

**COVENANTS AND RESTRICTIONS REGARDING
OSHKOSH AVIATION BUSINESS PARK at Wittman Regional Airport**

I. GENERAL

- A. Purposes and Conditions. The real property conveyed hereby, being a part of the Oshkosh Aviation Business Park at Wittman Regional Airport (the “Park”), is subject to the conditions, covenants, restrictions, easements, and protections hereby declared (the “Protective Covenants”) by the City of Oshkosh, Wisconsin (“City”) and Winnebago County, Wisconsin (“County”), collectively the “Declarant” for the following general purposes:
1. to ensure proper use and appropriate development and improvement of each building site;
 2. to protect the environment in the Park;
 3. to guard against the erection of structures built of improper or unsuitable materials;
 4. to ensure reasonable development of the property in the Park;
 5. to ensure proper setbacks from the street, adequate free space between structures, adequate parking, and in general, to provide for a high quality of improvements in the Park;
 6. to ensure that each building site will not adversely affect the general plan for physical development of the Park nor adversely affect the health or safety of residents or workers in the area nor be detrimental to the use or development of other properties in the Park;
 7. to ensure development and use of the Park is consistent with Airport Zoning and grant assurances made by Wittman Regional Airport (“Airport”) to the Federal Aviation Administration (“FAA”);
 8. to ensure the interest of current Airport tenant, the Experimental Aircraft Association (“EAA”), in protecting the aerobatic restriction areas during the annual AirVenture fly-in is provided for; and
 9. to ensure development is consistent with the objective to build an aerospace related business cluster in Oshkosh and the surrounding region.
- B. Park Ownership. The Park is a joint project of the City and County and is located as depicted on the map attached and incorporated as Exhibit A to these Protective Covenants. All land east of the street AeroInnovate Way is owned by the City (“East Side”) and all land west of AeroInnovate Way is owned by the County (“West Side”). City owned Park property may be purchased. County owned Park property may only be leased. The property on the West Side of the Park has direct access to Airport facilities, including taxiways. The property on the East Side of the Park does not have direct access to Airport facilities,

including taxiways. These Covenants shall govern both the East and West Side of the Park and be subject to approval by the City and County.

- C. Relation to City and Airport Zoning Codes. These Protective Covenants are in addition to City Zoning Ordinance and Building Code requirements (“City Zoning”) and County Zoning Ordinance, Airport Zoning District Area Overlay (“Airport Zoning”), unless otherwise specified. Where appropriate these Covenants adopt the underlying City or Airport Zoning. In some instances it was appropriate to provide for particular additional restrictions due to the Park’s purpose to support aviation related businesses. The Park is located in the City Zoning HI Heavy Industrial, as amended and in Aerial/Approach/Departure Zone Air-3 of Airport Zoning (Airport Zoning attached and incorporated herein by reference as Exhibit B), as amended. All projects in the Park must comply with all applicable City Zoning and Airport Zoning.

- D. The Greater Oshkosh Economic Development Corporation Industrial Park Development Committee. The Greater Oshkosh Economic Development Corporation’s Industrial Park Development Committee (“Industrial Park Committee”)’s purpose is to ensure proper development in the Oshkosh area industrial and business parks. The City and County designate the Industrial Park Committee to have certain discretion and powers as described in these Protective Covenants.

- E. Approval of Use, Plans and Subdivision. The City’s Site Plan Review Committee, with the addition of the Wittman Regional Airport Director (“Airport Director”) shall review and approve use or reuse of the Property prior to sale, lease or occupancy of Property. Before commencing construction or alteration of any building, enclosure, fence, loading dock, parking facilities or any other structures or permanent improvements on or to any site within the Park, the owner, lessee or occupant shall first submit complete plans and specifications to the City in accordance with the City’s site plan review process; provided, however, the City shall ensure that the Airport Director shall be included on the Site Plan Review Committee. No improvement shall be erected, placed, altered, maintained or permitted in the Park until such plans and specifications have been submitted and approved by the Site Plan Review Committee, including the Airport Director. No lots shall be subdivided without the prior written consent of the City or County, whichever is owner of the lot.

- F. FAA Grant Assurances. The Airport has made certain assurances to the FAA in connection with the receipt of grant funding. These assurances are a necessary condition for federal funding which permits the Airport to operate. These assurances from time to time may impose requirements on lessees and owners of property in the Park. Such requirements will be addressed in a written lease agreement between the County and the respective tenant or, if

applicable, in a written land purchase agreement between the City and respective purchaser.

- G. Compliance with Law. Owners and lessees of property in the Park shall comply with all applicable laws, ordinances, rules and regulations promulgated by any governmental unit having jurisdiction over the owner, lessee or property.

II. LAND USE

Properties located within the Park shall be in conformance with the following standards.

A. Use:

1. Uses on the West Side of the Park shall be related to aviation or aerospace and require direct access to Airport facilities. Uses on the East Side of the Park shall be either aviation or aerospace related or supportive of aviation or aerospace uses but do not require direct access to Airport facilities. What is “supportive of aviation or aerospace” shall be subject to the discretion of the Industrial Park Committee and be consistent with the “Purposes” set forth above in Section I.A.
2. The uses listed below in Section II.A.3 and 4 are as defined by City Zoning and must also comply with Section II.A.1, above.
3. Permitted Uses
 - a. Outdoor open space
 - b. Passive outdoor recreation, as an accessory use
 - c. Essential services
 - d. Office
 - e. Indoor maintenance
 - f. Light industrial
 - g. Heavy industrial
 - h. Indoor storage and wholesaling
 - i. Communications tower
 - j. Recreational facility, as an accessory use
 - k. Landscape features
 - l. Non-residential accessory use
 - m. On-site parking
 - n. Company cafeteria
 - o. Distribution center
 - p. Freight terminal
 - q. Airport operations
 - r. Heliport
 - s. Incidental light industrial
 - t. Incidental outdoor storage

- u. Satellite dish
 - v. Personal antennae
 - w. Communications antennae
 - x. Temporary moving container
 - y. Temporary outdoor storage
 - z. Temporary on site construction storage
 - aa. Temporary contractor's project office
4. Conditional Uses: The following uses are conditional and a special exception must be made in accordance with Section XII of these Protective Covenants
- a. Personal and professional services
 - b. Artisan production shop
 - c. Commercial kitchen
 - d. Incidental outdoor display
 - e. Incidental indoor sales
 - f. Vehicle storage and maintenance
 - g. Aircraft storage and maintenance
 - h. Indoor institutional
 - i. Indoor food production
 - j. Outdoor storage and wholesaling
 - k. Outdoor maintenance
 - l. Transit center
 - m. Off site parking
 - n. Off site structured parking
 - o. Small wind generation
 - p. Small solar generation
 - q. Large wind generation
 - r. Large solar generation
 - s. On site structured parking
 - t. Temporary on site real estate sales office
 - u. Temporary relocatable building
 - v. Temporary outdoor assembly
 - w. T-hangars as accessory use
5. Prohibited Uses: All other uses not identified as permitted or conditional are prohibited, unless a special exception is made by the Industrial Park Development Committee in accordance with Section XII of these Protective Covenants.
6. Accessory Uses: An accessory use is one that is accessory to the primary structure on the property and is subject to the following requirements, (in addition to any requirements imposed if it is an accessory and also conditional use)

- a. No accessory structure or use shall be constructed on any lot prior to the establishment of an allowable principal use or remain on the lot if the principal use or structure is removed.
 - b. Accessory land uses and structures shall not be located within the required front or street yard setback. This applies to corner, single-frontage, and double-frontage lots.
- B. Height Restrictions. The property in the Park is located in a Height Limitation Zone of the Airport Zoning and subject to the requirements provided therein (Exhibit B).
- C. Evacuation of the Aerobatic Restriction Zone During AirVenture. Current Airport tenant EAA operates an annual fly-in convention called “AirVenture”, which attracts hundreds of thousands of visitors, aviation enthusiasts, pilots and aircraft to the Airport for one week during the year. AirVenture conducts daily or sometimes twice daily airshows featuring aircraft conducting various operations (“Airshows”). During these Airshows, certain areas at and around the Airport must be unoccupied (“Aerobatic Restriction Areas”). The Park is located in the Aerobatic Restriction Area. Accordingly, for the duration of each Airshow, all persons in the Park must be evacuated.
1. Owner and Lessee Obligations. These Protective Covenants impose on each owner or lessee of property in the Park the obligation to ensure their facilities are evacuated during each and every Airshow. In addition, owners and lessees are required to participate in training about proper procedures for aircraft and traffic movement on the Airport during AirVenture.
 2. Airport Obligations. The Airport will provide fifteen (15) days advance notice to all owners and lessees in the Park of the dates and times of Airshow evacuation. The Airport will also work with owners and lessees in the Park to arrange for training in AirVenture procedures.
 3. Enforcement and Penalties. In the event it was determined that the Aerobatic Restriction Area was not evacuated during an Airshow, the Airshow would be required to discontinue until the area was evacuated, resulting in significant damages to EAA and the Airport. Accordingly, each owner and lessee in the Park agrees to permit police to escort off the Airport anyone on their property failing to evacuate during an Airshow and agrees to compensate EAA and the Airport for their actual damages associated with such failure to evacuate, in addition to any other remedies to which EAA and/or the Airport may be entitled.
- D. Additional Restrictions Associated with Light/Glare, Noise, Vibrations, Hazards and Nuisances
1. Please refer to “Airport Zoning, Special Airport Provisions”

III. EXTERIOR BUILDING DESIGN STANDARDS, UTILITIES AND LIGHTING STANDARDS

- A. All structures in the Park shall comply with the City Zoning – Exterior Building Design Standards for industrial or commercial use, whichever is applicable.
- B. Utilities. Electrical extension and service shall be installed as an underground facility from the street right-of-way, or utility easement, to the building.
- C. Exterior Lighting Standards.
 - 1. Lighting shall be designed to provide safety and security for occupants of the development and supply reasonable illumination for on-site areas such as parking, loading, shipping and pathways.
 - 2. Lighting shall be designed to minimize glare or objectionable effects to motorists, aircraft and adjacent properties.
 - 3. Building lighting shall be recessed soffit lighting, sconce lighting or landscape uplighting.
 - 4. Full cut off fixtures are required at each entrance.
 - 5. Buildings shall be illuminated in such a way as to illuminate the building at night and provide adequate illumination for a safe night time environment.
 - 6. Site lighting poles shall not exceed 20 feet in height and shall direct the light downward.
 - 7. Site lighting shall provide sufficient illumination so as to provide for minimum 0.5 foot candle-level at the lot line and 1 foot-candle level on site.
 - 8. Lighting sources shall be shielded from adjacent properties and from automobile traffic on the serving roadway.

IV. LANDSCAPING REQUIREMENTS

Landscaping shall be in accordance with City Zoning – Landscaping Requirements, with the exception that all landscaping shall be done in a way to discourage rodents and waterfowl to locate in the Park, in accordance with the current FAA Advisory Circular on this topic (current Circular Section 2-7(b), attached and incorporated as Exhibit D).

V. SETBACK AND LOT AREA REQUIREMENTS

- A. Building setback requirements shall be in accordance with City Zoning.
- B. Lot sizes and lot coverage shall be subject to review by the Site Plan Review Committee.

VI. OFF-STREET PARKING AND LOADING REGULATIONS

- A. Offstreet parking for employees, customers, and visitors shall be in accordance with City Zoning.
- B. Offstreet loading shall be in accordance with City Zoning.

VII. SIGNS

- A. Purpose. In addition to the purposes set forth in Section I.A, the purpose of these sign standards is to aid in eliminating excessive and confusing sign displays in the Park.
- B. Definitions.
 - 1. Business Identification Sign. Business identification signs are signs that name buildings, owners or tenants, bay or suite numbers and may identify the type of business or products.
 - 2. Directional Signs. Directional signs relate to pedestrian and vehicular flows within the Park and may contain related safety information.
- C. Permitted Signs.
 - 1. Business Identification Signs. One business identification sign is permitted at each street or airport frontage and may be a monument or wall sign.
 - 2. Directional Signs. One directional sign is permitted at each driveway or building entrance and may be a monument or wall sign shall conform, as nearly as possible, to the international symbols.
 - 3. Temporary signs. Signs advertising the sale of land, a business and/or a building or availability of employment are permitted on a temporary basis. Temporary basis shall mean not to exceed ninety (90) days, unless otherwise approved the Industrial Park Committee.
- D. All other signs are prohibited unless a Special Exception in accordance with Section XII is made by the Industrial Park Development Committee.
- E. Sign Requirements and Limitations.
 - 1. Monument signs.
 - a. Shall not penetrate the imaginary surface line as established by FAA Part 77 standards of building heights near airspace.
 - b. Are limited to a maximum size of 100 square feet total on each face.
 - c. Are limited to a maximum height of six (6) feet above the center line of the street grade and
 - d. Shall not obstruct the driver's view when entering or exiting driveways.

2. Wall Signs.
 - a. May be placed directly on building façade.
 - b. Are limited to a maximum size of 32 square feet total.
 - c. No sign face shall be perpendicular to the face of the building or project above the top horizontal line of the wall or roof adjacent to the sign.

3. Multi-tenant buildings. For buildings occupied by more than one tenant.
 - a. One multiple tenant monument business identification sign is permitted.
 - b. Each tenant shall be permitted one business identification wall sign.

F. Sign Design Standards.

1. Signs shall be of good design and integrated with and harmonious to the structures and sites they occupy.
2. Signs shall be constructed of materials suitable for outdoor use and consistent with material content and architectural style of the building.
3. No exposed conduit, tubing, or raceways will be allowed.
4. No exposed neon lighting shall be used on signs, symbols, or decorative elements.
5. All conductors, transformers, and other equipment must be concealed.
6. Signs shall be illuminated and attractively landscaped.

VIII. OUTDOOR STORAGE AND DISPLAY STANDARDS

- A. Screening. Outdoor storage shall be permitted so long as such storage is visually screened from all streets
- B. Screening Requirements. Screens shall be at least six (6) feet in height with 90% opacity. Screens shall be made of wood or interwoven vinyl, unless another material has been approved by the Industrial Park Committee. Screening shall be attractive in appearance and in keeping with the architectural quality and design of the main structure. In certain instances landscaping may provide adequate screening,
- C. Exception for Aircraft and Aircraft Work in Process. Aircraft or Aircraft part of work-in-process may be stored outside without complying with Section VIII. A.
- D. Fuel. Tanks for storage of fuel shall be underground unless impracticable or not permitted by law. Any above ground storage tank must be approved by the Industrial Park Committee and double walled, screened and maintained in accordance with state and federal law requirements.

IX. MAINTENANCE GENERAL PROVISIONS

A. Parcel Maintenance. The following standards are provisions intended to encourage maintenance practices that will result in property that is attractive to the community and owners and lessees of properties in the Park. Generally, the maintenance provisions listed below are common management practices.

B. Property.

1. Each owner or lessee shall be responsible for the maintenance of its grounds including driveways, walkways, parking areas, storm water facilities, fences and other components within the property boundaries.
2. Repairs and rehabilitation will be done with the type of material originally installed thereon or such substitute that is, in all respects, equal in quality, appearance and durability.
3. Snow and ice removal, the removal of debris and waste material and the washing and sweeping of paved areas is required when needed.
4. All property, grounds and improvements shall be maintained to be clean and safe and function as originally designed.

C. Buildings.

1. Owners or lessees shall keep the buildings, improvements and appurtenances thereon in a neat, clean and safe condition compatible with the Park, and comply in all respects with applicable local, state and federal governmental ordinances, laws, regulations, requirements or directives.
2. Buildings, structures and appurtenances shall be painted or refinished when appearance dictates.

D. Utilities

1. External utility lines for electrical, telephone or telecommunications services shall be properly maintained such that wiring is not exposed to introduce safety hazards or to threaten service interruptions due to shorting, grounding or other causes due to negligent maintenance.
2. Other utility infrastructure systems shall be maintained in such a manner as not to create property damage or health hazards to occupants or neighboring owners or tenants.

E. Parking Lots

1. Parking lots, including the landscaping within the general area, shall be maintained on a regular basis to provide safe and efficient vehicle and pedestrian usage and to ensure a satisfactory visual appearance.

2. Activities shall include periodic sweeping and washing of the surface; refuse removal, and painting of parking stall markers; and crack sealing, repairing pitted or damaged concrete or asphalt surfaces, and repaving when needed.

F. Exterior Lighting. All external lighting systems on buildings or structures or on lighting poles will be kept clean and re-lamped to promote efficiency of systems and safety. This includes lighted signs.

G. Landscaping

1. All landscaped areas shall be routinely maintained including the trimming, watering and fertilization of all grass, groundcover, shrubs or trees, removal of dead or waste materials and rapid replacement of any dead or diseased grass, groundcover, shrubs or trees.

2. Trash will be collected and removed as necessary to provide a visually acceptable appearance.

3. All landscaped areas and plants required by these standards must be permanently maintained in a healthy growing condition.

4. Dead or diseased plants must be replaced within thirty (30) days of notification or as soon as practical in freezing weather or complex situations involving removal/replacement of large trees.

5. All plantings must be fertilized, irrigated and pruned at such intervals necessary to promote optimum growth.

6. All landscaped areas must be kept free of debris and weeds.

7. Plant material must not interfere with public utilities, restrict pedestrian or vehicular access or constitute a traffic hazard.

H. Signs

1. All signs shall be maintained to be visually pleasing and readable.

2. Maintenance activities will include washing, painting, repairing the surface of mechanical or electrical components of the sign and any other activity required to return the sign to its original visual and functional condition.

3. Signs, poles, wiring, conduits and other related support features should also be maintained.

4. Owners or lessees to remove signage from their property upon vacation of such property.

X. COMMENCEMENT AND COMPLETION OF CONSTRUCTION AND REPURCHASE OPTIONS

A. Commencement of Construction. Property owners and lessees in the Park agree to commence in good faith the construction of the building and site improvements, duly approved in accordance with Section I.D., twelve (12) months from the date of the deed or lease to which these Protective Covenants are attached or incorporated in by reference and substantially complete same within a reasonable time thereafter.

If, after the expiration of said twelve (12) months, a property owner shall not have begun in good faith the construction of an acceptable building upon said property, the City shall have the option to refund the purchase price and enter into possession of said property. If, at the expiration of said twelve (12) months, a property lessee shall not have begun in good faith the construction of an acceptable building upon said property, the County shall have the option to refund any rent paid, void the lease and enter into possession of said property.

B. Repurchase Option. In the event any owner of land lying within the Park shall desire to sell all or any part of the land which at the time is unimproved, owned in the Park separate and apart from the improved portion of the tract owned, then the City shall have the prior right and option to purchase the unimproved premises proposed to be sold, at the same price per acre paid by the owner of said land when originally acquired from the City and prior to any sale of such premises, the owner of such tract, his successors or assigns shall notify the Director of Community Development in writing of the intention to sell, describing the premises to be sold, and the City shall have sixty (60) days from the date of receipt of such notice to exercise its option. In the event of acceptance of such offer by the City, conveyance shall be by warranty deed free and clear of all liens or encumbrances created by act or default of purchaser. In absence of written notification sent by the City of its election to exercise said option, such owner shall be free to sell such premises to any person, firm, or corporation and at any price deemed desirable by such owners; provided, however, any subsequent sale of land shall be sold subject to these Protective Covenants.

XI. ENFORCEMENT

A. Inspection. The City and County may at any time with 24 hours prior written notice to an owner or lessee, inspect any property in the Park, including buildings constructed thereon for compliance with these Protective Covenants.

B. Enforcement. In the event of any violation, attempted violation or breach of these Protective Covenants, notice shall be forwarded in writing to the owner or tenant from the Industrial Park Committee. Notice shall specify the deficiency, omission or violation and set forth the corrective action, if any, which must be taken, and the time limit for such action to be completed. If the property owner or lessee in the Park fails to cure within the time period specified in the notice, then the City and County expressly reserve the right, privilege and license to:

1. Enter upon the premises and take any action to cure such violation and all reasonable cost thereof shall be at the expense of the violator.
2. In addition, the City and County may pursue any other legal remedies available, including, but not limited to a suit for damages and injunctive relief. If either or both of the City or County are the prevailing party in any suit brought to enforce these Protective Covenants, either or both of them are entitled to reasonable attorneys' fees.

XII. SPECIAL EXCEPTIONS

Special Exceptions. Notwithstanding anything herein contained to the contrary, the City and County expressly reserve the right at any time and from time to time make special exceptions to the strict application of these Protective Covenants or any or one or more of them where the circumstances, where in the sole and exclusive judgment of the Industrial Park Committee justifies the granting of same. All requests for special exceptions shall be presented to the Industrial Park Committee through the CEO of the Greater Oshkosh Economic Development Corporation. The Industrial Park Committee shall respond with approval or disapproval within forty-five (45) days. If the Industrial Park Committee fails to respond within the forty-five (45) day time period, the special exception request will be deemed approved. Any special exceptions affirmatively approved shall be in writing and executed the Chair of the Industrial Park Committee.

XIII. GENERAL

- A. Term. These Protective Covenants shall continue in full force and effect until terminated in accordance with this section. Written notice shall be delivered to all property owners and lessees of land in the Park sixty (60) days prior to any action taken by the City of Oshkosh Common Council and Winnebago County Board to terminate these covenants. The City and County may not terminate these covenants unless property owners representing 60% of the property in the Park, including property owned by the City or County, agree in writing.
- B. Amendment. These Protective Covenants may be altered or amended by agreement of the City and County or its successors in interest and the property owners owning a majority of land in the Park. Such amendment or alteration shall be made by written declaration, signed and acknowledged, and recorded in the Register of Deeds Office, Winnebago County, Wisconsin.
- C. Property Ownership. Ownership is determined by ownership of land subject to these Protective Covenants or any amendments or revisions thereof and land in

proximity to the Park owned by the City of Oshkosh or Winnebago County which is held for Park purposes.

- D. No Waiver. With the exception of the time limit for action by the Industrial Park Committee in XII A, the failure of the City or County, or their designee or any property owner to enforce any restriction herein contained, shall in no event be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other restriction.
- E. Rights Cumulative. Any rights granted to the City or County pursuant to these Protective Covenants shall be in addition to any rights arising by operation of law or other contractual provisions, including any lease between the County and a lessee of property in the Park.
- F. Invalidation. The invalidation of any section of these Protective Covenants shall in no way affect the validity of any of the other sections of these Protective Covenants.
- G. Choice of Law and Forum. This Agreement is entered into and shall be construed in accordance with the laws of the State of Wisconsin, without giving effect to any choice of law rules directing the application of the laws of another jurisdiction. Any action to enforce any provision of or obtain any remedy provided by these Protective Covenants, shall be brought in Circuit Court, Winnebago County, Wisconsin, and for this purpose, tenants and owners of land in the Park expressly and irrevocably consent to the jurisdiction and venue of such Court.