SUMMARY MINUTES
AUDIT - LEGAL COMMITTEE
MEETING OF OCTOBER 16, 2013

Mr. Adams chaired the executive session of the October 16 Audit – Legal Committee Meeting, calling it to order at 8:42 a.m. A quorum was present: Mr. Conner, Ms. McConnell, Ms. Hall, Co-Chair, Mr. McDermott, Ms. Merrick, Mr. Session, Ms. Wells and Mr. Curto, *ex officio*. Mr. Carter, Mr. Chapman, Mr. Davis, Mr. Griffin, Ms. Lang and Mr. Williams were also present.

At 9:34 a.m. the Committee recessed its Meeting to allow the Board of Directors Meeting to begin timely, as required by the Authority Bylaws.

At 10:25 a.m., Mr. Adams reconvened the Audit – Legal Committee Meeting, with the same Members present, as well as Mr. Gates. Mr. Adams reported that the Committee would address one legal item before receiving the audit-related reports. Pursuant to Article IX, Section 1, Mr. Adams noted that the Committee could only discuss agenda items identified in the agenda distributed by the Secretary forty-eight hours in advance of the meeting. Other items could be added if the majority of the Members of the Committee vote to waive the provision. Mr. Adams then offered a motion to add a recommendation from the General Counsel's office to the day's Audit – Legal Committee Meeting agenda, which was approved. He moved that the Committee approve the settlement of a lawsuit, consistent with the terms presented by the General Counsel, as discussed by the Committee in executive session earlier that morning. The Committee approved the settlement.

At that time, Ms. Hall turned the agenda to the day's audit reports, beginning with <u>Toll Road Collections</u>. Valerie Holt, Vice President for Audit, reported that the Office of Audit had reviewed the controls over toll revenues collected by the Dulles Greenway for the Dulles Toll Road. She noted that the tolls, collected under a memorandum of understanding between the Authority and the owners of the Greenway, are paid with cash, credit cards, or the use of E-ZPass. Audit Staff had concluded that controls are effective.

<u>Shared Ride Van Service</u>. Ms. Holt reported that Audit Staff had assessed compliance with selected safety related contract requirements for drivers, including qualifications, training, drug and alcohol testing, driving and criminal records review; unsafe driving and monitoring of hours

and vehicle inspections. She explained the process the company used to earn its revenue and to pay the Authority. Audit Staff had concluded that the company did not routinely comply with many of the requirements to monitor its drivers and vehicles to ensure adherence to safe operating procedures and conditions during the audited period. Drivers' files were missing required documentation for hiring qualified drivers and verifying continued education and vehicle inspections were not consistent with the contract requirements. As a result of staff's recommendation, all of the checklist items were included in the files with one exception, as of August 31. Ms. Holt reported that the missing documents had been requested and would be reviewed during the next quarterly review.

Ms. Wells inquired whether a breach of contract had occurred. Ms. McKeough responded that the contractor's inability to produce evidence of driver inspections did not constitute a breach of contract. She noted that the Authority may be able to enforce its liquidated damages provisions in the future.

Mr. Williams asked how long the company had been providing services under the contract. Ms. Holt responded that the company had held the contract for several years. She noted that incidents had occurred that led to the recently-conducted audit, which represented the first one that had focused on safety issues during her tenure. Additionally, Ms. Holt noted that the company had been the sole provider in the past but that the Authority had since retained another provider, which would offer options if future issues arise.

<u>Shuttle Bus Maintenance</u>. Ms. Holt reported that the audit had been conducted to determine whether required maintenance functions on the shuttle bus system, which serves the public and employee parking lots at Dulles International, were being executed in accordance with contract requirements. She stated that the preventive maintenance schedule is in compliance with federal regulations but that contract requirements, administered by the Authority, governing pre- and post-vehicle inspections were not routinely followed. Ms. Holt reported that three of the four recommendations had been implemented, as of August 31.

<u>Public Parking Contract</u>. Ms. Holt reported that the audit had been conducted to obtain reasonable assurance that the Statement of Net Revenue is free of material misstatement and evaluate compliance terms, as identified, from July 1, 2011 to June 30, 2012. The audit had concluded

that controls over accounting and reporting are generally adequate; controls over expense reimbursements were not always adequate; and some approved requests should not have been approved and paid and needed to be reversed. Ms. Holt reported that management had implemented four of the five recommendations. Since the finalization of the audit report, costs had been recouped from the company for mistakenly-paid healthcare and that accrued vacation leave had been repaid.

Ms. Hall asked if the contractor's incentive would be reduced as a result of the audit results. Ms. Holt stated that an incentive is a standard feature of the contract and noted that a determination had not been made whether to consider audit results in the bonus matrix. She suggested that Mr. Potter may want to consider how performance bonuses are calculated and determine if the process is compliant with the new procurement rules. Mr. Potter stated that the audits should be coordinated so that the results could be used to evaluate contracts, as well as the staff who managed them. Ms. Holt stated that the contract term included an additional 120 days to allow the vendor to provide a certified financial statement, which is used during the audit. Although interim due diligence occurred, additional time was required as a result of some of the audit findings to ensure that accurate results would be produced.

<u>Employee Travel</u>. Ms. Holt reported that Audit Staff had conducted the audit to determine whether travel expenses are authorized and documented in accordance with the policies and procedures and whether internal controls over travel expenses were effective during July 1, 2011 to June 30, 2013, prior to the approval of the revised Travel Policy. Ms. Holt reported that controls over processing travel expenses had significantly improved since the last review. She also reported that the recommendation for Finance staff to remind employees that authorizations be signed before airline tickets are purchased and that expense reports for overnight trips be submitted within 30 days of travel had been robustly implemented. Ms. Holt noted that the Travel Policy now requires an annual audit be conducted and that the next audit would include the time period for which new guidelines had been implemented.

Ms. Hall reported that Mr. McDermott had a declaration statement prior to the discussion for the next audit. For the record, Mr. McDermott noted that his law firm, K&L Gates, represents Kimley-Horn & Associates, though he did not personally represent the business. Kimley-Horn works on Phase 1 of the Dulles Corridor Metrorail Project and its fees contribute to the project's indirect costs. Accordingly, it has been audited and is among the subjects of the information paper the Auditor will be presenting to the Audit – Legal Committee. The revenue his firm derives from Kimley-Horn is less than 3 percent of the firm's gross income. As a result, Mr. McDermott stated that after consulting with the Ethics Officer concerning the applicability of Section 3(b)(ii) to this matter, she had advised him that he did not have an actual conflict of interests in the agenda item. However, due to his firm's relationship with the business, Mr. McDermott stated that he has what the Ethics Code (Section 3(b)(ii)) characterizes as an apparent conflict of interests in the item. In this situation, the Code permits a Director's participation in a matter if the Director believes that he or she is able to participate in the matter fairly and objectively. Notwithstanding his firm's work for Kimley-Horn, Mr. McDermott said he believed he is able to participate, fairly and objectively in the interest of the Authority, in the discussion that may ensue of the indirect cost audit of the Dulles Corridor Metrorail Project.

Ms. Holt reported that the Office of Audit does not pre-solicit comments from the Board of Directors on any of the audits conducted nor does it take votes on whether the audit are accurately conducted. She noted that no agenda items before the Committee would require an action.

<u>Indirect Cost Audits for Metrorail Contractors and Subcontractors</u>. Ms. Holt reported that the Audit Staff had reviewed seven indirect cost rate reports for contractors and subcontractors. Results had concluded that provisional rates had been established for the seven companies. Ms. Holt explained that an audit on final rates would be conducted within the next three years.

<u>Cashier Monitoring Parking Operations</u>. Ms. Holt reported that the controls over monitoring cashiers in the public parking operation had been reviewed. Audit results had concluded that internal controls over cashier monitoring are effective, and no changes in operating procedures or processes had been recommended.

<u>Foreign Currency Exchange</u>. Ms. Holt reported that the Audit Staff had reviewed the Statement of Gross Revenue and Percentage Fees for two contract years. She explained that the Authority obtained foreign currency exchange services at both Airports. The audited contact had begun February 1, 2004 and had ended May 31, 2013. A new contract with a different firm had begun on June 1, 2013. Ms. Holt reported that management had requested the audit to ensure that the prior firm had been reporting accurately and to better understand the reasons for the

difference in the offered fees. The audit had concluded that the contractor had paid the correct amounts. However, results had shown that the contractor's profits had nearly doubled between the first and fifth contract years. Because the Authority had not issued a new Request for Proposals during the fifth contract year, the Authority had been unable to increase its share of the revenue. Additionally, Disadvantaged Business Enterprise (DBE) participation reported to the Board had been substantially higher than the amount paid to the DBE subcontractor. Lastly, the Authority had not approved all changes in products and services. Three recommendations, to which management had agreed, had been approved to improve future results.

The Meeting was thereupon adjourned at 10:55 a.m.

[NOTE: At the conclusion of the Business Administration Committee Meeting, the executive session held earlier that morning resumed to conclude confidential discussions regarding two agenda items relative to the Audit – Legal Committee and the information paper regarding the selection of interim financing for the Dulles Corridor Enterprise. For the record, Mr. Conner had recused himself earlier that day and was not present during the session for the discussion of the interim financing for the Dulles Corridor Enterprise.]