

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

MARINA AVIATION, LLC,

COMPLAINANT,

v.

CITY OF MARINA, CALIFORNIA,

RESPONDENT.



FAA Docket No. 16-21-12

FINAL AGENCY DECISION

I. INTRODUCTION

This matter is before the Federal Aviation Administration's (FAA) Associate Administrator for Airports on an Appeal filed by Marina Aviation, LLC (Marina or Appellant) on November 26, 2021. Marina challenges the Director's Order Granting Summary Judgment and Dismissal issued on October 27, 2021 that rejected Marina's claims and dismissed the complaint against the City of Marina (City or Appellee), sponsor of the Marina Municipal Airport. The complaint had claimed that the City was in violation of Grant Assurance 22, *Economic Nondiscrimination*, Grant Assurance 23, *Exclusive Rights*, and Grant Assurance 29, *Airport Layout Plan*.

On Appeal, Marina argues that the City did not provide substantial evidence to support the Motion to Dismiss and that the Director did not make correct inferences in favor of Marina. (FAA Exhibit 2, Item 2, p. 2 at 5-8). Marina states "The Director's decision should be reversed and discovery opened to allow for the truth to be revealed, and not covered up by defense counsel's claims and arguments without any competent, admissible and relevant evidence." (FAA Exhibit 2, Item 2, pp. 4-5 at 24-25, 1-2).

In response, the City claims that the Director's Order should be upheld and states "The Director's findings of fact are supported by a preponderance of reliable, probative, and substantial evidence viewed in light most favorable to Marina Aviation. See 14 Code of Federal Regulations (CFR) § 16.33(e). Such evidence is the Declaration of Airport Services Manager Jeffrey Crechriou, and all the documents and exhibits submitted in support of the City's motion." (FAA Exhibit 2, Item 3, p. 2 at 4-8).

The Associate Administrator re-examined the record, including the Director's Order, the administrative record, and the pleadings, and affirms the Director's Order.

II. SUMMARY OF THE DIRECTOR'S ORDER

The Director analyzed the Complaint and Motion for Summary Judgment and Dismissal from the perspective of Grant Assurance compliance and as provided in 14 CFR § 16.26 and issued the Order on October 27, 2021. The Director analyzed two issues including:

Issue 1: Whether the City is in violation of Grant Assurance 22, *Economic Nondiscrimination* by not granting a lease extension to Marina (FAA Exhibit 2, Item 1 p. 6).

The Director determined that a sponsor has the right to not renew or extend a lease if the tenant has been found in default of the lease. The Director referenced previous determinations where "A sponsor is under no obligation to continue a business relationship with a tenant if the tenant is not meeting its obligations under the terms of a lease agreement. Not adhering to minimum standards or not paying rent are reasonable bases for a finding of default. A material breach may be a valid basis for removing an airport tenant without violating the grant assurances. (See *Rick Aviation, Inc., v. Peninsula Airport Commission*, FAA Docket No. 16-05-18, (Final Decision and Order) page 21 (November 6, 2007))." The Director found that this logic can be applied to support a decision to not offer a lease extension. (FAA Exhibit 2, Item 1, p. 8).

The Director's decision was based on the City's "difficulties collecting rent payments owing over a multi-year period." (FAA Exhibit 2, Item 1, p. 7). The Director found that this was justification for not extending the lease. As a result, the Director found "under Issue 1 that the Complaint, when viewed in a light most favorable to Marina, should be summarily adjudicated in the City's favor as a matter of law." (FAA Exhibit 2, Item 1, p. 8).

Issue 2: Whether the City is in violation of Grant Assurance 23, *Exclusive Rights*, by not offering a lease extension to Marina. (FAA Exhibit 2, Item 1, p. 8).

The Director considered whether Marina's claims that the City's delays and decisions not to extend its ground lease while extending other leases would amount to a violation of Grant Assurance 23, *Exclusive Rights* (FAA Exhibit 2, Item 1, p. 8). The Director found no evidence to support this claim but reiterated that Marina did not pay its rent in a timely manner, which is the cause for not extending the lease. In addition the Director stated, "The Complainant made no showing that the City's denial of the lease extension had any basis in protecting another tenant on the Airport." (FAA Exhibit 2, Item 1, p. 9).

The Director also found that "an airport sponsor that denies a lease extension for failure to pay rent is not granting a prohibited exclusive right and does not violate Grant Assurance 23. Instead, to require all other tenants to pay timely and not expect the same from Marina Aviation would be to grant an exclusive right to Marina to the disadvantage of other tenants." The Director determined that the "the City is well within its rights to decline to renegotiate a lease extension with a tenant in default." (FAA Exhibit 2, Item 1, p. 9).

The Director references a ledger by the City detailing the late payments and money owed by Marina as supporting the City's decision to not extend the ground lease. (FAA Exhibit 2, Item 1, p. 9). Finally, Marina's allegation of a potential violation of Grant Assurance 29 was not analyzed by the Director because there was no "information or evidence to allow the Director to review this allegation," and that "Marina Aviation has not provided any evidence that the City is in violation of its ALP [Airport Layout Plan] obligations other than to allege that enforcement of the Resolution is somehow connected to the ALP. (FAA Exhibit 2 Item 1, p. 9).

III. PARTIES

A. The Airport

The Marina Municipal Airport is a public use airport with approximately 32 based aircraft and averages 115 operations per day. (FAA Exhibit 2, Item 6).

The development of the airport was financed, in part, with FAA Airport Improvement Program (AIP) funding, authorized by the Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. § 47101, et seq. The AIP provides grants to public agencies for the planning and development of public-use airports that are included in the National Plan of Integrated Airport Systems (NPIAS). As a condition of receiving Federal funding, the City must comply with the FAA Sponsor grant assurances and related Federal law. The Grant Assurances are mandated by statute and are part of the terms of the Grant Agreement. The City of Marina has been the recipient of approximately \$8,709,516.00 since 1992.

B. The Complainant

Marina Aviation states that it is a California limited liability company in good standing, based at 621 Capitola Ave, Capitola, California. Marina Aviation is the assignee of the lease made between the Marina Airport/City of Marina and Merriner, Inc. Marina Aviation has been a commercial lessee/tenant of the Marina Airport since 2001. Under its previous lease, Marina Aviation leased an area approximately .39 acres on which the company had constructed and rented hangars to aircraft owners and operators at the Marina Airport. (FAA Exhibit 1, Item 1, p. 1).

Marina appealed the Director's Order Granting the Motion for Summary Judgment and Dismissal.

IV. PROCEDURAL HISTORY

1. On August 30, 2021, Marina filed a Complaint under 14 CFR Part 16. (FAA Exhibit 1, Item 1).
2. On September 3, 2021 the FAA docketed the Complaint as Docket 16-21-12. (FAA Exhibit 1, Item 2).
3. On September 23, 2021, the City of Marina filed a Motion to Dismiss and/or for Summary Judgment, including Declaration of Jeffrey Crechriou. (FAA Exhibit 1, Item 3).

4. On October 4, 2021, Marina filed Opposition Papers to the City's Motion to Dismiss and/or Summary Judgment. (FAA Exhibit 1, Item 4).
5. On October 27, 2021, the Director issued its Order Granting the Summary Judgment and Dismissal of the complaint in favor of the City. (FAA Exhibit 2, Item 1).
6. On November 26, 2021 Marina filed an Appeal to the Director's Order. (FAA Exhibit 2, Item 2).
7. On December 16, 2021, the City filed its Reply to the Appeal. (FAA Exhibit 2, Item 3).
8. On December 24, 2021, Marina filed a Response Brief to the Reply to the Appeal. (FAA Exhibit 2, Item 4).
9. On December 27, 2021, the City filed an Objection to the Response Brief to the Reply. (FAA Exhibit 2, Item 5).

V. BACKGROUND

May 22, 1996	The City of Marina entered into a 25-year ground lease with Merriner Inc., for the use of the property and construction of hangars at the Airport. Between 1996 and 1998, 16 full hangar units and 2 half hangar units were constructed under the terms of this agreement. (FAA Exhibit 1, Item 1, p. 11 at 13-15 and Exhibit 1).
August 4, 1998	The parties agreed to the first amendment to the ground lease. (FAA Exhibit 1, Item 1, p. 11 at 16-18 and Item 1, Exhibit 2).
March 28, 2001	The parties signed the second amendment to the ground lease, which assigned the ground lease to Marina Aviation, LLC. (FAA Exhibit 1, Item 1, p. 11 at 19-22 and Item 1, Exhibit 3).
2001 and 2002	Marina constructed the additional 6 hangar units. (FAA Exhibit 1, Item 3, p. 6 at 15).
September 24, 2002	The City passed Resolution 202-157. The Resolution stated that the City would follow a policy of considering proposals for hangar development in good faith and consider ground lease terms of 35 to 40 years for new hangar development depending on the value of the development. (FAA Exhibit 1, Item 1, p. 11 at 23-28 and Item 1, Exhibit 4).

- 2014 The City conducted a review of its tenants' leases and determined that Marina had not paid all of its necessary payments in accordance with the lease. (FAA Exhibit 1, Item 3, p. 6 at 26-28).
- 2015 The City and Marina entered into a repayment agreement to pay back the amount owed to the City through additional monthly payments of \$200 that would continue to the end of the lease term. (FAA Exhibit 1, Item 3, p. 7 at 3-7 and Item 3, Exhibit 4).
- December 5, 2017 The Airport Service Manager (ASM) sent a letter to Marina requesting its proposal for the lease extension. (FAA Exhibit 1, Item 1, p. 3 at 13-14).
- December 10, 2017 Marina sent a proposal to the ASM for the sale of the Marina hangars to the City of Marina. (FAA Exhibit 1, Item 1, p. 3 at 16-17).
- November 11, 2019 Marina sent a letter to the City requesting a lease extension similar to the Selby extension to May 2028. (FAA Exhibit 1, Item 1, p. 4, at 9-10).
- July 21, 2020 The City Council, in a closed session, considered the lease extension request. (FAA Exhibit 1, Item 3, p. 7 at 20-22).
- August 14, 2020 The ASM notified Marina that the City decided not to extend the lease. (FAA Exhibit 1, Item 3, p. 7 at 24-26).
- December 2020 & January 2021 The City requested the list of tenants renting space within the hangars under Marina's ground lease. (FAA Exhibit 1, Item 3, p. 8 at 1-4).
- May 21, 2021 The ground lease expired. (FAA Exhibit 1, Item 3, Exhibit 8, p. 1).
- June 4, 2021 The City again requested the list of tenants from Marina. (FAA Exhibit 1, Item 3, Exhibit 8, p. 1).
- June and July 2021 Marina continued to collect rent from its hangar tenants. (FAA Exhibit 1, Item 3, Exhibit 9).
- July 26, 2021 The ASM sent a letter to the tenants of the hangars providing notification that Marina no longer owned the hangars. (FAA Exhibit 1, Item 3, Exhibit 10).

VI. THE APPEALS PROCESS

A party adversely affected by the Director's Determination (DD) may, in cases such as this, file an appeal with the Associate Administrator within 30 days after the date of service of the initial determination [14 CFR § 16.33(c)]. The review is limited to an examination of the DD and the administrative record upon which such determination was based. The Associate Administrator does not consider new allegations or issues on appeal unless finding good cause as to why the new issue or evidence was not presented to the Director [14 CFR § 16.33(f)]. On appeal, the Associate Administrator will consider (1) whether the findings of fact are supported by a preponderance of reliable, probative, and substantial evidence contained in the record; (2) whether the conclusions were made in accordance with law, precedent, and policy; (3) whether there are questions on appeal that are substantial; and (4) whether any prejudicial errors occurred. [14 CFR § 16.33(e)]

VII. ISSUE

The Associate Administrator identified the following issue to be reviewed on Appeal:

Issue 1 - Whether the Director erred in finding the City not in violation of Grant Assurance 22, *Economic Nondiscrimination* and Grant Assurance 23, *Exclusive Rights* when the City did not extend Marina's lease.

VIII. ANALYSIS

Preliminary Issue – Marina Aviation's Response Brief and the City's Objection

On December 24, 2021 Marina filed a response brief to the City's Reply. The City then filed an objection to Marina's response brief on December 27, 2021, arguing that "no response to the reply to the appeal brief is authorized by 14 Code of Federal Regulations (CFR) § 16.33, and Marina Aviation fails to cite to any authority allowing such a response to be submitted." FAA acknowledges that while the Part 16 regulations do not explicitly allow for a response brief to be filed, they do not explicitly prohibit it either. Regardless, for purposes of this appeal, FAA did not consider the claims and information contained in Marina's response brief filed on December 27, 2021 because the additional pleading did not provide any new arguments or facts that would change the outcome of the decision.

Issue 1 - Whether the Director erred in finding the City not in violation of Grant Assurance 22, *Economic Nondiscrimination* and Grant Assurance 23, *Exclusive Rights* when the City did not extend Marina's lease.

On Appeal, Marina argues that the Director's decision was not based on (1) "admissible, relevant and competent evidence" and (2) that Marina should have received favorable inferences from the Director. (FAA Exhibit 2, Item 2, p. 2). Therefore, the Associate Administrator's analysis of the issue is structured accordingly.

1) Supporting Evidence Argument

a. Marina's Position

Marina claims that the City provided no evidence or explanation for denying its proposal to extend the lease. Marina notes that it requested that the City provide the minutes of the City Council's closed meeting held on July 21, 2020 stating "the minutes are necessary evidence that must be considered in the Determination." Marina claims "the best evidence of that decision, or lack of decision, are the Closed Session Minutes of the City Council," but that "the City failed to produce that evidence." Further Marina states that "the City's Motion is not even verified, it is only... argument, and not facts." (FAA Exhibit 2, Item 2, pp. 2-4).

On Appeal, Marina notes that the City sent a letter to Marina stating that it would provide the meeting minutes by November 15, 2021, (FAA Exhibit 2, Item 2, Exhibit 2) but has yet to provide it. Marina reiterates its request for a motion for limited discovery to obtain the City Council's closed meeting minutes and claims that declaration by the Airport Service Manager (ASM) is not valid since the ASM was not present at the City Council's closed session and does not have first-hand knowledge of the reason for not extending the lease. (FAA Exhibit 2, Item 2, p. 4 at 16-20).

b. City's Position

The City states that it does not have an obligation to provide a reason for not renewing the lease because "the Ground Lease had a finite term of 25 years and contained no provision for an extension." (FAA Exhibit 2, Item 3 p. 3 at 16). The City adds that Marina cannot claim ignorance on the reason for not extending the lease since they were aware they owed the City money stating "continuance to the present day of payment terms for back rent due contained in the Repayment Agreement do not support Marina Aviation's claim of ignorance concerning at least one of the reasons for the City's denial of an extension." (FAA Exhibit 2, Item 3, p. 4 at 4-7).

On Appeal, the City states there are no minutes from the closed City Council meeting on July 21, 2020 and if there were it would not be made public in accordance with state law (FAA Exhibit 2, Item 3, p. 4 at 10-16). In response to Marina's reference to the letter from the City Attorney stating it would produce the meeting minutes by November 15, 2021, the City states that it was in response to Marina's "Public Records Act (California Government Code section 6250 et seq.) request and contrary to Marina Aviation's assertion [it] does not promise that such nonexistent minutes would be provided." (FAA Exhibit 2, Item 3 p. 4 at 16-19).¹

¹ The letter issued on October 14, 2021 by the City's attorney regarding Marina's Motion to Conduct Limited Discovery does not, as Marina claims, explicitly state that the meeting minutes would be produced. Rather, the letter states that the City acknowledges it has received the records request and that the City has in its possession "certain requested records" which are "disclosable public records." If Marina's Motion to Conduct Limited Discovery pertained only to the meeting minutes, then Marina's claim that the City had the meeting minutes would be correct, based on the City's response that it had responsive public records. However, this is not the case, as Marina's Motion to Conduct Limited Discovery also requested financial records "pertaining to Marina Aviation LLC" and financial records "reviewed by Mr. Crechriou" in preparation for his declaration. Contrary to Marina's claim, the City's October 14 letter was not a promise to produce the meeting minutes.

The City also argues that the ASM's declaration is valid and it did review specific relevant documents and could testify to it, and that "it was appropriate for the City to submit the declaration of the Airport Services Manager as best evidence." (FAA Exhibit 2, Item 3 p.5 at 1-4).

c. Analysis

Marina's argument on Appeal centers on the lack of evidence presented by the City supporting the reason for denying an extension to the lease. It specifically calls out the meeting minutes from the City Council's closed meeting and the ASM not having a first-hand account of the decision. The ASM is a valid representative of the City as identified by the City itself in its pleadings. There is no indication in the record that the ASM submitted information as part of the City's pleadings in error or independently. Nothing in the record invalidates the ledger prepared by the ASM (FAA Exhibit 1, Item 3, Exhibit 11) demonstrating the chronic late payments, late fees and interest. In addition, the repayment agreement itself provides evidence that Marina had a history of not complying with the terms of the lease. Therefore, the Director did not err in determining that the evidence provided by the City was valid and clear in that it represented cause for the City to not extend the lease.

Although Marina disputes the total amount owed to the City, it suggests it is currently up-to-date on its payments (note it does, however, acknowledge that it withheld payments for a time once notified that the City would not extend the lease). Marina does not refute or provide any evidence of the timing of the rent and late payments. From the record, it is apparent that there was a pattern of non-payments going back to 2014. So, even if Marina challenges the amounts or its current status, the Director did not err in accepting the information in the record concerning Marina's non-compliance with payment provisions in its lease and repayment agreement.

The repayment and lease agreement require Marina to provide payment on or before the first of the month. The Ledger notes the date of payments received and shows that Marina did not pay its rent or repayment on time for the majority of the months. Both the repayment plan and the lease agreement provide for additional fees and interest if the payment is late by more than 10 days. In addition, the repayment agreement specifically states that an invoice or late notice will not be provided by the City. Further the agreement states that the City has the right to take over the hangars and terminate the lease if the payments are not made. (FAA Exhibit 1, Item 3, Exhibits 1, 2, and 4). Marina provides no evidence to show that it made payments on or before the first of the month as required.

Marina hangs its appeal on an inference that the City's action in not producing the nonexistent meeting minutes suggests an alternative discriminatory reason for denying the proposal for the lease extension. However under the applicable federal obligations, the City does not have an obligation to extend an expired ground lease, or as the City argues, "The City was under no obligation to provide a reason to Marina Aviation for why the lease was not extended." It indicated the lease had a finite term of 25 years and contained no provision for an extension. (FAA Exhibit 2, Item 3 p. 3 at 16). In fact, there is no federal obligation requiring the City to extend the lease even if payments had been made on time. Grant Assurance 22 only requires the Airport sponsor provide reasonable access but does not specify that an existing lease must be extended based on the desire of the tenant. Arguments suggesting that valid reasons beyond this are necessary and that lack of such evidence is tantamount to a violation of the applicable Federal obligations is unsupported.

Marina provided no evidence to indicate the City had another reason for not extending its lease, other than to point to the lack of meeting minutes to infer and speculate that there were other

reasons. In a Part 16 Complaint the burden of proof is on the complainant. “In order for the FAA to find a sponsor in violation of its federal obligations under a Part 16 proceeding, not only must the Complainant include sufficient factual evidence to support its allegations, but also establish by a preponderance of substantial and credible evidence that the sponsor has violated its federal obligations. First person accounts of conversations and an abundance of argumentative opinion and criticism do not equate to substantial and credible evidence. In a formal Part 16 complaint, the complainant has the burden of proof to establish the complaint’s allegations by a preponderance of substantial and reliable evidence.” (*BMI Salvage Corporation & Blueside Services, Inc. v. Miami-Dade County, Florida*, FAA Docket No. 16-05-16, (Director’s Determination), page 12 (July 25, 2006)).

The Director made its determination based on the evidence included in the pleadings as permissible by Section 16.29(b)(1) which states “ the FAA may rely entirely on the complaint and the responsive pleadings provided under this subpart.” The Director was correct in not basing its determination or extending the proceedings based on inferences and speculation of evidence that may or may not exist or support an alternative outcome, or inferences and speculation of evidence that are unnecessary to make a determination.

The repayment plan and ledger provide clear and substantial evidence that Marina was not acting in accordance with the agreements. The City has the right to choose not to continue that business relationship based on the poor performance of Marina. Whether there are other reasons for not continuing the business relationship is not evident or relevant to this determination. The City has stated that it reviews the past performance and business status of its tenants before granting an extension as indicated by the ASM in his declaration “Before the City grants extensions to any lease, it confirms the tenant’s corporate status and whether the tenant has complied with the lease terms and is current on rent payments.” (FAA Exhibit 1, Item 3, Declaration of Jeffrey Crechriou, p. 4). Thus, indicating that it treats all tenants in a similar manner based on its actions under previous agreements.

In summary, if the City has the right not to renew the lease or extend it, it certainly can do so if there is evidence of default and it does not need to produce additional justifications. Against this background, the Associate Administrator finds that the Director did not err in making its determination based on the reason presented and the evidence provided in the pleadings.

2. Inference Argument

a. Marina’s Position

Marina claims that the City did enter into the repayment agreement knowing of its suspended LLC status and that now the City is claiming that as a reason for not continuing the business relationship. (FAA Exhibit 2, Item 2, p 6 at 13-15). Further, Marina argues that the Director should have inferred that the City’s actions to enter into a repayment agreement indicated it did not have an issue with Marina’s late payments or suspension of LLC. It states, “Such as the inference that even if MALLC [Marina] was late with recent rent payments (which it denies), the fact that the City entered into a 2014 repayment agreement with MALLC clearly infers that this was not an issue with the City. If it was, the City could have used any 2014 or later missing payments (again denied) to exercise its right to take over ownership of the MALLC hangars. But the City didn’t do so.” (FAA Exhibit 2, Item 2 pp. 5-6 at 26-28 and 1-2). In addition Marina suggests that the City’s inaction against Marina in the past suggests that Marina was in fact not

in default of the lease or repayment agreement. Further, Marina also states that the inferences favored Marina because “the City continually did business with Marina Aviation LLC all during this time knowing full well that the LLC was under suspension by the California Franchise Tax Board (“FTB”). (FAA Exhibit 2, Item 2, p. 6 at 12-14).

b. City’s Position

In Reply to the Appeal, the City states that Marina’s inference “is illogical and far from reasonable. If Marina Aviation’s late payments were not an issue for the City, the City would not have entered into the Repayment Agreement.” (FAA Exhibit 2, Item 3, p. 5 at 26-27). It claims Marina purposely withheld money once it knew the City was not going to extend the lease. It indicates Marina admitted it owed the City money when it signed the repayment agreement and states “Marina Aviation has not offered – because it cannot – any credible evidence that it is current on its rent payments.” (FAA Exhibit 2, Item 3, p 6 at 5-9).

c. Analysis

The City’s prior actions to work with Marina in good faith and provide a repayment plan was met with a continual lack of compliance with the conditions of the agreement and late payments by Marina. The City provides the ledger but Marina does not provide any evidence to refute the lack of timeliness of payments. It only disputes the total amount it owes the City and suggests that it is currently up-to-date on payments. The Director cannot infer that previous actions of the City dictate its future posture in relation to the lease agreement. It is true the City had cause to terminate the lease and the repayment agreement at any time due to the continual late payments and poor performance by Marina. It chose not to terminate Marina’s lease, but exercised its right to not continue the business relationship with Marina once the lease expired.

The Federal obligations do not require the City to accommodate late payments, otherwise forgive previous breaches of lease provisions, provide for structured payments, or take a gentle and forgiving approach in dealing with non-payment situations. The City has the right to choose to negotiate or not negotiate with a tenant based on past performance. The City is under no obligation to go above and beyond the terms of the lease to lessen the financial burden on the tenant. The fact that the City did not terminate the leases for lack of payments, continued the relationship with Marina despite missing payments, or offered a repayment plan does not undermine the City’s ability, under the Federal obligations, to not renew the lease, and terminate its business relationship with Marina. Certainly, Marina’s argument that the terms of a failed repayment agreement in any way implies that the lease somehow is extended to 2054 has no merit at all. It certainly does not under the applicable Federal obligations.

Therefore, the Director correctly granted the Motion for Summary Judgment in favor of the City and did not infer that past acts of the City to work with Marina obligated it to a continue the business relationship in the future. The City’s action to attempt to correct the delinquent behavior and further to accept its suspended status in 2015 does not infer that it would continue the business relationship and extend the lease, particularly if the said behavior continued as demonstrated in the ledger. In summary, the Associate Administrator finds that the Director did not err by not inferring that City’s repayment agreement implied a lease extension would be granted and further that the City’s previous generous acts to work with Marina to address deficiencies would imply that the City would continue its business relationship with Marina.

IX. CONCLUSIONS AND FINDINGS

The Associate Administrator finds the Director based its determination on the evidence, in accordance with law, policy and precedence and without prejudice. The Appeal did not provide a substantial or persuasive argument. The Associate Administrator finds that the Director was correct in accepting the reasoning and evidence provided in the pleadings by the parties. Therefore, the Associate Administrator upholds the Order of Summary Judgment and finds the City not in violation of Grant Assurance 22, *Economic Nondiscrimination* or Grant Assurance 23, *Exclusive Rights*.

ORDER

ACCORDINGLY, it is hereby ORDERED that (1) the Director's Order is affirmed, and (2) the Appeal is dismissed, pursuant to 14 CFR § 16.33.

RIGHT OF APPEAL

The parties are offered the opportunity to appeal the agency's final decision in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the Circuit in which the person resides or has its principal place of business.

A party to this decision disclosing a substantial interest in the final decision and order of the Federal Aviation Administration may file a petition for review pursuant to 49 U.S.C. § 46110, in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the Circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after a Final Decision and Order has been served on the party. [Title 14 CFR § 16.247(a).]

SHANNETTA R GRIFFIN | Digitally signed by SHANNETTA R GRIFFIN
Date: 2022.06.17 15:42:39 -04'00'

Shannetta R. Griffin, P.E.
Associate Administrator for Airports
Federal Aviation Administration

Date