

January 21, 2025

VIA ELECTRONIC MAIL

Alex Thomas
Planning and Programs Manager
Tony Beach
State Airports Manager
Oregon Department of Aviation
Brandy Steffen
JLA

Re: January 21, 2025 Comment Letter on Behalf of Aurora Airport Improvement Association for Aurora State Airport Master Plan – ODAV Updated Refined Proposed Preferred Alternative

Mr. Thomas, Mr. Beach and Ms Steffen,

This letter is written on behalf of the Aurora Airport Improvement Association (AAIA), whose members include Aurora Airport aviation private business stakeholders, including AAIA members who are also PAC members: Ted Millar for TLM Holdings, LLC, Tony Helbling for Wilson Construction, John Bickford for Atlantic Aviation, Rian Johnson for Vans Aircraft, Dave Wagner, Willamette Aviation/Tri Prop Aviation, all of whom are together referred to herein as “Aeronautical Stakeholders”. Please include this letter in the record for the Oregon Department of Aviation’s (ODAV) proposed Updated Refined Preferred Alternative for the Aurora State Airport Master Plan.

While it is Appreciated, ODAV’s Updated Refined Preferred Alternative Still Removes the Drainfield Relied Upon by the Frontline Hangars. The Southend Septic System Must be Retained, Otherwise the Frontline Hangars are Useless

1. **ISSUE: ODAV’s Updated Refined Alternative Still “Removes” the Frontline Hangars by Removing their Septic System with No Alternative:**

Based upon public input, ODAV modified the Preferred Alternative to remove the planned condemnation of the frontline hangars and removed the service road paralleling the taxiway that was driving ODAV’s condemnation plan. The Aeronautical Stakeholders greatly appreciate that adjustment to ODAV’s Updated Preferred Alternative. But while the Aeronautical Stakeholders appreciate this adjustment to the Updated Preferred Alternative, it is only a symbolic improvement

so long as ODAV continues to show a preferred master plan that removes the Southend Drainfield, with no identified alternative. No one can use the front line hangars without the septic system that ODAV's Updated Refined Preferred Alternative plans to "remove". Saving the frontline hangars from condemnation is obviously meaningless if ODAV removes the Southend Drainfield. Please understand that the 1000+ jobs and \$150 million in private investment those hangars represent goes away without a septic system, just as surely as if the front end hangars were condemned by ODAV.

REQUEST: The Updated Preferred Alternative should be adjusted to leave the drainfield in place¹ with the caveat that the preferred alternative ultimately selected should simply state that either (1) the drainfield will be improved to meet FAA standards (i.e. using the EMAS system), or (2) moved if it cannot be improved to FAA design standards at such time as there is a viable alternative location identified for the drainfield at the airport. Concerning the second option, a Modification to Standards (MOS)² could be approved to last until a viable alternative septic drainfield location is identified at the airport.³ Regarding the first option, we note that there is undisputed evidence in the record that it is feasible to improve the drainfield with an EMAS system that would meet all relevant FAA standards, as Mr. Faegre explains in his letter also submitted this date. As Mr. Faegre explains, these EMAS systems are successfully used in many airports including large airports serving aircraft that are much heavier than those at Aurora.

Legal Basis: Making this requested adjustment to the Updated Refined Preferred Alternative meets ODAV's legal responsibilities and makes good policy sense. Further, ODAV is bound by ORS 836.640-642, which is a statute developed by Business Oregon and adopted by the legislature to strongly encourage private investment at the Aurora Airport. The statute commands ODAV to carry out that objective. ORS 836.642 requires ODAV to "Preserve investments [at the Aurora Airport] and the level of service provided by [the Aurora Airport]" and to "promote economic development" at Aurora "by creating family wage jobs, increasing local tax bases" through support of private aviation-related uses so that they may "develop

¹As noted in other submittals, ODAV expressly approved the drainfield's current location as a part of the goal exception that Marion County approved. This is already in the record and for brevity is not repeated here.

² As Mr. Faegre points out in his letter submitted this date, FAA no longer limits MOS to a five year duration per Engineering Policy Memo 23-01 and instead now simply and practically requires a "status update on the nonstandard condition every five years" and that "to the extent practical" that the nonstandard condition will get "high priority" for funding to "mitigate the associated nonstandard condition whenever the opportunity to meet standards becomes feasible."

³ Details concerning these two options are explained in HDSE's letter submitted this date for the record of this matter. The point we hope to make here is that both of these options for the drainfield are feasible and reasonable. The binary demand in the Updated Refined Preferred Alternative to simply remove the drainfield to nowhere is unhelpful, destructive and wholly unnecessary.

and thrive.” ODAV’s Updated Refined Preferred Alternative that fails to accommodate the septic system that such economic development depends upon, is in direct contravention of those statutes.

ODAV Must Identify, Show, and Expand the Oregon Land Use Airport Boundary as Required by ORS 836.616(2) and ORS 836.640-642

ODAV seeks to designate as “Reserves” private land at the airport for ODAV acquisition from willing sellers for the purpose of putting that land to aeronautical use. ODAV states it will use FAA funding to acquire such land. However, this cannot be achieved unless ODAV expands the Oregon land use airport boundary as required by ORS 836.616(2) and OAR 660-13-0040. A diagram of the required airport boundary to meet ODAV’s objectives is attached as Exhibit 1.

The Court of Appeals explained that inclusion of land within the airport’s land use boundary is necessary in order for ODAV to be able to achieve its goal of putting that land to aeronautical use:

In this case, it is undisputed that the relevant part of the airport boundary is the edge of the state-owned airport property that is bordered by Keil Road. *See* OAR 660-013-0040 (the airport boundary, for purposes of ORS 836.616(2), is shown on a map “adopted by a local government” pursuant to “comprehensive plan and land use regulation requirements”).¹⁷ As explained above, the provisions of ORS 836.600 to 836.630 allow airport uses and supersede ORS 215.213 and 215.283 “[w]ithin airport boundaries.” ORS 836.616(2); *see also* OAR 660-013-0100 (requiring local governments to “adopt land use regulations for areas within the airport boundaries” that authorize the airport uses enumerated in ORS 836.616).

¹⁷ The map of the Aurora State Airport that has been adopted by Marion County is the 1976 Master Plan ALP, which is part of the Marion County Comprehensive Plan.

¹⁸ *Defendants’ Statement and City of Aurora’s Legislative History*

In the absence of expanding the airport’s land use boundary, ODAV cannot meet FAA grant assurances that would make ODAV eligible for FAA funding to acquire the properties in the “Reserve”. This is because those grant assurances require certification that the uses for which FAA grant funds are to be expended are lawful under state law and local law. ODAV must be prepared to make those grant assurances at the time when a willing seller emerges, otherwise the willing seller opportunity will be lost. The way Oregon law says ODAV can make such grant assurances and be in a position to timely acquire such land from a willing seller, is

to establish the airport boundary in the master plan around all of the land that ODAV envisions being put to airport related uses over the master plan's 20-year horizon. As the Court of Appeals noted, the airport's land use boundary has remained static since the land use boundary was first established in the 1976 master plan that was incorporated into the Marion County comprehensive plan. It is time to adjust the airport's land use boundary now to achieve ODAV's and the legislature's objectives for the Aurora Airport. It is undeniable that ODAV should do so as a part of the master planning effort in order to realize the promise of the Updated Preferred Alternative.

Further, ORS 836.640(1) and (5) expect that ODAV will expand the land use airport boundary to include the privately owned through the fence areas to achieve the outcomes listed in ORS 836.642. Again, ODAV cannot achieve the objectives that the legislature requires ODAV to achieve in the absence of expanding the airport's land use boundary.

Finally, expanding the airport land use boundary is necessary for ODAV's Keil Rd and related ODAV acquisitions to result in the intended airport related use. If ODAV wishes to move drainfields, for example, the potential areas to do so should also be in the airport boundary. If ODAV wants to relocate Keil Road, then the area for such relocation must be in the airport land use boundary. Those master plan features are otherwise on land zoned EFU. In the Court of Appeals words, "airport uses" are allowed to "supersede [EFU zone rules]" when they are "[w]ithin airport boundaries." Accordingly, now is the time when the land use boundary for the airport should be expanded because now is the time when it is efficient and effective to do so - all of the information required by OAR 660-012-0040 is being developed in this process and is easily available.

REQUEST: Expand the Aurora Airport land use boundary as contemplated and required by ORS 836-616(2), 836.640-642, and OAR 660-013-0040 as a part of the selection of the airport's preferred alternative.

Legal Basis: ORS 836-616(2), 836.640-642, and OAR 660-013-0040.

Invitation for a Meaningful Meeting to Discuss the Details

Given the importance of getting the master plan right, the importance of the continued success of the airport and the commands of ORS 836-616(2), 836.640-642, and OAR 660-013-0040, ODAV should meet, in person, with representatives of the Aeronautical Stakeholders to finalize the master plan's preferred alternative so that it (1) is capable of achieving ODAV's and the legislature's goals for the airport, (2) can provide the framework for the airport to continue to thrive over the master plan's 20-year planning horizon, and (3) minimize the likelihood of endless appeals

by airport opponents. AAIA stands willing to participate in such a constructive discussion.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Wendie L. Kellington". The signature is fluid and cursive, with the first name being the most prominent.

Wendie L. Kellington

WLK:wlk

Exhibit 1 – Airport Land Use Boundary Diagram

CC: Tony Helbling, President AAIA