

1. Agenda

Documents:

[04 02 23 SPECIAL AAB AGENDA.PDF](#)

2. Meeting Materials

Documents:

[04 02 23 SPECIAL AAB AGENDA PACKET.PDF](#)



**AGENDA**  
**AIRPORT ADVISORY BOARD SPECIAL MEETING**  
**RUSTY ALLEN AIRPORT - PILOT'S LOUNGE**  
**9201 BAR K RANCH ROAD**  
**LAGO VISTA, TX**

**APRIL 2, 2023 AT 6:30 PM**

This SPECIAL MEETING will be conducted in-person. Board members, city staff, residents of Lago Vista and other members of the public are welcome to join the meeting in person. Please plan to arrive 10 minutes early for a punctual start time.

**CALL TO ORDER, ROLL CALL**

Stephen Lowry, Chairperson  
James Peck, Vice-Chairperson  
Lynda Aird, Board Secretary  
James Awalt

Glenn Chiappe  
Kristen Jernigan  
Don Loeschner

**CITIZEN COMMENTS**

To participate in the citizen comments portion of the meeting, you must submit a completed form. Please download and complete the following online form:

**[CITIZEN PARTICIPATION REGISTRATION FORM](#)**

The form should be submitted as instructed on the form at least one hour before the start of the meeting. Alternatively, a participant can ask to be recognized and heard on a specific agenda item during the discussion of the item.

The Board will not act or discuss (other than factual responses to specific questions) any items raised by a member of the public on a topic that is not associated with a specific agenda topic.

**1. STAFF AND COUNCIL LIAISON REPORTS**

- A. Routine Reports from City Council Liaison.
- B. Routine Reports from City staff.

**2. CONSENT AGENDA**

All matters listed in the Consent Agenda are considered routine by the Airport Advisory Board and will be enacted by one motion & second, without discussion. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.

- 2A. Consider approval of the February 6, 2023, meeting minutes.

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### **3. DISCUSSION ITEMS**

3A. Committee Progress Reports

3B. Judge Durbin - AAB support requests from the City of Lago Vista.

1) *Response to FAA letter dated March 13, 2023 (draft attached to the pkt)*

3C. Vice Chair Peck - brief status update of Maintenance Contribution Resolution development.

3D. Discuss AAB Committees and solicit changes to the committee assignments.

### **4. NEXT MEETING DATE**

### **5. ADJOURNMENT**

IT IS HEREBY CERTIFIED that the above Notice was posted on the Bulletin Board located at all times in City Hall in said City at 12:30 p.m. on the 30th day of March 2023.

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Lucy Aldrich, City Secretary

THE CITY OF LAGO VISTA IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. REASONABLE MODIFICATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED UPON REQUEST.



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## **PACKET ITEM 2A**

### **Airport Advisory Board Meeting Summary Notes For Regular Meeting held Monday, February 6, 2023**

Virtual Special Meeting Date February 6, 2023; 6:30PM

City Council Liaison: Judge Rob Durbin

Participants: Members Steve Lowry – Chairman (not present), James Peck Vice-Chairman (facilitator), Lynda Aird, Secretary, Jim Awalt, Glenn Chiappe, Kristen Jernigan, Don Loeschner

#### **ITEM 1 – PUBLIC & LIAISON COMMENTS FOR NON-AGENDA ITEMS:**

Members of the public who have submitted documentation at least one-hour prior to the start of the meeting will have their comments read aloud at this time and included in the meeting summary notes for future reference.

No members of the public were present for the Special Meeting

In accordance with the Open Meetings Act, the Board is prohibited from acting or discussing (other than factual responses to specific questions) any items raised by a member of the public on a topic that is not associated with a specific agenda topic.

- C. Public comments from documents submitted prior to the meeting -  
NONE
- D. Judge Durbin (Council Liaison) comments - NONE

#### **ITEM 2 - CONSENT AGENDA**

Voted to Accept Meeting Summary Notes from the previous AAB meeting.

#### **ITEM 3 - DISCUSSION ITEMS**

- A. Committee Progress Reports (Packet Items 3A & 3B)
- B. AAB support requests from the City of Lago Vista (Judge Durbin feedback)
- C. Welcome new board members appointed by Lago Vista City Council
- D. Nominate, vote on and install Airport Advisory Board officers for CY 2023
  - i. Secretary
  - ii. Vice Chair
  - iii. Chair
- E. Discuss AAB Committees and solicit changes to the committee assignments
- F. Consider the value of in-person board meetings for CY 2023
- G. Consider the option of quarterly meetings in CY 2023 with on-going committee work and Special meetings when the need arises

Meeting Adjourned at 7:25pm

**PACKET ITEM 3A**  
Committee Tasks - 2023

No.	Committee
1	<b>Community Outreach</b> <i>Dedicated to strengthening the relationship between the airport, the Lago Vista community, and the local transient flying community. Collaborates with City and RAAPOA to inform the community about the Airport and develops community engagement plans for the City's consideration.</i>
	<ul style="list-style-type: none"> <li>a. Baseline other similar airports &amp; communities</li> <li>b. Identify &amp; prioritize opportunities for RAA / City of LV</li> <li>c. Present results to AAB for discussion</li> </ul>
2	<b>Capital Works</b> <i>Supports city council's interest in major airport projects that enhance quality and safety of the airport experience for transient air traffic and city residents.</i>
	<ul style="list-style-type: none"> <li>a. Reconcile future projects list from CIP / Master Plan / TxDOT List</li> <li>b. Prioritize reconciled list of future projects</li> <li>c. Establish budgetary cost breakdown and delivery schedules</li> <li>d. Present results to AAB for discussion</li> </ul>
3	<b>Operation &amp; Maintenance</b> <i>focuses on airport safety and revenue savings through timely maintenance, repair and safe operations on the airport.</i>
	<ul style="list-style-type: none"> <li>a. Survey other municipal airports for an O&amp;M baseline</li> <li>b. Assess current O&amp;M costs and schedule of primary activities</li> <li>c. Present results to AAB for discussion</li> </ul>
4	<b>Airport Development</b> <i>Supports initiatives for the city to increase airport related revenue. Also provides advisory services concerning related offsite airport economic development opportunities.</i>
	<ul style="list-style-type: none"> <li>d. Baseline revenue stream from historic data</li> <li>e. Trendline positive revenue projections (hypothetical case)</li> <li>f. Reconcile off-airport opportunities list</li> <li>g. Present results to AAB</li> </ul>
5	<b>RAAPOA Liaison</b> <i>Engages with the RAAPOA Board in support of potential City / POA matters where specific research and advise would enhance city council's deliberative process (non-RAAPOA committee lead).</i>
	<ul style="list-style-type: none"> <li>a. Outline POA's general role &amp; responsibilities per State statute</li> <li>b. Outline POA's legal relationship with City municipalities per statute and ordinance</li> <li>c. Research limits of RAAPOA geographic boundaries</li> <li>d. Present results to AAB</li> </ul>

**PACKET ITEM 3A**  
Committee Tasks - 2023 (Continued)

No.	Committee
6	<b>Funding &amp; Finance</b> <i>Helps identify new funding streams, confirms timelines for application deadlines, and suggests constrained (special purpose) funding opportunities.</i>
	<ul style="list-style-type: none"> <li>a. Survey other municipal airports for comparative baseline analysis</li> <li>b. Assess current municipal funding strategies against matching fund availability</li> <li>c. Present results to AAB for discussion</li> </ul>
7	<b>Special Issues</b> <i>A committee reserved to perform research and provide advice on issues not within the purview of any one of the other committees and to support other committees whose working backlog puts in jeopardy timely completion and reporting of its work.</i>
	<ul style="list-style-type: none"> <li>a. In collaboration with Committee 5, review real estate records of platted and deeded properties adjacent to the municipal airport property (taxiways and runway) to determine those properties with deeded access to the airport facilities.</li> <li>b. Present results to AAB for discussion</li> </ul>



## PACKET ITEM 3B

Placeholder – insert current letterhead here

Mayor  
Ed Tidwell  
Mayor Pro-Tem  
Kevin Sullivan



Council Members  
Gage Hunt  
Rob Durbin  
Chelaine Marion  
Paul Roberts  
Paul Prince

April 3, 2023

U.S. Department of Transportation  
Federal Aviation Administration  
Office of Airport Compliance  
and Management Analysis  
800 Independence Ave., SW.  
Washington, DC 20591

Attention: Kevin C. Willis, Director

Subject: Rusty Allen Lago Vista Airport  
FAA Reauthorization Act of 2018, Section 185  
Section 47107(s) of title 49, United States Code amended

Re: Request for Concurrence

Via: USPS and email

Dear Mr. Willis;

The City is in receipt of your reply to the subject inquiry, (FAA-2022-0667-0001) dated March 13, 2023.

After further review of the abovementioned amendment to USC Title 49, Section 47107(s), The City of Lago Vista better understands that the situation described with the Rusty Allen Airport (RAA) meets the 2018 exemption criteria, lacking only FAA's written concurrence by way of the Secretary's letter of determination.

As such, the City respectfully wishes to rescind its original petition for exemption. Instead, we request that the FAA acknowledge concurrence, determining that the exemption applies to The Rusty Allen Airport, having met all three parts of the exemption criteria, viz:

1. the property is subject to deed or lease restrictions in place prior to February 2012, and;
2. deed and lease restrictions are perpetual in nature, and;
3. the property cannot be readily brought into compliance.

Conclusive evidence is provided in the timeline of events below and in Attachment "A", *Declaration of Covenants Conditions and Restrictions Lago Vista Bar-K Subdivision*, and further highlighted in Attachment "B", *a letter from the RAA Property Owner's Association to the City of Lago Vista* dated July 1, 2021.

Concurrent to this letter, the City will resume collaboration through normal channels afforded municipal airports, via the State DOT and FAA's regional administration to clarify elements of the assurance guarantees for which reasonable compliance can be achieved. We aspire to have those assurances properly documented for TxDOT and FAA SW Region soon after receiving FAA's exemption

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City Manager, Tracie Hlavinka • [tracie.hlavinka@lago-vista.org](mailto:tracie.hlavinka@lago-vista.org)

confirmation. With deference to the thoughtful questions in your March 13 reply letter, please accept Attachment “C”, containing the City’s responses.

Timeline of Events:

This brief timeline confirms key events that pre-date the Modernization and Reform Act of 2012.

- On May 8, 1990 the Declaration of Covenants Conditions and Restrictions (CCR’s) for the Airport subdivision were executed, creating the perpetual access easements to the runway and taxiways.
- On July 11, 1994 The Property Owners Association became the Declarant for the CCR’s.
- On August 25, 1994 the airport runways and taxiways were acquired by the City of Lago Vista.
- On April 4, 1995 the United States Dept of the Interior, Fish and Wildlife Service ratified the validity and perpetuity of the runway easement through the Balcones Canyonlands Preserve for operation and maintenance of the runway.
- In February 1995 TxDOT added the Airport to the TASP, and
- In April 1995 the Airport was included in the NPIAS by the FAA.

The City of Lago Vista asks FAA’s concurrence that paragraph (3) “EXEMPTION” in Section 185 of the Reauthorization Act of 2018; Section 47107(s) of title 49, United States Code has been met at the Rusty Allen Airport. FAA’s 2018 Reauthorization Act exemption supersedes terms and conditions of Section 136 paragraph (2) of the FAA Modernization and Reform Act of 2012 (Public Law 112-95) for the RAAPOA properties who have enjoyed perpetual deeded access to the City’s runways and taxiways. The City asks that FAA recognize applicability of the exemption, thereby rendering inapplicable paragraph (2) requirements as enumerated in Section 136 of the Modernization and Reform Act of 2012.

The City of Lago Vista thanks you and the FAA in advance for your consideration and for FAA’s expedited written concurrence of the applicability of the Section 185 exemption for the Rusty Allen Airport.

Sincerely,

Tracie Hlavinka  
City Manager  
City of Lago Vista, Texas

cc:

Federal Aviation Administration  
Southwest Region  
Texas Airports Districts Office  
10101 Hillwood Parkway  
Fort Worth, Texas 76117-1524  
Attention: Jesse Carriger, Manager  
(jesse.carriger@faa.gov)  
817-222-5650

TxDOT Aviation Division  
6230 Stassney Lane  
Austin, TX 78744  
Attention: Dan Harmon, Director  
(email)  
(512) 416-4500

Judge Rob Durbin, Council Liaison  
Lago Vista Airport Advisory Board  
(CouncilPlace3@lagovistatexas.gov)

**ATTACHMENT “A”**  
Declaration of Covenants Conditions and Restrictions  
Lago Vista Bar-K Subdivision

DOC. 7  
90047621

CC&R's

4/3/90

DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS  
LAGO VISTA BAR-K AIRPORT SUBDIVISION 90004500050

STATE OF TEXAS §  
COUNTY OF TRAVIS §

11-11-2657

43.00 DEX  
3 06/05/99  
15.49-CHK  
900476.21-000

THIS DECLARATION, made on this 8th day of May, 1990, by LAGO VISTA AIRPORT, INC., a Texas corporation, having its principal offices in Lago Vista, Travis County, Texas, ("Declarant"),

WITNESSETH

WHEREAS, Declarant is the owner of certain real property in Lago Vista, Travis County, Texas, which is more specifically described as follows:

Lots 1 through 50, and 52 through 57, Lago Vista Bar-K Airport Subdivision, according to the plat of said Subdivision recorded in Book 87, Pages 105B, 105C, and 105D of the Plat Records of Travis County, Texas.

WHEREAS, the individuals or entities (the "Out Parcel Owners") who have joined in the execution hereof own certain lots and parcels of real property (the "Out Parcels") adjacent to and west of Lot 57, Lago Vista Bar-K Airport Subdivision (the "Subdivision"), which Out Parcels are described in Exhibit "A" attached hereto and incorporated herein by reference for all purposes; and

WHEREAS, the Out Parcels are subject to certain restrictions (the "Prior Restrictions") contained in a certain instrument recorded in Volume 7015, Page 2074, Deed Records of Travis County, Texas, reference to which Prior Restrictions is herein made for all purposes, and it is intended that this Declaration shall be binding upon all of the Out Parcels as per "Paragraph E" of such Prior Restrictions; and

WHEREAS, the Declarant and the Out Parcel Owners desire to establish a unified set of restrictions, covenants and conditions with respect to the properties herein described for the purposes herein set forth.

NOW, THEREFORE, Declarant and the Out Parcel Owners hereby declare that all of the herein described Properties shall be held, sold and conveyed subject to the following restrictions, covenants and conditions which arise out of the Prior Restrictions and which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding upon all parties having any rights, title or interest in the above described properties or any part hereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

1.01 "Property" or "Properties" shall mean and refer to Lots 1 through 57 of the Subdivision; the Easement from 606 Limited to NRC, Inc. recorded in Volume 5149, Page 1734, Deed Records of Travis County, Texas (herein called the "606 Easement"); the Out Parcels described in Exhibit "A" attached hereto; and any other Property north of the Subdivision and the 606 Easement which is subsequently added to this Declaration by Declarant.

1.02 "Owner" or "Owners" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple



title to any Lot or Out Parcel, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.03 "Lot" or "Lots" shall mean and refer to Lots 1 through 57 of the Subdivision, and any other property which is subsequently added to this Declaration by the Declarant.

1.04 "Declarant" shall mean and refer to LAGO VISTA AIRPORT, INC., its successor or its designated assigns. Notwithstanding anything contained herein to the contrary, LAGO VISTA AIRPORT, INC. shall have the right to sell all or part of Lots 1 through 57 of the Subdivision to a third party entity and to assign to that third party entity all of the rights and powers of the Declarant under this Declaration.

1.05 "Declaration" shall mean and refer to this instrument and any subsequent amendments or supplements hereto which may be recorded from time to time pursuant to the terms hereof.

1.06 "Architectural Committee" shall mean and refer to a committee designated and constituted as provided in Article IV, hereof.

1.07 "Out Parcel" shall mean the parcels of land described in Exhibit "A" attached hereto adjacent to and west of Lot 57 of the Subdivision.

1.08 "Runway" shall mean the contiguous strip of pavement and other improvements located on Lot 57 of the Subdivision, the land described in the Easement from 606 Limited to NRC, INC., recorded in Volume 5149, Page 1734, Deed Records of Travis County, Texas and any land adjacent thereto which is added to this Declaration and used for the take off, landing, taxiing and (where permitted) temporary tie-down of aircraft.

1.09 "Association" shall mean the non-profit Texas corporation to be formed by Declarant, at Declarant's sole option, which Association shall own such real and personal property conveyed to it by Declarant and shall have such powers and duties as provided for herein or assigned to it by Declarant.

#### ARTICLE II POWERS IN DECLARANT

2.01 Amendments to Declarations. The restrictions, covenants, conditions and all other matters set forth herein are expressly subject to change, modification, or deletion by means of amendment at any time and from time to time as provided herein. Nothing contained in or inferable from this Declaration shall ever be deemed to impose upon any other land owned or to be owned by the Declarant, or any related entity, any covenants, restrictions, easements or liens or to create any servitudes, reciprocal negative easements or other interest in any such land in favor of Declarant or any other party. The power to modify restrictions, covenants and conditions, to grant variances to the terms of this Declaration, and to amend or revise this Declaration shall lie with the Declarant, its successors and designated assigns, except as is otherwise specifically set forth herein, for a period of ten years from the date of execution hereof by Declarant. Any such amendments shall be effective on the date that a written instrument clearly setting forth the provisions to be amended has been executed by the Declarant, its successor or designated assigns and same is filed of record in the Real Property Records of Travis County, Texas. Such amendments shall affect each Property and Owner bound by this Declaration, as amended. Provided, however, that any such amendments to be made by the Declarant pursuant to this Section must be reasonable in scope and must be reasonably compatible with general aviation activities being conducted in the

11201-1934



Subdivision and on the Runway. The power to enforce the obligations contained herein shall lie with the declarant, provided, however, upon any failure of the Declarant to promptly enforce this Declaration, any Owner shall thereupon have the power and authority to enforce the terms and provisions of this Declaration, subject however, to the right of the Declarant to grant waivers or variances to the provisions of Article V, Section 5.03.

2.02 Changes in Boundaries. The Declarant reserves the right to make such changes in the boundaries of Lots not sold to others as it deems advisable, provided that such changes shall not unreasonably or substantially adversely affect the boundaries or the beneficial use and enjoyment of any Lot then owned by persons other than the Declarant, and provided that Declarant complies with all provisions of any applicable law or ordinance.

2.03 Adding Property to Declaration. Declarant reserves, and shall have the right, without the consent or approval of any other person, to make any other real property located north of the Subdivision, subject to this Declaration, whether owned by Declarant or some other consenting third parties. However, the Declarant make no representation or warranty that any property now or hereafter owned by Declarant or any third parties will be annexed to this Declaration or that the Runway and airport will be expanded beyond its present configuration.

2.04 Procedure for Adding Property. The additions authorized pursuant to Article II, Section 2.03 above, shall be effectuated by the recordation of a Supplementary Declaration of Covenants, Conditions and Restrictions (the "Supplementary Declaration").

2.05 Contents of Supplementary Declaration. The Supplementary Declaration shall describe the property to be annexed to the scheme of this Declaration and shall state that it is being made pursuant to the terms of the Declaration for the purpose of annexing the property described in the Supplementary Declaration to the scheme of this Declaration. The Supplementary Declaration may contain such complementary additions and modifications to the Declaration as may be necessary to reflect the different character, if any, of the property being annexed and as are not inconsistent with the general scheme of this Declaration. Any Supplementary Declaration recorded in accordance with the terms hereof shall be conclusive in favor of all persons who rely thereon in good faith. From and after recordation of any Supplementary Declaration in accordance with the provisions hereof, the real property described therein shall be subject to the provisions of this Declaration, and the jurisdiction of the Association, if any, pursuant to the terms of this Declaration, the By-laws and the Articles of such Association.

#### ARTICLE III EASEMENTS

3.01 Changes and Additions. Declarant reserves the right to make changes in and additions to the easements granted or reserved herein or depicted on the Plat of the Subdivision. Any such changes in and additions to the easements granted or reserved herein or depicted on the Plat of the Subdivision shall not be effective until filed for record with the Clerk in charge of the Official Public Record of Real Property for Travis County, Texas. However, nothing herein shall be deemed to impose any obligation on Declarant to make any further improvements in or on the Property. Also, Declarant reserves the right, notwithstanding anything above to the contrary, to change any easements on Lots owned by Declarant which have not been sold to others as it deems advisable.

3.02 Right-of-Way and Easement. The following rights-of-way and easements are hereby reserved and established:

RECORDED  
INDEXED  
11201 1935

(a) A right-of-way and easement twenty (20) feet wide along the west lot lines of Lots 48 through 55 of the Subdivision hereinbefore described, and along the west boundary line of the Out Parcels located north of War Bonnet Trail, together with an unobstructed easement on, along, over and under the same for installation, operation and maintenance of any or all utilities and drainage facilities. This easement being the same easement as is shown on the plat of the Subdivision for Lots 48 through 55 and is contained in each of the deeds to the Out Parcels located north of War Bonnet Trail described in Exhibit "A" attached hereto.

(b) A right-of-way and easement forty (40) feet wide along the west boundary line of the Out parcels located south of War Bonnet Trail and east of and adjacent to Lots 46 and 47 of the Subdivision, together with an unobstructed easement on, along, over and under the same for installation, operation and maintenance of any or all utilities and drainage facilities. This easement being in the same location as the easements described in Deed recorded in Volume 7015, Page 2074, Deed Records of Travis County, Texas.

(c) A right-of-way and easement twenty (20) feet wide along the southern lot line of Lot 44 of the Subdivision and the Western and Northern lot lines of Lot 43 of the Subdivision from the common boundary of Lot 44 and 43 of the Subdivision at Rawhide Trail to the western boundary line of the Out Parcel described in Deed recorded in Volume 10587, Page 0071, Real Property Records of Travis County, Texas, then continuing along the western boundary line of the Out Parcels described in Deeds recorded in Volume 10587, Page 0071, and 10516, Page 0530, Real Property Records of Travis County, Texas, together with an unobstructed easement on, along, over and under the same for installation, operation and maintenance of any and all utilities and drainage facilities. This easement is located entirely inside Lot 44 of the Subdivision.

(d) A fifteen (15) foot easement on, under, over and along the entire east and west lot lines of Lot 57 of the Subdivision for the purpose of installing, operating and maintaining any and all utilities and drainage facilities. This easement is located entirely inside Lot 57 of the Subdivision.

(e) A forty-five (45) foot easement solely for the purposes of ingress and egress is established along the west lot line of Lot 57 of the Subdivision. This easement shall be located entirely inside Lot 57 of the Subdivision. This easement shall be for ingress and egress to the Properties located immediately adjacent to and west of such easement and shall be used for intra-airport access only; no through traffic shall be allowed. All existing improvements currently located within this easement area shall be maintained by the Owner of the Property adjacent thereto in accordance with the terms hereof until the Declarant elects to assume the responsibility thereof as set forth in Paragraph 3.03(c) below.

(f) A forty (40) foot easement solely for the purposes of ingress and egress is established along the east lot line of Lot 57 of the Subdivision from the Southwest corner of Lot 21 of the Subdivision north to 40 feet north of the southwest corner of Lot 1 of the Subdivision. This easement shall be for ingress and egress to the Properties located immediately adjacent to and east of such easement and shall be used for intra-

11201-1936



airport access only; no through traffic shall be allowed. This easement is located entirely inside Lot 57 of the Subdivision.

(q) Subject to the conditions and restrictions herein contained and to the rules and regulations adopted from time to time by the Declarant and local, state and federal agencies asserting jurisdiction, each Owner of a Property now or hereafter made subject hereto, is granted the non-exclusive right to conduct aircraft take-offs and landings upon the Runway. Access to the Runway shall be only at those locations established from time to time by the Declarant.

3.03 Use of Right-of-Way and Easements. Each of the Owners and their respective guests, invitees, lessees, agents and employees shall be entitled to use the rights-of-way and easements described in Paragraph 3.02 above solely in the following manner:

(a) All of such easements shall be non-exclusive and the use thereof reciprocal among the respective Owners.

(b) No such easement shall ever be obstructed by an Owner in any way or at any time. Provided, however, the Declarant reserves the right to restrict access to such easements to the public as part of any overall airport security plan.

(c) Declarant reserves the sole right and privilege, but not the obligation, to construct and maintain an all weather roadway and other improvements within the right-of-way easements described in Paragraphs 3.02(a), 3.02(b), 3.02(c), 3.02(e) and 3.02(f). In addition, Declarant reserves the right to take over the maintenance of the improvements located within the easement described in Paragraph 3.02(e). Each Owner of a Property located along the easements described in Paragraphs 3.02(a), 3.02(b), 3.02(c), 3.02(e) and 3.02(f) covenants and agrees to bear a pro-rata share of the cost of maintenance of the roadway and improvements constructed thereon, which pro-rata share shall be calculated upon the number of front feet each Owner's Property has along such roadway or improvement as compared to the total number of linear feet in such roadway or improvement. However, Lot 1 shall pay the same pro-rata share as Lot 2, and Lot 56 shall pay the same pro-rata share as Lot 55. Such pro-rata share shall be payable within thirty days after written demand therefor is made by the Declarant upon each Owner who owns Property fronting on the roadway or improvements. LOT 56

(d) Declarant reserves the right, from time to time, (i) to establish rules and regulations relating to the use of Runway and the above easements, and (ii) to charge reasonable fees for the use of the Runway. Declarant shall have the right to assign this right to a fixed base operator, or other entity, upon such terms and conditions as Declarant shall deem reasonable.

(e) No Owner shall ever utilize the easements granted herein in any manner that will create an obstruction or any other hazard for aircraft that may be arriving, departing, taxiing or otherwise utilizing the runway for aviation activities.

3.04 Drainage Easement. Each Owner covenants and agrees to provide such easements for drainage and waterflow as the contours of the land and the arrangement of any improvements, if any, thereon requires; however, existing improvements will not be disturbed.



3.05 Dedication. Declarant reserves the right to assign, dedicate, or convey the utility and drainage easements and any rights and interests therein at any time and from time to time, in Declarant's sole discretion, to any municipality or other governmental agency, or to any public service corporation, or to the Association, provided that such utility and drainage easements shall be used solely to service the Property subject hereto and any Properties subsequently added hereto.

3.06 Obligations of Declarant. This Declaration shall never be deemed to obligate Declarant to furnish, construct or maintain or cause to be furnished, constructed or maintained, any road, street, utility or drainage improvement or facility.

#### ARTICLE IV ARCHITECTURAL CONTROL COMMITTEE

4.01 Designation of Committee. Declarant shall form an Architectural Control Committee ("Committee") which shall consist of no fewer than three (3) members who shall be natural persons. The initial appointment of the members of the Committee shall be by Declarant, and any and all members of the Committee may be removed by the Declarant without cause. The Declarant's discretion in such matter shall be unreviewable. Upon formation of the Association, however, the Declarant shall assign all powers with respect to the Committee to the Association.

4.02 Function of the Committee. No improvement (as defined herein) shall be commenced, erected, placed, maintained or permitted to remain on any portion of the Property until plans and specification in such form and detail as the Committee may deem necessary shall be submitted and approved in writing by the Committee. The Committee shall have the power to employ professional consultants to assist it in discharging its duties and shall have the right to charge any applicant a reasonable fee to defray its cost of reviewing such plans and specifications. The decision of the Committee shall be final, conclusive and binding upon the applicant. "Improvement" shall mean and include all buildings, roof structures, parking areas, loading areas, fences, walls, landscaping, poles, driveways, grading and site preparation work, changes in any exterior color or shape and any new exterior construction or exterior improvement that may now be included in any of the foregoing. Improvement does include both original improvements and later changes and improvements.

4.03 Rules and Regulations. The Committee shall promulgate such rules and regulations as it, in its sole discretion, deems proper to govern the submission of plans and specifications, including a requirement of design submission in phases, as well as format and content. A copy of such rules and regulations shall be made available to all Owners of undeveloped Lots and Out Parcels upon request. Such rules and regulations may be amended at any time and from time to time as the Committee may see fit, provided, however, that once final approval has been given, no subsequent change in rules or regulations shall affect such approval. Such rules and regulation shall apply to all Properties subject hereto, subject to the right to grant variances as set forth in Section 5.03 below.

4.04 Basis of Approval. Approval of plans and specifications shall be based, among other things, on adequacy of site dimensions, conformity and harmony of external design and of location with neighboring structures and sites, relation of finish grades and elevation to neighboring sites, required height and set-back limitations, and conformity to both the specific and general intent of the restrictions and covenants set forth herein. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Committee may reject them totally or may approve or disapprove part, conditionally or unconditionally, and reject

the balance. The Committee may improve reasonable building height and set-back limitations on all unimproved Lots in the Subdivision.

4.05 Governmental Requirements. All structures shall comply with the City of Lago Vista's zoning requirements and with all federal and state agency requirements for aviation facilities which are applicable and in force at the time of commencement of construction.

4.06 Failure of Committee to Act. If the Committee fails to approve or disapprove plans or specifications or to reject them as being inadequate within forty-five (45) days after submission thereof, it shall be conclusively presumed that the Committee has approved such plans and specifications, provided, however, that the Committee shall have no right or power either by action or failure to act, to waive or grant any variances specifically reserved to Declarant or the Association in the Declaration.

4.07 Limitation of Liability. Neither the Declarant, the Association, the Committee nor any of the Members thereof shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any Owner affected by the Declaration by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications.

#### ARTICLE V PROTECTIVE COVENANTS

5.01 Designation of Prohibited Uses. Notwithstanding any other provision contained herein to the contrary, the following uses shall not be permitted on any Lot or on any portion of the Property:

- (a) Any use which involves the raising, breeding or keeping of any animal or poultry.
- (b) Any dangerous or unsafe uses.
- (c) Any mining or mineral exploration or development.
- (d) Any noxious or offensive activity which the Declarant, or the Association, when formed, deems objectional and adverse to the preservation of property values within the Property.
- (e) Any use which creates an obstruction or any other hazard for aircraft that may be arriving, departing, taxiing or otherwise utilizing the Runway for aviation activities, or which violates any statute, rule, regulation, ordinance or other law of any governmental entity, including but not limited to, all applicable ordinances of the City of Lago Vista, Travis County, Texas, the Federal Aviation Administration and the Texas Aeronautics Commission.
- (f) No airplane may be tied down or parked on the Runway except in such spaces as designated by the Declarant.
- (g) No motor vehicles will be allowed on the Runway at anytime, except for authorized refueling and maintenance vehicles.

5.02 Additional Restrictions. The following restrictions shall apply to all portions of the Property:

- (a) All Lots, easements and Out Parcels shall at all times be kept in a healthful, sanitary and clean



condition. No Lot, easement or Out Parcel shall be used or maintained as a dumping ground for garbage, trash, junk or other waste matter. All inoperative machinery, equipment, vehicles and airplanes shall be removed from the Property. All trash, garbage or waste matter shall be kept in adequate containers. No Lot, easement or Out Parcel shall be used for open storage of any materials whatsoever, which storage is visible from the runway or any street, except that new building materials used in the construction of improvements erected on any Lot or Out Parcel may be placed upon such Lot or Out Parcel at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, until completion of the improvements, after which these materials shall either be removed from the Lot or Out parcel, or stored in a suitable enclosure on the Lot or Out Parcel. No garbage, trash, debris or other waste matter of any kind shall be burned on any Lot, easement, Out Parcel or the runway.

(b) No signs, antennas, weather instruments or other items shall be installed in, on or around the Property without first obtaining the prior written consent of the Declarant. All such items, if approved, shall be installed and maintained in strict conformity, with all applicable statutes and regulations. No radio signals, or other form of electromagnetic radiation shall originate from any Lot or Out Parcel which may interfere with the reception or transmission of radio signals on any other Lot, Out Parcel, aircraft or vehicle.

5.03 Designation of Permitted Uses. No future building or other structure shall be built, placed, constructed, reconstructed or altered on any Lot or Out parcel other than an aircraft hanger or aircraft related facility which shall be utilized solely for the purpose of servicing, storage, rental, repair, construction, sale, operation and maintenance of aircraft and other activities relating directly to or in support of aviation activities. Provided, however, Declarant shall have the power to grant reasonable waivers or variances to Owners upon request if, in the sole discretion of Declarant, such proposed structure or use would not interfere with nor be unreasonably incompatible with general aviation activities being conducted in the Subdivision and on the Runway. Provided, further, in addition to the uses set forth in this Paragraph, Lots 44 through 47 may be utilized for other commercial purposes, where in the sole opinion of the Declarant the use of such Lot is compatible with the uses permitted above.

5.04 Designation of Runway. The Runway is hereby dedicated and restricted to be used for the take off, landing, taxiing and (where permitted) temporary tie-down of aircraft in accordance with the terms and provisions of this Declaration and the rules and regulations of local, state and federal agencies asserting jurisdiction over the Runway and the operation use and maintenance thereof.

#### ARTICLE VI MISCELLANEOUS

6.01 Duration. This Declaration and the covenants, restrictions, charges and liens set forth herein shall run with and bind the Property described hereinabove, and shall inure to the benefit of and be enforceable by the Declarant, the Owners, and their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is filed for record with the Clerk in charge of the Real Property Records of Travis County, Texas, after which time it shall be automatically extended for successive periods of five (5)



years. This Declaration may be amended as set forth in Section 2.01 above, except, however, notwithstanding anything contained herein to the contrary, this Declaration may be terminated or amended at any time by the written consent of the Owners of sixty-five percent (65%) of the Properties subject hereto. Each separate Lot or Out Parcel shall be entitled to one voting unit, provided however, this Declaration may not be terminated or amended without the written consent of the then Owner of Lot 57 of the Subdivision. Any such termination or amendment will be effective at such time as an instrument reflecting such termination is filed for record in the Real Property Records of Travis County, Texas.

6.02 Severability. If any of the covenants, conditions or terms of this Declaration shall be found void or unenforceable for any reason whatsoever by any court of law or of equity, then every other covenant, condition, restriction or term contained herein shall remain valid and binding.

6.03 Violation and Nuisance. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by Declarant or any Owner or Owners of Lots or Out Parcels. In any action to enforce compliance with the provisions of this Declaration, the providing party shall be entitled to collect reasonable attorney's fees and expenses from the non-prevailing party.

6.04 Violation of Law. Any violation of any federal, state, municipal or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any of the Properties is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

6.05 Right to Assign. The Declarant may, by appropriate instrument, assign or convey to any person or entity any or all of the rights, reservations, easements and privileges herein reserved by the Declarant, and upon such assignment or conveyance being made, such assignees or grantees shall have the same rights, privileges and obligations with respect thereto as Declarant had hereunder.

6.06 Notices. All notices given or required to be given by the Declarant to its Owners shall be deemed to have actually been given if actually mailed, and whether or not actually received, when deposited in the United States Mail, postage prepaid and addressed to the owner at his address as it appears on the books of the Declarant.

6.07 Remedies Cumulative. Each remedy set forth in this Declaration shall be in addition to all other remedies whether available at law or in equity, and all such remedies, whether or not set forth in this Declaration shall be cumulative and not exclusive.

6.08 The Declaration. By acceptance of a deed acquiring any ownership interest in any of the real property included within this Declaration, each person or entity, for himself or itself, his heirs, personal representative, successors, transferees and assigns, agrees to be bound to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the real property covered hereby, and hereby evidences his intent that all the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future owners, grantees, purchasers, assignees and transferees thereof. Furthermore, each such person fully understands and acknowledges



that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners. This Declaration is intended to be binding upon all of the Out Parcels by virtue of "Paragraph E" of the Prior Restrictions.

6.09 Maintenance Fee and Property Owners' Association. Each lot shall be subject to a monthly maintenance fee, payable monthly in advance, when the Association is formed, and to special assessments for capital improvements as may be reasonably required by the Association in order to properly care for and maintain the Runway in accordance herewith and applicable law. The initial monthly maintenance fee shall be established at \$50.00 per month per lot. When the Association is formed, such fee and assessments shall be established and collected by the Association, its successors or assigns, and may be raised or lowered as necessary, in the Association's sole discretion. The fund shall be used for the purpose of maintaining the Runway and all other purposes necessary or desirable, in the opinion of the Association, to benefit the development of the Airport Subdivision. The Association may be formed at any time by the Declarant or when 65% of the Lots have been sold to the purchasers thereof. The Association shall act by majority vote, and when established, shall succeed to the rights of the Declarant herein which are assigned to it by Declarant (except for those rights expressly retained in the Declarant pursuant to Sections 2.02, 2.03, 3.01 and 3.02(c) herein above). All Owners shall be members of the Association. The obligation to pay the fees and assessments herein shall be secured by a lien on each lot in favor of the Declarant and the Association when established, but it is expressly provided such lien shall in all respects be subordinate and inferior to any and all other liens previously or subsequently voluntarily placed on said lots by Owners of said lots. The Lots owned by the Declarant shall be exempt from the payment of the monthly maintenance fee until sold to third party purchasers, however, the Lots owned by Declarant shall be assessed on a pro-rata basis for any special assessments needed by the Association (i) for capital improvements to the Airport and (ii) for any maintenance required which will require expenditures in excess of the maintenance fee fund balance. When formed, the Declarant shall have the option, but not the obligation, to convey the Runway by deed to the Association, which conveyance the Association shall be obligated to accept, and upon such conveyance, the Association shall own such Runway subject to this Declaration and applicable laws. Declarant shall have the right under this Declaration to make any and all improvements Declarant desires to make from time to time to the Runway, provided that Declarant shall pay for the cost of such improvements and none of the Lots or Out-Parcels shall be assessed therefor.

6.10 Use at Own Risk. All Owners, and their guests, lessees, invitees, employees and agents shall use the Property, Runway and easements at their own risk. Each Owner shall indemnify and hold Declarant and the Association, when formed, harmless from all liability, cost, expense, claims and damages which Declarant or the Association may at any time suffer or sustain or become liable for by reason of accidents, damages or injuries either to the persons or property or both, of any Owner arising out of the use of the Property, Runway or easements, including but not limited to, any negligent act or omission of Declarant, or the Association, their officers, directors, employees or agents.

6.11 Joinder by Mortgages. The Out Parcel Owners warrant and represent that there are no mortgages, liens, or security interests affecting their respective Out Parcels, except for those with respect to which the mortgagee or lienholder has joined in the execution hereof to indicate said mortgagee's or lienholder's consent hereto and subordination of such mortgage, security interest, or lien, to this Declaration.

IN WITNESS WHEREOF, the undersigned, being the declarant herein, has hereunto set its hand and seal the day and year first above written.

LAGO VISTA AIRPORT, INC.

By [Signature]

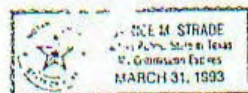
its vice president

STATE OF TEXAS §

Minden CL

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 9<sup>th</sup> day of May, 1990, by Minden O'Brien, Vice President of Lago Vista Airport, Inc., a Texas Corporation, on behalf of said corporation.



[Signature]  
Notary Public, State of Texas

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11201 1943

**ATTACHMENT “B”**

Letter from Rusty Allen Airport Property Owners Association  
To the City of Lago Vista dated July 1, 2021

**Rusty Allen Airport Property Owners Association (RAAPOA)  
304 Flightline Rd.  
Lago Vista, TX 78645**

Mayor Ed Tidwell  
City of Lago Vista, Texas  
5803 Thunderbird St #101  
Lago Vista, TX 78645

July 1, 2021

Subject: Rusty Allen Airport  
Section 47107(s) of title 49, United States Code Sec. 185 Grandfathering of certain deed agreements granting through-the-fence access to general aviation airports.

Mayor Tidwell:

Since the late 1990's reasonable questions have been raised at a national level about the equity of airport land use at obligated airports<sup>1</sup>. An obligated airport is one that receives federal grant funds for the purpose of maintaining a safe aviation environment. Those federal dollars help maintain the airport's safe use for all taxpayers. An inequity was discovered at some airports around the country between businesses leasing airport property and businesses on adjacent private property with direct taxiway access to the airport. Both businesses benefit from the airport; however, only businesses inside the airport property pay for the benefit by way of ground leases, facility leases, and other airport use fees. The inequity favors the business outside with potentially lower overhead costs and it harms the airport sponsor by reducing the airport's revenue.

In 2000, FAA completed a report to congress detailing its planned compliance efforts to address the observed inequities as it relates to federal funds. That report stimulated congressional debate leading to an amendment in 2012 to Title 49 United States Code Section 47107<sup>11</sup> viz:

**SEC. 136. AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.**

(a) IN GENERAL.—Section 47107 is amended by adding at the end the following:

“(t) AGREEMENTS GRANTING THROUGH-THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.—

“(1) IN GENERAL.—Subject to paragraph (2), a sponsor of a general aviation airport shall not be considered to be in violation of this subtitle, or to be in violation of a grant assurance made under this section or under any other provision of law as a condition for the receipt of Federal financial assistance for airport development, solely because the sponsor enters into an agreement that grants to a person that owns residential real property adjacent to or near the airport access to the airfield of the airport for the following:

“(A) Aircraft of the person.

“(B) Aircraft authorized by the person.

“(2) THROUGH-THE-FENCE AGREEMENTS.—

“(A) IN GENERAL.—An agreement described in paragraph (1) between an airport sponsor and a property owner (or an association representing such property owner) shall be a written agreement that prescribes the rights, responsibilities, charges, duration, and other terms the airport sponsor determines are necessary to establish and manage the airport sponsor's relationship with the property owner.

Page | 1



“(B) TERMS AND CONDITIONS.—An agreement described in paragraph (1) between an airport sponsor and a property owner (or an association representing such property owner) shall require the property owner, at minimum—

“(i) to pay airport access charges that, as determined by the airport sponsor, are comparable to those charged to tenants and operators on-airport making similar use of the airport;

“(ii) to bear the cost of building and maintaining the infrastructure that, as determined by the airport sponsor, is necessary to provide aircraft located on the property adjacent to or near the airport access to the airfield of the airport;

“(iii) to maintain the property for residential, non-commercial use for the duration of the agreement;

“(iv) to prohibit access to the airport from other properties through the property of the property owner; and

“(v) to prohibit any aircraft refueling from occurring on the property.”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to an agreement between an airport sponsor and a property owner (or an association representing such property owner) entered into before, on, or after the date of enactment of this Act.

The 115<sup>th</sup> Congress amended Sec. 136 in the 2018 Reauthorization Act to provide an exemption as stated in Sec. 185, viz:

**SEC. 185. GRANDFATHERING OF CERTAIN DEED AGREEMENTS GRANTING THROUGH-  
THE-FENCE ACCESS TO GENERAL AVIATION AIRPORTS.**

Section 47107(s) of title 49, United States Code, is amended by adding at the end the following:

“(3) EXEMPTION.—The terms and conditions of paragraph (2) shall not apply to an agreement described in paragraph (1) made before the enactment of the FAA Modernization and Reform Act of 2012 (Public Law 112–95) that the Secretary determines does not comply with such terms and conditions but involves property that is subject to deed or lease restrictions that are considered perpetual and that cannot readily be brought into compliance. However, if the Secretary determines that the airport sponsor and residential property owners are able to make any modification to such an agreement on or after the date of enactment of this paragraph, the exemption provided by this paragraph shall no longer apply.”.

Congress’s mandate to FAA, applied as intended, fosters equity between users of the federal aviation system, and ensures that control of the airport land and its facilities is retained by the local airport sponsor. With the reasonable understanding that;

- a) there were agreements in place prior to February 2012, and;
- b) some of those agreements are considered perpetual in nature and cannot readily be brought into compliance.

These two important elements of Sec. 185 create the exemption for airports like Lago Vista’s Rusty Allen Airport whose inception, development, and legal land use differs substantially from “conventional” publicly developed, publicly owned, general aviation airports.

Conventionally, a municipal airport is created when local city representatives agree within the charter of their municipality to finance, plan, design, construct, operate and maintain a municipal airport. With constituent approval, they obligate local funds and seek state and federal support where outside contributions are available. They acquire land, hire planners, engineers and contractors, zone or re-zone property and build the airport. They hire and train staff to operate and maintain the new facility. Ideally, the airport generates a sufficient revenue stream to retire bonds and offset ongoing operating and maintenance expenses. In time, developers may acquire land adjacent to the airport for hotels,

restaurants, or other businesses to accommodate air travelers and increase the municipality's economic development footprint. 49 U.S. Code § 47107 Sec. 136 allows the development of adjacent private property with direct access to an obligated airport by complying with grant assurances specified in 49, U.S.C., subtitle VII, as amended (FAA Airport Sponsor Assurances).

In Sec. 185 of 49 U.S. Code § 47107 Congress recognized that all obligated general aviation airports are not "conventionally" developed, municipally controlled facilities. Congress recognized that obligated airports may have granted deeded access to adjacent property with rights of perpetual access that pre-date the Reauthorization Act of 2012. Congress wisely understood that requirements imposed by FAA to terminate those agreements could result in irreparable harm, legal action, and significant impacts to the airport sponsor and the aviation community. The Sec. 185 exemption was included in the 2018 Reauthorization Act to provide reasonable relief to obligated airports in unique situations like Lago Vista's Rusty Allen Airport.

Rusty Allen Airport is a unique experiment, a valuable civil air facility, and a true gem in the heart of the Texas hill country. In the early 1950's the airport's private sector founders recognized the importance of air access to the remote area on the north shore of Lake Travis, many miles from the State Capitol and the University in downtown Austin. In the late 1950's the vision of a larger Lago Vista community began and in 1980's the City of Lago Vista was incorporated. As the population grew, travel to and interest in the little private airport increased. Construction of various facilities within the airport property for airplane storage, commercial and residential use began in the 1980's. Over time, ownership of the airport changed hands until in 1993 Lago Vista Airport Inc., a private enterprise, offered the airport runway and taxiways to the City of Lago Vista. The City's elected officials carefully considered the airport's value, its costs, and potential future viability. With significant donations from the airport property owners to offset transactional costs, the City became the proud owner of the airport runway and taxiways (known as Lot 57) on August 25, 1994.<sup>iii</sup>

The City's acquisition of Lot 57 created a viable integrated public / private partnership with the Rusty Allen Airport private property owners that further attracted aviators to invest in the airport and the City's economic development. The symbiotic relationship between the City and the private airport property owners germinated and matured over the years resulting in property owners – public and private pitching in to maintain the airport for public general aviation<sup>iv</sup>. Private landowners partnered with city staff to mow the grass, acquire and maintain an airport automated weather observation station (AWOS), establish instrument flight rule (IFR) flight approaches for landing in low visibility weather, clear runway protection zones, acquire and maintain a fuel farm, and in recent years, help the city increase its ability to generate revenue with the purchase of outparcels and plans to build and lease city owned hangars. The integrated public / private ownership has served the public by maintaining a second public airport in Travis County that offers medical air transport, airborne wildfire protection, a military practice area, and entices future economic development on the north shores of Lake Travis.

Four years prior to the City's acquisition of Lot 57 and 22 years prior the 2012 FAA Modernization and Reform Act, the airport property owners filed a Declaration of Covenants Conditions and Restrictions<sup>v</sup>

(CC&R's) for the entire airport property, including all of the individually owned parcels adjacent to Lot 57 - the runway and taxiways. The CC&R's established a unified and perpetual agreement "...which shall run with the real property and be binding upon all parties having any rights, title or interest in the above-described properties or any part hereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof." Article VI paragraph 6.01 further clarifies duration of the CC&R's as having;

- a) an initial term of 25 years,
- b) automatic extension of successive five-year terms in perpetuity

From the CC&R's recording at the county clerk's office on May 8, 1990 through the City of Lago Vista's acquisition of Lot 57 on August 25, 1994, to the present time, the only changes agreed by the declarant and property owners relate to assessment of fees for the purpose of general airport maintenance. The annual assessments have varied over the years and are currently established at \$325 per annum until 2024, and access to the airport from each individual RAAPOA property has never been predicated upon the assessment of fees. There has never been a recorded discussion among airport property owners to amend the CC&R's in any manner that would restrict, impede, obstruct, or toll each property owner's perpetual access to the taxiways and runway. Likewise, there has never been a recorded discussion among property owners in favor of an amendment to the CC&R's for the public partner to control the private partner's annual assessment lawfully established by the declarant.

Assessments within the CC&R's are determined by the declarant, which was Lago Vista Airport, Inc. at the time of the CC&R recording. By legal instrument filed February 21, 1995<sup>vi</sup> the responsibility of the declarant was transferred to the Bar K Airport Property Owners Association, Inc; now the Rusty Allen Airport Property Owner's Association (RAAPOA or Association). The private partners – property owners that make up the Association, have historically invested their annual assessments to help the City of Lago Vista maintain a safe airport for the public. Assessments levied by the Association will continue to be the private party's participation in support of a safe public airport.

The legally established perpetual access each airport property owner enjoys to the public runway and taxiways is conveyed from seller to purchaser by deed restriction (CC&R's). Each seller and purchaser have reasonably relied upon that deeded access to establish a fair valuation for the property. Any impact to the perpetual deeded access would inflict immediate and irreparable harm to the property owners whose purpose in acquiring airport property was intrinsically connected to their access to the airport runway and taxiways.

Airport property owners have remarked that their private homes in town have perpetually deeded access to the public sidewalks and streets, connecting their private property to public commerce. Removing or restricting perpetually deeded access at their private residence is not different than removing or restricting access to their perpetually deeded access at the airport.

July 1, 2021

We, the president, board, and full membership of RAAPOA, respectfully request that the City of Lago Vista - in its capacity as the airport sponsor, submit a request to TxDOT - in its capacity as FAA's representative, for relief from Sec. 136 of the FAA Reauthorization Act of 2012 related to unapplicable restrictions to the Rusty Allen airport property owners perpetually deeded access. We assert that Congress' exemption to Sec. 136, enumerated in Sec. 185 of the 2018 Reauthorization Act is applicable to the Rusty Allen airport property owners based on these facts;

- a) private property owners within airport property have legally established perpetual deeded access to the publicly held airport runway and taxiways<sup>vi</sup>,
- b) legal documents establishing private property owner's perpetual access pre-date, by more than 22 years, the February 2012 FAA Modernization and Reform Act (Public Law 112-95),
- c) legal documents conveying the airport runway and taxiways to the City of Lago Vista, creating the integrated public / private partnership also pre-date, by more than 17 years, the February 2012 FAA Modernization and Reform Act (Public Law 112-95).

Texas is very proud of its Austin-Bergstrom International Airport in the southeast corner of Travis County. 40 miles to the northwest in the opposite corner of the county, Lago Vista residents are equally proud of the county's only other public airport. The property owner's association and our many neighbors and friends throughout Lago Vista and the central Texas aviation community eagerly await a favorable response from TxDOT so that much needed work can be completed on the airport runway and taxiways.

We are available at your request to help assemble documentation to expedite TxDOT's review. We are also available to participate in meetings with TxDOT through the City's Airport Advisory Board.

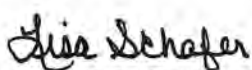
Respectfully submitted,



James Peck  
President, RAAPOA



Glenn Chiappe, Vice Pres.



Lisa Schafer, Treasurer



Dick Smith, Secretary

Kevin Crozier, at large.

<sup>i</sup> GAO Report RCED-99-109

<sup>ii</sup> FAA Modernization and Reform Act of 2012

<sup>iii</sup> Lot 57 Vol. 12265 Pg. 01400 Travis County Deed Records

<sup>iv</sup> Reference RAAPOA Website; airport history

<sup>v</sup> CC&R Vol. 11201 Pg. 1933 Travis County Deed Records

<sup>vi</sup> Declarant transfer Vol. 12378, Pg. 267 Travis County Deed Records

<sup>vii</sup> CC&R Vol. 11201 Pg. 1933 Travis County Deed Records

## ATTACHMENT “C”

### City of Lago Vista Response to FAA’s letter of March 13, 2023

#### **March 13 Letter:** (page 2)

*A review of the information shows that RTTF aircraft owners pay \$27.08 per month compared to on airport aircraft tie down rate is \$50 per month. These fees clearly are not the same charges. Consequently, the City needs to provide the missing detailed justification and the Fee Ordinance since this fee discrepancy otherwise is inconsistent with Grant Assurance 22, Economic Nondiscrimination.*

**FAA Reference:** Airport Sponsor Assurances 3/2014 Pages 11 & 12 of 20

#### **22. Economic Nondiscrimination.**

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
- 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

#### **City of Lago Vista Response:**

The City is guided by each of the Airport Sponsor Assurances and asserts that every agreement, contract, lease or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions as enumerated in items 1) and 2) above.

The exempted CCR properties exercise private property privileges under the guidance and restrictions of the CCR’s and the City’s zoning ordinances. In accordance with the CCR’s (Article VI *Miscellaneous*, Sec. 6.09 *Maintenance Fee and Property Owner’s Association*; page 9), the Association assesses a monthly fee from each CCR property owner to offset the Association’s maintenance costs. Since the City initially acquired the airport runways and taxiways the Property Owner’s Association has offered the City an annual contribution from its assessed fees to help offset City airport runway and taxiway operations and maintenance expenses. The Association’s contributions are general donations. They are not aligned with any specific City airport expense, nor are the contributions aligned with any agreements the City makes with aircraft owners related to ramp tie-down fees. The City will continue to solicit non-specific contributions from the Association and we believe the Association will continue making its contributions. The City is in discussions concurrently with the Associations related to the next Association resolution for maintenance contributions. The City is prepared to adjust its aircraft tie-down fees as may be required to solicit the Association’s greatest level of contributions going forward.

#### **March 13 Letter:** (page 2)

*We request details on which specific lots currently have established commercial aeronautical activities, and if so, how long and what specific activities are operating on each RTTF lot. Also, we request information on the specific details of each commercial aeronautical tenant that is operating on airport land. Also, please provide the commercial rates and charges schedules for on airport tenants considering that RTTF operators only pay a one-time fee of \$25.*

#### **City of Lago Vista Response:**

The exempted CCR properties exercise private property privileges under the guidance and restrictions of the CCR’s and the City’s zoning ordinances. In accordance with the CCR’s (Article V *Prohibited Uses*; page 7), the property

owners may now and in the future offer commercial aeronautical services. The City has a process in place for commercial aeronautical service providers to document their services and submit an annual fee. The process and annual fees are currently under review by the City. With your forbearance, we will include additional detail in our collaborative discussions with TxDOT and FAA SW Region administration as those details develop.

**March 13 Letter:** (page 2)

*The City also states specifically 5.03 of the CCRs allows Lots 44 through 47 to be utilized for “other commercial purposes” where, in the sole opinion of the Declarant, the use of such lot is compatible with the uses permitted in the CCRs. As a result, we request the City’s definition what “other commercial purposes” means, and if one or all Lots 44 through 47 (or any other lots) currently are conducting “other commercial purposes”, and if so, what are those other commercial purposes.*

**City of Lago Vista Response:**

The City’s initial assertion was based on language contained on the official replat for those four lots. On further investigation, we understand that the replat references the entire CCR, which is consistent with the fact that every lot in the replat is within the boundaries described in the CCR’s. The City’s current and correct position is that all of the CCR properties, including Lots 44 through 47 are equally bound by Article V of the CCR’s and the City’s zoning ordinances related to their private and commercial uses.

**PACKET ITEM 3D**  
Committee Member Appointments

Board members are encouraged to connect within your committees and engage on committee tasks at your earliest convenience. Each committee will be asked to present status updates monthly, and findings as soon as the work is substantially complete.

**Be cognisant of State of Texas Open Meetings Act (OMA) statutes, which restrict committee meetings to three board members or fewer (based on a total board of seven members). Any meeting, whether in-person, virtual, or a combination of in-person and virtual that intends to include more than three board members MUST be publically announced and posted with the City of Lago Vista within the prescribed time for statutory advance notice. Publically announced and posted meetings must be coordinated with the City through the AAB Council Liaison.**

No.	Committee	Lead	Support
1	Community Outreach	Glenn	Kristen
2	Capital Works	Jim	Glenn
3	Operation & Maintenance	Lynda	Steve
4	Airport Development	Steve	Jim
5	RAAPOA Liaison	Shelby	Lynda
6	Funding & Finance	James	Shelby
7	Special Issues	Kristen	James