THE STATE OF NEW HAMPSHIRE SUPREME COURT

Case No. 2023-0278

Appeal of Port City Air Leasing, Inc.

APPENDIX TO BRIEF OF RESPONDENT PEASE AVIATION PARTNERS LLC d/b/a MILLION AIR PORTSMOUTH

Respectfully submitted by:

PRETI FLAHERTY BELIVEAU & PACHIOS PLLP Nathan R. Fennessy, Esq. NH Bar #264672 P.O. Box 1318 Concord, NH 03302-1318 (603) 410-1500 <u>nfennessy@preti.com</u>

15 Minute Oral Argument Requested To be presented by Nathan R. Fennessy, Esq.

November 13, 2022

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PEASE DEVELOPMENT AUTHORITY BOARD OF DIRECTORS' MEETING MINUTES AGENDA

Thursday, January 21, 2021 meeting resumed on Thursday, January 28, 2021

Pursuant to NH RSA 91-A:2 III (b) PDA Chairman Kevin Smith declared COVID-19 an emergency condition and waived the requirement that a quorum be physically present at the Board meeting in accordance with the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-25, and Emergency Order #12, Sections 3 and 4. PDA Directors participated remotely and identify their location and any person present with them at that location. All votes were by roll call. Members of the public may participates by using the access information provided. This meeting was video / audio recorded.

 Presiding:
 Kevin H. Smith, Chairman

 Present:
 Peter J. Loughlin, Vice Chair; Erik Anderson; Thomas Ferrini; Steve Fournier; Margaret F. Lamson; and Neil Levesque

 Attending:
 Pease Development Authority ("PDA") staff on the Zoom meeting were Executive Director Paul E. Brean ("Brean"); PDA Deputy Director / General Counsel Anthony I. Blenkinsop ("Blenkinsop"); Finance Director Irv Canner ("Canner"); Engineering Manager Maria Stowell ("Stowell"); Golf Course General Manager Scott DeVito ("DeVito"); Division of Port and Harbors Director Geno Marconi ("Marconi"); IT Director Greg Siegenthaler ("Siegenthaler"); Raeline A. O'Neil, Legal Executive Assistant and members of the public.

AGENDA

I. Call to Order:

Chairman Smith ("Smith") called the meeting to order at 8:36 a.m.

PDA IT Director Greg Siegenthaler was the moderator for the meeting who advised that meeting was being video/audio recorded and asked individuals to please follow the guidelines for the duration of the meeting:

- In an effort to minimize background noise, we ask that all members of the public keep their microphones muted, and PDA Board members and staff are encouraged to stay on mute when not speaking during the meeting.
- 2. For members of the public wishing to speak during the public comment portion of the meeting, please press *9 on your phone to 'raise your hand', or press ALT+Y on your computer keyboard. The moderator will see your 'hand' and prompt you to make your comment. It is requested that no public comment be longer than 3 minutes.
- 3. This is a public meeting. If any member of the public causes a disruption to the meeting that would not allow the meeting to continue, the moderator will request that the Chair temporarily recess the meeting so that the disruption may be addressed. The moderator will then inform the Chair when the meeting may continue. If the Board is unable to continue the meeting due to the disruption, the Chair may elect to suspend the meeting to a later date/time, to be noticed in accordance with State law.
- Once again, this meeting is being audio recorded. Following the meeting, a copy of the recording will be posted at townhallstreams.com

Smith welcomed the PDA Board of Directors, PDA Staff, members of the public to the meeting. The Board of Directors confirmed their presence on the call, physical location, and advised if there were any other individuals present with them:

Chairman Kevin Smith was located in Londonderry, NH with no other individual(s) present in the room.

Vice Chair Peter Loughlin ("Loughlin") was located in Portsmouth, NH with no other individual(s) present in the room.

Erik Anderson ("Anderson") was located in Portsmouth, NH with no other individual(s) present in the room.

Thomas Ferrini ("Ferrini") was located in Dover, NH with no other individual(s) present in the room.

Steve Fournier ("Fournier") was located in Dover, NH with no other individual(s) present in the room.

Peggy Lamson ("Lamson") was located in Portsmouth, NH with no other individual(s) present in the room.

Neil Levesque ("Levesque") was located in Goffstown, NH with no other individual(s) present in the room.

II. Non-public Session:

Director Anderson <u>moved</u> the <u>motion</u> and Director Lamson <u>seconded</u> that the Pease Development Authority ("PDA") Board of Directors will enter non-public session pursuant to NH RSA 91-A:3 for the purpose of discussing (1.) Sale or Lease of Real or Personal Property [RSA 91-A:3, II (d)]; and (2.) Consideration of Legal Advice provided by Legal Counsel [NH RSA 91-A:3, II (l)].

Discussion: None. Disposition: Resolved by unanimous (7-0) roll call vote for; motion carried.

The non-public discussions commenced at 8:41 a.m. via Zoom.

Director Founier moved the motion and Director Lamson seconded that the Board of Directors come out of non-public, at <u>9:27</u> a.m.

Discussion: None. Disposition: Resolved by unanimous (7-0) roll call vote for; motion carried.

The public meeting resumed.

PDA IT Director Greg Siegenthaler was the moderator for the meeting. He advised the meeting was being audio recorded and asked individuals to please follow the guidelines for the duration of the meeting:

- In an effort to minimize background noise, we ask that all members of the public keep their microphones muted, and PDA Board members and staff are encouraged to stay on mute when not speaking during the meeting.
- For members of the public wishing to speak during the public comment portion of the meeting, please press *9 on your phone to 'raise your hand', or press ALT+Y on your

computer keyboard. The moderator will see your 'hand' and prompt you to make your comment. It is requested that no public comment be longer than 3 minutes.

- This is a public meeting. If any member of the public causes a disruption to the meeting that would not allow the meeting to continue, the moderator will request that the Chair temporarily recess the meeting so that the disruption may be addressed. The moderator will then inform the Chair when the meeting may continue. If the Board is unable to continue the meeting due to the disruption, the Chair may elect to suspend the meeting to a later date/time, to be noticed in accordance with State law.
- Once again, this meeting is being audio recorded. Following the meeting, a copy of the recording will be posted on the PDA's website - <u>www.peasedev.org</u>

Fournier asked for those members who have joined the public portion of the meeting who are not participating to turn off their video as it can impact (slow down or become garbled) for those who are participating in the meeting.

III. Vote of Confidentiality:

3.

Director Ferrini <u>moved</u> the <u>motion</u> and Director Fournier <u>seconded</u> that be it resolved, pursuant to NH RSA 91-A:3, the Pease Development Authority ("PDA") Board of Directors hereby determines that the divulgence of information discussed and decisions reached in the nonpublic session of its January 21, 2021, meeting related to the sale or lease of property and the consideration of legal advice from legal counsel are matters which, if disclosed publically, would render the proposed actions ineffective and further agrees that the minutes of said meeting be held confidential until, in the opinion of a majority of the Board of Directors, the aforesaid circumstances no longer apply.

Discussion: None. Disposition: Resolved by unanimous (7-0) roll call vote for; motion carried.

IV. Acceptance of Meeting Minutes: December 22, 2020 * (Loughlin)

Director Loughlin <u>moved</u> the <u>motion</u> and Director Anderson <u>seconded</u> the motion to approve the minutes of the Pease Development Authority Board of Directors Meeting dated Tuesday, December 22, 2020.

Discussion: None. Disposition: Resolved by unanimous (7-0) roll call vote for; motion carried.

V. Public Comment:

Siegenthaler reminded members of the public wishing to speak to press *9 on the phone to "raise your hand" or to press ALT+Y on your computer keyboard. At that time the moderator would prompt individual(s) to make their comments and asked that public comment be no longer than 3 minutes. Siegenthaler indicated he saw no hands raised.

Attys. Jacob Marvelley ("Marvelley") and Dan Hoefle represented Port City Air ("PCA"); Marvelley asked to exceed the three minutes for comment. Smith indicated he would allow five instead of three minutes. Marvelley indicated that PCA submitted a memorandum to the Board on Wednesday and stated today's votes are crucial; the process has been rushed and that important questions remain. Marvelley suggested that the Board table the pending motions to regain control of the process. Marvelley

indicated that today's vote would indicate who can bid on an exclusive four year contract to fuel military aircraft. [Unclear Commentary] Marvelley indicated that even with amendments, carve outs or restrictions to the approvals, Million Air will bid claiming operational status before it breaks ground. If Million Air were to win the bid, it would become PDA's emergency as Million Air will hold the key to significant airport revenue before it builds - this will place pressure on the Board to make concessions to remaining approvals losing control over the regulations of the airport. PCA was not provided its operational status until after it nearly completed its permanent facility and withheld status even though its temporary facilities were ready, in doing so PDA assured PCA was permanently ready to service customers before it was allowed to open its doors. Whereas with Million Air, the Board was asked to approve a flurry of submissions in a hurry; 63 days have passed since the Board had seen Million Air's first Letter of Intent (LOI) and the Board has been given only one or two business days to review the new LOI (without a document verifying what was changed). Million Air's FBO application is also being rushed, staff approved the FBO application, the next day the Airport Committee approved (with one business day to review a 55 page application); the public was not able to review it as it was not posted on the PDA website. A pattern has emerged of little notice to the public, this Board and/or its Committees violating the Right to Know law. Instead of this Board doing its statutory job of regulating the airport, the Board cannot do a meaningful review of the applications or receive public input. Marvelley states several questions to the Board for its consideration and asked why the process being rushed and who does it help. Marvelley indicated it must be that Million Air who wants to bid on a military contract now before building. Marvelley speaks to the violation of Minimum Standards (i.e.; temporary hangar full of aircraft which cannot be counted as FBO space, change of use of temporary hangar - would it impact operations and surrounding tenants).

Smith asked Marvelley to wrap up his comments; Marvelley concluded that PCA welcomes fair competition as long as entities are put through the same process and sequence of approvals. Marvelley stated that if approved (even with amendments and restrictions) Million Air will claim operational status, once this happens PDA has lost control of this process; asked that the motions be tabled until the Board can make sense of the submissions.

Ned Denney ("Denney") the CEO of PCA [Unclear Commentary] PCA and its employees will be greatly impacted by the outcome of the proceedings as well as that of the airport, vendors, customers, City of Portsmouth and US military. Denney stated that PCA had only received the information on Tuesday morning and has not had enough time to review the hundreds of pages of documentation. Claimed that the proceedings have been rushed with no public or constituency input and that there are many complex issues which need to be addressed (legal, DLA Defense Logistics Agency, FAA, zoning, procedural, aviation, environmental, equal protection, fairness, conflict of interest and exclusive rights, etc.). Denny indicated that PCA has not been afforded an opportunity to ask questions where it will be the most interested party. Without achieving any significant investment milestones, Million Air has made clear that it wants to bid on Portsmouth's single biggest contract which can only be awarded to one supplier [per airport]. In order to accomplish this goal, Million Air is trying to obtain PDA's blessing to obtain operational status on this field by leasing an occupied commercial hangar. Regarding the motion that indicates Million Air meets the Minimum Standards at Portsmouth, PCA did not meet these Minimum Standards until construction of a fully operational fuel farm was built, all of its ground handling service equipment was purchased and nearly completed the construction of its 30,000 sq. ft. hangar (investment of over \$4 million). All of this despite having been operational at Portsmouth four years after having built a thriving repair station in a leased 12,000 sq. ft. hangar with existing customers. Million Air wants to bypass these same standards and have PDA grant it temporary status. PCA welcomes competition and

Million Air to Portsmouth, but only if it is fair and equitable. Suggests that these can be remedied by the PDA by the following:

- Reject plans to grant operating status to Million Air before it actually meets the minimum standards;
- Reject any plan that calls for a change of use status of a general aviation ramp for commercial purposes;
- 3. Regarding the LOI, PDA should state in the agreement that it will not authorize Million Air to bid on any commercial contract until it fully meets PDAs own Minimum Standards for servicing the contracts. Denney asked the Board to do its due diligence as there is too much to risk to the airport if Million Air cannot fulfill the contracts.

Portsmouth International Airport at Pease ("KPSM") is a unique airport where one contract can determine who can survive on the airfield. Smith asked Denney to wrap up his comments. Denney finished that the minute the contract is signed, PDA will face an unusual and very difficult situation every four years for an exclusive agreement is issued by DLA where an exclusive use agreement at KPSM for the assignment of exclusive rights to a single service provider because only one is allowed. Ironically this is exactly what the PDAs Minimum Standards and FAA advisory were designed to prevent. Suggested not to pursue a rush to judgment, but hire an aviation consultant who can make sense of KPSM's unusual and complex situation for the benefit of all at KPSM. If Million Air is sincere in its desire to come to Portsmouth and see the community grow and prosper, it will agree.

Bob Jesurum ("Jesurum"), Founder/President of PCA, spoke to the argument made by Marvelley and for correcting a flawed process regarding consideration of Million Air's application; Denney outlined the actions the Board should take. The common theme of the solutions are that it is dangerous for the community and possibly illegal, so what is the rush. Jesurum indicated that Million Air is in a rush to bid on a military contract to be awarded this coming Spring and that there is no conceivable way Million Air could deliver. Asked what the rush in this process accomplishes for the PDA. *[Unclear Commentary]* Asked why the Board would consider anything with all of the open questions and why the process is being made so easy for Million Air. Jesurum said he is not asking to prevent Million Air as an FBO, in fact let Million Air build, so long as all of the same procedures are applied to Million Air that were applied to PCA. Jesurum stated such as not granting them a non-conforming change of use on its Executive Hangar; don't allow them FBO status unless all approvals are obtained... *[Unclear Commentary]...* have ordered steel, have a hangar space, fuel farm and equipment onsite, the same standards PCA had been held to. *[Unclear Commentary]*

Smith spoke to internet issues which were occurring and asked those who are not speaking, other than the Board, if they would turn of their cameras as this may help with the technical issues that were occurring. Smith asked Siegenthaler if there were any additional individuals looking to speak; Siegenthaler responded he did not see any.

Jennifer Gomes, Executive Vice President, FBO Operations for Million Air indicated they were trying to take themselves off mute and Roger Woolsey would like to say a few words.

Roger Woolsey ("Woolsey") of Million Air appreciated the time of the Board and the community individuals who were on the meeting as well. Woolsey reiterated that Million air is a 30+ year brand that has been voted #1 in the industry nine years in a row, who has contracts will all kinds of airlines (military, civilian, corporate etc.), is interested in promoting the Portsmouth airport and the community. Woolsey

spoke to the interesting words brought up by the other three speakers such as (dangerous and illegal) which is not the case. Further, Woolsey indicated that there are Minimum Standards and Million Air clearly meets every one of the Minimum Standards in its application. Beyond that, it intends to make large investments and that takes time. Woolsey assured the Board that it would not be selling services in any illegal manner and will meet every Minimum Standard (published by PDA) before the first transaction and will make sure it is 100% compliant with the FAA grant assurances. Woolsey indicated that the company is very professional and has a comprehensive and professional team putting forth information. It is asking today to approve what is before them so that they can continue to move forward as it meets every one of the Minimum Standards.

NOTE: The public comment section encountered technical issues which caused intermittent issues with bandwidth (responses delayed/slowed and screens being frozen) and portions of his commentary were unclear.

No other hands from the public were raised and therefore this section of the meeting closed.

VI. Committee Meetings:

A.

Reports:

1. Airport Committee Agenda

Smith indicated that the Committee met on Tuesday, January 12th, via Zoom and it took up the FBO application of Pease Aviation Partners (a/k/a Million Air); the Committee voted to approve the application to move it forwarded to the Board.

Smith indicated that Brean provided the Committee with an update of the aviation rates and charges that would be increasing (incrementally).

VII. Old Business:

A. Report:

4. Lonza Biologics, Inc. - Iron Parcel Option Extension Agreement #3

Brean indicated that Lonza Biologics has agreed to extend its six month option on the 70/80 Corporate Drive parcel (Iron parcel) which will have it on that option until July 2021.

Smith indicated that there was an old item that had been tabled at the November 19, 2020 (the Board of Directors' to approve a Letter of Intent ("LOI") and Conceptual Plans for Pease Aviation Partners, LLC a/k/a Million Air). Smith asked for a motion to bring that item off the table.

Director Fournier <u>moved</u> the <u>motion</u> and Director Anderson <u>seconded</u> that the Pease Development Authority Board of Directors take the motion from the November meeting off the table.

<u>Discussion</u>: [Unclear Commentary] Blenkinsop indicated that the connection is unstable and suggested that the motion may not have been heard by all members and therefore suggested a pause in the meeting.

NOTE: The meeting up to this point in time had technical issues which caused intermittent issues with bandwidth (responses delayed/slowed and screens being frozen). At this time the meeting was recessed at 9:56 a.m.; the meeting resumed at 9:59 a.m.

Smith recessed the meeting at 9:56 a.m. until the technical issues had been reviewed by Siegenthaler. Blenkinsop indicated that after discussion with Siegenthaler, it was determined that the issue was on the Zoom side of the meeting and not PDA and indicated it was across users. PDA could come out of recess and move forward. That said, if PDA continues to have issues that impact the ability to communicate we may need to postpone the meeting as from a public observation/attendance perspective PDA would not be able to proceed.

Fournier informed Chairman Smith that a Google search indicated an outage going on with Zoom (NY and Washington and our area is starting to turn yellow).

Smith indicated the Board will move forward but agreed with Blenkinsop that if the issues continue there will need to be a motion to suspend the meeting and move it to another date.

Blenkinsop indicated when PDA were to come out of recess, he asked that the motion made/being made be restated as all may not have heard it.

Smith came out of recess at 9:59 a.m.; Smith asked for a motion to bring the November item which was approval of the LOI and Conceptual Plans for Million Air to bring that off the table as an initial motion.

Director Fournier <u>moved</u> the <u>motion</u> and Director Lamson <u>seconded</u> to bring the November item which was approval of the LOI and Conceptual Plans for Million Air to bring that off the table.

Discussion: None. Disposition: Resolved by unanimous (7-0) roll call vote for; motion carried.

Smith indicated that this motion is off the table and since the Board has new LOI and Conceptual Plans to approve today on the agenda, he asked for a motion to not approve that item from November.

Director Anderson <u>moved</u> the <u>motion</u> and Director Lamson <u>seconded</u> not to approve the item from November.

Discussion: None. Disposition: Resolved by unanimous (7-0) roll call vote for; motion carried.

Smith indicated that the item from November was not approved.

Smith informed those in attendance that this meeting closed the loop on the November motion that had been tabled and therefore the Board could move forward on the Million Air items on this agenda.

- B. Approvals:
 - 1. Pease Aviation Partners, LLC (d/b/a Million Air Portsmouth) at 53 Exeter Street – FBO Application

Smith indicated he would recognize Director Levesque ("Levesque") for a motion.

Levesque indicated in light of the fact that there has not been a lot of time to look at all of the issues on this item should *[Unclear Commentary]* this item until the next meeting. Lamson indicated a second.

Smith stated for the record that the motion is to postpone this item to the Board's next meeting in March to offer the Board more time to review all of the materials and asked if there was any further discussion from the Board. Fournier asked that all of the materials be received in one packet as information is being received from interested parties and staff and he wanted to make sure the documents received are the most up-to-date and correct to assure the Board receives everything correctly it would be reviewing. Lamson agreed with Fournier's comment and further stated that the documents being received from the various parties through General Counsel late in the afternoon and then they are forwarded to the Board who receives them in the evening, there is a lot to absorb and the Board wants to make a correct decision.

Director Anderson ("Anderson") does not have any problems with postponing the issue but is concerned on what is going to be reflected in a motion in March that takes all of these discussions and combines them into a motion more acceptable to the Board to review. The postponement is appropriate but how is the process and procedure going to move forward in the next 60 days to construct a motion more amenable to the concerns raised in the discussions at this point. Anderson indicated that he believes the current motion constructed by staff has caused some concern as to what it means to what the outcome would be when voting on this issue.

Smith indicated that the motion is on the floor right now because the Board has indicated it would like more time to review all of the materials sent and it is incumbent upon the Board members between now and the March meeting to contact staff with any outstanding the questions. To the extent that Board members want to propose certain conditions as part of the motion he recommended getting in touch with staff to see if legal to do that. Ultimately those discussions with the Board members need to take place in a public forum but encouraged the Board members to work through any outstanding questions with staff prior to the next meeting. *[Unclear Commentary]*

Blenkinsop requested that the Board move quickly as he was unclear that the meeting would be able to continue much further due to the ongoing technical issues.

Director Ferrini ("Ferrini") offered to vote for the postponement motion and asked if there were a reason the Board does not do Work Sessions which may be helpful; rather than a number of people talking to staff at different times. Blenkinsop indicated that a Work Session format would be familiar to Ferrini and others with municipal experience, but to Blenkinsop's knowledge Work Sessions have not been implemented at Pease over the years. But, if there is an interest in scheduling a Work Session on this topic the Chairman, in consultation with the Executive Director, could work on something in consultation with the Board.

Smith indicated with no further comment from the Board, and in the interest of time; he will call the roll on the motion to postpone the item to the March meeting.

Director Levesque <u>moved</u> the <u>motion</u> and Director Lamson <u>seconded</u> to postpone this agenda item to the March meeting.

Discussion: None. Disposition: Resolved by unanimous (7-0) roll call vote for; motion carried.

Fournier asked if VII. B.2. would also need to be postponed as the original motion only had the first one.

Pease Aviation Partners, LLC (d/b/a Million Air Portsmouth) at 53 Exeter Street - Conceptual Site Plan Approval

Director Lamson <u>moved</u> the <u>motion</u> and Director Loughlin <u>seconded</u> that the Pease Development Authority Board of Directors hereby approves the concept plan for Pease Aviation Partners, LLC (d/b/a Million Air Portsmouth) ("PAP") at 53 Exeter Street, as submitted by PAP and attached hereto and incorporated herein; all in accordance with the memorandum of Maria J. Stowell, Engineering Manager, dated January 13, 2021.

Discussion: Blenkinsop asked if the Board were looking to postpone the vote; Fournier indicated he would make a motion to postpone this item to the March meeting. Smith asked if there were any discussion on the postponement before he called the roll. Smith indicated that there were comments made earlier that this process on this application has been rushed and flawed, for the record he did not agree with that (he does not think it has been rushed or flawed by staff). Smith further indicated that he does not want the postponements to be taken as agreement with those comments; rather the Board is doing its due diligence in being prudent in the manner it is acting and making sure it has properly reviewed all of the material. Fournier agreed and indicated that there were accusations of violation of the Right to Know law that he took offense to because he has seen nothing that has been a violation of the Right to Know law; Lamson agreed.

Director Fournier moved the motion and Director Levesque seconded that this item be postponed to the March meeting.

Disposition: Resolved by unanimous (7-0) roll call vote for; motion carried.

Blenkinsop indicated continued interference; Blenkinsop indicated that item #3 needs to be acted upon before the end of the month and suggested that the Board is meeting in a week (1/28/2021) as a Planning Board and today's meeting could be postponed to after that meeting. The resumption of this postponed meeting could be notice for immediately after the Planning Board meeting. Loughlin suggested that the Board move forward with item 3 now.

Lonza - 70 / 80 Corporate Drive (Iron Parcel) Site Review Extension and Referral of Conditional Use Permit

Director Levesque <u>moved</u> the <u>motion</u> and Director Lamson <u>seconded</u> that the Pease Development Authority ("PDA") Board of Directors hereby approves of and authorizes the following:

A. a one (1) year extension to the Site Review approval granted to Lonza Biologics, Inc. ("Lonza") for the premises located at 70/80 Corporate Drive; and B. in accordance with PDA Land Use Controls Part 304-A.09(a)(1)(a), concept approval and a referral to the City of Portsmouth of Lonza's Conditional Use permit application for 70 / 80 Corporate Drive;

all in accordance with the memorandum of Maria J. Stowell, P.E., Engineering Manager, dated January 13, 2021.

Discussion: None. Disposition: Resolved by unanimous (7-0) roll call vote for; motion carried.

Smith indicated he would take a motion to suspend the meeting to another date and time and where schedules can be coordinated as he does not want to continue due to the interference issues. Stowell indicated that item 4 is rather time sensitive and asked the Board's indulgence to hear the motion for item 4.

4. AIP 64 (Reconstruction RW 16-34) Change Order to Include the Reconstruction of Taxiways "B" and "C"

Director Loughlin <u>moved</u> the <u>motion</u> and Director Anderson <u>seconded</u> that the Pease Development Authority ("PDA") Board of Directors hereby authorizes the Executive Director to execute a change order to the construction contract with Pike Industries ("Pike") (PDA's selected contractor for the Runway Reconstruction Project) in the amount of \$1,835,532.10 to include the reconstruction of Taxiways "B" and "C", and authorizes the expenditure of up to \$101,000.00 to complete the reconstruction work; all in accordance with the memorandum of Maria J. Stowell, P.E., Manager - Engineering, dated January 7, 2021.

Discussion: None. Disposition: Resolved by unanimous (7-0) roll call vote for; motion carried.

Smith asked for a motion to suspend and postpone the rest of the agenda to another date this month.

Blenkinsop indicated that a date this month would be by next week. Smith indicated that the Planning Board meeting is scheduled for next Thursday (1/28/2021) at 9:00 a.m. and if the Board wants to resume this meeting, Loughlin can take over for Smith if he is unable to stay on the call due to a previous engagement. Currently the preference would be to resume today's meeting after the Planning Board meeting on 1/28/2021 but schedules will be coordinated offline.

Loughlin indicated that the motion is to continue to later this month but the Board really means as the next available time to do it, which is what Blenkinsop was mentioning. Smith agreed, but stated the preference would be to try to resume in January, if possible.

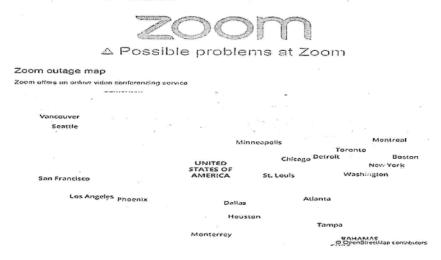
Director Fournier <u>moved</u> the <u>motion</u> and Director Lamson <u>seconded</u> that the Pease Development Authority Board of Directors meeting be suspended, to next week if possible.

Discussion: None. Disposition: Resolved by unanimous (7-0) roll call vote for; motion carried.

NOTE: The meeting up to this point in time had technical issues which caused intermittent issues with bandwidth (responses delayed/slowed and screens being frozen). These issues resulted in

the Board of Directors' suspending its meeting to a later time to resume discussions and approvals of the remaining items of the meeting (items VIII. - XIX.).

Meeting was postponed at 10:17 a.m.



Pursuant to a duly posted meeting notice, the meeting resumed the January 21, 2021 meeting immediately following the previously scheduled Planning Board meeting on Thursday, January 28, 2021, due to technical difficulties which occurred during the January 21, 2021 meeting. Chairman Smith stated:

Pursuant to NH RSA 91-A:2 III (b) PDA Chairman Kevin Smith declared COVID-19 an emergency condition and waived the requirement that a quorum be physically present at the Board meeting in accordance with the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-25, and Emergency Order #12, Sections 3 and 4. PDA Directors participated remotely and identify their location and any person present with them at that location. All votes were by roll call. Members of the public may participates by using the access information provided. This meeting was video / audio recorded.

Presiding:	Kevin H. Smith, Chairman
Present:	Peter J. Loughlin, Vice Chair; Erik Anderson; Thomas Ferrini; Steve Fournier;
	Margaret F. Lamson; and Neil Levesque
Attending:	Pease Development Authority ("PDA") staff on the Zoom meeting were Executive
	Director Paul E. Brean ("Brean"); PDA Deputy Director / General Counsel
	Anthony I. Blenkinsop ("Blenkinsop"); Finance Director Irv Canner ("Canner");
	Engineering Manager Maria Stowell ("Stowell"); Golf Course General Manager
	Scott DeVito ("DeVito"); Division of Port and Harbors Director Geno Marconi
	("Marconi"); IT Director Greg Siegenthaler ("Siegenthaler"); Raeline A. O'Neil,
	Legal Executive Assistant and members of the public.

Chairman Smith ("Smith") called the meeting to order at 9:36 a.m.

Smith asked the Board of Directors to confirm their presence on the call, physical location, and advised if there were any other individuals present with them:

Chairman Kevin Smith was located in Londonderry, NH with no other individual(s) present in the room.

Vice Chair Peter Loughlin ("Loughlin") was located in Portsmouth, NH with no other

individual(s) present in the room. (NOTE: Loughlin joined the meeting at approximately 10:19 .m.) Erik Anderson ("Anderson") was located in Portsmouth, NH with no other individual(s) present in the room.

Thomas Ferrini ("Ferrini") was located in Dover, NH with no other individual(s) present in the room.

Steve Fournier ("Fournier") was located in Dover, NH with no other individual(s) present in the room.

Peggy Lamson ("Lamson") was located in Portsmouth, NH with no other individual(s) present in the room.

Neil Levesque ("Levesque") was located in Goffstown, NH with no other individual(s) present in the room.

PDA IT Director Greg Siegenthaler was the moderator for the meeting who advised the meeting was being video/audio recorded and asked individuals to please follow the guidelines for the duration of the meeting:

- In an effort to minimize background noise, we ask that all members of the public keep their microphones muted, and PDA Board members and staff are encouraged to stay on mute when not speaking during the meeting. Additionally, members of the public were asked to turn off their cameras/webcams if they did not intend to speak during the meeting in an effort to optimize the bandwidth for the meeting.
- 2. For members of the public wishing to speak during the public comment portion of the meeting, please press *9 on your phone to 'raise your hand', or press ALT+Y on your computer keyboard. The moderator will see your 'hand' and prompt you to make your comment. It is requested that no public comment be longer than 3 minutes.
- 3. This is a public meeting. If any member of the public causes a disruption to the meeting that would not allow the meeting to continue, the moderator will request that the Chair temporarily recess the meeting so that the disruption may be addressed. The moderator will then inform the Chair when the meeting may continue. If the Board is unable to continue the meeting due to the disruption, the Chair may elect to suspend the meeting to a later date/time, to be noticed in accordance with State law.
- Once again, this meeting is being audio and video recorded. Following the meeting, a copy of the recording will be available for playback at townhallstreams.com

VIII. Finance: A. Executive Summary

Finance Director Irv Canner ("Canner") indicated that the trends in operating revenues and expenses that have occurred during the first four months, continued into November with operating revenues slightly ahead of budget due to facilities rentals, golf course activity and wharfage / dockage.

B. Reports:

FY2021 Financial Report for the Five Month Period Ending November 30, 2020

Canner stated there is a variance due to fee revenues. COVID has caused a reduction in parking and fuel flowage fees; operating revenues are approximately 11% ahead of the PDA current budget. Canner reminds the Board that he tries to seasonalize the PDA budget rather than simply dividing by 12 months; the operating expenses are down primarily related to timing of receipt of invoices and seasonality of budget. Canner indicated that due to the variances in the operating revenue / operating expenses PDA is ahead of its budget by \$1.4 million. Canner indicated this will help to fund capital programs; this also has resulted in PDA's debt levels being lower than anticipated.

Canner stated staffing was at 103 paid employees with 60 benefited positions with several open positions.

With respect to the Revolving Loan Fund ("RLF") (sic – RLOC) Canner indicated as of November PDA's draw down was \$5.5 million from the \$15 million cap. The construction project at the terminal represents \$5 million and the runway represents \$15 million, since inception of these two capital projects PDA has spent close to \$30 million. Canner indicated due to the funding of these two capital projects he works closely with Engineering of the anticipated timing of the grant monies due to PDA from FAA, this and or other sources have an impact on the need for RLF (sic).

Canner indicated that the airport ended the year at approximately 40,000 enplanements, this number was impacted due to COVID. Canner also indicated both pay-for-parking and fuel flowage fees were down at the airport as well, related to COVID.

Canner stated regarding Skyhaven PDA is ahead of budget primarily represented due to the flight activity (associated with gallons of fuel sold). Canner indicated that year-to-date (FY2021) approximately 12,000 gallons were sold versus in 2020 approximately 7,700 gallons. Canner indicated Skyhaven has 33 hangars and there is not much fluctuation in the rentals. Cumulatively, PDA has funded Skyhaven \$1.7million in order to support Skyhaven since PDA took it over 2009. Canner indicated that Skyhaven is below in its operating budget, there are 2.5 non-benefited individuals that support Skyhaven to date.

Canner indicated that the golf course closed on November 30th; highlighted the success at the golf course in terms of rounds played and the overall operating efficiency (putting PDA ahead of budget - primarily related to golf fees from non-members). Canner indicated in terms of rounds of golf play in 2021 there were 62,000 rounds versus in 2020 there were 55,000, resulting in a 13% increase. The simulators are about equal to 2020, but Grill 28 sales have been impacted due to COVID resulting in approximately 9% below where they were last year at this time.

The unrestricted operations of the Division of Ports and Harbors (DPH) indicate operating revenues slightly below budget (fuel sales are down directly associated with the loss of operations at the Portsmouth Fish Pier).

2. Cash Flow Projections for the Nine Month Period Ending September 30, 2021

Canner indicated looking out nine months, the projected debt levels shows that PDA should peak in the May / June time with roughly \$10 million in debt; ending the nine month time period at approximately \$5.8 million. Overall the cash flow shows a negative wash of \$577,000 but the big items for PDA are the capital expenditures of \$8.5 million of non-grant money and grant money of \$6.3 million indicating approximately \$15 million of capital yet to be spent with the primary support of these funds for the completion of the terminal and the runway. Canner indicated funding these projects is sensitive due to the turnaround time it takes to process the requests and is a reflection through the estimations of how high the debt levels can be with the RLF (sic – RLOC). Canner indicated that PDA's debt level was at \$4.5 million and indicated the repayment of \$1 million since November; however, earlier this month PDA borrowed \$1.5 million resulting in a draw down from the RLOC.

Regarding DPH, Canner stated it is normal to have high levels in January / February / March due to the collection of the mooring fees, this remains consistent with prior years.

Canner indicated with respect to the Revolving Loan Fund (RLF), there are approximately 19 loans (anticipated loan closing in January) and the expectation of a new loan in March. There has been light activity regarding the RLF, in fact have seen some loans being paid off. Canner indicated PDA submitted its report reflecting its six month activity to the EDA regarding this program.

Canner highlighted items such as:

- 1. The auditors first meeting with the Audit Committee on April 12th; and
- An RFP due back on 1/29 to upgrade software relating to property management this RFP is also tied to GASB87 which puts more emphasis on leases on how they will be shown on the balance sheet.

Ferrini indicated reviewing the Statement of Operations for the Portsmouth International Airport at Pease ("PSM") and Skyhaven that the fuel flowage is down at PSM, but up at Skyhaven, wondered if it were the nature of the business at both airports. Canner indicated that the fuel flowage at PSM is based on gallons that are fee related (collection of fuel fee through PCA) and the flight activity at PSM has been lower than projected. However, up at Skyhaven there are smaller / private planes that are flying with more activity and the fact that the price of fuel is down \$0.20.

Anderson stated that the RLF has to meet particular marks annually to maintain the amount of money available and asked if those goals are being met; Canner affirmed that there are covenants associated which are based on the annual certified financial statements. Anderson asked if it has maintained a particular amount of money for the RLF; Canner affirmed. Anderson further asked if it were \$1 million or more as he though there was an opportunity for an increase; Canner indicated the RLF has a balance of \$1.1 million which is made up of \$881,000 in loans and the balance as cash. Canner stated it used to be if PDA couldn't balance 75% of the fund as loans the money would be sequestered by EDA. Anderson asked if the interest rates had been reduced; Canner affirmed stating a

reduction from 4% to 3% and that every one of the 19 loans are current. Canner indicated the big number end is the saving or creation of jobs (300+).

IX. Licenses/ROEs/Easements/Rights of Way:

Reports:

A.

Lonza Biologics – 70 / 80 Corporate Drive (Iron Parcel) Exercise Third One Year Option for Contractor – Employee Parking through December 31, 2021

Brean indicated that in accordance with the "Delegation to Executive Director: Consent, Approval and Execution of License Agreements," PDA entered into the following Right of Entry extension with Lonza Biologics who exercised its Third One (1) year option for Contractor – Employee Parking at 70 / 80 Corporate Drive through December 31, 2021.

B. Approvals:

1. Non-Aeronautical Easement (Water/Sewer) - City of Rochester

Director Fournier <u>moved</u> the <u>motion</u> and Director Lamson <u>seconded</u> that the Pease Development Authority ("PDA") Board of Directors authorizes the Executive Director to complete negotiations with the City of Rochester and to seek a release from the Federal Aviation Administration ("FAA") to execute an Easement Deed, and such other documentation as he and General Counsel determine shall be necessary or appropriate, to provide a water/sewer utility easement across/under land of the PDA located at Route 108, 290 Rochester Hill Road, in exchange for fair market value consideration; all in accordance with the Memorandum of Andrew Pomeroy, Manager, Aviation Planning and Regulatory Compliance, dated January 13, 2021.

Discussion: None. Disposition: Resolved by unanimous (6-0) roll call vote for; motion carried.

X. Leases:

A. Reports: 1. St

Sublease between 30 International Drive, LLC to Prosperity Realty, LLC d/b/a Exit Realty Prosperity

In accordance with the "Delegation to Executive Director: Consent, Approval of Sub-Sublease Agreements" PDA approved the following lease with Prosperity Realty, LLC d/b/a Exit Realty Prosperity for 645 square feet of office and related use space commencing December 1, 2020 and continuing twenty-four (24) months; Director Lamson was consulted and granted her consent.

2. Sublease between Pioneer New Hampshire LLC to FlexEnergy Energy Systems, Inc.

In accordance with the "Delegation to Executive Director: Consent, Approval of Sub-Sublease Agreements" PDA approved the following lease with FlexEnergy Energy Systems Inc. for 5,800 square feet of general office uses commencing February 1, 2021 through June 30, 2024; Director Lamson was consulted and granted her consent.

B. Approvals:

1. Lonza - Conceptual Approval of Column Packing Room Addition

Director Anderson <u>moved</u> the <u>motion</u> and Director Lamson <u>seconded</u> that the Pease Development Authority ("PDA") Board of Directors hereby approves the concept plan for Lonza Biologics, Inc.'s request to construct a two-story addition located near the existing loading docks at the premises located at 101 International Drive, to be utilized as a Column Packing Room, with approximately 1,146 square feet on the lower level and approximately 2,206 square feet on the upper level; all on terms and conditions set forth in the memorandum of Maria J. Stowell, P.E., Manager - Engineering, dated January 12, 2021.

Discussion: None. Disposition: Resolved by unanimous (6-0) roll call vote for; motion carried.

XI. Contracts/Agreements:

- A. Approvals:
 - 1. Airport Architectural & Engineering Consultant

Director Lamson <u>moved</u> the <u>motion</u> and Director Anderson <u>seconded</u> that the Pease Development Authority ("PDA") Board of Directors hereby authorizes the Executive Director to negotiate and execute contracts for the provision of PDA's on-call Airport Architectural and Engineering Services in compliance with current FAA guidelines, with:

- a) Jacobs Engineering Group, Inc.;
- b) Hoyle Tanner & Associates, Inc.;
- c) McFarland-Johnson, Inc.; and
- d) Stantec Consulting Services, Inc.

The contract with each consultant will be for a period of three (3) years with one (1) additional two (2) year option period exercisable at the Executive Director's sole discretion; all in accordance of the memorandum of Maria J. Stowell, P.E., Manager - Engineering, dated January 7, 2021.

Discussion: None. Disposition: Resolved by unanimous (6-0) roll call vote for; motion carried.

2. USDA / WS Wildlife Control Proposal at Airports

Director Ferrini <u>moved</u> the <u>motion</u> and Director Lamson <u>seconded</u> that the Pease Development Authority ("PDA") Board of Directors authorizes the Executive Director to enter into a Cooperative Service Agreement with the United States Department of Agriculture Animal and Plant Health Inspection Service and Wildlife Services (USDA / WS), to continue its integrated wildlife control and monitoring duties at Portsmouth International Airport at Pease (PSM) and Skyhaven Airport (DAW), for the period of January 1, 2021, through December 31, 2021, in the amount of \$30,913.10; any taking of wildlife at Pease will be confined within the airport perimeter fence and be in compliance with Federal and State permits; all in accordance with the memorandum of Andrew B. Pomeroy, Manager Aviation Planning and Regulatory Compliance, dated January 7, 2021, and attached hereto.

In accordance with the provisions of RSA 12-G:8 VIII, the Board justifies the waiver of the RFP requirement based on the following reasons:

- 1. the PDA has a long standing relationship with USDA/WS stemming back to the time the PDA was formed;
- as part of that relationship the USDA/WS has maintained ongoing wildlife surveys, with data dating back to its first work at Pease and PDA does not believe it is advisable to interrupt this historical data stream;
- 3. the USDA/WS conducts training classes for PDA Airport Operations Personnel on Airport Wildlife Hazard Management to meet 14 CFR 139 requirements; and
- the USDA/WS is the FAA recognized federal authority for airport wildlife hazard management and training.

<u>Discussion</u>: Lamson indicated that the Andrew Pomeroy and the USDA / WS Wildlife Control have done an outstanding job at the airport in the management of wildlife. <u>Disposition</u>: Resolved by unanimous (6-0) roll call vote for; motion <u>carried</u>.

XII. Executive Director:

A. Reports:

1. Committee Appointments

Smith indicated a couple of changes to the committee appointments made in December and the need for replacement of Tom Ferrini with Steve Fournier as after the meeting he realized they were uneven in how he put people on the committees, particularly regarding the appointments of Steve Fournier and Tom Ferrini.

PDA COMMITTEE LISTING - EFFECTIVE January 28, 2021 (UPDATED)

Standing Committees

Executive Committee Kevin H. Smith, Chair Peter J. Loughlin, Vice Chairman Thomas Ferrini, Treasurer Staff Contact: Brean/Blenkinsop

<u>Finance Committee</u> Thomas Ferrini, Chair (Treasurer) Margaret Lamson Neil Levesque Staff Contact: Brean/Canner

<u>Airport Committee</u> Kevin H. Smith, Chair Steve Fournier Margaret Lamson Staff Contact: Brean/Stowell <u>Marketing and Economic Development</u> <u>Committee</u> Peter Loughlin, Chair Neil Levesque Tom Ferrini Staff Contact: Brean

Zoning Adjustment & Appeals Committee

Steve Fournier, Chair Peter Loughlin Kevin H. Smith Staff Contact: Blenkinsop/Stowell

Ad Hoc Advisory Committees

Capital Improvement and Land Planning Committee Peter Loughlin, Chair Thomas Ferrini Steve Fournier Neil Levesque Staff Contact: Stowell Staff Contact: Blenkinsop/Stowell

Golf Committee

Erik Anderson, Chair Thomas Ferrini Steve Fournier Staff Contact: Brean/DeVito

<u>Audit Committee</u> Peter Loughlin, Chair Kevin Smith Erik Anderson Staff Contact: Canner <u>Transportation Management Committee</u> Margaret Lamson, Chair Erik Anderson

Port Committee

Steve Fournier

Peter Loughlin, Chair Steve Fournier Neil Levesque Ex Officio: Chair DPH Advisory Council Staff Contact: Brean/Marconi

Legal Bill Review

Kevin H. Smith, Chair Peter Loughlin Tom Ferrini Staff Contact: Blenkinsop

2. Golf Course Operations

Golf Course General Manager DeVito ("DeVito") stated regarding the upcoming season there are already 3,600 outing rounds currently booked (group size between 60 to 160) and it is anticipated that during the season they will add another 1,000 rounds (group sizes between 20 to 50).

DeVito also indicated that Pease will be hosting a sectional qualifier on July 1st for the National Drive, Chip and Putt competition for ages 7 to 15.

DeVito indicated that the bathroom project will commence next week and anticipated completion date of February 21^{st} .

The maintenance department is working on getting equipment ready for the upcoming season and doing a project in the clubhouse basement converting all of the florescent light fixtures to LEDs.

Anderson asked to the improvement of tee time availability; DeVito indicated he and IT Director Greg Siegenthaler are working with PDA's website host to see there is an option to use that link to change the timeframe of when members can log in to book a tee time (currently bookings open at midnight and trying to change to a better time of day). DeVito indicated they are also working with the host of the tee time system, TeeSnap; no resolution has been found but discussions are ongoing and hope there will be something in place by the commencement of the season.

Levesque indicated how impressed he and members of the Board were on what the Golf Course pulled off last year due to COVID which was highlighted in Canner's report to the Board; thanked DeVito for what was done and how the course was operated (during the pandemic).

- 3. Airport Operations
 - Portsmouth International Airport at Pease (PSM) a)
 - b) Skyhaven Airport (DAW) c)
 - Noise Line Report
 - December 2020 (i)

Brean indicated that PSM ended 2020 with 40,000 enplanements, a reduced number which has not been seen since 2015 (Brean indicated most airports indicated numbers going back to 1970s). PSM is holding strong and its Ft. Myers / Punta Gorda flights still continue to have great load factor and capacity and Sanford / Orlando has been challenged due to the Theme Parks not being back to 100%. Brean also indicated that due to the runway construction (through most of the calendar year) there was a limitation on the size of the flights (restricted wide body FRAC a/k/a Troop flights). Brean informed the Board that PSM was down more troop flights than it was in comparison to Allegiant; after regaining full use of the runway the troop carriers have come back and continue to see an uptick in service. Brean stated he is excited for 2021 with the vaccine rolling out and consumers feeling comfortable to travel, he anticipates the ultra-low cost flights will be the first aviation sector to return in the industry. Brean indicated this will be an increase to revenue parking and fuel flowage. Brean indicated there were 301 pay-for-parking transactions for December as Allegiant has had a reduction in capacity of flights during the month. However, have noticed that passengers are staying longer resulting in paying more to park longer. Brean further indicated that the fuel flowage fee for the month was based off 500,000 gallons at a \$0.03 fuel flowage fee.

Brean informed the Board that on January 22, 2021 the commercial passengers were able to use approximately 80% of the new terminal expansion project which improved security screening for both passengers and baggage; the expansion has provided adequate social distancing and the security protocols during the current environment. The remaining work for this project is to get the second jetbridge operational; installation of the escalator; and finalize the terminal concession restaurant space.

Brean indicated that the industry is showing an anticipated second CARES Act Fund similar to that of 2020 and believes that PSM may receive additional aid in the future to support the revenue shortcomings from 2020.

Regarding Skyhaven, Brean informed the Board that the new business (T-Aviation) is off to a moderate start by doing work for the base tenants at Skyhaven.

Brean indicated that there was one noise inquiry in December, 2020. The call originated from Rye and was related to a non-based Pilatus PC12 that arrived at 3:40 a.m.

Brean also spoke to Canner's comment of an 11% underrun for the year which has been a combined effort (i.e.; Golf, DPH and Airports). In late spring, PDA put out hefty financial goals to address COVID; people wore different hats and obtained labor hours from part-time non-benefited people as opposed to fulltime benefited individuals. Brean stated that due to the efforts of all (primarily Golf, DPH and Airports) PDA continues to look for different ways to do business and PDA continues to try to mitigate the impact of COVID; anticipates continued underruns for the foreseeable future.

Brean expressed thanks and gratitude to the Engineering Department (Stowell & Sheehan) and Andrew Pomeroy for their diligent review of PCA's North Fuel Farm as this was a hefty environmental review along with PDA's internal projects (runway and terminal). Brean indicated he is confident that PDA will have a very safe, secure and environmentally conscious North Fuel Farm.

Brean informed the Board that PDA was requested by the State to provide support for the COVID-19 support call center to provide assistance to citizens of New Hampshire who are trying to register for the vaccine or have questions; provided support with three employees (1 - DPH & 2 -PDA).

Vice Chairman Loughlin returned to the meeting at approximately 10:19 a.m. with no other individual(s) present in the room.

B. Approvals: Bills for Legal Services 1.

Director Fournier moved the motion and Director Lamson seconded that the Pease Development Authority ("PDA") Board of Directors approves of and authorizes the Executive Director to expend funds in the total amount of \$12,648.00 for legal services rendered to the Pease Development Authority by Sheehan Phinney Bass & Green for November 1, 2020 - November 30, 2020 in the amount of \$377.00 (for General Employment Matters); November 1, 2020 - November 30, 2020 in the amount of \$1,512.00 (for Ports & Harbors Matters); and November 1, 2020 - November 30, 2020 in the amount of \$10,759.00 (in support of MS4 and CLF settlement implementation).

Discussion: None. Disposition: Resolved by (6-1) roll call vote (Levesque voted no); motion carried.

Chairman Smith left the meeting so he turned the meeting over to Vice Chairman Loughlin at approximately 10:22 a.m.

XIII. Division of Ports and Harbors: A. Reports:

Geno J. Marconi ("Marconi), Division Director of the Division of Ports and Harbors ("DPH"), reported on Division activities, and the reports before the Board represent the current business at the DPH.

1. Port Advisory Council - Minutes of November 15, 2020

Marconi indicated there was a date discrepancy listed on the agenda to that referenced on the minutes; Legal Executive Assistant Raeline O'Neil ("O'Neil") stated it was a scrivener's error on the agenda referencing the date of the Port Advisory Council minutes was the correct date (November 10, 2021).

> Portsmouth Fish Pier - Change Order #3 (Credit) / H.L. Patten 2.

Marconi indicated that Change Order #3 is a \$8,000 credit, there was a question about a fire hydrant and whether or not the Fire Department was going to require a temporary hydrant during

construction. Marconi indicated that there were two fire hydrants down there and after meeting with the Fire Department / Safety it was determined this was not essential during construction so DPH received a credit. Marconi indicated that pursuant to the Delegation of Authority, Brean executed the Change Order and received concurrence from the Treasurer (Ferrini).

6. Commercial Mooring Transfer - Nugent to Nugent

Marconi indicated that a commercial mooring transfer is done in accordance with the administrative rules. Marconi indicated that there is a redundancy of review and a recommendation to the Executive Director for approval.

Marconi indicated that last week DPH was notified by the Army Corps of Engineers of its published work plan for the coming biennium and the upper most turning basin of the Piscataqua River which is in its work plan. Marconi indicated that this is approximately 750,000 cubic yard dredge project to expand the turning basin which is currently 800 feet to a 1,200 foot turning basin. This is a significant project for the improvement of navigational safety as the ships are getting larger (currently there are a couple ships that frequent a couple of terminals that are 764 feet in length). Marconi indicated the significance as there are sailing regulations / restrictions on the vessels (daylight only; high tide only; visibility, wind speed, etc.) Marconi indicated that every day a vessel is detained because it can't sail and there are fees / charges which are transferred on to the consumer of the cost of goods sold. Marconi stated Senator Shaheen needed to be thanked as she pushed this project for years and without her shepherding this through the federal process, as well as the various support from the area users / businesses from letter writing to both the Congressional Delegation and the Army Corps of Engineers, has helped moved this project along. Marconi has been in discussions with the Army Corps for the other into agreements with the Army Corp of Engineers in order to move dredging projects along.

Marconi indicated regarding the Portsmouth Fish Pier ("PFP") the contractor has notified DPH they will be mobilizing equipment (today and tomorrow) and steel will be showing up the first of the week and should get this project moving ahead again.

Lamson asked Marconi about a sailboat that broke from its mooring and ended up on the Newington shoreline; Marconi indicated he thought it had been or it was in the process of being removed.

Ferrini asked if most of the dredging associated in the turning basin project would be "silt" or will there be activity to get through rock / ledge to expand that area. Marconi confirmed it is the upper most turning basin before you make the turn to go under the Little Bay Bridge. Marconi further stated the geology had not changed in hundreds of years and it was anticipated there would be a lot of ledge, but with the geotechnical borings they were surprised to find it was approximately 86% hard packed glacial sand and little ledge. The dredging will go to the offshore dredging site recently approved by the EPA north of the Isles of Shoals.

Lamson asked where the reference of Little Bay Bridge came from; Marconi indicated the old bridge is the General Sullivan Bridge and when they built the first bridge they named it Little Bay Bridge and then when the second bridge was built it was named the Ruth Griffin Bridge. Lamson asked the difference between Little Bay and Piscataqua; Marconi indicated it is the Little Bay and the Piscataqua River continues up straight on the eastern side of Dover Point into the Salmon Falls River going into South Berwick. Anderson indicated that the turning basin project has been in the making for quite some time, but that credit should also be given to Marconi for his diligence in submission of this project to the Army Corps. Anderson asked what the State's contribution would be to this dredging project. Marconi indicated that there are two appropriations (split into two bienniums due to the timing of construction) there is a total of \$7,241,550.00 that has been appropriated for this project. Anderson asked if this amount was federal or state; Marconi indicated it was State and the Army Corp estimates the total project to be \$18 million and our contribution would be around \$6 million but waiting for an update to see if construction costs have gone up since appropriation which was done in 2017. Anderson asked if the disposal would still go to the new site outside the Shoals; Marconi affirmed. Marconi indicated the caveat would be the Corps has brought to the forefront the beneficial use of disposal materials and this material at the turning basin is nice sand. A few years ago coastal communities were contacted to inform them on the material for beach nourishment and restoration and there has been a lot of interest. Negotiations will be held between any interested parties and the Army Corp regarding cost differential between base site and interested parties location (Maine / Massachusetts) for compensation.

XIV. New Business:

No new business.

XV. Special Event:

A. Report:

1. Millennium Running - St. Patty's 5k/10k Road Race to be held on March 13, 2021

Smith indicated that he worked with Brean to get this set-up; Millennium Running had approached Smith about moving a race from Salisbury to PDA. Smith indicate that since COVID, Millennium Running has held approximately a half dozen races (Londonderry, Manchester and Bedford) and all safety protocols are followed. This is not a typical road race as there will be no congregating at the beginning or end, rather it is staggered times with two people running at a time (running against the clock, not other runners). There have been no issues in Londonderry and it is good that people are able to participate in these events in a safe manner. This will be a 5k / 10k road race held on March 13, 2021; Paddy's will allow them to utilize their facility to stage the event.

XVI. Upcoming Meetings:

Board of Directors March 18, 2021 @ 8:30 a.m.

All Meetings begin at 8:30 a.m. unless otherwise posted.

XVII. Directors' Comments:

Anderson indicated at the last meeting the Pease Aviation Partners ("PAP") motions were postponed but want to ask how this issue will move forward (process / procedure in crafting a motion regarding Directors' concerns). Ferrini made a suggestion of a Work Session, staff has always done well in crafting motions but this one that has some special interest to make sure a motion is prepared to the satisfaction of the Board. Blenkinsop indicated that the Directors can reach out individually to

discuss if they would like to see anything specific in a motion. Also, Chairman Smith may be interested in scheduling a Work Session consistent to what Ferrini suggested last week. Anderson indicated a desire not to sit on this matter for sixty days until the next meeting to address Directors' wishes.

Lamson thought that if the Directors were to pass on thoughts to Blenkinsop it would be helpful for his review, evaluate and see if on the right track.

Loughlin reiterated it made sense to direct correspondence to Blenkinsop so that a decision can be made in March in fairness to Million Air (a/k/a PAP) and receive suggestions from Brean and Blenkinsop on the best way to move forward one way or another.

Fournier agrees with Loughlin but further stated a Work Session is not a bad idea so all Directors are on the same page so a concise approval for the meeting can be prepared. This would be a Work Session for the Directors, no comments from the public, just Directors comments to staff would be the cleanest way to handle this. Fournier also indicated the need to be careful with communications as to what is public and what is not. If the information is disseminated quickly could possibly do a Work Session sometime mid-February.

Blenkinsop indicated that Chairman Smith was interested in the concept as stated by Ferrini and Fournier and if a date and time is solidified with Chairman Smith, PDA will reach out to the Directors on scheduling a Work Session. In the interim if any of the Directors have individual questions / concerns / ideas for motions, Blenkinsop indicated for the Directors to reach out to Brean or Blenkinsop. Blenkinsop reminded the Directors that regarding the Right to Know Law there is a need to avoid group communications.

Lamson indicated she would forward any questions to Blenkinsop and hoped that any meetings / Work Session scheduled would be in the morning during the month of February.

Ferrini indicated regarding procedure and that of results / anticipated results of the Work Session, there may be a need for a non-public. A concern he would have would be the timing of this (wouldn't want to have a non-meeting in March) and to consider the trajectory of this / the best way to manage it.

Loughlin apologize for missing the Planning Board Meeting regarding PCA but he wanted to state he is impressed to the amount of detail and work that staff put in all agenda items. Also indicated a person who was key for many years regarding the turning basin project was Marconi

XVIII. Adjournment:

Director Lamson <u>moved</u> the <u>motion</u> and Director Anderson <u>seconded</u> to adjourn the Board meeting. Meeting adjourned at 10:51 a.m.

Discussion: None. Disposition: Resolved unanimously (6-0) for; motion carried.

XIX. Press Questions:

There were no questions from the press.

Respectfully submitted,

Vane G. 1

Paul E. Brean Executive Director

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Related Materials Attached Related Materials Previously Sent Related Materials will be provided under separate cover Materials to be distributed at Board Meeting Confidential Materials ***

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MEMORANDUM

From: Port City Air, Inc.
To: Pease Development Authority Board of Directors
Date: March 9, 2021
RE: Justification for a reasonable response to the "Million Air" applications

Introduction.

The Pease Development Authority ("PDA") must act "in a manner which is consistent with the public good" RSA 12-G:7, II. Million Air is pressuring the PDA to do otherwise. Million Air seeks to capture a military fuel contract administered by the Defense Logistics Agency ("DLA"). To capture that contract, Million Air seeks the PDA's grant of FBO status long before Million Air is ready to service customers, regardless of the potential impacts on the local community. Million Air proposes a much smaller operation than Port City Air's—too small to service KPSM's large volume of military traffic. Million Air does not guarantee its promises to the PDA; it applies via a shell company established just for this location.

This Board must now weigh the public good against Million Air's potential recourse if the PDA denies its applications as presented. That potential recourse consists of an equal protection suit and a FAA Part 16 complaint based on the FAA's Grant Assurances. As detailed below, the law and Grant Assurances support the PDA acting in the airport and the public's best interest and, should Million Air file a Part 16 complaint, and should PDA find merit to that complaint, the PDA is still entitled to correct its decision without jeopardizing the Airport Improvement Program ("AIP") funding.

Million Air's application endangers the public good.

Million Air's application poses environmental concerns, requires the PDA to deviate from its Master Plan, and threatens the business and complex customer relationships that the airport and Port City Air have carefully cultivated over many years. Selling fuel is only one aspect of servicing the heavy lift military and commercial aircraft that frequent KPSM. Million Air has not claimed or demonstrated that it provides such breadth or volume of service at its other locations. Granting Million Air's application would also mean granting Million Air concessions that Million Air has not earned and that the PDA previously denied Port City Air.

Environmental and planning concerns.

Million Air proposes to build its facility on or near wetlands; the Board is already aware that Million Air's proposed fuel farm would sit on or near an aquafer. PDA's Maria Stockwell acknowledged that fact, commenting that Million Air estimates that its proposed driveway would impact 7,150 square feet in wetlands and 17,200 square feet in wetland buffers. Memo Maria Stockwell to Paul Brean (Nov. 12, 2020) at 1. Ms. Stockwell also noted that "it is not assured that these [parking and driveway] areas can be constructed, or that snow storage and stormwater treatment can be provided, as conceived without further buffer disturbances." Id. at 2.

Million Air proposes to temporarily operate a commercial FBO from Executive Hangar's private general aviation hangar. That proposal conflicts with the Airport's Master Plan, which does not authorize Executive Hangar's facility for commercial aeronautical activity. As such, Million Air asks the PDA to grant a change of use for the building. Such a change of use is no

small ask, as the Master Plan is, by definition, a carefully crafted "blueprint for long-term development" that addresses all airport issues, complies with federal, state, and local regulations, and establishes "a framework for a continuous planning process." <u>See</u> Airport Improvement Program ("AIP") Sponsor Guide

(https://www.faa.gov/airports/central/aip/sponsor guide/media/0500.pdf).

There has not been any public consideration of the impact that such a change of use would have on KPSM, its current operations, or the PDA's plans for future development at KPSM. It makes little sense to approve a plan that would require a significant change-of-use process without considering the impacts.

Minimum standards concerns.

The change-of-use issue aside, the temporary space would not satisfy the minimum standards. Neither Million Air nor Executive Hangar have stated that 12,000 square feet of hangar space (the minimum required under the Minimum Standards) will be available for FBO use. The hangar is currently filled with resident aircraft. The PDA required Port City Air to have at least 12,000 square feet of space available for FBO use, and would not allow Port City Air to count hangar space already leased for other purposes (a Part 145 repair station) towards that 12,000 requirement. That is one of many examples of preferential treatment that Million Air seeks but Port City Air did not receive. Those issues have been briefed already and are not repeated here.

Economic concerns.

The greatest immediate risk is economic. Military business accounts for over 76% of the fuel need at KPSM. In 2019—the last full year before the runway's temporary closure—the military purchased 6,233,909 gallons of fuel, and the related CRAF Program customers purchased 2,615,443 gallons. It takes more than 100 Port City Air employees at the airport to cater to the military needs and ensure that the airport's other customer needs are met. The CRAF flights generate significant airport income, and account for a significant share of the minimum 10,000 enplanements needed for KPSM to remain a Primary Airport with the FAA.

In 2019, the military business accounted for at least 5,348 hotel room nights in the Portsmouth Area, a figure that does not include rooms the military booked without Port City Air's assistance. The overnight stays bring restaurant, entertainment, shopping, and other tourism-derived income to Portsmouth and its environs. That income supports businesses and jobs outside the airport in the Seacoast community.

That military business was earned, not given. In 2008, the military portion (DLA and CRAF) of KPSM's fueling volume totaled about 590,000 gallons, or 16% of KPSM's total gallons pumped. Because of PCA's efforts, by 2019, the military fueling volume grew to more than nine million gallons, or nearly 80% of KPSM's total gallons pumped. That represents an impressive compounded annual growth rate of 26% over that 12-year period. The DLA contract selects a single vendor at the airport and sets a price for fuel, but a mix of schedulers, dispatchers, planners, and flight crews in the various military branches choose where aircraft land. Port City Air earned the military business through exceptional, concierge-level service that

requires diversified capability (catering, specialized cargo, dangerous goods handling, specialized ground handling) and a deep bench of cross-trained employees.

Selling fuel is only one part of heavy lift military and commercial aircrafts' needs. Those customers require a combination of complex services that frequently requires the full force of Port City Air's 100+ employee staff. If Million Air wins the military contract, its 21-person operation and small facility could not sufficiently support the breadth of KPSM's customers. Should there be a gap or dip in customer service, the hard-won military business can easily leave Portsmouth, just as it left Bangor and the Canadian Maritimes for Portsmouth to take advantage of Port City Air's superior service offering.

The next DLA bid cycle has begun. On February 24, 2021, the DLA issued its bid solicitation. The bid follows the "lowest price technically acceptable source" methodology. That means the DLA bases its decision on fuel price, not customer service or qualitative factors. See https://www.acquisition.gov/far/15.101-2 (describing "lowest price technically acceptable source" methodology). That bid methodology means the DLA will not ensure that Million Air can provide the level of service necessary to keep this airport's military business. The FBO that wins the DLA contract will either keep or lose the military business depending on that FBO's quality of service.

The military fuel need (DOD and CRAF) represents over 76% of the fuel need at the airport, and only one FBO can provide it. The remaining fuel need cannot sustain a second fullservice FBO. If Million Air wins the DLA contract, Port City Air will have a massive fuel farm sitting empty, and approximately \$7 million in specialized ground service and fueling equipment rendered redundant. If Port City Air stays open at all, it would need to reduce staff by 80+ employees. Million Air proposes to employ 21 people, which means a net loss of 59 or more jobs at the airport. And even if Million air were to win the contract, it would not have the facilities, offices, parking spaces, and ground handling equipment to service the volume of traffic that Port City Air and the PDA have attracted to KPSM.

If Million Air does not meet or exceed Port City Air's customer service levels, military business will likely choose to land elsewhere. That would hurt KPSM via lost revenue from fuel flowage fees, fewer enplanements, and fewer jobs for the Seacoast community. The PDA would never know the scale of its loss, as the PDA would not be able to identify missions that previously used KPSM but now fly elsewhere. The decrease at KPSM would not hurt Million Air, as Million Air could scale down the military business to suit its 21-person operation and persuade defense officials to divert excess traffic to other airports where Million Air has a DLA contract. Servicing less military traffic may be more profitable for Million Air because it could reduce Million Air's marginal costs, yielding a greater profit on a smaller operation. Winning the DLA contract would also lock Port City Air out from earning additional military business at KPSM that might otherwise visit airports serviced by Million Air.

Performance concerns.

To protect the public good while awarding Million Air its shortcuts and concessions, the PDA should confirm that Million Air will perform its promises. Given the stakes, that confirmation demands a financial and operational due-diligence review. That review should include researching at least the following questions:

- What is the strength of Million Air's promise? Million Air's application provides that only Pease Aviation Partners, LLC, a limited liability, single-purpose entity, with no disclosed operating assets, shall be obligated to the PDA. There are no cross-corporate or personal guaranties. Those features of Million Air's proposal essentially assign all financial risk to the PDA.
- Even if Million Air were to offer guaranties, is the Million Air group of businesses financially capable of performing?
- 3. Has Million Air kept its promises to other airports?

The PDA can protect the public good.

Neither the equal protection laws nor the FAA Grant Assurances compel the PDA to violate its statutory duty of always acting "in a manner which is consistent with the public good" RSA 12-G:7, II. To be sure, the PDA cannot act arbitrarily. But it can and should protect the airport and the public by enforcing its environmental protection mandate, and protecting the airport's revenue, jobs, growth, and Master Plan.

Equal protection law supports the PDA acting in a manner consistent with the public good.

Rejecting Million Air's proposal for legitimate reasons complies with the equal protection laws. For equal-protection reasons and to ensure fair competition, the law directs that the PDA should treat all FBO applicants the same. The State and Federal Constitutions require equal protection under the laws. N.H. Const. Pt. 1, art. II; U.S. Const. amend. XIV. By enforcing the Minimum Standards, the environmental protection mandate, the Master Plan, and by only permitting Million Air to fuel once it has mostly completed its permanent facility, the PDA would treat Million Air the same as it treated Port City Air.

Courts will uphold the PDA's decision based on economics because it is "rationally related to a legitimate governmental interest." <u>Marasco & Nesselbush, LLP v. Collins</u>, 327 F. Supp. 3d 388, 394 (D.R.I. 2018) (quoting <u>Cook v. Gates</u>, 528 F.3d 42, 48 n.3 (1st Cir. 2008)) ("Government action has a rational basis where it is 'rationally related to a legitimate governmental interest."). By statute, the PDA has an interest in acting in a manner consistent with the public good. RSA 12-G:7, II. By necessity, the PDA must have an interest in managing the airport, protecting the environment, and enforcing its Master Plan. The equal protection laws therefore permit the PDA to act in the best interests of the airport.

FAA Grant Assurances permit the PDA to act reasonably.

Similarly, the FAA's Grant Assurances permit the PDA to act in the airport's best interests. Grant assurance issues are typically raised via a "Part 16" complaint, where a party seeking to build a facility at an AIP-grantee airport was denied permission, or a current airport tenant who is harmed by an airport authority's grant of permission to another entrant, alleges that the airport violated its AIP funding Grant Assurances.

Grant Assurances 22 and 23 are the closest calls, and both permit the PDA to deny applications or demand reasonable modifications to a pending application. Grant Assurance 22 provides, in relevant part:

- The PDA, as the "sponsor," "will make the airport available as an airport for public use
 on reasonable terms and without unjust discrimination to all types, kinds and classes
 of aeronautical activities, including commercial aeronautical activities offering services
 to the public at the airport." Grant Assurance 22(a).
- "The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport." Grant Assurance 22(h).

The bolded language proves that Grant Assurance 22 permits the PDA to act reasonably. The PDA may impose "reasonable terms" and it may treat applicants differently, so long as that different treatment is not unjustly discriminatory. The FAA has interpreted Grant Assurance 22 that way. For example, in <u>Monaco Coach Corp. v. Eugene Airport et al.</u>, the FAA upheld an airport authority's rejection of an applicant's request to build a fuel farm near its hangar. <u>Monaco Coach Corp. v. Eugene Airport et al.</u>, FAA Docket No. 16-03-17 (July 27, 2004) at 2-3. That airport authority had designated a central area where all fuel storage tanks must be built, and the FAA ruled that the airport authority was able to restrict fuel-farm construction to that central area. <u>Id.</u> The FAA noted that the airport authority had previous soil and groundwater contamination issues related to fuel spills, which prompted it to enforce its master plan, rules, and lease restrictions to keep fuel farms at a central location. <u>Id.</u> at 6-7.

Grant Assurance 23 is much the same, in that it prohibits unreasonable requirements and unjust discrimination. That assurance, provides that the PDA

...will permit no exclusive right for the use of the airport by any persons providing, or intending to provide, aeronautical services to the public ... and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under the Airport and the Airway Improvement Act of 1982.

The FAA has clarified that "the application of any unreasonable requirement or standard that is applied in an unjustly discriminatory manner may constitute a constructive grant of an exclusive right." <u>Monaco Coach Corp.</u> at 15. Federal courts have found the grant of an exclusive right "where a significant burden has been placed on one competitor that is not placed on another." <u>Id.</u> (citing <u>Pompano Beach v. FAA</u>, 774 F.2d 1529 (11th Cir. 1985)).

The terms "reasonable" and "not unjustly discriminatory" must be interpreted as exceptions available to the PDA. The law gives meaning to every word in contracts and statutes. OrbusNeich Med. Co., BVI v. Bos. Sci. Corp., 694 F. Supp. 2d 106, 114 (D. Mass. 2010) (quoting Clark v. State Street Trust Co., 270 Mass. 140, 155, 169 N.E. 897 (1930)) ("It is a canon in the interpretation of contracts that every word and phrase must be presumed to have been employed with a purpose, and must be given a meaning and effect whenever reasonably possible."); Moskal v. United States, 498 U.S. 103, 109, 111 S. Ct. 461, 466 (1990) (quoting United States v. Menasche, 348 U.S. 528, 538–539, 75 S.Ct. 513, 519–520 (1955)) (it is an "established principle that a court should 'give effect, if possible, to every clause and word of a

statute.""). The only interpretation that gives meaning to those words is one that establishes a rule of reasonability for the PDA to regulate its airport.

As discussed above, the PDA has ample reason to conduct due diligence, require Million Air to follow the same sequence of approvals as imposed on Port City Air, and protect the local environment. Any one of those reasons would permit the PDA to deny the application as presented.

Denying Million Air's application as presented, or conducting meaningful due diligence before voting on the application, does not amount to a grant of exclusive rights to Port City Air. Rather, it is a measured response to an application that poses various risks to the airport, and Million Air would be free to resubmit a proposal that does not create the same risks. In contrast, the PDA's acceptance of such a problematic proposal from Million Air would require Port City Air to consider its options to address the potentially devastating effects of such a discriminatory treatment or action, in the form of an equal protection claim or Part 16 complaint.

FAA Part 16 procedures include a savings provision for PDA.

Should Million Air file a Part 16 complaint, and should PDA second guess its decision, the PDA is still entitled to correct its decision without penalty. The FAA considers the successful action by an airport to cure any alleged or potential past violation of applicable federal obligation to be grounds for dismissal of such allegations. <u>See, e.g., Wilson Air Center v.</u> <u>Memphis and Shelby County Airport Authority</u>, FAA Docket No. 16-99-10 (Aug. 30, 2001) (Final Decision and Order).

Conclusion.

The law does not divest the PDA of its powers to act in a manner consistent with the public good. Million Air seeks preferential treatment so it can capture a military contract that, based on its current plans, it likely cannot handle without significant customer dislocation, which places the airport, workers, and the local economy at risk. Million Air's application poses environmental, planning, and economic risks to the PDA—all without any performance guaranties or a due diligence review. Equal protection laws and the FAA Grant Assurances do not make the PDA beholden to any FBO applicant. Rather, the laws and assurances support reasonable action by the PDA.

Port City Air does not fear competition—it just seeks a level playing field and a decision that considers the risks to the PDA and beyond. It is reasonable for the PDA to conduct due diligence, enforce the Master Plan, protect the environment, and guard the airport's service capabilities and jobs. The Board should exercise its lawful authority and deny Million Air's application as presented, with an invitation to submit a corrected application to be considered upon completion of a due-diligence review.

MEMORANDUM

From: Port City Air, Inc.

To: Pease Development Authority Board of Directors

Date: March 9, 2021 RE: Application for

Application for multi-phase development

Exeter Street, Portsmouth International Airport

Introduction.

Port City Air proposes a three-phase growth and development plan at KPSM which includes the construction of 90,000 square-feet of facilities, to include: 1.) a dedicated Department of Defense / CRAF Program Operations Terminal; 2.) a flex-use cargo and ground service equipment ("GSE") facility; and 3.) a world-class Jetport and hangar facility. The proposed facilities make correct use of the Security Identification Display Areas ("SIDA") on KPSM, unlike a new General Aviation facility, which would not.

KPSM's need for these facilities, and Port City Air's conceptual development plans for these facilities, are well known to the PDA. The plans have evolved over the past three years, during which time members of Port City Air's staff and the PDA's Executive Team have participated in multiple meetings and discussions, including as recently as January 2020, just before the onset of COVID-19.

Port City Air's concept addresses KPSM's most pressing growth needs, which are:

- Fostering continued growth with KPSM's most significant customers, the DOD (military) and CRAF Program charter flights, and expanding to accommodate that business growth.
- 2.) Alleviating the potential for congestion conflicts between CRAF Program charter flights and increased scheduled airline passenger service at KPSM's airline passenger terminal.
- 3.) Preparing to meet future increases in the volume of cargo / freight associated with increased airline traffic at KPSM's terminal.
- 4.) Meeting the increased demand for high-tail hangar space for General Aviation aircraft, which has resulted from the repeal of NH's former registration fee tax structure— something that Port City Air championed with the legislature.
- 5.) Creating a dedicated GSE maintenance and storage facility for the extensive fleet of GSE that supports ongoing and expanded operations at KPSM, which has been displaced from existing hangars to accommodate the demand for high-tail hangar space.

Port City Air's proposal provides concrete solutions to address each of those important growth objectives without the need to build a second major fuel farm at KPSM in an environmentally sensitive area. By contrast, the competing proposal does not meaningfully address <u>any</u> of KPSM's infrastructure or growth objectives but does require a new fuel farm.

Port City Air's construction would be in three stages:

- Construction of a 30,000 square-foot facility on the Exeter Street parcel consisting of a 10,000-sf terminal dedicated to DOD / CRAF's particular needs.
- 2) Construction of a 20,000 sf of flex-use GSE / Cargo facility.
- 3) Construction of a 43,200 square-foot Jet Center facility (not on the Exeter St. parcel), consisting of a 31,200-sf hangar, and a 12,000-sf office and lobby. This facility is already needed because all of Port City Air's hangars have reached capacity.

Phase I: DOD / CRAF Program Services Terminal, to be completed during FY 2021, secured by a nonrefundable \$1.0 million construction escrow.

This 10,000-sf facility will service KPSM's DOD and CRAF program flights, which are currently serviced in KPSM's terminal or on the 139 Commercial Overflow Ramp. The attributes and advantages of this facility include:

- 1.) A custom design that allows US military personnel arriving on DOD and CRAF program flights (both outbound and CBP-approved inbound flights) to deplane while their aircraft is serviced with fuel, lavatory, water, maintenance, etc. Indoor and outdoor spaces will allow troops to mingle, stretch their legs, enjoy food and soft drinks, and access entertainment and game rooms to relax in comfort. At present, these troops flood KPSM's terminal, which will conflict with any significant airline growth at KPSM.
- 2.) If conflicts arise as KPSM successfully attracts new airlines, CRAF Program flights may be diverted to other airports in the Northeast, which already have dedicated facilities for handling terminal overflow. This dedicated facility would avoid such conflicts and permit the significant expansion of airline and CRAF Program flights into KPSM.
- 3.) A 3,000-4,000-sf Federal Inspection Services facility would further alleviate pressure at the main terminal. As PDA Staff knows, Port City Air has discussed this possibility with Customs and Border Patrol ("CBP"). To date, CBP has not been in favor of a secondary FIS facility at KPSM. However, future growth at KPSM's terminal will eventually pressure all stakeholders to open a FIS facility. This facility will also provide the CBP with increased operational flexibility to handle over-flow clearances related to GA International "Tech-Stop" at a secondary facility when the KPSM terminal is at capacity. If CBP does not immediately agree to utilize the facility, Port City Air will still reserve the necessary space to eventually incorporate a Federal Inspection Services station.
- 4.) Six to eight dedicated sleep rooms will meet DOD specifications, which will accommodate the needs of flight crews on "ready-alert" status for multi-day Coronet (mid-air refueling) missions operating over the North Atlantic. This unique and

unmatched capability will grow KPSM's business and distinguish KPSM from all competing airports in the eyes of mission planners who coordinate these Coronet missions.

- 5.) KPSM's Pease Greeters could resume a more direct role in supporting and thanking our troops, given the facility's security infrastructure and the development of an appropriate security protocols with TSA and PDA Airport Security staff.
- 6.) This unique facility would increase KPSM's competitive advantage and help attract new business to KPSM, generating additional flowage fee revenue for the PDA.
- 7.) In addition to maximizing revenue, the PDA's operating costs would decrease because Port City Air would be responsible for perimeter security and cleaning staff.
- 8.) Unlike alternative proposals, this facility would not require additional fuel farms or fuelers, as Port City Air's existing 300,000+ gallons of fuel storage capacity would meet all of this increased demand.
- 9.) Should the CRAF Program cease operations due to developments overseas, the facility could be easily repurposed for use as aviation and ground support facilities and offices.

<u>Phase II: Ground Service Equipment ("GSE")/ Cargo Mixed Use facility, to be completed</u> during FX 2022, secured by a nonrefundable \$1.0 million construction escrow.

This 20,000 square-foot mixed-use facility is highly versatile: it is easily adaptable from a GSE maintenance and storage purpose to a cross-dock cargo handling facility on an as-needed basis. This facility will provide non-hangar space for GSE maintenance and storage, and allow KPSM and Port City Air to meet KPSM's near-term need to handle "belly cargo" as KPSM increases its scheduled airline traffic.

GSE Maintenance and Storage:

As a result of increased demand for hangar space at KPSM, Port City Air has no more space to store its GSE equipment. Industry "best practices" advise against storing GSE in hangars because it increases the frequency of hangar door openings and movement of equipment within the hangar, which encourages accidents and damage to GSE and aircraft. Regulations prohibit Port City Air from servicing and maintaining its large fleet of refuelers inside its existing facilities. Currently, no facility at KPSM is approved for fuel-truck maintenance. That presents a significant and often time-sensitive challenge to Port City Air's mechanics during inclement weather, as all maintenance must be performed outdoors. Outdoor storage also greatly reduces the dependability and lifespan of these vehicles.

This facility will support Port City Air's growing need to support and maintain its modern and legacy fleet of GSE. This space will allow Port City Air's GSE maintenance team to

effectively maintain, troubleshoot and repair the airport's most critical pieces of support equipment. The enclosed storage for Port City Air's large GSE fleet will increase its usable life.

The facility's proximity to the 139 Commercial Overflow and Airline Passenger Terminal ramp areas where this equipment is used most frequently provides for faster response times and reduced wear and tear.

Air Cargo:

As and when needed, this facility could be quickly and seamlessly converted into a crossdock facility capable of storing, sorting and handling any airline "belly cargo." Port City Air operated a vibrant belly cargo operation when it serviced Skybus Airlines and still has the requisite personnel, training protocols, and equipment to handle it. The only piece missing is a facility.

Currently, there are no facilities within the SIDA where cargo shipments can be stored and processed. Port City Air regularly receives ad-hoc requests from both freight forwarders and cargo carriers expressing a desire for this capability, and this need will certainty increase with the arrival of any new airlines at KPSM. Allegiant is one of only a few US carriers that do not permit the shipment of belly cargo; most other airlines do. There is a significant chance that any carriers considering KPSM will expect the airport to meet this need. This facility would meet those carriers' demands. Having such a facility would benefit KPSM, as the belly-cargo capability would draw airlines and generate significant revenue for PDA in the form of dollarper-kilo fees.

Operating within the SIDA would also provide a cost savings to the PDA by reducing the workload on PDA operations staff for vehicle inspections, as Port City Air personnel will be able to operate inside of the SIDA without the need for repeat inspections.

This facility would enhance, not replace, existing capabilities. Seacoast Aviation Air Cargo's existing ad-hoc cargo facilities in Gigunda's building would continue serving general aviation and ad-hoc cargo charters. If the Gigunda facility is ever re-purposed and re-activated for cross-dock cargo handling, Port City Air would continue using this proposed facility for GSE maintenance and storage, and to support the terminal.

Unlike the competing proposal, this facility would not require the support of additional fuel farms or fuelers. It would not impact any of KPSM's wetlands. Similarly, this proposal would not require the rezoning of the Exeter Street location. Million Air's proposal would hamper future operations because future cargo and GSE support facilities would need to be built further from the designated commercial ramps, perhaps even encroaching into the general aviation sectors of the field. Such a move would result in reduced efficiency and higher operating costs for both the PDA and KPSM's service providers.

Phase III: Port City Air Jetport Center, to be completed during FY 2022/23, secured by a nonrefundable \$1.0 million construction escrow.

This 43,200 square-foot, world-class jetport facility would hangar a mix of some of Port City Air's existing aircraft tenants, provide expansion opportunities for new high-tail hangar customers, while also servicing KPSM's transient general aviation customers. Other attributes and advantages include:

- 1.) Port City Air's aircraft hangar space is approaching maximum capacity, which limits the available room to support future growth of its existing 145 Repair Station operations (i.e., Port City Air's fixed wing, avionics, helicopter, aircraft-on-ground, and jet maintenance operations) at 104 Grafton Drive. As has been discussed with the PDA on numerous occasions, Port City Air would like to convert the existing 104 Grafton Hangar Facility into a dedicated general aviation maintenance facility.
- 2.) The 104 Grafton lobby and downstairs office area would be converted into a small aircraft general aviation facility, primarily servicing single- and twin-engine piston aircraft. That space would also serve as the launch and recover center for Port City Air's hangar tenants located in KPSM's general-aviation area.
- 3.) The current, daily day comingling of Port City Air's maintenance, jet and piston operations creates operational inefficiencies and potential safety concerns. Building a dedicated jet center would greatly improve Port City Air's current ramp congestion issues and enhance its safety protocols.
- 4.) This expansion would not require additional fuel farms or fuelers, as Port City Air's existing 300,000+ gallons of fuel storage capacity can meet increased demand, without any potential impact or risk to wetlands and aquafers.

<u>Port City Air's proposal would not require repurposing the Exeter Street Location for use</u> as general aviation facility.

The Exeter Street location should not be used for general aviation because:

- 1.) KPSM's "139 Ramp" adjacent to the Exeter Street Location is and always has been a dedicated ramp for heavy-lift DOD aircraft and an overflow area for large commercial aircraft. Redesignating it and the areas adjacent to and directly surrounding the Ground Run-Up Enclosure for general aviation activities would create an ongoing conflict where incompatible aircraft are vying for ramp and taxi space.
- Longstanding airport best practices advise against mixing general aviation traffic with or adjacent to commercial sized aircraft.
- 3.) The standard jet-blast setback requirements and the breakaway thrust requirements of the commercial and DOD aircraft which frequent the 139 Ramp suggest negative or catastrophic consequences if those aircraft park near general aviation traffic. Port City Air has studied the government and industry documented jet-blast setback requirements

and determined that parking general aviation aircraft near the large aircraft that typically frequent the 139 Ramp would pose significant safety risks to airport personnel, customers, and aircraft. This is one of the primary reasons that Port City Air elected not to pursue the December 2019 proposal designed by Port One Architects to construct a Jetport facility on the Exeter Street Location.

- 4.) Locating a fuel farm and fuel-truck parking adjacent to a wetlands area (which feeds directly into wetlands and similarly protected land trust and natural habitat areas) poses environmental risks.
- 5.) The Exeter Street parcel is located within KPSM's SIDA security area. General aviation customers would not be able to access their aircraft alone. A credentialed person would need to drive customers, crews, and passengers to and from their aircraft, creating ongoing SIDA and TSA security issues.
- 6.) Currently, KPSM has no GSE storage, maintenance or repair facilities to handle the GSE required to service KPSM's customers. The Exeter Street Location is the best place to locate such a facility without the need for either an access road or bridge through existing wetlands.
- 7.) Developing the Exeter Street site into a general aviation facility does not make practical sense and conflicts with the PDA's Master Plan.

KPSM is a dynamic, growing airport. It needs to expand its facilities to anticipate future growth. This proposal is forward looking, mutually beneficial for Port City Air and the PDA, and makes proper use of the Exeter Street location. It mitigates environmental risks, it creates an efficient SIDA environment, and it caters to KPSM's most significant aviation customers. It is also backed by construction escrow funds, to further demonstrate Port City Air's long-term commitment to KPSM. The attached comparison sheet highlights the advantages of Port City Air's proposal.

Comparative Analysis of Competing KPSM Growth Plans		
	Port City	Port City Million
	Air	Air
Common Attributes of All PCA Proposed Facilities:		
Meets KPSM's own Master Plan recommendations to develop the 139 ramp area for Commercial rather than General Aviation development	YES	NO
PCA's planned road access will cause little or No disruption to KPSM Wetlands	YES	NO
PCA's plan eliminates the need for a bridge to span existing. KPSM Wetlands	YES	N
Would not require the construction of any new or redundant massive fuel farm facilities, and would eliminate potential conflict with wetlands	YES	NO
Dedicated DOD / CRAF Program Services facility:	-	
Alleviates KPSM Airport Terminal congestion concerns, which unless addressed will hamper KPSM's ability to retain the CRAF Program flights at KPSM	YES	NO
Unique special purpose DOD/CRAF facility would provide KPSM with a unique & differetiated competitive advantage vis-a-vis other regional Airports	YES	NO
Inclusion of an FIS facility which would also provide KPSM with competitive advantage versus other regional Airports	YES	NO
Provides a dedicated gateway facility to serve and honor US Military Service Personel as they depart or arrive for overseas missions	YES	NO
Assuming acceptable safety and security protocols can be established, this facility may enable the re-introduction of Pease Greeter activity	YES	NO
Inclusion of dedicated Sleep rooms & flight planning facilities would increase likilhood of DOD & NATO Mission Planners to utilize KPSM for North Atlantic fuciing Ops	YES	NO
Result in increased marketing opportunities to attract. DOD, CRAF Program and other heavy lift passenger and cargo "Tech-Stop" activity to KPSM	YES	NO
Result in increased flowage fee and revenue opportunities for KPSM	YES	NO
Result in reduced operating costs for the PDA (i.e. reduced need for PDA security and cleaning activities)	YES	NO
CARGO ATTRIBUTES of Multi-Purpose Cross-dock facility to support KPSM Airline Growth and Activity:		
Provides KPSM with a clear and mission ready growth plan for future KPSM Airline "Belly Cargo"	YES	NO
Provides a clear growth plan for the continued growth and servicing of KPSM's "Ad-Hoc Cargo needs" by Seacoast Aviation Cargo at Gigunda's facility	YES	NO
Depending on future cargo demand this facility can quickly and seamlessly be converted into high functioning cross-dock facility on an ads needed basis	YES	NO
PCA and SAC already has on-hand, all of the requisite Cargo handling personel, training protocols, and equipment to handle this activity	YES	NO
This KPSM Belly cargo facility would NOT compete with any future Amazon Prime facility which stay focused on servicing Amazon Prime Freighter activity	YES	ON
Result in reduced operating costs for the PDA (i.e. reduced need for PDA security and vehicle screening)	YES	NO
Belly cargo would provide a significant new revenue source for KPSM		
GSE MAINTENANCE FACILITY ATTRIBUTES of GSE Maintenance Storage facility:		
GSE facility would provide dedicated facility for GSE Maintenance and Repair	YES	NO
Would provide the only place at KPSM that Fuelers can be serviced inside	YES	ON
Relocation of PCA's existing GSE storage & support facilities out of PCA's existing Hi-tail Hangars, creates more opportunity for Hi-Tail hangar space and Airport Revenue	YES	NO
Positions GSE support and Maintenance facility within the SIDA perimeter, and closest to KPSM's Airport terminal & 139 Commercial Ramp where it is needed most	YES	Q
PCA Jet-Port facility:		
30,000 sf Hi-Tail hangar provides a clear growth plan for accomodating multiple High-Tail Aircraft at KPSM (Hi-Tail Aircraft hangars are the most in demand in the NE)	YES	-N/A-
Relocation of PCA's transient Jet activity to PCA Jetport, will enable 104 Grafton hangar to be converted into KPSM's only dedicated aircraft maintenmance support facility	YES	-N/A-
Opening of the PCA Jetport, would enable PCA's 104 Grafton FBO offices and lobby to be repurposed into a dedicated Low-lead General Aviation terminal	YES	-N/A-
The seperation of PCA's Jetport, smaller GA and maintenance facilities would significantly increase ramp safety and industry "best provements".	YES	-N/A-
PCA can support all of this growth with its existing fuel farm facilities and fuelers	YES	NO
Ensures KPSM is attracting the highest potential revenue generating customers for KPSM and PDA	YES	-N/N-
Provides the space in onnees and mangals for auditorial intrived service specially providers (and unlander) and and surgery manuscriptions	TES	NO

Building Design: Port City Air's Proposed DOD / CRAF Facility (Phase 1 of development)

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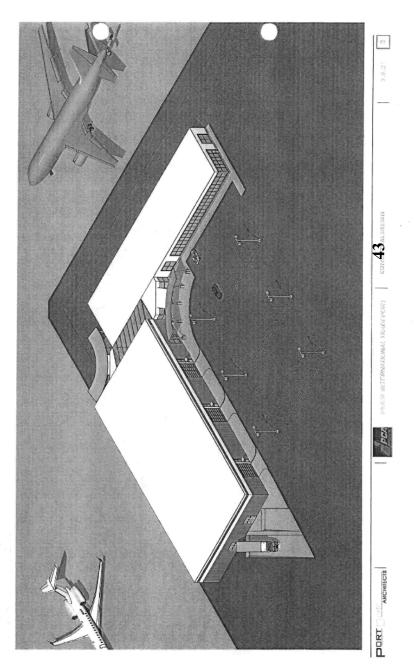
Proposed Flex-Use GSE/Cargo Facility

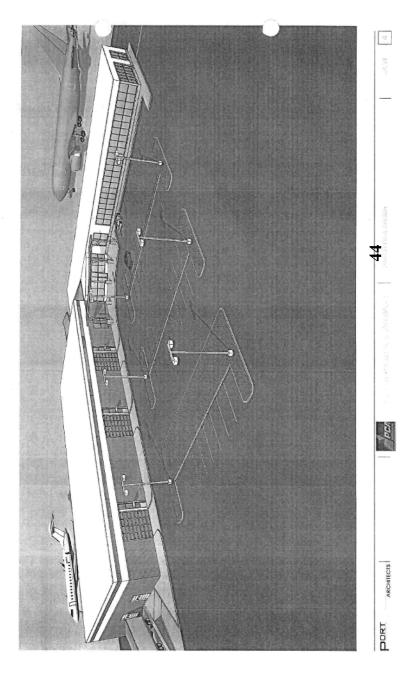
(Phase 2 of development)



site **42** shown la / PEA ARCHIECIS

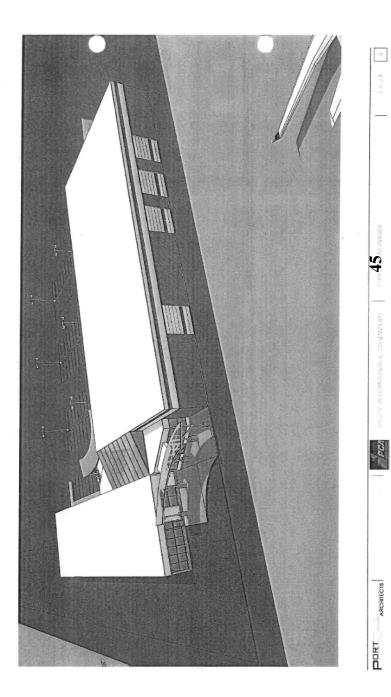
Multi-Use aviation facility



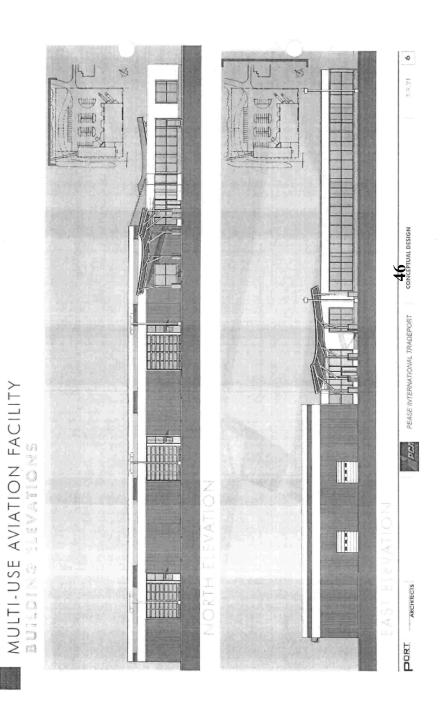


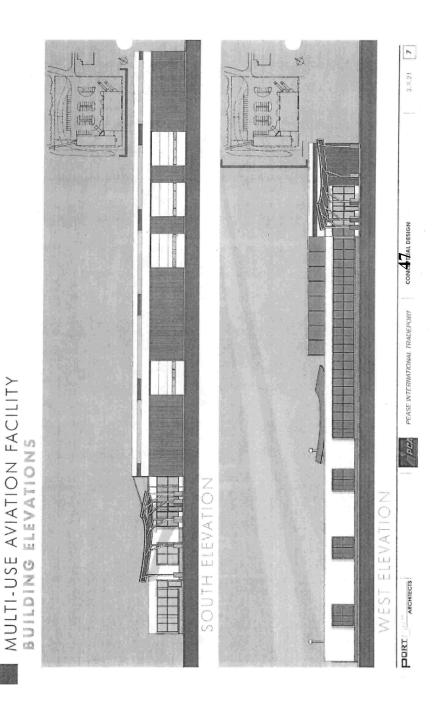
Multi-USE Aviation facility

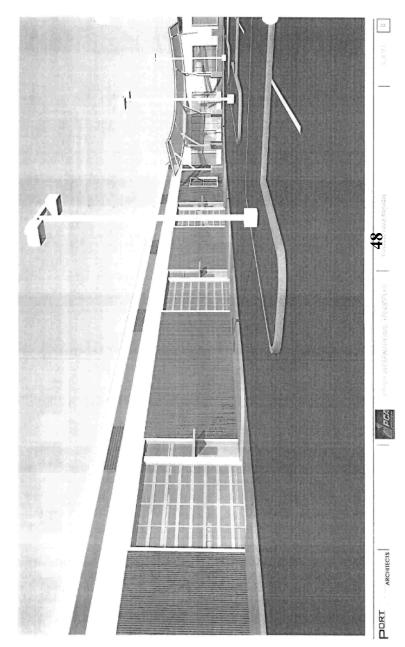
Multi-USE aviation facility



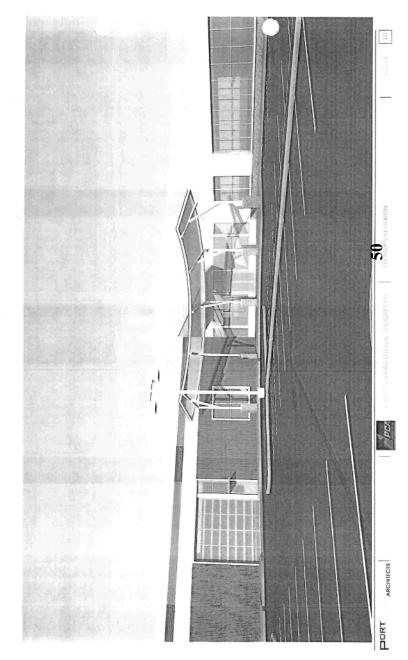
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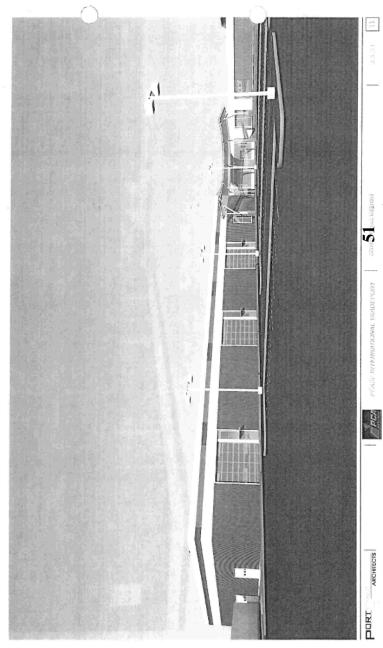


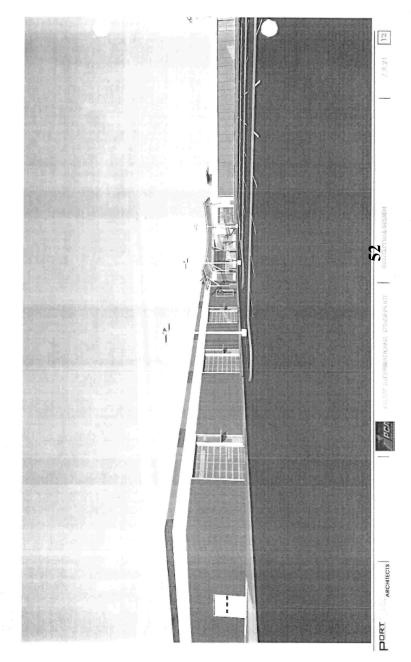


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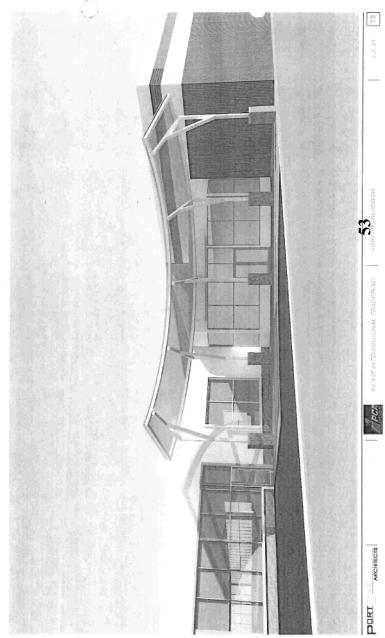


Multi-Use aviation facility

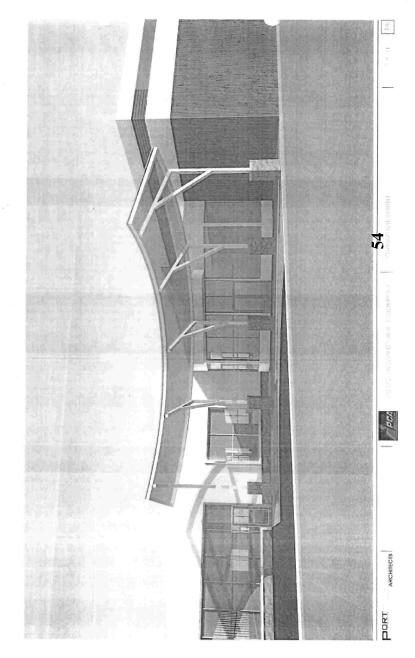


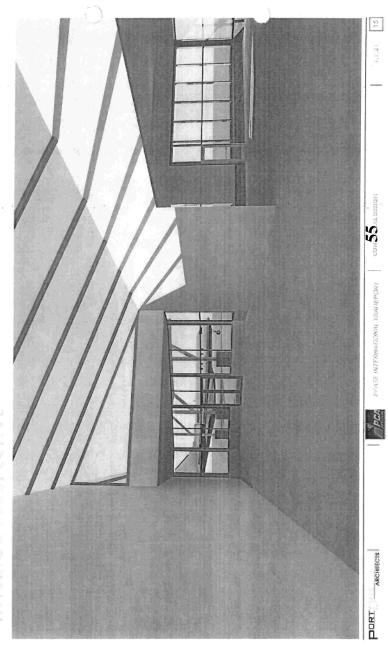


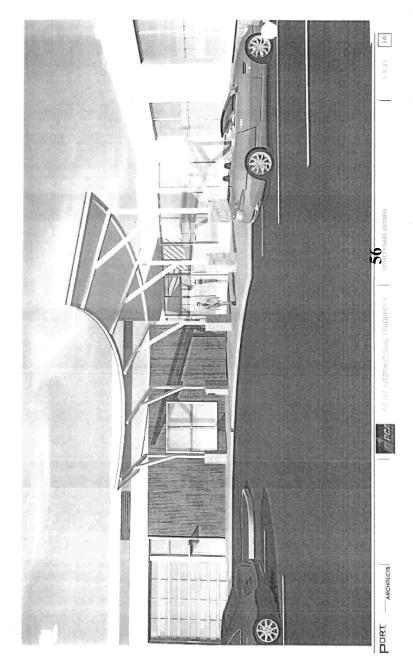




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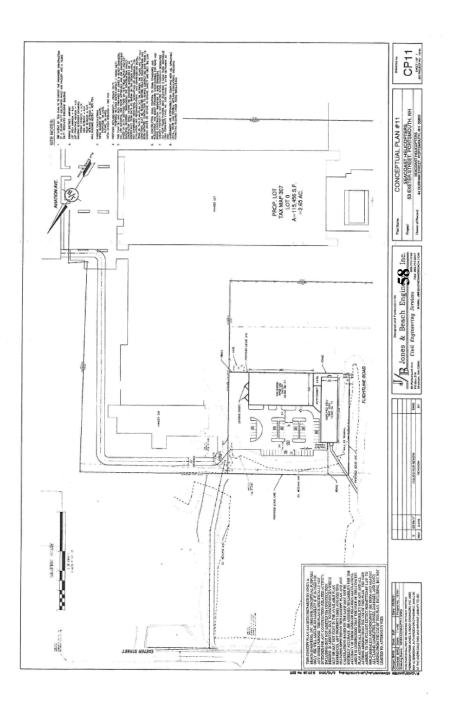


Site Plan: Port City Air's Proposed DOD / CRAF Facility (Phase 1 of development)

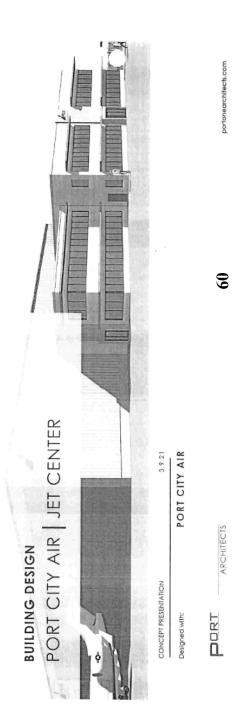
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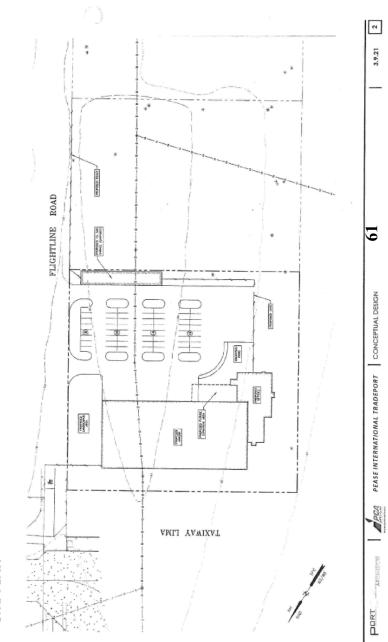
Proposed Flex-Use GSE/Cargo Facility

(Phase 2 of development)

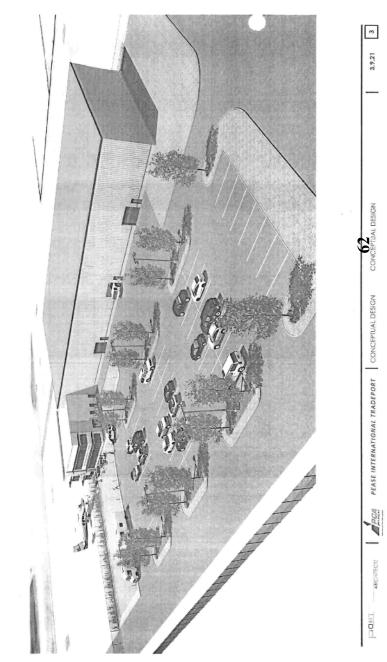


Building Design: Port City Air's Proposed Jet Center (Phase 3 of development)

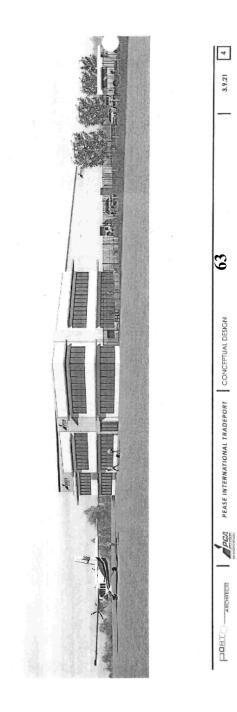






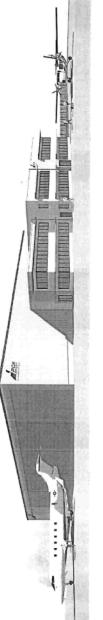


AERIAL VIEW



EXTERIOR PERSPECTIVE (NORTH)

1



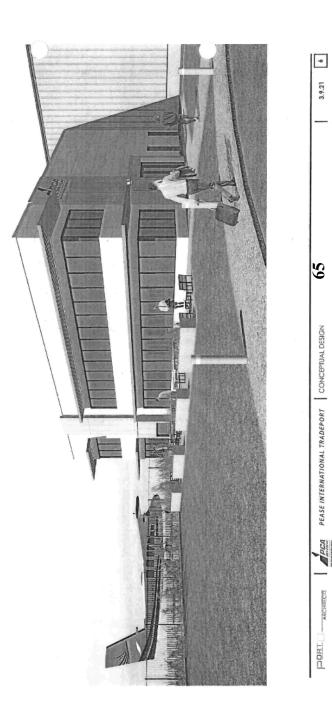
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PEASE INTERNATIONAL TRADEPORT

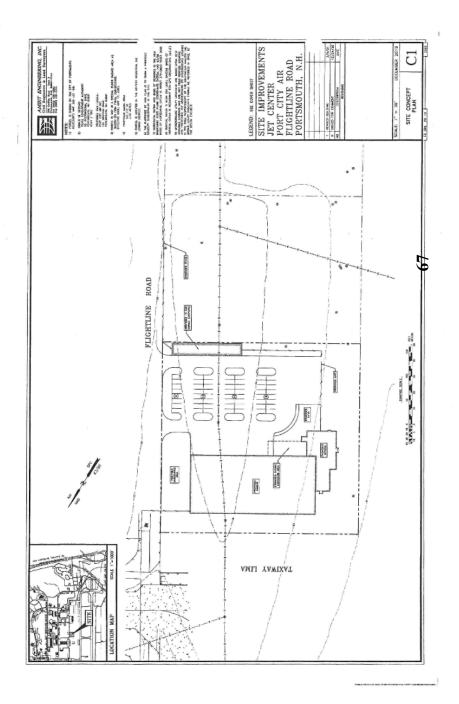
PORT ARCHITECT

EXTERIOR PERSPECTIVE (SOUTHEAST)

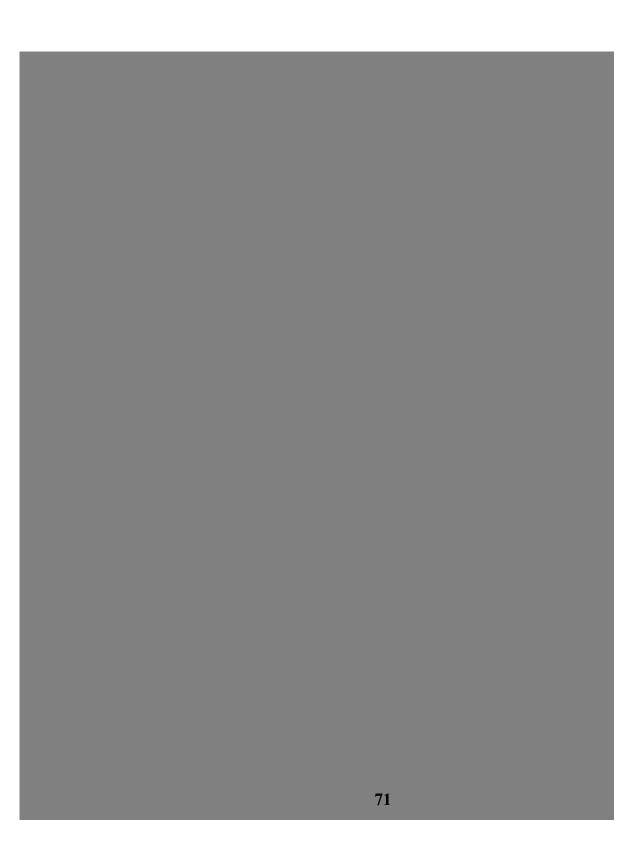


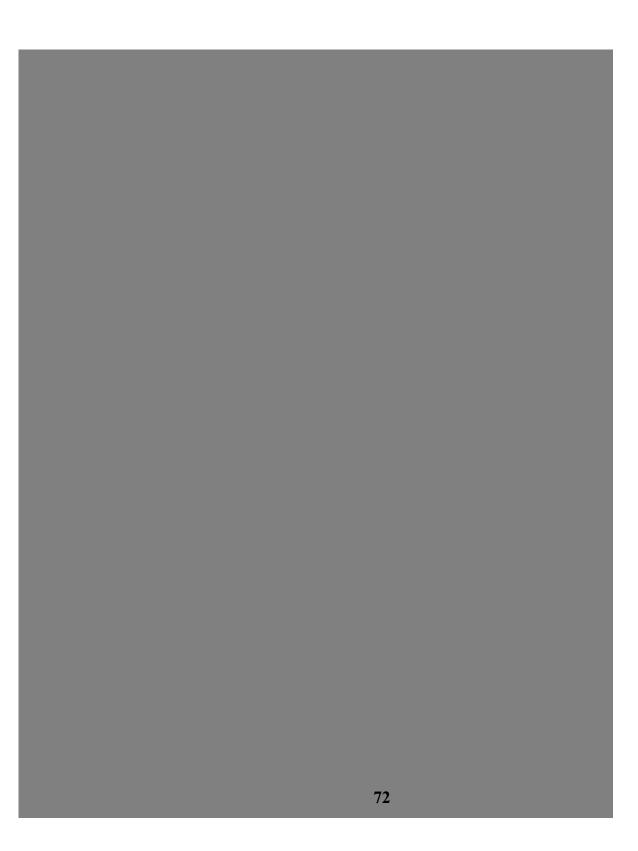
EXTERIOR PERSPECTIVE

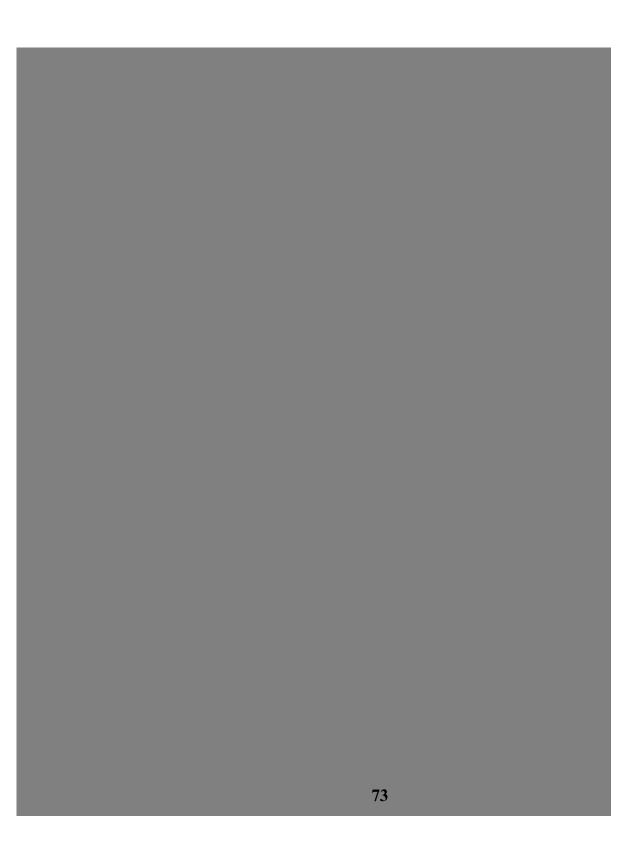
Site Plan: Port City Air's Proposed Jet Center (Phase 3 of development)



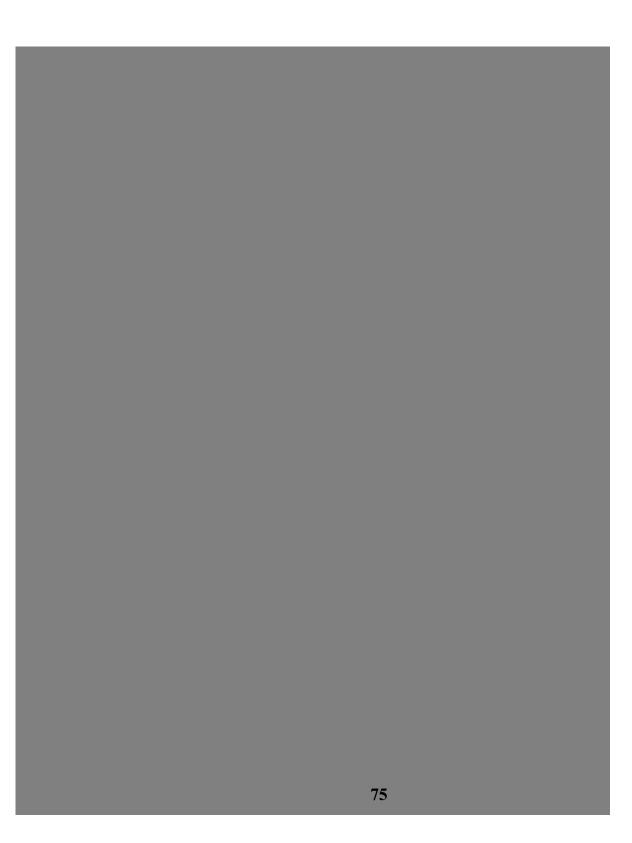


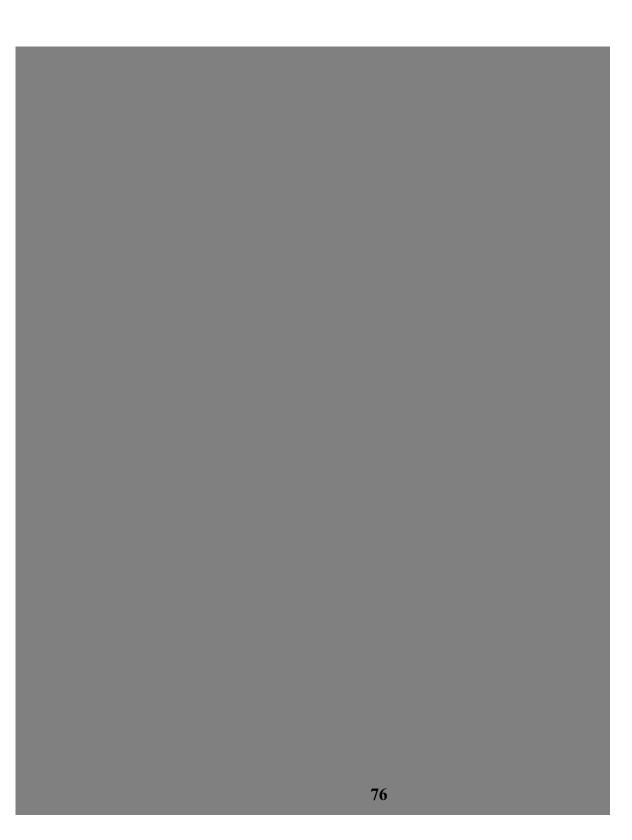


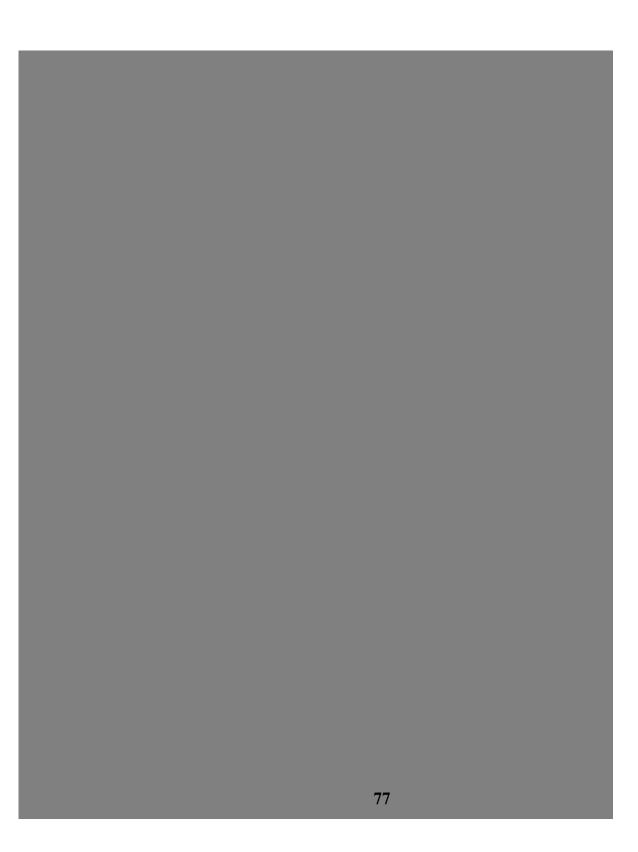




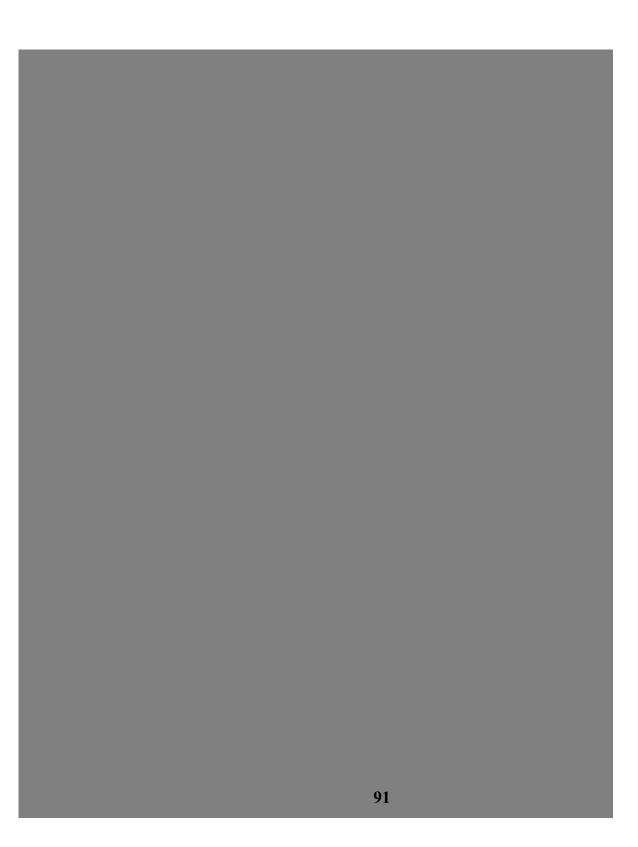














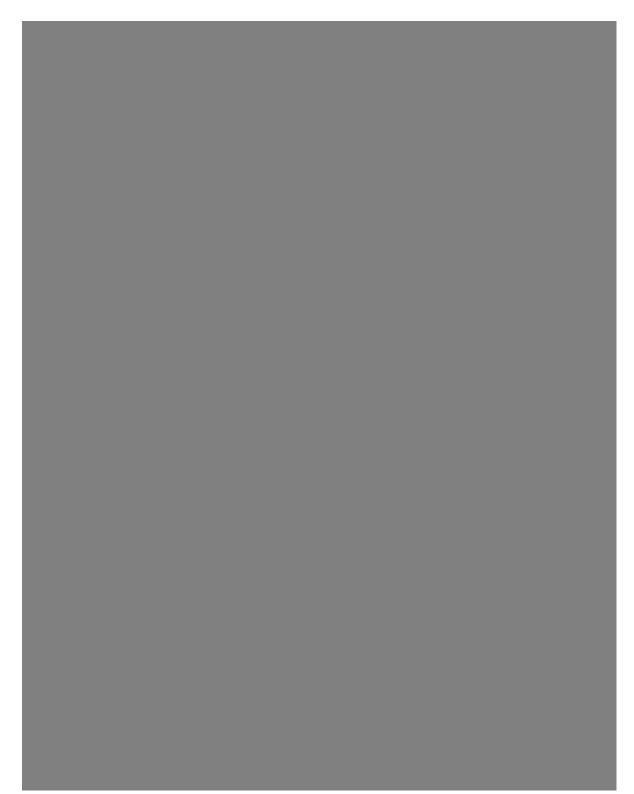


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- DOCUMENTATION OF APPLICANT'S LEGAL INTEREST
- PROJECT PLANS INCLUDING EXISTING CONDITIONS PLAN WITH WETLAND SCIENTIST'S STAMP











	box below to certify:	and the state of		
Initials:	To the best of the signer's knowledge and belief, all required notifications have been provided.			
Initials:	The information submitted on or with the application is true, complete, and not misleading to the best of the signer's knowledge and belief.			
Initials:	 The signer understands that: The submission of false, incomplete, or misleading information constitutes grounds for NHDES to: Deny the application. Revoke any approval that is granted based on the information. If the signer is a certified wetland scientist, licensed surveyor, or professional engineer license to practice in New Hampshire, refer the matter to the joint board of licensure and certification established by RSA 310-A:1. The signer is subject to the penalties specified in New Hampshire law for falsification in official matters, currently RSA 641. The signature shall constitute authorization for the municipal conservation commission and the Department to inspect the site of the proposed project, except for minimum impact forestry SPN projects and minimum impact trail projects, where the signature shall authorize only the Department to inspect the site pursuant to RSA 482-A:6, II. 			
Initials:	If the applicant is not the owner of the certification by the signer that he or sh filing. 5 - REQUIRED SIGNATURES (Env-Wt 313	ne is aware of the a	application being filed and do	
-/		1		DATE
SIGNATURE (OWNER):		PRINT, NAME LEGIBLY: YAIR, E BREAN		1/19/201
SIGNATUR	ETAPPLICANT, IF DIFFERENT FROM			DATE:
SIGNATURE (ABENT, IF ARPLICABLE):		Charles NL 5417A PRINT NAME LEGIBLY: Kimberly R. Peace		DATE: 11/29/2021
SECTION 1	6 - TOWN / CITY CLERK SIGNATURE (En	w-Wt 311.04(f))		a c secol any c
	d by RSA 482-A:3, I(a)(1), I hereby certif			rms, four detailed
plane, and four USGS location maps with the town		ircity indicated bei	PRINT NAME LEGIBLY. Rell. L. Barnaby	
TOWN/CITY: Portsmouth)			DATE: 12-1-2021	
i o i i i j ci	FOR TOWN/CITY CLERK: A:3, I(a)[1)			

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NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES WETLAND PERMIT APPLICATION for Construction of a Fuel Farm and Fixed Based Operator Facility at the Portsmouth International Airport at Pease, Portsmouth, NH Supplemental Narrative

The following information is offered as a supplement to the information provided in the Wetland Permit Application and Plans.

Explanation as to methods, timing, and manner as to how the project will meet applicable standard permit conditions required in Env-Wt 307 (Env-Wt 311.03(b)(7))

307.02 (US Army Corps of Engineers (USACE) Conditions). Appendix B is attached to this permit application.

307.03 (Protection of Water Quality Required). The contractor shall be responsible for implementing Erosion and Sediment control measures in accordance with the "New Hampshire Stormwater Manual, Volume 3 Erosion and Sediment Controls during Construction" by NHDES. Erosion and siltation control measures will be installed by the Contractor prior to start of any work and will be maintained during the duration of the construction activities. It is the Contractor's responsibility to not cause violations of surface water quality standards. Upon completion of the project, the project will cause no adverse effects on the quality or quantity of surface or groundwater entering or exiting the project site.

307.05 (Protection Against Invasive Species Required) It is unknown if invasive species are located within the project area. Should invasive species be identified during construction that are on the NH List of Prohibited Invasive Species (AGR PART 3802.01) and the plants cannot be avoided, all work, including daily removal of plant material from construction equipment, shall be conducted in accordance with the Department publication "Best Management Practices for the Control of Invasive and Noxious Plant Species

307.06 (Protection of Rare, Threatened or Endangered Species and Critical Habitat) The NH Natural Heritage Bureau was contacted regarding the proposed project (see attached letter NHB21-3135, dated 10/19/2021). The database check determined although there was a NHB record (e.g., rare wildlife, plant, and/or natural community) present in the vicinity, it is not expected that it will be impacted by the proposed project.

An official Federally-listed species list was obtained from the US Fish and Wildlife Service (USFWS) using the Information for Planning and Conservation (IPAC) online tool on September 8, 2021 (Consultation Code 5E1NE00-2021-SLI-0072). The list includes the Federally-threatened Northern Long Eared Bat (*Myotis septentrionalis*; NLEB). There is no tree removal associated with the project and therefore there will be no impact to NLEB. The list also noted the Monarch Butterfly (*Danaus plexippus*) as a candidate species.

307.10 (Dredging Activity Conditions) Perimeter controls will be installed prior to earth moving operations in the approximate locations shown on the attached plans and will remain in place until completion of the project and restoration of the site.

307.12 (Restoring Temporary Impacts: Site Stabilization) Upon completion of the project all temporary impact areas will be restored to the preconstruction condition.

307.13 (Property Line Setbacks) Abutting property lines are not within 10' of the proposed impacts. All work will be completed on property owned by Pease Development Authority (PDA). An easement or land lease will be executed prior to construction and will be provided to DES upon receipt.

307.15 (Use of Heavy Equipment in Wetlands) There will be no heavy equipment in the wetlands for construction of this project.

307.16 (Adherence to Approved Plans Required) All work shall be in accordance with the plans prepared by Hoyle, Tanner and approved by NHDES.

307.18 (Reports) The contractor will be responsible for preparing a Storm Water Pollution Prevention Plan. This plan will be submitted to NHDES for approval prior to the contractor working within the wetlands.

Construction Sequence and Timing

The construction sequence for the project is as follows:

- Install silt socks, inlet protection barriers and construction entrances as shown on the plans outside of the airport fence, prior to the start of any construction.
- Remove and dispose of existing pavement, site structures, utilities and vegetation as shown on the plans outside of the airport fence.
- Strip the topsoil outside of the airport fence and stockpile onsite. Construct a silt sock perimeter around all stockpiles.
- Place gravels for the proposed access drive. Construct and stabilize cut and fill slopes along the access drive. Apply temporary (or permanent) seed and mulch within 72 hours of their construction.
- 5. Install temporary security fencing. Coordinate with airport and Pease Development Authority.
- Remove and dispose of existing airport fence within project limits as shown.
- Install silt sock and inlet protection barriers in all remaining areas prior to the start of any construction.
- 8. Remove and dispose of the remaining existing pavement, site structures, utilities, and vegetation
- Strip the remaining topsoil and stockpile onsite.
- 10. Construct the fuel farm & concrete apron needed for operation.
- 11. Construct building footings and foundation walls for the FBO & hangar. Backfill foundation.
- 12. Construct bridge abutments and backfill.
- 13. Install all drainage, water, sewer, electric, telecom and gas utilities.
- Place gravels for the proposed parking areas and concrete apron. Construct and stabilize cut and fill slopes around the site. Apply temporary (or permanent) seed and mulch within 72 hours of their construction.
- Install binder paving course.
- 16. Construct the FBO and hangar.
- 17. Construct the concrete apron.
- 18. Install the pedestrian bridge.
- 19. Install curbing and pour concrete sidewalks.

- 20. Install new airport fencing. Remove temporary fencing once security controls are setup.
- 21. Install landscape plantings.
- 22. Install screened loam (4" min.) On all disturbed surfaces and apply permanent seeding.
- 23. Install finish pavement, pavement markings and signage.
- Remove trapped sediments from collector devices as appropriate and then remove temporary erosion control measures.
- 25. Clean the entire stormwater system of all sediment and debris, within the limit of work.

The current schedule is to commence construction in late spring of 2022 and complete construction by December 2023.

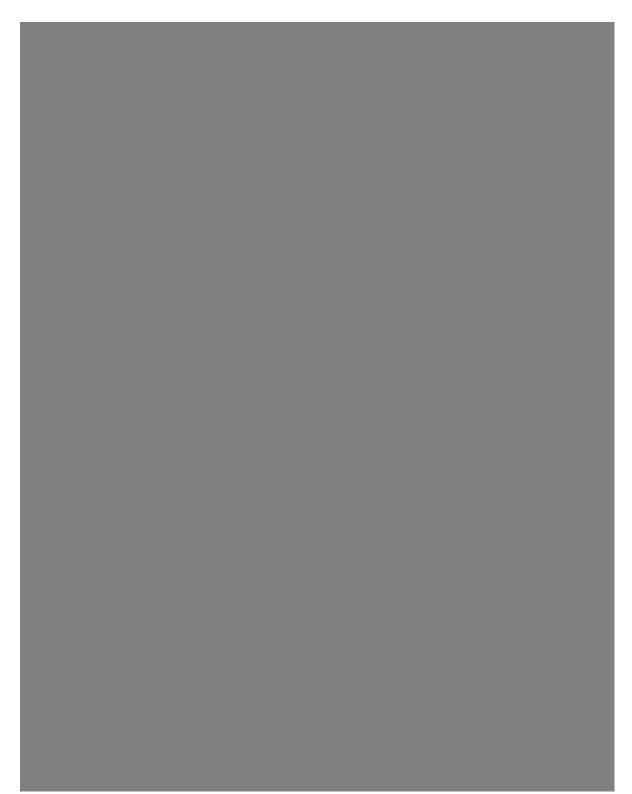
Statement of whether the applicant has received comments from the local conservation commission and, if so, how the applicant has addressed the comments (Env-Wt 311.06(h))

A copy of this wetland permit application was submitted to the City of Portsmouth for distribution to the Portsmouth Conservation Commission concurrent with submittal of the application to DES. Comments will be forwarded to DES should they be received.

Federal Agency Coordination

A USACE General Permit will be required for this project. Pre-application coordination with USACE was not completed during application development, as the GP conditions will be met. See section below for Appendix B and Checklist answers. Coordination with the US Fish and Wildlife Service (USFWS) was not required as noted in section 307.06 above.





U.S. Army Corps of Engineers New Hampshire Programmatic General Permit (PGP) Appendix B Corps Secondary Impacts Checklist (for inland wetland/waterway fill projects in New Hampshire)

Construction of a Fuel Farm and Fixed Based Operator Facility at the Portsmouth International Airport at Pease, Portsmouth, NH

Explanations For Checklist Answers

- 1.1 According to the 2018 Draft 303(d) list, Newfields Ditch is marginally impaired for aquatic life and fish consumption due to mercury and Upper Hodgson Brook is marginally impaired for fish consumption and severely impaired for aquatic life due to mercury. Both surface waterbodies lie over 1750 feet and 4,000 feet, respectively, and are disconnected hydrologically from the wetlands to be impacted. The proposed project will not add to these impairments.
- 3.1 The NH Natural Heritage Bureau was contacted regarding the proposed project (see attached letter NHB21-3135, dated 10/19/2021). The database check determined although there was a NHB record (e.g., rare wildlife, plant, and/or natural community) present in the vicinity, it is not expected that it will be impacted by the proposed project.

An official Federally-listed species list was obtained from the US Fish and Wildlife Service (USFWS) using the Information for Planning and Conservation (IPAC) online tool on October 8, 2020 (Consultation Code 5E1NE00-2021-SLI-0072). The list includes the Federally-threatened Northern Long Eared Bat (*Myotis septentrionalis;* NLEB). There is no tree removal associated with the project and therefore there will be no impact to NLEB. The list also noted the Monarch Butterfly (*Danaus plexippus*) as a candidate species.

- 3.4 The proposed project is to construct a new fuel farm and Fixed Based Operator (FBO) facility at Portsmouth International Airport at Pease (PSM) and is considered commercial development. The project limits are contained completely within the boundary of PSM and the project is consistent with the zoning and development in the area.
- A Request for Project Review was submitted to the NH Division of Historic Resources (NHDHR) in October 2020. A response was received with a determination of "No Historic Properties Affected". A copy of the determination is included with this application.

NH Natural Heritage Bureau (NHNHB) Review

New Hampshire Natural Heritage Bureau NHB DataCheck Results Letter

To: Deb Coon, Hoyle, Tanner & Associates, Inc. 150 Dow Street

Manchester, NH 03101

 From:
 NH Natural Heritage Bureau

 Date:
 10/19/2021 (valid until 10/19/2022)

 Re:
 Review by NH Natural Heritage Bureau of request submitted 10/5/2021

 Permits:
 NHDES - Alteration of Terrain Permit, NHDES - Wetland Standard Dredge & Fill

 - Minor, USACE - General Permit

NHB ID: NHB21-3135

Applicant: Pease Development Authority

Location: Portsmouth Exeter Street

Project

Description: Construction of a Fuel Farm and Fixed Based Operator Building at Portsmouth International Airport at Pease, Portsmouth, NH

The NH Natural Heritage database has been checked by staff of the NH Natural Heritage Bureau and/or the NH Nongame and Endangered Species Program for records of rare species and exemplary natural communities near the area mapped below. The species considered include those listed as Threatened or Endangered by either the state of New Hampshire or the federal government.

It was determined that, although there was a NHB record (e.g., rare wildlife, plant, and/or natural community) present in the vicinity, we do not expect that it will be impacted by the proposed project. This determination was made based on the project information submitted via the NHB Datacheck Tool on 10/5/2021 1:14:17 PM, and cannot be used for any other project.

Department of Natural and Cultural Resources Division of Forests and Lands (603) 271-2214 fax 271-6488 DNCR/NHB 172 Pembroke Rd. Concord, NH 03301



US Fish and Wildlife (USF&W) IPaC Results



09/08/2021

Event Code: 05E1NE00-2021-E-14305

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan

(http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (http://www.fws.gov/windenergy/) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm; http://www.towerkill.com; and http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html.

http://

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

Official Species List

2

09/08/2021

Event Code: 05E1NE00-2021-E-14305

Official Species List This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New England Ecological Services Field Office

70 Commercial Street, Suite 300 Concord, NH 03301-5094 (603) 223-2541

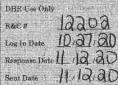




Section 106 Cultural Resources Determination Please mail the completed form and required material to:

New Hampshire Division of Historical Resources State Historic Preservation Office Attention: Review & Compliance 19 Pillsbury Street, Concord, NH 03301-3570





Request for Project Review by the New Hampshire Division of Historical Resources

This is a new submittal		(D. C) #			
GENERAL PROJECT INFORM	lating to DHR Review & Complian	nce (R&C) #:			
dentificate encourter the online					
Project Title Construction of a Fuel Airport at Pease	Farm and Fixed Based Operator	Building at Portsmouth International			
Project Location Exeter Street, Port	smouth International Airport at I	Pease			
City/Town Portsmouth	Tax Map 307 Lot # 0 & 3				
NH State Plane - Feet Geographic Coordinates: Easting 1211788.69 Northing 212625.93 (See RPR Instructions and R&C FAQs for guidance.)					
Lead Federal Agency and Contact <i>(if applicable)</i> US Army Corps of Engineers <i>(Agency providing funds, licenses, or permits)</i> Permit Type and Permit or Job Reference # Wetlands Permit					
State Agency and Contact (if applicable) N/A					
Permit Type and Permit or Job Reference # N/A					
APPLICANT INFORMATION					
Applicant Name Million Air Portsm	outh / Chuck Suma, COO				
Mailing Address 7555 Ipswich Road	Phone Number 713-640-	-4020			
City Houston State TX Zip	77061 Email csuma@million	nair.com			
CONTACT PERSON TO RECEIV	Æ RESPONSE				
Name/Company Deb Coon / Hoyle, Tanner & Associates, Inc.					
Mailing Address 150 Dow Street Phone Number 603-669-5555 ext. 106					
City Manchester State NH Zip 03101 Email dcoon@hoyletanner.com					

This form is updated periodically. Please download the current form at <u>www.nh.gov/nhdhr/review</u>. Please refer to the Request for Project Review Instructions for direction on completing this form. Submit one copy of this project review form for each project for which review is requested. <u>Include a self-addressed stamped envelope</u> to expedite review response. Project submissions will not be accepted via facsimile or e-mail. This form is required. Review request form must be complete for review to begin. Incomplete forms will be sent back to the applicant without comment. Please be aware that this form may only initiate consultation. For some projects, additional information will be needed to complete the Section 106 review. All items and supporting documentation submitted with a review request, including photographs and publications, will be retained by the DHR as part of its review records. Items to be kept confidential should be clearly identified. For questions regarding the DHR review process and the DHR's role in it, please visit our website at: <u>www.nh.gov/nhdhr/review</u> or contact the R&C Specialist at <u>marika.labash@dncr.nh.gov</u> or 603.271.3558.

New Hampshire Division of Historical Resources / State Historic Preservation Office May 2019



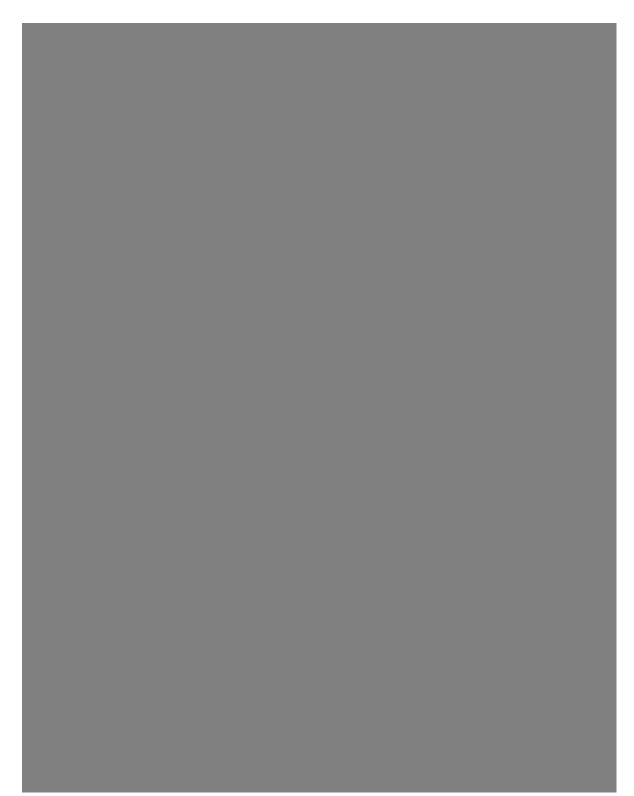
Wetland Delineation Report, Functional Assessment & Site Photos Fieldstone Land Consultants, PLLC & GM2 Associates, Inc.

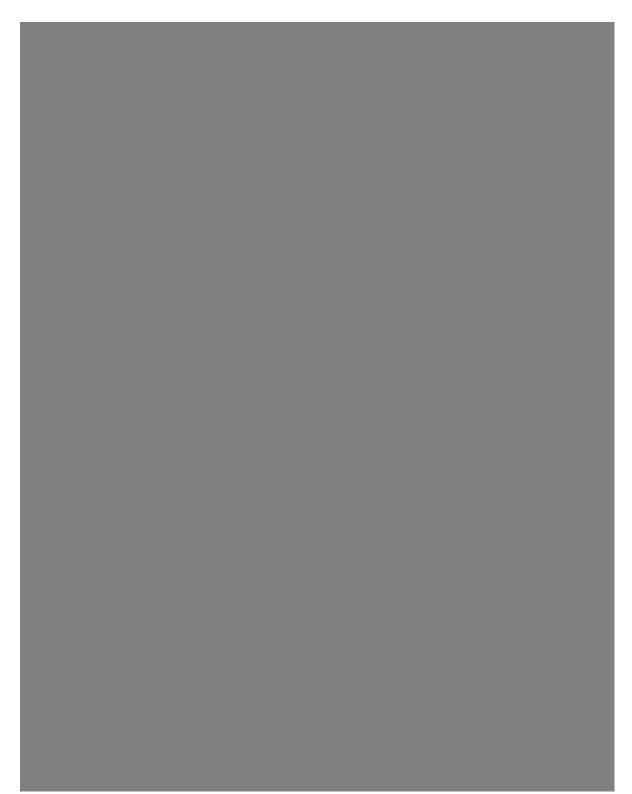








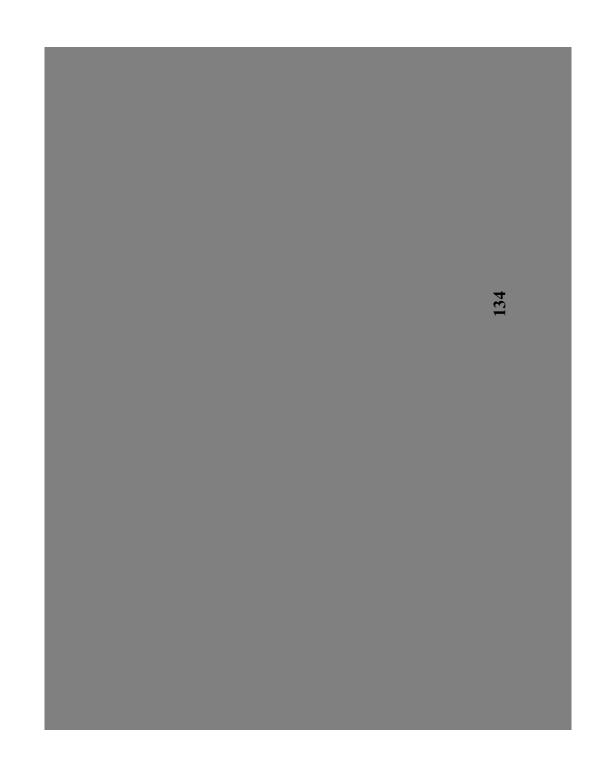






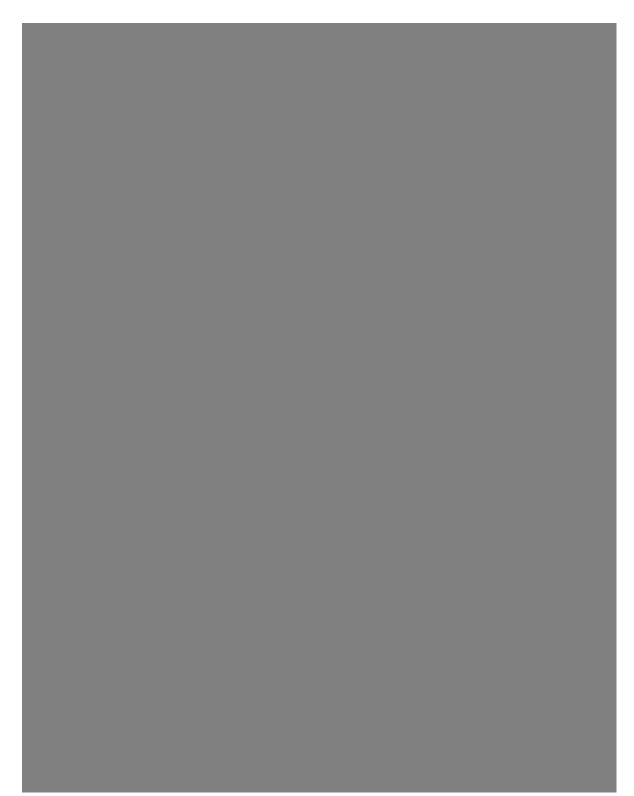
ATTACHMENT A

Wetland Delineation Map



ATTACHMENT B

Photographs









ATTACHMENT C

Wetland Determination Data Forms

WETLAND DETERMINATION DATA FORM – Northcentral and Northeast Region

Project/Site: 53 Exeter Street	City/County: Portsmouth/Rockingham Sampling Date: 8/12/21
Applicant/Owner: Pease Development Authority	State: NH Sampling Point: A-wet
Investigator(s): Jennifer Riordan and Meg Gordon	Section, Township, Range:
Landform (hillside, terrace, etc.): Plain	Local relief (concave, convex, none): None Slope (%): < 2
Subregion (LRR or MLRA): LRR R Lat: 43.08	Long: 70.8 Datum:
Soil Map Unit Name: 538A - Squamscott fine sandy loam	NWI classification: PEM1E
Are climatic / hydrologic conditions on the site typical for this time of	of year? Yes X No (If no, explain in Remarks.)
Are Vegetation , Soil , or Hydrology signific	antly disturbed? Are "Normal Circumstances" present? Yes X No
Are Vegetation, Soil, or Hydrology natural	
	ng sampling point locations, transects, important features, etc.
	ng samping point locations, transects, important leatures, etc.
Hydrophytic Vegetation Present? Yes No X	Is the Sampled Area
Hydric Soil Present? Yes X No	within a Wetland? Yes X No
Wetland Hydrology Present? Yes X No	If yes, optional Wetland Site ID: Wetland A
Remarks: (Explain alternative procedures here or in a separate re	
Hydrophytic vegetation indicator not met at data point location. Sh	allow roots noted on some of the trees.
HYDROLOGY	
Wetland Hydrology Indicators:	Secondary Indicators (minimum of two required)
Primary Indicators (minimum of one is required; check all that app	
	ned Leaves (B9) Drainage Patterns (B10)
High Water Table (A2) Aquatic Fac	
Saturation (A3) Marl Depos	
	Sulfide Odor (C1) Crayfish Burrows (C8)
	hizospheres on Living Roots (C3) Saturation Visible on Aerial Imagery (C9)
	of Reduced Iron (C4) Stunted or Stressed Plants (D1)
	Reduction in Tilled Soils (C6) X Geomorphic Position (D2)
Iron Deposits (B5) Thin Muck	Surface (C7) Shallow Aquitard (D3)
Inundation Visible on Aerial Imagery (B7) Other (Expl	lain in Remarks) Microtopographic Relief (D4)
Sparsely Vegetated Concave Surface (B8)	FAC-Neutral Test (D5)
Field Observations:	
Surface Water Present? Yes X No Depth (inc	ches):
Water Table Present? Yes X No Depth (inc	ches): 18
Saturation Present? Yes X No Depth (inc	ches): 16 Wetland Hydrology Present? Yes X No
(includes capillary fringe)	
Describe Recorded Data (stream gauge, monitoring well, aerial ph	notos, previous inspections), if available:
Remarks:	
	tely 20 feet away. Wetland delineation was conducted under normal conditions, but
drought conditions had been present during spring/early summer	

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	plants. Absolute	Dominant	Indicator	Sampling Point:A-w	
Tree Stratum (Plot size: 30')	% Cover	Species?	Status	Dominance Test worksheet:	
1. Acer rubrum	20	Yes	FAC	Number of Dominant Species	
2. Pinus strobus	38	Yes	FACU	That Are OBL, FACW, or FAC:4	(A)
3.				Total Number of Dominant	
4				Species Across All Strata: 9	(B)
5.				Percent of Dominant Species	
6.				That Are OBL, FACW, or FAC: 44.4%	(A/B)
7				Prevalence Index worksheet:	
	58	Total Cover		Total % Cover of: Multiply by	;
Sapling/Shrub Stratum (Plot size: 15'	_)			OBL species 0 x 1 = 0	
1. Frangula alnus	10	No	FAC	FACW species 10 x 2 = 20	
2. Quercus rubra	20	Yes	FACU	FAC species 53 x 3 = 159	
3. Prunus serotina	3	No	FACU	FACU species 101 x 4 = 404	
4. Pinus strobus	20	Yes	FACU	UPL species 0 x 5 = 0	
5				Column Totals: 164 (A) 583	(B)
6.				Prevalence Index = B/A = 3.55	
7.				Hydrophytic Vegetation Indicators:	
	53	Total Cover		1 - Rapid Test for Hydrophytic Vegetation	
Herb Stratum (Plot size: 5')				2 - Dominance Test is >50%	
1. Pinus strobus	10	Yes	FACU	3 - Prevalence Index is ≤3.0 ¹	
2. Aralia nudicaulis	10	Yes	FACU	4 - Morphological Adaptations ¹ (Provide s	upportin
3. Unknown grass	3	No		data in Remarks or on a separate shee	t)
4. Rubus hispidus	10	Yes	FACW	Problematic Hydrophytic Vegetation ¹ (Exp	olain)
5. Frangula alnus	10	Yes	FAC	Judianteer of hudein pail and united hudeeless	. must
6. Toxicodendron radicans	3	No	FAC	¹ Indicators of hydric soil and wetland hydrolog be present, unless disturbed or problematic.	y must
7.				Definitions of Vegetation Strata:	
8.					Round
9.				Tree – Woody plants 3 in. (7.6 cm) or more in at breast height (DBH), regardless of height.	diamete
10.					0011
11				Sapling/shrub – Woody plants less than 3 in. and greater than or equal to 3.28 ft (1 m) tall.	DBH
12.					
16.	46	Total Cover		Herb – All herbaceous (non-woody) plants, re- of size, and woody plants less than 3.28 ft tall.	
				191.25	
Woody Vine Stratum (Plot size: 30)				Woody vines - All woody vines greater than 3	
Woody Vine Stratum (Plot size: 30'		Yes	FAC		3.28 ft in
1. Smilax rotundifolia		Yes	FAC	height.	3.28 ft in
Smilax rotundifolia .		Yes	FAC	height. Hydrophytic	3.28 ft in
Smilax rotundifolia Smilax rotundifolia .		Yes	FAC	height. Hydrophytic Vegetation	
Smilax rotundifolia .		Yes	FAC	height. Hydrophytic	

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SOIL

Sampling Point:	A-wet
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Profile De	scription: (Describe	to the d	epth needed to docu	ment th	e indicat	or or con	firm the absence o	f indicators.)
Depth	Matrix			k Featur				
(inches)	Color (moist)	%	Color (moist)	%	Туре	Loc ²	Texture	Remarks
	10YR 2/1	100					Loamy/Clayey	Sandy loam with organic
8-18	10YR 5/1	49					Sandy	Loamy sand
	10YR 5/2	49	10YR 4/4	2	C	M		Distinct redox concentrations
		_						
						_		
		pletion, F	M=Reduced Matrix, C	S=Cover	ed or Coa	ated Sand		ation: PL=Pore Lining, M=Matrix. Problematic Hydric Soils ³ :
	il Indicators: iol (A1)		Polyvalue Below	Surface	(\$8) (1 8	RR		k (A10) (LRR K, L, MLRA 149B)
	Epipedon (A2)		MLRA 149B)	Guilage	(00) (En	it it,		irie Redox (A16) (LRR K, L, R)
	Histic (A3)		Thin Dark Surface	ce (S9) (LRR R. N	ILRA 149		ky Peat or Peat (S3) (LRR K, L, R)
	gen Sulfide (A4)		High Chroma Sa					Below Surface (S8) (LRR K, L)
Stratif	ied Layers (A5)		Loamy Mucky M	ineral (F	1) (LRR I	(, L)	Thin Dark	Surface (S9) (LRR K, L)
X Deple	ted Below Dark Surfac	e (A11)	Loamy Gleyed N	fatrix (F2	2)		Iron-Mang	anese Masses (F12) (LRR K, L, R)
Thick	Dark Surface (A12)		Depleted Matrix	(F3)			Piedmont	Floodplain Soils (F19) (MLRA 149B)
Sandy	Sandy Mucky Mineral (S1) Redox Dark Surface (F6)					Mesic Spo	odic (TA6) (MLRA 144A, 145, 149B)	
Sandy	Gleyed Matrix (S4)		Depleted Dark S	urface (I	F7)		Red Parer	nt Material (F21)
Sandy	Redox (S5)		Redox Depressi	ons (F8)			Very Shall	ow Dark Surface (TF12)
Stripp	ed Matrix (S6)		Marl (F10) (LRR	K, L)			Other (Exp	plain in Remarks)
Dark S	Surface (S7)							
³ Indicators	of hydrophytic vegets	tion and	wetland hydrology mu	st he pre	sent unl	ess distud	bed or problematic	
	e Layer (if observed)		Netono nyorology me	or be pre	oon, on		i problemate.	
Type:								
Depth (i	nches):						Hydric Soil Pres	sent? Yes X No
Remarks:								
			al and Northeast Regi w.nrcs.usda.gov/Interr					S Field Indicators of Hydric Soils
Version 7.0	March 2015 Errata. (nup.a/we	willios.usua.gowillien	IEU OL	DOCOM	LINI GAILO	5142p2_001200.000	(n)

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WETLAND DETERMINATION DATA FORM – Northcentral and Northeast Region

Project/Site: 53 Exeter Street	City/County: Portsmouth/Rockingham Sampling Date: 8/12/21					
Applicant/Owner: Pease Development Authority	State: NH Sampling Point: A-up					
Investigator(s): Jennifer Riordan and Meg Gordon	Section, Township, Range:					
Landform (hillside, terrace, etc.): Plain	Local relief (concave, convex, none): None Slope (%): < 2					
Subregion (LRR or MLRA): LRR R Lat: 43.08	Long: 70.8 Datum:					
Soil Map Unit Name: 538A - Squamscott fine sandy loam	NWI classification: Not mapped					
Are climatic / hydrologic conditions on the site typical for this t						
Are Vegetation, Soil, or Hydrologysi						
Are Vegetation, Soil, or Hydrologyna	uturally problematic? (If needed, explain any answers in Remarks.)					
SUMMARY OF FINDINGS – Attach site map sh	owing sampling point locations, transects, important features, etc.					
Hydrophytic Vegetation Present? Yes No	X Is the Sampled Area					
Hydric Soil Present? Yes No	X within a Wetland? Yes No X					
Wetland Hydrology Present? Yes No	X If yes, optional Wetland Site ID:					
Remarks: (Explain alternative procedures here or in a separ	ate report.)					
HYDROLOGY						
Wetland Hydrology Indicators:	Secondary Indicators (minimum of two required)					
Primary Indicators (minimum of one is required; check all that						
	ined Leaves (B9) Drainage Patterns (B10)					
	c Fauna (B13) Moss Trim Lines (B16)					
Saturation (A3) Marl D						
Water Marks (B1) Hydro	gen Sulfide Odor (C1) Crayfish Burrows (C8)					
Sediment Deposits (B2) Oxidiz	ed Rhizospheres on Living Roots (C3) Saturation Visible on Aerial Imagery (C9)					
Drift Deposits (B3) Preser	nce of Reduced Iron (C4) Stunted or Stressed Plants (D1)					
Algal Mat or Crust (B4) Recen	Reduction in Tilled Soils (C6) Geomorphic Position (D2)					
Iron Deposits (B5) Thin M	Surface (C7) Shallow Aquitard (D3)					
Inundation Visible on Aerial Imagery (B7) Other	(Explain in Remarks) Microtopographic Relief (D4)					
Sparsely Vegetated Concave Surface (B8)	FAC-Neutral Test (D5)					
Field Observations:						
Surface Water Present? Yes No X Dept	h (inches):					
Water Table Present? Yes No X Dept	h (inches):					
Saturation Present? Yes No X Dept	h (inches): Wetland Hydrology Present? Yes No _X					
(includes capillary fringe)						
Describe Recorded Data (stream gauge, monitoring well, aer	ial photos, previous inspections), if available:					
-						
Remarks:						

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Absolute % Cover	Dominant Species?	Indicator Status	Sampling Point:A-L	qu
38	Yes	FAC	Number of Dominant Species	
63	Yes	FACU	That Are OBL, FACW, or FAC: 3	(A)
			Total Number of Dominant	
			Species Across All Strata: 6	(B)
			Percent of Dominant Species	_
			That Are OBL, FACW, or FAC: 50.0%	(A/8
			Prevalence Index worksheet:	_
101	=Total Cover		Total % Cover of: Multiply by	S.
)			OBL species 0 x 1 = 0	
10	No	FAC	FACW species 23 x 2 = 46	
20	Yes	FACU		
20	Yes			
				(
		11100		
	-Total Cover			
	- Total Gover			
22	Vee	FACU		
			Problematic Hydrophytic Vegetation" (Exp	plain)
			¹ Indicators of hydric soil and wetland hydrolog	y must
3	No	FACU		
			Definitions of Vegetation Strata:	
			Tree - Woody plants 3 in. (7.6 cm) or more in	diame
			at breast height (DBH), regardless of height.	
			Sapling/shrub - Woody plants less than 3 in.	DBH
			and greater than or equal to 3.28 ft (1 m) tall.	
			Herb - All herbaceous (non-woody) plants, res	gardle
35	Total Cover=		of size, and woody plants less than 3.28 ft tall.	
_)			Woody vines - All woody vines greater than 3	3.28 ft
		5.0		
10	Yes	FAC	height.	
10	Yes	FAC		
10	Yes	FAC	Hydrophytic	
	Yes			
	% Cover 38 63 - 101 20 20 3 - <	% Cover Species? 38 Yes 63 Yes 63 Yes 101 =Total Cover 101 =Total Cover 20 Yes 3 No 3	% Cover Species? Status 38 Yes FAC 63 Yes FACU - - - 101 =Total Cover - 101 =Total Cover - 20 Yes FACU 20 Yes FACU 20 Yes FACU 3 No FACU <tr< td=""><td>% Cover Species? Status Dominance Test worksheet: 38 Yes FAC Number of Dominant Species 63 Yes FACU Total Number of Dominant Species 63 Yes FACU Total Number of Dominant Species 7 7 Total Number of Dominant Species 6 7 7 Percent of Dominant Species 6 7 7 Total Xeores Across All Strata: 6 7 7 Prevalence Index worksheet: 7 101 No FAC FACW Species 23 x 2 = 46 7 7 7 Prevalence Index worksheet: 7 0 10 No FAC FACW Species 23 x 2 = 46 20 Yes FACU FACU FACU Species 121 x 4 = 484 3 No FACU FACU FACU 704 7 Prevalence Index is \$3.0 x 4 = 484 3 No FACU - 1 - Rapid Test for Hydrophytic Vegetation 1 20</td></tr<>	% Cover Species? Status Dominance Test worksheet: 38 Yes FAC Number of Dominant Species 63 Yes FACU Total Number of Dominant Species 63 Yes FACU Total Number of Dominant Species 7 7 Total Number of Dominant Species 6 7 7 Percent of Dominant Species 6 7 7 Total Xeores Across All Strata: 6 7 7 Prevalence Index worksheet: 7 101 No FAC FACW Species 23 x 2 = 46 7 7 7 Prevalence Index worksheet: 7 0 10 No FAC FACW Species 23 x 2 = 46 20 Yes FACU FACU FACU Species 121 x 4 = 484 3 No FACU FACU FACU 704 7 Prevalence Index is \$3.0 x 4 = 484 3 No FACU - 1 - Rapid Test for Hydrophytic Vegetation 1 20

VEGETATION - Use scientific names of plants

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SOIL

Sampling Point: A-up

Profile De	scription: (Describe	to the d	epth needed to docu	ment the	e indicato	or or con	firm the absence o	of indicators.)	
Depth	Matrix			x Feature					
(inches)	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²	Texture	Rei	marks
0-10	10YR 2/1	40					Loamy/Clayey	Sand	ly loam
	10YR 3/2	60							
10-16	10YR 3/3	100					Sandy	loam	y sand
¹ Type: C=	Concentration, D=Dep	oletion. R	M=Reduced Matrix. C	S=Cover	ed or Coa	ted Sand	Grains. ² Loc	ation: PL=Pore Lir	ning, M=Matrix,
	il Indicators:			0 00101	00 01 000	tee eans		Problematic Hyd	
	sol (A1)		Polyvalue Belov	/ Surface	(S8) (LR	RR,		k (A10) (LRR K, L	
Histic	Epipedon (A2)		MLRA 149B)		, , ,			airie Redox (A16) (I	
Black	Histic (A3)		Thin Dark Surfa	ce (S9) (I	LRR R, M	LRA 149	B) 5 cm Muc	ky Peat or Peat (S	3) (LRR K, L, R)
Hydro	gen Sulfide (A4)		High Chroma Sa	ands (S1	1) (LRR K	(L)	Polyvalue	Below Surface (Si	3) (LRR K, L)
	fied Layers (A5)		Loamy Mucky N				and the second se	Surface (S9) (LRF	
	ted Below Dark Surfac	ce (A11)	Loamy Gleyed M					anese Masses (F1	
	Dark Surface (A12)		Depleted Matrix		· ·				19) (MLRA 149B)
	Mucky Mineral (S1)		Redox Dark Sur					odic (TA6) (MLRA	
	Gleyed Matrix (S4)		Depleted Dark S					nt Material (F21)	1101 1101
	Redox (S5)		Redox Depressi		.,			low Dark Surface (TE12
	ed Matrix (S6)		Marl (F10) (LRF					plain in Remarks)	11 12)
	Surface (S7)		Man (PTU) (LKP	(K , L)			Other (EX	piain in Remarks)	
Darks	Sunace (S7)								
	of hydrophytic vegeta		wetland hydrology mu	st be pre	sent, unle	ss distur	bed or problematic.		
Type:	e Layer (if observed)								
Depth (ii	nches):						Hydric Soil Pres	sent? Yes_	No_X
Remarks:									
	form is revised from N	orthcentra	al and Northeast Regi	onal Sup	plement V	ersion 2.	0 to reflect the NRC	S Field Indicators	of Hydric Soils
	March 2013 Errata. (
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1									
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WETLAND DETERMINATION DATA FORM – Northcentral and Northeast Region

Project/Site: 53 Exeter Street	City/County: Portsmouth/Rockingham Sampling Date: 8/12/21
Applicant/Owner: Pease Development Authority	State: NH Sampling Point: B-wet
Investigator(s): Jennifer Riordan and Meg Gordon	Section, Township, Range:
Landform (hillside, terrace, etc.): Plain	Local relief (concave, convex, none): Slight concave Slope (%): < 2
Subregion (LRR or MLRA): LRR R Lat: 43.08	Long: 70.8 Datum:
Soil Map Unit Name: 538A - Squamscott fine sandy loam	NWI classification: Not mapped
Are climatic / hydrologic conditions on the site typical for this time of	f year? Yes X No (If no, explain in Remarks.)
Are Vegetation, Soil, or Hydrologysignification	antly disturbed? Are "Normal Circumstances" present? Yes X No
Are Vegetation, Soil, or Hydrologynatural	y problematic? (If needed, explain any answers in Remarks.)
	g sampling point locations, transects, important features, etc.
Hydrophytic Vegetation Present? Yes X No	Is the Sampled Area
Hydric Soil Present? Yes X No	within a Wetland? Yes X No
Wetland Hydrology Present? Yes X No	If yes, optional Wetland Site ID: Wetland B
Remarks: (Explain alternative procedures here or in a separate re	
remarks. (Explain alternative procedures here of in a separate re	port
HYDROLOGY	
Wetland Hydrology Indicators:	Secondary Indicators (minimum of two required)
Primary Indicators (minimum of one is required; check all that app	
	ed Leaves (B9) Drainage Patterns (B10)
High Water Table (A2) Aquatic Fau	
Saturation (A3) Marl Deposi	
	ulfide Odor (C1) Crayfish Burrows (C8)
	izospheres on Living Roots (C3) Saturation Visible on Aerial Imagery (C9)
	Reduced Iron (C4) Stunted or Stressed Plants (D1)
Algal Mat or Crust (B4) Recent Iron	Reduction in Tilled Soils (C6) Geomorphic Position (D2)
Iron Deposits (B5) Thin Muck S	Surface (C7) Shallow Aquitard (D3)
Inundation Visible on Aerial Imagery (B7) Other (Expla	in in Remarks) Microtopographic Relief (D4)
Sparsely Vegetated Concave Surface (B8)	X FAC-Neutral Test (D5)
Field Observations:	
Surface Water Present? Yes No X Depth (inc	hes):
Water Table Present? Yes No X Depth (inc	hes):
Saturation Present? Yes No X Depth (inc	hes): Wetland Hydrology Present? Yes X No
(includes capillary fringe)	
Describe Recorded Data (stream gauge, monitoring well, aerial ph	otos, previous inspections), if available:
Remarks:	

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63	No No	FAC	Number of Dominant Species That Are OBL, FACW, or FAC: Total Number of Dominant Species Across All Strata:	2	_
		FAC	That Are OBL, FACW, or FAC: Total Number of Dominant		_
				2	(B)
					(D)
			Percent of Dominant Species That Are OBL, FACW, or FAC:	100.0%	(A/B)
			Prevalence Index worksheet:	100.078	(100)
73	=Total Cover		TO REPORT OF A COMPANY OF A COMPANY OF A COMPANY OF A COMPANY	Multiply by:	
					_
10	No	FACU			_
					_
38	Yes	FACW			-
					(B)
	rc				_
61	=Total Cover				
			X 2 - Dominance Test is >50%		
3	No	FACU	3 - Prevalence Index is ≤3.0	1	
					porting
			data in Remarks or on a s	eparate sheet)	
			Problematic Hydrophytic Ve	getation ¹ (Expla	ain)
			Tediostem of budgie cell and wet	and budgeleave	must
					must
			the second se		
					lamete
	0 J)BH
			and greater than of equal to 3.26	n (1 m) tall.	
					rdless
3	=Total Cover		of size, and woody plants less the	an 3.28 ft tall.	
				greater than 3.3	28 ft in
			height.		
			Hudronbutic		
				No	
	=Total Cover				
	10 10 3 38 61 3 3 3	10 No 3 No 38 Yes 61 =Total Cover 3 No 3 No 3 No 3 Total Cover 3 =Total Cover	10 No FACU 10 No FACU 3 No FAC 38 Yes FACW 38 Yes FACW 61 =Total Cover	10 No FACU FACW species x 10 No FACU FACW species x 3 No FAC FACU species x 38 Yes FACW UPL species x 38 Yes FACW UPL species x Column Totals: (// Prevalence Index = B/A = Hydrophytic Vegetation Indicat 61 =Total Cover 1 - Rapid Test for Hydrophyti X 2 - Dominance Test is >50% 3 No FACU 3 - Prevalence Index is \$3.0 4 - Morphological Adaptation data in Remarks or on a s 3 No FACU - Problematic Hydrophytic Vegetation Stratt 3 No FACU - Problematic Hydrophytic Vegetation Stratt 3 No FACU - Problematic Hydrophytic Vegetation Stratt	10 No FACU 10 No FACU 10 No FACU 3 No FAC 38 Yes FACW 10 No FAC 38 Yes FACW 10 No FAC 38 Yes FACW UPL species x 4 = 11 Rapid Test for Hydrophytic Vegetation 12 - 13 No 14 Adorphological Adaptations ¹ (Provide sup data in Remarks or on a separate sheet) 11 - 11 Problematic Hydrophytic Vegetation ¹ (Expland) 11 Problematic Hydrophytic Vegetation 11 Prevalence Index is \$3.0.1 12 - 13 No 14 Morphological Adaptations ¹ (Provide sup d

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SOIL

Sampling Point: B-wet

Profile De	escription: (Describe	to the d	epth needed to docu	ment th	e indicat	or or con	firm the absence	of indicators.)
Depth	Matrix			x Feature	es			
(inches)	Color (moist)	%	Color (moist)	%	Туре	Loc ²	Texture	Remarks
0-5	10YR 2/2	100					Loamy/Clayey	Sandy loam
5-14	10YR 4/2	80	7.5YR 4/6	10			Loamy/Clayey	Sandy loam
			10YR 3/2	10				
¹ Type: C=	Concentration, D=Dep	pletion, R	M=Reduced Matrix, C	S=Cove	red or Co	ated Sand		cation: PL=Pore Lining, M=Matrix.
	oil Indicators:							or Problematic Hydric Soils ³ :
	sol (A1)		Polyvalue Below		e (S8) (LR	RR,	and the second se	Jck (A10) (LRR K, L, MLRA 149B)
	Epipedon (A2)		MLRA 149B)					rairie Redox (A16) (LRR K, L, R)
	Histic (A3)		Thin Dark Surfa					ucky Peat or Peat (S3) (LRR K, L, R)
Hydro	ogen Sulfide (A4)		High Chroma S	ands (S1	1) (LRR I	<, L)		ie Below Surface (S8) (LRR K, L)
Strati	fied Layers (A5)		Loamy Mucky M	Aineral (F	1) (LRR I	K, L)	Thin Da	rk Surface (S9) (LRR K, L)
X Deple	eted Below Dark Surface	ce (A11)	Loamy Gleyed	Matrix (F2	2)		Iron-Ma	nganese Masses (F12) (LRR K, L, R)
Thick	Dark Surface (A12)		X Depleted Matrix	(F3)			Piedmo	nt Floodplain Soils (F19) (MLRA 149B)
Sand	y Mucky Mineral (S1)		Redox Dark Su	face (F6)		Mesic S	podic (TA6) (MLRA 144A, 145, 149B)
	y Gleyed Matrix (S4)		Depleted Dark \$					ent Material (F21)
	y Redox (S5)		Redox Depress					allow Dark Surface (TF12)
	ed Matrix (S6)		Marl (F10) (LRF	(K,L)			Other (E	Explain in Remarks)
Dark	Surface (S7)							
	s of hydrophytic vegeta		wetland hydrology mu	ist be pre	esent, unl	ess distur	bed or problemation	D.
Restrictiv Type:	e Layer (if observed)	:						
-	inches):						Hydric Soil Pr	esent? Yes X No
Remarks:								
	form is revised from N	orthcentr	al and Northeast Reg	ional Sup	plement	Version 2	0 to reflect the NF	CS Field Indicators of Hydric Soils
	0 March 2013 Errata. (

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WETLAND DETERMINATION DATA FORM – Northcentral and Northeast Region

Project/Site: 53 Exeter Street	City/County: Portsmouth/Rockingham Sampling Date: 8/12/21
Applicant/Owner: Pease Development Authority	State: NH Sampling Point: B-up
Investigator(s): Jennifer Riordan and Meg Gordon	Section, Township, Range:
Landform (hillside, terrace, etc.): Plain	
Subregion (LRR or MLRA): LRR R Lat: 43.08	Long: 70.8 Datum:
Soil Map Unit Name: 538A - Squamscott fine sandy loam	NWI classification: Not mapped
Are climatic / hydrologic conditions on the site typical for this tim	ne of year? Yes X No (If no, explain in Remarks.)
Are Vegetation, Soil, or Hydrologysign	nificantly disturbed? Are "Normal Circumstances" present? Yes X No
Are Vegetation, Soil, or Hydrologynatu	urally problematic? (If needed, explain any answers in Remarks.)
	wing sampling point locations, transects, important features, etc.
Hydrophytic Vegetation Present? Yes No	X Is the Sampled Area
Hydric Soil Present? Yes No	X within a Wetland? Yes No X
Wetland Hydrology Present? Yes No	X If yes, optional Wetland Site ID:
Remarks: (Explain alternative procedures here or in a separate	
remarka. (Explain alternative procedures here of in a separat	e report./
HYDROLOGY	
Wetland Hydrology Indicators:	Secondary Indicators (minimum of two required)
Primary Indicators (minimum of one is required; check all that	
	Stained Leaves (B9) Drainage Patterns (B10)
	Fauna (B13) Moss Trim Lines (B16)
	posits (B15) Dry-Season Water Table (C2)
	en Sulfide Odor (C1) Crayfish Burrows (C8)
	Rhizospheres on Living Roots (C3) Saturation Visible on Aerial Imagery (C9)
	e of Reduced Iron (C4) Stunted or Stressed Plants (D1)
	Iron Reduction in Tilled Soils (C6) Geomorphic Position (D2)
	ck Surface (C7) Shallow Aquitard (D3)
	xplain in Remarks) Microtopographic Relief (D4)
Sparsely Vegetated Concave Surface (B8)	FAC-Neutral Test (D5)
Field Observations:	
Surface Water Present? Yes No X Depth	(inches):
	(inches):
	(inches): Wetland Hydrology Present? Yes No X
(includes capillary fringe)	
Describe Recorded Data (stream gauge, monitoring well, aeria	I photos, previous inspections), if available:
Remarks:	

US Army Corps of Engineers

Absolute	Dominant	Indicator	
% Cover	Species?	Status	Dominance Test worksheet:
20	Yes	FAC	Number of Dominant Species
20	Yes	FACU	That Are OBL, FACW, or FAC: 3 (A)
38	Yes	FACU	Total Number of Dominant
10	No	FACU	Species Across All Strata: 9 (B)
			Percent of Dominant Species
			That Are OBL, FACW, or FAC: 33.3% (A/
			Prevalence Index worksheet:
88	=Total Cover		Total % Cover of: Multiply by:
)			OBL species 0 x 1 = 0
3	No	FAC	FACW species 13 x 2 = 26
3	No	FACW	FAC species 36 x 3 = 108
10	Yes	FACW	FACU species 111 x 4 = 444
10	Yes	FACU	UPL species 3 x 5 = 15
3	No	FAC	Column Totals: 163 (A) 593
20	Yes	FACU	Prevalence Index = B/A = 3.64
			Hydrophytic Vegetation Indicators:
49	=Total Cover		1 - Rapid Test for Hydrophytic Vegetation
			2 - Dominance Test is >50%
10	Yes	FAC	3 - Prevalence Index is ≤3.0 ¹
10	Yes		4 - Morphological Adaptations ¹ (Provide suppor
10	Yes	FACU	data in Remarks or on a separate sheet)
3	No		Problematic Hydrophytic Vegetation ¹ (Explain)
3	No	FACU	The first on a final share and we lead to be designed as a set
			¹ Indicators of hydric soil and wetland hydrology mus be present, unless disturbed or problematic.
			Definitions of Vegetation Strata:
			Tree – Woody plants 3 in. (7.6 cm) or more in diam
			at breast height (DBH), regardless of height.
			Carling/alaruh Waadu slants loop then 2 in DDH
			Sapling/shrub – Woody plants less than 3 in. DBH and greater than or equal to 3.28 ft (1 m) tall.
36	=Total Cover		Herb – All herbaceous (non-woody) plants, regardle of size, and woody plants less than 3.28 ft tall.
)			and the same instant contract of the statement of the second
	11-	UPL	Woody vines - All woody vines greater than 3.28 f
3			height.
3	No	UPL	height.
3	NO		Hydrophytic
3	NO		
	20 20 38 10 38 10 3 3 3 10 10 10 3 20 49 10 10 10 3 3 3 	20 Yes 20 Yes 38 Yes 10 No 3 No 3 No 3 No 10 Yes 3 No 10 Yes 3 No 3 No	20 Yes FAC 20 Yes FACU 38 Yes FACU 10 No FACU 10 No FACU 38 Total Cover

US Army Corps of Engineers

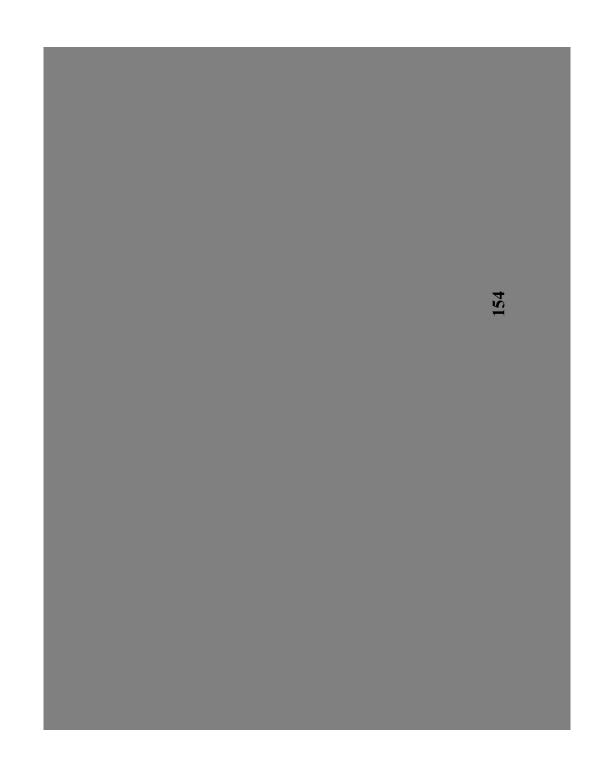
SOIL

Sampling Point: _____B-up

		e to the d				or or con	firm the absence of inc	icators.)	
Depth (inches)	Color (moist)	%	Color (moist)	x Feature %	Type ¹	Loc ²	Texture	Remark	9
0-6	10YR 2/2	100	Color (molar)		Type	200	Loamy/Clayey	Sandy loa	
6-14	10YR 4/3	45					Loamy/Clayey	Sandy loa	
	10YR 4/2	45							
	10YR 2/1	10							
¹ Type: C=	Concentration, D=De	pletion, R	M=Reduced Matrix, C	S=Cover	ed or Coa	ated Sand		PL=Pore Lining,	
-	il Indicators: sol (A1)		Polyvalue Belov	Queface	(CO) /I D	DD	Indicators for Pro	blematic Hydric S 10) (LRR K, L, ML	
	Epipedon (A2)		MLRA 149B)		(30) (LR	К Ν,		Redox (A16) (LRR	
	Histic (A3)		Thin Dark Surfa			I RA 149		eat or Peat (S3) (L	
	gen Sulfide (A4)		High Chroma S					w Surface (S8) (L	
	fied Layers (A5)		Loamy Mucky M					ace (S9) (LRR K,	
						Λ , L)			
	ted Below Dark Surfa	ce (ATT)	Loamy Gleyed		2)			se Masses (F12) (L	
	Dark Surface (A12)		Depleted Matrix					dplain Soils (F19)	
	y Mucky Mineral (S1)		Redox Dark Sur					(TA6) (MLRA 1444	A, 145, 149B)
Sandy	y Gleyed Matrix (S4)		Depleted Dark \$	Surface (I	=7)		Red Parent Ma	aterial (F21)	
Sandy	y Redox (S5)		Redox Depressi	ions (F8)			Very Shallow [Dark Surface (TF12	2)
Stripp	ed Matrix (S6)		Marl (F10) (LRF	RK, L)			Other (Explain	in Remarks)	
Dark S	Surface (S7)								
³ Indicators	s of hydrophytic veget	ation and	wetland hydrology mu	ist be pre	sent, unle	ess distur	bed or problematic.		
	e Layer (if observed		,						
Type:									
Depth (ir	nches):						Hydric Soil Present	? Yes	X
Remarks:									
							0 to reflect the NRCS Fi	eld Indicators of Hy	dric Soils
version 7.0	0 March 2013 Errata.	(http://ww	w.nrcs.usda.gov/Inter	net/FSE_	DOCUM	ENTS/nrc	s142p2_051293.docx)		

US Army Corps of Engineers

Тах Мар



Abutter List

Abutters List New Hampshire Department of Environmental Services WETLAND PERMIT APPLICATION

Construction of a Fuel Farm and Fixed Based Operator Building at Portsmouth International Airport at Pease, Portsmouth, NH

MAP	OWNER	PROPERTY ADDRESS	MAILING ADDRESS
<u>/LOT #</u> 301-1	Master Card PDA	Airline Ave Portsmouth, NH 03801	55 International Drive Portsmouth, NH 03801
301-3	Spyglass Development LLC, C/O The Kane Company	30 New Hampshire Avenue Portsmouth, NH 03801	210 Commerce Way, Ste 300 Portsmouth, NH 03801
307-1	Cinthesys Real Estate Management Co.	68 New Hampshire Avenue Portsmouth, NH 03801	68 New Hampshire Avenue Portsmouth, NH 03801
308-1	Pease Development Authority	80 Rochester Avenue Portsmouth, NH 03801	80 Rochester Avenue Portsmouth, NH 03801
306-1 308-12	Pease Development Authority	Airline Avenue Portsmouth, NH 03801	25 Airline Avenue Portsmouth, NH 03801
		25 Airline Avenue Portsmouth, NH 03801	
308-5	Pease Development Authority	75 Rochester Avenue Portsmouth, NH 03801	75 Rochester Avenue Portsmouth, NH 03801
308-6	New England Telephone & Telegraph NKA Fairpoint Communications	5 Aviation Avenue Portsmouth, NH 03801	770 Elm Street Manchester, NH 03101
320-0	Pease Airport District Master Card	Flight Line Road Portsmouth, NH 03801	
308-9	Pease Development Authority	22 Hampton Street Portsmouth, NH 03801	55 International Drive Portsmouth, NH 03801
319-3	New Hampshire Air National Guard	Pease Boulevard Portsmouth, NH 03801	61 International Drive Portsmouth, NH 03801

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Monther Monther Description Partial Reserved frame P	lnc.	The service of the service of the service of the service of a dutt Signature Required Definersy and a certified Mail Restricted Delivery (COD) a certified Mail Restricted Delivery (COD) a cheed on Delivery (COD) a cheed Mail	Affi) (for u	x Stam additiona tmark wi	p Here I copies of ith Date o	(this receipl) f Receipt.								
Stryptiss Development LLC. Sprytlass Development LLC. 000 0333 3715 Sprytlass Development LLC. 000 0333 3715 210 Commerce Way, Sta 33, Sta 31, Sta 3	USPS Tracking/Article Number	Addressee (Name, Street, City, S		(Extra Service) For		Actual Value if Registered	Insured Value	Sender if						
Total Contrast Real Estate Management Co. 0000 0000 00000 0000 0000 <td>1, 7020 1810 0000 0333 3715</td> <td>Spyglass Development LLC, C/O The Kane Company 210 Commerce Way, 86 300 Dortemonth, NH 03801</td> <td></td> <td>\$3.75</td> <td></td> <td></td> <td></td> <td>8</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td>	1, 7020 1810 0000 0333 3715	Spyglass Development LLC, C/O The Kane Company 210 Commerce Way, 86 300 Dortemonth, NH 03801		\$3.75				8						
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Sample Notice to Abutters



Documentation of Applicant's Legal Interest



Landlord:	Pease Development Authori	ty (see NH RSA 12-G)
Tenant:	Pease Aviation Partners, LL	C, a Texas limited liability company
Leased Premises:	(collectively the "Leased Pr	cribed as 53 Exeter Street in <u>Attachment A</u> hereto remises" or "Premises"). Final lot dimensions and ed through survey work and/or subdivision and site
	would construct and operat Premises. Additionally, as reasonable access to all con-	regoing, the understanding of the parties is that PAP te an FBO, fuel farm, and hangar on the Leased a term of the Agreement, PDA would grant PAP mmon use Apron areas (shown as apron areas on e Leased Premises for fueling operations and other ation of the FBO.
Lease Term and Term Commencement:		ctive upon execution ("Effective Date"). The lease rm of forty-seven (47) years, commencing on the
Annual Ground Rent and Additional Rent:		ound Rent") per acre for the Leased Premises-during
	Years 1-5	an annual amount equal to per square foot
	Years 6 - 47	an annual payment equal to the per square foot rate plus an annual adjustment equal to the lesser of CPI or 3%, not to exceed 12% in any five (5) year period.
	(including any contiguous F adjustment upon final detern	based upon the total area of the Leased Premises Ramp), as described in Attachment A, is subject to nination of the exact acreage of the Leased Premises subdivision and site plan review process.
Airport Related Fees:	If applicable, PAP shall be reporting of Landing Fees, I with PDA policies and proce	responsible for the collection, disbursement and Parking Fees and Fuel Flowage Fees in accordance edures.

Airport Use Fees: With respect to any additional use of the Leased Premises requested by PAP, and specifically with reference to the conduct of future commercial and noncommercial general aviation activities at the Airport, such use shall be subject to the execution of an appropriate agreement which shall include a provision for the payment of established fees and charges that may be generally applicable at the Airport.

Condition of

Leased Premises: Except as otherwise provided herein, PAP shall take the Leased Premises in an "as is" condition without warranty or representation of any kind; provided, however, PAP shall have no liability or responsibility to PDA for environmental impacts and damage caused by the use of the United States of America - Department of the Air Force ("Air Force" or "Government") of Hazardous Substances on any portion of Pease, including the Leased Premises. PAP and PDA acknowledge the obligation of the Air Force to indemnify PDA and PAP to the extent required by the provisions of Public Law No. 101-511 Section 8056.

Taxes/Fees/Services: In accordance with the provisions of the Municipal Services Agreement by and between the PDA and the City of Portsmouth with an effective date of July 1, 1998, PAP shall pay to PDA a municipal services fee to include the cost of providing police, fire and public works services.

Utilities: PDA will bring utility lines at reasonable capacities to the points existing as of the Term Commencement Date, or such other points as may be designated by PDA. PAP will be responsible for connecting to such points, wherever they may be, as necessary for its use of the Leased Premises, and for installing and paying for all utilities, including electric, gas, telephone, cable, water and sewer from such points to the Leased Premises. In addition, depending on the requirements of site review, PAP shall be responsible for installing any necessary or required connections of the Leased Premises to the PDA's stormwater discharge system at the points existing within the Airport as of the Term Commencement Date, or such other points as may be designated by the PDA, wherever they may be. PDA shall provide PAP reasonable access to the Airport prior to entering into the Agreement so that PAP may ascertain appropriate utility and stormwater connection points.

 Net Lease:
 The Agreement shall be triple net to PDA and all costs associated with the use, occupancy, maintenance and insurance of the Premises shall be borne by PAP.

 Right to Use
 Image: Compare the premises of the premises shall be borne by PAP.

Apron Area: PAP shall have the right in connection with its Lease to use certain common use apron areas, which space shall not be part of the Leased Premises, and such apron areas shall meet all requirements of the Minimum Standards.

Right to Use

Airport:

Subject to the provisions and additional restrictions as may be set forth in the Lease for the Premises, PAP shall have in common with other authorized Airport users the right to use the entrances, exits and roadways designated by PDA for common use at the Airport. PAP shall also have in common with other airfield users the right to use the runway, taxiways and available common apron areas of the Airport.

Surrender of

Leased Premises at Termination:

PDA to assume ownership of the FBO facility and related improvements at termination of the Lease.

Pease International Airport Access Requirements:

The portion of the Airport within the perimeter fence is part of the Airport Security Identification Display Area ("SIDA"). Designated representatives of PAP and its contractors will be required to obtain security badges and qualify as escorts in order for representatives, employees and agents of PAP and its contractors to gain access to and remain within the SIDA. While in the SIDA, escort procedures per the requirements of the Airport Security Program must be met. Prior to accessing the SIDA, all persons providing SIDA escort must undergo a criminal history background check, verification of their employment history for the past ten (10) years, attend a training class that is offered no more than once every two weeks and pay any applicable fees. Information regarding escort requirements can be obtained by calling the Airport Management Department at (603) 433-6536, Monday through Friday, 8:00 a.m. to 5:00 p.m. No representative, employee or agent of PAP or its contractors will be allowed in the SIDA without escorts meeting the requirements of the Portsmouth International Airport at Pease Security Program.

PAP acknowledges that it will be responsible for the payment of all fines imposed by the FAA and/or TSA arising or incurred as a result of the improper use of or access by PAP's officers, employees, agents, customers, vendors, guests, or invitees to Portsmouth International Airport at Pease and its SIDA.

 Sublease:
 Subject to PAP securing change of use/site review approval, PDA would consent to PAP's entry into a sublease with Executive Hangar LLC for the hangar and adjoining office space, located at Portsmouth Airport, and as described in Attachment B hereto ("Subleased Premises"). The sublease would be for a temporary term coextensive with the Construction/Operating Phase, defined below. PAP would conduct FBO operations out of the subleased space until the new FBO is completed.

Site Plan and

Site Plan and	
Design Permitting:	PAP would undertake and continue with due diligence and at its sole expense subdivision, site planning, design, permitting, and construction on the Premises of not less than 12,000 +/- square feet of new hangar space, and up to an additional 2,000 square feet of FBO Facilities and a Fuel Farm in support of the permitted uses, which shall meet or exceed all minimum standards set by PDA, with related paving, utilities, landscaping, drainage and associated site improvements, (the "Facility") for establishment, fueling aircraft and servicing customers of those aircraft for General Aviation, Military, Cargo and Commercial operations. Additionally, PAP would plan, design, permit, and construct the access road to the Leased Premises as shown on Attachment A, including any necessary security gate required by the PDA.
Phased Approach:	PAP has developed a two-phase approach to the development, which phases are detailed below as the Construction/Operating Phase and the Operating Phase.
Construction/ Operating Phase:	During the Construction/Operating Phase, PAP would (i) operate an FBO out of the Subleased Premises, and (ii) construct an FBO facility that complies with the minimum standards for an FBO as described in <u>Attachment C</u> hereto. Immediately upon execution of the Agreement, PAP would commence construction of the fuel farm, followed by the FBO building and hangar, as well as the access road. This phase shall take no longer than thirty (30) months from the execution of the Agreement.
Operating Phase:	PAP would operate the new FBO and related facilities under the terms of the Agreement.
Anticipated Timeline:	 PAP acknowledges that PDA's willingness to enter into a Lease is contingent upon PAP establishing a time line for the Construction/Operating Phase and the Operating Phase that is acceptable to PDA and consistent with the terms and conditions set forth above. I. PAP shall be solely responsible for the development of plans and specifications for any proposed renovations at the Premises and for making any required submission and obtaining any necessary approval, including subdivision approval, in accordance with the provisions of the PDA Land Use Controls. PDA agrees to use its best efforts (without obligation on the part of PDA to incur any expenses) to assist PAP in such process.
	2. The following is a partial list of issues and costs identified and required to be addressed by PAP and PDA during the negotiation of the

Agreement in connection with PAP's proposed development of the Leased Premises:

- A) Conformance with ALP;
- B) PDA Reservations of Access to Apron/Taxiways;
- C) Adequacy of Vehicle Parking;
- D) Siting for Noise Mitigation;
- E) Siting for Air Traffic Control Tower Line of Sight;
- F) Subdivision and Site Plan Approval;
- G) Installation of utilities, as required;
- H) Area of Special Notice Approval;
- Construction Access;
- J) TSA approval, as the same may be required;
- K) Protection of monitoring wells;
- L) Coordination of Air Force PFAS Remediation;
- M) Location of Fuel Farm and Fuel Farm Operations;
- N) Protection of stormwater, surface water, and ground water quality;
- O) Impacts to wetlands and wetlands buffer;
- P) Soils management;
- Q) Site dewatering;
- R) Airport security and access control; and
- S) Changes to Airport Layout Plan.

Use:

PAP will develop the Leased Premises to service General Aviation, Military, Cargo and Commercial operations meeting all PDA minimum Standards for such use.

Sublease and Assignment:

PAP may, without the approval of PDA, assign its rights under the Agreement to or enter into a sublease of the Leased Premises, or any part thereof, with an affiliate (i.e., any corporation that controls, is controlled by or is under common control with PAP). For purposes of the preceding sentence, the term "control" shall mean ownership or other beneficial interest in at least fifty-one percent (51%) of the voting stock or other voting interest of a corporation; provided the minimum net worth of the controlling or affiliated entity is not less than All other assignments or subleases shall be subject to approval of PDA.

Environmental

Protection:

PAP acknowledges that Pease has been identified as a National Priority List (NPL) Site under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. PAP acknowledges that PDA has provided it with a copy of the Pease Federal Facility Agreement ("FFA") entered into by EPA, and the Air Force on April 24, 1991, as amended,

and agrees that it will comply with the terms of the FFA to the extent the same may be applicable to the Leased Premises and that should any conflict arise between the terms of the FFA and the provisions of the Agreement, the terms of the FFA will take precedence.

PAP shall comply with all federal, state and local laws, regulations and standards that are or may become applicable to PAP's activities at the Premises. PAP shall not assume any liability or responsibility for environmental impacts and damage caused by the Air Force's use of Hazardous Substances on any portion of Pease, including the Premises. The parties acknowledge the obligations of the Air Force to indemnify PDA and PAP to the extent required by the provisions of Public Law No. 101-511, Section 8056.

In addition, PDA shall indemnify, defend and hold harmless PAP against and from any and all claims, judgments, damages, penalties, fines, costs and expenses, liabilities and losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on the use of the Premises, and sums paid in settlement of claims, attorneys' fees, consultants' fees and experts' fees), resulting or arising from discharges, emissions, spills, releases, storage or disposal of Hazardous Substances, or any other action, by the PDA giving rise to PAP liability or responsibility under federal, state or local environmental laws. This provision shall survive the expiration or termination of the Lease, and the PDA's obligations hereunder shall apply whenever the PAP incurs costs or liabilities for the PDA's actions of the types described in this provision.

To the extent the same is available and applicable, PDA will furnish the following data to PAP: relevant maps, diagrams, surveys, drawings, engineering studies and plans related to the Premises, including but not limited to: the Environmental Baseline Survey; approved airport layout plan; existing property drawings and plans; Health and Safety Plans; Construction Work Plans and planning and engineering studies conducted for the PDA or for others, including available studies conducted for the Air Force, and pertaining to Pease and or the Premises. PDA makes no warranty or representation, actual or implied, as to the accuracy of any material to be furnished to the PAP.

Brokerage: Each party warrants to the other that it has had no dealing with any real estate broker or agent in connection with the negotiation of this letter or the Agreement.

Repairs and Maintenance:

nce: Throughout the term of the Agreement, and without cost to PDA, PAP shall take commercially reasonable care of the Leased Premises and related improvements, including sidewalks, curbs, parking apron areas designated for PAP's exclusive use, and shall keep the same in good order and condition, and shall promptly at its own cost and expense, make all necessary repairs thereto. PAP's obligation hereunder shall also include grounds maintenance and restoration and snow

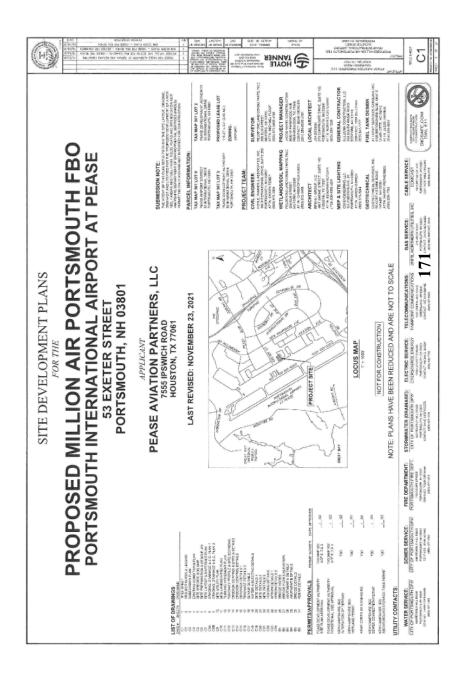


I have read the foregoing and it correctly states the terms upon which we will proceed to negotiate a mutually acceptable Lease Agreement for the Premises between PDA and PAP, subject to the PDA Board of Directors approval, and any other governmental approvals that may be required.

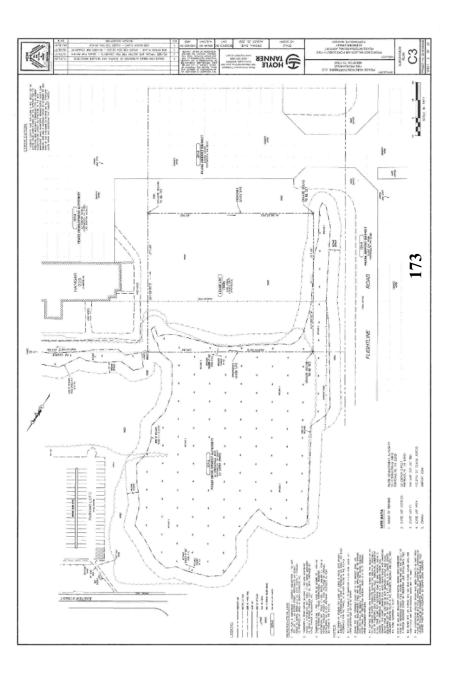
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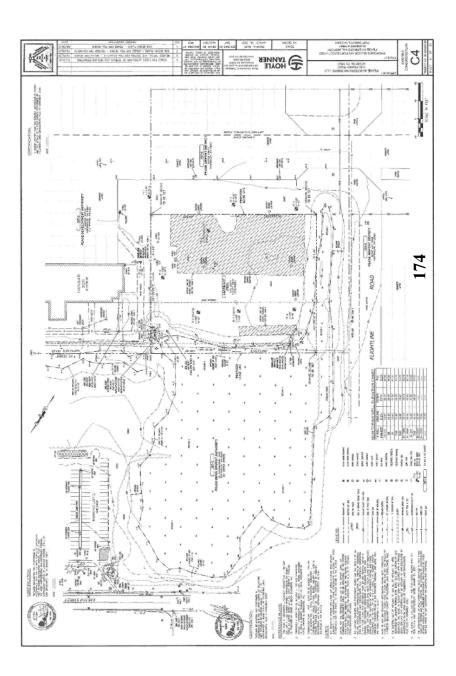
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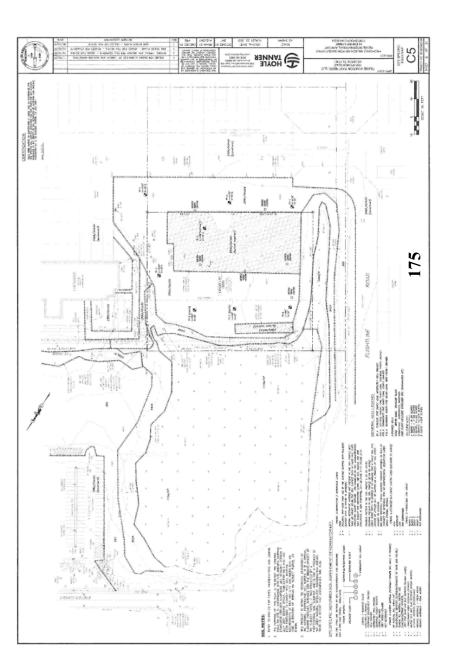
Project Plans Including Existing Conditions Plan with Wetland Scientist's Stamp

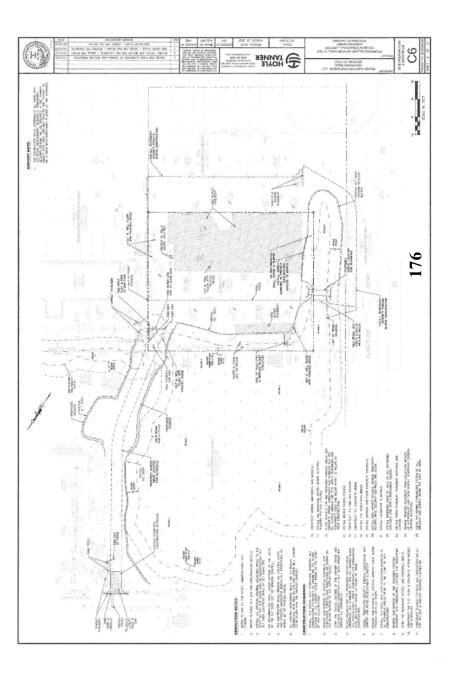


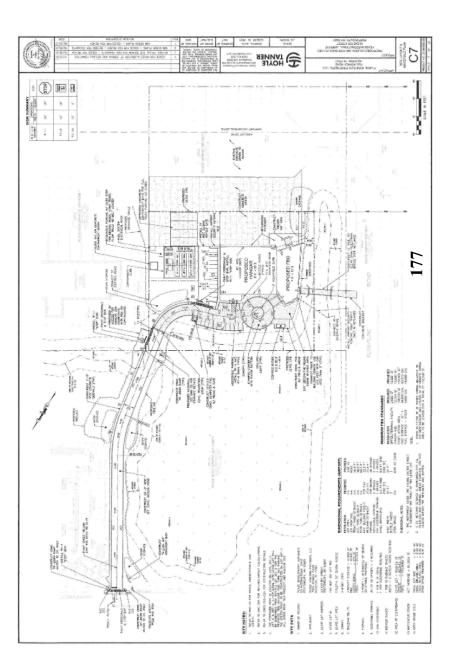
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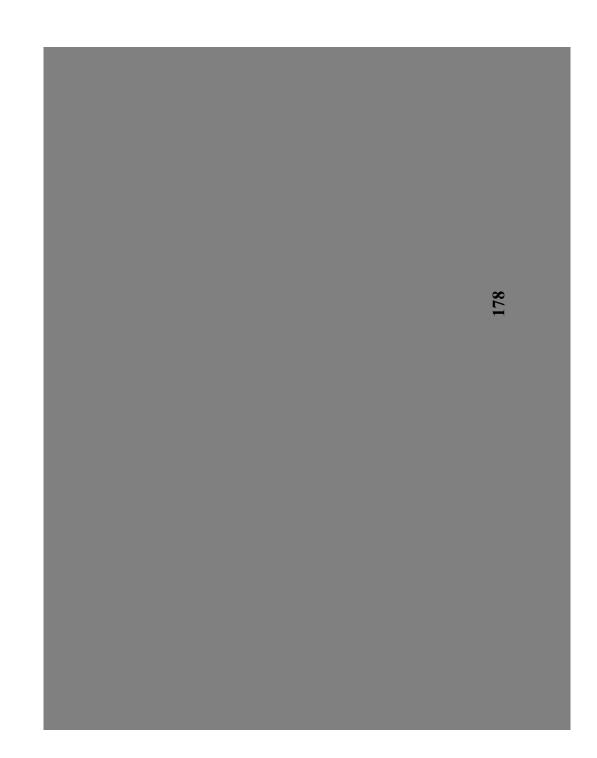


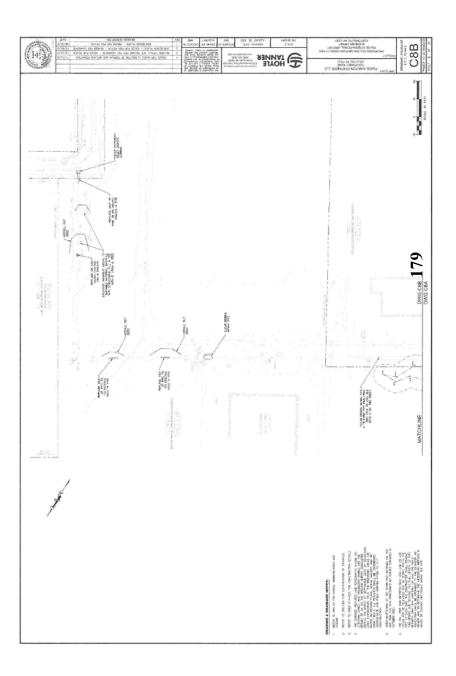


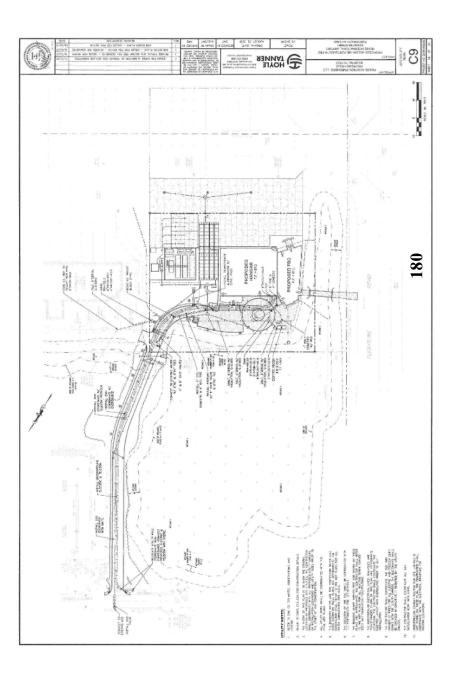


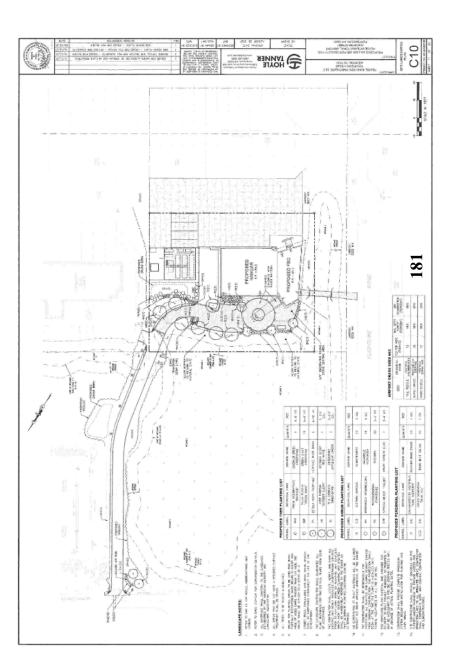


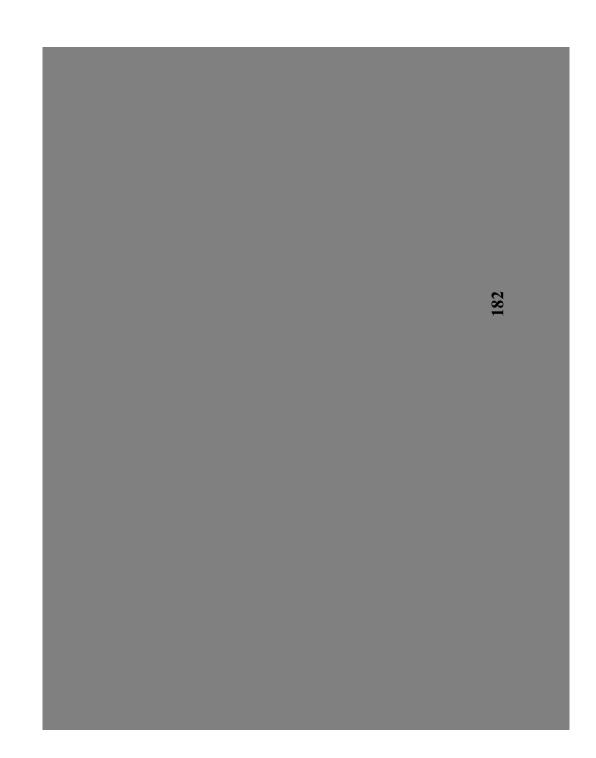


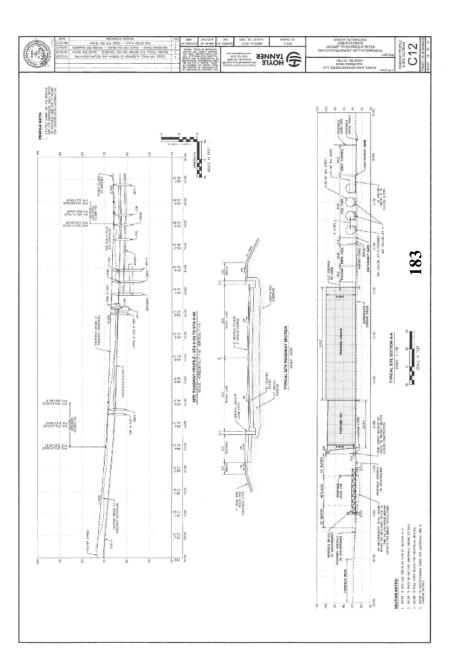




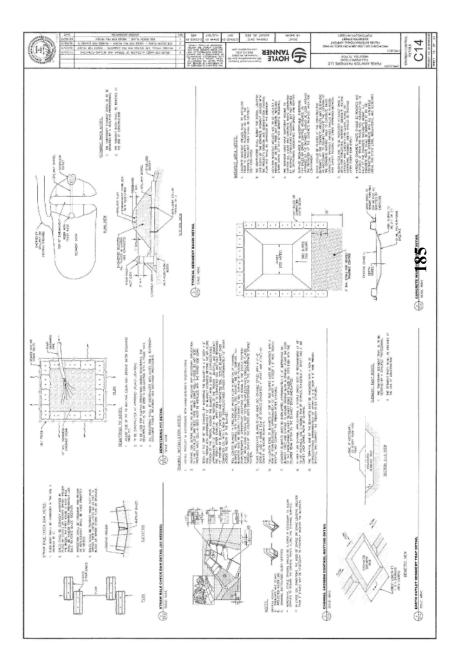


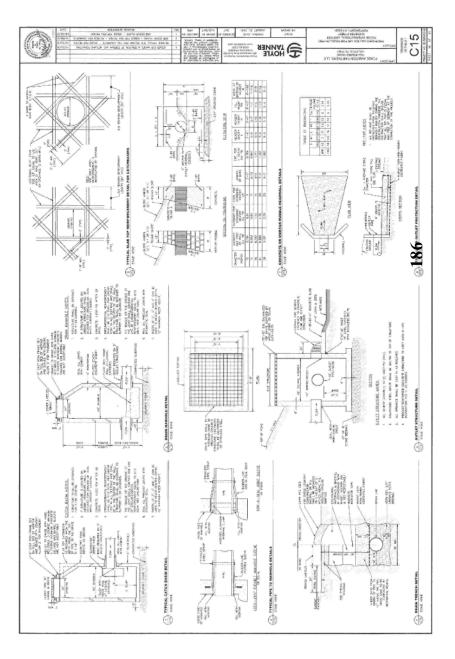


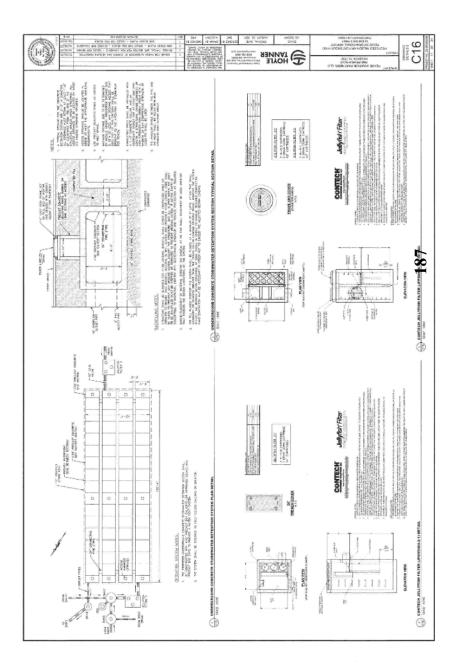


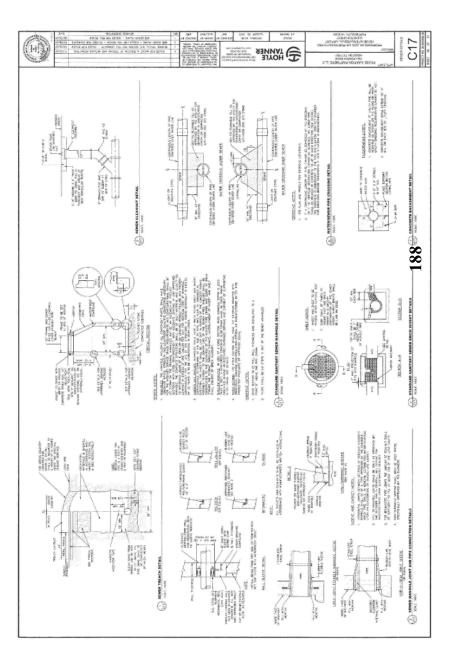


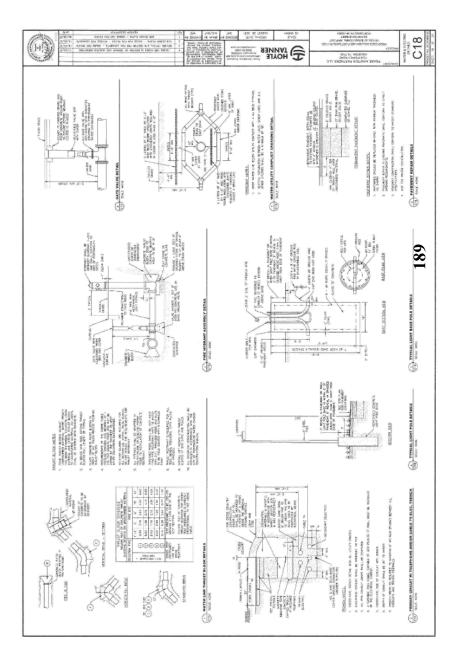
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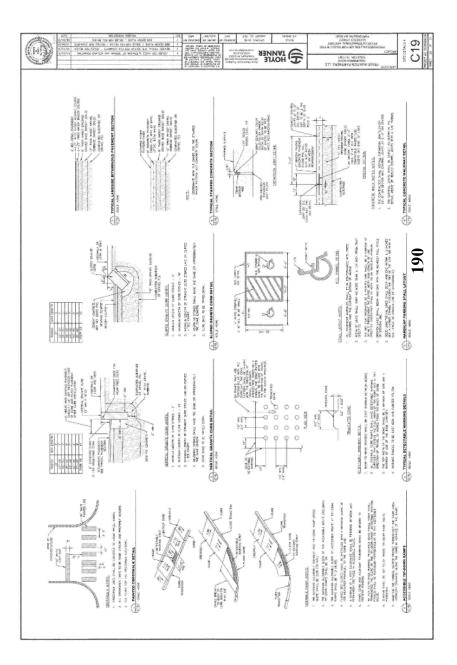


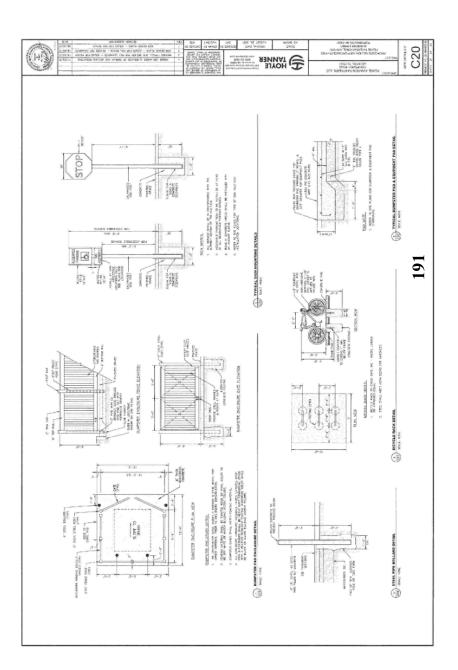


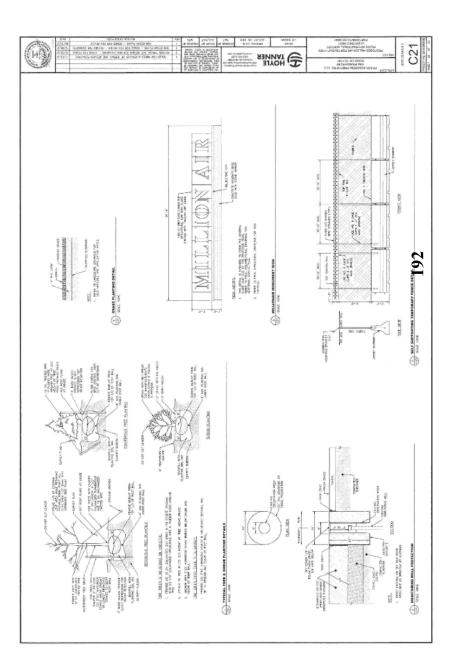


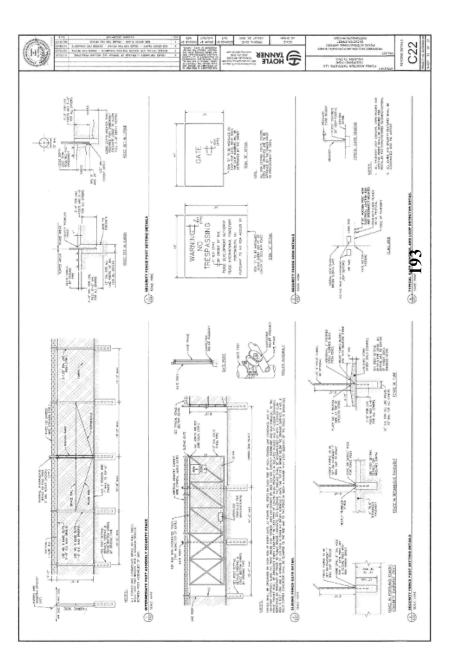


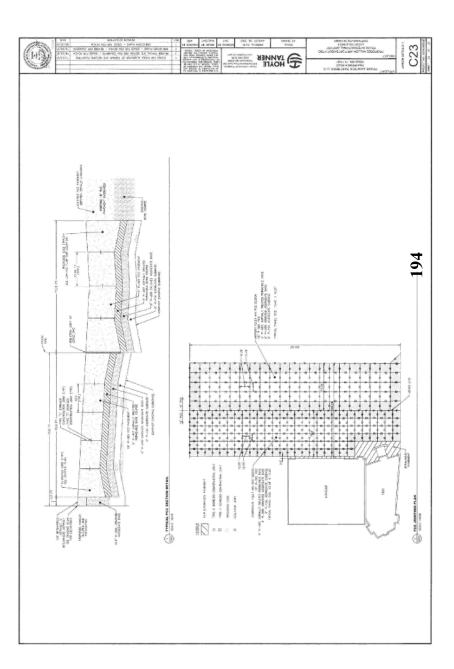


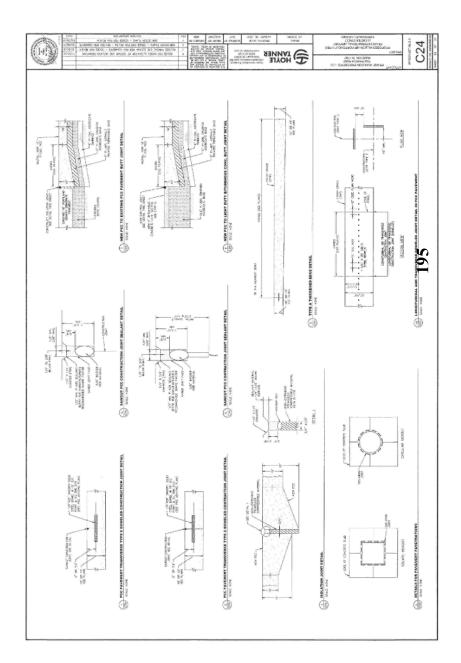




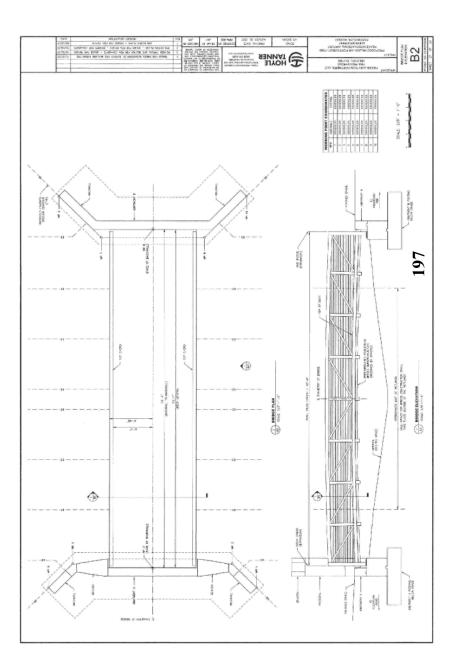


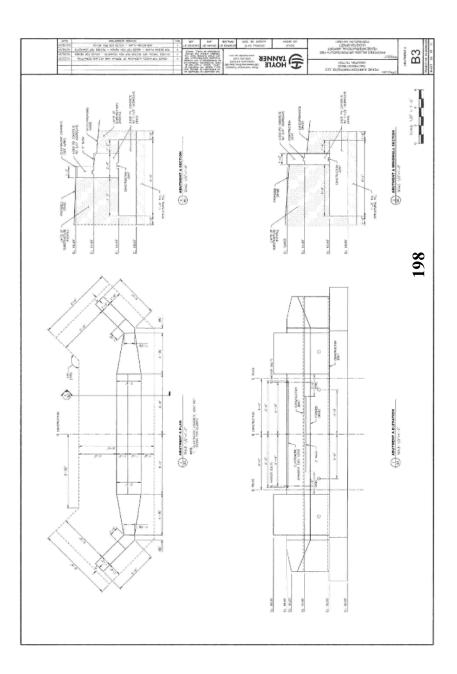


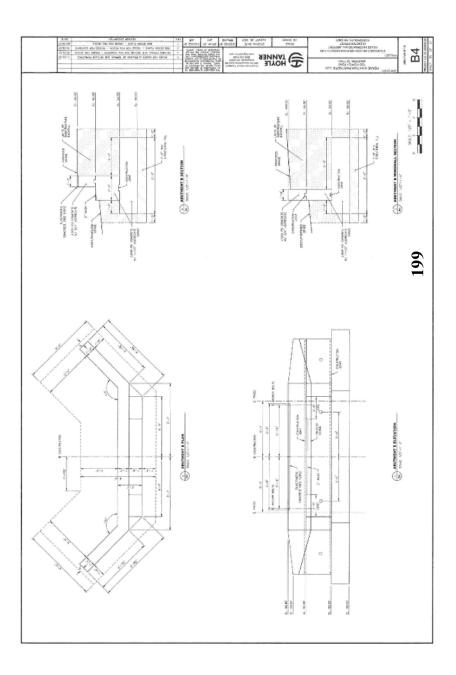


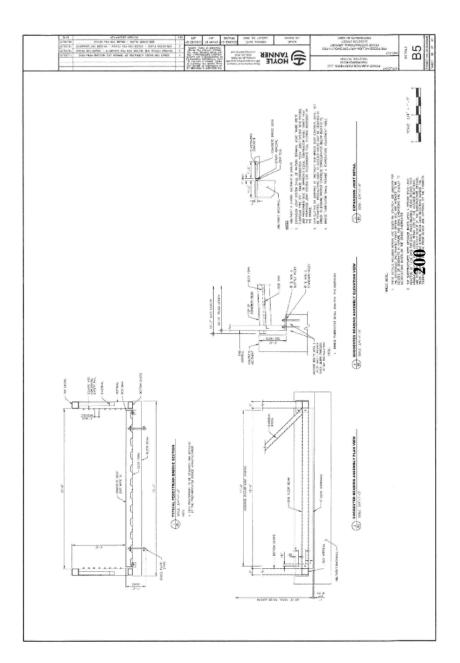


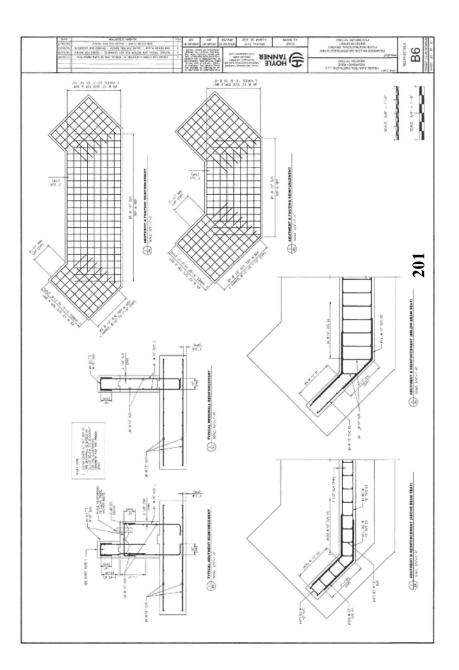
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The State of New Hampshire Department of Environmental Services

Robert R. Scott, Commissioner

WETLANDS AND NON-SITE SPECIFIC PERMIT 2021-03615

NOTE CONDITIONS

PERMITTEE:	PEASE AVIATION PARTNERS LLC C/O CHUCK SUMA 7555 IPSWICH RD HOUSTON TX 77061		
PROJECT LOCATION:	PORTSMOUTH INTL AIRPORT AT PEASE EXETER ST, PORTSMOUTH TAX MAP #307, LOT #0, 2, 3		
WATERBODY:	UNNAMED WETLAND		
APPROVAL DATE:	JUNE 16, 2022	EXPIRATION DATE: JUNE 16, 2027	

Based upon review of permit application 2021-03615 in accordance with RSA 482-A and RSA 485-A:17, the New Hampshire Department of Environmental Services (NHDES) hereby issues this Wetlands and Non-Site Specific Permit. To validate this Permit, signatures of the Permittee and the Principal Contractor are required.

PERMIT DESCRIPTION:

Dredge and fill 2,265 square feet (SF) of palustrine forested wetland in order to construct a 24 foot wide access road with associated side slopes to provide access to a proposed fuel farm and fixed base operator facility, and install security fencing. In addition, temporarily impact 38 SF of palustrine forested wetland for temporary construction access to install an outlet control structure.

THIS PERMIT IS SUBJECT TO THE FOLLOWING PROJECT-SPECIFIC CONDITIONS:

- In accordance with Env-Wt 307.16 and Env-Wt 524.05(b), all work shall be done in accordance with the plans dated November 23, 2021, by Hoyle, Tanner, & Associates, Inc., as received by the NH Department of Environmental Services (NHDES) on December 3, 2021.
- 2. In accordance with Env-Wt 524.05(a), commercial development projects in non-tidal wetlands shall submit a construction notice with the department at least 48 hours prior to commencing work.
- 3. In accordance with Env-Wt 307.03(a), the applicant shall coordinate with the NHDES Drinking and Groundwater Bureau prior to the initiation of construction.
- 4. No activity shall be conducted in such a way as to cause or contribute to any violation of surface water quality standards per Env-Wt 307.03(a).
- 5. All work including management of soil stockpiles, shall be conducted so as to minimize erosion, minimize sediment transfer to surface waters or wetlands, and minimize turbidity in surface waters and wetlands per Env-Wt 307.03(b).
- In accordance with Env-Wt 307.03(c)(3), water quality control measures shall be installed prior to start of work and in accordance with the manufacturer's recommended specifications or, if none, the applicable requirements of Env-Wg 1506 or Env-Wg 1508.
- 7. In accordance with Env-Wt 307.03(c)(1), water quality control measures shall be selected and implemented based on the size and nature of the project and the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to jurisdictional areas.
- 8. In accordance with Env-Wt 307.03(c)(5), water quality control measures shall be maintained so as to ensure continued effectiveness in minimizing erosion and retaining sediment on-site during and after construction.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095 NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588 TDD Access: Relay NH 1 (800) 735-2964



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- 9. In accordance with Env-Wt 307.03(c)(6), water quality control measures shall remain in place until all disturbed surfaces are stabilized to a condition in which soils on the site will not experience accelerated or unnatural erosion by achieving and maintaining a minimum of 85% vegetative cover using an erosion control seed mix, whether applied in a blanket or otherwise, that is certified by its manufacturer as not containing any invasive species; or placing and maintaining a minimum of 3 inches of non-erosive material such as stone.
- 10. In accordance with Env-Wt 307.03(c)(7), temporary water quality control methods shall be removed upon completion of work when compliance with Env-Wt 307.03(c)(6) is achieved.
- 11. In accordance with Env-Wt 307.05(e), to prevent the use of soil or seed stock containing nuisance or invasive species, the contractor responsible for work shall follow Best Management Practices for the Control of Invasive and Noxious Plant Species (Invasive Plant BMPs).
- 12. In accordance with Env-Wt 307.11(a), fill shall be clean sand, gravel, rock, or other material that meets the project's specifications for its use; and does not contain any material that could contaminate surface or groundwater or otherwise adversely affect the ecosystem in which it is used.
- 13. In accordance with Env-Wt 307.11(b), limits of fill shall be clearly identified prior to commencement of work and controlled in accordance with Env-Wt 307.03 to ensure that fill does not spill over or erode into any area where filling is not authorized.
- 14. In accordance with Env-Wt 307.11(e), fill shall be not placed so as to direct flows onto adjacent or down-current property.
- 15. In accordance with Env-Wt 307.11(d), no fill shall be allowed to achieve setbacks to septic systems specified in Env-Wq 1000.
- 16. In accordance with Env-Wt 307.11(c), slopes shall be immediately stabilized by a method specified in Env-Wq 1506 or Env-Wq 1508, as applicable, to prevent erosion into adjacent wetlands or surface waters.
- 17. In accordance with Env-Wt 307.03(h), equipment shall be staged and refueled outside of jurisdictional areas (unless allowed) and in accordance with Env-Wt 307.15.
- 18. In accordance with Env-Wt 307.15(a), heavy equipment shall not be operated in any jurisdictional area unless specifically authorized by this permit.
- 19. In accordance with Env-Wt 307.15(b), mobile heavy equipment working in wetlands shall not be stored, maintained, or repaired in wetlands, except that repairing or refueling in a wetland is allowed if equipment cannot practicably be removed and secondary containment is provided.
- 20. In accordance with Env-Wt 307.03(g)(1), the person in charge of construction equipment shall inspect such equipment for leaking fuel, oil, and hydraulic fluid each day prior to entering surface waters or wetlands or operating in an area where such fluids could reach groundwater, surface waters, or wetlands.
- 21. In accordance with Env-Wt 307.03(g)(2), the person in charge of construction equipment shall repair any leaks prior to using the equipment in an area where such fluids could reach groundwater, surface waters, or wetlands.
- 22. In accordance with Env-Wt 307.03(g)(3) and (4), the person in charge of construction equipment shall maintain oil spill kits and diesel fuel spill kits, as applicable to the type(s) and amount(s) of oil and diesel fuel used, on site so as to be readily accessible at all times during construction; and train each equipment operator in the use of the spill kits.
- 23. In accordance with Env-Wt 307.03(e), all exposed soils and other fills shall be permanently stabilized within 3 days following final grading.

THIS PERMIT IS SUBJECT TO THE FOLLOWING GENERAL CONDITIONS:

- 1. Pursuant to RSA 482-A:12, a copy of this permit shall be posted in a secure manner in a prominent place at the site of the approved project.
- 2. In accordance with Env-Wt 313.01(a)(5), and as required by RSA 482-A:11, II, work shall not infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.
- 3. In accordance with Env-Wt 314.01, a standard permit shall be signed by the permittee, and the principal contractor who will build or install the project prior to start of construction, and will not be valid until signed.
- 4. In accordance with Env-Wt 314.03(a), the permittee shall notify the department in writing at least one week prior to commencing any work under this permit.

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- 5. In accordance with Env-Wt 314.08(a), the permittee shall file a completed notice of completion of work and certificate of compliance with the department within 10 working days of completing the work authorized by this permit.
- 6. In accordance with Env-Wt 314.06, transfer of this permit to a new owner shall require notification to, and approval of, the NHDES.
- 7. The permit holder shall ensure that work is done in a way that protects water quality per Env-Wt 307.03; protects fisheries and breeding areas per Env-Wt 307.04; protects against invasive species per Env-Wt 307.05; meets dredging activity conditions in Env-Wt 307.10; and meets filling activity conditions in Env-Wt 307.11.
- 8. This project has been screened for potential impact to known occurrences of protected species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or only cursory surveys have been performed, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species. This permit does not authorize in any way the take of threatened or endangered species, as defined by RSA 212-A:2, or of any protected species or exemplary natural communities, as defined in RSA 217-A:3.
- 9. In accordance with Env-Wt 307.06(a) through (c), no activity shall jeopardize the continued existence of a threatened or endangered species, a species proposed for listing as threatened or endangered, or a designated or proposed critical habitat under the Federal Endangered Species Act, 16 U.S.C. §1531 et seq.; State Endangered Species Conservation Act, RSA 212-A; or New Hampshire Native Plant Protection Act, RSA 217-A.
- 10. In accordance with Env-Wt 307.02, and in accordance with federal requirements, all work in areas under the jurisdiction of the U.S. Army Corps of Engineers (USACE) shall comply with all conditions of the applicable state general permit.

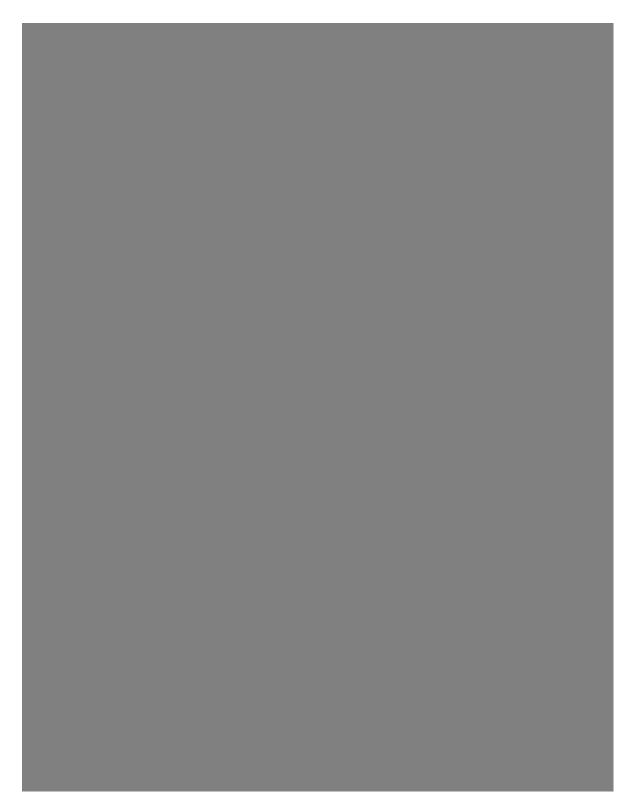
APPROVED:

Mary Ann A. Tilton Assistant Bureau Administrator, Wetlands Bureau Land Resources Management, Water Division

THE SIGNATURES BELOW ARE REQUIRED TO VALIDATE THIS PERMIT (Env-Wt 314.01).

PERMITTEE SIGNATURE (required)

PRINCIPAL CONTRACTOR SIGNATURE (required) **204**





Port City Air will be directly impacted and aggrieved by Million Air's proposed construction and operation. Port City Air's Hangar 229 is also close to the wetlands at issue and is downgradient of Million Air's proposed project location. Under its lease, Port City Air owes duties of indemnity to the PDA for, *inter alia*, any claims, fines, liabilities, and losses related to Port City Air's "discharges, emissions, spills, releases, storage, or disposal of any Hazardous or Regulated Substances . . . or any other action or omission by [Port City Air]" (bracketed substitution added).

Should Million Air—another aviation-related enterprise—commit a leak or spill it could contaminate Port City Air's immediately adjacent, downgradient leased premises, triggering obligations to clean up and indemnify the PDA. It could also impact the wetlands and potentially the Haven Well water supply, Hodgson Brook, and the North Mill Pond. In the event of such a broad-reaching impact, claimants and governmental bodies are likely to claim against both aviation-related entities for water source impacts.

In short, Million Air's act or omission would likely trigger a need for Port City Air to defend against a claim, be financially responsible for cleaning contamination that Million Air causes to Port City Air's downgradient leased premises, and potentially pay a claim if a factfinder mistakenly finds that Port City Air caused a spill that impacts drinking, surface water, or land.

D. Description of land involved

The proposed project will impact land known as "11 Exeter Street" in Portsmouth, New Hampshire. The land is designated as Tax Map 307, Lots 0, 2, and 3. Million Air proposes to lease part of Lot 0, and its project includes a road through Lots 2 and 3. PDA, a governmental body, received the land from the United States of America by public benefit transfer pursuant to

49 U.S.C. §§ 47151-47153 and other applicable provisions of law. The deeds are recorded at the Rockingham County (NH) Registry of Deeds Book 4227, Page 1 dated October 15, 2003, and Book 4565, Page 985 dated September 16, 2005).

Lots 307-0, 307-2, and 307-3 also contain wetlands. Hydrologist Danna Truslow of Truslow Resource Consulting, LLC, has determined that the wetlands are hydrologically connected to Hodgson Brook, which in turn flows through Portsmouth, including residential neighborhoods, and onto the North Mill Pond, which in turn flows to the Piscataqua River. Mrs. Truslow has also determined that these same wetlands are hydrologically connected to the water source that feeds the Haven Well, which serves the City of Portsmouth's Pease water system; the connection is both natural and via a series of manmade wells previously known as Gosling Station, which were owned and operated by the City of Portsmouth for the City's water supply.

E. Decision being appealed

On June 16, 2022, the Bureau issued a Wetlands and Non-Site Specific Permit in File 2021-03615, to "[d]redge and fill 2,265 square feet (SF) of palustrine forested wetland," and to "temporarily impact 38 SF of palustrine forested wetland for temporary construction access to install an outlet control structure." The permit is attached as **Attachment 2**.

F. Statement of facts

The wetlands at issue

 The wetlands are ecologically and hydrologically connected to Hodgson Brook, which runs through the City of Portsmouth to the North Mill Pond, which feeds into the Piscataqua River. The connection was confirmed by hydrologist Danna Truslow of Truslow Resource Consulting, LLC. 2. The wetlands at issue contained a well field made up of at least 52, and more likely 64, 2.5-inch well points known as Gosling Station. Those wells, installed in 1941, reportedly provided water to the Portsmouth Water Supply System.

3. The Gosling Station wells drew water from the same water source currently used by the Haven Well. The Haven Well was previously shut down for perfluoroalkyl and polyfluoroalkyl substances ("PFAS") contamination. In late 2021, after a PFAS remediation effort at Pease costing over \$60 million, which includes a new water treatment facility, the Haven Well was returned to public use.

4. It is presently unknown whether the Gosling Station wells were officially decommissioned. Photographs taken in 2022, including those attached as **Attachment 3**, show two examples of wells located within these wetlands, suggesting the wells were not properly decommissioned. Of those two photographed examples, one has a loose-type cap, and one has no cap at all.

5. In 1990, as part of the decommissioning of Pease Air Force Base, The Smart Associates of Contoocook, New Hampshire, prepared a plan titled "Wetland Boundaries/Environmental Constraints," which shows these wetlands and marks them as both wetlands and a potential cultural site based on field observation and literature review.

6. In 2017, Jones & Beach Engineers, Inc., a Stratham-based engineering firm acting on behalf of developer Seacoast Helicopters, studied the exact same site Million Air proposes to develop. The Jones and Beach study included a wetlands delineation showing a significantly larger wetlands footprint than the one delineated by Million Air. The 2017 plans are dated July 25, 2017. The Wetlands Bureau received a copy of the 2017 plan as part of the permitting proceedings.

Pease Development Authority

7. The Pease Development Authority owns the proposed project location. The PDA signed Million Air's application as the landowner. At a public hearing, discussed below, a PDA representative explained to the Wetlands Bureau that "the PDA took no position on Million Air's wetlands permit application."

8. The PDA maintains a map showing areas at the airport where a developer could build an aviation-related facility like Million Air's proposed facility. The PDA's map is available online at: <u>https://peasedev.org/wp-content/uploads/2021/06/PDA-Available-Land-11X17-may21.pdf</u>. Attachment 4 is a printout of that map from July 15, 2022. This map demonstrates that there are numerous other locations where these aviation facilities could be located.

Million Air's application

9. In about November 2020, Million Air began an application process to lease land from the PDA to build and operate a fixed-base operator facility ("FBO"). FBOs service aircraft, selling fuel, handling baggage, deicing aircraft, and providing related services. Million Air proposes to build a 90,000-gallon fuel farm and facilities to store glycol, which is used to deice aircraft.

On April 15, 2021, PDA gave conditional approval for Million Air to provide
 FBO services at Pease. This conditional approval was subject to many conditions including that
 Million Air must first obtain all relevant wetlands and environmental permits.

 In December 2021, Million Air submitted its Wetlands Bureau Permit Application.

12. On December 8, 2021, the Portsmouth Conservation Commission evaluated Million Air's proposal. During the discussion, Conservation Commission members raised

concerns that setbacks at Pease are inadequate to protect the wetlands, and that the project proposes to store jet fuel and glycol near wetlands. The Conservation Commission unanimously voted to recommend that the Bureau deny Million Air's application. The Conservation Commission communicated its vote to the Wetlands Bureau.

13. On January 4, 2022, Port City Air filed an objection to Million Air's permit application. It complained that Million Air failed to give Port City Air an abutter's notice and requested a hearing because the project would have "significant impact on the resources protected by [RSA ch. 482-A] or of substantial public interest." Port City Air noted that Million Air's application misidentified the project location; incorrectly claimed that the proposed project is "disconnected hydrologically" from Hodgson Brook; and incorrectly claimed that "[t]here is no tree removal associated with the project," when many trees would need to be cut.

14. On January 14, 2022, Million Air's engineers notified the Bureau that its original application was incorrect because it claimed there would be no tree removal. Million Air revised its projection to estimate 0.75 acres of tree removal. Million Air also corrected its tax map submission to reflect all impacted lots.

15. On January 20, 2022, Port City Air submitted additional information to the Wetlands Bureau. By that point, Port City Air had commissioned Altus Engineering, Inc., to review Million Air's application. In that submission, Port City Air demonstrated that Million Air's wetlands delineation was substantially smaller in footprint than a 2017 delineation, described above.

16. On February 9, 2022, Testing for Pease, a nonprofit formed in response to high levels of PFAS contamination found in Pease drinking water, requested a public hearing. Testing For Pease expressed concern that the proposed project:

may impact the Hodgson Brook Watershed and the surrounding wetlands and environment at Pease. The Pease Aviation Partners project will potentially transport, store, and use hazardous chemicals on a site directly adjacent to wetlands. We want to better understand from the applicant and NH DES if this project will have any impacts to human health, drinking water, ground water, wildlife, wetlands, and the local environment.

- 17. On April 6, 2022, the Wetlands Bureau held a public hearing. At that hearing:
 - a. Port City Air submitted reports from subject matter experts, identifying missing data in Million Air's application, highlighting the difference in wetlands delineation compared to a 2017 delineation, highlighting the possibility that the wetlands contain vernal pools, and discussing the wetlands' connection to both underground wells and drinking water sources and as well as the Hodgson Brook watershed area, which flows into the North Mill Pond. Port City Air also explained that it had studied building a different type of facility on the dry part of the proposed project location and confirmed that it is feasible to construct a building without disturbing wetlands or building a road through them.
 - b. Hydrologist Danna Truslow presented on the risk that construction of the proposed road and facilities could disturb contaminants in the soils and wetlands, causing them to circulate beyond the project location. She presented on the concentration of high-PFAS readings in the area of the project location and the airport generally, and explained that these wetlands, from the perspective of underground water flow, is at a high point, so spills at these wetlands will migrate towards Hodgson Brook.
 - c. Testing for Pease's Andrea Amico highlighted that organization's concerns as described above.

- d. Citizens attending the public hearing spoke, including Huddy Grandy, a Newington resident who lives near the airport, and Dennis Hebert, a Newington resident and chairman of the Newington Planning Board. Both raised their concerns about the impacts of the proposed project. Mr. Hebert commented that fuel need not be stored next to the FBO facility. His testimony highlighted that it is unnecessary to endanger these wetlands to establish another FBO at the airport.
- e. The hearing officer, Assistant Administrator Mary Ann Tilton, kept the record open through May 4, 2022, to accept further comment and to allow for an updated vernal pool analysis from Wetlands Scientist Joseph Noel.
- 18. On May 4, 2022, Port City Air submitted additional expert information, showing:
 - a. Million Air had not yet presented a spill control or containment plan.
 - b. If the 2017 wetlands delineation is accurate, Million Air would impact approximately 6,911 square feet of wetlands—not the 2,265 square feet that Million Air claims.
 - c. The proposed driveway and turnaround are too narrow to accommodate emergency vehicles, which poses obvious concerns in the event of an accident or spill.
 - d. Although Wetlands Scientist Joseph Noel testified that this wetlands site is a "good candidate to be a vernal pool," he did not find indicator species during his visit. Although the hearing officer kept the record open to allow for further study, further study became impossible when the PDA instructed that any additional visit would require a written "right of entry" approved by the PDA; an added procedural requirement stymied further investigation.

e. The Gosling Station wells, which are located in these same wetlands, are numerous and were designed to draw water from the same aquifer as the Haven Well. Contamination to the wetlands "would jeopardize the quality of the wetland, surface water, and groundwater in this proven high value resource area below, downstream, and downgradient of the project site." Letter Danna Truslow to Jacob Marvelley (May 3, 2022) at 3. Per Mrs. Truslow, "the impact of this project must be viewed in regional as well as local perspective." Id.

19. Between the April 6, 2022, public hearing and the May 4, 2022, close of public comment, 15 members of the public submitted written comment raising concerns about the environmental risks associated with Million Air's proposed project.

20. Port City Air asked the Wetlands Bureau to request and require further information before deciding the application. On information and belief, the Wetlands Bureau did not request or require any additional information from Million Air.

21. On June 16, 2022, the Wetlands Bureau issued its permit, including 23 "Project-Specific Conditions" and 10 "General Conditions". The permit does not address any of the concerns raised by Port City Air, its experts, or members of the public who offered comment. It does not require Million Air to submit the additional information needed to address any of the concerns raised by Port City Air or the public. It does not address, nor has Million Air adequately addressed, the large discrepancy between the 2017 and Million Air wetland delineations.

22. Port City Air hereby incorporates by reference all information contained in Wetlands Bureau File #2021-03615, recordings of oral testimony at the April 6, 2022, public hearing, and all information and references submitted by any party or person offering comment.

G. Statement of relief sought

Port City Air requests that the Wetlands Council, pursuant to RSA 482-A:10, VI, remand to the Bureau the Permit along with a Council determination that the Permit was unlawful and unreasonable because:

1. The Bureau accepted Million Air's wetlands delineation without further study and despite a contradicting 2017 study of the same area showing a significantly larger wetlands footprint, which would mean an approximately threefold increase in the square footage of wetlands impact. See Env-Wt 311.10.

2. There are numerous practicable alternatives that would have a less adverse impact on the area and environments under the Bureau's jurisdiction. The Wetlands Bureau failed to evaluate or inquire on this topic, despite being informed that, *inter alia*, the dry portions of the lot could be developed without wetlands impact, and it is not necessary to store jet fuel and glycol chemicals close to the wetlands. <u>See Env-Wt 313.03(b)(1)</u>. The PDA publishes a map showing other available areas at Portsmouth International Airport where these facilities could be built away from wetlands.

3. The project fails to avoid or minimize impacts to wetlands and/or the disturbance of adjacent contaminated soils that would be detrimental to adjacent drinking water supply and groundwater aquifer levels, in that:

> a. The wetlands are connected, naturally and via the defunct Gosling Station wells, to the aquifer serving the Haven Well, which provides public drinking water. Million Air failed to disclose this, and Port City Air submitted expert evidence establishing this connection.

- b. These same wetlands are also hydrologically connected to and flow directly into Hodgson Brook, which flows through Portsmouth residential neighborhoods to the North Mill Pond and Piscataqua River. Million Air claimed there was no hydrological connection, and Port City Air submitted expert evidence establishing the connection.
- c. According to the 2017 Jones & Beach wetlands delineation, Million Air underrepresents the size of the impacted wetlands by a factor of 3X. Significantly more wetlands will be impacted than Million Air claims.
- Million Air's proposed road through these wetlands may not provide adequate emergency vehicle access, as discussed above.

See Env-Wt 313.03(b)(8).

For the reasons described above, the application for the development of this commercial fuel farm facility does not avoid or minimize the "impacts to wetlands, watercourses, and sensitive and valuable wetlands in accordance with Env-Wt 313.03...." Env-Wt 325.02(b)

5. The Wetlands Bureau failed to adhere to and adequately consider the statutory purpose of RSA 482-A with regard to wetlands and its own rules for application evaluation and construction of wetlands permit applications for commercial construction. Million Air failed to establish the need for the proposed impact. Million Air also failed to avoid or minimize wetland impacts. The Bureau also failed by not requiring further study, and by failing to impose sufficient conditions within the permit approval process. See Env-Wt Parts 300 and 500.

6. The Bureau failed to adequately consider and address concerns raised by the Portsmouth Conservation Commission, Port City Air, and the public about the project. Concerns

include potential impacts to drinking water, Hodgson Brook, the North Mill Pond, and the Piscataqua River. The Bureau relied on information submitted by Million Air, some of which was erroneous.

H. Complexity of issues

These issues are complex because they involve a highly valuable wetlands system, potential impacts on local drinking water supplies, potential surface water impacts, the disturbance of contaminated soils, the disturbance of environmentally fragile wetlands in an area known to contain problematic PFAS/PFOS contamination, competing wetlands delineations, and important conservation considerations. All of these are both procedural and substantive deficiencies that will require the introduction of substantial evidence.

WHEREFORE, Port City Air Leasing, Inc., reserving the right to amend this Petition and request additional relief, hereby requests that the Wetland Council:

- A. Remand the Decision to the Wetlands Bureau as unlawful and unreasonable on grounds of procedural and substantive deficiencies identified in this Petition; and
- B. Order such other relief as the Council may deem just and proper.

Respectfully submitted,

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

Jacob Marvelley, NH Bar #20634 Daniel Hoefle, NH Bar #1170 127 Parrott Avenue Portsmouth, NH 03801 (603) 436-0666

Dated: July 15, 2022

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List of Attachments

To Petition for Appeal

- 1. Tax card for City of Portsmouth Map/Lot 307-2
- 2. Wetlands and Non-Site Specific Permit 2021-03615 dated June 16, 2022
- 3. Photographs depicting wells in the wetlands at issue
- 4. Printout of PDA Map showing developable airport lands, printed July 13, 2022

Certificate of Service¹

I certify that, in compliance with Env-WtC 203.01(d), the original and fifteen copies of

the foregoing was on this date hand-delivered to:

Attn: Appeals Clerk C/O DES Legal Unit 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095

With a copy hand-delivered to:

Darlene Forst, Wetlands Bureau Administrator Department of Environmental Services 29 Hazen Drive Concord, NH 03302

And a copy mailed first class, postage pre-paid to:

The applicant: Pease Aviation Partners LLC C/O Daniel Luker, Esquire Preti Flaherty PO Box 1318 Concord, NH 03302-1318 dluker@preti.com

The local conservation commission: The Portsmouth Conservation Commission C/O Peter Britz City of Portsmouth 1 Junkins Ave, 3rd Floor Portsmouth, NH 03801 plbritz@cityofportsmouth.com The landowner: Pease Development Authority Attn: Anthony Blenkinsop, General Counsel 55 International Drive Portsmouth, NH 03801 a.blenkinsop@peasedev.org

And abutting landowners not already listed above:

Master Card PDA 55 International Drive Portsmouth, NH 03801 Spyglass Development LLC, C/O The Kane Company 210 Commerce Way, Ste 300 Portsmouth, NH 03801

¹ Any person with an e-mail listed also received a copy via e-mail.

Cinthesys Real Estate Management Co. 68 New Hampshire Avenue Portsmouth, NH 03801

Pease Airport District Master Card Flight Line Road Portsmouth, NH 03801

New England Telephone & Telegraph N/K/A Fairpoint Communications 770 Elm Street Manchester, NH 03101

New Hampshire Air National Guard 61 International Drive Portsmouth, NH 03801

Dated: July 15, 2022

Jacob Marvelley, NH Bar #20654 Daniel Hoefle, NH Bar #1170

Vision Government Solutions

 $https://gis.vgsi.com/portsmouthnh/Parcel.aspx?pid{=}50800$

12 AVIATION AVE

Location	12 AVIATION AVE	Mblu	0307/ 0002/ 0001/ /
Acct#	50800	Owner	PORT CITY AIR LEASING INC
PBN		Assessment	\$276,000
Appraisal	\$276,000	PID	50800

Building Count 1

Current Value

Appraisal					
Valuation Year Improvements Land Total					
2020	\$276,000	\$0	\$276,000		
	Assessment				
Valuation Year	Improvements	Land	Total		
2020	\$276,000	\$0	\$276,000		

Owner of Record

Owner	PORT CITY AIR LEASING INC	Sale Price	\$0
Co-Owner		Certificate	
Address	104 GRAFTON DR	Book & Page	6058/1533
	PORTSMOUTH, NH 03801	Sale Date	11/19/2019

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Sale Date	
PORT CITY AIR LEASING INC	\$0		6058/1533	11/19/2019	
PORT CITY AIR LEASING INC	\$0		0000/0000	05/18/2010	

Building Information

Building	1	Section	1
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Year Built: Living Area: 0 Replacement Cost: \$0 Building Percent Good:

7/15/2022, 9:37 AM

Vision Government Solutions

Replacement Cost

Less Depreciation:

Building Attributes			
Field	Description		
Style:	Outbuildings		
Occupancy			
Exterior Wall 2			
Interior Wall 2			
Interior FIr 2			
Model			
Grade:			
Stories:			
Exterior Wall 1			
Roof Structure:			
WB Fireplaces			
Extra Openings			
Roof Cover			
Metal Fireplaces			
Extra Openings 2			
Bsmt Garage			
Interior Wall 1			
Interior FIr 1			
Heat Fuel			
Heat Type:			
AC Type:			
Total Bedrooms:			
Total Bthrms:			
Total Half Baths:			
Total Xtra Fixtrs:			
Total Rooms:			
Bath Style:			
Kitchen Style:			
Kitchen Gr			

\$0

https://gis.vgsi.com/portsmouthnh/Parcel.aspx?pid=50800

Building Photo



(https://images.vgsi.com/photos2/PortsmouthNHPhotos//\00\01 \45\86.JPG)

Building Layout

Building Layout (ParcelSketch.ashx?pid=50800&bid=50416)

Building Sub-Areas (sq ft)

Legend

No Data for Building Sub-Areas

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Land Line Valuation

7/15/2022, 9:37 AM

Vision Government Solutions

 Use Code
 420V

 Description
 PUB TANKS MDL-00

 Zone
 AI

 Neighborhood
 307

 Alt Land Appr
 No

 Category
 Verticity

https://gis.vgsi.com/portsmouthnh/Parcel.aspx?pid=50800
Size (Acres) 0
Frontage
Depth
Assessed Value \$0
Appraised Value \$0

Outbuildings

	Outbuildings				<u>Legend</u>	
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
TNK2	3000-10000 GAL			20000.00 GALS	\$46,000	1
TNK2	3000-10000 GAL			20000.00 GALS	\$46,000	1
TNK2	3000-10000 GAL			20000.00 GALS	\$46,000	1
TNK2	3000-10000 GAL			20000.00 GALS	\$46,000	1
TNK2	3000-10000 GA L			20000.00 GALS	\$46,000	1
TNK2	3000-10000 GAL			20000.00 GALS	\$46,000	1

Valuation History

Appraisal					
Valuation Year	Improvements	Land	Total		
2020	\$276,000	\$0	\$276,000		
2019	\$276,000	\$0	\$276,000		
2018	\$276,000	\$0	\$276,000		
	Assessment				
Valuation Year	Improvements	Land	Total		
2020	\$276,000	\$0	\$276,000		
2019	\$276,000	\$0	\$276,000		
2018	\$276,000	\$0	\$276,000		

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The State of New Hampshire Department of Environmental Services



Robert R. Scott, Commissioner

	WETLANDS AND NO	DN-SITE SPECIFIC PERMIT 2021-03615
		NOTE CONDITIONS
PERMITTEE:	PEASE AVIATION PARTNER C/O CHUCK SUMA 7555 IPSWICH RD HOUSTON TX 77061	IS LLC
PROJECT LOCATION: PORTSMOUTH INTL AIRPORT AT PEASE EXETER ST, PORTSMOUTH TAX MAP #307, LOT #0, 2, 3		
WATERBODY:	UNNAMED WETLAND	
APPROVAL DATE:	JUNE 16, 2022	EXPIRATION DATE: JUNE 16, 2027

Based upon review of permit application 2021-03615 in accordance with RSA 482-A and RSA 485-A:17, the New Hampshire Department of Environmental Services (NHDES) hereby issues this Wetlands and Non-Site Specific Permit. To validate this Permit, signatures of the Permittee and the Principal Contractor are required.

PERMIT DESCRIPTION:

Dredge and fill 2,265 square feet (SF) of palustrine forested wetland in order to construct a 24 foot wide access road with associated side slopes to provide access to a proposed fuel farm and fixed base operator facility, and install security fencing. In addition, temporarily impact 38 SF of palustrine forested wetland for temporary construction access to install an outlet control structure.

THIS PERMIT IS SUBJECT TO THE FOLLOWING PROJECT-SPECIFIC CONDITIONS:

- In accordance with Env-Wt 307.16 and Env-Wt 524.05(b), all work shall be done in accordance with the plans dated November 23, 2021, by Hoyle, Tanner, & Associates, Inc., as received by the NH Department of Environmental Services (NHDES) on December 3, 2021.
- In accordance with Env-Wt 524.05(a), commercial development projects in non-tidal wetlands shall submit a construction notice with the department at least 48 hours prior to commencing work.
- In accordance with Env-Wt 307.03(a), the applicant shall coordinate with the NHDES Drinking and Groundwater Bureau prior to the initiation of construction.
- No activity shall be conducted in such a way as to cause or contribute to any violation of surface water quality standards per Env-Wt 307.03(a).
- All work including management of soil stockpiles, shall be conducted so as to minimize erosion, minimize sediment transfer to surface waters or wetlands, and minimize turbidity in surface waters and wetlands per Env-Wt 307.03(b).
- In accordance with Env-Wt 307.03(c)(3), water quality control measures shall be installed prior to start of work and in accordance with the manufacturer's recommended specifications or, if none, the applicable requirements of Env-Wq 1506 or Env-Wq 1508.
- In accordance with Env-Wt 307.03(c)(1), water quality control measures shall be selected and implemented based on the size and nature of the project and the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to jurisdictional areas.
- In accordance with Env-Wt 307.03(c)(5), water quality control measures shall be maintained so as to ensure continued effectiveness in minimizing erosion and retaining sediment on-site during and after construction.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095 NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588 TDD Access: Relay NH 1 (800) 735-2964 File Number: 2021-03615 June 16, 2022 Page **2** of **3**

- 9. In accordance with Env-Wt 307.03(c)(6), water quality control measures shall remain in place until all disturbed surfaces are stabilized to a condition in which soils on the site will not experience accelerated or unnatural erosion by achieving and maintaining a minimum of 85% vegetative cover using an erosion control seed mix, whether applied in a blanket or otherwise, that is certified by its manufacturer as not containing any invasive species; or placing and maintaining a minimum of 3 inches of non-erosive material such as stone.
- In accordance with Env-Wt 307.03(c)(7), temporary water quality control methods shall be removed upon completion of work when compliance with Env-Wt 307.03(c)(6) is achieved.
- In accordance with Env-Wt 307.05(e), to prevent the use of soil or seed stock containing nuisance or invasive species, the contractor responsible for work shall follow Best Management Practices for the Control of Invasive and Noxious Plant Species (Invasive Plant BMPs).
- 12. In accordance with Env-Wt 307.11(a), fill shall be clean sand, gravel, rock, or other material that meets the project's specifications for its use; and does not contain any material that could contaminate surface or groundwater or otherwise adversely affect the ecosystem in which it is used.
- 13. In accordance with Env-Wt 307.11(b), limits of fill shall be clearly identified prior to commencement of work and controlled in accordance with Env-Wt 307.03 to ensure that fill does not spill over or erode into any area where filling is not authorized.
- 14. In accordance with Env-Wt 307.11(e), fill shall be not placed so as to direct flows onto adjacent or down-current property.
- In accordance with Env-Wt 307.11(d), no fill shall be allowed to achieve setbacks to septic systems specified in Env-Wq 1000.
- 16. In accordance with Env-Wt 307.11(c), slopes shall be immediately stabilized by a method specified in Env-Wq 1506 or Env-Wq 1508, as applicable, to prevent erosion into adjacent wetlands or surface waters.
- In accordance with Env-Wt 307.03(h), equipment shall be staged and refueled outside of jurisdictional areas (unless allowed) and in accordance with Env-Wt 307.15.
- In accordance with Env-Wt 307.15(a), heavy equipment shall not be operated in any jurisdictional area unless specifically authorized by this permit.
- 19. In accordance with Env-Wt 307.15(b), mobile heavy equipment working in wetlands shall not be stored, maintained, or repaired in wetlands, except that repairing or refueling in a wetland is allowed if equipment cannot practicably be removed and secondary containment is provided.
- 20. In accordance with Env-Wt 307.03(g)(1), the person in charge of construction equipment shall inspect such equipment for leaking fuel, oil, and hydraulic fluid each day prior to entering surface waters or wetlands or operating in an area where such fluids could reach groundwater, surface waters, or wetlands.
- 21. In accordance with Env-Wt 307.03(g)(2), the person in charge of construction equipment shall repair any leaks prior to using the equipment in an area where such fluids could reach groundwater, surface waters, or wetlands.
- 22. In accordance with Env-Wt 307.03(g)(3) and (4), the person in charge of construction equipment shall maintain oil spill kits and diesel fuel spill kits, as applicable to the type(s) and amount(s) of oil and diesel fuel used, on site so as to be readily accessible at all times during construction; and train each equipment operator in the use of the spill kits.
- 23. In accordance with Env-Wt 307.03(e), all exposed soils and other fills shall be permanently stabilized within 3 days following final grading.

THIS PERMIT IS SUBJECT TO THE FOLLOWING GENERAL CONDITIONS:

- Pursuant to RSA 482-A:12, a copy of this permit shall be posted in a secure manner in a prominent place at the site of the approved project.
- In accordance with Env-Wt 313.01(a)(5), and as required by RSA 482-A:11, II, work shall not infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners.
- 3. In accordance with Env-Wt 314.01, a standard permit shall be signed by the permittee, and the principal contractor who will build or install the project prior to start of construction, and will not be valid until signed.
- 4. In accordance with Env-Wt 314.03(a), the permittee shall notify the department in writing at least one week prior to commencing any work under this permit.

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- In accordance with Env-Wt 314.08(a), the permittee shall file a completed notice of completion of work and certificate of compliance with the department within 10 working days of completing the work authorized by this permit.
- In accordance with Env-Wt 314.06, transfer of this permit to a new owner shall require notification to, and approval of, the NHDES.
- 7. The permit holder shall ensure that work is done in a way that protects water quality per Env-Wt 307.03; protects fisheries and breeding areas per Env-Wt 307.04; protects against invasive species per Env-Wt 307.05; meets dredging activity conditions in Env-Wt 307.10; and meets filling activity conditions in Env-Wt 307.11.
- 8. This project has been screened for potential impact to known occurrences of protected species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or only cursory surveys have been performed, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species. This permit does not authorize in any way the take of threatened or endangered species, as defined by RSA 212-A:2, or of any protected species or exemplary natural communities, as defined in RSA 217-A:3.
- 9. In accordance with Env-Wt 307.06(a) through (c), no activity shall jeopardize the continued existence of a threatened or endangered species, a species proposed for listing as threatened or endangered, or a designated or proposed critical habitat under the Federal Endangered Species Act, 16 U.S.C. §1531 et seq.; State Endangered Species Conservation Act, RSA 212-A; or New Hampshire Native Plant Protection Act, RSA 217-A.
- 10. In accordance with Env-Wt 307.02, and in accordance with federal requirements, all work in areas under the jurisdiction of the U.S. Army Corps of Engineers (USACE) shall comply with all conditions of the applicable state general permit.

APPROVED:

Mary Ann A. Tilton Assistant Bureau Administrator, Wetlands Bureau Land Resources Management, Water Division

THE SIGNATURES BELOW ARE REQUIRED TO VALIDATE THIS PERMIT (Env-Wt 314.01).

PERMITTEE SIGNATURE (required)

PRINCIPAL CONTRACTOR SIGNATURE (required)





