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***ELIZABETH CITY-PASQUOTANK AVIATION RESEARCH
AND DEVELOPMENT COMMERCE PARK
PHASE 1***

DECLARATION OF COVENANTS AND RESTRICTIONS

PLEASE RETURN TO: WILLIAM H. MORGAN, JR., ATTORNEY
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Adopted May 11, 2009

**ELIZABETH CITY/PASQUOTANK AVIATION RESEARCH AND
DEVELOPMENT COMMERCE PARK
PHASE 1
DECLARATION OF COVENANTS AND RESTRICTIONS**

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**ELIZABETH CITY-PASQUOTANK AVIATION RESEARCH AND
DEVELOPMENT COMMERCE PARK, PHASE 1
DECLARATION OF COVENANTS AND RESTRICTIONS**

THIS DECLARATION, made this 11th day of May, 2009, by the City of Elizabeth City, hereinafter referred to as the "City".

WHEREAS, the City is the owner of that certain tract of real property known as the Elizabeth City-Pasquotank Aviation Research and Development Commerce Park, Phase 1 and more particularly described on "Exhibit A" which is attached hereto and incorporated herein by reference, and

WHEREAS, the real property is being developed as an aviation park to be known as the Elizabeth City-Pasquotank Aviation Research and Development Commerce Park ("Park") and the City desires to establish and secure enforcement of uniform protective covenants upon the use and development of the Park, and

WHEREAS, in order to sustain and make the economic base of the City of Elizabeth City and the County of Pasquotank more viable, it is the intent of the City to encourage businesses and educational programs relating to aviation within the Park

NOW, THEREFORE, by this instrument (the "Declaration") there are created, declared, and established in the Park the following protective covenants, easements, reservations, and requirements upon that certain real property described on Exhibit A attached hereto, which protective covenants, easements, reservations and requirements shall run with the land and remain in full force and effect.

This Declaration shall become effective on the date of recording, hereof, among the public records of Pasquotank County, North Carolina.

**ARTICLE 1
GENERAL DECLARATION**

Section 1.1 Plan Review

Site plans and specifications for improvements shall be submitted to the City with respect to proposed development or additional development of any parcel for approval. No development or additional development may take place until such plans have been approved in writing by the City. In reviewing and approving plans, the City will apply the Design and Construction Standards set forth in this Declaration.

Section 1.2 Right to Grant a Waiver from Protective Covenants

The right to grant a waiver from the requirements of the protective covenants and restrictions contained in this Declaration is expressly reserved by and unto the City with respect to any proposed development or additional development within the Park;

provided that the granting of a waiver with respect to a particular parcel shall not be deemed to constitute a waiver of such requirement or restriction to any other parcel. Waivers shall not be granted except in extraordinary circumstances and only in keeping with the overall development scheme of the Park.

ARTICLE 2 DEFINITIONS

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

“City” shall mean the City of Elizabeth City, North Carolina its successors and/or assigns.

“County” shall mean Pasquotank County, North Carolina

“Park” shall mean the Elizabeth City –Pasquotank Aviation Research and Development Commerce Park, Phase I

“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 3 of this Declaration.

“Parcel” shall mean lease parcels described by metes and bounds within the real property included within the boundaries of the plat entitled Elizabeth City-Pasquotank Aviation Research and Development Commerce Park, Phase 1 which is described on Exhibit “A”, and such real property that may hereafter be acquired by the City for purposes of expansion of the Park.

“Property” shall mean real property included within the boundaries of the plat entitled Elizabeth City-Pasquotank Aviation Research and Development Commerce Park, Phase 1 which is described on Exhibit “A”, and such real property that may hereafter be acquired by the City for purposes of expansion of the Park.

“Setback” shall mean a line located a minimum horizontal distance from the right-of-way line of any street/road or obstacle free zone, parallel thereto, between which and the right-of-way line no structure (to include steps, eaves, gutters, and similar fixtures) shall be erected, altered, or maintained; and also a line located a minimum horizontal distance from lot boundary or parcel lease lines parallel thereto, between which and the lot boundary or parcel lease line no structure (to include steps, eaves, gutters, and similar fixtures) shall be erected, altered, or maintained.

“Waiver” shall include use waivers and design and construction waivers.

Additional definitions shall be defined as in Zoning Ordinance of Pasquotank County, North Carolina as the same presently exists or may hereafter be amended. If the City decides to annex the property, then the City of Elizabeth City Unified Development Ordinance shall apply.

ARTICLE 3 DESIGN AND DEVELOPMENT STANDARDS

General Provisions

Section 3.1 Development Objectives

These objectives have been formulated to achieve a very high level of quality in the Park, while permitting this development to occur in an economically feasible manner. The objectives encourage the use of quality design, materials and workmanship in order to protect public and private investments made in the Park.

Section 3.2 Design and Development Standards

The standards identify a high level of design and development quality in the creation of the Park. As a statement of development requirements and guidelines, the standards are a ready reference for tenants of the Park and the City in guiding their investment decisions in the Park. These standards are intended to supplement, not replace, existing Pasquotank County Codes and Ordinances. These standards will be utilized by the City as a guide when a plan for a new structure is presented, and when expansion or major alteration of existing properties is proposed.

Section 3.3 Elizabeth City-Pasquotank Aviation Research and Development Commerce Park Review Authority

Review of all matters pertaining to the Design and Development Standards contained in this document shall be made by the City. Approval of plans, design, and materials must be given by the City prior to their use in, or for development in the Park.

Site Planning Standards

Section 3.4 Objectives

The objectives of the site planning standards are to enhance the aesthetics of the site development within the Park. 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 City or its designee may inspect the improvements covered by these standards to determine their continued adherence to the site planning standards.

Section 3.5 Setbacks and Yard Restrictions

Except as otherwise provided herein any and all buildings, structures, storage or display areas, or any part of projection thereof, must meet the following setback requirements:

<u>Road Front Zone</u>	<u>Side Yard (Corner)</u>	<u>Side Yard (Interior)</u>	<u>Rear Yard</u>	<u>Obstacle Free</u>
50 feet	30 feet	20 feet	30 feet	100 feet

Provided, however, that public utility structures such as electrical transformers and generators may be located within the setbacks.

Section 3.6 Parking

Off-street parking shall meet the requirements set forth in Pasquotank County Planning Ordinances as the same presently exist or may hereafter be amended except as follows:

All parking areas, driveways and walks shall be surfaced with bituminous concrete, concrete, asphalt, brick or an equal material approved by the City.

No on-street parking is permitted.

Section 3.7 Landscaping

Landscaped areas shall meet the requirements set forth in Pasquotank County Planning Ordinances as the same presently exist or hereafter be amended except as follows:

The 20 feet of any required side corner yard nearest the parcel line, the 10 feet of any required side yard parcel line, and 10 feet of the rear yard nearest the parcel line shall be maintained as a landscape buffer area.

Where parking bays abut a retention area, bumper stops and/or continuous curbing shall be provided at least seven (7) feet from the top of bank.

Section 3.8 Site Drainage

The flow of storm water from any parcel must comply with the overall approved stormwater plan for the Park issued by the North Carolina Department of Environment and Natural Resources, the City and by Pasquotank County.

Section 3.9 Fire Apparatus Access

Access to the site and the structure(s) thereon for firefighting purposes shall be provided in accordance with the appropriate sections of Chapter 5, North Carolina State Fire Code, as the same presently exist or may hereafter be amended.

Section 3.10 Loading

No on-street loading is permitted.

Section 3.11 Outside Storage

No outside storage shall be permitted until the location thereof is shown on the site plan and approved by the City. All outdoor storage of raw material, finished products or equipment shall be screened from public view in all directions. Any screening shall be selected, located and maintained to provide a visual barrier that is 75% or more opaque.

Section 3.12 Exterior Building Design Standards

A building elevation plan must be submitted to the City showing the dimensions, materials, and exterior color scheme in no less detail than required by the appropriate governmental authority for issuance of a building permit. Material changes in approved plans must be similarly submitted to and approved by the City.

Exterior walls of any buildings shall be finished with an enduring surface that is acceptable as determined by the City. A minimum 8-foot high masonry and/or precast concrete finish is strongly preferred.

Section 3.13 Lighting Standards

All exterior lighting of buildings and parking lots shall contain IES Standard "Full Cut Off" designed fixtures, so that no light is visible above the lowest light emitting part of the fixture.

Light poles, standards, and fixtures shall not exceed a height of thirty (30) feet above grade level. Light poles, standards, and fixtures that illuminate parking areas on parcels which abut residential properties and streets shall observe a maximum height of thirty (30) feet above grade level.

All exterior lights shall be designed and arranged in such a manner so that light is reflected away from adjacent private properties.

A lighting plan shall be submitted to the City which shall include height, type of fixture to be used and location along.

Section 3.14 Sign Standards

Signs permitted are those to identify the Park, those necessary for directional or informational purposes, and those to identify the tenant of the building site.

One sign to identify the tenant of a building site shall be permitted on the structure facing the road and the taxiway. The sign(s) shall be permanently affixed to the building façade and shall be limited to 1.5 square feet of sign area for each linear foot of building frontage. No part of any sign shall extend above the height of the building wall and/or

parapet. Sign materials shall be durable, attractive, and coordinated with materials used on the structure to which they are attached.

All signs, except those attached flat against the wall of a building, shall be constructed to withstand minimum wind loads as specified by the NC State Building Code. Sufficient documentation shall be submitted to the City for review to assure that wind and stress requirements have been met prior to any permit being issued. Such documentation shall be signed and sealed by a registered North Carolina Architect or Engineer.

One freestanding sign to identify the tenant of the building shall be permitted. The freestanding sign shall be a ground based monument style with a maximum height of five (5) feet (including supports) and have a message area of not more than 32 square feet. A minimum of 80 square feet of landscaping, consisting of at least 25% evergreens, shall be included at the base of the sign. Free formed landscaped areas are required.

Colors for sign bases (foundations, supports, and/or frames) shall be primarily neutral or earth tone (no primary colors). A limited amount of bright accents (primary colors), such as those found on corporate logos, are acceptable in sign messages but not on sign bases.

No sign shall be of intermittent or flashing light or neon lighting. Illumination shall be properly shaded so that the source of light will not be visible.

Section 3.15 Utilities

All utilities shall be installed underground. The City shall be the sole provider of electricity within the park subject to the provisions of North Carolina General Statutes § 62-110.2.

Section 3.16 Parcel Lease Lines

The City may adjust parcel lease lines as denoted within the boundaries of the plat entitled Elizabeth City-Pasquotank Aviation Research and Development Commerce Park, Phase 1 for the purpose of accommodating aviation tenants.

Section 3.17 Wastewater Standards

All harmful or industrial wastewater discharges must meet the requirements of all applicable City of Elizabeth City, state and federal laws as the same presently exist or may hereafter be amended or adopted. All costs to repair/replace city wastewater facilities/equipment caused by the failure to comply as well as any clean-up associated with damage caused by failure to comply shall be paid by the owner/tenant within 30 days of presentation of a statement by the City of Elizabeth City or shall become a lien on the business. In addition, any facility discharging in a manner in violation of any applicable law may be ordered by the City Manager to immediately cease all operations until a satisfactory method of discharge is provided. Requirements under the City of Elizabeth City Code of Ordinances, Chapter 90, Article IV Sewer Use and Pretreatment (as amended from time to time) shall be met.

Section 3.18 Potable Water

Pasquotank County will provide potable water which meets required quality standards at the minimum static pressure of 40 p.s.i., as measured at the nearest fire hydrant adjacent to the parcel. Any requirement for water pressure in excess of 40 p.s.i. is the responsibility of the parcel lessee or owner.

Section 3.19 Storage of Hazardous Materials

Corrosive or poisonous chemicals and compounds. No corrosive or poisonous chemicals or chemical compounds shall be stored, handled or dispensed in any manner that creates a substantial danger of leakage or danger of any damage to any person, property or the environment. Any such storage, handling, or dispensation shall be in strict conformity with all applicable city, county, state and federal laws and regulations.

Materials creating fire hazard. No person, firm or corporation shall store, handle or dispense any chemicals or chemical compound that creates a fire hazard, except by the use of on premises, equipment and methods that create substantially no fire hazard.

Storage. Storage of hazardous chemicals or material of an oxidizing nature such as nitrates, nitrites, chlorates, etc., shall be stored in dry places.

Bulk storage. Bulk storage or storage of two or more carboys of acid shall be outside in a screened yard or enclosure, or properly protected on the roof of the building, or in a special room provided with a suitable container for the character of acid in case of breakage or leak. As used in this section, the term "carboy" means a container of glass covered by another material holding one to ten gallons of liquid.

Isolation. The separation or isolation required of any chemical which is of a nature which in combination with another chemical or with organic matter may bring about a fire or explosion or may liberate a hazardous or poisonous gas.

Section 3.20 Solid Waste and Refuse Disposal

The disposal of solid waste and refuse must be in conformance with all applicable county, state and federal laws as the same presently exist or may hereafter be amended or adopted.

Section 3.21 Easements

Utility providers shall at all times have the right of ingress and egress over utility easements denoted on the approved site plan for the Elizabeth-Pasquotank Aviation Research and Development Commerce Park, Phase 1 for the purpose of installing, maintaining, repairing, operating and inspecting utilities such as water, sanitary sewer, electric, gas, telephone, cable television, stormwater etc.

ARTICLE 4
PERFORMANCE STANDARDS (NOISE)

Section 4.1 QUIET HOURS

Aircraft engine runs are not permitted within the Park between the hours of 10:00 PM and 7:00 AM with the exception of Sunday morning when the quiet time is extended to 12:00 Noon. In no such event, shall the decibel reading as measured from the property line exceed 65 dBc for all public space and business or commercial uses. In manufacturing or industrial uses, the decibel reading shall not exceed 75 dBc as measured from the property line of the Park.

ARTICLE 5
PERMITTED USES

Section 5.1 Permitted Uses

Permitted Uses shall include:

- Aviation Businesses and/or Aviation Support Activities
- Higher Education Facilities for aviation and research development

Warehouses, except as an accessory to a permitted use, shall not be permitted.

ARTICLE 6
CONSTRUCTION PERMITS

Section 6.1 Construction Permits

No structure shall be erected, altered, placed or permitted to remain, nor shall construction commence until plans and specifications therefore are submitted to and permits have been received from:

- Pasquotank County Planning Department for site plan approval in accordance with Article 13, "Administration and Enforcement" of the Pasquotank County Zoning Ordinance as it exists on the date of this Declaration or as it may be amended.
- Pasquotank County Building Inspections Department for building permits.
- City for site plan approval.

**ARTICLE 7
GENERAL MAINTENANCE**

Section 7.1 Maintenance

The owner or tenant with possessory interest in a parcel in the Park shall at all times, keep the site, building, improvements and appurtenances in a safe, clean, wholesome condition and comply in all respects with this declaration and all government, health and policy requirements. All landscaping and exterior portions of structures' shall be maintained in order to keep an attractive appearance. This includes that portion of street right-of-way between the paved portion of the street and the front and/or side parcel line.

Section 7.2 Water Retention Areas

Each owner/tenant shall be responsible for maintenance of water retention areas (Best Management Practices) required as part of the stormwater approval on his parcel.

Section 7.3 Remedies for Failure to Maintain Parcels

If any owner or tenant shall fail to perform the maintenance required by Article 5, the City, after ten (10) days prior written notice to such delinquent tenant, shall have the right, not the obligation, to perform such maintenance and to charge the delinquent tenant with costs of such maintenance, together with interest thereon at the rate of eight (8%) per annum from the date of advancement of City funds for such payment. If delinquent tenant shall fail to reimburse City for such costs within ten (10) days after demand therefore, the City may at any time within sixty (60) days after such advance, initiate termination of the lease with tenant.

**ARTICLE 8
SPECIAL PROVISIONS**

Section 8.1 Development Intention

An owner may lease a parcel after obtaining approval from City for such lease transaction and upon displaying to City's satisfaction that the proposed transaction meets the intent and standards set forth herein.

Section 8.2 Damage to Improvements

If improvements on any site, or any part thereof, shall be damaged or destroyed by fire or any natural disaster, the elements or other casualty, said improvements or part thereof shall promptly be repaired or restored to substantially the same condition as improvements were immediately prior to the casualty. The repair or restoration shall not commence until the plans and specifications have been approved in writing by the City and required permits have been obtained from Pasquotank County. In the event an election is made not to repair or restore the improvements, or portions thereof, the former

improvements shall be cleared and landscaped. All plans for clearing and landscaping shall have the prior approval of the City.

Section 8.3 Enforcement

The City shall have the right to enter upon any site and remedy any violation of this declaration, and such entry shall not be deemed a trespass.

The failure of the City to enforce any provision herein or to remedy any violation thereof, at any time, or from time to time, shall not constitute a waiver by the City of those or other provisions of these declarations.

Section 8.4 Amendments

(A) Modification by City. The City acting alone may modify or amend the provisions of the Declaration of Covenants and Restrictions provided:

1. That any such modification or amendments must be within the spirit and overall intention of the development as set forth herein;
2. Shall obtain approval of appropriate governmental agencies to such modification or amendment; and
3. Prior to approval of any such modification or amendment the City shall notify all tenants within the Park. Written notice shall be provided to tenants by the City thirty (30) days prior to a City Council meeting at which the proposed modifications or amendments will be considered. Tenants may provide written comments or make oral comments at the meeting regarding the proposed modifications or amendments. City Council shall act upon the request within 30 days following said meeting

(B) Tenant request for Modification. Tenants shall submit request for modification or amendment to the provisions of the Declaration of Covenants and Restrictions to the City. After review of the tenant's request, the City may modify or amend the Declaration of Covenants and Restrictions provided:

1. That any such modification or amendments must be within the spirit and overall intention of the development as set forth herein;
2. Shall obtain approval of appropriate governmental agencies to such modification or amendment; and
3. Prior to approval of any such modification or amendment the City shall notify all tenants within the Park. Written notice shall be provided to tenants by the City thirty (30) days prior to a City Council meeting at which the proposed modifications or amendments will be considered. Tenants may provide written comments or make oral comments at the meeting regarding the proposed modifications or amendments.

Section 8.5 Severability

Invalidation of any of the covenants and restrictions contained herein by judgment, court order or otherwise shall in no way affect any of the other covenants and restrictions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned City of Elizabeth City has caused this instrument to be executed on this 11th day of May, 2009.

City of Elizabeth City

Stephen S. Arthur
Mayor



Jeanne A. Pierce-Tamples
City Clerk

STATE OF NORTH CAROLINA
PASQUOTANK COUNTY

I, Katherine W. Felton, a Notary Public of the County and State aforesaid, certify that Jeanne S. Pierce-Tamples personally came before me this day and acknowledged that she is the Clerk of the City of Elizabeth City, a body politic, and that by authority duly given and as the act of the City Council the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by her as its Clerk.

Witness my hand and official stamp or seal, this 11th day of May, 2008.

Katherine W. Felton
Notary Public

My Commission Expires: 01-16-2012



“EXHIBIT A”
RESTRICTIVE COVENANTS
LEGAL DESCRIPTION

All those certain tracts or parcels of land, containing 15.11 acres and 48.49 acres, as shown and delineated on that certain plat entitled in part, “Exempt Subdivision for Elizabeth City State University”, said plat being recorded in Map Book 51, at Page 11, of the Pasquotank County Registry, which plat is incorporated herein by reference for a more particular description of the tracts of land which are subject to these Restrictions and Covenants.