

Proposed Amendment to Lease Agreement Between The United States and MWAA

BACKGROUND

Since 1987, MWAA has leased the land and improvements at Dulles and Reagan National from the United States pursuant to a lease agreement executed on behalf of the U.S. by the Secretary of Transportation.

The Secretary's authority to enter this Lease comes from the 1986 federal law in which Congress (i) agreed to the creation of MWAA through an interstate compact between Virginia and the District of Columbia, (ii) further agreed to lease the two airports to this newly created entity, and (iii) authorized the Secretary to negotiate and execute the Lease.

The Lease has been amended on 3 occasions over the years – once to eliminate provisions addressing the Board of Review; once to amend certain definitions; once to extend the term to 80 years (to 2067).

PROPOSED AMENDMENT

The U.S. Secretary of Transportation has proposed a fourth amendment to the Lease, with three major components.

First, the amendment addresses MWAA policies and procedures in 7 areas – procurement and contracting, human resources, budget (relating to federal funds), travel, ethics, governance and transparency.

- The amendment requires MWAA to adopt, maintain and adhere to policies and procedures in these areas, and to adopt them in consultation with and with the concurrence of the Secretary or his designee.
- Policies are to be “substantially similar” to entities similar to MWAA, and are to “strive to reflect” best practices.
- As outlined in the Committee paper, substantial policy adoption, in consultation with and with the concurrence of the DOT Accountability Officer, has been accomplished in the past four months.
- The major work ahead lies in the human resources area, which is projected to be completed in the 2nd quarter of 2013.

Second, the amendment requires MWAA to provide access (after reasonable notice) to the Secretary and his representatives to MWAA records and personnel, to enable the Secretary to review MWAA's adherence to adopted policies.

- The Lease currently provides for the Secretary's access to the leased property.

Third, the amendment revises the Lease's definition of "Airport Purposes" to include any "business or activity not inconsistent with the needs of aviation that has been approved by the Secretary."

- Implements provision in 2012 FAA Reauthorization Act.
- Greatly expands potential uses of leased land to generate aviation revenue.
- Up to now, uses have been restricted to (i) business and activities related to "aviation" or to the servicing of passengers or cargo and (ii) non profit facilities open to the public and not harmful to aviation.

RECOMMENDATION

It is recommended that the Committee consider the proposed amendment, develop a position, and forward a recommendation to the Board of Directors.

**RECOMMENDATION PAPER
TO THE EXECUTIVE AND GOVERNANCE COMMITTEE**

**AMENDMENT OF LEASE AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND
THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY**

DECEMBER 2012

RECOMMENDATION

That the Executive and Governance Committee consider an amendment to the lease agreement between the United States and the Airports Authority that has been proposed by the U.S. Secretary of Transportation, and forward the Committee's recommendation to the Board of Directors.

BACKGROUND

As you know, the Airports Authority and the United States are parties to a lease agreement ("Lease") that was executed soon after the Airports Authority was created in the mid-1980s. (The Lease is attached as Attachment B.) The Lease was entered by the Secretary of Transportation on behalf of the United States pursuant to the Metropolitan Washington Airports Act of 1986. In that statute, Congress approved the creation of the Airports Authority by Virginia and the District of Columbia, using the vehicle of an interstate compact, and authorized the Secretary to lease the federally owned land comprising Dulles International and Reagan National Airports ("Leased Premises") to the newly established Airports Authority. The Lease became effective in June 1987 and has been amended on three occasions over the years. The original term of the Lease was for 50 years; an amendment has extended the term to 80 years (to 2067).

The Lease authorizes the Airports Authority to occupy, develop and improve the Leased Premises. It gives the Airports Authority full control over the premises, though restricting uses of the property to those that are for "Airport Purposes" (a term discussed below). It requires the Airports Authority, among other things, to make annual lease payments to the Secretary, to operate and promote the two airports as a unit and as primary airports serving the Washington, DC, metropolitan area, to comply with federal regulations applicable to domestic airports, and to obtain "full and open competition" in the acquisition of goods and services. The Lease also authorizes the Government Accountability Office to conduct periodic audits of the "activities and transactions" of the Authority in accordance with "generally accepted management principles."

DISCUSSION

In response to the DOT Inspector General's audit of the Airports Authority and the 2012 FAA Reauthorization Act, the Secretary of Transportation has proposed an amendment to the Lease.

(The proposed amendment is attached as Attachment A.) The amendment proposes three revisions to the Lease.

First, the amendment adds a new provision that requires the Airports Authority to “adopt, maintain, and adhere” to policies and procedures in the areas of “procurement and contracting, human resources . . . , budget (as relates to federal funds), travel, ethics, governance, and transparency.” These policies and procedures, and any amendments to them, are to be “substantially similar” to those of entities similar to the Airports Authority, are to “strive to reflect” best practices, and are to be developed in consultation with and have the concurrence of the Secretary or the Secretary’s designee. Final policies in the specified areas are to be adopted within 12 months of the amendment’s execution.

Much of this policymaking has already taken place. Policies in four of the identified areas – travel, ethics, governance and transparency – have been substantially adopted by the Airports Authority with the concurrence of the Secretary’s designee, the DOT Accountability Officer, following their development in consultation with her. Some further policymaking in the travel area, in the form of an amendment to the Airports Authority travel policy, is on the agenda for the December 12 meeting; the amendment was developed in consultation with, and has the concurrence of, the Accountability Officer. Additional policymaking is also anticipated in the governance and transparency area – primarily in the form of a further amendment to the bylaws (to address the indemnification of Board members) and to the Freedom of Information Policy (to address the Inspector General’s recommendation for a procedure to appeal decisions denying records requests) – and matters are expected to be considered by the Board in early 2013.

In the area of procurement and contracting, revisions to the Contracting Manual, which address the recommendations of the Inspector General, will be presented to the Business Administration Committee at the December 12 meeting. These revisions have been developed in consultation with the Accountability Officer and have her concurrence. In the area of human resources, policy work is underway, and new and revised policies will be developed in consultation with the Accountability Officer. Adoption of these policies is planned to occur in the next four to six months. Finally, in the area of “budget,” an area to federal funds received by the Airports Authority, a policy will be prepared that calls for the Airports Authority to adhere to all federal policies applicable to the use of federal funds that the Authority receives.

Second, the amendment adds a provision requiring the Airports Authority to provide the Secretary and his or her authorized representatives access to the Authority’s “personnel, books, records, contracts, and documents for the purpose of assuring compliance with” the Lease. This revision is related to the first, and is designed to assist the Secretary in assuring that the Airports Authority is adhering to its newly adopted policies and procedures.¹

¹ It should be noted that the sole Secretary’s remedy for an Airports Authority breach of the Lease provisions added by the first two revisions proposed by the Secretary is limited to bringing a civil action in federal court seeking an order compelling the Airports Authority to come into compliance with the provisions. The Lease provides for no other remedy or relief.

Finally, the amendment revises the Lease's definition of "Airport Purposes" to add a provision enacted at the Airports Authority's request as a part of the 2012 FAA Reauthorization Act. This provision expands the definition of the permissible uses of the Leases Premises to include any "business or activity not inconsistent with the needs of aviation that has been approved by the Secretary." Under the prior definition of "Airport Purposes," the use of the Leases Premises was restricted to aviation activities, activities necessary to serve air passengers or cargo, and non-profit facilities open to the public and not inconsistent with aviation. This revised definition is designed to facilitate uses of land at Dulles that will bring new revenue to the Airports Authority.

CONCLUSION

It is recommended that the Committee consider the Secretary's proposed amendment to the Lease, reach a position on the amendment and forward a Committee recommendation to the Board of Directors.

Prepared by

Office of General Counsel
December 2012

Attachments

ATTACHMENT A
(PROPOSED LEASE AMENDMENT NO. 4)

PROPOSED

AMENDMENT NO. 4

to the

LEASE

of the

METROPOLITAN WASHINGTON AIRPORTS

between

THE UNITED STATES OF AMERICA

acting by and through

THE SECRETARY OF TRANSPORTATION

and

THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

WHEREAS, the Metropolitan Washington Airports Authority (the “Airports Authority”) and the United States of America, acting by and through the Secretary of Transportation (the “Secretary”), entered into a lease dated March 2, 1987 (the “Lease”), whereby the Secretary leased to the Airports Authority Ronald Reagan Washington National Airport and Washington Dulles International Airport (the “Metropolitan Washington Airports”) for a term of fifty (50) years, effective June 7, 1987, which term was extended for an additional thirty (30) years by Amendment No. 3 to the Lease, dated April 30, 2003; and

WHEREAS, the Airports Authority has a continuing obligation under the Lease to comply with the “Act,” which is currently defined in the Lease as the Metropolitan Washington Airports Act of 1986, Title VI of Public Law 99-591, as amended by Title VII of Public Law 102-240 and by Title IX of Public Law 104-264; and

WHEREAS, the Act has been amended since the 104th Congress, including on February 14, 2012, by Titles I and IV of Public Law 112-95 (FAA Modernization and Reform Act of 2012), and the Secretary and the Airports Authority wish to modify the definition of “Act” in the Lease to clarify that the Airports Authority’s obligation extends to the Act, as amended as of the execution date of this Amendment, and to make other conforming changes to the Lease; and

WHEREAS, the Secretary and the Airports Authority are committed to strengthening the content and oversight of the Airports Authority’s internal policies and procedures, and the Secretary and the Airports Authority wish to modify the Lease to clarify the provisions related to Airports Authority policies and procedures and to make other conforming changes to the Lease;

IT IS NOW, THEREFORE, AGREED that the Lease, as amended, is further amended as follows:

1. Article 1, Definitions, paragraph 1.A. “Act,” as previously amended, is amended by striking the word “and” between “Public Law 102-240” and “by Title IX,” by inserting a comma after “Public Law 102-240”, and by inserting after “Public Law 104-264” a comma and then the words “by Title II of Public Law 106-181, by Section 4, Division C of Public Law 112-55, and by Titles I and IV of Public Law 112-95”.
2. Article 1, Definitions, paragraph 1.D. “Airport Purposes” is amended by inserting before the period a comma and then the words “or for a business or activity not inconsistent with the needs of aviation that has been approved by the Secretary”.
3. Article 8, Access to Premises, is amended to insert, at the end of such Article 8, the following language: “The Airports Authority shall further provide the Secretary and her authorized representatives and agents full access at any time during normal business hours, after reasonable notice, to the Airports Authority’s personnel, books, records, contracts, and documents for the purpose of assuring compliance with the terms of this Lease.”
4. Article 11, Continuing Obligations, is amended to add a new paragraph 11.K. to read as follows: “11.K. Airport Authority Policies and Procedures. The Authority shall adopt, maintain and adhere to policies and procedures in the areas of procurement and contracting, human resources (including hiring and adverse action), budget (as relates to federal funds), travel, ethics, governance, and transparency (including open meetings and executive sessions). These policies and procedures should be substantially similar to those of similar public entities and should strive to reflect a standard of ‘best practices.’ The Authority shall develop these policies and procedures, and any amendments thereto, in consultation with the Secretary of Transportation or the Secretary’s designee. Prior to the adoption of such policies and procedures, or amendments, the Authority shall obtain the concurrence of the Secretary or the Secretary’s designee. The Authority shall adopt a new or revised policy in each of these areas within 12 months of the execution date of this Amendment.”

5. All other provisions of the Lease remain unchanged.

ENTERED INTO THIS ____ DAY OF _____, 2012.

For the United States of America:

For the Metropolitan Washington Airports
Authority:

Ray LaHood
Secretary of Transportation

Michael A. Curto
Chairman

ATTACHMENT B
(FEDERAL LEASE AGREEMENT)

LEASE

of the

METROPOLITAN WASHINGTON AIRPORTS

between

THE UNITED STATES OF AMERICA

acting by and through

THE SECRETARY OF TRANSPORTATION

and

THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

ENTERED INTO AT WASHINGTON, DISTRICT OF COLUMBIA

THIS SECOND DAY OF MARCH,

1987

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AGREEMENT
AND DEED OF LEASE

March 2, 1987

Agreement and Deed of Lease between the United States of America, acting by and through the Secretary of Transportation ("the Secretary"), and the Metropolitan Washington Airports Authority ("the Airports Authority"), a public body politic and corporate created by compact between the Commonwealth of Virginia and the District of Columbia with the consent of the Congress.

WHEREAS, in the Metropolitan Washington Airports Act of 1986, Title VI of Public Law 99-591 ("the Act"), the Congress declared its purpose to be to authorize the transfer of operating responsibility under a long-term lease of the Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by the Commonwealth of Virginia and the District of Columbia, in order to achieve local control, management, operation, and development of these important transportation assets;

WHEREAS, the Act authorized the Secretary to enter into such a lease in order to enable the financing of badly needed capital improvements;

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WHEREAS, in Chapter 598, Virginia Acts of Assembly, 1985, as it may be amended, and in the District of Columbia Regional Airports Authority Act of 1985, D.C. Law 6-67, as it may be amended, the Commonwealth of Virginia and the District of Columbia, respectively, enacted essentially identical laws to create the Airports Authority to acquire the Metropolitan Washington Airports from the United States, by lease or otherwise;

WHEREAS, the Congress has found that the two federally owned airports in the metropolitan area of Washington, District of Columbia constitute an important and growing part of the commerce, transportation and economic patterns of the Commonwealth of Virginia, the District of Columbia, and the surrounding region;

WHEREAS, the Congress has found that the Federal Government has a continuing but limited interest in the operation of the two federally owned airports serving the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

WHEREAS, the Congress has found that operation of the Metropolitan Washington Airports by an independent local agency will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978;

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WHEREAS, the Congress has found that all other major air carrier airports in the United States are operated by public entities at the State, regional or local level;

WHEREAS, the Congress has found that any change in the status of the two airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the Federal Government and the State governments involved;

WHEREAS, the Congress has found that an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports; and

WHEREAS, the Congress has found that the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

NOW THEREFORE, under the authority of the Metropolitan Washington Airports Act of 1986, Title VI of Public Law 99-591, 100 Stat. 3341; Chapter 598, Virginia Acts of Assembly, 1985, as it may be amended; and the District of Columbia Regional Airports Authority

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Act of 1985, D.C. Law 6-67, as it may be amended; the parties do hereby agree as follows, for themselves and for their successors:

Article 1. Definitions.

The following terms when used in this lease shall have the meanings indicated below:

1.A. Act

The term "Act" means the Metropolitan Washington Airports Act of 1986, Title VI of Public Law 99-591, 100 Stat. 3341.

1.B. Airports

The term "Airports" means the Metropolitan Washington Airports.

1.C. Airports Authority

The term "Airports Authority" means the Metropolitan Washington Airports Authority, a public body created by the Commonwealth of Virginia and the District of Columbia.

1.D. Airport Purposes

The term "Airport Purposes" means a use of property interests (other than a sale) for aviation business or activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities.

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1.E. Board of Directors

The term "Board of Directors" means the Board of Directors of the Airports Authority.

1.F. Board of Review

The term "Board of Review" means the Board of Review of the Airports Authority established by the Board of Directors.

1.G. Employees

The term "Employees" means all permanent Federal Aviation Administration personnel employed on the date this lease takes effect by the Metropolitan Washington Airports, an organization within the Federal Aviation Administration, U.S. Department of Transportation.

1.H. Leased Premises

The term "Leased Premises" means the real property described in paragraph 3.A. hereof.

1.I. Master Plan

The term "Master Plan" means a generalized, comprehensive plan for the physical development of Washington National Airport or Washington Dulles International Airport as may be revised from time to time by the Airports Authority.

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1.J. Metropolitan Washington Airports

The term "Metropolitan Washington Airports" means Washington National Airport and Washington Dulles International Airport.

1.K. Secretary

The term "Secretary" means the Secretary of Transportation of the United States, or her successor.

1.L. Washington Dulles International Airport

The term "Washington Dulles International Airport" means the airport constructed under the act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between the Interstate Routes I-495 and I-66.

1.M. Washington National Airport

The term "Washington National Airport" means the airport described in the act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686).

Article 2. Purpose.

The purpose of this lease is to transfer the operating responsibility for the Metropolitan Washington Airports to the Metropolitan Washington Airports Authority pursuant to the Act and

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to make the conditions imposed therein upon the authority of the Secretary to enter into a lease of the Metropolitan Washington Airports applicable to the Airports Authority.

Article 3. Leased Premises.

3.A. Grant of Lease.

The Secretary, on behalf of the United States of America, hereby demises and leases to the Airports Authority the two Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, being the parcels of land, together with all right, title and interest, if any, of the Secretary in and to any street or road abutting or included within the described land, and all rights of way, easements, licenses and permits relating thereto, and all improvements thereon, bounded and described in Appendix A.

3.B. Scope.

The Airports Authority is hereby authorized to occupy, operate, control and use, for the term of this lease, all land, improvements, buildings, fixtures, easements, rights of ingress and egress and appurtenances thereto belonging, owned by, used or controlled by or assigned to the United States of America on or at the Leased Premises. Subject to the provisions of this lease, the Airports Authority shall have, consistent with the 50-year minimum term of this lease, full power and dominion over, and complete discretion in, operations and development of the Airports, and shall have the same proprietary powers and be subject to the same

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restrictions with respect to federal law as any other airport, except as otherwise provided herein.

3.C. Warranty of Title.

The Secretary hereby warrants and covenants on behalf of the United States of America that the United States of America is the owner of good, fee simple and marketable title to all of the Leased Premises, free and clear of all liens, debts, encumbrances or restrictions of whatsoever kind, nature and description, other than leases and easements presently in effect that do not adversely affect the operation of the Airports, and the Secretary has full power and authority to convey the interests described in this lease in accordance with the provisions hereof.

3.D. Quiet Enjoyment.

The Secretary covenants on behalf of the United States of America that, during the period commencing on the effective date of this lease and ending on the expiration of the term of this lease in accordance with the terms hereof, the Airports Authority shall fully, peaceably and quietly occupy and enjoy the full possession of the Leased Premises without hindrance or interference by the Secretary or any other person or entity.

Article 4. Transfer of Personal Property.

The Secretary, on behalf of the United States of America, hereby grants, transfers and conveys to the Airports Authority, without condition (and not as a lease), all right, title and

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interest in and to all equipment, materials, furnishings and all other personal property appurtenant to or located on the Leased Premises, excluding personal property necessary for the Secretary's Air Traffic Control responsibilities, and including, but not limited to, the items specifically described in the inventory to be completed before the effective date of this lease and identified as "Inventory for Metropolitan Washington Airports." Such personal property is transferred in "as is" condition and the Secretary makes no warranties as to the suitability of any such property for any particular use.

Article 5. After Acquired Personal Property.

All personal property acquired by the Airports Authority after the effective date of this lease shall vest in the Airports Authority and shall not be subject to this lease. All such personal property so acquired and not essential to or regularly used in the operations of the Metropolitan Washington Airports as airports shall remain the property of the Airports Authority following the expiration of the term of this lease and any extensions thereto.

Article 6. Title to Improvements.

All title to improvements made to or constructed on the Leased Premises after the effective date of this lease shall vest in the Airports Authority for the term of this lease and any extensions thereto, subject to any mortgages, liens, or assignments made by the Airports Authority. Upon expiration of

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this lease, title to said improvements shall pass to the United States. Such improvements shall not constitute additional rent under this lease.

Article 7. Maintenance and Care of Property.

The Airports Authority shall maintain the Leased Premises and structures thereon in good condition for operation of the Airports as operating airports, depreciation, obsolescence and ordinary wear and tear excepted. Notwithstanding any other provision of this lease, but subject to Article 12 and paragraph 11.B., the Airports Authority may alter the Leased Premises, demolish and remove any improvement, including structures and fixtures, make additional improvements and erect structures on the Leased Premises.

Article 8. Access To Premises.

The Secretary and her authorized representatives and agents shall have the right to enter and view the Leased Premises at any time during normal business hours, after reasonable notice, for the purpose of assuring compliance with the terms of this lease.

Article 9. Effective Date.

This lease shall be effective on the date on which the Secretary and the Airports Authority certify that the Governor of Virginia and the Mayor of the District of Columbia have approved the lease and that all conditions in Articles 15 and 20 have been satisfied.

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Article 10. Term and Extensions.

10.A. Term.

The term of this lease shall be for fifty years commencing on the effective date as determined under Article 9.

10.B. Lease Extensions.

The Secretary and the Airports Authority may at any time negotiate an extension of this lease.

10.C. Good Faith Negotiation.

In the event that the Airports Authority reasonably shall determine that an extension of the term of this lease is required in order to entitle the Airports Authority to amortize the indebtedness that will result from the financing of any improvements at the Airports over a period equal to the estimated useful life of such improvements, the parties agree to negotiate in good faith a commensurate extension of such term.

10.D. Expiration.

Upon the expiration of this lease, the Airports Authority covenants and agrees that it will give up, surrender and deliver to the Secretary the Leased Premises together with all buildings, structures and improvements thereon (as the same may have been altered or replaced), as well as all personal property, furniture, fixtures and other equipment contained therein and used exclusively in connection with the operation of the Airports, the intent being that when the Leased Premises are returned to the

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Secretary, such Leased Premises shall be in good condition as operating airports, depreciation, obsolescence, and ordinary wear and tear excepted, all of which shall be free and clear of any and all liens, debts or encumbrances which would necessitate payment by the Secretary.

Article 11. Continuing Obligations.

11.A. Airports Authority's Legal Status.

The Airports Authority is a public body corporate and politic that meets the requirements of section 6007 of the Act. The Airports Authority agrees to refrain from action that would alter such status and to use its best efforts to maintain this status.

11.B. Operation of Airports.

The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

11.C. Airport Improvement Program Requirements.

The Airports Authority shall be subject to the requirements of section 511(a) of the Airport and Airway Improvement Act of 1982 (hereinafter the "1982 Act") and the assurances and conditions required of grant recipients under the 1982 Act as of the date the lease takes effect, to the same extent as would be an airport that received a grant under the 1982 Act on the effective date of this lease. As in the case of any other airport, any such

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assurance which, by its terms, is project specific shall apply only to projects on which Federal grant funds are expended. Notwithstanding section 511(a)(12) of the 1982 Act, all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of the Airports.

11.D. Contracts.

In acquiring by contract supplies or services for an amount estimated to be in excess of \$200,000, or awarding concession contracts, the Airports Authority shall obtain, to the maximum extent practicable, full and open competition through the use of published competitive procedures. By a vote of seven members, the Airports Authority may grant exceptions to the requirements of this paragraph.

11.E. Continuation of Regulations.

All regulations applicable to the Metropolitan Washington Airports and included in Part 159 of the Federal Aviation Regulations, 14 C.F.R. Part 159, on the effective date of this lease shall become regulations of the Airports Authority on that date and shall remain in effect until modified or revoked by the Airports Authority in accordance with procedures of the Airports Authority.

11.F. Limitations on Aircraft Operations.

(1) The Airports Authority shall not increase or decrease the number of instrument flight rule takeoffs and

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landings authorized by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport as in effect on October 18, 1986, and shall not, after the effective date of this lease, impose a limitation on the number of passengers taking off or landing at Washington National Airport.

(2) The Airports Authority agrees that any action changing or having the effect of changing the hours of operation of or the type of aircraft serving either of the Metropolitan Washington Airports may be taken only by adoption of or amendment to regulations of the Airports Authority.

11.G. Assumption of Rights, Liabilities and Obligations.

(1) In General. Except as provided in subparagraph 2 of this paragraph, the Airports Authority hereby agrees that it shall assume all rights, liabilities, and obligations (tangible and incorporeal, present and executory) of the Secretary with respect to the Metropolitan Washington Airports organization of the Federal Aviation Administration on the effective date of this lease, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation relating to such rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. To the extent practicable, the Secretary shall provide at the effective date of this lease a summary list of the foregoing which involve material obligations.

(2) Exceptions. The procedure for disputes resolution contained in any contract entered into on behalf of the United

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States before the effective date of this lease shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the United States as the owner and operator of the Metropolitan Washington Airports, arising before the date the lease takes effect shall be adjudicated as if the lease had not been entered into.

(3) Payments Into Employee Compensation Fund. The Federal Aviation Administration, and not the Airports Authority, shall be responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United State Code, for compensation paid or payable after the effective date of this lease in accordance with chapter 81 of title 5, United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

11.B. Use of Certain Revenues.

No landing fee imposed for operating an aircraft or revenues derived from parking automobiles --

(1) at Washington Dulles International Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington National Airport; or

(2) at Washington National Airport may be used for maintenance or operating expenses (excluding debt service,

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depreciation, and amortization) at Washington Dulles International Airport.

11.I. General Aviation Fees.

The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee not in excess of the landing fee for aircraft weighing 12,500 pounds.

11.J. Reporting Requirement.

The Airports Authority agrees to provide annually to the Secretary a written report of any demolition during the previous year of structures conveyed under this lease.

Article 12. Capital Improvements.

12.A. Master Plans.

The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports, including the adoption of the Dulles Master Plan and the completion of a Master Plan for Washington National Airport, and may revise such Master Plans from time to time or adopt subsequent Master Plans for the development of the Airports. Major improvements to the Airports shall be consistent with the most recently adopted Master Plans.

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12.B. Improvement Schedule.

The Airports Authority acknowledges its intent, to the extent practicable, to:

(1) pursue the improvement, construction and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) cause the improvement, construction, and rehabilitation proposed by the Secretary to be completed at both of such Airports within five years of the earliest date on which the Airports Authority issues bonds or other long-term evidences of indebtedness.

Article 13. Board of Review.

13.A. Establishment and Composition.

Before taking any actions listed in paragraph 13.D. of this Article, the Board of Directors shall establish a nine-member Board of Review of the Airports Authority and appoint to it representatives of the users of the Metropolitan Washington Airports who will serve in their individual capacities. The Board of Directors shall appoint:

(1) two members of the Public Works and Transportation Committee and two members of the Appropriations Committee of the U.S. House of Representatives from a list or lists of recommended appointees provided by the Speaker of the House;

(2) two members of the Commerce, Science, and Transportation Committee and two members of the Appropriations

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Committee of the U.S. Senate from a list or lists of recommended appointees provided by the President pro tempore of the U.S. Senate; and

(3) one member chosen alternately from a list provided by the Speaker of the House or the President pro tempore of the Senate, respectively.

The members of the Board of Review shall elect a chairman. The Board of Directors may not appoint a member of the House of Representatives or the Senate from Maryland or Virginia, or the Delegate from the District of Columbia, to the Board of Review.

13.B. Terms.

Members of the Board of Review appointed under subparagraphs (1) and (2) of paragraph 13.A. above shall be appointed for six years, except that of the members first appointed, one member under each of subparagraphs (1) and (2) shall be appointed for a term of two years and one member under each of subparagraphs (1) and (2) shall be appointed for a term of four years. Members of the Board of Review appointed under subparagraph (3) of paragraph 13.A. shall be appointed for terms of two years. A vacancy in the Board of Review shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

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13.C. Procedures.

The Board of Review shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting. The Board of Review shall meet at least once each year and shall meet at the call of the chairman or three members of the Board. Any decision of the Board of Review under paragraph 13.D. or 13.F. shall be by a vote of five members.

13.D. Disapproval Procedure.

The Board of Directors shall submit the following actions to the Board of Review at least thirty days (or at least sixty days in the case of the annual budget) before they are to become effective:

- (1) the adoption of an annual budget;
- (2) the authorization for the issuance of bonds;
- (3) the adoption, amendment, or repeal of a regulation;
- (4) the adoption or revision of a Master Plan, including any proposal for land acquisition; and
- (5) the appointment of the chief executive officer.

If the Board of Review does not disapprove an action within thirty days of its submission under this Article, the action may take effect. If the Board of Review disapproves any such action, it shall notify the Board of Directors and shall give reasons for the disapproval, and that action shall not take effect. Unless an annual budget for a fiscal year has taken effect in accordance with paragraph 13.D., the Airports Authority shall not obligate or

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expend any money in such fiscal year, except for (1) debt service on previously authorized obligations, and (2) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

13.E. Request for Consideration of Other Matters.

The Board of Review may request the Board of Directors to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Board of Directors shall consider and vote, or report, on the matter as promptly as feasible.

13.F. Participation in Meetings of the Airports Authority.

Members of the Board of Review shall be permitted to participate as nonvoting members in meetings of the Board of Directors.

13.G. Staff.

The Board of Review may hire two staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the Board of Review may require. All such staff shall be employees of the Airports Authority.

13.H. Effect of Litigation.

The Airports Authority agrees that if the Board of Review is unable to carry out its functions described in this Article by reason of a judicial order, the Airports Authority will not take

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any action that must be submitted to the Board of Review under paragraph 13.D. above.

Article 14. Employees.

14.A. Labor Agreements.

The Airports Authority shall adopt all labor agreements which are in effect on the effective date of this lease. Such agreements shall continue in effect for the five-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree to the contrary before the expiration of that five-year period. Such agreements shall be renegotiated during the five-year period, unless the parties agree otherwise. Any labor-management negotiation impasse declared before the date the lease takes effect shall be settled in accordance with chapter 71 of title 5, United States Code. Any labor agreements shall provide for the continuation of all collective bargaining rights enjoyed by the Employees before the effective date.

14.B. Employment Code.

The Airports Authority shall adopt and maintain an employment code to assure (1) that the Airports Authority and all its transferring Employees, have the same rights and limitations with respect to labor agreements as the Federal Aviation Administration and its Employees enjoyed on October 18, 1986, and (2) that the employees of the Airports Authority are subject to the employment

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limitations of 5 U.S.C. Chapter 73, Subchapter II to the same extent as Employees were on October 18, 1986.

14.C. Code of Ethics.

The Airports Authority shall develop a code of ethics and financial disclosure in order to assure the integrity of all decisions made by its Board of Directors, Board of Review, and employees. At a minimum, the code shall provide that members of the boards and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions to requirements of the preceding sentence may be made by the official or officials appointing a member at the time the member is appointed, if the financial interest is fully disclosed and so long as the member does not participate in board decisions that directly affect such interest. The Airports Authority shall include in its code developed under this paragraph the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted.

14.D. Access to Employees and Records.

The Airports Authority shall allow representatives of the Secretary and the Attorney General of the United States adequate

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access to employees and records of the Airports Authority when needed for the performance of functions related to the period before the effective date of this lease. The Secretary shall provide the Airports Authority access to employee records of transferring Employees for appropriate purposes.

Article 15. Conditions Precedent.

The Airports Authority agrees that, prior to and as a condition of this lease becoming effective, the Airports Authority shall fulfill to the reasonable satisfaction of the Secretary each of the following, which shall be independent conditions precedent to this lease:

15.A. Continued Employment Rights.

The Airports Authority shall establish arrangements to protect the employment interests of Employees during the five-year period beginning on the date this lease takes effect. These arrangements shall include provisions:

(1) to ensure that the Airports Authority will adopt labor agreements in accordance with provisions described in paragraph 14.A.;

(2) for the transfer and retention of all Employees who agree to transfer to the Airports Authority in their same positions for the five-year period commencing on the date this lease takes effect, except in cases of reassignment, separation for cause, resignation, or retirement;

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(3) for payment by the Airports Authority of basic and premium pay to transferred Employees, except in cases of separation for cause, resignation, or retirement, for five years commencing on the date this lease takes effect at or above the rates of pay in effect for such Employees on such date;

(4) for credit during the five-year period commencing on the date this lease takes effect for accrued annual and sick leave and seniority rights which have been accrued during the period of federal employment by transferred Employees retained by the Airports Authority; and

(5) for an offering of not less than one life insurance and three health insurance programs for transferred Employees retained by the Airports Authority during the five year period beginning on this date the lease takes effect which are reasonably comparable with respect to employee premium cost and coverage to the Federal health and life insurance programs available to Employees on the day before such date.

15.B. Rights of Terminated Employees.

The Airports Authority shall establish a program to provide that any Employee transferring from the Federal Aviation Administration to the Airports Authority whose employment with the Airports Authority is terminated during the five-year period beginning on the date this lease takes effect shall have rights and benefits provided by the Airports Authority that are similar to those that such Employee would have had under Federal law if

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termination had occurred immediately before the effective date of this lease.

15.C. Annual and Sick Leave.

The Airports Authority shall credit any Employee who transfers to the Airports Authority with that Employee's unused annual leave balance under section 5551 of title 5, United States Code, on the date this lease takes effect, along with any unused sick leave balance on such date. During the five year period beginning on such date, annual and sick leave shall be earned at the same rates permitted on the day before such date, and observed official holidays shall be the same as those specified in section 6103 of title 5, United States Code.

Article 16. Payments.

16.A. Lease Payments.

The Airports Authority shall pay an annual rental to the account of the United States Treasury. For the first year of this lease, such annual rental shall be \$3,000,000. Subsequent annual rental payments shall be adjusted as of each anniversary of the effective date of this lease so as to equal \$3,000,000.00 in 1987 dollars by applying the Implicit Price Deflator for the Gross National Product published by the Department of Commerce in the March edition of the Survey of Current Business, or the appropriate successor index, as determined by the Secretary of Commerce. The parties may renegotiate the level of lease payments attributable to inflation costs every ten years. Lease payments

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shall be made from any moneys of the Authority legally available for such purpose, after the Authority shall have first (i) satisfied its contractual obligations in respect of debt service on its bonds and other indebtedness and (ii) paid or set aside the amounts required for payment of the operating and maintenance expenses of the Airports. Subject to the foregoing, the Airports Authority shall make lease payments in semiannual installments commencing six months after the effective date of this lease. At the end of each month, the Airports Authority shall direct available funds into a reserve of the Airports Authority for purposes of making such lease payments, intended to accumulate on as equal a basis as possible the amounts due on the next lease payment date, which reserve shall be deposited in interest-bearing accounts or investments selected by the Airports Authority, with the rent payment and the interest actually accrued on the reserve account to be payable to the Treasury on the next lease payment date.

16.B. Retirement Obligations.

(1) Not later than one year after the effective date of this lease, the Airports Authority shall pay to the account of the United States Treasury an amount determined by the Office of Personnel Management to represent the actual added costs incurred by the Civil Service Retirement and Disability Fund due to discontinued service retirement under section 8336(a)(1) of Title 5, United States Code, of Employees who elect not to transfer to the Airports Authority.

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(2) Not later than one year after the effective date of this lease, the Airports Authority shall pay to the Treasury of the United States an amount determined by the Office of Personnel Management to represent the present value of the difference between (a) the future cost of benefits payable from the Civil Service Retirement and Disability Fund and due the Employees covered under section 6008(e) of the Act that are attributable to the period of employment following the effective date of this lease, and (b) the contributions made by the Employees and the Airports Authority under section 6008(e) of the Act. In determining the amount due, the Office of Personnel Management shall take into consideration the actual interest such amount can be expected to earn when invested in the Treasury of the United States.

16.C. Delinquent Payments.

In the event payments under this lease are delinquent so as to constitute an Event of Default under subparagraph B.(1) of Article 23, the Secretary may, in addition to other rights available under this lease, assess interest at the Treasury Current Value of Funds Rate as prescribed by the Secretary of the Treasury on the date payment was due. In addition to this interest, penalty charges not to exceed six percent per year shall be assessed on any portion of a payment which is over 90 days past delinquent. Penalty charges shall accrue from the date the payment became delinquent and shall continue to accrue until

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payment is received. Delinquent payments may be collected by administrative offset whenever possible.

Article 17. Utilities.

Except as otherwise provided in subleases of facilities to her, the Secretary shall not provide and hereby disclaims and is released from any and all responsibilities for the adequate provision of, payment for, maintenance of, and/or operation of utilities used in the operation and maintenance of the Airports, but at the effective date of the lease shall turn over to the Airports Authority all easements, licenses, permits and agreements relating to utilities then available to the Airports.

Article 18. Planning.

18.A. Dulles Main Terminal.

The Airports Authority shall consult with the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport.

18.B. National Airport Skyline.

The Airports Authority shall consult with the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

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Article 19. Hold Harmless.

To the extent permitted by applicable law, the Airports Authority shall indemnify, defend, and hold harmless the Secretary, her agents and employees, from any and all claims, liability, damage and expense incurred by reason of death, injury, loss or damage of or to persons or property arising out of the Airport Authority's operation, use and occupancy of the Metropolitan Washington Airports after the effective date of this lease. As between the parties hereto, the Airports Authority assumes all risk and liability for itself, its agents, employees, or contractors for any injury to persons or property resulting in any manner from the conduct of its operations, and the operations of its agents, or employees, and for any loss, cost, damage or expense resulting at any time from any cause due to any act or acts, negligence, or the failure to exercise proper precautions, of or by itself or its agents, or its employees, while occupying or operating the Metropolitan Washington Airports. Nothing herein shall be construed to indemnify the Secretary, her agents and employees for claims, liability, damage and expense arising in whole or in part from their own negligent or intentional acts or omissions.

Article 20... Insurance Covenants and Risk Management Plans.

20.A. Financing Risks of Loss.

Commencing with the effective date of this lease, the Airports Authority shall adopt and maintain a risk financing plan for property and casualty losses which shall address such risks,

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damages, and losses at the Leased Premises as are customarily insured against by enterprises of a similar nature.

20.B. Alternative Risk Management.

The Airports Authority may adopt alternative risk management programs in accordance with this paragraph.

(1) Risk Retention

The Airports Authority shall be entitled to retain all or a portion of its risk of loss on a per occurrence and/or aggregate basis. The funding for retained losses shall be determined in consultation with an independent, qualified actuary.

(2) Risk Transfer

The Airports Authority shall be entitled to transfer all or a portion of its risk of loss to commercial insurers. The structure of such insurance shall be determined in consultation with an independent, qualified risk management consultant.

(3) Group Risk Financing

The Airports Authority may participate in group risk financing programs including sponsored insurance programs, risk pools, risk retention groups, purchasing groups, and captive insurance companies, and any state or federal insurance programs. The Airports Authority shall consult with an independent qualified risk management consultant prior to participating in any group risk financing program.

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20.C. Recovery and Restoration.

Should a loss occur to the Leased Premises which is covered by the insurance or risk management plans as provided in this Article, the Airports Authority shall promptly take all prudent actions necessary to recover upon the appropriate policy or policies, plan or plans, and shall apply all proceeds thereof toward the restoration or replacement of the affected Leased Premises, where appropriate, and otherwise toward compliance with the obligations of the Airports Authority under the terms of this lease.

20.D. Initial Insurance.

The Airports Authority shall obtain and have in force reasonable amounts of coverage by the effective date of this lease on the basis of binders or other interim commitments, and shall provide the Secretary with a list of such commitments. Within 60 days after the effective date of this lease, the Airports Authority shall provide the Secretary with a list of replacement lines of insurance.

Article 21. Use of Leased Premises.

In accordance with the terms of this lease, the Airports Authority may utilize the Leased Premises for Airport Purposes only. The Leased Premises are provided in "as is" condition and the Secretary makes no warranties as to the suitability of any facility or equipment for any particular use.

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Article 22. No Assignment.

The Airports Authority shall not, through assignment of this lease or otherwise, substitute any other person for the Airports Authority as the party obligated as the tenant under this lease. Notwithstanding the foregoing, the Airports Authority shall be entitled from time to time and in its discretion to create easements, grant licenses, and sublease portions of the Leased Premises for use by subtenants, for purposes consistent with, and subject to the provisions of, this lease. No such sublease shall relieve the Airports Authority from any of its obligations pursuant to this lease.

Article 23. Defaults, Events of Defaults and Remedies.

23.A. Defaults.

Each of the following shall constitute a default by the Airports Authority:

- (1) failure by the Airports Authority to pay when due any lease payment required to be made by Article 16 hereof;
- (2) use of the Leased Premises for other than Airport Purposes; and
- (3) breach by the Airports Authority of any provision, other than those covered above, of this lease.

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23.B. Events of Default.

Each of the following shall constitute an Event of Default:

(1) the continuation of a default described in subparagraph A.(1) of this Article for 30 days after the due date of such payment;

(2) the continuation of a default described in subparagraph A.(2) of this Article for 30 days after the receipt by the Airports Authority of a written notice from the Secretary specifying the claimed default, the affected portion of the Leased Premises, and the nature of the uses asserted not to be for Airport Purposes, provided that no Event of Default shall occur if the Airports Authority shall in good faith have commenced, within such 30 day period, to remedy such default and shall diligently and continuously proceed to cure such default; or

(3) the continuation of a default described in subparagraph A.(3) of this Article for 30 days after the receipt by the Airports Authority of a written notice from the Secretary specifying the claimed default, provided that no Event of Default shall occur if the Airports Authority shall in good faith have commenced, within such 30 day period, to remedy such default and shall diligently and continuously proceed to cure such default.

23.C. Remedies.

Upon the occurrence and during the continuation of any Event of Default

(1) described in subparagraph B.(1) or B.(3), of this Article, the Secretary may request the Attorney General to bring

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an appropriate action to compel the Airports Authority and its officers and employees to comply with the terms of this lease, and

(2) described in subparagraph B.(2) of this Article, the Secretary shall (a) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of the Leased Premises in conformity with Airport Purposes, and (b) retake possession of such portion of Leased Premises if the Airports Authority fails to bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

23.D. Rights and Remedies.

The rights and remedies of the Secretary in this Article are exclusive of any other rights and remedies.

Article 24. Disputes.

24.A. Litigation Procedure.

Under section 6005(e) of the Act, the district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of this lease. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party. An action to enforce the terms and conditions of this lease may also be brought on behalf of the Airports Authority in a district court of the United States.

Except as a court may order or the parties to this lease may otherwise agree in writing, pending resolution of any action under

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this Article, the parties shall proceed diligently with performance of all obligations under this lease.

24.B. Litigation Records.

Records relating to matters litigated under this Article or to litigation or the settlement of claims arising under or relating to this lease shall be retained until such litigation (including any appeals) or claims are disposed of.

Article 25. Audit.

The Comptroller General of the United States, or a duly authorized representative from the General Accounting Office, may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General or his representative deems appropriate. All books, accounts, records, reports, files, papers, and property of the Airports Authority shall remain in the possession and custody of the Airports Authority. The Airports Authority shall make available at all reasonable times the records described in this paragraph for examination, audit or reproduction.

Article 26. Notices.

Notices to the Secretary shall be sufficient if sent by certified mail, return receipt requested, postage prepaid,

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addressed to the Secretary of Transportation, Washington D.C. 20590. Notices to the Airports Authority shall be sufficient if sent by certified mail, return receipt requested, postage prepaid, addressed to the Metropolitan Washington Airports Authority, Hangar 9, Washington National Airport, Washington, D.C. 20001. Each party may designate by notice in writing a new address to which any notice may thereafter be so given. Each notice which is mailed in the manner described above shall be deemed sufficiently given, served, sent and received for all purposes at such time as it is delivered to the addressee (with the return receipt being deemed conclusive evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

Article 27. Lease Not Affected by Oral Agreement.

No oral statement of any person shall modify or otherwise affect the terms, conditions, or limitations stated in this lease. All modifications to this lease must be made in writing by the Secretary and the Airports Authority or their authorized representatives.

Article 28. Law of Agreement.

This lease shall be governed by and construed in accordance with federal law. To the extent that the application of federal law requires or permits the application or consideration of state law, the parties agree that the law of the Commonwealth of Virginia is most relevant to this lease and shall be applied or considered. The powers of the Secretary with respect to this

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lease shall be construed in accordance with and governed by Federal law, and the powers of the Airports Authority with respect to this lease shall be construed in accordance with and governed by Virginia law.

Article 29. No Waiver.

No failure by either party to insist upon the strict performance of any agreement, term, covenant or condition hereof or to exercise any right or remedy consequent upon a breach thereof, and no payment or acceptance of full or partial payments during the continuance of any such breach, shall constitute a waiver of any such breach or of such agreement, term, covenant or condition. No waiver of any breach shall affect or alter this lease, but each and every agreement, term, covenant and condition hereof shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof.

Article 30. Captions.

The captions and headings in this lease are inserted only as a matter of convenience and for reference, and they in no way define, limit or describe the scope of this lease or the intent of any provision thereof.

Article 31. Partial Invalidity.

If any term or provision of this lease, or the application thereof to any person or circumstance, shall to any extent be determined by a court of competent jurisdiction to be invalid or

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unenforceable, the remainder of this lease, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of the lease shall be valid and be enforced to the fullest extent permitted by law.

Article 32. Certificate of the Secretary.

The Secretary agrees to execute and deliver to the Airports Authority and/or any other person or entity designated by the Airports Authority, at any time and from time to time, upon not less than 30 days' prior written notice by the Airports Authority (which notice shall state that the Airports Authority requires same in connection with a financing or other undertaking), a statement in writing:

(i) certifying that this lease is unmodified and in full force and effect (or if there have been modifications, that the lease is in full force and effect as modified and stating the modifications);

(ii) stating the dates to which lease payments and other charges hereunder have been paid by the Airports Authority;

(iii) stating whether, to the best knowledge of the Secretary, the Airports Authority is in default in the performance of any covenant, agreement or condition contained in this lease, and if so, specifying the nature of such default; and

(iv) stating the address to which notices to the Secretary are to be sent.

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Any such statement delivered by the Secretary may be relied upon by any lender, bond holder, trustee or other person proposing to enter into agreements with the Airports Authority as an estoppel of the Secretary's right to assert a position inconsistent with such position.

Article 33. Force Majeure.

In the event that either party to this lease is in any way delayed, interrupted or prevented from performing any of its obligations under this lease, and such delay, interruption or prevention is due to fire, act of God or any other cause, whether similar or dissimilar, beyond such party's reasonable control, then the time for performance of the affected obligations by such party shall be excused for the period of the delay and extended for a period equivalent to the period of such delay, interruption or prevention.

Article 34. Inclusion of BWI not Precluded.

Nothing in this lease shall be construed to prohibit the Airports Authority and the State of Maryland from entering into an agreement whereby Baltimore/Washington International Airport may be made part of a regional airports authority, subject to terms and conditions agreed to by the Airports Authority, the Secretary, the Commonwealth of Virginia, the District of Columbia, and the State of Maryland.

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Article 35. Memorandum of Lease.

Upon the request of the Airports Authority, the Secretary agrees to execute, in recordable form, a short-form memorandum of this lease, which memorandum may be recorded at the Airports Authority's expense in appropriate land records.

ENTERED INTO THIS SECOND DAY OF MARCH, 1987

For the United States of America:


Elizabeth Hanford Dole
Secretary of Transportation

For the Metropolitan Washington Airports Authority:


A. Linwood Holton, Jr.
Chairman, Board of Directors

Subscribed and sworn to before me
this 2nd day of March, 1987


Notary Public

My Commission Expires July 14, 1990


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APPROVED, pursuant to section 3 of Chapter 598, Virginia Acts of Assembly, 1985 Session:


Gerald L. Baliles
Governor of Virginia

APPROVED, pursuant to section 4 of D.C. Law 6-67:


Marion Barry, Jr.
Mayor of the District of Columbia

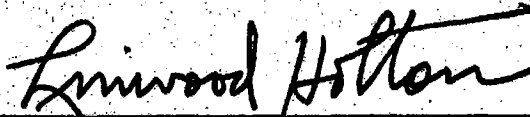
Metropolitan Washington Airports Lease

Certification of Effective Date

In accordance with Article 9 of the Lease of the Metropolitan Washington Airports between the United States of America and the Metropolitan Washington Airports Authority as entered into on March 2, 1987 (the Lease), we hereby certify that:

- 1) the Governor of Virginia and the Mayor of the District of Columbia have approved the Lease; 2) all conditions in Articles 15 and 20 of the Lease have been satisfied; and 3) the Lease shall be effective as of 12:01 a.m., June 7, 1987.

Executed this 5 day of June, 1987.

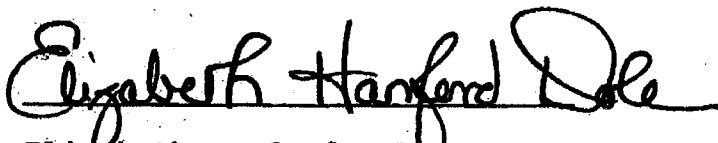


Linwood Holton
Chairman, Board of Directors
Metropolitan Washington Airports Authority

Metropolitan Washington Airports Lease
Certification of Effective Date

In accordance with Article 9 of the Lease of the Metropolitan Washington Airports between the United States of America and the Metropolitan Washington Airports Authority as entered into on March 2, 1987 (the Lease), I hereby certify that: 1) the Governor of Virginia and the Mayor of the District of Columbia have approved the Lease; 2) all conditions in Articles 15 and 20 of the Lease have been satisfied; and 3) the Lease shall be effective as of 12:01 a.m., June 7, 1987.

Executed this 5 day of June, 1987

A handwritten signature in cursive script, reading "Elizabeth Hanford Dole". The signature is written in dark ink and is positioned above the printed name and title.

Elizabeth Hanford Dole
Secretary of Transportation

AMENDMENT NO. 1

to the

LEASE

of the

METROPOLITAN WASHINGTON AIRPORTS

between

THE UNITED STATES OF AMERICA

acting by and through

THE SECRETARY OF TRANSPORTATION

and

THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

WHEREAS, the Metropolitan Washington Airports Authority (the "Airports Authority") and the United States of America, acting by and through the Secretary of Transportation (the "Secretary"), entered into a lease dated March 2, 1987 (the "Lease"), whereby the Secretary leased to the Airports Authority Washington National Airport and Washington Dulles International Airport (the "Metropolitan Washington Airports") for a term of fifty (50) years, effective June 7, 1987;

WHEREAS, the Airports Authority has a continuing obligation to comply with the Act;

WHEREAS, The Act has been amended and it is necessary to clarify that the Airports Authority's obligation extends to the Act as amended;

IT IS NOW, THEREFORE, agreed that the Lease is amended as follows:

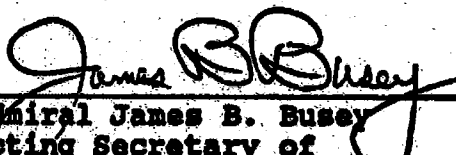
- 1. In Article 1, Definitions, paragraph 1.A. "Act" is amended by inserting at the end thereof, the words "as amended by Title VII of Public Law 102-240."**

2. In Article 11, paragraphs 11.A. through 11.J. are redesignated as paragraphs 11.B. through 11.K.
3. In Article 11, add new paragraph 11.A. to read as follows:
"11.A. Obligation to Comply with the Act.
The Airports Authority agrees to comply with the conditions imposed by the Act."
4. Article 13 is deleted in its entirety.

All other provisions of the Lease shall remain unchanged.

ENTERED INTO THIS 30th DAY OF DECEMBER, 1991

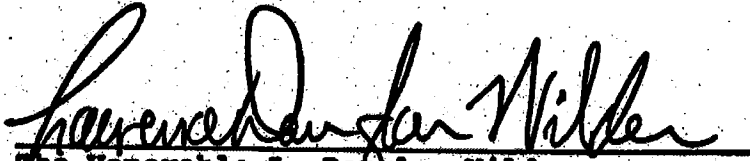
For the United States of
America:


Admiral James B. Busey
Acting Secretary of
Transportation


For the Metropolitan
Washington Airports Authority:


A. Linwood Holton, Jr.
Chairman, Board of Directors

APPROVED, pursuant to section 3 of Chapter 598, Virginia Acts of Assembly, 1985 Session:


The Honorable L. Douglas Wilder
Governor of Virginia


APPROVED, pursuant to section 4 of D.C. Law 6-67:


The Honorable Sharon Pratt Kelly
Mayor of the District of Columbia

APPROVED, pursuant to section 3 of Chapter 598, Virginia Acts of Assembly, 1985 Session:

**The Honorable L. Douglas Wilder
Governor of Virginia**

APPROVED, pursuant to section 4 of D.C. Law 6-67:



**The Honorable Sharon Pratt Kelly
Mayor of the District of Columbia**

AMENDMENT NO. 2

to the

LEASE

of the

METROPOLITAN WASHINGTON AIRPORTS

between

THE UNITED STATES OF AMERICA

acting by and through

THE SECRETARY OF TRANSPORTATION

and

THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

**METROPOLITAN WASHINGTON AIRPORTS LEASE
AMENDMENT NO. 2**

WHEREAS, the Metropolitan Washington Airports Authority (the "Airports Authority") and the United States of America, acting by and through the Secretary of Transportation (the "Secretary"), entered into a lease dated March 2, 1987 (the "Lease"), whereby the Secretary leased to the Airports Authority, Ronald Reagan Washington National Airport and Washington Dulles International Airport (the "Metropolitan Washington Airports") for a term of fifty (50) years, effective June 7, 1987;

WHEREAS, the Airports Authority has under the Lease a continuing obligation to comply with the "Act" which is defined in the Lease as the Metropolitan Washington Airports Act of 1986 as amended by Public Law 102-240;

WHEREAS, the Act was further amended on October 9, 1996, by Title IX of Public Law 104-264 (Metropolitan Washington Airports Amendments Act of 1996), and the Secretary and the Airports Authority wish to modify the definition of "Act" in the Lease to clarify that the Airports Authority's obligation extends to the Act as amended in said Public Law and to make other conforming changes to the Lease;

IT IS NOW, THEREFORE, agreed that the Lease, as amended, is further amended as follows:

1. In Article 1, "Definitions" paragraph. 1.A. "Act" as previously amended, is deleted in its entirety and, in place thereof, the following definition of "Act" is added:

"1.A. Act

The term "Act" means the Metropolitan Washington Airports Act of 1986, Title VI of Public Law 99-591, 100 Stat. 3341, as amended by Title VII of Public Law 102-240 and by Title IX of Public Law 104-264."

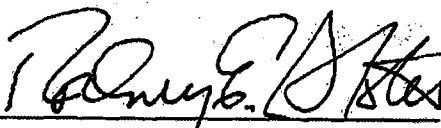
2. In Article 1, Definitions, paragraph 1.D. "Airport Purposes" is amended by inserting before the period the words "which are not inconsistent with the needs of aviation."
3. In Article 1, Definitions, paragraph 1.F. "Board of Review" is deleted.


All other provisions of the Lease remain unchanged.

ENTERED INTO THIS 28th DAY OF September 1998


For the United States of America:

For the Metropolitan Washington Airports Authority:

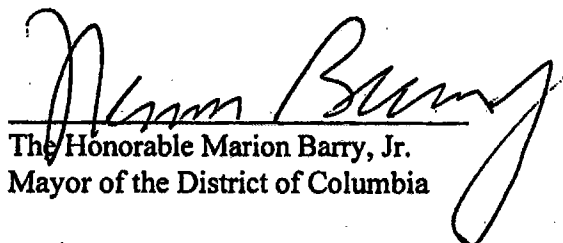

Rodney E. Slater
Secretary of Transportation


David T. Ralston, Jr.
Chairman, Board of Directors

APPROVED, pursuant to section 3 Chapter 598, Virginia Acts of Assembly, 1985 Session:


The Honorable James S. Gilmore III
Governor of Virginia

APPROVED, pursuant to section 4 of D.C. Law 6-67:


The Honorable Marion Barry, Jr.
Mayor of the District of Columbia

AMENDMENT NO. 3

To the

LEASE

of the

METROPOLITAN WASHINGTON AIRPORTS

Between

THE UNITED STATES OF AMERICA

acting by and through

THE SECRETARY OF TRANSPORTATION

and

THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

METROPOLITAN WASHINGTON AIRPORTS LEASE

AMENDMENT NO. 3

WHEREAS, the Metropolitan Washington Airports Authority (the "Airports Authority") and the United States of America, acting by and through the Secretary of Transportation (the "Secretary"), entered into a lease dated March 2, 1987, effective June 7, 1987 (the "Lease"), whereby the Secretary leased to the Airports Authority Ronald Reagan Washington National Airport and Washington Dulles International Airport (the "Metropolitan Washington Airports") for a specified Term of years;

WHEREAS, 49 U.S.C. § 49104(d) and the Lease provide that its Term may be extended by agreement of the Secretary and Airports Authority;

WHEREAS, the Secretary and the Airports Authority have determined that the Term of the Lease should be extended to further the purposes of the Lease;

WHEREAS, the Airports Authority, subsequent to the effective date of the Lease, acquired or will acquire additional real property that is not Leased Premises to serve the needs of the Metropolitan Washington Airports, and the parties hereto wish to express their agreement as to the disposition of this property that is to occur at the expiration of the Lease as amended;

IT IS NOW, THEREFORE, AGREED that the Lease as amended is further amended as follows:

1. Article 10, paragraph 10.A, "Term," shall hereafter be as follows:

"The term of this Lease shall be for eighty years commencing on the effective date as determined under Article 9."

2. Article 5, "After Acquired Personal Property," is renamed "After Acquired Property" and the existing paragraph under Article 5 is designated as paragraph "5.A. After Acquired Personal Property."

3. New paragraph 5.B. is hereby added to the Lease as follows:

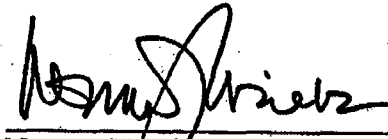
"5.B. After Acquired Real Property."

After Acquired Real Property consists of all interests in real property, including, but not limited to, all rights-of-way, easements, licenses and permits, acquired by the Airports Authority after the effective date of the

Lease, whether from the United States or any other party. After Acquired Real Property is not Leased Premises. The preceding notwithstanding, the Secretary and the Airports Authority agree that, when the Lease, as amended from time to time, expires and the Leased Premises are surrendered in accordance with paragraph 10. D. of this Lease, the Airports Authority will surrender and deliver to the Secretary all After Acquired Real Property that the Authority possesses at that time, to the extent of its interest therein, under the same terms as the Leased Premises."

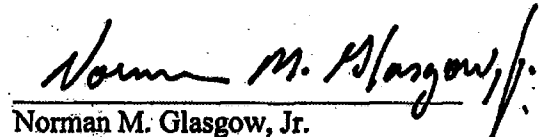
ENTERED INTO THIS 30 DAY OF April 2003.

For the United States of America:

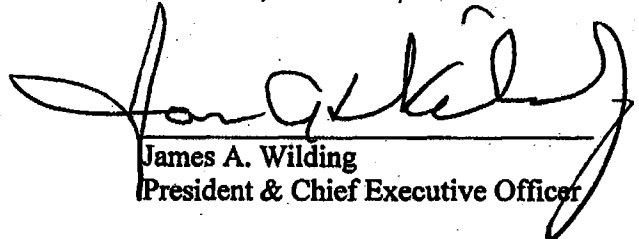


Norman Y. Mineta
Secretary of Transportation

For the Metropolitan Washington
Airports Authority:



Norman M. Glasgow, Jr.
Chairman, Board of Directors



James A. Wilding
President & Chief Executive Officer

APPROVED, pursuant to section 3, Chapter 598, Virginia Acts of Assembly, 1985
Session, as amended:

A handwritten signature in dark ink, appearing to read "Mark R. Warner", written over a horizontal line.

The Honorable Mark R. Warner
Governor of Virginia

APPROVED, pursuant to section 4 of D.C. Law 6-67, as amended:

A handwritten signature in dark ink, appearing to read "Anthony A. Williams", written over a horizontal line.

The Honorable Anthony A. Williams
Mayor of the District of Columbia

Proposed Resolution

Approving Amendment to Lease Agreement Between the United States of America and the Metropolitan Washington Airports Authority

WHEREAS, the Airports Authority leases the land at Washington Dulles International and Ronald Reagan Washington National Airports from the United States pursuant to a lease agreement executed by the parties in 1987 (Lease);

WHEREAS, the Lease was executed on behalf of the United States by the U.S. Secretary of Transportation (Secretary), pursuant to the Metropolitan Washington Airports Act of 1986 in which Congress agreed to lease the two federally-owned airports to the Airports Authority and authorized the Secretary to negotiate and execute the Lease;

WHEREAS, since 1987 the Lease has been amended on three occasions;

WHEREAS, the Secretary has proposed a fourth amendment to the Lease (attached hereto) which calls for the Airports Authority to establish policies and procedures in a number of identified areas, and to do so in consultation with and with the concurrence of the Secretary or his designee;

WHEREAS, the amendment also calls for the Airports Authority, upon the receipt of reasonable notice, to provide access to the Secretary and his representatives to personnel and records of the Airports Authority;

WHEREAS, the amendment amends the Lease's definition of "Airport Purposes" to implement an amendment of that same term enacted by Congress as part of the 2012 FAA Reauthorization Act;

WHEREAS, the Executive and Government Committee has considered the Secretary's proposed amendment and has recommended its approval to the Board of Directors;

NOW, THEREFORE, IT IS HEREBY RESOLVED

That the amendment to the Lease, which has been proposed by the Secretary and as attached hereto, is approved, and the Chairman of the Board is authorized to execute the amendment on behalf of the Airports Authority.

*For Consideration by the Executive and Governance Committee
and the Board of Directors on December 12, 2012*

Attachment

AMENDMENT NO. 4

to the

LEASE

of the

METROPOLITAN WASHINGTON AIRPORTS

between

THE UNITED STATES OF AMERICA

acting by and through

THE SECRETARY OF TRANSPORTATION

and

THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

WHEREAS, the Metropolitan Washington Airports Authority (the “Airports Authority”) and the United States of America, acting by and through the Secretary of Transportation (the “Secretary”), entered into a lease dated March 2, 1987 (the “Lease”), whereby the Secretary leased to the Airports Authority Ronald Reagan Washington National Airport and Washington Dulles International Airport (the “Metropolitan Washington Airports”) for a term of fifty (50) years, effective June 7, 1987, which term was extended for an additional thirty (30) years by Amendment No. 3 to the Lease, dated April 30, 2003; and

WHEREAS, the Airports Authority has a continuing obligation under the Lease to comply with the “Act,” which is currently defined in the Lease as the Metropolitan Washington Airports Act of 1986, Title VI of Public Law 99-591, as amended by Title VII of Public Law 102-240 and by Title IX of Public Law 104-264; and

WHEREAS, the Act has been amended since the 104th Congress, including on February 14, 2012, by Titles I and IV of Public Law 112-95 (FAA Modernization and Reform Act of 2012), and the Secretary and the Airports Authority wish to modify the definition of “Act” in the Lease to clarify that the Airports Authority’s obligation extends to the Act, as amended as of the execution date of this Amendment, and to make other conforming changes to the Lease; and

WHEREAS, the Secretary and the Airports Authority are committed to strengthening the content and oversight of the Airports Authority’s internal policies and procedures, and the Secretary and the Airports Authority wish to modify the Lease to clarify the provisions related to Airports Authority policies and procedures and to make other conforming changes to the Lease;

IT IS NOW, THEREFORE, AGREED that the Lease, as amended, is further amended as follows:

1. Article 1, Definitions, paragraph 1.A. “Act,” as previously amended, is amended by striking the word “and” between “Public Law 102-240” and “by Title IX,” by inserting a comma after “Public Law 102-240”, and by inserting after “Public Law 104-264” a comma and then the words “by Title II of Public Law 106-181, by Section 4, Division C of Public Law 112-55, and by Titles I and IV of Public Law 112-95”.
2. Article 1, Definitions, paragraph 1.D. “Airport Purposes” is amended by inserting before the period a comma and then the words “or for a business or activity not inconsistent with the needs of aviation that has been approved by the Secretary”.
3. Article 8, Access to Premises, is amended to insert, at the end of such Article 8, the following language: “The Airports Authority shall further provide the Secretary and her authorized representatives and agents full access at any time during normal business hours, after reasonable notice, to the Airports Authority’s personnel, books, records, contracts, and documents for the purpose of assuring compliance with the terms of this Lease.”
4. Article 11, Continuing Obligations, is amended to add a new paragraph 11.K. to read as follows: “11.K. Airport Authority Policies and Procedures. The Authority shall adopt, maintain and adhere to policies and procedures in the areas of procurement and contracting, human resources (including hiring and adverse action), budget (as relates to federal funds), travel, ethics, governance, and transparency (including open meetings and executive sessions). These policies and procedures should be substantially similar to those of similar public entities and should strive to reflect a standard of ‘best practices.’ The Authority shall develop these policies and procedures, and any amendments thereto, in consultation with the Secretary of Transportation or the Secretary’s designee. Prior to the adoption of such policies and procedures, or amendments, the Authority shall obtain the concurrence of the Secretary or the Secretary’s designee. The Authority shall adopt a new or revised policy in each of these areas within 12 months of the execution date of this Amendment.”

5. All other provisions of the Lease remain unchanged.

ENTERED INTO THIS ____ DAY OF _____, 2012.

For the United States of America:

For the Metropolitan Washington Airports
Authority:

Ray LaHood
Secretary of Transportation

Michael A. Curto
Chairman