PUBLIC WORKS & CAPITAL PROJECTS

RESOLUTION NO. 2024195

RE: AUTHORIZING SUCCESSOR LAND LEASE WITH THE UNITED STATES OF AMERICA FOR THE AIR TRAFFIC CONTROL TOWER (ATCT) AT THE HUDSON VALLEY REGIONAL AIRPORT

Legislators METZGER, POLASEK, GORMAN, D'AQUANNI, CASWELL, VERSACI, and PAOLONI offer the following and move its adoption:

WHEREAS, the Federal Aviation Administration, (hereinafter "FAA") through the United States Department of Transportation (hereinafter "the Government") has been operating an air traffic control system from the Hudson Valley Regional Airport pursuant to a Lease originally entered into the 13th day of June, 1972, which Lease has from time to time been amended, and

WHEREAS, that Lease has expired and the Government wants to enter into a successor Lease with the County which will continue all of the essential characteristics of the prior Lease with a term beginning October 1, 2022 through September 30, 2042, and

WHEREAS, that Lease provides for no rent payment by the Government to the County, in consideration of the obligations assumed by the Government in the establishment, operation and maintenance of the airport traffic control tower, and

WHEREAS, the proposed Lease, while incorporating changes which have occurred on the Premises over time, preserves, intact, all of the essential considerations and obligations of the parties as originally contemplated, and

WHEREAS, pursuant to Local Law No. 6 of 2015 and in accordance with General Municipal Law Section 352, this Legislature conducted a public hearing on such proposed successor Lease and heard all persons interested therein, and

WHEREAS, since the proposed successor Lease is a lease renewal, with little change in the conditions or the scope of permitted activities, it is a Type II Action and requires no further action pursuant to the State Environmental Quality Review Act, now, therefore, be it

RESOLVED, that the Lease between the FAA and the County of Dutchess, in substantially the same form as attached hereto, is hereby approved and the County Executive, or her designee, is hereby authorized to execute the Lease on behalf of the County, and any other related documents that may be necessary.

APPROVED
Susan J. Serino
SUSAN J. SERINO
COUNTY EXECUTIVE
Date 11-15-2024

CA-107-24; EMW/rjw
G-0103; 10/04/2024
Fiscal Impact: See Attached.

STATE OF NEW YORK
ss:
COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess, have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 12th day of November 2024, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 12th day of November 2024.

DUTCHESS COUNTY SEAL

Leigh Wager
LEIGH WAGER, CLERK OF THE LEGISLATURE

FISCAL IMPACT STATEMENT

☑ NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost $ 0

Total Current Year Revenue $ 0
and Source

Source of County Funds *(check one)*: ☐ Existing Appropriations, ☐ Contingency,
☐ Transfer of Existing Appropriations, ☐ Additional Appropriations, ☐ Other *(explain)*.

Identify Line Items(s):

Related Expenses: Amount $ _____
Nature/Reason:

Anticipated Savings to County: _____

Net County Cost (this year): _____
Over Five Years: _____

Additional Comments/Explanation:

The FAA's ATCT facility is owned and operated by the federal government. A no cost land lease is required, as the previous 20-year lease expired on 9/30/22. There is great value that the ATCT operations brings to Hudson Valley Regional. This new lease will be retroactive to 10/1/22 and run through 9/30/42.
As required by Local Law #6 of 2015, any on-airport lease over 15 years needs Legislative approval and a Public Hearing must be conducted prior to this approval. The Public Hearing regarding this matter was held on 10/15/24.

Prepared by: David C. Whalen DCW Prepared On: 9/20/24

ON-AIRPORT LAND LEASE
Between
THE UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION
ADMINISTRATION
And
DUTCHESS COUNTY, NEW YORK

FAA CONTRACT NO: 69435Z-23-L-00119
ATID / FACILITY TYPE: POU / ATCT
LOCATION: Poughkeepsie (Wappingers Falls), New York

1. Preamble (09/2021) 6.1.1

This Lease for real property is hereby entered into by and between County of Dutchess, New York, a Municipal Corporation, hereinafter referred to as the Contractor and the United States of America, acting by and through the Federal Aviation Administration, hereinafter referred to as the FAA.

2. Definitions (09/2021) 6.1.1-1

For purposes of this document, the following definitions apply;

Contract- refers to this legal instrument used to acquire an interest in real property for the direct benefit or use by the FAA. As used herein, contract denotes the document (for example- lease, easement, memorandum of agreement, or other legally binding agreement) used to implement an agreement between a customer (buyer) and a seller (supplier).

Contractor- refers to the party(ies) receiving a direct procurement contract from the FAA and who is(are) responsible for performance of contract requirements. For purposes of this document, the contractor may also be called the Lessor, Permittor, Licensor, Grantor, Airport, Offeror or County depending on the type of contract or the provision within the contract.

Government- refers to the United States of America acting by and through the Federal Aviation Administration (FAA). For purposes of this document, Government and FAA are interchangeable.

Real Estate Contracting Officer (RECO) - is a trained and warranted official who contracts for real property on behalf of the FAA. For purposes of this agreement, RECO is interchangeable with Contracting Officer (CO).

3. Succeeding Contract (09/2021) 6.1.2

This contract succeeds DTFA05-97-L-15313 and all other previous agreements between the parties for the property described in this document.

4. **Lease Witnesseth (09/2021) 6.1.3**

Witnesseth: The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

5. **Description of Premises (09/2021) 6.1.4-3**

This contract covers the following described property, hereinafter referred to as the premises and hereby consisting of **AIR TRAFFIC CONTROL TOWER (ATCT) FACILITY SITE**

Beginning at a point on the lands of the Hudson Valley Regional Airport, marking the easterly corner of land to be leased to the Federal Government, said point being S73°-23'-27"W, 1084.59 feet from an iron pipe on the east side of the taxiway parallel to Runway 15-33 marking the southern corner of the original 3.29 acres of land leased to International Business Machines Corporation, thence through lands of the Hudson Valley Regional Airport the following bearings and distances: S52°-00'-00"W, 102.00 feet to a point being the southerly corner of the herein described parcel to be leased; thence N38°-00'-00"W, 117.00 feet to a point being the westerly corner of the herein described parcel to be leased; thence N52°-00'-00"E, 102. 00 feet to a point being the northerly corner of the herein described parcel to be leased; thence S38°-00'00"E, 117.00 feet to the point-of- beginning, containing 0.274 acres of land. All bearings are true. The leased premises ae shown on Dutchess County Drawing, dated December 11, 1976, attached hereto and made a part hereof.

A. Together with a right-of-way for ingress to and egress from the premises (for Government employees, their agents and assigns); a right-of-way for establishing and maintaining electric power and/or telecommunication lines to the premises; and a right-of-way for subsurface power, communication and/or water lines to the premises; all rights-of-way to be over said lands and adjoining lands of the contractor, and unless herein described otherwise, shall be reasonably determined by the Government as the most convenient route.
B. This contract includes the right of grading, conditioning, installing drainage facilities, seeding the soil of the premises, and the removal of all obstructions from the premises that may constitute a hindrance to the establishment and maintenance of Government facilities.
C. The Government shall also have the right to make alterations, attach fixtures, erect additions, structures, or signs, in or upon the premises hereby leased. All alterations and additions are and will remain the property of the Government.
D. The Government reserves the right to park, without cost, all official and privately owned vehicles used for the maintenance and operation of the air navigational facilities. Parking shall be provided adjacent to the navigational aid facility or as near as possible without interfering with the operation of the Airport.
E. The Government shall no longer have control of the property on which the Air Traffic Control Tower sewage treatment system is located. Since the reduction in leased area will primarily benefit the Lessor, the Lessor agrees to assume all the responsibility for the maintenance and good operation of this sewage treatment system. If this sewage treatment system is damaged or otherwise becomes inoperative for any reason, the Lessor agrees to supply the Government with an adequate alternate sewage treatment system for the Air Traffic Control Tower at the Lessor's sole expense. Notwithstanding the foregoing, it will be the Government's responsibility to arrange and pay for an annual pumping of the one septic tank that solely services the ATCT.

6. Purpose (09/2021) 6.1.5

It is understood and agreed that the use of the herein described premises shall be related to FAA's activities in support of the National Airspace System (NAS).

7. Legal Authority (09/2021) 6.2.1

This contract is entered into under the authority of 49 U.S.C. 106(l)(6) and (n), which authorizes the Administrator of the FAA to enter into contracts, acquisitions of interests in real property, agreements, and other transactions on such terms and conditions as the Administrator determines necessary.

8. Term (No Cost) (07/2022) 6.2.3-1

To have and to hold, for the term commencing on October 1, 2022 and continuing through September 30, 2042.

9. Consideration (No Cost) (09/2021) 6.2.4-4

The Government shall pay the contractor no monetary consideration. It is mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation and maintenance of facilities upon the premises.

10. Termination (01/2023) 6.2.5

The Government may terminate this contract at any time, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government. The RECO shall terminate this contract by delivering a written notice specifying the effective date of the termination. The termination notice shall be delivered at least 30 days before the effective termination date. No costs shall accrue as of the effective date of termination.

11. Excuse (09/2021) 6.2.5-3

A. The Lessor will not be in default because of any failure to perform the requirements of this Lease under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Lessor.
B. Permissible causes for excuse are:
i. acts of God (e.g., fires, floods, pandemics, epidemics, unusually severe weather, etc.),
ii. acts of the public enemy,
iii. acts of the Government in either its sovereign or contractual capacity,
iv. pandemic, epidemic, or quarantine restrictions,
v. strikes, and
vi. freight embargoes. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Lessor.
C. Excuse will not be granted when:
i. the Lessor had actual or constructive knowledge prior to the Lease Award Date that he/she could not perform in accordance with the requirements of the Lease contract;
ii. the conditions of the property prevent performance;

iii. the Lessor, its employees, agents or contractors, by error or omission, fails to perform; or
iv. the Lessor is unable to obtain sufficient financial resources to perform its obligations.
D. The RECO will ascertain the facts and extent of the failure. If the parties determine that any failure to perform is excusable, upon mutual agreement, the parties will revise the delivery schedule subject to the rights of the Government under the default and termination clauses of this contract.

12. Binding Effect (09/2021) 6.2.6

The provisions of this contract and the conditions herein shall be binding upon, and for the benefit of, the parties and their successors and assigns. In the event of any sale or transfer of ownership of the property or any portion thereof, the Government will be deemed to have attorned to any purchaser, successor, assign, or transferee. The succeeding owner will be deemed to have assumed all rights and obligations of the contractor under this contract establishing direct privity of estate and contract between the Government and said succeeding owner, with the same force, effect, and relative priority in time and right as if the contract had initially been entered into between such succeeding owner and the Government.

13. Holdover (09/2021) 6.2.12

If after the expiration of the Lease, the Government shall retain possession of the premises, the Lease shall continue in full force and effect on a month-to-month basis. Payment shall be made in accordance with the Consideration clause of the Lease at the rate paid during the Lease term. This period shall continue until the Government shall have signed a new lease with the Lessor, acquired the property in fee, or vacated the premises.

14. RE Clauses Incorporated by Reference (09/2021) 6.3.0

This solicitation or contract, as applicable, incorporates by reference the provisions or clauses listed below with the same force and effect as if they were given in full text. Upon request, the RECO will make the full text available, or the full text may be obtained via internet at https://fast.faa.gov/RPF_Real_Property_Clauses.cfm.

A. Officials Not to Benefit (09/2021) 6.3.0-2
B. Assignment of Claims (09/2021) 6.3.0-3
C. Contracting Officer's Representative (09/2021) 6.3.0-4
D. Contingent Fees (09/2021) 6.3.0-5
E. Anti-Kickback Procedures (09/2021) 6.3.0-6

15. Title to Improvements (09/2021) 6.3.5

Title to the improvements constructed for use by the Government during the life of this Agreement shall be in the name of the Government.

16. Funding Responsibility for FAA Facilities (09/2021) 6.3.6

The Contractor agrees that all Contractor requested relocation(s), replacement(s), or modification(s) of any existing or future FAA navigational aid or communication system(s) necessitated by Contractor improvements or changes will be at the expense of the Contractor. In the event that the Contractor requested changes or improvements interferes with the technical and/or operational characteristics of the FAA's facility, the Contractor will immediately correct the interference issues at the Contractor's expense. Any FAA requested relocation, replacement, or modifications shall be at the FAA's expense. In the event such relocations, replacements, or modifications are necessary due to causes not attributable to either the Contractor or the FAA, funding responsibility shall be determined by mutual agreement between the parties, and memorialized in a Supplemental Agreement.

17. Changes (09/2021) 6.3.8

A. The RECO may at any time, by written order via Supplemental Agreement, make changes within the general scope of this Lease in any one or more of the following:
i. Work or services;
ii. Facilities or space layout;
iii. Amount of space/land;
iv. Any other change made within the scope of this lease.
B. If any such change causes an increase or decrease in the Lessor's cost or time required for performance under this lease, the RECO will modify this Lease to provide one or more of the following:
i. An equitable adjustment in the rental rate;
ii. A lump sum equitable adjustment;
iii. An equitable adjustment of the annual operating costs per rentable square foot; or
iv. An adjustment to the delivery date.
C. The Lessor must assert its right to an adjustment by written proposal under this clause within thirty (30) days from the date of receipt of the change order. Lessor's request must include all documentation necessary to validate his/her right to an adjustment. Failure to reach agreement on any adjustment constitutes grounds for dispute under the Contract Disputes clause.
D. Nothing in this clause excuses the Lessor from proceeding with the change as directed.

E. Absent written supplemental agreement the Government is not liable to the Lessor under this clause.

F. A change in the legal description of the premises in connection with construction or reconstruction of the tower shall not constitute a within scope change, and shall require bilateral agreement of the parties.

18. No Waiver (09/2021) 6.3.17

No failure by the Government to insist upon strict performance of any provision of this Contract or failure to exercise any right, or remedy consequent to a breach thereof, will constitute a waiver of any such breach in the future.

19. Restoration (09/2021) 6.3.18-1

A. The Government shall surrender possession of the premises upon vacation of the premises. The Government at its option shall either:
i. Restore the premises to as good condition as that existing at the time of the Government's initial entry upon the premises under this contract or any preceding contract (ordinary wear and tear, damage by natural elements or by circumstances over which the Government has no control, excepted) or,
ii. The Government may also elect to offer abandonment of installed real property improvements in lieu of restoration or some combination of abandonment and restoration as determined by mutual agreement with the contractor, so long as it is determined by the RECO to be in the best interests of the Government or,
B. In the event that the Government has to make payment under this clause, such payments will not exceed appropriations available at the time of the restoration in violation of the Anti-Deficiency Act.
C. Nothing in this contract may be considered as implying that Congress will, at a later date, appropriate funds sufficient to meet the deficiencies.

20. Quiet Enjoyment (09/2021) 6.3.25

The Contractor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Government's use and enjoyment of said premises against third party claims.

21. Damage by Fire or Other Casualty or Environmental Hazards (09/2021) 6.3.26-1

If the premises is partially or totally destroyed or damaged by fire or other casualty or if environmentally hazardous conditions are found to exist so that the premises is untenantable as determined by the Government, the Government may restore or reconstruct, or may elect to terminate the contract, in whole or in part, immediately by giving written notice to the contractor.

22. Interference with FAA Operations

The Airport agrees not to erect or allow to be erected any structure or obstruction of any kind or to allow any natural growth that the Government determines would interfere with the proper operations of Government facilities.
The Airport agrees to keep areas around the Government's navigational aids mowed at all times to a height so that weeds and vegetation will not be an obstruction to such operation or maintenance of these facilities.
It is understood and agreed that the Lessor will not construct or permit the construction of any structure that will obstruct visibility of any of the traffic patterns, approaches, runways, taxiways, operational portions of the aprons, or any other operational area necessary for the control of ground and air traffic on or at the airport from a control cab, the approximate center of which will be over the geographical center of the premises and the floor elevation of which will be above 30 feet above such point.

23. Hold Harmless (09/2021) 6.3.30

In accordance with and subject to the conditions, limitations and exceptions set forth in the Federal Tort Claims Act, 28 U.S.C. Ch. 17, the Government will be liable to persons damaged by any personal injury, death or injury to or loss of property, which is caused by a negligent or wrongful act or omission of an employee of the Government while acting within the scope of his office or employment under circumstances where a private person would be liable in accordance with the law of the place where the act or omission occurred. The foregoing shall not be deemed to extend the Government's liability beyond that existing under the Act at the time of such act or omission or to preclude the Government from using any defense available in law or equity.

24. Compliance with Applicable Laws (01/2023) 6.3.31-1

This Contract shall be governed by federal law. The Contractor shall comply with all applicable federal, state, and local laws. The Government will comply with all federal, state, and local laws applicable to and enforceable against it, provided that nothing in this lease shall be construed as a waiver of the sovereign immunity of the Government.

25. Notification of Change in Ownership or Control of Land (10/2022) 6.3.34

If the Contractor sells, dies or becomes incapacitated, or otherwise conveys to another party or parties any interest in the aforesaid land, rights of way thereto, and any areas affecting the premises, the Government shall be notified in writing, of any such transfer or conveyance within 30 calendar days after completion of the change in property rights. Concurrent with the written notification, the Contractor or Contractor's heirs, representatives, assignees, or trustees shall provide the Government copies of the associated legal document(s) (acceptable to local authorities) for transferring and/or conveying the property rights.

26. Integrated Agreement (09/2021) 6.3.36

This Contract, upon execution, contains the entire agreement of the parties, and no prior written or oral agreement, express or implied shall be admissible to contradict the provisions of this Contract.

27. Unauthorized Negotiating (09/2021) 6.3.37

In no event shall the Contractor enter into negotiations concerning the premises with anyone other than the RECO or his/her designee.

28. Clearing/Disposing of Debris (09/2021) 6.3.41

A. The Government shall notify the Contractor in writing ten (10) days prior to the start of any clearing of trees and/or brush and tree cuttings.

B. The Contractor grants the Government the right and privilege to enter upon the Contractor's land in order to cut, trim, tip, shape and maintain any trees situated within the premises and said cutting privilege granted to the Government shall include native grasses, scrub brush, and scrub to trees. Only those trees that are determined by the Government to interfere with the operation and proper function of the Government's facility will be subject to the Government's granted privilege. Coordination with the Contractor will be made prior to any cutting of any selected trees.

C. The Government agrees to dispose of all grass, brush, and tree cuttings by the Government's contractor. All tree logs, limbs, or branches 2 or more inches in diameter and 5 feet in length, shall be stacked in an area selected by the Lessor. The Government's disposal of debris, grass, branches, etc., shall comply with regulatory requirements.

29. Contract Disputes (09/2021) 6.3.39

A. All contract disputes arising under or related to this contract shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17,
which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A contractor may seek review of a final FAA decision only after its administrative remedies have been exhausted.
B. The filing of a contract dispute with the ODRA may be accomplished by mail, overnight delivery, hand delivery, or by facsimile, or if permitted by Order of the ODRA, by electronic filing. A contract dispute is considered to be filed on the date it is received by the ODRA during normal business hours. The ODRA's normal business hours are from 8:30 am to 5:00 pm Eastern Time.
C. Contract disputes are to be in writing and shall contain:
i. The contractor's name, address, telephone and fax numbers and the name, address, telephone and fax numbers of the contractor's legal representative(s) (if any) for the contract dispute;
ii. The contract number and the name of the Contracting Officer;
iii. A detailed chronological statement of the facts and of the legal grounds for the contractor's positions regarding each element or count of the contract dispute (i.e., broken down by individual claim item), citing to relevant contract provisions and documents and attaching copies of those provisions and documents;
iv. All information establishing that the contract dispute was timely filed;
v. A request for a specific remedy, and if a monetary remedy is requested, a sum certain must be specified and pertinent cost information and documentation (e.g., invoices and terminated checks) attached, broken down by individual claim item and summarized; and
vi. The signature of a duly authorized representative of the initiating party
D. Contract disputes shall be filed at the following address:
i. For filing by hand delivery, courier or other form of in-person delivery:

Office of Dispute Resolution for Acquisition
Federal Aviation Administration
600 Independence Avenue SW., Room 2W100
Washington, DC 20591; or

For filing by U.S. Mail:

Office of Dispute Resolution for Acquisition
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591
[Attention: AGC-70, Wilbur Wright Bldg. Room 2W100]; or

Telephone: (202) 267-3290
Facsimile: (202) 267-3720
Alternate Facsimile: (202) 267-1293; or
ii. Other address as specified in 14 CFR Part 17.
E. A contract dispute against the FAA shall be filed with the ODRA within two (2) years of the accrual of the contract claim involved. A contract dispute by the FAA against a contractor (excluding contract disputes alleging warranty issues, fraud or latent defects) likewise shall be filed within two (2) years after the accrual of the contract claim. If an underlying contract entered into prior to the effective date of this part provides for time limitations for filing of contract disputes with the ODRA which differ from the aforesaid two (2) year period, the limitation periods in the contract shall control over the limitation period of this section. In no event will either party be permitted to file with the ODRA a contract dispute seeking an equitable adjustment or other damages after the contractor has accepted final contract payment, with the exception of FAA claims related to warranty issues, gross mistakes amounting to fraud or latent defects. FAA claims against the contractor based on warranty issues must be filed within the time specified under applicable contract warranty provisions. Any FAA claims against the contractor based on gross mistakes amounting to fraud or latent defects shall be filed with the ODRA within two (2) years of the date on which the FAA knew or should have known of the presence of the fraud or latent defect.
F. A party shall serve a copy of the contract dispute upon the other party, by means reasonably calculated to be received on the same day as the filing is to be received by the ODRA.
G. After filing the contract dispute, the contractor should seek informal resolution with the Contracting Officer.
H. The FAA requires continued performance with respect to contract disputes arising under this contract, in accordance with the provisions of the contract, pending a final FAA decision.
I. The FAA will pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the contract dispute, or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on contract disputes shall be paid at the rate fixed by the Secretary of the Treasury that is applicable on the date the Contracting Officer receives the contract dispute and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary until payment is made. Interest will not accrue for more than one year.
J. Additional information and guidance about the ODRA dispute resolution process for contract disputes can be found on the ODRA website at http://www.faa.gov.

30. Organizational Conflict of Interest (01/2023) 6.3.47

A. The offeror or Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest (OCI), as defined in the FAA Acquisition Management System, "Organizational Conflicts of Interest (T3.1.7)", or that the Contractor has disclosed all such relevant information.

B. The offeror or Contractor agrees that if an actual or potential OCI is discovered after award, the Contractor must make a full disclosure in writing to the Contracting Officer. The disclosure must include a mitigation plan describing actions the Contractor has taken or proposes to take to avoid, mitigate, or neutralize the actual or potential conflict. Changes in the Contractor's relationships due to mergers, consolidations or any unanticipated circumstances may create an unacceptable organizational conflict of interest which may necessitate disclosure.

C. The FAA reserves the right to review and audit OCI mitigation plans as needed after award, and to reject mitigation plans if the OCI, in the opinion of the Contracting Officer, cannot be avoided, or mitigated.

D. The Contracting Officer may terminate this contract for convenience in whole or in part, if it deems such termination necessary to avoid an OCI. If the Contractor was aware of a potential OCI prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the Contracting Officer, the Government may terminate this contract for default, debar the Contractor from government contracting, or pursue such other remedies as may be permitted by law or this contract.

E. The Contractor further agrees to insert provisions which must conform substantially to the language of this clause including this paragraph (d) in any subcontract or consultant agreement hereunder.

31. Hazardous Substance Contamination (09/2021) 6.8.1

The FAA agrees to remediate, at its sole cost, all hazardous substance contamination on the FAA facility premises that is found to have occurred as a direct result of the installation, operation, relocation and/or maintenance of the FAA's facilities covered by this contract. The Contractor agrees to remediate at its sole cost, all other hazardous substance contamination found on the FAA facility premises. The Contractor also agrees to hold the FAA harmless for all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the FAA facility premises that are not directly attributable to the installation, operation, relocation and/or maintenance of the facilities.

32. Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (04/2022) 6.9.5

(a) Definitions. As used in this clause--

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means—
(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or
(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations; Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled—
(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
(ii) For reasons relating to regional stability or surreptitious listening.
(2) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
(3) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
(4) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or
(5) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.
Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) Prohibition.
(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a

substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in AMS T3.6.4 A.17.e.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020 from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in AMS T3.6.4A.17.e. This prohibition applies to an entity that uses covered telecommunications equipment or services, including use not in support of the Government.

(c) Exceptions. This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor must report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information. For indefinite delivery contracts, the Contractor must report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order.

(2) The Contractor must report the following information pursuant to paragraph (d)(1) of this clause:
(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor must describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
(e) Subcontracts. The Contractor must insert the substance of this clause, including this paragraph

(e), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

33. Covered Telecommunications Equipment or Services- Representations (09/2021) 6.9.5-1

(a) Definitions. As used in this provision, "covered telecommunications equipment or services" has the meaning per the "Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment" clause in this contract.
(b) Procedures. The offeror must review the list of excluded parties in the System for Award Management (SAM) (https://www.sam.gov) for entities excluded from receiving federal awards for covered telecommunications equipment or services.
(c) Representations.
1. The offeror represents that it_____does,_____does not **provide** covered telecommunications equipment or services as part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.
2. After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it_____does,_____does not **use** covered telecommunications equipment or services, or any equipment, system, or service that uses telecommunications equipment or services.

34. Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (09/2021) 6.9.5-2

NOTE: The offeror must not complete the representation at paragraph (d)(1) in this provision if the offeror has represented that it does not provide covered telecommunications equipment or services as part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument in the provision "Covered Telecommunications Equipment or Services – Representation" (c)(1). Additionally, the offeror must not complete the representation at paragraph (d)(2) in this provision if the offeror has represented that it does not use covered telecommunications equipment or services, or any equipment, system, or service that uses telecommunications equipment or services in the provision "Covered Telecommunications Equipment or Services – Representation" (c)(2).

PROVISION/CLAUSE:
(a) Definitions. As used in this provision--
Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause AMS clause 6.9.5, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Prohibitions.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
Nothing in this prohibition will be construed to—

(i) Prohibit the head of the agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020 from entering into a contract or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential part of any system or as critical technology as part of any system. This prohibition applies to any entity that uses covered telecommunications equipment or services, including uses not in support of the Government.
Nothing in this prohibition will be construed to-
(i) Prohibit the head of the agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) Procedures: The offeror must review the list of excluded parties in the System for Award Management (SAM) (https://www.sam.gov) for entities excluded from Federal awards for covered telecommunications equipment or services.

(d) Representations.

(1) The Offeror represents that it [ ] will, [ ] will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation.

(2) After conducting a reasonable inquiry for purposes of this representation, the Offeror represents that that it [ ]does, [ ]does not USE covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror must provide the additional disclosure information required at paragraph (e) if the Offeror indicates "does".

(e) Disclosures. Disclosure for the representation in paragraph (d) (1) of this provision-
If the Offeror has responded "will" in the representation in paragraph (d) (1) of this provision, the Offeror must provide the following information as part of the offer—
(1) For covered equipment
(i) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known;
(ii) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and
(iii) Explanation of the proposed use of covered telecommunications equipment and any factors

relevant to determining if such use would be permissible under the prohibition in paragraph (b) (1) of this provision;

(2) For covered services-
(i) If the service is related to item maintenance, a description of all covered telecommunications services offered (include on the item being maintained: brand, model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable; or
(ii) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed uses of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.
Disclosure for representation in paragraph (d) (2) of this provision. If the Offeror has responded "does" to paragraph (d)(2) of this provision, the offeror must provide the following information as part of the offer—

(3) For covered equipment
(i)The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known;
(ii) A description of all covered telecommunications equipment offered (include brand; model number, such as original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable); and
(iii) Explanation of the proposed use of covered telecommunications equipment and services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) (2) of this provision.
(4) For covered services-
(i) If the service is related to item maintenance, a description of all covered telecommunications services offered (include on the item being maintained: brand, model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or
(ii) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed uses of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

35. Notices (09/2021) 6.10.1

All notices/correspondence must be in writing, reference the Contract number 6945Z-23-L-00119, and be addressed as follows:

TO THE CONTRACTOR:
County of Dutchess
22 Market Street
Poughkeepsie, New York 12601-3222

-and-

County of Dutchess
Department of Public Works - Airport Division
38 Citation Drive
Wappingers Falls, New York 12590

TO THE GOVERNMENT:
Federal Aviation Administration
Real Estate Branch, AAQ-910
1701 Columbia Avenue
College Park, Georgia 30337-2714

36. Signature Block (09/2021) 6.10.3

This Contract shall become binding when it is fully executed by both parties. In witness whereof, the parties hereto have subscribed their names as of the date shown below.

DUTCHESS COUNTY, NEW YORK

By:_____
Name: Susan J. Serino
Title: County Executive
Date: _____

APPROVED AS TO FORM:

_____
Name: Elizabeth M. Wolf
Title: Senior Assistant County Attorney
Date: _____

APPROVED AS TO CONTENT:

_____
Name: Robert Balkind
Title: Commissioner of Public Works
Date: _____

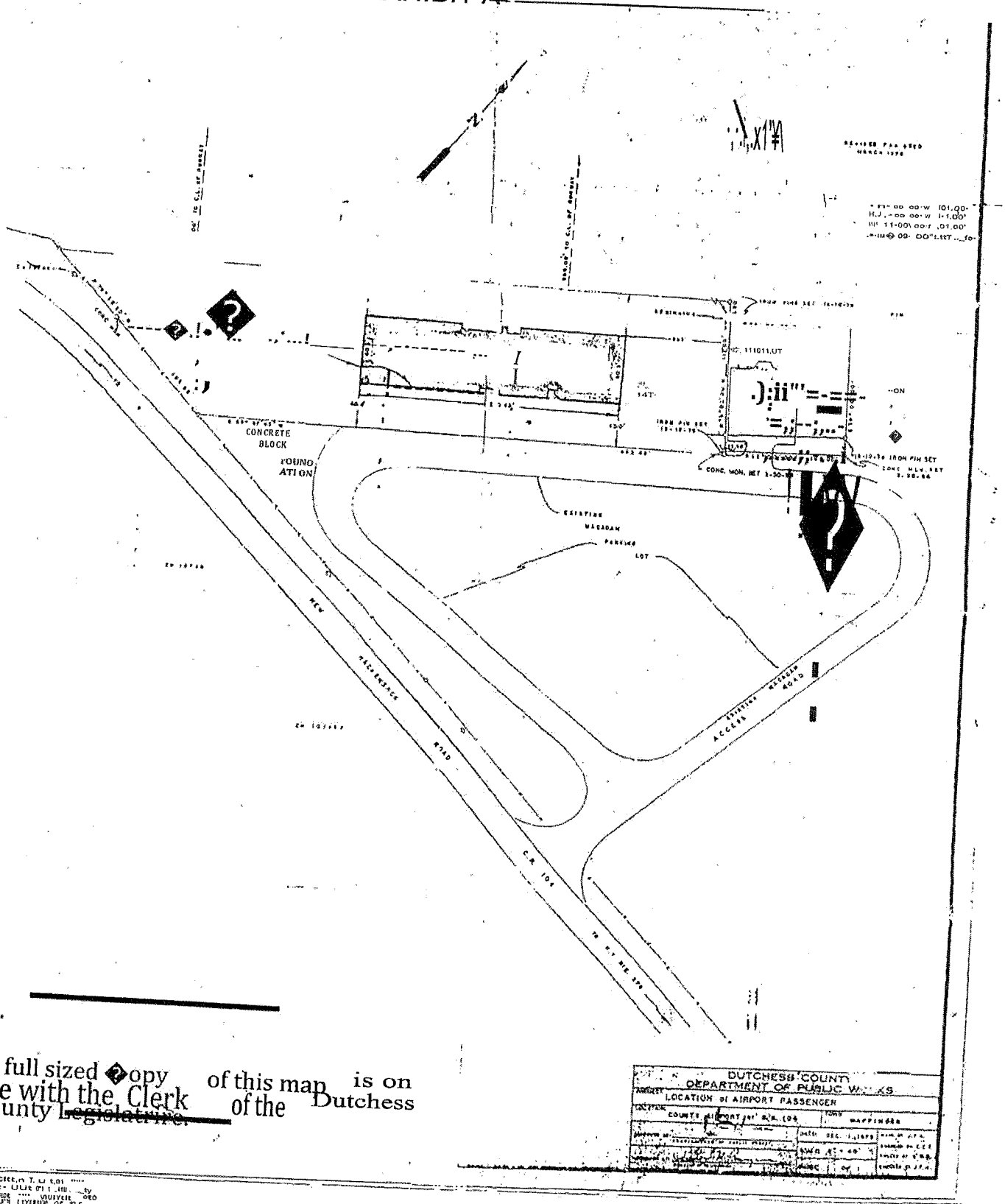
UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

By:_____
Name: Shirley A. Williams
Title: Real Estate Contracting Officer
Date: _____

ATTACHMENTS/EXHIBITS:

Number	Title	Date	Number of Pages
1	Exhibit A – Dutchess County Drawing		1
2	Public Authorization Certificate – Susan J. Serino		1

EXHIBIT A



A full sized copy of this map is on file with the Clerk of the Dutchess County Legislature.

PUBLIC AUTHORIZATION CERTIFICATE

On this_____day of_____, 20___, I _____
[insert name]

certify that I am the_____of the
[insert title]

_____ named in the attached agreement; that
[insert name of State, County, Municipality, or other Public Authority]

Susan J. Serino _____ who signed said agreement on behalf of the
[insert name of person who signed the agreement]

_____ is
[insert name of State, County, Municipality, or other Public Authority]

_____ of said
[insert title of person who signed the agreement]

_____; and that said agreement was duly signed
[insert name of State, County, Municipality, or other Public Authority]

for and on behalf of_____by authority of
[insert name of State, County, Municipality, or other Public Authority]

its governing body, and is within the scope of its powers.

Signed _____

SUE SERINO
COUNTY EXECUTIVE

ROBERT H. BALKIND, P.E.
COMMISSIONER

DAVID C. WHALEN
DEPUTY COMMISSIONER

DUTCHESS COUNTY GOVERNMENT
DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

To: **Rachel Kashimer, Deputy County Executive**

From: **David C. Whalen, Deputy Commissioner** DCW

Date: **September 20, 2024**

Re: **RESOLUTION REQUEST – AUTHORIZATION TO EXECUTE A 20-YEAR ON-AIRPORT SUCCESSOR LAND LEASE BETWEEN THE COUNTY AND THE FEDERAL AVIATION ADMINISTRATION (FAA) FOR THE AIR TRAFFIC CONTROL TOWER (ATCT) AT HUDSON VALLEY REGIONAL AIRPORT (HVRA)**

Please find attached a Resolution Request form and Fiscal Impact Statement regarding authorizing a 20-year successor land lease between the FAA and Dutchess County. A required public hearing was held before the October 15, 2024, Dutchess County Legislature meeting.

The FAA's ATCT facility is owned and operated by the federal government. A no cost land lease is required, as the previous 20-year lease expired on 9/30/22. There is great value that the ATCT operations brings to Hudson Valley Regional, providing a safe and professionally staffed airfield. This new lease will be retroactive with a term of 10/1/22 through 9/30/42.

Please contact me if you have any questions or require additional information

cc: Robert H. Balkind, P.E., Commissioner
Mary F. Aldrich, MA, CPFO, Director of Fiscal Services
Jeff Durand, Airport Director

Public Works and Capital Projects Roll Call

District	*Name*	*Yes*	*No*
District 7 - Hyde Park and Pleasant Valley	Truitt*	✓	
District 25 - Amenia, Washington, Pleasant Valley & Millbrook	Houston*		
District 3 - LaGrange	Polasek*		
District 16 - Fishkill and Beacon	Valdés Smith*		
District 9 - City of Poughkeepsie	Atkins*		
District 1 - Town of Poughkeepsie	Gorman		
District 10 - City of Poughkeepsie	Johnson (VC)	Absent	
District 12 - East Fishkill	Metzger (C)		
District 13 - East Fishkill and Wappinger	Paoloni		
District 15 - Wappinger	Faust		
District 20 - Red Hook, Tivoli, and Rhinebeck	Munn	Absent	
District 23 - Pawling, Beekman and East Fishkill	Rolison		

Present: 10
Absent: 2
Vacant: 0

Resolution: ✓
Motion: ___

Total : 10 (Yes) 0 (No)
Abstentions: 0

2024195 AUTHORIZING SUCCESSOR LAND LEASE WITH THE UNITED STATES OF AMERICA FOR THE AIR TRAFFIC CONTROL TOWER (ATCT) AT THE HUDSON VALLEY REGIONAL AIRPORT

NOVEMBER 7, 2024

Roll Call Sheets

District	Last Name	YES	NO
District 7 - Hyde Park and Pleasant Valley	Truitt	✓	
District 25 - Amenia, Washington, Pleasant Valley & Millbrook	Houston		
District 3 - LaGrange	Polasek		
District 16 - Fishkill and Beacon	Valdés Smith		
District 9 - City of Poughkeepsie	Atkins		
District 1 - Town of Poughkeepsie	Gorman		
District 2 - LaGrange, Pleasant Valley & Town of Poughkeepsie	Travelpiece		
District 4 - Hyde Park and Town of Poughkeepsie	Lawler		
District 5 - Town of Poughkeepsie	D'Aquanni		
District 6 - Town of Poughkeepsie	Kaul		
District 8 - City and Town of Poughkeepsie	Brendli		
District 10 - City of Poughkeepsie	Johnson	Absent	
District 11 - Clinton, Pleasant Valley, and Rhinebeck	Kearney		
District 12 - East Fishkill	Metzger		
District 13 - East Fishkill and Wappinger	Paoloni		
District 14 - Wappinger and Town of Poughkeepsie	Versaci		
District 15 - Wappinger	Faust		
District 17 - Town and Village of Fishkill	McHoul		
District 18 - City of Beacon and Fishkill	Page		
District 19 - North East, Stanford, Pine Plains, Milan & Red Hook	Drago		
District 20 - Red Hook, Tivoli, and Rhinebeck	Munn	Absent	
District 21 - East Fishkill	Caswell		
District 22 - Beekman and Union Vale	Garito		
District 23 - Pawling, Beekman and East Fishkill	Rolison		
District 24 - Dover and Pawling	House		

Present: 23 **Resolution:** ✓ **Total :** 23 0

Absent: 2 **Motion:** ____ Yes No

Vacant: 0 **Abstentions:** 0

2024195 AUTHORIZING SUCCESSOR LAND LEASE WITH THE UNITED STATES OF AMERICA FOR THE AIR TRAFFIC CONTROL TOWER (ATCT) AT THE HUDSON VALLEY REGIONAL AIRPORT

NOVEMBER 12, 2024