

# Proposed Amendments to the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Carlos Airport

## Overflight Notification and Avigation Easement Policies

October 2021

The following sections present draft policies for the Noise (4.2.1), Airspace Protection (4.2.3), and Overflight (4.2.4) sections of the SQL ALUCP. Sample easement language is also included in revised Exhibit E.1 and Sample Deed Notice language is included in new Exhibit E-4, Appendix E. Changes are shown in double underline (additions) and strikeout (deletions).

### Noise Policy Update

There are currently six policies addressing noise compatibility in the SQL ALUCP:

- Noise Policy 1 – Noise Impact Area
- Noise Policy 2 – Airport Noise/Land Use Compatibility Criteria
- Noise Policy 3 – Residential Land Uses
- Noise Policy 4 – Interior Noise Levels
- Noise Policy 5 – Application of Noise Contours to Individual Project Sites to Determine Compatibility
- Noise Policy 6 - Engine Run-Up and Testing Noise

**Add a seventh noise compatibility policy to Section 4.2.1, as follows:**

#### **Noise Policy 7 – Noise Easement Review Area**

The C/CAG Board deems it necessary to ensure that new noise-sensitive land uses within the CNEL 60 dB and higher contours (please see Exhibit 4-2) are made compatible with aircraft noise in accordance with 21 California Code of Regulations (CCR) Section 5014. Both the C/CAG ALUC and the C/CAG Board, acting as the Airport Land Use Commission, will consider the need for the granting of an avigation easement to the County of San Mateo as part of their reviews of proposed local agency land use policy actions that affect property within the defined CNEL 60 dB and higher contours for San Carlos Airport. Applicable land use policy actions are defined in Section 3.1 of the ALUCP.

The request for the grant of an avigation easement will be made to the local agency that is proposing the land use policy action and will be based on meeting both the following criteria:

- a) The proposed land use policy action involves real property located within the CNEL 60 dB and higher contours;

and

- b) The proposed land use policy action would either permit or result in the development or construction of noise-sensitive land uses as identified in Table 4-3 as conditionally compatible in areas within the CNEL 60 dB or greater contours (see Exhibit 4-3).

The process for requesting the grant of an avigation easement to the County of San Mateo will include the following steps:

- 1) The C/CAG ALUC reviews a proposed local agency land use policy action and submits a recommendation to the Airport Land Use Commission (C/CAG Board) regarding a request for a grant of an avigation easement to the County of San Mateo.
- 2) The Airport Land Use Commission (C/CAG Board) reviews the proposed local agency land use policy action and considers the ALUC recommendation.
- 3) If the Airport Land Use Commission (C/CAG Board) concurs with the ALUC recommendation, it shall notify the affected local agency of its action and shall formally request the agency to require the grant of an avigation easement to the County of San Mateo as part of the agency's final approval of the proposed action.

When deemed necessary, the C/CAG Board shall condition its approval of the proposed development upon the owner of the subject property granting an avigation easement to San Mateo County, as the proprietor of San Carlos Airport. The local governmental agency with the ultimate permitting and approval authority over the proposed development shall ensure that this condition is implemented prior to final approval of the proposed development. If the approval action for the proposed development includes construction of a building(s) and/or other structures, the local permitting authority shall require the grant of an avigation easement to San Mateo County prior to issuance of a building permit(s) for the proposed building or structure. If the proposed development is not built, then, upon notice by the local permitting authority, San Mateo County shall record a notice of termination of the avigation easement. The avigation easement to be used in fulfilling this condition is presented in **Exhibit E-1B**.

## Airspace Protection Policy Update

There are currently six airspace protection policies in the SQL ALUCP:

- Airspace Protection Policy 1 – Airspace Protection Compatibility for New Development
- Airspace Protection Policy 2 – Requirements for FAA Notification of Proposed Construction
- Airspace Protection Policy 3 – Compliance with Findings of FAA Aeronautical Studies
- Airspace Protection Policy 4 – Airspace Obstruction Criteria
- Airspace Protection Policy 5 – Maximum Compatible Building Height
- Airspace Protection Policy 6 – Other Flight Hazards are Incompatible

**Add a seventh airspace protection compatibility policy to Section 4.2.3 as follows:**

### **Airspace Protection Policy 7 – Airspace Protection Avigation Easement**

Areas beneath the following imaginary airspace surfaces (as defined under 14 CFR Part 77) are subject to this policy.

1. Horizontal surface as depicted on Exhibit 4-4
2. Approach surfaces depicted on Exhibit 4-4
3. Transitional surfaces depicted on Exhibit 4-4

The C/CAG Board deems it necessary to: (1) ensure the unimpeded use of airspace in the vicinity of San Carlos Airport; and (2) to provide notice to owners of real property near San Carlos Airport of the proximity to the airport and of the potential impacts that could occur on the property from airport/aircraft operations. Both the C/CAG ALUC and the C/CAG Board, acting as the Airport Land Use Commission will consider the need for the granting of an avigation easement to the County of San Mateo, as part of their review of proposed local agency land use policy actions that affect property within the airspace surfaces for San Carlos Airport identified above. Applicable land use policy actions are defined in Section 3.1 of the ALUCP.

The request for the grant of an avigation easement will be made to the local agency that is proposing the land use policy action and will be based on the following criteria:

- a) The proposed land use policy action involves real property located beneath the airspace protection surfaces;

and

- b) The proposed land use policy action would allow the construction of structures or other objects in the vicinity of San Carlos Airport that could exceed the height standards as

defined in 14 CFR Part 77, Subpart C, and based on the elevation above mean sea level (AMSL) of the applicable runway end; or

- c) The proposed land use policy action would allow land uses that may cause visual, electronic, navigational, or wildlife hazards to aircraft in flight or taking off or landing at San Carlos Airport.

The process for requesting the grant of an avigation easement to the County of San Mateo will include the following steps:

1. The C/CAG ALUC reviews a proposed local agency land use policy action and submits a recommendation to the Airport Land Use Commission (C/CAG Board), regarding a request for a grant of an avigation easement to the County of San Mateo.
2. The Airport Land Use Commission (C/CAG Board) reviews the proposed local agency land use policy action and considers the ALUC recommendation.
3. If the Airport Land Use Commission (C/CAG Board) concurs with the ALUC recommendation it shall notify the affected local agency of its action and shall formally request the agency to require the grant of an avigation easement to the County of San Mateo as part of the agency's final approval of the proposed action.

When deemed necessary, the C/CAG Board shall condition its approval of the proposed development upon the owner of the subject property granting an avigation easement to San Mateo County, as the proprietor of San Carlos Airport. The local governmental agency with the ultimate permitting and approval authority over the proposed development shall ensure that this condition is implemented prior to final approval of the proposed development. If the approval action for the proposed development includes construction of a building(s) and/or other structures, the local permitting authority shall require the grant of an avigation easement to San Mateo County prior to issuance of a building permit(s) for the proposed building or structure. If the proposed development is not built, then, upon notice by the local permitting authority, San Mateo County shall record a notice of termination of the avigation easement. The avigation easement to be used in fulfilling this condition is presented in **Appendix E-1A.**

## Overflight Policy Update

There are currently two overflight policies in the SQL ALUCP:

- Overflight Policy 1 – Real Estate Transfer Disclosure
- Overflight Policy 2 – Overflight Easement Review Area

**Update Section 4.2.4 Overflight Policy 2 to remove references to easements as a form of disclosure and incorporate a recorded deed notice requirement within a new Overflight Notification Zone 2 (contiguous with the current Airport Influence Area B), as follows:**

~~Overflight Policy 2 – Overflight Easement Review Area~~ Overflight Notification Zone 2

The Overflight Notification Zone 2 is depicted on Exhibit 4-6. All new residential development projects within Overflight Notification Zone 2 subject to discretionary review by the relevant jurisdiction shall incorporate a recorded deed notice requirement as a condition of approval in order to provide a permanent form of overflight notification to all future property owners. An example of the Deed Notice to be used to fulfill this condition is included in Appendix E, Exhibit E-4.

The 1996 CLUP established an Avigation Easement Review Area (AERA) that is based on the CNEL 55-dB contour, the FAR Part 77 horizontal surface, the FAR Part 77 approach surface, and the FAR Part 77 transitional surface. The AERA is hereby modified as follows:

- ~~a. The AERA is renamed the Overflight Easement Review Area (OERA)~~
- ~~b. The OERA boundary for San Carlos Airport is based on the combination of the:~~
  - ~~1. 60 dB CNEL noise contour as depicted on Exhibit 4-2~~
  - ~~2. The FAR Part 77 horizontal surface as depicted on Exhibit 4-4~~
  - ~~3. The FAR Part 77 approach surface depicted on Exhibit 4-4~~
  - ~~4. The FAR Part 77 transitional surface depicted on Exhibit 4-4~~

The C/CAG Board deems it necessary to: (1) ensure the unimpeded use of airspace in the vicinity of San Carlos Airport; (2) to ensure that new noise-sensitive land uses within the CNEL 60 dB contour are made compatible with aircraft noise in accordance with California Code of Regulations, Title 21, Section 5014; and (3) to provide notice to owners of real property near San Carlos Airport of the proximity to the airport and of the potential impacts that could occur on the property from airport/aircraft operations. Both the C/CAG ALUC and the C/CAG Board, acting as the Airport Land Use Commission, will consider the need for the granting of an avigation easement to the County of San Mateo, as part of their reviews of proposed local agency land use policy actions that affect property within the defined OERA for San Carlos Airport. The request for the grant of an avigation easement will be made to the local agency that is proposing the land use policy action and will be based on the following criteria:

- ~~a. The proposed land use policy action involves real property located within the OERA and includes adoption of one or more of the following:~~
  - ~~1. General Plan~~
  - ~~2. General Plan Amendment~~
  - ~~3. Zoning Ordinance~~
  - ~~4. Zoning Ordinance Amendment~~
  - ~~5. Specific Plan~~
  - ~~6. Specific Plan Amendment~~

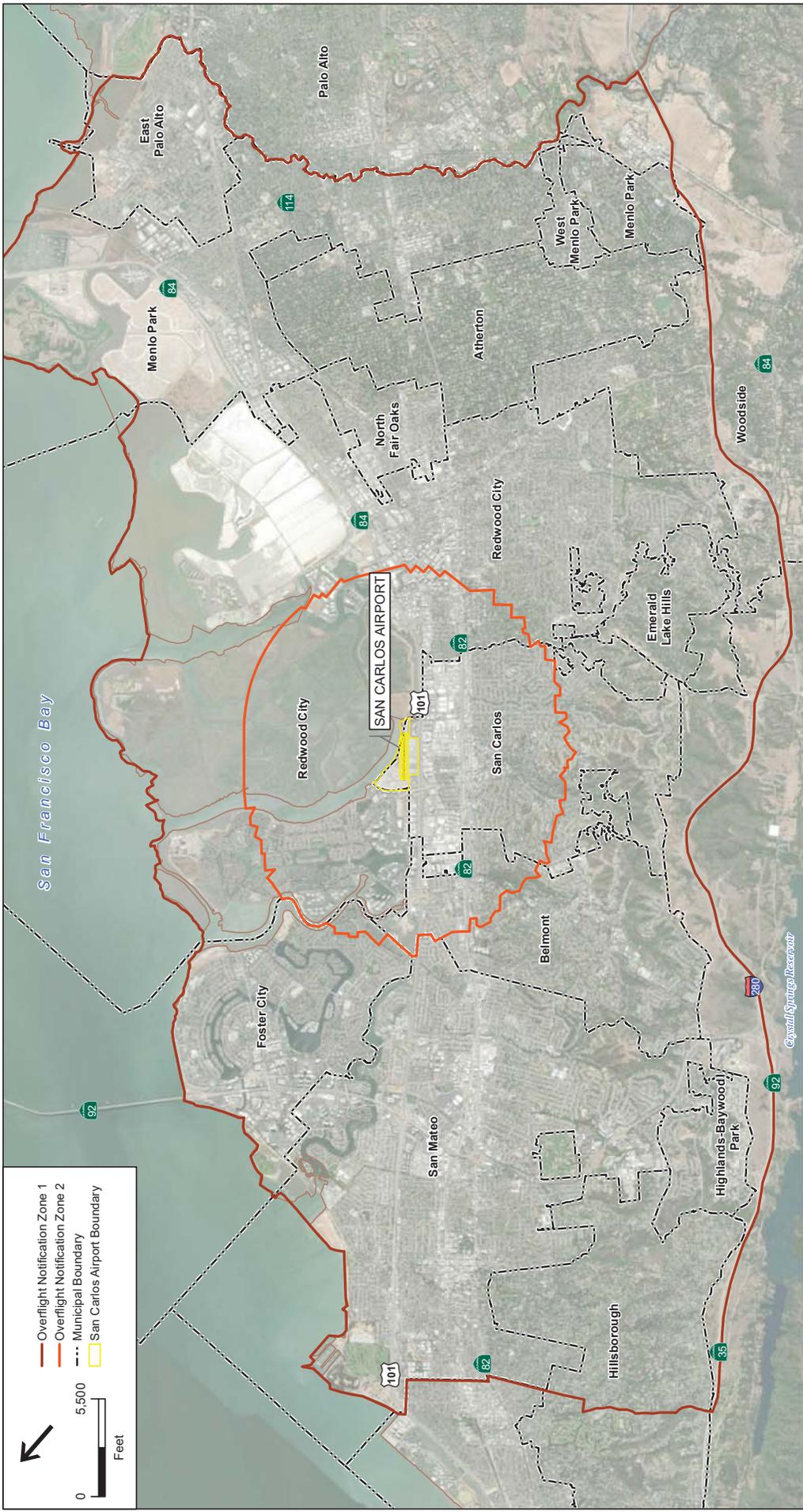
- b. ~~The proposed land use policy action would either permit or result in the development or construction of noise sensitive land uses that are considered to be conditionally compatible with aircraft noise of CNEL 60 dB or greater;~~
- c. ~~The proposed land use policy action would allow the construction of structures or other objects in the vicinity of San Carlos Airport that could exceed the height standards defined in FAR Part 77, Subpart C;~~
- d. ~~The proposed land use policy action would allow land uses that may cause visual, electronic, navigational, or wildlife hazards to aircraft in flight or taking off or landing at San Carlos Airport.~~

~~The process for requesting the grant of an aviation easement to the County of San Mateo will include the following steps:~~

- ~~1. The C/CAG ALUC reviews a proposed local agency land use policy action and submits a recommendation to the Airport Land Use Commission (C/CAG Board), regarding a request for a grant of an aviation easement to the County of San Mateo.~~
- ~~2. The Airport Land Use Commission (C/CAG Board) reviews the proposed local agency land use policy action and considers the ALUC recommendation.~~
- ~~3. If the Airport Land Use Commission (C/CAG Board) concurs with the ALUC recommendation it shall notify the affected local agency of its action and shall formally request the agency to require the grant of an aviation easement to the County of San Mateo as part of the agency's final approval of the proposed action.~~

~~When deemed necessary, the C/CAG Board shall condition its approval of the proposed development upon the owner of the subject property granting an aviation easement to San Mateo County, as the proprietor of San Carlos Airport. The local governmental agency with the ultimate permitting and approval authority over the proposed development shall ensure that this condition is implemented prior to final approval of the proposed development. If the approval action for the proposed development includes construction of a building(s) and/or other structures, the local permitting authority shall require the grant of an aviation easement to San Mateo County prior to issuance of a building permit(s) for the proposed building or structure. If the proposed development is not built, then, upon notice by the local permitting authority, San Mateo County shall record a notice of termination of the aviation easement. The aviation easement to be used in fulfilling this condition is presented in **Appendix E**.~~

**Amend Exhibit 4-6 to rename the existing Overflight Notification Zone as Overflight Notification Zone 1 and incorporate Overflight Notification Zone 2 (contiguous with the current Airport Influence Area B), as shown:**



**Replace Existing Appendix E.1, Avigation Easement, with the following:**

Appendix E

Implementation Materials

E.1 Avigation Easements

Avigation easements transfer certain property rights from the owner of a property to the owner of the airport (i.e., the County of San Mateo). ALUCs may recommend the dedication of an avigation easement as a condition for approval of development on property subject to high noise levels. Avigation easements can also be used to restrict heights of structures and trees to less than might ordinarily occur on a property. Samples of standard avigation easements for San Carlos Airport are presented in Exhibit E-1A Grant of Airspace Protection Avigation Easement and E-1B Grant of Noise Avigation Easement.

Exhibit E-1A: Grant of Airspace Protection Avigation Easement

When recorded return to:

County of San Mateo

County Manager's Office

Real Property Division

455 County Center, 5th Floor

Redwood City, CA 94063

COUNTY OF SAN MATEO

AVIGATION EASEMENT

This easement is made this \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_, hereinafter referred to as "GRANTOR" and the County of San Mateo, a political subdivision of the State of California, hereinafter referred to as "COUNTY" or "GRANTEE."

Recitals

A. COUNTY is the owner of certain real property, commonly known as the San Carlos Airport, situated in the County of San Mateo, State of California and generally described as Assessor Parcel Numbers 046-081-730; 600; 680 and 700; 046-082-010; 095-030-210 and 230; 095-222-070; 130 and 140. The County of San Mateo operates the San Carlos Airport as a Category B-II, General Aviation Airport, as defined in Federal Aviation Administration Advisory Circular 150/5300-13 "Airport Design" and Federal Aviation Regulations, Part 77. For purposes of this easement, the San Carlos Airport property is the dominant tenement

B. GRANTOR is the owner in fee of certain real property situated in the County of San Mateo, State of California, as more particularly described in Exhibit A attached hereto, and incorporated herein by reference (the "Grantor Property"). For purposes of this easement, the Grantor Property is the servient tenement.

C. GRANTOR has proposed a \_\_\_\_\_  
\_\_\_\_\_, near San Carlos Airport.

D. GRANTOR and GRANTEE wish to establish the terms and conditions of an avigation easement so that the aircraft that use San Carlos Airport will have the right to use the airspace over and above GRANTOR'S property.

NOW, THEREFORE, the parties hereto agree as follows:

### 1. GRANT OF EASEMENT

Grantor GRANTS to COUNTY, its successors and assigns a perpetual easement over the Grantor Property, as described in Exhibit A hereto, on the terms and conditions stated herein. The easement is an easement appurtenant to the San Carlos Airport, and an easement in gross as to the general flying public using San Carlos Airport.

### 2. PURPOSE OF EASEMENT

The purposes of this easement are (1) to allow for the free and unobstructed passage and flight of operationally compatible aircraft using San Carlos Airport, in through, over and across the airspace of the Grantor Property and (2) to provide notice to GRANTOR and any future owners of the GRANTOR property that the PROPERTY is located in the vicinity of San Carlos Airport and may be subject to impacts of aircraft operations at such airport.

### 3. RIGHTS GRANTED BY EASEMENT

Subject to limitations in Paragraph 5, below, this easement grants to the COUNTY and members of the public who use San Carlos Airport, the right to fly aircraft in the airspace above the Grantor Property, together with the following rights:

- a) 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
- b) 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
- c) 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, which extend into or above the Airspace; and
- d) 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.
- e) The prohibition against creating on the real property electrical and electronic interference, glint, glare, and other conditions that would impair the vision of pilots, high-velocity exhaust

plumes, and other interference with radio, radar, microwave, or means of aircraft communication, and uses or features that make it difficult for pilots to distinguish between airfield navigation lights and visual aids and other lights, hazardous wildlife attractants, and other potential hazards to flight.

#### 4. GRANTOR'S OBLIGATIONS

GRANTOR shall not construct, nor permit the construction of, nor permit the growth of, any structure, tree or other natural or man-made object that a) penetrates the designated transitional, horizontal or approach surface, as shown in Exhibit B, attached hereto and incorporated herein by this reference (hereafter "Prohibited Zone") such as to constitute an obstruction or hazard to air navigation as defined in 14 CFR Part 77, "Objects Affecting Navigable Airspace", or b) obstructs or interferes with the use of the flight easement and right of way granted herein, or c) creates electrical interference with radio communication between any installation located at San Carlos Airport and any aircraft, or d) impairs visibility to an extent that it interferes with the safe operation of aircraft at San Carlos Airport, or e) attracts wildlife which could be hazardous to aircraft in flight as determined by the FAA.

#### 5. WAIVER AND RELEASE OF CLAIMS

GRANTOR hereby waives, releases, and discharges, for itself and on behalf of GRANTOR'S heirs, assigns and successors in interest to all or any part of the Grantor Property, any and all claims or causes of action it may have now or in the future against COUNTY arising out of any of the activities authorized under this easement to include, but not limited to, activities which cause noise, vibrations, fumes, exhaust, dust, fuel particles, radio and television interference, and other effects which may be caused by the legal and proper operation of aircraft landing at or taking off from, or operating at San Carlos Airport.

#### 6. ACKNOWLEDGEMENT OF EFFECTS OF AIRCRAFT OPERATION.

The Grantor Property is located within the boundary of the adopted Airport Influence Area (AIA) and the airspace protection surfaces defined under 14 CFR Part 77 for the San Carlos Airport. GRANTOR acknowledges and understands that, because the GRANTOR'S private property is in close proximity to San Carlos Airport, operation of the airport and aircraft utilizing the airport may affect such property.

#### 7. RESERVATION OF RIGHTS AGAINST UNLAWFUL OPERATION.

a) This grant of easement shall not operate to deprive the GRANTOR, and GRANTOR'S successors or assigns, of any rights that it may have against any individual or private operator of aircraft for negligent or unlawful operation of aircraft as such operation may affect the Grantor Property.

b) This grant of easement does not waive any claim GRANTOR or GRANTOR'S successors or assigns, or by any person lawfully on the Grantor Property, for damages for personal injury or damage to personal or real property sustained as a result of an aircraft crash or from objects falling from aircraft flying over the Grantor Property.

#### 8. INTERPRETATION AND ENFORCEMENT.

a) COUNTY shall have the sole right and authority to enforce this easement on behalf of itself and members of the public using San Carlos Airport.

b) COUNTY may bring any action in court necessary to enforce the terms of this easement including, but not limited to, injunction to terminate a breaching activity, or an action to enforce the terms and provisions hereof by specific performance. The enforcement proceedings specified in this paragraph are not exclusive. Any forbearance on the part of the COUNTY to enforce the terms and conditions hereof shall not be deemed a waiver of COUNTY'S right regarding any subsequent breach.

9. COVENANT RUNS WITH THE LAND.

The covenants and agreements described herein shall run with the land and are binding upon the heirs, administrators, executors, successors and assigns of the GRANTOR and GRANTEE. This easement benefits and burdens the Grantor Property and the San Carlos Airport property.

10. APPLICABLE LAW.

Provisions of this easement shall be interpreted, applied and enforced in accordance with the provisions of State and Federal Laws recited herein as they exist as of the effective date of this easement, except to the extent such provisions are preempted by any future amendment or amendments to such State or Federal laws, in which case the amended provisions of State and Federal law shall apply.

11. TERMINATION.

This grant of easement, and the covenants and agreements contained therein, shall continue in effect until San Carlos Airport shall be permanently abandoned and shall cease to be used for public airport purposes.

\_\_\_\_\_ (NAME OF GRANTOR)

Dated: \_\_\_\_\_ by: \_\_\_\_\_

APPROVED AS TO FORM

Dated: \_\_\_\_\_

City Attorney

COUNTY OF SAN MATEO

Dated: \_\_\_\_\_ by: \_\_\_\_\_

County Manager

Exhibit E-1B: Grant of Noise Avigation Easement

When recorded return to:

County of San Mateo

County Manager's Office

Real Property Division

455 County Center, 5th Floor

Redwood City, CA 94063

COUNTY OF SAN MATEO

AVIGATION EASEMENT

This easement is made this \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_, hereinafter referred to as "GRANTOR" and the County of San Mateo, a political subdivision of the State of California, hereinafter referred to as "COUNTY" or "GRANTEE."

Recitals

A. COUNTY is the owner of certain real property, commonly known as the San Carlos Airport, situated in the County of San Mateo, State of California and generally described as Assessor Parcel Numbers 046-081-730; 600; 680 and 700; 046-082-010; 095-030-210 and 230; 095-222-070; 130 and 140. The County of San Mateo operates the San Carlos Airport as a Category B-II, General Aviation Airport, as defined in Federal Aviation Administration Advisory Circular 150/5300-13 "Airport Design" and Federal Aviation Regulations, Part 77. For purposes of this easement, the San Carlos Airport property is the dominant tenement

B. GRANTOR is the owner in fee of certain real property situated in the County of San Mateo, State of California, as more particularly described in Exhibit A attached hereto, and incorporated herein by reference (the "Grantor Property"). For purposes of this easement, the Grantor Property is the servient tenement.

C. GRANTOR has proposed a \_\_\_\_\_

\_\_\_\_\_, near San Carlos Airport.

D. GRANTOR and GRANTEE wish to establish the terms and conditions of an avigation easement so that the aircraft that use San Carlos Airport will have the right to use the airspace over and above GRANTOR'S property.

NOW, THEREFORE, the parties hereto agree as follows:

1. GRANT OF EASEMENT

Grantor GRANTS to COUNTY, its successors and assigns a perpetual easement over the Grantor Property, as described in Exhibit A hereto, on the terms and conditions stated herein. The easement is

an easement appurtenant to the San Carlos Airport, and an easement in gross as to the general flying public using San Carlos Airport.

## 2. PURPOSE OF EASEMENT

The purposes of this easement are (1) to allow for the free and unobstructed passage and flight of operationally compatible aircraft using San Carlos Airport, in through, over and across the airspace of the Grantor Property and (2) to provide notice to GRANTOR and any future owners of the GRANTOR property that the PROPERTY is located in the vicinity of San Carlos Airport and may be subject to impacts of aircraft operations at such airport.

## 3. RIGHTS GRANTED BY EASEMENT

Subject to limitations in Paragraph 5, below, this easement grants to the COUNTY and members of the public who use San Carlos Airport, the right to fly aircraft in the airspace above the Grantor Property, together with the following rights:

a) The right to cause such noise, vibration, fumes, exhaust, dust and fuel particles that result from the legal and proper operation of such aircraft.

b) The right to cause radio, television, and other electromagnetic interference associated with the legal and proper operation of such aircraft.

c) The right to cause such other effects that are inherent in the legal and proper operation of such aircraft.

## 5. COUNTY'S OBLIGATION UNDER GRANT OF EASEMENT

COUNTY shall exercise efforts to control and prohibit such aircraft operations at San Carlos Airport which:

a) are in violation of Federal noise abatement regulations and operational and noise abatement flight procedures set forth in Volume 14 of the Code of Federal Regulations and Federal Aviation Administration (FAA) orders applicable to aircraft operations at San Carlos Airport; or

b) cause noise impacts in violation of Title 21, Subchapter 6 of the California Code of Regulations.

A violation or violations of the noise criteria set forth in this paragraph shall not operate to invalidate this easement or any provision of this easement or relieve GRANTOR from complying with the provisions of this easement.

## 6. WAIVER AND RELEASE OF CLAIMS

GRANTOR hereby waives, releases, and discharges, for itself and on behalf of GRANTOR'S heirs, assigns and successors in interest to all or any part of the Grantor Property, any and all claims or causes of action it may have now or in the future against COUNTY arising out of any of the activities authorized under this easement to include, but not limited to, activities which cause noise, vibrations, fumes, exhaust, dust, fuel particles, radio and television interference, and other effects which may be caused by the legal and proper operation of aircraft landing at or taking off from, or operating at San Carlos Airport.

## 7. ACKNOWLEDGEMENT OF EFFECTS OF AIRCRAFT OPERATION.

The Grantor Property is located within the boundary of the adopted Airport Influence Area (AIA) and the CNEL 60 dB and higher contours for the San Carlos Airport. GRANTOR acknowledges and understands that, because the GRANTOR'S private property is in close proximity to San Carlos Airport, operation of the airport and aircraft utilizing the airport may affect such property.

#### 8. LIMITATIONS ON NOISE.

This grant of easement shall not: extend to permit an aircraft noise level over the Grantor Property that exceeds 65dB CNEL.

#### 9. RESERVATION OF RIGHTS AGAINST UNLAWFUL OPERATION.

a) This grant of easement shall not operate to deprive the GRANTOR, and GRANTOR'S successors or assigns, of any rights that it may have against any individual or private operator of aircraft for negligent or unlawful operation of aircraft as such operation may affect the Grantor Property.

b) This grant of easement does not waive any claim GRANTOR or GRANTOR'S successors or assigns, or by any person lawfully on the Grantor Property, for damages for personal injury or damage to personal or real property sustained as a result of an aircraft crash or from objects falling from aircraft flying over the Grantor Property.

#### 10. INTERPRETATION AND ENFORCEMENT.

a) COUNTY shall have the sole right and authority to enforce this easement on behalf of itself and members of the public using San Carlos Airport.

b) COUNTY may bring any action in court necessary to enforce the terms of this easement including, but not limited to, injunction to terminate a breaching activity, or an action to enforce the terms and provisions hereof by specific performance. The enforcement proceedings specified in this paragraph are not exclusive. Any forbearance on the part of the COUNTY to enforce the terms and conditions hereof shall not be deemed a waiver of COUNTY'S right regarding any subsequent breach.

#### 11. COVENANT RUNS WITH THE LAND.

The covenants and agreements described herein shall run with the land and are binding upon the heirs, administrators, executors, successors and assigns of the GRANTOR and GRANTEE. This easement benefits and burdens the Grantor Property and the San Carlos Airport property.

#### 12. APPLICABLE LAW.

Provisions of this easement shall be interpreted, applied and enforced in accordance with the provisions of State and Federal Laws recited herein as they exist as of the effective date of this easement, except to the extent such provisions are preempted by any future amendment or amendments to such State or Federal laws, in which case the amended provisions of State and Federal law shall apply.

#### 13. TERMINATION.

This grant of easement, and the covenants and agreements contained therein, shall continue in effect until San Carlos Airport shall be permanently abandoned and shall cease to be used for public airport purposes.

\_\_\_\_\_  
(NAME OF GRANTOR)

Dated: \_\_\_\_\_ by: \_\_\_\_\_

APPROVED AS TO FORM

Dated: \_\_\_\_\_

City Attorney

COUNTY OF SAN MATEO

Dated: \_\_\_\_\_ by: \_\_\_\_\_

County Manager

**Add Exhibit E-4 – Sample Deed Notice, to Appendix E, as follows:**

E-4 Sample Deed Notice

A statement similar to the following should be included on the deed for any real property subject to the deed notice requirements set forth in the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Carlos Airport. Such notice should be notarized and recorded by the county of San Mateo. Also, this deed notice should be included on any parcel map, tentative map, or final map for subdivision approval.

DEED NOTICE

This Deed Notice concerns the real property situated in the County of San Mateo and the City of \_\_\_\_\_, State of California, described as \_\_\_\_\_ [APN No.: -----].

This Deed Notice provides notification of the condition of the above described property in recognition of, and in compliance with, CALIFORNIA BUSINESS & PROFESSIONS CODE Section 11010 and CALIFORNIA CIVIL CODE Sections 1102.6, 1103.4 and 1353, effective January 1, 2004, and related state and local regulations

and consistent with policies of the Airport Land Use Commission for the overflight notification provided in the Comprehensive Airport Land Use Compatibility Plan for the Environs of San Carlos Airport.

The Comprehensive Airport Land Use Compatibility Plan for the Environs of San Carlos Airport and [Insert County/City name] Ordinance (Ordinance No. \_\_\_\_\_) identify this property as being located within Overflight Notification Zone 2. Properties within this area are routinely subject to overflights by aircraft using this public-use airport and, as a result, residents may experience inconvenience, annoyance, or discomfort arising from the noise of such operations. State law (Public Utilities Code Section 21670 *et seq.*) establishes that it is in the public interest of the people of the state of California to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses. Residents of property near such airports should therefore be prepared to accept the inconvenience, annoyance, or discomfort from normal aircraft operations. Residents also should be aware that the current volume of aircraft activity may increase in the future in response to San Mateo County population and economic growth. Any subsequent deed conveying this parcel or subdivisions thereof shall contain a statement in substantially this form.

This *Deed Notice* shall be duly recorded with the San Mateo County Assessor's Office, shall run with the Property, and shall be binding upon all parties having or acquiring any right, title or interest in the Property.

*Effective Date:* \_\_\_\_\_, 20\_\_

*Source: Modified from California Airport Land Use Planning Handbook (October 2011)*