

PARTNERSHIP INDUSTRIAL CENTER WEST
SPRINGFIELD, MISSOURI

DECLARATION OF PROTECTIVE COVENANTS



**PARTNERSHIP INDUSTRIAL CENTER WEST
PROTECTIVE COVENANTS**

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DECLARATION OF PROTECTIVE COVENANTS

THIS DECLARATION, made this ____ day of _____ 2001, by the Partnership Industrial Center West development group, hereinafter referred to as the “Partnership.”

WITNESSETH THAT:

WHEREAS, the Springfield Business & Development Corporation and the City of Springfield are the owners of that certain tract of real property generally situated south of West Kearney Street, Springfield, Missouri, and being more particularly described on “Exhibit A” which is attached hereto and incorporated herein by reference (the “Property”): and

WHEREAS, the Property is being developed and platted as an industrial park to be known as Partnership Industrial Center West, and the Partnership desires to establish and secure the enforcement of uniform protective covenants upon the use and development of lots, parcels and tracts within Partnership Industrial Center West.

NOW, THEREFORE, by this instrument (the “Declaration”) there are created, declared, and established in Partnership Industrial Center West, Springfield, Missouri, the following protective covenants, **easements**, reservations, and requirements upon the lands within such industrial park, which protective covenants, **easements**, reservations and requirements shall run with the land and remain in full force and effect.

ARTICLE I

General Declaration and Reservation of Rights

1.01 General Declaration Creating Partnership Industrial Center West. The Partnership has created Partnership Industrial Center West by subdivision of the real estate contained therein into various lots, common areas, public streets, and **easements**. Partnership hereby declares that all of the real property within Partnership Industrial Center West is and shall be held, conveyed, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended or a general plan for the subdivisions, improvement and sale of said real property and is established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of said real property and every part thereof. All of this Declaration shall run with all of the real property within Partnership Industrial Center West for all purposes and shall be binding upon and inure to the benefit of the Partnership, the Owners, and their successors in interest.

1.02 Reservation of rights in Partnership Industrial Center West.

- (a) Right to Repurchase. Upon conveyance of any Lot in Partnership Industrial Center West by the Partnership and upon failure of the Owner of the Lot to commence construction of improvements within one (1) year, or failure to substantially complete

construction of improvements within two (2) years from the date of conveyance, the Partnership Industrial Center West Administrative Council (hereinafter referred to as the “Administrative Council”) shall have the right to require Owner to reconvey the Lot to the Springfield Business & Development Corporation, free and clear from all liens, charges, encumbrances, tenancies and other such title exemptions except those in existence at the time of original conveyance to Owner. Upon such reconveyance the Springfield Business & Development Corporation shall refund to Owner the purchase price; except that, in the event the Owner does not clear the Lot of all liens, charges, encumbrances, tenancies, and other title exemptions except those in existence at the time of original conveyance to the Owner, the Springfield Business & Development Corporation shall be entitled to deduct from the purchase price all costs and expenses, including reasonable attorney fees, incurred in clearing title to the Lot. At any time the Administrative Council may extend, in writing, the time within which construction of improvements may be commenced or completed. The right to repurchase shall be an additional material consideration to the Partnership for the conveyance of any Lot

- (b) First right of refusal. At such time as an Owner may list or otherwise offer any improved or unimproved Lot for sale, the Owner shall provide the Secretary of the Administrative Council with written notice of the Owner’s intention to list or offer such Lot for sale. The Administrative Council shall thereupon have the right to enter into negotiations with the Owner for purchase of the Lot. In the event the Owner receives a good-faith offer for purchase of the Lot from any third party, the Administrative Council shall have the first right of refusal for purchase of the Lot under the terms of the offer extended by such third party. The first right of refusal shall be an additional material consideration to the Partnership for the conveyance of any Lot.
- (c) Right to review plans. There is reserved by and unto the Administrative Council of the Partnership Industrial Center West the power to require submission of plans, specifications, and a plot plan showing the location of proposed improvements, with a landscaping plan, with respect to proposed development or additional development of any Lot, tract or parcel within the Partnership Industrial Center West property, and no development or additional development may take place until such plans have been approved in writing by the Partnership or its designee. In reviewing and approving plans, the Administrative Council will apply the Design and Construction Standards set forth in this Declaration.
- (d) Right to grant a variance from the requirements of protective covenants. The right to grant a variance from the requirements of the protective covenants and restrictions contained in this Declaration, by contract or otherwise, is expressly reserved by and unto the Administrative Council with respect to any parcel, lot or tract of the Property which is hereinafter conveyed to the Partnership to any Owner; provided that grant of a variance with respect to any particular parcel, lot or tract of the Property shall not be

deemed to constitute waiver of such requirement or restriction with respect to any other parcel, lot or tract of the Property.

ARTICLE II

Definitions

As used in the Declaration of Protective Covenants, the following words and phrases shall have the meanings indicated:

- 2.01 “Partnership” shall mean the partnership consisting of the City of Springfield, Missouri; City Utilities of Springfield, Missouri; the Springfield Area Chamber of Commerce; and the Springfield Business & Development Corporation, a Missouri not-for-profit corporation; as such partnership exists and operates pursuant to that certain document entitled “Partnership Industrial Center West Development Agreement” executed by the partners on or about July 2, 2001 as may be amended from time to time, and such successors or assigns of the Partnership may subsequently acquire any undeveloped portion of the Partnership Industrial Center West tract.

- 2.02 “Administrative Council” shall mean the Administrative Council of the Partnership.

- 2.03 “Common Space” and “Common Area” shall mean those areas of land shown on any recorded plat or otherwise designated by recorded document(s) in Greene County, Missouri, comprising a portion of the Partnership Industrial Center West tract, which are identified on the plat or in the document as “Common Area of Partnership Industrial Center West” or by substantially equivalent language.

- 2.04 “Declaration” shall mean these Protective Covenants and all other provisions set forth in this entire Document, as the same may from time to time be amended, which relate to all or part of the Property in Partnership Industrial Center West.

- 2.05 “Property” shall mean that real property included within the Preliminary Plat or Plats and Final Plat or Plats of Partnership Industrial Center West which is described on Exhibit “A”, and such real property may hereafter be acquired by the Partnership for purposes of expansion of Partnership Industrial Center West.

- 2.06 “Owner” shall mean the record owner of a fee or undivided interest in any lot, parcel or tract of the Property, and shall not include persons or entities who hold an interest in any lot, parcel or tract merely as security for the performance of an obligation. Except as stated otherwise in this Declaration, the term “Owner” shall not include a lessee or tenant.

- 2.07 “Lot” shall mean any parcel or tract of real property designated as a lot, parcel or tract on any recorded plat of Partnership Industrial Center West or any additions thereto, with the

exception of the Common Area, and any lot, parcel or tract which is created by a minor subdivision recorded with the Greene County Recorder of Deeds.

- 2.08 “Plat” shall mean a recorded plat covering any or all of the property referred to in this Declaration.
- 2.09 “Visible from Neighboring Property” shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of such neighboring property at an elevation no greater than that of the base of the object being viewed.
- 2.10 “Board” shall mean the Board of Trustees of the Partnership Industrial Center West.
- 2.11 “Partnership Industrial Center West” shall mean the Property set forth in Section 2.05 above.
- 2.12 “Rules” shall mean those rules and regulations promulgated by the Board of Trustees under the authority granted by this Declaration.
- 2.13 “Variance” shall include use variances and design and construction variances.
- 2.14 “Design and Development Standards” shall mean those standards for site planning, exterior building design, landscaping and site amenities, exterior lighting, and exterior signs and monuments as set forth in Article III of this Declaration.
- 2.15 “Interior street” shall mean a public street located within the Partnership Industrial Center West.

ARTICLE III

Design and Development Standards

General Provisions

- 3.1 Development Objectives. These objectives have been formulated to achieve a very high level of quality in the development of the Center, while permitting this development to occur in an economically feasible manner. The objectives recognize that this development exists in an urbanized market and possesses excellent accessibility via a network of interstate roadways, major arterial streets, and air transportation. The objectives encourage the use of quality design, materials and workmanship in order to protect public and private investments made in the Center.
- 3.2 Design and Development Standards. These standards identify a high level of design and development quality in the creation of the Partnership Industrial Center West. As a statement of development requirements and guidelines, the standards are a ready

reference for property owners and the Administrative Council in guiding their investment decisions in the Partnership Industrial Center West. These standards are intended to supplement, not replace, existing City Codes and Ordinances. The standards will be utilized by the Administrative Council as a guide when a plan for a new structure is presented, and when expansion or major alteration of existing properties is proposed.

- 3.3 Partnership Industrial Center West Review Authority. Review of all matters pertaining to the Design and Development Standards contained in this document shall be made by the Partnership Industrial Center West Administrative Council. Approval of plans, design, and materials must be given by the Administrative Council prior to their use in, or for development of, the Partnership Industrial Center West.

Site Planning Standards

- 3.4 Objectives. The objectives of the site planning standards are to enhance the aesthetics of site development within the Partnership Industrial Center West. The objectives are to be used to integrate site planning considerations, primary buildings, other structures and site features into an attractive setting, one which helps induce and protect investment by private enterprise. The Administrative Council and individual industries shall, jointly, inspect the improvements covered by these standards on an annual basis to determine their continued adherence to the site planning standards.

- 3.5 Setbacks. The setback from any street right-of-way line to any structural component of a building shall be a minimum of forty (40) feet. The minimum setback distance shall also be related to the maximum building height allowed, as described in Section 3.15, Building Height. Side and rear lot setbacks from lot lines to any structural component of a building shall be a minimum of thirty (30) feet. Other setbacks shall be governed by the applicable Zoning Ordinances of the City of Springfield.

- 3.6 Site Drainage. The flow of storm water from any lot must comply with the Administrative Council’s approved storm water drainage plans for the entire Partnership Industrial Center West. End user shall be provided the stormwater discharge location and minimum finished floor elevation requirement previous to closing.

- 3.7 Lot Coverage. The maximum coverage of a lot shall be in accordance with the building use and parking facility, as follows:

a)	Building (only)	60%
b)	Building and vehicular parking/ truck loading (combined)	80%

- 3.8 Open Space. The amount of open space (Landscaped Common Area along streets, Landscaped Buffer Zones, lawns and planting area, water features, and other similar areas) shall be a minimum of twenty percent (20%). “Open Space” consisting of the

mandated buffer zone and common space **easements** shall be included in meeting this twenty percent (20%) requirement.

- 3.9 Parking. No on-street parking shall be permitted in the Center. Off-street parking shall be provided in accordance with the various building uses and the City of Springfield Zoning Ordinances, as Amended, and the Americans with Disabilities Act (ADA), as Amended in 1992. Off-street parking may be permitted in the front, sites or rear yards of each lot with a minimum six (6) foot landscaped area around the perimeter in accordance with Section 3.22, Parking Areas. The dimensional characteristics and compact space allowance and other provisions are contained in the City Zoning Ordinance as amended and the Americans with Disabilities Act.

Signs designating parking entrances and/or exits shall be provided on-site. The signs may be located within the setback requirements.

Parking areas and gutters shall be constructed of concrete or bituminous asphalt. Permanent gutters shall be constructed of concrete. Their construction shall permit drainage of storm water so that no ponding occurs in the parking area, and the storm water flow meets the requirements of Section 3.6, Site Drainage. Stripes shall be painted on the surface of the parking area indicating the outline of parking spaces in order to aid in the orderly arrangement of parking stalls.

- 3.10 Driveways. Access driveways shall not be permitted off of Kearney Street, Westgate Street, or Division Street. Within the Center, access from public streets to parking lots shall be provided by driveways. Driveways off internal roadways shall be located a minimum of 700 feet from the intersection of either of these roadways with Kearney or Division Streets. Driveways off any other public roadway in the Center shall be located a minimum of 200 feet from that roadway's intersection with interior streets.

Driveways on the same side of any public roadway shall be spaced a minimum of 200 feet from one another.

Curb cuts shall be constructed in accordance with the standards for such improvements as provided by the City of Springfield's Department of Public Works.

- 3.11 Loading Areas. Off-Street loading spaces shall be provided in accordance with the City of Springfield Zoning Ordinance, as Amended. Vehicular access to loading areas shall be carefully planned to limit off-site view from adjacent thoroughfares and interior streets in the Center. Curb cuts for access to loading areas shall be constructed in accordance with City standards. On-site views of loading areas shall be minimized to the extent practical. Where it can be reasonably accomplished, access to loading areas shall be directly from streets or entrance drives. Off-street loading areas shall be designed so that vehicles shall be able to serve these areas without having to back into a public street right-of-way.

Signs designating entrances and/or exits of loading areas shall be provided on-site. A continuous concrete curb and gutter at least six (6) inches in height shall be provided on the perimeter of loading areas to prevent vehicular encroachment on adjacent property and on landscape treatment. Storm drainage from these areas shall meet the requirements of Section 3.5, Site Drainage.

3.12 Outside Storage Areas. Outside storage shall meet the following minimum standards:

- a. Outside storage of assembled materials, products or vehicles, shall not be located with the setback from any interior street or within the thirty (30) feet Landscaped Buffer Zone on adjacent external roadways.
- b. Outside storage shall be screened from view, at ground level, from streets and abutting lots.
- c. Fences and/or screen walls shall make an enclosed perimeter around the materials, products or vehicles so fenced/walled, providing for vehicular or service personnel access where necessary. Gates, if any, shall face away from full wall view to the street.
- d. The exterior or finished surface of screen walls or security fencing, which enclose materials stored outside, shall face outward.
- e. Outside storage material shall be dust-free. The open storage of sand, gravel, rock, dirt, salt and other granular materials must be controlled.

3.13 Utilities and Site-Related Mechanical and/or Electrical Equipment. All such utility, mechanical and electrical equipment shall be located to permit space for landscape treatment under Section 3.25, Utility Stations or Boxes and Site Related Mechanical and/or Electrical Equipment. All piping, conduit and wiring shall be located underground.

Above ground utility, mechanical and electrical equipment shall not be located:

- a. Where sight visibility is critical to property access and safety (i.e. vehicular entries and intersections;
- b. At high traffic areas; or
- c. At locations that conflict with traffic signalization, private signage and landscape features.

Exterior Building Design Standards

- 3.14 Objectives. The objectives of the exterior building design standards are to establish a minimum level of quality regarding the massing of buildings on site and the selection of exterior building materials and colors. These standards have been devised to promote a general consistency of design, while allowing suitable freedom of choice. As with all the standards outlines in this document, minimum exterior building design standards encourage and enhance the overall quality of the Industrial Center, a factor essential to the long-term stability of each property owner's investment.
- 3.15 Building Height. Along any lot line facing a public street, the maximum building height, measured from the mean grade elevation at the base of the exterior wall(s) to the top of the parapet line of that (those) walls, shall vary as a function of the horizontal setback distance from the street right-of-way, on a 1 foot: 1 foot basis. The maximum predominant height permitted along any side or rear lot line of any lot shall be 60 feet above mean grade elevation of that lot, subject to Airport limitations.

Recognizing that certain functions or processes within a manufacturing facility may require elements of greater height, exceptions to the maximum predominant height may be granted, subject to review and approval from the Administrative Council.

- 3.16 Exterior Walls. Exterior walls of buildings shall be finished with an enduring surface that is acceptable as determined by the Administrative Council. At least an 8-foot high masonry and/or precast concrete finish is strongly preferred.
- 3.17 Equipment Screens. Where roof mounted mechanical equipment cannot be screened from view by a wall parapet, such equipment shall be screened by opaque materials similar in material and color to those used for the predominant wall system, where practical. Mechanical or electrical equipment located at grade should be screened. Service and loading areas should be screened from view from any street.

Landscaping and Site Amenities Standards

- 3.18 Objectives. The objectives of this section are to create standards for landscaping and other site amenities that will serve to enhance the value and aesthetics of the Partnership Industrial Center West.
- 3.19 Center Entrances. The entrances to the Center shall be landscaped with trees, shrubs and ground cover to aid in their physical identification and to convey the initial image of the developmental quality that will be evident throughout the Center. Particular attention shall be given to the signage identifying the Center itself.
- 3.20 Public Rights-of-Way. Public rights-of-way in the Center shall be landscaped with "street trees", in order to continue to convey the image of quality initiated at the Center

entrances. Lighting shall also be provided along these rights-of-way so as to meet the requirements of Section 3.35, Design Criteria.

- 3.21 Site Entrances. The entrance roadways (or entryways) to each site lot shall be landscaped with trees, planted on-center in relationship to one another. A minimum six (6) foot wide area, parallel to the entryway shall be retained for such trees, and shall be planted with a grass lawn. Any median in the entryway shall be a minimum of six (6) feet in width and landscaped.
- 3.22 Parking Areas. Parking areas shall be landscaped with trees or shrubs. Trees shall be a minimum of 1 ½ to 2 inches in caliper. The number of trees or shrubs around the parking area shall be a minimum of one tree or shrub per fifteen parking spaces. The landscape treatment at street and driveway intersections screening shall conform to the City's sight triangle requirements.
- 3.23 Service and Loading Areas. On-site service and loading areas, including trash dumpsters, shall be screened from street view and from abutting lots.
- 3.24 Outside Storage Areas. All outside storage areas shall be screened at ground level from streets and abutting lots by a screen wall or security fence.
- 3.25 Utility Stations or Boxes and Site Related Mechanical and/or Electrical Equipment. Above ground utility, mechanical and electrical equipment or boxes ("utility pad") shall be screened from view at ground level from streets and abutting lots. Screening shall not limit access for servicing purposes.
- 3.26 Screen Walls. These walls shall be used to screen various activities in the center from view. Where called for in the standards, these walls shall be of a suitable height and material or landscaping to effectively screen activities.
- 3.27 Security Fencing. Securing fencing shall be permitted around any activity, facility or building not previously excluded by these standards. Security fencing may be provided elsewhere on a lot if approved by the Administrative Council.
- 3.28 Site Furnishings. Building directories, exhibit boards, and other similar site furniture or amenities (not including trash dumpsters) shall be made of materials consistent in type and design with the building they serve.
- 3.29 Yards and Lawns. The yards (i.e., front, sides and rear) of each area or site development lot shall be landscaped.
- 3.30 Street Trees. Street trees shall be planted in the ten- (10) foot tree lawn with the twenty (20) foot utility **easement** within the public street rights-of-way. Street trees shall be planted at an interval of forty (40) feet on center within each row. The tree form shall be

“upright and spreading” to create a canopy effect. See the typical plan and cross section diagram in Section 3.31, Landscaped-Common Area.

- 3.31 Landscaped Common Area. The Landscaped Common Area shall be an open space within the right-of-way of public streets throughout the Center, except for the Landscaped Buffer Zones along the public streets of Division Street and Haseltine Road.

The Landscaped Common Area can be used to meet the twenty (20) percent open space requirement in Section 3.8, Open Space. The initial development and maintenance of the Landscaped Common Area is the responsibility of the Partnership Industrial Center West.

- 3.32 Landscaped Buffer Zone. The Landscaped Buffer Zone shall be a thirty (30) foot wide space abutting the right-of-way of the north and south side of Division Street, the east side of Haseltine Road, and the west side of Westgate on the perimeter of the Center.

This space is for the purpose of creating a quality, landscaped “first impression” for those persons passing the Center and for those who enter the Center. This area will screen rear lot loading and/or parking facilities of each site abutting external roadways. The Landscaped Buffer Zone shall be landscaped. The Landscaped Buffer Zone constitutes a thirty (30) foot **easement** along external roadways, and can be used to meet the twenty (20) percent open space requirements in Section 3.8, Open Space.

- 3.33 Existing Trees. All existing trees in unpaved or non-building areas, in healthy condition, four (4) inches or more in caliper and capable of being retained at grade or by a tree well or retaining wall of three (3) feet or less, shall be retained in the development of the property to the extent practical. This provision is particularly applicable to the Landscaped Common Area and the Landscaped Buffer Zone along the public streets.

Exterior Lighting Standards

- 3.34 Objectives. Well-designed exterior site lighting should serve multiple purposes including illumination, vehicular and pedestrian safety and security. These standards are concerned with the location and quality of lighting along streets in and around structures, pedestrian walkways, entry drives, activity areas, building entries, service and parking areas and public streets.

- 3.35 Design Criteria.

- a. The lighting shall conform to ANSI/IES Standard RP .6-.8 as documented in the American National Standard Practice for Roadway Lighting.
- b. All lighting plans shall be reviewed by the Administrative Council to minimize lighting conflicts between private properties, streets, driveways, and entries in the Partnership Industrial Center West.

Exterior Signs and Monument Standards

- 3.36 Objectives. The objectives of these standards are to provide direction to a coordinated exterior sign system designed to enhance the environment of the Partnership Industrial Center West. The sign hierarchy system for the Center will be guided by the following design standards.
- 3.37 Signs. Signs permitted are those to identify the industrial park, those necessary for directional or informational purposes, and those to identify the tenant or owner of the building site. Signs shall be permanently affixed. The design, scale, material and location of all signs shall be in harmony with and complementary to the overall development. No sign shall be of intermittent or flashing light. Illumination shall be properly shaded so that the source of light will not be visible.

ARTICLE IV Board of Trustees

- 4.01 A three-member Board of Trustees (the “Board”) for the Partnership Industrial Center West will be appointed by the Administrative Council at such time as seventy-five (75) acres of the Property have been conveyed by the Partnership to an Owner or Owners. The initial Board of Trustees shall hold office until their respective successors are appointed and qualified, unless sooner removed or replaced pursuant to this Article. Members of the Board of Trustees who are appointed by the Administrative Council may be removed from the Board and replaced at any time within the sole direction of the Administrative Council.
- 4.02 So long as fifty percent (50%) or more of the Property subject to this Declaration (exclusive of public ways and Common Areas) is controlled by the Administrative Council, the three members of the Board of Trustees shall be appointed by the Administrative Council.

At such time as less than fifty percent (50%) but twenty-five percent (25%) or more of the Property subject to the Declaration is controlled by the Administrative Council, two members of the Board shall be appointed by the Administrative Council and one member shall be elected by the Owners.

At such time as less than twenty-five percent (25%) but ten percent (10%) or more of the Property subject to this Declaration is controlled by the Administrative Council, one member of the Board shall be appointed by the Administrative Council and two members shall be elected by the Owners.

At such time as less than ten percent (10%) of the Property subject to this declaration is controlled by the Administrative Council, all three members of the Board of Trustees shall be elected by the Owners.

- 4.03 Subject to the provisions of Section 4.02, in all elections for member of the board, each Owner shall have the right to cast one vote for each of the open positions in person or by proxy.
- 4.04 The term of office of elected members of the Board of Trustees shall be for two years and shall run from January 1st of the year of election through December 31st of the year following the year of election. In the even the successor trustee is not elected and qualified in a timely manner, an incumbent trustee may hold over in office past the end of his term until a successor is duly elected and qualified.
- 4.05 Two members of the Board of Trustees shall constitute a quorum and actions of the Board shall be by majority vote of those members in attendance at any meeting with a quorum present. The Board shall promulgate operating procedures for the conduct of its affairs, which procedures shall provide for written notice to all Trustees of meetings, to be served at least three days prior to each meeting; provided, that any Trustee may waive written notice of any meeting.
- 4.06 General power of the Board of Trustees. Subject to the power reserved to the Administrative Council, the Board of Trustees shall be authorized to enforce the protective covenants as specified in the Declaration; shall have the right to provide for maintenance and the power to levy assessments and charges as hereinafter provided; shall set dates for the election of Trustees when appropriate; and shall otherwise establish such policies and procedures as may be deemed necessary or advisable for the general welfare and benefit of the Property in accordance with the spirit and letter of this Declaration.
- 4.07 The Board of Trustees shall be authorized to exercise such control over streets, sidewalks, parks, Common Areas and pedestrian ways within the Property as is set forth in this Declaration and as may hereafter be delegated to the Board by the Administrative Council.
- 4.08 No member, representative, officer or employee of the Board of Trustees who has acted in good faith and without intentional misconduct shall be personally liable for any damage claimed to result from the performance or nonperformance of any act, duty or obligation, whether ministerial or discretionary, which such person is authorized or required to perform under this Declaration.

ARTICLE V

General Maintenance and Landscaping

- 5.01 General Maintenance. The maintenance of all land, buildings and other improvements in the Property is the continuing responsibility and obligation of the respective Owners, who shall keep and maintain their properties in accordance with the provisions of this Declaration. Compliance with the standards of maintenance set forth in this Article shall

be determined and enforced by the Board of Trustees, based upon the terms and provisions of these covenants and the intent of these covenants to create a modern and prestigious industrial park, and the following general standards shall be observed:

- a. All land areas between building lines and property lines, including street rights-of-way adjoining the same of a building site which has been improved with a building and not used for drives, walks or parking areas, must be attractively landscaped and maintained in conformity with the Design and Construction Standards, Article III. Weeds and undergrowth must be kept mowed to a height of not more than twelve (12) inches on all other unimproved land areas. Common areas shall be maintained in a manner consistent with the conditions required of Owners.
 - b. No trash, debris or litter shall be permitted to accumulate on any Lot and it shall be the responsibility of each Owner and tenant to conduct business in a manner which will not result in trash, debris or litter being generated on the Lot.
 - c. Exterior surfaces of buildings and other improvements, including all paved areas, must be kept in good condition and state of repair and otherwise in conformity with the intent of these covenants. Exteriors shall be maintained and renewed or replaced as necessary to maintain consistency with the plans for said improvements originally approved by the Administrative Council or its designee.
- 5.02 Improved building sites shall be landscaped in accordance with the Design and Construction Standards, Article III. No tenant or Owner shall occupy a building or construct improvements until landscaping plans with adequate provisions for implementation have been approved by the Administrative Council or its designee. It is the intent of this Declaration that landscaping shall be provided in a manner to properly complement building improvements and to properly screen parking, loading and outside storage areas.
- 5.03 Owners and tenants shall be responsible for maintaining landscaping features and vegetation on their respective Lots in such manner as to present a reasonably attractive appearance at all times.
- 5.04 The Board of Trustees shall have the right to hire a maintenance company to maintain unsightly lots, and to charge a fee to the Owner or tenant thereof for such services rendered. if an Owner or tenant does not comply with the maintenance provisions of this Article within ten (10) days after demand for payment is made, the cost shall become a **lien** upon the property which shall be enforceable as provided for assessments in Article VII of this Declaration.

ARTICLE VI
Assessments

- 6.01 The owner of each Lot within the Partnership Industrial Center West, by acceptance of a deed thereafter and whether or not it is expressed in such deed, is deemed to covenant and agree to pay all annual assessments, special assessments and charges within thirty (30) days from date of receipt of a statement of assessment or charge. The annual and special assessments and charges, together with interest accruing on delinquent accounts, plus costs incurred in collecting delinquent accounts including reasonable attorney fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot, or portions thereof, against which each assessment and charge is made; and shall also be the personal obligation of the person who was the Owner of the Lot on the effective date of the assessment or charge. The personal obligation for delinquent assessments and charges shall pass to successors in title and the lien shall continue to be a charge upon the Lot.
- 6.02 Budget and annual assessments. Following generally accepted accounting principles, the Board of Trustees shall establish its annual operating budget to run from January 1 through December 31 of each year, which shall make provision for all expenditures necessary for carrying out the duties of the board, including expenditures for maintenance, taxes and insurance on the Common Area, public rights-of-way, and such easements as the Board is obligated to maintain or improve, and to cover the operating expenses of the Board. Effective January 1 of each year, the Board shall set an annual assessment upon each Lot owned within the Property, such that the aggregate amount of the annual assessments will be sufficient to provide funds for all projected expenditures during the budget year. The amount of the annual assessment to be charged to an Owner shall be determined as follows:
- a. The Board shall determine the total acreage of all Lots owned within the Property effective January 1 of the budget year. The total annual assessment to be made for the budget year shall then be divided by the total acreage of all Lots owned (“acreage assessment”).
 - b. The annual assessment for the Owner of a Lot on January 1 of the budget year shall be an amount equal to the product of the per-acre assessment multiplied by the number of acres owned by the Owner.
 - c. An Owner to whom a Lot is conveyed after January 1 of the budget year shall be assessed as provided in subsection (b) above, except that the assessment shall be prorated on the basis of 1/365th of the total amount of the assessment for each day remaining in the budget year after the date of conveyance.
 - d. If the aggregate annual assessment for any year is insufficient to meet obligations and expenses for that year, the Board may impose a supplemental assessment for that year to cover such expenses and so notify the Owners. Unexpended funds may be carried over from one budget year to the next and shall be accounted for

in setting the annual assessment for the year into which unexpended funds are carried over.

- 6.03 Special assessment. In addition to the annual assessment, the Board may levy a special assessment in any year for the purpose of making a capital improvement upon the Common Area or for the purpose of defraying, in whole or in part, the costs of any reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. Special assessments shall be charged in the same manner as annual assessments as described in Section 7.02 above.
- 6.04 The obligation of an Owner for payment of the annual assessment shall commence to run as of the date of conveyance of a Lot to the Owner; otherwise, the annual assessment for each Lot provided for herein shall commence on January 1 of each calendar year. Written notice of the amount of the annual assessment shall be sent to every Owner. The Board shall, upon request and for a reasonable charge, furnish a certificate setting forth whether the assessments on a specified Lot have been paid.
- 6.05 Each Owner shall be deemed to covenant and agree to pay to the Board the assessments provided for herein, and to consent to the enforcement of the assessments in the manner herein specified. In the event the Board employs an attorney for collection of any delinquent assessment, whether by suit or otherwise, or to enforce compliance with the terms and conditions of this Declaration, or for any other purpose in connection with breach of this Declaration, the Owner subject to such suit or other action shall be obligated to pay reasonable attorney fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. In the event of a default in payment of any assessment when due, the assessment shall be deemed delinquent, and shall bear interest at a rate of eighteen (18%) percent per annum commencing on the due date, and in addition to any other remedies herein or by law provided the Board may enforce each such obligation in any manner provided by law or in equity.
- 6.06 The Board may cause an action at law to be commenced and maintained in the name of the Board against any Owner to enforce any delinquent assessment obligation. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the rate of eighteen (18%) percent per annum from the date of delinquency, court costs, and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent Owner.
- 6.07 There is hereby created a claim of **lien** with power of sale on each and every Lot within Partnership Industrial Center West to secure payment to the Board of any and all assessments levied against any and all such Lots under this Declaration, together with interest thereon at the rate of eighteen (18%) percent per annum from the date of delinquency, and all costs of collection which may be paid or incurred by the Board in connection therewith, including reasonable attorneys' fees. At any time within thirty (30) days after the occurrence of any default in the payment of any such assessment, the Board

may serve written demand for payment on the defaulting Owner. The demand shall state the date and the amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of **lien** or a **lien**, but any number of defaults may be included with a single demand or claim or **lien**. If such delinquency is not paid within ten (10) days after delivery of such demand, the Board may elect to file claim of **lien** against the Lot of the defaulting Owner. The claim of **lien** shall be executed and acknowledged on behalf of the Board and shall contain the following information:

- a. The name of the delinquent Owner;
- b. The legal description or street address of the Lot against which claim of **lien** is made;
- c. The total amount claimed to then be due and owing for the amount of the delinquency, interest thereon, and collection costs, and attorneys' fees previously incurred;
- d. That the claim of **lien** is made by the Board pursuant to the Partnership Industrial Center West Declaration; and
- e. That a **lien** is claimed against said Lot in the amount stated.

Upon recordation of a duly executed original or copy of such a claim of **lien**, and mailing a copy of said to Owner, the lien claimed thereon shall immediately attach and become effective in favor of the Board as a lien upon the Lot against which such Assessment was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim on any Lot, and assessment on any Lot in favor of any municipal or other governmental assessing unit. Any such lien may be foreclosed by the appropriate action in court or in the manner provided by Law for the foreclosure of a trust deed, with a power of sale, as set forth by the laws of the State of Missouri, as the same may be changed or amended. The lien provided for herein shall be in favor of the Board of Trustees and shall be for the benefit of the Board.

- 6.08 The **lien** of the assessment provided for herein shall be subordinate to the lien or any previously recorded mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien.

ARTICLE VIII Common Areas

- 7.01 Common Areas shall be maintained and administered by the Board of Trustees for the use and benefit of the Partnership, the Owners, and their respective employees, licensees and invitees.

- 7.02 The Board may establish such rules and regulations for the use of Common Areas by Owners and others as the Trustees deem appropriate and shall have the right to enforce the same with the same authority granted by these covenants.
- 7.03 The Board shall establish standards of maintenance for the Common Areas which shall be consistent with the intent of these restrictions and shall maintain the same in accordance with such standards.
- 7.04 The Board of Trustees may at any time take the following actions relating to any Common Area owned, leased or otherwise held or controlled by the Board, or public right-of-way which is to be maintained by the Board:
- a. Reconstruct, repair, replace or refinish any improvement or portion thereof upon any such area.
 - b. Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of such area used as a road, street, walk, driveway or parking area.
 - c. Replace injured or diseased trees or other vegetation in any such area, and plant trees, shrubs, annuals and perennials and ground cover to the extent that the Board deems necessary or desirable for the conservation of water and soil and for aesthetic purposes.
 - d. Place or maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof.
 - e. Do all other lawful acts which the Board deems necessary to preserve and protect the property and the beauty thereof, in accordance with the general purposes specified in this Declaration.
 - f. The Board shall be the sole judge as to the appropriate maintenance of all ground within the Common Areas.
- 7.05 In the event any portion of the Common Area is negligently or deliberately damaged or destroyed by an Owner or his invitees, tenants, licensees, or employees, the Owner shall be liable for all costs of repair and replacement. The Board of Trustees shall have the option to undertake repair and replacement and to charge Owner with the cost. The costs of repair shall be paid by the Owner to the Board upon demand, and the Board may enforce collection of the costs in the same manner as provided in Article VII of this Declaration for collection and enforcement of assessments.
- 7.06 Easements. Easements are reserved as shown upon the recorded final plat(s) of Partnership Industrial Center West.

- 7.07 Property Rights. Every Owner shall have a right and **easement** of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:
- a. The right of the Partnership to construct and maintain signs in the Common Area.
 - b. The right of the Administrative Council to dedicate or transfer any part of the Common Area to any governmental agency, authority, or public or private utility for utility or related purposes.
 - c. The right of the Administrative Council to promulgate and enforce rules and regulations in connection with the use of the Property, consistent with the Bylaws of the Board and the provisions of this Declaration.
 - d. An Owner may assign his right of enjoyment to the Common Area and facilities to his tenants, guests and invitees, subject to such reasonable rules and regulations as may be promulgated by the Board of Trustees.

ARTICLE VIII Miscellaneous Provisions

- 8.01 Enforcement. The Administrative Council or the Board of Trustees shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, **liens** and charges now or hereinafter imposed by the provisions of this Declaration. Failure by the Administrative Council or the Board of Trustees to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 8.02 Restriction on subdivision. No lot, tract or parcel within the Partnership Industrial Center West shall be further subdivided by any Owner, and no portion less than all of any such Lot, nor any **easement** or other interest therein, shall be conveyed or transferred by an Owner, without the prior written approval of the Administrative Council of the Partnership Industrial Center West. Any duly authorized newly-created parcel thereafter shall be considered as one Lot.
- 8.03 Severability. Invalidation of any of the covenants or restrictions in this Declaration, by judgment or court order, shall not affect any other provisions of this Declaration, and all provisions which have not been specifically invalidated shall be deemed to remain in full force and effect.
- 8.04 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land from the date this Declaration is recorded. This Declaration may be amended by the Partnership from time to time by instrument in writing executed by the Administrative Council and recorded in the office of the Recorder of Deeds of Greene

County, Missouri; provided, that such amendments shall affect and be binding only those parcels, tracts or Lots then owned or thereafter acquired by the Partnership as part of the Property. No amendment shall be effective until it is recorded in the deed of records of Greene County, Missouri; and no amendment shall be deemed to have retrospective effect.

- 8.05 Violation and nuisance. Every act or omission whereby any provision of this Declaration relating to property use restrictions and property maintenance obligations is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated by the Partnership, the Board of Trustees, or by any Owner; provided, however, that only the Board of Trustees may enforce by self-help any of the provisions of these covenants. Any violation of state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within Partnership Industrial Center West is hereby declared to be a violation of this Declaration and shall be subject to the enforcement procedures set forth herein. Each remedy provided by this Declaration is cumulative and not exclusive.
- 8.06 Accounting procedures. The Board of Trustees shall maintain one or more bank accounts for the deposit of funds of the Board, whether raised by assessment or otherwise. In accordance with generally accepted accounting principles, the Board shall establish and keep books of account relating to the collection and disbursement of all Board funds, and the books of account shall be available at all times for inspection by Owners, members of the Board, and by members and representatives of the Partnership.
- 8.07 The Board of Trustees may from time to time establish committees, advisory groups, associations, or other groups composed of Owners or their tenants or both, under such terms and conditions and for such purposes as the Board may determine are beneficial to maintenance and management of the Property within the Partnership Industrial Center West; provided, however, that the Board may not delegate a duty which is imposed upon the Board nor delegate power or authority which is or may be granted to the Board under the provisions of this Declaration.
- 8.08 By executing and recording a supplement to this Declaration, the Partnership shall have the right at any time before it has conveyed all of the land subject to this Declaration to render other lands also subject and subservient to the Declaration if such land is contiguous, adjoining, or adjacent to the entire tract or some point thereof, or is separated from the Property only by a dedicated street.
- 8.09 Delivery of written notices and documents. Any written notice or other documents relating to or required by this Declaration may be delivered either personally or by mail. If by mail, delivery shall be deemed to have occurred on the third day after a copy of the notice or document has been deposited in the United States mail, postage prepaid, properly addressed to the intended recipient of the notice or document.

- 8.10 This Declaration and the separate provisions thereof shall be construed and enforced in accordance with the laws of the State of Missouri, and should any part of the Declaration be adjudicated, venue shall be proper only in the Circuit Court of Greene County, Missouri.

ARTICLE IX
Land Transferred From Airport

- 9.01 As used in this Article of the Declaration of Protective Covenants, the following words and phrases shall have the meanings indicated:

AAircraft@ shall mean any and all types of aircraft, whether now in existence or hereafter manufactured or developed, to include, but not limited to, jet aircraft, propeller drive aircraft, civil aircraft, military aircraft, commercial aircraft, helicopters, and all types of aircraft or vehicles now in existence or hereafter developed, regardless of existing or future noise levels or by whomever owned or operated, for the purpose of transporting persons or property through the air.

AAirport@ shall mean the Springfield-Branson Airport or its successor in interest.

AApproach Surface@ shall mean an imaginary surface longitudinally centered on the centerline of Runway 32 at the Airport and extending outward and upward at a bearing of South 38_13'10.85" East (True) and at a slope of one (1) foot vertical for each fifty (50) feet horizontal along said bearing from a Beginning Point two hundred (200) feet horizontal beyond the end (Station 20+00 at elevation 1267.73 feet) of said Runway 32. The Western outer-edge of said approach-surface slope extends from a point located South 51_46'49.15" West five hundred (500) feet horizontal to the right of and perpendicular to the above Beginning Point for said Runway 32 to a point located two thousand (2,000) feet to the right of and perpendicular to the centerline extended and which point is directly opposite a point ten thousand feet (10,000) along the centerline extended from the above Beginning Point. The Eastern outer-edge of said approach-surface slope extends from a point located North 51_46'49.15" East five hundred (500) feet horizontal to the left of and perpendicular to the above Beginning Point for said Runway 32 to a point located two thousand (2,000) feet to the left of and perpendicular to the centerline extended and which point is directly opposite a point ten thousand (10,000) feet along the centerline extended from the above Beginning Point.

ABoard@ shall mean the Board duly authorized to conduct the business of the Springfield-Branson Airport by the Charter and Code of the City of Springfield, Missouri.

ACity@ shall mean the City Council of Springfield, Missouri.

AOwner@ shall mean owner of the property, lot or any portion of the transferred land or his/its tenant or occupant.

ARunway Protection Zone@ shall mean the land area encompassed by that portion of the Approach Surface beginning 200 feet horizontal from the end of Runway 32 and ending Two Thousand Seven Hundred (2700) feet horizontal from said end of Runway 32 and designated the runway protection zone pursuant to Federal Aviation Administration regulations and guidance.

ATransferred land@ shall mean that land transferred from the use of the Springfield - Branson Airport by action of the Airport Board and the City Council respectively as recorded in the Office of the Greene County Recorder of Deeds at Book 2863 Page 1170 in a document titled **NOTICE OF FEDERAL RESTRICTIONS ON LAND USE, AUTHORIZATION TO CHANGE USE AND TO DISPOSE OF MUNICIPALLY OWNED LAND BY THE CITY OF SPRINGFIELD, MISSOURI.**

ATransitional Surface@ An imaginary surface that extends outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of one (1) foot vertical for each seven (7) feet horizontal from the outer-edges of the approach surface.

- 9.02 Land covered by Restrictions. All transferred land located within the Partnership Industrial Center West plat and any area licensed to such Center for use for storm water run-off or detention shall be subject to the conditions and restrictions of this Article and restrictions appearing of record in the **NOTICE OF FEDERAL RESTRICTIONS ON LAND USE, AUTHORIZATION TO CHANGE USE AND TO DISPOSE OF MUNICIPALLY OWNED LAND BY THE CITY OF SPRINGFIELD, MISSOURI** filed in the Office of the Recorder of Deeds of Greene County at Book 2863 and Page 1170.
- 9.03 Term of Restrictions. The restrictions contained in the ANotice of Transfer of Use and Federal Restrictions@ and these covenants shall continue in effect until the Springfield-Branson Regional Airport or its successor in interest is closed permanently for all airport purposes.
- 9.04 Land Use Restrictions on Interference with Aircraft.
- a. Reservation of right to operation. The City of Springfield is entitled for itself and its successors in interest, and for the use and benefit of the general public at large, the right to the free and unobstructed use, operation and passage of all types of aircraft, and aviation-related communications, radio waves, and radar surveillance, at unlimited numbers of operations and amount of usage, in and through the airspace (lying above the approach surface and transitional surfaces as defined herein) to an infinite height above said imaginary plane over and across the transferred land.

- b. Interference with Airspace Prohibited. During the life of these restrictions, no property owner, tenant or occupant of transferred land or any part thereof shall erect, permit the erection or growth of, or permit or suffer to remain upon the transferred land or any part thereof, without limitation, any building, structure, tree or other object, whether temporary or permanent) extending into the airspace above the approach surface, runway protection zone, or transitional surface that would create an airport hazard as defined by the Federal Aviation Administration or as amended from time to time, or interfere with aircraft of airport operations and that he/they shall not hereafter use or permit or suffer the use of the transferred land or any part thereof in such a manner as to create electrical interference with radio communications between any installation upon said airport and aircraft, or as to make it difficult for, or to impair the ability of, flyers to distinguish between airport lights and other lights, or to permit any use of the transferred land that causes a discharge of fumes, dust, or smoke so as to impair visibility in the vicinity of the airport, or as otherwise to endanger the landing, taking off, or maneuvering of aircraft.
 - c. Restrictions relating to Intrusions into Airspace. The owner of any parcel or lot subject to these covenants shall not allow any object (such as, without limitation, any building, structure, terrain, equipment, wire, pole, or vegetative growth), whether permanent or temporary, to intrude, and shall prevent any such object from intruding, into the airspace over and across any transferred land above, extending outward or upward, at the slopes described in the approach surface herein. Nothing shall be constructed, grown or allowed to remain which shall interfere with the operation of Aircraft or the airspace as described in Federal Aviation Regulation Part 77 (14 CFR Part 77) as amended from time to time or any successor regulation of similar import, whichever is the more restrictive on the owner or possessor of any lot or land that is contained within or a part of the transferred land. The airspace described herein shall be kept free of obstructions, and any obstruction to airspace shall be removed immediately.
 - d. Prohibited land uses. In addition to all other restrictions herein, the following uses shall not be allowed on the transferred land: churches, schools, offices and office buildings not accessory uses to manufacturing or other principle use of the premises, shopping centers, restaurants, childcare facilities, stadiums, fuel handling or storage facilities, or smoke generating activities or residences.
- 9.05. Runway Protection Zone. For and during the life of these covenants, no property owner, tenant or occupant of transferred land shall hereafter erect, permit the erection or growth of, or permit or suffer to remain upon the above described real property any structure in the Runway Protection Zone that is an airport hazard (as defined by current or future Federal Aviation Administration regulations and guidance) or which might create glare or misleading lights to aircraft pilots or lead to construction of residences, fuel handling or storage facilities, or smoke generating activities; and that it shall not permit upon the above-described real property places of public assembly, such as, without limitation, churches, schools, office buildings, shopping centers, restaurants, childcare facilities, and stadiums.

- 9.06 Rights of Airport, Board and City. Notwithstanding the transfer and change of the use of the transferred land, the Airport, Board and City shall have the absolute right of flight including but not limited to rights to cause in all airspace above or in the vicinity of the surface of the transferred land or any part thereof such noise, vibrations, fumes, deposits of dust or other particulate matter, fuel particles (which are incidental to the normal operation of said aircraft), fear, interference with sleep and communications, and any and all other effects that may be alleged to be incident to or caused by the operation or failure of aircraft or airport operations over or in the vicinity of the transferred land or in the landing or taking off from, or operating at or on, the Airport.
- 9.07 Waiver of Rights Against Airport, Board and City. Property owners, tenants and occupants of the transferred land now and in the future by this covenant waive, remise and release any right or cause of action which he/they/it, or its successors or assigns, may have now or in the future against the Airport, Board or City, successors and assigns, officers, employees and agents, including, but not limited to negligence, due to such noise, vibrations, fumes, dust, fuel particles and all other effects, that may be caused or may have been caused by the operation of aircraft landing at, or taking off from, or operating at or on said Airport.
- 9.08 Enforcement of Article IX. In addition to the rights of any other party to enforce any other covenants, the Board or the City shall have the absolute right to take any action deemed necessary to enforce the provisions of Article IX including but not limited to entry upon the premises to abate a nuisance or public safety hazard, to file for injunction relief in Court and to seek injunctive relief.
- 9.09 Right of Entry. Notwithstanding any other provisions of these covenants, the City, the Federal Aviation Administration or the Board shall have the absolute right to enter upon the transferred land after reasonable notice under the circumstances presented to remedy any condition that is a danger to or interferes with aircraft in the vicinity of the Airport, or which interferes with any operation of the Airport. Upon remedying such condition the Board may assess its costs incurred against the lots and owners of said lots where such condition was located and enforce such assessments in a court of law by a collection action. Additionally, the City, its Board or the Federal Aviation Administration (FAA), upon discovery of a violation of the reservations and conditions contained these covenants, shall give the party in violation notice of said violation. If the owner, tenant or occupant of the property fails to remedy said covenant violation immediately after receipt of said notice, both the FAA and the City or the Board, acting through its officers, employees, consultants, contractors, or representatives, have the right to enter upon the surface of the above-described real property to remedy, at owner, tenant or occupant's expense, said violation, without any compensation to or recourse by such person or entity in violation. In addition, both the FAA and the Grantor have the right to enter the above-described real property for the purpose of determining compliance with, and enforcing, the terms and conditions contained herein.

- 9.10 Beneficiaries of Restrictions and Waivers Contained in this Article. The rights and privileges and waivers contained in this Article shall inure to the benefit of the Airport, Board and City, its employees, agents and officers and their successors and assigns, guests, and invitee and any and all persons, firms, corporations, or other entities operating aircraft, or aviation-related communications, radio waves, or radar surveillance, to, from, or about said transferred land and and remaining Airport property now owned by City or hereafter acquired.
- 9.11 Additional Conditions and Restrictions. Any above-ground object proposed to be located anywhere on the transferred land or any part thereof must receive prior written approval from the Federal Aviation Administration before installation via filing of FAA Form 7460 (Notice of Proposed Construction or Alteration) or its successor, as amended from time to time. In addition, no structure, building or growth shall exceed fifty (50) feet above ground level anywhere on the above-described property. The AAirport Zoning Law@ provisions codified at RSMo "305.400 - 305.410 (1994) are applicable to the above-described real property, and all owners shall comply fully with the more restrictive of said provisions or the **easement** reservations and conditions contained within the deed conveying such land to owner.
- 9.12. Airport Surveillance Radar. An Airport Surveillance Radar (ASR) will be located at Latitude 37113'40.872488" and Longitude 93123'00.154687" in the SE-1/4 of the SW-1/4 of the S-1/2 of Lot 2 of the SW-1/4 of Section 7, Range 22 West, Township 29 North, Greene County, Missouri, which is not located on the property transferred herein. The following restrictions, reservations, and covenants shall apply to the area held and/or occupied by any owner of transferred land within a 1,500-foot radius of that location, and all owners, tenants and occupants, successors and assigns shall abide with the following restrictions, reservations, and covenants:
- a. No owner shall construct nor allow to be constructed structures of any kind that would protrude to and/or above elevation one thousand three hundred twenty-seven (1,327) feet above Mean Sea Level (MSL).
 - b. No owner shall knowingly interfere with the operation or functional integrity of the ASR to which this restrictive **easement** applies.
 - c. All owners shall provide the United States Federal Aviation Administration (or its successor) (herein **AFAA@**) with an FAA Form 7460-1, Notice of Proposed Construction or Alteration (or a successor form or any other form now or hereafter required by the FAA), for approval/disapproval of the construction style and building materials to be utilized for the construction AT ANY ELEVATION. Grantee, and its successors and assigns, shall submit said form to the FAA via Certified Mailing to the following address (which the FAA may change from time to time):

Federal Aviation Administration

Manager, Air Traffic Division, ACE-500
901 Locust, Room 364
Kansas City, Missouri 64106.

- d. No owner shall construct, nor allow to be constructed, buildings constructed with metal roofs or metal roof decking unless approved in writing by the FAA.
- e. No owner shall allow to be constructed buildings designed to utilize large areas of metal siding and/or plate glass without prior written consent of the FAA.
- f. No owner shall prohibit the FAA and/or its contractors and representatives to trim and/or remove, in their entirety, any trees, shrubs, and/or vegetative growth of whatsoever kind that may grow to or penetrate elevation 1327 MSL.
- g. No owner shall undertake or allow to be conducted any mining, gas or oil exploration within the **easement** area without prior written consent from the FAA.

Any building or structure erected or constructed within a 1,500-foot radius of the center of any existing, planned, or future ASR tower at said location shall not have any projection that extends to or above an elevation of 1,327 feet above Mean Sea Level (MSL). All roof surfaces within a 1,500-foot radius of the ASR tower either shall be continuously curved (similar to barrel-arch type construction) or, if flat roofs are used, shall have parapet walls or other type vertical construction above the roof line to eliminate all possible reflections from the flat roof. Any above-ground object proposed to be located within 1,500 feet of the ASR tower must receive prior written approval from the Federal Aviation Administration before installation via filing of FAA Form 7460 (Notice of Proposed Construction or Alteration), or its successor, as amended from time to time. Safety is a primary consideration.

- 9.13 Storm Water Detention, Retention and Discharge. No surface water retention facility shall be constructed or maintained on the property conveyed herein. No surface water detention facility shall be constructed or maintained on the property conveyed herein unless Grantee complies with all applicable federal, state and local (whether mandatory or advisory) laws, regulations, rules, orders and advisories including, without limitation, those to which an airport operator would be subject, and also including, without limitation, all FAA regulations, rules, orders and advisories, with a specific example being FAA Advisory Circular No. 150/5200-33, A Hazardous Wildlife Attractants On or Near Airports, as amended from time to time. The meaning of Adetention@ and Aretention@ shall be as defined in FAA Advisory Circular No. 150/5200-33. All surface water entering the real property of Grantor from the property conveyed herein shall be in

full compliance with all federal, state and local laws, regulations, rules, orders and advisories pertaining to surface water run-off. Should any surface water, originating on the property conveyed herein, fail to comply with any applicable laws, Grantee shall be solely responsible for any treatment, clean-up or remediation required or recommended by any controlling agency, and Grantee shall be liable for all incurred costs, fees and penalties.

9.14 No Right of Amendment or Granting of Any Variance. Notwithstanding any other provision of these Protective Covenants, no section, requirement, waiver, right or privilege contained in Article IX may be amended, or any variance granted, without the express written consent of the Board, the City and appropriate officials from the Federal Aviation Administration.

IN WITNESS WHEREOF, the undersigned Administrative Council of the Partnership Industrial Center West has caused this instrument to be executed on this _____ day of _____ 2001.

ADMINISTRATIVE COUNCIL OF THE
PARTNERSHIP INDUSTRIAL CENTER WEST

By: _____
Troy Compton, President

STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

On this _____ day of _____ 2001, before me appeared TROY COMPTON, to me personally known, who, being by me duly sworn did say that he is the President of the Administrative Council of the Partnership Industrial Center West, and that this instrument was signed on behalf of said Partnership Industrial Center West by authority of its Administrative Council and said TROY COMPTON acknowledged this instrument to be the free act and deed of the Administrative Council of the Partnership Industrial Center West.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal,
at my office in Greene County, Missouri, the day and year first above written.

Notary Public

My commission expires: _____

EXHIBIT A – PROPERTY DESCRIPTION