

# Durango-La Plata County Airport

## Airport Leasing Policy



**March 3, 2021**

(Supersedes all prior Leasing Policies)

## **SECTION 1 – INTRODUCTION**

### **AUTHORITY**

The Durango-La Plata County Airport is co-owned by the City of Durango and La Plata County, with the City of Durango assuming all operational and administrative functions of the Airport. The Durango-La Plata County Airport Leasing Policy is promulgated under the authority of state law granted to airports which grant the Durango-La Plata County Airport (Airport or DRO) through the City of Durango, La Plata County and the Director of Aviation (Director) the power to regulate the use of the Durango-La Plata County Airport. The Leasing Policy cancels and supersedes all previous leasing policies governing use of the Airport.

The primary goal for establishing procedures for airport property leasing at the Durango-La Plata County Airport is to ensure that leasing activities are consistent with Local, State, and Federal requirements including, but not limited to, the policies and rules of the Airport, Federal Aviation Administration (FAA), Colorado Department of Transportation, and formal procedures adopted by the Airport. These leasing procedures should be followed, whenever possible; however, the Airport shall have the authority to change, update and/or waive any provisions that do not directly benefit the Airport, as long as such changes are not inconsistent with the requirements of the Airport’s regulatory agencies.

### **PURPOSE**

These leasing procedures incorporate aviation industry best practices, ensure compliance with governing entities, and establish a comprehensive leasing procedure that governs the Airport’s approach to property leasing. As an Airport receiving federal Airport Improvement Program (AIP) grant funding, DRO is required to adhere to certain federal obligations in the conveyance of federal property for aviation purposes. Once the Airport receives federal funds to develop or improve the Airport, it is considered a federally “Obligated Airport”, which means the Airport is required to adhere to certain Airport Sponsor Grant Assurances. The intent of these obligations is to ensure that the public interest in civil aviation is adequately served. Further, airports are obligated to seek recovery of the capital and operating costs of providing a public use airfield and must maintain a fee and rental structure that makes the Airport as financially self-sustaining as possible under its particular circumstances. The Leasing Procedures described herein shall be applied to individual Airport Tenants in a uniform manner to the greatest extent possible to ensure the equitable treatment of Airport users. The Leasing Procedures shall apply to all Aeronautical and Non-Aeronautical Agreements after the Effective Date of these Leasing Procedures.

### **CONTROLLING DOCUMENTS**

Agreements entered into on behalf of the Airport must be consistent with, but not limited to, compliance with the FAA’s Code of Federal Regulations, Airport Grant Assurances, Airport Master Plan, Airport Layout Plan (ALP), Airport Rules and Regulations, Minimum Standards for Commercial Activities (Minimum Standards), FAA Revenue Use Policy, Disadvantaged Business Enterprise (“DBE”) plan, Airport Leasing Policy, City of Durango Charter and the City Code, and the Airport’s Schedule of Rates and Charges, as these exist or as may be amended in the future, and as fully incorporated herein by reference.

## GOALS

These procedures are established to:

1. Maximize Airport revenue to ensure the Airport's self-sustainability
2. Ensure federal obligations are met in the conveyance of Airport property
3. Ensure Airport policies and procedures are met in the conveyance of Airport property
4. Protect DRO from uses that are detrimental to its operation, development, and future needs.
5. Follow standard procedures for responding to entities expressing interest in Airport business
6. Ensure equitable treatment of current and future Tenants and users of the Airport
7. Attract private investment and development of Airport facilities and land
8. Mitigate Airport's exposure to risk
9. Minimize Airport financial obligations for maintaining facilities and properties

## **SECTION 2 – AGREEMENT TYPES AND GENERAL GUIDELINES**

### GENERAL GUIDELINES

The following guidelines shall be used when the Director or Designee negotiates agreements. This policy is not all-inclusive and, where exclusions exist, application of professional airport leasing practices shall be applied on a case-by-case basis.

Airport property is generally leased on a first come, first served basis, unless specifically exempted in the Lease Application Process. If multiple parties are interested in leasing an available parcel of Airport property, Airport staff shall seek competitive proposals via public advertisement on the Airport website and/or a newspaper of general circulation after establishing a starting rent using an appraisal process or market analysis to set market value. If competitive proposals are solicited, Airport staff, with the assistance of the City Procurement Division, will abide by Procurement Policies, as amended, and this policy, and will make the final selection based on published criteria.

The Airport strives to ensure nondiscrimination on the basis of race, color, sex, sexual orientation or national origin in the award and administration of all contracts and leases, and to create a level playing field on which small businesses, including Disadvantaged Business Enterprises (DBE), can compete fairly for leases, construction, procurement, and professional service contracts.

Unless specifically exempted, all persons or businesses seeking to become tenants at the Airport must first submit a fully completed written application to the Director or Designee, together with any additional information which may be requested by the Director or Designee, City Management, or City Attorney.

Lease requests will be reviewed and evaluated according to the stipulations outlined in this Policy, and in terms of whether the proposed use conforms to each of the following overarching goals:

1. The use is shown to be appropriate and consistent with the ALP, Master Plan, and other relevant land use planning documents that pertain to the Airport.
2. The use does not constitute a violation of any Airport Grant Assurances which have been incorporated within a Grant Agreement entered by the Airport.

3. The use complies with all requirements and provisions contained in the adopted policies, procedures and standards of the Airport.

The information contained in the lease request should provide sufficient detail to enable the Airport to adequately determine a potential tenant's financial standing, their ability to undertake construction in a timely manner (if the tenant is going to build on a vacant parcel), their ability and experience to provide the services to the general aviation public or commercial aviation industry (if the tenant is an aviation-related business), which are described in the proposal, and the amount of investment in and the overall appearance of the facilities that are to be constructed or leased by the tenant.

#### MAINTENANCE: GOOD CONDITION & REPAIR

Tenants are required to maintain property and facilities in good condition and repair, normal wear and tear excepted. Particular attention is focused on major cost issues such as foundations, structural components of buildings, roofs, wall systems, hangar doors, electrical systems, etc. Sheet metal roofs and walls must be maintained free from leaks and significant damage, and must be painted, as necessary, to prevent and retard rusting, and to enhance appearance. Painting, carpeting and other similar items are typical of maintenance and lease expenses expected of/by new tenants. Good maintenance is an annual, on-going obligation. Any level of clutter, junky or unkempt appearance will not be tolerated.

Annual Inspections of all hangars and leased premises may be required to ensure:

- a. Compliance with the terms of the Lease Agreement.
- b. Hangar structural deficiencies are identified and being corrected.
- c. Routine maintenance of hangars is being completed.

#### AGREEMENT TYPES

Airport Use and Lease Agreements are agreements between the Airport and a Lessee for Airport property and/or facilities. The Lease and Use Agreement articulates the general terms and conditions, the space occupied, rates and charges, and Aeronautical and/or Non-aeronautical activities authorized.

Approval Process for Airport Use and Lease Agreements:

1. If an interest has been expressed by more than one party to lease a particular parcel of land and/or facilities or to offer a particular service, the Airport shall develop a competitive solicitation in accordance with the Airport's procurement process.
2. If interest has not been expressed by more than one party to lease a particular parcel of land and/or facilities or to offer a particular type of aeronautical service, Airport Use and Lease Agreements may be directly negotiated between the Airport and the business entity seeking to lease property and/or facilities from the Airport.

#### AERONAUTICAL AND NON-AERONAUTICAL AGREEMENTS

Aeronautical Agreements are contracts that contain terms and conditions for Aeronautical Activity providers that involve or are directly related to the operation of aircraft, including activities that make the operation of aircraft possible and safe. Non-Aeronautical Agreements are contracts that do not involve or are not directly related to the operation of aircraft. The first step in considering any lease

proposal is to review the ALP to determine if the prospective premises is designated for Aeronautical or Non-Aeronautical use. It is important to ensure all agreements are consistent with the ALP designation and that there is no conflict with future Airport plans.

#### AERONAUTICAL USE

The FAA, by way of its Airport Sponsor Grant Assurances (Grant Assurances), requires all airports developed with federal grant assistance funding, such as DRO, to operate for the use and benefit of the public and for the Airport to be made available to all types, kinds, and classes of Aeronautical Activity on fair and reasonable terms and without unjust discrimination. In addition, these Grant Assurances require an Airport to maintain a fee and rental structure for the facilities and services at the Airport which will make the airport as self-sustaining as possible under the circumstances existing at the Airport and to avoid unjust economic discrimination within classes of users, taking into account such factors as the volume of traffic and economy of collection. The Airport may not grant a special privilege or a monopoly to anyone providing aeronautical services on the Airport or engaging in an Aeronautical Use. The intent of this restriction is to promote Aeronautical Activity and protect fair competition at federally Obligated Airports.

#### REVIEW PROCESS

The FAA Airport's District Office (ADO) may review aeronautical agreements, advise the Airport of its federal obligations and ensure that lease terms do not violate the Airport's federal obligations. However, the FAA does not review all leases, and there is no requirement for the Airport to obtain FAA approval before entering into an aeronautical lease. The type of document or written instrument used to grant airport privileges is the sole responsibility of the Airport; therefore, the Airport policies and procedures for contract administration will be followed.

The FAA does not approve aeronautical leases and will only indicate whether or not it has an objection to a particular lease agreement. It is the Airport's sole responsibility to ensure that it has not entered into an agreement that would relinquish its capability to control the Airport and prevent the Airport from realizing the full benefits for which it was developed. Further, the FAA does not consider the self-sustaining assurance to require airports to charge Fair Market Value (FMV) rates to Aeronautical Users.

#### AERONAUTICAL AGREEMENT TYPES

Aeronautical Agreements include full service Fixed Base Operators (FBO's), Specialized Aeronautical Service Operators (SASO's), Aircraft Hangar leases, and any other commercial or non-commercial activities that require the use of the airfield. These Aeronautical Activities are authorized via agreements between the Airport and the Operator through two primary types of agreements: Airport Use and Lease Agreements and Airport Use Agreements.

#### NON-AERONAUTICAL AGREEMENTS

Any individual, partnership, firm, or corporation desiring to initiate any Non-Aeronautical Activity at the Airport must submit a proposal that identifies the scope of services and/or activities to be provided to the public. Non-Aeronautical Uses of Airport property will only be considered when there is not an immediate Aeronautical need for the property and/or facilities to be occupied and only if prior concurrence by the ADO is received.

#### NON-AERONAUTICAL REVENUE

Maximizing Non-Aeronautical revenue benefits both the Airport and its Signatory Airlines by decreasing the Airport's reliance on airline rates and charges and by strengthening the Airport's ability to attract new air service and passengers. Non-Aeronautical uses of Airport property include Non-Aeronautical businesses such as solar farms, warehouses, distribution centers, light industry, and other non-aviation related businesses. Although the Airport may have undeveloped property that may be considered for Non-Aeronautical use, care must be taken to ensure that such developments would not interfere with the long-term aeronautical needs of the Airport.

#### NON-AERONAUTICAL USE

The Airport must receive a benefit for the use of its Non-Aeronautical property and the value of that benefit must be equal to or more than the FMV for similar, off-Airport property. Most importantly, Non-Aeronautical Use must not interfere with the aviation use of the Airport and must not jeopardize future Airport development or create or contribute to a flight hazard. For all Non-Aeronautical Uses of Airport property, Airport resources should not be used to support Non-Aeronautical activities, unless there is a means for the Airport to recover such costs. Further, the Airport should not provide any support services such as lawn care, irrigation, leasehold improvements, maintenance, trash removal, etc. to support Non-Aeronautical Uses of the Airport, unless payment terms have been established.

#### REVIEW PROCESS

The ADO must review and concur with all Non-Aeronautical Agreements, advising the Airport of its federal obligations and ensuring that lease terms do not violate an Airport's federal obligations. It is the Airport's sole responsibility to ensure that it has not entered into an agreement that would relinquish its capability to control the Airport and prevent the Airport from realizing the full benefits for which it was developed. The Airport must demonstrate to the ADO that all Aeronautical Uses have been accommodated and that any future Aeronautical Users can be reasonably accommodated prior to entering into a Non-Aeronautical agreement. Further, property and facilities being leased must be designated as Non-Aeronautical on the Airport's ALP. Non-Aeronautical Agreements must be interim-use, temporary, and short-term agreements that require the leasehold to revert back to the Airport in the event that it is needed for aeronautical development, as the Airport is obligated to ensure that its facilities, first and foremost, adequately serve the public's interest in Aviation.

### **SECTION 3 – AGREEMENT TERM DURATION**

In general, the duration for land leases is much longer than that for facility leases. On average, land leases run 25-40 years vs. 3-5 years for facility leases. This allows Tenants making Capital Investments at the Airport to amortize their investments and make a reasonable profit in the case of commercial operators. The FAA considers leases that exceed fifty (50) years to be a disposal of property in that the lease will likely exceed the useful life of the structures constructed on the property.

Equitable Terms will be determined on a case by case basis; however, generally acceptable Terms for specified levels of investment in Airport aeronautical facilities and infrastructure follow:

#### **Suggested Investment Levels Per Aeronautical Facility for Land Lease Terms**

<b>Capital Investment Level</b>	<b>Recommended Lease Term</b>
\$0.00-\$300,000	5-30 years
\$300,001-\$500,000	30 years w/ one 5-year option
\$500,001-\$800,000	30 years w/ two 5-year options
\$800,001-\$1,500,000	35 years w/ one 5-year option
\$1,500,001-\$3,500,000	40 years
Over \$3,500,000	Negotiable

\*Amounts based on construction costs of \$100 per square foot for new hangar construction

#### **Exceptions to Standard Term**

It is the Airport's position that if a desirable prospective Tenant cannot secure funding for their proposed improvements, based upon the Airport's recommended length of Term, that consideration will be given for a longer term as long as it is not substantially different from Terms that have been offered to other similarly situated Tenants, operating similar businesses at similar investment costs.

On a case by case basis, the Airport may consider a longer term to support Airport property development (assuming FAA approval) and to allow for the amortization of an investment based on the following criteria:

1. Significant initial capital investment requiring longer amortization schedule.
2. Significant additional capital investment in current Leasehold Improvements.
3. Business activities provide needed services to other Airport Tenants and users.
4. Significant job creation.
5. Public infrastructure extension which will benefit other parcels (e.g., roads, water, sewer).
6. Significant contribution to public safety, public health, or preservation of property within the surrounding region.
7. Increases potential to attract other new aviation businesses.

Terms exceeding 35 years should be submitted to the FAA for review and approval; Lease Terms that exceed 50 years are generally not accepted by the FAA as per FAA Order 5190.6B, 12.3(b)(3).

## Option Periods

In addition to the standard term, when necessary, option periods may be included in a lease. In no circumstance will a standard term plus option periods result in a total leased term that exceeds 50 years. Each lease that contains an option shall make the option conditioned upon the following:

- The lease must not be in default at the time the option is exercised;
- Any improvements on the leased area must be structurally sound and capable of safe and legal occupancy for the entire term of the option period.
- Prior to exercising an option, lessee may be required to obtain an inspection by a certified structural engineer, approved in advance by the Airport, who shall determine whether the improvements are structurally sound and capable of safe and legal occupancy for the entire term of the option period.
- At least 180 days prior to expiration of the lease, lessee shall provide written request to exercise the option to the Airport. Lessee shall include in the request a statement certifying that lessee is in compliance with the provisions in this subsection.
- The lessee will continue to meet all requirements set forth in the lease and Airport rules and regulations.

The Airport may refuse to grant the option if any of the required conditions are not met, or if the Airport makes a determination that the leased premises are, or may be, required for additional Airport development or redevelopment.

The Airport maintains the right to adjust any and all rates, fees and charges at the time the option is exercised.

## End of Term

In accordance with the lease agreement, improvements constructed or installed on the leased premises by the Lessee shall remain the property of the Lessee until the expiration of the Lease, or termination, whichever is earlier. Upon expiration or termination, Lessee shall either:

1. Remove, at Lessee's sole expense, all improvements, personal property, and trade fixtures belonging to Lessee, its customers, or any third parties within thirty (30) days after termination.
2. With the Airport's written consent, abandon one or more structures or improvements on the leased premises. If the Airport does not agree to allow structures or improvements to remain, Lessee shall remove all improvements and restore the leased premises to good and satisfactory condition at Lessee's sole expense. If the Airport agrees to allow structures or improvements to remain, then such structures or improvements shall become the property of the Airport without compensation to the Lessee.
3. At the expiration of any lease, upon request of the Lessee, the Airport may offer a new lease to the existing Lessee. A new lease will only be offered if the Airport determines, in its sole discretion that a new lease is in the Airport's best interests. The length of term of any new lease will be determined at the time of the lease expiration, based primarily on the Airport's current and future development and business plans. Criteria that the Airport may use to assess whether to grant a renewal or extension include, without limitation:

- a. reasonable useable life of improvements;
- b. condition of improvements (both cosmetically & structurally, including overall condition, exterior skin, roof, pavement, interior, landscaping, drainage, structure and function) and cost to the county for continued maintenance of the leased premise (if any);
- c. future capital investment (if any) by lessee to improve the leasehold and extend the useable life or condition of the improvements;
- d. remaining functionality of improvements for its applicable use;
- e. history of compliance with Airport Minimum Standards and Rules and Regulations during the existing term of the lease; documented failure to comply with rules may be grounds for denial of a renewal or lease extension;
- f. compatibility with long-term airport development goals, including but not limited to, the Airport Master Plan, Airport Layout Plan, and development visions of the Airport; and
- g. conformance of proposed lease extension or renewal with this Airport Leasing Policy.

### Leasehold Development Requirements

Unless construction of improvements is commenced within one hundred eighty (180) days after execution of a new ground lease agreement, the ground lease shall become null and void; provided, the Agreement shall not terminate if Lessor has agreed, in writing, to a longer period in which to commence construction. If the Lease Agreement becomes null and void pursuant to this section, Lessee shall be required to pay all rents and other fees due to Lessor prior to the date of termination.

Lessee shall complete construction and obtain a Certificate of Occupancy for the improvements within 360 days after the commencement of construction, however, Lessee shall be allowed an additional 120 days to obtain such Certificate if construction improvements have been delayed because of any reason out of Lessee's control, including, but not limited to, labor or material shortages, weather, or acts of God. If, however, the Lessee has commenced development and is diligently pursuing completion of development, yet such development will not be completed within the time period allowed, then the Lessee may petition, in writing, Lessor for an extension of time to complete development. An extension of time to complete development is not automatic upon application, but may be granted at the sole discretion of Lessor. All permits and approvals required for construction of said improvements and/or use of the Leased Premises shall be obtained by Lessee in a timely fashion at Lessee's sole expense.

### Existing Lessees

There currently exists a variety of different lease forms, terms, and conditions. This section applies to lessees with unexpired airport ground leases executed prior to the effective date of this Policy. The purpose of this section is to offer certainty and stability to lessees who have leases that are unexpired on the effective date of this Policy, retain valued lessees, and provide fair and equitable treatment for current tenants.

Lessees with an unexpired lease may continue under that lease. The Airport is not obligated to offer, and the lessee is not required to accept, a new lease with different terms. However, a lessee may request to rescind the lessee's current lease and to enter into a new lease under the terms and conditions outlined in this Policy. The last date to request rescission shall be December 31, 2021. New leases made pursuant to a rescission are subject to the following:

- Lessees with unexpired leases with an improvement that is less than 40 years old but more than 30 years old will be offered a new lease with one 5-year term.
- Lessees with an unexpired lease with an improvement that is less than 30 years old will be offered a new lease with a term that is equal to the number of years between the actual age of the improvement and 35 years. (Example: Improvement is 23 years old. 35 years minus 23 years equals 12-year term.)
- Lessees with unexpired leases with an improvement that is 40 years old or greater will be not be offered a new lease.

All new leases shall be executed at the current published aeronautical ground lease rate adopted by the Airport and incorporated in the Airport Schedule of Rates and Charges, as may be amended from time to time.

#### **SECTION 4 – LEASE RATES**

Aeronautical ground lease rates are adopted by the Airport and incorporated in the Airport Schedule of Rates and Charges, as may be amended from time to time. All leases shall be adjusted as outlined in specific lease agreements through Consumer Price Index (CPI) changes or other mechanisms. Ground Lease rates may be adjusted by the Airport based on specific location, investment, and economic impact of the development. As a standard practice, the annual rent shall be adjusted every two years by the percentage increase in the Consumer Price Index - All Urban Consumers (CPI-U) – U.S. City Average - All Items, during the latest available preceding twenty four (24) month period.

There are two primary categories of land at DRO:

1. Aeronautical Use Property – These parcels exist in desirable locations with regard to an airport's runway and taxiway system. Airside Property has good access to the runways, location topography, location of utilities and the reduced degree of site work needed makes them suitable for construction and highly developable. These parcels allow airplanes to be expeditiously and safely taxied to and from the runway surface.

#### **RATES AND CHARGES**

For facilities that are directly and substantially related to air transportation, regardless of whether an air carrier or user is a Tenant, Sub-tenant, or Non-tenant, the Airport must impose nondiscriminatory and substantially comparable rates, fees, rentals, and charges on all air carriers and users that assume similar obligations, use similar facilities, and make similar use of the Airport. However, individual circumstances may still allow differences in rental rates among aeronautical Tenants, especially when a substantial capital investment is made that will benefit the Airport and its traveling public. Airport property identified for Aeronautical Uses may be leased without seeking competitive proposals when it is in the best interest of Airport, such as when supporting community aviation needs. This is typically only done when there is a surplus of airport land available for lease and not more than one party has expressed an interest in leasing a particular parcel of land or offering the same aeronautical services. In situations where known competition exists, the Airport solicitation process will be followed in the procurement of aeronautical Tenants.

2. Non-Aeronautical Use Property – Due to the location of this property, it is typically not suitable for aeronautical development, but its location in regard to the landside roadway system, makes this property more suitable to commercial or industrial development.

#### RATES AND CHARGES

For Tenant’s operating businesses that are not directly and substantially related to air transportation, the Airport must charge at or above Fair Market Value (FMV). FMV for Airport facilities can be determined by reference to negotiated fees charged for similar uses of the Airport or by appraisal of comparable properties. Airport property identified for Non-Aeronautical Uses may be leased without seeking competitive proposals when it is in the best interest of Airport; however, in situations where known competition exists, the Airport’s solicitation process will be followed in the procurement of Non-Aeronautical Tenants.

#### NOMINAL RATE AGREEMENTS

Market conditions may not always permit an airport to establish fees that are sufficiently high enough to recover aeronautical costs, while being sufficiently low enough to attract and retain commercial aeronautical services. In such circumstances, an airport’s decision to charge rates that are below those needed to achieve self-sustainability, in order to assure that services are provided to the public, is not inherently inconsistent with the federal obligation to make the Airport as self-sustaining as possible, given its particular circumstances. Accordingly, airports must maintain a fee and rental structure that makes it as financially self-sustaining as possible under the particular circumstances at that Airport.

Further, while FAA regulations provide guidance on how aeronautical and non-aeronautical property should ideally be used, there are a few limited exceptions to the general rule. Below are the criteria and circumstances in which Airport property may be considered for leasing at nominal amounts:

1. Property for Community Purposes: Property may be made available at less than fair market value on a limited basis provided all of the following conditions exist:

The property is not needed for Aeronautical Use,

- a. The property is not generating airport revenue and there are no near-term prospects for producing revenue;
- b. The community purpose will not impact/interfere with any Aeronautical Use of the airport;
- c. Allowing the community purpose will maintain or enhance positive community relations in support of the airport;
- d. The proposed community use of the property is consistent with the ALP; and
- e. The proposed community use is consistent with other requirements, such as certain surplus and non-surplus property federal obligations requiring the production of revenue by all airport parcels.

2. Not-for-profit Aviation Organizations: Property may be made available on a limited basis for less than FMV to Not-for-Profit Aviation Organizations for property that is not generating airport revenue, if there are no near-term prospects for producing revenue as follows:

- a. Reduced rental rates may be charged to aviation museums and aeronautical secondary and post-secondary education programs conducted by accredited education institutions to the

extent that civil aviation receives reasonable tangible or intangible benefits from such use.

b. An airport may charge reduced rental rates to Civil Air Patrol units operating aircraft at the airport.

c. The airport may offset the value of any services that police or fire fighting units provide to the airport against the applicable airport fees, as in-kind services. (Note: These units are expected to pay reasonable fees for Aeronautical Use.)

3. Transit Projects and Systems: If the Airport owns a transit system and its use is for the transportation of airport passengers, property, employees, and visitors, the airport may make its property available at less than FMV rent for public transit Terminals, right-of-ways, and related facilities without violating the Revenue Use Policy or self-sustaining requirements.

4. Military aeronautical units: The Airport may provide facilities to military units with aeronautical missions at nominal lease rates. Examples of such military units are:

- a. Air National Guard,
- b. Army National Guard,
- c. U.S. Air Force Reserve,
- d. U.S. Coast Guard, and
- e. Civil Air Patrol.

These units generally provide services that directly benefit Airport operators and safety. This exception does not apply to military units with no aeronautical mission on the Airport.

The rationale and justification for granting any nominal value lease should be clearly outlined in the lease agreement and/or documented in the lease file.

#### UTILITY COST SHARING PROGRAM

The Airport owns, operates, and maintains water and wastewater treatment systems, including all associated distribution and collection main lines. To facilitate aeronautical development, the airport has installed main utility lines throughout the majority of the airport's developed aeronautical property. Tenants are responsible for bringing water and sewer utilities from the present point of termination to the perimeter of the Leased Premises through a service line, at tenant's sole expense.

In such instances that water or sewer main lines are not reasonably accessible at a proposed aeronautical development site or are not sized or laid out in a manner that will accommodate the proposed development, the Tenant shall have the conditional option of relocating or extending airport water or sewer mains to serve the leased premises at tenant's sole expense. In such instances where the tenant can furnish proof of investment in airport water or sewer main relocation or extension per standalone new aeronautical facility of at least twice the applicable water and sewer tap fees, the Airport shall waive the associated one-time water and sewer tap fees for the impacted improvement(s) provided that the following conditions are met:

- Plans and specifications for any airport water and sewer main relocation or extension must be approved in writing by the Airport. The Airport reserves the sole right to deny any proposed alterations to airport water or sewer mains which:
  - Are not consistent with airport design standards.

- Will create an outsized burden on the water or wastewater treatment systems, as determined in the sole discretion of the airport utilities division.
- Will increase the overall length of airport distribution or collection pipe infrastructure by more than 250 feet.
- The developer/tenant shall be responsible for all design, engineering, and construction costs associated with the relocation or extension of airport water and sewer mains, and all work shall be done by qualified contractors. Upon completion of construction, the airport shall retain ownership of any relocated or extended water and sewer main lines.
- Any qualifying waiver of tap fees exceeding \$50,000 in aggregate shall be contingent upon formal approval by the Airport Advisory Commission.

Any utilization of the utility cost sharing program may be subject to additional provisions, including, but not limited to, third-party connections.

Appeals to the above utility cost sharing program shall be heard by the Airport Advisory Commission and a formal recommendation shall be provided to the Aviation Director thereafter. The Aviation Director, in consultation with the Federal Aviation Administration and legal counsel, shall make a final determination on any appeal.

Non-aeronautical development shall not be eligible for the above utility cost sharing program. Each proposed non-aeronautical development requesting airport utility relocation or extension will be addressed on an individual basis.

## **SECTION 5 – SUBLEASES**

Although the Airport prefers to directly lease most of its property and facilities, due to the size and availability within current facilities, Subleases for portions of facilities to other businesses to provide a more complete set of services is acceptable. Subleases are generally appropriate, with written approval of the Airport, if an Airport Tenant wishes to sublease space to another business or user providing or accessing complementary services. Whether a particular sublease arrangement will be approved or not largely depends on the situation and the market. Aviation businesses typically operate with very small profit margins; therefore, if space is not needed for the Tenant's own purposes, the ability to get approval for Subleases can be critical to the Operator's financial well-being. In addition, there are many small and specialized operators that could not afford the cost to develop their own facilities, but may be in the market to sublease small amounts of space from a larger Tenant. This type of sublease is generally granted as long as the business subleasing space agrees to comply with the Minimum Standards and has obtained all relevant licenses and permits.

### **SUBLEASE OF ENTIRE PREMISE**

Subleases of entire commercial aeronautical facilities or assignments of an entire commercial aeronautical facility (generally to a successor in interest such as a merger partner or someone buying the business) are generally appropriate, with written approval from the Airport, if the entire leasehold is transferred to a merger partner or someone buying the business. This allows the Airport to maintain the range of services that was previously available on the Airport and maintain its attractiveness to other Tenants. This type of Sublease is generally granted as long as the business subleasing space is financially able to do so and agrees to comply with the Minimum Standards that apply to the specific type of service to be provided and has obtained all relevant licenses and permits.

#### AIRCRAFT HANGAR SUBLEASES

Subleases of aircraft hangars for private aircraft storage are generally appropriate provided that all covenants of the Airport Ground Lease remain in full effect and that the intended use of the premises remain consistent with the Ground Lease, ALP, Airport Rules and Regulations, and FAA grant assurances. All hangar Subleases require the Airport's written approval. Such approval must be submitted in writing and shall not be unreasonably withheld.