

# BOARD POLICY 400 – AIRPORT USES<sup>1</sup>

## ARTICLE 1. USE

### **Section 4-1.01**      **Authorized Uses**

District property, facilities, goods, services, and any other thing may be accessed and used pursuant to a lease, license, operations agreement, easement, or other written approval by an appropriate District official. Use by any other means is prohibited and subject to ejection from District property and any other remedies available by law.

### **Section 4-1.02**      **Land Development Leases**

The Board may authorize leases for a term not to exceed fifty (50) years for the development of unimproved real property.

### **Section 4-1.03**      **Long Term Leases**

The Board may authorize long term leases not to exceed thirty (30) years for the use of improved property.

### **Section 4-1.04**      **Short Term Leases**

The General Manager may enter into leases of five (5) years or less for new customers and ten (10) years or less for established customers in a form established by the Board.

### **Section 4-1.05**      **T-Hangar Leases**

T-Hangars may be leased as provided by the Board, and are to be used solely for aeronautical purposes, including storage of aircraft and aircraft parts.

### **Section 4-1.06**      **Tie-down Agreement**

The General Manager may enter into license agreements for tie-downs in in a form established by the Board.

### **Section 4-1.07**      **Licenses**

The Board may authorize licenses for intermittent or occasional use of District property.

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<sup>1</sup> Adopted on February 6,2018 by Res. No. 18-02-774

<sup>2</sup> Article 1 Section 4-1.01, 4-1.02, 4-1.03, 4-1.04, Article 2. Use Section 4-2.01, 4-2.02,4-2.03, 4-2.04,4-2.05, 4-2.06 4-2.07,4-2.08,4-2.09, 4-2.10, 4-1.11, Section 4-3.07 Static Aircraft Display, Article 5. Federal Funds Obligations, Section 4-5.01, amended on January 15, 2019 by Res No. 19-01-789

<sup>3</sup> Section 4-1.16 amended on February 5, 2019 by Res No. 19-02-790

<sup>4</sup>Article 1 Section 4-1.12 amended on June 27, 2022 by Res No. 22-06-837

<sup>5</sup>Article 2 Section 4-2.05 amended on March 19, 2024 by Res No. 24-03-862

The General Manager may authorize licenses for the use of airport property when such use does not interfere with airport operations.

**Section 4-1.08      Sublease Agreements**

The General Manager may approve sublease agreements for tenants in good standing, up to the length of the lease term.

**Section 4-1.09      Operations Permit**

Any work conducted on District property by someone not under lease or license will require an operations permit. The General Manager may approve Operations Permits in a form adopted by the Board.

**Section 4-1.10      Right of First Refusal**

The General Manager may approve Right of First Refusal (ROFR) agreements with customers. The customer shall pay a non-refundable fee equivalent to one-month rent for the property. Should the customer choose to execute a lease agreement prior to the end of the ROFR expiration date, the ROFR payment shall be applied to rent. Should the customer not execute a lease agreement prior to the end of the ROFR, the payment is forfeited.

**Section 4-1.11      Lease Option**

The General Manager may approve option agreements with a term of up to six (6) months. The customer shall pay a non-refundable fee equivalent to one month's rent for the property. Should the customer choose to execute a lease prior to the end of the option period, the payment shall be applied to rent. Should the customer not execute a lease agreement prior to the end of the option period, the fee is forfeited.

**Section 4-1.12      Insurance and Indemnification**

Agreements entered into by the District for use of District property shall contain provisions for naming the District as an additional or co-insured, as determined, on a policy or policies of insurance procured by the user of District property and indemnifying the District from costs, liability, and damages resulting from the user's activities; provided, when the user of District property is a California public agency, such agency shall not be required to provide a certificate of insurance.

For all MASP owned facilities maintaining a structural area up to and including 10,000 square feet, the insurance level will be \$1 million each occurrence with no aggregate. For the purposes of subletting, the tenant with whom an agreement is established with MASP will be responsible for adding the sub-tenant as an "additionally insured" to the tenant's existing policy. Furthermore, the tenant with whom an agreement is established with MASP will be responsible for the actions of the sublessee.

The proposed modifications will be implemented to existing tenant agreements on or before July

1, 2023 or at the conclusion of a tenants existing agreement, pending which scenario occurs first. Existing tenants maintaining structural facilities measuring less than 10,000 square feet wishing to modify their respective existing agreement immediately may do so by coordinating with MASP administration.

**Section 4-1.13      Assignment of Leases**

If a tenant desires to assign a lease, and such assignment requires Board approval, the Board shall review the lease to determine if it conforms to the most recent rules and regulations of the District and to adjust the rent, if necessary, to conform to current rental rates of the District.

**Section 4-1.14      District Right of First Refusal**

Upon expiration of a lease for which the District has a right of first refusal (ROFR), the District shall use best efforts to exercise its ROFR to acquire the property in accordance with law. If the District does not exercise its ROFR, the lease with the new tenant shall be at the then District rental rate for like leases.

**Section 4-1.15      Improvements and Fixtures**

Upon the expiration or termination of a lease, improvements, additions, alterations, and fixtures (excluding trade fixtures and equipment) shall become property of the District without any further payment or consideration. The District, in its sole discretion, may require a tenant to remove improvements, additions, alteration, and/or fixtures at the tenant's sole cost and expense, and repair any damage as a result of such removal. All improvements, additions, alterations, and fixtures shall be kept free of liens and shall not be used as security in any loan arrangements without District prior written consent. All improvements, additions, alterations, and fixtures installed in or attached to the property by a tenant must be in good condition when installed or attached.

**Section 4-1.16      Filming and Photography**

(a) Commercial Recording Media. Commercial Recording Media on District property is allowed only as authorized in a written agreement by the District. Use of the District name and logo is prohibited, unless expressly authorized in writing by the District. The District cannot and does not grant permission for use of the names, trademarks, logos, and other intellectual property and proprietary information in any form for any person or entity other than the District, and such approval must first be obtained from District such party.

(b) Personal Recording Media. Use of Recording Media in public areas outside the Air Operations Area, from inside Voyager Restaurant, or at authorized public events is permitted for Personal use. At public events, use of Personal Media is permitted in the designated area for

aircraft associated with the public event. Except as expressly provided herein, use of Recording Media for Personal use is prohibited in the Air Operations Area.

(c) Press. Nothing in this policy is intended to prevent members of the Press from covering events outside the Air Operations Area, except that permission must be obtained from tenants and other authorized occupants of District property before entering such property. Media may be granted access to the Air Operations Area subject to District approval.

(d) Definitions

“Air Operations Area (AOA)” means paved or unpaved areas used or intended to be used for the unobstructed movement of aircraft, in addition to its associated runways, taxiways, or aprons. Commonly refers to anything within the secured and fenced-in area of the airport.

“Commercial” means any use that is not Personal.

“Personal” means any use that is for an individual’s private purpose and use, and not for sale, marketing, promotional, or financial gain or purpose.

“Press” means sources and presentations of news and information, including: TV, radio, newspapers, magazines, web pages and blogs.

“Recording Media” means film, video, photography, and any other media capturing or recording visual images.

**Section 4-1.17            Fees and Impounding**

The District charges the following categories of fees for access to property:

- (a) Ground-based lease fees
- (b) Building lease fees
- (c) Hangar lease fees
- (d) Aircraft storage fees
- (e) Aircraft parking fees
- (f) Wash rack fees

The rates are set by the Board and published on the District’s website. An aircraft owner or agent failing to pay a fee duly charged for aircraft owned or controlled by the owner or agent shall have such aircraft subject to impoundment until such fees are paid.

**ARTICLE 2. PROJECTS**

**Section 4-2.01            Contracts**

(a) Contracts entered into by the District shall contain provisions required by state and federal law and regulation. Contract documents shall be reviewed by District Counsel to ensure compliance with such laws and regulations. Reference is particularly made to the Davis-Bacon Act (40 USC SS 276(a) et seq.) and to the Energy Policy and Conservation Act (42 USC SS 6201 et seq.).

(b) The Secretary shall publish and post notices required by such laws and regulations.

**Section 4-2.02 Public Works**

(a) Public works contracts shall be awarded to bidders whose bid is in the best interest of the District considering factors such as cost, experience, and availability.

- (1) Public works contracts valued at \$50,000 or less may be awarded by the General Manager.
- (2) The General Manager shall require at least two bids for public works contracts valued between \$50,000 - \$200,000, and may award the contract to the party submitting the bid in the best interest of the District.
- (3) Public works that cost \$200,000 or more shall be let for public bid and awarded by the Board, unless otherwise determined by the Board.

(b) Contracts shall include provisions regarding prevailing wages, working conditions, subcontractors, insurance, and other customary provisions. Contracts of \$25,000 or more shall require a payment bond for 100% of the contract amount, and a performance bond as stated in the bid documents. Bids shall include a bid bond in an amount set by the District.

**Section 4-2.03 Procurement for Emergency Repairs**

(a) Labor and material necessary for emergency repair or replacement of public facilities of the District damaged by unanticipated calamity may be taken without giving notice for competitive bids if provisions of this Section are followed.

(b) The General Manager may authorize the procurement of labor or material without bidding to make emergency repairs or replacements when a meeting of the Board of Directors cannot be commenced to authorize emergency action in a timely manner. The General Manager shall report to the Board of Directors within seven (7) days of the emergency or at the next regular meeting scheduled within fourteen (14) days after the action.

**Section 4-2.04 General Manager Authority**

The General Manager is authorized to enter into contracts for the procurement of goods, services, or works on behalf of the District that have been authorized in a Board-approved budget. At the next regularly scheduled Board meeting, the General Manager shall report any contracts executed under this section. This provision shall be void, unless reauthorized by the Board, upon the hiring of a new General Manager.

**Section 4-2.05 Construction and Development Activities**

(a) All non-aeronautical activities at the Airport shall be in conformance with applicable federal, state, and county laws, ordinances, rules, and regulations, and with District rules and regulations set forth herein. Violation of any District rules, regulations

or any federal, state, and or county applicable regulation shall constitute cause for the levy of fines or termination of the privilege to lease or use District property.

(b) All construction projects including but not limited to grading, new building construction, the installation or modification of signage, the installation of new mechanical, plumbing, and electrical systems, or any additions, alterations, and repairs to existing construction and to existing mechanical, plumbing, and electrical systems at the Airport or affecting District property must be coordinated through the District Facilities Department and approved by the District. For project review the District requires:

- (1) A copy of the Kern County Permit Application and a complete set of plans stamped and signed by a California licensed design professional. In some cases, Mechanical, Electrical, or Plumbing only plans may be signed by a California Licensed Contractor of the applicable classification
- (2) Proof of Submission of FAA Form 7460, Notice of Construction. Form 7460 is also required for projects necessitating the use of a crane, erection of antennas, signage or any other temporary or permanent object affecting District navigable airspace.
- (3) A Precise Development Plan (PDP) or a PDP Modification and a Precise Development Application, if applicable. A PDP or PDP Modification may not be required in all cases. New developments, exterior site improvements, and some tenant improvements will require application for a PDP or PDP Modification; please consult with the District. PDP and PDP Modifications must be signed by both the applicant and the District before being submitted to Kern County.
- (4) All plans must be submitted to [Planning@mojaveairport.com](mailto:Planning@mojaveairport.com). Once reviewed by the District, the project applicant will receive a Project Review Letter which must accompany any PDP, PDP Modification, or building permit application to Kern County.
- (5) A copy of the approved permit and plans must be provided to the District; no work shall commence until the District has issued the applicant a written Notice To Proceed (NTP).
- (6) Revisions to approved plans and permits must be submitted to the District for approval and a written Notice to Proceed (NTP) shall be issued for each revision.

(c) MASP may halt any and or all work/changes on site if prior approval is not granted by MASP.

## ARTICLE 3. WORKS OF ART

### Section 4-3.01 Purpose

This section shall govern the application for and placement of works of art at Mojave Air & Space Port.

### Section 4-3.02 Definitions

“Applicant” means the person who submits an Application to place art work at Mojave Air & Space Port.

“Application” means that form prescribed by the District to be completed and submitted by the Applicant for the placement of works of art at Mojave Air & Space Port.

“Art work” and “work of art” have the same meaning and are used interchangeably herein.

### Section 4-3.03 Application

(a) A person interested in placing a work of art at Mojave Air & Space Port shall submit an Application to the District. The Application shall include, in addition to the information required by the form, an accurate depiction of the art work to be installed and a site plan showing the location of the art work, complete with necessary and appropriate accessories to complement and protect the art work.

(b) If the Application is approved, the Applicant shall deposit with the District a fee, in an amount set by the District, sufficient to ensure the art work, once commenced, is completed. Upon completion of the art work, the deposit shall be returned to the Applicant, less any reasonable costs incurred by District to ensure completion of the art work.

(c) If the work of art is to be placed on a building or structure owned by a person other than the District, the Applicant shall submit written proof that the owner of the building or structure has agreed to and approved the placement of the work of art on the building or structure.

### Section 4-3.04 Guidelines

Guidelines for the approval and maintenance of works of art shall include, but are not limited to, the following criteria:

- (a) The art work shall be clearly visible and accessible to the public.
- (b) The composition of the art work shall be of permanent type materials in order to be durable against vandalism, theft and weather.
- (c) The art work shall be composed such that it requires a low level of maintenance.
- (d) The art work shall be related in terms of scale, material, form and content to immediate and adjacent buildings and landscaping so that it complements the site and surrounding environment.
- (e) The art work shall be designed and constructed by persons experienced in the

production of such art work.

- (f) The art work shall be a permanent, fixed asset to the property.
- (g) The art work shall be maintained by the Applicant in a neat and orderly manner acceptable to the District.

**Section 4-3.05            Maintenance**

(a) The Applicant shall be responsible for maintaining the art work in a neat and orderly manner acceptable to the District. If the Applicant fails to maintain the art work in a manner acceptable to the District, the District may either maintain or remove the art work.

(b) The Applicant shall place a deposit with the District, in an amount set by the District, to be used for maintenance of the art work if the Applicant fails to maintain the art work in a manner acceptable by District. The District shall keep the deposit unless and until the art work is permanently removed from Mojave Air & Space Port, after which it shall refund the deposit less any reasonable costs incurred by the District in maintaining the art work.

(c) If the deposit made by the Applicant is not sufficient to cover the costs of maintaining and/or removing the art work, the Applicant shall reimburse to the District the costs it incurs in excess of the deposit.

**Section 4-3.06            District's Rights**

(a) The Board shall, in its sole discretion, approve or reject Applications to place works of art at Mojave Air & Space Port.

(b) The District has the right to have a work of art maintained or removed if, in its sole discretion, the work of art is not being maintained in a manner acceptable to the District.

**Section 4-3.07            Static Aircraft Display**

Any static display of aircraft is subject to approval of, and upon such terms and conditions, as determined by the District.

**ARTICLE 4. CEQA**

**Section 4-4.01            General**

District projects shall be undertaken with due regard for the environmental consequences as required by this Policy and applicable state and federal law.

**Section 4-4.02            Adoption of Guidelines**

The District adopts and incorporates by reference the guidelines promulgated by the Secretary of Resources (hereinafter "State Guidelines") for local agencies to satisfy the California Environmental Quality Act (CEQA), except as otherwise provided herein.



**Section 4-4.03            Delegation of Responsibilities**

- (a) The General Manager, or designee, shall:
  - (1) Determine whether the District is a lead agency or responsible agency;
  - (2) Determine whether an activity is exempt or a project subject to review;
  - (3) Conduct an initial study;
  - (4) At the direction of the Board, prepare or cause a negative declaration or environmental impact report (EIR) to be prepared;
  - (5) Respond to public comments;
  - (6) Provide required notices; and
  - (7) Respond to requests for consultation by lead agencies.
  
- (b) The Board shall:
  - (1) Review an initial study to determine if a negative declaration or EIR is appropriate;
  - (2) Consider, approve, and certify the negative declaration, draft and final environmental impact report prior to approving a project; and
  - (3) Make findings as required by law.

**ARTICLE 5. FEDERAL FUNDS OBLIGATIONS**

**Section 4-5.01            General**

The District is obligated to follow the rules and guidelines set forth by the FAA when accepting federal funds. The FAA requires contractors include Disadvantaged Business Enterprise (DBE) subcontractors when bidding on federally-funded projects. Bidders and contractors shall comply with all applicable FAA DBE requirements.