June 9, 2003

Via Fax

Marsha Jones Moutrie
Santa Monica City Attorney
1685 Main Street, Room 310
Santa Monica, California 90401

Re: June 10, 2003 City Council Meeting; Landing Fees at the Santa Monica Airport

Dear Ms. Moutrie:

The National Business Aviation Association, Inc. (NBAA) takes strong exception to the proposed new landing fees for the Airport. We have reviewed the proposed ordinance and fee schedule. We have not reviewed the analysis prepared by Pavement Consultants, Inc. that purports to be the basis for the new fees. It is our view that this is another effort to force larger business jet aircraft off the airport, similar to last year's ACP which became the subject of a Federal Aviation Administration enforcement proceeding.

As we understand the proposal, a weight-based landing fee will be imposed on all aircraft operations at the Airport, not just commercial operations. It will be a decidedly non-uniform fee, with the fee per thousand pounds dramatically increasing as the maximum certificated gross landing weight (MLW) of the aircraft increases. As a practical matter, it will result in landing fees of the following magnitude:

Citation 500/525 (10,000 MLW)	$ 2.90
Beechjet 400 (14,000 MLW)	$ 34.02
G-II/III (59,000 MLW)	$342.79

You do not have to be an economist to understand what this is all about. The purported justification -- that this is necessary to apportion pavement maintenance costs -- simply is not credible. Everyone at the airport, including both aeronautical and non-aeronautical businesses, benefits from the runway. The proposed landing fee schedule is both arbitrary and inequitable.

It almost goes without saying that this is highly unreasonable and discriminatory and in violation of Grant Assurance 22, among other provisions.[1] NBAA was involved in a similar

[1] For example, section 3.1 of the FAA's Policy Regarding Airport Rates and Charges provides as follows:

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situation in 1988 when Massport proposed a differentiated landing fee schedule for Boston's Logan Airport. The fee schedule was similarly discriminatory, although it worked in the other direction, *i.e.*, it was intended to drive smaller aircraft off the airport by imposing a fixed charge of $92 per landing plus a uniform weight-based fee. The Department of Transportation found that the fee was unreasonable and discriminatory, and the First Circuit upheld that decision. New England Legal Foundation v. Massachusetts Port Authority, 883 F.2d 157 (1st Cir. 1989).

For these reasons, we urge you to advise the City Council *not* to adopt the proposed landing fee schedule. At the very least, the City Council should postpone consideration until all interested parties, including the FAA, have had the opportunity to review the relevant documents and to comment on the proposal.

Sincerely,

John W. Olcott
President

cc: Martin Tachiki, Deputy City Attorney
Jeff Mathieu, Director of Resource Management
Robert Trimborn, Airport Manager
David L. Bennett, Director, FAA Office of Airport Safety and Standards
City Council Members

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> The airport proprietor must apply a consistent methodology in establishing fees for comparable aeronautical users of the airport. When the airport proprietor uses a cost-based methodology, aeronautical fees imposed on any aeronautical user or group of aeronautical users may not exceed the costs allocated to that user or user group under a cost allocation methodology adopted by the **airport** proprietor that is consistent with this guidance, unless aeronautical users otherwise agree.

61 Fed. Reg. 31994 (1996). There is nothing to indicate that the new landing fee schedule meets these requirements.