



RESOLUTION NO. 12-13

**Approving the Third Amendment
to the
Dulles Toll Road Permit and Operating Agreement**

WHEREAS, The Airports Authority and the Virginia Department of Transportation ("VDOT") have previously entered into the Dulles Toll Road Permit and Operating Agreement, dated as December 29, 2006 ("Permit Agreement"), as amended by the First Amendment to the Dulles Toll Road Permit and Operating Agreement, dated as of July 9, 2007, and the Second Amendment to the Dulles Toll Road Permit and Operating Agreement, dated as of November 1, 2008;

WHEREAS, Section 6.06 of the Permit Agreement provides that the Airports Authority may modify the substantial completion date of the Dulles Corridor Metrorail Project ("Project") within 60 days of the completion of preliminary engineering for Phase 2 of the Project;

WHEREAS, On March 6, 2012, the preliminary engineering for Phase 2 of the Project was completed and delivered by the Airports Authority to Loudoun County and Fairfax County pursuant to the Agreement to Fund the Capital Cost of Construction of the Metrorail in the Dulles Corridor ("Funding Agreement") by and between Loudoun County, Fairfax County and the Airports Authority;

WHEREAS, The Funding Agreement provides that Loudoun and Fairfax Counties shall have 90 days following their receipt of the Phase 2 preliminary engineering materials in which to review the materials and notify the Airports Authority whether they will financially participate in Phase 2 of the Project ("Review Period");

WHEREAS, At the request of Loudoun County, the Funding Agreement has been amended to provide Loudoun and Fairfax Counties an additional 30 days to the Review Period, for a total of 120 days;

WHEREAS, The Airports Authority and VDOT have concluded that, in light of this amendment to the Funding Agreement, the period following completion of the Phase 2 preliminary engineering in which the Airports Authority, under Section 6.06 of the Permit Agreement, may extend the substantial completion date of

the Project should be extended from 60 to 150 days, which is 30 days following expiration of the extended Review Period, and

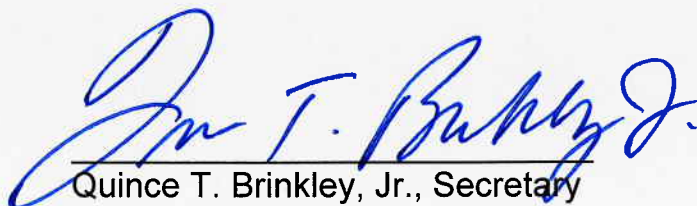
WHEREAS, The Airports Authority and VDOT desire to amend the Permit Agreement to reflect this conclusion and have done so in the Third Amendment to the Permit Agreement which is attached to this resolution; now, therefore, be it

RESOLVED, That the Third Amendment to the Dulles Toll Road Permit and Operating Agreement is hereby approved; and

RESOLVED, That the President and Chief Executive Officer is authorized and directed to execute the Third Amendment to the Dulles Toll Road Permit and Operating Agreement.

Attachment

Adopted May 16, 2012



Quince T. Brinkley, Jr., Secretary

**THIRD AMENDMENT TO THE DULLES TOLL ROAD
PERMIT AND OPERATING AGREEMENT**

This Third Amendment to the Dulles Toll Road Permit and Operating Agreement ("Third Amendment"), between the Virginia Department of Transportation ("Department") and the Metropolitan Washington Airports Authority ("Airports Authority" and, collectively with the Department, the "Parties") is dated May 16, 2012.

WHEREAS, the Department and the Airports Authority have previously entered into the Dulles Toll Road Permit and Operating Agreement, dated December 29, 2006 ("Permit Agreement"), which was amended by the First Amendment to the Dulles Toll Road Permit and Operating Agreement, dated July 9, 2007 ("First Amendment"), and the Second Amendment to the Dulles Toll Road Permit and Operating Agreement, dated November 1, 2008 ("Second Amendment");

WHEREAS, Section 6.06 of the Permit Agreement provides that the Airports Authority will confirm or modify the substantial completion date of the Dulles Corridor Metrorail Project (which, as of the date of this Third Amendment, is December 31, 2016) within 60 days of the completion of preliminary engineering for Phase 2 of the Dulles Corridor Metrorail Project ("Project");

WHEREAS, on March 6, 2012, the preliminary engineering for Phase 2 of the Project was completed and delivered by the Airports Authority to Loudoun County and Fairfax County pursuant to the Agreement to Fund the Capital Cost of Construction of the Metrorail in the Dulles Corridor ("Funding Agreement") by and between Loudoun County, Fairfax County and the Airports Authority;

WHEREAS, the Funding Agreement provides that Loudoun and Fairfax Counties shall have 90 days following their receipt of the Phase 2 preliminary engineering materials in which to review the materials and notify the Airports Authority whether or not they will financially participate in Phase 2 of the Rail Project;

WHEREAS, Loudoun County has requested a 30-day extension of the 90-day review period set out in the Funding Agreement;

WHEREAS, the parties to the Funding Agreement have agreed to amend the Funding Agreement by extending the period in which Loudoun and Fairfax Counties may review the Phase 2 preliminary engineering materials from 90 to 120 days;

WHEREAS, the parties to the Permit Agreement have concluded that, in light of this amendment to the Funding Agreement, the 60-day period following completion of the Phase 2 preliminary engineering within which the Airports Authority, under Section 6.06 of the Permit Agreement, may extend the substantial completion date of the Dulles Corridor Metrorail Project should be extended to 30 days following the expiration of the extended period provided by the amended Funding Agreement for Loudoun and Fairfax Counties to review the Phase 2

preliminary engineering materials and to notify the Airports Authority whether they will financially participate in Phase 2 of the Rail Project; and

WHEREAS, the parties to the Permit Agreement desire to amend the Permit Agreement further to reflect this conclusion and to incorporate the terms set forth herein;

NOW, THEREFORE, in consideration of the respective representations and agreements contained herein, and pursuant to Section 18.16 of the Permit Agreement, the parties hereto agree to amend the Permit Agreement as follows:

Section 6.06 of the Permit Agreement is hereby amended to delete the phrase "within 60 days of completion of preliminary engineering for Phase 2 of the Dulles Corridor Metrorail Project" in the second sentence of the section, and to replace the deleted phrase with the following: "within 150 days of completion of preliminary engineering for Phase 2 of the Dulles Corridor Metrorail Project".

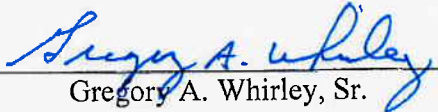
Except as specifically amended by this Third Amendment and by the First Amendment and Second Amendment, the Permit Agreement shall continue in full force and effect in accordance with its terms.

This Third Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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In testimony thereof, the parties have caused this Third Amendment to the Permit and Operating Agreement to be executed by its duly authorized officers. By their signature hereto, each of the parties represents and warrants that it has full legal authority and is empowered to enter into this Third Amendment and has taken all action necessary to authorize the execution and delivery of the Third Amendment.

VIRGINIA DEPARTMENT OF TRANSPORTATION

By: 
Gregory A. Whirley, Sr.
Commissioner of Highways

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

By: _____

Name: _____

Title: _____