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UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

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LOVE FIELD SERVICE
INTERPRETATION PROCEEDING

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Docket OST-98-4363

**MOTION OF CITY OF FORT WORTH FOR LEAVE TO FILE AN
UNAUTHORIZED DOCUMENT AND MOTION TO SUPPLEMENT RECORD**

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Dated: October 19, 1998

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DEPARTMENT OF TRANSPORTATION
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LOVE FIELD SERVICE
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**MOTION OF CITY OF FORT WORTH FOR LEAVE AND MOTION TO
SUPPLEMENT RECORD WITH DEPOSITION OF ALLAN McARTOR**

The City of Fort Worth hereby moves for leave to file an unauthorized document. Fort Worth does so in order to supplement the administrative record by filing a copy of the transcript of the deposition of Allan McArtor taken on October 15, 1998 in the state court litigation pertaining to Love Field. A true and correct copy of that deposition is enclosed.

The testimony of Mr. McArtor confirms, in detail, the extensive behind-the-scenes contacts which Mr. McArtor and other representatives of Legend have had for many months with DOT decisionmakers. These contacts addressed the merits of the very issues the Department is considering in this proceeding. Moreover, the deposition shows that these contacts did not cease after the Department commenced the public stage of this proceeding.

The DOT should allow this filing in the interest of fairness and a complete administrative record. The extensiveness of these Legend contacts with DOT -- and their highly prejudicial nature -- as documented by this

deposition transcript, bear directly on the question of whether the Department has prejudged this matter and is biased in this proceeding.

When the Department first announced the public stage of this proceeding, the City of Fort Worth promptly filed a Request asking the Department to disclose all prior contacts with other on the issues the DOT was examining. DOT refused. Fort Worth resorted to discovery in the civil litigation because the state court judge was being asked by Legend, Continental, and the City of Dallas, to defer to any ruling of DOT in this docket. In that discovery, we have learned that the ex parte contacts have been pervasive .

Fundamental fairness -- indeed, due process -- demand that the Department afford Fort Worth the opportunity for discovery of DOT officials, and an oral hearing at which we can develop the record on the issues of bias and prejudice.

Respectfully submitted,

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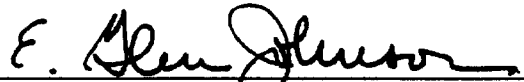
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By:



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ATTORNEYS FOR CITY OF FORT WORTH

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Motion on the following persons first class mail on this the 19th day of October, 1998:

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