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RES-17

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October 12, 2004

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Honorable Mayor and Councilmembers
Long Beach
CALIFORNIA

Subject: Resolution Amending Certain Flight Allocation Procedures
Applicable to the Long Beach Municipal Airport in
Accordance with the Airport Noise Compatibility
Ordinance Set Forth at Chapter 16.43 of the Long Beach
Municipal Code

Purpose. The purpose of this resolution is to make certain amendments to the provisions of City Council Resolution No. C-27843 which was adopted in May 2001. Resolution No. C-27843 established certain procedures and implementing provisions for Chapter 16.43 of the Long Beach Municipal Code, which in turn governs noise and flight activity limits at Long Beach Municipal Airport (LGB). In an agreement entered into effective February 5, 2003, the City of Long Beach, American Airlines, Inc. (American), Alaska Airlines, Inc. (Alaska) and JetBlue Airways Corporation (JetBlue) settled disputes then existing regarding the City's allocation of 27 regular commercial flight slots to JetBlue in May 2001.

The parties to the February 5, 2003 settlement agreement conditioned its effectiveness upon the receipt of a confirmation letter from the Chief Counsel of the Federal Aviation Administration (FAA). The letter from the Chief Counsel's office was received by the City and the other parties to the agreement on April 30, 2003. The FAA letter satisfied the concerns of the parties and the settlement agreement has subsequently been implemented by the parties according to its terms.

In its letter of April 30, 2003, the FAA expressed its view that the provisions of Section 5(B) of City Council Resolution No. C-27843 raised issues under relevant federal law and the City's obligations under certain federal grant agreements between the City and FAA. Section 5(B) of the resolution contained provisions which, under certain conditions, permitted an air carrier a period of 24 months by which to commence operation of a flight slot after it had been allocated. (The so-called "use it or lose it" provision.) The FAA stated in its letter of April 30, 2003:

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"The FAA has informally advised the City that [FAA] do[es] not find any proper justification for this change in the use-or-lose period, and, therefore, that this action would very likely be considered an unreasonable restriction on access to the airport in violation of Federal law and policy."

FAA continued to state that it, "... expect[s] that the City will rescind or revise as necessary section 5(B) of Resolution No. C-27843 ... to limit the use-or lose period to a shorter period (such as the six month period previously in place or less than six months),"

It is the judgment of the City Attorney that it is in the best interests of the City and its citizens, as well as the air traveling public, to take action modifying the provisions of Section 5 of Resolution No. C-27843 as suggested by the FAA. No modifications to Municipal Code Chapter 16.43 are required.

It is, therefore, the purpose of this Resolution to make appropriate modifications to Section 5 of City Council Resolution No. C-27843. In addition, the City Attorney recommends certain modifications to Section 4 of City Council Resolution No. C-27843. That section addresses the administrative process for the allocation of slots permitted under Chapter 16.43. The amendments to Section 4 of the Resolution are intended to provide greater certainty to air carriers requesting operating slots at LGB in the future and to facilitate the City's administration of the noise ordinance. This proposed amendment is administrative in nature, and does not, directly or indirectly, act to further reduce, limit or increase operations at LGB beyond those limits contained in Long Beach Municipal Code Chapter 16.43.

Suggested Action: Adopt Resolution Amending Flight Allocation Procedures.

ROBERT E. SHANNON, City Attorney

By



MICHAEL J. MAIS, Assistant City Attorney

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