

ATTACHMENT #3

From: Simonyan, Tereza <tsimonyan@buchalter.com>

Sent: Thursday, December 12, 2024 10:43 AM

To: Airport Board

Cc: Sherri Layne <Sherri.Layne@juneau.gov>; Emily Wright <emily.wright@juneau.gov>; Beth Weldon <Beth.Weldon@juneau.gov>; Patty Wahto <Patty.Wahto@jnuairport.com>; Angelica Lopez-Campos <Angelica.Lopez-Campos@jnuairport.com>

Subject: FAA Non Objection Letter - Flying Squirrel

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Dear Airport Board,

In advance of the Board meeting today, I'd like to share a few questions we have posed to the Airport Manager in connection with the Flying Squirrel coffee shop. As you know, on 12/3 the FAA issued a Letter of Non-Objection to the Flying Squirrel coffee shop, outlining in 3 simple bullet points a streamlined path to conclusion. Our goal is to address these questions with the Board, the Airport Manager and City Attorneys, and to conclude the Flying Squirrel issue consistent with the FAA letter, avoiding unnecessary delays and expenses that are not requested by the FAA.

It may be helpful to read the full thread below, which starts with the Letter of Non-Objection from the FAA, plus attached original submission from the Airport to the FAA.

We look forward to a collaborative and productive meeting today.

Warm regards,

Buchalter

Tereza Simonyan

Shareholder

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Seattle, WA 98101

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From: Simonyan, Tereza

Sent: Wednesday, December 11, 2024 3:39 PM

To: 'Patty Wahto' <Patty.Wahto@jnuairport.com>; Angelica Lopez-Campos <Angelica.Lopez-Campos@jnuairport.com>

Cc: Sherri Layne <Sherri.Layne@juneau.gov>

Subject: RE: FAA Non Objection Letter - Flying Squirrel

Dear Patty,

I'm having trouble understanding your note below and the basis for it. We received a very clear and positive 'non-objection letter for the Flying Squirrel coffee shop' from the FAA. It clearly outlines the discrete tasks that need to be completed, in 3 simple bullet points, to facilitate the conclusion of this matter. Please help me understand your comments:

1. The FAA says: "The tenant using and/or subleasing the property for non-aero purposes will be required to pay no less than fair market value rent to the Airport." The FAA requires the 'rent' to be adjusted to be FMV. The Airport Board has already established the FMV rent for non-aero uses, it is codified in 07 CBJAC 10.020(e)(2). This satisfies the FAA condition. Why does the Board need to look any further?
2. What is an 'agreement of concession fees' that you are referring to, who is it by and between? More importantly, this is not a requirement under the FAA letter, so how is it even relevant here? The FAA requires adjustment of the 'rent' for the non-aero use space— see #1 above.
3. The FAA letter says: "The Airport Sponsor agrees to update its Airport Layout Plan..." The FAA places this requirement on the Airport, not on the tenant. The ALP is to cover the entire airport plan (not only the Seaplanes' leased land), and that current ALP provided to the FAA by the Airport is stale in many respects. The Airport put out the request for proposal to update the ALP in June, independent of the Flying Squirrel issue. What are the basis for passing the cost to Alaska Seaplanes? To be clear, Alaska Seaplanes does not intend to cover any consultant fees for ALP updates, especially given that your approach may lead to the demise to Flying Squirrel, notwithstanding the FAA's non-objection letter.
4. Regarding the DBE qualification:
 - a. Flying Squirrel has submitted the pertinent information to the FAA establishing that it clearly meets the eligibility standards under 49 CFR Part 23. Have you seen that submission? I am attaching again for your ease of reference.
 - b. It is unclear from your note and the agenda submissions whether the JNU ACDBE program has been formally implemented or not, it is my understanding that the Board has not had a chance to review, comment on and approve the program, is that correct? Has anyone other than yourself participated in the drafting and implementation of the program? If yes, please provide the details of same, including how it was disseminated to the board and the concessionaire community in the Juneau area (per your 12/3 policy statement), as well as the review and comment process.
 - c. The JNU DBE plan has an incredibly far-reaching impact on the community and small businesses in JNU – what is the purpose of the hasty and stealth attempts to implement

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and update it, especially in light of the pending Flying Squirrel issue, with a vacancy for the Deputy Airport Manager position, and immediately prior to your scheduled retirement?

- d. There will likely be more follow up questions about this, I presume not just from me but the Board as well, but this will give us a good start.
5. "This is all based on the fees paid as well." What is this in reference to and what does this mean?

I look forward to your response, ideally prior to the Board meeting tomorrow so that there is an opportunity for a meaningful discussion and follow-up questions, both for the Board as well as the participating public.

Thank you,

From: Patty Wahto <Patty.Wahto@jnuairport.com>

Sent: Tuesday, December 10, 2024 5:30 PM

To: Simonyan, Tereza <tsimonyan@buchalter.com>; Angelica Lopez-Campos <Angelica.Lopez-Campos@jnuairport.com>

Cc: Sherri Layne <Sherri.Layne@juneau.gov>

Subject: RE: FAA Non Objection Letter - Flying Squirrel

Hi Tereza.

Unfortunately, the information required are a bit more complex and take time especially the ALP and Exhibit A. And the fees/fair market value are established by agreement of concession fees. Our concession fees are what establish rates (no less than fair market). I cannot do the lease amendment until the ALP and Ex A are completed. We have to hire a consultant to do this (these are legal federal documents), which will have to be passed on to Seaplanes. The other big item on the letter is the ACDBE program. Submittals and reports are required from the vendor. I don't know if they have filed for DBE or know of this program including subs (where they buy products/what vendor and percentage of business that is DBE), but it will have report requirements. Our ACDBE plan is on line, but getting ready to update goals. This is all based on the fees paid as well.

You have provided the date, but we will also need square footage of the concession.

Thank you,

Patty

Patty Wahto

Airport Manager

Juneau International Airport

Office (907) 789-7821

EMAIL: Patty.Wahto@jnuairport.com

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From: Simonyan, Tereza <tsimonyan@buchalter.com>

Sent: Tuesday, December 10, 2024 3:23 PM

To: Patty Wahto <Patty.Wahto@jnuairport.com>; Angelica Lopez-Campos <Angelica.Lopez-Campos@jnuairport.com>

Cc: Sherri Layne <Sherri.Layne@juneau.gov>

Subject: FW: FAA Non Objection Letter - Flying Squirrel

EXTERNAL E-MAIL: BE CAUTIOUS WHEN OPENING FILES OR FOLLOWING LINKS

Dear Patty and Angelica,

We are thrilled to have received the FAA's 'signed non-objection letter for the Flying Squirrel coffee shop.' Sherri suggested that I reach out to you directly about the outstanding tasks.

As Letter of Non-Objection states, the FAA does not issue consents or approvals in these situations, but fortunately Molly has done a great job providing us with a clear roadmap to the finish line:

1. The first condition is to amend the Airport Lease and add Flying Squirrel's non-aero use in the tenant's authorized uses section. Happy to take the first crack at drafting the amendment for City counsels' review, this would take 5 minutes to complete.
2. Next, the rent must be updated to be the 'fair market value rent' paid to the Airport for non-aero use. This should also be a simple mathematical calculation based on the Airport Board's established rates in the CBJAC, which rates are updated from time to time to stay consistent with FMV, and which are codified here: 07 CBJAC 10.020(e)(2).
3. The FAA also states that the rent adjustment should be retroactive to the 'date of the installation of the coffee shop.' The coffee shop was installed in April 2024. I can prepare a spreadsheet of the final calculations for the Airport Board's review, again this is going to be simple arithmetic.
4. The Airport must update the Airport Layout Plan. Unfortunately I'm not sure how I can be of help here, but please let me know if there is any information I can provide that would assist in the process. This must be completed within 90 days of December 3, per the letter.

These are all the outstanding action items that I can glean from the FAA's Letter of Non-Objection. We'd like to help you and the Airport Board with these tasks to the best of our ability, realizing that you must have a long to-do list of more important airport matters than a little coffee stand, especially in light of the recent resignation of your Deputy Airport Manager and your upcoming retirement (BTW – Congratulations!)

Please feel free to reach out any time by email or phone (cell number is best: 206-239-8227). Or if this is something that is better handled in person or at the next Airport Board meeting, please let me know and I'll make arrangements.

Thank you, and we look forward to putting this issue behind us in an efficient and expeditious manner.

Tereza

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ATTACHMENT TO EMAIL SENT BY TEREZA SIMONYAN

Dear Ms. Fierro,

Please accept this letter requesting approval for a coffee stand currently operating at our Airport.

The Airport supports a coffee stand as a benefit to our travelers and community. We appreciate the guidance in your previous correspondence regarding the approval process. The Airport has been working with Kalinin Facilities, LLC dba Alaska Seaplanes ("Alaska Seaplanes"), and the operator of the coffee stand – Barista LLC dba Flying Squirrel ("Flying Squirrel"). They have agreed to make certain adjustments to the relevant documents, in accordance with the Airport and FAA requirements, as detailed in this proposal for FAA approval. The following enclosures have been provided to the Airport by Seaplanes; the Airport supports the process of review and will comply with all FAA requirements.

Consistent with your instructions, we are directing this proposal to the civil rights division of the FAA (Airport Concessions DBE), for preliminary review and approval prior to the FAA's final approval.

Flying Squirrel is currently the only option for early morning/weekend travelers to purchase a pre-flight coffee pre-security. JNU and Seaplanes look forward to the FAA's prompt review.

Please do not hesitate to reach out with any follow up questions or additional supporting records for the information submitted in this proposal.


Patty Wahto, Airport Manager 10/2/2024

Enclosures Provided By Seaplanes:

- A. Information Pertinent to FAA Civil Rights Division Review
- B. Airport Manager's Authorization of Non-Aviation Equipment
- C. Amendment of Flying Squirrel License Agreement

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APPENDIX A – Information Pertinent to FAA Civil Rights Division Review

1. Flying Squirrel/Terra Peters meet the eligibility requirements for ACDBE under 49 C.F.R. Part 23:

Flying Squirrel is a prime example of a business that the ACDBE program is intended to promote.

Flying Squirrel is a 100% woman-owned business. Terra Peters, the sole owner, is a single mother, a born and raised Juneanite, and committed to creating an inclusive and supportive workplace. The majority of her staff consists of women, many Alaska Natives, including those who have not pursued post-secondary education. Her employees include unmarried women and women attending school, who often have limited availability due to academic commitments or childcare responsibilities. Flying Squirrel serves as a temporary stepping stone for these women, while also fostering an environment that offers opportunities for long-term employment and personal growth.

Flying Squirrel also meets the balance of the eligibility requirements of the DOT eligibility guidelines under 49 C.F.R. Part 23:

- Terra Peters possesses exclusive control over the direction of the management and policies of Flying Squirrel. She has been operating a coffee stand since 2009, has managed to turn a startup into a beloved institution in the Juneau area, demonstrating her overall understanding, and her managerial and technical competence and experience;
- Flying Squirrel qualifies as a small business by applicable SBA standards;
- Flying Squirrel does not have annual gross receipts in excess of the DBE/ACDBE size limits;
- Terra Peters' personal net worth is less than \$1.32 million;
- Flying Squirrel is not affiliated with any other business, its independence and control are entirely with Terra Peters.

2. Selection Process:

Alaska Seaplanes engaged in a thorough process in seeking out and selecting a qualified operator. Alaska Seaplanes initially solicited three coffee businesses in Juneau (Grind, Heritage Coffee, and Flying Squirrel) with a proposal to operate a coffee stand in Alaska Seaplanes' private cargo facility. Flying Squirrel was the only business that expressed interest in this opportunity after touring the coffee stand area, which Alaska Seaplanes had constructed consistent with the specifications and design plans approved by JNU.

Flying Squirrel is currently the only option for early morning/weekend travelers to purchase a pre-flight coffee at JNU. The only other coffee vendor at JNU, Tailwind Airport Concessions.

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Notably, Tailwind Airport Concessions has expressed support for Flying Squirrel's operations in public social media posts.

3. Applicability of ACDBE Requirements to Flying Squirrel:

While Flying Squirrel clearly meets the ACDBE eligibility requirements, JNU acknowledges Alaska Seaplanes' contention that ACDBE requirements are not applicable to the circumstances of Flying Squirrel because it is not a concessionaire under the U.S. Department of Transportation's ACDBE regulations (49 CFR Part 23).

Flying Squirrel is a non-concessionaire under Part 23 because:

- a. The term "concessionaire" has a 3-prong definition under the ACDBE regulations: (i) a business located at a primary airport that receives FAA financial assistance (ii) engaged in the sale of consumer goods or services to the public (iii) under an agreement with the airport sponsor (CBJ), another concessionaire, or a terminal owner or lessee other than the airport sponsor. 49 CFR § 23.3.
- b. Flying Squirrel does not meet the third prong because the agreement governing Flying Squirrel's activities in Alaska Seaplane's facility (i.e. License Agreement) is neither with CBJ, another concessionaire, or a terminal owner or lessee. The governing agreement (i.e. License Agreement) is between Flying Squirrel and Alaska Seaplanes. Alaska Seaplanes, by definition, is not a concessionaire (as the ACDBE regulations expressly exclude scheduled air carriers in their normal passenger or freight carrying capacities. 49 CFR § 23.3); and Alaska Seaplanes' facility is not a "terminal" for purposes of the ACDBE regulations.
- c. "[A]n airport passenger terminal is a building or complex of buildings that serve as the interface between aircraft, travelers, and landside transportation elements." FAA Advisory Circular 150/5360-13A, "Airport Terminal Planning" (July 13, 2018), at § 6.3.1. Alaska Seaplanes facility is not a terminal because:
 - i. Passengers at JNU are not boarded from or deplaned into Alaska Seaplanes' facility. In fact, the opposite is true: Alaska Seaplanes departing passengers check in at the JNU passenger terminal; and after landing they pass through the JNU passenger terminal to exit the airport.
 - ii. The fact that a walkway connects the JNU passenger terminal to Alaska Seaplanes' facility does not convert the latter into a portion or continuation of the passenger terminal.
 - iii. CBJ has never considered the facility to be a passenger terminal, whether for federal airport improvement program purposes or otherwise. Indeed, the lease between CBJ and Alaska Seaplanes repeatedly refers to Alaska Seaplanes' facility and the JNU passenger terminal as two separate and distinct locations.

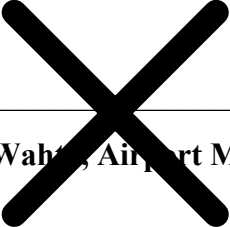
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APPENDIX B – Airport Manager’s Written Approval of Non-Aviation Equipment

Flying Squirrel utilizes the following equipment in connection with its operations:

- 1 Espresso Machine (220 volt)
- 2 coffee grinders
- 2 blenders
- 3 refrigerators
- 1 refrigerated goods display

The Airport Manager has inspected the equipment, believes that it is safe and suitable for use at the premises, and hereby provides a written approval of the utilization of such non-aeronautical equipment at the premises.



Patty Wahle, Airport Manager

I have not inspected and cannot sign.
PW

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Appendix C - Amendment of Flying Squirrel License Agreement

Alaska Seaplanes and Flying Squirrel have amended the License Agreement to include all contract provisions required for Obligated Sponsors. The amended License Agreement is enclosed with this Appendix D.

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Patty Wahto, Airport Manager

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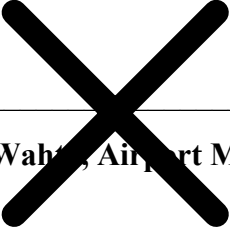
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Patty Wahle, Airport Manager

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PW

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