

Return to:  
City Clerk  
City of Aurora Colorado  
15151 E Alameda Pkwy Suite 1400  
Aurora Colorado 80012

### **AVIGATION EASEMENT**

1. The undersigned (the "Grantor(s)") (is)(are) the owner(s) of that certain parcel of real property more particularly identified and described in the legal description attached to and made a part of this instrument as Exhibit A (the "Property").
2. Grantor(s), for (itself)(themselves), (its)(their) successors and assigns, hereby grant(s) and convey(s) to THE CITY OF AURORA, COLORADO, its successors and assigns (the "City"), a perpetual and assignable easement in and over the Property and a right-of-way for the free and unrestricted passage and flight of all aircraft in the navigable airspace above the surface of the Property as defined by the Federal Aviation Act of 1958, 49 U.S.C. § 40101, et seq., and the regulations adopted pursuant thereto, as the same are from time to time amended (the "Airspace").
3. Said easement and right-of-way shall include, but is not limited to:
  - 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 of any and all aircraft now known or hereafter invented, used, or designated for navigation of or flight in the air, in, through, across or about any portion of the Airspace;
  - b. The right to cause or create, or permit or allow to be caused or created in 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;
  - c. The right to clear and keep clear the Airspace of any portions of buildings, structures, or improvements of any and all kinds, and of trees, vegetation, or other objects, including the right to remove or demolish those portions of such buildings, structures, improvements, trees or any other objects which extend into the Airspace and the right to cut to the ground level and remove any trees which extend into the Airspace;
  - d. 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, the Property, and which extend into the Airspace; and

e. The right of ingress to, passage within, and egress from the Property, solely for the above stated purposes.

4. Grantor(s) hereby covenant(s) with Grantee as follows:

a. Grantor(s) will not construct, install, permit or allow any building, structure, improvement, tree, or other object on the Property to extend into the Airspace, constitute an obstruction to air navigation, or obstruct or interfere with the use of the easement and right-of-way herein granted; and

b. Grantor(s) will not use or permit the use of the Property in such a manner as to create electrical or electronic interference with radio communication or radar operation between any installation upon the Airport and any aircraft.

5. The easement and right-of-way granted herein shall be deemed in gross, being conveyed to Grantee for their benefit and the benefit of any and all members of the general public who may use said easement or right-of-way operating aircraft in or about, or in otherwise flying through, the Airspace.

6. The covenants and agreements made herein shall run with the land and shall be binding upon Grantor(s) and (its) (their) successors and assigns.

7. The City is hereby designated as agent for all purposes regarding the enforcement or removal of the easement and right-of-way granted herein.

8. It is understood and agreed that Grantor(s) shall have no right or cause of action, either in law or in equity, for damages or injury to any person or property arising out of or resulting directly or indirectly, from the overflight of aircraft, or for damages or injury to any person or property resulting from any noise or nuisance of any kind or description resulting, directly or indirectly, from aircraft overflights; provided, however, that nothing herein shall divest Grantor(s) of any right or cause of action for damages to any person or property resulting from the negligent operation of aircraft overflights over the described premises at any altitude above ground level.

9. Nothing herein shall be construed to be a waiver of the governmental immunity afforded to the City or any other governmental agency or department by virtue of the Colorado Governmental Immunity Act, Section 24-10-101, *et seq*, C.R.S., as amended.

(Page intentionally left blank.)

EXECUTED this 22 day of March, 2019

GRANTOR(S)

By: [Signature]

By: \_\_\_\_\_

ATTEST:

By: W. A. Paton

Province Alberta  
STATE OF COLORADO )  
Country Canada ) ss.  
COUNTY OF Canada )



The foregoing instrument was acknowledged before me this 22 day of March, 2019, by Darin Rayburn, President (and of Melcor Developments Arizona Inc.) (Grantor(s)).

Witness my hand and official seal. W. A. Paton

My Commission Expires: does not expire



**LEGAL DESCRIPTION – E-470 COMMERCIAL BUCKLEY AFB AVIGATION EASEMENT**

**PARCEL A:**

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M.,

EXCEPTING THEREFROM, THOSE PARCELS CONVEYED IN THE FOLLOWING INSTRUMENTS:

THE EAST 30 FEET OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER, AS CONVEYED FOR ROAD PURPOSES RECORDED IN BOOK 262 AT PAGE 58, THE SOUTH 26 FEET OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER, AS CONVEYED IN WARRANTY DEED RECORDED JUNE 11, 1963 IN BOOK 1436 AT PAGE 435, PORTIONS TAKEN BY E-470 PUBLIC HIGHWAY AUTHORITY UNDER RULE AND ORDER RECORDED OCTOBER 30, 1998 UNDER RECEPTION NO. A8173498, THE PARCELS CONVEYED TO THE CITY OF AURORA IN SPECIAL WARRANTY DEEDS RECORDED SEPTEMBER 2, 2010 UNDER RECEPTION NO. D0086267, AND DECEMBER 23, 2011 UNDER RECEPTION NO. D1126862,

COUNTY OF ARAPAHOE, STATE OF COLORADO.

**PARCEL B:**

THAT PORTION OF THE FOLLOWING, LYING EASTERLY AND SOUTHERLY OF E-470:

THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M.,

EXCEPTING THEREFROM, THOSE PARCELS CONVEYED IN THE FOLLOWING INSTRUMENTS:

THE EAST 30 FEET THEREOF, AS CONVEYED TO ARAPAHOE COUNTY FOR ROAD PURPOSES BY QUIT CLAIM DEED RECORDED MARCH 31, 1928 IN BOOK 257 AT PAGE 553, PORTIONS TAKEN BY E-70 PUBLIC HIGHWAY AUTHORITY UNDER RULE AND ORDER RECORDED OCTOBER 30, 1998 UNDER RECEPTION NO. A8173498, AND THE PARCEL CONVEYED TO THE CITY OF AURORA IN SPECIAL WARRANTY DEED RECORDED SEPTEMBER 2, 2010 UNDER RECEPTION NO. D0086267,

COUNTY OF ARAPAHOE, STATE OF COLORADO.

ALSO DESCRIBED AS:

A PARCEL OF LAND BEING A PART OF THE EAST HALF OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 12, AND CONSIDERING THE EAST LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 12, BEING MONUMENTED AS SHOWN ON THE ATTACHED EXHIBIT, TO BEAR SOUTH 00°18'41" EAST, A DISTANCE OF 1323.92 FEET, WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE SOUTH 89°40'56" WEST, A DISTANCE OF 57.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF GUN CLUB ROAD AS DESCRIBED IN DEED RECORDED AT RECEPION NUMBER D0086267 IN THE RECORDS OF THE ARAPAHOE COUNTY CLERK AND RECORDER, SAID POINT BEING THE **POINT OF BEGINNING**;

THENCE SOUTH 00°18'41" EAST ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 1298.11 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF EAST BAYAUD AVENUE;

THENCE SOUTH 89°29'51" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1266.09 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 12;

THENCE NORTH 00°22'50" WEST ALONG SAID WEST LINE, A DISTANCE OF 753.06 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF HIGHWAY E-470 AS DESCRIBED IN DEED RECORDED AT RECEPTION NUMBER A8173498 IN THE RECORDS OF THE ARAPAHOE COUNTY CLERK AND RECORDER;

THENCE ALONG SAID E-470 RIGHT OF WAY THE FOLLOWING FIVE (5) COURSES:


1. THENCE NORTH 26°46'35" EAST, A DISTANCE OF 274.17 FEET TO A POINT OF CURVATURE;
2. THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1235.92 FEET, A CENTRAL ANGLE OF 05°19'19", AN ARC LENGTH OF 114.80 FEET, THE CHORD OF WHICH BEARS NORTH 24°06'55" EAST, 114.76 FEET;
3. THENCE NORTH 21°27'16" EAST, A DISTANCE OF 442.63 FEET;
4. THENCE NORTH 74°31'41" EAST, A DISTANCE OF 194.48 FEET TO A POINT OF NON-TANGENT CURVATURE;
5. THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 5829.58 FEET, A CENTRAL ANGLE OF 07°19'46", AN ARC LENGTH OF 745.74 FEET, THE CHORD OF WHICH BEARS NORTH 85°01'54" EAST, 745.23 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SADI GUN CLUB ROAD;

THENCE SOUTH 00°19'27" EAST ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 321.75 FEET TO THE **POINT OF BEGINNING**,

SAID PARCEL CONTAINING A CALCULATED AREA OF 1,837,248 SQUARE FEET OR 42.177 ACRES, MORE OR LESS.

THE LINEAL UNIT USED IN THE PREPARATION OF THIS LEGAL DESCRIPTION IS THE U.S. SURVEY FOOT AS DEFINED BY THE UNITED STATES DEPARTMENT OF COMMERCE, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

I, WILLIAM F. HESSELBACH JR., A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

  
WILLIAM F. HESSELBACH JR., P.L.S. 25369  
FOR AND ON BEHALF OF  
CVL CONSULTANTS OF COLORADO, INC.



NE1/4  
SEC 12

SE1/4, NE1/4  
SEC 12

L=114.80'  
R=1235.92'  
 $\Delta=5^{\circ}19'19''$   
N24°06'55"E  
CH=114.76'

E. LINE, NE1/4,  
SE1/4, SEC 12

N00°22'50"W  
753.06'

SE1/4  
SEC 12

NE1/4, SE1/4  
SEC 12  
BUCKLEY AFB AVIGATION EASEMENT  
1,837,248 S.F.  
42,177 AC.



E. BAYAUD AVENUE

SE 1/16TH COR., SEC 12  
FOUND 2-1/2" ALUM. CAP  
"LS 24960"

SE1/4, SE1/4  
SEC 12

POINT OF  
BEGINNING

POINT OF COMMENCEMENT  
E1/4 COR., SEC 12  
FOUND 3" BRASS CAP  
STAMPED "LS-16419  
CITY OF AURORA"

S89°40'56"W  
57.00' (TIE)

S00°18'41"E 1298.11' 321.75' S00°19'27"E  
GUN CLUB ROAD

NE, NE1/4, SE1/4, SEC 12  
S00°18'41"E 1323.92'  
(BASIS OF BEARINGS)

S. 1/16TH COR., SEC 12  
FOUND 2" ALUM. CAP  
"LS 28649"

OWNER:  
MELCOR E470 LLC  
6930 CHAUNCEY LANE, STE 135  
PHOENIX, AZ 85054

PROPERTY ADDRESS: VACANT LAND

300    150    0                    300                    600

SCALE: 1" = 300'

THE ABOVE DESCRIBED PARCEL CONTAINS 1,837,248 SQUARE FEET OR (42.177 ACRES) MORE OR LESS.  
This illustration does not represent a monumented survey. It is intended only to depict the attached legal description.

CITY OF AURORA, COLORADO

AN AVIGATION EASEMENT SITUATED WITHIN THE EAST  
HALF OF SECTION 12, T3S, R66W, 6TH P.M. CITY  
OF AURORA, ADAMS COUNTY, COLORADO.

BY: MJP	SCALE: 1" = 40'	R.O.W.
CK'D: WFH	DATE: 1/24/2019	JOB NO. 30249702