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UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

WASHINGTON, D.C.

National Business Aircraft Association, Krueger Aviation, Inc., Harrison Ford, Justice Aviation, Kim Davidson Aviation, Inc., Aero Film, Youri Bujko, James Ross, Paramount Citrus LLC and Aircraft Owners and Pilots Association **Complainants** **v.** **City of Santa Monica** **Respondent**	FAA Docket No. 16-14-04 **CITY OF SANTA MONICA'S REQUEST FOR HEARING**

TO THE ASSOCIATE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, AND TO THE COMPLAINANTS IN THIS MATTER AND THEIR COUNSEL OF RECORD:

Respondent CITY OF SANTA MONICA (hereinafter "CITY"), by and through its attorneys of record, hereby respectfully requests that, pursuant to 14 C.F.R. §§ 16.31, 16.109(a),(b) and 16.201(a), the Federal Aviation Administration (hereinafter "FAA") provide the CITY with an opportunity for a hearing as allowed under its regulations to review the correctness and validity of the Director's Determination issued by the FAA's Byron K. Huffman, Acting Director, Office of Airport Compliance and Management Analysis on or about December 4, 2015 (hereinafter "Determination"). CITY believes that there exists good cause for a hearing and that such a hearing is warranted and appropriate, given the scope and detail of the Determination, the factual and legal issues that document raises, and the impact, proposed restrictions and limitations that such Determination and a potential Final Agency Decision will have on the CITY immediately and for the next seven to eight years. Moreover, in light of the substantial stakes in this matter for the CITY and its residents, due process requires that the CITY be afforded the opportunity to defend itself and present its case in the context of a full and fair hearing. A hearing and limited discovery will also allow the FAA to develop a more complete and accurate administrative record on which to base its Final Agency Decision.

CITY contends that genuine issues of material fact exist that require oral examination of witnesses and submission of evidence in the setting of a hearing. Such issues include but are not limited to the circumstances surrounding and knowledge and intent of the CITY in making its Grant Application in 1994, the scope of the 1994 Grant Application, work performed by or on behalf of the CITY pursuant to the 1994 Grant

Application and grant assurances, amendments to the 1994 Grant Application including whether or not the scope and duration of any grant assurances were ever extended or amended, and the circumstances surrounding and knowledge and intent of the CITY in 2002 in requesting financial reimbursement and in 2003 by consenting to an Amendment to the 1994Grant Application. Additional issues include but are not limited to the FAA's communications with the CITY in and around 2002-2003 and the FAA's customs, practices, procedures and experience issuing and amending monetary grants to airport proprietors and amending or extending grant assurances. CITY also contends that because the FAA attached and relied on documents in its Determination which were not introduced or commented upon by any of the parties to this Part 16 proceeding, the meaning and intent of such additional documents should be the subject of oral examination and further evidence at a hearing.

Additionally, the Determination raised a number of legal issues which can only be fully explored and addressed through a hearing. These issues include but are not limited to jurisdiction, due process, contract law, grant law and procedure, possible agency bias and the proper burden of proof in Part 16 proceedings.

CITY provides these non-exhaustive, general descriptions of the scope of the requested hearing in an effort to avoid undue delay regarding the selection of an appropriate hearing officer and the determination of a hearing schedule. However, CITY intends to request and perform limited discovery as provided for and allowed by the Part 16 Rules, and to work with the opposing parties and the hearing officer in scheduling and completing that discovery in an efficient and expeditious manner. It is through and at the end of this process that all of the issues to be addressed at the hearing will be determined and the FAA will be able to reach a Final Agency Decision on a full and fair administrative

record.

CITY also states that, pursuant to 14 C.F.R. § 16.33(c) and as confirmed by Acting Director Huffman in his e-mail to Deputy City Attorney Ivan Campbell on December 16, 2015, CITY intends to file its Notice of Appeal and Brief on or before the current January 8, 2016 due date.

Dated: December 23, 2015

Respectfully Submitted,

MARSHA JONES MOUTRIE
City Attorney

BY _____
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JOSEPH LAWRENCE
LANCE S. GAMS
IVAN CAMPBELL

Attorneys for Respondent
CITY OF SANTA MONICA

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Bradley C. Michaud, declare:

I am employed in the County of Los Angeles, State of California. My business address is 1685 Main Street, Santa Monica, California 90401. I am over the age of eighteen years and not a party to the action in which this service is made.

On **December 23, 2015,** I served the document(s) described as **CITY OF SANTA MONICA'S REQUEST FOR HEARING** on the interested parties in this action by enclosing the document(s) in a sealed envelope addressed as follows:

Richard K. Simon, Esq.
1700 Decker School Lane
Malibu, CA 90265
rsimon3@verizon.net

Office of the Chief Counsel
Attention: FAA Part 16 Docket Clerk
AGC-600
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591
9-AWA-AGC-Part-16@faa.gov

☒ BY MAIL: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 1685 Main Street, Santa Monica, California 90401, with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at 1685 Main Street, Santa Monica, California 90401.

☒ COURTESY COPY TO COMPLAINANT'S COUNSEL BY ELECTRONIC DELIVERY

☐ [State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ [Federal] I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on **December 23, 2015**, at Santa Monica, California.

Bradley C. Michaud