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August 8, 2023

Docket Operations Office  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
West Building Room W12-140  
Washington, DC 20590-00001

Re: RFI Response: Advanced Air Mobility and Docket No. DOT-OST-2023-0079

Dear Sir or Madam:

The Town of Milton, Massachusetts ("Milton"), through its Select Board, is pleased to provide comments in response to the Request for Information (the "RFI") on Advanced Air Mobility ("AAM") issued by the U.S. Department of Transportation ("DOT") on May 17, 2023.

According to the RFI, pursuant to the Advanced Air Mobility Coordination and Leadership Act of 2022 (the "Act"), DOT established and leads an interagency working group ("IWG") that will develop a national strategy for AAM. The RFI identifies AAM as "an emerging field in which novel aircraft currently in design and testing could provide new levels of accessibility, convenience, and connectivity for people and cargo – and thus transform our nation's transportation system to provide enhanced mobility for the traveling and shipping public." Through the RFI, DOT seeks public input on the development of a national AAM strategy.

First, we applaud DOT for seeking public comments early in the process of developing of a national AAM strategy, while the technology is still nascent. In the future, AAM is likely to provide important societal benefits. For example, in addition to transporting people and cargo, AAM aircraft could be used, among other things, to help first responders and other public safety personnel locate missing persons and respond to natural disasters, fires and crime scenes; transport injured or ill people from, and deliver medicine, goods and supplies to, remote locations; and inspect bridges, buildings and other infrastructure for damage or safety issues. However, AAM also has the potential to be used in ways that invade people's privacy; create excess noise, light and vibrations day and night; and otherwise adversely affect suburban and urban communities that are already burdened by traffic on the roads and in the air.

All too often, technological advances outpace government regulation. For example, federal agencies are currently scrambling to respond to fast-moving developments in the fields of artificial intelligence and digital currencies. As another example, Milton is one of

many communities nationwide that has been overburdened by the Federal Aviation Administration's ("FAA") implementation of its Next Generation Air Transportation System ("NextGen") and performance based navigation ("PBN"), which concentrates flight paths to and from the Nation's airports as narrow "highways in the skies." The FAA implemented PBN without any meaningful public engagement or communication with citizens in communities that would be severely impacted by increased air traffic noise and pollution. The FAA's "highways in the skies" resulted in a public health crisis, causing people in overflight communities to complain to the FAA, airport operators, and Congress. Yet, more than a decade after implementation, the FAA has failed to provide any meaningful relief at all to these communities.

We urge DOT, in formulating a strategy for AAM, to learn from the FAA's mistakes and failures relating to NextGen and various federal agencies' lack of preparedness for the challenges posed by artificial intelligence and digital currencies. DOT must anticipate and thoroughly evaluate the benefits and the risks associated with AAM and the consequences, both intended and unintended, of any regulatory action that the IWG and DOT may undertake.<sup>1</sup> DOT must also be willing to re-evaluate its strategy and change course as public safety and public health issues warrant.

Second, because AAM technology is new and emerging, it is impossible for local governments to know, in 2023, all of the issues, benefits, and risks that AAM will present in future years. We are not experts in AAM technology. Therefore, we identify herein issues that we believe the IWG should consider as it begins to formulate a national AAM strategy.

### **Background**

As we understand it, AAM typically takes the form of electric-powered (or hybrid) aircraft that can takeoff and land vertically. According to the RFI, DOT anticipates that AAM will eventually provide "shuttle services between airports and downtown locations, more dynamic and affordable medical evacuation and emergency response, rapid transportation of goods between cargo terminals and job sites, and on-demand air services between regions without existing rapid, reliable transportation links." The RFI notes that initial AAM operations will consist of piloted flights and use traditional air traffic control procedures. However, AAM is expected to eventually include "highly automated, unpiloted aircraft flying at lower altitudes with smaller areas of separation than in current operating environments."

The RFI identifies safety as the "highest priority" of DOT and the FAA with respect to a national AAM strategy, and requests comments on safety challenges and "public acceptance of AAM operations and the appropriate means of public engagement necessary to enable AAM operations in the future." DOT seeks information regarding (1) "what should be addressed in the AAM national strategy", (2) "what respondents believe are

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<sup>1</sup> We also urge DOT to lead where the FAA has failed to lead, and to solve the problems created by PBN and NextGen. As noted herein, we believe that the many communities nationwide that are affected by PBN will not accept AAM until PBN is "fixed", i.e., solutions that will restore dispersion of now-concentrated flight paths are fully implemented. DOT must resolve, or force the FAA to resolve, the national public health problems that the FAA itself created.

existing barriers to success of AAM implementation;” and (3) “what steps should the Federal Government focus on in the short (2-3 years), medium (4-8 years) and long term (8+ years) in order to maximize the potential for successful AAM implementation in the United States.” Additionally, DOT invited comments on subjects identified in the Act and twenty (20) topics set forth in Part II of the RFI that the IWG’s subgroups identified as being important.

We offer the following comments on a few of the topics set forth in the RFI.

1. **Safety**

We agree with DOT and the FAA that safety must be the highest priority for a national AAM strategy. We emphasize that this means safety for people on the ground as well as safety for the people who may one day operate or travel as passengers in AAM vehicles.

Our understanding is that AAM is currently being designed and tested in simulated laboratory settings, and has not been tested in the real world (i.e., over urban, suburban or rural areas). Therefore, it is impossible to know how quickly AAM will emerge as a viable method of transportation for passengers or cargo and how severely it will impact residential communities. Nevertheless, we believe that an AAM strategy and regulatory framework must address, at a minimum, the following public safety concerns: the potential for collisions, accidents, and equipment failure, all of which could cause objects to fall from the sky onto residential populations and result in death, injury, or property damage;<sup>2</sup> ensuring adequate training and licensing for operators of AAM equipment; hours of operation for AAM operations (including a ban on nighttime operations); the roles of state and local law enforcement authorities with respect to AAM operations; cybersecurity concerns, including not only the possibility for external attacks by third parties (including nation states), but also the potential for inadvertent security gaps when AAM systems enter town or home wi-fi spaces; and the potential for some forms of AAM to be used for criminal activity, to invade privacy, and to interfere with police or firefighter activity and investigations at crime scenes or accident scenes.

2. **Public Acceptance**

In our view, public acceptance of AAM will depend on whether the national strategy and regulatory scheme that DOT, the FAA and the IWG put in place adequately addresses

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<sup>2</sup> In recent years, our town has twice experienced objects falling from airplanes onto residential neighborhoods. Sadly, in 2010, the body of a deceased teenager, who stowed away in a commercial airplane’s wheel well in North Carolina, fell to the ground as the plane, on approach to Logan International Airport (“Logan”) in Boston, lowered its landing gear while flying over Milton. See, e.g., Katie Zezima, “Body Fell from Plane, Authorities Say,” *The New York Times*, December 10, 2010. In 2019, a six-foot inflatable evacuation slide fell from an airplane approaching Logan and landed in the front yard of a home on Adams Street in Milton, causing property damage but, fortunately, no injuries. See, e.g., Erin Tiernan, “Delta Airplane Drops Evacuation Slide onto Milton Neighborhood,” *The Boston Herald*, December 1, 2019. AAM aircraft will travel at much lower altitudes than commercial jets, which would presumably increase the potential for collisions and accidents. Because they will use electric power, battery capacity and mitigation of equipment failure will be critical issues for the IWG to consider.

the noise, light and quality of life impacts, health and environmental risks, and privacy intrusions that AAM is expected to cause.

Residents of overflight communities, such as Milton, are already overburdened with loud airplane noise from hundreds of low-flying planes for eighteen (18) hours or more in a day, sometimes for many consecutive days. The noise and pollution cause sleep disruption, anxiety, cardiovascular risks, and other adverse health risks. For RNAV overflight communities, AAM will only exacerbate an already bad situation. Therefore, unless and until DOT and the FAA fully and adequately resolve the serious adverse public health impacts that PBN has imposed on overflight communities, DOT and FAA cannot expect residents of overflight communities to accept AAM or to trust FAA and DOT to adequately regulate AAM.

First and foremost, DOT and FAA must resolve, expeditiously and to the satisfaction of the affected communities, the burdens that NextGen and PBN's concentrated flight paths have imposed on overflight communities before any AAM operations are permitted to commence.

Second, the FAA's noise policy, which, as you know, is currently under review and open to public comment (*see* docket number FAA-2023-0855), must be revised to (a) apply to AAM and (b) establish new noise metrics for both AAM and traditional airplane traffic which adequately capture day to day noise and annoyance, and not continue to rely on the outdated, antiquated DNL method.

Third, we recommend that a dedicated federal governmental entity (whether a division or department of an existing agency, or a newly formed agency), staffed with people who are knowledgeable about and experienced with AAM and air traffic operations, be created and be authorized to regulate, oversee, supervise, license, and monitor AAM. Such entity should work with all stakeholders, including industry, business, and state and local governments, to ensure that public health, public safety, and the quality of life of people on the ground are protected. It must be willing and able to respond expeditiously to public safety and public health issues that arise as AAM technology is tested and eventually implemented. The entity that oversees AAM must be far more responsive to safety and health concerns raised by AAM than the FAA has been to safety and health complaints about NextGen and PBN.

Fourth, DOT must ensure that, as AAM and the infrastructure necessary for its implementation continues to evolve, the technology benefits and serves the entire community, not only a small segment of the population. It is likely that a substantial investment of public and private resources will be required to develop AAM aircraft and vertiports. The public is more likely to accept AAM operations if the technology is employed in an equitable manner. We urge DOT and the IWG to make equity a key component of its national AAM strategy and its public statements about AAM. This includes considering the design choices in constructing infrastructure; design choices that are minimally disruptive to communities, or enhance community spaces, are far more likely to be accepted and augment public perception of AAM. Future travel and package delivery via AAM operations should be accessible to everyone, and not only to wealthy individuals. Additionally, all communities should share the benefits and the burdens of AAM operations

(unlike FAA's NextGen, which benefits some communities at the expense of others in terms of noise and pollution exposure).

3. **Role of State, Local, Tribal and Territorial Governments** (RFI Topic 6)

State, local, tribal and territorial governments must have important roles with respect to developing laws and regulations for AAM and enforcing such laws and regulations. Local police departments are the front line of law enforcement, and they will be called upon to respond to complaints about privacy intrusions, noise, light and other disturbances from AAM aircraft and, worse, accidents. While licensing and overall regulation at the federal level make sense, cities and towns must be empowered to adopt ordinances, bylaws and/or police regulations with respect to AAM operations that will protect public safety.

Drones now fly, and air taxis and other electric vertical takeoff and landing ("eVTOL") aircraft are expected to fly, at altitudes that are much lower than commercial jets. Such AAM operations are likely to have significant impacts on people on the ground. Therefore, local government must be permitted to determine areas in the applicable city or town in which drones, air taxis and eVTOL aircraft may and may not fly and in which vertiports may and may not be located. At a minimum, reasonable restrictions should be imposed to limit noise and light exposure, distractions, privacy invasions, and other detrimental impacts of vertiports on residential neighborhoods, schools, houses of worship, senior living facilities, parks and recreational areas, and other sensitive areas.

Additionally, AAM aircraft should be prohibited from being flown by media outlets and the general public at the scenes of motor vehicle accidents, criminal investigations and the like. This is an important issue for emergency responders and other public safety personnel.

4. **Privacy** (RFI Topic 9)

As AAM technology continues to emerge, privacy will be an area of critical concern for local governments and police departments. Because AAM operations would occur at much lower altitudes than traditional aircraft operations, the risk of invasions of privacy and potential violations of people's Fourth and Fifth Amendment rights will increase. People should be able to enjoy their homes and yards without eVTOL aircraft, carrying passengers and/or equipped with cameras, flying at low altitudes over them, invading their privacy and disrupting the quiet enjoyment of their homes. Drones, air taxis and eVTOL package delivery services must be restricted from flying close to homes (especially at night), schools, hospitals, office buildings, and many other facilities. Nighttime operations by AAM aircraft and at vertiports should be banned. We also recommend that there be strict prohibitions on cameras that are installed on AAM aircraft photographing or filming the interior of a residence, school, hospital, commercial building, or other property. Finally, AAM aircraft should be designed carefully with privacy in mind, so that aircraft itself minimizes the possibility for invasions of privacy. A privacy-by-design approach will minimize the need for additional regulation or stopgap measures to correct for privacy-invasive designs.

5. **Vertiport Development and Operations** (RFI Topic 13)

Due to the substantial investment of time and money that will be needed to implement AAM, we anticipate that existing heliports will be used initially for AAM operations, while vertiports and other infrastructure are constructed. It makes sense that heliports serve this purpose, as noise and other impacts from helicopter takeoff and landings are already known. Although AAM vehicles would be electric, they would still use propellers. Thus, the noise impacts of AAM may be similar to the noise impacts of helicopters. Such noise impacts on surrounding residential areas can be determined before locations for vertiports are selected and they are built.

As noted above, local governments should have a say in where vertiports may be located within their boundaries and at which times of day they may operate. Vertiports should not be located in residential neighborhoods or adjacent to or in close proximity to schools, houses of worship, senior living facilities, parks and recreational areas, and other sensitive areas where they would create noise and distraction. Strict nighttime restrictions must be imposed on AAM and vertiport operations.

6. **Environmental Impacts and Public Involvement** (RFI Topic 16)

Like helicopters and commercial aircraft, AAM aircraft will create noise that is likely to overburden some residential populations. However, because they would be electric (or hybrid), AAM vehicles may generate less pollution than traditional aircraft does.

The implementation of AAM is likely to be a major federal action, and a thorough study and evaluation of the environmental impacts associated with AAM must be studied prior to implementation of AAM. AAM should be assessed on a national basis, and on a regional or local basis as well. Environmental impacts, including but not limited to noise and pollution, should be evaluated utilizing modern, accurate standards and modeling.

We reiterate that the FAA's noise policy must be revised to apply to AAM and to establish reasonable noise metrics for AAM operations. DNL is an antiquated and outdated noise model, and cannot be the metric that is utilized for AAM operations. DOT must test the noise impacts that AAM operations and vertiports will have, particularly on residential neighborhoods and sensitive populations such as schools, and establish one or more reasonable noise metrics by which to evaluate future AAM operations. Again, we encourage DOT to learn from, and not repeat, the FAA's failures and mistakes in implementing PBN at airports nationwide during the past dozen years. Meaningful engagement with Congress, state and local governments and the public by DOT will be essential to the development of a national strategy and the mitigation of noise impacts from AAM.

Thank you for the opportunity to provide comments on the development of a national AAM strategy.

Sincerely,



Michael F. Zullas, Chair on behalf of the Milton Select Board

Erin G. Bradley, Vice Chair  
Roxanne Musto, Secretary  
Richard G. Wells, Jr., Member  
Benjamin Zoll, Member

cc: U.S. Senator Elizabeth Warren  
U.S. Senator Edward J. Markey  
U.S. Representative Stephen F. Lynch  
U.S. Representative Ayanna Pressley  
Attorney General Andrea Campbell  
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State Representative William Driscoll, Jr.  
State Representative Brandy Fluker-Oakley  
Milton Airplane Noise Advisory Committee  
Milton Community Advisory Committee Representative  
Milton Town Counsel