

REGULAR MEETING

**AGENDA
AND
STAFF MEMO**

HEBER CITY CORPORATION
75 North Main Street
Heber City, Utah
City Council Meeting
April 3, 2014

Regular Meeting
7:00 p.m.

TIME AND ORDER OF ITEMS ARE APPROXIMATE AND MAY BE CHANGED AS TIME PERMITS

Pledge of Allegiance: Council Member Jeffery Bradshaw
Prayer/Thought: By Invitation (Default Mayor Alan McDonald)

Minutes for Approval: March 6, 2014 Work and Regular Meetings
March 17, 2014 Special Budget Meeting

OPEN PERIOD FOR PUBLIC COMMENT

APPOINTMENTS

Item 1 Amy Sivertsen, Timpanogos Intermediate School Student Council, Presentation of Check to Heber Valley Animal Services

ACTION ITEMS

Item 2 Appointment of Council Member to the Cowboy Poetry Board

Item 3 Approve Red Ledges Phase 2G Subdivision, a 10 Lot Subdivision, Located on Club Cabins Court, and the Associated Development Agreement

Item 4 Barry Hancock, Approve Specialized Aviation Service Operator (SASO) Agreement for Worldwide Warbirds, LLC to Sell Aircraft at the Heber City Airport

Item 5 Approve Airport Hangar Lease Rates and Charges Policy

Item 6 Review/Approve Proposed Amendment to the Airport Advisory Board Bylaws

Item 7 Approve Memorandum of Understanding, State of Utah, Office of State Debt Collection, Regarding Court Fines

Item 8 Award Construction Manager/General Contractor (CM/GC) Contract

Item 9 Approve Ordinance 2014-05, an Ordinance Amending Heber City Block 43 of Heber City's Zoning Map, Located at 301 South Main Street

Item 10 Approve Ordinance 2014-06, an Ordinance Amending Heber City's C-2 and C-4 Commercial Design Standards and Guidelines

Item 11 Approve Ordinance 2014-07, an Ordinance Amending Section 18.72.030, Parking Spaces Designated, of the Heber City Municipal Code

Item 12 Resolution 2014-03, a Resolution Designating Arbor Day as the Last Friday of May

DISCUSSION/ACTION ITEMS

CLOSED SESSION AS NECESSARY – PURPOSE TO BE ANNOUNCED IN MOTION

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 March 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 March 27, 2014.

Memo

To: Mayor and City Council
From: Mark K. Anderson
Date: 03/27/2014
Re: City Council Agenda Items

REGULAR MEETING

APPOINTMENTS

Item 1 – Amy Sivertsen, Timpanogos Intermediate School Student Council, Presentation of Check to Heber Valley Animal Services: Lt. Bradley informed me that the Student Council at the Timpanogos Intermediate School decided to raise funds for the Animal Shelter. They did this by selling suckers over Valentines week and raised over \$400. The Student Council is comprised of 32 students, and it is expected that 10-15 of the students will attend the Council meeting with their parents. They are also excited to attend the Heber City Council meeting as this will give them some exposure to how a City Council operates.

Justin Hatch, Animal Control Supervisor, will also attend the meeting to accept the money on behalf of the Animal Services department.

ACTION ITEMS

Item 2 – Appointment of Council Member to the Cowboy Poetry Board: Mayor McDonald has been asked to appoint a member of the Council to participate on the Cowboy Poetry Board. Mayor McDonald indicated that he will seek a volunteer from the Council to fill this position. This appointment will fill the position vacated by Councilman Mergist.

Item 3 – Approve Red Ledges Phase 2G Subdivision, a 10 Lot Subdivision Located on Club Cabins Court, and the Associated Development Agreement: Red Ledges is seeking final plat approval for Phase 2G. This phase consists of 10 patio lots that are surrounded by maintained common space near the clubhouse that is now under construction. (See enclosed staff report, subdivision agreement and plat map)

The Planning Commission has reviewed the proposed subdivision and is recommending approval subject to the terms of the enclosed subdivision agreement. Staff would recommend approval.

Item 4 – Barry Hancock, Approve Specialized Aviation Service Operator (SASO) Agreement for Worldwide Warbirds, LLC to Sell Aircraft at the Heber City Airport:

Barry Hancock, owner of Worldwide Warbirds, LLC, is requesting approval to operate a business at the airport that would involve the sale of aircraft. The Airport Advisory Board has reviewed the application and determined that the applicant meets the Airport Minimum Standards to operate an aircraft sales business and is recommending approval. Enclosed is a proposed Specialized Aviation Service Operator (SASO) Agreement which is consistent with other SASO agreements in place at the airport and a map showing the location of the proposed business. Staff would recommend approval.

Item 5 – Approve Airport Hangar Lease Rates and Charges Policy: At the last City Council work meeting, the Council reviewed the proposed Lease Rates and Charges Policy that is being recommended for approval by the Airport Advisory Board. (See enclosed policy) I have invited Mel McQuarrie, Airport Advisory Board Chairman, to attend the Council meeting and I expect him to be in attendance.

First of all, it is important that the Council understand the nature of this document. The purpose of the Lease Rates and Charges document is to establish uniform policies that the City would administer as additional hangars are constructed and new leases are entered into at the Heber City Airport. Part of developing the process was to survey airports deemed similar by the Board to determine what were common leasing practices and prevailing/market lease rates. The policy also identifies conditions that the City could consider extending existing reversionary leases if additional investment is made in the hangar to allow hangar owners the opportunity to realize benefit from additional investment.

The Airport Advisory Board accepted the recommendation of the consultant with the exception of the recommendation to offer reversionary leases. As you know, I have concern with the recommendation to offer non-reversionary leases because I do not believe it is in the best interest of the airport based on recommendations from two consultants and recommended practice from ACRP. From my study, reversionary leases allow for better City control of airport development and puts the City in a better position to make the airport self-sustaining. Much of this information was provided in the packet at the last meeting.

With that said, study of this document should be the primary focus of the discussion. Admittedly, there is a lot of discussion about the advantages and disadvantages of reversionary/non-reversionary leases from existing hangar owners because they are hopeful that more favorable lease terms would be offered to them.

As you are aware, many of the existing hangar owners have shown interest in this policy and most appear to support of the recommendation to offer non-reversionary leases on any new development at the airport. To that end, Paul Boyer, hangar owner, has provided a 71 page document (enclosed) expressing support for non-reversionary leases.

In the packet of information provided by Mr. Boyer, a financial analysis that was prepared by Neiderhauser and Davis LLC, which projects property tax revenues that would be generated under different lease types (reversionary/non-reversionary) using differing rates of appreciation in hangar value. The data and scope of work appears to have been provided by Mr. Boyer. The analysis shows how non-reversionary leases would provide much more property tax revenue to the taxing entities than reversionary leases over a 30 - 45 year period. **Unfortunately, the assumptions are flawed and are not reflective of how property tax works because of the following:**

Truth in Taxation in the State of Utah does not give taxing entities any benefit from increases in assessed valuation due to market fluctuations. At the same time, taxing entities are not penalized for any reductions in taxable value. If the market/assessed value of property increases based on market influences, the tax rate of the taxing entity is decreased to yield the same revenue. Of course, the City's total property tax revenue does increase on a year to year basis because of new growth.

In the case of the estimated \$91,541 of property taxes (from the Neiderhauser/Davis analysis) generated from airport hangars, 9.31% of this revenue is received by the City. If property/hangar values go up, the net revenue to the City would be essentially the same because the City's taxing rate would be decreased to yield the same amount of revenue. If property/hangar values decrease, the City's tax rate would increase to yield the same revenue. If hangar values decline due to reversionary lease provisions, property taxes would essentially shift from hangar owners to other property owners within the City/County. Therefore, theoretically there is no gain or loss of revenues for any taxing entity under either scenario from a property tax standpoint.

Mr. Boyer appears to be frustrated with my differing opinion and has gone to the extent to have a local attorney contact Mark Smedley to encourage me to remain silent on this issue when it is brought before the Council. I express my concern out of obligation to protect City resources while at the same time considering many hangar owners to be friends.

In speaking with Mel McQuarrie after the last Airport Board meeting, Mel indicated that he felt like the City could receive more revenue from non-reversionary leases than reversionary leases. I agree that it is possible, but the rate for a non-reversionary lease would have to be significantly higher than what the City is currently charging. To that end, there has not been any discussion by the Board about lease rates and other factors that would put the City/Airport in an equal or better position than our current practice of offering reversionary leases to justify the recommendation. I believe Nadim AbuHaidar expressed some of this same concern at the last meeting, because he felt like the recommendation to offer non-reversionary leases lacked many of the important accompanying details.

I would note that Section 3.5.5 of the Lease Rates and Charges document provides for extension of existing reversionary leases based on significant additional investment in the hangar. In my opinion, the value of the hangar is directly tied to the length and terms of the

lease. To offer better/longer lease terms to current lessees without additional equivalent consideration for the City seems inconsistent with this provision.

I suspect that the hangar owners group and I could generate reams of information for the Council to review with differing opinions on the matter. In my opinion, adoption of the document with non-reversionary leases is premature until more data analysis can occur to determine whether reversionary or non-reversionary leases best suit the City's interests while providing a fair return to hangar owners. Staff would not recommend adoption of the policy as proposed.

Item 6 – Review/Approve Proposed Amendment to the Airport Advisory Board Bylaws:

At the last Airport Advisory Board meeting, the Board reviewed comments from Mark Smedley on changes proposed by the Board to the Airport Advisory Board By-laws. After making a few more changes, the Board is recommending that Article 3 of the by-laws be amended per the enclosed document. (See enclosed) I have reviewed the proposed amendment with Mel McQuarrie, Board Chairman, and I expect that he will attend the meeting to present the issue to the Council.

As noted by documents provided by Tracy Taylor, there has been concern about whether or not a board member needs to be a resident of Wasatch County to be eligible to serve on the board. Because of existing conflicts with this issue on the Board, they felt it best to have the City Council determine if Wasatch County residency should be a requirement.

The proposed bylaws do require that one or two members of the Board be members of the City Council and at least four of the board members be residents of Heber City. As proposed, the two at-large members are only required to have differing interests in Wasatch County.

Item 7 – Approve Memorandum of Understanding, State of Utah, Office of State Debt Collection, Regarding Court Fines:

Judge Birch is requesting that the City consider using the State of Utah to collect old court fines. (See enclosed MOU) All fees/costs of sending the accounts to collection would be passed on to those owing fines. Fines not collected within 10 years become uncollectable. Mark Smedley and I have discussed this and we would recommend approval of the MOU.

Item 8 – Award Construction Manager/General Contractor (CM/GC) Contract:

Bart Mumford, City Engineer, has been working with Hogan and Associates to finalize the CM/GC contract for the public safety building. (See enclosed staff report and contract) The estimated fee for their services is approximately \$400,000. Staff has reviewed the document and is recommending approval.

Item 9 - Approve Ordinance 2014-05, an Ordinance Amending the Zoning of Heber City Block 43 of Heber City's Zoning Map, Located at 301 South Main Street:

In anticipation of building a new public safety building on the Central School block, the Planning Commission held a public hearing to consider amending the zoning on the east side of the block from R-3 Residential to C-2 Commercial. (See enclosed staff report, and Ordinance) A public hearing has been held, and the Planning Commission is

recommending approval of the proposed zone change. Staff would also recommend approval.

Please note that the planning staff report under this tab will cover item 10 and 11 below.

Item 10 - Approve Ordinance 2014-06, an Ordinance Amending Heber City's C-2 and C-4 Commercial Design Standards and Guidelines: This proposed ordinance modifies the C-2 and C-4 design standards as it relates to setbacks and building height. (See enclosed staff report under Item 9) The Planning Commission has reviewed the proposed changes and is recommending approval. Staff would also recommend approval.

Item 11 - Approve Ordinance 2014-07, an Ordinance Amending Section 18.72.030, Parking Spaces Designated, of the Heber City Municipal Code: This Ordinance reduces the parking requirements for governmental buildings and allows for ½ of angle parking to be counted towards parking requirements in the C-2 and C-3 Commercial Zones. (See enclosed staff report under Item 9) The Planning Commission has reviewed the proposed Ordinance and is recommending approval. Staff would also recommend approval.

Item 12 - Resolution 2014-03, a Resolution Designating Arbor Day as the Last Friday of May: In order to obtain/maintain our Tree City designation, the City needs to adopt a Resolution designating a date for Arbor Day observance in Heber City. Enclosed is a staff report and Resolution prepared by Tony Kohler on the matter. Staff would recommend approval.

MINUTES

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**Heber City Corporation
City Council Meeting
March 6, 2014**

4:40 p.m.

WORK MEETING

The Council of Heber City, Wasatch County, Utah, met in **Work Meeting** on March 6, 2014, in the City Council Chambers at 75 North Main Street, Heber City, Utah.

Present:

Mayor	Alan W. McDonald
Council Members	Robert Patterson
	Jeffery Bradshaw
	Erik Rowland
	Heidi Franco
	Kelleen Potter

Also Present:

City Manager	Mark K. Anderson
City Recorder	Michelle Kellogg
City Engineer	Bart Mumford
Planning Director	Anthony Kohler
Chief of Police	David Booth

Others Present: Dave Hansen, Tom Meecham, Bob Werner, Jeff Mabbutt, Paul Boyer, K. Edghill, Jeff Brown, Dale Stewart, Earl Polenz, John Jack Rhodes, Terry Loboschfsky, Mel McQuarrie, Doug Wagstaff, Mauro C. Dal Canto, Fiora M. Dal Canto, Alan Robertson, Nadim AbuHaidar, Michael Blanchard, Brian Jacobsen, Kevin Miller, and others whose names were illegible.

City Council Members Will Meet at the Police Department, 301 S. Main St., to Look at the Site for the New Public Safety Building Footprint Options: This field trip was attended by Council Members Patterson, Rowland and Franco, Chief Booth, Anderson, Mumford, Jacobsen, and Miller. It was noted that Council Member Potter had visited the site at a prior time.

Mayor McDonald opened the meeting and welcomed those in attendance.

Discuss Public Safety Building Design (in the Council Chambers): Mayor McDonald stated the purpose today was to decide on a one story or a two story building design. Chief Booth indicated that Council Member Rowland had an idea of positioning the building differently to accommodate everything on one story. The idea was to construct the building to front 100 East. In the future, a two story City office building could be constructed to front Main Street, and that building would be able to accommodate the style preferred by the Planning Commission, the Council and others. Kohler was concerned that the parking lot would overwhelm the area. Miller thought Council Member Rowland's idea was very good and he supported it. Kohler indicated that the recommended zoning and setback changes from the Planning Commission would be presented to the Council at the next City Council meeting. Miller affirmed Chief Booth's previous comments that the public safety building was functional and should be treated like a

1 tool to fight crime. This proposed location would enable the architects to focus on the
2 fundamental purpose of the building.

3
4 Council Member Patterson was not in favor of constructing the building on 100 East. He wanted
5 the City to have a presence on Main Street. Council Member Bradshaw wanted to think about it,
6 and was unsure how he felt about not having a building on Main Street for possibly decades.
7 Anderson indicated the current City offices would be too crowded in approximately three or four
8 years. Options for activities were discussed for the proposed open space next to the public safety
9 building if this idea was accepted. Council Member Rowland felt this configuration would give
10 the City many options in the years to come. Having a basement under the evidence room was
11 also discussed. Mayor McDonald indicated there were at least three Council members that were
12 in favor of the new design layout and authorized the architects to proceed with the 100 East site
13 for the building. Chief Booth reminded the Council that the project was behind schedule. In
14 order to avoid a winter build with its associated higher costs, there could not be any further
15 delays.

16
17 **Mark Smedley, Open Meeting Act Training:** Mark Smedley, City Attorney, reviewed a
18 handout he gave to the Council members regarding when it was appropriate to go into closed
19 meetings. It was noted that no action by the Council was allowed in closed meetings; but the
20 Council would have to adjourn from the closed meeting before making a motion in an open
21 meeting. Mayor McDonald asked if a recording of closed meetings was required. Smedley stated
22 an audio of the meeting was required, but it was considered a protected document. He also listed
23 the limited reasons that were allowable to be discussed in a closed meeting, and indicated that
24 the Council could interact with each other electronically without holding a meeting.

25
26 **Nadim AbuHaidar, Presentation of Annual FBO Report:** AbuHaidar indicated the last time
27 he came before the Council to give a report was in 2011. Since that meeting, the City hired a new
28 airport manager, Terry Loboschfsky, and AbuHaidar praised him as a great addition to the
29 airport. He also stated a new agreement was made that extended his lease, the City fuel flowage
30 fees were increased from two to five cents per gallon, and the City implemented landing fees at
31 the airport, of which the FBO kept ten percent and the City received 90 percent. OK3Air (FBO)
32 had been in business since 2000. They offered maintenance on certain aircraft, flight training,
33 charter flights, and aircraft sales. He referred to his handout and reviewed the FBO operations for
34 2013. He indicated that some restrictions for the aircraft approach were lifted, which benefited
35 the airport with increased volume. AbuHaidar stated most of the traffic was local traffic. Council
36 Member Franco asked how the City's fuel flowage fee of five cents per gallon compared to other
37 airports. Anderson and AbuHaidar thought it was a little below average. AbuHaidar reviewed the
38 rest of his handout with the Council.

39
40 AbuHaidar stated he wanted to voice his opinion with regard to the hangar lease issue. Aviation
41 did what the Airport Advisory Board asked them to do, so the backlash from some of the lessees,
42 in his opinion, was inappropriate. The recommendation from the board was in a vacuum without
43 context. Without terms included with the recommendation, the recommendation would mean
44 nothing because there was nothing to support the recommendation. He didn't think it would be in
45 the City's best interest to go to non-reversionary lease terms. Mayor McDonald asked how
46 AbuHaidar voted on the issue. He acknowledged that he voted to recommend non-reversionary
47 leases going forward, but upon reflection, he should have abstained or voted against it. But what
48 he was saying tonight was that without further information, the recommendation had no value.
49 AbuHaidar indicated that he had both non-reversionary lease and reversionary lease hangars, and

1 more important than the type of lease, would be the terms of the lease. He felt the City needed to
2 keep control of the airport for future improvements. Council Member Franco asked how the FBO
3 fee to the City compared to FBO fees to different cities. AbuHaidar guessed it was higher than
4 average. Anderson agreed with AbuHaidar, but noted if undeveloped land were considered, the
5 fee would be a little below average. Council Member Franco asked to review this issue.
6 AbuHaidar indicated there were issues that were still on the table and he was willing to look at
7 this issue.

8
9 **Review Recommendation from the Airport Advisory Board Regarding the Hangar Lease**

10 **Rates and Charges Policy:** Mel McQuarrie stated he was the newly elected chairman for the
11 Airport Advisory Board and the vice chairman was Dave Hansen. McQuarrie reported that the
12 board tried to create a policy that would protect the City. There were multiple leases at the
13 airport and multiple people had been treated differently, so the City needed to set the pace on
14 where the City would be going in the future.

15
16 McQuarrie felt Aviation didn't do as the board asked them. In McQuarrie's opinion, they took a
17 lot of information from the City Manager. He reviewed the history of the airport and its hangars,
18 and stated the board needed to find a way to equalize the leases and treat the owners the same.
19 He recommended the City have non-reversionary leases and stated the City would still have
20 control because it had the leasehold. Non-reversionary leases would also give tax dollars to the
21 City and schools, and the owners would keep up their real estate. He asked that the
22 recommended document be approved by the Council.

23
24 Dave Hansen stated he would take exception to some of the statements made today. He didn't
25 feel the recommendation was empty as was stated earlier. He saw many different airports, and he
26 knew there were no "norms" when it came to airports. The successful airports were the ones that
27 could adapt. He spoke about expanding to a C2/D2 airport and noted nothing would get bigger.
28 The growth would occur in more hangars, tenants, property taxes, etc. He spoke about the FAA
29 requirements and the expansion in more detail.

30
31 At this time, the Council moved to the regular City Council Meeting. After the regular meeting
32 was adjourned, the following was discussed:

33
34 Anderson stated his recommendation to not allow non-reversionary leases was based on the
35 recommendations that came from independent consultants, recommended practices, and from
36 visiting with other airports. Of the 67 hangars at the airport, 45 of those had reversionary leases.
37 He knew the City insurance would cover hangar liability so that was not an issue. He looked at
38 the tax revenue the hangars generated, and found there was \$6.7 million in taxable value from
39 the hangars, not including the four that were sold last year, of which the City received \$7,691 of
40 the total tax revenue collected. He also disputed McQuarrie's assessment that Anderson overly
41 influenced the consultants.

42
43 Anderson indicated the current lease agreements offered 25 years to the hangar owners, but
44 nothing beyond that. He would be more concerned if the people here tonight were looking to buy
45 hangars, but were unwilling to because of the non-reversionary terms. He knew the market
46 would support the rates and types of leases the City offered because the City just sold four
47 hangars with that lease term within the last year. Anderson concurred with AbuHaidar's
48 assessment that the area, and thus the airport, would only continue to grow. He felt the people
49 that attended tonight were really trying to improve their position with the City with the leases

1 that were already in place rather than focus on the impact it would have on future investment. He
2 didn't think the Airport Advisory Board looked at any significant detail that suggested hangar
3 ownership would be an unprofitable and unwise business to get into. Anderson stated it was the
4 most predominant practice and would develop resources that would help the airport be self-
5 sustaining. He felt it was his obligation to inform the Council on what he felt was best for the
6 City.

7
8 **Discuss Creation of a Heber City Council Blog:** Council Member Potter stated she had seen
9 blogs in the community that accused the City of untrue things. She looked on Provo's website
10 and saw they regularly wrote a little summary of the current issues within the city, and she felt
11 that would be a good idea for Heber to follow. Council Member Rowland asserted the Council
12 should decide what it wanted and then have staff implement that decision. Council Member
13 Franco indicated she ran for office on bringing the government to the people. She wanted to help
14 people have the long-term perspective. She thought the Council could write on a City blog and
15 clarify that it was their opinion so as not to give the impression that the blog post was the official
16 City position. She really wanted the Council to be proactive. Council Member Rowland thought
17 that anything appearing on the City website would be perceived as fact. He wanted to keep the
18 City website high level, akin to what was written in the minutes. Mayor McDonald suggested
19 putting a link to Council members' blogs from the City website. Council Member Rowland
20 suggested updating the City website to promote current events. Council Member Franco liked the
21 link to Council members' blogs idea. Council Member Potter liked the Provo website which
22 gave little summaries that cleared up misinformation. It was discussed that Kohler was going
23 through the application process for a domain and was signing up with Google Docs.

24
25 Council Member Rowland stated in visiting other Council chambers, Heber was very technology
26 challenged. He thought the City needed a significant increase in IT support.

27
28 **Schedule Budget Work Meeting:** It was decided to meet on Monday, March 17th, at 4:30 p.m.
29 Mayor McDonald asked Anderson to report on where the City stood with regard to the current
30 year's budget.

31
32 **Discuss City Council Meeting Cancellation March 20, 2014, Due to Party Caucuses:** The
33 Council decided to cancel the regular City Council meeting to support the caucus meetings.
34 Upon further discussion, it was determined to meet at 5:00 p.m. to address the only the critical
35 issues.

36
37 **FYI: Utah League Cities and Towns Mid-Year Convention, April 9-11, 2014, in St. George:**
38 Mayor McDonald reminded the Council of this meeting.

39
40 Council Member Patterson moved to go into Closed Session at 8:47 p.m. for the purpose of land
41 acquisition and pending litigation. Council Member Rowland seconded the motion. Voting Aye:
42 Council Members Patterson, Bradshaw, Rowland, Franco and Potter.

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44 At 9:11 p.m., the Council adjourned from Closed Session

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46 With no further business, the meeting was adjourned.

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Michelle Kellogg, City Recorder

1 **Heber City Corporation**
2 **City Council Meeting**
3 **March 6, 2014**

4
5 **7:00 p.m.**

6
7 **REGULAR MEETING**

8
9 The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on March 6, 2014,
10 in the City Council Chambers at 75 North Main Street, Heber City, Utah.

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13 **Present:**

Mayor	Alan W. McDonald
Council Members	Robert Patterson
	Jeffery Bradshaw
	Erik Rowland
	Heidi Franco
	Kelleen Potter

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20 **Also Present:**

City Manager	Mark K. Anderson
City Recorder	Michelle Kellogg
City Engineer	Bart Mumford
Planning Director	Anthony Kohler
Chief of Police	David Booth

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26 **Others Present:** Michael Blanchard, Paul Berg, Danny Goode, Beth Ann Schneider, Nick
27 Bonner, Logan Kohler, May Moody, Steve Douglas, Coleman Halls, Jamison Stagg, Brian
28 Douglas, Joshua Benson, Tyler Karl, Riley Davis, Jaxon Pettingill, Easton Gurney, Brad Andrus,
29 Tanner Pettingill, Scott Gabler, Susan Brandt, Tracy Emmanuel, Trudy Brereton, Riggs
30 Brereton, Easton Edwards, Todd Cates, Connie Christensen, Lindsay Wallace, Scot Wallace,
31 Robby Fredericks, Brian Balls, and others whose names were illegible.

32
33 Mayor McDonald opened the meeting and welcomed those in attendance.

34
35 **Pledge of Allegiance:** Council Member Heidi Franco

36 **Prayer:** Council Member Robert Patterson

37
38 **Minutes:** February 20, 2014 Work and Regular Meetings and February 27, 2014 Special
39 Meeting

40
41 Council Member Bradshaw moved to approve the above listed minutes. Council Member
42 Patterson seconded the motion. Voting Aye: Council Members Patterson, Bradshaw, Rowland,
43 Franco and Potter.

44
45 Mayor McDonald welcomed Boy Scout Troop 722 and 214, and had the boys introduce
46 themselves. They indicated they were working on their Citizenship in the Community merit
47 badge.

1 *OPEN PERIOD FOR PUBLIC COMMENT*

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3 Mayor McDonald opened the meeting to those who wished to address the Council on an issue
4 not published on the agenda.

5
6 Paul Boyer distributed a petition from 52 airport hangar owners that were in favor of non-
7 reversionary leases to the Council. He stated that from a commercial viewpoint, like that of
8 Nadim AbuHaidar, there were benefits for both reversionary and non-reversionary leases. But for
9 private hangar owners, there was a big difference. In looking at other airports with reversionary
10 leases, the leases were for 50 years. He felt the community needed to come up with a solution
11 that would benefit the City and the stakeholders.

12
13 *MAYOR RECOGNITION*

14
15 **Mayor's Award – Cathy Bingham:** Mayor McDonald stated tonight he wanted to recognize
16 one of Heber's longer term employees for the unique contributions she has made to the staff and
17 residents of Heber City. Cathy Bingham has worked for the City for almost 12 years, and during
18 that time has functioned very competently in a wide array of positions and responsibilities. From
19 Accounting Clerk to Engineering Technician, Cathy served the City in many ways well beyond
20 her regular job duties. Her attention to detail, her integrity, and attitude as a team player made
21 her a real problem solver at the City. Key contributions have included identifying and
22 reconciling challenging accounts in the City's accounting system, implementing and maintaining
23 the City's facilities mapping system, and using her unique knowledge in surveying and land
24 transactions to research and resolve property and right-of-way issues that abound in the City,
25 which saved the taxpayers thousands of dollars each year. Cathy's excellent customer service
26 skills and broad knowledge of City operations made her a pleasure to work with and an
27 invaluable asset to the City.

28
29 *APPOINTMENTS*

30
31 **Beth Schneider, Commemorative Air Force, Discuss Visiting Aircraft Event, June 9-16,**
32 **2014:** Schneider passed out a handout to the Council. She stated the goal of this event was to
33 honor veterans and remember the World War II aircraft. There would be many activities at the
34 event, including a pancake breakfast and a swing dance. She asked the Council to show its
35 support by coming to the event and she asked for a financial donation to cover the dance band,
36 port-a-potties, and waive the event fee of \$130.

37
38 Council Member Rowland moved to waive the event fees and donate up to \$350 for the port-a-
39 potty rentals. Council Member Patterson made the second.

40
41 Voting Aye: Council Members Patterson, Bradshaw, Rowland, Franco and Potter.

42
43 *ACTION ITEMS*

44
45 **Watts Enterprises, Request for Subdivision Final Approval for Ranch Landing Cottages**
46 **Plat A, an 18 Lot Subdivision, Located at 980 South 500 East, and the Associated**
47 **Subdivision Agreement:** Kohler showed the plat map of the subdivision, which was located
48 across the street from the high school. He stated the developer agreed to build a fence along the
49 north side of the property and was going to place a note on the plat that would advise the owners

1 of the adjoining farm land. Council Member Potter asked about the name of the street being Old
2 Mill Road, since there seemed to be several in the area. Kohler clarified that eventually that
3 street would connect the high school to Old Mill Elementary. Anderson read the language the
4 attorney recommended be added to the plat, and indicated if the owners were breaking City
5 codes, the City would enforce that. Connie Christensen, the farmland owner, stated she was glad
6 the notes were on the plat and she didn't want to be forgotten as future plats were recorded,
7 because she wanted to protect her farming rights. She also asked that the new fence go next to
8 her existing fence. There was discussion on snow runoff with salt draining onto her farm
9 property.

10
11 Council Member Franco moved to put an asphalt berm at the end of the stub road that fronted the
12 Christensen property. It was indicated that this stub road was not on Plat A. Council Member
13 Franco amended her motion that the asphalt berm requirement be added to the Development
14 Master Plan. Council Member Rowland seconded the motion to approve Ranch Landing
15 Cottages, Plat A with "the installation of an asphalt berm at the end of the stub road that fronted
16 the Christensen property" language being added to the Development Master Plan. Anderson
17 asked if the motion could also include being subject to the terms of the subdivision agreement.
18 Council Member Franco added that to the motion as well. Paul Berg noted the developer was
19 trying to accommodate the City and the farmland owner by including these notes on the plat.

20
21 Voting Aye: Council Members Patterson, Bradshaw, Rowland, Franco and Potter.

22
23 **Watts Enterprises, Request for Subdivision Final Approval for Ranch Landing**
24 **Condominiums, Plat D, also Referred to as the Ranch Landing Condominium Plat Located**
25 **at 1045 South 500 East:** Berg stated this was approved once before, and all the utilities were in.
26 Then the plat was removed for tax purposes. Now the developer was ready to build so this plat
27 was here for approval. Council Member Rowland moved to approve Ranch Landing
28 Condominiums, Plat D. Council Member Patterson seconded the motion.

29
30 Voting Aye: Council Members Patterson, Bradshaw, Rowland, Franco and Potter.

31
32 **Approve Ordinance 2014-03, an Ordinance Abandoning a Portion of Red Ledges Phase 1,**
33 **Amended Open Space:** Kohler stated the current open space was shown on the overhead in
34 yellow and the new open space was shown in red. The configuration of the new plat would
35 abandon the yellow shaded open space and the City would gain more net open space with the
36 new plat. Todd Cates stated when the plat was proposed, the adjoining golf course location was
37 estimated. Now that the lots were being designed, it was determined there was some overlap,
38 thus the open space abandonment was needed.

39
40 Council Member Bradshaw moved to approve Ordinance 2014-03, an ordinance abandoning a
41 portion of Red Ledges Phase 1, Amended Open Space. Council Member Patterson seconded the
42 motion.

43
44 Voting Aye: Council Members Patterson, Bradshaw, Rowland, Franco and Potter.

45
46 **Red Ledges, Request for Subdivision Final Approval for Red Ledges Phase 1Q Located in**
47 **the Red Ledges Project in the vicinity of Red Knob Way:** Council Member Rowland moved
48 to approve Red Ledges Phase 1Q. Council Member Patterson seconded the motion.

1 Voting Aye: Council Members Patterson, Bradshaw, Rowland, Franco and Potter.

2
3 Council Member Franco asked to resolve the 400 acre open space issue. Cates stated the Utah
4 Open Lands Board had been working on this for a long time and two weeks ago had sent Red
5 Ledges a draft of the paperwork. Red Ledges reviewed and sent it back so the Board could do the
6 final review. Under the Interlocal Agreement, the county was to receive the deed for the open
7 space, but the county indicated they preferred that the Red Ledges HOA hold the deed. Cates
8 indicated the County Council was going to further discuss this issue at the meeting which was
9 held yesterday.

10
11 **Approve Disposal of Surplus Equipment:** Council Member Rowland moved to approve the
12 disposal of surplus equipment. Council Member Bradshaw made the second. Council Member
13 Franco asked when the City would find out if the boom truck would pass inspection. Anderson
14 requested that the City hold onto the bucket truck until it was determined the other truck was
15 serviceable. Council Member Rowland so amended the motion.

16
17 Voting Aye: Council Members Patterson, Bradshaw, Rowland, Franco and Potter.

18
19 **Approve Swift Creek Phasing Plan Amendment and the Associated Subdivision**
20 **Agreement:** Brian Balls explained that this subdivision was being divided into three phases.
21 Mayor McDonald asked if the developer was comfortable with the three separate agreements on
22 the three phases. Balls indicated there were no concerns he was aware of.

23
24 Council Member Franco read from the Phase II agreement concerning the City reimbursing the
25 developer for constructing the trail. She asked Mumford if this was the norm for the City.
26 Mumford stated it was in the Master Plan that the City would reimburse the developer with funds
27 that would come from Trail Impact Fees.

28
29 Council Member Rowland moved to approve the Swift Creek Phasing Plan Amendment and the
30 Associated Subdivision Agreement. Council Member Patterson seconded the motion.

31
32 Voting Aye: Council Members Patterson, Bradshaw, Rowland, Franco and Potter.

33
34 Tracy Emmanuel approached the Council and asked why the surplus equipment wasn't offered
35 to employees and Heber citizens before disposing of it. Anderson stated the City disposed of
36 surplus items and did not want to be criticized for appearing to give preferential treatment to
37 employees. He also indicated that the taxpayers would appreciate getting the most return on the
38 investment from these surplus items. Employees and residents were welcome to go to the auction
39 and bid on the items if they so desired.

40
41 With no further business, the meeting was adjourned.

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Michelle Kellogg, City Recorder

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**Heber City Corporation
City Council Meeting
March 17, 2014**

4:30 p.m.

SPECIAL BUDGET MEETING

The Council of Heber City, Wasatch County, Utah, met in Special Budget Meeting on March 17, 2014, in the City Council Chambers at 75 North Main Street, Heber City, Utah.

Present:

Mayor	Alan W. McDonald
Council Members	Robert Patterson
	Jeffery Bradshaw
	Erik Rowland
	Heidi Franco
	Kelleen Potter

Also Present:

City Manager	Mark K. Anderson
City Recorder	Michelle Kellogg
Building Official	Wes Greenhalgh
Sr. Accountant	Wes Bingham
Chief of Police	David Booth

Others Present: Brian Jacobsen and Kevin Miller, GSBS Architects.

Mayor McDonald opened the meeting and welcomed those in attendance. He stated that in addition to the scheduled budget meeting, the architects had a diagram of the proposed public safety building they wished to present to the Council. Jacobsen stated the idea to place the public safety building facing 100 East was a good idea and would work. He distributed the proposed layout of the block as well as the layout of the building. With regard to the proposed basement, Jacobsen stated it would cost \$150 per square foot with an estimated area of 3,000 square feet. Now he looked for direction on arranging the rooms inside. Chief Booth indicated he was pleased with the layout and multiple entrances. It was discussed that the courtroom would have natural lighting with the higher walls because the surrounding offices would have lower ceilings. It was decided to get the bid from the construction manager and then decide if the basement for the evidence area should be included.

Anderson reviewed his packet and stated for the current budget year the revenues were higher than anticipated. Health insurance premiums were projected to increase 8.6%. He noted that he was getting an estimate for PEHP insurance. Anderson reviewed that at the end of June, 2013, there was a \$1.9 million surplus in the General Fund. Of that, \$500,000 was put into the Capital Projects Fund which would make that fund's balance \$1.3 million by the end of June, 2014. He

1 estimated \$950,000 would be used for the public safety building from that \$1.3 million. He
2 estimated a 2014 surplus of \$450,000 which would be added to the General Fund, bringing that
3 total to \$1.8 million.

4
5 Anderson stated he would like to see more money put in the Internal Service Fund for vehicle
6 replacement. With regard to developing the Airport Industrial Park, there was \$500,000 in that
7 fund, but installing infrastructure would cost approximately \$700,000. Council Member
8 Bradshaw preferred to begin this project as soon as possible since it would benefit the area.
9 Council Member Rowland stated Ryan Starks applied for a grant that would fund a study to
10 determine the best use for that land.

11
12 Anderson recommended that some of this year's surplus should be used to purchase some of the
13 equipment requests.

14
15 Wages and Bonuses: Anderson indicated that when he discussed raises with department heads,
16 they preferred to hold merit raises at 2% so more manpower could be added. It was decided to
17 give a 1.5% COLA in July and a merit increase next January. The Christmas bonuses were also
18 figured into the budget.

19
20 City Staffing: Anderson noted Chief Booth requested that the hiring of two entry level police
21 officers be staggered in September and January for field training purposes. Anderson stated the
22 Cemetery/Parks Department requested one additional seasonal employee and also wage increases
23 for Rounds and his fulltime employees. The Planning Department requested the code
24 enforcement officer hours be increased from 20-30 per week, thus making her eligible for
25 fulltime benefits. The Building Department requested a fulltime secretary and inspector.

26
27 The Public Works Department requested promotions for three supervisors and three replacement
28 workers for those promotions. It was discussed that the employees needed management training
29 to increase their skills in that area.

30
31 Council Member Rowland was in favor of hiring a fulltime IT employee instead of giving wage
32 increases to the Cemetery/Parks employees and the Public Works promotions. He figured
33 omitting those increases would free up \$100,000 for an IT position. Anderson stated the dilemma
34 was in the different funds used for wages. The \$100,000 for the IT position would not come from
35 the same fund as the proposed wage increases. He also noted that he did not know where a new
36 person would fit in the City offices. It was requested to get an estimate to extend the second floor
37 of the building over the lobby.

38
39 Greenhalgh indicated the City was growing, as evidenced by how busy his department was. The
40 City was maxed out in its surplus allowance, but was in desperate need of manpower. He stated

1 if the employee requests for the Building Department were granted, the plan reviews wouldn't
2 have to be contracted out.

3
4 Council Member Patterson stated the City was understaffed in Public Works. He also agreed
5 with Council Member Rowland's recommendation of creating an IT position. Council Member
6 Bradshaw felt one or two hires for Public Works would be a good thing.

7
8 Chief Booth explained his needs for the Police Department. He asked for one dedicated officer
9 that would be responsible for tickets, keys in vehicles, and special projects. He guaranteed the
10 City Manager \$100,000 in increased revenue for this new hire in the first year.

11
12 Council Member Rowland stated the City was growing and the budget needed to move out of
13 status quo and meet the demands of the City. Anderson thought the revenue pie needed to grow
14 if the budget was expanded, and noted that property taxes had not been raised in 24 years. He
15 thought it was unwise to fund ongoing expenses with surplus money. Anderson asked the
16 Council what amount should remain in the surplus and where the excess amount should be spent.
17 Council Member Bradshaw wanted to explore IT costs. Anderson stated he checked wages of IT
18 personnel at the County and at other cities. He felt a good person could be hired for \$25-\$30 per
19 hour.

20
21 It was decided to meet again to discuss the budget on Monday, March 31st, at 4:30 p.m.

22
23 City Council Discretionary Funds: Anderson stated he allowed for \$60,000 in this fund. The
24 Council felt comfortable with that amount.

25
26 Water Rates: It was indicated that the Council wanted to review the results from the Water Rate
27 Study, and Council Member Rowland suggested only increasing the water rates every two to
28 three years.

29
30 Capital Requests: Anderson passed out a summary sheet listing the requests. He indicated one
31 difference in the yearly costs from the summary sheet was that Chief Booth requested the
32 dispatch expense be put under Professional Services Expenses.

33
34 With no further business, the meeting was adjourned.

35
36

Michelle Kellogg, City Recorder

APPOINTMENTS

TAB 1

ACTION ITEMS

TAB 2

TAB 3

Re: Red Ledges Phase 2G

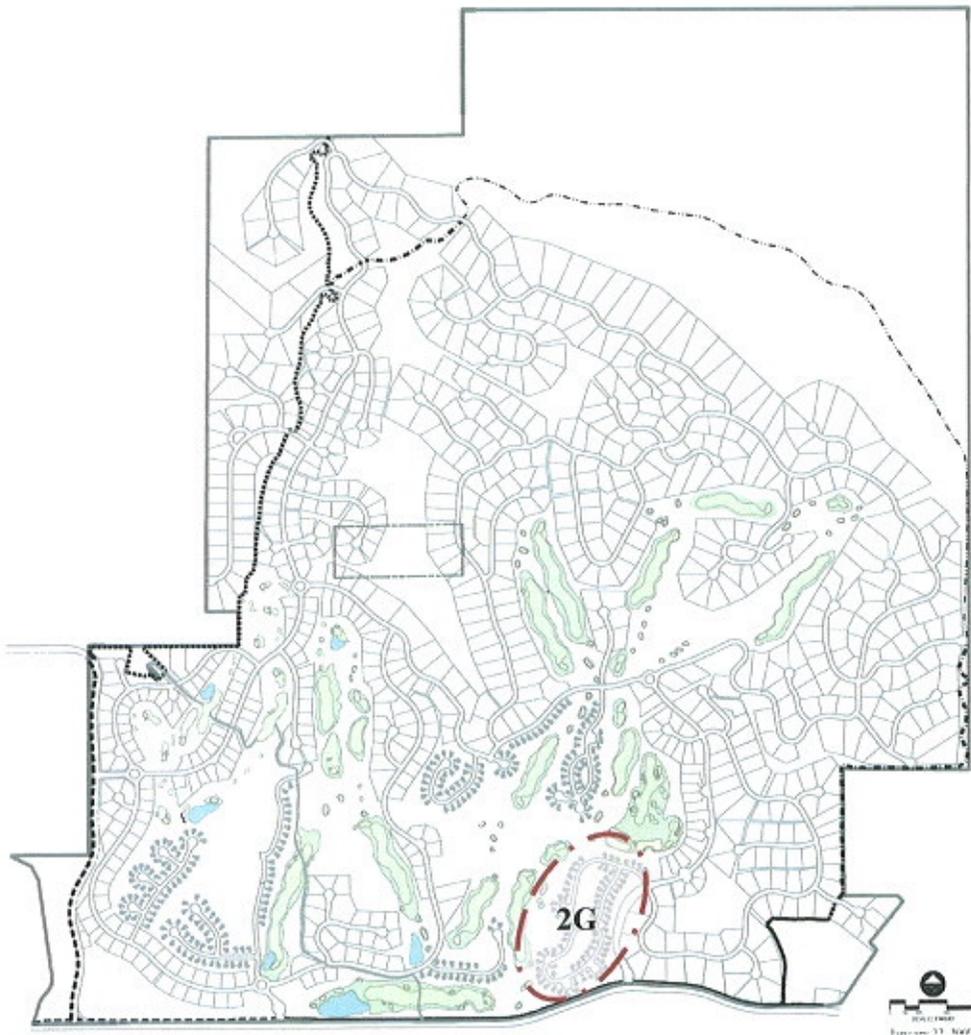
Red Ledges is proposing Phase 2G, consisting of 10 patio lots, with maintained common space surrounding the building pads and maintained limited common area in front of the building pads.

RECOMMENDATION

On March 13, 2014, the Planning Commission found the proposed Red Ledges Phase 2G consistent with the Red Ledges Master Plan, the PC Planned Community Zone, Interlocal Agreement, and Master Plan Agreement, conditional upon the following:

1. A secondary road access will be needed from the end of Club Cabins Court to Lake Creek Road, as the street will exceed the maximum 1320 feet permitted for cul-de-sacs, pursuant the interlocal agreement;
2. Provide an updated title report prior to recording the plat;
3. Provide addresses for the lots on the plat;
4. Provide a tax clearance from county assessor prior to recording the plat;
5. Establish a deadline on August 1, 2014, to finalize the agreement with Wasatch County regarding the Open Space requirement from the Interlocal Agreement that requires the open space to be managed by a 3rd party such as Utah Open Lands.
6. Establish a deadline on August 1, 2014 to come up with a plan to improve the steep eastern trail so that it is more usable and less prone to erosion.

Vicinity Map



SUBDIVISION AGREEMENT
AND
COVENANT RUNNING WITH THE LAND
(Red Ledges Phase 2G)

THIS AGREEMENT is entered into this _____ day of _____, 2014, by and between Heber City (the "City") and Red Ledges Land Development, Inc. (the "Developer").

WHEREAS, the Developer has proposed a plat for a 10 lot subdivision, Red Ledges Phase 2G ("Phase 2G"), in the Planned Community Zone (PC Zone) in Heber City,

WHEREAS, the Developer and City have entered into prior agreements, including the Interlocal Agreement with Wasatch County and Twin Creeks, which requires, among other matters, dedication of open space and construction of Public Trails that meet Wasatch County Standards, and these requirements have not yet been completed.

NOW, THEREFORE, the Parties hereby agree as follows:

1. No later than August 1, 2014, developer shall finalize the required open space dedication with Wasatch County required by the Interlocal agreement.

2. No later than August 1, 2014, developer shall come up with a plan and implementation schedule to improve the steep eastern trail so that it is more usable and less prone to erosion.

3. A secondary road access will be installed from the end of Club Cabins Court to Lake Creek Road and maintained to allow year round access, as the subdivision street will exceed the maximum 1320 feet permitted for cul-de-sacs, pursuant to the interlocal agreement.

4. This Agreement contains the entire agreement between the Parties, and no statement, promise or inducement made by either party hereto, or agent of either party hereto which is not contained in this written Agreement shall be valid or binding. This Agreement may not be enlarged, modified or altered except in writing approved by the Parties.

5. This Agreement shall be a covenant running with the land, and shall be binding upon the Parties and their assigns and successors in interest. This Agreement shall be recorded with the Wasatch County Recorder.

6. In the event there is a failure to perform under this Agreement and it becomes reasonably necessary for either party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside counsel), either with or without litigation, on appeal or otherwise, the prevailing party in the

controversy shall be entitled to recover its reasonable attorney's fees incurred by such party and, in addition, such reasonable costs and expenses as are incurred in enforcing this Agreement.

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands the day and year this agreement was first above written.

DATED this _____ day of _____, 2014.

HEBER CITY:

By: _____
Alan W. McDonald, Mayor

ATTEST:

Heber City Recorder

RED LEDGES LAND DEVELOPMENT, INC., Developer:

By: _____
Todd R. Cates, VP of Red Ledges Land Development, Inc.

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2014, personally appeared before me the above named authorized representative of Developer, who duly acknowledged to me that Developer is the owner in fee of the land in Red Ledges Phase 1P and executed the same as such.

NOTARY PUBLIC

TAB 4

SPECIAL SERVICE OPERATOR AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 20___, by and between HEBER CITY MUNICIPAL CORPORATION, hereinafter called "Heber City" and Worldwide Warbirds, Inc., hereinafter called "Operator."

WITNESSETH:

(1) In consideration of the covenants and agreements hereinafter set forth, Heber City hereby grants to the Operator, for the term of five years from the date of this Agreement, the right to sale aircraft at the Heber Valley Airport situated in Wasatch County, State of Utah.

(2) Operator agrees to comply with all the laws of the F.A.A. and the State of Utah which pertain to and govern service providers, business owners, the flying of aircraft and the operation, conduct and maintenance of airports and agrees to comply with all the provisions of the ordinances of Wasatch County, Utah, and Heber City, Utah, which are now in effect and which may become effective during the period of this lease which pertain to the flying and operation of aircraft and the conduct, maintenance and operation of airports, and any service providers or businesses located thereon.

(3) The privilege granted to said Operator is for the purpose of aircraft sales as a Special Services Operator as per "Minimum Standards and Requirements for the Conduct of Commercial Aeronautical Services and Activities at Heber City Municipal Airport, Wasatch County, Utah, Effective April 3, 2014 and as amended or changed by mutual consent between Heber City and the Operator or as amended when deemed reasonable and necessary by the City Council for safety reasons or in order to comply with State and Federal rules and regulations or in order to assure reasonable and competent service at said airport, and to do all things necessary to carry out said

purposes.

(4) The Operator agrees to pay in advance as an Operator fee for the said operation privilege a sum per year consistent with the fee schedule attached hereto as "Schedule A," which fee schedule may be amended from time to time by the Heber City Council. The Operator shall be subject to all other fees that the City may impose on operators at the airport as to a unit or volume of service and shall be responsible for the collections and/or payment of such flow fees and/or other taxes and fees as may be appropriately assessed. The City reserves the right to terminate this agreement by giving a 60 day notice in the event the Operator's operation interferes with the development of the airport as per the Master Plan. However, in such event the City agrees to negotiate in good faith a new agreement compatible with the Master Plan. The annual rent is payable in advance.

(5) The Operator agrees to maintain the premises so occupied and/or used by the Operator in a manner so that the Operator's acts, conduct and services do not detract from the general appearance of the airport. Operator shall provide and maintain and keep clean and sanitary any required restrooms. The required restrooms (if any) shall be available to that portion of the public that has a legitimate reason for being on the airport property to the extent that the public is there in connection with Operator's operation. Operator shall further make a complete inspection at least once a week of all his/its facilities and service area at the airport and report immediately and abate any hazardous or dangerous conditions. Operator agrees to maintain his/its facilities and equipment in good and serviceable condition so as to serve the interest of the public and the City.

(6) Operator agrees that his/its facilities shall not be used as living quarters.

(7) Operator agrees to furnish said services on a fair, equal and not unjustly discriminatory basis to all users thereof.

(8) Operator is to charge fair, reasonable and not unjustly discriminatory prices for each unit

of service, provided, however, that the Operator may make reasonable and non-discriminatory discounts, rebates, or other similar type of price reductions to volume purchasers or users.

(9) The Operator, in the operation and use of the Heber Airport, will not, on the grounds of race, color, or national origin, discriminate or permit discrimination against any person or group of persons in any manner prohibited by the Federal Aviation Regulations.

(10) It is specifically understood and agreed that nothing herein contained shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act.

(11) This agreement is personal with the said Operator and cannot be assigned by him/it to any other person or entity except upon the written consent of Heber City.

(12) Operator may not place buildings or other improvements upon the airport facilities without requesting and receiving permission from the City.

(13) The Operator specifically agrees sixty (60) days before the end of each year to make an appointment and meet with the City Council of Heber City to review his/its airport operations. The parties mutually agree that said review shall be for the purpose of acquainting all members of the City Council with the terms of said Lease and the administration there under and for the formulation of rules, regulations and policies to be implemented for the future operations.

(14) The Operator agrees to hold Heber City harmless from any damages or liability arising out of the Operator's, his/its agents' and employees' occupation, maintenance, management, or commercial activities at said airport. In this regard, the Operator agrees that it is his/its duty to inspect and maintain against all hazardous conditions that may exist or develop at his/its facilities. The Operator agrees to provide liability insurance, which insurance shall be in the minimum amount set as per current insurance limits for defined Aeronautical Activities at municipal airports for

Special Service Operators.

(15) The Operator shall at the request of Heber City supply to the Heber City Recorder an annual report which shall include gross income from all sources, together with a statement of expenses. This report shall be in the form of a complete operating statement and shall be submitted within thirty (30) days after the end of each calendar year.

(16) Operator may apply for a renewal of this operation privilege; however, Heber City may elect not to renew for cause in the event the Operator has not performed under the standards of this agreement.

(17) In case the Operator shall fail to pay the rent as herein provided or in case he/it shall default in or fail to keep any of the other covenants to be performed by him/it, and shall fail to remedy said default within a period of thirty (30) days after notice of said default, he/it shall forfeit all rights that he/it may have under and by virtue of this agreement and agrees to vacate the airport and cease and desist his/its operation on said premises within thirty (30) days of written notice, during which time Operator has the right to a City Council hearing.

CLERK AND RECORDER

HEBER CITY MUNICIPAL CORPORATION

Attested:

Michelle Kellogg, City Recorder

By: _____
Alan W. McDonald, Mayor

By: _____
Barry Hancock – Worldwide Warbirds, Inc., President

“SCHEDULE A”

SPECIAL SERVICE OPERATOR FEE SCHEDULE

Gross Sales	Fee
1 - 25,000	220.00
25,000 - 50,000	495.00
50,000 - 100,000	825.00
100,000 - 150,000	1,100.00
150,000 - 250,000	1,320.00
250,000 - 400,000	1,787.50
400,000 +	2,200.00

The annual fee is payable in advance based upon estimated gross sales which shall be the minimum fee for that year. If the annual report required by paragraph (16) shows the gross receipts to have exceeded the estimated gross sales, then the deficiency plus twenty percent shall be paid and the paragraph (16) gross receipts shall be the figure used to set the minimum fee for the following year.



Google earth



TAB 5

Heber City Airport/Russ McDonald Field

Lease/Rates and Charges Policy

Final Report

March 6, 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. Initial Lease Term

3.5.1.1. 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. Lease Type

3.5.2.1. Leases to be offered for new hangar construction are to be non-reversionary.

3.5.3. City Obligations

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

3.5.4. Lease Extension

3.5.4.1. 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.

- 3.5.4.2. 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.

3.5.5. Investment Term Adjustment

- 3.5.5.1. 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.
- 3.5.5.1.1. The Investment Term Adjustment is available only to Airport Tenants who have reversionary leases.
- 3.5.5.1.2. The term adjustment is to provide tenants adequate time to depreciate investments in existing hangars and buildings on the Airport.
- 3.5.5.1.3. The lease terms are proportionately longer for greater investments. The lease term adjustment shall not exceed the useful life of the facility.
- 3.5.5.1.3.1. No lease shall exceed 40 years at any given time.
- 3.5.5.2. Extensions may be offered for capital improvements which increase the value of the hangar.
- 3.5.5.2.1. 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.
- 3.5.5.2.2. Only improvements completed in a one year span can be added together for a lease term adjustment.

3.5.5.3. 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

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

3.5.5.5. Process

- 3.5.5.5.1. 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.

- 3.5.5.5.2. Only after conceptual approval by the Airport Manager and Airport Advisory Board, the improvements can proceed as outlined in the request.
- 3.5.5.5.3. 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.
- 3.5.5.5.4. 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

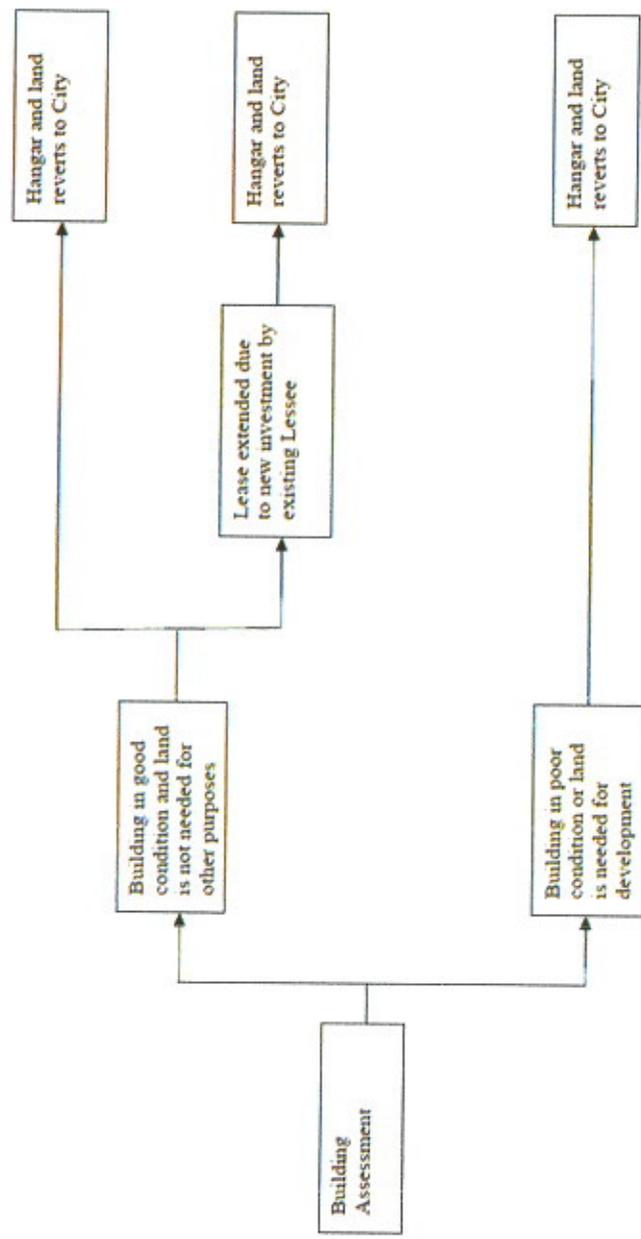
- 4.8.1.** There shall be no granting of the exclusive right to provide or engage in any aeronautical activity at the Airport; and no lease, sublease, operating permit or other agreement that is or shall be in effect at the Airport that creates such a right.



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

The Economics of Reversionary vs. Non-reversionary Ground Leases

****Enclosed Niederhauser & Davis CPA's Economic Analysis compares ground leases****

The 36U Hangar Owners Group -- March 26, 2014

I. Background Information

1. There are large differences in FAA language between “required,” “recommended,” “encouraged,” and “inferred.”
2. The FAA has no policy or requirements for ground lease types. Airports can do whichever lease type they want.
3. Airport profits must be spent at the airport. The FAA prohibits Federal Grant airports from comingling airport profits with other City revenues or purposes.
4. No one at Heber City has ever made a coherent business argument why Reversionary ground leases are wise, necessary, or in the City's and airport stakeholder's best interest.
 - City real estate ownership and rental management is not the same as operating the City's water and electric utilities that are monopolies with 100% demand from all occupied households within their service area.
 - The City does not have a formal Business Plan for a property ownership and rental management business or an economic analysis of the risks versus rewards of renting hangars 30-years from now at a point when they are already 30 years old.
 - There is a long list of variables and unknowns that cannot be accurately determined or projected 30-years ahead of time as shown in the Economic Analysis (Doc1 pg 2).
5. The Airport Board has twice voted unanimously to recommend Non-reversionary ground leases: Jun 20, 2012 minutes (DocX pg 2-3) and Feb 12, 2014 minutes (DocX pg 4-5).
6. Heber City Councilor Erik Rowland and his company TimeMD.com authored the enclosed ***Russ McDonald Airfield Hangar Marketing Proposal*** (Doc2 pg1):
 - “Hangars ... will appreciate in value.”
 - “A hanger can prove to be a solid investment.”
 - “Hangars are appreciating over 15% per year on average.”
 - Reversionary hangars do not have these attributes because end-of-lease value is zero.

II. Economics of Proposed 30-Year Non-reversionary Ground Leases for Future Hangars

1. Funding Airport Development.

- a. FAA Funding. FAA prohibits use of Federal Grants to build hangars.
- b. Private Funding. Reversionary leases limit what a willing investor is willing to invest:
 - (1) Non-reversionary Ground Leases. The proposed 30-year Non-reversionary Ground Lease provides incentive to private investors to fund hangar development in return for an equity stakeholder position in the airport.
 - (2) Reversionary Ground Leases. Rational people do not invest their private funds into an unfriendly environment where it cannot later be extracted. The best examples of this are the reversionary Daniel Hangars #23-30. The City's wait list exceeded 140 potential buyers until they made the reversionary lease announcement. Only 2 of the 140 bought hangars, and the City had to heavily discount the remaining six to finally get those sold years later.
- c. Taxpayer Funding. The City's development of the reversionary Daniel Hangars #23-30 is an example of why government needs to abide by the same standard of good business practices that govern private and public companies. It starts with a sound business plan and involves accurate data and projections based upon realistic expectations, an examination of worst case scenarios, and acknowledgement of the variables and unknowns that could negatively impact the plan.

2. Airport Businesses and Employment.

- a. The airport business environment is underutilized and under-marketed, with the FBO being the sole airport business of any significant size and employment.
- b. Reversionary ground leases are hurtful to employers wanting to relocate or startup at the airport and harmful to the employment they would bring to Heber.
- c. The proposed 30-year Non-reversionary ground leases, with an equity stake in the airport, will encourage business investment and employment and provide the City the means to market this potential.

3. Tax Base. "A bird in the hand is worth two in the bush."

- a. Using today's total \$7.4M assessed hangar values and the current 0.012311 tax rate, and assuming all hangars are new with a 30-year ground lease term, the Niederhauser Davis CPA Economic Tax Analysis shows Non-reversionary hangars result in more property taxes than reversionary leases depending on the following appreciations

(1) 0% annual appreciation: \$1.4M more in 30 years / \$2.7M in 40 years.

- (2) 5% annual appreciation: \$3.5M more in 30 years / \$7.5M more in 40 years.
- (3) 10% annual appreciation: \$5.6M more in 30 years / \$12.2M more in 40 years.
- (4) 15% annual appreciation: \$7.8M more in 30 years / \$17.0M more in 40 years.
(Mr. Rowland and TimeMD.com's stated current appreciation)

b. These figures only include lost property taxes. They do not include the following lost revenues and additional City expenses that make Non-reversionary ground leases even more attractive:

- Lost ground leasing fees after 30 years with City ownership exempted.
- Costs of repairs, updates, and periodic maintenance.
- Costs of insurance and risks of legal liabilities.
- Costs of property management administration staff.
- Costs of hangar removal at end of useful life.

c. Why would anyone be anxious to destroy a tax base with Reversionary ground leases instead of building a growing tax base with Non-reversionary ground leases?

4. Schools and Other Property Tax Stakeholders. "Robbing Peter to Pay Paul."

- a. When ownership of Reversionary lease hangars reverts to the City at 30 years, the City is exempt from paying property taxes.
- b. Mr. Anderson's is correct that the City would only lose 10% of those taxes after it receives a tax exemption when it takes ownership of the reversionary ground leases.
- c. The School Districts, however collect 62% of the property taxes. In the four scenarios in the Niederhauser Davis CPA report, the Schools would lose:
 - (1) Over the first 30 years of Reversionary leases, \$0.8M, \$2.1M, \$3.4M, and \$4.8M respectively.
 - (2) Over the first 40 years of Reversionary ground leases, \$1.6M, \$4.6M, \$7.5M, and \$10.5M respectively.
- d. The County would likewise suffer a proportional loss of property taxes.
- e. The essence of a Reversionary ground lease scheme is it shifts money from the majority property tax stakeholders to the City. It takes money from your children's and grandchildren's schools.
- f. In reality, those lost tax revenues will have to be made up by increasing School District and County taxes. In other words, a Reversionary ground lease scheme will result in a back-door tax increase on all the Citizens in both Heber City and Wasatch County.

INDEX AND SUMMARY OF SUPPORTING DOCUMENTS

DOC1: *Economic Analysis of Reversionary Lease Types* (Niederhauser & Davis CPAs)

Over 30 years and 40 years: Non-reversionary hangars result in more property taxes than reversionary leases depending on the following annual appreciations:

- 0% annual appreciation: \$1.4M more in 30 years / \$2.7M in 40 years
- 5% annual appreciation: \$3.5M more in 30 years / \$7.5M in 40 years
- 10% annual appreciation: \$5.6M more in 30 years / \$12.2M in 40 years
- 15% annual appreciation: \$7.8M more in 30 years / \$17.0M over 40 years

DOC2: *Russ McDonald Airfield Hangar Marketing Proposal* (Rowland - TimeMD.com)

- "Hangars ... will appreciate in value."
- "A hanger can prove to be a solid investment."
- "Hangars are appreciating over 15% per year on average."
- Reversionary hangars do not have these attributes / end-of-lease value is zero.

DOC3: **Online Petition from 52 Members** (36U Hangar Owners Group)

- Support 30-year Non-reversionary ground leases for future hangars

DOC4: **Grand Junction Airport Users & Tenants Association emails & letters** (GJAUTA)

- No existing tenants have accepted the Feb 12, 2013 lease the airport offered them.
- GJAUTA & Airport Board are renegotiating lease to change to Non-reversionary.

DOC5: **Jan 16, 2014 email from St. George Airport Operations Supervisor Brad Kitchen**

- Explains why KSGA Airport converted reversionary leases to Non-reversionary.

DOC6: **Jan 10, 2014 email from Billings Logan Airport Business Manager Marita Herold**

- Explains why KBIL Airport converted reversionary leases to Non-reversionary.

DOC7: **Germany Company Fraunhofer Circular Hangar Design.**

- Demand for latest technology advances that old and aging hangars do not have.
- As one example, a Circular Hangar design: (a) Uses less ground space, (b) Stores more airplanes in less space without having to move other airplanes, (c) Cheaper to build, and (d) cheaper to heat due to lower ceiling height.
- As another example, most of the existing 36U hangars have Schweiss bifold doors with the old thin steel cables that deteriorate and can fail without any indication, whereas newer Schweiss doors have lift straps that are not subject to corrosion. However, Schweiss now also offers *Red Power Hydraulic* doors.

DOC8: Rebuttal to City Manager Mark Anderson's claim about weekly inquiries about availability of hangars for sale.

- Three 36U hangars are currently for re-sale but have not sold.
 - (1) Two are in Daniel Non-reversionary hangars. One has been on the market for nearly two years, and the other for about four months. Potential buyers cite the uncertainty in the end-of-lease provisions as reason for not buying.
 - (2) The third is on Hangar Row and owned by the City and has been for sale for several years. The City obtained the hangar when it took it and another on Hangar Row as trade-ins for a Daniel reversionary hangar, and credited the sell/buyer about \$90,000 for each Hangar Row trade-in. The City sold the first of these for \$38,000 at a loss of about \$52,000. They have been unable to sell the second one.
- Prior to selling the "new" Daniel reversionary hangars #23-30, Mr. Anderson maintained a waiting list to purchase the hangars. The wait list had about 140 potential buyers. When the City divulged their reversionary, however, only 2 of the 140 people bought hangars. The City had to heavily discount the remaining six to finally get those sold years later.
- Mr. Anderson's assertion that he gets weekly inquiries about availability of hangars for sale is meaningless. Based on the above history, Mr. Anderson and the City have no idea what the demand is until people are asked to sign a contract.

DOC9: Jun 20, 2012 and Feb 12, 2014 AAB minutes

- The Airport Advisory Board has twice voted unanimously to recommend 30-year Non-reversionary leases to the City Council.

DOC10: Airport Business Solutions' Heber Airport Lease Analysis Recommendation

- Daniel Non-reversionary hangars 1-22 "upon expiration ... should be based upon new new lease terms of 20 years" [45 year total lease]. "The additional 20 years, coupled with the ... current leases should provide hangar owner with sufficient time to amortize their investment."

DOC11: Excerpts: *ACPD Report 47: Guidebook for Developing and Leasing Airport Property.*

- City Manager Anderson cites this Guidebook as reason to use reversionary leases.
- The reference provides guidelines only, not FAA requirements. Airports can write whatever kinds of leases they want.
- The Guidebook, as highlighted in these excerpts, provides both the pros and cons of both the Reversionary and Non-reversionary leases. Mr. Anderson cherry-picks only the sections that agree with his position.
- The Guidebook also contains many sidebars as highlighted here that provide innovative approaches to hybrid ground leases.

DOCUMENT #1

Economic Analysis of Reversionary Lease Types

(Niederhauser & Davis CPAs)

Over 30 years and 40 years: Non-reversionary hangars result in more property taxes than reversionary leases depending on the following annual appreciations:

- 0% annual appreciation: \$1.4M more in 30 years / \$2.7M in 40 years
- 5% annual appreciation: \$3.5M more in 30 years / \$7.5M in 40 years
- 10% annual appreciation: \$5.6M more in 30 years / \$12.2M in 40 years
- 15% annual appreciation: \$7.8M more in 30 years / \$17.0M over 40 years



1741 Sidewinder Drive, Suite 200
P.O. Box 680460
Park City, Utah 84068

435.655.3300
435.649.4067 fax
www.parkcitycpa.com

NIEDERHAUSER & DAVIS, LLC
CERTIFIED PUBLIC ACCOUNTANTS

March 25, 2014

Paul Boyer
36U Hangar Owners Group
PO Box 682378
Park City, Utah 84068

Dear Paul:

The purpose of this letter is to describe our involvement in the preparation of the attached Economic Analysis: Reversionary vs. Non-reversionary Ground Leases for the 36U Hangar Owners Group.

We prepared the attached schedule based on assumptions and information provided by you. This information was not audited, reviewed or verified by us, and we make no representation or provide any assurance regarding the accuracy and completeness of this information or the reasonableness of the assumptions used. This information is not intended to constitute a financial forecast or projection of future financial position, results of operations or cash flows and should not be construed to be a representation of expected future results.

A copy of the facts, assumptions and variables provided by you, that we used as the basis for our calculations, is also included as an attachment.

Sincerely,

Jay C. Niederhauser, CPA

Enclosures

Economic Analysis: Reversionary vs. Non-reversionary Ground Leases

I. Known Facts:

1. 2013 total assessed value of all 67 current hangars is \$7,435,706.00
2. 2013 tax rate is 0.012311
3. The total taxes on \$7,435,706 x 0.012311 is \$91,540.98
4. Reversionary ground leases:
 - a. Assessed values will decrease from current values to zero (\$0.00) at end of lease.
 - b. Property taxes decrease proportionately with decreasing assessed values.
 - c. At reversion, City is exempt from property taxes and ground lease payments.
 - d. At reversion, City assumes legal liability for hangars.
 - e. Less incentive for owners to maintain hangars.
 - f. Costs revert to City: Maintenance, property management, insurance, hangar removal, etc.
 - g. Legal issue: Owners pay 100% of taxes as partial ownership % decreases each year.
5. Non-reversionary ground leases:
 - a. Market forces determine assessed values.
 - b. Property taxes increase proportionately with increasing assessed values.
 - c. Without reversion, property taxes and ground lease payments continue.
 - d. Legal liability remains with the private owners.
 - e. Greater incentive for owners to maintain hangars.
 - f. All costs remain the hangar owners' responsibility without property tax legal issue.

II. Variables/Unknowns at End-of-Lease: Prevent accurate long-term rental income/expense projections.

1. Condition of hangars.
2. City's maintenance costs to repair, update, and maintain hangars.
3. Projected market ground lease rates, property tax rates, monthly rental rates.
4. Unknown demand for older hangars:
 - a. Advancements in hangar design, technology, and operation.
 - b. Effect of aviation demographics in decreasing number of younger pilots.
 - c. Advancements at local comparable airports that compete with Heber and resort areas that compete with Park City.

III. Assumptions Used for 30-year Ground Lease Comparison:

1. All current hangars are new with a total \$7,435,706.00 in starting assessed values with a useful life of 45-years for the purpose of the Analysis.
2. Annual ground lease fees are unknown and not included in the analysis.
3. For reversionary ground leases: Use a simple straight-line depreciation with a 3-1/3% reduction in the assessed values annually from the start-of-lease values to arrive at a zero (\$0.00) assessed value at end of the 30-year lease.

IV. Scope of Work Requested:

1. Provide four Excel scenarios for Non-reversionary ground lease side-by-side comparison with the Reversionary ground lease analysis specified in Item III.3.
2. The only variable in the four scenarios is the annual appreciation of assessed values:
 - a. Scenario #1: Use TimeMD.com projection of 15% average annual appreciation.
 - b. Scenario #2: Use a simple 10% non-compounded average annual appreciation.
 - c. Scenario #3: Use a simple 5% non-compounded average annual appreciation.
 - d. Scenario #4: Use 0% appreciation.
3. Show side-by-side property tax revenues for each year for both types of leases.
4. Show the total property tax revenues for the 30-year period for both types of leases.
5. Show the difference in the 30-years totals.
6. After ownership reverts to the City at 30-years, project the amount of annual rent the City would have to collect each year to break even in the remaining 15 years of the hangars' useful life.

****EXAMPLE:** If my calculations are correct using TimeMD.com's projection of a simple non-compounded average 15% annual appreciation, the total assessed values for Non-reversionary ground leases in just the 30th year would be \$40,896,383 with property taxes of \$503,475.37

Economic Analysis: Reversionary vs. Non-reversionary Ground Leases

Russ McDonald Airfield Hangars
 Prepared for: 3602 Hangar Owners Group
 Date: March 25, 2014

Assumptions:
 2013 Assessed Value of 67 hangars \$ 7,435,706
 2013 Property Tax Rate: 0.012311
 Lease term (in years): 30
 Reversionary Depreciation % (straight-line): 3.33
 Reversionary Depreciation amount (per year) \$ 247,857

Year	Appreciation %	Scenario #1 15%				Scenario #2 10%				Scenario #3 5%				Scenario #4 0%			
		Value	Tax amount	Value	Tax amount	Value	Tax amount	Value	Tax amount	Value	Tax amount	Value	Tax amount	Value	Tax amount		
1	2014	8,551,062	105,272	8,179,277	100,695	7,807,491	96,118	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
2	2015	9,666,418	119,003	9,322,847	109,849	8,179,277	100,695	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
3	2016	10,781,774	132,734	9,666,418	119,003	8,551,062	105,272	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
4	2017	11,897,130	146,466	10,009,988	128,157	8,922,847	109,849	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
5	2018	13,012,486	160,197	10,409,988	137,311	9,296,633	114,426	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
6	2019	14,127,841	173,928	10,809,988	146,466	9,666,418	119,003	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
7	2020	15,243,197	187,659	11,209,988	155,620	10,038,203	123,580	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
8	2021	16,358,553	201,390	11,609,988	164,774	10,409,988	128,157	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
9	2022	17,473,909	215,121	12,009,988	173,928	10,809,988	132,734	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
10	2023	18,589,265	228,852	12,409,988	183,082	11,209,988	137,311	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
11	2024	19,704,621	242,584	12,809,988	192,236	11,609,988	141,889	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
12	2025	20,819,977	256,315	13,209,988	201,390	11,997,130	146,466	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
13	2026	21,935,333	270,046	13,609,988	210,544	12,368,915	151,043	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
14	2027	23,050,689	283,777	14,009,988	219,698	12,728,700	155,620	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
15	2028	24,166,045	297,508	14,409,988	228,852	13,082,486	160,197	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
16	2029	25,281,400	311,239	14,809,988	238,007	13,438,271	164,774	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
17	2030	26,396,756	324,970	15,209,988	247,161	13,796,056	169,351	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
18	2031	27,512,112	338,702	15,609,988	256,315	14,157,841	173,928	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
19	2032	28,627,468	352,433	16,009,988	265,469	14,519,627	178,505	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
20	2033	29,742,824	366,164	16,409,988	274,623	14,881,412	183,082	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
21	2034	30,858,180	379,895	16,809,988	283,777	15,243,197	187,659	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
22	2035	31,973,536	393,626	17,209,988	292,931	15,604,983	192,236	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
23	2036	33,088,892	407,357	17,609,988	302,085	15,966,768	196,813	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
24	2037	34,204,248	421,088	18,009,988	311,239	16,328,553	201,390	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
25	2038	35,319,604	434,820	18,409,988	320,393	16,690,339	205,967	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
26	2039	36,434,959	448,551	18,809,988	329,548	17,052,124	210,544	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
27	2040	37,550,315	462,282	19,209,988	338,702	17,413,909	215,121	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
28	2041	38,665,671	476,013	19,609,988	347,856	17,775,694	219,698	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
29	2042	39,781,027	489,744	20,009,988	357,010	18,137,480	224,275	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
30	2043	40,896,383	503,475	20,409,988	366,164	18,500,265	228,852	7,435,706	91,541	7,063,915	81,967	6,692,135	71,376	6,244,279			
Total taxes - 30 years			\$ 9,131,212		\$ 7,002,855		\$ 4,874,557		\$ 2,746,229		\$ 1,418,855		\$ 3,051				
Difference in taxes compared to reversionary - 30 years			\$ (7,802,868)		\$ (5,675,541)		\$ (3,547,213)		\$ (1,418,855)		\$ (1,418,855)		\$ (1,418,855)				

Reversionary

Non-reversionary

Year	Appreciation % Appreciation \$/year	Scenario #1 15%		Scenario #2 10%		Scenario #3 5%		Scenario #4 0%	
		Value	Tax amount	Value	Tax amount	Value	Tax amount	Value	Tax amount
31	2044	\$ 42,011,739	\$ 517,207	\$ 30,486,395	\$ 375,318	\$ 18,961,050	\$ 233,429	\$ 7,435,706	\$ 91,541
32	2045	43,127,095	530,938	31,229,965	384,472	19,332,856	238,007	7,435,706	91,541
33	2046	44,242,451	544,669	31,973,536	393,626	19,704,621	242,584	7,435,706	91,541
34	2047	45,357,807	558,400	32,717,106	402,780	20,076,406	247,161	7,435,706	91,541
35	2048	46,473,163	572,131	33,460,677	411,934	20,448,192	251,738	7,435,706	91,541
36	2049	47,588,518	585,862	34,204,248	421,088	20,819,977	256,315	7,435,706	91,541
37	2050	48,703,874	599,593	34,947,818	430,243	21,191,762	260,892	7,435,706	91,541
38	2051	49,819,230	613,325	35,691,389	439,397	21,563,547	265,469	7,435,706	91,541
39	2052	50,934,586	627,056	36,434,959	448,551	21,935,333	270,046	7,435,706	91,541
40	2053	52,049,942	640,787	37,178,530	457,705	22,307,118	274,623	7,435,706	91,541
41	2054	53,165,298	654,518	37,922,101	466,859	22,678,903	279,200	7,435,706	91,541
42	2055	54,280,654	668,249	38,665,671	476,013	23,050,689	283,777	7,435,706	91,541
43	2056	55,396,010	681,980	39,409,242	485,167	23,422,474	288,354	7,435,706	91,541
44	2057	56,511,366	695,711	40,152,812	494,321	23,794,259	292,931	7,435,706	91,541
45	2058	57,626,721	709,443	40,896,383	503,475	24,166,045	297,508	7,435,706	91,541
Total taxes - additional 15 years to end of useful life			\$ 9,199,868		\$ 6,590,950		\$ 3,982,032		\$ 1,373,113
Total Taxes - 45 years			\$ 18,331,081		\$ 13,593,835		\$ 8,856,589		\$ 4,119,344
Total difference in taxes compared to reversionary			\$ (17,003,736)		\$ (12,266,091)		\$ (7,529,245)		\$ (2,792,000)
Rent required per year to break even - reversionary lease - years 31-45			\$ 1,133,582.43		\$ 817,766.06		\$ 501,949.69		\$ 186,133.32



DOCUMENT #2

Russ McDonald Airfield Hangar Marketing Proposal (Erik Rowland and TimeMD.com)

- "Hangars ... will appreciate in value."
- "A hanger can prove to be a solid investment."
- "Hangers are appreciating over 15% per year on average."
- Reversionary hangars do not have these attributes / end-of-lease value is zero.

Russ McDonald Airfield

Hangar Marketing Proposal

Executive Summary

It is critical that the newly constructed hangars located at Heber City Airport be sold as quickly and efficiently as possible. However since their completion, a consistent and focused marketing effort has not been implemented. As a result sales have slowed and public perception of the hangars has become that of a liability rather than that of an investment into the city's growth.



To further add to this challenge, there is very little budget if any that can be used for a marketing campaign. As a result, this proposal will attempt to outline various methods that will 1) define a marketing campaign that will require little to no capital and 2) demonstrate methods that can educate the public and government entities as to the economic impact of our airport on the local community.

This proposal will outline a three pronged strategy in establishing the objectives defined above.

- First and most importantly, **define a goal** that specifies a time frame to sell the hangars. As part of the goal, their needs to be clearly defined methods that can measure milestones critical to its fulfillment.
- Second, **educate the public** as to the airports economic role in the local community. This is a vital step in overcoming negative press and fostering increased support from local government officials. As support increases so does the likelihood of selling the hangars.
- Third, **create a marketing campaign** that utilizes technologies and techniques that are readily and freely available that will make the aviation community and general public aware of the hangars availability and value.

Overview

Despite the fact local support of the new hangars as well as the airport in general may be on a downward trend, research indicates that hangars located in publicly owned airports which are supported by local government will appreciate in value. Besides adding value to both the aircraft and the airport, a hanger can prove to be a solid investment. Anecdotal evidence suggests that hangars are appreciating over 15% per year on average (cited - www.entrepreneur.com).

On the other hand, the global economic downturn has dealt a painful blow to the aviation industry as a whole. As new airplane orders dwindled, manufacturers and aviation enthusiasts turned inward and became focused more on survival then on public awareness and growth. Consequently a void was established and public interest in aviation waned. What was once seen as a critical element in any local economies growth and stability, became perceived as the embodiment of corporate greed and wasteful spending. Airports became a popular target from both politicians and the media

throughout the nation. As attacks grew in frequency and fervor, public opinion faltered and many joined the bandwagon to shut down or severely limit funding for public airports.



However towards the end of 2009, there were hopeful signs the worst of the economic crisis and its impact upon general aviation was over: the availability of used aircraft was declining, the availability of financing was improving and inquiries for new orders were beginning to grow.

As aviation in general begins to recover from the economic downturn, many are forecasting the next aviation boom is just around the corner. According to the "2009 General Aviation Statistical Databook & Industry Outlook" report issued by the General Aviation Manufacturers Association (GAMA), the most recent global GDP growth forecast notes that the world economy is "recovering faster than previously anticipated". In addition, there are signs that corporate profits are beginning to recover. This has been a strong positive indicator in the aviation industry since these profits are historically related to new airplane demand. As demand increases for aircraft so does the demand for hangars space. Due to the current overwhelming ratio of aircraft to available hangars, it is anticipated that many new aircraft owners will find it difficult to acquire hangar space.

As a result, the timing to launch a campaign that both educates the general public as to the economic value of a local airport as well as promotes the availability of its hangars is upon us.

The Challenge

With any marketing endeavor, before you can begin you must first define your product. What is being sold? How much inventory is available? What's the margin between covering costs and what the market can sustain? In other words, what is the sustainable market price vs. the lowest price that still maintains minimum acceptable profitability.

Next you must define your audience. In this case there is a limited audience largely due to the skills needed to utilize the product as well as the affordability of the product. Those factors coupled with a very limited inventory further exacerbates the challenge. Fortunately by identifying and creating ways to overcome these constraints should make it easier to create an effective marketing campaign.

Since we can't increase our inventory or change FAA regulations in order to make it easier to become a pilot we must look at factors we can control. In this case it's affordability. What can be done to make the hangars more "affordable" without lowering the cost? What can be done to remove some of the "unknowns" of hangar ownership? Various marketing studies have shown that if one can demonstrate a solution by removing as much guesswork as possible, people tend to migrate towards that offerings even if the cost may be higher then its competition. Some of these solutions are defined below.

Provide Financing Solutions

If financing is a factor then remove as many unknowns as possible by establishing pre-authorized financing solutions through local financing institutions. This is a common technique utilized by the automobile industry. It's an effective way to answer any financing questions a potential buyer may be asking themselves. Preliminary discussions with Heber Valley Bank have already shown an interest in putting together financing packages for the hangars.



Encourage Group Ownership

A \$300k investment may be more then most can afford. So therefore encourage co-ownership by promoting what the estimated cost might be per owner if multiple owners where tied to the sale. This is the quickest way to make hangars more affordable without lowering the cost. This will also substantially increase the target audience almost immediately. As the audience grows so do the chances of selling the hangars.



Incentives and Packages

Another common tool used in any marketing campaign is to introduce incentives and or package deals. What can make the offer more enticing? Ski packages, golf memberships, lodging and/or real-estate options could all be rolled into hangar ownership. In most cases the cost of these incentives could also be rolled into the cost of the hangar therefore removing any risk or loss of profit to the city. This also serves as an effective way to promote local businesses.



Create an Audience

If an audience is limited due to missing skill sets, then encourage that skill set to be acquired by creating an incentive and a method to acquire it. Aircraft ownership is necessary for justifying a hangar. Therefore it may be worth exploring incentives where an aircraft could be included with the purchase of a hangar. Once again, simply by increasing the sale price of the hangar to account for the cost of the aircraft, this incentive can be made available at no cost to the city. This coupled with group ownership can be a particularly attractive incentive for pilots who are transitioning between aircraft rental and first time ownership. The key here is one again, remove the guess work and make it simple for the buyer.



Strategies

Once the product and audience has been defined, it's possible to put together an effective marketing campaign. As mentioned in the beginning of this proposal, we will attempt to outline three key strategies designed to establish maximum exposure at minimum cost. However the key to these strategies is worth mentioning again - that being support. In this case no single strategy can stand on it's own without the support of government entities and key individuals. Therefore some of these strategies will also attempt to outline methods to help acquire the necessary support.



Establish a Goal

First and foremost, a goal must be defined that clearly states a date when all the remaining hangars must be sold by. Therefore in order to get the ball rolling if you will, it is proposed that commencing in August, the remaining five hangars must be sold within the following 18 months. If this goal is to be accepted it must be done in conjunction with and in full support of the City Council, FBO and all entities involved. Whereas if a goal cannot be established nor full support obtained, there will be little if any accountability. The city will find itself in a prolonged period where funds associated to the hangar construction will remain unavailable. To stay on track, a goal must be defined, embraced and milestones must be established that will allow a method to address constraints as they arise. By starting in August this will give the necessary entities time to approve and establish a marketing campaign.

Public Education

To ensure the general public is aware of the hangars availability as well as the airports economic value, a communications campaign will be organized that emphasizes the airports impact on the community. The message must establish that the airport is much more than a convenient hub for the rich and the famous en route to their mountain retreats. As the public awareness increases in respect to the airports value, so will the need to sell the remaining hangars. Ideally, if an environment can be created that allows the dissemination of this information to spread naturally via self replicating viral processes, it could accomplish more than tens of thousands of dollars worth of marketing efforts. This is commonly referred to as "viral marketing". In the marketing world, this is considered the "holy grail" of any marketing campaign.

The first step to creating a viral campaign is to identify individuals with high "Social Networking Potential". These are individuals with both a large social network as well as the ability to influence that network. Individuals with this potential commonly include government officials, contributors to media both online and off, as well as leaders of social and political groups. The more individuals from these groups that can support and propagate the need to sell the hangars, the easier the information can be spread to the masses.



Additionally efforts including PSA announcements, press releases to local newspaper and radio stations as well as public forums such as town hall meetings, should be utilized on a consistent basis. All of which can be done at little to no cost to the city.

In order to fully utilize these areas, the following steps have been proposed by the Aircraft Owners and Pilots Association (AOPA). These are tried and true methods that have been utilized throughout the nation in promoting the value of airports:

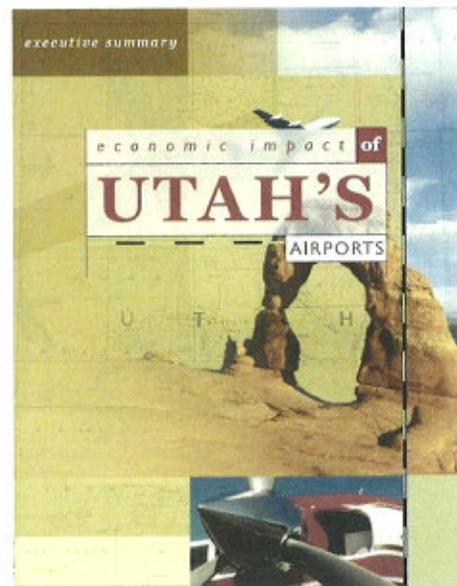
- 1) Collect and compile accurate, factual information about the airport.
- 2) Communicate through basic press releases and personal letters.
- 3) Identify, get to know, and assist key media people.
- 4) Create and update mailing lists for key media members and community leaders.
- 5) Prepare and deliver speeches and presentations.
- 6) Plan special events.
- 7) Write letters to the editor correcting erroneous facts or opinions when reported in the press or relevant media outlets.

The AOPA also encourages methods that make the airport more accessible to the public. Simply because many fail to feel any association with the airport in their community. To most their experience is limited to the modern day inconveniences and hassles associated with flying on an airline. The general public needs to feel a sense of ownership and accessibility to their airport. As it becomes more accessible, more will feel encouraged to learn about the airport and promote it's services rather than devalue them.

Some of the methods that have proven to make an airport more accessible include making it into a community center. In some circumstances areas in proximity to the airport have been made into small parks where the public can watch the aircraft. Couples with small children find it perfect for keeping the kids entertained while they enjoy a picnic. Garden clubs are always looking for additional areas for cultivation. Invite school groups to tour. Provide summer jobs for kids if possible. Encourage service projects that invite organizations to help maintain some aspect of the airport. All of these are proven techniques in swaying public opinion.

Perhaps the most critical element in educating both the public and government officials is to complete an economic analysis of the airport. Otherwise the airport is increasingly vulnerable to those who will continue to find reason to criticize it. Whereas those citizens who are concerned about local economic stability, or who care about the tax base that pays for schools, roads, and hospitals, must be challenged to care about their local airport. The facts state clearly that despite a changing national economy, airports have not diminished in value but rather that they are needed now more than ever. As the value of the airport increases in the public eye, so do the chances of completing the sale of the remaining hangars.

In 2001, the Utah Department of Transportation performed a study of all Utah airports and their impact on Utah's economy. The study made it clear that "the Utah system of public-use airports is an integral component of the state's overall transportation system, and is also an important stimulus for economic growth and development in Utah." It



It's also worth mentioning the availability of entities that exist exclusively for the marketing and sale of aviation related property. www.realspacedfw.com/sales-a-leasing.html is an example of one. At a minimum, they can provide examples of how to market hangars if inquired. Also mentioned earlier is the AOPA. They have extensive resources and tools designed to help promote airports and their value to their respective communities. All of this is available for free.

Finally there are countless blogs, forums, and chat rooms where aviation enthusiasts congregate on a regular basis. These, if used tactfully and respectfully can prove highly effective in promoting the hangars as well as directing the city to venues where potential buyers may be contacted.

All of these resources are examples of what is currently available. All that is required in most cases is for an account to be set-up and information entered.

In Conclusion

Heber City "is" the true hub of recreation in the west. It is located within minutes of some of the nations most beautiful surroundings. Visitors can experience nearly every environment and vista imaginable within just a few hours drive of Heber. Whatever the attraction may be, there is plenty of reasons for pilots to choose Heber as their hangar of choice for their aircraft. Furthermore, the hangars are one of the few if only assets owned by the city which have the potential of infusing the city with needed capital on a relatively short timeframe.

Hopefully this proposal has demonstrated beyond any shadow of a doubt that the hangars are a marketable asset. It's also demonstrated that we have various methods of approaching an audience in order to liquidate that asset at little to no cost to the city. All that remains is the support and blessing of City Council and the FBO to move forward with an approved marketing campaign.

DOCUMENT #3

Online Petition from 52 Members (36U Hangar Owners Group)

- Members support 30-year Non-reversionary ground leases for future hangars

P.O. Box 682378
Park City, UT 84068
March 6, 2014

Mayor McDonald and the Heber City Councilors
Heber City Corporation
75 Main Street
Heber City, UT 84132

Re: Airport Advisory Board's recommendation for 30-year non-reversionary leases

Dear Mayor and Councilors:

We, the Hangar Owners of Heber City's Russ McDonald Field, strongly support the Airport Advisory Board's unanimous recommendation for 30-year non-reversionary ground leases for all future hangar construction as outlined in the attached online Petition we conducted the past week at the iPetitions.com website.

Please note that 49 Hangar Owners representing 52 Hangars have electronically signed the Petition (three Owners have two hangars each).

Sincerely,

The 36U Hanger Owners Group
Consisting of the following signees by hangar numbers:

Karen Bassett
HG-03-0001

David Wichmann
HG-03-2002

Robert Werra
HG-03-0003 and
HG-03-0005

Jonathan Olch
HG-03-0004

Tom Meecham
HG-03-0006

Earl Polenz
HG-03-0007

Evelyn Saunders
HG-03-0008

Karl Paulsen
HG-03-0010

Doug Wagstaff
HG-03-0013

Lynn Leavitt
HG-03-0014

Michael Blanchard
HG-03-0015 and
HG-03-0016

John Lake
HG-03-0017

John and Barbara Black
HG-03-0018

Ken Heidorn
HG-03-0019

Warren Stadler
HG-03-0020

David Rossi
HG-03-0021

David Brown
HG-03-0022

Rusty Martz
HG-03-0024

John Rhodes
HG-03-0025

Bruce Kirchenheiter
HG-03-0026

Don Ames
HG-03-0028

Dr. George McPheeters
HG-03-0029

Lonnie Woodard
HG-03-0030

Hans Fuegi
HG-03-0031

Barry Hancock
HG-03-000C

Bob Shay
HG-03-2003

Peter Zaccagnino
HG-03-2005

Gary Diehl
HG-03-2006

Floyd English
HG-03-2007

Tom Vayda
HG-03-2008

Troy Cobb
HG-03-2009

Steve Urry
HG-03-2010 and
HG-03-3024

Jim Church
HG-03-2011

Ron Blue
HG-03-2012

Michael Stewart
HG-03-2013

Greg Clark
HG-03-2014

Russ Werner
HG-03-2015

Mauro Dalcanto
HG-03-2016

Jeff Maling
HG-03-2017

Don Craig
HG-03-2018

Paul Boyer
HG-03-2019

Steve Kennedy
HG-03-2020

Lynn Vaughen
HG-03-2021

Russ Coburn
HG-03-2022

George Murdock
HG-03-3023

Dale Stewart
HG-03-3026

Andrew Levy
HG-03-3027

Chris Hall
HG-03-3028

Greg Grani
HG-03-3030



This petition has collected
49 signatures
using the online tools at iPetitions.com

Printed on 2014-03-06

Heber City Airport Advisory Board recommendation to the City Council with 30-year Non-reversionary ground lease

About this petition

Whereas, on Feb 12, 2014, the Heber City Airport Advisory Board unanimously amended the proposed "Hangar Lease Rates and Charges Policy" document to include a standard 30-year Non-reversionary ground lease consisting of a 20-year initial term, plus two 5-year extensions with the following provisions:

- At the end-of-lease, if the hangar is acceptably maintained and there is no need for the ground for other airport development, the City will provide a NEW Non-reversionary ground lease to the Owner.

- If the Owner sells the Hangar, the City will provide the new Owner with a NEW 30-year Non-reversionary ground lease.

And Whereas, the Airport Advisory Board unanimously voted to recommend the amended "Hangar Lease Rates and Charges Policy" document to the Heber City Council for their approval,

Therefore, the 36U Hangar Owners petition the Heber City Council to approve the "Hangar Lease Rates and Charges Policy" document as unanimously amended and recommended by the Airport Advisory Board with the 30-year Non-reversionary ground lease and its provisions listed above.

Signatures

1. Name: Paul Boyer on 2014-03-01 03:24:46
Comments:

2. Name: Stephen R Kennedy on 2014-03-01 03:34:30
Comments: Lonnie Woodward Barry Hancock Paul Boyer Dale Stewart

3. Name: Earl Polenz on 2014-03-01 03:44:40
Comments:

4. Name: Jonathan Olch on 2014-03-01 04:15:29
Comments: Hangar Row #4

5. Name: Ken Heidorn on 2014-03-01 04:24:34
Comments:

6. Name: Warren Stadler on 2014-03-01 04:27:17
Comments:

7. Name: Lynn Vaughan on 2014-03-01 05:37:20
Comments:

8. Name: Steve Urry on 2014-03-01 05:37:34
Comments:

9. Name: Dale Stewart on 2014-03-01 13:30:43
Comments: Daniels #26

10. Name: Russell J Coburn on 2014-03-01 14:47:23
Comments:

11. Name: Andrew Levy on 2014-03-01 14:47:58
Comments:

12. Name: Bruce Kirchenheiter on 2014-03-01 14:55:57
Comments: brucekirch50@gmail.com

13. Name: David Brown on 2014-03-01 15:45:56
Comments: Hangar 22 Owner

14. Name: David Rossi on 2014-03-01 16:24:37

Comments:

-
15. Name: greg grani on 2014-03-01 16:51:01
Comments: hanger 30
-
16. Name: Don Craig on 2014-03-01 16:55:20
Comments:
-
17. Name: Mauro C. Dal Canto on 2014-03-01 18:32:02
Comments: Daniel Hangar 16
-
18. Name: George McPheeters on 2014-03-01 18:50:19
Comments:
-
19. Name: Jeff Maling on 2014-03-02 02:54:08
Comments:
-
20. Name: Robert Werra on 2014-03-02 03:22:30
Comments:
-
21. Name: Lonnie Woodard on 2014-03-02 04:55:04
Comments:
-
22. Name: George Murdock on 2014-03-02 06:42:46
Comments:
-
23. Name: Donald Ames on 2014-03-02 18:54:37
Comments:
-
24. Name: David Wichmann on 2014-03-02 20:47:50
Comments: Property Taxes will go to ZERO as the revisionary leases approach expiration ... not good for the city ... convert all leases to NON-reversion to benefit all parties
-
25. Name: Barry Hancock on 2014-03-02 20:51:44
Comments:
-
26. Name: William troy cobb on 2014-03-02 21:58:44
Comments:
-
27. Name: Russ Werner on 2014-03-02 22:20:21
Comments:
-

28. Name: Barbara Black on 2014-03-02 22:30:55
Comments:
-
29. Name: Lynn Leavitt on 2014-03-02 22:40:35
Comments:
-
30. Name: Thomas Meecham on 2014-03-03 04:49:01
Comments:
-
31. Name: Ron Blue on 2014-03-03 06:50:40
Comments:
-
32. Name: Doug Wagstaff on 2014-03-03 13:40:37
Comments:
-
33. Name: Rusty Martz on 2014-03-03 15:46:28
Comments: hangar row 24
-
34. Name: Michael Blanchard on 2014-03-03 16:58:50
Comments:
-
35. Name: Jack Rhodes on 2014-03-03 18:14:21
Comments: Hanger #25
-
36. Name: Karl Paulsen on 2014-03-03 18:20:58
Comments:
-
37. Name: Hans Fuegi on 2014-03-03 19:38:21
Comments:
-
38. Name: evelyn saunders on 2014-03-03 22:34:12
Comments:
-
39. Name: Gary Diehl on 2014-03-04 00:55:30
Comments:
-
40. Name: karen bassett on 2014-03-04 14:38:06
Comments:
-
41. Name: john lake on 2014-03-04 15:37:18
Comments:
-

42. Name: Bob Shay on 2014-03-04 17:22:18
Comments:

43. Name: Greg Clark on 2014-03-04 17:54:03
Comments:

44. Name: Floyd English on 2014-03-04 21:24:57
Comments:

45. Name: Tom Vayda on 2014-03-04 23:54:40
Comments:

46. Name: Peter zaccagnino on 2014-03-05 05:30:37
Comments:

47. Name: Susan Stewart on 2014-03-05 16:07:21
Comments:

48. Name: Jim Church on 2014-03-05 16:27:58
Comments:

49. Name: Chris Hall on 2014-03-06 05:16:57
Comments:

DOCUMENT #4

Grand Junction Airport Users & Tenants Association emails/letter (GJAUTA)

- No existing tenants have accepted the Feb 12, 2013 lease the airport offered them.
- GJAUTA & Airport Board are renegotiating lease to change to Non-reversionary.

From: Bill Marvel
To: GJT Talks <gjttalks@yahooogroups.com>
Sent: Friday, March 14, 2014 9:36 AM
Subject: [GJT Talks] GJT Leases [1 Attachment]

Hi all:

As many of you realize, one of the major issues for GJAUTA is the leasing policy in effect at GJT. Related to this is the construct of all lease documents which implement this policy.

Because a review of the new proposed lease has revealed a number of concerns and questions, we have taken the position that it is premature to implement this lease document given the numerous more pressing issues the airport and Board now face.

The attached letter from Dave Shepard to Board member Tom Frishe presents our view of the matter and recommends delaying implementation to a future date. This matter is on the agenda for the Tuesday Board meeting at City Hall at 5:15. We would appreciate the attendance and support of those who are GJT tenants or who are not tenants but interested in the matter.

Also, I note this meeting is being preceded by a two hour executive session. This is an unusual occurrence as most of these sessions follow meetings or take place during a meeting recess. What this means I don't know but with all the moving parts going on with the airport right now, Tuesday may be a meeting worth attending independent of the lease policy agenda item.

Bill Marvel

From: "davidhshepard52@yahoo.com" <davidhshepard52@yahoo.com>
To: gjttalks@yahoogroups.com
Sent: Saturday, February 15, 2014 3:04 PM
Subject: [GJT Talks] RE: Questions about new leases

Drew:

PJ McGovern (Weststar's landlord) and I are going to ask the Board for a delay at Tuesday's board meeting, and a workshop so that we may have an open discussion regarding a variety of items that we view as problems. No one to my knowledge has entered into a new lease.

Dave

VISIT YOUR GROUP
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Grand Junction Airport Users and Tenants Association
2754 Compass Drive
Suite 105
Grand Junction, CO. 81506
March 13, 2014

Mr. Tom Frishe, Vice Chairman, Grand Junction Regional Airport Board
Grand Junction Regional Airport
2828 Walker Field Drive
Suite 301
Grand Junction, CO. 81501

Dear Mr. Frishe:

We are sending this letter to you, as it pertains to leases, and leasehold improvements; Chairman Wood has previously and very appropriately made a public conflict disclosure regarding this general topic—hence our decision to write to you.

As you are aware, the Grand Junction Airport and Users Association is a Colorado non-profit, formed to promote aviation, and also to encourage high standards of governance at the Grand Junction Regional Airport. Many, but certainly not all, airport tenants are members of GJAUTA.

The Airport's relationship with tenants is therefore a topic of great interest to our organization. I am writing as a follow-up to an informal discussion at the February 2014, GJRAA board meeting, regarding leases at the airport. We informally agreed to move this issue forward by "the Ides of March". This letter constitutes GJAUTA's effort to do just that.

To begin, it is our desire that all members of the Board understand our approach to this communication: we want to communicate with respect, and candor. We respect that the current Board is comprised of citizen volunteers, facing a daunting array of problems that all demand fixes. We think that complete candor is required to facilitate understanding, as this Board was not present when the lease issue was addressed in 2012/2013. We are concerned that the current Board may be under the impression that the lease question is largely resolved, and that all that remains is for some procrastinating tenants to sign on the dotted line.

That is not the case. To the contrary, we believe that the standard lease drafted by the airport's attorney falls short of a lease that will encourage revitalization of general aviation, or business investment. Additionally, we believe that many millions of dollars of current, and potential future investment will be impacted by decisions pertaining to leases.

Like many items handled by the prior director of aviation, leases deserve a sober second look. We assert that a critical review will yield the following conclusion: we can do better, for both the Airport, and investors.

So that we may bring all Board members up to speed, let me briefly review some institutional history:

1. Prior to the Tippetts era, when a tenant sold a leasehold improvement, the new tenant routinely received a new lease with full term. Right or wrong, this was the environment—CIA development largely occurred in the context of this environment.
2. After Mr. Tippetts assumed his position, everything changed. Multiple tenants were told, very directly by Tippetts that he intended to have the airport assume ownership and control of leasehold improvements. Further, Mr. Tippetts “froze” requests for new leases.
3. In fact, the airport did not have a lease policy, though tenants were told by Tippetts and select Board members that the Authority intended to “take” leasehold improvements. The salient point is simply this—leases were not an issue at GJRAA. They became an issue only because the former airport director abruptly made a unilateral decision, to do things differently.
4. I personally spoke to Attorney Morgan via phone in 2011—he expressed surprise there was no lease policy.
5. Members of the aviation community came together and formed GJAUTA in 2012, as a direct result of the fence and the confiscatory intentions expressed by Mr. Tippetts.
6. GJAUTA hired Attorney John Steel, and sent Mr. Steel to Denver, for discussions with Mr. Morgan. These discussions resulted in a positive working relationship.

Throughout the spring of 2012, Mr. Steel and Mr. Morgan exchanged a variety of redline versions of draft lease policy.

7. Later on, at various points throughout this process, communication broke down. We infer, but do not know, that Mr. Tippetts may have inserted himself into the process. We do know that memoranda from Mr. Steel that in our view should have been shared with the Board were withheld.

8. Toward the end of the 2012 lease policy development process the Airport's draft included new language referencing "FAA grant assurances", etc. This language allegedly resulted from meetings that Tippetts held with the FAA. GJAUTA specifically asked to see all communication with the FAA on leases—it was not provided, but was withheld as "attorney-client work product".
9. Early in 2013, late on a Friday afternoon, the draft lease policy was released, for a vote on the following Monday. The FAA communication was never released.

We regarded the scheduling as a "sleight of hand", and remain perplexed that after months of work, our attorney did not receive the courtesy of any communication.

10. City and County officials were similarly unhappy—thus, the Board granted additional time for review. GJAUTA specifically challenged the representations regarding FAA requirements—but the draft passed without additional modification in February 2013.
11. Attorney Morgan drafted a lease reflecting this policy, without input, review, or comment from impacted parties. It is this lease that tenants are being asked to "take or leave".

We have the following concerns. First, if we have learned anything in the past six months, it is that Mr. Tippetts's representations as to what governmental entities "required" was often incorrect. Whether it is fences, leases, or administration buildings, our opinion is that Mr. Tippetts regularly misquoted underlying authority to advance his own objectives.

For that reason alone, this work product should be subject to the same rigorous review as other actions by the prior aviation director.

Additionally, let's all recall what we perceive as a shared objective: to get it right. While tenants certainly desire the best possible deal, we suggest that the Authority has an interest in exploring what type of environment is most appealing to investors, and balancing that with the Airport's best interests. That nexus is where good policy is made.

How to proceed? We've already expressed general concerns to Mr. Morgan in writing, via our attorney. But in reality, the type of environment the Authority desires is a Board decision, requiring Board involvement. Our respective attorneys are well equipped to execute what we mutually agree to be shared objectives.

We respectfully suggest the following course of action: that the Board empanel a committee to review the lease issue, similar to the Audit, Special Investigation, and Information Technology committees.

We hope that GJAUTA, as well as other tenants will have the opportunity to engage in a give and take with such a committee, in the interest of defining what type of lease will best serve the Airport, tenants, and the larger community.

We think it is particularly important the FAA's position be ascertained with precision, and that we differentiate between "required", "recommended" and "inferred".

GJAUTA believes that minority representation on such a committee by citizen stakeholders is useful—and will facilitate development of a lease that people willingly sign.

Finally, we are acutely aware that Board members have very full plates. We suggest that the lease issue be examined not in the short term, but rather medium term. Our suggestion is that if the Board elects to proceed along the general lines enumerated above, that work begins in August 2014.

Sincerely,

David H. Shepard
President, GJAUTA

DOCUMENT #5

Jan 16, 2014 email from St. George Airport Operations Supervisor Brad Kitchen

- Explains why KSGA Airport converted reversionary leases to Non-reversionary.

From: Bradley Kitchen <brad.kitchen@sgcity.org>
To: Paul Boyer <pebo@boyaire.us>
Sent: Thursday, January 16, 2014 9:44 AM
Subject: RE: Our conversation regarding non-reversionary leases

Good morning Paul,

As your aware, the City of St. George has been operating out of a new airport facility for the past 3 years. We spent several years planning the new facility which included drafting and approving new documents such as; land/hangar leases, the ACM, AEP, ASP, Minimum Aeronautical Standards, Rules and Regulations, and other plans that are required to operate a commercial Part 139 airport. In regards to SGU's land and hangar leases, the City never supported a reversionary clause in any of the leases at the old airport. For the past 15 years, the City planned and new they were going to build a new airport facility so as these old leases started to expire, the city decided to renew these old leases but to have an expiration date of January 11, 2011, as this was the date to move into the new airport facility and close down the old airport. At this time, a hangar owner had to remove their hangar from the old airport property and was given the opportunity to move it over to the new airport under the new regulations and lease agreements. Up until this time, SGU never supported the reversionary clause.

One year prior to moving into the new airport, the city started working on a new lease agreement to implement for the new airport. At this time the reversionary clause was added to the new lease with a 30 year term. After 30 years, the building or hangar would revert back to the city for ownership. This did not go over well with the people who wanted to invest in the new airport or move their hangars from the old facility to the new. After two years working and planning with the airport users, the city decided to remove the reversionary clause from the new lease. It's my opinion if the reversionary clause was implemented into the new lease agreement, over half of our airport tenants at the old airport would not have made the move to the new airport. With this being said, 95 % of the hangar owners who held a lease on the old airport made the move and signed the new lease agreement at the new airport.

So as of this date, there is no airport lease that has the reversionary clause.

I hope this helps you in your decisions. Feel free to call with any other questions you might have.

Sincerely,

Brad Kitchen, C.M.
Airport Operations Supervisor/ASC
4508 S. Airport Parkway, Suite 1
St. George, Utah 84790
435-705-0748
Brad40@sgcity.org

DOCUMENT #6

Jan 10, 2014 email from Billings Logan Airport Business Manager Marita Herold

- Explains why KBIL Airport converted reversionary leases to Non-reversionary.

From: "Herold, Marita" <HeroldM@ci.billings.mt.us>
To: 'Paul Boyer' <pebo@boyaire.us>
Sent: Friday, January 10, 2014 4:38 PM
Subject: RE: Hangar information

Hi Paul:

In regard to the hangar lease reversion matter that we discussed on the phone, please note that these are perhaps the key reasons that our airport decided to stop writing leases with a reversionary clause:

- The clause was very unpopular with our tenants. Tenants often spoke of the difficulty getting financing for construction of hangars if the lease had a reversionary clause, and many opted not to build here because they could not get the financing for the construction.
- The Airport is municipally owned so all the land is zoned public, and is therefore tax exempt from county real estate taxes. The hangars constructed by tenants were considered "improvements" and were taxed separately to the tenant as a non-exempt entity. When the hangar ownership reverted to the Airport, it took a few years of working with the County to get the change made in all of the County's property records. This took a lot of administrative staff time to complete.
- The reversionary clause often resulted in delayed maintenance to the hangars as the deadline for the ownership reversion neared. This meant that by the time the Airport took ownership of the hangars, expensive items like overhead doors needed replacement and roofs often needed work, not to mention other deferred maintenance on the ramps, etc.

I hope this information is of assistance to you. If you have any questions, please give me a call.

Marita Herold
Aviation & Transit Business Manager
City of Billings Logan International Airport
1901 Terminal Circle, Room 216
Billings, MT 59105
Phone: (406) 237-6284
FAX: (406) 657-8438
Email: heroldm@ci.billings.mt.us

DOCUMENT #7

Germany Company Fraunhofer Circular Hangar Design.

- Demand for latest technology advances that old and aging hangars do not have.
- As one example, a Circular Hangar design: (a) Uses less ground space, (b) Stores more airplanes in less space without having to move other airplanes, (c) Cheaper to build, and (d) cheaper to heat due to lower ceiling height.
- As another example, most of the existing 36U hangars have Schweiss bifold doors with the old thin steel cables that deteriorate and can fail without any indication, whereas newer Schweiss doors have lift straps that are not subject to corrosion. However, Schweiss now also offers *Red Power Hydraulic* doors.

Development of an innovative aircraft hangar for business aviation (10t MTOM)

'10 – '12

Problem

- Increasing registration figures for passenger aircraft for business aviation (with maximum takeoff weight of 10 t) are causing the demand for stands at airports as parking or maintenance areas to rise.
- At present these aircraft types are parked and serviced in conventional aircraft hangars. These hangars have the disadvantage that due to the building height, they take up a large specific useful area per stand. With conventional building dimensions and a fixed floor, a great deal of manoeuvring is necessary.

Solution

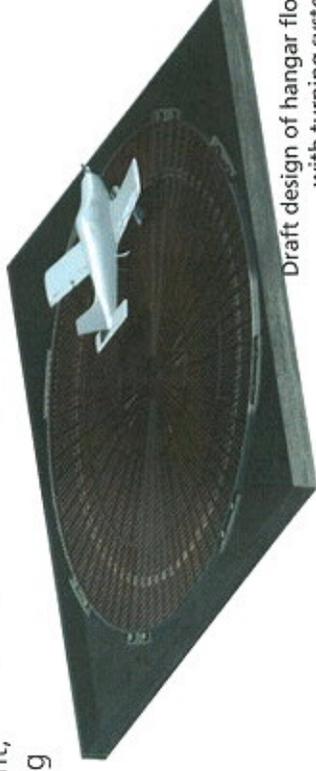
- Derivation of an optimised space concept for a reference aircraft using virtual planning tools
- Development and design of a rotating hangar floor up to 32 m in diameter, including its substructure and drive system
- Development of an innovative, modular building shell with modern demands on building physics, fire protection and solar technology integrated into the building

Benefits

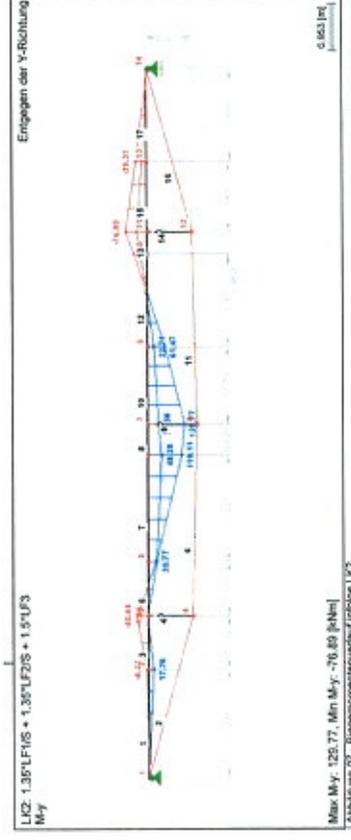
- The limitation of the gross hangar volume and the specific useful area (approx. 300 m²/stand) result in low construction costs.
- Low manoeuvring times thanks to innovative turning and drive concept



Layout plan of round hangar for business aviation



Draft design of hangar floor with turning system



Static analysis of the main girder of the turntable (bending moment)



Fraunhofer
IPA



Technologie-Beratungs-Institut GmbH

DOCUMENT #8

Rebuttal to City Manager Mark Anderson's claim about weekly inquiries about availability of hangars for sale.

- Three 36U hangars are currently for re-sale but have not sold.
 - (1) Two are in Daniel Non-reversionary hangars. One has been on the market for nearly two years, and the other for about four months. Potential buyers cite the uncertainty in the end-of-lease provisions as reason for not buying.
 - (2) The third is on Hangar Row and owned by the City and has been for sale for several years. The City obtained the hangar when it took it and another on Hangar Row as trade-ins for a Daniel reversionary hangar, and credited the sell/buyer about \$90,000 for each Hangar Row trade-in. The City sold the first of these for \$38,000 at a loss of about \$52,000. They have been unable to sell the second one.
- Prior to selling the "new" Daniel reversionary hangars #23-30, Mr. Anderson maintained a waiting list to purchase the hangars. The wait list had about 140 potential buyers. When the City divulged their reversionary, however, only 2 of the 140 people bought hangars. The City had to heavily discount the remaining six to finally get those sold years later.
- Mr. Anderson's assertion that he gets weekly inquiries about availability of hangars for sale is meaningless. Based on the above history, Mr. Anderson and the City have no idea what the demand is until people are asked to sign a contract.

DOCUMENT #9

Jun 20, 2012 and Feb 12, 2014 Airport Advisory Board minutes

- The Airport Advisory Board has twice voted unanimously to recommend 30-year Non-reversionary leases to the City Council.

HEBER CITY CORPORATION
75 North Main Street
Heber City, Utah
Airport Advisory Board Meeting
Wednesday, June 20, 2012

4:00 p.m. - Regular Meeting

Members Present:	Nadim AbuHaidar	Airport Advisory Board
	Dave Hansen	Airport Advisory Board
	Kari McFee	Airport Advisory Board
	Tom Melville	Airport Advisory Board
	Erik Rowland	Airport Advisory Board
Absent:	Jeff Mabbutt	Airport Advisory Board
Others:	Mark Anderson	City Manager
	Karen Tozier	Airport Advisory Board Secretary

Boardmember Rowland convened the meeting at 4:02 p.m. with a quorum present. Boardmember AbuHaidar arrived at 4:03 p.m.

Approval of Minutes

February 14, 2012, Regular Minutes
March 13, 2012, Regular Minutes

Boardmember Melville moved to approve the Regular Meeting Minutes of February 14, 2012 and March 13, 2012. Boardmember Hansen seconded the motion. Voting Aye: Boardmembers Rowland, McFee, Hansen, Melville, and AbuHaidar. Voting Nay: None. The motion passed.

Item 1 Election of Chairperson and Vice-Chairperson

With the resignation of Kathryn Berg, the Board's previous Chairperson, there was a need to elect a new chairperson and vice-chairperson. Nominations were sought. The intent was to replace Erik Rowland on the Board now that he is on the Council although it may be a few months before this can be accomplished. Boardmember AbuHaidar proposed a motion to appoint Erik Rowland, as he had been the Vice-Chairman, to be the chair until such time as he was not on the Board. Boardmember Melville seconded the motion. Voting Aye: Boardmembers Rowland, Hansen, McFee, Melville and AbuHaidar. Voting Nay: None. The motion passed.

Chairman Rowland nominated Dave Hansen as Vice-Chairman. Boardmember Melville seconded the motion. Voting Aye: Boardmembers Rowland, Hansen, McFee, Melville and AbuHaidar. Voting Nay: None. The motion passed.

A new member to the Board, Kari McFee, was introduced. Chairman Rowland asked the Board whether there were any objections to continuing meetings on Wednesday at 4:00. The Board agreed that changing the meeting schedule to the second Wednesday of the month would be acceptable. The annual calendar was to be updated by Karen Tozier.

Item 2 Discussion on Airport Hangar Marketing Plan / Ground Lease Agreement

Information contained in Anderson's Memo regarding Item 2 was discussed extensively. Anderson indicated that his analysis did not take into consideration financing costs, insuring the hangar or utility costs; it was a very simple approach. He suggested that to increase the motivation of people purchasing versus leasing that at a minimum you would want to raise those rates a least a couple of hundred dollars a month. He indicated that it costs a minimum of \$16,000 a year to own a 75' x 75' hangar and if you want to create incentive to purchase rather than lease you would need to charge north of \$16,000 in lease fees. He also pointed out that if you raise the rates too much you could end up with empty hangars and no cash flow. A suggestion was made to gradually increase the rates and avoid a mass exodus of lessors. Further discussion on the topic and on insurance.

Chairman Rowland summarized discussion thus far and indicated that they wanted to create incentive to purchase the hangars. He asked the Board for an approximation of what they thought the monthly rental rate should be. He noted as Mark Anderson brought up - if they are to increase the rate how could they do so in a way that does not alienate current lessors? Chairman Rowland asked if they had general consensus as far as increasing the rates. Boardmember Melville answered yes. Boardmember AbuHaidar had a cost estimate breakdown and he indicated that he understood his opinion can be biased but thought that the discrepancy was large...and at some point they are not new hangars and this would show in the price point. He expressed his thought was that if you do want to sell them there will need to be a big increase in lease rates.

Boardmember Hansen spoke on reversionary/non-reversionary costs and depreciation and on the way leases are renewed. He explained the difficulty with financing when there are only ten years left on a lease. He thought it should be changed to non-reversionary because he thought the reversionary was not working. Boardmember AbuHaidar explained why he thought non-reversionary was better for the City. These topics were discussed at length.

Boardmember Melville moved to send a recommendation to the Council (regarding a formula for rental rates) that the rental rate should be 8% of whatever the purchase price (of the hangar) is and the new rental rate will go into effect 30 days from the date of City Council adoption and will affect all renters at once. Boardmember McFee seconded the motion. Voting Aye: Boardmembers Rowland, Hansen, McFee, Melville and AbuHaidar. Voting Nay: None. The motion passed.

Decision on whether the Board thought that all lease agreements should be converted from reversionary to non-reversionary. Chairman Rowland asked whether it would make sense to give the City first rights to buy a hangar. Should the lease start over at 25 or 30 years when a hangar is sold? Boardmember AbuHaidar voiced that contrary to his own interest, his thoughts were this would limit the City's interest to do this in every change of ownership and the City would not want to set this precedent. He thought that all the new hangars on the south end should have similar lease rates and be non-reversionary.

Boardmember Hansen moved that we suggest that the leases be amended to non-reversionary and make that option available to the existing four owners on just the south end hangars that are presently owned by the City; to make these consistent with the existing hangars that are non-reversionary. Boardmember AbuHaidar seconded the motion.

Mark Anderson asked for clarification purposes if that meant the City would offer the remaining hangars that they have for sale, the four, with a 20 year non-reversionary lease with one-five year extension and extend the same offer to the other five that have the reversionary 20 year with two-five year extensions. Discussion on this. Boardmember Hansen asked what happens at the end of the five year extension period. Anderson answered that the only thing that the lease agreement says

is that the City may ask them to remove the hangar and if they don't remove it then it becomes property of the City. Hansen asked what if the City does not ask them to remove it. Anderson replied that then the City would have the right to offer them a new lease; for a period of time that makes sense and a type of lease that makes sense. Anderson also mentioned that to his recollection in the lease there is no mention of another lease being offered. He indicated that he would suspect that if the City wanted to offer this that they would do a first right of refusal and people would be willing to take that providing the terms would be acceptable. Boardmember AbuHaidar suggested that as long as the City was trying to sell these, why not sweeten the pot a little bit and make it 20 plus two-fives non-reversionary. There was brief discussion after this. Amendment to the motion. Boardmember AbuHaidar thought the amendment would be simply to offer leases as Boardmember Hansen suggested which is non-reversionary 20 years with two-five year options. Commissioner Hansen accepted this amendment to his motion. Boardmember AbuHaidar's second stood. Voting Aye: Boardmembers Rowland, Hansen, McFee, Melville and AbuHaidar. Voting Nay: None. The motion passed.

Anderson indicated he had one more question; they had not spoken about the two 40' x 45' hangars the City owns on hangar row which are leased for \$400 per month plus utilities. The lease term on these two hangars have only seven or eight years left. There was a question on what the purchase price and monthly lease fees should be. Discussion. One option would be to look at the value of the hangar being \$5,000 for every year that it had remaining on the lease and offer it at that price; this would equate to approximately \$30,000 to \$40,000 if sold. Boardmember Hansen indicated he had to leave the meeting at this time. It was decided that more thought needed to go into this issue. Boardmember Hansen left the meeting at 5:27 p.m.

Item 3 **Request by Nadim AbuHaidar of AH Aero Services to extend the lease of Daniel Hangar #1 dated September 28, 2000 by 17 years to September 28, 2037**

Chairman Rowland introduced the item and pointed out there was further information in Mark Anderson's memo regarding this item.

Anderson indicated this was an issue that is repeatedly before the Board and they have come to the conclusion that it would not be in the City's best interest to look at extending leases on hangar row because they know it is an obstruction if they ever want to change to a C or D Category airport. The location of the hangar was pointed out on the airport map. Anderson noted that he had spoken to AbuHaidar yesterday and asked him why the City should consider extending the lease 17 years at this point. The FAA would like the City to be consistent and mindful of the leases they enter into as to how it might affect future airport development and they want the City make sure they are getting fair value out of the airport to help cover the operations of the airport. He thought these were things the Board ought to be mindful of. He indicated that part of the discussion is; are we willing to offer this to others and at what point in time are we extending the life of the lease beyond the life of the hangar? He noted during the prior item that they had briefly discussed what the typical life of a hangar was.

Boardmember AbuHaidar spoke not as a member of the Board but as the FBO Owner. He showed the location of his facilities on aerial map. The hangar in discussion was one they use for overflow which works well in terms of accessing the ramp quickly; this hangar also is large and would accommodate aircraft with a 35 foot wingspan such as a learjet all the way to Challengers and Gulfstreams which have an 85 foot wingspan. This is the only hangar that they have which will take this large of a jet. The hangar would allow them to store aircraft on a nightly or weekly basis during the high season. He indicated this is the only hangar that satisfies their requirements and they would have to finance it on a 20 year basis. He commented that they have access to this hangar now, but do not have ownership. His thoughts on benefit to the City would be allowing the FBO to be able to grow and expand its franchise. He thought the better the FBO does the more they

will be able to pay their lease rates and hire more people and basically succeed as a business. He felt this was good across the Board for the FBO and for the City. He thought that if there was a perception that leases can't be renegotiated somehow when there is a change of ownership this creates somewhat of a delinquent market and that then affects future purchases and affects future plans. He thought it was beneficial to have a sense of continuing growth and enterprise and activity that occurs without unnecessary obstacles; not any sort of ridiculous favoritism but some level of activity to occur with growth.

Chairman Rowland asked if it had been with the City's effort to create value that Point IV had been drafted as outlined in Mark Anderson's Memo which addressed the Lessee's Right to Remove Improvements. Anderson thought that at the time it had been the City's goal to have everything become reversionary and if somebody was willing to take their existing non-reversionary lease and convert it to reversionary in exchange for an additional five year extension, which is essentially what they are offering right now to people who are purchasing those hangars, that they did not think that was incompatible with the direction they were headed. Chairman Rowland asked Boardmember AbuHaidar if he thought he could vote on the issue and Boardmember AbuHaidar answered, "No". Chairman Rowland pointed out that with Boardmember Hansen not present that there was not a quorum on this issue. Discussion on the voting issue. A decision was made that it was not in the best interest of the Board or in AbuHaidar's best interest to have him vote on this issue; thus the Board could discuss this issue but not make a formal recommendation to the Council. A decision was made to table this item until the July 11th Airport Advisory Board meeting.

Item 4 **Update on Crack Seal & Fog Coat Project**

Anderson updated the Board as to the latest information relating to the Crack Seal and Fog Coat Project. The project is over budget by approximately \$14,000 and UDOT Aeronautics has approved a grant amendment increasing their portion; the City's cost on the grant amendment match will be \$1,400. Completion time of the project is estimated to be around the end of June/early in July.

Item 5 **Update on Landing Fees and FBO Lease Amendment**

Mark Anderson indicated that the landing fees went into effect on June 1st. The FBO has indicated that they have collected around \$800 through the first 20 days. The City has estimated that the landing fees this will create revenue of \$20,000 for the year. Boardmember AbuHaidar thought that with the changes coming in July to the existing approach, landing fees collection should be close to what was estimated.

Item 6 **Update on 2012-13 Tentative Budget for the Airport**

The Council has a public hearing scheduled for June 21st and at this point in time they are budgeting for a 20 hour per week Airport Manager. Boardmember McFee motioned to adjourn the meeting. Boardmember AbuHaidar seconded the motion. The meeting adjourned at 5:48 p.m.

1
2
3 HEBER CITY CORPORATION
4 75 North Main Street – Council Chambers
5 Heber City, Utah
6 Airport Advisory Board Meeting
7 Wednesday, February 12, 2014

8
9 4:00 p.m.
10 Regular Meeting
11

Members Present:	Erik Rowland	Airport Advisory Board
	Dave Hansen	Airport Advisory Board
	Mel McQuarrie	Airport Advisory Board
	Kari McFee	Airport Advisory Board
	Nadim AbuHaidar	Airport Advisory Board
Absent:	Jeff Mabbutt	Airport Advisory Board
Others:	Mark Anderson	City Manager
	Terry Loboschefskey	Airport Manager
	Karen Tozier	Airport Advisory Board Secretary

12
13 Others: Chip Turner, Bruce Kirchenheiter, Paul Boyer, Mayor Alan McDonald, Jim Church,
14 Tom Mecham, Dale Stewart, Kirk Nielsen, Cole Miller, Tracy Taylor, Lon Woodard, and others
15 whose names were not legible.

16
17 Chairman Rowland convened the meeting at 4:00 p.m. with a quorum present and welcomed all
18 present. Board Member Mabbutt was excused. Chairman Rowland allowed comments from the
19 public at the beginning of the meeting.
20

21 Paul Boyer of Park City and owns a hangar at the Airport, commented regarding the slide
22 presentation he had made at the City Council Meeting the previous week. He indicated that they
23 had not had time for a question and answer session and he wanted to let everyone know that if
24 they ever wanted to do that to invite them to the Airport Advisory Board Meeting and they
25 would be happy to run those slides or answer questions.
26

27 Chip Turner, the newly elected Mayor of Daniel asked for something more official in regard to
28 notification of the City's plans and subsequent information to let them know what is going on
29 and to possibly be involved. He indicated that this not only affected Daniel but also Charleston
30 and other residents of the valley.
31

32 Chairman Rowland noted that on today's agenda they would be looking at the composition of the
33 Board. There have been some proposals as to seats that should be made available. With that
34 composition discussion he thought there was an opportunity where they could involve members
35 of the County as well.
36

85 **Item 2** **Kirk Nielsen, Jviation – Continuation of Review of Draft Lease/Rates and**
86 **Charges Policy Including the Review of FAA and Open House Comments**
87

88 Chairman Rowland asked if the Board had any questions on the recommendation from
89 Jviation on the lease rates and policies as to what that recommendation is and what it includes.
90

91 Boardmember McQuarrie indicated he understood what had been recommended although he
92 did not agree with all of it. Specifically he did not agree with the recommendation for
93 reversionary leases, which he said would apply to the commercial hangars. If they make a
94 recommendation to the Council for non-reversionary for the private hangars they are going to
95 have to revisit this one; he indicated he thought they should release Jviation and this can be
96 addressed farther down the road. He did not see a reason why this should stop the Board from
97 making a recommendation to the City Council; the document contains other pertinent
98 information to make decisions.
99

100 Also discussed:

- 101 ➤ The option to form a technical advisory committee as referenced in the Airport
102 Advisory Board bylaws; and to be as expedient as possible to go through the other
103 issues;
- 104 ➤ Go through a more thorough process to analyze these things such as the
105 reversionary / non reversionary issue;
- 106 ➤ The most pressing matter is what to do at the end of a lease; what happens after 25
107 years?
108

109 Board Member Hansen moved that we move this forward to City Council for approval. Board
110 Member McFee seconded the motion.
111

112 Discussion: Mark Anderson noted that the document is not clear and recommended they provide
113 clarity to City Council as to what type of leases we would offer. Chairman Rowland noted they
114 could move that no leases of any kind be extended until this is resolved and address the
115 reversionary/non-reversionary issue. Board Member AbuHaidar thought possibly there was an
116 option to offer the same type of leases most recently offered and at the same time we put a group
117 together. Chairman Rowland asked Board Member Hansen to stop; this could be a second
118 motion. Discussion on there is nothing clear cut that addresses what happens at the end of a
119 lease nor what happens with the existing hangar leases. Board Member Hansen struck his
120 motion for approval. Further discussion and debate continued on these issues.
121

122 Board Member Hansen indicated he could make a motion on what the lease agreements should
123 be and moved that we make the lease agreements non-reversionary and have a provision at the
124 end of lease to not extend the lease but rather have a new lease written which would clarify the
125 existing leases and also make that retroactive to the new hangars that are presently reversionary
126 because we are losing money there. So I move that we make a proposal that the existing leases
127 and the new leases are non-reversionary and then utilize what we can from this document.

128 Chairman Rowland asked for clarification. "So you are suggesting that we modify current leases
129 to be all non-reversionary?" Board Member Hansen answered, "I would like to see them non-
130 reversionary." Chairman Rowland continued, "So even if the existing lease that is reversionary
131 who had an agreement (to purchase) with the current lease holder, convert that to another

132 reversionary?" Board Member Hansen answered, "To non-reversionary because the value goes
133 up." Board Member McQuarrie seconded the motion. Board Member Hansen clarified his
134 motion that at the end of term a new lease is written for the ground.

135
136 Lengthy discussion continued on the motion with numerous opinions being offered.
137 Boardmember AbuHaidar asked if this applied to both the non commercial and commercial
138 hangar leases. A question was asked whether it would be prudent to create a timeline to get a
139 working group recommendation. There was concern of this motion not being documented as far
140 as the means of extenuating circumstances. Summations of both motions were made.
141 Commissioner Hansen expressed that with the second motion that he was mistaken, he should
142 have put a limit on that because it would not be fiscally responsible to include hangars that may
143 have to come down. Board Member Hansen withdrew his second motion.

144
145 **MOTION**

146
147 Boardmember McQuarrie moved I recommend that we push Jviation's document forward with
148 non-reversionary, instead of,...all new leases as non-reversionary, and that we report to Council
149 that that's our intent and then we need to take the next 90 days or 60 days, the next two meetings
150 and come up with a policy to recommend to the Council of what to do with existing leases at
151 renewal and possibly conversion of existing reversionary leases. Chairman Rowland asked that
152 the last part of the motion define what the needs are that they still need to address, and then
153 secondly define if that should be comprised of one committee for each issue or should the
154 committee overall oversee all of the issues. He indicated he liked what Boardmember McQuarrie
155 was saying but asked for there to be two separate motions in order for it to be detailed enough to
156 do it correctly.

157
158 Boardmember McQuarrie moved to approve Jviation's recommendation converting to non-
159 reversionary; everything forward is non-reversionary. Chairman Rowland restated the motion,
160 "Okay we have a motion to accept the documentation as written with clarification that all new
161 leases will be non-reversionary." Boardmember McQuarrie answered, correct. Board Member
162 Hansen seconded the motion.

163
164 Discussion: Boardmember AbuHaidar asked what the basis was for this recommendation.
165 Boardmember McQuarrie indicated he thought the Airport will best grow with non-reversionary;
166 it will keep the values up and keep people motivated to be here and keeps the liability off the
167 City. Mark Anderson indicated that historically the non-reversionary leases were 20 years with a
168 5 year extension and this suggests 20 years with a 10 year extension and asked if the intent for
169 this was to be the same. Anderson indicated he would like the Board to have an opportunity to
170 explore in more detail what those costs of maintenance and liabilities are because they have not
171 talked about what the real financial consequences involved are. What are other airports that have
172 reversionary leases doing and what is their experience? What kind of differences are we talking
173 about in regard to reversionary vs. non-reversionary? I don't think there has been any significant
174 detail discussed other than broad generalities and "we don't want to do that because it's bad." I
175 think you ought to have more study on that before you draw that conclusion because I haven't
176 seen any of that study occur.

177

178 Chairman Rowland called for the vote. **Voting Aye: Board Members McQuarrie, AbuHaidar,**
179 **Rowland, McFee, and Hansen. Voting Nay: none. The motion passed.**

180
181 Discussion ensued on items that still need to be addressed:

- 182
183 > Reversionary vs non-reversionary;
184 > End of lease terms;
185 > Address modifications to existing lease for when conversion is requested;
186 > Whether hangar row is included;
187 > Should a committee be formed and should it address all of these things? Comments and
188 suggestions:
189 o May warrant more frequent meetings;
190 o Stipulations to say what would constitute a quorum of the committee;
191 ▪ Some representation from the Board and comprised of general public and
192 hangar owners;
193 ▪ Organize and call group together
194 • Legal counsel
195 • Unbiased facilitator
196 • 1 City Council
197 • 1 Board Member
198 • 3 at large
199 > There was a suggestion to have those present bring names to the next meeting as
200 recommendations for individuals who would be good representatives on the committee.

201
202 Boardmember McQuarrie stated, You want me to... we're kind of running out of time and stuff
203 that we could address, maybe we could make a recommendation to form a committee and at the
204 next meeting we will figure out how to put that together, organize it, the committee.

205
206 Chairman Rowland asked the Board what they wanted to do; did they want to take a motion now
207 as far as this point is concerned?

208
209 Boardmember McQuarrie continued, I'd like the points included put on it but I don't know if
210 we're ready to name a name. I think we know we want the three things we need to address; we
211 need to form a committee that will address them. And get recommendations from others to
212 suggest, may suggest, who is going to be on the committee, and also what you're suggesting we
213 can take a look at that.

214
215 Chairman Rowland said, So, motion to form a committee and from now until our next board
216 meeting take recommendations from both the Board as well as the general public as far as what
217 that composition should be and then come our next board meeting we'll be prepared to name the
218 committee. That sound good, that sound like a good motion?

219
220 Boardmember McQuarrie stated, sounds like a motion, except we need to add that we are going
221 to address those three things.

222
223 Chairman Rowland continued, in order to address the reversionary vs. non-reversionary, end of
224 lease terms, and modifications to existing leases.

271 *E. Improper conduct and non-performance of duties shall result in a recommendation to the Heber*
272 *City Council for removal of said member. Members may be removed after a public hearing, by a*
273 *majority vote of the City Council.*

274 Currently, the Board is one member short as Tom Melville was not re-appointed.

275

276 **DISCUSSION**

277

278 The Airport Advisory Board discussed the following points:

279

280 ➤ Chairman Rowland proposed that the Board's composition be looked at because right
281 now the bylaws are fairly vague. Other than the requirement of residing in Wasatch
282 County there are no other requirements. The bylaws do not address education or other
283 factors. He proposed that this be clarified so that there is an efficient board structure.
284 He proposed that they do have City Council representation so that they can convey
285 needs more appropriately to the City Council.

286 ➤ Chairman Rowland explained his reasoning for recommending the composition of the
287 Board to be comprised of two City Council Members, two Heber City residents, two
288 at-large members and one representative from the FBO. He indicated he thought the
289 majority of membership should be from Heber City.

290 ➤ The position of alternate is not addressed in the bylaws;

291 ➤ It is not necessary but is helpful for Board Members to have some level of aviation
292 expertise. This is important in order to give technical advice; conflict needs to be
293 addressed clearly and not be allowed to influence;

294 ➤ All recommendations provided to City Council need to address whether the individual
295 has aviation experience; any interest in the Airport should be disclosed;

296 ➤ Would two City Council members be intimidating?

297 ➤ Chair should be the person who represents the recommendations of the Board;

298 ➤ Council member should not serve as the Chair;

299

300 Chairman Rowland read aloud the proposal that the Boardmember requirements for the
301 bylaws to state the composition of the Board should be comprised of;

302

303 • Two City Council Members

304 • Two Heber City Residents

305 • Two at-large Members

306 • And one position reserved for the FBO Representative;

307 ○ A decision needs to be made as to what does the FBO seat mean. Is this
308 position only exclusively referring to Nadim AbuHaidar or a
309 representative designated by Nadim as proxy such as Alan Robertson
310 who is an FBO Employee? Boardmember AbuHaidar noted that defining
311 this would be helpful;

312 • The members themselves when their names are given for recommendation must
313 include whether or not they have aviation experience and any conflicts that may
314 exist with the Airport such as hangar ownership or other property interests.

315

316

317

318 **MOTION**

319

320 Board Member McQuarrie moved to approve this with the exception of the two City Council
321 members would be, you know, one minimum and up to two could be appointed. Chairman
322 Rowland stated, we have a motion to take the composition as stated with the exception that
323 rather than two mandatory City Council members, would be mandatory with the second upon
324 the...Boardmember McQuarrie interjected, so in other words, somebody, a member at large
325 could be appointed alternate or another City Council Member so they can have the authority to
326 appoint two on there if they wish but if they select one they should put another at-large or, a, for
327 instance I mean, I guess that is up to Council. Board Member McFee seconded the motion.

328

329 Discussion: Chairman Rowland indicated the only issue he would have is he thought because
330 this is a Heber City asset the majority of membership should be Heber City residents if we left
331 that second one to at-large this could potentially be taken away as a majority; to have a majority
332 we need to have at least four. Board Member McQuarrie indicated he was willing to modify (his
333 motion) to that to be a Heber City resident. There was discussion between Boardmember
334 McQuarrie and Chairman Rowland at this point on the distinction between Heber City resident
335 and a second City Council Member; which also would be a Heber City resident. Chairman
336 Rowland noted that if the Mayor wanted to appoint two City Council Members if it was worded
337 as Heber City resident then he would not be able to do this. Boardmember McQuarrie indicated
338 he thought the latitude should be left in and that he would keep his motion as originally
339 proposed. Boardmember AbuHaidar asked Boardmember McQuarrie for clarification on the
340 motion; did he modify his motion? Boardmember McQuarrie answered I did not modify; I am
341 going to keep it as originally proposed. Boardmember AbuHaidar asked, as proposed in this
342 document? Boardmember McQuarrie answered, as proposed in this document except instead of
343 requiring two members of Council to be on, the latitude is given to minimum; one required
344 Council Member and the option to appoint a second if so desired or they can appoint somebody
345 else at-large or in the City. Boardmember McQuarrie indicated this gives latitude to the Mayor
346 and City Council to appoint the second position as they desire.

347

348 Chairman Rowland stressed strongly his opinion that the Board consist of a majority of Heber
349 City residents. He noted that this was very important after speaking with the rest of the City
350 Council.

351

352 Boardmember McQuarrie amended his motion to, "Heber City Council Member or another
353 Heber City resident." He stated, I will modify my motion to that.

354

355 The vote was taken at this time. Voting Aye: Board Members McQuarrie, AbuHaidar, Rowland,
356 McFee, and Hansen. Voting Nay: none. The motion carried.

357

358 Bylaws were to be given to Mark Smedley for review and Karen Tozier was to email this out to
359 the Boardmembers for review.

360

361

362

363

364

365 **Item 4 Election of Chairperson and Vice Chairperson**

366

367 Chairman Rowland indicated he would like to relieve himself of any nominations as a
368 Chairperson and for that to be extended to another board member. Two potential seats are open.
369 Board Member McQuarrie voiced his opinion that he thought the Chair needs to report to the
370 City Council for purposes of communication. The composition of the Board was discussed
371 briefly.

372

373 Board Member AbuHaidar re-nominated Chairman Rowland until such time as he was not on the
374 Board. Board Member McQuarrie nominated Board Member Hansen for Chairman. Board
375 Member McFee nominated Board Member McQuarrie. Board Member McQuarrie moved to
376 close nominations. Voting was taken on these nominations and the motions died as there were
377 not enough votes to carry the motions.

378

379 **MOTION**

380

381 Boardmember McQuarrie made a nomination, he said, "I'll take the seat and he (Dave Hansen)
382 can be the vice".

383

384 Chairman Rowland summarized the motion; we have a motion to accept Mel as the chair and
385 Dave as the vice chair. Voting Aye: Board Members McQuarrie, AbuHaidar, Rowland, McFee,
386 and Hansen. Voting Nay: none. The motion passed.

387

388 **Item 5 Review of 2013 Airport Board Actions and approval of the 2014 Annual**
389 **Regular Meeting Schedule**

390

391 There were no proposed changes to the schedule and no comments were made on the Board
392 actions of the past year.

393

394 **Other Items as Needed**

395

396 Chairman Rowland invited the public to comment on any items the Board had discussed.

397

398 Tracy Taylor, a Heber City resident expressed that in listening to the composition of the Board
399 that she thought it is better to disperse power than consolidate power. She indicated she would
400 prefer the Airport Advisory Board not be comprised of City Council Members. They are
401 welcome to come to these meetings, and should come to the meetings whether they sit on a
402 Board or not. Taylor spoke of using technology for communication and requested video taping
403 the meetings and placing them on the website so City Council Members can watch and noted that
404 podcasts were also a way of getting information out to the public and City Council Members.
405 She also commented on the scheduled time of the meetings preferring that the meetings be later
406 in the day when she thought more people could attend instead of at 4:00 p.m. She reiterated her
407 preference that City Council Members not be on this Board. She also thought the members
408 should have airport experience and that they know how to read a contract and decipher what you
409 are held to and what you are not held to. She thought the City had grown enough that individuals
410 could be found to sit on the Board who had these traits.

411

412 Chip Turner, resident and Mayor of Daniel, thought that having one councilmember on the
413 Board was okay but that having two members was a huge conflict of interest.

414

415 Mayor McDonald indicated he wanted to publicly express his appreciation to the members of the
416 Board. He thought that the experience that they have on this Board is tremendous and that the
417 issues go very deep which may be the reason why a City Council Member has sat on this Board.
418 He read the purpose of the Board from the bylaws which was to advise the City Council and
419 Mayor in matters pertaining to the operation of the Heber City Airport. He thought the intent of
420 the Board was to advise the Council, not to have Council Members on to this Board. Mayor
421 McDonald advised the Board on the Codes of Conduct and Conflicts of Interest and then spoke
422 about communication between the two groups. He commented that the Chairman and any Board
423 Members are welcome to attend the City Council Meetings. He thought they could bridge the
424 communication gap together without having two City Council members on the Board at this
425 time. Mayor McDonald concluded that the Airport has to be viable for investors to come into it
426 and recommended non-reversionary leases; that the City should look out for their interest. He
427 recommended that the Board continue to follow the pursuit of non-reversionary leases.

428

429 Chairman Rowland commented that in regard to City Council representation it had been
430 unanimous from the City Council that they felt there should be at least one City Council Member
431 on the Airport Advisory Board.

432

433 Boardmember McQuarrie moved to adjourn the meeting. Board Member Hansen seconded the
434 motion. Voting Aye: Board Members McQuarrie, AbuHaidar, Rowland, McFee, and Hansen.
435 Voting Nay: none. The motion passed and the meeting adjourned at 6:12 p.m.

DOCUMENT #10

Airport Business Solutions Heber Airport Lease Analysis Recommendation

- Daniel Non-reversionary hangars 1-22 “upon expiration ... should be based upon new new lease terms of 20 years” [45 year total lease]. “The additional 20 years, coupled with the ... current leases should provide hangar owner with sufficient time to amortize their investment.”



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Phone (813) 269-2525

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February 9, 2007

Mr. Mark K. Anderson
Heber City Manager
75 North Main Street
Heber City, Utah 84032

RE: Airport Lease Analysis
Heber City Municipal Airport - Russ McDonald Field
Heber City, Utah

Dear Mr. Anderson:

Per the request by Heber City, we are pleased to present this document, which represents an Airport Lease Analysis for the Heber City Municipal Airport - Russ McDonald Field in Heber City, Utah. The following report provides our assessment and analysis of various and potential lease issues and 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 reviewed the hangar row agreements, hangar leases, and the FBO lease and hangar agreements. We met with the tenants and the FBO owner/manager and interviewed City Officials and Airport Staff. In addition, *ABS* has provided Heber City with a sample RFP document and a sample lease agreement.

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

Sincerely,

Randy D. Bisgard
Senior Vice President

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SECTION I

INTRODUCTION



The Heber City Municipal Airport - Russ McDonald Field (FAA Identifier 36U) is a small to mid size general aviation service facility located in the Heber Valley area of Utah. The Airport serves a number of rural and mountain communities between Park City to the north and the community of Charleston to the South. The facility currently does not offer any commercial passenger services; however, there is abundant commercial service at Salt Lake City International Airport (SLC), which lies 31 miles northwest of Heber. Competitive general aviation services are found at Provo Municipal Airport (PVU), which is 21 miles to the southwest. The Heber City Airport serves based and itinerant general aviation traffic, including corporate and business related travel, and has one full service Fixed Base Operator (FBO), OK3 Air, that provides a wide range of services, including the sale of both 100LL/Avgas and Jet-A fuel. Other services include minor airframe and power plant repairs, aircraft sales, flight training, aircraft rental, and limited aircraft charter.

The Airport has experienced minimal growth in recent years, and current aircraft activity is approximately 38,000 operations (take-offs and landings) annually. The aircraft activity at the Airport is a mix of local based aircraft operations, which makes up over 57 % of the activity, transient aviation including single engine aircraft, cabin class twins, and some jet aircraft, which comprises approximately 40% of the activity, with the remainder being limited air taxi and military activity. There are occasional spikes in activity for local special events such as air shows and the Sundance Film Festival, which is an annual event that brings in additional corporate jet activity. The Federal Aviation Administration (FAA) estimates that the average based aircraft population on the field is approximately 100 aircraft, of which approximately 75 are single engine aircraft, 4 are multi engine, 3 are jet aircraft, 3 helicopters and the remainder are gliders and ultralights.

Although the Heber facility is in close proximity to the ski resort area of Park City, much of the corporate aircraft activity associated with the ski resort utilizes the extensive FBO facilities and airport infrastructure found at Salt Lake City International Airport (SLC). The SLC advantage includes longer runways, better quality FBO facilities, additional heated hangar facilities, better all-weather instrument landing approaches, and easy automobile access via Interstate-80. However, it should be noted that the area surrounding Heber City is continually being encroached by resort properties and business development related to the ski areas to the north and west. As such, property values and activity levels are increasing at a significantly higher rate than the national average. Although not immediate, this development will progressively attract additional transient and based aircraft activity to the Airport within the next five to ten

SECTION IV

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 City in trying to reach a mutually agreeable solution on the reversion issue at 36U, 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.



It is understood that in both instances of leases that until each lease document comes to conclusion the Tenant and the City each has the right has the obligation to follow each leases covenants and directives. If the parties mutually agree to change the nature of the agreements for the betterment of each party such as extension of term, change in land rates or should the hangars need to be removed for construction then the negotiated terms, rates and reversionary clauses must be made consistent and with current appraised market rates. In general all leases should be amended to include language that is generally consistent with the sample lease contained in the Addenda. The only differences could be in the language for Tenant hangar ownership (non-reversionary) or City hangar ownership (reversionary).

Regarding the reversion and non-standard lease issues, in the past, Heber City had a conglomeration of lease requirements, some allowing improvement removal, others requiring reversion of the title to the City. The City and the Airport desires to make all lease language 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 City at lease termination, or to require their removal, is entirely within the prerogative of the City upon lease renewal. This plan is not considered to be 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 City's decision to implement a standard reversionary clause in its leases upon lease renewal, 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.

The following is a summary of pertinent issues and ABS recommendations with regard to amendments in the way leases are handled at the Airport.

GENERAL CHANGES TO AIRPORT FEE STRUCTURES IN THE FUTURE

For future planning the City and Airport must plan for increases in activity and therefore increases in operating expenses and overhead. The City should establish a baseline policy for market land rates of \$0.30 per square foot for improved land and \$0.15 per square foot for unimproved land. These rates should be escalated annually based upon changes in the Consumer Price Index (CPI), with a review every 3 to 5 years based on an appraisal or market rent analysis.

In addition, the City should increase its fuel flowage fees from the current \$0.02 per gallon of fuel delivered to a rate of at least \$0.05 per gallon of fuel delivered. This will make the rate more consistent with comparable general aviation airports both in the region and nationally. Said rate should also be reviewed annually and periodically adjusted to reflect changes in the maintenance and operation costs of the Airport.

HANGAR ROW TENANTS (REVERSIONARY)

When the leases of the existing Hangar Row tenants expire, there must be a revision to the documents which includes option to increase rental rates to prevailing market rents for the land. Prevailing market rents should be based upon the area of the footprint of the hangar, plus a premium (not less than 20%) to reflect the benefits gained from surrounding property that is not part of the lease, but cannot be utilized or leased for other purposes. It is obvious that the current \$50 per year land rent is well below market.

With regard to future lease terms, it is likely that the area where these hangars are located will be required for Airport infrastructure expansion and/or safety enhancements. As such, future lease terms should be limited, based on the fact that the City may need to remove facilities due to Airport enhancement. By limited, it is suggested that future lease terms be on a month-to-month basis only, which will give the Airport

maximum flexibility should these facilities need to be demolished. If month-to-month is not deemed practical by the City, then a maximum of a one-year lease should be considered. In order to placate tenants, it is also advisable to provide existing tenants within Hangar Row the first right of refusal on any new hangars constructed by the City, at the prevailing market rate. Future leases must have more definitive language for actions and expectations at termination.

OWNED HANGARS (NON-REVERSIONARY)

→ Upon expiration, the non-reversionary leases at 36U should be based upon new lease terms of 20 years, but with the stipulation that the City reserves the first right of refusal to purchase the improvements at the prevailing fair market value at lease termination. In addition, it should be clearly stated that if the City elects not to purchase the hangars, the hangar must be removed and the site brought back to a clear and site-ready pad. → The additional 20 years, coupled with the remaining term on current leases, should provide the hangar owner with sufficient time to amortize their investment. Moreover, most hangars will have limited economic or physical value at that time due to age, likely condition, and potential obsolescence. This is consistent with current lease language, whereby the tenant “owns” the hangar, but is not guaranteed a perpetual ground lease.

Should a current hangar owner elect to sell their hangar to a third party prior to lease termination, the Airport should retain the right of first refusal to purchase the hangar at the prevailing market value. If they elect not to purchase the hangar, the City should impose a “transfer fee” equal to two (2%) percent of the selling price of the hangar to account for the time and administrative efforts to facilitate such a transfer.

Land rents should be adjusted to prevailing market rates at the earliest opportunity, with annual escalations based upon CPI adjustments and periodic reviews to assess prevailing rates.

FBO LEASE AGREEMENTS

The current FBO, OK3 Air, has requested a lease extension based upon recent improvements to their FBO terminal facility. It is the opinion of *ABS* that it is not in the best interest of the City to extend the current FBO lease unless the FBO owner is willing to renegotiate and restructure the entire lease to reflect current market conditions, including current market ground rental rates. At present, it is our opinion that the City is not receiving a fair return on the FBO land assets. In particular, the ramp/apron area it leases to the FBO on an exclusive basis could hinder future grant money from the FAA. In addition, the limited improvements

done to the terminal and hangar facilities are much less than would typically be considered to warrant an extended lease term, especially given the other below market terms of the lease. In fact, in the future, the FBO facilities will need to be expanded/improved substantially to compete with other FBO facilities in the area, particularly those that draw much of the corporate business at SLC. As the market matures and additional corporate traffic begins to move to Heber City, additional lease term, based on extensive improvements, should be considered, but only with other lease conditions reflecting prevailing market terms.

RFP FOR NEW HANGAR DEVELOPMENT

With regard to future development opportunities at 36U, *ABS* strongly recommends the issue of an RFP for new hangar development at 36U. This scenario would bring in additional money to the Airport through a larger development process, and a single-entity developer would likely have a better chance of funding this type of project as opposed to a large number of individual trying to compete for local money. The construction would be consistent, more timely, and easier to maintain and control from an Airport management perspective. The Airport, through the RFP process, could assist in the establishment of reasonable rental rates through land lease negotiation and long term leases. This would also provide a much faster development time for one single developer compared to several hangars being built by many different contractors. It is suggested that due to the encroachment of development from Park City, that there would be considerable interest in the development of a hangar complex at Heber City.

DOCUMENT #11

ACPD Report 47: Guidebook for Developing/Leasing Airport Property. (excerpts)

- City Manager Anderson cites this Guidebook as reason to use reversionary leases.
- The reference provides guidelines only, not FAA requirements. Airports can write whatever kinds of leases they want.
- The Guidebook, as highlighted in these excerpts, provides both the pros and cons of both the Reversionary and Non-reversionary leases. Mr. Anderson cherry-picks only the sections that agree with his position.
- The Guidebook also contains many sidebars as highlighted here that provide innovative approaches to hybrid ground leases.

ACRP

REPORT 47

Guidebook for Developing and Leasing Airport Property

TRANSPORTATION RESEARCH BOARD
OF THE NATIONAL ACADEMIES

AIRPORT
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2.2.10 Reversion/Reversionary Clause (Page 19)

The reversion of leasehold improvements refers to the transition of ownership of all improvements to the airport sponsor at the termination of the lease agreement. Permanent leasehold improvements typically revert, while items such as signs, trade fixtures, conveyors, racks, and hoists typically do not. The termination of a lease may not be solely due to the expiration of the term, though that is the most common case. A lease may also terminate prior to the expiration of the lease term should one party in the lease agreement fail to meet the obligations stipulated in the lease. These failures may include failure to pay rent, violation of Airport Rules and Regulations, failure to comply with the Airport Minimum Standards, violation of a lease-specific clause within the agreement, or actions that trigger the termination of a lease such as leasing to a lessee's competitor when a noncompete clause is in effect.

If a schedule for the construction of improvements is in effect for a land lease, the lessee should be required to complete the construction of any new facilities within the specific allotment of time or the lease agreement can be terminated. Note that violations or actions that result in the termination of a lease, and associated reversion of improvements prior to the end of the lease term, must be clearly stated in the lease document.

The reversion upon termination at the end of a lease term, or upon early termination, properly protects the airport and its interest in the property, yet often leads to issues with improvement maintenance and upkeep as the lease nears the end of its term. The tenant should understand that leasehold improvements are "wasting assets" that have a limited useful life (typically the length of the lease term), and will depreciate through the course of the lease. In other words, most tenants will typically enter into long-term lease agreements with the understanding that any investment in leasehold improvements will be fully depreciated over the length of the lease and have no expectation of asset recovery at the termination of the lease. Since leasehold improvements will revert to airport ownership, tenants may have little motivation to put additional resources into the current facility unless enforceable specifications for upkeep and maintenance are appropriately detailed in the lease document or referenced in the Airport Minimum Standards document. Specifically, a schedule for routine and preventive maintenance and set system inspections with reports to airport management is prudent language to include.

Leases that do not specify reversion, or that leave ownership of the improvements with the developer/tenant, can cause an unexpected or unprepared obligation on the part of the airport sponsor. Leases that require the airport sponsor to purchase the improvements from the tenant may put a financial burden on the sponsor when the lease expires. These obligations must be considered, and funding sources established, if the airport plans on entering into an agreement that requires payment to the lessee at the end of the lease term.

HR?>> **SIDEBAR AT 2.2.10:** The lease structure at Monroe County Airport offers the tenant an equity (Page 19) position in the leasehold improvements. The leases are structured to allow tenants to maintain partial ownership of the facility at the end of the lease term. This structure gives the tenant motivation to maintain the facility in good repair because their equity stake in the facility will be directly affected by the appraised value of the facility at the end of the lease. In addition, the appraised value of the equity stake may have appreciated over the course of the lease term and be worth more than the initial investment in improvements. This type of arrangement is beneficial to both the airport sponsor and the lessee, albeit an innovative and non-traditional approach. The airport uses a large percentage of revenues from the leases for a "building fund," which funds the buyback of facilities at the end of the lease term.

4.1 Existing Agreements (Page 49)

Existing airport lease agreements have the potential of affecting future agreements in multiple ways, thus, it becomes important to account for any tenants and agreements that may be impacted by planned development. Several factors may influence lease agreements between the airport and a potential tenant, including existing airport lease policy and noncompete agreements.

Existing airport leasing policy, if applied equitably to existing tenants, will limit the flexibility of the airport to offer discounts, incentives, and other benefits to new tenants without negatively affecting the goodwill of existing tenants. It is the goal of an airport leasing policy to assure that each tenant is treated equitably, so it becomes necessary that the airport consider potential conflict and confusion that might arise when granting lease policy waivers and exemptions to new tenants.

It is the duty of the airport to assure that new agreements are not in conflict with existing leases and airport leasing policy. A cohesive and accessible leasing policy can be a key tool in mitigating any confusion and conflicts that may arise later.

Noncompete agreements are generally in conflict with federal grant assurances and difficult to apply to commercial ventures such as an FBO or MRO operation. When seeking to execute a lease for commercial activity, the airport must be aware of current tenants in the same industry and be cognizant that grant assurances require access to new entrants at public airports. If noncompete clauses are prevalent in existing documents, changes may be required.

4.6 Airport Revenue Maximization (Page 53)

[NOTE: FAA grant assurances do not allow airports to be operated at a profit]

Airport revenue maximization should be a key goal for the airport sponsor and must be a primary consideration when entering a lease agreement. The FAA, through its grant assurance documents, requires airports to establish fair and reasonable fees without discriminating against a specific aeronautical user. The FAA also recommends that airports maintain a fee and rental structure that makes the airport virtually self-sustaining. Airports are expected to establish rents and airport user fees that generate enough revenue to meet airport funding requirements. Key considerations involve balancing the financially intangible benefits of a specific project (such as improved service offerings, job creation, and new tax revenue) with the tangible benefits of revenue to the airport.

An Airport Business Plan can prove to be a valuable tool as the airport sponsor seeks to maximize airport revenue. A properly executed business plan will provide a comparative analysis of the airport's lease rates, charges, and fees in relation to other airports, as well an analysis of the airport's lease policy. This will provide airport management with the basis to adjust rates and charges to true market rates if the findings of the analysis dictate.

TAB 6

Article 3:

Appointment and Terms of Members

- A. The Airport Advisory Board shall consist of (7) members;
- B. Membership shall be as follows:
 - 1. A minimum of at least one City Council Member, with the option, at the discretion of the City Council Mayor, with the approval of the City Council, of a second City Council Member, or a non-Council Member but resident of Heber City.
 - 2. Two additional Heber City Residents.
 - 3. Two at-large Members that include persons of diverse interests from throughout the cities and suburbs in Wasatch County.
 - 4. One position reserved for the owner of the FBO or an authorized proxy of the FBO; ~~Representative;~~
 - 5. The members themselves when their names are given for recommendation must include whether or not they have aviation experience and any conflicts that may exist with the Airport such as hangar ownership or other property interests.
 - ~~61. Membership will include persons of diverse interests from throughout the cities and suburbs in Wasatch County.~~
 - 672.. A Technical Assistance Committee will be formed as needed to help understand technical and other issues associated with the airport or other entities that might be affected by it.
- C. The Airport Advisory Board will interface with and be supported by the City Manager, his designee, and/or the Airport Manager. Heber City will also provide a secretary and staff support as needed.
- D. The terms of office for the seven appointed Airport Advisory Board members shall be four years. The initial appointments shall be for, three positions two years, two positions three years, and two positions four years from January 1, 2005. Any vacancies in these positions shall be filled by a recommendation from the Mayor and confirmation by the City Council. The appointment will be for at the remaining time of the member whose vacancy is being filled.

E. Improper conduct and non-performance of duties shall result in a recommendation to the Heber City Council for removal of said member. Members may be removed after a public hearing, by a majority vote of the City Council.

Tab 7

Memorandum of Understanding

State of Utah Office of State Debt Collection

- 1. PARTIES:** The Parties to this Memorandum of Understanding (“MoU”) are: The Utah Office of State Debt Collection (“OSDC”) and Heber City, a Municipal Corporation (“City”).
- 2. PURPOSE:** This MoU establishes an agreement by which the Parties can work together to collect debts owed in criminal cases.
- 3. TERM:** This MoU will become effective the Date that all Parties have signed this agreement. The MoU will remain in effect until terminated by 60 day advance written notice by any Party.
- 4. AUTHORITY:** The OSDC has statutory authority to collect debts under Utah Code Ann. § 63A-3-501 et seq, and criminal courts have authority to transfer overdue debts to the OSDC under Utah Code Ann. § 77-18-6. This agreement outlines the understanding between the Parties, and is meant to comply under the statutes. In any apparent conflict between Utah Code and this agreement, the Utah Code shall govern.
- 5. RELATIONSHIP:** There will exist a service provider/client relationship between the City and the OSDC.
- 6. HANDLING OF CASES:**
 - A.** The City will create a judgment and send corresponding collection accounts (“Accounts”) to the OSDC. It is The City’s responsibility to ensure that the judgment is properly filed and recorded to ensure any appropriate liens are in place.
 - B.** Accounts will be transmitted to the OSDC from the City via CORIS interface file. Accounts will be entered into the CORIS by the City and the OSDC will retrieve the relevant data via the interface file from CORIS. The City is responsible for the accuracy of data submitted. The OSDC is responsible for ensuring that the information retrieved from CORIS is maintained accurately.
 - i.** The City will provide a list of one or more contact persons along with contact information to which requests for information or documentation may be made.
 - ii.** The City will provide all the information which is requested in the electronic format to the extent that it is known. This information will allow the OSDC to work cases and collect the debts independently.
 - iii.** Inquiries by the debtor which are beyond the information provided to the OSDC will be referred to a person designated by the City for such inquiries.
 - C.** The OSDC will use any legal means it deems appropriate to collect the accounts at its discretion. The collection methods include, but are not limited to: garnishments, liens, and using outside third party collection agencies. The Utah Attorney General’s Office provides legal counsel for OSDC.
 - D.** The OSDC will add collection costs and interest to Accounts when they are received from the City, as allowed per statute.

E. The OSDC will contact a designated person at the City for approval of any settlement negotiations that would result in less than full payment. The OSDC does have full authority to make any adjustments to collection fees and interest charges that they deem appropriate. Adjustments will not be made to restitution amounts without prior approval from the victim.

F. If at any time the OSDC determines that the debt is uncollectable for reasons including, but not limited to death, disability, statute of limitations, or other reasons the OSDC will stop collection efforts and these accounts will be reported to The City.

G. The City has the right to modify Accounts.

i. The City may recall Accounts from the OSDC at any time. To modify the amount or distribution codes of Accounts, the court must first recall the Accounts from the OSDC, modify the Accounts in CORIS, and then re-send the corrected Accounts to OSDC. Adjustments to an Account shall be entered within 5 days in CORIS. The OSDC will update its records based on the re-submitted Accounts from the CORIS interface.

ii. Accounts may be recalled by sending an email to osdcommon.utah.gov. The email must include a reason for the recall.

iii. Accounts placed with the OSDC may not be recalled for the purpose of reducing or avoiding payment of the statutory collection fees.

H. Payments on Accounts within the control of the OSDC will be processed by the OSDC.

i. Payments received by the City within five days of submitting an account to the OSDC may be processed by the City, if this occurs the City shall notify the OSDC of the new balance. Payments received after five days will be forwarded to the OSDC to be processed.

ii. Guaranteed funds, including but not limited to: Money Orders, Credit Cards, Cash, Title Company Checks, Cashier's Checks, and Electronic Fund Transfers, will be processed and remitted upon receipt.

iii. Non-Guaranteed funds, including personal checks and Finder payments, will be held for a period of two weeks prior to remitting to the City to ensure that the funds clear.

iv. Once a payment is received that results in a \$0.00 account balance, the OSDC will file a Satisfaction with The Court.

I. The OSDC will take its collection costs out of the received payments prior to remitting the balance to the City.

i. On Accounts collected in full, including collection costs and interest, the OSDC will take the collection costs, and interest related to the collection costs.

ii. On Accounts negotiated to collection for an amount other than full payment, the OSDC will take the statutorily provided collection amount. This amount is subject to statutory authority and is subject to change by the legislature.

J. Remittance will be made to the City and other payees by draft or electronic transfer.

i. Remittance to the City will be done in a single draft at least monthly, unless the collected amount for the month is less than \$25.00, in which case the balance will carry over and be added to the next month. Monies

collected do not accrue interest for the time from collection to remittance to the City. At fiscal year end a draft will be issued regardless of the amount.

ii. OSDC will remit payments to the CORIS distribution codes placed with each of the Accounts by draft or electronic transfer. Distribution to the various distribution codes will be per statute identified in Utah Code Section 77-18-6 in accordance with Sections 51-9-402, 63A-3-506, and 78A-7-120.

iii. Each month the OSDC will provide the City an itemization of remittances based on CORIS Accounts provided by the City. It will be the City's responsibility to ensure the CORIS distribution codes appropriately allocate the payments.

K. Bankruptcy or Death notices received by the City will be forwarded to the OSDC within 5 days of receipt so appropriate action can be taken on the account.

7. **REPORTING:** The OSDC will provide access to an online reporting tool for the City to keep track of the accounts that the OSDC has. This reporting system is updated monthly on the last business day of each month, and on the actual last day of each quarter. This system allows for reporting that shows outstanding cases, balances, closed cases, and collected amounts. If additional reporting is required, the OSDC will work with the City to provide any necessary tracking information. The Parties will be available to meet as needed to discuss any issues with the ongoing collection efforts. Additionally each Party will ensure that all other Parties have good contact information (name, email address, and phone number) of the primary contact for that party.

OSDC

Date

SUBSCRIBED AND SWORN before me this ____ day of ____, 2012.

Notary Public

Heber City

Date

SUBSCRIBED AND SWORN before me this ____ day of ____, 2012.

Notary Public

Tab 8

HEBER CITY CORPORATION

STAFF REPORT

MEETING TYPE:	Regular Council Meeting	MEETING DATE:	March 27, 2014
SUBMITTED BY:	Bart L Mumford	FILE NO:	13028
APPROVED BY:	Mark K. Anderson		
SUBJECT:	HEBER CITY PUBLIC SAFETY BUILDING - CM/GC CONTRACT AWARD		

PURPOSE

To obtain Council approval to execute a contract with Hogan & Associates to provide CM/GC services for the new Heber City Public Safety Building.

RECOMMENDED ACTION

Approve and authorize the City Manager to execute a contract with Hogan & Associates to provide CM/GC services for the Heber City Public Safety Building for Preconstruction Phase fixed fee of \$15,000, a Construction Phase fixed fee of 2.5% of the Total Cost of Work, plus General Conditions currently estimated at 3.1% of the Guaranteed Maximum Price.

BACKGROUND/HIGHLIGHTS

At the February 27, 2014 special City Council meeting the following three teams were interviewed to provide CM/GC services for the Heber City Public Safety Building.

- Ascent Construction
- Big-D Construction
- Hogan & Associate Construction

These teams were short listed out of a larger group of 6 proposals received and reviewed on February 20, 2014 by Staff and Council representatives. They were selected based on their experience, qualifications, team, and cost of service.

The team of Hogan & Associates was selected as the preferred CM/GC to assist in the design and coordinate the construction of the new Heber City Public Safety Building. The contract will provide services for Phase 2 and 3 of the overall project. Phase 2 will cover final design. Phase 3 will cover services rendered during bidding and actual construction of the building.

FISCAL IMPACT

Total estimated project cost is \$7,800,000. Architectural services, are estimated at \$460,000. CM/GC services are estimated at \$400,000. The Architectural and CM/GC fees will be adjusted up or down depending on what the guaranteed maximum or bid price of the work is at the beginning of the Phase 3 construction work.

The amount budgeted for the project in the current FY14 budget is \$400,000. This is sufficient to complete Phase 1 and 2 of the Architectural and CM/GC contracts with remainder of the funding showing up in the FY15 budget.

LEGAL IMPACT

None

 **AIA[®] Document A133[™] – 2009**

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the 1st day of April in the year 2014
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status and address)

Heber City Corporation
75 North Main
Heber City, UT 84032

and the Construction Manager:
(Name, legal status and address)

Hogan & Associates Construction, Inc.
940 N. 1250 W.
Centerville, UT 84014

for the following Project:
(Name and address or location)

Public Safety Building
301 South Main Street
Heber City, UT 84032

The Architect:
(Name, legal status and address)

GSBS Architects
375 West 200 South
Salt Lake City, UT 84101

The Owner's Designated Representative:
(Name, address and other information)

Bart L. Mumford
75 North Main
Heber City, UT. 84032

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201[™]-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Construction Manager's Designated Representative:
(Name, address and other information)

Dennis Forbush
940 N. 1250 W.
Centerville, UT 84014

The Architect's Designated Representative:
(Name, address and other information)

Brian Jacobsen
375 West 200 South
Salt Lake City, UT.

The Owner and Construction Manager agree as follows.

Init.

TABLE OF ARTICLES

1	GENERAL PROVISIONS
2	CONSTRUCTION MANAGER'S RESPONSIBILITIES
3	OWNER'S RESPONSIBILITIES
4	COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
5	COMPENSATION FOR CONSTRUCTION PHASE SERVICES
6	COST OF THE WORK FOR CONSTRUCTION PHASE
7	PAYMENTS FOR CONSTRUCTION PHASE SERVICES
8	INSURANCE AND BONDS
9	DISPUTE RESOLUTION
10	TERMINATION OR SUSPENSION
11	MISCELLANEOUS PROVISIONS
12	SCOPE OF THE AGREEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 1.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™–2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2007, which document is incorporated herein by reference. The term "Contractor" as used in A201–2007 shall mean the Construction Manager.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction

Init.

Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.1 Preconstruction Phase

§ 2.1.1 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 2.1.2 Consultation

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

§ 2.1.4 Phased Construction

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates

§ 2.1.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager ~~suggests~~ suggest alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall develop bidders' interest in the Project.

§ 2.1.7 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 2.1.9 Notices and Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 2.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The

Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201–2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Construction manager shall provide a bid and obtain bids from Subcontractors for portions of the work that the Construction Manager proposes to perform with the Construction Manger's own personnel. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection. In the case the bids for portions of the work that the Construction Manager proposes to perform with the Construction Manager personnel, the owner and architect shall determine which bid will be accepted. At the discretion of the Construction Manager, a prequalification process may be used to establish a list of subcontractors that will be permitted to bid on the work.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager, (2) is qualified to perform that portion of the Work, and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

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§ 2.3.2.5 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.3.2.6 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201–2007.

§ 2.3.2.7 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 2.3.2.8 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

§ 2.4 Professional Services

Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems sustainability and site requirements.

§ 3.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 3.1.4 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.