

DRAFT – FOR REVIEW AND COMMENT

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding, hereinafter referred to as the “MOU”, entered into on this \_\_\_\_ day of \_\_\_\_\_ 2015, by and between the Kootenai County Board of Commissioners, for Kootenai County, a political subdivision of the state of Idaho, located at 451 Government Way, Coeur d’Alene, Idaho 83814, hereinafter referred to as “KOOTENAI COUNTY,” and the City of Hayden, with offices located at 8930 North Government Way, Hayden, Idaho, 83835, hereinafter referred to as the “CITY,” and collectively known as the “PARTIES,” for the purpose of establishing and achieving various actions, goals and objectives relating to acquisition of land for the protection of the existing runway protection zone, allowing for decoupling of runways for safety purposes, providing for an updated Airport Master Plan and related public and NEPA processes, as well as allowing for the eventual potential development of Developing Land Use Compatibility Between the Coeur d’Alene Airport, which is owned and operated by KOOTENAI COUNTY, and the CITY, hereinafter referred to as the “Project.”

MISSION

The aforementioned Project is established with the following intended mission in mind:

Adopt individual land use policies and plans for the Coeur d’Alene Airport and the CITY that are congruent with one another and that protect the well-being and safety of the residents and businesses of Kootenai County. Land use policies and plans are congruent when they allow for the existing and future surface and air transportation needs of the residents and businesses while promoting a high quality of life balanced with opportunities for growth and economic development and expansion.

*WHEREAS*, the aforementioned PARTIES’ desire to enter into the herein described agreement in which they shall work together to accomplish the actions, goals and objectives set forth;

WHEREAS, the aforementioned Parties agree that certain actions have been agreed to as follows: The precision approach on Runway 24— has been modified to a non-precision approach which along with a proposed decoupling of runways 24 —and 20 —is shown on the revised Airport Layout Plan (Exhibit A—~~to be developed to include runways and protection zones from 2000 Plan; Huetter realignment, Ramsey realignment, Runway 24 and 20 decoupling, Ramsey acquisition area~~). - ~~On same revised ALP, the Huetter Road alignment has been modified to depict both graphically and textually the current approved alignment adopted pursuant to the Idaho Code (Title 67, Chapter 65, Local Land Use Planning, Section 67-6517, Title 40, Section 202; Title 40, Section 605) and U.S. Code (Title 23: Highways, Part 710— Right of Way and Real Estate, Subpart E— Property Acquisition Alternatives, Section 710.501 Early Acquisition, the same which will be cited on said ALP)~~. Additionally, the parties recognize that potential runway extensions and the purpose they may serve in terms of future use of the airport as proposed in the 2012 Master Plan Update conflict with previously approved and existing land

use and surface transportation plans and as such, are subject to further review during the Master Plan scheduled for 2017 noted herein. ~~Based on this, the ALP has also been modified so that the runway extensions are consistent with the Airport Master Plan adopted in 2000.~~

Parties have also agreed that the planned Ramsey Road extension will require an alignment and acquisition of future right-of-way on property owned by the County that is within the airport boundaries.

WHEREAS, the parties recognize that the City has adopted zoning and comprehensive land use plans consistent with the Airport Master Plan adopted in 2000. Thereby providing for, through prevention of incompatible land uses, -protection of properties slated for acquisition in said Plan.

WHEREAS, the City has adopted the Huetter Corridor Plan as an ~~integral~~ part of the adopted Transportation Plan and has taken steps to effectuate this plan through ~~both~~ planning ~~-and~~ procuring two hundred foot +/- setbacks for the corridor ~~as a part of development and annexation agreements~~. These setbacks are a requirement of development and use of land and were a required condition of annexation for each of those properties abutting the corridor.

*AND WHEREAS*, the PARTIES desire to enter an understanding, thus setting out all necessary working arrangements that both PARTIES agree shall be necessary to complete the Project.

### MISSION

~~The aforementioned Project is established with the following intended mission in mind:~~

~~Adopt individual land use policies and plans for the Coeur d'Alene Airport and the CITY that are congruent with one another and that protect the well-being and safety of the residents and businesses of Kootenai County. Land use policies and plans are congruent when they allow for the existing and future surface and air transportation needs of the residents and businesses while promoting a high quality of life balanced with opportunities for growth and economic development and expansion.~~

### PURPOSE AND SCOPE

The PARTIES hereby intend for this MOU to provide the cornerstone and structure for any and all possibly impending binding contract, grants, ordinances, or policies which may be related to the project.

### OBJECTIVES

The PARTIES endeavor to work together to develop and establish policies and procedures that will promote and sustain a market for agreement that allows for acquisition of land ~~for the sole and exclusive purpose to~~ protect existing Airport runway approaches; while ~~at the same time~~ assuring the CITY's collaboration on updating the Airport Master Plan.

~~without expanding future airport impacts on surrounding properties; or stymying surface transportation or land use practices, both current and/or future. This also allows for decoupling for safety related purposes.~~

## RESPONSIBILITIES AND OBLIGATIONS OF THE PARTIES

It is the desire and the wish of the aforementioned PARTIES to this MOU that this document should not and thus does not establish nor create any form or manner of a formal agreement or indenture, but rather an agreement between the PARTIES to work together in such a manner that would promote a genuine atmosphere of collaboration ~~and alliance~~ in the support of an effective and efficient partnership. ~~and leadership meant to maintain, safeguard and sustain sound and optimal managerial, financial and administrative commitment with regards to all matters related to the project through means of the following individual services.~~

NOW, THEREFORE, it is hereby agreed by and between the PARTIES as follows:

1. ~~KOOTENAI COUNTY intends to will~~ initiate an Airport Master Plan Update (AMPU) ~~which shall be initiated completed no later than the beginning of federal fiscal year 2017, subject to federal funding, in the immediate future.~~ ~~S-~~ KOOTENAI COUNTY intends to ~~fund the sponsor's matching share of a grant to prepare the master plan.~~ KOOTENAI COUNTY shall take all actions necessary to request and procure FAA funding for the AMPU in federal fiscal year 2017. At a July 29, 2015 meeting between the parties and the FAA, the FAA representative, Gary Gates, indicated that the FAA will advocate for said funding and, subject to congressional approval, said funding shall be provided. ~~The AMPU would will begin immediately following completion of the Airport Sustainability Plan that is currently in process.~~ Parties understand funding is subject to local and Federal appropriations law.
1. ~~The Airport Sustainability Plan shall be re-scoped to exclude all activities related to land use compatibility, as the topic shall be addressed following the AMPU. Efforts will be taken toward the AMPU completing the Airport Sustainability Plan no later than the beginning of federal fiscal year 2017, subject to federal funding.~~
2. It is the intent of the PARTIES to form an ~~an AMPU master plan~~ technical advisory committee (TAC), which includes, at a minimum, representatives from City of Hayden, Kootenai Metropolitan Planning Organization (KMPO), Post Falls Highway District, ~~Lakes Highway District~~, and other entities as might be requested ~~by the parties~~. The TAC will endeavor to meet regularly during the master plan ~~update~~ process and will attempt, as much as practicable, to provide comment on the master plan ~~update~~ analysis and recommendations. ~~The TAC will report their recommendations to the The County Commissioners and~~ -Airport Advisory Board, ~~which~~ -will ~~make efforts to~~ objectively consider input provided by the TAC ~~in their legislative decision-making related to the AMPU.~~
3. ~~So long as~~ KOOTENAI COUNTY determines as prudent under this MOU, ~~K~~KOOTENAI COUNTY agrees that it will not ~~initiate take~~ any action(s) that ~~would will advance~~ extension of ~~any rR~~unways ~~and their~~ ~~24 and its~~ associated Runway Protection Zones

until completion and approval of the Airport Master Plan Update and in accordance with the City's Comprehensive Plan, Transportation Plan and zoning. This excepts runway 24— which may be decoupled as identified in the revised ALP as shown in Exhibit A, —specifically for other than safety related purposes. (runway decoupling as identified in the current master plan) or require relocation of Huetter Road until completion and approval of the Airport Master Plan Update. The parties recognize that design and engineering for the decoupling project has not yet been completed. The County will use all reasonable engineering analysis efforts to ensure that the decoupling is within the footprint of the runway, approach, and protection zones as depicted in Exhibit A and should the design and engineering results indicate additional encroachment outside of this footprint, KOOTENAI COUNTY shall agree to revisit this issue with the City prior to any submittal to the FAA for review and approval for any approval, or commencement of any project or environmental assessment related thereto. The City reserves the right to object to any revised action.

~~4. KOOTENAI COUNTY intends to fund the sponsor's matching share of a grant to prepare the master plan, upon approval by the KOOTENAI COUNTY Board of Commissioners.~~

~~5.—~~

~~6. KOOTENAI COUNTY intends to seek approval from the FAA to program and provide AIP State Apportionment funds in federal fiscal year 2017 (beginning October 2016) to prepare an Airport Master Plan Update. Grant funding is contingent on Congress approving the FAA budget.~~

~~7.4. In consideration of KOOTENAI COUNTY's intention to undertake an Airport Master Plan Update, complete and submit for approval an updated ALP and revised the environmental assessment's scope, purpose and need that reflects the terms of this agreement; and with a commitment to only purchase that property as described in Exhibit B, the CITY intends to provide KOOTENAI COUNTY with a written statement of "conditionedmitigated no-objection" regarding the ongoing environmental assessment and for the land acquisition effort that is in process to protect existing runway approach surface #6s. Nothing in this MOU shall preclude the City's ability to object to any other NEPA process related to the master plan, AMPU, new, additional land acquisitions, or to new issues which may arise related to this land acquisition. The revised ALP shall be was submitted to the FAA for review and approval no later than as of June 2015 —, and the revised environmental assessment shall be reissued for comment no later than September 30, 2015—. The statement of nomitigated no-objection will be issued by the CITY at the earliest possible opportunity, and the intent is to issue no later than September 30, —October 30, 2015.~~

~~8. The Airport and FAA will attempt to complete the ongoing environmental assessment as modified by this MOU before the end of calendar year 2015. The County will seek and consider the City's input into the revised environmental assessment.~~

~~5. Following completion of the AMPU, KOOTENAI COUNTY the PARTIES intends to develop and adopt by ordinance, land use policy plans and regulations that protect existing and future aviation needs while considering FAA FAR Part 77 surfaces and runway protection zones, and that considers aircraft impacts on transportation facilities,~~

land use, and ~~with~~ zoning within their respective jurisdictions. ~~unincorporated community boundaries areas of the County.~~ The County Each party will seek and consider the ~~City's~~ other's input during this process and in doing so, will maintain consistency with the terms of the adopted Area of City Impact Agreements.

~~9.~~

~~10.~~

~~11. Following completion of the AMPU, the CITY intends to develop and adopt land use policy plans that are coordinated with existing and future FAA FAR Part 77 surfaces and runway protection zones as may be recommended in the AMPU.~~

~~— Following completion of the AMPU, the City intends to develop and adopt by ordinance, land use policy plans and regulations that protect existing and future aviation needs while considering impacts on transportation facilities, land use, and zoning. The City will seek and consider the County's input during this process while recognizing the adopted Area of City Impact Agreements.~~

6. The parties recognize that adoption of plans and regulations is subject to a legislative process as established by Idaho Code and local ordinance, the outcome of which cannot be governed by contractual requirements.

## SERVICES COOPERATION

KOOTENAI COUNTY intends to provide the following services that include, but are not limited to:

To provide to the CITY recommendations input regarding a model land use policy plan for development of general land use policies and ordinances. City shall consider said input, in addition to other information and input, as part of their legislative decision-making process. ~~as determined to be required in the AMPU.~~

## COMMUNICATIONS

Any media or other public relations contact should always be consistent with the aims of the PROJECT and only undertaken with the express agreement of both PARTIES. Where it does not breach any confidentiality protocols, the PARTIES ~~should~~ will endeavor to communicate in the most open and transparent fashion. ~~Co-coordinated communications should be made with external organizations to elicit their support and further the aims of the PROJECT.~~

## TIMELINE

The PARTIES intend to make all reasonable efforts to perform the Responsibilities and Obligations of the PARTIES within the dates indicated. The PARTIES acknowledge that the timing of certain Responsibilities are is contingent upon receiving federal grants from the Federal Aviation Administration and availability of local resources, financial and otherwise. As ~~such and that~~ the timeline may be adjusted accordingly to fit the timing ~~of when that grant funds~~ sufficient funds and resources are obligated and available.

## TERMS OF UNDERSTANDING

The term of this MOU shall continue until all Responsibilities and Obligations outlined above have been completed by the PARTIES, or until a time as this Agreement is no longer practicable in the discretion of the individual PARTIES.

### AMENDMENT OR CANCELLATION OF THIS MEMORANDUM

This MOU may be amended or modified at any time in writing by mutual consent of both PARTIES.

~~In addition, this MOU may be cancelled by either PARTY with 90 days advance written notice, with the exception where cause for cancellation may include, but is not limited to, a material and significant breach of any of the provisions contained herein, when it may be cancelled upon delivery of written notice to the other PARTY.~~

### GENERAL PROVISIONS

The PARTIES hereby acknowledge and understand that they must be able to fulfill their Responsibilities under this Memorandum of Understanding in accordance with the provisions of the law and regulations that govern their activities. Nothing in this MOU is intended to negate or otherwise render ineffective any such provisions or operating procedures. The PARTIES assume full responsibility for their performance under the terms of this MOU.

If at any time either PARTY is unable to perform their duties or responsibilities under this MOU consistent with such PARTIES' statutory and regulatory mandates, the affected PARTY shall provide written notice to the other PARTY within a reasonable time in order to establish a date for resolution of the matter.

### LIMITATION OF LIABILITY

No rights or limitation of rights shall arise or be assumed between the PARTIES as a result of the terms of this MOU.

### MEDIATION DISPUTE RESOLUTION

~~Insert~~

### NOTICE

Any notice or communication required or permitted under this MOU shall be sufficiently given if delivered in person or by certified mail, return receipt required, to the address set forth in the opening paragraph or to such address as one may have furnished to the other in writing.

### GOVERNING LAW

This MOU shall be governed by and construed in accordance with the laws of the State of Idaho.

### AMENDMENT



~~This MOU may be amended or supplemented in writing, if the writing is signed by the PARTIES.~~

### SEVERABILITY CLAUSE

In the event that any provision of this MOU is deemed to be severable or invalid, and if any term, condition, phrase or portion of this MOU is determined to be unlawful or otherwise unenforceable, the remainder of this MOU will remain in full force and effect, so long as the clause severed does not affect the intent of the PARTIES. If a court of competent jurisdiction finds that any provision of this MOU to be invalid or unenforceable, but that by limiting said provision it would become valid and enforceable, then said provision shall be deemed to be written, construed and enforced as so limited.

### ENTIRE UNDERSTANDING

The herein contained MOU constitutes the entire understanding of the PARTIES pertaining to all matters contemplated hereunder at this time. The PARTIES signing this MOU desire or intend that any implementing contract, license, or other agreement entered into between the PARTIES subsequent hereto shall ~~superseded and~~supersede and preempt any conflicting provision of this MOU whether written or oral.

### MOU SUMMARIZATION

*FURTHERMORE*, the PARTIES hereby mutually acknowledge and agree to the following:

- The PARTIES intend to work together in a cooperative and coordinated effort in compliance with public and NEPA processes, and in such a manner and fashion to bring about the achievement and fulfillment of the goals and objectives of ~~this project~~the AMPU, as well as local and regional transportation and land use plans.
- It is not the intent of this MOU to restrict the PARTIES to the Agreement from their involvement or participation with any other public or private individuals, agencies or organizations.
- The PARTIES intend to mutually and willingly contribute and take part in any and all phases of the planning and development of this project, to the fullest extent possible, with the express purpose of achieving the objectives of this MOU.
- It is not the intent or purpose of this MOU to create any rights, benefits and/or trust responsibilities by or between the PARTIES.
- The MOU shall in no way hold or obligate either Party to supply or transfer funds to maintain and/or sustain the project.
- ~~Should there be any need or cause for the reimbursement of the contribution of any funds to or in support of the project, it shall then be controlled in accordance with Idaho governing laws, regulations and/or procedures.~~

- In the event that contributed funds should become necessary, any such endeavor shall be approved in advance and outlined in a separate and mutually agreed upon written agreement by the PARTIES ~~or representatives of the PARTIES~~ in accordance with current governing laws and regulations, and in no way does this MOU provide such right or authority.
- The PARTIES have the right to individually or jointly terminate their participation in this MOU provided that advanced-written notice is delivered to the other party.
- Upon the signing of this MOU by both PARTIES, the Agreement shall be in full force and effect.

DRAFT



AUTHORIZATION AND EXECUTION

The signing of this MOU does not constitute a formal undertaking, and as such it simply intends that the PARTIES should strive to reach, to the best of their abilities, the goals and objectives stated in this MOU.

This MOU shall be signed by Kootenai County Board of Commissioners and the City of Hayden and shall be effective as of the date first written above.

\_\_\_\_\_  
David Stewart, Chairman  
Kootenai County Board of Commissioners

\_\_\_\_\_  
Date

\_\_\_\_\_  
Dan Green  
Kootenai County Board of Commissioners

\_\_\_\_\_  
Date

\_\_\_\_\_  
Marc Eberlein  
Kootenai County Board of Commissioners

\_\_\_\_\_  
Date

| ~~for~~For the City of Hayden

\_\_\_\_\_  
Date:

| ~~for~~For the Federal Aviation Administration

\_\_\_\_\_  
Date

Exhibit A  
Revised Airport Layout Plan

DRAFT

Exhibit B  
Land Acquisition

Insert legal description for Jacquot property on the east side of Huetter and Sheet 13 of ALP “Airport Property Map” from 2000 AMP (City to provide Sheet 13)

DRAFT