



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

Office of Airport Compliance  
and Management Analysis

800 Independence Ave., SW.  
Washington, DC 20591

September 1, 2022

Mr. Mark Gale  
Aviation Director/CEO  
Broward County Aviation Department  
2200 S.W. 45<sup>th</sup> Street, Suite 101  
Dania Beach, FL 33312

Re: Transmittal of Final Financial Compliance Report

Dear Mr. Gale:

The Federal Aviation Administration (FAA), Office of Airport Compliance and Management Analysis conducted a compliance review at the Broward County Aviation Department from May 1 through May 12, 2017. The purpose of the review was to determine if the airport sponsor, Broward County Aviation Department (Department) is in compliance with the FAA *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy), 64 Fed. Reg. 7697 (Feb 16, 1999).

Our review focused on the Department's 2016 calendar year, but included prior years when necessary. The attached draft report summarizes the review and identifies areas for your response as part of an action plan. Attached to this letter is the final report and a letter on the resolution of the Master Lease with the City of Pembroke Pines (City) at North Perry Airport.

We thank you and your staff for your assistance and timely responses to our questions. For further questions regarding the technical aspects of the attached report and letter, please call Mr. Olu Okegbenro at (202) 267-3785.

Sincerely,

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Kevin C. Willis, Director  
Office of Airport Compliance  
and Management Analysis



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and Management Analysis

800 Independence Ave., SW.  
Washington, DC 20591

September 1, 2022

Mr. Mark Gale  
Chief Executive Officer/Director of Aviation  
Broward County Aviation Department  
Fort Lauderdale-Hollywood International Airport  
320 Terminal Drive, Suite 200  
Ft. Lauderdale, FL 33315

**Re: Airport Financial Review - Fort Lauderdale-Hollywood International Airport/  
North Perry Airport**

Dear Mr. Gale:

This letter addresses unresolved issues identified in our Financial Compliance Review of Fort Lauderdale Hollywood International Airport and North Perry Airport dated January 2, 2019 (Compliance Review). This letter also responds to your letter of June 15, 2022.

All issues raised in the Compliance Review have been satisfied with the exception of the Master Lease with the City of Pembroke Pines (City) at North Perry Airport. In this letter the Federal Aviation Administration (FAA) accepts Broward County Aviation Department's (BCAD) corrective action plan submitted based, in part, on recent amendments to 49 U.S.C. § 47107.

The BCAD master lease with the City includes three separate facilities. These facilities consist of:

- Paul J. Maxwell Park, the size of which is 322,000 square feet;
- Fire Station No. 33, the size of which is 90,000 square feet; and
- Pines Community Center and Annex, the size of which are 302,450 square feet and 232,000 square feet, respectively.

All of these facilities are located on North Perry Airport. Under the lease, the City pays \$1,197,000 per year for the use of these facilities. This is the equivalent of \$1.92 per square foot.

Both the BCAD and the City agreed to offset the required payment with in-kind services to be provided by the City. In particular, the City would provide firefighting services using Fire Station 33, which is located on airport property and serves both the airport and the surrounding community. Fire Station 33 is staffed by nine City firefighters and has an annual payroll of about \$1,575,000.

**FAA Review:** The Compliance Review recommended the BCAD obtain an appraisal and break the master lease into three separate leases. The breakout would provide the BCAD greater control of the parcels. Additional issues outlined in the Compliance Review are discussed below.

The City operates Paul J. Maxwell Park, the Community Center and Annex on the airport. The park has a baseball field, tennis courts and playground equipment. According to the County, these facilities have been located on airport property since before 1983. In lieu of the annual rent of \$1,197,000 for the use of the property, the City pays for this use with in-kind services. The City values these services at \$1,575,000, which is the payroll of the City firefighters at Fire Station 33.

There are a number of issues with this approach. First, while the FAA *Policy and Procedures Concerning the Use of Airport Revenue*<sup>1</sup>, (Revenue Use Policy) does permit below fair-market-value (FMV) leasing of airport property for community uses, this exception generally only applies to property that is not capable of producing substantial income and otherwise not needed for aeronautical use.<sup>2</sup> An appraisal of the three parcels was performed in 2013 and yielded a value of \$9 million. The airport is thus forgoing a significant opportunity cost by renting this land at such a low price. This land, but virtue of its value, does not qualify for the below-FMV community use exception. The use of land in this way violates the sustainability principles of 49 U.S.C. § 47107(a)(13)(A) and grant assurance number 24, as both have been consistently interpreted in the Revenue Use Policy.

Second, the offset of the entire payroll of the station in return for the rent is neither fair nor justified. The fire station was constructed by the City on airport property for the primary purpose of providing fire protection to the surrounding community not the airport. North Perry Airport is a general aviation airport, it is not a certificated commercial service airport, and there are no regulatory obligations for the airport to maintain or secure Aircraft Rescue Firefighting (ARFF) services. The firefighters at Station No. 33 are not dedicated to the airport and it is undisputed that most, if not all, of their work is off-airport. As with the park land this land is capable of producing substantial income for the airport, income that is being foregone.

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The Revenue Use Policy states FAA's longstanding position that the sustainability obligation contained in both Federal statutes and in the grant assurances do not allow airport property to be used for general governmental purposes at less than FMV. Examples of such unacceptable uses

<sup>1</sup> 64 Fed. Reg. 7696 (Feb. 16, 1999).

<sup>2</sup> The Revenue Use Policy at Section VII. *C. Policy on Charges for Non-Aeronautical Facilities and Services*, states, "the FAA interprets the self-sustaining assurance to require that the airport receive fair market value for the provision of non-aeronautical facilities and services, to the extent practicable considering the circumstances of the airport."

include police, fire, and other government facilities that do not directly and primarily support the operation of the airport. (64 Federal Register 7711, February 16, 1999).

In your May letter, you indicated that the presence of ARFF services on site constitutes a benefit to the airport. In addition, you indicated that “community relations are enhanced by the use of the property by the City to provide public recreation and fire services to the public located near North Perry Airport.” While we do not dispute either of these points, they are not an adequate justification for depriving the airport of fair compensation for the use of its land.

We understand that the Airport Director believes that the leasing arrangement is more than sixty years old and, according to the Director, is the result of an agreement between the FAA, the County and the City. You have indicated that the lease was last amended on November 15, 1983. We understand that the amendment provides for five options to renew, each with a five-year term. The last option was exercised in 2013 and FAA’s Orlando Airport District Office did not raise an objection to contract extension.

### **Changes in Federal Law**

The FAA plans to resolve this matter based, in part, on a recent amendment to Federal law. Although we find that the current situation involving in-kind below-FMV-rent for the facilities is not consistent with a sponsor’s grant obligations, we are willing, as a matter of our enforcement discretion, to allow the practices regarding the recreational uses to continue as long as the recreational facilities are leased for ten years and completely separated from the fire station. We believe this approach is consistent with the recent statutory amendment.

The FAA Reauthorization Act of 2018 added a new subsection (v) to § 47107 as follows:

**(v) Community use of airport land.--**

**(1) In general.--**Notwithstanding subsection (a)(13), and subject to paragraph (2), the sponsor of a public-use airport shall not be considered to be in violation of this subtitle, or to be found in violation of a grant assurance made under this section, or under any other provision of law, as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor has entered into an agreement, including a revised agreement, with a local government providing for the use of airport property for an interim compatible recreational purpose at below fair market value.

**(2) Restrictions.--**This subsection shall apply only--

**(A)** to an agreement regarding airport property that was initially entered into before the publication of the Federal Aviation Administration's Policy and Procedures Concerning the Use of Airport Revenue, dated February 16, 1999;

**(B)** if the agreement between the sponsor and the local government is subordinate to any existing or future agreements between the sponsor and the Secretary, including agreements related to a grant assurance under this section;

- (C) to airport property that was acquired under a Federal airport development grant program;
- (D) if the airport sponsor has provided a written statement to the Administrator that the property made available for a recreational purpose will not be needed for any aeronautical purpose during the next 10 years;
- (E) if the agreement includes a term of not more than 2 years to prepare the airport property for the interim compatible recreational purpose and not more than 10 years of use for that purpose;
- (F) if the recreational purpose will not impact the aeronautical use of the airport;
- (G) if the airport sponsor provides a certification that the sponsor is not responsible for preparation, start-up, operations, maintenance, or any other costs associated with the recreational purpose; and
- (H) if the recreational purpose is consistent with Federal land use compatibility criteria under [section 47502](#).

**(3) Statutory construction.**--Nothing in this subsection may be construed as permitting a diversion of airport revenue for the capital or operating costs associated with the community use of airport land.

While we do not think the situation at North Perry exactly fits with the statutory exception, we do think it is close enough that, as a matter of our discretion, we would entertain a ten year close out to the practice. This would require the Department to make all the requisite certifications. While the land at issue was not acquired with grant proceeds as required by subparagraph (v)(2)(C), the land was granted to the Department (or its predecessor) via the Surplus Property Act. It is thus similar, in some significant regards, to grant-acquired property in that is subject to perpetual airport-related obligations.

### **Corrective Action Plan**

FAA concurs with the County's corrective action plan as outlined below. This arrangement would also require that the Department submit a plan for obtaining FMV rent for the fire department subject only to those offsets that are reasonable.

### **Fire Station No. 33**

The County and the City will enter into a ten (10) year lease with the City for Fire Station 33, which is located on 90,000 square feet of non-aeronautical land. The fair market value of the fire station property will be based on the appraised value of land and building. According to the latest appraisal dated May 14, 2021, the fair market value of land and building for Fire Station 33 is \$1,839,000. Commercial lease capitalization rates in Pembroke Pines generally fall

between 6% - 7%.<sup>3</sup> Thus, Fire Station 33 would command approximately \$110,340 to \$128,730 in rent annually on the open market. Prior to the onset of the fifth (5th) year of the lease agreement, the County will appraise Fire Station 33 property to establish the fair market value rent of land and building. Fair market value rent will be adjusted to conform to the fifth (5th) lease year appraisal. Any renewal of the lease would be subject to FAA review and approval.<sup>4</sup>

**Paul J. Maxwell Park  
Pines Community Center and Annex**

The County and City will enter a 10-year lease for the Pembroke Pines recreation areas (Maxwell Park and Pines Community Center) without a built-in renewal option, and also added the other requisite language per 49 U.S.C. 47107 (v). During the course of the lease term, BCAD will perform the necessary land use reviews and plans for North Perry Airport, to include these two parcels, and evaluate various options for the disposition of these parcels at the expiration of those 10 years. Those options will be driven by various economic and operating conditions at that time, but certainly will include, but not limited to leasing the land for aeronautical use and/or selling the land. Any option, of course, will require the FAA approval at that time.

We believe this corrective action plan closes the audit. If you have any questions, please contact me at 202-267-3085.

Sincerely,

**KEVIN  
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Kevin C. Willis, Director  
Office of Airport Compliance  
and Management Analysis

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<sup>3</sup> 1 The County Administrative Code (Code) establishes a minimum capitalization rate of 8% amounting to approximately \$147,120 annually; however, the Board of County Commissioners (Board) has the authority to waive this requirement and recognize capitalization rates in line with market conditions.

<sup>4</sup> 2 The Code requires an appraisal every 10 years and annual adjustments of the greater of 3% or CPI; however, the Board may waive the requirement.

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**Federal Aviation Administration  
Office of Airports Compliance and Management Analysis  
Financial Compliance Review**

**Final Report**

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**Broward County Department of Aviation**

**Fort Lauderdale/Hollywood International Airport  
North Perry Airport**

**May 1, 2017 - May 12, 2017**



**Federal Aviation Administration**  
**Office of Airports Compliance and Management Analysis**  
**Financial Compliance Review**

The Federal Aviation Administration (FAA) Office of Compliance and Management Analysis, (ACO), conducted a compliance review at the Fort Lauderdale-Hollywood International Airport (FLL) and North Perry Airport (HWO) to evaluate compliance with Federal statutes and FAA requirements. The FAA conducted this review at the Broward County Department Offices.

The sponsor, Broward County Aviation Department, manages FLL and HWO. The Department is responsible for ensuring FLL and HWO complies with Federal statutes, the AIP Grant Assurances and FAA policies regarding federally obligated airports. FLL is located three (3) miles southwest of downtown Ft. Lauderdale, and had over 14 million passenger boardings (enplanements) in 2016. HWO is a general aviation airport, constructed by the US Navy in 1943, and located in the City of Pembroke Pines.

Airport sponsors agree to certain obligations when they accept Federal grant funds or Federal property transfers for airport purposes. The FAA enforces these obligations through its Airport Compliance Program. Unlawful revenue diversion is the use of airport revenue for purposes other than the capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator and directly and substantially related to air transportation or property. The Compliance Division has the responsibility to ensure airports adhere to this policy. The Compliance Division conducts a compliance review of several airports each fiscal year (FY). These reviews disclose the airport sponsor's adherence to FAA grant assurances and the Revenue Use Policy.

We reviewed the following areas at FLL and HWO:

- Form 5100-126, *Financial Governmental Payment Report* Reporting
- Form 5100-127, *Operating and Financial Summary* Reporting
- Financial transactions between the FLL/HWO and the County
- Noise Remediation Settlements
- Police
- Aircraft Rescue and Fire Fighting (ARFF)
- Uses of Airport Property
- Marketing/Air Carrier Incentives
- Cost Allocations
- Attorney Fees
- Art in Public Places



The following report addresses the FAA's concerns about the use of airport revenues. Accordingly, the FAA requests the Aviation Department and County, as airport sponsor, provide additional information, and submit a corrective action plan. The Federal statute of limitations is 6 years, so a corrective action plan must include the period of April 30, 2011 through May 31, 2017, plus any occurrences thereafter.

## **Financial Data Reported to FAA**

### **FAA Form 126 *Financial Governmental Payment Report* and Form 127 *Operating and Financial Summary***

The Department's Finance and Budget Office prepares the FAA Forms 5100-126 *Financial Governmental Payment Report* and 5100-127 *Operating and Financial Summary*. On the Form 127, the sponsor reports selected balance sheet, income statement and statistical information relevant to the reporting of airport operations. The FAA asked the Finance and Budget Office to reconcile selected amounts reported on the Form 127 to the Department's general ledger and comprehensive annual financial report (CAFR). In addition, we reconciled the Department's Form 126 to the Department's financial accounting system.

**Follow-up:** None. The FAA was able to reconcile the amounts reported on Forms 5100-126 and 127 to the Department's accounting records and CAFR.

## **Uses of Airport Property**

### **Background**

Each federally assisted airport owner/operator is required by statute and grant assurances to have an airport fee and rental structure that will ensure the airport is as self-sustaining as possible under the particular airport circumstances, in order to minimize the airport's reliance on Federal funds and local tax revenues. The FAA interprets the self-sustaining assurance to require airport sponsors to charge fair market value (FMV) commercial rates for non-aeronautical uses of airport property with limited exceptions not applicable here.

### **Questioned Leases**

#### **Master Lease with City of Pembroke Pines, FL at North Perry Airport**

##### **Background**

The County's master lease with the City of Pembroke Pines, FL (City) includes the 322,000 square foot Paul J. Maxwell Park, a 90,000 square foot Fire Station No. 33, and two parcels for a Community Center and annex (302,450 and 232,300 square feet.). The lease is payable at an annual rate of \$1,197,000 per year. However, all rental sums are payable through in-kind services with no monetary rental payments required as long as the value of in-kind services are at least equal to the fair market value lease payment. The in-kind services are provided by the Fire

Station No. 33. Paul J. Maxwell Park and the Community Center do not directly provide in-kind services to the airport, except for maintaining the grounds of their respective facilities. The current term of the lease is five (5) years beginning on November 1, 2013. It is unclear as to how long this arrangement has been in existence prior to 2013. Per our discussions with North Perry Airport management, the City claims to have always provided more in-kind services to the airport than the rental rate, therefore no cash payment is ever due.



### **Fire Station No. 33**

The City of Pembroke Pines (City) Fire Station No. 33 is located on North Perry Airport land. North Perry Airport does not have an ARFF requirement because it is a general aviation airport, and not a 14 CFR Part 139 commercial service airport. The station is not dedicated exclusively to the airport, but primarily focused on structural fire fighting of the surrounding community. The City offsets the master lease payment to the Department by providing nine (9) fire fighters at an average cost of \$1,575,000 annually. The entire cost of the nine (9) fire fighters is used to offset the fair market value rent for the master lease with the Department (\$1,197,000), although the fire fighters are not dedicated to the airport and perform mostly off airport runs. Since there is not an ARFF requirement, the City can only offset actual and direct services provided to the airport, not for idle staff that are performing off airport functions. In-kind services provided to

the airport must be supported by timesheets and/or logs showing direct support for North Perry Airport.

**Follow-up:** Since Fire Station No. 33 is not dedicated to ARFF, the Department should be charging the City FMV rent for use of the property.<sup>1</sup> The City may deduct the cost of in-kind services provided to the North Perry Airport from the FMV rent it pays to the Department. Specifically, the City should provide detailed billings that includes hours charged for in-kind services performed at North Perry Airport, descriptions of worked performed, and explain the hourly rate utilized and its determination for the last six years (2011-2016). If the value of in-kind services received by North Perry Airport does not exceed the fair market rent, then Broward County needs to reimburse the airport for the shortage, plus interest for the prior six years.



**Conclusion:** Please see the enclosed letter.

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<sup>1</sup> The Policy at Section VII. C. *Policy on Charges for Non-Aeronautical Facilities and Services*, states, “the FAA interprets the self-sustaining assurance to require that the airport receive fair market value for the provision of non-aeronautical facilities and services, to the extent practicable considering the circumstances of the airport.

## **Paul J. Maxwell Park and Community Center**

The City of Pembroke Pines (City) operates Paul J. Maxwell Park, Community Center and Annex on the North Perry Airport property. The park has a baseball field, tennis courts and playground equipment. It is not clear how long the park and community center have been located on airport property, but at least since the 1980's. The City does not pay any rent to the Department for the park or community center because the City states that the services provided to the airport by the fire station exceed the annual rent of \$1,197,000. No other in-kind services are provided by the City to the North Perry Airport other than maintaining the grounds of the facilities.

An appraisal of the land was performed in 2013 and determined the value for the three parcels was over \$9 million. The appraisal report did not provide data on the FMV rent; however, we surmise it would be more than de minimis. As such, Paul J. Maxwell Park and the Community Center do not meet the test for community use because the properties are capable of producing substantial rental income. In addition, North Perry Airport management stated the properties would be beneficial for future aeronautical development.

**Follow-up:** The Department should be receiving FMV rent the properties. The City may deduct in-kind services provided by Fire Station No. 33 to the North Perry Airport from the FMV rent.. In addition, we recommend the Department obtain an appraisal and break the master lease into three separate leases for Fire Station No. 33, Paul J. Maxwell Park and the Community Center at its earliest opportunity, but not later than May 31, 2019. The break-out will provide the Department greater control of the parcels.

**Conclusion:** Please see the enclosed letter.

## **Federal Bureau of Investigation**

On July 26, 2011 (revised on February 19, 2014), the Department entered into a five-year (5) agreement to lease a 317 square foot office in Terminal 3 for no rent payment. We learned from the Department staff that the three agents assigned to the space support the Miami Joint Terrorism Task Force and investigate crimes against aviation that occurs at FLL. The lease document itself does not explain the mission of the Federal Bureau of Investigation (FBI) at FLL. The current term of the lease is five years, and it is unclear as to how long this arrangement has been in existence prior to 2011.

The FBI does not operate any aircraft at the airport nor is the office space totally dedicated to the operation of FLL, so therefore the lease would generally not qualify for nominal or free rent. The FBI should be paying a non-aeronautical FMV rate. The Transportation Security Administration (TSA) currently pays a Type 1 rate for administrative space that does not directly support FLL. The rate applicable to the space occupied by the FBI Type 2, which is \$126.62 per square foot. Since FBI has a 317 square feet office, the applicable monthly payment would be \$3,345.00. Occasionally, airports provide office space to Federal government agencies at no cost

or at a nominal rent if the activities they undertake complement or support aeronautical operations.<sup>2</sup> However, based on the information provided, we are unable to determine if the activities of the FBI fully complements and/or support the aeronautical operations at FLL.

**Follow-up:** The FAA requests the Department to clearly define the FBI's activities at FLL and provide an opinion as to whether the activities support or complement aeronautical operations at FLL. Once we receive this information, we can fully evaluate the lease for compliance with federal obligations.

**Conclusion:** The FAA is satisfied with the response by Broward County Aviation department on the role of the FBI at the airport and the finding is considered closed.



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<sup>2</sup> FAA Airport Compliance Manual – Order 5190.6b, section 7.16 (c)

## **Village Shops Lease – HAUL Associates**

On May 15, 1984, North Perry Airport entered into a long term agreement with HAUL Associates to lease 9.47 acres (412,651 square feet) of commercial space at an annual rate of \$132,700. The space is home to a number of shops that include small deli style eateries, donut shop, cell phone providers, cleaners, a Hooters restaurant and other convenient shops. The terms of the lease state the amount shall be adjusted every year beginning at the end of the fifth year following the commencement of the lease, based upon a reappraisal of the property. The increase for each five-year period shall not exceed ten percent (10%) of the annual rent paid in the 1984 base year, which means the lease payment can never exceed 132,700 X 10 percent, (\$145,970) over the life of the lease

It is our understanding the airport has been approached by HAUL Associates to modify the original lease agreement. This will provide North Perry Airport an opportunity to adjust the rate and terms of the lease. North Perry Airport management indicated that HAUL is not currently paying FMV rent for use of the property. The airport provided a 2010 appraisal report that showed the value of the property at \$6,650,000. The appraisal report did not provide data on the FMV rent.

**Follow-up:** We recommend the Department obtain an appraisal, determine the FMV rent of the parcel, and charge HAUL Associates an appropriate rate. The FAA should be updated when the lease is modified. In addition, the revised lease agreement should include a Consumer Price Index (CPI) adjustment at least every 5 years and exclude a base year cap.

**Conclusion:** The department has agreed to adjust the agreement at the end of the current lease term or in the event that the opportunity to renew presents itself before the end of the current lease term. Please keep the FAA informed of any future developments on this finding.

## **Marketing and Air Carrier Incentives**

The Department spends \$425K-\$450K per year on marketing/advertising for the Airport. This amount does not include approximately \$150K spent on advertising for new services. The primary focus of marketing is to advertise and promote FLL to the community. In addition, other focuses include marketing of the facilities of the airport, new service and air service competition. The airport is in a unique situation and must advertise aggressively because they face stiff competition from Miami and West Palm Beach International Airports.

FLL and the Ft. Lauderdale Convention and Visitors Bureau (CVB) use the same marketing firm Starmark USA. The Department pays Starmark USA on an “as needed” basis. The only time the Department and the CVB engage in joint marketing is when the Department takes out a full page advertisement in the CVB’s annual vacation guide. The advertising is strictly airport related. In addition, the Department does not:

- Participate or pay for the tourism marketing activities of the CVB,
- Participate in any familiarization tours of the regional area,
- Participate in any cooperative advertising agreements with the CVB,

- Participate in any cooperative advertising agreements with carriers for existing service, or
- Use airport revenue for regional or destination marketing.

The Department currently offers two incentives to British Airways and Norwegian for new routes. All carriers at FLL were offered the same incentive. The incentive is strictly for marketing and advertising of the new service.

**Follow-up:** None. The FAA found no irregularities with the Department's marketing and incentive program; however, the Department must continue to ensure its marketing conforms with the Revenue Use Policy.

### **Broward County Sheriff's Office**

The Department procures police services from the Broward County Sheriff's Office under a contract since 1996. Contrary to the terms of the contract, the Department is directly billed for police services provided to the Airport. The original contract stipulated that police services will be paid on the basis of budgeted amounts. However, beginning October 1, 2008, the Sheriff Office agreed to provide the Department with detailed invoices of the services provided based on actual costs. The Department reviews these costs by verifying the charges to time cards and other supporting documentation.

The Sheriff's Office does not charge the Department for several types of services including K-9, bomb squad, counter-terrorism, crime lab, gang unit and others. There are three shifts at FLL with at least 30 detail officers assigned. Officers assigned to FLL do not perform off airport runs.

### **Very Important People (VIPs)**

The airport provides special security details for VIPs, which may include celebrities or dignitaries, on as needed basis. However, once they depart the FLL facilities, the airport does not provide further security assistance.

### **Training**

Police officers train at an empty tenant building and many exercising drills are conducted in the terminal.

### **Parking Tickets**

FLL parking tickets are issued by the Sheriff's Office whose wages are paid by the airport. The revenues collected from those tickets are returned to the Department.

### **Overtime**

The Sheriff's Office indicated that overtime was minimal due to the daily 12 hour shifts.

**Follow-up:** We recommend the Department amend the current agreement to state that the Sheriff's Office must provide detailed invoices of services provided based on actual costs. At present, the Sheriff's Office is not contractually obligated to provide detailed invoices based on actual costs. The revised agreement should include language that indicates all ARFF billings must show actual costs.

**Conclusion:** Broward County Aviation Department (BCAD/Department) agrees to memorialize its current processes in an agreement for LEO services at the next opportunity. Please keep the FAA informed of any future developments on this finding.

### **Aircraft Rescue and Firefighting (ARFF)**

The ARFF contract is similar to the police service contract, mainly because the police and fire services are combined under the Broward County Sheriff's Office. In the past, the Sheriff's Office submitted budgeted amounts to the Department for payment. The Sheriff's Office now provides detailed invoices of the services provided, based on actual costs. The Department reviews these costs by verifying the charges to time cards and other supporting documentation. This practice ensures the hours charged are accurate and that ARFF personnel actually worked at the airport

FLL has one fire station, five ARFF trucks, fifty-one (51) budgeted positions and between nine and thirteen staff are assigned per shift. ARFF staffing is by bid, under agreement with the union.

**Follow-up:** We recommend the Department amend the current agreement to stipulate that the Sheriff's Office must provide detailed invoices of services provided based on actual costs. Presently, the Sheriff's Office is not contractually obligated to provide detailed invoices based on actual costs. The revised agreement should include language that indicates all ARFF billings must provide actual costs.

**Conclusion:** The Department agrees to memorialize its current processes in an agreement for ARFF services at the next opportunity. Please keep the FAA informed of any future developments on this finding.

### **Direct Bill Attorney Fees**

The County Attorney has assigned four attorneys and three paralegal support staff to the Department on a permanent basis. The attorneys address legal issues within the Department. One attorney is specifically dedicated to the noise program. In addition, other County attorneys perform work for the Department, but perform this work from the downtown offices. The County Attorney bills the Department for these services on a quarterly basis. The County Attorney sends the Department an itemized billing that accounts for all the time billed to the Department. The billing rates vary from \$135-\$142 per hour based on the seniority of the attorney. The rate includes overhead and fringe costs and is calculated at the beginning of each year. The County Cost Allocation Plan does allocate some attorney costs to the Department.



**Follow-up:** None. The FAA found no irregularities with attorney costs.

## **Art in Public Places**

The Department is part of the Broward County Cultural Division (Cultural Division), which manages public art for the County. The Department has the largest share of the Broward County collection. The Department pays for the art and owns it. The collection consists of framed, movable and fixed art, sounds in the baggage area, sculptures, and functionally integrated art such as terrazzo floors with starfish and other sea life. The Cultural Division appraises all art every five years.

The airport generally follows the policies and procedures set forth by County Ordinance Part V-Public Art and Design Program (Broward County Administrative Code 33.40-33.47) . The Department requires a 2% upfront payment of construction costs from other entities within the cultural division; however, this does not apply to the Department. The Department has the discretion and flexibility over the 2% rule and can always spend less.

The Department pays for one art manager, which is exclusively dedicated to the Department. In addition, the Cost Allocation Plan does allocate some costs to the Department for other County staff that work on projects specific to the Department. Details of the work performed and time sheets should be provided to the Department to support the Plan.

The Department has only disposed of two pieces of art. When this occurs the Department first offers the artist the piece back at no cost. If the artist is no longer living or does not want it back, the piece is appraised and sold based on the FMV. If the appraisal determines the value is zero, then the piece is disposed of.

**Follow-up:** The Department should revise their policy on disposals to include language the Department must receive FMV from the artist if the piece is returned. If an appraisal determines the piece has no value, then the piece may be returned to the artist at no cost or disposed of.

**Conclusion:** The FAA is satisfied with the existing process at the department and this finding is considered closed.

## **Noise Remediation Program**

The Department offers sound insulation for a residential property within the 65 DNL contour under its Noise Remediation Program. The program covers doors, windows, and air conditioners. In addition, the program offers sales assistance to residents having problems selling their properties. If the sales price is not within at least 25% of the FMV, the Department makes up the difference.

This program was created to settle noise lawsuits, which allowed the expanded runway program to move forward. It is our understanding that the FAA Orlando Airports District Office and the

Southern Regional Airports Office reviewed and concurred with the program, and also monitors compliance.

**Follow-up:** None at Headquarters level. The Orlando Airports District and the Southern Regional Airports Office continue to monitor the program to ensure expenditures comply with the settlement agreements.

## **Review of the Full Cost Allocation Plan for Fiscal Year 2016**

The allocation of indirect costs is allowable under 49 United States Code (USC) § 47107(b) without any requirement for a particular method of cost allocation, including the Office of Management and Budget (OMB) Circular A-87.<sup>3</sup> The *FAA Policy and Procedures Concerning the Use of Airport Revenue* (64 Federal Register (FR) 7696, February 16, 1999) (Revenue Use Policy) requires that costs allocated must be eligible for expenditure of airport revenue under section Title 49 USC 47107(b). Additionally, cost allocation plans must be consistent with Attachment A of the OMB Circular A-87 which sets forth the general principles for developing cost allocation plans. Our review centered on Broward County's full cost allocation plan (CAP) based on actual expenditures for FY 2013. These full cost indirect cost allocations are used for budgetary purposes to determine indirect costs to be charged in FY 2016. The allocated costs must be reconciled in FY 2016 to actual expenditures provided by the FY 2016 comprehensive annual financial report.

The scope of the review was to determine that indirect costs allocated to the Aviation Fund are equitable to all departments of the sponsor, and the airport is not receiving a disproportionate share of the administrative central service costs. Our review found the following issues and findings with the CAP which is compartmentalized by central service departments:

### **County Auditor**

The services provided by the County Auditor are being allocated based on an allocation base of full time equivalent positions (FTE). We recommend the Department use an allocation base of County Auditor hours spent per division that reflects the department's level of effort to provide services to their users; other allocation basis that could be used are actual payouts or Modified Total Direct Costs (MTDC). BCAD has concurred and going forward will change the allocation matrix to departmental expenditures. Finding resolved.

### **Office of Management and Budget**

The costs of the Office of Management and Budget department are allocated using an allocation base of full time equivalent positions (FTE) for the Leave Payouts section. The costs of the department should be allocated using an allocation base that represents the level of effort provided to benefitting users. Allocations should be based on actual payouts or MTDC. BCAD will use actual leave payouts in the next fiscal year cycle. Finding resolved.

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<sup>3</sup> Superseded by 2 Code of Federal Regulations (CFR) Chapter I, Chapter II, Part 200, et al., December 26, 2013.

## **Public & Governmental Relations**

Generally, lobbying activities are disallowed from allocation to grant programs by 2 CFR § 200.450. The Revenue Use Policy at Section A.5, permits the costs of lobbying and attorney fees to be funded with airport revenue to the extent these fees are for services in support of any activity or project on the airport. We request the costs of the Public & Governmental Relations Department be removed from the cost allocation plan's central service costs or allocated based on direct charges to departments benefitting from the services provided. These costs may be billed directly to the Aviation Fund when incurred. BCAD has concurred. Finding resolved.

## **Equal Opportunity Employment**

The Equal Opportunity Employment department was credited for a direct bill of \$84,551 in the CAP. This direct billed credit has been carried over from prior years. Per the sponsor, this might be a credit for State and Federal lobbying contracts and was credited in the wrong department. Sponsor has advised the correction will be made. BCAD provided the credit was in the wrong section of the cost allocation plan and will not affect the indirect cost calculation. Finding resolved.

## **Finance and Administrative Services**

The incoming costs to the central service department, Finance and Administrative Services are disproportionate to the department's functional activity of Property Insurance. Incoming costs should be equitably allocated to the functional activities in the department based on the level of effort required to provide services to users of departmental services. BCAD has concurred to change allocation matrix to total salaries in subsequent periods. Finding resolved.

## **Accounting**

The Accounting Department has a functional activity for the costs of the external audit and allocates those services based on FTEs. Yet, revenue and expenditure transaction counts are used to allocate the costs of CAFR preparation functional activity. The sponsor should change the allocation basis to revenue and expenditure transaction counts. BCAD has concurred and going forward will change the allocation matrix to departmental expenditures. Finding resolved.

## **Facilities Management**

The Facilities Management department has a line item expenditure for Contractual Services – Libraries Reimbursement. These costs are being allocated to other functional activities within Facilities Management based on a percentage of departmental salaries. The line item expenditure for Contractual Services – Libraries Reimbursement should be directed only to the functional activity of Libraries – FAC & Main. This issue does not impact the Aviation Fund directly. However, we feel that the current methodology being used to allocate central service costs can be manipulated to target sponsor departments and funds. This issue can impact other central service departmental costs being allocated to the Aviation Fund indirectly. BCAD has concurred and will remove the Contractual Services line item. Finding resolved.

**Conclusion:** The FAA is satisfied with the responses from the Broward County Aviation Department concerning the cost allocation plan findings and issues. No further action is necessary.



**AVIATION DEPARTMENT - Fort Lauderdale-Hollywood International Airport**  
320 Terminal Drive, Suite 200 • Fort Lauderdale, Florida 33315 • 954-359-6100

June 15, 2022

Mr. Kevin C. Willis, Director Federal Aviation Administration  
Office of Airport Compliance and Management Analysis  
800 Independence Avenue SW  
Washington, DC, 20591

**SUBJECT: Pembroke Pines Master Lease - North Perry Airport**

Dear Mr. Willis:

Regarding the pending City of Pembroke Pines (City) leases at North Perry Airport (HWO), thank you for allowing Broward County ("County"), through the Broward County Aviation Department ("BCAD"), the opportunity to respond to the concerns raised by the Office of Airport Compliance and Management Analysis in its Draft Financial Compliance Report ("Compliance Review"). I am appreciative that your office has indicated its general satisfaction with BCAD's response to the issues raised in the Compliance Review, save the final disposition/resolution on the lease of several parcels of property to the City of Pembroke Pines (City). The following explains BCAD's intent related to the lease of property to the City, which hopefully will meet with approval from the FAA.

As previously indicated, the County has had a lease arrangement with the City since the 1960's. In 1983, the County, following negotiations with elected and government officials including a U.S. Congressman and FAA officials, entered in a long term lease with the City which permitted rental payments to be paid by in-kind services based upon crash/fire/rescue service provided by City. The lease arrangement permitting payment by the use of in-kind City fire station personnel services has been utilized in substantially the same form since it was approved by the FAA in 1983.

Moving forward, the County proposes to enter into a community purpose lease with the City for an interim compatible recreational use and include therein the following parcels and facilities:

- Paul J. Maxwell Park (Maxwell Park) is located on 322,000 square feet of land (along 72nd Avenue), and
- The Community Center which is comprised of 302,450 square feet of land and Community Center Annex that contains an additional 232,300 square feet of land (both on the north side of the airport along Pines Blvd).

The parcels will not be needed for any aeronautical purpose during the next ten (10) years, do not produce, nor is there a near-term prospect for the properties to produce, aeronautical or other airport revenue. The Pines Community Center and Annex properties have no access to the airfield and have no aeronautical use for airport operations. Maxwell Park has limited access to the airfield and is not needed for aeronautical purposes during the next ten (10) years. This proposed use is compatible with the airport and enhances public acceptance of the airport in the surrounding community without - impacting airport operations. The recreational facilities were constructed in the 1960s and have served as the primary recreational facilities for residents of the eastern quadrant of the City, preserving and heightening positive community relations in support of the airport.

The lease will be for the community use of airport land at no rental cost to the City for a term of ten (10) years. The County will not be responsible for any costs associated with the recreational purpose and the lease will contain a requirement that City shall, at all times, assume the entire responsibility, and shall relieve County from all responsibility, for all repair and maintenance whatsoever of the Premises, including, without limitation, all buildings and Improvements thereon, whether the repair or maintenance is ordinary or extraordinary, structural, or otherwise.

With respect to the parcel encompassing Fire Station 33, the City originally indicated - after much discussion - their intent to satisfy an "in-kind" lease/rent requirement by agreeing to staff the station with an airport-dedicated fire-fighter, 24 hours/day, 7 days/week. After further review and careful consideration, the City has elected to change the resolution by entering into a fair market value lease with the County without the *24n* fire-fighter staffing requirement.

Therefore, in response to the desired change by the City, the County proposes to enter into a ten (10) year lease with the City for Fire Station 33, which is located on 90,000 square feet of non-aeronautical land. The fair market value of the fire station property will be based on the appraised value of land and building. According to the latest appraisal dated May 14, 2021, the fair market value of land and building for Fire Station 33 is \$1,839,000. Commercial lease capitalization rates in Pembroke Pines generally fall between 6% - 7%.<sup>1</sup> Thus, Fire Station 33 would command approximately \$110,340 to \$128,730 in rent annually on the open market. Prior to the onset of the fifth (5th) year of the lease agreement, the County will appraise Fire Station 33 property to establish the fair market value rent of land and building. Fair market value rent will be adjusted to conform to the fifth (5th) lease year appraisal. Any renewal of the lease would be subject to FAA review and approval.

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<sup>1</sup> 1 The County Administrative Code (Code) establishes a minimum capitalization rate of 8% amounting to approximately \$147,120 annually; however, the Board of County Commissioners (Board) has the authority to waive this requirement and recognize capitalization rates in line with market conditions.

In summary, the County desires to enter into two separate ten (10) year lease agreements that separate the recreational use properties from Fire Station 33. The recreational lease will be limited to a ten (10) year term and the Fire Station lease will contain a renewal option period subject to FAA review and approval.

Please advise if the above referenced proposal satisfactorily addresses the concerns stemming from the Compliance Review, and whether we may move forward with the appropriate lease arrangements with the City. As always, please do not hesitate to contact me at 954-359-6214 should you have any additional comments, concerns or questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Gale", with a long horizontal flourish extending to the right.

Mark E. Gale, A.A.E.  
CEO/Director of Aviation

MEG/MN/ml

C: Michael Nonnemacher, Aviation Chief Operating Officer  
Nina Macpherson, Airport Manager, HWO  
Sharon Thorsen, Senior Assistant County Attorney