

**BILLINGS LOGAN INTERNATIONAL AIRPORT**

**SCHEDULED AIRLINE OPERATING AGREEMENT  
AND  
TERMINAL BUILDING LEASE**

**BY AND BETWEEN**

**CITY OF BILLINGS, MONTANA**

**AND**

**SUN COUNTRY INC., DBA SUN COUNTRY AIRLINES**

**TABLE OF CONTENTS**

<b>ARTICLE</b>		<b>PAGE</b>
<b>1</b>	<b>DEFINITIONS</b> .....	<b>1</b>
	1.01. Definitions .....	1
<b>2</b>	<b>TERM</b> .....	<b>11</b>
	2.01. Term .....	11
	2.02. Termination of Existing Agreements .....	11
<b>3</b>	<b>RIGHTS AND SPECIFIC PRIVILEGES</b> .....	<b>12</b>
	3.01. Use of the Airport .....	12
	3.02. Specific Rights of AIRLINE at the Airport .....	12
	3.03. Employee Parking Facilities .....	16
	3.04. Limitations on Use by AIRLINE .....	17
	3.05. Reservation of Rights .....	18
<b>4</b>	<b>PREMISES</b> .....	<b>19</b>
	4.01. Terminal Building Space .....	19
	4.02. Aircraft Parking Positions .....	19
	4.03. Surrender of the Premises .....	20
	4.04. Assignment of Leased Premises .....	21
	4.05. Temporary Access .....	22
	4.06. AIRLINE Access to Leased Premises .....	23
<b>5</b>	<b>CAPITAL IMPROVEMENTS</b> .....	<b>25</b>
	5.01. Capital Improvements/Sources of Funding .....	25
<b>6</b>	<b>RENTALS, CHARGES, AND FEES</b> .....	<b>27</b>
	6.01. General .....	27
	6.02. Monthly Activity Report .....	27
	6.03. Terminal Building Space Rentals .....	27
	6.04. Landing Fees .....	28
	6.05. Payment Provisions/Interest on Overdue Amounts .....	28
	6.06. Security Deposits: When Required .....	29
	6.07. Types of Security Deposit .....	30
	6.08. Amount of Security Deposit .....	30
	6.09. Passenger Facility Charge .....	30
	6.10. Records of AIRLINE .....	31
	6.11. Net Agreement .....	31
	6.12. Other Fees and Charges .....	32

**TABLE OF CONTENTS**

<b>ARTICLE</b>		<b>PAGE</b>
<b>7</b>	<b>RECALCULATION OF RENTALS, FEES, AND CHARGES</b> .....	<b>33</b>
	7.01. General.....	33
	7.02. Accounting Records .....	33
	7.03. Coordination Procedures—Budget Review and Calculation of Rentals, Fees, and Charges .....	33
	7.04. Calculation of Terminal Building Rentals .....	34
	7.05. Calculation of the Landing Fee Rate.....	35
	7.06. Extraordinary Adjustments of Rentals, Fees, and Charges.....	37
<b>8</b>	<b>AUTHORIZING LEGISLATION FOR SALE OF BONDS</b> .....	<b>38</b>
	8.01. General.....	38
<b>9</b>	<b>MAINTENANCE, REPAIR, ALTERATIONS, AND IMPROVEMENTS</b> .....	<b>39</b>
	9.01. AIRLINE's Responsibilities .....	39
	9.02. CITY's Responsibilities .....	39
	9.03. CITY's Right to Inspect and Make Repairs .....	40
	9.04. Alterations and Improvements .....	42
<b>10</b>	<b>DAMAGE OR DESTRUCTION OF PREMISES</b> .....	<b>43</b>
	10.01. Damage or Destruction.....	43
<b>11</b>	<b>INSURANCE AND INDEMNIFICATION</b> .....	<b>45</b>
	11.01. Insurance.....	45
	11.02. Indemnification .....	46
	11.03. Nonliability of CITY .....	48
<b>12</b>	<b>ASSIGNMENT OR SUBLEASE</b> .....	<b>49</b>
	12.01. Assignment and Sublease .....	49
	12.02. Ground Support Operations Agreements.....	49
	12.03. Relinquishment of Space.....	50
	12.04. Nonwaiver of Responsibility.....	50
<b>13</b>	<b>DEFAULT</b> .....	<b>51</b>
	13.01. Default.....	51

## TABLE OF CONTENTS

ARTICLE		PAGE
<b>14</b>	<b>TERMINATION</b> .....	<b>52</b>
	14.01. Events Permitting Termination by AIRLINE .....	52
	14.02. Events Permitting Termination by CITY .....	52
	14.03. Termination Without Cause .....	53
<b>15</b>	<b>GENERAL PROVISIONS</b> .....	<b>54</b>
	15.01. Rules and Regulations.....	54
	15.02. Compliance with Law.....	54
	15.03. Nondiscrimination .....	55
	15.04. Granting of More Favorable Terms.....	58
	15.05. Notices .....	59
	15.06. Successors and Assigns Bound .....	59
	15.07. Governing Law .....	59
	15.08. Quiet Enjoyment .....	59
	15.09. Nonliability of Agents and Employees.....	60
	15.10. Prudent Operation .....	60
	15.11. Subordination to Agreements with the U.S. Government.....	60
	15.12. Nonwaiver of Rights .....	61
	15.13. Federal Aviation Act, Section 308.....	61
	15.14. Generally Accepted Accounting Principles .....	61
	15.15. Depreciation and Investment Credit.....	61
	15.16. Useful Life of the Facility.....	61
	15.17. Severability .....	61
	15.18. Headings .....	62
	15.19. Approvals .....	62
	15.20. Governmental Functions.....	62
	15.21. Amendment .....	62
	15.22. Interpretation of Agreement .....	62
	15.23. Attorney Fees .....	62
	15.24. Entire Agreement.....	63
<b>16</b>	<b>DATES AND SIGNATURES</b> .....	<b>64</b>
	16.01. Effective Date .....	64
	16.02. Signatures .....	64

**SCHEDULED AIRLINE OPERATING AGREEMENT  
AND TERMINAL BUILDING LEASE  
BILLINGS LOGAN INTERNATIONAL AIRPORT**

THIS AGREEMENT is made and entered into between the CITY OF BILLINGS, MONTANA, (hereinafter referred to as "CITY") and the Air Transportation Company (hereinafter referred to as "AIRLINE") identified in Section 16.02. of this Agreement. It shall commence on the Effective Date, as defined herein.

**WITNESSETH**

WHEREAS, CITY is the owner of Billings Logan International Airport, and operates the same for the marketing, accommodation and development of air commerce and transportation; and

WHEREAS, the parties desire to enter into an agreement concerning the lease of space at Billings Logan International Airport and AIRLINE's operations at said Airport.

NOW, THEREFORE, in consideration of the covenants and conditions hereinafter contained to be kept and performed by the respective parties, IT IS AGREED AS FOLLOWS:

**ARTICLE 1  
DEFINITIONS**

**Section 1.01. Definitions**

The following words and phrases, wherever used in this Agreement, shall, for the purpose of this Agreement, have the following meanings:

1. "Air Transportation" shall mean the carriage of persons, property, cargo, and/or mail by aircraft including any ancillary services that do not conflict with or violate other agreements or contracts approved by CITY.
2. "Air Transportation Company" shall mean a company certificated by the United States Department of Transportation to engage for hire in the carriage of persons, property, cargo, and/or mail by aircraft.
3. "Aircraft Landing" shall mean any Aircraft Landing at the Airport (including, without limitation, scheduled, charter, sightseeing, test, ferry, training, courtesy, and inspection

flights, or any other flights) operated by an Air Transportation Company. Aircraft Landings shall not include any flight that returns to the Airport because of mechanical, meteorological, or other precautionary reason.

4. "Aircraft Parking Position(s)" shall mean the Aircraft Parking Position(s) adjacent to the Terminal Building that are assigned on a preferential use basis. AIRLINE shall have priority in using the Aircraft Parking Position(s) assigned to it on a preferential use basis to accommodate its scheduled, charter, or extra section flights. However, the Director of Aviation and Transit may assign such position(s) for use by others pursuant to Sections 4.02. and 4.04. Aircraft Parking Position(s) to be assigned initially to AIRLINE are designated in Exhibit F attached hereto.
5. "Airline" shall mean an Air Transportation Company.
6. "Airport" shall mean the presently existing Billings Logan International Airport, as shown in Exhibit A, as it may be modified from time to time to reflect changes in Airport facilities.
7. "Airport Cost Centers" shall mean direct cost areas to be used for purposes of accounting for Airport Revenues and expenses and for calculating and adjusting certain rates, fees, and charges described herein, as shown in Exhibit A, as such areas now exist or may hereafter be modified or developed, as more particularly described below:
  - a. "Airfield" shall mean the airfield and related support facilities at the Airport, including aprons, runways, taxiways, approaches, clear zones, safety areas, perimeter fence and gates, service roads, field maintenance facility, airfield drainage system, and infield areas, together with all associated landing and navigational aids.
  - b. "Other Buildings and Areas" shall mean all buildings and areas of the Airport not included in the other two cost centers, including the parking lot, curbside, roadways, Business Park, and general aviation buildings and areas.
  - c. "Terminal Building" shall mean the existing passenger Terminal Building and associated support facilities, as they now exist or may hereafter be modified or developed.

8. "Airport Revenue Bonds" shall mean any bonds issued by CITY secured by a pledge of the revenues of the Airport, but shall not include any Special Purpose Facility Bonds.
9. "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 and deposited into the Revenue Account, excluding:
  - a. The proceeds of any Passenger Facility Charge (PFC), Customer Facility Charge (CFC), 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 proceeds 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.

- i. Amounts received by Airport for any loan made by CITY to the Airport for Airport purposes.
  - j. Lease deposits, security deposits, and performance bonds relating to Airport leases, tenants, and contractors.
  - k. Amounts required to be rebated to the Federal Government under the Internal Revenue Code.
  - l. Revenue or income from CFCs collected to pay principal, interest, or other charges for Bonds or other obligations issued to construct facilities not used by the Airlines, or to the extent such revenue or income is for the use of CITY to reimburse costs incurred by it in the construction or provisions for constructed facilities. Ground rental for CFC funded improvements will be considered part of Airport Revenues.
10. "Annual Budget" shall mean the Airport's Fiscal Year budget prepared by the Director and approved by CITY, as reviewed by the Signatory Airlines according to the procedures provided herein.
11. "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.
12. "Bond Resolution" shall mean any resolution of CITY regulating or authorizing the issuance of Bonds payable from Airport Revenues, other than Special Purpose Facility Bonds, for Airport purposes, as the same may from time to time be adopted, amended, or supplemented.
13. "Capital Improvement" shall mean:
- a. The acquisition of land or easements.
  - b. The purchase of machinery, equipment, or rolling stock.
  - c. The planning, engineering, design, and construction of new facilities.

- d. The performance of any extraordinary, nonrecurring major maintenance or improvement of facilities that may be acquired, purchased, or constructed by CITY to improve, maintain, or develop the Airport, and in which any single item of any of the foregoing has a (net of grants-in-aid) cost of Fifty Thousand Dollars (\$50,000) or more. A Special Purpose Facility financed with Special Purpose Facility Bonds shall not be considered a Capital Improvement for the purposes of this Agreement.
14. "Capital Improvement Factor" shall mean an amount equal to ten percent (10%) of the Nonairline Revenues contained in each Fiscal Year's Annual Budget. This amount shall be used in the calculation of Signatory Airline landing fees as provided in Section 7.05.
15. "Capital Improvement Program" shall mean the Capital Improvements included in the Airport's Capital Improvement budget as prepared by the Director, reviewed and approved by the Signatory Airlines in accordance with Section 5.01. C. of this Agreement, and approved annually by CITY.
16. "Common Use Formula" shall mean a formula used to pro-rate twenty percent (20%) of the cost of a service or Airport space equally among Air Transportation Companies, and eighty percent (80%) of the cost of a service or Airport space among Air Transportation Companies that provide Scheduled Service on the basis of that proportion that the number of each Air Transportation Company's Enplaned Passengers bears to the total number of Enplaned Passengers of all such Air Transportation Companies using the service or space. The Common Use Formula shall be calculated each month to determine the next month's proration of Common Use Space costs using the previous month's data received from the Air Transportation Companies providing Scheduled Service at the Airport. Common Use Areas are shown on Exhibit D.
17. "Customer Facility Charge (CFC)" shall mean those funds collected from users of specific services offered at the Airport to be used to pay costs of improvements to Airport facilities used and occupied to provide those specific services as established through Ordinance. These collected funds can only be used to pay for the bond issue costs, debt service, and the cost of construction and maintenance of designated facilities.

18. "Director" shall mean the Director of Aviation and Transit or his duly authorized representative designated by CITY to exercise functions with respect to the rights and obligations of CITY under this Agreement.
19. "Effective Date" shall mean the date designated in Section 16.01.
20. "Enplaned Passengers" shall mean any local boarding, interline transfer, or intraline transfer passengers at the Airport.
21. "Execution Date" shall mean the date of the last signature by a party hereto in Section 16.02.
22. "FAA" shall mean the Federal Aviation Administration of the U.S. Government or any Federal agencies succeeding to its jurisdiction.
23. "Fiscal Year" shall mean the twelve (12) months commencing July 1 of any calendar year and extending through June 30 of the succeeding calendar year, or any other period adopted by CITY for its financial accounting.
24. "Ground Support Operations" shall mean the support provided for operations such as ground handling, ticketing, loading and unloading of passengers, baggage, mail and freight, lavatory, potable water, preconditioned air servicing, aircraft cleaning, aircraft marshaling, and emergency or required maintenance.
25. "Ground Support Operations Company" shall mean a company contracted by Airline to provide Ground Support Operations for Airline.
26. "Joint Use Formula" shall mean a formula used to pro-rate 100% of the cost of a service or Airport space among Air Transportation Companies that use such service or lease such space on the basis of that proportion that the number of each Air Transportation Company's Enplaned Passengers bears to the total number of Enplaned Passengers of all such Air Transportation Companies using the service or space. The Joint Use Formula shall be calculated each month to determine the next month's proration of Joint Use Space costs using the previous month's data received from the Air Transportation Companies.

27. "Leased Premises" shall mean the space in and around the Terminal Building leased to AIRLINE under this Agreement, consisting of four categories of space as depicted in Exhibits D and E.
- a. "Exclusive Use Space" – space exclusively leased to AIRLINE.
  - b. "Preferential Use Space" – space leased to AIRLINE for AIRLINE's preferential use.
  - c. "Common Use Space" – space leased to AIRLINE in common with other Air Transportation Companies for which CITY assesses rental charges based on the Common Use Formula.
  - d. "Joint Use Space" – space leased to AIRLINE for AIRLINE's joint use with other Air Transportation Companies for which CITY assesses rental charges based on the Joint Use Formula.
28. "Maintenance and Operating Expenses" shall mean all current expenses of CITY of operating, maintaining, and repairing the Airport. The term includes, without limiting the generality of the foregoing, legal and overhead expenses of the various CITY departments directly related and reasonably allocable to the administration of the Airport, insurance premiums, the charges of any paying agents, and any other depository bank appertaining to the Airport, contractual services, professional services required by the Bond Resolution, salaries and administrative expenses, labor, and the cost of materials and supplies used for current operation, the cost of defending, settling or satisfying any litigation or threatened litigation that relates to the Airport, or any aspect thereof, but shall not include any allowance for depreciation, any charges for the accumulation of reserves for capital replacements, or all interest expense.
29. "Maintenance and Operating Reserve Account" shall mean the account so named and created in accordance with the Bond Resolution, and as of any time an amount equal to one-sixth of the total Maintenance and Operating Expenses for the then most recent Audited Fiscal Year.
30. "Maximum Certificated Gross Landing Weight" shall mean the maximum weight, in thousand (1,000) pound units, that each aircraft is operated by AIRLINE and is certificated by the FAA.

31. "Nonairline Revenues" shall mean all Airport Revenues as defined herein other than Airline rentals, fees, and charges.
32. "Non-Signatory Airlines" shall mean the Air Transportation Companies providing Scheduled Service to and from the Airport that have not executed agreements with CITY substantially similar to this Agreement covering the use and occupancy of facilities at the Airport.
33. "Passenger Facility Charge (PFC)" shall mean the charge assessed to passengers and collected by Airline on behalf of and remitted to CITY for Airport's use in accordance with the requirements of 14 CFR Part 158.
34. "Public Areas" shall mean those Terminal Building areas not leased on an exclusive, preferential, common, or joint use basis, or otherwise, to any person, company, or corporation that are open to the general public. Such areas are shown on Exhibit B.
35. "Rentable Space" shall mean the space in the Terminal Building available for lease to airlines, concessionaires, and other tenants.
36. "Requesting Airline" shall mean an Air Transportation Company desiring to provide new or increased commercial passenger Air Transportation service at the Airport, or to provide a change of aircraft for existing service for which the Scheduled Airline does not have appropriate facilities at the Airport.
37. "Revenue Account" shall mean the account in which all Airport Revenues are required to be deposited, other than any PFC or CFC revenues. In accordance with the Bond Resolution, Airport Revenues shall be allocated to the Maintenance and Operating Account, Debt Service Account, Debt Service Reserve Account, Maintenance and Operating Reserve Account, Subsequent Obligations Account and the Capital Account, in that order. Amounts in the Revenue Account in excess of the requirements of the accounts described hereinabove, shall be retained in the Revenue Account and may be used by CITY for any lawful purpose relating to the Airport, including payment of the costs of additional Capital Improvements.
38. "Rules and Regulations" shall mean those nondiscriminatory rules, regulations, and ordinances promulgated by CITY or the Director for the orderly use of the Airport by Air

Transportation Companies and other tenants, users, guests, and passengers of the Airport as the same may be amended, modified, or supplemented from time to time to the extent that such Rules and Regulations are not inconsistent with the provisions and purposes of this Agreement.

39. "Scheduled Service" shall mean the provision of passenger Air Transportation for hire flying a particular route, at a particular time, on a regular daily, weekly, or seasonal basis and said service will take place regardless of the number of passengers booked for that particular Scheduled Service.
40. "Signatory Airlines" shall mean the Air Transportation Companies providing Scheduled Service to and from the Airport that have executed agreements with CITY substantially similar to this Agreement covering the use and occupancy of facilities at the Airport.
41. "Signatory Airline Affiliate" (Affiliate) shall mean:
- a. Any Air Transportation Company that operates flights under the designator code of the Signatory Airline, as designated to CITY in writing by such Signatory Airline from time to time.
  - b. Any party that operates under essentially the same trade name, or uses essentially the same livery as the Signatory Airline at the Airport.
  - c. Any party controlling, controlled by, or under common control with the Signatory Airline.

Affiliate shall have the rights afforded the Signatory Airline without payment of any additional charges or premiums beyond those rentals, landing fees, and charges set forth herein, provided the Signatory Airline:

- a. Remains signatory to this Agreement.
- b. Agrees and shall be obligated to serve as a financial guarantor for all rentals, landing fees, and charges incurred by any Affiliate of the Signatory Airline at the Airport so long as Affiliate's activity relates to Signatory Airline's operations. A Signatory Airline and any designated Affiliate shall be counted as one airline for the purposes of this Agreement.

42. "Special Purpose Facility" shall mean a Capital Improvement or facility to be located at the Airport, owned or leased by CITY and financed with Special Purpose Facility Bonds.
43. "Special Purpose Facility Bonds" shall mean any debt of CITY that is permitted by, but not issued pursuant to, the terms of the Bond Resolution and which is secured by and payable solely from rentals or other charges derived by CITY under a lease, sale, or other agreement (or any document securing the same) between CITY and the person, firm, or corporation using the Special Purpose Facilities financed therewith.
44. "Total Landed Weight" shall mean the sum of the Maximum Certificated Gross Landing Weight for all of the AIRLINE's Aircraft Landings over a stated period of time.
45. "TSA" shall mean the Transportation Security Administration of the U. S. Government or any Federal agencies succeeding to its jurisdiction.

## **ARTICLE 2**

### **TERM**

#### **Section 2.01. Term**

This Agreement shall be for the term commencing on the Effective Date designated in Section 16.01. and ending at midnight on June 30, 2025, subject to termination as provided in Article 14 herein.

#### **Section 2.02. Termination of Existing Agreements**

Coincident with the Effective Date, the existing lease and agreement with AIRLINE covering the use or occupancy of facilities in the Airfield or Terminal Building shall be terminated, provided that the termination of such lease and agreement shall not be construed as a waiver, relinquishment, or release of any claims, damages, liability, rights of actions, or causes of action that either of the parties hereto may have against the other under such existing lease and agreement and that have accrued before the Effective Date.

**ARTICLE 3**  
**RIGHTS AND SPECIFIC PRIVILEGES**

**Section 3.01. Use of the Airport**

AIRLINE and its employees, passengers, guests, patrons, and invitees shall have the right to the use (in common with other duly authorized users) of the Airport and its appurtenances, together with all facilities, improvements, equipment and services that have been or may hereafter be provided for common use at or in connection with the Airport, subject to the Rules and Regulations as set forth in Section 15.01., and Exhibit H, herein.

**Section 3.02. Specific Rights of AIRLINE at the Airport**

AIRLINE shall have the right, in addition to all rights elsewhere granted in this Agreement, but subject to the Rules and Regulations, and Ordinances of CITY, to use the Airport for the following purposes:

- A. The operation of an Air Transportation system by aircraft for the carriage of persons, property, cargo, and/or mail, including all activities reasonably necessary or related to such operation.
- B. The landing, taking off, flying over, taxiing, pushing, towing, loading, and unloading of aircraft or other equipment operated by AIRLINE and the minor repairing, maintaining, fueling, conditioning, servicing, parking, storing, and testing of aircraft or other equipment of or operated by AIRLINE, or other certificated Air Transportation Companies with which CITY has an agreement, including the right to provide or handle all or part of the operations or services of such other companies (upon notification to the Director), at AIRLINE's preferentially assigned aircraft gates. Flights carrying cargo and freight only shall load and unload at locations and facilities designated by the Director.
- C. The sale of tickets, documentation of shipments, handling of reservations, and the loading and unloading of persons, property, cargo, and mail at the Airport by such motor vehicles or other means of conveyance as AIRLINE may desire to use in the operation of its Air Transportation system. Any AIRLINE operating as a commercial ground transportation carrier or subleasing ground transportation services (except for such ground transportation as AIRLINE may provide solely for the benefit of its employees) regularly transporting persons or their baggage to and from the Airport, shall first secure

and thereafter hold a valid lease, license, or other agreement with CITY for the right to carry persons or their baggage to and from the Airport and shall pay CITY such rentals, fees, and percentages of the fares of such ground transportation commercial carrier for such right, as CITY may set by the Rules and Regulations.

- D. The training at the Airport of persons and testing of aircraft and other equipment, such training and testing to be limited to that incidental to AIRLINE's Air Transportation business at the Airport. Flight training shall be undertaken by AIRLINE only to the extent permitted by, and subject to, the conditions of the Rules and Regulations.
- E. The purchase of AIRLINE's requirements of personal property or services, including fuel, lubricants, foods, beverage, and other passenger supplies, and any other materials and supplies used by AIRLINE from any person or company of AIRLINE's choice, and the making of agreements with any person or company of AIRLINE's choice for services to be performed for AIRLINE that are incidental to the operation of AIRLINE's Air Transportation business. Nothing herein shall restrict CITY from levying a concession fee on any person or company for conducting non-Air Transportation business at the Airport.
- F. The sale, disposal, and exchange of AIRLINE's aircraft, engines, parts, accessories, and other equipment, and materials or supplies, provided that such right shall not be construed as authorizing the conduct of a separate regular business by AIRLINE, but as permitting AIRLINE to perform only such functions as are incidental to the operation of its Air Transportation business at the Airport. If AIRLINE sells fuel, greases, and other lubricants to other aircraft operators, AIRLINE shall pay CITY the regular per gallon flowage fee applicable to similar sales by fixed base operators, and as established in the Rules and Regulations.
- G. The servicing by AIRLINE, or by its suppliers of materials, or its furnishers of services, of aircraft and other equipment operated by AIRLINE, line maintenance, or other materials or supplies, at assigned Aircraft Parking Positions or other locations designated by the Director as required for operational efficiency or safety.
- H. The installation and operation of identifying signs, posters, and graphics on AIRLINE's Leased Premises, subject to the prior written approval of the Director, which shall not be

unreasonably withheld. Such signs shall be substantially uniform in size, type, and location with those of other airlines, consistent with CITY's graphic standards, the Rules and Regulations, and in compliance with all applicable laws and ordinances.

- I. The installation, maintenance, and operation of radio, meteorological, and aerial navigation equipment and facilities at suitable locations on the Airport; provided that:
  1. The location of such equipment and facilities shall be subject to the prior written approval of the Director, which shall not be unreasonably withheld.
  2. The use and location of such equipment and facilities shall not conflict with other similar equipment and facilities on the Airport.
  3. The use and location of such equipment and facilities on the Airport shall be subject to payment of such fee or charge established by CITY for such use of the Airport by AIRLINE.
  
- J. The installation, maintenance, and operation of computer data lines, telephone communications equipment, and associated conduits, and telephone communications switchgear and support computers at suitable locations on the Airport, as may be necessary or convenient in the opinion of AIRLINE for its operations; provided that:
  1. The location of such equipment shall be subject to the prior written approval of the Director, which shall not be unreasonably withheld.
  2. The use and location of such equipment shall not interfere with the use of other similar equipment on the Airport.
  3. The use and location of such equipment on the Airport shall be subject to payment of such fee or charge established by CITY for such use of the Airport by AIRLINE.
  4. Such equipment shall be installed at no cost to CITY.
  
- K. The installation, maintenance, and operation of passenger clubs, lounges, or VIP rooms in AIRLINE's Exclusive Use Space, subject to the approval of the Director and provided that such right shall not be construed as authorizing the conduct of a separate regular business by AIRLINE, but as permitting AIRLINE to perform only such functions as are incidental to the conduct or operation of its Air Transportation business. Said right does

not entitle AIRLINE to sell food or beverage to the general public. CITY reserves the right to review AIRLINE's policies restricting the use of such facility by the general public.

- L. The provision of AIRLINE's ramp and fleet services and like services to other Air Transportation Companies operating at the Airport without charge by CITY; provided, however, that such other companies shall first enter into operating agreements with CITY governing their use of the Airport. If AIRLINE desires to have such services performed by a contractor, AIRLINE shall employ a Ground Support Operations Company possessing a permit from CITY; provided that if all such regular Ground Support Operations Companies are unsatisfactory to AIRLINE, AIRLINE may request CITY to grant a permit to a Ground Support Operations Company designated by AIRLINE. CITY, if it approves such Ground Support Operations Company, will issue a permit to such Ground Support Operations Company under the same terms and conditions included in permits granted to other Ground Support Operations Companies. All Ground Support Operations Companies shall be obligated to observe and follow the Rules and Regulations.
- M. The installation, maintenance, and operation without cost to CITY, by AIRLINE alone, or in conjunction with any other Signatory Airlines at the Airport, or through a nominee, of a reasonable amount of suitable aircraft air conditioning equipment, auxiliary power, startup, and other miscellaneous support equipment. Such aircraft support equipment shall be stored on the apron adjacent to AIRLINE's Aircraft Parking Position(s).
- N. The right to install other equipment incidental to conducting AIRLINE's Air Transportation business at areas designated by the Director subject to prior written permission of the Director, which shall not be unreasonably withheld. AIRLINE's installation shall be in accordance with any applicable codes and performed at no cost to CITY.
- O. The provision of porter services and such other assistance as AIRLINE may deem necessary for the convenience of passengers in checking and transporting baggage at the Terminal Building.
- P. The right to provide Ground Support Operations for all or part of the operations of other Air Transportation Companies operating at the Airport without charge by CITY; provided,

however, that such other companies shall first enter into operating agreements with CITY governing their use of the Airport.

- Q. The right to utilize a Ground Support Operations Company as a contractor to AIRLINE to provide Ground Support Operations as long as said Ground Support Operations Company has a permit from the CITY to operate at the Airport.
- R. The right to use the Airport's FAA approved ground loading device, on a non-exclusive basis, to enable an individual with a disability to board and deplane aircraft from the ground. If AIRLINE elects to utilize aircraft incompatible with the ground loading device provided by the Airport, AIRLINE shall be responsible for providing passenger lifting equipment that complies with Federal law and regulations. Title to the ground loading device is and at all times shall remain with the Airport. The Airport shall maintain the ground loading device in proper working condition. AIRLINE acknowledges the possibility that the ground loading device may be temporarily unusable due to unforeseen failures, mechanical problems or damage, and in the event of such an occurrence, AIRLINE shall have alternative means to comply with the requirements of 14 CFR Part 382 pending the return of the ground loading device to service. AIRLINE agrees that its employees and agents will immediately report any mechanical or other problems with the ground loading device to the Director. AIRLINE also agrees that it will be solely responsible for the cost of repair or replacement of the ground loading device if damage is caused by AIRLINE's employees or agents.

AIRLINE agrees that it is responsible for the proper familiarization, training and safe use of the ground loading device and further agrees that all new personnel shall be properly trained in its use. Should a time occur when AIRLINE desires to be trained by the Airport on how to properly use the ground loading device so that AIRLINE can then properly train its personnel, AIRLINE will contact the Director and request such training. This paragraph supersedes and replaces any previous or existing ground loading device agreement with AIRLINE.

### **Section 3.03. Employee Parking Facilities**

AIRLINE's employees working at the Terminal Building shall have the right to the use of vehicular parking facilities in common with other employees. Such facilities shall be located in an area designated by CITY.

**Section 3.04. Limitations on Use by AIRLINE**

In connection with the exercise of its rights under this Agreement, AIRLINE shall not:

- A. Do or permit to be done anything at or about the Airport that may interfere with the effectiveness or accessibility of the drainage and sewage system, electrical system, air conditioning system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located on or within the premises of the Airport.
- B. Do or permit to be done any act or thing upon the Airport that will invalidate or conflict with any fire or other casualty insurance policies (copies of which, together with premium schedules, shall be furnished to AIRLINE on request) covering the Airport or any part thereof.
- C. Dispose of or permit any other person to dispose of any waste material taken from or products used (whether liquid or solid) with respect to its aircraft into the sanitary or storm sewers at the Airport in violation of Federal, State, or Local law or regulation unless such waste material or products are first properly treated by equipment installed with the approval of the Director for that purpose.
- D. Keep or store, during any twenty-four (24) hour period, flammable liquids within the enclosed portion of the premises in excess of AIRLINE's working requirements during said 24-hour period, except in storage facilities especially constructed for such purposes in accordance with standards established by the National Fire Protection Association, Inc., under its American National Standard. Any such liquids having a flash point of less than one hundred degrees Fahrenheit (100° F) shall be kept and stored in safety containers of a type approved by Underwriters Laboratories.
- E. Knowingly allow or permit any act or thing upon the Airport that will be in conflict with Federal Aviation Regulations (FAR) Part 139 or jeopardize the Airport's operating certificate.
- F. Knowingly allow or permit any act or thing in conflict with the Airport's TSA approved Security Program.

**Section 3.05. Reservation of Rights**

Any and all rights and privileges not granted to AIRLINE by this Agreement are hereby reserved for and to CITY.

## **ARTICLE 4 PREMISES**

### **Section 4.01. Terminal Building Space**

- A. AIRLINE may lease, subject to the provisions of Section 4.03., the following areas in the Terminal Building, as more particularly delineated in Exhibit G as mutually amended from time to time, except for the provisions of Section 4.04.:
1. Exclusive Use Space
    - a. Ticket counter
    - b. Office
    - c. Operations
    - d. Baggage makeup area
  2. Preferential Use Space
    - a. Holdroom areas
  3. Common Use Space
    - a. Baggage Claim area
    - b. Baggage Makeup
  4. Joint Use Space
    - a. Shared Holdroom areas, or other shared areas
- B. AIRLINE shall use its Exclusive Use Space, Preferential Use Space, Common Use Space, and Joint Use Space, subject to the Rules and Regulations, for office purposes and the sale of Air Transportation, handling, ticketing, billing, and manifesting of passengers, baggage, cargo, property, and mail in the conduct of its Air Transportation business or on behalf of any other Air Transportation Company authorized by the Director to use the Airport.

### **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 Position(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 Support Operations 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.

- 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.
- C. Aircraft Parking Position(s) to be preferentially assigned to AIRLINE are designated on Exhibit F.
- D. During any use of AIRLINE's preferentially assigned Aircraft Parking Position(s) by another airline assigned by CITY, AIRLINE shall be relieved of any obligation under this Agreement to indemnify and save harmless CITY, its officers, directors, employees, or agents with regard to any claim for damages or injury arising out of or in connection with said other airline's use of AIRLINE's assigned Aircraft Parking Position, unless said damages or injury are caused by the negligence of AIRLINE, its officers, directors, employees, agents, representatives, or invitees who have come upon the premises in connection with AIRLINE's occupancy. CITY shall, however, require such indemnification from such other airlines.

#### **Section 4.03. Surrender of the Premises**

CITY shall give no notice to AIRLINE to quit possession at the expiration date of the term of this Agreement. AIRLINE covenants and agrees that on expiration of the term of this Agreement, or on earlier termination as hereinafter provided, or on reassignment of the Leased Premises to others as hereinafter provided, it will peaceably surrender possession of the Leased Premises leased hereunder in good condition, reasonable wear and tear, acts of God, fire, and other casualties excepted, and CITY shall have the right to take possession of said Leased Premises.

AIRLINE shall have the right, on termination or expiration of this Agreement and within thirty (30) days thereafter, to remove all trade fixtures, equipment, and other personal property installed or placed by it at its expense in, on, or about the Airport, except that AIRLINE's right shall be subject to any valid lien that CITY may have thereon for unpaid rentals or fees.

AIRLINE shall not abandon any of its personal property and/or equipment on the premises without the prior written consent of the Director.

Any and all property and/or equipment not removed by AIRLINE within the thirty (30) day period shall thereupon, at the option of CITY, become a part of the real property on which it is located, and title thereto shall vest in CITY. All CITY property damaged by, or as the result of, the removal of AIRLINE's property and/or equipment shall be restored by AIRLINE, at its own expense, to the condition existing prior to such damage.

#### **Section 4.04. Assignment of Leased Premises**

A. It is recognized that, from time to time during the term of this Agreement, it may become necessary to reassign, reallocate, or relocate part or all of the Leased Premises referred to in Sections 4.01. A. and 4.02. A. The Director may only make such reassignment, reallocation, or relocation for the following reasons:

1. To comply with a rule, regulation, or order of any Federal, State, or other governmental agency that has jurisdiction over CITY.
2. To implement a Capital Improvement at the Airport.
3. To maximize Terminal Building utilization.
4. To comply with Section 4.02. B. of this Agreement.
5. To comply with Section 4.05. of this Agreement.

B. If it becomes necessary to make adjustments in AIRLINE's Exclusive or Preferential Use Space, the Director shall arrange for all parties holding affected space to discuss reassignment, reallocation, or relocation of their space among themselves. If the parties do not reach agreement within sixty (60) days from the time the Director requests such discussions, the Director is authorized to make such decisions regarding reassignment, reallocation, or relocation for each of the parties (including AIRLINE). If the Director makes decisions regarding reassignment, reallocation, or relocation of AIRLINE's Leased Premises, AIRLINE shall not be required to:

1. Incur any expense to relocate its operation to other premises that it does not agree to incur.
2. Accept premises not reasonably adequate in size, finish, and location based upon conditions at the Airport.

3. Pay, at its new location, rental rates per square foot in excess of the amount that it would have been required to pay in its original Leased Premises.
- C. If CITY decides to reassign, reallocate, or relocate AIRLINE's Leased Premises after failure of the affected parties to reach agreement within the sixty (60) day period described above, the Director will give AIRLINE sixty (60) days notice of its intent to modify all or portions of AIRLINE's Leased Premises. Within thirty (30) days, AIRLINE will be given an opportunity to meet with the Director to show cause why the reassignment, reallocation, or relocation should not be made.

If the Director elects to proceed with the reassignment, reallocation, or relocation after meeting with AIRLINE, CITY shall:

1. Reimburse AIRLINE the undepreciated book value of improvements in the space vacated. Depreciation shall be calculated on a straight line basis.
2. Provide space reasonably required for the conduct of AIRLINE's Air Transportation business, in a timeframe that is mutually acceptable to AIRLINE and CITY, for which the cost of necessary improvements shall be the responsibility of CITY.

#### **Section 4.05. Temporary Access**

- A. AIRLINE shall have the priority right to use its preferential space. However, the CITY or an Air Transportation Company shall have access to AIRLINE's preferential space as provided in Section 4.02. and at any time AIRLINE is not occupying said preferential space.
- B. In the event the CITY cannot accommodate a Requesting Airline in areas not then leased to other airlines or other Terminal Building tenants, AIRLINE agrees to cooperate with the CITY to accommodate the needs of a Requesting Airline on an interim basis. For the purposes of this Section 4.05. B., access shall not exceed six (6) months for any particular accommodation for a Requesting Airline. Prior to designating any portion of AIRLINE Exclusive Space for interim accommodation, the CITY shall consider, to the extent conveyed by AIRLINE to the CITY, whether the access is prohibited by other agreements of AIRLINE and the potential effect of interim accommodation on AIRLINE's scheduling, operations, labor, safety, security and other requirements. Such temporary use shall be at times when the use of such facilities will not unreasonably interfere with

the planned operations of AIRLINE, its sublessees, or other airlines being handled by AIRLINE.

- C. Upon the CITY's compliance with Section 4.05. B. and upon the CITY's request, AIRLINE shall permit the temporary access by such Requesting Airline of its Exclusive Use Space and other portions of its facilities reasonably necessary to accommodate Requesting Airline, in connection with the loading and unloading of the Requesting Airline's persons, property, cargo, and mail. The CITY shall provide AIRLINE with as much advance notice as reasonably possible so that AIRLINE may plan for the accommodation of the Requesting Airline, but in no event less than thirty (30) days notice.
- D. In the event AIRLINE is required to provide temporary access pursuant to Section 4.05. B., AIRLINE shall have the right to charge Requesting Airline a reasonable fee for such use of AIRLINE's premises and facilities, including a reasonable administrative fee, and AIRLINE shall also be entitled to indemnification by such Requesting Airline and the benefit of insurance coverage, in each case at least equivalent to that provided by Requesting Airline to CITY.
- E. In the event that Requesting Airline requires access after expiration of the six (6) month temporary access period and it is necessary to reassign, reallocate, or relocate existing Leased Premises in order to provide such access, then the parties shall proceed in accordance with Section 4.04. of this Agreement.

**Section 4.06. AIRLINE Access to Leased Premises**

- A. Subject to the provisions hereof, the Rules and Regulations, the Federal Security Regulations, and such restrictions as AIRLINE may impose with respect to its Exclusive Use Space, CITY hereby grants to AIRLINE, its agents, suppliers, employees, contractors, passengers, guests, and invitees, the right and privilege of access, ingress, and egress to the Leased Premises and to Public Areas and public facilities of the Airport.
- B. The ingress and egress provided for in Section 4.06. A. shall not be used, enjoyed, or extended to any person engaging in any activity or performing any act or furnishing any

service for or on behalf of AIRLINE that AIRLINE is not authorized to engage in or perform under the provisions hereof unless expressly authorized by the Director.

- C. CITY shall have the right at any time or times to close, relocate, reconstruct, change, alter, or modify any such means of access provided for AIRLINE's use pursuant to this Agreement or otherwise, either temporarily or permanently, provided that reasonable notice to AIRLINE is given and a reasonably comparable means of access, ingress and egress is provided in lieu thereof. CITY shall suffer no liability by reason thereof, and such action shall in no way alter or affect any of AIRLINE's obligations under this Agreement.

**ARTICLE 5**  
**CAPITAL IMPROVEMENTS**

**Section 5.01. Capital Improvements/Sources of Funding**

From time to time during the term of this Agreement, CITY may undertake Capital Improvements. CITY shall use its best efforts to obtain Federal and State grants-in-aid for such Capital Improvements. The balance of funds required for such Capital Improvements shall be provided, at CITY's discretion, from:

1. The Capital Improvement Account (as defined in Section 5.01. B.), and/or
  2. The net proceeds of Airport Revenue Bonds, subject to the provisions of this Section 5.01. as set forth below, and/or
  3. Any other funds legally available to CITY.
- A. **Coordination Procedures.** As part of the Annual Budgeting process described in Section 7.03. hereof, or at such other time during a given Fiscal Year as circumstances may warrant, CITY shall notify the Signatory Airlines in writing of its intent to undertake Capital Improvements. Such notice shall include a general description of the proposed Capital Improvements; general information regarding the need for and benefits to be derived from the Capital Improvements; cost estimates; and the source of financing to be used. If requested by the Signatory Airlines, CITY shall convene a meeting to discuss its plans regarding such Capital Improvements, and attain Signatory Airline concurrence as required by Section 5.01. C. hereof.
- B. **Capital Improvement Account.** CITY shall establish a Capital Improvement Account for the deposit of allocated Airport Revenues required to fund CITY's Annual Budgeted Airport Capital Improvement Program for each Fiscal Year. Amortization of Capital Improvements funded from the Capital Improvement Account will be included in the recalculation of rentals, fees, and charges as set forth in Article 7.

If, at the end of any Fiscal Year, the unencumbered or uncommitted amount on deposit in the Capital Improvement Account exceeds the total of deposits to that account for the two preceding Fiscal Years, that excess shall be a credit in the calculation of airline rates and charges for the upcoming Fiscal Year.

- C. **AIRLINE Approvals of Capital Improvements.** The CITY shall fund annually, at its discretion, all Capital Improvements for which it receives FAA grants-in-aid under the Federal Airport Improvement Program or a successor program or funded with any future PFCs as permitted by law, or funded with CFCs. The CITY shall also fund annually, at its discretion, Capital Improvements totaling Five Hundred Thousand Dollars (\$500,000) from the Capital Improvement Account.

Capital Improvements not funded, in part, by FAA grants-in-aid, or PFCs or CFCs and not included in the CITY's \$500,000 discretionary amount shall require the concurrence of the Signatory Airlines. Concurrence shall be deemed to have been received unless, within thirty (30) days of the meeting requested by Signatory Airlines as provided in Section 5.01. A. (or within sixty (60) days of the original notice, should the meeting not take place for whatever reason), concurrence is specifically withheld, in writing, with explanation by each of the number of Signatory Airlines representing both 51% of the Signatory Airlines and 51% of the total amount of the rental fees and charges paid to the CITY by all Signatory Airlines in the immediately preceding six (6) month period.

- D. **Exceptions.** Even if concurrence is initially withheld on any proposed Capital Improvement, CITY may include the cost of such Capital Improvement in that Fiscal Year's calculation of Signatory Airline rentals, fees, and charges, if such Capital Improvement is necessary or prudent to:

1. Ensure compliance with a rule, regulation, or order of any Federal, State, or Local governmental agency (excluding CITY) that has jurisdiction over the operation of the Airport.
2. Maintain, operate, or create Airport functional capability at a level that is required
  - a. For public health, safety, or welfare, or
  - b. For the security of the Bonds.
3. Satisfy judgments against Airport rendered by a court of competent jurisdiction.
4. Repair casualty damage net of insurance proceeds to Airport property.
5. Acquire land to preserve and protect the Airport or to mitigate noise effects.

## **ARTICLE 6**

### **RENTALS, CHARGES, AND FEES**

#### **Section 6.01. General**

In return for use of the premises and facilities, and the rights, licenses, and privileges granted hereunder and for the undertakings of CITY, AIRLINE agrees to pay CITY during the term of this Agreement, without notice or demand and without deduction or set-off, all applicable rentals, fees, and charges as set forth herein during the term of this Agreement.

#### **Section 6.02. Monthly Activity Report**

- A. AIRLINE shall furnish to CITY on or before the tenth (10th) day of each month, an accurate report, in a format to be provided by CITY, of AIRLINE's operations at the Airport during the preceding month. Said report shall include, but shall not be limited to:
1. AIRLINE's total number of Aircraft Landings for the month by type of aircraft, the Maximum Certificated Gross Landing Weight of each aircraft, and the Total Landed Weight for the month.
  2. The total number of enplaning and deplaning passengers for the month.
  3. The tonnage of cargo.
  4. Freight.
  5. Mail.
- B. If AIRLINE fails to furnish CITY with the report required by Section 6.02. A., AIRLINE's landing fee, as provided for hereinafter, shall be determined by assuming that AIRLINE's Total Landed Weight for such month was one hundred percent (100%) of its Total Landed Weight during the most recent month for which such data is available for AIRLINE. Any necessary adjustment in such landing fee shall be calculated after an accurate report is delivered to CITY by AIRLINE for the month in question. Resulting surpluses or deficits shall be applied as credits or charges to the appropriate invoices in the next succeeding month.

#### **Section 6.03. Terminal Building Space Rentals**

AIRLINE shall pay to CITY for its Exclusive Use Space, Preferential Use Space, Common Use Space, and Joint Use Space in the Terminal Building, as set forth in Section 7.04., monthly rentals based on annual rental rates, with such rates to be calculated each Fiscal Year as set

forth in Section 7.04. Exhibit E sets forth AIRLINE's Leased Premises. Exhibit G sets forth an illustration of annual Terminal Building rentals of all Air Transportation Companies.

Rentals for Common Use Space shall be prorated among all Air Transportation Companies utilizing the Terminal Building according to the Common Use Formula, which shall be calculated each month to determine the next month's proration of Common Use Space costs using the previous month's data supplied by the Air Transportation Companies utilizing the Terminal Building. However, if a new airline begins service at the Airport or if an airline ceases serving the Airport, the proration of Common Use Space costs will be redetermined by CITY in consultation with the Signatory Airlines to take into account any such change in service. Such a redetermination shall not affect AIRLINE's obligation to pay its equal share of Common Use Space rentals comprised of the 20% of the total Common Use Space rentals divided by the remaining number of airlines (excluding Signatory Airline Affiliates).

Rentals for Joint Use Space shall be prorated among joint use tenants according to the Joint Use Formula.

#### **Section 6.04. Landing Fees**

AIRLINE shall pay CITY monthly landing fees to be determined by multiplying the number of thousand (1,000) pound units of Total Landed Weight for AIRLINE during the month by the then current Landing Fee Rate established pursuant to Section 7.05. hereof.

#### **Section 6.05. Payment Provisions/Interest on Overdue Amounts**

- A. Terminal Building space rentals shall be due and payable in equal monthly installments in advance on or before the first business day of each month and shall be subject to adjustment as provided in Article 7.
- B. Upon receipt of AIRLINE's Monthly Activity Report submitted to CITY as provided in Section 6.02., CITY shall transmit to AIRLINE an invoice for the amount of landing fees incurred by AIRLINE during said month, as computed by CITY. The acceptance by CITY of any payment made by AIRLINE shall not preclude CITY from verifying the accuracy of AIRLINE's report and computations or from recovering any additional payment actually due from AIRLINE. Within thirty (30) days from the last day of the preceding month, AIRLINE shall pay its total landing fees for that preceding month to CITY.

- C. Any payment not received by the due date shall accrue interest at the rate of one-and-one-half percent (1.5%) per month from the due date until paid in full.

**Section 6.06. Security Deposits: When Required**

- A. To provide security for the rentals, fees, and charges due hereunder, AIRLINE shall provide the security specified in Sections 6.07. and 6.08., unless the CITY determines that AIRLINE qualifies for relief from such requirement as set forth in this Section 6.06.:

1. No security for payment shall be required if AIRLINE:
  - a. Has provided regularly scheduled passenger flights to and from the Airport for the eighteen (18) months prior to the Effective Date of this Agreement (or the date of any assignment permitted pursuant to Section 12.01.).
  - b. Has not been delinquent with respect to the payment of any and all rentals, fees, and charges payable by AIRLINE to the CITY during said period.
2. No security for payment shall be required if, after procuring the security required by Section 6.07. for a period of eighteen (18) consecutive months during which period AIRLINE has provided regular passenger service to and from the Airport, AIRLINE commits no event of default under Section 13.01.
3. No security for payment shall be required of AIRLINE if it has not provided regular passenger service to and from the Airport for a period of eighteen (18) months prior to the Effective Date of this Agreement (or the date of any assignment permitted by Section 12.01.), if the CITY determines that
  - a. AIRLINE has provided such service to at least eight (8) other airports in the United States for said eighteen (18) months.
  - b. AIRLINE has not been delinquent in payment of rentals, fees, and charges at any such other airports.

It is the burden of AIRLINE to prove to the CITY's satisfaction that it is not required to provide security pursuant to this Section 6.06. A. 3.

- B. If AIRLINE shall commit an event of default under Section 13.01., the CITY shall have the right, by written notice to AIRLINE, to impose or re-impose the security requirements of Section 6.06. A. In such event, AIRLINE shall provide the CITY with the required security and shall thereafter maintain such security in effect until it complies with the

provisions of Section 6.06. A. 2. The CITY shall have the right to re-impose the requirements of Section 6.06. A. each time AIRLINE commits such an event of default during the term of this Agreement. The CITY's rights under this Section 6.06. B. shall be in addition to all other rights and remedies provided to the CITY under this Agreement or by law.

### **Section 6.07. Types of Security Deposit**

- A. When required by Section 6.06. to provide security for the rentals, fees, and charges due hereunder, AIRLINE shall comply with any one of the following three (3) options within thirty (30) days following the Effective Date of this Agreement, or the CITY's notice pursuant to Section 6.06. B.
1. Post with the CITY a surety bond, to be maintained for the eighteen (18) month period referred to in Section 6.06. A. Such bond shall be issued by a surety company acceptable to the CITY and authorized to do business in the State of Montana, and shall be in a form and content satisfactory to the CITY.
  2. Deliver to the CITY an irrevocable letter of credit drawn in favor of the CITY upon a bank which is satisfactory to the CITY, and which is authorized to do business in the State of Montana. Said letter of credit shall be kept in force for the eighteen (18) month period referred to in Section 6.06. A. and shall be in a form and content satisfactory to the CITY.
  3. Provide such other security as the CITY may elect to accept, using the standards of a prudent bank, as an alternative to that specified in Section 6.07. A. 1. and 2.
- B. For purposes of this Section 6.07., any surety bond or letter of credit shall be conditioned on the satisfactory performance of all terms, conditions, and covenants contained herein with respect to rentals, fees, and charges during the term of this Agreement.

### **Section 6.08. Amount of Security Deposit**

The amount of security required by Section 6.07. shall be an amount equal to three (3) months' average rentals on Airline Premises and landing fees, all as reasonably estimated by the CITY.

### **Section 6.09. Passenger Facility Charge**

- A. CITY shall have the right to assess airline passengers a PFC for the use of the Airport in accordance with the requirements of 14 CFR Part 158. AIRLINE shall collect on behalf

of and remit to CITY any such charges in accordance with the requirements of 14 CFR Part 158. Any charges collected by the AIRLINE shall, pending remittance to CITY, be held in trust for the CITY, to be utilized for the benefit of CITY. CITY shall have the right to use all such PFCs collected in any lawful manner.

- B. AIRLINE and CITY shall be bound by and shall observe all of the provisions of 14 CFR Part 158 as they apply to either or both parties.
- C. If the term remaining on this Agreement is five (5) years or more or any extension of this Agreement makes its term five (5) years or more, this Agreement shall not apply to any part of the Airport funded in whole or in part with PFC revenue and exclusively leased to a Signatory Airline. All such parts of the Airport funded with PFC revenue that are exclusively leased or used by AIRLINE shall be subject to a separate agreement of less than five (5) years in length.
- D. If AIRLINE fails to remit PFC revenue to the CITY within the time limits established by Federal Regulation, AIRLINE shall be deemed to be in default pursuant to Section 13.01.

#### **Section 6.10. Records of AIRLINE**

AIRLINE shall keep and maintain a complete and adequate set of records of all the landing weights as defined herein, for the use of the Airport and payment of fees required under this Agreement for three (3) years, and shall make such records available within thirty (30) days from the date AIRLINE receives a written request from CITY for inspection by CITY or its authorized representative at any reasonable time.

#### **Section 6.11. Net Agreement**

This is a net Agreement with reference to rentals, fees, and charges paid to CITY. AIRLINE shall pay all taxes or license fees of whatever character that may be lawfully levied, assessed, or charged by any governmental entity other than CITY upon the property, real and personal, occupied, used, or owned by AIRLINE, or upon the rights of AIRLINE to occupy and use the premises and emolument received hereby, or upon AIRLINE's improvements, fixtures, equipment, or other property thereon, or upon AIRLINE's rights or operations hereunder. AIRLINE shall have the right at its sole cost and expense to contest the amount or validity of any tax or license as may have been or may be levied, assessed, or charged.

**Section 6.12. Other Fees and Charges**

Except as expressly provided for herein, no further rentals, fees, or charges shall be levied against or collected from AIRLINE, its passengers, shippers, and receivers of freight and express, nor its suppliers of material, contractors, or furnishers of services, by CITY for the premises, facilities, rights, licenses, and privileges granted to AIRLINE under this Agreement. However, CITY expressly reserves the right to assess and collect reasonable fees for inflight catering, vending, ground transportation, and other services provided:

1. By AIRLINE for another Air Transportation Company (other than a Signatory Airline Affiliate).
2. For AIRLINE by other concessionaires and operators (other than a Signatory Airline Affiliate), if such services are provided in competition with concessionaires and operators operating under an agreement with CITY.

The CITY shall not have the right to assess or collect a fee for ground handling or emergency services provided:

1. By AIRLINE or its Signatory Airline Affiliate for another Air Transportation Company.
2. For AIRLINE by another Signatory Airline or a Signatory Airline Affiliate.

Anything in this Agreement to the contrary notwithstanding, this section shall not be interpreted or understood as contracting away CITY's governmental authority.

**ARTICLE 7**  
**RECALCULATION OF RENTALS, FEES, AND CHARGES**

**Section 7.01. General**

Rentals, fees, and charges will be reviewed and recalculated annually based on the principles and procedures set forth in this Article 7, to be effective July 1 of each Fiscal Year.

**Section 7.02. Accounting Records**

A. As soon as practicable following the execution of this Agreement, CITY shall establish, and thereafter maintain, accounting records documenting the following items allocable to each Airport Cost Center:

1. Airport Revenues.
2. Maintenance and Operating Expenses.
3. Annual Debt Service Requirement.
4. Amortization of the cost of Capital Improvements financed by CITY from other than Airport Revenue Bonds or grants-in-aid.
5. Any annual funding requirements pursuant to the applicable Bond Resolution(s).
6. Any other costs, which may be included in the calculation of airline rentals, fees, and charges under the terms of this Agreement.

B. For purposes of keeping AIRLINE informed as to the financial performance of the Airport, CITY shall provide to AIRLINE its Annual Budget and, at AIRLINE's request, audited financial statements as well as any supplemental Airport financial data required to assess the adequacy of rentals, fees, and charges established under this Agreement.

**Section 7.03. Coordination Procedures—Budget Review and Calculation of Rentals, Fees, and Charges**

A. At least ninety (90) days prior to the beginning of each Fiscal Year, and at the request of CITY, AIRLINE shall submit to CITY, in writing, its Maximum Certificated Gross Landing Weight projected for that Fiscal Year. At least sixty (60) days prior to the beginning of each Fiscal Year, CITY shall submit to AIRLINE the following reports:

1. CITY's proposed Annual Budget and Capital Improvement Program for the next Fiscal Year, including all estimated Airport Revenues; Maintenance and Operating Expenses; Annual Debt Service Requirement; and proposed expenditures for Capital Improvements.
  2. CITY's calculation of proposed Signatory Airline rentals, fees, and charges for the Fiscal Year, based on the proposed Annual Budget and the procedures set forth in this Agreement.
- B. Upon request of CITY or the Signatory Airlines, a meeting will be held between the Director and the Signatory Airlines to discuss the proposed Annual Budget and the calculation of Signatory Airline rentals, fees, and charges. CITY shall give full and reasonable consideration to any comments and suggestions of AIRLINE, but shall retain full authority to make all final decisions, regarding the proposed Annual Budget and the calculations of rentals, fees, and charges, except as provided in Section 5.01. herein.
- C. CITY shall adopt an Annual Budget and Capital Improvement Program that may include revisions made as a result of:
1. CITY's discussions with the Signatory Airlines.
  2. CITY's budgetary review process.
  3. AIRLINE's approval process as provided in Section 5.01. herein.

CITY shall promptly furnish AIRLINE with a copy of such adopted Annual Budget and Capital Improvement Program, together with the calculation of rentals, fees, and charges that will become effective as of the first day of the Fiscal Year.

#### **Section 7.04. Calculation of Terminal Building Rentals**

Terminal Building rental rates shall be calculated in the following manner, as illustrated in Exhibit G.

- A. CITY's estimated Terminal Building Cost for the Fiscal Year shall be calculated by totaling the following amounts:
1. The total estimated direct and allocated indirect Maintenance and Operating Expenses allocable to the Terminal Building.

2. An amount equal to one hundred and twenty-five percent (125%) of the Annual Debt Service Requirement on Airport Revenue Bonds allocable to the Terminal Building.
  3. An amount equal to the annual principal and interest due on subordinated debt allocable to the Terminal Building.
  4. The estimated annual amortization of the cost of CITY assets allocable to the Terminal Building and financed by CITY from sources other than Airport Revenue Bonds, PFCs, CFCs, or grants-in-aid. Such annual amortization shall be calculated at an interest rate of seven percent (7%) for thirty (30) years.
  5. An amount equal to the deposit to the Maintenance and Operating Reserve Account allocable to the Terminal Building.
  6. Any other cost or expense directly related to the Terminal Building.
  7. Any estimated credit or deficit allocable to the Terminal Building resulting from an excess or shortfall in revenues or expenses during the current Fiscal Year, or resulting from the variance between estimated and actual revenues and expenses used in calculating Terminal Building rentals.
- B. The net estimated Terminal Building Cost for the succeeding Fiscal Year shall be calculated by crediting Nonairline Terminal Building Revenues, as set forth in the Annual Budget, to the estimated Terminal Building Cost calculated pursuant to Section 7.04. A.
- C. The estimated Terminal Building Cost for the Fiscal Year will then be divided by the total amount of Rentable Space to determine the average Terminal Building rental rate per square foot.

**Section 7.05. Calculation of the Landing Fee Rate**

Landing fee rate per 1,000-pound unit of total Maximum Certificated Gross Landing Weight shall be calculated annually. Whenever the adjustment calculation involves an estimate, the estimate of CITY shall be used and shall be based on past performance and future expectations.

- A. Each year CITY shall calculate the Airport Cost for the succeeding Fiscal Year by totaling the following amounts:
1. The total of estimated direct and indirect Maintenance and Operating Expenses of the Airport.

2. An amount equal to one hundred and twenty-five percent (125%) of the Annual Debt Service Requirement on Airport Revenue Bonds of the Airport.
3. An amount equal to the principal and interest on the subordinated debt of the Airport.
4. The annual amortization of the total amount of any expenditure made by CITY for Capital Improvements before July 1 of the adjustment year, and financed by CITY from the Capital Improvement Account. Amortization of Capital Improvements undertaken after the date of this Agreement shall be included only:
  - a. When such improvement is completed and available for use.
  - b. If such improvement has been reviewed in accordance with Article 5 hereof.

Such annual amortization shall be calculated at an interest rate of seven percent (7%) for thirty (30) years.

5. An amount equal to the deposit to the Maintenance and Operating Reserve Account and the deposit, if any, to the Renewal and Replacement Reserve Account.
6. Any other cost or expense of the Airport
7. The Capital Improvement Factor.
8. Any credit or deficit resulting from an excess or shortfall in revenues or expenses during the current Fiscal Year or resulting from the variance between estimated and actual revenues and expenses used in calculating airline rentals, fees, and charges.

B. The Airport Requirement for the succeeding Fiscal Year shall be calculated by crediting:

1. Nonairline Revenues.
2. Airline Terminal Building rentals.

As set forth in the Annual Budget, to the Airport Cost calculated pursuant to Section 7.05. A.

C. The landing fee rate for the succeeding Fiscal Year shall be calculated by dividing the Airport Requirement calculated pursuant to Section 7.05. B. by the composite estimate of the Total Landed Weight for all Airlines for the succeeding Fiscal Year.

**Section 7.06. Extraordinary Adjustments of Rentals, Fees, and Charges**

- A. Notwithstanding any other provisions hereof, if, at any time during the term hereof, Airport Revenues and fund balances are not sufficient to pay, when due, all items included in the reports prepared by CITY pursuant to this Article 7, or to pay any other expense or cost necessary to, or arising out of, the operation of the Airport, including, without limitation, emergency repairs or replacements, the reasonable necessary cost of defending, settling, or satisfying any litigation or threatened litigation that relates to the Airport, or any aspect thereof, to compensate for the loss of revenue by reason of any labor dispute, or to compensate for the temporary or permanent loss of air service provided by another scheduled airline, CITY may, upon notice to and consultation with AIRLINE, increase the rentals, fees, and charges under this Agreement to such amount as is sufficient to assure CITY that all such items, expenses, and costs shall be paid in full, solely from Airport Revenues.
- B. If total landing fees of all airlines for any quarter vary by more than ten percent (10%) from the projected total landing fees for such quarter, the landing fee rate may be adjusted for the balance of such Fiscal Year by an amount equal to the difference between projected and actual total landing fees divided by the estimated Total Landed Weight of all Airlines during the balance of such Fiscal Year.

**ARTICLE 8**  
**AUTHORIZING LEGISLATION FOR SALE OF BONDS**

**Section 8.01. General**

- A. In the event of conflicts between this Agreement and the Bond Resolution, the Bond Resolution shall govern.
  
- B. Subject to the terms and provisions of the Bond Resolution, it is mutually understood and agreed that, so long as any Airport Revenue Bonds secured by the Bond Resolution are outstanding, the deposit and application of Airport Revenues shall be governed by the Bond Resolution.
  
- C. In the event all outstanding bonds are retired and the Bond Resolution is no longer applicable, the flow of revenues will be handled as set forth hereunder.

**ARTICLE 9**  
**MAINTENANCE, REPAIR, ALTERATIONS, AND IMPROVEMENTS**

**Section 9.01. AIRLINE's Responsibilities**

It is understood and agreed that AIRLINE shall have the following maintenance and repair obligations:

- A. AIRLINE agrees that, upon AIRLINE's occupancy of its Exclusive Use Space, such space is in good and tenantable condition.
  
- B. AIRLINE shall, at its sole expense and in a manner reasonably acceptable to CITY:
  - 1. Maintain its Exclusive Use Space in the conditions prevailing at the time of the Execution Date subject to reasonable wear and tear.
  - 2. Maintain its preferentially assigned Aircraft Parking Position(s) in a neat, clean, and orderly condition, free from unused, non-operational or obsolete equipment or parts, litter, debris, refuse, petroleum products, or grease that may result from activities of its passengers, employees, agents, or suppliers; and remove all spills of any kind including oil and grease spillage that is attributable to AIRLINE's aircraft or equipment at its Aircraft Parking Position(s) or any other location where AIRLINE's aircraft or equipment has caused oil or grease spills.
  - 3. Maintain all passenger walkways across ramp areas used to board aircraft or to bring passengers into the Terminal Building, so that walkways are free from all obstructions, snow and ice, and safe for passenger use.
  
- C. If AIRLINE fails to perform its obligations under this Article 9, CITY may do so, after reasonable written notice and time for AIRLINE to cure said obligations. CITY may recover its entire cost plus a fifteen percent (15%) administrative charge from AIRLINE as Additional Rent on the next rent due date.

**Section 9.02. CITY's Responsibilities**

It is understood and agreed that CITY shall have the following maintenance and repair obligations:

- A. CITY, during the term of this Agreement, shall retain FAA Airport Certification and keep in good repair, or arrange for the operation, maintenance, and good repair of, the Airport, including, but not limited to, the Public Areas, Common Use Space, Joint Use Space, and the Preferential Use Space of the Terminal Building, vehicular parking areas, runways, field lighting, taxiways, aprons, roadways, and all appurtenances, facilities, and services now or hereafter connected with the foregoing. CITY also shall keep the Airport reasonably free from obstruction, including, without limitation, vegetation, stones, and other foreign matter, as reasonably necessary, from the landing area, ramp area, taxi area, roadways, vehicular parking areas, and aircraft parking areas for the safe, convenient, and proper use of the Airport by AIRLINE.
- B. CITY shall keep, or make appropriate arrangements to keep, the Exclusive Use Space, Public Areas, Common Use Space, Joint Use Space, and Preferential Use Space of the Terminal Building clean and presentable. CITY shall provide and supply in such areas of the Terminal Building signs, heat, electricity, light, power, air conditioning, wastewater disposal, water, and janitorial services, including trash removal. Interruption of services shall not constitute a breach of this Agreement by CITY, but CITY shall use its best efforts to restore such service after interruption. CITY reserves the right during the term of this Agreement to require reimbursement for its janitorial services or any other service described in this Section 9.02. B., or to require AIRLINE to perform janitorial services on its Exclusive Use Space. In addition, CITY shall keep, or make appropriate arrangements to keep, the Joint Use Space, Common Use Space, Preferential Use Space, and the Public Areas adequately and attractively equipped, furnished, and decorated.
- C. The undertakings by CITY under this Section 9.02. do not relieve AIRLINE of its duties to maintain any leased facilities and to use Preferential Use Facilities with due care.

**Section 9.03. CITY's Right to Inspect and Make Repairs**

CITY, by its authorized officers, employees, agents, contractors, subcontractors, and other representatives, shall have the right (with advance notice, other than in the event of an emergency, at such times as may be reasonable under the circumstances and with as little interruption of AIRLINE's operations as is reasonably practicable) to enter AIRLINE's Exclusive Use Space and Preferential Use Space for the following purposes:

- A. To inspect such space to determine whether AIRLINE is in compliance with the terms and conditions of this Agreement.
- B. To accomplish repairs or replacements pursuant to Section 9.02., or in any case where AIRLINE is obligated to make repairs or replacements and has failed to do so, after notice, make such repairs or replacements on AIRLINE's behalf.
- C. In the exercise of CITY's police powers.
- D. To perform electrical maintenance and other maintenance where CITY determines that it is necessary or desirable to do so in order to preserve the structural safety of such space or areas or to correct any condition likely to cause injuries or damages to persons or property.
- E. To install and maintain for the sole use of CITY, without cost to AIRLINE, and without unreasonable interference with AIRLINE's use and occupancy, facilities and appurtenances necessary for the safe or efficient operation of the Airport, including, but not limited to, installation, operation, and maintenance of gas, water, electric service, sewers, communications, telephones, signal lines, lights, air tubes, fire protection systems, pipes, ducts, cables, conduits, wires, and similar installations.
- F. Within thirty (30) days prior to termination of this Agreement or any part hereof, to alter, renovate, and redecorate the space or area so terminated, if AIRLINE has removed all or substantially all of its property from such space or area and if such alteration, renovation, and redecorating can be accomplished without interfering unreasonably with AIRLINE's use of such space or area.

No such entry by or on behalf of CITY upon any Exclusive Use Space leased to AIRLINE shall cause or constitute a termination of the letting thereof or be deemed to constitute an interference with the possession thereof by AIRLINE. AIRLINE shall have the right, but not the obligation, to have its representative accompany CITY, its authorized officers, employees, contractors, and other representatives on any inspection or repair tours as outlined in this Section 9.03.

**Section 9.04. Alterations and Improvements**

- A. AIRLINE shall make no alterations, additions, improvements, or installations to or on the space leased under this Agreement without the prior written approval of the Director, which shall not be unreasonably withheld.
- B. AIRLINE agrees that if any mechanic's or materialman's lien is filed against the Leased Premises or facilities for materials furnished or labor or services performed for AIRLINE at the Airport and such lien is not promptly discharged by AIRLINE by payment, AIRLINE will forthwith obtain a discharge of such lien in accordance with the provisions of the State law and provide evidence of said discharge to CITY.

**ARTICLE 10**  
**DAMAGE OR DESTRUCTION OF PREMISES**

**Section 10.01. Damage or Destruction**

- A. If, by reason of any cause, the Terminal Building is damaged to such an extent that AIRLINE's Leased Premises are untenable in whole or in substantial part, then AIRLINE shall give immediate notice thereof to the Director and the damage shall be repaired at the expense of the CITY, unless the damage was caused by AIRLINE, without unreasonable delay unless CITY determines that the damage is so extensive that repair or rebuilding is not feasible. From the date of such damage until said area is repaired, monthly payments hereunder shall be abated in such amount as may be in direct proportion to the space damaged and unrentable; provided, however, that if an area shall be so slightly damaged as not to be rendered unfit for occupancy nor to cause AIRLINE's use to be unreasonably inefficient, the rent hereunder shall not be abated during any occupancy and during any repair period.

In the event that the damage to the area is so extensive as to render it untenable, the rent for such area shall cease until such time as the area shall again be put in repair; however, in the event that the area is damaged to such an extent as to render it necessary, in the exclusive reasonable judgment of CITY, not to rebuild same, then, at the option of CITY or AIRLINE, and upon thirty (30) days written notice to the other, this Agreement as it applies to said area shall cease and come to an end, and the rent hereunder shall be apportioned and paid up to the date of such damage.

If CITY elects to rebuild said area (and if AIRLINE does not elect to terminate under the immediately preceding paragraph), CITY shall notify AIRLINE of such intention within thirty (30) days of the date of the damage; otherwise, the Agreement as it applies to said area shall be deemed canceled and of no further force or effect. CITY's obligations to rebuild or repair under this Article 10 shall, in any event, be limited to restoring said area to substantially the condition that existed prior to the commencement of any improvements by AIRLINE and shall further be limited to the extent of the insurance proceeds available to CITY for such restoration. AIRLINE agrees that if CITY elects to totally repair or rebuild as provided in this Article 10 (and AIRLINE did not elect to terminate), then AIRLINE will proceed with reasonable diligence and at its sole cost and expense (unless such damage is caused by the sole negligence of CITY) to rebuild,

repair, and restore its signs, fixtures, furnishings, equipment, improvements, and other items provided or installed by AIRLINE in or about the Leased Premises in a manner and to a condition at least equal to that which existed prior to its damage or destruction.

- B. Notwithstanding the provisions of this Article 10, in the event that due to the negligence or willful act or omission of AIRLINE, its employees, agents, representatives, or contractors, AIRLINE's Leased Premises shall be damaged or destroyed by fire, other casualty or otherwise, there shall be no abatement of rent during the repair or replacement of said AIRLINE's leased space. To the extent that the costs of repairs shall exceed the amount of any insurance proceeds payable to CITY by reason of such damage or destruction, AIRLINE shall pay the amount of such additional costs to the CITY.

**ARTICLE 11**  
**INSURANCE AND INDEMNIFICATION**

**Section 11.01. Insurance**

- A. AIRLINE shall, without expense to CITY, and upon commencement of the term hereof, and prior to commencement of any operations at the Airport, obtain and cause to be kept in force, liability insurance coverage, with limits as hereinafter stated. Such insurance policies, except worker's compensation/employee liability insurance, must be primary and non-contributory and endorsed naming CITY, its officers, agents, and employees as primary additional insureds to the full extent of AIRLINE's indemnity obligations hereunder.

Such insurance shall include aviation general liability coverage, aircraft liability coverage, worker's compensation/employer's liability insurance, and automobile liability insurance coverage, and shall not be in amounts less than hereinafter stated. Such insurance coverage shall be provided by policies issued by a company or companies of sound and adequate financial responsibility. Such insurance policies shall contain an endorsement providing that CITY will be given not less than thirty (30) days notice prior to the cancellation, or material change of the provisions or coverages affecting the interests of CITY provided by said policies. The aviation general liability policies shall include contractual liability coverage.

AIRLINE shall cause a certificate or certificates of insurance and all endorsements to be furnished to CITY evidencing all such insurance coverage. If CITY is notified that any of the coverage required herein is to be canceled or changed in such a manner as not to comply with the requirements of this Agreement, AIRLINE shall, within thirty (30) days prior to the effective date of such cancellation or change, obtain and provide CITY with certificates evidencing the re-establishment of the insurance coverage required hereby.

- B. Insurance limits of aviation general liability coverage and aircraft liability coverage shall be in an amount not less than One Hundred Fifty Million Dollars (\$150,000,000) per occurrence for airlines operating aircraft with one hundred (100) or more seats; not less than One Hundred Million Dollars (\$100,000,000) per occurrence for airlines operating aircraft with between ninety-nine (99) and sixty (60) seats; not less than Fifty Million Dollars (\$50,000,000) per occurrence for airlines operating aircraft with between fifty-

nine (59) and twenty (20) seats; with all of the above listed limits subject to a Twenty-Five Million Dollar (\$25,000,000) per occurrence sublimit for personal injury to non-passengers, and Twenty Million Dollars (\$20,000,000) per occurrence for airlines operating aircraft with nineteen (19) or fewer seats with a Twenty Million Dollar (\$20,000,000) per occurrence sublimit for personal injury to non-passengers. For purposes of this Paragraph, the number of seats is determined based upon the largest aircraft in AIRLINE's fleet that may be utilized for Scheduled Service at the Airport.

CITY reserves the right to review and reasonably modify, after consultation with AIRLINE, the limits stated above annually, to give effect to the changing risk management environment and inflationary trends.

- C. AIRLINE shall procure and maintain in force, liability insurance applicable to the ownership, maintenance, use, or operation of any automobile, mobile equipment, or other ground vehicle at the Airport, including owned, non-owned, or hired, in an amount not less than \$1,500,000 per occurrence.
- D. Insofar as said insurance provides protection against liability for personal injury, bodily injury, death, and property damage, CITY shall be included as a primary additional insured to the extent of AIRLINE's indemnity obligations hereunder. CITY shall have no liability for any premiums charged for such coverage, and the inclusion of CITY as a primary additional insured is not intended to, and shall not, make CITY a partner or joint venturer with AIRLINE in its operations on the Airport. All insurance policies of the CITY and Airport, including airport commercial general liability policies, will be excess and noncontributory for AIRLINE'S operations.
- E. Worker's Compensation/Employer's Liability Insurance shall be maintained in force by AIRLINE for all employees engaged in the operations under this Agreement. The limits of coverage shall meet the statutory requirements required for the State of Montana.

#### **Section 11.02. Indemnification**

AIRLINE hereby agrees to indemnify, defend, and hold harmless CITY, its officers, directors, agents, and employees for all damages to the real and personal property of the CITY, which shall be caused by any act, omission, use, occupancy, or operation of AIRLINE, its agents, representatives, officers, and employees on or about, or related to the Airport.

AIRLINE shall indemnify, defend, and hold harmless CITY for all sums that CITY shall become obligated to pay by reason of the liability, if any, imposed by law upon CITY for damages relating to personal injury, bodily injury, including damages for care and loss of service, and including death at any time resulting from bodily injury, and because of injury to or destruction of property, including the loss of use thereof, provided such damages were caused by or resulted from any of the activities, omissions, or operations of AIRLINE, its agents, representatives, officers, employees, contractors, and independent contractors.

In addition, with respect to any claims, actions, suits, damages, or judgments caused by or resulting from acts, omissions, or operations of AIRLINE, its agents, representatives, officers or employees, AIRLINE shall:

- A. Investigate or cause the investigation of accidents involving such injuries.
- B. Negotiate or cause to be negotiated all claims made, as may be deemed expedient by AIRLINE, and defend, or cause to be defended, suits for damages, even if groundless, false, or fraudulent, brought against the CITY on account of such injuries, death, or damages, in the name and on behalf of CITY, its officers, directors, representatives, agents, and employees.
- C. Pay and satisfy judgments finally establishing the liability of CITY, its officers, directors, representatives, agents, and employees in all actions defended by AIRLINE pursuant to this Section 11.02.
- D. Pay or cause to be paid:
  - 1. All costs levied against CITY, its officers, directors, representatives, agents, and employees in any legal proceeding defended or caused to be defended by AIRLINE as aforesaid.
  - 2. Any interest accruing up to the date of payment by AIRLINE.
  - 3. All premiums charged for appeal bonds required in such proceedings.
  - 4. All reasonable expenses incurred by CITY, its officers, directors, representatives, agents, and employees for investigation, negotiation, and defense.

AIRLINE shall not, however, be liable as set forth in this Section 11.02. with respect to any bodily injury, death, or injury to or destruction of property which results solely from the negligence, or wanton or willful misconduct of CITY, its officers, directors, representatives, agents, or employees.

CITY shall, promptly upon receipt, give AIRLINE every demand, notice, summons, or other process received in any claim or legal proceeding contemplated herein. In the event CITY fails to give AIRLINE notice of any such demand, notice, summons, or other process received by CITY and such failure to give notice results in actual and material prejudice to AIRLINE in the defense of any action or legal proceeding contemplated herein, such failure or delay shall release AIRLINE of its liability as set forth in this Section 11.02. insofar as only the particular claim or legal proceeding is concerned, and only to the extent of such prejudice. Nothing in this Article 11 shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim or legal liability against CITY. This Section 11.02. shall not be construed as a waiver of CITY's immunity.

**Section 11.03. Nonliability of CITY**

CITY shall not be liable for AIRLINE's failure to perform any of its obligations under this Agreement or for any delay in the performance thereof, nor shall any such delay or failure be deemed a default by CITY, unless such failure to perform or delay in performance is caused by an act or omission on the part of CITY.

AIRLINE expressly agrees that CITY shall not be liable to AIRLINE for bodily injury or for any loss or damage to real or personal property occasioned by flood, fire, earthquake, lightning, windstorm, hail, explosion, riot, strike, civil commotion, smoke, vandalism, malicious mischief, or acts of civil authority unless such injury or loss results from negligence of CITY.

**ARTICLE 12**  
**ASSIGNMENT OR SUBLEASE**

**Section 12.01. Assignment and Sublease**

- A. AIRLINE shall not assign this Agreement or any part hereof in any manner whatsoever or sublet the Leased Premises, any part thereof, or any of the privileges recited herein without the prior written consent of CITY, which shall not be unreasonably withheld. However, AIRLINE shall have the right to assign all or any part of its rights and interests under this Agreement to any affiliated Air Transportation Company, or any successor to its business through merger, consolidation, voluntary sale, or transfer of substantially all of its assets, and the consent of CITY thereto shall not be required, but due notice of any such assignment shall be given to CITY at least thirty (30) days prior to such assignment hereunder.
- B. All approved subleases shall provide that any rentals or fees to be paid by such AIRLINE sublessee shall be limited to AIRLINE's direct costs (reasonable rent, utilities, maintenance and operating charges, and capital charges related to improvements) of such space plus a reasonable administrative charge.
- C. CITY may assign this Agreement or any part hereof to any successor entity deemed appropriate under the laws of the State of Montana. If such assignment is to occur, CITY shall notify AIRLINE in writing sixty (60) days prior to said assignment.

**Section 12.02. Ground Support Operations Agreements**

In the event AIRLINE agrees to ground handle any portion of the operations of another Air Transportation Company offering Scheduled Service, AIRLINE shall provide CITY advance written notice of such proposed activities, including a description of the type and extent of services to be provided, the effective date, and the duration of said services. Notwithstanding the provisions of the foregoing, AIRLINE may not ground handle another certificated Air Transportation Company without the prior written permission of CITY if such certificated Air Transportation Company does not have in force an operating agreement with CITY.

**Section 12.03. Relinquishment of Space**

If AIRLINE desires to relinquish any of its Exclusive Use Space, or any rights to Preferential Use Space or Common Use Space, AIRLINE shall notify CITY in writing of the space to be relinquished.

**Section 12.04. Nonwaiver of Responsibility**

No transfer or conveyance under a sublease, or granting of a license by AIRLINE, shall relieve AIRLINE of its responsibility for payment of rent and performance of all other obligations under this Agreement.

**ARTICLE 13**  
**DEFAULT**

**Section 13.01. Default**

AIRLINE shall be deemed in default of this Agreement if AIRLINE:

1. Fails to pay rent or any other required payment due hereunder within thirty (30) days after receipt of written notice of a past due account.
  2. Fails to commence immediately to keep and perform any of its other covenants and agreements within forty-five (45) days after receipt of written notice.
  3. Fails to continue to complete any of its covenants and agreements after performance is commenced, or after the filing of any petition, proceedings, or action by or for AIRLINE under any insolvency, bankruptcy, or reorganization act of law.
- A. In the event of AIRLINE default, without terminating this Agreement, CITY may reenter the space and improve and relet all or any part of it to others, for the account of AIRLINE, including costs of renovation and an administrative fee not to exceed fifteen percent (15%) paid to CITY for all sublease rentals received, and AIRLINE shall promptly reimburse CITY for any deficiency in rentals or other payments received under such sublease, as compared with AIRLINE's obligations hereunder.
- B. In the event of AIRLINE default, CITY may terminate AIRLINE's rights under this Agreement, as provided in Section 14.02., without any restriction upon recovery by CITY of past due rentals and other obligations of AIRLINE. CITY shall have all additional rights and remedies as may be provided by law.

**ARTICLE 14**  
**TERMINATION**

**Section 14.01. Events Permitting Termination by AIRLINE**

AIRLINE may terminate this Agreement, and all of its obligations hereunder, at any time that AIRLINE is not in default in its payments or other obligations under this Agreement to CITY hereunder by giving CITY thirty (30) days advance written notice upon or after the occurrence of any one of the following events:

- A. The breach by CITY of any of the covenants or agreements contained in this Agreement for a period exceeding forty-five (45) days after receipt of written notice of such breach from AIRLINE; or
- B. Action by CITY or such other governing jurisdiction prohibiting AIRLINE from using the Airport for a period exceeding sixty (60) days because of any deficiency of the Airport, or an unsafe operating condition existing at the Airport or in the surrounding airspace.

**Section 14.02. Events Permitting Termination by CITY**

CITY may terminate this Agreement, and all of its obligations hereunder, upon thirty (30) days advance written notice to AIRLINE and may exercise all rights of entry and re-entry upon the Leased Premises, with or without process of law, without forfeiture, waiver, or release of CITY's singular possessive rights to any sum of money due, upon:

- A. Failure by AIRLINE to remedy any event of default as specified in Article 13 within the cure periods specified in Article 13; or
- B. The cessation by AIRLINE of the conduct of Scheduled Service at the Airport unless such cessation of service is directly attributable to circumstances for which AIRLINE is not responsible, and which are not within its control. Suspension of flight operations due to labor related work stoppages shall not be considered cessation of Scheduled Service at the Airport.

**Section 14.03. Termination Without Cause**

AIRLINE may terminate this Agreement and all of its obligations hereunder at any time, provided AIRLINE is not in default in its payment or other obligations to CITY as set forth herein, and AIRLINE provides CITY One Hundred Eighty (180) days advance written notice.

**ARTICLE 15**  
**GENERAL PROVISIONS**

**Section 15.01. Rules and Regulations**

- A. AIRLINE shall observe and obey all lawful Rules and Regulations promulgated by CITY, from time to time during the term hereof, governing conduct on and operations at the Airport and use of its facilities. Copies of the Rules and Regulations, as adopted and attached to this document as Exhibit H and as amended from time to time, shall be forwarded to AIRLINE's local manager. AIRLINE shall be provided written notice prior to the adoption of any Rules and Regulations by CITY. CITY agrees that all Rules and Regulations so promulgated shall not be inconsistent with any legally authorized rule or regulation of the FAA, or any other Federal or State agency, which is binding in law on AIRLINE, as the same now are or may from time to time be amended or supplemented.
- B. AIRLINE shall not knowingly violate, nor permit its officers, agents, representatives, contractors, or employees acting on AIRLINE's behalf to knowingly violate, any such Rules and Regulations.

**Section 15.02. Compliance with Law**

- A. AIRLINE shall not use the Airport or any part thereof, or permit the same to be used by any of its officers, employees, agents, representatives, subtenants, invitees, or licensees, for any illegal purposes and shall, at all times during the term of this Agreement, comply with all applicable regulations, ordinances, and laws of any CITY, County, or State government and of the U.S. Government, and of any political division or subdivision or agency, authority, or commission thereof which may have jurisdiction to pass laws or ordinances or to make and enforce rules or regulations with respect to the uses hereunder of the Leased Premises.
- B. At all times during the term of this Agreement, AIRLINE shall, in connection with its activities and operations at the Airport:
1. Comply with and conform to all present and future statutes, ordinances, and regulations of all Federal, State, and other governmental bodies of competent jurisdiction that apply to or affect, either directly or indirectly, the AIRLINE or AIRLINE's operations and activities under this Agreement.

2. Make, at its own expense, all nonstructural improvements, repairs, and alterations to its Exclusive Use Space (subject to prior written approval of CITY), equipment, and personal property that are required to comply with or conform to any of such statutes and ordinances.
3. Reimburse CITY for AIRLINE's proportional share of all nonstructural improvements, repairs, and alterations to its Preferential Use Space, Joint Use Space, and Common Use Space that are required to comply with or conform to any of such statutes and ordinances.
4. Be and remain an independent contractor with respect to all installations, construction, and services performed by or on behalf of AIRLINE hereunder.

### **Section 15.03. Nondiscrimination**

- A. **General.** In the use and occupation of the Airport, AIRLINE shall not discriminate against any person or class of persons by reason of race, color, religion, sex, national origin or ancestry, age, or disability. Additionally, for the services provided during the use and occupation of the Airport, AIRLINE shall furnish said services on a reasonable and not unjustly discriminatory basis to all users thereof and charge reasonable and not unjustly discriminatory prices for each unit of service, provided that the AIRLINE may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- B. **Civil/Human Rights Laws.** In the operation and use of the Airport, AIRLINE shall not, on the grounds of race, color, religion, sex, national origin or ancestry, age, or disability, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Part 21 of Title 49, Code of Federal Regulations, the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, the Rehabilitation Act of 1973, and such other Federal, State, or Local laws as may be applicable.

Without limiting the generality of the foregoing, AIRLINE agrees to not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or ancestry, age, or disability. AIRLINE agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin or ancestry, age, or disability. Such action shall include, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or

termination; rates of pay or other forms of compensation; selection for training; and disciplinary actions and grievances. AIRLINE agrees to post, in conspicuous places available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- C. AIRLINE, for itself, its heirs, personal representatives, successors in interest, and assignees, as a part of the consideration of this Agreement, does hereby covenant and agree as a covenant running with the land that, in the event improvements are constructed, maintained, or otherwise operated on the Airport for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, AIRLINE shall maintain and operate such improvements and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21 (Nondiscrimination in Federally Assisted Programs of the Department of Transportation), as said regulations may be amended.
- D. AIRLINE, for itself, its heirs, personal representatives, successors in interest, and assignees, as a part of the consideration of this Agreement, does hereby covenant and agree as a covenant running with the land that:
1. No person on the grounds of race, color, religion, sex, national origin or ancestry, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said improvements.
  2. No person on the grounds of race, color, religion, sex, national origin or ancestry, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the construction of any improvements on, over, or under such land and the furnishing of services thereon.
  3. AIRLINE shall use the facilities in compliance with all other requirements imposed by, or pursuant to 49 CFR Part 21 (Nondiscrimination in Federally Assisted Programs of the Department of Transportation), as said regulations may be amended.

AIRLINE assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person on the grounds of race, color, religion, sex, national origin or ancestry, age, or disability shall be excluded from

participating in any employment activities covered in 14 CFR Part 152, Subpart E, or such employment activities covered in any applicable State or Local law. AIRLINE assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Section 15.03.

E. During the performance of this Agreement, the AIRLINE, for itself, its assignees, and successors in interest, agrees to comply with the following nondiscrimination statutes and authorities, including, but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR Part 21 (Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of The Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
5. The Age Discrimination Act of 1975, as amended (42, U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471, § 47123) as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and § 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*), which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public

- accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
9. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
  10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations, which addresses discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low income populations;
  11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP), and resulting agency guidance, national origin discrimination includes discrimination because of LEP. To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. 74087 (2005));
  12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

#### **Section 15.04. Granting of More Favorable Terms**

CITY covenants and agrees not to enter into any lease, contract, or any other agreement with any other Air Transportation Company providing Scheduled Service at the Airport containing substantially more favorable terms than this Agreement, or to grant to any tenant engaged in scheduled Air Transportation, rights or privileges with respect to the Airport that are not accorded AIRLINE hereunder, unless the same rights, terms, and privileges are concurrently made available to AIRLINE; provided, however, that CITY reserves the right to permit nonscheduled itinerant aircraft operators to use existing Terminal Building and Terminal Building facilities on a charge-per-use basis, which charges shall at least approximately equate to the AIRLINE's effective cost per use. It is further provided that CITY reserves the right to construct a Special Purpose Facility and to collect such charges as required to recover capital and operating costs from the tenant or tenants of such Special Purpose Facility.

### **Section 15.05. Notices**

- A. Notices required hereunder shall be given by registered or certified mail or by any similar recognized handler of express mail by sending the same in the continental United States, postage prepaid, return receipt requested. Either party shall have the right, by giving written notice to the other, to change the address at which its notices are to be received. Until any such change is made, notices shall be delivered as follows:
1. CITY: Director of Aviation and Transit  
Billings Logan International Airport  
1901 Terminal Circle, Room 216  
Billings, Montana 59105
  2. AIRLINE: Notices to AIRLINE shall be mailed to the address appearing in Section 16.02.
- B. Unless otherwise provided in this Agreement, any notice shall be effective and shall be deemed received by the addressee no later than three (3) non-holiday business days.
- C. If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified above.

### **Section 15.06. Successors and Assigns Bound**

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

### **Section 15.07. Governing Law**

This Agreement and all disputes arising hereunder shall be governed by the laws of the State of Montana and all litigation arising under this Agreement shall be conducted in either Federal, State, or District Courts in the State of Montana.

### **Section 15.08. Quiet Enjoyment**

AIRLINE shall, upon payment of the rentals, fees, and charges required hereunder and upon compliance with the terms, covenants, conditions, and obligations on the part of AIRLINE to be performed and complied with hereunder, peaceably have and enjoy the rights, uses, and

privileges of the Airport, its appurtenances, and facilities as granted herein and by the Rules and Regulations.

#### **Section 15.09. Nonliability of Agents and Employees**

No member, officer, agent, representative, director, or employee of CITY or AIRLINE shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach hereof or because of its or their execution or attempted execution of this Agreement.

#### **Section 15.10. Prudent Operation**

CITY shall operate the Airport with due regard for the interests of the public and Signatory Airlines and in such a manner as to produce revenues from concessionaires, other tenants, public parking operations, and other commercial users of the Airport of a nature and in an amount as would reasonably be produced by a prudent operator of an airport of similar size, use, and activity, consistent with sound management principles and applicable law, in the interest of protecting the financial integrity of the Airport. CITY hereby acknowledges its obligation under the Bond Resolution to apply and use all Airport Revenues for the maintenance, operation, administration, development and financing of the Airport, and retirement of Airport debt.

#### **Section 15.11. Subordination to Agreements with the U.S. Government**

This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between CITY and the United States, or its agencies or departments relative to the maintenance or operation of the Airport, the execution of which has been required as a condition precedent to the transfer of Federal rights or property to CITY for Airport purposes, or to the expenditures of Federal funds for the improvement or development of the Airport, including the expenditure of Federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as amended, or in accordance with successive Airport development acts. CITY covenants that it has no existing agreements with the United States in conflict with the express provisions hereof. During times of war or national emergency, all provisions of this Agreement shall be subordinate to the rights of the United States of America to operate the Airport or any part thereof. Such rights shall supersede any provisions of this Agreement inconsistent with the operations of the Airport by the United States of America.

**Section 15.12. Nonwaiver of Rights**

No waiver of default by either party of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained, to be performed, kept, and observed by the other party.

**Section 15.13. Federal Aviation Act, Section 308**

Nothing herein contained shall be deemed to grant to AIRLINE any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof, AIRLINE shall have the right to exclusive possession of the Exclusive Use Space leased to AIRLINE under the provisions of this Agreement.

**Section 15.14. Generally Accepted Accounting Principles**

Whenever any report or disclosure referred to in this Agreement consists, either in whole or in part, of actual, year-end financial information, said financial information shall be prepared in accordance with generally accepted accounting principles consistently applied, if applicable.

**Section 15.15. 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.

**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 property of the Airport, or real property subject to this Agreement.

**Section 15.17. Severability**

If one or more clauses, sections, or provisions of this Agreement shall be held to be unlawful, invalid, or unenforceable, it is agreed that the remainder of the Agreement shall not be affected thereby.

**Section 15.18. Headings**

The headings of the several articles and sections of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

**Section 15.19. Approvals**

Throughout this Agreement, in the case that approval is required by the Director, CITY, or AIRLINE, such approval shall not be unreasonably withheld or delayed.

**Section 15.20. Governmental Functions**

- A. Nothing contained herein shall impair the right of CITY, in the exercise of its governmental functions, to require AIRLINE to pay any tax or inspection fees or to procure necessary permits or licenses, provided such requirement is not inconsistent with the rights and privileges granted to AIRLINE hereunder, or by State or Federal law.
- B. CITY shall have no control over services or the rates, fares, or charges that AIRLINE may prescribe in connection with the conduct of its Air Transportation business.

**Section 15.21. Amendment**

Except as provided in this Agreement, no amendment, modification, termination, or alteration of the terms of this Agreement, including any amendment, modification, or alteration of this Section 15.21., shall be binding unless the same be in writing, dated subsequent to the date hereof, and approved and signed by both parties.

**Section 15.22. Interpretation of Agreement**

This Agreement is the result of extensive negotiations between the parties and shall not be construed against the CITY by reason of its preparation of this Agreement.

**Section 15.23. Attorney Fees**

In the event any action, or suit, or arbitration, or dispute resolution, or bankruptcy proceeding is brought to collect the fees and charges due, or to become due hereunder, or any portion thereof, or to take possession of any premises or enforce compliance with the Agreement, or for failure to observe any of the covenants of this Agreement, the prevailing party in such suit, action or proceeding shall be entitled to such sum as the court or panel may adjudge

reasonable as attorney fees to be allowed in such suit, action or proceedings, or in the event of an appeal, or review of appeal, as allowed by the appellate court.

**Section 15.24. Entire Agreement**

This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto.

**ARTICLE 16  
DATES AND SIGNATURES**

**Section 16.01. Effective Date**

Upon approval and execution by the Billings City Council, this Agreement shall be effective for AIRLINE's activities at the Airport commencing on the 1st day of June, 2024.

**Section 16.02. Signatures**

IN WITNESS WHEREOF, the parties have executed multiple copies of this Agreement.

SUN COUNTRY INC., DBA  
SUN COUNTRY AIRLINES  
\_\_\_\_\_  
an Air Transportation Company

THE CITY OF BILLINGS  
\_\_\_\_\_  
a Municipal Corporation

By: \_\_\_\_\_  
                    Joseph Taney

By: \_\_\_\_\_

Title: \_\_\_\_\_

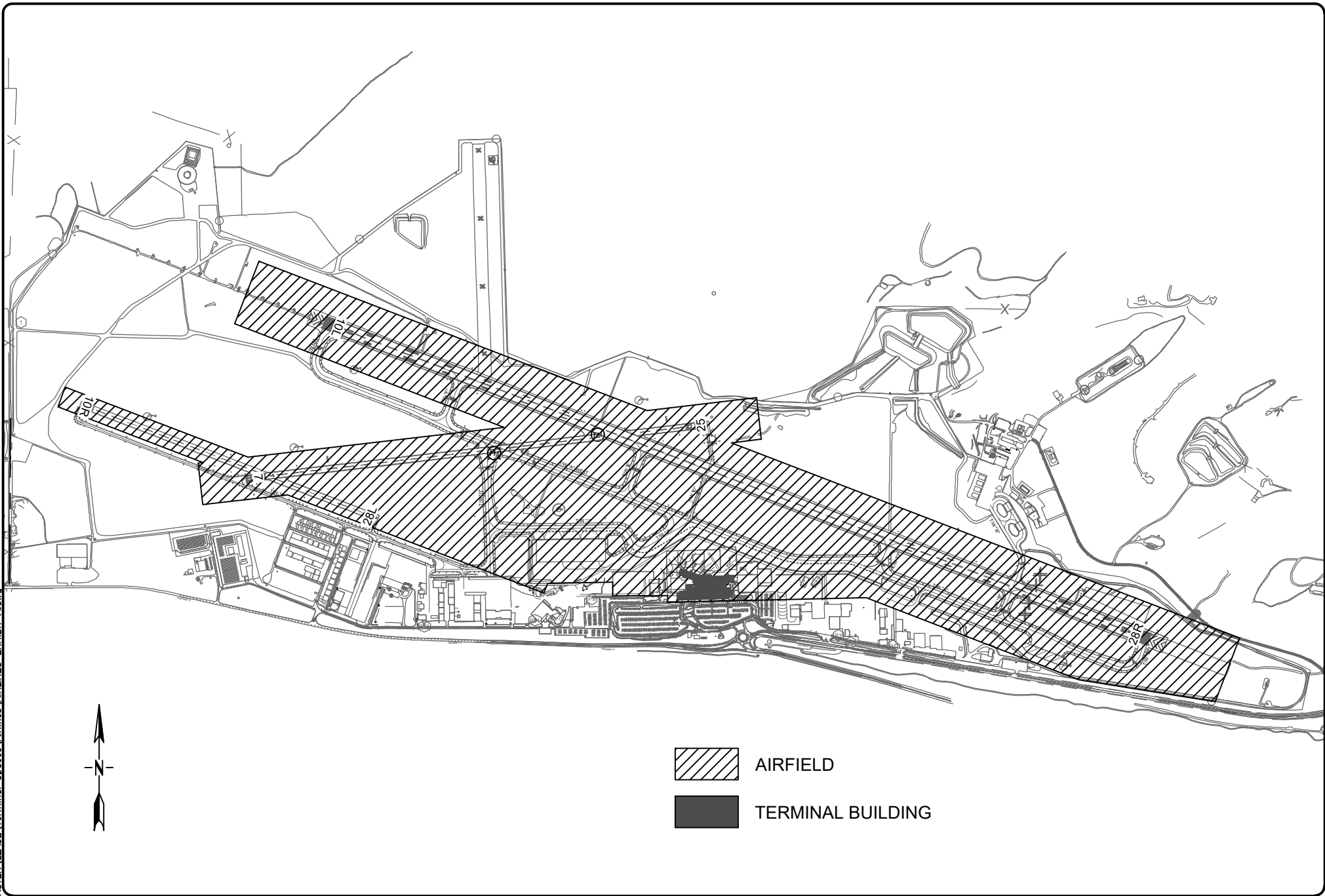
Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ADDRESS FOR NOTICE TO AIRLINE:  
Sun Country, Inc.  
\_\_\_\_\_  
ATTN: Senior Director Airport Affairs  
\_\_\_\_\_  
2005 Cargo Road  
\_\_\_\_\_  
Minneapolis, MN 55450  
\_\_\_\_\_  
Email Copy to: General Counsel  
\_\_\_\_\_  
Legal@suncountry.com  
\_\_\_\_\_

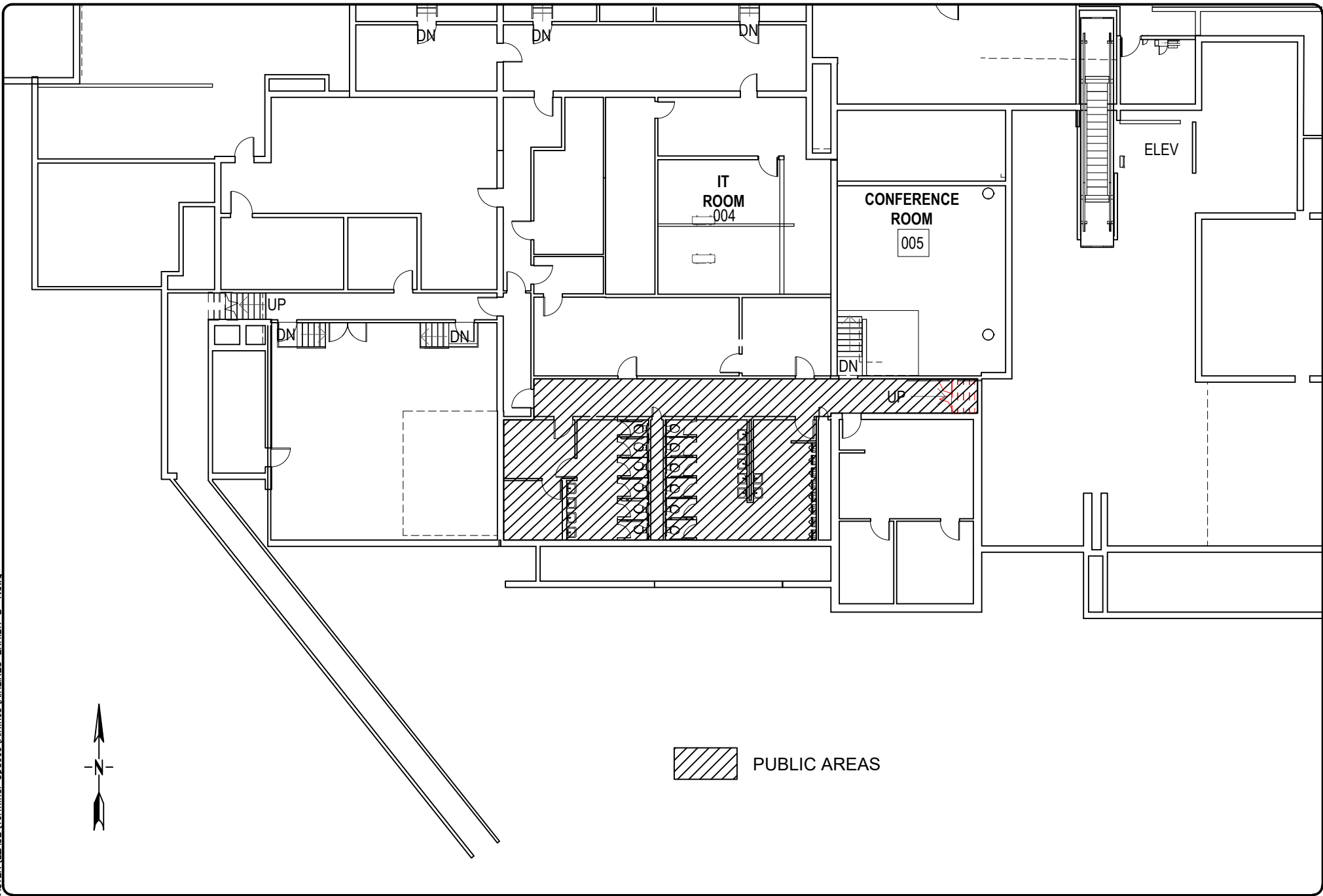
ATTEST:  
  
\_\_\_\_\_  
City Clerk



CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
AVIATION AND TRANSIT DEPARTMENT



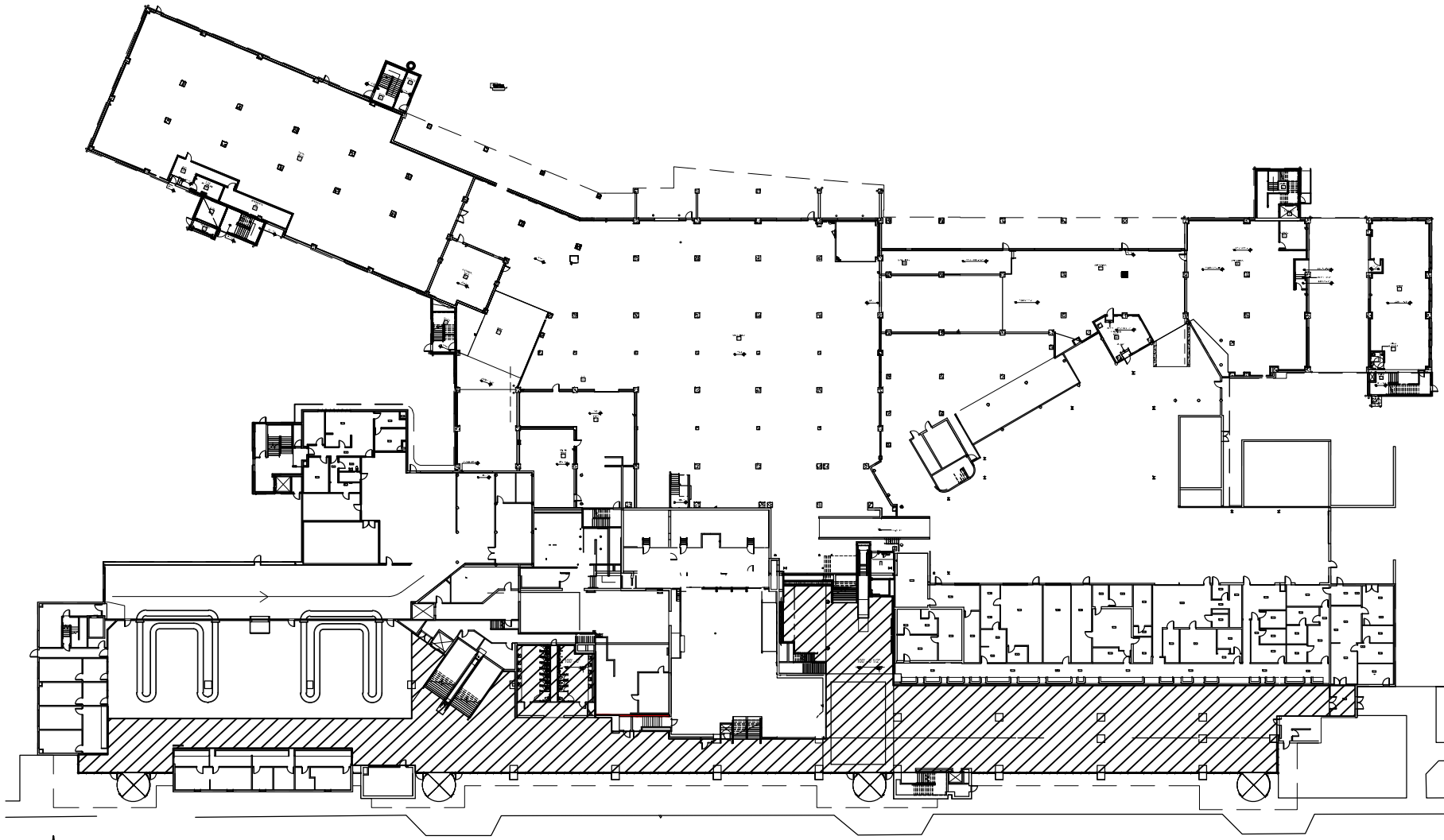
APRIL 2024



BASEMENT LEVEL – PUBLIC USE AREA  
CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
AVIATION AND TRANSIT DEPARTMENT



APRIL 2024

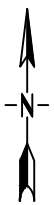
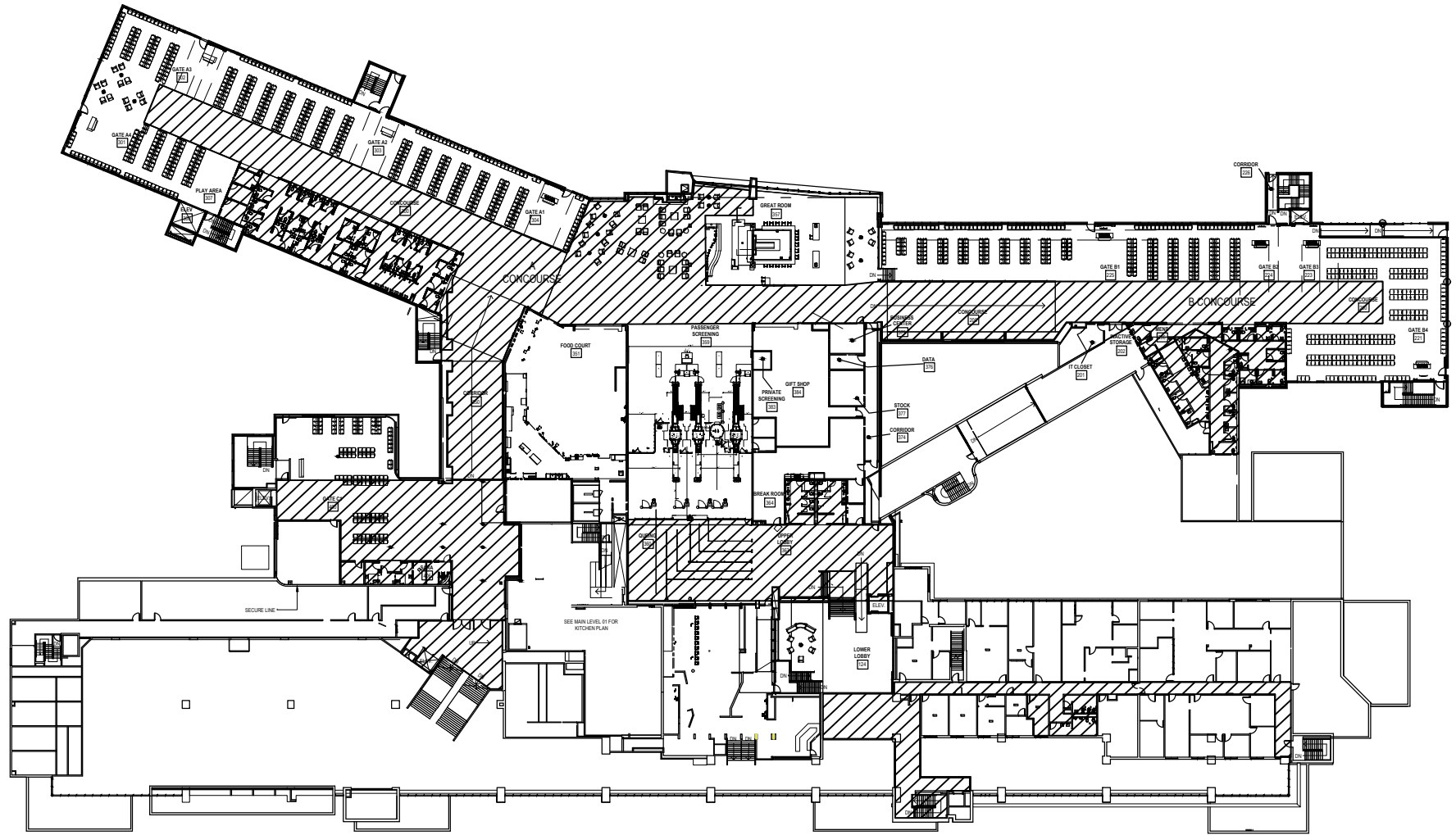


 PUBLIC AREAS

MAIN LEVEL – PUBLIC USE AREA  
CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
AVIATION AND TRANSIT DEPARTMENT



APRIL 2024



 PUBLIC AREAS

UPPER LEVEL – PUBLIC USE AREA  
 CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
 AVIATION AND TRANSIT DEPARTMENT



APRIL 2024

# EXHIBIT C

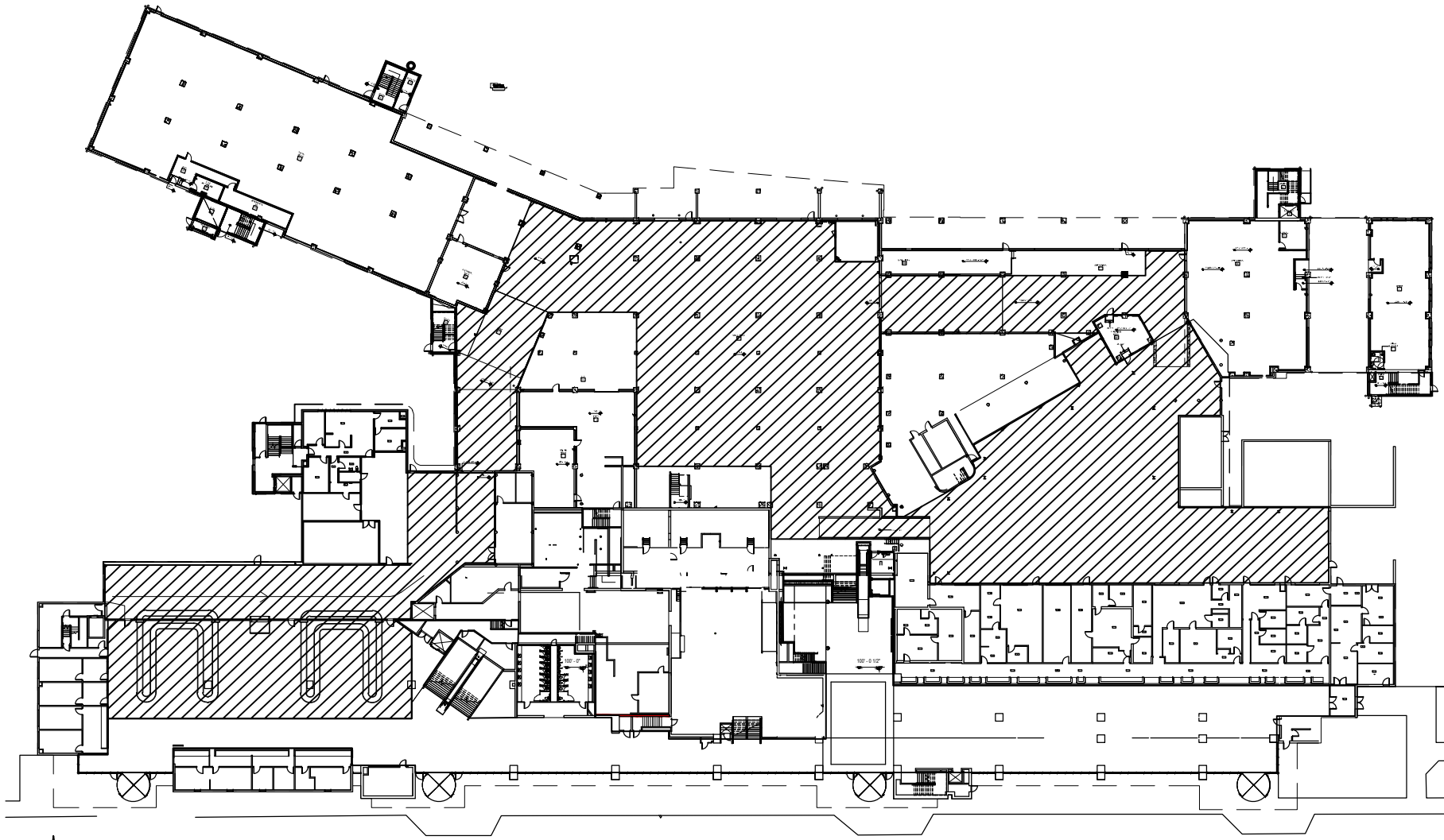
INTENTIONALLY OMITTED

SUN COUNTRY  
TERMINAL AGREEMENT  
CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
AVIATION AND TRANSIT DEPARTMENT



APRIL 2024

EXHIBIT C 1 of 1



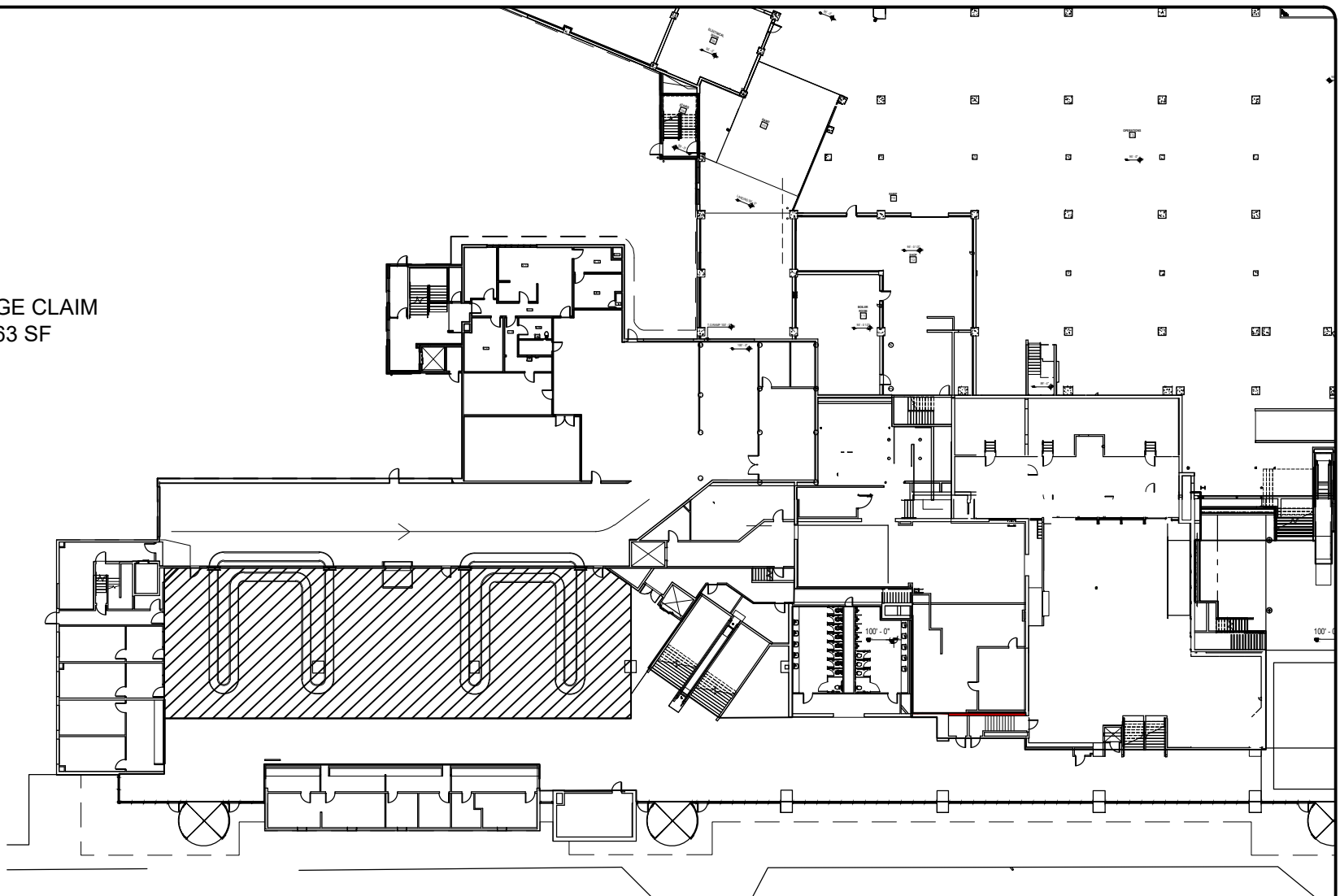
 COMMON AREAS

MAIN LEVEL – COMMON USE AREA  
CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
AVIATION AND TRANSIT DEPARTMENT



APRIL 2024

BAGGAGE CLAIM  
7,163 SF

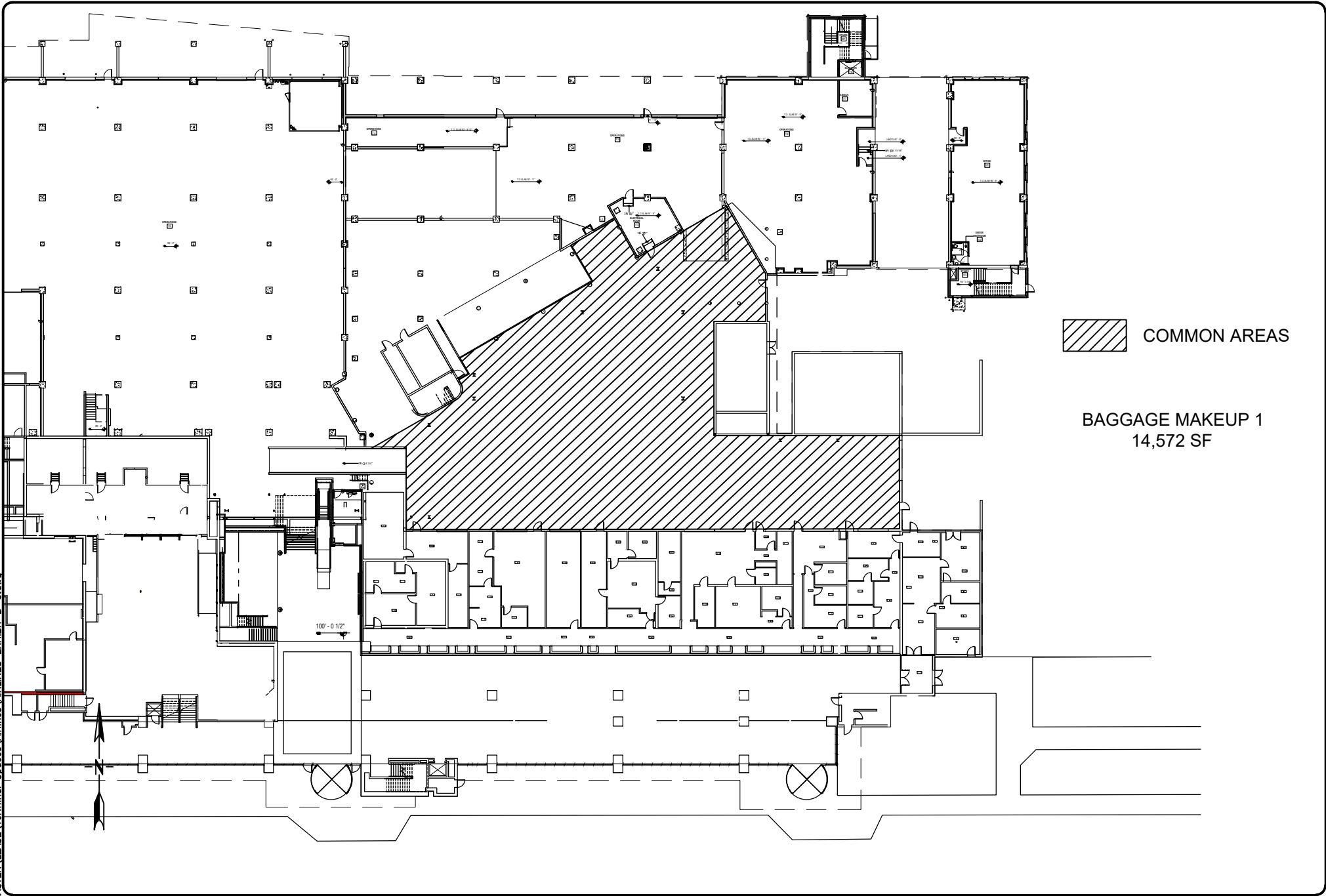


 COMMON AREAS

MAIN LEVEL – COMMON USE AREA  
CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
AVIATION AND TRANSIT DEPARTMENT



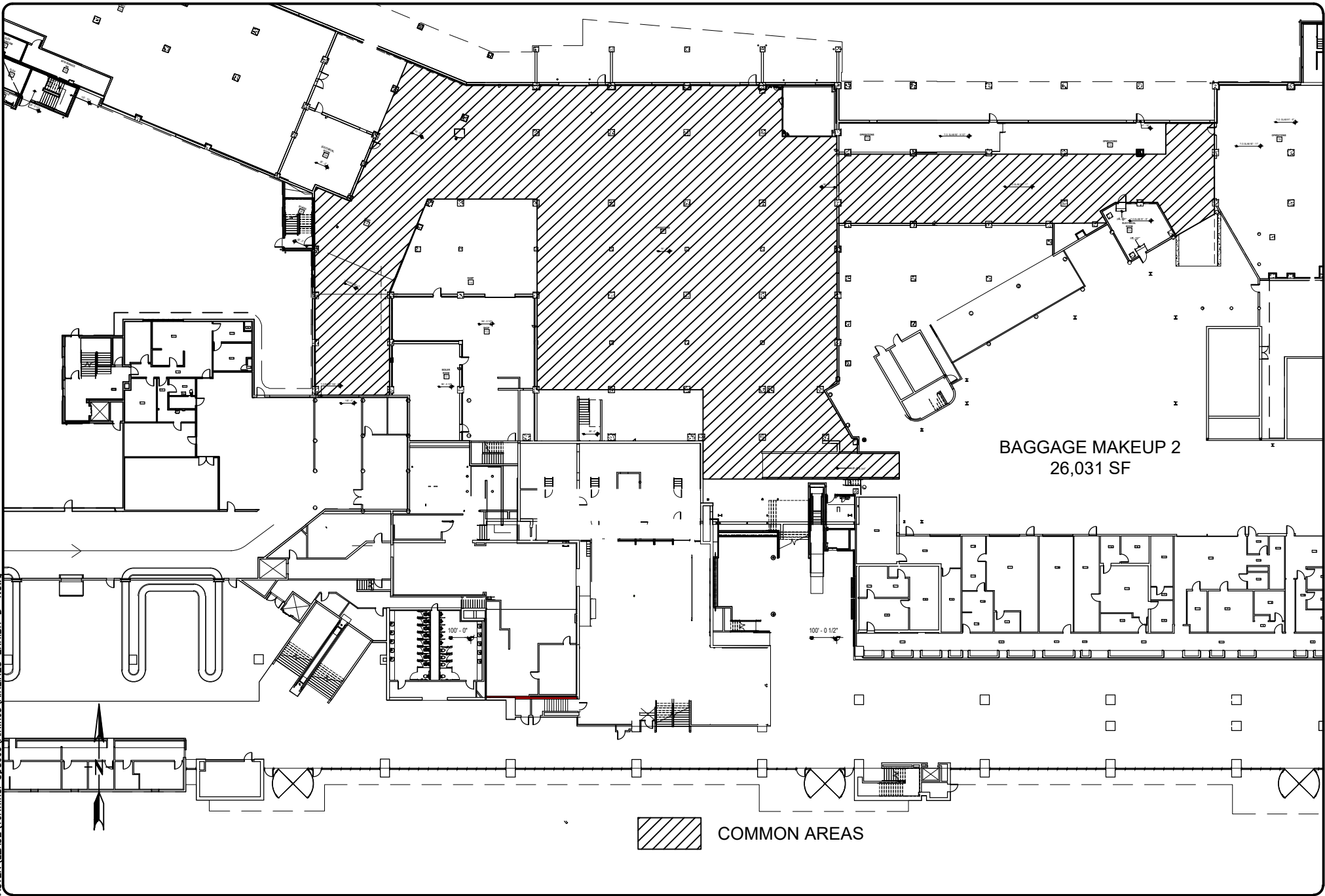
APRIL 2024



MAIN LEVEL – COMMON USE AREA  
CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
AVIATION AND TRANSIT DEPARTMENT



APRIL 2024

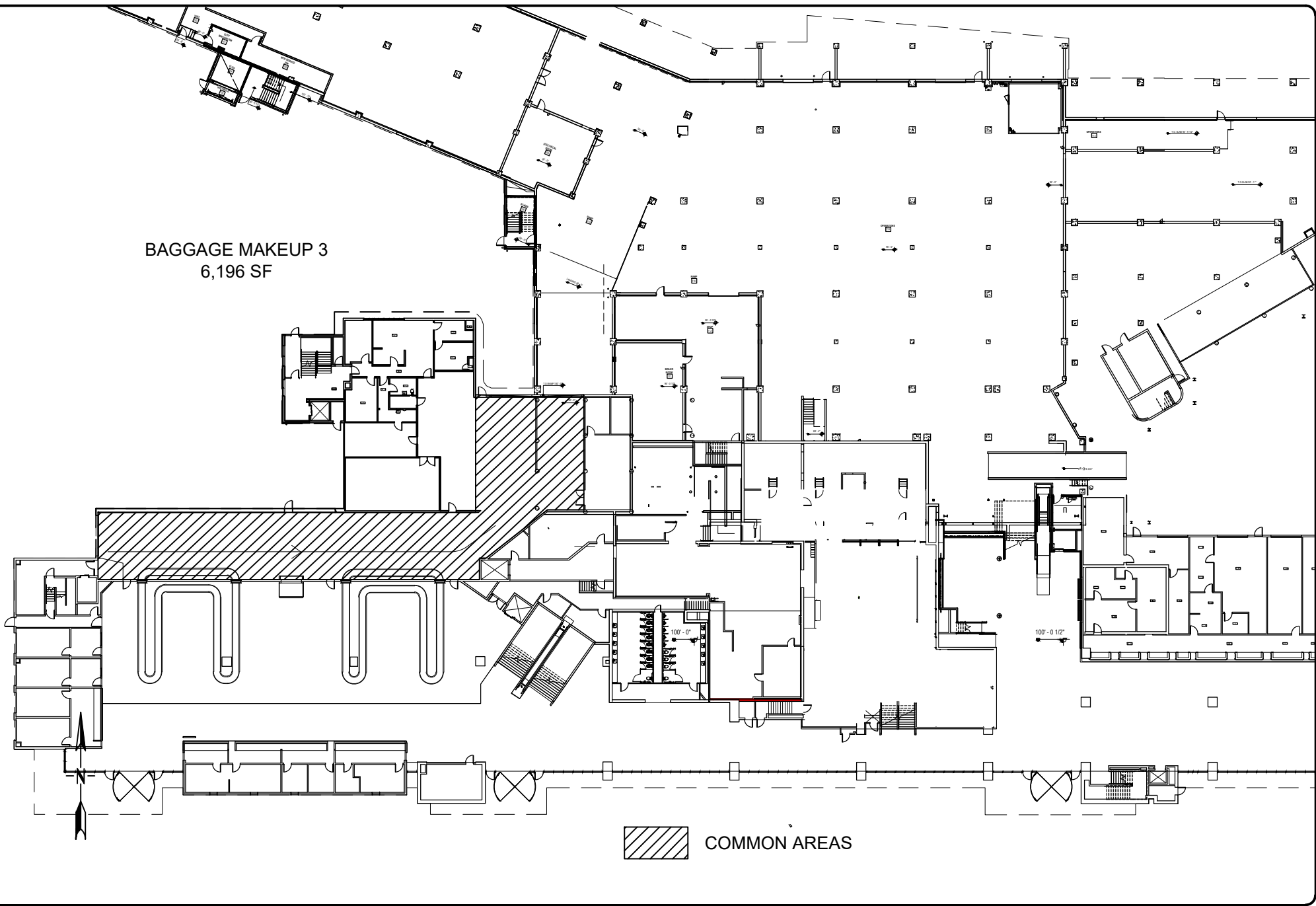


MAIN LEVEL – COMMON USE AREA  
CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
AVIATION AND TRANSIT DEPARTMENT



APRIL 2024

BAGGAGE MAKEUP 3  
6,196 SF



 COMMON AREAS

MAIN LEVEL – COMMON USE AREA  
CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
AVIATION AND TRANSIT DEPARTMENT



APRIL 2024

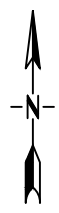
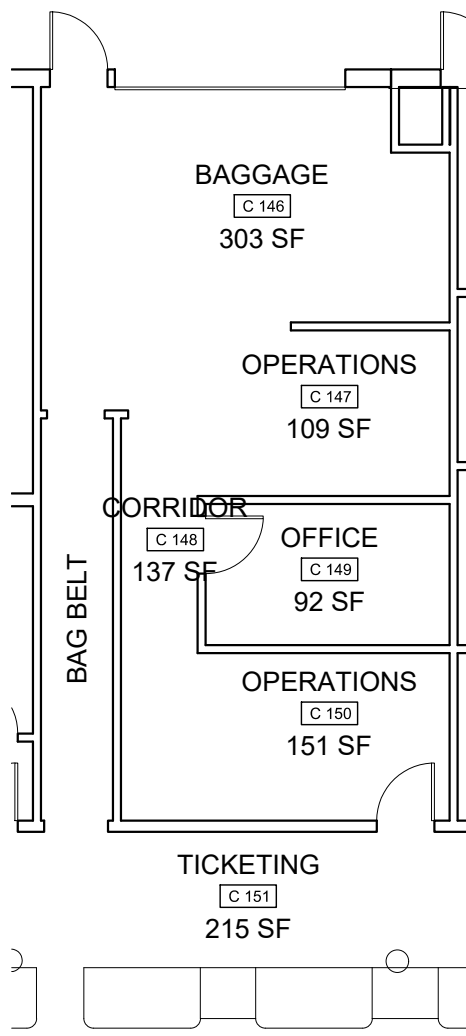
# SUMMARY OF LEASED SPACE

## MAIN LEVEL EXCLUSIVE USE SPACE

OPERATIONS	C150	151 SF
OFFICE	C149	92 SF
TICKETING	C151	215 SF
OPERATIONS	C147	109 SF
BAGGAGE	C146	303 SF
CORRDOR	C148	137 SF
		<hr/>
		1,007 SF

## CONCOURSE LEVEL PREFERENTIAL USE SPACE

GATE B1 HOLDROOM	225	3,045 SF
------------------	-----	----------



SCALE 1"=10'

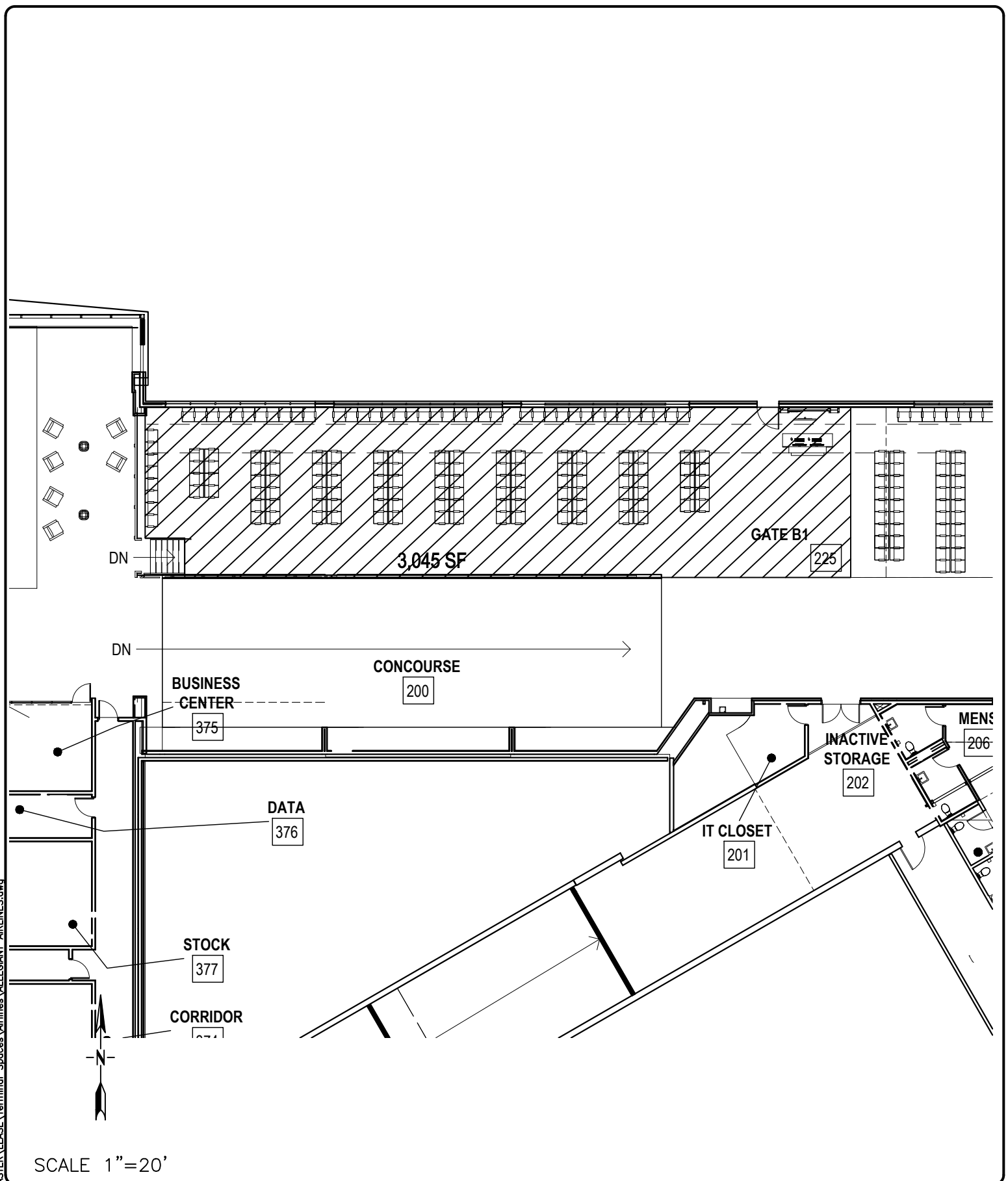
SUN COUNTRY  
 TERMINAL AGREEMENT  
 CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
 AVIATION AND TRANSIT DEPARTMENT



MAY 2024

EXHIBIT E 2 of 3

V:\2447\000-MASTER\LEASE\Terminal Spaces\Airlines\ALLEGIANT\_AIRLINES.dwg



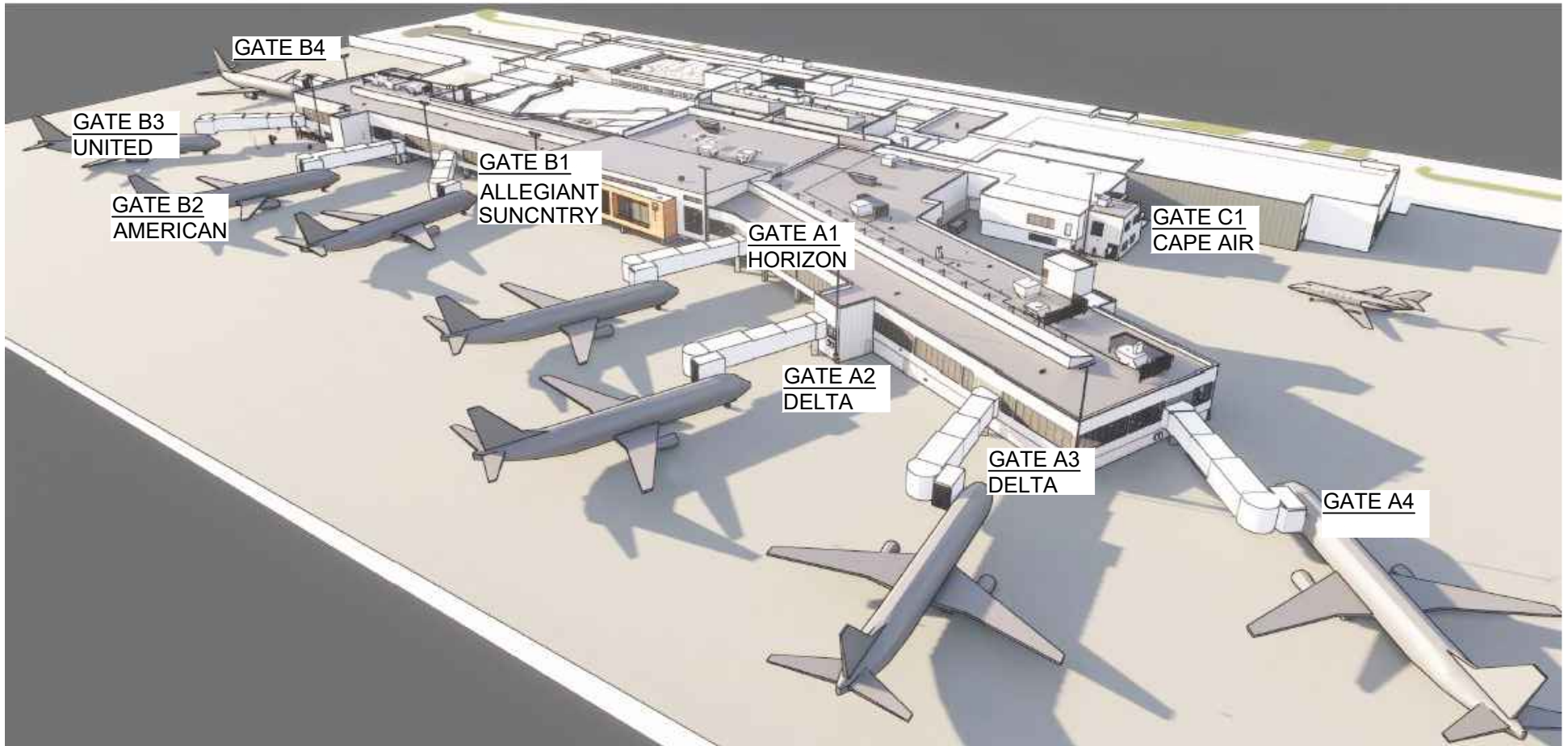
SCALE 1"=20'

SUN COUNTRY  
 TERMINAL AGREEMENT  
 CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
 AVIATION AND TRANSIT DEPARTMENT



EXHIBIT E 3 of 3

V:\2447\000-MASTER\LEASE\Terminal\_Spaces\Airlines\SUN\_COUNTRY.dwg



SUN COUNTRY  
TERMINAL AGREEMENT  
CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
AVIATION AND TRANSIT DEPARTMENT



APRIL 2024

V:\2447\000-MASTER\LEASE\Terminal\_Spaces\Airlines\SUN\_COUNTRY.dwg

	EXCLUSIVE USE	HOLD ROOM PREFERENTIAL USE	GATE B1 JOINT USE SPACE (a)	BAGGAGE CLAIM COMMON AREA (b)	BAGGAGE MAKEUP COMMON AREA (b)	TOTAL
BAGGAGE CLAIM/MAKEUP				7,163	46,799	53,962
ALLEGiant AIR	809		X			809
AMERICAN AIR LINES	1,545	2,200				3,745
CAPE AIR	1,173	1,955				3,128
DELTA AIR LINES	3,583	4,461				8,044
HORIZON/ALASKA	1,438	2,650				4,088
SUN COUNTRY	1,007		X			1,007
UNITED	2,282	2,268				4,550
UNITED (B4 SEASONAL)		2,076				2,076
SUN COUNTRY/ALLEGiant		3,045	X			3,045
<b>TOTALS</b>	<b>11,837</b>	<b>18,655</b>		<b>7,163</b>	<b>46,799</b>	<b>84,454</b>

- (a) Joint Use Holdroom Space Allocated According to Joint Use Formula
- (b) Baggage Claim/Makeup Space Allocated According to Common Use Formula

SUN COUNTRY  
 TERMINAL AGREEMENT  
 CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT  
 AVIATION AND TRANSIT DEPARTMENT



APRIL 2024

EXHIBIT H

SEE ATTACHED

BILLINGS INTERNATIONAL AIRPORT  
RULES AND REGULATIONS

APPROVED & ADOPTED  
MARCH 1999



# Billings Logan International Airport



## **RULES AND REGULATIONS**

**AVIATION AND TRANSIT DEPARTMENT  
CITY OF  
BILLINGS, MONTANA  
1999**

# AIRPORT RULES AND REGULATIONS

City of Billings Logan International Airport  
Billings, Montana

In accordance with Article 5, Section 5-302 of the code of the City of Billings, Montana, as amended, the rules and regulations contained herein are adopted to govern all activities at Billings Logan International Airport.

The provisions of this booklet supersede all previous editions of Rules and Regulations for Billings Logan International Airport and are set forth in the interests of public safety and efficient operation.

Revised Version  
Approved and Adopted  
by the City Council  
March 8, 1999

## TABLE OF CONTENTS

	Page
<b>SECTION I</b>	DEFINITIONS AND USE ..... 1
<b>SECTION II</b>	GENERAL RULES & REGULATIONS ..... 5
<b>SECTION III</b>	BUILDINGS/FACILITIES REGULATIONS ..... 12
<b>SECTION IV</b>	SAFETY/EMERGENCY PROCEDURES AND PROVISIONS ..... 14
<b>SECTION V</b>	AIRCRAFT OPERATING PROVISIONS .. 18
<b>SECTION VI</b>	PROVISIONS FOR STORING, HANDLING & TRANSFERRING AIRCRAFT FUELS ..... 24
<b>SECTION VII</b>	REGULATIONS GOVERNING VEHICLES/TRAFFIC/PARKING ..... 28
<b>SECTION VIII</b>	SECURITY RULES & REGULATIONS 34
<b>SECTION IX</b>	BASIC LEASING & ALTERATION/ CONSTRUCTION RULES ..... 37
<b>SECTION X</b>	SCHEDULE OF FEES ..... 40
<b>SECTION XI</b>	NEWSRACKS, ADVERTISING STANDS AND GENERAL INFORMATION DISTRIBUTION ..... 41
<b>SECTION XII</b>	ENVIRONMENTAL REQUIREMENTS ... 42

## SECTION I — DEFINITIONS AND USE

1. The following terms as used in these Rules and Regulations shall have the following meanings:
  - a) **Airport Roads** shall mean those roads that afford a means of ingress and egress for vehicles to, from and between the public roads with which such roads connect, and the various buildings and public areas at the Airport abutting upon such roads.
  - b) **Aircraft** shall mean and include any and all contrivances now or hereafter used for the navigation of or flight in air or space, including but not limited to airplanes, airships, dirigibles, helicopters, gliders, amphibians and seaplanes.
  - c) **Airport** shall mean all the real property now owned or otherwise controlled by the City of Billings known as Billings Logan International Airport, and all other real property, whether City owned or not, that may fall under the City's jurisdiction at any other location for the purpose of providing a place from which to operate.
  - d) **Airport Police Officer** shall mean every officer of the Aviation and Transit Department Police Division whose powers and duties are listed in Section VIII, Paragraph 1.
  - e) **Air Operations Area (AOA)** includes any portion of the Airport designed and used for surface maneuvering of aircraft.
  - f) **Billings Logan International Airport** shall mean the official name of the facility referred to as the Airport in this document.
  - g) **City**—The words "the City" or "this City" mean the City of Billings, in the County of Yellowstone and State of Montana.
  - h) **Department** shall mean the City of Billings Department of Aviation and Transit.
  - i) **Destructive device** means a projectile containing an explosive, incendiary material, or other chemical substance, or a bomb, grenade, missile, or any other device creating an unreasonable risk of harm to persons or property.
  - j) **Director** shall mean the City of Billings' Director of Aviation and Transit who is in charge of the Airport or his/her designated representative.
  - k) **Employee** shall mean any person working for any individual, firm, company, or agency doing business on or located on the Airport.
  - l) **Employer** shall mean the individual or individuals in charge of any firm, company, or agency doing business on or located on the Airport.
  - m) **Fixed Base Operator (FBO)** shall mean an entity under contract with the City to engage in certain commercial general aviation activities.
  - n) **Fuel handling** shall mean the transporting, delivering, fueling, and draining of fuel or fuel waste products.
  - o) **Fuel storage area** shall mean and include those portions of the Airport designated temporarily or permanently by the City of Billings as areas in which gasoline or any other types of fuel may be stored.
  - p) **Jet aircraft** shall mean and include any and all aircraft which are not propeller-driven, and which accomplish motion entirely as a direct reaction of the thrust of any engine, including but not limited to engines which operate on turbine, ram, rocket, or nuclear principles.
  - q) **Movement area** shall mean any area at the Billings Logan International Airport under the direct control of the Billings Air Traffic Control Tower.
  - r) **Newsrack** shall mean any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display and sale of newspapers or news periodicals.
  - s) **Non-movement area** shall mean certain taxiways and apron/ramp areas not under the control of the Billings Air Traffic Control Tower.
  - t) **Operator** shall mean the owner of an aircraft or any person who has rented or is otherwise using such aircraft for the purpose of operation by himself/herself or his/her own agents.

- u) **Permission** shall mean permission granted by the Director unless otherwise specifically provided.
- v) **Person** includes a corporation, company, partnership, association or society, as well as a natural person.
- w) **Public aircraft parking and storage areas** shall mean and include those portions of the Airport designated and made available to the public for the parking or storage of aircraft.
- x) **Public landing area** shall mean and include those portions of the Airport including runways and taxiways designated and made available to the public for the landing, taking off and taxiing of aircraft, and other areas between and adjacent to said runways and taxiways.
- y) **Public vehicular parking area** shall mean and include those portions of the Airport designated and made available to the public for the parking of vehicles.
- z) **Ramp and apron area** shall mean and include those portions of the Airport designated and made available to the users for loading or unloading of passengers, cargo, and mail on and off aircraft.
- aa) **Regulated activities** shall mean those activities within the Airport, by persons or organizations desiring to exercise their rights of free speech and expression covered under Section XI, namely:
  - 1) Religious or proselytism;
  - 2) Solicitation and acceptance of donations for charitable, religious, or political causes;
  - 3) Distribution of handbills, tracts and other literature.
- bb) **Secured area** shall mean certain portions of the air carrier terminal and adjacent ramp areas associated with the handling (boarding, deplaning, and baggage operations) for certificated air carriers.
- cc) **SIDA** shall mean the Security Identification Display Area. At the Billings Logan International Airport the SIDA includes only those portions of the AOA that are defined as the "secured area." While in the SIDA persons, unless under approved escort, must wear a Billings Logan International Aviation Department identification badge on their outermost garment.
- dd) **Temporary buildings** shall be defined as any building which does not conform to State of Montana Building Codes and the Uniform Building Codes (UBC) as adopted by the City of Billings Building Department for permanent structures.
- ee) **Turbo-prop aircraft** shall mean and include any and all aircraft which accomplish motion by means of a jet engine having a turbine-driven propeller whose thrust may or may not be supplemented by that of hot exhaust gases issuing in a jet from the engine itself.
- ff) **Vehicles** shall mean and include automobiles, trucks, buses, motorcycles, animal-drawn vehicles, bicycles, push carts, tugs, bag belts, and any other device in or upon or by which any person or property is or may be transported, carried or drawn upon land, except railroad equipment and aircraft.

## SECTION II — GENERAL RULES AND REGULATIONS

1. ***Authority to adopt Rules and Regulations (Article 5, Section 5-302 Billings Municipal Code).*** The City Administrator shall promulgate rules and regulations to govern the operation and control of the Airport and fixing fees and charges, subject to approval by the City Council. Any person, firm, partnership, association or corporation who shall violate these Rules and Regulations shall, upon conviction thereof in any court of competent jurisdiction, be deemed guilty of a misdemeanor. Each day a violation of these Rules and Regulations shall continue, shall constitute a separate offense. Each misdemeanor shall be punishable by a fine not to exceed five hundred dollars (\$500) or imprisonment in the City Jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment.
2. ***The Director of Aviation and Transit*** or his/her designated representatives have authority to take such action as may be necessary to safeguard the public in attendance at the Airport as well as all facilities under his/her control. All persons employed on or using the Airport shall cooperate with the Director and his/her staff to enforce these Rules and Regulations. The Director and any designated staff representatives as well as the Airport Police staff may issue warning notices and citation(s) for violations of these Rules and Regulations as warranted.
3. ***Compliance with Rules and Regulations.*** Any permission granted by the City or the Director, directly or indirectly, expressly or by implication, to any person or persons to enter or use the Airport or any part thereof (including aircraft operators, crew members or passengers, spectators, operators of pleasure and commercial vehicles, officers and employees of airlines and any other persons occupying space within the Airport, persons doing business with the City, its lessees or sub-lessees and permittees, and any other person whatsoever) is conditioned upon strict compliance with these Rules and Regulations and payment of such rates, fees or charges as may be established by the Director.
4. ***Commercial activities must be approved.*** No person shall use Billings Logan International Airport for the purpose of carrying out commercial activity; for the carrying for hire of passengers, freight, express, or mail; for the instruction in aviation in any of its branches; for the conduct of any phase of any aviation activity; for the sale of fuel or refreshments; or for any other commercial purpose unless approved by the City or its duly authorized agent by lease or license, as provided in Paragraph 3 above. The City reserves the right to license all commercial operations and assess charges as appropriate.
5. ***A valid certificate of insurance,*** or copies of said, will be deposited at the Director's Office by tenants having valid leases, subleases, agreements or holders of operating permits on or in Airport property, and by any contractor, subcontractor, construction company, or contracted service provider functioning on or in Airport property. Amounts of liability to be determined by the Director. All policies shall name the City of Billings, its officers, servants and agents and employees as additional insureds. The City of Billings shall be provided at least thirty (30) days notice prior to any change of terms, coverage, or limitations of a tenant's or contractor's insurance policy.
6. ***Suspension of activities.*** The Director may suspend or restrict any or all operations without regard to weather conditions or other considerations whenever such action is deemed necessary in the interest of safety.
7. ***Obstruction of Public Use.*** No person shall travel by foot or vehicle on any portion of the Airport except upon the roads, walks, or places provided for that particular class of traffic; nor occupy the roads or walks in such manner as to hinder or obstruct their proper use.
8. ***Restricted areas.*** No person shall enter any restricted area of the Airport posted as being closed to the public, except persons assigned to duty therein or authorized representatives of the City. Operational areas, ramps, aprons, and loading positions are closed to the public, and no tenant shall permit any unauthorized person to gain access to the ramp either by private

or common use passageways or through private areas. Nothing herein contained shall be construed to limit the use of any area, or portion of the Airport, by officers or employees of the City, or by contractors acting specifically on behalf of the Aviation and Transit Department or to prevent any police officer, fire fighter, or other public officer or employee from entering upon any part of the Airport when properly required in the performance of his/her official duties.

9. **Signs and advertisements.** No person shall post, distribute or display signs, advertisements, circulars, printed or written matter at the Airport, except as provided in Section XI or as provided by the Airport advertising program. Tenant area advertising signs must be authorized in writing by the Director and be in compliance, as applicable with the appropriate City of Billings signing codes and regulations.
10. **Selling, soliciting and entertaining.** No person, except those authorized by contract with the City or permission of the Director, shall in or upon any area, platform, stairway, waiting room or other appurtenance of the Airport:
  - a) Solicit alms or funds for any purpose whatsoever;
  - b) Sell, or offer for sale, any article or merchandise;
  - c) Solicit any business or trade, including the carrying of baggage for hire, the shining of shoes or bootblacking;
  - d) Entertain any persons by singing, dancing or playing any musical instrument.
11. **Responsibility for damages.** Any person causing damage to or destroying public property of any kind at Billings Logan International Airport, including buildings, fixtures, or appurtenances, whether through violation of these Rules and Regulations or through any act or omission, shall be fully liable to the City. Any such damage shall be reported at once to the Director or Airport Police Office.
12. **Animals.** No person may enter any part of the Airport including the Air Operations Area (AOA) with a domestic or wild animal without written permission of the Director, except:
  - a) Persons entering any part of the Airport (other than the Terminal Building, gate loading area, or other restricted

- area) with a domestic animal that is kept restrained by a leash or is confined so as to be completely under control;
- b) Persons entering the Terminal Building or gate loading area with a small domestic animal (such as a dog or cat) that is to be transported by air and is kept restrained by a leash or is confined so as to be completely under control; or
- c) Animals required for assistance to vision-impaired, hearing-impaired, or security enforcement persons.
- d) When the animal has been containerized for air shipment. Any stray livestock or animal on the Airport will be disposed of in accordance with the laws of the State of Montana and the applicable municipal ordinances.

13. **Mislaid property.** Any person finding any mislaid property on any of the Airport premises shall deposit the same at the Office of the Airport Police. The Chief of Airport Police shall immediately make a reasonable effort to ascertain the true owner of such property. In the event he cannot ascertain the true owner, any such property unclaimed by the true owner within sixty (60) days after its finding will be considered property of the City of Billings Aviation and Transit Department and may be sold or disposed of at the discretion of the Director in the best interests of the City of Billings Aviation and Transit Department. The proceeds of any such sale will belong to the City of Billings Aviation and Transit Department.
14. **Demonstrations.** Labor dispute picketing or other demonstrations shall be confined to locations specifically designated by the Director. Further, any person or persons wishing to picket, demonstrate, or otherwise communicate views to the public at the Airport will provide written notice of the intent to do so to the Director not less than three business days prior to engaging in such activity. Written notice shall include:
  - a) The name, address, and telephone number of the person sponsoring, promoting, or otherwise organizing the activity;
  - b) A copy of the literature to be displayed or distributed and the text of any signs or other visual displays;

- c) A description of the nature of the proposed activity.
  - d) The number of persons expected to participate and the date, hour, location, and anticipated duration of the proposed activity. No demonstration of any kind will be allowed to conflict with normal operation of the Airport facilities or pose a safety problem to users of the facility.
15. **Storage of cargo.** Unless otherwise provided by a lease or other contractual agreement, no person shall use any area of the Airport, including buildings, either privately owned or publicly owned for the storage of cargo or any other property without permission of the Director. Notwithstanding the above prohibition, if a person uses such areas for storage as aforesaid without first obtaining such permission, the Director shall have authority to order the cargo or any other property removed or to cause the same to be removed and stored at the expense of the owner or consignee thereof, without responsibility of liability for damages arising therefrom.
  16. **Air taxi passenger counts.** All FBOs and others operating out of Billings Logan International Airport and carrying passengers for hire shall file a report with the Director within ten (10) days after the preceding month indicating the total number of passengers carried during the month. The City reserves the right to conduct unannounced audits to verify air taxi passenger counts reported to the Airport.
  17. **Air carrier charter aircraft counts.** All FBOs and tenant airlines operating out of Billings Logan International Airport will file a report with the Director within ten (10) days after the preceding month indicating the number of charters handled, type aircraft, fuel taken, aircraft owner, registration number of the aircraft and number of passengers carried. The City reserves the right to conduct unannounced audits to verify the number of charters reported to the Airport.
  18. **Obstruction of Airport use.** No person shall obstruct, impair, or unreasonably interfere with the passage or safe, orderly, efficient use of the Airport by any other person, vehicle, or aircraft.
  19. **Antenna base station installation and maintenance criteria.** All antennas, base stations, or satellite communication systems

located on any private or public Airport buildings must be registered with the Director's Office. To be registered, the following must be presented in writing to the Director:

- a) FCC License
- b) FCC PM Check (Maintenance Check)
- c) Requested location and antenna description
  - 1) Type
  - 2) Length
  - 3) Statement of dealer installation

The location must be specifically approved as well as the method of securing the equipment if it is to be located on the City-owned buildings. Further, the Director retains the right to deny a new applicant or ask an existing permit holder to remove the equipment should frequency interference or other operational problems arise that would jeopardize the existing FAA, Fire, Police or Aviation and Transit Department essential communications and navigational equipment.

20. **Use of Airports.**

- a) No person or group shall organize, promote or participate in any aviation event including but not limited to airshows, air festivals, air races, balloon festivals, experimental aircraft testing, fly-in meets, glider activities, gyro copters, home built aircraft testing, hot air balloon launches, model aircraft meets, banner tows, parachute or parasail demonstrations, sky diving activities, para-planes, ultralights warbird shows, formation landings and takeoffs, and the use of "ski geared aircraft," without the prior written approval of the Director of Aviation and Transit and the Federal Aviation Administration as required. Approval by the Director of Aviation and Transit of any request to organize/sponsor an airshow, or similar event, at Billings Logan International Airport will be contingent upon the group/individual satisfactorily completing all applications, operations plans and special use operating permits required by the Aviation and Transit Department. The form and content of all applications, operations plans, and operating permits will be established by the Director of Aviation and Transit.

- b) Persons or parties wishing to conduct a commercial operation on the Airport and not involved with a lease of buildings or ground from the City will require an operating permit issued by the Director. The specific requirements to obtain this permit will be detailed by the Director and a fee charged for this permit at the discretion of the Director.

### SECTION III — BUILDINGS/FACILITIES REGULATIONS

1. ***Construction, alteration, remodeling of Airport facilities and property.*** No person, tenant or lessee shall make any alterations of any nature, whatsoever to any building, ramp, or other Airport space, nor erect any building or structure without prior written permission of the Director. Permission will only be granted after review of the plans by members of the Department's Engineering Division and after City Building Department review and approval when appropriate. A drawing depicting in detail the alteration should accompany the written request. The cost of the alterations, if approved, will be borne by the party requesting the alteration.
2. ***Floor drains, manholes and sewer connections.*** No person shall place any solid in, or pour any liquid other than water, down floor drains, manholes or other sewer connections.
3. ***Sprinkler systems.*** No persons other than authorized employees of the City shall at any time move any valve, switch, or other fixture of, or in any way tamper with, any sprinkler system installed in any building.
4. ***Privately owned aircraft hangars,*** are to be used for aircraft storage only, unless written approval for other uses/activities has been granted by the Director.
5. ***Discarded materials, weeds and debris.*** The areas around the outside of all buildings on the Airport will be kept free of any accumulation of discarded materials, weeds, disabled vehicles, aircraft parts, and other debris. Where accumulations are found by the City the lessee will be given written direction to dispose of discarded materials within ten (10) days. If the accumulations remain after this time period the City will dispose of the materials and bill the lessee for the full costs of disposal.
6. ***Lock and key control.*** Only those persons with a clearly defined operational need, as determined by the Director, will be issued keys or access cards to the Airport facilities and operational areas as provided for in the Billings Logan International Airport Security Program.
  - a) Keys and access cards are not to be duplicated or

- transferred to another employee or individual and will only be issued through the Airport Police Office.
- b) Employers are responsible for collecting and returning employee keys and access cards to the Airport Police Office immediately upon termination of employees. Lost or stolen keys and access cards shall be immediately reported to Airport Police.
  - c) Tenants will be responsible for the cost of extra keys or replacing lost keys or access cards. Once three or more keys are lost the tenant will be responsible for all costs to rekey their leased area.
7. **Lease approval.** Arrangements for leases and building sites shall be made with the Director, but shall be approved by the City Council before any construction begins.
8. **Utilities.** All utilities requested and consumed shall be metered and the cost for meter installation and all consumption shall be at the lessee's expense.
9. **Non-permitted uses.** No part of the Airport and no improvement thereon shall be used or allowed to be used at any time for the manufacture, storage, distribution, servicing or sale of any product or the furnishing of any service, in a manner which is unreasonably noxious or offensive or an unreasonable annoyance or a nuisance to others on the Airport because of odors, fumes, smoke, noise, glare, vibration, soot, or dust. No activity shall be carried on which may be or may become dangerous to public health and safety, or which shall be illegal.

## SECTION IV — SAFETY PROVISIONS

1. **Smoking.** No person shall smoke or carry lighted cigars, cigarettes, pipes, matches or any naked flame in or upon any fuel storage areas, public ramp and apron area, or public aircraft parking and storage area or in any other place where smoking is specifically prohibited by signs, or upon any open space within fifty (50) feet of any fuel carrier or aircraft which is not in motion; nor shall any person throw from an open deck, gallery or balcony contiguous to such areas, or such carriers or aircraft, cigars, cigarettes or similar articles.
2. **Explosives.** No person shall, without prior permission of the Director, keep, transport, handle or store at, in or upon the Airport any cargo of explosives or other dangerous articles which are barred from loading in or transportation by civil aircraft in the United States under the provisions of the Federal Air Regulations. Any waiver of such regulations or of any part thereof by any competent governmental authority shall not constitute or be construed to constitute a waiver of this rule or an implied permission to keep, transport, handle or store such explosives or other dangerous articles at, in or upon the Airport.
3. **Firearms or destructive devices.** No person shall carry or possess a firearm or destructive device on the Airport except:
  - a) Firearms enclosed in a carrying case or other container for shipment by air;
  - b) Firearms carried by peace officers, government employees, or members of the Armed Forces of the United States, when such person is on official duty which authorized the possession of a firearm.
4. **Hunting.** Hunting on Airport property is prohibited.
5. **Open fires.** No person shall start any open fires of any type, including flare pots, or torches on any part of the Airport without permission from the Director.
6. **Welding operations.** Shall be conducted in approved welding booths or approved aircraft or vehicle maintenance areas in accordance with the Uniform Fire and Building Codes.

7. **Compressed flammable gas.** Compressed flammable gas cylinders stored inside of buildings must be stored in compliance with the appropriate National Fire Protection Association (NFPA) Standards and City of Billings Fire Codes.
8. **Low flash point compounds.** Storage of volatile compounds having a flash point of less than 110 degrees Fahrenheit is prohibited on the Airport unless use of the compound is required for aviation purposes and is approved by the Director and City of Billings Fire Marshall and stored in accordance with City of Billings Uniform Fire and Building Codes.
9. **Fire extinguishers.** Tenants are responsible for supplying and maintaining fire extinguishers on their tenant premises and equipment. Fire extinguishing equipment must be located, inspected, and tagged in accordance with City of Billings Uniform Fire and Building Codes. Use of any fire extinguisher under any circumstances shall be reported to the Airport's Aircraft Rescue and Fire Fighting Division immediately after use.
10. **Cleaning of aircraft.** Cleaning of aircraft shall be done only in areas designated for that purpose by the Director.
11. **Flammable/combustible fluid spills.** Receptacles containing waste oil and fluids must be placed in containers provided by the tenant and disposed in accordance with the appropriate local, State and Federal environmental regulations and laws. Discarding fluids on pavement, into storm or sanitary sewers, or on any grassed or planted area is prohibited, and any offender shall be liable for damage thereto as determined by the Director.
  - a) Tenants will be required to report all fluid spills to the Airport's Aircraft Rescue Fire Fighting Division immediately.
  - b) All spill accidents, including all costs for clean up, are the responsibility of the company and/or individual causing the spill.
  - c) Unreported spills will be cleaned by the Aviation and Transit Department. Costs associated with the spill will be charged to the lease holder of the ground upon which the spill was located.
  - d) All spills in excess of 25 gallons shall be immediately reported to the Montana State Department of Environmental Sciences as required by State regulations.
12. **Radioactive materials.** No person shall without prior permission of the Director, store, keep, handle, use or transport at, in or upon the Airport the following radioactive materials:
  - a) Source materials (as defined in Standards for Protection Against Radiation, promulgated by the Atomic Energy Commission, Title 10, Code of Federal Regulations, Part 20) including, but not limited to Uranium, Thorium, or any combination thereof (but not including the "unimportant quantities of source material" set forth in 10 CFR 40.13);
  - b) Special nuclear material (as defined in Standards for Protection Against Radiation promulgated by the Atomic Energy Commission, Title 10, Code of Federal Regulations, Part 20) including, but not limited to, Plutonium, Uranium 233, Uranium enriched in the Isotope 233 or in the Isotope 235, or any material artificially enriched by any of the foregoing.
  - c) Nuclear reactor fuel elements that are partially expended or irradiated;
  - d) New nuclear reactor fuel elements;
  - e) Radioactive waste material;
  - f) Any radioactive material moving under an Interstate Commerce Commission special permit and escort.

Advance notice of at least three (3) work days (Monday - Friday) shall be given the Director to permit full investigation and clearance for any operation requiring a waiver to this rule. The permission of the Director may be given to movements of radioactive materials only when such materials are packaged, marked, labeled and limited as required by the Interstate Commerce Commission and Federal Aviation Administration regulations applying to transportation of explosives and other dangerous articles and do not create undue hazard to life or property at the Airport.
13. **Hazards to aviation.** No person shall operate launch, propel, discharge or release any object, model aircraft rocket, kite,

balloon, parachute, or other article or substance upon or over the boundaries of the Airport or in aircraft approach zones where a hazard to safe flight would be created.

14. ***The Director of Aviation and Transit*** may as necessary establish Standard Operating Procedures with other individuals, groups, or agencies for dealing with the operational emergencies that arise on the Airport.
15. ***Right of access to Airport proper.***
  - a) The Director shall have the responsibility of providing and designating access gates in the perimeter fencing of the Airport for use by emergency equipment. The Director reserves the right to deny access to the Airport to any person or persons not directly connected with emergency operations.
  - b) Pedestrian traffic beyond any portion of the perimeter fencing of the Airport to the scene of an accident within the Airport is strictly prohibited.
16. ***Right to inspect.*** The Director has the right to inspect all tenant premises and to observe tenant activities in an effort to prevent unsafe practices.
17. ***Automatic fire and intrusion alarm systems*** installed by a tenant must be registered with the Airport Director. The following information must be noted: monitoring company, name of emergency contact(s) and their telephone numbers. The monitoring company must be instructed to notify 911 immediately upon receipt of an alarm prior to notifying the owner.

## SECTION V — AIRCRAFT OPERATING PROVISIONS

1. ***Conformance with Federal Regulations.*** All aeronautical activities at the Airport and all flying of aircraft departing from or arriving at the Airport and in the air space which constitutes the control zone of the Airport shall be under the direct control of FAA Control Tower personnel. The Federal Aviation Regulations and Civil Air Regulations of the United States Federal Aviation Administration and other appropriate rules and regulations of that body as they pertain to all aviation and aircraft operations are hereby adopted by reference and made a part of these rules as though they were fully contained herein.
2. ***Careless or negligent operation.*** No aircraft shall be operated on the surface of a public aircraft parking and storage area or public landing area or public ramp and apron area in a careless or negligent manner or in disregard of the rights and safety of others, or without due caution and circumspection, or at a speed or in a manner which endangers unreasonably, or is likely to endanger unreasonably, persons or property, or while the pilot or other persons aboard controlling any part of the operation thereof is under the influence of intoxicating liquor or any narcotic or dangerous drug, or if such aircraft is so constructed, equipped or loaded as to endanger unreasonably, or to be likely to endanger persons or property.
3. ***Qualified personnel to start and taxi aircraft.*** No aircraft engine shall be started or aircraft taxied at the Airport unless a pilot certificated to operate that particular type of aircraft, or a certificated mechanic qualified to start and run up the engines of that particular type aircraft, shall be attending the controls. Wheel blocks and tie-downs or other approved devices for blocking an aircraft shall always be placed at the front and rear of each main landing wheel, and the brakes of the aircraft shall be on and locked before the engine or engines are started, except in cases where in the opinion of the Director proven procedures such as those followed by the scheduled airlines are equally safe. Aircraft engine power backs will not be allowed without the written approval of the Director.

4. **Right-of-way for aircraft.** Taxiing aircraft shall have the right-of-way over all vehicles, except authorized emergency vehicles.
5. **Speed of aircraft on ground.** All aircraft shall be taxied at a safe and reasonable speed, with due regard for other aircraft, persons and property. In no case shall aircraft, on ramps or aprons, T-hangar or fixed base operator streets, be taxied in excess of 20 m.p.h. or in excess of such lesser speed limit as may be established by the Director.
6. **Air carrier operations area.** All taxiing aircraft will remain north of the movement area line that separates the air carrier operations area north of the Terminal Building and the taxiway system.
7. **Permission to taxi or tow aircraft.** No person shall taxi or tow an aircraft on movement areas until radio contact has been established with the Control Tower, or until the person in charge of the aircraft has made previous arrangements with the Control Tower by telephone or other means for appropriate light signals. A qualified operator must be at the controls of the aircraft being taxied or towed.
8. **Radio guard.** While taxiing, the pilot of an aircraft shall maintain at all times the appropriate radio frequency of the Airport Control Tower.
9. **Taxiway stops.** Aircraft awaiting take-off shall always stop short of the holding line between taxiways and runways unless the Control Tower authorizes a deviation from this rule.
10. **Engine/propeller blast.** No aircraft shall be started or taxied at the Airport where the exhaust blast may cause injury to persons or do damage to property. If it is impossible to taxi such aircraft without compliance with the above, the aircraft must be towed to desired destination.
11. **Authorized run-up areas.** No aircraft engine shall be run-up except in the designated run-up area located on the east end of the field adjacent to Taxiway Alpha or in other areas authorized for that purpose by the Director. Further, at no time shall engines be "run-up" when other aircraft, hangars, shops, other buildings, or persons in the observation area, are in the path of the propulsion stream. Aircraft moving away from the parking ramp shall avoid damaging other aircraft, persons, or property with their propulsion airflow.
12. **Run-up time restrictions.** Unless authorized by the Director, no run-ups of any aircraft engine shall be made between the hours of 10:00 p.m. and 8:00 a.m., unless such run-up is made immediately prior to a planned takeoff.
13. **Operation in hangar prohibited.** No aircraft shall be taxied into or out of a hangar under its own power nor shall the engines be operated while the aircraft is inside the hangar.
14. **Navigational lights.** If an aircraft is parked, taxied, or towed while its engine(s) are running, navigational lights shall remain on.
15. **Aircraft parking.** Aircraft parked adjacent to but not on a commercial operator's leasehold area in excess of eight (8) hours shall cause that operator to be cited, or the aircraft may be removed by the Director at his/her discretion. Further, no aircraft may be parked, tied down or stored on unleased ground (designated public parking excepted) in excess of eight (8) hours. If such aircraft exceeds this limit, the Director shall have the authority to order the aircraft removed and stored at the owner's expense in another location without responsibility for any damages that may arise from such removal or storage.
  - a) Any aircraft operator of a commercial carrier, upon notice from the Director, shall move or cause an aircraft to be removed from any operational or apron areas within sixty (60) minutes of such notification.
  - b) Itinerant or local based aircraft owners, requesting permission to park aircraft on the public ramp shall be granted permission for the purpose of enplaning or deplaning passengers or freight at the Terminal Building and shall remain with the aircraft and maintain radio contact with the Billings Control Tower and be prepared to move such aircraft immediately upon notice from the Tower.
16. **Parking on taxiways and fixed base operator streets.** No aircraft in the custody of any fixed base operator shall be parked on or in any portion of the public taxiways or FBO streets of the

- field except in an emergency. Any aircraft so parked, upon notice from the Director or his/her authorized representative, shall be removed by the operator or his/her representative within sixty (60) minutes of such notification.
17. **Area for repairs.** All repairs to aircraft or engines, except emergency repair, shall be made at areas designated for this purpose and not in the area reserved for landing, taking off or taxiing, ramps, aprons or terminal gate positions.
  18. **Removal of disabled aircraft.** After U.S. Government clearance, if required, every aircraft owner, his/her pilot or agent, shall be responsible for the immediate removal from the landing area or air operations area under the orders and supervision of the Director or his/her authorized representative, of any wrecked or disabled aircraft. Such aircraft, if not immediately removed shall be removed by others as may be ordered to do so by the Director or his/her designated representative, the liability and costs for which shall be borne entirely by the aircraft owner, his/her pilot or agent.
  19. **Knowledge of regulations.** It shall be the responsibility of all persons, firms and corporations operating on the Airport to acquaint themselves, their employees and clients/customers with the Federal Aviation Regulations and all Airport Rules and Regulations contained herein as required.
  20. **Use of gate positions.**
    - a) No person may use an aircraft gate position on the Airport unless he/she has been authorized to use it by the Director.
    - b) Except in an emergency, no person may enplane or deplane passengers on the Airport in an area that has not been established for that purpose by the Director.
    - c) No person operating a private, itinerant, nonscheduled, or military aircraft may park, stand, unload passengers, obstruct or attempt to use any aircraft gate position assigned to a scheduled air carrier, without the advance approval of the Director.
    - d) Except when specifically authorized by the Director, no person may double park an aircraft at a passenger gate.
  21. **Disabled aircraft storage.** No person shall park or store a damaged or disabled aircraft at the Airport for more than thirty (30) days except:
    - a) When undergoing or awaiting repairs at a commercial repair facility, or
    - b) When specifically authorized by prior written permission of the Director.
  22. **Operations on other areas.** No aircraft shall take off or land on taxiways or any paved or unpaved areas other than the designated runways.
  23. **Lock wheel turns.** No aircraft exceeding a gross weight of 12,500 pounds shall be permitted to make a 180 degree turn on any runway or taxiway without approval of the Director unless necessitated by an operational emergency. Further, lock wheel turns are prohibited on all Airport paved surfaces. Aircraft owners/operators will be held responsible for any damage caused by a violation of this rule.
  24. **Aerial spraying, crop dusting and fire-bombing operations.** No person shall conduct aerial spraying, crop dusting or fire-bombing operations from any part of the Airport without first:
    - a) Securing from the Director
      - 1) A permit to conduct such operation and;
      - 2) Assignment to a specific area, if available, from which to conduct the operation; and
    - b) Posting with the Director a \$5,000 cleanup bond and provide liability insurance coverages for bodily injury and property damage including chemical premises liability. The amount of these coverages will be determined by the Director.
    - c) Execute a hold harmless and indemnification agreement which releases the City, and Aviation and Transit Department from liability associated with the operation.
    - d) Demonstrating that the storage and handling of toxic chemicals, the methods for washing aircraft and their chemical tanks, and the procedures established for recovering, storing and disposing of the contaminated wash water shall be in accordance with Federal Resource

Conservation and Recovery Act of 1978 (RCRA) as amended, as well as all State and local laws and regulations. Additionally all facilities and procedures must be inspected and approved by the City Fire Marshal.

- e) Spillage of such materials on Airport grounds or pavement shall be reported immediately to the Airport's Aircraft Rescue Fire Fighting Division, and the operator shall be fully liable for the removal of said materials and/or the restoration of grounds or pavements damaged by the spillage. Materials handling shall further be governed by the provisions of Section IV, as applicable, of these Rules and Regulations.

25. **Noise control procedures.** The following noise control procedures have been established with the approval of the Federal Aviation Administration.

- a) Runway 10R/28L. All aircraft touch and go training operations on Runway 10R/28L shall be confined to the hours between 8:00 a.m. and 5:00 p.m. every day of the year. Additionally, touch and go operations on this runway should, weather permitting, be conducted to the west.
- b) Runway 10L/28R. The following Tower orders are in effect for Runway 10L/28R:
  - 1) When weather and traffic conditions permit, turbo jet aircraft will be directed to land Runway 10L and depart Runway 28R.
  - 2) Turbo jet aircraft departing Runway 28R whose planned route of flight requires a left turn will be directed to maintain runway heading until abeam of the Billings Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) before beginning a left turn.
  - 3) Turbo jet aircraft departing Runway 10L will be directed by FAA Air Traffic Control staff to maintain runway heading until two (2) miles east of the Billings Airport before beginning any turns.

## SECTION VI — PROVISIONS FOR STORING, HANDLING & TRANSFERRING AIRCRAFT FUELS

### 1. **Aviation fuel.**

- a) No person shall dispense fuel either to the public or to private aircraft either owned by himself/herself or others except those individuals and or companies that have received written authorization from the Director.
- b) All storage transport and handling of fuel on Airport property shall be conducted in accordance with the Uniform Fire Code (UFC) as adopted by the City of Billings and all applicable Federal and State Laws and Regulations. Individuals desiring to fuel their own aircraft will be required to follow the Billings Logan International Airport Self Fueling Policy and register their fueling equipment with the Billings Logan International Airport Aircraft Rescue Fire Fighting Division. Registration requirements are available by contacting the Aircraft Rescue Fire Fighting Division.
- c) Each vehicle, pump or other device used for the storage, transport or handling of fuel must be a commercially available system in full compliance with the UFC and permitted by the City of Billings Fire Marshal.
- d) The Director reserves the right to order any unauthorized and unsafe fuel tanks or trucks removed from the Airport property.
- e) Companies authorized by the Airport Director to dispense fuel will submit quarterly, a list of those qualified and training received, to the Director's Office. Any person whose training cannot be established will be banned from fueling any aircraft until such a time as the training is established. Training will correspond to NFPA pamphlet number 407 (1996) and as directed by the City Fire Marshal.

2. **Distance from buildings.** Aircraft fuel handling at the Airport shall be conducted at a distance of at least fifty (50) feet from any hangar or other building, except where the location of

- underground fuel tanks existing prior to June 1, 1987 requires such fuel handling closer to existing buildings or hangars. Fuel trucks shall be parked fifty (50) feet away from all hangars and buildings at all times.
3. **Fuel handling while engines are running.** Aircraft fueling is prohibited while the engine of the aircraft being fueled is running.
  4. **Proper static grounds.** During all fuel handling operations in connection with any aircraft at the Airport, the aircraft and the fuel dispensing or draining apparatus shall be grounded by wire to prevent the possibility of static ignition of volatile liquids and gases.
  5. **Fire extinguishers required.** During fuel handling operations in connection with any aircraft at the Airport, at least two fire extinguishers (20 lb.-B;C or larger) or other type extinguishers approved by the fire underwriters shall always be immediately available for use.
  6. **Fueling equipment.** Fueling hoses and defueling equipment must be maintained in a safe, nonleaking condition. Fueling trucks will be kept clean and at all times free of oil and grease leaks.
  7. **Fueling when passengers are aboard.** During fuel handling and transfer in connection with any aircraft, no passenger shall be permitted to remain in such aircraft unless in each case a cabin attendant is at the door and a passenger ramp is in position if the same should be required for the safe and rapid debarkation of passengers.
  8. **Smoking/open flames/lightning.** Smoking is prohibited in or about any aircraft or on any ramp, apron or loading position where fueling is taking place. Only personnel engaged in fuel handling or in the maintenance and operation of the aircraft being fueled shall be permitted within a distance of fifty (50) feet of the fuel tanks of such aircraft during the fuel handling operations. No open flames are permitted within one hundred (100) feet of any fuel service activity or fueling equipment. Fuel service activity shall cease when lightning discharges occur within the vicinity of the Airport.
  9. **Starting engines.** No person shall start the engines of any aircraft where there is any type of fuel exposed on the ground under the aircraft.
  10. **Flammable/combustible fluid spills.** Persons engaged in the fueling, defueling and servicing of aircraft shall exercise care to prevent spillage of fuel and fluids. In the event of a fuel or fluid spill, the Airport Aircraft Rescue Fire Fighting Division shall be notified immediately via procedures set down by the Department's Flammable/Combustible Fluid Spill Policy. All spill accidents are the responsibility of the company and/or individual causing the spill. All costs for clean up of any spill will be borne by the responsible parties.
  11. **Fuel farms/bulk plants.**
    - a) All fuel farms will conform to the appropriate City Fire Codes applicable NFPA standards, State and Federal regulations..
    - b) Persons or companies using any bulk plant/fuel farm are responsible for keeping yards free of weeds for a distance of fifteen (15) feet outside of yard fences. Yards will be kept free of trash and other debris at all times.
    - c) Under no circumstances shall a fueling vehicle be left unattended at a bulk plant during the loading or unloading process. Loading or unloading shall not be considered complete until the delivery hose is detached from both vehicle and tanks.
    - d) Care shall be taken in filling tanks at bulk plants to ensure that they are not filled to the point where they will overflow from heat expansion.
    - e) Each fenced fuel farm area must have an inventory of materials and equipment needed to clean a 25 gallon fluid spill in accordance with the Department's Flammable/Combustible Fluid Spill Policy.
  12. **Aircraft ground power generators** shall be located as far as practical from aircraft fueling points and tank vents.
  13. **No photo flash bulbs,** electrical tools, drills, buffers or similar tools which produce sparks or arcs shall be used in the immediate vicinity of aircraft during fueling operations.

14. **Operations of radar equipment.** No airborne radar equipment shall be operated or ground-tested on a public ramp and apron area or any area wherein the directional beam of high intensity (100kw or greater) radar is within 300 feet, or the low intensity beam (99kw or less) is within 100 feet of another aircraft, aircraft refueling operation, aircraft refueling truck or aircraft fuel or flammable liquid storage facility.
15. **Fuel truck parking.** Fuel servicing vehicles may not be parked or stored inside a building and may be parked only in exterior locations approved by the Director. Repair and maintenance of fuel service vehicles must be at locations approved by the Director.
16. **Routing of fuel trucks.** On Airport drive lanes for fuel service vehicles shall be designated by the Director.
17. **Automotive refueling.** Automotive and vehicular ramp equipment shall be refueled only at refueling stations and from dispensing devices approved by the Director. No aircraft refueling apparatus shall be used for automotive refueling purposes.

## SECTION VII — REGULATIONS GOVERNING VEHICLES, TRAFFIC AND PARKING

1. **Required licenses.** No vehicle shall be operated in or about a vehicular parking area, or any road within the Airport or upon any of the aircraft facilities, unless:
  - a) The driver thereof is duly authorized to operate such vehicles under the laws of the State of Montana; except that approved ramp equipment may be operated on the public ramp and apron area by accredited employees certified by the employers to the Director as qualified to operate such equipment.
  - b) Such vehicle is registered in accordance with the laws of the State of Montana, or unless it is specifically authorized by the Director to be operated in such areas.
2. **Required airfield driving permits.** Each person whose job or job duties require that they traverse airfield movement or non-movement areas are required to obtain one of the following Billings Logan International Airport driving permits. Permit requirements are available in the Airport Police Office.
  - a) A non-movement area driving permit is required for persons who only traverse certain taxilanes and apron/ramp areas not under the control of the Air Traffic Control Tower. The prerequisites for obtaining a non-movement area driver's permit are:
    - 1) The applicant must possess a current and valid drivers license.
    - 2) The applicant must possess a current Airport Identification Card.
    - 3) Complete permit application and obtain a self study guide which is available in the Airport Police Office.
    - 4) Complete the test at the end of the study guide.
    - 5) Return the completed test and application to the Airport Police Office.
    - 6) Airport Police will score the test.
    - 7) Applicants must score 100% in order to pass. If an applicant scores less than 100% they will be issued a

new study guide to review and may take the test again when ready.

- 8) Upon passing, the applicant will be issued a non-movement driving endorsement.
- b) A movement area driving permit is required for persons who must traverse non-movement and movement areas (runways and taxiways) under the control of the Air Traffic Control Tower. The prerequisites for obtaining a movement area driver's permit are:
  - 1) The applicant must possess a current and valid drivers license.
  - 2) The applicant must possess a current Airport Identification Card.
  - 3) Obtain an application and self study guide from the Airport Police Office.
  - 4) When ready the applicant must take an interactive training session and test, and a written test. The interactive portion has two sections and the written test one section. Airport Police will score the test. The applicant must score 80% or greater on each section in order to pass.
  - 5) Should the applicant fail one or more sections, they may retest on the sections where they received less than 80%.
  - 6) Upon passing all sections, the applicant will be issued a movement area driving endorsement.

Both movement and non-movement permits are valid for two (2) years.

### 3. **Operation of vehicles.**

- a) All vehicles and traffic ordinances of the City of Billings and the Department of Aviation and Transit pertaining to the operation of vehicles on public streets and airfield areas shall apply at the Airport. No vehicle (except emergency vehicles) shall be driven faster than 20 m.p.h. on any non public internal streets, taxiways or ramps. Posted speeds shall be adhered to in all areas.

- b) No motor vehicle shall be driven onto the public landing or operational area without the express permission of the Director or his/her designated representative, nor otherwise than in accordance with his/her instructions.
  - c) Drivers of all vehicles operating on the public landing area shall follow the Billings Logan International Airport Movement Area Driving requirements as periodically revised, and obtain permission from the Control Tower before entry thereon. Such vehicles shall have a functioning two-way radio in operation tuned to the Tower ground control frequency and shall display a checkered flag, not less than three (3) feet square of international orange and white, or an overhead rotating beacon. An overhead rotating beacon is required for all vehicles operating between the hours of sunset and sunrise. All vehicles must also display a two (2) foot square company logo on the side of the vehicle. The Director shall in all cases specify the identification required.
  - d) All vehicles shall hold clear of runways at the hold short lines painted on the pavement while waiting for signal lights or until a clearance is received by radio.
4. **Stopping, standing or parking.** No person shall drive, stop, stand or park a vehicle on a public vehicular parking area, operational area, or road within the Airport except at such places and for such periods of time and at such speeds as may be prescribed or permitted by the Director or indicated by appropriate signing.
  5. **Vehicle sale or repair.** No person shall park, or operate a vehicle upon any roadway or other Airport property without the approval of the Director for the principal purpose of:
    - a) Displaying such vehicle for sale.
    - b) Greasing, oiling, lubrication, painting or repairing such vehicle, except repairs necessary to remove vehicle.
    - c) Displaying advertising.
  6. **All vehicles operating in operational areas will yield to aircraft at all times.**

7. ***Abandoned or illegally parked vehicles.***

- a) Airport officers finding a vehicle standing or parked upon a street or other public place on the Airport in violation of the provisions of this Section are authorized to move such vehicle or require the driver or the person in charge of the vehicle to move the same.
- b) No person shall abandon or park as "dead storage" any motor vehicle, or parts of vehicles on the Airport. Any vehicle parked or left unattended in violation of the provisions of this Section may be taken into custody by the Aviation and Transit Department and removed to a place of safe keeping.
- c) The Airport Police shall make every effort to notify the owner or operator of such vehicle as to its whereabouts within three (3) days of its removal. Notice to be given in writing or other means of the fact of such removal and the reasons thereof and the place to which such vehicle has been removed. The person claiming it shall pay all costs incurred.
- d) Airport Police may use Airport personnel, equipment, and facilities for removal and preservation of the vehicle, or may hire other personnel, equipment and facilities for those purposes.
- e) In the event the owner or operator of the vehicle cannot be notified the Airport Police will notify the Sheriff and City Police of the place where the vehicle is being held and shall furnish a complete description of the vehicle to include year, make, model, serial number and license number if available and any cost incurred.

8. ***Public parking and payment of fees.*** No person shall park a vehicle in the public parking area provided without payment of such parking fees as may be required by the Director or his/her concessionaire.

9. ***Taxicab/buses and other public service vehicles.*** No person shall operate any taxicab or public service vehicle from the Airport unless such operation has the approval of the Director and other agencies having jurisdiction and under terms and

conditions as may be prescribed and upon payment of such tolls or charges as may from time to time be established by the Director.

10. ***Building entrance.*** No driver of a taxicab/bus or public service vehicle shall be permitted in the waiting areas of the Terminal Building or in any of the entrances or passages thereto for the purpose of soliciting business.

11. ***Employees parking lots.*** There have been established employees' parking lots for the exclusive use of those persons employed at the Airport, subject to the following rules:

- a) All users of these lots shall register their vehicles with the Airport Police Division and receive an employee lot parking permit.
- b) Parking permits must be displayed at all times the vehicle is parked in the employee lots and can only be used with a vehicle registered to the employee and on file with Airport Police.
- c) Employees shall not park a vehicle, so registered, at any other place than an employees' parking lot during those hours that the employee is actually performing work for his/her employer, except that this provision shall not prohibit any employee from stopping or parking a vehicle at any other place, where stopping or parking is permitted. Parking spaces in the lots are designated by lines or marks on the pavement and each vehicle shall be parked within the lines, so established with the rear of the vehicle facing the driving lane. Vehicles shall follow the direction of the arrows in the driving lanes. During the Winter season employees shall follow the snow removal parking restriction signs.
- d) The Director may determine and designate space, at other places for the purpose of parking vehicles by special permit.

12. ***Itinerant parking lots.*** Parking lots have been established for individuals who either work for a company licensed to do business with the Billings Logan International Airport, or are general aviation pilots regularly serving the Billings area. Use

of these lots is subject to the following rules:

- a) Individuals who fall into this category must provide company identification/employment verification prior to receiving a permit.
  - b) Permittees must pay an annual fee for the use of the lot.
  - c) Permittees must display the parking permit at all times while the vehicle is in the lot. The permit may only be used on a vehicle registered to the owner and on file with Airport Police.
13. **Restricted stands.** The Director may establish taxicab, rental car, freight, bus, and hotel-motel courtesy car parking locations in such places and in such a manner as determined to be of the greatest benefit and convenience to the users and the Airport. These vehicles will park in these designated locations. Fees may be established for use of these areas.
14. **Temporary/transient vehicles.** No temporary or transient vehicle shall be allowed in the terminal (ramp) area unless escorted as follows:
- a) Freight vehicles requiring access on the air carrier apron to the freight receiving area shall be escorted by airline personnel.
  - b) Other temporary/transient vehicles shall be escorted by Police or Aviation and Transit Department staff vehicles. Temporary/transient vehicles, operating in the air operations area outside the ramp will require a two-way radio for communication with the Tower, be marked by a company decal, logo or flag, and have the permission of the Director as indicated in Rules #2 and #3 of this Section.
15. The Director of Aviation and Transit shall establish minimum liability insurance limits for tenant business vehicles and other privately owned vehicles which are allowed access to the AOA. The tenants insurance supplier shall provide the Director with a Certificate of Insurance listing said insurance coverages in force and current.

## SECTION VIII — SECURITY RULES AND REGULATIONS

1. **Airport Police powers and duties.** The members of the Airport Police Division shall be charged with the requirements of enforcement in regard to anti-hijacking as provided for in the Federal Air Regulations Parts 107 and 108. They shall also enforce all Airport Rules and Regulations and all City ordinances and State laws pertaining to the operation of Billings Logan International Airport.
2. **Federal security regulations/programs.** Federal Aviation Regulations 107 and 108 and other regulations of the United States Federal Aviation Administration detail specific security requirements for the continued safe operation of Billings Logan International Airport. The Aviation and Transit Department is in fact required to maintain an approved Airport Security Program at all times. These regulations and the approved security program are hereby adopted by reference and made a part of these rules as though they were fully contained herein.
3. **Employee identification.** All employees of any user, tenant or concessionaire employed on the Airport who will need to access any portion of the AOA shall report to the Airport Police Division Office within 24 hours of being employed to make application for an employee identification badge. Depending on the AOA areas that the employee will need to access, employers will be required to complete and certify that employment history background checks were conducted, to the extent required by law, for the employee making the identification badge application. If the employee does not meet the Federally required criteria for the specific AOA area they desire to access, an employee identification badge will not be issued. Application and certification forms are available in the Airport Police Office.
  - a) After receiving an identification badge employees are required to attend an instructional program on Airport and aviation security.
  - b) Identification badges will be carried by the employee at all times the individual is working on the Airport and will be presented as identification when requested by any Airport official or other tenant identification badge holder.

- c) Identification badges shall be continuously displayed on the outermost garment while in the SIDA.
  - d) Employees shall not transfer or loan their identification badge to anyone.
  - e) Lost badges shall be immediately reported to Airport Police.
  - f) Employers are responsible for collecting and returning employee identifications to the Airport Police Division immediately upon the termination of employment.
4. **Terminal area gates and doors.** It shall be the responsibility and duty of the airlines and tenants to close and keep closed gates and doors on the Terminal Building ramp and concourse areas at all times except when necessary for the loading and unloading of aircraft. Spectators will not be permitted on the ramp unless previously cleared by the Director or his/her authorized representative.
5. **Airfield vehicle gates.**
- a) All manual vehicle and pedestrian gates shall be closed and locked after passing through them.
  - b) When entering or exiting the AOA through an automatic vehicle gate personnel shall remain in the area of the gate until the chain link gate ends its closing cycle to insure that no one enters the AOA behind them. No vehicle tail gating (one vehicle following on the bumper of another without using their access card) is allowed, as the automatic vehicle gates are designed for single vehicle access.
  - c) Violation of these procedures shall be immediately reported to Airport Police.
6. **Property damage or theft of property.** The City of Billings assumes no liability or responsibility for property damage or theft of property on the Airport committed by unknown parties. Normal police reports should be filed with the Airport Police Division.
7. **All persons are prohibited** from tampering with, altering, damaging or destroying Airport security fencing, gates, card reader devices, and communications equipment.
8. **Aircraft requiring special security guards** shall coordinate this requirement with the Director of Aviation and Transit Office and will be responsible for obtaining and paying all costs associated with the security personnel.
9. **Tenants are responsible** for the security of all aircraft and other private property entrusted to their care on their leasehold areas.
10. **Weapons.** No person may have a firearm, an explosive, or an incendiary device on or about the individual's person or accessible property when entering or in a secured area, except Airport Police Officers who are required to carry a firearm while on duty at the Airport, and certain other City, County, State, Federal and military law enforcement officials authorized to carry firearms in accordance with the airline, air carrier standard security program, FAR 108 and 107 and in conjunction with their official duties. Sporting weapons carried for shipment must be encased according to specific airline shipping requirements.

**SECTION IX — BASIC LEASING AND ALTERATION/  
CONSTRUCTION REQUIREMENTS**

1. **Commercial activities.** It shall be unlawful for any person, firm or business to conduct any commercial activity on, at and within the Airport without first obtaining approval from the City of Billings through the Aviation and Transit Department. Activities approved by operating permit, use agreement, license, lease or sublease, shall be restricted to the activities specifically described in the permit, agreement or lease, which lease and agreements shall be in a form satisfactory to the City.
2. **Leases, use agreements and operating permits.** The Aviation and Transit Department will accept requests for a lease, use agreement, or operating permit on Logan Field only after the requesting party puts forth in writing the scope of the proposed operations to include but not limited to the following:
  - a) The service to be offered and/or the nature of the business.
  - b) When applicable the amount and location of the land the requesting party desires to lease or use.
  - c) When applicable the building(s) space (sf) and location of same he/she is requesting to lease or construct.
  - d) When applicable the number, type and ownership of the aircraft intended to be used in the business.
  - e) When applicable the number, type and use of other pieces of equipment intended for use in the business.
  - f) The number of persons located on Airport to be employed in the business.
  - g) The hours/# of days of week of proposed operation.
  - h) Evidence of the parties financial capability to perform and provide the above services and facilities both at present and in the future.
    - 1) Financial statement of assets and net worth.
    - 2) Credit references.
    - 3) Letters of recommendation from financial institution officials who can attest to his/her past performance and potential future performance in the business or endeavor the party is requesting to enter into at the Airport.

- i) Demonstrate proof of necessary Federal, State and local licenses, permits or certifications.
3. **All applications for a lease/use agreement/operating permit** at Billings Logan International Airport will be evaluated using the following criteria: The Aviation and Transit Department may, as physical planning and fiscal consideration dictate, add to, subtract from or materially alter these criteria.
    - a) The availability of the land/buildings (space) or other facilities necessary to accommodate the request.
    - b) No conflicts or potential for conflicts may exist between the proposed use and any Airport land use plan currently in effect or being considered for the future.
    - c) The requesting party must be willing to accept a lease/use agreement/operating permit on the terms outlined by the Aviation and Transit Department in the following areas:
      - 1) A lease/use agreement/operating permit, the form and contents of which is devised by the Department.
      - 2) The acceptance of the rate/fee or charge to be made for the particular use.
    - d) Any conflicts present or potential with these Airport Rules and Regulations.Arrangements for leases and building sites shall be made with the Director, but shall be approved by the City Council before any construction begins.
  4. **Aviation fuel flowage.** An aviation fuel flowage fee, as determined by the Director, will be charged on all aviation fuel brought onto the Billings Logan International Airport. The Department of Aviation and Transit Aviation Fuel Flowage Policy establishes requirements on reporting, remittance exemptions from the aviation fuel flowage fee, and the Director's right to audit for compliance with the Aviation Fuel Flowage Policy. The Aviation Fuel Flowage Policy is specifically made a part of these Rules and Regulations and applies to everyone who performs aviation fueling on Airport property. A copy of the Aviation Fuel Flowage Policy is available at the Office of the Director.

5. ***Temporary structures.*** The use of trailers, wheeled buildings, or other temporary structures will require the written approval of the Director and must be installed in accordance with applicable City of Billings ordinances. **The use of temporary structures will not exceed twelve (12) months.** Following the twelve month period the building shall be removed from the Airport or remodeled to conform with the standards of the State Building Codes, the Uniform Building Code and the City of Billings Building Department, which addresses standards to qualify as "permanent" buildings.
6. ***Construction trailers and special event temporary structures.*** Construction trailers will be allowed on the Airport for the duration of the project it is assigned to. The structure shall not be used for living or sleeping purposes and shall be removed at the end of the project. For projects that last longer than 12 months, written approval must be received from the Director. Temporary structures will be permitted for special short term events (airshows, dignitary visits) upon approval of the Director and shall be removed within 24 hours of the completion of the event.

## SECTION X — SCHEDULE OF FEES

*All Airport rates, fees and charges* will be established by and posted in the Director's Office and recorded in the Office of the City Clerk. All monies are payable to the City of Billings on the date incurred unless the provisions of a valid lease permit otherwise. Except for fees set by lease, or other written agreements, the City reserves the right to increase, decrease or amend in any manner and without notice the existing fee structure, and may assess new charges from time to time as it may deem reasonable and proper and necessary for the general welfare of the Airport.

## SECTION XI — NEWSRACKS, ADVERTISING AND GENERAL INFORMATION DISTRIBUTION

### 1. Newsracks

- a) **Placement of newsracks.** To meet the concerns for security, safety, aesthetics and traffic flow, no newsracks shall be placed in the Airport without the prior written permission of the Director. To obtain such permission, a picture/sketch of dispensing machine indicating colors and dimensions will need to be provided. Placement of newsracks shall be restricted to those locations specified by the Director.

### 2. Regulated Activities

- a) **Public solicitation and acceptance of donations for charitable, religious or political causes.** Solicitation and acceptance of donations for charitable, religious or political causes are not allowed within the Terminal Building.
- b) **Distribution of handbills, tracts and other literature.** Handbills, tracts and other literature intended for public display, may be placed in display racks in an area chosen by the Director. A written request to include the literature in the rack must be sent to the Director prior to placement. This request must include a name, current phone number and address of the party or parties responsible for the information. The display racks must meet the size and safety specifications established by the Director. The Airport will assume no underlying responsibility for the material upon placement.

### 3. Charge for Display

- a) **The Airport reserves the right to charge a fee for display of any material on Airport property.**

## SECTION XII — ENVIRONMENTAL REQUIREMENTS

1. **General requirements.** No part of the Airport and no improvement thereon shall be used or allowed to be used at any time for the manufacture, storage, distribution, servicing or sale of any product or the furnishing of any service, in a manner which is noxious or offensive or an unreasonable annoyance or a nuisance to others on the Airport because of odors, fumes, smoke, noise, soot or dust. No activity shall be carried on which may be or may become dangerous to the public health and safety or violate any local, State or Federal environmental or hazardous waste regulation.
2. **Sanitary sewer limitations.** All City of Billings pretreatment ordinances and general discharge prohibitions shall be followed by all persons or tenants that use the Airport's sanitary sewer system. Copies of these ordinances may be received by contacting the Airport's Engineering and Planning Office.
3. **Storm water pollution prevention.** The Billings Logan International Airport is authorized by the State of Montana, Department of Environmental Quality, Water Quality Division to discharge storm water under the State's General Discharge Permit requirements. All tenants and users of Billings Logan International Airport shall follow the requirements of this permit including, but not limited to:
  - a) Discharging of any substance into the Billings Logan International Airport storm drainage system is prohibited.
  - b) All leaks or spills of any fluids or materials other than clean water shall be immediately reported to the Airport's Aircraft Rescue and Fire Fighting Division. Spills shall be contained and disposed of in accordance with the applicable environmental requirements and at the cost of the company or persons that caused the spill.
  - c) All vehicles and equipment must be maintained to prevent the leaking of fluids which may contaminate the Airport's storm water system.
4. **Hazardous waste.** All hazardous materials as defined by the State of Montana, Waste Management Division's Hazardous

Waste Program shall be disposed of in accordance with this division's requirements as well as the hazardous waste regulations of the Environmental Protection Agency. Billings Logan International Airport tenants that generate hazardous wastes shall contact the State Waste Management Division to receive a hazardous waste generator status and Environmental Protection Agency registration number. Under no circumstance shall any industrial waste be disposed of on the ground, pavement surfaces, in trash containers, floor drains and sumps, storm and sanitary sewer systems. Industrial wastes include, but are not limited to, fuels, oils and waste oils, solvents, dirt and waste collected from floor drain sumps.

5. **Underground storage tanks.** Any person, tenant or lessee that has been authorized by the Director to operate an underground storage tank (UST) at the Billings Logan International Airport shall comply with all State of Montana, Department of Environmental Quality, Waste Management Division, UST regulations to include:
  - a) Registering the tank with the Department of Environmental Quality, Waste Management Division.
  - b) Coordinating all new tank installations and improvements/upgrades, and the removal of old/abandoned tanks with the State Department of Environmental Quality Division.
6. **Above ground tank installations.** Above ground storage tanks for fuels and oils are not permitted at Billings Logan International Airport.
7. **Aircraft deicing.** The use of Federally approved glycol/water mixtures for deicing aircraft will be permitted during the Winter months at Billings Logan International Airport under the following conditions:
  - a) Deicing equipment shall be maintained to prevent leaking of fluids while the equipment is not in use.
  - b) The placement and size of deicing storage tanks shall be approved by the Director and such tanks shall be maintained in a safe condition free of leaks.
  - c) Aircraft deicing locations shall be approved by the

Director and only the amount of deicer needed to make the aircraft safe for flight shall be expended. Deicing equipment and techniques shall be used to prevent excessive over spray of fluids. Containment and recycling of fluids may be required by the Airport as deemed necessary.

8. **Violations.** Violations of any of the above mentioned environmental requirements by any person, tenant or lessee is subject to local, State and Federal fines and/or imprisonment.