



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: William F. Sherry, A.A.E.

SUBJECT: PASSENGER FACILITY CHARGE
APPLICATION/AMENDMENTS

DATE: June 5, 2006

Approved

Date

6-06-06

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Adoption of a resolution authorizing the City Manager to submit applications to the Federal Aviation Administration (FAA) to impose and use Passenger Facility Charges (PFC's) for the Terminal B Building: North Concourse Project in the amount of \$495,095,000; to amend various approved PFC projects by more than 25% of the original approved amounts with increase in the total cost of \$17,589,612; and, to amend various completed PFC projects to reflect savings and to decrease the originally approved amount by \$11,073,000, for a net increase in the total PFC authority in the amount of \$501,611,612.

CEQA: Resolution Nos. 67380 and 71451, PP 06-086

OUTCOME

Approval of the recommended actions would allow the Norman Y. Mineta San José International Airport (Airport) to file a new PFC application and PFC amendments to the FAA to use PFC funds for Airport projects that enhance the safety, security, capacity and competition at the Airport, as well as to comply with the recent changes to the PFC regulations.

BACKGROUND

The Aviation Safety and Capacity Expansion Act of 1990 (1990 Act) authorizes the FAA to grant airport operators the authority to fund eligible airport capital projects with PFC's. The intent of the legislation was to mitigate the shortfall of federal funds available for airport projects by providing a local funding source. Airports must apply to the FAA for approval before imposing or using PFC's and must meet all requirements included in the PFC legislation and regulations. PFC revenues are collected by the airlines and remitted to the airport imposing the charge.

On April 5, 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) was signed into law. AIR-21 enables public agencies to collect a PFC of \$4.00 or \$4.50 per enplaned passenger, whereas prior to AIR-21 the highest collection level was \$3.00.

To be eligible for the higher PFC level, AIR-21 requires that projects make a significant contribution to: (1) improving air safety and security; (2) increasing competition among air carriers; (3) reducing current or anticipated congestion; or (4) reducing the impact of aviation noise on people living near the airport.

To date, the Airport has approval to impose and use a total of \$470,625,779 in PFC revenue and all outstanding PFC authorizations have been approved by the FAA at the \$4.50 PFC collection level.

ANALYSIS

The proposed new PFC application and PFC amendments to the following previously approved PFC projects will result in a net increase in the PFC authority in the amount of \$501,611,612.

New PFC Application

The application to impose and use PFC's for the Terminal B Building: North Concourse Project (\$495,095,000) will provide funding, including financing costs, for approximately 63% the design and construction of the northern concourse of Terminal B, a two-story building extending from Terminal A to the south. This building will be approximately 376,000 square feet. It is estimated that approximately 63% of the building will be eligible for PFC funding. This project is part of the approved Airport Master Plan.

PFC Amendments

When the 1990 Act was established, FAA regulations required the amendment of PFC approved amounts only if the total cost of all projects within a PFC application exceeded the total PFC approved amount by more than 15%. As a result, there was no limit on cost increases to a single project as long as the total cost of all projects within an approved PFC application did not exceed 15% of the approved PFC amount.

On March 23, 2005, a number of changes to the PFC regulations were enacted in an effort to streamline the PFC application and amendment processes. One of the changes is the new requirement to amend an approved PFC application if the total cost of any of the projects within the approved PFC application is in excess of 25% of the approved amount for that individual project.

With the new PFC regulations, it is now necessary to amend six PFC projects that were completed several years ago with total individual project costs in excess of 25% of the approved

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amounts. Approval of the proposed amendments to the following completed projects for a total of \$17,589,612 is necessary in order to comply with the recent changes to the PFC regulations:

Skyport Grade Separation	\$9,568,000
Taxiway Y Extension	\$7,538,612
Skyport Access to Airport Blvd.	\$270,000
Replacement of Passive Secondary Surveillance Radar	\$141,000
Noise Monitoring System Upgrade	\$44,000
Handi-Lift Replacement	<u>\$28,000</u>
Total	<u>\$17,589,612</u>

The following projects were also completed several years ago, but at a lower cost than the approved PFC amounts. Savings of \$11,073,000 on these completed PFC projects will be used to offset the increases to the projects listed above.

Noise Remedy/Land Acquisition	(\$6,127,000)
Terminal Drive Improvements	(\$4,354,000)
Ewert Road Improvements	<u>(\$592,000)</u>
Total	<u>(\$11,073,000)</u>

This application and the amendments would increase the Airport's total approved collection authority to \$972,237,391, through an estimated charge expiration date of December 1, 2026.

ALTERNATIVES

Not applicable

PUBLIC OUTREACH

As required by the PFC regulations, airlines having significant business interest at the Airport were provided written notice of the new application and the project amendments on March 10, 2006. The new application and the project amendments were subsequently presented to the air carriers during the required consultation meeting on April 12, 2006. Per PFC regulations, the airlines had up to 30 days from that meeting in which to provide written comments on the application and amendment. No comments were received from any of the air carriers on the new PFC application for the Terminal B project. Comments certifying agreement to the project amendments were received from Southwest Airlines and Continental Airlines. PFC regulations interpret failure of the air carriers to provide timely written comments to the Airport as certification of agreement to the projects. Copies of the Southwest Airlines and Continental Airlines comments will be included in the submission to the FAA.

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In addition, a notice of intent to impose and use PFCs for the Terminal B Project and to amend various PFC projects, with invitation for public comment, was posted on the Airport's website on March 10, 2006. The public was given until April 12, 2006 to submit comments to the Airport. No comments were received from the public for either the new PFC application or the PFC amendments.

AIRPORT MASTER PLAN CONSISTENCY

The San José Municipal Code requires that capital improvements at the Airport be consistent with the adopted Airport Master Plan. All the individual PFC application projects identified above are components of projects expressly identified in the Master Plan or which support the ongoing operation of existing Airport facilities, and are therefore consistent with the Airport Master Plan pursuant to Municipal Code Section 25.04.210(B)(2) and 25.04.210(B)(4).

COORDINATION

This amendment has been coordinated with the City Attorney's Office.

COST IMPLICATIONS

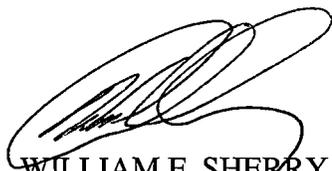
Not applicable

BUDGET REFERENCE

Not applicable

CEQA

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WILLIAM F. SHERRY, A.A.E.
Director of Aviation
Airport Department

For questions, please contact William F. Sherry, Director of Aviation, at (408) 501-7669.