

## **INTERGOVERNMENTAL AGREEMENT BETWEEN WINNEBAGO COUNTY FOR WITTMAN REGIONAL AIRPORT AND CITY OF OSHKOSH**

This INTERGOVERNMENTAL AGREEMENT is made and entered into by and between Winnebago County as Owner of Wittman Regional Airport (“Airport”), and the City of Oshkosh (“City”).

### **RECITALS**

**WHEREAS**, the Winnebago County is the owner of Wittman Regional Airport, located partially within the City of Oshkosh; and

**WHEREAS**, the Airport desires to permit the City to construct and maintain a storm sewer pipeline upon and beneath a portion of the northeast quadrant of the Airport, including manholes, surface grates, inlets or similar features at a location described on Exhibit A attached hereto and incorporated herein; and

**WHEREAS**, the installation of the City’s storm sewer pipeline is identified in the City’s Glatz Creek Stormwater Management Plan as a city-funded project designed to reduce flooding potential of 20<sup>th</sup> Avenue and businesses, hangars, and aircraft operational areas on the Airport contiguous to 20<sup>th</sup> Avenue; and

**WHEREAS**, it is in the best interest of the City and the Airport to prevent potential flooding events so as to protect Airport-owned, City-owned, and privately-owned property from damage and destruction; and

**WHEREAS**, the City and Airport concurrently with this Agreement will enter into a easement allowing the installation, maintenance and operation of the storm sewer upon the Airport property; and

**WHEREAS**, the installation and maintenance of a storm sewer pipeline on and under Airport property, and further integrating the Airport’s Taxiway B reconstruction project and the City’s storm pipeline with combined construction management will produce financial benefits to both City and Airport, and

**WHEREAS**, Airport currently pays significant Storm Water fees associated with the impervious surfaces on the Airport property; and

**WHEREAS**, the installation and maintenance by the City of a storm sewer pipeline on and under Airport property does not prohibit the Airport from applying for storm water credits from the City; and

**WHEREAS**, City and Airport recognize that storm water needs and the structure of storm water fees may change over the term of this Agreement which may necessitate review of the Agreement from time to time.

## **AGREEMENT**

**NOW THEREFORE**, in consideration of the foregoing, and subject to any conditions contained herein, Airport and City agree as follows:

In consideration of Winnebago County as owner of Wittman Regional Airport granting to the City of Oshkosh a Conditional Limited Easement, the City of Oshkosh shall pay to Winnebago County a lump sum payment within 30 days upon the execution of this Agreement of Fifty Thousand Dollars (\$50,000.00). In addition to this lump sum payment, each year for the next 50 years the City shall make an annual payment in the amount of \$0.25 per square foot of the total square footage of the storm sewer pipeline easement (154,754 square feet). At each five-year anniversary of the commencement of this agreement, this fee shall increase five percent (5%). Payment shall be made on or before \_\_\_\_\_ each year. Each entity shall have the option to request renegotiation of the payment amount and/or terms of payment at each five (5) year anniversary of this Agreement. Requests shall be made in writing directed to the Director of the Airport or the City of Oshkosh Director of Public Works. The annual payment shall cease if Airport no longer pays storm water fees for airport runways or if the stormwater fee for the airport property is less than the annual payment as provided in this paragraph. The parties shall meet and renegotiate this payment if any portion of the airport property becomes exempt from storm water fees or the method of calculation of fees for the airport property is materially altered.

The easement shall provide that the City of Oshkosh will be responsible for all maintenance on the storm water pipeline, except as damage may be caused by Airport, its employees, contractors, agents or assigns. The easement shall provide that City will provide reasonable notice to the Airport if it needs to access the Airport for maintenance of the pipeline, and will further coordinate with the Airport if it needs to work within runway or taxiway safety areas.

If future airport development dictates the relocation of the storm sewer pipeline, the City will be responsible for the costs and work to relocate the pipeline to a location agreeable to both the City and the Airport. If such relocation is required, Airport and City will reopen this Agreement for the purpose of renegotiating the agreed upon payments to take into consideration these additional costs.

Initial construction of the storm sewer pipeline will be completed as a part of the reconstruction and realignment of Taxiway B Project. OMNNI Associates has entered into an agreement with the State of Wisconsin Department of Transportation Bureau of Aeronautics to provide project management for both the City's storm sewer pipeline project and the Airport's Taxiway B reconstruction project. Vinton Construction Company will construct the project including the storm sewer pipe line. Winnebago County will enter into an intergovernmental agreement with the State of Wisconsin for this project to be completed in two phases. The City of Oshkosh will pay to Winnebago County one million seven hundred ninety-eight thousand dollars (\$1,798,000.00) for Phase 1 of the storm sewer

pipeline portion of this project within 30 days of the execution of this agreement. This payment is an estimated amount and the City will be billed any difference for the actual amount of the project costs if the projects costs are in excess of the \$1,798,000.00. Winnebago County will refund to the City any amount less than the \$1,798,000.00 if the actual project costs are less than this estimated amount. Any excess payment or refund shall be paid within 60 days of the calculation of the final payment amount. No City funds will be used for any portion of the Airport's Taxiway B reconstruction project, and no Airport, FAA, or BOA funds will be used for any portion of the City's storm water pipeline project.

Notices: Any notices required by this Agreement shall be in writing and delivered via certified mail, return receipt requested, as follows. Changes to these addresses shall be in writing. In addition to formal notification, both parties agree to take reasonable measures to keep the other party informed of issues or questions regarding the Agreement.

For: Winnebago County  
c/o Airport Director  
P.O. Box 2808  
Oshkosh, WI 54901-2808

For: City of Oshkosh  
c/o Director of Public Works  
P.O. Box 1130  
Oshkosh, WI 54903-1130

Termination: This Agreement may only be terminated by either or both party/parties under the following circumstances:

- i. By mutual agreement of the parties, at any time.
- ii. At the sole discretion of the City, if the storm water pipeline is abandoned, removed, or relocated to City right-of-way or other property.
- iii. At the sole discretion of the Airport, if the provisions of any existing or future agreements between Winnebago County and the United States or the State of Wisconsin relative to the operation of the airport require removal or relocation of the storm sewer outside of the Airport property or termination of this Agreement.
- iv. At the sole discretion of the Airport, if the City fails to perform any of the City's material obligations under the Agreement and such failure is not cured within a reasonable time after receipt of a written notice from the Airport.

AUTHORITY: Airport affirms that all necessary boards and elected officials have approved the acceptance of this Agreement, and that the undersigned have the authority to sign this agreement on behalf of the Airport. City affirms that all necessary boards and elected officials have approved the acceptance of this Agreement, and that the undersigned have the authority to sign this agreement on behalf of the City.

This agreement shall be subordinate to the provisions of any existing or future agreement between Winnebago County and the United States or the State of Wisconsin relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal or state funds for the development of the airport, Furthermore, this agreement may be amended to include provisions required by those agreements with the United State of the State of Wisconsin.

SIGNATURE PAGE FOLLOWS:

IN WITNESS WHEREOF the parties have caused this agreement to be executed by their proper officers thereunto duly authorized as of the day and year above written.

Dated this \_\_\_\_ of \_\_\_\_\_, 2015.

**WINNEBAGO COUNTY**

By: \_\_\_\_\_  
Mark L. Harris, County Executive

By: \_\_\_\_\_  
Susan T. Ertmer, County Clerk

Approved as to Form:

By: \_\_\_\_\_  
John Bodnar, Corporation Counsel

**CITY OF OSHKOSH**

BY: \_\_\_\_\_  
Mark A. Rohloff, City Manager

By: \_\_\_\_\_  
Pamela R. Ubrig, City Clerk

By: \_\_\_\_\_  
Trena Larson, Finance Director

Approved as to Form:

By: \_\_\_\_\_  
Lynn A. Lorensen, City Attorney