



**KENT COUNTY AERONAUTICS BOARD
GERALD R. FORD INTERNATIONAL**

POLICY TYPE:	FISCAL
POLICY:	LEASING POLICY
EFFECTIVE DATE:	AUGUST 31, 2005

1. PURPOSE

- A. To establish fair, equal, and not unjustly discriminatory conditions, to be met by all persons, firms, or corporations desiring to engage in any activity on Gerald R. Ford International Airport property.
- B. This Policy is intended to provide a framework governing leasing and rental decisions as they relate to development of new agreements and modifications to existing agreements.

2. PRINCIPLES

- A. **STATUTORY REFERENCES:** Michigan Constitution, Article 9, Section 18; MCL 259.133; Airport and Airway Improvement Act, as amended, 49 U.S.C. 47107; Federal Aviation Administration's "Policies and Procedures Concerning the Use of Airport Revenue", 64 FR 7695 (February 16, 1999); FAA Order 5190.6A; and Advisory Circular 150/5190-5 (2002).
- B. **COUNTY LEGISLATIVE OR HISTORICAL REFERENCES:** County Board Resolution, 1956.
- C. **KENT COUNTY AERONAUTICS BOARD REFERENCES:** Airport Bond Covenants.
- D. **SCOPE:** This Policy addresses all types of agreements involving the use and occupancy of properties at the Airport except concession agreements and certain operating agreements, management contracts, licenses, and permits. It addresses leases for land, buildings, and improvements.
- E. **OPERATIONAL GUIDELINES – GENERAL:** The Policy is primarily focused on appropriate use, optimal utilization, and competitive allocation of and access to the aeronautical and non-aeronautical real property assets under the jurisdiction of the Kent County Aeronautics Board. Overlying these points are two fundamental business obligations: (1) operation of the airport as a proprietary entity independent of financial support from the County of Kent, and (2) compliance with local, state, and federal laws, rules, and regulations.

Many concepts established in federal regulations and grant assurances are particularly relevant to this Policy, including: (1) airports must be available for public use on reasonable conditions and without unjust discrimination; (2) fees

for use of airports must be fair, reasonable, and uniformly applied; (3) similarly situated aeronautical users must be treated equitably; (4) fee and rental structures must be established to make the airport as financially self-sustaining as possible given the circumstances that exist at each airport; (5) exclusive franchise rights are generally prohibited; (6) long-term leases should provide for periodic adjustment to market rents; and (7) non-aeronautical uses may require prior federal approval.

F. **KEY GUIDING PRINCIPLES:**

- i. To foster a spirit of partnership with its tenants in the application of this policy, while fulfilling duties as steward of vital public enterprises, assets, and resources; and
- ii. To make airport properties available on fair and reasonable terms without unjust discrimination; and
- iii. To retain effective management controls over the use of scarce airport assets and seek to remove obstacles to such controls when opportunities arise; and
- iv. Assist in maintaining a fee and rental structure with the goal of financial self-sustainability; and
- v. To ensure that additional capacity is not constructed prematurely, yet can be built when it is needed; and
- vi. To foster open and competitive access for new entrant and incumbent aeronautical service providers; and
- vii. To maximize service, fare, and convenience benefits to consumers of aeronautical services - the shippers, travelers, and other users, etc.; and
- viii. To ensure compliance with applicable laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application and acceptance of federal funds.

Nothing within this Policy shall be construed as overriding the terms and conditions of an existing lease between the Board and a tenant.

3. **POLICY**

- A. It is hereby declared to be the policy of the Kent County Aeronautics Board (Board) to require all persons, firms, or corporations to obtain a lease, permit or agreement (et al), in a form approved by the Board, prior to engaging in any activity or service on the premises of Gerald R. Ford International Airport (Airport). All activities must be specifically authorized by a lease, permit or agreement in accordance with standards established by the Board.

4. PROCEDURE

- A. All leases, permits and agreements shall be in a form approved by the Board.
- B. The lease or agreement term (length) shall be established considering the amount of tenant investment in physical/fixed improvements on the property and should extend for a long enough period of time to permit the amortization of the investment in physical/fixed improvements.
- C. All leases, permits and agreements shall be on a triple net basis (tenant responsible for insurance and taxes; janitorial, landscape, snow removal and other maintenance; trash, telephone and other utilities).
- D. All leases and agreements shall contain periodic rate adjustments. At a minimum, leases assigning ground or facilities by a square foot rate will utilize an annual Consumer Price Index for all Urban Consumers, not-seasonally adjusted, rate adjustment.
- E. All rental and use rates established by Airport leases, permits and agreements shall be market value or full cost recovery in accordance with a professional appraisal or airport cost accounting and rate making methodology.
- F. Under existing leases or agreements, requests from tenants for Board provided leasehold improvements shall require that a new lease or agreement be negotiated.
- G. All non-airline leases and agreements will require the tenant to provide the Board with a Security Deposit equal to no less than three (3) months of tenant's rental and/or concession fees.
- H. No Unauthorized Use. All commercial uses and certain non-commercial uses of Airport properties shall be specifically authorized pursuant to a lease in accordance with this Policy, or by license, permit, or other formal agreement with the Board, provided that applicable rents, charges, or revenue formulas have been established by the Board. The Aeronautics Director, without Board approval, may:
 - i. Issue licenses, permits, or other formal agreements for certain commercial activities, using standard forms in substantially the form approved by the Board and in accordance with applicable Board policies, standards or resolutions.
 - ii. Issue a temporary or special use permit that allows an entity to engage in specific activities, in designated areas, and only for a specified period of time not to exceed 30 consecutive days.

- I. Prohibited Activities:
 - i. Airport land or improvements shall not be occupied or used for any activity that is contrary to the safe and efficient operation of the Airport including any activity that jeopardizes the safety of the public, aircraft, or the property located at the Airport.
 - ii. "Through-the-Fence" activities, i.e. activities conducted from off-airport properties having direct access to the airport runway and taxiway system, are prohibited.
 - iii. The Michigan Constitution prohibits granting of the County's credit to any person, associate, or corporation, whether public or private, except as specifically authorized by the Constitution. This prohibition, however; does not preclude that a county may fund activities of non-county organizations that benefit the public through contracts for full value, this requires that the Department be granted consideration for any such expenditures and further requires that the funds would be used for a legitimate public purpose or government function for the benefit of the public. Therefore, the Department is legally precluded from granting Airport funds for the development of private businesses that are tenants of the Airport.
 - iv. The Airport bond covenants provide: "No free service or use of the Airport, or service or use of the Airport at less than cost, shall be furnished by the Airport to any person, firm or corporation, public or private, or to any public agency or instrumentality including the County or any other municipality."
 - v. The Federal Aviation Administration's "Policies and Procedures Concerning the Use of Airport Revenue", 64 FR 7695 (February 16, 1999) generally prohibits the use of land by the sponsor for aeronautical purposes rent-free or for nominal rates to a for-profit enterprise.
- J. Selection of Prospective Tenants. The Board shall award lease rights based on competitive bid, competitive proposal, or sole source negotiation.
 - i. Competitive bids shall be used when, in the judgment of the Aeronautics Director, financial return is the only relevant criterion for selecting among prospective tenants.
 - ii. Competitive proposals shall be used when, in the judgment of the Aeronautics Director, criteria other than financial return are relevant to selecting a prospective tenant.
 - iii. Sole source negotiations shall be used only in those instances where, in the judgment of the Aeronautics Director, a prospective tenant offers services that are unique, patented, or otherwise demonstrated to be available only from a single source.

5. OTHER ELEMENTS

None.

6. EXCEPTIONS

None.

7. DURATION

Indefinite, subject to periodic review and modification.

8. REVIEW

This policy shall be reviewed, and revised as deemed appropriate, no less than two (2) years.

9. REVISION HISTORY

Originated November 23, 1998
Revised August 31, 2005

10. RELATED POLICIES


Holdover Policy

Land/Facility Rental Determination Policy

Variance/Waiver Policy

[End of Policy]

ADOPTED AND EFFECTIVE ON THIS DATE: August 31, 2005


AERONAUTICS BOARD CHAIR