

PENINSULA AIRPORT COMMISSION

GENERAL AVIATION

LEASING POLICY

Adopted August 27, 2020

In order to remain in compliance with Federal Aviation Administration requirements for receiving Federal grant assistance the Peninsula Airport Commission ("Commission") adopted a Leasing Policy. The purpose of the Commission Leasing Policy is to provide sound, consistent guidelines through which the Commission can respond to the interests of financially stable and responsible Tenants ("Tenants"), administer Newport News/Williamsburg International Airport ("Airport") leaseholds in accordance with its grant assurances, ensure the Commission's ability to meet its obligation to provide a stable revenue source for the Airport, and provide guidelines for Airport-related business decisions.

- I. **Purpose.** The Federal Aviation Administration ("FAA"), by way of its Airport Sponsor Assurances, requires any airport developed with Federal grant assistance 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 Airport Sponsor Assurances require an airport sponsor 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 purpose of the Peninsula Airport Commission General Aviation Leasing Policy for the Newport News/Williamsburg International Airport is to (1) provide sound, consistent guidelines through which the Commission can respond to the interests of financially stable and responsible Tenants; (2) administer Airport leaseholds in accordance with its grant assurances; (3) ensure the Commission's ability to meet its obligation to provide a stable revenue source for the Airport; and

(4) provide guidelines for Airport-related business decisions. In addition, the Commission desires to maximize the aeronautical use of the general aviation hangars and provide the maximum number of aeronautical users' access to all aeronautical airport facilities.

The leasing of Airport land is regulated and influenced by local, state, and federal law including, but not limited to, the FAA's Code of Federal Regulations, Airport Grant Assurances, Department of Transportation ("DOT"), Virginia Department of Aviation ("DOAV"), as well as Airport Rules and Regulations, General Aviation Minimum Standards and formal policies adopted by Commission as these exist or as may be amended in the future, and input from the general aviation community.

- II. Authority to Lease.** The Peninsula Airport Commission is a political subdivision of the Commonwealth of Virginia, created pursuant to Chapter 22 of the Acts of the General Assembly of the Commonwealth of Virginia of 1946, as amended, and owns and operates Newport News/Williamsburg International Airport.

The Commission is vested with the authority to make provisions for the needs of aviation, commerce, shipping, and travel in, to, and around the Airport to promote and develop the Airport, and in the exercise of such power, to enter into leases of Airport property.

The Commission owns and operates general aviation leases and Commission Staff prepared the form of leases for use with general aviation hangar leases at the Airport, and such leases have been reviewed by the Real Estate Committee.

The Commissioners of the Peninsula Airport Commission, after deliberation and upon the recommendation of the Real Estate Committee, approved by Resolution the form of the general aviation hangar leases and its execution from time to time by the Executive Director in connection with leases of general aviation property and improvements at the Airport.

- III. Rates, Fees and Charges.** DOT/FAA guidelines require the Commission to make the Airport as financially self-sustaining as possible (49 U.S.C. §47107(a)(13)) To the extent feasible, aeronautical use charges must be established on a cost recovery basis while use of Airport property for non-aeronautical facilities and/or services must be based on fair market value.

The Commission has approved by Resolution standard rental rates and published schedules of Rates Fees & Charges.

As required by FAA guidelines, a rate adjustment will be applied to all the Airport leases annually to facilitate parity between new and longstanding Tenants.

- IV. Land Uses/Permitted and Prohibited Uses.** Airport Master Plans and Airport Layout Plans (ALP) have been developed for the Airport and are periodically updated. These plans, which are reviewed and approved by the FAA and the Commission following public review and input, provide guidance to Airport staff and the Commission in land use leasing decisions. The Commission lease documents specify permitted uses of Airport property and any land use restrictions which may apply.

It is the Commission's policy that the Permitted and Prohibited Uses of General Aviation Hangar leases are designed and administered based on FAA guidelines and specifically in compliance with the FAA Policy on the Non-Aeronautical Use of Airport Hangars (14 CFR Chapter 1) and utilizing guidance provided (Federal Register/Val. 81, No. 115 Wednesday, June 15, 2016/Rules and Regulations).

- V. Lease Requests.** Airport property is generally leased on a first come, first served-basis. However, current Tenants may be given the first opportunity to lease a vacant adjoining parcel. 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 Commission may use a proposal process prior to approving a lease for a particular parcel.

Potential Tenants will be required to submit a fully completed GA Hangar Inquiry Form. (see Appendix A)

Inquiries will be reviewed based on parameters included in this Leasing Policy including, but not limited to, the following:

- 1) The proposed use is appropriate and consistent with the ALP, Master Plan, and other relevant land use planning documents; and
- 2) Approval will not constitute a violation of Grant Assurances; and
- 3) Tenant's use of the property will comply with the requirements of the approved Airport's General Provisions, Rules and Regulations, General Aviation Minimum Standards and FAA's Policy on the Non-Aeronautical Use of Airport Hangars.

The lease application process will follow after the inquiry review process is completed.

VI. Lease Agreements and legal Review. The Commission leases are designed to protect the public interest and contain more restrictive clauses than private sector leases. The Commission intends to transfer to the Tenant the liabilities associated with possession and control of real property including, but not limited to, compliance with all federal, state and local laws and regulations pertaining to the use, storage, and disposal of hazardous materials and stormwater pollution prevention regulations.

The Commission leases will be subject to review by the Commission outside counsel and will, at a minimum, conform to local/regional standards of Tenant responsibility and liability. Lease language may be periodically updated 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.

VII. Lease Term

A. Standard. The length of a lease term is determined by property designation on the ALP and the prospective Tenant's proposed use. Standard lease terms are:

- 1) Private Hangar Lease: Self-renewing 1year with 60-day termination clause

- 2) New Private Hangar Ground Lease: 10 years with one five-year option to extend (dependent on required capital investment)
- 3) Commercial Lease: 20 years with one five-year option to extend

B. Exception to Standard Terms and Rates. On a case by case basis, the Commission may consider a longer lease term to support Airport property development and to allow a Tenant to amortize its investment based on the following criteria:

- 1) Services provided to other Airport Tenants and users
- 2) Significant job creation
- 3) Public infrastructure extension which will benefit other parcels (i.e. roads, water, and sewer)
- 4) Potential to attract other new aviation businesses
- 5) Rates may be adjusted based upon the rating given by the PAC using the Hangar Condition Index.

The condition of each hangar is assessed and given a rating of Excellent, Good, Standard, or Sub-Standard. At a minimum, the rating is based upon condition of: utility service, aircraft door, roof, general interior, general exterior; walls, flooring and extenuating circumstances such as drainage. Simply stated: Excellent is ready for occupancy and needs no repair, Good is ready for occupancy but needs minor preventative maintenance, Standard is ready for occupancy and needs or will need more than preventative maintenance during the lease term, Sub-standard is not ready for occupancy and needs significant repairs or maintenance.

VIII. Construction of Leasehold Improvements. Leasehold improvements must be constructed in accordance with Airport Design Guidelines. Height restrictions, lot-line setbacks, appropriate parking, building design, quality of construction, and other requirements are controlled by the FAA, the City of Newport News building code, and the Commission.

Upon the termination of a Lease whereby improvements to Airport property were made by the Tenant, the Tenant shall agree that all said improvements as well as the property leased to it, shall at the sole discretion of the Commission, without

compensation from the Commission, become the property of the Commission. 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.

IX. Subtenant/Co-tenant Approval

A. **Private Hangars Ground Lease - "Shared Expense" Occupants**. In conformity with the Commission's desire to maximize aeronautical use, and upon the Commission's approval, private hangar Tenants, where the hangar title has not yet reverted to the Commission, may utilize a "Shared-Expense" (subtenant) arrangement to offset hangar expenses subject to the following criteria:

- 1) Tenant stores at least one of its owned-aircraft in the hangar; and
- 2) Tenant stores only aircraft owned by others; and
- 3) All aircraft are registered with the Airport and maintain a valid Aircraft Field Permit; and
- 4) All aircraft stored in the hangar are registered for tax purposes as based at the Newport News/Williamsburg International Airport.

If the private hangar Tenant does not utilize the hangar for its owned-aircraft according to its lease terms, a commercial lease will be required for the facility and must comply with the General Aviation Minimum Standards including all relevant licenses, permits and insurance requirements.

B. **Private Hangars Lease - "Shared Expense" Tenants**. In conformity with the Commission's desire to maximize aeronautical use, and upon the Commission's approval, private hangar Tenants, where hangar title has reverted to the Commission, may utilize a "Shared-Expense" (co-tenant) arrangement to offset hangar expenses subject to the following criteria:

- 1) All occupants are listed as Tenants on a Lease; and
- 2) All aircraft are registered with the Airport and maintain a valid Aircraft Field Permit; and

- 3) All aircraft stored in the hangar are registered for tax purposes as based at the Newport News/Williamsburg International Airport.

The Commission will not approve a year-long lease for a co-tenant application from an owner of Transient Aircraft as defined in the Airport Rules and Regulations.

- C. **Commercial Subtenant.** Upon the Commission's approval, an Aircraft Storage Operator ("Operator") may sublease a portion of its Leasehold Improvements to provide additional aircraft storage services at the Airport.
- D. **Review and Approval.** The Tenant or Operator shall submit a fully completed Subtenant Application, including a complete and unredacted proposed Sublease Agreement, in the form provided together with such additional information as may be required for review by the Airport. The information will be reviewed based on parameters included in this General Aviation Leasing Policy and Procedures including, at a minimum, the following:
 - 1) The proposed use is appropriate and consistent with the ALP, Master Plan, and other relevant land use planning documents; and
 - 2) Approval will not constitute a violation of Grant Assurances; and
 - 3) Approval is not inconsistent with any terms or conditions in the existing Primary Lease document; and
 - 4) If approval is requested for a commercial subtenant, the use of the property will comply with the requirements of the approved General Aviation Minimum Standards for the Airport.
 - 5) For subtenants, a written acknowledgment of the Tenant that the subtenant understands the following requirements from the Sublease Agreement:
 - a. That the subtenant is required to Indemnify the Commission to the Commission's full satisfaction; and
 - b. That the subtenant is required to provide insurance coverage which includes naming the Commission as additional insured (or in the case of property coverage, shall name the Commission as a loss payee); and
 - c. That the subtenant will comply with Airport Safety and Security Plan provided the Commission and all applicable Governmental Requirements

pertaining to security and safety and the above-named parties' use of the Airport and operation/utilization of the Leased Premises and improvements thereon; and

- d. That the subtenant will require all guests, invitees, and those entering or doing business on the Leased Premises to comply with the Airport Security Plan and all Governmental Requirements; and
- e. That the Sublease is subordinate to all terms and conditions of the Primary Lease; and
- f. That no term of a Sublease shall exceed the duration of the Primary Lease and will terminate prior to or at the termination of the Primary Lease (regardless of how terminated); and
- g. That payment of Rent under the Sublease Agreement will be made to the Commission upon Notice of Default of the Tenant under the Primary Lease by the Commission; and
- h. That under no circumstances will the subtenant be permitted to assign or sublet any of its rights under the Sublease Agreement.

X. Assignment of Lease

A. **Assignment of Private Hangar Ground Lease.** If Assignment is allowed under an existing lease agreement, the Tenant may request Commission approval of the Assignment and shall provide for sixty (60) days written notice in advance of a pending assignment of its Lease Agreement (in the form requested) together with such additional information as may be required for review by the Airport. Documents and information to be provided shall include:

1. 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); and
2. A copy of the document to be used to convey assignment; and
3. Contact information for the assignee; and
4. Payment of the Administrative Fee established by the Commission in its then current Rates, Fees and Charges.

The Commission shall not approve a lease assignment until the Leasehold Improvements are inspected and in compliance with the Tenant's lease obligations.

The Commission shall not approve an assignment of lease that results in a lien or any encumbrance on the Leasehold Interest or the Improvements.

- B. **Assignment of Private Hangar Lease.** Assignment of Private Hangar Leases, where hangar title has reverted to the Commission, is prohibited.

XII. New Leases for Existing Tenants

A. Private Hangar Ground Lease or Private Hangar Lease

1. At the end of a lease term of a Private Hangar Ground Lease or Private Hangar Lease, if (1) the Tenant is not in default of its existing lease, and (2) if the Leasehold Improvements satisfy maintenance and appearance standards approved by the Commission in its sole discretion, then a new standard private hangar lease may be granted to the Tenant, subject to the following:
 - a. If the area within which a lease is located is needed for future Airport development, or if it is in the best interest of the Commission to do so, the Commission may require the Tenant to remove all Leasehold Improvements at the end of the term and return the Leased Premises to an unimproved condition subject to the lease terms and conditions.
 - b. If the Commission determines, in its sole discretion, that a shorter term is necessary or appropriate in accordance with the FAA-approved ALP, the Commission may elect to approve a new lease for less than the standard term then in effect for similar property use at the published schedule of current Rates Fees & Charges.
2. If the Commission continues to lease a parcel for the same use at the end of a lease term, the existing Tenant shall have a "Right of First Refusal" for a new lease at the published schedule of current Rates Fees & Charges.

3. A Tenant may request the Commission's approval to convert to a commercial lease if the Leasehold Improvements meet the Airport's General Aviation Minimum Standards for the proposed commercial activity.

Appendix A