



**SS-28**

**December 13, 2016**

**Recommendation to conduct a study session to receive and file a presentation on a feasibility study for a Federal Inspection Service (FIS) facility at the Long Beach Airport.**

**THERE IS NO STAFF REPORT FOR THIS AGENDA ITEM**

**For further information, please contact  
the Office of the City Clerk at:**

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**City of Long Beach**

*Working Together to Serve*

**Memorandum**

**Date:** October 4, 2016

**To:** Patrick H. West, City Manager *P.H.W.*

**From:** Jess L. Romo, Director, Long Beach Airport *JLR*

**For:** Mayor and Members of the City Council

**Subject:** **Federal Inspection Services Facility Feasibility Study for the Long Beach Airport and City Attorney's Opinion Regarding Federal Inspection Services Facility – Release of Completed Reports**

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On January 19, 2016, the City Council authorized the execution of a contract with Jacobs Engineering Group (Jacobs) for the preparation of a comprehensive Feasibility Study (Study) for a potential Federal Inspection Services (FIS) Facility at the Long Beach Airport. The Study examines the following areas relative to a FIS Facility: Market Demand, Environmental Compliance, Economic Impact, Facility Concepts, Airport Scope and Capability, Financial Feasibility, and Security Risk.

The City Council also requested that the City Attorney provide a legal opinion regarding "potential threats" to the Airport Noise Compatibility Ordinance (Noise Ordinance) if a FIS Facility was built, and to further opine as to what types of mitigation could be implemented in the event that the Noise Ordinance was invalidated. The completed Study and legal opinion are attached for your consideration.

Both documents will be available on the City's and Airport's websites for public review and download. A press release will be issued this afternoon directing the public to the location on the respective websites, followed by similar announcements via social media. As part of the community review process requested by the City Council, a presentation of the Study, a report on the legal opinion, as well as an opportunity for public comment, will be included on the respective agendas of the following public meetings:

**Thursday, October 20, 2016**  
Airport Advisory Commission (AAC)  
Long Beach Gas & Oil Auditorium  
6:30 – 8:30 P.M.

**Tuesday, October 25, 2016**  
Economic Development Commission (EDC)  
City Council Chamber  
4:00 – 8:00 P.M.  
FIS Study discussion will start at 6:00 P.M.

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The City Council directed the study to be available to the public 15 days before the first City Council meeting and discussion. The City Council is tentatively scheduled to receive the presentation and public input from the two commission meetings on November 15, 2016.

If there are any questions regarding this information, please contact me at (562) 570-2605.

JLR:JLR:km  
S:\DIRECTOR\TFF MEMO - FIS STUDY AND OPINION.V1

ATTACHMENTS

CC: CHARLES PARKIN, CITY ATTORNEY  
LAURA L. DOUD, CITY AUDITOR  
TOM MODICA, ASSISTANT CITY MANAGER  
ARTURO SANCHEZ, DEPUTY CITY MANAGER  
REBECCA JIMENEZ, ASSISTANT TO THE CITY MANAGER  
DEPARTMENT HEADS

## Federal Inspection Service Feasibility Study Summary of Commission Meetings

On February 23, 2015, JetBlue Airways (JetBlue) requested that the City begin work to seek the creation of a U.S. Customs Facility, or Federal Inspections Services (FIS), at the Long Beach Airport (Airport) to provide international commercial passenger and cargo service.

The Long Beach City Council awarded a contract to Jacobs Engineering Group, Inc. (Jacobs), to provide a comprehensive Feasibility Study (Study) for a FIS facility at the Airport. The components of the Study included market analysis, airport scope and capacity, financial feasibility, economic impact, environmental assessment, and security risk assessment. Additionally, the contract provided for two community meetings that were held prior to the completion of the Study to receive public input and answer questions about the scope of the Study. Jacobs compiled all of the questions from the public comment period, comment cards, and e-mail messages. These questions and a summary of the frequently asked questions were included in the final Study document.

A separate analysis conducted by the City Attorney examined possible effects on the City's Noise Compatibility Ordinance (LBMC 16343) and was released in early October 2016.

On October 4, 2016, City staff released the Study to the Mayor, City Council, the Airport Advisory Commission, and also posted the Study online for interested members of the community. At the request of the City Council, the Study was released a minimum of 15 days prior to any City Council action, to allow time for the community to review the Study, hear presentations from Jacobs, ask questions and provide feedback. The Airport hosted study sessions with the Airport Advisory Commission (AAC) on October 20, 2016, and the Economic Development Commission (EDC) on October 25, 2016. Additionally, the Airport received questions and feedback from the community via U.S. Mail and e-mail.

All relevant documents from the Study and meetings were posted to Airport's website at [http://www.lgb.org/information/fis\\_feasibility\\_study/default.asp](http://www.lgb.org/information/fis_feasibility_study/default.asp). The documents include the FIS Feasibility Study, City Attorney's Opinion, Federal Aviation Administration (FAA) Opinion, Jacobs' presentations, and transcripts from both the AAC and EDC Commissions' study sessions.

The AAC meeting was attended by 95 members from the community, and the EDC meeting was attended by 45 members from the community. Dave Tomber, Aviation Principal for Jacobs, provided a presentation on the Study, answered Commissioners' questions and heard comment from the Commission and the public.

Following is a summary of the comments made by the two Commissions and a summary of the most frequently asked questions and answers from the Commissioners and the public.

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### COMMENTS FROM THE AIRPORT ADVISORY COMMISSION

Commissioners generally expressed that the content of the presentation was good and characterized the issues adequately. Some emphasized that the main question is whether or not a FIS facility would trigger a lawsuit from an airline that is denied entry into the Airport. There was disagreement on this issue, with some Commissioners stating concern that the City's Noise Ordinance could be challenged in court, while other Commissioners believing that the ordinance could withstand a lawsuit and a FIS facility likely will not generate new litigation.

Major themes and comments from the AAC and the public are as follows:

- The format of the study session itself was questioned. Some Commissioners noted that the format did not allow the public to directly ask Jacobs questions;
- The presentation did not address many of the public's concerns about pollution and property values;
- The influence of JetBlue was questioned;
- It was noted that the INPLAN economic model is widely used, but has some deficiencies;
- Most travelers will be from the area, so a FIS facility is not really generating new growth. There will be the same number of flights and seats, just new destinations;
- This was a study session to an advisory committee – the AAC does not have the authority to make a decision; and,
- General Aviation is subject to the Noise Ordinance and must obey the same rules.

## Federal Inspection Service Feasibility Study Summary of Commission Meetings

### COMMENTS FROM THE ECONOMIC DEVELOPMENT COMMISSION

The EDC was generally pleased with the Study and the presentation of findings. The Commissioners expressed that they thought the Study was very thorough.

The EDC Commissioners had many detailed questions that were answered by Jacobs and City staff. Of particular interest to the commission was the Study's economic impact to Long Beach and the region; they emphasized the importance of the impact on Long Beach and noted that a FIS facility would be an economic benefit.

Major themes and comments from the EDC and the public are as follows:

- Economic impact will be created from the construction of a facility and from ongoing operations;
- Interested in data analyzing the economic impact of the new concourse completed in 2012. Staff reported that a study to analyze the impact has not been conducted;
- Expressed sympathy for those that live in the flight path and endure aircraft noise;
- Discussed noise limits and the fact that quieter aircraft allows more flights;
- Details of the Noise Ordinance were discussed by the Commissioners, stating that they are very familiar with it over the last 20 years and emphasized the importance of the ordinance;
- Slot utilization is currently below 100 percent and a FIS facility would not increase the number of flights;
- Potential for other airlines using the FIS was discussed;
- Commissioners expressed their preference to use Long Beach Airport over other local airports because of convenience;
- JetBlue was praised for being a good employer and community partner;
- There are a lot of opportunities for whomever uses a FIS facility;
- As an "international city," the City should encourage international visitors and business; and,
- Recommended "Made in Long Beach" products be offered on JetBlue flights.

## Federal Inspection Service Feasibility Study Summary of Commission Meetings

### SUMMARY OF FREQUENTLY ASKED QUESTIONS

Each Commission meeting included a public comment period. Many comments and questions had to do with the City's Noise Ordinance, economic impact to Long Beach, environmental concerns, and potential frequency of international flights. Questions from the public in both study sessions were similar, and many of the same questions were asked. The Airport also received questions via U.S. Mail and e-mail. Below is a summary of the frequently asked questions and answers.

1) *Will a FIS facility increase the risk of a legal challenge to the Noise Ordinance by increasing the number of potential carriers desiring to fly out of Long Beach?*

City Council requested the City Attorney's Office to provide a legal opinion regarding "potential threats" to the Airport Noise Compatibility Ordinance if a FIS facility were to be built. Below is a summary of the conclusions from the City Attorney's Opinion:

- Considers the threat of litigation and the potential invalidation of the Noise Ordinance to be no greater than currently exists if a FIS facility was not located at the Airport;
- There is no action that the City can reasonably take to prevent an air carrier or other interested party from filing a complaint in court or with the FAA at any time in an attempt to invalidate the Noise Ordinance;
- The City has an acknowledgement from the FAA that its exemption from the Airport Noise and Capacity Act (ANCA) continues to exist, and the City likewise would be able to rely on a Federal Court-recognized settlement agreement;
- There are no facts to support the scenario of air carriers litigating to gain entrance, and it is just as likely that other economic factors could spawn litigation;
- The Noise Compatibility Ordinance has not been amended since its adoption by the City Council in 1995, nor has the Ordinance been challenged in court since its adoption;
- The City recognizes that the Noise Ordinance is essential to strike an appropriate, responsible, and desirable balance between the community's need for reasonable air transportation services;
- The Ordinance does not make any distinction between foreign or domestic flights, and does not specifically or implicitly limit flights that might depart to, or originate from, a country outside of the United States;
- A FIS facility would not increase aircraft operations, modify the current allocation procedures, nor increase the number of flights beyond the parameters defined in the Ordinance; and,

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- Any limitations placed on the origin or destination of flights at the Airport could arguably be determined by the FAA to be an amendment to the regulatory environment at the Airport that “reduces or limits aircraft operations” and, therefore, any such action or amendment would arguably not be exempt from ANCA and could jeopardize the grandfather status of the existing regulations. In addition, the City is required to “make its airport available as an airport for public use on reasonable terms, and without unjust discrimination, to all types, kinds, and classes of aeronautical uses.” Grant Assurance 22(a); 49 U.S.C. 47107.

2) *What is the Airport Noise Compatibility Ordinance? What time does the Airport have to shut down at night?*

Long Beach Municipal Code (LBMC) Chapter 16.43, commonly referenced as the LGB Airport Noise Compatibility Ordinance (Ordinance), reflects consensus, derived through an extensive litigation history, between the City of Long Beach, FAA, and various aviation and community stakeholders, on the nature and extent of aircraft operations and noise occurring at LGB. The Airport Noise Ordinance is grandfathered under Airport Noise and Capacity Act of 1990 (ANCA) and, for 20 years, the Ordinance has balanced the development of facilities and the growth of operational capacity with the legitimate environmental, social, economic and legal concerns of the surrounding communities. The Ordinance specifies maximum noise exposure limits, in terms of Single Event and Cumulative noise exposure, in the surrounding communities.

The Airport is open 24 hours per day. Per the Ordinance, all flights occurring between the hours of 10:00 p.m. and 7:00 a.m. must be much quieter than flights occurring during the daytime hours, within the Single Event Noise Exposure Level limits (SENEL). There is a violation process outlined in the Ordinance to enforce these limits.

In addition, commercial airlines (air carrier, charter and commuter operators) must schedule their operations to occur between the hours of 7:00 a.m. and 10:00 p.m. Commercial operations that occur outside of these hours are typically due to unanticipated flight delays such as adverse weather conditions, aircraft maintenance issues or delays imposed by air traffic control. Commercial flights operating between the hours of 10:00 p.m. and 11:00 p.m. may be excused per the unanticipated delay provisions of the Ordinance.

Commercial flights occurring between the hours of 11:00 p.m. and 7:00 a.m. are in violation of the Ordinance and are not excused from the violation, regardless of cause of the delay. Per the Ordinance, these operations are subject to significant fines and/or criminal prosecution.



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3) *What does the City do to enforce and protect the Noise Ordinance?*

The City protects the Ordinance through careful and determined stewardship of the Ordinance and its requirements. Risks to the Ordinance exist with, or without, a FIS facility. To mitigate these risks, the Airport maintains a state-of-the-art Airport Noise and Operations Monitoring System (ANOMS). The Airport uses Type I microphones, which are the best microphones available outside of a laboratory. The system uses strict correlation protocols to ensure accurate calibration and reporting, and staff ensures the validity of each violation. The system operates 24 hours per day to ensure compliance. The Airport is in frequent communication with the City Attorney and the City Prosecutor to ensure the legal requirements of the Ordinance are properly followed.

4) *If there is an international flight with a delay due to weather, will that flight come in?*

Inspection and clearance of late arriving international flights are under the jurisdiction of U.S. Customs and Border Protection (CBP). International flights arriving outside of the agreed hours of operation for the FIS facility may have to divert to another airport with an operating FIS facility.

5) *What will happen when general aviation flights can go international? What will that increase look like? Are they monitored by the noise ordinance?*

Based on feedback from interviews with the general aviation (GA) community, the study forecast an estimate of two flights per day that may potentially use the services of CBP for international clearance. GA flights are permitted under a noise budget established by LBMC 16.43.060, which defines General Aviation operations in compliance with the ordinance. Interviews with Fixed Base Operators at the Airport revealed a number of GA flights arriving at the Airport that originated outside the U.S. and had cleared customs at another airport before arriving at their intended destination, Long Beach.

6) *As aircraft become more noise efficient, does that mean more flights can come into the Airport?*

Possibly. As aircraft, as a group, become quieter, more flights may be accommodated under the annual noise budget established by the Noise Ordinance. The Airport looks at data each year in determining whether to make a recommendation to adjust the number of slots allowed under the Noise Ordinance. The Noise Ordinance does not consider the destination of flights (domestic vs. international) as it relates to allowable noise limits.

7) *Are we below the allocated flights, including the supplemental flights that we could have currently?*

Slot allocation is currently 50 commercial air carrier slots, including 9 supplemental slots that were awarded in spring 2016. Utilization of these slots fluctuates throughout the year and depends on a number of factors such as seasonality, airline schedules, demand, and the airlines market strategy. Utilization is typically below 100 percent over

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the long-run. The current allocation and utilization is in compliance with the Noise Ordinance.

- 8) *Why was the scope of Jacob's study limited to market analysis, airport scope and capacity, financial feasibility, economic impact, environmental assessment, and security risk assessment? Why did Jacobs not study some of the issues that the community brought up in the meetings?*

The scope of the Feasibility Study was developed by City staff and approved by the City Council on January 5, 2016. City Council included additional items such as the two initial community meetings. The scope is sufficient to adequately evaluate the feasibility of a FIS facility at the Airport.

- 9) *What are the economic impact numbers based on?*

The economic impact numbers are based on the output of IMPLAN, an economic impact modeling software that generates input-output models using data collected for a defined region. The model incorporates inputs like jobs, operational expenses, purchases (local and non-local), and calculates direct, indirect and induced economic outputs based on inter-industry and labor income spending multipliers.

- 10) *It was about two or three years ago that Long Beach State Economics Department did a financial economic study. The economic study said there was little to no financial impact for the FIS facility. Where is that study today?*

There was a Financial Study done by Frasca and Associates that determined a FIS facility would not have an appreciable impact on the Airport's finances. This study was a cursory document and did not include a Market Analysis or look at the economic impact of a FIS facility. However, the previous study was evaluated as part of this Feasibility Study.

- 11) *Why was LAX not included in the financial feasibility?*

LAX is a much larger scale FIS facility. It is not a comparable benchmark. LAX is a large international gateway operating under Port of Entry designation, and their cost and scale of operations is much larger than the Long Beach Airport.

- 12) *Have you looked at other airports, other communities where a FIS facility was built?*

Other airports were evaluated; however, the City's Noise Ordinance and associated flight restrictions for the Long Beach Airport are unique and precluded a direct comparison.

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- 13) *Why do we need international flights in Long Beach when there is service at other airports? Are not other Airports losing money on FIS services?*

A FIS facility in Long Beach would provide opportunity for a share of international markets, within the constraints of the Noise Ordinance. Given the cyclical nature of the aviation industry, over the long term, diversity of a broader product mix would provide the benefit of greater stability for the City, airport, tenants, vendors, and business partners. Other regional international operations are currently performing well.

- 14) *Do we know how many people for which Long Beach is their final destination? How many are here for business versus leisure?*

The statistics used in the Economic Impact Analysis estimated that 30 percent of the passengers arriving or departing would remain in Long Beach. Of that 30 percent, there is an additional split of 70 percent leisure and 30 percent business passengers.

- 15) *What happens if the demand is not there? What happens if the fees are inadequate? How is the \$3 million that is proposed in Jacobs' analysis to be repaid to the Airport? Does JetBlue agree with the projected ramp-up period of international flights, in the first year six right off the bat and then later years?*

These are all questions the City will have to negotiate in the financial deal should the City Council decide to move forward with the FIS facility.

- 16) *What happens to the FIS facility if JetBlue decides to leave the Airport?*

If JetBlue were to leave, other airlines would be able to use the FIS facility. The facility would not be for the exclusive use of JetBlue. Prior to construction of a facility, the City would enter into an agreement with interested Long Beach carriers or operators to ensure the construction and operation of the facility would be financed.

- 17) *Given the volatility of the industry or changes within JetBlue's model, what do we do with the \$20 million facility that's built if they decide we're not going to do international?*

First, we must recognize that the cost to construct a FIS facility, thus far, is only an estimate based on a high level conceptual model. That said, and whatever the final cost might be, the City will ensure it mitigates financial exposure to the greatest extent possible through the agreement negotiation process. During construction there is a risk of non-completion of the FIS facility. The City will require performance bonds that will financially guarantee the FIS facility would be completed. During operation of the FIS, the City will mitigate the risk by including operational performance for a minimum time period that could be secured through cash, bonds, letter of credit, or some similar guarantee. Furthermore, a FIS facility would be designed to accommodate adaptive reuse if it were to cease functioning as a FIS facility. Details of adaptive reuse would depend on the final design and location.

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- 18) *Was JetBlue the only one of the four current carriers that expressed any interest in flying international flights?*

As part of this study, interviews were conducted with each of the four airlines. At the time of the interviews, JetBlue was the only carrier who, thus far, expressed an interest in international service.

- 19) *How can you be sure there will only be 6 to 8 international flights a day, what would prevent JetBlue from flying more international?*

Airline route decisions cannot be forecasted with 100 percent certainty; however, 6 to 8 daily international flights, or 17 to 22 percent, of JetBlue's 35 allocated slots would provide for a comprehensive network of service to/from Long Beach. This amount of activity was also mentioned by JetBlue during the interviews with all of the airlines. It should be noted that the historical passenger split throughout the United States is 80 percent Domestic and 20 percent International.

- 20) *How do international flights benefit domestic flights?*

Airlines make business decisions about which routes they fly based on what is most profitable. International flights provide airlines the opportunity of leveraging their entire network. A complementary mix of international and domestic flights allows airlines to benefit from a potential increase in connecting passengers and overall efficiencies to support a profitable operation.

- 21) *Did the study review the impact a FIS facility would have on air pollution, property values, traffic, schools, and health concerns?*

Environmental effects from aircraft operations were evaluated in the Long Beach Airport Terminal Area Improvement Project Environmental Impact Report (EIR) No. 37-03 (SCH No. 200309112). A FIS facility does not increase the number of flights or alter the types of aircraft operating at the Airport. International operations will be conducted using identical aircraft or aircraft very similar to aircraft already operating at the Airport. A comprehensive analysis of these operations was evaluated in the EIR. Therefore, a FIS facility does not have environmental impacts beyond what was already studied, nor does it alter the conclusions regarding flight activities contained in this document.

- 22) *What will prevent airlines from flying larger/noisier aircraft to transcontinental destinations?*

Type of aircraft and destinations are individual business decisions made by each airline. However, the industry trend is towards more fuel-efficient and quieter aircraft. The type of aircraft and destinations are outside the control of the City. What is in the control of the City is enforcement of the Noise Ordinance and limitations on overall aircraft noise by category, regardless of origin or destination. Also, the physical limitations of a FIS

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facility at the Airport would not be conducive to the use of larger aircraft because of aircraft size and operations.

23) *What effect does having a FIS facility do to traffic in the area?*

The forecast daily activity of 50 commercial and 3 commuter flights does not exceed the Optimized Flight Scenario (52 commercial and 25 commuter flights) studied under FEIR 37-03. Therefore, traffic impacts are not anticipated to exceed those identified in FEIR 37-03.

24) *Will international flights increase crime such as drug smuggling, illegal immigration and sex trafficking? What about GA and small aircraft arriving internationally, will they be cleared by customs FIS?*

CBP onsite presence provides additional deterrence against illegal activity. Charter and small aircraft will be subject to CBP inspection and clearance.

25) *Has the Airport considered noise abatement strategies for the community?*

All properties within the 65 dB CNEL noise contour were included in the Airport's previous Quieter Home Program. Should the noise contour change to include additional properties, the Airport will apply for appropriate Federal grant funding to perform additional soundproofing.

26) *When the City Council gets the Study, are they going to be voting to move forward with this, or are they going to continue to have additional hearings and studies prior to making a vote on this?*

The City Council will decide whether to vote on moving ahead with next steps in applying for, and securing CBP support for, a FIS facility. They will also decide whether to vote to authorize the City to negotiate a financial agreement with airline(s) interested in securing international arrivals clearance services. If the City Council votes to approve these recommendations, staff will be required to return to the City Council for approval of other important aspects, such as placement and construction of the facility.