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SENT BY U.S. MAIL AND EMAIL TO:
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March 21, 2017

Federal Aviation Administration
Office of the Chief Counsel
800 Independence Ave. SW
Washington, DC 20591

Attn: Joe Manges, Esq.

Re: Self-Serve Fueling at Santa Monica Airport (KSMO)

Dear Mr. Manges,

I am writing to you regarding the urgent fuel situation at Santa Monica Municipal Airport ("Airport" or "SMO") as counsel for the Santa Monica Airport Association and its members, the majority of tenants and users of SMO. I have appeared as well in both a pending Part 16 proceeding and in related state court actions as counsel for American Flyers, Inc.

American Flyers has been an Airport tenant since the 1970's, and for the past fifteen years has operated a flight school and an FBO, including the Airport's only self-fuel avgas facility, on the south side of the Airport. As you are likely aware, after years of harassment by the City over its flight school operations and the ongoing threat of Airport closure, American Flyers has decided to relocate to Scottsdale, Arizona, and will be ceasing all of its SMO operations on April 15, 2017.

Since learning of American Flyers' plans, a number of SMO tenants have informed the City of their desire to continue to operate the American Flyers fueling facility, and their ability to do so. They have been told by the Airport Manager, Stelios Makrides, that the City has decided that it will not itself provide avgas at that site after April 15, and that it will also not consider making it available for others to operate until it can create and adopt "minimum standards" for all airport businesses, a process which is expected (in the City's view) to take a number of months. Mr. Makrides estimated to me that it could take between 3 and 4 months to finalize those "minimum standards".

In addition, Mr. Makrides, has now informed American Flyers that by April 15, it must empty and clean the avgas fuel tank and must remove associated service equipment, including the hoses and a credit card reader, thus rendering the avgas facility effectively inoperable.

The only SMO alternative for avgas is through the Atlantic Aviation FBO, located on the north side of the Airport, which can only provide fuel by truck, at substantially greater cost¹ and delay than self-fueling, and which is itself in limbo as an SMO tenant in light of the City's expressed intention to assume control of all FBOs under a proprietor exception to grant assurance 23 and 49 U.S.C. § 40103(e).

If self-serve fuel is not available at the airport for even a short time, and the only remaining option will be to pay for fuel that is over 50% higher than average prices, then at least one large flight school will face economic ruination.

The FAA has previously informed the City's representatives that it expects the City to continue to make self-serve avgas available to tenants, whether through its own means or via a new fuel provider. The Settlement Agreement likewise calls for aeronautical services to be available at SMO "on reasonable terms at reasonable rates." The City's new position that it cannot do so until it creates and adopts new "minimum standards" is a transparent and unfounded excuse to avoid the City's obligation. The City has already instructed American Flyers to empty the entire contents of the fuel tanks and to remove the hoses and credit card equipment, etc. The FAA has made it clear in a number of decisions that while it encourages (but does not mandate) the adoption of minimum standards, neither they nor the process can be used to unreasonably impose restrictions on airport tenants. The City's purported reliance on the development of minimum standards as an excuse to withhold self-fueled avgas is a violation of this guidance, as well as a violation of grant assurance 22 and statutory obligations.

Moreover, the City's claim that it must now adopt minimum standards, and cannot allow fueling to proceed in the interim, flies in the face of its previous offer to extend American Flyers' lease for a new three-year term without such a pre-condition; of its expressed intention to operate SMO fueling as a proprietary exclusive; and of the fact that both Minimum Standards and an Airport Operations Handbook, which encompass the self-fueling operation, already exist, having been prepared by the City in 2002 and 2008 respectively, but apparently never utilized.

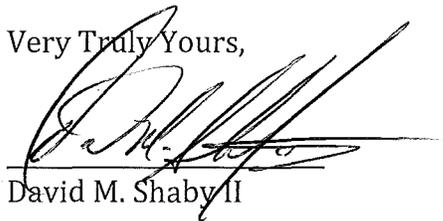
¹ Atlantic currently charges \$7.79/gallon for full service 100LL AvGas, compared to an average of \$5.33/gallon for self service 100LL in the region (using the specific airports selected by the City of Santa Monica as the basis for averaging local fuel costs in the Lease attached as Exhibit C to the Settlement Agreement, § 6.6.1(C)); this is also a significant increase relative to full service 100LL fuel available at those same airports (\$5.43/gallon average), or even the full service 100LL fuel available at Burbank (Class C), John Wayne (Class C), or Long Beach (Class D) (\$5.96/gallon average).

I also note that despite the current challenge in the D.C. Circuit, the City remains obligated under the terms of its settlement agreement with the FAA. Sections IV (B) and (D) of that agreement require the City to continue to maintain, or allow others to maintain, aeronautical services consistent with the reasonableness requirements of grant assurance 22. Moreover, section VII of the agreement specifically bars the City from restricting the sale of leaded avgas. A refusal to make any self-serve avgas available, through the minimum standards ruse or otherwise, is clearly a violation of that provision.

The City's actions and statements described above constitute violations of its federal obligations. However, in light of the ongoing litigation, and mindful of the repeated assurances by the FAA that under the settlement agreement Airport operations, including the provision of avgas, would continue and that City conduct would be monitored by the FAA, I believe this less formal communication is the appropriate means at this time to request FAA involvement. Accordingly, on behalf of my clients, I am requesting that the FAA immediately take steps to ensure that avgas remains available at the Airport's self-service facility, and that the City be required either to continue operation of that facility itself or to allow others to do so without unreasonable pre-conditions.

I look forward to your prompt assurance that the FAA will monitor this situation and take any and all appropriate steps to ensure the continued availability of self-serve fuel at Santa Monica airport.

Very Truly Yours,



David M. Shaby II

cc: Stelios Makrides, Santa Monica Airport Manager
Joseph Lawrence, City of Santa Monica Interim City Attorney
Ed Bolen, NBAA president
Mark Baker, AOPA president
Jol A. Silversmith, Esq.
Kathy Yodice, Esq.
Richard Simon, Esq.