



U.S. Department
of Transportation
**Federal Aviation
Administration**

Western-Pacific Region
Airports Division
Los Angeles Airports District Office

777 S. Aviation Blvd., Suite #150
El Segundo, CA 90245

November 21, 2023

Jorge Rubio, A.A.E., C.A.E.
Deputy Director, Airport Management
Department of Real Estate and Airport Management
City of San Diego
3750 John J. Montgomery Drive
San Diego, CA 92123

Dear Mr. Rubio:

The Federal Aviation Administration (FAA) has received your e-mail dated October 4, 2023, regarding a proposed homeless encampment on land owned by the City of San Diego (City), located at the Brown Field Municipal Airport (SDM). Your e-mail indicates the City has been approached by an organization to put temporary housing at SDM. The proposed facility would house approximately 250 individuals and include shower trailers, laundry trailers, portable restrooms, office trailers and storage containers. We understand the proposed site is intended to be used for three (3+) years.

The land upon which the encampment is proposed, was originally acquired by the City through the Federal Property and Administrative Services Act of 1949 and the Surplus Property of 1944, via a quitclaim deed issued by the General Services Administration on September 1, 1962. Secondly, in 2022, FAA authorized a land-use change as part of the Metropolitan Air Park development to permit the proposed parcels of airport land to serve for a revenue-producing purpose on the condition that it produce income equal to its fair market value. The land-use change is not a release, as defined by the FAA, and does not relieve the City of any of the obligations it assumed under the Quitclaim Deed and Grant Agreements with the Federal government.

FAA's longstanding policy is that residential use, which includes accommodating people experiencing homelessness, permanently or transiently, on federally obligated airports is not permissible and is incompatible with airport operations. It conflicts with several grant assurances, including 5, *Preserving Rights and Powers*; 19, *Operation and Maintenance*; 21, *Compatible Land Use*, 25 *Airport Revenues*, and 29 *Airport Layout Plan*.

- **Grant Assurance 5, *Preserving Rights and Powers*** - State and local actions to commit or otherwise encumber airport property for the accommodation of homeless activities deprive the airport of the rights and powers necessary to perform any or all terms and conditions of its Federal grant obligations, including land and noise compatibility programs. Under this assurance, the sponsor is required to extinguish actions that interfere with airport rights and powers to control and use airport property for compatible uses.

- **Grant Assurance 19, *Operation and Maintenance*** - The airport and all facilities must be operated at all times in a safe and serviceable condition, and the airport sponsor cannot cause or permit any activity or action which would interfere with its use for airport purposes. Homeless activities (e.g., homeless encampments) can interfere with airport operations and raise significant airport safety, security, and environmental concerns that must be mitigated.

- **Grant Assurance 21, *Compatible Land Use*** - Requires airport sponsors to take appropriate action to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations. Homeless activities are an incompatible airport land use for several reasons, including:
 - Residential use of airport property is prohibited by FAA policy as incompatible with aircraft operations due to the impact of aircraft noise, wildlife attractants, and for reasons of safety.
 - Incompatible land use at or near airports may result in the creation of hazards to air navigation and reductions in airport utility resulting from obstructions to flight paths or noise-related incompatible land use resulting from residential uses close to the airfield.
 - The establishment of homeless facilities or support activities near the airfield could lead to restrictions on aircraft operations, which is contrary to the role of airports and the significant taxpayer investment into the National Airspace System.
 - Placing shelters or other facilities in areas that are incompatible with airport operations can lead to disproportionate impact on people and therefore creating potential environmental justice concerns.

Grant Assurance 25, *Airport Revenues* - Airport revenues are to be expended only for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport, and which are directly and substantially related to the actual air transportation of passengers or property, or for noise mitigation purposes on or off the airport. The use of airport revenues can be used to mitigate the impacts of homeless activities on the airport as an operational expense, but more intensive community initiatives, such as job training or constructing interim housing may be inconsistent with a sponsor's grant obligations.

- **Grant Assurance 29, *Airport Layout Plan (ALP)*** - Requires the sponsor to maintain a current ALP depicting the location and nature of all existing and proposed airport facilities, structures, boundaries, and non-aviation areas. The sponsor cannot change or permit changes to the ALP without FAA approval, and any changes must not

adversely affect the safety, utility, or efficiency of the airport. Homeless encampments or other homeless support facilities are not a compatible use of airport property as defined by the FAA, therefore resulting in the sponsor being unable to comply with Grant Assurance 29. The general rule on residential use of land on or near airport property is that it is incompatible with airport operations because of the impact of airport noise and in some cases, for reasons of safety. Additionally, airport land, without a written release of obligations from the FAA, must be used for aeronautical purposes. The City's use of the parcel for accommodating lodging calls into question the need for federal investment in the property.

Furthermore, Section 25(e) in Chapter 20.5: Compatible Land Use and Airspace Protection, Residential Development on Federally Obligated Airports of FAA Order 5190.6B, *Airport Compliance Manual* states: "*The ADOs and regional airports divisions have the responsibility for ensuring that residential development is not approved as part of a review of a proposed ALP and that airport property is not released for residential development.*"

Lastly, given the proposed location there may be increased risk of injury to anyone with access to operational areas of the airport, such as runways or taxiways. Unhoused populations have also resulted in increased vehicle-pedestrian encounters due to their proximity to operational areas of airports.

We understand that homelessness has become a rising social crises in many communities across the country. Please understand, it is not FAA's intent to show disregard for the homelessness crises, only to ensure that use of Airport property does not become the solution to the crises.

We remind the City that violating Federal obligations could jeopardize future AIP funding for airport projects.

If you have any questions, please contact me at Cathryn Cason, Manager, Los Angeles Airports District Office, Western-Pacific Region at (424) 405-7266, or via e-mail at cathryn.g.cason@faa.gov.

Sincerely,

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Cathryn G. Cason
Manager
Los Angeles Airports District Office