



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

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

**SUBJECT:** SEE BELOW

**DATE:** August 27, 2012

Approved

Date 9/4/12

**SUBJECT: AMEND AIRPORT RATE RESOLUTION NO. 75809 AND AMEND THE SAN JOSE MUNICIPAL CODE TO CLARIFY AND UPDATE AIRPORT RATE PROCEDURES AND METHODOLOGIES**

## RECOMMENDATION

- (a) Adopt a resolution:
  - (1) Revising the Airport Fuel Flowage Fees, Ground Transportation Fees and Charges, Federal Inspection Facility Use Fee, Ground Handling Services/ Support Services Permit Fees and Miscellaneous Airport Cost Recovery Fees effective October 1, 2012;
  - (2) Establishing an Airport Ground Transportation Application Fee, an Airport Mobile Food Truck and Ice Cream Truck Permit Fee, Film Venue Fee and Conference Room Rate Structure effective October 1, 2012;
  - (3) Establishing a Trip Fee for Blended Hotel/Motel and Off-Airport Parking Operators retroactive to July 1, 2011;
  - (4) Re-adopting all other Airport Fees, Rates and Charges; and
  - (5) Repealing Resolution No.75809.
  
- (b) Approve an Ordinance amending Chapter 25.08 of Title 35 the San José Municipal Code to establish minimum requirements, rates and charges for the operation at and use of the Norman Y. Mineta San Jose International Airport by certificated passenger and cargo air carriers that are not regularly scheduled to land at the Airport.
  
- (c) Approve an Ordinance of the City of San José Amending Sections 25.10.010 and 25.10.030 of Chapter 25.10 of Title 25 of the San José Municipal Code to clarify the requirements for ground transportation providers.

## **OUTCOME**

The proposed resolution will modify and update authorized Airport fees and charges to provide cost recovery or establish market rates for appropriate Airport programs and services. The first recommended ordinance will clarify that certificated passenger air carriers that are not regularly scheduled to land at the Airport will be subject to the same minimum requirements, rates and charges as regularly scheduled passenger airlines that have not signed either a signatory or non-signatory airline lease agreement. The second recommended ordinance requires that Airport ground transportation permit applications must be complete, including the payment of an application fee as a condition of any further investigation or processing of a permit application.

## **BACKGROUND**

Airport modernization and competition for flights, services and passengers has brought new requests for services not previously available or provided by Airport staff. The inclusion of the recommended revisions will allow cost recovery of services associated with use of the terminals, roadways, and airfield as well as the costs associated with development and use of the Airport's West Side. The revisions will also provide updated cost recovery use fees, and market rate collection of revenue for the many Airport services covered by the resolution.

Periodically, the Airport reviews the consolidated Airport Rate Resolution to determine the inclusion of new service fees and or charges, make note of changed business practices or clarify fee methodologies. The resolution revisions and ordinance amendments included in this memo provide fees for new and changing services as well as technical corrections to language and cost recovery methodologies.

## **ANALYSIS**

The Airport is proposing to revise existing definitions and fees contained in the Consolidated Airport Rate Resolution and San José Municipal Code sections. The recommendations have been grouped by subject and resolution category.

### ***Airside Operation Fees***

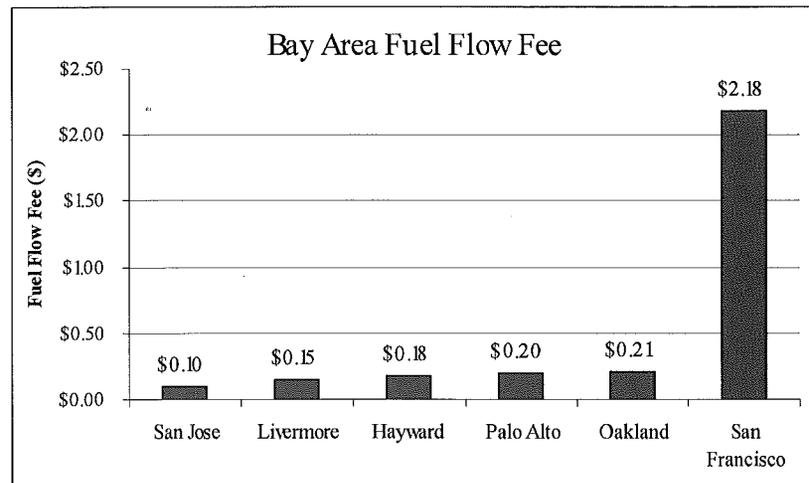
**Fuel flowage fees** are paid to the Airport on a monthly basis for aviation fuel sold or pumped into general aviation aircraft. The fees are paid by non-commercial operators (primarily general aviation) that sell fuel and pump it into aircraft, or by non-commercial operators that buy fuel for their own use and pump it into their own aircraft. The current fee was established in 1985 and last revised in 1992. The fee is set at \$0.10 per gallon of aviation fuel, either pumped or sold.

***Airside Operation Fees (Cont'd)***

As part of the April 3, 2012, Council direction on West Side development, Council directed staff to present a report to the Airport Competitiveness Committee at its May 18<sup>th</sup> meeting on potential revenue sources, as appropriate, that will help maintain a competitive Cost per Enplaned Passenger (CPE) ratio, including fuel flowage fees (*May 18, 2012 memo available at Potential Revenue Sources and Revenue Rate Adjustments for General Aviation*). In that memo staff provides the three criteria used to evaluate the fuel flowage fee at San José:

1. The fee should be consistent with rate setting methodology used for other Airport businesses; the rate should be with range of the market (not the bottom or the top).
2. Airports used for comparison should sell a significant amount of jet fuel versus 100 low lead aviation gas used by piston aircraft.
3. Comparison airports should be in major metropolitan areas with a similar cost of living to the Bay Area.

The Fuel flowage fees for airports in the San Francisco Bay Area that fit the criteria stated above are summarized in the chart to the right.



Fuel flowage fees are intended to be the compensation to the Airport for use by non-commercial aircraft operators. Commercial operators, such as airlines, do not pay fuel flowage fees because they pay compensation for use of the

Airport through other means included in their Operating Agreement with the City including landing fees. The increase in the fee to \$.20 per gallon is recommended based upon the consistency with the rate setting methodology used for other Airport businesses; the rate is within market range of comparable airports with similar cost of living to the Bay Area. To allow tenants currently paying the fuel flowage fee time to adjust their pricing, it is further recommended that the new fee go into effect thirty calendar days after adoption of the resolution adjusting the fee.

The proposed amendment of Chapter 25.08 Title 25 of the Municipal Code represents a technical correction necessary to clarify that minimum requirements, rates and charges applicable to the operation and use of the Airport by airlines that do not have a Signatory or Non-Signatory Airline-Airport Lease and Operating Agreements apply to all passenger and cargo carriers at the Airport, regardless of whether they are regularly scheduled or only operate on an occasional or itinerant basis. All such passenger and cargo airlines that do not have a Signatory or Non-Signatory Airline-Airport Lease and Operating Agreement will continue to pay an additional amount equal to 30% of all rates and charges applicable to airlines that have signed an agreement with the City.

### ***Landside Operation Fees***

The current recommendation identifies areas in which cost recovery fees are authorized by the San José Municipal Code and should be included or updated in the Ground Transportation Fee Schedule.

San José Municipal Code Section 25.10.020, applicable to Ground Transportation Permits, states that no permit issued under Title 25 is valid until the applicant has paid the fees imposed by resolution of Council. The Airport has determined that the cost recovery for processing Ground Transportation Permits issued under Title 25 is \$200.00. Thus, the Airport is proposing to revise the Ground Transportation Fee Structure to incorporate the **Administrative Processing Fee for Ground Transportation Permit Applications**. In recommending this fee amount, the Airport has considered the time spent on processing applications, including gathering information and documentation relating to the vehicles and the drivers. The application fee will be applied to the first year annual Administrative Fee upon successful completion and approval of the Permit. This information will be added to the application information for prospective Ground Transportation applicants and included on the Airport's Doing Business at the Airport web page.

An adjustment to **Monthly On-Demand Ground Transportation Dispatch Service Permit Fees** is also proposed. In a separate memo Staff has requested City Council approval of a revision to administrative process for collection of On-Demand Dispatch Service Permit Fees by the dispatch operator, which will no longer require the permit fees to be charged by the Airport/City. The dispatch operator will be allowed to collect permit fees either monthly or on a per trip basis. The current maximum monthly fee range for Door To Door Shuttles should be raised to \$200.00 and the maximum monthly fee range for Taxicab Permits should be raised to \$400.00 to allow for annual costs increases incurred by the dispatch operator. As an alternate method for fee collection, two new fee ranges should be established to allow the dispatch operator to collect fees based on a per trip basis, if approved by the Director of Aviation. The per trip fee range for both Door To Door Shuttles and Taxicab permits should be \$2.00 to \$5.00 per trip. Any fee increases will continue to be subject to annual review and approval by the Director of Aviation and 30-days prior notice to the impacted permit holders.

The Airport further proposes to establish an additional class of fee in the **Commercial Vehicle Trip Fee** category to include a class for vehicles that are accessible under the **Americans with Disability Act (ADA)**. This will allow vehicles in the on-demand ground transportation program approved as ADA accessible to be charged the same reduced trip fees as the Clean Fuel vehicles are currently charged. The reduction of \$.50 per trip for approved vehicles will help offset the expenses related to the purchase and upkeep of ADA accessible vehicles with a goal of increasing the fleet of ADA accessible vehicles available for the public. This reduction in rate will not result in an increase for drivers of other vehicles and will be offset by the Airport's general revenue. During the Airport's outreach process, several taxicab drivers who utilize ADA accessible vehicles have reacted positively to this proposal.

The Airport recommends the establishment of a category and related trip fees for blended **Hotel/Motel and Off-Airport Parking Operations** serving the Airport. In May 2011, City Council approved a rate resolution that included a Parking Lot Operator per trip fee of \$7 per trip, eliminating a lower trip fee plus a percentage of revenues charge for these operators. The intent was that all Off-Airport parking operators would pay the higher rate for their fleet of vehicles and provide similar revenue to that received under the old structure, but eliminate the need to calculate percentage of revenues. Since the implementation of this rate structure in July 2011, one subset of the Off-Airport parking operators, hotels and motels which have parking operations on their property, raised concerns about the need to provide two separate fleets and require their customers to wait for the appropriate vehicle for a trip to or from the Airport. For example, a vehicle transporting a guest of the hotel would be charged \$1.50 per trip; whereas, the vehicle transporting a person using the hotel for Off-Airport parking would be charged \$7.00. In order to avoid the logistical difficulty with determining which type of user (hotel guest or parking lot patron) the hotel is transporting, the recommended fee offers an option to the hotel/motel operator to pay a blended rate of \$3.00 per trip. This allows the operator to use a single fleet of vehicles to transport either hotel guests or those passengers who are using the hotel parking lots as off-Airport parking. This blended fee will be assessed on all of the operator's trips to and from the Airport. Hotel/Motel operators will continue to have the option of using separate fleets for their hotel guests or those who only use the parking lot if they determine it is more appropriate for their business model. At this time, only one hotel operator will utilize the blended rate. If this recommendation is approved, that operator will be retroactively assessed the blended rate for trips from July 2011 and re-invoiced with the new trip fee for those trips.

The Airport also recommends the establishment of **Late Fees for On-Demand Company Report Submittals**, with the proposed change in the On-Demand Dispatch Services administrative processes, one fee which is assessed in the current contracts with the companies working in the On-Demand Dispatch Program but not currently in the Airport Rate Resolution is late fees for report submittals. This action establishes a late fee of \$25 per day for each day beyond the specified due date that reports are not provided by the company. These fees cover the additional cost of staff time to follow up on late reports. These fees are currently included in the On Demand Dispatch Company contracts that expire on September 30, 2012. Staff will transition these companies from the contracts to Ground Transportation Permits and this fee once approved will be added to the Permit language for consistency.

In addition, two technical adjustments to the wording and timing in the existing resolution associated with **Ground Transportation Operator Fees** are recommended. The first is to adjust the Administrative Fee assessment date to July 1 each year rather than the current April 1 date each year. This brings the Administrative Fee annual date of assessment in-line with the fiscal year and the current expiration date of GT Permits. The second is to remove the words "Courtesy Van" from the titles and descriptions of Hotel/Motel Operators, Parking Lot Operators and Infrequent Operators descriptions and sections within the Rate resolution. There are various types of vehicles, including vans, used in the operations of these businesses and eliminating the specific title of Courtesy Van allows any of those vehicles to be included and operated under a Ground Transportation Permit.

The administrative fee assessment date change is in response to operator requests for simplification and consistency. The removal of "Courtesy Van" is simply a clarification and will have no impact on the fee.

The Airport recommends a new monthly permit fee for **motor vehicle-based and mobile unit peddlers and ice cream trucks** that operate at the Airport. From time to time, motor vehicle-based food peddlers have operated at the Airport. Motor vehicle-based and mobile unit food peddlers and ice cream trucks that operate in the City of San José are required under Title 6 of the Municipal Code to obtain permits from the Chief of Police. In addition, any entity that conducts commercial activity at the Airport is required to obtain a permit under Title 25 of the Municipal Code from the Director of Aviation. Motor vehicle-based and mobile unit food peddlers and ice cream trucks that operate at the Airport are therefore required to obtain a permit from the Director of Aviation. The proposed permit fee of \$300 per month is comparable to similar fees charged at other airports, including those in the Bay Area and other parts of California. The permit for these commercial activities at the Airport will include requirements for insurance, operating locations, operating restrictions and confirmation that the permittee has obtained all applicable licenses and permits, including a City of San José Permit from the Chief of Police.

The proposed amendment to **San José Municipal Code Section 25.10.010 Permit Procedures** is to insure that the Airport staff time is spent investigating completed applications, rather than the incomplete application serving as grounds for denial. This change would mirror other sections of the Code which state that investigation begins “upon a complete” application, including payment of fees. The Code currently provides that an “incomplete” application is grounds for a denial, which then can be appealed. This action will allow staff to advise the applicant that an application is incomplete and will be acted upon when the Airport receives the necessary information. Airport staff will continue to work with new Ground Transportation applicants and offer assistance in completing the application process.

#### ***Asset Management – Airport Land and Structures Federal Inspection Facility Use Fee***

Technical changes are proposed to clarify language associated with the Federal Inspection Services (FIS) Facility Use Fee. The rate resolution provides an overview of cost formulas that make reference to the Interim FIS and Terminal A rate setting cost manner and total passenger activity costs in Terminal A. The term “Interim FIS” is no longer valid and the terminal cost calculations are no longer differentiated by terminal. It is recommend that the term “Interim” and the identification of Terminal “A” be eliminated from the section. This revision represents more clearly the current FIS fee methodology.

#### ***Asset Management – Airport Support Services***

The current **Ground Handling Services/Support Services – Air Transportation Companies** section of the Airport rate resolution sets forth monthly permit fees for services provided to “Air Transportation Companies”. “Air Transportation Company” is narrowly defined as a “legal entity...engaged in the business of schedule or non-scheduled commercial transportation by air of persons, property, mail, parcels and/or cargo.” There is no separate fee schedule for services provided to other types of businesses, particularly general aviation.

The proposed change expands ground handling and support services that are subject to the permit fee to include non-commercial air transportation companies. This revision to the rate resolution allows the City to assess the standard permit fee of \$200 per month and 10% of gross revenues to those companies performing ground handling/support services at the Airport for businesses that are not engaged in commercial air transportation.

***Miscellaneous Fees - Cost Recovery Fees***

The current **General Cost Recovery Fee** resolution section for Airport services is limited to circumstances and/or incidents requiring cleaning, maintenance or repairs on behalf of Airport tenants. With the advent of new services and staff located at the Airport, the department is recommending that the General Cost Recovery Fee apply to any service provided by Airport staff that is not otherwise expressly provided for in the Airport Rate Resolution. This will allow the Airport to recover costs from situations that arise at the Airport which require staff time to inspect, review, escort, and provide project assessments on the basis of staff time required, while providing service delivery for the many time sensitive projects and repairs that are necessary on ongoing basis at the Airport.

The Airport, with its innovative architecture distinguishing SJC as Silicon Valley's Airport, is becoming a prime location for feature films, music videos, national commercials, and online and print advertisements for Silicon Valley's global companies. The modernization of the Airport and the opening of Terminal B have brought increased interest and requests for commercial and non-commercial film/photography projects at the Airport. As a result, a new Airport **Film Venue Fee** is proposed in order to recoup costs associated with these requests. It is recommended that a flexible fee system be approved based on the size and complexity of the filming project. With each request, a staff person reviews and evaluates the complexity of the request to determine if the request is feasible considering all elements including timing, staffing and location, and impact to ongoing Airport operations. Once a filming or photography request is approved, staff coordinates with Airport partners to accommodate the project. A typical project will take at least two to four hours to coordinate in addition to the actual film/photography activity.

The proposal fee structure for film and photography projects at the Airport is cost recovery based. The rate includes a **Film Venue Fee** of \$250 per hour with a two-hour minimum and cost recovery staff fees from \$70 - \$105 per hour (depending on the staff position) for processing the request, scouting potential locations, pre-production meetings and security escorting services. The venue fee is comparable to airports of similar size and to other Bay Area airports. Staff rates are based on actual salary, benefits and associated overhead and will be determined based on the needs of the project.

A 10% administrative fee to cover additional Airport expenses will be included to provide cost recovery of administrative processing. With the exception of news media reporting activities, fees will apply to all commercial and non-commercial filming requests regardless of the type of organization, business or individual(s) making the request.

With the Airport modernization there have also been an increasing number of requests to utilize the conference room space in the Airport Administration Offices. The Airport would like to provide a convenient meeting place for official Airport/City business, airport tenants and the general public. The proposal to implement a fee structure for **Conference Room Usage** at the Airport is cost recovery based. The rate includes a use fee for the general public of \$75 per hour with a two-hour minimum and staff fees from \$42 - \$70 per hour (depending on the staff position) for set up/tear down, custodial services and IT support as well as a 10% administrative fee. In consideration of the fact that they already pay rent to the Airport, Airport tenants that have a current agreement with the

Airport will not be subject to the use fee. However, current Airport tenants will be responsible for any staff costs associated with usage of the conference room.

The use fee is comparable to other local venues including San José City Hall, the San José Convention Center and the Department of Parks, Recreation and Neighborhood Services community center rental rates. Staff rates are based on actual salary, benefits and overhead costs. Outreach with regard to filming/photography and conference room use at the Airport is located on <http://www.flysanjose.com/fl/> and is handled through Airport Marketing.

The current provisions for all other fees, rates and charges remain unchanged.

### **EVALUATION AND FOLLOW-UP**

The Airport will continue to provide current information with regard to the status of Airport revenues through both the Airport Competiveness Committee reports and the Bi-Monthly Financial Reports presented on a regular basis at the Public Safety, Finance and Strategic Support Committee.

### **POLICY ALTERNATIVES**

*Alternative #1: Maintain existing fee structure and retain existing ordinance structure with no modification to approved fees or language.*

**Pros:** No change in future Airport practices.

**Cons:** Reduces the ability to clearly maintain effective market rate, cost recovery or service, capacity and revenue controls. Alternative #1 does not allow the Airport to collect costs for new programs and services.

**Reason for recommending:** To improve cost recovery, increase revenue and service controls.

### **PUBLIC OUTREACH/INTEREST**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- 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 item does not meet the above criteria requiring additional notification; however, it will be posted on the City's Council Agenda Website for the September 11, 2012 City Council Meeting.

HONORABLE MAYOR AND CITY COUNCIL

**Subject: Amendment to Airport Rate Resolution No. 75809, and the San Jose Municipal Code regarding Airport Rate Procedures and Methodologies**

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Airport ground transportation operators have been informed of rate changes relevant to their activity at the Airport. Once approved changes to processes and rates will be posted on the Airport's Web site in the "Business" tab.

### **COORDINATION**

This effort was coordinated with the City Attorney's Office and the City Manager's Budget Office.

### **CEQA**

Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273, Rates/Tolls/Fares/Charges (Recommendation #1)

Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment (Recommendation #2-4)

### **FISCAL/POLICY ALIGNMENT**

These recommendations provide the Airport with the opportunity to establish and revise fees, rates and charges that attain cost recovery and bring fees in line with the current market where appropriate.

### **COST SUMMARY/IMPLICATIONS**

The identification of services that are not currently cost-recovery or current market value has been undertaken and the rates identified in this memo are set at levels to support achievement of 100% cost-recovery or establish rates at current market value as appropriate for the identified program. Council adoption of the new rates will allow the Airport to incorporate additional fee revenue into the Airport Revenue Fund to offset program costs. The adjustments proposed to Airport fees and charges identified in this memo, are anticipated to result in approximately \$900,000 in additional revenue on an annual basis.

/s/

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

Please direct questions to William Sherry, Director of Aviation, at (408) 392-3610