

STATE OF IOWA, Pottawattamie County  
 Filed for record the 27<sup>th</sup> day of March  
 1962 at 4:30 o'clock P.M. and recorded  
 in book 1307 page 63

*Donald J. Lister* Recorder

By \_\_\_\_\_ Deputy

CONDITIONS, COVENANTS, RESTRICTIONS, ~~AND~~ RESERVATIONS,  
 AND EASEMENTS AFFECTING

COUNCIL BLUFFS INDUSTRIAL FOUNDATION, INC. SITES

This declaration made this 27<sup>th</sup> day of March, 1962,  
 by the Council Bluffs Industrial Foundation Inc., a non-profit corporation  
 organized and existing under the laws of the State of Iowa, Grantor, (herein-  
 after referred to as "Foundation"),

WITNESSETH:

WHEREAS, the Foundation is the owner of the real property ~~referred to~~  
 in Clause I of this declaration and is desirous of subjecting ~~the~~ real  
 property ~~to the conditions, covenants, restrictions,~~ to the conditions, covenants, restrictions,  
 reservations, and easements hereinafter set forth, each and all of which is  
 and are for the benefit of the said property and for each owner thereof and  
 shall inure to the benefit of and pass with said property and each and every  
 parcel thereof and shall apply to and bind the successors in interest and any  
 owner thereof; now,

THEREFORE, the Foundation hereby declares that the real property ~~referred to~~  
~~in Clause I hereof~~ referred to in Clause I hereof is and shall be held, transferred,  
 sold, conveyed, and occupied subject to the conditions, covenants, restrictions,  
 reservations, and easements set forth hereinafter.

CLAUSE I

DEFINITION OF TERMS

"Building Site" shall mean any lot, or portion thereof, or two or  
 more contiguous lots or portions thereof, or a parcel of land upon which a  
 commercial, manufacturing, or industrial building or buildings and appurte-  
 nant structures may be erected in conformance with requirements of these  
 covenants.

"Grantor" shall mean the FOUNDATION, its successors and assigns unless  
 the context shall otherwise indicate.

"Improvements" shall mean and include a commercial, manufacturing or  
 industrial building or buildings, outbuildings appurtenant thereto, parking  
 areas, loading areas, fences, masonry walls, hedges, lawns, mass plantings and  
 any structures of any type or kind located above ground.

"Industrial Site" shall mean the real estate described in  
 Exhibit "A" attached hereto.

## Compared

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"Street Building Line Setback" shall mean the minimum distance which commercial, manufacturing, or industrial buildings and outbuildings or any structures of any type or kind located above ground shall be set back from the property line or lines abutting any street or streets.

"Side Building Line Setback" shall mean the minimum distance which commercial, manufacturing, or industrial buildings and outbuildings or any structures of any type or kind located above ground shall be set back from the boundary or property line dividing two adjoining building sites.

"Rear Building Line Setback" shall mean the minimum distance which commercial, manufacturing, or industrial buildings and outbuildings or any structures of any type or kind located above ground shall be set back from the boundary or property line not fronting a street or not dividing adjoining building sites.

### PROPERTY SUBJECT TO THIS DECLARATION

The real property which is, and shall be, conveyed, transferred, occupied and sold subject to the conditions, covenants, restrictions, reservations, and easements set forth herein is located in the County of Pottawattamie, State of Iowa, and is more particularly described in Exhibit "A" attached hereto and hereby made a part hereof.

### CLAUSE II GENERAL PURPOSES OF CONDITIONS

The real property described in Exhibit "A" attached hereto and referred to in Clause I hereof is subjected to the conditions, covenants, restrictions, reservations, and easements hereby declared to insure proper use and appropriate development and improvements of each building site thereof; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to guard against the erection thereon of structures built of improper or unsuitable materials; to insure adequate and reasonable development of said property; to encourage the erection of attractive improvements thereon, with appropriate locations thereon on building sites; to prevent haphazard and inharmonious improvements of building sites; to secure and maintain proper setbacks from streets, and adequate free space between structures; and in general to provide adequately for a high type and quality of improvement in said property.

### CLAUSE III GENERAL RESTRICTIONS

A. No noxious or offensive trade or activity shall be carried on.

## Compared

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nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Industrial Site hereby restricted, whether said annoyance or nuisance be by reason of unsightliness or the excessive emission of odors, dust, fumes, smoke, or noise, or by reason of excessive vibration, glare and heat, fire hazards, or industrial waste.

B. Without otherwise limiting the provisions of Paragraph A of this Clause III, or any of the other terms and conditions of these restrictions, the buildings or premises, except as otherwise provided in these restrictive covenants, may be used for any use permitted under Section 28 entitled "General Manufacturing District" of the Zoning Ordinance of Pottawattamie County, as the same now exists. Whenever the industrial site is annexed to the City of Council Bluffs, the General Manufacturing section of the City Zoning Ordinance shall be in effect, except that the following uses shall not be permitted:

1. Auto wrecking or salvage yards.
2. Used material yards, storage or baling of waste or scrap paper, rags, scrap metals, bottles or junk, except as they may become necessary as an incident of a permissible use of the premises.
3. Residential uses, provided, however, that quarters may be maintained for watchmen, guards, or similar personnel.
4. Asphalt plant, packing or slaughtering yard.

C. Setback distances shall be as follows:

1. Street building line setback distances:

- (a) The front yard shall be a minimum of 50 feet utilized exclusively for landscaping, except for approved fences, walls and access and egress drives to parking area (Prohibitions include signs, parking and loading.)

2. Side and rear building line setback distances:

- (a) The side yard and the rear yard requirement shall be a minimum of 25 feet. Said side and rear yards may be occupied by railroad facilities.

D. No building or structure above ground shall extend beyond the building lines prescribed above and it is hereby declared that

the yards or areas created by the observance of the building of setback lines established above may be used or developed either for attractive open landscape and green areas or for off-street, dust-free stabilized parking areas. All landscaping shall be properly maintained in a sightly and well-kept condition. Parking areas shall likewise be maintained in a well-kept condition. Open storage of materials may not be installed in street building line setback areas. Open storage material, equipment or products and above ground storage tanks are prohibited except in courts or completely screened storage yards.

- E. The owner or user of any building site or lot shall provide one parking space of a total of 300 square feet of easily accessible stabilized dust-free area for every three employees. This parking area shall be located upon the owner's or user's lot or building site. It is contemplated that this parking requirement shall be calculated on a maximum plant population for the principal shift operation within the working day. Similar off-street parking space for visitors shall also be furnished upon said property.
- F. It is contemplated that truck loading docks will be installed at each building in such location and in such quantity to permit trucks to load and unload or to wait to do so without hindering traffic upon any public way. Wherever possible truck loading docks shall not open directly upon the principal street fronting the lot or building site but rather they shall be so situated that they may be screened by plantings or structural means.
- G. No curb cut or entrance shall be started within seventy-five (75) feet of the nearest intersection, except on lots fronting on either present Highway 192 or on 11th Street. The radii of curb cuts shall not be less than twenty-five (25) feet.
- H. No billboards or advertising signs other than those identifying the name, business and product of the person or firm occupying the premises shall be permitted. In addition to the above, one sign not exceeding 10 x 20 feet in area advertising the premises for sale or rent, and accessory signs giving directions, for the delivery of goods, parking, etc., may be erected.
- I. Each of the conditions, covenants, restrictions, reservations, and easements set forth above shall continue and be binding

upon the Foundation, and upon its successors and assigns and upon each of them and all parties and all persons claiming under them for a period of thirty (30) years from the date hereof, and automatically shall be continued thereafter for successive periods of twenty-five (25) years each; provided, however, at any time after date hereof the holders of the fee simple title of more than 50% of the area subjected to these restrictive covenants, exclusive of highways and railroad right-of-way, may release all or any part of the land so restricted from any one or more of said restrictions, or may alter, amend, modify or revoke any one or more of said restrictions by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and filing the same for record in the Office of the Recorder of Pottawattamie County, Iowa. A recordable certificate by an abstractor doing business in Pottawattamie County, Iowa, as to the record fee simple title holders of the property hereby restricted, and a recordable certificate by a registered or certified surveyor or engineer authorized to practice in the State of Iowa as to the square footage owned by the record fee simple titleholders as shown by said abstractor's certificate shall be deemed conclusive evidence of such ownership of property and square footage thereof so owned and hereby restricted with regards to compliance with the provisions of this section.

- J. The covenants herein set forth shall run with the land and bind the present owner, its successors and assigns, and all parties claiming by, through or under it shall be taken to hold, agree and covenant with the owner of said building sites, its successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of building sites, and the construction or improvements thereon but no restrictions herein set forth shall be personally binding on any corporation, person, or persons except in respect to breaches committed during its, their or his seisin of, or title to said land, and the FOUNDATION, its successors or assigns, or the owner or owners of any of the above land shall have the right to sue for and obtain an injunction prohibitive or mandatory, to prevent the breach of or to enforce the observance of the restrictions above set forth, in addition to ordinary legal action for damages, and the failure of the FOUNDATION, its successors or assigns, and the titleholder of any lot or lots or building

sites hereby restricted to enforce any of the restrictions hereby set forth at the time of its violation, shall in no event be deemed to be a waiver of the right to do so as to any subsequent violation. The violation of these restrictions shall not defeat nor render invalid the lien of any mortgage (or deed of trust) made in good faith and for value.

K. Invalidation of any one of these covenants or any part thereof by judgments or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

L. THE FOUNDATION, its successors and assigns, hereby reserve the right in the sale of lots or building sites, to prescribe and require such additional covenants, conditions, restrictions, reservations and easements as it may deem proper. It is the intention that all of the lots or building sites in the industrial site shall be subject to the conditions, covenants, restrictions, reservations and easements set forth hereinabove, but that they are minimum standards and that at the time of sale of certain specific lots of building sites the same may be subjected to additional conditions, covenants, restrictions, reservations, and easements. It is specifically contemplated that in order to achieve the purposes hereinabove indicated the FOUNDATION, its successors or assigns, may, in individual deeds or conveyances, impose specific requirements which are not included herein and/or which are more restrictive or stringent in any particular than they may be in this instrument.

M. Whenever reference is made in this instrument to lots, it is understood that the same shall be taken to be the lots or parcels as actually sold and conveyed to specific purchasers by the FOUNDATION, its successors or assigns, and that in making reference to a lot or lots in this instrument there is no reference to platted lot or lots. The FOUNDATION contemplates that it shall sell various parcels of ground from the property described herein before in Clause I by means of a metes and bounds or other description and the area so sold and conveyed in any specific transaction shall be considered a lot or building site for the purposes of this instrument. Contiguous lots or parcels conveyed by the FOUNDATION at any time or times, to a particular purchaser and his or its successors shall not be considered as a separate lot or building site for the purposes of this instrument but rather the entire combined area shall be considered as a lot or building site for the purposes of this instrument.

- N. Construction or alteration of all buildings and structures in the industrial site shall meet the standards provided in these restrictions. Titleholders, prior to construction or alteration of any building must submit two (2) sets of the plans and specifications for such building to and obtain the written approval of the Board of Trustees of the Foundation. Written approval of such plans by said Board of Trustees shall be proof of compliance with these restrictions.
- O. If, after the expiration of two years from the date of execution and delivery of a warranty deed to, or execution of a real estate contract for sale of, any tract within the industrial site by the Foundation any titleholder shall not have completed the construction of a building acceptable to the Foundation upon said tract, the FOUNDATION retains the option to refund the purchase price received by the FOUNDATION to the then titleholders and upon payment thereof title to said tract shall immediately revert to and vest in the Foundation, together with all rights of ownership and possession incident thereto. At any time the FOUNDATION, its successors or assigns, may extend in writing the time in which such building may be completed.
- P. An easement is reserved by the FOUNDATION over, under, across and through a strip of ground ten (10) feet in width adjoining the side, front, and rear property lines of all tracts in the industrial site sold or conveyed by the Foundation, for the installation, operation, maintenance or removal of utilities; provided, however, when the side, front, or rear property line does not constitute a common boundary with other land in the industrial site, such easement shall be fifteen (15) feet in width.

IN WITNESS WHEREOF, THE COUNCIL BLUFFS INDUSTRIAL FOUNDATION, INC. by authority of its Board of Trustees, has caused this instrument to be executed by its President and Secretary on this 21 day of October, 1962.

COUNCIL BLUFFS INDUSTRIAL FOUNDATION, INC.

By Harold T. Beckman President

By Ora L. Taylor Secretary

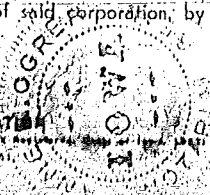
FOR THE LEGAL EFFECT OF THE USE  
OF THIS FORM, CONSULT YOUR LAWYER

STATE OF IOWA, POTTAWATTAMIE COUNTY, ss:

On this 27 day of March, A.D. 1962, before me, the undersigned, a Notary Public in and for said County, in said State, personally appeared Harold T. Beckman and Ora L. Taylor to me personally known, who, being by me duly sworn, did say that they are the President and Secretary respectively, of said corporation, executing the within and foregoing instrument to which this is attached, that ~~(the seal affixed thereto is the seal of said)~~ corporation; that said instrument was signed (and sealed) on behalf of said corporation by authority of its Board of Directors; and that the said Harold T. Beckman and Ora L. Taylor as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.



IOWA STATE BAR ASSOCIATION  
Official Form No. 12 (Revised May 1961)  
A-7740 THIS PRINTING: April 7, 1961



Anne M. Agnew  
Notary Public in and for said County

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EXHIBIT "A"

The following described real estate situated in Pottawattamie County, Iowa is subject to the conditions, covenants, restrictions, reservations, and easements affecting Council Bluffs Industrial Foundation, Inc., Sites dated March 27, 1962, to-wit:

That part of the South 216 feet of the Southwest Quarter Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) lying west of the Chicago, Burlington and Quincy Railroad Company right-of-way; and Southeast Quarter (SE $\frac{1}{4}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ); all in Section 12, Township 74 North, Range 44 West, subject to the following: All existing highways as shown on plat of said Southeast Quarter (SE $\frac{1}{4}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ) of said Section 12 as prepared by A. C. Christensen, Registered Land Surveyor, dated March 13, 1956, and recorded in office of County Recorder of Pottawattamie County, Iowa in Book 1157, Page 492 of the Records in such office; existing right-of-way of the Chicago, Burlington and Quincy Railroad Company and all easements now of record; all highway and road rights-of-way hereafter granted to Iowa State Highway Commission either by conveyance or through condemnation proceedings; all highway or road rights-of-way and railroad rights-of-way or easements for installation of public utilities now or hereafter reserved, granted or dedicated by Council Bluffs Industrial Foundation, Inc.

Southwest Quarter (SW $\frac{1}{4}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ); Northwest Quarter (NW $\frac{1}{4}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ); all in Section 12, Township 74 North, Range 44 West, subject to the following: All highways and road rights-of-way in existence on the date of the recording of the document to which this exhibit is attached; all highway or road rights-of-way and railroad rights-of-way or easements for installation of public utilities now or hereafter reserved, granted or dedicated by Council Bluffs Industrial Foundation, Inc.