



\*\*\* All present are expected to conduct themselves in accordance with our City's Core Values \*\*\*

## OFFICIAL NOTICE AND AGENDA

of a meeting of a City Board, Commission, Department, Committee, Agency, Corporation, Quasi-Municipal Corporation, or sub-unit thereof.

Meeting of the: **AIRPORT COMMITTEE**  
Date/Time: **Tuesday, July 22, 2014 @ 6:30 pm.**  
Location: **Wausau Downtown Airport Terminal Building Conference Room**  
Members: William Nagle (C), Sherry Abitz, Karen Kellbach, Robert Mielke, Bob Mohr, Dick Gehrt, Fred Prehn

### **AGENDA ITEMS FOR CONSIDERATION (All items listed may be acted upon)**

- Call to Order/Roll Call
- 1 Consider minutes of previous meetings - May 14, 2014 and May 19, 2014
  - 2 Consider selection of Airport Committee Vice Chair
  - 3 Discussion and possible action on tape recording of Airport Committee meetings, dissemination of minutes - Abitz
  - 4 Airport Manager Report - Chmiel
  - 5 Airport Budget Review - Groat
  - 6 Discussion and possible action on draft Wausau Downtown Airport Access Agreement to permit potential adjacent property owner(s) to access Airport directly from residential property through security fence - Alfonso
  - 7 Discussion and possible action on sale of Coe Hangar to Burt - Chmiel
  - 8 Discussion and possible action on adjusting Kocourek Hangar dimensions from 100' X 100' to 100' X 116' - Chmiel
- Adjournment

William Nagle  
Chairperson

**IMPORTANT: FOUR (4) MEMBERS NEEDED FOR A QUORUM:** If you are unable to attend the meeting, please notify Mary by calling (715)261-6621 or via email [mary.goede@ci.wausau.wi.us](mailto:mary.goede@ci.wausau.wi.us)

This Notice was posted at City Hall and faxed to the Daily Herald newsroom on 7/15/14 @ 9:00 am

Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids & services. For information or to request this service, contact the City Clerk at (715) 261-6620.

Other Distribution: Media, Council (Wagner, Nutting, Neal, Gisselman, Oberbeck, Rasmussen, Winters) Tipple, Chmiel, Groat,\*Alfonso, Duncanson

## AIRPORT COMMITTEE

Time and Place: Wednesday, May 14, 2014 at 6:00 p.m. at the Wausau Downtown Airport Terminal Conference Room

Members Present: Mohr, Kellbach, Mielke, Abitz, Nagle (arrived 7:15 p.m.)

Members Excused: Gehrt, Pauls

Others Present: John Chmiel, Airport Manager, Tara Alfonso, Assistant City Attorney, Bill Duncanson, Director of Parks & Recreation

In accordance with Chapter 19, Wisconsin Statutes, notice of this meeting was posted and copy sent to the Daily Herald in the proper manner.

In absence of Chairman Nagle, Kellbach called the meeting to order at 6:22 p.m. Duncanson requested that "Discussion and Possible Action on Radtke Point Stabilization Engineering Request for Proposals" be moved to the front of the airport agenda since he had another meeting at 7:30 p.m. The airport committee unanimously agreed.

### Discussion and Possible Action on Radtke Point Stabilization Engineering Request for Proposals (RFP) - Duncanson

Duncanson explained that in 2013 Schofield and Wausau had agreed to participate equally in the cost for engineering/design services required for the stabilization project on the river bank at Radtke Point Park. With the funding now available from both communities it is appropriate to create a selection committee made up of representatives from both communities. Both communities agreed to fund the engineering and design matching \$12,500 each. Abitz asked what the estimated timeframe for the project was. Duncanson stated that designs would not be completed most likely until fall, too late to begin the repair project in 2014. Spring 2015 would be the earliest that repairs would begin. The selection committee is NOT authorizing cost of construction, only selecting a engineering and design proposal. Duncanson stated the airport committee should select a representative to be on the selection committee. Chmiel was chosen. Chmiel stated that he did not have the expertise in engineering and design and felt he would be more comfortable if an airport committee member also be assigned to the selection committee and recommended Bill Nagle. Due to Nagle's absence the committee agreed that Chmiel and Nagle should be appointed to the selection committee contingent upon Nagle's agreement. Mohr made a motion to approve the RFP as presented and direct Parks & Recreation department to advertise for bids contingent City of Schofield approval. Mielke second. Motion approved 4-0.

## Minutes of Previous Meeting

The minutes of May 12th, 2014 were reviewed and placed on file. Kellbach moved to approve the committee minutes as submitted, second by Mohr. Motion approved 4-0

## Airport Manager's Report – Chmiel

Chmiel apologized to the new airport committee members for the intensity of the May airport committee agenda and stated that normally new airport committee members would be given an orientation tour of the airport prior to their first airport committee meeting. Chmiel, Abitz, and Mielke agreed to discuss a mutually agreeable day/time for an airport tour after the airport committee meeting. Mohr stated that he would also assist with the airport tour. Alfonso reminded the committee members that if 4 committee members were present during the tour that it would have to be an official airport committee meeting with a posted agenda. Chmiel explained the Airport Manager's Report for May 2014; and the report was placed on file. See copy on file.

## Airport Budget Review - Groat

Groat was unable to attend the airport committee meeting due to interference with another City Department meeting. It was decided that the airport budget review would be tabled until the July airport committee meeting.

## Wausau Downtown Airport Access Agreement Update - Chmiel

Alfonso stated that the City Attorney's office had not been able to work on the airport access agreement since the last airport committee meeting. The City Attorney's office workload from other City business demands had required them to prioritize their work load. Since there was no immediate request for an access agreement to the airport the Attorney's office decided to work on the agreement after catching up with the other legal demands of the City.

Chmiel stated that although there were no adjacent property owners who were immediately interested in an airport access agreement, there is an airport tenant who is interested in the City creating an agreement. Al Woldt has stated that if an acceptable agreement could be created it would increase his interest in purchasing property adjacent to the airport and execute an airport access agreement. He would then also build a hangar (a requirement of the access agreement).

Alfonso recommended that Chmiel discuss the situation with Anne Jacobson. Chmiel questioned if it would be helpful to the City Attorney's office to have Mr. Woldt and Chmiel create a rough draft agreement that the airport committee could review and modify. Alfonso stated that she didn't think that would be a labor saver and again recommended that Chmiel contact Jacobson.

Chmiel briefly explained to the new airport committee members a description of what an airport access agreement would allow. He explained that the BOA/FAA also stated that there would also be no way that airport land could ever be leased for residential use or development. Using airport property as a residence is strictly prohibited by the FAA. Chmiel stated that he felt that he was in favor of allowing private access to airport property, but only if construction of a hangar leased on airport property was part of the agreement. Chmiel went on to explain that the private property owner would have to meet similar requirements as are currently stated in accepted “through the fence agreement” RTTF in order to allow airport access. Chmiel stated that at a minimum, an airport access agreement should include the following FAA RTTF requirements: To gain access, the property owner is required to pay access charges; bear the cost of building and maintaining the infrastructure necessary to provide access to the airfield; maintain the adjacent property for residential, noncommercial use for the duration of the agreement; prohibit airport access from other adjacent or nearby properties; and prohibit any refueling on the property. Chmiel stated that a long term agreement would be necessary and that would be accomplished through the execution of a land lease agreement for hangar construction.

Chmiel stated that preparing an airport access agreement specific to the Wausau Downtown Airport that would take all affected parties into consideration could open future opportunities at the airport and if we start working on it now we will be ready when the opportunity presents itself. Chmiel reiterated that unless the airport access agreement was BOA/FAA endorsed there was no point in pursuing it any further. The committee agreed. No further action taken.

### Discussion and Possible Action on Kocourek Hangar Construction – Chmiel

Chmiel stated that Keith Kocourek is requesting to build a 100’ X 100’ hangar east of corporate hangar #4. The exact location had not yet been determined and would depend on whether utilities can be moved. Keith would like to be in the area 20’ directly east of corporate #4, but the cost of moving utilities in that area may require the hangar be built east of that area. Either location is OK with Chmiel. Kocourek has already been approved to build a hangar on these locations twice before. After approval, Kocourek had decided that not building the hangar was in the best interest of Kocourek and the airport, and Kocourek allowed the permits to expire. Kocourek operates 3 aircraft which are tenants in corporate hangar #4. Chmiel stated that Kocourek building a hangar was definitely in the best long term interest of the airport. It would hurt corporate hangar revenues in the short run. Kocourek was motivated to construct the hangar this time because he also had other construction projects taking place in Wausau and could save some of the costs because of the other projects.

Chmiel stated that the proposed roof shape of the Kocourek hangar was slightly different than the existing hangars at the airport. Chmiel presented a design picture to the airport committee showing the shape of the hangar which has a curved roof line. Chmiel stated that hangars on other parts of the airport were required to match the color of the existing privately owned hangars. Chmiel stated that the Kocourek hangar location should allow Kocourek two choices in

color since corporate hangar #4 is the only white hangar on the airport. The other color available to Kocourek would be the tan color on corporate hangar #3 which matches the color of the other existing private hangars on the airport. Chmiel also stated he believed that the cost of ramp installation would be Kocourek's responsibility, but that he would confirm that before council approval.

Chmiel reminded the committee that if the airport committee approved the proposal that the proposal would also have to be approved by the finance committee, have a public hearing through planning and also be approved by City Council. Construction of a privately owned hangar on leased land at the airport is good for the City. It allows for development of airport property at private expense, earns revenue for the airport through lease of airport property, and earns revenue for the City through property taxes assessed at the value of the hangar.

Mohr made a motion to approve the Kocourek hangar construction proposal with no changes. Kellbach second. Motion approved 4-0. Chmiel stated he would get the Kocourek hangar construction request on the next finance committee agenda. No further action taken.

### Discussion and Possible Action on Airport Engineering Consultant Selection – Chmiel

Chmiel explained that most capital projects at the airport are funded with FAA and BOA financial participation. Most of the projects are 95/5 or 80/20 with the FAA shouldering the majority of the financial burden. Wisconsin is a block grant state which means that the FAA allows the BOA to act as its representative to determine prioritization of projects within the state and to ensure that projects are conducted within FAA requirements.

Part of this process includes choosing an airport engineering/consulting firm for the airport. Chmiel stated that in the past he felt it was part of his airport management duties to make this choice and in the past he had made this decision without consulting the airport committee. For the purposes of transparency, Chmiel felt that the airport committee should select the airport engineering company this year.

Chmiel explained that three companies had forwarded their letters of interest to the BOA about becoming the airport engineering/consultant for Wausau Downtown Airport. The companies expressing interest were: Becher/Hoppe of Wausau, Omni Associates of Appleton, and MSA of Middleton. Chmiel explained that the information package describing each company had been included in the information package for the airport committee meeting. Chmiel went on to explain that Becher/Hoppe has been the airport engineering/consultant for the Wausau Airport since before he became the airport manager in 1992. During that time he has not had any complaints about the work they have done for the Wausau Airport. Since their offices are located minutes from the Wausau airport it is easy to consult them in a timely manner on current

and future projects at the airport. For these reasons, Chmiel stated that Becher/Hoppe would be his first choice. (Nagle arrived 7:15 p.m.)

Alfonso questioned whether Becher/Hoppe was the lowest bid or offered the lowest rates for their services. Chmiel stated that he did not know and that he was not sure how that could be determined. Chmiel explained that the choice was not typically made based on cost of services but on qualifications. Since the FAA/BOA pay the majority of the cost for capital projects that the City did not typically decide whether the cost of services was reasonable and that the BOA made that decision. Alfonso questioned if allowing the BOA to make that decision fit within the City policy. Alfonso questioned how the City could determine that Becher/Hoppe offered the lowest rates of the 3 represented firms. Nagle questioned Chmiel about what projects are planned for the airport. Chmiel stated that a crack sealing project on all surfaces at the airport was planned for 2014. Nagle asked what the cost would be. Chmiel stated that had not been determined yet and therefore no engineering/design costs could be determined. Nagle explained to the committee that engineering/design rates are typically based on the project and that since no projects had been enacted at the airport that there would be no way to determine how the engineering/design firms would charge for their services. Alfonso reiterated how the City needed to determine whether the process allowed the airport to follow City policy.

Mielke stated that he was comfortable with Chmiel's recommendation because Becher/Hoppe was a Wausau company. Kellbach and Abitz both stated that that was precisely a good reason and a bad reason to choose Becher/Hoppe. Alfonso reiterated that it also does not address the cost for services. Mohr, Mielke, and Abitz stated that they would like more time to review the letters of interest from each company. Abitz concluded by saying that since the airport committee members would need more time to review and consider options, and that since Alfonso would need more time to research City policy and BOA policy for choosing the engineer/design firm that a special airport committee meeting should be called soon to decide on this matter. Abitz questioned Chmiel about the urgency of the decision. Chmiel stated that he had hoped a decision could be made tonight so the BOA could choose a firm and start on the crack sealing project ASAP. Chmiel questioned if the committee would be comfortable with approving Becher/Hoppe contingent upon Alfonso being satisfied that City policy would not be violated after conferring with the BOA. Alfonso was not comfortable with having the committee make the decision until after she had conferred with the FAA.

Mielke made a motion to call a special meeting on Monday, May 12<sup>th</sup> at City Hall at 4:30 p.m. Mohr second. Motion passed unanimously 5-0.

Mielke moved to adjourn the meeting, second by Mohr. Motion carried unanimously and meeting adjourned at 8:05 p.m.

## AIRPORT COMMITTEE

Time and Place: Wednesday, May 19, 2014 at 4:30 p.m. at City Hall, 407 Grant Street, in the Birch Room

Members Present: Mohr, Kellbach, Mielke, Abitz

Members Excused: Gehrt, Pauls, Nagle

Others Present: John Chmiel, Airport Manager, Tara Alfonso, Assistant City Attorney

In accordance with Chapter 19, Wisconsin Statutes, notice of this meeting was posted and copy sent to the Daily Herald in the proper manner.

In absence of Chairman Nagle, Abitz called the meeting to order at 4:40 p.m.

### Discussion and Possible Action on Selection of Airport Engineering Consultant

Abitz ask the committee members present if they had a preferred engineering consultant after reviewing the Letters of Interest from Becher Hoppe, Omni, and MSA. The airport committee members present unanimously agreed that Becher Hoppe was the right choice. Kellbach commented that having the ability for quick review and response due to Becher Hoppe's office location being in Wausau ranked them high. Mohr stated that he had been satisfied with the work that Becher Hoppe has done for the Wausau Airport in the past and that they were indeed familiar with the Wausau Airport ALP and knew what the City's future goals were.

Abitz stated that MSA had ranked second after her review. MSA's history of military base contracts indicated they have the airport expertise required. Kellbach agreed.

Mohr made a motion that the airport committee rank the engineering consultants: 1. Becher Hoppe; 2. MSA, 3. Omni. Mielke 2<sup>nd</sup>. Motion approved 4-0.

Mielke moved to adjourn the meeting, second by Mohr. Motion carried unanimously and meeting adjourned at 4:55 p.m. Next meeting 6:00 p.m. on July 9<sup>th</sup>, 2014 in the conference room at the Wausau Downtown Airport.

**AIRPORT MANAGER'S REPORT**  
**July 2014**

**A. FUEL SALES**

Fuel Type	2012	2013	2014	2013/2014 % Change
<b>92 OCT Auto</b>	227	238	276	16
<b>100LL</b>	2456	1810	2330	29
<b>Jet A</b>	5544	9043	9374	4
<b>Monthly Totals</b>	8227	11091	11980	8

**B. YEAR TO DATE FUEL TOTALS**

2012	2013	2014	2013/2014 % Change
39,551	47,748	51,544	8.0

**C. AIRPORT OPERATIONS**

Active Wausau Based Aircraft:	44
<u>Inactive Wausau Based Aircraft:</u>	<u>43</u>
Total Wausau Based Aircraft:	87

**TOTAL ESTIMATED FLIGHT OPERATIONS : 2978**

**Companies Utilizing the Wausau Downtown Airport**

(Not Including Aviation Companies)

BILCO Leasing	Pawn America
Marathon County Courthouse	Jefferson St. Inn
Marshfield Clinic/Spirit 2	Pediatric Dental
State of Wisconsin Governor	Aspirus
K & A Manufacturing	Kocourek Automotive
Courtyard Marriott	Eagle's Nest
Boat Pix	Great Dane
TransCanada Pipeline	Miron Construction
TCF National Bank	the Mint

Wausau Supply Company

Valley Medical

County Material

St. Claire's

Prehn Cranberry Co.

Mesko LLC.

River Valley Bank

Bushman's

Nueske's

Enterprise Rental Car

Krist Oil

Wynn Jones & Associates

Culvers

Vortex Tool

Best Western

Connexus

Skyward

All American Taxi

#### **D. AIRPORT MAINTENANCE**

Lighting Systems: All OK  
Vehicles: All OK  
Snow Removal: All OK  
Buildings: All OK

#### **E. AIRCRAFT RENTALS**

Month	2012	2013	2014	2013/2014 % Change
<b>January</b>	27.5	12.8	2.0	-84.4
<b>February</b>	31.2	11.4	6.2	-45.6
<b>March</b>	32.8	28.7	18.1	-36.9
<b>April</b>	54.1	23.7	21.3	-10.1
<b>May</b>	46.2	26.2	30.3	15.6
<b>June</b>	68.9	54.0	69.4	28.5
<b>July</b>	65.3	79.7	0.0	-100.0
<b>August</b>	60.4	88.9	0.0	-100.0
<b>September</b>	24.6	92.2	0.0	-100.0
<b>October</b>	39.1	50.0	0.0	-100.0
<b>November</b>	26.1	18.7	0.0	-100.0
<b>December</b>	18.5	7.7	0.0	-100.0
<b>Year-To-Date</b>	<b>260.7</b>	<b>156.8</b>	<b>147.3</b>	<b>-6.1</b>

## F. HANGAR TENANT CONCERNS

### CORPORATE HANGAR ACTIVITY

Month	WFS Aircraft	Local Tenants*	Transient Tenants**
August	4	11	0

\* 1 jet, 3 turbine, 6 singles, 1 helicopter

T-HANGARS – 100 % occupancy, 4 aircraft owners on waiting list

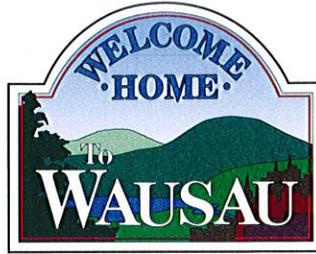
PRIVATE HANGARS – No issues

CITY HANGARS – No issues

TERMINAL BUILDING – No issues

## G. AIRPORT PROMOTION

- Wausau Downtown Airport will be the finish line for the AirVenture Cup cross-country race on Sunday July 27<sup>th</sup>! We expect 50+ aircraft to participate in this event. Check out <http://www.airventurecuprace.com/> for more information about this great event.
- EAA Chapter 640 recently purchased an airplane which was being constructed by the late EAA founder Paul Poberezny. The intention is to complete construction of the airplane while teaching volunteers and especially youth the basics of aircraft construction. If the project is successful, the chapter may sell or raffle the airplane and use the funds to invest in a new project airplane to continue the program in the area.
- Events planned for KAUW include: Landings for Lunches 2014 in May, Balloon Rally in July, AirVenture Cup in July, Hamburger Night all Summer, and a couple group fly-outs are planned.
- Central Wisconsin Branch of Hamburger Night scheduled for June through August. Wausau nights will be July 9<sup>th</sup> and August 13<sup>th</sup>. More info at <http://wiflysocial.com/>
- The Flying Dentist Association will hold a gathering at Wausau Downtown Airport the weekend prior to AirVenture. Local pilots and dentists Honsa Bublik and Ned Markey organized the event.
- The Hamburger Night concept which originated in Central WI is going state-wide this summer!
- Please check out [Flywausau.com](http://Flywausau.com) and Wausau Downtown Airport FB page are being updated regularly.
- Sign-Up now for our monthly email newsletter “CONTACT”



Office of the City Attorney

Anne L. Jacobson  
City Attorney

Tara G. Alfonso  
Assistant City Attorney

## COMMENTS REGARDING DRAFT AIRPORT ACCESS AGREEMENT

- In January, 2014, John Chmiel presented a proposal to the Airport Committee received from an individual who was potentially interested in a “Residential Through the Fence Agreement” (“RTTF”) with the Airport. A RTTF Agreement allows a person who owns residential property on which aircraft storage facilities are located and is near or adjacent to an airport, to access the airport directly from his/her off-airport residential property.
- At a subsequent Airport Committee meeting in March, 2014, John Chmiel indicated that the individual was no longer proposing a possible RTTF Agreement with the Airport but was interested in exploring the possibility of acquiring a residential property adjacent to the Airport, building a hangar on Airport property under a ground lease, and acquiring a right to access the hangar directly from his residential property by means of access through the airport fence dividing the residential property from Airport property.
- Our office was requested to draft a proposed agreement which would permit this access (“Access Agreement”) in order for the Airport Committee and the Common Council to explore whether it was interested in entering into such an arrangement at the Airport. In the event an individual did acquire adjacent residential property to the Airport, a final Access Agreement would need to be tailored to the specifics of that transaction and the final Access Agreement approved by the Airport Committee and the Common Council at that time. Therefore, this draft Access Agreement would be subject to future modification.
- The concepts involved in a RTTF Agreement and an Access Agreement are similar in many respects. In reviewing a RTTF Agreement, the Federal Aviation Administration (“FAA”) recommends the Airport consider matters such as the following:
  1. Whether such an arrangement is consistent with current and future plans for the Airport?
  2. Whether establishing such an arrangement would preclude the Airport from achieving any development goals?
  3. Whether certain locations are more conducive to access than others?
  4. Limitations on the area(s) where access would be permitted.

These types of considerations would be more in the nature of business decisions rather than legal issues. A handout from the FAA is attached for further consideration (FAA

Recommendations for Airport Sponsors Considering Residential Through-the-Fence Access Agreements).

- The draft Access Agreement does not provide for any option to renew. While it could make a provision for an option to renew, the City may want to be free to examine at a future date whether it desires to consider the arrangement beyond the initial term without being bound by the constraints of such an option to be exercised by a residential property owner.
- Similarly, the draft Access Agreement prohibits transfer or assignment. The City may want to be free to examine at a future time whether it desires to allow transfer of the right and instead require a new property owner to enter into a new agreement with the City.
- John Chmiel has proposed that any hangar to be built on Airport property in conjunction with an Access Agreement be required to be built a minimum of 15 feet from the Airport fence line or other reasonable distance for maintenance and security purposes. This is an excellent suggestion and rather than being a term of an Access Agreement would likely be a matter handled through the Airport Ground Lease and approval of the hangar facilities.
- The Access Agreement is envisioned to be executed after or simultaneously with an Airport Ground Lease for hangar construction.
- Consideration should be given as to whether the proposed term of the Access Agreement is acceptable (20 years) and the amount of the Access Fee to be charged to the Property Owner should be determined.
- THIS ACCESS AGREEMENT WILL BE PROVIDED TO THE STATE OF WISCONSIN BUREAU OF AERONAUTICS IN THE EVENT OF APPROVAL BY THE AIRPORT COMMITTEE AND COMMON COUNCIL PRIOR TO ENTERING INTO ANY AGREEMENT WITH A PROPERTY OWNER.

## FAA RECOMMENDATIONS FOR Airport Sponsors Considering Residential Through-the-Fence Access Agreements

The FAA Modernization and Reform Act of 2012, Section 136 (Section 136) permits sponsors of publicly-owned **general aviation** airports to establish residential through-the-fence access (RTTF) agreements that comply with specific terms and conditions. Airport sponsors considering such agreements are strongly encouraged to work with the FAA to ensure their proposals:

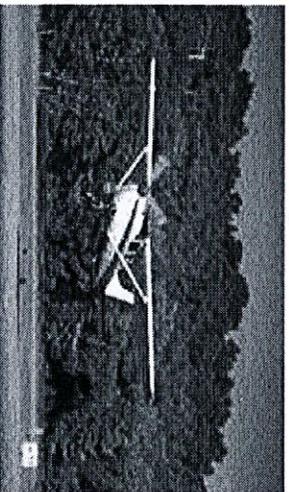
1. Are consistent with the current and future plans for the airport;
2. Comply with the terms and conditions of Section 136; and
3. Do not impede the sponsor's ability to comply with its federal grant assurances.

An airport sponsor's prime obligation is to serve the interest of the aeronautical public. This goal should be reflected in any potential RTTF agreement.

### STEP 1 - Understanding the Current and Future Development Needs of Your Airport

General aviation airports come in different shapes and sizes. They serve various roles and cater to specific segments of general aviation. Establishing a properly structured RTTF access agreement may help improve the viability of some general aviation airports, but it may not be appropriate for every general aviation airport. Before exploring the possibility of establishing an RTTF access agreement, it's important to consider the following questions:

- Who are the airport's current aeronautical users?
- What kinds of users is the airport trying to attract?
- How may RTTF help or hinder the airport in attracting these users?
- What types of services are available at the airport?
- What kinds of services is the airport trying to attract?
- How may RTTF affect current services at the airport?



- Is there enough space on the airport to achieve immediate- and long-term development goals?

- How may RTTF supplement this or detract from the airport's ability to lease on-airport space?

- Would establishing a residential element adjacent to the airport preclude the airport from achieving any development goals?

- How could establishing an RTTF access agreement help or hinder the airport's ability to become and remain self-sustaining?

- What systems must be set up to ensure self-sustainability of the airport over the long-term?

### STEP 2 - Determine the Size and Scope

RTTF access arrangements vary in size and scope. Some may consist of only one or two homes, but others may include several hundred residences. Some airport sponsors permit each RTTF user to develop their own access point, but others limit the number of access points available to RTTF users. Determining the appropriate size and scope for the airport will depend on the future development needs of the airport.

Sponsors should keep in mind that as the number of RTTF users increase, it may be more difficult for the airport sponsor to balance the interests and



needs of all aeronautical users. Generally speaking, larger RTTF communities require more formal measures to govern the complex relationship between the airport sponsor and multiple RTTF users.

Once the potential size and scope of the RTTF arrangement is established, airport sponsors should work with the local zoning authority to limit noncompatible land uses around the airport. This ensures ongoing compliance with Grant Assurance 21, Compatible Land Use. Some recommended practices include:

- Developing a program to monitor potential zoning changes around the airport;
- Educating zoning officials on how changes in land use could impact the utility of the airport; and
- Requiring RTTF users to waive their rights to complain about aircraft noise and emissions.

### **STEP 3 - Develop the Draft RTTF Access Agreement**

Section 136 specifically **requires** airport sponsors to have a written access agreement with the RTTF property owner(s) or an association representing property owners. Therefore, airport sponsors should not consider verbal, handshake, or other types of informal agreements.



Written agreements are important because they specify the duration, terms, rights, and responsibilities assigned to the RTTF user or association as well as the airport sponsor. Once executed by all parties, it may be difficult to renegotiate or alter provisions which may prove to be undesirable. The FAA strongly recommends airport sponsors include a general subordination clause acknowledging the RTTF access agreement is subordinate to the airport sponsor's current and future federal obligations and the airport rules and regulations.

The FAA strongly encourages airport sponsors to submit their draft RTTF access agreements to the FAA for review and comment prior to executing the agreement. Executing an RTTF access agreement which does not comply with Section 136 or results in a violation of the sponsor's federal obligations may result in the loss of Airport Improvement Program (AIP) grant funding.

### **Duration of the Agreement**

Airport sponsors secure their rights and powers by negotiating agreements which preserve their flexibility to plan for the airport's future. Therefore, the FAA recommends airport sponsors negotiate short term agreements which can be renewed or extended at the sponsor's option. Perpetual RTTF access agreements should be discouraged because such terms eclipse all reasonable airport planning periods and erode the rights and powers of the airport sponsor.

### **Rights, Responsibilities, Terms, & Conditions**

Care should be taken to ensure that rights conveyed to RTTF users do not result in special benefits or more favorable treatment than received by on-airport tenants. On-airport tenants are protected by Grant Assurance 22, Economic Nondiscrimination, and have standing to challenge the actions of an airport sponsor's compliance with its federal commitments. RTTF users' off-airport activities are not protected by the grant assurances.

It is helpful to review the proposed RTTF access agreement to determine if it does the following:

- ✓ Clearly outline the rights conveyed to the RTTF user.
- ✓ Clearly outline the responsibilities of the RTTF user.
- ✓ Clearly outline the rights retained by the airport sponsor.
- ✓ Clearly outline the responsibilities of the airport sponsor.
- ✓ Include a legal indemnification clause requiring the RTTF user to acknowledge that their property will be affected by aircraft noise and emissions and waiving any right to bring an action against the airport sponsor for operations at the airport.
- ✓ Include a hazard removal clause to ensure the airport sponsor maintains a mechanism for mitigating (removal, tree trimming, marking, lighting, etc.) potential airport hazards and for stopping the construction or establishment of these hazards. RTTF users may be required to complete and file FAA Form 7460-1, Notice of Proposed Construction or Alteration, and obtain a “no hazard” determination prior to erecting and/or altering any structures on their property.
- ✓ Require the RTTF user to follow the current and future airport rules and regulations.
- ✓ Impose any special rules or restrictions on fly-in guests who taxi from the airport’s property to visit an RTTF user.
- ✓ Prohibit the provision of aeronautical services from the RTTF property.
- ✓ Prohibit the RTTF user from granting any unauthorized user the right to pass through their property to access the airport.
- ✓ Prohibit the sale of aircraft fuel.
- ✓ Allow the airport sponsor to terminate the agreement or extinguish an individual RTTF user’s access for cause such as breach of the agreement, violation of the airport’s rules and regulations, etc.

## Rates and Charges

Section 136 requires RTTF users to bear the cost of building and maintaining the infrastructure the airport sponsor determines is necessary to provide RTTF users access to the airfield. Therefore, the RTTF access agreement should contemplate and detail the type of taxiway, fencing, and access controls needed to establish the access point. The day-to-day and long-term maintenance needs should also be clarified.

Section 136 requires RTTF users to pay access charges that are comparable to those charged to tenants and operators on-airport making similar use of the airport. The RTTF access agreement should establish an RTTF access fee and specify the method the airport sponsor will use to collect the fee. Fees charged to RTTF users should increase on the same schedule as fees charged to similarly situated on-airport users.

## Special Safety Concerns

The creation of adjacent residential and aeronautical land uses has the potential to mix domestic activities such as children, pets, and cars with taxiing aircraft. Airport sponsors should ensure that residential activities remain confined to the residential property and are not permitted to drift onto airport property.

Some residential activities such as gardens, compost lots, water detention ponds, etc. may inadvertently become wildlife attractants. Airport sponsors should preserve their authority to address these potential situations.

## Transfer or Assignment of RTTF Access Agreements

The RTTF access agreement should address whether or not the RTTF user is permitted to transfer or assign the rights conferred through the agreement to another holder. The FAA encourages airport sponsors to prohibit the transfer or assignment of rights from one RTTF user to another. This does not prevent the RTTF property owner from selling their home; it simply requires new property owners to enter into a new agreement directly with the airport sponsor. Limiting the transfer or assignment of rights ensures the airport sponsor has an opportunity to educate the new homeowner about the responsibilities, terms, and conditions contained in the access agreement.

***The Airport Noise and Capacity Act of 1990 (ANCA) limits an airport sponsor's proprietary authority to use access restrictions as a means of reducing aircraft noise impacts.***

**STEP 4** – Propose the Potential RTTF Access Point(s) to the FAA

**Required Documentation:**

1. Revised ALP depicting access point(s)
2. (Draft) Access Agreement(s)
3. Access Agreement Review Sheet

**Grant Assurances that Discuss RTTF**

**Grant Assurance 5, Preserving Rights and Powers**

9. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

**Grant Assurance 29, Airport Layout Plan**

- a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and (4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature

of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport. (emphasis added)

For more information, check out the RTTF Access toolkit at [http://www.faa.gov/airports/airport\\_compliance/residential\\_through\\_the\\_fence/](http://www.faa.gov/airports/airport_compliance/residential_through_the_fence/)



## AIRPORT ACCESS AGREEMENT

This Airport Access Agreement, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, (“Agreement”) between the City of Wausau, a municipal corporation, located in Marathon County, Wisconsin, (“City”) and \_\_\_\_\_, (“Tenant”).

WHEREAS, City is the owner and operator of an airport located in the City of Wausau, Marathon County, Wisconsin known as the Wausau Downtown Airport (“Airport”) with the power to grant rights and privileges with respect to the Airport pursuant to the provisions of the Wisconsin Statutes, as well as other federal, state and local laws, rules and regulations; and

WHEREAS, the Tenant is the owner of certain real property located immediately adjacent to the Airport commonly known as \_\_\_\_\_ and which is further described on Exhibit A (“Premises”); and

WHEREAS, the Tenant leases a parcel of land on Airport property further described on Exhibit B under a certain Airport Ground Lease with the City dated \_\_\_\_\_, 20\_\_, (“Ground Lease”) or is executing such Ground Lease contemporaneously with this Agreement for the construction of an airport hangar for the storage of aircraft and their appurtenances for Tenant’s use (“Hangar”); and,

WHEREAS, the Tenant desires ingress and egress privileges to and from the Airport from the Premises for the express purpose of accessing the Hangar.

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

1. Access. The City grants Tenant ingress and egress privileges to and from the Airport property from Tenant’s Premises for the sole purpose of accessing the Hangar. The ingress and egress privileges shall apply only for the area marked and located on Exhibit C. Access may only be achieved from the Premises by means of one gate or doorway in the fence separating the Airport property from the Premises (“Access Point”). Tenant shall not access other areas of the Airport other than the Hangar through the Access Point. Access to other areas of the Airport shall occur through the regular and ordinary Airport entrances open to the public or airplane owners or operators.

2. Term. Subject to the default and termination provisions contained in paragraph 11 of this Agreement, the term of this Agreement shall be twenty (20) years commencing on \_\_\_\_\_, 20\_\_ and terminating on December 31, 20\_\_.
3. Access Fee. Tenant shall pay the City \_\_\_\_\_ Dollars (\$\_\_\_\_\_) per year no later than the 5<sup>th</sup> day of January in year in which the payment is due. This amount shall be adjusted annually to reflect the change in the Consumer Price Index from September 30 the previous year. Payments shall be sent to the City of Wausau c/o City Clerk. Tenant will be assessed and shall pay a late penalty of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for payments made after the 5<sup>th</sup> of January.
4. Access Point. The Access Point shall be constructed and maintained at the Tenant's sole cost and expense. The size, location, construction, materials and any related fixtures or improvements such as lighting for, or any subsequent alterations to, the Access Point shall be subject to the prior written approval of the City. The Tenant shall be solely responsible for ensuring the path of ingress and egress between the Access Point and the Hangar designated on Exhibit C ("Access Route") is cleared of snow and debris. The City shall have no obligation for snow or debris removal on the Access Route. Tenant shall be responsible for the reasonable cost of repair of any damage to Airport property caused by Tenant's ingress and egress to the Hangar or the installation, construction or maintenance of the Access Point.
5. Security. The Access Point shall be secured and locked at all times. The Tenant shall provide the City with a key or other means of opening, securing and inspecting the Access Point. The Tenant shall not grant, sell or allow Airport access to any other individual, party or entity through the Access Point or over the Access Route unless accompanied by and in the presence of the Tenant. Tenant shall take all reasonable precautions acceptable to the City to prevent the accidental or intentional access to the Airport by vehicles, pedestrians, pets, animals, or persons not specifically authorized hereunder. Tenant shall comply with any and all safety requirements applicable to this Agreement, the Access Point and Access Route by virtue of the City's approved Airport Security Master Plan.
6. Rules and Regulations. Tenant agrees to observe and obey all current and future laws, ordinances, rules and regulations promulgated and enforced by the City and by other proper authorities having jurisdiction over the conduct of operations at the Airport, provided the same are consistent with the procedures proscribed or approved from time to time by the Federal Aviation Administration ("FAA").
7. Prohibitions.
- (a) No Commercial Aeronautical Uses. Tenant shall not permit any person or entity to engage in any temporary or permanent commercial aeronautical activity on the Premises owned by the Tenant. This prohibition

includes but is not limited to any activity or service for compensation, exchange, trading, buying, selling, or hire or any other revenue producing activity whether or not a profit is derived, which makes possible or is required for the operation of an aircraft, or contributes to or is required for the safety of such operations.

(b) Sale of Aviation Fuels Prohibited. Tenant shall not sell aviation fuels on the Premises owned by Tenant, nor permit the sale by any other person or entity.

(c) All activities on the Premises must remain confined to the residential Premises. Tenant shall not permit any activities from the Premises to drift onto Airport property.

(d) Tenant shall not operate or permit the operation of any vehicle, motor vehicle, snowmobile, all-terrain vehicle or utility terrain vehicle as defined in Wis. Stat. §340.01 on the Access Route.

8. Subordination. This Agreement and Tenant's right hereunder shall be nonexclusive and shall at all times be subordinate to the provisions of any existing or future agreements between the City 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. This Agreement shall be deemed to be automatically amended to include any provision(s) required by those agreements with the United States or the State of Wisconsin.

9. Airport Development. The City reserves the right to further develop and improve the Airport as the City sees fit, regardless of the desires or views of the Tenant and without interference or hindrance from the Tenant.

10. Hold Harmless and Indemnification. Tenant shall defend, indemnify and hold harmless the City, its employees, agents, and elected and appointed officials from and against all liabilities, losses, judgments, actions, suits, obligations, debts, demands, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees, of any kind or of any nature whatsoever which may be imposed, incurred, sustained or asserted against the City, its employees, agents, and/or elected or appointed officials by reason of any injury or death to any person, or loss, damage, or destruction of any property or loss of use thereof, or otherwise arising directly or indirectly as a result of this Agreement or the Tenant's use and enjoyment of the Airport.

Tenant hereby releases the City, its employees, agents, and elected and appointed officials from and against all liabilities, losses, judgments, actions, suits, obligations, debts, demands, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees, which may arise directly or indirectly as a result of this Agreement or the Tenant's use and enjoyment of the Airport.

11. Default and Termination.

(a) Default. Tenant shall be deemed in default and the City shall have the right to terminate this Agreement in its entirety immediately upon the happening of any of the following events:

- i. Failure to pay the access fee due under paragraph 3 within thirty (30) days after the due date.
- ii. Tenant assigns or attempts to assign its interest herein or under its Ground Lease with the City without the City's prior written consent.
- iii. Tenant fails to meet any term or condition of this Agreement.

(b) Non-Waiver. Failure of the City to declare this Agreement terminated upon a default by Tenant for any of the reasons set forth in this paragraph shall not bar or operate as a waiver of the right of the City to terminate this Agreement by reason of any subsequent violation of the terms of this Agreement.

(c) Effect of Default. Default by the Tenant shall authorize the City, at its sole option to remove the Access Point to the Airport, in addition to any of its other remedies under this Agreement or available at law or equity. Tenant shall not be entitled to the right to cure any default under this Agreement.

(d) Termination.

- i. Tenant shall have the right to terminate this Agreement for any reason upon thirty (30) days written notice to the City.
- ii. The City shall have the right to terminate this Agreement in its entirety upon the happening of any of the following events:
  - (aa) Immediately upon termination of the Ground Lease by either party for any reason.
  - (bb) Immediately upon the failure of Tenant to enter into the Ground Lease with the City for the Hangar at the Airport or, failure to complete construction of a Hangar as provided in the Ground Lease.
  - (cc) Upon one hundred and twenty (120) days written notice where Tenant no longer has operational control of any aircraft housed at the Airport.
  - (dd) Upon sixty (60) days written notice where the City has received notification from the State of Wisconsin or the FAA that this Agreement violates any law, regulation or rule governing the conduct of operations at the Airport or any grant assurances executed by the City as a condition of accepting federal airport improvement grants.
  - (ee) Immediately as a result of any order or ruling of the State of Wisconsin Bureau of Aeronautics or the FAA requiring termination.

(e) Restoration of Property. Upon termination of this Agreement, the Tenant shall restore the Access Point to its original condition unless the City has elected to exercise its right to do so under subsection (c) above.

12. Aircraft Noise and Emissions. Tenant acknowledges that the Premises will be affected by aircraft noise and emissions and waives any right of Tenant, his/her heirs, successors or assigns to bring an action against the City for operations at the Airport.

13. Assignment and Sublease. The Tenant shall not assign or transfer this Agreement or any interest therein in any manner without the prior written consent of the City.

14. Council Approval. This Agreement is conditioned upon the approval by the Common Council of the City of the Ground Lease and this Agreement.

15. Survival of Obligations. The obligations set forth in paragraph 10 and 12 shall survive the termination or expiration of this Agreement.

16. Amendments. This Agreement constitutes the entire agreement and understanding of the parties, and supersedes all offers and negotiations. Any modification of, or amendment to this Agreement, must be in writing and executed by both parties except as provided in paragraph 8.

17. Notices. All notices required by this Agreement to be in writing shall be deemed given upon receipt by a party and given either by personal delivery or prepaid, first class mail sent to the City, in care of the City Clerk, City Hall, 407 Grant Street, Wausau, Wisconsin 54403, and to Tenant in care of [REDACTED].

18. Severability. If any portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held to be invalid or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permissible by law.

19. Waiver. The failure of either party to enforce any of the provisions of this Agreement shall not be construed as a waiver of such provision or of the right of the party thereafter to enforce each and every such provision.

20. Nondiscrimination. The Tenant covenants and agrees that:

(a) In the construction of any improvements related to this Agreement, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin.

(b) The Tenant shall use the Access Point and Access Route in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

21. National Emergency. During time of War or other State or National emergency, the City shall have the right to suspend this Agreement and to turn over operation and control of the Airport to the State of Wisconsin and/or the United States Government. During any period when the Airport shall be closed by any lawful authority, thereby restricting the use of the Airport in such a manner as to interfere with the use of same by Tenant, the access fee under this Agreement shall abate, and the period of such closure shall be added to the term of this Agreement so as to extend and postpone the expiration thereof.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed on the date first above written.

CITY OF WAUSAU (City)

BY \_\_\_\_\_  
James E. Tipple, Mayor

Attest:  
\_\_\_\_\_  
Toni Rayala, Clerk

\_\_\_\_\_  
(Tenant)

BY \_\_\_\_\_

\_\_\_\_\_  
(Tenant)

BY \_\_\_\_\_

Execution by Tenant should include all those on the title to the Premises.