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March 20, 2017

Via E-Mail and FedEx

David H. Ambroz, President
City Planning Commission
City of Los Angeles
200 North Spring Street
Los Angeles, CA 90012

Sean O. Burton, President
Board of Airport Commissioners
Los Angeles World Airports
1 World Way
Los Angeles, CA 90045

Re: LAX Landside Access Modernization Program and Related
Amendments to the LAX Plan and LAX Specific Plan

Honorable Members of the City of Los Angeles Planning Commission and the Board of Airport Commissioners:

This firm represents the City of El Segundo (“El Segundo”) with respect to Los Angeles World Airports’ (“LAWA”) proposed LAX Landside Access Modernization Program and the associated, proposed amendments to the LAX Plan and the LAX Specific Plan (together, the “LAMP” or “Project”). As we have commented in the past, El Segundo does not fundamentally oppose the LAMP. El Segundo nonetheless has serious concerns about the environmental and community impacts of the proposed Project and about the adequacy of the environmental review prepared for it.

El Segundo has described these concerns, including the Project’s contribution to enormous growth in passenger traffic at LAX and the related environmental impacts, extensively in comment letters and public testimony to the City Planning Department and the Board of Airport Commissioners (“BOAC”). Yet, so far, the City has failed to address these concerns or to remedy the extensive flaws in the environmental impact report (“EIR”) for the Project, which BOAC certified on March 2. El Segundo has appealed BOAC’s certification of the EIR and related project approvals to the City Council. Although City rules prohibit our written comments addressing the March 23, 2017 joint Planning Commission–BOAC meeting from exceeding 10 pages, this letter incorporates by reference El Segundo’s prior comments on the LAMP submitted on

March 9, 2015; November 15, 2016;¹ December 2, 2016; March 1, 2017; and March 9, 2017—more than 90 pages in total, plus exhibits. These letters and exhibits have been delivered to City Hall so that they may be included in the administrative record for the LAMP Project.

I. The Findings Adopt Wholesale the EIR’s Flawed Assumption that LAMP Will Not Enable Any Passenger Growth at LAX.

Under the California Environmental Quality Act (“CEQA”), the City must make findings, supported by substantial evidence, demonstrating how the mitigation measures proposed as part of the LAMP will actually reduce environmental impacts to a level of insignificance. See Pub. Res. Code §§ 21002, 21002.1(b), 21081; tit. 14, Cal. Code Regs. (“CEQA Guidelines”) §§ 15091(a), 15091(b), 15093(b); *see also Uphold Our Heritage v. Town of Woodside*, 147 Cal.App.4th 587 (2007). In so doing, the City must reveal the “analytical route” between the evidence and the findings—in other words, it must explain how the evidence supports the finding of insignificance. *See Topanga Ass’n for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515. The proposed CEQA findings contained in the Staff Report fail to reveal that route.

As El Segundo has repeatedly emphasized, the EIR erroneously assumes that the existing ground access network are not and can never be a limit on passengers’ use of LAX, and thus that the Project’s expansion of ground access would not cause an increase in airport use. This assumption is without support. The environmental analysis required by CEQA may not simply assert that alleviating the significant and longstanding ground access constraints at LAX will have no effect on airport operations. LAWA must provide substantial evidence to support such a conclusion. Pub. Res. Code § 21080(e). Without such evidence in the record, the proposed findings, including that the Project would not result in significant noise or greenhouse gas (“GHG”) impacts, are entirely unsupported.

LAWA has previously stated that ground access *is* a constraint and that LAX capacity would not grow beyond 78.9 million annual passengers (“MAP”) without upgrades to the ground access network. *See, e.g.*, 2004 Master Plan EIR at 1-4.² LAWA

¹ On February 1, 2017, we submitted to Planning Department staff a copy of El Segundo’s November 15, 2016 comments on the Draft EIR.

² In 2005, El Segundo filed an appeal before the Los Angeles County Airport Land Use Commission over LAWA’s adoption of the Master Plan. *See generally*, Los Angeles County Airport Land Use Commission Aviation Case No. 2005-00001. The Commission

now attempts to distance itself from its own conclusions/representations, arguing these statements proved inaccurate: instead ground access is just one “factor” in passengers’ choice of air travel, and furthermore the aviation industry can process more passengers today despite ground access congestion, through increased load factors and faster turnaround times. As “evidence” that there is no correlation between passenger capacity and ground access, LAWA states it has observed that LAX passenger throughput has steadily grown since it adopted the Master Plan, from 61.5 MAP in 2005 to 80.9 MAP at the end of 2016, despite the existing congestion in the CTA.

The problem with LAWA’s analysis is that it simply infers, based on the above data, that the existing ground access network could accommodate an *additional* 15 MAP by 2035. This is faulty logic. Even if LAWA was “wrong” in 2004, and the ground access network did not practically constrain operations to 78.9 MAP, it does not follow that ground access would *never* constrain ever-increasing passenger demand. *See, e.g.*, Federal Aviation Administration Advisory Circular 150/5070-6B (January 27, 2015) at 38, attached as Exhibit B to El Segundo’s March 1, 2017 comments on the Final EIR (“Actions taken by local airport authorities, such as changes in user charges, *ground access policies* or their support services, can also stimulate or hinder the demand for airport services.”). LAWA nonetheless claims that, as long as the aviation industry continues to operate more efficiently (and the LAX airfield and terminals are periodically upgraded), the sky’s the limit: ground access would never need to be upgraded to accommodate growth. Of course, this makes no sense.

Even if there were always some portion of potential LAX passengers for whom air travel through the airport is an “inelastic” service (meaning they will use LAX regardless of cost, including travel time to/from the airport), there is also a second, likely bigger population of potential passengers for whom travel through LAX is an “elastic” service

found the Master Plan violated the state law requiring “orderly expansion of airports” (Pub. Util. Code § 21670(a)(2)). *Id.* Commission staff’s analysis, which the April 20, 2005 Commission Resolution incorporated, stated that “[t]he present maximum capacity of LAX is generally agreed to be 78.9 MAP because of the present, limited ground access system. Even if gates are added, terminals enlarged and runways reconfigured, it would not be possible to accommodate more than 78.9 MAP with the present ground access system. . . . [T]here are a number of improvements to the ground access system that would accommodate a greater number of passengers.” Commission Staff Analysis and Resolution, attached as Exhibit A to El Segundo’s March 1, 2017 comments on the Final EIR.

negatively impacted by inconvenience. If LAWA did not build the Project, this second type of passenger would make other arrangements (e.g., patronize a different regional airport). *See* Final EIR at 2-84 (“[H]istorical data on passenger activity levels reflect variations in passenger activity levels that may be attributed to traffic conditions in the CTA.”). Without any evidence, LAWA assumes there is enough of the first kind of potential passenger that the airport would inevitably process 95 MAP by 2035, even if the Project were not built. Under CEQA, the EIR must provide substantial evidence for its assumption that the Project would not accommodate additional passenger demand, and thus would not cause any environmental impacts related to increased aircraft operations. Conjecture and unsubstantiated claims by LAWA do not qualify as substantial evidence. This is particularly true given LAWA’s position that its own past analysis of CTA ground capacity proved inaccurate.³

LAWA has never analyzed the impacts of its operations at passenger levels above 78.9 MAP. The Ventura County Superior Court recognized this fact in its recent ruling on consolidated CEQA challenges to LAWA’s 2013 approval of the Specific Plan Amendment Study, which stated that LAWA “analyze[d] environmental impacts of the SPAS alternatives at LAX’s operational capacity (on 153 passenger gates) of 78.9 MAP. LAX is not projected to reach that capacity until 2024. LAX has never operated at 75 MAP or at its 78.9 MAP capacity. Once LAX reaches capacity, there are by definition no additional impacts, because the airport is operating at capacity.” *ARSAC et al. v. City of Los Angeles et al.*, Ventura County Superior Court Case No. 56-2014-00451038-CU-WM-OXN (April 8, 2016) at 80, attached as Exhibit D to El Segundo’s March 1, 2017 comments on the Final EIR. In its responses to comments, however, LAWA stated that LAX hit 80.9 MAP at the end of 2016. Thus, in terms of passenger operations and analysis of its environmental impacts, LAWA has entered uncharted territory. Because the EIR lacks substantial evidence that the Project would not enable additional passenger throughput, the Planning Commission may not adopt, or recommend to the Council, the finding that the EIR complies with CEQA. *See Topanga Ass’n*, 11 Cal.3d at 515.

II. Approval by the Planning Commission and City Council of the Proposed LAX Plan and LAX Specific Plan Amendments Would Usurp the Council’s

³ These and other deficiencies in LAWA’s analysis of the Project’s effect on capacity are discussed in the February 28, 2017 comments of Adib Kanafani, Ph.D., N.A.E., attached as Exhibit C to El Segundo’s March 1, 2017 comments on the Final EIR, and fully incorporated herein.

Own Authority, are Unnecessary, and Are Not in Conformity with the General Welfare.

The 2004 LAX Master Plan adopted for LAX makes clear that the option adopted (Alternative D) was designed to serve approximately 78 MAP, which was approximately the same aviation activity levels identified in the No Action/No Project Alternative. LAWA represented that constraining LAX in this way would encourage the development and use of regional airports. This same vision of a constrained LAX was carried forward in the SPAS. Other alternatives specifically considered and rejected as part of the 2004 Master Plan process would have involved higher MAP numbers and greater impacts.

In approving the LAX Master Plan (Alternative D), the City Council took care to ensure that growth beyond that anticipated in the Master Plan would not happen without subsequent public evaluation, discussion, and consideration at the City Council. This important “check” on LAX growth was implemented through adoption of the LAX Plan and LAX Specific Plan (*see* LAMP Draft EIR Appendices C & D). The LAX Plan establishes a land-use policy framework, while the LAX Specific Plan establishes zoning and development regulations consistent with the LAX Plan. Future development at LAX is required to be consistent with both plans, and this consistency must be established by LAWA in reports to the City Council. The LAX Specific Plan requires that no “Project” at LAX may proceed unless it complies with the LAX Specific Plan and LAX Plan. As part of that compliance review, the Project is to be checked for compliance with Master Plan commitments and mitigation measures.

Although the plan consistency requirement and review process has worked well since the 2004 LAX Master Plan was adopted, LAWA now proposes a number of major changes as part of the LAMP Project. Specifically, LAWA has proposed a number of significant changes to the LAX Specific Plan and LAX Plan that would remove key limits on LAX growth and gut the plan consistency review process that was specifically included by the City Council for the promotion of regionalism and protection of LAX neighbors. As discussed below, LAWA proposes to delete the limit of 153 gates at LAX from the LAX Plan (*see* Appendix C at 1, 7), and also to delete references to designing and building out LAX to serve just 78.9 MAP of the regional passenger demand until at least 2035 (*see* Appendix C at 2). LAWA’s proposed changes to the LAX Specific Plan would undermine its effectiveness as a mechanism for informed and transparent public review of aviation activity and growth at LAX, and thus are not in conformity with the general welfare.

A. The Applicable Limits of 153 Gates and 78.9 MAP Contained in the LAX Plan Should Not Be Deleted as Part of LAMP.

The EIR does not adequately explain why the limits of 153 gates and 78.9 MAP are proposed for removal from the LAX Plan as part of LAMP. In fact, there is no logical link made between LAMP's proposed ground access upgrades and the removal of those limits from the Plan. The EIR notes in several places that the LAMP project would necessitate amendments to the LAX Specific Plan and the LAX Plan, but the explanations of "necessity" provided are generally limited to relatively minor issues such as a boundary adjustment and a rezone, which are logically necessary for LAMP. The EIR is silent regarding the substantial changes described below, which are not necessary or appropriate as part of LAMP.

It seems likely that LAWA has proposed the 78.9 MAP limit deletion in an attempt to avoid complying with that limit going forward and perhaps to dodge a plan inconsistency problem for the extremely ambitious LAMP. Specifically, because LAMP is designed to serve so much more than 78.9 MAP, it is not consistent with the 78.9 MAP limit in the LAX Plan. As discussed elsewhere in this letter, LAWA takes the untenable position that LAMP is not growth inducing, and insists it has no obligation to evaluate any of the impacts associated with passenger growth above 78.9 MAP as part of LAMP. LAWA cannot remove the 78.9 MAP limit from the LAX Plan without a full public discussion of that proposed policy change, which would include conducting a full analysis of the associated environmental impacts. In other words, if LAWA is now planning for LAX to serve more than 78.9 MAP, it must evaluate the impacts of that growth so the public and City Council decisionmakers have the information they need. The absence of this analysis is a major flaw in the LAMP EIR. In the absence of that analysis, LAWA cannot remove the 78.9 MAP limit from the LAX Plan as part of the Project.

It seems likely that LAWA has proposed deletion of the 153 gates limit in an attempt to avoid having to comply with that limit going forward. Yet there is no LAMP-related reason articulated for the removal. Indeed, how could LAMP, which focuses on ground access improvements, logically necessitate an increase in the number of gates at LAX? In discussing this proposed change, LAWA correctly acknowledges that under its settlement agreement with El Segundo and others, a gate limit would continue to apply until at least 2020. EIR at 7-2. What LAWA fails to acknowledge is that even after 2020, it cannot increase the number of gates at LAX without comprehensive environmental review and a Master Plan amendment. As such, the limit of 153 gates contained in the LAX Plan must remain in place unless and until that environmental

review and public process is complete. Deleting the limit now is not necessary for LAMP, would be premature, and prejudices the outcome of a separate process not yet begun.

If LAWA insists on pursuing removal of the current limits of 78.9 MAP and 153 gates from the LAX Plan as part of LAMP, it must first provide a complete analysis of the noise, air quality, and other environmental impacts that would result. That analysis would need to be provided in a recirculated EIR. That document would consider, for example, the environmental impacts such as increased noise and increased emissions (air pollution and GHGs) associated with the increased aircraft operations at the added gates and serving annual passenger numbers in excess of 78.9 MAP. As discussed elsewhere in this letter, the LAMP EIR provides no such analysis because it assumes (incorrectly) that the Project will not increase LAX's capacity or induce any growth in aviation activity.

We note that the EIR includes Section 7 (Evaluation of Amendments to the LAX Plan and LAX Specific Plan). This section is very strange because it purports to analyze a Project element (Amendments to the LAX Plan and LAX Specific Plan) separate from the Project itself (LAMP). The reader is left with the impression that Section 7 was an afterthought added by LAWA once the bulk of the EIR's environmental analysis was complete. This is inconsistent with CEQA's mandate to evaluate the whole of the project. It is also inconsistent with LAWA's obligation to inform the public and decisionmakers of all the Project's environmental impacts.

Moreover, the environment analysis in Section 7, which appears on just five pages, is limited to the following repeated conclusions: the proposed amendments to the LAX Plan and LAX Specific Plan "would generally correspond to changes at LAX as a result of the proposed Project [LAMP], as well as updates to administrative processes." In other words, LAWA argues that the proposed changes were either covered as part of the LAMP project assessment or are simple updates to administrative processes. This does not accurately capture the universe of proposed plan changes and their associated impacts.

LAWA does acknowledge, in passing, that removal of the gate limitation "may result in future increased development" but argues that it need not evaluate the impact of that development now because "removal of these policies does not mean that additional development would occur. Any future development related to the change in these policies would undergo separate CEQA review and would be subject to BOAC and other approvals prior to implementation." This is the very definition of improper deferral of

environmental analysis in violation of CEQA. If future exceedance of the 153 gate limit is uncertain and speculative as LAWA seems to claim, then LAWA should not ask the City Council to delete the limit from the LAX Plan now. If, on the other hand, LAWA insists on asking the City Council to delete the 153 gate limit now, it must also provide more detail regarding its gate increase plans and evaluate the associated impacts. It cannot delete the gate limit now based on the representation that the associated impacts would be evaluated later.

B. The LAX Specific Plan Changes Proposed by LAWA Would Remove Key Protections Put in Place by the LA City Council When It Approved the 2004 LAX Master Plan.

LAWA proposes a multitude of changes to the LAX Specific Plan as part of the LAMP. Examples include:

- Expanding significantly the universe of projects exempt from plan consistency review (*see* Appendix D at 7-9).
- Substituting BOAC for the LA City Council as the body responsible for confirming the plan consistency of projects proposed for LAX (*see* Appendix D at 10, 13).
- Deleting references to compliance with Master Plan mitigation measures and commitments (*see* Appendix D at 10, 12).
- Limiting compliance review to the LAX Specific Plan (eliminating the need for LAX Plan compliance review).
- Deleting the LAX Master Plan Stakeholder Liaison, who was tasked with assisting with communication between LAWA and stakeholders such as its neighbor, El Segundo (*see* Appendix D, throughout). Under LAWA's proposed change, apparently only Councilmember District 11 would have the benefit of a stakeholder liaison, not El Segundo and other neighbors outside the City of LA.

LAWA does not provide an adequate, comprehensive description of these proposed plan changes, referring to them generally as “updates to administrative process.” *See, e.g.*, EIR at 7-1 *et seq.* As a result, it will be difficult if not impossible for the public and decisionmakers to gain a comprehensive understanding of the nature and extent of, much less the reasoning for, LAWA's plan change proposals. To the contrary, readers of the EIR are told in general terms that the Project “necessitates” the proposed plan changes, when (in fact) the most significant changes appear to be proposed by LAWA for reasons unrelated to LAMP. LAWA must instead provide a clear narrative description of all proposed change and the reason for each. Once that description is

provided, it should become clear that LAWA is seeking (for reasons unrelated to LAMP) to eliminate important checks put in place by the City Council. Those checks remain necessary and appropriate today.

C. A Specific Plan Amendment Study Is Now Required—the Requirement Is Not Satisfied by LAMP, and Must Remain in the LAX Specific Plan Until Satisfied.

The LAX Specific Plan plainly requires a Specific Plan Amendment Study and full CEQA review if annual passenger activity levels are anticipated to exceed 78.9 MAP. LAWA reports that annual passengers exceeded 80 million at the end of 2016. Under the Specific Plan, LAWA must therefore conduct a Specific Plan Amendment Study. This study would augment/update the analysis performed by LAWA for the LAX Master Plan and SPAS to include the higher passenger levels LAWA now desires and anticipates for LAX. This Specific Plan Amendment Study is critical because all current plans for LAX assumed and were based on a maximum passenger level of 78.9 MAP. In fact, the 2004 Master Plan (Alternative D) was approved by the City Council only after it received assurances that LAX would not be modified to serve passenger numbers exceeding 78.9 MAP absent further analysis (through a Specific Plan Amendment). That is not what LAWA is doing with LAMP.

LAWA does not conduct the required analysis as part of the LAMP EIR or propose to do it elsewhere. In fact, LAWA proposes to forever delete the operative language of the LAX Specific Plan and LAX Plan (EIR Appendices C & D), rather than preparing the required Specific Plan Amendment and CEQA review. DEIR 2-195 to 201. LAWA seems to argue that its traffic analysis done in connection with LAMP should excuse it from conducting the Specific Plan Amendment Study clearly required by the LAX Specific Plan when aviation activity analysis shows annual passengers are anticipated to exceed 78.9 million. EIR at 7-7. The LAMP analysis is, however, not equivalent to, and no substitute for, the required Specific Plan Amendment Study.

Most notably, as discussed elsewhere in this letter, the LAMP analysis treats as a given that LAX passenger activity will continue to grow past 78.9 MAP. The LAMP documents do not evaluate, much less offer mitigation for, impacts associated with that growth (e.g., increased noise and air quality impacts on surrounding communities associated with increased aircraft activity). As such, LAMP does not comply with a key requirement set forth in the LAX Specific Plan. LAWA's proposed remedy (deletion of the requirement) is inconsistent with clear City Council direction and the City of Los Angeles' General Plan framework.

LAWA's current attempt, as part of LAMP, to evade and delete the Specific Plan Amendment requirement, is wholly inconsistent with its prior statements and commitments on the subject. As recently as its Specific Plan Amendment adoption in 2013, LAWA described the LAX Specific Plan section 7.H as "requiring a Specific Plan Amendment Study if the annual aviation activity analysis forecasts that LAX annual passengers for that year are anticipated to exceed 78.9 MAP." *See* SPAS Report Appendix F (Operational Analysis) at 11 (section 2.5). In other words, LAWA has previously recognized that if and when the forecast for annual aviation activity levels reached 78.9 MAP, it would be obligated to undertake and request Council approval for a Specific Plan Amendment. Now that anticipated levels have reached that point, LAWA seeks to avoid the requirement by deleting it.

Similarly, LAWA recognizes that Section 7.H.2 of the LAX Specific Plan requires it to initiate an LAX Domestic Passenger Survey/Study and corresponding Airline Survey/Study if the annual aviation activity forecast indicates that the annual passengers in the year when LAX is anticipated to exceed 78.9 million. LAWA represents that it will meet this requirement by conducting the required surveys in 2017. It also proposes to delete the requirement. Deleting the requirement is, however, premature and should not be approved by the Council until LAWA has satisfactorily completed the required surveys and made them public.

Neither LAWA, nor the Planning Department in its recommendations to the Planning Commission, has demonstrated that the Project is in conformity with the intent of the General Plan (including the LAX Plan), the general welfare, or public necessity. Thus the Planning Commission and BOAC may not adopt the proposed findings, or recommend that the Council affirm the certification of the EIR, until the Project is modified to remove the unnecessary amendments to the LAX Plan and LAX Specific Plan, and the EIR is revised and recirculated to address its substantial legal deficiencies.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



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