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# **General Aviation Leasing Policy**

## **Board Adopted June 23, 2020**

### **Revised May 14, 2024**

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City of Rapid City

*Rapid City Regional Airport*



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## General Aviation Leasing Policy

### LEASING POLICY

This Policy provides a framework governing leasing and rental decisions as they relate to development of general aviation and new leasing agreements.

### DEFINITIONS

The words or phrases defined (and identified by use of a capital letter) in the Airport's Primary Guiding Documents (including, but not limited to, General Provisions, General Aviation Leasing/Rents and Fees Policy, General Aviation Minimum Standards, and Rules and Regulations), whenever used in this Agreement, shall be construed as defined therein unless (from the context) a different meaning is intended or unless a different meaning is specifically defined and more particularly ascribed to the use of such words or phrases.

### GENERAL

#### *Description*

The Rapid City Regional Airport Board ("Board"), as Operator of Rapid City Regional Airport ("Airport") does hereby establish the following Leasing Policy for the Airport:

- The Leasing Policy is intended to provide potential and current Tenants an understanding of the policies, processes, and rates used by the Board when leasing property at the Airport.
- The Leasing Policy was developed taking into consideration: the role and continued development of the Airport; the range, level, and quality of aeronautical products, services, and facilities currently being provided at the Airport; the future prospects for, and the anticipated development of, the Airport and the community, and; the promotion of fair competition at the Airport.

The policy sets forth the parameters for leasing Airport buildings and/or land and has been established for the following purposes:

- To foster a spirit of partnership with its Tenants, while fulfilling duties as steward of vital public assets and resources;
- To make Airport property available on fair and reasonable terms without unjust discrimination;
- To retain effective management controls over the use of scarce Airport assets, ensure land is developed at its highest and best use, and seek to remove obstacles to such controls when opportunities arise;
- To maintain a rent and fee structure with the goal of financial self-sustainability per the FAA Grant Assurances and Rates and Charges Policy;
- To ensure that leased parcels are actually developed for use and not leased for anticompetitive reasons to prevent development;
- To ensure that available capacity neither materially exceeds, nor materially falls short of the reasonable needs of the community served by the Airport;



- To ensure compliance with applicable laws, regulations, policies, executives orders, guidelines, and requirements.

### ***Administration and Policy Oversight***

While the Board has the ultimate policy-making authority in this regard, the Airport's Executive Director or his/her designee shall interpret and enforce this Leasing Policy.

This Leasing Policy is not intended to, and does not, waive, modify or in any way limit or preclude the exercise of any rights the Board may have under existing law and/or Agreements, and all such rights are and shall be expressly reserved.

### ***Variances and Deviations***

The Board reserves the right to authorize variances or deviations from this Leasing Policy. Such variances or deviations may include waiving or modifying certain criteria or requiring Tenants or Operators to meet additional criteria. All requests for variances or deviations shall be made in writing in a form described by the Board.

### ***Lease Agreement***

The Board requires all Persons to obtain an Agreement, in a form approved by the Board, prior to engaging in any business, commercial and/or private development activity on the Airport. All commercial activities must be authorized by the Board pursuant to an approved Operator Permit.

Additionally, to ensure the Airport's financial sustainability, it is also the Board's policy to establish market value land and facility rental rates and make amendments to the rates at periodic intervals, in order to assure the Airport rental rates reflect inflation or other market driven changes.

All Agreements shall be prepared by the Board's staff and legal counsel and shall include customary provisions included in the Board's other similar Agreements.

### ***Fees and Rents***

The fees and rents (see Exhibit A) hereinafter set forth shall be used in developing new written Agreements (see Exhibit B) and shall also apply, to the extent possible, to all Tenants and users of Airport facilities, subject to periodic adjustment under existing leases and other Agreements.

### ***Maintenance and Improvements***

Tenants are required to maintain their lease improvements at all times over the course of the lease agreement. Major improvements may be conducted to the hangar and in an effort to assist in capitalizing on those improvements, the Tenant may negotiate a lease term extension. The Airport Board may grant the lease term extension if they deem it appropriate.



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## OPTIONS FOR LEASE EXTENSIONS FROM EXISTING IMPROVEMENTS

Upon the expiration of the Original Term and any granted extensions, unless sooner terminated in accordance with the Agreement, the Board and tenant have the following options, unless otherwise indicated within the existing Agreement:

1. **Tenant's Option to Allow Agreement to Expire.** Tenant has the option to allow the Agreement to expire and not seek renewal or extension.
  - 1.1 In such event, and in accordance with the terms of the Agreement, the Tenant shall remove the Improvements owned by the Tenant and return the affected portion(s) of the Leased Premises to its original condition and character, ordinary and reasonable wear and tear accepted.
  - 1.2 If agreed to by Board, in lieu of removal, Tenant may transfer the ownership (or title) of the Improvements (specifically designated by the Board) to the Board at no cost to the Board.
  - 1.3 Nothing herein shall be understood to preclude Lessee from requesting a new lease from the Board for the Premises upon the expiration of the Term, so long as Lessee is not in default or breach of the Agreement. Any future lease agreement with Lessee is at the sole discretion of the Lessor.
  
2. **Board's Option to Allow Agreement to Expire.** The Board may, at its discretion, decide to allow the Agreement to expire without renewal, extension or issuance of a new Agreement. The following are factors the Board will utilize to determine whether to allow the Agreement to expire:
  - a. Whether the parcel has been re-designated for a different use on the Airport Layout Plan or Airport Master Plan.
  - b. Whether the City or Board otherwise has identified a higher and better use for the parcel in an approved City or Board planning document.
  - c. The Tenant's compliance with the terms and conditions of the Agreement.
  - d. The condition of the Improvements, including whether Tenant has adequately maintained and repaired the Improvements as required by the Agreement.
  - e. If the leasehold is being used for a Commercial Activity, whether the Board plans to initiate a competitive solicitation for an Operator.
  - f. Other factors the Board may consider relevant.
  
3. **Board's Option to Issue New Agreement to Tenant.** Tenant may request a new Agreement for the same leasehold, which the Board may grant provided the Board has not elected to allow the Agreement to expire in accordance with the preceding subsection. The Board typically will require that, rather than extend the existing Agreement, the parties will execute a new Agreement, based on the then-current standard form. The term of the new Agreement shall be determined by the Board, considering such factors as planned investment by the Tenant to repair, renovate or expand the Improvements. Absent special circumstances, the term of any new Agreement with the same Tenant for the same leasehold will not exceed ten (10) years. The new Agreement shall be at the then-prevailing ground lease rates and other then-prevailing rates and charges prescribed by the Board.



4. **Holdover.** Board may elect to continue the lease with the Tenant on a month-to-month basis (where holdover provisions allow).

## **REQUIREMENTS FOR NEW DEVELOPMENT**

The term (length) of a new Agreement for new development shall be established considering the amount of Tenant investment in physical/fixed improvements on the Airport. In accordance with South Dakota law and FAA policy, in no event shall an Agreement have a term, including renewals and extensions, that is longer than fifty (50) years.

### ***Leasehold Development with Apron Access***

Due to the cost and limited availability of aircraft parking aprons at RAP, the goal of the Airport is to provide access to a publicly funded apron frontage to only those businesses that require the use of an apron and that provide aeronautical services to the public.

All leaseholds located along publicly-funded aircraft parking aprons shall be subject to additional review. Any new lease with public apron access or projected to have public apron access will be required to demonstrate both the need for the publicly-available apron and the aeronautical services they will provide for the public. A determination shall be made by the Board that apron access is absolutely necessary and that no other options are available for construction. Tenants requesting additional apron space for construction will be required to prove to the Board why construction off apron is not an option.

The associated Lease shall define the use and shall include a termination clause, for cause, in the event Tenant changes the use to something that no longer requires apron access.

At no time will Tenants be allowed to reserve apron space for future development.

All buildings constructed along aprons shall be fifty (50') feet back from the publicly funded apron and that setback space shall be part of the leasehold, subject to additional restrictions, and maintained by the Tenant. New connections from the structure to the aircraft parking apron may be funded by the Airport, and the Improvements shall be special assessed back to the Tenant over a twenty (20) year period.

## **REQUIREMENTS FOR ALL LEASES**

The following requirements are applicable to all General Aviation Lease Agreements.

### ***Tenant Responsibilities***

All new Agreements shall require the Tenant to be responsible for insurance, taxes, janitorial, landscaping, lawn maintenance, parking lot upkeep, snow removal, and all other maintenance, trash removal, and utility costs.

### ***Rental Rates***

All rental rates established in Airport Agreements shall be Market Value as determined by Airport staff or a professional appraisal. All appropriate factors, including comparable terms of



other similar facilities on the Airport and/or other similar facilities at other comparable Airports in the region, shall be taken into account in establishing Market Value.

### ***Rent Adjustments***

All rents shall be adjusted to Market Value rent every five (5) years throughout the Original Term of all Agreements and any Renewal Terms. In the intervening years, rent shall be annually adjusted based on the percentage change in the Consumer Price Index (CPI) (see Exhibit C).

### ***Sublease and Assignments***

Certain approved Commercial Aeronautical Operators may sublease any portion of their leased space, but only with the prior written consent of the Board through a Board approved Operator Permit. Tenants may not assign their Agreements, whether by operation of law or otherwise, without the prior written consent of the Board. Any such sale, assignment, or transfer without Lessor's prior express written consent shall be null and void and, at Lessor's option, shall constitute a default or breach of their Agreement.

### ***Leasehold Mortgages***

Tenants may not grant leasehold mortgages without prior written approval of the Board, and approval may be granted, conditioned, delayed, or denied at the Board's discretion. If the Board consents, the leasehold mortgage may secure only the indebtedness which is invested in improvements to the leasehold and may not burden the real property.

### ***Development, Improvements, Construction and Alterations***

Tenant shall not make any Improvements (including any changes or modifications, additions, or deletions) to the Leased Premises without the prior express written consent of the Board.

Tenants will be required to comply with Development Guidelines, including guidelines regarding signage, and to obtain all required development and construction permits and approvals, including those of the Board as described in the Agreement.

All Tenant-constructed alterations, improvements and/or deletions, including but not limited to, offices, hangars, access roads, access taxiways, vehicle parking areas and Aircraft parking areas, shall be in accordance with Development Guidelines established by the Board and in accordance with applicable federal, state and local codes, ordinances, laws, rules and regulations. Tenant shall not be permitted to proceed with any construction or remodeling on the premises leased/assigned without first obtaining advance written approval of plans and specifications for such work from all applicable agencies, including the Airport's Executive Director.

1. Notice of Proposed Construction Alteration Form. Prior to making any Improvements, the Tenant shall submit to the Board for its review and approval detailed plans, designs, and specifications, including cost estimates, a project schedule, and a list of the contractors selected by Tenant to make the approved Improvements. If applicable, the



Tenant shall complete and include Federal Aviation Administration 7460-1 Notice of Proposed Construction Alterations form.

2. Regulatory Compliance. The approved Improvements shall comply with applicable Regulatory Measures including, but not limited to, CFR Title 14 Part 77 Safe, Efficient Use, and Preservation of the Navigable Airspace. The Tenant shall procure all building, fire, safety, and other permits necessary in connection with the approved Improvements from federal, state, and local agencies having jurisdiction.
3. Leasehold Development Requirements. Within 30 days after notification by the Board of its approval, the Tenant shall commence work on the approved Improvements to the Leased Premises in accordance with the conditions of the Board's approval. The Tenant shall be fully liable to the Board for any damage resulting from the work on or associated with the approved Improvements. All deliveries of materials and supplies shall be made through the access points and via routes designated by the Board. In the event the Tenant does not commence work on the Improvements within the allotted time or does not complete improvements within a six (6) month period, the Board may elect to revoke approval and the Leasehold and associated improvements will revert to the Board.
4. Liens for Improvement Cost and Expenses. All work completed shall be at the Tenant's sole cost and expense, free and clear of liens for labor and material, and the Tenant shall indemnify the Board, as required by the General Aviation Minimum Standards.
5. Performance Bond. The Tenant shall furnish its Performance Bond in the form acceptable to the Board in the amount of 100% of its total construction costs to guarantee completion of the Improvements.
6. Claims. The Tenant shall pay all claims lawfully made against it by its contractors, subcontractors, material men, and workmen, and all claims lawfully made against it by other third persons arising out of or in connection with the performance of any work on or associated with the approved Improvements, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them. The Tenant shall also pay all liens held by subcontractors and provide Airport with proof of payment of excise tax.

### ***No Unauthorized Use***

All Commercial uses and certain Non-Commercial uses of Airport properties shall be permitted only pursuant to an Agreement in accordance with this Policy, consistent with applicable rents, charges, or revenue formulas established by the Board.

Tenants may not use their facilities for Commercial Activities unless pursuant to an Operator Permit with the Board.

### ***Prohibited Activities***

Airport land or improvements shall not be occupied or used for any activity that, in the sole discretion of the Executive Director, is contrary to the safe and efficient operation of the Airport including any activity that jeopardizes the safety of the public, Aircraft, or property located at the Airport.



“Through-the-Fence” activities are prohibited.

## **REQUIREMENTS FOR AIRPORT OWNED STRUCTURES**

The following requirements are applicable to Airport owned structures that are leased.

### ***New Agreements***

All new Agreements for hangars, buildings, or other facilities owned by the Board shall require the Board to be responsible for insurance, janitorial, landscaping, lawn maintenance, parking lot upkeep, snow removal, and all other maintenance, and utility costs.

### ***Rental Rates***

All rental rates established in Airport Agreements shall be Market Value as determined by Airport staff or a professional appraisal. All appropriate factors, including comparable terms of other similar facilities on the Airport and/or other similar facilities at other comparable Airports in the region, shall be taken into account in establishing Market Value.

### ***Rent Adjustments***

Rent may be adjusted by the Board periodically under consideration of current market rates, Consumer Price Index (CPI), and current Airport rates and charges.

### ***Sublease and Assignments***

Tenants may not sublease or assign an Agreement.

### ***Commercial Activities***

Tenants may not use their facilities for Commercial Activities unless pursuant to an Operator Permit with the Board.



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***EXHIBIT A – Rates and Charges Sheet***

***EXHIBIT B – Sample Lease Agreement***



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***EXHIBIT B – Standard NonCommercial Lease Agreement***



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## EXHIBIT C – Rent Adjustment Example

Annual Rent for the first year of the Original Term of this Agreement is:

\_\_\_\_\_ sq ft @ .30 = \_\_\_\_\_

Base Rent: \_\_\_\_\_

Example of CPI Adjustment:

CPI for Current Period	136.0
Less CPI for Previous Period	129.9
Equals Index Points Change	6.1
Divided by Previous Period CPI	129.9
Equals	.047
Results Multiplied by 100	.047 x 100
Equals Percent Change	4.7%
Next Year Rent =	Base Rent (.30/sq ft) X Percent Change in CPI-U Index (4.7%)