



**FOLEY MUNICIPAL AIRPORT
MINIMUM STANDARDS
FOR
COMMERCIAL AERONAUTICAL ACTIVITIES**

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INTRODUCTION

The City of Foley, hereinafter referred to as "City", owns and operates a public airport known as Foley Municipal Airport, hereinafter referred to as "Airport", in Foley, Alabama. Anyone wishing to comment on these Minimum Standards may contact the Airport Manager at P.O. Box 1750, Foley, AL, 36536.

The requirements of standards imposed on those proposing to conduct an aeronautical activity on any public airport should relate to safety, security and the public interest.

These Minimum Standards are intended to provide the **minimum threshold** entry requirements for those wishing to provide commercial aeronautical services to the public at the Airport. Any prospective aeronautical service provider must agree to offer the minimum level of services in order to obtain an agreement, license, permit and/or lease to operate on the Airport.

The owner or sponsor of a federally-obligated airport agrees to make the opportunity to engage in commercial aeronautical activities available to any person, firm, or corporation (hereinafter, "Operator") that meets reasonable minimum standards; in exchange for this opportunity, the Operator agrees to comply with those minimum standards, which then become a mandatory component of the agreement between airport owner/sponsor and Operator.

To that end, the City has established these particular Minimum Standards for the Airport, and will apply them objectively and uniformly to all similarly situated on-airport commercial aeronautical activities and standards. The City intends that these Minimum Standards for the Airport comply with Federal Aviation Administration (hereinafter, "FAA") guidelines.

SECTION 1 PURPOSE OF MINIMUM STANDARDS

1.a Compliance with FAA Advisory Circular 150/5190-7

The City of Foley, Alabama owns and operates the Airport, a commercial service public airport. The City has received in the past, and reasonably expects to receive in the future, Federal and State airport development assistance funding which includes contractual grant obligations including but not limited to compliance with FAA Advisory Circular 150/5190-7 *Minimum Standards for Commercial Aeronautical Activities* effective August 28, 2006.

The purpose of these Minimum Standards is to:

- Promote safety;
- Promote the economic health of Airport businesses;
- Promote the orderly development of Airport property;
- Encourage high quality products, services, and facilities for Airport users;
- Promote economic nondiscrimination.

Minimum Standards are developed to provide the **minimum threshold** entry requirements for those Operators desiring to provide commercial aeronautical services to the public at the Airport and to provide reasonable opportunities without discrimination, economic or otherwise. These Minimum Standards are established based upon the conditions at the Airport, the existing and planned facilities at the Airport, and the current and future aviation role of the Airport. Each prospective commercial aeronautical Operator shall agree to offer the described minimum levels of services in order to obtain an agreement, permit, license, and/or lease to operate at the Airport. In summary, the Airport's Minimum Standards establish the minimum requirements to be met by Operators for the privilege of providing commercial aeronautical services at the Airport. All Operators are encouraged to exceed the "minimum" in terms of quality of facilities and/or services.

The City shall make any required determinations, interpretations, or judgments regarding what constitute an acceptable minimum standard, and what constitutes compliance with such standard. Aeronautical activities that do not fall within the categories herein may be proposed, and in such cases the appropriate minimum standards shall be developed by the City on a case-by-case basis and incorporated into the Operator's agreement.

These Minimum Standards shall apply to all new agreements and any extension of the term of existing agreements. These Minimum Standards are not retroactive and do not affect agreements properly executed prior to the adoption of these Minimum Standards. Additionally, if an Airport Operator desires to modify the terms of service within an existing agreement, the City shall as a condition of its approval, require compliance with the then-current Minimum Standards. These Minimum Standards shall not modify

an existing agreement, which is required to exceed these Minimum Standards, nor shall they prohibit City from entering into an agreement that requires an Operator to exceed these Minimum Standards.

1.b Assurance Against Exclusive Rights

1.b.i Federal Aviation Administration Policy

The FAA policy on Exclusive Rights prohibits the creation or continuance of agreements granting exclusive rights to a single commercial operator or service provider. The FAA concludes that the existence of an “exclusive right” aeronautical activity or local monopoly at an airport restricts the public use of the airport through the absence of competitive enterprise.

The City is prohibited from granting an exclusive right to a single Operator at the Airport, with few exceptions. The Airport Master Plan development and improvement funding assistance could be jeopardized by either an intentional or unintentional exclusive rights violation.

1.b.ii Some Exceptions to the Exclusive Rights Rule

The FAA acknowledges several business situations and circumstances that meet the definition of an exclusive rights violation but are necessary to support the operation and public use function of the Airport. Some, but not necessarily all, of these exceptions are:

- *Aeronautical Activities Conducted by Airport Owner/Sponsor:* The City has the option to provide some of the aeronautical activities that private enterprise cannot or will not provide to the public in order to sustain Airport services. This exception is referred to as proprietary exclusive.
- *Single Activity:* The absence of competition alone is not an exclusive rights violation. Due to airport activity, market demand, or other economic factors some commercial aeronautical services might only be provided by a single Operator even though reasonable Minimum Standards and competitive opportunities exist.
- *Space Limitation:* The City may prohibit a single FBO from expanding its facility to preserve land needed for a competitive FBO to operate from the same Airport. The City has the option of not providing an incumbent FBO any future development options or site preferences. Also, the City has the option to allow an incumbent FBO to compete with all other qualified bidders for City-owned premises that become available for aeronautical activity.
- *Restrictions Based on Safety:* The City may restrict or deny an Operator from conducting any type of aeronautical activity on the Airport that threatens the safety/security of the public, tenants, users, or the

Operator itself conducting such activity. The City will review the proposed activity and provide facts and reasoning for any proposed restriction or denial of aeronautical activity to the FAA, whose judgment and opinion will be relied upon by the City for its final decision in the matter.

- *Restrictions on Self-Service:* The City allows aircraft owners who are based at the Airport to refuel, maintain, repair, store, secure, clean, and service their own aircraft provided the owner or its employees perform the service and provide the resources in accordance with FAA Advisory Circulars and regulations. All self-service activities must comply with Federal, State, and local regulations, especially environmental and fire safety laws. The City is not obligated to lease facilities to aircraft owners in order to conduct self-service activities; however, the City may designate specific locations for fueling, maintenance, washing, and storing of aircraft to promote the safe and efficient operation of the Airport. Moreover, the service must be conducted in accordance with reasonable rules or standards established by the City.
- *Monopolies Beyond Airport Owner/Sponsor's Control:* Since the Federal Communication Commission (hereinafter, "FCC") will issue only one UNICOM station license per airport, the FAA acknowledges that UNICOM is an exclusive franchise that exists to provide air-to-ground communications for the public benefit. The exclusive UNICOM franchise does not violate the FAA exclusive rights agreement.

1.c Promotion of Safe and High Quality Aviation Services

The Airport is an important component of the area's overall transportation network, economic growth, and quality of life. So, in addition to the Federal Grant Assistance obligations, the City has established these Minimum Standards to foster safe, efficient, and high quality commercial aeronautical services for the Airport users, tenants, and Operators.

1.d Special Events

Special events (such as air shows, competitive flying meets, static displays, exhibitions, etc.) shall not be held on the Airport without prior written permission from the City.

SECTION 2 DEFINITIONS AND APPLICABILITY

2.a Definitions from FAA Advisory Circular 150/5190-7

- a. Aeronautical Activity.** Any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on airports, include, but are not limited to, the following: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and services, aircraft storage, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, parachute or ultralight activities, and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities. Activities, such as model aircraft and model rocket operations, are not aeronautical activities.
- b. Airport.** An area of land or water that is used, or intended to be used, for aircraft takeoff and landing. It includes any appurtenant areas used, or intended to be used, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. It also includes any heliport.
- c. Airport District Office (ADO).** These FAA offices are outlying units or extensions of regional airport divisions. They advise and assist airport sponsors with funding requests to improve and develop public airports. They also provide advisory services to the owners and operators of both public and private airports in the operation and maintenance of airports. See the FAA Web site for a complete listing of all ADO offices at http://www.faa.gov/airports_airtraffic/airports/regional_guidance/.
- d. Airport Sponsor.** The airport sponsor is either a public agency or a private owner of a public-use airport that submits to the FAA an application for financial assistance (such as AIP grants) for the airport. In accepting an application for financial assistance, the FAA will ensure that the airport sponsor is legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required of sponsors, which are contained in the AIP grant agreement and property conveyances.
- e. Commercial Self-Service Fueling.** A fueling concept that enables a pilot to fuel an aircraft from a commercial fuel pump installed for that purpose by an FBO or the airport sponsor. The fueling facility may or may not be attended.
- f. Exclusive Right.** A power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right. An exclusive right can be conferred either by express agreement (i.e. lease agreement), by the imposition of unreasonable standards or requirements, or by any other means. Such a right conferred on one or more parties, but excluding others from enjoying or exercising a similar right or rights, would be an exclusive right.

g. Federal Airport Obligations. All references to a Federal grant program, Federal airport development assistance, or Federal aid contained in this AC are intended to address obligations arising from the conveyance of land or from grant agreements entered under one of the following acts:

(1) Surplus Property Act of 1944 (SPA), as amended, 49 U.S.C. §§ 47151-47153.

Surplus property instruments of transfer were issued by the War Assets Administration (WAA) and are now issued by its successor, the General Services Administration (GSA). However, the law imposes upon the FAA (delegated to FAA from The Department of Transportation) the sole responsibility for determining and enforcing compliance with the terms and conditions of all instruments of transfer by which surplus airport property is or has been conveyed to non-Federal public agencies pursuant to the SPA. 49 U.S.C. § 47151(b).

(2) Federal Aid to Airports Program (FAAP). This grant-in-aid program administered by the agency under the City of the Federal Airport Act of 1946, as amended, assisted public agencies in the development of a nationwide system of public airports. The Federal Airport Act of 1946 was repealed and superseded by the Airport Development Aid Program (ADAP) of 1970.

(3) Airport Development Aid Program (ADAP). This grant-in-aid program administered by the FAA under the City of the Airport and Airway Development Act of 1970, as amended, assisted public agencies in the expansion and substantial improvement of the Nation's airport system. The 1970 act was repealed and superseded by the Airport and Airway Improvement Act of 1982 (AAIA).

(4) Airport Improvement Program (AIP). This grant-in-aid program administered by the FAA under the City of the Airport and Airway Improvement Act of 1982, 49 U.S.C. § 47101, *et seq.*, assists in maintaining a safe and efficient nationwide system of public-use airports that meet the present and future needs of civil aeronautics.

h. Federal Grant Assurance. A Federal grant assurance is a provision within a Federal grant agreement to which the recipient of Federal airport development assistance has agreed to comply in consideration of the assistance provided. Grant assurances are required by statute, 49 U.S.C. §47101.

i. Fixed-Base Operator (FBO). A commercial business granted the right by the airport sponsor to operate on an airport and provide aeronautical services such as fueling, hangaring, tie-down and parking, aircraft rental, aircraft maintenance, flight instruction, etc.

j. Fractional Ownership. Fractional ownership operations are aircraft operations that take place under the auspices of 14 CFR Part 91 Subpart K. This type of operation offers aircraft owners increased flexibility in the ownership and operation of aircraft including shared or joint aircraft ownership. It provides for the management of the aircraft by an aircraft management company. The aircraft owners participating in the program agree not only to share their own aircraft with others having a shared interest in that aircraft, but also to lease their aircraft to other owners in the program

(dry lease exchange program). [A dry lease aircraft exchange means an arrangement, documented by the written program agreements, under which program aircraft are available, on an as needed basis without crew, to each fractional owner.] A fractional owner or owner means an individual or entity that possesses a minimum fractional ownership interest in a program aircraft and that has entered into the applicable program agreements. For additional information, please see 14 CFR 91.1001 *Applicability* at http://www.access.gpo.gov/nara/cfr/waisidx_04/14cfr91_04.html and contact your local Flight Standards District Office.

k. Grant Agreement. A Federal grant agreement represents an agreement made between the FAA (on behalf of the United States) and an airport sponsor for the grant of Federal funding.

l. Public Airport. Means an airport open for public use that is publicly owned and controlled by a public agency.

m. Public-Use Airport. Means either a public airport or a privately owned airport open for public use.

n. Specialized Aviation Service Operations (SASO). SASOs are sometimes known as single- service providers or special FBOs performing less than full services. These types of companies differ from a full service FBO in that they typically offer only a specialized aeronautical service such as aircraft sales, flight training, aircraft maintenance, or avionics services for example.

o. Self-Fueling and Self-Service. Self-fueling means the fueling or servicing of an aircraft (i.e. changing the oil, washing) by the owner of the aircraft with his or her own employees and using his or her own equipment. Self-fueling and other self-services cannot be contracted out to another party. Self-fueling implies using fuel obtained by the aircraft owner from the source of his/her preference. As one of many self-service activities that can be conducted by the aircraft owner or operator by his or her own employees using his or her own equipment, self-fueling, differs from using a self-service fueling pump made available by the airport, an FBO, or an aeronautical service provider. The use of a self-service fueling pump is a commercial activity and is not considered self-fueling as defined herein. In addition to self-fueling, other self-service activities that can be performed by the aircraft owner with his or her own employees includes activities such as maintaining, repairing, cleaning, and otherwise providing service to an aircraft, provided the service is performed by the aircraft owner or his/her employees with resources supplied by the aircraft owner.

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

2.b Application of Minimum Standards

a. General Operating Requirements. Any Operator conducting commercial aeronautical activities at the Airport shall, as a condition of conducting such activities, comply with all requirements set forth in these Minimum Standards and any amendments thereto. The Minimum Standards are the “minimum” requirements to do business on the Airport, and all Operators are encouraged to exceed such minimums in conducting their respective activities. These Minimum Standards shall be deemed to be a part of each commercial Operator’s Airport lease, license, permit, or agreement with the City, unless any such provisions are waived or modified in writing by the City. The mere omission of any particular standard from a commercial Operator’s written lease, license, permit, or agreement with the City shall not constitute a waiver or modification of such standard in the absence of clear and convincing evidence that the City intended to waive or modify such standard. The City shall be the sole judge of whether an aeronautical activity at the Airport is, or is not, “commercial”, consistent with regulations of the FAA.

b. Existing Operators. The City will “grandfather” the existing commercial Operators into this revision of Minimum Standards. However, any subsequent changes to an existing written lease, license, permit, or agreement with the City, including but not limited to assignment, renewal, expiration, or ownership change may at the discretion of the City render the current Minimum Standards a requirement for the existing Operator.

c. Multiple Services. Whenever a commercial Operator, subject to these Minimum Standards, conducts multiple activities pursuant to one lease, license, permit, or agreement with the City, such commercial Operator shall comply with the Minimum Standards for each separate activity or SASO being conducted. If the Minimum Standards for one of the commercial Operator’s activities are inconsistent with the Minimum Standards for another of the commercial Operator’s activities, then the Minimum Standards which are most beneficial to the City, and/or which are most protective of the public’s health, safety and welfare, shall apply, or may be waived at the discretion of the City. When one or more activity is conducted, the minimum requirements shall vary depending on the nature of each activity and/or combination of activities, but shall not necessarily be cumulative. The City will make the final determination based on the benefits to the airport users, and based on the available space and/or existing improvements.

2.c Activities Not Covered by Minimum Standards

Any activities for which there are no specific Minimum Standards established will be addressed by the City on a case-by-case basis and set forth in such commercial Operator’s written lease, license, permit, or agreement with the City.

2.d Waivers or Modifications

The City may waive or modify any portion of these Minimum Standards for the benefit of any governmental agency performing non-profit public services, fire protection, or emergency response operations. The City may waive or modify any portion of these

Minimum Standards for any Operator when the City determines that such waiver or modification is in the best interest of the public and will not result in unjust economic discrimination against other commercial Operators at the Airport.

Any request for a waiver or modification from a commercial Operator must state specifically the primary guiding document and the provision for which the waiver or modification is being sought, describe the proposed waiver or modification specifically, state the reason or rationale for the waiver or modification, and identify the duration of the proposed waiver or modification. The City will consider only written requests, and shall respond to the requestor in writing.

Any variance or modification approved by the City shall apply only to the special conditions and unique circumstances of the particular case under which the waiver or modification is granted and shall not serve to amend, modify, or alter the primary guiding document and/or Minimum Standard. The waiver or modification expires upon the soonest of 1) when the special conditions or unique circumstances of the particular case are no longer applicable; or 2) when the expiration date specified in the City's written approval has occurred; or 3) when there occur subsequent changes to the commercial Operator's existing written lease, license, permit, or agreement with the City, including assignment, renewal, expiration, or ownership change.

SECTION 3 CITY OF FOLEY AIRPORT

3.a Airport Ownership/Sponsorship

The City of Foley, Alabama (City) owns and operates the Airport. The City is a major funding source of the Airport. As such, the City is a public agency with control of a public-use airport, meeting the FAA definition of “Sponsor”;

The City’s goals include developing aviation as an integral part of the region’s transportation network; creating and implementing strategies to protect and improve the area’s aviation system; encouraging aviation-related economic development; supporting aviation safety and education; and increasing aviation activities.

3.b Administrative Responsibilities

a. Administrative Roles. The City may perform acts; adopt, amend, or issue orders, rules and regulations; and make, promulgate, or amend Minimum Standards as necessary to ensure that:

- Any Operator using Airport property or facilities shall compensate the City at fair market value (fair market rent) for such use and privileges.
- No Operator shall receive a competitive advantage through free or less-than-fair market value (rent) utilization of Airport facilities for which other comparable commercial Operators are compensating the City at fair market value (rent) for substantially the same use, except for terms and conditions of existing agreements that originated at different times that are not yet updated or modified through expiration of term, amendment, assignment, extension or other adjustment provision.
- Airport public areas, roads, taxiways, runways, and aprons shall remain safe, available and open for public aeronautical use on a non-discriminatory basis and in compliance with appropriate standards.

b. Commercial Activity Authorization. When the City determines that an Operator is engaged or proposes to engage in commercial activity at the Airport, the City may grant that Operator permission to do so, may issue that Operator a permit with restrictions or conditions, may require the Operator to enter into an agreement with the City, or may deny such permission. The City will consider the following criteria in determining if a commercial aeronautical activity is authorized to be conducted on the Airport:

- i. The terms and conditions of any pre-existing agreements with commercial Operator(s) at the Airport providing comparable services.
- ii. The impact of the new commercial activity on public safety and convenience. The City will impose conditions and restrictions necessary to ensure safety in the air and on the ground, and to preserve unobstructed traffic patterns and runway approaches.

- iii. The amount of space available at the Airport, the customary uses of the Airport, and the compatibility of the new commercial activity with present and planned development at the Airport.
- iv. The manner in which the new commercial activity complies with Federal, State, and local laws and regulations, including land use provisions and storm water management.
- v. Whether the new commercial activity is conducted for profit, or for non-profit promoting aviation, safety, or educational purposes.

Refer to Attachment A in this document for application information, and a list of reasons for which such application may be denied.

3.c Minimum Standards Review, Revisions, and Amendments

The City from time to time may conduct a review of the Minimum Standards and based upon such review may elect to revise and/or amend the Minimum Standards. Reasons for such review include but are not limited to changes in Airport business, changes in the regulatory environment, new FAA or Alabama Aeronautics Bureau guidance, changes in environmental conditions, or to correct errors, omissions, or inconsistencies in the Minimum Standards currently in effect.

3.d Enforcement, Right To Enter, and Inspection Authority

a. Enforcement. The intention of the City is to provide consistent, uniform, fair, and reasonable enforcement of these Minimum Standards.

b. Right To Enter and Inspection Authority. The City through its designated representatives has the right to enter the City-owned Airport property, leasehold, or business of any commercial Operator to inspect the facilities during normal business hours or upon any event or emergency basis which could be detrimental to the safety or health of the general public or which could result in damage or injury to the City, and to ensure that the commercial Operator is complying with the Minimum Standards. The City will make reasonable effort not to disrupt normal business during such inspections.

c. Conflicting Regulatory Measures and Agreements. If a provision in these Minimum Standards is found to be in conflict with a provision of any other governing document, agreement, or regulatory measure, the provision that establishes the higher standard (the most stringent or restrictive) shall prevail. Nothing in these Minimum Standards shall be interpreted to repeal, abrogate, annul, or in any way impair or interfere with any regulatory measure.

SECTION 4 BUSINESS OPERATIONS

4.a Employee Conduct and Customer Service Emphasis

The City works diligently to provide high quality services to the growing needs and requests of airport users; as such, the City requires its commercial Operators, businesses, and tenants to do the same.

4.b Management Control and Supervision

Each commercial Operator is required to employ the necessary quality of trained staff, on-duty management and supervisors to provide for the efficient, safe, and orderly compliance with its lease, license, agreement, or permit obligations. In addition, each Operator is required to control the conduct and demeanor of its personnel and subtenants, as well as to conduct its business operations in a safe, orderly, efficient and proper manner so as not to unreasonably disturb, endanger or offend any customers, tenants, or competitive Operators.

4.c Personnel Training and Certification

All commercial Operator personnel shall be fully qualified and trained or be in training with supervision, to provide a high quality standard of courteous, efficient, and safe service to the general public, customers, and airport users. Personnel shall meet all Federal, State, local and/or professional training and certification requirements applicable to their individual duties and company services.

4.d Interference with Utilities and Communications

No Operator shall do or permit to be done anything that may interfere with the effectiveness or accessibility of the Airport or any public utility system, private utility system, communications system, video or other surveillance system, drainage system, sewer system, fire protection system, sprinkler system, alarm system, or fire hydrant. If an Operator discovers any such interference or potential interference, the Operator has a positive obligation and requirement to notify both the City and the appropriate system owner or fire department immediately.

SECTION 5 MINIMUM STANDARDS FOR FIXED BASE OPERATORS

5.a Primary Aeronautical Services

A Fixed Base Operator (FBO) is an entity engaged in the business of providing multiple commercial aeronautical services to aircraft and airport users. In addition to the primary aircraft fueling and aircraft line services and aircraft airframe and powerplant maintenance (described in Section 5.g), an FBO at the Airport shall provide a minimum of two (2) of the following secondary FBO services (described in Section 5.h). FBOs shall be permitted to provide fueling services and to operate fueling facilities at the Airport for both fixed and rotary wing aircraft.

FBO may subcontract or use third-party operators to provide aircraft maintenance and any of the secondary services, subject to agreement(s) approved in advance by the City. Subcontractors and third-party operators shall meet all Minimum Standards and operate from the primary FBO leasehold premises in areas approved by the City.

FBO shall conduct its business and activities on and from the leasehold premises in a safe and professional manner consistent with the degree of care and skill exercised by experienced FBOs providing comparable products, services, and activities from similar airports in like markets.

The City, the FAA, the TSA, and/or the Alabama Bureau of Aeronautics may periodically conduct inspections of any or all FBO activities and facilities to ensure compliance with laws, regulations, leasehold agreements, and Minimum Standards. Additionally, other governmental agencies may from time to time conduct inspections of specific FBO activities and facilities within the agencies' jurisdiction. FBO has a positive obligation to cooperate fully with any such inspection, and to remedy any defects identified in the inspection.

5.b Aircraft Design Group Serviceability

Each FBO shall provide the personnel, equipment, and facilities required to service all types of general aviation aircraft normally frequenting the Airport.

5.c Leaseholds

a. Leaseholds and Buildings in Total. FBO shall lease from the City available space for their operations or construct such space as is needed. If new construction of any type is required and is determined to be the responsibility of the FBO, plans shall be approved by the City prior to construction and shall meet all Federal, State and local requirements.

- b. Public Use Terminal Building.** FBO shall lease or construct a public use terminal building (Terminal) with appropriate accommodations for customer lobby, pilot lounge, flight planning and briefing area, administrative offices, public restrooms, general meeting room, and high speed internet connection.
- c. Aircraft Storage/Maintenance Building(s).** FBO shall lease or construct hangar space for aircraft storage/maintenance.
- d. Fuel Storage Facility (Fuel Farm).** FBO shall lease or construct a Fuel Storage Facility (Fuel Farm) to accommodate the fueling requirements as outlined in Section 5.h.
- e. Ramp Space.** The ramp space shall be used for aircraft parking, and transit to/from the FBO.
- f. Motor vehicle parking places.** Motor vehicle parking places shall be used for customer and employee parking.

5.d Hours of Operation

FBO is required to be open for business and provide aircraft fueling and line services a minimum of seven (7) days per week, eight (8) hours per day with certain exceptions as approved by the City.

5.e Employee Staffing and Qualifications

FBO shall employ and have on duty during the required hours of operation a sufficient staff to meet the Minimum Standards for each aeronautical service provided.

FBO shall provide the City, and keep current, a written statement of names, addresses, and contact information for all personnel responsible for the operation and management of the FBO. In addition, FBO shall provide the City, and keep current, a point-of-contact with phone numbers for emergency situations.

FBO hiring and employment practices must comply with all Federal and State guidelines, including but not limited to non-discrimination laws, FAA/TSA security and background checking requirements, and Alabama e-Verify laws.

All FBO fuel handling personnel shall be trained in the safe and proper handling, dispensing, and storage of aviation fuels. The FBO shall maintain Standard Operating Procedures (SOP) for refueling and ground handling operations in compliance with standards set forth in CFR Part 139.321 and FAA Advisory Circular 00-34, Aircraft Ground Handling and Servicing. The SOP shall address bonding and fire protection, public protection, control of access to the fuel storage area, and marking and labeling of fuel storage tanks and fuel dispensing equipment, and shall be submitted to the City no later than thirty (30) days prior to the FBO commencing fueling activities.

Additionally, FBO shall comply with the National Fire Protection Association's codes and standards, FAA Advisory Circular 150/5230-4, Aircraft Fuel Storage, Handling, and Dispensing on Airports, Airport rules and regulations, and all other applicable laws related to aircraft fuel handling, dispensing and storage. Each FBO shall obtain all fueling certifications and permits as applicable and receive periodic refresher training as required.

5.f Insurance Requirements

FBO shall maintain the types and amounts of insurance as specified in its lease or other agreement to adequately cover the respective categories of aeronautical services provided and to meet all City insurance requirements. The types of insurance required may include, but not be limited to, the following:

- i. Workers Compensation as required by the State of Alabama and a policy that includes Employer's Liability Coverage for each person-accident, each person-disease, and aggregate-disease;
- ii. Airport liability including bodily injury, property damage, premises, operations, products and completed operations, hangar keepers, contractual liability, and independent contractors. Insurance is on an occurrence type basis;
- iii. Aircraft liability including bodily injury and property damage;
- iv. Business automobile coverage including bodily injury and property damage written on a per accident basis; and,
- v. Environmental impairment coverage including spillage, leakage, seeping or the like arising out of fuel storage, fueling operations, lubricants and other petroleum products, non-petroleum chemicals, and/or hazardous materials.

The exact types and limits of coverage shall be determined during lease/agreement development, are dependent upon the types of activities authorized under the lease/agreement, and may be modified by the City should the FBO modify its activity.

FBO shall provide the City with proof(s) of insurance certificate(s) annually. With respect to liability arising from activities performed by or on behalf of the FBO, the FBO is required to indemnify and hold harmless the City. The FBO is required to list the City as an additional insured.

5.g Primary FBO Services

a. Fueling.

- i. FBO must provide the sale and into-plane delivery of common and recognized brands of aviation fuels, lubricants, and other aviation petroleum products. All equipment used for the storage and/or dispensing of petroleum products must meet Federal, State, and local codes, rules and regulations.
- ii. FBO shall at all times comply with FAA Advisory Circular 00-34A, Aircraft Ground Handling and Servicing.
- iii. FBO shall ensure that all fuel is delivered into aircraft fuel tanks clean, bright,

- iv. pure and free of microscopic organisms, water, or other contaminants.
- iv. The FBO may also provide mobile dispensing equipment and adequate trained staff to serve the Airport's fuel demand. Filter-equipped fuel dispensers with separate dispensing pumps and meter systems for each grade of fuel shall be provided. All metering devices must be inspected, checked, and certified periodically as required by appropriate State and local agencies. Fuel storage tanks shall meet all regulatory requirements.
- vi. FBO may provide operating and fully functional refueling trucks for each type of fuel that is available. Each refueling vehicle shall be equipped with metering devices that meet all applicable regulatory measures.
- vii. FBO shall follow the City's approved fuel spill prevention, control and countermeasures plan and conduct inspections as recommended.
- viii. In the event self-service fueling is installed on fuel equipment, fueling equipment must be in compliance with all applicable Federal, State, and local regulations and cannot be substituted for the required full-service fueling equipment set forth above.
- ix. FBO shall conduct the lawful, sanitary, and timely handling and disposal of all solid waste, regulated waste, and other materials including, but not limited to, contaminated fuel, sump fuel, used oil, solvents, and other regulated waste. The piling and storage of crates, boxes, barrels, containers, refuse, and surplus property is not permitted upon the FBO premises.
- x. FBO shall require the use of, proper electrical grounding equipment during any fuel transfer operations.
- xi. FBO shall demonstrate to the City's satisfaction that a reputable aviation fuel and lubricant distributor will provide fuel and lubricants in quantities necessary to meet the requirements of the Airport.
- xii. Aviation fuels and lubricants delivered to the FBO by the distributor will be considered by the City to be the fuels and oils dispensed for the purposes of calculating rates or charges (otherwise known as fuel flowage fees) under its Lease.
- xiii. The City shall provide an adequate supply of properly located, type, size and operable fire extinguishers. All fire extinguisher certifications must be current. Fire extinguishers shall be maintained and accessible to hangars and other buildings, at fuel storage facilities, and on all ground handling and refueling vehicles as required by appropriate fire codes for the type of operation conducted. FBO shall alert the City of any incompliant or missing extinguishers.

b. Aircraft Line Services.

Each FBO shall provide necessary equipment, supplies, and trained personnel for aircraft ramp assistance, towing, parking, and tie downs within the leased area. Equipment shall be sufficient to facilitate the handling of aircraft identified in Section 5.b.

c. Pilot Services and Concessions.

Each FBO shall provide at least the following services and concessions inside its Terminal building:

- i. Local flight safety information;
- ii. Public restrooms;
- iii. Public lounge and waiting area;
- iv. Flight planning work area including computers with access to weather and internet flight planning functions;
- v. Telephone land line and Wi-Fi high speed internet access;
- vi. Snack food and beverages for purchase;
- vii. Local ground transportation contact information;

d. Airframe and Powerplant Maintenance.

Each FBO shall provide airframe and powerplant maintenance services for single and multi-engine piston driven propeller aircraft. Similar services for turbine and jet fixed wing aircraft, and for rotorcraft are optional.

For airframe and powerplant maintenance each shall:

- i. Provide a minimum of one (1) FAA certified technician who possesses an airframe, powerplant, or aircraft inspector rating, or the facility shall be certified under and maintain all the requirements as specified in 14 CFR Part 145;
- ii. Provide equipment, supplies, and parts required for airframe, powerplant, inspection, tire, battery, oxygen, and other routine aircraft maintenance functions appropriate for the type of aircraft serviced.

5.h Secondary FBO Services

a. Flight Training.

A flight training service operator provides aircraft dual and solo flight instruction and related ground school instruction as is necessary to complete a written pilot's examination and flight check ride for various classes of pilot's licenses and ratings. A flight training service provider shall:

- i. Provide at least one (1) or more FAA certified flight instructor as necessary to meet the flight training demand and schedule requirements;
- ii. Own or lease one (1) or more airworthy aircraft necessary to meet the flight training demand and schedule requirements. At least one aircraft in the flight training fleet must be equipped for instrument flight instruction and must have four (4) or more seats;
- iii. Provide adequate mock-ups, pictures, slides, videos, computer aided devices and other training materials to provide proper and effective ground school instruction.

b. Aircraft Charter or Air Taxi and Aircraft Management Operations.

An aircraft charter or air taxi services operator provides air transportation of persons or property to the general public for hire, either on a scheduled or unscheduled basis, or as defined by 14 CFR Part 125 or Part 135 as applicable. An aircraft management operator is a commercial operator engaged in the business of providing aircraft flight dispatch, flight crews, or aircraft maintenance coordination to the public. An aircraft charter, air

taxi operator or an aircraft management operator shall:

- i. Provide at least one (1) person who holds a current FAA commercial pilot certificate and current Class I or II medical certificate and ratings appropriate for each aircraft listed on the operator's certificate. In addition, all flight personnel shall be properly rated for the aircraft operated.
- ii. Own or lease or manage at least one (1) certified and continuously airworthy IFR-capable aircraft;
- iii. Have and display in its public office a current FAR Part 135 Air Taxi Certificate or provisional FAR Part 135 Certificate, plus the aircraft identification page from the operating specifications manual of each aircraft listed on the certificate;
- iv. If applicable to rotorcraft operation, the operator providing external-loading capabilities will comply with the requirements contained within 13 CFR Part 133.

c. Aircraft Rental.

An aircraft leasing or rental services operator provides general aviation aircraft for leasing or rental to the public. An aircraft leasing or rental services operator shall:

- i. Provide at least one (1) person who holds a current FAA commercial pilot certificate including instructor rating and current Class I or II medical certificate and ratings appropriate for each aircraft listed on the operator's certificate;
- ii. Own or lease one (1) or more airworthy aircraft for use in rental or flight training. At least one aircraft in the rental fleet must be equipped for instrument flight conditions and must have four (4) or more seats.

d. Avionics Maintenance and Sales.

An avionics services operator provides the maintenance, repair, and installation of aircraft avionics, radios, instruments, and accessories as described in 14 CFR Part 43. This service shall include the sale of new or used aircraft avionics, radios, instruments, and accessories. An avionics services operator shall:

- i. Provide at least one (1) trained and FAA certified technician;
- ii. Hold the appropriate FAA repair station certificate(s) for the types of equipment the operator plans to service and/or install.

e. Aircraft Restoration and Refurbishing.

An aircraft restoration and refurbishing services operator provides restoration and refurbishing services of aircraft structures, parts, accessories, interiors, exteriors, and components to the public.

f. Specialized Flying Services.

FBOs providing specialized commercial flying services such as non-stop sightseeing tours, aerial photography or surveying, power line or pipeline patrol, firefighting or fire patrol, air ambulance, airborne mineral exploration, or other air transportation operations specifically excluded from FAR Part 135 shall:

- i. Own or lease at least one (1) airworthy aircraft;

- ii. Provide at least one (1) person who holds a current FAA commercial pilot certificate and medical certificate with rating appropriate for the operator's aircraft;
- iii. Make specialized commercial flying services operator's contact name and phone numbers, service availability, and rates known to prospective customers via posted informational sign inside each FBO terminal.

SECTION 6
MINIMUM STANDARDS FOR SPECIALIZED AVIATION SERVICE OPERATIONS
(SASO)

6.a General Requirements

a. Compliance

A Specialized Aviation Service Operation (SASO) is an entity engaged in the business of providing a single or limited number of multiple commercial aeronautical services to aircraft and airport users. SASOs must comply with Minimum Standards. However, the City will not require, without adequate justification, that a SASO meet all the criteria for a full-service FBO.

SASOs shall not be permitted to sell fuel or provide retail fueling services. SASOs may contact the City for the approval to fuel aircraft owned or leased directly by the SASO, but the granting of this privilege shall be at the sole discretion of the City.

Each SASO shall conduct its business and activities on and from the leasehold premises in a safe and professional manner consistent with the degree of care and skill exercised by experienced SASOs providing comparable products, services, and activities from similar airports in like markets.

The City, the FAA, the TSA, and/or the Alabama Bureau of Aeronautics may periodically conduct inspections of any or all SASO activities and facilities to ensure compliance with laws, regulations, leasehold agreements, and Minimum Standards. Additionally, other governmental agencies may from time to time conduct inspections of specific SASO activities and facilities within the agencies' jurisdiction. Each SASO has a positive obligation to cooperate fully with any such inspection, and to remedy any defects identified in the inspection.

b. Leased Space Requirement

Each SASO shall be presumed to be required to lease the required amount of space from the City or an existing Airport tenant (if such tenant has the permission of the City to sub-lease) as specified for individual services. If multiple or bundled services are provided, SASO space may be cross- utilized for multiple SASO services.

Because of the unique nature of the Airport layout, and the specific details of each proposed SASO service, the City will consider a request from the SASO for leasehold space on an individual basis.

Each SASO must lease or sublease enough space to comply with parking requirements.

c. Employee Staffing and Qualifications

Each SASO shall comply with Minimum Standards Section 5.e "Employee Staffing and Qualifications".

d. Insurance Requirements

Each SASO shall comply with Minimum Standards Section 5.f “Insurance Requirements”.

6b. SASO Services

a. Fueling

If the City has granted to the SASO the privilege to fuel aircraft owned or leased directly by the SASO, then the SASO shall comply with Minimum Standards Section 5.g.a “Fueling”.

b. Airframe and Powerplant Maintenance

If the SASO provides airplane and powerplant maintenance services, then the SASO shall comply with Minimum Standards Section 5.g.d “Airframe and Powerplant Maintenance”.

c. Flight Training

If the SASO provides flight training services, then the SASO shall comply with Minimum Standards Section 5.h.a “Flight Training”.

d. Aircraft Charter or Air Taxi and Aircraft Management Operations

If the SASO provides aircraft charter or air taxi and aircraft management services, then the SASO shall comply with Minimum Standards Section 5.h.b “Aircraft Charter or Air Taxi and Aircraft Management Operations”.

e. Aircraft Rental

If the SASO provides aircraft rental services, then the SASO shall comply with Minimum Standards Section 5.h.c “Aircraft Rental”.

f. Avionics Maintenance and Sales

If the SASO provides avionics maintenance and sales services, then the SASO shall comply with Minimum Standards Section 5.h.d “Avionics Maintenance and Sales”.

g. Aircraft Restoration and Refurbishing

If the SASO provides aircraft restoration and refurbishing services, then the SASO shall comply with Minimum Standards Section 5.h.g “Aircraft Restoration and Refurbishing”.

h. Specialized Flying Services

If the SASO provides specialized commercial flying services such as non-stop sightseeing tours, aerial photography or surveying, power line or pipeline patrol, firefighting or fire patrol, air ambulance, airborne mineral exploration, or other air transportation operations specifically excluded from FAR Part 135, then the SASO shall comply with Minimum Standards Section 5.h.h “Specialized Flying Services”.

SECTION 7 COMMERCIAL SERVICES

7.a Introduction

A person or entity that does not lease property on the Airport that would like to engage in providing commercial services shall be accorded a reasonable opportunity, without discrimination. All persons or entities permitted to engage in commercial activities shall be required to comply with all City, Federal, State, and local laws, ordinances, regulations, and rules including but not limited to all applicable environmental laws. Services may be provided only in areas so designated by the City.

7.b Approval

No person or entity shall engage in commercial activities at the Airport without approval by the City of Foley. If commercial activity is permitted, terms will be established, an agreement will be executed and a valid City business license will be required. Person or entity shall show proof of liability and workers comp insurance with appropriate policy limits approved by the City. Insurance coverage shall be maintained through the course of the business activity. Entity shall comply with all terms and conditions of the agreement with the City or permission to operate on airport property will be revoked.

SECTION 8 EXHIBITS AND ATTACHMENTS

Schedule of Exhibits and Attachments

A. Lease Application/Alteration/Denial Details

ATTACHMENT A
LEASE APPLICATION/ALTERATION/DENIAL DETAILS

General

Each person, corporation, or other business entity desirous of becoming a commercial tenant at the Airport must complete and submit an application to the City Airport Manager for review and consideration by the City. Additionally, if an existing tenant experiences a change in ownership of 25% or more, or the leasehold is desired by the tenant to be altered or modified, the City may require that the tenant resubmit an application for tenancy. The City reserves the right to request from an applicant for tenancy in written form, at the time of, and as part of its application, the following information and thereafter such additional information as may be required or requested by the City.

As a prerequisite to occupancy on and the granting of commercial operating privileges at the Airport, the prospective operator must submit a specific, detailed description of the scope of the intended commercial aeronautical activities, and the means and methods to be employed to accomplish the contemplated activities. Required information for commercial aeronautical activities shall include but not be limited to:

1. The legal name of the entity filing the application and its "dba" name if different;
2. The name, address, and telephone number of the entity and its primary contact person;
3. The names, addresses, and phone numbers of all owners of five (5) percent or more equity interest, management control, or debt in the entity;
4. The proposed date for commencement of the intended activities and proposed term for conducting same;
5. A comprehensive listing of all activities proposed to be offered, along with copies of all applicable Federal, State, or local operating certificates and licenses held;
6. For proposed agreements to lease (or requests for assignments) existing structures or improvements, a description of the size, location, and proposed utilization of office, hangar, ramp, and vehicle parking areas to be utilized;
7. For proposed agreements to lease (or requests for assignments) of unimproved Airport areas, a layout (to scale) of the size, configuration, and location of the property desired to be occupied and a preliminary drawing of the buildings and other improvements to be constructed, together with identification of vehicle parking areas. Drawings should be legible and reproducible with clearly defined dimensions. Each drawing should be in ink and submitted both in original size and in reduction to 8.5 X 11.0 inches. The City retains the right to request a metes and bounds legal description of lease property boundaries;
8. The number of persons to be employed, detailed by position descriptions and required qualifications, and further detailed as to full-time, part-time, or seasonal;
9. The number of aircraft to be utilized in connection with the proposed activities, including for each aircraft the make, model, passenger seating capacity, cargo

capacity, instrument flight capability, aircraft registration number, and copies of applicable operating certificates;

10. The tools, equipment, vehicles, and inventory proposed to be utilized in connection with the proposed activities;
11. A written business plan, including market analysis, to include a written statement addressing at least the following topics:
 - a. Definition of target markets;
 - b. Intended market share;
 - c. Promotional marketing techniques;
 - d. Description of existing competitors;
 - e. Percent of intended sales related to aircraft based on the Airport;
 - f. Evidence of support from potential customers, such as surveys, testimonials, and/or related information;
 - g. List of products to be sold or distributed (if any) and a list of manufacturer's or distributor's requirements for obtaining dealership (if applicable);
 - h. List of suppliers, subcontractors, and associates;
 - i. List of any proposed subtenants.

Financial Capability

As evidence of the applicant's financial capability, the prospective operator shall provide to the City a statement from a bank or similar financial institution or from such other source as may be acceptable to the City and readily verified through normal banking channels. The prospective operator must also demonstrate the financial capability to initiate the contemplated activities, construct the proposed improvements, and provide working capital sufficient for a stable business environment. The demonstration of financial capabilities shall also include cash flow and profit/loss calculations for the first five (5) years of the operation, a three-year historical profit/loss statement (if applicable), and a current balance sheet.

Experience

The prospective operator shall furnish the City a statement of its past experience in providing the specified commercial aeronautical service(s) for which the application is being made, including the resumes of management individuals who will be directly responsible for the proposed operation, plus their respective business, financial and managerial references. This information must be presented in a form acceptable to the City.

Bonding and Insuring

The prospective operator shall provide evidence in a form acceptable to the City, of its ability to supply:

1. A performance bond in an amount equal to one hundred (100) percent of one year's rent and/or fees established and agreed to for conducting the activities and entering into the agreement sought. Cash may be used in-lieu of a performance bond;
2. A performance bond in the amount equal to the cost of constructing the proposed improvements, in a form acceptable to the City;
3. Proof of all required insurance coverages as specified and applicable to the Airport and the City.

Grounds for Denial of Application

The City may deny any commercial application for any one or more of the following reasons:

1. The applicant's proposed activities, operation, and/or construction of improvements would create a safety hazard at the Airport and/or surrounding community;
2. The applicant's proposed activities, operation, and/or construction of improvements would create a violation of Airport, FAA, TSA, Federal, State, or local laws, ordinances, regulations, or rules;
3. The applicant for any reason does not fully meet the qualifications, standards, and requirements of the Airport. The burden of proof shall be on the prospective operator, and the standard of proof shall be by clear convincing evidence;
4. The granting of the application will require the Airport to expend funds, or supply labor or materials, in connection with the proposed activities and/or construction that the Airport is unwilling or unable to spend, or the proposed activities and/or construction will result in a financial loss (or hardship or liability) to the Airport;
5. No appropriate, adequate, or available space or improvements exist at the Airport which would accommodate the operation of the applicant at the time of the application, nor is such contemplated within a reasonable time frame;
6. The proposed operation, development, and/or construction does not comply with the Airport's Master Plan (and/or ALP) in effect at that time, or anticipated to be in effect within the time frame proposed by the applicant;
7. The development or use of the area requested by the applicant will result in congestion of aircraft, buildings, or common use ramps and taxiways, or will unduly interfere with the operations or activities of any present operator on the Airport and/or prevent adequate access to the assigned lease area of any present lease and/or operator;
8. The applicant has either intentionally or unintentionally misrepresented or omitted material facts in the application or in supporting documents;
9. The applicant or any of its officers, directors, agents, representatives, shareholders, or employees has a record of violating the rules, regulations,

statutes, ordinances, laws, or orders of any other airport, civil air regulations, FAA regulations, or any other rules, regulations, statutes, ordinances, laws, or orders relevant and/or applicable to the Airport;

10. The applicant or any of its officers, directors, agents, representatives, shareholders, or employees has defaulted in the performance of any other agreement;
11. The applicant or any of its officers, directors, agents, representatives, shareholders, or employees has been convicted of any felony or of a misdemeanor involving moral turpitude;
12. On the basis of current financial information, the applicant does not, in the sole discretion of the City, exhibit adequate financial responsibility or capability or capacity to undertake the proposed activities, operation, and/or construction;
13. The applicant cannot or will not provide a performance bond and/or adequate applicable insurance in the amounts and types required for the proposed activities, operation, and/or construction;
14. The applicant's proposed activities, operation, and/or construction could be detrimental to the Airport or not in the best interests of the Airport, as determined by the sole discretion of the City.