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# Leasing Policy

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Lake County Board of County  
Commissioners

*Leadville-Lake County Airport*

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## **LEADVILLE-LAKE COUNTY AIRPORT LEASING POLICY**

### **A. Governing Principles for the Airport**

1. The Airport is a community resource and asset.
2. The Airport should be financial self-sustaining.
3. The mix of uses at the Airport will operate within the regulatory framework set by the FAA.
4. Excellent customer service and safety are priorities.

### **B. Purpose**

1. The purpose of the Leadville-Lake County Airport (Airport) Leasing Policy is to:
  - a. Provide sound, consistent guidelines through which the Airport can respond to the interests of financially stable and responsible Lessees;
  - b. Administer Airport leaseholds in accordance with its Grant Assurances;
  - c. Insure the Airport's ability to meet its obligation to provide a stable revenue source for the Airport; and
  - d. Provide guidelines for Airport-related business decisions.

### **C. Scope of the Leasing Policy**

1. The Leadville-Lake County Leasing Policy includes by reference the following Guiding Documents which may be updated and revised from time-to-time:
  - a. General Provisions and Definitions
  - b. Rules and Regulations
  - c. Minimum Standards
  - d. Applications, Permits, and Agreements
  - e. Airport Rates and Fees Schedule
  - f. Schedule of Insurance Requirements.
2. The effective date of the Airport Leasing Policy is the date the BOCC adopted by Resolution the Leadville-Lake County Airport Leasing Policy.
3. The Leasing Policy applies to all leases, operating permits and agreements, extensions, amendments, or assignments of leases, or subleases of such land or facilities requested or approved after the effective date of the Leasing Policy.

### **D. Policies for Land Leases**

1. Airport Master Plans and Airport Layout Plans (ALP) provide guidance concerning land development, redevelopment, and use. The ALP specifies

permitted uses of Airport property and any land use restrictions that may apply.

2. Airport property generally is leased on a first come, first served basis. Under certain circumstances, i.e. multiple parties interested in a single piece of property or few/no remaining parcels available for a specific aviation-related use, the Airport may use a proposal process prior to approving a lease for a particular parcel.
3. Airport Permits and Leases must be in a form approved by the Airport's legal counsel and shall, at a minimum, conform to local/regional standards of tenant responsibility and liability. Lease language is updated periodically to reflect changes in FAA regulations and real estate law as well as to meet a changing economic environment and other risks associated with land ownership.
4. The base lease term for land leases shall be no longer than 20 years. Longer lease terms may be negotiated at the time of initiating the lease based on a proven need for additional years to amortize the investment made on airport property.
5. All leases will contain a clause allowing the Airport Manager to conduct a yearly maintenance inspection of the property to ensure the facilities are properly maintained. If an inspection of the property reveals deficiencies in maintenance of the facilities, the tenant will be issued a correction notice and a date on which a re-inspection of the premises will occur. If the next inspection of the property reveals that the leaseholder has not corrected the deficiencies, the lease will be terminated.

#### **E. Use of Leased Premises**

1. The space leased to any lessee may be limited to space demonstrably needed for the lessee's immediate use.
2. In leases, the Use of Premises shall be defined to allow intended uses and to prohibit unintended or impermissible uses.
3. Changes in use shall not be permitted without the review of the Airport Manager and the written agreement of the BOCC.

#### **F. Policies for Building Rentals and Leases**

1. Hangar space and other buildings owned by the Airport can be rented in accordance with Airport Rates and Fees Schedule on a first come, first service basis.
2. If multiple aviation businesses apply during the same week to rent hangar space and/or other Airport buildings, the Airport Manager will attempt first to construct a schedule and rental agreements that are convenient for all prospective users. If demand exceeds available space, the Airport Manager can offer rental space in an open and competitive process but may consider

the highest and best use of the requested facility in determining lease priority.

3. The BOCC will approve all rental agreements for hangar space and building leases that exceed or rollover beyond 60 days.

#### **G. Rates, Fees and Charges**

1. Land and building rates shall be set to maintain the Airport as a self-sustaining enterprise within the County and to position the Airport competitively with rates at other airports in the region.
2. All Agreements shall adequately compensate the Airport for the rights and privileges granted to an Operator.
3. *Establishment of Fair Market Rents.* The BOCC may set different rates for different tenants based on rational factors that shall include but not be limited to:
  - a. The County's amortized capital investment in a property
  - b. The amount and kind of tenant investment
  - c. The amount of exclusive use and common use space rented
  - d. An annual allowance for operations and maintenance, renewals and replacement
  - e. The season (high or low) of the rental
  - f. Market rates for similar airport properties.
4. *Adjustment of Rents.* Rates may be adjusted during the life of the rental agreement or lease. Adjustments shall be of two types: annual adjustments linked to the Consumer Price Index CPI-U (or its closest successor index in the County's judgment) for the month in which the Lease Term commences and the CPI-U for the same month of each year thereafter for the entire Term of the Lease. Five-year adjustments may also be made based on re-evaluation of the property or by some other measure as stipulated in the terms of the rental or lease agreement.
5. As new ground and building leases are established or if leases are amended or renewed, the BOCC reserves the right to updates lease rates to current values.
6. *Establishment and Adjustment of Fees.* The Airport Manager may recommend and the BOCC may establish and adjust from time to time fuel flowage fees, transient aircraft fees, temporary use fees, application fees or permit fees. Such fees will be published in the Airport's Rates and Fees Schedule.

## **H. Proposals for New Commercial Facilities or Services**

1. The Airport Manager or Airport Board, from time to time, may identify demand for commercial facilities or services at the Airport and, with approval from the BOCC, may issue a Request for Proposal (RFP).
2. Each RFP will contain specific information about the proposed service or facility. All proposals will include requirements for detailed information from respondents. For commercial service providers, required information will also include application requirements detailed in Section III of the Leadville-Lake County Minimum Standards.
3. Current Lessees will not be excluded from submitting competitive proposals.
4. The BOCC has the discretion to:
  - a. Accept the most financially advantageous offer for a given leasehold
  - b. Accept a less financially advantageous offer if the BOCC finds that the proposal furthers the interests of aeronautical users of the Airport
  - c. Require a County ownership interest in whole or in part in certain existing or new facilities. The BOCC's discretion extends to the choice of such facilities as well as to the manner in which such ownership interest is achieved (e.g. County construction or County acquisition).

## **I. Unsolicited Lease Requests**

1. Potential Operators shall submit a fully completed Application to the Airport Manager (Airport Lease/Operating Permit Application) together with such additional information as may be required for review by the Airport Manager and for written approval or disapproval by the BOCC.
2. Applications will be reviewed based on parameters included in this Leasing Policy including, but not limited to, the following:
  - a. The proposed use is appropriate and consistent with the ALP, Master Plan, and other relevant land use planning documents;
  - b. Approval will not constitute a violation of Grant Assurances;
  - c. If the request is for a commercial use, use of the property will comply with the requirements of the Airport Minimum Standards.

## **J. Expiration of Non-Commercial Hangar Leases**

1. At the end of a lease term, if Lessee is current in the payment of all rents, fees, or other charges accruing to the Airport under any and all Agreements and not in default of its existing lease, the Airport (in its sole discretion) may grant to Lessee a new standard form lease subject to the following exceptions:
  - a. If the area within which a lease is located is, or may be, needed for future Airport development, the Airport may require the Lessee to remove all

Leasehold Improvements at the end of the term and return the Leased Premises to an unimproved condition;

- b. If the Airport determines, in its sole discretion, that a shorter term is necessary or appropriate in accordance with the FAA-approved ALP, the Airport may elect to approve a new lease for less than the standard term then in effect for similar property use.
- c. If the Airport continues to lease a parcel for the same use at the end of a lease term, the existing Lessee shall have a "Right of First Refusal" for a new lease.
- d. A Non-Commercial Hangar Lessee may request Airport approval to convert to a Commercial lease if the Leasehold Improvements meet the Airport's Minimum Standards for the proposed commercial activity.

#### **K. Renewal of Commercial Leases**

1. At the expiration of an existing Commercial lease or at any time during the lease term, the Operator may submit a proposal to the Airport for a new lease agreement or an extension of its existing lease. The BOCC is not obligated to approve a request, but will consider all proposals, evaluating them in light of the following criteria:
  - a. Lessee must be current in the payment of all rents, fees, or other charges accruing to the Airport under any and all Agreements and not in default of its existing lease;
  - b. The Airport must make a determination that there is no immediate need to use the property for Airport purposes when the current lease expires;
  - c. The existing/proposed property use must be consistent with the Airport ALP, Master Plan, and other relevant land use planning documents;
  - d. Lessee must demonstrate its plan to optimize use of Airport property to the Airport's full satisfaction;
  - e. Lessee must demonstrate its commitment and plans to make a new capital investment to develop and/or improve Airport property, facilities, and services.
  - f. Existing and proposed commercial facilities and services comply with the Airport's Minimum Standards.
2. The term of a new commercial lease or lease extension(s) will be established, and approved, by the BOCC in its sole discretion, based in part on its determination of the following issues:
  - a. If the public interest is best served by a new/extended lease or expiration of the existing lease;
  - b. The value of proposed new and/or improved aviation or industrial facilities;



- c. Whether the time needed to amortize the Operator's investment is longer than the remaining lease term. (Maintenance costs shall not be considered as capital investments.)
3. If no new capital investment is proposed, a five-year lease extension may be approved in the BOCC's sole discretion subject to the lease terms and conditions in place for the existing lease.

**L. Subleasing and Subtenant Approval**

1. Owners of private hangars may sublease hangars for storage of non-commercial aircraft. Lessees will notify the Airport of the subtenant and provide full contact information (name, phone number, email, physical address of the subtenant and N-number(s) of the aircraft occupying the hangar). All the terms of the current ground lease with the Airport will remain in force for the duration of the lease.
2. New commercial subtenants at the Airport must file an Operating Permit Application for review by the Airport Manager. The BOCC shall approve all commercial subleases. Review of subleases will consider, at a minimum, the following:
  - a. The proposed use is appropriate and consistent with the ALP, Master Plan, and other relevant land use planning documents;
  - b. Approval will not constitute a violation of Grant Assurances;
  - c. If approval is requested for a Commercial subtenant, the use of the property will comply with the requirements of the approved Airport Minimum Standards;
  - d. Proposed indemnity and insurance of the Subtenant meets or exceeds the Airport's requirements for insurance coverage;
  - e. Subtenant complies with the Airport Emergency Plan as may be provided, Rules and Regulations, and all Regulatory Measures.

**M. Assignment of Leases**

1. There shall be no assignments or transfers of leasehold interest, buildings, or facilities on the Airport without the written consent of the BOCC.
2. The Lessee shall provide sixty (60) days written notice of a pending sale or transfer of its Leasehold Improvements and assignment of its Permit/Lease Agreement to the Airport Manager together with such additional information as may be required for review by the Airport Manager and approval by the BOCC. Information, documents, and information to be provided shall include:
  - a. Name of the proposed assignee (if a limited liability company, corporation, partnership, or other association, the names of the controlling interest owners must be supplied);

- b. A copy of the document to be used to convey ownership (i.e. bill of sale, sales agreement, etc.);
- c. Contact information for the assignee;
- d. Payment of any Fee established by the Airport.
- e. The Airport Manager shall provide notice to the BOCC of proposed lease assignments prior to inclusion of the request on an agenda for BOCC consideration. The BOCC shall not approve any assignment of a lease that would cause the Airport to violate its Grant Assurances.
- f. The BOCC shall not approve a lease assignment until the Improvements are inspected and determined to be in compliance with the Airport's Rules and Regulations, Minimum Standards, policies, directives, Lake County Building Code, and all other applicable Regulatory Measures.

**N. Leasehold Improvements and Reversion**

- 1. Leasehold improvements must be constructed in accordance with Airport's policies, minimum standards, rules and regulations, directives, any other requirements stipulated by the FAA and required by the Lake County Building Code.
- 2. Unless otherwise stated in an Agreement, ownership of all permanent Improvements shall revert to the Airport upon the expiration of the term of the Agreement. The Airport shall retain the right to require the Operator to demolish and/or remove any permanent Improvements and return the Leased Premises to its original condition (and character), ordinary wear and tear accepted.

**O. Termination for Default or Pursuant to Airport Plans**

- 1. Payment of Rents, Fees, or Other Charges
  - a. No Operator shall be permitted to occupy or use land and Improvements unless the Operator is current in the payment of all rents, fees, or other charges accruing to the Airport under any and all Agreements (not in default of Operator's agreement(s) with the Airport).
  - b. An Operator's failure to remain current in the payment of all rents, fees, or other sums accruing to the Airport will be grounds for termination of the Agreement authorizing the occupancy or use of land or Improvements at the Airport.
  - c. Rents not received within five (5) business days after the due date are past due. There shall be added to all unpaid past due sums owed the County an interest charge of two percent (2%) in excess of the prime lending (annual) rate, as published in the Wall Street Journal, on the principal sum, computed as simple interest, and not to exceed the highest applicable interest rate permitted under State of Colorado law.

2. In the event of default by the Lessee, the County may, if it so elects, at any time thereafter, terminate the lease and terms thereof, by giving the lessee, in writing, a 30-day notice of its intention to do so if the default is not corrected to the satisfaction of the County.
3. If the BOCC makes a determination, in accordance with the Airport Master Plan and the FAA-approved ALP, that the leased premises are needed for Airport development.
  - a. If the Lessee has not constructed any permanent facilities on the premises, the County may offer the Lessee an alternative site if such a site is available on Airport property. If no alternative site is available OR the Lessee chooses not to relocate on the Airport, the lease may be terminated by either party upon 30 days' written notice.
  - b. If the Lessee has constructed a permanent facility on the premises, the County may buy-out the remaining base term of the lease upon 30-days' notice of the County's intent to do so. The base term buy-out will be determined by amortizing the construction cost of improvements on the premises in a straight-line depreciation of the premises over the base term, adjusted for inflation based on the CPI-U index or an agreed upon construction price index.

**P. Insurance Requirements**

1. All leases, operating permits and subleases will contain an insurance clause.
2. All leases, operating permits, and subleases will be subject to periodic adjustments in insurance requirements as imposed by Lake County.
3. Each lessee shall meet all of the State of Colorado and Lake County insurance requirements and therefore maintain the types and amounts of insurance as specified the Leadville-Lake County Schedule of Required Insurance.

**Q. Indemnification**

1. All leases, operating permits and subleases will contain an Indemnification and Hold Harmless Agreement in a form acceptable to the County Attorney.