



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

Western-Pacific Region
Office of Airports

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

APR 19 2019

James E. Bennett, A.A.E.
Director of Aviation Services
City of Phoenix Aviation Department
2485 E. Buckeye Rd.
Phoenix, AZ 85034

Dear Mr. Bennett:

In accordance with § 158.29 of Title 14, Code of Federal Regulations (CFR), Part 158, the Federal Aviation Administration (FAA) approves your application number 19-12-C-00-PHX to impose a Passenger Facility Charge (PFC) at Phoenix Sky Harbor International Airport (PHX) for use at PHX. The authority to impose a PFC is contingent on your continued compliance with the terms of the regulation and other conditions included in this letter.

Enclosed is a Final Agency Decision (FAD), which provides specific information about this approval, including the approved PFC level, total amount of approved net PFC revenue to be collected, earliest charge effective date, and duration of authority to impose the PFC. This FAD also includes information on the approved projects, as well as the FAA's reasons for its decision.

The FAA approved the authority to impose a PFC and use the PFC revenue for three projects at PHX. The total approved PFC revenue to be collected for this project is \$22,460,400. The FAA's findings and determinations required by statute and 14 CFR Part 158 are also included in the FAD. The FAA's findings and determinations required by statute and 14 CFR Part 158 are also included in the FAD.

The FAA has also approved your request to exclude these classes of air carriers defined as (1) *Non-scheduled/on-demand air carriers filing FAA Form 1800-31*; (2) *Commuters or small certified air carriers with less than 7,855 enplanements each annually at the Airport filing FAA Form T-100*; (3) *Large certified route air carriers with less than 7,500 enplanements each annually at the Airport filing FAA Form T-100*; (4) *Foreign air carriers with less than 7,500 enplanements each annually at the Airport filing FAA Form T-100(f)* from the requirement to collect PFC revenue. We request that you notify the carriers in the excluded class, which were listed in your application, of this exemption.

We wish to point out a potential conflict between the definition of airport revenue bonds and conditions contained in your PFC approval. Specifically, bond resolutions may define pledged airport revenues in broad terms, which may be interpreted to include PFC revenues. New bond issues should clarify that use of PFC revenues is limited to the allowable costs of the approved PFC project. The terms of PFC approval do not permit the use of PFC revenues to pay debt service on any new or outstanding bonds issued to finance other than approved PFC project.

Reporting, record keeping, and auditing requirements are specified in 14 C.F.R. Part 158, Subpart D. Please issue your required quarterly reports in accordance with the previously provided guidance. Please notify the air carriers and foreign air carriers to begin collecting PFCs, and provide a copy of your notification letter to the FAA's Phoenix Airports District Office. Please coordinate construction proposals with the appropriate federal offices as you would with any non-federally funded construction.

You are required to implement this project approved for the collection and use of PFC's within 2 years of this date. Section 158.33(a)(1) requires the public agency to begin implementation of a project no later than 2 years after receiving approval to use PFC revenue on that project.

We have enclosed the list of FAA Advisory Circulars with which you must comply in accordance with your certification of Assurance Number 9, standards and specifications.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. McClardy', with a long horizontal flourish extending to the right.

Mark A. McClardy
Director, Office of Airports
Western-Pacific Region

Enclosures

FINAL AGENCY DECISION
CITY OF PHOENIX AVIATION DEPARTMENT
PHOENIX, ARIZONA

Application number 19-12-C-00-PHX to impose a Passenger Facility Charge (PFC) at Phoenix Sky Harbor International Airport (PHX) for use at PHX.

In accordance with §158.29 of Title 14, Code of Federal Regulations, Part 158¹, this Final Agency Decision (FAD) includes all appropriate determinations to approve or disapprove, in whole or in part, imposition and use of PFC revenue on three projects at PHX.

Procedural History (Dates)

Written Notice to air carrier:	October 9, 2018
Air carrier consultation meeting:	November 8, 2018
Public notice posted:	November 8, 2018
Federal Aviation Administration (FAA) application receipt:	January 18, 2019
FAA finding that application is substantially complete:	January 29, 2019

PFC Level, Amount, and Charge Effective Date

Level of PFC:	\$4.50
Total approved net PFC revenue in this decision:	\$22,460,400
Earliest charge effective date:	October 1, 2036

October 1, 2036, is the "earliest" charge effective date and is based upon the estimated charge expiration date for the previously approved collections in application 18-11-C-00-PHX². If the City of Phoenix Aviation Department (City) changes the charge expiration date for the previous application, the charge effective date for this application will also change, so that the City can continue to collect the authorized amount of PFC revenue without a cessation in collections. Section 158.43 (c) contains information regarding notification to air carriers and foreign air carriers of the charge effective date and changes to the charge expiration date. In establishing its charge effective date, the public agency must comply with §158.43(b)(3), which states, in part, that the charge effective date will be the first day of a month which is at least 30 days from the date the public agency notifies the carriers of approval to impose the PFC.

Duration of Authority to Impose a PFC

The City is authorized to impose a PFC at PHX until the date on which the total net PFC revenue collected plus interest thereon equals the allowable cost of the approved projects or the charge expiration date is reached, whichever comes first. Based on information submitted by the City, the FAA estimates the charge expiration date for this decision is January 1, 2037. Should the amount of PFC revenue collected for this application ever exceed the allowable costs for all approved projects in this application, the public agency's authority to impose a PFC for this application ceases³. If the public

¹ Elsewhere in this document 14 CFR Part 158 may be referred to in abbreviated form as "§ 158.xx."

² Pursuant to Title 14 CFR § 158.3, "charge effective date" means the date on which air carriers are obligated to begin collection of a PFC; "charge expiration date" means the date on which air carriers are to cease collecting a PFC.

³ See Title 14 CFR § 158.63(a) (The public agency must provide quarterly reports to air carriers collecting PFCs for the public agency with a copy to the appropriate FAA Airports Office.),

agency's authority to impose a PFC ceases, the public agency must, without delay, submit a plan acceptable to the FAA describing the use of accumulated PFC revenue to insure that it complies with applicable law. If the plan is not acceptable to the FAA, the PFCs may offset the (loss of) Airport Improvement Program (AIP) grant funds. See §158.39(d).

CUMULATIVE PFC AUTHORITY DECISION SUMMARY TABLE
(including current decision)

<u>Application Number</u>	<u>Approved for Collection</u>	<u>Approved for Use</u>
93-01-C-00-PHX	withdrawn	withdrawn
95-02-C-00-PHX	withdrawn	Withdrawn
95-03-C-00-PHX	\$80,978,000	\$79,103,000
95-03-C-01-PHX	\$25,988,000	\$25,988,000
95-03-C-02-PHX	(\$13,735,161)	(\$12,781,586)
97-04-U-00-PHX	\$0	\$1,875,000
97-04-U-01-PHX	\$0	(\$953,575)
98-05-C-00-PHX	\$193,445,920	\$193,445,920
98-05-C-01-PHX	(\$45,570,243)	(\$45,570,243)
02-06-C-00-PHX	\$221,402,900	\$221,402,900
02-06-C-01-PHX	(\$13,317,099)	(\$13,317,099)
04-07-C-00-PHX	\$177,800,000	\$177,800,000
04-07-C-01-PHX	\$44,450,000	\$44,450,000
04-07-C-02-PHX	\$24,727,086	\$24,727,086
07-08-C-00-PHX	\$202,200,000	\$202,200,000
07-08-C-01-PHX	(\$14,550,398)	(\$14,550,398)
07-08-C-02-PHX	(\$8,613,160)	(\$8,613,160)
09-09-C-00-PHX	\$1,858,636,000	\$1,858,636,000
09-09-C-01-PHX	\$81,857,949	\$81,857,949
09-09-C-02-PHX	\$31,910,832	\$31,910,832
15-10-C-00-PHX	\$82,163,209	\$82,163,209
18-11-C-00-PHX	\$69,959,779	\$69,959,779
19-12-C-00-PHX	<u>\$22,460,400</u>	<u>\$22,460,400</u>
Totals	\$3,022,194,014	\$3,022,194,014

§ 158.67(c) (The public agency shall annually provide for an audit of its PFC account.), and § 158.39(a) (If excess PFC revenue has been collected, the public agency must use the excess funds for approved PFC projects or to retire outstanding PFC – financed bonds.).

Project Approval Determinations

For each project approved in this Final Agency Decision and for the application as a whole, the FAA, based on its expertise with the PFC program and airport development, exercises its judgment, and finds that the application and record thereof, contained substantial evidence to support the following determinations:

- The amount and duration of the PFC will not result in revenue that exceeds the amount necessary to finance the specific projects.
- Each approved project meets at least one of the objectives set forth in §158.15(a); is eligible in accordance with §158.15(b) (as set forth in the individual project determinations); and is adequately justified in accordance with §158.15(c) and paragraph 4-8 of FAA Order 5500.1, *Passenger Facility Charge* (August 9, 2001).
- For those surface transportation or terminal projects approved for collection at a PFC level above \$3, the requirements of §158.17(a)(3) have been met. For each such project approved in this Final Agency Decision, the FAA has determined that the public agency has made adequate provisions for financing the airside needs at the airport including runways, taxiways, aprons, and aircraft gates.
- All project-related requirements pertaining to the airport layout plan and airspace studies have been met. Environmental requirements (§158.29(b)(1)(iv)) are discussed under a separate heading below.
- The collection process, including a request by the public agency not to require a class or classes of carrier to collect PFC, is reasonable, not arbitrary, nondiscriminatory, and otherwise in compliance with the law.
- The public agency has not been found to be in violation of §9304(e) or §9307 of the Airport Noise and Capacity Act (ANCA) of 1990 (since codified at 49 U.S.C. 47524 and 47526).

Projects Approved for Authority to Impose and Use a PFC at PHX at a \$4.50 Level

Description:

Approved Amount

1. AV08000082 – Terminal 2 Concourse Demolition & Apron Construction

\$8,900,000

This project consists of design and construction services associated with the demolition of the Terminal 2 (T2) Concourse, construction of the area as apron, and reconstruction of the T2 apron. The reconstructed apron will be used for the new Terminal 3 (T3) South Concourse for the implementation of a new Aircraft Design Group V dual taxi lane and remain overnight (RON) aircraft parking.

The scope of work includes demolition of the existing T2 Concourse structure consisting of approximately 80,000 square feet including foundations, slabs, and passenger boarding bridge foundations. Also included in this scope of work is the construction of apron in the area of the existing T2 Concourse as well as the reconstruction of the existing apron, consisting of approximately total 623,000 square feet of surface area.

The new Terminal 3 apron will include parking spaces and a taxi lane from Taxiway D to the west and north sides of the new T3 South Concourse. The project also includes the restriping of the new pavement, and the upgrade or replacement of signage and lighting, clean-up of contaminated soil, necessary drainage, and miscellaneous work associated with the water/sewer (drywells), hydrant fuel systems and any electrical, LED apron work located in the area affected by the project. The apron is common use, serving all airlines that access the T3 South Concourse.

The scope of this project includes the demolition of T2 Concourse and does not include demolition of the T2 Terminal processor building. That is, only the T2 Concourse building, excluding the processor portion of the building, is in the footprint of the T3 South Concourse apron and will be demolished as a component of this project.

This project will allow the full utilization of gates F11-F15 on the new T3 South Concourse by providing a taxi lane and additional aircraft parking.

Determination:

Approved for the collection and use.

PFC Objective: This project provides for the demolition of the existing Terminal 2 concourse structure and using the area for the reconstruction of aircraft parking apron (approximately 623,000 square feet) to accommodate new Terminal 3 South Concourse with five boarding gates capable to accommodate new entrant of ADG Group V aircraft. The project also provides for the construction of a taxi lane to allow for safe ingress and egress of aircraft from parallel Taxiway D to the west and north sides of the Terminal 3. The scope of work includes lighting, signage, markings/striping, drainage, relocation of utilities as required and associated amenities to increase the safety of aircraft operations. In addition, this project will provide for additional the RON parking spaces, which are being decreased due to the T3 Modernization project. Thus, this project meets the PFC objective of enhancing the capacity of the national air transportation system.

Basis for Eligibility: Chapter 3, Paragraph 3-74, Table 3-45(b); Appendix H, Paragraph H-2(e), Table H-4(a); Appendix I, Paragraph I-2, Table I-4(a); of FAA Order 5100.38D(1), *AIP Handbook* (February 26, 2019).

Adequate Justification: The reconstruction Terminal 2 apron will be used for the new Terminal 3 South Concourse with five gates capable of accommodating aircraft up to size ADG V, which became operational in January of 2019. In addition, this project will provide the necessary taxi lane to allow for safe ingress and egress of aircraft on the west side and will replace some RON parking spaces, which are being decreased due to the Terminal 3 Modernization project. These additional taxi lanes will also alleviate the need to push back aircraft or through Taxiway D, which is the busiest taxiway to air carrier Runway 7L/25R. Without the implementation of this project, the capacity airport facilities would be insufficient to meet the demands of passenger traffic.

Estimated Total Project Cost: \$32,962,000.

Proposed Sources of Financing: PFC revenue [(\$8,900,000 – the amount requested by the City), anticipated AIP entitlement funds (\$23,073,000), and local funds (\$989,000)].

2. AV08000083 - Terminal 4S1 Apron Construction**\$5,192,000**

This project consists of the construction of a new apron at Terminal 4 for the new S1 Concourse (T4S1) that is the 8th and final concourse to be constructed at Terminal 4. The concourse is located on the south apron west of the existing S2 Concourse and will provide the Airport with additional capacity through eight (8) new Group III ADG boarding gates while allowing the operation of limited Group V aircraft. Also, taxi lanes will be provided on both sides of the concourse with parallel taxi lanes on the east side between Concourse S1 and S2. The taxi lane west of the S1 Concourse will run parallel to the existing Taxiway S.

The project will remove old existing paved sections, old building foundation components from a hangar that was demolished many years ago, asphalt service roads and transitions, abandoned tank and utilities, and, if necessary, contaminated soil. The scope of work includes preparing the site by earthwork balancing of importing and exporting soil and relocating existing utilities as required.

The new apron will be constructed with approximately 44,000 SY of Portland Cement Concrete Pavement (PCCP). Currently, this site is undeveloped and will require extensive surface demolition and site grading prior to paving. In addition, the scope of this project will include lighting, signage, markings/stripping, drainage, relocation of utilities as required, and associated amenities.

Currently, this area is the laydown yard for the T4 North Apron Reconstruction project. The laydown yard will be relocated to the north side of the Airport prior to the implementation of this project.

Determination:

Approved for the collection and use.

PFC Objective:

This project provides for the construction of 396,000 square feet apron at Terminal 4 to accommodate the new S1 Concourse at Terminal 4, with eight boarding gates capable to accommodate new entrant of ADG Group III aircraft. The project also provides for the construction of taxi lanes on both sides of the concourse with parallel taxi lanes on the east side between Concourse S1 and S2 to allow for safe ingress and egress of aircraft operations to and from Terminal 4. The scope of work includes lighting, signage, markings/stripping, drainage, relocation of utilities as required, and associated amenities. Thus, this project meets the PFC objective of enhancing the capacity of the national air transportation system.

Basis for Eligibility: Chapter 3, Paragraph 3-74, Table 3-46(d); Appendix H, Paragraph H-2(e), Table H-3(a); Appendix I, Paragraph I-2, Table I-4(a) of FAA Order 5100.38D(1), *AIP Handbook* (February 26, 2019).

Adequate Justification: The construction of the new apron is required in support of the new 8-gate Terminal 4 S1 Concourse, capable to accommodate ADG Group III aircraft. In addition, the scope includes lighting, signage, markings/stripping, drainage, relocation of utilities as required to increase the safety of aircraft operations. Without the implementation of this project, the capacity airport facilities would be insufficient to meet the demands of passenger traffic. The Airport has experienced sustained and

significant growth in domestic and international passengers serviced by a growing range of airlines over recent years.

Estimated Total Project Cost: \$19,230,000.

Proposed Sources of Financing: PFC revenue (\$5,192,000 – the amount requested by the City), anticipated AIP entitlement funds (\$13,461,000), and local funds (\$577,000).

**3. AV21000102 -Terminal 4 Infrastructure
Fire Alarm Replacement**

\$8,368,400

This project involves the replacement of the existing fire alarm and voice evacuation system (system), Honeywell EBI/XLS1000, in Terminal 4. The system is located within Terminal 4 public and nonpublic areas, encompassing approximately 1,815,000 square feet of space. The proposed system will replace the existing system which was installed in 2003 with some components still in operation from 1990 when the terminal was constructed. The system has a useful life of 15 years and has therefore reached the end of its useful life. In addition, Honeywell ceased production of the current system in 2010, its parts are no longer being manufactured and the manufacturer will no longer support the system.

This project proposes to replace the current fire alarm/voice evacuation system consisting of items such as fire alarm control panels, smoke detectors, speakers, heat detectors, strobes, booster panels, and pull stations in Terminal 4 with an updated fire alarm/voice evacuation system.

This project will assure that Terminal 4 will be equipped with a reliable, working fire alarm system to provide safety at Terminal 4. The retrofitted system will serve the terminal through 2035.

Determination:

Approved for the collection and use.

PFC Objective: This project involves the replacement of the fire alarm and voice evacuation system, located in Terminal 4. The existing system was installed in 2003 and has reached the end of its useful life. The scope of work includes the replacement of a fixed building component to accommodate passenger and airline safety and capacity needs. The project is a part of terminal rehabilitation projects that are directly related to the movement of passengers and baggage in terminal facilities. Thus, this project meets the PFC objective of preserving capacity at PHX.

Basis for Eligibility: Appendix N, Paragraph N-3, Table N-1(a), Table N-2; Paragraph N-7, Table N-4; Table N-9(d) of FAA Order 5100.38D(1), *AIP Handbook* (February 26, 2019). The preliminary PFC eligibility analysis, for this project concluded that 66.4% of the area covered by the system is PFC eligible space.

FAA bases its findings concerning the eligibility of the work on the estimated terminal square footage (SF) to determine the eligible square footage of the terminal building. FAA's proration percentage was determined to be 66.4% (1,205,160 SF prorated eligible space of 1,815,000 SF total terminal space). The FAA agrees in general with the

methodology presented in Attachment I, Appendix A of 'Eligibility Analysis Table" dated July 1, 2018, for the PFC estimated eligible and ineligible costs associated with passengers and airlines public use space. The PFC share of the total cost provided by the public agency has been reviewed and accepted to be appropriate.

Adequate Justification: This project involves the replacement of the existing fire alarm and voice evacuation system, Honeywell Fire Alarm System, that provide 24/7 monitoring and alarm protection for Terminal complex. Both systems will have an interface that links to the terminal fire alarm control panels, smoke detectors, speakers, public address system for voice evacuation announcements. This project will reduce anticipated air carrier delays and passenger congestion, which would occur if the terminal had to evacuate in the event of emergencies. The project is needed to maintain compliance with the current building code and National Fire Protection Association requirements.

Estimated Total Project Cost: \$12,603,000.

Proposed Sources of Financing: PFC revenue (\$8,368,400 – the amount requested by the City) and local funds (\$4,234,600).

Environmental Requirements:

The projects approved in this application for concurrent authority to impose and use the PFC were examined under the guidelines contained in FAA Order 5050.4B, National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions. The proposed Terminal 2 Concourse and apron reconstruction is a component of the Phoenix Sky Harbor International Airport Terminal 3 South Concourse Reconstruction Project. The proposed Terminal 2 Concourse and apron reconstruction was evaluated by FAA under FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures* and FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions* (April 28, 2006). FAA approved a Finding of No Significant Impact and Record of Decision for the Terminal 3 South Concourse Reconstruction Project on December 22, 2016. The proposed Terminal 4 apron reconstruction project was categorically excluded on August 21, 2018 and the proposed fire suppression system project was categorically excluded on September 17, 2018. There appear to be no extraordinary circumstances requiring further review.

Request Not to Require a Class or Classes of Carriers to Collect PFC's:

The City requests that the following classes of air carriers be excluded from the requirement to collect PFC's: Nonscheduled/on demand air carriers, filing FAA form 1800-3, commuters or small certified air carriers with less than 7,500 enplanements each annually at the Airport, filing FAA form T-100, large certified route air carriers with less than 7,500 enplanements each annually at the Airport, and foreign air carriers with less than 7,500 enplanements each annually at the Airport.

Determination: Approved. Based on information contained in the City's application, the FAA has determined that each proposed class accounts for less than 1 percent of PHX's total annual enplanements. The City should confirm, on an annual basis using prior year enplanement data, that each approved class does not exceed 1 percent of the total enplanements at PHX.

Compliance with the Airport Noise and Capacity Act of 1990 (ANCA)

The FAA is not aware of any proposal at PHX that would be found to be in violation of the ANCA. The FAA herein provides notice to the City that a restriction on the operation of aircraft at PHX must comply with all applicable provisions of the ANCA and that failure to comply with the ANCA and Part 161 makes the RTAA subject to provisions of Subpart F of that Part. Subpart F, "Failure to Comply with This Part," describes the procedures to terminate eligibility for AIP funds and authority to collect PFC revenues.

Compliance with Subsection 47107(b) Governing Use of Airport Revenue


As of the date of this approval the City of Phoenix Aviation Department has not been found to be in violation of 49 U.S.C. §47107(b) or in violation of grant assurances made under 49 U.S.C. §47107(b).

Air Carrier Consultation and Public Notice Comments

The City did not receive any certifications of agreement or disagreement with respect to the proposed projects or application as a result of the air carrier consultation process. In addition, the Authority did not receive any comments in response to the City's November 8, 2018, public notice and request for comments on this application.

Legal Authority

This decision is made under the authority of 49 U.S.C. § 46110 and § 40117, as amended. This decision constitutes a final order to approve, in whole or in part, the City of Phoenix Aviation Department's application to impose and use of PFC revenue on three projects at PHX. Any party to this proceeding having a substantial interest may appeal this decision to the courts of appeals for the United States or the United States Court of Appeals for the District of Columbia upon petition, filed within 60 days after issuance of this decision.

Concur	 _____	<u>4/19/19</u> _____
	Mark A. McClardy Director, Office of Airports Western-Pacific Region	Date
Nonconcur	_____	_____
	Mark A. McClardy Director, Office of Airports Western-Pacific Region	Date

A copy of the signed document is in the files at the FAA's Office of Airports, Western-Pacific Regional Office, El Segundo, California; as well as in the FAA's Phoenix Airports District Office, in Phoenix, Arizona.