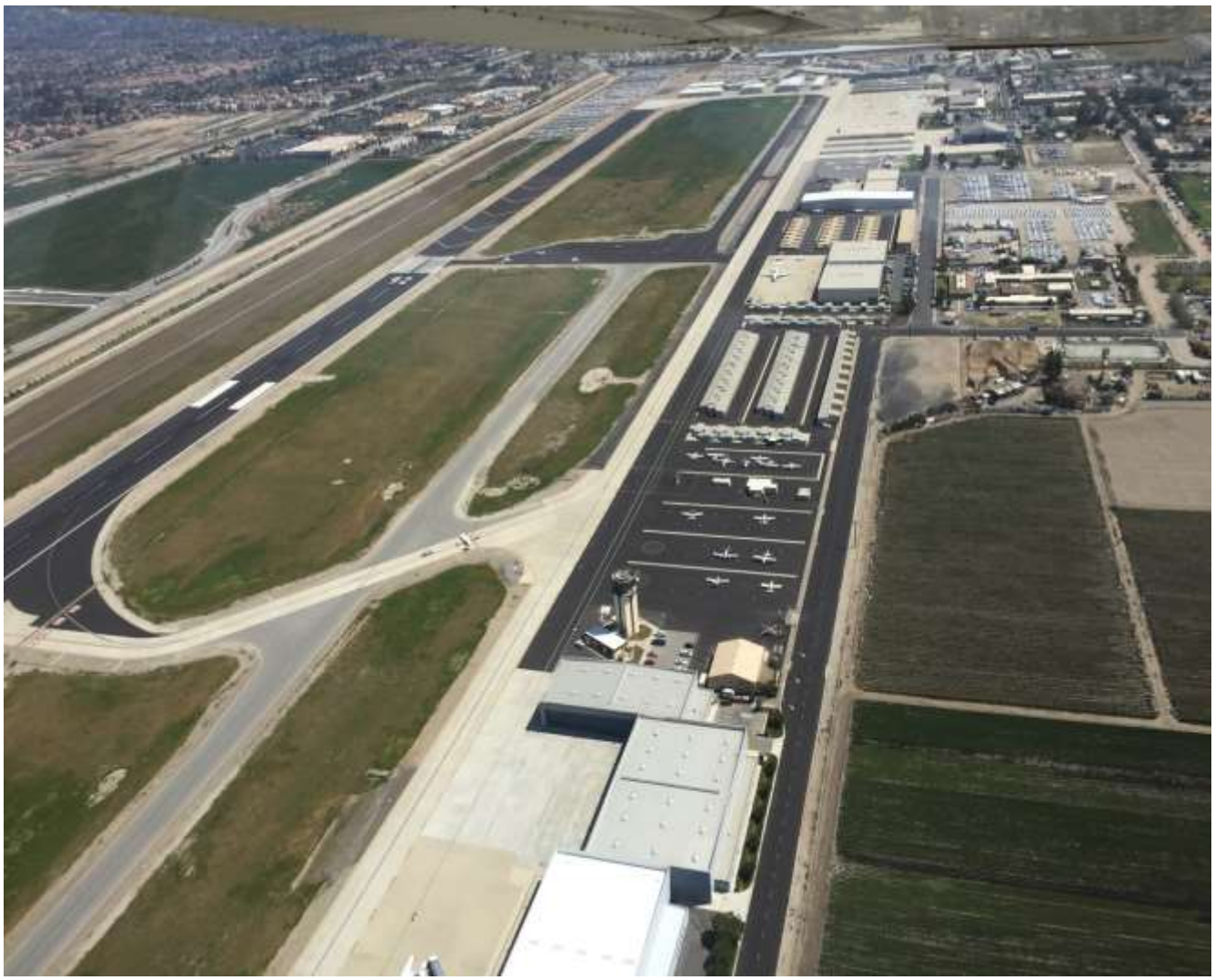
Ventura County Airports
Policy Review
Privately Owned Aircraft Storage Hangar Agreements



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February 12th, 2018

Mr. Todd McNamee, AAE
Director of Airports
Ventura County Airports
555 Airport Way, Suite B
Camarillo, CA 93010

RE: Policy Review- Privately owned aircraft storage agreements – Ventura County Airports (CMA & OXR)

Dear Mr. McNamee:

The Aeroplex Group Partners LLC (AGP) is pleased to submit this report, a review of those industry and best management considerations related to the implementation of an updated policy for privately owned aircraft hangar storage agreements at the Ventura County Airports.

Our report provides a brief background and includes best management practices based on current FAA policy and industry standards used by airports regarding the leasing of aeronautical properties for privately owned aircraft storage hangars. In addition, we have provided suggested best management recommendations for your consideration, to assist the County's airports in achieving their best and highest uses regarding airport facility development and leasing, with a primary focus to assure the safe and efficient management of existing airport facilities to protect the County's and public's interest as a public facility, both now and in the future.

We are uniquely qualified for assisting the County of Ventura in this effort. In addition to our unique private aviation development, leasing and facility management experience, our team also has extensive experience in aviation planning, project management coordination, airport community engagement and consulting at general aviation and air carrier airports. We have experience at other airports within the region and have managed t-hangar projects at Van Nuys and Santa Monica Airports and have been actively involved in airport associations, airport commissions and national trade organizations. Beyond our individual areas of expertise, many of us are also private pilots, which we believe that our experience as users in the system, will provide a direct benefit to our proposed policy direction regarding privately owned aircraft storage hangars.

The Aeroplex Group Partners is pleased to offer the Ventura County Airports the ideal mix of personnel, experience, expertise, and knowledge needed to accomplish this project. We appreciate the opportunity to conduct this work and remain available to answer any questions or provide additional assistance.

Sincerely,

Curt Castagna

Curt Castagna
Principal- Operating Manager

Ventura County Airports

Policy Review- Private Aircraft Storage Hangar Agreements

Prepared for:
County of Ventura- Department of Airports

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Disclaimer: The information contained in this report is intended as a guide for the reader in better understanding the complexities, policies, industry standards and airport leasing policies, rules, and procedures that apply to airports. It is not intended to replace any necessary research and review of applicable law that may be required in a specific review of a particular case, nor is it intended to give legal advice or take the place of an attorney who can advise with respect to a particular situation. While every care has been exercised in the preparation of this report AGP does not accept responsibility for an individual's reliance on its contents.

I. BACKGROUND

The two Ventura County Airports, Camarillo (CMA) and Oxnard (OXR) are important assets in both the national and regional aviation system, and they play a vital role in supporting general aviation, aviation business and provide local off airport businesses connectivity to the national and world markets. Ventura County has a committed history in supporting general aviation and its based tenants and users, and having consistent, transparent and clear local rules. Both airports have demonstrated their partnership with aviation trade associations such as the Aircraft Owners and Pilots Association (AOPA), the Experimental Aircraft Association (EAA), the National Business Aviation Association (NBAA), the National Air Transportation Association (NATA), and the American Association of Airport Executives (AAAE).

The County of Ventura, Department of Airports desired to utilize a credible firm, experienced in general aviation airport management, operations, facility/FBO consulting, development and leasing to assist in evaluating private aircraft storage hangar leasing practices at its airport. The Aeroplex Group Partners LLC (AGP) has prepared this report to assist the County of Ventura Department of Airports staff to evaluate FAA policy, industry standards and best management practices, intended to provide policy guidance for aircraft hangar storage leasing, and self-sustainability of the County's airports.

In November 2016, the Ventura County Department of Airports undertook a process to update it's month to month ground leases for privately owned aircraft hangars. Airport staff has communicated its intentions to the Ventura County Airport stakeholders, held small group meetings and has arranged for town hall meetings, inviting all interested tenants to hear a review of the intended changes to the lease agreements and has arranged for a small committee to work collaboratively with airport staff to address the common concerns of the private aircraft hangar owners. The main issues or concerns that have been identified from the meetings and other communications from the private hangar owners are summarized as follows:

1. Tenants desire to store multiple aircraft, parts and equipment in hangars, regardless of the air worthiness condition of the aircraft.
2. Tenant's desire to have "quiet enjoyment" of their private hangars, without inspection, regulation or restrictions.
3. Tenant's desire to have the County pay for any relocation costs should they be moved from one site to another on the airport.
4. Tenant's desire to sublet their premises, without restriction, in order to recover the cost of their investment, should they sell their aircraft, or discontinue to occupy their hangar for their own use.
5. Tenant's desire to have recourse, or an established process to cure any default of Airport rules, regulations, policies or lease terms, before terminating the month to month ground lease for any private hangar owner.

Under the scope of our agreement, AGP was asked to review three general considerations:

1. Review current documents, including the Airport Master Plan, Capital Improvement Program, Lease, Rental Rates and Monthly Agreements, Airport Minimum Standards, Rules and Regulations, and FAA hangar user minimum guidelines.

2. Review related trends and related airport policies, including those locally and regionally. Compare to industry standards and recommend best management practices related to privately owned aircraft storage agreements.

3. Confirm the baseline for Ventura County Airports demand and capacity planning, differentiate private hangar storage from commercial hangar agreements, and define term, use, and maintenance, insurance and other requirements, and/or restrictions for private aircraft storage ground tenants.

Many airport sponsors, and their associated stakeholders within the community, see the operation and development of an airport as an economic opportunity. However, the issues surrounding the development, management and leasing of airport land and facilities is often complex, evolving, and in some cases impacted by differing stakeholder goals. The strategic methodologies employed by airport sponsors for leasing airport land often vary, but in all cases, such efforts must adhere to, and be consistent with, state and federal policies. Also, airport development and leasing should not compromise the need for the airport to remain safe, as self-sustainable as reasonably possible and an operationally flexible reliable asset.

Current- Privately Owned Hangar Ground Lease Practices at Ventura County Airports

There are approximately 200 privately owned, and 200 Ventura County owned hangars at the Camarillo and Oxnard Airports. An important consideration that must be kept in the forefront of these discussions, is the County's desire and obligation relative to airport development, leasing and facility management, given the waiting list of approximately 150 individuals seeking aircraft storage facilities. It is also important to note that as an Enterprise Fund, separate from the Ventura County's General Fund, the Department of Airports is responsible for managing assets to best assure the airport remains financially self-sustainable and serve the flying public, without creating unnecessary competing property management and potential conflicts in these regards.

Since the inception of the two County Airports as public facilities, the main purpose of providing aviation users access for hangar space, whether through County owned or privately-owned hangars, was to enable local pilots to have facilities to store and operate their aircraft, not provide profit producing rental or properties or real estate investments to airport tenants. Currently all the privately-owned aircraft hangars at CMA or OXR occupy their ground lease sites on a month to month term and have a direct relationship with County via those agreements. These units have been in place since the mid 1980's, well over 30 years from their original installation/construction and what is considered a reasonable amortization and depreciation timeframe. Some of the owners of the privately held hangars are members (stated to be 75 members) of the Camarillo Airport Hangar Owners Association, which does not have a contractual relationship with the County or Airport. This association does not have its own master lease agreement, but states that it acts in an advocacy role in regard to the individual privately owned hangar tenant relationships with the Airport.

Given current demand for personal aircraft storage evidenced by the waiting list of approximately 150 persons hoping to secure private storage space, and the Department of Airport's desire to meet forecasted aviation needs at the County's airports, Ventura County has a 3 phase, multi-year development program to construct their own general aviation storage hangars, to accommodate approximately 120 users. The implementation of a new hangar use policy and agreements for privately owned hangars is timely, since it will best assist the airports in assuring that they can meet user demand, remain economically healthy and financially self-sustainable, consistent with the airport's operating requirements under local, state and federal policies. The current Minimum Standards at the Ventura County Airports excludes private hangar owners as businesses, and they are not included under the definition of a commercial airport use.

II. ASSUMPTIONS

Given the age of the personally owned aircraft storage facilities at the Ventura County Airports, our analysis and report does not consider the economic value of the structures, whether or not they have been fully depreciated over their term at the airports, nor do we apply a value or methodology to consider their worth from a personal investment perspective. We assume that the County of Ventura has completed a land valuation for the airport property occupied by personal aircraft storage units, in order to establish comparable and appropriate land lease rates for such uses. In our opinion, it would be appropriate that the application of these rates be used for current County, private or newly constructed hangar tenants at the Ventura County Airports.

Our report assumes that at a minimum, the County of Ventura, Department of Airports would follow the current FAA policy on compliance, related to airport leasing and hangar storage, including the use of any land designated for aeronautical purposes, occupied by non-aeronautical tenants/users. Our report also assumes that non-aviation uses on land not designated for, or impacting the aeronautical operations of the County's airports, would remain unless converted over for aviation use, should demand exist, as required by FAA policy. Any evaluation in these regards must consider the aeronautical vs. non-aeronautical rental income that the County of Ventura receives, and how any non-aeronautical revenues is used, both now and in the future, to offset any pressure to remain financially self-sustainable, by raising aeronautical rates and fees. A review of the FAA policies provides background on these requirements. Lastly, it should be noted an airport sponsor's permission to lease aeronautical land on an airport, for the assembly or construction of a hangar, requires that ground lease tenant to accept the sponsor's conditions that come with that land. Meaning that any privately-owned hangars at the Ventura County Airports, must comply with the County's obligations and agreement with the FAA, specifically that their land and all buildings and facilities so designated, be used for aeronautical purposes.

III. FEDERAL POLICY RELATED TO AIRPORT LEASING AND SERVICES

Overview:

This report does not make any interpretation of federal policy on the jurisdiction or duration of local airport control. Any statements, findings or recommendations in this report are intended to be consistent with current established FAA regulations, and assist Ventura County Airport in reviewing and updating their policies and lease agreements, to be assured they are consistent with best airport management/ industry practices.

Airport leasing and rate establishment policies are common across the country and while they can vary, Federal Aviation Administration (FAA) Airport Compliance Policy 5190.(6)(b) sets forth policies, procedures and obligations for airport owners, in the operation of how best to administer federal assurances in the operation of any public-use airports. As outlined in the Introduction Section 1.5, the policy:

"The FAA Airport Compliance Program is contractually based; it does not attempt to control or direct the operation of airports. Rather, the program is designed to monitor and enforce obligations agreed to by airport sponsors in exchange for valuable benefits and rights granted by the United States in return for substantial direct grants of funds and for conveyances of federal property for airport purposes. The Airport Compliance Program is designed to protect the public interest in civil aviation. Grants and property conveyances are made in exchange for binding commitments (federal obligations) designed to ensure that the public interest in civil aviation will be served. The FAA bears the important responsibility of seeing that these commitments are met. This Order addresses the types of these commitments, how they apply to airports, and what FAA personnel are required to do to enforce them."

This report's reference to federal law and policy provides the reader a better understanding of the implications related to leasing and aeronautical service provision policies at a local level.

Self- sustainability:

In accordance with the FAA's Airport Compliance Manual, Order 5190.(6)(b), the FAA defines "aeronautical use" as all activities that involve or are directly related to the operation of aircraft, including activities that make the operation of aircraft possible and safe. Services located on the airport that are directly and substantially related to the movement of passengers, baggage, mail, and cargo are considered aeronautical uses. Individuals or businesses providing services involving operation of aircraft or flight support directly related to aircraft operation are considered to be aeronautical users and all other uses of the airport are considered non-aeronautical.

The FAA's policy regarding rates and charges, and the use of airport revenue, requires that airports must maintain a fee and rental structure that makes the airport as financially self-sustaining as possible under the particular circumstances at that airport. This requirement recognizes that airports are different in their ability to be self-sustaining and some airports may have market conditions that do not permit a sponsor to establish fees that are sufficient to attract and retain commercial aeronautical services and as well, recover all the airport's aeronautical costs.

Thus, airports must establish rates and fees, and corresponding leasing policies, for aeronautical services/users that make the airport as self-sustaining as possible, with a long-term goal to achieve that status. Revenue surpluses should be used to offset the cost of the airport, so that it is available on fair and reasonable terms. Aeronautical fees for landside or non-movement area airfield facilities (i.e., hangars and aviation offices) may be at a fair market rate for similar uses, but those fees are not required to be higher than a level that reflects the cost of services and facilities. Said differently, those rates should be somewhere between the airport's cost and offsite or off-airport fair market value.

Non-Aeronautical Uses:

As also outlined in FAA Order 5190.(6)(b), Section 22, an airport sponsor may designate some areas of the airport for non-aviation use with FAA approval, but aeronautical facilities of the airport must be dedicated to use for aviation purposes. Any property at an airport, defined as an aeronautical use by an airport layout plan (ALP) is considered to be "dedicated" or obligated property for aeronautical purposes. Limiting use of aeronautical facilities to aeronautical purposes ensures that airport facilities are available to meet aviation demand and aviation tenants should not be displaced by non-aviation commercial uses that could be conducted off of airport property. It is the longstanding policy of the FAA that airport property be made available for aeronautical use and any use of a designated aeronautical facility for a non-aviation purpose, even on a temporary basis, requires FAA approval.

Chapter 17 of FAA Order 5190.(6)(b) requires that non-aeronautical rates at an airport must be based on fair market value. Aeronautical use competes with other properties on an airport; non-aeronautical uses compete with other similar properties located in the immediate and competing vicinity of the subject site, without regard to an on-airport location. If market rent for non-aeronautical uses results in a surplus, that surplus can be used to subsidize aeronautical costs of the airport. FAA Revenue Use Policy requires that if an airport tenant pays an aeronautical rate for a hangar and then uses the hangar for a non-aeronautical purpose, the tenant may be paying a below-market rate in violation of the airport sponsor's obligation for a self-sustaining rate structure and FAA's Revenue Use Policy.

Confining non-aeronautical activity to designated non-aviation areas of the airport helps to ensure that the non-aeronautical use of airport property is monitored and allows the airport sponsor to clearly identify non-aeronautical fair market value lease rates in order meet their federal obligations. Identifying non-aeronautical uses and charging appropriate rates for these uses prevents the sponsor from subsidizing non-aviation activities.

Reasonable Terms, without Unjust Discrimination:

Pursuant to the FAA's Airport Compliance Handbook, 5190.(6)(b) and the provisions under Grant Assurance 22, an airport sponsor has the responsibility to make the airport available on reasonable terms and without unjust discrimination. This guidance applies to rates and fees, as well as any service restrictions placed on the use of the airport.
If an airport sponsor requires an FBO to procure fuel, services, or supplies from a source that the sponsor provides or dictates, the FAA may determine that the requirement is an unreasonable restraint on the FBO's use of the airport and not consistent with the grant assurance. The application of this consideration would extend to all types, kinds and classes of aeronautical activities, as well as individual members of a class of operator. This applies whether or not any such

restrictions are imposed by the airport sponsor, or by a licensee or tenant offering services or commodities required at the airport. A tenant's commercial status does not relieve the sponsor of its obligation to ensure the terms for services offered to aeronautical users are fair and reasonable and without unjust discrimination

The assurance also federally obligates the sponsor to make available suitable areas or space on reasonable terms to those willing and qualified to offer aeronautical or support services to the public. Sponsors are also obligated to make space available to support aeronautical activity of noncommercial aeronautical users (i.e., hangars and tie-down space for individual aircraft owners). This means that unless it undertakes to provide these services itself, the sponsor has a duty to negotiate in good faith for the lease of premises available to conduct aeronautical activities.

When adequate facilities are otherwise available, Grant Assurance 22 does not compel sponsors to lease property to entities that desire to construct facilities for private aeronautical use. If a user, operator or entity is not able to arrange satisfactory terms for hangar space, facilities, or support services from existing airport entities, the assurance does require the sponsor to lease available property identified on the sponsor's airport layout plan (ALP) for such use to such entities on reasonable terms.

If adequate space is available on the airport and the sponsor is not already providing identical aeronautical services, the sponsor must negotiate in good faith and on reasonable terms with prospective aeronautical service providers. The FAA interprets the willingness of a prospective provider to lease space and invest in facilities as sufficient evidence of a public need for those services. The FAA does not accept that a claim of insufficient business activity would be a valid reason to restrict the prospective provider access to the airport.

Exclusive Rights:

Chapter 8, of the FAA's Airport Compliance Handbook, 5190.6(b), provides that under Grant Assurance 23, open and fair competition must be protected at airports. Airports are prohibited from granting any special privilege or monopoly to anyone providing aeronautical services. As defined, an exclusive right may be conferred either by express agreement, by imposition of unreasonable standards or requirements or by another means. Such a right conferred on one or more parties, but excluding others, would be an exclusive right.

The exclusive rights prohibition does not apply to services provided by the airport/sponsor itself. An airport may elect to provide any or all of the aeronautical services, and to be the exclusive provider of those services, under the exception "airports proprietary exclusive". The exception is only valid provided if the sponsor engages in an exclusive aeronautical activity using its own employees and resources. An airport may not designate an independent commercial enterprise as its agent.

If an airport only has one service provider, the FAA does not automatically consider the one provider a violation of the exclusive rights provision. While the FAA will expect an airport to be willing to make the airport available to additional reasonably qualified service providers, the airport can deny such requests. An airport utilizing one single service provider is reasonable when it can be demonstrated (with factual documentation) that it would be unreasonably costly, burdensome, or impractical for more than one entity to be providing services. For example, if the airport/sponsor would have to reduce the leased space being used by an aeronautical service provider in order to accommodate any additional provider(s). Airport sponsors should not land bank areas for future growth when an aeronautical service provider can demonstrate it is actually immediately needed. For additional space required later, the airport sponsor should provide the space in a competitive bid with other qualified service providers for the available airport land.

Most airport sponsors recognize that aeronautical services are best provided by profit-motivated, private enterprises. There are however situations where an airport would be justified in providing aeronautical services directly. In the case of FBO fuel sales, where the revenue potential would not attract or sustain private enterprise, it could then be necessary for the airport to provide that aeronautical service directly. Alternatively, an airport may seek the exclusive right to sell fuel when the revenue potential is significant enough that the airport would choose to provide the service exclusively in order to assist the airport financial self-sustainability.

Scope of FAA Interest in Leases:

An airport sponsor is not required to submit leases to the FAA for their review, and an airport sponsor is not required to obtain FAA approval before entering into any lease agreement. The FAA does not approve leases, nor does it endorse or become a party to tenant lease agreements. The type of document or written instrument used to grant airport privileges is the sole responsibility of the sponsor.

As outlined in Chapter 12 of the FAA's Airport Compliance Handbook, 5190.6(b) airport lease agreements usually reflect a grant of three basic rights or privileges:

1. The right for the licensee or tenant to use the airfield/public airport facilities in common with others so authorized.
2. The right to occupy as a tenant and to use certain designated premises exclusively.
3. The privilege to offer goods and services, consistent with the airports rules, regulations, and minimum standards

If the FAA's Airport District Office (ADO) does review lease agreements, their review typically considers the following inclusions:

1. If the lease agreement has the potential to grant or deny rights inconsistent with federal statute, sponsor federal obligations, or FAA policy. For example, if any lease grants extensions, options or rights of first refusal that may preclude the use of airport property by other aeronautical users or airport tenants.

2. That the airport sponsor has not entered into a contract that would surrender its capability to control the airport

3. That provides for terms and conditions that could prevent the airport from realizing the full benefits for which it was developed. For example, providing terms that would not have any term limit, or cause the airport to not be able to realize it's full self-sustaining potential. Note that an airport sponsor's obligations do not create an expectation, or require the sponsor to provide long term leases, or extend terms for existing tenants, and do not guarantee any particular individual or user access to the airport. An airport has authority to decide when and where airport development is needed.

4. That has potential restrictions that could prevent the sponsor from meeting its grant and other obligations to the federal government. For example, does the lease grant the use of aeronautical land for a non-aeronautical use?

5. Does the lease term exceed a period of years that is reasonably necessary to amortize a tenant's investment? Does the lease provide for multiple options to the term with no increased compensation to the sponsor? Most tenant ground leases of 30 to 35 years are sufficient to retire a tenant's initial financing and provide a reasonable return for the tenant's development of major facilities. Leases that exceed 50 years may be considered a disposal of the property in that the term of the lease will likely exceed the useful life of the structures erected on the property. FAA offices should not consent to proposed lease terms or occupancy that exceed 50 years.

6. Are there reversionary provisions, that require title to tenant facilities to be vested to the sponsor at the expiration of the lease? Do any lease extension or option provisions provide for added building rent once the title of facilities vests to the sponsor?

The role of Minimum Standards in Airport Leasing and Development:

Airport minimum standards set forth the minimum requirements an individual or entity wishing to provide commercial aeronautical services to the public on a public-use airport meet in order to provide those services, such as minimum leasehold size, required equipment, hours of operation, and fees. Minimum standards should be imposed to ensure that an adequate level of safe and efficient service is available to the public. The FAA strongly recommends developing minimum standards because these standards typically:

- Promote safety in all airport activities and maintain a higher quality of service for airport users,
- Protect airport users from unlicensed and unauthorized products and services,
- Enhance the availability of adequate services for all airport users,
- Promote the orderly development of airport land,
- Provide a clear and objective distinction between service providers that will provide a satisfactory level of service and those that will not.
- Prevent disputes between aeronautical providers and reduce potential complaints

IV. INDUSTRY STANDARDS & BEST MANAGEMENT LEASING PRACTICES

At most public-use general aviation airports, airport managers and policymakers work to foster aviation development, encourage aviation activities, and generate revenue for the airports to be financially self-sustaining. Regardless of an airport's size, location, or market, certain best practices are common at general aviation airports in the development, leasing and management of airport facilities. A core principle of complying with the federal grant assurances is that the sponsor must provide nonexclusive use of the airport and equitable treatment of tenants and users. Airport sponsors must strive to meet the demands of various airport users, the needs of the surrounding community, the regulatory requirements of the FAA, the state, county or municipality, and other appropriate airport operator governing bodies, all while ensuring the current, future financial and operational health of the airport. Airport sponsors must maintain a level playing field for like-users of its facilities and should incorporate and maintain minimum standard leasing and investment policies. Airports may either elect to provide economic incentives that encourage investment that meets industry standards, or distance themselves from the, sometimes, subjective job of allocating incentives, abatements, and grants, leaving that role to the tenant stakeholders who often are better positioned to evaluate their investment risk vs. reward and seek incentive opportunities directly. Airports have thus typically focused on setting the direction for airport planning and facility development, evaluating each opportunity and the related pros and cons of the financial, economic, and regulatory impacts of any airport lease agreement consistent with an established master plan. Since financial self-sustainability and revenue maximization continues to be a key planning and capital development goal for airport sponsors, this must continue to be a primary consideration when entering into airport lease agreements.

Given the consolidation that has occurred in the FBO industry, and the significant level of capital investment required to maintain and staff new general aviation related businesses, airport sponsors typically lean towards the private sector to establish and manage commercial general aviation facilities. Likewise, airports continue to look for ways to reduce expenses, maximize revenues and mitigate and/or eliminate legal risks and financial exposure. There is a distinction between aircraft storage hangars, for the sole purpose of housing aircraft under cover, and a commercially run business that provides services. These distinctions are usually defined in an airport's minimum standards guidelines.

Finally, sound best management practices (BMPs) regarding airport leasing must focus on the negotiation process. Since this ultimately will lead to opening a door to some flexibility, any guideline or policy must be flexible enough to accommodate the varied needs of the potential tenants, and airport users in general, and provide the airport sponsor with the ability to negotiate based on investment, and adjust terms as needed. Flexibility and give-and-take from both sides of the negotiating table is often the key to any successful airport lease negotiation in order to protect the long-term health of the airport. As noted earlier, airport lease agreements should consider or grant three specific rights or privileges:

1. The right for the tenant/operator to use and access the public airport facilities which are common to others;
2. The right to occupy, typically as a tenant or licensee, certain designated premises that are exclusive to that tenant or licensee, and;
3. The privilege for a tenant or operator to commercially engage in offering goods and services to airport users while meeting any established minimum standards.

What steps should an airport consider in managing the leasing of airport properties?

- Does the project fit stated goals of: Airport Master Plan, Land Use Plan and Airport Business Plan?
- Does it comply with community land use plans, zoning ordinances and other applicable planning documents?
- Do projects or leases support the airport sponsor's plan to accommodate growth and current or future demand?
- Is it in compliance with the FAA approved ALP?
- Do lease agreements include any potential grant assurance violations relating to lease term length, economic nondiscrimination, airport sustainability and granting of exclusive rights?
- If there is a potential cause for concern, has the FAA been consulted and approval sought?
- Does the proposed use of property violate any grant assurances?
- Is the proposed use of property in compliance with security and environmental regulations?
- Does the occupancy represent the highest-and-best use of the property within current airport policy designation, including meeting the needs of the airport users?
- What will the cost be to the airport in immediate outlay of resources, and what ongoing operational, maintenance and financing costs are anticipated?
- Do airport lease agreements best minimize the airport sponsor's financial and economic risk, by incorporating reasonable indemnification and insurance provisions?
- Do airport lease agreements give the airport sponsor flexibility to meet future demand? (e.g. month to month terms)
- Do airport leases limit mortgaging to leasehold rights, consider term and prohibit encumbering airport property?

BMP's Specific to Ventura County Airports Current Private Aircraft Storage Agreement:

- The FAA's recently adopted policy on the use of airport hangars, are minimum guidelines that provide discretion and permit Ventura County to implement policies that meet or exceed the FAA's recommendations. The policy applies to all aircraft storage areas or facilities on a federally obligated airport that are designated for aeronautical use on an FAA-approved Airport Layout Plan (ALP). The policy does not apply to property designated for non-aeronautical use on an approved ALP or otherwise approved for non-aeronautical use by the FAA.

- The Ventura County Department of Airports may develop their own aircraft storage facilities, to best support new and future demand, consistent with their FAA sponsor assurance requirements, and to best ensure the airport, and all existing aeronautical facilities are operated at all times in safe and serviceable condition, including storage hangars.

- The Ventura County Department of Airports may permit non-aeronautical items to be stored in hangars provided the hangar is used primarily for aeronautical purposes, the aircraft stored are currently airworthy and can be inspected as such, and any additional items stored do not interfere with any aeronautical use of the hangar. All such uses for the premises should also be in compliance with the airport rules and regulations, lease provisions, building codes or local ordinances established by the County of Ventura, Department of Airports.

- Since the use of any airport facilities will have an impact on funding and grant assurance conformity, the FAA policy requires airport sponsors to play the unfortunate role of policeman. Ventura County should maintain a consistent schedule of inspecting airport properties, including privately owned storage hangars, to assure the use of these facilities conforms with at a minimum FAA policy, but also Ventura County building, fire and other local airport or county rules and regulations, including airport lease provisions.

- Ventura County lease and rental agreements, including those for privately owned aircraft storage hangars, should have provisions that require buildings to revert to the County's ownership upon lease termination/expiration, or after a reasonable term. Given the current privately-owned aircraft storage hangars were constructed or installed approximately 30 years ago, consistent with industry standards that provide such a term would permit full depreciation of the asset, and within FAA policy or recommendations, occupancy terms or ownership of privately owned buildings should not be in perpetuity.

- Ventura County should not include provisions in any lease agreement that would require the County to purchase any improvements constructed on a ground lease, after the initial investment has been fully amortized, since it may not be consistent with Grant Assurance 24-Fee and Rental Structure.

- Ventura County leases and/or rental agreements related to privately owned aircraft storage hangars, should have defined provisions for relocation. Given that the terms of the ground leases for these units remain on a month to month term, the risk or loss of investment remains to be the hangar owner's, as those terms were known in advance and there is no legal requirement or FAA policy that requires an airport sponsor to provide lease term or guarantee any investment made on an airport. Should the Ventura County Airports require the land underneath the hangar storage unit(s), priority could be provided to rent a County aircraft storage unit to those owners required to relocate their units off airport. Should the Department of Airports designate a site on the Airport Layout Plan where privately held units could be relocated, the cost of the relocation would be the obligation of the owner of the privately held hangar, or a collective master tenant association of privately held aircraft owners who could manage the expense as a collective should such a master lease tenancy structure be desired by the County.

- Ventura County could consider enhancing the existing 30-day term for privately owned aircraft storage hangars, with a provision that the County would permit and maintain the same use and owner for an additional Five (5) years, after which time the agreement could be terminated without cause. All use restrictions and lease use provisions must be met during the term, (e.g. FAA regulations, County building code, Airport Rules, Regulations and Min. Standards, etc.) If considered, the County would need to require a 30-day term covenant, to be able to terminate the agreement at any time for any FAA compliance requirement or any change in the ALP. If the County were to be required to remove the hangar(s) within the 5-year term, without cause created by the owner, the County would pay a prorated amount of the reasonable cost to relocate the owner (for example, if in year two of the deal, the County would pay 2/5 of the reasonable hangar relocation costs). Any time after the 5 years, the County or Tenant can terminate the agreement and the owner can just leave, take the hangar away, or should the County wish, it could give the tenant the first right of refusal to stay in the hangar and pay the then current rent to the then County operated hangar.

- Ventura County may also consider a tiered term for privately owned aircraft storage hangars, wherein newer hangars, or those hangars, less than 20 years old, where the owners demonstrate permitted capital investment improvements have been made since they were constructed or assembled, enhancing the value of the structures, and thus meriting some additional amortization period. This would provide a reasonable standard for categorizing differences between older and newer hangars, or those who's condition is more current to code, etc. In all cases, any term agreement should have a reversionary clause where the ownership of the structure would revert to the County, but still permit the owner the opportunity to continue to occupy the unit, paying a rent that reflects building and land costs.

- Subleasing private noncommercial storage units, would not be a good practice for land under public trust since it presents tenant separation/absentee landlord issues that could possibly interfere with the County's obligation to abide by FAA assurances and grant conditions, along with other airport safety and security concerns.

- The County of Ventura should not permit the subleasing of private aircraft storage hangars, and permit those owners to operate as commercial enterprises, unless aircraft storage hangars are developed under those specific minimum standards. Subleasing is typically a permitted use provided master lease commercial business operations and developments at airports, and where reversionary clauses for any development or buildings are established in the commercial lease term. Permitting subleasing in privately owned aircraft storage hangars, intended for personal aircraft storage, not commercial real estate purposes, does create an additional administrative burden on County Airport staff in having to monitor and police hangar management and consents in these regards.

- Since FAA policy does not support policies that permit airport revenue from being diverted off of the airport, private aircraft noncommercial storage hangar owners that sublet would be benefiting from assets that should have long since reverted to the County and the income generated, on top of the ground lease rent, only benefits the hangar owner and creates a revenue generating enterprise for a private aircraft hangar user, that diverts revenue from the airport. The Ventura County Airport Rates and Fees are set to be both competitive regionally and permit cost recovery so that the airport can remain as self-sustainable as possible.

- Subleasing private storage hangars as a commercial enterprise would be inconsistent with their intended use as storage units for personal aircraft. Given the high demand for aviation storage facilities at the Ventura County Airports, and the County's plan to develop their own hangars to meet this demand, it is reasonable for the County to restrict subleasing of private aircraft storage units, so to best assure new airport development is financially self-sustainable.

- Consistent with FAA policy, Ventura County aircraft storage hangar tenants should only be permitted to use aircraft storage hangars for the purposes of storing active, functional, operational, airworthy aircraft, or aircraft under final assembly. As well as, the incidental storage of the tenant's personal property related to the use, care, maintenance and storage of that aircraft, but not the indefinite storage of non-operational aircraft. FAA policy recommends airport sponsors implement aircraft construction progress target dates or standards, to ensure that hangars are used for final assembly and storage of an operational aircraft within a reasonable term after a project starts.

- For any aircraft storage hangar that has the capacity to house more than one aircraft, Ventura County could permit hangar tenants or owners the opportunity to house an additional operational aircraft or one in final aircraft assembly, and only then when the hangar tenant can demonstration the capability.

- Aircraft storage tenants should not operate or conduct any non-aeronautical activity in any private storage hangar, or use the hangar for residential purposes, and not use the hangar premises for any business or commercial activity. No person shall engage in any commercial aeronautical activity of any nature on the airport, including privately held aircraft storage hangars, except in conformance with the airport's minimum standards for commercial aeronautical activities. Examples of commercial activities are aircraft manufacturing, or building for hire, the sale of maintenance, repair, washing, cleaning, painting, managing, flight training or selling aircraft or any use that generates, and/or secures earnings, income, compensation (including exchange or barter of goods and services) and/or profit, whether such objectives are accomplished.

- Tenants of aircraft storage hangars, should be able to perform maintenance activities for their aircraft in the hangar, and such activities should comply with all applicable Ventura County airport rules, regulations, county codes, ordinances or other applicable ordinances, including FAA Preventive Maintenance Regulation Part 43, Appendix A (c). Painting or fueling of aircraft or other property should be strictly prohibited inside of any storage hangar.

- Should Ventura County consider short term five (5) year ground lease agreements for each privately-owned hangar owner, those agreements should have annual escalations in the ground rent, under the current provisions, but with at least a minimum index percentage. This would permit all current owners a known term, which is consistent with other local airports that provide short term extensions for no capital investment. Any lease should include that at the end of the five-year term, the buildings would revert to the County of Ventura, Department of Airports at their discretion, otherwise the owner would be required to remove the hangar from the airport. Such terms would also not restrict the airport's ability to retain the revenue generation from County Airport facilities, managing these airport assets consistent with FAA policy. Such a requirement would not eliminate the Users from leasing back the premises from the County for the intended purposes of aircraft storage, albeit without the ability to utilize the investment for commercial or personal gain.

- Ventura County lease and/or rental agreements, with any term beyond a 30-day month to month occupancy, should provide default language with appropriate cure provisions, consistent with FAA and State regulations.

- Ventura County Airport Minimum Standards should be reviewed for possible revision, to include defined categories and reasonable standards for any potential aircraft hangar commercial development at CMA or OXR, at any designated airport location to accommodate commercial hangar subleasing. A section could be included to define and differentiate commercial, from non-commercial, aircraft storage only hangar tenancies.

V. NON-AERONAUTICAL LEASING - VENTURA COUNTY AIRPORTS

- Approved non-aeronautical tenants, on airport land designated by the County of Ventura, approved by the FAA, will assist the Ventura County Airport budget by providing a means to supplement revenues. Given the FAA policy requires aeronautical rates be set to keep the airport as self-sustaining as possible, non-aeronautical income would offset aeronautical expenses and thus assist CMA and OXR users by mitigating and better controlling aviation rate increases.

- FAA approval is required to waive aeronautical use requirements for those non-aeronautical facilities identified on the Ventura County Airport Layout Plan (ALP).

- Any consideration of non-aeronautical uses, on areas designated on the Ventura County Airports ALP for aeronautical purpose, must first give preference and not displace aeronautical demand.

- Confining non-aeronautical activity to designated non-aviation areas of the airport assists the airport in ensuring that the non-aeronautical use of airport property is monitored and provides a means to allow the airport sponsor to clearly identify non-aeronautical fair market value lease rates in order meet federal obligations. Identifying non-aeronautical uses and charging appropriate rates for such uses prevents the sponsor from subsidizing non-aviation activities with aviation revenues.

- In the case of any current Ventura County Airport tenant on land designated for aeronautical use, with non-aviation subtenants/uses, given the demand for aircraft storage, such uses should not be permitted to continue if such uses prevent the provision of aeronautical land towards meeting demand.

- Ventura County is expected to take measures to ensure that aeronautical facilities on the airport are reserved for aeronautical use. These measures should include a periodic inspection program to ensure that the waiting time for those persons who are legitimately in need of a hangar for aircraft storage is minimized.

- Where hangars are unoccupied and there is no current aviation demand for such hangar space as determined by the County, the airport sponsor may request that FAA approve an interim use of a hangar for non-aeronautical purposes for a period no more than five years and the County would be required to apply a rent established at non-aeronautical Fair Market Value (FMV). The FAA will review the request in accordance with Order 5190.(6)(b), Chapter 22. Approved interim or concurrent revenue-production uses must not interfere with safe and efficient airport operations and Ventura County should only agree to lease terms that allow the hangars to be recovered on short notice for aeronautical purposes.

- Ventura County may adopt more stringent rules for use of hangars than required by the grant assurances, based on proprietary concerns for the safe, secure and efficient use of airport property. Such rules must be reasonable and not unjustly discriminatory against any aeronautical user. For example, an airport sponsor may limit storage of vehicles in hangars if there is concern that vehicular traffic on taxi lanes or taxiways may create a safety hazard.

- The County of Ventura's federal obligations, as the airport sponsor, do not protect non-aeronautical users and/or storage of non-aeronautical items. Non-aeronautical use is not a protected activity, and FAA policy preserves the airport sponsor's discretion to exclusively decide on whether to permit certain non-aeronautical items to be stored in hangars, including if those items do not interfere with the aeronautical use of the hangar.

VI. ALTERNATIVE LEASING AND RENTAL POLICIES FOR PRIVATE AIRCRAFT STORAGE HANGARS

BENEFITS OF MASTER LEASING VS. DIRECT LEASING- CONDOMINIUM STRUCTURE PRIVATELY OWNED HANGARS

- A Master lease agreement with one single entity, or a few single entities, would permit the County to obtain fair market rental for larger areas of land and buildings with lower associated administrative costs.
- A master tenant agreement often provides less financial risk to the Airport for any vacant facilities on a master leasehold, eliminating any lost income for smaller tenants that may come/go from airport facilities.
- With a limited number of only master tenant agreements, there would be far less staff time/cost required to administer leases, than that required if County staff were used to manage the direct lease negotiations and compliance.
- Master tenant leases would permit the airport to pass through larger areas of ramp, parking lot and other common areas, thereby reducing the airport's capital and ongoing maintenance expense requirements.
- Master tenant agreements provide that possessory taxes, utilities and other pass through fees are easily administered to a smaller group of master tenants, rather than 400 direct tenants.

BENEFITS OF DIRECT LEASING VS. MASTER LEASING- PRIVATELY OWNED HANGARS

- Provides the County administrative oversight over tenant agreements, and the most efficient means and opportunity to retain direct contractual control by reasonably restricting uses and requiring prior written consent and approval on all leasing activities.
- Direct tenant agreements provide the County the opportunity for the Airport to manage on their own a diversified tenant base for CMA and OXR Airports. Because revenue is spread beyond a small group of master tenants, direct leasing reduces the fiscal impact to the Airport budget that would result from losing one master tenant.
- If the County Airport does not require any major leasehold area capital improvements in lieu of building rent, then direct tenant lease agreements in County owned assets provides the Airport the opportunity to maximize the revenues from any reverted assets to best assure a financially sustainable Airport budget.
- Direct leasing by the Airport of rental areas could potentially improve airfield safety, security and environmental goal achievement, through direct oversight of the tenants (i.e., ramp safety management, access controls, etc.)
- Direct leasing of CMA or OXR property may better ensure County generated lease language, providing a better platform for implementation of future airport policy direction.
- Direct leasing through County staff could establish better lines of communication between CMA and OXR users than would normally exist when a master tenant was an intermediary.

RECOMMEND THE FORMATION OF A VENTURA COUNTY AIRPORT TENANT ASSOCIATION (VCAA)

Airports are evolving and will continue to change, and that change is impacting expectations of users and communities. In order to assure the successful management of today's general aviation airports, it is imperative that there is an understanding on how airports work to remain self-sustainable, economically healthy and are to be managed consistently with FAA, State and local regulations. There is real benefit to an airport evaluating its specific business climate, minimum standards, and local economic development goals prior to developing RFPs and long-term lease agreements. In order to achieve this goal, airports need to establish collaborative proactive relationships between airport management, tenants, aircraft owners and airport users. Such a program should also include non-aeronautical and airport users, and off airport business community stakeholders that benefit from the airport and should work together to preserve aviation as a vital contributor to the Southern California economy. By way of example, the Long Beach and Van Nuys Airports have prospered in managing an evolution over the last decade or more, where a healthy evolution of these airports has occurred, and they continue to play a vital role in their communities, within the confines of the policies, etc. discussed in this report. The Ventura County Airports would benefit from the formation of a working group, the Ventura County Airports Association (VCAA), working to achieve economic growth and increased public awareness of the value of the general aviation industry. Working together with Airport staff, VCAA could focus on the most critical issues impacting airport users and operators, having a unified and credible voice for CMA and OXR stakeholders by increasing public awareness of general aviation, fostering economic growth, and building business and community partnerships in the areas of:

* Regulatory and policy challenges
* Marketing and Promotion
* Safeguard airport access and interests
* Economic Development
* Supporting Workforce Development
* Attract/Retain Business and Jobs
* Community Outreach
* Business/Community Partnerships
* Promote Safety and Security

VII. CLOSING:

The ideas and concepts presented in this report are intended to be consistent with FAA Airport Compliance Policy and industry standards and recommendations, combining all of this information in an effort to assist the County of Ventura, Department of Airports with best airport management practices available and is consistent with information from the Airport Cooperative Research Program (ACRP), which is funded by the FAA, whose information provides excellent resources and ideas. The ACRP carries out applied research on problems that are shared by airport operating agencies on a variety of airport subject areas. The primary participants in the ACRP are an independent governing board appointed by the Secretary of the U.S. Department of Transportation, with representation from airport operating agencies, other stakeholder, and relevant industry organizations. The ACRP benefits from the cooperation and participation of airport professionals, state and local government officials, equipment and service suppliers, other airport users, and research organizations. Each of the participants has different interests and responsibilities, and each is an integral part of this cooperative research effort.

The references used in this report also provide a credible foundation for the airports and the aviation industry. Given that there are differing stakeholders' opinions within the County of Ventura, on the role of the airport and its management oversite at CMA and OXR, what has been presented should clarify current polices, guidelines and standards relative to airport leasing, management and operations. Likewise, the report should provide valuable feedback to the County of Ventura Department of Airports to consider the merits, risks and benefits of alternative approaches to managing airport leasing.

VIII. RESOURCES:

FAA Airport Compliance webpage: www.faa.gov/airports/airport_compliance/

FAA Order 5190.6B: Airport Compliance Requirements
Department of Transportation, FAA 14 CFR Chapter I [Docket No. FAA–2014–0463]
Proposed Policy Change on the Non-Aeronautical Use of Airport Hangars

AIRPORT COOPERATIVE RESEARCH PROGRAM (ACRP) Report 23
Guidebook for compliance with grant agreement obligations to provide reasonable Access to an AIP funded public use general aviation airport

ACRP REPORT 16
Guidebook for Managing Small Airports

ACRP REPORT 33
Guidebook for Developing and Managing Airport Contracts

ACRP REPORT 47
Guidebook for Developing and Leasing Airport Property

ACRP REPORT 47
Innovative Revenue Strategies— An Airport Guide
ACRP Legal Research Digest 11-01
Survey of Minimum Standards: Commercial Aeronautical Activities at Airports