After Recording to Mail To:

City of Chewelah

Building Department

PO Box 258

Chewelah, WA 99109

AVIGATION AND NOISE EASEMENT

ASSESSOR’S TAX PARCEL NO.:

WHEREAS, hereinafter called Grantor, is the owner of a certain parcel of land located within the APGC zoning designation.

WHEREAS THE CITY OF CHEWELAH, a Washington municipal corporation, hereafter called Grantee, is the leaseholder of certain property upon which a municipal airport is located, said property lying within Stevens County, Washington and being in close proximity to said Parcel; and

WHEREAS THE STATE OF WASHINGTON, hereafter called Grantee is the owner of the property upon which the airport is situate; and

WHEREAS Grantor(s) is obligated by Chewelah Municipal Code 18.08.170 to provide an avigation easement in said zone(s) to allow aircraft using the airport right of flight and the right to cause noise, light and other effects associated with the operation of aircraft at and around the airport and in the airspace over and above said Parcel;

NOW, THEREFORE, Grantor, for its heirs, executors, administrators, successors and assigns, for and in consideration of the issuance of a building permit by the grantor, hereby grants and conveys to Grantee, its successors and assigns forever:

1. A perpetual public-use avigation/noise easement subject to termination as expressly provided herein, and right of way for the free and unobstructed passage and flight of aircraft, of any and all kind now known or hereafter invented, used or designed for navigation or flight in the air, of the class, size and category operationally compatible with the airport. Said easement shall be in, through, over and across the airspace of the parcel.
2. The rights herein granted shall include the right in such airspace to allow, make and emit such noise, light, vibrations, fumes, exhaust, smoke, air currents, dust, fuel particles, radio, television and other electromagnetic interferences, and all other effects as may be inherent to the operation of aircraft for navigation of flight in the air.
3. Grantor hereby fully waives and releases any right or cause of action that it may now have or that may have in the future against Grantee, its successors and assign, and covenants not to sue due to such noise, light, vibrations, fumes, exhaust, smoke, air currents, dust, fuel particles, radio, television and other electromagnetic interferences, and all other effects that may be caused or may have been caused by the operation of the aircraft landing at, taking off from or operating at or on the airport or within or over the airspace of the parcel. Said release and covenant shall include, but not be limited to claims, known or unknown, for damages for physical or emotional injuries, discomfort, inconvenience, property damage, death, interference with use and enjoyment of property, diminution of property values, nuisance or inverse condemnation or for injunctive or other extraordinary or equitable relief.
4. It is further agreed that Grantee, its heirs or assigns shall have no duty to avoid or mitigate such damages by, without limitation, setting aside or condemning buffer lands, rerouting air traffic, erecting sound or other barriers, establishing curfews, noise or other regulations, except to the extent, if any, that such actions are validly required by state or federal authorities. Grantor reserves such use, rights and privileges in said Parcel as may be exercised and enjoyed without the interference with or abridgement of the rights hereby granted.
5. The grant of an avigation / noise easement shall not operate to deprive the Grantor, his successors or assigns, of any rights that it may from time to time have against any individual or private operator for negligent or unlawful operation of aircraft.
6. For and on behalf of itself, its successors and assigns, Grantor hereby covenants that, for the direct benefit of the real property constituting said airport, neither Grantor nor its successors in interest or assigns shall hereafter construct or permit the construction or growth of any structure, tree or other object that penetrates an approved transitional, horizontal or control surface or that constitutes an obstruction to air navigation under FAA Part 77, or that obstructs or interferes with the use of the flight easements and rights of way herein granted or that causes electrical interference with radio communication between any installation upon said airport and aircraft, or as to make it difficult for pilots to distinguish visibility in the vicinity of the airport, or as otherwise to endanger the landing, take off or maneuvering or aircraft. Grantee shall have the right to mark and light as obstructions to air navigation any such building, structure, tree or other object now upon, or in the future may be upon Grantor’s property, together with the right of ingress to, egress from and passage over Grantor’s property for the above purpose.
7. All promises, covenants, conditions and restrictions contained in this document are made and entered into for the benefit of the CITY OF CHEWELAH. These premises, covenants, conditions and reservations shall run with the PARCEL, described and identified on Exhibit A attaché, and bind Grantor’s heirs, administrator, executors, successors and assigns to the maximum extent now or hereafter permitted by statute or case law. The real property described as the Parcel is the servient tenement and said airport is the dominant tenement. “Successors and assigns” as used in this paragraph includes without limitation invitees, licensees, permittees, tenants, lessees and others who may use easement rights reserved herein or use or by upon said Parcel, and /or their respective officers, agents and employees.
8. The aviation / noise easement, covenants and agreements described herein shall continue in effect until the airport shall be abandoned and shall cease to be used for public airport purposes.

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Signature Signature

STATE of Washington )

) ss.

County of Stevens )

I certify that I know or have satisfactory evidence that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed their instrument and acknowledge it to be his/her/their free and voluntary act for the uses and purposes mentioned in this instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate above written.

Dated:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public in and for the State of Washington, residing at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

My commission expires:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Seal)

EXHIBIT A