



# HAECO LAKE CITY LEASE PRESENTATION

January 17, 2023

ON BEHALF OF HAECO  
AIRFRAME SERVICES, LLC

## Airport's Obligations under the Federal Grant Assurances

As a condition to receiving federal grant money from the Airport Improvement Program ("AIP"), an Airport Sponsor, the City in this case, agrees to follow 39 Grant Assurances ("Federal Grant Assurances").

The City as the owner and operator of the Lake City Gateway Airport ("Airport") is required to comply with the Federal Grant Assurances for having received AIP grants.

## Consideration of the HAECO Lease Implicates Grant Assurances 24 and 25

### GRANT ASSURANCE 24 (FEE AND RENTAL STRUCTURE)

- Obligates the Airport to charge fair and reasonable rates that make the airport as self-sustaining as possible.

### GRANT ASSURANCE 25 (AIRPORT REVENUES)

- Imposes a requirement that all revenue derived from the Airport be used for the capital and operating costs of the Airport.

## Grant Assurance 24

Grant Assurance 24 (Fee and Rental Structure) provides that that the Airport Sponsor must:

“. . . [M]aintain a fee and rental structure for the facilities and services at the airport which ***will make the airport as self-sustaining as possible under the circumstances existing at the particular airport***, taking into account such factors as the volume of traffic and economy of collection.” (emphasis added)

## Grant Assurance 24 Does Not Require the Airport to Charge “Fair Market Value” for the Lease to HAECO

- “Under 49 U.S.C. § 47107(a)(1) and the implementing grant assurance, charges to aeronautical users must be reasonable and not unjustly discriminatory. Because of the limiting effect of the reasonableness requirement, ***the FAA does not consider the self-sustaining requirement to require airport sponsors to charge fair market rates to aeronautical users.***” 64 FR at 7720-7721 (emphasis added)
- “Grant Assurance 24 does not require the sponsor to establish a fee and rental structure designed to maximize the Airport's profit potential.” Sun Valley Aviation, Inc. v. Valley International Airport, City of Harlingen, FAA Docket No. 16-10-02 at 165

## What Does “Self Sustaining as Possible” Mean?

- “The purpose of the self-sustaining rule is to maintain the utility of the federal investment in the airport.” FAA Order 5190.6B, Change 1 at p. 17-2.
- “. . . [S]elf-sustainability pivots on numerous variables such as the size of the airport, market conditions, and general economic factors such as demand.” Sun Valley Aviation, Inc. v. Valley International Airport, City of Harlingen, FAA Docket No. 16-10-02 at p. 166.
- The FAA recognizes that “[A]t some airports, market conditions may not permit a sponsor to establish fees that are sufficiently high to recover aeronautical costs and sufficiently low to attract and retain commercial aeronautical services.” FAA Order 5190.6B, Change 1 at p. 17-2

## What does “Self Sustaining as Possible” Mean? (Con’t)

- “The FAA has generally interpreted the self-sustaining assurance to require airport sponsors to charge FMV commercial rates for nonaeronautical uses of airport property. However, in the case of aeronautical uses, user charges are also subject to the standard of reasonableness. In applying the two standards together for aeronautical property, the FAA has considered ***it acceptable for an airport operator to charge fees to aeronautical users that are less than FMV, but more than nominal charges.***” 64 FR 30 at 7710 (Emphasis Added)
- HAECO’s use of the premises is considered an “aeronautical use” and thus does not require that FMV be charged for the lease.

## The Airport is Self-Sustaining

- The Airport's annual budget is approximately \$1.6 Million (Airport Fund) and \$1.35 Million (Airport Construction Fund).
- Revenue from HAECO's Lease and HAECO's funding of the Airport Tower is a substantial portion of the Airport's Operating Budget.
- The Airport Fund appears to be balanced and carries a small surplus in normal operating years.



## GRANT ASSURANCE 25

- Grant Assurance 25 (Airport Revenues) provides, in relevant part:  
All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport.
- Simply stated, revenue generated by the HAECO lease must be used for the operation of the Airport

# There is Risk to the City if the Airport Accumulates a Significant Surplus

- “[T]he progressive accumulation of substantial amounts of surplus aeronautical revenue could warrant an FAA inquiry into whether the aeronautical fees are consistent with the sponsor’s obligation to make the airport available on fair and reasonable terms.” FAA Order 5190.6B, Change 1 at p. 17-3).
- A violation of the Federal Grant Assurances could be uncovered by the FAA in its routine oversight or a complaint through either the Part 13 (Informal Process) or Part 16 (Formal Process). Anyone who is aware of or suspects a violation can bring a complaint. FAA Order 5190.6B, Change 1 at pp. 2-5 and 5-2.
- An FAA inquiry could involve investigation and surveillance. FAA Order 5190.6B, Change 1, Section 2.5(b).
- If the FAA were to determine that the Airport was not being made available on fair and reasonable terms it could suspend federal funding to the Airport. See FAA Order 5190.6B, Change 1, Section 2.9(c).

# Comparison of LCQ to VQQ is Not Appropriate

	LCQ	VQQ
<b>Operator</b>	Lake City	Jacksonville Airport Authority (JAA)
<b>Number of Operations</b>	28,714	104,361 (more than ½ military)
<b>Based Civilian Aircraft</b>	33 (26 single engine, 2 multi-engine, 2 jet, 3 helicopter)	15 (12 single engine, 1 multi-engine, 1 jet, 1 helicopter)
<b>Based Military Aircraft</b>	0	69
<b>Landing Fees Charged</b>	NO	YES
<b>Proximity to Jacksonville</b>	57 Miles	14 Miles
<b>Number of Runways</b>	2 Runways	4 Active Runways
<b>Based Businesses</b>	FBO, Florida Forest Service, Florida Fish and Wildlife Conservation Commission, and HAECO	2 FBO, Spaceport, Boeing's MRO, Coast Guard, CBP, FL National Guard, and Jacksonville fire/rescue
<b>Responsibility for Capital Improvements</b>	Tenant	JAA is building a \$136.5 Million Facility for Boeing; JAA built a \$27 Million Hangar (935) for FlightStar Aircraft Services ("FlightStar") in 2012 and in 2004, JAA committed to \$7.385 Million in capital improvements to another FlightStar Hangar (815)
<b>Number of Employees</b>	6	14
<b>Annual Budget</b>	Approx. \$1.6 Million	We estimate this to be Approx. \$2.3 Million. JAA doesn't separate operating budget by Airport. So we can't identify what portion of the \$84 Million is allocated to VQQ
<b>Annual Capital Budget</b>	Approx. \$1.5 Million	Approx. \$161.7 Million

## CONCLUSION

- There is nothing within the Federal Grant Assurances that requires the Airport to charge HAECO “fair market value”.
- The FAA recognizes and acknowledges that it is simply not possible for most airports to be self-sustaining.
- The Airport has a balanced budget. Therefore, a significant increase to HAECO’s Lease could result in an inappropriate accumulation surplus and trigger claims that the Airport is not being operated on fair and reasonable terms.
- A sudden increase in the Airport’s surplus could cause the FAA to evaluate whether AIP Grant funding is appropriate going forward.

**ANY QUESTIONS? I’LL BE INATTENDANCE AT THE PUBLIC MEETING**

# Alison L. Squiccimarro, Esq.

- Attorney Squiccimarro represents airport tenants including fixed base operators (FBOs) and users in negotiating leases as well as litigating and resolving disputes at airports nationwide. Alison's litigation experience and knowledge of the obligations of airport sponsors at federally obligated airports provides her with the skills necessary to successfully represent FBOs and other airport tenants in disputes arising out of their leases.
- Attorney Squiccimarro serves on the Governing Committee of the American Bar Association's Forum on Air and Space Law and also Co-Chairs the Forum's Airport Committee
- Attorney Squiccimarro is a frequent contributor to the Airport Business Magazine on Airport Related Matters. See e.g.: [https://www.nxtbook.com/endeavor/airportbusiness/july-august\\_2021/index.php?startid=12#/p/12](https://www.nxtbook.com/endeavor/airportbusiness/july-august_2021/index.php?startid=12#/p/12)
- Attorney Squiccimarro's complete biography, list of published works, and speaking engagements is available at <https://www.lopal.com/person/alison-l-squiccimarro/>



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