

Denton County  
Juli Luke  
County Clerk

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DECLARATION

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STATE OF TEXAS  
COUNTY OF DENTON

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Juli Luke  
County Clerk  
Denton County, TX

**DECLARATION BY THE GOVERNING AUTHORITY OF  
AERO VALLEY AIRPORT**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON,  
YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING  
INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN  
THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVERS  
LICENSE NUMBER.**

**RECITALS<sup>1</sup>**

WHEREAS, between 1969 and 1970 Edna Gardner Whyte established Aero Valley Airport under a multi-stage general development plan. She began the first stage by acquiring two tracts of land totaling 34.00 acres.<sup>2</sup> (**Exhibit “A”**). From the first 24.216-acre tract she built a 2247-foot runway and operated a flight school from the northwest corner of that tract consisting of 3.58 acres; from the northern part of the second 9.784-acre tract she built four rows of T-hangars whose northern boundary abuts the northern most south boundary of the 24.216-acre tract, leaving room for further hangar development south of the T-hangars; and

WHEREAS, Whyte implemented the second stage of her general airport development plan in 1976 after acquiring a 47.503-acre tract that adjoined the 24.216-acre tract on the north end; this third tract became the Northeast Addition (**Exhibit “B”**); and

WHEREAS, in 1976 Whyte formed Aero Valley Development Company (“AVDCO”) with two partners—John R. Everett and Michael J. O’Brien—to assist with and ensure the orderly execution of her general development plan; Whyte sold a 1/3 undivided interest to each partner in the 47.503-acre tract; each partner acquired independent ownership of various tracts within the Northeast Addition; Whyte retained ownership of her original 34.00 acres; and

WHEREAS, Whyte extended the runway north 1273 feet into the 47.503-acre tract and moved the taxiway to the east side of the runway, which extension consists of 5.7 acres; Everett and O’Brien conveyed the extended runway tract back to Whyte in exchange for Whyte granting Everett and O’Brien an easement for access and use of the entire runway; this easement being appurtenant to their independently owned tracts and includes the right to grant the easement to others; and

WHEREAS, AVDCO platted both runway tracts as an easement appurtenant to all properties contemplated by Whyte and AVDCO to be included within airport boundaries; the runway-taxiway area now consisting of 15.76 acres with approximate dimensions of 3520 feet by 195 feet (**Exhibit “C”**)<sup>3</sup>; and

WHEREAS, AVDCO contemplated three kinds of use for airport properties: one area restricted for residential-single private hangar use<sup>4</sup> and all other areas restricted to commercial box hangar

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<sup>1</sup> All references to volume and page number were recorded in the deed records of Denton County, Texas and will be shown as volume/page.

<sup>2</sup> 591/202 (24.216 acres); 598/353 (9.784 acres).

<sup>3</sup> 909/651, 654-655.

<sup>4</sup> Aero Valley Estates consisting of 12.645 acres.

**DECLARATION BY THE GOVERNING AUTHORITY OF  
AERO VALLEY AIRPORT**

use or non-commercial T-hangar use with each set of use restrictions contained in separate documents<sup>5</sup>; and

WHEREAS, the first set of restrictions establishes the airport's governing authority in an Architectural Control Committee ("ACC") consisting of seven members elected by the property owners<sup>6</sup>, while the second and third sets, both sets executed on the same day, contain use restrictions suitable for commercial and non-commercial hangars and require the ACC to assess and collect fees for the maintenance of the common areas; and

WHEREAS, AVDCO re-executed and re-recorded these same restrictions from time to time as lots were sold<sup>7</sup>; in some cases, the use restrictions were included with the deed conveyed<sup>8</sup>; and within each category of use, the restrictions imposed are identical; and

WHEREAS, all properties Whyte and AVDCO contemplated to be included within airport boundaries through 1982 are similarly situated for hangar development and are part of the same general development plan (**Exhibit "E"**); and

WHEREAS, the runway access and use easements granted by Whyte, AVDCO, and Varner appurtenant to lands formerly owned by Whyte limit use for vehicular access and airport and taxiway purposes<sup>9</sup> or uses consistent with airport purposes<sup>10</sup>; and

WHEREAS, the runway access and use easements Whyte granted to properties she did not own on the southwest side of the runway but whose owners desired to become part of the airport are limited for the purpose of permitting aircraft to travel to and from the runway and airport facilities<sup>11</sup> (**Exhibit "E"**); these easements transferred a sufficient interest in the land (an easement for runway access and use of all airport facilities) for the ACC to protect the rights and enforce the duties associated with the easements; and

WHEREAS, Edna Whyte sold tracts out of her original 34.00 acres (the tracts she had retained after restricting other tracts) subject to AVDCO's restrictions and easements, whether granted or reserved or recorded or unrecorded; and

WHEREAS, Edna Whyte and her partners were common grantors who developed tracts of land for sale in lots to inaugurate a general development plan for their benefit and the benefit of purchasers of the various lots, and by numerous conveyances they inserted in the deeds substantially uniform restrictions against the use of the property; and

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<sup>5</sup> 922/478<sup>5</sup> (residential, corrected to include Exhibit "A" at 1016/136); 1002/363 (non-commercial); and 1025/830 (commercial). Non-commercial use restrictions apply to single-aircraft private T-hangars and commercial use restrictions apply to larger box hangars.

<sup>6</sup> 922/478

<sup>7</sup> E.g., 1070/529 (commercial); 1112/465 (commercial); and 1142/467 (commercial).

<sup>8</sup>E.g., 1206/218 at 223-225 (residential).

<sup>9</sup> E.g., 1002/633.

<sup>10</sup> 1144/179.

<sup>11</sup> 1150/268.

**DECLARATION BY THE GOVERNING AUTHORITY OF  
AERO VALLEY AIRPORT**

WHEREAS, in 1979 HYDE-WAY, INC. acquired a 4.537-acre tract<sup>12</sup> out of an 8.598-acre tract in the Northeast Addition expressly restricted for non-commercial T-hangar development and with AVDCO's standard easement for runway access and use<sup>13</sup>; Hyde later acquired more airport property subject to AVDCO's restrictions and easements; and

WHEREAS, Hyde, Varner, and all other purchasers of property retained by Whyte or sold by her or Aero Valley Development Company had actual and constructive notice of the restrictions; and

WHEREAS, Edna Whyte conveyed 0.826 acres to John and Carolyn Brown (932/829) and 0.86 acres to Hyde-Way, Inc. (1143/723), both tracts being part of her 9.784-acre retained tract; and

WHEREAS, Edna Whyte conveyed to Gene Varner both the north runway-taxiway tract (5.7 acres) and south runway-taxiway (10.06 acres) and ramp area (3.58 acres) tracts out of Whyte's 24.216-acre tract (1014/46) from which Whyte reserved (1) a strip of land abutting the east side of the original runway consisting of 8.38 acres with approximate dimensions of 162.5 feet wide and 2247.65 feet long and (2) an easement for access and use of the runway and taxiway; subject to all easements and restrictions whether recorded or unrecorded; and

WHEREAS, Varner granted runway access and use easements to John and Carolyn Brown (1145/812) and Hyde-Way, Inc. (1144/179) appurtenant to the tracts they each had acquired from Whyte from within her 9.784-acre tract; the terms of which require use consistent with airport purposes; and

WHEREAS, Varner's acquisition of the runway-taxiway-ramp area tracts—all servient estates burdened by numerous non-exclusive easements and deed restrictions—had no effect on the ACC's duty to govern the airport or the rights and duties of the easement holders; and

WHEREAS, Hyde-Way, Inc.'s assumption of Varner's warranty deed and deed of trust to Whyte to the runway-taxiway-ramp area tracts (1174/615) expressly subject to all easements and restrictions also had no effect on the ACC's duty to govern the airport or the rights and duties of the easement holders; and

WHEREAS, in 1992 HYDE-WAY, INC. conveyed the runway-taxiway-ramp area tracts and several other tracts to Texas Air Classics, Inc., another Hyde entity, which deed included restrictions purporting to (1) rename the airport to Northwest Regional Airport, and (2) declare the runway, parallel taxiway, ramp area, and certain other airport properties, many of which remain undeveloped, as public access airport property, without the consent of the Property Owners and without following either the Hyde-Way, Inc. or AVDCO amendment procedures, in addition to several other provisions; Hyde recorded these restrictions at Volume 1212, Page 542; Volume 3415, Page 321; Volume 3415, Page 353; Doc #96-R0091540, Doc. # 2008-137796, and Doc. # 2009-29338 in the Real Property records of Denton County, Texas; which restrictions do not appear in the chain of title to any property but Hyde entities, the Property Owners had no notice of these restrictions, and as such these restrictions were void from inception; and

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<sup>12</sup> 1002/633, recorded 2/22/1980 at 3:42 pm.

<sup>13</sup> 1002/363, recorded 2/22/1980 at 10:42 am.

**DECLARATION BY THE GOVERNING AUTHORITY OF  
AERO VALLEY AIRPORT**

WHEREAS, HYDE-WAY, INC. attempted to impose and enforce deed restrictions and runway access licenses on numerous tracts already restricted under the AVDCO deed restrictions and with pre-existing runway access and use easements,<sup>14</sup> which restrictions and licenses are void; and

WHEREAS, in the case of *Hyde v. Nw. Reg'l Airport Prop. Owners Ass'n*, No. 02-17-00385-CV, 2018 Tex. App. LEXIS 10668 (Tex. App.—Fort Worth Dec. 20, 2018), the Fort Worth Court of Appeals invalidated the Integrated Deed Restrictions (“IDRs”) recorded at Document 2016-55259 in the Real Property Records of Denton County, Texas; thus, returning airport properties to the deed restrictions validly applied to them before the IDRs were recorded; and

WHEREAS, in May 2019 the board of directors of the Northwest Regional Airport Property Owners Association (“POA”) solicited candidates for the ACC and, in an uncontested election, the property owners established a new ACC consisting of the POA’s current board of directors; and

WHEREAS, the current members of the ACC (1) have consolidated without amendment all three sets of AVDCO restrictions for the three different uses into one document for the benefit and convenience of all property owners, and (2) delegate the ACC’s governing authority to the POA’s board of directors; and

NOW THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the current members of the ACC—Mitchell R. Whatley, Stephen F. Whatley, Doug Reeves, Larry Martin, Carey Sharp, Gary Platner, and Eric Branyan—hereby delegate the ACC’s governing authority to the POA’s board of directors and recite for convenience the AVDCO deed restrictions as follows:

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<sup>14</sup> E.g., 1207/277, 1274/830, Doc # 2005-72286. Any Hyde restrictions, including the Runway and Taxiway License addendum, imposed outside the Northwest Development are void.

**DECLARATION BY THE GOVERNING AUTHORITY OF  
AERO VALLEY AIRPORT**

**DECLARANTS & DECLARATION**

1. That I, EDNA GARDNER WHYTE, the original founder of Aero Valley Airport and being the owner of 34.00 acres of land out of the G. Ramsdale Survey, Abstract No. 1128 as shown in **Exhibit “A”**; and we, EDNA GARDNER WHYTE, MICHAEL J. O’BRIEN, AND JOHN RICHARD EVERETT, the partners of Aero Valley Development Company and being the owners of 47.503 acres of land out of the F.M. Woodward Survey, Abstract No. 1420, Denton County, Texas as shown in **Exhibit “B”**; hereby restrict portions of these properties as hereinafter set out, which restrictions shall be binding upon all of the owners or purchasers of these properties, or any part thereof, his or their heirs, executors, administrators, or assigns as follows:<sup>15</sup>

**AIRPORT GOVERNANCE**

2. To carry out a general plan for the protection, use, and convenience of all property owners, property owners shall form an Architectural Control Committee (“ACC”). The ACC shall be comprised of Edna Gardner Whyte, Michael J. O'Brien, John Richard Everett and four members to be elected from the property owners by a majority vote of the property owners every two years, and the members shall serve without compensation. In the event of death or resignation of any member, a replacement may be appointed by a majority of the remaining members.

3. The ACC shall also act as a governing body with legal authority to make whatever rulings, or call for an election, deemed necessary to protect the best interests of the property owners.

**ASSESSMENTS & IMPROVEMENTS**

4. A monthly fee, in an amount set by majority vote of the ACC, shall be paid by each property owner to provide for proper maintenance of common areas, including, but not limited to, buildings and taxiways. Said funds shall be deposited into an interest-bearing account at an approved and insured institution and may be withdrawn by majority vote of the ACC.

5. Improvements in, and upgrading of, the property is encouraged, but no improvement or alteration shall be commenced until the plans and specifications have been submitted to, and have been approved in writing by, a majority of the ACC for control of quality of workmanship and materials, harmony of external design with existing structures, and compliance with the restrictions and covenants herein contained. If the ACC fails to approve or disapprove any submission within thirty (30) days, then approval will not be required and construction can begin, subject to restrictions and covenants, and provided the design and location conform to, and are in harmony with, existing structures.

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<sup>15</sup> This document restates the provisions of the deed restrictions but does not change any effective dates, which dates, deadlines, and terms thereto shall be effective as of the date of the original document.

**DECLARATION BY THE GOVERNING AUTHORITY OF  
AERO VALLEY AIRPORT**

**DURATION, AMENDMENT, & ENFORCEMENT**

6. These covenants and restrictions shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of thirty (30) years from date hereof, after which time these covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then record owners of the property has been recorded, agreeing to change the covenants in whole or in part.<sup>16</sup> However, if the parties hereto, or any of them, or their heirs, grantees, successors, or assigns, shall violate or attempt to violate the covenants herein, it shall be lawful for any person, or persons, comprising at least ten percent (10%) of all the owners of the property, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, and either to prevent him or them from so doing or to recover damages, or to enforce such other rights and duties, either at law or in equity for such violation as he shall possess.

**RESIDENTIAL USE RESTRICTIONS**

7. All lots within AERO VALLEY ESTATES (**Exhibit “D”**) shall be known and described as residential lots. No trade or business of any kind shall be conducted upon such lots or any part thereof. No structure shall be erected, placed, altered, used, or permitted to remain on any residential building plot other than one detached single-family private dwelling, not to exceed two stories in height, one private garage, one private aircraft hangar. No structure of a temporary character, such as a trailer, basement, tent, shack, garage, barn, or other outbuilding, shall be used on any lot at any time as a dwelling.

8. No building, fence, or other structure shall be commenced, erected, placed, or altered on any building plot until the building plans, specifications, and plot plan showing the location of such building, fence, or other structure have been submitted to, and have been approved in writing by, a majority of the Architectural Control Committee for control of quality of workmanship and materials, harmony of external design with existing structures, location of said building, fence, or other structure with respect to topography and finish grade level elevation, and compliance with the restrictions and covenants herein contained.

9. Construction of new buildings only shall be permitted. It is the intent of this restriction to prohibit the moving of any existing building, mobile home, or portable building onto the property and remodeling or converting the same into a dwelling.

10. No building shall be located nearer than thirty-five (35) feet to the front property line, nor nearer than ten (10) feet to any interior property line, except that a building located within the back one-third of the lot depth may be within five feet of an interior property line and one foot from the back property line subject to utility easements. An exception applies to all

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<sup>16</sup> With no amendment window specified, Texas courts interpret this language to mean the restrictions can be amended at any time by a majority of then record owners of the property. Because of the historical preference to limit land use restrictions, the 30-year initial term originally identified the period before the restrictions expired. Property owners had to take affirmative action to amend or extend them. This led to undesired results. To avoid automatic termination, the 30-year term in this case and many others merely marks the beginning of 10-year automatic extensions; it is unrelated to amendment.

**DECLARATION BY THE GOVERNING AUTHORITY OF  
AERO VALLEY AIRPORT**

corner lots where in no case will a building be allowed nearer than thirty-five (35) feet to the street side property line.

11. No dwelling shall be permitted on any lot having less than 1500 square feet of floor space on the ground floor in the dwelling proper, exclusive of porches, garages, and airplane shelters. The exterior construction of the main dwelling house erected on each lot shall be constructed of brick, stone, masonry, masonry veneer, stucco, or glass building materials of the kind usually used for outside wall construction and shall have a roof of either wood shingles, wood shakes, or tile, unless the prior approval for the use of other materials is received in writing by the Architectural Control Committee prior to their use in construction.

12. The airplane hangar space on each lot shall be limited to strictly private use and a minimum size of 1500 square feet. All hangars shall be incorporated into the architecture of the home, and of architectural style and planning to enhance the appearance of the neighborhood. A home may be built with the hangar as a later addition, but no hangar shall be built before the home.

13. Parking of airplanes and automobiles on public streets or taxiways is expressly prohibited.

14. Approval, in writing, of the Architectural Control Committee shall be required for any structure of more than twenty-five (25) feet in height, for any rear yard fence or wall more than six feet in height, for any fence or wall or other obstruction within the front thirty-five (35) feet, or any woven wire or steel mesh fence other than chain link.

15. No gasoline or other flammable fuel may be stored at any time.

16. No disassembling or overhaul or repair of any aircraft or other vehicle or parts of same shall be allowed on the lots. This restriction is not intended to preclude minor repairs or tune-ups; but is intended to prohibit major repairs involving disassembly of large parts which might remain for several days in unenclosed spaces, such as drives or plane ports. No repairs of any kind shall be performed commercially.

17. No noxious or offensive activities shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood. Dogs, cats, and other domestic type animals may be kept on the lot, but shall be limited so that they do not create offensive odors, undue noise, or other type nuisance to adjoining lots, and in no event shall any commercial operations concerning such animals be allowed on any such lot. In no event may pigs or swine be kept or maintained on any such lot.

18. No purchaser shall use as a dumping ground any lot, public road, or easement. Trash, garbage, and other waste shall be kept in a sanitary container and all such containers, incinerators, and other equipment shall be kept in a clean and sanitary condition. Each property owner shall maintain his property in a clean, attractive condition, and, where necessary, appropriate action may be taken by the Architectural Control Committee with fines or assessments levied against the property owner.

19. All brush, trash, or other outside fires are expressly prohibited.

**DECLARATION BY THE GOVERNING AUTHORITY OF  
AERO VALLEY AIRPORT**

20. All sewage shall be disposed of by water carriage to a sanitary septic tank and underground disposal system constructed within the guidelines of all government agencies. All outside toilets or privys or other type pit toilets are expressly prohibited.

21. The erection of signs is expressly prohibited. Nothing in this restriction shall be construed to prevent small, neatly painted, directional, information, or "for sale" signs, and same shall apply to the developer during the time of the original sale of said property.

22. No lot in AERO VALLEY ESTATES shall be subdivided unless prior approval is obtained in writing from the Architectural Control Committee, and no lot can be resold until the sales contract is offered first to the Architectural Control Committee with a right of purchase for the same price as offered on the contract.

23. The developer of AERO VALLEY ESTATES reserves the right to encroach upon the boundary lines of any and all lots for the purpose of laying and maintaining water, sewage, and other utility lines as deemed necessary and expedient.

**COMMERCIAL USE RESTRICTIONS ON ALL PROPERTIES OUTSIDE AERO  
VALLEY ESTATES FORMERLY OWNED BY WHYTE**

24. Any repairs, assembly, or disassembly must be performed within the hangar and at no time may parts, or tools be stored outside of the enclosed area.

25. At no time shall planes, automobiles, or other vehicles be left unattended in the taxiway area.

26. No noxious or offensive activities shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the other property owners.

27. No owner shall use as a dumping ground any lot, public road, or easement. Trash, garbage, and other waste shall be kept in a sanitary container and all such containers, incinerators, and other equipment shall be kept in a clean and sanitary condition. Each property owner shall maintain his property in a clean, attractive condition, and, where necessary, appropriate action may be taken by the Architectural Control Committee with fines or assessments levied against the property owner.

28. All brush, trash, or other outside fires are expressly prohibited.

29. All sewage shall be disposed of by water carriage to a sanitary septic tank and underground disposal system constructed within the guidelines of all government agencies. All outside toilets or privys or other type pit toilets are expressly prohibited.

30. The Sellers, Grantors hereof, reserve the right to encroach upon the boundary lines of any and all lots for the purpose of laying and maintaining water, sewage, and other utility lines as deemed necessary and expedient.

**DECLARATION BY THE GOVERNING AUTHORITY OF  
AERO VALLEY AIRPORT**

**ADDITIONAL RESTRICTIONS ON NON-COMMERCIAL T-HANGARS**

31. At no time shall fuel, oil, paint, or other highly flammable products be stored within the property.

32. The erection of signs is expressly prohibited. Nothing in this restriction shall be construed to prevent small, neatly painted, directional, information, or "for sale" signs, and same shall apply to the developer during the time of the original sale of said property.

**SAVINGS CLAUSE & LIEN PRESERVATION**

33. Invalidation of any of these covenants by a judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

34. Nothing contained in this declaration shall impair or defeat the lien of any mortgage or deed of trust, made in good faith and for value, but title to any property subject to this declaration obtained through sale, or otherwise, in satisfaction of any mortgage or deed of trust shall thereafter be held subject to all of the protective restrictions and covenants herein.

We, Mitchell R. Whatley, Steven Whatley, Doug Reeves, Larry Martin, Carey Sharp, Gary Platner, and Eric Branyan, the duly elected members of the ACC and current members of POA's board of directors, solemnly affirm that this document consolidates and accurately reflects the scope and purpose of the amendable Aero Valley Development Company deed restrictions under Texas law and has been approved by the POA's legal counsel.

\_\_\_\_\_  
Mitchell R. Whatley, JD, President

\_\_\_\_\_  
Cary Sharp, Member

\_\_\_\_\_  
Steven Whatley, Vice President

\_\_\_\_\_  
Gary Platner, Member

\_\_\_\_\_  
Doug Reeves, Secretary

\_\_\_\_\_  
Eric Branyan, Member

\_\_\_\_\_  
Larry Martin, CPA, Treasurer

I, a Notary Public in and for the State of Texas, do hereby certify that Mitchell Whatley, Steven Whatley, Doug Reeves, Larry Martin, Carey Sharp, Gary Platner, and Eric Branyan, whose signatures are affixed to the foregoing instrument, have acknowledged the same before me.

WITNESS my hand notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
NOTARY PUBLIC

**EXHIBIT "A"**

**Tract 1 (24.216 acres)**

**Vol. 591, page 202**

BEING a 24.216 acre tract of land out of the G. RAMSDALE SURVEY, ABSTRACT NO. 1128, Denton County, Texas, part of a certain tract conveyed by Hershel C. Strader, et al to Priddy and Holder, recorded in Volume 567, Page 618, Deed Records of Denton County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING on the North line of said Ramsdale Survey in a Public Road at a point North 89°21' East 869.4 feet from the Northwest corner of said Ramsdale Survey, which is the North-Northwest corner of said tract;

THENCE North 89° 21' East with the North line of said survey 800.0 feet to the Northeast corner of said tract;

THENCE South 0° 32' East with a fence on the East line of said tract 2247.2 feet to a fence corner at the East-Southeast corner of said tract;

THENCE South 89° 21' West with a South line of said tract along and near a fence 400.0 feet to a steel pin;

THENCE North 0° 32' West 1857.2 feet to a steel pin;

THENCE South 89° 21' West 400.0 feet to a steel pin;

THENCE North 0° 32' West 390.0 feet to the PLACE OF BEGINNING, containing in all 24.216 acres of land, more or less.

**Tract 2 (9.784 acres)**

**Vol. 598, page 353**

BEING a tract of land out of the G. RAMSDALE SURVEY, ABSTRACT NO. 1128, Denton County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at an iron rod set North 89° 21' East 839.4 feet from the Northwest corner of said Ramsdale Survey;

THENCE South 0° 32' East 1083.24 feet to an iron pin;

THENCE North 89° 21' East 330.0 feet to an iron pin;

THENCE South 0° 32' East 1163.96 feet to an iron pin;

THENCE North 89° 21' East 100 feet to an iron pin set in the most Southerly Southwest corner of a 24.216 acre tract previously conveyed to Edna Gardner Whyte;

**EXHIBIT "A"**

THENCE North 0° 32' West with the West line of said 24.216-acre tract 1857.20 feet to an iron pin set for a corner;

THENCE South 89° 21' West with the most Northerly South line of said 24.216-acre tract, 400 feet to an iron pin;

THENCE North 0° 32' West with the West line of said 24.216-acre tract 390 feet to a point, said point also being the Northwest corner of said 24.216 acre tract;

THENCE South 89° 21' West 30 feet to the PLACE OF BEGINNING and containing 9.784 acres of land, more or less.

**EXHIBIT "A"**



**EXHIBIT "B"**

**NORTHEAST ADDITION  
(47.503 acres)**

All that certain tract of land situated in Denton County, Texas, and being a part of a certain 292.75-acre tract of land lying East of Interstate Highway 35W, as conveyed by Special Warranty Deed dated July 29, 1976 from Betty J. Murray, Independent Executrix of the Estate of Harlan E. Murray in his capacity as Trustee, to Majors & Majors, Trustee as shown of record in Volume 799, Page 131 of the Deed Records of Denton County, Texas; being out of the F.M. Woodward Survey, Abstract No. 1420, and being more particularly described as follows:

BEGINNING at the most Eastern Northeast corner of the above mentioned 292.75-acre tract; said POINT OF BEGINNING being the Northeast Corner of the F.M. Woodward Survey, Abstract No. 1420, and being a fence corner post where fence runs West and South;

THENCE South  $00^{\circ} 20' 25''$  East 1325.96 feet along fence line and the East Boundary Line of the past mentioned 292.75-acre tract, to a 6-inch steel fence corner post set in concrete for the most Southern Southeast Corner of said 292.75-acre tract, and being the Southeast Corner of the F.M. Woodward Survey;

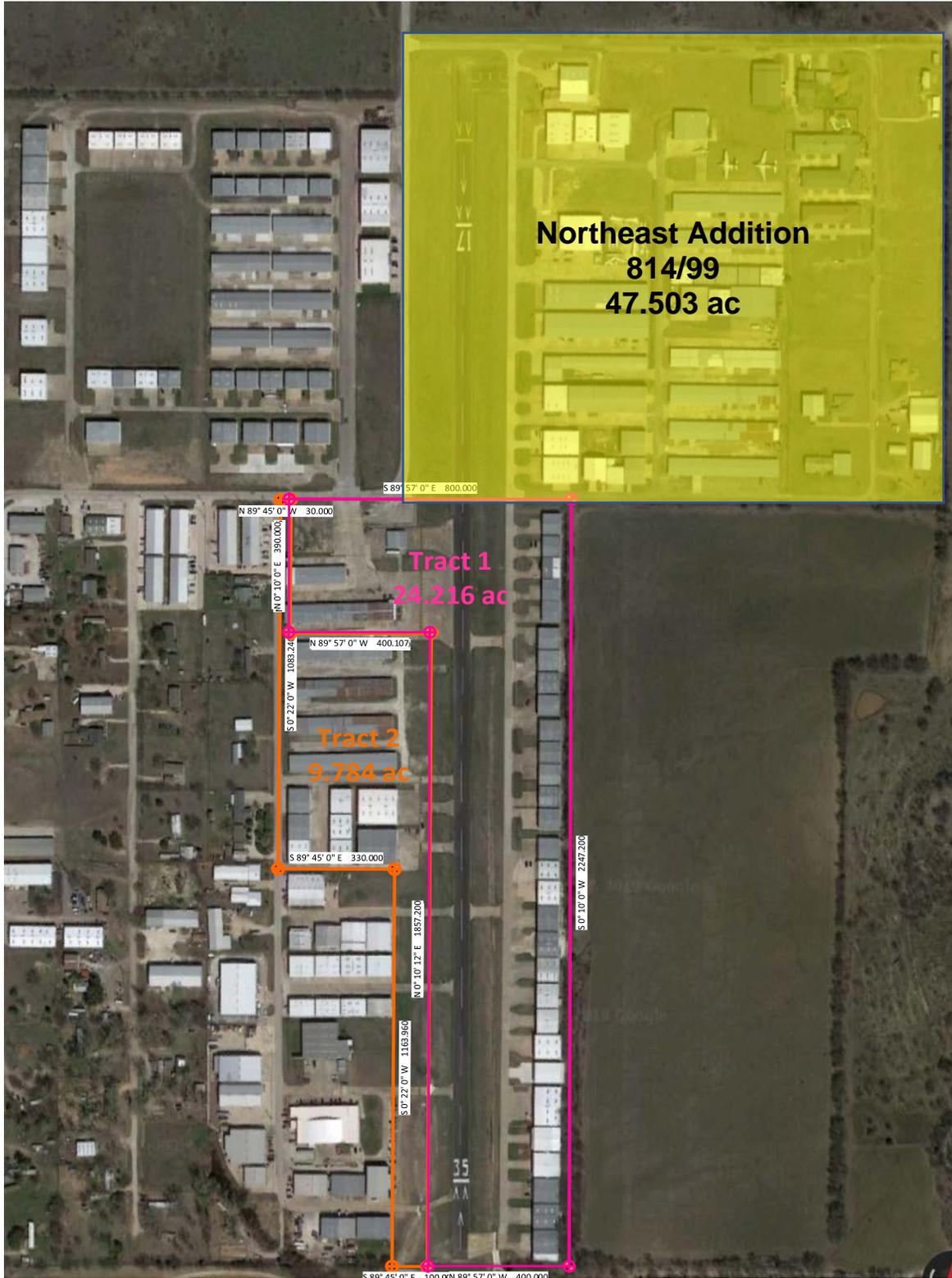
THENCE West along the South Boundary Line of the past mentioned tract and the South Boundary Line of said Woodward Survey 1555.7 feet to a steel pin for the Southwest Corner of tract herein described, and being the most Southern Southwest Corner of the past mentioned 292.75-acre tract;

THENCE North  $00^{\circ} 10' 40''$  West along the centerline of a public road, and passing at 1153.55 feet, an inner el corner on the past mentioned 292.75-acre tract; continuing on said course a total distance of 1337.5 feet to a steel pin for the Northwest Corner of tract herein described and being in the North Boundary Line of said F.M. Woodward Survey, Abstract 1420, and being an inner el corner on the past mentioned 292.75-acre tract;

THENCE South  $89^{\circ} 34' 25''$  East along a fence line and a North Boundary Line of said Woodward Survey, and a North Boundary Line of said 292.75 acre tract, 1552.02 feet, to POINT OF BEGINNING and containing a total of 47.503 acres, of which, 1.277 acres lie within the limits of two public roads, leaving 46.226 acres.

**EXHIBIT "B"**

**NORTHEAST ADDITION**



**EXHIBIT "C"**

**RUNWAY-EAST TAXIWAY EASEMENT  
NORTH EXTENSION  
5.7 acres**

FOR A RUNWAY AND TAXIWAY EASEMENT IN THE F.M. WOODWARD SURVEY, ABSTRACT NO. 1420, SITUATED IN DENTON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a point N. 89 deg, 12 min, 40 sec W. 1414.7 feet and S. 0 deg, 20 min W. 60.0 feet from the Northeast corner of the F. M. Woodward Survey, Abstract 1420;

THENCE S. 89 deg, 12 min, 40 sec E. 195.0 feet to a point for corner;

THENCE South 0 deg, 20 min W. 1272.7 feet to a point for corner;

THENCE N. 89 deg, 32 min W. 195.0 feet to a point for corner;

THENCE N. 0 deg, 20 min E. 1273.8 feet to the POINT OF BEGINNING and 5.7 acres, more or less.

**RUNWAY-EAST TAXIWAY EASEMENT  
ORIGINAL RUNWAY  
Volume 909, 951 at 954  
10.06 acres**

FOR A RUNWAY AND TAXIWAY EASEMENT IN THE G. RAMSDALE SURVEY, ABSTRACT NO. 1128, SITUATED IN DENTON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a point in the South line of the F. M. Woodward Survey, Abstract No. 1420 and a North line of the G. Ramsdale Survey, Abstract No. 1128, Denton County, Texas, said point being N. 89 deg, 32 min W. 1422.4 feet from the Southeast corner of said Woodward Survey;

THENCE S. 0 deg, 20 min W. 2248.1 feet to a point in the South line of a 133.793-acre tract for a corner;

THENCE S. 89 deg, 47 min E. 195.0 feet to a point for a corner;

THENCE N. 0 deg, 20 min E. 2247.2 feet to a point in the South line of said Woodward Survey for a corner;

THENCE N. 89 deg, 32 min W. 195.0 feet along the South line of said Woodward Survey to the POINT OF BEGINNING and containing 10.06 acres.

**EXHIBIT "C"**

**RUNWAY-PARALLEL TAXIWAY EASEMENT TRACTS COMBINED**

All that certain tract or parcel of land lying and being situated in the F.M. Woodward Survey, Abstract 1420, and the G. Ramsdale Survey, Abstract 1128, Denton County, Texas and being more particularly described as follows:

COMMENCING at an iron pin at a fence corner post at the easternmost northeast corner of the F.M. Woodward Survey Abstract 1420;

THENCE North 89°, 15', 48" West with a fence on the North boundary of the Woodward Survey a distance of 1414.7 feet to an iron pin;

THENCE South 00°, 20', 00" West a distance of 60.0 feet to an iron pin at the POINT OF BEGINNING of the herein described runway;

THENCE South 89°, 15', 48" East a distance of 195.0 feet to an iron pin;

THENCE South 00°, 20', 00" West a distance of 3506.54 feet to an iron pin on the south boundary of a (called) 24.216-acre tract as described in a deed from Grapevine Development Company, Inc. to Edna Gardner Whyte on the 4th day of September, 1969, recorded in Volume 591, Page 202, Deed Records of Denton County, Texas, said pin being South 89° 16' 06" West a distance of 159.96 feet from the southeast corner of said 24.216-acre tract;

THENCE South 89° 16' 06" West a distance of 195.03 feet to an iron pin, said pin being North 89° 16' 06" East 145.0 feet from the southernmost southwest corner of a 9.784 acre tract deeded from Grapevine Development Company, Inc. to Edna Gardner Whyte on the 13th day of February, 1970, recorded in Volume 598, Page 353 of the Deed Records of Denton County, Texas;

THENCE North 00° 20' 00" East a distance of 3511.55 feet to the POINT OF BEGINNING and containing in all 15.76 acres of land.

**EXHIBIT "C"**



**EXHIBIT "D"**

**AERO VALLEY ESTATES**

**12.645 acres**

For a tract of land out of the F.M. Woodward Survey, Abstract No. 1420, situated in Denton County, Texas, , a part of a 47.503-acre tract conveyed by Warranty Deed from Majors & Majors Trustees to Edna Gardner Whyte dated November 24, 1976 in Volume 814, Page 99 of the Deed Records of Denton County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at an iron pin, North 43.0 feet from the Southeast corner of said F. M. Woodward Survey and is the Southeast corner of the. herein described tract;

THENCE North  $89^{\circ} 32'$  West 445.0 feet along the North R.O.W. line of a 60.0 access easement to an iron pin that is the Southwest corner of the herein described tract;

THENCE North 1225.5 feet along the East line of a 20.0-foot drainage easement to an iron pin for the most Westerly Northwest corner of the herein described tract;

THENCE South  $89^{\circ} 12' 40''$  East 230.0 feet to a point for corner in the centerline of a 60.0 access easement that runs North and South and is South  $89^{\circ} - 12' - 40''$  East 30.0 feet from an iron pin;

THENCE North 40.0 feet along the centerline of said 60.0 access easement to a point for corner that is North  $89^{\circ} 12' 40''$  West 30.0 feet from an iron pin;

THENCE South  $89^{\circ} 12' 40''$  East 165.0 feet to an iron pin at the re-entrant corner of a proposed water well and tank site tract;

THENCE South 50.7 feet to an iron pin at the Southwest corner of said water well and tank site;

THENCE East 50.0 feet to an iron pin that is South 70.0 feet from the Northeast corner of said F.M. Woodward Survey;

THENCE South 1213.0 feet along the East line of the F.M. Woodward Survey to the POINT OF BEGINNING and containing 12.645 acres, of which 1.714 acres is in use as an access easement.

**EXHIBIT "D"**



**EXHIBIT "E"**

**PROPERTY OWNED BY WHYTE (YELLOW) & PROPERTY GRANTED  
EASEMENTS FOR RUNWAY ACCESS & USE (ORANGE)**



Denton County  
Juli Luke  
County Clerk

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Instrument Number: 63922

ERecordings-RP

RESTRICTIONS

Recorded On: June 03, 2019 10:51 AM

Number of Pages: 60

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" Examined and Charged as Follows: "

Total Recording: \$277.00

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\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

**File Information:**

Document Number: 63922  
Receipt Number: 20190603000215  
Recorded Date/Time: June 03, 2019 10:51 AM  
User: Melissa K  
Station: Station 40

**Record and Return To:**

eRx



STATE OF TEXAS  
COUNTY OF DENTON

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Juli Luke  
County Clerk  
Denton County, TX

## AMENDED DEED RESTRICTIONS

A majority of Property Owners in the Northwest Development of Aero Valley Airport (n.k.a. Northwest Regional Airport) agree to these AMENDED DEED RESTRICTIONS.

### RECITALS

WHEREAS, on April 18, 1983, HYDE-WAY, INC. imposed deed restrictions (“Restrictions”) with a Runway and Taxiway License addendum (“Addendum”) on the Northwest Development of Aero Valley Airport (n.k.a. Northwest Regional Airport) (“Northwest Development”), which restrictions are recorded at Volume 1208, Page 944 and corrected at Volume 1889, Page 9 of the Real Property Records of Denton County, Texas.

WHEREAS, some provisions of the Hyde-Way, Inc. deed restrictions and the entire Runway and Taxiway License addendum:

(1) conflict with the preexisting runway access easements appurtenant to all properties within airport boundaries before Hyde-Way Inc. acquired the Northwest Development;

(2) conflict with the Property Owners’ preexisting right to govern the airport through an Architectural Control Committee (“ACC”) composed of their elected representatives as required by the Aero Valley Development Company (“AVDCO”) deed restrictions;

(3) conflict with the ACC’s preexisting authority to assess and collect fees for the operation and maintenance of airport common areas, including, but not limited to, the runway, parallel taxiway, ramp area, and other airport facilities;

(4) purport to designate Hyde-Way, Inc. a licensor who provides and requires a “license” for runway access and use that (a) applies to Northwest Development hangar tracts, (b) is irrevocable for 99 years, and (c) is assignable to subsequent purchasers, all of which are characteristics of an appurtenant easement and courts have held is an easement. *E.g., Hyde v. Hawk*, No. 07-16-00357-CV, 2018 Tex. App. LEXIS 5211 (Tex. App.—Amarillo July 11, 2018, pet. denied) (“The 1995 Warranty Deed from Hyde and Hyde-Way to Williams [containing the Hyde-Way license] establishes an easement for the use of the runway and taxiway.”)

(5) purport to “to provide for proper maintenance of common areas, including, but not limited to runway, runway areas, facilities, buildings and taxiways” but include the caveat that “nothing herein shall ever be construed as requiring Licensor to expend funds not collected from license agreements such as this for any such repairs, maintenance, construction or reconstruction of any airport facility,” leaving only an illusion of a promise to provide for proper maintenance.

WHEREAS, under the terms of a 1988 settlement agreement between Hyde-Way, Inc. and First Interstate Bank of Dallas recorded at Volume 2547, Page 228 (Doc #11267); Volume 2547, Page 244 (Doc. #11268); and Volume 2547, Page 254 (Doc. #11269) of the Real Property Records of Denton County, Texas; Hyde-Way, Inc. granted “a non-exclusive and continuing right of access to, from, over, across, and upon [the runway, parallel taxiway, and ramp area] to all unsold lots in all four Northwest Development phases and to “all other access ways or access

easement areas now or hereafter owned by Hyde-Way, Inc. and located within said Northwest Development, and such other lots, tracts, parcels, access ways or access easement areas as may now or hereafter be owned by Hyde-Way, Inc. as part of or used in connection with the Aero Valley Airport.”

WHEREAS, HYDE-WAY, INC. executed deed restrictions purporting to declare the runway, parallel taxiway, ramp area, and certain other airport properties as public access airport property without the consent of the Property Owners and without following either the Hyde-Way, Inc. or AVDCO amendment procedures. These restrictions are recorded at Volume 1212, Page 542; Volume 3415, Page 321; Volume 3415, Page 353; Doc #96-R0091540, Doc. # 2008-137796, and Doc. # 2009-29338 in the Real Property records of Denton County, Texas. The Property Owners object to these restrictions and in no way acknowledge that these restrictions are now or ever were valid.

WHEREAS, Northwest Development Property Owners desire to amend the Restrictions and Addendum.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Northwest Development Property Owners amend the Restrictions and Addendum, and agree as follows:

## **AGREEMENT**

### **Definitions**

1. Airport: The term “Airport” means all property currently developed or able to be developed within the boundaries of Aero Valley Airport (n.k.a. Northwest Regional Airport) as determined by the Board. The Properties are part of the Airport.

2. Assessable Property: The phrase “assessable property” means the gross square footage of improvements on a lot or the gross square footage of land on an Undeveloped Lot, as applicable.

3. Association: The term “Association” means the Northwest Regional Airport Property Owners Association or its successors.

4. Aviation-Oriented Activity: The phrase “aviation-oriented activity” means any activity whose primary purpose is aviation, that focuses on aviation, that is designed to appeal to people interested in aviation, or that openly supports aviation.

5. Board: The term “Board” means the Board of Directors of the Northwest Regional Airport Property Owners Association or its successors.

6. Northwest Development: The phrase “Northwest Development” means the property described in the Restrictions.

7. Property or Properties: The term “Property” or “Properties” shall mean the property or properties described in the Restrictions.

8. Property Owners: The phrase “Property Owners” means the owners of the Properties. The phrase “Property Owner” means the owner of one of the Properties.

9. Undeveloped Lot: The phrase “Undeveloped Lot” means any property that has not been altered from its natural state by the construction or erection of materials located in, upon, or attached to something located in or upon the ground.

### **Restrictions**

1. Any repairs, assembly, or disassembly must be performed within the hangar and at no time shall parts, tools, refuse, or any other property be stored outside the enclosed area.

2. At no time shall planes, automobiles, or other vehicles be left unattended in the ramp or taxiway area.

3. No noxious or offensive activities shall be carried on within or on the property, nor shall anything be done therein which may reasonably be or become an annoyance or nuisance to other Property Owners.

4. No Property Owner shall use as a dumping ground any lot, public road, or easement. Trash, garbage, and other waste shall be kept in a sanitary container and all such containers, incinerators, and other equipment shall be kept in a clean and sanitary condition. Each Property Owner shall maintain his property in a clean, attractive condition, and, where necessary appropriate action may be taken by the Association with fines or assessments levied against the Property Owner.

5. All brush, trash, or other outside fires are expressly prohibited except for the use of outdoor cooking equipment for food preparation.

6. All sewage shall be disposed of by water carriage to a sanitary septic tank and underground disposal systems constructed within the guidelines of all governmental agencies. All outside toilets or other privies or other type of pit toilets are expressly prohibited.

7. The Association reserves the right to enter property for the purpose of laying and maintaining water, sewage, and other utility lines as deemed necessary and expedient.

8. Flammable products (e.g., gasoline, oil, petroleum-based solvents, etc.) shall be stored in safe and suitable containers.

9. The erection of signs on non-commercial hangars is expressly prohibited. Nothing in this restriction shall be construed to prevent the display of neatly painted directional, informational, or “For Sale” or “For Rent” signs on hangars used for non-commercial purposes.

10. Improvements in and upgrading of the property is encouraged, but no improvements or alterations shall be commenced until the plans and specifications have been submitted to and been approved in writing by the Association for control of quality of workmanship and materials, harmony of external design with existing structures, and compliance with these restrictions and covenants.

11. Property owners shall keep grass mowed and trimmed. The Association reserves the right to enter property for mowing and trimming purposes if grass (or weeds) exceeds 8 inches in height. Property Owners agree to reimburse the Association for all reasonable costs incurred to meet this standard.

12. Operations including parachuting, ultra-light aircraft operations, gliders, sailplanes, and agricultural application businesses, banner towing, balloon operations of airships are prohibited without the express written consent of the Association.

13. Premises are restricted to primarily aviation-oriented activities. Premises currently used for non-aviation-oriented activities are not subject to this restriction until the property is transferred, conveyed, or sold to another person after the Effective Date.

14. To carry out a general plan for the protection, use, and convenience of all Property Owners, the Airport shall be governed by the Association, a Texas non-profit corporation comprised of a Board of Directors consisting of seven directors elected from the Property Owners of the entire Airport by majority vote of the Property Owners of the entire Airport representing a quorum (as defined in the Association's bylaws) at a meeting called for that purpose every two years. At least four directors shall be active aviators. The Property Owners acknowledge and agree that the current directors of the Association are Mitchell R. Whatley, President; Steven Whatley, Vice President; Doug Reeves, Secretary; Larry Martin, CPA, Treasurer; Eric Branyan, Member; Gary Platner, Member; Carey Sharp, Member. In the event of death or resignation of any board member, a replacement may be appointed by a majority of the remaining board member(s) ("Board"). The Association shall have legal authority to enforce these Amended Restrictions, collect fees, and take any other actions deemed necessary to protect the best interests of the Property Owners in the Airport.

15. An annual fee, in an amount set by the Board each year and approved by majority vote of a quorum of Property Owners of the entire Airport at the annual meeting, shall be paid by each Property Owner in the Airport to the Association within thirty (30) days after the date of such statement to provide for proper maintenance of the runway, parallel taxiway, and other easements and appurtenances to which Property Owners enjoy privity of estate ("common areas"). The determination of common areas shall be determined solely by the Board. The amount assessed to each Property Owner shall be in proportion to the assessable property owned. All funds collected shall be deposited into an interest-bearing account at an approved and insured institution and may be withdrawn as per the Association's bylaws. The Board shall be required to use all funds collected for (a) maintenance of the common areas; (b) casualty, public liability, and other insurance coverages in the amounts and limits determined by the Board; (c) utilities to the common areas; (d) professional services, such as accounting and legal services; and (e) such other costs and expenses as reasonably may be related to proper maintenance, care, operating,

and management of the common areas and the administration and enforcement of these Amended Restrictions.

16. These covenants and restrictions shall run with the land and bind all parties and all persons claiming under them in perpetuity from the Effective Date, unless an instrument signed by a majority of Property Owners of record has been recorded, agreeing to change the covenants in whole or in part. If a Northwest Development Property Owner signs the amended restrictions but conveys the property before the Effective Date, the former owner's signature shall remain valid for one year and shall be counted to determine whether a majority signed the amended covenants. A Property Owner may not cast more than one vote regardless of the number of lots the person owns. If more than one person owns an interest in a lot, the owners may cast only one vote for that lot. A person may not vote if the person has an interest in a lot only by virtue of being a lienholder.

17. If any of the parties hereto, or their heirs, grantees, successors, or assigns, shall violate or attempt to violate any of these Restrictions, it shall be lawful for the Association or any Property Owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, and either to prevent him or them from so doing or to recover damages, or to enforce such other rights and duties, either at law or in equity, for such violation as the Association or Property Owner shall possess.

18. Invalidation of any of these provisions by a judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect.

19. Nothing contained in this declaration shall impair or defeat the lien of any mortgage or deed of trust, made in good faith and for value, but title to any property subject to this declaration obtained through sale, or otherwise, in satisfaction of any mortgage or deed of trust shall thereafter be held subject to all of these protective restrictions and covenants

20. These Amended Restrictions shall be binding upon and shall inure to the benefit of the Northwest Development Property Owners and their successors, successors-in-title, heirs, and assigns.

21. These Restrictions may be signed in counterpart.

22. Failure by the Association or a Property Owner to enforce these Restrictions shall not be waiver.

23. The laws of the State of Texas (without regard to its conflict of law principles) shall govern the interpretation, validity, and enforceability of these restrictions.

24. These Amended Restrictions shall in no way be interpreted or construed to amend, remove, or extinguish any rights of Property Owners in and to existing easements whether such easements are express, implied, equitable, or otherwise.

IN WITNESS WHEREOF, the Northwest Development Property Owners have executed these Amended Restrictions on the date set forth in their respective notary clauses and these Amended Restrictions shall be effective on the date of the last signature representing a majority of the Northwest Development Property Owners ("Effective Date").

NW1  
R88951 2-3

PROPERTY OWNER

A3H Holdings, LLC  
Printed Name of Property Owner/Entity

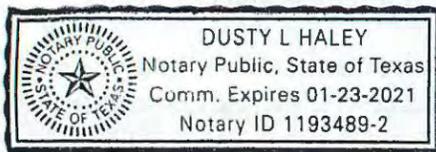
Jon Young  
Printed Name of Authorized Signer

Managing Member  
Title or Position (if applicable)

[Signature]  
Signature of Authorized Owner

I, a Notary Public in and for the State of Texas, do hereby certify that Jon Young whose signature is affixed to the foregoing instrument, has acknowledged the same before me.

WITNESS my hand notarial seal, this 2nd day of May, 2019.



Dusty Haley  
NOTARY PUBLIC

**ALL OTHER SIGNATURE PAGES HAVE BEEN REDACTED TO REDUCE RECORDING COSTS AND ELIMINATE REDUNDANCY. THE ORIGINAL RECORDING WITH ALL SIGNATURE PAGES CAN BE FOUND AT DOCUMENT 2019-63922 IN THE REAL PROPERTY RECORDS OF DENTON COUNTY, TEXAS.**