

BALDWIN COUNTY, ALABAMA
HARRY D'OLIVE, JR. PROBATE JUDGE
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BY-LAWS
OF
ELSANOR AIRPARK PROPERTY OWNERS ASSOCIATION, INC.

A NONPROFIT CORPORATION
UNDER THE LAW OF THE STATE OF ALABAMA
CODE OF ALABAMA (1975) SECTION 10A-3-1, ET. SEQ.

These By-Laws of **ELSANOR AIRPARK PROPERTY OWNERS ASSOCIATION, INC.**, a nonprofit Corporation organized pursuant to the Alabama Business and Nonprofit Entity Code (the "Association"), is entered into by and among the Association and its initial Board of Directors listed on Schedule I hereto, and is effective as of July 21, 2020.

ARTICLE I
ASSOCIATION

1.1 The office of the Association shall be at 21756 Koier Road, Robertsedale, AL 36567, or such other place as shall be selected by the Board of Directors. The fiscal year of the Association shall be October 1 through September 30.

ARTICLE II
FORMATION OF ASSOCIATION

2.1 Formation. The Association was formed on July 21, 2020 by Kevin Hays, Attorney at Law, as Incorporator, who executed and delivered Articles of Incorporation to the Alabama Secretary of State in accordance with the provisions of the Alabama Act (Code of Alabama 1975 Sections 10A-3-1 through 10A-3-8, et. seq., as amended), and which were filed of record in the BALDWIN COUNTY Probate Office as Instrument # 1844493.

2.2 Agreement. For and in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Directors executing these By-Laws hereby agree to the terms and conditions of the By-Laws, as it may from time to time be amended according to its terms. It is the express intention of the Directors that the By-Laws shall be the sole source of agreement of the parties, and, except to the extent a provision of this By-Laws expressly incorporates federal income tax

rules by reference to sections of the Code or Regulations or is expressly prohibited or ineffective under the Alabama Act, the By-Laws shall govern.

2.3 Name. The name of the Association is
ELSANOR AIRPARK PROPERTY OWNERS ASSOCIATION, INC.

2.4 Registered Office and Principal Place of Business; Registered Agent. The Association shall have its registered office at 21756 Koier Road, Robertsedale, AL 36567, or at such other place as the Directors from time to time shall determine. The registered agent of the Association at such address shall be Kevin Hays, Attorney at Law, or such other person as the Directors from time to time shall determine. The Association shall have its principal place of business at 21756 Koier Road, Robertsedale, AL 36567, or at such other place as the Directors from time to time shall determine.

2.5 Term. The Association shall continue until it shall be dissolved, and its affairs wound up in accordance with Alabama Act or these By-Laws.

ARTICLE III **BUSINESS OF THE ASSOCIATION**

3.1 The purpose of the Association shall be to own, manage and control all of the common areas and improvements thereon located within the exterior boundaries of the Subdivision which are intended to be devoted to the common use and enjoyment of the owners of lots in the Subdivision, including but not limited to the maintenance of private easements or roads, any decorative fences, street islands and any detention pond for storm water drainage

ARTICLE IV **MEMBERS**

4.1 Qualification. The members of the Association shall be determined in accordance with Article VII of the Articles of Incorporation. "Owner," as used herein, shall mean and refer to the record owner, whether the same shall consist of one or more persons or entities, of the fee simple title to any platted lot in the Subdivision (a "Lot"), but excluding those having such interest merely as security for the performance of the obligation.

4.2 Voting Rights. All Owners shall be entitled to one (1) vote for each Lot owned.

4.3 Designation of Voting Members. If a Lot is owned by more than one (1) person, the person entitled to cast the vote or votes for the Lot may be designated by a certificate signed by all of the record owners of the Lot and filed with the Secretary of the Association. If a lot is owned by a corporation, partnership, trust, company or other legal entity, the person entitled to cast the vote or votes for the Lot may be designated by a certificate of appointment signed by a duly authorized representative of the entity and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Lot, and a certificate may be revoked by any owner of an interest in the Lot or a duly authorized representative of the entity, as the case may be, and filed with the

Secretary of the Association. If a Lot is owned by more than one (1) person and such owners do not designate a voting Member as required hereinabove, the following provisions shall apply: (a) If more than one (1) such owner is present at any meeting, and said owners are unable to concur on a decision on any subject requiring a vote, said owners shall lose their right to vote on that subject at that meeting; however, said vote or votes shall be included in the determination of the presence of a quorum.; (b) If only one (1) such owner is present at a meeting, such person attending shall be entitled to cast the vote or votes pertaining to the Lot; (c) If more than one (1) such owner is present at the meeting and said owners concur, any one (1) such owner may cast the vote or votes for the Lot.

4.4 Restraint Upon Alienation of Assets. A member shall have no vested right, interest, or privilege of, in, or to the assets or funds of the Association, or any right, interest or privilege which may be transferable or inheritable, or which shall continue after his membership ceases, except as an appurtenance to the ownership of his Lot.

4.5 Change in Membership. A change of membership in the Association shall be established by recording in the Office of the Judge of Probate in Baldwin County, Alabama, a deed or other instrument establishing a record title to a Lot (the "Record Property"), and the delivery to the Association of a certified copy of such instrument, the owner designated by such instrument thereby becoming a member of the Association (the "Record Property Owner"). The membership of the prior Record Property Owner shall be thereby terminated, provided he is not an owner of other Record Properties in the Subdivision. Any change in ownership shall be subject to the relevant Subdivision documents, including the Declaration (as that term is defined in the Articles of Incorporation).

ARTICLE V

RIGHTS AND OBLIGATIONS OF DIRECTORS

5.1 Rights and Powers. Except as otherwise expressly set forth in this Agreement, no individual Director shall have any rights or power to control the Company or its business and affairs or to act for or bind the Company in any way.

5.2 Limitation of Liability. No Director shall have personal liability for any debts or obligations of the Company. In addition, no Director shall have personal liability to the Company or any Director for breach of duty as a member except as expressly provided in the Alabama Act.

ARTICLE VI

MEETINGS OF THE MEMBERS

6.1 Meetings. Special meetings of the Members of the Association, for any purpose or purposes, may be called at any time by a majority in interest of the Directors, and will be scheduled once per calendar year.

6.2 Place of Meetings. Any special meetings of Members shall be held at any place, either within or outside the State of Alabama, designated by the Directors.

6.3 Notice of Meetings. Notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be given to each Member in any reasonable manner, including orally, not less than ten days or more than two months before the date of the meeting. If notice is mailed, such notice shall be effective when deposited in the United States mail with postage thereon prepaid and correctly addressed to the Member's address shown in the Company's current record of Directors.

6.4 Meeting of All Members. If all of the members shall meet at any time and place, either within or outside the State of Alabama and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting any lawful action may be taken.

6.5 Action by Members Without a Meeting. Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken and signed by all of the Members. Any such consent shall be delivered to the Company for filing with the Company records. Action taken under this Section is effective when all Members have signed an appropriate consent, unless the consent specifies a different effective date.

6.6 Regular Meetings After Turnover. After Turnover (as defined in the Declaration), regular or annual meetings of the members of the Association shall be held on the Second Tuesday of October of each year at 10:00am; provided, however, if the day set for annual meetings is a legal holiday, the meeting shall be held the same hour on the next available week day following which is not a legal holiday.

6.7 Special Meetings. Special meetings of the members for any purpose may be called at any time by the President and shall be called by the President or Secretary at the request, in writing, of either a majority of the Board of Directors or twenty percent (20%) of the members. Such request shall state the purpose of the proposed meeting. Business conducted and transacted at all special meetings shall be confined to the objects stated in the notice thereof.

6.8 Proviso. Notwithstanding anything contained herein to the contrary, until sixty percent (60%) of the Lots in the Subdivision have been sold to the original purchasers thereof, or until Turnover, whichever event shall occur first, there shall be no meeting of the members of the Association unless a meeting is called by the Board of Directors.

6.9 Vote Required to Transact Business. When a quorum is present at any meeting, the holders of a majority of voting rights shall decide any question brought before the meeting. If the question is one which requires more than a majority vote by express provision of any statute, the Articles of Incorporation, the Declaration or these By-Laws, the express provision shall govern and control the number of votes required. In all cases where reference is made to percentage of the vote of members, percentage of the members, or percentage of the members for purposes of determining the vote thereof, the percentage stated shall mean the percentage of the voting rights

of the members. Fifty-one percent (51%) of the total number of voting rights of the Association present in person or represented by proxy shall constitute a quorum at all meetings of the members for the transaction of business. If a quorum is not present at any meeting, the members may adjourn the meeting without notice other than announcement at the meeting, until a quorum is present.

ARTICLE VII **DIRECTORS**

7.1 Number. The Association shall be managed by a Board of Directors, consisting of not less than three (3) persons and not more than five (5) persons. Each director shall be a person entitled to cast a vote in the Association, except for the members of the initial Board of Directors. The number of directors constituting the initial Board of Directors shall be two (2), as designated in the Articles of Incorporation.

7.2 Appointment and Term. All directors shall be elected to serve a term of one (1) year or until his successors shall be duly elected and shall qualify to serve.

7.3 Removal. Directors may be removed for cause by an affirmative vote of sixty-seven percent (67% of the voting interests of the members of the Association that are entitled to vote for the election of such Director. Except with respect to the initial Board of Directors, no director shall continue to serve on the Board if, during his term of office, his membership in the Association shall be terminated for any reason whatsoever.

7.4 Powers and Duties of the Board of Directors. All of the powers and duties of the Association under Alabama law shall be exercised by the Board of Directors, or its delegate, subject only to approval by the members when such approval is specifically required. The powers and duties of the directors shall include, but not be limited to, the following:

7.4.1 To make and collect an annual maintenance charge against members ("Assessment") to pay the expenses incurred by the Association in carrying out the objects and purposes of the Association.

7.4.2 To use and disburse the proceeds of Assessments in the exercise of its powers and duties.

7.4.3 To enjoin or seek damages from the members for violation of these By-Laws, the Declaration and the terms and conditions of any rules and regulations applicable to the use of the Subdivision or any portion thereof.

7.4.4 To employ and contract with service contractors in connection with carrying out the objects and purposes of the Association.

7.4.5 Adopt and publish Rules and Regulations governing the use of the common areas and facilities within the Subdivision, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.

7.4.6 To elect the officers of the Association and otherwise exercise the powers regarding officers of the Association as set forth in these By-Laws.

7.4.7 To determine who shall be authorized to make and sign all instruments on behalf of the Association and the Board.

7.4.8 To employ a management agent or manager, at a compensation established by the Board, to perform such duties and services as the Board shall authorize including, but not limited to, the duties listed in this Section; and such duties so conferred upon the managing agent or manager by the Board of Directors may upon five (5) days' notice be revoked, modified or amplified by the majority of the votes of the Directors in a duly constituted meeting.

7.4.9 To take appropriate action to enforce the provisions of the Declaration, any rules and regulations adopted by the Association, and the By-Laws. In connection with same, the Board is authorized to file or defend appropriate suits or request for arbitration filed under any of said instruments, acts or provided for by the laws of Alabama.

7.4.10 To employ attorneys, accountants, and other persons or firms reasonably necessary to carry out the provisions of the Declaration, By-Laws and Articles of Incorporation of the Association and the Rules and Regulations.

7.5 Eligibility. Any person who is delinquent in the payment of any fee, fine, or other mandatory obligation to the Association for more than ninety (90) days is not eligible for Board membership. A person who has been convicted of any felony in Alabama or in a United States District or Territorial Court, or has been convicted of any offense in another jurisdiction which would be considered a felony if committed in Alabama, is not eligible for Board membership unless such felon's civil rights have been restored for at least five (5) years as of the date on which such person seeks election to the Board.

7.6 Annual Statement. The Board will present a full and clear statement of the business and condition of the Association and an account of the financial transactions of the past year at the annual meeting of the members.

7.7 Compensation. The Directors shall not be entitled to any compensation for service as Directors.

ARTICLE VIII **DIRECTORS MEETINGS**

8.1 Organizational Meetings. The first meeting of each new Board elected by the members shall be held immediately upon adjournment of the meeting at which they were elected or as

soon thereafter as may be practicable. The annual meeting of the Board shall be held at the same place as the general members' meeting.

8.2 Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

8.3 Special Meetings. Special meetings of the Board may be called by the President on five (5) days' notice to each Director. Special meetings shall be called by the President or Secretary in like manner and on like notice upon the written request of one-third (1/3) of the Directors.

8.4 Waiver of Notice. No written notice of a Board meeting shall be required if all of the directors meet by unanimous consent. The directors may, by resolution duly adopted, establish regular monthly, quarterly, annual or semi-annual meetings. If such resolution is adopted, no notice of such regular meetings of the Board shall be required. Any required notice may be waived in writing signed by the person entitled to such notice whether before or after the time stated therein.

8.5 Quorum. A quorum at a directors' meeting shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the act of the Board, except when approval by a greater number of directors is required by statute or by these By-Laws. If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

8.6 Joinder in Meeting by Approval of Minutes. The joinder of a director in any action taken at a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such director for the purpose of determining a quorum.

8.7 Presiding Officer. The presiding officer of a directors' meeting shall be the Chairman of the Board if such an officer has been elected; and if none, then the President of the Association shall preside. In the absence of a presiding officer, the directors present shall designate one of their number to preside.

8.8 Action without a Meeting. Action required or permitted to be taken at a Board meeting may be taken without a meeting if the action is taken by all members of the Board. The action must be evidenced by one or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken. Action taken under this Section 8.9 shall be effective when the last director signs the consent, unless the consent specifies a different effective date.

ARTICLE IX

ARCHITECTURAL REVIEW COMMITTEE; OFFICERS

9.1 Architectural Review Committee. The Architectural Review Committee ("ARC") shall consist of three (3) members at all times, who initially shall be Richard Gordon, Connie Gordon and Autumn Gann, with an address of 21756 Koier Road, Robertsdale, AL 36567, and the point of contact is Autumn Gann. If any member of the ARC shall resign, become unable to serve or die, then the remaining members shall appoint a successor member to the ARC, who not need be an Owner. If no member of the ARC remains to appoint a new member, then the Declarant (as that term is defined in the Articles of Incorporation) shall have the exclusive right to appoint members of the ARC until the Declarant causes the first meeting of the Members of the Association to be held as provided for under Article VI herein. Thereafter, the ARC members will be elected, appointed and removed in the same manner as the executive officers of the Association.

9.2 Officers. The executive officers of the Association shall be a President, Vice President and Secretary, each of whom shall be elected at the annual meeting of the Board of Directors. The Board may elect more than one Vice President. The Board may appoint such other officers and agents that it may deem necessary, who shall hold office at the pleasure of the Board and have such authority and perform such duties as from time to time may be prescribed by said Board.

The initial officers are as follows:

Richard Gordon, President
Connie Gordon, Vice President
Autumn Gann, Secretary

9.3 Qualification. Except with respect to the office of Secretary, no person shall be entitled to hold office except a member of the Association. The President and Vice President must be members of the Board.

9.4 Term. The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of sixty-seven percent (67%) of the voting interest of the members of the Association.

9.5 President. The President shall be the Chief Executive Officer of the Association and shall preside at all meetings of the members and directors; shall be an ex-officio member of all standing committees; shall have general management of the business of the Association; and shall see that all orders and resolutions of the Board are carried into effect.

9.6 Vice President. The Vice President shall be vested with all the powers and required to perform all the duties of President in his absence, and such other duties as may be prescribed by the Board of Directors.

9.7 Secretary. The Secretary shall keep the minutes of the members' meetings and of the Board of Directors' meetings and maintain records of all Resolutions from these meetings; shall see that all notices are duly given in accordance with the provisions of these By-Laws or as acquired by law; shall be custodian of the corporate records, except those of the Treasurer, and of the seal of the Association; shall keep a register of the post office address of each member, which shall be furnished to the Secretary by such member; and shall perform generally all duties incident to the office of the Secretary and such other duties as may be assigned to him by the President or by the Board of Directors.

9.8 Vacancies. If any office becomes vacant by reason of death, resignation, disqualification or otherwise, the remaining directors by a majority vote may choose a successor or successors who shall hold office for the unexpired term.

9.9 Resignations. Any director or other officer may resign his office at any time. Such resignation shall be made in writing to the Secretary and shall take effect at the time of its receipt by the Association, unless some time be fixed in the resignation, and then from that date. The acceptance of a resignation shall not be required to render it effective.

9.10 Compensation. The compensation, if any, of all employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association.

ARTICLE X **LIABILITY**

10.1 The Association assumes no responsibility for injuries sustained by or damages resulting from the acts or omissions of members or contractors of the Association. No contract or other transaction between the Association and one or more of its directors, officers or any other corporation, firm, association or entity in which one or more directors or officers of the Association are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest. Any director of the Association or any corporation, firm, association or entity of which any director or officer of the Association is a director or officer or is financially interested, may be a party to, or may have a pecuniary interest in such contract or transaction shall be disclosed or known to the Association Board at the meeting of the Association Board or a committee thereof which authorizes, approves or ratifies such contract or transaction and, if such fact shall be disclosed or know, any director or officer of the Association so related or interested. Any director or officer of the Association may vote on any contract or other transaction between the Association and any affiliated corporation without regard to the fact that he or she is also a director or officer of such affiliated corporation.

ARTICLE XI **AMENDMENT OF BY-LAWS**

11.1 The By-Laws of the Association may be altered, amended or repealed by a majority vote of the Directors.

ARTICLE XII **CONFLICT**

12.1 In the event there shall exist a conflict between these By-Laws and the Articles of Incorporation, the Articles of Incorporation shall govern. In the event there shall exist a conflict between these By-Laws and the Declaration, then the Declaration shall govern.

ARTICLE XIV **MISCELLANEOUS PROVISIONS**

14.1 Application of Alabama Law. These By-Laws, and the application or interpretation hereof, shall be governed exclusively by its terms and by the laws of the State of Alabama, and specifically the Alabama Act.

14.2 Execution of Additional Instruments. Each member hereby agrees to execute such other and further statements of interest and holding, designations, powers of attorney, and other instruments necessary to comply with any laws, rules or regulations.

14.3 Construction. Whenever the singular number is used in these By-Laws and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

14.4 Headings. The headings in these By-Laws are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of these By-Laws or any provisions hereof.

14.5 Waivers. The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of these By-Laws shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

14.6 Rights and Remedies Cumulative. The rights and remedies provided by these By-Laws are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to further use of that right or remedy or to use any other rights or remedies. Such rights and remedies are given in addition to any other rights and remedies available under applicable law.

14.7 Severability. If any provision of these By-Laws or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Operating Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

14.08 Heirs, Successors and Assigns. Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and/or assigns.

14.9 Creditors. None of the provisions of these By-Laws shall be for the benefit of or enforceable by any creditors of the Association.

14.10 Counterparts. These By-Laws may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

14.11 Notices. Any and all notices, offers, demands or elections required or permitted to be made under these By-Laws ("Notices") shall be in writing, signed by the party giving Notice, and shall be deemed given and effective when delivered personally or by courier service. If delivered by courier service, Notice shall be deemed to be delivered three (3) calendar days after being dispatched, addressed to the Member at its address as it appears on the books of the Association, with all delivery charges prepaid.

14.12 Invalidity. The invalidity or unenforceability of any particular provision of these By-Laws shall not affect the other provisions hereof, and the By-Laws shall be construed in all respects as if such invalid or unenforceable provision were omitted. If any particular provision herein is construed to be in conflict with the provisions of the Alabama Act, the Alabama Act shall control and such invalid or unenforceable provisions shall not affect or invalidate the other provisions hereof, and these By-Laws shall be construed in all respects as if such conflicting provision were omitted.

14.13 Arbitration. Any dispute, controversy or claim arising out of or in connection with, or relating to, these By-Laws or any breach or alleged breach hereof shall, upon the request of any party involved, be submitted to, and settled by, arbitration in Alabama, pursuant to the Commercial Arbitration Rules then in effect of the American Arbitration Association (or at any time or at any other place or under any other form of arbitration mutually acceptable to the parties so involved). Any award rendered shall be final and conclusive upon the parties and a Judgment thereon may be entered in the highest court of any forum, state or federal, having Jurisdiction. The expenses of the arbitration shall be borne by the parties to the arbitration, provided that each party shall pay for and bear the cost of its own experts, evidence and counsel's fee, except that in the discretion of the arbitrator, any award may made a cost of a party's counsel if the arbitrator expressly determines that the party against whom such award is entered has caused the dispute, controversy or claim to be submitted to arbitration as a dilatory act.

14.14 Determination of Matters not provided for in these By-Laws. The Board of Directors shall decide any questions arising with respect to the Association and these By-Laws which are not specifically or expressly provided for in these By-Laws.

14.15 Venue. If a cause of action were to arise as to the Members as it pertains to their rights and duties as stated above, the proper venue shall be in the State of Alabama.

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IN WITNESS WHEREOF, the undersigned, being all of the Members of the Board of Directors, have caused these By-Laws to be duly adopted by the Association as of the day and year first written above, and do hereby assume and agree to be bound by and to perform all of the terms and provisions set forth in these By-Laws.

Executed this 21st day of July, 2020 in Robertsdale (Baldwin County), Alabama.

INC. **ELSANOR AIRPARK PROPERTY OWNERS ASSOCIATION,**


Richard Gordon, President


Connie Gordon, Vice President

THIS INSTRUMENT
PREPARED BY

KEVIN HAYS, ATTORNEY AT LAW
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BAY MINETTE AL 36507