



U.S. Department
of Transportation
**Federal Aviation
Administration**

Western-Pacific Region
Airports Division

P.O. Box 92007
Los Angeles, CA 90009-2007

December 22, 2016

Mr. Tim A. Rowe
Airport Manager
Carson City Airport
2600 College Parkway #6
Carson City, NV 89706

Dear Mr. Rowe:

**Carson City Airport (CXP)
Airport Land Use Inspection Report**

This letter describes the Federal Aviation Administration (FAA) inspection of Carson City Airport (CXP) on July 11-14, 2016. The report provides the results and conclusions of the on-site inspection and review of CXP's commercial lease agreements. We also reviewed the airport's commercial through-the-fence (TTF) access policy and regulations.

We thank you and your staff for the support and cooperation provided during the inspection. We appreciate your time and input during our visit to Carson City (City).

Airport inspections serve as a means for the FAA to perform surveillance of federally obligated airports to assess whether airports are in compliance with the federal requirements with which airport sponsors agreed to comply. General aviation airport inspections are part of a national program that is undertaken pursuant to Senate Report No. 106-55, dated May 1999. Congress directed that the FAA conduct land-use inspections at airports that have received federal assistance to detect and correct inappropriate or unapproved land uses. In addition, the FAA must report the results of the inspections to Congress, along with the FAA's plans to correct inappropriate land uses when they are discovered.

As part of the land use inspection, we reviewed the following documentation:

- CXP grant history;
- Independent audits of financial statements for Fiscal Years 2014, 2015, 2016;
- Fixed Base Operators' land leases;
- Carson City Municipal Code (CCMC) Title 19, *Airport Rules and Regulations*:
 - 19.02 Airport Rules and Regulations
 - 19.03 Through-the-Fence Aircraft Operations ;
- Commercial Through-the-Fence TTF airport access permits;
- Carson City Airport Layout Plan; and
- Nevada Revised Statutes (NRS) 244.281 et seq. Lease or Sale of Certain Real Property.

Applicable Sponsor Grant Assurances, FAA Hangar Use Policy, and State & Local Ordinance

Through-the-Fence

Grant Assurance 29, *Airport Layout Plan*, requires, in part, that the sponsor keep up to date at all times an airport layout plan of the airport showing all proposed and existing access points used to taxi aircraft across the airport's property boundary. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

Grant Assurance 5, *Rights and Powers*, stipulates the sponsor will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor.

Carson City Municipal Code (CCMC) Title 19, Chapter 19.03, *Through-the-Fence Aircraft Operations* describes the airport's rules and regulations for a TTF operator to taxi its aircraft from private property to airport property to access the airport runway. The City Code includes rules explaining the access privileges, method of access, a fee structure, security, prohibition of certain aeronautical uses and fueling, TTF access permit agreement, and compliance with certain sponsor federal obligations.

Airport Hangar Use

Grant Assurance 19, *Operations and Maintenance*, stipulates, in part, that the airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.

The final *Policy on the Non-Aeronautical Use of Airport Hangars*, 81 Federal Register (FR) 38906, June 15, 2016, (Hangar Use Policy) clarifies the FAA's policy regarding storage of non-aeronautical items in airport facilities designated for aeronautical use. The final policy reconfirms the requirement that hangars must be used for the storage of aircraft, along with a description of what are permissible and not permissible non-aeronautical uses of hangars.

Hangar Use Policy: Standards for Aeronautical Use of Hangars

a. Hangars located on airport property must be used for an aeronautical purpose, or be available for use for an aeronautical purpose, unless otherwise approved by the FAA Office of Airports.

b. Aeronautical uses for hangars include:

- 1. Storage of active aircraft.*

2. *Final assembly of aircraft under construction.*
 3. *Non-commercial construction of amateur-built or kit-built aircraft.*
 4. *Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of non-operational aircraft.*
 5. *Storage of aircraft handling equipment, e.g., tow bars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.*
- c. *Provided the hangar is used primarily for aeronautical purposes, an airport sponsor may permit non-aeronautical items to be stored in hangars provided the items do not interfere with the aeronautical use of the hangar.*
- d. *While sponsors may adopt more restrictive rules for use of hangars, the FAA will generally not consider items to interfere with the aeronautical use of the hangar unless the items:*
1. *Impede the movement of the aircraft in and out of the hangar or impede access to aircraft or other aeronautical contents of the hangar.*
 2. *Displace the aeronautical contents of the hangar. (A vehicle parked at the hangar while the vehicle owner is using the aircraft will not be considered to displace the aircraft.)*
 3. *Impede access to aircraft or other aeronautical contents of the hangar.*
 4. *Are used for the conduct of a non-aeronautical business or municipal agency function from the hangar (including storage of inventory).*
 5. *Are stored in violation of airport rules and regulations, lease provisions, building codes or local ordinances.*
- e. *Hangars may not be used as a residence, with a limited exception for sponsors providing an on-airport residence for a full-time airport manager, watchman, or airport operations staff for remotely located airports. The FAA differentiates between a typical pilot resting facility or aircrew quarters versus a hangar residence or hangar home. The former are designed to be used for overnight and/or resting periods for aircrew, and not as a permanent or even temporary residence. See FAA Order 5190.6B paragraph 20.5(b).*
- f. *This policy applies regardless of whether the hangar occupant leases the hangar from the airport sponsor or developer, or the hangar occupant constructed the hangar at the occupant's own expense while holding a ground lease. When land designated for aeronautical use is made available for construction of hangars, the hangars built on the land are subject to the sponsor's obligations to use aeronautical facilities for aeronautical use.*

According to CCMC Title 19, *Fixed Base Operators*, Paragraph H, *Aircraft Storage*, the fixed base operator shall insure that the following conditions are met:

That the premises are to be used and occupied primarily for aircraft storage and at least one aircraft will be housed in each occupied hangar. Aircraft housed in a hangar will be listed as personal property with the Carson City Assessor's office or, if domiciled at another location, documentation provided to support such classification. Each hangar owner shall notify the Airport Manager of the aircraft stored in such hangar(s),

including FAA N-number, Manufacturer, year and model. Users of all hangars shall comply with all applicable Carson City fire and safety codes.

Rates and Charges

Based on Grant Assurance 22.b, *Economic Nondiscrimination, any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:*

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and*
- 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.*

In accordance with Grant Assurance 24, *Fee and Rental Structure*, the airport should be made as self-sustaining as possible. When an airport is not, 49 United States Code (USC) 47107(k)(3) provides that sponsors should undertake reasonable efforts to make the airport as self-sustaining as possible when entering into new or revised agreements so the airport becomes more self-sustaining. It should be noted that rates should be fair and reasonable for aeronautical activities, but must be based on fair market value for non-aeronautical activities.

Based on CCMC Title 19, Chapter 19.03, *Through-the-Fence Aircraft Operation*, TTF operators must pay the rates described under Title 19, *Fees*.

Based on NRS 244.281, effective 2005, the City must obtain a fair market value appraisal (FMV) for leasing of airport land. Afterwards, the lease is open for bidding and is awarded to the highest bidder.

Hangar Inspection

Hangar Use Policy, Section VI, *Sponsor Compliance Actions*, states that:

- a. It is expected that aeronautical facilities on an airport will be available and used for aeronautical purposes in the normal course of airport business, and that non-aeronautical uses will be the exception.*
- b. Sponsors should have a program to routinely monitor use of hangars and take measures to eliminate and prevent unapproved non-aeronautical use of hangars.*
- c. Sponsors should ensure that length of time on a waiting list of those in need of a hangar for aircraft storage is minimized.*
- d. Sponsors should also consider including a provision in airport leases, including aeronautical leases, to adjust rental rates to FMV for any non-incident non-aeronautical use of the leased facilities. In other words, if a tenant uses a hangar for a non-aeronautical purpose in violation of this policy, the rental payment due to the sponsor would automatically increase to a FMV level.*

CCMC Title 19, *Fire Regulations*, No. 8, states: *Periodic inspections of buildings on the Airport may be conducted by the Carson City Fire Department or the Airport Manager to check for compliance with fire and safety codes.*

CCMC Title 19, *Aircraft Storage*, No. 20, states: *To the extent necessary to protect the rights and interests of the Airport Authority or to investigate compliance with the terms of these rules and regulations, the Airport Manager, any member of the Airport Authority, the City Manager, the City Engineer, the District Attorney and Sheriff's Officer and any other agent of the Airport Authority shall have the right to inspect at all reasonable times all airport premises together with all structures or improvements, and all aircraft, equipment and all licenses and registrations. Neither the Authority nor any individual Authority member shall initiate an inspection of any hangar or groups of hangars without there first being a hearing before the Authority to show cause and an affirmative vote by the Authority to initiate the inspection. In the event an urgent situation requires the Airport Manager to initiate an inspection, the cause for the inspection and the results shall be presented at the next Authority meeting, allowing public comment, and the action either ratified or redressed as appropriate.*

Inspection Review and Conditions Observed

Safety and Land Use

The airfield was in satisfactory condition and properly maintained. There were no major land-use discrepancies or safety issues noted during the inspection. We did not observe any unauthorized, commercial non-aeronautical use of airport property.

FBO Lease Agreement Review

- The lease terms were generally from 20 to 50 years.
- FBO leases were subject to CPI rate adjustment every 2 years and fair market appraisals when new leases are negotiated.
- Leases contained most of the FAA recommended standard lease provisions.
- According to CCMC Title 19, each FBO establishes rental rates for hangar storage, tie-downs, and other aircraft service charges. The City did not keep or maintain records of the FBO sublease agreements, so these were not reviewed.
- Where applicable, FBO leases were in accordance with the NRS 244.281.
- No material deficiencies between the FBO leases and FAA policy guidance and CCMC Title 19 were found.

Through-the-Fence Review

We found two TTF operations occurring at CXP. According to the sponsor, the two TTF operators, Click Bond, Inc. and Mustang Manufacturing, were given the right to access the airport from private property. CXP issued a permit to Click Bond, Inc. on January 18, 2012. Click Bond, Inc.'s permit requires the TTF operator abide with the terms of CCMC Title 19, Section 19.03, *Through-the-Fence Operation*, including certain FAA rules and regulations. The operator must pay a fee as assessed in CCMC Title 19. The sponsor could not locate the copy of the TTF access permit for Mustang Manufacturing. However, City officials were confident that a TTF access permit with Mustang Manufacturing was executed in the 1980s and the permittee was adhering to the terms of Title 19.03, *Through-the-Fence Operation*. The City's financial statements confirmed that Mustang Manufacturing was paying access fees.

Complaints of Non-aeronautical Hangar Storage

The FAA received two complaints alleging that airport hangars were being used for non-aeronautical purposes. One complaint was made before the inspection and the other after the inspection. The earlier complainant reported that a hangar only stored automobiles. During the inspection, it was observed that an aircraft was stored in the hangar. The aircraft was accessible with no interference from the two small sport cars stored in the rear of the hangar. We asked the complainant to elaborate more fully, but he failed to provide any additional evidence to support the allegation. Therefore, we consider this matter closed.

Another complaint was made to the FAA Regional Office on August 22, 2016 claiming that hangars were being used for non-aeronautical storage. In addition, the complainant claimed that hangar rental rates were too high as a result of the non-aeronautical uses permitted in the hangars. He believed that the permissive uses of the hangars increased demand and market demand increased the rental rate above what it would normally be if the hangars were only used for aircraft storage. During our inspection, we were not able to detect that hangars were being used exclusively for non-aeronautical purposes.

The Airport Manager disclosed that high demand for aircraft storage existed at the airport. The Airport Manager believed that hangar lease rates were comparable to neighboring GA airports. We did not identify a violation of the FAA Airport Hangar Policy. Therefore, we consider this second matter closed.

Inspection Findings, Results, and Recommendations

1. The current FAA-approved ALP, dated January 13, 2015, needs updating. We found two TTF operators at CXP, Click Bond, Inc. and Mustang Manufacturing. These two commercial TTF operations and access points were not depicted on the currently approved ALP. In addition, a copy of the sponsor's permit or TTF access agreement with Mustang Manufacturing could not be found, although this business has had TTF operations at CXP since the 1980s.

We also found the U.S. Forest Service, a former tenant, is no longer at the airport, but it remains depicted on the ALP.

In addition, the required Exhibit "A" Property Map "Parcel Table" does not identify how airport land was conveyed, the funding source, and the AIP grant number. For example, the Exhibit "A" does not indicate the grant numbers for the 91 acres of land acquired with AIP funding. According to Grant Assurance 29, *Airport Layout Plan*, the ALP should be kept up to date.

2. We identified a hangar at the airport that did not fully comply with the FAA Hangar Use Policy. The hangar was primarily used for storage of non-aeronautical items. Although an aircraft was stored in the hangar, the hangar was cluttered with various storage boxes, tool benches, a truck, electrical equipment, and other unidentifiable items that surrounded the aircraft. The items interfered with the movement of the aircraft and made the aircraft inaccessible. The clutter may also represent a safety hazard. We also observed electrical wiring and lighting in the hangar that may not meet building codes. A local inspection should be scheduled because CCMC Title 19, *Aircraft Storage*,

requires that hangar users comply with all applicable Carson City fire and safety codes. Furthermore, a violation of the Hangar Use Policy may lead to non-compliance with Grant Assurance 19.

3. All airport hangars are privately owned. Hangar owners commonly sublease their hangars. The sponsor was not aware of the number of hangars that are being leased and the rental rates being charged. There is no record of the fee and rate structure that FBO tenants impose for the rental of their airport hangars. It appears the City should have an inventory of all airport hangar leases. In order to enforce Grant Assurance 22.b, the City should have information related to tenant hangars and rental rates in the event a dispute arises between a master tenant and subtenants.
4. The City does not have a hangar inspection program. Therefore, there is no evidence that the City can prevent misuse of hangars. Having a hangar inspection program will allow the City to ensure hangars are used for aeronautical purposes and comply with City fire safety and building codes, and thereby avoid noncompliance with Grant Assurance 19 and CCMC Title 19, *Fire Regulations*, No. 8.
5. It appears that commercial TTF access fees and procedures have not been reviewed or updated for over 8 years. The version of CCMC Title 19 presently used is dated 2008. For the airport to be as self-sustaining as possible, fees should be adjusted periodically to keep pace with inflation. Both the TTF permit and Title 19 do not have an escalation clause or provision for adjusting the access fees.

The City does not have a TTF permit for Mustang Manufacturing. The City agreed to redraft the TTF permit since the original permit with Mustang Manufacturing could not be found.

In accordance with USC 47107(k)(3), airport sponsors are advised to undertake appropriate measures to ensure the airport is as self-sustaining as possible, especially when entering into new and revised agreements, to ensure that airport rates can be adjusted to maintain parity with market conditions and the economic needs of the airport. In practical terms, the airport should be seeking to cover its capital and operating costs, which would provide the financing necessary to match FAA grants and keep the airport safe, secure, and maintained with its own budget resources.

Follow-Up

In response to the inspection findings, the City should develop a plan to implement the following corrective measures related to inspection findings:

1. In coordination with the FAA Phoenix Airport District Office, (a) develop a plan to update the Airport Layout Plan to depict the commercial TTF operators and their access points on the ALP, and (b) review the Exhibit "A" Property Map and include the information on the grant acquired land. Consult with the FAA airport planner for guidance.

2. Follow up to resolve the safety and hangar use issues, as described above. Violations of the local ordinances should be corrected to ensure compliance with City building fire and safety codes.

Ensure hangars are used for aircraft storage. Non-aeronautical use may be allowed but only in accordance with the guidance in the FAA Hangar Use Policy.

3. Work with the FBOs and hangar owners to obtain an inventory of aircraft hangars and the rental rates charged by them.
4. Establish an inspection program to monitor hangar use to prevent unapproved non-aeronautical uses of hangars. The City should also examine such factors as emergency access, fire codes, security, insurance, and impact of vehicular traffic on the airport when setting standards for hangars.
 - Incorporate provisions in leases that stipulate the City will adjust the rental rates to FMV for non-aeronautical uses of hangars.
 - Coordinate hangar use inspections with fire, safety, and building department officials to fully monitor compliance with City codes and the hangar policy.

Be aware that violations of the Hangar Use Policy may result in the sponsor not complying with Grant Assurance 19 and 24.

5. Reassess the fee and rate structure for TTF commercial users accessing the airfield and revise as necessary. CCMC Title 19, Section 19.03, *Through-the-Fence Operation*, sets the amount of the TTF access fees, but does not have specific provisions to periodically adjust the access fees. According to FAA Order 5190.6b, agreements with airport operators should include an escalation clause. It also advises that “The access fee should bear some comparability to the airport fees charged to on-airport tenants using hangars and tie-downs. For example, landing fees, ground rent, or tie-down fees paid to the sponsor by comparable on-airport aeronautical users or tenants to recover the capital and operating costs of the airport should be reflected in the access fee assessed the through-the-fence operator.”

Be aware that TTF operators are not protected by the grant assurances. The airport sponsor may assess any level of fee it deems appropriate for TTF operators as long as that fee is not less than the comparable fee paid by on-airport tenants.

The TTF access permit and the local ordinance should be revised since they do not include the recommended provisions described in FAA Order 5190.6b, Section 12.7, *Agreements Granting “Through-the-Fence” Access, Access Agreement Provisions*. Examples of TTF operating conditions found lacking in the permit and CCMC Title 19 to protect the City include:

- A duration period with an expiration date in the local ordinance or the access permit;
- No right to assign/sell access agreement without the express prior written consent of the City; and
- A clause establishing subordination of the permit to the Grant Assurances.

Conclusion

We found that CXP's land uses are generally in compliance with the grant assurances. We noted that management is striving to maintain a safe, secure, and efficient airport. However, we found some shortcomings that require the City's attention. The City should take appropriate action to address the findings of the land use inspection report.

Please provide our office and the Phoenix Airports District Office a corrective action plan within 60 days describing the City's plans to address the findings contained in this inspection report.

In closing, please be advised that Section 722 of Public Law 106-181 (April 5, 2000) amended 49 USC 47131 and requires, as part of the DOT Secretary's annual report to Congress, the inclusion of a detailed statement listing airports that the FAA believes are not in compliance with grant assurances or other requirements with respect to airport land use. The report includes a description of the non-compliance issues, the timeliness of corrective actions by the airports, and the actions the FAA intends to take to bring the airport sponsors into compliance. With the City's cooperation, we shall be able to report that the City is correcting its non-conforming land uses. Conversely, without cooperation, the FAA would have to take these shortcomings into account when evaluating the award of grant assistance.

If you have any questions or wish to discuss the inspection report, please contact me at (650) 827-7629 or email: Robert.Y.Lee@faa.gov.

Sincerely,



Robert Lee
Airports Compliance Specialist

Enclosures: Lease and Use Agreement Guide
Roles and Responsibilities
Policy on the Non-Aeronautical Use of Airport Hangars
Hangar Use Question and Answer Guide

cc: AWP-620
ACO-100
Phoenix Airports District Office