
AIRPORT JOINT USE AGREEMENT

BETWEEN

SIOUX FALLS REGIONAL AIRPORT AUTHORITY

AND

THE STATE OF SOUTH DAKOTA

AND

UNITED STATES OF AMERICA

(JOE FOSS FIELD)

TABLE OF CONTENTS

RECITALS.....	1
AGREEMENT.....	1
1. DEFINITIONS.....	2
2. JOINT USE.....	3
3. SIOUX FALLS REGIONAL AIRPORT AUTHORITY RESPONSIBILITIES	3
4. GOVERNMENT RESPONSIBILITIES	4
5. PAYMENTS.....	5
6. AIRFIELD MANAGEMENT	5
7. GOVERNMENT RESERVED RIGHTS	6
8. INDEMNIFICATION FOR AIRCRAFT RESCUE AND FIREFIGHTING	6
9. RECORDS AND BOOKS OF ACCOUNT	7
10. TERM	8
11. TERMINATION.....	8
12. GENERAL PROVISIONS	8
13. MAJOR REPAIRS AND NEW CONSTRUCTION.....	10
14. NOTICES.....	10

JOINT USE AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____ 2026, by and between the SIOUX FALLS REGIONAL AIRPORT AUTHORITY, (“Authority”); and the UNITED STATES OF AMERICA, acting by and through the Chief, National Guard Bureau (“Department of the Air Force”), and the STATE OF SOUTH DAKOTA, acting by and through its Adjutant General (“State”). The Air Force and the State are collectively referred to as the "Government". The Authority, Air Force, and State are collectively referred to as the “Parties” and individually as a “Party”.

RECITALS

A. Sioux Falls Regional Airport Authority owns and operates the Joe Foss Field Airport ("Airport"), located in the City of Sioux Falls, State of South Dakota.

B. Title 49, United States Code (U.S.C.), Chapter 471, "Airport Development," (49 U.S.C. §§ 47101-47129), provides that each of the Airport's facilities developed with financial assistance from the United States Government and each of the Airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by United States Government aircraft in common with other aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facilities used.

C. The Government requires substantial use of the flying facilities at the Airport for the South Dakota Air National Guard (ANG), as well as for other occasional transient Air Force aircraft.

D. The Sioux Falls Regional Airport Authority agrees to the Government substantial use, in common with other users of the Airport, of the flying facilities at the Airport.

E. The Government and the Sioux Falls Regional Airport Authority desire to provide for the delineation of responsibility for operation and maintenance of the flying facilities jointly used in common with others at the Airport, and to establish the Government’s reasonable share, proportional to such use, of the cost of operating and maintaining such jointly used flying facilities.

F. In accordance with Air Force Instruction (AFI) 10–1002, *Joint Use Agreements for Military and Civilian Flying Facilities*, August 8, 2018, as amended, it is the Sioux Falls Regional Airport Authority responsibility to determine when the total United States Government use is substantial and advise all United States Government agencies using the airfield that use has exceeded “substantial use” criteria and any future use will result in charges.

- G. The Department of the Air Force agrees to make a good faith effort based on its available records, if any, and/or information provided by the Airport's control tower to support the Sioux Falls Regional Airport Authority efforts to identify other Federal Government users. All Parties agree that the Sioux Falls Regional Airport Authority's efforts to identify all United States Government aircraft landing at the Airport is intended to allow full reimbursement to the Sioux Falls Regional Airport Authority for the proportionate share of the total United State Government (USG) users (assigned and transient) for the Jointly Used Flying Facilities. The Parties agree that renewal of this Agreement will not be delayed if the Sioux Falls Regional Airport Authority; through its best efforts, is unable to identify other transient military and/or United States government aircraft landing at the Airport.
- H. In accordance with Department of the Air Force policy, there shall only be one Air Force agreement supporting Air Force military operations for each civil airport used. When more than one Air Force unit regularly uses an airport, the Deputy Assistant Secretary of the Air Force (Installations) will designate a lead unit (normally the Air National Guard through the National Guard Bureau) who will attempt to account for the use by all Air Force activities and be the lead in discussions with the Sioux Falls Regional Airport Authority. Any Air Force user that refuses, fails to participate, or does not reply to requests from the lead unit will be directed by the Deputy Assistant Secretary of the Air Force (Installations) through his or her representative to terminate operations at the Airport.
- I. All non-Air National Guard/Army National Guard/State or non-Air Force users will be billed directly by the Sioux Falls Regional Airport Authority and pay their proportionate share directly to the Sioux Falls Regional Airport Authority. All other United States agencies and branches or bureaus of the U.S. military will need to work directly with the Sioux Falls Regional Airport Authority to pay their fair share proportionate to their use, of the cost of operating and maintaining the Jointly Used Flying Facilities.

AGREEMENT:

THEREFORE, the Parties agree as follows:

1. DEFINITIONS

A. For purposes of this Agreement, the Jointly Used Flying Facilities of the Airport means the runways, taxiways, lighting systems, navigational aids, markings and appurtenances open to public use and use by the Air Force and State, including all improvements and facilities pertaining thereto and situated thereon and all future additions, improvements, and facilities thereto as may be added or constructed from time to time ("Jointly Used Flying Facilities"). The Jointly Used Flying Facilities do not include land areas used exclusively by the Air Force, Army

and State or the terminal buildings, hangars, aircraft parking aprons, ramps, and other areas or structures used exclusively by the Authority or its lessees, permittees, or licensees for civilian or commercial purposes.

B. Federal Aviation Administration (FAA) Airport Compliance Manual Order 5190.6C, § 7.13(b) and § 3.20(a); Grant Assurance 27 (Use by Federal Government Aircraft); and 49 U.S.C. § 47107(a)(11) define “substantial use” as the existence of one of the following conditions: (1) five or more federal government aircraft are regularly based at the airport or land adjacent to the airport, (2) federal government aircraft make 300 or more total calendar month operations (each landing and takeoff is a separate operation), (3) the gross cumulative weight of federal government aircraft using the airport in a calendar month exceeds 5,000,000 pounds (total operations of federal government aircraft multiplied by the gross certified weights of such aircraft). “Federal government aircraft” means the collective use by United States aircraft and not individual branches or bureaus of the United States military, for purposes for defining *substantial use* only, herein.

2. JOINT USE

Subject to the terms and conditions of this Agreement, the Air Force and the State shall have the use, in common with other users of the Airport, present and prospective, of the Jointly Used Flying Facilities, together with all necessary and convenient rights of ingress and egress to and from the South Dakota Air National Guard installations at the Airport. Routes for ingress and egress for the Government's employees, agents, customers and contractors shall not unduly restrict the Government in its operations.

3. SIOUX FALLS REGIONAL AIRPORT AUTHORITY RESPONSIBILITIES

The Sioux Falls Regional Airport Authority is responsible for the following services and functions, to standards in accordance with Paragraph 6 below:

a. Furnishing all personnel, materials and equipment required in the rendering of the services to be provided under the Agreement.

b. Performing any and all maintenance of the Jointly Used Flying Facilities, including but not limited to:

(1) Joint sealing, crack repair, surface repairs, and airfield markings and repairing or replacing damaged sections of airfield pavement;

(2) Runway, taxiway, and approach lighting and the regulators and controls therefor;

- (3) Beacons, obstruction lights, wind indicators, and other navigational aids;
- (4) Grass cutting and grounds care, drainage, and dust and erosion control of unpaved areas, adjacent to runways and taxiways;
- (5) Sweeping runways and taxiways;
- (6) Controlling insects and pests;
- (7) Removing snow, ice and other hazards from runways, taxiways, and overruns necessary for the safe and effective operation of the Airport within a reasonable time after such runways and taxiways have been so encumbered.

c. Furnishing utilities necessary to operate the Jointly Used Flying Facilities.

d. Removing disabled civil aircraft as expeditiously as possible, subject to the rules and regulations of the National Transportation Safety Board, in order to minimize the time, the Jointly Used Flying Facilities, or any part thereof, would be closed because of such aircraft.

4. GOVERNMENT RESPONSIBILITIES

The Air Force (with the assistance from the State as applicable) will be responsible for the following:

a. Removing disabled Air Force aircraft as expeditiously as possible in order to minimize the time the Jointly Used Flying Facilities, or any part thereof, would be closed because of such aircraft.

b. Providing supplemental sweeping of those runways and taxiways used by and in support of the Government aircraft operations.

c. Subject to availability of appropriations therefor, in accordance with 28 U.S.C. Chapter 171, Authority claims for repairing damage to the Jointly Used Flying Facilities to the extent that such damage is caused solely by United States Air Force aircraft operations and is in excess of the fair wear and tear, see Exhibit "B" Standard Form 95.

d. Disengaging aircraft arresting barrier cables (when installed) as necessary to remove snow and ice in these areas.

e. Removing snow and ice from all ramps, aprons, and taxiways used exclusively by Government aircraft.

f. Preparing and coordinating the snow removal plan and any other operational plans and procedures that may be necessary to implement the provisions of this Agreement.

g. Consistent with AF military operations as determined by the Government, keeping the noise level of its operations as low as practicable, and when possible, supporting the Authority's noise abatement program.

h. Provide Air Traffic Control in accordance with current ATC agreement.

i. Providing aircraft rescue and firefighting services for both Government and civil aircraft emergencies subject to Paragraphs 5 and 8 below.

5. PAYMENTS

a. In consideration of and for the faithful performance of this Agreement, and subject to the availability of federal and state appropriations and Paragraph 8 below, the Government, as its proportionate share of the cost of operating and maintaining the Jointly Used Flying Facilities for the entire term of the Agreement, shall pay to the Sioux Falls Regional Airport Authority a one-time nominal cash amount of One Hundred Dollars (\$100.00) and provide aircraft rescue and firefighting services for civil aircraft emergencies on behalf of the Sioux Falls Regional Airport Authority.

b. In the event the Government ceases to provide aircraft rescue and firefighting services for civil aircraft emergencies, as provided in Paragraphs 4 and 8 of the Agreement, the Parties will renegotiate the payments provisions upon the written request of the Sioux Falls Regional Airport Authority.

c. Bill for the payment provided hereunder shall be directed to:

2801 N. Jaycee Lane
Sioux Falls, SD 57104

d. Any Party may request renegotiation if a Party, at the request or with the formal concurrence of the other, as the case may be, requires services not contemplated by this Agreement, or reduces or eliminates services it undertakes to provide under this Agreement.

6. AIRFIELD MANAGEMENT

a. The Airport Authority agrees that maintenance of the Jointly Used Flying Facilities shall, at all times, be in accordance with Federal Aviation Administration ("FAA") standards for the operation of a commercial airport and operation of jet aircraft.

- b. The Government agrees that any markings and equipment installed by it pursuant to Paragraph 7 of the Agreement shall be coordinated with the Sioux Falls Regional Airport Authority, and not be in conflict with FAA standards.

7. GOVERNMENT RESERVED RIGHTS

The Government reserves the right, at its sole cost and expense and subject to Paragraph 6b above, to:

- a. Provide and maintain in the Jointly Used Flying Facilities airfield markings required solely for military aircraft operations.
- b. Install, operate and maintain in the Jointly Used Flying Facilities any and all additional equipment, necessary for the safe and efficient operation of military aircraft including but not limited to arresting systems and navigational aids.

8. INDEMNIFICATION FOR AIRCRAFT RESCUE AND FIREFIGHTING

a. The Air Force maintains a fire fighting and crash rescue organization in support of military operations at the Airport. Within the limits of the capabilities of this organization, the Air Force agrees to provide fire protection and crash rescue services, on a twenty-four (24)-hour per day, seven (7) days per week basis, for all civil aircraft emergencies on behalf of the Sioux Falls Regional Airport Authority, subject to subparagraphs 8b, 8c, and 8 d below and Paragraphs 4 and 5 above.

b. Sioux Falls Regional Airport Authority agrees to release, acquit, and forever discharge the United States, its officers, agents, and employees from all liability arising out of or connected with the use of or failure to supply in individual cases, Air Force aircraft rescue and firefighting equipment or personnel for aircraft rescue and firefighting activities pursuant to this Agreement. Sioux Falls Regional Airport Authority, further agrees, to the extent permitted by law, to indemnify, defend, and hold harmless the United States, its officers, agents, and employees against any and all claims, of whatever description, arising out of or connected with such use of, or failure to supply Air Force aircraft rescue and firefighting equipment or personnel during the term of this Agreement, except where such claims arise out of a result from the gross negligence or willful misconduct of the officers agents, or employees of the United States, without contributory fault on the part of any person firm, or corporation.. Furthermore, Sioux Falls Regional Airport Authority, agrees, to the extent permitted by law, to indemnify, defend and hold harmless the United States from any liability that may arise from the use of fire-fighting foams, chemicals, or other materials by the Air Force in providing fire protection services to Sioux Falls Regional Airport Authority during the term of this Agreement, which agreement to indemnify and hold harmless includes, but is not limited to, such uses that may result in hazardous substance exposure or pollution of or contamination to air, land, water, person or property or such uses that may result in response actions under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Resource Conservation and Recovery Act (RCRA), or any other federal, state, or local laws. Notwithstanding any other provision of this Agreement, early termination or

expiration of this Agreement shall in no way affect the Sioux Falls Regional Airport Authority's obligation under this paragraph, to the extent permitted by law, to indemnify, defend and hold harmless the United States from any liability that may arise from the use of fire-fighting foams, chemicals, or other materials by the Air Force in providing aircraft rescue and firefighting services to Sioux Falls Regional Airport Authority, which obligation shall survive such termination.

c. Sioux Falls Regional Airport Authority will reimburse the Air Force for expenses incurred by the Air Force for aircraft rescue and firefighting materials expended in connection with providing such service to Civil Aircraft. The Air Force may, at its option, with concurrence of the National Transportation Safety Board, remove crashed Civil Aircraft from Air Force-owned pavements or property and shall follow existing Air Force directives and or instructions in recovering the cost of such removal.

d. Failure to comply with the above conditions upon reasonable notice to cure or termination of this Agreement under the provisions of paragraph 11 may result in termination of aircraft rescue and firefighting response by the Air Force.

e. The Air Force commitment to assist Sioux Falls Regional Airport Authority with fire protection shall continue only so long as an aircraft rescue and firefighting organization is authorized for military operations at South Dakota AFB. If at any time during this agreement the Air Force elects to discontinue aircraft rescue and firefighting services, the Air Force will provide the Sioux Falls Regional Airport a two (2) year notice of a change in mission to transition to providing these services internally. The Air Force shall have no obligation to maintain or provide an aircraft rescue and firefighting organization or aircraft rescue and firefighting equipment; or to provide any increase in aircraft rescue and firefighting equipment or personnel; or to conduct training or inspections for purposes of assisting Sioux Falls Regional Airport Authority with fire protection. Any request to the Air Force to increase its aircraft rescue and firefighting services for civil aircraft will be at no cost to the Air Force.

9. RECORDS AND BOOKS OF ACCOUNT

The Sioux Falls Regional Airport Authority agrees to keep records and books of account, showing the actual cost to it of all items of labor, materials, equipment, supplies, services, and other expenditures made in fulfilling the obligations of this Agreement. The Comptroller General of the United States or any of his or her duly authorized representatives shall, until the expiration of three (3) years after final payment, have access at all times to such records and books of account, or to any directly pertinent books, documents, papers, and records of any of the Sioux Falls Regional Airport Authority's contractors or subcontractors engaged in the performance of and involving transactions related to this Agreement. The Sioux Falls Regional Airport Authority further agrees that representatives of the Air Force Audit Agency or any other designated representative of the Government shall have the same right of access to such records, books of account, documents and papers as is available to the Comptroller General.

10. TERM

This Agreement and the provisions included shall be effective for a term of ten (10) years from date of final signature beginning 1 January 2026, and ending on 31 December 2036.

11. TERMINATION

a. This Agreement may be terminated by either Party at any time by giving at least one hundred eighty (180) days' notice thereof in writing to the other party.

b. The Government, by giving written notice to the Sioux Falls Regional Airport Authority, may terminate the right of the Sioux Falls Regional Airport Authority to proceed under this Agreement if it is found, after notice and hearing by the Secretary of the Air Force or his or her duly authorized representative, that gratuities in the form of entertainment, gifts, or otherwise, were offered or given by the Sioux Falls Regional Airport Authority, or any agent or representative of the Sioux Falls Regional Airport Authority, to any officer or employee of the Government with a view toward securing this Agreement or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such agreement, provided that the existence of the facts upon which the Secretary of the Air Force or his or her duly authorized representative makes such findings shall be an issue and may be reviewed in any competent court.

c. In the event this Agreement is terminated as provided in subparagraph 11a(1) above, the Government shall be entitled to pursue the same remedies against the Sioux Falls Regional Airport Authority as it could pursue in the event of a breach of the Agreement by the Sioux Falls Regional Airport Authority and in addition to any other damages to which it may be entitled by law, the Government shall be entitled to exemplary damages in an amount (as determined by the Secretary of the Air Force or his or her duly authorized representative) which shall be not less than three (3) or more than ten (10) times the costs incurred by the Sioux Falls Regional Airport Authority in providing any such gratuities to any such officer or employee.

d. The rights and remedies of the Government provided in subparagraph 11a (2) above shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

12. GENERAL PROVISIONS

a. Compliance with Law. The Sioux Falls Regional Airport Authority shall comply with all Federal, state and local laws, rules and regulations applicable to the activities conducted under this Agreement.

b. Assignment. The Sioux Falls Regional Airport Authority and Government shall neither transfer nor assign this Agreement without the prior written consent of the other, which shall not be unreasonably withheld or delayed.

c. Liability. Except as otherwise provided in this Agreement, no Party shall be liable for damages to property or injuries to persons arising from acts of the other in the use of the Jointly Used Flying Facilities or occurring as a consequence of the performance of responsibilities under this Agreement.

d. Third Party Benefit. No member or delegate to Congress shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

e. Entire Agreement. It is expressly agreed that this written instrument embodies the entire financial arrangement and agreement of the Parties regarding the use of the Jointly Used Flying Facilities by the Government, and there are no understandings or agreements, verbal or otherwise, among the Parties in regard to it except as expressly set forth herein. Specifically, no landing fees or other fees not provided in this Agreement will be assessed by the Sioux Falls Regional Airport Authority against the Government in the use of the Jointly Used Flying Facilities during the term of this Agreement.

f. Modification. This Agreement may only be modified or amended by mutual agreement of the Parties in writing and signed by each of the Parties hereto.

g. Waiver. The failure of any Party to insist, in any one or more instances, upon the strict performance of any of the terms, conditions, covenants, or provisions of this Agreement shall not be construed as a waiver or relinquishment of the right to the future performance of any such terms, conditions, covenants, or provisions. No provision of this Agreement shall be deemed to have been waived by any Party unless such waiver be in writing signed by such Party.

h. Paragraph Headings; Recitals. The brief headings or titles preceding each Paragraph and subparagraph are merely for purposes of identification, convenience, and ease of reference, and will be completely disregarded in the construction of this Agreement. Each of the recitals set forth above are hereby incorporated into the Parties' Agreement as if fully restated herein.

i. Executory Clause. In accordance with 31 U.S.C. § 1341, the Government shall have no responsibility under this Agreement to the Authority or to anyone else beyond funds appropriated and available for this Agreement.

j. Jurisdiction and Governing Law. The Agreement shall be governed and construed with the laws of the State of South Dakota, and the federal laws of the United States of America. In the event that this Agreement, or any portion of it, or the operations contemplated by it are found

to be inconsistent with or contrary to laws or official orders, rules, or regulations of the United States, then the laws of the United States shall control. This Agreement then shall be modified accordingly, and, as so modified, shall continue in full force and effect. The federal courts shall have jurisdiction for this Agreement.

k. Construction. This Agreement is intended to express the mutual intent of the Parties and, irrespective of the identity of the Party preparing this Agreement or any document or instrument referred to herein, no rule of strict construction against the Party preparing a document shall be applied.

l. Signing Authority. Each Party represents and warrants to the other Party that the individuals signing this Agreement on behalf of such Party are authorized to do so and the Party has secured all necessary approvals and authorizations prior to the signing of this Agreement.

13. MAJOR REPAIRS AND NEW CONSTRUCTION

Major repair projects and/or new construction projects required for the Jointly Used Flying Facilities (collectively, "Joint Use Projects") are not included under this Agreement. Any Government contribution to Joint Use Projects shall be the subject of separate negotiations and written agreement between the Sioux Falls Regional Airport Authority and the Government at such time as the work is required. Any Government participation in the costs of Joint Use Projects is subject to the availability of Federal and State funds for such purpose at the time the work is required.

14. NOTICES

No notice, order, direction, determination, requirement, consent or approval under this Agreement shall be of any effect unless it is in writing and addressed as provided herein.

a. Written communications to the Sioux Falls Regional Airport Authority shall be addressed to:

Executive Director
Sioux Falls Regional Airport Authority
2801 Jaycee Lane
Joe Foss Field
Sioux Falls, South Dakota 57104

b. Written communications to the Government shall be in duplicate with copies to the United States of America and the State of South Dakota addressed respectively, as follows

To the United States of America:

NGB/A4
3501 Fetchet Avenue
Joint Base Andrews, Maryland 20762-5157

To the State of South Dakota:

Office of the Adjutant General
ATTN: USPFO
2823 West Main Street
Rapid City, South Dakota 57702-8186

IN WITNESS WHEREOF, the respective duly authorized representatives of the Parties hereto have executed this Agreement on the date set forth opposite their respective signatures.

Dated: _____ SIOUX FALLS REGIONAL AIRPORT
AUTHORITY

By: _____
Chairman-Airport Authority

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

(Signature) _____

(Title) _____

Dated: _____ STATE OF SOUTH DAKOTA

Coordinated with:

U.S. Property & Fiscal Officer

By: _____
The Adjutant General

Dated: _____

UNITED STATES OF AMERICA

By: _____
For the Chief, National Guard Bureau