



AIRPORT LAND LEASING POLICY

FOR

KEENE DILLANT-HOPKINS AIRPORT

CITY OF KEENE

July 1, 2021

Keene Dillant-Hopkins Airport Leasing Policy

STATEMENT

The primary goal for establishing procedures for Airport Property Leasing at the Keene Dillant-Hopkins 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, the City of Keene, the New Hampshire Department of Transportation (NHDOT) and the Federal Aviation Administration (FAA). These Leasing Procedures should be followed, whenever possible; however, the City 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

It is the intent of the Airport Leasing Policy to establish a comprehensive leasing procedure that governs the Airport's approach to property leasing by integrating aviation industry best practices while ensuring compliance with governing entities.

The Airport is considered a federally "Obligated Airport" under FAA Airport Improvement Program ("AIP") grant assurances and therefore required to follow federal obligations in the conveyance of property for aviation purposes. Federally obligated airports are also obligated maintain a fee and rental structure that makes the Airport as financially Self-sustaining as possible and are economically non-discriminatory between similar uses.

To the greatest extent possible, the Airport Leasing Policy shall be applied to all Aeronautical and Non-Aeronautical Agreements in a consistent manner to ensure the equitable treatment of all Airport users. The Airport Leasing Policy shall apply to all leases executed after the date of adoption of this document.

CONTROLLING DOCUMENTS

All leases and agreements with the Airport must be in compliance with the FAA's Code of Federal Regulations, Airport Grant Assurances, and consistent with the Airport Master Plan, Airport Layout Plan ("ALP"), the Airport Minimum Operating Standards ("Minimum Standards"), and the Airport Leasing Policy, as these exist or as may be amended from time to time.

GOALS

The Airport Leasing Policy is intended to:

1. Maximize Airport revenue to ensure the Airport's Self-sustainability.
2. Ensure the Airport meets all federal obligations in the conveyance of Airport property.
3. Ensure Airport policies and procedures are met in the conveyance of Airport property.
4. Protect the Airport from uses that are detrimental to its operation, development, and future needs.
5. Ensure equitable treatment of current and future Tenants and users of the Airport.
6. Attract private investment and development of Airport facilities and land.
7. Minimize Airport financial obligations for maintaining facilities and properties.

AERONAUTICAL AGREEMENTS

Any individual, partnership, firm, or other entity desiring to initiate any Aeronautical Activity at the Airport must demonstrate they are financially and technically capable and must submit an application, when applicable, in accordance with the Airport Minimum Standards.

The FAA Airport Sponsor Grant Assurances (“Grant Assurances”) requires all airports that have received or are receiving federal grant assistance funding to operate that airport 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. Grant Assurances also require an Airport to maintain a fee and rental structure which will make the airport as Self-sustaining as possible and to avoid unjust economic discrimination within classes of users. 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.

REVIEW PROCESS – AERONAUTICAL AGREEMENTS

The NHDOT and/or the FAA Airport’s Division Regional Office may review aeronautical agreements and advise the Airport of its federal obligations and ensure that lease terms do not violate the Airport’s federal obligations. However, the NHDOT/FAA do not review all leases, and there is no requirement for the Airport to obtain NHDOT/FAA approval before entering into aeronautical leases. The FAA does not approve aeronautical leases and will only indicate whether or not it has an objection to a particular lease agreement when requested by an Airport. It is therefore the responsibility of the Airport to ensure that agreements will not relinquish its capability to control the Airport and prevent the Airport from realizing the full benefits for which it was developed.

LEASE RATES - AERONAUTICAL AGREEMENTS (Excluding Non-Aeronautical Agreements)

Lease rates for Aeronautical Agreements are determined by appraisal, a comparison to existing airport leases, or a combination of both. At the date of the publication of this policy, a base lease rate of \$.30 per square foot has been established using the methodology described above. This base rate will be adjusted annually at a rate of +3%. At the discretion of the City Manager, Aeronautical leases may be negotiated based on development investment, benefit to airport and/or airport users, reversion clauses and other terms and conditions specified in the lease agreement.

NON-AERONAUTICAL AGREEMENTS

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 Fair Market Value (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.

REVIEW PROCESS – NON-AERONAUTICAL AGREEMENTS

The NHDOT and/or the FAA must review and concur with all Non-Aeronautical Agreements, advising the Airport of 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 impede 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 FAA 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.

LEASE RATES - NON-AERONAUTICAL AGREEMENTS

The Airport must charge at or above Fair Market Value ("FMV"). FMV for Airport land shall be determined by a recent 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 City's solicitation process will be followed in the procurement of Non-Aeronautical Tenants.

APPROVAL PROCESS – ALL AGREEMENTS

Under the authority of the City Council, the City Manager shall negotiate, approve and execute any and all documents necessary to complete all Airport Lease Agreements. Agreements will be approved as to form and content by the City Attorney or designee. The City Manager shall be the Attestor and Final Signatory of all Agreements.

TIMELINE

All efforts will be made to accelerate the Airport Lease Policy, the process of determining FMV, and lease negotiation. NHDOT and FAA review and City approval may take six months or longer to complete.

TERM DURATION

Standard land leases for Aeronautical Agreements are 20 years with renewal options negotiable. This allows Tenants making Capital Investments in the Airport, which will ultimately accrue to the Airport, time to amortize their investments and make a reasonable profit. The FAA considers extended leases (Over 40 years) to be a disposal of property in that the lease will likely exceed the useful life of the structures constructed on the property.

LAND LEASES FOR DEVELOPMENT

Land Leases for development may warrant longer lease terms than leases granted for the lease of existing facilities, assuming such Tenants make an investment in Airport land that must be amortized through an adequate length of time for the business to be viable. No lease term will extend beyond 40 years without the inclusion of mutual renewal options. It is the City's policy for a Lease for unimproved land at the Airport to include a requirement that the Tenant construct a specific type of building or facility to accommodate an approved list of services within a certain time period

depending on the forecasted needs of the Airport as well as the demand for Airport land at that time.

REVERSION OF CAPITAL IMPROVEMENTS:

Upon the termination of a Lease whereby improvements to Airport property were made by the Lessee, if no other arrangement for sale or transfer of improvements has taken place [as specified in the applicable sections herein], the Lessee shall agree that all said improvements as well as the property leased to it, shall, without compensation from the Authority, become the property of the Authority. Under no circumstances shall the party to such Lease be entitled to any payment by reason of the value of its business, franchise or improvements.

MONITORING AND COMPLIANCE

Contract monitoring and compliance are key components of lease management and administration. The Airport must ensure that its Tenants are in compliance with the terms and conditions outlined in their contracts. The Airport Director or designee is responsible for follow up and enforcement of the majority of contractual requirements outlined in the Airport's lease agreements. The Airport Director or designee is responsible for implementing, monitoring, and compliance strategies to ensure the following:

- a. The development of a lease management system;
- b. Maintenance of contract documents and correspondence;
- c. Annual and periodic Tenant site visits and Inspections;
- d. Monitoring and follow up to ensure timely action on regarding expirations, extensions and other date sensitive requirements (i.e.; Insurance renewals, performance bond renewals, capital investment requirements, construction completion requirements etc.);
- e. Minimum Annual Guarantee (MAG) Adjustments;
- f. Tenant relations and contract negotiations;
- g. Compliance with the FAA's Code of Federal Regulations, Airport Grant Assurances, Airport Master Plan, Airport Layout Plan, and Airport Minimum Operating Standards ("Minimum Standards"), Disadvantaged Business Enterprise ("DBE") plans, as exists or as may be amended from time to time.

SUMMARY

The Keene Dillant-Hopkins Airport plays a vital role in the economic viability and transportation needs of our region. Accordingly, the Airport strives to be as Self-sustaining as possible and thus, well-structured lease agreements are essential to the Airport's success. The Airport must ensure that it structures lease agreements to protect current and future interests and generate sufficient revenue to operate the Airport. To ensure self-sustainability and retain flexibility with Tenants, lease agreements may take on various forms and include differing stipulations based upon the function, location, and types of Tenants involved. Many land leases will be unique in their development and execution while others will adhere to specific standards identified in this Airport Leasing Policy. Regardless, ensuring a uniform approach and rationale to such decision-making is essential. Existing and prospective Tenants should be treated equitably, but not necessarily the same depending on individual circumstances. In such cases, the Airport must decide whether the circumstances of a particular lease arrangement are unique enough to deviate from standard terms

and contract language or whether doing so would represent a substantial deviation from its approach and/or possibly violate FAA Grant Assurances.

As such, the City Manager, in his or her sole discretion, has the right to waive any standard(s) contained herein if such action(s) benefits(s) the City and does not violate city, state, or federal policy. In all respects, these standards are subject and subordinate to federal regulations, as currently exist or as may be amended from time to time.