



WILLISTON BASIN
INTERNATIONAL AIRPORT

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General Aviation Leasing/Rents and Fees Policy

City of Williston

Williston Basin International Airport (XWA)

February 24, 2017

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1. INTRODUCTION

1.1. Purpose

- 1.1.1. This General Aviation Leasing/Rents and Fees Policy (Policy) sets forth the parameters for leasing Airport land and/or Improvements for Commercial and/or Non-Commercial General Aviation purposes at the Williston Basin International Airport (Airport). This policy outlines the process that shall be used by the City of Williston (City) to establish and adjust General Aviation rents, fees, and/or other charges associated with leasing, occupying, and/or using Airport land and/or Improvements for Commercial or Non-Commercial General Aviation purposes.
- 1.1.2. Entity shall not occupy Airport land and/or Improvements for any purpose unless the entity has an Agreement or Sublease.
- 1.1.3. Entity shall not conduct Commercial General Aviation Aeronautical Activities at the Airport unless the entity has an Agreement and a General Aviation Operator Permit authorizing such Activity.
- 1.1.4. Entity shall not engage in Non-Commercial General Aviation Aeronautical Activities at the Airport unless the entity has an Agreement and all required permits authorizing such Activity.
- 1.1.5. The City reserves the right to designate specific Airport areas in which Commercial and/or Non-Commercial General Aviation Aeronautical Activities may or may not be conducted.
- 1.1.6. The right to use the Airport and any Airport land and/or Improvements is non-exclusive with exception of those areas that are leased exclusively to an entity by the City.

1.2. General Provisions

- 1.2.1. This Policy incorporates, by reference, the General Provisions. The terms identified by use of a capital letter in this Policy are addressed in Section 1.2 of the General Provisions.

1.3. Applicability

- 1.3.1. This Policy shall apply to any new Agreement or any new amendment to any existing Agreement relating to the leasing of land and/or Improvements for Commercial and/or Non-Commercial General Aviation purposes, conducting Commercial General Aviation Aeronautical Activities, and/or engaging in Non-Commercial General Aviation Aeronautical Activities at the Airport.
 - 1.3.1.1. This Policy shall not affect any Agreement or amendment thereto that is properly executed prior to the date of adoption of this Policy except as provided for in such Agreement, in which case, this Policy shall apply to the extent permitted by such Agreement.

2. LEASING AIRPORT LAND AND/OR IMPROVEMENTS

2.1. Application

- 2.1.1. Any entity desirous of leasing Airport land and/or Improvements at the Airport shall complete all relevant and applicable sections of the General Aviation Operator and Lessee Application (Application) and submit the Application to the Airport Director.
 - 2.1.1.1. If an existing Lessee desires to enter into a new Agreement, the Lessee shall notify the Airport Director 12 months in advance of the expiration date of the Lessee's existing Agreement.
 - 2.1.1.2. The new Agreement shall be subject to Regulatory Measures, the Airport Sponsor Assurances and all other federal laws or Federal Aviation Administration (FAA) regulations, obligations, and guidance, the Primary Guiding Documents, Airport policies, standards, and directives, and zoning, building, fire, safety, and other codes, ordinances, statues, and measures of any Agency having jurisdiction.
 - 2.1.1.3. A non-refundable application fee shall be submitted with the Application, as stipulated in the General Aviation Rents and Fees Schedule.

2.2. Approval Process

- 2.2.1. Applicant shall submit the completed Application and thereafter shall submit any additional information, data, and/or documentation that may be required or requested by the Airport Director, on behalf of the City, in order to properly and fully evaluate the Application.
 - 2.2.1.1. Incomplete Applications that do not provide the City with the information necessary to make a meaningful assessment of the costs and the benefits of leasing Airport land and/or Improvements to the Applicant shall be rejected.
 - 2.2.1.2. Applications that do not comply with this Policy and/or the Primary Guiding Documents shall be rejected.
 - 2.2.1.3. Additionally, Applications may be rejected by the City in accordance with Section 1.23 of the General Provisions.
 - 2.2.1.4. The Airport Director, on behalf of the City, may request additional information from the Applicant and, if provided by the Applicant, the City may, in its sole discretion, continue to evaluate the Application.
- 2.2.2. Within 90 calendar days of receiving a completed Application, the Airport Director shall convey the key terms and conditions (including rents, fees, and other charges) that have been established by the City for leasing the Airport land and/or Improvements identified by the Applicant in its Application or convey the reasons for denying the Application in writing to the Applicant.
- 2.2.3. Within 30 calendar days of receiving this information from the City, the Applicant shall indicate if the key terms and conditions established by the City are acceptable to the Applicant.

- 2.2.4. If the key terms and conditions established by the City are not acceptable to the Applicant, the Applicant shall present to the Airport Director, on behalf of the City, the key terms and conditions that are acceptable to the Applicant within 30 calendar days of receiving the information from the City.
 - 2.2.4.1. The City may then negotiate the key terms and conditions with the Applicant and/or the City may initiate the Competitive Proposal Process described in Section 2.3 of this Policy, as determined by the City in its sole discretion.
 - 2.2.4.2. If the City and the Applicant are unable to reach agreement on the key terms and conditions within 30 calendar days of the time the information is presented to the City by the Applicant, the City is not obligated to lease Airport land and/or Improvements to the Applicant.
- 2.2.5. Upon the City and the Applicant reaching agreement on the key terms and conditions, the Applicant shall: (a) enter into a Memorandum of Understanding with the City outlining the key terms and conditions, and (b) pay an earnest money deposit in cash or letter of credit to the City in the amount equivalent to the rents, fees, and other charges (total compensation) for the first month of the Agreement or \$1,000 (whichever is greater) – as evidence of the Applicant’s good faith to enter into an Agreement with the City.
 - 2.2.5.1. If a Memorandum of Understanding is not executed by the City and the Applicant within 30 calendar days of reaching agreement on the key terms and conditions, the City is not obligated to lease Airport land and/or Improvements to the Applicant.
- 2.2.6. Once the Memorandum of Understanding is executed by the Applicant, an Agreement shall be prepared by the Airport Director, on behalf of the City, for review by the Applicant.
- 2.2.7. Once the Applicant executes the Agreement, the Agreement shall be presented to the City for execution.
 - 2.2.7.1. If the Applicant does not execute the Agreement, the earnest money deposit shall be forfeited by the Applicant to the City.
- 2.2.8. When the City indicates intent to execute the Agreement, the Applicant shall pay a security deposit in the form of cash or a letter of credit – in the amount equal to 25% of the rents, fees, and other charges (total compensation) for the first year of the Agreement or \$2,500 (whichever is greater) – to the City.
 - 2.2.8.1. If the Applicant does not pay the security deposit to the City, the Agreement shall not be executed by the City and the earnest money shall be forfeited by the Applicant to the City.
 - 2.2.8.2. If the City does not execute the Agreement, the earnest money and the security deposit shall be returned to the Applicant, without interest, within 30 calendar days.

2.3. Competitive Process

- 2.3.1. City Initiative

- 2.3.1.1. If Airport land and/or Improvements exist or become available, in the City's sole discretion, the Airport Director, on behalf of the City, may issue a Request for Interest (RFI) seeking statements of interest, Request for Qualifications (RFQ) seeking statements of qualifications, and/or a Request for Proposal (RFP) seeking competitive proposals from entities that may be interested in leasing available Airport land and/or Improvements.
 - 2.3.1.1.1. The Airport Director shall advertise the RFI, RFQ, and/or RFP opportunity. Advertising Guidelines are provided in Appendix Section 5.1 of this Policy.
 - 2.3.1.1.2. Guidelines for the development of the RFI, RFQ, and/or RFP document are provided in Appendix Section 5.2 of this Policy.
- 2.3.1.2. The Airport Director, on behalf of the City, may, in its sole discretion, hold a pre-proposal meeting to: (a) discuss the RFI/RFQ/RFP opportunity, the RFI/RFQ/RFP document, and/or related processes, (b) give a tour of the Airport and/or the subject property, and (c) provide prospective respondents with the opportunity to ask questions.
- 2.3.1.3. The Airport Director shall receive submittals at the designated place, date, and time specified in the RFI/RFQ/RFP document.
- 2.3.1.4. Submittals received after the stated deadline shall not be considered and shall be returned unopened.
- 2.3.1.5. After the stated deadline, the Airport Director shall review the submittals for compliance with the RFI/RFQ/RFP specifications and/or criteria and the City shall evaluate and rank the submittals.
- 2.3.1.6. The City may, in its sole discretion, interview respondents.
- 2.3.1.7. The City has the right to reject any or all submittals, to advertise for new submittals, and/or to modify any or all RFI/RFQ/RFP processes.
- 2.3.1.8. The City shall be under no obligation to make an award or to make an award to the respondent specifying the highest level of compensation to the City.
- 2.3.1.9. Upon completion of the RFI process (if utilized), the City may, in its sole discretion, invite respondents to respond to an RFQ or RFP.
- 2.3.1.10. Upon completion of the RFQ process (if utilized), the City may, in its sole discretion, invite the most qualified respondents to respond to an RFP.
 - 2.3.1.10.1. If only one respondent is considered qualified by the City, the City may, in its sole discretion, negotiate an Agreement with the qualified respondent without issuing an RFP.

- 2.3.1.11. Upon completion of the RFP process (if utilized), the City may select the best respondent in the City's sole discretion. The City may then negotiate an Agreement with the best respondent.
 - 2.3.1.12. In either case (RFQ or RFP), if the City and the best respondent are unable to reach an Agreement, at the sole discretion of the City, the City may negotiate with the next best respondent and so on.
 - 2.3.1.13. Once an Agreement is reached and executed by the respondent, the executed Agreement shall be submitted to the City for approval.
 - 2.3.1.14. Additionally, the respondent shall submit a performance bond or a personal guarantee in the amount equal to 10% of the rents, fees, and other charges to be paid to the City in the first year to the City.
 - 2.3.1.15. If the City does not approve the Agreement, the performance bond shall be returned to the respondent.
 - 2.3.2. Initiative of Others
 - 2.3.2.1. If, during the Application process, another qualified entity expresses interest in leasing (and demonstrates an immediate need, as described in Section 2.4 of this Policy, for) the subject property, the City may, in its sole discretion, negotiate with the entity(ies) and/or issue an RFQ/RFP in which case, the Competitive Proposal Process described in Section 2.3.1 of this Policy shall be followed.
 - 2.3.2.2. However, once the Memorandum of Understanding is: (a) executed by the Applicant and City, and (b) the earnest money deposit has been provided, the City is under no obligation to:
 - 2.3.2.2.1. negotiate with any entity other than the Applicant; or,
 - 2.3.2.2.2. issue an RFQ/RFP.
- 2.4. Demonstrating Immediate Need**
- 2.4.1. Any entity seeking to lease Airport land and/or Improvements must demonstrate that the entire land area(s) and/or the entire Improvement(s) seeking to be leased will be Immediately utilized.
- 2.5. Public Disclosure**
- 2.5.1. Applicants should be aware that the City, as a governmental entity, is subject to The Freedom of Information Act (FOIA), Title 5 of the United States Code, Section 552 and to the North Dakota Century Code, Section 44-04-18.10 Disclosure of Public Records, which gives the public the right to examine documents of an Agency.
 - 2.5.1.1. However, if an Applicant identifies any proprietary information submitted to the City and if the City receives a request from the public for release of such information, the City shall notify the Applicant prior to releasing such information.

2.6. City Improvement Leasing

2.6.1. The City may, in its sole discretion, enter into a Non-Commercial Aircraft Hangar Agreement which grants an entity the right to use and/or occupy a City Hangar at the Airport in accordance with Section 5.3 of this Policy.

2.6.1.1. The City may, in its sole discretion, also utilize the process outlined in Section 5.3 of this Policy for any other City Improvements not addressed in Section 2.6.1 of this Policy.

2.6.1.2. A Non-Commercial Aircraft Hangar Agreement shall, at a minimum, include the provisions set forth in Appendix Section 5.4.

3. AGREEMENTS

3.1. Introduction

- 3.1.1. The Agreement will outline the terms and conditions under which the entity is authorized to occupy and/or use Airport land and/or Improvements.
- 3.1.2. This Policy outlines the key terms and conditions which shall be included, at a minimum, in the Agreement as well as other (general) terms and conditions which may be included in the Agreement.
 - 3.1.2.1. This Policy does not represent a complete recitation of the provisions to be included in the Agreement and the provisions contained in any Agreement shall not be deemed or construed to modify this Policy.

3.2. Recitals

- 3.2.1. All recitals shall include, at a minimum, the desires of the City and the Lessee. All recitals shall be incorporated into the Agreement by reference.

3.3. Definitions

- 3.3.1. Consistent with the Primary Guiding Documents, all defined words are identified in the General Provisions and shall be incorporated into the Agreement by reference.
- 3.3.2. All words or phrases defined in the Primary Guiding Documents, whenever used in the Agreement, shall be identified by use of a capital letter and the meaning shall be construed accordingly (as defined in the Primary Guiding Documents) unless the context dictates a different meaning.

3.4. Leased Premises

- 3.4.1. Description
 - 3.4.1.1. The Leased Premises shall be clearly defined and described including the square footage of each component and the address of the Leased Premises.
 - 3.4.1.2. If a Lessee desires to construct additional Improvements on the Leased Premises, a statement shall be made to that effect and the process shall be outlined.
 - 3.4.1.3. All Leased Premises shall be inspected by the Lessee and Lessee's acceptance of (and responsibilities relating to) the Leased Premises shall be clearly stipulated.
 - 3.4.1.4. It is the intent of the City to own all Ramp areas at the Airport and grant use (on a non-exclusive basis) to Commercial Operators and Non-Commercial Lessees located adjacent to the Leased Premises.
- 3.4.2. Use
 - 3.4.2.1. Aeronautical Use (Commercial)
 - 3.4.2.1.1. The Agreement shall identify the required General Aviation products, services, and/or facilities to be provided by the Operator and the related hours.

- 3.4.2.1.2. The Agreement may identify any optional General Aviation products, services, and/or facilities that may be provided without the approval of the City.
- 3.4.2.1.3. The Agreement may also identify any additional General Aviation products, services, and/or facilities that may be provided, subject to obtaining the prior written approval of the City.
- 3.4.2.1.4. Lessee shall meet the requirements set forth in the Primary Guiding Documents.
- 3.4.2.2. Aeronautical Use (Non-Commercial)
 - 3.4.2.2.1. For Non-Commercial occupancy and/or use of Airport land and/or Improvements, the Agreement shall stipulate that the entity shall not offer or provide Commercial General Aviation products, services, or facilities or conduct Commercial Activities at the Airport and/or from the Leased Premises, unless provided for in a separate Agreement with the City.
 - 3.4.2.2.2. Lessee shall comply with the requirements set forth in the Primary Guiding Documents.
- 3.4.2.3. Non-Aeronautical Use
 - 3.4.2.3.1. Leasing Airport land and/or Improvements for non-aeronautical activities is not generally favored by the City or the FAA. The City may, in its sole discretion, consider such use in the event a secondary non-aeronautical use of Airport land and/or Improvements does not interfere with the primary aeronautical use of Airport land and/or Improvements and is not in violation of any FAA regulations.
 - 3.4.2.3.2. If such use is contemplated, the Applicant must prove that the subject Airport land and/or Improvements will not be needed for Aeronautical Activities (or aeronautical uses including Airport development) during the entire term (including the base term of the Agreement and option periods, if applicable) of a proposed Agreement.
 - 3.4.2.3.3. The leasing of Airport land and/or Improvements for non-aeronautical activities or uses will not be allowed without the prior written approval of the FAA. Any agreement for non-aeronautical activities and/or uses shall be null and void if prior written approval of the FAA is not obtained.
- 3.4.3. Prohibited Uses
 - 3.4.3.1. All prohibited uses of the Leased Premises shall be identified including any uses contrary to the Airport's Master Plan, Airport Layout Plan, Airport Land Use Plan, and/or Regulatory Measure.

3.4.4. Compliance

3.4.4.1. The Agreement shall require compliance with the Primary Guiding Documents, any other directives of the Airport Director and/or City, and all applicable Regulatory Measures.

3.5. Term

3.5.1. The original term, commencement date, and ending date shall be conveyed in the Agreement.

3.5.2. The term of the Agreement shall be commensurate with the amount of Capital Investment made by the Lessee in the Leased Premises in accordance with the following:

Type of Activity	Notes	Capital Investment (Per Year of Lease Term)
Fixed Base Operator (FBO)	All	\$37,500 per acre
Avionics or Instrument Maintenance Operator (SASO)	Without Hangar	\$17,500 per acre
Aircraft Maintenance Operator (SASO) Avionics or Instrument Maintenance Operator (SASO)	With Hangar	\$57,500 per acre
Aircraft Rental or Flight Training Operator (SASO) Aircraft Charter or Aircraft Management Operator (SASO) Aircraft Sales Operator (SASO)	Without Hangar	\$10,000 per acre
Aircraft Rental or Flight Training Operator (SASO) Aircraft Charter or Aircraft Management Operator (SASO) Aircraft Sales Operator (SASO)	With Hangar	\$42,500 per acre
Aircraft Storage Operator (SASO)	Piston	\$37,500 per acre
	Turboprop/Turbojet	\$45,000 per acre

3.5.2.1. The required Capital Investment shall be based on the type of Activity and the category of Aircraft being serviced or operated.

3.5.2.2. If a Hangar is constructed, the required Capital Investment shall be based on the highest category of Aircraft the Hangar is capable of accommodating.

3.5.2.3. Notwithstanding circumstances beyond the control of the Lessee and if the City agrees in writing that such circumstances were beyond the control of the Lessee, all Improvements to the Leased Premises shall be completed and occupied and/or used by the Lessee within 18 calendar months of the commencement date of the Agreement.

3.5.2.4. The required Capital Investment shall be adjusted every five years (e.g., January 1, 2020, 2025, 2030, etc.) based on the change in the Airport Economic Index (described in Section 4.3.3).

3.5.2.4.1. At the discretion of the City, the required Capital Investment may be adjusted to reflect the change in the cost of construction in the market using a similar mechanism.

- 3.5.2.5. When Capital Investment is made, the term of the Agreement shall not be greater than a 30 year base term plus 2 five-year option periods (for a total of 40 years).
- 3.5.2.6. When no Capital Investment is made, the term of the Agreement shall be at the discretion of the City, but shall not be greater than 20% of the term of the previous Agreement (if an existing Lessee) or 5 years, whichever is less.
- 3.5.2.7. When a Lessee makes additional Capital Investment in the Leased Premises and/or at the Airport during the term of the existing Agreement, the term of the Agreement may be extended by the City based on the level of Capital Investment made by the Lessee:
 - 3.5.2.7.1. If the term of the Agreement is extended by the City:
 - (a) the Agreement shall be amended in accordance with this Policy, the Primary Guiding Documents, any other directives of the Airport Director and/or City, and all applicable Regulatory Measures in effect at the time, and
 - (b) the remaining term of an existing Agreement plus the term of any extension thereto shall not be greater than 40 years.
- 3.5.2.8. If Capital Investment is made (at the beginning of the Agreement or during the term of an existing Agreement) above the amount commensurate with 40 years of term (based on the type of Activity and the category of Aircraft being serviced or operated), the City may, in its sole discretion, consider abating rents or making rent concessions.
 - 3.5.2.8.1. The City shall not be obligated to abate rent or make rents concessions.
 - 3.5.2.8.2. The amount of the rent abatement or rent concession shall not exceed the amount of excess Capital Investment.
 - 3.5.2.8.3. If a Lessee has multiple Agreements with the City, a term commensurate with the Capital Investment made or the rent abatement or rent concession amount may, in the sole discretion of the City, be applied to any or all Agreements.
- 3.5.3. The renewal process, rights, and timeframe for exercising any renewal options shall be outlined in the Agreement. If City owned Improvements are part of the Leased Premises, require certain maintenance, repairs, and/or restoration prior to renewal.
- 3.5.4. For Commercial Aeronautical Activities, in the event the use and/or occupancy of the Leased Premises is going to be transitioned from the Lessee to another entity, the cooperation of the Lessee shall be required and a statement (to this effect) shall be included in the Agreement.

3.6. Rents, Fees, Payments and Late Charges

3.6.1. Rent

3.6.1.1. The rent to be paid by the Lessee to the City shall be identified in the Agreement.

3.6.1.2. All Airport rents shall be established and adjusted in accordance with Section 4 of this Policy.

3.6.2. Fees

3.6.2.1. The applicable fees to be paid by the Lessee to the City shall be identified in the Agreement.

3.6.2.2. All Airport fees shall be established and adjusted in accordance with Section 4 of this Policy.

3.6.3. Payments and Late Charges

3.6.3.1. The Agreement shall identify the frequency, the due date, and the acceptable manner for making payments, including the delivery address.

3.6.3.2. Additionally, the time at which a payment is considered late shall be stipulated and the process for applying late charges (and any related interest) shall be outlined.

3.7. Improvements

3.7.1. All Improvements shall comply with this Policy, the Primary Guiding Documents, any other directives of the Airport Director and/or City, and all applicable Regulatory Measures.

3.7.2. Lessee shall procure all building, fire, safety, and other required permits.

3.7.3. Upon expiration of the term of the Agreement, at the option of the City, ownership of the permanent Improvements that have been made to the Leased Premises by the Lessee shall revert to the City or the permanent Improvements identified by the City shall be demolished and/or removed by the Lessee and the Lessee shall return the Leased Premises to its original condition and character, normal wear and tear excepted.

3.8. Lessee's Rights and Privileges

3.8.1. The Lessee shall be permitted to use the Airport and its appurtenances together with all public areas and facilities in common with all Airport users. Additionally, the Lessee shall be solely liable for and shall reimburse the City for any expenses incurred by the City for repair of any damage cause by the Lessee at the Airport.

3.8.2. The right of use, location, and hours of ingress and egress shall be identified in the Agreement.

3.8.3. Subject to compliance with the terms and conditions of the Agreement and this Policy, the Lessee shall be permitted to peacefully and quietly have, hold, and enjoy the Leased Premises for the term of the Agreement.

- 3.8.4. Lessee shall be permitted to install fixtures on the Leased Premises and use Equipment, tools, machinery, or other personal Property in support of the authorized uses of the Leased Premises at the sole risk of the Lessee. The Agreement shall clearly state that all fixtures, Equipment, tools, machinery, and personal Property shall be removed from the Leased Premises upon termination of the Agreement.

3.9. Lessor's Rights and Privileges

- 3.9.1. In addition to the rights and privileges outlined in the Primary Guiding Documents, the Agreement shall convey any additional rights and privileges of the City pertaining to the Leased Premises including, but not limited to, access to the Leased Premises and performance of official acts by the City (or a designated representative of the City).

3.10. Lessee's Obligations

- 3.10.1. For Commercial Aeronautical Activities, the Lessee shall be responsible for maintaining an on-going business at the Airport and complying with the required hours of activity in the Primary Guiding Documents throughout the term of the Agreement. Additionally, any modifications to the business or corporate structure of the Lessee shall be communicated to the Airport Director.
- 3.10.2. Lessee shall be responsible for the conduct, demeanor, and appearance of the Lessee's representatives, officers, officials, employees, agents, and volunteers at the Airport and on the Leased Premises.
- 3.10.3. Lessee shall be responsible for conducting Lessee's authorized Activities in a manner that does not interfere with or disturb others while also complying with Regulatory Measures.
- 3.10.4. Lessee shall be responsible for promptly paying when due and owing all:
- 3.10.4.1. taxes, assessments, and other fees, without offset or abatement charged by any Agency relating to the Leased Premises and/or Improvements,
 - 3.10.4.2. utilities (which shall be arranged for by Lessee and must be separately metered), and
 - 3.10.4.3. all costs, expenses, and other charges relating to the Leased Premises, Improvements, and/or Lessee's Activities.
- 3.10.5. Lessee shall be responsible for maintaining, repairing, and/or restoring the Leased Premises including all structural components, all exterior and interior maintenance and repair, landscaping, janitorial, trash removal, snow removal, and sweeping.
- 3.10.5.1. The Agreement shall outline the process in the event the Lessee fails to diligently, properly, and promptly maintain, repair, and/or restore or clean the Leased Premises.
- 3.10.6. If Based Aircraft are located on the Leased Premises, the Lessee shall provide a Based Aircraft Report to the Airport Director in compliance with the Primary Guiding Documents.

- 3.10.7. The Agreement shall include the provisions required by the FAA which shall, at a minimum, include non-exclusive use of the Airport and non-discrimination clauses.
- 3.10.8. The City shall consider any of the following a default under the Agreement:
 - 3.10.8.1. failure to comply with Regulatory Measures;
 - 3.10.8.2. failure to comply with the Airport Sponsor Assurances;
 - 3.10.8.3. failure to comply with other federal laws or FAA regulations, obligations, and guidance;
 - 3.10.8.4. failure to comply with the Primary Guiding Documents;
 - 3.10.8.5. failure to comply with Airport policies, standards, and/or directives;
 - 3.10.8.6. failure to comply with zoning, building, fire, safety, and other codes, ordinances, statues, and/or measures of any government agencies having jurisdiction;
 - 3.10.8.7. failure to perform any condition, obligation, or privilege contained in the Agreement;
 - 3.10.8.8. failure of a Commercial Lessee to obtain prior written approval from the City before conducting additional Commercial Aeronautical Activities;
 - 3.10.8.9. failure to obtain prior written approval from the City before making any Improvements to the Leased Premises and/or at the Airport;
 - 3.10.8.10. failure of a Non-Commercial Lessee to refrain from engaging in Commercial Activities at the Airport and/or from the Leased Premises, unless provided for in a separate Agreement with the City;
 - 3.10.8.11. subleasing (or attempting to sublease) any portion of the Leased Premises without the prior written consent or approval of the City;
 - 3.10.8.12. any sale or assignment made (or attempted to be made) without the prior written approval of the City;
 - 3.10.8.13. any change in controlling ownership made (or attempted to be made) without the prior written approval of the City;
 - 3.10.8.14. any encumbrance made (or attempted to be made) without the prior written approval of the City;
 - 3.10.8.15. the failure to properly maintain the Leased Premises or promptly pay all utilities, insurance, and taxes when due and owing;
 - 3.10.8.16. the filing of bankruptcy and/or assignment of substantially all Lessee's assets for the benefit of Lessee's creditors;
 - 3.10.8.17. the filing of a lien against the Leased Premises;
 - 3.10.8.18. the voluntary abandonment of the Leased Premises;
 - 3.10.8.19. falsification of any record so as to deprive the City of any rights, privileges, rents, fees, or other charges under the Agreement;
 - 3.10.8.20. failure to remain Current or in Good Standing.

- 3.10.9. The Agreement shall stipulate that any default or breach of the Agreement shall constitute a default or breach of all Agreements between the City and Lessee.
- 3.10.10. The Lessee may, at the Lessee's option and provided the Lessee is Current and in Good Standing, terminate the Agreement due to permanent abandonment or closure of the Airport, the lawful assumption by the United States Government or any authorized Agency, or a default or breach of the Agreement (that is not cured or remedied) by the City.

3.11. Condemnation or Eminent Domain

- 3.11.1. In the event of acquisition by Condemnation or the exercise of the power of eminent domain (by any Agency permitted to take property for public use) of any interest in all or a portion of the Leased Premises, Lessee shall not institute any action or proceeding or assert any claim against the City for Compensation or consideration of any nature.
- 3.11.2. All Compensation or consideration awarded or paid upon a total or partial acquisition of the Leased Premises (which for these purposes shall not include any Compensation or consideration from the City) shall belong to the City without any participation of the Lessee.
 - 3.11.2.1. Lessee may recover directly from the condemning Agency the value of any claim, provided that no such claim shall diminish or otherwise adversely affect the City's award.
- 3.11.3. Total
 - 3.11.3.1. In the event of an acquisition by Condemnation or eminent domain of all interest in the Leased Premises, Lessee's obligation to pay rent shall cease and all leasehold estate created shall cease.
- 3.11.4. Substantial and Partial
 - 3.11.4.1. In the event of an acquisition by Condemnation or eminent domain of a portion of interest in the Leased Premises, Lessee's obligation to pay rent shall cease as it pertain to the specific portion of the Leased Premises.
 - 3.11.4.1.1. If the Condemnation or eminent domain substantially impairs the conduct of the Lessee's Activities and equates to more than 50% of the total Leased Premises, Lessee may terminate the Agreement by notifying the Airport Director.
 - 3.11.4.1.2. If the Agreement is not terminated by the Lessee, the rent shall be adjusted accordingly.

3.12. Force Majeure

- 3.12.1. The City or Lessee shall be excused if delayed, hindered, or prevented from performance of the Agreement by reason of war, national emergency, or acts of nature. However, the Lessee shall not be relieved of paying rents, fees, and/or other charges when due and owing.

3.13. Relocation

- 3.13.1. In the event that relocation is deemed necessary (e.g., to correct deviations from 14 CFR Part 77 Safe, Efficient Use, and Preservation of the Navigable Airspace and/or to ensure that the leasing, occupancy, use and/or development of Airport land and/or Improvements is consistent with the Airport's Master Plan, Airport Layout Plan, and/or Airport Land Use Plan), the City shall provide Airport land and/or Improvements that are similar to the Airport land and/or Improvements currently being occupied and/or used by the Lessee.
- 3.13.1.1. Such Airport land and/or Improvements shall be leased to the Lessee at the Market Rent, as set forth in Section 4.2 of this Policy and under the same terms and conditions as stipulated in the existing Agreement.
- 3.13.2. If similar Airport land and/or Improvements are not available, the City may, in its sole discretion, buyout the leasehold interest held by the Lessee at the market value determined by an Appraiser engaged by the City using the approach outlined in Section 5.5 of this Policy.
- 3.13.3. If the Lessee disagrees with the market value conclusion reached by the Appraiser, the Lessee shall have the right to initiate the dispute resolution process set forth in Appendix Section 5.8 of this Policy.
- 3.13.4. If the relocation is solely for the benefit of the City, the City agrees to pay all reasonable (and verifiable) relocation costs and expenses associated with relocating the Lessee.
- 3.13.5. Relocation shall follow all applicable federal, FAA, and North Dakota Regulatory Measures for relocation proceedings and any appraisal report shall meet the requirements of such. If there is any discrepancy between this Policy and such Regulatory Measures, the Regulatory Measures shall prevail.

3.14. Insurance

- 3.14.1. The Lessee shall be responsible for procuring and maintaining the insurance required by Regulatory Measures and the Primary Guiding Documents.

3.15. Subleasing

- 3.15.1. Subleasing is considered a Commercial Activity.
- 3.15.1.1. Any entity engaging in subleasing must comply with the Primary Guiding Documents.
- 3.15.2. Subleasing Privileges Permitted in the Agreement
- 3.15.2.1. If the City permits subleasing in the Agreement with the Operator, a standard sublease form (consistent with the requirements set forth in Appendix Section 5.4 of this Policy) prepared by the Operator and approved in writing by the City may be used by the Operator to facilitate subleasing. If an entity desires to sublease land and/or Improvements at the Airport and desires to conduct a Commercial Activity at the Airport, the Sublessee shall comply with all applicable sections of the Minimum Standards.

- 3.15.2.1.1. The standard sublease form and any required documentation for each sublease shall be available to the Airport Director upon request.
 - 3.15.2.2. If a standard sublease form is not used by the Operator, the proposed Sublease and any required or requested information, data, and/or documentation shall be submitted to the Airport Director for review.
 - 3.15.2.2.1. If the proposed Sublease is acceptable to the Airport Director, the proposed Sublease and any additional information, data, and/or documentation deemed relevant by the Airport Director shall be submitted to the Airport Director for review and approval.
 - 3.15.2.2.2. Operator shall reimburse the City for attorney's fees and expenses incurred by the City relating to the review and approval of the proposed Sublease.
 - 3.15.2.2.3. A Sublessee may not occupy the land and/or Improvements at the Airport prior to receiving the written approval of the City.
 - 3.15.2.3. The Operator shall not be required to pay the City any portion of the revenues generated or profits earned relating to permitted and/or approved subleasing activities.
- 3.15.3. Subleasing Privileges Not Permitted in the Agreement
 - 3.15.3.1. If the City does not permit subleasing in the Agreement, the Lessee must obtain the prior written approval of the City prior to subleasing.
 - 3.15.3.1.1. Subleasing privileges shall be granted in the City's sole discretion and Sublessees must comply with the Primary Guiding Documents.
 - 3.15.3.2. The proposed Sublease, a completed Application, and any other required or requested information and/or documentation shall be submitted to the Airport Director for review.
 - 3.15.3.3. If the proposed Sublease, completed Application, and other required or requested information and/or documentation are acceptable to the Airport Director, the proposed Sublease, completed Application, and any additional information and/or documentation deemed relevant by the Airport Director shall be submitted to the Airport Director for review and approval.
 - 3.15.3.4. The Operator shall pay the City a percentage of the gross revenue generated by the subleasing activity, as stipulated in the General Aviation Rents and Fees Schedule.
 - 3.15.3.5. A Sublessee may not occupy the land and/or Improvements at the Airport prior to receiving written approval of the City.

3.15.4. Sublessee Obligations

3.15.4.1. Sublessee shall comply with the Primary Guiding Documents, any other directives of the Airport Director and/or City, and all applicable Regulatory Measures.

3.15.5. Subleasing Restrictions

3.15.5.1. Unless otherwise stated in the prior written approval, Sublessee shall be subject to all applicable terms and conditions of the Agreement between the City and the Operator governing the Airport land and/or Improvements subleased.

3.15.5.2. Any Sublease made contrary to the requirements of this section shall be null and void.

3.16. Sale, Assignment, or Transfer

3.16.1. A Lessee shall not sell, assign, or transfer the Agreement, in whole or in part, or any interest in the Agreement, or any rights or obligations the Lessee has under the Agreement, without the prior written approval by the City.

3.16.1.1. If a Lessee is desirous of such a sale, assignment, or transfer, the Lessee shall submit a written request to the Airport Director and the request shall be accompanied by a completed Application by the entity requesting assignment (Assignee).

3.16.1.2. If the Application is acceptable, the Airport Director shall submit the Application and a recommendation to the City for review and approval.

3.16.1.3. At the time a sale, assignment, or transfer is approved in writing by the City, the Lessee shall reimburse the City for attorney's fees and expenses incurred by the City relating to the sale or assignment.

3.16.1.4. The buyer or Assignee shall satisfy all criteria set forth in this Policy, the Primary Guiding Documents, any other directives of the Airport Director and/or City, and all applicable Regulatory Measures.

3.16.2. Written approval of the City is not required in connection with: (a) the merger, consolidation, or reorganization of the Lessee with any Affiliate of the Lessee, (b) the sale of all or substantially all of the assets of the Lessee to any Affiliate of the Lessee, or (c) assignment to any Affiliate of the Lessee.

3.16.3. Any sale, assignment, or transfer, with exception of the situations and/or circumstances noted in Section 3.2.15.1.2 of this Policy, made without the prior written approval of the City shall be considered null and void.

3.17. Change in Controlling Ownership

3.17.1. Any change in the controlling ownership of a Lessee or Permittee is subject to the prior written approval of the City.

3.17.1.1. If a Lessee or Permittee is desirous of changing its controlling ownership, the Lessee or Permittee shall submit a completed Application to the Airport Director for review.

- 3.17.1.2. If the Application is acceptable to the Airport Director, the Airport Director shall submit the Application and a recommendation to the City for review and approval.
- 3.17.1.3. At the time the change in controlling ownership is approved in writing by the City, the Lessee or Permittee shall reimburse the City for attorney's fees and expenses incurred by the City relating to the change in controlling ownership.
- 3.17.2. Any change in controlling ownership made without the prior written approval of the City shall be considered null and void.

3.18. Encumbrances and Mortgage

- 3.18.1. A Lessee shall not mortgage, pledge, assign as collateral, encumber or in any manner transfer, convey, or dispose of the Leased Premises or any interest therein without the prior written approval of the City.
 - 3.18.1.1. If a Lessee is desirous of encumbering the Leased Premises or any portion thereof, the Lessee shall submit a written request to the Airport Director for review.
 - 3.18.1.2. If the request is acceptable, the Airport Director shall submit the request and a recommendation to the City for review and approval.
 - 3.18.1.3. At the time an encumbrance is approved in writing by the City, the Lessee shall reimburse the City for attorney's fees and expenses (incurred by the City) relating to the encumbrance request.
- 3.18.2. Any encumbrance made without the prior written approval of the City shall be considered null and void.

3.19. Other (General) Terms and Conditions

- 3.19.1. In addition to the key terms and conditions (outlined in Section 3.2 of this Policy), the Agreement shall include the following:
 - 3.19.1.1. No Waiver – the City shall not waive the right to enforce the Agreement, in whole or in part.
 - 3.19.1.2. Licenses, Certifications, and Permits –the Lessee shall have (and provide copies to the Airport Director – upon request) all licenses, certifications, and permits required to conduct the Activities.
 - 3.19.1.3. Damage – the Lessee shall be responsible for repairing and/or restoration any damage to the Leased Premises, the Airport, or associated property caused by the Lessee or any party related thereto.
 - 3.19.1.4. Indemnification – the Lessee shall defend, indemnify, save, protect, and hold harmless the City and its representatives, officers, officials, employees, agents, and volunteers from any and all claims, demands, damages, fines, obligations, suits, judgments, penalties, causes of action, losses, liabilities, administrative proceedings, arbitration, or costs (or expenses) at any time received, incurred, or accrued by the City as a result of, or arising out of the Lessee's activities, actions, or inactions.

- 3.19.1.5. Books and Records – the Lessee shall keep complete books and records of the amounts due and owing to the City for rents, fees, or other charges applicable to the Agreement. The City shall have access to such records upon reasonable notice. The City reserves the right to audit such records. The entity shall have the burden of proof if the amount determined by the City is disputed.
- 3.19.1.6. Holdover Possession – in the event the Lessee should hold over and remain in possession of the Leased Premises after the expiration of term of the Agreement, the rents, fees, and other charges paid during the holding over period shall be equal to a minimum of 150% of the monthly rents, fees, and other charges that were charged by the City at the time the Agreement expired.
- 3.19.1.7. Independent Entities – the Agreement shall not be construed to establish a partnership between the City and the Lessee.
- 3.19.1.8. Binding Effect – the Agreement shall be binding on and inure to the benefits of the heirs, successors, and assigns of the City and the Lessee.
- 3.19.1.9. Subordination – the Agreement is subordinate to any agreement between the City and the United States Government, the State of North Dakota, or any other Agency having jurisdiction.
- 3.19.1.10. Governing Law and Venue – the Agreement shall be made in accordance with the laws of North Dakota and the court having jurisdiction shall be identified in the Agreement.
- 3.19.1.11. Paragraph Headings – the paragraph headings in the Agreement shall only be used as a matter of convenience and/or reference.
- 3.19.1.12. Severability – if a provision of the Agreement is held to be unlawful, invalid, or unenforceable by final judgment of any Agency or court of competent jurisdiction, the invalidity, voiding, or unenforceability of such provision shall not in any way affect the validity of any other provisions of the Agreement.
- 3.19.1.13. Counterparts – if the Agreement is executed in counterparts, each shall be deemed an original and which together shall constitute one and the same Agreement.
- 3.19.1.14. Modification – any change or modification to the Agreement shall not be valid unless made in writing, agreed to, and signed by the City and Lessee.
- 3.19.1.15. Time of the Essence – the City and Lessee shall agree that time is of the essence in performance of the Agreement.
- 3.19.1.16. Entire Agreement – the Agreement shall be construed to embody the entire understanding and agreement between the City and the Lessee.
- 3.19.1.17. Notices – the Agreement shall identify the location and contact person (if applicable) for the City and the Lessee as well as the method for providing any notices required in the Agreement.

- 3.19.1.18. Representations and Warranties of the Lessee – the Agreement shall outline the representations and warranties of the Lessee.
- 3.19.1.19. Exhibits – the Agreement shall include drawings of the Leased Premises (at a minimum) and any additional exhibits which are required to perfect the Agreement.

4. RENTS AND FEES

4.1. Introduction

- 4.1.1. The City is required, by the Airport Sponsor Assurances, to maintain a rent and fee structure that makes the Airport as self-sustaining as possible given the circumstances that exist. As such, the City will charge Market Rent for Airport land and/or Improvements.
- 4.1.2. The City, by entering into Agreements with entities and by other means that may be available to the City shall endeavor to recover the costs being incurred by the City relating to the planning, development, operation (including maintenance and repair), management, and marketing of the Airport (that are not being covered by federal or state Airport Improvement Programs) through the establishment of rents, fees, and other charges.
 - 4.1.2.1. The City shall be compensated for the privileges granted to an Operator, Lessee, or Permittee. It is the policy of the City to seek terms and conditions that, while being reasonable and not unjustly discriminatory, provide the best return to the City.
 - 4.1.2.2. While each Operator, Lessee, and Permittee at the Airport shall be subject to the same rents, fees, and other charges as are uniformly applicable to other Operators, Lessees, and Permittees utilizing the same or similar Airport land and/or Improvements for the same or similar use or purpose, it is recognized that the use and attributes of Airport land and/or Improvements and/or the terms and conditions of Agreements (and the approach utilized to reach agreement and related timing) varies. As a result, the rents, fees, or other charges at the Airport may vary as well. However, the City shall not charge unjustly discriminatory rents, fees, or other charges.

4.2. Establishment of Market Rent

- 4.2.1. Market Rent for aeronautical land and/or Improvements (referred to as the “property” or “properties” in this section) at the Airport shall be determined by: (a) Rent Study, (b) comparative analysis of the rents being charged for similar properties at the Airport, (c) negotiation, or (d) competitive process, as follows.
 - 4.2.1.1. By definition, aeronautical properties include, but are not necessarily limited to, unimproved land (land not having landside and/or airside access and/or utilities to the property), improved land (land having airside and landside access and utilities to the property), asphalt or concrete Ramp, asphalt or concrete Vehicle parking areas, Fuel storage facilities, terminal buildings, office and shop facilities, Hangars, storage areas, and other support buildings or related facilities.

4.2.2. Rent Study

4.2.2.1. The objective of the Rent Study is to establish market rents for properties at the Airport based on a comparative analysis of the rents being charged for similar properties at comparable airports. The process that shall be used to establish Market Rent for properties at the Airport is set forth herein.

4.2.2.2. The City shall engage an aviation consultant (or Appraiser who meets the qualifications set forth in Section 5.6 of this Policy) to conduct a Rent Study to determine the Market Rent for the subject property.

4.2.2.2.1. The aviation consultant shall have working knowledge of the aviation industry (in general) and airports (in particular) including Commercial entities (i.e., aviation businesses – FBOs and SASOs) and Non-Commercial entities (i.e., Aircraft Owners and Operators) and related activities.

4.2.2.2.2. The aviation consultant shall be familiar with federal laws and FAA regulations, obligations, and guidance pertaining to setting rents for airport (aeronautical) properties being used for General Aviation purposes.

4.2.2.2.3. The aviation consultant shall have experience providing the same services at comparable airports.

4.2.2.2.3.1. The aviation consultant shall have performed a minimum of five Rent Studies involving airport (aeronautical) properties within the past five years.

4.2.2.2.4. Prior to initiating work, the aviation consultant shall provide a list to the Airport Director identifying the airport, the type of Rent Study conducted (i.e., land and/or Improvements), and the extent of the analysis performed.

4.2.2.3. The aviation consultant shall develop a profile of the Airport and the subject property. The profile shall be utilized to identify comparable airports and similar properties at those airports. Rents and related information shall then be obtained (from the comparable airports identified) and analyzed to derive the Market Rent for the subject property.

- 4.2.2.4. In identifying comparable airports, the aviation consultant shall, at a minimum, consider the following: Infrastructure (number, configuration, and capacity of Runways, Taxiways, and Taxilanes); approaches (precision versus non-precision); presence or absence of Air Traffic Control; number and type of aviation businesses including the number of Fuel providers; amount of land that is available for aviation development (and related land use considerations); type of market; number and type of airports in the market; and activity levels (Based Aircraft, Aircraft operations, and Fuel volumes).
- 4.2.2.4.1. The Airport Director may suggest airports to the aviation consultant that the Airport Director believes should be considered based on the factors set forth in Section 4.2.2.4 of this Policy.
- 4.2.2.4.2. The Lessee may suggest airports to the aviation consultant that the Lessee believes should be considered based on the factors set forth in Section 4.2.2.4 of this Policy.
- 4.2.2.4.3. Only those airports that are considered comparable by the aviation consultant shall be used to determine the Market Rent for the subject property.
- 4.2.2.5. In identifying similar properties at comparable airports, the aviation consultant shall, at a minimum, consider the following: use (Commercial versus Non-Commercial), size, location, Landside and Airside access (to/from the Leased Premises and Infrastructure), and type, quality, and condition of the land and/or Improvements.
- 4.2.2.5.1. Only those properties considered most similar by the aviation consultant shall be used to determine the Market Rent for the subject property. Any disparities with respect to the factors listed above shall be carefully considered and clearly addressed by the aviation consultant.
- 4.2.2.6. To ensure consistency in the determination of rents for properties at the Airport, the Airport Director may categorize and group similarly situated properties by use and attributes. In determining the Market Rent for the subject property, the aviation consultant shall use such categorizations and groupings with consideration given to the functional utility or limitations of the land and/or Improvements (if any) under study. This shall include, but not necessarily be limited to, any limitations or restrictions on the development of the subject property, the availability of utilities to the subject property, and/or the ability of the subject property to support the Aircraft that normally frequent the Airport.

- 4.2.2.7. The aviation consultant shall consider properties at the Airport that are similar to the subject property and if relevant, reasonable, and appropriate, the aviation consultant may also consider the following: properties located at competitive airports and general real estate market conditions and trends in the local market.
- 4.2.2.8. Rents charged for similar properties at the Airport, comparable airports, and competitive airports shall, to the extent possible, be considered by component such as unimproved land, improved land, asphalt or concrete Ramp areas, asphalt or concrete Vehicle parking areas, Fuel storage facilities, terminal buildings, office and shop facilities, Hangars, storage areas, and other support buildings or related facilities.
- 4.2.2.9. If the rents charged for similar properties at the Airport, comparable airports, and/or competitive airports are impacted by the fees being charged or if fees are charged in lieu of rent, the relationship between the rents and fees shall be considered and addressed by the aviation consultant.
- 4.2.3. **Similar Properties on-Airport**
 - 4.2.3.1. The City may, in its sole discretion, set rents for the subject property if rents for similar properties at the Airport have been established through an Agreement with the City within six months.
 - 4.2.3.2. In this case, each of the elements under Section 4.2.2.5 of this Policy shall be considered by the City in determining the Market Rent.
- 4.2.4. **Negotiation/Competitive Process**
 - 4.2.4.1. Rents can also be established by negotiation or through competitive process.
 - 4.2.4.2. In the event that the City develops (constructs) all or part of the Improvements, to establish rents, the City may, in its sole discretion, depreciate all or part of the costs of such Improvements over a period of time not less than 10 years and not greater than 30 years.
 - 4.2.4.3. In the event that the City provides funds for the development (construction) of all or part of the capital Improvements, such funds shall be provided on terms and conditions commensurate with the prevailing terms and conditions in the market (e.g., loan term, down payment, interest rate, etc.) for the type of Improvement being developed (constructed).
- 4.3. Adjustment of Rents**
 - 4.3.1. **Methodology**
 - 4.3.1.1. All rents shall be established and shall be effective upon the first day of the fiscal year following promulgation of this Policy (January 1, 2015) and all rents shall be adjusted every five years thereafter (e.g., January 1, 2020, 2025, 2030, etc.) based on the findings of the Rent Study (described in Section 4.2.2 of this Policy).

- 4.3.1.2. On an annual basis between each Rent Study (e.g., January 1, 2016, 2017, 2018, and 2019), all rents shall be adjusted based on the change in the Airport Economic Index (described in Section 4.3.3).
- 4.3.1.3. All rent adjustments shall be determined prior to the adoption of the budget for the following fiscal year.
- 4.3.2. Airport Economic Index (AEI)
 - 4.3.2.1. The Airport Economic Index (AEI) is a composite index consisting of five variables: number of General Aviation Based Aircraft (weighted at 15%), number of air taxi operations (weighted at 7.5%), General Aviation itinerant operations (weighted at 7.5%), General Aviation Fuel volumes (weighted at 20%), and Consumer Price Index (weighted at 50%).
 - 4.3.2.2. Number of General Aviation Based Aircraft
 - 4.3.2.2.1. The number of General Aviation Based Aircraft shall be determined annually by registration. All General Aviation Based Aircraft at the Airport shall be registered with the Airport Director as specified in the Rules and Regulations.
 - 4.3.2.3. Number of Air Taxi and General Aviation Itinerant Operations
 - 4.3.2.3.1. The number of air taxi and General Aviation itinerant operations shall be determined by totaling the number of Air Taxi operations and General Aviation itinerant operations at the Airport as recorded by Air Traffic Control (ATC) personnel. An operation is defined as a take-off or a landing. Operations data shall be reviewed and certified by the ATC manager and a written report shall be submitted to the Airport Director each month.
 - 4.3.2.4. General Aviation Fuel Volumes
 - 4.3.2.4.1. Fuel volumes shall be determined by totaling the amount of General Aviation Fuel (all types) sold or dispensed at the Airport as reported to the Airport Director as required in the General Aviation Minimum Standards and Rules and Regulations.
 - 4.3.2.5. Consumer Price Index (CPI)
 - 4.3.2.5.1. CPI shall mean the Midwest Region Consumer Price Index for Urban Wage Earners and Clerical Workers published by the United States Department of Labor, Bureau of Labor Statistics.

4.3.2.5.1.1. If a substantial change is made in the method by which the CPI is determined, the CPI shall be adjusted to the figure that would have resulted had no change occurred in the manner of determining the CPI. In the event that the CPI (or a successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the information previously used in determining the CPI shall be used instead of the CPI.

4.3.2.6. Data for the 12-month period prior to the first day of the fiscal year following promulgation of this Policy (January 1, 2015) shall be utilized as the base year (which shall be equal to 100). All rents shall be adjusted using the percentage change in the AEI, which shall be calculated using the following formula: AEI (at the time of adjustment) minus AEI (at the time of the last adjustment) divided by AEI (at the time of the last adjustment).

4.4. Establishment and Adjustment of Fees

4.4.1. The City shall charge fees to recover the costs being incurred by the City associated with the planning, development, operation (including maintenance and repair), management, and marketing of the Airport (that are not being covered by federal or state Airport Improvement Programs).

4.4.1.1. Costs shall include, but not necessarily be limited to: (a) all Airport planning, engineering, design, and development costs (City's portion only), (b) all Airport operating, management, and maintenance and repair costs (City's portion only), and (c) all Airport debt service, capital outlays, reserves, and amortization.

4.4.1.2. All General Aviation related revenues (including rents) shall be deducted from all General Aviation related costs and the difference shall be charged to Lessees, Sublessees, Permittees, and users of the Airport on a proportionate basis in the form of fees.

4.4.2. Fees may include, but are not necessarily limited to, Fuel flowage fees, Transient Aircraft fees, Aircraft parking fees, General Aviation Operator permit fees, and/or temporary or special use permit fees. All fees shall be identified in the General Aviation Rents and Fees Schedule.

4.4.2.1. Fuel Flowage Fees

4.4.2.1.1. Based and Transient Aircraft Owners and/or Operators shall pay a Fuel flowage fee based on the number of gallons dispensed into the Aircraft at the Airport.

- 4.4.2.1.2. Commercial Operators who provide Fueling (and/or Fuel handling) services at the Airport shall be responsible for the collection of the Fuel flowage fee from the sale of Fuel to (and/or handling of Fuel on behalf of) consumers served and for payment to the City.
- 4.4.2.1.3. Non-Commercial Self-Fueling entities shall report Fuel volumes to the Airport Director and pay the Fuel flowage fee directly to the City.
- 4.4.2.2. Transient Aircraft Fees
 - 4.4.2.2.1. Transient Aircraft Owners and/or Operators shall pay a transient aircraft fee.
 - 4.4.2.2.2. Commercial Operators who provide Fueling (and/or Fuel handling) services at the Airport shall be responsible for the collection of the Transient Aircraft fees from Aircraft Owners and/or Operators that do not purchase fuel from the Commercial Operators and for the payment to the City.
 - 4.4.2.2.3. Commercial Operators collecting the Transient Aircraft fee may retain an administrative fee as compensation for services rendered.
- 4.4.2.3. Aircraft Parking Fees
 - 4.4.2.3.1. Transient Aircraft Owners and/or Operators shall pay an aircraft parking fee.
 - 4.4.2.3.2. Commercial Operators managing Ramp on behalf of the City shall be responsible for the collection of the Aircraft Parking Fees from Aircraft Owners and/or Operators parking on the Commercial Operators' managed Ramp and for the payment to the City.
 - 4.4.2.3.3. Commercial Operators collecting the Aircraft Parking fee may retain an administrative fee as compensation for services rendered.
- 4.4.2.4. Aeronautical Permit Fee
 - 4.4.2.4.1. Commercial Operators engaging in Commercial Aeronautical Activities shall pay an Aeronautical Permit Fee based on the type of Activity being conducted.
- 4.4.2.5. General Aviation Operator and Lessee Application Fees
 - 4.4.2.5.1. At the time an Application is submitted to the Airport Director to conduct Aeronautical Activities, the prospective entity shall pay a one-time fee based on the type of Activity.

- 4.4.3. Fees shall be adjusted each year based on the fiscal year budget for the Airport.
 - 4.4.3.1. All adjustments shall be effective on the first day of the fiscal year.
 - 4.4.3.2. Any deficits shall be carried forward and considered when establishing fees for the following year. Any surplus or any portion of any surplus may be used, at the sole discretion of the City, to service Airport debt, make Airport capital Improvements, increase Airport reserves, or may be carried forward for consideration in establishing Airport fees for the following year.

4.5. *Payment of Rents, Fees, or Other Charges*

- 4.5.1. No entity shall be permitted to lease or occupy Airport land and/or Improvements unless the entity is Current and in Good Standing.
- 4.5.2. The City may, in its sole discretion, enforce the payment of any rent, fee, or other charge due and owing to the City by any legal means available to the City under any Agreement and/or as provided by Regulatory Measures.
- 4.5.3. All rents, fees, or other charges assessed by the City not paid within 5 business days of being due and owing to the City shall be assessed a late fee in accordance with the General Aviation Rents and Fees Schedule.

5. APPENDIX

5.1. Advertising Guidelines

5.1.1. The RFI/RFQ/RFP advertisement should:

5.1.1.1. provide a description of the RFI/RFQ/RFP opportunity including identification of the Airport land and/or Improvements that are and/or may be available for lease (subject property) and the General Aviation products, services, and/or facilities that are and/or may be desired by the City;

5.1.1.2. provide instructions to proposers for obtaining the RFI/RFQ/RFP document; and,

5.1.1.3. identify the date, time, and method for submittals;

5.2. Document Guidelines

5.2.1. The content that should be included in each type of document is identified in the table that follows:

Item	RFI	RFQ	RFP
Outline the objectives of the City with respect to the opportunity	•	•	•
Identify the respondent's responsibility for compliance with Regulatory Measures		•	•
Provide an overview of the community, the Airport, and the marketplace	•	•	•
Identify the anticipated use of the subject property	•	•	•
Identify the location (and approximate size) of the subject property	•	•	•
Provide a complete and thorough description of the subject property		•	•
If Commercial, outline the desires of the City with regard to the: (a) entity's qualifications and experience, and (b) the range, level, and quality of General Aviation products, services, and facilities (and/or Improvements) to be provided		•	•
Identify the anticipated lease term (duration)			•
Identify the minimum rent for the subject property			•
If Commercial, identify the minimum fees and/or other charges for engaging in Commercial Aeronautical Activities at the Airport			•
Provide a schedule that identifies key dates for the process	•	•	•
If necessary, the location, date, time, and requirement for attendance at a pre-proposal conference	•	•	•
Outline specific instructions regarding the content and format of the submission	•	•	•
Require a proposal bond or personal guarantee (in a manner acceptable to the City that shall remain in effect for 180 calendar days), in the amount equal to the total rents, fees, and other charges proposed to be paid to the City in the first month of the Agreement or \$1,000 (whichever is greater)			•
Identify the place, date, time, and any additional instructions for submission	•	•	•
State the grounds for denial or disqualification and withdrawal			•
Outline the evaluation and/or selection criteria to be utilized by the City		•	•
Include all required forms, statements, and affidavits to be completed for submission			•
Include a draft of proposed Agreement			•
Include the Primary Guiding Documents			•

5.3. City Improvement Leasing Policy

5.3.1. Application

5.3.1.1. Entities desirous of obtaining an Agreement to use a City Hangar shall complete and submit a General Aviation Operator and Lessee Application (Application) to the Airport Director.

5.3.1.1.1. In addition to the completed Application, entity shall pay all applicable fees and/or other charges and provide a non-interest bearing deposit equal to two month's rent (as stipulated in the General Aviation Rents and Fees Schedule).

5.3.1.1.1.1. If entity executes a Non-Commercial Aircraft Hangar Agreement, 50% of the deposit shall be applied to the first month's rent. The remaining portion of the deposit shall be held by the City as a non-interest bearing security deposit.

5.3.1.1.2. Upon receipt of the: (a) completed Application, (b) applicable fees and/or other charges, and (c) deposit, the entity shall be placed in the last position on the Hangar Waiting List.

5.3.1.2. To be removed from the Hangar Waiting List, the entity shall notify the Airport Director in writing. At the time the entity is removed from the Hangar Waiting List, the non-interest bearing deposit shall be refunded to the entity.

5.3.1.2.1. If an entity is desirous of reapplying, the entity shall apply in accordance with Section 5.3.1.1 of this Policy and be placed in the last position on the Hangar Waiting List.

5.3.2. Notification of Hangar Availability

5.3.2.1. If a City Hangar becomes available, the Airport Director shall contact the entity in the first position on the Hangar Waiting List.

5.3.2.1.1. It is the entity's sole responsibility to keep a current address and telephone number on file with the Airport Director.

5.3.2.2. If the City is unable to reach the entity by telephone in the first position on the Hangar Waiting List, a certified letter will be sent to the address the entity has on file with the Airport Director.

5.3.2.2.1. If the entity does not respond to the Airport Director within 14 calendar days, the entity shall not be eligible to lease the available Hangar.

5.3.2.2.2. In the event an entity fails to respond on three consecutive occasions, the entity shall be removed from the Hangar Waiting List and the deposit shall be forfeited to the City.

- 5.3.2.3. If the entity in the first position does not respond within 14 calendar days of the Airport Director sending a certified letter, the Airport Director shall contact the entity in the next position on the Hangar Waiting List and so on.
- 5.3.3. Receipt of Notification of Hangar Offering
 - 5.3.3.1. Upon receipt of notification of Hangar availability, the entity shall respond to the Airport Director within 14 calendar days in one of the following ways:
 - 5.3.3.1.1. accept the available Hangar, execute a Non-Commercial Aircraft Hangar Agreement, and begin using and/or occupying the Hangar.
 - 5.3.3.1.1.1. Before acceptance of an available Hangar, it is the entity's sole responsibility to ensure that the Hangar will accommodate entity's Aircraft.
 - 5.3.3.1.2. decline the available Hangar and maintain the entity's current position on the Hangar Waiting List.
 - 5.3.3.1.3. decline the available Hangar and request that the entity be removed from the Hangar Waiting List, at which time, the deposit will be refunded to the entity.
- 5.3.4. Assignment of Hangar Without Aircraft Ownership
 - 5.3.4.1. A Hangar shall not be used and/or occupied unless the Aircraft is owned, leased, and/or operated by (under the full and exclusive control of) the entity and evidence (to this effect) is provided to the Airport Director within 14 calendar days from the date of accepting the available Hangar.
 - 5.3.4.1.1. In the event the entity intends to purchase, lease, or acquire full and exclusive control of the Aircraft, evidence (that the entity has purchased, is leasing, or has acquired full exclusive control of the Aircraft) shall be provided to the Airport Director within 60 calendar days from the date of accepting the available Hangar.
 - 5.3.4.1.2. If the entity fails to provide the required evidence, the Non-Commercial Aircraft Hangar Agreement shall be immediately terminated, the entity shall be removed from the Hangar Waiting List, and the entity's deposit shall be forfeited to the City.
- 5.3.5. Certificates of Insurance shall be delivered to the Airport Director as outlined in Section 5.4.1.7.2 of this Policy.
- 5.3.6. If the Lessee sells or otherwise disposes of the Aircraft, the Lessee may continue to use and/or occupy the Hangar provided the entity is in compliance with Section 5.3.4 of this Policy.

- 5.3.7. Subleasing is not permitted and will result in immediate termination of the Non-Commercial Aircraft Hangar Agreement and the entity's deposit shall be forfeited to the City.
- 5.3.8. Aircraft Partnership
 - 5.3.8.1. Each Aircraft partner shall provide proof of ownership or lease and proof of liability insurance coverage to the Airport Director.
- 5.3.9. Hangar Interest Transfer
 - 5.3.9.1. Lessee may not transfer interest in the Hangar to an Aircraft partner within two years of the date of the Aircraft partnership agreement on file with the Airport Director.
- 5.3.10. Hangar Occupation as Contingency for Aircraft Sale
 - 5.3.10.1. The sale of any Aircraft, contingent upon the continued use of any Hangar, is not permitted. At the time of purchase, the new owner of the Aircraft must vacate the Hangar.
- 5.3.11. Vacating a Hangar
 - 5.3.11.1. Lessee shall provide written notice to the Airport Director no less than 30 calendar days prior to vacating a Hangar.
- 5.3.12. Hangar Trades
 - 5.3.12.1. Lessees may elect to trade Hangars, if mutually agreed and subject to obtaining the prior written approval of the Airport Director, in accordance with the following requirements:
 - 5.3.12.1.1. Each Lessee is in full compliance with the Non-Commercial Aircraft Hangar Agreement.
 - 5.3.12.1.2. Each Lessee must have used and/or occupied the Hangar for a period of not less than 30 calendar days.
 - 5.3.12.1.3. Prior written notification shall be provided to the Airport Director at least 30 calendar days prior to the proposed trade date.
 - 5.3.12.2. Hangar trades will commence on the first day of the month.

5.4. Standard Sublease Form Requirements

- 5.4.1. The standard sublease form shall include, at a minimum, the following:
 - 5.4.1.1. Legal name, address, and contact information of the subleasing entity.
 - 5.4.1.2. Land and/or Improvement identification, location, and description.
 - 5.4.1.3. Term of sublease.
 - 5.4.1.4. Rights, obligations, permitted uses, and limitations of Operator and the subleasing entity.
 - 5.4.1.5. Defaults, remedies, and termination of Operator and the subleasing entity.
 - 5.4.1.6. Compliance with the Primary Guiding Documents, any other directives of the Airport Director and/or City, and all applicable Regulatory Measures.

- 5.4.1.7. If subleasing for the purpose of Aircraft storage (Hangar or tiedown):
 - 5.4.1.7.1. Aircraft registration number, make, model, and maximum gross landing weight.
 - 5.4.1.7.2. Requirement to provide a Certificate of Insurance identifying industry standard liability coverage for the non-commercial Aircraft in compliance with the Primary Guiding Documents.

5.5. Establishment of Market Value

- 5.5.1. The City shall engage an Appraiser who meets the qualifications set forth in Section 5.6 of this Policy of this Policy to conduct an appraisal in compliance with the requirements set forth in Appendix Section 5.7 of this Policy to determine market value.
 - 5.5.1.1. The Appraiser shall use current appraisal methods that are appropriate for the appraising on-airport land and/or Improvements used for General Aviation purposes.
 - 5.5.1.1.1. To determine market value, the Appraiser shall consider all three recognized appraisal methods: cost approach, market data or sales comparison approach, and income approach.
 - 5.5.1.1.2. Although application of all three approaches shall not be required, the Appraiser must adequately explain the omission of any method.
 - 5.5.1.1.3. At a minimum, the Appraiser shall utilize the income approach (and the direct capitalization technique) to derive the market value of the subject property. Integral to this process, the Appraiser shall conduct an analysis of rents, fees, or other charges for similar properties at comparable airports.
 - 5.5.1.1.4. The Appraiser shall consider each of the factors delineated in Section 4.2.2.3 through 4.2.2.8 of this Policy including, but not limited to, identification of comparable airports, identification of similar properties at comparable airports, property groupings (if applicable), similar on-Airport properties, market conditions and trends, component rents, and impacts of fees on rents.
 - 5.5.1.1.5. All rents, fees, or other charges used in the appraisal process shall be obtained from and confirmed by either (at a minimum by) the lessor or the lessee.

- 5.5.1.1.6. If using the cost approach to derive the replacement cost of the subject Improvements, the depreciation deduction shall be based on the economic life and the effective age of the subject Improvements. Widely recognized and highly regarded national publications (such as Marshall Valuation Service) shall be used as the basis for determining the economic life of the subject Improvements.
- 5.5.1.2. The Appraiser shall use an appropriate and justifiable rate of return for airport properties.
 - 5.5.1.2.1. The capitalization rates utilized by the Appraiser shall be obtained through relevant, reasonable, and appropriate methods and must be adequately discussed in the appraisal report.
- 5.5.1.3. The subject property shall be appraised assuming that highest and best use is aviation-related.
- 5.5.1.4. The appraiser shall also assume that the subject property will be located on the Airport and that access to the Infrastructure and amenities of the Airport shall be available.
- 5.5.1.5. Additionally, the appraisal shall meet the Uniform Standards of Professional Appraisal Practice (USPAP).

5.6. Appraiser Qualifications

- 5.6.1. Appraisals shall be performed by an Appraiser who shall be a Member, Appraisal Institute (MAI) or similarly designated and equally qualified Appraiser who shall be certified by a recognized appraisal organization.
- 5.6.2. Appraiser must be certified by the North Dakota Real Estate Appraiser Qualifications and Ethics Board (NDREAB) as a General Appraiser.
 - 5.6.2.1. An out-of-state Appraiser may perform an appraisal provided that the Appraiser (prior to being engaged to conduct the appraisal) satisfies the NDREAB's requirements by way of reciprocity or otherwise.
- 5.6.3. Appraiser shall have working knowledge of the aviation industry (in general) and airports (in particular) including commercial entities (i.e., aviation businesses – FBOs and SASOs), Non-Commercial entities (i.e., aircraft owners and operators), and related activities.
- 5.6.4. Appraiser shall be familiar with federal laws and FAA regulations, obligations, and guidance pertaining to valuing on-airport Improvements (being used for General Aviation purposes).
- 5.6.5. Appraiser shall have experience providing the same services at comparable airports.
 - 5.6.5.1. Appraiser shall have performed a minimum of five appraisals involving airport land and/or Improvements within the past five years.

5.6.5.1.1. Prior to initiating work, Appraiser shall provide a list to the Airport Director identifying the location, the type of appraisal conducted, and the extent of analysis performed.

5.6.5.1.1.1. Appraisals of non-aeronautical properties performed in connection with the acquisition of such properties by an airport owner/operator shall not be applied towards these requirements.

5.6.6. Appraisers who only conduct appraisals of off-airport property (for acquisition or other purposes) shall not qualify.

5.7. Appraisal Requirements

5.7.1. In addition to complying with all applicable appraisal standards, in preparing the appraisal for the City, the Appraiser must comply with the following:

5.7.1.1. Reporting Requirements – General. The depth of the discussion and analysis regarding the potential value impact of the following topics must be consistent with:

5.7.1.1.1. the potential value impact itself; and

5.7.1.1.2. the reporting option utilized (Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Appraisal Report)

5.7.1.2. Letter of Transmittal – Narrative Appraisal Reports. In addition to the value conclusion(s), effective date of value, and property rights appraised, the letter of transmittal must clearly set forth:

5.7.1.2.1. The extent of the appraisal process (Complete Appraisal or Limited Appraisal) as well as the reporting option utilized (Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Appraisal Report).

5.7.1.2.2. Reference to, or inclusion of, any contingencies and/or special appraisal assumptions which affect the validity of the appraisal and/or the reliability of the value estimate(s).

5.7.1.2.3. All estimates of value must be expressed as of the current date of the appraisal; future dates of value are not acceptable unless otherwise directed by the Airport Director.

5.7.1.3. Market Value: All appraisal reports must include the Definition of Market Value contained in the most current Dictionary of Real Estate Appraisal.

- 5.7.1.4. Regional, County, City or Town, and Market Area (Neighborhood) Data: The analysis of regional, county, city or town, and market area (neighborhood) data must be consistent with the complexity of the appraisal assignment and the specific relevance of regional, county, city or town, and market area factors to the subject property. The extent of the reporting of regional, county, city or town, and market area data must be consistent with the reporting option utilized.
- 5.7.1.5. Market Analysis/Market Conditions: The market analysis/market conditions section of the appraisal report must contain data and analysis consistent with the complexity of the appraisal assignment, with the focus on current market trends which affect the value and exposure time of the subject property. This section should conclude with a statement regarding the subject property's competitive position within the market. The extent of the reporting of data must be consistent with the reporting option utilized.
- 5.7.1.6. Exposure Time: An estimate of exposure time must be included for each market valuation scenario addressed in the appraisal and should be a logical extension of the analysis of market conditions.
- 5.7.1.7. Site Description: Describe the physical characteristics of the site (size, shape, topography, soil, and drainage conditions, frontage, access and exposure, street Improvements, and utility availability). Additionally, the site description must include an analysis of any special or unusual features or conditions and the effect on the utility or value of the site. The extent of the reporting of the site description must be consistent with the reporting option utilized.
 - 5.7.1.7.1. When a site inspection reveals obvious potential environmental hazards, it is incumbent upon the Appraiser to adhere to the requirements of USPAP in disclosure requirements. Observations of obvious and significant evidence of potential Hazardous Materials waste (supplemented by photographs) must be included in the appraisal report.
- 5.7.1.8. Zoning Descriptions: The zoning description must address the subject property's conformity or nonconformity with current zoning and must include an analysis of land use issues that affect (positively or negatively) the subject property's legally permissible uses. Examples include pending zoning change, pending amendments to the General Plan, open space overlay, pending changes in local Agency sphere of influence boundaries, scenic/view corridor restrictions, and 14 CFR Part 77 Objects Affecting Navigable Airspace restrictions (e.g., height limitations, setbacks, clear zones, etc.).

- 5.7.1.9. Taxes and Assessment Data: Taxes and assessment data must also include the amount of any outstanding special assessments.
- 5.7.1.10. Description of Improvements: Describe the exterior and interior physical characteristics of the structural Improvements (type, size, design or layout, structural components, construction materials, equipment, and mechanical systems) and the quality and condition of same (noting deferred maintenance, if any). Depending upon the type of Improvements and market standards for the subject property, size should be expressed in a gross, rentable, and usable area basis. Comment is required regarding the functional utility and any significant lack of utility relative to market standards requires expanded analysis. The description of site Improvements (e.g., parking area, landscaping, etc.) must include physical characteristics. The extent of reporting of the description of Improvements must be consistent with the reporting option utilized.
- 5.7.1.11. Remaining Economic Life: If using the cost approach in the valuation analysis, the description of the existing Improvements must include a statement as to remaining economic life of the subject Improvements.
 - 5.7.1.11.1. Widely recognized and highly regarded national publications (such as Marshall Valuation Service) shall be used as the basis for determining the economic life of the subject Improvements.
- 5.7.1.12. Current Occupancy: Current occupancy must be reported together with current lease terms and conditions (as applicable).
- 5.7.1.13. Operating History – Income Properties: When applicable, a three year operating history must be reported and analyzed and prior rental income, expenses, and occupancy rates must be presented in reasonable detail.
- 5.7.1.14. Highest and Best Use: All appraisals of proposed development must include an analysis of the highest and best use of the land as if vacant and the highest and best use as proposed. For existing Improvements which are clearly representative of highest and best use, the analysis of the land (as if vacant) and the property (as improved) can be abbreviated. In cases of excess land or where existing Improvements are not representative of highest and best use, an expanded analysis is required. The extent of the reporting of the highest and best use analysis must be consistent with the reporting option utilized.
 - 5.7.1.14.1. With additional regard to proposed developments, the cost approach should be utilized to test the financial feasibility of the proposed development. When cost exceeds value or when the indication of project profitability is below typical expectations for similar developments, an expanded highest and best use analysis is required.

- 5.7.1.15. Comparable Data Documentation: Comparable sales and rental data are to be detailed and documented as follows:
 - 5.7.1.15.1. Self-Contained Appraisal Reports and Summary Appraisal Reports must contain the summary details of each item of market data utilized in the valuation analysis. This may be accomplished by the use of summary tables in the body of the appraisal report. Documentation as to verification and recording data must be retained in the appraisal file.
 - 5.7.1.15.2. Restricted Appraisal Reports need not contain the details of each item of market data utilized in the valuation analysis. However, specific details, including documentation as to verification and recording data, must be retained in the Appraiser's files.
 - 5.7.1.15.3. Rental data (for Airport land and/or Improvements) is to be derived from an analysis of comparable airports having similar properties.
- 5.7.1.16. Adjustment Grids (optional): Adjustments to the comparable sales or rental data may be presented in a grid format and adjustments may be expressed on a qualitative and/or quantitative basis.
 - 5.7.1.16.1. All adjustments contained in an adjustment grid must be adequately explained in the appraisal report.
 - 5.7.1.16.2. When an adjustment grid is not utilized, the appraisal report must contain sufficient narrative to enable the reader to understand the comparative analysis.
- 5.7.1.17. Overall capitalization rates and discount rates must be supported by data and analysis.
 - 5.7.1.17.1. For Self-Contained and Summary Appraisal Reports, the data and analysis must be summarized within the report. For Restricted Appraisal Reports, the data and analysis must be contained in the Appraiser's files.
- 5.7.1.18. Exhibits/Photographs: Required photographs and exhibits, as applicable, shall include:
 - 5.7.1.18.1. Photographs of the subject property
 - 5.7.1.18.2. Location map(s)
 - 5.7.1.18.3. Airport Layout Plan
 - 5.7.1.18.4. Site Plan/Plot Plan
 - 5.7.1.18.5. Complete Legal Description (if not included in the body of the report).

5.8. Dispute Resolution

- 5.8.1. If a Lessee disagrees with the Market Rent (or the market value) conclusion reached by the aviation consultant (or Appraiser), the Lessee may, at Lessee's risk, cost, and expense, engage a second aviation consultant (or Appraiser) who shall meet the qualifications set forth in Section 4.2.2.2 of this Policy to conduct an independent Rent Study (or appraisal) as set forth in Section 4.2 (or Section 5.7).
- 5.8.2. If the conclusions of the two Rent Studies (or appraisals) reflect a variance of 10% or less, the results of both Rent Studies (or appraisals) shall be averaged to determine the Market Rent (or the market value).
- 5.8.3. If the variance exceeds 10% and an agreement cannot be reached between the City and the Lessee regarding the Market Rent (or the market value) based on the conclusions of the first and second Rent Studies (or appraisals), the first and second aviation consultants (or Appraisers) shall mutually select a third aviation consultant (or Appraiser) who shall meet the qualifications set forth in Section 4.2.2.2 of this Policy.
 - 5.8.3.1. The third aviation consultant (or Appraiser) shall make a determination regarding the Market Rent (or the market value) based on a review of the first and second Rent Studies (or appraisals).
 - 5.8.3.2. If the first and second aviation consultants (or Appraisers) are unable to agree upon the third aviation consultant (or Appraiser), the City shall appoint a third aviation consultant (or Appraiser) who shall meet the qualification stipulated in Section 4.2.2.2 of this Policy to make a determination regarding the Market Rent (or the market value).
- 5.8.4. The third aviation consultant (or Appraiser) may request a hearing at which the first and second aviation consultants (or Appraisers) shall provide such additional information, data, documentation, and/or clarification regarding the Rent Study (or appraisal) as the third aviation consultant (or Appraiser) may require.
- 5.8.5. The third aviation consultant (or Appraiser) shall have the right to gather, analyze, and consider additional information, data, and documentation as the third aviation consultant (or Appraiser) deems relevant, reasonable, and appropriate.
- 5.8.6. The third aviation consultant (or Appraiser) shall make a final determination based on a review of the two Rent Studies (or appraisals) and any additional information, data, documentation, and/or clarification provided by the first and second aviation consultants (or Appraisers) and/or gathered or analyzed by the third aviation consultant (or Appraiser).
- 5.8.7. The decision of the third aviation consultant (or Appraiser) regarding the Market Rent (or market value) shall be accepted by the City and Lessee and shall be legally binding.
- 5.8.8. All costs and expenses associated with the work of the third aviation consultant (or Appraiser) shall be paid equally by the City and the Lessee.

- 5.8.9. During any period when there is disagreement between the City and the Lessee regarding a rent adjustment, the Lessee shall be responsible for the payment of the adjusted rent as recommended by the aviation consultant first engaged by the City. Once the disagreement is resolved, any difference between the rent paid and the final determined rent shall be paid to the City or credited to the Lessee's account (as appropriate).