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AERONAUTICAL INDUSTRIAL PARK
PROTECTIVE COVENANTS

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Patricia Kraus

PATRICIA KRAUS
REGISTER OF DEEDS
FOND DU LAC COUNTY

Recording Area Amount: \$27.00

Name and Return Address

FOND DU LAC COUNTY PLANNING
160 S. MACY STREET
FOND DU LAC, WI 54935

Parcel Identification Number (PIN)

T09-15-17-17-08-001-00

T09-15-17-17-05-001-00

T09-15-17-17-02-001-00

EXHIBIT A

Parcel ID # T09-15-17-17-02-001-00:

Part of the NW ¼ of the NE ¼ Section 17 T15N R17E except as described in Volume 402 Page 160 and Except that parcel described in Volume 748-844 Recorded in the Fond du Lac County Register of Deeds Office.

Parcel ID # T09-15-17-17-05-001-00 & T09-15-17-17-008-001-00:

The East Half (E ½) of the Northwest Quarter (NW ¼) of Section 17, Township 15 North of Range 17 East, Town of Fond du Lac, Fond du Lac County, Wisconsin, EXCEPTING the following tract of land: Commencing at the center of Section 17, Township 15 North of Range 17 East, running thence South 89 degrees 21 minutes West 1357.03 feet along the East and West Quarter line of said Section 17; thence North 2 degrees 15 minutes West 770.39 feet; thence North 89 degrees 22 minutes East 1358.98 feet, to a point in the North and South quarter line of said Section 17; thence South 2 degrees 8 minutes East 770.78 feet along said North and South quarter line to the point of beginning, located in the Southeast Quarter of the Northwest Quarter of Section 17, Township 15 North of Range 17 East. FURTHER EXCEPTING THEREFROM Lot 1 of Certified Survey Map No. 2085 as recorded in Volume 11 of Certified Survey Maps of Fond du Lac County on pages 74, 74A and 74B, being a part of the NE ¼ of the NW ¼ of Section 17-15-17.

This Document drafted by Sam Tobias, Director of Planning and Parks, Fond du Lac County, Fond du Lac, WI.

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clause, legal description, etc., may be placed on this first page of the document or may be placed on additional pages of the document. Note: Use of this cover page adds one page to your document and \$2.00 to the recording fee. Wisconsin Statutes, 59.43(2m). WRDA HB Rev. 1/8/2004

AERONAUTICAL INDUSTRIAL PARK
PROTECTIVE COVENANTS

WHEREAS, Fond du Lac County is the owner of the real property described as Aeronautical Industrial Park in Section I of this declaration, and is desirous of subjecting the said real property described in Section I to the conditions, covenants, restrictions, reservations and easements hereinafter set forth, each and all of which is and are for the benefit of said property and for each owner thereof, and shall insure to the benefit of and pass with said property, and each and every parcel thereof, and shall to and bind the successors in interest, and any owner thereof; and it is intended that said real property shall be developed and designated as an aeronautical industrial park and referred to as the Aeronautical Industrial Park.

NOW, THEREFORE, Fond du Lac County declares that the real property described in and referred to in Section I hereof, is, and shall be held, transferred, sold, conveyed and occupied, subject to the conditions, covenants, restrictions, reservations and easements hereinafter set forth, and the Fond du Lac County Finance, Personnel, and Economic Development Committee, hereinafter sometimes referred to as the Committee, is hereby given the general supervision, administration and enforcement of the covenants hereinafter set forth.

SECTION I

PROPERTY SUBJECT TO THIS DECLARATION

The restrictions, covenants, reservations and easements as hereinafter set forth, shall apply to the real estate hereinafter described, and to any part thereof, which real estate is situated in Fond du Lac County, Wisconsin, known as Aeronautical Industrial Park as particularly described in Exhibit "A" attached hereto and made a part hereof.

SECTION II

DEFINITION OF TERMS

1. "Building Site" shall mean any lot, area, tract or parcel of land upon which a building or buildings and appurtenant structures may be erected in conformance with the requirements of these covenants.
2. "Improvements" shall mean and include a building or buildings, and out-buildings appurtenant thereto, parking areas; loading areas, fences, masonry walls, hedges, lawns, mass plantings and any structures of any type or kind located above ground.
3. "Building Line or Lines" shall mean the minimum distance which structures of any type or kind located above ground shall be set back from the property or street lines.

4. "Committee" shall mean the Fond du Lac County Finance, Personnel, and Economic Development Committee or its' successor committee.
5. "County" shall mean Fond du Lac County unless the context indicates otherwise.
6. "Park" shall mean Aeronautical Industrial Park, as the same is identified on said Exhibit "A."
7. "Airport" shall mean the Fond du Lac County Airport located in the Town of Fond du Lac.

SECTION III

GENERAL RESTRICTIONS

1. No building shall at any time be erected on any building site within 40 feet of any street right-of-way adjoining the same, within 20 feet from all side boundary lines, or within twenty-five (25) feet from the rear boundary line of such premises.
2. Each building site shall contain a minimum frontage of 150 feet on each public street. All building sites which abut Forest Avenue Road or the Airport shall be designated and used so as to present appropriate and visual esthetics in accordance with plans approved by the County. There shall be no docking, loading, storage areas which front on such road or the Airport, as shown of said Exhibit "A" attached hereto.
3. The division of any lot, area, or tract of land within the Park for any purpose, whether immediate or future for conveyance, transfer, improvement or sale shall not result in the creation of any parcel of land less than 2 acres in size.
4. All materials and products stored outside of building must be behind the building setback line from each lot line and must be screened from view with a solid fence or such screening as may be approved by the County. All trash must be enclosed by a fence of solid material suitable for a visual screen. Such fence must be kept in good appearance. No burning shall be conducted on any building site. All parking areas and driveways located on the building site shall be paved with concrete, asphalt, their equivalent or better.
5. No building, improvement, or use, shall be erected, placed or altered on any building site until such plans for such building, improvement, or use including site plan, landscaping plan, exterior materials, building plans and specifications have been approved by the County. Each purchaser shall occupy and use the site in accordance with County approved plans, purchase agreement within, and 24 months after acquiring such site unless such time is in writing extended by the County.
6. Construction Materials and Appearance:

- a) At least 25 percent of the front of all buildings-that is, the siding facing the street on which the building is deemed to front-shall be faced with concrete, brick, masonry, or stone. Said facing shall extend across the full front of the building. All other sides of any building shall be finished in an attractive manner in keeping with the state of the art for industrial buildings, but need not be finished in a like manner as that portion of the building referred to as the front. On corner lots, both sides of the building facing the street shall be faced as described above. It is the intent of the se provisions that all structures shall be designed and constructed in such a manner as to provide an aesthetically pleasing appearance and be harmonious with the overall development of the industrial park.
 - b) All parking, driveway, and storage areas shall be paved with hot-mixed asphalt or Portland cement concrete. All walks shall be constructed of Portland cement concrete.
 - c) All drives, walks, storage and parking areas shall be completed prior to building occupancy, unless an extension not to exceed 12 months is granted in writing by the County.
 - d) All buildings must be of approved construction in conformance with all applicable building codes.
 - e) Yard hydrants or wall hydrants, where required by state or town codes, shall be required to be placed as directed by the Town of Fond du Lac Fire Department at the owner's expense.
7. No signs or billboards shall be permitted other than signs on a lot which advertises the product manufactured on the lot, or which describes the name of the firm, County, or owner. No signs shall be permitted which extend above the elevation of the roof line of the closest building on the same building site. All signs shall be non-flashing, non-moving, shall not be above six (6) feet tall when located in front yards, shall not be animated and shall be approved by the County prior to installation.
8. No fence, wall, hedge or shrub, plant or tree which obstructs a sight lines at an elevation of two feet above the roadway shall be placed or remitted to remain on any corner within the triangular area formed by street property lines and a line connecting them a points seventy-five (75) feet from the intersection of the street lines.
9. The permitted building and land uses of a building site are as follows:
- a) Wholesale, warehouse, and building supply establishments.
 - b) Offices and office buildings.
 - c) Printing and publishing.
 - d) Transportation terminals.
 - e) Public utility installations.
 - f) Light manufacturing uses including bottling, packaging, laboratories and the like.
 - g) Manufacturing uses including production, processing, cleaning, testing and the distribution of materials and goods provided:
 - 1) No activity or operation shall transmit any noise exceeding a sound level of 75

dBA when measured within a property boundary outside of the Industrial District. (Noises not directly under the control of the property user, from temporary construction or maintenance and from emergency, safety or warning devices shall be exempt.);

- 2) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual within a property boundary of the Industrial District;
 - 3) No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Chapter NR 429.03, Wisconsin Administrative Code;
 - 4) No operation or activity shall emit any particulate matter into the ambient air that exceeds the limitations as established in Chapter NR 436, Wisconsin Administrative Code;
 - 5) No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 431, Wisconsin Administrative Code;
 - 6) No operation or activity shall emit any hazardous substances in such quantity, concentration or duration as to be injurious to human health or property and all estimates shall not exceed the limitations established in Chapter NR 445, Wisconsin Administrative Code.
10. The area between the building lines and the street property lines shall be used for either open landscaped and green areas or for service access to the building, or to a parking lot. Landscaped areas shall be done attractively with lawns, trees, shrubs, and similar treatment and shall be properly maintained in a well-kept condition.
11. No street in the Park shall be used for on-street parking or loading.
12. All utilities within the lot areas installed by the developer or the owner of lots shall be underground to include electricity, telephone, gas, water and sewer service within the lot area. Electric lines exceeding 12,000 volts must be installed by a the utility company and their locations must be approved by the Committee.
13. The County shall take all action reasonably necessary to inform its lot purchasers and its successors and assigns of the operational and construction restrictions applicable to the Fond du Lac County Airport.
- a) This parcel of land is near the Fond du Lac County Airport and is within the County's "Height Limitation Zoning Map" as amended from time to time. The Purchaser is hereby advised that the subject property is located in a noise-impacted area; that these present and future noise impacts might be annoying to users of the

land for its stated purpose and might interfere with the unrestricted use and enjoyment of the property in its intended use; that these noise impacts might change over time by virtue of greater numbers of aircraft, louder aircraft, seasonable variations, and time-of-day variances; that changes in airport, aircraft, and air traffic control operating procedures or in airport layout could result in increased noise impact; and that the Purchaser's and user's own personal perceptions of the noise exposure could change and this his or her sensitivity to aircraft noise could increase.


- b) Purchaser does hereby grant and convey to Fond du Lac County its successors and assigns, a continuing right to keep the airspace within the "Height Limitations Zoning Map, Fond du Lac County Airport, Fond du Lac County, Wisconsin" clear and free from any obstructions of any kind or nature whatsoever, together with the right to ingress to egress from, and passage over the land of the Purchaser for the purpose of effecting and maintaining such clearances and of removing any and all obstructions which now or may hereafter extend above said heights.
- c) Purchaser hereby covenants, both for himself and herself and his and her heirs, executors, administrators and assigns, for and during the life of this easement, as follows:
 - 1.) Purchaser shall not hereafter construct nor permit any obstruction upon said land in violation of the County's Height Limitation described above; and
 - 2.) Purchaser shall not hereafter use or permit the use of the land in such a manner as to create electrical interference with radio communication between the airport and aircraft or as to make it difficult for flyers to distinguish between airport lights and others, or as to result in glare in the eyes of flyers using the airport, or as to impair visibility in the vicinity of the airport, or as to otherwise endanger the landing, taking-off or maneuvering of aircraft.
- d) By virtue of accepting title to the land that is subject to these restrictive covenants, the Purchaser, for and on behalf of himself and herself and all successors in interest to any and all successors in interest to any and all of the land, waives as to Fond du Lac County and the Town of Fond du Lac or any successor agency legally authorized to operate the Fond du Lac County Airport, any and all claims for damage of any kind whatsoever incurred as a result of aircraft using the easement granted herein regardless of any future changes in volume or character of aircraft over flights, or changes in airport design and operating policies, or changes in air traffic control procedures.
- e) The Purchaser, for and on behalf of himself and herself and all successors in interest to any and all of the land that is subject to these restrictive covenants, does further hereby covenant and agree with Fond du Lac County and the Town of Fond du Lac, their successors and assigns, that it will not, from and after the effective date hereof, sue, prosecute, molest, or trouble Fond du Lac County and the Town of Fond du Lac, their successors and assigns, in respect to or on account of the flight of any and all aircraft over or near the land, or for any effects resulting there from, including but not limited to, noise, air pollution, or any other possible damages to or taking of said property resulting from such flights.

13. The Fond du Lac County Finance, Personnel, and Economic Development Committee is hereby empowered to authorize or permit minor variances or exceptions to the provisions of these Protective Covenants in special cases upon written application of any property owner, lessee or sub lessee in Park, provided such minor variances or exceptions conform to the intent of the provisions herein, are in keeping with the character of the Park and in conformance with the Town of Fond du Lac Zoning Ordinance.

SECTION IV

AMENDMENT AND TERMINATION

Subject to the authority to make minor variances as provided in Section III, Item 13, hereof, each of the conditions, covenants, restrictions, reservations, easements and standards set forth shall continue and be binding upon the County, the Owners, lessees, sub-lessees and their successors and assigns and upon each of them, all parties and all persons claiming under them for a period of thirty (30) years from August 15, 2008, at which time the same shall terminate; provided, however, that the owners of 75% of more of the fee simple title of the property subjected to these restrictive covenants, based on the number of square feet owned as compared to the total area restricted may release all or any part of the land so restricted from any one or more of said restrictions or may change or modify said restrictions by executing and acknowledging in writing an appropriate agreement or agreements for such purposes and filing the same for record in the Office of the Register of Deeds of Fond du Lac County, Wisconsin. Unless otherwise set forth in such recorded instrument the same shall become effective upon recording. Written notice of such recording and the nature of such amendment shall forthwith be given by mailing to the owners of all lands in said Park.



Martin F. Farrell, County Board Chair




Joyce A. Buechel, County Clerk

August 14, 2008

August 14, 2008

Subscribed and sworn to before me this 14th day of August, 2008.



Lisa Freiberg, Notary
My Commission Expires January 15, 2012

RESOLUTION NO. 33-08

**RESOLUTION APPROVING A SET OF PROTECTIVE COVENANTS
FOR THE AERONAUTICAL INDUSTRIAL PARK**

WHEREAS, Resolution 112-07, adopted on January 15, 2008, authorized proper County officials to initiate the design and development of an airport industrial park and a new corporate hangar area adjacent to the Fond du Lac County Airport, and

WHEREAS, the County has taken steps to develop an airport industrial park, known as the Aeronautical Industrial Park, and

WHEREAS, land uses within the Aeronautical Industrial Park will be regulated by the Town of Fond du Lac Zoning Ordinance, specifically under the industrial district zoning regulations, and

WHEREAS, there are a number of uses permitted by the Town's industrial district zoning regulations that could lead to an under-utilization of lots within the Aeronautical Industrial Park, including but not limited to automobile, farm implement and boat dealers and repair shops, filling stations, mobile home sales and service, agricultural-related businesses, salvage yards and kennels, among other uses, and

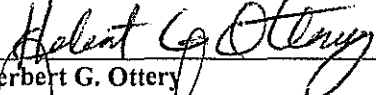
WHEREAS, protective covenants are a means of further limiting and regulating uses in the Aeronautical Industrial Park to help assure the best and most compatible land uses within the Park.

NOW, THEREFORE, BE IT RESOLVED by the Fond du Lac County Board of Supervisors that the attached Aeronautical Industrial Park Protective Covenants are hereby adopted by this County Board to provide additional regulation and protection of land uses within the Aeronautical Industrial Park as shown on the attached preliminary plat, limited now to land owned and controlled by Fond du Lac County, specifically the former Timler Trust property.

BE IT FURTHER RESOLVED that once Fond du Lac County owns and controls the Eilert property located in the east 20 acres of the Aeronautical Industrial Park that these Covenants will control the land uses within the 20 eastern acres of the Aeronautical Industrial Park.

Dated June 17, 2008

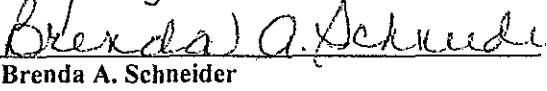
**SUBMITTED BY:
FINANCE, PERSONNEL AND
ECONOMIC DEVELOPMENT COMMITTEE**



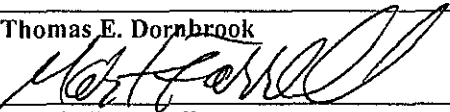
Herbert G. Ottery



Judy Goldsmith



Brenda A. Schneider

Thomas E. Dornbrook


Martin F. Farrell

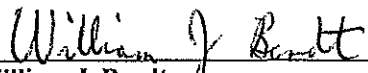
FISCAL NOTE: This resolution does not require an appropriation from the County General Fund.

APPROVED BY:



Allen J. Buechel
COUNTY EXECUTIVE

APPROVED BY:



William J. Bendt
CORPORATION COUNSEL