
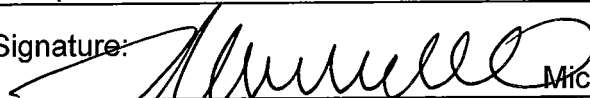


OGDEN CITY POLICY Office of the Mayor	Policy No:
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Subject: AIRPORT LEASE RENEWAL	Effective Date: <u>7/20/16</u> , 20____
Department: Community and Economic Development	Reviewed by: 
Division: Airport	Review Date: <u>7/20/16</u>
Authorized Signature:  Michael P. Caldwell, Mayor	

I. [PURPOSE:]

The purpose of this policy is to provide guidance and authority to the Airport Manager to conduct certain routine transactions related to the granting and renewal of leases at Ogden Airport which are within the discretion and authority of the Ogden City Mayor.

Ogden City is the owner of all land at Ogden Airport and leases its land to private and commercial tenants for the purpose of constructing hangars and other buildings to carry out aeronautical activities. Upon the termination of each lease, the leased parcel returns to the possession of Ogden City, unless the lease agreement is renewed with the tenant or the City leases the parcel to a new tenant. The City is often approached by prospective buyers of hangars installed upon leased airport parcels seeking a new full term lease, or an assignment of an existing lease with an extended full term, as a pre-condition to purchasing an airport hangar. Moreover, existing tenants regularly seek renewal of their expiring leases to avoid the expense of relocating a hangar or the loss of a hangar by abandonment.

It is the intent of the Administration to foster private development on the airport by establishing a preference for renewal of lease agreements with existing airport tenants in good standing, and to grant full term leases or lease renewals to purchasers of hangars that are brought into compliance with current codes. This preference must be balanced with City Administration's responsibility to manage the future uses of all parcels at Ogden Airport, and engage in development and redevelopment activities which in the discretion of the City are necessary and proper to the short-term and long term economic vitality of the Ogden Airport. The purpose of this policy is to strike a proper balance between a preference for existing tenants and the Administration's responsibility to manage the competing uses, development and redevelopment of Ogden Airport.

Ogden City Code, Section 8-3-3, sets forth general rules governing the term of duration of airport leases, while preserving to the Mayor the discretion to negotiate alternative terms as appropriate to proper management of the Ogden Airport. Under the council-mayor form of government, the Ogden City Mayor also retains independent executive and administrative powers to manage all city property, including the Ogden Airport. Ogden City Code, Section 8-3-3 refers to a "first right of refusal" of an existing tenant to renew its lease in certain circumstances, but does not define the meaning of that term. A "first right of refusal" is not intended to grant tenant a perpetual right to unlimited lease renewals throughout all time. Rather, the term signifies that if upon the expiration of a lease the city intends to again lease a parcel for the same purpose that it had previously been leased, it will first offer to renew the lease of an existing tenant in good standing on the same terms it otherwise intends offer to lease the parcel to other prospective tenants. The City Administration has no duty to offer a renewal of lease agreement which is inconsistent with projected or planned future uses, development or redevelopment of the Ogden Airport. Indeed, Section 8-3-3 limits most lease renewal terms to 5 years to ensure frequent intervals to analyze future city uses before an additional renewal is granted. An additional purpose of this policy to interpret and define compliance with the 'first right of refusal' term used Section 8-3-3 in the context of ongoing airport management considerations.

II. [POLICY:]

It is the policy of the Ogden City Administration that the term "first right of refusal" shall be interpreted and implemented as set forth hereinbelow. It is also the policy of the Ogden City Administration that the Airport Manager be delegated power and authority to grant extended lease renewals terms or new leases as set forth hereinbelow.

- a. **First Right of Refusal.** The first right of refusal to renew an airport lease upon termination as set forth in Ogden City Code 8-3-3, is interpreted and shall be implemented as follows. Ogden City Administration has the discretionary authority to determine and manage all future uses of airport property. If upon the pending expiration of a lease term, the City Administration determines that it intends to continue to lease an airport parcel for the same purpose that it was previously leased to a tenant, then the city will first offer to renew of the lease agreement of the prior tenant before it offers to lease the parcel to any other prospective tenant for the same use. The city shall have no duty to offer a lease renewal when it does not presently intend to continue the prior use for which the parcel was previously leased. No lease renewal is required to be offered to a tenant who is in breach or default of its lease agreement.

- i. **Application for Renewal.** Any airport tenant seeking to renew a lease agreement must make a written request to renew the lease not less than 60 days, nor more than 6 months, before the expiration of its lease agreement. Upon receipt of the application, Ogden City will notify the applicant within 30 days whether the city intends to continue the pre-existing use of the parcel and whether it intends to make tenant an offer to renew the lease agreement.
 - ii. **Inspection.** Prior to making an offer of lease renewal, the Airport Manager may have the leased premises inspected by city personnel to ensure that the leased premises are being used consistent with the lease agreement and all airport codes and policies, and that the premises are in a safe condition and not in violation of the then-current International Property Maintenance Code. A lease agreement renewal may be conditioned upon tenant resolution of any adverse findings of the inspector.
 - iii. **Lease Renewal Form.** When lease agreement renewal is offered by the City to a tenant, the tenant may accept the offer by entering into a lease agreement in the form and format then in use by the City at the time the lease renewal is offered.
 - iv. **Other Available Parcels.** When the City declines to offer to renew a lease agreement as described hereinabove and tenant is not in default, the Airport Manager will consult with tenant as to the availability of other Ogden Airport parcels to which tenant's hangar or structure might be relocated, at tenants expense, which would be consistent with the city's projected or planned uses of the Ogden Airport.
 - v. **Lesser Lease Term.** If the City's projected or planned uses are inconsistent with a 5 year lease renewal term, but the city's projected or planned change of use is not immediate upon expiration of tenant's lease, the airport manager and tenant may negotiate a shorter lease renewal term if mutually agreeable to both parties.
- b. **Renewal Term of Leases.** As a general rule, a renewed lease agreement shall not endure for a term of more than five years. This five year renewal term limitation is not extended because a tenant subleases or assigns its lease agreement or because the city agrees to amend a lease agreement to name additional or alternative tenants to the lease agreement.

i. **Purchase Exception.** The Airport Manager may grant a lease renewal for a longer period of time as specified in subsection iii., or grant a new lease agreement that endures for a length of time specified in subsection iii., to a prospective tenant where all of the following conditions are met:

1. The prospective tenant offers to purchase an airport hangar or other airport structure owned by an existing airport tenant in an arm's-length, fair market value purchase transaction,
2. The hangar or structure to be purchased complies with or is improved to comply with all building, fire, zoning, aesthetic, maintenance and airport codes in force and effect at the time of the proposed purchase, as verified by city inspection (which may require certification of a structural engineer employed by tenant),
3. Tenant seller is not in violation, breach or default of its lease agreement, and,
4. City Administration determines that the extended lease term is not inconsistent with the City's planned or projected uses of the subject airport parcel during the extended lease term.

ii. **Hangar Upgrade Exception.** The Airport Manager may grant a lease renewal for a longer period of time as specified in subsection iii. to a tenant without a present intent to sell a hangar or structure, if the following conditions are met:

1. The hangar or structure subject to lease renewal complies with or is improved to comply with all building, fire, zoning, aesthetic, maintenance and airport codes in force and effect at the time of the proposed renewal, as verified by city inspection (which may require certification of a structural engineer employed by tenant),
2. Tenant is not in violation, breach or default of its lease agreement, and,
3. City Administration determines that the extended lease term is not inconsistent with the City's planned or projected uses of the subject airport parcel during the extended lease term.

iii. **Length of Extended Term Renewals.** Where all the conditions of subsection i or ii are met, the airport manager may extend the renewal term of a lease agreement, or grant the purchaser a new lease, for a term of years up to:

1. 15 years for private hangar lease,
2. 20 years for a commercial special service operator Lease, or
3. 25 years for a fixed based operator lease.

c. **Grant Assurances.** The airport manager shall implement this policy consistent with all FAA grant assurances, and shall consult with FAA officials as necessary to ensure compliance.

d. **Other Lease Negotiations.** Lease agreements may be negotiated for a lease period that exceeds the limits set forth in this policy when a prospective tenant agrees to make a substantial capital investment or for other good and valuable consideration that justifies a longer lease term in the discretion of the Mayor or his delegate. Such negotiations shall be carried out consistent with FAA grant assurances and upon consultation with relevant FAA guidance.