#### ENROLLED ORDINANCE 178-89

#### LAYING OUT, RELOCATION AND IMPROVEMENT OF SILVERNAIL ROAD (CTH TJ) CAPITAL PROJECT #200310

WHEREAS, capital project #200310 Runway 10/28 Safety Zones was previously approved by the County Board to bring Runway 10-28 into compliance with the design standards established by the Federal Aviation Administration (FAA); and

WHEREAS, through a review of alternatives analyzed in the environmental process, the realignment of Silvernail Road was determined to be the only practicable and feasible alternative for providing the separation distances necessary for correcting the runway safety areas on both ends of the runway while also maintaining existing runway length; and

WHEREAS, a Finding of No Significant Impact (FONSI), meaning that a project does not have a significant environmental impact and can proceed, was issued by the FAA for the realignment of Silvernail Road and other related actions; and

WHEREAS, a "Declaration of Restrictive Covenants for Silvernail Road Realignment" has been created to meet FAA requirements for property interests acquired with federal funding and dedicated on the "Airport's Property Inventory Map"; and

WHEREAS, the County Board of Supervisors of Waukesha County finds that the proper improvement in maintenance of Silvernail Road (CTH TJ) in the City of Waukesha from a point that is 1182.09 feet North 1°06'54" West of and 390.57 East of the Center of said Section 28, Township 7 North, Range 19 East, in the City of Waukesha to a point on the East line of the Northeast ¼ of said Section 28; that said point is 748.41 feet South 00°52'35" East of the Northeast corner of Section 28, Township 7 North, Range 19 East, in the City of Waukesha, Waukesha County, Wisconsin, requires certain relocation or changes and the acquisition of certain rights of way and other interests as shown on the plat marked "TRANSPORTATION PROJECT PLAT NO: AIP 3-55-0090-38-P - 4.01 & 4.02".

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the plat marked "TRANSPORTATION PROJECT PLAT NO: AIP 3-55-0090-38-P – 4.01 & 4.02" on file in the County Clerk's office is adopted by reference under the authority granted by Section 83.08 and Chapter 32 of the Wisconsin Statutes.

IT IS FURTHER ORDAINED that Silvernail Road (CTH TJ) in the City of Waukesha is hereby changed or relocated from a point that is 1182.09 feet North 1°06'54" West of and 390.57 East of the Center of said Section 28, Township 7 North, Range 19 East, in the City of Waukesha to a point on the East line of the Northeast ¼ of said Section 28; that said point is 748.41 feet South  $00^{\circ}52'35"$  East of the Northeast corner of Section 28, Township 7 North, Range 19 East, in the City of Waukesha, Waukesha County, Wisconsin, and requires certain relocation or changes and the acquisition of certain rights of way as shown on the plat marked "TRANSPORTATION PROJECT PLAT NO: AIP 3-55-0090-38-P – 4.01 & 4.02".

IT IS FURTHER ORDAINED that the County shall acquire those rights of way and other interests as shown on the plat marked "TRANSPORTATION PROJECT PLAT NO: AIP 3-55-0090-38-P - 4.01 & 4.02".

IT IS FURTHER ORDAINED that the Declaration of Restrictive Covenants is approved, and the County Executive and County Clerk are authorized to sign the necessary documents to effectuate the declaration's recording with the Register of Deeds Office.

#### LAYING OUT, RELOCATION AND IMPROVEMENT OF SILVERNAIL ROAD (CTH TJ) CAPITAL PROJECT #200310

Presented by: Public Works Committee

# Absent

Keith Hammitt, Chair

James Batzko

Darryl J. Enriquez el R. Gaughan War Christine M. Howar

Absent

Darlene M. Johnson

Absent

**Richard Morris** 

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 3/1/2024 \_\_\_ Margare ma

Margaret Wartman, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: \_\_\_\_\_ Vetoed:

.024 Date:

Paul Farrow, County Executive

178-0-089

#### DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is executed as of February XX, 2024, by Waukesha County ("Declarant").

#### RECITALS

- A. The Declarant is the owner of certain real property located in Waukesha County, Wisconsin, as described on the attached "Exhibit A" and referred to on the exhibit and in this Declaration as ("Right-of-Way").
- B. The Declarant owns and operates an airport known as Waukesha County Airport Crites Field ("Airport") which is a federally obligated property.
- C. The Declarant has a plan for the construction, operation, and maintenance of a realigned segment of Silvernail Road, a public road, on the right-of-way established on Transportation Project Plat No: AIP 3-55-00900-38P. Transportation Project Plat No. AIP 3-55-0090-38P 4.01 & 4.02 recorded as document No. XXXXX & XXXXX are attached hereto as "Exhibit B" and made a part hereof by reference.
- D. As a recipient of federal airport improvement grants, the Declarant is obligated to comply with federal grant assurances established by the Federal Aviation Administration. In order to meet those obligations, the Declarant agrees to limit its use of the Right-of-Way in the manner described below.

#### DECLARATION

The Declarant declares that:

- 1. Declarant agrees to operate, construct, and maintain a realigned segment of Silvernail Road, a public road, within the Right-of-Way, so long as the public road and activities do not interfere with normal Airport operations or jeopardize the safety of Airport users.
- 2. Declarant reserves the right to further develop or improve the Airport as it sees fit, regardless of the impact to Silvernail Road.
- 3. Following the initial construction, the Declarant agrees that any improvements on the Right-of-Way shall be constructed and maintained at no cost to the Federal Aviation Administration, unless required by the Federal Aviation Administration. Should the public road in the Right-of-Way require relocation, the same shall be done with no

federal participation unless approved for a Federal Aviation or Highway Administration grant or requested by the Federal Aviation or Highway Administration.

- 4. Declarant agrees to not complete public road improvements within the Right-of-Way, except at such times as may be designated for such purposes by Airport staff. Airport staff shall not unreasonably refuse to designate such times, and such times so designated shall be those reasonably related to the unobstructed taking off, landing and flight of the aircraft. Notwithstanding any other provision in this paragraph, however, Declarant may upon notification to Airport staff or through established protocols, bring any vehicle and equipment into, and conduct repair, maintenance, and other operations within the Right-of-Way in the event of an emergency arising with respect to the public road.
- 5. Declarant reserves the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Right-of-Way, together with the right to cause in the airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the airspace, and for use of the airspace for landing at, taking off from, or operating from the Airport.
- 6. Declarant reserves the use and benefit of the public, a right of entry onto the Right-of-Way to cut, remove, or lower any building, structure, poles, trees, or other object, whether natural or otherwise, of a height in excess of Federal Aviation Regulation (FAR) Part 77 surfaces relating to the Airport. This public right includes the right to mark or light as obstructions to air navigation, any and all buildings, structures, poles, trees, or other object that may at any time project or extend above said surfaces.
- 7. Declarant agrees to restrict the height of structures, objects of natural growth, and other obstructions on the Right-of-Way to a height which does not exceed the height requirements set forth in Part 77 of the FAA Regulations, as amended, or any similar regulations which may hereinafter be enacted relating to the Airport.
- 8. Declarant agrees to file a notice consistent with requirements of FAR Part 77 (FAA Form 7460-1) prior to constructing any facility, structure, or other item on the Right-of-Way.
- 9. Declarant agrees that the Right-of-Way will only be used for purposes compatible with the Airport including a public road.
- 10. Declarant agrees to not hereafter use, permit, or suffer use of the Right-of-Way in such a manner as to create electrical interference with radio communication between the installation upon the Airport and aircraft or as to make it difficult for fliers to distinguish between airport lights and others, or as to impair visibility in the vicinity

of the Airport, or as otherwise to endanger the landing, taking off, or maneuvering of aircraft.

- 11. Declarant agrees to not hereafter use, permit, or suffer use of the Right-of-Way in such a manner as to create a potential for attracting birds and other wildlife which may pose a hazard to aircraft.
- 12. Declarant agrees that in the event the Right-of-Way is no longer used as a public road, it shall revert to Airport use.

#### MISCELLANEOUS PROVISIONS

- 13. Covenants Run with Right-of-Way. All terms and conditions in this Declaration, including the benefits and burdens, shall run with the land and shall be binding upon, the Declarant, its successors and assigns, as owner and operator of the Airport.
- 14. Subordination. This Declaration shall be subordinate to the provisions of and requirements of any existing or future agreements between Declarant 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.
- 15. Amendment. This Declaration may be amended by the recording of a written instrument executed by the Declarant to include provisions required by agreements with the United States or the State of Wisconsin.
- 16. Termination. This Declaration shall be terminated in the event the Airport ceases to operate and is permanently closed.

Dated: February \_\_\_\_\_, 2024

Waukesha County

By: \_\_\_

Paul F. Farrow, County Executive

File Number: 178-O-089

#### ACKNOWLEDGMENT

#### STATE OF WISCONSIN COUNTY OF WAUKESHA

This instrument was acknowledged before me on February \_\_\_\_\_, 2024 by Paul F. Farrow on behalf of Waukesha County.

Kimberly K. Haines Notary Public, State of Wisconsin My commission is permanent.

Dated: February \_\_\_\_\_, 2024

Waukesha County

By: \_\_\_\_

Margaret T. Wartman, County Clerk

#### ACKNOWLEDGMENT

#### STATE OF WISCONSIN COUNTY OF WAUKESHA

This instrument was acknowledged before me on February \_\_\_\_\_, 2024 by Margaret T. Wartman on behalf of Waukesha County.

Kimberly K. Haines Notary Public, State of Wisconsin My commission is permanent.

#### Exhibit A

A strip of land of varying width over, under and across the following described properties:

#### <u>Airport Parcel No 27 as described in Document Number 698638 Recorded in Volume 1102, Pages</u> <u>386:</u>

Being a part of the Northeast Quarter of the Northeast Quarter (NE 1/4 - NE 1/4) of Section Twenty-eight (28), Township Seven (7) North, of Range Nineteen (19) East, City of Waukesha, Waukesha County, Wisconsin.

#### <u>Airport Parcel No 28 as described in Document Number 702805 Recorded in Volume 1108, Pages</u> <u>195:</u>

Being a part of the Northeast Quarter of the Northeast Quarter (NE 1/4 - NE 1/4) of Section Twenty-eight (28), Township Seven (7) North, of Range Nineteen (19) East, City of Waukesha, Waukesha County, Wisconsin.

# <u>Airport Parcel No 29 as described in Document Number 737541 Recorded in Volume 1158, Pages 318:</u>

Being a part of the Northeast Quarter of the Northeast Quarter (NE 1/4 - NE 1/4) of Section Twenty-eight (28), Township Seven (7) North, of Range Nineteen (19) East, City of Waukesha, Waukesha County, Wisconsin.

### <u>Airport Parcel No 37 as described in Document Number 1285219 Recorded in Volume 654, Pages 369:</u>

Being a part of the Northwest Quarter of the Northeast Quarter (NW 1/4 – NE 1/4) of Section Twenty-eight (28), Township Seven (7) North, of Range Nineteen (19) East, City of Waukesha, Waukesha County, Wisconsin.

# <u>Airport Parcel No 40 as described in Document Number 1281744 Recorded in Volume 648, Pages 580:</u>

Being a part of the Northwest Quarter of the Northeast Quarter (NW 1/4 - NE 1/4) of Section Twenty-eight (28), Township Seven (7) North, of Range Nineteen (19) East, City of Waukesha, Waukesha County, Wisconsin.

#### Airport Parcel No 43 as described in Document Number 4730644:

Being a part of Lot 1 of Certified Survey Map No. 6936 recorded in Volume 58 of Certified Survey Maps on Page 146 as Document No. 1794573 located in the Northwest Quarter of the Northeast Quarter (NW 1/4 – NE 1/4) of Section Twenty-eight (28), Township Seven (7) North, of Range Nineteen (19) East, City of Waukesha, Waukesha County, Wisconsin.

#### SILVERNAIL ROAD RIGHT OF WAY LEGAL DESCRIPTION

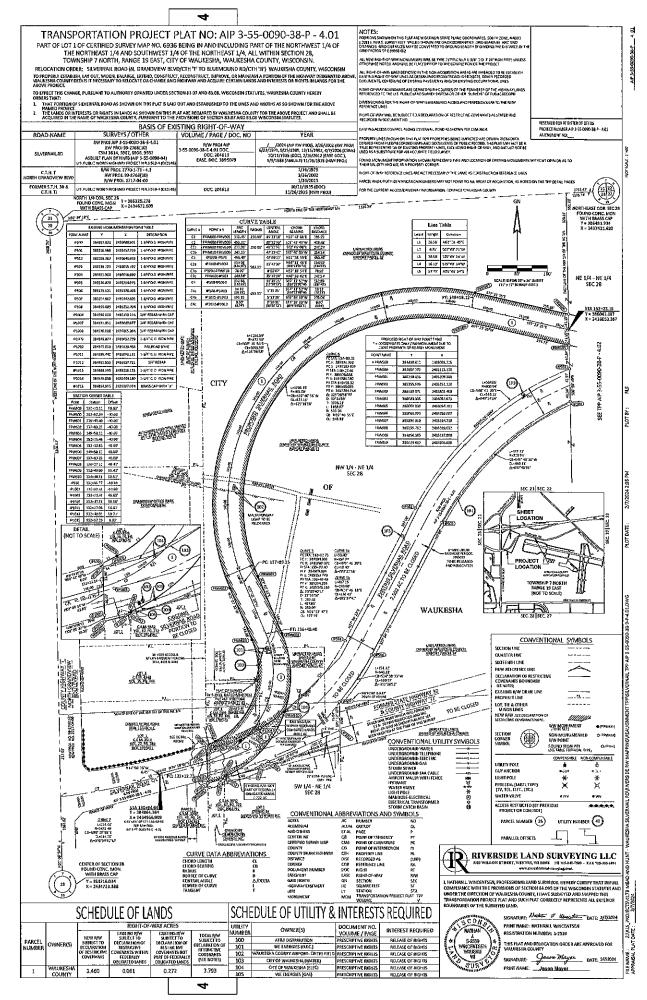
Of a part of Lot 1 of Certified Survey Map No. 6936 recorded in Volume 58 of Certified Survey Maps on page 146 as Document No. 1794573, Parcel 1 and 2 of Document No. 1285219 and a parcel of land described in Document No. 1281744 being located in the Northwest 1/4 of the Northeast 1/4, a part of the existing right-of-way of Silvernail Road lying within the Northwest 1/4 of the Northeast 1/4 and a part of parcels of land described in Documents No. 737541, 702805 and 698638 being located in the Northeast 1/4 of the Northeast 1/4 of the Northeast 1/4 of the Northeast 1/4 and a part of parcels of land described in Documents No. 737541, 702805 and 698638 being located in the Northeast 1/4 of the Northeast 1/4 all within Section 28, Township 7 North, Range 19 East, City of Waukesha, Waukesha County Wisconsin more particularly described as follows:

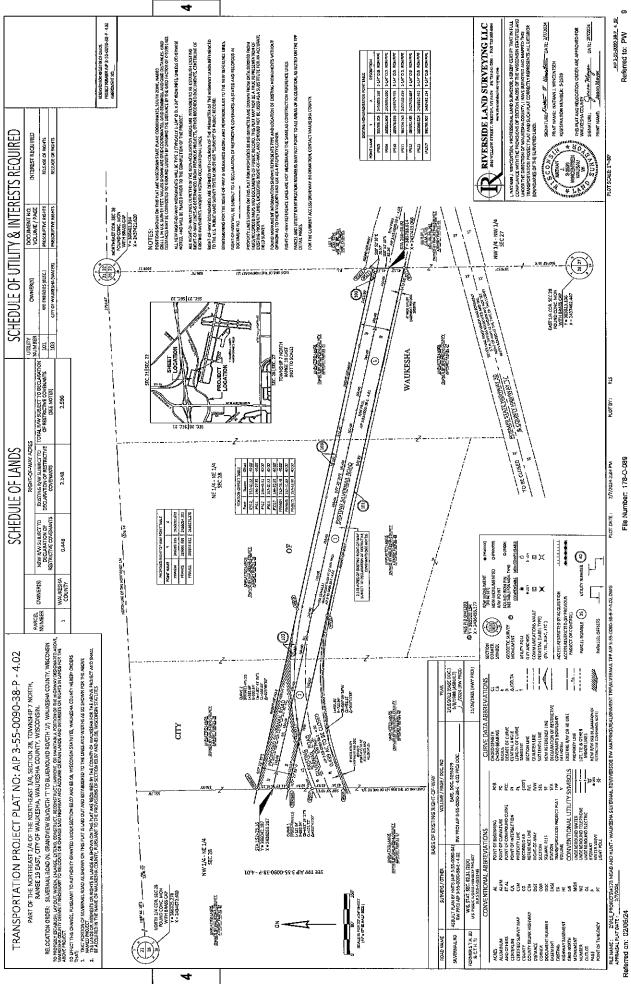
Commencing at the North 1/4 corner of said Section 28; Thence South 1°06'54" East along the West line of said Northeast 1/4, 1521.92 feet; Thence North 48°45'57" East, 101.46 feet to the North right-of-way line of Silvernail Road and the beginning of a nontangential curve to the left; Thence along said North right-ofway line, 244.05 feet along the arc of said curve, said curve having a radius of 1597.52 feet, a central angle of 8°45'10" and a chord that bears North 78°34'25" East for a distance of 243.81 feet; Thence North 75°09'55" East along said North right-of-way line, 74.59 feet to the point of beginning of said proposed Easement; Thence North 62°28'45" East along the proposed North right-of-way line of the realigned Silvernail Road, 26.58 feet to beginning of a tangential curve to the left; Thence along said proposed North right-of-way line, 313.45 feet along the arc of said curve, said curve having a radius of 210.00 feet, a central angle of 85°31'18" and a chord that bears North 19°43'06" East for a distance of 285.15 feet; Thence North 23°02'33" West along said proposed North right-of-way line, 148.85 feet to the beginning of a tangential curve to the right; Thence along said proposed North right-of-way line, 1,256.59 feet along the arc of said curve, said curve having a radius of 573.00 feet, a central angle of 125°38'58" and a chord that bears North 39°46'56" East for a distance of 1,019.50 feet; Thence South 77°23'35" East along said proposed North right-of-way line, 744.40 feet to the intersection of said proposed North right-of-way line and the existing North right-of-way line of Silvernail Road; Thence continuing South 77°23'35" East along said North rightof-way line, 924.81 feet to the East line of said Northeast 1/4;

Thence South 00°52'35" East, 82.26 feet to the South right-of-way line of said Silvernail Road; Thence North 77°23'35" West along said South right-of-way line, 943.99 feet to the intersection with the proposed South right-of-way line of said realigned Silvernail Road; Thence continuing North 77°23'35" West along said proposed South right-of-way line, 744.41 feet to the beginning of a tangential curve to the left; Thence along said proposed South right-of-way line, 1,081.15 feet along the arc of said curve, said curve having a radius of 493.00 feet, a central angle of 125°38'58" and a chord that bears South 39°46'56" West for a distance of 877.16 feet; Thence South 23°02'33" East along said proposed South right-of-way line, 164.26 feet to the beginning of a tangential curve to the right; Thence along said proposed South right-of-way line. 453.21 feet along the arc of said curve, said curve having a radius of 290.00 feet, a central angle of 89°32'33" and a chord that bears South 21°43'43" West for a distance of 408.48 feet; Thence South 01°03'01" West, 4.71 feet to said existing South right-of-way line of Silvernail Road and the beginning of a non-tangential curve to the right; Thence along said existing South right-of-way line, 9.60 feet along the arc of said curve, said curve having a radius of 653.11 feet, a central angle of 0°50'31" and a chord that bears South 74°38'19" West for a distance of 9.60 feet; Thence South 75°03'34" West along said existing South right-of-way line, 36.58 feet; Thence North 02°07'27" West along the existing South right-of-way line of Silvernail Road, 10.26 feet; Thence North 02°09'11" West, 82.03 feet to said existing North right-of-way line of Silvernail Road; Thence North 00°42'49" West along said existing North right-of-way, 6.07 feet to the point of beginning.

The above-described Right-of-Way area contains 278,312 square feet or 6.389 acres.

Said Right-of-Way is subject to all easement, restrictions and right of ways of record.





# **VOTE RESULTS** >

22 YES 0 NO 0 ABSTAIN ω ABSENT

# **Ordinance 178-0-089**

Ordin = 178-O-089. Laving Out Relocation Ind Improvement of Silvernail Road (CTH TJ) Capital Project #2 Passed By Maiority Vote

		AYE	D18 - Nelson		AYE	D9 - Heinrich
		AYE	D17 - Meier		AYE	D8 - Koremenos
AYE	D25 - Johnson	AYE	D16 - Crowley s		AYE	D7 - LaFontain
AYE	D24 - Bangs	AYE	D15 - Kolb		AYE	D6 - Walz
ABSENT	D23 - Hammitt	AYE	D14 - Mommaerts	(Personal states)	ABSENT	D5 - Grant
AYE	D22 - Szpara	AYE	D13 - Decker		AYE	D4 - Batzko
AYE	D21 - Gaughan	AYE	D12 - Wolff		AYE	D3 - Morris
AYE	D20 - Schellinger	AYE	D11 - Howard M		AYE	D2 - Weil
AYE	D19 - Enriquez	ABSENT	D10 - Thieme		AYE	D1 - Foti

12th Meeting, 178th Year of the County Board of Supervisors - February 27 2024 07:12 PM Vieting

February 27, 2024