



# Marion County OREGON

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### MEMORANDUM

TO: Marion County Hearings Officer

FROM: Marion County Planning Division/Reich

SUBJECT: Zone Change/Comprehensive Plan/Conditional Use  
Case 09-5/US Leaseco Inc.

DATE: May 12, 2009

The Marion County Planning Division has reviewed the above named case and offers the following comments:

### FACTS:

1. The subject property consists of 2 tax lots containing a total of 27.48 acres designated Primary Agriculture in the Marion County Comprehensive Plan (MCCP) and zoned EFU (EXCLUSIVE FARM USE) in the Marion County Rural Zoning Ordinance (MCRZO).
2. The properties are located at the northwest corner of Keil Road and Airport Road and consist of tax lot 400 (T04; R1W; S12B) and tax lot 100 (T04; R1W; S11A). Each of the two tax lots contains a dwelling, wells, septic systems, and accessory structures. Based on previous land use decisions and building permit approvals, the tax lots are considered legal parcels for land use purposes.
3. Surrounding properties to the east, south, and north are zoned EFU and consist of various sized parcels in farm use. A religious retreat facility borders to the north. Property to the west is zoned P and in use as Aurora State Airport.
4. The applicants are requesting to change the Comprehensive Plan designation from Primary Agriculture to Public, to change the zone from EFU (EXCLUSIVE FARM USE) to P (PUBLIC) and for a conditional use to establish airport related commercial and industrial uses on the newly zoned property.

5. Marion County Tax Office provided information on the tax status of the properties.

City of Aurora comments on the agricultural designation of the lands, concerns of the septic system affecting wells in the area, roadway traffic, and the applicant's Goal 14 exception reasons.

All other contacted agencies contacted either failed to respond or stated no objection to the proposal at the time this report was written.

In addition to other agencies' comments, comments were received from interested persons at and near the airport. These comments expressed concerns over air traffic, noise, development on high-value soils, traffic, lack of a tower at the airport, stormwater runoff, and whether the criteria for goal exceptions is met.

#### **STAFF FINDINGS AND ANALYSIS:**

6. In land use actions of this type, the applicants have the burden of proving all applicable standards and criteria are met. This report will outline the standards and criteria that must be satisfied in order for an approval to be granted. If the applicants supplied argument or evidence to address specific criteria, their response will be summarized.

#### **GOAL 14 EXCEPTION:**

7. The applicants are requesting to change the Comprehensive Plan designation from Primary Agriculture to Public and to change the zoning from EFU (Exclusive Farm Use) to P (Public). Land use applications of this nature must be consistent with Statewide Planning Goals. In this specific case, Statewide Planning Goal 3—Agriculture and Goal 14—Urbanization pertain to the proposal, and an exception to these goals must be obtained in order for the proposed change to be approved.

The mechanism for not applying a specific goal, in this case the agricultural lands goal and the urbanization goal is the goal exception process. The process requires specific findings justifying why lands are not available for resource use. There are three types of exceptions that can be made: physically developed, irrevocably committed and reasons. In this instance the applicants indicate that they are requesting a reasons exceptions to the goals.

8. Goal exceptions are governed by Statewide Planning Goal 2 and implemented by OAR 660-004. Planning and zoning for exception areas is governed by OAR 660-04-018, which states:
- (1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or portion of a one goal do not relieve a jurisdiction from the remaining goal requirements and to not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or

irrevocably committed exceptions under OAR 660-004-0025 and 660-004-028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(4) Reasons Exceptions:

- (a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;
- (b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new Reasons exception is required.

9. OAR 660-014-0040 establishes a specific set of criteria for an exception to Goal 14 to permit the establishment of new urban development on undeveloped rural lands:

- (1) As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.

**The property is outside any urban growth boundary on rural land. An exception to Goal 3 is requested, also, as part of this request, but not required to approve an exception to Goal 14.**

- (2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

**The applicants argue that economically, this location next to the airport is under the ownership of the applicant, is situated next to suppliers of goods and services they use, concentrates airport related businesses in one area, and contributes to the economic activity in the region.**

**Staff would also point out that the existing airport is a quasi-urban use, having been found as to be an "urban public facility" in Murray et al. v. Marion County, 23 OR LUBA 268 (1992). Also, airports tend to be located away from, or on the periphery**

**of, urban land. Therefore, it would not be unusual to find an airport providing a more urban level of development on rural land.**

- (3) To approve an exception under section (2) of this rule, a county must also show:
- (a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

**The applicant points out that the airport and surrounding property zoned public was originally intended to be included in the Aurora Comprehensive Plan, but that the city was unable to justify that amount of industrial/commercial land. It also wouldn't be reasonable to extend the existing UGB to the airport because of intervening resource land. Since the business depends on air traffic for its operation, it must be located at an airport. No other rural communities (such as Brooks, Mehama, Labish Village, etc.) have an airport. Adding air traffic to an existing rural community would greatly intensify the use; therefore, development of this use in a rural community would not be practical.**

- (b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:
  - (A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and
  - (B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

**According to the applicant, the amount of land needed for the use includes outdoor storage, parking, and access areas, as well as well and septic facilities. Due to the size of the equipment worked on, a large structure is also necessary: 120,000 square feet. The applicant points out that the 2000 Aurora State Airport Master Plan references the need for additional fixed based operators, of which this use would be one. This use would also help provide some of the need for services and aircraft at the airport identified in the master plan. The applicant has provided evidence that the property can be adequately serviced by rural facilities, such as a well and septic system. The rural transportation system should be adequate to handle the additional**

**traffic introduced by the proposed development. The Public zone requires a Traffic Impact Analysis for each new use established at the airport. It can be made a condition of the conditional use portion of this application that the applicant provide evidence that the use will not adversely impact the traffic facilities in the area, or that any impacts can be adequately mitigated.**

**In addition, staff would point out that the consequences of establishing this use on other undeveloped rural lands could be far more significant than establishing it in proximity to an existing airport. Aurora Airport offers an existing runway for aircraft and roadway surfaces for parking, hanger storage, and access to surrounding roads that other rural lands would not offer. Also, the airport is able to better control aircraft approach patterns and noise having all the aircraft activity concentrated at one location than if it existed on various undeveloped rural parcels. Locating adjacent to the existing airport significantly reduces the environmental, economic, social and energy consequences that would result if this use were established on other undeveloped rural land away from the airport. Since rural services will be able to be adequately established on the property, there should be no impact to water resources. Surrounding landowners will be able to continue the use of their properties, predominately farming, as they have next to the existing airport in the past. The energy savings are significant over locating on other undeveloped rural land. Although the air resource in the area will not necessarily be impacted, the noise from the use may impact surrounding uses. However, since the airport use of this parcel is next to the existing airport, the noise impacts would be centered at and approaching the airport. The addition of 27 acres of land in airport use to the existing 271 acres of airport should not significantly increase the impact of noise on neighbors to the airport. In addition, any commercial or industrial airport related use would have to be approved as conditional uses in the Public zone and compatibility with surrounding uses would have to be ensured through that process.**

- (c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:
  - (A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and
  - (B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

**Existing cities and service districts will not have to provide services to the newly zoned area. The property may connect to the existing fire suppression**

**district at the airport, but does not have to; it can provide its own fire suppression consistent with the requirements of the Oregon Fire Marshall and Aurora Fire Department. The applicants have provided an analysis of traffic that determines the roadways surrounding the property are adequate to handle additional traffic of uses allowed in the Public zone. The airport has not had a significant impact on the ability of surrounding lands to be farmed since the inception of the airport in 1943. Staff would point out that large parcel, open space uses, such as agricultural uses, surrounding an airport are preferred over more densely populated uses because of safety concerns.**

- (d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

**The property will depend entirely on rural services; no urban facilities will be required.**

- (e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.

**Demonstration of the proposed rezoning with the goals and policies of the Marion County Comprehensive Plan will be evaluated later in this report. The applicant points out that the proposal is consistent with the state master plans for the airport.**

- 10. Based on the above discussion, staff determined that the proposal meets the requirements for an exception to Goal 14 and that it would be appropriate to locate this level of urban development at this location.

### **GOAL 3 EXCEPTION**

- 11. In addition to meeting the requirements for an exception to Goal 14, the applicant must demonstrate that an exception to Goal 3 is appropriate. The "reasons" exception process is outlined in OAR 660-004-0018 (4), 660-004-0020 (2) and 660-004-0022 (1):

OAR 660-004-0018 (4):

- (a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

- (b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;

**The request is to rezone the property to Public to accommodate airport and airport related uses. It can be made a condition of the zone change that other urban types uses not be permitted without a new goal exception.**

**660-004-0020 (2)**

- (2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

- (a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

**The applicant argues that some of the facts and evidence were already presented as part of the Goal 14 exception.**

- (b) "Areas which do not require a new exception cannot reasonably accommodate the use":

**The applicant argues that the site adjacent to the Aurora Airport features a "unique combination of attributes not found on any other property in the region." Among these attributes are being located next to an existing airport, being near service and parts providers for the business, being located in an area with a concentration of other airport suppliers to and customers of the business, being located near the resource pool of potential employees of the business, good access to surrounding roads, and access to the airport runway via "through the fence" operations. Also, the proposed location minimizes the impact on residential, commercial or industrial uses that would otherwise experience a significant impact if this use were located in nearby cities or on undeveloped rural land away from the airport.**

- (c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception [remainder of section not reproduced in this report].

Among the other sites analyzed by the applicant to locate this business, were other farm properties adjacent to the airport. Other farm properties are being more intensely farmed than the subject property, or contain large amounts of native stands of timber that would have to be removed, at a significant cost to energy resources. The existing location is directed away from surrounding residential uses as much as possible and is buffered from other uses in the area by adjacent roads. Other locations in the state were also considered by the applicant, but only Aurora offered the best mix of customers, suppliers, and employees necessary for the business to operate. Staff notes that, as mentioned in the Goal 14 exception discussion, locating the proposed use elsewhere could have significant impacts on surrounding uses and on energy, environmental, land and other resources. These impacts are minimized by locating the use on this property.

- (d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts". The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

The applicant argues that the Aurora Airport was established in 1943 and has been compatible with surrounding uses since then. The small amount of expansion should not significantly increase the impact on surrounding land uses or render the airport not compatible with surrounding uses. Portions of the property that are not developed at this time would remain in agricultural use until such time as they are developed, and the appropriate conditional use applications are approved.

Staff would point out that the airport is not always compatible with surrounding uses. Sometimes, agricultural practices, or surrounding water impoundments, attract birds, which pose a severe threat to planes taking off and landing at the airport. Also, use of the airport has impacted residences with the impacts of noise and over flight patterns. While a tower would lessen the impact to neighboring property owners by controlling the approach and takeoff patterns and an instrumentation approach would minimize the noise of aircraft by modifying the angles of approach, these have not yet been constructed at the airport. While the airport works with pilots to voluntarily reduce their impact on surrounding land uses, there are no regulations the county can enforce regarding flight patterns since air traffic at this airport is regulated by the Federal Aviation Administration and there are no structural efforts in place (such as a tower or instrumentation approach) to minimize the impact on surrounding land use. The county does apply an Airport Safety Overlay Zone, which applies safety



**standards to airspace surrounding and approaching the airport. While the existing airport may not be entirely compatible with surrounding uses, the impact of this additional 27 acres should not significantly increase the impact on surrounding uses or render the airport incompatible with surrounding uses.**

**660-004-0022 (1)**

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

- (1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:
  - (a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either
  - (b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or
  - (c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

**The applicant, while not addressing these criteria specifically, provides evidence that there is a need for additional airport and airport related uses at the Aurora Airport and that the proposed use is dependent on being located at Aurora Airport, not other exception land, rural land, or land inside cities away from the economic activity at the airport. The applicant addresses the special features and qualities that necessitate the location of the proposed exception site on this property.**

12. Based on the above discussion, the applicant meets the criteria for a goal exception to Goal 3—Agricultural Lands on the subject property.
13. The applicant provides an analysis of how the other statewide planning goals are met by the proposal, aside from Goals 3 and 14, for which exceptions are taken as part of this application.

## COMPREHENSIVE PLAN AMENDMENT

14. All Comprehensive Plan changes are subject to review by the State Department of Land Conservation and Development (DLCD). The DLCD was notified as required by State Law and has not commented prior to this report being prepared.
15. The MCCP establishes procedures to be used when considering plan amendments. Plan changes directly involving 5 or fewer properties will be considered a quasi-judicial amendment. The amendment will be reviewed by the zone change procedures established in the MCRZO. A plan amendment of this type may be processed simultaneously with a zone change request with the zone change procedure outlined in Chapter 123 of the MCRZO.
16. The MCCP does not contain specific review criteria for plan amendments, however, any amendment must be consistent with its applicable goals and policies. The policies that need to be addressed by applicant include:

Agricultural Land Policy #2: Maintain primary agricultural lands in the largest areas with large tract to encourage larger scale commercial agricultural production.

**Although the applicant has requested an exception to Goal 3, the applicant points out that the property is not as conducive to farming as other parcels in Marion County. It is 27 acres, smaller than the minimum parcel size in the EFU zone and is bordered by roads on two sides and the airport on one site, not allowing the property to be expanded or easily farmed with another adjacent parcel.**

Agricultural Land Policy #3: Discourage development of non-farm uses on high value farmland and ensure that if such uses are allowed that they do no cause adverse impacts on farm uses.

**As discussed earlier under the Goal 3 and 14 exceptions, the non-farm use of the proposed parcel will not have an adverse impact on surrounding farm uses.**

### Rural Service Policies:

1. The impact on existing services and the potential need for additional facilities should be evaluated when rural development is proposed.
2. It is the intent of Marion County to maintain the rural character of the areas outside of urban growth boundaries by only allowing those uses that do not increase the potential for urban services.
3. Only services necessary to accommodate planned rural uses should be provided unless it can be shown that the proposed service will not encourage development inconsistent with the rural density and character of the area. These uses would encourage inconsistent development in the adjoining rural area.

4. The sizing of public or private service facilities shall be based on maintaining the rural character of the area.

**The applicant has demonstrated that the use would be dependent solely on rural services. Provision of the necessary services to serve the property developed with airport and airport related uses would not encourage development inconsistent with the rural density and character of the area or encourage development of the adjoining rural area. It has already been demonstrated that the proposed use adjacent to the airport is consistent with those airport uses. The Public zone has provisions to ensure that newly proposed uses have adequate transportation and septic facilities in place prior to development.**

Air, Rail, Water, Energy and Pipeline Transportation Policies #1: Airports and airstrips shall be located in areas that are safe for air operations and should be compatible with surrounding uses.

**The applicant argues that the airport has been in operation since 1943 and has proven during that time to be a safe location for an airport. The airport overlay zone is applied to the property and surrounding properties to ensure the continued safe operation of the airport. Surrounding uses are predominately agricultural operations. The low density development at the airport has ensured it stay reliant on rural services only. The proposal is not for a new airport, but to expand an existing airport operation that has a proven safety record. The proposed expansion would be compatible with surrounding uses, as described elsewhere in this report.**

Right-Of-Way Policies #2: New transportation facilities of all types should use existing rights-of-way to the extent possible to minimize disruption to existing land use.

**The property would use existing roadways for access to the parcel.**

Economic Development Goals:

- a. Provision of increased employment opportunities for all residents of the County;
- b. Maintenance of a strong agricultural economy;
- d. Diversification of the economic base of communities, and expansion of seasonal employment opportunities to year-round status wherever possible;
- e. Provision of sufficient areas for future industrial land use;
- f. Development of a transportation system for the safe and efficient movement of persons and goods for present needs;
- g. Coordination of planning and development of public facilities;
- h. Development of a strong tourist economy in appropriate areas;
- i. Achievement of a natural resource use pattern that provides for tomorrow's needs, today's needs and the protection of the environment.

**The applicant argues that the economic impacts of the proposed use would further the economic development goals in the Marion County Comprehensive Plan, while not significantly affecting the agricultural economy. The use would augment the**

**existing transportation system by utilizing the airport runway for additional commercial and industrial uses.**

17. Based on the above discussion, the proposal is consistent with the applicable goals and policies contained in the Marion County Comprehensive Plan.

**ZONE CHANGE**

18. The applicant identified and addressed zone change criteria outlined in the Marion County Rural Zoning Ordinance Chapter 123.060. The criteria that apply in this instance are:

- (a) The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification in the Comprehensive Plan; and
- (b) The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and
- (c) Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and
- (d) The other lands in the County already designated for the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and
- (e) If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.

19. The P (Public) zone is the only zone that implements the Public designation. That this zone and designation is consistent with the goal and policies of the Comprehensive Plan has been demonstrated elsewhere in this report. It has been demonstrated that the proposed use is compatible with surrounding uses and consistent with the pattern of development in the area (adjacent to an existing airport). The property would rely on rural facilities and not require any urban facilities. There are no other lands in Marion County designated Public which are near an airport and could accommodate this use. No other zone implements the Public designation. The proposal meets the criteria for a zone change.

**CONDITIONAL USE**

20. The applicant is also applied for a conditional for airport related commercial and industrial uses in the Public zone. The criteria that apply to this are found in Chapter 119.070 of the Marion County Rural Zoning Ordinance:
- (a) That it has the power to grant the conditional use;
  - (b) That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone;
  - (c) That any condition imposed is necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood.
20. The conditional use is dependent on the comprehensive plan change and zone change. Only the Board of Commissioners can grant a comprehensive plan change; therefore, only the Board can grant the conditional use in this case. As has been demonstrated previously, the proposed use is appropriate in the P zone and will be compatible with surrounding uses. It will be determined below whether the proposal meets the criteria for development in the Public zone. Any condition imposed will be necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood. The proposal meets the criteria for a conditional use.

**PUBLIC ZONE**

21. The Public zone contains criteria regarding the scale of commercial uses and property development standards that also must be satisfied by this proposal. The criteria that apply to this are found in Chapter 171.040 and 171.060 of the Marion County Rural Zoning Ordinance:

**SCALE OF COMMERCIAL USES:**

- (A) New commercial uses in conjunction with public uses may be established up to a maximum of 3,500 square feet of floor area.
- (B) Lawfully established commercial uses existing as of the date of adoption of this ordinance may be expanded up to 3,500 square feet of floor area, or an additional 25% of the floor area that existed as of the date of adoption of this ordinance, whichever is greater.
- (C) Airport related uses located at the Aurora Airport are not subject to the size limitations in (A) and (B) of this section.

- (D) Except as established in (B), for a commercial use to exceed the square foot limitations requires taking an exception to Goal 14. Such exception shall be processed as an amendment to the Marion County Comprehensive Plan.

**The county has previously taken an exception to Goal 14 to permit development of uses at the Aurora Airport and surrounding land zoned Public to exceed the size limitations in the Public zone. This exception was taken because of the large existing sizes of development at the airport (such as hangars, aircraft storage, aircraft maintenance facilities, etc.). These uses tend to be larger than the size limits because aircraft are large and require large open areas around them for safe storage, repair and operation. No size limits apply to the proposed development consistent with 171.040(C) above.**

PROPERTY DEVELOPMENT STANDARDS:

- (A) **HEIGHT.** No building or structure in a P zone shall exceed 6 stories or 70 feet, provided that buildings or structures shall set back from every street and lot line 1 foot for each foot of height of the building in excess of 35 feet in addition to all other yard and setback requirements herein specified.
- (B) **FRONT YARD.** Front yard shall be a minimum of 20 feet. No parking shall be permitted within the minimum front yard area.
- (C) **SIDE YARDS.** Where the side of a lot in a P zone abuts upon the side of a lot in any "R" zone, there shall be a minimum side yard of 10 feet. Otherwise there shall be no minimum side yard setback. Where the side of a lot abuts upon a street there shall be a minimum side yard of 20 feet wherein no parking shall be permitted.
- (D) **REAR YARD.** In a P zone there shall be a rear yard that shall have a minimum depth of 30 feet.
- (E) **LOT AREA AND COVERAGE.** The minimum requirements in P zones for dwellings shall be 1 acre except 6,000 square feet inside an unincorporated community boundary where public sewer and water service is provided. No main building, including dwellings, shall occupy more than 30% of the lot area.
- (F) **OPEN STORAGE.**
- (1) All yard areas, exclusive of those required to be landscaped as provided in Section 171.060 (G), may be used for materials and equipment storage areas related to a use permitted in the P zone, provided such area is screened so it cannot be seen from public roads, or from dwellings on property in other zones.

- (2) The surface of open storage areas, including automobile and truck parking area shall be paved or graveled and maintained at all times in a dust-free condition.
- (G) LANDSCAPING. The area within 20 feet of a street shall be landscaped. As a condition of approval for a conditional use additional landscaping may be required if necessary to make the use compatible with the area.
- (H) PERFORMANCE STANDARDS. No land or structure shall be used or occupied unless maintained and operated in continuing compliance with all applicable standards adopted by the Oregon Department of Environmental Quality.
- (I) SEWAGE DISPOSAL. Demonstrate that the development will not exceed the existing carrying capacity of the local sewage disposal system or has an on-site sewage disposal site approved by Marion County or the Department of Environmental Quality.
- (J) TRAFFIC ANALYSIS. Demonstrate that the development will be consistent with the identified function, capacity, and level of service of transportation facilities serving the site. A transportation impact analysis, approved by the Marion County Department of Public Works, may be required prior to building permit approval.

**The standards in 171.060 (A) through (G) would be applied during the permitting process for any structure on the property and a site plan demonstrating compliance with the standards can be made a condition of any approval. Demonstration of the standards in (H) through (J) can be made a condition of any approval.**

## CONCLUSION

- 22. Based on the above discussion, the applicant had demonstrated that exceptions to Goals 3 and 14 should be approved, that other Statewide Land Use Goals are satisfied by the proposal, that the goals and policies contained in the Marion County Comprehensive Plan are met by the proposal, that the criteria for a zone change and conditional use are satisfied, and that the standards in the Public zone can be complied with consistent with conditions of approval. Staff recommends the Hearings Officer approve the Comprehensive Plan/Zone Change/Conditional Use as described.
- 23. If the request is approved, the following are recommended conditions for this proposal:
  - 1. Prior to issuance of building permits, the applicant shall provide a Transportation Impact Analysis meeting the approval of Marion County Public Works.
  - 2. Prior to issuance of building permits, the applicant shall provide a site plan demonstrating compliance with the development standards in the Public zone.

3. Prior to issuance of building permits, the applicant shall provide evidence of compliance with Oregon Department of Environmental Quality standards.
4. Prior to issuance of building permits, the applicant shall provide evidence of an approved fire suppression system by either the State Fire Marshall or Aurora Fire District.
5. Prior to issuance of building permits, the applicant shall provide evidence of adequate on-site sewage disposal.
6. Prior to issuance of building permits, the applicants shall sign and submit a Farm/Forest Declaratory Statement to the Planning Division for each parcel. The applicant shall record this statement with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
7. The comprehensive plan/zone change is approved for airport and airport related uses only. All other uses in the Public zone would require a new goal exception and justification for that use.



**EXHIBIT M**

**BEFORE THE BOARD OF COMMISSIONERS  
FOR MARION COUNTY, OREGON**

In the Matter of the	)	Case No. ZC/CP/CU09-005
	)	
Application of:	)	Clerk's File No. 5636
	)	
US Leaseco, Inc.	)	

**AN ADMINISTRATIVE ORDINANCE**

**ORDINANCE NO. 1302**

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

**SECTION I. Purpose**

This matter comes before the Marion County Board of Commissioners ("Board") on the application of US Leaseco, Inc, to change the zone from EFU (Exclusive Farm Use) to P (Public), to change the Comprehensive Plan designation from Primary Agriculture to Public, to take exceptions to Statewide Planning Goal 3 (Agricultural Lands) and Goal 14 (Urbanization), and for a conditional use for airport related uses on 27.48 acres located at 14497 Keil Road NE and 22265 Airport Road NE, Aurora, Oregon. [T4S, R1W, (Section 11A, tax lot 100) and (Section 12B, tax lot 400).

**SECTION II. Procedural History**

The Marion County Hearings Officer held a duly noticed public hearing on this application on June 3, 2009. Mailed notice was provided to all property owners within 750 feet of the subject property at least 20 days before the hearing. On December 1, 2009, the Hearings Officer issued a report recommending the Board grant the request on 15 acres. The Board held a duly noticed public hearing on the application on January 13, 2010. The hearing was closed and record was left open for written testimony until January 27, 2010. At its regular session on February 10, 2010, the Board considered the Panning Division file, the Hearings Officer's recommendation, all arguments of the parties and is otherwise fully advised in the premises.

**SECTION III. Adoption of Findings and Conclusion**

After careful consideration of all facts and evidence in the record, the Board adopts as its own the Findings of Facts and Conclusions of Law contained in Exhibit A, attached hereto, and by this reference incorporated herein.

**EXHIBIT M**

**SECTION IV. Action**

The requested Comprehensive Plan designation change from Primary Agriculture to Public is hereby **GRANTED**. The requested zone change from (Exclusive Farm Use) to P-LU (Public – Limited Use Overlay) zone and conditional use to operate an airport related use is hereby **GRANTED**, subject to conditions identified in Exhibit B, attached hereto, and by this reference incorporated herein.

The property rezoned by this Ordinance is described in Exhibit C, attached hereto and by this reference incorporated herein. The Official Marion County Zoning Map shall be changed pursuant to the Marion County Zone Code 17.110.660 to reflect the new zoning.

**SECTION V. Effective Date**

Pursuant to Ordinance 669, this is an Administrative Ordinance and shall take effect 21 days after the adoption and final signatures of the Marion County Board of Commissioners.

SIGNED and FINALIZED this 10<sup>th</sup> day of March,  
2010, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

Janet Carlson

Chair

D. Kim Hulet

Recording Secretary

**JUDICIAL NOTICE**

Oregon Revised Statutes, Chapter 197.830, provides that land use decisions may be reviewed by the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days from the date this Ordinance becomes final.

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**EXHIBIT A**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Marion County Board of Commissioners, after careful consideration of all the testimony and evidence in the record, makes the following findings of fact and conclusions of law in Planning Case No. ZC/CP/CU 09-005.

1. The subject property consists of two tax lots containing a total of 27.48 acres designated Primary Agriculture in the Marion County Comprehensive Plan (MCCP) and zoned EFU (EXCLUSIVE FARM USE) in the Marion County Rural Zoning Ordinance (MCRZO).
2. The properties are located at the northwest corner of Keil Road and Airport Road and consist of tax lot 400 (T04; R1W; S12B) and tax lot 100 (T04; R1W; S11A). Each of the two tax lots contains a dwelling, wells, septic systems, and accessory structures. Based on previous land use decisions and building permit approvals, the tax lots are considered legal parcels for land use purposes.
3. Surrounding properties to the east, south, and north are zoned EFU and consist of various sized parcels in farm use. A religious retreat facility borders to the north. Property to the west is zoned Public (P) and in use as Aurora State Airport.
4. The Applicant is requesting to change the Comprehensive Plan designation from Primary Agriculture to Public, to change the zone from EFU to P, and for a conditional use to establish airport related commercial and industrial uses on the newly zoned property.
5. Approval of the proposed Zone Change, Comprehensive Plan Change and Conditional Use (ZC/CP/CU) would allow a zone change from EFU to P, a Comprehensive Plan change from Primary Agriculture to Public with an exception to Statewide Planning Goals 3 and 14, and for a conditional use for airport related uses on a 27.48-acre property.
6. The Marion County Planning Division requested comments on the subject application from various governmental agencies and area advisory committee members.

A. **Marion County Department of Public Works (DPW)** reviewed the proposal and indicated that the following requirements address impacts created by approval of the proposed ZC/CP/CU:

**STREETS**

1. In accordance with Marion County Rural Transportation System Plan (MCRSTSP) Section 10.3.5, Policy #10: The number of access points on Arterial and Major Collector roadways shall be kept to a minimum to reduce the interruption to traffic flow and to promote safety. Hence, no new direct access will be permitted to Airport Road. Upon redevelopment of the remainder of the property, the existing accesses serving the private residences shall be closed including drainage ditch lines restored, and access gained through a common access to Keil Road. Based on the Applicant's statement that the proposed facility will be limited to 70 employees, only one access to Keil Road will

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be allowed and shall meet spacing standards. An additional access to Yellow Gate would be acceptable.

2. In accordance with Marion County Ordinance #651, access permits are required for any new access or change in use of the existing access to the public right-of-way. If this ZC/CP/CU is approved, the Applicant will be required to apply for an "Access Permit." Driveways must meet sight distance, design, spacing, and safety standards.
3. SR 551 (Hubbard Cutoff Road NE) in this vicinity is under the jurisdiction of the Oregon Department of Transportation (ODOT). The Applicant shall meet ODOT requirements for traffic analysis, mitigation, etc. It will be the Applicant's responsibility to provide proof that this condition has been met.
4. The traffic from the proposed development may impact the City of Aurora roads. The Applicant shall also meet the City of Aurora's requirements for traffic analysis and mitigation. It will be the Applicant's responsibility to provide proof that this condition has been met.
5. Notwithstanding Public Works requirements for access, the local fire district has authority to require that driveways and private easements either meet fire district standards for access, have a fire sprinkler suppression system installed on any proposed structure, or be approved by waiver of the local fire marshal, prior to the issuance of building permits. The *Marion County Fire Code Applications Guide* also specifies a suitable turnaround area for emergency vehicles for an access in excess of 150 feet in length, and turnouts every 400 feet, as applicable.
6. Chapter 172 of the Marion County Rural Zoning Ordinance requires the Applicant to show sufficient dedicated right-of-way (R/W) on the plat to provide an R/W half-width of 30 feet along the entire subject property frontage, including 30-foot property radius corners. The nexus for this requirement is the potential for additional traffic associated with the development. Based on review of county tax assessor maps, it appears that a 30-foot corner radius is needed in the southeast corner of 22265 Airport Road NE. The R/W shall be dedicated prior to issuance of a building permit and/or operation of the proposed airport related uses. All dedications shall be to the public, not Marion County. Please contact Right-of-Way Coordinator, Patricia Nordhal, at (503) 365-3104 concerning this matter.
7. A Transportation Impact Analysis (TIA) is typically required for a zone change. In this case, the change from EFU to P will not increase the trip potential significantly. Therefore, a TIA was not required for the zone change. However, the conditional use does have the potential to create a significant traffic impact, and therefore a TIA was required for the conditional use. The TIA prepared by Group Mackenzie, dated May 27, 2009, for the subject property assumes a cap of 70 employees. Based on this level of development, there is a small level of impact to the operational capacity of the county and state roadway systems. The TIA proposes, and staff concurs, that it is appropriate to contribute a share of the cost of identified projects in the area in proportion to their impact. The following conditions are recommended to mitigate the traffic impacts of the development:

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- a. The developer agrees to a LU (Limited Use) overlay with a maximum of 70 employees. If the use were to intensify, then additional mitigation may be required in the future.
  - b. The Applicant shall contribute a proportional share of the cost of planning, designing, and constructing a signal and turn lanes on Ehlen Road at the intersection with Airport Road, improvements to the OR551/Ehlen Road intersection as identified in the 2010-2013 Draft Oregon Statewide Transportation Improvement Program (STIP), and a left turn lane on Airport Road at the intersection with Keil Road. The basis for the proportional share shall be the percentage of traffic added by the development. This is calculated to be \$51,125 and shall be paid as a condition of the conditional use. If the use changes, or additional employees are needed, then additional proportional share contributions may be required.
8. A civil site plan is required for 0.5-acres or more of proposed development. This should be submitted in advance of application for building permits to allow adequate time for review. A traffic circulation plan needs to be included.
  9. In accordance with Chapter 172 of the Marion County Rural Zoning Ordinance, if this development is approved, the Applicant will be required to improve Airport Road NE and Keil Road NE along their frontages to county standards as directed by the Public Works Department. This is anticipated to include vegetation clearing, slope and drainage work, and the addition of gravel shoulder along the roadways. These frontage improvements shall be included on the engineering plans for the proposed development, and will need to be complete prior to construction of any buildings and/or commencement of the proposed uses.
  10. Prior to building permit approval, the Applicant shall provide a Declaration of Covenants for Road Maintenance Agreement regarding any non-county maintained access easements (form available from Public Works). Please contact Tedd Joling at (503) 584-7714 for information on this matter.
  11. The Applicant is reminded of its responsibility to preserve and protect nearby roads and ditches to the satisfaction of Marion County Public Works throughout the use of the airport. Failure to preserve and protect the road and ditches may result in the user being responsible for replacing or reconstructing the damaged road or ditch at their expense.

#### STORM DRAINAGE / ENVIRONMENTAL

12. The Applicant is advised that construction of improvements on the property should not block historical or naturally occurring runoff from adjacent properties. Furthermore, site grading should not impact surrounding properties, roads, or drainage ways in a negative manner. The Applicant shall submit a site drainage plan to demonstrate that there is no negative impact.
13. The county requires any development 0.5 acre or larger to provide storm water detention for any increase in runoff. The existing site already has a storm water master plan and multiple detention systems. The Applicant will need to show that stormwater

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detention systems will retain enough of the storm-water runoff on site so that there is no net rate increase in storm-water flow from the subject property. Such a system shall be sized and modified so that it will detain the difference between a 5-year frequency storm with pre-development conditions and a 10-year frequency storm with development conditions. Storm drainage shall be discharged to a suitable outlet and, where applicable, evidence provided that an adequate easement exists for transit of the water to this outlet. Storm drainage improvements shall be built to Marion County Engineering and Construction Standards. Prior to issuance of building permits, the Applicant shall provide a storm drainage plan for the site that addresses drainage issues and includes detention elements. Acceptable drainage and detention systems must be in place prior to final building inspections.

14. Proof of issuance to the county of a National Pollutant Discharge Elimination System (NPDES) 1200-C permit is required for all construction activities that disturb one acre or more. If necessary, the NPDES permit is obtained through the DEQ.

### GENERAL

15. The subject property is within the unincorporated area of Marion County. Transportation System Development Charges may be assessed upon development of the property.
16. Any work in the public right-of-way will require a permit from Public Works Land Development Engineering & Permits.

B. Marion County Tax Office provided information on the tax status of the properties.

C. Department of State Land Conservation and Development (DLCD) commented to the Hearings Officer that the Applicant's Goal 3 exception should be limited to only the acreage actually needed for the proposed building and operation.

All other contacted agencies either failed to respond or stated no objection to the proposal at the time this report was written.

7. Application Background. Applicant owns and operates a fleet of heavy, large helicopters focused almost exclusively in the United States on fire suppression activity for the United States Forest Service. Applicant desires to consolidate its United States repair and maintenance facilities, including its Corvallis facility, at the Aurora State Airport. Applicant's proposed, state-of-the-art, 126,000 square-foot facility will be used predominantly for the repair and maintenance of the helicopters as well as warehousing and storage of helicopter parts. The annual winter overhaul of each helicopter involves the complete dismantling of each aircraft and re-assembly for maintenance and repair. This facility will become HTS' United States headquarters.

Applicant owns 27 acres adjacent to the Aurora State Airport at the northwest corner of the intersection of Keil Road and Airport Road. By consolidating its operations near Portland International Airport, which serves as a critical transport hub for personnel and parts, Applicant estimates it will reduce its time and fuel costs by 75%. This efficiency will reduce its impact on the environment and the State's highway system. Aside from its proximity to Portland, the Aurora Airport is strategically important to HTS as it is home to two, very unique vendors and it is at the heart of the human resource pool that

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supplies HTS with the skilled labor force necessary for its operations. A similar operation and one of HTS's largest competitors, Columbia Helicopters, already operates a facility at the Airport. The Oregon Department of Aviation's Airport Layout Plan specifically identifies Applicant's property as being suitable for airport expansion.

Applicant's operations will bring numerous benefits to the area without imposing significant, negative impacts. Generally, after a brief period of test flights in the spring, Applicant's helicopters leave for the fire season and remain in the field from May to November. The helicopters are then flown back in November and grounded for winter overhaul until the following season. This brings the economic benefits and airport synergies of the facility without excessive impacts on either the airport or the surrounding community. In addition, Applicant's pilots are specialized and highly trained. The minimal number of flights and professional pilots minimize interference with existing airport operations and impact on neighboring properties. Applicant's commitment to compatibility with neighbors, as well as recognition of Applicant's need to locate in Aurora, is affirmed by a letter from the Manager of the Corvallis Airport, where Applicant is currently located. In addition, a letter from Russ Langbehn, a homeowner in the nearby neighborhood of Deer Creek Estates, supports Applicant's proposal and includes a petition of support signed by a majority of Deer Creek Estates residents.

Upon opening the facility, Applicant estimates it will contract for goods and services locally in the amount of \$5,000,000 annually, increasing to \$8,000,000 annually after completion of consolidation and anticipated growth in the following five years. Construction of the new facility is estimated to cost approximately \$20,000,000 and will be contracted locally. The county's tax revenues on the assessed value of the facility are estimated to be approximately \$150,000 annually. Upon occupancy, Applicant estimates this facility will generate 85 jobs with average salaries of approximately \$50,000 to \$60,000 annually, increasing to 160 jobs after full consolidation and growth. However, because over half the employees are in the field for extended periods of time, the traffic impacts of these jobs are minimal (at most, 70 employees will be onsite in any given day). This economic opportunity comes at a time when another significant employer at the airport, Artex Aircraft Supplies, Inc., is closing its doors and consolidating its operations away from Aurora to Arizona. Artex's closure has resulted in the loss of 154 jobs at the Aurora Airport. Unlike Artex, which leased its space at the airport, HTS is committing its resources to the Aurora Airport by consolidating its United States operations *to the airport* on land that it owns.

Applicant seeks an exception from Statewide Planning Goal 14 to site an urban use on rural land. Applicant also seeks an exception to Statewide Planning Goal 3 to amend the Comprehensive Plan designation from Primary Agriculture (PA) to Public (P), and the zoning from Exclusive Farm Use (EFU) to Public (P) on the subject property. Finally, because airport related operations are conditional uses in the P zone, Applicant also requests a conditional use permit to operate an airport related use on the site.

### MCCP POLICIES AND GOALS

8. The comprehensive plan amendment must be consistent with the applicable MCCP goals and polices. The MCCP plan amendments Policy 2 provides that:

The procedures which Marion County will use to consider Comprehensive Plan amendments in addition to the requirements in state law, is as follows:

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### Individual Property or Quasi-Judicial Amendments:

Plan changes directly involving five or less properties will be considered a quasi-judicial amendment. Quasi-judicial amendments may be initiated by the subject property owners with an application form supplied by the Marion County Planning Division. The amendment will be reviewed by the zone change procedure established in the Marion County Zoning Ordinance. A plan amendment application of this type may be processed simultaneously with a zone change request.

This application involves one ownership of 27.48 acres. This is a non-legislative plan amendment. The application includes a plan amendment and zone change request as well as a request for a conditional use permit.

9. Applicant is seeking to have the comprehensive plan changed from Primary Agriculture to Public. The Board finds the proposed use to be industrial in nature. "Industrial Use" is defined in OAR 660-009-005(3) as follows:

"Industrial Use" means employment activities generating income from the production, handling or distribution of goods. Industrial uses include, but are not limited to: manufacturing; assembly; fabrication; processing; storage; logistics; warehousing; importation; distribution and transshipment; and research and development. Industrial uses may have unique land, infrastructure, energy, and transportation requirements. Industrial uses may have external impacts on surrounding uses and may cluster in traditional or new industrial areas where they are segregated from other non-industrial activities.

Applicant's proposed facility on this site is a substantial employment activity that will be predominantly characterized by its use as a hub for the maintenance overhaul (disassembly and assembly) and repair of large, industrial-grade helicopters and the associated warehousing, storage, and distribution of parts and equipment for those helicopters. As the definition of Industrial Use contemplates, this industrial use has a unique land and transportation requirement that it be located at an airport.

While the facility will contain offices of those who manage the firefighting operations of the company, the predominant purpose and the majority of the space of the proposed facility is the repair and maintenance of industrial-grade aircraft (including complete disassembly and re-assembly) and substantial storage and warehousing for both spare parts and the aircraft themselves. While aerial transportation services are a necessary part of Applicant's operations at the subject property, the predominant use at the site are the industrial uses explained above.

Furthermore, even if the proposed facility were classified by Applicant's business of wilderness firefighting and oil exploration, the Board finds such classification more industrial than commercial. "Commercial use" is defined in OAR 660-022-0010(1) as "the use of land primarily for the retail sale of products or services, including offices. *It does not include factories, warehouses, freight terminals, or wholesale distribution centers.*"<sup>1</sup> (emphasis added)

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<sup>1</sup> OAR 660-022-0010 contains an additional definition of "Industrial Use" that would further justify characterization of the proposed facility as industrial in nature: ""(4) 'Industrial Use' means the use of land primarily for the manufacture, processing, storage, or wholesale distribution of products, goods, or materials. It does not include commercial uses."



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10. The general development policies applicable to rural lands in Marion County provide:
1. All land divisions should be reviewed by Marion County for their compatibility with County goals and policies.
  2. "Strip-type" commercial or residential development along roads in rural areas shall be discouraged.
  3. Rural industrial, commercial and public uses should be limited primarily to those activities that are best suited to a rural location and are compatible with existing rural developments and agricultural goals and policies.

11. This application does not concern a land division but rather the use of land. General Development policy 1 is not applicable.

12. The Applicant is seeking to relocate its helicopter transport service to the Aurora State Airport. The plan includes constructing a 126,000 square foot building to house its business. This will not be a strip-type commercial or residential development. General development policy 2 is not applicable.

13. The subject property abuts the airport and an airport overlay zone has already been applied to the property. Airports are a public use and the zoning designation for the Aurora Airport is P. It should be noted that the ASA came about in 1943 as the result of WWII, long before any land use planning/zoning was initiated. The application proposes to locate a helicopter transport service adjacent to the airport and change the zoning designation from EFU to P. The area surrounding the airport is zoned EFU with the exception of a small area to the northwest that is zoned AR. Properties to the east, across Airport Road, are all zoned EFU as is property to the south across Keil Road. Those properties are in agricultural use. The surrounding uses have long co-existed successfully with the airport. The uses at the airport are very similar to the proposed uses, both are airport related uses. As such, the proposed use will be compatible with the surrounding uses.

The MCCC agricultural goals and policies discourage the development of non-farm use on agricultural lands and endeavor to keep large tracts of land in agricultural use. The proposed use is not a farm use and, if approved, approximately 27 acres will be taken out of agricultural production. Although the proposed use would take land out of agricultural production, as detailed below, there are reasons under Marion County goals and policies as well as under applicable State Goals and regulations for this exception. The Board finds that the application is consistent with general development policy 3:

The Board reviews the application against the applicable comprehensive plan policies in totality, not as individual criteria that each apply independently to the application.

14. *Rural Industrial Policy #1: Industrial uses in conjunction with farm or forest uses shall be evaluated to determine if they need to be located on resource lands or whether an equally suitable location is available in an urban area or on non-resource lands in a rural area.*

The Board finds this policy is not applicable because the proposed, airport-related industrial use is not in conjunction with farm or forest uses.

15. *Rural Industrial Policy #2: Rural industries should be compatible with existing development and farm or forest uses in the vicinity, should not involve a large number of employees, should not*

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*require heavy truck traffic through residential areas or on unimproved roads, and should not have the potential to exceed the environmental capacity of the site or require urban services.*

The airport related uses proposed by Applicant will be consistent with the development immediately adjacent to the west at the airport. As addressed in the application at length, the proposed development will have little to no impact on farm and forest uses in the vicinity. The subject property is not directly adjacent to any farm and forest uses as the airport lies directly to the west, Keil Road NE and Airport Road NE lie to the south and east, and a religious retreat has been developed to the north. The farm and forest uses in the vicinity will be adequately buffered from the proposed uses located on the subject property either by intervening development or roadways adjacent to the subject property. The facility is proposed to be located on the southerly portion of the subject property, a substantial distance from the religious retreat located to the north.

Unlike a rural industrial use that is entirely surrounded by rural and resource uses, Applicant's facility is a unique rural industrial development in that it will be located immediately adjacent to the Aurora State Airport where a very large number of employees are already located. Up to approximately 70 employees will be on the subject property after complete consolidation. This location as well as the capacity and condition of affected transportation facilities justify the proposal in this case, particularly as conditioned by this approval. The proposal will not require heavy truck traffic through residential areas. The site has the environmental capacity for the proposed use without requiring urban services. The application is consistent with Rural Industrial Policy 2.

16. *Rural Industrial Policy #3: A non-resource related industrial use should not be permitted on resource lands unless an evaluation of the relevant County and State Goals and the feasibility of locating the proposed use in an urban growth boundary or rural non-resource lands show that the proposed site on resource lands is the most suitable.*

The application and this approval contain a thorough evaluation of the relevant county and state goals, as well as an analysis of the feasibility of locating the non-resource related proposed industrial use on non-resource land or within urban growth boundaries. The proposed use must be located at an airport, and this airport has several amenities important to Applicant's use, the combination of which is exclusive to this property, including proximity to a custom vendor located at the Aurora Airport (Metal Innovations, Inc.), proximity to the specially trained human resource pool due to competitors in the vicinity, proximity to the Portland International Airport, and the availability of the access road adjacent to the property for taxiway purposes. Airport-related uses are not normally allowed in urban areas for safety reasons. The facts and analysis contained in the application establish that the proposed airport related uses are most suitably located next to the Aurora State Airport on the subject property. The application is consistent with Rural Industrial Policy 3.

17. *Rural Services Policy #1: The impact on existing services and the potential need for additional facilities should be evaluated when rural development is proposed.*

Under the MCCP, rural service facilities are those services and facilities necessary to provide basic support systems for rural development. Rural development includes farm and forest related development, acreage residential development and rural commercial and industrial uses.

No new service facilities are required with this proposal. The water, septic and stormwater needs will be met on site or by connection to existing facilities at the airport. The transportation facilities and services are already in place and their condition is addressed at length in Public Works staff comments

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and the Traffic Impact Analysis (TIA) provided by the Applicant's traffic engineer. The traffic engineer coordinated with County Public Works Staff as well as Oregon Department of Transportation. This approval is conditioned on Applicant's improvement or contribution toward improvements of transportation facilities. The use, as conditioned, is consistent with Rural Services Policy 1.

18. *Rural Services Policy #2: It is the intent of Marion County to maintain the rural character of areas outside of urban growth boundaries by only allowing those uses that do not increase the potential for urban services.*

The city of Aurora's urban growth boundary (UGB) is approximately 1,300 feet from the subject property and there currently are no plans to extend the UGB or urban services to include the subject property. The Board finds that the proposed project does not increase the potential for urban services. The subject property and the immediately adjacent airport have adequate resources to service the water and sewer needs for the proposed use. The subject property is located adjacent to the airport, and the airport has existed for sometime without being connected to urban services. The proposed use will be similar to the airport, both are airport related uses, and will maintain the rural character of the area to the extent possible. This application is consistent with Rural Services Policy 2.

19. *Rural services policy #3: Only those facilities and services that are necessary to accommodate planned rural land uses should be provided unless it can be shown that the proposed service will not encourage development inconsistent with maintaining the rural density and character of the area.*

The predominate feature of the surrounding area is the airport. No new proposed urban services are planned for the proposed development. The proposed use is adjacent to the airport and will be very similar in character to the uses that are already on site. The proposed use will not encourage development that is inconsistent with the already existing uses at the airport and will maintain the rural density and character of the area. The application is consistent with Rural Services Policy 3.

20. *Rural Services Policy #4: The sizing of public or private service facilities shall be based on maintaining the rural character of the area. Systems that cannot be cost effective without exceeding the rural densities specified in this Plan shall not be approved. The County shall coordinate with private utilities to ensure that rural development can be serviced efficiently.*

The service facilities will be almost entirely self-contained on the subject property or connecting to the existing water system at the immediately adjacent airport for fireflow purposes. The proposed use will also be served by a well. The service facilities proposed by Applicant are consistent with services in the area and will help maintain the rural character of the area. Fire and police protection are already provided to the subject property. The Applicant will be required to comply with the applicable fire district regulations. The TIA provided by Applicant is discussed below. The application, as conditioned, is consistent with Rural Services Policy 4.

21. *Air, Rail, Water, Energy, and Pipeline Transportation Policy #1: Airports and airstrips shall be located in areas that are safe for air operations and should be compatible with surrounding uses.*

The proposed use includes a helipad for the Applicant's fleet of helicopters. The use is adjacent to the airport which has successfully existed for over 65 years. Helicopter operations have safely taken place at the airport over the years and have been compatible with other uses at the airport. The county has established an airport overlay zone that restricts development in the area to uses that are compatible with airport uses. The testimony from other airport users as well as evidence of long-standing similar

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helicopter use by Applicant's competitor at the airport demonstrate that that the proposed use will be compatible with and complementary to airport uses. The surrounding uses are otherwise agricultural operations, compatibility with which is addressed in detail in discussion of the Goal exceptions below. Because the development at the airport has been low density, the airport is reliant on rural services only. The application is consistent with Air, Rail, Water, Energy, and Pipeline Transportation Policy 1.

22. *Economic Development Goal (a): Provision of increased employment opportunities for all residents of the County.*

The Board finds that securing Applicant's company at this location would significantly advance this Goal and be a benefit for not only the airport, but the city, county, and state as well. The direct benefit from the consolidation of the company in Aurora would mean that there will be an immediate need for 85 additional jobs in the region (though not all onsite), with average salaries ranging from \$50,000 to \$60,000 per year. Applicant projects an anticipated growth to approximately 160 employees by the 5<sup>th</sup> year. Currently, Applicant subcontracts approximately \$5 million to local Oregon companies and estimates that the number should increase to \$8 million within the first year after consolidation of the operation is complete at Aurora. With Applicant reaching \$80 million in sales in 2007, and still experiencing a steady rate of growth, Applicant estimates that its sales will reach \$110 million in 2010. Not only does this increase the direct employment of more people, but it also increases the amount spent by the company back into the local economy on subcontracts and other goods and services, which incidentally increases other employment opportunities in the county as well.

23. *Economic Development Goal (b): Maintenance of a strong agricultural economy.*

Although the proposal is to take 27.48 acres out of agricultural use, the proposed use will have little effect on the overall agricultural economy in the area. The subject property is below the minimum parcel size of 80 acres in an EFU zone. Testimony from a resident of 70 years in the area confirmed that the subject parcel has never been in extended agricultural production due to poor soil hydration. Applicant provided information from the *Gross Farm Sales and Estimated Acreage Summary* tables from the Oregon State University Extension Service report, "2008 Oregon County and State Agricultural Estimates, Special Report 790-08, revised February 2009." According to the report, there are 156,012 acres of crop land (excluding other types of resource land) in Marion County. On average, the crop land generates approximately \$2,954.23 per acre annually (gross farm sales, all crop summary total of \$460,896,000 divided by 156,012 acres = \$2,954.23/acre). The subject property, could, therefore, generate \$81,200 per year total in agricultural production (\$2,954.23 X 27 acres = \$81,200). The Board finds that in light of the property's historically minimal agricultural production and the relatively minimal loss of agricultural revenue, particularly in light of the economic gains associated with the proposal, the proposal is consistent with Economic Development Goal (b).

24. *Economic Development Goal (d): Diversification of the economic base of communities, and expansion of seasonal employment opportunities to year-round status whenever possible.*

The Applicant's business will bring new jobs to the area. Workers will be needed for the development of the proposed project including the construction of the 126,000 square foot building as well as parking and storage areas. Although not all of the Applicant's employees will be at the site at all times due to the nature of their work, the business will provide approximately 70 new jobs based in this area with the possibility of expanding up to 160 new jobs. The newly created jobs will not be in the agricultural area which is the predominate types of jobs in the surrounding areas and county.

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Accordingly, the new jobs will help diversify the economic base of the county. The Board finds that airport uses are unique and opportunities to create jobs within the airport context are rare. This opportunity brings new jobs in this unique sector, does so in a substantial number with high-wage jobs in a manner that supports the economy of other businesses at the airport. This is particularly important with the loss of other employment at the airport such as Artex, the closure of which has resulted in the loss of 154 jobs. The application is consistent with Economic Development Goal (d).

25. *Economic Development Goal (e): Provision of sufficient areas for future industrial land use.*

Though appropriately designated in the P zone, Applicant's use is industrial in nature and provides jobs at industrial wages. The approval of this application advances the county goal of providing both immediate industrial land use and future land use by providing enough land for the full consolidation and expansion of Applicant's operations. The application is consistent with Economic Development Goal (e).

26. *Economic Development Goal (f): Development of a transportation system for the safe and efficient movement of persons and goods for present needs.*

Public airports form an important and integral part of the state and county transportation system. Applicant has provided evidence that the Aurora State Airport, the busiest state-owned airport, needs to expand to improve its capacity and service to existing and potential users. The Board finds that the proposed use will stimulate economy at the airport and maintain if not increase its effectiveness as part of the transportation system. Siting the proposed use at this location utilizes an existing road system currently serving the same use and located relatively close to the Portland International Airport in order to reduce impacts on the state and county's road system. The Board finds that while Applicant's proposed use will increase airport capacity and provide a substantial economic benefit to the county, the nature of Applicant's use minimizes the adverse impacts on air traffic congestion at the airport and vehicle traffic congestion in the surrounding areas. The primary helicopter traffic occurs in two, relatively brief periods of the year. While based out of the airport and the Aurora area, many of the employees spend significant portions of the year away from the site, thereby reducing traffic impacts on county roads. The Board finds this proposal consistent with Economic Development Goal (f).

27. For the reasons discussed above as well as for the reasons demonstrating compliance with criteria for Exceptions to Statewide Planning Goals as discussed below, the Board finds that the proposal is consistent with the applicable Goals and Policies of the Marion County Comprehensive Plan.

### EXCEPTIONS TO STATEWIDE PLANNING GOALS

28. Applicant proposed that under OAR 660-012-0065 exceptions to Goals 3, 4, 11, and 14 are not needed. Applicant's position is that its application is an expansion of the airport and relies on OAR 660-012-0065 and *Lentz v. Lane County*, 38 OR LUBA 669 (2000) for that proposition. It is unclear from the OARs, ORS and Applicant's various written statements if the application is technically an expansion of the airport. It appears that the proposed use is outside of the airport boundaries.

Applicant asserts OAR 660-012-0065(3)(n) provide that exceptions to statewide goals are not required for airport expansions. The rule provides in pertinent part:

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- (1) This rule identifies transportation facilities, services and improvements which may be permitted on rural lands consistent with Goals 3, 4, 11, and 14 without a goal exception.
- (3) The following transportation improvements are consistent with Goals 3, 4, 11, and 14 subject to the requirements of this rule:
  - (n) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and . . .

The Board finds that the proposed use is not a transportation improvement to the airport. It is development on private property for the benefit of the property owners. It does not appear that the subject property is within the airport boundaries as defined by and for the purposes of the 1976 Airport Master Plan attached as Exhibit H to Applicant's application. The airport appears to be bounded on the side adjacent to the subject property by a security fence and the subject property is labeled: "This area acceptable for airport related development under private ownership."

The Board finds the *Lentz* case is distinguishable because it concerned a new public use runway and included road realignment as well as an expansion of the airport boundary. The two cities involved, Eugene and Springfield, as well as Lane County all joined together and adopted amendments to the Eugene Airport Master Plan changing the zoning of the Lentz property from AG (Agricultural) to G (Government and Education). There is no indication that the proposed use, consolidation of the Applicant's helicopter transport business, involves any similar transportation improvements to the airport. In any event, the Board finds that the Applicant has satisfied requirements of exceptions to Goals 3 and 14. Those exceptions are discussed and analyzed below.

29. Applicant proposes a reasons exception to goal 3 and 14. The third type of exception requires the county to show other "reasons" why a goal exception is appropriate. Only the portions of the OARs applicable to this application are discussed below.

30. OAR 660-004-0018(4) provides:

- (a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;
- (b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;

This approval includes the imposition of a limited use overlay zone on Applicant's property. Only the following uses are allowed: helicopter uses, services, maintenance, offices, repair, overhauling, and other uses associated with the helicopter business.

31. ORS 197.732(1)(c) provides that a local government may take exception to a goal if the following standards are met:

- (A) Reasons justify why the state policy embodied in the applicable goals should not apply;
- (B) Areas which do not require a new exception cannot reasonably accommodate the use;

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- (C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- (D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

32. These standards are further clarified in the relevant Oregon Administrative Rules:

660-004-0020, Reason Exception Requirements:

- (1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.
- (2) The four factors in Goal 2, Part II(c) required to be addressed when taking an exception to a Goal are:
  - (a) Reasons justify why the state policy embodied in the applicable goals should not apply: The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;
  - (b) Areas which do not require a new exception cannot reasonably accommodate the use:
    - (A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;
    - (B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:
      - (i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?
      - (ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

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- (iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?
  - (iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?
- (C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.
- (c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include, but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;
- (d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.



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33. OAR 660-004-0022 sets out what "reasons" are acceptable under OAR 660-004-0020(2)(a). It provides in pertinent part:

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

- (1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:
  - (a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either
  - (b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or
  - (c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

As the findings above discuss, the Board finds the use to be an airport related use industrial in nature. Because Applicant's use is industrial in nature, it is specifically provided for in a subsequent section of OAR 660-004-0022. Specifically, OAR 660-004-0022(3) provides that for the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to, the following:

- (a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports; or
- (b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or
- (c) The use would have a significant comparative advantage due to its location (e.g., *near existing industrial activity*, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages which support the decision.

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### Goal 3 Exception

34. The purpose of Goal 3 is to preserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural and forest products as well as open spaces. The Applicant's proposed development is to establish a helicopter business on EFU zoned land adjacent to the airport. The proposed use is not consistent with the goal and an exception is required.

35. The proposed use is not dependent upon a unique resource located on agricultural land. Accordingly OAR 660-004-0022(3)(a) is not applicable. If subsection (a) is not applicable, then an analysis may be done under subsections (b) or (c).

36. OAR 660-004-0022(3)(c) is applicable to the proposed use. The Board hereby incorporates findings below regarding Goal 3 as to the comparative advantage of this property due to its location, not the least of which is it being immediately adjacent to an existing industrial activity: the Aurora Airport, including one of Applicant's primary competitors at the same airport. That fact alone severely limits the number of locations suitable for Applicant's proposed use. Additional, significant comparative advantages are this property's size, proximity to critical and unique suppliers and service providers, proximity to sufficiently skilled workforce, proximity to Portland International Airport, potential access to through the fence incentives identified for this airport, the access easement serving this property to the airport runway, and the fact that the Applicant owns the property outright, which is a significant factor for its relocation from Corvallis where it has determined that leasing is no longer an option for their operations.

The Applicant is proposing a 126,000 square foot building with accompanying parking and storage space for its helicopters. The helicopters used by the Applicant are older helicopters, built in the 60's and 70's, and are no longer in production. When possible, the Applicant buys the older helicopters for parts and stores the helicopters on site. Testimony at the hearing demonstrated the size of the rotor blades, which are manufactured and repaired at Metal Innovations in the airport near the subject property. Some of the helicopters are quite large, 80 feet, with the rotor blades alone being 40 feet in length. One of the reasons the Applicant is moving from its current location is lack of storage space. Currently some of the helicopters are stored outside where the weather corrodes the helicopters and parts. Because of the limited space at its current location, the Applicant's business is spread out at several locations in the Willamette Valley.

The airport is also home to a major vendor of the Applicant, Metal Innovations, and the vendor is the only vendor of its kind in the world. The airport is one of three rural airports in the state that was identified as a pilot site for the "through the fence" program, which allows access to the airport runway for airport related businesses located within the airport boundary. Concerns were raised by DLCD that the Applicant may be relying too heavily on this program as justification for a goal exception because the program can be applied only after the land use actions have been approved. The Board finds that while Applicant cannot rely solely on the program as justification for this application, the program is still a factor that should be considered.

The subject property is also bordered on two sides by public roads, Keil Road to the south and Airport Road to the east, which buffers it from neighboring agricultural activity. Immediately to the west and further to the north is the airport. Because of its location with respect two of Applicant's competitors (Columbia and Evergreen), the area of the airport has attracted a specialized work force of helicopter mechanics and other specialized workers who provide support for helicopters. The Board finds that

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these attributes of this property and the Aurora State Airport represent significant comparative advantages for Applicant's industrial use.

In addition, the Board finds that the economic gain to the county associated with the proposed use far exceeds the relatively minimal loss of resource land and revenue generated thereby. Marion County contains 156,012 acres of crop land alone (excluding other types of resource land such as forest land and livestock land. On average, that crop land generates \$2,954.23 per acre. Accordingly the proposed site could generate approximately \$81,200 per year if left in resource use. Such an estimate may be generous in light of testimony received at the hearing indicating that it has not historically been farmed for any extended periods of time. The property also generates minimal property tax revenue due to its special assessment for farm-deferral. The data is from *Gross Farm Sales and Estimated Acreage Summary* tables of the Oregon State University Extension Service report, "2008 Oregon County and State Agricultural Estimates, Special Report 790-08, revised February 2009."

Conversely, the Applicant's proposed use will generate sufficient revenue for 85 high-wage jobs (an estimated 160 jobs in 5 years with anticipated expansion), construction jobs for the installation of the \$19 million facility, an estimated \$5 million annually in outsourcing to local service providers and suppliers (an estimated \$8 million annually with anticipated expansion in the next 5 years), and approximately \$150,000 annually in property tax revenue to the county. Applicant's payroll is \$10 to \$12 million annually. In addition, construction of the \$19 million facility will generate a substantial number of construction jobs. This 27 acres is far more productive for the county's and Oregon's economy than it would be in continued resource use.

Opponent testimony suggested that Applicant's use does not need access or to be adjacent to the Aurora Airport. The Board disagrees. The Board finds that a significant factor in Applicant's purchase of the subject property was the existence of a taxiway easement from the property to the airport runway. Applicant's site plan manifests this with the taxiway from the new facility to the airport property. Weather conditions, air traffic congestion, and other unique circumstances will necessitate HTS helicopters' occasional use of the airport runway for arrival or departure by use of tugging to and from the proposed facility. The facility also relies on the ability of fixed-wing aircraft, both of HTS and those of vendors, suppliers, and independent contractors, to directly access the Applicant's facility, particularly with heavy parts delivery to and from the facility. Applicant's facility, because Applicant outsources the majority of its service and product needs, also relies upon close proximity to such services, particularly key vendors such as Metal Innovations, Applicant's competitor, and Columbia Helicopters (nondestructive stress testing facility), as well as aviation fueling stations, and charter flights for personnel and parts. In fact, as testified by a former employee of Columbia Helicopters, the Applicant's substantial outsourcing is what allows it to operate without the impacts of substantially higher numbers of employees. The efficiencies gained by close proximity to Metal Innovations, an exclusive vendor for the repair and manufacture of Applicant's specialized rotor blades, is one of the primary purposes for Applicant's relocation to the Aurora Airport. The Board finds that these are compelling reasons for Applicant's facility being adjacent to the Aurora Airport on this property.

In light of the fact that this property is designated as being acceptable for future airport expansion in the airport's Master Plan, and that the proposed use has such relatively low impact on the surrounding uses, the reasons are compelling for the property to be used for Applicant's purpose. For these reasons, the Board finds the application satisfies OAR 660-004-0022(3)(c).

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### 37. Alternate Analysis Under OAR 660-004-0022(1)

In light of the applicability of OAR 660-004-0022(3), the Board finds that Applicant need not show a "demonstrated need" under OAR 660-004-0022(1) because the use is an industrial use. However, the Applicant also provided information demonstrating compliance with OAR 660-004-0022(1) in the event Applicant's use was deemed not to be an industrial. The Board agrees with Applicant that, in the event the use was deemed to not be industrial, the application satisfies OAR 660-004-0022(1) for the reasons below. OAR 660-004-0022(1) provides:

- (1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:
  - (a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either
  - (b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or
  - (c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

There is a demonstrated need for the proposed use based on Goals 9 and 12. Following is an analysis of both goals in relation to OAR 660-004-0022(1).

1. **Goal 12.** Statewide Planning Goal 12 requires the provision and encouragement of a safe, convenient, and economic transportation system. Goal 12, Airport Planning, is implemented by OAR 660, Division 13, "Airport Planning." Division 13 also implements ORS 836.600 through 836.630 relating to local government airport regulation.<sup>2</sup>

The purpose statement of Division 13 indicates that "[t]he policy of the State of Oregon is to encourage and support the continued operation and vitality of Oregon's airports. The rules are intended to promote a convenient and economic system of airports in the state and for land use planning to reduce risks to aircraft operations and nearby land uses." OAR 660-013-0010(1).

Division 13 requires that the county "shall adopt land use regulations to carry out the requirements of this division, or applicable requirements of ORS 836.608, *consistent with the applicable elements of the adopted state ASP* and applicable statewide planning requirements. OAR 660-013-0050 (*emphasis added*).

In addition, the county's "land use regulations for areas within the airport boundary of non-towered

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<sup>2</sup> See Purpose Statement, OAR 660-013-0010(1): "This division implements ORS 836.600 through 836.630 and Statewide planning Goal 12 (Transportation)." Compliance with OAR 660, Division 13 is deemed to satisfy requirements of Statewide Planning Goal 12 and OAR 660, Division 12 related Airport Planning. See OAR 660-013-0160(3).

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airports identified in ORS 836.610(1))” (e.g. Aurora Airport) must authorize, among other uses:

*Law Enforcement and Firefighting Activities, including aircraft and ground based activities, facilities, and accessory structures necessary to support federal, state or local law enforcement and land management agencies engaged in law enforcement and firefighting activities. These activities include transport of personnel, aerial observation and transport of equipment, water, fire retardant and supplies.*

OAR 660-013-0100(3) (*emphasis added*). The Applicant’s proposed use is for a facility dedicated almost exclusively to firefighting activities as defined above in that its purpose is the provision of firefighting services for a federal agency, the United States Forest Service. To the extent this property is not deemed within the airport boundary, the county has failed to provide adequate land on which firefighting activities are authorized.

Lastly, the county’s comprehensive plan indicates that “[f]or specifics related to the Aurora State Airport and the Salem Municipal Airport, the respective Master Plans for these airports should be consulted.” M CCP, Chapter IIE, Transportation Element, p. 9.

The record includes the county-adopted Aurora State Airport Master Plan (See Exhibit G in application, hereinafter “Master Plan”) and the most recent data available and adopted by the Oregon Department of Aviation as part of the Department’s Aviation System Plan pursuant to Division 13. Since 1976, expansion of the airport has been designated to occur *east* of the airport in exactly the area in which this property sits (See p. 67 of Master Plan and accompanying “Airport Layout Plan,” Figure 23). Numerous documents in the Master Plan relating to zoning and use of the subject property identify this property and the area around it as “ACCEPTABLE FOR AIRPORT RELATED DEVELOPMENT UNDER PRIVATE OWNERSHIP,” including the Airport Layout Plan (Figure 23), the Terminal Area Plan (Figure 25), the Land Use Plan (Figure 28), the Recommended Zoning Plan (Figure 29), and the Development Staging Plan (Figure 30).

The forecasted need for this area to become part of the airport has proven accurate. The current demand well exceeds the demand (and capacity) forecasted by the 1976 Master Plan. The demand is detailed with the most-recent data provided in the 2000 Master Plan Update and the Oregon Department of Aviation 2007 Aviation Plan. In short, while the 1976 Master Plan forecasted needs only as far as when 248 based aircraft would use the airport, the airport had 387 based aircraft as of 2005 with a predicted 498 based aircraft by 2025. To this day, the Airport Layout Plan for the Aurora State Airport identifies this property as acceptable for airport development under private ownership. Lastly, the Master Plan recommends that Marion County work with the State “to develop zoning changes on and near the airport as recommended by the Master Plan.” Master Plan, p. 11.

In summary, the 1976 Master Plan, based on demands through a 1995 planning horizon, anticipated this property to be developed for airport uses. Now, in the current planning horizon, demand already exceeds the 1995 forecast by 56% (and will double by the end of the period). Only roughly 4.85 acres of vacant land remain for development at the airport (see Supplemental Written Statement). Yet, the subject property remains undeveloped and unzoned for airport purposes.

Whether pursuant to its obligations under its adopted Master Plan under Goal 12, or pursuant to the obligations imposed directly by Goal 12 and its implementing regulations under OAR 660, Division 13 and ORS 836.600 through 836.630, the county’s failure to grant the proposed Goal exception would necessarily mean its failure to accomplish its obligations under Goal 12. Therefore, for the reasons set

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forth above, there is a demonstrated need for the proposed use based on one or more of the goals in satisfaction of OAR 660-004-0022(1)(a).

2. **Goal 9.** Closely related to the county's obligations under Goal 12 are its obligations under Goal 9 to "provide adequate opportunities through the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens." In addition, not granting the proposed application would also represent failure to accomplish the county's economic goals under its Comprehensive Plan.

The economic impacts associated with the vitality of state airports are statutorily acknowledged in ORS 836.600, which provides "[i]n recognition of the importance of the network of airports to the economy of the state and the safety and recreation of its citizens, the policy of the State of Oregon is to encourage and support the continued operation and vitality of Oregon's airports." (*emphasis added*). The economic benefits of this proposed use to both the County and the State are very substantial. They are described at length in the Applicant's Written Statement (e.g., pp. 13-14, 16-17, 21-22) and Supplemental Written Statement (p. 2 and enclosed flier from Helicopter Transport Services).

As demonstrated above with respect to Goal 12, there is currently *inadequate* opportunity at the Aurora Airport. This airport is the only airport within the county's jurisdiction. Clearly, both as acknowledged by statute and as evidenced with the data provided, airports provide a tremendous benefit to and are essential components to a diverse economy. The county's failure to adequately provide appropriately zoned land for the demand at that airport would constitute failure to provide "adequate opportunities" for a "variety of economic activities." This application provides a vehicle to provide such opportunities maintaining the variety sought by Goal 9. Failure to grant the exception would constitute failure to comply with the county's obligations under Goal 9 and its associated Comprehensive Plan policies.

**B. Applicant's use relies on Aurora Airport resources (OAR 660-004-0022(1)(b)) and has special features and qualities necessitating its location at the subject property (OAR 660-004-0022(1)(c)).**

These findings address why the proposed use must be located adjacent not only to an airport, but the Aurora airport specifically. The airport contains the airstrip, fueling, and other essential operational, maintenance, and repair services essential to Applicant's use. In addition, it is located in the heart of the human resource pool trained for Applicant's helicopter operations, and it is located strategically close to the Portland International Airport. Lastly, although not a justification in and of itself for the proposed zone change, the Aurora Airport is one of only a few airports in the State that has through-the-fence opportunities, which best accommodate Applicant's use.

The market area served by the Applicant's firefighting helicopter services spans multiple states in conjunction with the United States Forest Service's firefighting operations. The only other airport in the County potentially large enough for Applicant's use is the Salem Airport. However, Applicant's helicopter use is less compatible with the surrounding uses at Salem's urban airport, and Salem's airport and vicinity do not provide the economic, energy, and environmental advantages associated with the Aurora location and its proximity to Portland International Airport. This reliance on the Aurora Airport as a critical resource satisfies OAR 660-004-0022(1)(b).

Applicant's reliance on these fundamental features, including the airport's landing strip, refueling proximity, and unique service providers, also constitute satisfaction, if needed, of OAR 660-004-

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0022(1)(c). In addition to the airport as a resource, the size of the property itself is sufficient to accommodate Applicant's current and future operational requirements, including the space needed to provide adequate surface protections for the approach and departure of the helicopters as well as the vast storage and maintenance space associated with its operations. As stated by Applicant's engineer at the hearing, these large helicopters do not take off and land straight up and down. They require horizontal clearance as well.

For all the reasons and evidence set forth above, Applicant's proposal complies with OAR 660-004-0022(1), if applicable.

38. OAR 660-004-0020 sets forth four factors under Goal 2, Part II(c) that are required to be addressed when taking an exception to a goal. The factors are set out above and below with findings specific to each following.

(a) *Reasons justify why the state policy embodied in the goals should not apply.*

The reasons justifying inapplicability of Goals 3 and 4 are established above as set forth in the Board's findings under OAR 660-004-0022.

In addition, with respect to the size of the property to be rezoned, after review of Applicant's site plan and current and long-range expansion needs, the Board finds that Applicant requires the full 27.48 acres. The record shows that Applicant requires at least 15 acres for the initial facility just to consolidate its United States operations and will require more for planned expansion.

The Applicant is currently leasing multiple different, separate areas and hangers at the Corvallis airport and in other cities near Corvallis due to insufficient space for its use. Applicant's existing Corvallis operations alone require 63,000 square feet of indoor roofed space. The remaining operations across the United States total an additional 23,000 square feet of indoor hanger and office space. In addition, Applicant leases a four-acre, outdoor truck yard for additional storage of helicopter parts. The need for storage is ever expanding as the company searches for and purchases parts for its older helicopters, for which parts are no longer manufactured. Applicant purchases older helicopters around the country simply for their parts in the event of future need. The outdoor storage causes corrosion of the parts, and the company's future expansion will provide additional, large areas of indoor storage and line maintenance for the additional helicopters. In the months between the hearings officer hearing and the Board's hearing, Applicant purchased two large, heavy-lift Sikorsky helicopters and as of the Board hearing was in the process of purchasing three more.

To provide for Applicant's 126,000 square foot facility, its outdoor apron, parking areas, truck storage areas (the company owns multiple fuel tankers that follow the helicopters while out for the summer on firefighting service; the helicopters burn up to 525 gallons of fuel per hour of flight), septic system and drainfield, the taxi way, the helipad and sufficient approach for the helipad, construction of the initial facility will require approximately 15 acres. After Applicant's consolidation, Applicant's foreseeable growth will require additional covered space for additional storage and maintenance shops.

The site map shows the approximate location and size of Applicant's anticipated future expansion. Construction of the expansion will require Applicant to obtain an additional conditional use permit by submitting a detailed site plan of the expansion facilities. At that time, the county and public will review the expansion and its impacts, and the county may impose conditions to mitigate those impacts.

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The Board finds that Applicant's request for the re-designation of the entire 27 acres is also consistent with similar users at the airport and necessary for safety. Applicant's primary competitor, Columbia Helicopters, operates on a site of 24 acres on the north end of the airport. In addition, the Federal Aviation Administration discourages crop lands on airport property for the safety of flight operations. Mr. Faegre, who has engineered and designed many of the facilities at the Aurora State Airport, recommends against using any of the proposed parcel for agricultural purposes. The Board finds such safety concerns substantiated by the January 13, 2010 *Oregonian* article provided at the hearing recounting the deaths of 8 people in a Sikorsky helicopter like Applicant's when the helicopter struck a hawk. Accordingly, as a practical matter, given the necessary configuration of the site for Applicant's use, no part of the subject property can remain viable for agricultural purposes. The Applicant has indicated that because of the reality of such safety concerns, the Applicant will not allow the property's use for agricultural purposes. Accordingly, the Board finds that regardless of whether buildings are constructed immediately on the area designated for Applicant's eventual expansion that area will nevertheless be for airport use by virtue of safety precautions preventing any agricultural activity to occur on that portion of the property. Furthermore, the record shows, and the Board finds that, Applicant's ability to expand is critical to the success of the company.

For these reasons, the Board finds that re-zoning the entire 27 acres is consistent with applicable criteria for the Goal exceptions.

*(b) "Areas which do not require a new exception cannot reasonably accommodate the use":*

The property adjacent to the Aurora State Airport was selected for this development by the Applicant because it features a unique combination of attributes not found on any other property in the region. Being situated adjacent to an airport is vital to Applicant's business. This eliminates a majority of the potential property in the applicable vicinity, and the county as a whole. In addition to benefitting from the use of an adjacent airport, Applicant also provides services that are a direct benefit to other businesses already located at airports. This concentration of potential users and customers cannot be found except at an airport facility. It is most efficient from both the aviation supplier and customer's perspective to have these services located nearby each other and adjacent to an airport. More importantly, the Applicant requires proximate access to airport facilities for the dispatch of its fleet of helicopters as well as the helicopters' return for maintenance and repair.

Proximity to the Aurora State Airport specifically is particularly important. This specific site offers several unique amenities that cannot be duplicated by any city, rural community, or airport in the state. The Aurora airport is the location of the supplier, repair service provider, and engineer of the Applicant's specially designed tail rotor blades, Metal Innovations, Inc. Metal Innovations, Inc. is the only company in the world that supplies this product and service for the Applicant. This is not only important for operations efficiency, but also for reducing energy and transportation costs associated with shuttling parts to and from Metal Innovations, Inc.

In addition, there are significant strategic advantages in being located near the Applicant's two competitors. Columbia Helicopters, Inc. is located within the Aurora Airport; and Evergreen Helicopters, Inc. is located at the McMinnville Airport. Included in those advantages is proximity to the human resource pool of specially trained mechanics that has the expertise necessary to perform the service and repairs needed at the Applicant's proposed facility. The center of that pool is in the Aurora area because of the presence of the Applicant's two competitors.



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In addition, there is an airport access road that abuts the subject property's western border. Applicant also owns a 100-foot easement across the south end of the airport specifically granted for purposes of gaining access to taxiways and the runway. Because a "Through the Fence" program has been established at this airport, Applicant will be eligible to use this easement in conjunction with the ability to access the airport facilities. The "Through the Fence" program, in its newly enacted form, is available only at three Oregon airports at this time. Along with the Aurora State Airport, the Scappoose Industrial Airpark and the Baker City Municipal Airport are eligible to participate in this program. However, only the Aurora State Airport can meet the Applicant's needs: It is the only airport in the state with the strategic and efficiency advantages of proximity to its specialty rotor blade vendor and its competitors (i.e. skilled labor force), it is proximately located to the Portland International Airport (key for transportation of parts and employees), and it has the "Through the Fence" capability.

The largest concentration of industrial land is typically found within city limits, in urban environments. This is the land that would be immediately ready to accept Applicant's use, and would not require any exceptions. However, the proposed uses on the property are not compatible with most uses located inside city limits in a traditional urban setting, as there are certain noise and safety concerns that are typical for an airport environment, but which may not be compatible with certain residential, commercial, and even some industrial developments.

The Applicant provided a detailed analysis of the areas at the airport not requiring an exception. It reveals that there is no property in the airport's boundary that can accommodate the Applicant's proposed use. The Applicant is consolidating its United States operations at its Aurora property. Its operations require large operating and storage areas immediately and substantially more in anticipated expansion.

The Applicant is currently leasing multiple different, separate areas and hangers at the Corvallis airport and even in other cities near Corvallis due to insufficient space for its needs. Applicant's existing Corvallis operations alone require 63,000 square feet of indoor roofed space. The remaining operations across the United States total an additional 23,000 square feet of indoor hanger and office space. In addition, Applicant leases a four-acre, outdoor truck yard for additional storage of helicopter parts. The need for storage expands as the company purchases parts for its older helicopters, for which parts are no longer manufactured. Applicant purchases older helicopters around the country simply for their parts in the event of future need. The outdoor storage causes corrosion of the parts, and the company's future expansion will provide additional, large areas of indoor or covered storage.

To provide for Applicant's 126,000 square foot facility, its outdoor apron, parking areas, truck storage areas (the company owns multiple fuel tankers that follow the helicopters while out for the summer on firefighting service; the helicopters burn up to 525 gallons of fuel per hour of flight), septic system and drainfield, the taxi way, the helipad and sufficient approach for the helipad, stage 1 of the new facility will require approximately 15 acres. This facility is intended primarily to house corporate offices and line maintenance facilities for the winter overhaul of the helicopters when returned from firefighting service in the late fall. Additional storage will continue to be maintained offsite until expansion occurs, which will primarily house additional storage and shops.

The site map shows the approximate location and size of shops and storage areas in future expansion. A separate conditional use permit application with a detailed site plan will be required when Applicant's expansion takes place.

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Because there are no properties within the airport large enough for Applicant's proposed use, any properties other than Applicant's would require crossing a state highway or county road and further encroaching on resource land to find properties large enough to accommodate Applicant's use. The facility's taxiway cannot cross public roads. In addition, any resource-land properties would likewise require reasons exceptions, and would be less compatible with resource lands than Applicant's property. Applicant's property is immediately adjacent to the existing airport facilities and buffered from surrounding agricultural uses by Airport Road and Keil Road.

The Board finds that Applicant's necessity of owning the property for its new facility is valid justification for its site selection. The economic realities of Applicant's proposed facility require its ownership of the property. Some testimony at the hearing suggested that properties available for lease should be viably considered for Applicant's use. The Applicant states that leasing is not an option, and the Board finds Applicant's position to be valid. Applicant is investing \$20,000,000 into this facility's initial construction alone. The Board agrees that with an investment of this size, no prudent business would move forward without complete control of its property and the knowledge that it will permanently retain its investment (i.e. not risk losing it at the conclusion of a lease). The Board finds that such an investment in ownership of the property is a sign of Applicant's commitment to longevity at this location, as opposed to other companies that have merely leased property and are now abandoning the airport. The Board finds such an economic consideration requiring property ownership as an appropriate factor to be considered in this application. The Board finds the proposed facility to be unique and large, and a significant economic opportunity that requires very specific parameters, including property ownership. OAR 660-004-0020(2)(b)(B) specifically provides that "Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas."

The requirements of this particular use require a location in close proximity to the airport. The subject property, given the reasons noted above, is uniquely suited for this use. The airport is currently surrounded by resource lands and there are no appropriately zoned areas available adjacent to the airport which are not developed or are being developed which can reasonably accommodate aviation-related activity. There are no areas which do not require an exception that could reasonably accommodate the use. For the reasons stated, there is no other airport that can meet Applicant's needs. However, even assuming otherwise, any other lands for purchase adjacent to public-use airports in Marion County, or the State of Oregon for that matter, would likely require the same exception that is required in this application. For these reasons, there are no properties not requiring an exception that can reasonably accommodate Applicant's use. Even those properties that would require an exception cannot accommodate Applicant's use in light of their inability to provide the significant comparative advantages of this location and their incompatibility with surrounding agricultural uses. This criterion is satisfied.

(c) *The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception.*

As stated above, the location of this project adjacent to the airport is an essential component of the proposed development. All of the possible alternative sites adjacent to airports, which would be suitable for siting an aviation-related activity, are also zoned EFU in the vicinity. Therefore, there are no adverse impacts that can be said to be significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. Attempting to site the

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proposed project on any other piece of land would likely have even more significant adverse consequences. The only other tract of land adjacent to the airport that is not already in airport use is the tract of land directly adjacent to the north of the proposed use. This property is not vacant; it is actively used as a religious retreat facility. The retreat property would also require an exception, would actually have no buffer from agricultural land to the south, and is financially infeasible since the Applicant already owns the property subject to this application. In addition, in order to develop the retreat property, besides the costly relocation of the religious retreat and removal of the associated structures, a large amount of the timber that is currently on the land would likely have to be removed. This is a significant environmental consequence that would not be necessary were the development located directly to the south on the subject property.

Even as far back as 1976, Marion County recognized that the subject property was fit to be developed for airport expansion under private ownership. In the 2007 Airport Layout Plan (ALP), this property is the only property acknowledged as "ACCEPTABLE FOR AIRPORT-RELATED DEVELOPMENT UNDER PRIVATE OWNERSHIP." The proposed uses on the subject property will be consistent with those that currently exist at the airport. The existing airport uses have been compatible with the surrounding resource uses for decades. There is no indication that an expansion of these uses would cause an incompatibility. In fact, the new development will have better buffers from resource uses than the current airport development has. The proposed use is well situated away from residential areas, but also buffered by roads from agricultural uses. As described and conditioned, it will not interfere with resource use, as many other uses might. Additionally, there are certain noise and safety concerns associated with this use, which make it more compatible with rural areas than it would otherwise be in more densely populated areas.

The Board finds that the proposed use will not cause a significant increase in the amount of automobile traffic. The impact would be no more adverse than if this use were sited on another property requiring a goal exception. As identified in the Traffic Impact Analysis and as conditioned, the surrounding roads will be adequate to accommodate the increase in vehicle trips caused by the proposed development. As the 2000 Airport Master Plan Update concludes, the existing roads are adequate to handle the increase in the proposed development. Being located adjacent to a major collector and in close proximity to major transportation and shipping routes, such as Interstate 5 and Oregon Highway 51, is a benefit that is not available on other rural land that would be suitable for this use. The property is also benefitted by the existing easement created specifically to provide direct access to the airport from this site without burdening public roads. In addition, the applicable airport overlay zone limits certain development standards applicable to the property. This will help ensure that the potential for larger, heavy traffic producing development on the property remains less than could be achieved from the same proposal being located on other lands requiring a Goal exception.

The proximity to the Aurora Airport, and various urban centers, is another reason why this property was purchased by Applicant. Applicant currently travels from the Corvallis Municipal Airport to the Portland International Airport (PDX) for shipments and personnel dispatches. The move to Aurora will cut this transportation distance and time significantly, by approximately 130 miles and 2.5 hours each round trip to and from PDX. This reduction in distance reduces energy consumption and environmental impacts, as well as the operations costs to the Applicant.

Economically, the expansion of the airport is positive for the City of Aurora, Marion County, and the state of Oregon. In the city of Aurora's comprehensive plan, the City's adopted assumptions forecast an 86% increase in population over the planning period (2000-2020). According to the Portland State University Population Research Center, as of July 1, 2007 Marion County was estimated to contain

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311,070 residents in 2005, up 9.2 percent from the 284,834 residents the census data recorded in 2000. This region is currently growing at nearly the same pace as the state as a whole, which experienced 9.5 percent growth over that same period according to the same data. The City acknowledges that the vicinity around the airport has the potential for significant economic/commercial development. See City of Aurora Comprehensive Plan, Pages 22 and 59. Increased development will have a positive economic impact upon the city. See City of Aurora Comprehensive Plan, Page 22. Applicant's generation of new jobs will also have a secondary effect of increased patronage of local businesses. The 2007 Oregon Aviation Plan analyzed the economic impact that the airport had on regional economy. In 2005, 2,403 jobs were directly related to both on and off airport related impacts, providing \$52,347,000 in local wages. See Oregon Aviation Plan 2007, Appendix E, Page 6. The sum of on-airport economic activities, off-airport spending by visitors who arrive by air, and spin-off impacts led to local business sales of \$134,827,000. This impact is proportionate to the impact that public-use airports have on the state as a whole. Oregon public-use airports, including airport tenants, directly employ 7,000 people for aviation related activities and expend \$259,000,000 in wages. See Oregon Aviation Plan 2007, Aurora State- Individual Airport Report, Page 32. These employees and tenants earned an average annual salary of \$36,000 per year for aviation activities and \$35,000 per worker, when including non-aviation jobs.

OAR 660-013-0010 sets forth the policy of the state of Oregon regarding airport planning. "The State is to encourage and support the continued operation and vitality of Oregon's airports... Ensuring the vitality and continued operation of Oregon's system of airports is linked to the vitality of the local economy where the airports are located." Expansion of the airport to include Applicant's business would be positive for the continued overall growth and vitality of Oregon's aviation system, and a tremendous advantage for the region to secure a productive and viable business. As discussed above, Applicant is a multimillion dollar producer. Applicant will provide both sales and substantial, high-wage jobs to the region. The consolidation of the company in Aurora would mean that there will be an immediate need for 85 additional jobs in the region, with average salaries ranging from \$50,000 to \$60,000 per year. The Applicant forecasts steady growth, with a projected need of approximately 160 employees by the 5<sup>th</sup> year.

Applicant's proposed use can only be located at or adjacent to an airport which will allow access to its facilities. This limits the alternative sites which are appropriate to consider for the proposed use. The land adjacent to the Aurora State Airport is ideal for the proposed use given its location adjacent to the airport and its proximity to nearby urban centers. Additionally, the land has adequate resources and capacity to support the septic and water needs of the use, while also being adjacent to roadway infrastructure that can handle the increase in anticipated traffic.

For the reasons listed above, Applicant's proposed use will have significantly positive, long-term environmental, economic, social and energy consequences resulting from the use at the proposed site as compared to other areas which would also require a goal exception, especially given the history of similar uses on adjacent properties. Applicant's relocation will have significant, positive energy and environmental consequences by reducing fuel and traffic use from its Corvallis site, and it will provide tremendous economic benefits to the state and region through relocation of its business to the Aurora Airport. The Board finds this criterion is satisfied.

*(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.*

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The vicinity in which the property is located is dominated by the airport. The airport has been in existence since 1943 and has remained compatible with the adjacent resource uses in the area over this period. Applicant's proposed use, which would effectively expand the airport and include uses already existing adjacent to resource uses, will be bordered to the west by the preexisting airport development, to the south by Keil Road NE, and to the east by Airport Road NE. To the north is a rural religious retreat, which also borders the existing airport operations. The proposed primary operations of the use will be located on the southern portion of the parcel which should minimize any interference between the proposed use and the retreat to the north. Similarly, the farming activity to the south, across Keil Road NE has not been negatively impacted by the current airport development. The Board finds that expansion of currently existing uses will not render the airport uses otherwise incompatible with farming to the south. There has been and there is currently no affect on agricultural activity on the property from the existing airport uses. Applicant's extension of airport uses farther east onto the property will not have a negative effect, especially now with a larger buffer in Airport Road.

Regarding the activity that will take place on the property, all helicopter repairs will be done indoors. The Board finds Applicant's use to be relatively low impact for an industrial proposal, particularly with respect to both air and road traffic. Many of its employees are offsite with the helicopters thereby reducing vehicle trips. The helicopter traffic occurs predominantly for a brief period in the spring and fall between fire season dispatch and returns. This approval further conditions the number of employees regularly onsite as well as site grading and storm drain activities to prevent adverse impacts to surrounding properties. The applicable airport overlay zone provides additional restrictions on development on the property.

Many neighbors of the airport testified in support of the proposed use, including other airport users and numerous neighbors in the residential subdivision to the southwest of the airport, Deer Creek Estates. The airport manager for the Corvallis Airport, where Applicant is currently located, also provided testimony explaining how Applicant has been a compatible neighbor to airport users and local residents. The Applicant's competitor, Columbia Helicopters, has long operated 24 acres at the north end of the airport without conflict with neighbors or airport users. Lastly, the State of Oregon's Airport Land Use Compatibility Guidebook indicates that industrial uses, like the Applicant's, are specifically permitted within 10,000 feet of the airport runway and are compatible with the airport itself.

Concern was raised regarding the flight paths of the helicopters and their landing location. A nearby resident was concerned for safety reasons of a helicopter power failure resulting in a crash. At the Board hearing, testimony was provided indicating that helicopters do have the ability to maneuver and glide in the event of power failure, even to the point of being able to control a landing location. The Board finds that it does not control flight paths of the aircraft at the airport; the FAA controls flight paths. The Board also finds the evidence in the record to demonstrate that Applicant's proposed use will minimize conflicts with neighboring property owners. The highest concentration of helicopter flights to and from the facility occurs in two, relatively brief periods of the year (spring and fall). The pilots are highly trained and experienced as needed for their firefighting purposes. The airport manager of the City of Corvallis airport indicates that the Applicant has a history of controlling its flights in a manner that avoids conflict with neighbors. In addition, Mr. Faegre indicates that the Aurora Airport has one of the strongest noise abatement programs in the country. For these reasons, the Board finds that the proposed use will be highly compatible with neighbors both within and outside the airport, whether the helicopters are landing at the airport runway or at the subject property. The Board finds that the Applicant's helicopters will take off and land predominantly at the subject site except in times of inclement weather, emergencies, or as needed to avoid air traffic congestion. Fixed

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wing aircraft of the company and its suppliers, vendors, and independent contractors that deliver parts and personnel will land on the airport runway and taxi to the Applicant's facility.

For these reasons, the Board finds that the proposal, as conditioned hereby, is compatible with adjacent uses and therefore satisfies this criterion.

39. The Board finds that the Applicant has demonstrated satisfaction of the criteria for taking a Goal 3 exception for the 27 acres of the subject parcel.

### Goal 14 Exception

40. The purpose of Goal 14 is to provide an orderly transition from rural to urban land uses. The subject property is rural land by definition, is zoned EFU, and the proposed use is an urban use. The existing airport was deemed to be a type of urban use in *Murray et al. v. Marion County*, 23 OR LUBA 268 (1992). Airports tend to be located away from urban zoned land. An exception to Goal 14 is required for an urban use on EFU zoned land. OAR 660-014 provides the criteria for taking a reasons exception to Goal 14.

41. Below are the criteria and findings of OAR 660-014-0040:

- (1) *As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.*
- (2) *A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.*

The subject property is outside the Aurora urban growth boundary and is on undeveloped rural land but is adjacent to the airport which is zoned P and has been developed with urban type uses. Airports are generally located away from urban areas due to safety and noise concerns. According to the Oregon Department of Aviation, the Aurora State Airport has evolved over the years into the busiest state-owned airport and the fifth overall busiest airport in the state. See Oregon Department of Aviation 2007 System Master Plan-Aurora State Individual Airport Report, Page 18. Today, the airport continues this growth. The significant economic contribution the airport already makes to the region is discussed below and throughout these findings. The Aurora State Airport does not presently have the capacity to meet the demand that increased usage has caused. This deficiency is caused by the limited amount of land currently at the airport that has the appropriate zoning designation to allow for airport development.

The eventual need to expand the airport has been documented as far back as at least 1976. The 1976 Aurora Airport Master Plan was incorporated into the Marion County Comprehensive Plan, of which it remains a part today. The 1976 version of the Airport Master Plan forecasted a significant increase in general aviation traffic. In order to deal with this increase, which has in fact occurred as predicted, the plan recommended the acquisition of additional surrounding land. Specifically, the master plan noted

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that "Space for airport expansion is impacted on three sides by highways, relatively difficult to relocate, and on the fourth side by privately owned and controlled property... Expansion will be into the space east of present airport property." The Land Use Plan drawing incorporated into the master plan notes on the subject property that "THIS AREA IS ACCEPTABLE FOR AIRPORT-RELATED DEVELOPMENT UNDER PRIVATE OWNERSHIP." This note continues to appear on other site plans and airport layout plans through the years. One recommendation to implement this plan prescribed acquiring 113 acres of land on the east side of the airport. The plan went on to note that "Without this space for airport development it will be impossible to implement a complete and productive airport development program".

The need exists to expand the airport facility to accommodate both historical and anticipated growth. The subject property has been identified, at least as far back as 1976 in the Airport Master Plan, as the most appropriate location for purposes for expansion. Applicant's use will provide additional land and support services that the airport will use to help encourage and facilitate the growth potential at the airport facility. Numerous documents including the MCCP, the Aurora State Airport Master Plan, and the October 2000 update to the Aurora State Airport Master Plan (though not adopted by the county), state the need for additional acquisition of land at the airport. The Aurora State Airport has been selected by the Oregon Legislature as the first pilot site to participate in its "Through the Fence" program (*see* ORS 836.642), which specifically promotes the economic development of rural airports. The stated purpose of ORS 836.642 is to "encourage development of through the fence operations designed to promote economic development by creating family wage jobs, by increasing local tax bases and by increasing financial support for rural airports." The Aurora State Airport has the potential to be an even more significant economic contributor than it is now.

As discussed in the Board's findings with respect to the Goal 3 exception above, the subject property is situated in a perfect location for the Applicant's business. The proximity of the airport to the aerial forest fire fighting portion of the business, along with a close proximity to other urban centers provide additional reasons why the Aurora State Airport provides an ideal location for Applicant's business. Furthermore, the subject property was available for outright ownership. The long-term financial and control advantages of ownership rule out leasing land for Applicant's operations as an option. A significant economic advantage regarding the subject property is that the Applicant already owns the land. Finding lands adjacent to airports to purchase in this state is difficult enough, not to mention lands which are adjacent to airports which have as much to offer Applicant as the Aurora State Airport does. Finally, Applicant would be considered a fixed based operator at the airport. The October 2000 update to the Aurora State Airport Master Plan, describes these operators as needing "easily identified and available public access, visibility from public roads, and good airfield access, and should be easily locatable by itinerant traffic landing at the airport." *See* page 4-15. The subject property meets all of these criteria, as it has frontage and public access off of Airport Road NE, Keil Road NE, and Yellow Gate Lane; as it has good airfield access with an easement which allows direct access to airport facilities; and as it can be easily locatable by itinerant traffic landing at the airport since it is within the horizontal surface district of the airport.

The Board finds that securing Applicant's company at this location would be a benefit for not only the airport, but the city, county, and state as well. The Applicant reached \$80 million in sales in 2007, and it is estimated to reach \$110 million in sales in 2010. Currently, Applicant subcontracts approximately \$5 million to local Oregon companies and estimates that the number should increase to \$8 million within the first year after consolidation of the operation is complete at the airport. The consolidation of the company at the airport would mean that there will be an immediate need for approximately 85 additional jobs in the region, with average salaries ranging from \$50,000 to \$60,000 per year. The

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Applicant projects the need to add approximately 20 additional positions per year, with an anticipated workforce of 160 employees in place by the end of the 5<sup>th</sup> year.

For the reasons listed above, there exist compelling reasons in this case for taking an exception to Statewide Planning Goal 14 to allow Applicant to locate its use on the subject property, adjacent to the Airport.

(3) *To approve an exception under section (2) of this rule, a county must also show:*

(a) *That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;*

The Aurora UGB is located approximately 1300 feet from the subject property. The land between the existing UGB and the subject property is resource land, currently in farm production. The City of Aurora originally proposed that the airport be included in the UGB when it was going through acknowledgement; however, this was not approved by LCDC and the UGB was reduced to the present area. It continues to be unreasonable to extend the UGB this distance due to the amount of intervening resource land.

Likewise, attempting to locate this use in a rural center, or rural community would be unreasonable. There are no rural centers or communities in Marion County that lie adjacent to an airport. The proposed use depends on access to adjacent airport facilities. The business cannot be located away from any airport. Furthermore, proximity to the Aurora State Airport specifically is particularly important. This specific site offers several unique amenities that cannot be duplicated by any city, rural community, or airport in the state. The Aurora airport is the location of the supplier, repair service provider, and engineer of the Applicant's specially designed tail rotor blades, Metal Innovations, Inc. Metal Innovations, Inc. is the only company in the world that supplies this product and service for the Applicant. This is not only important for operations efficiency, but also for reducing energy and transportation costs associated with shuttling parts to and from Metal Innovations, Inc.

In addition, there are significant strategic advantages in being located near the Applicant's two competitors: Columbia Helicopters, Inc. is located within the Aurora Airport, and Evergreen Helicopters, Inc. is located at the McMinnville Airport. Included in those advantages is proximity to the human resource pool of specially trained mechanics that has the expertise necessary to perform the service and repairs needed at the Applicant's proposed facility. The center of that pool is in the Aurora area because of the presence of the Applicant's two competitors.

The "Through the Fence" access, in connection with the private airport access easement owned by the Applicant, will allow Applicant the ability to directly access the airport and runway. Accordingly, this location affords the most economic, energy and environmentally efficient operation possible.

There are no rural centers which could encompass the proposed exception area. The closest rural center, Fargo Interchange, is approximately 10,000 feet west of the subject property and airport. The closest rural community is Butteville, which is located approximately 4.7 miles from the airport. Notwithstanding proximity to the airport being an issue, the Applicant is proposing a use that is larger in scale than is typical for most urban development in these areas. For example, Butteville, which



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contains approximately 85 dwellings, an art studio, and a church, would be an inappropriate location to intensify development density to allow for larger scale airport related uses. The predominantly residential character of the community is not compatible with the Applicant's proposed uses, especially certain noise and safety issues generally associated with airport related development as already exists at the airport. Intensifying development in existing rural communities, in this case, would have negative consequences for both the rural community and the Applicant.

For the reasons listed above, the Board finds the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities. This criterion is satisfied.

*(b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:*

*(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and*

The Board hereby incorporates its findings as to the necessity of re-zoning Applicant's entire 27 acres from the findings above under OAR 660-004-0020.

The Board finds the size appropriate particularly in light of the predicted needs of the Aurora State Airport and the deficiency to meet those needs. According to the Oregon Department of Aviation, the Aurora State Airport has evolved over the years into the busiest state-owned airport and the fifth overall busiest airport in the state. See Oregon Department of Aviation 2007 System Master Plan-Aurora State Individual Airport Report, Page 18. According to the update to the Aurora State Airport Master Plan, dated October 2000, (2000 Plan) a recommendation is made to provide increased space for increased fixed base operators (FBOs), which provide goods and services which complement the airport and its users. The 2000 Plan recommends that, "To provide sufficient land for new FBOs, 8 to 10 acres will be needed." In addition to the land needed to support the anticipated need for new FBOs, the 2000 Plan predicts that there will be an increased need for hangars to accommodate 62 additional based aircraft, which will require an additional 6.1-7.3 acres of land, to adequately serve the 318 total based aircraft anticipated to be located at the airport in the future. In sum, the 2000 Plan update predicts that by 2017, approximately 14.1-17.3 acres of additional land (for both FBOs and hanger space) will be needed to accommodate forecasted growth of the airport aside from Applicant's intended use. The 2000 Plan also reports that the surrounding area has a good supply of available adjacent land for future development, and points out that the development pattern for the airport has always been on adjacent private land.

The 2000 Plan update is now nearly 10 years old and made projections through year 2017.<sup>3</sup> In February 2008, the Oregon Department of Aviation adopted the Oregon Aviation Plan 2007, (OAP 2007). This document is intended to guide the management and growth of all Oregon airports over the

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<sup>3</sup> This update has never been formally adopted by Marion County. The County has not adopted any revision to the master plan since the 1976 version of the Aurora State Airport master plan was incorporated into the comprehensive plan. Nevertheless, the Board finds the update to provide reliable information relevant to this proposal.

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next 25 years. The aviation activities and future projections in this study were updated. OAP 2007 represents the most current analysis of the activities taking place at the airport today. The report specifically identified that hangered aircraft storage was one area in which the airport was deficient. The data in OAP 2007 reveal that the 2000 update to the Aurora State Master Plan did not fully anticipate the growth that would occur at the airport. OAP 2007 reports that, as of 2005, there were 387 based aircraft at the airport. This is already 69 more aircraft than the 2000 Plan update anticipated would be located at the airport in 2017. By 2025, OAP 2007 forecasts that 498 based aircraft could potentially be located on site at the airport. Using this 2025 estimate, in light of demand already significantly exceeding the 2000 Plan estimates, airport needs easily exceed the 27.5 total acres that are the subject of this application, let alone the acreage to be available for FBOs and hangers after establishment of Applicant's proposed facility.

The Board finds that the subject property provides an appropriate amount of land to meet at least some of the need from current and future growth, including the Applicant's proposal and projected operations. This criterion is satisfied.

*(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.*

The uses on the property will be similar to those uses that currently exist on the adjacent airport property. The Board finds that an onsite well and septic system will be feasible to handle the required demands of the proposed use, with the potential exception of water for fire protection, which may be provided by connection to the adjacent, existing facilities at the airport. As testified at the hearing by Applicant's engineer, that need may be met by either the existing fire protection district or the well onsite. As a condition under this approval, Applicant is required to provide a report demonstrating the capacity of any facility. Stormwater will be detained onsite. Applicant is required, under conditions of this approval, to not adversely impact storm drainage in surrounding areas. Environmental Management Systems, Inc. conducted a preliminary evaluation for onsite water feasibility in May of 2008 concluding that there was capacity for up to 100 workers were expected to work onsite in a facility containing showers (the approval will be conditioned to allow only 70 employees to be regularly scheduled on site). There are no anticipated limitations to the air, water, energy and land resources at or available to the proposed site. There are no adverse impacts on the carrying capacity of the environmental resources, as the area historically has no ground water issues, and no other known issues relating to a lack of capacity for sewer and water for airport users. There are no identified areas for fish or wildlife habitat, and no wetlands or streams are present on the property. There are no conflicts or limitations as to onsite resources which would serve the property.

Likewise, urban development on the subject property will not adversely affect the resources of the surrounding area. Using the subject property for airport related uses is an appropriate use of this land, given it is adjacent to other airport development, buffered from agricultural activity by roads, and long-identified as suitable for airport development. Most of the activity associated with Applicant's business will be conducted onsite, or on the adjacent airport properties. As previously mentioned, the location of the airport is necessary for Applicant, especially since it regularly uses the Portland International Airport (PDX) for equipment deliveries, and to dispatch personnel. A move from the Corvallis facility to the Aurora State Airport would save the Applicant approximately 2.5 hours and 130 miles per round trip to and from PDX. For these reasons, Applicant's proposal should actually have a positive effect on the environment, energy and land resources of the surrounding area.

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The entire western border of the subject property is adjacent to the currently developed airport. The proposed uses on the property are similar in nature to those that have existed at the airport for many years. Those uses have coexisted with the adjacent resource uses in the area, and the Board finds this will continue after development of the subject property. This development will have a more significant buffer to the east of the property than was provided by Yellow Gate Lane to the previous easternmost airport development, as Airport Road NE is improved as a major collector. The property is also buffered from agricultural uses to the south by Keil Road NE.

The impact of establishing this type of business on other undeveloped rural land would be far more dramatic than the impact at the proposed location. The airport has a runway and other amenities necessary for the Applicant's business that would not be available if the use were sited on other undeveloped rural land. Because the location adjacent to an existing airport offers necessary existing infrastructure the economic, environmental, and energy impact will be reduced. In addition, there is no other undeveloped land that is located near a rural airport within the county. Surrounding landowners will be minimally affected and can continue to use their property for farming as they have done in the past.

As conditioned, and in light of the longstanding coexistence of this agricultural area with the Aurora State Airport, the capacity of the subject property to accommodate the proposed use, the lack of anticipated negative affects on the air, water, energy, and land resources onsite or on the surrounding area, the buffers provided by Airport Road NE and Keil Road NE, and the positive affects on the energy and land resources in the area, this criterion is satisfied.

(c) *That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:*

(A) *Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and*

All water and septic requirements of this proposed use will be handled onsite, or by connection into the existing facilities at the airport. The proposed use is anticipated to generate 878 automobile trips per day, 123 of those being PM peak hour trips. The Applicant's traffic engineer and County Engineering staff concluded, based on Applicant's Traffic Impact Analysis (TIA) that the existing and anticipated level of trips will be accommodated by the existing capacity of the road system. The October 2000 update to the Airport Master Plan concurs with this conclusion. The 2000 update provides:

*Surface access to all parts of the airport is good. The airport businesses have access from Arndt Road, Airport Road and Keil Road. Access to Interstate 5 is a short drive on the Wilsonville-Hubbard Highway. Interstate 5 can also be accessed via Ehlen Road. Aurora State Airport, like most general aviation airports, does not generate a significant number of auto or truck trips per day. The existing and anticipated level of trips can easily be accommodated by the existing road system.*

See page 4-22. In addition, Applicant will contribute toward measures required to mitigate its impact.

Applicant's proposed use will be located adjacent to other uses that have been established at urban densities outside of the Aurora UGB, and that rely very little upon the provision of services from cities

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or service districts. Like the existing users at the airport, the Applicant will rely only on county transportation facilities, the Aurora Rural Fire Protection District and the Marion County Sheriff. Given Applicant's location adjacent to users that already utilize these services, Applicant will be in the best position to receive the benefits of these services, and should in no way detract from the provision of services. This criterion is satisfied.

*(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.*

The airport has existed surrounded by resource land and uses since 1943. During that time, there has been no evidence that the airport has reduced the potential for continued resource management of the surrounding land. This expansion of the airport will not change the interaction with the surrounding properties and, as discussed above, the proposed use is compatible with nearby agricultural resource lands. The airport overlay zone places additional limits on potential development of the property, thus reducing the possibility that the Applicant could establish a use that would be incompatible with surrounding properties. Lastly, Airport Road NE and Keil Road NE provide a buffer between the agricultural uses and proposed urban uses on this site. Airport Road NE, which is developed as a major collector, will provide a greater buffer between airport development and agricultural uses than Yellow Gate Lane currently provides. This criterion is satisfied.

*(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and*

The primary services needed for this proposed use are water and sewer, both of which will be provided onsite. The Board finds that an onsite well and septic system will be feasible to handle the required demands of the proposed use, with the potential exception of water for fire protection, which may be provided by connection to the adjacent, existing facilities at the airport. Testimony at the hearing indicated that need may be met by either the existing fire protection district or the well onsite. As a condition of this approval, the Applicant is required to provide a report demonstrating the capacity of the facility. Fire suppression service will likely be provided by the existing Aurora Rural Fire Protection District, and law enforcement, to the extent necessary, will be provided by the Marion County Sheriff. As discussed above, these services are currently available to the properties in the area and can be efficiently provided to the subject property. No public facilities or services are thus required except for roadways. No new roadways are needed. Currently, the intersections of Ehlen Road with OR 551 and Airport Road do not meet operating standards. Both intersections have improvements identified with a traffic signal at Airport Road and dedicated left turn lanes for Ehlen Road. The Applicant's traffic engineer and County Public Works staff determined that any impacts to roadways caused by Applicant's proposal will be minimal so long as 1) no more than 70 employees are regularly scheduled onsite, and 2) proportionate contributions are made by Applicant to mitigate its impact at the studied intersections. This approval is conditioned accordingly. This criterion is satisfied.

*(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area.*

As demonstrated above, the proposed uses and development are consistent with the applicable sections of the Marion County Comprehensive Plan. Likewise, development of this property is consistent with the 1976 Aurora State Airport Master Plan, which has been incorporated into the Marion County

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Comprehensive Plan. Specifically, this Master Plan designates the subject property as an area suitable for airport expansion under private ownership. This criterion is satisfied.

Some participants provided testimony asserting that approval of this application will represent inadequate planning and threatened encroachment of the airport toward the City of Aurora. These participants advocate for the Board's waiting until new master planning is complete. The Board finds this proposal is consistent with the existing, current Aurora State Airport Master Plan, the Marion County Comprehensive Plan, the zoning regulations of the county, and the Oregon Department of Aviation's Aviation Plan. The Master Plan and subsequent updates by both the county and the Oregon Department of Aviation have long identified the subject property as suitable for airport expansion. The Board finds no benefit or necessity in delaying this decision for additional Master Planning when Master Planning is already in place. The 1976 Aurora State Airport Master Plan was adopted into the county's comprehensive plan. The subsequent updates and aviation plans for the county and state have not been formally adopted by the county, but the Board finds they nevertheless provide valuable, pertinent information regarding the airport and this application. The Board does not find that additional Master Planning will produce better information. Testimony at the Board hearing demonstrated that the new Master Plan will not address zoning or infrastructure at the airport at all. The Board finds that approval of Applicant's proposal reflects good planning consistent with applicable regulations using existing planning documents.

42. OAR 660-014-0040(4) is not applicable.

43. The Board finds that, as conditioned, this application meets the criteria for a Goal 14 exception under OAR 660-014-0040.

### STATEWIDE PLANNING GOALS

44. Relief from one goal does not excuse compliance with other Statewide Planning Goals, and, comprehensive plan amendments must be consistent with Statewide Planning Goals.

*Goal 1: Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

The notice and hearings process before the hearings officer and the Board provided opportunity for citizen involvement.

*Goal 2: Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.*

The Board finds that the applicable substantive and procedural requirements governing Applicant's proposal, including examination under the county's acknowledged implementing regulations, have been followed and are satisfied.

*Goal 3: Agricultural Lands. To preserve and maintain agricultural lands.*

The Applicant requested an exception to Goal 3. The exception is discussed above and the Board approves the exception.

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Goal 4: Forest Lands. *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest species as the leading use on forest land consistent with sound management of soil, air, water, fish and wildlife resources and to provide for recreational opportunities and agriculture.*

The subject site is not in a forest zone and has no known forestland capability. This goal is not applicable.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources. *To conserve open space and protect natural and scenic resources.*

No identified wetlands, riparian ways, aggregate sites, big game habitat, sensitive waterways, or cultural sites are identified on or immediately adjacent to the Exception Area. This goal is not applicable.

Goal 6: Air, Water and Land Resources Quality. *To maintain and improve the quality of the air, water and land resources of the state.*

The Board hereby incorporates its findings above under OAR 660-014-0040(3)(b) relating to air, water, and land quality. The Exception Area is not within an identified air or watershed area. The subject site is not in an identified sensitive groundwater overlay zone. The proposed use is not one which will result in significant particulate discharge into the air. State law, administered through the county, governs septic disposals. State and county regulations are consistent with this goal. The Applicant will be required to comply with DEQ regulations and as conditioned, groundwater resources will be protected. As addressed above, based on the analysis of Applicant's engineer and consultants and evidence provided by similar uses adjacent to the subject property, development on the property will not exceed the carrying capacity of area resources, degrade area resources, or threaten the availability of such resources. The Board finds the application consistent with Goal 6.

Goal 7: Areas Subject to Natural Disasters and Hazards. *To protect life and property from natural disasters and hazards.*

The subject site is not in an identified floodplain and is not subject to other natural disasters or hazards. This goal is not applicable.

Goal 8: Recreational Needs. *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

No goal 8 resources are identified on the subject site or implicated by this application. This goal is not applicable.

Goal 9: Economic Development. *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

OAR Chapter 660-09, implementing Goal 9, applies only to comprehensive plans for areas within the urban growth boundary. The proposed exception area is outside of the UGB. Nevertheless, Applicant's proposal has Goal 9 implications based on the direct and incidental economic advantages that this user

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will bring to the region.

The direct economic benefit to the region is significant. The Applicant reached \$80 million in sales in 2007. The rate of growth has been steady every year and Applicant estimates it will reach \$110 million in sales by 2010. Currently, Applicant subcontracts approximately \$5 million to local Oregon companies and estimates that the number should increase to \$8 million within the first year after consolidation of the operation is complete at Aurora. The consolidation of the company in Aurora would mean that there will be an immediate need for 85 additional jobs in the region, with average salaries ranging from \$50,000 to \$60,000 per year. The Applicant projects anticipated growth to require approximately 160 employees by the end of the 5<sup>th</sup> year. All of these jobs would be related to a use which promotes the health, welfare, and prosperity of Oregon's citizens. A substantial number of jobs will also be generated by construction of the Applicant's new facility, which is estimated to cost approximately \$19 to \$20 million. Property tax revenues from the property, once improved, will also generate approximately \$150,000.

The incidental economic benefits are also important to note as increased development will have a positive economic impact upon the city of Aurora. Applicant's generation of new jobs will also have the secondary effect of increased patronage of local businesses. For example, the 2007 Oregon Aviation Plan analyzed the economic impact that the airport had on regional economy. In 2005, 2,403 jobs were directly related to both on and off airport related impacts, providing \$52,347,000 in local wages. See Oregon Aviation Plan 2007, Appendix E, Page 6. The sum of on-airport economic activities, off-airport spending by visitors who arrive by air, and spin-off impacts led to local business sales of \$134,827,000. This impact is proportionate to the impact that public-use airports have on the state as a whole. Oregon Department of Aviation public-use airports, including airport tenants, directly employ 7,000 people for aviation related activities and expend \$259,000,000 in wages. See Oregon Aviation Plan 2007, Aurora State- Individual Airport Report, Page 32. These employees and tenants earned an average annual salary of \$36,000 per year for aviation activities and \$35,000 per worker, when including non-aviation jobs. The significant economic benefits that Applicant would bring would not only benefit the region by providing above average wage jobs and utilizing regional goods and services, but the state as a whole by helping to promote the airport transportation system.

This economic opportunity comes at a time when another significant employer at the airport, Artex Aircraft Supplies, Inc., is closing its doors and consolidating its operations away from Aurora to Arizona. Artex's closure has resulted in the loss of 154 jobs at the Aurora Airport. Unlike Artex, which leased its space at the airport, Applicant is committing its resources to the Aurora Airport by consolidating its United States operations to the airport on land that it owns. The Board finds that the county and the airport need this economic opportunity to advance its Goal 9 economic needs. The Board finds that the application provides a diversified and substantial economic opportunity to the county and state.

*Goal 10: Housing. To provide for the housing needs of citizens of this state.*

OAR 660-08-000 is intended to define standards for compliance with Goal 10. OAR 660-08 deals with the provision of adequate numbers of needed housing units, and the efficient use of buildable land within urban growth boundaries. The subject site is not within a UGB. The proposed development is for airport related industrial use. The property is not designated for residential purposes currently. This Goal is not applicable.

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Goal 11: Public Facilities and Services. To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Fire and police protection are already provided and additional public services are not required as a result of this application. Traffic is addressed elsewhere in this recommendation. This application is consistent with Goal 11.

Goal 12: Transportation. To provide and encourage a safe, convenient and economic transportation system.

Under OAR 660-012-0060(1), amendments to acknowledged comprehensive plans and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility.

Under OAR 660-012-0060(2), a plan or land use regulation amendment significantly affects a transportation facility if it:

- (a) Changes the functional classification of an existing or planned transportation facility; (exclusive of correction of map errors in an adopted plan);
- (b) Changes standards implementing a functional classification system; or
- (c) As measured at the end of the planning period identified in the adopted transportation system plan:
  - (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
  - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
  - (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

The proposed Exception Area abuts Keil Road along the property's southern border to the north and Airport Road along the property's eastern border, which are identified as a local and major collector street respectively on the Rural Transportation System Plan (RTSP). As the Applicant's traffic engineer's TPR analysis concludes, this application for comprehensive plan amendment, zone change, and reasons exception will have no significant affect on the transportation facilities. County engineering staff agree with the traffic engineer's conclusions. Oregon Department of Transportation received the traffic impact analysis, but did not submit comments.

Applicant estimates having approximately 85 employees upon opening the new facility. After complete consolidation and expansion, it estimates it could have as many as 160 employees thereafter. This is the number of employees on Applicant's payroll. However, only some of these employees will



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be at the proposed airport facility on any given day. During the period from May to November, the majority of Applicant's employees are out in the field as pilot and repair crews that remain with the helicopters in firefighting operations. While the helicopters are returned to the facility for winter overhaul maintenance during the months from November to May, there are more employees on the site, but still only those necessary for repair and maintenance. Based on current employment operations data, Applicant concluded that of the 85 employees on payroll after opening of the new facility, up to 20 employees would be onsite during the summer months, and up to 40 employees would be onsite during the winter months. Of the 160 employees estimated to be on payroll after Applicant's complete consolidation and anticipated growth, Applicant anticipates up to 35 could be onsite in the summer months and up to 70 employees regularly onsite in the winter months.

Applicant's traffic engineer recommended a cap on the number of employees regularly scheduled at the site at one time. The traffic engineer recommended that such cap be 70 employees regularly scheduled at the site at one time. The Board will condition this approval consistent with that recommendation together with an annual reporting requirement. In the event Applicant ever proposes to exceed that number, a new traffic impact study will be required and traffic impacts mitigated. Consistent with model and assumptions used in the TIA, this condition does not prohibit more than 70 employees ever being on site, but that more than 70 employees cannot regularly be on site at one time.

Applicant is required, as conditioned in this approval, to contribute a share proportionate to its impact at impacted intersections. Specifically, Applicant shall contribute its proportionate share toward improvements at the intersections of Ehlen Road and Airport Road, OR 551 and Ehlen Road, OR 551 and Keil Road, and Airport Road and Keil Road. Applicant is also restricted under the conditions of this approval from constructing any new access to Airport Road, other than access for emergency vehicle access only.

Accordingly, as conditioned, the Board finds that the proposed plan amendment, zone change, and reasons exception will not change the functional classification of the roadway, change standards implementing the functional classification system, allow levels of land uses that result in levels of travel or access inconsistent with a major arterial and collector streets, or reduce performance standards of the roadways. Thus the proposal will not have "significantly affect" the surrounding transportation system. The Board finds that this Goal is satisfied.

### Goal 13: Energy Conservation. To conserve energy.

The Board finds that the relocation and consolidation of Applicant's operations at the proposed site will decrease the company's overall energy consumption. The move of one of Applicant's facilities from the Corvallis Municipal Airport to the Aurora State Airport reduces the round trip distance to the Portland International Airport, frequently used by Applicant, by 75%. This directly translates to conserved fuel and energy costs as well as reduced impact to state and local transportation systems. By choosing to relocate to the Aurora State Airport, Applicant has chosen to consolidate its operations in one location, which should decrease the energy consumption related to coordinating its operations and transporting materials, equipment, and personnel from one location to another around the country. Applicant's proposal accomplishes this goal.

### Goal 14: Urbanization. To provide for an orderly and efficient transition from rural to urban land use.

Applicant requested an exception to Goal 14. That exception is addressed above, and the Board approves the exception.

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Goals 15, Willamette River Greenway, 16, Estuarine Resources, 17, Coastal Shorelands, 18, Beaches and Dunes, and 19, Ocean Resources, are not applicable because the subject site is not within the Willamette River Greenway, or near any ocean or coastal related resources.

Exceptions to Goals 3 and 14 are approved as conditioned, and the Board finds the remaining goals either inapplicable or advanced as discussed above.

### OAR 660-004-0018 -- LIMITED USE OVERLAY

45. OAR 660-004-0018(4)(a) provides for a limited use overlay when a reasons exception is taken. The text of the OAR is set out above under Exceptions to Statewide Planning Goals. In this case, an overlay zone is required.

The Applicant proposes that the use be limited to the following uses: helicopter uses, services, maintenance, offices, repair, overhauling, and other uses associated with the helicopter business. The Board finds these uses are reasonable and consistent with the reasons exception granted under this approval. This approval is conditioned on imposition of this limited use overlay zone. OAR 660-004-0018(4) is satisfied.

### ZONE CHANGE

46. The proposal is to change the zoning on the 27.48 acre parcel from EFU to P.

47. The following are the required criteria under MCZO 123.060 for a zone change as well as the Board's findings demonstrating satisfaction of each criterion:

*(a) The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification on the Comprehensive Plan; and*

The "Public" zone is the appropriate implementing zone since it is the only zone that implements the "Public" comprehensive plan designation, which is also requested as part of this application. In addition to the applicable regulations found in MCRZO Chapter 171, which governs development in Public zones, the site will also be subject to the regulations of the Airport Overlay Zone found in MCRZO Chapter 177. On this site, the Airport Overlay Zone is also appropriate for the comprehensive plan land use designation, since it further restricts development that occurs adjacent to airports, which are permitted in areas zoned and designated Public.

The Marion County Comprehensive Plan does not provide detailed policy related to the "Public" land use classification. In the rural development section of the MCCP, the text notes that public uses are necessary. In agricultural areas, these uses shall be reviewed by the conditional use process to ensure compatibility. An application for a conditional use permit was submitted concurrently with this application and is approved with conditions. The MCCP balances the need for public uses, such as airports and airport uses, with the need to preserve resources. To accomplish this, the MCCP encourages a case-by-case analysis of public zoning and uses on publically zoned land. The Board finds that Applicant has demonstrated that this use will be compatible with surrounding agricultural lands. The findings with respect to exceptions to Goals 3 and 4 address that compatibility. This application process ensures that this case can be examined on its individual merits as to the compatibility the proposed location and intended use will have with surrounding properties. The

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Board finds that the Public zone is appropriate for this the Public comprehensive plan designation sought and is consistent with the goals and policies of that designation. The application is consistent with MCZO 123.060(a).

*(b) The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and*

The Public zone, together with the limited use overlay zone imposed with this zone change, is appropriate considering the surrounding land uses, density, and development pattern. The findings above relating to exceptions to Goals 3 and 14 are incorporated in this finding to demonstrate compatibility and appropriateness of the proposed zone and use in light of the surrounding area. The Aurora State Airport is the dominant feature in this vicinity. The subject property is located immediately adjacent to the east of existing airport uses located on airport property. The airport is already developed at urban densities. The subject property is bordered on three sides by roadways, both public and private. The northernmost portion of the airport is already bounded on the east side by Airport Road NE, which is a major collector in the RTSP. The proposed change would establish Airport Road as the easternmost boundary of the airport uses, and provide a more adequate buffer from the agricultural uses further to the east of Airport Road NE. Furthermore, Keil Road NE would effectively extend the southern boundary of where some airport related users are situated. Both Airport Road NE and Keil Road NE are effective buffers to ensure compatibility between the higher density uses at the airport and the adjacent agricultural lands. The proposed change would use these same buffers in the same way as the existing developments have done for years at this location. As mentioned above, there is a documented need for expansion at this location to address service deficiencies. The Airport's Master Plan has identified this property as suitable for private airport development since 1976.

Much of the EFU zoned land in this area, including the subject property, is smaller than the typical 80 acre minimum which is mandated by the state for the creation of any new EFU parcels. The development pattern in the area, particularly at the site of the subject property, is not optimal for the traditional agricultural operations that the EFU zone is intended to promote. The proposed change is more appropriate in an area with this characteristic, as opposed to other areas subject to EFU zones, since many of the EFU parcels in the area are already legally substandard sized parcels. Airport Road NE and Keil Road NE will provide additional buffers between the proposed uses and surrounding agricultural uses. This further ensures that compatibility will exist between the airport development and resource uses. The Aurora Airport, an airport use in a P zone, has existed for many years with little significant impact on the surrounding parcels, most of which are zoned EFU. The Board finds that MCZO 123.060(b) is satisfied.

*(c) Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and*

The Board finds that the evidence in the record demonstrates that there are existing public facilities, services, and transportation networks in place. No new public facilities, services, or transportation networks are necessary for this application. The Board hereby incorporates its findings above for exceptions to Goals 3 and 14 regarding public facilities and services. As conditioned, MCZO 123.060(c) is met.

*(d) The other lands in the County already designated for the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and*

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It is essential for this use to be located on lands adjacent to or within an airport. Also, Applicant's use depends on the ability to quickly dispatch its equipment and personnel into the field, either directly from this airport or to/from PDX, which requires relative proximity to I-5 and as short a distance as possible to PDX. This specific site offers several unique amenities that cannot be duplicated by any city, rural community, or airport in the state. The Aurora Airport is the location of the supplier, repair service provider, and engineer of the Applicant's specially designed tail rotor blades: Metal Innovations, Inc. Metal Innovations, Inc. is the only company in the world that supplies this product and service for the Applicant. This is not only important for operations efficiency, but also for reducing energy and transportation costs associated with shuttling parts to and from Metal Innovations, Inc.

In addition, there are significant strategic advantages to Applicant in being located near the Applicant's two competitors: Columbia Helicopters, Inc. is located within the Aurora Airport, and Evergreen Helicopters, Inc. is located at the McMinnville Airport. Included in those advantages is proximity to the human resource pool of specially trained mechanics that has the expertise necessary to perform the service and repairs needed at the Applicant's proposed facility. The center of that pool is in the Aurora area because of the presence of the Applicant's two competitors.

Applicant may also be able to take advantage of the "Through the Fence" program offered at the airport. This would allow Applicant direct access to the airport facilities from the subject property. No other airport in Marion County is currently authorized under the "Through the Fence" legislation to offer this program.

Lastly, the Applicant has the financial advantage that it owns the subject property already. There is no other property in the county, or for that matter the state, that provides all these necessities and benefits. Other airport users will benefit from the repair services that Applicant can offer as well.

Because of the size and weight of the equipment that Applicant uses in its business, it would be a great burden on both the county's and state's road infrastructure, as well as the Applicant's operating costs, to locate any distance away from an airport. Transportation to and from airport property for purposes of dispatching or repairs could cause excessive wear and tear on the roadways. Additionally, transportation of this equipment could cause delays to the users of the road system by impeding the flow of traffic due to slow moving transports. The costs and energy necessary to move the equipment from a remote location to airport property would be a substantial, inefficient, and unnecessary burden. Finally, the storage and uses that are proposed are most compatible when surrounded by other airport uses. Industrial uses are the only other uses that would be somewhat compatible with Applicant's proposed use. Even if another, suitable property were to exist somewhere in the county, to isolate this use from other airport uses, and to instead site it around other industrial users would negate the necessary benefits of allowing this use to be sited adjacent to an airport, and would consume valuable industrial land, which could be more effectively utilized by another, non-airport user. The findings above regarding the alternative sites analysis for the Goal 3 exception are hereby incorporated. MCZO 123.060(d) is satisfied.

*(e) If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.*

The "Public" zone is the only zone appropriate to implement the "Public" land use designation. The airport overlay zone, which already applies to the subject property, further restricts the development

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standards which apply to the subject property. This proposed use and uses available under the zone will not adversely affect neighboring agricultural uses for the reasons found above justifying the proposed Statewide Goal exceptions and comprehensive plan amendment. Nevertheless, since there is no other zone which is appropriate for this land use designation, the Board finds this criterion inapplicable to this application.

### MCRZO CHAPTER 176 – LIMITED USE OVERLAY ZONE

48. To satisfy the requirements for a reasons exception to Goal 3, the Applicant has requested that the use be limited to the following uses: helicopter uses, services, maintenance, offices, repair, overhauling, and other uses associated with the helicopter business. MCRZO 176.010 states the purpose of the limited use overlay zone is:

*To reduce the list of permitted or conditional uses in a zone to those that are suitable for a particular location. . . . The zone may be applied to comply with use limitations for a goal exception required by OAR 660.004. It is the intent that the maximum number of acceptable uses be permitted so that the use of the property is not unnecessarily limited.*

49. The Board finds that Applicant's proposed limited use overlay zone is consistent with MCZO 176.010.

### CONDITIONAL USE

50. Under MCZO 119.070, before granting a conditional use, the Director, Planning Commission or Hearings Officer shall determine:

- (a) That it has the power to grant the conditional use;
- (b) That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone;
- (c) That any condition imposed is necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood.

51. Under MCZO 119.100 the director has the power to forward a conditional use application directly to the hearings officer or planning commission for the initial decision. In this instance, the conditional use application was made a part of the comprehensive plan amendment and zone change application. The application was heard by the Hearings Officer. The Hearings Officer recommended to the Board that the application be approved with conditions.

52. Applicant is seeking a conditional use for airport related uses in the Public zone, which are industrial in nature. Industrial uses are allowed in the P zone as a conditional use pursuant to MCZO 171.030(A) and subject to meeting specific criteria. Applicant has the burden of proving compliance with all applicable criteria.

53. The purpose and intent of the P zone is to provide regulations governing the development of lands appropriate for specific public and semi-public uses and to ensure their compatibility with adjacent uses. Furthermore, the zone is intended to be applied to individual parcels shown to be an

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appropriate location for a certain public or semi-public use. MCZO 171.010.

The Aurora State Airport is the busiest state owned airport in Oregon. All land supporting airport related uses is designated P. The proposed uses are essentially the same as uses that have long-existed in the adjacent airport and accordingly have been deemed consistent with the purpose of the P zone. One of Applicant's major competitors, Columbia Helicopters, is located in the P zone on the north end of the Airport. As discussed above, the airport needs to expand to adequately serve those that currently use the facilities, and those that are anticipated to use the facilities in the future. The Marion County Comprehensive Plan shows that the subject property is acceptable for airport expansion under private ownership. Applicant's proposed airport related uses would be located adjacent to other P zoned property and would provide needed support to and area for expansion of the airport facility. Airport and airport related industrial uses are conditional uses in the Public zone. Developing under the applicable development standards found in both the P zone and the airport overlay zone will ensure that the resulting use and development will be consistent with the purpose and intent of the P zone, and the surrounding area. The Board finds MCZO 119.070(b) is satisfied.

54. The Board has imposed conditions under this approval, and the Board finds that such conditions are necessary for the public health, safety or welfare, or for the protection of health and safety of persons working or residing in the area or to protect the property or improvements in the neighborhood.

### PUBLIC ZONE

55. MCZO 171.040 provides:

- (A) New commercial uses in conjunction with public uses may be established up to a maximum of 3,500 square feet of floor area.
- (B) Lawfully established commercial uses existing as of the date of adoption of this ordinance up to 3,500 square feet of floor area, or an additional 25% of the floor area that existed as of the date of adoption of this ordinance, whichever is greater.
- (C) Airport related uses located at the Aurora Airport are not subject to the size limitations in (A) and (B) of this section.
- (D) Except as established in (B), for commercial use to exceed the square foot limitations requires taking an exception to Goal 14. Such exception shall be processed as an amendment to the Marion County Comprehensive Plan.

56. The Board finds Applicant's proposal is for an airport-related industrial use, accordingly the Board finds that MCZO 171.040 does not apply to this application. If Applicant's use were ever deemed commercial in any way, the Board finds that the use is an airport related use located at the Aurora Airport, therefore, pursuant to MCZO 171.040(C), the size limitations of MCZO 171.040 (A) and (B) do not apply. In addition, the Applicant has demonstrated compliance with the requirements for taking an exception to Goal 14.

57. MCZO 171.060 provides the property development standards in the P zone. At the time Applicant submits application for building permit, these standards shall apply:

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- (A) **HEIGHT.** No building or structure in a P zone shall exceed 6 stories or 70 feet, provided that buildings or structures shall set back from every street and lot line 1 foot for each foot of height of the building in excess of 35 feet in addition to all other yard and set back requirements herein specified.
- (B) **FRONT YARD.** Front yard shall be a minimum of 20 feet. No parking shall be permitted within the minimum front yard area.
- (C) **SIDE YARDS.** Where the side of a lot in a P zone abuts upon the side of a lot in any "R" zone, there shall be a minimum side yard of 10 feet. Otherwise there shall be no minimum side yard setback. Where the side of a lot abuts upon a street there shall be a minimum side yard of 20 feet wherein on parking shall be permitted.
- (D) **REAR YARD.** In a P zone there shall be a rear yard that shall have a minimum depth of 30 feet.
- (E) **LOT AREA AND COVERAGE.** The minimum requirements in P zones for dwellings shall be 1 acre except 6,000 square feet inside an unincorporated community boundary where public sewer and water service are provided. No main building, including dwellings, shall occupy more than 30% of the lot area.
- (F) **OPEN STORAGE.**
- (1) All yard areas, exclusive of those required to be landscaped as provided in Section 171.060(G), may be used for materials and equipment storage areas related to a use permitted in the P zone, provided such area is screened so it cannot be seen from public roads, or from dwellings on property in other zones.
  - (2) The surface of open storage areas, including automobile and truck parking area shall be paved or graveled and maintained at all times in a dust-free condition.
- (G) **LANDSCAPING.** The area within 20 feet of a street shall be landscaped. As a condition of approval for a conditional use additional landscaping may be required if necessary to make the use compatible with the area.
- (H) **PERFORMANCE STANDARDS.** No land or structure shall be used or occupied unless maintained and operated in continuing compliance with all applicable standards adopted by the Oregon Department of Environmental Quality.
- (I) **SEWAGE DISPOSAL.** Demonstrate that the development will not exceed the existing carrying capacity of the local sewage disposal system or has an on-site sewage disposal site approved by Marion County of the Department of Environmental Quality.
- (J) **TRAFFIC ANALYSIS.** Demonstrate that the development will be consistent with the identified function, capacity, and level of service of transportation facilities serving the site. A transportation impact analysis, approved by the Marion County Department of Public Works, may be required prior to building permit approval.

58. The Board finds that the proposed facility will feasibly meet the requirements of (A) - (E) above. At 27.48 acres the subject parcel is large enough to accommodate the development standards of

## EXHIBIT M

height, parking requirements, yard requirements and lot area coverage. The proposed structure is 126,000 square feet, well below the 30% occupancy maximum in the zone. As a condition of approval, the Applicant shall comply with the development standards in MCZO 171.060 (A) - (E). As conditioned, the application will satisfy MCZO 171.060 (A) through (E).

59. Storage is a large component of Applicant's business. The Applicant will be allowed to use outside storage areas but the storage area must be screened so that it cannot be seen from public roads or dwellings on properties in other zones and the open storage area must be paved or graveled and maintained in a dust-free condition. As conditioned, the application will satisfy MCZO 171.060(F).

60. Applicant will be required to landscape any area that is within 20 feet of a street. As conditioned, the application will satisfy MCZO 171.060(G).

61. Applicant will be required to comply with all applicable DEQ standards regarding structures. As conditioned, the application will satisfy MCZO 171.060(H).

62. Applicant will have an on-site sewage disposal system and will be required to comply with Marion County or DEQ regulations regarding such systems. As conditioned, the application will satisfy MCZO 171.060(I).

63. In light of Applicant's proposed site plan, facility, and improvements, the subject property's size and location, and the existing facilities that will serve the property, the Board finds that MCZO 171.060(F) - (G) can feasibly be satisfied by Applicant's proposed facility.

64. Under MCZO 171.060(J) the DPW may require a traffic impact analysis (TIA). A TIA was required as part of this application and was provided by Applicant's traffic engineer, in coordination with DPW.

The TIA is included in the record, and its assumptions and conclusions are incorporated into these findings by this reference. The Board agrees with the conclusions and assumptions reached in the TIA. The TIA assumed a cap of 70 employees regularly scheduled on the site at one time. The Board has conditioned this approval accordingly. The conclusion reached by the TIA was that the intersections of Ehlen Road with OR 551 and with Airport Road currently do not meet operation standards and that proposed use will increase traffic by less than 2% to the intersections. Both intersections have improvements slated, either by ODOT, the county, or the city of Aurora. The Applicant's traffic engineer, county engineering staff, in coordination with ODOT, concluded that the Applicant should be required to contribute a proportionate share to the slated improvements. This approval is conditioned on Applicant making such contributions. In addition, the Applicant's traffic will have a 1.5% impact on the intersection of Keil Road and OR 551. Like the previous two intersections, this intersection is under ODOT jurisdiction. ODOT did not require improvements or proportionate share contributions. Nevertheless, the Applicant coordinated with county engineering staff to determine Applicant's impact on the intersection. The Applicant is required to accordingly make a proportionate share contribution to the impacted left-hand turn lane at that intersection as well.

65. So long as Applicant's building permit application does not generate more than 70 employees being regularly scheduled at one time at the site, the Board concludes that a new traffic impact analysis will not be required for issuance of the building permit.

As conditioned, the application satisfies MCZO 171.060(J).



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### AIRPORT OVERLAY ZONE

66. MCZO Chapter 177 provides the airport overlay zone. MCZO 177.010 provides:

The Airport Overlay Zone is intended to minimize potential dangers from, and conflicts with the use of aircraft at public airports based on the adopted master plans for each airport. It is to be used in conjunction with the underlying zone. If any conflict in regulation or procedure occurs with the underlying zoning districts, the more restrictive provisions shall govern. This section is intended to comply with Federal Aviation Agency Regulation FAR-77 and all other applicable federal and state laws regulating hazards to air navigation.

67. MCZO 177.030(a) discusses use limitations within airport development districts. The Board finds that Applicant's proposed use is consistent with the use limitations contained in MCZO 177.030(a). Those regulations of MCZO 177.030(a), (b), and (c) relating to structures on the subject property shall be enforced at the time of building permit application, and this approval is conditioned on the compliance of Applicant's building permit application with those restrictions. The Board finds such restrictions can be feasibly met by this application.

68. MCZO 177.040 discusses the procedure for obtaining a building permit regarding structures in the Airport Overlay Zone. Applicant will be required to comply with those requirements when seeking a building permit. As conditioned, MCZO 177.040 will be satisfied.

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### EXHIBIT B

The Marion County Board of Commissioners adopts the following conditions in ZC/CP/CU09-5/US Leaseco Inc..

#### CONDITIONS OF APPROVAL:

Pursuant to the Marion County Zone Code 17.123.070, the following conditions apply to the P-LU (Public – Limited Use Overlay) zoning granted in this action. These conditions are reasonably related to the specific development proposed, will serve the public interest of reducing land use conflicts, and are based upon standards adopted by the County. The P-LU zoning significantly intensifies the use of the land. The conditions are necessary for the public health, safety and welfare.

1. Prior to issuance of building permits, the applicant shall provide evidence of compliance with Marion County Public Works conditions and requirements.
2. Access permits are required for any new access or change in use of the existing access to the public right-of-way. No new direct access will be permitted to Airport Road other than for the purpose of emergency vehicle access only.
3. Driveways will need to meet fire district standards for emergency access.
4. Site grading shall not impact surrounding properties, roads, or drainage ways in a negative manner. Construction of improvements on the property shall not block historical or naturally occurring runoff from adjacent properties. The applicant will be required to submit a site drainage plan to demonstrate this lack of negative impact.
5. Any work in the public right-of-way will require a permit from Public Works. OR 551 is under the jurisdiction of ODOT. The applicant shall provide proof to DPW that it has met ODOT's requirements. As traffic from the proposed use may impact the City of Aurora, the applicant shall provide proof to DPW that it has complied with the City's requirements.
6. The applicant shall dedicate sufficient right-of-way for a 30-foot property radius corner at the southeast corner of 22265 Airport Road NE. Dedications shall be made to the public and not to Marion County.
7. A limited use (LU) overlay shall apply. Only the following uses are allowed: helicopter uses, services, maintenance, offices, repair, overhauling, and other uses associated with the helicopter business.
8. No more than 70 employees shall be regularly scheduled to be at the site at one time. In the event Applicant proposes more than 70 employees to be regularly scheduled at the site at one time, Applicant shall provide to the County a new Traffic Impact Analysis and the resulting traffic impacts shall be mitigated. On or before January 31 of each year, Applicant shall provide to the Marion County Planning Department a report of the typical number of employees on the subject property during each month of the preceding calendar year.

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9. The applicant shall pay a proportional share for the identified mitigation measures at the intersections of Ehlen Road and Airport Road, OR 551 and Ehlen Road, OR 551 and Keil Road, and Airport Road and Keil Road.
10. Applicant shall provide a civil site plan along with a traffic circulation plan prior to the issuance of building permits.
11. The applicant shall improve Airport Road NE and Keil Road NE along their frontages to the satisfaction of DPW. The improvements shall be on engineering plans and the applicant will be required to submit the engineering plans prior to commencement of any work on the project.
12. Prior to building permit approval, the applicant shall provide a Declaration of Covenants for Road Maintenance Agreement for any non-county maintained access easements.
13. Site grading shall not impact surrounding properties in a negative manner. Prior to the issuance of permits the applicant shall provide a site drainage plan demonstrating that there are no negative impacts.
14. The applicant shall preserve and protect all nearby roads and ditches to the satisfaction of DPW. Failure to preserve and protect the road and ditches may result in the applicant being responsible for repairing the damage at applicant's expense.
15. A National Pollutant Discharge Elimination System (NPDES) permit is required for all construction activities that disturb one-acre or more. The NPDES permit is obtained through the Oregon Department of Environmental Quality. The applicant shall provide proof of issuance of the NPDES permit.
16. Storm water detention facilities are in place but need to be modified. The system shall be sized so that it will detain the difference between a 5-year frequency storm with predevelopment conditions and a 10-year frequency storm with development conditions. Storm drainage improvements shall be to DPW specifications. A storm drainage plan shall be submitted prior to the issuance of any building permits and an acceptable drainage and detention system must be in place for the final building inspection.
17. Applicant shall provide a water system report showing the proposed system includes pumping capacity or reservoir storage capacity for fire flow quantity and pressure. The water system report shall be approved by Marion County and the applicable fire district, prior to building permit approval.
18. The applicant shall comply with the provisions of MCZO171.060 regarding property development standards for the public zone.
19. The applicant shall comply with the provisions of MCZO177.030 and MCZO 177.040 regarding use limitations and procedures for building permits in an airport overlay zone.

# EXHIBIT M

## EXHIBIT C

The following described property is rezoned from EFU (Exclusive Farm Use) to P-LU (Public - Limited Use Overlay) zone. ZC/CP/CU09-05/US Leaseco Inc.

