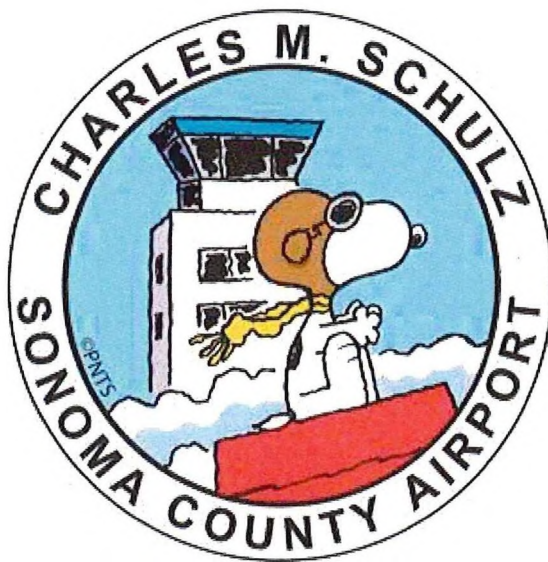


COMMERCIAL LEASING POLICY

CHARLES M. SCHULZ – SONOMA COUNTY AIRPORT

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AugustSEPTEMBER 202517

Approved by the Sonoma County Board of Supervisors on

AugustJanuary, 203, 202518

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INTRODUCTION

This policy manual is specifically designed for the Commercial Leasing program at the Charles M. Schulz – Sonoma County Airport (“Airport”) located in Santa Rosa, California. This policy addresses the various types of commercial lease agreements utilized by the County of Sonoma (“County”) with current and future entities conducting business at the Airport. It discusses the steps in negotiating, preparing and executing commercial leases and provides guidelines for Airport business decisions. The intended users of this manual are County/Airport personnel and all interested stakeholders.

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As an Airport Sponsor, the County is the recipient of federal grants including Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants. By accepting FAA administered airport development assistance the County has assumed federal obligations that are mandated by federal statute and incorporated in federal grant agreements and property conveyance instruments. A goal of this Commercial Leasing Policy is to maintain compliance with the County’s federal obligations and to insure uniformity and consistency of County activities and actions in specific real estate agreements at the Airport.

The County reserves the right to deviate from this Commercial Leasing Policy regarding any commercial lease subject for any reason and at any time in its sole discretion. In the event of any inconsistency between the provisions of any commercial lease or a competitive lease solicitation and this Commercial Leasing Policy, the provisions in the commercial lease or competitive lease solicitation will prevail.

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NOTE. Entities wishing to rent tie-downs, shade hangars, T-hangars or spaces in one of the Airport’s hangars solely for short-term (~~e-g-e-g~~, month-to-month) storage of aircraft, and who do not desire or need significant leasehold improvements or other special accommodations, are exempt from this policy.

TERMINOLOGY

For purpose of this Commercial leasing Policy, the following definitions shall apply:

“Airport” – the Charles M. Schulz – Sonoma County Airport.

“Airport Manager” – the manager of the Charles M. Schulz – Sonoma County Airport or his or her duly authorized representative.

“ALP” (“Airport Layout Plan”) – The FAA approved plan of the Airport depicting the layout of existing and proposed Airport facilities.



“Board of Supervisors (Board)” – means the Sonoma County Board of Supervisors.

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“Capital Investment” – means a tenant’s proposed new monetary investment in (a) the construction of new permanent facilities and/or (b) permanent improvements made to existing facilities located on the leasehold premises. Payment for the repair and maintenance of facilities and equipment on the leasehold premises is not a “Capital Investment”.

“Commercial Activity” – any activity conducted at the Airport, including commercial aeronautical activity, for the purpose of obtaining revenue, earnings, income, and/or compensation of any kind, including the exchange of goods or services for goods or services (barter), whether or not such objectives are accomplished.

“Commercial Aeronautical Activity” -- an activity which involves, makes possible, supports or is required for the operation of aircraft, or which contributes to, or is required for the safe conduct and utility of such aircraft operations, and includes those activities provided by either a Full Service Fixed Based Operator or a limited service Fixed Based Operator, the purpose of such activity being to secure earnings, income, compensation, or profit (including the exchange of services for goods or services), whether or not such objective(s) are accomplished. Commercial aeronautical activities other than those listed in the Minimum Standards may be approved by the Airport Manager in accordance with Section 2.13 4 of the Airport’s Minimum Standards.

“Contract” – a written agreement that is enforceable by law.

“County” – the County of Sonoma, California.

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“Development Standards” -- the written standards adopted by the County to promote consistent site planning, architectural design, and visual appearance of buildings and improvements constructed on the Airport.

“Entity” – any person, firm, partnership, corporation, limited liability company, company, association, joint stock association, body politic, or any other organization of persons.

“FAA” -- Federal Aviation Administration of the United States government.

“FBO” (“Fixed Base Operator”) – a Commercial Aeronautical Operator authorized by the Airport to provide one or more commercial aeronautical services such as fueling, aircraft maintenance, aircraft storage, ground and flight instruction, and other aeronautical services or products, to the public from a location on the Airport that has been approved by the Airport Manager.

“Lease” – a written agreement for the possession and use of real or personal property, for any purpose including conducting aeronautical and/or non-aeronautical activities at the Airport.

Charles M. Schulz – Sonoma County Airport



“Leased Premises” -- real property, including improvements, that are the subject of a written Lease Agreement

“Master Plan” - the current adopted Master Plan for the Airport, including the current Airport Layout Plan (ALP)

“Minimum Standards” -- the Airport’s adopted Minimum Standards for Aeronautical Service Providers

“Operating Agreement” -- a written agreement with the County authorizing a person or entity to conduct specified activities at the Airport, includes aeronautical and/or non-aeronautical activities, for commercial and/or non-commercial purposes. A Lease and an Operating Agreement may be combined into a single agreement

“Reversionary Interest”- the County of Sonoma’s sole right and title to all real property and improvements thereupon at the termination or expiration of any lease, which shall include hangars, buildings, and any other fixtures permanently affixed to the real property by tenant or any other party, with the exception of trade fixtures to the extent that the lease allocates ownership at lease termination or expiration to lessee

“Sponsor” -- the County of Sonoma, as the owner and operator of the Charles M. Schulz – Sonoma County Airport

“Sublease” -- a written agreement, approved as required by the County, stating the terms and conditions under which a third party Commercial Operator leases all or a portion of a Lessee’s Leased Premises for a specified period of time, for the purpose of conducting approved aeronautical and/or non-aeronautical activities and/or providing aeronautical services at the Airport

“Tenant/Lessee” -- the entity renting or leasing land and/or improvements at the Airport pursuant to a written agreement with the County

AUTHORITY TO LEASE

The Airport is owned and operated by the County of Sonoma. Subject to change over time and upon further action of the Board of Supervisors, the authority to lease property at the Airport is held by the Sonoma County Board of Supervisors. The Sonoma County Board of Supervisors has delegated authority to the Airport Manager, by Resolution¹ and by Ordinance², to execute certain leases, licenses and operating agreements for activities to be conducted on and for the Airport. The Airport Manager is authorized to execute

¹ Sonoma County Board Resolution Number 14-0436 dated October 22, 2014

² Sonoma County Ordinance Sec. 2-172



- Month-to-month leases and license ~~agreements;agreements~~
- Concession agreements on a month-to-month basis for no longer than eighteen (18) months in ~~duration;duration~~
- Operating agreements for commercial activities on a month-to-month basis for no longer than twelve (12) months in duration; and
- Leases under ten thousand dollars (\$10,000) in value and less than ten (10) years in duration.

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USE OF AIRPORT LAND

The Airport is obligated under the FAA Grant Assurance 22 to provide access to all aeronautical users. Under FAA policy, the Airport may allow non-aeronautical uses if such uses support the Airport's efforts to become financially self-sustaining. Non-aeronautical use is subordinate to all aeronautical activity. Leasing for residential use (temporary or permanent) is strictly prohibited unless approved by the Airport Manager. A commercial lease activity will be categorized as either an aeronautical or non-aeronautical use as described below.

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• AERONAUTICAL USE

FAA policy defines "aeronautical use" as all activities that involve or are directly related to the operation of aircraft, including activities that make the operation of aircraft possible and safe. Services located on the airport that are directly and substantially related to the movement of passengers, baggage, mail, and cargo are considered aeronautical uses.³

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The Airport's Minimum Standards define Aeronautical Activity as "Any activity that involves, makes possible, supports or is required for the operation of aircraft, or that contributes to or is required for the safety of aircraft operations. Within this definition, aeronautical activities commonly conducted on airports include but are not limited to air taxi and charter operations; pilot training; aircraft rental; aerial photography; aerial surveying and patrol; aircraft and parts sales and service; aircraft storage and tiedowns; sale of aviation fuels and petroleum products; provision of line services; repair, maintenance, and overhaul of airframes and power plants; air ambulance and emergency services; avionics and aircraft instrument sales and service; and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities."⁴

³ FAA Policy Regarding Airport Rates and Charges 78 Federal Register Page 55,331 (Sept. 10, 2013)

⁴ Minimum Standards Page 4



- **NON-AERONAUTICAL USE**

All other uses of the airport are considered non-aeronautical. Aviation-related uses that do not have to be located on an airport, such as flight kitchens and airline reservation centers, are considered non-aeronautical uses. Non-aeronautical uses include public parking, rental cars, ground transportation, as well as terminal concessions such as food and beverage and news and gift shops. Federal law and policy on reasonableness of fees and other terms of airport access do not apply to non-aeronautical uses.⁵

The main group of non-aeronautical use is concessions – food and beverage; advertising; retail, news, gift, specialty and duty free shops; parking; ground transportation; and rental car agencies. Other non-aeronautical uses at the Airport include ground leases for commercial office and warehouse development and the direct leasing of Airport owned commercial office/warehouse suites.

CATEGORIES OF COMMERCIAL LEASES

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The following types of commercial leases are used at the Airport:

- **AERONAUTICAL COMMERCIAL GROUND LEASE**

This type of lease is utilized for commercial aeronautical uses when a prospective tenant proposes to build or owns an existing improvement (~~e.g.e.g.~~, hangar, building, etc.) on the Airport property during the term of the lease. The lease term granted by the Airport will be dependent upon the amount of the new capital investment in the improvements within the leased premises that is committed to by the prospective tenant. The Airport will utilize the formula referenced in the Capital Investments section of this policy to determine the lease term. All improvements constructed on Airport property during the applicable lease term (~~e.g.e.g.~~, hangars) will become County property when the lease terminates.

- **AERONAUTICAL COMMERCIAL HANGAR LEASE**

This type of commercial lease agreement is utilized when a commercial operator proposes to lease improvements (~~e.g.e.g.~~, hangar, building, etc.) that are owned by the Airport for commercial aeronautical use. ~~Generally~~Generally, the term for this type of lease is five

(5) years. A lease term greater than five (5) years may be granted in cases where a commercial operator commits to make new capital investments in the improvements or on the Airport property. ~~The Airport will utilize the formula referenced in the Capital Investments section of this policy to determine the lease term.~~

Charles M. Schulz – Sonoma County Airport



⁶ FAA Order 5100.6B, Section 18.3 c, Page 18-2.

⁵ FAA Order 5190.6B, Section 18.3 c, Page 18-2.

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If tenant elects a 5-year term and subsequently leases for additional term effectively creating a term longer than 5 years, the Capital Investment Requirement shall apply retroactively to the total of initial term, and the new term. Therefore, additional term shall require Capital Investment for entire effective term.

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• **NON-AERONAUTICAL COMMERCIAL GROUND LEASE**

This type of commercial lease agreement is utilized when a commercial operator either (1) owns an improvement (e.g., office, industrial building, etc.) located on Airport land or (2) proposes to build an improvement (e.g., office, industrial building, etc.) on Airport land. The lease term for this type of lease is dependent upon the capital investment made by the tenant in the improvements to be constructed. The Airport will utilize the formula referenced in the Capital Investments section of this policy to determine the lease term. Ownership of the improvements will transfer to the County when the lease terminates. Rental rates for non-aeronautical uses are generally higher than non-aeronautical rates.

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• **NON-AERONAUTICAL IMPROVEMENT LEASE**

This type of commercial lease agreement is utilized when a commercial operator proposes to lease and use Airport owned improvements (e.g., office, industrial building, etc.) for commercial non-aeronautical use. ~~Generally~~Generally, the term for this type of lease is five (5) years. New capital investment in improvements is required to qualify for a lease term greater than five (5) years. The Airport will utilize the formula referenced in the Capital Investments section of this policy to determine ~~at the~~ lease term greater than five (5) years. Rental rates for non-aeronautical use are generally higher than non-aeronautical rates. If tenant elects a 5-year term and subsequently leases for additional term effectively creating a term longer than 5 years, the Capital Investment Requirement shall apply retroactively to the total of initial term, and the new term. Therefore, additional term shall require Capital Investment for entire effective term.

• **MULTI-TENANT INDUSTRIAL/OFFICE LEASE**

This type of commercial lease agreement is utilized when a commercial operator proposes to lease and use a defined portion of an Airport-owned improvement (e.g., office or industrial building) in common with other Tenants of the improvement.

~~Generally~~Generally, the term for this type of lease is five (5) years or less depending on the discretion of the Airport. Rental rates for non-aeronautical use are fair market value and typically ~~generally~~ higher than aeronautical rates.



• CONCESSION LEASE AND OPERATING AGREEMENT

In addition to the procedures in this policy, the procurement and specialized lease practices for Concession Leasing are outlined in the Airport Concession Policy.

• COMMERCIAL AIRLINE LEASE AND OPERATING AGREEMENT

Procedures for Commercial Airline Leasing are not included in the scope of this document.

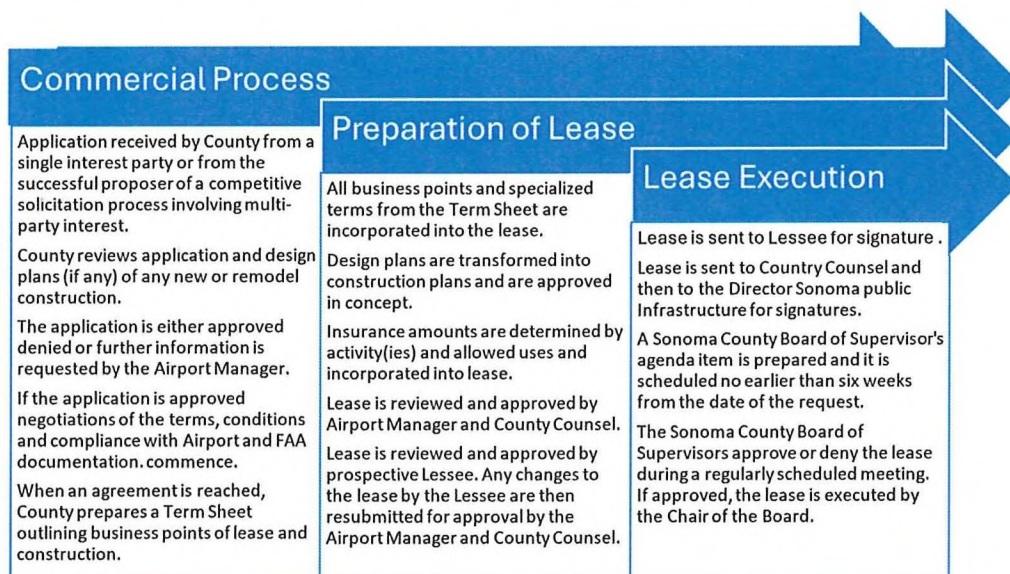
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PROCEDURES IN COMMERCIAL LEASING

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The following diagram represents the common procedure of the Airport in the processing of a commercial lease. All leases are unique in respect to the timeline of completing a lease.



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• APPLICATION

All entities interested in leasing commercial property shall complete the Airport's Commercial Activity Application. The Airport will review and evaluate the application

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within thirty (30) business days after receipt of a complete application and the required application fee. An application must be complete to permit the County to adequately review and consider each request. The County, in its sole judgment, may approve or reject any application for commercial leasing at the Airport. Applications shall be evaluated to determine the consistency of the proposed lease with applicable law and policy, and applicants' operational and financial ability to perform the agreement as proposed.

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• **APPLICATION FEES**

Non-refundable application fees are collected to cover a portion of the administrative costs to process leases. A current list of the types of leases and their associated application fees can be found in the Airport's current Rates and Charges, as explained below.

• **RATES AND CHARGES**

FAA Grant Assurance 24 requires the Airport to maintain a fee and rental structure for the facilities and services at the Airport, which will make the Airport as self-sustaining as possible.⁶ The rate and charges are initiated by the Airport and adopted annually by the Sonoma County Board of Supervisors. Land rates for aeronautical ground leases are listed within the approved rates and charges. Non-aeronautical rates and charges may be negotiated outside of the County's approved rates and charges but shall be at a higher rate than the corresponding rate for aeronautical uses.

Rates and charges for concession items are listed in the Airport Concession Policy.

All leases include an annual rent increase provision of 4% annually, subject to airport discretion. Long-term leases are subject to a Market Rent Reset every ten (10) years of term. Market Rent shall be the fair market value at the time of the reset.

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• **LEASE PROTOCOLS**

It shall be the practice of the County to conduct a competitive process to identify entities interested in leasing real property that is or is anticipated to become available, and to evaluate proposed uses of such property for feasibility and consistency with airport and FAA policies and goals. Absent special circumstances, Airport staff shall solicit interest in leasing Airport property either through a request for statements of interest or request for proposals and shall evaluate proposals under the terms of this Leasing Policy.

Under certain circumstances, and where such agreement would be consistent with

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applicable law and FAA requirements, the Airport manager may engage in negotiation of leases or lease extensions with existing tenants without competitive process, subject to final approval by the Board of Supervisors. The County may negotiate lease extensions or new leases with an occupying Tenant when (a) it is in the best interest of the Airport for

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⁶ FAA Airport Sponsors Assurances 3/2014



commercial lease. All leases are unique in respect to the timeline of completing a lease.

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operational APPLICATION

All entities interested in leasing commercial property shall complete the Airport's Commercial Activity Application. The Airport will review and evaluate the application within thirty (30) business days after receipt of a complete application and the required application fee. An application must be complete to permit the County to adequately review and consider each request. The County, in its sole judgment, may approve or reject any application for commercial leasing at the Airport. Applications shall be evaluated to determine the consistency of the proposed lease with applicable law and policy, and applicants' operational and financial ability to perform the agreement as proposed.

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APPLICATION FEES

Non-refundable application fees are collected to cover a portion of the administrative costs to process leases. A current list of the types of leases and their associated application fees can be found in the Airport's current Rates and Charges, as explained below.

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RATES AND CHARGES

FAA Grant Assurance 24 requires the Airport to maintain a fee and rental structure for

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the facilities and services at the Airport, which will make the Airport as self-sustaining as possible.⁶ The rate and charges are initiated by the Airport and adopted annually by the Sonoma County Board of Supervisors. Land rates for aeronautical ground leases are listed within the approved rates and charges. Non-aeronautical rates and charges may be negotiated outside of the County's approved rates and charges, but shall be at a higher rate than the corresponding rate for aeronautical uses.

Rates and charges for concession items are listed in the Airport Concession Policy.

Every lease will provide for annual rent increases. During the process of negotiating lease terms, a prospective tenant will be permitted to choose between two methods for calculating annual rent increases during the term of the lease: (a) annual consumer price index (CPI) increases based upon the San Francisco, Oakland and San Jose all consumer index with each increase at a minimum of two (2) percent and a maximum of six (6) percent regardless of the CPI increase; or (b) an annual four (4) percent increase.

• **LEASE PROTOCOLS**

It shall be the practice of the County to conduct a competitive process to identify entities interested in leasing real property that is or is anticipated to become available, and to evaluate proposed uses of such property for feasibility and consistency with airport and FAA policies and goals. Absent special circumstances, Airport staff shall solicit interest in leasing Airport property either through a request for statements of interest or request for proposals, and shall evaluate proposals under the terms of this Leasing Policy.

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Under certain circumstances, and where such agreement would be consistent with applicable law and FAA requirements, the Airport manager may engage in negotiation of leases or lease extensions with existing tenants without competitive process, subject to final approval by the Board of Supervisors. The County may negotiate lease extensions or new leases with an occupying Tenant when (a) it is in the best interest of the Airport for operational or financial reasons, (b) the property is not needed for Airport development, and (c) the tenant's occupancy is in good standing with the Airport. If a tenant has ceased to occupy the property and has subleased the entire lease premises (with prior written approval from the Airport), the County may negotiate a new lease with the approved sub-lessee, provided (a) the County has not received written notice of interest in the land or improvements of the expiring lease from third parties, (b) the property is not needed for Airport development, and (c) the subtenant is in good standing with the Airport. In some instances, current tenants leasing land which adjoins a vacant parcel that is not needed for Airport development may be given the

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first opportunity to make a proposal to lease the adjoining parcel where such tenants may be uniquely able to maximize the utility of such vacant parcel.

All leases must be consistent with the Airport Master Plan, the Airport Layout Plan, applicable FAA policy, and the Airport's evaluation of the prospective tenant's use of the property.

• **TERM**

The County will adhere to FAA policy guidance and sound fiscal practices in determining the term of any lease agreement for Airport property or improvements. The maximum term available (including all extensions and options) for any lease at the Airport shall be no more than forty (40) years.

NEW TENANT: The minimum term allowable for a commercial lease (excluding Multi-tenant Industrial/Office) is five (5) years. The maximum term allowable (including all extensions and options) for all leases at the Airport shall be no more than forty (40) years in duration, inclusive of all option periods. FAA views most ground leases with a term of thirty (30) to thirty-five (35) years as a sufficient duration ⁷ California law also restricts the length of lease terms for airport property.⁸

⁶FAA-Airport Sponsors Assurances 3/2014

⁷ FAA policy states "Leases exceeding 50 years may be considered a disposal of the property in that the term of the lease will likely exceed the useful life of the structures erected on the property." FAA Order 5190 6B – Chapter 12.

⁸ California Government Code Section 50478. A local agency may lease or sublease property owned, leased, or otherwise controlled by it for not to exceed 50 years for airport purposes or purposes incidental to aircraft, including:

- (a) Manufacture of aircraft, airplane engines, and aircraft equipment, parts, and accessories.
- (b) Construction and maintenance of hangars, mooring masts, flying fields, signal lights, radio equipment, service shops, conveniences, appliances, works, structures, and other air navigation, aircraft, and airplane engine manufacturing plants and facilities.

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standing with the Airport. In some instances, current tenants leasing land which adjoins a vacant parcel that is not needed for Airport development may be given the first opportunity to make a proposal to lease the adjoining parcel where such tenants may be uniquely able to maximize the utility of such vacant parcel.

All leases must be consistent with the Airport Master Plan, the Airport Layout Plan, applicable FAA policy, and the Airport's evaluation of the prospective tenant's use of the property.

TERM

The County will adhere to FAA policy guidance and sound fiscal practices in determining the term of any lease agreement for Airport property or improvements. The maximum term available (including all extensions and options) for any lease at the Airport shall be no more than forty (40) years.

NEW TENANT: The minimum term allowable for a commercial lease is five (5) years. The maximum term allowable (including all extensions and options) for all leases at the Airport shall be no more than forty (40) years in duration. FAA views most ground leases with a term of thirty (30) to thirty five (35) years as a sufficient duration.⁷ California law also restricts the length of lease terms for airport property.⁸

The following criteria are evaluated in connection with establishing the length of the term of a lease agreement: (a) the tenant's proposed new monetary investment in capital improvements on the lease premises; and (b) the service and/or goods the commercial operator will provide at the Airport. Section "[Capital Investment](#)" addresses the current formula used by the County to establish the lease term based upon the proposed tenant's capital investment in improvements on the leasehold property.

ESTABLISHED TENANT: When a lease is expiring and the tenant wishes to continue to occupy the lease premises, the tenant shall submit a request for a new lease at least six (6) months prior to the end of their current lease term. The County will evaluate the request using the following criteria, but is not obligated to accept such requests:

- Existing and proposed uses must be consistent with the Airport Layout Plan, Airport Master Plan, Airport Minimum Standards, and other applicable land use planning documents.
- Tenant must be in good standing under all leases and agreements with the Airport.
- Tenant's commitment and demonstrated ability to make substantial new capital investment is required to qualify for a lease term greater than five (5) years; If

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tenant elects a 5-year term and subsequently leases for additional term, effectively creating a term longer than 5 years, the Capital Investment Requirement shall apply retroactively to the initial term, and the new term. Therefore, additional term shall require Capital Investment for entire effective term.

⁷ FAA policy states, "Leases exceeding 50 years may be considered a disposal of the property in that the term of the lease will likely exceed the useful life of the structures erected on the property." FAA Order 5190-6B Chapter 12.

⁸ California Government Code Section 50478: A local agency may lease or sublease property owned, leased, or otherwise controlled by it for not to exceed 50 years for airport purposes or purposes incidental to aircraft, including:

- (a) Manufacture of aircraft, airplane engines, and aircraft equipment, parts, and accessories;
- (b) Construction and maintenance of hangars, mooring masts, flying fields, signal lights, radio equipment, service shops, conveniences, appliances, works, structures, and other air navigation, aircraft, and airplane engine manufacturing plants and facilities.

- The option regarding the current site improvements on the leased premises since all site improvements transfer to Airport ownership at the end of the lease. The three options are: (a) a new modified gross lease or triple net lease of the site and improvement(s) from the county at current market rent; (b) payment of the current market value of improvement(s) with a new ground lease rate as established in the published Rates & Charges. Market value of the improvements shall be considered Capital Investment for the purpose of compliance with the Capital Investment Requirement; or (c) intended for unique instances and at Airport discretion, an extension of the existing ground lease with payment of the present value of postponement of the County's Reversionary Interest in the site improvements. Option C shall not provide a total lease term beyond 50 years total, inclusive of the existing lease term with all option periods and the proposed extension. Payment of present value reversionary interest is not applicable to the Capital Investment Requirement.

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request using the following criteria, but is not obligated to accept such requests-

- * ~~Existing and proposed uses must be consistent with the Airport Layout Plan, Airport Master Plan, Airport Minimum Standards, and other applicable land use planning documents;~~
- * ~~Tenant must be in good standing under all leases and agreements with the Airport;~~
- * ~~Tenant's commitment and demonstrated ability to make substantial new capital investment is required to qualify for a lease term greater than five (5) years;~~
- * ~~The option regarding the current site improvements on the lease premises, since all site improvements transfer to Airport ownership at the end of the lease. The three options are (a) leasing the site improvement(s) from the County, (b) the payment for the present value of the site improvement(s), or (c) the payment for the present value of the postponement of the County's Reversionary Interest in the site improvement(s) from the end of the previous lease.~~

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ESTABLISHED SUB-TENANT: If a tenant wishes to cancel its lease and the entire premises are leased to one approved sub-tenant, the County may, in its sole discretion, negotiate a new lease with the sub-tenant provided the County has not received written notice of interest in the land or leasehold improvements (as stated above in Section [Lease Protocols](#)). The sub-tenant shall submit a [Commercial Activity Application](#) to County. The County will evaluate proposals using the following criteria, but is not obligated to accept such proposals:

- ~~Existing/proposed use must be consistent with the Airport Layout Plan, Airport Master Plan, Airport Minimum Standards, and other relevant land use planning documents;documents.~~
- ~~Tenant must be in good standing under all leases and agreements with the Airport;Airport.~~
- ~~Tenant's commitment and demonstrated ability to make substantial new capital investment is required to qualify for a lease term greater than five (5) years; and~~
- ~~County may recognize the value of the tenant's residual interest paid by the sub-tenant to tenant for the remaining term of the tenant's original lease with County. Such value may be substituted for a portion of the required new capital investment in negotiating the terms of a new lease with the sub-tenant.~~

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• **EXTENSION OF TERM - NEW LEASE & EXISTING LEASES**

FAA has stated that, "Ideally a new lease should support new leasehold improvements and not to continually grant extensions of current leases."⁹

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Lease extensions are usually negotiated at the beginning of a new lease, but there may be instances when the County will grant an extension to an existing lease that is about to expire, based upon the following criteria:

- Tenant who has fully complied with all terms and conditions of the lease agreement throughout the term; term.
- Tenant actively participates in aeronautical activity at the Airport; and
- It is in the best interest of the Airport to accommodate such request.

Existing tenants must submit a written request for a lease extension six (6) months prior to the expiration date of the lease with payment for the present value of the postponement of the County's Reversionary Interest in the site improvement(s) listed in the Term for Established Tenant section above.

In the event that any lease is extended without payment to the County for the of the County's Reversionary Interest in the site improvement(s), or the tenant holds over beyond the end of the lease term, any extension term rent or rent in holdover shall be calculated to include the rental value of the County's ownership of the improvements at the end of the original lease term by operation of the Reversionary Interest.

• CAPITAL INVESTMENT

A formula has been adopted by the County, which may be updated every three (3) years with an effective date of July 1, for determining the length of a ground lease for aeronautical and non-aeronautical users of Airport property. As of the adoption of this Policy, in addition to the payment of rent for leased property, \$75,000 of new capital investment per acre during the proposed lease term shall be required of each tenant in exchange for the grant of each one-year term of a ground lease. This formula applies to construction of new improvements and to new capital expenditure(s) on existing infrastructure located on the leasehold. It does not include expenditures for normal maintenance or deferred maintenance and repair of improvements. The County may update this formula every three (3) years to reflect current market conditions and increases in construction costs. Updates and revisions to the formula will be approved based on the Board of Supervisors approved methodology, accounting for increases in the California Construction Cost Index.

Examples of investments in permanent facilities located on the leasehold premises include, but may not be limited to the following.

- Creating an addition, physical enlargement or expansion.
- Creating an increase in capacity, productivity or efficiency.

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- Rebuilding an improvement after the end of its economic useful life
- Replacing a major component or structural part of the property (not caused by deferred maintenance and repair)
- Adapting property to a new or different use, or
- Fixing a defect or design flaw

All leasehold improvements constructed on the Airport will be owned by the tenant during the term of the lease and will become the property of the County at the end of the lease term

The County may, in its sole discretion, consider funding a portion of a tenant's proposed capital investment during the term of a lease. Each scenario will be evaluated on its own merits and the County will determine the amount, term and interest rate charged for funding of said capital investment. Nothing in this Commercial Lease Policy will bind or obligate the County to fund a capital investment for any lease

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⁹ FAA Power Point Presentation: Developing an Airport Leasing Policy dated December 9, 2009



and not to continually grant extensions of current leases."⁹

~~Lease extensions are usually negotiated at the beginning of a new lease, but there may be instances when the County will grant an extension to an existing lease that is about to expire, based upon the following criteria:~~

- ~~• Tenant who has fully complied with all terms and conditions of the lease agreement throughout the term;~~
- ~~• Tenant actively participates in aeronautical activity at the Airport; and~~
- ~~• It is in the best interest of the Airport to accommodate such request.~~

~~Existing tenants must submit a written request for a lease extension six (6) months prior to the expiration date of the lease with payment for the present value of the postponement of the County's Reversionary Interest in the site improvement(s) listed in the Term for Established Tenant section above.~~

~~In the event that any lease is extended without payment to the County for the of the County's Reversionary Interest in the site improvement(s), or the tenant holds over beyond the end of the lease term, any extension term rent or rent in holdover shall be calculated to include the rental value of the County's ownership of the improvements at the end of the original lease term by operation of the Reversionary Interest.~~

• **CAPITAL INVESTMENT**

~~A formula has been adopted by the County, which may be updated from time to time, for determining the length of a ground lease for aeronautical and non-aeronautical users of Airport property. As of the adoption of this Policy, in addition to the payment of rent for leased property, \$50,000 of new capital investment per acre during the proposed lease term shall be required of each tenant in exchange for the grant of each one-year term of a ground lease. This formula applies to construction of new improvements and to new capital expenditure(s) on existing infrastructure located on the leasehold. It does not include expenditures for normal maintenance or deferred maintenance and repair of improvements. The County may update this formula from time to time to reflect current market conditions. Updates and revisions to the formula will be approved by the Board of Supervisors in the Airport's Rates and Charges schedule.~~

~~Examples of investments in permanent facilities located on the leasehold premises include, but may not be limited to the following: All leasehold improvements constructed on the Airport will be owned by the tenant during the term of the lease and will become the property of the County at the end of the lease term.~~

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Leases will provide a clear timeline establishing dates when the construction of improvements and the beginning of the aeronautical or non-aeronautical business operation must occur. New improvements shall be constructed within the agreed upon time or financial penalties shall apply, or the lease agreement may be terminated by the county.

Before entering into a lease agreement, the County and the proposed tenant will agree on a reasonable time by which the proposed tenant will obtain a written commenting for financing of the construction of improvements. If a commitment for financing has not been obtained by the agreed upon time, the lease agreement may be terminated by the County.

• **CONSTRUCTION**

LOCAL REQUIREMENTS: All construction of leasehold improvements will conform to the Airport's Development Standards, the Airport's Minimum Standards and all applicable development/construction standards administrated through the County's consolidated land use planning and development permitting agency known as Permit Sonoma. All construction, alteration, improvements, and repairs shall be approved in advance by the Airport Manager. Tenant shall complete the Airport's form, Tenant Construction Approval (on file with the Airport) and obtain all required approval signatures prior to beginning any construction. Any new or remodeled leasehold improvements constructed, will be owned by the tenant during the lease term and will become the property of the County at the end of the lease term.

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FAA NOTICE: Federal Aviation Regulations (4 CFR Part 77.9) provide that notice must be filed with FAA before any type of construction or alteration can be permitted at the Airport. The required notice is submitted using FAA form 7460-1 – Notice of Proposed Construction or Alteration. The tenant is responsible for filing the Form 7460-1 with FAA and submitting a copy to the Airport. Construction and/or alterations will not be permitted on the Airport until a favorable determination is received the FAA in its response to the Form 7460-1 notice.

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ENVIRONMENTAL REVIEW: The prospective Tenant shall be responsible for completing all environmental review requirements before receiving permission to begin

Charles M. Schulz – Sonoma County Airport



construction. Compliance with all applicable environmental review requirements, such as the California Environmental Quality Act (CEQA), County and federal government requirements, is required before a construction project can be approved.

⁹FAA Power Point Presentation – Developing an Airport Leasing Policy dated December 9, 2009.

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⁹FAA Power Point Presentation – Developing an Airport Leasing Policy dated December 9, 2009.



- Creating an addition, physical enlargement or expansion;
- Creating an increase in capacity, productivity or efficiency;
- Rebuilding an improvement after the end of its economic useful life;
- Replacing a major component or structural part of the property (not caused by deferred maintenance and repair);
- Adapting property to a new or different use, or
- Fixing a defect or design flaw.

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● CONSTRUCTION

LOCAL REQUIREMENTS: All construction of leasehold improvements will conform to the Airport's Development Standards, the Airport's Minimum Standards and all applicable development/construction standards administrated through the County's Permit and Resource Management Department (PRMD). All construction (new and alterations), shall be approved in advance by the Airport Manager. Tenant shall complete the Airport's form, Tenant Construction Approval (on file with the Airport), and obtain all required approval signatures prior to beginning any construction. Any new or remodeled leasehold improvements constructed, will be owned by the tenant during the lease term and will become the property of the County at the end of the

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ENVIRONMENTAL REVIEW: The prospective Tenant shall be responsible for completing all environmental review requirements before receiving permission to begin construction. Compliance with all applicable environmental review requirements, such



as the California Environmental Quality Act (CEQA), County and federal government requirements, is required before a construction project can be approved.

Pre-construction meeting(s) with Tenant and Tenant's contractor is mandatory prior to the start of construction at the Airport. Prior to this meeting, Tenant shall submit a Construction Security Plan at least thirty (30) days prior to the construction meeting for sufficient review time by the Airport.

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• **SUBLEASING**

Upon receiving prior written County approval, a tenant may sublease a portion or all of its leasehold to another person or entity for the purpose of providing additional aviation-related services at the Airport. Tenants wishing to sublease shall first submit a written request to the Airport at least sixty (60) days before the proposed sublease commencement date. Requests to sublease shall include (a) a Commercial Activity Application (on file with the Airport) that has been completed by the proposed sub-lessee, (b) a copy of the tenant's proposed sub-lease agreement with the proposed sub-lessee, and any additional information requested by the Airport Manager. All requests will be reviewed within the parameters of this leasing policy and the terms of the tenant's lease. Subtenants shall comply with all terms of the lease, the Minimum Standards, and all policies, rules and regulations that are applicable to Airport tenants.

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This subleasing policy is not applicable to airport tenants who are authorized in their lease to rent hangar or ramp space, on a retail basis, for the storage of individually owned aircraft.

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• **ASSIGNMENT OF LEASE**

Tenants wishing to sell or transfer any interest in their leasehold premises or leasehold improvements shall (a) provide written notice, of not less than ninety (90) days, prior to a pending sale or assignment and (b) make any proposed sale or assignment subject to the prior approval of the County. In addition to the assigning tenant's written notice, a Commercial Activity Application, shall be completed by the proposed assignee tenant and submitted to the Airport Manager along with any other documentation necessary for the County to review the proposed assignment.

Assignee tenants shall be required to meet all requirements of the lease agreement, the Minimum Standards, Rules and regulations, and any applicable government requirements.

• **INSURANCE**



The County, through its Risk Management Division, determines lease insurance requirements for both aeronautical and non-aeronautical use. The current insurance requirements for aeronautical activities are listed in the County's Commercial Activity Application in a matrix format. The Risk Management Division determines insurance requirements for non-aeronautical tenants based upon their business category, operations and industry practices.

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The types of insurance required in connection with a commercial lease include, but may not be limited to:

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- Worker's Compensation and Employer's Liability Insurance
- General Liability Insurance
- Automobile Liability
- Property Insurance for Tenant's Improvements
- Hazardous Waste and Environmental Liability (dependent upon use)
- Hangar Keepers' Liability (dependent upon use), and
- Aircraft and Passenger Liability (dependent upon use)

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A tenant's failure to maintain required insurance coverage shall constitute a violation of lease terms and may result in lease termination.

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• **PERCENTAGE RENT**

In addition to building or ground rent, any tenant conducting a commercial activity on the Airport will be required to pay percentage rent. This requirement also applies to any sub tenant or non-leasing entity conducting any type of commercial activity on the Airport. The percentage rent rate will be determined by the Airport Manager and will be dependent upon the type of commercial activity performed at the Airport, and whether that activity is aeronautical or non-aeronautical. Percentage rent for Concessions will be detailed in the Airport's Concession Policy.

"Commercial Activity" shall mean any and all activity conducted by the Operator or its affiliates, subtenants, licensees, contractors, or any other parties operating on or from the Premises that involves the exchange, sale, lease, rental, provision, or other disposition of goods, services, or any other item of value for compensation, consideration, or the expectation of compensation—whether monetary or otherwise. This includes, but is not limited to, retail sales, service transactions, equipment or vehicle rentals, food and beverage operations, advertising or sponsorship agreements, storage or parking fees,



commissions, and any other form of direct or indirect revenue generation. The term applies regardless of whether such activity is conducted in-person, online, or through a third party, and regardless of whether the activity occurs on the Premises or elsewhere, if it originates from, is facilitated by, or uses the Premises in any way. No commercial activity shall be exempt from reporting or percentage rent obligations unless expressly exempted in writing by the Airport.



~~lease term.~~

~~FAA NOTICE: Federal Aviation Regulations (4 CFR Part 77.9) provide that notice must be filed with FAA before any type of construction or alteration can be permitted at the Airport. The required notice is submitted using FAA form 7460-1—Notice of Proposed Construction or Alteration. The tenant is responsible for filing the Form 7460-1 with FAA and submitting a copy to the Airport. Construction and/or alterations will not be permitted on the Airport until a favorable determination is received the FAA in its response to the Form 7460-1 notice.~~

~~ENVIRONMENTAL REVIEW: The prospective Tenant shall be responsible for completing all environmental review requirements before receiving permission to begin construction. Compliance with all applicable environmental review requirements, such as the California Environmental Quality Act (CEQA), County and federal government requirements, is required before a construction project can be approved. Pre-construction meeting(s) with Tenant and Tenant's contractor is mandatory prior to the start of construction at the Airport. Prior to this meeting, Tenant shall submit a Construction Security Plan at least thirty (30) days prior to the construction meeting for sufficient review time by the Airport.~~

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~~● — ASSIGNMENT OF LEASE~~

~~Tenants wishing to sell or transfer any interest in their leasehold premises or leasehold improvements shall (a) provide written notice, of not less than ninety (90) days, prior to a pending sale or assignment and (b) make any proposed sale or assignment subject to the prior approval of the County. In addition to the assigning tenant's written notice, a Commercial Activity Application, shall be completed by the proposed assignee tenant and submitted to the Airport Manager along with any other documentation necessary for the County to review the proposed assignment. Assignee tenants shall be required to meet all requirements of the lease agreement, the Minimum Standards, Rules and regulations, and any applicable government~~

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◆ INSURANCE

The County, through its Risk Management Division, determines lease insurance requirements for both aeronautical and non-aeronautical use. The current insurance requirements for aeronautical activities are listed in the County's Commercial Activity Application in a matrix format. The Risk Management Division determines insurance requirements for non-aeronautical tenants based upon their business category, operations and industry practices.

The types of insurance required in connection with a commercial lease include, but may not be limited to:

- ◆ Worker's Compensation and Employer's Liability Insurance;
- ◆ General Liability Insurance;
- ◆ Automobile Liability;
- ◆ Property Insurance for Tenant's Improvements;
- ◆ Hazardous Waste and Environmental Liability (dependent upon use);
- ◆ Hangar Keepers' Liability (dependent upon use); and
- ◆ Aircraft and Passenger Liability (dependent upon use).

A tenant's failure to maintain required insurance coverage shall constitute a violation of lease terms.

◆ PERCENTAGE RENT

In addition to building or ground rent, any tenant conducting a commercial activity on the Airport will be required to pay percentage rent. This requirement also applies to any sub-tenant or non-leasing entity conducting any type of commercial activity on the Airport. The percentage rent rate will be determined by the Airport Manager and will be dependent upon the type of commercial activity performed at the Airport, and whether that activity is aeronautical or non-aeronautical. Percentage rent for Concessions will be detailed in the Airport's Concession Policy.

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~~that activity is aeronautical or non-aeronautical. Percentage rent for Concessions will be detailed in the Airport's Concession Policy.~~

- **FUEL FLOWAGE FEE**

Any commercial operator dispensing fuel at the Airport will be required to collect and remit the Airport's applicable per/gallon fuel flowage fee on a monthly basis. This requirement applies to both aeronautical and non-aeronautical tenants. Payment of the fuel flowage fee shall be in addition to any other rents payable to the Airport. A separate operating agreement, in addition to the lease agreement, will be needed by the prospective Tenant to dispense any type of fuel on the Airport.

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- **ENVIRONMENTAL REGULATIONS AND COMPLIANCE**

The prospective tenant shall be required to adhere to the strictest practices, monitoring and management of environmental stewardship on the Airport.

Compliance with all applicable environmental review requirements, such as the California Environmental Quality Act (CEQA), County and FAA requirements, is required before a construction project can be approved.

- **LEASE INSPECTIONS**

All leases will contain a clause allowing the County to conduct a yearly maintenance inspection of the leasehold including interior areas of leasehold improvements, to monitor compliance with lease terms, fire and safety codes, the Airport's Minimum Standards, and Rules and Regulations. Inspectors will take photographs and document findings. If an inspection of the property reveals deficiencies, 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 tenant has not corrected the deficiencies, an Administrative Citation may be ~~issued~~issued, or the lease may be terminated.

Items subject to inspection include, but are not limited to the following:

- All improvements/alterations have been approved in writing by the ~~Airport~~Airport.
- No deferred maintenance or safety ~~violations~~violations.
- Storm water Violations / Hazardous Materials Storage
- All commercial businesses have been approved by the Airport and consent for subleases are on ~~file~~file.
- Appropriate signage and ~~markings~~markings.

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- Compliance with federal, state and county codes, including, but limited ~~to~~to, fire and safety codes.



- **FINAL PROCESSING OF LEASE**

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All commercial leases are reviewed and approved by County ~~Counsel~~Counsel, and most are executed by the Chair of the Sonoma County Board of Supervisors. Leases in final form must bear the signature of the Tenant or their legally designated agent before they will be submitted to the County Board of Supervisors for review and execution. The scheduling of a Board item is at a minimum of six weeks from the receipt of a fully executed lease and all required documentation.



APPENDIX

FAA ROLE AND REGULATIONS IN AIRPORT COMMERCIAL LEASING

• REVIEW OF AGREEMENTS¹⁰

○ SCOPE OF FAA INTEREST IN LEASES (12.3)

The FAA does not review all leases, and there is no requirement for a sponsor to obtain FAA approval before entering into a lease. However, when the ADO or regional airports division does review a lease agreement, the review should include the following issues:

- ~~(1)~~.1 Determine if a lease has the effect of granting or denying rights that are contrary to federal statute, sponsor federal obligations, or FAA policy. For example, does the lease grant options or rights of first refusal that preclude the use of airport property by other aeronautical tenants?
- ~~(2)~~.2 Ensure the sponsor has not entered into a contract that would surrender its capability to control the airport.
- ~~(3)~~.3 Identify terms and conditions that could prevent the airport from realizing the full benefits for which it was developed.
- ~~(4)~~.4 Identify potential restrictions that could prevent the sponsor from meeting its grant and other obligations to the federal government. For example, does the lease grant the use of aeronautical land for a non-aeronautical use?

○ FORM OF LEASE OR AGREEMENT

The type of document or written instrument used to grant airport privileges is the sole responsibility of the sponsor. In reviewing such documents, the FAA office should concentrate on determining the nature of the rights granted and whether granting those rights may be in violation of the sponsor's federal obligations. The most important articles of a lease to review include:

- ~~(1)~~.1 Premises. What is being leased – land or facilities or both? Does the lease include only the land and/or facilities that the aeronautical tenant can reasonably use or has the tenant been granted options or rights of first refusal for other airport property and/or facilities that it will not immediately require?

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¹⁰ FAA Order 5190.6B – Chapter 12



Do options or rights of first refusal grant the tenant an exclusive right by allowing the tenant to control a majority or all of the aeronautical property on the airport that can be developed?

~~(2)-2)~~ 2) Rights and Obligations Does the lease grant the tenant an explicit or implied exclusive right to conduct a business or activity at the airport? Does the lease state the purpose of the lease, such as “the noncommercial storage of the owner’s aircraft?” Does the lease require any use to be approved by the airport sponsor? This will prevent future improper non-aeronautical uses of airport property

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~~(3)-3)~~ 3) Term Does the term exceed a period of years that is reasonably necessary to amortize a tenant’s investment? Does the lease provide for multiple options to the term with no increased compensation to the sponsor? Most lessee ground leases of 30 to 35 years are sufficient to retire a lessee’s initial financing and provide a reasonable return for the tenant’s development of major facilities. Leases that exceed 50 years may be considered a disposal of the property in that the term of the lease will likely exceed the useful life of the structures erected on the property. FAA offices should not consent to proposed lease terms that exceed 50 years.

~~(4)-4)~~ 4) Payment of Fees to the Sponsor Does the lease assess the tenant rent for leasing airport property and/or facilities and a concession fee if the tenant provides products and/or services to aeronautical users? Does the lease provide for the periodic adjustment of rent? Has the rental of airport land and/or facilities been assessed on a reasonable basis (e.g., by an appraisal)?

~~(5)-5)~~ 5) Title Does the title to tenant facilities vest in the sponsor at the expiration of the lease? Do any lease extension or option provisions provide for added facility rent once the title of facilities vests in the sponsor?

~~(6)-6)~~ 6) Subordination Is the lease subordinate to the sponsor’s federal obligations? Subordination may enable the sponsor to correct tenant activity through the terms of its lease that otherwise would put the sponsor in violation of its federal obligations.

~~(7)-(1) Assignment and Subletting Has the sponsor maintained the right to approve in advance an assignment (sale of the lease) or sublease by the tenant? For example, could the sponsor intervene if (a) a dominant fixed base operator (FBO) decides to acquire all other competing FBOs on the airfield or (b) an aeronautical tenant decides to lease aeronautical space to a non-aeronautical~~

~~tenant2~~

Federal laws and regulations require that recipients of federal assistance (Sponsors) include specific contract provisions in certain contracts, requests for proposals, or invitations to bid

Certain provisions must be included in all sponsor contracts, regardless of whether or not the contracts are federally funded. This requirement was established when a sponsor accepted the Airport Improvement Program (AIP) grant assurances.

To maintain eligibility of their procurement actions, a sponsor must incorporate applicable contract provisions in all federally assisted procurement and contract documents, including all subcontracts. For purposes of determining requirements for contract provisions, the term contract includes subcontracts.

- Civil Rights - General

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and sub tier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

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¹¹ FAA Required Contract Provisions for Airport Improvement Program and for Obligated Sponsors issued on



January 29, 2016

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o **General Civil Rights Provisions**

The tenant/concessionaire/lessee and its transferee agree to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program.

In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates the party or any transferee for the longer of the following periods:

- a) The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b) The period during which the airport sponsor or any transferee retains ownership or possession of the property.

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o **Title VI Clauses for Transfer of Real Property Acquired or Improved under the Activity, Facility or Program**

Title VI Solicitation Notice:

The (Name of Sponsor), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Title VI Clauses for Compliance with Nondiscrimination Requirement:

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

Charles M. Schulz – Sonoma County Airport



⁴⁴ ~~FAA Required Contract Provisions for Airport Improvement Program and for Obligated Sponsors issued on January 29, 2016.~~



~~In cases where Federal assistance provides, or is in the form of personal property, real property or interest therein, structures or improvements thereon, this provision obligates the party or any transferee for the longer of the following periods:~~

~~(a) The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or~~

~~(b)(a) The period during which the airport sponsor or any transferee retains ownership or possession of the property.~~

~~● Title VI Clauses for Transfer of Real Property Acquired or Improved under the Activity, Facility or Program~~

~~Title VI Solicitation Notice:~~

~~The (Name of Sponsor), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 55-2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.~~

~~Title VI Clauses for Compliance with Nondiscrimination Requirement:~~

~~During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:~~

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

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- 3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
- 4 Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5 Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to.

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~~a) the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.~~

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~~3.1. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.~~

~~4 Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.~~

~~5 Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:~~

~~a.a) Withholding payments to the contractor under the contract until the contractor complies; and/or~~

~~b.b) Cancelling, terminating, or suspending a contract, in whole or in part.~~

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~~6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier,~~



because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

6.

Title VI Clauses for Deeds Transferring United States Property

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of the Airport Improvement Program grant assurances.

NOW, THEREFORE, the Federal Aviation Administration as authorized by law and upon the condition that the *(Title of Sponsor)* will accept title to the lands and maintain the project constructed thereon in accordance with *(Name of Appropriate Legislative Authority)*, for the *(Airport Improvement Program or other program for which land is transferred)*, and the policies and procedures prescribed by the Federal Aviation Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the *(Title of Sponsor)* all the right, title and interest of the U.S. Department of Transportation/Federal Aviation Administration in and to said lands described in *(Exhibit A attached hereto or other exhibit describing the transferred property)* and made a part hereof

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto *(Title of Sponsor)* and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the *(Title of Sponsor)*, its successors and assigns

The *(Title of Sponsor)*, in consideration of the conveyance of said lands and

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interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the (Title of Sponsor) will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter, or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Federal Aviation Administration and its assigns as such interest existed prior to this instruction].*

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(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

Title VI Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program:

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The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the (Title of Sponsor) pursuant to the provisions of the Airport Improvement Program grant assurances.

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Charles M. Schulz – Sonoma County Airport



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- because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.
- A. ~~Title VI Clauses for Deeds Transferring United States Property~~
- A. ~~The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of the Airport Improvement Program grant assurances:~~
- NOW, THEREFORE, the Federal Aviation Administration as authorized by law and upon the condition that the *(Title of Sponsor)* will accept title to the lands and maintain the project constructed thereon in accordance with *(Name of Appropriate Legislative Authority)*, for the *(Airport Improvement Program or other program for which land is transferred)*, and the policies and procedures prescribed by the Federal Aviation Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat.
- 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the *(Title of Sponsor)* all the right, title and interest of the U.S. Department of Transportation/Federal Aviation Administration in and to said lands described in *(Exhibit A attached hereto or other exhibit describing the transferred property)* and made a part hereof.
- (HABENDUM CLAUSE)
- TO HAVE AND TO HOLD said lands and interests therein unto *(Title of Sponsor)* and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the *(Title of Sponsor)*, its successors and assigns.
- The *(Title of Sponsor)*, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with

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- the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [.] [and]* (2) that the *(Title of Sponsor)* will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations,
- U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended, and (3) that in the event of breach of any of the above mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Federal Aviation Administration and its assigns as such interest existed prior to this instruction].*
- (*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)
- Title VI Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program:
- *The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the (Title of Sponsor) pursuant to the provisions of the Airport Improvement Program grant assurances.*
- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
- 1) 1—In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, (Title of Sponsor) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
- C. With respect to a deed, in the event of breach of any of the above

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Nondiscrimination covenants, the *(Title of Sponsor)* will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the *(Title of Sponsor)* and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program:

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by *(Title of Sponsor)* pursuant to the provisions of the Airport Improvement Program grant assurances.



~~A. excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.~~

~~B.A. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, (Title of Sponsor) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*~~

~~C.A. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the (Title of Sponsor) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (Title of Sponsor) and its assigns.*~~

~~(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)~~

~~**Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program:**~~

~~The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by (Title of Sponsor) pursuant to the provisions of the Airport Improvement Program grant assurances.~~

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

~~A. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above nondiscrimination covenants, (Title of Sponsor) will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*~~

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C With respect to deeds, in the event of breach of any of the above nondiscrimination covenants, *(Title of Sponsor)* will there upon revert to and vest in and become the absolute property of *(Title of Sponsor)* and its assigns *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

Title VI List of Pertinent Nondiscrimination Acts and Authorities:

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin)
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964)
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects)

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enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *

~~B. With respect to deeds, in the event of breach of any of the above nondiscrimination covenants, (Title of Sponsor) will there upon revert to and vest in and become the absolute property of (Title of Sponsor) and its assigns.~~
(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

~~Title VI List of Pertinent Nondiscrimination Acts and Authorities:~~

~~During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:~~

- ~~• Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);~~
- ~~• 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);~~
- ~~• The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal aid programs and projects);~~
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27.27.
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);;
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);;

The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);;

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- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38.
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);).

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~~the programs or activities of the Federal aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);~~

- ~~• Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;~~
- ~~• The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);~~
- ~~• Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;~~
- ~~• Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);~~
- ~~• Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).~~

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE):

~~All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.~~

~~The [contractor / consultant] has full responsibility to monitor compliance to the referenced statute or regulation. The [contractor / consultant] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.~~

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970:

Charles M. Schulz – Sonoma County Airport



All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

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Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

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