

# MEMORANDUM


CITY/BOROUGH OF JUNEAU  
Lands and Resources Office  
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DATE: September 9, 2004

TO: Assembly Committee of the Whole

THRU: Donna ~~Prerec~~   
Deputy City Manager

FROM: Steve Gilbertson   
Lands and Resources Manager

SUBJECT: Ward Air Letter

Attached is a letter that Ward Air presented to the Assembly at its September 22, 2003 meeting. Ward Air was requesting the Assembly to provide loans to them for conversion of their two Otters to turbine power similar to the loans made to Wings Airways. The Noise Abatement Loan Program approved by the Assembly last year was in response to the level of public concern about floatplane noise in Gastineau Channel, and as a result, the funds were made available to only aircraft operating from the downtown Seadrome. Wings Airways is the only operator. Also attached is a memorandum dated August 4, 2003 suggesting an alternative public purpose statement for the loan program. The Assembly has not taken any formal action on the Ward Air request.

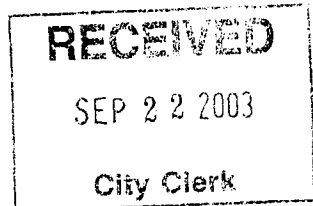
The present loan program is restricted to the downtown Seadrome because the source of funds is from the marine passenger fees. If the Assembly is interested in expanding the program to include Ward Air, another source of funds would have to be used.

This matter can be taken up separately from the pending request by Wings Airways.



8991 Yandukin Drive  
Juneau International Airport  
Juneau, Alaska 99801

September 22, 2003



The Honorable Sally Smith  
City & Borough of Juneau  
155 South Seward  
Juneau, Alaska 99801

Dear Mayor Smith:

With the City and Borough of Juneau (CBJ) Assembly's passage of Ordinance 2003-19(L) at its August 25, 2003 meeting, Ward Air, Inc., on behalf of RED Leasing, LLC, requests the Assembly take three additional actions. They are:

1. Provide another \$250,000 this fall for aircraft noise reduction;
2. Direct the Manager to offer RED Leasing, LLC, the company from which Ward Air leases it's Otters, a 2% annual percentage rate loan of up to \$250,000 under the same terms offered to Wings Airways to be effective concurrent with the currently proposed Wings loan(s); and
3. Direct the Manager to offer RED Leasing, LLC, another loan next fall under the same terms offered to Wings for any loan next year.

RED Leasing, LLC would use this year's loan to partially finance the conversion already accomplished for the turbine Otter, N93356, operated by Ward Air. In addition, they would use a loan next year to convert their other piston Otter to a turbine Otter.

Conceptual Support

We applaud and support the Assembly's desire to take action to encourage the reduction of aircraft noise in the Borough. However, for a variety of reasons we also believe since the Assembly has provided a loan package to Wings, is appropriate to also offer it to the other operator of Otters. The five principal reasons are:

- A. The proposed subsidy is substantial;
- B. By offering the same loan package to all Otter operators, the CBJ will avoid any potential of being in conflict with it's Federal Airport Grant Assurance not to economically discriminate;
- C. A loan to RED Leasing is as an appropriate use of cruise ship passenger head tax monies as is a loan to Wings;

- D. It will encourage the reduction of noise of aircraft transiting the downtown area as well as reduce aircraft noise throughout the borough; and
- E. It will minimize the potential adverse economic impact of the current loan on Wing's competitors.

#### Substantial Subsidy

Our analysis of the loan package indicates that the annual interest rate subsidy would be about \$9,426 each year resulting in a \$94,260 subsidy for the term of each loan. Applied to the two currently proposed loans, the total subsidy would be \$18,852 a year or \$188,520 for the life of the loans.

Our discussion with commercial lenders revealed that the lowest fixed rate, if they were even willing to make such a loan, would not be less than 8%. Furthermore, the commercial lenders with whom we spoke would not enter into an agreement that would subordinate their interest to the aircraft lien holder. Only one of the lenders that we spoke with would even consider a 10 year term, and then only to a very strong customer. As a result we believe \$188,520 is a very conservative estimate of the subsidy for two aircraft conversions.

If Wings Airways and/or Wings of Alaska were to convert a total of five Otters under this program, the total subsidy would be at least \$471,300. Since the last version of the proposed agreement would guarantee Wings Airways a 2% rate for all future agreements, if interest rates were to increase over the next two years, the subsidy would be even more.

#### Avoidance of Economic Discrimination

By providing RED Leasing with a comparable loan, we believe the CBJ will not be economically discriminating between two air carriers that daily operate from the CBJ Airport, and thereby avoid putting our federal airport dollars at risk. I have attached a copy of the federal airport grant assurance #22 that requires economic non-discrimination.

We were pleased that the Assembly broadened the authorization language to allow any operator who operates from the downtown harbor to qualify for the loans. However, as Steve Gilbertson pointed out in his August 5<sup>th</sup> memo to the Assembly, it is highly unlikely that given the current objections to the level of aircraft noise in the downtown harbor area that the CBJ Planning Commission would allow another operator to initiate additional operations. As a result the approval of Ordinance 2003-19(L) is effectively limited to the current downtown operators, Wings Airways and Wings of Alaska.

#### Appropriate Use of Cruise Ship Passenger Fees

Ward Air currently flies cruise ship tourists allowing cruise ship passenger tax money to be made available to Ward Air. To help pay for RED Leasing's substantial investment in quite aircraft technology, Ward Air will necessarily be pursuing more cruise ship passenger business.

*Provides Quite Technology throughout the Borough*

Ward Air does not routinely operate out of the downtown harbor. However, we do routinely transit that area. As you correctly observed at a recent Committee of the Whole meeting, the objection to aircraft noise has not been limited strictly to the downtown harbor area. Accordingly, the Assembly shouldn't forget about the rest of Juneau or those times when Ward Air does operate from the harbor.

*Minimize the Economic Impact on Competitors*

This past year RED Leasing and Ward Air, smaller companies than Wings Airways or Wings of Alaska, decided to invest in a turbine engine for an Otter aircraft for a variety of reasons. Subsequently the Assembly has provided Wings a significant subsidy to do the same thing that RED Leasing and Ward Air initiated on their own. While we admire the Assembly's motive to reduce aircraft noise, choosing to do so with a subsidy has some collateral effects. Specifically, it provides one company with an economic operating advantage over all other Otter operators. This advantage is further exacerbated by the fact that use of the subsidized Wings' aircraft is not limited to the Juneau downtown harbor area. While we don't believe the Assembly intended to provide one aircraft charter company an economic advantage over all other local charter companies, that is the practical result.

Ward Air currently operates two Otters. Wings Airways and Wings of Alaska operate five Otters. If the Assembly were to participate in the conversion of all Otters to turbine engines, RED Leasing and Ward Air and would still not be on even footing with Wings. However, there would certainly be less adverse impact on Ward Air than if the Assembly chose not make comparable loans available for both of the Otters we operate.

For these reasons we request the Assembly take the three requested actions.

Sincerely,



Edward K. Kiesel  
President  
Ward Air, Inc.

*Enclosure*

cc: CBJ Assembly Members  
Rod Swope, CBJ Manager  
John Hartle, CBJ Attorney  
Steve Gilbertson, Lands/Resource Manager

(3) Promptly notifying airmen of any condition affecting aeronautical use of the airport.

Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. **Hazard Removal and Mitigation.** It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. **Compatible Land Use.** It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

**22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-
  - (1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  - (2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations,

conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or nontenants and signatory carriers and nonsignatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. **Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. **Fee and Rental Structure.** It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the

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Voice (907) 586-5252  
Fax (907) 586-5385

DATE: August 4, 2003

TO: Assembly Committee of the Whole

FROM: Steve B. Gilbertson   
Lands and Resources Manager

SUBJECT: Alternative Public Purpose Statement for Floatplane Noise Abatement

The existing policy as stated in Resolution 2170 Adopting Tourism Management Policies regarding fixed-wing flightseeing noise may be too narrowly defined. The policy focuses specifically on reducing the noise from the downtown Seadrome. However, the policy to reduce noise from Otter aircraft also needs to consider the role of the airport as a base of operations.

Wings Airways operates out of downtown Juneau and the airport with 5 Otters. Ward Air operates out of the airport with 2 Otters. Ward Air has already converted one Otter to a turbine engine. During the summer tourist season, Ward Air provides air transportation to cruiseship passengers who do fly fishing with Bear Creek Charters. Their operations are from the airport floatpond. However, the flights do cause impacts to Juneau residents, especially to the south of town where planes fly along the entire length of Gastineau Channel. Ward Air also provides backup service for Wings Airways for the Taku Lodge flights on an as-needed basis.

The current proposal for the Noise Abatement Loan Program restricts eligibility to companies that operate in the downtown Seadrome. Wings Airways is the only operator. However, it is in the public interest to keep Ward Air's air charter operations at the airport rather than adding to the downtown problem and encourage the conversion of their second Otter to turbine power. It is important to note that this is a loan incentive program and that loan payments will be paid back into the passenger fee fund for use on other projects.

The Assembly may want to consider an alternative public purpose statement for the Noise Abatement Loan Program. This would include the following:

*The noise problem from piston engine Otter aircraft is a community wide issue even though the major flightseeing operations are conducted downtown. It is in the community interest to provide incentives to convert existing Otter aircraft operating out of both downtown and the airport to turbine power.*