

MEMORANDUM

TO: Matt Brower, City Manager
Mark Smedley, City Attorney

FROM: KAPLAN KIRSCH & ROCKWELL LLP

DATE: April 2, 2019

SUBJECT: FAA Comments on Memorandum and Draft Resolution Concerning Airport Master Plan

We spoke this morning with John Bauer, the Denver Airports District Office Manager. You will recall that Councilmember Franco requested that we reach out to Mr. Bauer in advance of today's Council meeting to confirm that FAA is comfortable with the staff memorandum on this subject and the proposed Council resolution. Mr. Bauer offered the following comments and clarifications for Council's consideration:

- FAA wants the Council to understand that the Master Plan cannot be a venue for considering or proposing measures to discourage any particular types of aircraft operations at the Airport. (There are separate regulatory procedures for considering such actions that are not part of the Master Plan are not being contemplated by the Council).
- The memorandum and resolution states that FAA supports this approach. Mr. Bauer wants to make it clear that the FAA *can* support this type of approach when justified, *i.e.*, that FAA support is neither routine nor pro forma. In this instance, FAA supports the Council action given the particular facts and given Council's commitment to complete the Master Plan in a timely manner.
- The standstill should be based upon the last FAA-approved Airport Layout Plan, which is dated 2014.
- The FAA cannot, by law, commit to discretionary funding for the Master Plan in forthcoming years. Nevertheless, FAA is willing to work with the City to find appropriate Master Plan funding paths. The FAA must, by law, avoid any appearance that it is guaranteeing funding that Congress has not yet made available.
- The Master Plan should not consider rates and charges or the financial feasibility of a second FBO (both actions are prohibited in Master Plans). But the City certainly can look at rates and charges independently of, but simultaneously with, the Master Plan. And, with respect to the *site* for a second FBO, the Master Plan can evaluate the feasibility of the location.