

ARANSAS COUNTY NAVIGATION DISTRICT
LEASING POLICY FOR COMMERCIAL REAL PROPERTY

LP: 200.02 (07/20/09)

I. GENERAL

Effective Date: This Policy supersedes Leasing Policy LP: 200.00. This Policy is effective immediately upon adoption by the Commission.

Legal Effect: This Policy may be rescinded or amended by the Commission at any time. So long as this Policy is in effect, it should be deviated from only for good cause demonstrated and determined by the Commission. This Policy does not create any duty on the District; does not create or imply the existence of a property right in any person; or convey on any person a right to enforce this Policy.

Application: This Policy applies to leases of property by an individual or an entity that is organized or operating as a for-profit commercial enterprise.

II. RESPONSIBILITIES AND INTENTIONS OF THE DISTRICT

The District has a responsibility to manage its real property assets in a way that complies with the letter and the spirit of applicable laws and brings maximum feasible benefit to the citizens of Aransas County. To accomplish this objective, the District wishes to create a stable and predictable business environment in order to optimize the use of its properties and to encourage continuing maintenance of and capital investment in improvement of its properties by Lessees. By adopting this Policy, the District intends to provide guidance to prospective Lessees, District staff, and counsel regarding development of leases for properties subject to this Policy.

III. PRINCIPLES

It is the policy of the District to adhere to the following principles to guide the development of leases subject to this Policy. As a separate action, based on experience, the District may adopt additional procedures and standard practices to facilitate implementation of these principles.

Actions Upon Termination of an Existing Lease

1. Leases for a time period greater than 5 years should be offered for bid at a minimum acceptable lease rate that is not less than Fair Market Rental Value for

the intended commercial use, as determined by the Commission based on an appraisal that is not more than 5 (five) years old, adjusted as necessary to reflect estimated change in Fair Market Rental Value since the appraisal.

2. The Commission shall determine which of the bids is the highest or best, within the Commission's sole discretion. Generally, the Commission will award the lease to the entity that proffered the highest or best bid. However, in the event that the highest or best bid is that of a third party, and the existing Lessee enjoys Preferred Status (as described below) and has proffered a bid, the Commission will first inform the existing Lessee of the terms of that bid and permit the existing Lessee to match the bid by the third party.

3. A determination that an existing Lessee enjoys Preferred Status will be made by the District, in its discretion, based on consideration of at least the following factors that weigh in favor of a determination of Preferred Status:

a. the Lessee has a history of materially full compliance with the provisions of his or her existing lease, as well as all applicable codes, regulations, and other requirements;

b. the Lessee and its principals are not in breach of any other contract with the District, nor delinquent in payment of any tax, fee, or other charge owed the District and/or any other local governmental entity, and,

c.(i) the Lessee has invested significant capital in improving the land by installation of structures that increase long term value of the land (e.g., restoration or improvement of bulkheads), or

(ii) the Lessee has operated his business on the subject property for a substantial period of time.

To obtain a determination of Preferred Status, a Lessee must make a written request to the District not later than 180 days before termination of an existing lease (including any options). The District will respond to such a request no later than 45 days after receiving the request.

Determination of Lease Rate

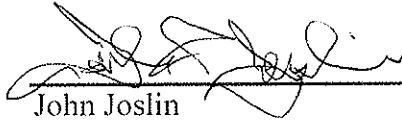
4. The initial lease rate should be no less than Fair Market Rental Value, based on an appraisal that is not more than (five) 5 years old, adjusted as necessary to reflect estimated change in Fair Market Value since the appraisal.

5. Leases should provide for annual fixed-rate increases in the lease rate to approximate estimated rising fair market rental value and increasing operating costs of the District.

6. Lease rates should be subject to adjustment every 5 (five) years to the greater of the existing lease rate or the Fair Market Rental Value, as determined by the Commission. The Fair Market Rental Value should be based on an

appraisal that is not more than 5 (five) years old, adjusted as necessary to reflect estimated change in Fair Market Rental Value since the appraisal.

The foregoing Policies were adopted by the Navigation and Canal Commission at its meeting on the 20th day of **July, 2009**.

A handwritten signature in black ink, appearing to read "John Joslin", is written over a horizontal line.

John Joslin
Secretary to the Commission