

SETTLEMENT AGREEMENT

This Settlement Agreement ("**Agreement**") is entered into as of the date signed below, by and between Thunder Ridge Airpark LLC ("**TRA**"), Thunder Ridge Airpark Property Owners Association ("**TRAPOA**"), The Highlands at Thunder Ridge, LLC ("**HTR**") and each of their successors and assigns collectively referred to herein as the "**TRA Parties**" with the Bandanna Ranch Home Owners Association ("**BRHOA**"), collectively referred to herein as the "**Parties.**"

RECITALS

A. WHEREAS, TRA or its affiliates own certain real property identified as Phase 1 lots 155-159, 200-202, 211, 212, 169-171, 192-195, 197, 198, bordering the improved Bandanna Ranch Road commonly known as Thunder Ridge Road and comprising 19 lots, and Phase 2 lots prior to the August 2014 plat amendment identified as lots 174-191 comprising 18 lots and after plat amendment comprising 4 lots identified as 174A, 177A, 181A, and 185A (collectively the "**Properties**"), with both Phase 1 and Phase 2 located within the master developed known as Bandanna Ranch, and subject to the Bandanna Ranch Declaration of Covenants, Conditions and Restrictions;

B. WHEREAS, a Dispute arose concerning the payment of certain assessments on the Properties levied by BRHOA against TRA (the "**Dispute**");

C. WHEREAS, BRHOA initiated a lawsuit against TRA as a result of the Dispute, which lawsuit is identified as Case No. 120800038 in the Duchesne Division of the Eighth District Court for Duchesne County (the "**Lawsuit**");

D. WHEREAS, HTR, owns property comprising Duchesne tax parcels 00-0034-9504, 00-0007-1914, 00-0007-1930, 00-0035-0536, and 00-0034-9502 comprising approximately 880 acres adjacent to Bandanna Ranch (the "**HTR Properties**").

E. WHEREAS, the Parties now desire to settle the matter without further litigation and further desire to formalize in writing the settlement terms in the Agreement below.

NOW THEREFORE in consideration of the mutual promises of the Parties set forth herein, the sufficiency and receipt of which is hereby acknowledged, the Parties covenant and agree as follows:

AGREEMENT

1. Settlement Amount.

(a) **Payment of BRHOA Assessments on Phase I lots:** Within thirty (30) days of execution of this agreement, TRA agrees to pay the equivalent of annual assessments for 19 Phase I lots for the years 2011, 2012, and 2013 with no late fees, interest or collection charges added. In addition, TRA agrees to pay 2014 assessments on said lots. In the event 2014 assessments are not paid within thirty (30) days of execution of this agreement, TRA agrees to pay late fees, interest and collection fees, on the delinquent 2014 assessments at a rate commensurate with that charged to other owners of 5 acre parcels within BRHOA. BRHOA agrees to waive all assessments for Phase I lots prior to 2011 with associated late fees, interest and collection fees. BRHOA expressly reserves the right to levy and collect any and all assessments pertaining to the Property which accrue after January 2015 by any means permitted by law.

(b) **Payment of Attorney Fees:** Within thirty (30) days of execution of this agreement, TRA agrees to pay to BRHOA \$14,100 as payment for BRHOA's attorney fees and costs incurred. The payments described in paragraphs (a) and (b) shall be in full settlement and satisfaction of the Dispute and any and all past, present, and future claims, damages, losses, causes of action, judgments, costs, expenses, and liability, whether known or unknown, arising out of or pertaining to the Dispute or the assessments for the Property which accrued to TRA during any period prior to January 2015.

(c) **No Admission.** It is understood and agreed that the aforesaid sum is paid in full compromise and settlement of disputed claims and for the purpose of avoiding further expense to the Parties. This Agreement and the accompanying payment by TRA should in no way be construed as an admission of any liability or legal obligation, and any such liability or legal obligation is expressly denied.

2. **Release of liens:** Within seven (7) days of receipt of payment on each lot, BRHOA agrees to release its lien from the given lot for which payment is received.

3. **Business Operation and Bankruptcy:** TRA agrees to maintain operation in the ordinary course of business and not enter into transactions that will materially change the financial condition of the business up to one-hundred twenty days after the execution of this Agreement and payment of agreed settlement amounts. Notwithstanding anything herein to the contrary, if TRA defaults in the terms of this Agreement and files for protection under any chapter of the Federal Bankruptcy Code, BRHOA may raise fraud as a defense to any discharge in bankruptcy sought by TRA, and nothing in this Agreement shall limit or derogate the right of BRHOA to assert such a defense.

4. **Governing Documents and Administration:** The Parties agree that the Protective Covenants of Bandanna Ranch recorded in Duchesne County on or about July 21, 2003 as entry number 363350, along with other Bylaws, Rules and Regulations, and Guidelines duly adopted by the Board of Directors of Bandanna Ranch Home Owners Association are the governing documents of the master homeowner association of which Thunder Ridge Airpark is a

part, and that Thunder Ridge Airpark Property Owners Association (“**TRPOA**”) is a sub-association within Bandanna Ranch that may have governing documents of its own separate and apart but subject to the governing documents of the master association

(a) The parties agree that TRPOA will promptly notify BRHOA of any issues including but not limited to property owners, road, gate, vandalism, trespassing or any other matter that is contrary to the governing documents for which BRHOA has responsibility to determine and facilitate a resolution.

(b) TRPOA agrees to promptly notify all TRAPOA members of their obligation to pay BRHOA assessments directly to BRHOA. BRHOA agrees that statements for assessments shall be sent to TRA owners in the same manner as all other owners within the master association.

(c) The Parties agree that repairs of all roads within the master association are performed on a priority bases. Financial resources designated and available for road repairs will be applied as to priority of need with repairs required for life and safety issues to carry the highest priority.

(d) The Parties agree architectural approval by both TRAPOA and BRHOA shall be required on all TRA property improvements. BRHOA approval shall require two signatures, with one of the signatures being a member of the Architectural Committee.

5. **Phase 2 Assessments and Lots:** BRHOA agrees that TRA shall not be charged for any assessments on Phase 2 lots prior to the 2015 billing cycle. In the event that 2015 and all other future assessments are not timely paid, late fees, interest, and costs of collection shall be charged commensurate with those charged to other homeowners for similar lots.

(a) **Presently Platted Lots:** Beginning in 2015, assessments for presently platted Phase 2 lots shall commence upon either of the following: (i) the lot is made available for public sale, or (ii) the lot becomes accessible to a BRHOA platted road and the road has been constructed by TRA to standards approved by BRHOA as a road maintained by BRHOA and, if required, approved by Duchesne County road authorities.

(b) **Consolidated Lots:** Consolidation of two or more 5 acre lots in Thunder Ridge Airpark, Phase 2 shall be known as a Consolidated Lot for which assessments on such lots shall be billed at the same rate as any other 5 acre lot. The Parties agree that consolidation of lots shall be limited to a minimum of four consolidated lots each comprised of 10 or more acres. Upon request, BRHOA agrees to provide written documentation of BRHOA Board approval and/or provide a representative from the BRHOA board with verbal affirmation of BRHOA approval, to Duchesne County approving the consolidation plan.

6. **The Highlands Trail Easement:** The road/trail from Bandanna Drive down to Airport Road shall be known as the Highlands Trail. A description of the location of the Highlands Trail is depicted in attached Exhibit A. Within thirty (30) days of the execution of this Agreement, HTR shall execute a non-exclusive easement in favor of BRHOA and its members over the Highlands Trail (the “Easement Area”).

The Easement Area shall include the existing Highlands Trail depicted in attached Exhibit A, which begins at the northwest corner of BRHOA Lot 268 and the HTR Properties at the termination of the BRHOA platted road known as Airport Road and which continues uninterrupted along the Highlands Trail to the boundary of the HTR Properties where it intersects with the Bandanna platted road known as "Bandanna Drive."

(a) BRHOA shall maintain the Easement Area in accordance with its road maintenance standards and policies.

(b) BRHOA agrees to adopt and enforce policies and regulations for BRHOA and its members, that 4 wheel motorized vehicles, with the exception of ATVs, are not permitted within the Easement Area. All other non-motorized, 2 or 3 wheel motorized vehicles, 4-wheel ATVs, and commercially available "Razor" equivalent ATVs shall be permitted within the Easement Area (the "Easement Use Policy"). Each year, BRHOA shall provide its members with a written copy of its Easement Use Policy. BRHOA shall post metal signs at each entrance of the Easement Area stating: "Car and Truck Access Prohibited."

(c) HTR retains the exclusive right to move and/or relocate the Easement Area, except that the entrances and terminuses of the Easement Area shall remain unchanged

(d) HTR retains the right to improve the Easement Area and/or increase the size of the Easement Area. HTR shall have the exclusive right to expand the types of vehicles that may access and/or use the Easement Area.

(e) Upon execution of this Agreement, HTR will promptly remove or permanently open the gates at the top and bottom of the Highland Trail and all BRHOA members shall have use and access thereof.

7. **Thunder Ridge Airpark and Runway:** The Parties agree as follows regarding the use, maintenance, and access to Thunder Ridge Airpark and Runway:

(a) **Gate Access:** BRHOA will have decision authority over the gate access at the East of Thunder Ridge Airpark, with the understanding that BRHOA and TRAPOA will cooperate to ensure access is commensurate with safe aircraft operation. The gate at the West End will remain closed to prevent all unwelcome access to the Highlands property.

(b) **Bandanna property owners:** Bandanna property owners shall have access rights to the platted BRHOA roads within the TRAPOA with no fee charged for such access. The parking of airplanes and use of airstrip amenities and services, however, may have a related fee and cost associated therewith to be fairly negotiated between individual Bandanna Ranch property owners and TRAPOA or TRA Parties; which will be a separate unrelated business arrangement between those parties. Access rights for Bandanna property owners shall not be unreasonably withheld.

(c) **Maintenance and Insurance:** Runway maintenance and insurance will be the sole responsibility of TRAPOA and/or TRA Parties. The runway shall not be subject to closure by BRHOA so long as insurance is maintained and complies with governing ordinances

of the master association. TRAPOA and/or the TRA Parties shall provide proof of insurance to BRHOA annually.

(d) **Rights and Responsibilities:** Runway rights and responsibilities shall be the responsibility of a TRAPOA and/or TRA Parties.. Prior to initiating any action, a TRA Party shall inform BRHOA of all changes, modification, future development, and any other activity planned within the Bandanna Ranch platted TRA. Subject to 7(c), BRHOA reserves the right to deny and/or not approve changes, modifications, future development, and any other additional activity not contemplated at signing of this agreement that BRHOA may find in conflict with the overall development of Bandanna Ranch as a master community BRHOA will timely respond regarding proposed changes and, notwithstanding the right to deny change, will use reasonable effort to support and promote TRA, including but not limited to support for special BRHOA meetings and proposed changes to governing documents that are not in conflict with the intent and purpose of the master association and the right of owners to quiet enjoyment of their property. Additionally, BRHOA agrees not to disparage the improvements, plans, and facilities of the TRA managed area.

(e) **Runway Access:** BRHOA agrees that persons and entities authorized to access the runway is at the sole discretion of TRA Parties with the understanding that right of access shall not be unreasonably withheld from BRHOA owners. Prior to authorization, BRHOA owners must agree in writing to comply with all applicable rules and regulations established by TRAPOA and/or TRA.

(f) **Private Road Maintenance:** Maintenance, repairs, and construction of the private road from Thunder Ridge Road to the TRA parking area will be the sole responsibility of TRA Parties.

(g) **Runway Easement:** In order to perfect the runway easement as shown on a portion of the recorded Chuckwagon Phase, Bandanna Ranch Subdivision Plat (the "Easement Plat") and to memorialize the rights and responsibilities as contained herein to the easement, the Parties shall, concurrently with the signing of this agreement, enter into an easement agreement, to be recorded with Duchesne County, describing the Easement Plat, and containing a BRHOA assignment of the easement to the Parties and subject to the limitations of 7(c). TRA shall pay all recordings costs associated with this easement agreement.

8. **Road and Services:** BRHOA agrees that responsibility and priority for road maintenance and services will be accomplished pursuant to the BRHOA governing documents and to resources available. TRA agrees that all claims for past services claimed to be the responsibility of BRHOA as of the date of this Agreement will be waived.

9. **Lawsuit.** Upon receipt of the payment described in paragraph 1 and its sub-parts above, the Parties shall promptly file documents with the Eighth District Court of Duchesne County acknowledging settlement of the lawsuit and Satisfaction of the Judgment previously entered in the matter. All actions pending before the court related to the lawsuit shall be cancelled or dismissed.

10. **Mutual Release of Claims.** For good and valuable consideration as described in paragraph 1 and its sub-parts above, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the Parties hereto hereby irrevocably, unconditionally, and mutually release, acquit, and forever discharge one another and their respective owners, officers, directors, shareholders, managers, members, employees, agents, representatives, predecessors-in-interest, successors-in-interest, parent and affiliated companies, insurers, sureties, and attorneys from any and all claims, liabilities, actions, causes of action, suits, demands, rights, losses, damages, loss of earnings, punitive damages, costs, expenses, and compensation of any nature whatsoever, whether based on tort, strict liability, warranty, contract, statute, common law, insurance, insurance policies, insurance coverage, breach of the implied covenant of good faith and fair dealing, or other theory which the Parties have or have not or which may hereafter accrue on account of, resulting from, or in any way arising out of (1) the Dispute; (2) the Lawsuit; or (3) the assessments pertaining to the Property which accrued to TRA prior to January 2015. The Parties understand and agree that this is a global and general release and settlement and that it is their intent to release all claims against one another relating to these matters.

11. **Notices.** Any notices under this Agreement or in connection herewith shall be given at the following addresses:

If to TRA:

Timothy R. Pack
CLYDE SNOW & SESSIONS
One Utah Center, 13th Floor
201 South Main Street
Salt Lake City, Utah 84111-2216
trp@clydesnow.com

If to BRHOA:

John D. Richards
RICHARDS, KIMBLE & WINN, P.C.
2040 E. Murray-Holladay Rd., Suite 106
Salt Lake City, Utah 84117
Telephone: (801) 274-6800
Facsimile: (801) 274-6805
john@rkw-law.com

Such notices, payments, and deliveries shall be deemed given and delivered to the Party entitled thereto when hand delivered or, if mailed, upon receipt. All notices shall be in writing and, if mailed, shall be sent via United States Certified Mail, return receipt requested, properly addressed and postage fully prepaid. Copies of all notices shall also be provided via email.

12. **Entire Agreement; Amendment.** The Parties warrant that no promise, inducement or agreement not expressed herein has been made to them in connection with this Agreement. This Agreement contains the entire agreement between the Parties. All prior negotiations and discussions are merged herein as expressed by the written terms set forth herein, and/or in any Exhibits identified and/or incorporated herein by reference. This Agreement may

not be modified, changed or altered in any way except in a writing signed by the Parties or their authorized representatives, which sets forth the change(s) to be made, and the intent of the Parties to modify or amend this Agreement.

13. **Governing Law; Attorneys' Fees; Severability.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without regard to the principles of conflicts of laws. By executing this Agreement, all Parties hereto agree to submit to the exclusive jurisdiction of and agree to the venue of the courts of the State of Utah, whether state courts or federal courts located in the State of Utah. The Parties hereto agree not to bring any action in any court of law located outside the State of Utah. If any term or provision of this Agreement shall be determined to be illegal or unenforceable, all other terms and provisions hereof shall nevertheless remain effective and shall be in force to the fullest extent permitted by applicable law. The successful Party to any action arising in connection with the enforcement of this Agreement shall be awarded its costs and reasonable attorneys' fees.

14. **Assignment/Successors.** This Agreement shall inure to and bind the successors, assigns, heirs, devisees, executors, administrators, and personal representatives of the respective Parties hereto.

15. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed original, but such counterparts shall together constitute one and the same Agreement. Facsimile signatures in one or more counterparts of this Agreement shall be binding. All signatures shall be deemed effective as of the date first written above.

16. **Interpretation and Drafting Presumptions.** Unless the context requires otherwise, all words used in this Agreement in the singular number shall extend to and include the plural, all words in the plural number shall extend to and include the singular and all words in any gender shall extend to and include all genders. Each of the Parties understands, acknowledges and agrees that each of the Parties hereto has contributed to the drafting of this Agreement, and no provision hereof shall be construed against any Party hereto as being the draftsman thereof. This Agreement shall therefore be construed without regard to any presumption or other rule requiring construction against the Party causing the Agreement to be drafted. If any words or phrases in this Agreement shall have been stricken out or otherwise eliminated, whether or not any other words or phrases have been added, this Agreement shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Agreement and no implication or inference shall be drawn from the fact that said words or phrases were so stricken out or otherwise eliminated. Captions in this Agreement are for convenience only and are not intended to affect any provisions of this Agreement.

17. **Third Parties.** Each of the Parties understands, acknowledges and agrees that no rights or interests whatsoever are given by this Agreement to any party which is not a Party of this Agreement.

18. **Further Assurances; Cooperation of Parties.** The Parties hereto agree to execute, acknowledge and deliver or cause to be executed, acknowledged and delivered any and all documents or instruments reasonably requested by any other Party in order to complete the transactions contemplated hereby and to effectuate the terms, conditions, covenants, provisions, intents and purposes of this Agreement.

19. **Authorization to Settle.** Each Party represents and warrants that it is authorized and has the right to surrender, compromise, settle and cancel the claims, demands, choses in action and causes of action covered by the terms of this Agreement, and all parts thereof.

20. **Voluntary Agreement.** Each Party acknowledges that he/she/it has voluntarily entered into this Agreement. Each of the Parties has read, understands and approves the same after receiving or having the opportunity to receive the advice of counsel.

21. **Non-Disparagement.** Each Party agrees that they will not denigrate or disparage the operations, developments, facilities, and/or management of the other Party.

IN WITNESS WHEREOF, this Agreement is executed on the date signed below.

DATED: 10/2/2014

THUNDER RIDGE AIRPARK, LLC

By: Tray Luringer
Its: member manager

DATED: 9/22/2014

BANDANNA RANCH HOME OWNERS
ASSOCIATION

By: Paul Thylabam
Its: President

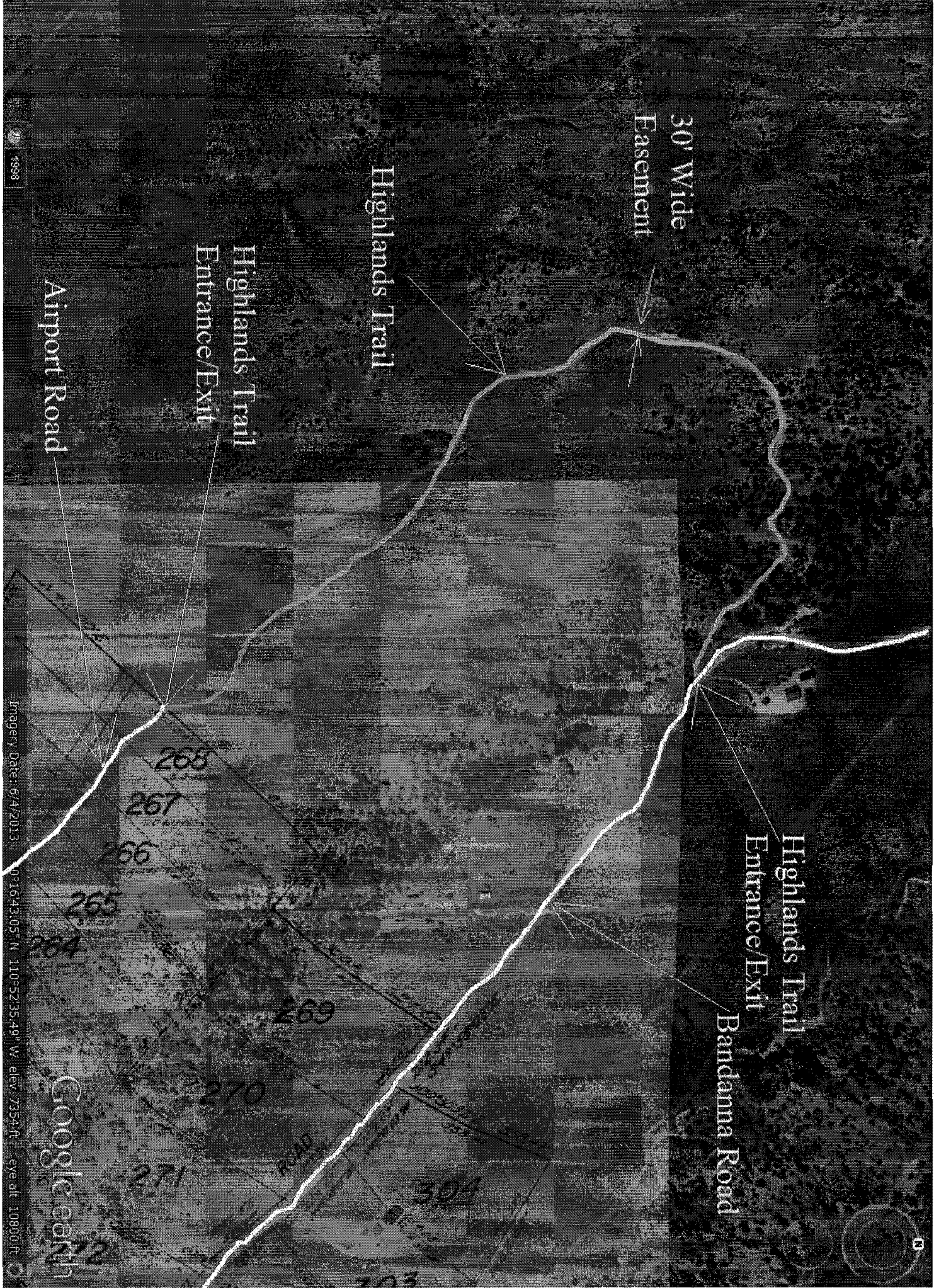
THUNDER RIDGE AIRPARK PROPERTY
OWNERS ASSOCIATION

By: Tray Luringer
Its: member manager

THE HIGHLANDS AT THUNDER RIDGE, LLC

By: Tray Luringer
Its: member manager

EXHIBIT A



30' Wide
Easement

Highland's Trail

Highland's Trail
Entrance/Exit

Airport Road

Highland's Trail
Entrance/Exit

Bandanna Road

268

267

266

265

264

269

270

271

304

Google Earth

1888

Imagery Date: 6/4/2013

0°46'43.05" N 110°52'35.49" W elev: 7354 ft eye alt: 10800 ft