

AMENDMENT 2
TO
BILLINGS LOGAN INTERNATIONAL AIRPORT
SCHEDULED AIRLINE OPERATING AGREEMENT
AND
TERMINAL BUILDING LEASE
BY AND BETWEEN
CITY OF BILLINGS, MONTANA
AND
GREAT LAKES AVIATION, LTD.

W I T N E S S E T H

WHEREAS, the City of Billings, Montana and Great Lakes Aviation, Ltd. entered into the Scheduled Airline Operating Agreement and Terminal Building Lease (the Agreement) for the term commencing February 1, 2009 and ending at midnight on June 30, 2009, and

WHEREAS, on September 14, 2009, the City of Billings, Montana and Great Lakes Aviation, Ltd. entered into Amendment 1 to the Agreement, to extend the term of the Agreement for an additional twelve (12) months, commencing July 1, 2009 and ending at midnight on June 30, 2010, and

WHEREAS, both parties now desire to amend the Agreement to correct typographical errors in section references, update IRS compliance language, update exhibits, update several definitions, and extend the term of the Agreement for an additional twelve (12) months, commencing July 1, 2010 and ending at midnight on June 30, 2011.

NOW THEREFORE, in consideration for the continued payment of Terminal Building rentals, fees and charges, as specified in the Agreement, the parties hereto covenant and agree to amend said Agreement, effective July 1, 2010 as follows:

ARTICLE 1

DEFINITIONS

Section 1.01. Definitions

8. "Airport Revenues" shall mean all rentals, charges, landing fees, and concession and other operating and nonoperating revenues earned by or on behalf of CITY in connection with the operation of the Airport or any part thereof, excluding:
 - a. The proceeds of any passenger facility charge, car rental customer facility charge, or similar charge levied by or on behalf of CITY;
 - b. Any grants, gifts, bequests, contributions, or donations, including any funds provided by any person or entity, including an Air Transportation Company, doing business at the Airport;
 - c. The proceeds from the sale, transfer, or other disposition of title to all or any part of the Airport (such proceeds shall be used for Airport Capital Improvements, the payment of debt service, or in a manner prescribed by the Federal Government). Capital Improvements funded by such proceeds shall be amortized and included in AIRLINE rentals, fees, and charges as specified in Article 7 herein;
 - d. The proceeds of any taxes collected at the Airport;
 - e. The proceeds of any condemnation award or insurance that are to pay for or reimburse the CITY for Capital Improvements;

- f. The proceeds of any court or arbitration award or settlement in lieu thereof received by CITY that are to pay for or reimburse the CITY for Capital Improvements except awards or settlements that are to reimburse the CITY for litigation expenses previously incurred as Maintenance and Operating Expenses;
- g. Revenues or income from any Special Purpose Facility either (1) to the extent such revenue or income is pledged to pay principal, interest, or other charges for Special Purpose Facility Bonds or other obligations issued in anticipation thereof, or (2) to the extent such revenue or income is for the use of CITY in reimbursement of costs incurred by it in the construction or provision of Special Purpose Facilities. Ground rental for these Special Purpose Facilities will be considered part of Airport Revenues;
- h. The proceeds of any Airport Revenue Bonds or other indebtedness of CITY issued in connection with Airport improvements and income from the investment thereof during the period of construction (as established by CITY) used as a source for construction; and
- i. Amounts received by Airport for any loan made by CITY to the Airport for Airport purposes; and
- j. Lease deposits, security deposits, and performance bonds relating to Airport leases, tenants, and contractors; and
- k. Amounts required to be rebated to the Federal Government under the Internal Revenue Code.

10. "Annual Debt Service Requirement" shall mean the total amount required to be deposited in any Fiscal Year to any interest, principal, and sinking fund or reserve accounts for any Airport Revenue Bonds, approved in accordance with Section 5.01 of this Agreement, issued by CITY.
14. "Capital Improvement Program" shall mean the Capital Improvements included in the Airport's capital budget as prepared by the Director, reviewed and approved by the Signatory Airlines in accordance with Section 5.01C of this Agreement, and approved annually by CITY.

ARTICLE 2

TERM

Section 2.01. Term

This Agreement shall be for a term commencing on the Effective Date designated in Section 16.01 and ending at midnight on June 30, 2011, subject to termination as provided in Article 14 herein.

ARTICLE 4

PREMISES

Section 4.02. Aircraft Parking Positions

- A. Aircraft Parking Positions shall be assigned to AIRLINE by the Director, after consultation with AIRLINE, as mutually amended from time to time, on a preferential, nonexclusive use basis. AIRLINE shall have priority in using Aircraft Parking Positions(s) assigned to it on a preferential use basis to accommodate its flights and those of any airline being ground-handled by AIRLINE under a ground-handling agreement; however, the Director may authorize other airlines to use AIRLINE's Aircraft Parking Position(s) in periods

when not scheduled for use by AIRLINE, so long as unassigned position(s) are not available and AIRLINE's Aircraft Parking Position is vacated by others at least forty-five (45) minutes prior to AIRLINE's next scheduled arrival at such gate. In such event, AIRLINE shall have the right to charge reasonable fees for such use of AIRLINE's Aircraft Parking Position, taking into account use of AIRLINE's equipment, facilities or service, including a reasonable administrative fee.

- B. The Director shall have the right to reassign one or more of AIRLINE's preferentially assigned Aircraft Parking Positions and holdrooms to other airlines if AIRLINE's scheduled average gate utilization falls below two (2) flights per gate per day. ~~In such event, AIRLINE is entitled to reimbursement for the mutually agreed upon value of its loading bridge and tenant improvements. In the event the parties don't agree on the value of the loading bridge, the value shall be established by a nationally recognized manufacturer of loading bridges. The value of the tenant improvements shall be the undepreciated book value with depreciation calculated on a straight line basis.~~
- C. Aircraft Parking Position(s) to be preferentially assigned to AIRLINE are designated on revised Exhibit F dated September 2010.

ARTICLE 15

GENERAL PROVISIONS

Section 15.15. Concerning Depreciation and Investment Credit

Neither AIRLINE nor any successor of AIRLINE under this Agreement, may claim depreciation or an investment credit with respect to the Leased Premises under the Internal Revenue Code of 1986, as amended, or any other law, rule or regulation. AIRLINE hereby makes an irrevocable election binding on it and its successors in interest under this Agreement, not to claim such depreciation or

~~investment credit with respect to the Leased Premises, and agrees that it will retain copies of said election in its records and will not claim any such depreciation or investment credit. CITY acknowledges receipt of a copy of said election and agrees that it will retain copies of said election in its records.~~

Section 15.16. Useful Life of the Facility

AIRLINE and CITY agree that the term of this Agreement does not exceed eighty percent (80%) of the reasonably expected economic life of the property or facilities covered by this Agreement. AIRLINE represents and acknowledges that it has no option or right to purchase or acquire any interest in the personal or real property subject to this Agreement.

FURTHER, all other terms and conditions of the Scheduled Airline Operating Agreement and Terminal Building Lease by and between the City of Billings and Great Lakes Aviation, Ltd. commencing on the 1st day of February 2009, and as subsequently amended, remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hand this _____ day of _____ 20____.

ATTEST:

CITY OF BILLINGS

BY _____
CITY CLERK

BY _____
MAYOR

APPROVED AS TO FORM

AIRLINE

BY _____
CITY ATTORNEY

BY _____
GREAT LAKES AVIATION, LTD.