

**Heber City Airport/Russ McDonald Field**

**Lease/Rates and Charges Policy**

**Final Report**

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**Table of Contents**

1. INTRODUCTION .....1

    1.1. Statement of Policy .....1

    1.2. Definitions .....1

    1.3. Existing Agreements .....3

    1.4. Rights Reserved .....3

2. APPLICATION REQUIREMENTS .....4

    2.1. Application .....4

    2.2. Approval Process .....4

    2.3. Competitive Proposal Process .....5

    2.4. Grounds for Denial .....7

    2.5. Demonstrating Immediate Need .....8

    2.6. Public Disclosure .....8

3. AGREEMENTS .....9

    3.1. General .....9

    3.2. Use of Leased Premises .....9

        3.2.1. Aeronautical Use (Commercial) .....9

        3.2.2. Aeronautical Use (Non-Commercial) .....9

        3.2.3. Non-Aeronautical Use .....9

        3.2.4. Restrictions .....10

    3.3. Subleasing .....10

        3.3.1. Subleasing Privileges Permitted in the Commercial Lease Agreement .....10

        3.3.2. Subleasing Privileges Not Permitted in the Commercial Lease Agreement .....10

        3.3.3. Sublessee Obligations .....11

        3.3.4. Sublessee Stipulations .....11

    3.4. Transfer of Interest .....11

        3.4.1. Assignment .....11

        3.4.2. Change in Majority Ownership .....12

    3.5. Term .....12

        3.5.1. Initial Lease Term .....12

        3.5.2. Lease Type .....12

        3.5.3. City Obligations .....12

        3.5.4. Lease Extension .....12

        3.5.5. Investment Term Adjustment .....13

    3.6. Improvements .....14

    3.7. Responsibilities .....14

        3.7.1. Heber City .....14

3.7.2.	Lessee .....	14
3.8.	Condemnation .....	14
3.9.	Relocation .....	15
4.	RATES AND CHARGES .....	15
4.1.	General .....	16
4.2.	Mechanisms to Set Rates .....	16
4.2.3.	Competitive Proposal Process.....	16
4.3.	Variation in Rates.....	16
4.4.	Adjustment of Rents.....	16
4.4.2.	Escalation Clauses .....	17
4.5.	Establishment and Adjustment of Fees .....	17
4.6.	Payment of Rents, Fees, or Other Charges.....	17
4.7.	Bookkeeping and Records.....	17
4.8.	Exclusive Rights .....	17
5.	APPENDIX .....	19
5.1.	Appendix A: Commercial Lease Flow Chart .....	19
5.2.	Appendix B: Establishment of Fair Market Value .....	20
5.3.	Appendix C: Appraiser Qualifications .....	20
5.4.	Appendix D: Dispute Resolution .....	20

## 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 hangar 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.



- 2.4.1.5. 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, navigaids, 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.

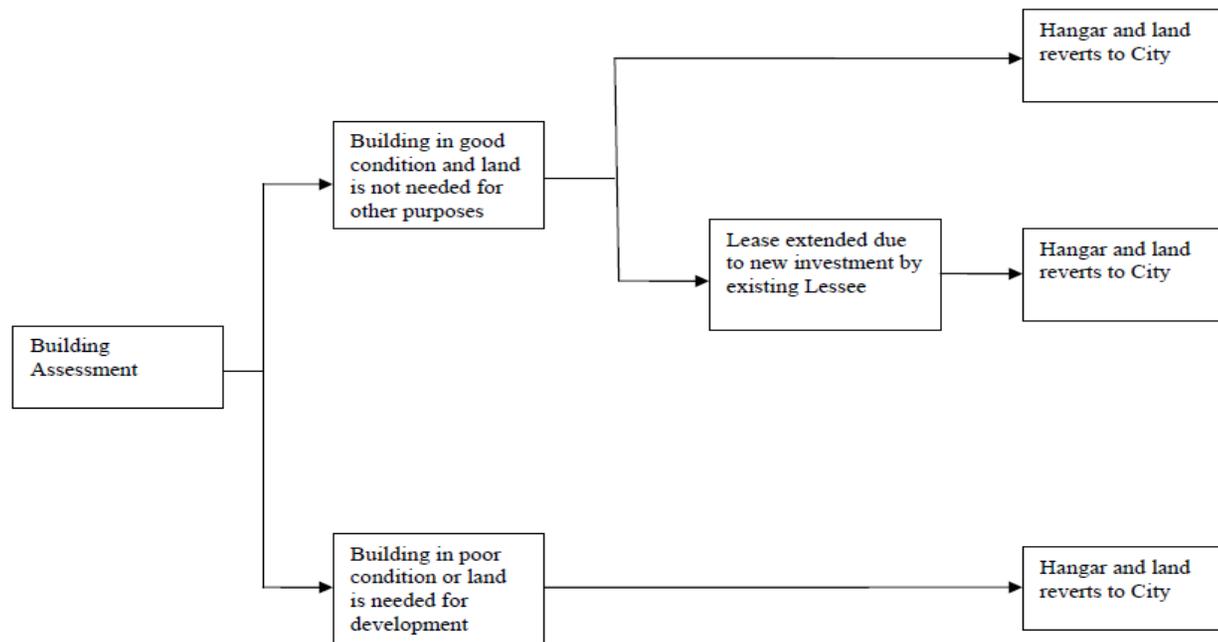
**4.8. Exclusive Rights**

- 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