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July 28, 2008

Via Facsimile (407) 812-6978
& U.S. Mail

Ms. Virginia Lane
Federal Aviation Administration
Orlando Airports District Office
5950 Hazeltine National Drive, Suite 400
Orlando, Florida 32822-5024

Re: ***Town of Davie – Federal Aviation Administration ("FAA") – Comments to Final Environmental Impact Statement (FEIS) for the Development and Extension of Runway 9R/27L and Other Associated Airport Projects at Fort Lauderdale/Hollywood International Airport (FLL)***

Dear Ms. Lane,

The undersigned represent the Town of Davie ("Town" or "Davie") regarding the Final Environmental Impact Statement dated June 2008 ("FEIS") for Development and Extension of Runway 9R/27L and the Associated Airport Projects at Fort Lauderdale/Hollywood International Airport ("Airport" or "FLL"). The Town is disappointed that the FEIS has for the most part, failed to correct the deficiencies identified in the Town's prior comments to the Draft Environmental Impact Statement ("DEIS"). The comments include the Town's May 21, 2007 Comments ("Town May 21, 2007 Comments) and the Town's February 29, 2008 Comments ("Town February 29, 2008 Comments). The Town May 21, 2007 Comments and Town February 29, 2008 Comments are incorporated by reference. Further, the FEIS has failed to address the substantive comments provided by other municipalities and interested persons. To the extent these comments are not inconsistent with the Town's comments, they are also incorporated herein by reference.

This letter serves as the Town's comments to the FEIS in accordance with the Notice of Availability Final Environmental Impact Statement for the Development and Extension of Runway 9R/27L and Other Associated Airport Projects at Fort

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Lauderdale/Hollywood International Airport (FLL), Federal Register: July 2, 2008 (Volume 73, Number 128, Page 38020-38021).

The Town is surprised that in spite of thousands of pages of thoughtful comments, the FAA generally responded that "No significant or substantial issues were identified in any of the comments received on the Draft EIS document" (FEIS, Appendix P, Page P-1). The Town strongly believes there are numerous remaining issues which render the FEIS deficient as a matter of law.

I. Procedural and Legal Issues.

As a threshold issue the Town believes, as with the DEIS, the FEIS fails to follow substantive procedural and legal requirements, including those required by the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality (CEQ), and the FAA's own regulations. 23.0

A. National Environmental Policy Act of 1969 (NEPA)

In the NEPA context, the FAA must take a "hard look" at the environmental consequences of a project. See generally, 42 U.S.C. §§ 4321 et seq, and *Sierra Club v. U.S. Army Corps of Eng'rs.*, 295 F.3d 1209, 1216 (11th Cir. 2002). Further, courts have overturned environmental impact statements where the FAA failed to consider an important aspect of the problem. See *City Of Oxford, Ga. v. F.A.A.*, 428 F.3d 134 (11th Cir. 2005). As explained herein, the Town is of the opinion that the FEIS fails to consider many important aspects of the problems associated with the development and extension of Runway QR/27L and other associated projects at FLL (Airport Project). Thus, it is likely that any action based on the FEIS as currently written would be overturned by a court. 23.1

B. Council on Environmental Quality (CEQ)

The CEQ has issued Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508). Chapter 12 of FAA Order 5050.4B requires that the FEIS must contain responses to all substantive comments on the FEIS in order to comply with 14 C.F.R. part 1503. Further, CEQ regulations require that the "no action" alternative be part of the FEIS so that it can be used as a benchmark to compare the magnitude of environmental impacts of the other alternatives. See 14 CFR part 1502.14. With respect to these requirements, the Town is concerned that the FAA is not complying with CEQ requirements in that the analysis of the "no action" alternative continues to be deficient (see below). 23.2

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C. **Federal Aviation Administration (FAA)**

1. **Format of FEIS**

The Town has noted errors regarding the format of the FEIS. For example FAA Order 5050.4B requires an EIS cover sheet to be in a certain format (see 40 CFR part 1502.10). The FAA has still failed to correct the format of the FEIS as it is not compliant with FAA Order 5050.4. FAA Order 5050.4 requires: 23.4

> 1007. EIS FORMAT. When preparing an EIS, the responsible FAA official must follow the format described below (40 CFR 1502.10). This encourages good analyses and a clear presentation of the no action, the proposed action, and the reasonable alternatives FAA is considering. This format also provides the approving FAA official and interested parties with information they need to fully understand the proposed action, the reasonable alternatives, and their expected environmental impacts.

Further, except for information in paragraph 1007 a(6), a cover sheet must include the information listed in 40 CFR 1502.11.

The FAA has also failed to correct the issues contained in the comments to the DEIS as mandated in FAA Order 5050.4. It is generally obvious that in several responses there is no attempt in correction by the FAA.[1] 23.4

2. **Airport Master Plan**

The FEIS is based on the continued assumption that there will be an extension to Runway 9R/27L, and thus create a corresponding change in air traffic operations and facilities. Thus, the FAA is proceeding with the FEIS and a Part 150 Noise Study based on assumed changes to the Airport. In turn, the assumed changes of the Airport are reflected in the assumptions the FAA has used as the base-line data for the FEIS. The

[1] For example, the Town maintains that the FAA's piecemeal approach to the preparation of the FEIS is directly in conflict with FAA Order 1050.1E, which states:

> "A series of actions, when assessed on an individual basis, may each have a limited environmental impact. However, the same series of actions may have a significant cumulative impact when assessed with other federal and non-federal actions that are on-going or are reasonably foreseeable." FAA Order 1050.5E, paragraph 500c.

In the FEIS, the FAA merely responds that the Town has taken this language out of context and directs the reader to Chapter Seven, Cumulative Impacts (See FEIS, Appendix P – Response to Comments). This is a prime example of the FAA being non-responsive to Town comments. Throughout the FEIS, the FAA responds to comments in this manner, directly in contravention of FAA Order 5050.4.

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Town believes that these assumptions are not reliable, as they do not fully analyze the operational impacts of the existing Airport layout. Rather, the assumptions are based on future Airport layout which has not been approved by the FAA, as the Airport Master Plan is currently being amended. Thus, the Town maintains that the FEIS should either be based on the existing Airport Master Plan, or the FEIS should wait until the proposed amended Airport Master Plan is accepted by the FAA. 23.5

Further, the Town continues to be concerned that the Airport and the FAA are engaged in three distinct and separate studies vital to the Airport, namely amending the Airport Master Plan, a Part 150 Noise Study, and the FEIS; all at the same time. Yet these three studies are not adequately cross-referenced or integrated, so as to truly quantify the impacts of the overall proposed Airport expansion will have on the Town, the other surrounding communities and the environment. The Town again suggests that: (1) the Airport Master Plan be amended and accepted by the FAA; (2) the Part 150 Study be completed, with the applicable Noise Compatibly Program (NCP), approved by the FAA; and, (3) a FEIS based on an accepted Airport Master Plan and an approved Part 150 Noise Study be issued. Davie does not understand how a FEIS can be issued for expansion of the Airport without a final FAA acceptance of the Airport Master Plan or a final FAA approved Part 150 Noise Study. 23.6

3. **Section 4(f) Issues (Title 49 United States Code (U.S.C.), Section 1653(f))[2]**

The Town continues to maintain that the FEIS process does not adequately address or take into account Section 4(f) properties. These properties include any part of a publicly owned park, recreation area, refuge or historic site and any impacts on them are presumed to be significant unless statements by the jurisdictional authority deem it otherwise. The Town maintains that all parks, recreation areas, open spaces and historic sites within the FEIS' Study Area are significant, and that those facilities within the Town are especially so. The Town has a long history of respecting and planning for open space and recreational facilities, and has one of the most aggressive greenways and open space programs in Florida. Further, Town residents have enjoyed parks adjacent to the Airport including West Lake Park and John Lloyd State Park.

As set forth in the Town May 21, 2007 Comments, the Town believes the FEIS fails to follow substantive procedural and legal requirements with respect to parks, including those required by the CEQ, and the FAA's own regulations. Section 4(f)[3] of the Department of Transportation Act requires the FAA to make "de minimis" findings for parks, recreational areas, and wildlife/waterfowl refuges. Under section 4(f) the FAA must determine that (a) the Airport Project will not adversely affect the activities, 9.3

[2] The format of the Town's supplemental comments follows that of the FEIS' format. Therefore, there may be some overlap in the Town's supplemental comments.

[3] Section 4(f) has been part of Federal law since 1966. It was enacted as Section 4(f) of the Department of Transportation (DOT) Act of 1966 and is set forth in Title 49 United States Code (U.S.C.), Section 1653(f) to determine that certain uses of land will have no adverse effect on the protected resource.

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features, and attributes of the 4(f) property and (b) officials with jurisdiction over the Section 4(f) property have concurred. The FEIS is deficient in that this 4(f) analysis has not been made. Further, the FAA typically relies on a Part 150 Noise Study to determine if a project would constructively use a Section 4(f) resource. Considering the Part 150 Noise Study may be completed after the FEIS, it is unclear how the FAA is going to make this analysis. 9.3

The FEIS fails to respond to or specifically address these comments (See FEIS, Appendix R LC112.1 and LC112.2). Further, considering that the FAA's noise models may be deficient, it is probable that the correct noise contours will result in a constructive taking of a 4(f) property. 9.3

4. **FAA Responses to Town Comments**

The Town has devoted significant resources to the Airport Project issue because it affects all of the Town's residents. In general, the FAA's responses to the Town's comments and other substantive comments are woefully insufficient. The Town submits general comments and specific comments to the FEIS in this letter. These comments are by no means exhaustive and Town relies on the Town's May 21, 2007 Comments, the Town's February 29, 2008 Comments, and other comments[4] to the DEIS and FEIS in support of the contention that the FEIS is deficient. 23.7

II. **Aircraft Noise and Forecasting Issues**

A. **Noise Contours**

FAA Comment responses LC112.3 and LC112.11 in Appendix R to the FEIS state that the existing noise contours are based on the current operating conditions at FLL and incorporate the guidelines contained in the Airport's Runway Use Program dated March 1998 and FLL Order 7110.65F dated June 2001. However, the response also states:

> "The Letter of Agreement (LOA) between Miami Air Traffic Control (ATC) and Fort Lauderdale ATC Tower, provided as Exhibit C to the Town's February 29, 2008 comments is not applicable to the EIS analysis of environmental impacts. The LOA establishes Instrument Flight Rules/Visual Flight Rules (IFR/VFR) and Special Visual Flight Rules (SFVR) coordination procedures between Miami ATC and Fort Lauderdale ATC."

First, there is no reason or justification given for why Exhibit C to the Town February 29, 2008 Comments is not applicable to the EIS; justification is therefore 8.11

[4] To the extent these comments are not inconsistent with the Town's comments.

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necessary. Second, the response is erroneous, and, by extension, the existing noise contours are erroneous. This is because:

a. As stated on Page 2 of the Town's February, 29 2008 Comments (LC 112 in Appendix R), the LOA effectively holds aircraft at or below 3,000 feet for a minimum distance of three nautical miles from the end of the runway. The radar data plotted in Exhibit E of our May 2008 letter shows that west-flow departures out of FLL are below 3,000 feet at a distance of 5 to 7 nautical miles (30,380 to 42,532 feet) from the start of takeoff roll.

b. The standard integrated noise model ("INM") vertical departure profiles used in the FEIS effectively depict aircraft flying at higher altitudes than the actual aircraft flying over the Town of Davie. With the planes depicted as flying at a higher altitudes, the noise impact on the Town is underestimated and, therefore, the noise analysis is flawed. 8.11

c. We have attached Exhibits A and B to highlight this error. Exhibit A shows graphs of altitude versus distance for the INM standard departure profile from the FEIS INM input files for the most common aircraft at FLL (i.e., Boeing 737 700). The graph shows that, at a distance of 18,219 feet (i.e., three nautical miles) from the start of takeoff roll the aircraft is at an elevation of 3,000 feet. Exhibit B provides plots of the altitude of west-bound departures for two time periods: June 2007 and January 2008. As can be seen in these radar plots, aircraft typically achieve an altitude of 3,000 feet approximately 36,456 feet (i.e., six nautical miles) from the start of takeoff roll. The actual planes departing FLL are therefore climbing at lower rates than the planes modeled in the INM study.

d. To illustrate this point further, Exhibit C plots the INM standard departure profile for a 737-700 with a stage length of one (this is the same data as shown in Exhibit A) and compares this departure profile to the departure profile extrapolated from the radar data included in Exhibit B.

It is evident that the actual aircraft are flying lower than those modeled in the INM and thus the existing noise contours are erroneous.

B. **Radar Data**

Also, the radar data from FLL demonstrates that the FEIS is relying on flawed data when using the noise models. As stated on Page 2 of the Town's February 29, 2008 Comments (LC 112.3 in Appendix R), the LOA effectively holds departure aircraft at or below 3,000 feet for a minimum distance of five nautical miles from the end of the runway. 8.12 The radar data plotted in Exhibit E of the Town's February 29, 2008 Comments shows that east-flow arrivals into FLL are flying below 3,000 feet at a distance of 8 to 10 nautical miles (48,608 to 60,760 feet) from the runway end. Additionally, the arrivals from the north are held high so as not to impact those communities that hold agreements 8.13

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with the airport sponsor. The FAA has allowed this practice without approval as mandated in FAA Order 8400.9. 8.13

The standard integrated noise model ("INM") vertical departure and arrival profiles used in the FEIS effectively depict the aircraft flying at higher altitudes than the actual aircraft flying over the Town of Davie. By showing planes flying at a higher altitude, the noise impact on the Town is underestimated and, therefore, the noise analysis is flawed. The response comment in LC 112.4 – 8.16 Appendix P is simply non-responsive. The "profiles" in question are from INM data and the response references tracks from the Airport Noise and Operations Monitoring System (ANOMS), a different system. The Town attaches to this letter Exhibits A and B to highlight this error. Exhibit A shows graphs of altitude versus distance for the INM standard arrival and departure for the most common aircraft at FLL (i.e., Boeing 737- 700). The graph shows that, at a distance of 18,228 feet (i.e., three nautical miles) the aircraft is at an elevation of 3,000 feet. 8.12

C. Ineffective Grid Point Data

Maps of single-event noise metrics should have been included with the FEIS. The Town understands that FAA Order 1050.1E only requires the inclusion of grid point data; however, the grid point data is confusing to the layperson and does not provide a comprehensible "picture" of the changes in single-event noise levels among various runway development alternatives. Over 90 pages of grid point data were included with the FEIS; however, there was not a single page of text which explained how to interpret the grid point data. This is a significant flaw in the FEIS. 8.14

Further, the FEIS makes no analysis of supplemental metrics; rather, grid point data is provided without any explanation. Although there are no accepted significance criteria for supplemental noise metrics, there are accepted correlations with single-event noise levels and sleep and speech disturbance, as discussed in Chapter 14 of FAA Order 1050.1E and the 1992 Federal Interagency Committee on Noise (FICON) report. 8.15

Finally, FAA Order 1050.1E states "the FAA will consider the use of appropriate supplemental noise analysis in consultation with the officials having jurisdiction for national parks, national wildlife refuges, and historic sites..." (Chapter 14, Paragraph 14.5g). There are historic sites in the Town of Davie (i.e., Old Davie School Museum, a National Historic Place) and, therefore, a supplemental noise analysis should have been included in the FEIS. Full disclosure of the single-event noise metrics (including noise contours maps) should have been provided in the FEIS in order to comply with FAA Order 1050.1E. This constitutes a significant flaw in the FEIS. 8.16

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D. Forecasting

The FEIS is based on the 2006 Terminal Area Forecast (TAF) which predicts 341,877 annual operations in 2012 and 408,356 annual operations in 2020. The latest TAF (2007) predicts 348,117 annual operations in 2012 and 417,952 annual operations in 2020. On the one hand, there are more operations now planned for FLL and, consequently, a greater noise impact from the additional activity. On the other hand, the major factors that drive or influence the TAF are economic factors. The current TAF is devoid of this controlling issue, or "price of oil," which is a Direct Operating Cost (DOC) of the carrier fleet. Reduction of carrier operations at FLL or originating hubs has not been disclosed. The "high" forecast of traffic was mentioned in the MITRE study (Appendix S) and has yet to be quantified or updated. See Exhibit D. (Traffic count attached, FY02-08). 3.17

The FAA's response to LC 112.12 states in part: "between Broward County the FAA related to runway utilization and potential noise impacts and has no bearing on capacity and delay issues at FLL." The basic premise of the "original request" made by the FAA, Air Traffic, to Broward County was to use Runways 13/31 during periods of peak demand so as to reduce operational delays at the airport. The Town submits that the non-use of an operational runway does reduce capacity.

Further, Appendix S to the FEIS offers simulation modeling which the DEIS was devoid. The modeling work was done by the MITRE Corporation which is another contract consultant of the FAA (this is not disclosed in the FEIS). Additionally, it represents operational input from the FAA Air Traffic Organization (ATO) which the DEIS was devoid of. This new data shows findings of increased taxi time along with gate and taxi delays due to the proposed infrastructure. The following are some of the findings of the Airport Project: 3.17

- Taxiway changes needed for the preferred alternative (B1b) to work are not presented in the FEIS.
- The area between Terminal 2 and the north arm of Terminal 3 is a bottleneck and could cause gridlock.
- If gates are positioned on the stem of Terminal 3 a bottleneck would be created with the west end of Terminal 4.
- The use of Taxiway C is corrupted due to the location of the VOR (navigational aid). The relocation of the VOR and extension of Taxiway C would be needed to ease this congested portion of the Airport.
- More than the current six aircraft parking positions are needed, away from the terminal, to meet the good weather demand of forecasted 2020 level.

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- Alternative D2 has a higher traffic throughput than that of Alternative B1b.
- All estimated capacity throughputs noted in the DEIS are higher than modeled results.
- Alternative B1b, runway occupancy time for arrivals exceeds that of alternative D2 by 18%, which in turn adds to more miles in-trail separation and added airborne delay to the NAS.

The conclusion of the modeling showed that with Alternative B1b and the forecasted demand would produce delays of approximately 10 minutes per flight and 6 minutes for Alternative D2. Additionally, the MITRE study did not include the "No Action" alternative in their comparative analysis.

This further demonstrates the fact that the airport sponsor and FAA have failed to produce an "accepted" Airport Master Plan as well as an approved Airport Layout Plan (ALP) for comparative analysis. The disclosure of noise impacts and land use remain at question due to the Airport sponsors failure to complete and submit a Part 150 Noise Study. 23.6

E. Delay Projections

The FAA's assumption and projection in the FEIS of 26 minute delays is fatally flawed. The FAA has already concluded in the FAA Airport Benefit-Cost Analysis Guidance as follows: 3.18

> **At 20 minutes average delay** (approximately the highest recorded average delay per operation known to FAA at an airport in the U.S.), **growth in operations at the airport will largely cease**. Prior to reaching these levels, airlines would begin to use larger aircraft, adjust schedules, and cancel or consolidate flights during peak delay periods. Passengers would make use of alternative airports, seek other means of transportation (e.g., automobile or train), or simply avoid making some trips.

The FAA concludes:

> Thus, it would be unrealistic to conclude that an investment alternative would save more than 20 minutes of delay per operation relative to the base case. Instead, at some point where delay in the base case begins to increase exponentially beyond 10 to 15 minutes per operation, it would be appropriate to modify the traffic projection

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> developed for the airport in Section 5.2. **It would be more realistic to reflect a flat or only slightly escalating rate of growth once delay reaches 20 minutes**.

(Emphasis Added - See Section 10.4.1.3 of the FAA Airport Benefit-Cost Analysis Guidance - www.faa.gov/airports_airtraffic/airports/aip/bc_analysis/media/faabca.pdf)

In the FEIS, the calculations of delay and the projections of future delays do not reflect the required flat or only slightly escalating rate of growth once the delay reaches 20 minutes. Further, considering the entire Airport Project is based on these flawed calculations, the delay estimates upon which the entire Airport expansion is based are fatally flawed. 3.18

III. Environmental Justice Study Area

The Town still objects to the fact that the study area used in the Environmental Justice analysis is all of Broward County, not the Study Area established for the FEIS for the other sections. No explanation or methodology for establishing the study area used for this section of the analysis is provided in the FEIS. The Town is concerned that using the entire County as a study area may dilute the real environmental justice implications of the alternatives analysis. For example, a full analysis of communities in the Study Area as defined elsewhere in the FEIS, and associated demographic mapping and field verification of these communities, may show quite different results. In the FEIS, the FAA offers no explanation as to why different study area boundaries were used for the Environmental Justice analysis (See FEIS, Appendix P, Response 13.10). Without an explanation, the Town can only assume that the use of an enlarged Study Area was a pretext to diminish true impacts to low income and minority populations. 13.9

IV. Air Quality

The Town continues to be concerned that Air quality impacts (and associated impacts to vulnerable populations, especially children[5]) have not been adequately 7.11

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[5] References Cited

Avol, E.L., Gauderman, W.J., Tan, S.M., London, S.J., & Peters, J.M.
2001 Respiratory Effects of Relocating to Areas of Differing Air Pollution Levels. American Journal of Respiratory and Critical Care Medicine, 164, 2067-2072.
CalEPA's Office of Environmental Health Hazard Assessment and The American Lung Association of California

2003 Air Pollution and Children's Health Fact Sheet. November. Obtained from the OEHHA website at http://www.oehha.org/public_info/facts/pdf/kidsair4-02.pdf on January 15, 2008.

Gauderman, W.J., McConnell, R., Gilliland, F., London, S., Thomas, D., Avol, E., Vora, H., Berhane, K., Rappaport, E.B., Lurmann, F., Margolis, H.G., & Peters, J. 2000 Association between Air Pollution and Lung Function Growth in Southern California Children. American Journal of Respiratory and Critical Care Medicine, 162, 1383-1390.

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assessed. Many of the responses to comments indicate that the FEIS has been revised, but there is no specific indication of what revisions were made. i.e. no revision marking, marginal notes, or explicit statement of revisions in the responses. Therefore, explicit understanding of the nature of the revisions is difficult. For example, Comment LC112.52 requested clarification as to how the final four receptors were determined in light of the fact that the explanation provided in the draft document was in error. The response to the comment provides an explanation of the factors used in the determination and notes that the "text in Draft FEIS Section 5.B.2.2.1 has been revised." The revisions to the referenced section do not include the detail provided in the response.

23.8

7.12

Further, in several of the FAA's responses there is a reference to "updated planning information," but again, there is no detail about or reference to what that updated information is. The FAA's Response to Comment 112.59 makes reference to "The updated information is included in the FEIS in Table 6.B-2." However the referenced table is the impact analysis of emissions and not planning information. The updated planning is therefore elusive to locate or evaluate.

7.13

The Town is further concerned with the responses to comments which have a lack of specificity to the health risk effects resulting from the Airport expansion. This issue is manifest in several of the responses. In the Town's February 29, 2008 Comments, it was noted that the anticipated adverse health effects resulting from emissions were not assessed. This is of particular concern for children living in the surrounding community. The FEIS does not assess the potential health effects associated with both criteria and hazardous air pollutant emissions associated with the proposed action. Specific attention should be paid to those adverse effects on children in the surrounding community. Children may be at greater risk from exposure to air pollution than adults (CalEPA's Office of Environmental Health Hazard Assessment and The American Lung Association of California 2003). Further, a study performed by the University of Southern California has suggested that asthmatic children living in a community with high particulate matters may have suppressed lung growth. The study also shows that if those children move to cleaner areas, their lung growth returns to a normal rate, although the lost potential overall growth is not recovered (Kleinman 2000).

7.11

The Town is concerned with the response to Comment LC112.62 which requested that the health risk effects of the calculated air pollutant emissions be assessed. The

7.14

Gauderman, W.J., Avol, E., Gilliland, M.S., Vora, H., Thomas, D., Berhane, K., McConnell, R., Kuenzli, N., Lurmann, F., Rappaport, E., Margolis, H., Bates, D., & Peters, J. 2004 The Effect of Air Pollution on Lung Development from 10 to 18 Year of Age. The New England Journal of Medicine, 351(11), 1057-1067 [Note: subsequent correction published in The New England Journal of Medicine, 352, 1276-a]

Kleinman, M. T., Ph.D.
2000 The Health Effects of Air Pollution on Children. Professor, Department of Community and Environmental Medicine, University of California, Irvine. Prepared for the South Coast Air Quality Management District (SCAQMD). Fall. Obtained from the SCAQMD website at http://www.aqmd.gov/forstudents/health_effects_on_children.html on January 15, 2008.

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response directs the reader to the response to Comment 7.27 of Appendix P. Response 7.27 states that:

> "...the health effects to persons living in the vicinity of an airport could not be applied in a meaningful way when the HAP evaluation would be limited to a single source in a local area."

The FEIS then references that the "...HAP analysis prepared for the Chicago O'Hare Modernization Program EIS as support for this conclusion," but neither explains the foundation drawn in that report, nor provides a specific reference to the discussion in that document. While the outline for the Chicago EIS is on the web, the links to the report sections do not function and it is not possible for a reasonable person to discern the basis for this conclusion. This omission notwithstanding, the position makes little sense. The Town recognizes that the Airport may not be responsible for the overall health conditions of the community due to air pollutants in the surrounding area, but clearly an estimate could be made of the incremental health risk that would result from exposure due to airport-related pollutants. There are appropriate modeling programs available to calculate incremental health risks and therefore, without a more explicit reference or explanation, the stated conclusion that there is no "meaningful way" to assess health effects is incorrect.

7.14

This point is further exacerbated by the adopted baseline for the Airport Project. Response to Comment LC112.49 states that:

> "The forecast increase in aircraft operations at FLL is projected to occur with or without the proposed project."

The responders seem to confuse "demand" for flights with the "existence" of flights. The response clearly contradicts the statement in the purpose and need section of the EIS that states:

> "The airfield as currently configured can not accommodate existing and forecast demand of the large air carrier aircraft projected to operate at FLL by 2012 and 2020" (FEIS Page 3-4).

3.19

Therefore, the Airport Project will result in an increase in aircraft operations and thus a corresponding increase in pollutants. The air analysis used the same fleet annual operations for the project and the no-project conditions, and draws all conclusions based on the net increase (decrease) in emissions. This is simply unsupportable given that the proposed Airport Project is required to accommodate forecast demand. The incremental health risk impacts of the increased operations allowed by the proposed improvements still need to be addressed.

7.14

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V. Wetlands Impacts

Under the FEIS, the Preferred Alternative will directly impact 15.41 acres of wetlands located at the east side of the Airport, mainly in wetlands W-17, W-33, W-N3, and W-25. The Preferred Alternative selected does not have the least wetland impacts of the alternatives considered; Alternative B4 has the lowest direct wetland impact with 0.13 acres and Alternative D1 has the greatest direct wetland impact with 21.87 acres. The U.S. Army Corps of Engineers ("USACE") has acknowledged that avoidance and minimization of wetland impacts has occurred in the identification of the Preferred Alternative. Mitigation for proposed wetland impacts associated with the Preferred Alternative involves wetland restoration and enhancement at West Lake Park as per the Conceptual Wetland Mitigation Plan. The regulatory agencies have indicated West Lake Park may be an acceptable location for mitigation for unavoidable wetland impacts associated with the Preferred Alternative.

The FEIS suggests that the Preferred Alternative is justified based on the project purpose, meets avoidance and minimization criteria established by wetland regulatory programs, and wetland impacts may be successfully mitigated at West Lake Park. However, the Town remains concerned about the potential for cumulative and secondary impacts associated with Airport expansion to impact the remaining wetlands in the vicinity of the project. Increased capacity of FLL may result in an increased demand for additional development adjacent to FLL, potentially in wetlands both within and outside the Study Area. 10.5

An example of unanticipated wetland impacts resulting from future development activities can be found in the FAA's response to comments regarding the Buckeye Pipeline (See FEIS, Appendix R, response LC111.3). The Buckeye Pipeline, owned by Everglades Pipe Line Company, is being considered for relocation within the next four to five years. Several realignment alternatives are under consideration, but details on the alternatives are not included in the FEIS. This issue was not raised in the DEIS, and represents an example development associated with the airport expansion with the potential to adversely impact the remaining wetlands within and adjacent to FLL. It can only be assumed that additional development projects will arise with the potential to adversely impact the wetlands in the vicinity of FLL.

It is expected that demand for vacant land will increase in the vicinity of FLL, stimulated in part by the proposed expansion, and that the economic pressure to develop the wetlands adjacent to FLL will only increase in the future. To prevent adverse impacts to limited wetland resources in the vicinity of FLL resulting from future development, the Town recommends that the FAA initiate a program to acquire, restore and manage for preservation all remaining wetlands within and adjacent to FLL as part of this project. Only the preservation and perpetual management of these wetlands will ensure the presence of functional wetland habitats in the vicinity of FLL in the future. Without adequate protection, it can be reasonably assumed that these wetlands will be gradually lost to development or degraded by the surrounding developed landscape. 10.6

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VI. Cumulative Analysis & Environmental Management Systems

The Cumulative Analysis section in the FEIS fails to identify numerous studies, both complete and ongoing, referenced in this letter. The FEIS must include all the Town's relevant planning and study efforts in the Cumulative Analysis. Further, the FAA is required to determine if any environmental management systems (EMS) provide a factual basis for assessment of environmental impacts. The Town May 21, 2007 Comments and the Town February 29, 2008 Comments documented numerous impact concerns, most of which have not been properly assessed using the minimum FAA criteria and guidance. The FAA should ascertain whether any EMS techniques would be appropriate for this project. It should explore recent publications describing the opportunity to shift from an ad hoc approach that reacts to emerging problems by mitigating the consequences or damages after they occur toward proactive and integrated approaches. Only proactive, creative approaches which acknowledge the extent of impacts and commit to specific collaborative mitigation plans can lead towards an acceptable Airport expansion. 14.5

The CEQ regulations for implementing NEPA defines cumulative effects as "The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or person undertakes such other actions" (40 CFR § 1508.7).

Each component in the NEPA process is the logical place to complete the necessary steps in a cumulative effects analysis, however the FEIS fails to do so. The Cumulative Effects Analysis (Chapter Seven) section in the FEIS fails to identify numerous studies, both complete and ongoing, related to other activities which affect the environment. While this FEIS contains a longer discussion of cumulative impacts than the prior drafts, the discussion is long on descriptions of other projects and short on discussions of the specific impacts of those projects when combined with the Airport Project. The Town believes that the combined effects of the Airport Project and other planned projects in the area will cause greater environmental impacts than the sum of the individual parts. The FEIS does not analyze whether the various projects will have synergistic effects, however, and mostly just describes in generic terms the impacts of the other individual projects. This sheds little light on the cumulative environmental impact "which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions" as required by NEPA and CEQ. 14.6

One such example is the FEIS's treatment of the expansion of Port Everglades (the "Port"). It is apparent that the growth of the Airport and the Port are closely linked. The Port creates demand for the Airport (primarily in the form of cruise ship passengers and cargo), and the growth of the Airport facilitates the expansion of the Port (by making it easier for cruise ship passengers to travel to and from their ships). Indeed, it is Broward County's goal to connect the Port and Airport through facilities such as the

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automated "People Mover" system between the two facilities. Expanding the Airport results in expansion of the Port, and vice versa. The cumulative effect of the expansion of the Port and Airport are far greater than the sum of the individual effects of each one. The FEIS fails to discuss these synergistic effects.

Another example of deficiencies in cumulative impacts analysis is wetland, water quality, and marine ecosystem impacts in eastern Broward County. The natural wetland and estuarine resources of Broward County are a pale shadow of what they were even a generation ago: most wetlands have been filled, estuarine habitats in Port Everglades have been dredged, and pollution has increased. The Airport Project calls for filling some of the few wetlands that remain, dredging additional estuarine areas, and impacting local parks. The Airport expansion also will result in more storm water runoff to these areas, and will generate more wastewater through increased use of the Airport. These impacts are in addition to impacts of expanding the Port and other development approvals in the area. Given how few of these resources that remain, the Town is concerned that expansion of the Airport – particularly with an expansion of Runway 9R-27L into the wetlands east of U.S. 1 – will combine with other projects to cause grievous harm to these natural resources. We believe that the FEIS must do a far better job of analyzing these and other cumulative impact issues. 14.7

VII. Land Use Compatibility and Assessment of Noise and Air Impact on Land Use

The FEIS' Land Use Compatibility Analysis and Noise Analysis and Land Use Impact Assessment fail to consider impacts and address issues required by NEPA. As more fully detailed in the Town's May 21, 2007 Comments, the land use analysis and land use impact assessment do not consider, as required, the compatibility of the Town's existing or future land uses outside of the DNL 65 db contour, the full range of the Town's Comprehensive Plan goals, objectives and policies and implementing land development regulations relating to project impacts, updates to the Comprehensive Plan approve by the State, special area plans and planning efforts directly relevant to area expected to be impacted by noise and air pollution. In response to these comments, the FAA states that Chapter Five, Section 5.C.2.2, Land Use Plans, and Chapter Six, Section 6.C.2.2, Land Use Plans, discuss the land use plans for each municipality and the FEIS compliance with these plans and the analysis determined that none of the alternatives in the FEIS would be considered inconsistent with local land use and comprehensive plans. However, the analysis in these sections of the FEIS, the FAA only examined the mapped land use classifications and adopted comprehensive plan policies related directly to Airport expansion. Under Florida Law, land use analysis consists of far more than reviewing a map. The complete adopted comprehensive plan, supporting documentation and implementing regulations, as well related policy and planning documents, create a body of policy direction and regulation governing land use. Further, field examination and characterization of impacted areas should be conducted. The Study Area included in the FEIS includes land with existing uses, future use classifications, guiding goals, objectives and policies, special designation and specific redevelopment plans that are not 8.17

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consistent with impacts associated with expansion of the Airport. Representative omissions in the land use analysis include:

- Failure to analyze the Town's Comprehensive Plan (adopted August 1998, as amended) and identify goals, objectives and policies which are directly relevant to impacts associated with Airport expansion, including Objective 17, which encourages the preservation, enhancement and maintenance of the Town's semi-rural character and rural/equestrian lifestyle; Policy 17-10 which states that the Town shall preserve the environment and character of rural areas; and Policy 17-11, which requires the adoption of rural lifestyle regulations, including a scenic corridor overlay district. Other relevant items include Objective 10, which establishes a Regional Activity Center to encourage development and redevelopment of land near the Florida Turnpike, SR 84 and Griffin Road, and Policy Group 11, which establishes the Town's approach to open space.

- Failure to characterize existing land uses and their relevance to community character and the socio-economic fabric of the Town and Broward County, including the lack of demonstrated field visits and area descriptions, particularly within the DNL 60 dB contour, which includes some of the County's most vulnerable areas including large mobile home parks;

- Failure to acknowledge recognized area descriptions in the Town's Comprehensive Plan supporting documents, including: descriptions of development and redevelopment goals in Planning Area 6; description of mixed use areas, educational facilities, CDBG designations, redevelopment of substandard housing areas, business districts, and the Regional Activity Center in Planning Area 8, the "heart" of Davie; and the emerging character of Planning Area 9, with its agricultural and low density residential uses and corridor redevelopment opportunities;

- Failure to address impacts to affordable and workforce housing and analysis of housing policies and plans, which are identified as one of six major issues addressed in the Town's Evaluation and Appraisal Report;

- Failure to assess the impact of the expanded Airport on plans for the Town's Regional Activity Center, including establishing objectives and policies in the Adopted Comprehensive Plan and proposals to increase density identified in the Evaluation and Appraisal Report and the ongoing Town study; and,

- Failure to assess the impacts, including secondary and induced impacts, of the Airport expansion on the Town as a whole, not just isolated mapped areas. Further, the FEIS does not identify other plans which would potentially be impacted by the Airport expansion, including the 441/State Road 7 Corridor Master Plan.

- Failure to properly analyze socio-economic impacts of project alternatives and to consider that impacted areas of the Town provide an essential range of housing needs for low income to moderate income individuals in the Town and the County.

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- Failure to provide land use, resource and community information other than through a mere mapping exercise and summary of demographic information from the 2000 census.

- Failure to consider and assess the impacts of the expanded Airport on the numerous plans for redevelopment in the Town in the areas of Davie most suited for sustainable redevelopment, which areas are also the areas most impacted by the Airport project.

- Failure to acknowledge or correctly analyze the regional synergies of the South Florida area.

The FEIS was not revised to include references to any of the above identified comprehensive plan goals, objectives and policies, special area plans, redevelopment plans, and the like. The FAA's responses do not specifically address any of the identified policies and plans other than the Regional Activity Center and the Davie/Hollywood/Seminole Nation Charette. The FAA merely responds by referring to the inadequate Land Use Compatibility Analysis and Land Use Impact Assessment and states that the land use classifications within areas below 65 DNL, including the Regional Activity Center area, are compatible with airport operations. This response is inadequate since the land use compatibility analysis and land use impact assessment must consider more than just compatibility with the land use classifications on the land use maps. Accordingly, the FEIS still fails to consider land use impacts and address these issues as required by NEPA. 8.17

VIII. Minority and Low Income Housing

The FAA is required to provide an analysis that identifies and addresses potential impacts on minority and low income populations that may be disproportionately impacted by the Airport Project. While the FAA responds that it conducted an analysis, the impacted populations were not correctly identified or assessed. The analysis fails to identify three Community Development Block Grant Target areas, assess potential impacts to the area and address the impacts in the FEIS. Further, the analysis incorrectly compares the impacted area to the County population as a whole, not the Study Area. The FAA only provided a response to our comment about the lack of specific meetings with low-income residents in areas most vulnerable to the Airport expansion impacts. No revisions to the FEIS were made relative to our May 21, 2007 comments. The FAA responded that there was no need to hold special meetings with these groups since based on the analysis conducted, FAA determined that the minority and low income communities would not be disproportionately impacted. However, in reaching this conclusion, FAA failed to consider and respond to the inadequacies in the analysis conducted as identified in our May 21, 2007 letter. 13.10

The FAA has also admittedly failed to hold specific meetings with minority and low income residents in areas most vulnerable to airport expansion (see Appendix P, Response 1.2). The FAA's response is that it published meetings of workshops in the newspaper. These workshops were not held in the low income areas. This response is callous considering that the residents in these areas typically do not gain information from newspapers nor do they have the mobility to attend workshops which are not in their area. 13.11

IX. Security Issues

The Town maintains that in an era indelibly impacted by the events of September 11, 2001, the FEIS fails to address security issues related to the convergence of a runway, major highway (U.S. 1), major railway (Florida East Coast Railway), and a natural gas pipeline in the same area in at least eight (8) of the alternatives in the FEIS. The FAA's response merely states it did not identify any critical safety or security issues (See FEIS, Appendix P, Response 4.16). This is simply irresponsible and unresponsive. The security implications are obvious to a layperson as to the convergence of these main transportation arteries at a specific point. To suggest there is not even an issue related to security is disingenuous. 13.5

X. Specific FEIS comments

1. Table 8-11 on Page 8-42 of the FEIS contains an error; the fifth row of the table should be titled "Subtotal – Mitigation Inside 65 DNL" instead of "Subtotal – Mitigation Outside 65 DNL". 22.0

2. Rows 22, 34, and 46 of Table 8-11 are also mislabeled; they should be titled "Subtotal – Mitigation Outside 65 DNL". 22.1

3. Comment Response 3.25 in Appendix P does not address the second part of the original comment, "The Draft EIS co-mingles passenger capacity with aircraft capacity to support the expansion project." 22.2

4. Page 6 of the Town's May 21, 2007 Comments (MC 003 in Appendix P) stated the following: "Further on Page 5.C.1-4, Paragraph 3 [of the DEIS] states that '30 percent of the population could be aroused or awakened if indoor levels reached 80 to 95 dB…' This clearly must be an error and the word 'indoor' should be replaced with 'outdoor.'" Appendix P, Response 22.1 indicates that this error has been corrected; however, the correction was not made in the FEIS (see Page 5.C-6 of the FEIS). 22.3

5. The response to Specific Question 1 on Page 28 of our 21 May 2007 DEIS comment letter (MC 003 in Appendix P) references Comment Response 22.6. This reference is incorrect and does not answer the question. LC 112.25 – 112.27 are relative to Chapters 5 and 6 of the DEIS and should be responded to for public disclosure. 22.4

6. Paragraph ES.6.2, states "the exceptions are Alternatives B1c and B4, which would cause virtually no change in the contour." How can the FAA make such a statement when there will be an addition of jet usage on runways 09R/27L, Table S-1, which is non-existent today? 22.5

7. The FEIS was devoid of any internal FAA circulation (ie comments from relative services such as Office of Runway Safety, Systems Operations, Flight Standards Service, Office of Airport Safety and Standards and Office of Environment and Energy). 22.6

8. Considering that (a) the Airport Sponsor has not limited its projections to 20 minute delays and (b) that that the Airport Sponsor will be "required to complete a Benefit Cost Analysis in accordance with FAA Policy and Final Guidance Regarding Benefit Cost Analysis (BCA) on Airport Capacity Projects for FAA Decisions on Airport Improvement Programs (AIP) Discretionary Grants and Letters of Intent (LOI), published by the FAA December 15, 1999, in order to submit an application for Federal funding" (See Appendix R LC 110.3), how can the airport sponsor expect to be approved for federal funding if its projections are not consistent with the FAA Airport Benefit-Cost Analysis Guidance which cap delays at 20 minutes? 16.3

Respectfully submitted,

John Herin, Jr., for Stearns Weaver Miller Alhadeff & Sitterson, P.A.

Richard L. Richards for
Richard L. Richards, P.A.

JH/tc
Attachments
Cc: Mr. Tom Truex, Mayor
Mr. Bryan Caletka, Vice Mayor
Mr. Michael Crowley, Councilmember
Mrs. Susan Starkey, Councilmember
Mr. Marlon Luis, Councilmember
Mr. Gary Shimun, Town Administrator
Mr. Braulio Rosa, Town Public Information Officer
John Rayson, Esq., Town Attorney

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Exhibit "A"

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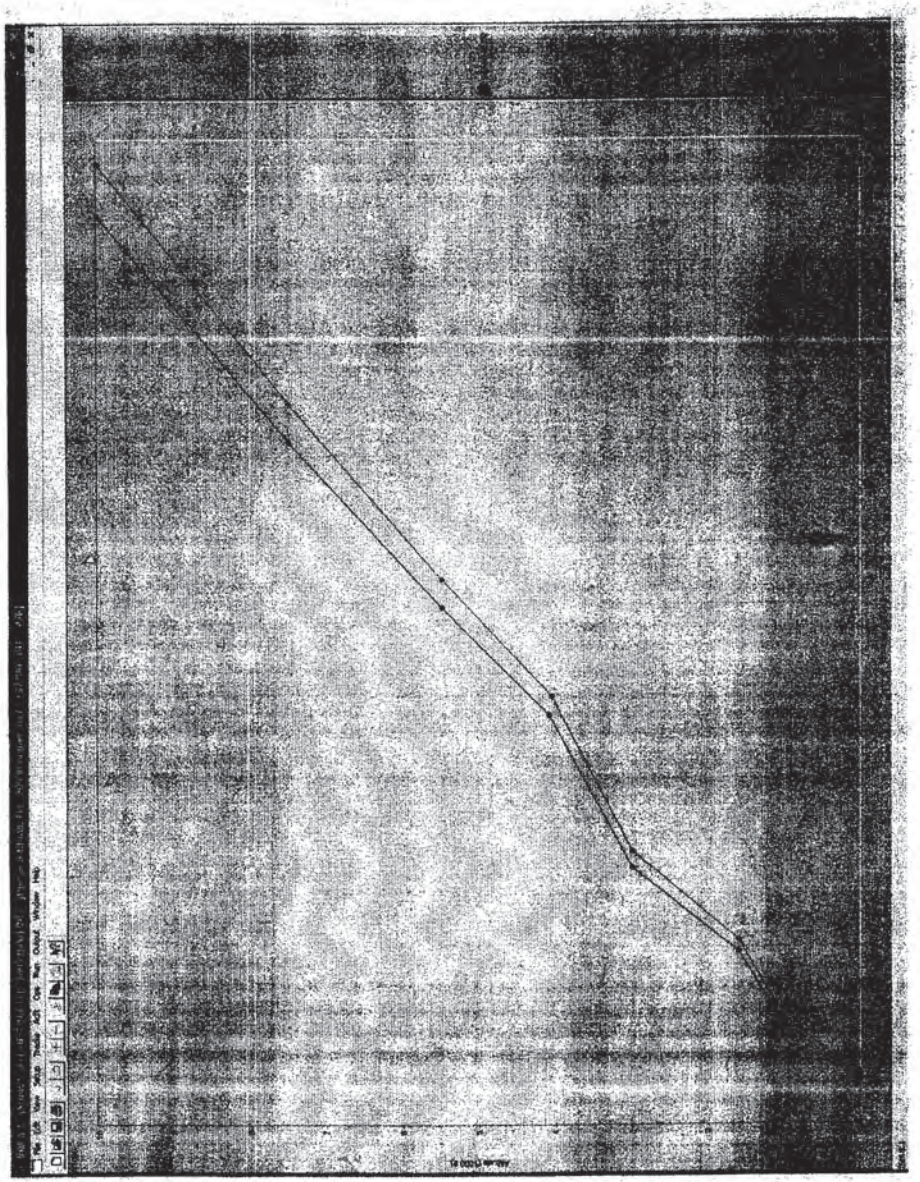

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Exhibit "B"

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Departures
West Flow

June 3, 2007

Red	0-1000'
Orange	1100-1500'
Yellow	1600-2000
Green	2100-3000'
Blue	3100-4000'

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Exhibit "C"

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Exhibit "D"

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TOWERS : Period Report

From 10/2001 To 06/2008 : FLL: (Fiscal Year)

		ITINERANT				LOCAL		
FACILITY	**DATE**	**AC**	**AT**	**GA**	**MIL**	**GA**	**MIL**	**TOTAL**
FLL	2002	147874	64076	62647	559	311	6	275473
FLL	2003	153827	67994	60838	591	236	0	283486
FLL	2004	168884	68002	70731	632	94	0	308343
FLL	2005	183252	80552	71821	346	134	6	336111
FLL	2006	178916	64507	56382	370	304	0	300479
FLL	2007	189310	59640	55006	639	32	0	304627
FLL	2008	154384	45935	39162	336	68	3	239888
Total FLL		**1176447**	**450706**	**416587**	**3473**	**1179**	**15**	**2048407**
Total		**1176447**	**450706**	**416587**	**3473**	**1179**	**15**	**2048407**

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October 6, 2008

VIA FEDEX

D. Kirk Shaffer
Associate Administrator for Airports
Federal Aviation Administration
Office of the Associate Administrator for Airports (ARP)
800 Independence Avenue, SW
Washington, D.C. 20591

Re: June 2008 Final Environmental Impact Statement for Proposed Expansion of Fort Lauderdale-Hollywood International Airport

Dear Mr. Shaffer:

We are writing to follow-up on our meeting in Washington last month. Thank you again for taking time to listen to our perspective regarding the expansion of the Ft. Lauderdale-Hollywood International Airport.

The City of Dania Beach continues to believe that there is no need to expand the Airport to meet current and reasonably foreseeable future demand. We have substantiated this position in comment letters submitted to FAA over the past six years, and most recently through an analysis of the accuracy and reliability of past demand forecasts for the South Florida aviation market. However, if the FAA is going to approve a major runway expansion, Dania Beach urges the FAA to do the least harm to local residents and the environment. All of the runway "build" alternatives, meet the FAA's statement of purpose and need for the project. As detailed below, the local airport sponsor's preferred alternative, B1c, and the FAA's preferred alternative, B1b (collectively the "B1 Alternatives"), are the worst alternatives from a cost and environmental perspective. We ask the FAA to reflect seriously on its decision to ensure that, if it approves a runway expansion that the alternative it authorizes is the one that causes the least damage to the environment and to the local residents.

3,20

F-MC005

I. The C1 Alternative Is the Best Choice Among the Build Options

A. The C1 Alternative Is Cheaper

The C1 Alternative is a great deal less expensive to implement than the B1 Alternatives. When discussing costs to implement the C1 Alternative, the Final Environmental Impact Statement ("FEIS") notes that the C1 Alternative would cost a total of $534,682,000 in 2007 dollars to implement. FEIS at 4-66. This total includes approximately $383 million in estimated facility relocation costs associated with relocating facilities in the north airfield. FEIS at 4-66. In contrast, either of the B1 Alternatives would cost a total of $810,149,900 in 2007 dollars to implement. FEIS at 4-62. In other words, taxpayers and airport users save approximately ***$276 million*** under this alternative compared to the sponsor's proposed action. This cost savings is so substantial that FAA should pick another alternative only under extraordinary circumstances, none of which exist here.

16.4

B. The C1 Alternative Minimizes Construction Delays Compared to the B1 Alternatives

The C1 Alternative avoids construction delays that are associated with implementing the B1 Alternatives. As explained in the FEIS, if either of the B1 Alternatives is implemented, the crosswind runway (13-31) will be decommissioned during Phase 4 of the construction process. FEIS at E-67. Moreover, Runway 9R/27L will not be operational during Phase 4 of the process. FEIS at E-67. In other words, for some significant period of time during construction, the airport will be operating with only a single runway. On the other hand, if the C1 alternative is implemented, two runways will always be operational throughout the construction process. FEIS at E-70 to E-771. Therefore, the Airport will remain at least a 2-runway airport throughout the implementation of the C1 Alternative. Because the Airport is a major airport, relying on a single runway for any period of time would be a logistical and costly endeavor for all involved.

24.0

C. The C1 Alternative Would Create Fewer Safety and Security Concerns Than the B1 Alternatives

Airport safety and security should be critical considerations when expanding an airport. In this instance, the C1 Alternative would avoid significant safety concerns associated with the B1 Alternatives. As outlined in a Memorandum by Robert Berlucchi, the Air Traffic Manager of the Air Traffic Control Tower at the Airport, the B1 Alternatives have significant liabilities. Robert Berlucchi's May 10, 2007 Memorandum is attached to this letter as Exhibit A.[1] Among other things, Mr. Berlucchi notes that the elevated runway associated with the B1 Alternatives would result in aircraft having insufficient room to move around each other as needed during changing conditions when they are lined up waiting to depart, and that the B1 Alternatives "increase[] terminal gates, reduce[] runways from 3 runways to 2 runways and significantly fall[] short of the necessary taxiway structure to maintain efficient surface flows." *See* Exhibit A.

4.8

[1] Mr. Berlucchi's Memorandum focuses on safety concerns under Alternative B1c, the Sponsor's preferred alternative. He does not discuss the B1b Alternative, but because the B1b and B1c alternatives are substantially similar in their design and construction, safety concerns are the same for both.

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Implementing either of the B1 Alternatives will result in bottlenecking of airplanes on runways and taxiways and significant safety concerns. Although not stated in Mr. Berlucchi's Memorandum, one cannot help but notice additional safety concerns that exist for passengers sitting in an aircraft on the escalated runway idling if a medical emergency happens on the aircraft and emergency medical personnel need to attempt to get to the aircraft, or if the aircraft has mechanical difficulties immediately prior to takeoff and engineers need to access the aircraft on the escalated runway. We have been unable to locate a plan detailing how emergency fire and medical personnel will deal with a catastrophic emergency situation on the escalated runway. When discussing the D2 Alternative (which is a combination of the C1 and the B4 Alternatives), Mr. Berlucchi points out that the safety issues discussed with the B1 Alternatives simply do not exist. Thus, when considering safety, it is clear that the C1 Alternative is a better choice than the B1 Alternatives.

4.8

The C1 Alternative would also avoid unsolvable security problems that would be created by the B1 Alternatives. The B1 Alternatives require the escalation of a runway over a major highway – U.S. 1, which is the only north-south highway east of the Airport and the primary evacuation route in the event of hurricanes – and a railroad – the Florida East Coast Railway, creating opportunities for potential terrorist attacks. The only alternatives that include an elevated runway element are the B1 Alternatives. As the C1 Alternative does not include an elevated runway element, the great majority of safety concerns disappear if the FAA selects the C1 Alternative. We have previously summarized our concerns to the FAA regarding security issues in a letter we sent to the FAA in August 2002. That letter (without its original attachments) is attached to this letter as Exhibit B. We do not understand why in this day and age, the FAA would choose to build a runway that is vulnerable to terrorists when other acceptable alternatives are available.

4.8

D. The C1 Alternative Would Cause Fewer Noise Impacts Than Either the B1 Alternatives or the No Action Alternative

The C1 Alternative would reduce projected noise levels below the no action alternative and every other runway alternative. Specifically, the FEIS indicates that the C1 Alternative, would expose 2.8 square miles to the 65 to 70 DNL noise contour. This compares to the 3.0 square miles exposed to this same noise level by the No Action Alternative or the 3.5 square miles exposed to this noise level in the B1 Alternatives. Thus, the C1 Alternative provides the rare opportunity to expand an airport while reducing noise impacts. *See* FEIS at 6.C-48.

8,22

E. The C1 Alternative Would Avoid the Need to Cause Any Impacts to Wetlands Surrounding the Airport

Implementing the C1 Alternative would also avoid the need to impact wetlands surrounding the Airport. Table 6.E.2.1 in the FEIS quantifies the impacts of different runway alternatives on the various affected wetlands, and indicates that each of the alternatives have some wetland impacts. FEIS at 6.E-36. Simply looking at this table and relying on the numbers provided therein indicates that the C1 Alternative impacts less wetlands than the B1 Alternatives. Moreover, the wetlands supposedly impacted by the C1 Alternative are lower in quality than the wetlands impacted by the B1 Alternatives. *See* FEIS at P.10-12 (U.S. Army Corps of Engineers'

10.10

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comments on same). A composite of comments made by the U.S. Army Corps of Engineers to the FAA regarding wetland impacts, and how the C1 Alternative is less environmentally damaging than the B1 Alternatives, is attached to this letter as Exhibit C for your review. 10.10

The discussion in the FEIS obscures the fact that no aspect of the development of the north runway or associated navigational aids under the C1 Alternative need impact any wetlands at all. The supposed impacts to wetlands under C1 derive entirely from discretionary facility relocations that are unnecessary to the project purpose. The FEIS suggests that these facility relocations would have to occur in wetlands for the C1 Alternative to be implemented, apparently based on materials provided by the local sponsor. But, this is simply not the case. Please find for your review attached to this letter as Exhibit D a Report prepared by Morten, Beyer and Agnew, an aviation consulting firm, evaluating whether there would be a need to relocate facilities at the Airport into wetlands as a result of the implementation of the C1 Alternative. This report concludes that "even if one accepts the artificial limitations in the [F]EIS regarding the potential alternative locations for north side facilities, . . . such facilities could be relocated onto airport property without the need to impact wetlands." *See* Exhibit D at 9. Thus, because the C1 Alternative would result in no impacts to wetlands and the B1 Alternatives would result in impacts to more than 15 acres of wetlands (FEIS at 6.E-36), the C1 Alternative is a better choice from the standpoint of wetlands impacts.[2] 10.10

F. The C1 Alternative Would Also Minimize Park Impacts Associated with the B1 Alternatives

The C1 Alternative would avoid impacts to local parks that cannot be avoided under the B1 Alternatives. Specifically, the C1 Alternative would avoid use of Brooks Park that is located directly in the path of the proposed runway expansion under the B1 Alternatives. Implementing the C1 Alternative would also result in a reduction of noise impacts to parks surrounding the Airport that are not in the direct path of the proposed runway expansion, thus avoiding constructive use of those parks. 9.4

II. The C1 Alternative Achieves the Project Objectives and Is Practical and Feasible

A. The C1 Alternative Achieves the Project Purpose and Need

The C1 Alternative achieves the FAA's objectives for the runway expansion. As indicated in the FEIS, all of the alternatives studied in detail in the FEIS, including the C1 Alternative, meet the purpose and need of the project: 3.21

> The FAA has determined that these six build alternatives would substantially meet the stated purpose and need to increase capacity and reduce delay at [the Airport].

FEIS at 4-33. Since all alternatives meet the purpose and need of the project, the FAA can make

[2] It is possible that the D Alternatives may require impacts to wetlands given the greater number of required facility relocations. These alternatives are unnecessary in light of the advantages of the C1 Alternative.

F-MCOOS

decisions based on environmental and cost factors.

B. The C1 Alternative is Practicable from a Logistics and Cost Perspective

The FEIS demonstrates that the C1 Alternative can be built, as a matter of sound engineering principle. Specifically, the FEIS indicates that the C1 Alternative is practicable from a "constructability" standpoint and that the C1 Alternative has no fatal flaws. FEIS at 4-28. "Constructability" considers the physical characteristics of the alternative, which can impact engineering costs, project schedule, operational safety and efficiency, and construction segmenting or phasing. FEIS at 4-24. Moreover, when discussing the C1 Alternative, the FEIS states that "the combined total footprint of those areas could accommodate all the tenant facilities displaced by Runway 8/26 [the north parallel runway], assuming a replacement-in-kind of those displaced facilities." FEIS at 4-52. Nothing in the FEIS suggests that this alternative is infeasible. Thus, from a logistics standpoint, the C1 Alternative is practicable, feasible, and prudent. 16.5

As also indicated above, the FEIS provides that the C1 Alternative has fewer costs than the B1 Alternatives. The FEIS analyzed the costs of each alternative, including construction, land acquisition, facility relocation and demolition costs. FEIS at 4-59. The cost of implementing the C1 Alternative would be $534,682,000 in 2007 dollars. FEIS at 4-66. The cost of implementing the B1 Alternatives would be $810,149,900 in 2007 dollars. FEIS at 4-61. In developing these cost estimates, the FEIS indicates that FAA makes assumptions for each alternative intended to make costs of the different alternatives comparable. The C1 Alternative therefore costs approximately ***$276 million less*** to implement than the B1 Alternatives. Thus, the C1 Alternative clearly is prudent and feasible from a cost perspective. Indeed, even if the FEIS underestimated costs associated with the C1 Alternative by half, the C1 Alternative still would cost less to implement than the B1 Alternatives. 16.5

C. BCAD's Criticisms of the C1 Alternative Are Not Grounds to Reject the C1 Alternative As Impracticable or Imprudent

In October 2007, the Broward County Aviation Department ("BCAD") prepared a report discussing the ability of the Airport to relocate north side facilities should the C1, D1, or D2 Alternatives be selected by the FAA (the "BCAD Report"). This report and BCAD's criticisms therein provide a skewed picture regarding the practicability and prudence of the C1 Alternative. It is apparent from BCAD's criticisms and from actions taken by BCAD, which will be discussed below, that BCAD seeks to eliminate the C1 Alternative from consideration by any means. Despite BCAD's criticisms, it is apparent that the C1 Alternative remains the least expensive, and the most practicable and prudent alternative to implement. 15.20

1. BCAD's Cost Estimates Relating to Its Preferred Alternative Fail To Include Several Key Costs 16.6

The BCAD report on its face contains a skewed analysis of costs. BCAD criticizes cost discussions of the C1 Alternative, yet fails to review its own cost estimates or the FAA's cost estimates of the B1 Alternatives with a similarly critical eye. The FEIS indicates that the BCAD

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has not calculated the full costs of implementing the B1 Alternatives:

> The County's cost summary, however, does not consider the costs for facility relocation, land acquisition, or the construction of the cross-field taxiways. There are discrepancies between the cost items contained in the County's cost summary and those associated with Alternative B1.

FEIS at 4-59.

While BCAD asserts there are additional costs associated with the C1 Alternative, there are also additional costs with implementing the B1 Alternative that neither BCAD nor the FAA considered. For example, the BCAD and the FAA did not adequately consider the cost of acquiring homes in the study area (e.g., the Melaleuca Gardens neighborhood of Dania Beach). Over time this cost could eventually total in the hundreds of millions of dollars with increased aircraft operation, facilitated by the runway expansion.

As explained in our June 2008 comment letter to the FAA, the FAA (and BCAD) failed to consider the cost of acquiring the Atlantic Village property southwest of the airport, even though a portion of the property is located in the Runway Protection Zone ("RPZ") for the B1 Alternatives. The Atlantic Village property is currently valued at $65 million, and has been given land use approvals to develop the site into a condominium. We would specifically reincorporate all of our comments made in our June 2008 letter relating to the Atlantic Village property herein. What is clear is that the BCAD and the FAA should have factored the cost of acquiring the Atlantic Village property into the analysis because a portion of the property will be in the RPZ for the B1 Alternatives, and the RPZ is a portion of the actual project.

The cost of relocating the Hilton/Wyndham Hotel after it is destroyed as a result of the B1 Alternatives also was not considered by either the FEIS or the BCAD. If the FAA is going to include the costs to relocate facilities displaced by the C1 Alternative, they should do the same for the B1 Alternatives so that it facilitates an apples-to-apples comparison.

Finally, the FEIS acknowledges that implementing the B1 Alternatives would require the redevelopment or reconfiguration of Terminal 4. *See* FEIS at 4-40, E-37 to E-38. Moreover, in a January 2008 Memorandum from Kent George, the Airport Director, to the Broward County Board of Commissioners, which is attached to this letter as Exhibit E, Broward County discusses the redevelopment of Terminal 4 separately from the runway expansion project while at the same time acknowledging that the "Sponsor's Preferred Alternative for the new runway will necessitate the elimination of 3 or 4 existing gates on Concourse H. These gates need to be replaced as soon as possible, but no later than approximately 2-2½ years into the Runway Project." Exhibit E at 3. It does not appear, however, that the FEIS (or BCAD for that matter) factors in the substantial costs associated with redeveloping Terminal 4. Because, as acknowledged by the Sponsor, Terminal 4's redevelopment is necessary if either of the B1 Alternatives is implemented, the cost to redevelop it should be included in both BCAD's and the FAA's cost estimates. Exhibit E estimates the cost to redevelop Terminal 4 as $90 million. We have recently heard that if this reconfiguration were included in the cost of the B1 Alternatives,

16.6

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the cost to implement the B1 Alternatives would be approximately ***$1.5 billion***. Copies of recent materials from the Broward County Commission that discuss these and other issues are provided as Exhibit F. These costs should be factored into both the County and the FAA's analysis.

If the FAA is going to re-evaluate the cost of the C1 Alternative, then it must do the same for the B1 Alternatives. All the information we have been able to assemble indicates that the B1 Alternatives are consistently far more expensive then the C1 Alternative.

16.6

2. To the Extent that BCAD Has Made the Cost to Implement the C1 Alternative More Expensive In An Attempt to Eliminate Reasonable Alternatives from Consideration, These Costs Should Not Be Considered

Besides greatly underestimating the costs associated with the B1 Alternatives, we believe that BCAD has also deliberately made the C1 Alternative appear to be more expensive in an attempt to dictate the FAA's selection of a runway expansion alternative. BCAD has been contemplating this airport expansion since 1994, when it last amended the Airport Master Plan. The EIS process formally began as of Febuary 16, 2001, when the FAA published a Notice of Availability for the Environmental Impact Statement in the Federal Register. *See* "Environmental Impact Statements; Notice of Availability," 66 Fed. Reg. 10684 (Feb. 16, 2001). Yet, Broward County entered into several leases, and extended other leases, in the north airfield after the expansion process had started.

Federal regulations forbid actions by local sponsors that would constrain the choice of alternatives. Specifically, FAA Order 5050.4B ¶ 1004(a) provides that, "an airport sponsor may not take action concerning a proposal that would cause adverse environmental effects or limit the range of reasonable alternatives the approving FAA official would consider while an EIS is being prepared." The NEPA regulations promulgated by the Council an Environmental Quality further provide as follows:

> Until an agency issues a record of decision as provided in Sec. 1505.2 . . ., no action concerning the proposal shall be taken which would: . . . 2. Limit the choice of reasonable alternatives. . . . If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within that agency's jurisdiction that would meet either of the criteria of paragraph (a) of this section, then the agency will take appropriate action to insure that the objectives and procedures of NEPA were achieved.

40 C.F.R. § 1506.1.

Despite these rules, in July 2002, the County entered into a 20-year lease with Aero Lauderdale for approximately 1,068,081 square feet on the north side of the Airport. A complete copy of AeroLauderdale's July 2002 lease is attached to this letter for your review as Exhibit G. BCAD entered into a 30-year lease in 2005 with Sheltair Aviation Center, LLC ("Sheltair") for approximately 624,000 square feet for facilities on the north side. A copy of the 2004

23.12

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Agreement of Lease Between Broward County and Sheltair for the Northside Property at the Airport is attached to this letter for your review as Exhibit H. A copy of the BCAD Lease Information Report for Sheltair's land lease on the north side of the Airport is attached as Exhibit I. Additionally, Embraer Aircraft Corporation ("Embraer") in 2007 was given an extension on its lease (that was set to expire in 2020) until 2030 and agreed to build an additional hangar and 40,000 square foot warehouse on the north side of the Airport. A copy of the Embraer Lease along with all the Amendments are attached to this letter as Exhibit J. A copy of a letter from Embraer to BCAD confirming effective date of lease amendment No. 4 as June 19, 2007 is attached to this letter as Exhibit K. Thus, Embraer's lease on the north side of the Airport totals approximately 1,200,000 square feet. *See* Exhibit J.

The Embraer lease extension was approved despite a July 19, 2007 letter sent by the FAA to the BCAD that stated "the proposed project . . . is in conflict with alternatives carried forward in the FAA's Environmental Impact Statement (EIS) and therefore we must object (pending outcome of the Record of Decision on the EIS)." The July 19, 2007 Letter from the FAA to BCAD along with contemporary media reports, are attached to this letter as Exhibit L for your review. Apparently, the BCAD has not heeded the FAA's warnings relating to this and has instead approved the extension of the Embraer lease on the north side. In entering and extending these leases, Broward County has directly violated FAA Orders and Federal NEPA regulations. The FAA should therefore not consider any costs associated with relocating/moving any of the tenants whose leases were entered into or extended after the commencement of the EIS process, as the sponsor appears to be deliberately placing impediments in the way of any north runway alternative.

23.12

3. BCAD's Criticisms of the Cost Estimates Relating to the C1 Alternative Should Be Disregarded As Unfounded and Flawed

We also believe that the BCAD's criticisms of cost estimates for implementing the C1 Alternative are unfounded. In reviewing the costs associated with relocating facilities on the north side of the Airport if the C1 Alternative is implemented, the BCAD assumes that all the facilities on the north side would need to be built at the Airport. There is no reason why this needs to be the case. Some of the General Aviation facilities could simply be moved to other county airports, especially since these Facilities need not be located at FLL and moving general aviation operations will free up capacity there. We also urge the FAA to confirm that all tenants on Airport property are in fact airport-related. For example, we fail to see why the Broward County Animal Shelter must consume acreage on Airport property. It is within the power of Broward County to move these facilities.

16.7

The BCAD also makes several flawed assumptions in its criticisms of cost estimates associated with relocating and reconstructing facilities on the north side of the Airport. First, the BCAD assumes that private, third-party costs should be factored into the FAA's analysis. There is no reason why the FAA must consider costs to third parties. If it is going to do so, then it should also consider costs to private third-party entities impacted by the B1 Alternative.

Several tenants on the north side of the Airport, including tenants who hold a great deal of land on the north side of the Airport such as Aero Lauderdale, Embraer and Sheltair, have

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either entered or attempted to enter lease extensions after the EIS process had begun or have amended their current long-term leases after the EIS process had begun. Even assuming that *any* costs associated with these new leases/extensions should be factored into the FAA's decision making analysis – these costs should not be considered because of BCAD's inflation of the costs for the C1 Alternative's – these new leases or extensions, still provide a way for Broward County to terminate the leases should a north runway alternative be selected. *See* Exhibits H, I, J, and K.

16.7

Because BCAD is not responsible for rebuilding facilities if the C1 Alternative is implemented, BCAD's statement about the cost of rebuilding such facilities overinflates the actual costs associated with implementing the C1 Alternative. If BCAD is voluntarily assuming the costs to relocate facilities, despite these costs not being BCAD's responsibility, these costs should not be factored into any determination of the cost to implement the C1 Alternative.

4. Even Assuming that BCAD's Criticism That the FEIS Does Not Include All the Costs Associated With Relocating Facilities On the North Airfield Is Correct, the FEIS Indicates that the C1 Alternative Is Still Less Expensive

Even if one factors in the overinflated cost estimates that BCAD has provided in its October 2007 report, the conclusion would not change.[3] The BCAD Report states that the total cost for relocating and rebuilding infrastructure on the north side of the Airport would be $544 million ($24 million in infrastructure costs and $520 million in vertical construction costs). *See* BCAD Report at 9. Even if this $544 million total were accurate, the C1 Alternative is still practicable and less expensive than either of the B1 Alternatives. In determining the total cost for implementing the C1 Alternative, the FEIS assumes a cost of approximately $383 million in 2007 dollars for "[f]acility relocations." FEIS at 4-66. If the BCAD is correct in determining the $544 million costs for relocating and rebuilding the facilities, then the FEIS underestimated the cost by approximately $161 million in 2007 dollars ($544 million – $383 million). Yet, based on the FEIS's estimate, the C1 Alternative is approximately $276 million less expensive to implement than the B1 Alternatives. Thus, even if one adds the additional $161 million that BCAD claims it would cost to relocate and rebuild infrastructure from the north side of the Airport on to the stated cost for implementing the C1 Alternative in the FEIS, the C1 Alternative would still be $115 million less expensive to implement than either of the B1 Alternatives. This calculation, however, assumes that the costs associated with the B1 Alternatives as discussed in the FEIS are correct, and as explained above, we believe these costs are greatly underestimated in both the BCAD's calculations and in the FEIS. The bottom line therefore is the same. The C1 Alternative is practical, feasible and prudent because it is buildable, and is considerably less expensive.

16.8

* * *

FAA has a rare opportunity to demonstrate that it takes seriously the impacts of airport expansions on local residents and the environment. As indicated in previous comment letters

[3] It should be noted that if BCAD accepts its own argument that the FEIS's estimates of cost are off, then the BCAD is also implicitly stating that the FEIS itself is inherently flawed, and that all of the cost estimates in the FEIS need to be looked at again by the FAA.

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and documentary submissions (such as recent operational data attached as Exhibit M), the FEIS's aviation demand forecasts seriously underestimate future aviation demand in South Florida. The City of Dania Beach believes the best choice is to forestall expansion of the airport until a time when it is truly needed. However, if the FAA is going to approve a major runway expansion, it should approve the alternative that meets the project objectives at the least cost and with the fewest environmental impacts. 3.22

Thank you again for considering our views. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Neal McAliley

Attachments

cc: Commissioner Robert Anton
Brenda Chalifour
Thomas Ansbro, Esq.
Virginia Lane
Daphne Fuller, Esq.

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October 10, 2008

VIA E-MAIL AND FED EX

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Re: Proposed Expansion of Ft. Lauderdale-Hollywood International Airport

Dear Ms. Fuller and Ms. Lane:

I am writing to follow-up on our recent conversations regarding the FAA's administrative record relating to the expansion of the Ft. Lauderdale-Hollywood International Airport ("Airport"). Since the FAA issued in 2001 its first notice of intent to prepare an Environmental Impact Statement ("EIS") regarding the expansion of the Airport, my firm (and/or the firm's clients) have submitted numerous letters and documents to the FAA for the agency's review in relation to this project. It is our hope that the FAA gave these materials serious consideration, and we presume that the agency has maintained copies in its files. 23.13

As a courtesy, attached is a list of the materials previously submitted to FAA by us in relation to the expansion proposals at the Airport. If the agency would like additional copies of any of these documents, please let me know so that I can send them to you. Also, attached is a color copy of a "White Paper" on aviation forecasting we submitted in response to the final SEIS in July of this year, which we are submitting again in case we previously sent a black and white copy. 23.14

I understand that it is FAA's position that, in making a final decision on this project, it will only rely on the environmental analyses contained in the EIS drafts issued since 2005. *See, e.g.,* Final EIS (July 2008), page 1-5, fn. 21. However, the materials we previously submitted (as well as 23.15

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WHITE & CASE

the earlier EIS drafts themselves and material submitted by third parties) remain part of the administrative record, since they were before the agency at the time of the relevant decision. *See, e.g., Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 401, 420 (1971) (APA "review is to be based on the full administrative record that was before the Secretary at the time he made his decision"). This is especially true given the fact that in our post-2005 comments we repeatedly incorporated by reference and summarized those earlier submissions.

23.15

I hope these materials are helpful. If you need any further information, please feel free to give me a call.

Sincerely,

Neal McAliley

Attachment

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