



Bismarck Airport

DATE: July 5, 2022
FROM: Gregory Haug, Airport Director
ITEM: Consider Two Lease Amendments with Aircraft Management Services.

REQUEST:

Consider Two Lease Amendments with Aircraft Management Services.

Please place this item on the July 12, 2022, City Commission meeting agenda.

BACKGROUND INFORMATION:

Simson Investment (Simson) is a company that holds leases for Aircraft Management Services (AMS), Inc, dba Bismarck Aero Center (BAC). On June 28, 2022 the Board approved a Development Agreement with Simson Investment Company committing the Lessee to build two hangars and a Fixed Base Operator (FBO) office building. As part of agreed consideration the City would amend existing FBO lease until December 31, 2029 to allow continuation of FBO operations and to allow time for Simson to build the new FBO office building. The agreement also committed the City to extend the Fuel Farm Lease and Fuel Permit to mirror the Building 22 FBO Lease extension.

Amendment 3 to the FBO Lease and Operating Agreement dated May 22, 2008 (Enclosure 1) and Amendment 3 to the May 27, 2008 Fuel Farm Lease Agreement (Enclosure 2) both extend the lease terms to December 31, 2029 as agreed in the development agreement.

RECOMMENDED CITY COMMISSION ACTION:

Approve Amendment 3 to the FBO Lease and Operating Agreement dated May 22, 2008 at Enclosure 1 and Amendment 3 to the May 27, 2008 Fuel Farm Lease Agreement at Enclosure 2 with Aircraft Management Services, Inc.

STAFF CONTACT INFORMATION:

Greg Haug | Airport Director | 701-355-1808 | ghaug@bismarcknd.gov

Enclosure

1. Amendment 3 to the FBO Lease and Operating Agreement dated May 22, 2008.
2. Amendment 3 to the May 27, 2008 Fuel Farm Lease Agreement.

STAFF CONTACT INFORMATION:

Greg Haug | Airport Director | 701-355-1808 | ghaug@bismarcknd.gov

Enclosure

1. Amendment 3 to the FBO Lease and Operating Agreement dated May 22, 2008.
2. Amendment 3 to the May 27, 2008 Fuel Farm Lease Agreement.

AMENDMENT 3

**TO THE
FIXED BASE OPERATOR
LEASE AND OPERATING AGREEMENT**

BY AND BETWEEN

THE CITY OF BISMARCK, ND

AND

AIRCRAFT MANAGEMENT SERVICES INC.

July 5, 2022

WHEREAS, the parties entered into a Fixed Base Operator Lease and Operating Agreement dated May 22, 2008, and Amendment 1 dated April 26, 2011 to the Fixed Base Operator Lease and Operating Agreement dated May 22, 2008; and

WHEREAS, the original five (5) year and ten (10) day term ending June 30, 2013 was completed and the extension term of five (5) years ending June 30, 2018 was granted; and

WHEREAS, the Amendment 2 extending the term to end December 31, 2022 except the Hangar 5 portion of this lease shall end with 90 days notice at the sole discretion of the City was granted; and

WHEREAS, the Lessee and the City entered into a Development Agreement dated June 29, 2022 committing the Lessee to build two hangars and an FBO office building, as part of agreed consideration the City would Amend FBO lease until December 31, 2029 to allow continuation of FBO operations and to allow time for Simson to build the new FBO office building; and

WHEREAS, the parties hereto desire to enter into this Amendment 3 to the Fixed Base Operator Lease and Operating Agreement dated May 22, 2008, granting the Lessee extended term for the use of the premises at the Airport, and the use, together with others, of the Airport and its appurtenances;

NOW, THEREFORE, in consideration of the premises provided herein, the rights and privileges and the mutual covenants and agreements hereinafter contained and other valuable consideration, the parties hereto agree, for themselves, their successors and assigns, as follows:

1. Article 1.A. of the Fixed Base Operator Lease and Operating Agreement shall be amended to read as follows:

1. TERM

A. The term of this Agreement shall be for Twenty One (21) years, six (6) months and ten (10) days, commencing June 21, 2008, and ending December 31, 2029, unless sooner terminated as provided herein. Beginning July 1, 2018, the 12,995 sq. ft. hangar (Hangar 5) portion of this lease shall end with 90 days notice at the sole discretion of the City.

Except as specifically amended in this Amendment 3, all other terms and conditions of the Fixed Base Operator Lease and Operating Agreement as amended by Amendment 1 and 2 remain in full force and effect.

IN TESTIMONY WHEREOF, witness the signature of the parties hereto the day and year written.

RECOMMENDED APPROVAL
TERMS AND CONDITIONS BY:

APPROVED AS TO FORM AND
LEGALITY BY:

Gregory B. Haug
Airport Director

Jannelle Combs
City Attorney

ATTEST:

CITY OF BISMARCK, NORTH DAKOTA

Keith J. Hunke
City Administrator

Michael T. Schmitz
President, Board of Commissioners
Date: _____

Lessee

ATTEST: _____

Jon Simmers, CEO
Aircraft Management Services, Inc.
Date: _____

AMENDMENT 3

**TO THE
FUEL FARM LEASE AGREEMENT**

BY AND BETWEEN

THE CITY OF BISMARCK, ND

AND

AIRCRAFT MANAGEMENT SERVICES INC.

July 5, 2022

ENCL 2

WHEREAS, the City and Lessee have entered into a Lease Agreement dated May 27, 2008, hereinafter, the "Agreement", and Amendment 1 dated June 4, 2013 and Amendment 2 dated May 2, 2017 to the FUEL FARM LEASE AGREEMENT dated May 27, 2008 granting the Lessee the use of a certain Fuel Farm at the Airport as hereinafter defined as the Leased Premises and as shown in Exhibit A attached hereto and the use, together with others, of the Airport and its appurtenances;

WHEREAS, the Lessee and the City entered into a Development Agreement dated June 29, 2022 committing the Lessee to build two hangars and an FBO office building, as part of agreed consideration the City would Amend FBO lease until December 31, 2029 to allow continuation of FBO operations and to allow time for Simson to build the new FBO office building; and;

WHEREAS, the Development Agreement dated June 29, 2022 commits the City to extend the Fuel Farm Lease and Fuel permit to mirror the Building 22 FBO Lease; and;

WHEREAS, the parties hereto desire to enter into this Amendment 3 to the FUEL FARM LEASE AGREEMENT dated May 27, 2008, extending time granting the Lessee the use of certain additional premises at the Airport as hereinafter defined, and the use, together with others, of the Airport and its appurtenances;

NOW, THEREFORE, in consideration of the premises provided herein, the rights and privileges and the mutual covenants and agreements hereinafter contained and other valuable consideration, the parties hereto agree, for themselves, their successors and assigns, as follows:

1. Article 1.A. is deleted and replaced as follows:

1. TERM

A. The term of this Agreement shall be for Twenty One (21) years, six (6) months and ten (10) days, commencing June 21, 2008, and ending December 31, 2029, unless sooner terminated as provided herein.

Except as specifically amended in this Amendment 3, all other terms and conditions of the Fuel Farm Lease Agreement as amended by Amendment 1 and 2 remain in full force and effect.

IN TESTIMONY WHEREOF, witness the signature of the parties hereto the day and year written.

RECOMMENDED APPROVAL
TERMS AND CONDITIONS BY:

APPROVED AS TO FORM AND
LEGALITY BY:

Gregory B. Haug
Airport Director

Janelle Combs
City Attorney

ATTEST:

CITY OF BISMARCK, NORTH DAKOTA

Kieth J. Hunke
City Administrator

Michael T. Schmitz
President, Board of Commissioners
Date: _____

Lessee

ATTEST: _____

Jon Simmers, CEO
Aircraft Management Services, Inc.
Date: _____