



## AGENDA STAFF REPORT

ASR Control 22-001078

**MEETING DATE:** 12/06/22  
**LEGAL ENTITY TAKING ACTION:** Board of Supervisors  
**BOARD OF SUPERVISORS DISTRICT(S):** 5  
**SUBMITTING AGENCY/DEPARTMENT:** John Wayne Airport (Approved)  
**DEPARTMENT CONTACT PERSON(S):** Charlene V. Reynolds (949) 252-5183  
 Komal Kumar (949) 252-6072

**SUBJECT:** New Passenger Facility Charge Applications and Amendments

<b>CEO CONCUR</b> Pending Review	<b>COUNTY COUNSEL REVIEW</b> Approved Agreement to Form	<b>CLERK OF THE BOARD</b> Discussion 3 Votes Board Majority
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**Budgeted:** N/A                      **Current Year Cost:** N/A                      **Annual Cost:** N/A

**Staffing Impact:** No                      **# of Positions:**                      **Sole Source:** N/A

**Current Fiscal Year Revenue:** See Financial Impact Section

**Funding Source:** Fund 283: 100%                      **County Audit in last 3 years:** No

**Prior Board Action:** 12/8/2015 #30, 12/20/2005 #13

### RECOMMENDED ACTION(S):

1. Find that the subject project is Statutorily Exempt from the provisions of CEQA pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273 of the CEQA Guidelines as the establishment or modification, structuring, restructuring or approval of rates, tolls, fares, and other charges by a public agency which are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits; purchasing or leasing supplies, equipment, or materials as set forth herein.
2. Authorize the Airport Director or authorized designee to execute Passenger Facility Charge Application No. 2 with the Federal Aviation Administration to use Passenger Facility Charges for eligible projects.
3. Authorize the Airport Director or authorized designee to prepare and execute Passenger Facility Charge Application No. 3 with the Federal Aviation Administration to use Passenger Facility Charges for eligible projects.
4. Authorize the Airport Director or authorized designee to execute Passenger Facility Charge Application amendments and closeouts as necessary with the Federal Aviation Administration to use Passenger Facility Charges for eligible projects.

**SUMMARY:**

Authorizing execution of the Passenger Facility Charge Application(s) and necessary amendments with the Federal Aviation Administration for eligible Passenger Facility Charge projects to modernize John Wayne Airport’s facilities and enhance safety, security, accessibility, and convenience for its passengers.

**BACKGROUND INFORMATION:**

The Passenger Facility Charge (PFC) was created by Congress in the Aviation Safety and Capacity Expansion Act of 1990 (49 U.S. Code 40117). The PFC legislation and implementing regulations authorize airport proprietors, with Federal Aviation Administration (FAA) approval, to collect a charge of \$4.50 per enplaned passenger for eligible projects that (i) preserve or enhance airport capacity, security or safety; (ii) mitigate the effects of aircraft noise; or (iii) enhance airline competition.

On December 20, 2005, the Board of Supervisors (Board) authorized the Airport Director to file the PFC Application No. 1 with the FAA to fund eligible PFC projects and approved Resolution No. 05-272 authorizing John Wayne Airport (JWA) to impose a PFC in the amount of \$4.50 per enplaned passenger. In April 2006, the FAA approved the PFC program and authorized a maximum collection amount of up to \$321 million. JWA implemented the PFC program on July 1, 2006.

On December 8, 2015, the Board authorized the Airport Director to execute a PFC Amendment with the FAA to reallocate funding and reduce the maximum collection amount to \$312 million. In March 2016, the FAA approved the amendment. PFC Application No.1 is nearing its maximum collection amount, and JWA plans to close out this application once FAA approves the new application.

JWA has \$196 million in new capital projects eligible for approximately \$161 million in PFC funding, which require new applications. PFC applications No. 2 (Attachment A) and No. 3 (prepared substantially in the same form as No. 2) will be filed with the FAA to continue the PFC collection and funding. Application No. 3 will be filed within the next couple of months with the FAA once the Baggage Handling System analysis is complete and JWA and OC Public Works have finalized the project details. The following projects are eligible for PFC funding:

<b>Application No. 2 Projects</b>	<b>Estimated Project Cost</b>	<b>Estimated PFC Pay As You Go*</b>	<b>Estimated Grants</b>	<b>Estimated Airport Funds</b>
Methacrylate Road Protection Coating	\$ 1,950,000	\$ 1,950,000	\$ -	\$ -
Airfield Lighting and Signage Upgrades	\$ 7,590,061	\$ 1,290,000	\$ 5,768,877	\$ 531,184
Taxiways A, D & E Reconstruction	\$ 44,312,000	\$ 29,564,050	\$ 14,747,950	\$ -
Airfield Perimeter Security Improvements	\$ 16,000,000	\$ 14,070,000	\$ -	\$ 1,930,000
Terminal Floor Expansion Joints Improvements	\$ 1,700,000	\$ 1,700,000	\$ -	\$ -
Common Use Passenger Processing System Replacement	\$ 20,395,000	\$ 18,073,800	\$ -	\$ 2,321,200
Terminal A and B Roof	\$ 10,120,000	\$ 7,590,000	\$ -	\$ 2,530,000

and Associated Expansion Joint Replacement				
Facility Accessibility Improvements	\$ 10,600,000	\$ 5,000,000	\$ -	\$ 5,600,000
Taxiway B Service Road Realignment	\$ 3,095,320	\$ 3,095,320	\$ -	\$ -
<b>Total</b>	<b>\$115,762,381</b>	<b>\$82,333,170</b>	<b>\$20,516,827</b>	<b>\$12,912,384</b>

<b>Application No. 3 Projects</b>	<b>Estimated Project Cost</b>	<b>Estimated PFC Pay As You Go*</b>	<b>Estimated Grants</b>	<b>Estimated Airport Funds</b>
Replace Baggage Handling System (BHS) Servers/Software	\$ 3,000,000	\$ 3,000,000	\$ -	\$ -
Terminal BHS Improvements	\$ 77,350,000	\$ 75,626,000	\$ -	\$ 1,724,000
<b>Total</b>	<b>\$ 80,350,000</b>	<b>\$ 78,626,000</b>	<b>\$ -</b>	<b>\$ 1,724,000</b>

\*Reimbursements from PFC collections for eligible project costs expended.

### **Air Carrier Consultation**

Pursuant to 14 CFR section 158.23, an airport proprietor considering the imposition of a PFC must formally consult with the air carriers who would be responsible for collecting the charge. On September 12, 2022, JWA consulted with its signatory air carriers on the intent to use PFC for new eligible projects.

One air carrier, Southwest Airlines, submitted a written certification of agreement for the PFC projects within the prescribed comment period. Verbal agreements were received from the air carriers during the consultation process. All air carriers agreed to the proposed projects and costs.

### **Public Notice and Comment**

Pursuant to 14 CFR section 158.24, an airport proprietor considering the imposition of a PFC must conduct a 30-day public comment period prior to the submittal of a PFC application to the FAA. JWA conducted the required public comment period from September 12, 2022, through October 14, 2022. The public notice was posted on JWA's website. JWA received no public comments during the 30-day public comment period.

**Compliance with CEQA:** The subject activity is statutorily exempt from review under CEQA pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273 of the CEQA Guidelines as the establishment or modification of rates fees and charges which are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits; purchasing or leasing supplies, equipment, or materials.

### **FINANCIAL IMPACT:**

Passenger Facility Charge Revenue is budgeted in Fund 283, Debt Service Fund, FY 2022-23 and will be included in the budgeting process for future years.

**STAFFING IMPACT:**

N/A

**ATTACHMENT(S):**

Attachment A – Federal Aviation Administration Form 5500-1 Passenger Facility Charge Application No. 2 (Draft)

Attachment B – 14 CFR section 158.23 - 158.24 - Passenger Facility Charges

Attachment C – 49 U.S. Code § 40117 - Passenger Facility Charges

### PASSENGER FACILITY CHARGE (PFC) APPLICATION

<b>1. Application Type</b> <i>(Check all that apply)</i> <input checked="" type="checkbox"/> a. Impose PFC Charges <input checked="" type="checkbox"/> b. Use PFC Revenue <input type="checkbox"/> c. Amend PFC No.	<b>FAA USE ONLY</b>  Date Received: PFC Number:
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#### PART I - General

<b>2. Public Agency Name, Address, and Contact Person</b> Agency Name: John Wayne Airport, Orange County Address: 3160 Airway Avenue City, State, ZIP: Costa Mesa, CA 92626 Contact Person: Komal Kumar	<b>3. Airport(s) to Use</b>  SNA	<b>4. Consultation Dates</b> a. Date of Written Notice to Air Carriers: 08/12/2022 b. Date of Consultation Meeting with Air Carriers: 09/12/2022 c. Date of Public Notice: 09/12/2022
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#### PART II - Charges

<b>5. Charges</b>				
<b>a. Airport to Impose:</b>  SNA	<b>b. Level</b> <input type="checkbox"/> \$1.00 <input type="checkbox"/> \$2.00 <input type="checkbox"/> \$3.00 <input type="checkbox"/> \$4.00 <input checked="" type="checkbox"/> \$4.50	<b>c. Total Estimated PFC Revenue</b> Impose: \$ 82,333,170 Use: \$ 82,333,170	<b>d. Proposed Effective Date:</b> 04/01/2023	<b>e. Estimated Expiration Date:</b> 10/01/2026

#### PART III - Attachments

<b>6. Attachments</b> <i>(Check all that Apply)</i>		
a. Airport Capital Improvement Plan	<input checked="" type="checkbox"/> Attached	Submitted with Application Number:
b. Application Project Information	<input type="checkbox"/> Attached	Submitted with Application Number: See Attachment H
c. Air Carrier Consultation and Public Notice Information	<input checked="" type="checkbox"/> Attached	Submitted with Application Number:
d. Request to Exclude Class(es) of Carriers	<input checked="" type="checkbox"/> Attached	Submitted with Application Number:
e. Alternative Uses/Projects	<input type="checkbox"/> Attached	Submitted with Application Number: N/A
f. Competition Plan/Update	<input checked="" type="checkbox"/> Attached	Submitted with Application Number:
g. ALP/Airspace/Environmental	<input type="checkbox"/> Attached	Submitted with Application Number: See Attachment H
h. Notice of Intent Project Information	<input checked="" type="checkbox"/> Attached	Submitted with Application Number:
i. Other: Additional Project Information	<input checked="" type="checkbox"/> Attached	Submitted with Application Number:

#### PART IV - Certification

<b>7. With respect to this PFC application I hereby certify as follows:</b>		
<ul style="list-style-type: none"> <li>To the best of my knowledge and belief, all data in this application are true and correct;</li> <li>This application has been duly authorized by the governing body of the public agency;</li> <li>The public agency will comply with the assurances (Appendix A to Part 158) if the application is approved;</li> <li>For those projects for which approval to use PFC revenue is requested, all applicable ALP approvals, airspace determinations, and environmental reviews required by the National Environmental Policy Act have been completed.</li> <li>If required, the public agency has submitted a competition plan in accordance with 49 U.S.C. 47106(f); and</li> <li>If required by 49 U.S.C. 40117(d)(4), adequate provision for financing the airside needs, including runways, taxiways, aprons, and gates, has been made by the public agency.</li> </ul>		
<b>a. Name of Authorized Representative</b> Charlene V. Reynolds	<b>b. Title</b> Airport Director	<b>c. Telephone Number</b> 949-252-5171
<b>d. E-mail Address</b>		

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

<b>e. Signature of Authorized Representative</b>	<b>f. Date Signed</b>
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**Attachment A**

**CAPITAL IMPROVEMENT PROGRAM**

Pending

DRAFT

**Attachment C-1  
WRITTEN NOTIFICATION TO AIR CARRIERS**

A written notification to Air Carriers of a consultation meeting, as required by 14 CFR Sections 158.23 and 158.25(c)(2), was mailed to air carriers serving John Wayne Airport on August 12, 2022. A copy of the notification follows.

DRAFT



August 12, 2022

To: Distribution

Subject: Notice of Air Carrier Consultation Meeting for a New Passenger Facility Charge (PFC) Application at John Wayne Airport, Orange County

This letter serves as a written Notice to the air carriers that the John Wayne Airport, Orange County (SNA) intends to submit a second PFC application to the Federal Aviation Administration (FAA) to obtain impose-and-use authority for projects at SNA and hold an air carrier consultation meeting on September 12, 2022.

Pursuant to Section 158.23 of 14 CFR Part 158, this Notice is being sent to all air carriers having a significant business interest at SNA (see Distribution) and includes the following:

1. Proposed PFC projects [pursuant to Section 158.23(a)(1)]
2. PFC level, proposed charge effective date, estimated charge expiration date, and estimated total PFC revenue [pursuant to Section 158.23(a)(2)]
3. Class of carrier not required to collect the PFC [pursuant to Section 158.23(a)(3)]
4. Date, time, and location of air carrier consultation meeting [pursuant to Section 158.23(a)(4)]

### **Proposed PFC Projects**

JWA intends to submit a second PFC application for 13 projects on a pay-as-you-go basis. All projects include associated soft costs, including design, planning, program management, construction management, and administration, as applicable. Included in the new PFC application will be the following list of projects as summarized below:

- **Methacrylate Road Protection Coating**: This project will treat the Airport's upper roadway with the crack sealer, repair concrete spalls, remove and reconstruct concrete pavement, and refresh all impacted Airport roadway striping.
- **Airfield Lighting and Signage Upgrades**: This project included the installation and replacement of airfield lighting, taxiway signage illumination, certain underground electric conduits and lines, and other infrastructure. The project also replaced three windcones and the rotating beacon. PFC funds will be used for the portion of the project not funded with Airport Improvement Program (AIP) grants.
- **Taxiways A - D - E Reconstruction**: This project reconstructs the pavement of Taxiways A, D, and E and associated improvements to pavement marking, lighting, signage, and drainage. Taxiway A will be slightly realigned, requiring a relocation of the vehicle service road. PFC funds will be used for the portion of the project not funded with AIP grants.
- **Replace Baggage Handling System (BHS) Servers/Software**: This project includes upgrades to the BHS by installing new hardware and software, including operating systems.

Charlene V. Reynolds  
Airport Director

(949) 252-5171  
(949) 252-5178 FAX  
[www.ocair.com](http://www.ocair.com)

3160 Airway Avenue  
Costa Mesa, CA  
92626-4608



Notice of Air Carrier Consultation Meeting for a New Passenger Facility Charge (PFC) Application at John Wayne Airport, Orange County  
 August 12, 2022  
 Page 2

- **Terminal Baggage Handling System (BHS) Improvements:** This project will replace the existing inbound and outbound baggage handling conveying systems for Terminals A and B and refurbish the systems in Terminal C.
- **Airfield Perimeter Security Improvements:** This project will replace the existing fence with a taller, non-climbable system, increase lighting, add motion detectors, install an intrusion detection system, and add CCTV cameras. The project also includes the replacement of existing perimeter gates with enhanced gates integrated with the access control system.
- **Terminal Floor Expansion Joints Improvements:** The project will replace the existing terminal floor expansion joints at Terminals A, B, and C on both the secured and non-secured side of the Airport.
- **Common Use Passenger Processing System Replacement:** The project will include the replacement of common use self-service equipment, Flight Information Display System, signage/wayfinding and video wall systems, audio/video paging, and associated architectural, structural, mechanical, electrical, and telecommunications work.
- **Cooling Tower Water Treatment System Upgrades:** The project includes procuring and installing a new prefabricated water treatment unit on the existing central utility plant.
- **Terminal A and B Roof and Associated Expansion Joint Replacement:** The project includes the replacement of the whole roof system of Terminals A and B as well as the covered walkways. The roof replacement requires the associated removal, replacement, and relocation of various accessory structures, such as antennas and any other mechanical/electrical systems attached to the existing roof.
- **Facility Accessibility Improvements:** The project includes accessibility improvements to, and within the Terminal complex. The improvements include but are not limited to the path of travels/pavement reconstruction; signage, handrail, and guardrail improvements; elimination of protruding objects and installation of required detection systems; restroom accessibility improvements; and various other adjustments and/or replacements for fixtures around the Airport, such as drinking fountains, etc.
- **Taxiway B Service Road Realignment:** The project includes relocating 3,500 ft. of the existing vehicle service road running adjacent to Taxiway B. The service road is currently within the Taxiway Object Free Area, and relocation is required to ensure that the service road meets FAA clearances.
- **PFC Consulting Fees:** The project includes consulting services related to the preparation of this PFC Application.

**PFC Level, Proposed Charge Effective Date, Estimated Charge Expiration Date, and Estimated Total PFC Revenue**

- PFC Level: \$4.50 per eligible enplaned passenger
- Estimated Charge Effective Date: April 1, 2023
- Estimated Charge Expiration Date: July 1, 2029
- Total PFC Estimated Revenue: \$150,000,000

Notice of Air Carrier Consultation Meeting for a New Passenger Facility Charge (PFC) Application at John Wayne Airport, Orange County  
 August 12, 2022  
 Page 3

### **Class of Carrier Not Required to Collect the PFC**

JWA intends to exclude Part 135 on-demand air taxi/commercial operators from the requirements to collect a PFC. Only 164 passengers were enplaned at SNA by this class of carrier in CY 2021, representing less than one percent of total annual enplanements. The known Part 135 carriers serving SNA are Aero Charter, Meregrass, and Steelman Aviation.

### **Air Carrier Consultation Meeting Date, Time, and Location**

- Date: September 12, 2022
- Time: 11 AM (PDT)
- Location: The consultation will be conducted via Teams with a link provided via email. Please notify us if an air carrier wishes to attend in person by September 05, 2022.

Air carriers that have questions prior to the meeting should address them to Ms. Komal Kumar at [REDACTED]. Relevant materials will be provided to the air carriers during the consultation meeting.

Please acknowledge the receipt of this written Notice within 30 days, as required under Section 158.23(c)(1). Acknowledgment is implied if no response is received within 30 days from the date of this written Notice.

Sincerely,



Charlene V. Reynolds  
 Airport Director

#### **Distribution:**

Air Canada, Richie Ly	Horizon Airlines, Joost Vlek
Alaska Airlines, Joost Vlek	Spirit Airlines, Tim R. Archer
Allegiant Airlines, Michael Graci	Skywest Airlines, Kelly Lane
American Airlines, David (DJ) Anderson	Southwest Airlines, Jason Chu
Delta Airlines, Jeremy Brandon	United Airlines, Anne Gao
Delux Public Charter, David Drabinsky	WestJet, Anthony Arms
Frontier Airlines, Andrea Hudes	

**Cc:** Richard Francis, Assistant Airport Director  
 Komal Kumar, Deputy Airport Director, Finance Administration  
 Eric Freed, Deputy Airport Director, Public Affairs  
 Scott Hagen, Deputy Airport Director, Operations  
 Evanna Barbic, Interim Deputy Airport Director, Business Development  
 Hector Gomez, Airport Finance and Fiscal Administration Manager

**Attachment C-2  
AIR CARRIER NOTIFICATION LIST**

All airlines having a significant business interest (as defined in Section 158.3) at SNA were notified of the consultation meeting. These airlines are included in Attachment C-1.

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**Attachment C-3  
AIR CARRIER CONSULTATION MEETING**

A consultation meeting for air carriers was held on September 12, 2022 pursuant to the requirements of Section 158.23(b). The meeting included a telephone conference line to provide an option in lieu of in-person attendance at the airport's offices. The materials were available at the consultation meeting as well as distributed via email. A copy of the consultation materials presented at the meeting can be found following this Attachment.

DRAFT

Presented to:  
AIRPORT AIRLINE AFFAIRS COMMITTEE

# New Passenger Facility Charge(PFC) Application

Airline Consultation Materials

Presented by:

**Komal Kumar**

Deputy Airport Director,  
Finance Administration

9/12/22

# Overview

- John Wayne Airport, Orange County (SNA) intends to submit a new PFC application to the Federal Aviation Administration (FAA) for 11 projects:
  - Methacrylate Road Protection Coating
  - Airfield Lighting and Signage Upgrades
  - Taxiways A - D - E Reconstruction
  - Replace BHS Servers/Software
  - Terminal BHS Improvements
  - Airfield Perimeter Security Improvements
  - Terminal Floor Expansion Joints Improvements
  - CUPPS Replacement
  - Terminal A and B Roof and Associated Expansion Joint Replacement
  - Facility Accessibility Improvements
  - Taxiway B Service Road Realignment
- PFC level: \$4.50 per eligible enplaned passenger
- Estimated charge effective date for the application: April 1, 2023
- Estimated charge expiration date for the application: July 1, 2029
- Estimated total PFC revenue to be collected under application: \$160,959,170

# Plan of Finance and Total PFC Revenue

Project	Total	PFC Pay-Go	Grants	Airport Funds
Methacrylate Road Protection Coating	\$1,950,000	\$1,950,000	\$-	\$-
Airfield Lighting and Signage Upgrades	7,590,061	1,290,000	5,768,877	531,184
Taxiways A - D - E Reconstruction	44,312,000	29,564,050	14,747,950	-
Replace Baggage Handling System (BHS) Servers/Software	3,000,000	3,000,000	-	-
Terminal BHS Improvements	77,350,000	75,626,000	-	1,724,000
Airfield Perimeter Security Improvements	16,000,000	14,070,000	-	1,930,000
Terminal Floor Expansion Joints Improvements	1,700,000	1,700,000	-	-
CUPPS Replacement	20,395,000	18,073,800	-	2,321,200
Terminal A and B Roof and Associated Expansion Joint Replacement	10,120,000	7,590,000	-	2,530,000
Facility Accessibility Improvements	10,600,000	5,000,000	-	5,600,000
Taxiway B Service Road Realignment	3,095,320	3,095,320	-	-
<b>Total</b>	<b>\$196,112,381</b>	<b>\$160,959,170</b>	<b>\$20,516,827</b>	<b>\$14,636,384</b>

# Methacrylate Road Protection Coating

## DESCRIPTION

- The upper roadway and two on-Airport bridge structures will be treated with crack sealer, repair concrete spalls, remove and reconstruct concrete pavement, and refresh all impacted roadway striping.

## JUSTIFICATION

- Prevents further moisture intrusion, conducts repairs required by CalTrans, and extends the useful life of the public roadway system.





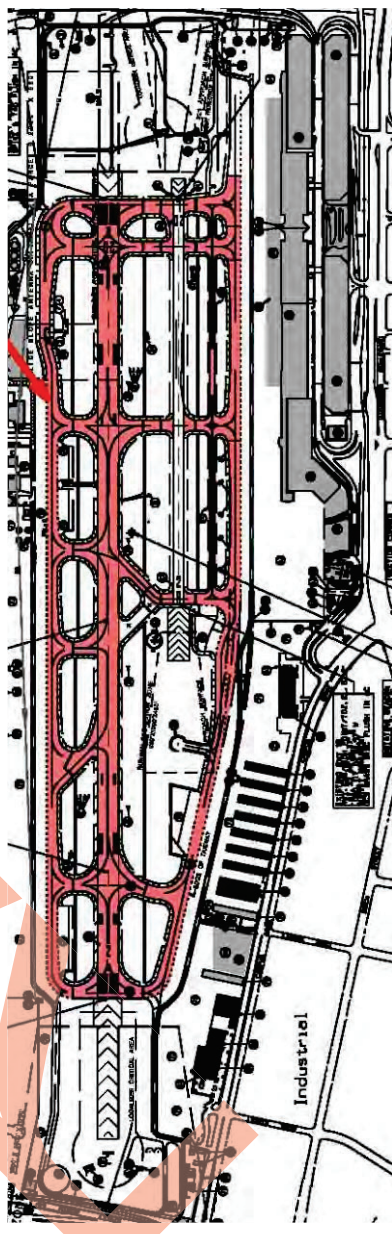
# Airfield Lighting and Signage Upgrades

## DESCRIPTION

- Installation and replacement of airfield lighting, taxiway signage illumination, certain underground electric conduits and lines, and other electrical infrastructure. Lighting fixtures were converted from incandescent to LED. Edge lights on Runway 2L/20R were replaced and in-pavement guard lights on both sides of Runways 2L/20R and 2R/20L at Taxiways H, J, and K were installed. Three windcones and the rotating beacon were replaced.
- The project was completed in February 2022.
- PFC funds will be used for the portion of the project not funded with AIP grants.

## JUSTIFICATION

- Addressed identified lighting and signage system reliability, efficiency and compliance issues, as well as system safety concerns.



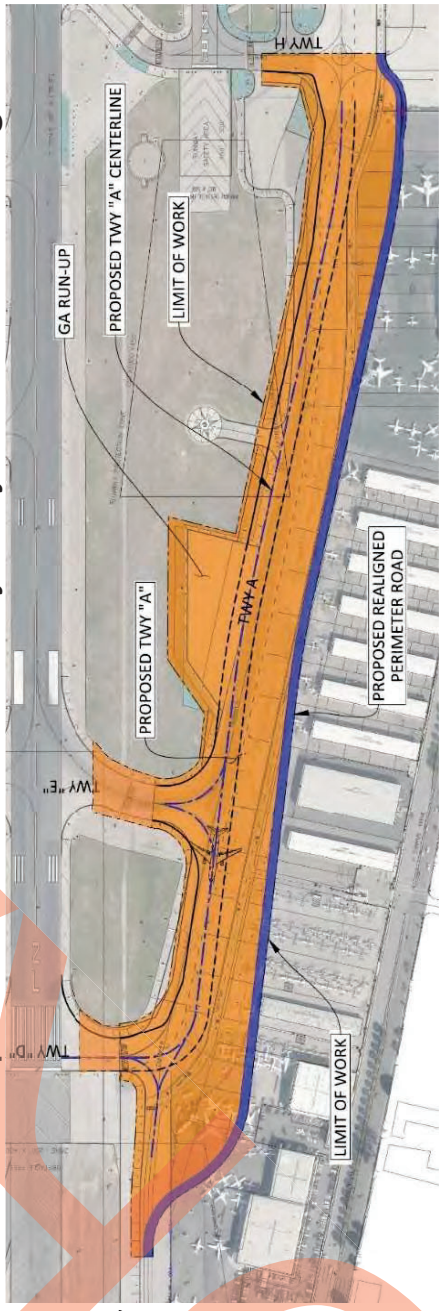
# Taxiways A - D - E Reconstruction

## DESCRIPTION

- Reconstructs the pavement of Taxiway A, a portion of Taxiway D, and a portion of E and makes associated improvements to pavement marking, lighting, signage, and drainage. Taxiway A will be slightly realigned, requiring a relocation of the vehicle service road and reconstruction of the adjacent impacted runup and compass rose.
- PFC funds will be used for the portion of the project not funded with AIP grants.

## JUSTIFICATION

- Sections of Taxiway A are in fair to poor condition with only 10 years of remaining useful life. The new alignment of Taxiway A improves the geometry of the airfield and clarifies turns to connecting taxiways.



# Replace BHS Servers/Software

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## DESCRIPTION

- Upgrades BHS upper-level control system software and hardware in all Terminals to improve functionality and enhancing to current standards. Work includes installation of new hardware, software including operating systems, virtualized geo-redundant servers, virus scan, and associated patches.

## JUSTIFICATION

- The existing servers and software were installed in 2011 and are in need of replacement, nearing the end of their useful life. Consolidated, modern hardware and software will provide SNA with the ability to have centralized data reporting for all three terminals.

# Terminals A and B BHS Improvements

## DESCRIPTION

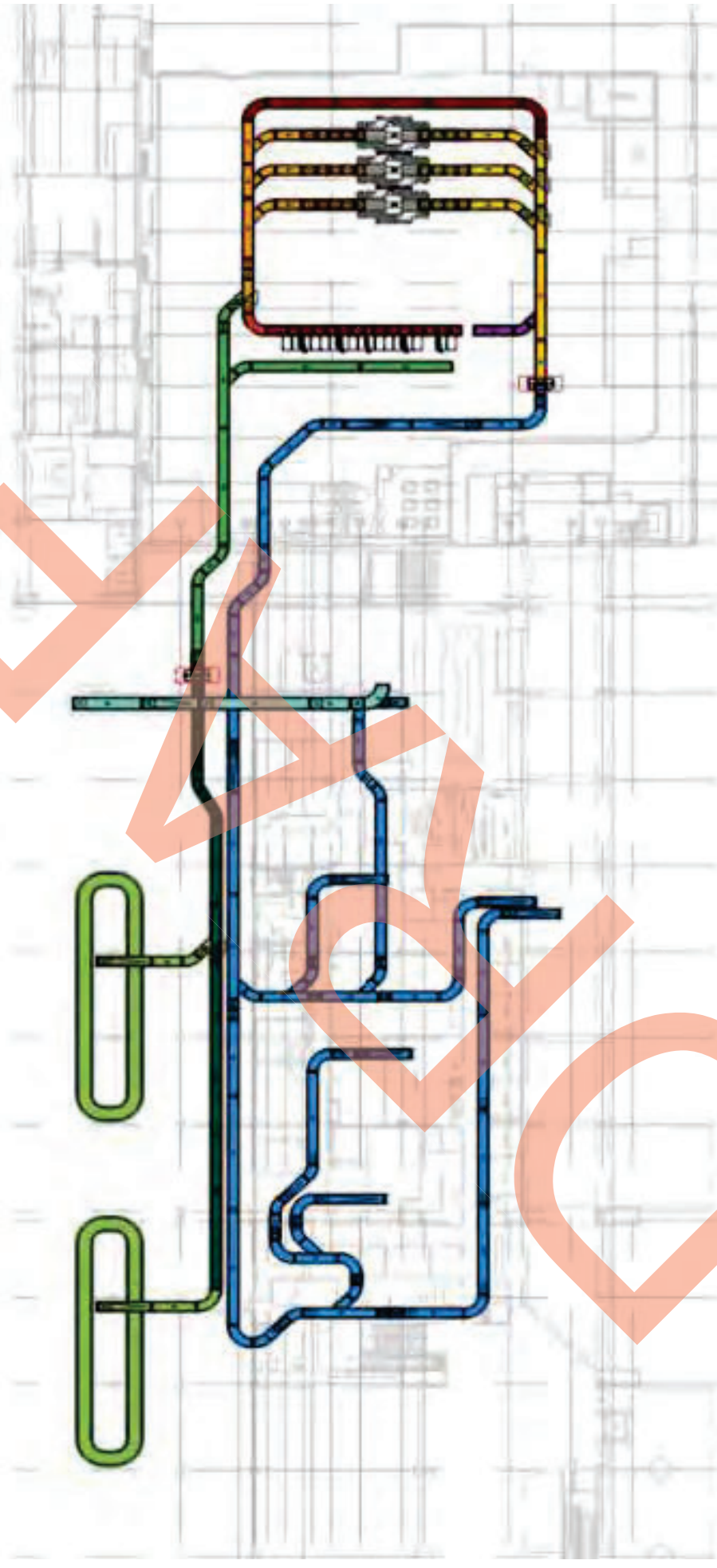
- The outbound baggage systems will be replaced in its current location.
  - All existing conveyors will either be refurbished (i.e., drives, rollers, belting, and bearings replaced) or replaced with new conveyors.
  - A sortation system will be implemented to allow for the use of one mainline into screening from ticketing and one mainline exiting screening to makeup.
  - Each terminal will have one screening pod (CBIS) containing three EDS machines and one TSA inspection area (CBRA).
- The inbound baggage systems will be replaced and expanded.
  - The loading belts will be relocated closer to the terminal.
  - New 190 linear foot flat-plate claim devices will replace the existing 150 linear foot slope-plate claim devices.

## JUSTIFICATION

- The existing systems are nearing end of their useful lives, fail routinely, and do not provide the needed capacity. The new system will be built to the most recent industry standard and will improve the system's ergonomics and maintenance access. New control systems will also be provided and tied into the Airport's maintenance diagnostic system.

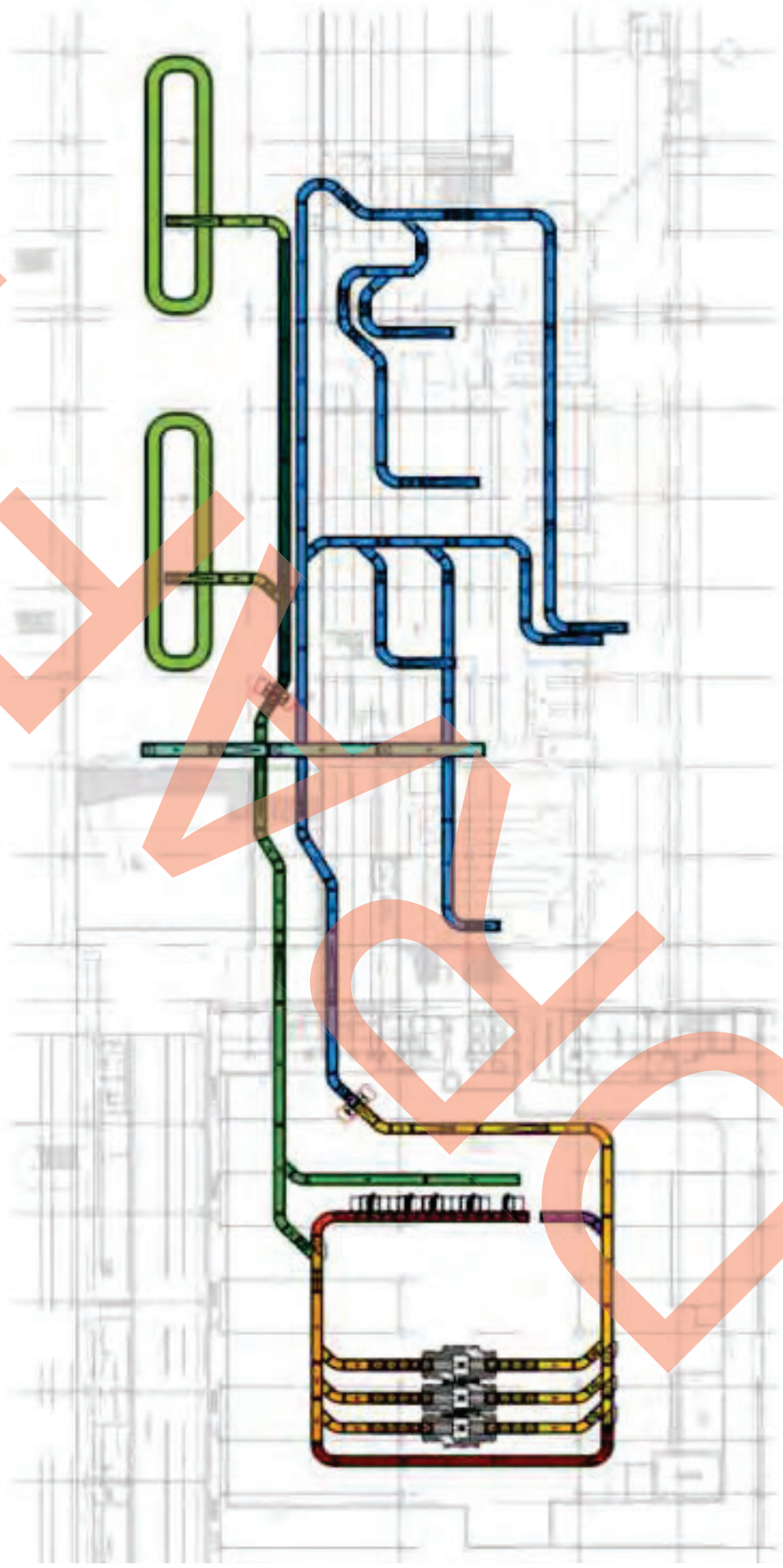
# Terminal BHS Improvements: Outbound Terminal A

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# Terminal BHS Improvements: Outbound Terminal B

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# Terminal A&B BHS Improvements: Inbound

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# Airfield Perimeter Security Improvements

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## DESCRIPTION

- This project will replace the existing airfield perimeter fence with a taller, non-climbable system, increase lighting, add motion detectors, install an intrusion detection system, and add CCTV cameras. The project also includes the replacement of three existing vehicle perimeter gates and one emergency gate with enhanced gates and guard booths integrated with the access control system.

## JUSTIFICATION

- This project will enhance and preserve safety and security of the airfield and airport facilities located Airport Operations Area (AOA) in accordance with SNA's Part 1542 security plan.



# Airfield Perimeter Security Improvements



JOHN WAYNE AIRPORT  
ORANGE COUNTY

ATTACHMENT 1  
AIRFIELD PERIMETER SECURITY IMPROVEMENTS  
Not To Scale



August, 2022

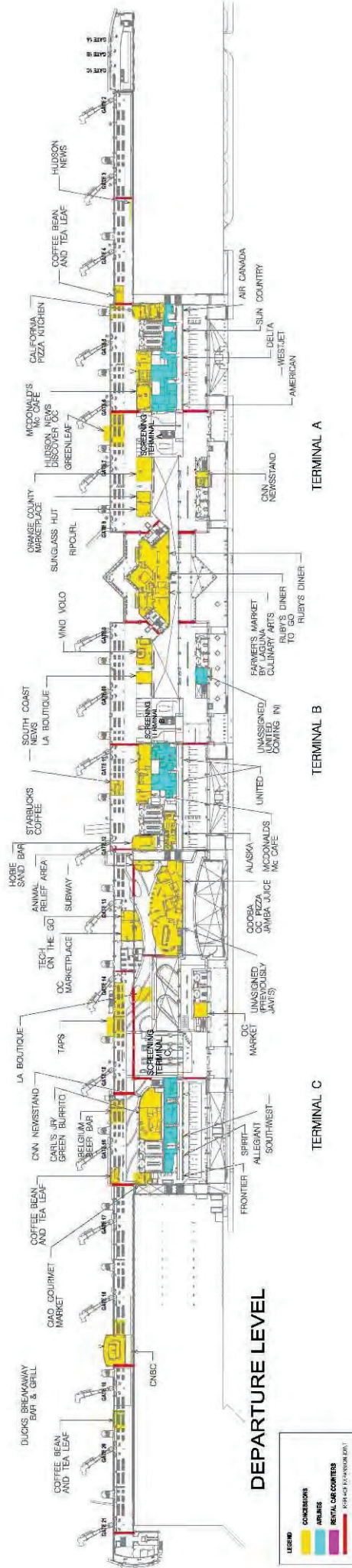
# Terminal Floor Expansion Joints Improvements

## DESCRIPTION

- The existing terminal floor expansion joints at Terminal A, B, and C on both the secured and non-secured side will be replaced with flush mounted systems. The expansion joints are in the public circulation areas of the Terminals.

## JUSTIFICATION

- The existing expansion joints were installed in 1991. The existing Terminal C limestone-finished expansion joints have developed significant cracking due to aging and heavy utilization. The Terminal A and B expansion joints have protruding metal covers that will be replaced with a flush mounted system.



# CUPPS Replacement

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## DESCRIPTION

- Common Use Passenger Processing System (CUPPS) Replacement throughout the terminals will include the replacement of existing common use self-service equipment, Flight Information Display System, signage/wayfinding and video wall systems, audio/video paging, installation of self-bag drop in each terminal, and associated architectural, structural, mechanical, electrical, and telecommunications work.

## JUSTIFICATION

- The existing systems were installed in 2011 and will soon no longer be supported by vendors. CUPPS Replacement is required to ensure a smooth and efficient operation of the terminal. New systems with technological advancements are anticipated to enhance operational efficiency and improve customer experience.

# Terminal A and B Roof and Expansion Joint Replacement

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## DESCRIPTION

- The project includes the replacement of the whole roof system of Terminals A and B as well as the covered walkways. The roof replacement requires the associated removal, replacement, and relocation of various accessory structures, such as antennas and any other systems attached to the existing roof.

## JUSTIFICATION

- The existing roofs at Terminals A and B are 30+ years old. The roofs leak in several locations. The existing covered walkways at Terminals A and B on the Departures level have water drainage issues and roof drain plugging.

# Facility Accessibility Improvements

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## DESCRIPTION

- SNA conducted a detailed accessibility assessment and identified improvements needed to comply with Americans with Disabilities Act (ADA) requirements including, but are not limited to, the path of travels/pavement reconstruction; signage, handrail, and guardrail improvements; elimination of protruding objects and installation of required detection systems; restroom accessibility improvements; and various other adjustments and/or replacements for fixtures around the Airport, such as drinking fountains, etc.

## JUSTIFICATION

- The project will increase ADA compliance throughout SNA.

# Taxiway B Service Road Realignment

## DESCRIPTION

- The existing vehicle service road running adjacent to Taxiway B will be relocated to provide the needed 121.5 feet of clearance from the center of the Taxiway.

## JUSTIFICATION

- The existing service road has around 118 feet of clearance at points and is slightly within the Taxiway Object Free Area. Relocation is required to ensure that the service road meets FAA clearances.



# Notice to Air Carriers

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- On August 12, 2022, SNA provided written notice to the air carriers that it would hold this consultation meeting
  - In accordance with Section 158.37(b) of 14 CFR Part 158, the notice we sent to all air carriers with a significant business interest at SNA
  - Nonscheduled air carriers carrying more than 25,000 enplaned passengers per the most recent (CY 2021) FAA ACAIS report
- The notice included:
  - A description of the project
  - PFC level, proposed charge effective date, estimated charge expiration date, and estimated total PFC revenues
  - Class of carrier not required to collect the PFC
  - Description of the proposed amendments
  - Date, time, and location of airline consultation meeting
- Provide updated contact information to SNA if the written notice should be to be sent to additional or alternate email addresses

# Exempt Air Carriers

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- SNA proposes to continue to exclude air carriers filing FAA Form 1800-31, Air Taxi Commercial Operators (ATCO) from the requirements to collect PFCs
  - This class of carrier explained only 164 passengers, or less than 0.01% of total enplaned passengers, in calendar year 2021 (the most recent year for which FAA data is available)
- Known ATCOs at SNA include:
  - Aero Charter
  - Meregrass
  - Steelman Aviation



# Air Carrier Requirements

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- Carriers shall provide SNA with written certification of agreement or disagreement with the new PFC application and proposed amendments by October 14, 2022
  - A certification of disagreement must contain the reasons for such disagreement and the absence of such reasons shall void the certification of disagreement
  - If the carrier fails to provide the Airport with a certification of agreement or disagreement, the carrier is considered to have certified its agreement
- Airline certifications of agreement and disagreement should be sent to:

For more information:

[OCAIR.COM](http://OCAIR.COM)



[@johnwayneairport](https://www.facebook.com/johnwayneairport)



[@johnwayneair](https://twitter.com/johnwayneair)



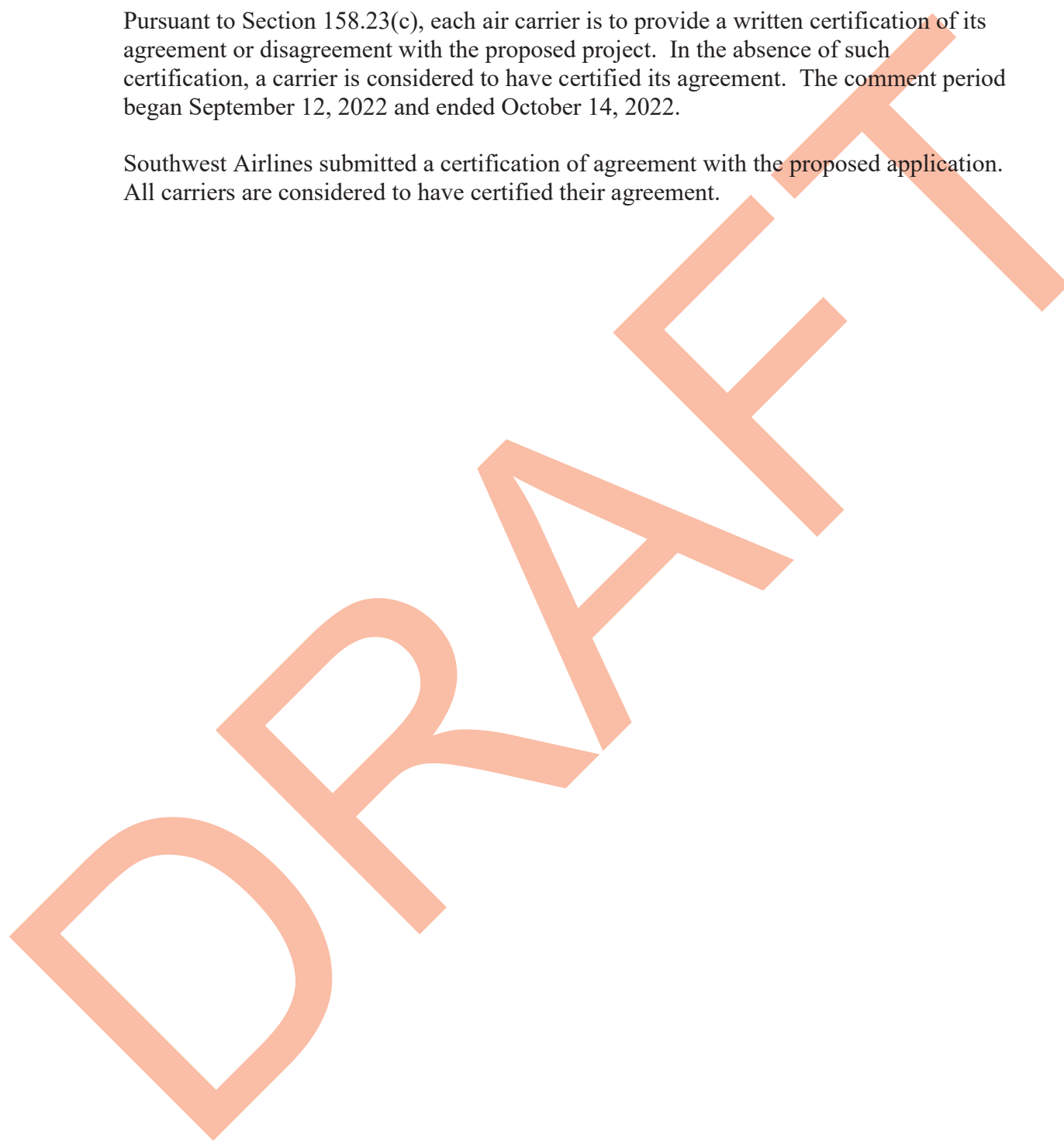
[@johnwayneair](https://www.instagram.com/johnwayneair)

**JOHN WAYNE AIRPORT**  
ORANGE COUNTY

**Attachment C-4**  
**AIR CARRIER CERTIFICATIONS OF AGREEMENT OR DISAGREEMENT**

Pursuant to Section 158.23(c), each air carrier is to provide a written certification of its agreement or disagreement with the proposed project. In the absence of such certification, a carrier is considered to have certified its agreement. The comment period began September 12, 2022 and ended October 14, 2022.

Southwest Airlines submitted a certification of agreement with the proposed application. All carriers are considered to have certified their agreement.



Southwest Airlines Co.  
 Jason Chu  
 Regional Manager - Airport Affairs  
 2702 Love Field Drive, HDQ-4PF  
 Dallas, TX 75235  
 214-792-4945  
 Jason.Chu@wnco.com

October 14, 2022

Via email to: [kkumar@ocair.com](mailto:kkumar@ocair.com)

Ms. Komal Kumar  
 Deputy Airport Director, Finance Administration  
 John Wayne Airport, Orange County  
 3160 Airway Avenue  
 Costa Mesa, CA 92626-4608

**Re: SNA Proposed PFC Application #2**

Dear Komal:

Pursuant to the provisions of 14 CFR Part 158.23, this letter serves as Southwest Airlines' ("Southwest") written Certification of Agreement/Disagreement to the John Wayne Airport, Orange County's ("SNA") proposal to file this Passenger Facility Charge ("PFC") application 2 with the Federal Aviation Administration ("FAA") covering certain projects at SNA as described at the airline consultation meeting held on September 12, 2022.

As a general comment, the PFC program has been developed to provide funding for eligible projects which, pursuant to the provisions of 14 CFR Part 158, must meet the following eligibility requirements:

- Preserve or enhance safety, security, or capacity of the national air transportation system;
- Reduce or mitigate noise impacts resulting from an airport; or
- Furnish opportunities for enhanced competition between or among air carriers.

With few exceptions, the PFC regulations also require that PFC projects qualify as AIP eligible projects under the Airport and Airways Act of 1982, or the Aviation Safety and Noise Abatement Act of 1979.

Additionally, it is Southwest's understanding that the regulations also stipulate that PFC funded projects should be limited to only those projects or programs for which there is a demonstrated need. Projects that do not meet the aforementioned criteria should not be included in any proposed PFC application. In the event that specific elements of the proposed projects contained in this application are modified or deleted prior to SNA filing the application with the FAA, Southwest requests that it be notified of any such changes as quickly as possible.

**Southwest Airlines' Response to Proposed New PFC Application #2:**

1. Methacrylate Road Protection Coating  
 Estimated Project Cost - \$1,950,000  
**Position: Agreement**
2. Airfield Lighting and Signage Upgrades  
 Estimated Project Cost - \$7,590,061  
**Position: Agreement**

3. Taxiways A – D – E Reconstruction  
Estimated Project Cost - \$44,312,000  
**Position: Agreement**
4. Replace BHS Servers/Software  
Estimated Project Cost - \$3,000,000  
**Position: Agreement**
5. Terminal BHS Improvements  
Estimated Project Cost - \$77,350,000  
**Position: Agreement**
6. Airfield Perimeter Security Improvements  
Estimated Project Cost - \$16,000,000  
**Position: Agreement**
7. Terminal Floor Expansion Joints Improvements  
Estimated Project Cost - \$1,700,000  
**Position: Agreement**
8. CUPPS Replacement  
Estimated Project Cost - \$20,395,000  
**Position: Agreement**
9. Terminal A and B Roof and Associated Expansion Joint Replacement  
Estimated Project Cost - \$10,120,000  
**Position: Agreement**
10. Facility Accessibility Improvements  
Estimated Project Cost - \$10,600,000  
**Position: Agreement**
11. Taxiway B Service Road Realignment  
Estimated Project Cost - \$3,095,320  
**Position: Agreement**

Southwest appreciates the time and effort put forth by the SNA staff in providing the information necessary to facilitate our evaluation. Thank you for the opportunity to provide comments.

Sincerely,



Jason Chu

Regional Manager – Airport Affairs



**Attachment C-5  
PUBLIC CONSULTATION**

Pursuant to Section 158.24, SNA has provided the public with information regarding the PFC application. As required by the regulations, this information included a description of the project, the amount of PFC revenue that will be collected, and the uses of PFC revenue to finance the project.

The public consultation period began on September 12, 2022 and ended October 14, 2022. The public notice materials were posted on SNA's internet webpage under "John Wayne Airport News" at <https://www.ocair.com> and "Investor Relations" at <https://www.ocair.com/about/investor-relations/>. The document which was made available to the public follows.

SNA received no comments from the public.

Opportunity for Public Comment

# New Passenger Facility Charge (PFC) Application

Presented by:

John Wayne Airport,  
County of Orange, California

9/12/22

# Overview

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- John Wayne Airport, Orange County (SNA) intends to submit a new PFC application to the Federal Aviation Administration (FAA) for 11 projects.
- Since 2006, SNA has collected a \$4.50 PFC from each eligible passenger. PFC Revenues increases the Airport's overall funding capacity of eligible capital projects. Capital projects included in this application will enhance the airport's security, safety, and guest experience.
- This application will allow the collection of PFC to continue at the \$4.50 level from 2023 to 2029
  - Estimated charge effective date for the application: April 1, 2023
  - Estimated charge expiration date for the application: July 1, 2029
  - Estimated total PFC revenue to be collected under application: \$160,959,170



# Notice of Opportunity for Public Comment

- SNA is hereby providing public notice of its intent to file the PFC application under 14 CFR § 158.24.
- Project descriptions, justification, summary of PFC level, estimated total PFC for each project and total PFC revenue to be collected are provided with this notice.
- Public comments may be submitted in writing no later than October 14, 2022. Please address any questions or comments to:

Ms. Komal Kumar  
Deputy Airport Director  
JWA\_Finance@ocair.com

3160 Airway Avenue  
Costa Mesa, CA  
92626-4608

# Proposed Projects

Project	PFC Pay-Go
Methacrylate Road Protection Coating	\$1,950,000
Airfield Lighting and Signage Upgrades	1,290,000
Taxiways A - D - E Reconstruction	29,564,050
Replace Baggage Handling System (BHS) Servers/Software	3,000,000
Terminal BHS Improvements	75,626,000
Airfield Perimeter Security Improvements	14,070,000
Terminal Floor Expansion Joints Improvements	1,700,000
CUPPS Replacement	18,073,800
Terminal A and B Roof and Associated Expansion Joint Replacement	7,590,000
Facility Accessibility Improvements	5,000,000
Taxiway B Service Road Realignment	3,095,320
<b>Total</b>	<b>\$160,959,170</b>

# Proposed Projects

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## Methacrylate Road Protection Coating

### Description:

- This project will treat the Airport's upper roadway with the crack sealer, repair concrete spalls, remove and reconstruct concrete pavement, and refresh all impacted Airport roadway striping.

### Justification:

- To prevent moisture intrusion, conduct repairs, and to extend the useful life of the public roadway system.

## Airfield Lighting and Signage Upgrades

### Description:

- This project includes the installation and replacement of airfield lighting, taxiway signage illumination, certain underground electric conduits and lines, and other infrastructure. The project will also replace three windcones and the rotating beacon.

### Justification:

- Improve lighting and signage system reliability, efficiency and ensure safety compliance.

# Proposed Projects

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## Taxiways A-D-E Reconstruction

### Description:

- This project reconstructs the pavement of Taxiways A, D, and E and associated improvements to pavement marking, lighting, signage, and drainage. Taxiway A will be slightly realigned, requiring a relocation of the vehicle service road.

### Justification:

- The new alignment of Taxiway A will improve the geometry of the airfield and extend the useful life of sections of Taxiway A.

## Replace Baggage Handling System (BHS) Servers/Software

### Description:

- This project includes upgrades to the BHS by installing new hardware and software, including operating systems.

### Justification:

- The existing servers and software are in need of replacement. Consolidated, modern hardware and software will provide SNA with the ability to have centralized data reporting for all three terminals. Upgrades to BHS upper-level control system software and hardware in all Terminals will improve functionality and enhance to current standards.

# Proposed Projects

## **Terminals A and B Baggage Handling System (BHS) Improvements**

### **Description:**

- The outbound baggage systems will be replaced in its current location.
  - All existing conveyors will either be refurbished (i.e., drives, rollers, belting, and bearings replaced) or replaced with new conveyors.
  - A sortation system will be implemented to allow for the use of one mainline into screening from ticketing and one mainline exiting screening to makeup.
  - Each terminal will have one screening pod (CBIS) containing three EDS machines and one TSA inspection area (CBRA).
- The inbound baggage systems will be replaced and expanded.
  - The loading belts will be relocated closer to the terminal.
  - New 190 linear foot flat-plate claim devices will replace the existing 150 linear foot slope-plate claim devices.

### **Justification:**

- The existing systems are nearing end of life. The new system will be built to the most recent industry standard and will improve the system's ergonomics and maintenance access. New control systems will also be provided and tied into the Airport's maintenance diagnostic system.

# Proposed Projects

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## Airfield Perimeter Security Improvements

### Description:

- This project will replace the existing airfield perimeter fence with a taller, non-climbable system, increase lighting, add motion detectors, install an intrusion detection system, and add CCTV cameras. The project also includes the replacement of three existing vehicle perimeter gates and one emergency gate.

### Justification:

- This project will enhance and preserve safety and security of the airfield and airport facilities located Airport Operations Area in accordance with SNA's security plan.

## Terminal Floor Expansion Joints Improvements

### Description:

- The project will replace the existing terminal floor expansion joints at Terminals A, B, and C on both the secured and non-secured side of the Airport.

### Justification:

- The existing Terminal C limestone-finished expansion joints are heavily utilized and need replacement. Replacement of Terminal A and B expansion joints with a flush mounted system will allow for ease of access for the traveling public.

# Proposed Projects

## **Common Use Passenger Processing System (CUPPS) Replacement**

### **Description:**

- CUPPS Replacement will include common use self-service equipment, Flight Information Display Systems, signage/wayfinding and video wall systems, audio/video paging, and installation of self-bag drop in each terminal.

### **Justification:**

- The existing systems were installed in 2011 and will soon no longer be supported by vendors. CUPPS Replacement is required to ensure a smooth and efficient operation of the terminal.

## **Terminal A and B Roof and Expansion Joint Replacement**

### **Description:**

- The project includes the replacement of the whole roof system of Terminals A and B as well as the covered walkways.

### **Justification:**

- The existing roofs in Terminals A and B need replacement. The existing covered walkways at Terminals A and B on the Departures level have water drainage issues.

# Proposed Projects

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## Facility Accessibility Improvements

### Description:

- SNA conducted a detailed accessibility assessment and identified improvements needed to comply with Americans with Disabilities Act (ADA) requirements including, but are not limited to, the path of travels/pavement reconstruction; signage, handrail, and guardrail improvements; elimination of protruding objects and installation of required detection systems; restroom accessibility improvements; and various other adjustments and/or replacements for fixtures around the Airport, such as drinking fountains, etc.

### Justification:

- The project will ensure continued ADA compliance throughout SNA.



# Proposed Projects

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## Taxiway B Service Road Realignment

### Description:

- The existing vehicle service road running adjacent to Taxiway B will be relocated to provide the needed clearances from the center of the Taxiway.

### Justification:

- Relocation is required to ensure that the service road meets Federal Aviation Administration (FAA) clearances.

For more information:

[OCAIR.COM](http://OCAIR.COM)



[@johnwaynearport](https://www.facebook.com/johnwaynearport)



[@johnwaynear](https://twitter.com/johnwaynear)



[@johnwaynear](https://www.instagram.com/johnwaynear)

**Attachment D**  
**REQUEST TO EXCLUDE CLASS OF CARRIER**

SNA proposes to exclude carriers filing FAA Form 1800-31 (Air taxi / commercial operators) from the requirements to collect PFCs. This class of carrier is excluded under SNA's previously approved PFC Applications. The number of passengers enplaned by this class of carriers was 164 in calendar year 2021, which accounted for less than one percent of total annual enplaned passengers.

The carriers that operated at SNA during calendar year 2021 and belong to this class include:

- Aero Charter
- Meregrass
- Steelman Aviation

**Attachment F**  
**COMPETITION PLAN/UPDATE**

A competition plan was approved by the FAA on April 30, 2018.

DRAFT

**Attachment H**  
**NOTICE OF INTENT PROJECT INFORMATION**

SNA is submitting this PFC application under the streamlined procedures in PFC Update, PFC 73-20 and has prepared an Attachment H for this PFC application. The Attachment H is included.

DRAFT

# FORM 5500-1, ATTACHMENT H

Public Agency: Orange County  
 Location: Santa Ana, CA

Page 2 Fill in all shaded areas

Prj No.	Project Title	Public Agency No.	Detailed Project Description	Physical Dates		Terminal Information				
				Project Start	Project End	Pre-PFC Action	Terminal Information	Post-PFC Action	Terminal Information	
				Tkt Cntr	Bag Fac.	Tkt Cntr	Bag Fac.	Gates	Tkt Cntr	Bag Fac.
1	Methacrylate Road Protection Coating		The upper roadway and two on-airport bridge structures will be treated with crack sealer, repair concrete spalls, remove and reconstruct concrete pavement, and refresh all impacted roadway striping. The project consist of application of crack sealer on the concrete bridge (Airport's upper roadway) to prevent further moisture intrusion and therefore extend the useful life of the bridge supporting the airport roadway and repairs to the bridge structure required by CalTrans. The project will treat 6 concrete terminal bridges with the crack sealer, repair concrete spalls, remove and reconstruct concrete pavement, and refresh all impacted Airport roadway striping. The upper roadway leads the passenger from the entrance of the Airport complex to the Departure area and consist of approximately 3,300 ft. long and 60 ft. wide concrete pavement. The total approximate area of damaged concrete is roughly 22 square feet, with removal and reconstruction depth estimate of 1". Project drawing provided in Attachment I.	12/2022	8/2023					
2	Airfield Lighting and Signage Upgrades		Installation and replacement of airfield lighting, taxiway signage illumination, certain underground electric conduits and lines, and other electrical infrastructure. Lighting fixtures were converted from incandescent to LED. Edge lights on Runway 2L/20R were replaced and in-pavement guard lights on both sides of Runways 2L/20R and 2R/20L at Taxiways H, J, and K were installed. Three windcones and the rotating beacon were replaced. Construction was funded with a 100% AIP grant. Non-AIP procured soft costs are being reimbursed with PFCs.	10/2019	2/2022					

# FORM 5500-1, ATTACHMENT H

Orange County  
Santa Ana, CA

Page 2 Fill in all shaded areas

Public Agency:  
Location:

Prj No.	Project Title	Public Agency No.	Detailed Project Description	Physical Dates		Terminal Information					
				Project Start	Project End	Pre-PFC Action	Post-PFC Action	Tkt Cntr	Bag Fac.	Gates	Bag Fac.
3	Taxiways A - D - E Reconstruction		<p>This project will reconstruct the pavement of Taxiway A including shoulders and taxiway connectors (Taxiway D and E east of RWY 2L-20R). The project also includes improvements to pavement marking, lighting and signage. The project includes the following components:</p> <ul style="list-style-type: none"> <li>* Reconstruction and slight realignment of Taxiway A (approximately 2,800 ft. x 125 ft., including shoulders). This includes the demolition of the existing 15-19" of AC pavement and the reconstruction to PCC or AC. All new pavement will receive new striping, while signage along the taxiway will be replaced.</li> <li>* Reconstruction of connector Taxiways D and E (approximately 250 ft. x 150 ft. and 430 ft. x 150 ft., including shoulders). This includes the demolition of the existing 17" of AC pavement and the reconstruction to PCC or AC. All new pavement will receive new striping, while signage along the taxiway will be replaced.</li> <li>* Reconstruction of the adjacent impacted runoff (approximately 500 ft. x 180 ft.) and compass runoff consisting of 4" AC and 6" crushed aggregate base, will be demolished, reconstructed, and restriped.</li> <li>* Relocation of Vehicle Service Road (Approximately 2,800 ft. x 35 ft.), required due to the realignment of Taxiway A. The existing service road is located within the new Taxiway A TOFA. This area along with the new location for the service road will have the existing pavement demolished and reconstructed with either AC or PCC to accommodate crossing aircraft traffic from Taxiway A to the FBO's (ACI Jets) apron, just east of the taxiway. Non-AIP funded project amounts are planned to be reimbursed with PFCs.</li> </ul>	5/2023	3/2025						
4	Airfield Perimeter Security Improvements		<p>This project will replace the existing airfield perimeter fence with a taller, non-climbable system, increase lighting, add motion detectors, install an intrusion detection system, and add CCTV cameras. The project also includes the replacement of three existing vehicle perimeter gates and one emergency gate with enhanced gates and guard booths integrated with the access control system. Project illustration, TSA letter of support, and detailed cost estimate are provided in Attachment I.</p>	12/2022	6/2024						

# FORM 5500-1, ATTACHMENT H

Public Agency: Orange County  
 Location: Santa Ana, CA

Page 2 Fill in all shaded areas

Prj No.	Project Title	Public Agency No.	Detailed Project Description	Physical Dates		Terminal Information								
				Project Start	Project End	Pre-PFC Action	Post-PFC Action	Tkt Cntr	Bag Fac.	Gates	Tkt Cntr	Bag Fac.	Gates	
5	Terminal Floor Expansion Joints Improvements		The existing terminal floor expansion joints at Terminal A, B, and C on both the secured and non-secured side will be replaced with flush mounted systems. The expansion joints are in the public circulation areas of the Terminals. Project drawing provided in Attachment I.	7/2022	10/2023									
6	CUPPS Replacement		Common Use Passenger Processing System (CUPPS) Replacement throughout the terminals will include the replacement of existing common use self-service equipment, Flight Information Display System, signage/wayfinding and video wall systems, audio/video paging, installation of self-bag drop in each terminal, and associated architectural, structural, mechanical, electrical, and telecommunications work.	7/2022	02/2025									
7	Terminal A and B Roof and Associated Expansion Joint Replacement		The project includes the replacement of the whole roof system of Terminals A and B as well as the covered walkways. The roof replacement requires the associated removal, replacement, and relocation of various accessory structures, such as antennas and any other systems attached to the existing roof. A project drawing is provided in Attachment I. PFC eligibility was estimated based on the square footage of Terminals A and B, which the roof covers. A Table N is provided in Attachment I.	8/2022	6/2026									
8	Facility Accessibility Improvements		SNA conducted a detailed accessibility assessment and identified improvements needed to comply with ADA requirements including, but are not limited to, the path of travels/pavement reconstruction; signage, handrail, and guardrail improvements; elimination of protruding objects and installation of required detection systems; restroom accessibility improvements; and various other adjustments and/or replacements for fixtures around the Airport, such as drinking fountains, etc. This PFC application includes ADA improvements in the Terminal buildings and public path of travel. A project drawing and detailed cost estimate is provided in Attachment I.	12/2022	6/2026									
9	Taxiway B Service Road Realignment		The existing vehicle service road running adjacent to Taxiway B will be relocated to provide the needed 121.5 feet of clearance from the center of the Taxiway. A project drawing is provided in Attachment I.	7/2023	6/2026									
10	0													
11	0													



# FORM 5500-1, ATTACHMENT H

Public Agency: Orange County  
 Location: Santa Ana, CA

Page 4: Fill in shaded area

Prj No.	Project Title	Project Justification	NEPA Finding	Finding Date	Airspace Finding	Finding Date	Case Number	ALP Finding	Finding Date
1	Methacrylate Road Protection Coating	Prevents further moisture intrusion, conducts repairs required by CatTrans, and extends the useful life of the public roadway system. (Table P-1 of AIP Handbook.)	Cat-X		N/A			N/A	
2	Airfield Lighting and Signage Upgrades	AIP	Cat-X	4/28/2020	N/A			N/A	
3	Taxiways A - D - E Reconstruction	AIP	Cat-X	4/1/2022	N/A			Yes	9/12/2013
4	Airfield Perimeter Security Improvements	This project will enhance and preserve safety and security of the airfield and airport facilities located Airport Operations Area (AOA) in accordance with SNA's Part 1542 security plan. A TSA letter of support for the project is included in Attachment I to this PFC application. (Table L-2(p) of AIP Handbook.)	Cat-X		N/A			N/A	
5	Terminal Floor Expansion Joints Improvements	The existing expansion joints were installed in 1991. The existing Terminal C limestone-finished expansion joints have developed significant cracking due to aging and heavy utilization. The Terminal A and B expansion joints have protruding metal covers that will be replaced with a flush mounted system. (Table N-1(a) of AIP Handbook)	Cat-X	7/13/2022	N/A			N/A	
6	CUPPS Replacement	The existing systems were installed in 2011 and will soon no longer be supported by vendors. CUPPS Replacement is required to ensure a smooth and efficient operation of the terminal. New systems with technological advancements are anticipated to enhance operational efficiency and improve customer experience. (PFC Update 61-10)	Cat-X	7/13/2022	N/A			N/A	
7	Terminal A and B Roof and Associated Expansion Joint Replacement	The existing roofs at Terminals A and B are 30+ years old. The roofs leak in several locations. The existing covered walkways at Terminals A and B on the Departures level have water drainage issues and roof drain plugging. (Table N-9(d)(3)(c) of AIP Handbook)	Cat-X	7/13/2022	N/A			N/A	
8	Facility Accessibility Improvements	The project will increase ADA compliance throughout SNA.	Cat-X		N/A			N/A	
9	Taxiway B Service Road Realignment	The existing service road has around 118 feet of clearance at points and is slightly within the Taxiway Object Free Area. Relocation is required to ensure that the service road meets FAA clearances. (Table P-3(b) of AIP Handbook)	Cat-X		N/A			N/A	
10	0								
11	0								
12	0								

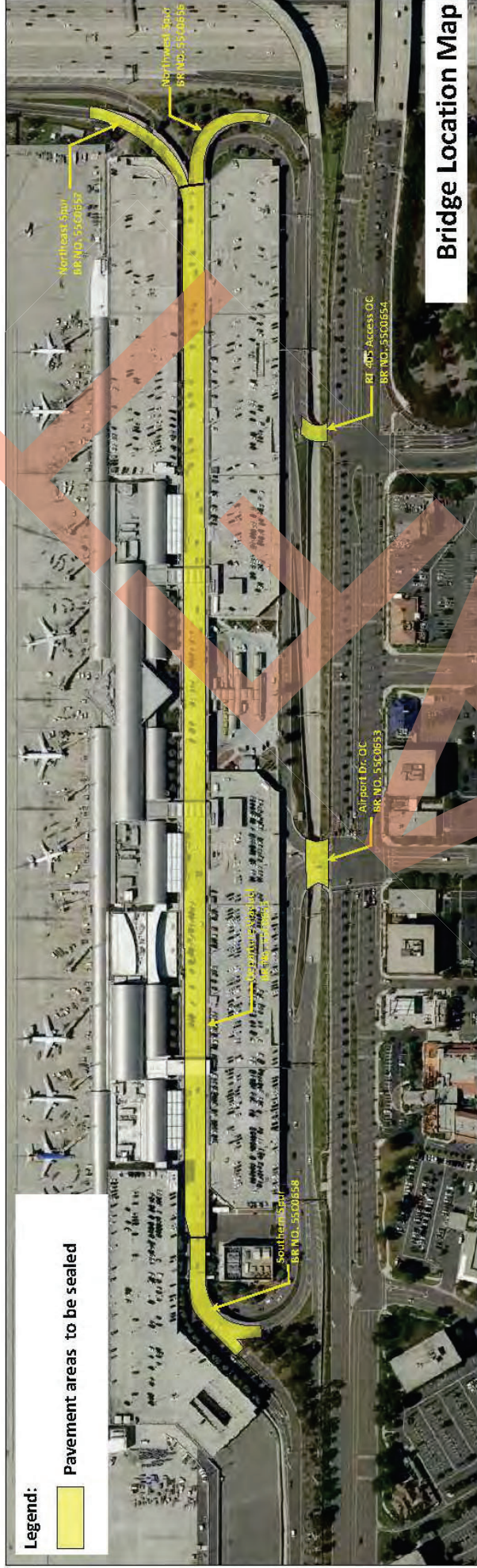
**Attachment I**  
**ADDITIONAL PROJECT INFORMATION**

This attachment contains additional information for the projects listed on the Attachment H, as needed.

1. Methacrylate Road Protection Coating
  - Project Drawing
2. Airfield Lighting and Signage Upgrades: None
3. Taxiways A - D - E Reconstruction: None
4. Airfield Perimeter Security Improvements
  - Project Drawing
  - Project Cost Detail - pending
  - TSA Letter of Support
5. Terminal Floor Expansion Joints Improvements
  - Project Drawing
6. CUPPS Replacement
  - Project Cost Detail - pending
7. Terminal A and B Roof and Associated Expansion Joint Replacement
  - Project Drawing
  - Table N for PFC Eligibility - pending
8. Facility Accessibility Improvements
  - Project Cost Detail - pending
9. Taxiway B Service Road Realignment
  - Project Drawing

**Attachment I-1  
Methacrylate Road Protection Coating**

DRAFT



**ROUTE 405 ACCESS OC**

55C0654

12/31/2018 [AAAAH]  
124 - PHOTO> Joint-Damage/Deterioration

50 FT W/O MACARTHUR BLVD

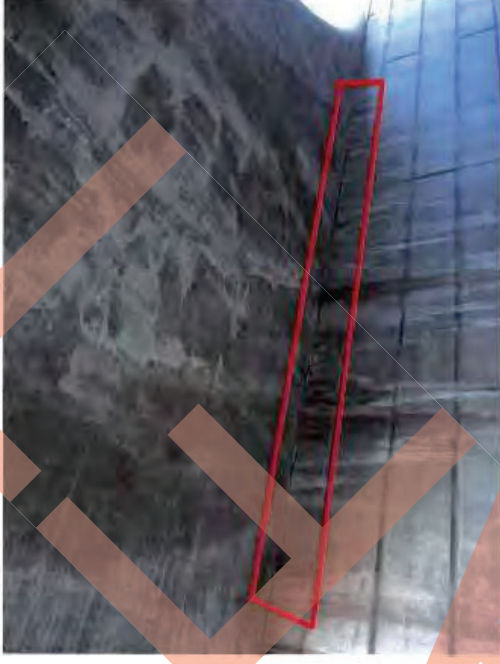


Photo No. 1

Leakage at the Abutments.

107 - PHOTO> Super-Damage/Deterioration

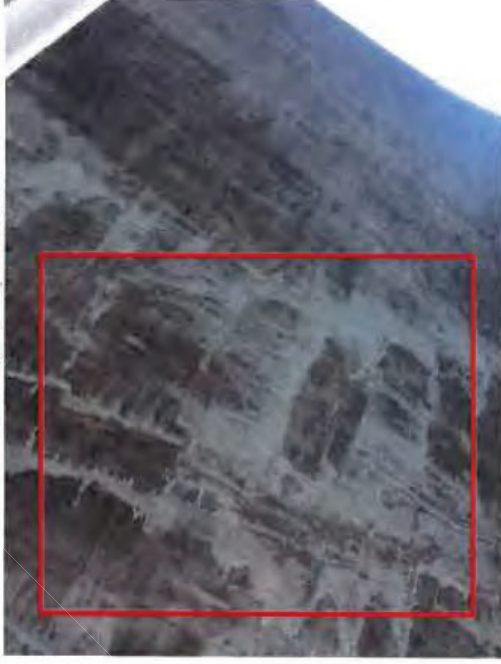


Photo No. 2

Soffit box girder has cracks with white efflorescence.

**AIRPORT DRIVE OC**

55C0653

12/31/2018 [AAAAH]  
102 - PHOTO> Deck-Damage/Deterioration

50' W/O MACARTHUR BLVD,



Photo No. 1

Deck cracks.

119 - PHOTO> Rail-Damage/Deterioration



Photo No. 2

South rail has a spall at west end.

**Attachment I-4  
Airfield Perimeter Security Improvements**

DRAFT



August, 2022


ATTACHMENT 1

**AIRFIELD PERIMETER SECURITY IMPROVEMENTS**

Not To Scale



JOHN WAYNE  
AIRPORT  
ORANGE COUNTY

LEGEND:  ANTICIPATED HAUL ROUTE



U.S. Department of Homeland Security  
Los Angeles International Airport (LAX)  
5757 W. Century Blvd, Suite 3000  
Los Angeles, CA 90045

August 5, 2022

Darlene Williams, Airport Planner/PFC Specialist  
Los Angeles Airports District Office  
Federal Aviation Administration  
777 S Aviation Blvd, Ste 150  
El Segundo, CA 90245

Dear Ms. Williams,

The Transportation Security Administration at the John Wayne-Orange County Airport (SNA) supports the following capital projects:

- Airfield Perimeter Security Improvements will provide for increased security along the airfield perimeter, including replacement of existing chain link fence with a taller, non-climbable system, increase in lighting, addition of motion detectors, intrusion detection system, and additional CCTV cameras;
- Exterior Lighting Improvements to increase safety and security at the ramps and the landside roadways by installing new and replacing existing lights with LEDs and installing additional security cameras.

TSA is heavily invested in John Wayne-Orange County Airport ability to carry out security functions, and we are committed in supporting those efforts moving forward. These project are in accordance with the security requirement as outline in the John Wayne-Orange County Airport's Part 1542 Security Plan. Any elements of these projects that meet the Federal Aviation Administration's criteria for passenger facility charge funding eligibility should be favorably considered as appropriate.

Thank you for your help with these important projects. Please do not hesitate to contact me if you have any questions regarding these projects.

Sincerely,

A handwritten signature in black ink, appearing to read "Armando J. Quesada".

Armando J. Quesada,  
Assistant Federal Security Director – Inspections  
Transportation Security Administration



**Attachment I-5  
Terminal Floor Expansion Joints Improvements**

DRAFT



**Attachment I-6  
CUPPS Replacement**

Pending

DRAFT

**Attachment I-7  
Terminal A and B Roof and Associated Expansion Joint Replacement**

DRAFT



EXHIBIT 1. PROJECT LOCATION MAP



JOHN WAYNE AIRPORT  
ORANGE COUNTY

**Attachment I-8  
Facility Accessibility Improvements**

Pending

DRAFT

**Attachment I-9  
Taxiway B Service Road Realignment**

DRAFT



JOHN WAYNE  
AIRPORT  
ORANGE COUNTY

ATTACHMENT 1

TAXIWAY B VEHICLE SERVICE ROAD SAFETY IMPROVEMENTS

NOT TO SCALE





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This content is from the eCFR and is authoritative but unofficial.

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## Title 14 - Aeronautics and Space

### Chapter I - Federal Aviation Administration, Department of Transportation

#### Subchapter I - Airports

#### Part 158 - Passenger Facility Charges (PFC's)

#### Subpart B - Application and Approval

**Authority:** 49 U.S.C. 106(g), 40116-40117, 47106, 47111, 47114-47116, 47524, 47526.

**Source:** Docket No. 26385, 56 FR 24278, May 29, 1991, unless otherwise noted.

#### § 158.23 Consultation with air carriers and foreign air carriers.

(a) *Notice by public agency.* A public agency must provide written notice to air carriers and foreign air carriers having a significant business interest at the airport where the PFC is proposed. A public agency must provide this notice before the public agency files an application with the FAA for authority to impose a PFC under § 158.25(b). In addition, public agencies must provide this notice before filing an application with the FAA for authority to use PFC revenue under § 158.25(c). Public agencies must also provide this notice before filing a notice of intent to impose and/or use a PFC under § 158.30. Finally, a public agency must provide this notice before filing a request to amend the FAA's decision with respect to an approved PFC as discussed in § 158.37(b)(1). The notice shall include:

- (1) Descriptions of projects being considered for funding by PFC's;
- (2) The PFC level for each project, the proposed charge effective date, the estimated charge expiration date, and the estimated total PFC revenue;
- (3) For a request by a public agency that any class or classes of carriers not be required to collect the PFC -
  - (i) The designation of each such class,
  - (ii) The names of the carriers belonging to each such class, to the extent the names are known,
  - (iii) The estimated number of passengers enplaned annually by each such class, and
  - (iv) The public agency's reasons for requesting that carriers in each such class not be required to collect the PFC; and
- (4) Except as provided in § 158.25(c)(2), the date and location of a meeting at which the public agency will present such projects to air carriers and foreign air carriers operating at the airport.

(b) *Meeting.* The meeting required by paragraph (a)(4) of this section shall be held no sooner than 30 days nor later than 45 days after issuance of the written notice required by paragraph (a) of this section. At or before the meeting, the public agency shall provide air carriers and foreign air carriers with -

- (1) A description of projects;
- (2) An explanation of the need for the projects; and

(3) A detailed financial plan for the projects, including -

(i) The estimated allowable project costs allocated to major project elements;

(ii) The anticipated total amount of PFC revenue that will be used to finance the projects; and

(iii) The source and amount of other funds, if any, needed to finance the projects.

(c) *Requirements of air carriers and foreign air carriers.* (1) Within 30 days following issuance of the notice required by paragraph (a) of this section, each carrier must provide the public agency with a written acknowledgement that it received the notice.

(2) Within 30 days following the meeting, each carrier must provide the public agency with a written certification of its agreement or disagreement with the proposed project. A certification of disagreement shall contain the reasons for such disagreement. The absence of such reasons shall void a certification of disagreement.

(3) If a carrier fails to provide the public agency with timely acknowledgement of the notice or timely certification of agreement or disagreement with the proposed project, the carrier is considered to have certified its agreement.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158-2, 65 FR 34541, May 30, 2000; Amdt. 158-3, 70 FR 14934, Mar. 23, 2005]

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This content is from the eCFR and is authoritative but unofficial.

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## **Title 14 - Aeronautics and Space**

### **Chapter I - Federal Aviation Administration, Department of Transportation**

#### **Subchapter I - Airports**

#### **Part 158 - Passenger Facility Charges (PFC's)**

#### **Subpart B - Application and Approval**

**Authority:** 49 U.S.C. 106(g), 40116-40117, 47106, 47111, 47114-47116, 47524, 47526.

**Source:** Docket No. 26385, 56 FR 24278, May 29, 1991, unless otherwise noted.

#### **§ 158.24 Notice and opportunity for public comment.**

(a) (1) *Notice by public agency.* A public agency must provide written notice and an opportunity for public comment before:

- (i) Filing an application with the FAA for authority to impose a PFC under § 158.25(b);
- (ii) Filing an application with the FAA for authority to use PFC revenue under § 158.25(c);
- (iii) Filing a notice of intent to impose and/or use a PFC under § 158.30; and
- (iv) Filing a request to amend a previously approved PFC as discussed in § 158.37(b)(1).

(2) The notice must allow the public to file comments for at least 30 days, but no more than 45 days, after the date of publication of the notice or posting on the public agency's Web site, as applicable.

(b) (1) *Notice contents.* The notice required by § 158.24(a) must include:

- (i) A description of the project(s) the public agency is considering for funding by PFC's;
- (ii) A brief justification for each project the public agency is considering for funding by PFC's;
- (iii) The PFC level for each project;
- (iv) The estimated total PFC revenue the public agency will use for each project;
- (v) The proposed charge effective date for the application or notice of intent;
- (vi) The estimated charge expiration date for the application or notice of intent;
- (vii) The estimated total PFC revenue the public agency will collect for the application or notice of intent; and
- (viii) The name of and contact information for the person within the public agency to whom comments should be sent.

(2) The public agency must make available a more detailed project justification or the justification documents to the public upon request.

(c) *Distribution of notice.* The public agency must make the notice available to the public and interested agencies through one or more of the following methods:

- (1) Publication in local newspapers of general circulation;
- (2) Publication in other local media;
- (3) Posting the notice on the public agency's Internet Web site; or
- (4) Any other method acceptable to the Administrator.

[Doc. No. FAA-2004-17999, 70 FR 14934, Mar. 23, 2005]

(3) Compensation paid by an air carrier to an employee described in subsection (a) in connection with such employee's authorized leave or other authorized absence from regular duties on the carrier's aircraft in order to perform services on behalf of the employee's airline union shall be subject to the income tax laws of only the following:

(A) The State or political subdivision of the State that is the residence of the employee.

(B) The State or political subdivision of the State in which the employee's scheduled flight time would have been more than 50 percent of the employee's total scheduled flight time for the calendar year had the employee been engaged full time in the performance of regularly assigned duties on the carrier's aircraft.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1111; Pub. L. 103-305, title I, §112(e), title II, §208, Aug. 23, 1994, 108 Stat. 1576, 1588; Pub. L. 104-264, title I, §149(b), Oct. 9, 1996, 110 Stat. 3226; Pub. L. 104-287, §5(66), Oct. 11, 1996, 110 Stat. 3395.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40116(a) .....	49 App.:1513(d)(2)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1113(d); added Sept. 3, 1982, Pub. L. 97-248, §532(b), 96 Stat. 701.
	49 App.:1513(f) (words in parentheses).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1113(f); added Nov. 5, 1990, Pub. L. 101-508, §9125, 104 Stat. 1388-370.
40116(b) .....	49 App.:1513(a).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1113(a); added June 18, 1973, Pub. L. 93-44, §7(a), 87 Stat. 90; Nov. 5, 1990, Pub. L. 101-508, §9110(1), 104 Stat. 1388-357.
40116(c) .....	49 App.:1513(f) (less words in parentheses).	
40116(d) .....	49 App.:1513(d)(1), (2)(A)-(D), (3).	
40116(e) .....	49 App.:1513(b).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1113(b); added June 18, 1973, Pub. L. 93-44, §7(a), 87 Stat. 90; Sept. 3, 1982, Pub. L. 97-248, §532(a), 96 Stat. 701.
40116(f) (1)(A), (B).	49 App.:1512(c).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1112; added Dec. 23, 1970, Pub. L. 91-569, §4(a), 84 Stat. 1502; restated Feb. 18, 1980, Pub. L. 96-193, §402, 94 Stat. 57.
40116(f) (1)(C).	49 App.:1512(b).	
40116(f)(2) ...	49 App.:1512(a).	

Subsection (a) is made applicable to subsections (b) and (e) of this section to avoid having to repeat the term being defined. In subsection (a), the words "Commonwealth of Puerto Rico, the Virgin Islands, Guam" are omitted as surplus because of the definition of "territory or possession of the United States" in section 40102(a) of the revised title. The word "authority" is substituted for "agencies" for consistency in the revised title and with other titles of the United States Code.

In subsection (b), before clause (1), reference to 49 App.:1513(f), restated as subsection (c) of this section, is added for clarity. The words "directly or indirectly" are omitted as surplus. The text of 49 App.:1513(a) (words after "subsection (e) and") is omitted as surplus.

In subsections (d)(2)(A), before clause (i), and (f)(1)(C) and (2), the word "political" is added for consistency in the revised title and with other titles of the Code.

In subsection (f)(1)(A), the word "pay" is substituted for "compensation" for consistency in the revised title

and with chapter 55 of title 5, United States Code. The words "rendered by the employee in the performance of his duties and shall include wages and salary" are omitted as surplus.

In subsection (f)(1)(B), the words "means a State of the United States" are substituted for "also means" for clarity.

In subsection (f)(1)(C), the words "of a State" are added for clarity.

In subsection (f)(2), before clause (A), the words "as such an employee" are omitted as surplus.

PUB. L. 104-287

This amends 49:40116(d)(2)(A)(iv) to conform to the style of title 49 and to set out the effective date for this clause.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-264, in introductory provisions, substituted "a State, a" for "a State or" and inserted ", and any person that has purchased or leased an airport under section 47134 of this title" after "of a State".

Subsec. (d)(2)(A)(iv). Pub. L. 104-287, which directed substitution of "August 23, 1994" for "the date of enactment of this clause", was executed by making the substitution for "the date of the enactment of this clause" to reflect the probable intent of Congress.

Pub. L. 104-287 substituted "levy" for "Levy".  
1994—Subsec. (d)(2)(A)(iv). Pub. L. 103-305, §112(e), added cl. (iv).

Subsec. (f)(3). Pub. L. 103-305, §208, added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

§ 40117. Passenger facility charges

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRPORT, COMMERCIAL SERVICE AIRPORT, AND PUBLIC AGENCY.—The terms "airport", "commercial service airport", and "public agency" have the meaning those terms have under section 47102.

(2) ELIGIBLE AGENCY.—The term "eligible agency" means a public agency that controls a commercial service airport.

(3) ELIGIBLE AIRPORT-RELATED PROJECT.—The term "eligible airport-related project" means any of the following projects:

(A) A project for airport development or airport planning under subchapter I of chapter 471.

(B) A project for terminal development described in section 47119(a).

(C) A project for costs of terminal development referred to in subparagraph (B) incurred after August 1, 1986, at an airport that did not have more than .25 percent of the total annual passenger boardings in the United States in the most recent calendar year for which data is available and at which total passenger boardings declined by at least 16 percent between calendar year 1989 and calendar year 1997.

(D) A project for airport noise capability planning under section 47505.

(E) A project to carry out noise compatibility measures eligible for assistance under

section 47504, whether or not a program for those measures has been approved under section 47504.

(F) A project for constructing gates and related areas at which passengers board or exit aircraft. In the case of a project required to enable additional air service by an air carrier with less than 50 percent of the annual passenger boardings at an airport, the project for constructing gates and related areas may include structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door and roof systems, building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service), and aircraft fueling facilities adjacent to the gate.

(G) A project for converting vehicles and ground support equipment used at a commercial service airport to low-emission technology (as defined in section 47102) or to use cleaner burning conventional fuels, retrofitting of any such vehicles or equipment that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology or use cleaner burning fuels if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139.

(4) GROUND SUPPORT EQUIPMENT.—The term “ground support equipment” means service and maintenance equipment used at an airport to support aeronautical operations and related activities.

(5) PASSENGER FACILITY CHARGE.—The term “passenger facility charge” means a charge<sup>1</sup> imposed under this section.

(6) PASSENGER FACILITY REVENUE.—The term “passenger facility revenue” means revenue derived from a passenger facility charge.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may authorize under this section an eligible agency to impose a passenger facility charge of \$1, \$2, or \$3 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, to be carried out in connection with the airport or any other airport the agency controls.

(2) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not regulate or prohibit the imposition or collection of a passenger facility charge or the use of the passenger facility revenue.

(3) A passenger facility charge may be imposed on a passenger of an air carrier or foreign air carrier originating or connecting at the commercial service airport that the agency controls.

(4) In lieu of authorizing a charge under paragraph (1), the Secretary may authorize under this section an eligible agency to impose a passenger facility charge of \$4.00 or \$4.50 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, if the Secretary finds—

(A) in the case of an airport that has more than .25 percent of the total number of annual boardings in the United States, that the project will make a significant contribution to improving air safety and security, increasing competition among air carriers, reducing current or anticipated congestion, or reducing the impact of aviation noise on people living near the airport; and

(B) that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103.

(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility charge under this section for a project described in subsection (a)(3)(G) with respect to a vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.

(6) DEBT SERVICE FOR CERTAIN PROJECTS.—In addition to the uses specified in paragraphs (1) and (4), the Secretary may authorize a passenger facility charge imposed under paragraph (1) or (4) to be used for making payments for debt service on indebtedness incurred to carry out at the airport a project that is not an eligible airport-related project if the Secretary determines that such use is necessary due to the financial need of the airport.

(7) NOISE MITIGATION FOR CERTAIN SCHOOLS.—

(A) IN GENERAL.—In addition to the uses specified in paragraphs (1), (4), and (6), the Secretary may authorize a passenger facility charge imposed under paragraph (1) or (4) at a large hub airport that is the subject of an amended judgment and final order in condemnation filed on January 7, 1980, by the Superior Court of the State of California for the county of Los Angeles, to be used for a project to carry out noise mitigation for a building, or for the replacement of a relocatable building with a permanent building, in the noise impacted area surrounding the airport at which such building is used primarily for educational purposes, notwithstanding the air easement granted or any terms to the contrary in such judgment and final order, if—

(i) the Secretary determines that the building is adversely affected by airport noise;

(ii) the building is owned or chartered by the school district that was the plaintiff in

<sup>1</sup> So in original. Probably should be “fee”.

case number 986,442 or 986,446, which was resolved by such judgment and final order;

(iii) the project is for a school identified in 1 of the settlement agreements effective February 16, 2005, between the airport and each of the school districts;

(iv) in the case of a project to replace a relocatable building with a permanent building, the eligible project costs are limited to the actual structural construction costs necessary to mitigate aircraft noise in instructional classrooms to an interior noise level meeting current standards of the Federal Aviation Administration; and

(v) the project otherwise meets the requirements of this section for authorization of a passenger facility charge.

(B) **ELIGIBLE PROJECT COSTS.**—In subparagraph (A)(iv), the term “eligible project costs” means the difference between the cost of standard school construction and the cost of construction necessary to mitigate classroom noise to the standards of the Federal Aviation Administration.

(c) **APPLICATIONS.**—(1) An eligible agency must submit to the Secretary an application for authority to impose a passenger facility charge. The application shall contain information and be in the form that the Secretary may require by regulation.

(2) Before submitting an application, the eligible agency must provide reasonable notice to, and an opportunity for consultation with, air carriers and foreign air carriers operating at the airport. The Secretary shall prescribe regulations that define reasonable notice and contain at least the following requirements:

(A) The agency must provide written notice of individual projects being considered for financing by a passenger facility charge and the date and location of a meeting to present the projects to air carriers and foreign air carriers operating at the airport.

(B) Not later than 30 days after written notice is provided under subparagraph (A) of this paragraph, each air carrier and foreign air carrier operating at the airport must provide to the agency written notice of receipt of the notice. Failure of a carrier to provide the notice may be deemed certification of agreement with the project by the carrier under subparagraph (D) of this paragraph.

(C) Not later than 45 days after written notice is provided under subparagraph (A) of this paragraph, the agency must conduct a meeting to provide air carriers and foreign air carriers with descriptions of projects and justifications and a detailed financial plan for projects.

(D) Not later than 30 days after the meeting, each air carrier and foreign air carrier must provide to the agency certification of agreement or disagreement with projects (or total plan for the projects). Failure to provide the certification is deemed certification of agreement with the project by the carrier. A certification of disagreement is void if it does not contain the reasons for the disagreement.

(E) The agency must include in its application or notice submitted under subparagraph

(A) copies of all certifications of agreement or disagreement received under subparagraph (D).

(F) For the purpose of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term “significant business interest” means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.

(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility charge so as to inform those interested persons and agencies that may be affected. The public notice may include—

- (i) publication in local newspapers of general circulation;
- (ii) publication in other local media; and
- (iii) posting the notice on the agency’s Internet website.

(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B).

(4) After receiving an application, the Secretary may provide notice and an opportunity to air carriers, foreign air carriers, and other interested persons to comment on the application. The Secretary shall make a final decision on the application not later than 120 days after receiving it.

(d) **LIMITATIONS ON APPROVING APPLICATIONS.**—The Secretary may approve an application that an eligible agency has submitted under subsection (c) of this section to finance a specific project only if the Secretary finds, based on the application, that—

(1) the amount and duration of the proposed passenger facility charge will result in revenue (including interest and other returns on the revenue) that is not more than the amount necessary to finance the specific project;

(2) each project is an eligible airport-related project that will—

- (A) preserve or enhance capacity, safety, or security of the national air transportation system;
- (B) reduce noise resulting from an airport that is part of the system; or
- (C) provide an opportunity for enhanced competition between or among air carriers and foreign air carriers;

(3) the application includes adequate justification for each of the specific projects; and

(4) in the case of an application to impose a charge of more than \$3.00 for an eligible surface transportation or terminal project, the agency has made adequate provision for financing the airside needs of the airport, including runways, taxiways, aprons, and aircraft gates.

(e) LIMITATIONS ON IMPOSING CHARGES.—(1) An eligible agency may impose a passenger facility charge only—

(A) if the Secretary approves an application that the agency has submitted under subsection (c) of this section; and

(B) subject to terms the Secretary may prescribe to carry out the objectives of this section.

(2) A passenger facility charge may not be collected from a passenger—

(A) for more than 2 boardings on a one-way trip or a trip in each direction of a round trip;

(B) for the boarding to an eligible place under subchapter II of chapter 417 of this title for which essential air service compensation is paid under subchapter II;

(C) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flier award coupon without monetary payment;

(D) on flights, including flight segments, between 2 or more points in Hawaii;

(E) in Alaska aboard an aircraft having a seating capacity of less than 60 passengers; and

(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense.

(f) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—(1) A contract between an air carrier or foreign air carrier and an eligible agency made at any time may not impair the authority of the agency to impose a passenger facility charge or to use the passenger facility revenue as provided in this section.

(2) A project financed with a passenger facility charge may not be subject to an exclusive long-term lease or use agreement of an air carrier or foreign air carrier, as defined by regulations of the Secretary.

(3) A lease or use agreement of an air carrier or foreign air carrier related to a project whose construction or expansion was financed with a passenger facility charge may not restrict the eligible agency from financing, developing, or assigning new capacity at the airport with passenger facility revenue.

(g) TREATMENT OF REVENUE.—(1) Passenger facility revenue is not airport revenue for purposes of establishing a price under a contract between an eligible agency and an air carrier or foreign air carrier.

(2) An eligible agency may not include in its price base the part of the capital costs of a project paid for by using passenger facility revenue

to establish a price under a contract between the agency and an air carrier or foreign air carrier.

(3) For a project for terminal development, gates and related areas, or a facility occupied or used by at least one air carrier or foreign air carrier on an exclusive or preferential basis, a price payable by an air carrier or foreign air carrier using the facilities must at least equal the price paid by an air carrier or foreign air carrier using a similar facility at the airport that was not financed with passenger facility revenue.

(4) Passenger facility revenues that are held by an air carrier or an agent of the carrier after collection of a passenger facility charge constitute a trust fund that is held by the air carrier or agent for the beneficial interest of the eligible agency imposing the charge. Such carrier or agent holds neither legal nor equitable interest in the passenger facility revenues except for any handling fee or retention of interest collected on unremitted proceeds as may be allowed by the Secretary.

(h) COMPLIANCE.—(1) As necessary to ensure compliance with this section, the Secretary shall prescribe regulations requiring record-keeping and auditing of accounts maintained by an air carrier or foreign air carrier and its agent collecting a passenger facility charge and by the eligible agency imposing the charge.

(2) The Secretary periodically shall audit and review the use by an eligible agency of passenger facility revenue. After review and a public hearing, the Secretary may end any part of the authority of the agency to impose a passenger facility charge to the extent the Secretary decides that the revenue is not being used as provided in this section.

(3) The Secretary may set off amounts necessary to ensure compliance with this section against amounts otherwise payable to an eligible agency under subchapter I of chapter 471 of this title if the Secretary decides a passenger facility charge is excessive or that passenger facility revenue is not being used as provided in this section.

(i) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations—

(1) may prescribe the time and form by which a passenger facility charge takes effect;

(2) shall—

(A) require an air carrier or foreign air carrier and its agent to collect a passenger facility charge that an eligible agency imposes under this section;

(B) establish procedures for handling and remitting money collected;

(C) ensure that the money, less a uniform amount the Secretary determines reflects the average necessary and reasonable expenses (net of interest accruing to the carrier and agent after collection and before remittance) incurred in collecting and handling the charge, is paid promptly to the eligible agency for which they are collected; and

(D) require that the amount collected for any air transportation be noted on the ticket for that air transportation; and



(3) may permit an eligible agency to request that collection of a passenger facility charge be waived for—

(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not more than one percent of the total number of passengers enplaned annually at the airport at which the charge is imposed; or

(B) passengers enplaned on a flight to an airport—

(i) that has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; or

(ii) in a community which has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.

(j) LIMITATION ON CERTAIN ACTIONS.—A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not tax, regulate, or prohibit or otherwise attempt to control in any manner, the imposition or collection of a passenger facility charge or the use of the revenue from the passenger facility charge.

(k) COMPETITION PLANS.—

(1) IN GENERAL.—Beginning in fiscal year 2001, no eligible agency may impose a passenger facility charge under this section with respect to a covered airport (as such term is defined in section 47106(f)) unless the agency has submitted to the Secretary a written competition plan in accordance with such section. This subsection does not apply to passenger facility charges in effect before the date of the enactment of this subsection.

(2) SECRETARY SHALL ENSURE IMPLEMENTATION AND COMPLIANCE.—The Secretary shall review any plan submitted under paragraph (1) to ensure that it meets the requirements of this section, and shall review its implementation from time-to-time to ensure that each covered airport successfully implements its plan.

(l) PILOT PROGRAM FOR PASSENGER FACILITY CHARGE AUTHORIZATIONS AT NONHUB AIRPORTS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility charges. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility charge under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of

intention to impose a passenger facility charge under this subsection. The notice shall include—

(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility charge is sought;

(B) the amount of revenue from passenger facility charges that is proposed to be collected for each project; and

(C) the level of the passenger facility charge that is proposed.

(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility charge under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

(5) AUTHORITY TO IMPOSE CHARGE.—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility charge in accordance with the terms of its notice under this subsection.

(6) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

(7) ACKNOWLEDGEMENT NOT AN ORDER.—An acknowledgement issued under paragraph (4) shall not be considered an order issued by the Secretary for purposes of section 46110.

(m) FINANCIAL MANAGEMENT OF CHARGES.—

(1) HANDLING OF CHARGES.—A covered air carrier shall segregate in a separate account passenger facility revenue equal to the average monthly liability for charges collected under this section by such carrier or any of its agents for the benefit of the eligible agencies entitled to such revenue.

(2) TRUST FUND STATUS.—If a covered air carrier or its agent fails to segregate passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

(3) PROHIBITION.—A covered air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

(4) COMPENSATION TO ELIGIBLE ENTITIES.—A covered air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

(5) INTEREST ON AMOUNTS.—A covered air carrier that collects passenger facility charges is entitled to receive the interest on passenger facility charge accounts if the accounts are established and maintained in compliance with this subsection.

(6) EXISTING REGULATIONS.—The provisions of section 158.49 of title 14, Code of Federal Regu-

lations, that permit the commingling of passenger facility charges with other air carrier revenue shall not apply to a covered air carrier.

(7) COVERED AIR CARRIER DEFINED.—In this section, the term “covered air carrier” means an air carrier that files for chapter 7 or chapter 11 of title 11 bankruptcy protection, or has an involuntary chapter 7 of title 11 bankruptcy proceeding commenced against it, after the date of enactment of this subsection.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1113; Pub. L. 103–305, title II, §§203, 204(a)(1), (b), Aug. 23, 1994, 108 Stat. 1582, 1583; Pub. L. 104–264, title I, §142(b)(2), title XII, §1202, Oct. 9, 1996, 110 Stat. 3221, 3280; Pub. L. 104–287, §5(67), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 106–181, title I, §§105(a), (b), 135(a), (b), 151, 152(a), 155(c), Apr. 5, 2000, 114 Stat. 71, 83, 86–88; Pub. L. 108–176, title I, §§121(a)–(c), 122–123(d), 124, Dec. 12, 2003, 117 Stat. 2499–2502; Pub. L. 110–253, §3(c)(1), June 30, 2008, 122 Stat. 2417; Pub. L. 110–330, §5(a), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 110–337, §1, Oct. 2, 2008, 122 Stat. 3729; Pub. L. 111–12, §5(a), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111–69, §5(a), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–116, §5(a), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111–153, §5(a), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111–161, §5(a), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111–197, §5(a), July 2, 2010, 124 Stat. 1354; Pub. L. 111–216, title I, §104(a), Aug. 1, 2010, 124 Stat. 2349; Pub. L. 111–249, §5(a), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111–329, §5(a), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112–7, §5(a), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112–16, §5(a), May 31, 2011, 125 Stat. 219; Pub. L. 112–21, §5(a), June 29, 2011, 125 Stat. 234; Pub. L. 112–27, §5(a), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112–30, title II, §205(a), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(a), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title I, §§111(a)–(c)(1), 152(e)(1), Feb. 14, 2012, 126 Stat. 17, 18, 34.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40117(a)(1) ..	49 App.:1513(e)(15)(A), (B), (D).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(e)(1)–(3), (5)–(15); added Nov. 5, 1990, Pub. L. 101–508, §9110(2), 104 Stat. 1388–357.
40117(a)(2) ..	(no source).	
40117(a)(3) ..	49 App.:1513(e)(15)(C).	
40117(a)(4), (5).	(no source).	
40117(b)(1) ..	49 App.:1513(e)(1).	
40117(b)(2) ..	49 App.:1513(e)(8) (1st sentence).	
40117(b)(3) ..	49 App.:1513(e)(6) (1st sentence).	
40117(c)(1), (2).	49 App.:1513(e)(11)(A)–(C).	
40117(c)(3) ..	49 App.:1513(e)(11)(D), (E) (last sentence).	
40117(d) .....	49 App.:1513(e)(2), (5).	
40117(e)(1)(A).	49 App.:1513(e)(11)(E) (1st sentence).	
40117(e)(1)(B).	49 App.:1513(e)(13).	
40117(e)(2)(A).	49 App.:1513(e)(6) (last sentence).	
40117(e)(2)(B).	49 App.:1513(e)(3).	

HISTORICAL AND REVISION NOTES—CONTINUED  
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40117(e)(2)(C).	49 App.:1513(e)(4).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1113(e)(4); added Nov. 5, 1990, Pub. L. 101–508, §9110(2), 104 Stat. 1388–357; Oct. 31, 1992, Pub. L. 102–581, §105, 106 Stat. 4877.
40117(f)(1) ...	49 App.:1513(e)(8) (last sentence).	
40117(f)(2), (3).	49 App.:1513(e)(9).	
40117(g) .....	49 App.:1513(e)(7).	
40117(h) .....	49 App.:1513(e)(12).	
40117(i) .....	49 App.:1513(e)(10), (14).	

In subsection (a), before clause (1), the text of 49 App.:1513(e)(15)(A) is omitted for clarity and because the terms “air carrier” and “foreign air carrier” are used the first time they appear in each subsection. The text of 49 App.:1513(e)(15)(D) is omitted because the complete name of the Secretary of Transportation is used the first time the term appears in this section. Clauses (2), (4), and (5) are added to avoid repeating the source provisions throughout this section. In clause (3)(D), the words “without regard to” are omitted as surplus.

In subsection (b)(1), the words “bonds and other” are omitted as surplus.

In subsection (b)(2), the word “limit” is omitted as being included in “regulate”.

In subsection (d), before clause (1), the text of 49 App.:1513(e)(5) is omitted as executed. The words “approve an application that an eligible agency has submitted under subsection (c) of this section” are substituted for “grant a public agency which controls a commercial service airport authority to impose a fee under this subsection” for clarity.

In subsection (e)(1)(B), the words “and conditions” are omitted as being included in “terms”.

Subsection (e)(2)(A) is substituted for 49 App.:1513(e)(6) (last sentence) to eliminate unnecessary words.

In subsection (e)(2)(B), the words “a public agency which controls any other airport”, “If a passenger of an air carrier is being provided air service”, and “with respect to such air service” are omitted as surplus.

In subsection (f)(3), the words “financed with” are substituted for “carried out through the use of” for consistency in this section and to eliminate unnecessary words.

In subsection (g), the word “price” is substituted for “rate, fee, or charge” and “rates, fees, and charges” to eliminate unnecessary words.

In subsection (g)(2), the words “Except as provided by subparagraph (C)” and “by means of depreciation, amortization, or any other method” are omitted as surplus.

In subsection (h)(1), the word “agent” is substituted for “agency” to correct an error in the source provisions.

In subsection (i), before clause (1), the words “Not later than May 4, 1991” are omitted as obsolete.

PUB. L. 104–287

This repeals 49:40117(e)(2)(C) to eliminate an executed provision and makes conforming amendments.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (k)(1), is the date of enactment of Pub. L. 106–181, which was approved Apr. 5, 2000.

The date of enactment of this subsection, referred to in subssecs. (l)(6) and (m)(7), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

AMENDMENTS

2012—Pub. L. 112–95, §111(c)(1)(H), substituted “charges” for “fees” wherever appearing in text.

Pub. L. 112-95, §111(c)(1)(G), substituted “charge” for “fee” wherever appearing in text other than the second sentence of subsec. (g)(4).

Pub. L. 112-95, §111(c)(1)(A), substituted “charges” for “fees” in section catchline.

Subsec. (a)(3)(B), Pub. L. 112-95, §152(e)(1), substituted “section 47119(a)” for “section 47110(d)”.

Subsec. (a)(5), Pub. L. 112-95, §111(a), amended par. (5) generally. Prior to amendment, text read as follows: “The term ‘passenger facility fee’ means a fee imposed under this section.”

Subsec. (e), Pub. L. 112-95, §111(c)(1)(B), substituted “Charges” for “Fees” in heading.

Subsec. (l), Pub. L. 112-95, §111(c)(1)(C), substituted “Charge” for “Fee” in heading.

Subsec. (l)(5), Pub. L. 112-95, §111(c)(1)(D), substituted “charge” for “fee” in heading.

Subsec. (l)(7), Pub. L. 112-95, §111(b), redesignated par. (8) as (7) and struck out former par. (7). Prior to amendment, text read as follows: “This subsection shall cease to be effective beginning on February 18, 2012.”

Pub. L. 112-91 substituted “February 18, 2012.” for “February 1, 2012.”

Subsec. (l)(8), Pub. L. 112-95, §111(b), redesignated par. (8) as (7).

Subsec. (m), Pub. L. 112-95, §111(c)(1)(E), substituted “Charges” for “Fees” in heading.

Subsec. (m)(1), Pub. L. 112-95, §111(c)(1)(F), substituted “charges” for “fees” in heading.

2011—Subsec. (l)(7), Pub. L. 112-30 substituted “February 1, 2012.” for “September 17, 2011.”

Pub. L. 112-27 substituted “September 17, 2011.” for “July 23, 2011.”

Pub. L. 112-21 substituted “July 23, 2011.” for “July 1, 2011.”

Pub. L. 112-16 substituted “July 1, 2011.” for “June 1, 2011.”

Pub. L. 112-7 substituted “June 1, 2011.” for “April 1, 2011.”

2010—Subsec. (l)(7), Pub. L. 111-329 substituted “April 1, 2011.” for “January 1, 2011.”

Pub. L. 111-249 substituted “January 1, 2011.” for “October 1, 2010.”

Pub. L. 111-216 substituted “October 1, 2010.” for “August 2, 2010.”

Pub. L. 111-197 substituted “August 2, 2010.” for “July 4, 2010.”

Pub. L. 111-161 substituted “July 4, 2010.” for “May 1, 2010.”

Pub. L. 111-153 substituted “May 1, 2010.” for “April 1, 2010.”

2009—Subsec. (l)(7), Pub. L. 111-116 substituted “April 1, 2010.” for “January 1, 2010.”

Pub. L. 111-69 substituted “January 1, 2010.” for “October 1, 2009.”

Pub. L. 111-12 substituted “October 1, 2009.” for “April 1, 2009.”

2008—Subsec. (b)(7), Pub. L. 110-337 added par. (7).

Subsec. (l)(7), Pub. L. 110-330 substituted “April 1, 2009” for “September 30, 2008”.

Pub. L. 110-253 substituted “September 30, 2008” for “the date that is 3 years after the date of issuance of regulations to carry out this subsection”.

2003—Subsec. (a)(3)(C), Pub. L. 108-176, §123(d), substituted “A project for costs” for “for costs” and a period for the semicolon at end.

Subsec. (a)(3)(G), Pub. L. 108-176, §121(a), added subpar. (G).

Subsec. (a)(4) to (6), Pub. L. 108-176, §121(c), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (b)(5), Pub. L. 108-176, §121(b), added par. (5).

Subsec. (b)(6), Pub. L. 108-176, §122, added par. (6).

Subsec. (c)(2)(E), (F), Pub. L. 108-176, §123(a)(1), added subpars. (E) and (F).

Subsec. (c)(3), (4), Pub. L. 108-176, §123(a)(2)–(4), added par. (3), redesignated former par. (3) as (4), and substituted “may” for “shall” in first sentence of par. (4).

Subsec. (e)(2)(C), Pub. L. 108-176, §123(c)(1), substituted a semicolon for period at end.

Subsec. (e)(2)(F), Pub. L. 108-176, §123(c)(2)–(4), added subpar. (F).

Subsec. (l), Pub. L. 108-176, §123(b), added subsec. (l).

Subsec. (m), Pub. L. 108-176, §124, added subsec. (m). 2000—Subsec. (a), Pub. L. 106-181, §151, amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “In this section—

“(1) ‘airport’, ‘commercial service airport’, and ‘public agency’ have the same meanings given those terms in section 47102 of this title.

“(2) ‘eligible agency’ means a public agency that controls a commercial service airport.

“(3) ‘eligible airport-related project’ means a project—

“(A) for airport development or airport planning under subchapter I of chapter 471 of this title;

“(B) for terminal development described in section 47110(d) of this title;

“(C) for airport noise capability planning under section 47505 of this title;

“(D) to carry out noise compatibility measures eligible for assistance under section 47504 of this title, whether or not a program for those measures has been approved under section 47504; and

“(E) for constructing gates and related areas at which passengers board or exit aircraft.

“(4) ‘passenger facility fee’ means a fee imposed under this section.

“(5) ‘passenger facility revenue’ means revenue derived from a passenger facility fee.”

Subsec. (a)(3)(C) to (F), Pub. L. 106-181, §152(a), added subpar. (C) and redesignated former subpars. (C) to (E) as (D) to (F), respectively.

Subsec. (b)(4), Pub. L. 106-181, §105(a), added par. (4).

Subsec. (d)(4), Pub. L. 106-181, §105(b), added par. (4).

Subsec. (e)(2)(D), (E), Pub. L. 106-181, §135(a), added subpars. (D) and (E).

Subsec. (i)(3), Pub. L. 106-181, §135(b)(1)–(3), added par. (3).

Subsec. (j), Pub. L. 106-181, §135(b)(4), added subsec. (j).

Subsec. (k), Pub. L. 106-181, §155(c), added subsec. (k). 1996—Subsec. (a)(3)(D) to (F), Pub. L. 104-264, §142(b)(2), inserted “and” at end of subpar. (D), substituted a period for “; and” at end of subpar. (E), and struck out subpar. (F) which read as follows: “in addition to projects eligible under subparagraph (A), the construction, reconstruction, repair, or improvement of areas of an airport used for the operation of aircraft or actions to mitigate the environmental effects of such construction, reconstruction, repair, or improvement when the construction, reconstruction, repair, improvement, or action is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, or the Federal Water Pollution Control Act with respect to the airport.”

Subsec. (e)(2)(B) to (D), Pub. L. 104-287 inserted “and” at end of subpar. (B), redesignated subpar. (D) as (C), and struck out former subpar. (C) which read as follows: “for a project the Secretary does not approve under this section before October 1, 1993, if, during the fiscal year ending September 30, 1993, the amount available for obligation under subchapter II of chapter 417 of this title is less than \$38,600,000, except that this clause—

“(i) does not apply if the amount available for obligation under subchapter II of chapter 417 of this title is less than \$38,600,000 because of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriation law; and

“(ii) does not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues, derived from a fee imposed under an approval made under this section, by a public agency that has received an approval to impose a fee under this section before September 30, 1993, regardless of whether the fee is being imposed on September 30, 1993; and”.

Subsec. (g)(4), Pub. L. 104-264, §1202, added par. (4).

1994—Subsec. (a)(3)(F). Pub. L. 103-305, §203, added subpar. (F).

Subsec. (d)(3). Pub. L. 103-305, §204(b), added par. (3).

Subsec. (e)(2)(D). Pub. L. 103-305, §204(a)(1), added subpar. (D).

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-27, §5(j), Aug. 5, 2011, 125 Stat. 271, provided that: “The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on July 23, 2011.”

Pub. L. 112-21, §5(j), June 29, 2011, 125 Stat. 235, provided that: “The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on July 1, 2011.”

Pub. L. 112-16, §5(j), May 31, 2011, 125 Stat. 220, provided that: “The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on June 1, 2011.”

Pub. L. 112-7, §5(j), Mar. 31, 2011, 125 Stat. 33, provided that: “The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on April 1, 2011.”

#### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-329, §5(j), Dec. 22, 2010, 124 Stat. 3568, provided that: “The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on January 1, 2011.”

Pub. L. 111-249, §5(l), Sept. 30, 2010, 124 Stat. 2628, provided that: “The amendments made by this section [amending this section, sections 41743, 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as notes under sections 41731 and 47109 of this title] shall take effect on October 1, 2010.”

Pub. L. 111-216, title I, §104(j), Aug. 1, 2010, 124 Stat. 2350, provided that: “The amendments made by this section [amending this section, sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as a note under section 47109 of this title] shall take effect on August 2, 2010.”

Pub. L. 111-197, §5(j), July 2, 2010, 124 Stat. 1354, provided that: “The amendments made by this section [amending this section, sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as a note under section 47109 of this title] shall take effect on July 4, 2010.”

Pub. L. 111-161, §5(j), Apr. 30, 2010, 124 Stat. 1127, provided that: “The amendments made by this section [amending this section, sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as a note under section 47109 of this title] shall take effect on May 1, 2010.”

Pub. L. 111-153, §5(j), Mar. 31, 2010, 124 Stat. 1085, provided that: “The amendments made by this section [amending this section, sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as a note under section 47109 of this title] shall take effect on April 1, 2010.”

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-116, §5(j), Dec. 16, 2009, 123 Stat. 3032, provided that: “The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on January 1, 2010.”

Pub. L. 111-69, §5(l), Oct. 1, 2009, 123 Stat. 2055, provided that: “The amendments made by this section

[amending this section and sections 41743, 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as notes under sections 41731 and 47109 of this title] shall take effect on October 1, 2009.”

Pub. L. 111-12, §5(j), Mar. 30, 2009, 123 Stat. 1458, provided that: “The amendments made by this section [amending this section and sections 44302, 44303, 47107, 47115, 47141, and 49108 of this title and provisions set out as a note under section 47109 of this title] shall take effect on April 1, 2009.”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-330, §5(l), Sept. 30, 2008, 122 Stat. 3719, provided that: “The amendments made by this section [amending this section, sections 41743, 44302, 44303, 47107, 47115, 47141, and 49108 of this title, and provisions set out as notes under sections 41731 and 47109 of this title] shall take effect on October 1, 2008.”

Amendment by Pub. L. 110-253 effective July 1, 2008, see section 3(d) of Pub. L. 110-253, set out as a note under section 9502 of Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

#### GUIDANCE

Pub. L. 108-176, title I, §121(d), Dec. 12, 2003, 117 Stat. 2500, provided that: “The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance determining eligibility of projects, and how benefits to air quality must be demonstrated, under the amendments made by this section [amending this section].”

#### ELIGIBILITY OF AIRPORT GROUND ACCESS TRANSPORTATION PROJECTS

Pub. L. 108-176, title I, §123(e), Dec. 12, 2003, 117 Stat. 2502, provided that: “Not later than 60 days after the enactment of this Act [Dec. 12, 2003], the Administrator of the Federal Aviation Administration shall publish in the Federal Register the current policy of the Administration, consistent with current law, with respect to the eligibility of airport ground access transportation projects for the use of passenger facility fees under section 40117 of title 49, United States Code.”

#### COMPETITION PLANS

Pub. L. 106-181, title I, §155(a), Apr. 5, 2000, 114 Stat. 88, provided that: “The Congress makes the following findings:

“(1) Major airports must be available on a reasonable basis to all air carriers wishing to serve those airports.

“(2) 15 large hub airports today are each dominated by one air carrier, with each such carrier controlling more than 50 percent of the traffic at the hub.

“(3) The General Accounting Office [now Government Accountability Office] has found that such levels of concentration lead to higher air fares.

“(4) The United States Government must take every step necessary to reduce those levels of concentration.

“(5) Consistent with air safety, spending at these airports must be directed at providing opportunities for carriers wishing to serve such facilities on a commercially viable basis.”

LIMITATION ON STATUTORY CONSTRUCTION OF  
SUBSECTION (e)(2)(D)

Pub. L. 103-305, title II, §204(a)(2), Aug. 23, 1994, 108 Stat. 1583, provided that: “The amendment made by paragraph (1) [amending this section] shall not be construed as requiring any person to refund any fee paid before the date of the enactment of this Act [Aug. 23, 1994].”

**§ 40118. Government-financed air transportation**

(a) **TRANSPORTATION BY AIR CARRIERS HOLDING CERTIFICATES.**—A department, agency, or instrumentality of the United States Government shall take necessary steps to ensure that the transportation of passengers and property by air is provided by an air carrier holding a certificate under section 41102 of this title if—

(1) the department, agency, or instrumentality—

(A) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government; or

(B) provides the transportation to or for a foreign country or international or other organization without reimbursement;

(2) the transportation is authorized by the certificate or by regulation or exemption of the Secretary of Transportation; and

(3) the air carrier is—

(A) available, if the transportation is between a place in the United States and a place outside the United States; or

(B) reasonably available, if the transportation is between 2 places outside the United States.

(b) **TRANSPORTATION BY FOREIGN AIR CARRIERS.**—This section does not preclude the transportation of passengers and property by a foreign air carrier if the transportation is provided under a bilateral or multilateral air transportation agreement to which the Government and the government of a foreign country are parties if the agreement—

(1) is consistent with the goals for international aviation policy of section 40101(e) of this title; and

(2) provides for the exchange of rights or benefits of similar magnitude.

(c) **PROOF.**—The Administrator of General Services shall prescribe regulations under which agencies may allow the expenditure of an appropriation for transportation in violation of this section only when satisfactory proof is presented showing the necessity for the transportation.

(d) **CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED STATES.**—Notwithstanding subsections (a) and (c) of this section, any amount appropriated to the Secretary of State or the Administrator of the Agency for International Development may be used to pay for the transportation of an officer or employee of the Department of State or one of those agencies, a dependent of the officer or employee, and accom-

panying baggage, by a foreign air carrier when the transportation is between 2 places outside the United States.

(e) **RELATIONSHIP TO OTHER LAWS.**—This section does not affect the application of the anti-discrimination provisions of this part.

(f) **PROHIBITION OF CERTIFICATION OR CONTRACT CLAUSE.**—(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

(2) In paragraph (1), the term “commercial item” has the meaning given such term in section 103 of title 41, except that it shall not include a contract for the transportation by air of passengers.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1116; Pub. L. 103-355, title VIII, §8301(h), Oct. 13, 1994, 108 Stat. 3398; Pub. L. 104-287, §5(68), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 104-316, title I, §127(d), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105-277, div. G, subd. A, title XII, §1225(h), title XIII, §1335(p), title XIV, §1422(b)(6), Oct. 21, 1998, 112 Stat. 2681-775, 2681-789, 2681-793; Pub. L. 108-176, title VIII, §806, Dec. 12, 2003, 117 Stat. 2588; Pub. L. 111-350, §5(o)(8), Jan. 4, 2011, 124 Stat. 3854.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
40118(a) .....	49 App.:1517(a), (b).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1117; added Jan. 3, 1975, Pub. L. 93-623, §5(a), 88 Stat. 2104; re-stated Feb. 15, 1980, Pub. L. 96-192, §21, 94 Stat. 43.
	49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98-443, §3(e), 98 Stat. 1704.
40118(b) .....	49 App.:1517(c).	
40118(c) .....	49 App.:1517(d) (1st sentence).	
40118(d) .....	49 App.:1518.	Oct. 7, 1978, Pub. L. 95-426, §706, 92 Stat. 992.
40118(e) .....	49 App.:1517(d) (last sentence).	

In this section, the word “passengers” is substituted for “persons” for consistency in the revised title. The words “(and their personal effects)” are omitted as being included in “property”.

In subsection (a), before clause (1), the words “Except as provided in subsection (c) of this section” are omitted as surplus. The words “department, agency, or instrumentality” are substituted for “agency” for consistency in the revised title and with other titles of the United States Code. The words “or agencies” are omitted because of 1:1. In clause (1), before subclause (A), the words “executive” and “other” are omitted as surplus. In subclause (A), the words “procure, contract for, or otherwise” are omitted as surplus. The words “for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government” are substituted for “in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise” for clarity and to eliminate unnecessary words. In subclause (B), the word “country” is substituted for “nation” for consistency in the revised title and with other titles of the Code. The words “international or other organization” are sub-