

SECOND AMENDMENT TO THE AIRLINE SUPPORT FACILITIES
HANGAR LEASE AGREEMENT

THIS SECOND AMENDMENT TO THE AIRLINE SUPPORT FACILITIES HANGAR LEASE AGREEMENT (the “Second Amendment”) is made and entered into as of the date stated on the City’s signature page below (the “Amendment Effective Date”), by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, on behalf of its Department of Aviation (the “City”) and **FRONTIER AIRLINES, INC.**, a corporation organized and existing under and by virtue of the laws of the State of Colorado, and authorized to do business in the State of Colorado (“Airline”).

WITNESSETH

WHEREAS, the City owns and operates Denver International Airport (“DEN” or the “Airport”); and

WHEREAS, the parties hereto entered into a certain Airline Support Facilities Hangar Lease Agreement, which was effective May 30, 2019 (Contract No. 201948113-00), as amended by the First Amendment, effective May 5, 2022 (Contract No. 202054117-01), (collectively, the “Agreement”); and

WHEREAS, through the Agreement, the Airline and the City agree to the terms of the Airline’s use and lease of certain premises and facilities at the Airport; and

WHEREAS, the Parties now wish to modify the Agreement as set forth in this Second Amendment.

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the parties hereto agree as follows:

1. The Agreement is amended by adding the following as Section 3.11:

“3.11 Hangar Facility Fire Suppression System Conversion.

(A) Airline is required under Colorado law to convert the current fire suppression system within the Facility to a system that does not use PFAS-containing AFFF (the “Hangar Conversion”).

(B) Airline will be solely responsible to contract directly with contractor(s) to perform the design and construction of the Hangar Conversion (the “Work”).

(C) Payment for the Work.

1. Airline will directly pay when due all costs for the Work.

2. After Airline has paid its contractor(s) for the Work, Airline may submit monthly, quarterly, or all at one time, all of the invoices, along with all necessary

details, for the Work to the City. Airline will simultaneously provide the City with a current schedule of all such invoices Airline submits to the City, in the form set forth in **Exhibit F**.

3. The City will reimburse Airline via Automated Clearing House for the invoices Airline submits to the City (“**City Reimbursement Payments**”) within thirty (30) days of receiving each such invoice; provided, however, that the parties agree that the City Reimbursement Payments shall not be subject to Denver’s prompt pay ordinance(s).

4. Airline will be obligated to reimburse the City, as “**Additional Rent**,” for the City Reimbursement Payments amortized over an eighteen (18) year period, with interest accrued annually at the City’s average cost of capital. The City’s average interest rate for capital on the Amendment Effective Date will be the established fixed interest rate applied to City Reimbursement Payments to determine the amount of Additional Rent owed by Airline to the City. Within five days of the Amendment Effective Date, the City, through the Airport’s Chief Financial Officer or Deputy Chief Financial Officer, will notify Airline in writing of the City’s average cost of capital (e.g., the interest rate to be applied to the City Reimbursement Payments) as of the Amendment Effective Date. Interest will only begin to accrue following the initial and each subsequent City Reimbursement Payment.

a. The Additional Rent shall be included as part of Monthly Rental and shall be due and payable to the City as part of Monthly Rental under Section 2.01 of the Agreement.

5. Following completion of the Work, the parties will execute the Additional Rent Payment Schedule using the form attached hereto as **Exhibit G**.

6. If the Lease expires or terminates before Airline has paid all Additional Rent as set forth in the Additional Rent Payment Schedule, the outstanding balance (comprised of outstanding principle and unpaid accrued interest as of the expiration or termination date) at the expiration or termination of the Lease shall be due and owed to the City as a balloon payment due and payable within forty-five (45) days of such expiration or termination.

(D) Subject to the allocations of liability and responsibility and other limitations as expressly set forth in Section 3.10, Airline hereby acknowledges and agrees that the existing Indemnity in the Lease will extend to, and protect DEN from, any liability related to applicable PFAS law compliance or non-compliance costs incurred with the Hangar Conversion (“**PFAS Conversion Liability**”). The indemnity for PFAS Conversion Liability will include, without limitation, any fines or penalties asserted by the State of Colorado against the City related to the Facility fire suppression system or the Hangar Conversion.

(E) Airline or its contractor shall comply with the following MWBE requirements for the Work:

1. The Work is subject to Article III, Divisions 1 and 3 of Chapter 28, Denver Revised Municipal Code (“**D.R.M.C.**”), designated as §§ 28-31 to 28-40 and 28-51 to 28-90 (the “**MWBE Ordinance**”); and any Rules and Regulations promulgated pursuant thereto. The contract goal (the “**Goal**”) for MWBE participation established for the Work by the Division of Small Business Opportunity (“**DSBO**”) is 0%.
- a. Under § 28-68, D.R.M.C., Airline, or its contractor, has an ongoing, affirmative obligation to maintain for the duration of the Work, at a minimum, compliance with the MWBE participation upon which this Second Amendment is based, unless the parties agree to a material modification to the scope of the Work affecting MWBEs performing on the Work through change order, contract amendment, force account, or other modification under § 28-70, D.R.M.C.
- b. If directed by DSBO, Airline or contractor are required to develop and comply with a Utilization Plan in accordance with § 28-62(b), D.R.M.C. Along with the Utilization Plan requirements, Airline or contractor must establish and maintain records and submit regular reports, as directed by DSBO, which will allow the City to assess progress in complying with the Utilization Plan and achieving the MWBE participation goal. The Utilization Plan is subject to modification by DSBO.
- c. If change orders or any other contract modifications are issued with respect to the Work, Airline or contractor shall have a continuing obligation to promptly inform DSBO in writing of any agreed upon increase or decrease in the scope of the Work, upon any of the bases under § 28-70, D.R.M.C., regardless of whether such increase or decrease in scope of the Work has been reduced to writing at the time of notification of the change by the Airline to contractor.
- d. If change orders or other amendments or modifications are issued under the contract that include an increase in the scope of the Work, whether by amendment, change order, force account or otherwise, which increases the dollar value of the Work, whether or not such change is within the scope of the Work designated for performance by an MWBE at the time of this Second Amendment, such change orders or contract modification shall be promptly submitted to DSBO for notification purposes.
- e. Those amendments, change orders, force accounts or other contract modifications that involve a changed scope of Work that cannot be performed by existing project subcontractors are subject to the Work

Goal. Airline shall satisfy the goal with respect to such changed scope of the Work by soliciting new MWBEs in accordance with § 28-70, D.R.M.C. Airline or contractor must also satisfy the requirements under §§ 28-60 and 28-73, D.R.M.C., with regard to changes in scope or participation. Airline or contractor shall supply to DSBO all required documentation under §§ 28-60, 28-70 and 28-73, D.R.M.C. with respect to the modified dollar value or scope of the Work.

- f. Airline and contractor are required to comply with § 28-72, D.R.M.C. regarding prompt payment to MWBEs. Payment to MWBE subcontractors shall be made by no later than thirty-five (35) days after receipt of the MWBE subcontractor's invoice.
- g. Termination or substitution of an MWBE subcontractor requires compliance with § 28-73, D.R.M.C.
- h. Failure to comply with these provisions may subject Airline to sanctions set forth in § 28-76 of the MWBE Ordinance.
- i. Should any questions arise regarding specific circumstances, Airline should consult the MWBE Ordinance or may contact the project's designated DSBO representative at (720) 913-1999.

(F) Prevailing Wage.

1. To the extent required by law, Airline shall comply with, and agrees to be bound by, all requirements, conditions and City determinations regarding the Payment of Prevailing Wages Ordinance, D.R.M.C. §§ 20-76 through 20-79, including, but not limited to, the requirement that every covered worker working on a City owned or leased building or on City-owned land shall be paid no less than the prevailing wages and fringe benefits in effect on the Effective Date of this Agreement.
2. Prevailing wage and fringe rates will adjust on the yearly anniversary of the actual date of bid or proposal issuance, if applicable, or the date of the written encumbrance if no bid/proposal issuance date is applicable.
3. Airline shall provide the Auditor with a list of all subcontractors providing any services under the Agreement.
4. Airline shall provide the Auditor with electronically-certified payroll records for all covered workers employed under this Agreement.
5. Airline shall prominently post at the work site the current prevailing wage and fringe benefit rates. The posting must inform workers that any complaints regarding the payment of prevailing wages or fringe benefits may be submitted to

the Denver Auditor by calling (720) 913-5000 or emailing: auditor@denvergov.org.

6. If Airline fails to pay workers as required by the Prevailing Wage Ordinance, Airline will not be paid until documentation of payment satisfactory to the Auditor has been provided. The City may, by written notice, suspend or terminate work if Airline fails to pay required wages and fringe benefits.”

2. Section 5.01(B) of the Agreement is deleted in its entirety and replaced with the following:

“(B) At the end of the Initial Term, the Airline will have an exclusive right to extend the Lease for up to three five-year periods (each, a “**Lease Extension**”). The Airline must exercise this right twenty-four (24) months prior to the end of the Initial Term. The Monthly Rental for each Lease Extension will be determined based on an assessment of the fair market value of the Leased Property. The assessment shall be performed twenty-four (24) months prior to the end of the then current Term (e.g., at year 8, 13, and 18 of the Lease). Prior to the beginning of each Lease Extension, the Parties will negotiate in good faith the new Monthly Rental rate for each extension. The new Monthly Rental rate will be documented in writing and signed by both Parties. If the Parties are unable to reach an agreement on the new Monthly Rental rate, the Parties will each retain their own assessor to assess the value of the Leased Property for purposes of determining the new rental rate. The Parties will continue to negotiate a new rental rate based upon the property assessments each Party obtains. If the Parties still cannot reach an agreement on the new Monthly Rental rate, then the Parties’ assessors will identify a neutral third-party assessor who will, using the two existing appraisals, determine the value of the Leased Property for the purpose of establishing the new Monthly Rental rate. The Parties agree to accept the new Monthly Rental Agreement rate established by the neutral assessor. The cost of the neutral assessor shall be paid equally by both Parties. There shall be a cap to the New Monthly Rent (the “**Cap**”), as set forth below.

i. Notwithstanding the foregoing, for the first Lease Extension, the new Monthly Rental rate shall not exceed the year 8 rental rate adjusted by the sum, for the lease years 3 through 8, of the difference between the actual Consumer Price Index and the CPI 2% Cap. For example, when the new rent is set at year 3, if the actual Consumer Price is 10%, then the difference between the actual Consumer Price Index and the CPI 2% Cap is 8%. The 8% difference shall be added with all such differences calculated for years 4 through 8 to calculate the Cap for the New Monthly Rent of the first Lease Extension.

ii. For the second Lease Extension, the new Monthly Rent rate shall not exceed the year 13 rental rate adjusted by the sum, for lease years 9-13, of the difference between the actual Consumer Price Index and the CPI 2% Cap.

iii. For the third Lease Extension, the new Monthly Rent rate shall not exceed the year 18 rental rate adjusted by the sum, for lease years 14-18, of the difference between the actual Consumer Price Index and the CPI 2% Cap.”

3. Through this Second Amendment, Airline is exercising the first of its three Lease Extension options pursuant to Section 5.01 of the Agreement. Therefore, the new Expiration Date is May 31, 2034.

4. Section 9.20 of the Agreement, entitled “City Non-Discrimination,” is deleted in its entirety and replaced with the following:

“9.20 No Discrimination in Employment. In connection with the performance of work under the Agreement, Airline may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. Airline shall insert the foregoing provision in all subcontracts.”

5. Section 9.23 of the Agreement, entitled “Payment of Minimum Wage,” is deleted in its entirety and replaced with the following:

“9.23 Compliance with Denver Wage Laws. To the extent applicable to Airline’s provision of the Work hereunder, Airline shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City’s Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, Airline expressly acknowledges that Airline is aware of the requirements of the City’s Minimum Wage and Civil Wage Theft Ordinances and that any failure by Airline, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.”

6. Except as modified by this Second Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect.

7. This Second Amendment to Agreement shall not be effective or binding on the City until approved and fully executed by all signatories of the City and County of Denver.

**END OF AMENDMENT
SIGNATURE PAGES AND EXHIBITS TO FOLLOW**

Contract Control Number: PLANE-202473381-02 / LEGACY-201948113-02
Contractor Name: FRONTIER AIRLINES INC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

Attorney for the City and County of Denver

By:

REGISTERED AND COUNTERSIGNED:

By:

By:

Contract Control Number: PLANE-202473381-02 / LEGACY-201948113-02
Contractor Name: FRONTIER AIRLINES INC

By: 
Howard Diamond
BB3468E8165E49B...

Name: Howard Diamond
(please print)

Title: General Counsel
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Exhibit F: City Reimbursement Payment Schedule

Airline Invoice No.	Invoice Amount	Date Airline Paid Invoice	Date Airline Submitted Invoice to City	Date City Paid Invoice	Amount City Paid to Airline	Total Amount City Paid to Airline

Exhibit G: Additional Rent Payment Schedule

	A	B	C	D	E	F
1	Annual Interest Rate	XXX				
2	Years	18				
3	Payments Per Year	12				
4	Payment is due on the 1 st day of each month					
5	Total City Reimb. Pmts.	XXX				
6		(A)	(B)	(C) = (A) + (B)	Outstanding Principal	Total Outstanding
7	Payment Number	Principal	Interest	Payment Due	Balance	Balance
8	1			XXX		
9	2			XXX		
10	3			XXX		