#### The TOWN OF NORWOOD

Commonwealth of Massachusetts

#### NORWOOD AIRPORT COMMISSION

Mark P. Ryan, Chairman

Michael Sheehan, Vice Chairman

John J. Corcoran

#### NORWOOD AIRPORT COMMISSION

#### **POSTING**

NOTICE IS HEREBY GIVEN THAT A PUBLIC MEETING OF THE NORWOOD AIRPORT COMMISSION WILL BE HELD:

DATE:

Thursday, May 20, 2021

TIME:

3:30 p.m.

PLACE:

This meeting will be conducted digitally using Go To Meeting. Directions

explaining how to join the meeting can be found on page three of the agenda.

The Chair reserves the right to call items on the agenda out of order. The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting at least forty-eight (48) hours prior to the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Items listed for executive session may be discussed in open session, in addition to or in lieu of discussion in executive session.

#### **MEETING AGENDA**

#### 1. PROJECTS

AIP project update: DuBois & King

#### 2. MINUTES

4/28/21 regular business meeting

#### 3. AIRPORT MANAGER'S REPORT

#### 4. OLD BUSINESS

#### 5. NEW BUSINESS

- Payment request #6, AIP No. 3-25-0037-041-2020 (environmental assessment, phase I)
- Flight Level request to address drainage improvements

#### 6. CORRESPONDENCE:

- 4-26-21 ltr. from M. Peavey, of *Aerial Productions*, to R. Maguire, re: request for Department of Defense support
- 4-28-21 ltr. from R. Maguire to C. Donovan, of *Boston Executive Helicopters, LLC* (BEH), re: payment received for default and DC-3 apron/west apron leases, credit balance
- Payment request #6, AIP No. 3-25-0037-041-2020 (environmental assessment, phase I)
- 5-3-21 ltr from Attorney M. Makarious, of the NAC, to Attorney E. Loeffler, of *BEH*, re: Norwood Memorial Airport/BEH
- 5-6-21 ltr from Attorney N. Burlingham, representing *Flight Level*, to the NAC, re: *Flight Level* request for authorization to address drainage improvements
- 5-7-21 ltr from R. Maguire, to J. Merck, of FAA, re: independent fee estimate and record of negotiations for the following grant project: taxiway D construction and removal of obstructions from runway approaches
- 5-7-21 ltr from Attorney N. Hartzell, representing *Flight Level*, to Attorney M. Makarious, representing the NAC, re: *Flight Level Norwood, LLC* et al v. *Boston Executive Helicopters, LLC*, CA Nos. 1582CV00213 and 1582CV01637; and the 4-28-21 NAC meeting
- 5-11-21 e-mail from T. McDonough, to R. Maguire, re: BMA payments in lieu of taxes

#### 7. EXECUTIVE SESSION

Purpose 3 for executive session (M.G.L. c. 30A, § 21(a)(3)) – To discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the Norwood Airport Commission: *Boston Executive Helicopters, LLC* v. Town of Norwood et al., U.S. District Court-Massachusetts Civil Action No. 1:15-cv-13647-RGS.

• 4/28/21 executive session minutes

#### Here is additional information about how to attend the meeting using GoToMeeting:

Norwood Airport Commission, Regular Business Meeting Thu, May 20, 2021 3:30 PM - 4:30 PM (EDT)

Please join my meeting from your computer, tablet or smartphone. https://global.gotomeeting.com/join/634430277

You can also dial in using your phone.
United States: +1 (646) 749-3122

Access Code: 634-430-277

New to GoToMeeting? Get the app now and be ready when your first meeting starts: <a href="https://global.gotomeeting.com/install/634430277">https://global.gotomeeting.com/install/634430277</a>

#### AIRPORT COMMISSION MEETING REGULAR BUSINESS MEETING April 28, 2021



#### In Attendance:

Commissioners: Mark Ryan, Chairman; Michael Sheehan, Vice Chairman; John Corcoran; Russ

Maguire, Airport Manager

Meeting Called to Order: 3:32 PM NCM is recording this meeting Meeting via GoToMeeting

#### **PROJECTS**

AIP Project update, DuBois & King, Jeff Adler
 Jeff Adler updated the Commission regarding the environmental assessment phase II.
 They are working with MassDEP regarding the variance. Everything is still on target to get all permits and variance by the end of 2021, with construction scheduled for 2022.

Taxiway D runway 28 obstruction removal project, bids were opened on April 20<sup>th</sup>. There were five bids and the low bidder was C. Naughton with a bid of \$949,800. It was slightly higher than the engineer's estimate which was \$885,000. The other bids ranged from \$1.2 million to \$2.4 million. Mr. Adler made a recommendation to the Commission to award the contract pending receipt of the FAA grant. The grant application is complete and before the Commission for signature. The FAA is funding all AIP projects this year 100% Construction should begin in late summer or early fall.

#### **MINUTES**

• 3/17/21 Regular Business Meeting

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to approve the minutes.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

4/7/21 Special Meeting

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to approve the minutes.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

#### AIRPORT MANAGER'S REPORT

Mr. Maguire discussed the airport park project. Bids will be opened on Monday, May 3<sup>rd</sup> at 11:00 by the purchasing department. There was a site meeting. No prospective bidders were present. Money was received from the insurance company for the security camera that was damaged at Gate 1 on January 4<sup>th</sup>. Mosquito control was postponed due to high winds. Once the dates are set, the police, board of health and public will be notified. Air traffic count for March was the highest month of March for total operations in 7 years. It's a good sign the economy is recovering at the Airport.

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to approve the Airport Manager's Report.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

#### **OLD BUSINESS**

 Boston Executive Helicopters' (BEH) request for placement of storage containers and office on DC-3 and west aprons

Chris Donovan put the plan together and would like the plan to stand. The Commission and Attorney Makarious discussed legal issues, and the Commission asked for clarification on the types and location of containers. The Commission tabled a decision on two trailer locations pending clarification with a vote on the trailer on the DC3 ramp.

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to allow BEH to put a trailer on the DC3 ramp, per the plan, with the stipulation that BEH clarify the type of trailer, the Conservation agent gives approval, and that BEH adheres to any conditions that the Conservation agent puts on the permit for the trailer.

#### **NEW BUSINESS**

• FAA grant application, environmental assessment, phase II for taxiway C re-location and runway 17/35 paved safety areas

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to submit the grant application for federal assistance for the environmental assessment phase II in the amount of \$383,389.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

• FAA grant application, taxiway D re-location and runway obstruction removal On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to submit the grant application to the FAA in the amount of \$1,285,075 for taxiway D relocation and runway obstruction removal and to grant the bid to C. Naughton.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes • Payment Request #5, AIP No. 3-25-0037-041-2020 (environmental assessment, phase I) On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to approve payment request #5 in the amount of \$13,041.58, which is 100% covered by FAA.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

#### **CORRESPONDENCE**

- FAA grant application for permitting/environmental assessment (phase II) of taxiway C re-location and runway 17/35 paved safety areas
- FAA grant application for taxiway D re-location and runway obstruction removal
- 3/22/21 letter from R. Maguire to W. Mulvey re: request to bow hunt on airport property
- Payment request #5, AIP No. 3-25-0037-041-2020 (environmental assessment, phase I)
- Town of Norwood, FY 2022 budget book insert draft, Airport Department
- 3/18/21 notice of default letter re: Boston Executive Helicopters, LLC (BEH) leases; from M. Makarious, of Anderson Kreiger, to C. Donovan, of BEH
- 3/19/21 application for federal assistance under the Coronavirus Response and Relief Supplemental Appropriation Act (CRRSA)
- Invitation for bids: re-location of taxiway D and runway approach obstruction removal
- 1-13-21 email and attachment from C. Donovan, of Boston Executive Helicopters, LLC, to the NAC re: containers and office placement

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to file all correspondence.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to adjourn for the purposes of Executive Session for Purpose 3 to discuss strategy with respect to litigation, if an open meeting may have a detrimental effect on the litigating position of the Norwood Airport Commission: Boston Executive Helicopters, LLC v. Town of Norwood et al., U.S. District Court – Massachusetts Civil Action No 1:15-CV-13647-RGS;

- 3/17/21 executive session minutes
- 4/7/21 executive session minutes

The open session and executive session will be adjourned at the end of the executive session meeting.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes Adjourned for the purposes for Executive Session at 4:22 p.m.

The minutes of the NAC will be published on the Town Website.

MEETING ADJOURNED: 4:39 PM



May 7, 2021

Mr. Russ Maguire, Airport Manager Norwood Memorial Airport 111 Access Road Norwood MA 02062

SUBJECT:

Norwood Memorial Airport

AIP No. 3-25-0037-041-2020 Environmental Assessment I

FAA Payment Request No. 6

Dear Mr. Maguire:

Attached please find copies of FAA Pay Request No. 6 for the above referenced project. The payment request includes DuBois & King, Inc. Invoice No 421187

The Commission should anticipate the following reimbursement sources for the total amount billed to date:

FAA

\$ 22,899.46

Total

\$22,899.46

The Commission should anticipate the following reimbursement sources for the total amount billed to date:

	Total	FAA	MassDOT	OWD
	Invoice			
Sponsors Administration Costs	\$ .00	\$.00	\$.00	\$ .00
DuBois & King, Inc.	\$22,899.46	\$22,899.46	\$00	\$ .00
Total Recommended Payments	\$22,899.46	\$22,899.46	\$00	\$ .00

If you have any comments or questions don't hesitate to contact me at 603-637-1043.

Very truly yours, DuBOIS & KING, INC.

Jeffrey A. Adler, P.E., Senior Project Manager

OMB Number: 4040-0012 Expiration Date: 02/28/2022

3. FEDERA ELEMENT	EQUEST FOR ADVANCE OR REIMBURSEMENT  AL SPONSORING AGENCY AND CONTROL TO WHICH THIS REPORT IS SUE PORTS Division	DRGANIZA	1. TYPE OF PAYMENT REQUESTED	b. "X" the a	DVANC EIMBUF applicab NAL ARTIAL AL GRA D BY FE	E RSEMENT  LIVE BOX  LIVE OR OTHER ID  EDERAL AGENCY	2. BASIS OF REQUEST  CASH  ACCRUAL  DENTIFYING NUMBER
NUMBER F	L PAYMENT REQUEST FOR THIS REQUEST	NUMBER		ATION		7. FINANCIAL A IDENTIFICATIO	
6		04-600	1254				
Fram:	PERIOD COVERED BY THIS REQU 04/09/2021 To: 04/28/2						
9. RECIPII	ENT ORGANIZATION						
Name:	Norwood Airport Commission						
Street1:	111 Access Road						
Street2:							
City:	Norwood						
County:							
State:	MA: Massachusetts						
Province:							
Country:	USA: UNITED STATES						
ZIP / Post	al Code: 02062						
10. PAYE	E (Where check is to be sent if diffe	erent than it	em 9)				
Name:	MassDOT - Aeronautics						
Street1:	Logan Office Center						
Street2:	One Harborside						
City:	East Boston						
County:							
State:	MA: Massachusetts						
Province:							
Country:	USA: UNITED STATES						
ZIP / Post	tal Code: 02128-2009						

11. COMPUT	ATION OF AMO	OUNT OF REIMBURSEMENTS	S/ADVANCES REQUESTED		
PROGRAMS/FUNG ACTIVITIES	CTIONS/	(a) 20.106	(b)	(c)	TOTAL
a. Total program	(As of date)				
outlays to date	04/28/2021	\$ 225,596.28	\$	\$	\$ 225,596.28
b. Less: Cumulativincome	ve program				
c. Net program out minus line b)		225,596.28			225,596.28
d. Estimated net ca advance period					
e. Total (Sum of li	nes c & d)	225,596.28			225,596.28
f. Non-Federal sha on line e	re of amount				
g. Federal share of line e	f amount on	225,596.24			225,596.24
h. Federal paymen requested	ts previously	202,696.78			202,696.78
i. Federal share no (Line g minus li		22,899.46			22,899.46
j. Advances require month, when	1 ISL MONLIN				
requested by Fed grantor agency fo use in making					
prescheduled advances	3rd month				
12. ALTERNA	TE COMPUTAT	ION FOR ADVANCES ONLY			
a. Estimated Fede	ral cash outlays	that will be made during period	d covered by the advance		\$
b. Less: Estimated	d balance of Fed	eral cash on hand as of beginr	ning of advance period		
c. Amount request	ed (Line a minus	line b)			\$
13. CERTIFIC	ATION				
I certify that to the conditions or other	best of my know agreement and	ledge and belief the data on th that payment is due and has n	ne reverse are correct and that not been previously requested	at all outlays were made in ac d.	cordance with the grant
SIGNATURE OR A	AUTHORIZED C	ERTIFYING OFFICIAL		DA	ATE REQUEST SUBMITTED
TYPED OR PRINT	ED NAME AND	TITLE			
Prefix:		First Name: Mark		Middle Name:	
Last Name:	Ryan			Suffix:	
Title: Chair	man				
TELEPHONE (ARI	EA CODE, NUM	BER, EXTENSION)			
This space for age	ncy use				

Public reporting burden for this collection of information is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0004), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

# INVOICE SUMMARY

# **GRANT RECIPIENT INFORMATION**

Federal Share %: Description: Environmental Assessment 1 AIP Grant Number: 3-25-0037-041-2020 9 PROJECT INFORMATION Reimbursement No. Name: Norwood Airport Commission Airport: Norwood Memorial Airport Address: 111 Access Road City/State: Norwood MA

100%

22,899.46 AIP Share (8) Non-Participating Costs 22,899.46 AIP Eligible Costs (9) 22,899.46 Invoice Amount \$ **Due Date** Due 4 Invoice 4/28/21 Date (3) Invoice Number 421187 (2) Vendor/Class/Description DuBois & King/

22,899.46 202,696.78 225,596.24 TOTAL REIMBURSEMENTS \$ PREVIOUS REIMBURSEMENTS \$ AMOUNT OF THIS REIMBURSEMENT

I certify that to the best of my knowledge and belief the billed costs or disbursements are in accordance with the terms of the project and that the reimbursement represents the Federal share due, which has not been previously requested and that all work is in accordance with the terms of the award.

Signature

Date

					PAGE	OF P/
DEPARTMENT OF TRANSPORTATION		Form a	pproved		1. PROJECT NO.	
FEDERAL AVIATION ADMINISTRATION		Budget	Bureau No. 04-R0004		3-25-0037-041	
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Print or type data requested. Read instructions of	PROJECT COS				CONTRACT NO.	
3. SPONSOR'S NAME AND ADDRESS	Treverse before completing	19 1011111			4. PERIOD ENDING	
Norwood Airport Commission, 11	1 Access Road, No	rwoo	d MA 02062		4/28/2021	
					6. MAXIMUM FEDER	AL EUNDS
5. OFFICIAL NAME AND LOCATION OF AIRPO	KI				6. WAXIIVIOW FEDER	ALFONDS
Norwood Memorial Airport	<del></del>	Γ			10. ESTIMATE OF A	GGREGATE
	8. LATEST		9. ACTUAL COS	ST	OF TOTAL COSTS II	The second secon
	REVISED TOTAL		INCURRED TO DA	ATE	AND TO BE INCURF	RED
7. DESCRIPTION	ESTIMATED COST				(Date)	
			AMOUNT	PERCENT (b)	AMOUNT (a)	PERCENT (b)
			(a)	(b)	(a)	(0)
1. Administration	\$4,000.00		\$4,000.00	100%		
2. Engineering						
Data Collection	\$31,745	\$	31,745.00	100%		H
Design	\$117,936	\$	100,245.60	88%		
Permitting	\$107,450.00		\$80,502.82	75%		
Administration	\$22,202.00		\$9,102.82	41%		
Total	\$283,333.00		\$225,596.24	80%		
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44 OFFICION I A STORY		1	at all arms of a second	oto the back	aformation available	
<ol> <li>CERTIFICATION - I certify that the la total final cost of each item; that amounts</li> </ol>						
and, when applicable, that the estimates	of the costs to be incur	red refl	ect the best informat	ion available.	I further certify that	t the materials
used and construction accomplished mee included in the project records.	t the requirements of t	ne plan	is and specifications,	, as evidenced	by ceπιτιed test ar	ia inspection reports
DATE	SIGNATURE OF SPONS	OR'S E	NGINEER		***************************************	



Norwood Airport Commission Attn: Mr. Mark Ryan, Chairman 111 Access Road Norwood MA 02062 April 28, 2021 Invoice No:421187 Project No: 326165

TERMS: Net 30 days from invoice date, 1.5% per month charged thereafter. For professional services rendered through Aprl 28, 2021

For engineering services related to Environmental Assessment I

AIP NO. 3-25-0037-041-2020

Project Phase		Contract Amount	Percentage Complete		Previous Billed		Current Invoice		Total to Date
Article A Data Collection Article B Design Article C Permitting Article D Administration	\$	\$31,745.00 \$117,936.00 107,450.00 22,202.00	100% 88% 75% 41%	\$ \$ \$	31,745.00 88,452.00 69,396.96 9,102.82	\$ \$ \$	- 11,793.60 11,105.86 -	\$ \$ \$	31,745.00 100,245.60 80,502.82 9,102.82
Total Contract Amount		\$279,333.00		\$	198,696.78	_\$_	22,899.46	\$	221,596.24
Total Amount Earned to Date Less Previous Billing	\$ \$	221,596.24 198,696.78							
Total Amount Billed this Invoice	\$	22,899.46							



Phone: 781.769.8680

Fax: 781.769.7159 or 781.769.0476 www.flightlevelaviation.com

VIA ELECTRONIC MAIL rmaguire@norwoodma.gov

May 6, 2021

Norwood Airport Commission c/o Russ Maguire, Airport Manager 125 Access Road Norwood, MA 02062

Re: FlightLevel Norwood, LLC - Request For Authorization To Repair Drainage

Dear Sirs,

For many years, FlightLevel and its predecessors (and, historically, OWD Administration as well) have been dealing with a flooding condition in the area between Building 6 (the former Airport Manager's Office) and the rental car line at Gate 1. Last year, with NAC consent, FlightLevel removed several trees in that location to stop leaves, droppings and root systems from clogging the drains and the area's two connected (and equalizing) catch basins.

This year, FlightLevel would like to complete the project by connecting the equalizing catch basins in the flood area to the pre-existing drainage system on Lot 6, by installing a 12" underground drainage pipe as shown on the plan attached as Exhibit A. This would allow storm water to flow (and/or be pumped) from the flood area to the functioning storm water drainage system on Lot 6.

In anticipation of this, FlightLevel retained Wayne's Drains to conduct a tractor-cam inspection of the Lot 6 drainage system, including its manholes, catch basins and underground piping. During the inspection it was determined the "Existing DMH" (rather than the nearby "CB" as shown on Exhibit A), was the feature that was actually connected to the Lot 6 drainage system. A copy of the Wayne's Drains report is attached as Exhibit B. FlightLevel next retained Epsilon Associates to review the project, and provide guidance on what, if any, environmental permitting would be required. Epsilon's report concluding that "no further environmental permitting is necessary," is attached as Exhibit C.

FlightLevel requests Norwood Airport Commission consent to proceed with the improvement.

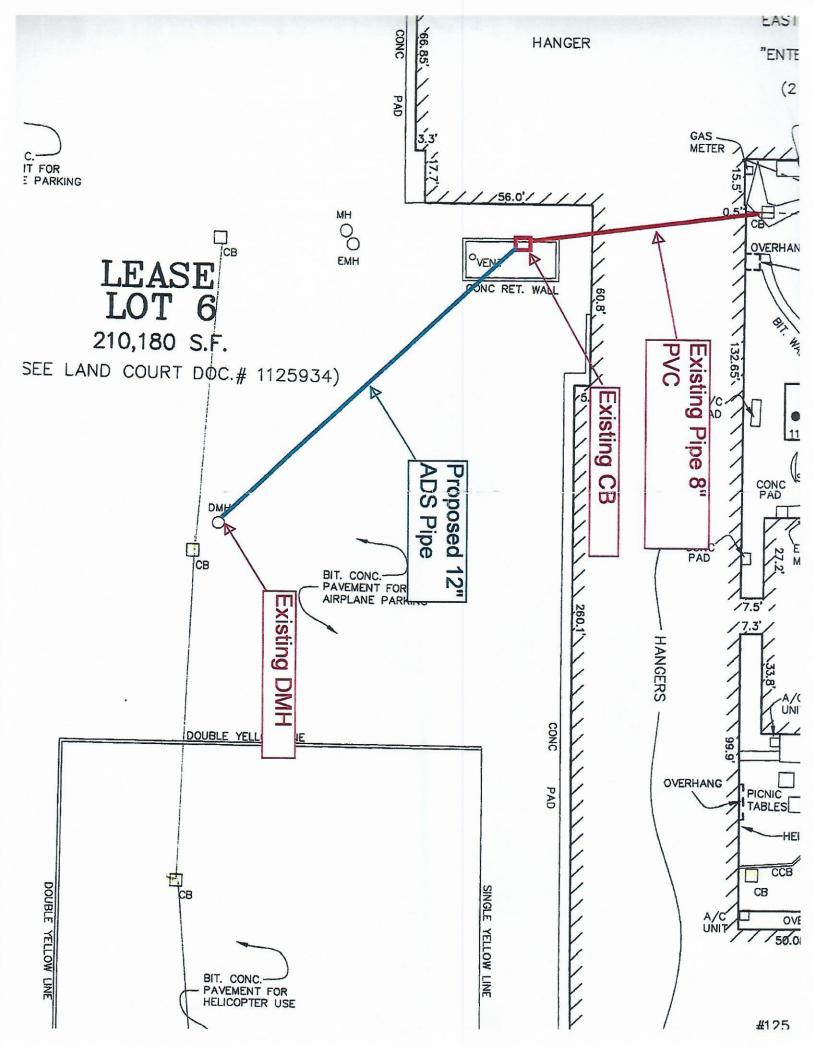
Respectfully submitted,

FlightLevel Norwood, LLC

Nick Burlingham General Counsel

860-941-1129

# **EXHIBIT A**



## **EXHIBIT B**



OFFICE: 781-272-3100 FAX: 781-272-2999

E-MAIL:

# Tractor Camera Inspection REPORT

DATE: <u>031//</u>	12021	
JOB ADDRESS: 125 Acress 12	Site	Managemen 7
CITY/TOWN: Norwood Ma		
# of USB: Copi	es of USB:	
Technician: Rob-Kyle - Steve		



www.WaynesDrains.com

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Pipe Ratings Index 2 Pipe Ratings Index 1 Pipe Ratings Index 3

Quick Rating 2800 Quick Rating 1500 Quick Rating 2B15

Structural: O&M: Overall

Scores

Pipe Rating 34 Pipe Rating 5 Pipe Rating 39

	Surveyed By Rob	Certifi	X for Site Mana	gement Owner	
		Reviewer # U-613-185	97 Work Orde		
Media Label	te Management			'O#	
Date 2021/03/11		oject Televise Storm Line			
	Time 10:52 t Controlled	Weather Dry - n	o Precipitatio <b>Pre-Cleaning</b> L	Data Class	ned 2021/03/1
Street 125 Access		Survey Purpose Mainten	ance Related	Direction Do	
Location Code P		City	Norwood, Ma	Drainage area	msueam
Location details	ear middle side of tarn	nac just behind building	Pipe Us	e Stormwater Pipe	
Shape Circular	and or tarry		Height 10	Width ins	
Coating		Material Reinforced Co	9		
Length Surveyed	88.20 Ft Ye	Pipe Joint length par Constructed	Ft Total length 88.2	Ft Structural	0 & M
Up CB 1		Rim to invert	Year Renewed	Miscellaneous	Constructiona
Down CB 2		Rim to invert	Grade to invert	Rim to grade	
		The state of the s	Grade to invert	Rim to grade	
0 Ft	0.0 Ft	Start of Survey Manhole [CB 2] Miscellaneous Water	Level 0%		
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e Flow vey Dir	63.5 Ft	Line Right 000002% (	DM: 1 [2%]		
	66.3 Ft	Tap Break-in/Hammer	5.000 10 o'clock		
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	80.5 Ft	Line Left 000002% OM	1: 1 [2%]		
2 Ft					

Work Order

Surveyed On 2021/03/11

Setup 1

Street Name 125 Access Road

City Name Norwood, Ma

Video Weather Dry - no Precipitation during survey

Location Parking Lot From Manhole CB 1

To Manhole CB 2

Direction Downstream



Distance: 88.2 Ft

Obs: End of Survey

Comments: end at CB 2

**Direction** Downstream

Work Order Surveyed On 2021/03/11 Setup 1 Street Name 125 Access Road Video City Name Norwood, Ma Weather Dry - no Precipitation during survey Location Parking Lot From Manhole CB 1 To Manhole CB 2



Date: 2021/03/11

Distance: 80.5 Ft

Obs: Line Left

Comments:

LC1: +0088,2 LC2: 0000.50 ft 2021/03/11 Distance: 88.2 Ft

Obs: End of Survey

Comments:

end at CB 2

Work Order Surveyed On 2021/03/11 Setup 1 Street Name 125 Access Road Video City Name Norwood, Ma Weather Dry - no Precipitation during survey Location Parking Lot From Manhole CB 1 To Manhole CB 2 Direction Downstream



Date: 2021/03/11 Comments:

Distance: 66.3 Ft

Obs: Tap Break-in/Hammer

Observation: LR Counter: 76.2

From: To: Remarks: 2% LC1: +0076,20 ft LC2: 0000.50 ft

Date: 2021/03/11

Comments:

Distance: 76.2 Ft

Obs: Line Right

Work Order Surveyed On 2021/03/11 Setup 1 Street Name 125 Access Road Video City Name Norwood, Ma Weather Dry - no Precipitation during survey Location Parking Lot From Manhole CB 1 To Manhole CB 2 **Direction** Downstream



Obs: Line Right

vation: TB ter: 66.3 n: 10 To:

LC1: +0066,30 ft LC2: 0000.50 ft

Comments:

Date: 2021/03/11

Distance: 66.3 Ft

Obs: Tap Break-in/Hammer

#### X for Site Management

Work Order Surveyed On 2021/03/11 Setup 1 Street Name 125 Access Road Video City Name Norwood, Ma Weather Dry - no Precipitation during survey Location Parking Lot From Manhole CB 1 To Manhole CB 2 **Direction** Downstream



Date: 2021/03/11

Distance: 27.6 Ft

Obs: Roots Fine Joint

Comments:



Distance: 33.5 Ft

Obs: Roots Fine Joint

Comments:

Work Order Surveyed On 2021/03/11 Setup 1 Street Name 125 Access Road Video City Name Norwood, Ma Weather Dry - no Precipitation during survey Location Parking Lot From Manhole CB 1 To Manhole CB 2 **Direction** Downstream



Date: 2021/03/11

Distance: 23.0 Ft

Obs: Tap Break-in/Hammer

Comments:



Distance: 27.6 Ft

Obs: Roots Fine Joint

Work Order Surveyed On 2021/03/11 Setup 1 Street Name 125 Access Road Video City Name Norwood, Ma Weather Dry - no Precipitation during survey Location Parking Lot From Manhole CB 1 To Manhole CB 2

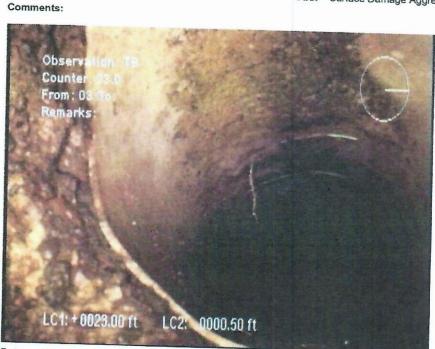
> Observation: SAV Counter: 2.0 From: 12 To: 12 Remarks: LC1: +0002.00 ft LC2: 0000.50 ft

Date: 2021/03/11

Distance: 2.0 Ft

Obs: Surface Damage Aggregate Visible

**Direction** Downstream



Date: 2021/03/11

Distance: 23.0 Ft

Obs: Tap Break-in/Hammer

Comments:

# **EXHIBIT C**



April 8, 2021

#### **PRINCIPALS**

Mike Krawczyk **FBO Manager** Flight Level Aviation 125 Access Rd

Dale T Raczynski, PE Cindy Schlessinger

Margaret B Briggs

Theodore A Barten, PE

Norwood, MA 02062

Lester B Smith, Jr Robert D O'Neal, CCM, INCE

Michael D Howard, PWS

Subject: **Environmental Permitting Review of Proposed Flight Level Drainage** Revisions

Douglas J Kelleher AJ Jablonowski, PE

Dear Mr. Krawczyk:

Stephen H Slocomb, PE David E Hewett, LEED AP

Epsilon Associates was requested to review available information regarding the proposed connection of two existing catch basins to an existing drainage system proximate to the Flight Level Aviation lease holdings at Norwood Memorial Airport in Norwood,

Dwight R Dunk, LPD David C Klinch, PWS, PMP

Massachusetts.

Maria B Hartnett Richard M Lampeter, INCE Geoff Starsiak, LEED AP BD+C Marc Bergeron, PWS, CWS

Epsilon understands that the two catch basins in question (designated CB1 and CB2 on the inspection report dated March 11, 2021 by Wayne's Drains) equalize and are manually pumped out as necessary. Due to reoccurring flooding issues during rain events, Flight Level proposes to connect these independent catch basins via a new pipe from CB2 to a series of interconnected basins which drain to a drainage ditch along Access Road. This ditch flows northerly and eventually back onto the Airport via another drainage pipe to Outfall # 2. As Epsilon understands, CB1 and CB2 receive runoff from roofs, apron areas and a portion of the parking lot. The existing catch basins which do flow to the ditch also drain hangar roofs and apron areas.

#### **ASSOCIATES**

Alyssa Jacobs, PWS Holly Carlson Johnston Brian Lever

> Epsilon has reviewed the site and the available documentation, including the drainage plan for the airport and the inspection report, as well other environmental constraints and finds that no further environmental permitting is necessary for the construction of the new connection to these catch basins to the existing drainage network. The site is not located within a resource area subject to protection under the Massachusetts Wetlands Protection Act (MGL c.131 s.40) (the "Act") and implementing Regulations (310 CMR 10.00) ("Regulations") or Norwood Wetlands Protection Bylaw and regulations. Epsilon determined that the proposed work area is not within Bordering Land Subject to Flooding (i.e. the 100-year Floodplain, el. 47.1 feet) or nor within 100-feet of a vegetated wetland or other potential resource areas.

3 Mill & Main Place, Suite 250 Maynard, MA 01754 www.epsilonassociates.com

978 897 7100

FAX 978 897 0099

Other considered regulations in this evaluation included the Massachusetts Endangered Species Act and the Massachusetts Environmental Policy Act. Ground disturbing activities do not exceed the 1 acre threshold which would require a NPDES Construction General Permit. Finally, this review did not include any local building permit requirements or approvals from the Norwood Airport Commission as these are not environmental permitting requirements.

Please note, this new connection would require that these catch basins be included in the coverage under the recently issued 2021 National Pollution Discharge Elimination Program ("NPDES") Multi-Sector General Permit ("MSGP") and associated Stormwater Pollution Prevention Plan ("SWPPP"). Any stormwater runoff that enters these catch basins would need to comply with the 2021 MSGP conditions.

During construction, appropriate sediment controls should be implemented, including ensuring that the basins and new pipe remain off line until construction is complete and no dirt enters the existing system.

If you have any questions regarding the above, please do not hesitate to contact me at 978.461.6271 or via email at <a href="mailto:ajacobs@epsilonassociates.com">ajacobs@epsilonassociates.com</a>.

Thank you.

Sincerely,

EPSILON ASSOCIATES, INC.

Alyssa Jacobs, PWS

Associate & Manager, Ecological Sciences



#### The TOWN OF NORWOOD

Commonwealth of Massachusetts

#### Norwood Memorial Airport

Russ Maguire, A.A.E., ACE, Airport Manager

OFFICE ADDRESS 111 Access Road Norwood, MA 02062 MAILING ADDRESS
111 Access Road
Norwood, MA 02062

#### BY ELECTRONIC MAIL ONLY

May 7, 2021

Mr. John Merck, Project Engineer Federal Aviation Administration New England Airports Division 1200 District Avenue Burlington, MA 01803

RE: Independent Fee Estimate and Record of Negotiations: Taxiway D Construction and Removal of Obstructions from Runway Approaches

#### Dear John:

Relative to the construction project noted above, in the fall of 2020, a scoping/pre-design meeting was held with FAA, MassDOT, airport management, as well as the sponsor's consultant, *DuBois & King*. This meeting was held to ensure that the consultant had a thorough understanding of the scope of work.

On November 23, 2020, a proposed engineering fee and cost breakdown was submitted by the sponsor's consultant. The *Attachment 1* summary sheet shows that the proposed engineering fee totaled \$331,275. *DuBois & King's* proposed engineering fee is broken down as follows:

Article A, Data Collection

Article B, Design

Article C, Bid Phase

Article D, Administration

Article E, Construction Services

Article F, Resident Inspection

Article G, Permitting

The sponsor selected the independent engineering firm of *Montgomery Consulting Group*, Winter Park, FL, to perform an independent fee estimate, or IFE, of the same scope of work for which the consultant had submitted its engineering fee and cost breakdown. The *Attachment 2* summary sheet shows that on November 24, 2020, the independent estimator submitted her company's IFE of \$312,600.

The independent estimator's IFE was similarly broken down as follows:

Article A, Data Collection

Article B, Design

Article C, Bid Phase

Article D, Administration

Article E, Construction Services

Article F, Resident Inspection

Article G, Permitting

A detailed cost analysis comparing the IFE with the consultant's fee proposal was subsequently performed (*Attachment 3*). Using as a reference the guidelines set forth in FAA Advisory Circular 150/5100-14E *Architectural, Engineering and Planning Consultant Services for Airport Grant Projects*, the fee proposal (\$331,275) was noted to be within 10% of the independent fee estimate (\$312,600). The fee proposal was therefore deemed fair and reasonable, and no further negotiations were required.

On January 13, 2021, the Norwood Airport Commission voted to have the Chairman sign the *DuBois & King* engineering contract pending a legal review by Town Counsel (*Attachment 4*). This contract was reviewed by Town Counsel, edited and revised, then executed by Norwood Airport Commission Chairman Mark Ryan on April 29, 2021, along with Town Counsel's signature. MassDOT approved the contract on May 7, 2021.

Please advise if you need any additional information.

Thank you.

Sincerely,

Russ Maguire, Manager

Norwood Memorial Airport

CC: Norwood Airport Commission; Owen Silbaugh, Massachusetts Department of Transportation/Aeronautics

### **ATTACHMENT 1**

		\$331,275	Total Price =		
		\$27,919	Total Direct Expenses =		
	Sub Total Expenses=	\$303,357	Total Direct Labor =	SUMMARY:	
Subtotal =					
	\$0 \$7,000 \$10,000	Epsilion/Smart Assoc Survey Testing			III. Subcontractors
Subtotal =	\$600 \$1,200 \$1,100 \$1,000	Telephone/Fax = Postage = Reproduction = Copying = Miscellaneous =			
					II. Project Support Expenses
Subtotal =	\$1,000 \$2,800	\$25 / Day = \$70 / Day =	40 Days @	Hotel	Rooms & Lodging:
	SO	Allowance = \$6 / Day =	0 Days @	Partial Per Diem	Meals:
	\$3,019	\$0.575 / Mile =	5250 Miles @	Passenger Vehicles	
	20	\$0.575 / Mile =	0 Miles @	Vans∕Trucks	Transportation:
					I. Subsistence

Part	\$303,357	† II										
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DUBNOI: 326910X   Distriction Removal and TWD Relocation   Table   T		228	24		0	8	424	108	674	341	193	Total Hours:
THE NAME: Taxiway/Feex/s   Taxiway/Feex/s   The name of the name	236	0	24	16		0	0	108	56	32	0	
No.:328610X	424	0		0		0	424	BILL SECTION	0	0	0	Article F - Resident Inspection
ILE NAME: TaxiwayAFeex.is   Summary   Summar	206	26		0		0	0	DOG THE SEA	90	64	26	Article E - Construction Services
	330	78		40		0	0		92	74	46	Article D - Administration
Summary   PROJECT   PROJECT   PROJECT   ENGINEER   EN	111	32		0	A PRINCIPAL SECTION OF	0	0	National Property and Property	34	28	17	Article C - Bid Phase
FILE NAME: TaxiwayAFee.xis  Summary  CATEGORIES OF LABOR PROJECT PROJECT SHORER SPECIALIST DESIGNER NORMEER SPECIALIST DESIGNER SPECIALIST DESIGNER NORMEER SPECIALIST DESIGNER NORMEER SPECIALIST DESIGNER SP	979	68		294	HANDER AND AND ASSESSED.	œ	0		402	127	80	Article B - Design
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Norwood Airport Commission Obstruction Removal and TW D Relocation Summary							OF LABOR	CATEGORIES				
Norwood Airport Commission Obstruction Removal and TW D Relocation									imary	Sum		
		GING, INC.	DUBOIS & K					cation	ort Commission and TW D Reloc	Norwood Airpo ruction Removal	Obst	JOB NO.: 325610X FILE NAME: TaxiwayAFee.xls 11/1/2/2020

	Summary		
	Engineering	Expenses	Total
Article A Data	8837	701	9538
Article B Design	120242	1388	121630
Article C Bid	38940	730	39670
Article D Admin	14606	673	15279
Article E ChstSrvs	42059	17903	59962
Article F Res	28668	6025	34693
Article G Permit	50005	500	50505
	303357	27919	331275

		Permit	-	Z Ca	CnstSrvs	Admin	tz	Bill	Design	Data	5)
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## **ATTACHMENT 2**

## INDEPENDENT FEE ESTIMATE

F	-1-	-1	7=			L.	Article G - Permitting	Article F - Resident Inspection	Article E - Construction Services	Article D - Administration	Article C - Bid Phase	Article B - Design	Article A - Data Collection				
Direct Labor.	nouny Kales:		otal Hours:			Total Hours:							SALES REPORTED				
\$17,220	\$2,000	*0.00	82	3.0%		82	8	0	œ	29	4	33	0	PROJECT DIRECTOR		Obstru	N A
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\$48,000	\$150.00		320	14./%		320	120	0	74	40	28	50	o	PROJECT ENGINEER / SPECIALIST	THE THEFT	nd TW D Reloca ee Estimate nary	t Commission
\$45,750	\$125.00		366	16.8%		366	24	0	0	40	12	290	0	ENGINEERS / SENIOR DESIGNER	CATEGORIES OF LABOR	ation	
\$27,285	\$85.00		321	14.8%		321	0	321	0	0	0	0	0	RESIDENT	OF LABOR		
\$1,620	\$135.00		12	0.6%		12	0	0	0	0	0	12	0	ELECTRICAL			
\$0	\$100.00		0	0.0%		0	0	0	0	0	0	0	0	WETLAND SPECIALIST	ALL STREET		
\$41,370	\$105.00		394	18.1%		394	0	0	0	4	4	338	œ	SENIOR TECHS. / DRAFTERS	THE STORY OF THE S		
70 \$15,640 \$4,590	\$85.00	Total Project Hours =	184	8.5%	Total Project Hours =	184	144	0	0	40	0	0	0	TECHS. / DRAFTERS	The Cart of the Ca		
\$4,590	\$60.00	ours =	76.5	3.5%	ours =	76.5	20	0	10.5	26	œ	12	0	ADMIN. SUPPORT			
		2173.5			2,174		356	321	164.5	334	116	850	32	TOTAL			

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Mile = \$1,668  Mile = \$1,668  Nowance = \$4,350  Day = \$4,350  Day = \$6,930  Subtotal = \$975  \$1,325  \$975  \$1,325  \$975  \$3875  \$8875	enses =			6 20 6			8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8	
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	40.11.00	\$31,705	\$14,000		\$4,757		\$12,948	

### INDEPENDENT FEE ESTIMATE

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975	Postage	50	225		100	200	100	100	200	975
1325	Reproduction	75	350		250	50	250	0	350	
975	Copying	25	150	200	100	125	200	100	250	975
867	Misc.	100	50		60	55	100	200	110	867
0050	Survey	0		•	0	0	0	0600	0	0050
	Testi									

	Obstructio Indepe	Norwood Airport Commission bstruction Removal and TW D Relocatio Independent Fee Estimate Summary	sion Relocation ummary			
	E E	Engineering	ध्य	Expenses		Total
Article A Data Collection	S	5,080	69	300	69	5,380
Article B Design	60	110,360	€9	850	69	111.210
Article C1 Permitting	69	43,720	65	2,350	G	46.070
Article D Bid Phase	69	18,840	69	010	s	19,450
Article E Administration	S	48,520	s	480	S	49,000
Article F Construction Phase Services	s	27,090	60	15,800	es	42,890
Article G Resident Engineering	S	27,285	65	11,315	S	38,600
Total:	s	280,895	s	31,705	S	312,600

### **ATTACHMENT 3**

# Comparison of Proposed Engineering Fee and Independent Fee Estimate

## Taxiway D Construction/Obstruction Removal, Runway Approaches

	\$312,600	\$331,275	
\$4,435	\$46,070	\$50,505	Article G - Permitting
-\$3,907	\$38,600	\$34,693	Article F - Resident Inspection
\$17,072	\$42,890	\$59,962	Article E - Construction Svcs.
-\$33,721	\$49,000	\$15,279	Article D - Administration
\$20,220	\$19,450	\$39,670	Article C - Bid
\$10,420	\$111,210	\$121,630	Article B - Design
\$4,158	\$5,380	\$9,538.00	Article A - Data Collection
Difference	Independent Fee Estimate	DuBois & King Proposal	

DuBois & King's engineering proposal, though \$18,675 higher than the independent fee estimate (IFE), is still within 10% of the IFE.

### **ATTACHMENT 4**



### AIRPORT COMMISSION MEETING REGULAR BUSINESS MEETING January 13, 2021

### In Attendance:

Commissioners: Mark Ryan, Chairman; Michael Sheehan, Vice Chairman; John Corcoran; Russ Maguire, Airport Manager

Meeting Called to Order: 4:03 PM NCM is recording this meeting. Meeting via GoToMeeting

### **PROJECTS**

AIP Project update, DuBois & King, Jeff Adler
Jeff Adler updated the Commission regarding the environmental assessment for the
paved safety areas and Taxiway C relocation. MEPA certificate was received at the end
of December and the preferred alternatives were approved to move forward with the
process. The goal is getting all permits in hand and the variance at the end of 2021 and
begin construction in 2022.

Mr. Adler discussed the design/construction Taxiway D relocation as well as obstruction removal of approaches to the four runway ends. The project needs to be out to bid by mid-March, open bids in mid-April and apply for grant application before May 1. At the moment it looks to be funded 90% federal, 5% state and 5% local. With the CARES Act it could be 100% funding, but that has not been determined yet.

### **MINUTES**

12/9/20 Regular Business Meeting

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to approve the minutes.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

12/16/20 Regular Business Meeting

On a motion by Mr. Corcoran and seconded by Mr. Sheehan, the Commission voted 3/0 by roll call to approve the minutes with the spelling correction made.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

### AIRPORT MANAGER'S REPORT

Mr. Maguire discussed the report showing activities from December 8<sup>th</sup> to January 11<sup>th</sup>. Mr. Maguire would like to recognize the Flight Level's line personnel, air traffic control, Norwood Police, Norwood Fire and the assistant airport manager regarding the security

breach and property damage that occurred on January 4<sup>th</sup>. The Commission thanked Mr. Maguire for his efforts as well. Southern Airways would like to continue operations sometime in late quarter 1 or early quarter 2.

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to approve the Airport Manager's Report.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

### **NEW BUSINESS**

• Payment request #3, AIP No. 3-25-0037-039-2020 (post-construction monitoring)
On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to authorize payment of Dubois & King Payment Request No. 3 in the amount of \$4,778.25, 100% reimbursed by FAA.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

Payment request #3, AIP No., 3-25-0037-041-2020 (environmental assessment)
 On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to authorize payment of Dubois & King Payment Request No. 3 in the amount of \$20,472.68, 100% reimbursed by FAA.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

• FAA – Sponsor verification of intent

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to authorize the Chairman sign the verification of intent and forward to the FAA.

- Taxiway D construction/obstruction removal grant project, engineering contract
   On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to authorize the Chairman to sign the contract pending review by town counsel in the amount of \$331,275.
  - Gregory Grant, security badge revocation
     Mr. Grant's badge has been disabled due to an incident on December 1th, pending review by the Commission. Mr. Grant addressed the Commission and apologized for his actions regarding the incident.

On a motion by Mr. Corcoran and seconded by Mr. Sheehan, the Commission voted 3/0 by roll call to reinstate Mr. Grant's security badge with the stipulation that if there is another incident involving a vehicle, Mr. Grant will be permanently barred from Norwood Airport, with a letter sent to Mr. Grant stating the same.

### **CORRESPONDENCE**

- 1-8-21 Reserve fund transfer request to replace damaged security equipment
- FAA Sponsor verification of intent form
- Payment Request #3, AIP No. 3-25-0037-039-2020 (post-construction monitoring)
- Payment Request #3, AIP No. 3-25-0037-041-2020 (environmental assessment)
- 12-21-20 letter from Airport Commission to BEH re: approved leases B&H licensed area
- 12-17-20 letter from Airport Manager to Gregory grant re: security badge suspension
- Flight Level Norwood, LLC v Town of Norwood, document subpoena
- Boston Executive Helicopters, LLOC v Town of Norwood, Notice of Appeal
- 12-14-20 letter to N. Hartzell from M. Makarious re: DC-3 apron fueling interest
- 12-9-20 letter from Airport Manager to AIR2, LLC re: unauthorized operations
- 12-9-20 letter from P. Eichleay to Airport Commission re: DC-3 apron fueling interest
- 12-8-20 letter from N. Hartzell re: Civil Action No. 1982CV01099
- Motion to Dismiss re: Civil action No. 1982CV01099
- Memorandum of Decision and Order re: Civil Action No. 1982CV01099

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to file the correspondence.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

On a motion by Mr. Sheehan and seconded by Mr. Corcoran, the Commission voted 3/0 by roll call to adjourn for the purposes of Executive Session for Purpose 3 to discuss strategy with respect to litigation, if an open meeting may have a detrimental effect on the litigating position of the Norwood Airport Commission: Boston Executive Helicopters, LLC v. Town of Norwood et al., U.S. District Court – Massachusetts Civil Action No 1:15-CV-13647-RGS;

• 12/9/20 executive session minutes.

The open session and executive session will be adjourned at the end of the executive session meeting.

Mr. Sheehan: Yes Mr. Corcoran: Yes Mr. Ryan: Yes

Adjourned for the purposes for Executive Session at 4:37 p.m.

The minutes of the NAC will be published on the Town Website.

**MEETING ADJOURNED: 4:59 PM** 

60 State Street Suite 600 Boston, MA 02109-1800

Tel: 617.963.5975

www.fmglaw.com

A. Neil Hartzell Partner

Writer's Direct Access 617.963.5966

nhartzell@fmglaw.com

May 7, 2021

Via First-Class Mail & Email mina@andersonkreiger.com

Mina S. Makarious, Esq. Anderson & Kreiger LLP 50 Milk Street. 21st Floor Boston, MA 02109

Re: Flight Level Norwood, LLC, et al v. Boston Executive Helicopters

Norfolk Superior Court Civil Action Nos. 1582CV00213 and 1582CV01637

and the Norwood Airport Commission April 28, 2021 Meeting

Dear Mina:

I am writing on behalf of FlightLevel Norwood, LLC, EAC Realty Trust, EAC Realty Trust II, EAC Realty Trust IV, and Peter Eichleay as Trustee (collectively "FlightLevel"). The injunction (copy attached as Ex. A) entered by the Norfolk Superior Court on February 26, 2021 in the consolidated cases 1582CV00213 and 1582CV01637 provides in part:

"Boston Executive Helicopters (BEH), its members and employees, AND ANY persons or ENTITIES ACTING under its control or FOR ITS BENEFIT, are enjoined from interfering with [...] FlightLevel's rights under its Tank farm Sublease" (emphasis added)

That sublease provides a contractual right to install and maintain a fueling cabinet on the DC-3 Apron, and underground piping from the DC-3 apron, across Lot H, to its fuel farm on Lot H. Its exercise of this right has been communicated to you, BEH, and the NAC. The NAC's "consent," which we believe cannot be reasonably withheld, is currently before the NAC.

The most recent site design submitted to the NAC by FlightLevel (attached as Ex. B), seeks NAC consent to the placement of FlightLevel's fuel cabinet on its own Lot 6, and the underground piping on the southern extremity of Lot H, and the western extremity of the DC-3 apron (and



May 7, 2021 Page 2

possibly entirely off of either parcel altogether). This was done for the sole purpose of avoiding any impact to BEH. In stark contrast, the proposed container and mobile office placement submitted by BEH (also attached as Ex. C), shows, in each case, the placement of obstructions directly in the path either of FlightLevel's delivery transports, or FlightLevel's Lot G subtenants with eastward facing T-Hangars, or, in the case of the DC-3 Apron, directly in the path of FlightLevel's proposed fuel system.

We believe the NAC was not aware of the injunction language concerning FlightLevel's tank farm sublease when it considered BEH's mobile container/placement request, and the NAC's decision on April 28, 2021 concerning a conditional approval for BEH's proposal to put a temporary building/trailer office in the area proposed by FlightLevel for its fueling cabinet violates the February 26, 2021 injunction.

We further note that we do not believe that BEH has any legitimate basis to place any of these containers where it proposes. Instead, we believe BEH is attempting to do so solely to interfere with FlightLevel's business and lease rights.

BEH has 88,168 sf of West Apron and DC-3 Apron in which to place mobile and permanent structures, and yet, in violation of Judge Kirpalani's Order, it chose the easterly extremity of the DC-3 Apron because it knew that that was the only area FlightLevel could use to realize its rights under the Tank Farm Sublease without impact to BEH. The NAC's conditional consent could have been avoided if FlightLevel's pending fuel system proposal had not mysteriously been removed from the public meeting agenda, or if the NAC had otherwise recognized me or Attorney Burlingham at the April 28, 2021 public meeting. As it stands, BEH's proposal, and the NAC's conditional consent, violates the February 26, 2021 injunction.

FlightLevel seeks an immediate revocation of the conditional consent provided at the April 28, 2021 public meeting, and quiet enjoyment of its rights. Both of these are reasonable, and within the power of the NAC to achieve. FlightLevel will continue to litigate to quiet title to its rights, and will seek to hold those who oppose its efforts responsible for the costs it incurs.

FlightLevel reserves all of its rights and claims.

Very truly yours,

A. Neil Hartzell

Enc.

### EXHIBIT A

Johnson Jakolar

A LACIJOAI RECEIVED & FILED CLERK OF THE COURTS NOREOLK COUNTY

**COMMONWEALTH OF MASSACHUSETTS** 

NORFOLK, ss.

SUPERIOR COURT CIVIL ACTION 1582CV00213

BOSTON EXECUTIVE HELICOPTERS LLC, ET AL.

Plaintiffs,

<u>V\$</u>.

FLIGHTLEVEL NORWOOD, LLC. ET AL.,

Defendants.

NORFOLK, ss.

SUPERIOR COURT CIVIL ACTION 1582CV01637

FLIGHTLEVEL NORWOOD, LLC. ET AL.,

Plaintiffs,

YS.

BOSTON EXECUTIVE HELICOPTERS LLC, ET AL.

Defendants.

### ORDER ON MOTION OF FLIGHTLEVEL NORWOOD, LLC. ET AL., FOR PRELIMINARY INJUNCTION

After hearing, the court hereby ORDERS:

Boston Executive Helicopters LLC ("BEH"), its members and employees, and any
persons or entities acting under its control or for its benefit, are enjoined from
interfering with access to FlightLevel Norwood, LLC("FlightLevel")'s fuel farm,

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including but not limited to the parking of vehicles or aircraft or the placement of obstructions in the Gate 3 Taxilane Object Free Area, on FlightLevel's Lot G Sublease premises, on FlightLevel's Tank Farm Lease Lot premises, on FlightLevel's "25' Tank Farm Access Easement" area, on the "Lot B & H Licensed area," as depicted on Exhibit 1 attached hereto, and on the area on Lot H as shown on Exhibit 2 attached hereto, and are also enjoined from interfering with FlightLevel's rights under its Tank farm Sublease.

- 2) FlightLevel shall give BEH 24 hours written notice of any fuel supply tanker delivery or delivery window that may require BEH to move its vehicles or other objects, and if BEH has not moved its vehicles or other objects that are parked on Lot H that are blocking access to FlightLevel's fuel farm on Lot H by the time of the delivery or the start of the delivery window, FlightLevel may move those BEH vehicles or other objects at BEH's expense.
- 3) BEH is deemed to have been given sufficient notice of the delivery window of8:00 am to 1:00 pm, Saturday, February 27, 2021.

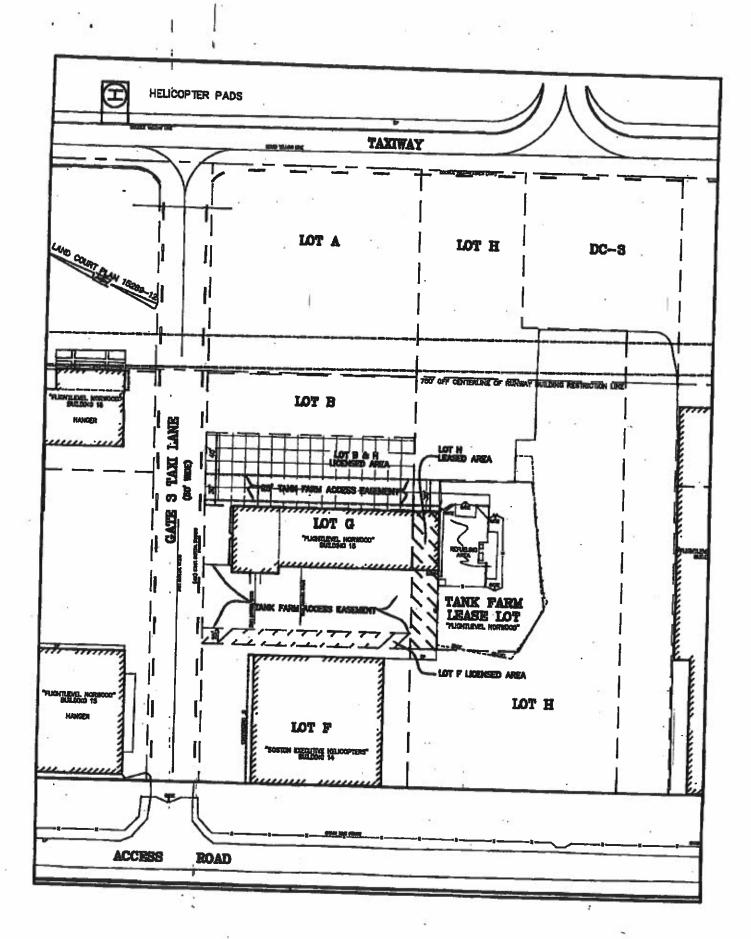
SO ORDERED.

DATED: February 26, 2021

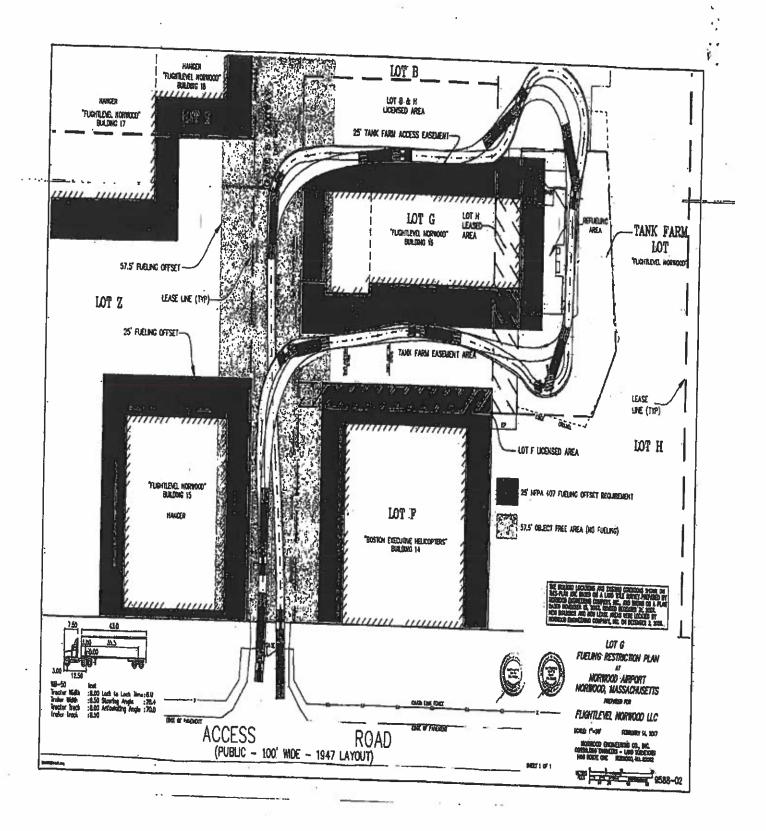
Maynard M. Kirpalani

Justice of the Superior Court

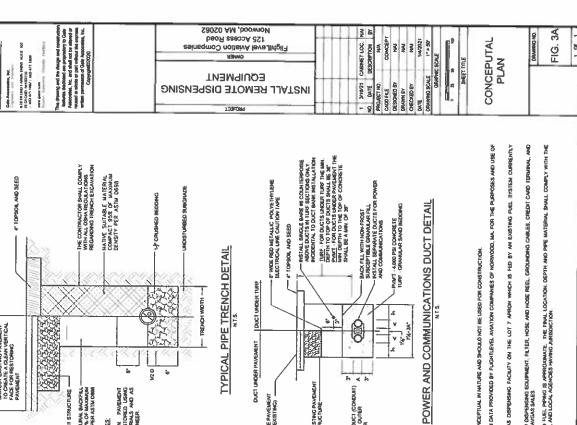
### EXHIBIT 1

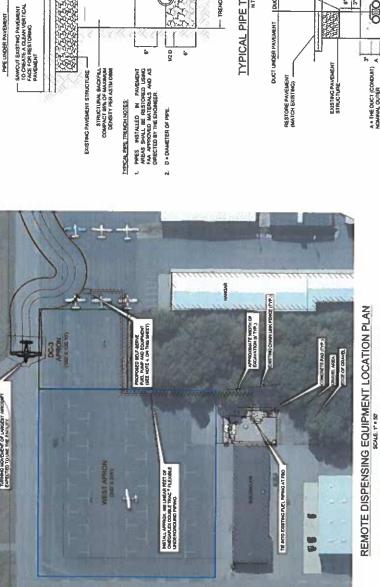


### EXHIBIT 2



### EXHIBIT B



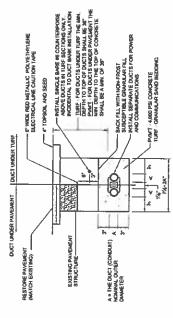


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GALE

PIPE UNDER TURK

PIPE UNDER PAYEMENT

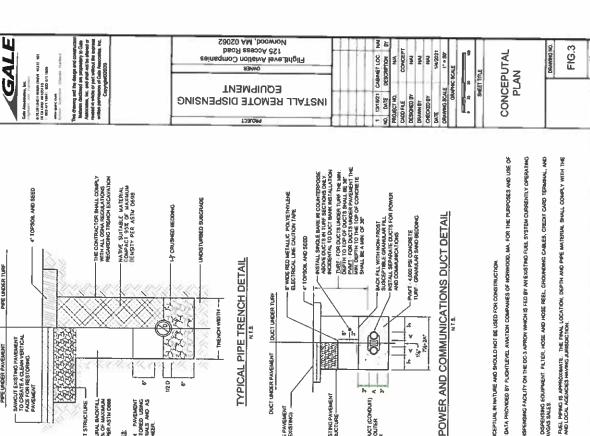


TYPICAL PIPE TRENCH DETAIL

### NOTES:

- 1. THE MECHANATION CONTAINED DN THIS PLAN IS CONCEPTUAL IN NATURE AND SYOULD NOT BE USED FOR CONSTRUCTION
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- THIS PLAN DEPICTS A FUTURE SELF-SERVE AVIGAS DEPENSING FACULTY ON THE LOT 7 APRON WHICH IS FED BY AN EXISTING FILE. INSTEM CURRENTLY OPERATING AT THE AMPORT
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SYSTEM APPEARANCE (FACSIMILE)



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SYSTEM APPEARANCE (FACSIMILE)

### NOTES:

1. THE INFORMATION CONTAINED ON THIS PLAN IS CONCEPTUAL IN NATURE AND SHOULD MOT BE USED FOR CONSTRUCTION

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- THIS PLAN DEPICTS A FUTURE SELF-SETVE AVCAS DISFENSING FACULIY ON THE DC.3 APRON WINCH IS FED BY AN EXISTING FUR. SYSTEM DURGENITY OPERATING AT THE ARPORT
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  - THE LOCATION OF THE PROPOSED UNDERSOUND FIEL PENIES IS APPROXIMATE. THE FRUIL LOCATION, DEPTH AND PPE MATERIAL SHALL COMPLY WITH THE APPLICABLE RECULATIONS OF ALL FEDERAL, STATE, AND LOCAL ACENCIES MAYING ARRESINCTION.

### EXHIBIT C

### rmaguire@norwoodma.gov

### **BEH containers and office placement**

From: Christopher Donovan

Wed, Jan 13, 2021 03:14 PM

<christopherdonovan1@gmail.com>

ø1 attachment

Subject: BEH containers and office placement

To: Mark Ryan <mryan@norwoodma.gov>, Michael Sheehan

<msheehan8@gmail.com>, msheehan

<msheehan@norwoodma.gov>, John Corcoran

<jcorcoran@mbta.com>, jcorcoran
<jcorcoran@norwoodma.gov>

Cc: Russ Maguire, A.A.E., ACE

<rmaguire@norwoodma.gov>, Mina S. Makarious

<mina@andersonkreiger.com>, David S. Mackey

<dmackey@andersonkreiger.com>, Tony Mazzucco

<tmazzucco@norwoodma.gov>, selectmen

<selectmen@norwoodma.gov>

External images are not displayed. Display images below

Dear Mark, Michael and John,

Please find attached the plan and exhibit of ground containers BEH will be placing on the West and DC-3 ramps under lease for FBO operations. I also attached some pictures of the containers, office, which are the same as the container already placed on the FLN leased area.

Thank you, Christopher Donovan BEH

Christopher R. Donovan
President, Boston Executive Helicopters
781-603-6186
www.Bostonexecutivehelicopters.com

All quotes are subject to change based on known or unknown conditions. All flights are subject to cancellation for weather, maintenance or Temporary Flight Restrictions (TFR) which may be in effect with short notice. All flights conducted in VFR weather conditions. All flight times, departure times and arrival times can vary due to WX, ATC and/or other factors beyond our control. The Pilot in command is the ultimate authority regarding all flight operations, routes, etc. All flights must be paid in advance unless credit terms are arranged & approved by Boston Executive helicopters. BEH assumes no responsibility for consequential damages caused by delays.

For FBO Operations, Storage, Office space.



### The TOWN OF NORWOOD

### Commonwealth of Massachusetts

BOARD OF ASSESSORS
TIMOTHY J. MCDONOUGH, Chairman
JAMES F. GROVER
ROBERT M. THORNTON
PATRICIA A. FARIOLI,
Assistant Assessor

May 11, 2021

Subject: Re: Norwood Airport; BMA Payments in Lieu of Taxes

Good Afternoon Russ,

Hope all is well down the airport. The requested figures are as follows and all payments are up to date. The amounts for the Pilot for BMA are

21-13-1-1 209 Access Road \$12,706.65 plus CPF \$101.40 for a total tax of \$12,808.05

21-13-1-2 Access Road \$53,817.16 plus CPF \$512.50 for a total tax of \$54,329.66

21-13-219 Access Road \$59,975.39 plus CPF \$574.08 for a total tax of \$60,549.47

Total tax for all three bills equals \$127,687.18

Please call with any questions.

Regards,

Timothy J. McDonough, Assessor

### A ERIAL PRODUCTIONS LLC

April 26, 2021

Mr. Russ McGuire Norwood Airport Manager 111 Access Road Norwood, MA 02062

Dear Russ,

As you are aware, Aerial Productions has for many years supported Textron Systems with our Helicopter Captive Flight Test (CFT) capabilities, for DOD programs.

Textron has an upcoming CFT scheduled for the Turner Drop Zone at the former Ft. Devens, which we are supporting with N37WA and in preparation for that test, Textron has requested, if possible, that they will come to our hanger the week of 3MAY2021, to rig the test article on our aircraft and then with your permission do some flight testing to confirm all systems are performing as designed. In the past, with your permission, we have been able to set up "blackbody", heated platforms in the grass on the North side of runway 10-28 near the treeline, starting at the approach end of 28 and then we will make passes over the test articles, but remaining East of Taxiway Foxtrot at all times. The maximum projected altitude is 450 ft. agl, which should keep us well clear of all 17-35 traffic.

All Textron personnel will be under the direct supervision of Aerial Productions and in contact, via VHF Comm, with Norwood Ground, at all times.

We appreciate your consideration with this National Defense DOD operation.

Villa-MeRerras

PHONE: 781.762.5690 FAX: 781.762.5692

NORWOOD MUNICIPAL AIRPORT • 125 ACCESS ROAD • NORWOOD MA 02062



### The TOWN OF NORWOOD

Commonwealth of Massachusetts

### Norwood Memorial Airport

Russ Maguire, A.A.E., ACE, Airport Manager

OFFICE ADDRESS 111 Access Road Norwood, MA 02062 MAILING ADDRESS
111 Access Road
Norwood, MA 02062

### BY CERTIFIED MAIL AND ELECTRONIC MAIL

April 28, 2021

Chris Donovan, Sr., President
Boston Executive Helicopters, LLC
209 Access Road
Norwood, MA 02062

### RE: Payment Received for Default and DC-3 Apron, West Apron Leases; Credit Balance

Following the March 18, 2021 notice of default letter sent to you by Attorney Mina Makarious (*Attachment A*), I received a letter from you, dated March 25, 2021, which included your payment (check #2366) totaling \$8,000. These monies have been credited accordingly:

Credit	Item
\$300	Payment of arrears for March 2021 rent payments due
\$622.08	April 2021 rent payment for DC-3 Apron
\$3,051.58	April 2021 rent payment for West Apron
\$622.08	May 2021 rent payment for DC-3 Apron
\$3,051.58	May 2021 rent payment for West Apron

As shown, \$7,647.32 of the \$8,000 paid by *Boston Executive Helicopters* (BEH) has been credited toward the \$300 default, plus, the April and May rent payments for the two lease parcels. Going in to the month of June, BEH will carry a credit balance of \$352.68.

Please keep in mind that your June lease payments are due June 1, and these payments will total \$3,673.66. With the \$352.68 credit balance already noted, for June, BEH will owe the Town of Norwood \$3,320.98.

Finally, it should be noted that the BEH check (#2366), along with a letter from you, were sent directly to the Norwood Town Manager's attention at Norwood Town Hall, 566 Washington

Phone: (781) 255-5615 / rmaguire@norwoodma.gov

Street, Norwood. However, per the opening paragraph (page 1) of the two signed leases, the place of business for the Norwood Airport Commission (NAC)—as Lessor—is 111 Access Road, Norwood, MA 02062. Please ensure that all future payments and correspondence are sent correctly to the NAC at the address noted in the leases.

Thank you.

Sincerely,

Russ Maguire, Manager

Norwood Memorial Airport

### **ATTACHMENT A**



MINA S. MAKARIOUS mmakarious@andersonkreiger.com T: 617.621.6525

F: 617.621.6625

By Certified Mail and Electronic Mail (christopherdonovan1@gmail.com); Chris@BostonExecutiveHelicopters.com

March 18, 2021

Boston Executive Helicopters, LLC
Attn: Christopher Donovan, President
209 Access Road
Norwood, MA 02062

RE: Notice of Default re: BEH Leases

Dear Chris:

Please be advised that *Boston Executive Helicopters*, *LLC* (BEH) — as Lessee — remains in default of its March 2021 payments for both the DC-3 Apron lease and the West Apron lease, both of which are dated December 4, 2020 the ("Leases"). The first notice of default was sent to you on March 15 (see Attachment A).

On March 16, the Airport Manager received by regular mail—postmarked March 12—check #2364, which had been back-dated to March 1. For a copy of check #2364 and the envelope, see Attachment B. As you'll note, the check amount was for \$3,673.66, not \$3,973.66, per the notice of default. However, Section III of both leases provides in relevant part: "All future payments by Lessee will be allocated first to any outstanding balances due other than rent. Any remaining monies paid by Lessee to Lessor will be allocated lastly to any rent balance." The late fees owed to the NAC are an outstanding balanced due, rather than rent. Therefore, BEH remains \$300 in arrears on its March lease payments. If BEH fails to pay this outstanding amount within thirty (30) days, the NAC reserves its right to terminate both Leases and take possession of the Leased Premises in accordance with Section XVI thereof.

March 18, 2021 Page 2

In addition, the NAC has been made aware that BEH vehicles have been parked in a manner on the West Apron that prevents others' use of the airport, and that a preliminary injunction has been entered by the Norfolk Superior Court enjoining BEH such parking. Please be advised that parking vehicles in a manner that prevents access across the West Apron by others lawfully permitted to use the airport is explicitly prohibited pursuant to Section IV of the West Apron Lease. Failure to comply with this provision of the Leases will also place BEH in default thereunder.

Thank you.

Sincerely,

/s/Mina S. Makarious

Mina S. Makarious

Cc: Eric Loeffler

Clients



### The trouver our emple wearen

Commonwealth of Massachusetts

### Norwood Memorial Airport Russ Maguire, A.A.B., ACE, Airport Manager

Orgion Address
111 Access Road
Norwood, MA 02062

MATTING ADDRESS 111 Access Road Norwood, MA 02062

### By Certified Mail and Electronic Mail (christopherdonovan1@gmail.com; Chris@BostonExecutiveHelicopters.com)

March 15, 2021

Boston Executive Helicopters, LLC Attn: Christopher Donovan, President 209 Access Road Norwood, MA 02062

RE: Notice of Default Regarding March 2021 Lease Payments Due: DC-3 Apron, West Apron

### Dear Chris:

Please be advised that your company, Boston Executive Helicopters, LLC (BEH)—as Lessee.—is now in default of its March 2021 payments for both the DC-3 Apron lease and the West Apron lease. As of this writing, BEH owes the Town of Norwood, through the Norwood Airport Commission, \$3,973,66.

In addition to the monthly lease payments, per Section III (Rent) of your leases, BEH—as Lessee—is responsible for all late fee payments relative to each of the two leases:

Below are two tables showing the summary of payments due, as of March 15, for each lease:

	WEST APRON	- The second sec
Monthly Lease Due	March 1, 2021	\$3,051.58
Initial Late Fee Date	March 10, 2021	\$50
Subsequent Late Fee, Daily	March 11, 2021	\$20
Subsequent Late Fee, Daily	March, 12, 2021	\$20
Subsequent Late Fee, Daily	March 13, 2021	\$20
Subsequent Late Fee, Daily	March 14, 2021	\$20
Subsequent Late Fee, Daily	March 15, 2021	\$20
TOTAL DUE		\$3,201.58

	DC-3 APRON	
Monthly Lease Due	March 1, 2021	\$622,08
Initial Late Fee Date	March 10, 2021	\$50
Subsequent Late Fee, Daily	March 11, 2021	\$20
Subsequent Late Fee, Daily	March 12, 2021	\$20
Subsequent Late Fee, Daily	March 13, 2021	\$20
Subsequent Late Fee, Daily	March 14, 2021	\$20
Subsequent Late Ree, Daily	March 15, 2021	\$20
TOTAL DUE		\$772.08

In closing, please give immediate attention to these outstanding payments due to the Town of Norwood.

Thank you.

Sincerely,

Russ Maguire, Manager Norwood Memorial Airport

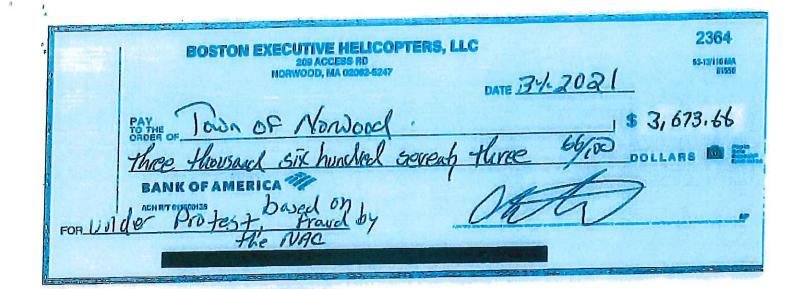
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BROCKTON MA 923 12 MAR 2021 PM 2 L



Russ Maguire Nowood Arport 125 Access Role Nowood Massi Aprophysion International Manual



MINA S. MAKARIOUS

mmakarious@andersonkreiger.com

T: 617.621.6525 F: 617.621.6625

May 3, 2021

### By Email (eloeffler@davids-cohen.com)

Eric H. Loeffler
Davids & Cohen, P.C.
40 Washington Street, Suite 20
Wellesley, MA 02481

RE: Norwood Memorial Airport/BEH

Dear Eric:

I write at the request of the Norwood Airport Commission (the "Commission") with respect to Boston Executive Helicopters' ("BEHs") leases of the DC-3 Apron and West Apron (the "Leases", attached as <u>Exhibit A</u>), and Christopher Donovan's recent correspondence with and behavior at the Norwood Memorial Airport ("Airport"), including, in particular, his troubling conduct at the Airport and at the April 7, 2021 Commission meeting.

I have copied on this letter the Norwood General Manager Tony Mazzucco, the Board of Selectmen, the Norwood Police Department, Town Counsel and members of the Commission, as well as officials from the Massachusetts Department of Transportation, Aeronautics Division; and FAA. While I regret adding further correspondence regarding the Airport to all of these individuals' inboxes, I note that all of these entities have received regular, unsolicited, communication from Mr. Donovan, and it is important that they have a more accurate picture of issues involving BEH's use of the Airport, rather than simply relying on Mr. Donovan's torrent of baseless, prolix and defamatory attacks against Town and Airport officials and their counsel.

### I. BEH'S Entry into the Leases.

It is our understanding that on March 25, 2021, in response to the prior Notice of Default I sent to BEH, Mr. Donovan paid \$8,000 towards past due and future rents via letter to the Town Manager's office, rather than to the Airport Commission as required. These payments were accompanied by a letter to Town General Manager Tony Mazzucco recounting, again, Mr. Donovan's belief that he was hoodwinked into signing the very leases he signed with full knowledge of the relevant facts and then (through you) asked the Commission to sign as well.

Mr. Donovan's argument that he was fraudulently induced into signing the Leases because of information he claims to have discovered months *before* signing those leases is baffling. I'm also dismayed by Mr. Donovan's misleading omission of important facts from his oft-told story

regarding the leases and your failure to do anything to correct those omissions to other public entities, including, apparently, the FAA and MassDOT.

BEH executed the Leases two months after alleging, in federal court, under your signature, that it had been fraudulently induced into entering into the settlement agreement calling for those leases, and roughly one month after the court summarily denied BEH's claim on that issue. Leaving aside Mr. Donovan's claims of "fraud" and "concealment" of information before BEH entered into a settlement agreement with the Town and Commission in July 2019 (which claims the Commission and Town vigorously dispute), there is no question that the following is true:

- On October 9, 2020, you filed, as BEH's attorney, the motion and memorandum attached as <u>Exhibit B</u> in federal court to Enforce Settlement Agreement, Impose Sanctions, and Award Attorneys' Fees.<sup>1</sup> That Motion raised many of the same allegations as Mr. Donovan continues to make in his letter to Mr. Mazzucco and with which he has repeatedly barraged several town, state and federal officials.
- On November 6, 2020, my firm, on behalf of the Commission, the Town, and the
  individually named Town, Commission and Airport officials, filed the opposition
  attached as <u>Exhibit C</u>. You filed a reply on November 19 (<u>Exhibit D</u>).
- On November 20, 2020, with all this before it, the Federal Court (Stearns, J.) denied BEH's Motion and issued the Memorandum attached as <a href="Exhibit E">Exhibit E</a>. The Court soundly rejected BEH's arguments and noted that BEH's position would "vary the plain meaning of terms under which it in fact accepted the lease." Exhibit E at 5. In particular, the Court made clear that the language of the Settlement Agreement did not support BEH's interpretation that it was entitled to premises free of encumbrances. Id. at 4.
- On December 1, 2020, I emailed you suggesting we resume operational meetings to discuss next steps, to which you responded the next day: "I'll check with Chris and get back to you." Exhibit F.
- On December 4, 2020, you sent me an email with leases signed by Mr. Donovan for the DC-3 and West Apron. <u>Exhibit G</u>. There was no indication these leases were signed under any reservation of rights, or "under protest" as to their meaning and effect given the Court's decision. Although a few minor changes were made to each lease between December 4 and December 22, 2020, when the final Leases were signed, the substantive terms were unchanged.<sup>2</sup> See <u>Exhibit A</u>.
- Among other things, Section IV of the Lease states, explicitly, that the Commission was not making any representations or guarantees regarding the Premises and their fitness for

Not attached is Mr. Donovan's affidavit and the 39 exhibits accompanying it, all of which are available through the Federal Courts' electronic filing website.

We note that you do not disclose your client's execution of the leases following Judge Stearns' decision in either your original or refiled appeals brief to the U.S. First Circuit Court of Appeals. We believe your duty of candor to the Court required disclosure of that information, because, among other things, it renders moot your claims regarding the Town's failure to provide your client with leases consistent with the settlement agreement. Please let us know by Monday, May 3, 2021 if you will seek leave to file a corrected brief to address this.

BEH's intended uses, but that BEH had made "its own independent judgment that the Leased Premises are suitable to [BEH's] needs."

Based on this chronology, and its culmination in the Leases negotiated at arms-length and signed by both sides, it defies logic to argue that BEH uncovered concealed information material to its rights and obligations under the then draft Leases, which had it known, would have led BEH *not* to sign those Leases, in the face of the fact that BEH subsequently took the initiative to ask for and then sign the Leases anyway. That argument is farcical, and continued reliance on it in court, and in public statements to federal, state, and local officials is not made in good faith.

### II. BEH's and the Commission's Rights and Obligations Under the Leases.

Assuming BEH intends to continue as a tenant on the DC-3 and West Aprons under the Leases, please keep in mind the following provisions of the Lease:

- Section III (Rent): Rent under the Leases is due to the Commission, as the Lessor, on the first day of the month. A grace period is provided until the start of the 10<sup>th</sup> day of the month. To date, BEH has paid its rent twice late in the day on the 10<sup>th</sup> of the month, and once by letter on the 12<sup>th</sup> day of the month. After receiving a notice of default, BEH did pay the remainder of rent and late fees owed to the Commission, but did so by sending a check to Mr. Mazzucco's office, as noted above. A few days ago, BEH sent another rental payment, this time made out to Mr. Mazzucco personally as the payee, rather than the Norwood Airport Commission. Future payments should be made to the Commission as the payee at the address identified on the Leases.
- Section IV (Use of the Premises; Fueling): On several occasions, including at the most recent Commission meeting, Mr. Donovan inquired whether he can fuel on the West Apron and DC-3 Apron. As I have previously stated, and the Leases makes clear, BEH is permitted to fuel on both areas, as long as it is doing so in compliance with all applicable federal, state, and local laws, including the airport's rules and regulations and applicable stormwater permits.

As also noted above, BEH obligated itself under this same section of the Leases to determine how to utilize the leased premises in a lawful manner for the business it wishes to conduct. Neither the Commission, nor I, are required to prepare plans for Mr. Donovan showing exactly where he can and can't park aircraft, place fuel infrastructure, or otherwise meet his incomprehensible demands for information such as those shown several pages into his email dated April 15 (see Exhibit H at pp. 6-9). BEH's counsel, not the Commission's or the Town's is the proper person to advise it as to its legal rights on the Leased Premises. We are happy to meet with you to better understand BEH's questions regarding the Leases, but cannot be expected to pluck from the mound of mud slung our way, or the conclusory statements masquerading as questions strewn within it, reasonable inquiries that are likely to assist BEH in understanding its rights and obligations at the Airport.

• Section IV (Use of the Premises; Parking of Vehicles): As stated in the March 18, 2021 Notice of Default, the Commission has been made aware that BEH vehicles have

been parked in a manner on the West Apron that prevents others' use of the airport, including the delivery of fuel to FlightLevel's facility. Please be advised that parking vehicles in a manner that prevents access across the West Apron by others lawfully permitted to use the airport is explicitly prohibited pursuant to Section IV of the West Apron Lease. We once again urge you to work with FlightLevel's counsel to develop a process to ensure both tenants can properly use their premises. Failure to comply with this provision of the Leases will place BEH in default thereunder.

- Section IV (Use of the Premises; General Conduct): BEH is required to conduct itself "in an orderly and proper manner so as not to disturb or interfere with the [Commission's] or others' use of the Airport." The Commission has received the report prepared by the Airport Manager, Russ Maguire dated April 2, 2021 (attached as Exhibit I), which describes in detail Mr. Donovan's interference with the Airport Manager's lawful entry onto the Premises to conduct airport business. See Section XVII of the Lease. Mr. Maguire's letter has been shared with MassDOT, FAA, and the Norwood Police. BEH must cease and desist from such behavior in the future and permit Commission staff and other Airport tenants to continue their lawful use of the Airport.
- Section X (Good and Sufficient Repair): BEH has assumed the responsibility to maintain the Leased Premises, including any improvements to it. Please note that BEH also assumed responsibility for snow removal on the leased Premises. BEH did not comply with this requirement throughout the 2020-2021 Winter season. Please consult with BEH regarding its plans to ensure compliance next winter to avoid a recurrence of this issue.

### III. Mr. Donovan's Correspondence

In addition to the foregoing, the Commission remains deeply concerned about Mr. Donovan's pattern of correspondence over the past several months. Despite pursuing his claims through counsel in two separate courts, and entering into the Leases, Mr. Donovan has continued to issue lengthy emails to a wide swath of Airport stakeholders and others on a regular basis. In these emails, he routinely makes allegations that have been denied by the Commission and, in several cases, which have been rejected by the Federal Court. These emails routinely accuse airport officials of "lies" and deceit that led him to enter into the Leases, and my colleagues and me of schemes to wrongly siphon taxpayer money into our own pockets. Of course, this correspondence ignores the chronology mentioned above, or the fact that BEH has caused the bulk of these expenditures as a result of its pressing forward with litigation, in two different courts, on the same repeatedly debunked theories of fraud and conceit.

As you know, in instances where you are not clearly copied on these emails, I have forwarded them to you in the hopes that your consultation with your client could result in more productive, or at least factually accurate, communications. Unfortunately, it does not appear that your efforts, assuming you made them, have borne any fruit. We once again ask you to work with BEH to channel communications through counsel to focus on the issues in dispute. As you know, in the fleeting glimpses of normal business communication we have had, we have been able to fairly quickly complete negotiation of lease language. Our clients and we are not required to tolerate a ceaseless parade of hyperbolic, incorrect correspondence, or to ferret out

from it important issues, and, of course, we reserve our rights to take proper legal action to address defamatory remarks made therein.

### IV. Mr. Donovan's Behavior at April 7, 2021 Commission Meeting

Lastly, I raise for your attention Mr. Donovan's deeply concerning behavior at the April 7, Commission meeting. Shortly before that meeting, Mr. Donovan sent another seven page email attached as <u>Exhibit J</u> to the Commission stating, among other things, that he supported a full investigation of the Airport by the FBI and the United States Attorneys' Office.<sup>3</sup>

During the Commission's meeting that day, which was held via the "GoToMeeting" web-conference platform, the Chair noticed that one of the attendees was self-identified as "US Attorney Boston". Roughly thirty seconds into the meeting, the Chair asked if any entity was recording the meeting. Surprisingly, the entity identified as the US Attorney Boston spoke up and verbally announced that "Boston Executive Helicopters" was recording the meeting, in a voice that sounded like Mr. Donovan's. We have since confirmed that the email used to log into the meeting as "US Attorney Boston" and another account used to log in as "FBI Boston Office" were both Mr. Donovan's email. We strongly suggest you discuss with Mr. Donovan his attempt to impersonate federal officials, and its potential ramifications under federal law. We have alerted the U.S. Attorneys' Office of Mr. Donovan's misuse of its name in this manner. Thank you.

Sincerely,

/s/Mina S. Makarious

Mina S. Makarious

cc: (by email w/ encls.)

Norwood Board of Selectmen
Tony Mazzucco, General Manager, Town of Norwood
Russ Maguire, Airport Manager, Town of Norwood
Norwood Airport Commission
Norwood Police Chief
Karis L. North, Esq., Town Counsel, Town of Norwood
Jeffrey DeCarlo and Tracy Klay, MassDOT Aeronautics Division
Jorge Panteli, FAA

Mr. Donovan also repeated his "request" for an investigation by the FBI in an April 15 email. Because Mr. Donovan often BCC's individuals on his emails, including me in that case, it is unclear whether he is also copying federal law enforcement in an attempt to induce them to launch an investigation.

TO: FROM: NORWOOD AIRPORT COMMISSION RUSS MAGUIRE, AIRPORT MANAGER MANAGER'S REPORT: 4/27/21—5/18/21

RE:

Major Projecto/legues

### - Major Projects/Issues-

### **Airport Park Project**

In January, the Airport Commission Chairman and Airport Manager (AM) met with engineers from MassDOT to discuss the viability of a grant project to support completion of the airport park. MassDOT encouraged airport officials to submit a grant application which was sent to the state agency in late January. In the past month, the project's plans and specifications were provided to MassDOT through the Town's Engineering Department, working with airport management and the Purchasing Department to prepare the project for advertisement. One bid was received. Unfortunately, several factors have worked against completion of this proposed grant project during the current fiscal year. First, the availability of local share remains pending; while the project's required completion date of June 30 is no longer realistically achievable. The bid is therefore expected to be rejected, with a look toward re-advertising the project at a later date.

### Taxiway D Construction/Runway Approaches - Obstruction Removal

Throughout this period, airport management has worked with our engineering/planning firm, *DuBois & King*, as well as FAA and MassDOT, to ready this grant project for a request for proposals. Bids were opened on 4/20.

### **Test Pits**

On 5/12 and 5/13, airport management closed runway 17/35 and coordinated work with our resident engineer and contractor to excavate 24 test pits. This work was required by MassDEP, in support of follow-on paved safety area project for runway 17/35.

### Flight Level Hangar Construction

The AM participated in weekly construction meetings organized by *Flight Level*, as the fixed-base operator continues work toward completion of its new hangar south of the *Maj. Mark C. Welch Administration Building*. On the critical path is restoration of the permanent security fence and installation of the new hangar door.

### Vegetation Management

In support of vegetation management, to update the airport's yearly operational plan (YOP), the AM continues work with *Epsilon Associates* to document all relevant activities undertaken in the past six years. This YOP update will be included in the upcoming capital project to re-construct/re-locate a section of taxiway D and clear vegetative obstruction to the runway approaches.

### **Monthly Revenues**

For the month of April, one deposit was posted to the Treasurer's office. This totaled \$32,256.13 in payments (see *Attachment A*).

### **Monthly Fuel Flowage**

For the month of March, *Flight Level's* bills of lading for fuel totaled 28,298 gallons. At \$.07/gallon, the Town received \$1,980.86 in flowage fees, as shown in the April financial report (*Attachment A*).

### — Informational Updates —

### **Pavement Condition Testing**

On 5/14, airport management assisted MassDOT consultant engineer (*Applied Pavement Technologies*) with the necessary field evaluations to update OWD's pavement condition index. These tests will help the airport to remain in compliance with FAA grant assurances.

### **COVID-19 Pandemic**

Airport management continues to support the guidelines set forth by CDC, the Commonwealth and Town officials, while the airport operates without restrictions seven days a week. Airport management has kept normal business hours, providing full services that include inspections, NOTAM filings, general administration, project management, infrastructure and equipment maintenance, liaison work with FAA and MassDOT, capital planning and budgetary accounting. Airport management has also been available after hours, as needed.

### **Air Traffic Count**

For the Norwood Airport's April 2021 air traffic reports, see *Attachments B-C*. See *Attachment D* for a seven-year look at Norwood's air traffic count in the month of April. This was the busiest month of April in seven years.

### **April Financial Report**

REVENUE TYPE	AMOUNT THIS PERIOD	FY 2021 YTD	FY 2020	FLN FBO <sup>1</sup> THIS PERIOD	BEH FBO <sup>2</sup> THIS PERIOD
Land Leases	\$25,951.27	\$199,069.69	\$205,921.83	\$14,146.56	\$8,000.00
Fuel Flowage Fees	\$1,980.86	\$26,177.62	\$30,405.27	\$1,980.86	\$0
Aircraft Tie-Down Leases	\$0	\$0	\$0	\$0	\$0
Security Badge Fees	\$300	\$4,350	\$4,700	\$0	\$0
Revolving – Insurance Recovery	\$0	\$2,718.90	\$0	\$0	\$0
General <sup>3</sup>	\$0	\$0	\$360	\$0	\$0
Landing Fees	\$4,024.00	\$27,352.00	\$35,884.80	\$4,024.00	\$0
TOTAL	\$32,256.13	\$259,668.21	\$277,271.90	\$20,151.42	\$8,000.00

<sup>&</sup>lt;sup>1</sup> Flight Level Norwood, LLC
<sup>2</sup> Boston Executive Helicopters, LLC
<sup>3</sup> General revenues include commercial permit and public records request fees, and FEMA reimbursements, etc.

	SYMBOLOGY
AC =	Air carrier-type aircraft (e.g., Delta, United)
AT=	On-demand aircraft that use three-letter ID at beginning of call sign
GA =	General aviation FAR Part 91 aircraft using 'N' at beginning of call sign
MI =	Military



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### MONTHLY TOTAL, AIR TRAFFIC COUNTS (2015-2021)

April

2015	2016	2017	2018	2019	2020	2021
4,375	5,623	5,028	5,574	3,755	1,197	5,913