

YUKON ARCTIC B & C AIRPORTS TRANSFER AGREEMENT

This Agreement made this 27 day of March, 1990.

BETWEEN:

THE GOVERNMENT OF CANADA, as represented by the Minister of Transport (hereinafter referred to as "Transport"), and as represented by the Minister of Indian Affairs and Northern Development, (hereinafter referred to as "DIAND")

AND

THE GOVERNMENT OF THE YUKON, as represented by the Minister responsible for Community and Transportation Services (hereinafter referred to as "the Yukon"),

WHEREAS Transport, DIAND and the Yukon desire that the beneficial use, administration and control of lands, the equipment and funds required for the management, operation and maintenance of the Arctic B & C airports referred to in Schedule "A" be transferred to the Yukon, consistent with Yukon Indian comprehensive land claims agreements in effect or to be entered into by the Yukon and Canada;

WHEREAS by Order in Council P.C. 1989 1/1510 made on July 27, 1989, the Minister of Transport and the Minister of DIAND are authorized to enter into this Memorandum of Agreement;

WHEREAS the Yukon has authorized the Minister of Community and Transportation Services to enter into the agreement herein;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants contained herein, Transport, DIAND and the Yukon agree as follows:

SECTION 1 - DEFINITIONS

1.1 In this Agreement,

1.1.1 "Arctic B & C airports" are defined as:

Arctic B - (Area Airports)

Those airports serving population centres which have the following characteristics:

- a population of more than 400
- no means of regular transportation other than air

- served by a regular reliable air service
- a growing community
- an area administrative centre
- an active role in resource development

Arctic C - (Community Airports)

Those airports serving population centres which have the following characteristics:

- a population of more than 100

- no means of regular transportation other than air

1.1.2

"Formula Financing Agreement" means the Memorandum of Agreement dated May 10, 1985 between Canada represented by the Minister of Finance and the Yukon represented by the Commissioner of the Yukon Territory and the Executive Council Member responsible for Finance.

1.1.3

"Provincial-Local Escalator" has the meaning assigned to it in the Formula Financing Agreement.

1.1.4

"Gross Expenditure Base" has the meaning assigned to it in the Formula Financing Agreement.

1.1.5

"Hypothetical Revenues and Recoveries" has the meaning assigned to it in the Formula Financing Agreement.

1.1.6

"Equipment" means vehicles, machinery and furnishings, set out in Schedule "B", attached hereto.

1.1.7

"Airport" and "Airports" means one or more of the airports set out in Schedule "A", attached hereto.

1.1.8

"Arctic B & C airports program" means the planning, design, construction, operation and maintenance and funding of Arctic B & C airports.

1.1.9

"Canada" means Her Majesty the Queen in right of Canada or the Government of Canada.

1.1.10

"Minister" includes members of the Executive Council of the Yukon.

SECTION 2 - RESPONSIBILITY

- 2.1 The Yukon agrees to accept the responsibility for the management, operation and maintenance of Arctic B & C Airports.
- 2.2 The Yukon will make reasonable efforts to grant airport access to qualified air carriers on a fair and equitable basis.

SECTION 3 - TRANSFER OF ARCTIC B & C AIRPORT PROGRAM AND ASSETS

Transfer of Lands

- 3.1 Pursuant to an Order-in-Council under section 36 of the Public Works Act, the management charge and direction of a property known as Burwash Landing Airport in Yukon Territory shall be transferred from Transport to DIAND and is legally described as:
 - (a) The whole of Lot One (1), in Group Eight Hundred and Fifty-Two (852), in the Yukon Territory, as said lot is shown on a plan of survey of record in the Land Titles Office for the Yukon Land Registration District under number 21865, and
 - (b) The whole of lots 297 and 299 in group 852 in the Yukon Territory, as said lots are shown on a plan of survey of record number 53106 in the Canada Lands Surveys Records at Ottawa, a copy of which is filed in the Land Titles Office for the Yukon Land Registration District at Whitehorse under number 28366, excluding thereout all mines and minerals. The whole of lot 298 in group 852 in the Yukon Territory, as said lot is shown on a plan of Survey of record number 52935 in the Canada Lands Surveys Records at Ottawa, a copy of which is filed in the Land Titles Office for the Yukon Land Registration District at Whitehorse under number 27992, excluding thereout all mines and minerals and being property under the management, charge and direction of the Minister of Transport, including the lands and the buildings and other installations thereon.

- 3.2 Transfer of Airports shall be as follows:

- 3.2.1 DIAND shall reserve by notation on the Land Record of the Northern Affairs Program the lands and buildings respecting the airports numbered 1-8 set out in Schedule "A" to DIAND for the use of the Commissioner of the Yukon who shall use the lands and building for the benefit of the Yukon and which shall be managed by the Yukon;

3.2.2

Prior to the ratification of any Yukon First Nation First Agreement, DIAND, subject to the authority of an Order-in-Council, may transfer to the Commissioner of the Yukon the administration and control of any airport set out in Schedule "A" 1-8 plus such further lands required for the airports following consultation by DIAND, the Yukon and the Yukon First Nation to be affected by the transfer;

3.2.3

After the ratification of any Yukon First Nation First Agreement, DIAND, under the authority of an Order-in-Council, shall transfer to the Commissioner of the Yukon the administration and control of the lands and buildings respecting any remaining airports set out on Schedule "A" in that Yukon First Nation Traditional Territory which are not allocated as settlement lands plus such further land required for the airports;

Transfer of Equipment

3.3

Transport shall transfer to the Yukon by authorization of an Order-in-Council, made pursuant to Section 61 of the Financial Administration Act, on an "as is, where is" basis, at no cost, the equipment being public property, listed on Schedule "B", attached hereto.

3.4

The Yukon shall, within twenty (20) days after the Transfer, inspect and acknowledge receipt, in writing, of the items referred to in Schedule "B", failing which the Yukon shall be deemed to have received all the property described therein.

3.5

The Yukon agrees that following the transfer, it shall determine and be responsible for:

3.5.1

construction standards for building and airport civil works,

3.5.2

future development costs for enhancement of the program and

3.5.3

program policies, procedures and priorities for upgrading and improvement of the airports.

3.6

Transport shall continue its responsibility for airport certification and enforcement of regulations.

3.7

Transport undertakes to complete, at its expense, those capital projects which it has started and are under construction and/or an contract awarded by the Transfer Date.

3.8 The parties agree hereto that the Memorandum of Understanding between the Commissioners of the Northwest Territories and Yukon Territory, DIAND, Department of Fisheries and the Environment and Transport of October 25, 1978 which outlined the authority, responsibilities and procedures for the implementation of the Arctic Air Facilities Policy and appearing in the record of the Department of Transport under No. 107395 has been fully performed and is now considered without any effect between Transport, DIAND and the Yukon from the date of transfer.

Additional Lands

3.9 DIAND shall consider requests by the Yukon for the transfer to the Commissioner of such additional lands for which DIAND has management, charge and direction and which are adjacent to the airports and as may be required by the Yukon for adequate operation of the airports.

SECTION 4 - AIRPORT OPERATIONS

4.1 Except as provided in the Aeronautics Act and Regulations made thereunder, and as provided in clause 4.3 herein, the Yukon shall not be subject to any federal government standards or policies respecting the operation of the Yukon's airports.

4.2 Transport shall provide the Yukon with technical support and advice as required following the transfer of the airports, subject to any required compensation negotiated at the time of the request.

4.3 The Yukon shall, during the transition period before the coming into force of the service to the public provisions in the Official Languages Act made on May 18, 1988 by the Commissioner in Council, maintain the existing services provided to the public in both official languages, including signage at the Airports.

4.4 Yukon shall take reasonable steps to act in a manner generally consistent with Transport Canada's Policy titled, "The Provision of Services and Facilities for Travellers with Special Needs" if and when a requirement becomes apparent.

4.5 Transport agrees to include the airports referred to in Schedule "A", in the Transport Canada Owner Controlled Third Party Airport and/or Premises Liability Insurance Policy and to provide the levels of insurance coverage existing as of the Transfer Date on an ongoing basis unless otherwise adjusted at the request of the Yukon and payment will be in accordance with clause 6.7.

4.6 The Yukon shall, between the Transfer Date and the date of transfer of the airport lands from DIAND to the Yukon, maintain its present compliance with the Federal Identity Program.

SECTION 5 - AIR NAVIGATION SERVICES AND FACILITIES

- 5.1 Transport shall retain the responsibility for the provision and operation of Air Navigation Services (ANS) at the Arctic B & C airports and this will not preclude installation of supplementary ANS facilities and services by the Yukon at its expense.
- 5.2 Transport will maintain its responsibilities for Aviation Regulatory and Air Navigation services which include: certification; establishing communication, operating and training standards; and levels of service standards for the Community Aerodrome Radio Station (CARS) service.
- 5.3 The Yukon shall continue to provide communications and weather services as provided in the Agreement between Transport and the Yukon attached hereto as Schedule "C".
- 5.4 The Yukon undertakes to provide for the use of Transport, at no cost:
- 5.4.1 Lands currently occupied by Transport air navigation facilities at the airports referred to in Schedule "A" and to provide access thereto at all times.
- 5.4.2 An area in the main building situated on the airports referred to in Schedule "A", the size of which is reasonably necessary for the purpose of operating and maintaining Community Aerodrome Radio Station (CARS) service as specified in Schedule "C". Access to such areas will be provided at all times.
- 5.4.3 Additional lands and access thereto that may be reasonably necessary for facilities or purposes of Transport related to the operation of the airports referred to in Schedule "A".

SECTION 6 - FINANCIAL PROVISIONS

- 6.1 Canada agrees to provide a base funding adjustment in the amount of \$1,756,200. This amount will be added to the Yukon Gross Expenditure Base before the Gross Expenditure Base has been escalated by the 1989/90 Provincial-Local Escalator in the manner set out in the Formula Financing Agreement, for the purpose of the annual Implementation Agreement referred to in clause 4 of the Formula Financing Agreement. However, in recognition of the late date of execution of this Agreement, the amount that will be paid by DIAND for 1989/90 will be reduced by \$365,000 to reflect the expenditures already made by Transport Canada in 1989/90 related to the airports referred to in Schedule "A".

- 6.2 Transport agrees to provide necessary technical support for a Treasury Board submission to seek additional O & M funds for Haines Junction and Carmacks after the airports are upgraded, if such additional funding is required.
- 6.3 Funding for new federal initiatives and unforeseen events that create new responsibilities for the Yukon in the management of the Arctic B & C airport systems will be addressed through provisions contained in Section 8 of the existing Formula Financing Agreement.
- 6.4 Nothing in this Agreement shall preclude the Yukon from being eligible for participation in any federal programs applicable to airports comparable to the Arctic B & C airports inclusive of their financial benefits, which may be available in accordance with Program criteria, from time to time.
- 6.5 The parties agree that if the Formula Financing Agreement should not be renewed the application of the base funding adjustment provisions shall be subject to the provisions of any subsequent financial agreement between Canada and the Yukon that may replace the Formula Financing Agreement.
- 6.6 In accordance with the Formula Financing Agreement, revenues generated by the existing user and/or concession fees at the airports will be considered as hypothetical revenues and recoveries.
- 6.7 The Yukon agrees to remit annual payment of airport insurance premiums directly to the company providing the insurance coverage. The cost of the insurance premiums approved by Transport will be communicated directly to the Yukon by the company providing the airport insurance.

SECTION 7 - FILES AND RECORDS

- 7.1 Canada agrees to provide to the Yukon on the Transfer Date, all files, records, computer tapes and any other data storage media which pertain to the operation of B & C airports, subject to the provisions of the Public Archives Act and the Privacy Act.

SECTION 8 - INDEMNIFICATION

- 8.1 The Yukon shall indemnify and save harmless Transport and DIAND from and against and be responsible for all claims, demands, actions, suits or other legal proceedings (collectively referred to as "claims" hereafter) by whomever made or brought against Transport and DIAND by reason of or arising out of:

- (a) any acts or omissions of the Yukon after the transfer as a result of the entry into this Agreement and the transfers contemplated herein, and
- (b) the use, occupation, possession, control and operation of the various buildings, facilities and other structures and their maintenance after the transfer.
- 8.2 The Yukon shall pay to Transport and DIAND the amount of any loss or damages which may be suffered or sustained by Transport and DIAND by reason of or arising out of any of the matters or things referred to in clause 8.1.
- 8.3 Transport and DIAND shall indemnify and save harmless the Yukon from and against and be responsible for all claims, demands, actions, suits or other legal proceedings (collectively referred to as "claims" hereafter) by whomever made or brought against the Yukon by reason of or arising out of:
- (a) any acts or omissions of Transport and DIAND prior to the Transfer Date in respect of management and operation of the Arctic B & C airports.
- (b) the use, occupation, possession, control and operation of the various buildings, facilities and other structures and their maintenance prior to the transfer.
- 8.4 Transport and DIAND shall pay to the Yukon the amount of any loss or damages which may be suffered or sustained by the Yukon by reason of or arising out of any of the matters or things referred to in clause 8.3.
- 8.5 Upon either party (the "Indemnified Party") receiving notice in writing of any claim, demand or proceeding ("Claim"), which would give that Party the right to make a claim against the other Party (the "Indemnifying Party") under clauses 8.1 or 8.4, the Indemnified Party shall promptly notify the Indemnifying Party in writing of the Claim.
- 8.6 The Indemnifying Party shall have the right and obligation to defend any such Claim and commence, continue and conclude any legal proceedings, appeals, hearings, arbitrations, negotiations or settlements ("proceedings") as may be reasonably required for such purposes. The rights of the Indemnifying Party under this clause shall be subject to:
- (a) the Indemnifying Party keeping the Indemnified Party promptly advised of the details of the progress of any such Claim and the Proceedings;

- (b) the Indemnifying Party conducting the Proceedings on behalf of the Indemnified Party, prudently and with diligence;
- (c) the Indemnifying Party advising the Indemnified Party in writing of any proposed Claim settlement offer prior to concluding any such settlement;
- (d) in event the Indemnified Party does not approve or concur in the conduct or carriage of the Proceedings by the Indemnifying Party, then the Indemnified Party may instruct the Indemnifying Party, in writing, to relinquish its rights to the conduct and carriage of all such Proceedings, whereupon the Indemnified Party shall assume full rights to and full responsibility for the Proceedings. The Indemnifying Party's liability under the indemnity hereunder, shall not extend to any costs, expenses, damages or judgments incurred after the date the responsibility for the Proceedings is assumed as contemplated herein and such indemnity and the Indemnifying Party's obligations hereunder, shall thereupon terminate.

8.7 The Indemnified Party shall cooperate with the Indemnifying Party to the fullest extent in respect of the Proceedings, including keeping the Indemnifying Party promptly and fully informed of any matters relating to any such Claims. The Indemnified Party shall have the right to be closely consulted by the Indemnifying Party in respect of the Proceedings and the Indemnified Party counsel may participate in the Proceedings, subject always to the Indemnifying Party having the ultimate conduct of the Proceedings.

8.8 The indemnity of the Indemnifying Party under this clause 8 shall extend to and include all costs, expenses (including all legal fees and disbursements as between a solicitor and his own client and including all reasonable and customary internal manpower and overhead costs), damages or judgments incurred or sustained by the Indemnified Party as a result of the Proceedings described in this clause.

SECTION 9 - GENERAL

No Benefits

9.1 No member of the House of Commons shall be admitted to any share of this Agreement or to any benefits arising out of it.

Execution of Documents

9.2 At the request of Transport and DIAND, the Yukon will execute and deliver to Transport and DIAND any instrument or document or will do anything that may reasonably be required to carry out its obligations under this agreement, or to complete any transaction contemplated by this agreement.

9.3 At the request of the Yukon, Transport and DIAND will execute and deliver to the Yukon any instrument or document or will do anything that may reasonably be required to carry out this agreement, or to complete any transaction contemplated by this agreement.

Notices

9.4 Any notice given pursuant to the Agreement shall be made in writing and shall be effectively given and sent by registered mail, telegram, telex or other similar means of electronic communication to the appropriate address set out below:

If to Transport: The Deputy Minister
 Department of Transport
 Tower C, Place de Ville
 Ottawa, Ontario
 K1A 0N5

If to DIAND: The Deputy Minister
 Indian Affairs and Northern Development
 Les Terrasses de la Chaudière
 10 Wellington Street, North Tower
 Hull (Quebec)
 Ottawa, Ontario
 K1A 0H4

Postal Address:

If to the Yukon: The Deputy Minister
 Yukon Community and Transportation Services
 Government of the Yukon
 Whitehorse, Yukon
 Postal Address: P.O. Box 2703
 Whitehorse, Y.T.
 Y1A 2C6

Such notice shall be deemed to have been received fifteen (15) business days after mailing if sent by registered mail, and the following business day if sent by electronic communications.

Preamble and Appendices Form Part of Agreement

9.5 The Preamble and Schedules attached to this agreement are incorporated into and form part of this agreement.

Agreement in Force

9.6 This agreement shall come into effect as at April 1, 1989.

Execution in Counterpart

9.7 This Agreement and any amendments may be executed in counterpart and when each party has executed a counterpart, all counterparts taken together shall constitute one Agreement.

Interpretation Not Affected by Headings

9.8 The division of this Agreement into sections and subsections, clauses and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

9.9 This Agreement constitutes the entire Agreement among the Parties pertaining to the subject matter hereof and supercedes all prior agreements, understandings, negotiations and discussions, oral or written of the Parties and there are no warranties, representations or agreements among the Parties pertaining to the subject matter hereof, except as specifically set forth herein.

Appropriation

10.1 Notwithstanding any other clause in this Agreement respecting the payment of any money by Canada, payment hereunder is subject to there being an appropriation for the fiscal year in which any payment provided for herein would become due as provided for in section 40 of the Financial Administration Act.

Applicable Laws

10.2 This Agreement shall be construed and interpreted in accordance with the laws of the Yukon and the laws of Canada applicable in the Yukon.

Amendments and Waivers

10.3 No supplement, modification or waiver or termination of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions hereof shall be deemed or constitute a waiver of any other provision nor shall such waiver constitute a continuing waiver unless expressly provided.

IN WITNESS WHEREOF this Agreement has been executed on behalf of the Government of Canada by the Minister of Transport and the Minister of Indian Affairs and Northern Development, and on behalf of the Government of the Yukon by the Minister of Community and Transportation Services in the Yukon.

Andrew J. Rose
Witness

[Signature]
Witness

FOR THE GOVERNMENT OF CANADA:

[Signature]
Minister of Transport

[Signature]
Minister of Indian Affairs
and Northern Development

THE GOVERNMENT OF THE YUKON:

[Signature]
Witness

[Signature]
Minister of Community and
Transportation Services

SCHEDULE A

AGENCIES HAVING THE MANAGEMENT, CHARGE
AND DIRECTION OF AIRPORTS AND
AERODROMES

IDENTIFICATION OF AIRPORTS

1.	Beaver Creek	Department of Indian Affairs and Northern Development
2.	Carmacks	Department of Indian Affairs and Northern Development
3.	Dawson	Department of Indian Affairs and Northern Development
4.	Haines Junction	Department of Indian Affairs and Northern Development
5.	Old Crow	Department of Indian Affairs and Northern Development
6.	Ross River	Department of Indian Affairs and Northern Development
7.	Teslin	Department of Indian Affairs and Northern Development
8.	Burwash	Department of Transport
9.	Faro	Government of the Yukon
10.	Mayo	Government of the Yukon

SCHEDULE "B"

Listing of Vehicles and Machinery to be Transferred from Transport to the Yukon Territory

<u>AIRPORT</u>	<u>EQUIPMENT</u>	<u>DESCRIPTION</u>
Beaver Creek	Snowblower	TC Fleet # 60-8400 ✓ MFR-VOHL, Year 1984 Model # DV1104-400T2J ✓ Chassis # 48899
Dawson	Snowblower	TC Fleet # 60-7609 MFR-VOHL, Year 1976 Model # DV87540DT2 ✓ Chassis # 76ONV446 ✓
	Tractor, Wheeled	TC Fleet # 61-8708 All Ford, Year 1987 ✓ Model # 6610 Chassis # BA81612
	Mower, Rotary Towed	TC Fleet # 70-8713 ✓ Ford Year 1987 Model # WM39182
Old Crow	Snowblower	TC Fleet # 60-8405 MFR-VOHL, Year 1984 Model # DV1104-400T2J ✓ Chassis # 48947 ✓
Ross River	Snowblower	TC Fleet # 60-6803 MFR-SICARD, Year 1968 ✓ Chassis # 761TR ✓
Teslin	Snowblower	TC Fleet # 60-8311 MFR-VOHL, Year 1983 Model # DV1104-400T2J ✓ Chassis # 83ONV726 ✓
	Tractor, Wheeled	TC Fleet # 61-7605 ✓ MFR-FORD, Year 1976 Model # 500AP Chassis # C4566808
	Mower, Rotary Towed	TC Fleet # 73-7608 ✓ MFR-WOODS, Year 1976 Model # D315T

Tractor BA81612
and mower WM 39182
are in pos/this list
Tractor 56M6470D1507
is included on this list
but is located at Dawson

AIRPORT

EQUIPMENT

DESCRIPTION

Burwash

Snowblower

TC Fleet # 60-8404
MFR-VOHL, Year 1984
Model # DV1104-400T2J ✓
Chassis # 48950

Faro

Snowblower

TC Fleet # 60-8313
MFR-VOHL, Year 1983
Model # DV1104-400T2J
Chassis # 48796 ✓

Mayo

Snowblower

TC Fleet # 60-7610
MFR-VOHL, Year 1976
Model # DV875400T2J ✓
Chassis # 76ONV447 ✓

SCHEDULE "B"

Listing of Furnishings to be
Transferred from Transport to the Yukon Territory

<u>AIRPORT</u>	<u>FURNISHINGS</u>	<u>DESCRIPTION</u>
Beaver Creek	Settee	3 each, MARS #W
		3 Seater vinyl covered
		2 orange, 1 yellow
		chrome legs
	Waste Receptacle	2 each MARS #W
		Swing door white
	Ash Receiver	2 each, MARS #W
		Free standing, chrome
Dawson	Table	1 each, MARS #W
		Round, 36"
		5 each, MARS #W00000000
		Class 7110, Stock 0882
		3 seater, vinyl covered
	Table	2 each, MARS #W
		Occasional size
	Ash Receiver	MARS #W
		Free Standing, chrome
	Table	1 each, MARS #
		60" X 30"
Old Crow	Settee	1 each, MARS #
		4 seater, vinyl, w/table
	Settee	2 each, MARS #, 3
		seater vinyl, chrome legs
	Ash Receptacle	1 each, MARS #
		swing door, white
	Waste Receptacle	Free standing, chrome
		1 each, MARS #
		swing door, white

AIRPORT

reslin

FURNISHINGS

Vacuum Cleaner

DESCRIPTION

1 each, MARS #W122853
Cannister, with
attachments
Centaur Model SL2

Floor Polisher

1 each, MARS #W122854
Advance Model GYR013

Filing Cabinet

1 each, MARS #W0000000
Class 7110, stock 0871
4 drawer

Burwash

Settee

3 each, MARS #W
3 seater vinyl covered
2 orange, 1 yellow
chrome legs

Waste Receptacle

2 each, MARS #
Class 7240
Stock 21-868-3769
swing door white

Faro

Settee

3 each, MARS #W
4 seater vinyl covered
Orange, chrome legs

Settee

3 each, MARS #W, 3
seater vinly covered
orange chrome legs

Waste Receptacle

2 each, MARS #W
swing door, white

Ash Receptacle

6 each, MARS #W
Free standing, chrome

Mayo

Settee

3 each, MARS #0000000
Class 7110, stock
0882, 3 seater, vinyl
seats, 2 orange,
1 yellow copper base
and legs

Table

MARS #0000000, Class
7110
Stock 218684156
round 36" diameter