

# **SANTA MONICA AIRPORT COMMISSION**

## **RECOMMENDATION 2012-02**

Pursuant to the Municipal Proprietor Powers under the Federal Aviation Act, the Santa Monica Airport Commission recommends that the Santa Monica City Council take the following non-discriminatory actions to regulate airport operations to reduce the City's exposure to liability for nuisance and to enhance the community's human environment.

The Airport Commission believes each of these recommendations fall within the City's proprietor powers, similar to the City's 1981 actions that were upheld by the courts and are still in existence today which include the City's: 1) nighttime curfew, 2) banned helicopter training, 3) SENEL limit, 4) banned weekend and holiday 'touch and go' and 'stop and go' operations, and 5) banned low approaches.

1. **LEGAL MINIMUM.** The City should continue to observe City Council Resolution 6296 to effect the closure of the airport as soon as is practicable. Until such time, the City should observe its agreements related to the operations of the airport and condense the aviation operations in the smallest area legally permissible and to do the legal minimum required to safely fulfill those obligations.
2. **LANDING FEES PAID BY ALL USERS.** The City should, as soon as practicable, charge landing fees to all airport users. The aviation tenants at the airport are subsidized by discounted rents so there is no reason to abate fees to locally based operators. Under the Grant Assurances, the City is required to charge rents and fees to make the airport as self sustaining as possible.
3. **INCREASE LANDING FEES TO COVER AVIATION COSTS.** The City should, as soon as practicable, increase landing fees to cover the cost of aviation operations and maintenance of the airport property. Currently the city subsidizes aircraft operations with rents from facilities and with public funds which are not required under the Grant Assurances. Under the Grant Assurances, the City is required to charge rents and fees to make the airport as self sustaining as possible.
4. **TOXIC TORT LIABILITY INSURANCE.** The City should, as soon as, practicable require toxic tort liability insurance from all aviation operators using Santa Monica Airport. As a proprietor, the City has the right to adopt policies to protect itself against liability and enhance the human environment and retains proprietary authority under the 1984 Agreement with respect to lessees and users of the airport.

5. **FLIGHT OPERATIONS PERMIT.** The City should, as soon as practicable, require a flight operations permit for each aircraft operation. This will allow the City to insure each aircraft operator is in compliance with the City's policies and provide the ability to conduct a security check on the operator given the airport's proximity to Los Angeles International Airport and strategic buildings. As a proprietor, the City has the right to adopt policies to protect itself against liability and enhance the human environment and retains proprietary authority under the 1984 Agreement with respect to lessees and users of the airport.
  
6. **DECLARATORY RELIEF.** The City should, as soon as practicable, request declaratory relief related to its ability to close the airport pursuant to City Council Resolution 6296 based upon: i) the termination date of the 1994 Grant Agreement which expires on June 28, 2014, but the FAA maintains continues until August 26, 2023; ii) the perpetuity provision in the 1948 Instrument of Transfer; and iii) the requirement in the 1984 Agreement to operate the airport until July 1, 2015;
  
7. **NON-ADDITION RULE.** The City should, as soon as practicable, enact a 'Non-Addition Rule' similar to the law passed in 2000 and successfully defended in 2001 by the City of Los Angeles for the Van Nuys Airport, but that includes all aircraft so as to not discriminate against any class of aircraft; As a proprietor, the City has the right to adopt policies to protect itself against liability and enhance the human environment and retains proprietary authority under the 1984 Agreement with respect to lessees and users of the airport.
  
8. **OPERATION REDUCTION RULE.** The City should, as soon as practicable, enact a 'Helicopter Operations Reductions Rule' similar to the law passed and successfully defended by New York City in 1998, but that applies to all aircraft so as to not discriminate against any class of aircraft. As a proprietor, the City has the right to adopt policies to protect itself against liability and enhance the human environment and retains proprietary authority under the 1984 Agreement with respect to lessees and users of the airport.