

Amended by 2514

ORDINANCE NO. 2474

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO ENTER INTO A LEASE AGREEMENT FOR THE CITY AIRPORT PROPERTY WITH HOWARD BURLESON FOR A PERIOD OF THREE (3) YEARS FROM THE 31st DAY OF MARCH, 1953, AND DECLARING AN EMERGENCY.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The Council of the City of Albany do, by the passage of this Ordinance, deem it improper to obtain bids for the lease of the airport property for a period of three (3) years beginning March 31, 1953.

Section 2: The Mayor and City Manager are hereby authorized to enter into a lease agreement for the Albany City airport property with HOWARD BURLESON for a period of three (3) years beginning March 31, 1953; said lease to be in substantially the same form as that marked "Exhibit A" attached hereto and made a part hereof.

Section 3: Whereas, the peace, health and safety of the City of Albany require that this ordinance become immediately effective upon its passage by the Council and approval by the Mayor for reasons that the present lease terminates upon March 31, 1953, an emergency is hereby declared to exist and this ordinance shall become effective immediately upon the final passage by the Council and approval by the Mayor.

Passed by the Council 4-8-53

Approved by the Mayor 4-8-53

ATTEST

E. J. Fortmiller
City Recorder

Charles W. Leonard
Mayor

"EXHIBIT A"

AIRPORT LEASE

THIS AGREEMENT MADE this _____ day of March, 1953, by and between the CITY OF ALBANY, Oregon, a municipal corporation, hereinafter referred to as the lessor, and HOWARD BURLESON, hereinafter referred to as the lessee,

WITNESSETH:

The lessor in consideration of the covenants and agreements hereinafter mentioned to be kept and performed by the lessee and on the conditions hereinafter set forth hereby demise and lease to the lessee certain airport property belonging to the City of Albany, more particularly described as follows:

Beginning on the South line of and West 36.00 chains from the Southeast corner of Robert Houston DLC 38 in Twp. 11S, R. 3W of the Will. Mer. in Linn County, Oregon; thence north 26.30 chains; thence north 86 degrees, 10' west 40.27 chains more or less; thence south 1 degree 39' east along the center line of a county road designated as Airport Way to the center of U.S. Hiway 20; thence Easterly along the center line of said Hiway, a distance of 8.23 chains; thence North 1 degree 39' West 10.63 chains; thence east 5.92 chains; thence North 2.495 chains; thence East 8.0 chains; thence north to the north boundary of the right of way of the C and ERR Company; thence South Westerly along the North Boundary of said right of way to a point which is South 10.55 chains and East 1328.5 feet from the North West Corner of the Jessie B. Parrish DLC Not. No. 3843 in Section 4, Twp. 11S, R. eW, W.M., Linn County, Oregon; thence North 10.55 chains; thence East to the point of beginning.

Purposes of Use

The lessee shall use the airport property above described for the purpose of conducting thereon the lessee's business of operating a school for flying students and selling airplanes and airplane parts and all other purposes necessary and incidental to the conduct of said business of maintaining and operating an airport. The lessee's right to the use and occupancy of the said premises shall be subject to the rights of the public therein and to the rights of any regularly constituted air lines and any and all governmental activity. The premises shall be used for no other purposes except as herein provided.

The lessee shall not place any material or structures on or about said premises so as to obstruct any of the run way thereon or to interfere in any manner whatsoever with the free and uninterrupted use of the landing field of said airport.

The lessee shall keep and maintain said runways free and clear of all obstructions at all times.

Terms of Lease

The term of this lease shall begin on the 31st day of March, 1953, and shall end on the 31st day of March, 1956.

Rent

The lessee agrees to pay the lessor at the City Hall as rent for the leased premises during the said term the sum of \$25.00 per month payable on or before the 15th day of each month in advance during the term hereof and in addition to said monthly payments the lessee further agrees to pay the lessor, at the time of making such monthly payments, five (5%) per cent of all gross receipts collected by the lessor in the operation of the said airport except the receipts derived from the sale of airplanes and airplane parts on which said items the lessee hereby agrees to pay the lessor five (5%) per cent of the net profit derived from such sales. Such sums as received by the lessee for sub-leasing the said premises for farming purposes shall not be computed in the gross revenue but shall be paid upon terms as hereinafter provided.

AIRPORT LEASE (con't.)

The lessee agrees to transfer unto the City a certain four-stall hanger constructed by the lessee upon the said premises and by the execution of this agreement does so transfer title to the said hanger. The said transfer to be in consideration of the execution of this agreement.

The lessee shall make no alterations or changes in or about the premises without the consent of the lessor being first had and obtained except that the sale of lubricating oil and petroleum products may be made through such distributors as the lessee might designate. Such distributor shall control and change the equipment as suits its convenience.

Any construction of additional hangers will be at the expense of the lessee and it is agreed by the lessor that additional hangers may be constructed upon the property herein leased to the lessee and that such building shall be considered the property of the lessee and may be removed by him within a reasonable time after the expiration of this lease. Such building shall be placed thereon and constructed only after written approval has been obtained from the lessor as to the location of the proposed structures and the type of structures that are contemplated. This approval is required to assure the lessor that the buildings will be placed in such a manner as not to interfere with the best use of the airport and that they will be constructed in such a manner so as not to be a hazard and not to be in any way unsightly.

Risk

All personal property on the said leased premises shall be at the risk of the lessee only and the lessor shall not be liable for any damage to either person or property sustained by the lessee or other persons due to the building or any part or appurtenance thereof or the machinery or apparatus used in connection therewith becoming out of repair or in a defective condition.

Utilities

The lessee shall be responsible for such utilities as may be used upon the said premises such as heat, water, electricity and telephone, provided, however, should substantial improvements be made upon the said airport in the way of lighting for night flying purposes, the terms hereof may be altered upon further negotiation between the lessee and the lessor.

Assignment and Sub-Letting

The lessee may sub-lease that portion of the premises not necessary to the proper conduct of an airport for the purpose of farming. As consideration for the privilege to sub-lease for farming purposes, the lessee agrees to pay to the city the sum assessed against the said city for real property taxes. Such payment shall be made to the city upon receipt by the city of the tax statement from the Sheriff of Linn County and notification thereof having been mailed by the city to the lessee.

The lessee nor other succeeding the lessee's estate in term will assign the said term of this lease or suffer the same to be assigned by operation of law (except by devise or descent in case of death of the lessee) or otherwise or let or under-let said premises or any part thereof except as herein provided without having first had and obtained written consent of the lessor.

The restriction against assignment of this lease shall not prevent the lessee from sub-letting hanger space or parking space to aircraft owners.

Fire

If during the continuance of this lease the premises shall be injured by fire or other casualty as to be rendered untenable for airport purposes or hanger purposes then if such injury be not promptly repaired by the lessor, it shall be optional with either party hereto to cancel this agreement by notice in writing to the other party given within ten (10) days after the election of the lessor not to repair and in case of such cancellation the rent which has become due to the day of the fire or casualty shall be repaired. The lessee shall take good care of the buildings on the premises and shall not commit any waste or do any damage thereto and that the expiration and termination hereof, the lessee shall leave said premises in as good a condition as they are of this date, general wear and tear and work of the elements excepted.

The lessee agrees to keep the buildings in good repair provided, however, structural defects or repairs to the roof or hangar doors shall be at the expense of the lessor.

AIRPORT LEASE (con't.)

Default

If the lessee shall default in the performance of his covenant to pay rent, the lessor shall have a lien upon the personal property of the lessee located upon the said premises for unpaid rent and the lessor may enter the premises and take possession of the said personal property and sell the same at public or private sale with or without notice to the lessee and to apply the proceeds of the said sale upon the unpaid rent. Time is the essence of this agreement and should the lessee fail to pay rent as herein reserved for a period of fifteen (15) days or shall then become in default in the performance of any of the covenants and agreements to be kept and performed by him and should said default continue for a period of fifteen (15) days, then the lessor shall have the right to declare this lease terminated and may thereupon re-enter and take possession of the said premises, provided, however, that this remedy of the lessor is not exclusive but is, in addition to other or different remedies that the lessor may have or equity.

Insurance

In case the occupancy by the lessee shall result in an increase in insurance rates for the airport hangar building, then it is understood that the lessee shall reimburse the lessor for such increase cost of insurance.

The lessee shall save the lessor harmless on account of his operations from any liability that might arise from personal injury or property damage and the lessee will insure against such liability and include the lessor's liability for such policy of insurance and the policy shall be in an amount satisfactory to the lessor and a copy of the policy or certificate thereof shall be delivered to the lessor.

Termination

Should public necessity and convenience require the full and complete use of the said airport premises by the lessor, then upon thrity (30) days notice the lessee shall surrender this lease and all the rights hereunder and vacate said premises unto the lessor.

The lessee may terminate this agreement by giving ninety (90) days notice to the lessor.

Interpretation

This lease shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, assigns and successors of each of the parties subject to the restriction of assignments and sub-letting by the lessee as hereinabove provided.

Waiver

No waiver of a breach of any covenant, term or condition of this agreement shall be a waiver of any other or subsequent breach of the same or any covenant, term or condition as a waiver of a covenant, term or condition itself.

IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ day of March, 1953.

CITY OF ALBANY

Mayor

City Manager

Lessee

ATTEST

City Recorder