

Document Number Only

D980000017

C CORPORATION SYSTEM

660 East Jefferson Street

Requestor's Name

Tallahassee, Florida 32301

Address

(850) 222-1092

City

State

Zip

Phone

500002480195--8

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****350.00 ****350.00

CORPORATION(S) NAME

American Industrial Properties Reit

FILED
98 APR - 1 PM 4:05
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

90 APR - 1 PM 12:13
DIVISION OF CORPORATIONS

STATE SECRETARY OF TRUST

- Profit
- NonProfit
- Limited Liability Company
- Foreign
- Limited Partnership
- Reinstatement
- Limited Liability Partnership
- Certified Copy
- Call When Ready
- Walk In
- Mail Out
- Amendment
- Dissolution/Withdrawal
- Annual Report
- Fict. Filing
- Photo Copies
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- Will Wait
- Merger
- Mark
- Other *reclassification of Trust*
- Change of P.A.
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- Pick Up

Name Availability
Document Examiner
Updater
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W.P. Verifier

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Filed Stamp

APR - 1 1998

Thanks, Melanie ☺

AFFIDAVIT TO THE SECRETARY OF STATE OF FLORIDA
TO FILE OR QUALIFY

AMERICAN INDUSTRIAL PROPERTIES REIT

A TEXAS REAL ESTATE INVESTMENT TRUST

In accordance with Section 609.02 of Florida Statutes, pertaining to Common Law Declarations of Trust, the undersigned, the Chief Executive Officer of American Industrial Properties REIT a Texas Real Estate Investment Trust hereby affirms in order to file or qualify American Industrial Properties REIT, in the State of Florida.

1. Two or more persons are named in the Trust.

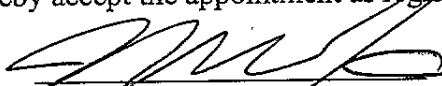
2. The principal address is:

6210 North Beltline Road, Suite 170
Irving, Texas 75063-2656

3. The registered agent and office in the State of Florida is:

CT Corporation System
1200 S. Pine Island Road
Plantation, Florida 33324

4. Acceptance by the registered agent: Having been named as registered agent to accept service of process for the above named Declaration of Trust at the place designated in this affidavit, I hereby accept the appointment as registered agent and agree to act in this capacity.

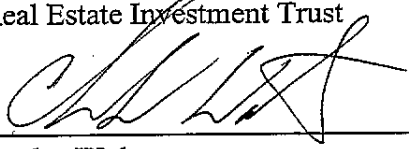

Signature of Registered Agent

MICHAEL E. JONES
ASSISTANT SECRETARY

5. I certify that the attached is a true and correct copy of the Declaration of Trust under which the association proposes to conduct its business in Florida.

AMERICAN INDUSTRIAL PROPERTIES REIT,
a Texas Real Estate Investment Trust

By:


Charles Wolcott
Chief Executive Officer

98 APR - 1 PM 4: 05
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FILED

STATE OF TEXAS)
)
COUNTY OF DALLAS)

This instrument was acknowledged before me on March 27, 1998 by Charles Wolcott Chief Executive Officer of American Industrial Properties REIT, a Texas Real Estate Investment Trust.



Rebecca Perry
Notary Public State of

(Printed name)

My commission expires:



TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE

A

3506

27.00 DEED
9/26/85

DECLARATION OF TRUST
OF
TRAMMELL CROW REAL ESTATE INVESTORS

The undersigned, acting as the Trust Managers of a real estate investment trust under the Texas Real Estate Investment Trust Act, hereby adopt the following Declaration of Trust for such trust.

ARTICLE ONE

The name of the trust (the "Trust") is Trammell Crow Real Estate Investors. An assumed name certificate setting forth such name has been filed in the manner prescribed by law.

ARTICLE TWO

The Trust is formed pursuant to the Texas Real Estate Investment Trust Act and has the following as its purpose:

To purchase, hold, lease, manage, sell, exchange, develop, subdivide and improve real property and interests in real property, and in general, to carry on any other business and do any other acts in connection with the foregoing and to have and exercise all powers conferred by the laws of the State of Texas upon real estate investment trusts formed under the Texas Real Estate Investment Trust Act, and to do any or all of the things hereinafter set forth to the same extent as natural persons might or could do. The term "real property" and the term "interests in real property" for the purposes stated herein shall not include severed mineral, oil or gas royalty interests.

ARTICLE THREE

As to any real property of any character, major capital improvements must be made within fifteen (15) years of purchase or the property must be sold. Such major capital improvements must equal or exceed the purchase price of such real property, if the same is unimproved property at the time of purchase or property outside the corporate limits of a city, town or village. Any citizen of the State of Texas may force compliance with this provision by filing suit in any district court of the state of Texas and shall receive from the Trust,

85189 5808

if the Trust is forced to sell a real property interest under this provision, the sum of five percent (5%) of the sale price of such real property interest as compensation.

ARTICLE FOUR

The address of the Trust's initial principal office and place of business is 3500 LTV Center, 2001 Ross Avenue, Dallas, Texas 75201.

ARTICLE FIVE

The names and mailing addresses of the Trust Managers are as follows:

<u>NAME</u>	<u>MAILING ADDRESS</u>
Trammell Crow*	3500 LTV Center 2001 Ross Avenue Dallas, Texas 75201-2997
David F. Clossy*	3500 LTV Center 2001 Ross Avenue Dallas, Texas 75201-2997
W. H. Bricker*	3300 Diamond Shamrock Tower 717 North Harwood Street Dallas, Texas 75201
George P. Jenkins	W. R. Grace & Co. 114 Avenue of the Americas New York, New York 10036
William J. Poorvu	Harvard Graduate School of Business Boston, Massachusetts 02163

* Resident Trust Managers.

ARTICLE SIX

The period of the Trust's duration is not to exceed 15 years. The Trust may be sooner terminated by the vote of the holders of at least a majority of the voting power of the outstanding Shares.

ARTICLE SEVEN

The Trust shall have authority to issue _____ shares, without par value, of beneficial interest (the "Shares"). All of the Shares shall be equal in all respects to every other such Share and shall have no preference, conversion, exchange or preemptive rights.

ARTICLE EIGHT

The Trust shall issue Shares only for money or property actually received.

ARTICLE NINE

The Trust Managers shall hold all money and property received for the issuance of Shares for the benefit of the owner of such Shares.

ARTICLE TEN

The Trust will not commence operations until the beneficial ownership of Shares is held by 100 or more persons with no five persons owning more than 50% of the total number of outstanding Shares. The word "person," as used in the immediately preceding sentence, shall not include corporations.

ARTICLE ELEVEN

The Trust shall not engage in any businesses that do not further the purpose of a real estate investment trust formed pursuant to the Texas Real Estate Investment Trust Act, as such purpose is set forth at Article Two hereof.

ARTICLE TWELVE

Cumulative voting for the election of Trust Managers is prohibited, except that in any election of Trust Managers on or after the date on which the Trust becomes aware that any 30% Shareholder (as defined below) has become a 30% Shareholder, there shall be cumulative voting for the election of Trust Managers so that any holder of Shares may cumulate the voting power represented by his Shares and give one candidate a number

of votes equal to the number of Trust Managers to be elected multiplied by the number of votes to which such Shares are entitled, or distribute such votes on the same principle among as many candidates for election as such holder of Shares determines. For the purposes of this Article Twelve, a "30% Shareholder" shall mean any person who or which is the beneficial owner, directly or indirectly, of 30% or more of the outstanding Shares. Any shareholder who intends to cumulate his votes pursuant to this Article Twelve must give written notice to the Trust Managers of his intention on or before the day preceding the election at which such shareholder intends to cumulate his votes. The cumulative voting right provided by this Article Twelve shall be suspended at such time as there is no person who beneficially owns more than 30% of the outstanding Shares.

ARTICLE THIRTEEN

Except as otherwise expressly provided in this Article Thirteen, Business Combinations (as defined herein) between the Trust and a beneficial holder of 10% or more of the Trust's outstanding Shares (an "Interested Shareholder") shall be approved by the affirmative vote of the holders of at least 80% of the voting power of the outstanding Shares.

"Business Combination", as used herein, means (i) any liquidation, merger or consolidation of the Trust with or into an Interested Shareholder or a corporation, which after the merger or consolidation would be an associate or affiliate of an Interested Shareholder, (ii) any sale, lease, exchange, transfer or other disposition, (in one transaction or a series of transactions), of all or any "Substantial Part" (as defined herein) of the assets of the Trust to an Interested Shareholder, (iii) the issuance of any securities (other than by way of pro rata distribution to all shareholders) of the Trust to an Interested Shareholder or (iv) any agreement, contract or other arrangement providing for any of the foregoing transactions. The term "Substantial Part", as used herein, means more than 10% of the book value of the total assets of any person or entity as of the end of its most recent fiscal year ending prior to the time the determination is being made.

The voting requirements outlined above will not apply if (i) at the time the Business Combination is consummated and during the preceding 12 months the Trust beneficially owned a majority of the outstanding equity securities of the Interested

Shareholder, (ii) the Business Combination was approved by a majority of the Trust Managers who at the time such approval was given were not affiliates or nominees of the Interested Shareholder and were Trust Managers prior to the time the Interested Shareholder became an Interested Shareholder (the "Disinterested Trust Managers") or are successors of Disinterested Trust Managers who are not affiliates or nominees of the Interested Shareholder and who were recommended to succeed a Disinterested Trust Manager by a majority of the Disinterested Trust Managers, or (iii) the consideration to be received by the holders of the outstanding Shares is at least equal to the greater of the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Shareholder for any Shares (a) within the two-year period immediately prior to the first public announcement of the proposal of the Business Combination or (b) in a transaction in which it became an Interested Shareholder, and is cash or the same form of consideration as the Interested Shareholder paid to acquire the largest number of Shares previously acquired by it.

ARTICLE FOURTEEN

The Trust Managers may from time to time declare, and the Trust may pay, dividends on its outstanding Shares in cash or property, except that no dividend shall be declared or paid when the Trust is unable to pay its debts as they become due in the usual course of its business, or when the payment of such dividend would result in the Trust being unable to pay its debts as they become due in the usual course of business.

ARTICLE FIFTEEN

A holder of Shares shall not be personally or individually liable in any manner whatsoever for any debt, act, omission or contractual obligation incurred by the Trust or the Trust Managers. All written contracts to which the Trust is a party shall include a provision that the shareholders shall not be personally liable thereon. A holder of Shares shall be under no obligation to the Trust or to its creditors with respect to such Shares other than the obligation to pay to the Trust the full amount of the consideration for which such Shares were issued or to be issued. Upon the payment of such consideration, such Shares shall be non-assessable by the Trust.

ARTICLE SIXTEEN

No Trust Manager shall be liable for (i) any claims or damages that may result from his acts in the discharge of any duty imposed or power conferred upon him by the Texas Real Estate Investment Trust Act, this Declaration of Trust, or the By-Laws of the Trust, if, in the exercise of ordinary care, he acted in good faith and in reliance upon the written opinion of an attorney for the Trust or (iii) any act, omission, loss, damage or expense arising from the performance of his duty to the Trust, except for acts, omissions, losses, damages or expenses arising from his own willful misfeasance, malfeasance or negligence. The Trust shall reimburse, indemnify and hold harmless the Trust Managers to the full extent lawful, from and against any and all losses, claims, damages or liabilities of any nature whatsoever in respect to or arising from any acts or omissions of any of them, except with respect to losses, claims, damages or liabilities in respect to or arising out of any Trust Manager's gross negligence or willful misconduct.

ARTICLE SEVENTEEN

A Trust Manager may be removed by the vote or written consent of the holders of a majority of the outstanding shares, and may be removed at a special meeting of the shareholders called for such purpose pursuant to the Trust's By-Laws.

ARTICLE EIGHTEEN

A majority of the Trust Managers shall be Independent Trust Managers. "Independent Trust Manager" as used herein means a Trust Manager who, in his individual capacity, (i) is not a TCC Entity (as defined herein), (ii) does not own any interest in a TCC Entity, and (iii) does not perform any other services for the Trust or any TCC Entity except in his capacity as a Trust Manager. "TCC Entity" as used herein means the general partnerships, limited partnerships, joint ventures and corporations that operate under the name "Trammell Crow Company" and the individuals who are members of the Management Board of, or are designated as Partners in the Firm or Regional Partners of, Trammell Crow Company.

ARTICLE NINETEEN

The Independent Trust Managers shall have a fiduciary duty to the shareholders of the Trust to supervise the relationship of the Trust with the Advisor (as such term is defined in the

Trust's By-Laws) and the property managers. The following matters must be acted upon or approved by at least a majority of the Independent Trust Managers:

(a) Reviews, to be made at least annually, of the Trust's investment policies to determine that the policies being followed by the Trust at any time are in the best interests of the Trust's shareholders;

(b) The taking of reasonable steps to ensure that (i) the Trust prepares for each fiscal year ending after the Trust's initial public offering of Shares an annual report concerning its operations containing financial statements prepared in accordance with generally accepted accounting principles which are audited and reported on by independent certified public accountants, (ii) such annual reports are mailed or delivered to each shareholder of record as of a record date after the end of such fiscal year, and (iii) annual meetings of the shareholders of the Trust are held within a reasonable period following delivery of the annual report;

(c) Termination of any advisory contract between the Trust and the Advisor or any property management agreement between the Trust and a property manager, all such contracts to be terminable by a majority of the Independent Trust Managers;

(d) Determinations, to be made at least annually, that the compensation that the Trust contracts to pay to the Advisor or any property manager is reasonable in relation to the nature and quality of services performed, and that the provisions of such contract are being carried out, with, in the case of the Advisor, each such determination being based upon the factors set forth at Section 5.4 of the Trust's By-Laws and such other factors as the Independent Trust Managers may deem relevant;

(e) Approvals by a majority of the Independent Trust Managers and disclosures to the Trust's shareholders, which shall be required with respect to any borrowings by the Trust which would cause the aggregate borrowings of the Trust to exceed an amount equal to 300% of the Trust's Net Assets (as such term is defined in the Trust's By-Laws);

(f) Determinations as to whether in determining the value of real property to be acquired by the Trust such determination is to be made by a qualified independent real estate appraiser; and

(g) Determinations, which shall be a prerequisite to any investment by the Trust in a junior mortgage loan, that such loan is (i) either (A) adequately secured on the basis of the equity of the borrower in the property underlying such investment or (B) a financing device entered into by the Trust to establish the priority of its capital investment over the capital investment of others investing with the Trust in a real estate project, and (ii) not and may not be made subordinate to a mortgage held by the Advisor, an affiliate of the Advisor or a Trust Manager of the Trust.

ARTICLE TWENTY

The Independent Trust Managers shall determine at least annually that the total fees and expenses of the trust are reasonable and in accordance with the provisions of the Trust's By-Laws pertaining to such fees and expenses.

ARTICLE TWENTY-ONE

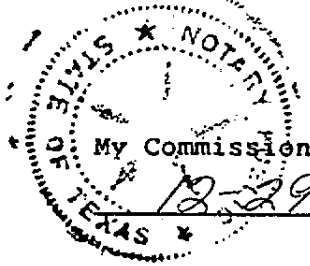
This Declaration of Trust may be amended from time to time by the affirmative vote of the holders of at least two-thirds of the outstanding Shares, except that (i) Article Six hereof (relating to the duration of the Trust); (ii) Article Eleven hereof (relating to the prohibition against engaging in non-real estate investment trust businesses); and (iii) Article Thirteen hereof (relating to the approval of Business Combinations) may not be amended or repealed, and provisions inconsistent therewith may not be adopted, except by the affirmative vote of the holders of at least 80% of the outstanding Shares.

IN WITNESS WHEREOF, the undersigned and the Trust Managers hereinabove named, do hereby execute this Declaration of Trust as of the 26th day of September, 1985.

David Clossey
Trust Manager

THE STATE OF TEXAS)
))
COUNTY OF DALLAS)

I, Gerry Madone, Notary Public in and for Dallas County, Texas, do hereby certify that on this 26th day of September 1985, personally appeared before me, David Clossey, who being by me first duly sworn, declared that he is the person who signed the foregoing document as Trust Manager, and that the statements therein contained are true.



Gerry Madone
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

My Commission Expires:
12-29-87

Trammell Crow
Trust Manager

THE STATE OF TEXAS)
)
COUNTY OF DALLAS)

I, Gerry Madone, Notary Public in and for Dallas
County, Texas, do hereby certify that on this 26th day of
September, 1985, personally appeared before me, Trammell Crow,
who being by me first duly sworn, declared that he is the
person who signed the foregoing document as Trust Manager, and
that the statements therein contained are true.



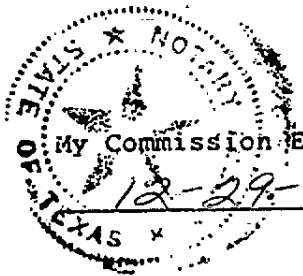
Gerry Madone
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

My Commission Expires:
SEP 29 - 87

William H. Bricker
Trust Manager

THE STATE OF TEXAS)
)
COUNTY OF DALLAS)

I, Gerry Madone, Notary Public in and for Dallas
County, Texas, do hereby certify that on this 26th day of
September, 1985, personally appeared before me, William H. Bricker,
who being by me first duly sworn, declared that he is the
person who signed the foregoing document as Trust Manager, and
that the statements therein contained are true.



Gerry Madone
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

George P. Jenkins
Trust Manager

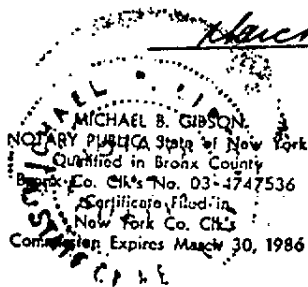
THE STATE OF New York)
COUNTY OF New York)

I, Michael B. Gibson Notary Public in and for New York County, N.Y., do hereby certify that on this 26 day of September, personally appeared before me, George P. Jenkins, who being by me first duly sworn, declared that he is the person who signed the foregoing document as Trust Manager, and that the statements therein contained are true.

Michael B. Gibson

My Commission Expires:

March 30, 1986



136-2051

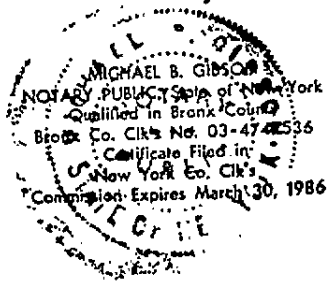
William J. Poorn
Trust Manager

THE STATE OF New York)
COUNTY OF New York)

I, Michael B. Gibson, Notary Public in and for New York County, N.Y., do hereby certify that on this 26 day of September, personally appeared before me, William J. Poorn, who being by me first duly sworn, declared that he is the person who signed the foregoing document as Trust Manager, and that the statements therein contained are true.

Michael B. Gibson

My Commission Expires:
March 30, 1986



Return to: Joanne Bober
Jones, Day, Lewis & Poque
2300 LTV Center
2001 Ross Avenue
Dallas, Texas 75201

85189 5821

STATE OF TEXAS
I hereby certify that this instrument was filed in the
date and time herein and page of the and was filed in the
of Dallas County, Texas as stamped hereon by me.
COUNTY OF DALLAS
SEP 26 1985
Gail Bantley
COUNTY CLERK Dallas County, Texas



85 SEP 26 P 4: 29

FILED
Gail Bantley
COUNTY CLERK
DALLAS COUNTY



COUNTY CLERK, DALLAS COUNTY, TEXAS

MAR 30 1998

THE STATE OF TEXAS
COUNTY OF DALLAS
I hereby certify that the above and foregoing is a full, true, and correct
photographic copy of the original record now in my lawful custody and
possession, filed on the date stamped thereon and as the same is
recorded in the Recorder's Records in my office under the volume and
page stamped thereon. I hereby certify on



TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE



TRUE AND CORRECT
 COPY OF ORIGINAL
 FILED IN DALLAS
 COUNTY CLERK'S OFFICE

AMENDED AND RESTATED DECLARATION OF TRUST
 OF
 AMERICAN INDUSTRIAL PROPERTIES REIT

DEED 23.00
 TOTL 23.00
 A001 2789 0000008 0206 3:03PM 9/08/93

Pursuant to the provisions of Section 23 of the Texas Real Estate Investment Trust Act, the undersigned real estate investment trust adopts this Amended and Restated Declaration of Trust which accurately sets forth the Declaration of Trust and all amendments in effect through the date hereof. This Amended and Restated Declaration of Trust was adopted by the Shareholders of the Trust on August 31, 1993 pursuant to the affirmative vote of the holders of at least two-thirds of the outstanding Shares of the Trust.

ARTICLE ONE

The name of the trust (the "Trust") is American Industrial Properties REIT. An assumed name certificate setting forth such name has been filed in the manner prescribed by law.

ARTICLE TWO

The Trust is formed pursuant to the Texas Real Estate Investment Trust Act and has the following as its purpose:

To purchase, hold, lease, manage, sell, exchange, develop, subdivide and improve real property and interests in real property, and in general, to carry on any other business and do any other acts in connection with the foregoing and to have and exercise all powers conferred by the laws of the State of Texas upon real estate investment trusts formed under the Texas Real Estate Investment Trust Act, and to do any or all of the things hereinafter set forth to the same extent as natural persons might or could do. The term "real property" and the term "interests in real property" for the purposes stated herein shall not include severed mineral, oil or gas royalty interests.

ARTICLE THREE

As to any real property of any character, major capital improvements must be made within fifteen (15) years of purchase or the property must be sold. Such major capital improvements must equal or exceed the purchase price of such real property if the same is unimproved property at the time of purchase or property outside the corporate limits of a city, town or village. Any citizen of the State of Texas may force compliance with this provision by filing suit in any district court of the State of Texas and shall receive from the Trust if the Trust is forced to sell a real property interest under this provision, the sum of five percent (5%) of the sale price of such real property interest as compensation.

93174 5636

ARTICLE FOUR

The address of the principal office and place of business of the Trust is 6220 North Beltline, Suite 205, Irving, Texas 75063.

ARTICLE FIVE

The names and mailing addresses of the Trust Managers are as follows:

<u>NAME</u>	<u>MAILING ADDRESS</u>
W. H. Bricker*	D. S. Energy Services, Inc. Bent Tree One, Suite 350 16475 Dallas Parkway Dallas, Texas 75248
George P. Jenkins	485 Ridgewood Avenue Glen Ridge, New Jersey 07028
Charles W. Wolcott*	6220 North Beltline Suite 205 Irving, Texas 75063

* Resident Trust Managers.

ARTICLE SIX

The period of the Trust's duration is not to exceed 15 years. The Trust may be sooner terminated by the vote of the holders of at least a majority of the voting power of the outstanding Shares.

ARTICLE SEVEN

The Trust shall have authority to issue 10,000,000 shares, par value \$0.10 per share, of beneficial interest (the "Shares"). All of the Shares shall be equal in all respects to every other such Share, and shall have no preference, conversion, exchange or preemptive rights.

ARTICLE EIGHT

The Trust shall issue Shares only for money or property actually received.

93174 5637

ARTICLE NINE

The Trust Managers shall hold all money and property received for the issuance of Shares for the benefit of the owner of such Shares.

ARTICLE TEN

The Trust will not commence operations until the beneficial ownership of Shares is held by 100 or more persons with no 5 persons owning more than 50% of the total number of outstanding Shares. The word "person" in the immediately preceding sentence shall not include corporations.

ARTICLE ELEVEN

The Trust shall not engage in any businesses that do not further the purpose of a real estate investment trust formed pursuant to the Texas Real Estate Investment Trust Act, as such purpose is set forth at Article Two hereof.

ARTICLE TWELVE

Cumulative voting for the election of Trust Managers is prohibited, except that in any election of Trust Managers on or after the date on which the Trust becomes aware that any 30% Shareholder (as defined below) has become a 30% Shareholder, there shall be cumulative voting for the election of Trust Managers so that any holder of Shares may cumulate the voting power represented by his Shares and give one candidate a number of votes equal to the number of Trust Managers to be elected multiplied by the number of votes to which such Shares are entitled, or distribute such votes on the same principle among as many candidates for election as such holder of Shares determines. For the purposes of this Article Twelve, a "30% Shareholder" shall mean any person who or which is the beneficial owner, directly or indirectly, of 30% or more of the outstanding Shares. Any Shareholder who intends to cumulate his votes pursuant to this Article Twelve must give written notice to the Trust Managers of his intention on or before the day preceding the election at which such Shareholder intends to cumulate his votes. The cumulative voting right provided by this Article Twelve shall be suspended at such time as there is no person who beneficially owns more than 30% of the outstanding Shares.

ARTICLE THIRTEEN

Except as otherwise expressly provided in this Article Thirteen, Business Combinations (as defined herein) between the Trust and a beneficial holder of 10% or more of the Trust's outstanding Shares (an "Interested Shareholder") shall be approved by the affirmative vote of the holders of at least 80% of the voting power of the outstanding Shares.

"Business Combination", as used herein, means (i) any liquidation, merger or consolidation of the Trust with or into an Interested Shareholder or a corporation, which after the merger or consolidation would be an associate or affiliate of an Interested Shareholder, (ii) any sale, lease, exchange, transfer or other disposition, (in one transaction or a series of transactions), of all or any "Substantial Part" (as defined herein) of the assets of the Trust to an Interested Shareholder, (iii) the issuance of any securities (other than by way of pro rata distribution to all Shareholders) of the Trust to an Interested Shareholder or (iv) any agreement, contract or other arrangement providing for any of the foregoing transactions. The term "Substantial Part", as used herein, means more than 10% of the book value of the total assets of any person or entity as of the end of its most recent fiscal year ending prior to the time the determination is being made.

The voting requirements outlined above will not apply if (i) at the time the Business Combination is consummated and during the preceding 12 months the Trust beneficially owned a majority of the outstanding equity securities of the Interested Shareholder, (ii) the Business Combination was approved by a majority of the Trust Managers who at the time such approval was given were not affiliates or nominees of the Interested Shareholder and were Trust Managers prior to the time the Interested Shareholder became an Interested Shareholder (the "Disinterested Trust Managers") or are successors of Disinterested Trust Managers who are not affiliates or nominees of the Interested Shareholder and who were recommended to succeed a Disinterested Trust Manager by a majority of the Disinterested Trust Managers, or (iii) the consideration to be received by the holders of the outstanding Shares is at least equal to the greater of the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Shareholder for any Shares (a) within the two-year period immediately prior to the first public announcement of the proposal of the Business Combination or (b) in a transaction in which it became an Interested Shareholder, and is cash or the same form of consideration as the Interested Shareholder paid to acquire the largest number of Shares previously acquired by it.

ARTICLE FOURTEEN

The Trust Managers may from time to time declare, and the Trust may pay, dividends on its outstanding Shares in cash or property, except that no dividend shall be declared or paid when the Trust is unable to pay its debts as they become due in the usual course of its business, or when the payment of such dividend would result in the Trust being unable to pay its debts as they become due in the usual course of business.

ARTICLE FIFTEEN

A holder of Shares shall not be personally or individually liable in any manner whatsoever for any debt, act, omission or contractual obligation incurred by the Trust or the Trust Managers. All written contracts to which the Trust is a party shall include a provision that the Shareholders shall not be personally liable thereon. A holder of Shares shall be under no obligation to the Trust or to its creditors with respect to such Shares other than the obligation

to pay to the Trust the full amount of the consideration for which such Shares were issued or to be issued. Upon the payment of such consideration, such Shares shall be non-assessable by the Trust.

ARTICLE SIXTEEN

No Trust Manager or Trust Officer shall be liable for (i) any claims or damages that may result from his acts in the discharge of any duty imposed or power conferred upon him by the Texas Real Estate Investment Trust Act, this Declaration of Trust, or the By-Laws of the Trust, if, in the exercise of ordinary care, he acted in good faith and in reliance upon the written opinion of any attorney for the Trust or (ii) any act, omission, loss, damage or expense arising from the performance of his duty to the Trust, except for acts, omissions, losses, damages or expenses arising from his own willful misfeasance, malfeasance or negligence. The Trust shall reimburse, indemnify and hold harmless the Trust Managers and the Trust Officers to the full extent lawful, from and against any and all losses, claims, damages or liabilities of any nature whatsoever in respect to or arising from any acts or omissions of any of them, except with respect to losses, claims, damages or liabilities in respect to or arising out of any Trust Manager's or Trust Officer's gross negligence or willful misconduct.

ARTICLE SEVENTEEN

A Trust Manager may be removed by the vote or written consent of the holders of a majority of the outstanding shares, and may be removed at a special meeting of the Shareholders called for such purpose pursuant to the Trust's By-Laws.

ARTICLE EIGHTEEN

A majority of the Trust Managers shall be Independent Trust Managers. "Independent Trust Managers" as used herein means a Trust Manager who (i) does not perform any services for the Trust (except in the capacity as a Trust Manager) whether as an agent, advisor, consultant, employee, property manager, or in any other capacity whatsoever (other than as Trust Manager), and (ii) is not an "affiliate" of any person or entity that performs any services for the Trust (other than as a Trust Manager). "Affiliate" as used herein means any individual, corporation, partnership, trust, unincorporated organization, association or other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with any person or entity that performs any services for the Trust (other than as a Trust Manager).

ARTICLE NINETEEN

The Independent Trust Managers shall have a fiduciary duty to the Shareholders of the Trust to supervise the relationship of the Trust and the property managers. The following matters must be acted upon or approved by at least a majority of the Independent Trust Managers:

(a) Reviews, to be made at least annually, of the Trust's investment policies to determine that the policies being followed by the Trust at any time are in the best interests of the Trust's Shareholders;

(b) The taking of reasonable steps to ensure that (i) the Trust prepares for each fiscal year ending after the Trust's initial public offering of Shares an annual report concerning its operations containing financial statements prepared in accordance with generally accepted accounting principles which are audited and reported on by independent certified public accountants, (ii) such annual reports are mailed or delivered to each Shareholder of record as of a record date after the end of such fiscal year, and (iii) annual meetings of the Shareholders of the Trust are held within a reasonable period following delivery of the annual report;

(c) Termination of any advisory contract between the Trust and any advisor or any property management agreement between the Trust and a property manager, all such contracts to be terminable by a majority of the Independent Trust Managers;

(d) Determinations, to be made at least annually, that the compensation that the Trust contracts to pay to any advisor or property manager is reasonable in relation to the nature and quality of services performed, and that the provisions of such contracts are being carried out;

(e) Approvals by a majority of the Independent Trust Managers and disclosures to the Trust's Shareholders, which shall be required with respect to any borrowings by the Trust which would cause the aggregate borrowings of the Trust to exceed an amount equal to 300% of the Trust's Net Assets (as such term is defined in the Trust's By-Laws);

(f) Determinations as to whether in determining the value of real property to be acquired by the Trust such determination is to be made by a qualified independent real estate appraiser; and

(g) Determinations, which shall be a prerequisite to any investment by the Trust in a junior mortgage loan, that such loan is (i) either (A) adequately secured on the basis of the equity of the borrower in the property underlying such investment or (B) a financing device entered into by the Trust to establish the priority of its capital investment over the capital investment of others investing with the Trust in a real estate project, and (ii) not and may not be made subordinate to a mortgage held by a Trust Manager of the Trust.

ARTICLE TWENTY

The Independent Trust Managers shall determine at least annually that the total fees and expenses of the Trust are reasonable and in accordance with the provisions of the Trust's By-Laws pertaining to such fees and expenses.

ARTICLE TWENTY-ONE

This Declaration of Trust may be amended from time to time by the affirmative vote of the holders of at least two-thirds of the outstanding Shares, except that (i) Article Six hereof (relating to the duration of the Trust); (ii) Article Eleven hereof (relating to the prohibition against engaging in non-real estate investment trust businesses); and (iii) Article Thirteen hereof (relating to the approval of Business Combinations) may not be amended or repealed, and provisions inconsistent therewith may not be adopted, except by the affirmative vote of the holders of at least 80% of the outstanding Shares.

IN WITNESS WHEREOF, the undersigned and the Trust Managers hereinabove named, do hereby execute this Amended and Restated Declaration of Trust as of the 31st day of August, 1993.

William H. Gucker
Trust Manager

THE STATE OF Texas)
)
COUNTY OF Dallas)

I, KAREN W. HATFIELD, Notary Public in and for DALLAS County, TEXAS, do hereby certify that on this 2nd day of September, personally appeared before me, WILLIAM H. GRICKER, who being by me first duly sworn, declared that he is the person who signed the foregoing document as Trust Manager, and that the statements therein contained are true.



Karen W. Hatfield
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

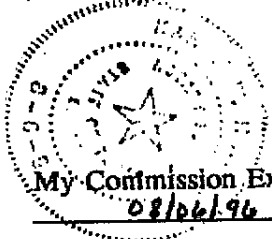
My Commission Expires:
08/06/96

Charles W. Wolcott

Trust Manager

THE STATE OF Texas)
COUNTY OF Dallas)

I, KAREN W. HATFIELD, Notary Public in and for DALLAS County, TEXAS, do hereby certify that on this 2nd day of September, personally appeared before me, CHARLES W. WOLCOTT, who being by me first duly sworn, declared that he is the person who signed the foregoing document as Trust Manager, and that the statements therein contained are true.



Karen W. Hatfield
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

George P. Jenkins
Trust Manager

THE STATE OF NY }
COUNTY OF NY }

I, Patricia M. Hayes, Notary Public in and for NY County, NY, do hereby certify that on this 3rd day of September personally appeared before me, George P. Jenkins, who being by me first duly sworn, declared that he is the person who signed the foregoing document as Trust Manager, and that the statements therein contained are true.

Patricia M. Hayes
NOTARY PUBLIC IN AND FOR
THE STATE OF NY

My Commission Expires:
January 13, 1994

PATRICIA M. HAYES
Notary Public, State of New York
No. 24-4980822
Qualified in Kings County
Commission Expires January 13, 1994



134613.1

93174 5645

FILED
Eve Bush
COUNTY CLERK
DALLAS COUNTY

93 SEP -8 PH 3:01

Any conveyance herein which transfers the title, control or use of the
described real property hereto of record or that is intended and
substantively under Federal Law
STATE OF TEXAS
I hereby certify this instrument was filed on the date and time
stated herein by me and was duly recorded in the public and
Public of the public records of Dallas County, Texas as shown
hereon by me

SEP 8 1983

Eve Bush
COUNTY CLERK, Dallas County, Texas



STEVEN M. HAMILTON
2001 West 10th Street, Suite 100
Dallas, Texas 75201
APC 1001

RETURN TO:

NAME VIAL HAMILTON / MAILROOM
ADDRESS 1717 MAIN 43RD
CITY DALLAS TX 75201

[Handwritten signature]
COUNTY CLERK, DALLAS COUNTY, TEXAS



MAR 30 1933

THE STATE OF TEXAS
COUNTY OF DALLAS
I hereby certify that the above and foregoing is a full, true, and correct
photographic copy of the original record now in my lawful custody and
possession, filed on the date stamped thereon and as the same be
recorded in the Recorder's Records in my office under the volume and
page stamped thereon. I hereby certify on

TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERKS OFFICE





TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE

21
SECOND AMENDED AND RESTATED DECLARATION OF TRUST

**OF
AMERICAN INDUSTRIAL PROPERTIES REIT**

DEED 21.00
TOTL 21.00
ADD1 1979 0000000 1545 11:06AM 10/29/93

Pursuant to the provisions of Section 23 of the Texas Real Estate Investment Trust Act, the undersigned real estate investment trust adopts this Second Amended and Restated Declaration of Trust which accurately sets forth the Declaration of Trust and all amendments in effect through the date hereof. This Second Amended and Restated Declaration of Trust was adopted by the Shareholders of the Trust on October 22, 1993 pursuant to the affirmative vote of the holders of at least eighty percent (80%) of the outstanding Shares of the Trust.

ARTICLE ONE

The name of the trust (the "Trust") is American Industrial Properties REIT. An assumed name certificate setting forth such name has been filed in the manner prescribed by law.

ARTICLE TWO

The Trust is formed pursuant to the Texas Real Estate Investment Trust Act and has the following as its purpose:

To purchase, hold, lease, manage, sell, exchange, develop, subdivide and improve real property and interests in real property, and in general, to carry on any other business and do any other acts in connection with the foregoing and to have and exercise all powers conferred by the laws of the State of Texas upon real estate investment trusts formed under the Texas Real Estate Investment Trust Act, and to do any or all of the things hereinafter set forth to the same extent as natural persons might or could do. The term "real property" and the term "interests in real property" for the purposes stated herein shall not include severed mineral, oil or gas royalty interests.

ARTICLE THREE

As to any real property of any character, major capital improvements must be made within fifteen (15) years of purchase or the property must be sold. Such major capital improvements must equal or exceed the purchase price of such real property if the same is unimproved property at the time of purchase or property outside the corporate limits of a city, town or village. Any citizen of the State of Texas may force compliance with this provision by filing suit in any district court of the State of Texas and shall receive from the Trust if the Trust is forced to sell a real property interest under this provision, the sum of five percent (5%) of the sale price of such real property interest as compensation.

93211 3145

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ARTICLE FOUR

The address of the principal office and place of business of the Trust is 6220 North Beltline, Suite 205, Irving, Texas 75063.

ARTICLE FIVE

The names and mailing addresses of the Trust Managers are as follows:

<u>NAME</u>	<u>MAILING ADDRESS</u>
W. H. Bricker*	D. S. Energy Services, Inc. Bent Tree One, Suite 350 16475 Dallas Parkway Dallas, Texas 75248
George P. Jenkins	485 Ridgewood Avenue Glen Ridge, New Jersey 07028
Charles W. Wolcott*	6220 North Beltline Suite 205 Irving, Texas 75063

* Resident Trust Managers.

ARTICLE SIX

The period of the Trust's duration is perpetual. The Trust may be sooner terminated by the vote of the holders of at least a majority of the voting power of the outstanding Shares.

ARTICLE SEVEN

The Trust shall have authority to issue 10,000,000 shares, par value \$0.10 per share, of beneficial interest (the "Shares"). All of the Shares shall be equal in all respects to every other such Share, and shall have no preference, conversion, exchange or preemptive rights.

ARTICLE EIGHT

The Trust shall issue Shares only for money or property actually received.

ARTICLE NINE

The Trust Managers shall hold all money and property received for the issuance of Shares for the benefit of the owner of such Shares.

ARTICLE TEN

The Trust will not commence operations until the beneficial ownership of Shares is held by 100 or more persons with no 5 persons owning more than 50% of the total number of outstanding Shares. The word "person" in the immediately preceding sentence shall not include corporations.

ARTICLE ELEVEN

The Trust shall not engage in any businesses that do not further the purpose of a real estate investment trust formed pursuant to the Texas Real Estate Investment Trust Act, as such purpose is set forth at Article Two hereof.

ARTICLE TWELVE

Cumulative voting for the election of Trust Managers is prohibited, except that in any election of Trust Managers on or after the date on which the Trust becomes aware that any 30% Shareholder (as defined below) has become a 30% Shareholder, there shall be cumulative voting for the election of Trust Managers so that any holder of Shares may cumulate the voting power represented by his Shares and give one candidate a number of votes equal to the number of Trust Managers to be elected multiplied by the number of votes to which such Shares are entitled, or distribute such votes on the same principle among as many candidates for election as such holder of Shares determines. For the purposes of this Article Twelve, a "30% Shareholder" shall mean any person who or which is the beneficial owner, directly or indirectly, of 30% or more of the outstanding Shares. Any Shareholder who intends to cumulate his votes pursuant to this Article Twelve must give written notice to the Trust Managers of his intention on or before the day preceding the election at which such Shareholder intends to cumulate his votes. The cumulative voting right provided by this Article Twelve shall be suspended at such time as there is no person who beneficially owns more than 30% of the outstanding Shares.

ARTICLE THIRTEEN

Except as otherwise expressly provided in this Article Thirteen, Business Combinations (as defined herein) between the Trust and a beneficial holder of 10% or more of the Trust's outstanding Shares (an "Interested Shareholder") shall be approved by the affirmative vote of the holders of at least 80% of the voting power of the outstanding Shares.

"Business Combination", as used herein, means (i) any liquidation, merger or consolidation of the Trust with or into an Interested Shareholder or a corporation, which after the merger or consolidation would be an associate or affiliate of an Interested Shareholder, (ii)

ARTICLE SIXTEEN

No Trust Manager or Trust Officer shall be liable for (i) any claims or damages that may result from his acts in the discharge of any duty imposed or power conferred upon him by the Texas Real Estate Investment Trust Act, this Declaration of Trust, or the By-Laws of the Trust, if, in the exercise of ordinary care, he acted in good faith and in reliance upon the written opinion of any attorney for the Trust or (ii) any act, omission, loss, damage or expense arising from the performance of his duty to the Trust, except for acts, omissions, losses, damages or expenses arising from his own willful misfeasance, malfeasance or negligence. The Trust shall reimburse, indemnify and hold harmless the Trust Managers and the Trust Officers to the full extent lawful, from and against any and all losses, claims, damages or liabilities of any nature whatsoever in respect to or arising from any acts or omissions of any of them, except with respect to losses, claims, damages or liabilities in respect to or arising out of any Trust Manager's or Trust Officer's gross negligence or willful misconduct.

ARTICLE SEVENTEEN

A Trust Manager may be removed by the vote or written consent of the holders of a majority of the outstanding shares, and may be removed at a special meeting of the Shareholders called for such purpose pursuant to the Trust's By-Laws.

ARTICLE EIGHTEEN

A majority of the Trust Managers shall be Independent Trust Managers. "Independent Trust Managers" as used herein means a Trust Manager who (i) does not perform any services for the Trust (except in the capacity as a Trust Manager) whether as an agent, advisor, consultant, employee, property manager, or in any other capacity whatsoever (other than as Trust Manager), and (ii) is not an "affiliate" of any person or entity that performs any services for the Trust (other than as a Trust Manager). "Affiliate" as used herein means any individual, corporation, partnership, trust, unincorporated organization, association or other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with any person or entity that performs any services for the Trust (other than as a Trust Manager).

ARTICLE NINETEEN

The Independent Trust Managers shall have a fiduciary duty to the Shareholders of the Trust to supervise the relationship of the Trust and the property managers. The following matters must be acted upon or approved by at least a majority of the Independent Trust Managers:

(a) Reviews, to be made at least annually, of the Trust's investment policies to determine that the policies being followed by the Trust at any time are in the best interests of the Trust's Shareholders;

any sale, lease, exchange, transfer or other disposition, (in one transaction or a series of transactions), of all or any "Substantial Part" (as defined herein) of the assets of the Trust to an Interested Shareholder, (iii) the issuance of any securities (other than by way of pro rata distribution to all Shareholders) of the Trust to an Interested Shareholder or (iv) any agreement, contract or other arrangement providing for any of the foregoing transactions. The term "Substantial Part", as used herein, means more than 10% of the book value of the total assets of any person or entity as of the end of its most recent fiscal year ending prior to the time the determination is being made.

The voting requirements outlined above will not apply if (i) at the time the Business Combination is consummated and during the preceding 12 months the Trust beneficially owned a majority of the outstanding equity securities of the Interested Shareholder, (ii) the Business Combination was approved by a majority of the Trust Managers who at the time such approval was given were not affiliates or nominees of the Interested Shareholder and were Trust Managers prior to the time the Interested Shareholder became an Interested Shareholder (the "Disinterested Trust Managers") or are successors of Disinterested Trust Managers who are not affiliates or nominees of the Interested Shareholder and who were recommended to succeed a Disinterested Trust Manager by a majority of the Disinterested Trust Managers, or (iii) the consideration to be received by the holders of the outstanding Shares is at least equal to the greater of the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Shareholder for any Shares (a) within the two-year period immediately prior to the first public announcement of the proposal of the Business Combination or (b) in a transaction in which it became an Interested Shareholder, and is cash or the same form of consideration as the Interested Shareholder paid to acquire the largest number of Shares previously acquired by it.

ARTICLE FOURTEEN

The Trust Managers may from time to time declare, and the Trust may pay, dividends on its outstanding Shares in cash or property, except that no dividend shall be declared or paid when the Trust is unable to pay its debts as they become due in the usual course of its business, or when the payment of such dividend would result in the Trust being unable to pay its debts as they become due in the usual course of business.

ARTICLE FIFTEEN

A holder of Shares shall not be personally or individually liable in any manner whatsoever for any debt, act, omission or contractual obligation incurred by the Trust or the Trust Managers. All written contracts to which the Trust is a party shall include a provision that the Shareholders shall not be personally liable thereon. A holder of Shares shall be under no obligation to the Trust or to its creditors with respect to such Shares other than the obligation to pay to the Trust the full amount of the consideration for which such Shares were issued or to be issued. Upon the payment of such consideration, such Shares shall be non-assessable by the Trust.

(b) The taking of reasonable steps to ensure that (i) the Trust prepares for each fiscal year ending after the Trust's initial public offering of Shares an annual report concerning its operations containing financial statements prepared in accordance with generally accepted accounting principles which are audited and reported on by independent certified public accountants, (ii) such annual reports are mailed or delivered to each Shareholder of record as of a record date after the end of such fiscal year, and (iii) annual meetings of the Shareholders of the Trust are held within a reasonable period following delivery of the annual report;

(c) Termination of any advisory contract between the Trust and any advisor or any property management agreement between the Trust and a property manager, all such contracts to be terminable by a majority of the Independent Trust Managers;

(d) Determinations, to be made at least annually, that the compensation that the Trust contracts to pay to any advisor or property manager is reasonable in relation to the nature and quality of services performed, and that the provisions of such contracts are being carried out;

(e) Approvals by a majority of the Independent Trust Managers and disclosures to the Trust's Shareholders, which shall be required with respect to any borrowings by the Trust which would cause the aggregate borrowings of the Trust to exceed an amount equal to 300% of the Trust's Net Assets (as such term is defined in the Trust's By-Laws);

(f) Determinations as to whether in determining the value of real property to be acquired by the Trust such determination is to be made by a qualified independent real estate appraiser; and

(g) Determinations, which shall be a prerequisite to any investment by the Trust in a junior mortgage loan, that such loan is (i) either (A) adequately secured on the basis of the equity of the borrower in the property underlying such investment or (B) a financing device entered into by the Trust to establish the priority of its capital investment over the capital investment of others investing with the Trust in a real estate project, and (ii) not and may not be made subordinate to a mortgage held by a Trust Manager of the Trust.

ARTICLE TWENTY

The Independent Trust Managers shall determine at least annually that the total fees and expenses of the Trust are reasonable and in accordance with the provisions of the Trust's By-Laws pertaining to such fees and expenses.

ARTICLE TWENTY-ONE


This Declaration of Trust may be amended from time to time by the affirmative vote of the holders of at least two-thirds of the outstanding Shares, except that (i) Article Six hereof (relating to the duration of the Trust); (ii) Article Eleven hereof (relating to the prohibition against engaging in non-real estate investment trust businesses); and (iii) Article Thirteen hereof (relating to the approval of Business Combinations) may not be amended or repealed, and

provisions inconsistent therewith may not be adopted, except by the affirmative vote of the holders of at least 80% of the outstanding Shares.


IN WITNESS WHEREOF, the undersigned and the Trust Managers hereinabove named, do hereby execute this Amended and Restated Declaration of Trust as of the 22nd day of October, 1993.



W. H. Briker



George P. Jenkins



Charles W. Wolcott

THE STATE OF TEXAS)
COUNTY OF Dallas)

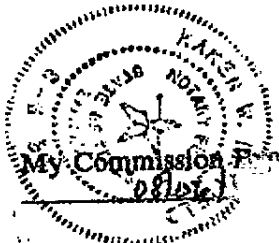
BEFORE ME, the undersigned authority, on this 28th day of October 1993, personally appeared W. H. Bricker, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was executed for the purposes and consideration therein expressed.



Karen W. Hatfield
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

THE STATE OF TEXAS)
COUNTY OF Dallas)

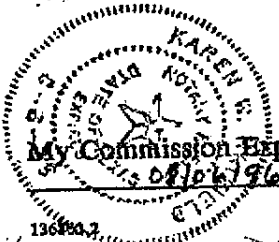
BEFORE ME, the undersigned authority, on this 28th day of October 1993, personally appeared George P. Jenkins, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was executed for the purposes and consideration therein expressed.



Karen W. Hatfield
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

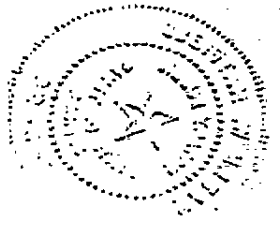
THE STATE OF TEXAS)
COUNTY OF Dallas)

BEFORE ME, the undersigned authority, on this 28th day of October 1993, personally appeared Charles W. Wolcott, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was executed for the purposes and consideration therein expressed.



Karen W. Hatfield
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

93211 3152



AFTER RECORDING RETURN TO:
Paul E. Pesak
Vall, Hamilton, Koch & Knox
1717 Main, Suite 4400
Dallas, Texas 75201



County Clerk, Dallas County, Texas
Car Bank
07 29 1993
DATE OF RECEIPT
THIS RECEIPT IS VALID FOR THE PURPOSES OF THE
PROPERTY TAX LAWS OF THE STATE OF TEXAS
AND SHALL BE VALID FOR THE PURPOSES OF THE
PROPERTY TAX LAWS OF THE STATE OF TEXAS
UNLESS OTHERWISE SPECIFIED BY THE
PROPERTY TAX LAWS OF THE STATE OF TEXAS
ISSUED BY THE COUNTY CLERK OF DALLAS COUNTY, TEXAS

93 OCT 29 AM 11:03
COUNTY CLERK
DALLAS COUNTY
Car Bank
3513 11321

By *[Signature]*
COUNTY CLERK, Dallas County, Texas



MAR 30 1998

THE SEWER OF TEXAS
COUNTY OF DALLAS
I hereby certify that the above and foregoing is a full, true, and correct
photographic copy of the original record now in my lawful custody and
possession, filed on the date stamped thereon and as the same be
recorded in the Recorder's Records in my office under the volume and
page stamped thereon. I hereby certify on

TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE





TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE

1270192

THIRD AMENDED AND RESTATED 07/01/97 566773 651.00
DECLARATION OF TRUST ^{Recd}
OF
AMERICAN INDUSTRIAL PROPERTIES REIT

The undersigned, acting as the Trust Managers of a real estate investment trust under the Texas Real Estate Investment Trust Act (the "Texas REIT Act"), hereby adopt the following Third Amended and Restated Declaration of Trust for such trust, which replaces in its entirety the previously enacted Second Amended and Restated Declaration of Trust, which Third Amended and Restated Declaration of Trust was adopted by the Shareholders of the Trust on June 30, 1997 pursuant to the affirmative vote of the holders of at least two-thirds of the outstanding Shares of the Trust.

ARTICLE ONE

The name of the trust (the "Trust") is "American Industrial Properties REIT." An assumed name certificate setting forth such name has been filed in the manner prescribed by law.

ARTICLE TWO

The Trust is formed pursuant to the Texas REIT Act and has the following as its purpose:

To purchase, hold, lease, manage, sell, exchange, develop, subdivide and improve real property and interests in real property, and in general, to carry on any other business and do any other acts in connection with the foregoing and to have and exercise all powers conferred by the laws of the State of Texas upon real estate investment trusts formed under the Texas REIT Act, and to do any or all of the things hereinafter set forth to the same extent as natural persons might or could do. The term "real property" and the term "interests in real property" for the purposes stated herein shall not include severed mineral, oil or gas royalty interests.

ARTICLE THREE

The address of the Trust's principal office and place of business is 6220 North Beltline, Suite 205, Irving, Texas 75063.

ARTICLE FOUR

The street address of the Trust's registered office is 6220 North Beltline, Suite 205, Irving, Texas 75063. The name of the Trust's registered agent at that address is Marc A. Simpson.

ARTICLE FIVE

The names and business addresses of the Trust Managers approving and adopting this Declaration of Trust are as follows:

<u>Name</u>	<u>Mailing Address</u>
William H. Bricker	16475 Dallas Parkway, Suite 350 Dallas, Texas 75248
T. Patrick Duncan	8000 Robert F. McDermott Frwy., Suite 600 San Antonio, Texas 78230
Robert E. Giles	5051 Westheimer, Suite 300 Houston, Texas 77056
Edward B. Kelley	8000 Robert F. McDermott Frwy., Suite 600 San Antonio, Texas 78230
Charles W. Wolcott	6220 North Beltline, Suite 205 Irving, Texas 75063

ARTICLE SIX

The period of the Trust's duration is perpetual. The Trust may be sooner terminated by the vote of the holders of at least a majority of the outstanding voting Shares.

ARTICLE SEVEN

The aggregate number of shares of beneficial interest which the Trust shall have authority to issue is five hundred million common shares, par value \$0.10 per share ("Common Shares"), and fifty million preferred shares, par value \$0.10 per share ("Preferred Shares"). All of the Common Shares shall be equal in all respects to every other such Common Share, and shall have no preference, conversion, exchange or preemptive rights.

Unless otherwise specified, the term "Shares" in this Declaration of Trust shall be deemed to refer to the Common Shares and, solely to the extent specifically required by law or as specifically provided in any resolution or resolutions of the Trust Managers providing for the issue of any particular series of Preferred Shares, to the Preferred Shares. For purposes of Articles Ten and

Nineteen (other than Article Nineteen (j)) of this Declaration of Trust, the term Shares shall be deemed to refer to both the Common Shares and the Preferred Shares and, for purposes of such Articles Ten and Nineteen (other than Article Nineteen (j)), the number of outstanding Shares shall be deemed to be equal to the value of the Trust's outstanding Shares as determined from time to time by resolution of the Trust Managers, such determination to include an allocation of relative value among the Common Shares and any outstanding series of Preferred Shares.

The Trust may issue one or more series of Preferred Shares, each such series to consist of such number of shares as shall be determined by resolution of the Trust Managers creating such series. The Preferred Shares of each such series shall have such designations, preferences, conversion, exchange or other rights, participations, voting powers, options, restrictions, limitations, special rights or relations, limitations as to dividends, qualifications or terms, or conditions of redemption thereof, as shall be stated and expressed by the Trust Managers in the resolution or resolutions providing for the issuance of such series of Preferred Shares pursuant to the authority to do so which is hereby expressly vested in the Trust Managers.

Except as otherwise specifically provided in any resolution or resolutions of the Trust Managers providing for the issue of any particular series of Preferred Shares, the number of shares of any such series so set forth in such resolution or resolutions may be increased or decreased (but not below the number of shares of such series then outstanding) by a resolution or resolutions likewise adopted by the Trust Managers.

Except as otherwise specifically provided in any resolution or resolutions of the Trust Managers providing for the issue of any particular series of Preferred Shares, Preferred Shares redeemed or otherwise acquired by the Trust shall assume the status of authorized but unissued Preferred Shares and shall be unclassified as to series and may thereafter, subject to the provisions of this Article Seven and to any restrictions contained in any resolution or resolutions of the Trust Managers providing for the issuance of any such series of Preferred Shares, be reissued in the same manner as other authorized but unissued Preferred Shares.

Except as otherwise specifically provided in any resolution or resolutions of the Trust Managers providing for the issue of any particular series of Preferred Shares, holders of Preferred Shares shall have no preemptive rights.

Except as otherwise specifically required by law or this Declaration of Trust or as specifically provided in any resolution or resolutions of the Trust Managers providing for the issuance of any particular series of Preferred Shares, the exclusive voting power of the Trust shall be vested in the Common Shares of the Trust. Each Common Share entitles the holder thereof to one vote at all meetings of the shareholders of the Trust.

ARTICLE EIGHT

The Trust shall issue Shares for consideration consisting of any tangible or intangible benefit to the Trust, including cash, promissory notes, services performed, contracts for services to be

performed, or other securities of the Trust, such consideration to be determined by the Trust Managers.

ARTICLE NINE

The Trust Managers shall manage all money and/or property received for the issuance of Shares for the benefit of the shareholders of the Trust.

ARTICLE TEN

The Trust will not commence business until it has received for the issuance of Shares consideration of at least \$1,000 value.

ARTICLE ELEVEN

The Trust shall not engage in any activities beyond the scope of the purpose of a real estate investment trust formed pursuant to the Texas REIT Act, as such purpose is set forth in Article Two hereof.

ARTICLE TWELVE

Cumulative voting for the election of Trust Managers is prohibited.

ARTICLE THIRTEEN

(a) The affirmative vote of the holders of not less than 80% of the outstanding Shares of the Trust, including the affirmative vote of the holders of not less than 50% of the outstanding Shares not owned, directly or indirectly, by any Related Person (as hereinafter defined), shall be required for the approval or authorization of any Business Combination (as hereinafter defined); provided, however, that the 50% voting requirement referred to above shall not be applicable if the Business Combination is approved by the affirmative vote of the holders of not less than 90% of the outstanding Shares; provided further, that neither the 80% voting requirement nor the 50% voting requirement referred to above shall be applicable if:

- (i) The Trust Managers of the Trust by a vote of not less than 80% of the Trust Managers then holding office (A) have expressly approved in advance the acquisition of Shares of the Trust that caused the Related Person to become a Related Person or (B) have expressly approved the Business Combination prior to the date on which the Related Person involved in the Business Combination shall have become a Related Person; or

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- (ii) The Business Combination is solely between the Trust and another entity, 100% of the voting stock, shares or comparable interests of which is owned directly or indirectly by the Trust; or
 - (iii) The Business Combination is proposed to be consummated within one year of the consummation of a Fair Tender Offer (as hereinafter defined) by the Related Person in which Business Combination the cash or Fair Market Value (as hereinafter defined) of the property, securities or other consideration to be received per Share by all remaining holders of Shares of the Trust in the Business Combination is not less than the price offered in the Fair Tender Offer; or
 - (iv) All of conditions (A) through (D) of this subparagraph (iv) shall have been met: (A) if and to the extent permitted by law, the Business Combination is a merger or consolidation, consummation of which is proposed to take place within one year of the date of the transaction pursuant to which such person became a Related Person and the cash or Fair Market Value of the property, securities or other consideration to be received per share by all remaining holders of Shares of the Trust in the Business Combination is not less than the Fair Price (as hereinafter defined); (B) the consideration to be received by such holders is either cash or, if the Related Person shall have acquired the majority of its holdings of the Trust's Shares for a form of consideration other than cash, in the same form of consideration with which the Related Person acquired such majority; (C) after such person has become a Related Person and prior to consummation of such Business Combination: (1) there shall have been no reduction in the annual rate of dividends, if any, paid per share on the Trust's Shares (adjusted as appropriate for recapitalizations and for Share splits, reverse Share splits and Share dividends), except any reduction in such rate that is made proportionately with any decline in the Trust's net income for the period for which such dividends are declared and except as approved by a majority of the Continuing Trust Managers (as hereinafter defined), and (2) such Related Person shall not have received the benefit, directly or indirectly (except proportionately as a shareholder), of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by the Trust prior to the consummation of such Business Combination (other than in connection with financing a Fair Tender Offer); and (D) a proxy statement that conforms in all respects with the provisions of the Securities Exchange Act of 1934 (the "Exchange Act") and the rules and regulations thereunder (or any subsequent provisions replacing the Exchange Act or the rules or regulations thereunder) shall be mailed to holders of the Trust's Shares at least 45 days prior to the consummation of the Business Combination for the purpose of soliciting shareholder approval of the Business Combination; or
 - (v) The Rights (as defined in paragraph (b) of this Article Thirteen) shall have become exercisable.

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(b) If a person has become a Related Person and within one year after the date (the "Acquisition Date") of the transaction pursuant to which the Related Person became a Related Person (x) a Business Combination meeting all of the requirements of subparagraph (iv) of the proviso to paragraph (a) of this Article Thirteen regarding the applicability of the 80% voting requirement shall not have been consummated and (y) a Fair Tender Offer shall not have been consummated and (z) the Trust shall not have been dissolved and liquidated, then, in such event the beneficial owner of each Share (not including Shares beneficially owned by the Related Person) (each such beneficial owner being hereinafter referred to as a "Holder") shall have the right (individually a "Right" and collectively the "Rights"), which may be exercised subject to the provisions of paragraph (d) of this Article Thirteen, commencing at the opening of business on the one-year anniversary date of the Acquisition Date and continuing for a period of 90 days thereafter, subject to extensions as provided in paragraph (d) of this Article Thirteen (the "Exercise Period"), to sell to the Trust on the terms set forth herein one Share upon exercise of such Right. Within five business days after the commencement of the Exercise Period the Trust shall notify the Holders of the commencement of the Exercise Period, specifying therein the terms and conditions for exercise of the Rights. During the Exercise Period, each certificate representing Shares beneficially owned by a Holder (a "Certificate") shall also represent the number of Rights equal to the number of Shares represented thereby and the surrender for transfer of any Certificate shall also constitute the transfer of the Rights represented by such Shares. At 5:00 P.M., Dallas, Texas time, on the last day of the Exercise Period, each Right not exercised shall become void, all rights in respect thereof shall cease as of such time and the Certificates shall no longer represent Rights.

(c) The purchase price for a Share upon exercise of an accompanying Right shall be equal to the then-applicable Fair Price paid by the Related Person (plus, as an allowance for interest, an amount equal to the prime rate of interest as published in the Wall Street Journal and as in effect from time to time from the Acquisition Date until the date of the payment for such Share but less the amount of any cash and the Fair Market Value of any property or securities distributed with respect to such Shares as dividends or otherwise during such time period), pursuant to the exercise of the Right relating thereto. In the event the Related Person shall have acquired any of its holdings of the Trust's Shares for a form of consideration other than cash, the value of such other consideration shall be the Fair Market Value thereof.

(d) Notwithstanding the foregoing in paragraph (b) of this Article Thirteen, the Exercise Period will be deferred in the event (a "Deferral Event") that the Trust is otherwise prohibited under applicable law from repurchasing Shares pursuant to the Rights. In the event the Exercise Period is deferred, or if at any time the Trust reasonably anticipates that a Deferral Event will exist, the Trust will, as soon as practicable, notify the Holders. If at the end of any fiscal quarter the Deferral Event ceases to exist, notice shall be given to the Holders of the commencement of the deferred Exercise Period, which Exercise Period shall commence no sooner than 15 days nor more than 45 days from the date of such notice and which shall continue in effect for a period of time equal in duration to the previously unexpired portion of the Exercise Period. Notwithstanding any other provision of this Declaration of Trust to the contrary, during the Exercise Period (including during the existence of any Deferral Event), neither the Trust nor any subsidiary may declare or pay any dividend or make any distribution on its shares or to its shareholders (other than dividends or distributions payable in its Shares or, in the case of any subsidiary, dividends payable to the Trust)

or purchase, redeem or otherwise acquire or retire for value, or permit any subsidiary to purchase or otherwise acquire for value, any Shares of the Trust if, upon giving effect to such dividend, distribution, purchase, redemption, or other acquisition or retirement, the aggregate amount expended for all such purposes (the amount expended for such purposes, if other than in cash, to be determined by a majority of the Continuing Trust Managers, whose determination shall be conclusive) would prejudice the ability of the Trust to satisfy its maximum obligation to purchase Shares upon exercise of the Rights.

(c) Rights may be exercised upon surrender to the Trust's principal transfer agent (the "Transfer Agent") at its principal office of the Certificate or Certificates evidencing the Shares to be tendered for purchase by the Trust, together with the form on the reverse thereof completed and duly signed in accordance with the instructions thereon. In the event that a Holder shall tender a Certificate which represents greater than the number of Shares which the Holder elects to require the Trust to purchase upon exercise of the Rights, the Holder shall designate on the reverse side of such Certificate the number of Shares to be sold from such Certificate. The Transfer Agent shall thereupon issue a new Certificate or Certificates for the balance of the number of Shares not sold to the Trust, which new Certificate or Certificates shall also represent Rights for an equivalent number of Shares.

(f) For the purposes of this Article:

(i) The term "Business Combination" shall mean (A) any merger or consolidation, if and to the extent permitted by law, of the Trust or a subsidiary, with or into a Related Person, (B) any sale, lease, exchange, mortgage, pledge, transfer or other disposition, of all or any Substantial Part (as hereinafter defined) of the assets of the Trust and its subsidiaries (taken as a whole) (including, without limitation, any voting securities of a subsidiary) to or with a Related Person, (C) the issuance or transfer by the Trust or a subsidiary (other than by way of a pro rata distribution to all shareholders) of any securities of the Trust or a subsidiary of the Trust to a Related Person, (D) any reclassification of securities (including any reverse Share split) or recapitalization by the Trust, the effect of which would be to increase the voting power (whether or not currently exercisable) of the Related Person, (E) the adoption of any plan or proposal for the liquidation or dissolution of the Trust proposed by or on behalf of a Related Person which involves any transfer of assets, or any other transaction, in which the Related Person has any direct or indirect interest (except proportionately as a shareholder), (F) any series or combination of transactions having, directly or indirectly, the same or substantially the same effect as any of the foregoing, and (G) any agreement, contract or other arrangement providing, directly or indirectly, for any of the foregoing.

(ii) The term "Continuing Trust Manager" shall mean (x) any Trust Manager of the Trust who is not affiliated with a Related Person and who was a Trust Manager immediately prior to the time that the Related Person became a Related Person, and (y) any other Trust Manager who is not affiliated with

the Related Person and is recommended either by a majority of the persons described in clause (x) of this subparagraph (ii) or by persons described in this clause (y) who are then Trust Managers of the Trust to succeed a person described in either the said clause (x) or clause (y) as a Trust Manager of the Trust.

- (iii) The term "Fair Market Value" shall mean: (A) in the case of securities, the highest closing sale price during the 30-day period immediately preceding the date in question of such security on the Composite Tape for New York Stock Exchange-Listed Stocks, or, if such security is not quoted on the Composite Tape on the New York Stock Exchange, or, if such security is not listed on such Exchange, on the principal United States securities exchange registered under the Exchange Act on which such security is listed, or, if such security is not listed on any such exchange, the highest closing bid quotation with respect to such security during the 30-day period preceding the date in question on the National Association of Securities Dealers, Inc. Automated Quotation System or any system then in use, or if no such quotations are available, the fair market value on the date in question of such security as reasonably determined by an independent appraiser selected by a majority of the Continuing Trust Managers (or, if there are no Continuing Trust Managers, by the investment banking firm most recently retained by the Trust) in good faith; and (B) in the case of property other than cash or stock, the fair market value of such property on the date in question as reasonably determined by an independent appraiser selected by a majority of the Continuing Trust Managers (or, if there are no Continuing Trust Managers, by the investment banking firm most recently retained by the Trust) in good faith. In each case hereunder in which an independent appraiser is to be selected to determine Fair Market Value, (1) in the event (x) there are no Continuing Trust Managers, and (y) the investment banking firm most recently retained by the Trust is unable or elects not to serve as such appraiser, or (2) in the event there are Continuing Trust Managers that do not select an independent appraiser within 10 days of a request for such appointment made by a Related Person, such independent appraiser may be selected by such Related Person.
- (iv) The term "Fair Price" shall mean the highest per-Share price (which, to the extent not paid in cash, shall equal the Fair Market Value of any other consideration paid), with appropriate adjustments for recapitalizations and for Share splits, reverse Share splits and Share dividends, paid by the Related Person in acquiring any of its holdings of the Trust's Shares.
- (v) The term "Fair Tender Offer" shall mean a bona fide tender offer for all of the Trust's Shares outstanding (and owned by persons other than a Related Person if the tender offer is made by the Related Person), whether or not such offer is conditional upon any minimum number of Shares being tendered, in which the aggregate amount of cash or the Fair Market Value of any securities or

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other property to be received by all holders who tender their Shares for each Share so tendered shall be at least equal to the then applicable Fair Price paid by a Related Person or paid by the person making the tender offer if such person is not a Related Person. In the event that at the time such tender offer is commenced the terms and conduct thereof are not directly regulated by Section 14(d) or 13(e) of the Exchange Act and the general rules and regulations promulgated thereunder, then the terms of such tender offer regarding the time such offer is held open and regarding withdrawal rights shall conform in all respects with such terms applicable to tender offers regulated by either of such Sections of the Exchange Act. A Fair Tender Offer shall not be deemed to be "consummated" until Shares are purchased and payment in full has been made for all duly tendered Shares.

- (vi) The term "Related Person" shall mean and include any individual, corporation, partnership or other "person" (as defined in Section 13(d)(3) of the Exchange Act), and the "Affiliates" and "Associates" (as defined in Rule 12b-2 of the Exchange Act) of any such individual, corporation, partnership or other person) which individually or together is the "Beneficial Owner" (as defined in Rule 13d-3 of the Exchange Act) in the aggregate of more than 50% of the outstanding Shares of the Trust, other than the Trust or any employee benefit plan(s) sponsored by the Trust, except that an individual, corporation, partnership or other person which individually or together Beneficially Owns or upon conversion of debt securities (owned or with regard to which such individual, corporation, partnership or other person is committed to purchase as of the date of adoption of this Declaration of Trust) would own in excess of 20% of the outstanding Shares at the time this provision is adopted by vote of the Trust's shareholders shall only be considered a Related Person at such time as he, she, it or they acquire in the aggregate Beneficial Ownership of more than 80% of the outstanding Shares.
- (vii) The term "Substantial Part" shall mean more than 35% of the book value of the total assets of the Trust and its subsidiaries (taken as a whole) as of the end of the fiscal year ending prior to the time the determination is being made.
- (viii) Any person (as such term is defined in subsection (vi) of this paragraph (f)) that has the right to acquire any Shares of the Trust pursuant to any agreement, or upon the exercise of conversion rights, warrants or options, or otherwise, shall be deemed a Beneficial Owner of such Shares for purposes of determining whether such person, individually or together with its Affiliates and Associates, is a Related Person.
- (ix) For purposes of subparagraph (iii) of paragraph (a) of this Article Thirteen, the term "other consideration to be received" shall include, without limitation, Shares of the Trust retained by its existing public shareholders in the event of a Business Combination in which the Trust is the surviving entity.

(g) The affirmative vote of the holders of not less than 80% of the outstanding Shares of the Trust, including the affirmative vote of the holders of not less than 50% of the outstanding Shares not owned, directly or indirectly, by any Related Person (such 50% voting requirement shall not be applicable if such amendment, alteration, change, repeal or rescission is approved by the affirmative vote of not less than 90% of the outstanding Shares) shall be required to amend, alter, change, repeal or rescind, or adopt any provisions inconsistent with, this Article Thirteen.

(h) The provisions of this Article Thirteen shall be subject to all valid and applicable laws, including, without limitation, the Texas REIT Act, and, in the event this Article Thirteen or any of the provisions hereof are found to be inconsistent with or contrary to any such valid laws, such laws shall be deemed to control and this Article Thirteen shall be regarded as modified accordingly, and, as so modified, to continue in full force and effect.

ARTICLE FOURTEEN

The Trust Managers may from time to time declare, and the Trust may pay, dividends on its outstanding Shares in cash, in property or in its Shares, except that no dividend shall be declared or paid when the Trust is unable to pay its debts as they become due in the usual course of its business, or when the payment of such dividend would result in the Trust being unable to pay its debts as they become due in the usual course of business.

ARTICLE FIFTEEN

Upon resolution adopted by the Trust Managers, the Trust shall be entitled to purchase or redeem, directly or indirectly, its own Shares, subject to any limitations of the Texas REIT Act.

ARTICLE SIXTEEN

(a) In this Article:

(i) "Indemnitee" means (A) any present or former Trust Manager or officer of the Trust, (B) any person who while serving in any of the capacities referred to in clause (A) hereof served at the Trust's request as a trust manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another real estate investment trust or foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise and (C) any person nominated or designated by (or pursuant to authority granted by) the Trust Managers or any committee thereof to serve in any of the capacities referred to in clauses (A) or (B) hereof.

- (ii) "Official Capacity" means (A) when used with respect to a Trust Manager, the office of Trust Manager of the Trust and (B) when used with respect to a person other than a Trust Manager, the elective or appointive office of the Trust held by such person or the employment or agency relationship undertaken by such person on behalf of the Trust, but in each case does not include service for any other real estate investment trust or foreign or domestic corporation or any partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.
- (iii) "Proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitratve or investigative, any appeal in such an action, suit or proceeding, and any inquiry or investigation that could lead to such an action, suit or proceeding.

(b) The Trust shall indemnify every Indemnitee against all judgments, penalties (including excise and similar taxes), fines, amounts paid in settlement and reasonable expenses actually incurred by the Indemnitee in connection with any Proceeding in which he or she was, is or is threatened to be named defendant or respondent, or in which he or she was or is a witness without being named a defendant or respondent, by reason, in whole or in part, of his or her serving or having served, or having been nominated or designated to serve, in any of the capacities referred to in paragraph (a)(i) of this Article Sixteen, to the fullest extent that indemnification is permitted by Texas law. An Indemnitee shall be deemed to have been found liable in respect of any claim, issue or matter only after the Indemnitee shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom. Reasonable expenses shall include, without limitation, all court costs and all fees and disbursements of attorneys for the Indemnitee.

(c) Without limitation of paragraph (b) of this Article Sixteen and in addition to the indemnification provided for in paragraph (b) of this Article Sixteen, the Trust shall indemnify every Indemnitee against reasonable expenses incurred by such person in connection with any proceeding in which he or she is a witness or a named defendant or respondent because he or she served in any of the capacities referred to in paragraph (a)(i) of this Article Sixteen.

(d) Reasonable expenses (including court costs and attorneys' fees) incurred by an Indemnitee who was or is a witness or was, is or is threatened to be made a named defendant or respondent in a Proceeding shall be paid or reimbursed by the Trust at reasonable intervals in advance of the final disposition of such Proceeding after receipt by the Trust of a written undertaking by or on behalf of such Indemnitee to repay the amount paid or reimbursed by the Trust if it shall ultimately be determined that he or she is not entitled to be indemnified by the Trust as authorized in this Article Sixteen. Such written undertaking shall be an unlimited obligation of the Indemnitee but need not be secured and it may be accepted without reference to financial ability to make repayment. Notwithstanding any other provision of this Article Sixteen, the Trust may pay or reimburse expenses incurred by an Indemnitee in connection with his or her appearance as a witness or other participation in a Proceeding at a time when he or she is not named a defendant or respondent in the Proceeding.

(e) The indemnification provided by this Article Sixteen shall (i) not be deemed exclusive of, or to preclude, any other rights to which those seeking indemnification may at any time be entitled under the Trust's Bylaws, any law, agreement or vote of shareholders or disinterested Trust Managers, or otherwise, or under any policy or policies of insurance purchased and maintained by the Trust on behalf of any Indemnitee, both as to action in his or her Official Capacity and as to action in any other capacity, (ii) continue as to a person who has ceased to be in the capacity by reason of which he or she was an Indemnitee with respect to matters arising during the period he or she was in such capacity, and (iii) inure to the benefit of the heirs, executors and administrators of such a person.

(f) The provisions of this Article Sixteen (i) are for the benefit of, and may be enforced by, each Indemnitee of the Trust, the same as if set forth in their entirety in a written instrument duly executed and delivered by the Trust and such Indemnitee and (ii) constitute a continuing offer to all present and future Indemnitees. The Trust, by its adoption of this Declaration of Trust, (x) acknowledges and agrees that each Indemnitee of the Trust has relied upon and will continue to rely upon the provisions of this Article Sixteen in becoming, and serving in any of the capacities referred to in paragraph (a)(i) of this Article Sixteen, (y) waives reliance upon, and all notice of acceptance of, such provisions by such Indemnitees and (z) acknowledges and agrees that no present or future Indemnitee shall be prejudiced in his or her right to enforce the provisions of this Article Sixteen in accordance with their terms by any act or failure to act on the part of the Trust.

(g) No amendment, modification or repeal of this Article Sixteen or any provision of this Article Sixteen shall in any manner terminate, reduce or impair the right of any past, present or future Indemnitees to be indemnified by the Trust, nor the obligation of the Trust to indemnify any such Indemnitees, under and in accordance with the provisions of this Article Sixteen as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may be asserted.

(h) If the indemnification provided in this Article Sixteen is either (i) insufficient to cover all costs and expenses incurred by any Indemnitee as a result of such Indemnitee being made or threatened to be made a defendant or respondent in a Proceeding by reason of his or her holding or having held a position named in paragraph (a)(i) of this Article Sixteen or (ii) not permitted by Texas law, the Trust shall indemnify, to the fullest extent that indemnification is permitted by Texas law, every Indemnitee with respect to all costs and expenses incurred by such Indemnitee as a result of such Indemnitee being made or threatened to be made a defendant or respondent in a Proceeding by reason of his or her holding or having held a position named in paragraph (a)(i) of this Article Sixteen.

(i) The indemnification provided by this Article Sixteen shall be subject to all valid and applicable laws, including, without limitation, the Texas REIT Act, and, in the event this Article Sixteen or any of the provisions hereof or the indemnification contemplated hereby are found to be inconsistent with or contrary to any such valid laws, such laws shall be deemed to control and this Article Sixteen shall be regarded as modified accordingly, and, as so modified, to continue in full force and effect.

ARTICLE SEVENTEEN

No Trust Manager or officer of the Trust shall be liable to the Trust for any act, omission, loss, damage, or expense arising from the performance of his or her duties under the Trust save only for his or her own willful misfeasance or malfeasance or negligence. In discharging their duties to the Trust, Trust Managers and officers of the Trust shall be entitled to rely upon experts and other matters as provided in the Texas REIT Act and the Trust's Bylaws.

ARTICLE EIGHTEEN

The number of Trust Managers may be increased from time to time by the affirmative vote of the majority of the Trust Managers or decreased by the unanimous vote of the Trust Managers. Each Trust Manager shall serve until his or her successor is elected and qualified or until his or her death, retirement, resignation or removal.

A Trust Manager may be removed by the vote of the holders of two-thirds of the outstanding Shares at a special meeting of the shareholders called for such purpose pursuant to the Trust's Bylaws.

ARTICLE NINETEEN

(a) No Person may own Shares of any class with an aggregate value in excess of 9.8% of the aggregate value of all outstanding Shares of such class of Shares or more than 9.8% of the number of outstanding Shares of any class of Shares (the limitation on the ownership of outstanding Shares is referred to in this Article Nineteen as the "Ownership Limit" and the 9.8% threshold is referred to in this Article Nineteen as the "Percentage Limit"), and no Securities (as hereinafter defined) shall be accepted, purchased, or in any manner acquired by any Person if such issuance or transfer would result in that Person's ownership of Shares exceeding the Percentage Limit. For purposes of determining if the Ownership Limit is exceeded by a Person, Convertible Securities (as hereinafter defined) owned by such Person shall be treated as if the Convertible Securities owned by such Person had been converted into Shares if the effect of such treatment would be to increase the ownership percentage of such Person in the Trust. The Ownership Limit shall not apply (i) to acquisitions of Securities by any Person that has made a tender offer for all outstanding Shares of the Trust (including Convertible Securities) in conformity with applicable federal securities laws, (ii) to the acquisition of Securities of the Trust by an underwriter in a public offering of Securities of the Trust, or in any transaction involving the issuance of Securities by the Trust, in which a majority of the Trust Managers determines that the underwriter or other Person or party initially acquiring such Securities will timely distribute such Securities to or among others so that, following such distribution, none of such Securities will be Excess Securities (as hereinafter defined), (iii) to the acquisition of Securities pursuant to the exercise of employee share options, or (iv) to the acquisition of Securities pursuant to an exception made pursuant to paragraph (b) hereof.

(b) Nothing in this Article Nineteen shall preclude the settlement of any transaction in Securities entered into through the facilities of the New York Stock Exchange. If any Securities are

accepted, purchased, or in any manner acquired by any Person resulting in a violation of paragraph (a) or (e) hereof, such issuance or transfer shall be valid only with respect to such amount of Securities issued or transferred as does not result in a violation of paragraph (a) or (e) hereof, and such acceptance, purchase or acquisition shall be void *ab initio* with respect to the amount of Securities that results in a violation of paragraph (a) or (e) hereof (the "Excess Securities"), and the intended transferee of such Excess Securities shall acquire no rights in such Excess Securities except as set forth in subsection (d) below.

(c) Each shareholder shall, within ten days of demand by the Trust, disclose to the Trust in writing such information with respect to his, her or its ownership of shares as the Trust Managers in their discretion deem necessary or appropriate in order that the Trust may fully comply with all provisions of the Internal Revenue Code of 1986, as amended, and any successor statute (the "Code") relating to REITs and all regulations, rulings and cases promulgated or decided thereunder (the "REIT Provisions") and to comply with the requirements of any taxing authority or governmental agency. All Persons who own Shares of any class with an aggregate value in excess of 9.8% of the aggregate value of such class of Shares or 9.8% of the number of outstanding Shares of any class must disclose in writing such ownership information to the Trust no later than January 31 of each year. Failure to provide such information, upon reasonable request, shall result in the Securities so owned being treated as Excess Securities pursuant to paragraph (b) hereof for so long as such failure continues.

(d) The Excess Securities, and the owners thereof, shall have the following characteristics, rights and powers:

- (i) Upon any purported purchase, sale, exchange, acquisition, disposition or other transfer or upon any change in the capital structure of the Trust (including any redemption of Securities) that results in Excess Securities pursuant to paragraphs (a) or (e) of this Article Nineteen, such Excess Securities shall be deemed to have been transferred to the Trust, as trustee of a trust for the exclusive benefit of such beneficiary or beneficiaries to whom an interest in such Excess Securities may later be transferred pursuant to subparagraph (v) of this subsection (d) (the "Beneficial Trust"). Any such Excess Securities so held in the Beneficial Trust shall be issued and outstanding shares of the Trust. The purported transferee shall have no rights in such Excess Securities except as provided in subparagraph (v) of this subsection (d).
- (ii) The holder of Excess Securities shall not be entitled to receive any dividends, interest payments or other distributions. Any dividend or distribution paid prior to the discovery by the Trust that the Securities have become Excess Securities shall be repaid to the Trust upon demand.
- (iii) In the event of any voluntary or involuntary liquidation, dissolution or winding up of, or any distribution of the assets of, the Trust, each holder of Excess Securities shall be entitled to receive, ratably with each other holder of Securities and Excess Securities, that portion of the assets of the Trust

available for distribution to its shareholders. The Trust as holder of all Excess Securities in the Beneficial Trust or if the Trust shall have been dissolved, any trustee of such Beneficial Trust appointed by the Trust prior to its dissolution, shall distribute ratably to the beneficiaries of such Beneficial Trust any such assets received in respect of the Excess Securities in any liquidation, dissolution or winding up of, or any distribution of the assets of, the Trust.

- (iv) The holders of shares of Excess Securities shall not be entitled to vote on any matters (except as required by law).
- (v) Except as otherwise provided in this Article Nineteen, Excess Securities shall not be transferable. The purported transferee may freely designate a beneficiary of an interest in the Beneficial Trust (representing the number of shares of Excess Securities that have not been acquired by the Trust pursuant to subparagraph (vi) of this subsection (d) that are held by the Beneficial Trust attributable to a purported transfer that resulted in the Excess Securities), if (A) the shares of Excess Securities held in the Beneficial Trust would not be Excess Securities in the hands of such beneficiary and (B) the purported transferee does not receive a price from such beneficiary that reflects a price per share for such Excess Securities that exceeds (x) the price per share such purported transferee paid for the Securities in the purported transfer that resulted in the Excess Securities, or (y) if the purported transferee did not give value for such Excess Securities (through a gift, devise or other transaction), a price per share equal to the Market Price (as hereinafter defined) on the date of the purported transfer that resulted in the Excess Securities. Upon such transfer of an interest in the Beneficial Trust, the corresponding shares of Excess Securities in the Beneficial Trust shall be automatically exchanged for an equal number of shares of the applicable Securities and such Securities shall be transferred of record to the transferee of the interest in the Beneficial Trust if such Securities would not be Excess Securities in the hands of such transferee. Prior to any transfer of any interest in the Beneficial Trust, the purported transferee must give advance notice to the Trust of the intended transfer and the Trust must have waived in writing its purchase rights under subparagraph (vi) of this subsection (d). Notwithstanding the foregoing, if a purported transferee receives a price for designating a beneficiary of an interest in the Beneficial Trust that exceeds the amounts allowable under the foregoing provisions of this subparagraph (v), such purported transferee shall pay, or cause such beneficiary to pay, such excess to the Trust immediately upon demand.
- (vi) Excess Securities shall be deemed to have been offered for sale to the Trust, or its designee, at a price per share equal to the lesser of (A) the price per share in the transaction that created such Excess Securities (or, in the case of a devise or gift, the Market Price at the time of such devise or gift) and (B) the Market Price on the date the Trust, or its designee, accepts such offer.

The Trust shall have the right to accept such offer for a period of 90 days after the later of (x) the date of the transfer which resulted in such Excess Securities and (y) the date the Trust Managers determine in good faith that a transfer resulting in Excess Securities has occurred.

(e) Any sale, transfer, gift, assignment, devise or other disposition of Shares (a "transfer") that, if effective, would result in (i) the Shares of the Trust being owned by less than 100 persons (determined without reference to any rules of attribution) shall be void *ab initio* as to the Shares which would otherwise be beneficially owned by the transferee, (ii) the Trust being "closely held" within the meaning of Section 856(h) of the Code, shall be void *ab initio* as to the transfer of the Shares that would cause the Trust to be "closely held" within the meaning of Section 856(h) of the Code, (iii) the Trust owning, directly or indirectly, 10% or more of the ownership interest in any tenant or subtenant of the Trust's real property within the meaning of Section 856(d)(2)(B) of the Code and the Treasury Regulations thereunder, shall be void *ab initio*, or (iv) the disqualification of the Trust as a REIT shall be void *ab initio* as to the transfer of the Shares that would cause the Trust to be disqualified as a REIT, and, in the case of each of clauses (i), (ii), (iii) and (iv) of this paragraph (e), the intended transferee shall acquire no rights in such Shares except as set forth in subsection (d) above.

(f) For purposes of this Article Nineteen:

- (i) The term "Convertible Securities" means any securities of the Trust that are convertible into Shares.
- (ii) The term "individual" shall mean any natural person as well as those organizations treated as natural persons under Section 542(a) of the Code.
- (iii) The term "Market Price" means the average of the last reported sales price of Common Shares reported on the New York Stock Exchange on the five trading days immediately preceding the relevant date, or if the Common Shares are not then traded on the New York Stock Exchange, the last reported sales price of the Common Shares on the five trading days immediately preceding the relevant date as reported on any exchange or quotation system over which the Common Shares may be traded, or if the Common Shares are not then traded over any exchange or quotation system, then the market price of the Common Shares on the relevant date as determined in good faith by the Trust Managers.
- (iv) The term "ownership" (including "own" or "owns") of Shares means beneficial ownership. Beneficial ownership, for this purpose shall be defined to include actual ownership by a Person as well as constructive ownership by such Person after application of principles in accordance with or by reference to Sections 856 or 544 of the Code.
- (v) The term "Person" includes an individual, corporation, partnership, association, joint stock company, limited liability company, trust,

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unincorporated association or other entity and also includes a "group" as that term is defined in Section 13(d)(3) of the Exchange Act.

(vi) The term "REIT" means a "real estate investment trust" as defined in Section 856 of the Code and applicable Treasury Regulations.

(vii) The term "Securities" means Shares and Convertible Securities.

(g) If any of the restrictions on transfer set forth in this Article Nineteen are determined to be void, invalid or unenforceable by virtue of any legal decision, statute, rule or regulation, then the intended transferee of any Excess Securities may be deemed, at the option of the Trust, to have acted as an agent on behalf of the Trust in acquiring the Excess Securities and to hold the Excess Securities on behalf of the Trust.

(h) The Percentage Limit set forth in paragraph (a) hereof shall not apply to Securities which the Trust Managers in their sole discretion may exempt from the Percentage Limit while owned by a Person who has provided the Trust with evidence and assurances acceptable to the Trust Managers that the qualification of the Trust as a REIT would not be jeopardized thereby. The Trust Managers, in their sole discretion, may at any time revoke any exception pursuant to this paragraph (h) in the case of any Person, and upon such revocation, the provisions of paragraph (a) hereof shall immediately become applicable to such Person and all Securities which such Person may own. A decision to exempt or refuse to exempt from the Percentage Limit the ownership of certain designated Securities, or to revoke an exemption previously granted, shall be made by the Trust Managers in their sole discretion, based on any reason whatsoever, including, but not limited to, the preservation of the Trusts qualification as a REIT.

(i) Subject to the provisions of the first sentence of paragraph (b) hereof, nothing herein contained shall limit the ability of the Trust to impose or to seek judicial or other imposition of additional restrictions if deemed necessary or advisable to protect the Trust and the interests of its security holders by preservation of the Trust's status as a qualified REIT under the Code.

(j) All Persons who own 5% or more of the Trust's outstanding Shares during any taxable year of the Trust shall file with the Trust an affidavit setting forth the number of Shares during such taxable year (i) owned directly (held of record by such Person or by a nominee or nominees of such Person) and (ii) constructively owned (within the meaning of Section 544 of the Code or for purposes of Rule 13(d) of the Exchange Act) by the Person filing the affidavit. The affidavit to be filed with the Trust shall set forth all the information required to be reported (i) in returns of shareholders under Section 1.857-9 of the Treasury Regulations or similar provisions of any successor Treasury Regulations and (ii) in reports to be filed under Section 13(d) of the Exchange Act. The affidavit or an amendment to a previously filed affidavit shall be filed with the Trust annually within 60 days after the close of the Trust's taxable year. A Person shall have satisfied the requirements of this paragraph (j) if the person furnishes to the Trust the information in such person's possession after such person has made a good faith effort to determine the Shares it owns and to acquire the information required by income tax regulation 1.857-9 or similar provisions of any successor regulation.

ARTICLE TWENTY

The Board of Trust Managers shall use its best efforts to cause the Trust and its shareholders to qualify for U.S. federal income tax treatment in accordance with the provisions of the Code applicable to REITs. In furtherance of the foregoing, the Board of Trust Managers shall use its best efforts to take such actions as are necessary, and may take such actions as it deems desirable (in its sole discretion) to preserve the status of the Trust as a REIT.

ARTICLE TWENTY-ONE

Special meetings of the shareholders for any purpose or purposes, unless otherwise prescribed by law or by the Declaration of Trust, may be called by the Trust Managers, any officer of the Trust or the holders of at least five percent (5%) of all of the shares entitled to vote at such meeting.

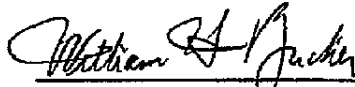
ARTICLE TWENTY-TWO

This Declaration of Trust may be amended from time to time by the affirmative vote of the holders of at least two-thirds of the outstanding voting Shares, except that (i) Article Eleven hereof (relating to the prohibition against engaging in non-real estate investment trust businesses); (ii) Article Thirteen hereof (relating to the approval of Business Combinations); (iii) Article Eighteen hereof (relating to the number and removal of Trust Managers); (iv) Article Nineteen hereof (relating to Share ownership requirements); and (v) this Article Twenty-Two may not be amended or repealed, and provisions inconsistent therewith and herewith may not be adopted, except by the affirmative vote of the holders of at least 80% of the outstanding voting Shares.

ARTICLE TWENTY-THREE

If any provision of this Declaration of Trust or any application of any such provision is determined to be invalid by any federal or state court having jurisdiction over the issue, the validity of the remaining provisions shall not be affected and other applications of such provision shall be affected only to the extent necessary to comply with the determination of such court. In lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Declaration of Trust, a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible, and the parties hereto request the court or any arbitrator to whom disputes relating to this Declaration of Trust are submitted to reform the otherwise illegal, invalid or unenforceable provision in accordance with this Article Twenty-Three.

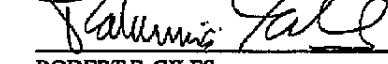
IN WITNESS WHEREOF, the undersigned Trust Managers do hereby execute this Third Amended and Restated Declaration of Trust as of the 30th day of June, 1997.




WILLIAM H. BRICKER



T. PATRICK DUNCAN



ROBERT E. GILES



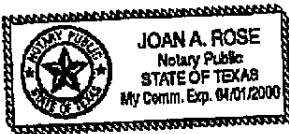
EDWARD B. KELLEY



CHARLES W. WOLCOTT

as Trust Manager of American Industrial Properties REIT, and acknowledged to me, Notary, that he executed the foregoing instrument on behalf of the said American Industrial Properties REIT, as his own free and voluntary act and deed, for the uses, purposes and considerations therein expressed.

IN WITNESS WHEREOF, said Appearer has executed these presents together with me, Notary, at my office in the County and State aforesaid, on the 30th day of June, 1997.

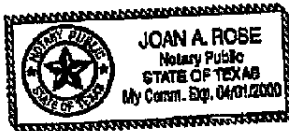


My commission expires: _____
Joan A. Rose

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified within and for the State and County aforesaid, personally came and appeared Edward B. Kelley, in his capacity as Trust Manager of American Industrial Properties REIT, and acknowledged to me, Notary, that he executed the foregoing instrument on behalf of the said American Industrial Properties REIT, as his own free and voluntary act and deed, for the uses, purposes and considerations therein expressed.

IN WITNESS WHEREOF, said Appearer has executed these presents together with me, Notary, at my office in the County and State aforesaid, on the 30th day of June, 1997.



My commission expires: _____
Joan A. Rose

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified within and for the State and County aforesaid, personally came and appeared Charles W. Wolcott, in his capacity as Trust Manager of American Industrial Properties REIT, and acknowledged to me, Notary, that he executed the foregoing instrument on behalf of the said American Industrial Properties REIT, as his own free and voluntary act and deed, for the uses, purposes and considerations therein expressed.

IN WITNESS WHEREOF, said Appearer has executed these presents together with me, Notary, at my office in the County and State aforesaid, on the 30th day of June, 1997.



My commission expires: _____
Joan A. Rose

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97127 01064

RETURN TO:

NAME Liddell Sapp
ADDRESS 2200 Ross Ave #900
CITY Dallas TX 75201

Any provision herein which exceeds the 5% limit or one of the
described real property because of tax or rate is limited and
unenforceable under Federal law. COUNTY OF DALLAS
STATE OF TEXAS
I hereby certify this instrument was filed on the date and time
stamped herein by me and was duly received by the public and
has of the named records of Dallas County, Texas as shown
herein by me.

JUL 1 1997



Earl Baisak
COUNTY CLERK, Dallas County, Texas

FILED
97 JUL -1 AM 8:54
EARL BULLOCK
COUNTY CLERK
DALLAS COUNTY

[Handwritten signature]
COUNTY CLERK, Dallas County, Texas



MAR 30 1998

THE STATE OF TEXAS
COUNTY OF DALLAS
I hereby certify that the above and referring to a full, true, and correct
photographic copy of the original record now in my lawful custody and
possession, filed on the date stamped hereon and as the same be
recorded in the Recorder's Records in my office under the volume and
page stamped hereon. I hereby certify on

TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE

