

Meadow Lake Airport Association

13625 Judge Orr Road, Meadow Lake Airport (KFLY), Peyton, CO 80831-6051

Date: May 24, 2021

To: El Paso County Planning and Community Development Department

Subj: **Waterbury PUD and Preliminary Plan**

File: PUDSP215

- Ref:
- (a) C.R.S. 43-10-113 *"Safe Operating Area Around Airports"*
 - (b) Meadow Lake Airport Master Plan Update and Airport Layout Plan (2018)
 - (c) Colorado Aviation System Plan (2020)
 - (d) Pikes Peak Multi-Hazard Mitigation Plan (2020)
 - (e) FAA Denver Airport District Office (ADO) letter dated October 9, 2018
 - (f) FAA Denver Airport District Office (ADO) letter dated February 25, 2021
 - (g) Colorado Division of Aeronautics letter dated April 6, 2021
 - (h) ACRP Research Report 206: *"Guidebook on Effective Land Use Compatibility Planning Strategies for General Aviation Airports"* (2019)

This proposed development lies under the traffic pattern for Meadow Lake Airport's primary runway (Runway 15-33) [see Enclosure 1]. Based on current airport activity, approximately 200-300 aircraft per day overfly this area at various low altitudes and power settings for approach or departure from this runway. This necessitates consideration of compatible uses as any residences in the proposed development will be subject to noise and vibration.

The Colorado Aviation System Plan (2020) [page 4-10] states:

"Lands surrounding Colorado Springs Municipal (COS) and Meadow Lake (FLY) airports are being rapidly converted to residential development, prompting significant concerns by the airports, CDOT Division of Aeronautics, and local government officials."

The Colorado Revised Statutes, Section 24-65.1-202 states:

- (a) *Areas around airports shall be administered so as to:*
 - (i) *Encourage land use patterns for housing and other local government needs that will separate uncontrollable noise sources from residential and other noise-sensitive areas; and*
 - (ii) *Avoid danger to public safety and health or to property due to aircraft crashes."*

The Pikes Peak Multi-Hazard Mitigation Plan, adopted by the El Paso County Board of County Commissioners on December 15, 2020, devotes ten pages to discussion of the growing potential for the impact of aircraft crashes to population living within hazard areas (Part 77 Areas).

Correspondence from the FAA Denver Airport District Office (ADO) continues to express concern with the lack of attention to the approach and departure surfaces at Colorado Springs and Meadow Lake airports. The ADO letter of October 9, 2018 concerning the proposed Meadowlake Ranch development in the approach area to Runway 15 at Meadow Lake Airport stated:

“As a consequence of aircraft overflights, residents would be subjected to considerable “single-event” noise impacts from aircraft overflights, which residents are particularly sensitive to during nighttime hours. In addition, there could be visual (perceptual) impacts from aircraft operating into and out of the airport. While these types of operations represent safe and typical procedures over the currently vacant land, it would be disconcerting to many people on the ground in this area of proposed development, due to the perceived hazard of low-flying aircraft.”

The concepts expressed in this letter apply to the proposed Waterbury development as well. The subsequent letter of February 25 with respect to “Solace at Colorado Springs” not only re-iterated the above caution, but also cautioned that non-compliance with compatible land use may jeopardize eligibility for federal grants.

The Colorado Division of Aeronautics letter dated April 6, 2021 [Enclosure 3], in response to the draft El Paso County Master Plan, stated:

“... we encourage El Paso County to help protect the public use airports in your county from encroaching incompatible land uses. Such land uses can have a negative impact on the safety and welfare of the community, and also reduce the safe and efficient operations and development of these airports, most notably Colorado Springs and Meadow Lake.

The Meadow Lake Airport Association (MLAA) continues to express concern over rezoning and/or development of any areas within the Meadow Lake Airport Influence Area (AIA), until such time as El Paso County develops, approves, and publishes a “Compatible Land Use Plan” for the “AIA”. Without the County’s adoption of a “1041” plan for Meadow Lake Airport or otherwise complying with statutory requirements to protect the land areas defined in 14 CFR Part 77, there are no appropriate planning standards with which to evaluate development proposals in the “AIA”.

The El Paso County Land Development Code requires:

8.4.2(A)(3) Airport Impacts. *“Residential lots should be located to minimize adverse influences from airports and airport operations.”*

8.4.2(B)(2) Noise. *“Divisions of land shall be designed to minimize the impacts of noise pollution to residents.”*

8.5.1(C)(3) Dedication of Easements (b) Owner Required to Dedicate Easements. *“The owner shall dedicate or deed easements required by this code, or the ECM, or to serve the division of land with utilities and other services, or those easements that may be requested by public agencies including but not limited to:*

- *Avigation easements;*
- *Noise Easements”*

Enclosure (4) is Appendix H from the National Academies of Science “*Guidebook on Effective Land Use Compatibility Planning Strategies for General Aviation Airports*” (ACRP Research Report 206). Due to the direct impact of the proposed development and Meadow Lake’s existing traffic patterns, we believe that the “Avigation Easement” and a “Real Estate Disclosure” must be a condition for approval of the development plan.

Enclosure (5) is a proposed "Airspace Avigation Easement" that was provided to the applicant's planner during the Saddlehorn Ranch development. We continue to insist that an avigation easement be required as a "Condition" of approval and we are hopeful that the developer will see that an easement benefits all stakeholders by providing record notice and other issues attendant to being in close proximity to an airport.

Respectfully,



David E. Elliott
President, MLAA Board of Directors
cell: (719) 339-0928 email: falcon20flier@msn.com

- Encl: (1) Meadow Lake Airport Traffic Pattern – Runway 15-33
(2a) FAA Denver Airport District Office (ADO) letter dated October 9, 2018
(2b) FAA Denver Airport District Office (ADO) letter dated February 25, 2021
(3) CDoT Division of Aeronautics letter dated April 6, 2021
(4) National Academies of Science, ACRP Research Report 206: "Guidebook on Effective Land Use Compatibility Planning Strategies for General Aviation Airports" (2019)
(5) Meadow Lake Airport "Airspace Avigation Easement"

Copy: Christopher Leach, Carriere & Little

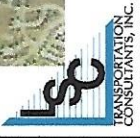


Approximate Scale
Scale: 1" = 4,000'



Figure 1
Vicinity
Map

Waterbury Filing Nos 1 and 2 (LSC #204220)





U.S. Department
of Transportation
**Federal Aviation
Administration**

Denver Airports District Office
26805 E. 68th Avenue, Room 224
Denver, Colorado 80249
303-342-1250; FAX 303-342-1260

October 9, 2018

Craig Dossey
Executive Director
Planning and Community Development
El Paso County
2880 International Circle, Suite 110
Colorado Springs, CO 80910

RE: Meadowlake Ranch Development, EA # EA17227 - File # SKP184

Dear Mr. Dossey:

The Federal Aviation Administration, Denver Airports District Office (FAA) was notified by the Meadow Lake Airport Authority (MLAA) that El Paso County is considering approval of the above referenced residential development, Meadowlake Ranch. The FAA is opposed to residential uses of this proposed project. Due to the close proximity to Meadow Lake Airport's Runway 15/33, residential uses of this proposed development could potentially have negative impacts on persons and property on the ground and the safety and utility of the National Airspace System.

Meadow Lake Airport is a busy General Aviation airport, with approx. 383 based aircraft and 65,000 annual operations (a take-off or landing). It is utilized by a variety of aircraft, ranging from small, single-engine propeller airplanes up to jet aircraft that operate during the day and night. The airport is a Federally-funded, public use airport that is required by Federal law to remain open to all types of aircraft 24 hours a day, 7 days a week.

The Federal Government has made a significant investment of public funds in the Meadow Lake Airport. Under the current Federal airport aid program, the FAA has provided over \$7.5 million in development and planning grants to this airport. This investment requires the MLAA, as the airport sponsor, to comply with specific Federal obligations, known as Federal grant assurances. Among many other requirements, Federal grant assurances require MLAA to preserve and operate Meadow Lake Airport in accordance with FAA regulations and standards and to protect the airport from non-compatible land uses.

Incompatible land use at or near airports may result in the creation of hazards to air navigation and reductions in airport utility due to obstructions to flight paths or noise-related incompatible land use caused by residential construction development too close to the airport. FAA considers residential development adjacent an airport to be a non-compatible land use (see FAA Order 5190.6B, Airport Compliance Manual, Chapter 20, *Compatible Land Use and Airspace Protection*).

The southern boundaries of the proposed Meadowlake Ranch is less than 1,300 feet from the end of Runway 15/33 along the extended centerline of this runway. Runway 15/33 is the primary runway at Meadow Lake Airport, serving approx. 95 percent of the airport's annual aircraft operations. This means residents of Meadowlake Ranch will be subject to an average of 95 overflights daily. These aircraft will be at low altitudes as they approach and depart the airport. In accordance with standard operating procedures, aircraft approaching and departing Runway 15/33 could be operating at altitudes lower than 400 feet above the proposed project. This is particularly the case over higher terrain to the north of the airport.

As a consequence of aircraft overflights, residents would be subjected to considerable "single-event" noise impacts from aircraft overflights, which residents are particularly sensitive to during nighttime hours. In addition, there could be visual (perceptual) impacts from aircraft operating into and out of the airport. While these types of operations represent safe and typical flight procedures, it may be disconcerting to many people due to a perceived hazard of low flying aircraft.

Further, there is no guarantee that noise levels at the proposed development will remain the same. The proposed development is so close to Meadow Lake Airport that any change to aircraft operations, and the type of aircraft that use the airport, could readily increase the amount of aircraft noise and overflight over the proposed development. Please be aware FAA would not support any Federal assistance to mitigate aircraft noise or incompatible land uses associated with this proposed development, including soundproofing, the acquisition of houses and relocation of residents. Per FAA policy, remedial noise mitigation measures for new non-compatible development constructed after October 1, 1998 are not eligible for Federal funding (see FAA Final Policy on Part 150 Approval of Noise Mitigation Measures: Effect on the Use of Federal Grants for Noise Mitigation Projects, dated April 3, 1998).

Although the frequency of aircraft accidents is comparatively very low, the numbers of aircraft using the concentrated airspace of airport approach and departure areas, together with the complexities of takeoff and landing operations, does mean that accidents are proportionately higher in those areas than in other locations farther away from airports. MLAA reports that aircraft annually make emergency landings in the area of the proposed development. Most of these aircraft can be towed back to the airport because they have landed in an open field. The most recent incident was on August 23, 2018, when an aircraft lost power and crashed in the area of the proposed development, approx. a ¼ mile north of Runway 15/33. This aircraft sustained substantial damage. This is why the FAA strongly discourages the congregation of people under airport traffic patterns and approach and departure areas. The proposed Meadowlake Ranch development is within the approach and departure areas for Runway 15/33.

The FAA works with airport sponsors and their surrounding communities to keep approach and departures areas near an airport as clear as possible in order to protect people and property on the ground. In particular, land uses involving large congregations of people, including schools, churches and hospitals are strongly discouraged under approach and departures paths. The State of Colorado also has enacted similar requirements to protect persons and property near airports (see Colorado Revised Statute 24-65.1-202, Criteria for Administration of Areas of State Interest, and 43-10-133, Safe Operating Areas Around Airports).

In accordance with Title 14 of the Code of Federal Regulations (14 CFR) Part 77, *Safe, Efficient Use, and Preservation of the Navigable Airspace*, and Colorado state law, the developer of Meadowlake Ranch must request an airspace analysis of the proposed development to determine potential aeronautical hazards in advance of construction to prevent or minimize the adverse impacts to the safe and efficient use of navigable airspace. In particular, multi-storied buildings in the proposed development must be analyzed to determine if they need to be lowered and/or lighted with obstruction lights.

FAA reviews construction proposals through the submittal of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*. If any portion of the proposal is located within 20,000 feet of a public use runway (and breaks a 100:1 plane coming off the nearest point of the nearest runway); or, is more than 200 feet above ground level at any location, the FAA requires the project's proponent to file a Form 7460-1. If the proposal does not meet any of the criteria above, it may still be necessary to file a Form 7460-1 if the structure requires an FCC license or there is a potential for navigational equipment interference. The FAA uses information provided on this form to conduct an aeronautical review to determine if the proposal will pose an aeronautical hazard and to minimize the adverse effects to aviation. FAA Form 7460-1 can be filed electronically at www.oaaaa.faa.gov.

For the reasons discussed above, the FAA cannot support the construction of residences so close to Meadow Lake Airport. We recommend El Paso County not approve residential development as proposed and explore alternative uses of this land that better conform with Federal, state and industry recommendations for compatible land uses near airports.

If you have questions regarding the above comments or would like to meet to discuss our concerns, please contact me at (303) 342-1259.

Sincerely,



John P. Bauer
Manager
FAA/Denver Airports District Office

cc: Darryl Glen, El Paso County Board
Leo Milan, Colorado Office of the Attorney General
David Ulane, CDOT – Division of Aeronautics
Dave Elliot, Meadow Lake Airport Association



U.S. Department
of Transportation
**Federal Aviation
Administration**

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Denver Airports District Office
26805 E. 68th Ave., Suite 224
Denver, CO 80249

February 25, 2021

John Green, Planner
El Paso County Planning and Community Development Department
2880 International Circle, Suite 110
Colorado Springs, Colorado 80910

Dear Mr. Green:

The Federal Aviation Administration, Denver Airports District Office (FAA) appreciates the opportunity to comment on the agency referral for the “Solace of Colorado Springs” development. Due to the close proximity of this proposed residential development to the Runway 17R threshold at the Colorado Springs Airport, the FAA has concerns that the proposed development is not compatible with airport operations.

Of particular concern, is the location of the proposed development inside and adjacent to the 65 Day-Night Average Sound Level (DNL) noise contour as shown on the Airport Layout Plan (ALP). 14 CFR Part 150 “Airport Noise Compatibility Planning” Appendix A Table 1 designates residential land use near an airport inside an area with a DNL at or above 65 decibels as “not compatible and should be prohibited”. Although 14 CFR Part 150 also emphasizes “the designations contained in this table do not constitute a Federal determination that any use of land covered by the program is acceptable or unacceptable under Federal, State, or local law”, it is without question that residents inside the Solace of Colorado Springs development will be subjected to ongoing noise and overflights at low altitude, as aircraft approach and depart the airport. As a consequence of these overflights, residents would be exposed to considerable noise impacts.

In addition, the development is close enough to the Colorado Springs Airport that any change to aircraft operations, and the type of aircraft that use the airport, could increase the amount of aircraft noise and overflight over the proposed development. Please be aware FAA would not support any Federal assistance to mitigate aircraft noise or incompatible land uses associated with this proposed development, including the acquisition of houses and relocation of residents. Per FAA policy, remedial noise mitigation measures for new non-compatible development constructed after October 1, 1998 are not eligible for Federal funding (see FAA Final Policy on Part 150 Approval of Noise Mitigation Measures: Effect on the Use of Federal Grants for Noise Mitigation Projects, dated April 3, 1998).

In addition to noise, there would also be visual (perceptual) impacts from aircraft operating to and from of the airport. While these operations represent safe and typical procedures over the currently vacant land, it would be disconcerting to many people on the ground in this area of proposed development, due to a *perceived hazard* of low-flying aircraft. This is a main reason that these types of land uses are strongly discouraged under airport traffic pattern areas, especially under approach areas. Although the frequency of aircraft accidents is comparatively very low, the numbers of aircraft using the concentrated airspace of airport approach areas, together with the complexities of takeoff and landing operations, means accidents are proportionately higher in those areas than in other locations farther away from airports.



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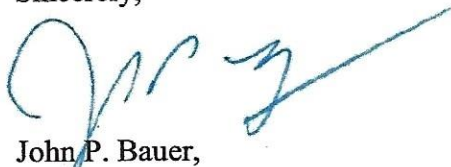
Denver Airports District Office
26805 E. 68th Ave., Suite 224
Denver, CO 80249

The proposed Solace of Colorado Springs development mentioned above includes new residential apartment housing approximately 5,800 feet north of the Runway 17R threshold, along an extended runway centerline. Any proponent of construction this close to a public-use runway is required under 14 CFR Part 77, *Objects Affecting Navigable Airspace*, to request an FAA airspace study of the proposed construction to ensure airspace surrounding the airport is not adversely affected. An aeronautical study may be requested by submitting FAA Form 7460-1 via mail or electronically at www.oeaaa.faa.gov. These aeronautical studies are crucial to protect Airport approach and departure operations.

As a recipient of over \$271 Million dollars in Federal Airport Improvement Program (AIP) funding since 1982, the City of Colorado Springs is obligated to comply with certain Federal grant assurances, which include a requirement to “take appropriate action, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft”. The City of Colorado Springs is also obligated to “not cause or permit any activity or action thereon which would interfere with its use for airport purposes”. We recognize that the City of Colorado Springs does not have zoning and permitting authority over the area in question. With that in mind, we strongly recommend that the City of Colorado Springs work with El Paso County to actively discourage any proposed non-compatible land use near the Airport. Failure to comply with Federal grant assurances may result in the FAA issuing an order terminating eligibility for grants or suspending the payment of grant funds to the Colorado Springs Airport.

We appreciate the opportunity to comment on the proposed Solace of Colorado Springs development and your willingness to provide information on the proposed development. If you need further assistance, please contact our office Compliance Specialist Mike Matz at (303) 342-1251.

Sincerely,



John P. Bauer,
Manager
Denver ADO



COLORADO
Department of Transportation
Division of Aeronautics

5126 Front Range Parkway
Watkins, CO 80137
(303) 512-5250

April 6, 2021

Craig Dossey, Executive Director
El Paso County Planning and Community Development Department
2880 International Circle, Suite 110
Colorado Springs, Colorado 80918

RE: Colorado Division of Aeronautics Comments on Draft El Paso County Master Plan

In 1991, the Colorado Legislature created the Colorado Division of Aeronautics (Division) and the Colorado Aeronautical Board (CAB), recognizing the need to “promote the safe operation and accessibility of general aviation and intrastate commercial aviation in this state; that improvement of general aviation and intrastate commercial aviation transportation facilities will promote diversified economic development across the state...” (C.R.S. 43-10-101).

It is with this charge that the Division of Aeronautics respectfully submits comments on the draft El Paso County Master Plan, specifically as it relates to the four public use airports in the county- Colorado Springs, Meadow Lake, Ellicott/Springs East, and Calhan.

In El Paso County, these four airports, in particular Colorado Springs and Meadow Lake, are collectively responsible for supporting over 26,000 jobs in the community and generate nearly \$3.5 billion in annual business revenues (economic output)¹. In support of these facilities and their key roles in your local community and our statewide aviation system, the Colorado Division of Aeronautics has invested over \$36 million in grants and state infrastructure bank loan funds to help ensure the continued safety, viability and capacity of these airports.

As our Division accomplishes our mission, we are guided in large part by our 2020 Colorado Aviation System Plan (CASP), which was developed in consultation with the Federal Aviation Administration and a robust statewide stakeholder group. The CASP was adopted by the CAB in August 2020 and identifies and prioritizes statewide airport facility and service needs. The plan also identified the top ten system issues affecting Colorado airports, one of which is land use planning and encroachment of incompatible uses on existing airports, as discussed in section 4-18 of the CASP².

¹2020 Colorado Aviation Economic Impact Study- www.codot.gov/programs/aeronautics/studies-plans-reports/2020ceis

²2020 Colorado Aviation System Plan- www.codot.gov/programs/aeronautics/studies-plans-reports/2020casp



To that end, we strongly encourage El Paso County to help protect the public use airports in your county from encroaching incompatible land uses. Such land uses can have a negative impact on the safety and welfare of the community, and also reduce the safe and efficient operations and development of these airports, most notably Colorado Springs and Meadow Lake. To accomplish this in your new Master Plan, we would respectfully offer the following specific comments:

1. On all maps, diagrams and drawings which include airports, clearly depict all four public use airports in El Paso County including visual depiction of runway alignments. For example, the map depicting "Key Areas" on page 18, only includes a shaded representation of the Colorado Springs Airport's location and doesn't include the other three airports at all. A clear depiction of airport locations and runway layouts will help facilitate appropriate land uses and increase public awareness of these facilities.
2. For the Colorado Springs Airport, adopt the airport's Overlay Zone in El Paso County, as well as the included APZ 1 and APZ 2 zones that are key for the protection of the public health and safety, and the continued safe and efficient operations of the Colorado Springs Airport.
3. Recognize, identify and protect the runway protection zones at the Meadow Lake Airport from incompatible land uses.
4. Promote and adopt land uses around all four of the county's public use airports that ensure such land uses are compatible with airport operations.

Thank you for your consideration of our comments. On behalf of the Colorado Aeronautical Board and the Division of Aeronautics, we appreciate your support of El Paso County's airports as important parts of your local community, and our larger statewide transportation system. If you have any questions or need additional information about these comments, please contact me at (303) 512-5254.

Sincerely,



David R. Ulane, A.A.E.
Aeronautics Director



APPENDIX H

Sample Buyer Awareness Documents

Buyer Awareness Measures

Buyer awareness is an umbrella category for several types of implementation documents all of which have the objective of ensuring that prospective buyers of airport area property, particularly residential property, are informed about the airport's impact on the property. Samples of such implementation documents are included in this appendix.

- **Avigation Easement**—Avigation easements transfer certain property rights from the owner of the underlying property to the owner of an airport or, in the case of military airports, to a local government agency on behalf of the federal government (the U.S. Department of Defense is not authorized to accept avigation easements). Once an Airport Compatibility Zoning Ordinance (AZO) is established, dedication of an avigation easement can be obtained as a condition for approval of development on property subject to high noise levels or a need to restrict heights of structures and trees to less than might ordinarily occur on the property. Also, airports may require avigation easements in conjunction with programs for noise insulation of existing structures in the airport vicinity. A sample of a standard avigation easement is included in Figure H1.
- **Recorded Overflight Notification**—An overflight notification informs property owners that the property is subject to aircraft overflight and generation of noise and other impacts. No restrictions on the heights of objects, requirements for marking or lighting of objects, or access to the property for these purposes are included. An overflight notification serves only as buyer acceptance of overflight conditions. Suggested wording of an overflight notification is included in Figure H2. Unlike an avigation easement, overflight easement, or other type of easement, an overflight notification is not a conveyance of property rights. However, like an easement, an overflight notification is recorded on the property deed and therefore remains in effect with sale of the property to subsequent owners. Overflight notifications are generally appropriate in areas outside the highly noise-impacted areas, outside high-risk areas, and within areas where the height of structures and other objects would not pose a significant potential of being airspace obstruction hazards.
- **Real Estate Disclosure**—Some states, such as California, have adopted laws mandating notification of an airport's proximity as part of certain real estate transactions. The advantage of this type of program is that it applies to previously existing land uses as well as to new development. Disclosure is most important with regard to residential property but may also be appropriate for transactions regarding nonresidential property. California's law, which applies only to residential property, requires disclosure of a property's location within an airport influence area under any of the following three circumstances: (1) sale or lease of subdivided lands; (2) sale of common interest developments; and (3) sale of residential real property. In each case, the disclosure statement to be used is defined by state law as follows:

H-2 Guidebook on Effective Land Use Compatibility Planning Strategies for General Aviation Airports

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

TYPICAL AVIGATION EASEMENT

For [Airport Name]

This indenture made this ____ day of _____, 20__, between _____ hereinafter referred to as Grantor, and the [County Name], a political subdivision in the State of [state name], hereinafter referred to as Grantee.

The Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual and assignable easement over the following described parcel of land in which the Grantor holds a fee simple estate. The property which is subject to this easement is depicted as _____ on "Exhibit A" attached and is more particularly described as follows:

[Insert legal description of real property]

The easement applies to the Airspace above an imaginary plane over the real property. The plane is described as follows:

The imaginary plane above the hereinbefore described real property, as such plane is defined by Part 77 of the Federal Aviation Regulations (14CFR Part 77), and consists of a plane [describe approach, transition, or horizontal surface]; the elevation of said plane being based upon the [Airport Name] official runway end elevation of [distance in feet] feet Above Mean Sea Level (AMSL), as determined by the Airport Layout Plan, the approximate dimensions of which said plane are described and shown on Exhibit A attached hereto and incorporated herein by reference.

The aforesaid easement and right-of-way includes, but is not limited to:

- (1) For the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons, or any aircraft, of any and all kinds now or hereafter known, in, through, across, or about any portion of the Airspace hereinabove described; and
- (2) The easement and right to cause or create, or permit or allow to be caused and created within all space above the existing surface of the hereinabove described real property and any and all Airspace laterally adjacent to said real property, such noise, vibration, currents and other effects of air illumination and fuel consumption as may be inherent in, or may arise or occur from or during the operation of aircraft of any and all kinds, now or hereafter known or used, for navigation of or flight in air; and
- (3) A continuing right to clear and keep clear from the Airspace any portions of buildings, structures or improvements of any kinds, and of trees or other objects, including the right to remove or demolish those portions of such buildings, structures, improvements, trees, or other things which extend into or above said Airspace, and the right to cut to the ground level and remove, any trees which extend into or above the Airspace; and
- (4) The right to mark and light, or cause or require to be marked and lighted, as obstructions to air navigation, any and all buildings, structures or other improvements, and trees or other objects, which extend into or above the Airspace; and
- (5) The right of ingress to, passage within, and egress from the hereinabove described real property, for the purposes described in subparagraphs (3) and (4) above at reasonable times and after reasonable notice.

Figure H1 – Typical Avigation Easement

H-4 Guidebook on Effective Land Use Compatibility Planning Strategies for General Aviation Airports

For and on behalf of itself, its successors and assigns, the Grantor hereby covenants with the County of [County Name], for the direct benefit of the real property constituting the [Airport Name] hereinafter described, that neither the Grantor, nor its successors in interest or assigns will construct, install, erect, place or grow, in or upon the hereinabove described real property, nor will they permit or allow any building structure, improvement, tree, or other object to extend into or above the Airspace so as to constitute an obstruction to air navigation or to obstruct or interfere with the use of the easement and rights-of-way herein granted. If Grantor fails to comply with the foregoing obligations within ten (10) days after Grantee gives written notice of violation to Grantor by depositing said notice in the United States mail, Grantee may enter the above-described real property for the purposes described in subparagraphs (3) and/or (4), above, and charge Grantor for the cost thereof.

The easements and rights-of-way herein granted shall be deemed both appurtenant to and for the direct benefit of that real property which constitutes the [Airport Name], in the County of [County Name], State of [state name]; and shall further be deemed in gross, being conveyed to the Grantee for the benefit of the Grantee and any and all members of the general public who may use said easement or right-of-way, in landing at, taking off from or operating such aircraft in or about the [Airport Name], or in otherwise flying through said Airspace.

Grantor, together with its successors in interest and assigns, hereby waives its right to legal action against Grantee, its successors or assigns for monetary damages or other redress due to impacts, as described in paragraph (2) of the granted rights of easement, associated with aircraft operations in the air or on the ground at the airport, including future increases in the volume or changes in location of said operations. Furthermore, Grantee, its successors, and assigns shall have no duty to avoid or mitigate such damages through physical modification of airport facilities or establishment or modification of aircraft operational procedures or restrictions. However, this waiver shall not apply if the airport role or character of its usage (as identified in an adopted airport master plan, for example) changes in a fundamental manner which could not reasonably have been anticipated at the time of the granting of this easement and which results in a substantial increase in the in the impacts associated with aircraft operations. Also, this grant of easement shall not operate to deprive the Grantor, its successors or assigns of any rights which may from time to time have against any air carrier or private operator for negligent or unlawful operation of aircraft.

These covenants and agreements run with the land and are binding upon the heirs, administrators, executors, successors and assigns of the Grantor, and, for the purpose of this instrument, the real property firstly hereinabove described is the servient tenement and said [Airport Name] is the dominant tenement.

DATED:

STATE OF }

ss

COUNTY OF }

On _____, before me, the undersigned, a Notary Public in and for said County and State personally appeared _____, and _____ known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

Figure H1, continued

AIRSPACE AVIGATION EASEMENT

This indenture, made this ___th day of _____, 20___, between _____ (hereinafter "GRANTOR"), and the Meadow Lake Airport Association (hereinafter "GRANTEE"), provides that:

A. The GRANTOR for and in consideration of fulfillment of a condition of project approval and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the GRANTEE, its successors and assigns, a perpetual and assignable easement in and over that certain parcel of real property more particularly identified and described in Exhibit A attached hereto and made a part hereof (said parcel hereinafter referred to as PARCEL), and a right-of-way for the free and unrestricted passage and flight of aircraft of the class, size and category as is now or hereinafter may be operationally compatible with Meadow Lake Airport, in, through, across and about the airspace above imaginary planes, as such those planes as defined by Part 77 of the Federal Aviation Regulations; Federal Aviation Administration (FAA) *Airport Design Advisory Circular* (current version); and *United States Standard for Terminal Instrument Procedures (TERPS)* (current version) over said PARCEL, as described below (hereinafter "Airspace").

B. The Airspace for avigation easement purposes above said PARCEL consists of the following, further depicted on Exhibit B attached hereto:

all of the air space above the imaginary planes that are described by Part 77 of the Federal Aviation Regulations.

all of the air space above the relevant imaginary planes that are described by the latest version of the FAA *Airport Design Advisory Circular* (AC 150/5300-13A).

all of the air space above the relevant imaginary planes that are described by the latest version of the *United States Standard for Terminal Instrument Procedures (TERPS)* as described in the FAA Order 8260.3E

C. The aforesaid easement and right-of-way described in Paragraphs A and B includes but is not limited to:

1. For the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons or aircraft, of the class, size and category as is now or hereinafter may be operationally compatible with Meadow Lake Airport, in, through, across or about any portion of the Airspace hereinabove described; and

2. The easement and right to cause or create, or permit or allow to be caused or created within the Airspace, such noise, dust, turbulence, vibration, illumination, air currents, fumes, exhaust, smoke and all other effects as may be inherent in the proper operation of aircraft, now known or hereafter used for navigation of or flight in air; and

3. The continuing and perpetual right to keep the Airspace clear of any portions of buildings, structures, or improvements of any and all kinds, and of trees, vegetation, or other objects, which extend into said Airspace; and

4. The right to mark and light, or cause or require to be marked or lighted, as obstructions to air navigation, any and all buildings, structures, or other improvements, and trees or other objects now upon, or that in the future may be upon, said PARCEL, and which extend into the Airspace may be required to mark according to FAA regulations or other regulation(s), rules, or order(s); and

5. The right of ingress to, passage within, and egress from said PARCEL, solely for the above stated purposes.

D. GRANTOR, on behalf of itself, its successors and assigns hereby covenants with the GRANTEE, Meadow Lake Airport Association, as follows:

1. GRANTOR, its successors and assigns, will not construct, install, permit or allow any building, structure, improvement, tree, or other object on said PARCEL, to extend into the Airspace, or to constitute an obstruction to air navigation, or to obstruct or interfere with the use of the easement and right-of-way herein granted; and

2. GRANTOR, its successors and assigns, will not hereafter use or permit the use of said PARCEL in such a manner as to create electrical or electronic interference with radio communication or radar operation between any installation upon Meadow Lake Airport and any aircraft.

E. The easement and right-of-way herein granted shall be deemed both appurtenant to and for the direct benefit of that real property which now or hereinafter constitutes Meadow Lake Airport, and shall further be deemed in gross, being conveyed to the GRANTEE for the benefit of the GRANTEE, and any and all members of the general public who may use said easement or right-of-way, taking off from, landing upon, or operating such aircraft in or about the Meadow Lake Airport or in otherwise flying through said Airspace.

F. This grant of aviation easement shall not operate to deprive the GRANTOR, its successors or assigns, of any rights that it may otherwise have from time to time

against any individual or private operator for negligent or unlawful operation of aircraft.

G. It is understood and agreed that these covenants and agreements run with the land and shall be binding upon the heirs, representatives, administrators, executives, successors, and assigns of the GRANTOR, and that for the purposes of this instrument, the PARCEL shall be the servient easement and Meadow Lake Airport shall be the dominant tenement.

H. The aviation easement, covenants and agreements described herein shall continue in effect until the Meadow Lake Airport shall be abandoned or shall cease to be used for public airport purpose, at which time it shall terminate.

I. Grantors agree to waive all damages and claims for damages caused or alleged to be caused by the Grantors violation of any aspect of this easement document.

J. _____, ("LENDER") made a loan to GRANTOR for the PARCEL which is secured by a mortgage and Deed of Trust recorded in the Clerk and Recorders Office of El Paso County on _____ at Reception Number _____ (the "Mortgage"). The Lender is willing to subordinate the Mortgage to this Airspace Aviation Easement in order to facilitate execution of this Airspace Aviation Easement. The Lender agrees that its Mortgage and all rights, interests, claims and remedies under the Mortgage shall be subordinate to this Airspace Aviation Easement and GRANTEE's rights thereunder with the same force and effect as if this Airspace Aviation Easement had been executed and recorded prior to the Mortgage.

IN WITNESS WHEREOF, the GRANTOR has hereunto set its/his/her hands and seals this ____th day of _____, 20__.

GRANTOR

By:
Printed Name:
Title:

State of Colorado
County of _____

Signed and sworn to [or affirmed] before me on _____, 20____
by _____ (name(s) of individual(s) making statement).

(Notary's official signature)

(Title of office)

(Commission Expiration)

SEAL

IN WITNESS WHEREOF, the GRANTOR has hereunto set its/his/her hands and seals this _____ day of _____, 20_____.

LENDER

By:
Printed Name:
Title:

State of Colorado
County of _____

Signed and sworn to [or affirmed] before me on _____, 20____
by _____ (name(s) of individual(s) making statement).

(Notary's official signature)

(Title of office)

(Commission Expiration)

SEAL