

To: Development Services Committee

From: Warren Munro, HBA, RPP, Commissioner,  
Development Services Department

Report Number: DS-22-64

Date of Report: March 2, 2022

Date of Meeting: March 7, 2022

Subject: 1997 Operating and Option Agreement for the Oshawa  
Executive Airport

Ward: Ward 2

File: 12-03

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## **1.0 Purpose**

The purpose of this Report is to respond to Part 4 of Item DS-19-183 as passed by Council October 15, 2019 in response to the Town Hall meeting held on September 24, 2019 held for the purposes of public consultation on the update to the 2015-2019 Airport Business Plan, as follows:

- “4. That staff be directed to prepare an information report outlining the current status of the agreement between Oshawa and the Federal Government and any concerns that staff feel should be addressed prior to initiating discussions with Transport Canada and the Federal Government regarding the terms of the 1997 Operating Agreement for the Oshawa Executive Airport including but not limited to termination dates.”

Attachment 1 is a map of the Oshawa Executive Airport, with various areas of the Airport identified.

Attachment 2 is a copy of the 1997 Operating and Option Agreement for the Oshawa Executive Airport (the “1997 Agreement”) dated March 21, 1997 between the City and the Federal Government. Owing to its size, the report is not attached but can be viewed at the following link:

<https://www.oshawa.ca/business-and-investment/resources/Oshawa-Operating-Options-Agreement.pdf>.

## **2.0 Recommendation**

That the Development Services Committee recommend to City Council:

1. That, pursuant to Report DS-22-64 dated March 2, 2022, the South Field and East Airport Accessible Trail lands as shown on Attachment 1 to said Report be deemed not necessary for the management, maintenance or operation of the Oshawa Executive Airport as an undertaking and as a result, Transport Canada be requested to amend the 1997 Operating and Option Agreement for the Oshawa Executive Airport to remove said lands from the area subject to the agreement.
2. That, pursuant to Report DS-22-64 dated March 2, 2022, the Mayor and Clerk be authorized to sign any necessary agreement required to give effect to Item 1 above.
3. That, pursuant to Report DS-22-64 dated March 2, 2022, staff be authorized, in consultation with the Airport Manager, to advance discussions with the appropriate representatives of the Federal Government with respect to various matters concerning the current framework and terms of the 1997 Operating and Option Agreement for the Oshawa Executive Airport, as generally outlined in Section 5.4 of said Report, and report back to the Development Services Committee on the results of those discussions.

## **3.0 Executive Summary**

Not applicable.

## **4.0 Input From Other Sources**

The following have been consulted in the preparation of this Report:

- Commissioner, Finance Services
- Commissioner, Community Services
- Commissioner, Corporate Services
- City Solicitor
- Airport Manager

## **5.0 Analysis**

### **5.1 Background**

On June 24, 2019, Council considered Item DS-19-129, a report of the Commissioner of Development Services which presented the public consultation plan for the updated Oshawa Executive Airport Business Plan and passed the following resolution:

“That pursuant to Report DS-19-129 dated June 19, 2019, staff proceed with the public consultation plan for the updated Oshawa Executive Airport Business Plan as outlined in Section 5.0 of DS-19-129.”

The Airport Business Plan is a comprehensive document intended to guide actions and the decision-making process at the Airport. Updates to the Airport Business Plan typically involves an extensive consultation process involving the public and stakeholders.

The public consultation plan identified in Report DS-19-129 for the 2020-2024 Oshawa Executive Airport Business Plan update included consultation with the public at a then upcoming town hall meeting planned for September 2019.

On October 15, 2019, City Council considered and adopted the following motion as Item DS-19-183, in response to comments submitted at the Town Hall meeting held on September 24, 2019:

“Whereas on September 24, 2019 the Airport Community Liaison Committee hosted a Town Hall meeting to obtain public input on what should be included or addressed in the 2020-2024 Airport Business Plan; and,

Whereas, approximately 175 people attended the Town Hall meeting which included Oshawa residents, aviation industry representatives and other stakeholders; and,

Whereas, a number of Oshawa residents passionately and clearly expressed significant concerns with airport noise, safety and air quality and, in particular, concerns with the amount of flight training aircraft traffic and the circuit patterns and operating hours of flight training aircraft traffic; and

Whereas, it is extremely important that there be a better balance and respect to the Oshawa residents quality of life while continuing to recognize the economic benefits of the Oshawa Executive Airport;

Therefore, be it resolved:

1. That Development Services staff be directed to review the issues raised at the September 24, 2019 Airport Community Liaison Committee Town Hall meeting and specifically review issues concerning flight training with a view of reducing the amount of flight training aircraft traffic, altering the circuit patterns, addressing hours of operation, addressing noise mitigation opportunities and obtain input from NAV Canada and Transport Canada as appropriate in order to provide better balance and respect of Oshawa residents quality of life; and,
2. That Development Services staff be directed to expand the scope of work related to noise and air quality monitoring to include noise and air quality monitoring in the residential areas surrounding the Oshawa Executive Airport, that the work be advanced consistent with Purchasing By-law 45-2016, and that such funds required for this expanded scope of work come from an appropriate account determined by the Commissioner of Finance/Treasurer; and,
3. The staff be directed to host a series of small workshops (e.g. maximum of 20 participants) with residents, airport businesses and stakeholders to discuss

matters related to a number of questions raised at the Town Hall meeting before any draft Airport Business Plan is presented to Development Services Committee with the number of workshops and their form and content to be the satisfaction of the Commissioner of Development Services; and,

4. That staff be directed to prepare an information report outlining the current status of the agreement between Oshawa and the Federal Government and any concerns that staff feel should be addressed prior to initiating discussions with Transport Canada and the Federal Government regarding the terms of the 1997 Operating Agreement for the Oshawa Executive Airport including but not limited to termination dates; and,
5. That a copy of this resolution be sent to the Prime Minister, the Federal Minister of Transport and all Durham Region M.P.s, Transport Canada and Nav Canada after the October 21, 2019 Federal Election.”

A copy of Item DS-19-183 can be found at the following link:  
[http://app.oshawa.ca/agendas/City\\_Council/2019/10-15/2019-10-15\\_AGENDA\\_Council\\_Regular.pdf](http://app.oshawa.ca/agendas/City_Council/2019/10-15/2019-10-15_AGENDA_Council_Regular.pdf).

On March 29, 2021 pursuant to Report DS-21-44 dated March 3, 2021, Council determined that it is not reasonable to conclude on an Airport Business Plan in 2021 when the current Council will have only one remaining year in its term. Consequently, staff were directed to develop an action plan with a list of action items for the City to advance.

Action 13 of the 2021-2022 Oshawa Executive Airport Action Plan relates to the 1997 Agreement, and was included to address Council’s previous directions pursuant to Part 4 of Item DS-19-183, as noted above. Specifically, this action item involves the preparation of an information report outlining the current status of the 1997 Agreement, with staff to include as part of the report, matters that staff feel should be addressed with respect to the current framework and terms. Accordingly, this Report has been prepared by staff in consultation with the City’s Airport Manager to include matters that staff consider necessary to address with respect to the current framework and terms of the 1997 Agreement, as identified in Sections 5.3 and 5.4 of said Report.

## **5.2 Overview and Current Status of the 1997 Agreement**

In accordance with Council’s direction of March 29, 2021 pursuant to Report DS-21-44, staff developed an Airport Action Plan with a list of 14 items for the City to advance. As noted above, Action 13 included the preparation of an information report outlining the current status of the 1997 Agreement and any concerns that staff feel should be addressed prior to initiating discussions with the Federal Government regarding the terms of the 1997 Agreement.

The Airport Action Plan was endorsed by City Council on June 21, 2021.

In 1997, the Federal Government transferred ownership of the Airport to the City of Oshawa. As part of the transfer, the 1997 Agreement was executed between the Federal

Government and the City of Oshawa (see Attachment 2). The 1997 Agreement specifies the terms under which the City operates the Airport.

As part of the 1997 Agreement, the City is required to operate the Airport until 2047 unless it becomes redundant. The opening of an airport in Pickering could cause the Airport to become redundant. However, in 2008, Oshawa City Council passed a resolution to continue operating the Airport until at least 2033 regardless of the status of an airport in Pickering.

As discussed in Section 5.4 of this Report, the 1997 Agreement also specifies who retains the proceeds of any land sales in the event that the Airport closes, which, based on Council's 2008 commitment, will be no earlier than 2033. Currently, 100% of all land sale proceeds are retained by the City while the Airport is operational provided the proceeds are deposited into the Airport's capital reserve account and contribute to the capital needs of the Airport.

### **5.3 Removal of Certain Lands from the 1997 Agreement**

Currently, the 1997 Agreement provides a mechanism under Section 4.02, "Airport Operator's Ability to Deal with Land and Chattels", that allows lands to be removed from the 1997 Agreement if the land is disposed of during the term of the 1997 Agreement.

After consultation with the City's Airport Manager, staff recommend removing the following lands from the 1997 Agreement (see Attachment 1):

- South Field; and,
- East Airport Accessible Trail lands.

The Airport South Field does not provide any Airport-related function and is physically separated from the operational areas of the Airport (e.g., runways and taxiways) by perimeter security fencing. The South Field hosts a variety of businesses, community organizations and municipal functions that are all unrelated to the Airport. These include the Ontario Regiment Museum, the 420 Wing and Gemini Gymnastics, all of which have leases or licences with the City to use the City-owned land and/or buildings located on the South Field. Municipal functions include Airmen's Park, a soccer field, a long-established community garden, and a training facility used by and rented out by Oshawa Fire Services. The core of the South Field, which contains Airmen's Park, the former Canteen, Stores Building and No. 10 Building, has been recognized by Council as an area of cultural heritage value and interest and was designated in 2021 under Part V of the Ontario Heritage Act, R.S.O. 1990, c. O.18 (the "Ontario Heritage Act") as a Heritage Conservation District.

The East Airport Accessible Trail lands along the eastern limit of the Airport also do not provide any Airport-related function and are outside of the Airport secured area. These lands contain key natural heritage and hydrologic features associated with the Oshawa Creek and form an important component of the City's Natural Heritage System, providing important wildlife habitat and ecological functions.

The City's Active Transportation Master Plan also identifies the East Airport Accessible Trail lands as the site of a future north-south off-road multi-use trail planned to connect the South Field and Somerset Park to the existing boulevard multi-use trail running along the south side of Taunton Road West, north of the Airport.

Notwithstanding Section 4.02 of the 1997 Agreement, staff do not recommend removing the above-noted lands from the 1997 Agreement through a disposal of lands. Instead, it is recommended that the City move forward with removing them from the 1997 Agreement by declaring them not necessary for the management, maintenance or operation of the Airport as an undertaking while retaining ownership for other City purposes. In order to do so, City staff will be formally requesting the removal of the South Field and East Airport Accessible Trail lands from the agreement on the basis that the City's financial contribution to the Airport operating budget totalling \$2.2 million and the City's financial contribution to the Airport capital budget totalling \$7.5 million over the 2017-2021 period far exceed the anticipated value of the above noted lands in accordance with Article 4.02.03 of the 1997 Agreement.

A property survey will be required in order to delineate these lands for the purposes of removing them from the 1997 Agreement, as well as to show and legally describe the area associated with the new NAV Canada Airport control tower. An appraisal will also be required in order to determine the value of the lands proposed to be removed.

It is recommended that the South Field and East Airport Accessible Trail lands be removed from the 1997 Agreement and retained by the City for other municipal purposes for the following key reasons:

- Removing these lands from the 1997 Agreement would not comprise safety and security at the Airport;
- These lands, while Federally-regulated, are surplus to Airport operations and functionality and do not serve any Airport-related need;
- The City already has existing long-term leases and licences with multiple tenants at the South Field;
- The East Airport Accessible Trail lands form a key part of the City's Natural Heritage System associated with the Oshawa Creek and cannot be developed;
- The core area of the South Field is formally recognized as an area of cultural heritage value and interest and is protected under the Ontario Heritage Act as a Heritage Conservation District; and,
- These lands are currently used or planned to be used for multiple municipal functions, including fire training, active and passive recreation (parkland and sports fields), cultural heritage (including the mounted Sabre jet and historical plaques and monuments at Airmen's Park), active transportation trails/connections and community gardening.

Staff note that removal of the South Field and East Airport Accessible Trail lands from the 1997 Agreement requires the consent of the Federal Government.

#### **5.4 Matters Proposed to be Addressed Regarding the 1997 Agreement**

It is appropriate that the Federal Government be requested to implement a number of amendments to the 1997 Agreement. After consultation with the City's Airport Manager, matters that staff consider necessary to address with respect to the current framework and the terms of the 1997 Agreement are identified below:

- Add wording in the "Direct Costs" definition listed under Section 3.01.01 to ensure that lands are restored to a residential standard at the Provincial level.
- Update Sections 3.04.02 and 3.04.03 to increase the thirty (30) days requirement to ninety (90) days, in order to provide for an appropriate timeframe within which to obtain any necessary real estate appraisals.
- In addition, the 1997 Agreement should be revised to appropriately reflect and account for the following:
  - Schedule "C" of the 1997 Agreement specifies how the proceeds of any land sales are to be divided between the Federal Government and the City in the event the Airport closes. The City's portion of any land sale proceeds post-closing are as follows:

Table 1: City's Portion of Any Land Sale Proceeds

<b>Years</b>	<b>Current Percentage of Proceeds</b>	<b>Proposed Percentage of Proceeds</b>
2033 - 2037	28	100
2038 - 2043	42	100
2044 - 2047	65	100
April 1, 2047 and beyond	100	100

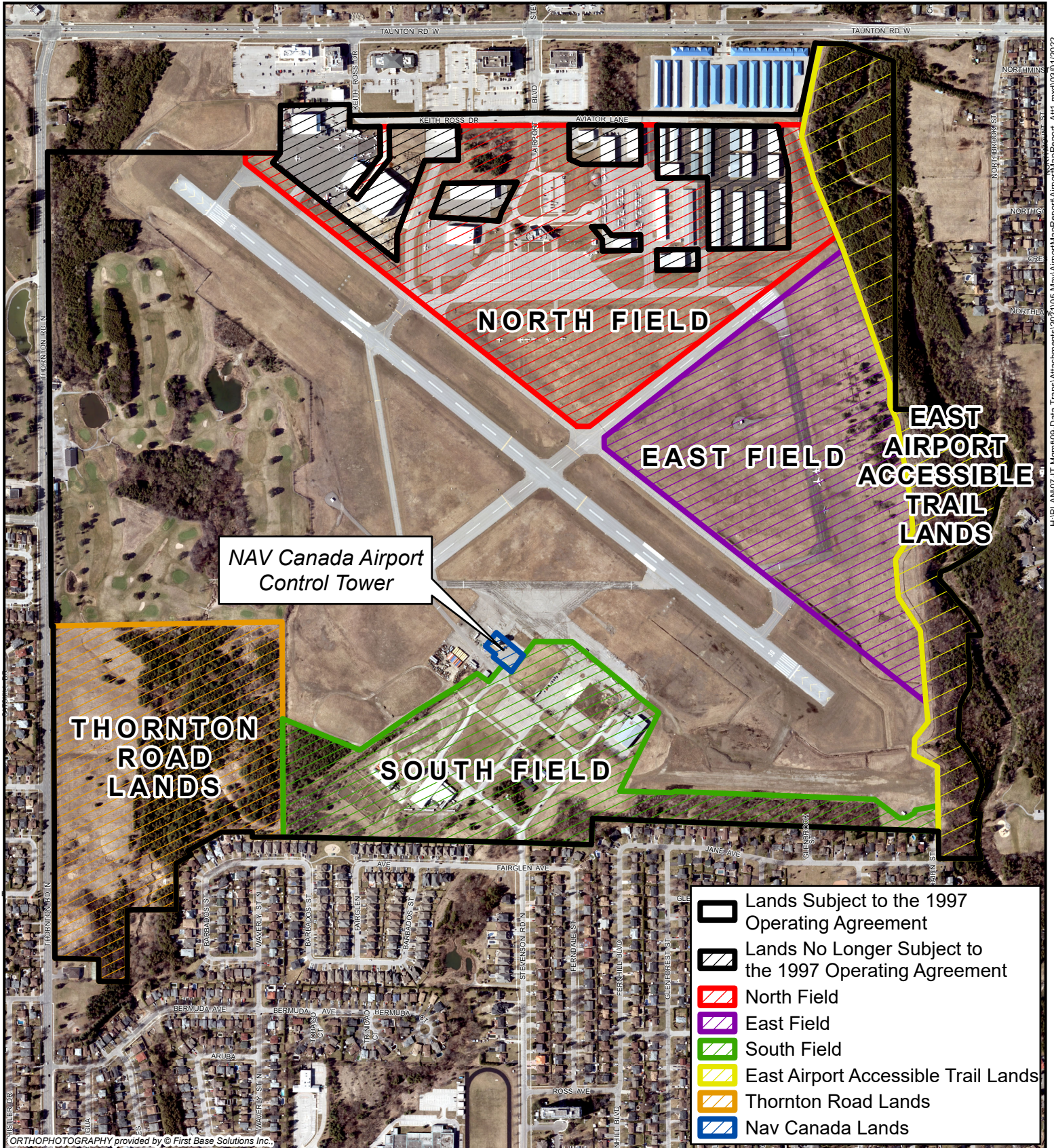
- The City should request an increase in the percentage of the proceeds to which it is entitled under the 1997 Agreement for the period between 2033 and 2047 as set out above. The increased percentages are appropriate given the City's investment in the Airport since 1997 and the anticipated investment going forward.
- The current scale in Schedule "C" of the 1997 Agreement is now 25 years old, and the lack of clarity that still remains with respect to the Pickering Airport issue after a quarter century now puts the City at an unfair disadvantage. The City may desire to invest in improvements to the Airport, but in the absence of having an informed long-term strategy – which is precluded due to the uncertainty associated with Pickering – the City runs the risk of making an investment only to lose it in the event that the Federal Government opens Pickering and Oshawa's Airport becomes redundant.



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City of Oshawa  
Development Services Department





- More control with respect to Airport matters should be provided to City Council. Staff note that the City received numerous enquiries on operational matters related to the Airport that are under Federal control (e.g. zoning, the number and type of flights at the Airport, hours of operation excluding police and medical flights, the issuance of building permits, etc.). It is appropriate that greater control over matters such as these which are not safety-related in terms of Airport operations be down-loaded to the City.

Staff recommend consulting with the appropriate Federal Government staff on these proposed amendments to the 1997 Agreement. If all goes well, staff will next report back to the Development Services Committee with a report containing recommended key terms for an amending agreement to the 1997 Agreement. In the event that challenges or unexpected matters arise, staff will report back to the Development Services Committee to provide an update and, as appropriate, seek direction and/or recommend a further course of action.

## **6.0 Financial Implications**

The estimated cost to remove certain lands from the 1997 Agreement is ±\$8,000 and is primarily related to the cost of a property survey and appraisal of the lands.

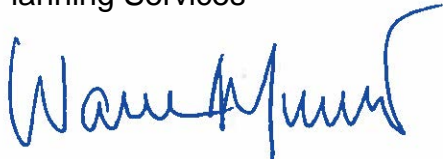
The above-noted costs can be paid from the Airport Operating account.

## **7.0 Relationship to the Oshawa Strategic Plan**

The Recommendations in this Report advance the Economic Prosperity and Financial Stewardship, Environmental Responsibility and Accountable Leadership goals of the Oshawa Strategic Plan.



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