

WORK MEETING

**AGENDA
AND
STAFF MEMO**

HEBER CITY CORPORATION
75 North Main Street
Heber City, Utah
City Council Meeting

March 6, 2014
Work Meeting 5:30 p.m.

DISCUSSION ITEMS

- 5:30 p.m. **(Tab A)** Mark Smedley, Open Meeting Act Training
- 5:45 p.m. **(Tab B)** Nadim AbuHaidar, Presentation of Annual FBO Report
- 6:00 p.m. **(Tab C)** Review Recommendation from the Airport Advisory Board Regarding the Hangar Lease Rates and Charges Policy
- 6:15 p.m. Discuss Creation of a Heber City Council Blog
- Schedule Budget Work Meeting
- Discuss City Council Meeting Cancellation March 20, 2014, Due to Party Caucuses
- FYI: Utah League Cities and Towns Mid-Year Convention, April 9-11, 2014, in St. George

OTHER ITEMS AS NECESSARY

Ordinance 2006-05 allows Heber City Council Members to participate in meetings via telecommunications media.

In accordance with the Americans with Disabilities Act, those needing special accommodations during this meeting or who are non-English speaking should contact Michelle Kellogg at the Heber City Offices (435) 654-0757 at least eight hours prior to the meeting.

Posted on February 27, 2014, in the Heber City Municipal Building located at 75 North Main, Wasatch County Building, Wasatch County Community Development Building, Wasatch County Library, on the Heber City Website at www.ci.heber.ut.us, and on the Utah Public Notice Website at <http://pmn.utah.gov>. Notice provided to the Wasatch Wave on February 27, 2014.

Memo

To: Mayor and City Council
From: Mark K. Anderson
Date: 02/27/2014
Re: City Council Agenda Items

WORK MEETING

5:30 p.m. Mark Smedley, Open Meeting Act Training (Tab A): During our last audit, the City was made aware of the responsibility to provide annual training on Utah Code 52-4, Open and Public Meetings Act. Enclosed is a copy of 52-4-104 and 52-4-205 which outlines the requirement to provide training and the purposes of closed meetings. Mark Smedley, City Attorney, will review these sections with the Council to fulfill this requirement and answer any questions the Council has on this issue.

5:45 p.m. Nadim AbuHaidar, Presentation of Annual FBO Report (Tab B): Under separate cover, Nadim AbuHaidar has provided a packet of information that he wants to cover with the Council. Per the FBO agreement, the FBO is required to make an annual report to the City Council.

6:00 p.m. Review Recommendation from the Airport Advisory Board Regarding the Hangar Lease Rates and Charges Policy (Tab C): The Airport Advisory Board met on February 12th and recommended adoption of the Lease Rates and Charges Policy that was prepared by Jviation. The last modification to the policy was to recommend that the City offer non-reversionary leases in the future. Additionally, the Board recommended that a committee be formed to study reversionary vs. non-reversionary leases, end of lease terms and modifications to existing leases. I expect that Mel McQuarrie, newly elected Chairman on the Airport Advisory Board will present the recommendations of the Board to the Council.

Although hangar owners publically criticized the study prepared by Jviation at the February 6th, City Council Work Meeting, the Airport Board did not publically express any concern with the validity of the study. The Board expressed appreciation for the work and indicated they felt like Jviation had fulfilled their contractual responsibility.

Because this a complex and controversial issue, and I have concern with the recommendation, I am providing you with several documents that will help you to better understand this issue.

For reference, I have included the following documents prepared by Jviation:

- Scope of Work (Approved by the Airport Board)
- Lease Rates and Charges Policy
- Lease/Rates and Policy Analysis
- Summary of Open House

With regard to the above documents, the Consultant has been accused of selecting the airports that would be surveyed. This was a collaborative effort with the Board and the Board gave final approval for the airports that would be surveyed based on airports which they deemed most similar to Heber. Also this document/study was never intended to modify existing leases with the exception of identifying conditions where the City should consider granting extensions (primarily based on additional investment) to existing leases. In my opinion, this study has been used by some existing hangar owners as an opportunity to try to persuade the Airport Board and Council to offer better lease terms than their current agreements provide. Although, I do appreciate the need to provide more clarity to non-reversionary hangar owners regarding what happens after their 25 year lease ends.

The Lease/Rates and Policy Analysis document summarizes the data that was obtained from responses to a survey prepared by the consultant from airports deemed similar by the Board, and is the basis for some of the recommendations contained in the Lease Rates and Charges Policy. This document also summarizes the different types of leases in effect at the Heber City Airport. In this document, Jviation makes the following recommendation regarding hangar ownership:

- *Hangar Ownership: The number of hangars owned by Heber City Airport is much less than most of the airports surveyed. This hinders the amount of control the airport has on the hangars and ultimately land use. As demand increases for hangar space and development, it will become critical for the airport to have more control over each hangar. As such, it is recommended that the practice of using reversionary clauses in the leases be continued. Table 5 provides a summary of the rental rates from hangars that are owned by the airport.*

The motion of the Airport Board (Mel McQuarrie) to offer non-reversionary leases was based on his stated concern with the associated liability and maintenance costs the City would incur with hangar ownership. In speaking with Joel Nelson, Salt Lake Airport Property Manager, these two issues can be readily addressed in how the lease agreement is structured while significantly increasing revenues and providing more control for future development. Practice at Salt Lake Airports is to start discussions/negotiations with hangar owners a few years before the reversionary lease expires to determine if the lessee wants to remain in the hangar. In most cases, the Airport and tenant/lessee are able to agree on a new market rental rate which keeps the hangar owner motivated to

maintain the hangar. To date, Mr. Nelson indicated that obtaining tenants, associated liability issues and maintenance costs have not been problematic for the airport.

In 2007, the City engaged Michael Hodges with Airport Business Solutions to evaluate our leasing practices as the City was contemplating the construction of additional hangars. In my opinion, the City chose to use reversionary leases for the eight hangars constructed in 2009 because of recommendations made by ABS. Because all eight hangars have been sold, I think it is fair to say that buyers are willing to accept the reversionary terms. When asked by hangar owners, Would you (ABS) advise the City to stay with current plan or change reversionary status? ABS's response was:

ABS prefers reversionary clauses because it protects the airport sponsor and puts the facility in a better situation with the FAA for future funding and expansion.

To provide additional information on reversionary leases, I have enclosed a newsletter (Airport Beacon Report) that was produced by ABS in July 2006 that explains reversionary clauses in hangar leases. The conclusion of the newsletter is as follows:

In conclusion, reversion clauses are the "norm" in the aviation industry for a number of reasons. These include maximizing future revenue streams, maintaining a level of control over the development and maintenance of facilities on the airport, and the ultimate control/management over airport development, as it may impact future airport expansion.

Another source of information that was provided to the Airport Board was supplied by Cole Miller of JUB Engineering. The document is the Guidebook for Developing and Leasing Airport Property (Report 47) put out by the Airport Cooperative Research Program. The full document can be found at:

http://onlinepubs.trb.org/onlinepubs/acrp/acrp_rpt_047.pdf

Regarding lease types, the report recommends the following:

6.2.5 Reversion

Best practices for leasing and developing airport property include reversion of improvements back to the airport sponsor at the termination of the lease. Therefore, the lease must be long enough for the developer to be able to amortize the investment the company makes in improvements, but not so long as to unnecessarily restrict the options available to the sponsor to develop and improve the airport in the future. The savvy airport sponsor will be prepared to balance these sometimes competing goals so as to attract development without impeding future options, all while securing market-rate fees that will support the operational costs of the airport in a sustainable fashion.

We are not the only airport that has struggled with this issue. A similar study was performed by ABS at Rogue Valley International – Medford Airport. Enclosed is a copy of the final report that was prepared for their airport board when they adopted a policy requiring that title to leasehold improvements vest with the County at the termination of the ground

lease which received opposition from hangar owners. (See enclosed report) Although our airports are different, the issues appear to be very similar. The report may give some options that may make sense for Heber City as well.

The Hangars Owners group referred to modifications to leases that were being offered at the Grand Junction Airport. Even though additional lease extensions are available under certain conditions, the Grand Junction Airport still has the right to have the hangar become property of the City or require the lessee to remove the structure at the end of the lease. Thus, the leases are reversionary.

This process/recommendation has been fraught with influences that has not always kept what is in the best interest of the City/Citizens/Airport in mind. The Airport Board did not do any in-depth study of airports that manage hangars to fully understand the consequences of hangar ownership. In light of recommendations of paid consultants and recognized good practice, I believe the recommendation for non-reversionary leases is not in the best interest of the airport and should not be accepted by the Council until factual data can be acquired to better understand the pros and cons of hangar ownership. I do agree with the need to establish a committee to evaluate and clarify end of lease terms for existing non-reversionary hangar leases. The recommendation made by consultant at the end of the summary of open house document seems like a reasonable way to approach this issue.

6:15 p.m. Discuss Creation of a Heber City Council Blog: At the last meeting, Councilmember Franco made a brief presentation on this issue and it was expected that the Council would have more discussion on this matter. In discussing this matter with Mayor McDonald and staff, we have concern about managing content. Without good ground rules, the opinion of one Councilmember may be perceived as the opinion of the entire Council. The Council should discuss what the ultimate goal of the blog is to help staff focus on how to best assist.

Schedule Budget Work Meeting: In the Budget Process document that was presented to the City Council in January, it suggests that a budget workshop meeting would be held on March 11th to get Council direction on wages, benefits and manpower requests as the staff prepares a draft budget. At this time, I would ask this meeting be held on March 18th.

Discuss City Council Meeting Cancellation March 20, 2014, Due to Party Caucuses: Councilmember Potter asked if the Council was planning on holding the March 20, 2014 Council meeting which conflicts with Wasatch County Republican Party caucus meetings. If this meeting is cancelled, some critical issues could be addressed during the budget meeting if needed.

FYI: Utah League Cities and Towns Mid-Year Convention, April 9-11, 2014, in St. George: As a reminder, the ULCT Mid-year Convention will be held April 9-11, 2014 in St. George. The City has reserved rooms at the Hilton Garden Inn for the Council. Registration forms are not yet available.

DISCUSSION/ ACTION ITEMS

TAB A

52-4-104. Training.

The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

Enacted by Chapter 263, 2006 General Session

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration;

or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102; or

(m) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection 62A-16-301(1)(a), and

the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5); and

(c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Amended by Chapter 238, 2013 General Session

Amended by Chapter 426, 2013 General Session

TAB B



Heber City Council Meeting
March 6th 2014

Discussion Items

- Changes since last meeting in 2011
- OK3 Operations Summary
- Pending Issues
- Airport Hangar Leases Issue
- Summary

Changes

- **Airport Manager**
 - Has been very helpful to have Terry
- **FBO Lease**
 - 7 yr extension negotiated on 5/08/12
 - Fuel flowage fees increase from 2 to 5 cents/gallon
 - Additional 8 years pending negotiation this year
 - Same term for Hangar A and FBO leases
 - Ramp has been surveyed and proposal will be submitted to the City in 30-60 days
- **Landing Fees begin in 2012**
 - \$34,315 remitted in 2013

OK3 AIR Operations

- Services offered:
 - Line Services (60% of Rev)
 - Fuel, Ramp Handling, Hangar, Ground Services
 - Aircraft Maintenance (25% of Rev)
 - FAA Part 145 Certified Maintenance Facility
 - Authorized Pilatus Aircraft Maintenance Facility
- Flight School
 - 3 Aircraft / Specialized Flight Training
- Aircraft Charters – FAA Part 135 Certificate
- Scenic and Adventure Flights
- Aircraft Sales

2013 Summary for OK3 AIR

- Overall operations:
 - 329,000 gallons sold
 - 2,801 maintenance hours billed
 - 600 flight school hours
 - \$120,000 Capital Investments
 - 20 employees

Improvement to the GPS approach to 36U

- OK3 worked with the FAA to improve:
 - Category C minimums
 - Remove some night limitations
 - Improve the departure procedure
- Still an issue:
 - Approach minimums

Fuel Volume Gallons

	2009	2010	2011	2012	2013
Jet Fuel	188,916	178,629	209,640	252,629	279,115
AvGas	50,259	48,923	45,865	56,832	50,271
Total	239,175	227,552	255,505	309,461	329,386

- JET fuel volume increased about 48% between 2009 and 2013
- AvGas volume unchanged between 2009 and 2013

Aircraft Landing Data

	2012	2013
Total Arrivals	472*	946
Landing Fees	\$16,000	\$34,000
Type Aircraft		
Global Express	1	5
Gulfstream IV/V	5	22
Falcon 900	5	12
Citation Sovereign,X	45	96
Embraer Legacy 600	2	10
Hawker Beechcraft	30	67
Pilatus PC-12	37	76

* Landing fee program started 7/1/12

Fees to the City

	2010	2011	2012	2013
Landing	N/A	N/A	\$15,586	\$34,315
Flowage	\$6,810	\$7,680	\$12,058	\$16,479
Hangar A, E	\$600	\$600	\$1,475	\$2,350
Hangar 2	N/A	N/A	\$3,521	\$4,844
FBO Lease	\$4,589	\$4,813	\$5,054	\$5,307
Total	\$11,999	\$13,093	\$37,964	\$63,295

OK3 Capital Investments

	2010	2011	2012	2013
Total Amount	\$11,000	\$105,000	\$535,000	\$63,295

- Hangar \$385K
- Deicer \$86K
- Tugs \$94K
- Refueler \$55K
- GPU \$41K
- Crew Car \$23K

Economic Impact

- Based on a 2003 study by UDOT

	2003	2012 estimate
36U Total Tenant Employment	45	67
36U Total Economic impact	\$8.2 mil	\$12.1 mil

Hangar Lease Issue

- JAviation performed in accordance with the requirements set out for them by the Board
 - Criticism of JAviation is not justified
 - Harmful to the Board's ability to work with consulting agencies in the future
- Recommendation by the Board about non-reversionary leases on it's own is too vague
 - At what rate? What term?

Hangar Lease Issue

- In 2000, the biggest difference between non-reversionary and reversionary was the RATE
 - \$200/year vs. \$2,200 /year
 - Easy decision at those rates
- If lease rates the same, reversionary is in the city's economic best interest
- Provisions in the Leasing document for extensions with capital improvements
- City must maintain long-term control of development at the Airport
- Leasehold property does not continue in perpetuity – as much as all of us hangar owner's would like it to!

Summary

- Significant improvement in the economic environment since 2010
- Continued growth in Wasatch and Summit Counties will drive growth at the Heber City Airport
- Next year or two will be critical to deciding what the future will be like for the Airport
- Very important to have a functional Airport Advisory Board
- Hangar leasing issue must be resolved so we can move forward – substantial damage already done

Discussion & Questions

TAB C

HEBER CITY AIRPORT

Lease Rates and Practices

SCOPE OF WORK

The Heber City Airport Lease Rates and Practices Study will be completed to aid Heber City and the Heber City Airport Board in developing policies to guide future lease rates and agreements. Airports similar in size and nature will be surveyed to collect data and industry trends. The survey data will be analyzed and compared to existing conditions at the airport. In addition, a Leasing Policy Document will be developed which will aid the airport in identifying conditions where the city should consider granting extensions to existing lease agreements. The policy will also identify considerations which will be extended to existing hanger owners at the end of their current lease.

Proposed Work Tasks

1.0 Prepare and Distribute Airport Surveys

An airport survey will be created in paper and/or online format and will include a variety of questions developed by Jviation with input from the Airport Board. The survey will include, but will not be limited to, questions regarding lease type, escalation clauses, hangar ownership and rates, fuel flowage fees, tie-down fees, special facility fees, and other various data points.

The survey will be distributed to various airports (not more than ten) similar in size and nature to that of the Heber City Airport. Jviation will contact each comparison airport by telephone or email as needed to verify and validate that the information collected is complete and accurate. Airports to be surveyed include:

1. South Valley Regional, UT
2. Provo, UT
3. Driggs, ID
4. Eagle, CO
5. Aspen, CO
6. Grand Junction, CO
7. Hailey, ID
8. Rifle, CO
9. Montrose, CO
10. Yampa, CO

2.0 Data Analysis

The data collected in the airport surveys will be analyzed and a summary prepared. The summary will note any trends or discrepancies. The airport survey data will then be compared to the Heber City Airport data and differences will be noted.

3.0 Data Reporting

The data collected as part of the study will be reported in a final document to the Heber City Airport. The final document will include an overview of the study, what airports were surveyed, survey methodology used, major data analysis findings, and recommended actions.

4.0 Lease Rates and Charges Policy

A Lease Rates and Charges Policy will be developed to aid the airport in future lease decisions. The Policy will address lease types, duration, extensions, and other items as found through the data analysis.

5.0 Tenant Open house

Hanger tenants will be notified of an open house, the data collected on rates and charges will be presented and a draft Leasing Policy document will be available. The open house will be facilitated by Jviation staff. Questions and answers about the policy and the data will be presented to attendees. Comments on the draft policy will be collected and presented to the Airport Board.

6.0 Meetings & Schedule

Four meetings will be attended as part of this study. The meetings include:

Kick-off, site visit and initial Scope of Work: May 8, 2013 – Site visit and meet with Airport Board to discuss scope of work and approach to study.

Finalize Scope of Work: June 12, 2013 - Airport Board to discuss the final scope of work and airports to be surveyed. (Not attended in person by Jviation Staff)

Survey Results: August 14, 2013 - Meeting with the airport board to discuss the survey results and recommendations.

Open house with tenants: September 11, 2013 - Meeting with the tenants to discuss the study and give an opportunity for tenants to voice their concerns with Lease Policy.

Presentation of study results: October 9, 2013 - Meeting with the airport board and tenants to discuss recommendations and overall study results.

Deliverables

The study will result in three primary deliverables:

1. Airport Surveys Summary
2. Technical Document (reporting survey data)
3. Lease Rates and Charges Policy

Heber City Airport/Russ McDonald Field

Lease/Rates and Policy Analysis

Final Report

February 12, 2014

Prepared by Jviation Inc.

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INTRODUCTION

It is essential for airports to charge fees that are both fair and reasonable for users and tenants, as well as assist in covering the operating costs of the airport. The purpose of the Lease Rates and Policy Analysis (Study) is to provide guidance and recommendations in achieving these two goals. The data collected as part of this study will help Heber City/Russ McDonald Field's (Heber) establish fair lease rates and policies for the future.

The Lease Rates and Policy Analysis is a companion document and the basis for the "Leasing Policy". The Study reviews existing airport lease rates and compares lease rates of similar airports to Heber City Airport. It identifies Heber City Airport's overall market position, ascertains the adequacy of the airport's leasing structure and policy, and recommends where improvements should be considered.

The foundation of this Study is the airport survey. The survey gathers leasing information from airports that are in similar markets, size and direct competitors.

The data gathered is a gauge to compare Heber City Airport's lease rates and provide assistance with the establishment of future rates within the context of the airport's market environment. It should be stated that a lease rates analysis does not supplement a property appraisal for specific lease negotiations.

The key objective of this Study is to analyze lease rates at comparable airports. This was accomplished by:

1. Obtaining and reviewing the existing leases and lease rates at the airport.
2. Identifying current lease issues and concerns.
3. Working with the Airport Board to develop a list of similar airports or airports that compete in the same market.
4. Survey airports on their lease rates and practices.

SECTION 1 – AIRPORT MARKET PROFILE

Heber City/Russ McDonald Field is a general aviation airport in Wasatch County, located approximately 1 mile south of Heber City's central business district. The airport serves Wasatch County and the most populated area of Summit County. The airport is owned and operated by Heber City.

The airport serves the general aviation needs for the area, including Heber City, Midway and Park City. Four of Utah's Ski Resorts are in close proximity to the airport, including three of the largest ski resorts in the state; Deer Valley, Park City and the Canyons.

OK3 Air is the only Fixed Based Operator (FBO) at the airport and services the 73 single engine, four twin engine, four helicopters and four jets based at the airport. It is a full-service FBO that offers line services, aircraft maintenance, flight training, aircraft sales, private charter planes, and scenic flight tours.

SECTION 2 – SURVEYED AIRPORTS

In order to collect and review lease rates for airports similar to Heber City Airport, criteria were developed to determine a list of comparable airports. The following criteria were used to develop the list of airports shown in Table 1:

- Similar airports located within 50 miles of Heber;
- Airports of similar size and scope in terms of ownership and use, type, and based aircraft;
- Airports in similar type of communities: aircraft operations and resort towns.

Table 1
Airports Considered for Comparison

Airport	Distance	Ownership /Use	Airport Type	# of Based A/C	Operations	Comparable Criteria
Heber City Municipal		City	GA	73	19,468 (2011)	Resort Town
South Valley Regional	50 miles	City	GA	165	75,000 (2011)	Competitor
Provo Municipal	30 miles	City	CS	104	172,014 (2011)	Competitor
Driggs-Reed Memorial	285 miles	City	GA	81	7,600 (2006)	Resort Town
Aspen-Pitkin County	340 miles	County	CS	77	36,900 (2013)	Resort Town
Grand Junction Regional	270 miles	City	CS	99	50,987 (2013)	Similar Size
Friedman Memorial (Hailey)	320 miles	City	CS	147	44,237 (2012)	Resort Town
Garfield County Regional (Rifle)	280 miles	County	GA	52	8,129 (2011)	Resort Town
Montrose Regional	330 miles	County	CS	81	26,460 (2012)	Resort Town
Yampa Valley Hayden)	270 miles	County	CS	4	9,677 (2011)	Resort Town
Eagle County Regional	330 miles	County	CS	78	36,401 (2012)	Resort Town

Source: U.S. Department of Transportation Federal Aviation Administration, Airport Master Record, Accessed 2013

Surveys were sent to each airport requesting relevant lease information not provided on their public airport master record. If a response was not received, the airport was contacted and information was gathered over the phone.

The airports were provided with a matrix designed to gather information in five areas of interest with respect to leases, fees, investments, lease clauses, inflators, and any additional information that the airport could provide that would assist with the analysis. The survey results are provided in Table 2.

Table 2
Survey Results

Airport	Hangar Information					Lease Information				Lease Terms			Escalation Clauses			Reversionary Lease
	No. Hangars	No. Sponsor owned Hangars	Hangar Built in 2012	Hangars Built 2009-2011	Waiting List	Ground Lease Type	Lease Amount per sq/ft/yr	% Gross Revenue	Initial Term- Yrs	Extensions available	Y/N	Basis	Freq.			
Heber City Municipal	67	3	0	9	No	Improved	\$0.30		20	two 5yr	Yes	CPI	Yearly	Yes		
						Non-improved	\$0.15		20	two 5yr	Yes					
South Valley Regional	140	140	0	0	Yes	Commercial/Improved	\$0.18		15+ (See Note)	Yes	Yes	Chart	5 yrs	Yes		
Provo Municipal	97	47	3	18	Yes	Improved	\$0.28	55%	30	two 5yr	Yes	CPI	2 yrs	Yes		
Driggs-Reed Memorial	71	1	0	6	No	Improved	\$0.22		20	infinite 5 yr	Yes	CPI	Yearly	No		
Aspen-Pitkin County						Improved	\$0.47		3-5					Yes		
Grand Junction Regional						Improved	\$0.18		20	one 10yr		CPI		Yes		
Friedman Memorial (Hailey)																
Idaho County Regional (Rifle)						Improved	\$0.21					CPI	Yearly	Yes		
Montrose Regional	33	5	0	1	No	Private Hangar	\$0.19		20	10 years	Yes	CPI	Annual	No		
						Commercial Aeronautical	\$0.10		Negotiable	Negotiable	Yes	CPI	Annual	Negotiable		
Yampa Valley (Hayden)	7	1	0	0	Yes	Private Hangar	\$0.15	5%	35	5 years	Yes	CPI	Annual	Yes		
						Commercial Aeronautical	\$0.26	5%	35	5 years	Yes	CPI	Annual	Yes		
						Other Aeronautical	\$0.26	5%	5	No	Yes	CPI	Annual	Yes		
						Commercial Non-Aeronautical	\$0.26	10%	5	No	Yes	CPI	Annual	Yes		
						Industrial	\$0.26	10%	5 years	No	Yes	CPI	Annual	Yes		
Eagle County Regional	15	9	0	1		Private Hangar	\$0.35/sq ft		25 years	yes	Yes	CPI	Annual	Yes		

Source: Aviation Inc., 2013

SECTION 3 – SUMMARY OF KEY FINDINGS

After reviewing the data collected, several observations were made from the averages of the data and most common answers, as depicted in Table 3.

- The average lease amount per square foot was \$0.24.
- The initial lease terms ranged from 5 years to 30 years, with 19 years being the average.
- Nearly every airport offer some sort of extension, after the initial lease term. The extensions are primarily used to update the lease agreements. A five year extension is the most common.
- Every airport’s lease included an escalation clauses based on CPI, with most of the escalations occurring annually.
- All but one airport have reversionary leases; however, the terms of the reversionary clause varied by airport.
- The most common extensions, beyond the initial lease terms, were based on the amount (in dollars) of improvements.

**Table 3
Summary of Key Findings**

	Survey Question	Average/Most Common	Heber City
Hangar Information	No. Hangars	61	67
	No. Sponsor owned Hangars	29	3
	Hangar Built in 2012	1	0
	Hangar Built 2009-2011	5	9
	Waiting list	Varies	No
Lease Information	Ground Lease Type	Varies	Improved and Unimproved
	Lease Amount per sqft/yr	\$0.24	\$0.30/\$0.15
Lease Terms	Initial Term	19 years	20 years
	Extensions available	Yes – 5 years	Yes – 2, 5 year extensions
Escalation Clauses	Y/N	Yes	Yes
	Basis	CPI	CPI
	Frequency	Annual	Annual
	Reversionary Lease (Y/N)	Yes	Yes

SECTION 4 – OBSERVATIONS AND RECOMMENDATIONS

Heber City Airport has leasing policies in place that have worked efficiently in the past; however, the policies may not account for the change in operations and demand for hangars that the airport is starting to experience. In order to determine how the existing policies and rates compare to similar airports, the existing rates and policies at Heber City Airport were compared to the surveyed airports and overall averages from the survey data.

Observations

A collective look at the data gathered through the surveys gives a general idea of what the market trends are for airports similar to Heber City Airport. Table 4 depicts how Heber City Airport compares to market trends. Observations gathered from the survey are:

- **Rates:** The rates at Heber City Airport are slightly higher than many of the airports surveyed; however, airports with similar demographics (Aspen and Eagle) charged more than Heber City Airport. It should also be noted that Heber City Airport charges \$0.30 per square foot of the hangar footprint and then \$0.15 for an additional 15 feet around the hangar. Many airports charge the same rate for the building footprint and the 15 foot perimeter. As such, the total rate charged at Heber is less than \$0.30 per square foot which brings the rate in line with the market trends.
- **Commercial Lease Value:** It is likely that a commercial appraisal of the hangar pads would show the rates of return, for the current economic conditions, as being undervalued.
- **Growth:** Hangar construction is in line with market trends as Heber City Airport experienced roughly a 13% growth with the construction of nine hangars between 2009 and 2011. The majority of the hangars built during this time period were by the airport sponsors.

**Table 4
Leasing Observations and Recommendations**

	Survey Question	Average/Most Common	Heber City	Observation
Hangar Information	No. Hangars	61	67	In-line with Market
	Sponsor owned Hangars	29	3	Lower than Market
	Hangar Built in 2012	1	0	In-line with Market
	Hangar Built 2009-2011	5	9	In-line with Market
Lease Information	Ground Lease Type	Varies	Improved and Unimproved	NA
	Initial Lease Amount per sqft/yr	\$0.24	\$0.30/\$0.15	In-line with Market
	% Gross Revenue	15%	NA	NA
Lease Terms	Initial Term	19 years	20 years	In-line with Market
	Extensions available	Yes, 5 years	2, 5 year extensions	In-line with Market
Escalation Clauses	Y/N	Yes	Yes	In-line with Market
	Basis	CPI	CPI	In-line with Market
	Frequency	Annual	Annual	In-line with Market
	Reversionary Lease (Y/N)	Yes	Yes	In-line with Market

Recommendations

From the observations and data collected, recommendations for the Airport’s future lease and rates were developed. In general, Heber City Airport is very comparable to the airports surveyed and the market trends. However, for the Airport to capitalize on the emerging market demand at Heber City Airport, the following recommendations are given:

- **Hangar Ownership:** The number of hangars owned by Heber City Airport is much less than most of the airports surveyed. This hinders the amount of control the airport has on the hangars and ultimately land use. As demand increases for hangar space and development, it will become critical for the airport to have more control over each hangar. As such, it is recommended that the practice of using reversionary clauses in the leases be continued. Table 5 provides a summary of the rental rates from hangars that are owned by the airport.
- **Lease extension:** If the land is not needed by the airport for current or future development many airports with reversionary leases offer lease extensions for capital improvements to the hangars. The duration of the extension is based upon the cost of the capital improvement. At the surveyed airports, a fixed dollar amount was used to determine the length of the extension. The amount needed to qualify for the extension was adjusted periodically. The size or value of the hangar was not taken into account. At one airport the age of the hanger was a factor. Capital improvements on older hangars could only use a fraction of the investment to qualify for an extension.

An extension based upon a set dollar amount was not found to be practical as it would need to be updated over time. It is recommended that extensions be offered for improvements worth 1/30 of the value of a new hangar of similar size.

For example a lessee has 10 years left on the lease and installs a new hangar door. The new hangar door costs \$5,000. A new hangar of similar size currently sells at the airport for \$150,000. The number of years the lease would be extended would be 1 year for every \$5,000 of verifiable and airport approved improvements (\$150,000 divided by 30). In this example the hangar owner would qualify for 1 additional year on their lease.

- **Future Rates:** The demand for new hangars will eventually exceed the existing buildable hangar space and new hangars will need to be constructed. It is recommended that when the airport reaches maximum capacity for new hangars, appraisal values be used to establish lease rates.
- **Future Commercial Rates:** To ensure market value is maintained, at the end of the current life of the commercial hangar leases, the lease should go through a competitive process to establish an updated rate.

Table 5
Summary of Reversionary Lease Data

Survey Question	Average/Most Common
Rent Base on (sqft, flat)	Flat Fee
Approx size of Hangars	1552 sq. ft
Monthly Rent Amount	>10,000 Sq. Ft - \$3,764.27
	<2500 (Flat Fee) - \$242.33
	<2500 (Sq. Ft.) - \$0.25

- It is recommended that non-commercial hangar leases be standardized. The Commercial leases currently utilized at the airport have been tailored to meet the business models at the airport. Some degree of flexibility should be maintained when dealing with current and future business at the airport. Recommendations for the leases are as follows:

a. Hangar Row

The hangars comprising “Hangar Row” were built between 1989 & 1993. The hangar leases are reversionary lease for a term of 30 years. The leases are non-escalating and are for a flat fee for \$50 per year. The first leases granted will come due in 2019. The area where these hangars sit will be needed for future development if the airport decides to expand to meet the demands of aircraft that are already operating at the airport. It is suggested that none of the leases in this area be extended. Depending on the economic conditions at the time of reversion, the City can either, remove the hangars or rent them on a month to month basis. The FAA currently has funding place holders for the airport upgrade in 2021.

It is likely that relocation or condemnation will be necessary if the airport upgrade comes to fruition in or before 2021. The City should provide airport land and/or improvements that are comparable to the improvements currently being occupied by these lessees. If comparable airport land or improvements are not available, the City should buyout the leasehold interest held by the lessee at the market value determined by an appraiser.

b. Daniel Hangars 2 - 22

The Daniel Hangars 2-22 were built between 1995 and 2008. These hangar leases are non-reversionary leases with terms of 20 years and one 5-year extension. The leases have an escalation clause and were initially set at \$0.25 per sq. ft. per year for improved and \$0.125 per sq. ft. per year for unimproved. No provision has been made to deal with the lessees or improvements at the end of the lease. One hanger owner (hanger 5) has opted for a 30 year (20 yr plus two 5 years extensions) reversionary lease instead of a non-reversionary lease.

The land in which the hangars are currently located on has not been identified as being needed for future development. It is recommended that a 5-year reversionary lease be offered at the end of the 25 years (the initial term and the 5 year extension), but only if the hangar is in good condition.

If the hangar is in poor condition, then the hangar owner will retain the improvements (the hangar structure) and be required to remove it from airport property. Heber City will at all times will maintain ownership of the property.

If the hangar is in good condition at the end of the reversionary lease, the City can do what is economically best for the City. The options include, but are not limited to:

- Month to month leases, giving the prior lease holder the first right of refusal to rent the hangar
- Resell the hangar and issue a new lease (giving the prior lease holder the first right of refusal to purchase the hangar)
- Remove the hangar

It would be advantageous to implement a means for extending the leases on these 20 hangars beyond 30 years. Following the recommendation previously laid out in this study, extensions could be offered to the lessees for improvements worth 1/30 of the value, of a new hangar of similar size.

c. Daniel Hangars 23 – 30

The Daniel Hangars 23 -30 are comprised of 8 hangars the City built in 2009. These hangar leases are reversionary leases with terms of 20 years and two, 5-year extensions. The leases have an escalation clause. The hangars are 75'x75' on 95'x95' pads. The 75'x75' area under the hangar is initially leased at \$0.30 per sq. ft. The additional 15' around the hangar is leased at a different rate; \$0.15 per sq. ft. per year. No provision has been made to deal with the lessees or improvements at the end of the lease. It is anticipated that the structure and the land will revert to the City at 30 years. If the hangar is in good condition at the end of the reversionary lease, the City can do what is best economically for the City. The options include, but are not limited to:

- Month to month leases, giving the prior lease holder the first right of refusal to rent the hangar
- Resell the hangar and issue a new lease (giving the prior lease holder the first right of refusal purchase the hangar)
- Remove the hangar

It would be advantageous to implement a means for extending the leases in this area. It is recommended that extensions be offered for capital improvements to the hangar or leased pad.

d. Commercial Apron Area

Accommodations have been made to commercial operators at the airport. Geographically these buildings surround the main apron. Their lease terms and rates differ slightly from the reversionary hangar leases. Commercial leases have been extended to the commercial operators that meet the "Minimum Standards" adopted by the airport. The lease terms have been negotiated with the Airport Board and approved by the City Council. The terms are based upon the business model and economic benefits that the business will bring the airport and community.

Additional discussions on the commercial leasing practices are needed before specific recommendations can be given.

Appendix A
Reversionary Lease Information

Survey Response – Reversionary Leases

Reversionary Leases										
Airport	Extension Mechanism	Length of Extension	Hangar Ownership	Age of Hangars (yrs)	Condition of Hangar Group	Rent Amount	Approx. Size of Hangars	Rent Amount	Utilities Included	
South Valley Regional	Yes	Varies	Private							
			Private							
			Airport	10	Good	Flat Fee	1554	\$310.00/mth	Yes	
			Airport	30	Fair	Flat Fee	1400	\$233.00/month	Yes	
			Airport	30	Fair	Flat Fee	1702	\$310.00	Yes	
Provo Municipal	Yes	Varies (See Note)	Airport	30	Fair	Flat Fee	<2500	\$225.00/mth	Yes	
			Airport	10	Good	Flat Fee	<2500	\$300.00/mth	Yes	
			Private	30+	Poor to Fair	sqft	<2500	\$0.15/sqft/yr		
			Private	10-	Good	sqft	<2500	\$0.28/sqft/yr		
			Private	10-20'	Good	sqft	<2500	\$0.28/sqft/yr		
			Private	20-30	Good	sqft	<2500	\$0.28/sqft/yr		
			Private	30+	Fair	sqft	<2500	\$0.28/sqft/yr		
Grand Junction Regional			Both					\$0.42/ sq ft/yr	No	
Yampa Valley (Hayden)	Improved	5 years								
	Improved	5 years								
			Private	<10	Good	Flat Fee	>10,000 Sq. Ft	\$2,041.32/mth	No	
			Private	<10	Good	Flat Fee	>10,000 Sq. Ft	\$3,090.52/mth	No	
			Private	<10	Good	Flat Fee	>10,000 Sq. Ft	\$6,160.96/mth	No	
Eagle County Regional	NA	2, 5 year extensions								

Appendix A
Reversionary Lease Information

Survey Response – Notes on Reversionary Leases

Airport	Reversionary Lease Notes	
	Extension Mechanism Note	General Remarks
South Valley Regional	1- 15 Yr for initial lease term with an investment up to \$111,500, an additional year for every \$65,000	First Right of Refusal once lease is up at new rate
	2- 50% of tenant investment is recognized in the first half of lease, 25% in the last half for improvement of \$65,000 or more	
Provo	1Yr extension with for every \$9000 of improvements.	At the end of the lease the lease can continue to lease the building at the same rate, but the ownership cannot change and it cannot be subleased.
Aspen-Pitkin County		Option to buy back or it reverts to airport
Grand Junction Regional		Tenant can remove the hangar or it reverts to airport

Heber City Airport/Russ McDonald Field

Lease/Rates and Charges Policy

Final Report

February 12, 2014

Prepared by Jviation Inc.

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1. INTRODUCTION

1.1. Statement of Policy

- 1.1.1. This Leasing Policy (Policy) for Heber City Municipal – Russ McDonald Field is intended to provide guidance and parameters for leasing Airport property and be a guide for City staff on Airport leasing issues. Leasing issues may include establishing and adjusting rents, fees, and other charges associated with occupancy and use. In addition, this Policy is intended to provide potential and current tenants and businesses an understanding of the policies and processes used for Airport Leases.
- 1.1.2. Entities wishing to occupy or use Airport land and/or improvements at the Airport shall be given a reasonable opportunity to compete, without unjust discrimination, for the occupancy or use of available land or improvements subject to the stipulations specified within this Policy.
- 1.1.3. No entity shall occupy or use Airport land and/or improvements at the Airport, or conduct a Commercial Aeronautical Activity, unless the entity has been authorized by the City for such occupancy, use, or activity.

1.2. Definitions

- 1.2.1. The following words, terms and phrases, when used in this Policy, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

Aeronautical - anything which involves, makes possible, or is required for the flight of aircraft, or the storage or presence of aircraft on the airport, or which contributes to, or is required for the safety of aircraft in flight.

Aeronautical Activity – any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on airports, include, but are not limited to, the following: general and corporate aviation, air taxi and charter operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and service, aircraft storage, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, parachute or ultralight activities, and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities.

Agreement – An arrangement between two or more parties

Aircraft - a device that is used, or intended to be used, for flight in the air and subject to regulation by the Federal Aviation Administration.

Airport - Heber City Municipal - Russ McDonald Field and all of the property, buildings, facilities and improvements within boundaries of the Airport as depicted in Exhibit A in the Airport Layout Plan.

Airport Layout Plan (ALP) - The FAA and City-approved layout of the airport property, indicating current and proposed usage for each identifiable segment, as may be amended from time to time.

Board – The Heber City Airport Advisory Board (HCAAB)

City – Heber City, Utah

Commercial Aeronautical Activity - the conduct of any aspect of a business, concession, operation, or agency in order to provide goods and services to any person for compensation, consideration or hire. An activity is considered a commercial activity regardless of whether the business is non-profit, charitable, or tax-exempt.

Commercial Tenant - a person, fixed base operator, firm, corporation or other entity, meeting the Airport's "Minimum Standards", having been approved by the City to conduct commercial aeronautical services or activities at the Airport for compensation or hire.

Exclusive Right – a right reserved exclusively by a particular person or group.

Fair Market Value – The amount in the competitive market a well-informed and willing lessor, who desires but is not required to lease, would accept and which a well-informed lessee, who desires but is not required to lease, would pay for the use of airport property, after due consideration of all the elements reasonably affecting value.

Independent Operator – A person or entity that conducts Aeronautical Activities, retaining total and free control over the means or methods used in conducting activities on the Airport but is based on land either adjacent to and/or located other than on the Airport, and whereby such land is not part of the Airport. *This type of operator is not authorized to provide services at the Airport.*

Lessee - any person or entity with a lease to occupy space at the Airport.

Minimum Standards - the qualifications or criteria, which have been established by the Airport owner as the minimum requirements that shall be met by all businesses offering commercial aeronautical activities and for the right to conduct those activities.

Non-Reversionary Lease - a lease wherein the ownership of improvements made by the tenant are retained by the tenant at the end of the lease period.

Operator - any individual, firm, partnership, corporation (including registered non-profit corporations), company, association, joint-stock association, or governmental entity which is engaged in the sale of products and/or services on the Airport.

Person - any individual, firm, partnership, corporation (including registered non-profit corporations), company, association, joint-stock association, or governmental entity. It includes a trustee, receiver, assignee, employee, agent, or similar representative of any of them.

Reversionary Lease – a lease which contains a provision which states all structures and improvements made by the tenant on the leased property shall pass title and ownership to the lessor at the end of the lease period.

Rules and Regulations – the stipulations specified in this Policy and other airport guiding documents that relate to the occupancy or use of the operations, land and/or improvements at the Airport.

Specialized Aviation Service Operation (SASO) – a single-service provider or special Fixed Based Operator (FBO) performing less than full services. Typically only one service is offered such as aircraft sales, flight training, aircraft maintenance, or avionics services.

Sub lessee - any person with a sublease to occupy space at the Airport.

Tenant – a person or entity occupying Airport leased land or property.

Through-The-Fence Operation (TTF) – through-the-fence operations are those activities permitted by an airport sponsor through an agreement that gives access to the public landing area by independent entities or operators offering an aeronautical activity or to owners of aircraft based on land adjacent to, but not a part of, airport property. The obligation to make an airport available for the use and benefit of the public does not impose any requirement for the Airport Sponsor to permit ground access by aircraft from adjacent property. *TTF operations are not authorized at the Airport.*

1.3. Existing Agreements

- 1.3.1. If there are any inconsistencies between the Heber City Municipal - Russ McDonald Field's Leasing Policy and existing property leases, the existing lease shall prevail. New leases issued or extensions granted to existing leases should be treated uniformly and follow the guidance outlined in this Policy.

1.4. Rights Reserved

- 1.4.1. The Airport Advisory Board reserves the right to revise, adjust, or otherwise modify this Policy to reflect changes in the legal, economic, and operational environment of the Airport's or City's operational requirements.

2. APPLICATION REQUIREMENTS

2.1. Application

- 2.1.1.** Any person or entity desiring to occupy or use land and/or improvements at the Airport through an Agreement with Heber City Corporation shall submit a written application to the Airport Manager.
- 2.1.2.** The Applicant shall submit a completed application to include all information requested on the application form and, if requested by the City, shall submit any additional related information to properly evaluate the application.
- 2.1.3.** A transfer fee shall be submitted with an application on a reassignment of a lease or a majority change of ownership of a hangar. A 1% transfer fee based upon the taxable value of the hangar or \$100.00, whichever is greater, shall be paid to the City.
 - 2.1.3.1.** The sale of a new hanger is not subject to the transfer fee.

2.2. Approval Process

- 2.2.1.** A complete application and all accompanying and requested information shall be submitted to the Airport Manager for review. If the Applicant is changing the use of a hangar or desires to conduct a commercial venture the application will go before the Airport Advisory Board for review. The Airport Advisory Board will determine if the Commercial operator meets the Airport's Minimum Standards. After the Airport Advisory Board approves the Commercial Tenant, the Board will submit the application to the City Council for approval.
 - 2.2.1.1.** The Airport Manager has the authority to approve non-commercial applications which involve the sale and/or transfer of hangar ownership.
 - 2.2.1.2.** Incomplete applications that do not provide adequate information to make a knowledgeable assessment shall be rejected.
 - 2.2.1.3.** Applications that do not comply with this Policy and other City guiding documents shall be rejected.
 - 2.2.1.4.** Applications that are inconsistent with the Master Plan, the Airport Layout Plan, other plans associated with the Airport, and/or are deemed not in the best interest of the Airport shall be rejected.
 - 2.2.1.5.** If two qualified Applicants submit an application for the same land and/or improvement, the Airport Advisory Board shall determine whether to negotiate with both entities or issue an RFP. The competitive RFP process is described in this Policy under Section 2.3 and shall be followed.
- 2.2.2.** Within 60 days of receiving the application, the Airport Manager shall notify the Applicant of the status of the application. If the application was approved, the Airport Manager shall provide the terms and conditions for occupancy or use of the land and/or improvements at the Airport. If the application was denied, the Airport Advisory Board shall provide reasons for the denial.

- 2.2.3. Within 30 days of receiving notification of the application status, the application shall indicate if the terms and conditions provided by the Airport Advisory Board are acceptable to the Applicant.
- 2.2.4. If the Applicant finds the terms and conditions unacceptable, the Applicant shall present terms and conditions acceptable to the Applicant to the Airport Advisory Board.
 - 2.2.4.1. If the Airport Advisory Board and the Applicant are unable to reach an agreement by negotiation, the City shall not be obligated to lease airport land and/or improvements to the Applicant.
- 2.2.5. Once an agreement has been made between the Airport Advisory Board and the Applicant regarding the terms and conditions of the Agreement, the Applicant shall pay an earnest money deposit in the amount of ten percent (10%) of the total annual rents, fees, and other charges proposed to the City and submit a letter of acceptance of the terms and conditions of the Agreement. The letter shall be submitted to the City within 30 days of reaching an agreement.
 - 2.2.5.1. The terms and conditions should address, but not be limited to, the identification of the land and/or improvements to be leased or developed, the proposed investment, the length of the term, and the rents, fees, and other charges that shall be paid.
 - 2.2.5.2. Once the earnest money deposit and written letter of acceptance have been accepted by the City, the same land and/or improvements may not be negotiated with any other party, nor can a Request for Proposal (RFP) be issued.
- 2.2.6. Upon receiving the letter of acceptance from the Applicant, the City shall prepare the leasing documents and send them to the Applicant for review.
- 2.2.7. If the Lease Agreement is not signed and returned to the City within 45 days of being issued, the earnest money shall be returned to the Applicant and the application and written agreement shall be null and void.

2.3. Competitive Proposal Process

- 2.3.1. The Airport Advisory Board may issue a Request for Proposal (RFP) seeking competitive proposals for entities who wish to occupy or use available land or improvements.
- 2.3.2. If an RFP is issued, the Airport Advisory Board shall advertise the opportunity in local and industry publications in accordance with established practices and legal requirements. The advertisement shall:
 - 2.3.2.1. Provide a description of the land and/or improvements that are available for use and the products, services, and/or facilities that are required, permitted, and/or desired.
 - 2.3.2.2. Indicate if the proposals will be evaluated on qualifications.
 - 2.3.2.3. Provide instructions for obtaining the RFP document.
 - 2.3.2.4. Identify the date, time, and place for submitting sealed proposals.

- 2.3.2.5.** State the Airport Advisory Board's right to reject any and all proposals.
- 2.3.3.** The Airport Advisory Board may also, but is not obligated to, mail the RFP directly to parties that have expressed interest, may be interested, or that the Airport Advisory Board may wish to attract.
- 2.3.4.** The RFP documents shall (as appropriate):
 - 2.3.4.1.** Provide a summary of the Airport, the market, and the opportunity (products, services, and/or facilities required and/or desired);
 - 2.3.4.2.** Identify the location of the land and/or improvements;
 - 2.3.4.3.** Define the time frame for occupancy or use of the land and/or improvements;
 - 2.3.4.4.** Outline the submission and selection process, proposer's responsibilities, and schedule for the process;
 - 2.3.4.5.** Provide instructions regarding the content and format of the proposal;
 - 2.3.4.6.** Provide all required forms, statements, and affidavits;
 - 2.3.4.7.** Provide a draft of the Agreement;
 - 2.3.4.8.** Indicate the evaluation and/or selection criteria that will be utilized by the Airport Advisory Board;
 - 2.3.4.9.** Indicate if proposals will be evaluated based upon the qualifications and experience of the proposer and the proposed products, services, and/or facilities;
 - 2.3.4.10.** Indicate that the proposer's financial plan including all proposed rents, fees, or other charges shall be provided to the Airport Advisory Board under separate cover;
 - 2.3.4.11.** Identify the base rent for the land and/or improvements;
 - 2.3.4.12.** Identify the fees and charges for engaging in Aeronautical Activities at the Airport;
 - 2.3.4.13.** Identify the grounds for denial or disqualification and withdrawal;
 - 2.3.4.14.** Indicate the place, date, and time for submission of proposals;
 - 2.3.4.15.** Indicate the place, date, and time the pre-proposal conference will be held;
 - 2.3.4.16.** Require that a proposal bond or guarantee in the amount equal to ten percent (10%) of the total rents, fees, or other charges proposed to be paid to the City in the first year of the proposed Agreement be submitted with the proposal.
 - 2.3.4.17.** Require the prospective Proposer complete all proposal forms, statements, and affidavits.
- 2.3.5.** The RFP process, procedures, and requirements shall be discussed at the pre-proposal conference and potential Proposer shall be given the opportunity to ask questions and express concerns to the Airport Advisory Board.
 - 2.3.5.1.** The RFP document shall be available to potential Proposers at least two weeks prior to the date of the pre-proposal conference.

- 2.3.5.2.** Questions and answers exchanged during the pre-proposal conference shall be documented and distributed to all entities that have received an RFP.
- 2.3.6.** The Airport Advisory Board will receive and open the proposals at the designated place, date, and time.
 - 2.3.6.1.** The contents of the proposal will be protected.
 - 2.3.6.2.** Proposals received after the advertised deadline will not be considered and will be returned unopened.
- 2.3.7.** The Airport Advisory Board will then review, evaluate, and rank the proposals.
 - 2.3.7.1.** The Airport Advisory Board may require interviews with prospective Parties.
- 2.3.8.** The Airport Advisory Board has the right to reject and all proposals, to advertise for new proposals, and to modify the proposal process.
 - 2.3.8.1.** The Airport Advisory Board shall be under no obligation to make any award or to make an award to the proposer specifying the highest compensation to the Airport Advisory Board.
- 2.3.9.** Upon completion of the review and evaluation of the proposals, the Airport Advisory Board shall select the proposal that best suits the desires of the Airport Advisory Board. The Airport Advisory Board will then negotiate the Agreement with the selected potential Proposer utilizing the process beginning in Section 2.3 of this Policy. If an Agreement cannot be reached, in the sole discretion of the Airport Advisory Board, the Airport Advisory Board may negotiate with any other prospecting Proposer or reject all proposals.
- 2.3.10.** The Airport Advisory Board will recommend to the City Council the selected potential Proposer. The City Council will vote to accept or reject the agreement with the Proposer.

2.4. Grounds for Denial

- 2.4.1.** The Airport Advisory Board may reject any application or proposal for any one or more of the following reasons:
 - 2.4.1.1.** The entity, for any reason, does not meet the qualifications and requirements set forth by the Airport Advisory Board.
 - 2.4.1.2.** The entity's proposed activities and/or improvements will create a safety hazard at the Airport.
 - 2.4.1.3.** The Airport Advisory Board would be required to expend funds and/or materials in connection with the proposed activities and/or improvements that the Board is unwilling or unable to spend and/or will result in a financial hardship or loss for the Airport.
 - 2.4.1.4.** Appropriate, adequate, or available land and/or improvements are not available to accommodate the proposed activity nor is availability expected in a reasonable time frame.

- 2.4.1.5. The proposed activity and/or improvements do not comply with the most recent Airport Master Plan or Airport Layout Plan in effect at that time will be in effect within the time frame proposed by the Applicant.
- 2.4.1.6. The development or use of the land will result in congestion of aircraft, interfere with activities of an existing Operator on the Airport (as found by the Board) and/or prevent adequate access to the leased premises of an existing lessee.
- 2.4.1.7. The entity has intentionally or unintentionally withheld information in the application, proposal, and/or in supporting documentation.
- 2.4.1.8. The entity did not make full disclosure in the application, proposal, and/or in supporting documentation.
- 2.4.1.9. The entity or an officer, director, agent, representative, shareholder, or employee of the entity has a record of violating the regulations of Heber City, the Airport, or any other airport, the FAA, or any other regulation related to the Airport and/or the entity's proposed activity.
- 2.4.1.10. The entity or an officer, director, agent, representative, shareholder, or employee of the entity has defaulted on any agreement or sublease at the Airport or at any other airport.
- 2.4.1.11. The entity has failed to demonstrate adequate financial responsibility or the ability to undertake the proposed activity.
- 2.4.1.12. The entity cannot provide adequate applicable insurance or performance bond for the amounts required by Heber City for the proposed activity.
- 2.4.1.13. The entity, officer, director or Applicant has been convicted of a felony.
- 2.4.1.14. The entity's proposed activity is or could be detrimental to the Airport.
- 2.4.1.15. The entity desires terms and conditions that are inconsistent with the Airport's policies or Request for Proposal issued by the Airport Advisory Board.
- 2.4.1.16. The entity's proposed activity or use of the land and/or improvements is inconsistent with the Airport's purpose, vision, values, goals, or objectives.

2.5. Demonstrating Immediate Need

- 2.5.1. Entities seeking to occupy or use land and/or improvements at the Airport must demonstrate that the entire land and/or improvements will be utilized immediately.

2.6. Public Disclosure

- 2.6.1. Applicants should be aware that Heber City, as a government entity, is subject to Utah Code, Title 63G, Chapter 2 (Government Record Access and Management Act), which allows the public to examine documents and observe public meetings of a government agency.

3. AGREEMENTS

3.1. General

- 3.1.1.** A Party, prior to occupying or using land and/or improvements, is required to enter into an Agreement with the Airport Advisory Board reciting the terms and conditions under which the Party shall occupy or use the land and/or improvements at the Airport.
- 3.1.2.** This Policy does not include every provision included in the Agreement nor are the provisions included in the Agreement meant to modify this Policy.
- 3.1.3.** This Agreement shall convey one or more of the following activities: (1) use of the Airport in common with others in agreement to do so; (2) occupancy and/or exclusive use of designated land and/or improvements at the Airport; and/or (3) opportunity to provide products, services, and/or facilities at the Airport.

3.2. Use of Leased Premises

3.2.1. Aeronautical Use (Commercial)

- 3.2.1.1.** The Agreement will specify the aviation products, services, and facilities that shall be provided by the Operator (with and without Airport Advisory Board permission). The products, services, and facilities to be provided by the Operator shall meet the requirements defined in the Minimum Standards. Failure to meet the Minimum Standards and obtain a permit from Heber City before providing additional products, services, and/or facilities shall be considered a breach to the Agreement.

3.2.2. Aeronautical Use (Non-Commercial)

- 3.2.2.1.** The Agreement shall state premises leased by non-commercial operators shall not use Airport land and/or improvements for commercial activities. Non-Commercial leaseholders who engage in Commercial Aeronautical Activities shall be considered in breach of the Agreement.

3.2.3. Non-Aeronautical Use

- 3.2.3.1.** Although not generally favored, non-aeronautical use of land and/or improvements that does not interfere with the primary aviation use of such land and/or improvements is permitted if the Airport Advisory Board finds the use to be beneficial to the development of the Airport.
 - 3.2.3.1.1.** If non-aeronautical use of the land and/or improvements is proposed, the Airport Advisory Board must determine that the land and/or improvements will not be needed for aeronautical activities and/or development, during the term of the proposed Agreement.
 - 3.2.3.1.2.** The use of Airport land and/or improvements for non-aeronautical activities shall be subject to the prior written approval of the FAA.
 - 3.2.3.1.3.** A non-aeronautical lease shall not exceed a term of five years.

3.2.4. Restrictions

- 3.2.4.1.** Airport land and/or improvements shall not be occupied or used for any purpose contrary to: (1) the best interest of the Airport; (2) the safe, effective operation of the Airport, to include the health, safety and general welfare of the public, aircraft, and other personal property at the Airport; (3) the financial self-sufficiency of the Airport; (4) future Airport development; and (5) Federal Aviation Administration's Grant Assurances.

3.3. Subleasing

3.3.1. Subleasing Privileges Permitted in the Commercial Lease Agreement

- 3.3.1.1.** An Operator may enter into an Agreement with the Airport Advisory Board allowing subleasing of space for Airport parking (tie-down and/or hangar space) and/or subleasing of office, shop, or other designated areas subject to prior written approval of the Airport Advisory Board.
- 3.3.1.2.** If the Airport Advisory Board permits subleasing in the Agreement with the Operator, an approved sublease form consistent with the Agreement between the Operator and the Airport Advisory Board may be used by the Operator to assist in the consent process.
- 3.3.1.2.1.** The sublease shall be submitted to the Airport Advisory Board for review and approval.
- 3.3.1.2.2.** The Operator shall not be required to pay Heber City any portion of revenue or profit related to subleasing activities.
- 3.3.1.2.3.** The sublease agreement must be submitted to the Airport Advisory Board for review and approval within 10 business days of execution of Sublessee. Sublease business terms shall be submitted with the sublease agreement to the Airport Advisory Board.
- 3.3.1.2.4.** Sublessee may not occupy the premises without Airport Advisory Board approval of sublease agreement.

3.3.2. Subleasing Privileges Not Permitted in the Commercial Lease Agreement

- 3.3.2.1.** If subleasing is not permitted in the Agreement between the Operator and the Airport Advisory Board, the Operator must obtain written approval of the Airport Advisory Board prior to subleasing any land and/or improvements. Any activity inconsistent with the Airport Master Plan, Airport Layout Plan, and other plans associated with the Airport, and/or is considered to not be in the best interest of the Airport will not be approved by the Airport Advisory Board.
- 3.3.2.2.** The sublease agreement shall be submitted to the Airport Advisory Board for review and approval. The sublease may be rejected for any of the reasons identified in Section 2.4 (Grounds for Denial).

- 3.3.2.3.** If an Operator subleases without advance written approval of the Airport Advisory Board, the Operator shall pay Heber City fifty percent (50%) of the sublease revenue in addition to all rents and fees paid to the City for the same subleased land and/or improvements.
 - 3.3.2.3.1.** The Airport Advisory Board may audit the Operator's financial records to determine the amount that shall be paid to the City.
- 3.3.2.4.** The Operator shall reimburse the Airport Advisory Board for reasonable attorney's fees and expenses incurred by the Airport Advisory Board related to subleasing that is not permitted by the Agreement.
- 3.3.2.5.** A sublessee may not occupy the premises without prior written approval by the Airport Advisory Board.

3.3.3. Sublessee Obligations

- 3.3.3.1.** Sublessee shall comply with all regulations defined in this Policy and all other directives issued by Heber City; maintain all required insurances and coverages as defined in the Minimum Standards; and pay all required fees.
- 3.3.3.2.** A sublessee desiring to engage in Commercial Aeronautical Activities at the Airport must obtain a Commercial Activity Permit, as outlined in the Airport's Minimum Standards, prior to any Commercial Activities.

3.3.4. Sublessee Stipulations

- 3.3.4.1.** Unless stated otherwise, all sublease agreements shall be subject to all terms and conditions of the Agreement between the Operator and the Airport Advisory Board.
- 3.3.4.2.** Subleasing land and/or improvements without written approval by the Airport Advisory Board shall be considered a breach in the Agreement between the Operator and the Airport Advisory Board.
- 3.3.4.3.** Any sublease agreement made contrary to this Policy and without written approval by the Airport Advisory Board is considered null and void.
- 3.3.4.4.** Sublease of land and/or an improvement for non-aeronautical activities is subject to prior written approval of the FAA.

3.4. Transfer of Interest

3.4.1. Assignment

- 3.4.1.1.** A Party shall not assign an Agreement, any part or interest of an Agreement, or any rights or obligations the Party has under an Agreement without prior written approval by the Airport Manager.
 - 3.4.1.1.1.** If a Party desires such an assignment, the Party shall make application as identified in Section 2 and request written approval from the Airport Manager.
 - 3.4.1.1.2.** The City may deny such request for any reason identified in Section 2.4 (Grounds for Denial).

3.4.1.1.3. If written approval of the assignment is granted by the City the Party shall reimburse all attorney fees and expenses incurred by the City related to the assignment.

3.4.1.1.4. The Assignee shall comply with all regulations defined in this Policy and all other directives issued by Heber City; maintain all required insurances and coverages as defined in the Minimum Standards; and pay all required fees.

3.4.1.2. Any assignment made without prior written approval by the City shall be considered null and void and a breach to the Agreement.

3.4.2. Change in Majority Ownership

3.4.2.1. The City shall provide prior written approval to any change in the majority ownership of a Party or operating entity.

3.4.2.1.1. If any Party desires to change the majority ownership of the operating entity, an application and transfer fee must be submitted to the City.

3.4.2.1.2. The City may deny such request for any reason identified in Section 2.4 (Grounds for Denial).

3.4.2.1.3. If written approval of the change in majority ownership is granted by the City, the Party shall reimburse all attorney fees and expenses incurred by the City related to the change in majority ownership.

3.4.2.2. Any change in majority ownership made without prior written approval by the City shall be considered null and void and a breach to the Agreement.

3.5. Term

3.5.1. The initial term of all Agreements shall be for no less than twenty (20) years unless otherwise recommended by the Airport Advisory Board and approved by the City Council.

3.5.2. The City is not obligated to automatically grant a term of any duration once the initial term has expired.

3.5.3. Lease Extensions

3.5.3.1. The term of the Agreements may be extended twice for five (5) years if the land is not needed for airport development and if the premises are structurally sound and capable of safe and legal occupancy for the remaining term.

3.5.3.2. Any renewal options related to a lease shall be subject to the same conditions set forth in the original base term. The City maintains the right to adjust any and all rates and charges in effect at the commencement of each lease extension.

3.5.4. Investment Term Adjustment

3.5.4.1. Heber City encourages tenant construction as a component of facility development. When a tenant makes approved capital improvements to the facility which increases structural integrity or the facility’s market value, the tenant’s investment in those improvements will be considered toward an increased lease term.

3.5.4.1.1. The Investment Term Adjustment is available only to Airport Tenants who have reversionary leases.

3.5.4.1.2. The term adjustment is to provide tenants adequate time to depreciate investments in existing hangars and buildings on the Airport.

3.5.4.1.3. The lease terms are proportionately longer for greater investments. The lease term adjustment shall not exceed the useful life of the facility.

3.5.4.1.3.1. No lease shall exceed 40 years at any given time.

3.5.4.2. Extensions may be offered for capital improvements which increase the value of the hangar.

3.5.4.2.1. The minimum lease term adjustment shall be one year. After the first year the lease term shall be adjusted in six month increments. The final calculation shall be rounded down to the nearest six month increment.

3.5.4.2.2. Only improvements completed in a one year span can be added together for a lease term adjustment.

3.5.4.3. Lease Term Adjustment Table

Hangar Size (sq ft)	Capital Improvement amounts for lease term adjustments (Dollars per year)
2000 - 2999	\$10,000
3000 - 3999	\$10,500
4000 - 4999	\$11,250
5000 - 5999	\$12,000
6000 - 7999	\$12,750
8000+	\$13,750

3.5.4.4. The Lease Term Adjustment table will be updated annually based upon CPI.

3.5.4.5. Process

3.5.4.5.1. When intending to improve a facility at the Airport, a Tenant shall submit a written request to the Airport Manager. The request shall include sufficient detail outlining the purpose of the facility, improvements to be made and the anticipated cost.

- 3.5.4.5.2. Only after conceptual approval by the Airport Manager and Airport Advisory Board, the improvements can proceed as outlined in the request.
- 3.5.4.5.3. Upon completion of the improvements, the Tenant will submit a statement of actual costs certified by the Tenant's financial officer or by a certified public accountant.
- 3.5.4.5.4. The Airport Manager will prepare an agreement which shall amend the lease terms based upon actual construction costs.

3.6. Improvements

- 3.6.1. All improvements made by a Tenant must comply with all applicable regulatory measures including all those stipulated by the City.
- 3.6.2. Unless otherwise specified in the Agreement, the ownership of all permanent improvements shall revert to Heber City upon the end of the term of the Agreement.

3.7. Responsibilities

3.7.1. Heber City

- 3.7.1.1. Unless otherwise stated in the Agreement, Heber City is responsible for maintenance of all public Airport infrastructure and common areas to include runways, taxiways, public apron areas, roadways, nav aids, and associated land areas.

3.7.2. Lessee

- 3.7.2.1. Unless otherwise stated in the Agreement, the Lessee shall be responsible for all maintenance of land and/or improvements on the leased premises. The responsibilities of the Lessee include all structural components, all exterior and interior maintenance, landscaping, janitorial, trash removal, snow removal, and sweeping.
- 3.7.2.2. The Lessee shall be responsible for all utilities, separately metered, shall maintain all insurance coverages as defined in the Minimum Standards, and shall remain current on all taxes and/or assessments charged by any applicable government entity or agency including personal property, income and other business tax.
- 3.7.2.3. The failure of a Lessee to maintain the land and/or improvements and/or pay all utilities, insurance, and taxes shall be considered a breach in the Agreement.

3.8. Condemnation

- 3.8.1. The Airport Advisory Board shall engage an appraiser, in the event of a full condemnation action, to determine the fair market value of the leasehold interest held by the Lessee.

- 3.8.2. The Agreement shall terminate on the date of the physical taking (as if the date of the taking were the date originally fixed in the Agreement for the expiration term). Upon termination of the Agreement, the Airport Advisory Board shall pay the Lessee the appraised fair market value minus any fees due to the City.
- 3.8.3. In the event of a partial condemnation, the Agreement shall not terminate. The rents due to the City during the unexpired portion of the Agreement shall be reduced proportionally based upon the square footage of the leased premises.
- 3.8.4. In the event of a full or partial condemnation by an Agency other than Heber City, the City and the Lessee shall each be entitled to receive or retain separate awards or a portion of lump sum awards as may be allocated to each party based upon the respective interest held by each party in any condemnation proceeding.
- 3.8.5. Condemnation shall follow all applicable regulatory measures (including those imposed by the FAA) for condemnation proceedings and any appraisal report shall meet the requirements of such regulatory measures. If there is any inconsistency between this Policy and such regulatory measures, the regulatory measures shall prevail.

3.9. Relocation

- 3.9.1. In the event relocation is found to be necessary (e.g. to correct Part 77 variations, ensure use consistent with the Airport Layout Plan, to facilitate future development of the Airport), the City shall provide the Lessee with land and/or improvements that are comparable to the land and/or improvements currently being occupied and/or used by the Lessee.
 - 3.9.1.1. Such land and/or improvements shall be leased to the Lessee at the same rent and under the same terms and conditions as stipulated in the existing Agreement.
- 3.9.2. If comparable improvements are not available, the City shall buyout the Lessee's interest in any improvements that have been made by the Lessee. The amount to be paid shall be determined by an appraiser.
- 3.9.3. The City shall pay all reasonable relocation costs and expenses associated with moving the Tenant.
- 3.9.4. Relocation shall follow all applicable federal and state measures for relocation proceedings and any appraisal report shall meet the requirements of such regulatory measures. If there is any inconsistency between this Policy and such regulatory measures, then the regulatory measures shall prevail.

4. RATES AND CHARGES

4.1. General

- 4.1.1. It is the intent of this section to give guidance on setting rates and charges for Airport Leases which are in line with the current market. In addition, the City is required to

maintain a rent and fee structure which makes the Airport as self-sustaining as possible while preserving and improving the Airport.

- 4.1.2. Without unjustly discriminating, it is the policy of the Airport Advisory Board to pursue terms and conditions that provide an equitable return for the Airport and to encourage private investment. All Agreements adequately compensate the Airport for the use of leased premises to a Tenant.
- 4.1.3. All Parties at the Airport shall be subject to the same rates, fees, and other charges as applicable to other Tenants utilizing the same or similar land and/or improvements for the same use or purpose.
 - 4.1.3.1. Parties may not lease land and/or improvements that have the same attributes, uses and/or values; therefore, the Airport Advisory Board may charge different rates to similar users of the Airport as long as the rates are not unjustly discriminatory.
 - 4.1.3.2. It is recognized that Agreements reached through negotiation or a competitive process may produce rents, fees, or other charges that may be higher than those paid by similar parties and/or users.

4.2. Mechanisms to Set Rates

- 4.2.1. The Airport Advisory Board will not engage in unjust economic discrimination among tenants, nor will it impose discriminatory terms. The base land and/or improvement lease rate for each leasehold will be determined based on fair market values. Building base lease rates will be determined by market comparison, supply and demand or current appraisal of the facility by a firm chosen by the Airport Advisory Board.
- 4.2.2. As new ground and building leases are entered into, or leases are amended, the Airport Advisory Board reserves the right to update lease rates to current values.
- 4.2.3. **Competitive Proposal Process**
 - 4.2.3.1. Rents can be adjusted and/or established through a competitive proposal process.

4.3. Variation in Rates

- 4.3.1. The Airport Advisory Board may set different rates for different tenants based on rational factors that shall include but not be limited to: the value of property to be leased, the amount of use projected of common facilities, the type of use being made and the degree of competition for the facility to be leased.

4.4. Adjustment of Rents

- 4.4.1. All rents shall be adjusted on an annual basis throughout the term of the Agreement.
- 4.4.2. **Escalation Clauses**

- 4.4.2.1. Rates will be adjusted during the life of a lease. Adjustments may be based on one of three types; annual adjustment linked to the CPI, an adjustment based on re-evaluation of property or some other measure as specified in the agreement or as negotiated.

4.5. Establishment and Adjustment of Fees

- 4.5.1. Fees for the occupancy and use of land and/or improvements shall be established by Heber City to assist in covering the costs associated with the development, operation, and maintenance of the Airport.
- 4.5.2. Fees may include, but are not limited to, fuel flowage fees, transient aircraft fees, and/or permit fees.
- 4.5.3. Fees may be adjusted by the Airport Advisory Board on an annual basis based upon the Airport's fiscal year budget for the Airport.
- 4.5.4. The Airport Advisory Board reserves the right to use other means and/or establish and/or charge additional rents, fees, or other charges for the use and/or occupancy of the Airport land and/or improvements.

4.6. Payment of Rents, Fees, or Other Charges

- 4.6.1. Tenants must be current to the City in all payments of rents, fees, and other charges under any and all Agreements in order to occupy or use the land and/or improvements.
- 4.6.2. Failure to remain current in the payment of all rents, fees, and other charges to the City will be grounds for termination of the Agreement between the Lessee and the City.
- 4.6.3. The City may enforce the payment of rent, fees, and other charges under the Agreement by any legal means available to the City as provided by Utah law.
- 4.6.4. All rents, fees, and other charges assessed by the City not paid within 10 days of being due shall incur a ten percent (10%) late fee.

4.7. Bookkeeping and Records

- 4.7.1. The Lessee shall keep records of amounts due to the City for rents, fees, or other charges related to the occupancy and/or use of the Airport land and/or improvements and/or engaging in activities at the Airport. The City shall be entitled to access such records upon 30 days notice. The City/Airport Advisory Board reserves the right to audit such records.

4.8. Exclusive Rights

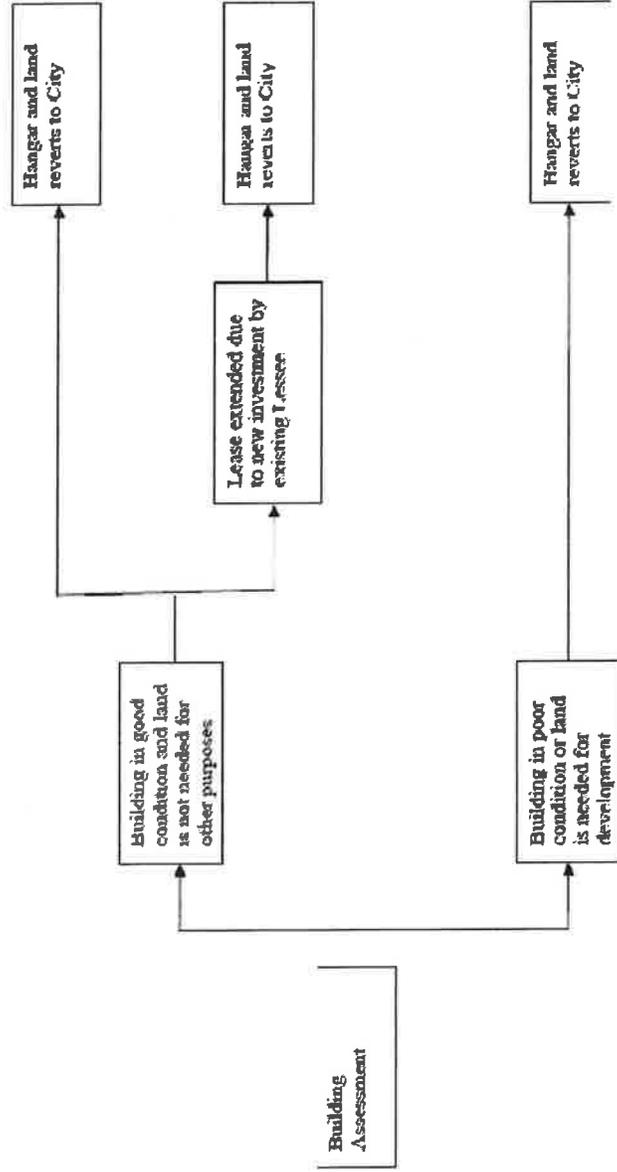
- 4.8.1. There shall be no granting of the exclusive right to provide or engage in any aeronautical activity at the Airport; and no lease, sublease, operating permit or other agreement that is or shall be in effect at the Airport that creates such a right.



5. APPENDIX

5.1. Appendix A: Commercial Lease Flow Chart

COMMERCIAL LEASE



5.2. Appendix B: Establishment of Fair Market Value

- 5.2.1.** The Airport Advisory Board shall engage an appraiser who meets the qualifications defined in Section 5.3 of this Policy to conduct appraisals of airport land and/or improvements to determine fair market value.
 - 5.2.1.1.** The appraiser shall use current appraisal methods that are found to be appropriate by the Airport Advisory Board for the appraisal of Airport land and/or improvements.
 - 5.2.1.2.** The appraiser shall use appropriate and justifiable rate of return for airport land and/or improvements.
 - 5.2.1.3.** Airport land and/or improvements shall be appraised assuming the highest and best aviation use of the property. It shall also be assumed that the property will continue to be part of the Airport and will have access to the infrastructure and amenities of the Airport.
 - 5.2.1.4.** The appraisal shall meet the Uniform Standards of Professional Appraiser Practice (USPAP).

5.3. Appendix C: Appraiser Qualifications

- 5.3.1.** Appraisals shall be performed by an appraiser who shall be a member of the Appraisal Institute (MAI) or similarly designated and equally qualified appraiser who shall be certified by a recognized appraisal organization.
- 5.3.2.** The appraiser shall hold a State Certified General Real Estate Appraiser License issued by the State of Utah.
- 5.3.3.** Any appraiser selected to appraise Airport land and/or improvements shall have working knowledge of the aviation industry including airport, air carriers, and general aviation as appropriate. The appraiser shall also demonstrate familiarity with FAA rules, regulations, and policies pertaining to valuing airport properties.
- 5.3.4.** The selected appraiser must have performed a minimum of five (5) aeronautical property appraisals within the last five years and shall provide the Airport Advisory Board a list of locations and types of appraisals performed. Appraisals of non-aeronautical properties do not satisfy this requirement.

5.4. Appendix D: Dispute Resolution

- 5.4.1.** A Lessee may engage a second consultant (appraiser) that meets the qualifications set forth in this Policy if the Lessee disagrees with the Fair Market Rent (value) found by consultant (appraiser) hired by the Airport Advisory Board.
 - 5.4.1.1.** All fees and expenses associated with the second consultant (appraiser) shall be paid for by the Lessee.

- 5.4.2. If the two appraisals show a variance of less than ten percent (10%) the average of the two appraisals shall be used.
- 5.4.3. If the variance between the two appraisals is more than ten percent (10%) and an Agreement cannot be reached between the Airport Advisory Board and the Lessee, the first and second appraisers shall mutually agree on a third appraiser (that meets the qualification standards) to make the final determination.
 - 5.4.3.1. If the first and second appraisers cannot decide on a third appraiser the Airport Advisory Board shall appoint a third appraiser (who meets the qualification standards) to make the final determination.
- 5.4.4. The third appraiser shall review the results of the first and second appraisals and may request additional information, clarification, or justification from the first and second appraisers.
 - 5.4.4.1. The third appraiser has the right to gather, analyze, and consider additional data as deemed appropriate to make a final determination. The decision of the third appraiser shall be accepted by the Airport Advisory Board and the Lessee and shall be legally binding upon both parties.
- 5.4.5. All fees and expenses associated with the work of the third appraiser shall be paid for equally by the Airport Advisory Board and the Lessee.
- 5.4.6. During any period of disagreement between the Airport Advisory Board and the Lessee regarding rent adjustment, the Lessee shall be responsible for the payment of the adjusted rent recommend by the first appraiser. Once the disagreement is resolved, the difference between rent paid and the final rent determination shall be paid to the Airport Advisory Board or refunded to the Lessee.

Heber City Municipal - Russ McDonald Field
75 North Main Street, Heber City, UT 84032
Phone (435) 654-4854/Fax (435) 657-2543

AIRPORT LEASE/OPERATING PERMIT APPLICATION FORM

Please read the Airport Leasing Policies prior to filling out this application.

Applicant Name: _____

Contact Person: _____

Phone: _____ Email: _____

Mailing Address: _____

Lease Area Location, if known: _____

Type of Lease:

- Ground
- Building
- Operating Permit (for subleasing)
- Commercial
- Non Commercial

If Operating Permit Application, name of Business from whom subleasing: _____

Provide a detailed description (purpose of use) of the intended commercial aeronautical activities:

Describe the means and methods to accomplish the intended activities:

(Attach additional sheets as necessary)

Development of Property:

Beginning Date: _____ Completion Date: _____

Value of Construction: _____

Use Complies With:

- Airport Master Plan
- Building Codes
- Permitted Land Use

Applicant Signature (if sublease, signature of lessee)

Date

Airport Manager Signature

Date

LEASE RATES AND CHARGES POLICY

Open House
Heber City Hall
November 13, 2013

Attendees

Community Members: Thomas Meecham, Lon Woodward, Mike Stewart, Susan Stewart, Jon Olch, Ron Blue, Dale Stewart, Gary Diehl, Don Craig, Robert Werra

Board Members: Nadim AbuHaidar, David Hansen, Jeff Mabbutt, Mel McQuarrie, Kari McFee, Tom Melville, and Chairman Erik Rowland.

Mark Anderson, Heber City Manager, Terry Loboschfsky, Airport Manager, Kirk Nielsen, Jviation and Hilary Fletcher, Jviation were also in attendance.

Open House

Informational panels were set up for public viewing and comment during the Open House.

HEBER CITY AIRPORT/
RUSS MCDONALD FIELD

LEASING OBSERVATIONS AND RECOMMENDATIONS

	SURVEY QUESTION	AVERAGE/MOST COMMON	HEBER CITY	OBSERVATION
HANGAR INFORMATION	No. Hangars	61	67	
	No. Sponsor owned Hangars	29	3	
	Hangar Built in 2012	1	0	
	Hangar Built 2009-2011	5	9	
LEASE INFORMATION	Ground Lease Type	Varies	Improved and Unimproved	NA
	Lease Amount per sq. ft./yr.	\$0.24	\$0.30/\$0.15	In-line with Market
	% Gross Revenue	15%	NA	NA
LEASE TERMS	Initial Term	19 years	20 years	In-line with Market
	Extensions available	Yes - 5 years	Yes - 2, 5 year extensions	In-line with Market
ESCALATION CLAUSES	Y/N	Yes	Yes	In-line with Market
	Basis	CPI	CPI	In-line with Market
	Frequency	Annual	Annual	In-line with Market
	Reversionary Lease (Y/N)	Yes	Yes	In-line with Market

JVIATION

LEASE RATES AND CHARGES POLICY

HEBER CITY AIRPORT/
RUSS MCDONALD FIELD

RATES AND CHARGES

- » The City is required to maintain a rent and fee structure which makes the airport as self-sustaining as possible while preserving and improving the airport
- » The Airport Board will not engage in discriminatory practices among tenants
 - ➔ Base rates for buildings and land will be based on market comparison, supply and demand or current appraisal
- » All rents will be adjusted on an annual basis throughout the term of the Agreement and may be based on:
 - ➔ Annual adjustment based on CPI; or
 - ➔ Another measure as specified in the Agreement
- » Fees may include, but not limited to, fuel flowage fees, transient aircraft fees and/or permit fees

AVIATION

HEBER CITY AIRPORT/
RUSS MCDONALD FIELD

SALE/LEASE APPLICATIONS

- » Any person or entity desiring to occupy or use land and/or improvements shall submit a written application and any applicable fee to the Airport Manager.
- » Any change in use or commercial venture application must meet the Airport's minimum standards and be approved by the Airport Board and the City Council.
- » Non-commercial use applications involving sale and/or transfer of hangar ownership may be approved by the Airport Manager.
- » Applications must:
 - ➔ Be deemed complete
 - ➔ Comply with Airport Leasing Policy and other City guiding documents
 - ➔ Be consistent with the Airport Master Plan, Airport Layout Plan and other associated Airport plans
- » In the event that more than one qualified application is received for the same land and/or improvement, the Airport Board retains the discretion to negotiate with both entities or issue a competitive Request for Proposals.

AVIATION

LEASE RATES AND CHARGES POLICY

HEBER CITY AIRPORT/
RUSS MCDONALD FIELD

USES OF LEASED PREMISES

» Aeronautical Use (Commercial)

- Aviation products, services and facilities are permitted and must meet the requirements of the Airport's Minimum Standards

» Aeronautical Use (Non-Commercial)

- Non-commercial operators shall not use Airport land and/or improvements for any commercial activities

» Non-Aeronautical Use

- Such use cannot interfere with primary aviation use
- The Airport Board must find the use to be beneficial and the Lessee must have written approval from the FAA

- » Any assignment and/or change in majority ownership must be approved by the Airport Manager. Subleasing must comply with Leasing Policy terms and conditions.

- » The initial Agreement term shall be for no less than twenty (20) years unless otherwise recommended by the Airport Board and approved by City Council. Lease terms may be extended twice for five (5) years.

- » Capital improvements by tenant will be considered toward an increased lease term.
 - The hangar is located in an area not needed for future development
 - The lease is reversionary

JVIATION

HEBER CITY AIRPORT/
RUSS MCDONALD FIELD

AIRPORTS CONSIDERED FOR COMPARISON

AIRPORT	DISTANCE	OWNERSHIP/USE	AIRPORT TYPE	NUMBER OF BASED AIRCRAFT	OPERATIONS	COMPARABLE CRITERIA
Heber City Municipal		City	GA	85	19,468 (2011)	Resort Town
South Valley Regional	50 miles	City	GA	165	75,000 (2011)	Comptroller
Provo Municipal	30 miles	City	CS	104	172,014 (2011)	Comptroller
Driggs-Bond Memorial	285 miles	City	GA	81	7,600 (2006)	Resort Town
Aspen-Pitkin County	340 miles	County	CS	77	34,900 (2013)	Resort Town
Grand Junction Regional	270 miles	City	CS	99	50,987 (2013)	Smaller Stop
Frederick Memorial (Halifax)	320 miles	City	CS	147	44,237 (2012)	Resort Town
Gauley County Regional (Elliott)	280 miles	County	GA	32	8,129 (2011)	Resort Town
Montrose Regional	330 miles	County	CS	81	26,420 (2012)	Resort Town
Tampa Valley (Hayden)	270 miles	County	CS	4	9,677 (2011)	Resort Town
Single County Regional	330 miles	County	CS	78	34,401 (2012)	Resort Town

Source: U.S. Department of Transportation Federal Aviation Administration, Airport Master Record. Accessed 2013



SUMMARY OF KEY FINDINGS

	SURVEY QUESTION	AVERAGE/MOST COMMON	HEBER CITY
HANGAR INFORMATION	No. Hangars	61	67
	No. Sponsor owned Hangars	29	3
	Hangars Built in 2012	1	0
	Hangars Built 2009-2011	5	9
	Waiting Est.	Varies	No
LEASE INFORMATION	Ground Lease Type	Varies	Improved and Unimproved
	Lease Amount per sq. ft./yr.	\$0.24	\$0.30/\$0.15
LEASE TERMS	Initial Term	19 years	20 years
	Extensions available	Yes - 5 years	Yes - 2, 5 year extensions
ESCALATION CLAUSES	Y/T4	Yes	Yes
	Ratio	CP	CP
	Frequency	Annual	Annual
	Reversionary Lease (Y/T4)	Yes	Yes

JVIATION

LEASE RATES AND CHARGES POLICY

Chairman Erik Rowland invited several attendees to speak to the issues. Presentations were made by Paul Boyer and Doug Werra. Chairman Rowland addressed concerns raised by the attendees, specifically to the issue of the renewal process for existing leases. Mr. Rowland noted that this item was not included in the current policy document and would be taken up by the Board in the near future. Discussion ensued on this topic as well as the issue of reversionary and non-reversionary leases. Chairman Rowland responded to several questions raised by attendees. The following comments were noted:

- ✦ Renegotiate leases at fair market value
- ✦ Remove section 3.5.5
- ✦ All leases at the airport should be non-reversionary
- ✦ 75 X 75 new hangar should be retroactive as non-reversionary
- ✦ Reversionary clause in existing leases is toxic
- ✦ What will happen to existing leases?
- ✦ City should not be in the hangar business
- ✦ Addison example: increased the hangar rate and diminished business
- ✦ Need good management practices and policies
- ✦ Renews with existing tenant unless performance issues with City, County, etc.

Recommendations

To enhance relationships with the GA pilot community, the following recommendations are provided for consideration by the Board:

1. It is recommended that the Board consider forming a Working Group to further review the policy document and to provide a recommendation to the Board with regard the renewal of existing leases. The Working Group should include:
 - ✦ 2 representatives of the GA pilot community
 - ✦ 2 sitting Board members
 - ✦ 2 community members (preferably with real estate and/or business experience)
2. The Working Group should be tasked with the following objectives:
 - ✦ Conduct a review of the policy analysis and policy document and provide recommendations that balances the needs of the Airport, the City and the pilot community;
 - ✦ Provide constructive options for renewal terms of existing leases; and
 - ✦ Provide constructive options for the use of non-reversionary and reversionary leases.
3. The Working Group should be charged with submitting recommendations not later than 8 weeks following appointment.
4. The process should include a facilitator to ensure a constructive work environment, progression of work and adherence to the deadlines.

Airport Beacon Report



www.airportbusiness.net

July 2006

AIRPORT REVERSION CLAUSES

By Michael A. Hodges, President/CEO and
Mark R. Davidson, A.A.E., Vice President

Most lease documents for long-term ground leases at airports contain a provision known as a “reversion clause”. Reversion clauses basically address what happens to improvements on a leasehold at the end of a lease. (Usually, ownership of improvements made by the tenant revert to the airport sponsor at the end of the lease period.) Essentially, this is the point at which an airport can begin leasing both the land and improvements on a leasehold at their prevailing market rent, as opposed to just receiving ground rent. However, reversion can also take other forms. In some instances, reversion can mean that at the termination of a lease, the Lessor can require that the tenant remove them at their own expense and bring the site back to its original unimproved state.

The presence of a reversion clause is standard within the aviation industry for a number of reasons. These include the provision for future revenue streams, maintaining a certain level of control over the development and maintenance of facilities on the airport, and the ultimate control/management over airport development as it may impact future airport expansion. However, it should be noted that there are numerous other alternatives in place at airports throughout the United States, to include provisions for the airport to purchase the improvements at lease termination. Seldom is there a provision for automatic or perpetual renewals of the lease at the prevailing ground rent only. (Note: Reversion clause are not unique to airports. They are also contained in ground leases on commercial sites in the general real estate market.)



New Economy Class!

Before adopting a leasing policy that addresses reversion, the airport should consider the following issues:

- The reversion policy should be consistently applied to all existing and prospective tenants.
- The airport should take an inventory of the buildings it will be absorbing in the near term and determine if it can cover the cost to bring the improvements up to code.
- Determine if reverted improvements will be attractive to prospective tenants.
- Refer to the airport’s Master Plan to find out if current structures and their locations meet current and future airport development needs.
- Confirm that the reversion policy is in compliance with the Airport’s Sponsor Assurance stated in FAA Order 5190.6.
- Ensure that there is no discrimination between prospective tenants and current tenants whose property has reverted.

In order to determine how airports approach reversion clauses, *ABS* conducted a survey. Of the airports that

responded, two-thirds had reversionary language within their leases, while the remainder had no language at all. The reversionary language varied at each airport, and provided a number of approaches on how the airport sought to protect their interests.

One unique arrangement allows the tenant to choose which type of lease they would like to execute. One lease option was a “buyout lease”, while the other was called a “reversion lease”. If the tenant chose the buyout lease, they must pay a premium rate throughout the term of the lease. At the end of the lease, the airport must purchase the improvements at a price determined by an independent appraiser. The reversion lease was a typical lease in which the improvement reverted to the airport at lease termination.

In addition to the survey, *ABS* contacted the FAA to gain their views on reversion clauses. (Like we really expected a straight answer!) The primary supervisor at one of the Airport District Offices (ADO) advised that the FAA does not track airports with reversion clauses in their leases, and officially does not have a established policy on the issue. (Surprise, surprise!) During the discussion, the supervisor did offer that the FAA recommends reversion clauses to make it clear to the tenant what happens at lease termination, but admitted that their interpretation is that if the lease is silent on the issue, it automatically reverts to the airport since tenants can not own the public land.

To provide additional insight, *ABS* contacted the Branch Manager at the FAA Safety and Standards Office. This Branch had recently worked with an airport dealing with some reversion clause issues. The Branch Manger echoed the ADO Supervisor in stating that the FAA does not have a set policy on reversion clauses. However, he advised that he felt it was a good business practice to include the clause, although problems occur when the clause is included in a lease, but not enforced. (He could just as easily be talking about Minimum Standards, but that is a different article.)

During the course of our research, it was discovered that at one airport, the FAA had to pressure the City

to charge market rates for the “improved land”. As a result, during a review of leases at the airport, it was revealed that the City had renounced or removed its claim to building improvements on several ground leases on the leased airport land, which was in direct conflict with the “reversion terms” of the leases. The Airport inserted new language to the leases that stated that “the City shall not assert any claim to improvements, pre-existing or not.” (Note: This was done at the request of the leaseholders at the airport. Kind of brings to mind the concept of “the inmates running the asylum.”) This did not sit well with the FAA, and now the airport is in jeopardy of losing Federal and State funding, since it is out of compliance with the Grant Assurances.

In a letter to the City from the Department of Transportation, it pointed out that the normal procedure is to rent bare land at a subsidized rate, and to have the improvements revert to the airport after the lease term has expired. These facilities then flow to the airport, who then has the ability to rent the land with improvements at a rate 10 to 20 times greater than the bare ground rental rate. This then allows the airport to become a self-sustaining entity, and lessens the burden on the local taxpayer. The DOT also advised that some of the leases they reviewed were giving away the sponsor’s property interest, which was a direct violation of the law under the anti-donation clause.

On the other side of the issue, the City wrote a letter to the FAA arguing that the reversion clauses could lead to increased City spending. The City stated that asserting that the City should take possession of the improvements may not take into consideration the economic burden the City would be undertaking. In addition to the City, several tenants do not like the reversion since several have sold their interest to third parties for substantial financial gains. (See “inmates running the asylum” above.)

In conclusion, reversion clauses are the “norm” in the aviation industry for a number of reasons. These include maximizing future revenue streams, maintaining a level of control over the development and maintenance of facilities on the airport, and the

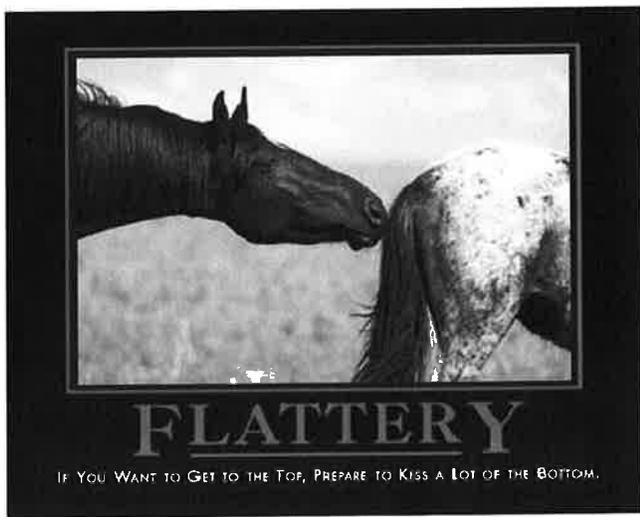
ultimate control/management over airport development, as it may impact future airport expansion. Each airport has their own lease language and different approaches to the issue. Regardless, what is best for the airport is the key to developing a consistent policy, and keeping control of your "asylum".

BASICS OF SMALL AIRPORT MANAGEMENT WORKSHOP

October 14 and 15, 2006

New Orleans, Louisiana

The *Basics of Small Airport Management* workshop is again scheduled to be presented by Michael A. Hodges and Bobbi Thompson in conjunction with the AAAE National Airports Conference scheduled in October in New Orleans. This interaction and informative workshop provides an overview of most property, business, and management issues facing airports today. The workshop is beneficial for those new to the airport management field, as well as those of you with years of experience, and qualifies for 12 CEU credits by AAAE. Contact AAAE to get registered.



ASK ABS

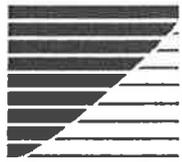
A monthly part of our newsletter is a section called "Ask ABS", where we answer aviation-related questions from our readership. (If we do not receive a question, we make one up.) Each month we publish one question that we receive with a joint reply from our professional consulting team. As stated in our last issue, we would REALLY appreciate more questions from our readers, as we are getting tired of making up questions. Please submit any questions via e-mail to Mark Davidson at: mdavidson@airportbusiness.net

This month's question (it really was an outside question) comes from an Airport Manager in Arizona who asked "I am curious how many airports are requiring their hangar and tie-down tenants to have liability insurance with the airport owner as additional insured?"

Let's start by answering this question with a few questions of our own:

- 1) If a fire occurs and spreads to adjacent hangars, who is liable?
- 2) If a tenant is spraying paint and the "overspray" gets on his neighbor's aircraft, who pays for the damage?
- 3) If a tenant has oil on his hangar floor and a visitor falls, who is liable?

Are your tenants willing to assume the financial responsibility of any occurrence with a personal guarantee for the full amount of the loss? (Because that is what they are asking you to do.) Remember, any time there is a risk that is not covered by a tenant, you as the airport sponsor, are liable. (Some call it the "deep pockets" theory.) Are you willing to put your airport at risk? Is the City/County/Commission/Authority willing to accept this risk?



**Airport
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10014 N. Dale Mabry Highway, Suite 101, Tampa, Florida 33618-4426

Phone (813) 269-2525

Fax (813) 269-8022

February 14, 2006

Mr. Harvey Bragg
Procurement Officer
Jackson County Administration Office
Jackson County Courthouse
Room 214, 10 S. Oakdale
Medford, Oregon 97501

RE: Ground Lease Termination Provision Analysis
Rogue Valley International-Medford Airport
Medford, Oregon

Dear Mr. Bragg:

Per the request by Jackson County, we are pleased to present this document, which represents a Ground Lease and Termination Provision Analysis for the Rogue Valley International-Medford Airport in Medford, Oregon. The following report provides our assessment and analysis of various and potential reversionary policies for ground leases at the Airport, as well as our recommendations for consideration.

In the development of this document, *Airport Business Solutions* researched many sectors of the local, regional and national airport market, expanding as necessary to gain sufficient and comprehensive data to yield adequate and supportable conclusions. Moreover, we surveyed multiple industry leaders and similar operations, and spent considerable time with meetings, interviews, phone conversations and e-mail correspondence with many tenants, elected officials, and Airport staff. The following document outlines our findings and recommendations.

We appreciate the opportunity to provide our professional services to Jackson County. If you should have any further questions, please advise.

Sincerely,

Michael A. Hodges

Michael A. Hodges, MAI
President/CEO

Bobbi Thompson

Bobbi Thompson
Executive Vice President

Solutions as Unique as the Problems . . .

Office Locations: Tampa, FL * Fort Myers, FL * Denver, CO * Boston, MA * Jacksonville, FL

***Ground Lease Termination
Provision Analysis of the
Rogue Valley International-
Medford Airport
Reversion Policy***

Submitted to:

**Mr. Harvey Bragg
Procurement Officer
Jackson County Administration Office
Jackson County Courthouse
Room 214, 10 S. Oakdale
Medford, Oregon 97501**

Date of Report: February 2006



SECTION I

INTRODUCTION



The Rogue Valley International-Medford Airport (FAA Identifier MFR) is the third largest commercial service airport in Oregon serving seven counties in southern Oregon and northern California. The Airport offers commercial air service provided by America West (operated by Mesa Air), Horizon Air, United Express, and Delta Connection (both operated by Sky West). These carriers offer approximately 60 arriving and departing flights daily to and from San Francisco, Portland, Eugene, Seattle, Los Angeles, Phoenix, Denver, Las Vegas, and Salt Lake City. The Airport also serves general aviation traffic, including extensive corporate and business travel, and has three Fixed Base Operators (FBO) that provide a full range of services including the sale of both 100LL/Avgas and Jet-A fuel, major airframe and power plant repairs, aircraft sales, flight training, aircraft rental, and aircraft charters.

The Airport has experienced an estimated 50 percent growth in activity and now exceeds 500,000 commercial passengers annually. The updated Master Plan has indicated multiple infrastructure improvements to the airside and landside of the Airport. Cargo activity has shown considerable growth with the Foreign Trade Zone and the cold storage functions feeding the interest of international flights.

The purpose of this report was to conduct a Ground Lease Termination Provision Analysis, also known as a "Reversionary Policy Analysis", on a contractual basis for the Jackson County Administration Office. *Airport Business Solutions (ABS)* has provided different options to Jackson County to provide the most in-depth analysis and a single policy recommendation which is in accordance with all applicable local, State and Federal laws, regulations, and ordinances. *ABS* will make this recommendation based on our research and analysis and what has become the most reasonable and non-discriminatory resolution to this important issue.

BACKGROUND

At a public meeting in April 2000, the Jackson County Board of Commissioners adopted a policy requiring that the title to leasehold improvements vests with the County at the termination of a ground lease at the Airport. As a result of the new policy, all new contracts signed after the effective date of the new policy included the "reversion" clause. A complaint was filed and the FAA responded to the complaint in February 2001 upholding the County's position. Another complaint was filed on behalf of the Oregon Pilots Association with Senator Gordon Smith, who responded in May 2002 with a copy of the FAA letter and a statement that he supported the standard reversion clause.

Specifically, the County's adopted policy states:

1. The lease or agreement or any extension of current leases or agreements as of the date of this policy will have a provision that at the completion of the term of this lease or agreement the title of the improvements will vest with the County.
2. The length of the lease or agreement is to allow the lessee, contractor, or developer to amortize the investment during the terms set forth therein. The term of the lease should take into account the capital investment involved.
3. If voluntary early termination (for other than default) is made by the County, provisions may be in the lease or agreement for using a depreciated formula for an equitable settlement.
4. This policy is to ensure that Jackson County has a long-term benefit for use and improvements of the County's real property.
5. Exceptions will be considered by the County Administrator on a case-by-case review.



WHAT IS REVERSION?

For the purpose of this document, it is prudent to initially define what reversion really is. Reversion generally means that at the termination of a lease, or potentially at a specified point during the term of a lease agreement, that ownership of the improvements reverts to the Lessor. In this case, the Lessor refers to Jackson County, who is the owner/sponsor of the Rogue Valley International-Medford Airport. Essentially, it is the point at which the Airport can begin leasing land and improvements on a leasehold at their prevailing market rent, as opposed to just receiving ground rent. However, reversion can also take other forms. In some instances, reversion can mean that at the termination of a lease, the Lessor can require that the tenant who built the improvements remove them and bring the site back to its original unimproved state.

This presence of a reversionary clause is standard within the aviation industry for a number of reasons. These include the provision for future revenue streams, maintaining a certain level of control over the development and maintenance of facilities on the airport, and the ultimate control/management over airport development as it may impact future airport expansion. However, it should be noted that there are numerous other alternatives in place at airports throughout the United States, to include provisions for the airport to purchase the improvements at lease termination. Seldom is there a provision for automatic or perpetual renewals of the lease at the prevailing ground rent only.

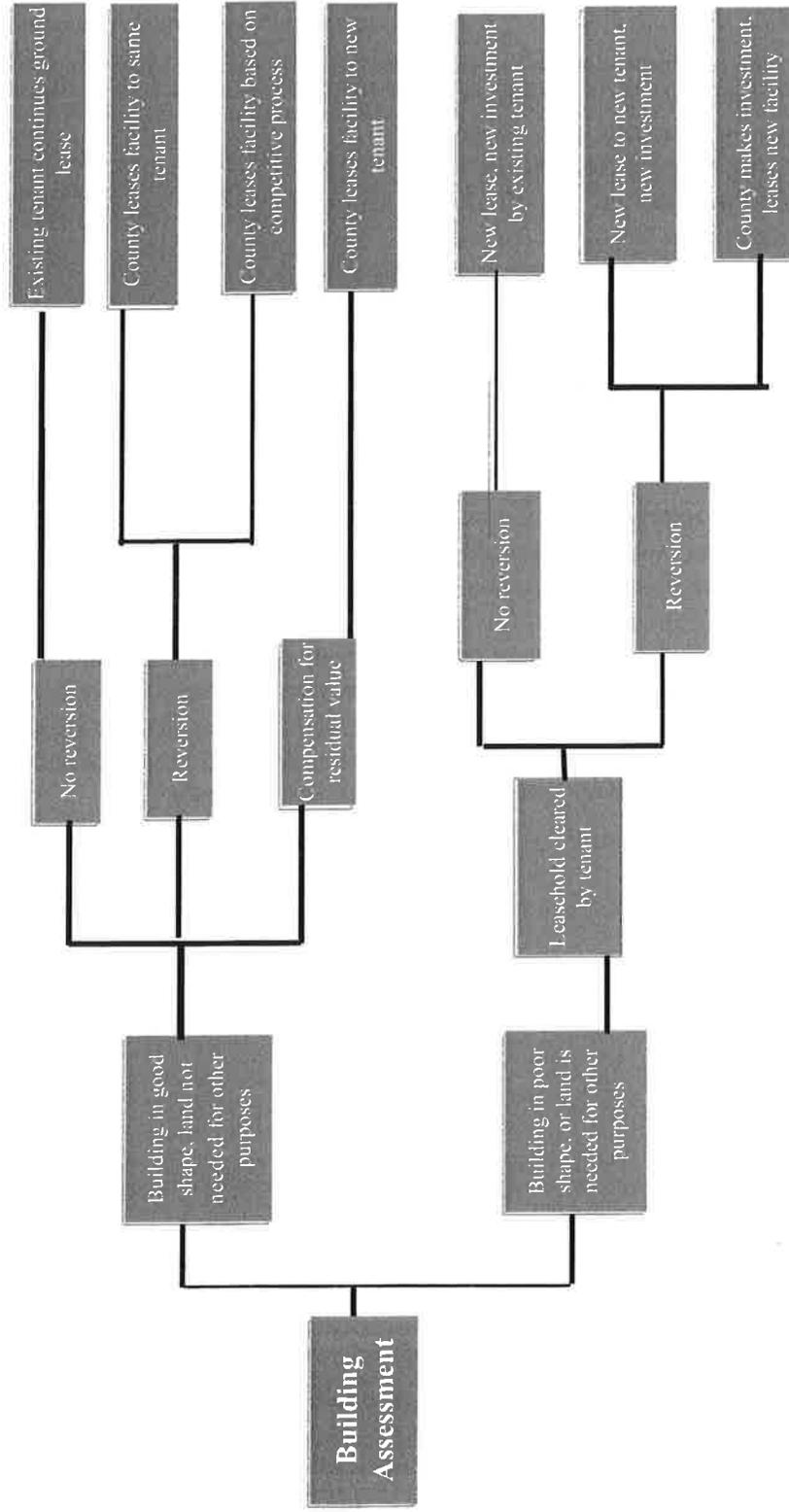
REVERSION CONSIDERATIONS

In approaching this complicated topic, *ABS* had to consider multiple considerations and options. The following presents some primary considerations.

- ◆ Whatever the County finally adopts as their Airport's reversionary policy, it must be consistently applied to all existing and prospective tenants, and should be adopted by a Leasing Policy Ordinance to codify its approach.
- ◆ The County must understand and address the condition of the buildings that it could take over in the next few years, and should complete a detailed building inspection for planning purposes. (i.e., What is the County willing to absorb in annual maintenance for reverted structures?)
- ◆ What will the cost be to ensure reverted properties meet local building codes and are attractive to prospective tenants? Can the County require certain maintenance activities be performed by existing tenants during the course of the lease and prior to reversion?
- ◆ The current development activities on the Airport indicate that the private sector is willing and able to invest in the Airport.
- ◆ The County must consider and understand the possible impact that could occur if a strict policy to universally invoke reversion, without the possibility for negotiation, which could cause tenants to not maintain their facilities in the later years of their lease.
- ◆ What are the legal responsibilities that impact the County's ability to make decisions about reversions?
- ◆ The County has a fiduciary responsibility prohibiting the giving of money, property, or credit to any private entity. Based upon this concept, should the County only issue new leases on existing Airport leaseholds only if the tenant is willing to make reasonable reinvestment in their property?
- ◆ Does the County believe that there is interest from prospective tenants in the leaseholds upon reversion?
- ◆ How does the County ensure that there is no discrimination between prospective tenants and current tenants whose property has reverted?
- ◆ Any adopted policy on reversions going forward must be in compliance with the Airport's Sponsor Assurances, also known as Grant Assurances, as stated in FAA Order 5190.6. This must be done in order to maintain an eligible status for future Federal grants, which are critical to the Airport's operations and maintenance.
- ◆ Do the current structures and their locations meet current and future Airport development needs?
- ◆ Without reversions how will the County manage property acquisitions needed for Airport development?
- ◆ The County has an obligation to make the Airport as self-sustaining as possible. Does the current land use represent the highest and best, and most financially beneficial use for the leasehold property?
- ◆ Is the County willing and able to take a more direct approach to leasing property? If leasehold improvements revert, the monthly or annual leases on additional hangars will represent a more direct approach.

On the following page, the range of options for the County is presented for consideration. In the preparation of this report, *ABS* carefully considered multiple decision paths as reflected in this graph in our analysis and recommendations. Our research and analysis considered all options reflected within the graph, compared each to the other regional airports, analyzed them with comments from Airport tenants, and researched the legal and federal requirements as impacted by each option.

Range of Options



PROJECT ACTIVITIES AND PROCESS

ABS met and talked with County Commissioners, County staff, Airport personnel and Airport tenants during the research and discovery phase of this effort. During the months of October and November 2005, *ABS* traveled to Medford for meetings with the County and tenants. Individual meetings were made available to the commercial tenants and open meetings were conducted for all tenants, and were conveniently located on the Airport in the Boeing KC 97 meeting space. Additionally, we made ourselves available via telephone and e-mail for any interested tenant to contact us with their thoughts and comments throughout the course of this project. Due to the importance of the decision on reversionary lease language, and the high interest of the County to allow all interested parties the opportunity to express their thoughts, the project was extended to provide more than ample time for all entities to submit additional or new information to *Airport Business Solutions*.



Comments and written materials were collected from Airport tenants and carefully reviewed and considered. In addition, *ABS* staff contacted several Northwestern U.S. airports for details on their respective approach to reversionary lease conditions. Comments received from tenants are included within this report in Section II, and information from other airports is in Section III. *ABS* reviewed and researched more than 1,000 pages of information provided by varied sources within the County.

SECTION II

TENANT MEETINGS AND CONTACTS

Both the County and *Airport Business Solutions* believed that communications with the Airport tenants was a very important part of this process. In order to arrange for unrestricted access to the project process, *ABS* provided multiple avenues for the tenants to access our staff in order to provide comments and input into the research process. This included:

- On-site open tenant meetings
- Individual tenant meetings as requested
- Private meetings with FBO management
- Full access to e-mail
- Toll free telephones
- Full telephone access, office phones and cell phones
- Extended project time to allow tenants additional time for comments

The on-Airport open tenant meeting was held over an eight-hour period during afternoon and evening hours on November 15, 2005. A total of 15 different tenants attended the meetings, provided comments, and presented concerns. Five of the attendees presented *ABS* with documents relative to the issue. These tenants' tenures on Airport property ranged from 6 years to 55 years, with an average Airport tenancy of 18.5 years.

Six e-mails were received from tenants, and seven individual postal mailings were received during the project. Four of the mailings contained packets of varying data regarding the current Jackson County reversionary policy, hangar leases, and copies of the State of Oregon Reversion Policy.

TENANT-SUPPLIED INFORMATION

Many tenants either verbally or via written documents, referred to the State of Oregon reversion policy. An excerpt from this policy is proved herein for clarification:

Reversion: Under NO circumstances is there any reversion of ownership of tenant improvements to the State for either commercial or non-commercial tenants. At the end of the lease, the tenant is responsible for removing their improvements if a new lease is not entered into.

The above excerpt can be found in the State of Oregon's *Leasing Policy*, which was adopted in 2001. Despite references by tenants, it should be noted that by definition, the State's policy is a form of reversion. Moreover, it is similar to the language found within County leases prior to the adoption of the 2000 reversion policy in April 2000. Also included in the policy is a condition that if at the time of the lease expiration the

land is needed for Airport development, the tenant will be responsible for removing their improvements. This would be at no expense to the Lessor.

In 2001, the State of Oregon owned and operated 31 separate airports located all over the State. Today, that number is down to 28, with a few of the more active airports being transferred to local governmental entities. When *Airport Business Solutions* was under contract to the State of Oregon to develop a series of documents, including the aforementioned *Leasing Policy*, we visited each of the 31 airports as part of our research. Most of those airports had less than 20 based aircraft (or no based aircraft at all), no or limited available services. As such, they are very different operationally from MFR. In addition, the State's Airport Division staff is very small, and having the responsibility to maintain structures hundreds of miles away would not be prudent. Furthermore, there is no motive for the State to operate on a "for-profit" basis, but rather only be "revenue-neutral". While it is certainly helpful to research how other airports have approached this issue, the research must include an analysis of the similarities of an airport's mission and operational activity.

Some tenants provided *ABS* with copies of their individual hangar agreements. *ABS* is aware that lease language varies in the older leases, and to a great extent, that is what has led to the current policy controversy. In a recent lease agreement reviewed by *ABS*, the term reflects a ten-year term with one ten-year option, as long as the tenant is not in default. Item 17 of the agreement reviewed states:

Title to Improvements. *Title to the hangar constructed on the leased premises shall be and remain in the Tenant and upon the end of the lease term including any option periods, Tenant shall remove the hangar from the leased premises and restore the property to the condition it was at the commencement of this lease.*

This, in essence, is the same reversion policy adopted by the State of Oregon in their Leasing Policy in 2001. Within the lease agreement, the County does retain the right to assert a possessory lien against the hangar for any amount of unpaid rent. In Section B, 3, it states:

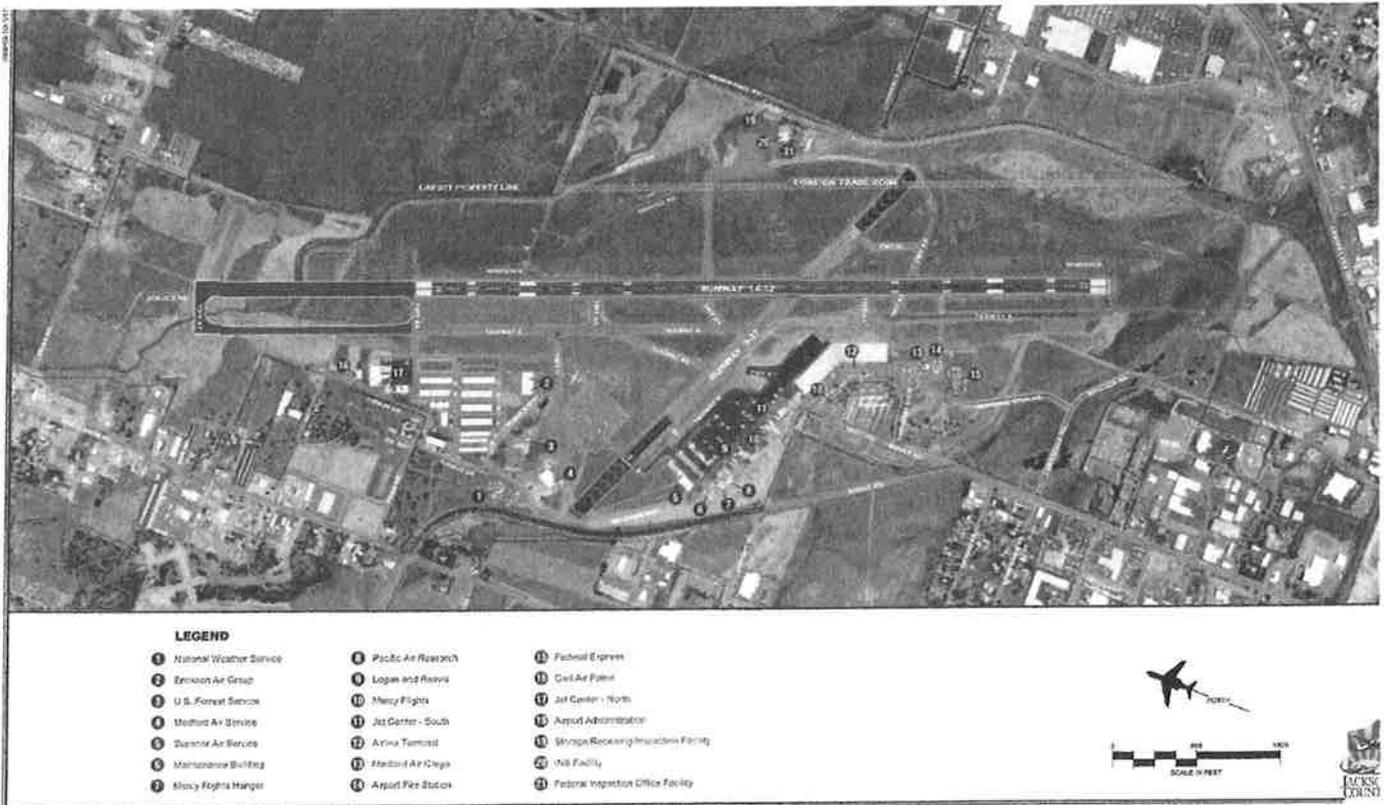
If Tenant fails to remove its hangar, the County may remove it from the leased premises and store same on the County's property. At the end of a one-year period, the County may offer the same at public or private sale upon ten (10) days notice to Tenant, at Tenant's last known address, and from the proceeds satisfy the County's claim for unpaid rent, reasonable moving and storage costs, and expenses, including attorney's fees.

In Section B, 4, it states:

At the end of a one-year storage period referenced above, the County may, at its option, decide not to sell the hangar, declare it the property of the County, and use it for whatever purposes the County chooses.

AIRPORT DEVELOPMENT

Many tenants presented information on a 1996 effort on behalf of the County to generate revenue by fostering private investment in developing vacant land on the Airport. As seen in this aerial photo from the 2001 Master Plan, the Airport has consumed much of its aeronautical property.



A number of the existing hangar leases at MFR have entered or are near the end of the 10-year option period, and as such would be impacted by the policy as adopted in 2000. Hangar Rows H and I would be the first leases to be directly impacted by the existing reversion policy. Included in the hangar lease document reviewed in Paragraph 9:

Airport Development. *County, at its sole discretion and as designated by the Airport Director, shall determine, and may from time to time change the routes of surface ingress and egress on the Airport, but agrees to locate such routes as conveniently as may be done for tenant, having in mind reasonable*



requirements of the County with respect to the operation of the Airport. County also reserves the right as it sees fit, regardless of the desires or view of Tenant and without interference or hinderance.

Some of the tenants that contacted *ABS* referenced a meeting where the Airport Director stated that the County had no intention to implement this clause within their leases. While we have no way of knowing exactly what may have been said during such a meeting, the County and tenants are likely bound by the terms and conditions of their signed agreement, barring a legal challenge. There were several statements by tenants that the leases would not have been acceptable if they had known that four years later, the County reversion policy would be modified. They further suggested that the Airport Director and/or County were considering changes for four or more years, although no documents were provided to *ABS* support this theory.

Additional comments from Airport lessees stated a concern that the April 2000 reversion language was inserted into leases after the leases were signed. There is no indication that the County has done this, as the policy was for new leases only.

Four suggested alternatives from tenants include the following:

1. Exempt this group of private leases from the reversion policy on the very firm ground that the policy was neither in effect at the time of the signing of the original agreement, nor specifically addressed in the terms of the agreement.
 - a. *ABS comment: Policies adopted after agreements are written do not impact the agreements until the term expires. The tenant entered the agreement with the knowledge that the agreement was for a 10-year period with a 10-year option. There was no indication that these were perpetual leases. It is unreasonable to concur that the County knew four plus years in advance what policies may be needed relative to the management of County real property assets.*
2. Issue new leases that substantially extend the terms of each lease in order to allow leaseholders to receive a fair return on their investment.
 - a. *ABS comment: Upon expiration of the original term and renewal option, the tenant will have had 20 years to amortize the investment in a hangar facility. This term is adequate for depreciation and amortization purposes, and is consistent with lease terms at other airports for similar investments. Any financing of improvements was predicated upon the 20-year term stated in the lease document. No lending institution would extend an amortization period beyond lease expiration as specifically stated in a lease agreement.*

3. Allow reversion on the condition that the County pay leaseholders the fair market value of the “seized” improvement, such value to be established by an independent appraisal, acceptable to both parties, and made at the time of reversion.
 - a. *ABS comment: To determine the value of each individual hangar by the County through an appraisal process, and to negotiate with the owner to agree on value would be extremely time-consuming and costly. In order to be accurate and fair to both parties, the process would require a structural engineering analysis to determine condition, in addition to the appraisal. Who would pay for the appraisal or engineering evaluation and how would the rate for lease term to value be established? What if the County does not have a need for a particular individual hangar? What if the County/Airport does not have sufficient funds at that time to purchase hangars because they are allocated for Airport maintenance, matching funds for federal grants, or other items that benefit the entire Airport population and community?*

Moreover, the Airport has a residual contract with the airlines for airfield expenses. Would purchasing hangars create a situation which further enhances the subsidy of general aviation by the airlines, which in turn may raise landing fees to the point to make Medford unattractive to the airlines?
4. Continue renewals indefinitely, but maintain a fair revenue stream to the County by adjusting the unimproved land lease rates in accordance with periodic independent appraisal.
 - a. *ABS Comment: Perpetual renewals are not in compliance with the FAA Order 5190.6a. This would be considered as the giving of property to the lessee, even with periodic rent adjustments. If there is demand for property, the Airport is obligated to seek competitive bids to maximize revenue opportunities. Research indicates that there is substantial demand in Medford.*

OTHER TENANT DOCUMENTS OR COMMENTS

As part of our research, we also reviewed tenant mailings and correspondence sent to the Airport and County prior to the beginning of this project. In addition, *ABS* read all minutes provided from County Commission meetings with comments or discussions regarding the reversion policy.

In minutes from a 1999 Airport Advisory meeting, it indicates the Airport Director brought to the table an item on reversions. It was stated in the meeting that the Airport leases had a variety of options when leases termed, and that it was time for the County to look at an Ordinance on a reversion policy. It was recommended

that the County write leases for a longer period, and that title to improvements would revert at the end of the lease. The motion passed unanimously.

Tenants' correspondence includes a letter to Senator Gordon Smith. Senator Smith subsequently made an inquiry to the FAA in May 2002. The following is an excerpt from the FAA Northwest Regional Office's response to his inquiry that was forwarded to Medford tenants.

Regarding the reversion issue, in the past, Rogue Valley International had a conglomeration of lease requirements, some allowing improvement removal, others requiring reversion of the title to the County. The County and the Airport made a policy decision (County Policy 7-16) to make all leases the same, thus treating all tenants similarly. The Federal Aviation Administration (FAA) supports that decision, because it helps promote consistent treatment of tenants. A mixture of requirements for the same type lease would result in disparate treatment. The change in policy, to require reversion of improvements to the County at lease termination, or to require their removal, is entirely within the prerogative of the County. The County policy, in development for about a year, was established in a public process, and is not unjustly discriminatory or unreasonable. Capital improvements include such things as buildings, fences, paving, landscaping, and anything fixed to a building or land. We support the County's decision to implement a standard reversionary clause in its leases, in order to bring about a degree of uniformity. It is common for permanent capital improvements made to or on land to become the property of the landowner at the termination of the lease.

Other Airport tenants contacted the Seattle Airport District Office, and received a response from the Northwest Regional Office. These responses generally restated the comments of the May 2002 letter from that office. In February 2002, the County responded to a request to "exercise an option to extend" from five hangar owners. This extension does not fall under the April 2000 policy, but continues with the earlier policy for removal of the hangar, if requested. Based upon information provided to ABS, it does not appear that these tenants ever signed the extensions, because they did not agree to the terms. The extensions, as written, would have served to extend each of their leases until 2016, and at the end of the lease, the Lessee would have to negotiate a new lease with the County.

Certain tenants that were recent purchasers of individual hangars shared multiple concerns. While certain issues were raised by the newer tenants on the ability to obtain information, we have not commented because it was not part of the scope of this assignment. Moreover, the tenants' interpretation of the events that transpired have previously been provided to the County. However, it is our position and opinion that it is the buyer's responsibility to protect themselves via a thorough review of any and all relative documents prior to consummating a transaction.

As a result of the audit of County leases, and subsequent to the adoption of the current reversion policy, the County developed a more comprehensive non-commercial ground lease which addresses the concerns of property maintenance over time, added a section on "Title to Improvements", addressed security deposits and inspection authorization, as well as many other areas not included in earlier leases. Considering the County has historically allowed at least 20-year occupancy for individual hangars, this new lease is much more appropriate, although still fails to address many of the concerns/issues as they relate to reversion at the termination of the existing agreements.

SECTION III

REVERSION CLAUSE RESEARCH

The following pages will present the results of multiple interviews and comments from the FAA and other airport management and/or sponsors. It is important to remember, and this will become obvious as you read the following lease language, that airports are different and develop differently, and as such the same terms and conditions are not necessarily practical for every airport.

FAA Airport District Office, Oregon/Idaho Section (SEA-640)

This office advised *ABS* that the FAA does not track airports with reversion clauses. They recommend reversion clauses to make it clear to the tenant what occurs at the end of a lease. It is their opinion that if the lease is silent on the issue, improvements automatically revert to the airport at lease termination, since tenants cannot own the public land. Problems tend to occur because tenants often fail to consider what occurs at the end of the lease term.

FAA Safety and Standards Branch, Southwest Region (ASW-620)

ABS believed the FAA Region could provide insight because they are currently involved with a reversion situation at the White Sands Regional Airport in Alamogordo, New Mexico. This office echoed the SEA-640 FAA office by stating that the FAA does not have a set policy on reversion clauses. They also indicated that it is a good business practice to include a reversion clause, and that problems occur when the clause is included in a lease, but not enforced.

At Alamogordo, the FAA had to pressure the City to charge market rates for the "improved land". During a review of leases at the Airport, it was revealed that the City had renounced or removed its claim to building improvements on 19 of 27 ground leases on leased Airport land. This was a conflict with the "reversion terms" of the leases. In 2002, the Airport inserted new language to the leases that stated that the City shall not assert any claim to improvements, pre-existing or not. This was done at the request of the leaseholders at the Airport. Now, the Airport is in jeopardy of losing its Federal, as well as State funding, since it is not in compliance with the Grant Assurances.

In a letter to the City from the New Mexico Department of Transportation, it was pointed out that the normal State-wide procedure is to rent bare land at a subsidized rate, with any improvements reverting to the airport after the lease term has expired. These facilities are then owned by the airport, who then rents the land and improvements at a rate of 10 to 20 times greater than the bare ground rental rate. This then allows the airport to become a self-sustaining entity, thereby lessening the burden on the local taxpayer. The State also

advised that some of the leases they reviewed were giving away the sponsor's property interest, which was a violation of the New Mexico law under the "anti-donation" clause.

Here are some of the situations/cases that have occurred at the Airport, according to an article from the Alamogordo News.

In 1994, Hangar O was sold to Ed Pavelka for \$10.00, according to City records. In November of that year, the Airport Advisory Board took up the matter as a potential violation of the advance notice requirement in the lease. Three years later, Hanger O was sold again, this time to Tina Cesa, for \$36,000. In 1998, the City amended the lease with Cesa to state that Alamogordo has the right to purchase the property at its undepreciated value when the lease expires.

In the case of Hangar G, it was first leased by Black Hills Aviation in 1975. In 1991, the lease rate was increased from \$0.04 to \$0.08 per square foot when the lease was up for renewal. The City received no notice of Black Hills' intentions until Jan. 27, 1992, 13 months after the lease expired. The City then renewed the lease after waiving "any irregularities in the extension of the term of the airport lease agreement," and set the lease rate at \$0.04 per square foot. Two years later, Black Hills sold the assets to Neptune Aviation, with the reversion clause still in effect. In 2002, the City agreed to eliminate the reversion clause in Neptune's lease. It was noted in an September 19 internal memo that Neptune had been in default of its lease at least twice.

One lessee was improperly using City property to secure a loan. The FAA advised the City that a tenant's hangar construction loan involved a mortgage on the building and the land it sits on. The City owns the land, not the tenant.

On the other side of the issue, the Mayor of Alamogordo wrote a letter to the FAA in July 2005 arguing that the reversion clauses could lead to increased City spending. He stated that assuming that the City takes possession of the improvements may not take into consideration the economic burden that the City would be assuming. In addition to the Mayor, several tenants do not like the reversion clause, since many have sold their interest to third parties for substantial financial gains.

Port of Portland

Diane Trudo, Contract Administrator III
Aviation Business and Properties

Ms. Trudo advised that the Port of Portland has standard reversion language for both the Hillsboro and Troutdale Airports. The sample ground lease for Hillsboro included a very typical reversion clause, as follows.

Title to Improvements upon Termination

All Improvements (whether constructed by Lessee or the Port) located on the Premises at the expiration of the Initial Term or earlier termination of this Lease, shall become the property of the Port. Notwithstanding the foregoing, the Port reserves the right to require Lessee to remove any Improvements that have not been adequately and reasonably maintained by Lessee, from the Premises upon termination of this Lease. Such Improvements shall be removed within the time frame set forth in Section 10.5. The Port will give Lessee notice of such unmaintained Improvements it will require Lessee to remove at least ninety (90) days in advance of the Expiration Date. The Port reserves the right to require removal of Improvements on shorter notice if Lessee has allowed their condition to deteriorate during the last ninety (90) days of this Lease.

Eugene Airport

Carrie Martin, City of Eugene Public Works - Airport Division

Eugene Airport has a policy that addresses reversion, which is entitled "Policy for Non-Commercial Hangar Site Leases." This policy is very similar to its Commercial Policy. Within the policy, it states the following:

Termination - Removal of Improvements prior to expiration of an existing lease, Lessee may submit a written request to negotiate a new lease. Removal of improvements will not be required if a new lease is negotiated. If a new lease fails to be negotiated, or if the required notice is not received from the Lessee, then the Airport Manager will require the removal of the hangar and improvements and restoration of the premises at the Lessee's expense in accordance with the provisions of the lease, unless other arrangements satisfactory to the Airport Manager are made for the disposition of the hangar and improvements, whether sale, removal, or otherwise. For leases that contain automatic transfer of ownership clauses, the Airport will work with the Lessee during a reasonable period of time, not to exceed six (6) months, to retain title in the Lessee's name until a new lease is negotiated or arrangements satisfactory to the Airport Manager are made for the disposition of the hangar and improvements, whether sale, removal, or otherwise. If, after the six (6) month period of time, Lessee fails to negotiate a new lease or dispose of the hangar and improvements, then the hangar and improvements will be deemed abandoned by the Lessee.

The Airport will not require automatic reversion of hangar facilities upon expiration of the term of the lease. However, the airport retains the right to withhold a new lease if the Airport Manager determines that the property needs to be used for other purposes, such as airport development, or if the hangar owner fails to maintain and renovate the hangar to comply with the minimum standards for non-commercial hangars in effect at the time.

City of Redmond
Linda Pepin

The City of Redmond has a standard reversion clause for their hangar leases. Ms. Pepin sent the following standard language.

Ownership of Improvements.

Title to all improvements, including the Hangar, to be constructed on the Premises by Lessee shall be owned by Lessee until expiration of thirty (30) years from the commencement date of this Lease or earlier termination of this Lease. All improvements, including the Hangar, on the Premises at the expiration of the term or earlier termination of this Lease shall, without compensation to Lessee, then automatically and without any act of Lessee or any third party become City's property. Lessee shall surrender the improvements to City at the expiration of the term or earlier termination of this Lease, free and clear of all liens and encumbrances, other than those, if any, permitted under this Lease or otherwise created or consented to by City. Lessee agrees to execute, acknowledge, and deliver to City any instrument requested by City as necessary in City's opinion to perfect City's right, title, and interest to the improvements and the Premises

Redmond Airport
Mr. Carter

He advised ABS that if the property reverts, then they usually lease it back to tenant. Moreover, new airport agreements contain language that gives the tenant the first right of refusal.

Termination

Upon termination of the agreement, Tenant shall surrender the leased premises in good condition. Buildings constructed by the Tenant with permission from the Lessor shall not be removed. Depreciation and wear from ordinary use of the purpose for which the Tenant is responsible shall be completed prior to surrender of the lease premises.

Upon termination of the agreement, the building and all improvements which are a part of the lease shall become the exclusive property of the Lessor.

Upon termination of the agreement, Tenant shall have the right of first opportunity to lease the property and improvements from the Lessor for five (5) years and renewable every five years, thereafter with annual rent equal to ten percent of fair market value of land and improvements. Same conditions for adjustments as set out in Section 3.

Oregon Department of Aviation - Aurora State Airport
Jennifer Anderson

The following lease language was provided by Ms. Anderson.

Surrender at Expiration - Upon expiration of the term of this Lease or earlier termination on account of default, Lessee shall surrender the Premises in good condition.

Lessee's Improvements - Before expiration or other termination of the Lease term, LESSEE shall remove all furnishings, furniture, and trade fixtures that remain its property. If LESSEE fails to do so, this failure shall be an abandonment of the property, and AVIATION may retain the property and all rights of LESSEE with respect to it shall cease or, by notice in writing given to LESSEE with 30 days after removal was required, AVIATION may elect to hold LESSEE to its obligation of removal. If AVIATION elects to require LESSEE to remove, AVIATION may effect a removal and place the property in public storage for LESSEE'S account. LESSEE shall be liable to AVIATION for the cost of removal, transportation to storage, and storage, with interest at the legal rate on all such expenses from the date of expenditure by AVIATION. LESSEE hereby appoints AVIATION its agent for the limited purpose of obtaining adequate storage for the personal property of LESSEE in the event that LESSEE fails to remove its personal property as described above. LESSEE authorizes AVIATION to incur reasonable and necessary costs to store LESSEE'S personal property in LESSEE'S name and at LESSEE'S expense, and LESSEE shall fully reimburse AVIATION for all costs so incurred.

Klamath Falls Airport

Linda Tepper, Business Manager

Ms. Tepper advised that they have two types of leases with regard to reversion. One is a reversion lease, and the other has a buyout clause. A tenant chooses which one they want, and both reflect essentially 45-year terms. However, the rent charged on the "buyout leases" reflects a premium rent fee.

Buyout Lease

Surrender of Possession

Buyout Provision - In consideration of the premium rent fee referenced in Section 7. Rent, Subsection B., the Airport agrees to purchase the improvements at an appraised value. The appraiser shall be mutually accepted to the parties and shall be an MAI (or equivalent) appraiser with special knowledge in aviation and airport properties. The cost of the appraiser to be split equally between the parties. At the 45th year of this lease, Airport will be obligated to buy the improvements at the appraised value unless the parties agree to some other agreement prior to that date.

Tenant Termination - If Tenant should elect to terminate this lease at any time, the above Buyout Provision will not apply. (Sale of improvements and transfer of this lease, is not considered a termination by Tenant.) Upon early termination at Tenant's sole discretion, Tenant shall have the option of removing all improvements and restoring the property to its original condition, or giving title to said improvements to Airport.

If Tenant elects to remove improvements, this must be done within ninety (90) days after termination of this lease. If Tenant fails to remove improvements, Airport may take possession of the premise.

Reversion Lease

Surrender of Possession - Title to all Improvements constructed by Tenant upon the Premises, and all alterations or additions thereto required by Airport to remain, shall remain in Tenant until the expiration, cancellation, or other earliest termination of this Lease. Upon said expiration, cancellation, or earlier termination of this Lease, Tenant shall have the option of removing all improvements to Airport, title to said Improvements shall vest in the Airport, and said structures, buildings, and improvements shall remain upon and be surrendered with the Premises as part thereof.

Title to personal property belonging to Tenant shall at all times during the term of this Lease, or any extension thereof, remain in Tenant, and Tenant shall have the right at any time to remove any or all personal property of every kind and nature whatsoever which Tenant may have placed, affixed, or installed upon the Premises, provided that upon Tenant's removal of such personal property, Tenant restores the Premises to its original condition. Tenant shall have the right to remove same provided that upon any such removal, Tenant shall repair, at its own expense, any damages resulting therefrom and leaves the Premises in a clean and neat condition, with all other improvements in place.

If Tenant elects to remove improvements, this must be done within ninety (90) days after termination of this lease. If Tenant fails to remove improvements, Airport may take possession of the premise.

Ashland Municipal Airport
Dawn Lamb

The following lease language is for a commercial service provider lease.

Ownership of Improvements. Title to all improvements made by Lessee of a permanent nature shall be the property of Lessee.

Lessee, however, shall be required to enter into a ground lease with the City prior to any improvement being made that increases the footprint of existing structures or that utilizes additional land at the airport. Ground lease fee shall be at fair market rental value.

Prior to construction of any improvements, the parties agree to negotiate in good faith as to ownership of the improvements to be constructed. Unless previously agreed in writing between the parties, the improvements shall become property of City, free and clear of all claims of Lessee, any one claiming under Lessee or caused, permitted or suffered to attach through Lessee upon completion of construction and issuance of a certificate of occupancy. Lessee, or any one claiming under Lessee, shall indemnify and defend City against all liability and loss arising from such claims. Upkeep. The premises shall be kept in good repair, free of waste material and debris. Landscaping shall be maintained and properly watered in a reasonable fashion.

Right of first refusal.

For other than month-to-month rentals, City shall have the following described right of first refusal with respect to the interest of Lessee under this lease:

Lessee shall not sell, sublease, assign or transfer to anyone other than City, unless Lessee shall have first communicated to City, by written notice, a written offer to sell, sublease, assign or transfer this lease or any interest, which offer shall specify, in commercially reasonable detail, the rates, terms and conditions upon which Lessee is willing to sell, sublease, assign or transfer this lease or any interest. City shall have a period of 30 days, following the notice, within which to accept the offer by giving Lessee written notice of acceptance. If the offer is accepted, the parties shall be obligated to close the sale, sublease, assignment or transfer in accordance with the terms of Lessee's offer. Closing shall occur within 60 days following acceptance or within such longer closing period as may be specified in the offer.

If City does not accept the offer, Lessee may sell, sublease, assign or transfer the lease or any interest to any other party, provided that such a sale must be consummated within 60 days following the earlier of the expiration of the 30 day acceptance period specified in paragraph 18.1.2 for the offer or the date of any written rejection of the offer by City, and for and upon the same price, terms and conditions as those specified in the offer. City's rights under this paragraph shall apply to any subsequent or contemporaneous offer made to Lessee or Lessee's successor or successors in interest. For the purposes of this subparagraph, a devise under a will by the Lessee shall not be considered a sale, sublease, assignment or transfer.

Option to Purchase Lessee's Interest.

For Type B leases, in addition to the right of first refusal described above, City shall have the exclusive right and option to purchase all of Lessee's right under this lease upon the following terms and conditions:

If City exercises this option, the purchase price during the initial year of this lease for Lessee's rights under this lease will be the actual reasonable construction cost of the hangar plus 10%. The purchase price during each subsequent year shall be the purchase price determined in the immediately preceding sentence less 1/25th of such purchase price for each full year the lease has been in effect. This option shall be exercised by written notice given by City to Lessee at any time, which notice shall specify that City has elected to exercise this option. Closing shall occur as soon as possible following

exercise of this option by City and, in any event, not later than the 35th day following the date of exercise of this option.

At closing, Lessee shall deliver to City a duly executed and acknowledged statutory quitclaim deed quit claiming all of Lessee's rights and interest in the premises free and clear of all liens and encumbrances of Lessee, anyone claiming under Lessee or caused, permitted or suffered to attach through Lessee.

At closing, City shall pay to Lessee in cash the entire amount of the purchase price.

City's rights under this paragraph shall apply to any successor of Lessee and shall apply whether or not City exercises its rights under the right of first refusal paragraph. City may not exercise its rights under this paragraph while the Lessee who signed this lease is in possession and has not sold, subleased, assigned or transferred its interest in the lease. For the purposes of this subparagraph, a devise under a will by the Lessee shall not be considered as sale, sublease, assignment or transfer.

Subleases without consent.

Lessee may sublease portions of the premises for the purpose of placing other aircraft within the hangar without consent of City.

Arcata/Eureka Airport

Jeff Moore, County of Humboldt

Mr. Moore provided this Ground Lease Language utilized by the County.

OWNERSHIP OF IMPROVEMENTS

Title to all improvements, including the hangar, to be constructed on the premises by LESSEE shall be owned by LESSEE until expiration of thirty (30) years and any options from the commencement date of this Lease or earlier termination of this Lease. All improvements, including the hangar, on the premises at the expiration of the term or earlier termination of this Lease shall, without compensation to LESSEE, then automatically and without any act of LESSEE or any third party become COUNTY'S property. LESSEE shall surrender the improvements to COUNTY at the expiration of the term or earlier termination of this Lease, free and clear of all liens and encumbrances, other than those, if any, permitted under this Lease or otherwise created or consented to by COUNTY. LESSEE agrees to execute, acknowledge, and deliver to COUNTY any instrument requested by COUNTY as necessary in COUNTY'S opinion to perfect COUNTY'S right, title, and interest to the improvements and the premises.

LESSEE shall have the right to remove such personal property, machinery, and equipment as may be removed without threat to the structural integrity of any building or improvement. If damage results from the removal of any such items, LESSEE shall repair such damage at its sole expense.

SECTION IV

OPTIONS ANALYSIS

As researched, reviewed and presented in Section III of this document, airports have various approaches to reversions. We have considered those approaches, further researched the industry, and offer the following scenarios as possible options for consideration. Since all existing leases have generally different terms, conditions and circumstances, a range of conditions have been considered. For the purpose of Option A, buildings are assumed to be in good shape and the leasehold is not needed for a specific purpose.

Option A

No reversion: Existing tenant receives new ground lease

The least restrictive approach to reversion would be to give an existing tenant a new ground lease and let them continue to use the total improved property. This pragmatic approach may be appropriate if the building is in reasonably good shape, and the type of land use for the leasehold property meets the needs of the Airport and its tenants. This alternative provides an incentive for tenants to maintain their buildings/hangars and make improvements over time, as well as to make sure that all Airport rules and lease conditions are met at all times. This option is also easy to manage and provides a certain stability on the Airport.

However, providing an existing tenant with a new (long-term) lease may not meet Federal non-discrimination requirements if there is demand for the leasehold. This is because it would preclude opportunities for new tenants. If the ground lease is renewed without requiring the tenant to make a major new investment in the structure, the County may be in violation of the Grant Assurances because this action could be considered as a perpetual lease or the giving/donation of Airport property to a private entity (similar to the Alamogordo issue). If the County were to consider a new ground lease on existing buildings, in response to a tenant proposal involving major reinvestment in the leasehold, it would require a rational, equitable approach to determining the threshold level of investment that triggers this strategy. Moreover, a new ground lease rate must be determined inclusive of consideration of all new terms and conditions. To avoid equity problems, expenditures necessitated by deferred maintenance should not count as new improvements, even if those costs are substantial. Finally, consideration must be given to the fact that the airlines are under a residual financial structure, whereby the revenues generated by leases on the Airport serve to offset some of their costs. As such, the lack of future revenues from reverted properties may have a negative impact on the airlines.

Option B

Reversion: County takes over the total property

For the reversion options under which the County takes over the land and improvements, a number of issues must be considered. A major advantage of this approach is that the County would gain more control over the Airport, as there would be no tenant subleasing arrangements. The County would also gain additional revenue. However, the County would be required to commit staff time and resources to maintaining and managing the buildings. Initial building maintenance and long-term management needs for facilities that have reverted will vary. However, it is assumed that the most buildings could be re-leased in their "as-is" condition, with the new tenant responsible for all deferred and on-going maintenance (triple net lease). Without further analysis, it is not clear if the increases in rent would be sufficient to cover the increased management costs that would accrue to Jackson County. However, it has been our experience that the incremental costs associated with the management of reverted properties are nominal.

If the County reverted an entire facility (not individual hangars) and re-leased it to a single entity, who would then be responsible for securing subleases, it would be appropriate for a new lease to be entered into on a triple net basis, with the new lessee responsible for all deferred and on-going maintenance. The new lease would include requirements transferring all building maintenance requirements to the Lessee, and the right for the County to make periodic inspections as to the fulfillment of this requirement. If the County decided to take over and manage a building leased to multiple tenants (T-hangars with multiple bays), building management and maintenance would require a more active and on-going presence on the part of the Airport. If facilities are surrounded by ramp or apron areas, the lease must allocate the responsibility for maintaining those areas, and for inspecting them for Foreign Object Debris (FOD).

A major concern of many airports with regard to this approach, is the fear that if tenants know their property is going to revert, they are less likely to make improvements or provide routine maintenance efforts during the latter years of their lease. However, it is our experience that this is not a significant problem, and it has been averted by requiring tenants to allow for periodic inspections by Airport staff and/or engineering personnel. As a condition of their lease and to be considered as a potential continuing leaseholder, tenants are required to remedy any deficiencies discovered during the inspection within a reasonable time frame. The County could enforce this in all new leases with an eviction clause in case of non-compliance, set forth in its leasing policy. However, it should be noted that the ownership of structures and subsequent leasing of existing structures would mean that Jackson County may incur certain nominal expenditures upon vacancy and turnover of facilities.

Option C

Property reverts to County and is re-leased to existing tenant

Under this approach, the total property (land and improvements) reverts at the end of the lease term, plus all existing option periods. However, the existing tenant would have the “right of first refusal” to lease the total property at a new “all-inclusive” rate. This is considered by some to be the least disruptive of reversion options for an airport. It is reasonable to assume if the tenant intends on re-leasing the property at lease termination, there is an incentive to maintain the improvements. In addition, the tenant is likely to adhere to Airport rules and lease conditions.

This option results in less of a burden for the Airport with regard to repairs and maintenance, efforts that are generally required to attract new tenants. Moreover, the County gains more control of the Airport over time as facilities revert, yet the requirement for maintenance is reduced. This also reduces the number of subtenants. The drawback for this option is the potential that as the Airport becomes more built out, legal challenges arise if the leaseholds are not open to a competitive process. Additional challenges may be experienced in arriving at a mutually agreeable new lease rate for the land and improvements.

Option D

Property reverts to County and is leased through a competitive bid process

The next option would be for the existing property to revert to the County, and is then re-leased through a competitive bid process. This approach generally works if the facilities do not require significant investment to make them attractive to new tenants. The County would prepare a *Request for Proposal* to identify the most qualified prospective tenant, as well as one who is willing to pay, at a minimum, current market rent for the land and improvements. This would satisfy the Federal non-discrimination requirements by ensuring fair access by all interested individuals.

Option E

Compensation for residual value of improvements

The next option would be to develop a policy whereby the County purchases the improvements on the leasehold at a pre-determined residual value at the termination of the lease. Said pre-determined value could potentially reflect a percentage of the initial, verified construction costs for the improvements. The percentage would vary based upon the term of the ground lease. However, this option would likely require a review of the underlying ground rental rate to compensate for the payment of a residual improvement value.

A variation of this option was recently utilized by the Klamath Falls Airport. In Klamath Falls, the City gives two options for long-term ground leases to prospective new tenants who intend to develop aircraft storage hangars for private or corporate purposes on Airport leaseholds. The options are as follows:

1. A contract with a traditional reversion option after 40 years
2. The City reimburses the tenant for the residual value of the facility after a 45-year lease period.

Tenants choosing Option 2 are required to pay a 20 percent premium over the standard ground lease rate during the entire duration of their lease. It is Klamath Falls' opinion that the second option has the advantage of providing an incentive for the tenant to maintain the facility, and tends to make reversion less contentious because there is another option available.

To make this work at MFR, the County and Airport must be prepared to implement thorough building inspections, especially in the later years of the lease. Utilizing an appraisal process at the end of the lease would not likely be cost effective, therefore a pre-determined residual schedule would need to be developed prior to entering into any new lease agreements.

It should be noted that this option would work well for new leases with new improvements, but alternative options must be explored for existing improved properties, unless each existing property is appraised and a modified residual value is assigned based upon a new lease term. However, it would be recommended that new leases for existing developed properties be of a much shorter term than those for new facilities, since existing improvements would be a minimum of 20 years old at the expiration of their existing agreements.

Option F

Improvements are not salvageable or land is needed for other purposes

Another option to assess is the scenario whereby improvements on an existing property reflect poor condition and/or utility, and are not deemed salvageable in the opinion of a County engineer after a study and inspection of the building and its systems. In this option, upon reversion at the expiration of the existing lease, the tenant would be required to demolish the building, as well as to clear and decontaminate the site. At that point, the Airport can make the site available for proposals or use the site for sponsor-built facilities or other Airport-related purposes.

Under any of the building removal options, environmental remediation efforts may be required. This can be difficult and potentially contentious if the tenant indicates that the contamination was present prior to their lease. There are three options for developing new uses for newly vacated land.

1. The County can lease the land back to the existing tenant, who is then required to make a new investment
2. Lease to a new (or existing tenant) after a competitive bid process
3. The Airport develops the land

SECTION V

CONCLUSIONS AND RECOMMENDATIONS

Whenever a governmental entity is working with the private sector, disagreements are going to occur. Discussions will be interpreted differently by each side, and documents will be reviewed and interpreted with sometimes opposing perspectives. With the addition of financial components, these differences can become extreme. As such, in our analysis of this issue, *ABS* had to continually remain cognizant that regardless of the best intentions of tenants and the County in trying to reach a mutually agreeable solution on the reversion issue at MFR, it may not be possible without external assistance. Therefore, *ABS* had to utilize our experience and knowledge gained from many years of experience working with other airports and other airport tenants to come to a fair and equitable and non-discriminatory solution for tenants, while still maintaining the fiduciary responsibility of the Airport and compliance with its Federal obligations.

In the preparation of this document, it was obvious that certain facts had been adjusted by emotion. Moreover, after six years that included multiple meetings, intervention by elected officials, and opinions by the FAA, the County still believes that they are utilizing a fair and reasonable County-wide policy with adjustments for Airport requirements. At the same time, the tenants are convinced they are being misinformed and taken advantage of. Nevertheless, after extensive due diligence, the facts of the issue, as we find them, are as follows:

- There was no conspiracy or closed door activities on the part of the County. Meetings were held as they normally were, in some cases even televised. Public notices were not provided for meetings that did not require them as a matter of policy.
- The adopted policy did not impact currently existing leases. The existing agreements of hangar ground leases generally have a requirement that upon expiration of the lease, the County has the right to require the tenant to remove the improvements at the tenant's cost.
- Some of the hangars are inter-connected, making removal of one hangar a problem for the remaining units.
- The Airport has a waiting list for hangars and interested parties in building hangars.
- Interest in Airport development from the private sector still continues since the policy was enacted. The most dominant example of this is the current and on-going expansion of two of the FBOs.
- Leases prior to the adoption of the reversion policy were varied, and an audit indicated discriminatory language. As property is leased over time, it is not unusual for this to happen.

- It is impractical and potentially discriminatory to place a specific dollar amount as being equal to a set lease term, as set forth in the current “investment dollars per year of lease term” policy utilized by the Airport. While it is fair to allow a private investor adequate time to amortize the cost of their investment, the ability of an individual to finance construction should not be a consideration of lease term.
- Reversions cannot all begin on the same date for all tenants, since leases have been executed over a number of years and all have different lease termination dates.
- County-owned property that is not part of the Airport requires improvements to vest with the County when the lease terminates. (Lease reviewed dated 1994)
- The Airport is an Enterprise Fund and does not have the available capital to purchase private hangars. Past acquisitions of hangars were at depreciated value, or a property exchange without any transfer of funds.
- The prospective financial impact of the lack of reversion clauses may have a negative impact on the airlines serving Medford, as they operate under a residual financial structure at MFR.
- Passenger enplanements, cargo tonnage, based aircraft population and flight operations have all been forecasted to increase in the short and long-term in the Airport Master Plan.
- FAA Order 5190.6a requires the airport to make all facilities and services available on a fair and reasonable term without unjust discrimination. A perpetual lease would violate this condition.

After a thorough and independent analysis of all materials presented *Airport Business Solutions* recommends the following:

1. All **new** leases at the Airport should contain a provision for the leasehold improvements to revert to the County upon lease termination. Title of improvements should be vested with the County.
2. No lease term or option period of an existing lease terms would change. The terms as now stated in the lease would apply and be enforced. At the end of the term of the lease, to include any option, the tenant should have the option to remove the improvements or have the “right of first refusal” to enter into a new lease with the County under new lease terms. Rental rates for the new leases would be at the prevailing market rate for land and improvements.

3. Existing hangar leases scheduled to terminate prior to 2012 would be granted an option to extend their lease to 2012 at their current lease terms. Beginning in 2012, they would have the “right of first refusal” to enter into a new lease with the County. The rental rate for the new leases would be at the prevailing market rate for land and improvements.
4. The term for new non-commercial ground leases would be 15 years, with one 10-year option. If the new hangar is to be sublet or used for commercial purposes, commercial rules and regulations, in addition to commercial lease rates and terms, would apply.
5. The term for non-commercial leases of improved properties, whereby the improvements are owned by the County/Airport, shall have a term not to exceed 1 year, with no renewal options, and a 60-day cancellation clause.
6. The term for commercial ground leases would reflect a term based upon the level of capital investment and contribution to the economics of the Airport. Lease terms would be at the discretion of the Airport Authority, but shall not exceed 50 years, to include all option periods.
7. The term for commercial leases of improved properties, whereby the improvements are owned by the County/Airport, shall have a term not to exceed 5 years, with no automatic renewal options.
8. Non-commercial leases should have a provision that if a hangar is sublet or used for commercial purposes, the County/Airport shall be paid ten (10%) percent of the sublease rent and/or commercial revenues, in addition to the required land/property rent.
9. No “formula” for lease term predicated upon investment is suggested. Rather, it is recommended that each lease be carefully reviewed and compared to similar and competing lease terms on the Airport to maintain a “level playing field” and avoid any concerns over inequitable treatment of commercial tenants on the Airport.
10. Lease rates for land, hangars and other structures would be at the prevailing market rental rate, and should be adjusted annually during the term of the lease at a fixed percentage of not less than three (3%) percent, or the Consumer Price Index (CPI).
11. Property maintenance requirements in any revised lease documents must be clearly defined and strictly enforced, and any variance from the requirements should be considered a condition of default.

12. In the case of involuntary early termination of a lease (not including default), which is caused by the County's need to further develop the Airport, a depreciated value for the improvements will be established for an equitable settlement.
13. In extreme and special circumstances, on a case-by-case basis, the County Administrator may review a lease due to unusual circumstances and make recommendations to the Board of Commissioners relative to lease terms offered to a tenant.