

Torres Rojas, Genara

FOI #13862

**From:**  
**Sent:** Friday, March 22, 2013 10:49 AM  
**To:** Duffy, Daniel  
**Cc:** Torres Rojas, Genara; Van Duyne, Sheree  
**Subject:** Freedom of Information Online Request Form

Information:

First Name: Richard  
Last Name: Perniciaro  
Company: resident  
Mailing Address 1:  
Mailing Address 2:  
City:  
State:  
Zip Code:  
Email Address:  
Phone:  
Required copies of the records: No

List of specific record(s):  
Consultants study on Atlantic City International Airport

**THE PORT AUTHORITY OF NY & NJ**

*FOI Administrator*

April 11, 2013

Mr. Richard Perniciaro

Re: Freedom of Information Reference No. 13862

Dear Mr. Perniciaro:

This is a response to your March 22, 2013 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for a copy of the consultant's study on the Atlantic City International Airport.

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/13862-O.pdf>. Paper copies of the available records are available upon request.

Certain material responsive to your request is exempt from disclosure pursuant to exemptions (2.a.) and (4) of the Code.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy  
FOI Administrator

*225 Park Avenue South, 17th Floor  
New York, NY 10003  
T: 212 435 3642  
F: 212 435 7555*

# DUE DILIGENCE REVIEW OF THE ATLANTIC CITY INTERNATIONAL AIRPORT



Prepared for

**THE PORT AUTHORITY  
OF NEW YORK & NEW JERSEY**

Prepared by

**QED**

**Airport & Aviation Consultants**

and



**WEIR & PARTNERS LLP**

**PATTON BOGGS** LLP

**March 27, 2013**



March 27, 2013

Mr. William Radinson  
Assistant Director, Capital Programs, Aviation Department  
The Port Authority of New York and New Jersey  
225 Park Avenue South, 9th Floor  
New York, New York 10003

Re: Due Diligence Review of the Atlantic City International Airport, Preliminary Draft Report

Dear Mr. Radinson:

The QED Team (QED, SI Engineering, Weir and Partners, and Patton Boggs) is pleased to submit this report that addresses the potential involvement of The Port Authority of New York and New Jersey at the Atlantic City International Airport.

The report addresses three primary components -- existing facilities condition assessment, air service demand analysis, and legal and contractual issues including those related to environmental matters. The intent of the due diligence is to identify those key issues that could drive further action by The Port Authority Board of Commissioners. To maintain the confidentiality of certain matters, we have provided under separate covers reports concerning security, sensitive utilities and infrastructure matters, and legal/business strategies that may be pursued by the Port Authority.

We conducted the due diligence with reliance on readily available data that was provided by the South Jersey Transportation Authority, Federal Aviation Administration William J. Hughes Technical Center and their representatives, supplemented with our collective experience and judgment. Meetings were held with these entities as well as stakeholders representing the economic interests of the Atlantic City community. We take this opportunity to express appreciation for the candid input provided for our consideration.

We appreciate this opportunity to be of service to The Port Authority and stand ready to continue to be of assistance as the matter of the Atlantic City International Airport is reviewed and considered.

Sincerely,

A handwritten signature in black ink that reads "Ronald F. Price".

Ronald F. Price, P.E.  
Principal

Enclosure

<b>CONTENTS</b>	<b>Page</b>
<b>I. Executive Summary .....</b>	<b>ES-1</b>
A. Introduction .....	ES-1
B. About ACY.....	ES-3
C. Facilities and Infrastructure at ACY .....	ES-3
D. Flight Operations at ACY .....	ES-4
E. Technical Center Synergies.....	ES-5
F. Financial Conditions .....	ES-6
G. Agreements.....	ES-7
H. Environmental Issues .....	ES-7
 <b>II. Introduction.....</b>	 <b>1</b>
 <b>III. Atlantic City International Airport Background and Use .....</b>	 <b>1</b>
A. Statutory Authority .....	1
B. Airport Use.....	2
 <b>IV. Facility Condition Assessment .....</b>	 <b>4</b>
A. Structures .....	4
B. Airfield and Roadway Pavements .....	6
C. Utilities.....	7
D. Environmental Considerations Specifically Related to the Currently Contemplated Expansion .....	7
E. Conclusions – Facility Conditions.....	8
 <b>V. Air Service Demand and Aviation Activity Analysis .....</b>	 <b>8</b>
A. Passenger Traffic Historical Data .....	8
B. Aircraft Operations.....	9
C. Based Aircraft.....	11
D. Spirit Airlines Performance at ACY .....	11
E. Passenger Forecasts .....	17
F. ACY Catchment Area Passenger Leakage .....	19
G. Atlantic City/New Jersey Shore as an Airline Passenger Destinations .....	23
H. Air Cargo .....	25
I. Use of Incentives to Attract Airlines.....	25
J. PANYNJ Synergies with FAA Technical Center Activities .....	28
K. Port Authority Impact .....	29
L. Conclusions: Air Service Demand and Aviation Activity .....	30

	Page
<b>VI. Airport Financing Overview .....</b>	<b>32</b>
A. Passenger Facility Charge Collections .....	35
B. Financial Pathway to Self-Sustainability .....	37
<b>VII. Relevant Contracts/Agreements in Place Between SJTA and FAA,     Other Tenants and Operators .....</b>	<b>44</b>
A. FAA Technical Center Lease and Cooperative Agreement .....	44
Approval for Expansion and Development .....	44
SJTA Obligations/Utilities .....	45
B. New Jersey State Police .....	46
C. New Jersey Air National Guard 177th Fighter Wing .....	46
Airport Joint Use Agreement .....	46
SJTA/NJANG Memorandum of Agreement: Fire Protection .....	47
D. Midlantic Jet Aviation, Inc. ....	48
E. AFCO AvPorts Management LLC .....	49
F. Spirit Airlines .....	50
Airport-Airline Lease and Use Agreement .....	50
Building 269 Lease Agreement .....	50
G. Conclusions - Agreements and Contractual Issues .....	50
<b>VIII. Environmental Issues .....</b>	<b>51</b>
A. NPL Superfund Site Listing – Site Contamination and Associated Issues Implicating Potential Environmental Risks .....	51
1. History of Relevant Site Usage .....	51
2. Overview of Current AOC Remediation and Perceived Contamination Risk Status .....	55
B. Conservation-Related Environmental Issues at Site .....	57
<b>IX. Pending Litigation and Other Legal and Contractual Issues .....</b>	<b>59</b>
A. Labor Issues .....	59
B. Title Issues .....	60
C. Conclusions: Labor and Title Issues .....	60

**Figures**

1 .....	3
---------	---

**Tables**

1	Historical Passenger Traffic.....	9
2	Historical Aircraft Operations .....	10
3	Comparison of Aircraft Operations Forecasts .....	10
4	Based Aircraft .....	11
5	Scheduled Airline Service Frequency .....	12
6	Spirit Airlines Load Factors by Market .....	14
7	Spirit Airlines Average Fares and Nonstop Yields by Market .....	15
8	Spirit Airlines Average Fares Plus Ancillary Revenue and Nonstop Yields by Market ....	16
9	Comparison of Enplaned Passenger Forecasts .....	17
10	Top 25 Atlantic City Domestic Leakage Markets .....	20
11	Top 25 Atlantic City International Leakage Markets .....	22
12	Incentive Programs for Scheduled Service .....	27
13	Current Rates and Charges, May 10, 2010.....	32
14	Historical Operating Revenues and Expenses .....	34
15	Passenger Facility Charge Collections .....	35
16	Bond Debt .....	36
17	700,000 Annual Enplanement Airports - Revenues.....	38
18	1,400,000 Annual Enplanement Airports - Revenues .....	39
19	2011 Airports with 1,400,000 Enplanements .....	40
20	Financial Analysis .....	40
21	Activity Levels .....	41
17	Land Parcels Comprising Atlantic City International Airport.....	60

## I. EXECUTIVE SUMMARY

### A. Introduction

The Port Authority of New York and New Jersey is a bi-state transportation entity of the States of New York and New Jersey created in part to undertake regional improvements. These include the development of major infrastructure, trade and transportation projects to promote the region's economic well-being. To this end, each state has enacted legislation that permits the Port Authority to acquire an interest in one airport in each state beyond the Port District, an area roughly defined within a 25-mile radius of the Statue of Liberty.

In November 2007, the Port Authority acquired the remaining 93 years of a 99-year lease at Stewart International Airport (SWF) in Newburgh, New York in the mid-Hudson Valley region of the state, with plans to use the facility to help alleviate capacity shortages at its three major airports, while also contributing to the economic welfare of the region. In 2012, the Port Authority undertook this study of Atlantic City International Airport (ACY) in Egg Harbor Township, New Jersey, as another airport that could provide similar benefits while stimulating economic growth in the southern and coastal regions of the State of New Jersey.

As noted in a widely circulated paper by the Regional Plan Association that examined the economic challenges inflicted by congestion at the major Port Authority airports, strained capacity and delays at the region's three major airports—John F. Kennedy International (JFK), Newark Liberty International (EWR) and LaGuardia (LGA)—*"ripple through the national aviation network causing delays from Washington, DC, to Los Angeles, CA. Constraining the New York region's capacity for air travel growth would also weaken the nation's ability to compete for global business in finance, media and other industries for which New York is the nation's leading international center. Solutions will require both short-term and long-term actions..."*. The Port Authority's capacity concern is particularly relevant today as the Port Authority airports saw a 3.3 percent increase in passengers in 2012 as compared with 2011. In fact, the number of passengers in 2012 (109 million) nearly matched the pre-recession record of 110 million passengers.

By purchasing SWF in 2007 and pursuing possible expansions to outlying airports such as ACY, the Port Authority has recognized that the solution to airport system congestion consists of exploring both expansion at its existing airports and shifting demand to the region's outlying airports, thus creating capacity at the three core airports. Outlying airports such as ACY can also serve local areas, build up local economies and expand the offering of air travel options for residents in southern New Jersey.

In addition, with a presence at ACY, the Port Authority may be able to collaborate more closely with the Federal Aviation Administration (FAA) on its Next Generation Air Transportation System (NextGen) technology. The William J. Hughes Technical Center (FAA Technical Center), which is located at ACY, is the primary facility supporting NextGen, a satellite-based system of air traffic management intended to eliminate delays to aircraft in flight and on the ground. NextGen technology is of significant interest to the Port Authority as it

could alleviate delays at its New York-area airports. In the past, the FAA Technical Center and the Port Authority have worked together on other Port Authority priorities, such as the pioneering use of arrestor beds.

While inherent challenges exist at ACY related to limited air service and other factors, the Port Authority has decades of experience as an operator of one of the world's busiest and most complex airport systems. And while an airport's success depends on a number of dynamic and evolving factors, the experience, expertise and capabilities of the Port Authority can be important factors in ultimately transforming ACY into a profitable airport that can assist travelers in the highly congested Northeast region.

The Port Authority retained the services of QED, an airport consultancy based in Amelia Island, Florida, to conduct a due diligence review of the potential issues that would accompany taking action to acquire an interest at ACY. The QED team (QED Team), which included SI Engineering, P.C., Weir & Partners LLP, and Patton Boggs LLP, assessed the condition of the public facilities and supporting infrastructure, environmental matters, financial and legal issues, and matters related to air service demand.

During the course of the due diligence, the QED Team met with key stakeholders engaged in operating, managing and using ACY, including the following:

- South Jersey Transportation Authority (SJTA), which owns the commercial air transportation functional centers and manages ACY
- The FAA Technical Center, a facility owned and operated by the FAA, the owner of all land areas comprising ACY and not otherwise sold to the SJTA
- Tenants at ACY, including the New Jersey Air National Guard 177th Fighter Wing and a U.S. Coast Guard Air Station
- AFCO AvPorts Management LLC (AvPorts), the firm currently contracted to provide ACY's maintenance and operations services
- Government and industry representatives, including the Casino Reinvestment Development Authority, the Atlantic City Alliance, and airline route planners
- New Jersey State Police, which provides security and related services at ACY

Additionally, the QED Team interacted with Port Authority staff through teleconferences and face-to-face meetings.

This due diligence effort was conducted under an expedited process and included collecting and interpreting data, as well as meeting with key stakeholders. The QED Team relied on readily available data associated with three key areas of interest: facility condition assessment, air service demand, and financial and legal issues.

## **B. About ACY**

ACY, which initially was used as a naval air station during World War II, served about 1.4 million passengers in 2012. It features two runways: a 10,000-foot-long Runway 13-31 and a 6,144-foot-long Runway 4-22. ACY has one 10-gate passenger terminal, a 1,400-space (six-level) parking garage, and surface lots for short-term and economy parking. ACY also includes several hangars, two fuel farms, and structures to house the New Jersey State Police, and firefighting and maintenance equipment. The airport is readily accessible from the Atlantic City Expressway and the Garden State Parkway.

The land area on which ACY is located totals some 5,059 acres (the Site).<sup>1</sup> With the exception of the 84 acres owned by the SJTA, all of this land is owned by the federal government through the FAA. In an effort to enable another government agency to promote civil aviation use of ACY and to obtain federal grants for the improvement of certain airside, landside and terminal facilities, the FAA leased approximately 2,200 acres of the land to the SJTA in 1998. A portion of the remainder of the land area is leased to the Air National Guard 177th Fighter Wing and other areas are retained by the FAA Technical Center for its systems and facilities testing programs. In addition, approximately 528 acres of the land leased by the SJTA are set aside as a preserve for threatened and endangered bird species.

## **C. Facilities and Infrastructure at ACY**

The QED Team conducted visual, walkover surveys of the facilities and supporting infrastructure at ACY. Overall, the facilities owned, leased and operated by the SJTA are in excellent condition and well maintained. This includes the majority of the building structures. Pavement areas on ACY for aircraft operations will require rehabilitation over the next 20 years and are estimated to cost nearly \$53 million, of which as much as 90 percent may be eligible for grant funding from the FAA Airport Improvement Program. Of that amount, \$40.6 million is allocated to the rehabilitation of Runway 13-31 and Runway 4-22.

Due to security concerns, a discussion of the utility infrastructure is presented in a separate letter report and addresses the electrical, natural gas, communications, water, and sanitary sewer and storm water services. In general, water and sanitary sewer services will likely be in need of rehabilitation or replacement in the next several years. The FAA Technical Center is responsible for the maintenance and operation of these systems outside of the 84 acres owned

---

<sup>1</sup> The term Site is also used in this document to refer to the area encompassed by the United States Environmental Protection Agency's (EPA) National Priorities List ("NPL") identification number for the facility, EPA ID#: NJ9690510020, which roughly corresponds to the 5,059 acres owned by the FAA, plus the land currently owned by the SJTA.

by the SJTA. Within these 84 acres, the SJTA is responsible for the maintenance of all of the utilities. The FAA Technical Center's attention has been directed to those components of the Site's utilities that support their activity centers. Budget constraints at the federal level will transfer these costs to those leasing land on which they are located. SJTA is responsible for the utility systems serving the improved areas that it owns. Construction budget estimates approach \$6.7 million for improving those systems.

#### **D. Flight Operations at ACY**

ACY serves a mix of commercial scheduled and nonscheduled airline operators, general aviation, flights conducted by the FAA Technical Center, and the military. Based on the number of aircraft operations (takeoffs and landings), the military is the airport's dominant user, with the majority of those flights associated with the activities of the U.S. Coast Guard Air Station, which operates rotary wing aircraft. Unlike the Port Authority's three major airports, there is plentiful available capacity at ACY both annually and in peak operational hours.

Currently, ACY is served by one commercial carrier, Spirit Airlines, which operates a mix of Airbus transport aircraft with capacities ranging from 145 to 218 seats. Spirit Airlines is focused on the leisure market and has been serving ACY for many years. The airline understands the market and tailors its service to the inherent seasonality of the southeastern New Jersey climate. The airline is an ultra-low-cost carrier offering basic air transportation services and allowing the passenger to select and pay for additional amenities as part of the total travel experience.

The health and profitability of airports and carriers, like the health of the airline industry in general, are subject to a variety of dynamic factors. That said, the QED Team's review of ACY reveals that under the right conditions there is potential for growth in terms of demand and number of available flights. The following briefly summarizes some of the areas where opportunities may arise in increasing growth prospects at ACY that the Port Authority may be well positioned to exploit:

- The State of New Jersey has been aggressive in its efforts to help Atlantic City transition from a gaming destination that attracts visitors within driving distance primarily in the peak months of April through September to a resort destination that offers attractions to a broader population on a year-round basis. New Jersey has also sought to attract out-of-state visitors to the many beaches along its shore from Monmouth County to Cape May County, which are all within the ACY catchment area. The State's initiatives in this regard may increase air traffic demand from domestic markets and international markets in Canada and Europe, which may afford an opportunity to attract more inbound passengers to ACY, a passenger pool which currently accounts for only 35 percent of passengers utilizing ACY.

- Increased demand and flights may result if ACY could stem or reverse the leakage of passengers to other airports. As discussed further in this report, leakage rates reflect the number of passengers leaving an airport's catchment area to use an alternate airport for reasons stemming from lower fares to more convenient schedules. The QED Team's analysis shows that four destinations—Orlando, San Juan, Las Vegas and Ft. Lauderdale—accounted for nearly 45 percent of all leakage passengers on domestic flights from ACY. Each of these destinations is presently served by Spirit Airlines and two have nonstop service from ACY. Increased frequency and capacity to these destinations may stem leakage and warrant additional flight activity at ACY. In addition, between four and six flights to one, or possibly two, hub cities may be justifiable at present. The challenge is to attract an airline or airlines that will offer sufficient frequency to hub airports where passengers can transfer to other flights and reach their final destination within a reasonable schedule. The Port Authority has had success with this formula at SWF, providing connections at Detroit (via Delta) and Philadelphia (via US Airways).
- Under the proper circumstances, providing air service at ACY can be a profitable for an airline. Load factors (percent of revenue passenger miles as a proportion of available seat miles) for Spirit, for example, indicate that flights serving the ACY market carry more revenue passengers on an available-seat basis than the airline experiences at all of the other airports it serves.
- While ACY currently does not provide air cargo service, the 2010 Airport Master Plan Update did provide for certain areas on ACY property to accommodate air cargo carriers, as well as a cargo handling facility. Air cargo may provide an added source of revenue for ACY, which provides easy access to both the Atlantic City Expressway and the Garden State Parkway.

It appears that for the short-term, ACY is being well served for the leisure traveler. Business passengers, who prefer higher frequencies to more destinations, will likely continue to leak to other airports. But the airline industry has shown repeatedly that it is dynamic and unpredictable, especially when economic conditions change quickly, and airlines are no different than any other business in that they chase potential profits and seek opportunities for growth. It will take a concerted marketing effort (and again, here the Port Authority can offer the advantage of a large, established and successful transportation marketing operation), as well as lucrative incentives, to be able to take advantage of opportunities to attract additional airlines when and if those opportunities should arise.

#### **E. Technical Center Synergies**

ACY is the base of the FAA's design, testing and implementation of systems and programs to support the improvement of the National Airspace System. A cornerstone of this function is NextGen, an overarching program that encompasses communications, navigation, surveillance and air traffic management systems utilizing satellite-based and related technologies. NextGen is also a high priority issue for the Port Authority because its airports are located in one of the

world's most highly used airspace. The high levels of aviation demand in a constrained airspace environment adversely affect the function and efficiency of these airports, which also has downstream impacts on the entire national air transportation network.

The Port Authority and the FAA Technical Center are currently actively engaged in joint efforts, as well as through trade groups, with the goal of implementing NextGen technologies. The opportunity to be more closely engaged in the development of this and other important aviation technologies will provide benefits to both entities. The use of Port Authority airports offers test beds at its airports, reflecting real-world situations that can prove out the functionality and benefits to aviation both in the United States and worldwide, thus furthering the stature of the Port Authority as a leader in the implementation of NextGen technologies.

## **F. Financial Conditions**

ACY derives revenue from fees and rentals, with parking accounting for 50 percent of revenue. The airport's biggest expense is security costs. While ACY may be an economic generator for the community, it does not cover its own costs of operation. The SJTA has not realized an operating profit from ACY in any year in which it has owned and operated ACY. Subsidies from other SJTA revenue sources, such as the Atlantic City Expressway, have covered the operating deficit as well as the debt service requirement on bonds issued for capital improvements. In 2012, the SJTA paid \$4,183,000 in ACY's debt service, \$4,973,000 as an airport subsidy, and \$30,000 in general reserve money assistance. The current principal balance on ACY's outstanding revenue bonds totals about \$99,860,000.

In addition to receiving grants under the AIP program (an annual average of some \$4.57 million over the past 10 years) and passenger facility charges (an annual average of nearly \$2.58 million over the past 6 years) for eligible capital projects, SJTA has issued bonds to implement needed improvements at ACY. In one instance, the SJTA borrowed funds from the CRDA to cover its local share of an apron expansion project. Bonds secured from the overall revenue from all SJTA facilities (Atlantic City Expressway) have been the primary source to fund capital improvements. The current principal balance on the SJTA's outstanding revenue bonds for ACY capital projects totals some \$99,860,000. Of this total, bonds totaling \$50,965,000 have stated maturity dates extending to between 2035 and 2039 and interest rates that vary between 3 percent and 5.5 percent. The SJTA has also entered into swap option agreements with respect to 2009 Senior Bonds issued in two series (Series A-3 and Series A-4) for \$10.5 million at a variable interest rate. The 2009 Senior Bonds were the subject of swap agreements and early redemption of these swaps would trigger a \$34 million assessment fee. In 2012, SJTA paid \$4,183,000 for all ACY capital project debt service requirements.

Ultimately, the goal is to operate ACY without experiencing yearly operating losses, and at some point, to make the airport profitable. The financial analysis described in this report shows that to get ACY to a breakeven status on operations, 6900 flights would have to be added by year six, assuming we start in year 2014, and assuming operating costs rise at the current rate. This translates into an additional 22 flights per day. Assuming that operating

costs remain flat, however, 3,376 flights per year would have to be added to eliminate the operating losses. This translates into 9 additional flights per day with 100-seat aircraft and an 85 percent enplaning load factor.

## **G. Agreements**

The SJTA has several agreements in place with such parties as the FAA Technical Center, the New Jersey State Police, New Jersey Air National Guard and AvPorts. The New Jersey State Police is currently renegotiating a new agreement pertaining to its security services. The ACY management agreement with AvPorts expires in June 2013 and is subject to a competitive solicitation. There is a joint-use agreement with the New Jersey Air National Guard (NJANG) that provides for the right of access to the airfield and a division of responsibility with respect to aircraft firefighting and rescue operations.

The agreements between the SJTA and the FAA Technical Center provide for a master planning and siting board (MPSB) of all the tenants at the Site to discuss future development. The agreements also call for the FAA Technical Center's approval for any proposed expansion and/or development project on land areas leased from it. Historically, the MPSB has worked well with the SJTA in reaching consensus on airport expansion plans to ensure that such expansion/development will not adversely conflict with the FAA Technical Center's mission of research, development, testing, and evaluation of various aviation systems that promote the safe and efficient use of the National Airspace System.

## **H. Environmental Issues**

This report seeks to identify and address the environmental issues connected with ACY that the Port Authority should evaluate as it decides whether to move forward with the transaction and focuses on a preferred transaction structure. Set forth in detail throughout this report are recommendations for further investigation and resolution of the issues identified. The QED Team notes that various environmental statutes and regulations may apply to the sale or lease of the Site; however, given the timeframe within which this preliminary assessment was prepared, it focuses on those statutes and regulations most likely to present regulatory and cost concerns when structuring any contemplated transaction.

Accordingly, this report focuses on two issues most salient for initial consideration: the contamination-related issues at the Site, and the potential development restrictions presented both by the Site's locations in the Pinelands National Reserve (Pinelands) and the presence of a significant bird habitat at the Site. The QED Team's preliminary assessment is that each of these issues can be adequately addressed. Other environmental issues, such as compliance with relevant air quality standards and water discharge permits, will require analysis and the development of appropriate plans. However, this preliminary review, including a review of prior environmental diligence at the Site, indicates that these regulations, while requiring review, proper planning and implementation, are unlikely to present barriers to development at ACY.

The Site is a "Superfund" site listed on the NPL, and the FAA has identified 35 areas of concern (AOCs), most of which are located on property owned by the FAA Technical Center. Of these, only two are located entirely on the approximately 2,000 acres leased by the SJTA and six overlap with the leased land. In addition, there are two AOCs on the 84-acre property owned by the SJTA. Remedial activities by the FAA to address contamination at the Site have been ongoing for approximately twenty-five years and will continue until the Site is fully remediated. Much of the contamination, however, has already been addressed. The contamination on the SJTA-owned property appears to be in various stages of remediation; however, this remediation does not appear to be under the auspices of, or directly by, the FAA, and sufficiently complete documentation on those AOCs was not available in the preliminary documents supplied by the Port Authority.

Based on the QED Team's preliminary research, the contamination at the Site does not present an insurmountable obstacle to consummating the contemplated transaction. In other words, if the Port Authority determines that the transaction is otherwise viable and presents the right opportunity, it is the QED Team's opinion that solutions can be fashioned to eliminate or substantially ameliorate the risks posed by contamination at the Site.

As discussed in this report, the current remedial determinations made for most or all presently identified AOCs indicate that the Site is suitable for continued use as an airport, even factoring in future expansions, although continuing remedial activities at some areas could slow or limit development. In those instances, however, it would likely only be a matter of delayed progress and/or cost increases but would not otherwise thwart expansion.

Under the terms of the lease with the SJTA, the FAA Technical Center agreed to be responsible for all remediation on the leased land. At the moment, it appears that all remediation is in progress. However, the QED Team's review of the documents forwarded by the Port Authority found no definitive indication of who has liability for contamination on the SJTA-owned property. Further research is needed to assess who has liability for this contamination.

As noted, the Site is located in the Pinelands, where development is regulated by the Pinelands Commission, whose mandate includes protecting the ecology of, as well as the avian species that use, the Pinelands. Indeed, certain areas of the Site have been deemed to constitute prime habitat for a large population of protected bird species. All development in the Pinelands, therefore, requires a prior Memorandum of Understanding ("MOU") with the Pinelands Commission. An MOU with the Pinelands Commission typically requires that the developer provide concessions in the form of alternate habitat development and improvement, prior to any grant of development rights. In this case, however, the Port Authority will first have to assess whether the Pinelands Commission has authority over the development activities of the Port Authority, as the agency is not ordinarily subject to single-state legislation.

The Pinelands Commission's concerns, including issues related to bird habitat at the Site, should be considered in the context of future development. It is the QED Team's opinion that a plan can be developed that will permit the Port Authority to continue development activities

at the Site and address concerns regarding bird habitat risks. It should also be noted that the Port Authority's wildlife hazard management programs at its other airports have been held up as national models, so the agency comes to this issue, as it does elsewhere, with a wealth and breadth of experience.

The SJTA's agreement with the Pinelands Commission requires compliance with all permitting requirements and the associated Comprehensive Management Plan. The latter includes the development of a Grasslands Conservation and Management Plan, creation of a Stormwater Management Plan, implementation of a Soil Erosion and Sediment Control Plan and establishment of a Forest Preservation Area. The agreement applies to land areas owned and leased by the SJTA.

## **II. INTRODUCTION**

In September 2012, the Port Authority Board of Commissioners took action to authorize a study of the potential on the part of the Port Authority to assume an interest in ACY. The level of Port Authority involvement could take one of several forms, but this report, after analyzing various issues related to the transaction, focuses on the options to either enter into an operating agreement with an option to purchase SJTA's interests in ACY or outright purchase the SJTA-owned property and assets and assume its lease with the FAA.

The Port Authority retained the professional services of the QED Team to aid its evaluation of the financial, legal, environmental and business issues related to the agency's possible assumption of ACY operations. Consequently, the QED Team focused on three key issues in conducting its due diligence review. These included a generalized review of the existing facilities and environmental issues; a review of key legal and contractual issues that may affect the potential involvement of the Port Authority in ACY; and an assessment of the potential opportunities to increase demand and grow air service at ACY. The intent of this due diligence effort, therefore, was to identify those key issues that could drive further action by the Port Authority Board of Commissioners. The QED Team relied on readily available data, interviews of key stakeholders associated with the Site and the development of Atlantic City, and the experience and judgment of the QED Team. Resolution of some of the issues associated with the potential involvement of the Port Authority in ACY may require further evaluation and this due diligence raises such flags where appropriate.

## **III. ATLANTIC CITY INTERNATIONAL AIRPORT BACKGROUND AND USE**

### **A. Statutory Authority**

In 1947, the legislatures of the States of New York and New Jersey passed identical legislation (the "New York Act" and the "New Jersey Act," respectively) granting the Port Authority general authority to establish, maintain and operate air terminals within the Port District (The New York Act is codified as McK. Unconsol. Laws § 6631; the New Jersey Act is codified as N.J.S.A. § 32:1-35.1 et seq.). In 1967, the New York legislature enacted legislation (the "1967 Act") authorizing the Port Authority to establish one additional air terminal in New York and one additional air terminal in New Jersey outside of the Port District. Chapter 717, §§ 103 and 104 of the Laws of 1967 (McK. Unconsol. Laws § 6631, note). In May 2007, the New Jersey legislature enacted a statute identical in scope to the 1967 Act, N.J.S.A. § 32:1-35.27f (the "2007 Act"), vesting the Port Authority with the legislative mandate to acquire an air terminal in New Jersey outside of the Port District "[u]pon approval of a site for an additional air terminal by the governor of the state [of New Jersey]."

Section 8 of the New Jersey Act permits municipalities within the Port District to "grant, convey, lease, or otherwise transfer" any air terminal to the Port Authority. N.J.S.A. § 32:1-35.8(a) (the New York Act contains an identical provision at McK. Unconsol. Laws § 6638). The 2007 Act, in turn, incorporates by reference Section 8 of the New Jersey Act,

effectively<sup>[wr1]</sup> granting municipalities outside of the Port District the authority to convey air terminals to the Port Authority (the 1967 Act likewise incorporates by reference Section 6638 of the New York Act). Critically, both the New York Act and the New Jersey Act define "municipalities" as including "public authorities." N.J.S.A. § 32:1-35.3; McK. Unconsol. Laws § 6633.

The effect of the 2007 Act, vis-à-vis Section 8 of the New Jersey Act, was to authorize the SJTA, as a public authority, to "grant, convey, lease, or otherwise transfer" ACY to the Port Authority. Further, the 1991 New Jersey statute creating the SJTA (the "SJTA Act") expressly grants the SJTA the right to "hold and dispose of real property or any interest therein, in the exercise of its powers and the performance of its duties under [the SJTA Act]." N.J.S.A 27:25A-7(l). In short, while the Governor of New Jersey must approve ACY as the site of the Port Authority's additional air terminal in New Jersey, the statutory approvals for the transfer of ACY from the SJTA to the Port Authority already exist.

## **B. Airport Use**

ACY is a joint civilian-military public-use airport owned and operated by the SJTA. The site on which ACY is located is comprised of approximately 5,059 acres situated across parts of Hamilton, Galloway and Egg Harbor Townships in southern New Jersey. The SJTA owns 84 acres of the Site, consisting of the civil terminal area, and the FAA owns the remaining 4,975 acres.

On April 15, 1998, the SJTA and the FAA Technical Center, a facility established by the federal government at ACY to support the FAA's research and testing mission, entered into a lease with a term of 50 years, with one 50-year extension period upon mutual written agreement of the parties (the Airport Lease). The Airport Lease transferred operational control of 2,200 acres of airport property – encompassing the runways, taxiways, required safety areas and other areas of the airfield – to the SJTA. In total, the SJTA owns and/or leases approximately 2,284 of the 5,059 acres comprising the Site. Simultaneous with the execution of the Airport Lease, the SJTA and the Technical Center entered into a cooperative agreement (Cooperative Agreement) pertaining to the use and development of ACY. The FAA Technical Center entered into these arrangements to make ACY eligible for Airport Improvement Program funding. Following execution of the Airport Lease, SJTA has made significant capital investments in ACY's infrastructure, including the installation of two new gates, expansion of the economy parking lot, expansion of the baggage screening and handling facility, opening of a new \$24.5 million, six-level parking garage, and the renovation and expansion of the main passenger terminal.

Other areas of the Site are leased by the FAA Technical Center to the NJANG, U.S. Coast Guard, Transportation Security Administration Federal Air Marshal Training Center and Transportation Security Laboratory. ACY also serves general aviation aircraft providing hangar and tiedown aprons for based and transient aircraft. These areas are leased to a fixed-base operator and are located within the 84 acres owned by the SJTA. Figure 1 illustrates the allocation of land resources at the Site.



**Figure 1 -- Existing Airport Land Use Map**

ACY serves air carrier, general aviation and military users and provides well-equipped airfield and terminal area facilities to accommodate operational requirements. Passenger service is provided on a scheduled and nonscheduled (charter) basis. General aviation activity reflects use of ACY by 54 based civilian aircraft, including 12 operated by the FAA Technical Center to support its systems testing and validation activities. The FAA Technical Center serves as the FAA’s national scientific test base for research and development, test and evaluation, and verification and validation in air traffic control, communications, navigation, airports, aircraft safety, and security. The FAA Technical Center is also the primary facility supporting the nation’s Next Generation Air Transportation System, called NextGen.

The Site serves a vital role in homeland defense-related activities. It serves as a base for the NJANG 177th Fighter Wing for its fleet of 24 F-16 aircraft, four of which are on a ready alert and fully armed status. Munitions to support the Air National Guard mission are maintained in bunkers at the Site. A U.S. Coast Guard Air Station is based at the Site and operates a fleet of 10 Eurocopter HH65 rotary wing aircraft to conduct its search-and-rescue and homeland defense mission. The Transportation Security Administration (TSA) operates the Federal Air Marshal Training Center at the Site. Its operations include the use of a retired-out-of-service B727 and L-1011 aircraft as well as pistol shooting ranges. The Site also houses the TSA Transportation Security Laboratory to conduct research on explosive devices.

Historical and available projected levels of passenger and aircraft activity are highlighted in the following sections. The intent of the analysis is to put in context relatively recent data, particularly since 2008, and note the potential for change based on input from key third parties. Tests of past assumptions and recommendations with respect to actual outcomes may offer insight on past efforts to grow air transportation traffic at ACY.

#### **IV. FACILITY CONDITION ASSESSMENT**

The QED Team conducted visual, walkover surveys of the primary structures, pavements, and supporting utilities infrastructure located on land areas owned or leased by the SJTA. The building structures were assessed for general condition, i.e., rust, concrete deterioration, holes in roofing and siding, and evidence of water damage. In addition, maintenance staff was interviewed to uncover any underlying problems with buildings not apparent from a visual inspection, as well any major repairs/renovations that had been recently performed.

The primary component facilities subject to these general condition surveys are summarized below. Security issues associated with each of these facilities are addressed in a separate accompanying document to respect the sensitivity of such matters.

##### **A. Structures**

The SJTA owns and oversees the maintenance of the following buildings located within the 84 acres it owns and the 2,200 acres it leases from the FAA Technical Center:

Main Terminal – Building 250. This is a two-level facility with the passenger ticketing and baggage claim area on the lower level, and passenger seating and gates on the upper level. The lower level provides space for 10 airline ticket counter positions, baggage pick up and claim facilities including three baggage carousels, food concessions, newsstand/gift shop and bar/restaurant. There are 10 passenger gates and a food concession on the upper level of the terminal. The SJTA administrative offices also are located on the lower level. The gross area of the main terminal building is approximately 178,000 square feet.

The building is equipped with movable partition walls on both levels that allow separation of one carousel (No. 3) and two passenger gates (Nos. 9 and 10) for the processing of international flights that do not have a U.S. Customs and Border Protection clearance agreement. On the upper level within this separate area, there is an Immigration Handling Area capable of processing 250 persons per hour. On the lower level adjacent to carousel No. 3 and within the area that could be separated from the main terminal is a Customs Bureau office for processing baggage from international flights.

The SJTA is in the final stages of a project to renovate Gates 1 through 4 of the passenger terminal to provide the latest technology in passenger audio/visual communication as well as improve passenger seating area amenities. Upon completion of these renovations, the entire terminal complex will be outfitted with state-of-the-art audio/visual communication technology and have new passenger seating area amenities at all 10 gates. It should be noted that although there is a room housing information technology equipment within the terminal, there also is a fiber optic line connecting with the SJTA main data center located in the Farley Service Area of the Atlantic City Expressway. This connection supports some IT functions within the terminal and would require capital funds to sever the connection with the SJTA and create a stand-alone operation.

Vehicle Parking Garage – No Building Number, Referred to as ACY Parking Garage. This six-story, 1,400-space concrete structure was built in 2008 and includes car rental offices on the ground level.

Midlantic Jet Aviation Hangar #1 – Building 501. This is a metal building with a pitched metal roof and a concrete floor. Steel columns support the walls, and joists resting on steel girders framed into the steel columns support the roof. Storm water runoff from the roof is collected by gutters that empty onto the ground adjacent to the building by downspouts that run down the sides of the building. Retractable metal doors that open onto the commercial apron provide aircraft access to/from the building. There is a two-story office building attached to this structure that is occupied by Midlantic Jet Aviation.

Midlantic Jet Aviation Hangar #2 – Building 502. The construction of this hangar is similar to the Midlantic Hangar #1.

Midlantic Jet Aviation Hangar #3 – Building 503. The construction of this hangar is similar to the Midlantic Hangar #1.

Sand House – Building 314. The metal building is used for storage of sand restricted for use on icy landside roadways and parking areas.

Snow Equipment Building – Building 500. This is a one-story metal building with a flat metal roof and a concrete floor. The walls are supported by steel columns and joists resting on steel girders framed into the steel columns support the roof. There are eight bays for the storage of the snow removal equipment and the servicing of SJTA vehicles. There is also an office and parts storage area.

The Tent – No Building Number. This polyvinyl tent is used to store small maintenance equipment.

Former Air Traffic Control Tower – Building 150. This structure is abandoned. The SJTA has represented that this structure has not been demolished due to the presence of asbestos. Demolition of this structure is anticipated to cost approximately \$625,000.

In general, with the exceptions noted below, all of the buildings were found to be in excellent condition with minor repairs necessary. No large expenditure of capital funds in the near future is anticipated by the SJTA or would be required by the Port Authority to maintain the buildings in their present state of good repair.

## **B. Airfield and Roadway Pavements**

The QED Team also examined the runway, taxiway and apron pavement areas. In general, the runways and taxiways are in good condition. AvPorts, which provides airport management services to SJTA, conducted pavement condition inspections in late 2010 that resulted in a pavement management program to guide future improvements to these facilities through 2026. These results are generally consistent with current observed conditions. The pavement management program identified the need for patching and sealing Runway 4-22, and milling and overlay of various sections of the terminal apron and taxiways through 2016, with an estimated construction cost of about \$6.6 million. Significant cracking of the general aviation terminal apron was observed and the SJTA has budgeted \$2 million in this fiscal year for milling and resurfacing of a portion of this apron. In later years through 2026, it is anticipated that there will be a continued need for similar milling and overlay of sections of the taxiway system with an estimated cost of some \$5.8 million. The most notable pavement improvements are the rehabilitation of Runway 13-31 (\$25.4 million) at some point in the 2016-2021 time period, and that of Runway 4-22 (\$15.2 million) during the 2021-2026 period. These pavement improvements and estimated implementation costs include those associated with the airfield lighting systems. Pavement improvement programs are common at airports, with airfield pavements generally designed and constructed for a 20-year life span. These types of projects may be eligible for as much as 90 percent grant funding from the FAA, which reduces the cost to the airport owner.

The SJTA is also responsible for the maintenance of Amelia Earhart Boulevard, Terminal Road, and the cell phone, economy, short-term and overflow parking lots. The pavement condition of these areas is in good condition. No significant outlay of capital funds is anticipated for the next 20 years to keep these facilities in a state of good repair. A portion of Terminal Road, from Amelia Earhart Boulevard to approximately the vicinity of the cell phone lot is exhibiting surface cracking. A milling and resurfacing of this section of Terminal Road, estimated to cost \$750,000, is necessary to meet future traffic loads.

The cell phone lot, which the Port Authority and other airport operators around the country have provided to create ultra-short-term free parking for people picking up arriving passengers (to prevent those waiting drivers from creating congestion on airport roads and shoulders), has a crushed stone surface over compacted soil. The use of this lot is minimal. In addition, the SJTA is awarding a construction project for the installation of lighting. No significant outlay of capital funds is anticipated for the next 20 years to keep this parking area in a state of good repair.

### **C. Utilities**

For reasons of security, a discussion of the utility systems serving the Site and its users is presented in a separate letter report.

### **D. Environmental Considerations Specifically Related to the Currently Contemplated Expansion<sup>2</sup>**

A comparison of the Proposed Airport Layout Plan prepared as part of the 2010 Airport Master Plan Update and the SJTA Owned and Leased Lands with Superfund AOCs plan drawing revealed the following potential conflicts that will need to be addressed when implementing such plan:

1. The proposed deicing apron, proposed relocated Taxiway H, and the proposed relocated apron taxiway all fall within AOC J. This was shown as an area that was formerly excavated. The FAA Technical Center does indicate that this is an area of "No Action Required." However, no information was provided by the FAA Technical Center as to the type(s) of contamination that are or were present at this location.
2. Site Development 5 and the proposed Group IV taxi lane fall with the Skeet Range Double AOC. This is a Formerly Used Defense Site and will require remediation. However, no information was provided by the FAA Technical Center as to the type(s) of contamination that are present at this location.

---

<sup>2</sup> All of the AOCs and related contamination issues mentioned in this section are described in more detail later in this report.

3. The proposed expansion of the aircraft parking apron and the aircraft hangar expansions are within AOC L. This was detected to be an area that was formerly a salvage yard. The FAA Technical Center designated this area as "No Action Required." However, no information was provided by the FAA Technical Center as to the type(s) of contamination that are or were present at this location.

## **E. Conclusions -- Facility Conditions**

Existing building structures at ACY are in generally good condition and well maintained. Certain facilities need repair or replacement, and of these, the electrical vault can affect airport operations and should receive early consideration. Overall, it is estimated that the cost to improve the structures is approximately \$7,865,000.

Airfield pavements are traditionally subject to rehabilitation and reconstruction owing to their design life and the extent of use. Short term improvements through 2016 focus on the terminal apron and certain sections of Runway 4-22 and the supporting taxiway system and are estimated to require an investment of approximately \$6.6 million. Through 2026, other airfield pavements will require rehabilitation, most notably the entire lengths of Runway 13-31 and Runway 4-22. These capital improvement costs are estimated at \$46.4 million, of which nearly \$40.6 million is associated with rehabilitation of the runway pavements. These airfield pavement improvements are eligible for federal grants under the Airport Improvement Program and when received reduce the cost to the airport owner.

## **V. AIR SERVICE DEMAND AND AVIATION ACTIVITY ANALYSIS**

### **A. Passenger Traffic Historical Data**

The past five years of passenger activity is highlighted in Table 1. The levels of enplaning and deplaning passenger traffic carried by scheduled and nonscheduled airlines are nearly equivalent, and all passengers are either originating or terminating their flights at ACY. However, passenger usage characteristics as determined from user surveys conducted at ACY and analyses of passenger booking data indicate that more passengers fly out of the Atlantic City catchment area to other destinations and then return (about 63 percent), as opposed to the city serving as a destination for passengers originating in other cities. This suggests that an opportunity exists for destination marketing aimed at increasing inbound traffic.

Table 1 HISTORICAL PASSENGER TRAFFIC							
Year	Scheduled			Nonscheduled			Total
	Enplaned	Deplaned	Total	Enplaned	Deplaned	Total	
2007	491,887	489,395	981,282	96,847	98,502	195,349	1,176,631
2008	447,478	448,508	895,986	99,981	101,870	201,851	1,097,837
2009	480,273	480,928	961,201	80,328	81,307	161,635	1,122,836
2010	628,995	631,905	1,260,900	82,442	83,457	165,899	1,426,799
2011	621,415	616,238	1,237,653	78,162	78,851	157,013	1,394,666
2012	623,002	628,611	1,251,613	66,824	67,441	134,265	1,385,878
Source: SJTA, January 2013							

In the past, ACY had been concurrently served by as many as three scheduled airlines (Spirit, AirTran and WestJet) and a charter carrier (Ryan International) operating narrow-body jets such as the B737 and Airbus A319. The scheduled airlines are recognized as low- and ultra-low-cost carriers. At present, scheduled service at ACY is provided by Spirit Airlines using Airbus A319 aircraft seating 145 passengers.

Beginning in January 2013, Republic Airlines positioned two 100-seat Embraer 190 aircraft and flight crews to operate charter flights arranged by Caesars Entertainment Corporation, which owns the Ballys, Caesars, Harrah's and Showboat casinos in Atlantic City, for its Total Reward clients on a year-round basis. This charter traffic is not reported as regular scheduled traffic and represents an additional 9 percent of total traffic, further evidence that there may be neglected or underserved markets into ACY and its catchment area. Gold Transportation Services, which earlier served in a similar role, is proposing to initiate nonscheduled service using leased B737 aircraft to and from Ft. Lauderdale and is seeking subsidy funding from the Casino Reinvestment Development Authority and/or the Atlantic City Alliance.

## B. Aircraft Operations

Past levels of aircraft operations (takeoffs and landings) at ACY between 2007 and 2012 are summarized in Table 2, together with projections presented in the 2010 Airport Master Plan Update and the FAA Terminal Area Forecast issued in January 2012. A review of historical aircraft operations from 1990 through the current period indicates that the highest level of activity occurred in 1998, with 137,954 total movements. That level is not matched by either forecast that extends to the year 2025. Military aircraft operations have dominated activity at ACY, accounting for about half of the total traffic in most years. Of those, rotary wing aircraft operated by the U.S. Coast Guard conduct the majority of operations. The impact of Coast Guard operations at ACY is limited as departures and arrivals often take place from a point on the Coast Guard's leasehold ramp, as opposed to its utilization of the flight paths to a runway end. The Coast Guard conducts touch-and-go operations at ACY and at times uses the FAA Technical Center experimental helicopter landing areas located in the northeast quadrant

of ACY. It also has access to other nearby airports for training activities during peak air traffic activity at ACY.

Aircraft operations conducted by the Air National Guard 177th Fighter Wing are predominantly itinerant as they depart for surveillance or offshore training activity. Homeland defense missions are granted the highest priority of the airspace when departing on an alert flight; fortunately, this has not happened frequently.

Overall, the use of ACY by all users is not compromised by the available annual or hourly capacities of the airfield and operational delays are rare occurrences.

Year	Air Carrier	Air Taxi	General Aviation		Military		Total
			Local	Itinerant	Local	Itinerant	
2007	14,176	8,954	18,329	25,199	26,112	16,322	109,092
2008	11,218	4,568	13,574	24,905	24,482	16,041	94,788
2009	10,419	4,779	11,829	22,650	30,380	19,814	99,871
2010	12,027	5,191	8,045	21,413	30,265	21,338	98,279
2011	11,636	5,663	7,627	20,814	23,659	21,245	90,644
2012	10,017	5,864	4,706	20,223	15,353	18,662	74,825
SJTA, January 2013							

Available projections of aircraft activity through 2025 show slight growth and vary in their allocation of the demand generators presented in Table 3. It is relevant to note that the totals are not sufficiently greater than the available airfield capacities, with military aircraft operations anticipated to account for the highest segment of activity.

Year	2010 Airport Master Plan Update				FAA Terminal Area Forecast (2012)			
	Air Carrier + Air Taxi	General Aviation	Military	Total	Air Carrier + Air Taxi	General Aviation	Military	Total
2013	25,024	40,136	36,580	101,740	15,040	25,191	45,759	85,990
2014	25,211	40,715	36,580	102,506	15,077	25,288	45,759	86,124
2015	25,398	41,338	36,580	103,316	15,164	25,386	45,759	86,309
2020	26,361	44,594	36,580	107,535	15,729	25,883	45,759	87,371
2025	27,360	48,111	36,580	112,051	16,346	26,395	45,759	88,500
SJTA, January 2013								

### C. Based Aircraft

ACY serves as a base for total of 54 civilian aircraft as listed by type use in Table 4, an increase of 17 aircraft since 2008. When excluding the FAA Technical Center aircraft, it appears that there has been modest growth in the number of civilian based aircraft, despite the economic downturn in the general aviation segment since 2008.

<b>Table 4 BASED AIRCRAFT</b>		
<b>Allocation by Use and Type</b>	<b>Number of Based Aircraft</b>	
	<b>2008</b>	<b>2013</b>
<b>Civilian Aircraft</b>		
Single-engine piston	14	11
Multi-engine piston	10	7
Multi-engine turboprop		4
Jets	13	10
Helicopters	1	10
<b>Subtotal</b>	<b>38</b>	<b>42</b>
<b>FAA Technical Center Aircraft</b>		
Single-engine piston	Included in the Civilian Total	0
Multi-engine piston		2
Multi-engine turboprop		6
Jets		1
Helicopters		1
Retired B727 and L-1011		2
<b>Subtotal</b>		<b>12</b>
<b>Total</b>		<b>54</b>
Note: Military aircraft are based at ACY		
Source: SJTA, January 2013		

**D. Spirit Airlines' Performance at ACY**

Spirit has been serving the Atlantic City market for about 30 years, understands the market and serves key destinations with the right aircraft and frequencies to realize better results locally than it does system-wide. Another signal of the airline's current commitment to the ACY market is the deployment of its higher seating capacity aircraft--A320 with 178 seats, and the A321 with 218 seats, of which it has only two in service.

Table 5 summarizes the nonstop service offered by Spirit Airlines in December 2012 and January 2013; the February 2013 schedule has been recently released. The service in each month includes the same destinations -- four cities in southern Florida and one in South Carolina. The frequency of service is generally consistent with some variation in the January schedule. During other parts of the year, the airline has provided nonstop service from Atlantic City to Atlanta, Boston-Logan, Chicago-O'Hare and Detroit Metropolitan Wayne County airports and may reduce the number of flights to cities in more southern locations.

Overall, Spirit Airlines presently operates about 220 daily flights serving more than 50 destinations in the continental United States, Caribbean, Central America and South America. Passengers can arrange connecting flights from ACY to reach any of these destinations. Looking at historic service, the destinations and frequency of service currently in effect are nearly equivalent to those offered by the airline when it served ACY in March 2009 and April 2006, when it operated the MD-80 aircraft.

<b>Table 5</b>			
<b>SCHEDULED AIRLINE SERVICE FREQUENCY</b>			
<b>Frequency of Service Effective</b>			
<b>From ACY to:</b>	<b>December 20, 2012</b>	<b>January 8, 2013</b>	<b>February 14, 2013</b>
Ft. Lauderdale (FLL)	3 daily	2 daily + 1 flight F, Sa, Su, M	2 daily
Ft. Myers (RSW)	2 daily	1 flight Tu, Th, F, Sa	2 daily
Myrtle Beach (MYR)	1 daily	1 daily	1 daily
Orlando (MCO)	2 daily	1 flight M, W, F, Sa, Su 1 flight Tu, Th, F, Sa, Su	2 daily
Tampa (TPA)	1 daily	1 daily	1 daily
West Palm Beach (PBI)	1 daily	1 daily	1 daily
Source: Spirit Airlines website, January 2013			

A review of readily available load factors and revenue performance data by market for Spirit Airline's operations at ACY provided by AvPorts is presented in Tables 6, 7 and 8. Several observations can be made from the data and compared to the system-wide operating performance of Spirit Airlines. Key points are:

- Load factors (percent of revenue passenger miles as a proportion of available seat miles) in each market are higher in the leisure markets than those offered on a seasonal basis, with the exception of Detroit.
- The load factors in each market generally compare favorably with Spirit's system-wide value of 85.2 percent for the first nine months of 2012. This implies flights serving the ACY market are carrying more revenue passengers on an available-seat basis than the airline experiences at all the airports it serves.
- The one-way fares offered by Spirit Airlines are comprised of a base fare and the ancillary fees paid by passengers for advance seat selection, baggage check-in, meals and services purchased aboard the aircraft. The ancillary revenue can account for between 42-60 percent of the total fare paid. System-wide, ancillary revenue was 41 percent for the nine months ending September 2012.
- Load factors alone cannot indicate if the route flown is profitable or not without taking into account the fare paid. The yield values, representing the fare paid per nonstop miles flown, range between \$0.064 and \$0.234. When ancillary revenues are included, the yield ranges between \$0.076 and \$0.368 per mile flown. The ACY market has an estimated average yield of \$0.137 per mile flown. Yield values system-wide for the first nine months of 2012 were \$0.118 and include ancillary revenue. ACY compares favorably on an overall basis.

Balance of page intentionally blank

**Table 6  
SPIRIT AIRINES LOAD FACTORS BY MARKET**

Monthly and Year Ending Load Factors By Market (percent)										
Month	Atlanta	Boston	Chicago	Detroit	Fort Lauderdale	Fort Myers	Myrtle Beach	Orlando	Tampa	West Palm Beach
October 2010		76.8		78.2	89.3	81.8	83.4	82.0	72.1	
November 2010		68.5		67.5	86.9	84.2	82.9	88.2	87.1	79.4
December 2010		61.2			82.5	77.4	69.7	81.2	89.0	81.4
January 2011		56.6			86.2	81.4	58.1	82.3	81.4	89.9
February 2011		58.1			89.4	86.2	68.4	84.7	88.4	95.4
March 2011		79.1	74.7		88.8	88.8	80.7	86.9	94.2	91.8
April 2011		87.8	81.2	95.9	84.4	82.7	86.3	84.8	89.8	84.7
May 2011		77.8	85.9	85.8	89.0	86.4	83.1	87.4	91.5	61.2
June 2011		75.7	86.8	92.3	89.7	95.2	83.1	81.5	93.5	
July 2011		83.9	89.9	96.3	94.4	96.0	90.2	92.5	96.2	
August 2011		85.5	87.8	91.4	92.8	95.5	92.6	94.2	96.4	
September 2011		85.0	76.9	84.9	90.6	82.5	90.4	85.5	85.6	
<b>Year Ended</b>		<b>75.2</b>	<b>84.7</b>	<b>87.4</b>	<b>88.7</b>	<b>85.3</b>	<b>83.0</b>	<b>86.0</b>	<b>87.4</b>	<b>86.9</b>
October 2011					93.0	91.7	93.2	93.8	92.7	
November 2011					82.3	82.7	88.2	88.4	88.1	85.7
December 2011					82.3	77.8	83.1	87.4	85.6	76.8
January 2012					84.5	79.9	72.6	83.0	85.4	87.0
February 2012					88.1	81.9	83.5	89.2	91.6	92.1
March 2012		82.5			90.0	82.5	84.9	86.2	91.4	87.1
April 2012		80.9			84.4	80.5	90.3	85.3	82.7	79.7
May 2012	76.8	73.4	80.7	77.3	86.9	91.3	81.5	85.9	93.4	
June 2012	85.7	79.8	89.3	89.7	87.9	92.6	86.1	78.1	92.1	
July 2012	94.5	84.1	93.0	92.2	92.6	96.2	94.8	90.6	97.7	
August 2012	85.6	85.8	83.9	94.4	90.3	94.9	94.7	93.2	96.2	
September 2012	85.5	75.7	80.8	83.2	72.6	87.5	88.9	82.6	85.8	
<b>Year Ended</b>	<b>86.7</b>	<b>80.8</b>	<b>86.6</b>	<b>88.3</b>	<b>86.0</b>	<b>84.6</b>	<b>87.5</b>	<b>86.8</b>	<b>89.8</b>	<b>84.7</b>

Source: AFCO AvPorts Management LLC, January 2013

**Table 7  
SPIRIT AIRLINES AVERAGE FARES AND NONSTOP YIELDS BY MARKET**

Quarter / Year	Market									
	Atlanta	Boston	Chicago	Detroit	Fort Lauderdale	Fort Myers	Myrtle Beach	Orlando	Tampa	West Palm Beach
	<b>Base Fares (\$)</b>									
4 <sup>th</sup> Quarter 2010		27.60		45.80	65.98	61.57	45.84	62.79	58.53	74.24
1 <sup>st</sup> Quarter 2011		35.85	58.25	85.88	83.56	78.01	55.79	67.92	72.10	3.56
2 <sup>nd</sup> Quarter 2011		40.45	55.50	68.00	85.00	96.41	65.64	79.11	89.76	102.15
3 <sup>r</sup> Quarter 2011		47.75	75.57	86.75	73.50	85.39	56.49	70.50	80.20	
4 <sup>th</sup> Quarter 2011					78.39	80.24	51.75	77.95	70.61	83.58
1 <sup>st</sup> Quarter 2012		40.69		116.15	72.24	66.59	42.77	63.19	57.68	74.63
2 <sup>nd</sup> Quarter 2012	54.00	30.90	57.46	36.30	79.57	55.66	59.10	70.55	48.911	97.74
3 <sup>rd</sup> Quarter 2012	54.14	30.45	56.71	32.40	62.80	46.84	56.81	58.26	47.45	
	<b>Nonstop Yield (Fare per Mile Flown) (\$)</b>									
4 <sup>th</sup> Quarter 2010		0.101		0.092	0.068	0.063	0.098	0.074	0.064	0.079
1 <sup>st</sup> Quarter 2011		0.131	0.081	0.173	0.086	0.079	0.120	0.080	0.079	0.079
2 <sup>nd</sup> Quarter 2011		0.148	0.077	0.137	0.087	0.098	0.141	0.083	0.098	0.109
3 <sup>rd</sup> Quarter 2011		0.174	0.105	0.175	0.075	0.087	0.121	0.083	0.088	
4 <sup>th</sup> Quarter 2011					0.080	0.082	0.111	0.091	0.077	0.089
1 <sup>st</sup> Quarter 2012		0.149		0.234	0.074	0.068	0.092	0.074	0.063	0.080
2 <sup>nd</sup> Quarter 2012	0.080	0.113	0.080	0.073	0.081	0.067	0.127	0.083	0.054	0.104
3 <sup>rd</sup> Quarter 2012	0.080	0.111	0.079	0.065	0.064	0.048	0.122	0.068	0.052	
AFCO AvPorts Management LLC, January 2013										

**Table 8  
SPIRIT AIRLINES AVERAGE FARES PLUS ANCILLARY REVENUE AND NONSTOP YIELDS BY  
MARKET**

Quarter / Year	Market									
	Atlanta	Boston	Chicago	Detroit	Fort Lauderdale	Fort Myers	Myrtle Beach	Orlando	Tampa	West Palm Beach
	<b>Base Fares and Ancillary Revenue (\$)</b>									
4 <sup>th</sup> Quarter 2010		40.65		87.45	97.18	90.68	67.52	92.48	86.21	109.55
1 <sup>st</sup> Quarter 2011		50.95	82.80	122.08	118.77	110.89	79.31	96.55	102.61	104.56
2 <sup>nd</sup> Quarter 2011		58.17	79.83	97.80	122.38	138.66	94.41	113.78	129.10	146.91
3 <sup>rd</sup> Quarter 2011		69.99	110.76	127.15	107.73	125.15	82.79	103.33	117.55	
4 <sup>th</sup> Quarter 2011					119.77	122.60	79.07	119.10	107.88	127.80
1 <sup>st</sup> Quarter 2012		64.00		182.67	113.61	104.72	67.26	99.38	90.71	117.36
2 <sup>nd</sup> Quarter 2012	83.37	47.70	88.71	56.04	122.84	101.37	91.24	108.92	75.50	150.89
3 <sup>rd</sup> Quarter 2012	86.44	48.62	90.54	51.72	100.26	74.78	90.70	93.01	75.75	
	<b>Nonstop Yield (Fare + Ancillary Revenue per Mile Flown) (\$)</b>									
4 <sup>th</sup> Quarter 2010		0.148		0.136	0.099	0.092	0.145	0.109	0.094	0.117
1 <sup>st</sup> Quarter 2011		0.186	0.115	0.246	0.122	0.113	0.170	0.113	0.112	0.112
2 <sup>nd</sup> Quarter 2011		0.212	0.111	0.197	0.125	0.141	0.203	0.134	0.141	0.157
3 <sup>rd</sup> Quarter 2011		0.255	0.154	0.256	0.110	0.127	0.178	0.121	0.129	
4 <sup>th</sup> Quarter 2011					0.123	0.125	0.170	0.140	0.118	0.136
1 <sup>st</sup> Quarter 2012		0.234		0.368	0.116	0.107	0.144	0.117	0.099	0.125
2 <sup>nd</sup> Quarter 2012	0.123	0.174	0.123	0.113	0.126	0.103	0.196	0.1128	0.083	0.161
3 <sup>rd</sup> Quarter 2012	0.127	0.177	0.126	0.104	0.103	0.076	0.195	0.109	0.083	
AFCO AvPorts Management LLC, January 2013										

## E. Passenger Forecasts

The FAA sponsored a Regional Air Service Demand Study in 2005 that was completed in November 2006, which addressed ACY and others in the northeastern United States from the New York Metropolitan area south to Philadelphia. Later projections of air travel demand were prepared for the SJTA as part of the 2010 Airport Master Plan Update, initiated in 2008, and the FAA has prepared projections of future scheduled and nonscheduled enplaned passenger activity at ACY as recently as January 2012 as part of its Terminal Area Forecast program. The projections include enplaned passenger levels in scheduled and nonscheduled service and are summarized in Table 9.

		<b>2006 Regional Air Service Demand Study</b>				
<b>Year</b>	<b>Actual</b>	<b>Pessimistic</b>	<b>Base</b>	<b>Optimistic</b>	<b>2010 Airport Master Plan Update</b>	<b>FAA Terminal Area Forecast (2012)</b>
2010	711,437	513,000	532,000	1,051,000	691,118	--
2011	699,577	518,000	539,000	1,084,000	698,698	--
2012	689,826	523,000	547,000	1,118,000	706,501	610,488
2013	--	527,000	556,000	1,153,000	714,182	614,895
2014	--	532,000	563,000	1,189,000	722,088	618,914
2015	--	537,000	571,000	1,226,000	730,108	624,567
2020	--	562,000	613,000	1,428,000	772,048	657,656
2025	--	586,000	658,000	1,664,000	816,795	693,750

The forecasting process used for the 2010 Airport Master Plan Update incorporated a far-reaching evaluation of demand-generating characteristics of the catchment area attributed to ACY. These include socioeconomic conditions and competitive factors related to travel times and operating delays at other airports such as EWR and PHL, and passenger profile and airline service characteristics. Much of that data was built on the comprehensive surveys of users of the airports and data collected as part of the 2006 Regional Air Service Demand Study. The FAA projections are based on a share of the total demand anticipated for airline travel in the United States and related algorithms.

Adjusted forecasts account for the economic downturn, record high fuel prices and uncertainties that began to materialize nationwide in 2008. The impact on travel demand as a result of the devastation caused by Superstorm Sandy to the South Jersey shore areas in early November 2012 has yet to be fully assessed. However, travel levels for the early months of 2013 are likely to be lower than those in the corresponding months from previous years. Although the Atlantic City boardwalk escaped damage, visitors destined to the area canceled their travel plans, and residents did likewise as they tended to the needs of their homes and businesses. The State of New Jersey, in cooperation with its other stakeholders, immediately set out to address the concerns of would-be visitors through an aggressive marketing campaign.

The forecasting process is an inexact science. Yet forecasting continues to rely on the use of trend extrapolation with adjustments to account for the impact of confirmed and known future actions in the near term. The forecast does not account for the New Jersey governor's redevelopment plans for the area, investments being made in gaming and non-gaming attractions, and incentive programs which may have a direct or indirect impact on destination air demand. Additional factors that may influence forecast include:

1. Economic development generators, such as the casinos and other tourism interests, taking collaborative action to increase inbound air travel demand for the Atlantic City area and other destinations along the New Jersey shore.
2. The ability of the ACY market to strengthen its business market by offering a convenient, reliable alternative to nearby congested metropolitan area airports.
3. Positioning Atlantic City and New Jersey beaches as destinations to attract European charter and low-cost trans-Atlantic flights, as well as inbound flights from Canada, while exploiting ACY's new international arrivals facility.
4. Leveraging the FAA Technical Center to serve as a catalyst to attract more business travel to the airport.
5. Attracting other low-cost or ultra-low-cost carriers to ACY to compete with Spirit Airlines.
6. Airside and/or landside capacity limitations at other airports diverting traffic to ACY.
7. Increased cost, congestion, parking and ground access challenges to competing airports, making ACY an attractive alternative to airlines and air passengers.
8. Increased demand through population and growth in income levels and discretionary spending.
9. Stemming and reversing leakage to other airports.
10. Targeted incentives aimed at attracting new air service.
11. Air cargo opportunities.

Nonetheless, there are unidentified factors and risks that are impossible to anticipate and that can work in favor or opposed to the interests of ACY. In this regard, the following discussion attempts to highlight factors associated with each of the above questions based on interviews with those most familiar with the issues, coupled with the experience of the QED Team.

Interviews were held with:

- Executive staff of the SJTA responsible for ACY
- AvPorts staff that are engaged in marketing air service at ACY
- Port Authority staff associated with the earlier assumption of operational control of SWF serving the Hudson Valley
- Airlines that serve, served and could possibly consider initiation of service at ACY
- Representatives of the Casino Reinvestment Development Authority
- Representatives of the Atlantic City Alliance
- Representatives of the FAA Technical Center

The discussion items below may point to various avenues of potential growth at ACY. The extent to which expanded or new airline service at ACY can be realized is essentially based on commercial decisions made by air carriers, primarily driven by demand. Although these decisions take into account qualitative and subjective factors that can override the indications of basic numerical data analysis, there must be a potential or existing underlying demand. Any consideration of potential growth areas must begin with an assessment of the available data, such as those pertaining to size and demographics of the catchment area, demand generators including business and leisure, demand levels by ultimate destination, available aircraft number and seating capacity, and traffic carried at competing airports, to name a few.

In this regard, SJTA is in the process of developing a strategic air service development plan that will combine the ingenuity of the stakeholders to bring more air service to ACY. The goal is to increase service during the peak season and allow for flexibility of service in the shoulder months. This recognizes the high seasonality of the Atlantic City market, but also enables airlines to help serve the meetings-and-conventions market.

#### **F. ACY Catchment Area Passenger Leakage**

It is particularly important to consider the ultimate destination of originating passengers from the ACY catchment area. A market intelligence data transfer (MIDT) analysis conducted by AvPorts for the SJTA examined passenger statistics for ACY for calendar year 2011. The leakage study identified which airports and airlines passengers originating in ACY's catchment area used to reach their domestic or international destinations. Leakage rates reflect the number of passengers leaving an airport's catchment area to use an alternate airport because they are willing to travel a greater ground distance or longer time to get better fares, more convenient schedules or other tangible advantages.

Table 10 is taken from that survey and highlights the top four domestic leakage destinations: Orlando (MCO), San Juan (SJU), Las Vegas (LAS) and Ft. Lauderdale (FLL). These four destinations accounted for a total of 129,082 enplaned and deplaned passengers, or nearly 45 percent of all leakage passengers in the top 25 markets. Each of the top four domestic leakage destinations are presently served by Spirit Airlines and two have nonstop service from ACY.

Further, these destinations may be characterized as leisure markets. The comparatively low frequency or lack of sufficient capacity provided by Spirit to these cities led passengers to bypass Atlantic City in favor of either PHL or EWR, where more daily flights and competitive fares were available. Of the two airports, PHL attracted more of the domestic leakage passengers to these top four markets, and US Airways was likely the carrier that benefited most from the additional passenger traffic at that airport.

**Table 10**  
**TOP 25 ATLANTIC CITY DOMESTIC LEAKAGE MARKETS**

Rank	Destination	Code	2011 Leakage		Leakage by Airport (percent)		
			Outbound	Total	PHL	EWR	LGA
1	Orlando	MCO	27,658	42,426	54	42	4
2	San Juan	SJU	22,148	35,370	81	19	0
3	Las Vegas	LAS	18,078	28,363	53	43	4
4	Ft. Lauderdale	FLL	14,986	22,923	28	56	16
5	Miami	MIA	9,676	17,011	56	40	4
6	Los Angeles	LAX	8,963	14,542	55	44	1
7	Atlanta	ATL	6,411	11,530	61	28	11
8	Chicago	ORD	6,645	11,230	56	35	9
9	Dallas/Ft. Worth	DFW	4,798	8,820	64	24	12
10	Phoenix	PHX	5,474	8,675	60	38	2
11	San Francisco	SFO	5,033	8,261	61	38	2
12	Tampa	TPA	5,143	8,087	69	28	3
13	San Diego	SAN	5,049	8,038	71	28	1
14	Seattle	SEA	4,670	7,365	44	55	1
15	West Palm Beach	PBI	4,738	7,090	29	60	11
16	Honolulu	HNL	3,670	8,610	63	37	0
17	Kansas City	MCI	3,898	8,162	53	37	10
18	New Orleans	MSY	3,743	5,788	80	19	1
19	Indianapolis	IND	3,307	5,272	85	10	5
20	Denver	DEN	2,836	4,999	66	28	6
21	Houston	IAH	2,327	4,079	78	17	5
22	Jacksonville	JAX	2,550	3,924	67	30	3
23	Boston	BOS	2,469	3,907	62	28	10
24	Fort Myers	RSW	2,498	3,665	35	65	0
25	Pittsburgh	PIT	2,081	3,364	72	24	4
<b>Total</b>			<b>178,849</b>	<b>287,501</b>			

Source: AFCO AvPorts Management LLC, January 2013

The introduction of scheduled service by Frontier Airlines at Trenton Mercer Airport to Fort Lauderdale, Fort Myers, Tampa and New Orleans in January 2013, to be followed by flights to Atlanta, Chicago-Midway, Columbus and Raleigh in April, presents a new set of competitive challenges for ACY.

Review of the top 25 international markets presents a similar pattern as indicated in Table 11. The top four leakage international markets (Toronto-Pearson [YYZ], Montreal [YUL], Cancun [CUN], and Punta Cana [PUJ]) account for nearly 65 percent of the top 25 international leakage markets. There are more outbound than inbound international passengers, further reflecting that Atlantic City is not realizing its full potential as a destination location. It is noteworthy that the top two cities are Toronto (YYZ) and Montreal (YUL), pointing to demand by Canadian travelers to visit Atlantic City. Travelers also favor Toronto City Centre Airport (YTZ). In 2009, WestJet Airlines provided nondaily seasonal service from ACY to YYZ with B737 aircraft (116-166 seats) until it withdrew from the market a year or so later. Of note, WestJet launched its service during the off-season, against the advice of ACY's management and air service consultant. In 2012, WestJet served EWR from late April through late October with nonstop service to Calgary on a nondaily basis.

Spirit Airlines serves Cancun, Mexico (CUN) and Punta Cana, Dominican Republic (PUJ) from ACY by connections. Its service to Toronto-Pearson and Montreal is via the relatively nearby U.S. cities of Niagara Falls and Plattsburgh, requiring passengers to utilize ground transportation to reach their ultimate destination. Service using an 83-seat aircraft operating at an average enplaning load factor of 85 percent once each day would be required to serve the top international leakage market of Toronto-Pearson. This may be a viable daily service inasmuch as aircraft with this seating capacity are more operationally appealing to the airlines.

Balance of page intentionally blank

**Table 11  
TOP 25 ATLANTIC CITY INTERNATIONAL LEAKAGE MARKETS**

Rank	Destination	Code	2011 Leakage		Leakage by Airport (percent)		
			Outbound	Total	PHL	EWR	LGA
1	Toronto - Pearson	YYZ	30,895	51,577	2	37	61
2	Montreal - Dorval	YUL	19,981	34,127	1	28	71
3	Cancun	CUN	20,724	26,124	62	38	0
4	Punta Cana	PUJ	13,589	16,345	66	34	0
5	Tel Aviv	TLV	6,456	10,368	1	99	0
6	Toronto - City Centre	YTZ	4,535	9,069	0	100	0
7	Aruba	AUA	4,110	5,788	36	63	1
8	Nassau	NAS	3,801	5,444	37	53	10
9	Rome	FCO	3,443	4,738	57	43	0
10	Mexico City	MEX	2,781	3,923	46	54	0
11	London	LHR	2,442	3,564	30	70	0
12	Dublin	DUB	2,325	3,380	11	89	0
13	Montego Bay	MBJ	2,337	3,171	62	38	0
14	Barcelona	BCN	1,941	2,818	16	84	0
15	Puerto Plata	POP	1,306	1,939	8	91	2
16	Paris	CDG	1,204	1,781	19	81	0
17	Bermuda / Hamilton	BDA	1,244	1,760	34	66	0
18	Vancouver	YVR	1,162	1,674	59	41	0
19	Shannon	ANN	1,143	1,667	9	91	0
20	Madrid	MAD	1,107	1,616	8	92	0
21	Santo Domingo	SDQ	1,115	1,587	31	69	0
22	Lima	LIM	917	1,354	28	72	0
23	Acapulco	ACA	913	1,299	75	25	0
24	San Jose Del Cabo	SJD	868	1,270	32	68	0
25	Athens	ATH	906	1,259	59	40	1
<b>Total</b>			<b>131,182</b>	<b>197,642</b>			
Source: AFCO AvPorts Management LLC, January 2013							

The total (domestic and international) leakage from the Atlantic City catchment area was an estimated 656,702 origin-destination passengers, or some 900 daily passengers each way. The domestic leakage accounts for 65 percent of this volume of traffic and the remaining 35 percent is international leakage. There are about 900 daily domestic and international leakage passengers originating from or destined to the Atlantic City catchment area. According to survey data, these passengers use PHL (48 percent), EWR (39 percent) or LGA (13 percent)

for their travel needs. This level of one-way leakage is sufficient to support 7 daily flights with 135-seat aircraft, or 10 daily flights with 100-passenger aircraft, each operating at an 85 percent load factor, or a combination of these aircraft types to possibly one or two hubs where passengers can transfer to reach their ultimate domestic or international destination. Absent that service, passengers will use the other major airports where they have access to higher levels of frequency and nonstop service to those markets. The unserved portion of the ACY market is frequent, higher yielding flights to large airline hubs and business destinations.

The challenge is to find airlines that will not cannibalize traffic at other airports to serve these markets from ACY through a hub-and-spoke network. The QED Team suggests that airlines utilizing Chicago-O'Hare as a hub (United, American), Atlanta (Delta), or Miami (American) may be viable targets. AirTran provided service to Atlanta in the past, which according to SJTA representatives was performing well. However, after its acquisition by Southwest Airlines, AirTran dropped service because the frequency of daily flights and fleet rationalization did not support the Southwest Airlines business model. Additionally, Southwest Airlines was already serving PHL and EWR. Feeder flights to EWR also could offer potential for transfer passenger activity, especially to transatlantic destinations. In negotiating new service, it is important to recognize that ACY needs to make a strong case for the right airline with the right destinations to capture the leakage market.

#### **G. Atlantic City/New Jersey Shore as an Airline Passenger Destinations**

A potential avenue of driving demand at ACY and stemming leakage to other airports is to increase tourist traffic to Atlantic City and the myriad of beaches along the New Jersey shore. The State of New Jersey has aggressively pursued efforts to help Atlantic City transition from a gaming destination that attracts visitors primarily in the peak months of April through September to one that offers attractions on a year-round basis. New Jersey is also committed to rebuilding and revitalizing the beaches and towns along the shoreline that were devastated by Superstorm Sandy. The focus on attracting both in-state and out-of-state visitors to the shore area will be a critical component to the rebuilding efforts.

The gaming industry in Atlantic City predominantly accommodates a drive-to market and in recent years is competing for those clients that now have similar entertainment choices more convenient to their home locations in such states as Connecticut, Delaware, Maryland and Pennsylvania. This is borne out by the fact that only about 1 percent of the vast majority of the approximately 27 million visitors to Atlantic City utilize surface transportation. This is in stark contrast to the 40 million visitors to Las Vegas, the majority of whom are air passengers. Passengers using ACY are those traveling to other destinations, primarily leisure, as opposed to those who take advantage of the casino attractions or New Jersey beaches. Passenger booking data reveals that some 63 percent of all passengers leaked to other air carrier airports (PHL, EWR and LGA) are outbound from the Atlantic City catchment area.

The casino operators charter aircraft to bring targeted clients from particular cities to Atlantic City either at low or no cost, and these can be considered pure casino-generated demand. This does not preclude other markets that could support business and leisure traffic. The casino operators recognize that improving air service, especially in the shoulder months, offers opportunities to fill their facilities on a year-round basis, and will participate in initiatives that can yield that outcome. They also prefer that customers fly direct to ACY, as opposed to PHL or EWR before using ground transportation to reach Atlantic City.

The European charter market has not been sufficiently explored to bring passengers to Atlantic City/New Jersey shore destinations. Programs that offer international passengers a fly-in to Atlantic City and fly-out of New York may offer some potential, but may require that the operator offer a hotel/ground transportation package to realize a suitable profit. A trend towards airlines moving closer to travel companies offering complete air/hotel and tourism packages may be particularly beneficial to ACY. Such arrangements may also attract domestic passengers originating in cities farther than a reasonable driving time to Atlantic City.

Atlantic City development and promotion efforts have been traditionally the focus of the Casino Reinvestment Development Authority (CRDA), which was formed in 1984 with a state legislative mandate to direct the 1.25 percent of gaming revenues paid by the casinos for projects that promote community and economic development within Atlantic City. Currently, this represents some \$30 million annually. More recently, CRDA has been restricted to projects within a defined Atlantic City Tourism District that includes properties along and near the famed Boardwalk and the marina area. In mid-2011, CRDA absorbed the programs, assets and liabilities of the Atlantic City Special Improvement District, which had been formed in 1991 to complement existing municipal services as part of a revitalization plan. CRDA soon will absorb the responsibilities and functions of the Atlantic City Conventions and Visitors Authority in order to consolidate and more effectively manage tourism development activities within one organization.

Locally, the Casino Association of New Jersey formed the Atlantic City Alliance (ACA) to broaden Atlantic City's appeal as a multi-night and year-round destination. ACA conducts marketing campaigns, primarily to nearby, driving-distance markets (New York, Philadelphia and Baltimore), and may consider supporting capital projects and air service subsidies. The ACA has a five-year life that began in October 2011 and draws on a budget of about \$30 million in private sector (casino) funding each year. ACA has teamed with CRDA and SJTA in the past to promote ACY as a destination for air travelers. ACA marketing programs could expand to cities served by new air carriers at ACY, and it was noted that visitors from eastern Canada are attracted to visit Atlantic City.

Recent efforts by state and local governments to stimulate the economy of Atlantic City have focused on expanding the attraction of visitors and establish Atlantic City as a year-round destination. The emphasis appears to be on the leisure travel market with the aim that a more consistent flow of visitors year-round and higher levels during the peak months will form a basis for related economic development.

The private sector has taken some recent action to broaden the appeal of Atlantic City as a convention and meeting center for businesses. In the past and currently, meeting planners have not considered Atlantic City for their events because the air service was inconvenient and attendees would need to drive from either PHL or EWR. To potentially address that issue, Harrah's Resort will construct a 200,000 sf hotel/casino in the vicinity of the Senator Frank S. Farley Marina, located about one mile north of the Boardwalk. About 50 percent of the floor area (100,000 sf) is designated as meeting space.

## **H. Air Cargo**

Air cargo is typically carried as belly freight in aircraft used in commercial passenger service or in all-cargo aircraft. However, neither cargo service is currently provided at ACY. The 2010 Airport Master Plan Update did not include a forecast for air cargo, but provided a 20-acre area, excluding taxiways and taxilanes, to accommodate five airplane design group IV aircraft (wing spans of between 118 and 171 feet, such as the A300 and DC-10 equivalent). It also included accommodations for an air cargo handling facility within the land area leased by the SJTA from the FAA Technical Center for potential future development.

The Atlantic City Expressway and the Garden State Parkway provide quick and convenient ground access for trucks to shift cargo at ACY, creating easy connectivity to demand generators in the Philadelphia and western and northern New Jersey regions. Additional highways link areas off of the Atlantic City Expressway and the Garden State Parkway afford additional ground access to ACY.

ACY certainly provides opportunities for cargo carriers given the availability of a 10,000-foot runway and excellent near-all-weather operational capability. The 2010 Airport Master Plan Update provides a reasonably sized facility that can contribute to airport operating revenues, and provide employment opportunities and economic growth for the region and its residents.

## **I. Use of Incentives to Attract Airlines**

In seeking to attract new airlines and flights to markets that may show potential but are yet unproven, incentives to airlines may be a viable method. These incentives could include marketing assistance, reduced terminal fees and even revenue guarantees that do not compromise incumbent carriers or violate grant assurances. Incentive programs sponsored by off-airport entities can greatly enhance an airport's efforts and offer a promising opportunity that must be exploited to expand air service at ACY.

On the topic of incentives, the airlines indicated that they are especially attractive when one city is competing against another for service and all other factors are equal. When airlines have some reservations about beginning new service, incentives offer value by reducing the financial risk in the start-up phase and gain time to build brand recognition. Incentives do not override an airline's basic business model, demand potential, aircraft availability and route structure. It also is important to recognize that airline route planners remain open to new service opportunities as well as adjustments to their current schedules in order to respond to changing economic conditions or other events.

It is imperative to provide continuous updates to airlines, especially in local developments and other areas that the airline may not typically include in its analysis, or that it otherwise may not have a mechanism to know. ACY's current air service incentive program must be benchmarked against other successful programs across the country and targeted towards a specific set of goals and objectives intended to mitigate airlines' risk and start-up cost, while maintaining fare and yield integrity.

SJTA currently employs an incentive program at ACY, as shown in Table 12.

Balance of page intentionally blank

**Table 12  
INCENTIVE PROGRAMS FOR SCHEDULED SERVICE**

<b>Scheduled Service - New City-Six Month Landing Fee Abatement</b>	
First two months of service	\$0.50 per 1000 lbs. GMLW
Second two months of service	\$0.75 per 1000 lbs. GMLW
Third two months of service	\$1.00 per 1000 lbs. GMLW
Seven or months of service	\$1.55 per 1000 lbs. GMLW
<b>Airline Incentive Promotion Landing Fee Waiver</b>	
Landing fee waived for a period not to exceed 12 consecutive months to any new or incumbent airline meeting signatory requirements that provides daily scheduled nonstop roundtrip service utilizing 75+ seat aircraft to any new market not currently being served by ACY. Any cancellation of service would void this waiver and make the airline responsible to remit landing fees of 100 percent of the published rate retroactive to the commencement date of its service.	
<b>Scheduled Service - Ramp Fee Discount</b>	
0 - 28 arrivals per week	100 percent of ramp fee
29-35 arrivals per week	75 percent of ramp fee
36 - 63 arrivals per week	50 percent of ramp fee
64 or more arrivals per week	0 percent of ramp fee
<b>Fuel Flowage Fee Discount</b>	
1 - 250,000 gallons purchased	\$0.030 per gallon
250,001 - 500,000 gallons purchased	\$0.025 per gallon
500,001 - 750,000 gallons purchased	\$0.020 per gallon
750,000 or more gallons purchased	\$0.015 per gallon
<b>Other Fees</b>	
Federal Inspection Services	per schedule
Utilities	proportionate share
<p><b>Signatory Airline</b> - A certified scheduled airline utilizing aircraft with a seating capacity of 31 seats or more that has signed a lease (or permit) for a minimum rental of 500 square feet for at least one year and has at least one daily departure and/or guarantees 217 available seats per week for the duration of the service agreed upon while maintaining minimum service levels agreed upon during the term of its agreement (the "Signatory Airline Requirements".)</p> <p><b>Landing Fees</b> - any landing at ACY by an aircraft, but does not include a landing by an aircraft that returns to ACY because of weather, mechanical, operational or other emergency or precautionary measure.</p>	
Source: SJTA, January 2013	

Incentives must be utilized judiciously. It is noted that the SJTA has paid for the capital improvements to ACY without passing those costs on to the airlines. This is in contrast to how other airports operate financially and represents another form of incentive to provide air service.

#### **J. PANYNJ Synergies with FAA Technical Center Activities**

NextGen is an umbrella term for the ongoing transformation of the National Airspace System (NAS). At its most basic level, NextGen represents an evolution from a ground-based system of air traffic control to a satellite-based system of air traffic management intended to eliminate delays to aircraft in flight and on the ground. It also provides benefits for the environment and the economy through reductions in carbon emissions, fuel consumption and noise impacts as a result of procedural and operational changes to the usage of the NAS.

NextGen is a collaborative effort between federal agencies and the aviation industry to transform the NAS. Among the active participants is the FAA Technical Center at ACY and the Port Authority. The FAA Technical Center is charged with testing, evaluating, verifying and validating the new satellite-based systems that are being developed. The Port Authority has a stake in bringing these technologies online because their New York/New Jersey area airports experience some of the worst delays in the country when traffic levels are peaking and/or less than ideal weather conditions prevail. These impacts create significant ripple effects on air operations nationwide.

The Port Authority has been a national leader and actively engaged in advancing the implementation of NextGen. Port Authority executives founded the National Alliance to Advance NextGen, which today has more than 1,000 members, including firms such as American Express and Accenture, representing tens of millions of U.S. citizens who support NextGen's speedy implementation. Port Authority senior managers have invested countless hours on Capitol Hill advocating for NextGen. The Port Authority has been represented at the highest level and on every major NextGen panel and committee, including U.S. Transportation Secretary Ray LaHood's Future of Aviation Advisory Committee (as one of only three airports operators on this 19-member panel), and the NextGen Advisory Committee, a 28-member group advising the FAA on NextGen policy decisions, program initiatives and priorities.

The Port Authority also has invested hundreds of millions of dollars in airfield improvements to enhance the flow of aircraft to and from the aprons and the runways at its airports. These investments, supported in part by users of the airspace through the payment of fees to use the airports, are in anticipation of the full implementation of NextGen technologies under design, development, testing and certification. The physical presence of the Port Authority at ACY, adjacent to the operations hub of the FAA Technical Center, can serve as an additional means of interaction between the two entities. The implementation of promising new technologies can be facilitated at any of the airports operated by the Port Authority after appropriate concept tests are performed, validated and certified by the Technical Center at ACY. This further

establishes the prominence of both entities in the adaptation and implementation of these new technologies on a global stage.

Synergies between the activities of the Port Authority and the FAA Technical Center may offer opportunities for growing traffic levels at ACY. As the national center for supporting NextGen, the Technical Center is frequently visited by other federal agencies and the private sector for collaboration purposes. Land area at ACY was donated by the Technical Center for an aviation research and technology park, and has been initially developed to attract and support private industry that is engaged in NextGen research and development. The size and scope of NextGen research and development activity that is occurring at the FAA Technical Center is a significant driver of demand, particularly to the Washington, DC area. Currently, some of these visits are being handled by charter flights coordinated by the federal government into ACY. Additionally, the potential for hosting industry conferences on NextGen topics can stimulate air travelers to use ACY. The location's only drawback to such events, aside from current budgetary constraints, is the federal government's restriction on such events held at recognized gaming locations.

Notwithstanding the general industry collaboration with the Technical Center on NextGen matters, the physical presence of the Port Authority at ACY can foster opportunities for investment in capital facilities there and at the five other airports owned and operated by the Authority. New test bed locations can lead to operational benefits for the aviation industry worldwide, and particularly in the skies of the New York/New Jersey region—the world's most congested airspace.

#### **K. Port Authority Impact**

Discussions with stakeholders not directly engaged in the management or operation of ACY revealed a sense that the active involvement of the Port Authority would generate new air carrier service at ACY. The consensus was that the Port Authority, with its unrivaled history and status as an airport operator of some of the world's busiest and best-known airports, has a deep understanding of how to conduct business with multiple airlines operating under differing business models. As noted previously, the success of an airport depends on a variety of dynamic factors, many of which are not within the direct control of the airport operators. That said, the Port Authority does bring a level of influence and experience based on its history of successfully operating major airports in perhaps the busiest travel region in the nation. Incentives and infrastructure investments funded by the Port Authority could allow stakeholders to invest in complementary projects and interests as part of the overall goal of attracting visitors to Atlantic City and the beaches of New Jersey. Unlike its other airports, there is a core group of motivated and capable stakeholders with shared interests that could form the basis of a mutually beneficial air service development effort.

SJTA is restricted in marketing efforts and cannot directly provide cash or other incentives to specific airlines. This does not preclude an airport sponsorship of a fair and equitable incentive program that is available to any carrier that is willing to serve a particular route in a manner that does not discriminate or imply preferential treatment to a specific airline. ACY has taken a conservative approach by employing a strategy that allows for incentives to be offered, but paid by reimbursement to the airline by the Atlantic City Alliance, rather than participating in a larger stakeholder alliance or nonprofit organized to attract air service. This practice of teaming with third parties to make incentive payments directly to airlines has become more prevalent at airports across the country in response to policies administered by the FAA.

SJTA believes that its direct marketing program (\$400,000 budget) has proven successful despite reductions in flight frequencies by Spirit Airlines in recent years. Passenger traffic levels have remained generally consistent since the economic impacts of 2008, due in part to the use of higher seating capacity aircraft (A320 and A321) even as Spirit Airlines reduced flight frequencies.

#### **L. Conclusions: Air Service Demand and Aviation Activity**

Our review has revealed that there are opportunities for growth at ACY, and whether those opportunities bear fruit will depend on a number of factors and the commitment of various parties to drive demand and spur growth.

An obvious area of growth is the tourism industry in Atlantic City and the beach resorts along the New Jersey shore. The convention and tourism industry rebuilt Atlantic City's economy in the late 1980s and through the 1990s, relying on the drive-to market cities to bring visitors to take advantage of the unique gaming facilities and services available. In recent years, this market has eroded as casinos opened closer to visitors' points of origin. ACY was not a major contributor to facilitating traffic flows, and this use characteristic currently remains. With the concerted efforts various entities in the State of New Jersey, Atlantic City has begun to market itself not simply as a drive-to destination in peak months but as a year-round resort destination that seeks to attract those beyond the driving distance of Atlantic City. Accordingly, the airport must collaborate with casinos and other parties to identify synergies in markets and in marketing aimed at positioning ACY as a destination airport from markets that require air travel.

ACY growth need not depend solely on the success of Atlantic City as a year-round resort destination, however. The catchment area for ACY includes virtually the entire New Jersey shore, from Monmouth County to Cape May County. Some of the towns along the shore were devastated by Superstorm Sandy. As the rebuilding process takes shape, New Jersey should market the New Jersey beaches as destinations for both domestic and international leisure markets. ACY is the natural transportation point to provide convenient access to all of the beach towns and resorts, as well as Atlantic City.

More travelers (63 percent) use ACY to reach primarily leisure destinations than those who fly in. Although ACY's passenger catchment area is about 1.2 million people, about half of this volume, or nearly 657,000, bypasses ACY to meet its travel needs annually. These leaked passengers use PHL, EWR and LGA airports to reach their destinations, preferring the convenience of higher levels of frequency and other amenities not offered by the ultra-low-cost carrier serving ACY. These passengers also tend to live proximate to major ground transportation facilities that facilitate travel to alternate airports. The 900 daily passengers leaked each way could support the introduction of new air carrier flights at ACY. An air carrier that could carry these 900 daily passengers to one or possibly two hubs may find ACY to be an attractive component of its route network.

The challenge that continues to face ACY is finding air carriers that can introduce the requisite level of service that fits into a route structure and contributes positively to the bottom line. Despite best efforts on the part of the SJTA and investments in facilities funded in part by the local casino industry, this goal has been elusive. But there is growth potential at ACY. As noted previously, the opportunities for growth depend on a variety of factors, many of which are beyond the control of the airport operators. The Port Authority, however, may be in the best position to exploit those opportunities as they arise. It has operated some of the busiest airports and dealt with some of the most complex regional airport issues for over 50 years. The Port Authority has developed and maintained relationships with virtually every major airline in the world. ACY would benefit from the Port Authority's experience and expertise.

Balance of page intentionally blank

## VI. AIRPORT FINANCING OVERVIEW

ACY has never operated on a breakeven basis. It has one signatory airline, Spirit Airlines, and it sets its rates and charges by ordinance. The Rates and Charges Ordinance was implemented effective May 10, 2010 and remains current. The rent or fee for use of the terminal area facilities provided by SJTA is presented in Table 13 for signatory and non-signatory airline users when not participating in any incentive program offered by SJTA.

<b>Table 13</b>		
<b>CURRENT RATES AND CHARGES, MAY 10, 2010</b>		
<b>Facility Use</b>	<b>Rent / Fee (\$)</b>	
	<b>Signatory*</b>	<b>Non-Signatory</b>
Terminal Building Rent / sf	28.59 / sf	32.15 / sf
Landing Fee / 1000 lbs. MGLW	1.55	1.88
Ramp Fee / 1000 lbs. MGLW	1.56	Not Applicable
Terminal Use Fee	Not Applicable	Per Exhibit B
Aircraft Parking Fee	Per Exhibit F1	Per Exhibit F2
Loading Bridge Fee / turn**	\$15 after 63rd weekly	\$15
Unimproved Land Rent / sf	10.00	10.00
Passenger Facility Charge / enplaned passenger	4.50	4.50
* Signatory airline defined in Table 4		
** Included in ramp fee		
Source: SJTA, January 2013		

Table 14 presents ACY's operating financial results for the years 2010 and 2011, which highlights the operating deficit excluding debt service requirements. ACY pays approximately \$4-5 million annually in debt service. In 2012, ACY had operating revenues of \$11,516,000, operating expenses of \$16,489,000 and debt service payments of \$4,183,000. The total deficiency of \$9,156,000 in 2012 is made up by the SJTA from its other transportation facilities, as it has in all previous years. Payment to the New Jersey State Police for security services is the largest category of expense, accounting for about 20 percent of the total operating budget in 2011. Nearly one-third (31 percent) of the operating budget is set aside for operations and maintenance costs associated with the terminal facility. Firefighting costs also represent a significant portion (13 percent) of the total operating cost.

ACY's Use and Lease Agreement with Spirit Airlines is a compensatory-type arrangement meaning that Spirit pays certain specific fees for specific services, and does not have to contribute to ACY's operating deficit at the end of the year. The agreement has produced revenues of \$1,879,482 in 2010, \$1,849,485 in 2011 and \$1,947,351 in 2012. About 51 percent of operating revenue at ACY was derived from the collection of automobile parking fees in 2011. Current automobile parking rates for ACY are as follows:

- Daily Garage Parking - \$12.00 per day (with the first hour free and the garage being within steps of the terminal). There are 1,093 parking spaces available.
- Short-Term Parking - \$1.00 per hour up to a \$13.00 per day maximum (with the first hour free and this parking being within walking distance of the terminal.) There are 168 parking spaces available.
- Economy Parking - \$9.00 per day (with the first hour free and shuttle service available to the terminal building.) There are 1,320 parking spaces available.

There is a 988-space overflow surface automobile parking lot available when required and the fee is \$9.00 per day.

Balance of Page left intentionally blank

**Table 14  
HISTORICAL OPERATING REVENUES AND EXPENSES**

	2011 (\$)	2010 (\$)
<b>OPERATING REVENUE</b>		
<b>Non-Aeronautical</b>		
Airside	35,654	35,654
Landside	789,263	817,359
Automobile Parking	5,988,032	6,075,003
Terminal	1,727,129	1,985,333
<b>Subtotal</b>	<b>8,540,078</b>	<b>8,913,349</b>
<b>Aeronautical</b>		
Airfield / Airside	2,922,384	3,054,326
Landside	24,000	24,000
Terminal	210,934	198,673
<b>Subtotal</b>	<b>3,157,318</b>	<b>3,276,999</b>
<b>Total</b>	<b>11,697,396</b>	<b>12,190,348</b>
<b>OPERATING EXPENSES</b>		
Central Accounts	1,074,112	1,364,954
Marketing	787,368	698,817
SJTA Administration	838,530	798,788
ACY Customer Service	55,788	70,111
Firefighter Administration	1,909,341	1,713,617
Operations - Airside	36,440	34,547
Operations - Landside	42,988	40,797
Operations - Terminal	2,348,690	2,318,119
NJ State Police - LEO ACY	3,073,416	2,837,755
Maintenance - Airside	1,012,745	1,319,954
Maintenance - Landside	75,218	233,069
Maintenance - Terminal	2,338,292	2,183,678
Parking	1,109,775	1,285,283
ACY Shuttle	227,248	217,622
Information Technology	53,900	86,963
<b>Total</b>	<b>14,983,851</b>	<b>15,204,074</b>
<b>Operating Profit (Loss)</b>	<b>(3,286,455)</b>	<b>(3,013,726)</b>
Source: SJTA, January 2013		

**A. Passenger Facility Charge Collections**

ACY was approved by the FAA to collect a passenger facility charge (PFC) from each passenger enplaning (departing) on a scheduled flight. The airline includes this charge in the ticket price and remits payment to ACY on a periodic basis. The airline is entitled to receive a small percentage of the PFC as an administrative expense. ACY was initially approved for a PFC of \$3.00. The PFC was increased to \$4.50 effective December 1, 2005. PFC funds may be used for projects that are typically eligible under the FAA AIP; however, the airlines must be consulted prior to utilizing the funds. This process involves a consultation with the airlines during which the needs of the project are reviewed.

Table 15 presents a listing of the PFC collections since calendar year 2006 as reported in the SJTA annual report. PFC collections are classified by the SJTA as PFC Advanced until allowable costs are incurred. The types of projects for which PFC funds were utilized was not available in the documents reviewed. However, all PFC funds collected after July 1, 2009 were pledged to the Casino Reinvestment Development Authority for repayment of a \$5.2 million loan (4.132 percent for 5 years) used to partially fund a \$13.1 million apron expansion project. That loan and accrued interest has since been repaid.

<b>Table 15</b>			
<b>PASSENGER FACILITY CHARGE COLLECTIONS</b>			
	<b>PFC Funds (\$)</b>		
<b>Year</b>	<b>Collected (\$)</b>	<b>Advanced (\$)</b>	<b>Recognized as Capital Contributions (\$)</b>
2006	1,772,983	3,457,761	Not available
2007	2,262,002	6,033,012	115,039
2008	2,458,174	4,271,725	4,366,362
2009	2,441,561	5,863,275	869,316
2010	3,050,977	3,247,336	5,666,916
2011	3,478,874	4,914,581	1,441,577
Source: SJTA Annual reports for years indicated			

ACY owes approximately \$99,860,000 in long-term bond debt as presented in Table 16.

<b>Table 16 BOND DEBT</b>	
<b>Bond Issue</b>	<b>Approximate Principal Owed (\$)</b>
SJTA 2006 Series A	50,365,000
SJTA 2009 Series A-2 Senior Bonds	38,995,000
SJTA 2009 Series A-3, A-4 (re-designated for airport projects)	10,500,000
<b>Total</b>	<b>99,860,000</b>
Source: SJTA, January 2013	

The 2006 Series A Bonds carry an interest rate of 4.5 percent. They are serial bonds in that there are bonds that mature at different dates. All of the bonds in this series are subject to optional redemption prior to the stated maturity date, but not before November 1, 2015. The bonds carry a final maturity date of 2035.

The 2009 Series A-2 Senior Bonds carry an interest rate from 3 percent to 5.5 percent. They also are serial bonds. All bonds in this series that mature after November 1, 2010 are subject to prior redemption, but not before November 1, 2019.

The 2009 Series A-3 and A-4 Bonds are serial bonds with a final maturity date in 2039. These variable-rate bonds can be redeemed by tender by the purchaser and then remarketed. These bonds also can be redeemed by the SJTA under certain circumstances based on the mode of interest earning.

ACY had entered into swap option agreements with Bank of America and Wachovia Bank, N.A. (currently Wells Fargo Bank) that gave each bank the right to enter into a swap agreement if ACY sold bonds (the swaps). In 2009, both banks exercised their rights to enter into swaps related to the 2009 Variable Rate Bonds (Series A-3 and A-4). If the swaps were terminated for any reason, it would trigger an assessment requiring payment. At this time, the payment the SJTA would need to make to these counterparties is approximately \$34 million.

The SJTA subsidizes ACY in three ways: (1) by paying ACY's debt service on its outstanding bond financing; (2) by providing an annual airport subsidy each fiscal year to make up for any operating deficiency; and (3) by providing capital assistance with certain projects using SJTA general reserve monies. In 2012, the SJTA paid \$4,183,000 in ACY's debt service, \$4,973,000 as an airport subsidy and \$30,000 in general reserve money assistance.

## **B. Financial Pathway to Self-Sustainability**

The financial analysis discussed below provides certain economic scenarios where ACY would generate sufficient revenues and control operating costs to allow the airport to become financially self-sustaining. This analysis differs from the previous discussion of passenger forecasts in that it seeks to determine, should the Port Authority be successful in an aggressive campaign to increase activity at ACY, the level at which that activity would have to increase to achieve the stated goal of financial self sufficiency. In addition, a later section of this report presents options for the Port Authority to take control of ACY through various means, which avoid the assumption of current debt service coverage. This analysis includes this aspect to present a best case scenario where ACY could cover current debt service, should the actions to decouple the bonds fail, or cover new debt, should it be required for future expansion and upgrade projects.

To perform the base case pro-forma analysis, a six-year time frame was assumed, and that enplanement activity at ACY would double. This translates to a compounded annual growth rate (CAGR) of just over 12 percent. At the same time, expenses increase at a much lower CAGR of 3.2 percent. Under this scenario, ACY's financial performance rises to the point where it breaks even and covers debt service at the end of the six years. The analysis also assumes that any increases in activity would not be constrained by airport capacity. Since expenses are increasing at a rate significantly below the rate at which passengers and revenues are increasing, efficiencies are assumed thus resulting in lower costs for operations and maintenance on a per enplanement basis as flights are added.

Currently, ACY enplanes about 700,000 passengers, and from a revenue standpoint can be viewed as underperforming compared with airports of a similar size, as shown in Table 17.

Balance of page intentionally blank

<b>Table 17</b>						
<b>700,000 ANNUAL ENPLANEMENT AIRPORTS - REVENUES</b>						
<b>Revenue Measures by Airport (\$)</b>						
<b>Measures (\$)</b>	<b>Dane County</b>	<b>Sarasota</b>	<b>Wichita</b>	<b>Harrisburg</b>	<b>Average</b>	<b>Atlantic City</b>
Airside	6,470,803	6,968,820	5,795,842	12,359,342	7,898,702	<b>2,958,038</b>
Per Passenger	8.73	10.60	7.83	18.86	11.50	<b>4.23</b>
Landside	1,675,399	2,270,789	5,787,928	1,073,839	2,701,989	<b>813,263</b>
Per Passenger	2.26	3.46	7.81	1.64	3.79	<b>1.16</b>
Airside and Landside	8,146,202	9,239,609	11,53,770	13,433,181	10,600,691	<b>3,771,301</b>
Per Passenger	10.99	14.06	15.64	20.50	15.30	<b>5.39</b>
Terminal	2,750,929	4,914,688	3,408,099	5,242,545	4,079,065	<b>1,938,063</b>
Per Passenger	3.71	7.48	4.60	8.00	5.95	<b>2.77</b>
Parking	7,424,927	2,568,080	3,671,423	7,389,176	5,263,402	<b>5,988,032</b>
Per Passenger	10.02	3.91	4.96	11.28	7.54	<b>8.56</b>
Total Revenues	18,322,058	16,722,377	18,663,292	26,064,902	19,943,157	<b>11,897,396</b>
Per Passenger	24.71	25.45	25.20	39.78	28.78	<b>16.72</b>
Source: <a href="http://cats.airports.faa.gov/Reports/reports.cfm">http://cats.airports.faa.gov/Reports/reports.cfm</a>						

To achieve the results summarized above, as presented in Table 18 showing the newly grown ACY as compared to airports of a similar size, several details associated with projecting the performance of ACY were assumed. First, airside revenues per enplanement were assumed to be held relatively constant, moving from \$4.23 to \$4.29. This level is still below that of similar sized airports, but it would be unrealistic to assume that ACY could grow while extracting greater fees from airlines servicing ACY. It also means that the business strategy requires that ACY grow with the same incentive and fee structure currently in place. Next, the landside revenue growth rate was assumed to be lower than the overall revenue and enplanement growth rate, resulting in the landside revenue per enplanement dropping from \$1.16 to \$0.74, but ending up close to being in line with airports of a similar size. Note that ACY currently generates terminal-based revenues at a per enplanement rate below airports currently the same size, and if held constant, would still be below airports of the larger size. It was assumed that efforts would be required to increase this revenue line so that it is closer to what is generated at similar airports. Therefore, it was assumed that the rate of growth for this line item would be greater than the growth for airside and enplanements, rising from \$2.77 per enplanement to \$3.77 per enplanement. This level is still below the airports of comparable size, but closer to reasonable expectations. The last revenue line was parking, and it was

assumed to grow at close to the same rate as the airside revenues and enplanements, changing from \$8.56 to \$8.63, leaving it firmly within the range of similar airports.

<b>Table 18</b>						
<b>1,400,000 ANNUAL ENPLANEMENT AIRPORTS - REVENUES</b>						
<b>Revenue Measures by Airport (\$)</b>						
<b>Measures (\$)</b>	<b>El Paso</b>	<b>Boise</b>	<b>Birmingham</b>	<b>Tulsa</b>	<b>Average</b>	<b>Atlantic City</b>
Airside	12,139,762	7,471,410	12,094,685	14,709,391	11,603,812	<b>5,958,038</b>
Per Passenger	8.32	5.35	8.46	10.93	8.27	<b>4.29</b>
Landside	6,244,210	2,213,985	1,139,751	2,517,042	3,028,747	<b>1,023,263</b>
Per Passenger	4.28	1.59	0.80	1.87	2.13	<b>0.74</b>
Airside and Landside	18,383,972	9,685,395	13,234,436	17,226,433	14,632,559	<b>6,981,301</b>
Per Passenger	112.60	6.94	9.26	112.80	10.40	<b>5.02</b>
Terminal	10,417,996	6,390,678	6,932,000	9,530,242	8,317,729	<b>5,238,063</b>
Per Passenger	7.14	4.58	4.85	7.08	5.91	<b>3.77</b>
Parking	5,892,972	7,542,885	13,339,766	6,708,416	8,371,010	<b>11,988,032</b>
Per Passenger	4.04	5.40	9.33	4.98	5.94	<b>8.63</b>
Total Revenues	34,694,940	23,618,958	33,506,202	33,465,091	31,321,298	<b>24,207,396</b>
Per Passenger	23.78	16.92	23.44	24.86	2.25	<b>17.42</b>
Source: <a href="http://cats.airports.faa.gov/Reports/reports.cfm">http://cats.airports.faa.gov/Reports/reports.cfm</a>						

With the airport doubling in size over six years to 1.4 million enplanements, expenses were projected out at the 3.2 percent CAGR in order for the expense level, at the end of the projection period, to be in line with similarly sized airports. As shown on the table directly below, this equates to increasing the expenses from the 2012 level of \$16.5 million to \$19.9 million. Therefore it is critical to acknowledge that expense growth has to be held tightly to this target level, and that even with these assumptions for improvement, ACY will not achieve the profitability of the comparable airports, as shown in Table 19, but it will generate a small profit to cover debt service.

**Table 19**  
**2011 AIRPORTS WITH 1,400,000 ENPLANEMENTS**

<b>Airport</b>	<b>Enplanements</b>	<b>Revenues (\$)</b>	<b>Expenses (\$)</b>	<b>EBITDA (\$)</b>
El Paso	1,458,965	34,694,940	27,167,278	7,527,662
Birmingham	1,429,282	33,506,202	21,661,662	11,844,540
<b>Atlantic City*</b>	<b>1,400,000</b>	<b>24,207,396</b>	<b>19,922,162</b>	<b>4,285,234</b>
Boise	1,395,554	23,618,958	17,438,070	6,180,888
Tulsa	1,346,122	33,465,091	20,025,952	13,439,139
*ACY data is Year 6 of the projection. Source: <a href="http://cats.airports.faa.gov/Reports/reports.cfm">http://cats.airports.faa.gov/Reports/reports.cfm</a>				

As far as translating the base case growth to additional flights, using the standard size of regional jets of between 100 and 135 seats, the additional enplanements required to double the current level of activity at ACY would translate to between 6,013 and 8,118 flights per year, or about 16 to 22 flights per day, based on an 85 percent enplaning load factor. Additional financial and activity details are shown in Table 20 and Table 21.

**Table 20**  
**FINANCIAL ANALYSIS - ACY**

<b>Activity Center</b>	<b>Revenue Measure (\$)</b>					<b>CAGR (%)</b>
	<b>Base Year</b>	<b>Per Enplanement</b>	<b>Year 6</b>	<b>Per Enplanement</b>	<b>Total Growth</b>	
Airfield/Airside	2,958,038	4.23	5,958,038	4.29	3,000,000	12.4
Landside	813,263	1.16	1,023,263	0.74	210,000	3.9
Terminal	1,938,063	2.77	5,238,063	3.77	3,300,000	18.0
Parking	5,988,032	8.56	11,988,032	8.63	6,000,000	12.3
<b>Total</b>	<b>11,697,396</b>	<b>16.72</b>	<b>24,207,396</b>	<b>17.42</b>	<b>12,510,000</b>	<b>12.9</b>
<b>Expenses</b>	<b>16,489,000</b>	<b>23.57</b>	<b>19,922,162</b>	<b>14.34</b>	<b>3,433,162</b>	<b>3.2</b>
<b>EBITDA</b>	<b>(4,791,604)</b>	<b>(6.85)</b>	<b>4,285,234</b>	<b>3.08</b>	<b>9,076,838</b>	
Source: <a href="http://cats.airports.faa.gov/Reports/reports.cfm">http://cats.airports.faa.gov/Reports/reports.cfm</a> for base year						

<b>Table 21 ACTIVITY ANALYSIS</b>		
<b>Activity</b>	<b>Measure</b>	
Current Enplanements	699,577	
Additional Enplanements	690,000	
Total Enplanements (Year 6)	1,389,577	
Enplanement CAGR	12.1 percent	
	<b>Per Year</b>	<b>Per Day</b>
Additional 100-Seat Flights	8,118	22
Additional 135-Seat Flights	6,013	16
Flight activity levels based on an 85 percent enplaning load factor.		

In addition to the base case, a special sensitivity analysis was performed to determine the level of additional activity required to increase revenues to breakeven from an operating income standpoint, assuming that expenses could be held at exactly the 2012 level of \$16.5 million over the near term. Increasing revenues to the point of covering debt service was not considered because that would take too many years, as noted above, and expenses could not be realistically held constant that long. Under this scenario, all revenue lines were increased at the same rate per enplanement, and then converted to additional enplanements and flights. The result was that an additional 287,000 annual enplanements would be required, a 41 percent increase from the current level. This additional activity converts to an additional 2,501 to 3,376 flights per year, or 7 to 9 flights per day using the same 100 to 135 seat regional jets and operating with an 85 percent enplaning load factor.

A preliminary review of different airport operations that could be used as benchmarks to guide future development was conducted to gain a better understanding of whether a plan to breakeven would be feasible for ACY. While there are many small to midsized airports in the United States, six airports were selected to serve as models. These six airports represent what ACY could become if the revenue growth strategy is successful. The airport briefs that follow illustrate why these airports are successful.

Dane County Regional Airport-Truax Field (MSN) in Madison, Wisconsin, has flights to several airport hubs including O'Hare in Chicago, Hartsfield Jackson in Atlanta, Reagan National in Washington DC, Minneapolis-St. Paul, Detroit, Denver, Dallas-Ft. Worth, Cleveland, Cincinnati, Orlando, Newark Liberty, and La Guardia. Delta, United, American Eagle and Frontier are the major carriers at MSN. Dane County Regional Airport is a department within the Dane County government. Based on the 2011 financial statement, revenues are slightly more than expenses but for all practical purposes nearly breakeven.

Wichita Kansas Airport is a commercial airport is located approximately seven miles from downtown Wichita. It is the largest and busiest airport in the State of Kansas and its top 10 destinations include such hubs as Atlanta, Denver, Dallas, Chicago, Houston, Minneapolis, Las Vegas, Memphis, Phoenix and Los Angeles. Delta, AirTran, Allegiant, United, American, and Frontier are the airport's major carriers.

Birmingham-Shuttlesworth International Airport (BHM) is Alabama's largest airport serving the greater Birmingham area and surrounding Southeastern cities. Offering more than 110 daily flights to over 36 cities throughout the United States, BHM presently ranks in the country's top 75 airports in terms of passengers served annually. BHM served over 2.8 million passengers in 2012. Southwest Airlines carried the most passengers through BHM in 2011, transporting 1.31 million passengers, 45 percent of total BHM passengers. Delta Airlines carried 807,000 passengers as the second largest carrier. Additionally, Southwest Airlines operates BHM as a connecting airport for over 180 different flight pairs. Southwest uses Las Vegas and Phoenix to connect passengers to the west coast.

Tulsa International Airport (TUL) is a city-owned, public-use, joint civil-military airport located five miles northeast of downtown Tulsa in Oklahoma. TUL is the global maintenance headquarters for American Airlines. The airport offers non-stop service to 17 domestic destinations/airports. The top destinations include Dallas, Denver, Houston, Chicago, Atlanta, Phoenix, St. Louis, and Las Vegas. The strengths of the Tulsa Airport Authority, which operates TUL, are the size and diversity of the community including the aerospace industry cluster that exists in northeast Oklahoma. One of the aerospace companies is American Airlines, which employs 7,000 people at their aircraft maintenance base. The presence of the maintenance base provides jobs for the community, and increased air service presence by American Airlines. Another strength is the presence of flight and maintenance training provided by Spartan School of Aeronautics, Riverside Flight Center, and Tulsa Technology Center at R.L. Jones Airport and TUL. This activity helps to support the aerospace cluster, and provide revenue to operate the airport system.

Boise Airport (BOI), also known as Boise Air Terminal/Gowen Field is a joint civil-military, commercial and general aviation airport located three miles south of downtown Boise in Ada County, Idaho. BOI is operated by the city of Boise Department of Aviation and is overseen by an Airport Commission. The top ten domestic routes out of BOI from November 2011 to October 2012 included Denver, Seattle, Salt Lake City, Portland, Phoenix, Minneapolis, San Francisco, Las Vegas, Oakland, and Chicago. A December 2012 article reported that, "Airlines leaving, passengers declining, and fewer and more expensive flights have all impacted the local business community. Now, some business groups are looking at ways to stop losing service and perhaps gain more." The article further notes that, around five years ago, BOI hit a peak. That is when the airport had the most passengers, the most seats available, and the most planes coming in and going out. Since then, the most recent complete year of data (2011) shows almost all of those numbers are the lowest in more than 10 years, and airfares have increased. Recently at BOI, Southwest has dropped Reno, Seattle, and Salt Lake City flights and announced its pulling of Portland flights. American Airlines stopped

flying to Los Angeles, and Frontier eliminated its flights to Denver from BOI. Passenger counts and the number of available seats have also decreased. In 10 years, the seats available have decreased by more than 400,000 each year. The Boise Valley Economic Partnership is looking at ways to guarantee BOI's flights stay above 80 percent capacity by subsidizing the airlines. Sometimes cities (airport owners) will actually guarantee that a certain amount of seats are filled, and, if the seats are not filled, the cities will pay for the seats. The community or state will also provide some type of subsidy to that airline to keep that flight going.

El Paso International Airport (ELP) is a public airport located four miles northeast of the central business district of the City of El Paso, Texas. Delta, United and American are the major carriers, and Dallas, Phoenix, Houston, Atlanta, Las Vegas, San Antonio and Los Angeles are the top destinations served. ELP is the gateway to West Texas, Southern New Mexico and Northern Mexico. It provides airline passenger, air cargo, and general aviation services. In 2012, the airport served nearly 2.9 million passengers almost equally divided between enplanements and deplanements. ELP also operates the adjacent 588-acre Butterfield Trail Industrial Park, which contributes to its financial stability.

The growth scenarios detailed in this section are modeled using different revenue and expense assumptions. The actual number of flights needed to get to breakeven or profitable status will vary going forward depending on actual revenue and expense figures. What is consistent in all of the growth scenarios, as well as the review of other airport operations, is the need to increase the number of flights at ACY.

ACY presently has the capacity to dramatically increase the number of commercial flights each day. The challenge for ACY in reaching profitability is to attract more and consistent air service. This includes especially the need to develop and maintain flights that cater to the business community, which generally are more consistent and provide higher profit margins. Gaining more business passenger traffic will require attracting more airlines that can provide service to hubs, such as Atlanta, Chicago, Miami, Detroit and Dallas.

ACY can also drive demand by reducing leakage to other airports. That can be accomplished by not only increasing business passenger traffic, but by also growing the leisure passenger traffic. As noted, currently only 1 percent of all inbound passengers to ACY go to Atlantic City destinations. There is surely room for growth in this sector, but it will require coordination with the casino industry, as well as state and local governmental entities. Successful marketing of New Jersey beach destinations from Monmouth County to Cape May County can also translate into increased air service demand at ACY. Close coordination with all stakeholders will be essential in accomplishing these goals.

Many airports in the United States and abroad are mixing creativity with good business sense and new financial profiles are emerging that include revenues from cogeneration plants, hotels, retail developments, and industrial parks and golf courses. To implement this revenue growth strategy ACY would have to develop new revenue sources and keep airline fees low in order to establish and sustain a competitive advantage that will enable the airport to attract air service.

ACY must explore other business models if profitability is to become feasible. Currently, the model relies on the low- and ultra-low-cost carrier partnerships that appear to be the best fit for ACY now but have limited upside potential. These carriers generally operate on thin margins that rely upon minimizing operating expenses. Attracting more and other types of carriers and service will require developing and executing a different business model.

## **VII. RELEVANT CONTRACTS AND AGREEMENTS IN PLACE BETWEEN SJTA AND THE FAA, OTHER TENANTS AND OPERATORS**

### **A. FAA Technical Center Lease and Cooperative Agreement**

#### Approval for Expansion and Development

On April 15, 1998, the SJTA and the FAA Technical Center entered into the Airport Lease and the Cooperative Agreement. Among other things, the Cooperative Agreement sets forth each party's respective duties regarding facilities operations and maintenance, utilities, airfield maintenance, airfield operations and environmental concerns (a more detailed analysis of the SJTA's responsibilities with respect to environmental issues involving the leased premises is set forth below). Of particular relevance to the Port Authority's prospective purchase and/or involvement in ACY is Section 3.14 of the Cooperative Agreement, entitled "Land Development." Section 3.14.2 provides, in pertinent part, as follows:

To avoid interruptions in the missions of the SJTA, the [Technical Center] and the NJANG because of development [on the leased premises], all parties shall coordinate development with each other. The [Technical Center] shall be the focal point, through the FAA's Master Planning and Sitting Board ("MPSB") or as otherwise agreed to by the parties, for coordinating the review of all development . . . . As a procedure to protect the research and development mission of the [Technical Center] . . . the [Technical Center] shall have the right to disapprove of, or require changes to, a proposal for development which the [Technical Center] determines to be in conflict with its mission.

While Section 3.14.5 provides the SJTA with a voting seat on the MPSB, Section 3.14.2 effectively grants the FAA Technical Center discretion over any proposed expansion and/or development project on the premises that conflicts with its mission.

The FAA Technical Center expansively defines its mission in Section 1.1 of the Cooperative Agreement as "research and development." It should be noted that Section 3.14.2 contains a substantially similar provision with respect to the NJANG. The NJANG's provision is of less concern to the Port Authority, however, as the premises subject to the Cooperative Agreement are leased to the SJTA by the FAA Technical Center, not the NJANG.

The FAA Technical Center has never invoked disapproval rights under Section 3.14.2 of the Cooperative Agreement with respect to any proposed SJTA development project and, historically, the SJTA and the FAA Technical Center have maintained a cooperative and healthy working relationship.

### SJTA Obligations/Utilities

The Airport Lease requires the SJTA to maintain the leased premises in good condition for the term of the Airport Lease (all improvements to the leased premises are to be undertaken in accordance with Section 3.14 of the agreement, discussed above). Additionally, the SJTA is responsible for all utilities on the leased premises pursuant to Article 9 of the Airport Lease, which reads:

The [Technical Center] shall not provide and hereby disclaims and is released from any and all responsibilities for the adequate provision of, payment for, maintenance of, and operation of utilities used in the operation and maintenance of the Leased Premises, except as otherwise provided in the Cooperative Agreement... Except as otherwise provided in the Cooperative Agreement, the SJTA shall be responsible for the relocation of any utility lines at its sole cost and expense, prior to construction, alteration, or demolition of any building on the Leased Premises, subject to the [Technical Center's] prior written consent, which shall not be unreasonably withheld.

Under terms of the Airport Lease, the SJTA agreed to indemnify and hold harmless the FAA and the FAA Technical Center from lawsuits, claims, actions and/or damages caused by the SJTA's acts or omissions on, or with respect to, the leased premises. The SJTA is further required to maintain comprehensive general liability insurance and property casualty insurance with respect to the leased premises.

The SJTA does not remit any periodic rental payments to the FAA Technical Center for the use of the leased premises. Rather, the SJTA made a one-time payment of \$1 to the FAA Technical Center upon execution of the Airport Lease. The SJTA may assign or transfer its interest in the Airport Lease upon prior written notice to the FAA Technical Center.

## **B. New Jersey State Police**

The New Jersey State Police (NJSP) has assigned a dedicated 21-trooper detail to ACY to perform all primary civilian law enforcement functions, excluding the FAA Technical Center. The NJSP assumed responsibility for all civilian law enforcement operations at ACY from the Egg Harbor Township, Galloway Township and Hamilton Township police departments in 2008. Since then, local law enforcement has served in a mutual aid support role to the NJSP.

The NJSP also serves as the primary response element for law enforcement issues occurring within the premises leased by the NJANG, along with the Egg Harbor Township Police Department, and is fully integrated with the NJANG security force. The NJSP do not provide primary law enforcement services for the FAA Technical Center. However, the NJSP does interface with, and provide support for, the FAA Technical Center. The NJSP also maintains a canine operation at ACY and assists the TSA with bomb issues at ACY.

## **C. New Jersey Air National Guard 177<sup>th</sup> Fighter Wing**

### Airport Joint Use Agreement

In 2011, the SJTA entered into an Airport Joint Use Agreement (the Joint Use Agreement) with the federal government, acting by and through the Chief of the National Guard Bureau, and the State of New Jersey (collectively, the Government) for the purpose of delineating responsibility for the operation and maintenance of the flying facilities jointly used by the SJTA, the Government, including the NJANG, and others at ACY. The Joint Use Agreement defines "Jointly Used Flying Facilities" as runways, taxiways, lighting systems, navigational aids, markings and appurtenances open to both public and Government use, including all improvements and facilities pertaining thereto and situated thereon, as well as all future additions, improvements and facilities which may be constructed. The Jointly Used Flying Facilities do not include land areas used exclusively by the Government or the terminal buildings, hangars, aircraft parking aprons and ramps, or other areas or structures used exclusively by the SJTA.

The Joint Use Agreement permits the Government to use, in common with other users of ACY, the Jointly Used Flying Facilities, together with all rights of ingress and egress to and from the NJANG installation and other Government facilities located at ACY.

The SJTA has the following responsibilities under the terms of the Joint Use Agreement:

- Furnishing all personnel, materials and equipment required in the rendering of the services to be provided pursuant to the Joint Use Agreement
- Performing any and all maintenance of the Jointly Used Flying Facilities within the SJTA's reasonable capability

- Furnishing utilities necessary to operate the Jointly Used Flying Facilities
- Removing disabled aircraft (other than Government aircraft)

The Joint Use Agreement expires on September 30, 2013, and the Government and the SJTA are currently negotiating a new joint use agreement.

Importantly, the SJTA can neither transfer nor assign the Joint Use Agreement without the prior written consent of the Government, "which shall not be unreasonably withheld or delayed."

#### SJTA/NJANG Memorandum of Agreement: Fire Protection

In 2010, the SJTA Fire Department (SJTAFD) and the 177<sup>th</sup> CES Fire Department (NJANGFD) entered into a Memorandum of Agreement (the Fire MOA), setting forth the primary and secondary responsibilities of the SJTAFD and the NJANGFD, respectively, with respect to fire protection at the ACY.

Should the Port Authority take an interest in ACY, it must be determined whether the Port Authority Police Department can simply step into the shoes of the SJTAFD without Government consent, or whether the Port Authority will be required to negotiate a separate agreement regarding fire protection with the Government. Therefore, the terms of the Fire MOA are set out below in detail.

Pursuant to the Fire MOA, the primary responsibilities of the SJTAFD include:

- The provision of primary ARFF response for all commercial and private in-flight and ground emergencies, to meet FAA Part 139 Regulations under the Airport Emergency Plan (AEP)
- The provision of Basic Life Support (BLS)/Emergency Medical Services (EMS) response and structural fire protection for the airport complex, including, but not limited to, the FAATC, the U.S. Coast Guard Air Station, the U.S. Department of Homeland Security and all civilian operations
- The provision of command and control for all civilian incidents and structural/rescue emergencies at the airport complex including, but not limited to, the FAA Technical Center, U.S. Coast Guard Air Station, U.S. Department of Homeland Security and all civilian operations
- The provision of ARFF response meeting FAA Part 139 Regulations for all military aircraft emergencies

The SJTA's secondary responsibilities under the Fire MOA include providing off-complex (i.e., off-airport) mutual aid operations when requested by local fire departments.

Under the Fire MOA, the NJANGFD's primary responsibilities are as follows:

- The provision of primary command and control and a three-man dedicated rescue crew to all military aircraft incidents
- The provision of primary command and control for all structural, rescue, confined space and hazardous materials incidents for all NJANG facilities and property
- The provision of a stand-by vehicle as requested for military aircraft

The NJANGFD's secondary responsibilities include the provision of a dedicated rescue crew to respond to all aircraft, structural, EMS and rescue emergencies at the airport complex including, but not limited to, the FAA Technical Center, U.S. Coast Guard Air Station, U.S. Department of Homeland Security and all civilian operations; the provision of ARFF vehicle response as requested and/or available for all civilian aircraft emergencies; the provision of confined space and hazardous materials response as requested; and the provision of off-complex mutual response operations when requested by local fire departments.

The Fire MOA does not set forth a specific timeframe of applicability, nor does it contain any provisions regarding assignment. However, while the Fire MOA does not specifically incorporate the Joint Use Agreement by reference, Section 8 of the Joint Use Agreement refers to a "separate" reciprocal fire protection agreement between the SJTA and the Government, presumably the Fire MOA. Accordingly, the Fire MOA is arguably subject to the consent provisions (and the timeframe) set forth in the Joint Use Agreement.

#### **D. Midlantic Jet Aviation, Inc.**

On June 17, 1988, Midlantic Jet Aviation, Inc. (Midlantic), an air charter service and aircraft management company, and the SJTA (through its predecessor) entered into a Use and Occupancy Agreement (the 1988 Use and Occupancy Agreement) that granted Midlantic the right to use and occupy certain areas of ACY for a period of 20 years, from May 1, 1988 through April 30, 2018. On November 8, 1996, Midlantic and the SJTA executed a modification of the 1988 Use and Occupancy Agreement, which, among other things, extended the term to May 18, 2029. On June 14, 2001, Midlantic and the SJTA entered into a lease agreement ("Midlantic Lease") whereby the SJTA leased to Midlantic certain real property and improvements located within the 84 acres owned by the SJTA for use by Midlantic in conducting its day-to-day operations. Simultaneously with the execution of the Midlantic Lease, Midlantic and the SJTA also executed a second modification of the 1988 Use and Occupancy Agreement, which extended a certain option period for the operation of a fuel farm by Midlantic at ACY to January 31, 2036. Midlantic serves as the fixed-base operator,

servicing general aviation based and transient aircraft, and refuels commercial airlines that utilize ACY. The Midlantic Lease took effect on August 1, 2001, and set a lease term of 15 years.

Midlantic also is required to pay landing fees to the SJTA. Midlantic retained the right to make improvements to the leased premises subject to the review and consent of the SJTA and is obligated to maintain the premises and pay all utility charges. Midlantic is further required to maintain its own insurance and indemnify the SJTA of and from any and all claims and/or damages arising from its conduct on the leased premises, including hazardous waste contamination. The Midlantic Lease cannot be assigned or subleased by Midlantic without the written consent of the SJTA. There are no restrictions on the SJTA's right to assign the Midlantic Lease.

On May 1, 2004, Midlantic and the SJTA entered into a Use and Occupancy Agreement (the Hangar Use and Occupancy Agreement) for the construction of a hangar, expanding the leased premises by an additional 55,000 square feet and permitting Midlantic to construct a hangar. The term of the Hangar Use and Occupancy Agreement is 25 years, expiring on April 30, 2029, with an optional five-year extension. The hangar has since been constructed and is maintained by Midlantic. Upon completion of the work, the title for the hangar was transferred to the SJTA. Any assignment of the Hangar Use and Occupancy Agreement is subject to the written approval of the SJTA, and there are no restrictions on the SJTA's right to assign the Hangar Use and Occupancy Agreement. Midlantic is required to maintain the facilities and is likewise responsible for all utility charges and insurance. The Agreement does not contain any specific provisions regarding assignment.

#### **E. AFCO AvPorts Management LLC**

The SJTA entered into an Airport Management Agreement (the Avports Agreement) with Macquarie Aviation North America 2, Inc. d/b/a/ AvPorts, as predecessor in interest to Avports, on July 1, 2008. The Avports Agreement was for a five-year term. The SJTA has the option to renew the Avports Agreement for one or more additional five-year terms upon written notice to AvPorts on terms to be agreed upon by the parties.

Pursuant to the Avports Agreement, AvPorts agreed to manage and operate ACY for the use and benefit of the SJTA and the public for the duration of the Avports Agreement. AvPorts' extensive management and operational duties include the performance of maintenance and repair services, aviation support functions, ground-handling services, accounting and financial services, security and safety services, and marketing and local outreach services. The AvPorts Agreement further provides that AvPorts' responsibilities include assisting the SJTA with Air Service Development, defined in the AvPorts Agreement as "efforts to secure additional commercial service at the Airport

The Avports Agreement is set to expire on June 30, 2013. The SJTA has notified AvPorts that it has chosen not to renew the Avports Agreement. Instead, the SJTA intends to issue a Request for Proposal in the near future for the potential purpose of retaining a new contractor to operate ACY. This process will not preclude the SJTA's attempting to negotiate a new contract with AvPorts.

## **F. Spirit Airlines**

### Airline-Airport Use and Lease Agreement

On October 25, 2001, the SJTA entered into an Airline-Airport Use and Lease Agreement (Spirit Agreement) with Spirit Airlines for a three-year term. While the SJTA and Spirit have not executed an extension agreement, they continue to operate on a verbal month-to-month agreement incorporating the terms of the Spirit Agreement.

The Spirit Agreement grants Spirit the use of certain exclusive-use and joint-use facilities, as defined therein, at ACY and sets forth the rentals, fees and charges due from Spirit to the SJTA. The Spirit Agreement further requires Spirit to reimburse the SJTA for its proportionate share of utilities, and grants the SJTA the right to assess and collect various additional fees, including fees for concessions and other services that may be needed in the ordinary course of business.

The Spirit Agreement does not contain any provisions restricting the SJTA's ability to transfer the agreement to the Port Authority. Nevertheless, the Port Authority must be cognizant, as set forth above, that the SJTA and Spirit continue to operate with no official written agreement extension in place. This is especially significant in light of the trend in the aviation industry for lower-cost airlines to negotiate per-turn fees in lieu of traditional airport rates and charges.

### Building 269 Lease Agreement

Also in 2001, the SJTA and Spirit entered into a lease agreement (Building 269 Lease) for leasing Airport Building 269 for use by Spirit as offices. The Building 269 Lease provides for a one-month term, continuing from month-to-month until terminated by either party with 30 days notice. As with the Spirit Agreement, the Building 269 Lease does not contain any provisions restricting the SJTA's right to transfer or assign the Building 269 Lease.

## **G. Conclusions: Agreements and Contractual Issues**

The SJTA has agreements in place with other users of ACY that appear to be consistent with industry norms, particularly at a joint civil-military use facility. Assumption of these agreements and contracts by the Port Authority is not expected to generate conflicts.

## VIII. ENVIRONMENTAL ISSUES

### A. NPL Superfund Site Listing – Site Contamination and Associated Issues Implicating Potential Environmental Risks

#### 1. History of Relevant Site Usage

Site activities began with Atlantic City's watershed development work in the 1930s. The first activities linked to contamination at the Site most likely commenced in the 1940s, when the Atlantic City Municipal Airport and a U.S. Naval Air Base were established there (1942). The Naval Air Base encompassed much of the eastern portion of the Site. Following investigations at the Site starting in the 1980s, the EPA concluded that World War II-era activities caused the initial contamination of the Site. Preliminary environmental diligence revealed that World War II-era Site activities primarily involved extensive testing of aircraft ordnance, and that munitions and expended ordnance were buried at the Site. In addition to the World War II-era activities, the EPA further concluded that the FAA's subsequent use of the Site as an airport and aviation-safety research center also contributed substantially to Site contamination, particularly during the 1960s and 1970s. The NJANG has maintained facilities at the Site since 1958, and their activities have also been linked to contamination at the Site.

##### (i) The Site's Connection to the Atlantic City Municipal Water Supply

The Atlantic City municipal water supply is drawn in part from the Upper Atlantic City Reservoir ("Upper Reservoir") which is located entirely in the southeastern corner of the Site, the South Atlantic City Reservoir ("Lower Reservoir"), located to the southeast, just outside of the Site, and nine municipal water supply wells located on the Site just north of the Upper Reservoir on an easement held by Atlantic City. The two reservoirs are fed by two watersheds that traverse the southern and northeastern portions of the Site (the Southern and Northern Branches of the Absecon Creek ("SBAC" and "NBAC"), respectively).

##### (ii) Overview of Early Site Investigations

Site-wide investigations to identify contamination began in 1984. At that time, the New Jersey Department of Environmental Protection ("NJDEP") assessed possible sources of pollution that might impact the nine then-proposed municipal drinking water supply wells now located just north of the Upper Reservoir. At the time, the FAA performed "limited field investigations" to assess possible sources of contamination at the Site, and groundwater and soil sampling at key areas. Based on results from these investigations, the municipality installed the wells. However, while the decision to install the wells was not impacted by the type and location of the contaminant found, the tests indicated a need to further investigate the remainder of the Site, which led to the Site being listed on the NPL, making it a "Superfund" site as of August 30, 1990.

According to the 1993 Federal Facilities Agreement ("FFA") for the Site, the FAA retained an environmental consultant—TRC Environmental Consultants—to perform a Remedial Investigation/ Feasibility Study ("RI/FS") for areas of concern that had been identified during the FAA's earlier investigations. At the time of our review, we do not have a complete understanding of how the Site investigations have been performed, and therefore caution that there may be additional AOCs identified in the future. A better understanding of the early investigations would assist with determining the likelihood that additional AOCs may be identified. A more thorough review of the FAA's methodology in performing its investigatory work to identify Site contamination (i.e., to understand what they did and which areas they may have omitted from the studies) is recommended.

(iii) Currently Identified Areas of Concern

There are currently 35 AOCs identified at the Site, 10 of which are located in whole or in part on the land currently owned or leased by the SJTA. These 10 AOCs are broken out below, and additional relevant issues concerning these AOCs have been highlighted for consideration in Section II.B.

- The land currently owned by the SJTA: encompasses all or part of three AOCs, including: (a) AOC L which presently requires no remedial action or monitoring; (b) AOC C, (also overlapping with the land leased by the SJTA) which currently requires no "active remedy," but may require continued groundwater monitoring; and (c) the "Butler Aviation Fuel Farm," an AOC for which additional information is needed to accurately determine its current remedial status.
- The land currently leased by the SJTA: encompasses all or part of seven additional AOCs, including: (a) AOC J which presently requires no remedial action or monitoring; (b) AOCs 56 and C which currently requires no "active remedy," but may require continued groundwater monitoring; (c) AOCs B and D, which are in the active stages of remediation; and (d) AOCs U, 6, and "Skeet Range Double," which have at least somewhat uncertain status based on the information currently available.

(iv) The Site Presents Some Uncertainties Concerning Groundwater Flow Characteristics

The subsurface hydrogeology beneath the Site is complex, and the general flow of groundwater in a southeasterly direction across the Site suggests the possibility that contamination could eventually impact the Atlantic City municipal water supply system. While the situation should continue to be monitored, the EPA has reviewed the hydrogeology of the Site and determined that "all residential areas in the vicinity of FAA appear to be up-gradient of or otherwise isolated from the groundwater flow at the Site," and that the Atlantic City municipal water supply wells, which are not contaminated, "are likely to remain that way because they are isolated from the contaminated groundwater by an area-wide clay layer." While there is no indication of an impact on the water supply, there is some indication that small amounts of

mercury contamination may have impacted the watershed. However, although fish populations have been impacted, the ACOE and Atlantic City are still investigating the extent to which any mercury from the Site, as well as from other regional sources, could potentially impact the drinking water supply, if at all. In preparing this report, we were unable to identify anything to indicate that mercury contamination from the Site is at all impeding use of the municipal drinking water supply. This potential impact might warrant additional inquiry with the proper Atlantic City municipal authorities.

We had insufficient information to adequately evaluate the EPA's conclusions regarding groundwater flow characteristics, the exact nature of the clay layer, and the extent to which the hydrogeology of the Site protects the Atlantic City Municipal Water Supply from future contamination from the current plumes at the Site. More information should be obtained to assess the groundwater flow characteristics beneath the Site.

(v) Administrative Agency Involvement

All remedial activities conducted within the FAA-owned portion of the Site are in part overseen by multiple government entities. At a minimum the EPA and the FAA have some involvement with remedial action at all AOCs, with the possible exception of remedial activities that have previously occurred for the "Butler Aviation Fuel Farm." Then, also depending on the AOC, another tiered relationship may exist between the FAA and the ACOE, or between the FAA and the NJANG.

Our understanding is that at the highest level, under the EPA's guidance and oversight, the FAA retains ultimate responsibility for remediating those portions of the Site owned by the FAA. Once the Site was listed on the NPL, the EPA and the FAA were required to enter into an interagency agreement pursuant to section 120(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601 et seq. That agreement—the 1993 FFA—defines the scope of the relationship between the EPA and the FFA and the general contours for remediating the Site.

The 1993 FFA indicates that the FAA was then contemplating a Memorandum of Agreement ("MOA") with the United States Air Force, on behalf of the NJANG, concerning certain AOCs at the Site. The NJANG is a lessee at the Site, and at this time, based on the documents reviewed, it appears that the federal National Guard Bureau "has taken responsibility for" AOCs 2, 3, 5, and 6. Similarly, the ACOE has undertaken responsibility for certain AOCs at the Site pursuant to the Formerly Used Defense Sites ("FUDS") program. At the moment, while these AOCs appear under investigation, we do not know the status of any remediation on these AOCs. The remedial activities involving AOCs with which the NJANG and the ACOE are involved are discussed in greater detail in Section II.B.

The QED Team recommends obtaining the MOA and any available information concerning the relationship between the FAA and the ACOE. Assessing those documents will provide a better understanding of the scope of the relationship between the FAA, the NJANG, the United States Air Force, the ACOE, and the Site, as well as potential funding sources for expedited site remediation.

(vi) Overview of Potential Liability Considerations Associated with CERCLA, 42 U.S.C. § 9601 et seq.

Much of the potential environmental litigation risk associated with the Site originates with the liability provisions contained in CERCLA. Section 107(a) of CERCLA lists four broad categories of persons as "potentially responsible parties," or "PRPs," who are liable to other persons for various costs. Those four categories of PRPs are defined as follows:

- (1) current owners and operators of a facility from which there has been a release of hazardous substances;
- (2) owners and operators of a facility at the time hazardous substances were disposed of at the facility;
- (3) generators of hazardous substances disposed of at a facility; and
- (4) transporters of waste to a facility. *See* 42 U.S.C. § 9607(a)(1)-(4).

Considering only the preexisting Site contamination, in entering into the transaction, the Port Authority faces the likelihood of becoming a PRP (and therefore at risk of exposure to future CERCLA lawsuits) simply by virtue of assuming a current "owner or operator" position at the Site. Under CERCLA § 107(a), PRPs are strictly, jointly, and severally liable to the government for any and all costs of a remedial action undertaken by the EPA, as well as for damages to natural resources. PRPs can also be held strictly liable for "any necessary response" costs incurred by a third-party other than the EPA that cleans up a contaminated facility. Accordingly, a party that voluntarily cleans up a facility has a right to "cost recovery" from PRPs linked to the contamination that led to the cleanup.

That said, Congress amended CERCLA in 2002 to exempt certain "bona fide prospective purchasers" from incurring liability under CERCLA § 107(a). *See* 42 U.S.C. § 9607(r)(1). As discussed in more detail below, under certain circumstances, this "bona fide prospective purchaser" defense could potentially be available to the Port Authority if it were at some point sued in a CERCLA § 107 action after it acquired an interest in the Site.

A party that is sued by the government for response costs under CERCLA has a right to "contribution" from other PRPs pursuant to CERCLA § 113(f). *See* 42 U.S.C. § 9613(f)(1). Similarly, a party that settles its liability with the government has a right to seek contribution from other PRPs. *See* U.S.C. § 9613(f)(3)(B). Moreover, a party that settles its CERCLA liability with the government is afforded "contribution protection" against contribution claims from other PRPs. *See* U.S.C. § 9613(f)(2). That is, PRPs that do not settle with the government are barred from seeking contribution from PRPs that do. As discussed below, the Port Authority could potentially enter into a settlement with the government and thereby obtain

CERCLA § 113(f) contribution protection against future third-party claims seeking contribution for costs associated with contamination at the Site.

## 2. Overview of Current AOC Remediation and Perceived Contamination "Risk" Status

### (i) Lowest Perceived-Risk AOCs – Findings of "No Action"

At this time, twelve AOCs identified on the Site require no remedial action or monitoring: of these AOCs, eight ( J, N, I, Q, P, H, M, and L) currently have no use restrictions whatsoever, and the remaining four AOCs (27, S, F, and G) may be used for commercial development only. *Only two of these AOCs, L and J, are on land owned or leased by the SJTA, and both are approved for unrestricted use.* Therefore the potentially relevant AOCs in this category are currently compatible with continued use of the Site as an airport.

At this time The QED Team recommends only general follow-up to confirm the current remedial status of these AOCs.

### (ii) Higher Perceived-Risk AOCs

#### a) *AOCs Requiring Only Continued Groundwater Monitoring*

Four AOCs (56, R, A, and C), of which *two (R and C) are located on property currently owned or leased by the SJTA, currently require "no active remedy"* because studies concluded that contaminant concentrations there "do not pose a threat to human health or the environment." However, these four AOCs do require continued groundwater monitoring based on the nature and concentrations of certain contaminants that have been found there. The QED Team recommends acquiring and assessing all groundwater monitoring data obtained for these AOCs, to make a more qualitative assessment of these AOCs and better inform the Port Authority's position for the transaction.

#### b) *AOCs with Ongoing Remediation*

Eight AOCs (D, 20A, 29, K, B, E, V and 41), of which *two (D and B) are located on property leased by the SJTA, present some potential risk based on the fact that their remediation is incomplete.* For several of these AOCs the remedial actions were designed to allow for only future commercial/industrial site use, which means that these AOCs should be compatible with continued use of the Site as an airport.

Additional information concerning the current status of these particular remedial actions should be readily available from the agencies involved with the Site remediation. The QED Team recommends that this additional information be acquired and assessed to place the Port Authority in a better negotiating position.

(iii) AOCs with Somewhat Uncertain Status

- a) *AOCs with remedial activity under the control of either the ACOE or the NJANG—AOCs U, W, Skeet Range Double, AOC 41 Sub-Area, 2, 3, 5, 6*

The remedial activities for at least eight AOCs (Areas U, W, Skeet Range Double, AOC 41 Sub-Area, 2, 3, 5, and 6), of which *four (Area U, Skeet Range Double, and AOC 6) are on property leased by the SJTA, are presently controlled by either the federal National Guard Bureau, or the ACOE*. At the moment, no actual remediation has occurred on any of these sites, although some initial remedial investigation plans were recently filed for certain of the AOCs. The QED Team recommends additional research into how the federal National Guard Bureau's and the ACOE's involvement with certain AOCs might impact (both positively and/or negatively) the Port Authority's position in its negotiations with the FAA, or the United States, more generally, over the Site.

Further investigation into these eight AOCs is needed before we can provide a sufficiently accurate assessment of potential risks associated with them at this time. Although additional investigation will likely provide more information on these areas, several are largely in the early stages of remedial investigation, and it is possible that only limited additional information has been developed. The current uncertainty surrounding these eight AOCs is a potential risk in the transaction. Consequently, until the information gap is filled for these eight AOCs, the Port Authority should assume that they could pose significant environmental risks, in terms of both remediation costs and potential litigation. The latter is a particular concern because AOC U, now under investigation through the FUDS program, includes environmental impacts on the watershed feeding Atlantic City's municipal water supply.

The QED Team recommends obtaining all available information concerning the most updated remedial status for all eight of these AOCs.

- b) *AOCs with Virtually No Information – AOCs O & T*

The QED Team identified very little information describing the nature or status of the contamination that led AOCs O & T to be designated as areas of concern. *Neither of these AOCs is located on the areas owned or leased by the SJTA*. Contamination at AOCs O & T seems to be perceived as low risk by the EPA, given that little appears to have been done to address contamination found at these locations. The QED Team recommends acquiring more information to assess whether AOCs O & T present any more risk than is suggested by their seemingly inactive status.

- c) *Non-FAA AOC – Butler Aviation Fuel Farm*

The QED Team have very little information concerning the "Butler Aviation Fuel Farm." *This fuel farm is located on the property currently owned by the SJTA, and, unlike the AOCs on the property, we believe it is within the regulatory purview of the NJDEP, not the FAA.*

According to the 2010 Master Plan Update, provided by the Port Authority, the former Butler Aviation Fuel Farm is a deactivated underground fuel storage facility located in the southeast corner of the SJTA's property, the SJTA Terminal. Fuel spills at this AOC in the mid-1980s contaminated both the soil and groundwater there. The site has apparently been remediated at this time and groundwater monitoring wells installed; however, we do not have definitive knowledge of its current state. The QED Team recommends obtaining current information from the NJDEP concerning the Butler Aviation Fuel Farm.

## **B. Conservation-Related Environmental Issues at the Site**

In addition to the environmental issues resulting from contamination, the Site is also subject to regulation under various local, state and federal environmental statutes that may require certain steps to be taken prior to development.<sup>3</sup> The Site is located in the Pinelands and is home to a number of endangered or threatened species,<sup>4</sup> leading the Site to be designated by the NJDEP as a "National Heritage Priority Site." Therefore, any development at the Site may require advance negotiations with the Pinelands Commission, the governing body of the Pinelands, and the NJDEP. There is some question regarding whether the Pinelands Commission has jurisdiction over the Port Authority. The QED Team recommends further research to determine if the Pinelands Commission has jurisdiction over the Port Authority due to its bi-state status.

In addition, the presence of the Upland Sandpiper, designated by federal law as a Migratory Bird Species of Conservation Concern and subject to review under Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds, also requires consideration and possible concessions to protect its habitat before implementing any development plans. Because this Executive Order restricts any federal agency action that will adversely affect a listed species, any joint actions with the FAA may activate the protections of the Executive Order.

In addition to the above regulations and designations, the ACY<sup>5</sup> is largely located on federal land, and is therefore subject to the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq. ("NEPA") which requires development of a Final Environmental Impact Statement ("FEIS") to assess whether development activities at the Site will have an adverse impact on the environment. In compliance with NEPA, the FAA commissioned a FEIS in 2003 to gain approval for a series of short-term projects, and to provide some preliminary

---

<sup>3</sup> This report only covers those regulations that are likely to have a significant impact on the Port Authority's future development activities. For greater detail regarding environmental regulations potentially applicable to the Site, please review Chapter 5 of the South Jersey Transportation Authority 2012 ACY Master Plan Update.

<sup>4</sup> Endangered species are those species that are likely to become extinct throughout all or a large portion of their range, and threatened species are those species that are likely to become endangered in the near future.

<sup>5</sup> As discussed above, the airport here refers only to the land currently owned or leased by the SJTA. The Site continues to refer to the 5,000-plus acres that comprise the FAA Technical Center.

assessments regarding the long-term projects that were contemplated by the 1996 Master Plan Update for the Site ("Master Plan"). The FEIS concluded that the proposed short-term projects were consistent with existing national environmental policies and objectives as set forth in Section 101(a) of NEPA. This conclusion was based on the SJTA plan, developed with the Pinelands Commission, to conserve and enhance certain habitats on the property, which would at minimum, compensate for any loss of habitat experienced by any impacted species. This plan was put into place in a 2004 Memorandum of Understanding ("2004 MOU") between SJTA and the Pinelands Commission, establishing a wildlife management and conservation plan on land on the SJTA leased property in exchange for certain development rights at the airport. The 2004 MOU, developed in conjunction with the New Jersey Audubon Society ("NJAS"), established and upgraded some additional habitats for certain of the species on the airport property whose habitats were threatened by the development.

Prior to further upgrades at the Site, the Port Authority may have to enter into additional MOUs with the Pinelands Commission to address both Pinelands-specific issues, and issues related to the various endangered and protected species on the Site. In addition, the Port Authority may have to work with the FAA to update the relevant portions of the 2003 FEIS. Additional concessions may be required to comply with the requirements of NEPA. The Port Authority should also consider working with NJAS to continue to develop the current positive relationship NJAS has with the SJTA. To that end, The QED Team recommends re-engaging the NJAS (as well as other potentially relevant interest groups) at an early stage in any future process to develop environmental mitigation/offsets.

In 2004, the SJTA executed an MOU with the Pinelands Commission to obtain approval for a number of short-term development projects on the airport property, the majority of which have since been completed. In return for these development rights, the SJTA agreed to set aside 124 acres along Route 30 and 238 acres in the northwest portion of the airport as a "Forest Preservation Area" ("Forest") that cannot be developed. In addition, another 290 acres in the northwest portion of the airfield is designated as a "Grassland Conservation and Management Area" ("GCMA") where development activity is also prohibited. The two projects in the northwest portion of the airfield restrict the use of a total of 528 acres of land near the runway; this land is currently leased by SJTA. In addition to these restrictions, the SJTA, in compliance with the FEIS, developed a plan to improve habitats at ACY for certain bird species.

While the establishment of this bird sanctuary at ACY was hailed by the conservationist community as an example of how conservation and development can work together, the FAA has long recognized that the presence of large bird habitats near runways can pose a serious safety hazard to the non-avian air traffic in the area. In the process of re-negotiating the current wildlife management plan at the ACY, the Port Authority should consider proactively developing a comprehensive plan with the Pinelands Commission to cover future development at the ACY, in order to forestall piecemeal demands from the Pinelands Commission as the Port Authority improves ACY.

In sum, this preliminary analysis includes a number of recommendations regarding additional information necessary to complete an environmental assessment for the Site, including both information contained in documents that are known to exist but not currently available to our team, and information that may need to be investigated by an environmental consultant with appropriate expertise. In addition, we have attempted to propose the contours of potential solutions to any barriers to development posed by the major environmental issues identified at the Site. As previously discussed with the Port Authority, the next step in the investigation would require a review of potentially relevant documents at a number of relevant agencies, followed by an update to this analysis informed by the additional information obtained in that review. The Port Authority should also begin to develop a better understanding of which of the many above suggestions will be most feasible in the context of its proposed deal structure to both protect the Port Authority from the costs associated with remediation of the contamination on Site, and to prevent the contamination from impeding the Port Authority's development of the Site. At the same time, we suggest that the Port Authority establish preliminary meetings with the Pinelands Commission to start the dialogue that will help the Port Authority understand what the Pinelands Commission may require for development at ACY to move forward.

## **IX. PENDING LITIGATION AND OTHER LEGAL AND CONTRACTUAL ISSUES**

SJTA counsel has provided a list of all ongoing lawsuits and other legal issues involving ACY. The list includes six pending personal injury slip-and-fall cases involving incidents at the airport, as well as one pending vehicle damage claim. These matters have been submitted to AvPorts' liability insurer, BB&T Insurance Services, and are being handled by counsel retained by BB&T.

The only remaining outstanding legal issue, as indicated by SJTA counsel, involves the renegotiation of the Airport Use and Lease Agreement with SCG Travel, Inc. d/b/a Gold Transportation.

### **A. Labor Issues**

The only union workers employed full-time at ACY are the firefighters attached to the SJTA Fire Department. The department consists of 21 full-time firefighters providing ARFF, EMS, HAZMAT and other services at ACY, including support services to military firefighting and rescue personnel. Of these full-time firefighters, all but one are members of the International Association of Firefighters (IAFF). The fire chief is an employee of SJTA. The IAFF contract expired on December 31, 2011, and negotiations for a new contract are ongoing.

AvPorts' contract with the International Union of Operating Engineers Local 825 is currently being renegotiated.

**B. Title Issues**

The land comprising ACY consists of 28 separately assessed parcels located in three townships. A complete list of the parcels is presented in Table 22. The Port Authority has ordered title searches for all parcels.

<b>Table 22</b>		
<b>LAND PARCELS CONSITUTING ATLANTIC CITY INTERNATIONAL AIRPORT</b>		
<b>Township</b>	<b>Block Number</b>	<b>Lot Number</b>
Egg Harbor	101	1 through 10, 12 through 15 (there is no Lot 11) - includes some adjoining
	201	1 through 3
	202	1 through 4 - includes some adjoiners
Hamilton	1328 or 736	3
	1345 or 1425	20, 21 - the portion of the cemetery that is within Hamilton is Lot 21
	1346 or 1426	1
Galloway	516	13.01
	875.03	1.01, 1.02
Source: Township tax maps, January 2013		

**C. Conclusion: Labor and Title Issues**

The labor contracts in place between the SJTA and firefighters appear standard. The question facing the Port Authority should it become involved with operations at ACY is how these functions and personnel will be reconciled with unions serving the Port Authority airport system.

Potential issues associated with land titles and their potential transfer to the Port Authority are currently under review by Port Authority staff.