



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

Office of Airport Compliance  
and Management Analysis

800 Independence Ave., SW.  
Washington, DC 20591

February 6, 2019

Stelios Makrides, Director  
Public Works Department, Airport Division  
City of Santa Monica  
3233 Donald Douglas Loop South  
Santa Monica, CA 90405

Dear Mr. Makrides:

The National Business Aviation Association, the Aircraft Owners and Pilots Association and the General Aviation Manufacturers Association have inquired about the use of airport revenue to fund the shortening of the runway and the destruction of associated pavement at Santa Monica Municipal Airport. A copy of the letter is enclosed. We are treating their inquiry as a part 13 complaint.

We request the city of Santa Monica to respond, within 30 days, to the points made in the November 30, 2018 letter, and in particular, to identify and address the operational, safety and aeronautical justifications for the projects. In the meanwhile, we are suspending the recommendations made in the Federal Aviation Administration's October 1, 2018 and October 15, 2018 letters pending resolution of this matter. Please respond to Brian Armstrong, Manager, Safety and Standards at 424-405-7300.

Please contact me if you have any questions. Thank you.

Sincerely,

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

cc: Mark McClardy, Director, AWP Airports Division  
Brian Armstrong, Manager, AWP-620  
Dave Cushing, Manager, LAX ADO



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

Office of the Associate Administrator  
for Airports

800 Independence Ave., SW.  
Washington, DC 20591

February 6, 2019

Ms. Lauren L. Haertlein  
Director, Safety and Regulatory Affairs  
General Aviation Manufacturers Association  
1400 K Street, NW., Suite 801  
Washington, DC 20005

Dear Ms. Haertlein:

Thank you for your November 30, 2018, letter cosigned by your colleagues. Your letter challenged whether it is appropriate for the City of Santa Monica to use airport revenue to fund removal of certain pavement under either the Federal Aviation Administration's (FAA) Revenue Use Policy and/or the 2017 Settlement Agreement between the City of Santa Monica and the FAA. Specifically, the City is proposing to pulverize and stabilize pavement within the runway safety areas, remove pavement from the former runway and taxiway areas that are no longer in use, and to hydro seed these areas. We understand you challenge the use of airport revenue to fund the pulverization and stabilization of pavement within the Runway Safety Area (RSA) because doing so has no aeronautical benefits. You question whether airport revenue may be used for the removal of the runway and former taxiways located beyond the RSAs for the same reasons.

We appreciate your joint efforts to compile the historical documents on this issue, including three previous letters from the FAA. We are treating your inquiry as a Part 13 complaint. We will investigate this matter further and are requesting the City of Santa Monica to respond, within 30 days, to the points made in your letter, and in particular, to identify and address the operational, safety and aeronautical justifications for the projects. In the meanwhile, we are suspending the recommendations made in the FAA's October 1, 2018 and October 15, 2018 letters pending resolution of this matter. Thank you.

Sincerely,

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

cc: Stelios Makrides, Director  
Mark McClardy, Director, AWP Airports Division  
Brian Armstrong, Manager, AWP-620  
Dave Cushing, Manager, LAX ADO



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800 Independence Ave., SW.  
Washington, DC 20591

February 6, 2019

Mr. Jim Coon  
Senior Vice President, Government Affairs  
Aircraft Owners and Pilots Association  
421 Aviation Way  
Frederick, MD 21701

Dear Mr. Coon:

Thank you for your November 30, 2018, letter cosigned by your colleagues. Your letter challenged whether it is appropriate for the City of Santa Monica to use airport revenue to fund removal of certain pavement under either the Federal Aviation Administration's (FAA) Revenue Use Policy and/or the 2017 Settlement Agreement between the City of Santa Monica and the FAA. Specifically, the City is proposing to pulverize and stabilize pavement within the runway safety areas, remove pavement from the former runway and taxiway areas that are no longer in use, and to hydro seed these areas. We understand you challenge the use of airport revenue to fund the pulverization and stabilization of pavement within the Runway Safety Area (RSA) because doing so has no aeronautical benefits. You question whether airport revenue may be used for the removal of the runway and former taxiways located beyond the RSAs for the same reasons.

We appreciate your joint efforts to compile the historical documents on this issue, including three previous letters from the FAA. We are treating your inquiry as a Part 13 complaint. We will investigate this matter further and are requesting the City of Santa Monica to respond, within 30 days, to the points made in your letter, and in particular, to identify and address the operational, safety and aeronautical justifications for the projects. In the meanwhile, we are suspending the recommendations made in the FAA's October 1, 2018 and October 15, 2018 letters pending resolution of this matter. Thank you.

Sincerely,

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

cc: **Stelios Makrides, Director**  
Mark McClardy, Director, AWP Airports Division  
Brian Armstrong, Manager, AWP-620  
Dave Cushing, Manager, LAX ADO



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Office of the Airport Compliance  
and Management Analysis

800 Independence Ave., SW.  
Washington, DC 20591

February 6, 2019

Mr. Steven J. Brown  
Chief Operating Officer  
National Business Aviation Association  
1200 G Street, NW., Suite 1100  
Washington, DC 20005

Dear Mr. Brown:

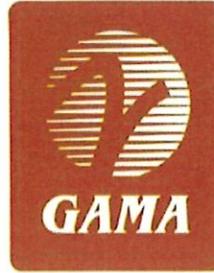
Thank you for your November 30, 2018, letter cosigned by your colleagues. Your letter challenged whether it is appropriate for the City of Santa Monica to use airport revenue to fund removal of certain pavement under either the Federal Aviation Administration's (FAA) Revenue Use Policy and/or the 2017 Settlement Agreement between the City of Santa Monica and the FAA. Specifically, the City is proposing to pulverize and stabilize pavement within the runway safety areas, remove pavement from the former runway and taxiway areas that are no longer in use, and to hydro seed these areas. We understand you challenge the use of airport revenue to fund the pulverization and stabilization of pavement within the Runway Safety Area (RSA) because doing so has no aeronautical benefits. You question whether airport revenue may be used for the removal of the runway and former taxiways located beyond the RSAs for the same reasons.

We appreciate your joint efforts to compile the historical documents on this issue, including three previous letters from the FAA. We are treating your inquiry as a Part 13 complaint. We will investigate this matter further and are requesting the City of Santa Monica to respond, within 30 days, to the points made in your letter, and in particular, to identify and address the operational, safety and aeronautical justifications for the projects. In the meanwhile, we are suspending the recommendations made in the FAA's October 1, 2018 and October 15, 2018 letters pending resolution of this matter. Thank you.

Sincerely,

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

cc: Stelios Makrides, Director  
Mark McClardy, Director, AWP Airports Division  
Brian Armstrong, Manager, AWP-620  
Dave Cushing, Manager, LAX ADO



November 30, 2018

**By FedEx and Electronic Mail**

Ms. Winsome A. Lenfert  
Acting Associate Administrator for Airports  
Federal Aviation Administration  
800 Independence Avenue, S.W.  
Washington, DC 20591  
[winsome.a.lenfert@faa.gov](mailto:winsome.a.lenfert@faa.gov)

**RE: Santa Monica Municipal Airport (SMO) Modifications, Pavement Removal and Revenue Diversion**

Dear Ms. Lenfert:

The National Business Aviation Association ("NBAA"), the Aircraft Owners and Pilots Association ("AOPA"), and the General Aviation Manufacturers Association ("GAMA") are writing to request that FAA address significant concerns regarding the use of airport revenue to fund the shortening of the runway and the destruction of associated pavement at Santa Monica Municipal Airport ("SMO" or "Airport").

FAA guidance is clear and specific – airport revenue can only be used for legitimate capital or operating costs of an airport. The work already undertaken at SMO to shorten the runway, and the proposed removal of pavement, comprise neither; it is incontestable that the only reason for these projects is the City's desire to reduce aircraft operations and access, primarily by larger jets – not to benefit aviation or SMO.

The specifics of the situation, and the applicable standards, are set forth below, and we hope will be sufficient to resolve our concerns without recourse to more formal proceedings.

**The Agreement**

In January 2017, FAA entered into a settlement agreement ("Agreement") with the City of Santa Monica ("City"), which resulted in the dismissal of two federal lawsuits brought by the City to challenge the validity and extent of its federal obligations. Neither lawsuit implicated the length of the Airport's runway, nor was that the subject of any City

request for relief. Nevertheless, as a condition for settlement, the City insisted on the right to reduce the length of the SMO runway to 3,500 feet, to which the FAA ultimately agreed. The City repeatedly has acknowledged that the purpose of this provision is to “significantly reduce jet traffic ... and stop[] commercial charters.” No other rationale has been provided by the City or the FAA, and there is none.

The Agreement required that “[t]he costs to shorten the runway ... shall be borne by the City.” It properly made no provision for the transfer or allocation of those costs to the Airport. However, in a letter dated February 3, 2017, responding to a request from Acting City Attorney Joseph Lawrence, the then-Chief Counsel of the FAA, Reginald C. Govan, advised:

Section II(A) of the Settlement Agreement provides that the City shall operate the airport until December 31, 2028 with a 3,500’ runway. Under these circumstances, the City may use revenue derived from airport operations to cover the costs of shortening the runway.

The Govan letter provided no analysis of or justification for this opinion, which is inconsistent with long-established FAA policy, as discussed hereafter. It is also inconsistent with the terms of the Agreement itself; indeed, there is simply no logical connection between the Agreement’s authorization of runway truncation at the behest of the City and whether expenditures to that end constitute an eligible use of airport funds.

Truncation of the runway was undertaken by the City in late 2017, primarily through lighting and marking changes, at a cost of approximately \$3.5 million. Those costs were entirely allocated to the Airport, solely on the basis of the Govan letter.

### **Pavement Removal**

In September 2017, the City Council directed City staff to study options for the removal of “excess” pavement resulting from the shortening of the runway. In September 2018 the City made public its intended plan, based on a consultant report – specifically, full removal of pavement apart from that within the runway safety areas (“RSAs”) required for the 3,500’ runway and the pulverization and stabilization of the pavement within those RSAs. None of the City or consultant reports proffered a justification for why pavement should be removed or modified; they were solely concerned with how the project might be accomplished.

In October 2018, the City rejected the two bids that had been submitted for the project based on cost grounds, but made clear that the City intended to proceed. As explained at that time by City Councilman and former Mayor Kevin McKeown:

Hope springs eternal in the aviation press that they’re going to get that airport back, and that’s not what’s going to happen, and so I totally support

our going back out to a bid ... that would be the one that pulverizes everything including the RSAs.

Following its earlier request regarding the costs of runway shortening, on July 9, 2018 the City sought further FAA approval to assess the prospective costs of the pavement removal project to the Airport. In a letter dated August 31, 2018, the Manager of the Los Angeles Airports District Office responded that:

- Pulverizing and stabilizing pavement within the RSAs was unnecessary, as it "does not appear to advance the interests of aviation safety or airport operations" and accordingly "is objectionable";
- With respect to removal of pavement from the former runway beyond the RSAs, "[w]e recommend that the City refrain from assessing the costs of this project upon aeronautical rates or rents"; and
- With respect to removal of pavement from taxiways that no longer were connected to the truncated runway, "[w]e recommend the City refrain from rate basing these costs into aeronautical rates."

The ADO Manager stressed that his "suggestions" applied only to the proposed pavement removal project, which he distinguished from "customary pavement maintenance, marking or signing or geometric improvements toward safety at SMO," thus re-emphasizing that the project involved none of these elements.

On October 1, 2018, the SMO Airport Director responded, agreeing that for runway and taxiway pavement removal, the City would "refrain from rate basing the costs incurred into aeronautical rates," but requesting that FAA revisit its guidance for the RSAs.

On October 15, 2018, the Manager of Airport Safety and Standards for the Western-Pacific Region reaffirmed the conclusions of the August 31, 2018 letter and in addition reiterated that to the extent the FAA did not object to the use of Airport funds for certain aspects of the pavement removal project (apart from the RSAs), it did so solely because of the language of the Agreement.

To summarize, FAA's position regarding the use of SMO funds for runway restructuring has been premised on treating the Agreement as if it required the City to shorten the SMO runway, a requirement never imposed (and long opposed) by FAA. Moreover, while both of the FAA's recent letters suggested (and the City readily agreed) that the City could not rate-base any of the costs of the proposed pavement removal project, this is a convenient fiction. All of those costs have been and will be borne by the existing surplus in the Airport fund, which derives in part from existing landing fees and other charges to aeronautical tenants and users. The costs of pavement removal, in short, are already in the rate base.

### **Federal Compliance**

NBAA and AOPA respectfully submit that: (1) the prior lighting and marking changes implemented to truncate the SMO runway, and (2) the removal of the former runway and taxiway areas beyond the current RSAs, both comprise ineligible uses of airport revenue. These projects did not and would not amount to capital and operating expenses of the Airport, for the same reasons that the project to pulverize and stabilize the RSAs is ineligible: these projects were not required by FAA, nor is there any independent justification for them – they do not improve safety or otherwise benefit SMO.

The City's letters to the FAA set forth no safety need for the pavement removal project, and the City repeatedly has emphasized that its only purpose is to reduce and discourage operations at SMO. To the extent the pavement removal project may be intended to facilitate the subsequent conversion of SMO to non-aeronautical uses, given the City's stated position that it will close the Airport at the end of 2028, it also is an improper premise for the expenditure of airport revenue.

Nor is there any record before the FAA of safety or any other issues that would justify the pavement removal project, much less any analysis of such issues. The FAA's position that certain project costs are not properly included in the Airport rate base but are otherwise chargeable to the Airport is an acknowledgment that such charges have no aeronautical purpose. Allowing them would be a departure from FAA's long-established limitations on the use of Airport revenues, however derived.

As a matter of first principle, the prohibition on revenue diversion is intended to ensure that airport tenants and users finance only expenditures that benefit an airport, and certainly not expenditures intended to limit their access and use or to repurpose aeronautical assets for other ends. FAA was unequivocal that a project virtually identical to that now at issue constituted an ineligible use of airport revenue. In 2003, after the closure of Meigs Field in Chicago, FAA "became concerned that the City had used or planned to use Chicago airport funds for the costs of removing pavement and other abandoned facilities from Meigs and remediating the site so that it could be converted from a public airport benefiting aviation users into a local park." In its Notice of Investigation in In the Matter of Compliance with Federal Obligations by the City of Chicago, FAA docket no. 16-04-09 (October 1, 2004), FAA was emphatic that "costs related to the deactivation of Meigs as an airport ... were not incurred for airport purposes and are not capital or operating costs of an airport." *Id.*, at 2. Although the proceeding was closed without a decision, Chicago was required to reimburse \$1 million from its general funds to its airport funds. See also DOT Inspector General, Report on Audit of Use of Airport Revenue, Denver International Airport, report no. AV-1999-052, at 11 (January 27, 1999) ("costs to help the sponsor realize its goal of urban renewal and redevelop the property ... should be borne by the sponsor").

Nor is there any authority for the FAA's position that the pavement removal project at SMO can be funded with airport revenue so long as those funds are not derived from aeronautical rates or rents. Previously, FAA has advised that *aeronautical* projects with limited benefits – such as an exclusive-use ramp – can be funded with airport revenue derived from non-aeronautical sources but not via the rates and rents paid by other aeronautical users. But FAA has never suggested that a project with no aeronautical benefits of any kind can be funded from any pot of airport revenue.

Even if that were not the case, it is not clear how SMO could utilize previously-collected revenue for pavement removal, given that those funds include existing landing fees and other charges to aeronautical tenants and users.

\* \* \* \*

FAA's guidance to the City is thus at odds with long-standing and widely-applicable requirements, with implications not limited to SMO but also for the FAA's oversight of revenue diversion issues nationwide. As you are aware, the diversion of airport revenue by Santa Monica is prohibited by both the Agreement and the continuing statutory obligations of 49 U.S.C. § 47133, subject to enforcement measures including a civil penalty amounting to 300% of the misused funds and the suspension of all DOT-administered grant programs to the City, as well as a complaint by affected parties pursuant to Part 16 of FAA's regulations.

In sum, NBAA, AOPA and GAMA believe that the existing and proposed use of airport funds by the City so clearly conflicts with the standards established for the use of such funds that the advice provided by FAA to date is erroneous and must be reevaluated. Absent a legitimate aeronautical purpose, beneficial to the tenants and users of SMO, the FAA should have concluded, and should now confirm, that costs of runway restructuring are entirely ineligible for funding with Airport revenue. If the City is to proceed with this project, it must do so in sole reliance on taxpayer funds.

Sincerely,



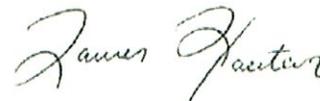
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**Steven J. Brown**  
Chief Operating Officer  
National Business  
Aviation Association



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**Jim Coon**  
Senior Vice President  
Government Affairs  
Aircraft Owners and Pilots  
Association



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**Lauren L. Haertlein**  
Director, Safety & Regulatory  
Affairs  
General Aviation  
Manufacturers Association

Ms. Winsome A. Lenfert  
November 30, 2018  
Page 6

CC:

- Mr. Kevin Willis, Director, Office of Airport Compliance and Management Analysis, Federal Aviation Administration – [kevin.willis@faa.gov](mailto:kevin.willis@faa.gov)
- Mr. David Cushing, Manager, Manager, LAX Airport District Office, Federal Aviation Administration – [dave.cushing@faa.gov](mailto:dave.cushing@faa.gov)

ATTACHMENTS:

- **Attachment A** – Feb. 3, 2017 Govan Letter
- **Attachment B** – Aug. 31, 2018 Cushing Letter
- **Attachment C** – Oct. 1, 2018 Makrides Letter
- **Attachment D** – Oct. 15, 2018 Armstrong Letter



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Office of the Chief Counsel

800 Independence Ave, SW  
Washington, DC 20591  
(202) 267-3222

February 3, 2017

Joseph Lawrence  
Acting City Attorney  
City of Santa Monica, City Hall  
1685 Main Street  
Santa Monica, CA 90401

Dear Mr. Lawrence,

This letter responds to two questions you raised on behalf of the City regarding the terms of the Settlement Agreement and Consent Order entered by the United States District Court for the Central District of California governing the future operations of the Santa Monica Municipal Airport.

First, Section IV of the Agreement provides that the City will operate the airport in conformance with the standards of specified Grant Assurances, including Grant Assurance 22. The City asks whether it has a mandatory duty to provide aeronautical services in the event a private service provider terminated service on its own volition for reasons unrelated to any action or inaction by the City in connection with such services.

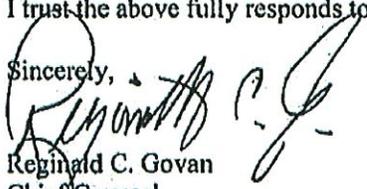
Before reaching that issue, it is important to note that the Order obligates the City to provide leases (incorporated into the Order) to all incumbent aeronautical tenants, subject only to early termination with six-months prior notice in the event the City provides such services on its own at the conclusion of the runway shortening process. Given the extent of current operations, it is reasonable to conclude that there is a robust market for such aeronautical services and the City has an obligation not to directly or indirectly impede, interfere, incent or entice services providers to no longer continue to provide such services.

Assuming complete neutrality by the City, in the event an incumbent service provider ceases operations, the City's only obligation is to afford private service providers access to the airport to provide such service. If no such provider seeks access to the airport to provide services, then the City has no further obligation. However, if the City is already providing the service in response to a demand, then the City must either continue to provide the service or afford a private service provider access to the airport on reasonable terms to meet such demand.

Second, Section II(A) of the Settlement Agreement provides that the City shall operate the airport until December 31, 2028 with a 3,500' runway. Under these circumstances, the City may use revenue derived from airport operations to cover the costs of shortening the runway.

I trust the above fully responds to the City's questions.

Sincerely,

  
Reginald C. Govan  
Chief Counsel

**COPY**

U.S. Department  
of Transportation  
Federal Aviation  
Administration

Los Angeles District  
Airports Office- FAA

777 S. Aviation Blvd., Suite #150  
El Segundo, CA 90245

August 31, 2018

Stelios Makrides, Director  
Public Works Department, Airport Division  
City of Santa Monica  
3233 Donald Douglas Loop South  
Santa Monica, CA 90405-3213

Dear Mr. Makrides:

Thank you for your July 9 letter titled Excess Pavement Reuse Project Update (City Letter) regarding your Santa Monica Airport (SMO). The City of Santa Monica (City) proposes to remove or degrade pavements at SMO's airfield that may no longer serve the purposes for which they were built and were serving prior to the City shortening the runway pursuant to the terms of the January 30, 2017 Settlement Agreement/Consent Decree (Agreement). Specifically, the City describes the Excess Pavement Reuse Project:

*The project includes the removal of all pavement from areas no longer usable for aviation purposes followed by hydro-seeding. These areas include the taxiway, infield area, and runway that exceed the 300 feet by 150 feet of runway safety areas (RSA) required for the operation of 3,500 feet of runway length....*

*Pavement within the RSA will be pulverized in-place and then stabilized. (City Letter)*

Per your request, we offer the following comments. As you know, the City and the Federal Aviation Administration (FAA) operate under the Agreement. It states, "*The Parties agree that the Airport's runway shall have an operational runway length of 3,500 feet. The 3,500 foot distance shall not include the runway safety areas that shall be constructed and maintained at both runway ends.*" (Agreement, p. 4) Also, the Agreement states, "*The City's operation of the Airport until December 31, 2028 shall conform with (i) the standards set forth in grant assurances 19, 22, 23, 24, 25, and 30.*" (Agreement, p. 7)

The standards related to grant assurances 19, 22, 24 and 25 apply to the Excess Pavement Reuse Project. Assurance 19 requires the sponsor to operate the airport in safe and serviceable condition and in accordance with FAA minimum standards. Assurance 22 requires the sponsor make the airport available on reasonable terms for aeronautical-use. Assurance 24 requires the sponsor to "*maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible.*" Assurance 25 includes the standard, "*All revenues generated by the airport... will be expended by it for the capital or operating costs of the airport.*"

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The revenue-use protections exist to protect aeronautical users from financing the costs of non-aeronautical expenditures. The standards with regard to assurances 22 and 24 address the reasonableness of fees and prohibit the imposition of fees that may include unreasonable or improper costs. The City's proposal to degrade RSA pavement raises serious concerns, in part, because the project appears to serve no aeronautical purpose. The FAA is not making a determination with this letter, but we cite elements of the City's Excess Pavement Reuse Project, and offer the associated input, pursuant to your request:

- 1) Pulverizing and Stabilizing pavement within the RSAs.

*The FAA objects to the City using any airport revenue, directly or indirectly, to pursue pulverizing or degrading of the pavement within the RSA. The pavement located within the existing RSA satisfies FAA standards for an RSA. Therefore, it does not need to be modified, pulverized or degraded. The pulverization of the RSA pavement advances no known aeronautical purpose and does not appear to advance the interests of aviation safety or airport operations at SMO. Further, if the City degrades pavement in the RSA to the extent that it does not meet FAA standards, then FAA may require capital expenditures to restore standard safety areas without using airport revenue. If simple wear and tear requires maintenance upon the surface of the City-pulverized pavement, the FAA may require the City to make maintenance expenditures without the use of airport revenue. It is unlikely that keeping the existing RSA paved, and generally as is, would incur any such expenses. Therefore, the pulverization and degrading project within the RSA area is objectionable.*

- 2) Removing pavement of the former runway, beyond the RSAs and hydro-seeding grass.

*We recommend the City refrain from assessing the costs of this project upon aeronautical rates or rents.*

- 3) Removing pavement constituting former taxiways that are no longer operable.

*We recommend the City refrain from rate basing these costs into aeronautical rates.*

We offer this to assist the City in making choices for the operation and financing of SMO for the duration of the Agreement and in the spirit of the Agreement. These suggestions apply to the elements of the Excess Pavement Reuse Project. They do not apply to other customary pavement maintenance, marking or signing or geometric improvements toward safety at SMO.

We look forward to continuing our productive discussion with the City on geometric or safety related concerns or proposals. Thank you for your cooperation with the FAA, including your air traffic control tower, to take steps to communicate the City's runway project to airport users.

Sincerely,



David F. Cushing, Manager  
Los Angeles Airports District Office

cc: James Lofton, Assistant Chief Counsel, AGC-600  
Mark McClardy, Director, AWP-600  
Kevin Willis, Director, Office of Airport Compliance and Management Analysis



Department of Public Works  
Airport Division  
Office of the Airport Director  
3223 Donald Douglas Loop South  
Santa Monica, California 90405-3213

Attachment C

October 1, 2018

Mr. David F. Cushing  
Manager, LAX-ADO  
Federal Aviation Administration  
777 S. Aviation Blvd., Suite #150  
El Segundo, CA 90245

**Re: Excess Pavement Reuse Project**

Dear Mr. Cushing,

Thank you for your response and the recommendations you have made in your letter on August 30, 2018 related to the Excess Pavement Reuse Project.

In your letter you broke down the project into three distinct areas and you have provided the FAA's position in each of these areas.

1. Pulverizing and Stabilizing pavement within the Runway Safety Areas
2. Removing pavement of the former runway, beyond the RSAs and hydro seed
3. Removing pavement constituting former taxiways that are no longer operable.

To reiterate, in your letter, for areas #2 and #3 above, the FAA did not object to the City proceeding with this project using Airport Funds to complete the work with the recommendation that the City does not rate base the expenditures onto the Airport's aeronautical rates. The City agrees to proceed with the use of Airport Funds for these areas and refrain from rate basing the costs incurred into aeronautical rates.

However, the City is requesting that the FAA reconsider their objection raised to the proposed work associated within the RSAs and most importantly the use of Airport Funds to conduct the work within this area.

The City believes that the consent decree's language affords the City the right to proceed with this project with the use of Airport Funds. Specifically, the Agreement states: "*The 3,500 foot distance shall not include the runway safety areas that shall be constructed and maintained at both runway ends*". The Agreement clearly stipulates that RSAs shall be constructed as part of the 3,500 foot runway. Furthermore, pulverization and stabilization of the pavement within the RSAs meets the FAA design standards for pavement condition within these areas of a runway. The City therefore requests that the FAA reconsider its objection to the use of Airport Funds for this purpose.

Award of a contractor for the Excess Pavement Reuse Project will be presented to Council during their October 23, 2018 meeting. We kindly request if possible that the FAA provide a response to our letter prior to the City Council's meeting date.

We look forward to continuing our productive discussions with the FAA related to this project.

Sincerely,

  
Stelios Makrides  
Airport Director



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Western-Pacific Region  
Office of Airports  
Safety and Standards Branch

15000 Aviation Blvd., Suite 3012  
Lawndale, CA 90261

**OCT 15 2018**

Mr. Stelios Makrides  
Airport Director  
City of Santa Monica  
3223 Donald Douglas Loop South  
Santa Monica, CA 90405-3213

Dear Mr. Makrides:

This letter is in response to your October 1, 2018 letter addressed to Mr. David Cushing, Manager of the Los Angeles Airports District Office. In your letter, you asked the Federal Aviation Administration (FAA) to reconsider its objection to the use of airport funds for proposed work within the Runway Safety Areas at the Santa Monica Airport (SMO). The proposed work includes the "pulverizing and stabilizing" of pavement within the RSA. Mr. Cushing asked my office to review the matter and respond to your request for reconsideration.

We agree that the consent decree (or Settlement Agreement) states: "The 3,500 foot distance [Runway length] shall not include the runway safety areas that shall be constructed and maintained at both runway ends." Based on this and other language in the consent decree, the FAA had no objection to the use of Airport Funds to shorten the runway and to complete other related projects, including the conversion of areas that were once runway pavement into Runway Safety Area. The conversion of the areas beyond the new runway ends into Runway Safety Area (RSA) included the removal of the runway lights, the placement of new threshold lights and markings, and the placement of Chevron markings in the blast pad and remainder of the RSA area.

Although not stipulated in the consent decree, the FAA and the City have agreed to apply B-II airport design standards to projects at SMO. The B-II standards for RSA dimensions are 150 feet wide, centered along the runway centerline for the entire length of the runway and extending 300 feet beyond the new physical ends of the runway. The RSA clearing, grade, drainage, and object clearing standards are contained in Paragraphs 307.b. and 313.d. of FAA Advisory Circular 150/5300-13A. There is no prohibition on having pavement within an RSA so long as it otherwise meets applicable standards.

It is our understanding that the existing Runway 3-21 RSA currently meets all applicable standards. For this reason, we see no airport or aviation safety justification for the expenditure of airport revenue for the "pulverizing and stabilizing" of pavement within the RSA. We, therefore, reaffirm the objection articulated in Mr. Cushing's August 30, 2018 letter.

This letter represents the present views of the FAA's Regional Airports Division Office based on the facts presented. This response does not constitute a final agency action or an "order issued by the Secretary of Transportation" under Title 49, United States Code, § 46110.

If you have any questions, you may contact me at 424-405-7303 or you may contact Mr. Dave Cushing, Manager, Los Angeles Airports District Office at 424-405-7266.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Armstrong". The signature is written in a cursive style with a large initial "B" and a long, sweeping tail.

Brian Armstrong  
Manager, Airport Safety & Standards  
Office of Airports, Western-Pacific Region