency, or any judgment, order or decree of any court having jurisdiction over PAC or the PAC Parcels.

f. There are no unrecorded leases, licenses or agreements, orally or written, now in effect with respect to the PAC Parcels.

g. PAC has fee simple title to the PAC Parcels by virtue of the Quitclaim Deed of the United States of America and will convey the same to CITY at closing by special warranty deed as described in this Agreement, subject only to the Permitted Exceptions, as defined above.

h. This Agreement constitutes the valid and binding obligation of PAC enforceable in accordance with its terms.

i. There are no unrecorded service, maintenance, utility, employment or other contracts or agreements affecting the PAC Parcels to be sold, oral or written.

j. Should any of the representations or warranties set forth in paragraphs 8.a. through 8.j. be inaccurate or untrue, as they relate to the PAC Parcels, CITY shall have the option, as its sole and exclusive remedy, of (i) closing subject thereto, or (ii) terminating this Agreement.

9. Representations and warranties of CITY. CITY represents and warrants to PAC, both as of the date of this Agreement and the closing date (unless otherwise indicated), as to the property to be sold, as follows:

a. The signatory executing this Agreement on behalf of CITY has authority to execute this Agreement on CITY's behalf.

b. The execution and delivery of this Agreement and the consummation of the transaction as herein contemplated, in compliance with the terms of this Agreement, shall not conflict with, or result in any breach of any of the terms or provisions, or constitute default under, any instrument or agreement to which CITY is a party or any applicable regulations of any governmental agency, or any judgement, order or decree of any court having jurisdiction over CITY.

10. Selling party's obligations. The obligations of CITY hereunder are subject to the satisfaction, prior to or at closing, of the covenants, agreements, obligations and complied with conditions required by this Agreement to be performed or complied with by PAC prior to settlement, and no default hereunder by PAC shall have occurred or be occurring, which conditions, if not met at time of closing, shall entitle CITY, at its election, to (i) extend the closing date until the conditions are met, or (ii) terminate this Agreement.

11. Successors and assigns, applicable law. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns. This Agreement shall be construed under the laws of the Commonwealth of Virginia and any legal action that may arise pertaining to this Agreement shall be brought and maintained in the Circuit Court for the City of Newport News, Virginia. CITY may not assign this Agreement without the prior written approval of PAC, in its reasonable discretion.

12. Default. If either party breaches this Agreement or defaults on its obligations hereunder, the non-defaulting party shall notify the defaulting party in writing of such breach or default, and the defaulting party shall have thirty (30) days to cure such failure (other than failure to timely deliver the Purchase Price, for which CITY shall not be entitled to notice and cure period). Upon expiration of such notice and cure period, if applicable, if the breach or default has not been remedied, the non-defaulting party may, as its sole and exclusive remedy, either (i) waive such breach and proceed to closing, (ii) terminate this Agreement by written notice to the defaulting party, or (iii) if CITY is nondefaulting party, pursue an action for specific performance.

13. Captions. The headings and captions contained in this Agreement are inserted

only as a matter of convenience and for reference and in no way define, limit or describe the scope of intent of this Agreement, nor any provision herein contained.

14. Survival. The representations and warranties contained in this Agreement shall survive settlement hereunder for a period of three (3) months and the delivery of the deed of conveyance.

15. Notice. All notices required hereunder shall be in writing and shall be deemed made and delivered when mailed by certified mail, return receipt requested, postage pre-paid to the parties at the addresses set forth below:

a. To PAC:

*Newport News/Williamsburg International Airport  
c/o Executive Director  
900 Bland Blvd., Suite G  
Newport News, VA 23602*

b. To CITY:

*City of Newport News, Virginia  
c/o City Manager  
2400 Washington Avenue, 10<sup>th</sup> Floor  
Newport News, Virginia 23607*

with a copy to:

*City Attorney  
2400 Washington Avenue, 9<sup>th</sup> Floor  
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Either party may at any time change their addresses for notification purposes by giving written notice of such change to the other party at the notice address.

16. Entire agreement. This Agreement constitutes the entire agreement between CITY and PAC and there are no other prior or contemporaneous agreements, oral or written, and this Agreement may not be supplemented, altered, modified or otherwise amended in any way except in writing, signed by CITY and PAC. This Agreement may be executed in any number of counterparts which, when taken together shall constitute the entire Agreement. Signatures to this Agreement transmitted by .pdf or other electronic means shall constitute originals in all respects.

WITNESS the following signatures and seals:

PENINSULA AIRPORT COMMISSION

By: \_\_\_\_\_

Its: \_\_\_\_\_



CITY OF NEWPORT NEWS, VIRGINIA

By: \_\_\_\_\_  
Alan K. Archer, Acting City Manager

ATTEST:

\_\_\_\_\_  
Mabel Washington Jenkins, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

EXHIBIT A

PARCEL 1-

ALL THAT certain right-of-way containing 1,151 sq. ft. or 0.0264 acre, and temporary construction easement containing 2,141 sq. ft. or 0.0491 acre from the Peninsula Airport Commission to the City of Newport News, as shown on that certain plat of survey entitled, "RIGHT OF WAY DEDICATION PLAT: FROM: PENINSULA AIRPORT COMMISSION, TO: CITY OF NEWPORT NEWS, PROJECT: JEFFERSON INTERSECTION IMPROVEMENT", prepared by Michael Surveying & Mapping, dated August 2, 2017, as revised on June 27, 2023, which said plat is attached hereto for a more particular description of said right-of-way and easement.

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ALL THAT certain right-of-way containing 2,377 sq. ft. or 0.0545 acre, and temporary construction easement containing 4,273 sq. ft. or 0.980 acre from the Peninsula Airport Commission to the City of Newport News, as shown on that certain plat of survey entitled, "RIGHT OF WAY DEDICATION PLAT: FROM: PENINSULA AIRPORT COMMISSION, TO: CITY OF NEWPORT NEWS, PROJECT: JEFFERSON INTERSECTION IMPROVEMENT", prepared by Michael Surveying & Mapping, dated August 2, 2017, as revised on June 27, 2023, which said plat is attached hereto for a more particular description of said right-of-way and easement.

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EXHIBIT B

AVIGATION and RELATED CLAUSES

The PAC Parcels shall be conveyed subject to the following conditions, covenants, easements, restrictions and agreements, which shall be appurtenant to and for the benefit of the airport, as well as for the public in its use of the airport, including any additions or expansions thereto, wherever located, and for the benefit of PAC and its successors and assigns, together with its guests and invitees, including any and all persons, firms or corporations operating aircraft to and from the airport:

The unobstructed use and passage of all types of aircraft in and through the airspace at any height or altitude above the surface of the land.

The right of such aircraft to cause noise, vibrations, fumes, deposits of dust, fuel particles (incident to the normal operation of aircraft), fear, interference with sleep or communications and any other effects associated with the normal operation of aircraft taking off, landing or operating in the vicinity of the airport.

As used herein, the term "aircraft" shall mean any and all types of aircraft, whether now in existence or hereafter manufactured and developed, to include jet, propeller-driven, civil, military or commercial aircraft; helicopters, regardless of existing or future noise levels, for the purpose of transporting persons or property through the air, by whoever owned or operated.

CITY agrees that it will not construct, erect, suffer to permit or allow any structure or trees on the surface of the PAC Parcels. CITY may not permit the construction of any places of public assembly or gatherings within the PAC Parcels.

CITY agrees to keep the PAC Parcels free of the following: structures (permanent or temporary) that might create glare or contain misleading lights: residences, fuel handling and storage facilities and smoke generating activities and creation of any means of electrical interference that could affect the movement of aircraft over the PAC Parcels.

CITY, for itself and its successors and assigns, does hereby fully waive, remise and release any right or cause of action which it or its successors in title may now have or which they may have in the future against PAC, its successors and assigns, due to such aircraft operations and all other effects that may be caused or may have been caused by the operation of aircraft landing at, or taking off from or operating at or on the airport.

PAC has a perpetual right of ingress/egress in the PAC Parcels and the right to remove any new structure or vegetation that is not mentioned in the deed as "accepted."

CITY does hereby agree to preclude and prevent current and future uses of the land that are incompatible with the current or any future Runway Protection Zone (RPZ) area. These incompatible uses within the RPZ include (a) land use for residences and places of public assembly (churches, schools, hospitals, office buildings, shopping centers and other uses with similar concentration of persons), (b) and land use that attracts wildlife, and (c) other uses inconsistent with airport operations (such as, but not limited to, smoke generating and fuel storage facilities).



**PENINSULA AIRPORT COMMISSION**

**RESOLUTION 23-014 ACCEPTING COMMONWEALTH OF VIRGINIA GRANT  
FOR AVIATION PROMOTION (GRANT NO. PR0035-07)**

December 7, 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 authorized to receive certain grants from the Commonwealth of Virginia and has received grant offer No. PR0035-07 from the Virginia Department of Aviation (the “VDOA”) in the amount of \$50,000 for the promotion of aviation at the Airport (the “DOAV Grant”); and

**WHEREAS**, the Commission desires to approve and accept the DOAV Grant and authorize the Executive Director of the Commission to execute the associated grant agreement;

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

1. The prior application for the DOAV Grant and all actions taken in connection therewith are hereby ratified, authorized and approved.
2. The Commission hereby accepts and approves the DOAV Grant and affirms to the DOAV the Commission’s intent to comply with all of the assurances set forth in the DOAV Grant (and the associated grant agreement) and related laws and regulations with respect thereto. The Executive Director is authorized and directed to execute and deliver the DOAV Grant and associated grant agreement with the DOAV, and to take all actions necessary in order to accept and apply the DOAV Grant to fulfill its purposes and the purposes of this Resolution.
3. This Resolution shall take effect immediately.



Commonwealth of Virginia  
Department of Aviation  
5702 Gulfstream Road  
Richmond, Virginia 23250-2422

## Grant Agreement

### Part I - Offer

Project Number:	<b>PR0035-07</b>
Date of Approval:	<b>October 30, 2023</b>
Date of Offer:	<b>October 30, 2023</b>
Date of Offer Expiration:	<b>December 29, 2023</b>

WHEREAS, by executing a *Master Agreement on Terms and Conditions for Accepting State Aviation Funding Resources* (hereinafter referred to as the "Master Agreement"), effective on July 22, 2022, the **Peninsula Airport Commission** (hereinafter referred to as the "Sponsor") agreed to the terms and conditions for accepting state aviation funding from the Commonwealth of Virginia (hereinafter referred to as the "Commonwealth"); and

WHEREAS, the Sponsor has submitted a request for a grant of state funds to assist in the development of **Newport News-Williamsburg International Airport** (hereinafter referred to as the "Airport") together with the appropriate supporting documentation; and

WHEREAS, the Commonwealth acting by and through the Virginia Aviation Board (hereinafter referred to as the "Board") and/or the Virginia Department of Aviation (hereinafter referred to as the "Department"), has approved a project for development of the Airport which consists of the following (hereafter referred to as the "Project"):

#### **FY2024 Aviation Promotion**

NOW, THEREFORE, pursuant to the authority granted to the Department by §5.1-2.2 of the *Code of Virginia* (1950), as amended, and in consideration of (a) the authority granted to the Sponsor to operate and maintain the Airport, (b) the Sponsor's adoption and ratification of the assurances provided in the Master Agreement, and (c) the benefits to accrue to the Commonwealth and the public from the accomplishment of this Project, the Department offers to pay, as the Commonwealth's share, **fifty (50.00)** percent of all eligible Project costs.

This offer is made on and subject to the following terms and conditions:

1. The Master Agreement is incorporated by reference herein, and this offer is subject to the terms and conditions of said Master Agreement.
2. The maximum obligation of the Commonwealth payable under this Grant Agreement shall not exceed **\$50,000.00**.
3. If the Federal Aviation Administration (hereinafter referred to as the "FAA") will be participating in the funding of this Project, the Sponsor has, at the time of the execution of this Grant Agreement, a commitment from FAA for federal funds in the amount of **\$N/A**.
4. This Grant Term will expire on **May 15, 2024**.
5. The Grant Obligation Term is **5 years**.

Grant Agreement, Project Number **PR0035-07**

The Sponsor's acceptance of this Grant Offer with its terms and conditions shall be evidenced by execution of this Grant Offer by, or on behalf of, the Sponsor, as hereinafter provided, and said Grant Offer and acceptance shall comprise a Grant Agreement for the distribution of funds by the Department as authorized under §5.1-2.2 *Code of Virginia* (1950), as amended. This Grant Agreement shall become effective upon the Sponsor's acceptance and shall remain in full force as provided herein.

Commonwealth of Virginia  
Department of Aviation

DocuSigned by:  
By, Gregory W. Campbell 10/30/2023  
77A981184C3440B

Its, Director

Part II - Acceptance

The Sponsor hereby accepts and agrees to all the terms, conditions and assurances contained in this Grant Agreement.

Peninsula Airport Commission

By, \_\_\_\_\_

John J. Borden, Jr.  
Director, Newport News/Williamsburg International Airport

Certification of Sponsor's Attorney

Acting as Attorney for the Sponsor, I do hereby certify that in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the Commonwealth of Virginia. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the Commonwealth of Virginia. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

By, \_\_\_\_\_

L. Scott Seymour  
Kaufman & Canoles