



November 19, 2019

Mr. Barry A. Rondinella
Airport Director
John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA 92626

RE: JSX Conditional Acceptance of Passenger Allocation for 2020

Dear Mr. Rondinella,

This communication is in response to your letter dated November 8, 2019 and emailed to JSX on November 13 (“Letter”). The Letter responds to my October 31, 2019 request for reconsideration (“Request”) and restates the position of John Wayne Airport (“JWA”) that JSX must either limit its operations to 95,070 passengers from ACI Jet’s FBO leasehold or operate JSX’s entire 200,000 *Commuter Carrier Passenger Capacity Allocation* from the Thomas F. Riley Terminal (“Terminal”). JSX respectfully submits that there are reasonable alternatives to the Hobson’s choice presented in the Letter.

JWA’s position, restated in the Letter, violates the Access Plan. The Access Plan requires JWA to allocate 400,000 passengers of capacity to commuter air carriers. JSX, as one of two commuter air carriers that applied for commuter carrier allocations, should receive half that amount. Indeed, the Access Plan mandates this result: when the total Commuter Passenger Capacity Allocation requests exceed 400,000 and the qualified commuters have asked for more than their pro rata share, then “the remaining Commuter Passenger Capacity *shall* be divided equally among the other requesting Qualified Commuter Carriers.”¹ Instead, the Letter constructively denies JSX that capacity by presenting a false choice between operating from the Terminal, which JSX cannot do because it does not operate from the sterile areas of airports, or operating less than half the capacity mandated by the Access Plan. It does not have to be that way.

If the JWA is willing to work with JSX to provide for a non-Security Identification Display Area (SIDA) area in the Terminal, JSX’s operations can be moved there. As JSX has previously offered, it will operate from the Terminal if JSX can use gates segregated from the sterile areas of JWA. Indeed, we will commit resources to developing a workable, efficient plan for doing so, and we have already proposed to you and your staff that the currently underused parking structure, and parking lot and ramp space (often used for vehicle parking – see attached photo) could all be suitable for JSX’s non-sterile operation from the terminal area if JWA airport truly wanted to accommodate JSX in the terminal area.²

¹ Access Plan §3.5.3 (emphasis added).

² To be clear, JSX believes the most efficient solution is for JSX to be allocated the full 200,000 *Carrier Passenger Capacity Allocation* for operations at ACI Jet. However, JSX is more than willing to work with JWA on a solution at the Terminal.



To date, JWA has dismissed JSX's proposals out-of-hand, stating the gate area at the south end of the terminal that could accommodate JSX is occasionally used by Southwest when that carrier experiences delays. JWA's favoring a *Commercial Air Carrier* at the Terminal while refusing to allow JSX to operate its full *Commuter Carrier Passenger Capacity Allocation* from the ACI Jet FBO violates Grant Assurance 22's prohibition against "unjust discrimination to all types, kinds and classes of aeronautical activities."³ JWA's position amounts to a constructive denial of JSX's access to a federally obligated airport.

In addition, I must respond to another point raised in the Letter. The Letter's assertion that "no preferential allocation treatment can be provided for carriers that fly at energy averaged SENEL levels far below those permitted for" other aircraft or risk violating "the Airport Noise and Capacity Act of 1990" may be an accurate statement of the law, but it is also a red herring.⁴ JSX is not asking for any preferential allocation – just the allocation mandated by the Access Plan. Instead, JSX's "proactive measures to ensure that JSX's operations comply with all noise limits at the *Airport*" are among the reasons that JWA should exercise its "discretion to authorize operations at the location of an FBO."⁵ The results of the noise study are now in, and it confirms that "a single Boeing 737 (or 737-800) produces the equivalent energy during a single overflight equal to 38 (yes, THIRTY EIGHT) JSX overflights."⁶ As you know, noise levels are a critical concern to community stakeholders at JWA. JSX believes that the public support for our consumer-friendly service will only grow as the wider community and the board of supervisors become familiar with the fact that our operations are substantially quieter than those of the *Commercial Air Carriers*.

JSX looks forward to continuing to serve JWA and the surrounding community during 2020. By working together, we believe that JSX's request to operate the full passenger allocation of 200,000 passengers can be accommodated. I request that we meet in the next 21 days together with our operations teams to discuss constructive solutions to this situation, and that the outstanding 105,000 commuter slots be issued to or at a minimum reserved for JSX.

Respectfully,

A handwritten signature in black ink, appearing to read 'Alex Wilcox'.

Alex Wilcox
Chief Executive Officer
JSX/Delux Public Charter

³ Federal Aviation Administration, Airport Sponsor Assurances (Mar. 2014), https://www.faa.gov/airports/aip/grant_assurances/media/airport-sponsor-assurances-aip.pdf

⁴ Letter at 2.

⁵ Letter at 2.

⁶ Investigative Science & Engineering, Inc., Acoustical Compliance Monitoring & Validation Testing JSX Airlines Overflight Activities – Newport Beach, CA ISE Project #19-012 (Nov. 13, 2019), at 12.

JSX

