

U.S. Department of Transportation

Federal Aviation Administration Office of Airport Planning and Programming 800 Independence Ave., SW. Washington, DC 20591

August 8, 2022

Mr. Ivar C. Satero Director San Francisco International Airport P.O. Box 8097 San Francisco, CA 94128

Subject: San Francisco International Airport FAA Review of FY2022 Competition Plan Update

Dear Mr. Satero:

Thank you for submitting the above-referenced Competition Plan Update (Plan Update) for San Francisco International Airport (SFO). This Plan Update was required because SFO is again a Covered Airport.¹ This is SFO's third Plan Update.²

The Federal Aviation Administration (FAA) has reviewed SFO's Plan Update. In the Plan Update, the City and County of San Francisco (City) describes the following pro-competitive actions taken at SFO since the last approval:

- Executed a new Lease and Use Agreement in 2011 ("2011 Agreement") for signatory airlines, which:
 - Eliminated exclusive use gates and calls for all gates to be assigned to air carriers on a joint use, common use or preferential use basis;
 - Uses a detailed formula for assigning and reassigning preferential use gates that depend upon relative efficiency of use and prescribes detailed rules for the use of preferential use gates to facilitate the accommodation of other carriers;
 - Provides the recapture and reassignment of exclusively-assigned space (other than gates) to accommodate new entrants or expanding incumbent carriers.

We commend the City for taking these pro-competitive actions. We also acknowledge that SFO has made its Competition Plan publically-available on the airport's Internet website.

¹ As defined in FAA Order 5100.38D, Change 1 ("Airport Improvement Program Handbook," Appendix W), Covered Airports are those where one or two air carriers control more than 50 percent of the passenger boardings. Based on calendar year 2020 data, two air carriers accounted for more than 50 percent of enplanements at SFO.

² The FAA approved the initial Competition Plan for SFO on October 13, 2000. The FAA approved two plan updates on June 11, 2002 and March 29, 2004.

Thus, we find SFO's Plan Update generally to be in accordance with the applicable statutory requirements.³

In consideration of the pro-competitive policies and practices described in the Competition Plan, and in view of the circumstances described above, the FAA approves SFO's 2022 Competition Plan. We suggest, however, that the City consider the recommendations below during its ongoing negotiations for a new agreement.

First, we recommend that you designate a Competitive Access Liaison. We understand that new entrants and existing air carriers may contact your Airport Business Development Office for assistance in gaining access to facilities, but with a designated Competitive Access Liaison, new entrants and existing air carriers clearly understand whom to contact when seeking competitive access at SFO.

Second, while we applaud SFO for deploying its gate management software, we also recommend that you develop a formal policy for announcing gate and remain-over-night (RON) availability. We also suggest that you consider posting current gate availability in a readily accessible place and format on SFO's website, on a regular basis, for the benefit of new entrants that may not have access to SFO's gate management software outputs, as well as existing tenants wishing to expand service.

Third, we recommend that you establish formal dispute resolution procedures. We understand that you currently have gates available for potential new entrants and/or existing air carriers wishing to expand service, and you have not had any recent disputes. Our experience, though, shows that proactive establishment of dispute resolution procedures provides a defined means for air carriers to seek redress. We recommend implementing such procedures, rather than waiting until a dispute arises.

Finally, as mentioned above, SFO's Agreement contains potentially restrictive MII language. We remind you to ensure that SFO's ability to impose a Passenger Facility Charge (PFC) or use PFC revenue is not impaired by MII language or the MII deferral process. See 49 U.S.C. 40117(f)(1) & (3); 14 CFR § 158.7(b).

As you are aware, after approval of an initial Competition Plan, two Plan Updates for SFO must be submitted if it remains a Covered Airport. Generally, the first Plan Update is due 18 months from the date of the initial approval letter, but a Plan Update may be due sooner if one of two conditions are met. The conditions, which are identified in the Airport Improvement Program Handbook, Order 5100.38D, Change 1, Appendix W, require the filing of a Plan Update under the following circumstances:

• An airport files a competitive access report as required by Section 424 of Vision 100, codified as Title 49 (U.S.C.), Section 47107(s) stating it had denied access to an air carrier for gates or facilities within the last six months. Section 424 requires any medium hub or large airport that has denied a carrier's request or requests for access to

³ Section 155 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Pub. L. No. 106 181, (April 5, 2000), 49 U.S.C. §§ 40117(k) and 47106(f).

file a report with the FAA describing the carrier's requests, providing an explanation as to why the requests could not be accommodated, and providing a time frame within which, if any, the airport will be able to accommodate the requests.

An airport executed a new lease and use agreement, or significantly amended a lease and use agreement, including an amendment due to use of Passenger Facility Charge financing for gates, in which case, a plan update is due within 60 days of execution.

The City has now filed (and the FAA has approved) an initial Competition Plan and three Plan Updates. Per FAA policy, no further Plan Updates are required for SFO unless certain circumstances arise.⁴ The most common of these circumstances would be if the airport executes a new or significantly amended lease and use agreement, including an amendment due to the use of Passenger Facility Charge financing for gates. Plan Updates should include the content required by Table W-3 of FAA Order 5100.38D, Change 1, and if such information was not submitted previously, it should be included in the next Plan Update. Also, when appropriate, a public agency should explicitly state there has been no change since the last FAA approval to information previously submitted. The City's Plan Update did not contain all of the required content or an indication that there has been no change, so the City should ensure that future Plan Updates do include all of this information.

As you may know, the Secretary of Transportation is required by law⁵ to review implementation of Competition Plans from time to time, to verify each Covered Airport implements its Competition Plan successfully. In connection with our review, we may determine that it would be useful to visit your airport or hold a teleconference with airport officials. We will contact you if we decide to visit SFO in connection with its Competition Plan.

If you have any questions regarding this letter or the FAA's review of your Plan Update, please contact Julieann Dwyer, Manager, Airports Policy Branch at (202) 267-8375 or julieann.dwyer@faa.gov.

Sincerely,

Robert J. Craven Director, Office of Airport Planning and Programming

Mark McClardy, Director, FAA Airports Division, Western-Pacific Region cc: Arlene Draper, Manager, FAA Airports Planning and Programming Branch, Western-Pacific Region Mike Williams, Manager, FAA Phoenix Airports District Office

⁴ See FAA Order 5100.38D, Change 1, Airport Improvement Program Handbook, Appendix W.

⁵ 49 U.S.C. § 40117(k)