



Bismarck Airport

DATE: August 16, 2022

FROM: Gregory Haug, Airport Director

ITEM: Consider Amendment 4 to the Bismarck Aero Center Corp Fixed Base Operator (FBO) Lease and Operating Agreement dated May 22, 2008.

REQUEST:

Consider Amendment 4 to the Bismarck Aero Center Corp Fixed Base Operator (FBO) Lease and Operating Agreement dated May 22, 2008.

Please place this item on the August 23, 2022, City Commission meeting agenda.

BACKGROUND INFORMATION:

On July 12, 2022, the Board approved Bismarck Aero Center Corp Amendment 3 to the FBO Lease and Operating Agreement dated May 22, 2008. The lease amendment extended the term to December 31, 2029, as consideration for building two hangars and an office building, as well as to allow the continuation of FBO operations and time to build a new FBO office building.

Staff inadvertently omitted a change in Amendment 3 related to temporarily moving auto parking needed to facilitate near-term development. Amendment 4 includes the needed temporary auto parking language.

Bismarck Aero Center Corp was formerly known as Aircraft Management Services. Aircraft Management Services, Inc. filed Articles of Amendment with the North Dakota Secretary of State and changed its name to Bismarck Aero Center Corp. This Amendment 4 to the Fixed Base Operator (FBO) Lease and Operating Agreement also acknowledges the name change to Bismarck Aero Center Corp

RECOMMENDED CITY COMMISSION ACTION:

Approve Amendment 4 to the Bismarck Aero Center Corp FBO Lease and Operating Agreement dated May 22, 2008.

STAFF CONTACT INFORMATION:

Greg Haug | Airport Director | 701.355.1808 | ghaug@bismarcknd.gov

AMENDMENT 4

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

BY AND BETWEEN

THE CITY OF BISMARCK, ND

AND

**BISMARCK AERO CENTER CORP
(Formerly AIRCRAFT MANAGEMENT SERVICES INC.)**

August 15, 2022

ENCL 1

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 Amendment 3 extending the term to end December 31, 2029 was granted; and

WHEREAS, Aircraft Management Services Inc., filed Articles of Amendment with the North Dakota Secretary of State and changed its name to Bismarck Aero Center Corp; and

WHEREAS, the parties hereto desire to enter into this Amendment 4 to the Fixed Base Operator Lease and Operating Agreement dated May 22, 2008, allowing areas leased for parking stalls to be replaced on a one to one basis at the City's discretion;

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 2.E. of the Fixed Base Operator Lease and Operating Agreement shall be added to read as follows:

2. LEASED PREMISES

E. Stalls in the leased parking areas described in Exhibit A may be replaced at an alternate location, on a one-to-one basis at the City's discretion. If the City replaces the parking stalls, the temporary replacement stalls will be at no cost to the Lessee. The temporary replacement stalls shall be in the same condition or better than the existing stalls.

Except as specifically amended in this Amendment 4, all other terms and conditions of the Fixed Base Operator Lease and Operating Agreement as amended by Amendment 1, 2 and 3 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
Bismarck Aero Center Corp

Date: _____