



**JOHN WAYNE
AIRPORT**
ORANGE COUNTY

Barry A. Rondinella
A.A.E./C.A.E.
Airport Director

November 8, 2019

Mr. Alex Wilcox
Chief Executive Officer
JSX/Delux Public Charter
1341 West Mockingbird Lane, Suite 600E
Dallas, TX 75247

Subject: *John Wayne Airport Commuter Carrier Allocations for the 2020 Plan Year*

Dear Mr. Wilcox:

On September 10, 2019, the Orange County *Board of Supervisors** (“*Board*”) approved my recommended capacity allocations for the 2020 *Plan Year*. Consistent with the *Board’s* approval action, I notified you by letter dated September 13, 2019, that Delux (dba JSX) has been allocated 95,070 passengers for its *Commuter Carrier* operations out of the ACI Jet leasehold during the 2020 *Plan Year* or, in the alternative, 200,000 passengers for its *Commuter Carrier 2020 Plan Year* operations in the Thomas F. Riley Terminal. Consistent with your letter dated November 1, 2019, I understand that JSX accepts the allocation of 95,070 passengers for its *Commuter Carrier* operations out of the ACI Jet leasehold. In addition, JSX would like *John Wayne Airport, Orange County* (“*JWA*” or “*Airport*”) to reconsider allocating the remaining capacity of 104,930 passengers for service out of the ACI Jet leasehold instead of at the Thomas F. Riley Terminal. As discussed in more detail below, after review of the information provided in your recent letter and discussions with my staff, and consistent with the recent allocation action by the *Board of Supervisors*, JSX’s operations out of the ACI Jet leasehold must be limited to the allocation of 95,070 passengers for its *Commuter Carrier* operations during the 2020 *Plan Year*. If the remaining capacity of 104,930 passengers (or any portion of this capacity) is allocated to JSX for use during the 2020 *Plan Year*, JSX will be required to provide all its operations (*i.e.*, 200,000 passengers) in the Thomas F. Riley Terminal.

According to your recent letter, JSX asserts that allocating JSX the full capacity of 200,000 passengers for its operations out of the ACI Jet Fixed Based Operator (“*FBO*”) is appropriate because “ACI Jet has confirmed that it has adequate capacity to handle the full 200,000 passenger capacity and that no operational or safety issues will be posed by permitting JSX to operate out of its *FBO*.” As you know, Section 8.1.7 of the PHASE 2 COMMERCIAL AIRLINE ACCESS PLAN AND REGULATION (“*ACCESS PLAN*”)** requires all *Air Carriers* and *Commuter Carriers* to provide services or engage in activities related to service of air passengers and their baggage through and in the facilities designated for that purpose by the *County* in the Thomas F. Riley Terminal. Limited exceptions are provided to the extent authorized by the *Board of Supervisors* and subject to the conditions the *Airport Director* or *Board*

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may impose. The recent action by the *Board* with respect to JSX operations allows operations consistent with operation levels for the 2019 *Plan Year*. However, because of the ACCESS PLAN preference for operations at the Terminal, among others, any *Passenger Capacity* above the allocated capacity provided during the 2019 *Plan Year* must be provided in the Thomas F. Riley Terminal. The fact that ACI Jet has indicated to JSX that it has adequate capacity to handle additional *Passenger Capacity* does not negate the ACCESS PLAN provisional preference for carrier operations in the Thomas F. Riley Terminal. Additionally, the *Airport* is aware of ramp space issues at ACI Jet which resulted in ACI Jet employees requesting approval from *Airport* Operations to relocate the JSX *RON* aircraft elsewhere, or leave at Gate 22 or the South *RON* beyond 0900 hours local.

In your recent letter, you also indicate that “JSX’s operations are amongst the most quiet for jet operators at JWA and the community has recognized the positive steps that JSX has made to fly neighborly.” Although we appreciate your continued proactive measures to ensure that JSX’s operations comply with all noise limits at the *Airport*, no preferential allocation treatment can be provided for carriers that fly at energy averaged *SENEL* levels far below those permitted for the specific class of *Average Daily Departure* or *Class E Aircraft*. To do so would arguably violate the Airport Noise and Capacity Act of 1990 by providing new access restrictions (*i.e.*, preferential allocation operational conditions for the quietest operators at the *Airport*) and the *Airport*’s FAA grant assurances (*e.g.*, economic nondiscrimination and exclusive rights).

Your recent letter also asserts that if “JSX is not granted the full allocation of 200,000 passengers, JWA will be in violation of the Access Plan and its federal obligations.” First, and importantly, the ACCESS PLAN requires all carriers to operate in the Thomas F. Riley Terminal. Although the ACCESS PLAN provides the *Airport Director* with the discretion to authorize operations at the location of an FBO which is a tenant of the *County*, the authority of a *Commuter Carrier* to conduct such operations is discretionary, is not required, and is subject to such conditions as the *Airport Director* or *Board* may impose on such operations. See, ACCESS PLAN, Section 8.1.7. Although you have indicated in the past and in your recent letter that JSX’s operations are different than other *Commuter Carriers* operating at the *Airport*, this does not provide JSX with the ability to operate in a manner that is inconsistent with the requirements imposed on other carriers operating at the *Airport* consistent with all ACCESS PLAN requirements, including that operations are conducted in the Thomas F. Riley Terminal, with limited exceptions.

If you have any additional questions or would like to discuss this matter further, please contact Nikolas Gaskins, Manager, Access and Noise, at (949) 252-5188.

Sincerely,



Barry A. Rondinella, A.A.E./C.A.E.
Airport Director

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cc: ACI Jet SNA
Deputy Airport Director, Business Development
Deputy Airport Director, Finance Administration
Deputy Airport Director, Operations
Deputy Airport Director, Public Affairs
Manager, Access and Noise
Manager, Airside Operations
Access and Noise Office
Airport Special Counsel
County Counsel

* The terms in this letter shown in *italics type* are defined terms in Section 2 of the ACCESS PLAN.

** The ACCESS PLAN was approved and adopted by the Orange County *Board of Supervisors* on August 29, 1990. On December 12, 1990, and on subsequent dates, the *Board* considered and approved various administrative amendments to the ACCESS PLAN. (Copies of the ACCESS PLAN have previously been provided to Delux.) The ACCESS PLAN provides that any person conducting *Regularly Scheduled Air Service* at *JWA* is deemed conclusively to have accepted all terms and conditions of the ACCESS PLAN. In addition, the terms of Delux's operating agreement require Delux to conduct all operations and activities at *JWA* in strict compliance with the ACCESS PLAN.