



**WICHITA AIRPORT
AUTHORITY**

LEASING GUIDELINES MANUAL

*Wichita Dwight D. Eisenhower National Airport
and
Colonel James Jabara Airport*

*Adopted by the Wichita Airport Advisory Board:
September 12, 2016
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SECTION I - MISSION STATEMENT AND STATEMENT OF PURPOSE

The Wichita Airport Authority (Authority) is committed to the promotion of safety and efficiency in providing high-quality airport services and facilities, and continually strives to improve the quality of customer service through innovative approaches and proven industry standards. The Authority will consistently respond to tenants, customers, users, and community needs in an equitable, efficient, and effective manner.

The Authority is committed to making the Wichita Dwight D. Eisenhower National and Colonel James Jabara Airports, the airports of choice for the region's businesses and travelers, by providing cost effective, financially-responsible, safe, friendly and enjoyable customer experiences. The Airports further support the goals of the Authority by offering services and support to the region's corporate aviation and recreational pilots. The Wichita airport system promotes economic vitality, development opportunities, and job growth for the community as one of its major economic drivers.

The Authority owns and operates the Wichita Dwight D. Eisenhower National and Colonel James Jabara Airports (Airports) in Wichita, Kansas. The Airports provide a variety of commercial and general aviation services to the public. Aeronautical Activities at the Airports collectively include commercial passenger air carrier services, air cargo, aircraft testing, flight training, air charter, corporate flights, emergency services and private aircraft operations. Non-aeronautical Activities at the Airports include a wide variety of manufacturing and services that are aviation related, and support the aviation or aeronautical industry or air transportation.

This Leasing Guidelines Manual is developed, in part, as reference and guidance for the Authority's obligatory compliance with U.S. Department of Transportation, Federal Aviation Administration, ORDER 5190.6B, FAA Airport Compliance Manual as a condition and requirement for receipt of Federal grants in aid. Compliance with this Guidelines Manual will insure the Authority's Federal obligations are met and maintained.

This Guidelines Manual should assist existing tenants and prospective new airport tenants to have full knowledge and thorough understanding of the Authority's leasing practices and procedures. These Leasing Guidelines has been evaluated, approved and adopted by the Wichita Airport Advisory Board on September 12, 2016 and revised on October 7, 2019.

The Authority operates the Airports in accordance with Federal Aviation Administration (FAA) standards by way of its Airport Sponsor Assurances, which provides that any airport developed with Federal grant assistance is required to operate for the use and benefit of the public and is to be made available to all

types, kinds, and classes of aeronautical activity on fair and reasonable terms and without unjust discrimination. As the Airports' sponsor, the Authority receives Federal airport development funding. This Leasing Guidelines Manual will guide the Authority in maintaining compliance with U.S. Department of Transportation, Federal Aviation Administration, ORDER 5190.6B, FAA Airport Compliance Manual, Airport Sponsor Assurances, and compulsory advisory circulars; and therefore, not jeopardizing the Authority's ability to obtain future Federal airport development funding, as well as to provide for the fair and equitable treatment of all tenants and users. This Guidelines Manual has further been developed to assist the Authority in competing fairly with other airports and to maintain fiscal responsibility of the Airports' assets entrusted to the Authority.

This Guidelines Manual sets forth a standardized system, to the greatest extent possible and practical given the unique circumstances of each Agreement, for the lease and/or use of Airport properties, which will be utilized for future tenants of the Airports, and to assist the Authority in maintaining compliance with FAA policies, regulations, guidance documents and advisory circulars. This Guidelines Manual will also be applicable to existing tenants of the Airports that enter extensions, supplemental agreements and/or amendments to existing Agreements, subject to the terms of those Agreements, as well as to new Agreements for leaseholds currently under an Agreement with the Authority or new facilities, improvements or developments.

The items contained within this Leasing Guidelines Manual are intended to assist the Director in negotiating successful and beneficial leasing terms with a prospective tenant. The Director may deviate from these Guidelines as necessary to ensure sound, fair, and mutually-agreeable financial and leasing terms based upon, but not limited to, the specific development, tenant investment, the Authority's investment, the business case associated with a new lease or a renewal, or for any other valid reason to facilitate a mutually-productive and financially viable lease for both the Authority and the tenant.

SECTION II - LEASING GUIDELINES

- A.** This Leasing Guidelines Manual should provide potential tenants as well as existing tenants contemplating extensions, supplemental agreements and/or amendments to existing Agreements an understanding of the policies and processes used by the Authority when leasing property, facilities or providing commercial or private operating access to the Airports. This Guidelines Manual sets forth the parameters for leasing Airport land, facilities or improvements, or accessing Airport property, and has established the following objectives:
- 1.** Maintain the public-use Airports in a safe manner to ensure that the Authority can fulfill their role as required in an emergency response system;
 - 2.** Preserve investments in the Airports and the level of service;
 - 3.** Encourage private capital investment in new construction and/or improvements and upgrades to Authority-owned facilities, assets, and infrastructure;
 - 4.** Facilitate orderly management of the Airports;
 - 5.** Ensure provisions of high-quality leasing procedures, services, and consistent quality of facilities;
 - 6.** Provide equitable and uniform treatment of all tenants and users;
 - 7.** Advance qualified aviation-related services on the Airports;
 - 8.** To assist the Authority in the well-ordered development of the Airports;
 - 9.** To ensure compliance with applicable laws, regulations, executive orders, policies, guidelines, specifically U.S. Department of Transportation, Federal Aviation Administration, ORDER 5190.6B, FAA Airport Compliance Manual.
 - 10.** Allow reasonable conformity with the spirit, intent, and overall objectives of Airport Master Plans and FAA-approved Airport Layout Plans;
 - 11.** To make the Airports available for public use on reasonable terms without undue discrimination;
 - 12.** Assist the Authority in maintaining a fees, rates and charges, and rental structure so that it may continue in the future to meet its fiduciary duties and local public trust to remain financially self-supportive and self-sustaining; and, without financial burden to the community for local tax support.
- B.** As a matter of federal law and local policy, the Airports must be as financially self-sustaining as possible, and must maintain a fee and rental structure that makes the Airports as financially self-sustaining as possible. The purpose of the federal government's self-sustaining rule is to insure the utility of the federal investment in the Airports. In accordance and compliance with this law

and policy, all revenues derived from the leasing of the Airports shall be dedicated to the on-going administration, operation, maintenance, improvement, and upgrade of the Airports.

SECTION III – APPLICATION FOR LEASE

A. Application

Each person, corporation, limited liability company, or other legal business entity desirous of becoming a tenant at the Airports must complete and submit an application for review and consideration. An application may be required for new Agreements, or existing tenants requesting extensions, supplemental agreements and/or amendments to existing Agreements, as determined by the Director. The Director reserves the right to request additional information from an applicant following receipt of an application in order to properly evaluate and vet the applicant's capabilities. Applicants for Aeronautical Activity (commercial or non-commercial) must comply with and meet the qualifications set out in the Authority's Minimum Standards for Aeronautical Activities and Services ("Minimum Standards"). An application processing fee as established by the Director may be required. Examples of application forms are included as an Attachment to this Guidelines Manual, and may be modified from time to time by the Director. Current application forms will be posted on the www.FlyWichita.com website.

Except as noted below, the Authority does not issue notices of competitive public offering through a Request For Proposals (RFP) for the development of vacant land, or for lease and occupancy of existing facilities. Properties owned by the Authority and available for lease or development opportunities are continuously identified to the public on the www.FlyWichita.com website, other collateral marketing or advertising materials, commercial real estate websites, or through the services of a real estate broker representing the Authority. Such developments or facility tenancies are typically handled through negotiated agreements on a "first come-first served" basis with qualified parties. Under this "first come-first served" practice, a prospective tenant candidate reserves their right to be first to negotiate agreement terms upon the Director receiving a completed and acceptable application from the prospective tenant. The "first right to negotiate" would terminate upon the failure to reach mutually agreeable terms between the parties. In that event, the property would then be available to others.

Exceptions to the "first come-first served" practice would be when there is simultaneous interest in a common property or aeronautical service by multiple qualified parties. In certain circumstances, the Authority may also determine that the public interest would be best served by a competitive public offering of land or facilities. A competitive selection process or RFP shall also be conducted when an additional full service Fixed Base Operator is contemplated to be added at either of the Airports.

B. Action Upon an Application

The Director will make a reasonable effort to review and act upon an application within thirty (30) days from the receipt of a complete and acceptable application. If the Director deems an application complete and acceptable, the Airport staff may enter into negotiations with the prospective tenant. If the application does not meet the Director's standards, or is incomplete, the Director may request that the applicant provide supplemental information to permit vetting of the applicant's capabilities. Final approval by the Director shall be based upon an appraisal of the application based upon a commonly acceptable business analysis. Potential reasons for denial of an application are contained in the application document. Airport staff has no legal authority to formally agree to any legally binding Agreement terms, and the governing body of the Wichita Airport Authority is the only entity legally permitted to do so. The limit of staff's authority is to make recommendations to the governing body for approval of an Agreement.

SECTION IV - GENERAL LEASE PROVISIONS

A. Ownership

The Authority maintains ownership of all land, facilities, and leasehold improvements upon the Airports at all times with the exception of certain facilities owned by federal, state, or local governments. The Authority shall not at any time sell, trade, or convey any title in land or other real property, rights of ownership, rights-of-way or easements. Certain exceptions exist strictly for conveyance of rights-of-way or easements to government agencies or public utility providers as the Authority deems appropriate in its best interest and/or that of its tenants and in accordance with FAA guidelines.

B. Initial and Option Terms

In accordance with the compulsory requirements of Kansas State Statutes and *FAA Order 5190.6B*, Lease terms in excess of fifty (50) years aggregate shall not be considered by the Authority. The Director will evaluate and consider the length of Agreement term based on a variety of factors as follows, including the “Initial” Term and the “Option” Term(s):

1. If the Term is reasonably necessary to amortize a prospective tenant’s capital investment in facilities and improvements;
2. If “Option” Term(s) will include reasonable increases or escalations in rental rates;
3. Whether a prospective tenant is seeking to obtain space in an existing building, or whether a long-term land lease is being sought for development of new or expanded facilities;
4. The prospective tenant’s proposed use of the property;
5. If the Term would not violate or be contrary to the requirements of the U.S. Department of Transportation, Federal Aviation Administration, ORDER 5190.6B, FAA Airport Compliance Manual;
6. Sound business and financial leasing practices that would not result in a financial loss, business hardship, or economic inequity to the Authority, and therefore, to the public.

Contingent upon the foregoing factors and criteria, the Director may consider any aggregate combination of “Initial” or “Option” Terms desired by the prospective tenant. Option terms are normally exercised only upon the mutual agreement of both parties.

C. Rental and Escalation Rates

The Authority has an obligation to the public trust to develop, maintain and operate the Airports in a financially self-sustaining manner under the circumstances existing at any given point in time. The Authority, through its Agreements, rates and charges policies and other means available, shall endeavor to recover its cost of providing services, facilities, improvements and infrastructure through rentals, fees or other charges. All Agreements must provide for reasonable financial and other consideration to the Authority for the rights and privileges which may be therein granted to prospective tenants and operators, including the unique opportunities for airfield access, access to considerable commercial market opportunities on and through the Airports, and aviation-related business synergies that only economically healthy and thriving airports may offer. It shall be the policy of the Authority to seek contractual terms and conditions that, while fair and nondiscriminatory, provide the most advantageous returns to the Authority, and therefore in the best public interest.

The items contained within this Leasing Guidelines Manual exist to assist the Director in negotiating commercially viable leasing terms with a prospective tenant. The Director may deviate from these Guidelines as necessary to ensure sound, fair, and mutually-agreeable financial and leasing terms based upon, but not limited to, the specific development, tenant investment, the Authority's investment, the business case associated with a new lease or a renewal, or for any other valid reason to facilitate a mutually-productive and financially feasible lease for the Authority and the tenant.

1. Land Rental Rates

The initial land rental rate and periodic escalation is valued and periodically re-evaluated by the Director based upon any of the following considerations, among other things, as appropriate:

- a.** Fair market value
- b.** Market rent analysis
- c.** Professional appraisal
- d.** Reasonable return on investment for the Authority based upon a capitalization rate of generally 8-12% of the land value

The current land rental rates for ICT and AAO will be published on the www.FlyWichita.com website annually in the Schedule of Fees and Charges section.

2. Facility Rental Rates

a. Existing Facilities. Initial facility rental rates and periodic escalation for existing facilities, other than the Passenger Terminal Building, shall be determined by the Director based upon any of the following factors, among other things, as appropriate:

- i.** Fair market value
- ii.** Market rent analysis – non-aeronautical property
- iii.** Fair and reasonable – aeronautical property
- iv.** Professional appraisal
- v.** Maintenance responsibilities
- vi.** Remodeling, refurbishment or upgrade costs and responsibilities, and responsible party for improvements

b. New Facilities. Facility rental rates for new facilities, other than the Passenger Terminal Building, shall be determined by the Director based upon the following factors:

- i.** Fair market value
- ii.** Market rent analysis – non-aeronautical property
- iii.** Fair and reasonable – aeronautical property
- iv.** Professional appraisal
- v.** Maintenance responsibilities

It is acceptable and common leasing practice that facility rental is deferred for a negotiated duration on new facility improvements if substantial private capital investment is made in improvements by the prospective tenant. Principal factors that collectively determine facility rental commencement may include amount of private capital investment; type of improvements; useful life of improvements; financing amortization; and reasonable return-on-investment.

3. Facility Upgrades and Improvements to Existing Facilities in Lieu of Facility Rent

The Authority may agree to prospective tenant capital investment in facility upgrades, improvements or expansion of existing facilities in lieu of facility rent or portion thereof for a negotiated duration. Under these circumstances, the Authority may forego facility rentals, or portion thereof, for a reasonable duration and depending on factors such as: amount of capital investment, type of improvements, useful life of improvements; financing amortization; and reasonable return-on-investment. The Authority shall only consider private investment in existing facilities in lieu of facility rent for improvements that substantially enhance, upgrade or extend useful life of facilities or major systems thereof, including but not limited to: roof replacement; major structural; heating ventilation and air conditioning system replacement; electrical or plumbing; pavements. However, with regard to existing tenants seeking a renewal or lease extension, capital investment associated with addressing deferred maintenance on items required by an existing Agreement shall not be considered.

4. Escalation Methodology

The escalation methodology is the same for land rent and facility rent. Such escalation shall be three percent (3%) per annum at ICT and one percent (1%) per annum at AAO. In addition, at every five (5) year interval during the term of the lease, the Authority maintains the right to perform an appraisal or market rent analysis on the leasehold. Depending upon the results of this appraisal/market rent analysis, the Authority maintains the right to adjust the rent to the current market level. However, in no instance shall the new rent be less than the current rent at the time of the market analysis.

D. Infrastructure Assessment

As a general policy, applicants for agreements are expected to pay a pro-rata share of the capital costs for infrastructure improvements serving their leaseholds. The Authority shall seek to recover its cost of providing infrastructure, including but not limited to, streets, utilities, airfield pavements, lighting, access control or other similar services to leased sites by charging to the benefitting tenant or tenants an "Infrastructure Assessment." Infrastructure Assessments may be assessed for new, upgraded, or expanded infrastructure, or for the previously incurred capital costs of existing infrastructure. Recovered cost will include the cost of the improvement plus applicable financing costs all recovered over a period not to exceed 15 years. Applicants for agreements should anticipate paying Infrastructure Assessments in proportion to their percentage of access to

such infrastructure as determined by the Director. Infrastructure Assessments shall be paid in addition to all other rents due the Authority.

E. Facility Condition Assessments

Commencing on the fifth anniversary of any Agreement commencement and each fifth year thereafter, the tenant shall provide the Authority with an improvement condition assessment report of the leasehold and site improvements thereon, prepared by a licensed contractor, engineer or architect, licensed to do business in the State of Kansas. This report will attest to the condition and useful life remaining of the structure(s) and systems, and a professional opinion of all repairs, replacements or refurbishments needed to maintain the state and condition of the property as required by the Agreement. Professional condition assessments shall generally focus on major structural, systems and components including but not limited to: pavements, utilities, building structures, roofs, and heating/ventilation/air conditioning (HVAC). Said assessments shall be used by the Authority as a basis for determining compliance with facility maintenance provisions in each Agreement.

F. Assignments

With the exception of intra-company assignments, delegation, re-organization, or transfer to a parent “holding” company or subsidiary, tenants shall have no right to assign, delegate, or transfer its tenancy, its Agreement, or any of its rights or duties pursuant to its Agreement without the prior written consent of the Authority.

Prior to the Director’s consideration of any assignment, the Director shall evaluate, consent, or withhold consent of such assignment to any proposed assignee based, in part, on such factors as the following: 1) historically successful operational experience; 2) capability and willingness to satisfy the requirements of the Minimum Standards for Aeronautical Activities and Services (to the extent appropriate) current at the time of assignment; 3) financial capabilities; and 4) creditworthiness and credit history of the proposed assignee. Assignment requests are subject to a \$2,500 processing fee, and shall be paid prior to the Authority’s written assignment approval

Any attempted assignment, delegation, or transfer without the Authority’s prior written consent shall be void and have no force or effect whatsoever, and at the Authority’s sole discretion, is grounds for termination of the Agreement.

G. Ownership Transfer

A tenant must retain the same ownership structure, as well as a minimum of fifty-one percent (51%) of the same ownership interests, for a minimum of three (3) years after commencement of the Initial Term, or one (1) year after the exercise of any options thereafter. If such ownership structure or ownership interest changes during these periods, the Authority shall have the right to void the existing lease agreement and negotiate a new agreement with the new or modified ownership entity at prevailing market terms for land and facilities.

H. Subleasing

1. A tenant shall not sublease, rent, or permit any persons, firms or corporations to occupy any part of a leased premises, or to provide any type of commercial or non-commercial activity, operation or services, aviation or otherwise (*not specifically approved in the tenant agreement*), on the leased premises without having first presented to the Director a proposed sublease agreement or operating permit for review, and received the prior written approval of the Director. In such cases where the Director does grant written approval, the tenant shall pay to the Authority in lump-sum payment or monthly payments over the term of the sublease, an amount equal to fifty percent (50%) of the difference between those gross rentals due to the Authority by the tenant, and the gross rentals paid to the tenant by the subtenant for the areas subleased.
2. This Section shall not have the effect of requiring Authority approval of written or verbal arrangements, agreements or contracts for transient and based aircraft tie-down, ramp parking, hangar space rental, or rental of small storage or office space to based tenants incidental to hangar storage as are customary services provided in the aircraft support industry. Furthermore, written or verbal arrangements, agreements or contracts for products or services not involving the subleasing of land or facilities shall not require Authority approval.

I. Right Of First Refusal

1. The Authority may, at its sole discretion, agree to Right of First Refusal (ROFR) provisions upon the request of prospective tenants, or existing tenants contemplating lease extensions, supplemental agreements, and/or amendments to existing Agreements.
2. A ROFR, if agreed to, shall be limited to land and/or improvements specifically defined in the Agreement, and shall only be used for property or facilities located immediately adjacent to the tenant's leasehold to enable future expansion. A ROFR shall not be granted for the purposes of attempting to hinder, block, or impair competitor expansion, or to limit competition. Upon any written notice given the Director by a third party expressing desire to lease such land and/or improvements upon property for which a ROFR has been granted to a tenant, the Director shall give written notice to the tenant holding such ROFR of the proposed business, financial, and general leasing provisions, including a development schedule for construction. That tenant shall have thirty (30) calendar days to submit a written notice-of-intent to the Director to exercise its right to lease the land and/or improvements under the same terms included in the notice to the tenant. The tenant shall then have sixty (60) calendar days after the notice-of-intent to accept and execute an Agreement for presentation to the Authority.
3. Any notice-of-intent submitted to Director by a lessee and subsequent Agreement with Authority, if any, contemplates and expects that lessee shall lease and develop land and/or improvements to like or greater scope and size, within a reasonable design and construction time-frame, and same or higher lease rates as that proposed by the third party desiring to lease such land and/or improvements. When considering any request for the granting of Right of First Refusal privileges, the Director shall evaluate the compatibility of such requests with the restrictions noted in **Section V. E. - Land Banking**.
4. The Authority deems the monetary value of ROFR privileges at ten percent (10%) of the current Land Rental Rate and escalation rate for the specific parcel included in the ROFR. The ROFR privilege fee shall be paid to the Authority on a monthly basis for the duration of the ROFR term specified in a lease agreement. When the property is added to a tenant's existing lease agreement, or if a separate lease is executed for that property, the initial Land Rental Rate shall be no less than the then-current rate and escalation rate shown in the Schedule of Fees and Charges, or will be set at the initial rental rate and escalation that was proposed by the third party, if higher.

J. Insurance Requirements

Prospective tenants should anticipate lease requirements requiring a variety of liability and all risk insurance by the tenant subject to the prospective tenant proposed operations and activities, and with the Wichita Airport Authority and City of Wichita named as additional insured. Depending upon specific construction or development plans of the tenant, builders' risk insurance, performance, and contractor payment, and construction-related bonds may be required.

K. Environmental Studies

1. For any undeveloped parcels, a Phase-I environmental assessment and potentially a Phase-II environmental assessment shall be conducted by an environmental consultant, at tenant's expense, prior to the commencement of the Agreement. The results of the study shall be provided to the Director.
2. A Phase-II environmental assessment shall be conducted by an environmental consultant, at tenant's expense, prior to the termination of the Agreement. The results of the study shall be provided to the Director.

L. Surveys

A survey shall be conducted by a Kansas professional surveyor, at the tenant's expense, to develop a tract map with a legal description and set the lease pins prior to the commencement of the Agreement, or at the discretion of the Director.

M. Property Leases

1. Once the Director has approved a lease application and the Applicant has read and acknowledged the Minimum Standards, Airport Rules and Regulations, and Leasing Guideline, the Applicant shall be provided a draft lease Agreement for review. Typically all Agreements will include, as applicable, but not be limited to the following sections:
 - Premises (Description of leasehold) (Authority retains the right to request a metes and bounds legal description)
 - Term (duration) of lease

- Lease Renewal Options
- All fees and charges associated with occupying and operating on the premises
- Payment procedures relating to all fees and charges
- Names and address of responsible parties
- Approved use of activities
- Prohibited use of activities
- Non-exclusive use of certain facilities
- Authority's and tenant's rights and privileges
- Non-interference with Airport operations
- Cooperation with Airport development
- Construction and design, construction costs, construction inspections and future alterations
- Removal and demolition
- Title to facilities, improvements and fixtures
- Liens, taxes, licenses and permits
- Utilities and maintenance requirements
- Assignment and subleasing
- Liability insurance, all risk insurance, and subrogation of insurance
- Loss of property
- Termination by the Authority and termination by the tenant
- Landscaping
- Snow Removal
- Exterior signs and advertising
- Portable storage and containers/structures
- Granting of easements
- Rules and regulations
- Minimum Standards for Aeronautical Activities
- Airport Security Program Compliance
- Encroachers, trespassers and other third party hazards
- Fire equipment and systems
- Environmental assessment and covenants
- Indemnify
- Damage or destruction
- Condemnation
- Modifications for granting FAA Funds

- Nondiscrimination
 - Compliance with FAA and other regulatory regulations of governmental agencies of jurisdictional authority
 - General Provisions
 - Force Majeure
 - Third Party Rights
 - Quiet enjoyment
 - Hold over
 - Surrender of possession and restoration
 - Intention of parties
 - Audits
2. All Entities, prior to the commencement of activities or operations on the Airport, or construction of leasehold improvements, shall enter into an Agreement with the Authority setting forth the terms and conditions under which the Entity shall occupy and use Airport property. Agreements entered into by the Authority are designed to protect the public interest and may contain more restrictive clauses than private sector agreements, shall be in a form approved by the Authority's legal counsel, and shall at a minimum, conform to local, regional, state, and federal standards of tenant responsibility and liability.
3. Agreement language is updated from time to time to reflect changes in FAA regulations and real estate law as well as to meet changing economic conditions and other risks associated with land ownership.

SECTION V - GENERAL LEASE NOTICES

A. Airport Special Facility Revenue Bond Financing

The Authority is authorized by K.S.A. 3-153 et. seq. to issue airport special facility revenue bonds (ASFRB) for the acquisition, construction, alteration, improvement or enlargement of any revenue producing facility located on the Airports. ASFRB are special limited obligations of the Authority payable solely from the rent (exclusive of ground rent) derived from the lease agreement with the tenant for the facility. ASFRB may be publically sold or privately placed at the tenant's discretion. Tenant pays all costs of issuance. City of Wichita Industrial Revenue Bonds may be available to finance equipment and personal property which is not owned by the Authority. The use of ASFRB financing is a requirement in order for a tenant to request the Authority to apply for sales tax exemption under K.S.A. 79-3606(d) or (e) of the Retailers' Sales Tax Act.

B. Minimum Standards and Exclusive Rights

1. The Authority owns and operates the Airports, and receives Federal airport development assistance. In conjunction with the receipt of receiving Federal grants for airport improvements, the Authority assumes contractual grant obligations including compliance with the Federal Aviation Administration (FAA) Advisory Circular 150/5190-7, Minimum Standards for Commercial Aeronautical Activities effective August, 2006. Minimum Standards are developed to provide the threshold entry requirements for those persons desiring to provide commercial aeronautical services to the public at the Airports. The Minimum Standards are established based upon the conditions at the individual Airports or class of airport, the existing and planned facilities at the Airports, and the aviation role of the Airports. A prospective commercial aeronautical operator shall agree to offer the described minimum level of services in order to obtain an Agreement to operate on the Airports. In summary, the Authority's Minimum Standards for Aeronautical Activities and Services establish the minimum requirements for the privilege of providing commercial aeronautical services. All operators are encouraged to exceed the "minimum" in terms of facilities and/or services provided to the public.
2. The FAA Policy on exclusive rights prohibits the creation or continuance of agreements at the Airports granting exclusive rights to a single commercial operator or service provider. The FAA concludes that the existence of an "exclusive right" aeronautical activity or a local monopoly at an airport restricts the public use of the airport through the absence of competitive enterprise. The Authority is prohibited from granting an exclusive

aeronautical right to a single operator with a few exceptions. However, it should be noted that a single commercial operator does not represent the granting of an “exclusive right” or monopoly to that operator.

C. Through-The-Fence

Except in unusual circumstances, and only in accordance with the requirements and guidelines promulgated under Federal Aviation Administration National Policy ORDER 5190.6B, FAA Airport Compliance Manual or as it may be amended, and only upon FAA review, the Authority will not permit adjoining landowners or businesses access to Airport property or facilities

D. Brokerage Fees

The Authority shall not pay fees to real estate brokers, recruiters or similar agents representing applicants except under the following specific circumstances:

1. If the Authority solicits and contractually engages a vendor to provide brokerage services to promote and market airport property for leasing
2. Upon a broker presenting to the Authority an interested and qualified prospective tenant and the Authority determines that it is in its best interest to pay such fees.

The Authority shall not pay brokerage fees or other representation fees to those parties who may represent existing tenants.

E. Land Banking

For the purposes of this Guidelines Manual, “Land banking” is defined as the holding of a leasehold interest without physical development of agreed upon improvements within the period of time specified within an Agreement. Land banking shall not be permitted.

F. Public Records

All Agreements shall be available for public inspection under the terms of the Kansas Open Records Act, and pursuant to the procedures of the Authority’s public records policy then in effect.

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APPENDIX - DEFINITIONS

DEFINITIONS

(As used for the purposes of this Leasing Guidelines Manual)

Aeronautical Activity - any activity or service commonly conducted at airports that involves, makes possible, facilitates, is related to, assists in, or is required for the operation of Aircraft or another Aeronautical Activity, or which contributes to or is required for the safety of such operations.

The following activities, without limitation, which are commonly conducted on airports, are considered Aeronautical Activities within this definition:

- Aerial advertising and banner towing
- Aerial applications (crop dusting, agricultural aviation, firefighting, etc.) services
- Aerial photography or survey
- Air ambulance and medical transportation by Aircraft services
- Air carrier operations
- Aircraft airframe and power-plant repair and maintenance services
- Aircraft charter and air taxi services
- Aircraft management services
- Aircraft rental services
- Aircraft sales and services
- Aircraft washing, cleaning and detailing services
- Avionics, instrument, accessory or propeller repair services
- Commercial hangar operation and rental services
- Flight or pilot training services
- Ground servicing of air carrier Aircraft and passenger services
- Into-plane fueling services for air carrier Aircraft
- Non-Commercial private hangar operation
- Private flying clubs
- Rental of Aircraft hangar, parking and tie-down space
- Sale of Aircraft parts
- Sale of aviation fuels, lubricants and petroleum products
- Sightseeing flight services
- Any other Activities which in, the sole judgment of the Director, because of their direct relationship to the operation or repair of Aircraft, can appropriately be regarded as an Aeronautical Activity

Agreement shall include any written contract, executed by both parties, and enforceable by law between the Authority and an Entity, granting a concession, transferring rights or interest in land and/or improvements, and/or otherwise authorizing and/or prohibiting the conduct of certain Activities. Such Agreement will recite the terms and conditions controlling the relationship of the parties, and will include, but will not be limited to, duration of the Agreement; revenues to be paid by the Entity; and the rights and obligations of the respective parties. **Agreement** includes the following common sub-types:

- **Lease** - the written contract between the Authority and an Entity specifying the terms and conditions under which an Entity may occupy and operate from certain Airport facilities and/or property.
- **License** – the grant to an Entity of the right and privilege to perform specific activities restricted to a designated portion on the Airport campus, but not limited to a leasehold premises. A License does not convey or grant any leasehold interest in real property or improvements.
- **Permit (or Operating Permit)** – the grant to an Entity of the right and privilege to perform and operate specific activities on Airport property, on any location at the Airport not expressly prohibited by Airport rules or regulations, or by FAA or TSA regulation. A Permit does not convey or grant any leasehold interest in real property or improvements.
- **Sublease** - an Agreement entered into by an Entity with a third party that transfers rights or interests in Entity’s leasehold Premises. It is granted only upon the discretionary written approval from the Director or the Authority and is enforceable by law. Copies of all sublease agreements will be provided to the Director.
- **Use and Lease Agreement** – a written Contract between the Authority and an Entity, which both grants certain leasehold interests in a specific premises and also grants a wider license or permit for other operations at the airport.

Aircraft - any contrivance, excluding Unmanned Aerial Vehicles (UAV) now known or hereafter invented which is used or designed for navigation of or flight in air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. This includes, but is not limited to, airplanes, airships, balloons, dirigibles, rockets, helicopters, gliders, gyrocopters, ground-effect machines, sailplanes, amphibians, and seaplanes.

Air Charter or Taxi - the commercial operation of providing air transportation of person(s) or property for hire by either on a charter basis or as an air taxi operator.

Aircraft Fuel - all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion, jet, or turbine engine.

Aircraft Maintenance – the repair, adjustment, maintenance, alteration, preservation, and/or inspection of Aircraft airframe or powerplant, including the replacement of parts. Major repairs include major alterations to the airframe, powerplant, or propeller, as defined in FAR Part 43. Minor repairs include normal, routine annual inspection with attendant maintenance repair, calibration, or adjustment of Aircraft airframe or powerplant and associated accessories. Preventive maintenance means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations, as defined in FAR Part 43.

Aircraft Operator - a person who uses, causes to be used, or authorizes to be used an Aircraft, with or without the right of legal control (as owner, Operator, or otherwise), for the purpose of air navigation including the piloting of Aircraft, or on any part of the surface of the Airport.

Aircraft Operation - an aircraft arrival at, or departure from, the Airports.

Aircraft Owner - a person or entity holding legal title to an aircraft, or any person having exclusive possession of an aircraft.

Aircraft Parking and Storage Areas - those hangar and apron locations of the Airports designated by the Director for the parking and storage of aircraft.

Aircraft Rental - the commercial operation of renting or leasing aircraft to the public for compensation.

Aircraft Sales - the sale of new or used aircraft through brokerage, ownership, franchise, distributorship, or licensed dealership.

Airframe and Powerplant Maintenance - the commercial operation of providing airframe and power plant services, which includes the repair, maintenance, inspection, constructing, and making of modifications and alterations to aircraft, aircraft engines, propellers and appliances including the removal of engines for major overhaul. This category of service also includes the sale of aircraft parts and accessories.

Airplane Design Group – An FAA-defined grouping of airplanes based on wingspan. For purposes of these Minimum Standards, the term Airplane Design Group may be referred to as simply Group I or GI, etc.

The groups are as follows:

- Group I Up to but not including 49 feet; and
- Group II 49 feet up to but not including 79 feet; and
- Group III 79 feet up to but not including 118 feet; and
- Group IV 118 feet up to but not including 171 feet; and
- Group V 171 feet up to but not including 214 feet; and
- Group VI 215 feet up to but not including 262 feet.

Airport -- an Authority-owned Airport, and all of the Authority-owned or leased real or personal property, buildings, facilities and improvements within the boundaries of the Airport, as it presently exists or as it may exist when it is hereafter modified, expanded, or developed. “Airport” includes all of its facilities as shown on the most current Airport Layout Plan.

Airport Advisory Board – the Wichita Airport Advisory Board, which is the panel appointed by the City of Wichita, Sedgwick County, and the Regional Economic Area Partnership to provide advice and counsel to the Wichita Airport Authority, the Wichita City Manager, and the Director of Airports on development and operations of the Wichita Airport System.

Airport Certification Manual - a document required by the FAA detailing the Airport’s requirements as contained in 14 CFR Part 139.

Airport Operations Area or AOA - is a restricted area of the Airport, either fenced or posted, where Aircraft are parked or operated, or operations not open to the public are conducted. Areas include, but are not limited to, the Aircraft Ramps and Aprons, hangar areas, taxiways, runways, unimproved land attributed to the taxiways and runways, safety areas, and contiguous areas delineated for the protection and security of Aeronautical Activity.

Airport Layout Plan (ALP) - The drawing (currently approved by the FAA) depicting the physical layout of the Airport and identifying the location and configuration of current and proposed runways, taxiways, buildings, roadways, utilities, nav aids, etc.

Airport Security Program - a document required by the Transportation Security Administration detailing the Airport's requirements as contained in the applicable federal security regulations.

Apron or Ramp - The paved areas around air carrier concourses, cargo buildings, FBO's and aircraft maintenance facilities on which aircraft are operated, serviced, fueled or parked.

Applicant – an Entity desiring to develop facilities or use land and/or Improvements at the Airports, and who shall apply in writing and in the manner and form prescribed herein for authorization to engage in such activities at the Airport.

Authority - the Wichita Airport Authority, the government agency created under Kansas law which owns and operates the Wichita Airport System comprised of the Wichita Dwight D. Eisenhower National Airport and Colonel James Jabara Airport. The Authority is represented and has professional management provided by the City of Wichita Department of Airports.

Aviation Activity – any activity, commercial or non-commercial, profit or not-for-profit, intended and carried out for the express purpose of supporting the aviation or aeronautical industry or air transportation. Examples of Aviation Activities or activities incidental or related thereto may include but are not limited to: aeronautical systems, parts or components original equipment manufacturer (OEM); aeronautical systems, parts or components after-market manufacturer; aeronautical systems, parts or components wholesale or retail sales; aeronautical technical support, training support, consulting and services; promotional trade industries, societies and associations, restaurants, lodging, car rental or other retail sales supporting air travelers.

Avionics Sales and Maintenance - the commercial operation of providing for the repair and maintenance of aircraft radios, instruments and accessories. Such operation may include the sale of new or used aircraft radios, instruments and accessories.

Based Aircraft - an aircraft which the owner physically locates at the Airports for an undetermined period, and whenever absent from the Airports, its owner intends to return the aircraft to the Airports for long-term storage.

Cargo Air Carrier Ramp - An AOA Non-Movement Area intended for parking, support, loading and off-loading cargo air carrier aircraft.

Commercial – intended for the purpose of securing revenue, earnings, income, and/or compensation (including exchange for service), and/or profit, whether or not such objectives are

accomplished. May also mean the exchange, trading, buying, hiring, providing, or selling of commodities, goods, services, or property on the Airport.

Commercial Aeronautical Activity - the conduct of any aspect of a business, concession, operation, or agency in order to provide goods or services as part of an Aeronautical Activity to any person for compensation or hire. An activity is considered a commercial activity regardless of whether the business is nonprofit, charitable, or tax-exempt.

Commercial Operator (Operator) - a person, firm, corporation, or other entity conducting commercial aeronautical services or activities at the Airports for compensation or hire.

Department – City of Wichita Department of Airports, acting on behalf of the Wichita Airport Authority. Authority is often used interchangeably to describe Department in this document.

Director of Airports (Director) - the individual charged with the duty to manage, supervise, control, develop, maintain, regulate, and protect the Airport, or such other employee of the Department as the Director may from time to time designate (“Director’s authorized representative”) to carry out the duties of the Director. The Director may deviate from these policies as required to make sound business decisions to ensure mutually agreeable and reasonable terms during a lease negotiation.

Entity – Includes a person, persons, firm, partnership, limited liability partnership or corporation, agency, unincorporated proprietorship, association or group, or corporation, and includes any trustee, receiver, assignee, or other similar representatives.

Exclusive Right - A power, privilege, or other right excluding or preventing another from enjoying or exercising a like power, privilege, or right. An Exclusive Right can be conferred either by express agreement, by the imposition of unreasonable standards or requirements, or by any other means. Such a right conferred on one or more parties, but excluding others from enjoying or exercising a similar right or rights, would be an Exclusive Right. Note: An Exclusive Right to conduct an Aeronautical Activity, which is forbidden by federal regulation, is distinguished from an exclusive right to occupy real estate, which is permitted by federal regulation under certain conditions.

FAA (Federal Aviation Administration) - the division within the Department of Transportation of the United States government that has the responsibility of promoting safety in the air, by both regulation and education.

FAR - the Federal Aviation Regulations promulgated and enforced by the Federal Aviation Administration (FAA) of the U.S. Department of Transportation

Fixed Base Operator (FBO) - a Commercial Operator authorized and required, by Agreement with the Authority, to provide to the public the sale of products and services, and rental of facilities.

Flight Training - the commercial operation of instructing pilots in dual and solo flight, in fixed or rotary wing aircraft, and related ground school instruction as necessary to complete a FAA written pilot's examination and flight check ride for various categories of pilots licenses and ratings.

Flying Club – a non-commercial and nonprofit entity organized for the purpose of providing its members with any number of aircraft for their personal use and enjoyment. Aircraft must be vested in the name of the flying club owners on a pro-rata share, and the club may not derive greater revenue from the use of the aircraft than the cost to operate, maintain, and replace the aircraft.

Fueling or Fuel Handling - the transportation, sale, delivery, dispensing, fueling or de-fueling of fuel or fuel waste products to or from aircraft.

Fuel Storage Area - any portion of the Airports designated temporarily or permanently by the Director as an area in which gasoline or any other type of fuel may be stored or loaded.

General Aviation - all phases of aviation other than aircraft manufacturing, military aviation, and scheduled or non-scheduled commercial air carrier operations.

Grant Assurances - those contractual obligations that are described by law and are undertaken by a public airport sponsor as a condition of receipt of federal airport development grants or federal surplus property.

Improvements – all buildings, structures, and facilities including pavement, concrete, fencing, signs, lighting, and landscaping constructed, installed, or placed on, under, or above any land on the Airport.

Minimum Standards - those qualifications, standards, and criteria set forth by the Authority as the minimum requirements that must be met as a condition for the right and privilege to engage in Aeronautical Activities or Services at the Airport.

NFPA- all codes, standards, rules, and regulations contained in the Standards of the National Fire Protection Association, as may be amended from time to time, and are incorporated herein by reference.

Non-Commercial - not for the purpose of securing earnings, income, compensation (including exchange of service) and/or profit.

Non-Aeronautical Activity - Activities, businesses, properties, or services that do not involve or are not directly related to the operation, service or support of aircraft, and not meeting the definition of Aeronautical Activity.

Operator - any Entity that has entered into an Agreement with the Authority or has subleased office, shop, hangar, or land from an authorized FBO or SASO to engage in Aeronautical Activities or Services (either Commercial or Non-commercial), and who shall be subject to the Minimum Standards set forth herein.

Passenger Air Carrier Ramp - An AOA Non-Movement Area intended for parking, support, loading and off-loading passenger air carrier aircraft. The passenger air carrier ramp is designated as a Secure Identification Display Area (SIDA). Only authorized personnel and vehicles may operate on the air passenger carrier ramp.

Premises – the land and/or Improvements leased by an Operator for the conduct of Operator’s activities.

Preventive Aircraft Maintenance - maintenance that is not considered a major aircraft alteration or repair and does not involve complex assembly operations as listed in 14 CFR 43, except for Item 22 in the Regulation. Item 22 involves the replacement of prefabricated fuel lines, and shall, for purposes of these regulations, be considered a major aircraft repair.

Roadway - any street or road whether improved or unimproved, within the boundaries of the Airports and designated for use by ground vehicles.

Self-Fueling - Self-fueling means the fueling of an aircraft by the owner of the aircraft, or with his or her own employees, and using his or her own equipment that he or she may choose to perform and is subject to the airport sponsor's enforcement of reasonable and non-discriminatory rules, procedures and standards that would prevent unsafe, unsightly, detriments to public welfare, or that would affect the efficient use of airport facilities by others. Self-fueling is not a commercial activity, and cannot be contracted out to another party. Self-fueling implies using fuel obtained or owned by the aircraft owner for his/her use from the source of his/her preference.

"Self-fueling" differs from using a "self-service" fueling station made available by the airport, an FBO or other commercial aeronautical service provider. The use of a "self-service" fueling station, when not used as defined in this Section Self-Fueling, is a commercial activity and is not considered self-fueling.

Self-Service - Self-service includes activities such as adjusting, repairing, cleaning, and otherwise providing service to an aircraft, provided the service is performed by the aircraft owner or his/her employees with resources supplied by the aircraft owner. Title 14 CFR Part 43 of the Federal Aviation Regulations permits the holder of a pilot certificate to perform specific types of preventative maintenance on any aircraft owned or operated by the pilot.

Self-Service (Commercial) Fueling - defined by Advisory Circular 150/5190-7 Section 1.3c, dated August 28, 2006, as a fueling concept that enables a pilot to fuel an aircraft from a commercial fuel pump installed by the airport, an FBO, or other commercial aeronautical service provider, and that may not be attended. Self-fueling differs from using a self-service commercial fueling station made available by the airport, an FBO, or other commercial aeronautical service provider. The use of a self-service fueling station is a commercial activity and is not considered self-fueling.

Specialized Aviation Service Operation (SASO) - a Commercial Operator that provides any one or more of the following Aeronautical Activities or Services:

- Aircraft charter and air taxi services
- Aircraft management services
- Aircraft airframe and power-plant maintenance
- Aircraft rental
- Aircraft sales
- Avionics, instrument or propeller services
- Commercial Aircraft storage services

- Flight training
- Other specialized commercial aviation services
- Temporary specialized commercial aviation services

Taxilane - the portion of the Airport apron area, or any other area, used for access between taxiways and aircraft parking or storage areas.

Taxiway - a defined path established for the taxiing of aircraft from one part of the Airport to another.

Through-The-Fence Operation – access to Airport property from private property located on land adjacent to Airport property which provides access to the Airport’s runway and taxiway system or other infrastructure.

TSA - Transportation Security Administration of the U. S. Department of Homeland Security.

UNICOM/CTAF - a two-way communication system operated by a non-governmental entity that provides airport advisory information.

Unmanned Aerial Vehicle (UAV) – often referred to as an un-crewed aerial vehicle, drone, or Unmanned Aerial System (UAS), is an aircraft without a human pilot on board. UAVs are a component of an unmanned aircraft system which includes a UAV, a ground-based controller, and a system of communications between the two. UAVs may operate with various degrees of autonomy, either under remote control by a human operator or autonomously by onboard computers.

Vehicle Parking Area - any portion of the Airports designated and made available temporarily or permanently by the Airports for the parking of vehicles.

Wichita Airport Authority (WAA) – The Wichita Airport Authority of the City of Wichita, Kansas, the government entity authorized and existing under the laws of the State of Kansas with ownership and operating authority for both Wichita Dwight D. Eisenhower National Airport and Colonel James Jabara Airport. The Authority is represented and has professional management provided by the City of Wichita Department of Airports.

ATTACHMENTS