

AGREEMENT FOR PURCHASE AND SALE OF VACANT LAND

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under subcontract
with the City of
Oshkosh

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AGREEMENT FOR PURCHASE AND SALE
OF VACANT LAND

THIS AGREEMENT FOR PURCHASE AND SALE OF VACANT LAND (the "Agreement") is made and entered into on [insert date] (the "Effective Date"), by and between the City of Oshkosh, Wisconsin and [insert purchase name and address] ("Purchaser").

RECITAL

Purchaser desires to purchase Property described in Section 1 below from the Seller and Seller desires to sell the Property described in Section 1 below to Purchaser, and, accordingly, Seller and Purchaser desire to enter into this Agreement to set forth the terms and conditions of such purchase and sale.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Property Description. Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller, subject to all of the terms and conditions of this Agreement, a parcel of vacant land located in the Oshkosh Aviation Business Park at Wittman Regional Airport (the "Park") as shown and further described as [enter CSM information], such CSM attached and incorporated as Exhibit A to this Agreement (the "Property").
2. Conveyance. Seller shall convey at the Closing the Property with all privileges, rights, easements, hereditaments and appurtenances belonging to the Property, with merchantable title to the Property to Purchaser by general warranty deed free and clear of all liens and encumbrances, except municipal zoning ordinances and agreements entered under them, recorded easements and other restrictions of record, recorded Protective Covenants of the Park ("Covenants"), dedications or rights of way, and except for those title exceptions accepted by Purchaser pursuant to Section 6.1 (the "Permitted Exceptions").

3. Covenants. Purchaser understands the Property is part of the Park and is subject to restrictions set forth in the Covenants, including any future amendments, and such Covenants run with the Property. The Covenants are attached and incorporated into this Agreement as Exhibit B.
4. Occupancy. Seller shall give occupancy of the entire Property to Purchaser at the time of Closing unless otherwise provided in this Agreement.
5. Purchase Price. The purchase price of the Property ("Purchase Price") shall be [spell out price and put numbers in parenthesis (\$)]. Purchaser shall pay to Seller the Purchase Price at the Closing, in cash.
6. Conditions Precedent. Purchaser's obligations under this Agreement shall be subject to the following conditions precedent being satisfied to the satisfaction of the Purchaser (or waived by Purchaser in writing or as otherwise provided in this Section 6):

6.1 Title Commitment and Policy. Seller, at Seller's sole cost and expense, shall provide Purchaser, at least ten (10) days prior to Closing with a title commitment ("Title Commitment") for an Owner's Title Insurance Policy ("Title Policy") in a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin, covering the Property in the amount of the Purchase Price showing merchantable record title to the Property to be in Seller, with all General Exceptions deleted or endorsed over (including without limitation possession, mechanics' liens and taxes or special assessments not shown as existing by the public records exceptions), subject only to the Permitted Exceptions and other matters approved or waived in writing by the Purchaser, such Title Commitment to include a "gap" endorsement. At Closing, Seller shall cause the Title Insurer to issue the Title Policy to Purchaser (in accordance with the Title Commitment provided for in this Section 6.1). Purchaser shall be responsible for, at Purchaser's sole cost and expense, to provide any title evidence required by Purchaser's lender.

(a) Objections to Title of Record. At least five (5) days prior to Closing, Purchaser shall furnish to Seller written notification of any objections to or defects in title of record set forth in the Title Commitment which are not Permitted Exceptions. If Purchaser fails to give said notice prior to Closing, Purchaser shall be deemed to have accepted all matters then affecting title to the Property set forth in the Title Commitment. If Purchaser does give said notice, Purchaser shall be deemed to have accepted all matters set forth in the Title Commitment not set forth in the notice (provided Purchaser shall not be deemed to have waived any General Exceptions other than as specifically provided in this Section 6.1). After receipt of said notice, Seller shall have the right, at its election, to endeavor to cure such objections to or defects in title set forth therein and shall notify Purchaser of such election within two (2) calendar days. If Seller does elect to endeavor to cure such objections to or defects in title, it shall promptly commence and diligently pursue efforts to cure such objections. If necessary, the Parties shall agree to an extension of the Closing Date while Seller works to cure objections.

(b) Failure to Cure Objections. In the event Seller fails to cure Purchaser's objections to or defects in title of record prior to Closing, or if Seller shall determine that its efforts to cure will not be successful, Purchaser may either (i) waive such title objections to or defects in title and proceed with Closing or (ii) terminate this Agreement, by notice to Seller. In the event of termination, the parties shall have no further rights or liabilities under this Agreement and it shall be null and void.

6.2 Inspection. With prior notice to Seller, Purchaser and Purchaser's employees, agents, and representatives shall have the right to enter upon the Property at any reasonable time during normal business hours and make whatever tests or inspections, including environmental audits, of the Property that they desire to make at Purchaser's sole cost and expense. If Purchaser determines that such Property (including ingress and egress) is not acceptable to Purchaser in

Purchaser's sole discretion, Purchaser shall have the right to terminate this Agreement by written notice to Seller. In the event of such termination, the parties shall have no further rights or liabilities under this Agreement and it shall be null and void. If no notice is received from Purchaser at least three (3) calendar days prior to Closing that the Property is not acceptable, Purchaser shall be deemed to have accepted the Property.

6.3 Financing. Purchaser's obligation to close shall be conditioned upon Purchaser obtaining financing in an amount sufficient to purchase the Property and finance the construction of any planned improvements on the Property. If, after reasonable efforts, Purchaser fails to obtain financing, the parties shall have no further rights or liabilities under this Agreement and it shall be null and void. [optional clause if Purchaser is financing]

7. Conditions Precedent to Seller's Obligations. Seller's obligations under this Agreement shall be subject to the following conditions precedent being satisfied to the satisfaction of the Seller (or waived by Seller in writing or as otherwise provided in this Section 7):

7.1 Approval of Site and Building Plans. Purchaser's site and building plans shall have been approved by the Seller prior to Closing.

7.2 Approval of Transaction by the Economic Development Administration. Seller obtained a grant from the Economic Development Administration ("EDA") to help fund Property improvements including sewer, water, stormwater and road infrastructure. The EDA may require Seller to obtain its approval prior to selling the Property. If such approval is required, the sale is conditioned on that approval.

8. Property Condition; Environmental Audit. Seller makes no representations or warranties with respect to any environmental condition or any hazardous materials which may be contained on or affecting the Property, and sells the Property "As Is". Seller shall provide Purchaser with all environmental assessment reports of the Property in Seller's possession.

9. Closing. The purchase of the Property shall be consummated as follows:

9.1 Closing Date. The closing of the transaction contemplated in this Agreement shall be on or before [insert date] (the "Closing"), or such other date as may be agreed upon by Purchaser and Seller in advance. The Closing shall be held at the offices of Seller or title company chosen by Seller, or such other location as the parties may mutually agree.

9.2 Seller's Deliveries and Responsibilities. At Closing, Seller shall deliver to Purchaser the following:

(a) Deed. An executed general warranty deed to the Property prepared by Seller and in a form reasonably acceptable to Purchaser.

(b) Title Policy. The Title Policy provided for in Section 6.1.

(c) Recording. Documentation necessary to record the conveyance of the Property at Seller's expense. The conveyance is not subject to real estate transfer fee pursuant to Wisconsin law.

(d) Other Documents. Such other documents, instruments, certifications and confirmations as may be reasonably required by Purchaser to fully effect and consummate the transactions contemplated by this Agreement.

(e) Possession. Sole and exclusive possession of the Real Property.

(f) Special Assessments. Seller will pay any unpaid special assessments levied prior to Closing and any unpaid special assessments not yet levied at Closing but for work commenced prior to the Closing.

9.3 Purchaser's Deliveries and Responsibilities. At Closing, Purchaser shall deliver to Seller the following:

(a) Purchase Price. Purchaser shall pay to Seller in lawful money of the United States, the Purchase Price set forth in Section 5.

(b) Other Documents. Such other documents, instruments, certifications and confirmations as may reasonably be required by Seller to fully effect and consummate the transactions contemplated hereby.

9.4 Joint Deliveries. At Closing, Seller and Purchaser shall jointly deliver to each other the following:

(a) Closing Statement. An agreed upon closing statement.

(b) Transfer Tax Filings. Executed documents complying with the provisions of all federal, state, county and local law applicable to the determination of transfer taxes.

(c) ALTA Statement. An ALTA statement required by the title insurer.

10. Seller's Representations, Warranties and Covenants. In addition to all other representations, covenants and warranties by Seller herein, Seller hereby represents, covenants and warrants, as of the date hereof and as of the Closing as follows:

10.1 Ownership. Seller is the sole owner of and has good and merchantable fee simple title to the Property, free and clear of all liens and encumbrances, except municipal zoning ordinances and agreements entered under them, recorded easements, Covenants, dedications or rights of way and other restrictions of record, and the Permitted Exceptions.

10.2 Liens and Liabilities. Except for the Permitted Exceptions, the Property is not subject to any liens, encumbrances, security interests, liabilities, leases or judgments of any kind whatsoever.

10.3. Zoning and Development. The Property is zoned HI - Heavy Industrial and is suited for Purchaser's proposed development.

10.4 Leases. No other persons are in possession of the Property under any oral or written lease.

10.5 Encroachments. No improvements upon the Property encroach upon adjoining real estate, nor do any improvements upon adjoining real estate encroach upon the Property.

10.6 Special Assessments. There are no special assessments against the Property and there are no proceedings for special assessments against the Property.

11. Miscellaneous. It is further understood and agreed as follows:

11.1 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, and such counterparts together shall constitute one and the same instrument.

11.2 Survival. The representations and warranties contained in this Agreement shall survive the Closing and the delivery of the warranty deed without limitation.

11.3 Severability. If any provision of this Agreement shall be held to be void or enforceable for any reason, the remaining terms and provisions hereof shall not be affected thereby.

11.4 Binding Effect. The provisions of this Agreement shall insure to the benefit of and bind the successors and assigns of the parties thereto.

11.5 Amendment and Waiver. This Agreement may be amended at any time in any respect only by an instrument in writing executed by Seller and Purchaser. Either party may waive any requirement to be performed by the other hereunder, provided that said waiver shall be in writing and executed by the party waiving the requirement.

11.6 Integrated Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. No promises or understandings, either expressed or implied, exist between the parties with respect to the subject matter of this Agreement except as contained herein. This Agreement supersedes all representations, warranties, commitments, offers, promises, or contracts, of any kind or nature, whether oral or written, made prior to or contemporaneous with the execution of this Agreement.

11.7 Choice of Law. It is the intention of Seller and Purchaser that the laws of Wisconsin shall govern the validity of this Agreement, the construction of its terms and interpretation of the rights and duties of Purchaser and Seller.

11.8 Notices. Any notices or demands to be given by or on behalf of either party to the other as required by this Agreement, or otherwise, shall be delivered by personal service, by mail, postage prepaid, registered or certified, with return receipt requested or by facsimile or email to the parties at the addresses listed below, unless in the event of any change of address, the other party shall have been notified promptly in writing and said notice of change of address shall have been actually received by the other party prior to the time of giving notice. Notice shall be deemed when received for personal service, three days from the date of the postmark if by mail or the date received if for facsimile or email unless received after five p.m. on a business day or received on a weekend day, in which receipt shall be the next business day.

To Seller: City of Oshkosh
Attn: City Attorney

215 Church Ave, P.O. Box 1130
Oshkosh, WI 54903-1130
Fax: []
Email: []

To Purchaser:[insert name, address, fax and email]

IN WITNESS WHEREOF, the parties have caused this Agreement for Purchase and Sale of Vacant Land to be executed, as of the day and year first above written.

SELLER:
CIYT OF OSHKOSH

PURCHASER:

By: _____

By: _____

EXHIBIT A
TO AGREEMENT FOR PURCHASE AND SALE OF VACANT PROPERTY BETWEEN CITY OF
OSHKOSH AND []
DATED []

CERTIFIED SURVEY MAP
([insert] on pages following)

EXHIBIT B
TO AGREEMENT FOR PURCHASE AND SALE OF VACANT PROPERTY BETWEEN CITY OF
OSHKOSH AND []
DATED []

COVENANTS AND RESTRICTIONS GOVERNING THE OSHKOSH AVIATION BUSINESS PARK
([insert] on pages following)