

**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.**

**LOS ANGELES COUNTY AERONAUTIC
HANGAR TENANTS JAMES MARC
HANEY & BRUCE BUSCH**

COMPLAINANTS,

v.

**LOS ANGELES COUNTY, CALIFORNIA

RESPONDENT.**



FAA Docket No. 16-24-14

DIRECTOR'S DETERMINATION

I. INTRODUCTION

This matter is before the Federal Aviation Administration (FAA) on a complaint filed under Title 14 of the Code of Federal Regulations, Part 16 (14 CFR part 16), *Rules of Practice for Federally-Assisted Airport Enforcement Proceeding*, by Marc Haney and Bruce Busch (Complainants). The Complaint is filed against Los Angeles County (Respondent or County), sponsor of the San Gabriel Valley Airport (EMT or Airport), Brackett Field Airport (POC), Compton/Woodley Airport (CPM), General William J. Fox Airfield (WJF), and Whiteman Airport (WHP). These five general aviation airports make up the "Airport System" operated by the County (FAA Exhibit 1, Item 6, p. 1).¹

The Complainants allege that the County violated FAA Grant Assurance 22, *Economic Nondiscrimination*, Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, by charging below fair market value (FMV) rent for the nonaeronautical use of hangars while charging and proposing unreasonable rent for the aeronautical use of hangars (FAA Exhibit 1, Item 2, p. 1). The Complainants claim that the appraisal process and methodology used to determine the market rent for the Airport's aeronautical and nonaeronautical use of hangars were not conducted in accordance with FAA guidance (FAA Exhibit 1, Item 2, pp. 5-7). The Complainants allege that the County accepted the appraisal's inaccurate market rental rates to keep nonaeronautical hangar rents below FMV (FAA Exhibit 1, Item 11, p. 23). At the same time, the Complainants claim that the County's plan to increase rent for the aeronautical use of hangars is unreasonable and will increase the number of vacant hangars at the Airport (FAA Exhibit 1, Item 11, p. 21). Moreover, the Complainants allege that the County is not using the additional revenue generated from renting hangars for

¹ The Complainants are tenants at the San Gabriel Valley Airport, which is the primary subject of this Complaint, although the appraisal reports were conducted for all general aviation airports operated by Los Angeles County.

nonaeronautical use to offset aeronautical hangar rental rates, which it argues violates Grant Assurance 24 (FAA Exhibit 1, Item 2, p. 7).

The County denies the Complainants' allegations and requests that the matter be dismissed. The County states that it did not violate FAA grant assurances as "the County retained Aviation Management Consulting Group ("AMCG"), a national airport consulting firm with a specialty in airport rent studies and appraisals," to conduct the appraisal (FAA Exhibit 1, Item 6, p. 1). The County claims that AMCG used data from comparable and competitive airports to determine the FMV rental rates for the aeronautical and nonaeronautical use of hangars (FAA Exhibit 1, Item 6A, Exhibit A-2, p. 3). The County denies that it violated its obligation to be financially self-sustaining since the County increased its nonaeronautical use of hangar rental rates to FMV and is proposing to adjust its aeronautical use of hangar rental rates to recoup the Airport's operating and capital costs (FAA Exhibit 1, Item 6A, Exhibit A-1, p. 3).

With respect to the allegations presented in this Complaint, under the specific circumstances at the Airport as discussed below and based on the Administrative Record in this proceeding, the Director finds that the County is currently in violation of Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, as outlined in the FAA's *Revenue Use Policy*² for failing to charge FMV for nonaeronautical use of hangars and increasing the rates incrementally. The Director finds that the County is currently not in violation of Grant Assurance 22, *Economic Nondiscrimination*, Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, in regard to its current and proposed aeronautical rates.

The FAA's decision in this matter is based on applicable federal law, FAA policy, and review of the pleadings and supporting documentation submitted by the parties, which comprise the Administrative Record reflected in the attached FAA Exhibit 1.

II. PARTIES

A. Complainants

The Complainants, which are tenants of the Airport, are as follows:

1. James Marc Haney (Haney) is a private pilot and has been an Airport tenant for 13 years (FAA Exhibit 1, Item 11, Exhibit A-1, p. 1). The Complainant pays aeronautical use hangar rent (FAA Exhibit 1, Item 2, p. 3).
2. Bruce Busch (Busch) is an Airport tenant and pays aeronautical use hangar rent (FAA Exhibit 1, Item 2, p. 3).

The Complaint also includes signatures from 43 current aeronautical tenants of hangars at the Airport (FAA Exhibit 1, Item 2, Exhibit 5).

² 64 Fed. Reg. 7696 (February 16, 1999).

B. Respondent

The County is the owner and operator of San Gabriel Valley Airport (EMT or Airport) located in El Monte, California. The Airport has 88 based aircraft, including 87 single engine aircraft (FAA Exhibit 1, Item 16). The Airport accommodated approximately 93,620 annual operations in the calendar year ending December 31, 2024 (FAA Exhibit 1, Item 17). As of February 2024, the Airport has 265 hangars that are used for aeronautical and nonaeronautical purposes (FAA Exhibit 1, Item 6, Exhibit 5, p. 2) and an additional 17 T-Hangar Storage that may be used for nonaeronautical purposes (FAA Exhibit 1, Item 11, Exhibit 7, p. 32).³

The development of the Airport was financed in part with the FAA Airport Improvement Program (AIP) funding, authorized by the Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. § 47101, et seq. The last grant issued was in 2017, and the County accepted \$5,702,284 in AIP funds for the Airport (FAA Exhibit 1, Item 15). Thus, EMT is obligated to comply with the FAA sponsor grant assurances and related federal statutory law, 49 U.S.C. § 47107 (FAA Exhibit 1, Item 1).

III. PROCEDURAL HISTORY

- 1) On October 14, 2024, the Complainants filed the Complaint against the County (FAA Exhibit 1, Item 2).
- 2) On November 4, 2024, the FAA docketed the Complaint as FAA Docket 16-24-14 (FAA Exhibit 1, Item 3).
- 3) On November 12, 2024, the County filed a Motion for Extension of Time to File its Answer (FAA Exhibit 1, Item 4).
- 4) On November 20, 2024, the FAA granted the County's Motion for Extension of Time to File its Answer until December 24, 2024, and ordered Complainant to file their Reply by February 7, 2025 (FAA Exhibit 1, Item 5).
- 5) On December 24, 2024, the County filed its Answer (FAA Exhibit 1, Item 6).
- 6) On February 6, 2025, the Complainants requested an Extension of Time to File the Reply (FAA Exhibit 1, Item 7).
- 7) On February 7, 2025, the FAA granted the Motion for an Extension of Time for the Complainants to File the Reply (FAA Exhibit 1, Item 8).
- 8) On March 5, 2025, the Complainants requested a Second Extension of Time to File the Reply (FAA Exhibit 1, Item 9).

³ T-Hangar Storage are storage areas located at the end of a T-Hangar row, which are typically fully subdivided from the adjacent T-Hangar and accessed through an overhead door and/or pedestrian door (FAA Exhibit 1, Item 5, Exhibit 7, p. 45). T-Hangar Storage units were not included in the Aeronautical rent studies but were included in the Nonaeronautical rent study. Based on the omission, the FAA presumes that the T-Hangar Storage units are used for nonaeronautical purposes only.

- 9) On March 14, 2025, the FAA granted the Motion for a Second Extension of Time for the Complainants to File the Reply (FAA Exhibit 1, Item 10).
- 10) On April 21, 2025, the Complainants filed its Reply (FAA Exhibit 1, Item 11).
- 11) On April 25, 2025, the County filed a Motion for Extension of Time to File its Rebuttal (FAA Exhibit 1, Item 12).
- 12) On April 30, 2025, the FAA granted the Motion for an Extension of Time for the County to File its Rebuttal (FAA Exhibit 1, Item 13).
- 13) On June 2, 2025, the County filed its County of Los Angeles Rebuttal (FAA Exhibit 1, Item 14).

All other motions and notices are included in the Administrative Record (FAA Exhibit 1).

IV. FACTUAL BACKGROUND

The undisputed facts in this matter are as follows:

July 1, 2017	The County adopted a month-to-month leasing policy regarding the use of aircraft storage hangars for nonaeronautical purposes (FAA Exhibit 1, Item 6, Exhibit 1, p. 1).
January 2019	The FAA Western-Pacific Region conducted Land Use Inspections at EMT and CPM airports (FAA Exhibit 1, Item 6, Exhibit 8, p. 6).
August 2019	The County updated its month-to-month leasing policy regarding the use of aircraft storage hangars for nonaeronautical purposes (FAA Exhibit 1, Item 6, Exhibit 1, p. 1).
August 22, 2019	The Complainants filed a Part 13 Complaint with the FAA Western-Pacific Region (FAA Exhibit 1, Item 6, Exhibit 8, p. 1).
September 25, 2019	The FAA acknowledged receipt of the Complaint and asked the Complainants to pare down the documents in the Complaint to those that specifically reference the Complaint's allegations (FAA Exhibit 1, Item 6, Exhibit 8, p. 1).
November 4, 2019	The Complainants submitted a revised Part 13 Complaint with the FAA Western-Pacific Region (FAA Exhibit 1, Item 6, Exhibit 8, p. 1).

August 1, 2021	The County began managing the Airport directly upon expiration of a third-party management contract with American Airports Corporation (AAC) (FAA Exhibit 1, Item 6, p. 3).
Late 2022	AMCG was engaged by the County to provide an opinion on aeronautical and nonaeronautical market rents of the County-owned improvements, which included hangars and other aeronautical fees to charge the Airport users (FAA Exhibit 1, Item 6A, Exhibit A-2, p. 2).
February 8, 2024	The Aeronautical Airport Rent Study Update report was completed (FAA Exhibit 1, Item 2, Exhibit 7, p. 1).
March 19, 2024	The FAA issued a preliminary determination for the revised Part 13 Complaint (FAA Exhibit 1, Item 6, Exhibit 8, p. 7).
June 20, 2024	The County confirmed that it would use AMCG's rent study to support rental rate increases for nonaeronautical hangar use (FAA Exhibit 1, Item 2, Exhibit 6, p. 1).
July 30, 2024	The Nonaeronautical Airport Rent Study report was completed (FAA Exhibit 1, Item 2, Exhibit 4, p. 1).
August 6, 2024	The County's Board of Supervisors voted to adopt the nonaeronautical hangar rents proposed by AMCG's Nonaeronautical Airport Rent Study (FAA Exhibit 1, Item 6A, Exhibit A-1, p. 5).
October 30, 2024	The County announced in its Aviation Commission meeting its intention to ask the County Board of Supervisors to adopt the aeronautical hangar rents proposed by AMCG's Aeronautical Rent Study (FAA Exhibit 1, Item 6A, Exhibit A-1, p. 5).
February 18, 2025	AMCG published the Aeronautical Airport Rent Study Update report, which the Complainant claims included Zamperini Field Airport in its competitive airport rent study analysis (FAA Exhibit 1, Item 6, Exhibit 5, p. 18; FAA Exhibit 1, Item 11, Exhibit 13, p. 19).

V. ISSUES

The Complainants allege that the County:

1. Is in violation of the FAA Grant Assurances that requires the sponsor to receive at least FMV rent for a hangar that is being used for non-aeronautical purposes.

2. Is not complying with FAA standards and guidelines concerning rent appraisal methods as prescribed in 81 Fed. Reg. 38911 (June 15, 2016) (14 CFR, section VI. Sponsor Compliance Actions, section d).
3. Fails to offer its airports to the public as airports on a fair and reasonable basis by charging above market competitive rents while maintaining a 24% aviation hangar vacancy rate.⁴

(FAA Exhibit 1, Item 2, p. 4).

Upon review of the allegations and the relevant airport-specific circumstances, the FAA has determined that the following issues require analysis to provide a complete review of the County's compliance with applicable federal law and policy:

Issue 1 – Whether the County violated Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, as outlined in the FAA's *Revenue Use Policy* by not charging FMV for the nonaeronautical use of hangars and by increasing the nonaeronautical rates incrementally.

Issue 2 - Whether the County violated Grant Assurance 22, *Economic Nondiscrimination*, Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, by charging unreasonable aeronautical rental rates for hangars.

VI. APPLICABLE FEDERAL LAW AND POLICY

A. Airport Sponsor Grant Assurances

As a condition precedent to providing airport development assistance under the AIP, the FAA must receive certain assurances from the airport sponsor.⁵ Title 49 U.S.C. § 47107(a) sets forth certain sponsorship requirements to which an airport sponsor receiving federal financial assistance must agree. The FAA has a statutory mandate to ensure that airport owners comply with these sponsor assurances. See FAA Exhibit 1, Item 1 in the Index for a list of all the grant assurances.

B. FAA Enforcement Responsibilities

The Federal Aviation Act of 1958, as amended, 49 U.S.C. § 40101, assigns the FAA Administrator broad responsibilities for the regulation of air commerce in the interests of safety, security, and development of civil aeronautics. Commitments assumed by airport owners or sponsors in property conveyance or grant agreements are important factors in maintaining a high degree of safety and efficiency in airport design, construction, operation, and maintenance, as

⁴ Complainants' use of the term, "aviation hangar vacancy rate," includes both vacant hangars and hangars rented for nonaeronautical use. As of May 30, 2024, the Airport System has 1,089 hangars: 825 hangars are rented for aeronautical use, 137 hangars are rented for nonaeronautical use, and 127 hangars are vacant (FAA Exhibit 1, Item 2, p. 8).

⁵ FAA Exhibit 1, Item 1.

well as ensuring the public's reasonable access to the airport. Pursuant to 49 U.S.C. § 47122, the FAA must ensure that airport owners comply with their federal grant assurances.

C. The Complaint and Investigative Process

Pursuant to 14 CFR § 16.23, a person directly and substantially affected by any alleged noncompliance may file a complaint with the FAA. The complainant should provide a concise but complete statement of the facts relied upon to substantiate each allegation and describe how the complainant was directly and substantially affected by the things done or omitted by the respondents. The regulations governing Part 16 proceedings provide that, if the parties' pleadings supply "a reasonable basis for further investigation," the FAA should investigate "the subject matter of the complaint." 14 CFR § 16.29(a).

In accordance with 14 CFR § 16.33(b) and (e), "a party adversely affected by the Director's Determination may file an appeal with the Associate Administrator for Airports within 30 days after the date of service of the initial determination." If no appeal is filed within the time period specified in paragraph (b) of this section, the Director's Determination becomes the final decision and order of the FAA without further action.

VII. ANALYSIS

Issue 1 – Whether the County violated Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, as outlined in the FAA's *Revenue Use Policy* by not charging FMV for the nonaeronautical use of hangars and by increasing the nonaeronautical rates incrementally.

Complainants' Position

The Complainants claim that the County has charged below FMV rent for the nonaeronautical use of hangars since it took over management of the Airport in 2021 (FAA Exhibit 1, Item 2, p. 2). The Complainants state that the County commissioned a rent study for the nonaeronautical use of hangars (hereinafter referred to as "appraisal") to provide an opinion of the market rental rates for the Airport's nonaeronautical use of hangars.⁶ The Complainants suggest that the appraisal's market rent opinion for the Airport's nonaeronautical use of hangars is lower than comparable properties and below FMV because the appraisal was not done in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) (FAA Exhibit 1, Item 11, pp. 4-5). Furthermore, the Complainants allege that the appraisal's market rent opinions include a 45% discount (downward adjustments of 30% for storage units greater than 250 square feet and 15% for the storage units' condition) for the nonaeronautical use of hangars at the Airport compared to off-airport storage units (FAA Exhibit 1, Item 2, Exhibit 4, p. 29).

⁶ The County commissioned Aviation Management Consulting Group (AMCG) to conduct an appraisal in 2022 and the appraisal report was published in 2024 (FAA Exhibit 1, Item 2, Exhibit 4, p. 2). According to AMCG's website, "an airport rent study (Rent Study) is a streamlined appraisal used to determine an opinion of market rent for aeronautical and/or nonaeronautical properties. The Rent Study analyzes rental rates on a comparative basis for similar land and improvements at comparable, competitive, regional, and national airports to derive a supported market based rental rate for each component of the subject properties." <https://amcg.com/services/rent-study/>

The Complainants allege that the appraisal was not done in a timely manner, as the report was published one year after the appraisal was conducted. Therefore, it claims that “a determination of FMV cannot fairly or accurately be determined from the outdated information AMCG relied on in its report” (FAA Exhibit 1, Item 2, p. 5). The Complainants suggest that the appraisal did not consider the “highest and best use” for the nonaeronautical use of hangars and improperly identifies comparable facilities to determine accurate market rent opinions (FAA Exhibit 1, Item 11, p. 5). Additionally, the Complainants allege that for properties with a gross value in excess of \$1 million, a second appraisal is required by the FAA (FAA Exhibit 1, Item 2, p. 6). The Complainants claim that Paul Maselbas, former County Aviation Division Assistant Deputy Director, conceded in an Aviation Commission meeting “that AMCG’s non-aeronautical rent study used improper comparison facilities and admitted that AMCG’s discounting of hangar rent values based on size was done improperly” (FAA Exhibit 1, Item 11, p. 7). The Complainants allege that Mr. Maselbas recommended that the County conduct a second appraisal (FAA Exhibit 1, Item 11, Exhibit A-1, p. 9).

The Complainants claim that on August 6, 2024, the County Board of Supervisors approved the increase to the Airport’s rental rates for the nonaeronautical use of hangars to match the appraiser’s market rent opinions by increments of no more than 20% over an unspecified period of time (FAA Exhibit 1, Item 2, p. 4). The Complainants claim that “because the appraisal is defective, the proposed rates for nonaeronautical rents still remain significantly below FMV” (FAA Exhibit 1, Item 11, p. 2). The Complainants claim that the approved nonaeronautical rental rates will cause the County to lose approximately \$100,000 in revenue per year (FAA Exhibit 1, Item 11, p. 3). The Complainants claim that failing to charge FMV for nonaeronautical leases is a violation of Grant Assurances 24 and 25.

County’s Position

The County denies that the nonaeronautical use of hangar rental rates approved by its Board of Supervisors is below FMV. The County claims that AMCG’s methodology for conducting appraisals is designed to comply with the USPAP and the FAA’s *Policy on the Nonaeronautical Use of Airport Hangars*, 81 Fed. Reg. at 38906 (June 15, 2016) (FAA Exhibit 1, Item 6A, Exhibit A-2, p. 3). The County admits that it commissioned AMCG to conduct an appraisal in 2022 to update the Airport’s rental rates for both the aeronautical and nonaeronautical use of hangars “to increase airport revenues and ensure compliance with its self-sustainability grant obligations” (FAA Exhibit 1, Item 6, p. 5). The County claims that the Airport has a thin operating margin, and it anticipates a cash shortfall in 2025 to operate and maintain the Airport (FAA Exhibit 1, Item 6A, Exhibit A-1, p. 3).⁷ The County states that its Board of Supervisors voted to adopt the appraisal’s proposed market rental rates for the nonaeronautical use of hangars to recoup the Airport’s operating costs, and it approved to increase those rates in increments to avoid “...hitting nonaeronautical hangar tenants with massive rent hikes immediately” (FAA Exhibit 1, Item 6A, Exhibit A-1, p. 5). The Board of Supervisors approved rental rates “to be

⁷ When the County assumed management of the Airport System, it led to a substantial increase in the County’s operating costs. “Without additional revenues, the County faces a potential operating deficit in its Aviation Enterprise Fund. In fiscal year 2025, the County is projected to have only a \$60,000 operating surplus for the Aviation Enterprise Fund. After accounting for capital costs, however, that fund faces a potential \$548,500 deficit for that same fiscal year. In addition, the County estimates that it would cost over \$20 million to fund all of the Airport System’s deferred maintenance needs.” (FAA Exhibit 1, Item 6A, Exhibit A-1, p. 3).

increased incrementally by no more than 20 percent every 4 months until the fair market commercial rental rates are attained” (FAA Exhibit 1, Item 11, Exhibit 14, p. 59). The County claims that the first 20 percent increase took place on October 1, 2024, and the next 20 percent increase was scheduled for February 1, 2025 (FAA Exhibit 1, Item 6, p. 8).⁸

The County claims that the appraisal selected a mix of non-airport storage unit facilities within eight miles of the Airport as comparable facilities to determine the FMV of renting the Airport’s hangars for storage use (FAA Exhibit 1, Item 6A, Exhibit A-2, p. 4). Due to low demand for large-sized hangars as storage units and the poor condition of the hangars, AMCG “...justified appraising their rental value per square foot at substantially less than the off-airport units” (FAA Exhibit 1, Item 6A, Exhibit A-2, p. 5). The County also argues that off-airport storage unit tenants “...do not run the risk that [the tenant] will be ordered to vacate on ten to thirty days’ notice to accommodate an aeronautical user,” giving off-airport storage facilities a competitive advantage (FAA Exhibit 1, Item 6, p. 14).

The County alleges that the Complainants misrepresented Mr. Masalbas’ statement on the validity of the appraisal and claims that Mr. Masalbas proposed commissioning another appraisal to confirm AMCG’s recommendations (FAA Exhibit 1, Item 14, pp. 4-5). The County provided Mr. Masalbas’ statements:

I recognize what Dr. Haney [the Complainant] has raised, and I feel that there may be issues that we should address...So I think that an appraisal could be conducted at a fairly low cost of the non-aeronautical rates just to confirm what our [the County’s] appraiser, AMCG, came up with. What Dr. Haney has referenced is that there were some reductions taken (of course when you do appraisals you’re looking at comparables, right) from the square footage per square foot cost of the neighboring competitor storage places like Uhaul or whatever places offering storage to the public. They [AMCG] reduced it significantly due to the condition of the hangars as compared to those offsite storage locations and also due to the size...and so our appraiser felt that due to that size of the hangar the rate would be significantly lower per square foot than renting say a 200 square foot unit or 400 square foot unit. And so they applied a reduction accordingly. I’m thinking that what’s the harm of seeing what a study might cost to revisit what those non-aeronautical rents might be.

(FAA Exhibit 1, Item 14, p. 4).

The County denies that the appraisal was not timely, as it claims there are no requirements for month-to-month leases to require a new appraisal every year (FAA Exhibit 1, Item 6, p. 11). Nevertheless, the County asserts that it updates Airport hangar rents every year or two to “...assure appropriate rental rates without unduly burdening the County” (FAA Exhibit 1, Item 14, p. 6). The County claims that “...because the uses of Airport System hangars is [are] limited to aeronautical uses and certain types of temporary nonaeronautical uses, primarily storage, USPAP Standards Rule 1-3 does not require that a separate Highest and Best Use analysis be performed,” (FAA Exhibit 1, Item 14, p. 3). Lastly, the County claims that the Airport’s hangars

⁸ The record does not demonstrate whether the 20 percent increase occurred on February 1, 2025.

are not worth more than \$1 million individually; therefore, a second appraisal is not required (FAA Exhibit 1, Item 6, p. 16).

Director's Determination

Grant Assurance 24, *Fee and Rental Structure* states,

[The airport] will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection.

Grant Assurance 25, *Airport Revenues* states,

All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport.

The FAA has long held that an airport sponsor's failure to charge FMV for nonaeronautical leases is considered revenue diversion and is a violation of Grant Assurance 25 [See FAA's *Revenue Use Policy*, 64 Fed. Reg. at 7720, Section VI].⁹

The Complainants claim that the County violated Grant Assurance 24 by: a) charging below FMV rent for the nonaeronautical use of hangars due to a flawed appraisal report and b) increasing the nonaeronautical rates incrementally. The Director analyzed these two points.

a) Flawed Appraisal Report

The County argues that the nonaeronautical use of hangars was appraised by a national airport consulting firm that assesses and provides market rent opinions in compliance with the FAA policies and the USPAP. The County believes that the Complainants do not have grounds to challenge the appraisal and its results simply because the Complainants disagree with AMCG's market rent opinions.

While the Director finds that the County did its due diligence by commissioning an appraisal and using the appraisal's market rent opinions to establish FMV rental rates for the nonaeronautical use of hangars at the Airport, the Director assessed whether the appraisal was conducted in accordance with the USPAP and the FAA guidelines.

⁹ The Director verified that the leasing policy for the County's nonaeronautical use of hangars are consistent with the County's grant assurances, Federal regulations, and the FAA's *Policy on the Nonaeronautical Use of Airport Hangars*, 81 Fed. Reg. 38906 (June 15, 2016) (FAA Exhibit 1, Item 6, Exhibit 8, p. 6).

The Complainants identified four issues with the appraisal to support their claim of it being flawed in violation of USPAP and FAA guidelines as follows:

- i. *The Complainants claim the appraisal is not current.*
 - ii. *The Complainants claim the appraiser did not visit the site and inspect the hangars.*
 - iii. *The Complainants claim that the County is required to conduct two appraisals.*
 - iv. *The Complainants claim that the appraisal did not use appropriate comparable properties and did not consider the highest and best use.*
- i. *The Complainants claim the appraisal is not current.*

The Complainants claim that the appraisal is not current since “over nineteen months elapsed from the December 6, 2022, effective date of the appraisal and the publication of the AMCG study on July 30, 2024” (FAA Exhibit 1, Item 2, p. 5). The County alleges that it worked with the appraiser in 2023 and 2024 to provide additional data needed to assist with an accurate assessment of the hangars and produce an up-to-date appraisal report (FAA Exhibit 1, Item 6A, Exhibit A-2, p. 5). The Complainants’ position is essentially that, for FMV rate-setting purposes, the FAA requires an appraisal’s report date to be within a year of its effective date.

The Director reviewed the guidance and partially agrees with the Complainants’ interpretation.¹⁰ According to CGL 2018-3, if the sale of a property or long-term lease does not proceed to contract within a year after the appraisal report is submitted, a new appraisal report is required [p. 19]. The need for a new appraisal considers the short shelf-life of the appraised value determination, which can change rapidly based on market conditions, and is an important factor when considering the current value of airport property to be sold or long-term leased [CGL 2018-3, p. 19]. However, CGL 2018-3 is silent on short-term leases – such as month-to-month leases – which is how the County treats non-aeronautical hangar leases (FAA Exhibit 1, Item 6, p. 4). Notably, the County’s *Non-Aviation Self-Storage License Agreement* confirms that monthly fees are “subject to increases based on annual rates approved by the County Board” and FAA policy does not require that every nonaeronautical FMV assessment be determined by an appraisal (FAA Exhibit 1, Item 11, Exhibit 15, p. 3). FAA Order 5190.6B, paragraph 17.11, *Fair Market Value*, states that “[f]air market pricing of airport facilities can be determined by reference to negotiated fees charged for similar uses of the airport or by appraisal of comparable properties.” Lacking USPAP requirements or FAA-specific guidance, the Director cannot find that an appraisal shelf-life exceeding one year from the report date is alone sufficient to find the County failed to accurately determine FMV for month-to-month nonaeronautical hangar rates.

- ii. *The Complainants claim the appraiser did not visit the site and inspect the hangars.*

The Complainants assert that the out-of-state appraiser did not do a physical inspection of the hangars nor visited the public storage units that served as the appraisal comparables; therefore, the appraisal’s assessment is not accurate. The County states that an AMCG consultant

¹⁰ The guidance in reference is the FAA’s Compliance Guidance Letter (CGL) 2018-3, *Appraisal Standards for the Sale and Disposal of Federally Obligated Airport Property*, dated August 27, 2018. CGL 2018-3 operates as guidance “...to assist and inform FAA field offices, airport sponsors, and commercial appraisers on the appraisal process required for the sale and [long-term] leasing of federally obligated property” [CGL 2018-3, p. 1]. CGL 2018-3 is a non-binding document that is not applicable to month-to-month leases.

physically inspected the hangars in 2019, and the inspection included photographs and notes of the hangars' conditions. The AMCG consultant who visited the site provided photographs and notes to the appraiser, who relied on them to determine the market rent opinions for the Airport's nonaeronautical use of hangars (FAA Exhibit 1, Item 6A, Exhibit A-2, p. 5). The Director observes that a five-year gap since the last site visit is not necessarily unreasonable given that the County supplied updated information on the hangars' condition to assist with the assessment and there is no time-frame requirement for when a site visit should be conducted for an appraisal. While it is not uncommon for appraisers to physically inspect the specific land or building being appraised, noting its condition, features, and relationship to the rest of the airport, there exists no specific FAA or industry mandate to do so. Likewise, under the USPAP, appraisers who certify the appraisal can incorporate the work of another appraiser in their analysis for an appraisal report, provided this reliance is clearly disclosed in the report [Uniform Standards of Professional Appraisal Practice (USPAP) 2024 Edition (January 1, 2024) p. 12]. The Director reviewed the appraisal and determined that it is not contrary to the USPAP regarding this issue.

iii. *The Complainants claim that the County is required to conduct two appraisals.*

The Complainants allege that the FAA requires the County to conduct a second appraisal for properties with a gross value in excess of \$1 million. The Complainants claim that the aggregate value for all of EMT's nonaeronautical use hangars is approximately \$6.75 million, and the aggregate value for all County nonaeronautical use hangars is \$20 million (FAA Exhibit 1, Item 2, p. 6). The County argues that the Complainants are misconstruing the FAA guidance by assuming a gross value in excess of \$1 million refers to an aggregation of the Airport's hangars versus individual hangars. Furthermore, the County asserts that the guidance the Complainants reference applies to the disposal of airport property and long-term leases, not month-to-month leases (FAA Exhibit 1, Item 6, p. 11).

Upon review, the Director affirms that where the appraised gross market value exceeds \$1 million for airport property to be sold or long-term leased, an appraisal, a second appraisal, and a written review appraisal are suggested by CGL 2018-3. As noted in paragraph *i* above, CGL 2018-3 applies primarily to the sale, disposal, or long-term lease of airport property, which is not the case here. While market rent evaluations are defined and discussed at length, it is within the context of individual parcel size, highest and best use, property function, access, and amenities. The only discussion of "fair market value of the aggregate airport property" is in reference to the "Disposal of Existing Airport" section, which is not relevant to the allegations here [CGL 2018-3, p. 35]. Accordingly, the Director finds there is no regulatory or policy basis to find that the aggregate value of the hangar inventory used for nonaeronautical purposes at County airports – even if it exceeds \$1 million gross value – is cause to require the County to seek a second appraisal and a review appraisal. Review of the record does not reveal any individual hangar that exceeds \$1 million in gross value (FAA Exhibit 1, Item 6, Exhibit 10, pp. 1-5).

iv. *The Complainants claim that the appraisal did not use appropriate comparable properties and did not consider the highest and best use.*

The FAA's *Airport Compliance Manual* states that FMV can be determined by "reference to negotiated fees charged for similar uses of the airport or by appraisal of comparable properties" [FAA Order 5190.6B, *Airport Compliance Manual*, at par 17-3]. The County, through its

consultant/appraiser, chose the comparable properties approach. The Complainants argue that the County is not using similar off-airport storage units as an accurate comparable for the appraisal, which resulted in the appraisal's market rent opinions being lower than the rental rates of off-airport storage units. The Complainants allege that the appraisal's market rent opinions include a 45 percent discount for the nonaeronautical use of hangars at the Airport compared to off-airport storage units (FAA Exhibit 1, Item 2, Exhibit 4, p. 29). Of that 45 percent discount, 30 percent was given for hangars larger than 250 square feet, and 15 percent was given for the condition of the hangars (FAA Exhibit 1, Item 2, Exhibit 4, p. 29).

The County claims that, based on previous experience of the AMCG consultant, large sized storage units produced lower demand compared to smaller units (FAA Exhibit 1, Item 6A, Exhibit A-2, p. 5). The Complainants allege that,

...the AMCG Rent Study uses storage units within an eight-mile radius of the airport that range in size from 20 square feet to 360 square feet (and have a small roll-up door) to determine the FMV of hangars used for non-aeronautical purposes. LAC [Los Angeles County] airport hangars range from 856 [square feet] up to and over 1,512 square feet and have 24-hour drive-in access, paid utilities, and a security gate and thus far exceed the utility of a small public storage unit with a roll-up door.

(FAA Exhibit 1, Item 2, p. 5).

The County, while disputing this allegation, stated that "...many of the Airport System's hangars are much larger than the non-airport comparison storage units" (FAA Exhibit 1, Item 6A, Exhibit A-2, p. 5).

The Director notes that in the appraisal report, "[d]ata from 6 off-Airport self-storage rental companies were analyzed, comprising of more than 60 available storage units ranging from 20 square feet to 360 square feet" (FAA Exhibit 1, Item 11, Exhibit 7, p. 28). With the exception of T-Hangar Storage units at the Airport, hangars that are used for both aeronautical and nonaeronautical purposes range from a minimum of 760 square feet to 1,628 square feet (FAA Exhibit 1, Item 11, Exhibit 7, p. 32). Given the disproportionate size in square footage of the off-airport storage units compared to the Airport's hangars, the Director agrees with the Complainants that the storage units selected in the appraisal are significantly smaller than the hangars at the Airport. Furthermore, the 30 percent reduction in the hangars' market rent opinion used to account for the size difference strongly implies that the appraisal did not use appropriate comparables and that it lowered the rental rates to appeal to the nonaeronautical uses of hangars and stay competitive. Indeed, the County argues that the "Complainants also do not acknowledge an obvious competitive advantage of the off-airport comparison facilities: Off airport storage tenants do not run the risk that they will be ordered to vacate on ten to thirty days' notice to accommodate an aeronautical user" (FAA Exhibit 1, Item 6, p. 14). And, the County confirms that, "...AMCG found that the larger square footage of the hangars relative to the comparison facilities reduced the per-square foot FMV of the hangars because most non-aeronautical storage tenants do not need the space offered by the County's larger hangars" (FAA Exhibit 1, Item 6, p. 14).

The County's arguments are revealing. By referencing the "competitive advantage" of off-airport storage facilities, and by noting that the County's larger hangars are, by comparison, unattractive to most nonaeronautical storage users and thereby warrant a rate reduction, the County has signified its intention to use airport hangars to compete with off-airport storage facilities that it recognizes may not be the best comparable. In *United States Construction Corp. v. City of Pompano Beach*, FAA Docket No. 16-00-14, Final Agency Decision, p. 21, (July 10, 2002)], the Director found: "Operating the airport for aeronautical use is not a secondary obligation; it is the 'prime obligation.' This prime obligation includes the opportunity for leaseholders to develop airport property for aeronautical use." The County's decision to base its nonaeronautical rates on an appraisal to compete with off-airport storage facilities that it recognizes are not comparable requiring a reduction, conflicts with the role of a federally obligated airport sponsor to make the airport available to aeronautical users as its primary responsibility. Aeronautical use must take priority and be accommodated over nonaeronautical use, even if the rental rate would be higher for the nonaeronautical use. The sponsor is required to charge a fair market commercial rental rate for any hangar rental or use for nonaeronautical purposes [See 64 Fed. Reg. at 7721, Section C].

Accordingly, the Director finds that the appraisal's use of off-airport small storage units as comparable facilities to determine the market rent opinions for the Airport's nonaeronautical use of hangars is, at best, questionable. The Complainants suggest that warehouses or other large storage facilities would be more appropriate. The Director agrees with the Complainant's assessment that a warehouse or other large storage facility would be a more appropriate comparable.

The County claims that many of the Airport's hangars exceeded their useful life and require maintenance, making them unsuitable to store certain items, such as documents, electronics, and clothing (FAA Exhibit 1, Item 6A, Exhibit A-2, pp. 4-5). As a result, the appraisal included an additional 15 percent reduction for the Airport hangar's condition compared to off-airport storage units (FAA Exhibit 1, Item 2, Exhibit 4, p. 29). The Complainants assert that the appraiser did not consider the "highest and best use" for leasing hangars for nonaeronautical use to provide accurate market rent opinions of the hangars' condition. The County argues that the Airport's hangars are limited to certain types of nonaeronautical uses and there are no requirements for a "highest and best use" analysis for properties leased month-to-month. The Director affirms that "highest and best use" is a component to be considered when identifying comparable properties in the local community for establishing FMV for nonaeronautical uses [CGL 2018-3, pg. 31]. However, this is typically applied to the sale, disposal, or long-term lease of airport property, and there is no regulatory or policy basis to apply "highest and best use" to month-to-month nonaeronautical leases. Nonetheless, the sponsor should apply the "highest and best use" as it is a component of determining FMV. In any case, the FAA's *Revenue Use Policy Section C* requires nonaeronautical use of hangars to be leased at FMV. The reduction in the market rent for the Airport's hangars to compete with small storage units deprives the sponsor of adequate FMV and therefore does not comply with the FAA's *Revenue Use Policy*. While the sponsor may have an interest in attracting hangar storage tenants, the role of the Airport is not to compete with other nonaeronautical uses off-airport; instead, the Airport is required to be as financially self-sustaining as possible and, in that endeavor, charge FMV for nonaeronautical

uses [See *City of Zephyrhills*, FAA Docket No. 16-22-01, Notice of Investigation, p. 11, (January 28, 2022)].

Basing the appraisal on questionable comparable facilities and by further reducing the value of the nonaeronautical uses of hangars to keep the Airport's hangars competitive with off-airport storage units demonstrates that the appraisal methodology is flawed. Accordingly, the Director concludes that the County is not charging FMV for the nonaeronautical use of hangars and its failure to collect FMV is considered airport revenue diversion. Therefore, the Director finds the County in violation of Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*.

b) Increasing nonaeronautical rates incrementally

The Complainants claim that the County lost revenue by not charging the flawed FMV rates immediately, as opposed to increasing the rates incrementally. The County did not dispute the Complainants' allegation, nor did the County provide an argument that the 20 percent increase every four months would benefit the airport financially. Instead, the County's argument was focused on avoiding sudden rent increases for nonaeronautical tenants.

The Director finds the phasing of the rental rate increases for nonaeronautical users unreasonable. For some hangars, the phased approach would take 18 months for the hangar to reach FMV (FAA Exhibit 1, Item 11, p. 3). Federal obligations require that the sponsor charge FMV for the nonaeronautical use of hangars, without qualification [See 64 Fed. Reg. at 7721, Section C]. FAA's *Policy on the Non-Aeronautical Use of Airport Hangars* requires "...airport sponsor[s] to charge nonaeronautical fair market rental fees for the non-aeronautical use of airport property, even on an interim basis." [Section 3]. In fact, the policy goes further and provides guidance to airport sponsors that find an aeronautical tenant in violation of using their hangars for nonaeronautical purposes by stating:

Sponsors should also consider including a provision in airport leases, including aeronautical leases, to adjust rental rates to FMV for any non-incidental non-aeronautical use of the leased facilities. In other words, if a tenant uses a hangar for a nonaeronautical purpose in violation of this policy, the rental payments due to the sponsor would automatically increase to a FMV level.

[See 81 Fed. Reg. at 38910, Section 4].

The policy is explicit that hangars used for nonaeronautical purposes that were not charged FMV should have its rental rates automatically increased to FMV. It does not allow for a phased-in approach or to charge less than FMV, particularly on a month-to-month lease, where there is no contractual reason not to charge the FMV immediately.

To estimate how much loss the Airport could face, the Director analyzed the increase in rental rates for one category of hangars. According to the Complainants, 45 hangars at the Airport are rented for nonaeronautical use (FAA Exhibit 1, Item 2, p. 8). If all 45 hangars are rectangular hangars on E-K Rows (also referred to as executive hangars), which is 1,512 square feet, the

adopted rate would increase the hangar monthly rental rates from \$1,320.50 to \$2,080.00 (FAA Exhibit 1, Item 6, Exhibit 10, p. 4). Since the County did not explain the methodology for its 20 percent increase – whether it would be a 20 percent increase from the original rental rate or a 20 percent increase from each updated rental rate – the Director assumes a 20 percent increase from the original rental rate for the purpose of this analysis. Following the 20 percent incremental increase, it will take 8 months for the rental rates of executive hangars to reach \$2,080.00 (an increase of \$264.10 every four months). For one hangar, that is a total loss of \$2,906.80; for 45 hangars, that is a total loss of \$130,806.00 in uncollected revenue during that eight-month period. The Director finds that the loss of uncollected revenue caused by gradually increasing the rental rates of the nonaeronautical use of hangars is unnecessarily protective of nonaeronautical users and is contrary to Grant Assurances 24 and 25. Accordingly, the Director considers this to be revenue diversion contrary to the airport’s Grant Assurance 24 requirement to be as financially self-sustaining as possible. Further, failure to charge FMV for nonaeronautical uses is also considered revenue diversion contrary to Grant Assurance 25, *Airport Revenues*, and the FAA *Revenue Use Policy*, 64 Fed. Reg. at 7720-7721.

c) Conclusion

The Director finds that the appraisal is not credible due to the use of questionable comparable properties and the arbitrary reduction in the rate. Further, the Director finds that the County’s phasing of the nonaeronautical use of hangar rates constitutes revenue diversion. Accordingly, the Director finds that the County is in violation of Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, for its nonaeronautical use hangar rental rates.

Issue 2 - Whether the County violated Grant Assurance 22, *Economic Nondiscrimination*, and Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, by charging unreasonable aeronautical rates.

Complainants’ Position

The Complainants allege that when the Airport’s aeronautical use of hangar rental rates were set in 2012, it was higher than the rental rates charged at competitive airports (FAA Exhibit 1, Item 11, p. 2). The Complainants claim that when the County took over management of the Airport in 2021, it did not adjust the rental rates for the aeronautical use of hangars, which remained higher than competitive airports (FAA Exhibit 1, Item 11, p. 2). On October 30, 2024, the Complainants claim that the County announced its intent to increase the aeronautical rates at the Airport to match the market rent opinions proposed by AMCG in its 2024 appraisal report (FAA Exhibit 1, Item 11, p. 1). The Complainants suggest that the County did not account for the Airport’s hangar vacancy rates when it proposed to vote on an increase to the Airport’s aeronautical use of hangar rental rates (FAA Exhibit 1, Item 11, p. 18). The Complainants assert that the appraisal methodology used by AMCG to determine the Airport’s market rent opinions for the aeronautical use of hangars is flawed as it misclassified hangars and improperly adjusted hangar rental rates, causing the market rent opinions to be artificially inflated (FAA Exhibit 1, Item 11, pp. 15-16). The Complainants claim that AMCG published an update to the Airport’s appraisal report in 2025 and added another competitive airport with relatively high hangar rental rates to justify the appraisal’s market rent opinions for the Airport (FAA Exhibit 1, Item 11, p. 15).

The Complainants also allege that the County is violating its grant obligations by not offsetting its current and proposed aeronautical use of hangar rental rates with the additional revenue generated from renting nonaeronautical hangars (FAA Exhibit 1, Item 2, p. 7). The Complainants suggest that reducing rates would make aeronautical hangars more “competitive and attractive in the current marketplace” and reduce hangar vacancies, which will generate additional revenue for the Airport (FAA Exhibit 1, Item 2, p. 7).

County’s Position

The County denies that the current and proposed aeronautical use of hangar rental rates are above market value and unreasonable.¹¹ The County states that while the proposed rental rates have not yet been adopted by its Board of Supervisors, the “vast majority of those proposed rates (approximately 88%) fall within the competitive range of rents at comparable and competitive airports” (FAA Exhibit 1, Item 14, p. 9). The County claims that the proposed rates were derived from an AMCG appraisal, which evaluated comparable and competitive airport hangar rental rates to determine the Airport’s aeronautical use of hangar market rent opinions (FAA Exhibit 1, Item 6A, Exhibit A-2, p. 3). The County also argues that it provided AMCG input from aeronautical users of the Airport on which airports should be considered competitive to use in the appraisal’s analyses (FAA Exhibit 1, Item 6A, Exhibit A-1, p. 4). The County suggests that AMCG included competitive airports’ vacancy rates in its determination of the Airport’s aeronautical use of hangar market rent opinions (FAA Exhibit 1, Item 14, Exhibit 2, p. 10). The County denies that the appraisal misclassified the Airport’s hangars as the hangars’ classification were based on “the shape of the structure which is consistent with industry practice,” and the County claims that AMCG did not adjust or change the hangar rental rates in the updated appraisal’s analysis (FAA Exhibit 1, Item 14, Exhibit 1, p. 2). The County denies that the updated appraisal added another competitive airport to make the appraisal’s market rent opinion for the aeronautical use of hangars look better. The County suggests that the previous appraisal report inadvertently omitted reference to the additional airport, even though it was used for the study, and the updated report corrected that omission (FAA Exhibit 1, Item 14, p. 13).

The County argues that the Airport does not have a high hangar vacancy rate as almost all of its hangars are fully occupied (FAA Exhibit 1, Item 6, p. 19). The County suggests that because the current Airport’s aeronautical use of hangar rental rates have not increased since 2012, the fact that there are vacant hangars means that rental rates are not the only factor affecting the demand for hangars (FAA Exhibit 1, Item 14, p. 10).

Director’s Determination

The Complainants claim that the County violated Grant Assurance 22, *Economic Nondiscrimination*, Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, by charging unreasonable aeronautical rates.

¹¹ For clarification, the current aeronautical rates referred to in this section are the same rates that were set in 2012. As of June 2, 2025, the proposed rates have not been adopted by the County Board of Supervisors and/or implemented yet (FAA Exhibit 1, Item 14, p. 8).

Grant Assurance 22, *Economic Nondiscrimination*, states,

[The airport] will make its airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

The Complainants allege that since the rates for the aeronautical use of hangars were set in 2012, the demand for hangars decreased, which suggests that the aeronautical rates were set too high (FAA Exhibit 1, Item 2, p. 1).¹² While no policy requires sponsors to adjust rental rates based on hangar vacancies and/or provide competitive rates, sponsors should consider the airport's cost recovery when setting aeronautical rates [See 78 Fed. Reg. at 55335, par 4.1.2]. The Director questions why the Airport's aeronautical hangar rental rates have remained unchanged since 2012, despite nonaeronautical rental rates being modified every one to two years (FAA Exhibit 1, Item 11, Exhibit 14, p. 47). The record is unclear whether the County's aeronautical rates set in 2012 considered the need to recover the Airport's operating costs, and/or if the County reevaluated its rates within the last 13 years to evaluate changes in operating costs.

In 2022, the County commissioned AMCG for an appraisal to provide market rent opinions on the aeronautical use of hangars to increase the Airport's revenue and address the potential cash deficit in 2025. In October 2024, the County announced its intent to adopt the aeronautical use of hangar rental rates at the Airport to match the market rent opinions proposed in the appraisal report (FAA Exhibit 1, Item 11, p. 1). The Director reviewed the appraisal's market rent opinions for the Airport, which revealed that the appraisal recommended a rental rate increase for 223 hangars.

Although the County conducted a market rent study to address the aeronautical rental rates, it was not required to do so. The FAA does not require aeronautical rates to be competitive with other airports. The County points this out and quotes the 2024 Part 13 Complaint, *Compliance Closeout Letter*, stating "[n]either the Grant Assurances nor the FAA['s] Policy on Rates and Charges specifically require an airport sponsor to compare its rates and charges to those of other airport sponsors in the local area of similarly situated airports..." (FAA Exhibit 1, Item 6, p. 9). The FAA's concerns regarding reasonable rates are tied to the cost recovery of the operating expenses of the airport and transparency in how they are established.¹³ In addition, the rates must

¹² American Airports Corporation (AAC) served as a contract management company between 1991 to 2021 for all five County airports (FAA Exhibit 1, Item 6, p. 3). In the 2024 Part 13 Complaint, *Compliance Closeout Letter*, the FAA found the County's "...contract with AAC appeared to allow AAC to retain airport revenue generated above the need of airport maintenance and operations and overhead costs of the County as part of its payment for its services." However, the FAA did not find sufficient evidence that the payment for services provisions in the AAC contract resulted in revenue diversion (FAA Exhibit 1, Item 6, Exhibit 8, p. 7).

¹³ While the Director realizes that this methodology [rental study] for establishing aeronautical rates and charges is commonly used within the general aviation community, this approach may not accurately reflect airport sponsors' airfield costs. Grant Assurance 24, *Fee and Rental Structure*, requires an airport sponsor to maintain a fee and rental structure which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport. This is best achieved through the use of a rate-setting methodology which quantifies airfield costs and services currently in use and establishes charges linked to those costs. See *Star Marianas Air, Inc. v. Commonwealth Ports Auth.*, FAA Docket No. 16-18-01, Director's Determination at 14, (May 5, 2020); see also *Robert Kihlstrom*

be fairly applied to similarly situated users. Furthermore, the FAA will not typically evaluate aeronautical rates and charges at a general aviation airport, absent evidence of an unreasonable progressive accumulation of surplus revenues [See 78 Fed. Reg. at 55331, Section C; *see also Aerodynamics of Reading, Inc. v. Reading Reg'l Airport Auth.*, FAA Docket No. 16-00-03, Final Agency Decision at 20-21 (July 23, 2001)]. The Director notes that the County states that it operates on a thin margin and after 2025 will likely be at a deficit once certain capital investments are made (FAA Exhibit 1, Item 6A, Exhibit A-1, p. 3). The Complainants do not dispute that.

The Complainants base their allegations on what they consider to be a flawed market rent study and point to the hangar vacancy rates at the LA County Airports compared to other airports in the surrounding counties of LA County to suggest that the rates are too high. The County defends its market study by arguing that there are many reasons for hangar vacancies. The County argues that it does not need to be competitive or base its rates on a market study, but it does not state what other factors were used to determine the rates. The FAA will not typically evaluate the overall rates, but will, upon request or investigation, review the methodology used to determine the rates. If the methodology is transparent and nondiscriminatory, the FAA will typically accept it as reasonable. Here, the only evidence in the record is the market rate study. The County does not provide any other factors that were included in the rate setting methodology. In the absence of other evidence, the Director reviewed the market rent study with the understanding that other factors should be considered.

The Complainants claim the market rent study was flawed due to the classification of some hangars, an additional comparative airport with relatively high rates being added, and adjustments to the base rate based on considerations of the metropolitan statistical area. The County defends its market rent study. The Director reviewed the study and found that the methodology used to develop the rates is clearly defined and does not appear to be unreasonable. The Complainants may disagree with some of the assumptions and adjustments, but the overall methodology is transparent and does not appear to be discriminatory. Particularly given that there is no requirement for the County to be competitive with other airports, the County has the right to adjust its aeronautical rates and make business decisions to balance its competitiveness and the need to cover its operating expenses [See 78 Fed. Reg. at 55335, par. 4.1.2]. The FAA neither sets nor establishes airport fees for aeronautical services. The fee structure for aeronautical activities is an airport business decision. [See *Jimsair Aviation Services, Inc. v. San Diego County Regional Airport Authority*, FAA Docket No. 16-06-08, Director's Determination (April 12, 2007)].

The FAA's *Rates and Charges Policy* requires rates to be subject to a standard of reasonableness where it is able to cover current airport costs, offset future deficits, and avoid relying on Federal funds and local tax revenues without creating an unreasonable revenue surplus [78 Fed. Reg. at 55335, par 4.2]. According to FAA Order 5190.6B, paragraph 17.9, "[a]eronautical fees for landside or non-movement area airfield facilities (e.g., hangars and aviation offices) may be at a fair market rate, but are not required to be higher than a level that reflects the cost of services and

v. *Port of Orcas, Washington State*, FAA Docket No. 16-02-07, Director's Determination at 25, (September 1, 2004).

facilities.” The County did not provide an analysis or explanation that the proposed rental rates are reasonable and will not result in revenue surpluses that exceed the amounts to be used for the Airport.¹⁴ However, the burden of proof is on the Complainants. [14 CFR 16.23(k)(1)]. Here, the Complainants do not argue that the County is creating a large revenue surplus and provide no evidence to dispute the County’s claim that it will have a deficit in 2025 with proposed capital improvements.

The Complainants claim that the County is not using the additional revenue generated from renting nonaeronautical hangars for aeronautical hangar rates. The FAA’s *Rates and Charges Policy* requires all revenue to be expended on the Airport [See 78 Fed. Reg. at 55335, par 5]; however, the Complainants provide no evidence to demonstrate that the nonaeronautical revenue is not being expended on the Airport in accordance with 49 U.S.C. §§ 47107(b) and 47133.

The Director recognizes that the County must balance the need to consider the airports’ operating cost recovery with the need to be competitive with other airports. The *Rates and Charges Policy* recognizes this need for balance and states,

4.1.2 At some airports, market conditions may not permit an airport proprietor to establish fees that are sufficiently high to recover aeronautical costs and sufficiently low to attract and retain commercial aeronautical services. In such circumstances, an airport proprietor’s decision to charge rates that are below those needed to achieve self-sustainability in order to assure that services are provided to the public is not inherently inconsistent with the obligation to make the airport as self-sustaining as possible in the circumstances.

[78 Fed. Reg. at 55330, par 4.1.2]

The Director notes that the County should regularly review its rates, not just based on the market study, but should consider the operating costs of the airports as indicated in the *Rates and Charges Policy* and Grant Assurance 24.

The Director expects the County to review and update its hangar rental rates periodically to ensure that rates remain fair and reasonable for aeronautical users and keep the airport financially self-sustaining. This expectation includes using revenue from the nonaeronautical use of hangars for the capital and operating costs of the airports, and, when possible, help lower aeronautical rates.

¹⁴ However, if the fees resulted in surpluses, those fees might be unreasonable. Congress has declared as a matter of policy that airport proprietors should not seek to create revenue surpluses that exceed the amounts to be used for system purposes and other lawful purposes. 49 USC § 47101(13). Continued accumulation of excess funds may provide a basis for a determination of unreasonably high rates and/or for the FAA determining that the Sponsor does not need discretionary federal assistance. [See *H. Anthony Miller, Jr., Complainant v. Board of Aviation Commissioners of the City of Warsaw, Indiana*, FAA Docket No. 16-03-03, Final Agency Decision, p. 13, fn.10 (Feb. 27, 2004)].

The Director finds that the proposed increase in the aeronautical use of hangar rental rates is not inconsistent with the County's grant assurance obligations. Furthermore, the methodology used in the appraisal's analyses does not appear to be unreasonable or unclear. Finally, the Complainants did not provide any evidence to suggest that the County was accumulating a large surplus, which may indicate that the rates are too high. The Director finds that, based on the evidence provided, the County is not in violation of Grant Assurances 22, 24, and 25 and has not charged unreasonable aeronautical rates. The County should, however, review its aeronautical rates periodically and consider the cost recovery required to maintain the airports in its rate setting methodology. This includes updating the aeronautical rates to take into consideration the nonaeronautical revenue once the nonaeronautical rates are brought up to FMV (see Issue 1). The Director recognizes that an airport sponsor must maintain a balance between attracting aeronautical users by being competitive with other airports and covering its operating costs to be as self-sustaining as possible.

VIII. CONCLUSION AND FINDINGS

Upon consideration of the submissions, responses by the parties, the administrative record herein, applicable law and policy, and for the reasons stated above, the Director of the FAA Office Airport Compliance and Management Analysis finds and concludes:

1. The Respondent is currently in violation of Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, as outlined in the FAA's *Revenue Use Policy* by charging rental rates below FMV for nonaeronautical use of hangars and increasing those rates incrementally.
2. The Respondent is not currently in violation of Grant Assurances 22, *Economic Nondiscrimination*, Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, and the FAA's *Rates and Charges Policy* in regard to its proposed aeronautical rates.

The Director recommends the County review its aeronautical rates periodically and consider its cost recovery needs in its rate-setting methodology to meet Grant Assurance 24's self sustainability requirements.

ORDER

ACCORDINGLY, it is ordered that:

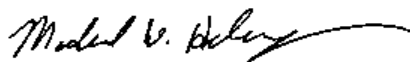
1. Respondent will provide a corrective action plan suitable to the Director, Airport Compliance and Management Analysis, within 30 days of the date of this Determination that will address the following issues and provide a date for implementation of each step in the corrective action plan:
 - Commission a new appraisal for FMV nonaeronautical hangar rates with a Scope of Work acceptable to the Director or establish an alternative methodology for determining the FMV nonaeronautical hangar rates at County airports acceptable to the Director.
 - Apply the nonaeronautical use of hangar rental rates to FMV immediately upon review and acceptance of the appraisal or alternative methodology by the FAA.
 - Based on the required new appraisal or alternative methodology, provide the County's position on why the Director should not require the County to reimburse the airport accounts for the lost airport revenue resulting from its failure to collect FMV for nonaeronautical revenues and the incremental implementation. (49 U.S.C. § 47107(n) and 49 U.S.C. § 46301(a)(3)).

Failure to submit and implement an acceptable corrective action plan as specified may result in the FAA withholding approval pursuant to 49 U.S.C. § 47106(d) of any applications submitted by the Respondent for amounts apportioned under 49 U.S.C. §§ 47114(d), and/or authorized under 49 U.S.C. § 47115.

2. All Motions not expressly granted in this Determination are denied.

RIGHT OF APPEAL

This Director's Determination under FAA Docket No. 16-24-14 is an initial agency determination and does not constitute a final agency decision and order subject to judicial review under 49 U.S.C. § 46110. [14 CFR § 16.247(b)(2).] A party to this proceeding adversely affected by the Director's Determination may file an appeal with the Associate Administrator within 30 days after the date of service of the initial determination. If no appeal is filed within the time period specified, the Director's Determination becomes the final decision and order of the FAA without further action. A Director's Determination that becomes final because there is no administrative appeal is not judicially reviewable. [14 CFR § 16.33.]



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HELVEY
Date: 2025.12.03 15:38:05 -05'00'**

Michael Helvey
Director, Office of Airport Compliance
and Management Analysis