

March 28, 2013

Mr. David E. Goddard
Chair, Santa Monica Airport Commission

RE: Proposed Landing Fees at Santa Monica Airport

Dear Mr. Goddard:

I write on behalf of the National Business Aviation Association (NBAA). As you may know, NBAA represents the interests of more than 9,500 member companies in promoting the interests of business aviation, and has members at and other interests in ensuring the continued accessibility and viability of Santa Monica Airport (SMO).

NBAA understands that at the Phase III Visioning Workshop which will be held on April 1, 2013, one of the agenda items will be the presentation of a study that proposes a 250% increase in the landing fees assessed at SMO, and a recommendation that the increase be adopted by the City Council. Although the full details of the study and recommendation have not yet been made public, NBAA believes that the proposal, if adopted, would be inconsistent with the federal grant assurances that continue to be in effect at SMO – and would likely subject Santa Monica to FAA and/or court proceedings.

As you are probably aware, airports that accept federal grants or federal property (and SMO has done both) are required to retain all revenues earned from activities on the airport – from both aeronautical and non-aeronautical users – for airport purposes; revenue diversion is prohibited. In addition, an airport also cannot accumulate a substantial revenue surplus – the creation of such a surplus is strong evidence that the airport's landing fees are unreasonable and that it is out of compliance with the federal grant assurances. FAA also has indicated that an airport must engage its users before making any significant changes to its landing fees. Not only must users have an adequate opportunity to present their views, and due regard be given to them, but users also must be provided adequate information to evaluate the purported justification for the landing fee changes.

NBAA believes that if the Commission proceeds, it will make a recommendation that – if subsequently adopted by the City Council – (1) would lead to the creation of an impermissible surplus at SMO; (2) potentially would result in impermissible revenue diversion; and (3) would fail to comply with FAA's requirements for pre-adoption public engagement. Any of these three issues, standing alone, we believe would be sufficient to render the proposal non-compliant with the federal grant assurances. *Accordingly, NBAA strongly urges the Commission to take no further action until it shares more information about the study with airport users and other interested parties; obtains their informed feedback; and gives due regard to their views and the City's compliance obligations overall, as required by federal law.*

In particular, we are concerned that recent City budget documents indicate that SMO is operating on close to a break-even basis. However, we understand that the study to be presented on April 1, 2013 asserts that there is an annual deficit of more than \$1 million between airfield revenues and costs, and proposes a 250% increase in the landing fees (as well as to assess them from based aircraft for the first time) to make up for the difference. We believe it is likely that this deficit is an artificial construct, which considers the airfield in a vacuum and ignores other airport revenues – and thus would result in an unnecessary and unjustified annual surplus for the airport as a whole of more than \$1 million. Simply put, the federal grant assurances would not allow SMO to engage in such “creative accounting” – and this proposal likewise could, in our view, be the basis for future civil litigation.

Moreover, our view is that the study is far from sufficient to meet the FAA requirement that airport users be able to evaluate an airport’s purported justification for landing fee changes. Notably, various costs are allocated between the airfield and other airport cost centers, but no justification for the allocations are provided. Most of the airport revenue streams – which appear in City budget documents – are simply not mentioned, even though (as discussed above) they cannot be ignored. It is troubling that there is not any discussion of price elasticity (e.g., would operations at SMO decrease if landing fees increased two-and-a-half times?). Also unclear is if the “indirect cost allocation” or “professional services” line items include the City’s legal and lobbying costs from previous efforts to impose illegal restrictions at SMO, such as a ban on Class C/D aircraft. FAA allows recovery of legal/lobbying costs only if “these fees are for services in support of airport capital or operating costs that are otherwise allowable.” Clearly, that was not previously the case at SMO. Without additional disclosures, the meaning of these line items cannot be transparently determined.

NBAA plans to have a representative in attendance at the April 1, 2013 workshop, and would appreciate the opportunity to constructively address these issues at that time. (But, to be clear, we do not believe that exchange alone would fulfill the Commission’s obligation to enable public input on the landing fee proposal, and to engage in good-faith discussions with all airport users.) We are hopeful that as responsible representatives of the City’s residents – now with insight on potentially serious defects in the study and recommendation to be put forward – you will not take any steps that would be in apparent conflict with federal grant assurance requirements.

Sincerely,



Steve Brown
NBAA, Chief Operating Officer