November 22, 2016

By Certified Mail and Electronic Mail

Mr. Tony Vazquez
Mayor of the City of Santa Monica
1685 Main Street
Santa Monica, CA 90401
tony.vazquez@smgov.net

RE: Santa Monica Airport

Dear Mayor Vazquez:

As you know, the Santa Monica Airport Association (SMAA), the Aircraft Owners and Pilots Association (AOPA), and the National Business Aviation Association (NBAA) represent the interests of business, personal, and recreational users of aircraft, including numerous tenants and users of the Santa Monica Municipal Airport (SMO). We write you in connection with the new template agreement for the use of specific aircraft "tie-downs" at SMO, which the City has made public on its website and which the City has begun to circulate to airport tenants. We urge you to withdraw that template, because it does not comply with the City's federal and California state legal obligations.

As the FAA recently has reminded the City (in its letter dated August 30, 2016), Santa Monica continues to be subject to federal grant-based obligations in its operation of SMO. Moreover, as a municipal entity created and regulated by California, the City also is required to comply with California state law. However, the terms of the tie-down agreement are in conflict with both federal grant assurance #22 and with California real property law. Accordingly, as currently formulated, the agreement is unenforceable. We strongly urge the City to withdraw the template; consult with counsel; and replace it with a legally compliant agreement.

In particular, the tie-down agreement purports to be a "license" – and section 5.1 thereof purports to allow tie-down tenants to be evicted without cause and with only 24 hours notice. As an initial matter, this is facially incompatible with the City's overall commitment to the FAA to provide aeronautical users with access to SMO on reasonable terms. See generally FAA Order 5190.6B, § 9.1(a).

Moreover, under California law an agreement for the exclusive use of real property is a lease, not a license. The tie-down agreement, by its own terms, clearly is an agreement for the exclusive use of real property. (See, e.g., sections 2.4, 3.2, 8.2,

and 17.1 thereof.) And no matter what the agreement may call itself, if it is a lease (which it is) it is subject to the requirements of Cal. Civil Code § 1946, which requires 30 days notice of termination/eviction. See, e.g., Akins v. Sonoma County, 55 Cal.Rptr. 785, 795-96 (Cal. App. 1966), vac. on other grounds, 430 P.2d 57 (Cal. 1967); Kaiser Co. v. Reid, 184 P.2d 879, 885 (Cal. 1947).

We would be pleased to meet with you to discuss this and other issues raised by the tie-down agreement – including the additional fact that it offers less generous terms to aeronautical SMO tenants than the City has offered to non-aeronautical tenants at the airport. That course of action is not only a further conflict with the City's airport-related obligations, but also is inconsistent with the City's general policy of ensuring that tenants of all kinds are treated fairly by their landlords, in compliance with applicable federal and state laws.

We look forward to your immediate action to address this issue.

Sincerely,

Dave Hopkins
Vice President
SMAA

Jim Coon
Senior Vice President
AOPA

Steve Brown
Chief Operating Officer
NBAA

CC:

Santa Monica City Council, council@smgov.net
Mayor Pro Tempore, Ted Winterer, ted.winterer@smgov.net
Council Member, Gleam Davis, gleam.davis@smgov.net
Council Member, Sue Himmelrich, sue.himmelrich@smgov.net
Council Member, Kevin McKeown, kevin@mckeown.net
Council Member, Pam O'Connor, pam.oconnor@smgov.net
Council Member, Terry O'Day, terry.oday@smgov.net

City Manager, Rick Cole, manager@smgov.net
Special Advisor to the City Manager, Nelson Hernandez, nelson.hernandez@smgov.net
Director of Public Works, Susan Cline, susan.cline@smgov.net

City Attorney, Marsha Moutrie, marsha.moutrie@smgov.net
Assistant City Attorney, Joseph Lawrence, joseph.lawrence@smgov.net

Deputy City Attorney, Lance Gams, lance.gams@smgov.net
Deputy City Attorney, Ivan Campbell, ivan.campbell@smgov.net

Airport Manager, Stelios Makrides, stelios.makrides@smgov.net
Airport Property Business Agent, Deena Mecham, deena.mecham@smgov.net
Airport Leasing, Consulting, and Property Management Agent, Curt Castagna, castagna@aeroplex.net

FAA Deputy Associate Administrator for Airports, Benito DeLeon, benito.deleon@faa.gov
FAA Director of Airports Compliance and Management Analysis, Kevin Willis, kevin.willis@faa.gov
FAA Los Angeles Airports District Office Manager, Dave Cushing, dave.cushing@faa.gov