CITY HALL
411 SW 9th STREET
REDMOND, OR 97756
541.923.7710
FAX: 541.548.0706
info@redmondoregon.gov
redmondoregon.gov

CITY COUNCIL

July 6, 2021
Council Chambers • 411 SW 9th Street

COUNCIL MEMBERS

George Endicott
Mayor

Jay Patrick
Council President

Jon Bullock
Councilor

Krisanna Clark-Endicott
Councilor

Clifford Evelyn
Councilor

Ed Fitch
Councilor

Shannon Wedding
Councilor

JULY 6, 2021 — SPECIAL MEETING AGENDA — 6:00 PM

I. CALL TO ORDER / ESTABLISH A QUORUM

II. PRESENTATIONS

A. Current Events

B. Central Electric Cooperative's Public Safety Power Shut Off Operational and Communications Plan

C. Panel Discussion on Drought: Water and Wells

D. Bethlehem Inn Project Update with Gwenn Wysling

III. FUTURE AGENDA TOPICS

A. Councilor Evelyn

IV. CONSENT AGENDA

A. Minutes of February 9, 2021, Council Meeting

B. Minutes of February 16, 2021, Council Meeting

C. Oregon Department of Transportation 2021-2023 Transit Grant Acceptance, Agreement #35167

D. Addendum No. 2 to City Contract #2020-59 with Mead & Hunt, Inc. for FY 21-22 Air Service Consulting Services: $79,530.00 plus escalators are not more than 10% per year.

E. Redmond Municipal Airport purchase of a CAT 950M Wheel Loader and T800 Kenworth Dump Truck: $508,197.46.

F. Request to submit an application for the Federal Aviation Administration's American Rescue Plan Act Airport Rescue Grant in the amount of $6,082,370 and authorize the City Manager to sign the subsequent grant offer #3-41-0052-050-2021, and any amendments related to Concession Relief. (AP5019)

V. ACTION ITEMS

A. Request to submit an application for Federal Aviation Administration Airport Improvement Program Grant #3-41-0052-047-2021 in the amount of $7,360,607 and authorize the City Manager to sign the subsequent grant offer from the FAA. (AP4700)

B. Resolution #2021-15 - A resolution adopting an Airport Leasing Policy concerning the Redmond Municipal Airport (A/K/A “Roberts Field”), which Airport Leasing Policy will replace and supersede City of Redmond's current Airport Leasing Policy adopted on November 17, 2015.

C. Ordinance #2021-06 - An ordinance amending the Redmond City Code Chapter 10, Sections 10.015 and 10.055 pertaining to the Airport Leasing Policy.

VI. ADJOURN

Policy Issue Worksheets

Topic: Panel Discussion on Water/Wells and the Drought

Lead (City) Staff: Josh Wedding, Public Works, Water Division Manager

Other Guests: Bruce Brody-Heine, Principal Hydrogeologist, GSI Water Solutions, Inc.

Purpose: In June 2021, City Council received an inquiry about whether the expansion of the City's Water infrastructure (new wells, etc.), were impacting the flow of private wells. In response, staff has assembled a small panel of experts to talk about the differences between the aquifers used by the City and the aquifers drawn on by private wells; in addition to the circumstances created by a drought and a general trend of water as a resource in Central Oregon.

Project Objectives/Success Criteria:

- City Council and the public have a clear understanding of what impacts the availability of water and the Deschutes River Basin.
- City Council and public learns about the City's water resource and how it is different from that of private wells.
- City Council and the public learn more about water usage in Redmond.

Anticipated Worksession Date: June 29, 2021

Previous Council Worksessions on this Topic: NA

Contributors/Subject Matter Experts (check all that apply):

Staff	Education Partners	Neighborhoods
Other jurisdictions	Business Community	Direct Customers/Users
Law Enforcement	Service Providers	

Other (list):

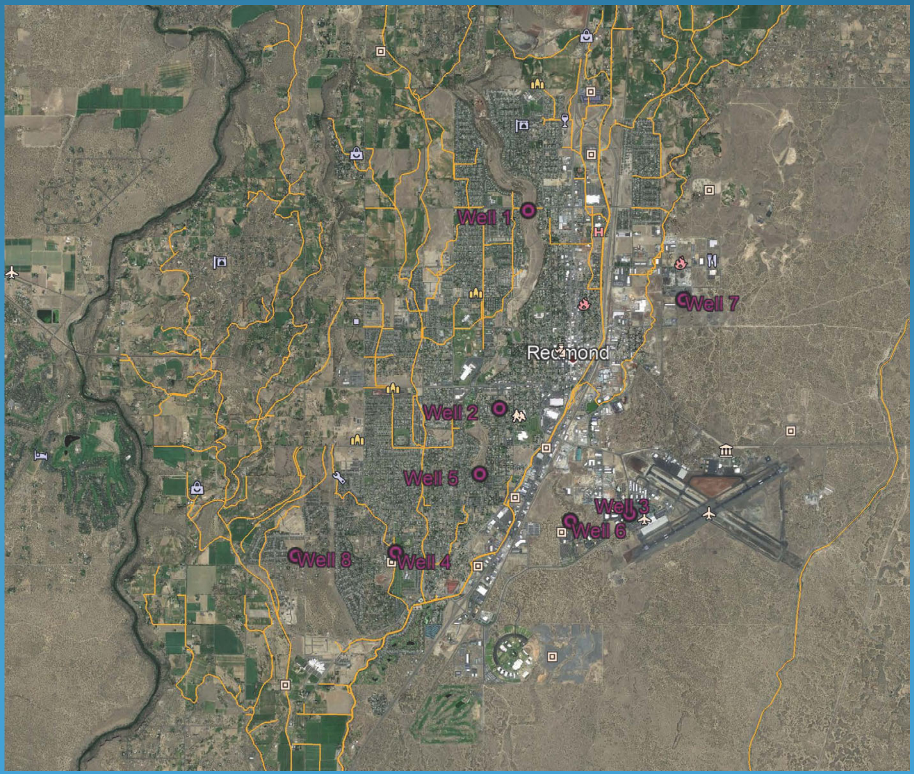
City of Redmond

Council Meeting
June 29, 2021

Bruce Brody-Heine,
GSI Water Solutions, Inc.

GSI Water Solutions, Inc.

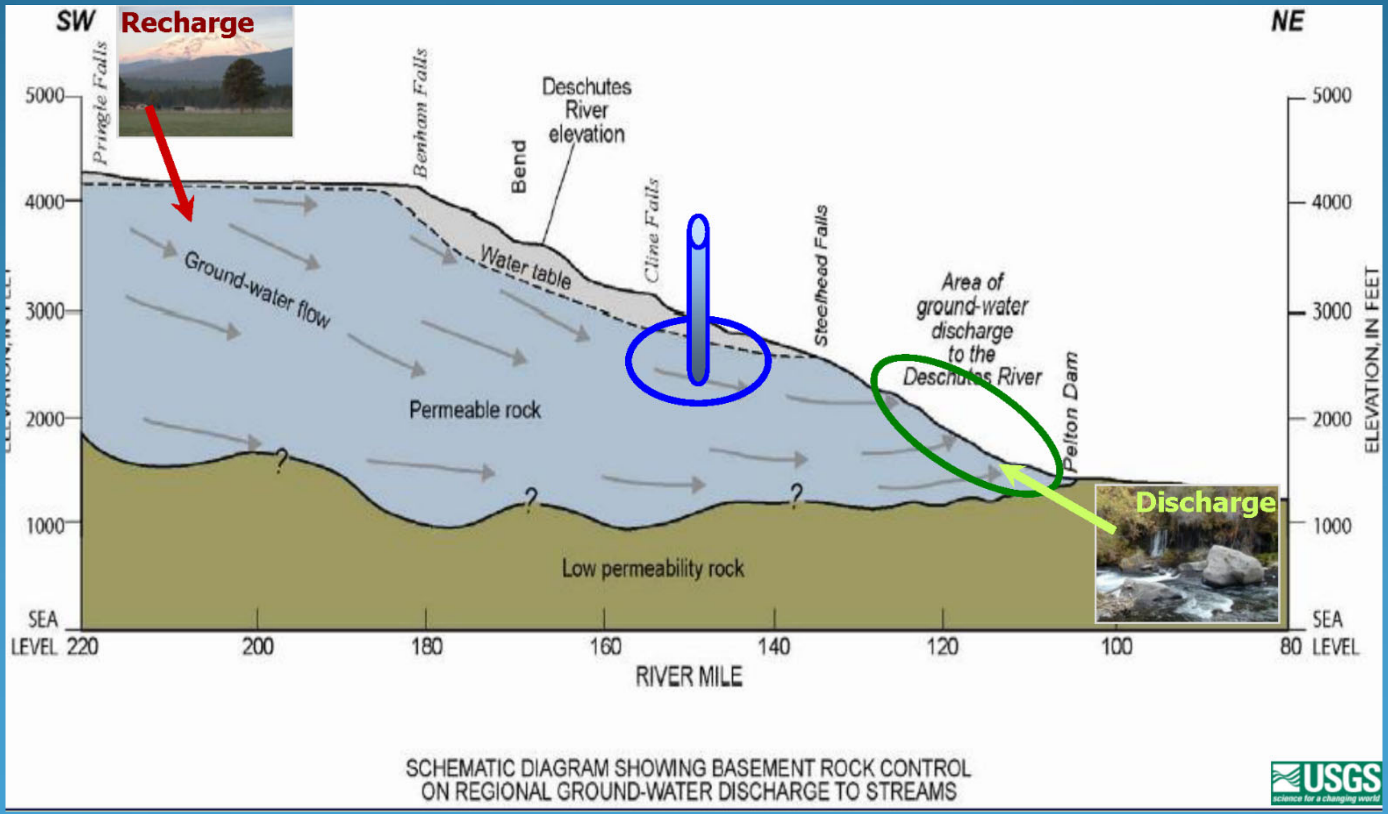
City Production Wells vs Regional Groundwater Declines



GSI Water Solutions, Inc.

BACKGROUND

General Groundwater Flow in Basin

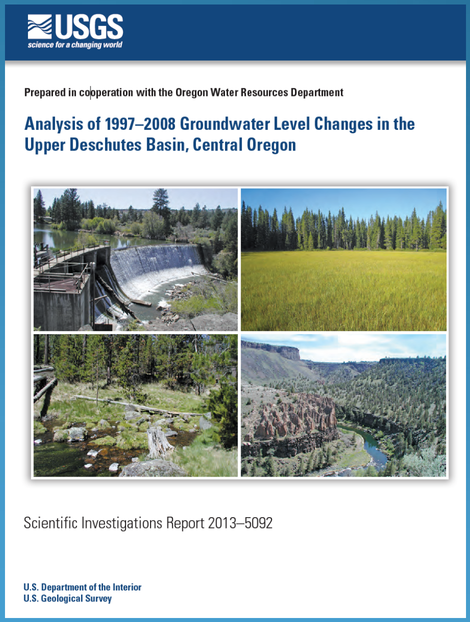


GSI Water Solutions, Inc.

BACKGROUND

Regional Water Level Declines

- 2013 USGS Study Examined WL Declines
- Mid-1990s to mid-2000s Water Level Declines near Redmond ~ 5’ to 14’
- Primary Factors Contributing to Declines
  - ➢Climate Variations
  - ➢Canal Lining
  - ➢Groundwater Pumping

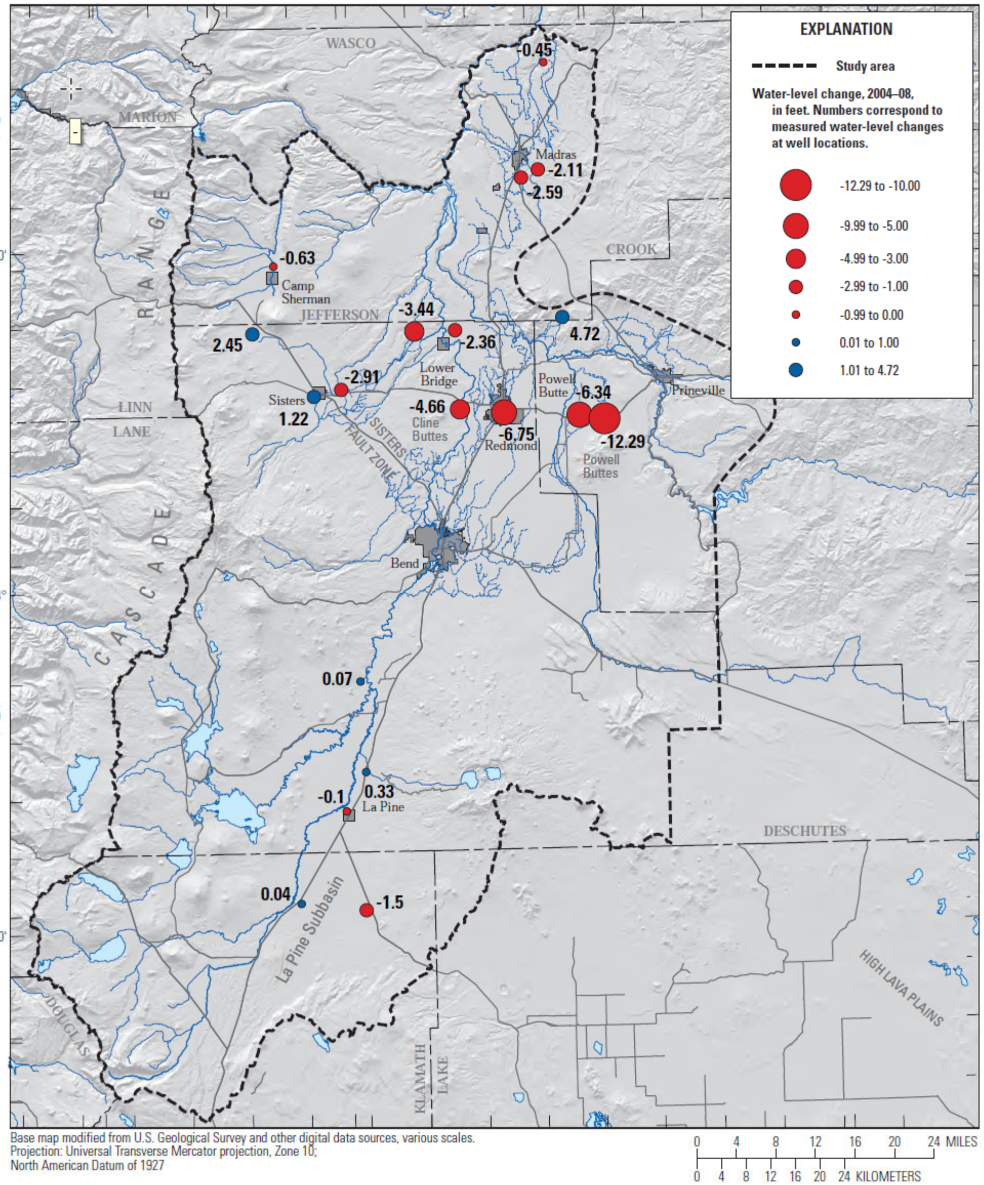

USGS
science for a changing world

Prepared in cooperation with the Oregon Water Resources Department

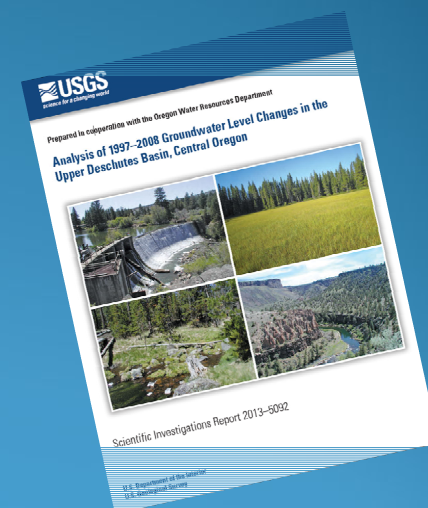
Analysis of 1997–2008 Groundwater Level Changes in the Upper Deschutes Basin, Central Oregon

Scientific Investigations Report 2013–5092

U.S. Department of the Interior
U.S. Geological Survey



Base map modified from U.S. Geological Survey and other digital data sources, various scales.
Projection: Universal Transverse Mercator projection, Zone 10;
North American Datum of 1927



GSI Water Solutions, Inc.

- Climate Variations
  - Droughts
  - Wet Years
- Basin experiencing a general drying trend for the past several decades

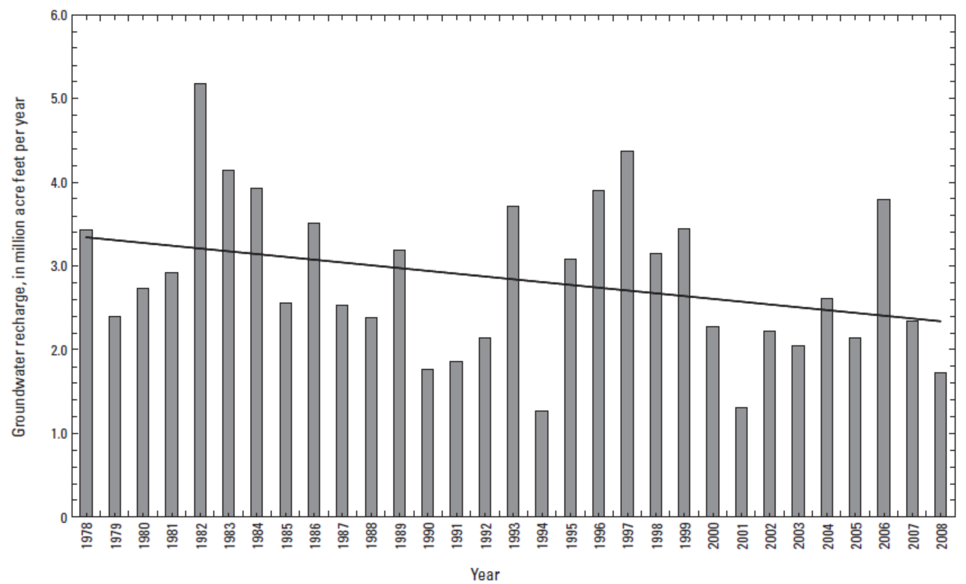
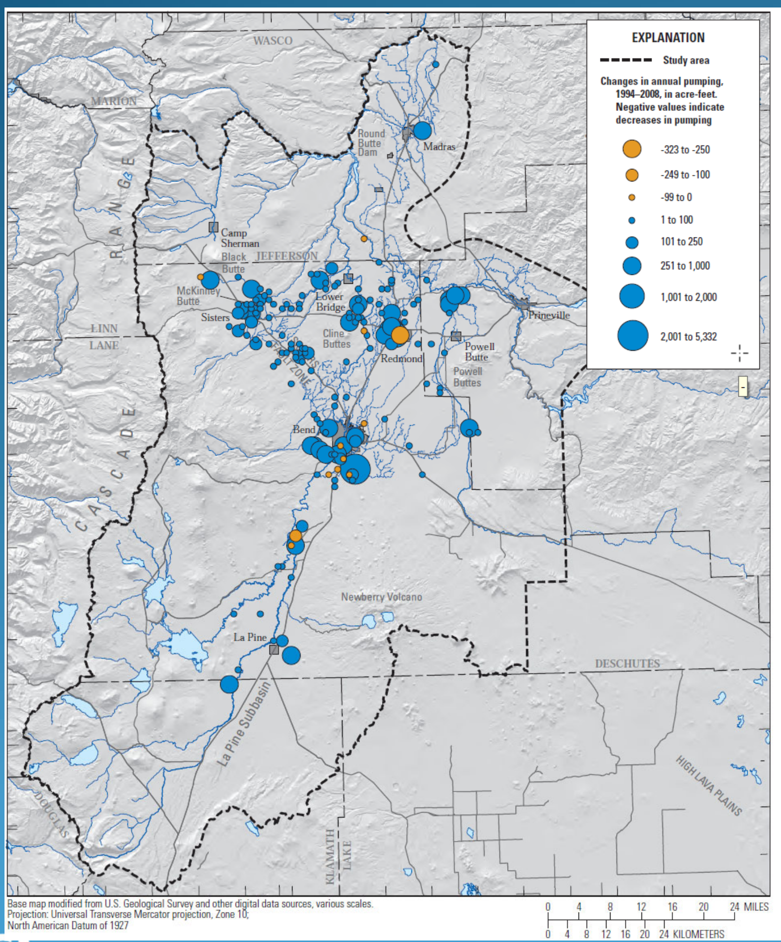


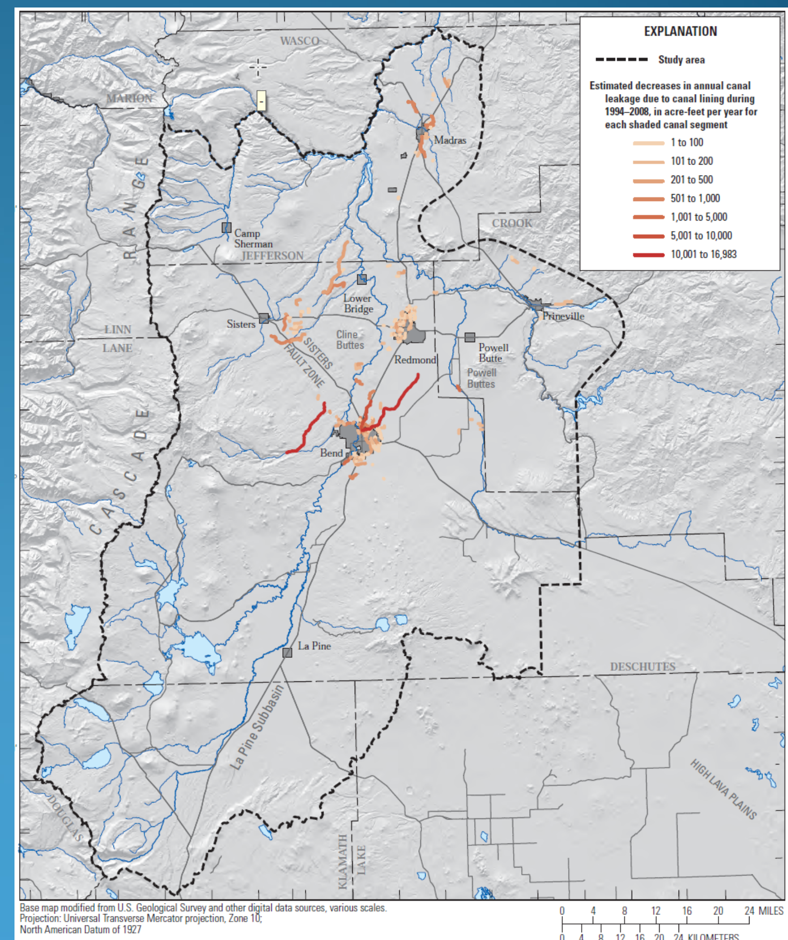
Figure 9. Estimated total annual groundwater recharge in the upper Deschutes Basin, central Oregon, 1978–2008. Line shows linear trend with a slope of about 33,500 acre-ft/yr.

GSI Water Solutions, Inc.

Change in Annual Pumping



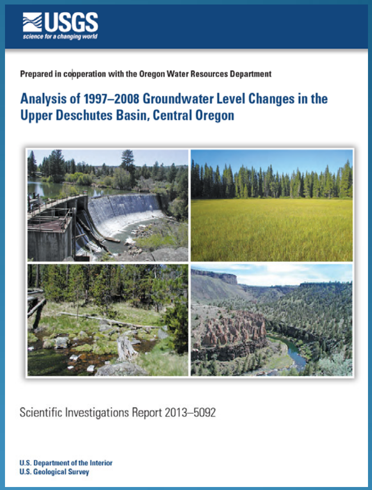
Change in Canal Leakage



BACKGROUND

USGS Study Results

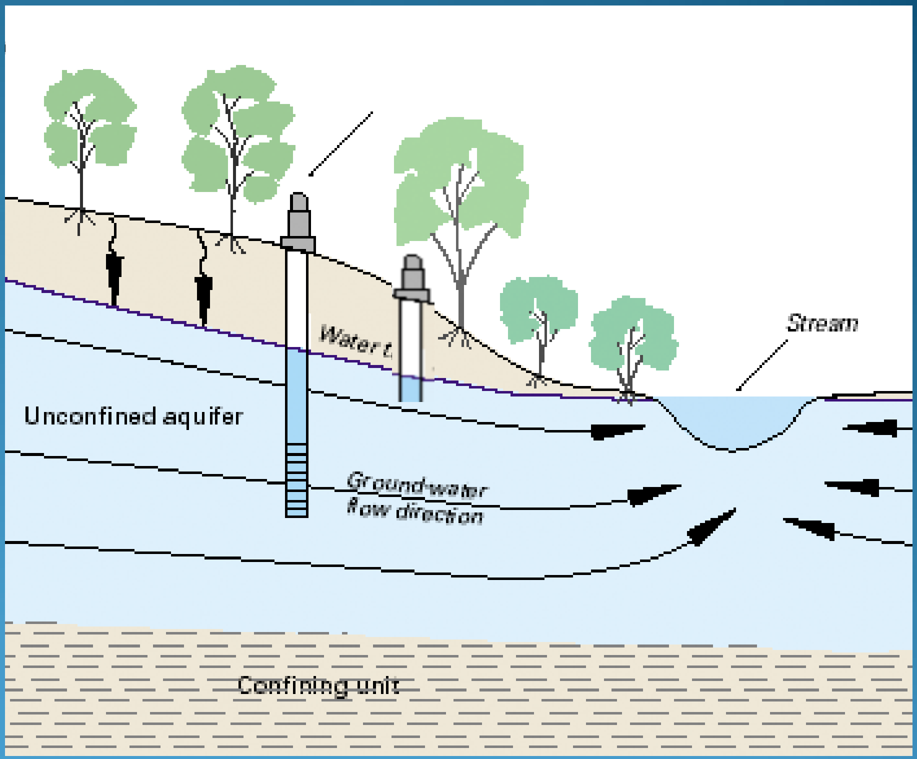
- 3 Primary Factors Contributing to Declines
  - Climate Variations → 60-70%
  - Groundwater Pumping → 20-30%
  - Canal Lining → 5-10%



GSI Water Solutions, Inc.

Water Level Declines & Private Water Wells

- **Well DEPTH is Critical**
  - Older domestic wells typically only drilled ~20' into the water table
  - Regional Water Table declines due to multiple factors and the shallow wells goes dry

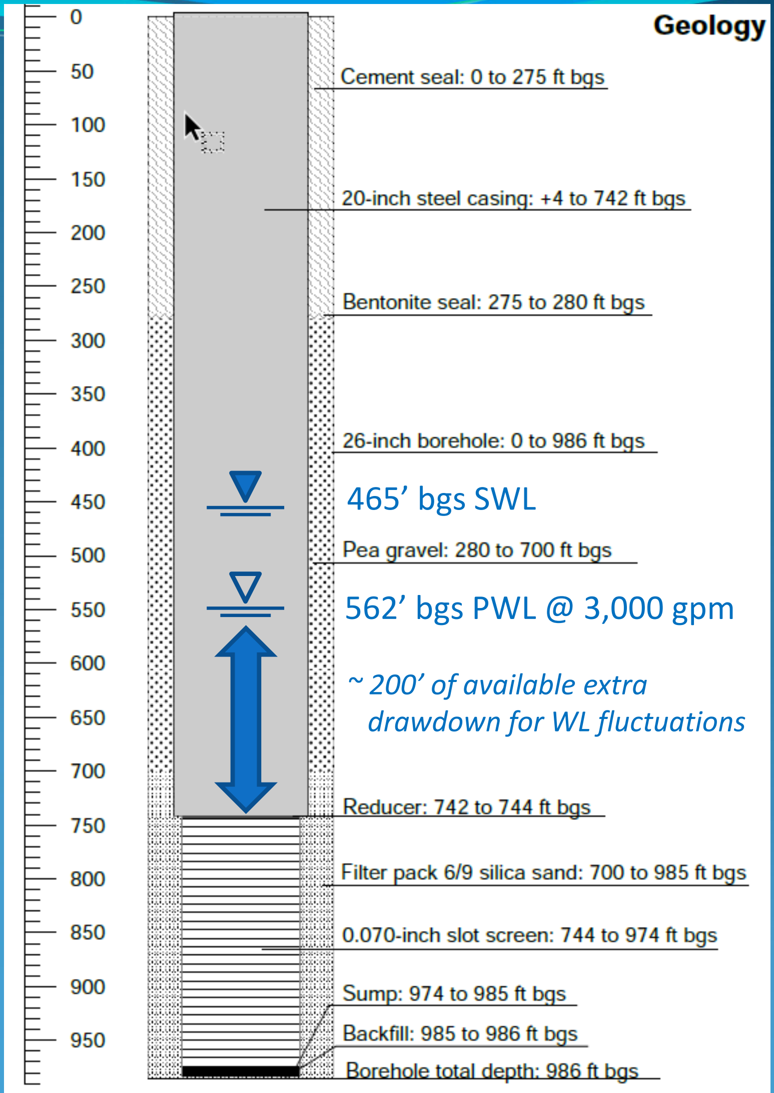


GSI Water Solutions, Inc.

Regional Water Level Declines vs City's Production Wells

- **City Well DESIGNs Accounts for Regional Groundwater Level Fluctuations**

City Well 8



GSI Water Solutions, Inc.

City of Redmond Production Wells

City Well #	2020 PWL (ft bgs)	Pumping Drawdown (ft)	Additional Available Water Column[1] (ft)	Average Annual WL Decline[2] (ft)	Additional Years of Operation
Well 1	0	--	--	1.31	--
Well 2	364.8	64.2	20	1.31	15
Well 3	377.2	16.2	138	3.20	43
Well 4	426.3	39	107	0.25	422
Well 5	288.9	5.3	218	1.02	213
Well 6	363.9	9.1	186	1.22	153
Well 7	340	6.2	185	0.58	316

Notes:

1 - measured to top of screen or top of pump bowls

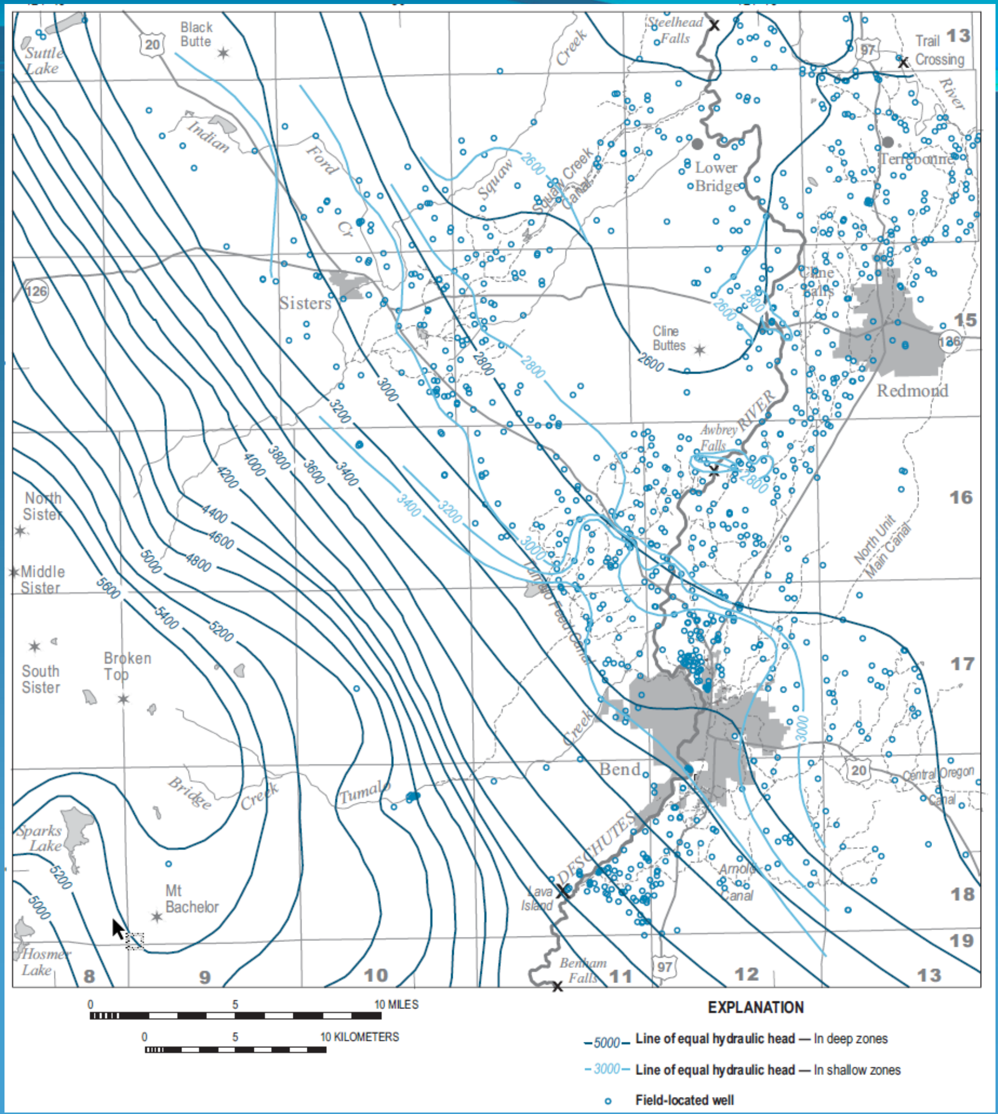
2 - based on water level data from 2000 to 2021 or when well was installed, if after 2000

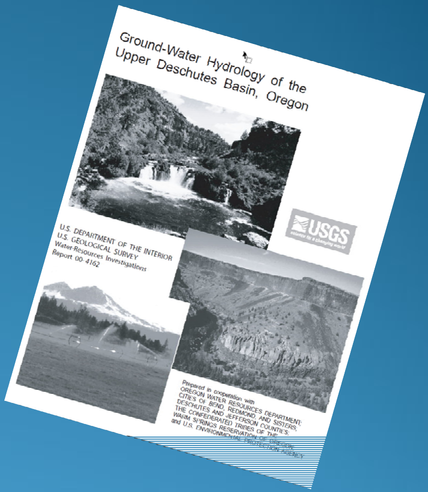
GSI Water Solutions, Inc.

Thank You

GSI Water Solutions, Inc.

GSI Water Solutions, Inc.





GSI Water Solutions, Inc.

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Redmond, OR 97756

CITY OF REDMOND
Redmond City Council

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FUTURE AGENDA ITEM TEMPLATE

City Council Member: Clifford B. Evelyn Sr.

Topic: Diversity, Equity and Inclusion

Purpose of Item: To address the importance and benefits of Implementing a DEI Committee

Objectives: To clarify why a DEI committee is not only important, but beneficial to the City of Redmond, Oregon as our population grows and becomes even more diverse.

Requested Worksession Month: June 29th

DRAFT

SPECIAL CITY COUNCIL MEETING OF THE CITY OF REDMOND WAS HELD FEBRUARY 9, 2021, VIA GO TO MEETING.

COUNCIL MEMBERS PRESENT: Jon Bullock – Krisanna Clark-Endicott – George Endicott – Clifford Evelyn – Ed Fitch – Jay Patrick – Shannon Wedding

MEDIA PRESENT: None

Mayor Endicott called the workshop to order at 7:40 p.m.

PROCLAMATIONS

A. Black History Month

Councilor Fitch moved, seconded by Councilor Bullock, to approve the proclamation acknowledging Black History Month, motion passed. (Bullock-yes, Clark-Endicott-yes, Endicott-yes, Evelyn-yes, Fitch-yes, Patrick-yes, Wedding-yes)

Mayor Endicott read the proclamation.

MAYOR'S COMMENTS

A. Commission/Committee Liaisons

Mayor Endicott introduced the subject of Council liaisons and indicated that additional discussion will take place on March 2. Based on responses received from the Council, Mayor Endicott assigned Councilor Wedding to the Bicycle and Pedestrian Advisory Committee and the Historic Landmarks Commission and Councilor Evelyn to the Housing and Development Committee and the Redmond Committee for Art in Public Places.

Councilor Clark-Endicott reminded staff that in addition to serving on the National League of Cities' (NLC) Transportation Infrastructure Committee, she was also appointed as Vice Chair of the NLC's First Tier Suburb Committee.

In response to questions from Councilor Bullock, Mayor Endicott stated that if members of the Council service on government related boards, it can be included on the liaison list as an opportunity to identify additional committees on which they serve.

COUNCIL COMMENTS

A. Councilor Bullock

No additional comments took place

B. Councilor Fitch

Councilor Fitch inquired if the Council would like to discuss a letter to St. Charles. In response, Mayor Endicott opined the St. Charles Board is autocratic. Councilor Patrick expressed interest in having the Council write a letter to the Board with Councilor Bullock adding there would be benefits to having the St. Charles Board or staff members attend a future Council meeting to explain what is occurring at Redmond's hospital. Councilor Clark-Endicott concurred, but expressed St. Charles is a private organization and is entitled to run their business as they see fit. Councilor Fitch provided some initial background on St. Charles's commitments to Redmond. The consensus of the Council was to have Councilor Fitch work with City Attorney Keith Leitz to produce a letter for consideration.

OTHER BUSINESS

There being no further business, the meeting was adjourned at 8:01 p.m.

DRAFT

Prepared by Kelly Morse, City Recorder

APPROVED by the City Council and SIGNED by the Mayor this 6th day of July 2021.

____

George Endicott, Mayor

ATTEST:

____

Kelly Morse, City Recorder

DRAFT

SPECIAL CITY COUNCIL MEETING OF THE CITY OF REDMOND WAS HELD FEBRUARY 16, 2021, GOTOMEETING.

COUNCIL MEMBERS PRESENT: **Krisanna Clark-Endicott – George Endicott – Clifford Evelyn – Ed Fitch – Jay Patrick (arrived at 6:03 p.m.) – Shannon Wedding**

COUNCIL MEMBERS EXCUSED: **Jon Bullock**

MEDIA PRESENT: **None**

Mayor Endicott called the workshop to order at 6:00 p.m.

CONSENT AGENDA

A. Purchase Authorization for 2020 Ford F550 Dump Truck; $64,893.96
B. Purchase Authorization for a 2020 Altec Bucket Truck; $115,969
C. Purchase Authorization for a 2020 Caterpillar Backhoe; $104,679.92

Councilor Clark-Endicott moved, seconded by Councilor Evelyn, to approve the Consent Agenda, motion passed. (Bullock-absent, Clark-Endicott-yes, Endicott-yes, Evelyn-yes, Fitch-yes, Patrick-absent, Wedding-yes)

PRESENTATIONS

A. Police Department Year in Review

Councilor Patrick arrived at this point in the meeting.

Police Chief Dave Tarbet and Police Captain Devin Lewis provided the Council with a department year in review. Highlights of the presentation included new projects, operational changes, key partnerships and community outreach efforts, training, crime rate and service call statistics, use of force statistics, and the Major Incident Team. Efforts in 2021 include land acquisition and needs assessment for a new police station, enhanced training using bodycam footage, a partnership with North Central University on a study evaluating how communication/de-escalation skills training affects use of force, expanded partnerships with Deschutes County Behavioral Health and the Stabilization Center, and succession planning.

B. Building Department Year in Review

Building Official Aaron Yuma presented the Building Division 2020 Year in Review noting that 2020 was a busy year in terms of construction in Redmond. Highlights from his presentation covered their work with architects and engineers to ensure that homes and buildings are safe, their motto and the culture they are working to create, and a newly formed concierge service for commercial development. Mr. Yuma described the permitting process from initial receipt of the application to final approval with issuance of a certificate of occupancy. Current trends and statistics include 42 commercial permits in 2020 (up from 19 in 2019), 548 single family dwellings permits (up from 364 in 2019), and 197 multi-family dwelling units (down from 405 units in 2019).

In response to questions from Councilor Evelyn of staffing levels, Mr. Yuma commented they are in the process of hiring another inspector and plan to hire another one in the next fiscal year (FY). This would bring their total to 11 full time employees in the Building Department, 5 of which are inspectors. Mr. Yuma opined this will be enough staff to meet the needs and is hesitant to add too many inspectors in case there is a downturn in the pace of construction.

Mayor Endicott inquired about contracting out work to which Mr. Yuma explained they do work with Deschutes County when needs arise and are currently utilizing County staff for commercial electrical inspections.

C. Growth and Development Trends

DRAFT

Deputy City Manager John Roberts provided a presentation on 2020 development activity. There are five focus areas: Capital Improvements, Residential Construction, Airport, Industrial/Commercial, and Urban Renewal and Downtown. Mr. Roberts alluded to the guiding principles established in the new Comprehensive Plan adopted by Council in December 2020. He shared population trends and indicated the estimates of 900 new residents per year from the 2018/2019 Portland State University population estimates are proving to be significantly too low. Mr. Roberts said that Oregon's current population trends point to a growth of 13,000 to 16,000 new residents per year. Redmond's current certified population, as of July 1, 2020, is 32,215 making it the 17th largest city in the state of Oregon.

Mr. Roberts shared permit data adding that building applications received in 2020 were up 18 percent from those received in 2019, building permits issued were up 26 percent, and total planning permits were up 23 percent. The total valuation for residential, commercial, and industrial permits was up 16 percent or $24,103,365. Land use permits are up 42 percent since 2016 with residential permitting trends from 2016 to 2020 indicating 2,643 new units have been constructed, of which 27 percent (707) were multifamily units. This is an average of 529 new units per year permitted. Each new household has on average 2.4 people which results in 1,269 new people moving to Redmond every year.

Mr. Roberts discussed "missing middle housing" which includes duplexes, triplexes, four-plexes, town homes, and cottage clusters, and how it is being addressed. A recent Oregon House bill mandated that cities provide this type of housing. Mr. Roberts gave examples of middle housing either recently completed (Obsidian Trails) or currently in development (Canyon Ridge) as well as affordable housing projects that Housing Works is constructing. To illustrate the breadth of development taking place in Redmond, Mr. Roberts mentioned the Surf Thru Carwash and the Snow Removal and Operations Building at the Airport. He noted the relocation of Grocery Outlet to South 97 and improvements to that shopping plaza, and the expansions of Medline and Basx Solutions.

Mr. Roberts reported on the Downtown Urban Renewal District noting that $227,000 had been distributed in Property Assistance grants. Examples include the 4th and Evergreen parking lot, Earth's Art Gardens located in a re-purposed gas station, the High Desert Music Hall, and the Eqwine Wine Bar.

Industrial development and interest was high in 2020 with record business development including 10 "done deals" and 30 projects in the pipeline.

D. How Enterprise Zones Work / A 101

Redmond Economic Development, Inc. Manager Jon Stark explained the purpose of Enterprise Zones and how they function. There are currently 73 Enterprise Zones statewide which offer the following programs: a standard 3-year program, an extended abatement 4 or 5-year program, and Long-Term Rural Enterprise Zone which is a 7 to 15-year program.

Mr. Stark reported that Redmond's local incentive package includes a reduction in building permit fees, an expedited permit process, a waiver of water and sewer hookup fees, a waiver of land use fees, a reduction in SDCs, a reduction in monthly water and sewer usage charges, and a waiver of the application fee.

Sponsors use the annual project fees to offset general fund expenditures, minority contracting, workforce training, public safety, housing resources, and infrastructure. In FY 2018/2019, the estimated impact to property tax revenue for the City was $85,466; however, the 12 projects generated 365 new jobs resulting a return on investment of $234 per job. Mr. Stark addressed questions from the Council.

ACTION ITEMS

A. Right-of-Way Vacation Initiation for SW Salmon Avenue between SW 1st and SW 6th Streets

DRAFT

City Engineer Mike Caccavano provided an educational presentation on right-of-way (ROW) vacations for portions on property dedicated to the City. Oregon Revised Statutes describes the process used to vacate the ROW which includes obtaining consent from all adjacent property owners and two-thirds of property owners within 200 feet of each side and 400 feet of each end. Mr. Caccavano described the process which requires that the Council initiate the vacation and set a public hearing date.

Mr. Stark stated the applicant, McKenzie Cascade Excavation, who owns property to the north of the proposed vacation, is interested in partitioning their land into one-acre lots for industrial use. He stated there are very few lots available for this purpose and this would potentially add four more.

Councilor Patrick moved, seconded by Councilor Clark-Endicott, to initiate right-of-way vacation proceedings for SW Salmon Avenue between SW 6th Street and SW 1st Street and establish a public hearing date of March 23, 2021, at the regularly scheduled City Council meeting, motion passed. (Bullock-absent, Clark-Endicott-yes, Endicott-yes, Evelyn-no, Fitch-no, Patrick-yes, Wedding-yes)

MAYOR'S COMMENTS

A. Mayor Endicott's Written Comments

Mayor Endicott stated he is concerned with Council communication and the need to maintain respect in both written and verbal communication among Council members. He requested that members refrain from attacking other members.

COUNCIL COMMENTS

A. Councilor Fitch's Written Comments

Councilor Wedding commented on the Mayor's memorandum noting that communication is an issue. She listed her concerns as blatant disagreement, breaking of rules, perceived dissention within the Council by citizens and the impact it has on the Council's legacy. Councilor Wedding it is appropriate to no longer allow letters from Council members in the in the packet.

Councilor Clark-Endicott concurred with Councilor Wedding and opined letters were one-sided and not appropriate. She urged the Council to act as a body rather than individuals and to not hinder City Manager Keith Witcosky from doing his job.

Councilor Patrick expressed support for the letters because they can be a positive item, but the question is how to move forward. Councilor Patrick stated remaining silent on issues before the Council is not helpful since everyone was elected to bring their opinions forward.

Councilor Fitch stated he stands by his memorandum in the packet and ran on the issue of the culture of city government being a closed system. He had asked for two liaison appointments and got neither, and opined it is wrong how those appointments were decided. He disagrees with the Transportation System Plan of having Salmon Avenue connect with Quartz Avenue and suggested having it connect with Odem Medo is a better option.

Councilor Evelyn stated he tries to be professional in everything he does, but does not think there is a clear understanding of processes at this time. Councilor Evelyn stated he hopes the Council can move forward.

Mayor Endicott responded to some items raised by Councilor Fitch. He differentiated between internal and external appointments adding external appointments are not within his realm to appoint. Mayor Endicott said that he alone made the appointments and he did not recruit anyone for this appointment cycle. He pointed out that Councilor Fitch stated he would serve on the Urban Area Planning

Commission if he were not “muzzled” but that is not how Liaison representation is set up in the Council Rules.

Councilor Clark-Endicott concurred with Councilor Evelyn and the importance of following the Council Rules. She added that while Councilor Fitch may not agree with them, they are the rules currently in place and unless the majority of Council members want to consider changing them, they need to be followed as written. She addressed the rule that individual Council members are not to direct staff, including the City Manager, yet she has seen emails from Councilor Fitch to Mr. Witcosky in which all Council members were copied, and in those emails Councilor Fitch is directing Mr. Witcosky’s work. Councilor Clark-Endicott urged this type of behavior stop as well as “excessive” emails to Mr. Witcosky She stated that when Councilor Fitch copies all Council members he is in violation of Public Meeting Laws, and she urged him to stop doing that as well.

Councilor Fitch stated that in most of his communications with Mr. Witcosky he is passing along information gleaned from conversations he deems as important for Mr. Witcosky to know. To his recollection, there have only been two instances in which he asked Mr. Witcosky to pass along his concerns. Councilor Fitch stated that he, as a Councilor, has not agreed to any rules, and has asked for a workshop to discuss rules that this Council wants to work by, but his request was “swept under the rug.” Councilor Fitch said he also wants a workshop to discuss Council goals for the year as this was supposed to occur earlier and Council members were never given the opportunity to put forth the goals they would like to see in place.

Mayor Endicott asked City Attorney Keith Leitz to comment on the Council rules in place. In response, Mr. Leitz explained the rules were put in place by resolution and do apply to this Council. He said the Council can modify them moving forward but until or unless that is done, they are the standing rules and are to be followed. Mayor Endicott said a committee can be established to review the rules. In the meantime, he will think about who to put on the committee and come up with a proposal soon.

Councilor Clark-Endicott spoke to the issue of the rules, stating that she does not think there needs to be a committee to look at the rules, but that the rules are in place and need to be followed.

Mr. Witcosky commented on the structure of City Council in Redmond and the fact that, unlike larger cities where Council members have their own staff, he is the sole staff person for this Council and cannot continue to expend the time to explain multiple topics, to entertain ideas, or to re-visit decisions made by Council in the past. He urged the Council to consider how they want to move forward.

OTHER BUSINESS

There being no further business, the meeting was adjourned at 8:42 p.m.

Prepared by Kelly Morse, City Recorder

APPROVED by the City Council and SIGNED by the Mayor this 6th day of July 2021.

____
George Endicott, Mayor

ATTEST:

____
Kelly Morse, City Recorder

CITY OF REDMOND

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STAFF REPORT

DATE:	July 6, 2021
TO:	Redmond City Council
	Keith Witcosky, City Manager
THROUGH:	John Roberts, Deputy City Manager
	Bill Duerden, Public Works Director
FROM:	Julie Lovrien, Administrative Services Supervisor
SUBJECT:	Oregon Department of Transportation 2021-2023 Transit Grant Acceptance, Agreement #35167

Addresses Council Goal:
Goal #1.C.: Explore opportunities to augment revenues to support existing operations and infrastructure maintenance.

Report in Brief:
This item requests City Council authorization to accept grant funding in the amount of $455,295 from the Oregon Department of Transportation Rail and Public Transit Division (State) to provide public transportation services.

Background:
Since 2008, transit provider Central Oregon Intergovernmental Council/Cascade East Transit (COIC/CET) has been providing demand response and community connector service to the Redmond area. Demand response services are available within the Redmond Urban Growth Boundary Monday through Friday from 5:30 a.m. to 7:00 p.m. Community connector services are available between Redmond and other Central Oregon communities Monday through Friday.

In the 2019/2021 biennium, the City of Redmond received a $436,855 grant from the State and procured transit services through a contract with COIC/CET. The grant has been re-authorized in the amount of $455,295 for the 2021/2023 biennium to continue the existing level of transit services (demand response and community connector). The grant requires a 10.27% match of $52,111 for a total amount of $507,406.

Discussion:
The attached Agreement #35167 between the State and the City provides the conditions required for disbursement of the grant funds. The agreement allows the City to purchase public transportation services provided by a contractor or pass-through subrecipient.

Fiscal Impact:
The $455,295 grant and the match of $52,111 will be distributed over two fiscal years with the first year's allocation included in the Fiscal Year 2021/22 budget.

Alternative Courses of Action:
1. Authorize Grant Acceptance
2. Do Not Authorize Grant Acceptance
3. Take no Action and Request More Information

Recommendation / Suggested Motion:
"I move to authorize the City Manager to sign Agreement #35167 with the Oregon Department of Transportation Rail and Public Transit Division to accept grant funds in the amount of $455,295."

PUBLIC TRANSPORTATION DIVISION
OREGON DEPARTMENT OF TRANSPORTATION

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through its Department of Transportation, Public Transportation Division, hereinafter referred to as "State," and **Redmond, City of**, hereinafter referred to as "Recipient," and collectively referred to as the "Parties."

AGREEMENT

1. **Effective Date.** This Agreement shall become effective on the later of **July 1, 2021** or the date when this Agreement is fully executed and approved as required by applicable law. Unless otherwise terminated or extended, Grant Funds under this Agreement shall be available for Project Costs incurred on or before **June 30, 2023** (the "Expiration Date"). No Grant Funds are available for any expenditures after the Expiration Date. State's obligation to disburse Grant Funds under this Agreement shall end as provided in Section 10 of this Agreement.

2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

   Exhibit A: Project Description and Budget

   Exhibit B: Financial Information

   Exhibit C: Subagreement Insurance Requirements and Recipient Insurance Requirements

   Exhibit D: Summary of Federal Requirements, incorporating by reference Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement

   Exhibit E: Information required by 2 CFR 200.331(a), may be accessed at https://www.oregon.gov/odot/RPTD/Pages/index.aspx, Oregon Public Transit Information System (OPTIS), as the information becomes available

   In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit D; Exhibit E; this Agreement without Exhibits; Exhibit A; Exhibit B; Exhibit C.

3. **Project Cost; Grant Funds; Match.** The total project cost is estimated at **$507,406.00**. In accordance with the terms and conditions of this Agreement, State shall provide Recipient an amount not to exceed **$455,295.00** (the "Grant Funds") for eligible costs described in Section 6.a. hereof. Recipient shall provide matching funds for all Project Costs as described in Exhibit A. Recipient will be responsible for all Project Costs not covered by the Grant Funds.

4. **Project.** The Grant Funds shall be used solely for the project described in Exhibit A (the "Project") and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by State by amendment pursuant to Section 11.a hereof.

5. **Progress Reports.** Recipient shall submit quarterly progress reports to State no later than 45 days after the close of each quarterly reporting period. Reporting periods are July through September, October through December, January through March, and April through June. Reports must be in a format acceptable to State and must be entered into the Oregon Public Transit Information System (OPTIS), which may be accessed at https://www.oregon.gov/odot/RPTD/Pages/index.aspx. If Recipient is unable to access OPTIS, reports must be sent to ODOTPTDReporting@odot.state.or.us. Reports shall include a statement of revenues and expenditures for each quarter, including documentation of local match contributions and expenditures. State reserves the right to request such additional information as may be

necessary to comply with federal or state reporting requirements.

6. **Disbursement and Recovery of Grant Funds.**

   a. **Disbursement Generally.** State shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Funds amount provided in Section 3. Reimbursements shall be made by State within 30 days of State's approval of a request for reimbursement from Recipient using a format that is acceptable to State. Requests for reimbursement must be entered into OPTIS or sent to ODOTPTDReporting@odot.state.or.us. Eligible costs are the reasonable and necessary costs incurred by Recipient, or under a subagreement described in Section 9 of this Agreement, in performance of the Project and that are not excluded from reimbursement by State, either by this Agreement or by exclusion as a result of financial review or audit.

   b. **Conditions Precedent to Disbursement.** State's obligation to disburse Grant Funds to Recipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

      i. State has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to make the disbursement.

      ii. Recipient is in compliance with the terms of this Agreement including, without limitation, Exhibit D and the requirements incorporated by reference in Exhibit D.

      iii. Recipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.

      iv. Recipient has provided to State a request for reimbursement using a format that is acceptable to and approved by State. Recipient must submit its final request for reimbursement following completion of the Project and no later than 60 days after the Expiration Date. Failure to submit the final request for reimbursement within 60 days after the Expiration Date could result in non-payment.

   c. **Recovery of Grant Funds.**

      i. Recovery of Misexpended Funds or Nonexpended Funds. Any Grant Funds disbursed to Recipient under this Agreement that are either (i) disbursed but unexpended as of the Expiration Date ("Unexpended Funds") or (ii) expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") must be returned to State. Recipient shall return all Misexpended Funds to State no later than 15 days after State's written demand. Recipient shall return all Unexpended Funds to State within 15 days after the earlier of expiration or termination of this Agreement.

      ii. Recovery of Funds upon Termination. If this Agreement is terminated under either Section 10(a)(i) or Section 10(a)(v) below, Recipient shall return to State all funds disbursed to Recipient within 15 days after State's written demand for the same.

7. **Representations and Warranties of Recipient.** Recipient represents and warrants to State as follows:

   a. **Organization and Authority.** Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement.

b. **Binding Obligation.** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

c. **No Solicitation.** Recipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements, except as permitted by applicable law. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

d. **No Debarment.** Neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient agrees to notify State immediately if it is debarred, suspended or otherwise excluded from this federally-assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.

The warranties set in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. **Records Maintenance and Access; Audit.**

a. **Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Recipient shall require that each of its subrecipients and subcontractors complies with these requirements. State, the Secretary of State of the State of Oregon (Secretary), the United States Department of Transportation (USDOT), the Federal Transit Administration (FTA) and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, State, the Secretary, USDOT, FTA and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of State, the Secretary, USDOT and FTA to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Recipient as part of the Project, and any transportation services rendered by Recipient.

b. **Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, including, without limitation, records relating to capital assets funded by this Agreement, the Grant Funds or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the Expiration Date. If there are unresolved audit questions at the end of the six-year period, Recipient shall retain the records until the questions are resolved.

c. **Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by State under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit State to verify how the Grant Funds were expended.

d. **Audit Requirements.**

i. Recipients receiving federal funds in excess of $750,000 are subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Recipient, if subject to this requirement, shall at Recipient's own expense submit to State, Public Transportation Division, 555 13th Street NE, Suite 3, Salem, Oregon, 97301-4179 or to ODOTPTDReporting@odot.state.or.us, a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement and shall submit or cause to be submitted, the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Agreement.

ii. Recipient shall indemnify, save, protect and hold harmless State from the cost of any audits or special investigations performed by the Secretary with respect to the funds expended under this Agreement. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and State.

This Section 8 shall survive any expiration or termination of this Agreement.

9. **Recipient Subagreements and Procurements**

a. **Subagreements.** Recipient may enter into agreements with sub-recipients, contractors or subcontractors (collectively, "subagreements") for performance of the Project.

i. All subagreements must be in writing executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.

ii. Recipient shall require all of its contractors performing work under this Agreement to name State as a third-party beneficiary of Recipient's subagreement with the contractor and to name State as an additional or "dual" obligee on contractors' payment and performance bonds.

iii. Recipient shall provide State with a copy of any signed subagreement, as well as any other purchasing or contracting documentation, upon request by State. This paragraph 9.a.iii. shall survive expiration or termination of this Agreement.

iv. Recipient must report to State any material breach of a term or condition of a subagreement within ten (10) days of Recipient discovering the breach.

b. Recipient shall review the *Best Practices Procurement Manual*, a technical assistance manual prepared by the FTA, available on the FTA website: www.fta.dot.gov/grants/13054_6037.html

c. **Subagreement indemnity; insurance**

i. ***Recipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless State and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Recipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that the State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the other party to Recipient's subagreement(s) from and against any and all Claims.***

ii. **Any such indemnification shall also provide that neither Recipient's subrecipient(s), contractor(s) nor subcontractor(s) (collectively "Subrecipients"), nor any attorney engaged by Recipient's Subrecipient(s), shall defend any claim in the name of the State or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's Subrecipient is prohibited from defending State or that Recipient's Subrecipient is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to**

pursue claims it may have against Recipient's Subrecipient if State elects to assume its own defense.

iii. Recipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance requirements provided in Exhibit C to this Agreement. Recipient may specify insurance requirements of its contractor(s) above the minimum insurance requirements specified in Exhibit C. Recipient shall verify its contractor(s) meet the insurance requirements in Exhibit C.

d. **Procurements.** Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, as applicable, including all applicable provisions of the Oregon Public Contracting Code and rules, and in conformance to FTA Circular 4220.1F, Third Party Contracting Requirements including:

i. All applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement;

ii. All procurement transactions are conducted in a manner providing full and open competition;

iii. Procurements exclude the use of statutorily or administratively imposed in-state or geographic preference in the evaluation of bids or proposals (with exception of locally controlled licensing requirements);

iv. Construction, architectural and engineering procurements are based on Brooks Act procedures unless the procurement is subject to ORS 279C.100 to 279C.125.

e. **Additional requirements**

i. Recipient shall comply with 49 CFR sections 37.77(c) and 37.105 regarding "Certification of Equivalent Service" when purchasing vehicles under this Agreement. If non-accessible vehicles, as defined by the Americans with Disabilities Act, are being purchased for use by a public entity in demand responsive service for the general public, Recipient will certify to State at the time of applying for a project that, when viewed in its entirety, the demand responsive service offered to persons with disabilities, including persons who use wheelchairs, meets the standard of equivalent service.

ii. Recipient shall comply with 49 CFR 663 regarding pre-award and post-delivery reviews. Every Recipient purchasing rolling stock or facilities under this Agreement must certify to State that a pre-award and post-delivery review has been conducted in accordance with ODOT requirements. This review ensures compliance to bid specifications including, but not limited to, FTA requirements, State requirements, and Federal Motor Carrier Safety Standards, as applicable to the type of project. Each Recipient's certification must include assurance that required documents have been received from manufacturers or vendors of products, or from both, and that Recipient possesses such documents. Acceptable certification forms are available from State. Recipient must provide certification forms to State when reimbursement is requested for vehicles. For facilities projects, Recipient must provide pre-award certifications to State at time of first payment, and post-delivery certifications upon completion of the post-delivery review, and in no event later than with Recipient's request for final payment.

iii. Recipient shall comply with 49 CFR 604 in the provision of any charter service provided with vehicles, facilities, or equipment acquired with FTA assistance under this Agreement.

iv. Recipient shall submit an annual vehicle inspection report to State for any vehicle purchased under this Agreement. Vehicle inspections shall be conducted by a vehicle maintenance technician certified by a nationally recognized organization in the field of vehicle service and maintenance. Reports covering required areas of inspection shall be submitted on forms provided by State.

v. All drivers of vehicles purchased with FTA funds under this Agreement must complete a standard defensive driving course before operating an FTA-funded vehicle, and are advised to complete a standard defensive driving course before operating a State-funded vehicle.

vi. Recipient shall maintain all vehicles, equipment, and facilities purchased under this Agreement in good condition per manufacturer's recommendations. Recipients are required to develop preventive maintenance plans for all rolling stock and facilities and to provide the plans to State upon request.

vii. Recipient shall be the owner of the property for facility construction projects and of vehicles purchased under this Agreement. Such ownership shall be recorded on real property deeds for facility construction projects and on vehicle titles. If Recipient contracts the operation of vehicles to a third party, then the third party may be shown as the owner or lessee with Recipient listed as the second security interest holder or lessor. In all cases, Oregon Department of Transportation, Public Transportation Division shall be shown as the first security interest holder on vehicle titles. If Recipient fails to show Oregon Department of Transportation, Public Transportation Division as the first security interest holder, Recipient shall pay any expenses to re-submit the necessary documents to Oregon Department of Transportation, Driver and Motor Vehicle Services (DMV). If a vehicle is damaged or destroyed at any time when Recipient fails to show Oregon Department of Transportation, Public Transportation Division, as the first security interest holder, Recipient shall be liable to State for any damage in an amount in the same manner as if Oregon Department of Transportation, Public Transportation Division, were shown as the first security interest holder.

viii. Recipient shall bear the cost of insuring assets purchased under this Agreement.

ix. Recipient shall file a restrictive covenant with the property deed for all construction projects and purchases of real estate, with the exception of passenger shelters, amenities, and right-of-way infrastructure improvements. The restrictive covenant will limit the use of the building and property to the stated purpose specified in the statement of work associated with this Agreement.

x. Recipient shall complete all purchases, including installation, and all construction of capital assets funded under this Agreement prior to the Expiration Date of this Agreement. If local circumstances prevent purchase, installation, or construction by the specified date, Recipient will notify State in writing of the circumstances regarding the delay. Such notification must be received at least forty-five (45) days prior to the expiration of the Agreement. Agreement amendment for time will be considered in extenuating circumstances.

f. **Conflict of Interest.** Recipient's public officials shall comply with Oregon's government ethics laws, ORS 244.010 et seq., as those laws may be subsequently amended.

10. **Termination**

a. **Termination by State.** State may terminate this Agreement effective upon delivery of written notice of termination to Recipient, or at such later date as may be established by State in such written notice, if:

i. Recipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Recipient is, for any reason, rendered improbable, impossible, or illegal; or

ii. State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or

iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or

iv. The Project would not produce results commensurate with the further expenditure of funds; or

v. Recipient takes any action pertaining to this Agreement without the approval of State and which under the provisions of this Agreement would have required the approval of State.

b. **Termination by Recipient.** Recipient may terminate this Agreement effective upon delivery of written notice of termination to State, or at such later date as may be established by Recipient in such written notice, if:

i. The requisite local funding to continue the Project becomes unavailable to Recipient; or

ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.

c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days' notice to the other Party and failure of the other Party to cure within the period provided in the notice, if the other Party fails to comply with any of the terms of this Agreement.

11. **General Provisions**

a. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.

b. **Contribution.**

i. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Recipient with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

ii. Except as otherwise provided in Paragraph 11.c below, with respect to a Third Party Claim for which State is jointly liable with Recipient (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

iii. Except as otherwise provided in Paragraph 11.c below, with respect to a Third Party Claim for which Recipient is jointly liable with State (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

c. **Indemnification.**

   i. Subject to any limitations imposed by State law and the Oregon Constitution, Recipient agrees to the following contract-related indemnification for all projects authorized under this Agreement:

   ii. Where Recipient contracts for services or performs project management for a project, Recipient shall accept all responsibility, defend lawsuits, indemnify, and hold State harmless, for all contract-related claims and suits. This includes but is not limited to all contract claims or suits brought by any contractor, whether arising out of the contractor's work, Recipient's supervision of any individual project or contract, or Recipient's failure to comply with the terms of this Agreement.

   Sections 11.b and 11.c shall survive termination of this Agreement.

d. **Insurance.** Recipient shall meet the insurance requirements within Exhibit C.

e. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

f. **Responsibility for Grant Funds.** Any recipient of Grant Funds, pursuant to this Agreement with State, shall assume sole liability for that recipient's breach of the conditions of this Agreement, and shall, upon recipient's breach of conditions that requires State to return funds to the FTA, hold harmless and indemnify State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of the recipient of Grant Funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

g. **Duplicate Payment.** Recipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.

h. **No Third Party Beneficiaries.** State and Recipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

   Recipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Recipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the this Agreement.

i. **Notices.** Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Recipient Contact or State Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this subsection. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against State, such facsimile transmission must be confirmed by telephone notice to State Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.

j. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between State (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM.

k. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, as applicable to Recipient, including without limitation as described in Exhibit D. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

l. **Insurance; Workers' Compensation.** All employers, including Recipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than $500,000 must be included. Recipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.

m. **Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of State. Recipient has no right or authority to incur or create any obligation for or legally bind State in any way. State cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of State, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.

n. **Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

o. **Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

p. **Integration and Waiver.** This Agreement, including all Exhibits, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Recipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

q. **Survival.** The following provisions survive termination of this Agreement: Sections 6.c., 8 and 11.

The Parties, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The Oregon Transportation Commission on October 20, 2010, approved Delegation Order Number OTC-01, which authorizes the Director of the Oregon Department of Transportation to administer programs related to public transit.

On March 1, 2012, the Director approved Delegation Order Number DIR-04, which delegates the authority to approve this Agreement to the Public Transportation Division Administrator.

SIGNATURE PAGE TO FOLLOW

Redmond, City of, by and through its

____

By ______________________________
(Legally designated representative)

Name ______________________________
(printed)

Date ______________________________

By ______________________________

Name ______________________________
(printed)

Date ______________________________

APPROVED AS TO LEGAL SUFFICIENCY

(If required in local process)

By ______________________________
Recipient's Legal Counsel

Date ______________________________

State of Oregon, by and through its
Department of Transportation

By ______________________________
Karyn Criswell
Public Transportation Division Administrator

Date ______________________________

APPROVAL RECOMMENDED

By Theresa Conley

Date 06/07/2021

APPROVED AS TO LEGAL SUFFICIENCY

(For funding over $150,000)

By ______________________________
Assistant Attorney General

Name Sam Zeigler by email
(printed)

Date 05/21/2021

Recipient Contact:

Julie Lovrien
411 SW Ninth Street
Redmond, OR 97756
1 (541) 504-2024
julie.lovrien@ci.redmond.or.us

State Contact:

Theresa Conley
555 13TH ST NE
Salem, OR 97301
1 (541) 388-6250
theresa.l.conley@odot.state.or.us

Signed Agreement Return Address: ODOTPTDReporting@odot.state.or.us

EXHIBIT A

Project Description and Budget

Project Description/Statement of Work

Project Title: 5310 City of Redmond 35167 *Purchased Service*				
Item #1: Contracted Service (5310 only)				
	Total	Grant Amount	Local Match	Match Type(s)
	$507,406.00	$455,295.00	$52,111.00	Local
Sub Total	$507,406.00	$455,295.00	$52,111.00	
Grand Total	**$507,406.00**	**$455,295.00**	**$52,111.00**	

1. PROJECT DESCRIPTION

This Agreement provides funding to purchase accessible public transportation services for seniors, individuals with disabilities, and the general public within the City of Redmond in Deschutes County, Oregon. This includes but is not limited to demand responsive services within the City of Redmond and Community Connector services between Redmond and Bend with connections to Redmond, Prineville, Madras and Sisters. Services may include demand response, deviated fixed route, or other service types determined to meet the scope of this grant and the needs of the community.

The services provided should be consistent with the adopted Coordinated Public Transit Human Services Transportation Plan (Coordinated Plan) and Transit Master Plan.

Services will be provided under an existing purchased service procurement and resulting contract with Central Oregon Intergovernmental Council dba Cascades East Transit in the City of Bend in Deschutes County, Oregon.

This project also supports the administrative costs required to manage the service contract.

2. PROJECT DELIVERABLES, TASKS and PERFORMANCE MEASURES

The contracted service will be provided by a contractor(s) or pass-through subrecipient(s) selected by Recipient, and will be designed to benefit seniors and individuals with disabilities, and may also be made available to the general public.

The service, schedule, days, hours, and service type route will be designed to meet the needs of seniors and individuals with disabilities as determined by Recipient in consultation with the operator of service, the affected community members, and stakeholders identified by Recipient.

Services will be provided in accordance with the locally adopted Coordinated Public Transit Human Services Transportation Plan. Recipient and contractor or pass-through subrecipient will coordinate the delivery of transportation services with other public and private transportation providers to enhance regional services and to avoid duplication of services. Coordinated service may be made available to a variety of potential users, including the general public.

Recipient may amend the service design at any time in accordance with local demand, funding issues, changes in the Coordinated Plan, or other situations that require service to be changed. Recipient will inform State if there is a change in the service funded by this Agreement.

Recipient will market the services.

Recipient will oversee and monitor the services and performance of the contractor or pass-through subrecipient.

The following performance measure will be used to evaluate the effectiveness of the projects over the grant period.

Rides: 165,391
Unduplicated Riders: 435

Ridership is defined as the actual or estimated one-way passenger trips provided to seniors and individuals with disabilities. A passenger trip is a unit of service counted each time a passenger enters a vehicle, is transported, then exits the vehicle. Each unique destination constitutes a passenger trip.

For purposes of this Agreement, Unduplicated Passenger or Client Count (UPC) is defined as the actual or estimated number of individuals served who are a) all passengers or other project clients; and b) seniors and individuals with disabilities, who are provided mobility services developed by this project. Individuals served can include transit passengers and/or persons served through mobility training. Recipient will track and report the UPC. Methodology for identifying the UPC is at the discretion of the Recipient, and shall be documented in writing and provided with the quarterly progress report

3. PROJECT ACCOUNTING, MATCHING FUNDING and SPENDING PLAN

This Agreement covers contracted public transportation provision, as defined under the 49 USC Section 5310 program, as described in Circular 9070.1G, Section III-14-e.

Generally accepted accounting principles and the Recipient's accounting system determine those costs that are to be accounted for as gross operating expenses. Recipient may not count the same costs twice if they have multiple agreements for which these costs may be eligible. The service provider may use capital equipment funded under USDOT- or State-source agreements when performing services rendered through a contract or subagreement funded by this Agreement. Depreciation of capital equipment funded from USDOT- or State-source grants is not an eligible expense.

Sources of funding that may be used as Recipient's matching funds for this Agreement include local funds; Statewide Transportation Improvement Formula Funds; Special Transportation Formula Funds; service contract revenue, advertisement and other earned income; cash donations; and verifiable in-kind contributions integral to the project budget. In-kind contributions claimed as matching funding must be reported to State. Recipient may not use passenger fares as matching funding.

Project recipient will subtract revenue from fares, tickets and passes whether pre-paid or post-paid, from the gross operating expense of the service. Administrative expenses incurred by the contractor or pass-through subrecipient are reimbursable as operating expenses. State's obligation to reimburse Project costs is contingent upon Recipient first paying or otherwise contributing its minimum match amount set forth in this Exhibit A.

Recipient may not use assets acquired under this Agreement to compete unfairly with the private sector.

4. REPORTING AND INVOICING REQUIREMENTS

Recipient will request reimbursement for covered expenses incurred during each period as prescribed by State. Copies of invoices must be submitted for all vendor charges. In-house charges must be documented showing time specifically associated with the project.

Recipient will provide evidence of purchased or contracted service through standard invoicing including an itemization of expenses. Recipient shall submit invoices or comparable documentation when requesting reimbursement for services purchased from a second party.

Invoices must:
i. Be legible
ii. Match the amount requested for reimbursement
iii. Include a description of the service (hours, rate, and quantity)
iv. Include date(s) of the service
v. Include the agency providing the service

If the service provider also performs preventive maintenance, dispatching, and/or other services, these costs should be itemized separately on the same invoice unless these activities are included in the same hourly or other rate established by the contract between the service provider and vendor. Recipient shall report quarterly performance achievements using the narrative section of the Agency Periodic Report, and include anticipated performance achievements for the upcoming quarter.

Photographs of public transit, and related operations, are encouraged to memorialize the achievement of project deliverables.

EXHIBIT B

FINANCIAL INFORMATION

The information below will assist auditors to prepare a report in compliance with the requirements of 2 CFR part 200, subpart F.

This Agreement is financed by the funding source indicated below:

Federal Program	**Federal Funding Agency**	**CFDA Number**	**Total Federal Funding**
49 U.S.C. 5310	U.S. Department of Transportation Federal Transit Administration 915 Second Avenue, Suite 3142 Seattle, WA 98174	**20.513 (5310)**	**$455,295.00**

Administered By
Public Transportation Division 555 13TH ST NE Salem, OR 97301

EXHIBIT C

Insurance Requirements

Subagreement Insurance Requirements

GENERAL.

Recipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Recipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Recipient permit work under a subagreement when Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which the Recipient is a Party.

TYPES AND AMOUNTS.

WORKERS COMPENSATION.
All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide **Workers' Compensation Insurance** coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The coverage shall include Employer's Liability Insurance with limits not less than $500,000 each accident. **Contractor shall require compliance with these requirements in each of its subcontractor contracts.**

COMMERCIAL GENERAL LIABILITY.
Commercial General Liability Insurance shall be issued on an occurrence basis covering bodily injury and property damage and shall include personal and advertising injury liability, products and completed operations, and contractual liability coverage. When work to be performed includes operations or activity within 50 feet of any railroad property, bridge, trestle, track, roadbed, tunnel, underpass or crossing, the Contractor shall provide the Contractual Liability - Railroads CG 24 17 endorsement, or equivalent, on the Commercial General Liability policy. Amounts below are a minimum requirement as determined by State:

Coverage shall be written on an occurrence basis in an amount of not less than **$1,000,000** per occurrence.

Annual aggregate limit shall not be less than **$2,000,000**.

AUTOMOBILE LIABILITY.
Automobile Liability Insurance covering Contractor's business-related automobile use covering all owned, non-owned, or hired vehicles for bodily injury and property. Amount below is a minimum requirement as determined by State:

Coverage shall be written with a combined single limit of not less than **$1,000,000**.

This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability).

EXCESS/UMBRELLA LIABILITY.
A combination of primary and Excess/Umbrella Liability Insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED.
The liability insurance coverages, except Professional Liability or Workers' Compensation/ Employer's Liability, if included, must include the **"State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees"** as an **endorsed** Additional Insured but only with respect to the contractor's activities to be performed under the Subagreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed operations. Additional Insured Endorsements shall be submitted with the Certificate(s) of Insurance and must be acceptable to the Recipient.

"TAIL" COVERAGE.
If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance or pollution liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subagreement, for a minimum of twenty-four (24) months following the later of : (i) the contractor's completion and Recipient's acceptance of all Services required under the Subagreement or, (ii) the expiration of all warranty periods provided under the Subagreement. Notwithstanding the foregoing twenty-four (24) month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the twenty-four (24) month period described above, then the contractor may request and State may grant approval of the maximum "tail " coverage period reasonably available in the marketplace. If State approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE.
The contractor or its insurer must provide thirty (30) days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s). **The Recipient shall immediately notify State of any change in insurance coverage.**

CERTIFICATE(S) OF INSURANCE.
Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

Recipient Insurance Requirements

GENERAL.

Recipient shall: i) obtain at the Recipient's expense the insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under this Agreement commences, and ii) maintain the insurance in full force and at its own expense throughout the duration of this Agreement. Recipient shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Coverage shall be primary and non-contributory with any other insurance and self-insurance with the exception of Professional Liability and Workers' Compensation. Recipient shall pay for all deductibles, self-insurance retention and self-insurance, if any.

INSURANCE REQUIREMENT REVIEW.
Recipient agrees to periodic review of insurance requirements by State under this Agreement and to provide updated requirements as mutually agreed upon by Recipient and State.

TYPES AND AMOUNTS.

WORKERS COMPENSATION.
All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide **Workers' Compensation Insurance** coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The coverage shall include Employers liability insurance with coverage limits of not less than $500,000 must be included.

COMMERCIAL GENERAL LIABILITY.
Commercial General Liability Insurance shall be issued on an occurrence basis covering bodily injury, death, and property damage and shall include personal and advertising injury liability, products and completed operations and contractual liability coverage. When work to be performed includes operations or activity within 50 feet of any railroad property, bridge, trestle, track, roadbed, tunnel, underpass or crossing, the Contractor shall provide the Contractual Liability - Railroads CG 24 17 endorsement, or equivalent, on the Commercial General Liability policy. Commercial General Liability Insurance shall not be less than the following amounts as determined by State:

Coverage shall be written on an occurrence basis in an amount of not less than **$1,000,000** per occurrence.

Annual aggregate limit shall not be less than **$2,000,000**.

AUTOMOBILE LIABILITY.
Automobile Liability Insurance covering business-related automobile use on all owned, non-owned or hired vehicles for bodily injury and property. Automobile Liability Insurance shall not be less than the following amount as determined by State:

Coverage shall be written with a combined single limit of not less than **$1,000,000**.

This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability).

EXCESS/UMBRELLA LIABILITY.
A combination of primary and Excess/Umbrella Liability Insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED.
The liability insurance coverages, except Professional Liability or Workers' Compensation/ Employer's Liability, if included, must include the **"State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees"** as an **endorsed** Additional Insured but only with respect to the Recipient's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed operations. Additional Insured Endorsements shall be submitted with the Certificate(s) of Insurance and must be acceptable to the Recipient.

"TAIL" COVERAGE.
If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, Recipient shall maintain either "tail" coverage or continuous "claims made" liability

coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement, for a minimum of 24 months following the later of: (i) Recipient's completion and State's acceptance of all Services required under this Agreement or, (ii) the expiration of all warranty periods provided under this Agreement. Notwithstanding the foregoing 24-month requirement, if Recipient elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then Recipient may request and State may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If State approval is granted, Recipient shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE.
Recipient or its insurer must provide 30 days' written notice to State before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE.
State shall obtain from Recipient a certificate(s) of insurance for all required insurance before the effective date of this Agreement. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

STATE ACCEPTANCE.
All insurance providers are subject to State acceptance. If requested by State, Recipient shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to State's representatives responsible for verification of the insurance coverages required under this **Exhibit C**.

EXHIBIT D

Summary of Federal Requirements and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement ("Master Agreement")

Recipient and Recipient's subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at www.transit.dot.gov. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Recipient further agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from State by calling (503) 986-3300, or at www.transit.dot.gov. Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and the funds described in Exhibit A:

1. Recipient shall comply with Title VI of the Civil Rights Act of 1964 (78 State 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Recipient shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Recipient will report to State on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Recipient shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
3. Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Recipient's DBE program, if applicable, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to State of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
4. Recipient must include the following language in each subagreement Recipient signs with a subcontractor or subrecipient:

   The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor, subrecipient, or subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor, subrecipient, or subcontractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Recipient deems appropriate.
5. Recipient and contractors receiving in excess of $100,000 in federal funds, other than Indian tribes, must certify to State that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any federal grant, cooperative agreement or any other federal award. If non-federal

funds have been used to support lobbying activities in connection with the Project, Recipient shall complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to State at the end of each calendar quarter in which there occurs an event that requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.

CITY OF REDMOND

CITY HALL
411 SW 9th STREET
REDMOND, OR 97756
541.923.7710
FAX: 541.548.0706
info@redmondoregon.gov
redmondoregon.gov

STAFF REPORT

DATE:	July 6, 2021
TO:	Redmond City Council
THROUGH:	Keith Witcosky, City Manager
FROM:	Zachary Bass, Airport Director
SUBJECT:	Addendum No. 2 to City Contract #2020-59 with Mead & Hunt, Inc. for FY 21-22 Air Service Consulting Services: $79,530.00 plus escalators are not more than 10% per year.

Addresses Council Goal:
5. Establish Redmond Municipal Airport ("RDM") as the best airport of its size in the country.

C. Provide exceptional air service opportunities.
i. Actively work with the Central Oregon Air Service Team (COAST) to market the airport and the region to attract new commercial air carriers, and new and expanded routes.

Report in Brief:
This item requests City Council authorization for Addendum No. 2 to the Air Service Consulting Services contract with Mead & Hunt, Inc. in the amount of $79,530.00.

Background:
On June 30, 2020, City Council approved a contract with Mead & Hunt, Inc. to provide air service consulting services to Redmond Municipal Airport (RDM).

This original approval was for a three-year time period with two (2) optional one-year extensions. This will be the 2nd year of air service consulting services to be performed by Mead & Hunt, Inc.

They have been providing this service to RDM for 13 years and have been instrumental in our success in recruiting new airlines, destinations, and frequencies.

This amendment also includes a clause that the contract cannot increase by more than 10% per year. Any increases above 10% in a single year would return to City Council for approval.

Discussion:
Addendum No. 2 will provide RDM with services that include airline headquarters meetings, air service market estimates, route forecasts, in-terminal passenger surveys, ongoing demand/performance monitoring, airline incentive programs, airline industry conferences, passenger demand analysis that assesses air service opportunities, community retention and airfare analyses, air service pro-forma(s), United States Government of Transportation (USDOT) Small Community Air Service Development Program (SCASDP) grant application, and community meetings. In addition, they will continuously monitor the Airport's performance and conduct research in order to proactively react to changes in the market and the impact of the Covid-19 pandemic.

Fiscal Impact:
The Fiscal Year (FY) 2021/22 budget includes $80,000 for these services. Proposed fees for services for FY 2021/22 are $79,530. The fees includes year-over-year escalators of not more than 10%.

Budgeted fees for services for future contract years FY 2022/23 through FY 2024/25 are depicted in the following table:

Contract #2020-47 Years	
Year Number	Maximum Mead & Hunt - Fees For Services
Two (2) (FY 2021-2022)	$ 79,530.00
Three (3) (FY 2022-2023)	$ 87,483.00
Optional Year (4) (FY 2023-2024)	$ 96,231.30
Optional Year (5) (FY 2024-2025)	$ 105,854.43

Alternative Courses of Action:

1. Approve Addendum No. 2 to Contract with Mead & Hunt, Inc. and future budgeted fees for services and authorize the City Manager to sign the Addendum.
2. Do not approve Addendum No. 2 to Contract with Mead & Hunt, Inc. and future budgeted fees for services and authorize the City Manager to sign the Addendum.
3. Request more information.

Recommendation / Suggested Motion:

"I move to approve Addendum No. 2 to City Contract #2020-59 with Mead & Hunt, Inc. and budgeted fees for services of $79,530, and for future contract years, with increases of not more than 10%, and authorize the City Manager to sign the Addendum."

Contract #2020-47 Years	
Year Number	**Maximum Mead & Hunt - Fees For Services**
Two (2) (FY 2021-2022)	$ 79,530.00
Three (3) (FY 2022-2023)	$ 87,483.00
Optional Year (4) (FY 2023-2024)	$ 96,231.30
Optional Year (5) (FY 2024-2025)	$ 105,854.43
	$ 369,098.73

ADDENDUM TO CITY OF REDMOND SERVICES CONTRACT No. 2020-47
Company Name Mead & Hunt, Inc.

ADDENDUM #2 – FEE FOR SERVICES

Insurance certificates originally submitted must remain in effect during the course of project.

The following Addendum #2 modifies the original contract terms.

5. FEE FOR SERVICES

Fee for the Services for year two (2) of this Contract 2020-47 covering the time period of July 1, 2021 through June 30, 2022, shall not exceed $79,530. See Attachment 1 – Exhibit A to this Addendum #2 for further detail.

In all other respects the original Contract 2020-47 shall remain in full force and effect.

Consultant Signature Date	**City of Redmond Date**
Title	**City Manager**

ATTACHMENT 1

Exhibit A

Mead & Hunt
2440 Deming Way
Middleton, Wisconsin 53562
608-273-6380
meadhunt.com

June 3, 2021

Zachary Bass
Airport Director
Redmond Municipal Airport
2522 SE Jesse Butler Circle, Suite17
Redmond, OR 97756

Subject: Proposal and Agreement for Air Service Consulting Services

Dear Zach:

The following Scope of Services is proposed to be completed for Redmond Municipal Airport (RDM) from July 1, 2021, through June 30, 2022. Mead & Hunt is pleased to submit this proposal for your review, which includes a scope of services, compensation and authorization.

Scope of Services

After acceptance of this proposal, Mead & Hunt shall complete the following tasks:

1. Airline Headquarters Meetings

Mead & Hunt will provide the analysis, preparation, presentation and consulting services associated with the annual incumbent airline meetings. It is anticipated that RDM representatives and Mead & Hunt staff will meet in-person with the airlines, including Alaska Airlines, American Airlines, Delta Air Lines and United Airlines. The output of this effort will be a PowerPoint presentation to each airline. Typically, headquarters meetings are held from October through December of each year. Once meeting dates are secured, Mead & Hunt will complete the presentation. The schedule is dependent on RDM's timely response to Mead & Hunt requests for airport and community provided information. Likewise, airline management availability and the ever-changing airline environment may impact the schedule.

2. Airline Industry Conferences

There are three industry conferences within the next 12 months that we recommend attending: the Allegiant Airports Conference (September 2021); Mead & Hunt's Air Service Development Conference (March 2022) and ACI-NA's JumpStart Air Service Development Program (June 2022). Mead & Hunt will prepare custom presentations for each meeting highlighting RDM and the community for use at the airline meetings and assist with airline meetings. Mead & Hunt will complete the presentations the week prior to the date of the conference.

3. Passenger Demand Analysis – CY 2021

The Passenger Demand Analysis will quantify by destination the number of air travelers in the market, including those air travelers that drive to an airport other than RDM to originate the air travel portion of their trip. The output will include an estimate of the top 50 true markets including passenger retention by destination, diverted origin and destination passengers, and the total estimated true market for all destinations. In addition, Mead & Hunt will use Diio Mi sources and U.S. Department of Transportation (DOT) airline report data to determine airport use by community, regional distribution of travel, airline use by airport, average airfares, air service gaps and opportunities, and other market specific information. The report will be provided in PDF format, electronically, within 60 days of notice to proceed.

4. True Visitation Estimate – CY 2021

The True Visitation Estimate is a location-based demand analysis, using the strength of the destination's overall visitation as the foundation for identifying air service development opportunities. The True Visitation Estimate will identify preferred travel patterns by visitors from the U.S. and will measure the number of people coming to the destination. Complex datasets will be converted into actionable intelligence information, identifying the true level of demand, market-by-market, on a monthly and seasonal basis. The output of the True Visitation Estimate will include visitation to Central Oregon broken down by region, state and metropolitan statistical area. Heat maps will be included that illustrate visitation and seasonality trends. The report will be delivered electronically in PDF format. Mead & Hunt will provide RDM draft of the True Visitation Estimate within 60 days of notice to proceed.

5. Additional Services

Additional services may be requested by RDM that are not described above. Additional services may include but are not limited to: the preparation of ad hoc reports; communication with airlines; coordination with RDM; participation in Central Oregon Air Service Team (COAST) meetings; and other elements as identified on an as needed basis.

Compensation

Mead & Hunt will be compensated for the work described under Scope of Services as set forth below:

1. Airline Headquarters Meetings

Mead & Hunt will be compensated on a lump sum basis for the airline presentation preparation and meeting.

Airline presentation preparation/meeting (per meeting) $5,920
Expenses (estimated per meeting) $1,200
Subtotal $7,120
FY 2022 total (lump sum, four meetings) $23,680
FY 2022 total (expenses) $4,800

2. Airline Industry Conferences

Mead & Hunt will be compensated on a lump sum basis for the presentation preparation and meetings. Mead & Hunt will invoice for related expenses (e.g. registration, printing/binding, shipping) at cost. Expenses will be pro-rated among clients being represented by the Project Manager.

Allegiant Airports Conference:

Presentation preparation/airline meeting	$2,500	
Expenses (estimated pro-rated share)	$500	
Subtotal		$3,000

Mead & Hunt Air Service Development Conference:

Presentation preparation/airline meetings	$4,350	
Expenses (i.e., printing)	$325	
Subtotal		$4,675

ACI-NA JumpStart Air Service Development Program:

Presentation preparation/meetings & coordination	$5,950	
Expenses (estimated pro-rated share)	$1,500	
Subtotal		$7,450

FY 2022 total (lump sum, three conferences)	$15,080
FY 2022 total (expenses)	$2,325

3. Passenger Demand Analysis

Mead & Hunt will be compensated on a lump sum basis and will invoice based on the percent of project completed.

Passenger Demand Analysis Report $15,000

4. True Visitation Estimate

Mead & Hunt will be compensated on a lump sum basis and will invoice based on the percent of project completed.

True Visitation Estimate $12,495

5. Additional Services

Mead & Hunt will be compensated on a time-and-materials basis not to exceed the following without further authorization.

Additional services (up to 30 hours) $6,150

The following are Mead & Hunt's Standard Billing Rates for services billed on a time-and-materials basis. Mead & Hunt reserves the right to change billing rates based on increases in unforeseen operational costs.

Standard Billing Rates	
Clerical	$75.00 / hour
Accounting/Administrative Assistant	$95.00 / hour
Technical Editor	$107.00 / hour
Senior Editor	$173.00 / hour
Managing Director	$195.00 / hour
Project Manager	$205.00 / hour
Vice President	$225.00 / hour
Expenses	
Company or Personal Car Mileage	IRS Rate
Air and Surface Transportation	Cost
Lodging and Subsistence	Cost
Out-of-Pocket Direct Job Expenses	Cost

Subtotal lump sum fees..$72,405
Subtotal estimated expenses $7,125
Total July 1, 2021 – June 30, 2022...$79,530

Please send all correspondence to my attention at the following address:

Mead & Hunt, Inc.
476 Salty Way
Eugene, OR 97404
541-521-5962
trina.froehlich@meadhunt.com

We appreciate the opportunity to submit this proposal to RDM.

Respectfully submitted,
MEAD & HUNT, Inc.

Trina Froehlich

Trina Froehlich
Project Manager

CITY OF REDMOND

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STAFF REPORT

DATE:	July 6, 2021
TO:	Redmond City Council
THROUGH:	Keith Witcosky, City Manager
FROM:	Zachary Bass, Airport Director
SUBJECT:	Redmond Municipal Airport purchase of a CAT 950M Wheel Loader and T800 Kenworth Dump Truck: $508,197.46.

Addresses Council Goal:
5.A. Maintain safety and security as the number one priority for the airport.

Report in Brief:
This action authorizes the Redmond Municipal Airport (RDM) to purchase a CAT 950M Wheel Loader and T800 Kenworth Dump Truck for use at the Redmond Municipal Airport. in an amount not to exceed $508,197.46.

Background:
RDM currently has a wheel loader and a dump truck. The loader is 37 years old, and the truck is 42 years old. Both units are at the end of their useful working lives.

These pieces of equipment are regularly used, and upgrading to more modern and efficient technology is important to serve the needs of the facility.

Discussion:
Airport staff, and fleet services, acquired price quotes to acquire a new wheel loader and dump truck via a Source Well government purchasing agreement.

The Case Loader is used for snow removal and tree removal around the airport. The Dump Truck is used to pull a 1500 gallon liquid de-ice trailer and to haul and spread rock along pavement shoulders on the airfield.

Fiscal Impact:
The Adopted Budget for FY 2021/22 included $570,000 for the two pieces of equipment.

The Wheel Loader will be purchased in the amount of $318,701.18 and the dump truck will be purchased in the amount of $189,496.28.

Total for both items is $508,197.46.

Alternative Courses of Action:
1. Approve the purchase of the new wheel loader and dump truck.
2. Do not approve the purchase.
3. Request more information.

Recommendation / Suggested Motion:
“I move to approve the purchase of a CAT 950M Wheel Loader in the amount of $318,701.18 and a T800 Kenworth Dump Truck in the amount of $189,496.28; totaling $508,197.46, and authorize the City Manager to execute any documentation for the purchases."

Front Loader

Dump Truck

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STAFF REPORT

DATE: July 6, 2021
TO: Redmond City Council
THROUGH: Keith Witcosky, City Manager
FROM: Zachary Bass, Airport Director
SUBJECT: Request to submit an application for the Federal Aviation Administration's American Rescue Plan Act Airport Rescue Grant in the amount of $6,082,370 and authorize the City Manager to sign the subsequent grant offer #3-41-0052-050-2021, and any amendments related to Concession Relief. (AP5019)

Addresses Council Goal:
5.B. iv. Pursue State, FAA, and other funding for development, expansion and preservation of the airport's physical facilities.

Report in Brief:
This action requests City Council authorize the Redmond Municipal Airport (Airport) to submit and subsequently accept a grant offer from the Federal Aviation Administration (FAA) for an American Rescue Plan Act (ARPA) Airport Rescue Grant in the amount of $6,082,370, and any amendments related to Concession Relief.

Background:
This grant is provided by the FAA in accordance with the ARPA act of 2021. The grant is to provide funding as economic assistance to eligible airports to prevent, prepare for, and respond to the coronavirus disease pandemic.

Discussion:
Funds from this grant can be used for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments. In addition, this grant specifically sets aside funds for relief from rent and minimum annual guarantees to eligible in-terminal airport concessions.

Fiscal Impact:
The total amount of the new grant AIP 050 is $6,082,370. This is a 100% FAA-funded grant with no sponsor match requirement. The Airport will expend the funds for the eligible items described above until all funds are exhausted. The grant funding breakdown is:

Relief for costs related to operations, personnel etc. - $5,668,864
Relief for airport concessions - $413,506
Total - $6,082,370

The Airport expects further guidance in the form of a grant amendment which will allow the expenditure of $413,506 for concession relief. The action before City Council includes pre-emptive authorization from Council associated with that guidance.

Alternative Courses of Action:
1. Approve the Airport's request
2. Do not approve the Airport's request
3. Request more information

Recommendation / Suggested Motion:
"I move to approve submitting a Federal Aviation Administration's Airport ARPA Grant application 3-41-0052-050-2021 (AP5019) in the amount of $6,082,370 and authorize the City Manager to sign the subsequent grant offer, and any amendments related to Concession Relief."

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STAFF REPORT

DATE:	July 6, 2021
TO:	Redmond City Council
THROUGH:	Keith Witcosky, City Manager
FROM:	Zachary Bass, Airport Director
SUBJECT:	Request to submit an application for Federal Aviation Administration Airport Improvement Program Grant #3-41-0052-047-2021 in the amount of $7,360,607 and authorize the City Manager to sign the subsequent grant offer from the FAA. (AP4700)

Addresses Council Goal:
5.B. iv. Pursue State, FAA, and other funding for development, expansion, and preservation of the airport's physical facilities.

Report in Brief:
This action requests City Council authorization for the Redmond Municipal Airport (Airport) to apply for Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant #3-41-0052-047-2021 in the amount of $7,360,607 and for the City Manager to execute the grant agreement.

This grant will assist with the design and construction of the Taxiway F Pavement and Airfield Electrical Rehabilitation project.

Background:
Taxiway F is the parallel taxiway to the primary runway (5-23). The pavement condition has deteriorated to the point where the pavement needs replacement. This project has been included on the Airport's Capital Improvement Plan (CIP) which has been approved by FAA for possible funding assistance.

The project (currently underway) is to design and construct a new pavement surface throughout the length of the taxiway; add an additional access taxiway to the commercial service aircraft parking ramp; and to update the airfield lighting and signage electrical system.

This project is estimated to be completed in calendar year 2022.

Discussion:
This grant amount will be applied to the overall cost of the project. The FAA will pay for 100% of the project with this single grant.

The total project cost is estimated at $7,360,607.

Administration - Bid Advertisements, BOLI, etc.:	$16,500
Engineering - Design and Construction Management:	$812,000
Construction - (estimated based on unit price bid):	$6,532,107
Total:	$7,360,607

Fiscal Impact:
There is no direct capital costs to the Airport for the Taxiway F project.

Alternative Courses of Action:

1. Approve the grant application
2. Do not approve the grant application
3. Request more information

Recommendation / Suggested Motion:

"I move to approve the Airport's application to the Federal Aviation Administration for Airport Improvement Grant #3-41-0052-047-2021 and authorize the City Manager to sign the grant acceptance."

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STAFF REPORT

DATE: July 6, 2021
TO: Redmond City Council
THROUGH: Keith Witcosky, City Manager
FROM: Zachary Bass, Airport Director
SUBJECT: Resolution #2021-15 - A resolution adopting an Airport Leasing Policy concerning the Redmond Municipal Airport (A/K/A "Roberts Field"), which Airport Leasing Policy will replace and supersede City of Redmond's current Airport Leasing Policy adopted on November 17, 2015.

Addresses Council Goal:
5.B. Promote business activities on airport lands located inside the fence line.
5.B.i. Attract aviation related businesses to airport property within the fence line.
5.B.ii. Apply leasing strategies that are flexible and attractive to tenants yet comply with FAA and TSA requirements.
5.C.i. Create and implement standardized leases for current and future leased properties.

Report in Brief:
This item requests City Council authorize an update to the 2015 Redmond Municipal Airport (RDM) Leasing Policy. This policy standardizes the terms and conditions for land owned and managed by RDM.

Background:
RDM is a FAR Part 139, commercial service airport and is required by the FAA to conform to certain stipulations in order to comply with federal grant assurances.

Back in 2015, there was no formalized lease policy governing property management and development at RDM. The intent of the policy developed at that time was to establish standards that reflected the goal to operate and develop RDM as the Central Oregon region's premier aviation facility, serving a diversity of aeronautical interests, including: general aviation, passenger air carriers, air cargo operations, and other related businesses.

The 2015, Policy was built using input from the Airport Committee and effected stakeholders. Staff utilized many public involvement tools including surveys/interviews, committees and subcommittees, town hall style meetings and one on one discussions. Staff also researched policies from other similar airports in an effort to adhere to industry standards.

The 2021 leasing policy update is necessary to respond to the rapidly changing economic, business, and legal environment surrounding the lease and/or development of aeronautical and non-aeronautical properties.

The airport leasing policy updates address, among other things: (a) establish an effective standardized system and process for leasing aeronautical and non-aeronautical airport property (including the construction of leasehold improvements thereon), (b) preserve airport investments and resources, (c) increase airport management and administration efficiencies, (d) ensure compliance with applicable laws and regulations, and (e) promote economic development and job creation.

Discussion:
For the past year, City staff, the Airport Committee, an Airport Subcommittee, and legal counsel have spent considerable time identifying ways to update and improve the Airport leasing policy.

1. The proposed policy resolves some inconsistencies in the 2015 policy. In many instances throughout the 2015 policy, provisions do not adequately specify the City's (and applicant's) obligations. The proposed policy provides necessary specificity.

2. The proposed policy provides the City more discretion and flexibility with respect to leasing activities. The 2015 policy

does not fully address non-aeronautical leases. The proposed policy applies to both aeronautical and non-aeronautical leases.

4. The City has experienced significant opposition with respect to its former position prohibiting lease assignments and subleases. The proposed policy permits lease assignments and subleasing with the City's prior written consent.

5. The proposed policy has been organized in a more readable and "user-friendly" manner. The format permits the City (and readers) to more precisely identify applicable policy provisions.

Fiscal Impact:
There are no direct fiscal impacts to the Airport with this action.

Alternative Courses of Action:

1. Adopt Resolution No. 2021-15.
2. Do Not Adopt Resolution No. 2021-15.
3. Take no action and Request More Information.

Recommendation / Suggested Motion:
"I move to adopt Resolution No. 2021-15."

November 17, 2015

REDMOND MUNICIPAL AIRPORT – ROBERTS FIELD
REDMOND, OREGON

A POLICY TO GOVERN AGREEMENTS INVOLVING THE USE OR DISPOSITION OF AIRPORT PROPERTY FOR AERONAUTICAL ACTIVITIES

ADOPTED November 17, 2015

CITY OF REDMOND, OREGON

A POLICY TO GOVERN AGREEMENTS
INVOLVING THE USE OR DISPOSITION OF
AIRPORT PROPERTY
FOR AERONAUTICAL ACTIVITIES
AT
REDMOND MUNICIPAL AIRPORT – ROBERTS FIELD

Table of Contents

Section 1 - General Statement of Policy

As an Airport Sponsor and recipient of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants, the City of Redmond, Oregon (hereinafter, City) is obligated to operate the Redmond Municipal Airport – Roberts Field (hereinafter, Airport) for the use and benefit of the public and to make it available to all types, kinds, and classes of aeronautical activities on fair and reasonable terms and conditions without unjust discrimination. Given these obligations, the City hereby establishes this policy to set forth a standardized system and process for leasing property and constructing improvements at the Airport.

In furtherance of this objective, it shall be the policy of the City to encourage the establishment of businesses offering general aviation services to the public at the Airport based on the following principles:

- Preservation of the City's investment in the Airport and its resources
- Facilitation of orderly and equitable management of the Airport
- Ensure the provision of high-quality services and consistent quality of facilities at the Airport
- Providing equitable and uniform treatment of all Operators, Lessees, and Users
- Ensure compliance with applicable laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application and acceptance of Federal Funds
- Enable conformity with the approved Airport Master, the Airport Strategic Plans, and Airport Layout Plan
- Make the Airport available for public use on reasonable terms without undue discrimination
- Assist in maintaining a fee and rental structure with the goal of financial self-sustainability for the Airport
- Allow for economic development and job creation

Section 2 - Definitions

For purposes of this Leasing Policy, the following definitions shall apply:

Aeronautical Services/Activities: means any activity or service conducted at the Airport 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. The following services/activities commonly conducted on airports are Aeronautical Activities within this definition: charter operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising, surveying, air-carrier operations, aircraft sales and services, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, and any other activities that, because of their direct relationship to the operation of an aircraft, can appropriately be regarded as an "Aeronautical Activity."

Agreement: means the written agreement between the City and an Operator or Lessee specifying the terms and conditions under which the Operator may conduct commercial aviation activities and Lessee may occupy Airport property. Such Agreement will recite the terms and conditions under which the activity will be conducted at the Airport, including but not limited to: rents, fees, and charges to be paid; and the rights and obligations of the respective parties.

Airport: means Redmond Municipal Airport -- Roberts Field and all of the area, buildings, facilities, and improvements within the exterior boundaries of the Airport as it now exists, or as it may hereafter be extended or enlarged.

Airport Director: means the individual employed and authorized by the City to be the chief administrative officer of the Airport, or the person authorized by the Airport Director to act for or on behalf of the Airport Director, with respect to any particular matter.

Airport Leasing Policy: means the “Policy to Govern Agreements Involving the Use or Disposal of Airport Property for Aeronautical Activities” as established and amended from time to time by the City, to govern the safe, orderly, and efficient use of Airport property.

Airport Layout Plan: means the FAA approved and City adopted drawing, as may be amended from time to time, which reflects an agreement between the FAA and Airport depicting the physical layout of the Airport and identifying the location and configuration of current and proposed runways, taxiways, buildings, roadways, utilities, navaids, etc. and proposed allocation of Airport land and/or improvements to specific uses and/or development.

Applicant: means a Person submitting an application to the City to Lease Airport property.

City: means the City of Redmond, Oregon, owner and operator of the Airport, acting by or through the Redmond City Council or any duly authorized employee, agent or instrumentality of the City of Redmond, Oregon.

City Council: means the legislative body that governs the City of Redmond, Oregon.

Commercial Aeronautical Activity: means an Aeronautical Activity for commercial purposes as defined in the Airport Minimum Standards.

FAA: means Federal Aviation Administration.

General Aviation: means all phases of aviation other than military aviation and scheduled or non-scheduled commercial air carrier operations.

Lease: means a contract between the City and any Person wherein the City grants the use or occupancy of Airport property in conformance with certain leasehold interests for a specified period of time in exchange for specified rent.

Lessee – means any Person obtaining a lease from the City to occupy space and hold certain leasehold interests at the Airport.

Minimum Standards: means the Airport Minimum Standards for Commercial Aeronautical

Service Providers at the Redmond Municipal Airport – Roberts Field as adopted by the City, amended from time to time.

Operator: means either a Fixed Base Operator or a Specialized Aviation Service Operator when performing a Commercial Aeronautical Activity.

Person: means and includes any individual, corporation, partnership, association, company, business, trust, joint venture or other legal entity.

Rules and Regulations: means the policies, procedures, and regulations which are established and amended from time to time by the City, to govern the safe, orderly, and efficient use of the Airport.

Shall: the word shall is always mandatory and not merely directory.

State: means the State of Oregon.

Sublease: means a written agreement, approved by the City, stating the terms and conditions under which a third party leases space from a Lessee for the purpose of providing aeronautical services at the Airport.

Section 3 - Exclusive Rights

A. The granting of an exclusive right to provide aeronautical services at an airport on which federal funds have been expended is forbidden by federal law. An exclusive right is a power, privilege or other right excluding or debarring another from enjoying or exercising a like power, privilege or right. The City will not grant any such special privilege or monopoly in the use of public use Airport facilities.

B. The presence on the Airport of only one Lessee engaged in a particular aeronautical service(s) will not, in and of itself, indicate that an exclusive right has been granted; however it is the policy of this City not to enter into or promote any understanding, commitment, or express agreement to exclude other reasonably qualified Lessees. Accordingly, those who desire to enter into a Lease with the City to engage in an aeronautical activity should neither expect nor request the City to exclude others who desire to engage in the same or similar activities. The opportunity to engage in an aeronautical activity shall be made available to those meeting reasonable qualifications and standards relevant to such activity and as space may be available at the Airport for such an activity.

Section 4 – Requests for Lease/Use Agreements

A. Written Application Required. Any Person desiring to enter into lease with the City for permission to occupy Airport property shall make written application to the City for such permission.

B. Applicant Must Demonstrate Qualifications. Application materials shall consist of all the information specified in this Leasing Policy, the Airport Minimum Standards, if applicable, and all documentation deemed necessary by the City for a full and complete analysis of the Applicant's qualifications and the benefit which will accrue to the aviation public from the Applicant's proposed use of Airport property.

Section 5 – Lease Proposal Process

Each proposal to lease Airport Property shall be in writing and in sufficient detail to discern the complete qualifications of the Applicant and shall include, as a minimum, the following:

A. The name, address, electronic mail address, and telephone of the Applicant.

B. The amount, size, and location of the land and/or facilities to be leased.

C. Descriptions and cost estimates of any proposed capital improvements.

D. The types and amounts of insurance coverage to be maintained for the proposed use of Airport Property. The type and limit of insurance required shall be established by the City and updated from time to time as needed.

E. A current financial statement prepared by the Chief Financial Officer of the Applicant and certified by an independent certified public accountant. The City shall consider financial statements in evaluating the Applicant's financial ability to construct facilities, occupy Airport property, and enter into a Lease of Airport property.

F. For construction of proposed leasehold improvements, the City may require evidence of the Applicant's financial ability to complete the improvements in one of the following forms:
   1. A performance bond in the amount equal to the cost for constructing the proposed improvements
   2. An irrevocable letter of credit guaranteeing funds to complete the project
   3. An escrow agreement administered by a title and escrow company; or
   4. A trust administered by a commercial bank.

G. If an Applicant is seeking to engage Commercial Aeronautical Activity, the entity shall also provide all application information and materials required by the Airport Minimum Standards.

H. The Applicant shall agree to provide any additional information and material deemed necessary or requested by the City.

I. The proposal shall be signed and submitted by the official representative of the entity of the business, if a sole proprietorship; every partner if a partnership; every member if a Limited Liability Company, and the President or CEO if a corporation.

Section 6 - Action upon a proposal to lease Airport property

When the Airport Director deems the proposal to lease airport property complete, as required by this Leasing Policy, the Airport Director will review the proposal against the criteria outlined in this section. If the Airport Director finds that the proposal meets these criteria, the Airport may enter into a lease with the proposed tenant, in accordance with the proposal and this leasing policy. If it finds that the criteria have not been met, the Airport Director will deny the proposal, either temporarily until the criteria can be met or finally, if it finds that the criteria cannot ever be met.

The Criteria:

A. The proposed use meets the requirements of the Airport Master Plan, the Airport Layout Plan, the Airport Strategic Plan, if in place, the City Zoning ordinance and map, and this Airport Leasing Policy.

B. The proposed use does not create a safety hazard on the Airport and the construction of the airport improvements associated with the proposed use does not create a safety hazard.

C. The granting of the application will not require the City to spend funds, supply labor or materials in connection with the proposed activity and the activity is not expected to result in a financial loss to the City.

D. Suitable space is available to accommodate the entire activity proposed or suitable land is available to construct the buildings and facilities necessary to accommodate the entire activity outlined in the proposal.

E. The proposed improvements can be constructed and the use instigated and operated without unduly interfering with other airport operations or causing undue congestion on the airport.

F. The applicant has not, either intentionally or unintentionally, misrepresented or omitted any pertinent information in the application or in supporting documents.

G. The applicant does not have a record of violating the Rules and Regulations of the Airport or of any other airport, FAA regulations, or any other federal, State, or local statutes, laws, rules, or regulations, which would render the person/entity unsuitable as an airport tenant.

H. The applicant has not defaulted in the performance of another lease or any other agreement with the City or any other airport(s).

I. The applicant, in the opinion of the City, exhibits adequate financial responsibility to undertake the project based upon the financial information provided.

J. The applicant can provide acceptable surety in the amount required by the City for that Agreement.

K. The Airport Director finds that the proposed activity or development is in the best interest of the City, the Airport, or the public.

Section 7 - Standards for Leasing/Use of Airport Property and Premises

A. Space Limited to Demonstrated Need. A single aeronautical activity, although meeting all reasonable standards and qualifications, shall be limited to a lease of such space as is needed for that activity. When an Applicant seeks to lease property from the City, he/she must provide evidence of demonstrated need for the Airport property in question.

   Where occupancy of existing Airport facilities are involved, “demonstrated need” shall mean the ability of the Lessee to occupy premises leased from the City as of the effective date of the Lease. Where construction of facilities, or alterations to an existing facility, are involved, “demonstrated need” shall mean the ability to obtain a certificate of occupancy from the City for the proposed facility(ies) within six (6) months following receipt of possession of the leased property unless the City determines a longer period of time is warranted due to the scope of construction.

B. Requests for Additional Space. If the need for additional space becomes apparent at a later date, such space, as well as any new areas developed for the service and support of aeronautical activities, will be made available to all qualified proponents or bidders, including the incumbent. The City will not award or grant, in advance, any options or preferences (including the right of first refusal) on future sites to an incumbent Lessee.

   If an existing Lessee needs additional Airport space to accommodate increased demand for its existing services or to expand an existing service, that Lessee shall notify the City, in writing, of the need for additional space. The written notice shall be sufficiently detailed so as to document a “demonstrated need” for the additional space requested. The City may grant the Lessee the additional space requested (to the extent the Lessee has a demonstrated need therefore) or the City, if prior to the receipt of the Lessee’s notice it has received an application from another qualified Applicant demonstrating a need for such space, may negotiate with one or more Persons who have expressed an interest in the space in question to determine which alternative would be most advantageous to the City.

   If the need for additional space is for or in connection with a new proposed aeronautical activity, one not authorized by the Lessee’s existing Lease, the request for additional space shall be treated by the City as one for a new Lease.

C. Term. The City determines the length of term for a Lease, Agreement, or Permit based on a variety of factors including:

   - Whether the Lessee is seeking to obtain space in an existing building or whether a long-term land lease is being sought for construction of improvements to Airport property
   - The designation of the facility or proposed property on the ALP
   - The Lessee’s proposed use of the property
   - The Lessee’s proposed capital investment in facilities

While subject to specific negotiations between the City and each Lessee, the City generally offers Lease, Agreement, or Permit terms as follows:

1. An initial lease of existing facilities or a portion of an existing facility requiring no additional capital investment: 5 years or less.

2. An initial lease of property on which to construct a new private hangar: 20 years with two five-year options to extend the lease for a total initial term of 30 years.

3. An initial lease of property on which to construct facilities to support Aeronautical Activities: 25 years with two five-year options to extend for a total initial term of 35 years.

4. An initial lease of property on which to construct facilities to support Aeronautical Activities (again, a commercial operation) which require a significant investment in capital, which could involve the development of a larger tract of airport property, for up to a term of 50 years. Some of the criteria which the City might deem to fall into this category would include, but not necessarily be limited to:

    a. Significant initial capital investment in leasehold improvements (greater than $500,000 in 2014 year construction dollars)
    b. Significant additional capital investment in current leasehold improvements (greater than $500,000 in 2014 year construction dollars)
    c. Services provided to other Airport tenants and users
    d. Significant job creation
    e. Public infrastructure extension which will benefit other parcels (i.e., roads, water, sewer)
    f. Potential to attract other new aviation businesses

5. At the end of an initial term, described above, or at the end of any prior lease on the airport, the initial term, and all extensions of which, have not exceeded 45 years, the City shall extend the term of the lease of an existing facility for periods of 5 additional years each with no additional investment of capital, up to a total aggregated period of 50 years, upon the following conditions:

    a. Leased premises are not required for other Airport uses according to the airport layout plan;
    b. The lease is not then in default;
    c. The language of the lease is updated to the current airport lease language;
    d. The rental to be paid during the extended term is updated to the fair market value of the lease premises, not including the tenant's improvements thereon, with the additions to the rent over the term that are in current use in similar City airport leases over the extended term.

6. At the end of an initial term, described above, or of any prior lease on the airport, the initial term, when all extensions of the said lease have not exceeded 45 years, the City

shall extend the term of a lease of an existing facility for a period of longer than 5 additional years up to a total term of 50 years, upon the conditions listed in subparagraph 5 above, plus the following:

a. Additional investment in the facilities (reinvestment will be based on the value of improvements, not to exceed 100% of the original value of the facility);
b. Upon inspection, the facilities are found to be in condition to last for the additional negotiated term. The parties will provide to the City a Facility Condition Assessment Report, prepared by an independent, qualified contractor, approved by the City in writing, attesting to the condition of the leasehold improvements. Should the said report indicate the presence of improper maintenance or conditions of the improvements which render them unsafe for occupancy, the City will defer action on the requested transaction until the deficiencies have been corrected.

7. In order to obtain an extension of the term of a lease, the Lessee must make application therefor to the Airport Director at least 180 days prior to the end of the current lease term.

D. Sale of Leasehold Improvements on Airport property. During the unexpired term of any lease upon the airport, it is the policy of the City to not allow the purchaser of the said improvements to assume the existing lease of his/her/its seller of those improvements, but on the conditions set forth in this section, the City will enter into a new lease with the purchaser of the said improvements. Those conditions are as follows:

1. The new lease will contain the current language of leases entered into between the City and airport tenants in accordance with the provisions of this leasing policy;
2. The parties will provide to the City a Facility Condition Assessment Report, prepared by an independent, qualified contractor, approved by the City in writing, attesting to the condition of the leasehold improvements. Should the said report indicate the presence of improper maintenance or conditions of the improvements which render them unsafe for occupancy, the City will defer action on the requested transaction until the deficiencies have been corrected.
3. The parties will provide to the City a Phase I Environmental Report of the leased premises prepared by an independent, qualified contractor, approved by the City in writing. Should the said report indicate the presence of environmental concerns, the City will defer action on the requested transaction until the deficiencies have been corrected.
4. The parties will pay to the City an administrative fee equal to 3% of the sale price of the improvements.
5. The term of the new lease for the purchaser of the improvements will be no less than the remaining term of the seller's lease and the rent shall remain the rent specified in the seller's lease. If the purchaser wishes to extend the term for an additional 5 years beyond the seller's remaining term, so long as that does not make the total term of said lease 50 years or more, the rental for the term of the said lease shall be amended to the current fair market value of the lease premises. If the purchaser wishes to extend the seller's remaining term for longer that the 5 additional years, up to a total of 50 years, in addition to meeting the requirement of the additional provisions of subsection 6.

under the subsection on Term hereof.

6. After the City and the purchaser of the improvements have entered into the new lease described in this paragraph, the former lessee, the seller of the improvements, shall have no further liability to the City under the superseded lease, or otherwise, which arise out of the lease transaction between the former lessee and the City.

E. Ownership of Improvements at the termination of the lease.
   1. Upon termination of the lease of airport property on which improvements have been constructed by the tenant or a prior tenant, the tenant may remove said improvements, upon giving notice to the Airport Director, at least 60 days prior to the end of the said term, of the tenant's election to remove the said improvements. The removal shall be completed at or prior to the end of the lease term.
   2. If the tenant does not elect to remove the improvements and provide the required 60 day notice, the Airport Director shall decide if the City wishes to require the tenant to remove the said improvements. The City may request a real estate appraisal of the leasehold improvements prepared by an independent, qualified contractor, approved by the City in writing detailing the current market value and useful life of said improvements. In addition, the tenant must provide a satisfactory environmental report. The Airport Director shall, at least 30 days prior to the end of the said term, notify the tenant, in writing, of the election made by the City with respect to the improvements. If the City elects to keep the improvements, the notice by the Airport Director to the tenant of the City's election to retain the improvements shall constitute the only conveyance needed to transfer any interest which the tenant might have in the said improvements to the City. The tenant, having failed to notify the City by the stated date of his election to retain the said improvements, constitutes an election by the tenant not to retain the improvements, and thereby the tenant will have been deemed to have abandoned the said improvements.
   3. If the City notifies the tenant to remove the improvements, the tenant will then have until the end of the lease term to remove the said improvements, with the cost to be borne by the tenant. If the process has not been completed by the end of the lease term, the tenant shall also be liable to the City of additional rent at the lease rate until the improvements have been removed and the site left free of debris from the said removal. If the tenant fails to complete the removal of the improvements within 30 days after the end of the term, the City may cause the improvements to be removed by a contractor, and bill the tenant for the said cost, for which the tenant shall be liable as additional damages under the terms of the lease document.

F. Leases for Non-Aeronautical Activities. The City will not approve any proposed lease of aeronautical property for non-aviation activities for longer than a brief, interim period of time generally, five or fewer years, and provided the activity does not violate FAA grant assurances. Such leases are also subject to FAA approval and the proposed Lessee obtaining all necessary zoning and other approvals from the City.

G. Leases for Private Aeronautical Uses. The City is required to operate the Airport for the maximum use and benefit of the public, and must retain the ability to make reasonable provision for essential support services for those who use the Airport; nevertheless, some private aeronautical uses may be beneficial to the City; for instance, a private flying club might be a desirable and compatible Operator. Proposed leases for private aeronautical uses will be evaluated on a case by case basis, taking into account the strategic business plan of the Airport, the benefits which may be derived from the proposed lease, the potential costs of the proposed lease to the City, the availability of suitable space, the potential for conflict or interference with the public uses of the Airport, and any other factors the City deems relevant.

H. Adherence to Airport Layout Plan (ALP) Required. The ALP depicts City-owned property on the Airport to be utilized for aeronautical activities and identifies existing facilities and plans for future development. The ALP reflects the existing and proposed allocation of areas of the Airport to specific operations and support functional usage. No use, occupancy, construction, modification, or improvement that is inconsistent with the Airport's FAA-approved ALP shall be allowed.

I. Development of Vacant Airport Property. When a Lessee or Operator desires to construct facilities at the Airport, limited availability of vacant, appropriate space may restrict the City's ability to grant permission for such development. There are only a limited number of available sites on which to build facilities to accommodate aeronautical activities at the Airport.

Any application for permission to develop these properties as indicated shall include, in addition to all other required materials, a site plan depicting the nature and location of the proposed development.

J. No Liens or Encumbrances to Airport Property. The subordination of Airport property by mortgage, easement or other encumbrance will normally be considered as a transaction which would deprive the City of the rights and powers necessary to perform its covenants in its agreements with the federal government and under the bonds which have been issued, from time to time, to finance Airport operations. Because of this, proposed developments which would require such encumbrances shall not be granted by the City. The City will always require a Lessee or Operator developing Airport property to indemnify and hold the City harmless from any mechanics' or other liens which might be filed against Airport property as a result of the development.

K. Financing Airport Development. The City is under no obligation to provide financing, or to make any improvements to Airport property to facilitate a development proposed by an existing or prospective Lessee. If such a Lessee cannot demonstrate the financial means to implement and pay for such development that may be an indication that the proposed development would not be in the best interests of the City or the public using the Airport. If a perspective Lessee has demonstrated the requisite financial ability, the City may choose to pursue any supplemental federal, state, or City funds to contribute to the leasehold improvements, but only if in doing so there would be no diversion of funds away from capital improvements or the Airport capital budget program planned by the City.

L. Airport Operated for Benefit of the Public. Through its Leases, and by other means, the

City will ensure that the Airport is operated for the use and benefit of the public and is made available to all types, kinds and classes of aeronautical activities with priority given to uses which further the City's goals and the Airport's strategic business plan.

M. General Rights and Privileges Granted. Airport Leases are designed to accomplish one or more of three basic rights or privileges: the right for a Person to use the landing area and other public Airport facilities in common with others so authorized; the right to occupy as an Operator, and to use exclusively, certain designated premises; and/or the commercial privilege or the franchise right to offer goods and services to the public who use the Airport. The City will not enter any Lease without written receipt of adequate consideration for the rights granted therein.

N. Control over Operations. Any Lease granting the right to serve the public on the premises of the Airport shall be subject to terms and conditions reserving to the City sufficient control over operations to ensure that patrons will be treated fairly by the Lessee. The Lessee must agree to make available its services and facilities on fair and reasonable terms, and without discrimination.

O. Control over Aeronautical Activity and Development. The City will enter into no Lease that would require it to divest itself of the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, or the right to prevent any Lessee from erecting, or permitting to be erected, any building or other structures which might limit the usefulness of the Airport or constitute a hazard to aircraft.

P. The City will enter into no Lease that would require it to divest itself of, or limit its right to develop or improve the Airport as it sees fit, regardless of the desires or views of any Lessee and without interference or hindrance from such a party.

Q. Minimum Standards. The Minimum Standards set forth the qualifications and conduct which must be met by a Lessee desiring to conduct certain aeronautical activities at the Airport. They establish a basis for practical negotiations between the City and potential Lessees; however, prospective Lessees should be aware that the City, if presented with a choice between multiple potential Lessees for a single space or facility, will give preference to Lessees who can offer the City and the public the highest standard of quality and service which may well exceed the Minimum Standards for a proposed activity. Existing and prospective Lessees shall understand that the City may increase its Minimum Standards from time to time, in order to ensure a higher quality of service to the public. Only in the rare circumstance, where the aviation community at the Airport has encountered difficulty in attracting a competent service entity, shall the City give consideration to waiving a Minimum Standard to allow a period of initial development. In all other circumstances, it is the policy of the City not to enter into agreements with Operators who cannot meet the applicable Minimum Standards.

R. Off-Premises Access. The City will not enter into Leases which grant access to public ramp, taxiway, and landing areas by aircraft normally stored and serviced on land adjacent to, but not a part of the Airport premises.

S. Waivers of Immunity. The City will enter into no Leases that require it to waive any sovereign, governmental or other immunity to which it may be entitled, or that would require it to submit to the laws of any state other than those of the State of Oregon.

T. Indemnification. Every Lessee desiring to conduct aeronautical activity at the Airport shall agree to indemnify and hold the City, its officers, officials, agents, representatives and employees from and against any and all injuries, damage or harm, or any nature whatsoever, which may result from its use or occupancy of Airport property and its conduct of aeronautical activities.

Section 8 - Written Agreement

All Persons, prior to the commencement of construction of leasehold improvements or operation, of an Aeronautical Activity as defined herein, shall enter into a Lease with the City setting forth the terms and conditions under which the Person shall occupy and use Airport property. Leases entered into by the City are designed to protect the public interest and may contain more restrictive clauses than private sector leases, are to be in a form approved by the City's legal counsel and shall, at a minimum; conform to local/regional standards of tenant responsibility and liability.

Each Lease shall include all provisions required by law and obligations placed upon the City by all federal and State agencies including, but not limited to, compliance with all federal, state and local laws and regulations pertaining to the use, storage and disposal of hazardous materials and stormwater pollution prevention regulations. Other Lease provisions shall include, but are not necessarily limited to, the following:

A. Description of leasehold
B. Term of lease
C. All fees and charges associated with occupying and operating on the premises
D. Payment procedures relating to all fees and charges
E. Approved activities
F. Prohibited activities
G. Insurance Requirements
H. Subleasing provisions
I. Fire Prevention
J. Environmental Liability
K. City entry onto premises
L. Compliance with laws
M. Airport Security Program
N. Default/Termination
O. Transfer of Airport ownership
P. Bankruptcy
Q. Ingress and Egress to Property
R. Sale of Improvements
S. Lease Renewal Options

Lease, Agreement, and Permit language is updated from time to time to reflect changes in FAA regulations and real estate law as well as to meet changing economic conditions and other risks associated with land ownership.

Section 9 - FAA Required Lease Provisions

In addition to the minimum terms and conditions listed in Section 9, each Lease shall contain the following provisions regarding subordination, emergency leasing to the United States, and non-discrimination. The language for these provisions is as follows:

A. Lease Subordinate to Agreement between City and the United States: This lease shall be subordinate to the provisions of any existing agreement between the City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the expenditure of federal funds for the development of the Airport.

B. Emergency Lease to United States: During times of war or national emergency, the City shall have the right to lease the landing area or any part thereof to the United States Government for military or naval use, and if any such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the Government shall be suspended.

   All facilities of the Airport developed with federal financial assistance and all facilities usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft, (or their contractor) in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, a charge may be made for a reasonable share, proportional to such use, of the cost for operating and maintaining the facilities used.

C. Non-Discrimination: The Lessee shall furnish all services authorized or licensed on a fair, equal, and not unjustly discriminatory basis to all users and shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided that it may make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers, if permitted by law.

   The Lessee for itself, its personal representatives, successors in interest, and assignees hereby agrees that:

   1. No person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

   2. In the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

   3. That the premises are to be used in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended.

   4. That in the event of breach of any of the above non-discrimination covenants, the City

shall have the right to terminate the lease and re-enter and repossess said land and the facilities thereon and hold the same as if said lease had never been made or issued.

Section 10 – Rentals, Rates, Fees, and Charges

A. Financially Self-Sustaining. The City has an obligation to make the Airport as self-sustaining as possible under the circumstances existing at the Airport at any given point in time. Toward this end, the City, through its Agreements and by other means available to it shall endeavor to recover the cost of providing its facilities, through rentals, fees or other charges. All Agreements must provide for adequate consideration to be received by the City in compensation for the rights and privileges therein granted. It shall be the policy of the City to seek contractual terms and conditions that, while fair and nondiscriminatory, provide the most advantageous returns to the City.

B. No Unjustifiably Discriminatory Rates. Each Operator shall be subject to rates, fees, rentals and other charges (e.g., fuel flowage fees, hangar rentals, percentages of gross volume of business, etc.) as may be currently applicable to, or being received from others making the same or similar uses of the Airport, utilizing the same or similar facilities. Nevertheless, in respect to a contractual commitment from any Operator, the City may charge different rates to similar users of the Airport if such rates are nondiscriminatory in purpose. Differences in values of properties involved, and the extent of use made of common use facilities may be factors to be considered. Seldom will each Airport user have properties of the same value nor will their use and impact upon common facilities be the same. If one Operator is in what is considered a prime location, and another is in a less advantageous area, there could logically be a differential in the fees and charges, to reflect this advantage of location. This factor might also influence the rental value of the property. If one Operator rents office and/or hangar space and another builds its own facilities, this would provide justification for different rental and fee structures; these two operators would not be considered essentially similar as to rates and charges even though they offer the same services to the public.

C. Competition May Determine Applicable Rates/Fees. In situations where particular contracts, leases or agreements are awarded as the result of competition among potential operators, said Agreements will be subject to the financial terms and conditions proposed by the operators in response to the competitive process and deemed most advantageous to the City. Agreements obtained through the process of competitive negotiation and bidding may offer returns to the City that are higher than those being received from existing Operators at a given point in time.

D. Periodic Adjustment of Rates. Providing for adjustments to rental rates and Airport user fees (e.g., percentages of an Operator's gross revenues) facilitates parity of rates and charges between new and long-standing Operators, assists the Airport to remain as self-sustaining as possible under the circumstances existing at any given point in time. All Agreements with a term of five (5) years or more shall contain provisions subjecting the rental rates and user fees to be subject to periodic adjustment throughout the entire term of the Agreement. Adjustments shall occur at five-year intervals throughout the term(s) the

Agreement remains in effect, at the discretion of the City. Under no circumstances will rental rates or user fees be adjusted to amounts less than the current fair market value at the time of the review and adjustment process conducted by the City. No single adjustment of a rental rate or user fee shall exceed one hundred percent (100%) of the current rental rate or fee in effect at the time of the review and adjustment process conducted by the City. (The term "user fees," for the purpose of this Lease Policy, does not include landing fees or passenger facility charges).

E. "Pioneer" Periods Disfavored. In the case of a new general aviation Operator, offering services not previously available to the public at this Airport, the City may choose to offer reduced rental rates or other inducements to obtain an Operator, recognizing that it may well be a non-profit venture during its pioneering period. In such circumstances, the "incentive rate" shall be offered only during a specific "pioneer" period, and shall be defined so as to end on a specified date. Future Operators coming on the Airport following the pioneer period will be expected to pay the comparable standard rates and charges based on then-current values, rates and charges, and the City shall not be obligated to offer subsequent Operators a pioneer period. Nor shall it generally be appropriate to offer an established Operator the benefit of an additional period of reduced rates or other financial inducements, beyond the Operator's initial pioneer period.

F. Diligent Bookkeeping Required. Income from an Operator's Airport operations must be fully accounted for, and adequate records must be kept to evidence amounts due to the City for the various rentals, fees and charges applicable to the Operator's operations at the Airport. The City shall be entitled to have access to such records upon request.

Section 11 – Construction of Leasehold Improvements

Through its leasing and development activities, the City seeks to promote consistent, attractive, and compatible high quality development at the Airport. In addition, it desires to encourage private sector investment in Airport facilities, develop and maintain aesthetic excellence and high standards of environmental protection. Finally, it desires to create standards of development that maintain the character of the Airport, and ensure all construction meets and exceeds all applicable safety standards and requirements.

Each Lease, Agreement, or Permit issued by the City shall include the specific development requirements for the construction of leasehold improvements on the Airport; however, following are general provisions and policies applicable to each Airport Lease, Agreement, or Permit:

A. No leasehold improvements shall be designed, planned, constructed, reconstructed or remodeled without the prior written approval of the Airport Director.

B. Any structure or facility to be constructed or placed upon the Airport shall be constructed in a manner to conform to all safety and environmental regulations of the State of Oregon and the City, and shall be in compliance with the City's current site development requirements, building codes, and fire regulations as well as FAA design standards.

C. The FAA requires review and approval of Airport improvements. The City is required to submit “Form 7460” to the FAA detailing specific requirements of each project. The Lessee shall submit all required information to the Airport Director who shall in turn submit the information to the FAA. Submittal of this information shall be a prerequisite of the Airport Director releasing final design approval. No construction shall commence without the written approval from FAA as per this Form.

D. Responsibility for obtaining appropriate approvals from government authorities and complying with their various regulations, policies and standards shall be that of the Lessee.

E. Lessees shall obtain at their sole expense all permits required for their construction program and shall pay all taxes, permits, inspection fees, and licenses required for the construction and operation of their business.

F. The design of any leasehold improvement is to be carried out under the direction of a registered architect or engineer. Construction drawings are to be certified by their respective professional disciplines – architectural, structural, mechanical, electrical, and civil engineers.

G. In accordance with Section 8.K, the City may provide infrastructure for the proposed leasehold improvements. Absent City funding of such improvements, each Lessee shall be solely responsible for and incur all expenses for connection to all leasehold improvements and facility requirements including public roadways, aprons, taxiways, electrical power, communications, water, sewer and natural gas.

H. Lessees shall obtain the prior written approval from the Airport Director to modify, improve, add to or delete facilities from their leased area. If any structure is erected, placed, or altered upon in any other manner than in accordance with plans and specifications approved by the Airport Director, such construction will be considered to have been undertaken without approval. This restriction is applicable to landscaping plans as well as architectural plans.

I. Lessees shall suppress, at their own expense, and to the satisfaction of the FAA, all electromagnetic interference with radio guidance, safety devices or with any electric or electronic equipment or installations on or associated with the Airport.

J. The City assumes no responsibility with regard to the ability of the Lessee to complete construction or otherwise meet the Terms and Conditions of its Lease, Agreement, or Permit nor does it assume any responsibility for an error, fault or omission in the plans and specifications that have been approved. The City reserves the right to serve notice that action must be taken to remedy any improper situations.

K. Noise, dust, odors, stormwater detention, water quality, and smoke generation are of particular concern in the design and operation of any facility on the Airport. Therefore the design and construction of all facilities shall be in compliance with all federal, state, and local environmental regulations applicable to the Airport.

L. The City or its representative(s) shall have the right at reasonable times to visit sites and enter buildings which are completed or in the process of being built, changed, repaired, moved or demolished.

REDMOND MUNICIPAL AIRPORT ("ROBERTS FIELD")
REDMOND, OREGON

AIRPORT LEASING POLICY

EFFECTIVE JULY 6, 2021

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City of Redmond – Airport Leasing Policy

1. General

1.1 Definitions; Laws; Interpretation

1.1.1 Defined terms contained in this City of Redmond – Airport Leasing Policy (this "policy") have the meanings assigned to such terms in Appendix A (which defined terms may not be capitalized in this policy). Any reference to a federal, state, and/or local law, regulation, or rule means the federal, state, and/or local law, regulation, or rule as now existing and/or hereafter amended.

1.1.2 For purposes of this policy, all pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting.

1.2 Policy Purpose

City is the owner, operator, and sponsor of the airport. As a recipient of FAA AIP grants and the operator of a public municipal airport, the city must operate the airport for the use and benefit of the public. City must also make the airport available for all types, kinds, and classes of aeronautical and non-aeronautical activities on fair and reasonable terms and conditions without unlawful discrimination. Given these obligations, the city establishes this policy to (a) set forth a standardized system and process for leasing airport property and constructing leasehold improvements thereon for aeronautical and non-aeronautical purposes, and (b) govern the safe, orderly, and efficient use of airport property. Except as otherwise provided in this policy and/or as the airport director determines necessary or appropriate, this policy applies to all airport leases, including leases for non-aeronautical purposes or activities.

1.3 General Policies

In furtherance of the objectives identified under Section 1.2, above, the city endeavors to (a) preserve airport investments and resources, (b) facilitate orderly and equitable airport management and administration, (c) ensure the provision of high-quality services and facilities, (d) provide equitable and uniform treatment of all operators, tenants, and users, (e) ensure compliance with applicable laws concerning the application and acceptance of federal funds, (f) enable conformity with the approved AMP, ASP, ACM, and ALP (as applicable), (g) permit public use of the airport on reasonable terms and without unlawful discrimination, (h) maintain a fee and rental structure with the goal of airport financial self-sustainability, and (i) promote economic development and job creation.

1.4 Airport Operated for Public Benefit

City will ensure that the airport is operated for the use and benefit of the public and is made available to all types, kinds, and classes of aeronautical activities; provided, however, priority is given to such uses which further the city's goals and the airport's strategic business plan.

1.5 Policy Administrator; Reservation of Rights

1.5.1 The airport director is designated administrator of this policy. To this end, the airport director has the authority to implement, administer, and manage all aspects of this policy, including, without limitation, the authority to (a) interpret this policy, (b) decide all questions concerning this policy, including, without limitation, tenant eligibility and qualifications, and (c) if the airport director determines necessary or appropriate, waive and/or modify procedural and/or substantive conditions and/or requirements contained in this policy.

1.5.2 The airport director will act in a manner he or she reasonably believes is in the city's best interests and otherwise consistent with Sections 1.2-1.4 of this policy. The airport director will not unreasonably withhold, condition, and/or delay his or her exercise of any consent, approval, determination, and/or similarly discretionary action under this policy. Subject to Section 4.5, the decision of the airport director will be final and conclusive. The decision of the airport director on any given matter will not set any precedent or bind future decisions of the airport director.

1.5.3 Notwithstanding anything contained in this policy to the contrary, the city reserves the right to modify, supplement, revise, change, delete, discontinue, and/or suspend all or any part of the procedures, practices, and/or policies contained in this policy as business, development, operations, legislation, and/or other conditions dictate. Except as otherwise expressly prohibited under a then-existing binding and effective lease, any modification, supplementation, revision, change, deletion, discontinuance, and/or suspension of all or any part of the procedures, practices, and/or policies provided in this policy apply to all existing and future leases (and leasing transactions). The terms of the lease will control if a conflict between the terms of a lease and this policy should occur.

2. Exclusive Rights

2.1 Exclusive Rights Prohibited

Subject to applicable laws, the city will not grant any exclusive rights, monopolies, and/or privileges in, to, and/or affecting the airport and/or airport improvements (facilities). For purposes of this section, an exclusive right includes, without limitation, a power, privilege, and/or other right excluding or debarring another from enjoying or exercising a similar power, privilege, and/or right.

2.2 No Presumption of Exclusivity

Presence on the airport of only one tenant engaged in a particular aeronautical or non-aeronautical activity does not indicate that an exclusive right, privilege, and/or power has been granted. The city does not enter into and/or promote any understanding, commitment, and/or express agreement to exclude other qualified tenants. The opportunity to engage in an aeronautical or non-aeronautical activity will be made available to those satisfying qualifications and standards applicable to the activity, subject to this policy, the laws, and availability of space at the airport.

3. Lease Application

3.1 Application Required

Any person desiring to enter into a lease with the city concerning airport property must, in addition to any other requirements that the airport director may impose from time to time, submit a written application to the city on the city's then-current airport lease application form (and pay the applicable application fee), which application will be submitted in the manner prescribed by the airport director. Applications to lease airport property may be obtained by contacting the airport director. The application must be signed and submitted by a person with legal authority to sign and submit the application on the applicant's behalf. An applicant will pay the application fee and all other fees, costs, and expenses imposed by the city and/or incurred by the applicant concerning the application and lease process.

3.2 Lease Application Process

The lease application will contain all information required under this policy, the minimum standards (as applicable), rules and regulations, and such other information and/or documentation necessary for the city to determine an applicant's qualification and benefit which will accrue to the public from the applicant's proposed use of the airport, including, without limitation, the following:

3.2.1 Applicant's name, address, email address, and telephone number. The amount, size, and location of the land and/or improvements proposed to be leased.

3.2.2 Descriptions and cost estimates of any proposed leasehold improvements.

3.2.3 Applicant's most current financial statements prepared by the applicant's chief operating officer and certified by an independent certified public accountant. The city may consider financial statements in evaluating the applicant's financial ability to construct any proposed leasehold improvements on the subject airport property and/or to perform the applicant's obligations under the lease.

3.2.4 For construction of proposed leasehold improvements, the city may require evidence of the applicant's financial ability to complete the improvements in one or more of the following forms: (a) performance bond in an amount equal to the cost for constructing the proposed improvements; (b) funds held in escrow pursuant to the terms of an escrow agreement; and/or (c) an irrevocable letter of credit guaranteeing funds to complete the improvements.

3.2.5 If an applicant proposes to engage in commercial aeronautical activities, all application information and materials required by the airport minimum standards. For all other applicants, a description of the applicant's business (if applicable) and proposed aeronautical or non-aeronautical use of the land and/or improvements proposed to be leased.

3.2.6 All additional information, documentation, and materials necessary to satisfy all applicable eligibility and/or qualification requirements under this policy, the rules and regulations, and/or minimum standards (as applicable), and/or as the airport director may determine necessary.

3.3 Financing Airport Development; Performance

An applicant's failure to demonstrate adequate financial resources to pay (a) for the proposed improvements described in the subject application, and/or (b) the applicant's obligations under the lease will be grounds for denial of the application. Nothing contained in this policy will be construed as obligating the city to provide financing and/or to construct improvements at the airport to facilitate the proposed improvements. Notwithstanding the immediately preceding sentence, if an applicant demonstrates financial capacity to pay for the proposed improvements and the applicant's obligations under the lease, the city may pursue supplemental federal, state, and/or local funds to contribute to the improvements.

4. Application Review

4.1 Submittal; Preliminary Review

Completed applications must be filed with the airport director. Each application will be reviewed and processed by the airport director in order of receipt. The city reserves the right to request additional documentation and information, as necessary. The airport director may conduct whatever investigation the airport director deems necessary or appropriate to determine whether the application is complete, the statements and information contained therein are true and accurate, and whether the application complies with this policy and all applicable laws.

4.2 Criteria

In addition to any other conditions and/or requirements imposed by the city, the airport director will review a completed application to determine compliance with all review criteria, including, without limitation, the following:

4.2.1 The proposed use meets the requirements of the AMP, ALP, ACM, ASP (if applicable), the city's zoning ordinance and map, and this policy.

4.2.2 The proposed use does not and will not create a safety hazard on or at the airport and/or the construction of any improvements associated with the proposed use does not and will not create a safety hazard.

4.2.3 Application approval will not require the city to spend funds and/or supply labor and/or materials concerning the proposed activity and the activity is not expected (as determined by the city) to result in financial loss to the city.

4.2.4 Suitable space is available to accommodate the entire activity proposed in the application and/or suitable land is available to construct any improvements necessary to accommodate the entire activity outlined in the application.

4.2.5 In the opinion of the airport director, the proposed improvements may be constructed and the use operated without (a) unduly interfering with airport operations, and/or (b) causing undue congestion on or at the airport.

4.2.6 Applicant does not have a record of violating the rules and regulations and/or the rules and regulations of any other airport, FAA regulations, and/or laws.

4.2.7 Applicant has not defaulted in the performance of another lease and/or any other agreement with the city and/or any other airport during the immediately preceding five years (from the date of the application).

4.2.8 In the opinion of the airport director, the applicant demonstrates adequate financial resources to undertake the proposed use (including construction of any improvements) based upon the financial information the applicant provided.

4.2.9 Applicant has provided (or certifies that the applicant will provide) acceptable surety in the amount required.

4.2.10 The airport director finds that the proposed activity and/or improvements is in the best interests of the city, airport, and/or the public.

4.3 Evaluation

The airport director may approve, approve with conditions, or deny an application. The airport director will provide the applicant written notice of the airport director's decision on an application. If the airport director finds that the application satisfies the criteria established in Section 4.2, the city may enter into a lease with the applicant in accordance with the application and this policy. Notwithstanding anything contained in this policy to the contrary, the lease will be in form and content satisfactory to the airport director and will be on the city's then-current lease form.

4.4 Grounds for Denial

The airport director may deny an application for any one or more of the following reasons: (a) the application is incomplete; (b) fraud, misrepresentation, and/or false statement(s) contained in the application and/or willful withholding of information or incomplete disclosure concerning any matter required to be furnished in connection with the application; (c) failure to satisfy the criteria or policy requirements under this policy; and/or (d) failure to comply with any applicable law. If the airport director determines that an application is incomplete and/or the criteria has not been met, the airport director may deny the application and notify the applicant, in writing, of the deficiencies (the "deficiency notice"). If the applicant provides the information identified in the deficiency notice within the time period identified in the deficiency notice, the application will be considered timely and the airport director will evaluate the application. If the applicant does not timely provide the information identified in the deficiency notice, the application will be deemed withdrawn without further act of the city and/or applicant. Notwithstanding anything contained in this policy to the contrary, if the airport director determines that an applicant cannot satisfy any criteria under Section 4.2 and/or the application is denied under Section 4.2.2-4.2.5, the airport director may deny the application without providing the applicant an opportunity to cure the deficiencies.

4.5 Appeals

4.5.1 If the airport director denies an application under Section 4.4, the applicant may request reconsideration by filing a written request with the airport director (the "request for reconsideration"). The request for reconsideration must be filed with the airport director within thirty (30) days after the date of the subject application's denial. The airport director will respond to any properly and timely filed request for reconsideration within twenty (20) days after receipt of the request for reconsideration. The airport director may respond to any request for reconsideration by summary order.

4.5.2 If the applicant is not satisfied with the airport director's decision concerning the request for reconsideration, the applicant may appeal the airport director's decision by filing an appeal with the city manager (an "appeal"). The appeal must be filed with the city manager within twenty (20) days after the date of the airport director's response to the request for reconsideration. A copy of the appeal must be filed with the airport director. An applicant will not be permitted to file an appeal with the city manager unless the applicant has properly and timely filed a request for reconsideration with the airport director under Section 4.5.1. The city manager will dismiss an appeal that is filed untimely. Failure to properly and timely file an appeal will constitute a waiver of the applicant's right to have the city manager review the airport director's decision concerning the request for reconsideration.

4.5.3 The city manager will respond to any properly and timely filed appeal within twenty (20) days after receipt of the subject appeal. The city manager will render a decision which either (a) affirms the airport director's decision, (b) modifies the airport director's decision, or (c) rescinds the airport director's decision. The decision of the city manager will be final and conclusive. The decision of the city manager on any given matter will not set any precedent or bind future decisions of the city manager.

5. Leases (General)

5.1 General Rights and Privileges Granted

Leases are designed to provide the tenant one or more of the following rights or privileges: (a) use of the landing area and other public airport facilities in common with other authorized persons; (b) right to occupy (e.g., as an operator, tenant, etc.) and use the subject property; and/or (c) the right to offer goods and/or services to the public who use the airport. Notwithstanding anything contained in this policy to the contrary, the city will not enter into any lease without written receipt of adequate consideration. City will not enter into any lease that requires it to (a) waive any sovereign, governmental, and/or other immunity to which it may be entitled, and/or (b) submit to the laws of any state other than those of the State of Oregon. City will not enter into any lease prohibited by the laws.

5.2 Lease Required

5.2.1 Prior to commencing construction of improvements and/or operation of an aeronautical or non-aeronautical activity on or at the airport, an approved applicant must enter into a lease with the city setting forth the terms and conditions under which the person will be permitted to occupy and use the airport property, subject to the provisions of this policy. Airport leases are designed to protect the public interest and may contain more restrictive clauses than private sector leases. Notwithstanding the immediately preceding sentence, each lease will be in form and content satisfactory to the city and city's legal counsel, and will, at a minimum, conform to local/regional standards of airport tenant responsibility and liability.

5.2.2 Each Lease will include all provisions required under the laws and obligations placed upon the city. In addition, each lease will contain, in addition to all other provisions contemplated under this policy, terms and conditions concerning the following: (a) description of leasehold and property; (b) term; (c) fees, charges, rents, and other costs and expenses concerning occupying and operating on airport property; (d) payment procedures; (e) permitted uses; (f) prohibited uses; (g) insurance; (h) assignment; (i) fire prevention; (j) hazardous substances and environmental liability; (k) the city's right to access the property; (l) compliance with laws; (m) airport security programs, if applicable; (n) default and termination; (o) sale or transfer of improvements; (p) bankruptcy; (q) renewal; (r) subordination to the city's federal obligations, if applicable; and (s) such other terms and conditions the city determines necessary and/or appropriate. Notwithstanding anything contained in this policy to the contrary, the lease may be updated from time to time to reflect changes in FAA regulations and/or the laws (including real estate law) and/or to meet changing economic and other conditions.

5.2.3 If applicable, prior to the entering into the lease with the city, the applicant (and all applicable representatives) must obtain appropriate security clearance and pass all airport screening requirements, which may include an FBI criminal history background investigation (fingerprinting) and TSA Security Threat Assessment.

5.3 Control Over Operations

Any lease granting the right to serve the public at the airport will be subject to terms and conditions reserving the city sufficient control over all tenant operations to ensure that patrons will be treated fairly by the tenant. By entering into a lease, the tenant will covenant to comply with all applicable laws.

5.4 Control Over Aeronautical Activity and Development

City will not enter into any lease that would require it to divest itself of the right to take any action it considers necessary and/or appropriate to (a) protect the airport's aerial approaches against obstruction, and/or (b) prevent a tenant from erecting, or permitting to be erected, any building, structure, or other improvement which might limit the usefulness of the airport and/or constitute a hazard to aircraft. City will not enter into any lease requiring the city to divest itself of and/or limit its right to develop and/or improve the airport. City will not enter into any lease granting access to the airport ramps, taxiways, and/or landing areas by aircraft normally stored and/or serviced on land adjacent to, but not a part of, the airport.

5.5 Minimum Standards

Each tenant desiring to conduct aeronautical activities at the airport must satisfy all applicable minimum standards. The minimum standards establish a basis for practical negotiations between the city and potential tenants; provided, however, if presented with a choice between multiple potential tenants for a single space or facility, the city may give preference to the tenant who can offer the city and public the highest quality and standard of service, which may well exceed the minimum standards for the proposed activity. City may amend and/or modify the minimum standards, from time to time, to ensure the highest quality and standard of service to the public. City may grant a temporary waiver of the minimum standards under limited circumstances including, without limitation, if the aviation community at the airport has encountered difficulty in attracting a competent service provider. Except as expressly provided otherwise in this policy and/or in the minimum standards, the city will not enter into a lease with an operator who cannot meet the applicable minimum standards.

5.6 Non-Aeronautical Activities

Availability of building sites and leasable space to accommodate aeronautical activities at the airport is limited. Therefore, subject to applicable laws, the city will not approve any proposed lease of aeronautical property for non-aeronautical activities for longer than a brief, interim period (generally five or fewer years), and provided the activity does not violate the laws, including, without limitation, the grant assurances. In addition, the city may require that the subject lease contain a provision permitting the city to terminate the lease upon reasonable advance notice if the subject property is needed for aeronautical activities. City may condition any lease of aeronautical property for non-aeronautical activities on FAA approval.

5.7 Private Aeronautical Uses

City is required to operate the airport for the maximum use and benefit of the public. To this end, the city must retain the ability to make reasonable provision for essential support services for those who use the airport. City acknowledges that some private aeronautical uses may be beneficial to the city (e.g., a private flying club may be a desirable and compatible operator). Proposed leases for private aeronautical uses will be evaluated on a case by case basis, taking into account the strategic business plan of the airport, benefits which may be derived from the proposed lease, potential costs of the proposed lease to the city, availability of suitable space, potential for conflict or interference with public uses of the airport, and all other factors the city determines applicable.

5.8 Development of Vacant Property

City's approval of any request to construct improvements at the airport will be subject to availability of vacant, appropriate space, as determined by the airport director. Each application to construct improvements to accommodate aeronautical activities will include, in addition to all other requirements under this policy, a site plan depicting the location and nature of the proposed improvements.

6. Leased Premises (Property)

6.1 Demonstrated Need

A lease for a single aeronautical activity, although meeting all reasonable standards and qualifications under this policy, will be limited to space necessary for the aeronautical activity. When an applicant seeks to lease property from the city, in addition to all other requirements under this policy, the applicant must provide evidence of demonstrated need for the space. If an application involves a request to occupy existing airport improvements, "demonstrated need" means the ability of the tenant to occupy property leased from the city as of the effective date of the lease; if an application involves construction of improvements and/or alterations to an existing improvements, "demonstrated need" means the ability to obtain a certificate of occupancy (if applicable) from the city for the proposed improvements within one hundred eighty (180) days after the effective date of the lease, unless the city determines, in the city's sole discretion, a longer period of time is warranted due to the scope of construction.

6.2 Requests for Additional Space

If an existing tenant requires additional airport space to accommodate increased demand for its existing services and/or to expand an existing service, the tenant must provide the city written notice of a demonstrated need for additional space (the term "demonstrated need" for this purpose means the ability of the tenant to occupy the proposed additional space as of the effective date of the expansion). The written notice must sufficiently detail the demonstrated need for the additional space requested. City may grant the tenant the additional space requested (or a portion thereof) if and to the extent the tenant has a demonstrated need for the additional space. If, prior to the receipt of the tenant's notice, the city has received an application from another qualified applicant with a demonstrated need for the subject space, the city may negotiate with one or more applicants who have expressed an interest in the property in question to determine which alternative is most advantageous to the city. If the need for additional property concerns a new proposed aeronautical activity, one not permitted under the tenant's lease, the request for additional property will be treated by the city as one for a new lease and will be subject to the provisions of this policy. Notwithstanding anything contained in this policy to the contrary, the city will not grant, award, and/or provide any options and/or preferences (including, without limitation, the right of first refusal) on future sites or property to any tenant.

7. Lease Term; Extensions

7.1 Lease Term

City will enter into leases that balance the needs of a prospective tenant and the city, which may be accomplished through a standard term only, or a standard term plus one or more extension periods. City will determine the length of the lease based on factors which include, without limitation, the following: (a) whether the tenant is seeking to obtain space in an existing building or whether a long-term land lease is being sought for construction of improvements; (b) designation of the facility or proposed property on the ALP; (c) the tenant's proposed use of the property; (d) the tenant's proposed capital investment in the subject property; (e) the tenant's potential to attract other new aviation or non-aviation business or development; and/or (f) whether the tenant's activity will result in significant job creation. Notwithstanding anything contained in this policy to the contrary, but subject to Section 9.4.1, upon the earlier termination or expiration of a lease the city may require that the tenant provide, at the tenant's cost and expense, a satisfactory environmental assessment report and/or facility condition assessment report, each prepared by an independent, qualified contractor. The environmental assessment will attest to the environmental condition of the subject property and all improvements located thereon; the facility condition assessment report will attest to the physical condition of the improvements (e.g., an airplane hangar) located on the subject property, which report will contain, among other things, an assessment of the age, design, materials, condition, deterioration, effective age and estimated lifespan, and deficiencies of the subject improvements.

7.2 Lease Term Provisions

Each lease will generally contain (or be subject to) the following terms and conditions:

7.2.1 The initial term of a lease for existing city-owned aeronautical or non-aeronautical improvements requiring no additional capital investment or improvements will not exceed five years; provided, however, the city may offer the tenant an option to extend the lease term for one additional term of five years.

7.2.2 The initial term of a ground lease pursuant to which the tenant will construct a hangar will not exceed twenty (20) years; provided, however, the city may grant the tenant an initial term greater than twenty (20) years based on the city's consideration of those factors identified under Section 7.2.5; provided, further, the city may grant the tenant an option to extend the lease term for two consecutive additional terms of five years each.

7.2.3 The initial term of a ground lease pursuant to which improvements supporting aeronautical activities will be constructed (other than a hangar under Section 7.2.2 or improvements constituting a significant investment of capital under Section 7.2.5) will not exceed twenty-five (25) years;

provided, however, the city may offer the tenant an option to extend the lease term for two consecutive additional terms of five years each.

7.2.4 The initial term of a ground lease pursuant to which improvements not supporting aeronautical activities will be constructed (other than improvements constituting a significant investment of capital under Section 7.2.5) will not exceed twenty-five (25) years; provided, however, the city may offer the tenant an option to extend the lease term for two consecutive additional terms of five years each.

7.2.5 The initial term of a ground lease pursuant to which the tenant will construct aeronautical or non-aeronautical improvements requiring a significant investment in capital, which may involve the development of a larger tract of airport property, will not exceed fifty (50) years without the FAA's prior approval, if necessary. In determining whether to grant a lease for a term pursuant to this subsection, the city will consider factors, including, without limitation, the following: (a) whether the tenant will invest significant capital in leasehold improvements; (b) whether the tenant will invest significant capital in existing leasehold improvements; (c) the services provided to other airport tenants and users, if any; (d) whether the lease will result in significant job creation; (e) whether the lease will benefit the airport (generally); (f) whether the lease will provide a public infrastructure extension which will benefit other parcels (i.e., roads, water, and sewer); (g) potential to attract new aviation businesses or expand existing aviation businesses; (h) potential to attract other businesses in and/or around the airport; and/or (i) potential to generate additional airport related revenue.

7.3 Extension Options

Subject to the terms and conditions contained in Section 7.2 and this Section 7.3, the city may provide a tenant the option to extend the tenant's lease term under an existing hangar or ground lease (which includes any extension terms permitted under the subject lease) for one additional term of five years if (a) the city did not previously grant the tenant an additional extension (i.e., an extension not expressly provided under the subject lease), and (b) the total lease term will not violate the applicable maximum lease term permitted under Section 7.2, including, without limitation, the fifty (50) year maximum provided under Section 7.2.5. Subject to the provisions of this policy (and the terms and conditions of the lease), in general a lease may be extended if the following minimum conditions are satisfied: (w) the leased property is not required for other airport uses according to the ALP; (x) the tenant is not then in default; (y) the rental to be paid during the extended term equals the fair market value of the leased property with increases to the rent over the term that is substantially similar to other city airport leases over the extended term; and (z) the subject improvements are in a condition to last for the extended term (the city may require the tenant to provide the city a facility condition assessment report, prepared by an independent, qualified contractor attesting to the condition of the leasehold improvements). The airport director may require that the tenant enter into a new lease with the city consistent with the city's then-current lease as a condition to a lease extension under this Section 7.3.

8. Transfers; Encumbrances; Hazardous Substances

8.1 Assignment and Sublease

A tenant will not be permitted to transfer the tenant's rights and/or interests in or to the lease, airport property subject to the lease, and/or any improvements on the airport property (including, without limitation, any hangar constructed on the property) without the city's prior written consent, which consent the city will not unreasonably withhold, condition, and/or delay. Without otherwise limiting the immediately preceding sentence, as a condition to consenting to a proposed transfer, the city may require the tenant to, among other things, (a) provide the city a satisfactory facility condition assessment report and environmental report concerning the subject airport property and/or improvements, and/or (b) pay a transfer and/or administration fee to the city. The applicable transfer and/or administration fee will be established by the city from time to time. Notwithstanding anything contained in this policy to the contrary, the city may require that the proposed assignee of the lease and/or subject improvements enter into a new lease with the city in lieu of an assignment of the then-existing lease; provided, however, the city has no obligation to provide a term under the new lease exceeding the remaining term of the to-be terminated lease. If the city consents to the transfer of a lease, the city may provide the transferee an option to extend the lease term (which includes any extension terms permitted under the subject lease) for one additional term of five years if (a) the city did not previously grant the transferor or transferee an additional extension (i.e., an extension not expressly provided under the subject lease), (b) the total lease term will not violate the applicable maximum lease term permitted under Section 7.2, including, without limitation, the fifty (50) year maximum provided under Section 7.2.5, and (c) all the terms and conditions contained in Section 7 (including, without limitation, conditions (v)-(z) under Section 7.3) are satisfied.

8.2 Transfer Notice

A tenant will provide the city no less than thirty (30) days' prior written notice of a proposed transfer, which transfer notice must include the name and address of the proposed transferee and a true and complete copy of the proposed transfer documentation; provided, however, the city may require additional advance notice if the city determines necessary or appropriate under the particular facts and circumstances (e.g., a lease concerning a significant investment of capital). City's consent to any proposed transfer will be conditioned on, among other things the city may reasonably impose, the tenant demonstrating (to the city's reasonable satisfaction) that the proposed transferee's condition (financial and otherwise), style of operation, business reputation, and use of the airport property and improvements thereon (if any) is consistent with the terms of the subject lease and that the city's interests in the subject property, airport, and improvements (if any) will not be adversely affected in any material respect. If the city consents to a transfer, the terms and conditions of the subject lease will in no way be deemed waived or modified and the transfer will not modify, relieve, and/or eliminate any liabilities and/or obligations the tenant and/or any guarantor of the subject lease may have under the lease.

8.3 No Encumbrances

Each tenant and tenant contractor will pay when due all charges and expenses for labor and materials used or furnished for construction and/or services rendered to or concerning the subject airport property and will keep all airport property free from all encumbrances. Without otherwise limiting the immediately preceding sentence, each tenant will pay as and when due all claims for materials furnished and construction work performed concerning the tenant's construction of any improvements on the subject airport property and will keep such airport property and improvements free from encumbrances. Notwithstanding anything contained in this policy providing otherwise, under certain limited circumstances (e.g., a lease concerning a significant investment of capital), the city may subordinate its rights under a lease to a first mortgage, first deed of trust, and/or other first position lien or encumbrance concerning a loan made to the tenant for the purpose of constructing improvements on the subject airport property provided the subordination does not materially and adversely affect the city's rights and interests in and to the subject airport property, improvements, and/or airport.

8.4 Hazardous Substances

The tenant will not cause and/or permit any hazardous substances to be spilled, leaked, disposed of, and/or otherwise released on, under, and/or about airport property and/or improvements located thereon. Upon the earlier termination or expiration of the lease (or earlier as provided under the tenant's lease), the tenant will properly remove and dispose of all hazardous substances that may have been spilled, leaked, disposed of, and/or otherwise released on, under, and/or about airport property and/or improvements located thereon pursuant to the terms of the tenant's lease.

9. Termination – Ownership of Improvements

9.1 Airport Hangars

Upon the earlier termination or expiration of a lease concerning a city-owned hangar on airport property, the tenant will, at the tenant's cost and expense, pay and perform the following: (a) perform all property and hangar maintenance and repairs for which the tenant is responsible under the lease; and (b) surrender the subject property and hangar to the city in good condition, repair, working order, and appearance, free of waste and debris.

9.2 Non-Hangar Improvements

Upon the earlier termination or expiration of a lease concerning city-owned non-hangar improvements on airport property, the tenant will, at the tenant's cost and expense, pay and perform the following: (a) perform all property and improvement maintenance and repairs for which the tenant is responsible under the lease; and (b) surrender the subject property and improvements to the city in good condition, repair, working order, and appearance, free of waste and debris.

9.3 Personal Property

Prior to the earlier termination or expiration of a lease, the tenant will remove from the subject property and all improvements (including, without limitation, a hangar) all aircraft, vehicles, furnishings, furniture, equipment, tools, trade fixtures, and personal property which remain the tenant's property, including all resulting waste and/or debris.

9.4 Hangar and Improvement Removal and Ownership

9.4.1 Upon the earlier termination or expiration of a lease (and provided the termination is not due to the tenant's default under the lease), upon providing the airport director no less than ninety (90) days' prior written notice, the tenant may remove any non-city owned hangar, leasehold improvements, and/or alterations from the subject property (and surrender the property to the city in good condition, repair, working order, and appearance, free of waste and debris), at the tenant's cost and expense. Tenant's removal of the non-city owned hangar, leasehold improvements, and/or alterations will be completed to the city's satisfaction prior to the earlier termination or expiration of the lease. If the tenant removes the non-city owned hangar and all associated leasehold improvements pursuant to this Section 9.4.1, the tenant will not be required to provide the city the facility condition assessment report required under Section 7.1.

9.4.2 If the tenant does not timely elect to remove the non-city owned hangar, leasehold improvements, and/or alterations from the subject property under Section 9.4.1, upon the earlier termination or expiration of a lease, the city may, at the city's election, (a) require the tenant to remove any non-city owned hangar, leasehold improvements, and/or alterations from the subject property (and surrender the property to the city in good condition, repair, working order, and appearance, free of waste and debris), at the tenant's cost and expense, or (b) accept ownership of the tenant's hangar, leasehold improvements, and/or alterations (without payment of any consideration) then located on the subject property free from all encumbrances and/or interests of the tenant and/or any third party (if the city accepts ownership of the tenant's hangar, leasehold improvements, and/or alterations, no additional conveyance document will be needed to effectuate the transfer of ownership unless requested by the city, in which case the tenant will execute all reasonably requested city documents).

9.4.3 If (a) the city accepts ownership of the tenant's hangar, leasehold improvements, and alterations under Section 9.4.2(b), (b) the lease's termination was not due to the tenant's default, (c) the tenant is in good standing with the city, and (d) the city does not require the subject hangar, leasehold improvements, and/or alterations for other airport uses (i.e., uses other than inclusion in the city's hangar leasing pool), the tenant may leaseback the subject hangar, leasehold improvements, and alterations at the then-applicable fair market value rental rate subject to the terms and conditions contained in this policy, including, without limitation, the maximum lease term provisions under Section 7.3 of this policy; provided, however, the tenant will not be permitted to leaseback the subject hangar, leasehold improvements, and alterations unless the tenant provides the city written notice of its desire to leaseback the same no less than ninety (90) days prior to the date the lease expires or sooner terminates. Notwithstanding anything contained in this policy providing otherwise, the tenant will not have the right to leaseback the subject hangar, leasehold improvements, and/or alterations under this Section 9.4.3 if the hangar, leasehold improvements, and/or alterations are not in a condition expected to last for the new lease term (the city may require the tenant to provide the city a facility condition assessment report, prepared by an independent, qualified contractor attesting to the condition of the leasehold improvements). In connection with any leaseback transaction, the city reserves the right to require that the lease be updated consistent with the city's then-current lease template.

9.4.3 If the tenant fails to timely and properly remove the non-city owned hangar, leasehold improvements, and/or alterations from the subject property under Section 9.4.1 or Section 9.4.2(a) (and surrender the property to the city in good condition, repair, working order, and appearance, free of waste and debris), the city may, in addition to all other rights and remedies, (a) cause the non-city owned hangar, leasehold improvements, and/or alterations to be removed from the subject property (and restore the subject property to a good condition, repair, working order, and appearance, free of waste and debris) at the tenant's cost and expense, and/or (b) treat the tenant as a holdover tenant under the subject lease.

9.5 Reversion Deferral.

9.5.1 The tenant may pay the city a "reversion deferral fee" in lieu of the city obtaining ownership of the tenant's hangar, leasehold improvements, and other alterations under an expiring lease in accordance with Section 9.4 of this policy. Upon payment of the reversion deferral fee, the lease will be extended (the "reversionary extended term") for one or more terms reasonably acceptable to the city; provided, however, in no event will the reversionary extended term (together with the original lease term and all applicable extensions) exceed fifty (50) years without FAA approval.

9.5.2 The reversion deferral fee will be equal to the city's accumulated expected annual return for the reversionary extended term on the hangar's (and other improvements) ownership, discounted to a net present value by the current prime rate as set forth by the FED (assuming the hangar and other improvements are not contaminated and have been properly maintained, repaired, and replaced in accordance with the terms and conditions of the lease). The city's annual return will be based on the city's rental of the hangar (and all other improvements) at the then-applicable fair market rental rate (and escalated (increased) annually thereafter in accordance with the city's rent escalation policies) as determined by a commercial real estate appraiser familiar with aeronautical hangar properties in Central Oregon. The reversion deferral fee may be paid monthly, annually, in one lump sum, and/or as otherwise agreed in writing by the city and tenant. If the tenant pays the reversion deferral fee annually or in one lump sum the city will provide the tenant a reversion deferral fee discount (reduction).

9.5.3 A tenant will exercise the reversion deferral provided under this Section 9.5 by providing the city no less than ninety (90) days' prior written notice. Notwithstanding anything contained in this policy providing otherwise, a reversion deferral will not be permitted under the following conditions or circumstances: (a) the city determines that the subject property, hangar, and/or related improvements are required for other airport uses; (b) the tenant is then in default under the lease; and/or (c) the subject improvements are not in a condition expected to last for the reversionary extended term (the city may require the tenant to provide the city a facility condition assessment report, prepared by an independent, qualified contractor attesting to the condition of the leasehold improvements). If the tenant exercises the reversion deferral, the city reserves the right to require that the lease be updated consistent with the city's then-current lease template.

10. FAA Required Provisions

10.1 Subordination

In addition to any other term or condition required under this policy, each lease will contain a subordination provision substantially as follows:

> "Subordination – United States. Notwithstanding anything contained in this lease to the contrary, (a) this lease is subordinate to the terms of any agreement between Landlord (City) and the United States concerning airport operations and/or maintenance (the terms of such agreement will supersede the terms of this lease), and (b) during times of war or national emergency, Landlord may lease the airport's landing area (or any part thereof) to the United States for military or naval use (and, in connection therewith, the provisions of this lease will be suspended to the extent inconsistent with Landlord's lease with the United States)."

10.2 Non-Discrimination; Unfair Practices

In addition to any other term or condition required under this policy, each lease will contain a non-discrimination and unfair practices provision substantially as follows:

> "Non-Discrimination; Unfair Practices. Tenant covenants and agrees as follows: (a) if any improvements and/or improvements (including, without limitation, any hangar and/or improvements) are constructed, maintained, and/or otherwise operated on airport property and/or such hangar for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant will maintain and operate such improvements and services in compliance with all requirements imposed under 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as amended; (b) no person on the grounds of race, color, national origin, and/or other protected classification will be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination in the use of any improvements located on the airport property and/or such hangar; and (c) in the construction of any hangar and/or any improvements on, over, and/or under airport property and/or hangar and the furnishing of services thereon, no person on the grounds of race, color, national origin, and/or other protected classification will be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination."

10.3 Aviation Easement; Aeronautical Uses

Each tenant's use of airport property, leasehold improvements, and/or a hangar is secondary and subordinate to the city's operation of the airport and laws. City reserves for itself, and for the public, a right of flight for the passage of aircraft in the airspace above the subject airport property and improvements together with the right to cause noise, vibration, dust, fumes, smoke, vapor, and other effects inherent in the navigation or flight of aircraft and/or operation of the airport. Each tenant will protect the airport and airport property for aeronautical and related uses, will not interfere or impede, and will conduct all activities in a manner that will not adversely affect or interfere with, the city's operations and/or those of other tenants and authorized users of the airport or general public. Any tenant activities that the city determines interfere or impede with the operation, use, and/or maintenance of the airport, airport property, and/or aeronautical activities is specifically prohibited and will constitute an event of default under the lease.

10.4 Indemnification

Each tenant will release and defend, indemnify, and hold the city and city's representatives harmless for, from, and against all claims, demands, charges, proceedings, costs, expenses, losses, damages, and/or liabilities, including, without limitation, attorney fees and costs, resulting from or arising out of the following: (a) damage, loss, and/or injury to person or property in, on, and/or about the airport; (b) the tenant's acts and/or omissions, including, without limitation, the tenant's operations at the airport; (c) the tenant's use of airport property, improvements (e.g., a hangar) on such property and/or the airport; (d) the tenant's construction, maintenance, repair, ownership, use, and/or occupancy of the leasehold improvements and/or any condition of the airport property and/or improvements; (e) the use, storage, treatment, transportation, presence, release, and/or disposal of hazardous substances in, on, under, and/or about the airport and/or any airport property; and/or (f) the tenant's breach and/or failure to perform any tenant representation, warranty, covenant, and/or obligation under the lease.

11. <u>Rentals, Rates, Fees, and Charges</u>

11.1 <u>Airport Sustainability</u>

City has an obligation to make the airport self-sustainable. Each lease will provide adequate consideration for the lease of the subject property, which in no event will be less than fair market value. City's contractual terms and conditions, while fair and nondiscriminatory, will provide the most advantageous returns to the city and will ensure the provision of essential aviation services to the community.

11.2 <u>No Unjustifiably Discriminatory Rates</u>

Each tenant will be subject to all applicable rates, fees, rents, and other charges (e.g., fuel flowage fees, hangar rentals, and percentages of gross volume of business). City will establish rates, fees, and charges as the city determines necessary and appropriate for the leases. City may charge different rates to similar users of the airport if such rates are nondiscriminatory in purpose.

11.3 <u>Periodic Adjustment of Rates</u>

Adjustments to rental rates and airport user fees (e.g., percentages of an operator's gross revenues) provides parity of rates and charges between new and long-standing operators and assists the airport in achieving self-sustainability. Leases will contain an annual escalation provision applicable to rents or user fees, as applicable. In addition to and not in lieu of the annual escalation, rents and user fees will be adjusted every five years (or at such other period determined by the city) to equal or exceed the then applicable fair market rental rate. For purposes of this Section 11.3, the term "user fees" does not include landing fees and/or passenger facility charges.

12. <u>Construction of Leasehold Improvements</u>

12.1 <u>General Policy</u>

City seeks to promote consistent, attractive, and compatible high-quality development at the airport. City desires to encourage private sector investment in airport improvements and develop and maintain aesthetic excellence and high standards of environmental protection. City desires to create standards of development that maintain the character of the airport, are consistent with the city's policies, and ensure all construction meets and exceeds applicable safety standards and requirements. City prohibits any use, occupancy, construction, modification, and/or improvement that is inconsistent with the ALP and/or ASP.

12.2 <u>Development Requirements</u>

If applicable, a lease will include, without limitation, specific development requirements for construction of leasehold improvements on the airport. Prior to commencing construction of any leasehold improvements and before any building materials have been delivered to the airport, the tenant will comply with each of the following conditions (and all other conditions the city may reasonably impose):

12.2.1 Each tenant will timely make application for, and obtain, all necessary construction, building, and other permits, approvals, authorizations, and consents, including, without limitation, all necessary approvals from the FAA, the city, and Deschutes County. If applicable, construction of leasehold improvements must be approved (i.e., must receive a "no objection" determination) by the FAA through the notice of proposed construction review process, submittal of FAA Form 7460-1, and will be subject to all applicable laws. In connection therewith, the tenant will pay all applicable required application, permit, and processing fees. No leasehold improvements will be designed, planned, constructed, reconstructed, and/or remodeled without the airport director's prior written consent.

12.2.2 Each tenant will submit a site plan application and pay the applicable fee to the city for the city's land use approval process. The tenant will follow the conditions of approval from the site plan decision. As part of a design review process, the tenant will submit to the city three sets of preliminary construction plans and specifications prepared by an architect or engineer licensed in the State of Oregon which are sufficient to enable the city to make an informed judgment about the design and quality of the leasehold improvements.

12.2.3 Approval or disapproval will be communicated to the tenant in the manner provided for notices within a reasonable period of time after receipt of complete plans and specifications by the city. Any disapproval will be accompanied by a statement of the reasons for such disapproval. Tenant will revise plans and specifications to address the city's review comments. Final working drawings and the construction work will conform in all respects with the site plan decision, plan review comments, and building department requirements. City will not be obligated to approve or agree with any item, specification, or document contained in or related to the plans and specifications not reasonably acceptable to the city. City's review of the plans and specifications will be completed solely to protect the city's interests in the subject property and Airport; the city will not be a guarantor of, or responsible for, the correctness or accuracy of the plans and specifications or their compliance with the laws. No tenant will modify, improve, alter, add, and/or delete improvements without the airport director's prior written consent.

12.2.4 Each tenant will deliver to the city true copies of the commitments for both interim and permanent financing for any leasehold improvement construction together with written approval of the plans and specifications by the financial institution issuing the interim loan commitment. The tenant is not required to provide copies of the financial institution's commitment if the tenant will pay for construction without third party financing.

12.2.5 Each tenant will deliver to the city such other documents, proofs, and copies as the city may reasonably request, including, without limitation, proof that workers' compensation insurance has been procured to cover all persons employed in connection with the construction, proof of issuance of all building and other permits required for the construction, and copies of the tenant's contract with the general contractor or with subcontractors for the leasehold improvement's construction. Each tenant will obtain builder's risk insurance.

12.3 Construction

12.3.1 Any structure or facility constructed or placed upon the airport will be constructed in a manner to conform to all safety and environmental regulations and will comply with the city's current site development requirements, building codes, and fire regulations, and all FAA design standards. Each tenant will obtain, at the tenant's cost and expense, all site plans, permits, and licenses required to construct the leasehold improvements and will pay all applicable taxes, permits, inspection fees, and/or licenses required for construction and operation of the tenant's leasehold improvements and business.

12.3.2 Except as expressly provided otherwise by the city, each tenant will be solely responsible for connecting the leasehold improvements to utilities and other improvements, at the tenant's cost and expense, including, without limitation, public roadways, aprons, taxiways, electrical power, communications, water, sewer, and natural gas. Once construction has commenced, the tenant will prosecute construction of the leasehold improvements expeditiously, with diligence, and in accordance with the construction scheduled approved by the city. The tenant will suppress, at the tenant's cost and expense and to the satisfaction of FAA, all electromagnetic interference with radio guidance, safety devices, and/or with any electric or electronic equipment or installations on or associated with the airport.

12.3.3 Construction will be performed in a good and workmanlike manner and will comply with all applicable laws. The tenant will timely pay, or cause to be paid, all costs, expenses, and charges related to or concerning the leasehold improvements, including, without limitation, costs of construction and installation. Each tenant will conduct its operations and construction in a safe, neat, and orderly fashion and in a manner that minimizes dust, noise, odors, stormwater detention, pollution, and smoke generation.

Appendix A
Definitions

"ACM" means the city's then-applicable Airport Certification Manual.

"AIP" means the city's then-current Airport Improvement Program.

"Airport" means the Redmond Municipal Airport (a/k/a "Roberts Field"), a public municipal airport located in Redmond, Oregon, including, without limitation, all areas and improvements (e.g., buildings, facilities, etc.) within the exterior boundaries of the airport as it now exists or as it may hereafter be extended or enlarged.

"Aeronautical activity(ies)" means any activity and/or service conducted at the airport that involves, makes possible, and/or is required for operation of aircraft, or that contributes to or is required for the safety of such operations, including, without limitation, the following services and/or activities commonly conducted on airports: charter operations; pilot training; aircraft rental and sightseeing; aerial photography; crop dusting; aerial advertising; surveying; air- carrier operations; aircraft sales and services; sale of aviation petroleum products; repair and maintenance of aircraft; sale of aircraft parts; and/or any other activities that, because of their direct relationship to the operation of an aircraft, can appropriately be regarded as an "aeronautical activity."

"Airport director" means the individual employed and authorized by the city to be the airport's chief administrative officer (or his or her designee).

"ALP" means the FAA approved and the city adopted drawing, as may be amended from time to time, which reflects an agreement between the FAA and airport, depicting the physical layout of the airport, identifying city-owned property at the airport to be utilized for aeronautical activities, and identifying the location and configuration of current and proposed runways, taxiways, buildings, roadways, utilities, navigational aids, facilities, plans, and other airport uses and proposed allocation of airport land and/or improvements to specific uses, operations, and/or development.

"AMP" means the city's then-current Airport Master Plan.

"Appeal" has the meaning assigned to such term in Section 4.5.2, which appeal must be in writing and include the following information: (a) the applicant's name, address, email, and telephone number; (b) a statement that the applicant requests that the city manager review the airport director's decision concerning the subject request for reconsideration; and (c) the basis for the appeal, stating with specificity why the airport director's decision is in error.

"Applicant" means a person submitting an application to the city to enter into a lease concerning the use and/or occupancy of airport property.

"ASP" means the city's then-current Airport Strategic Plan.

"City" means City of Redmond, an Oregon municipal corporation.

"City manager" means the city's then-appointed city manager (or his or her designee).

"Commercial aeronautical activity" means an aeronautical activity for commercial purposes as defined in the minimum standards.

"Deficiency notice" has the meaning assigned to such term in Section 4.4.

“Encumbrance(s)” means any lien, mortgage, pledge, security interest, reservation, restriction, adverse claim, and/or other encumbrance.

“Environmental law(s)” means any federal, state, and/or local statute, regulation, and/or ordinance, or any judicial or other governmental order, pertaining to the protection of health, safety, and/or environment.

“FAA” means the Federal Aviation Administration.

“Grant assurance(s)” means the various continuing commitments airport owners make to the United States as a condition for receipt of grants from the federal government or as a condition of the conveyance of federal property for airport uses.

“Hazardous substance(s)” means any hazardous, toxic, infectious, and/or radioactive substance, waste, and/or material as defined or listed by any environmental law, including, without limitation, pesticides, aviation fuel, paint, petroleum oil, and their fractions.

“Law(s)” means all policies, rules, leases, covenants, conditions, restrictions, easements, declarations, laws, statutes, liens, ordinances, orders, codes, and regulations directly or indirectly affecting a lease, the airport, and/or permitted airport uses, including, without limitation, the Americans with Disabilities Act of 1990 (and the rules and regulations promulgated thereunder), environmental laws, any rules or regulations promulgated by the FAA or any other federal airport authority (including, without limitation, grant assurances and requirements under 14 CFR Part 77), Chapter 10 of the city’s municipal code, this policy, and the rules and regulations, all as now in force and/or which may hereafter be amended, modified, enacted, and/or promulgated.

“Lease” means any agreement between the city and a person pursuant to which the city grants the person permission to use and occupy airport property in conformance with certain leasehold interests for a specified period of time in exchange for specified rent.

“Minimum standards” means those certain Minimum Standards for Commercial Aeronautical Service Providers at the Redmond Municipal Airport, codified at chapter 10 of the city’s municipal code, as amended by the city from time to time.

“Operator” means either a fixed base operator and/or a specialized aviation service operator when performing a commercial aeronautical activity.

“Person” means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, and/or any other entity.

“Policy” has the meaning assigned to such term in Section 1.1.1.

“Representative(s)” means each present and future director, officer, shareholder, member, manager, employee, agent, contractor, and/or authorized representative of the identified person.

“Request for reconsideration” has the meaning assigned to such term in Section 4.5.1, which request for reconsideration must be in writing and include the following information: (a) the applicant’s name, address, email, and telephone number; (b) a statement that the applicant requests that the airport director reconsider the application’s denial; and (c) the circumstances and/or information upon which the applicant reasonably believes warrants the airport director’s reconsideration.

“Rules and Regulations” means those Rules and Regulations Redmond Municipal Airport – Roberts Field adopted June 28, 2016, as amended from time to time, and such other city policies, procedures, and/or regulations governing the safe, orderly, and efficient use of the airport as established and amended from time to time.

"State" means the State of Oregon.

"Tenant" means a person authorized to use and/or occupy certain airport property and holding certain leasehold interests in and to airport property subject to and in accordance with the terms and provisions of a lease with the city.

"Tenant's agent(s)" means a tenant's directors, officers, shareholders, members, managers, employees, agents, representatives, invitees, and/or contractors.

"Transfer" means any sale, assignment, mortgage, sublet, lien, conveyance, encumbrance, and/or other transfer (whether directly, indirectly, voluntarily, involuntarily, and/or by operation of law); provided, however, the term "transfer" includes the sale, assignment, encumbrance, and/or transfer - or series of related sales, assignments, encumbrances, and/or transfers of the shares, membership, and/or other ownership interests of the tenant.

"TSA" means the Transportation Security Administration.

CITY OF REDMOND
RESOLUTION NO. 2021-15

A RESOLUTION ADOPTING AN AIRPORT LEASING POLICY CONCERNING THE REDMOND MUNICIPAL AIRPORT (A/K/A "ROBERTS FIELD"), WHICH AIRPORT LEASING POLICY WILL REPLACE AND SUPERSEDE CITY OF REDMOND'S CURRENT AIRPORT LEASING POLICY ADOPTED ON NOVEMBER 17, 2015.

WHEREAS, City of Redmond ("City") adopted a certain Redmond Municipal Airport – Roberts Field (the "Airport") Redmond, Oregon leasing policy on or about November 17, 2015, (the "Existing Policy"), which Existing Policy concerned agreements involving the use or disposition of airport property for aeronautical activities; and

WHEREAS, the Existing Policy must be replaced and superseded due (at least in part) to the rapidly changing economic, business, and legal environment surrounding the lease and/or development of aeronautical and non-aeronautical properties at municipal airports; and

WHEREAS, City desires to adopt a new airport leasing policy intended to be more responsive to the rapidly evolving airport leasing and development environment, which new airport leasing policy will, among other things, (a) establish a standardized system and process for leasing aeronautical and non- aeronautical airport property (and constructing leasehold improvements thereon), (b) preserve airport investments and resources, (c) facilitate prompt and efficient airport management and administration,
(d) ensure compliance with applicable laws, and (e) promote economic development and job creation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF REDMOND, OREGON, AS FOLLOWS:

Section 1: Findings; Adoption. The above-stated findings contained in this Resolution No. 2021-15 (this "Resolution") are hereby adopted. The council hereby approves and adopts the Redmond Municipal Airport ("Roberts Field") Redmond, Oregon Airport Leasing Policy dated effective July 6, 2021 and attached hereto as Exhibit A (the "New Policy").

Section 2: Replacement; Supersede. As of July 6, 2021, the New Policy replaces and supersedes the Existing Policy in its entirety (the Existing Policy is of no further force and effect). The New Policy supersedes all Airport leasing related resolutions, policies, and/or practices in conflict with the policies contained in the New Policy. City staff is directed to take such actions as are necessary to implement the New Policy.

Section 3: Miscellaneous. All pronouns contained in this Resolution and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The provisions of this Resolution are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Resolution is for any reason held invalid, unenforceable,

and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and
(b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Resolution. This Resolution may be corrected by order of the city council to cure editorial and/or clerical errors.

ADOPTED by the City Council and SIGNED by the Mayor this 6th day of July 2021.

____

George Endicott, Mayor

ATTEST:

____

Kelly Morse, City Recorder

Exhibit A
Redmond Municipal Airport (a/k/a "Roberts Field")
Airport Leasing

Policy [attached]

UPDATE TO THE 2015 AIRPORT LEASING POLICY

CITY COUNCIL

JULY 6, 2021

WHY AIRPORTS NEED A LEASING POLICY:

- ✓ FEDERAL AVIATION ADMINISTRATION RULES AND REGS.
- ✓ ESTABLISHES AN EFFECTIVE STANDARDIZED SYSTEM AND PROCESS FOR LEASING AERONAUTICAL AND NON-AERONAUTICAL AIRPORT PROPERTY
- ✓ PROMOTES ECONOMIC DEVELOPMENT AND JOB CREATION
- ✓ PRESERVES AIRPORT INVESTMENTS AND RESOURCES
- ✓ INCREASES AIRPORT MANAGEMENT AND ADMINISTRATION EFFICIENCIES

HISTORY AND TIMELINE

2014

MODERNIZATION OF RDM BUSINESS PRACTICES

MINIMUM STDS.

LEASE POLICY

ETC.

2015

LEASE POLICY SUBCOMMITTEE MTGS.

OUTREACH/PUBLIC FORUMS

COUNCIL APPROVAL

2019

STAKEHOLDERS EXPRESS CONCERNS (NO ASSUMPTIONS & ADMIN. FEE)

AIRPORT STAFF PERFORMS ONGOING REVIEW OF LEASE POLICY AND REVISIONS PRODUCED

2020

AIRPORT COMMITTEE REVIEWS 1ST DRAFT

DRAFT LEASE SENT TO STAKEHOLDERS

2021

STAKEHOLDER MEETINGS

AIRPORT COMMITTEE REVIEW

SUBCOMMITEE FORMED

WORK COMPLETED

LEASE POLICY SUBCOMMITTEE:

- ✓ THE SUBCOMMITTEE (8 MEMBERS):
  - 2 AIRPORT COMMITTEE MEMBERS
  - 1 GA HANGAR OWNER
  - 2 BUSINESS OWNERS (WHO WORK FROM OWNED HANGARS)
  - REDMOND ECONOMIC DEVELOPMENT DIRECTOR
  - 2 AIRPORT STAFF MEMBERS
- ✓ 6 MEETINGS WERE HELD
- ✓ ALL FACETS OF THE LEASE POLICY UPDATE WERE REVIEWED
- ✓ 5 COMPARABLE AIRPORTS RESEARCHED
- ✓ LEGAL REVIEW THROUGHOUT PROCESS

WHY AN UPDATE

- NECESSARY TO PROVIDE CLEAR AND MORE PRECISE INFORMATION TO POTENTIAL & CURRENT RDM USERS

- CLARIFICATION OF SPECIFIC ASPECTS

- SPECIFY CITY & USER OBLIGATIONS UNDER THE LEASE POLICY

KEY CHANGES TO 2015 POLICY

01 ONLY ONE 5-YEAR EXTENSION ON ANY EXISTING INITIAL GROUND LEASE REGARDLESS OF ANY OWNERSHIP CHANGE.

02 NEW HANGAR CONSTRUCTION: 20-YEAR INITIAL TERM WITH POSSIBLE TWO 5-YEAR EXTENSIONS.

03 NON-HANGAR AERONAUTICAL CONSTRUCTION: 25-YEAR INITIAL TERM WITH POSSIBLE TWO 5-YEAR EXTENSIONS.

04 NO AERONAUTICAL LEASES SHALL EXCEED 50-YEARS WITHOUT FAA PRE-APPROVAL.

05 THE CITY WILL CONSIDER MULTIPLE FACTORS IN NEGOTIATING INITIAL LEASE TERM LENGTHS (INVESTMENT/JOBS, ETC.)

KEY CHANGES PART II

06 NEW POLICY PERMITS LEASE ASSIGNMENTS/ASSUMPTIONS.

07 SUBLEASES ARE STILL PERMITTED, CONDITIONED UPON CITY'S PRIOR WRITTEN CONSENT.

08 NO ADMINISTRATIVE FEE % IS REQUIRED, HOWEVER THE CITY WILL DESIRE COST RECOVERY OF ANY SALE TRANSACTION.

09 NON-AERONAUTICAL LEASES NOW INCLUDED IN THE LEASING POLICY.

10 THE AIRPORT DIRECTOR RESPONSIBLE FOR INTERPRETATION AND ADHERENCE OF POLICY. AN APPEALS PROCESS HAS BEEN ADDED. CITY MANAGER DECISION IS FINAL BUT NOT BINDING

KEY CHANGES PART III

11 TENANT MAY PAY CITY A REVERSION DEFERRAL FEE IN LIEU OF CITY OBTAINING OWNERSHIP OF TENANT'S HANGAR EXTENDING TENANTS HANGAR OWNERSHIP.

12 PRIOR TO A REVERSION, POLICY ALLOWS TENANT TO REMOVE OWNED HANGAR FROM AIRPORT PROPERTY.

13 UPON REVERSION, THE TENANT MAY LEASEBACK THE HANGAR AT FAIR MARKET VALUE SUBJECT TO THE POLICY

SCENARIO:

OPTION #1:

ABC Hangar Lease Rent Calculator (No Reversion Deferral Fee)		
Assumptions		
Hangar Size (SF)		**4,000**
Market Hangar Rental Rate (PSFPY)	**$**	**6.00**
Term (In Years)		**10**
City's (RDM) Annual Rent Escalation Percentage		**3.00%**
Results		
ABC Hangar Lease Rent - (based on 10-year term)	**$**	**275,133**
Monthly ABC Hangar Lease Rent (averaged over 10-year period)	$	2,293
Annual ABC Hangar Lease Rent (averaged over 10-year period)	$	27,513

REVERSION DEFERRAL FEE:

- A TENANT MAY PAY THE CITY A “REVERSION DEFERRAL FEE” IN LIEU OF THE CITY OBTAINING OWNERSHIP OF THE TENANT’S HANGAR.
- UPON PAYMENT OF THE REVERSION DEFERRAL FEE, THE LEASE WILL BE EXTENDED FOR ONE OR MORE TERMS REASONABLY ACCEPTABLE TO THE CITY.
- IN NO EVENT WILL THE REVERSIONARY EXTENDED TERM (TOGETHER WITH THE ORIGINAL LEASE TERM AND ALL APPLICABLE EXTENSIONS) EXCEED FIFTY (50) YEARS.

OPTION #2:

ABC Hangar Reversion Deferral Fee Calculator		
Assumptions		
Hangar Size (SF)		**4,000**
Market Hangar Rental Rate (PSFPY)	**$**	**6.00**
Maintenance, Repair & Capital Costs of Hangar (PSFPY)	**$**	**(1.80)**
Discount Rate (Current 2021 U.S. (FED) Prime Rate)		**3.25%**
Term (In Years)		**10**
City's (RDM) Annual Rent & City-Expense Escalation Percentage		**3.00%**
Results		
Total Reversion Deferral Fee - ("RDF" based on 10-year additional term before reversion)	**$**	**166,181**
Monthly RDF (if paid over 10-year period)	$	1,385
Annual RDF (if paid over 10-year period)	$	16,618

**** - If the tenant pays the reversion deferral fee annually or in one lump sum the city will provide the tenant a reversion deferral fee discount (reduction).***

QUESTIONS?

CITY OF REDMOND

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redmondoregon.gov

STAFF REPORT

DATE:	July 6, 2021
TO:	Redmond City Council
THROUGH:	Keith Witcosky, City Manager
FROM:	Zachary Bass, Airport Director
SUBJECT:	Ordinance #2021-06 - An ordinance amending the Redmond City Code Chapter 10, Sections 10.015 and 10.055 pertaining to the Airport Leasing Policy.

Addresses Council Goal:

5.B. Promote business activities on airport lands located inside the fence line.
5.B.i. Attract aviation related businesses to airport property within the fence line.
5.B.ii Apply leasing strategies that are flexible and attractive to tenants yet comply with FAA and TSA requirements.
5.C.i. Create and implement standardized leases for current and future leased properties.

Report in Brief:

Ordinance No. 2021-06 will amend certain provisions contained in Chapter 10 (Airport Minimum Standards) of the Redmond Municipal Code.

These code updates reflect changes in the Leasing Policy presented to City Council on July 6, 2021.

Background:

Approval of the Airport Leasing Policy reflected in Resolution No. 2021-15 would also require changes to Chapter 10 in the City Code. This item, memorializes the presumed such approval and imbeds the proposed changes into Chapter 10. If City Council makes changes to the Lease Policy as presented by staff, then this action may also require similar amendments.

Discussion:

Two specific areas in Chapter 10 of the City Code would be updated through this Ordinance:

1. The definitions of "Airport Leasing Policy," "Lease," and "Person" contained in Section 10.015 of the code are amended to be consistent with the updated airport leasing policy.

2. Certain lease provisions required under the Code are amended to be consistent with the airport leasing policy, including provisions concerning subordination, emergency leasing to the United States, and non-discrimination.

Fiscal Impact:

There are no immediate fiscal impacts.

Alternative Courses of Action:

1. Adopt Ordinance No. 2021-06.
2. Do Not Adopt Ordinance No. 2021-06.
3. Request More Information.

As required, notices regarding this public hearing were posted in three places (the Library, the Police Department, and the Redmond Chamber of Commerce) in addition to City Hall on June 29, 2021. Three copies of the Ordinance were available for review at City Hall.

Recommendation / Suggested Motion:

"I move to have a first and second reading of Ordinance No. 2021-06 by title only." (Voice Vote)

City Attorney will read the ordinance by title only, twice.

“I move to approve Ordinance No. 2021-06.” (Roll Call Vote)

Exhibit A:
Proposed Redmond City Code Amendments

Chapter 10 – Airport Regulations

New proposed text identified in **red**; deleted text ~~strikethrough~~.

Chapter 10 – Airport Regulations

MINIMUM STANDARDS

(***)

10.015 Definitions. For purposes of these Minimum Standards, the following definitions shall apply:

Aeronautical Services/Activities. Means any activity or service conducted at the Airport 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. The following services/activities commonly conducted on airports are Aeronautical Activities within this definition: charter operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising, air ambulance services, surveying, air-carrier operations, aircraft sales and services, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, and any other activities that, because of their direct relationship to the operation of an aircraft, can appropriately be regarded as an "Aeronautical Activity."

Agreement. Means the written agreement between the City and an Operator specifying the terms and conditions under which the Operator may conduct commercial aviation activities. Such Agreement will recite the terms and conditions under which the activity will be conducted at the Airport, including but not limited to: rents, fees, and charges to be paid; and the rights and obligations of the respective parties.

Aircraft or aircraft. Means a device which is used or intended to be used for flight in air. Examples of aircraft include, but are not limited to: airplane, sailplane, glider, rotorcraft (helicopter, gyrocopter, or auto gyro), unmanned aerial vehicle, balloon, and blimp.

Aircraft Fuel. Means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion, jet, or turbine engine in an aircraft.

Aircraft Fueling Vehicle. Means any vehicle used for the transportation, delivery, and dispensing of Aircraft Fuel.

Aircraft Movement Area. Means the runways, taxiways, and other areas of the airport utilized for taxiing, hover taxiing, air taxiing, and takeoff or landing of aircraft, exclusive of loading ramps, maintenance ramps, and parking areas.

Airplane Design Group. An FAA designated grouping of Aircraft based upon wingspan. The groups are as follows:

Group I: Up to but not including 49 feet
Group II: 49 feet up to but not including 79 feet
Group III: 79 feet up to but not including 118 feet
Group IV: 118 feet up to but not including 171 feet
Group V: 171 feet up to but not including 214 feet
Group VI: 214 feet up to but not including 262 feet

Airport. Means Redmond Municipal Airport -- Roberts Field and all of the area, buildings, facilities, and improvements within the exterior boundaries of such airport as it now exists, or as it may hereafter be extended or enlarged.

Airport Director. Means the individual employed and authorized by the City to be the chief administrative officer of the Airport, or the person authorized by the Airport Director to act for or on behalf of the Airport Director, with respect to any particular matter.

Airport Leasing Policy. Means that certain Redmond Municipal Airport ("Roberts Field") Redmond, Oregon Airport Leasing Policy dated effective July 6th, 2021, as amended from time to time by resolution of the city council. ~~the "A Policy to Govern Agreements Involving the Use or Disposition of Airport Property for Aeronautical Activities" as established and amended from time to time by the City, to govern the safe, orderly, and efficient use of Airport property~~.

Airport Layout Plan. Means the FAA approved and Airport adopted drawing, as may be amended from time to time, which reflects an agreement between the FAA and Airport depicting the physical layout of the Airport and identifying the location and configuration of current and proposed runways, taxiways, buildings, roadways, utilities, navaids, etc. and proposed allocation of Airport land and/or improvements to specific uses and/or development.

Airport Security Plan. Means the Transportation Security Administration (TSA) approved document, including any amendments or revisions thereto, that governs the provision of security at the Airport.

City. Means the City of Redmond, Oregon, owner and operator of the Airport, acting by or through the Redmond City Council or any duly authorized employee, agent or instrumentality of the City of Redmond, Oregon.

City Council. Means the legislative body that governs the City of Redmond, Oregon.

Commercial Aeronautical Activity. Means an Aeronautical Activity for commercial purposes. A Commercial Aeronautical Activity also includes any third party or contract employee engaged in the performance of an Aeronautical Activity for compensation or hire at the Airport who is not an employee of a Fixed Base Operator or a Specialized Aviation Service Operator. For purposes of this definition, "commercial purposes" is the conduct of any aspect of a business, concession, operation, or agency providing goods or services to any person for compensation or hire, including exchange of services, whether or not such objectives are accomplished. An activity is considered a commercial activity regardless of whether the business is nonprofit, charitable, or tax-exempt.

FAA. Means Federal Aviation Administration.

Fixed-Base Operator (FBO). Means any individual, firm or corporation duly licensed and authorized by written Agreement with the City to operate, under strict compliance with such Agreement and pursuant to these Minimum Standards, to offer Aeronautical Services to the public at the Airport as set forth in Section 10.030 herein.

Fuel Storage Area. Means any portion of the Airport designed temporarily or permanently by the City as an area in which aviation or motor vehicle fuel or any other type of fuel or fuel additive may be stored.

Fueling or Fuel Handling. Means the transportation, sale, delivery, dispensing, storage, or draining of fuel or fuel waste products to or from fuel storage tanks, aircraft, vehicles, or equipment.

General Aviation. Means all phases of aviation other than military aviation and scheduled or nonscheduled commercial air carrier operations.

Hazardous Material. Means any substance, waste, or material which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous, and is or becomes regulated as a hazardous substance by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Oregon, or any political subdivision thereof.

Identification Badge. Means the security and identification badge issued by the City to Airport employees to control Airport access in compliance with the Airport Security Plan. All Identification Badges are the property of the City.

Lease. Means any agreement between the city and a person pursuant to which the city grants the person permission to use and occupy airport property in conformance with certain leasehold interests for a specified period of time in exchange for specified rent. ~~the written, contractual Agreement between the City and an entity which is enforceable by law, wherein said Agreement grants a concession or otherwise authorizes the conduct of certain activities~~.

Minimum Standards. Means these Minimum Standards for Commercial Aeronautical Service Providers adopted by the City, as amended from time to time.

Operator. Means either a Fixed Base Operator or a Specialized Aviation Service Operator, as applicable, or the City, when performing a Commercial Aeronautical Activity, unless the context clearly indicates another meaning.

Permit. Means an administrative approval issued by the City to a person or company to conduct a Commercial Aeronautical Activity from facilities and locations where such services are authorized.

~~**Personnel.**~~ Person. Means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, and/or any other entity. ~~persons who are employees of an Operator or who are contractually obligated to render services to the public on behalf of an Operator~~.

Rules and Regulations. Means the policies, procedures, and regulations which are established and amended from time to time by the City, to govern the safe, orderly, and efficient use of the Airport.

Security Identification Display Area (SIDA). Means the area identified in the Airport Security Plan requiring each person to continuously display airport identification badge unless the person is under Airport-approved escort.

Self-Service Fueling. Means the provision by an FBO of a stationary storage tank of Aircraft Fuel and associated dispensing equipment for use by aircraft operators via a card reader or similar device. This includes the operations of anyone utilizing this type of equipment to provide fuel for sale or reuse.

Shall. The word shall is always mandatory and not merely directory.

Specialized Aviation Service Operator (SASO). Means a Commercial Aeronautical Activity or any entity that provides any one or more of the services listed in Section 8 of these Minimum Standards.

State. Means the State of Oregon.

TSA. Means the Transportation Security Administration or its successor agency.

Two-way Radio. Means a two-way communication system operated by a non-governmental entity that provides Airport advisory information.

(***)

10.055 ~~**FAA Required Lease Provisions.** Each lease shall contain the following provisions regarding subordination, emergency leasing to the United States, and non-discrimination. The language for these provisions is as follows:~~

~~1. **Lease Subordinate to Agreement between City and the United States.** This lease shall be subordinate to the provisions of any existing agreement between the City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the expenditure of federal funds for the development of the Airport.~~

~~2. **Emergency Lease to United States.** During times of war or national emergency, the City shall have the right to lease the landing area or any part thereof to the United States Government for military or naval use, and if any such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the Government shall be suspended.~~

   ~~All facilities of the Airport developed with federal financial assistance and all facilities usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, a charge may be made for a reasonable share, proportional to such use, of the cost for operating and maintaining the facilities used.~~

~~3. **Non-Discrimination.** The Operator shall furnish all services authorized or licensed on a fair, equal, and not unjustly discriminatory basis to all users and~~

~~shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided that it may make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers, if permitted by law.~~

~~The Operator for itself, its personal representatives, successors in interest, and assignees hereby agrees that:~~

~~A. No person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.~~

~~B. In the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.~~

~~C. That the premises are to be used in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended.~~

~~D. That in the event of breach of any of the above non-discrimination covenants, the City shall have the right to terminate the lease and re-enter and repossess said land and the facilities thereon and hold the same as if said lease had never been made or issued.~~

10.055 Required Lease Provisions. Notwithstanding anything contained in these Minimum Standards to the contrary, each Lease will contain terms and conditions required under applicable law, these Minimum Standards, and the Airport Leasing Policy (and all other terms and conditions the City determines necessary or appropriate), and will otherwise be in form and content satisfactory to City. Without otherwise limiting the generality of the immediately preceding sentence, each Lease will contain provisions concerning subordination, emergency leasing to the United States, and non-discrimination substantially in the following form:

1. **Subordination – United States.** Notwithstanding anything contained in this Lease to the contrary, (a) this Lease is subordinate to the terms of any agreement between City and the United States concerning Airport operations and/or maintenance (the terms of such agreement will supersede the terms of this Lease), and (b) during times of war or national emergency, City may lease the Airport's landing area (or any part thereof) to the United States for military or naval use (and, in connection therewith, the provisions of this Lease will be suspended to the extent inconsistent with the City's lease with the United States).
2. **Non-Discrimination; Unfair Practices.** Tenant covenants and agrees as follows: (a) if any improvements and/or improvements (including, without limitation, any hangar and/or improvements) are constructed, maintained, and/or otherwise operated on Airport property and/or such hangar for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant will maintain and operate such improvements and services in compliance with all requirements imposed under 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as amended; (b) no person on the grounds of race, color, national origin, and/or other protected

classification will be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination in the use of any improvements located on the Airport property and/or such hangar; and (c) in the construction of any hangar and/or any improvements on, over, and/or under Airport property and/or hangar and the furnishing of services thereon, no person on the grounds of race, color, national origin, and/or other protected classification will be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination.

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CITY OF REDMOND
ORDINANCE NO. 2021-06

AN ORDINANCE AMENDING THE REDMOND CITY CODE CHAPTER 10, SECTIONS 10.015 AND 10.055 PERTAINING TO THE AIRPORT LEASING POLICY.

WHEREAS, on May 13, 2014, City of Redmond ("City") established certain Minimum Standards for Commercial Aeronautical Service Providers (the "Minimum Standards") at the Redmond Municipal Airport ("Airport") by its adoption of Ordinance No. 2014-11, which Minimum Standards were developed in accordance with FAA Advisory Circular 150-5190-7, *Minimum Standards for Commercial Aeronautical Activities*, dated August 28, 2006; and

WHEREAS, the Minimum Standards concern, among other things, the terms and conditions under which an Operator (as defined in the Minimum Standards) will conduct its business and activities on and from leased premises located at the Airport; and

WHEREAS, the Minimum Standards were codified at Chapter 10 of the Redmond Municipal Code (the "Code"); and

WHEREAS, in connection with City's adoption of a new Airport leasing policy pursuant to Resolution No. 2021-06 (the "Policy"), City desires to amend certain Code provisions to ensure consistency between the Minimum Standards and Policy.

NOW, THEREFORE, THE CITY OF REDMOND ORDAINS AS FOLLOWS:

SECTION ONE: FINDINGS. The above-stated findings contained in this Ordinance No. 2021-06 (this "Ordinance") are hereby adopted.

SECTION TWO: DEFINITIONS. The definitions of "Airport Leasing Policy," "Lease," and "Person" contained in Section 10.015 of the Code are amended to read in their entirety as follows:

> "Airport Leasing Policy" means that certain Redmond Municipal Airport ("Roberts Field") Redmond, Oregon Airport Leasing Policy dated effective July 6, 2021, as amended from time to time by resolution of the city council."
>
> "Lease" means an agreement between the City and a person pursuant to which the City grants the Person permission to use and occupy Airport property in conformance with certain leasehold interests for a specified period of time in exchange for specified rent."
>
> "'Person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, and/or any other entity."

SECTION THREE: REQUIRED LEASE PROVISIONS. Section 10.055 of the Code is amended to read in its entirety as follows:

10.055 Required Lease Provisions. Notwithstanding anything contained in these Minimum Standards to the contrary, each Lease will contain terms and conditions required under applicable law, these Minimum Standards, and the Airport Leasing Policy (and all other terms and conditions the City determines necessary or appropriate), and will otherwise be in form and content satisfactory to City. Without otherwise limiting the generality of the immediately preceding sentence, each Lease will contain provisions concerning subordination, emergency leasing to the United States, and non-discrimination substantially in the following form:

1. **Subordination – United States.** Notwithstanding anything contained in this Lease to the contrary, (a) this Lease is subordinate to the terms of any agreement between City and the United States concerning Airport operations and/or maintenance (the terms of such agreement will supersede the terms of this Lease), and (b) during times of war or national emergency, City may lease the Airport's landing area (or any part thereof) to the United States for military or naval use (and, in connection therewith, the provisions of this Lease will be suspended to the extent inconsistent with the City's lease with the United States).

2. **Non-Discrimination; Unfair Practices.** Tenant covenants and agrees as follows: (a) if any improvements and/or improvements (including, without limitation, any hangar and/or improvements) are constructed, maintained, and/or otherwise operated on Airport property and/or such hangar for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant will maintain and operate such improvements and services in compliance with all requirements imposed under 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as amended; (b) no person on the grounds of race, color, national origin, and/or other protected classification will be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination in the use of any improvements located on the Airport property and/or such hangar; and (c) in the construction of any hangar and/or any improvements on, over, and/or under Airport property and/or hangar and the furnishing of services thereon, no person on the grounds of race, color, national origin, and/or other protected classification will be excluded from participation in, denied the benefits of, and/or otherwise subjected to discrimination.

SECTION FOUR: AMENDMENT; CODIFICATION. This Ordinance is hereby made part of the Code. The provisions of the Code that are not expressly amended by this Ordinance remain unchanged and in full force and effect. City staff and/or its designee may renumber, format, and make all other edits necessary to codify this Ordinance into the Code. All capitalized terms used in this Ordinance not otherwise defined herein have the meanings assigned to them in the Code.

SECTION FIVE: MISCELLANEOUS. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, rule, regulation, code, or ordinance includes the law, rule, regulation, code, or ordinance as now in force and which may hereafter be amended. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance or the Code. This Ordinance may be corrected by order of the Redmond City Council to cure editorial and/or clerical errors.

PASSED by the City Council and **APPROVED** by the Mayor this 6th day of July 2021.

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George Endicott, Mayor

ATTEST:

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Kelly Morse, City Recorder