



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

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

**SUBJECT:** PASSENGER FACILITY CHARGE  
APPLICATION/AMENDMENTS

**DATE:** July 28, 2008

Approved

Date

7/29/08

**COUNCIL DISTRICT:** City-Wide

## RECOMMENDATION

Adoption of a resolution authorizing the City Manager to submit an application to the Federal Aviation Administration (FAA) to impose and use Passenger Facility Charges (PFC's) for the Terminal B, Phase 1 and Roadway Improvements – Grade Separations Projects in the amount of \$120,933,000; to amend the approved PFC Noise Attenuation project by more than 25% of the original approved amount with an increase in the total cost of \$621,121; and, to amend seven completed PFC projects by less than 25% of the original approved amounts with an increase in the total cost of \$525,609, for a net increase in the total PFC authority in the amount of \$122,079,730, and with a total approved PFC collection authority in the amount of \$1,094,317,121, through an estimated charge expiration date of September 1, 2030.

## OUTCOME

Approval of the recommended actions would allow the Norman Y. Mineta San Jose 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 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.

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To date, the Airport has approval to impose and use a total of \$972,237,391 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 amendment to the previously approved PFC projects will result in a net increase in the PFC authority in the amount of \$122,079,730.

#### **New PFC Application**

A new PFC application is being proposed to partially fund the construction of the Terminal B, Phase 1 and the Roadway Improvements – Grade Separations projects.

**The Terminal B, Phase I** project will provide partial funding (\$110,689,000), including financing costs, for the Terminal B, Phase I project. The Terminal B, Phase I project is a two-story terminal building, with a third level mechanical area wrapping around the south end of the northern section of the Terminal B and extending to approximately 240 feet south. This application will provide \$39,336,000 “pay as you go” PFC funding and \$24,780,000 from bond proceeds to be repaid by PFC funds. This project is part of the approved Airport Master Plan and of the Terminal Area Improvement Phase 1 projects.

**Roadway Improvements – Grade Separations (2)** project will provide partial funding (\$10,244,000) for the two grade separations, the South Loop grade separation and the Bypass Loop grade intersection. These two grade separations carry two 12-foot wide traffic lanes with 4-foot shoulders for a total roadway width of 32 feet are part of the Terminal Area Improvement Phase I projects. The overall Roadway Improvement project is designed to accommodate the projected passenger traffic level at the Airport of 17.6 Million Annual Passengers.

PFC funding for these projects is consistent with the financing plan developed in conjunction with the 2007 airport bond issue. These two projects meet the overall criteria of making significant contribution to improving air safety and security, increasing competition among air carriers, and reducing current or anticipated congestion at the Airport and are anticipated to be approved at the \$4.50 level.

#### **PFC Amendments**

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 requirement to amend an approved PFC application if there is an increase or decrease in the level of PFC to be collected for each approved project. In addition, there is a requirement to hold an air carriers consultation meeting and seek public comments if the amendment to the approved PFC project is 25% or more of the original approved amount.

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There are eight PFC approved projects that have been completed with total actual costs higher than the approved PFC amounts. Below is the list of these projects and the proposed amount of increase in the PFC amount for each project:

	Total PFC Authority	Final Project Costs	Variance	
			Amount	%
PFC Application # 92-01-C-10				
Communication Center Upgrade	500,000	528,691	-28,691	-5.74%
Noise Attenuation	47,171,000	47,792,121	-621,121	-43.04% (1)
Subtotal	47,671,000	48,320,812	-649,812	
PFC Application # 99-07-C-01				
Ewert Road Improvement	408,000	408,208	-208	-0.05%
Transport Access Plan, Terminal Area Concept Plan, and Terminal C Interim Upgrade Plan	1,050,000	1,200,401	-150,401	-14.32%
Subtotal	1,458,000	1,608,609	-150,609	
PFC Application # 00-11-C-01				
Fiber Optic Cable to ARC & Fire	85,000	87,345	-2,345	-2.76%
Replacement of AACS and CCTV	4,075,000	4,418,645	-343,645	-8.43%
Skyport Grade Separation	18,218,000	18,218,154	-154	0.00%
Terminal Drive Improvement	1,146,000	1,146,165	-165	-0.01%
Subtotal	23,524,000	23,870,309	-346,309	
Total	72,653,000	73,799,730	-1,146,730	

Note (1) The 43.04% variance is based on the original approved PFC amount for this project of \$1,443,000.

The new PFC application and Noise Attenuation project amendment were presented to the air carriers during the required consultation meeting on June 11, 2008. The amendments to the other seven projects are less than 25% of the original approved amounts and do not require air carrier consultation. The application and amendments would increase the Airport's total approved collection authority to \$1,094,317,121 through an estimated charge expiration date of September 1, 2030.

**EVALUATION AND FOLLOW UP**

An Annual Status Report of the Airport Master Plan is provided to the City Council and includes the status of these two projects.

**PUBLIC OUTREACH/INTEREST**

- ✓ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)

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- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memo is posted on the City's website for the August 19, 2008 City Council Agenda.

Additionally as required by the PFC regulations, airlines having significant business interest at the Airport were provided written notice of this proposed amendment on May 9, 2008 and a consultation meeting with the airlines was held on June 11, 2008. The airlines have up to 30 days after that consultation 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 and amendment. Per PFC regulations, failure of the air carriers to provide the timely certification of agreement or disagreement to the Airport is considered as certification of agreement to the projects.

A notice of intent to impose and use PFC's for the Terminal B, Phase 1 and the Roadway Improvements – Grade Separations projects and to amend the Noise Attenuation project with invitation for public comment was also posted on the Airport's website on June 9, 2009. The public was given until July 24, 2008 to submit comments to the Airport. No comments were received from the public on the new PFC application and amendment.

#### **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 and the City Manager's Budget Office.

#### **CEQA**

CEQA: Resolution No. 67380 and 71451, PP 08-145.



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