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CITY ATTORNEY

October 18, 2019

Federal Aviation Administration  
Operations Support Group  
c/o Burbank Public Comments  
2200 S. 216<sup>th</sup> Street  
Des Moines, Washington 98198

Re: Comments on the Scoping Process for Environmental Assessment of the proposed SLAPP TWO and OROSZ THREE RNAV Standard Instrument Procedures

To Whom It May Concern:

The City of Los Angeles ("City") respectfully submits these comments to the Federal Aviation Administration ("FAA") regarding the scoping process for FAA's environmental assessment of the proposed OROSZ THREE and SLAPP TWO RNAV Standard Instrument Departure Procedures ("Proposed Procedures") at the Hollywood Burbank Airport ("BUR").

Since 2017, overflights on the existing OROSZ TWO and SLAPP ONE RNAV have caused continual, significant noise impacts to residents and properties and are source of intense public concern and interest in the Proposed Procedures. It is critical that FAA's environmental assessment is a comprehensive review of all potential environmental impacts of, and alternatives to, the Proposed Procedures. Therefore, the City requests that before FAA prepares an environmental assessment, FAA establish a formal, public process to identify all possible environmental impacts of the Proposed Procedures and to determine the complete scope of issues to be analyzed in the environmental assessment. That "scoping process" for the environmental assessment must be robust and transparent to ensure an adequate assessment and FAA's compliance with the National Environmental Policy Act, 42 U.S.C. § 4321.

The City submitted extensive comments on FAA's Draft Environmental Review of the Proposed Procedures on April 23, 2018, November 16, 2018, and February 21, 2019. As the City detailed in those comments, there are potentially significant environmental effects of the Proposed Procedures, and FAA's initial environmental review of the Proposed Procedures was riddled with deficiencies. FAA's decision earlier this year to conduct an environmental assessment of the Proposed Procedures was a

necessary step towards adequately evaluating potential significant impacts of and alternatives to the Proposed Procedures. FAA's next step must be to conduct a thorough scoping process that defines the scope of the environmental assessment and identifies all environmental issues requiring analyses in the assessment.

Pursuant to NEPA, an environmental assessment "must present a detailed analysis, to the satisfaction of the responsible FAA official, commensurate with the level of impact of the proposed action and alternatives, to determine whether any impacts will be significant." Order 1050.1F ¶ 6-2.2(e). To ensure an adequate environmental assessment is conducted, FAA must address "the scope of issues" and identify the "significant issues related to a proposed action" that should be addressed in the environmental assessment. 40 C.F.R. § 1501.7. The City requests that FAA require its independent consultant to conduct a scoping process that adequately reflects the level of potential environmental impacts of the Proposed Procedures and the public controversy surrounding the Procedures. As part of the scoping process, FAA should incorporate the following recommendations for the environmental assessment of the Proposed Procedures.

**Public Participation in the Scoping Process.** NEPA requires that FAA facilitate meaningful public involvement as part of the scoping process. See 40 C.F.R. § 1501.7. Although not expressly required for environmental assessments, FAA's rules state that "scoping can be particularly useful when an [environmental assessment] deals with uncertainty or controversy regarding potential conflicts over the use of resources or the environmental impacts of the proposed actions." Order 1050.1F ¶ 6-2.2(c). Here, FAA has already acknowledged the public controversy over the Proposed Procedures by elevating its environmental review from a potential documented categorical exclusion to an environmental assessment. The public concerns over the environmental impacts of the Proposed Procedures demand that FAA facilitate a transparent and inclusive scoping process. A scoping process for the Proposed Procedures should, according to FAA's rules, "provide a transparent way to identify environmental issues, focusing the analysis on the most pertinent issues and impacts." *Id.*

Consistent with FAA policy, the City requests that FAA establish a formal process for scoping and public involvement. Establishing a formal scoping process could be achieved in coordination with the recently-established Southern San Fernando Valley Airplane Noise Task Force. As indicated in FAA's announcement regarding a contract for preparation of the environmental assessment, the Task Force will play an important role in the environmental assessment process, including providing FAA with recommended alternatives to the Proposed Procedures. Through a formal scoping process, FAA can receive productive input on the Proposed Procedures from the Task Force at an early stage in the environmental assessment process.

**Adequate Noise Modeling and Assessment.** FAA must ensure through the scoping process that the environmental assessment subjects potential noise impacts of the Proposed Procedures to both extensive modeling and on-the-ground assessments of potentially affected properties and communities.

The existing OROSZ TWO and SLAPP ONE RNAV procedures disperse flight tracks consistent with conventional departure procedures. However, under the Proposed Procedures, flight tracks would become more concentrated and would therefore focus noise over Studio City and Sherman Oaks with

residential, historic, park, natural areas, and other land uses susceptible to increased noise levels from overflights. As the City detailed in its November 16, 2018 comments to FAA, because the Proposed Procedures would move flights over the Santa Monica Mountains, homes, parks, and other properties located at the higher altitudes would be closer to overflights departing BUR.

The scoping process should define the exact modeling and modeling parameters to be used in the environmental assessment so that adequate consideration is given to the different altitudes of land under the Proposed Procedures. Modeling must account for varying terrain – including the mountainous terrain south and west of the JAYTE waypoint. FAA’s Draft Environmental Review that included Aviation Environmental Design Tool (AEDT) modeling was based on the airport field elevations and failed to consider the higher altitudes of mountains areas in Studio City and Sherman Oaks. Consideration of the interplay between altitudes and aircraft noise is necessary to review potential impacts to properties under NEPA, as well as other applicable environmental requirements, including the National Historic Preservation Act, 54 U.S.C. § 300101 and Section 4(f) of the Department of Transportation Act, 49 U.S.C. § 303(c).

In addition to modeling the predicted flight tracks of the Proposed Procedures, scoping must identify anticipated deviations from the predicted flight tracks and include them in the modeling. As FAA is well-aware, limiting environmental analysis of RNAV procedures to only the precise charted RNAV route – without considering inevitable deviations and vectoring from those routes – results in an environmental review that fails to capture all foreseeable impacts of flight procedures. As FAA is also aware, aircraft are frequently vectored by ATCT controllers, and when such vectoring is prevalent, noise impacts can vary materially both in magnitude and location from hypothetical scenarios that assume strict compliance with RNAV procedures. The scoping process should explicitly seek input on the scenarios that should be modeled and evaluated – not just the existing conditions, Proposed Procedures, and alternatives thereto, but also scenarios based upon realistic projections about degrees of compliance with the Proposed Procedures. Scenarios to be evaluated should be based upon realistic evaluation of the likelihood of, and location of, any vectoring instructions.

In addition to modeling, FAA’s scoping process must establish the appropriate criteria for assessing “noise sensitive” properties under the Proposed Procedures. FAA’s AEDT modeling – and FAA’s noise thresholds for determining noise impacts – are often not sufficiently protective of properties where “a quiet setting is a generally recognized purpose and attribute.” See Order 1050.1F, app. B ¶ B-1.5. FAA must give “special consideration” when evaluating the significance of noise impacts on noise sensitive areas such as historic sites, public parks, and natural areas. See *id.* Assessment of noise sensitive areas may need to include consideration of actual or predicted noise levels, and not modeling. Public participation during the scoping process can identify and provide information on those noise sensitive properties.

In light of the considerable public interest (and controversy) concerning both the existing RNAV procedures and the Proposed Procedures, FAA must analyze noise impacts outside the traditional threshold of 65 decibels DNL and using metrics other than DNL. FAA is on notice that the communities in the vicinity of BUR who would be affected by the Proposed Procedures are traditionally noise sensitive areas and historically quiet settings. People in these communities have reacted with particular vigor to

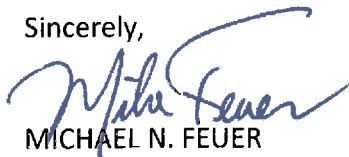
the adverse impacts of noise events and noise levels below the agency's traditional threshold. It would be both arbitrary and capricious for the agency to rely upon its normal regulatory presumption that noise impacts below a threshold of 65 dB DNL are not significant. The extent of public controversy, the prevalence of litigation, the call for, and eventual establishment of the informal task force, and the level of FAA staff effort that has focused on the noise impacts of flight tracks in this region together provide ample evidence for a conclusion that these communities consider noise impacts in areas exposed to noise below 65 dB DNL to be a significant environmental impact. To ignore such evidence would be inappropriate. The scoping process should propose a *sui generis* noise threshold and metric which recognizes these realities, notwithstanding thresholds and presumptions set forth in Order 1050.1F.

The scoping process should explicitly examine (1) alternative and supplemental metrics that more precisely assess the impacts from numerous overflights with comparatively modest individual or cumulative noise levels; (2) noise impacts in communities that have already demonstrated the existence of high annoyance to a significant degree exist in areas with noise far less than 65 dB DNL.

**Alternatives.** Through the scoping process, FAA must determine a full range of reasonable alternatives based on the potential of each alternative to minimize noise impacts, in addition to meeting safety, efficiency, and other objectives. An environmental assessment must include consideration of alternative flight tracks along U.S. Highway 101 that have been proposed. Through scoping, the FAA can identify alternatives like the U.S. Highway 101 flight tracks that place overflights over areas with compatible land uses. Scoping alternatives to the Proposed Procedures will also ensure to the maximum extent possible that flight tracks avoid elevated and sensitive land areas between the JAYTE and TEAGN waypoints. Providing for public involvement in the scoping process is critical to establishing a range of alternatives in the environmental assessment that both reflects the scale of public concern over potential environmental impacts and adequately considers minimization of noise impacts.

The City requests that FAA establish a formal and open scoping process for the Proposed Procedures environmental assessment. Given the public's interest and concerns over the potential impact of the Proposed Procedures, a scoping process that incorporates the City's recommendations is a necessary first step towards preparing an adequate environmental assessment. The City is willing to provide assistance and additional recommendations to FAA in the scoping process.

Sincerely,



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