

Email between John Bauer (FAA) and Heber City Mayor Kelleen Potter, October 2021

From: Bauer, John (FAA) <John.Bauer@faa.gov>

Sent: Tuesday, October 19, 2021 7:39 AM

To: Kelleen Potter <kpotter@Heberut.gov>

Cc: Matt Brower <mbrower@Heberut.gov>; Mark Smedley <msmedley@Heberut.gov>; Miller, Marc C (FAA) <Marc.C.Miller@faa.gov>; Lyman, Jesse A (FAA) <Jesse.A.Lyman@faa.gov>; Sweeney, John (FAA) <John.Sweeney@faa.gov>

Subject: (EXTERNAL) RE: Heber Valley Airport, issues for clarification

Good Morning Mayor Potter,

Here are the answers to your questions regarding the Heber Valley Airport. We hope these answers provide clarity:

- When did Heber City begin receiving FAA funding for the Heber Valley Airport and, since then, how much total funding has Heber City received?

The City received its first grant in 1949 under the Federal Airport Act Program (FAAP), which was issued for \$73,515.00. An additional 33 grants have since been issued under the Airport Improvement Program (AIP), totaling \$17,825,495.77.

- For large projects at the Airport, such as conducting a Master Plan or maintaining (i.e., repaving) the runway, how much of the funding for such projects is provided by the FAA?

The standard FAA match on any AIP eligible project is 90.63% for HCR. However, in fiscal years 2020 and 2021, the FAA provided a 100% share for AIP eligible projects due to additional funding from COVID relief bills.

- For the past 10 years, what was the average amount of FAA funding that Heber City received annually to operate and maintain the Heber Valley Airport?

Since 2012 HCR has received \$5,879,019 in AIP funding. HCR receives \$150,000 of non-primary entitlement funding every year. Over the past 10 years, the average annual funding (\$534,456) has been well above the annual non-primary entitlements because the FAA provided additional State Apportionment and Discretionary funding for larger projects at the Airport such as runway rehabilitation, land acquisition, and the current master plan.

- As a result of receiving FAA funding for the Heber Valley Airport, is Heber City bound by the federal Grant Assurances?

Yes. Since HCR has used AIP funding to purchase land those grant assurances run in perpetuity.

- It has been said that the Grant Assurances only obligate Heber City to maintain the Heber Valley Airport as a B-II Airport. Is that true?

No, grant assurances make no reference to the Airport Reference Code. Grant Assurance #19 states that HCR “*shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and*

operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions.”

- Do the Grant Assurances require Heber City to have an updated Airport Layout Plan (ALP)?

Yes, Grant Assurance #29 requires you to maintain an up-to-date ALP.

- And is the City required to conduct a Master Plan to update the ALP?

No, the City is not required to conduct a Master Plan study. However, if AIP funding is used to update the ALP it can only be accomplished through a planning project. The only other time AIP funding can be used to update an ALP is to reflect an “as-built” condition from a recent construction project. In order for the AIP to fund construction projects, the proposed projects must have been shown on an approved ALP, which would have resulted from a previous planning effort.

- People who oppose any upgrade of the Heber Valley Airport have quoted the following paragraph from Chapter 8 of the 5190.6B: [Clarification that the paragraph below is from AC 150/5070-6B](#)

In some cases, the airport sponsor may decide that it is in the community’s best interest for the airport not to continue to grow to accommodate forecast activity, or to accommodate forecast activity only up to a point. In these cases, the master plan should document this decision and indicate the probable consequences of the decision (e.g., demand will be capped, the demand will go unmet, or the demand will be diverted to another airport).

They have interpreted this paragraph to allow Heber City to decide not to upgrade the Heber Valley Airport to C-II even if the Master Plan shows that the Airport should be upgraded or to limit the size and number of jets using the Heber Valley Airport. Are these people interpreting this paragraph correctly?

No.

The language quoted from the Advisory Circular is geared toward capacity improvements for unmet demand, primarily at commercial service airports. In the case of HCR, we have not identified any unmet demand or aircraft operators that are wanting to use HCR but currently cannot. Through the forecast chapter of the master plan, the current operations and future forecasted operations are unconstrained at HCR and would not see any increase in larger than C-II traffic once an ARC change is complete.

The situation at HCR is that the current facility does not meet standards for the existing fleet of users and the critical aircraft. You all have already done a great job on answering this part of the question at <https://hebervalleyflightpath.com/why-heber-city-cant-prevent-specific-planes-from-using-the-airport/>. **The paragraph referenced in the**

facility requirements chapter of the Master Plan Advisory Circular does not relieve HCR from the requirement to meet FAA Design Standards.

The current forecast does not show the need to plan or protect for aircraft larger than C-II in the future. Again the forecast was completed using unconstrained conditions so there is no reason to believe by changing the ARC to C-II that there will be an automatic increase in larger traffic. The larger than C-II business aircraft fleet is a small percentage of the overall fleet. Just like the current situation HCR cannot limit or restrict operations of the larger than C-II aircraft. However, it is under no obligation to provide facilities that would attract or encourage growth (i.e. stronger or longer runway). At this point the FAA sees no need to plan for or protect for anything larger than a C-II facility. Our position has been and continues to be the current and forecasted users of this facility are entitled to and should receive the same level of safety standards and considerations that they get at any FAA-obligated airport across the country.

- If the Master Plan shows that the Heber Valley Airport should be upgraded to a C-II airport, what would the financial consequences be if Heber City decided NOT to do the upgrade?
 - As outlined in previous correspondence with the City, if they chose not to meet standards for current aviation demand, the FAA would first limit funding to non-primary entitlements to be used for maintenance projects only. If the City failed to provide an acceptable corrective action plan, the Agency would pursue a status of non-compliance which would result in a loss of all FAA funding. Depending on when that decision is made, the FAA might also seek reimbursement for the current Master Plan grant.
- Can Heber City impose a curfew on the Heber Valley Airport so that aircraft operations, i.e., landings and take-offs, can take place during daytime only?
 - No. This would be considered an access restriction which is contrary to grant assurances.
 - If Heber City imposed such a curfew, what would the FAA do?
 - If the City failed to drop the curfew, the Agency would pursue a status of non-compliance which would result in a loss of all FAA funding.
- If the FAA finds that Heber City has violated its Grant Assurances, for example, by failing to have an updated ALP, would Heber City be responsible for the full cost of maintaining the Heber Valley Airport without help from the FAA? For how long?
 - Yes. The FAA would find the City in non-compliance which would result in a loss of all FAA funding. The FAA would not provide further funding to HCR until it has determined the City is once again meeting all its grant assurance obligations and the non-compliance status is removed.
- Would the FAA ever require Heber City to pay back the funding it has received from the FAA over the years? Under what circumstances?
 - Yes, If we do not receive a usable unit of work for an AIP funded project we require the sponsor to repay AIP funds. If the Master Plan is not completed with an ALP that is

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adopted and signed by the City and the FAA, which reflects current and forecasted need, we would seek reimbursement. The AIP portion of the Master Plan is \$540,030.

- What other economic repercussions, if any, could Heber City face if it violates its Grant Assurances?

We are not aware any other economic repercussions from a federal standpoint.

Regards,
John

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From: Kelleen Potter <kpotter@Heberut.gov>
Sent: Thursday, October 14, 2021 5:06 PM
To: Bauer, John (FAA) <John.Bauer@faa.gov>
Cc: Matt Brower <mbrower@Heberut.gov>; Mark Smedley <msmedley@Heberut.gov>
Subject: Heber Valley Airport, issues for clarification

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Re: Heber Valley Airport, Issues for Clarification

Dear John:

In recent weeks, there has been quite a bit of confusion about what Heber City's obligations and options are, as sponsor, with respect to the Heber Valley Airport, the Master Plan, and its general operation. It would be helpful if you could provide answers to the following questions as soon as your schedule allows:

- When did Heber City begin receiving FAA funding for the Heber Valley Airport and, since then, how much total funding has Heber City received?
- For large projects at the Airport, such as conducting a Master Plan or maintaining (i.e., repaving) the runway, how much of the funding for such projects is provided by the FAA?

- For the past 10 years, what was the average amount of FAA funding that Heber City received annually to operate and maintain the Heber Valley Airport?
- As a result of receiving FAA funding for the Heber Valley Airport, is Heber City bound by the federal Grant Assurances?
- It has been said that the Grant Assurances only obligate Heber City to maintain the Heber Valley Airport as a B-II Airport. Is that true?
- Do the Grant Assurances require Heber City to have an updated Airport Layout Plan (ALP)?
 - And is the City required to conduct a Master Plan to update the ALP?
- People who oppose any upgrade of the Heber Valley Airport have quoted the following paragraph from Chapter 8 of the 5190.6B:

In some cases, the airport sponsor may decide that it is in the community's best interest for the airport not to continue to grow to accommodate forecast activity, or to accommodate forecast activity only up to a point. In these cases, the master plan should document this decision and indicate the probable consequences of the decision (e.g., demand will be capped, the demand will go unmet, or the demand will be diverted to another airport).

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- If the Master Plan shows that the Heber Valley Airport should be upgraded to a C-II airport, what would the financial consequences be if Heber City decided NOT to do the upgrade?
- Can Heber City impose a curfew on the Heber Valley Airport so that aircraft operations, i.e., landings and take-offs, can take place during daytime only?
 - If Heber City imposed such a curfew, what would the FAA do?
- If the FAA finds that Heber City has violated its Grant Assurances, for example, by failing to have an updated ALP, would Heber City be responsible for the full cost of maintaining the Heber Valley Airport without help from the FAA? For how long?

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- Would the FAA ever require Heber City to pay back the funding it has received from the FAA over the years? Under what circumstances?
- What other economic repercussions, if any, could Heber City face if it violates its Grant Assurances?

Your prompt reply to these questions would be appreciated. Thank you in advance for your assistance.

Regards,

Kelleen Potter
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