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Oregon Aviation Board
mail.aviation@odav.oregon.gov
Re: Aurora Airport Master Plan Comments

Dear Board Members:

Thank you for inviting public comments on the draft master plan and findings. This letter is to oppose the 2026 Aurora Airport Master Plan for the reasons stated below. Please include it in the record and add me to the notice list for the final decision. In addition, this letter incorporates by this reference the comments of all other opponents to the master plan, and all issues raised in the documents submitted into the record, including the arguments in the petitions for review and other pleadings for LUBA Nos 2019-123/127/129/130.

The master plan violates numerous county and state regulations. Beginning with the most obvious error, expansion of the airport onto EFU land to the east, south, and west of the existing airport violates Goal 3 because it authorizes an urban transportation facility; i.e., an urban public use airport and private through the fence development, which are prohibited in the EFU zone. The master plan violates Goal 11 because it lacks adequate public facilities and services, and provides a public use airport that is not "limited to the needs and requirements of the *** rural area to be served." It lacks adequate public sanitary sewer service because septic fields must be removed from the Runway Safety Zone and landside septic fields are being displaced by new taxiways and hangars, and no new alternative drainfields are identified or proposed, leaving numerous properties without any sanitary sewer service, and none of the existing facilities are public. It lacks adequate public water service because there is no public potable water service at this airport. It lacks adequate public stormwater service because there is no public stormwater service at this airport and untreated and undetained stormwater is discharged to tributaries of the Pudding River, a designated Goal 5 resource that is prone to flooding. It lacks adequate public transportation service because there are no public streets within the airport, despite the excessive number of hazardous vehicle/pedestrian deviations, and as evidenced by the draft plan for an internal service road to address this hazard which was cancelled due to political pressure. As the 2026 Master Plan states: "There are limited internal vehicle roads and taxilanes located in ODAV's landside area. Several vehicular/pedestrian deviations (V/PD) have occurred on the Airport in recent years." Page 4-28. This is a documented hazard demonstrating inadequate public surface transportation.

The runway extension violates Goal 12 because it encourages urban growth, when Implementation Guideline B.1 requires transportation facilities in rural areas to discourage urban growth and only provide transportation service necessary to sustain rural uses, whereas the extension encourages urban growth evidenced by the ALP's illustration of airport expansion onto dozens of acres of EFU land and is unnecessary to sustain rural land uses.

OAR 660-012-0065(3)(n) does not apply because the runway extension and other airfield improvements permit service to a larger class of airplanes. For land use planning purposes, the airport is classified as ARC B-II. The 2012 "Master Plan proposed improvements to the airport to move from ARC B-II design standards to ARC C-II design standards." *Schaefer v. Oregon Aviation Board*, 312 Or App 316, 342-43 (2021). The court expressly rejected OAB's reasoning that "although the airport's planned ARC was B-II, the airport already served enough planes with an ARC of C-II to bring its ARC up to C-II." *Id*, at 343. The 2026 Master Plan increases the airport design standards from B-II to B-III, C-II, and D-II as listed on the Runway 17-35 Data table, and does this by lengthening the runway, by expanding the Runway Protection Zone and the Runway Object Free Area, including by purchasing property to expand the airport and move Keil Rd. and Highway 551 further away from the runway. The Runway Object Free Area currently includes "non-standard conditions" including Keil Rd, Highway 551, and septic drainfields, as shown on master plan Figure 4-6. Those non-standard conditions are being removed which is a design upgrade. The 2026 Master Plan lists the airside facility improvements on pages 5-1 and -2 which "implement changes to the runway and taxiway environment with the goal of meeting FAA design standards, specifically runway and taxiway object free area (ROFA and TOFA) and runway and taxiway safety area (RSA and TSA) standards." Page 5-1. The maximum takeoff weight (MTOW) of the design aircraft continues increase with every new master plan. The existing design aircraft listed on the 2012 Airport Layout Plan was the IAI Astra 1125, which has a MTOW of 23,501 pounds, and the 2012 proposal was to upsize that to a Cessna Citation X, which has a MTOW of 36,100 pounds. The proposed 2026 Master Plan ALP lists the design aircraft (critical aircraft) as the Bombardier Challenger 601, which has a MTOW of 43,100 pounds. Thus the 2026 Master Plan serves airplanes with greater MTOW. The Court of Appeals confirmed that "an upgrade to design standards for a greater ARC or a longer runway to serve planes with greater MTOW is an expansion or alteration that permits—authorizes—service to a larger class of airplanes." *Id*, at 345. For these reasons, the 2026 Master Plan permits service to a larger class of airplanes, so OAR 660-012-0065(3)(n) does not apply.

As applied in the draft findings, OAR 660-012-0065(3)(n) conflicts with ORS 215.283(3)(a) which expressly requires goal exceptions for expansion of the Aurora State Airport. It also violates ORS 215.283(3)(b) and Section 3 of chapter 529, Oregon Laws 1993 which only allows transportation facilities "on rural lands consistent with Goals 3, 11, and 14 without an exception." OAR 660-012-0065(1). OAR 660-012-0065(3)(n), as applied, is not consistent with those goals because it allows more uses than the underlying statute, because expansion of this airport onto EFU land is not consistent with Goals 3, 11, or 14. *Murray v.*

Marion County, 23 Or LUBA 268, 283 (1992). The proposed runway extension and airport expansion onto EFU land are a transportation facility which is not consistent with those goals and therefore cannot be approved on rural land. Every prior expansion of the Aurora State Airport since 1992 has required goal exceptions.

Moreover, as applied in the draft findings, OAR 660-012-0065(3)(n) violates ORS 215.283(3)(a) and (b), Section 3 of chapter 529 Oregon Laws 1993, and OAR 660-012-0065(1) by stretching the phrase "consistent with Goals 3, 11, and 14" to mean the master plan is exempt from those goals, and can violate them without consequence. OAR 660-012-0065(3)(n) as applied allows more uses on EFU land than these statutes, which violates the statutes. *See Schaefer v. Oregon Aviation Board*, 312 Or App 316, 338 (2021); *Lane County v. LCDC*, 325 Or 569, 583, 942 P2d 278 (1997).

The statutory land use policies for agricultural land in ORS 215.243 are important context for interpreting OAR 660-012-0065(3)(n) because the airport expansion properties are EFU land. That rule (and local plan and code provisions) must be interpreted consistently with the statutory context. *Schaefer v. Oregon Aviation Board*, 312 Or App 316, 337 (2021). Expansion of the airport for urban aviation uses on EFU land violates the statutory land use policies. ORS 215.243 provides that "(1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state [and] (2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation [and] (3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion." The record demonstrates this expansion of an urban-scale airport presents unnecessary costs for extension of the water district for firefighting water and for the extension of sanitary sewer service, because urban land is already available with urban services at surrounding airports, and this expansion will create conflicts with nearby farm uses, and the loss of open space around the urban areas of Aurora and Wilsonville. *Friends of Yamhill County v. Yamhill County*, 373 Or 790, 799 (2025) (legislature has declared priority for preserving agricultural land from expansion of urban development); *DLCD v. Crook County*, 26 Or LUBA 478, 485 (1994) (even if a proposed use does not significantly interfere with accepted farming practices or materially alter the stability of the land use pattern of the area it may nevertheless be incompatible with farm uses and inconsistent with the intent and purposes set forth in ORS 215.243); *Linn County Farm Bureau v. Linn County*, 61 Or LUBA 323, 340 ("ORS 215.243(3) suggests that provision of 'urban-like' development or services on EFU land is inconsistent with Goal 3").

OAR 660-012-0070(1) requires that "Transportation facilities and improvements which do not meet the requirements of OAR 660-012-0065 require an exception to be sited on rural lands." OAR 660-012-0065(3)(n) does not apply for the reasons noted, and the expansion properties are rural land. A Goal 12 exception is therefore required. OAR 660-012-0070(4) requires that the Goal 12 exception must demonstrate a transportation need pursuant to the procedure for adoption of a Transportation System Plan in OAR 660-012-0030, but that procedure is not followed. OAR 660-012-0070(4) is violated because the proposed runway extension and airport expansion are not identified in the Rural TSP. That document lists sixteen projects at the Aurora State Airport and expansion of the airport for a new heliport is not included. *See Central Oregon Landwatch v. Deschutes County*, 62 Or LUBA 302, 306 (2010). And the Rural TSP is also violated because the proposed transportation facility is not shown in that plan. Notably, that plan emphasizes that "If a transportation improvement does not meet the requirements of the TPR, the County must obtain the necessary permits and goal exceptions to pursue its implementation." The proposed runway extension and airport expansion do not meet the criteria for goal exceptions because alternative sites for the aviation uses are located within the UGBs of Metro, Salem, Redmond, and McMinnville, on the tax lots identified in the record.

OAR 660-012-0070(5) requires that the Goal 12 exception "shall demonstrate that non-exception locations cannot reasonably accommodate the proposed transportation improvement or facility." There are appropriately zoned parcels at the Salem Airport which do not require a goal exception, which are better suited for the proposed uses because they are served by adequate public facilities including sanitary sewer. These parcels include, without limitation, tax lots 100 on map 083W01; tax lots 100 and 500 of map 083W12A; tax lot 100 of map 083W01A; and tax lot 100 of map 073W36CC. Moreover, the runway at McNary Field is much longer and avoids the limitations of constrained operations. Those lands are also available in a variety of sizes and at locations with runway access and locations without runway access which are zoned for commercial use. "Not as well suited" should not be interpreted to mean less than ideal, but rather it must be weighed in the context of conversion of Class 2 agricultural lands. McNary Field and the surrounding land at the Salem Airport provide all the essential characteristics for aviation and aviation-related uses and therefore is capable of being used for the proposed uses. Other feasible alternatives that do not require goal exceptions exist at the Hillsboro, Redmond, and McMinnville airports: within the McMinnville UGB on Tax Lots 100, 102, 201, 204, 600, 700, 701 in Section 26 of Township 4 South, Range West and 100 and 200 in Section 27; within the Metro UGB on Tax Lots 1500, 3100 and 3400 in Section 28 of Township 1 North, Range 2 West and 400 and 800 of Section 28BB, and 200, 300, 700, 1100 and 1200 in Section 28BA; and within the Redmond UGB on Tax Lots 100 of Map T15S R13E Section 22, and 1500 of Map T15S R13.

The introduction to Rural Development chapter in the comprehensive plan indicates that "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." That policy must be interpreted consistently with the statewide

goals, including Goals 11 and 14. An urban scale airport which lacks public water and sewer services is not best suited to a rural location, which is why all urban scale airports in the north Willamette Valley including Salem, Hillsboro, McMinnville, Portland and Troutdale are located in cities and connected to city water and sewer services. As the Court of Appeals explained in *Gisler v. Deschutes County*, 149 Or App 528, 535, 945 P2d 1051 (1997), Goals 11 and 14 work together to "to channel intensive uses and development to existing urban and urbanizable land first before allowing the conversion of or intense non-resource uses on the rural land that comprises the areas outside UGBs." The proposed runway extension and airport expansion are not best suited to a rural location and this policy and Goal 14 are violated. Rural Industrial Policy 2 requires: "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 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." Here, ODAV touts the potential creation of large numbers of jobs which violates this policy and Goal 14. And the application exceeds the exceed the environmental capacity of the site as shown by the need for off-site sewer facilities, which violates this policy and Goal 11. And the master plan requires urban services, including the proposed extension of fire-fighting water service, again in violation of Goal 11. Therefore, the application violates this policy. Rural Industrial Policy 3 explains that: "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 feasibility of locating the aviation uses in a UGB has not been meaningfully analyzed, and the Salem Airport is more feasible. Rural Industrial Policy 3 is violated.

The Urban Growth Policies are also violated. As a starting point, these policies implement Goal 14 and must be interpreted consistently with Goal 14's prohibition against approval of urban uses on rural land. *Jackson County Citizens League v. Jackson County*, 38 Or LUBA 37, 46 (2000). Policy 1 states: "The type and manner of development of the urbanizable land shall be based upon each community's land use proposals and development standards that are jointly agreed upon by each city and Marion County and are consistent with the LCDC Goals." This policy and Goal 14 are violated because the City of Aurora has clearly stated, on multiple occasions, the further urban expansion of the airport must be preceded by annexation. Urban Growth Policy 2 requires that: "The provision of urban services and facilities should be in an orderly economic basis according to a phased growth plan." This policy and Goal 14 are violated because this application proposes to extend the urban service of firefighting water without any phased growth plan. Urban Growth Policy 3 requires that "Development of the urban area should proceed from its center outward." This policy and Goal 14 are violated because the application expands the urban airport within a large block of agricultural land outside any UGB or city. Urban Growth Policy 4 requires that "Development should occur in areas of existing services before extending new services." This policy and Goal 14 are violated because the application proposes to extend new firefighting water and sanitary sewer to a

property that lacks those services, when the Salem Airport has ample capacity for the uses and has all necessary and desirable urban services already in place. Finally, Urban Growth Policy 7 requires that "Urban densities shall be established only within recognized urban growth boundaries unless an exception to Goal 14 (Urbanization) is obtained." The master plan expands the geographic area of the airport and increases the intensity of developed aviation uses on rural land without a Goal 14 exception, in violation of both Goal 14 and this policy.

Any findings that the cited comprehensive plan provisions are not applicable "cannot be squared with the plain and natural meaning" of the plan provisions because they work together to strictly control urban development on high-value farmland. *Crowley v. City of Hood River*, 308 Or App 44, 54, 480 P3d 1007, 1013 (2020). Reliance on ODAV's assurances and the LCDC administrative rule for airport planning is misplaced. The assurances are not substantial evidence of compliance with the County comprehensive plan. *Gould v. Deschutes County*, 216 Or App 150, 163, 171 P3d 1017 (2007) (reliance on an agency to decide compliance with a county code is not substantial evidence). As described below, the master plan violates that plan in several respects, although it could comply with that plan upon annexation into the City of Aurora. Until annexation precedes additional urban development of the property, the proposed runway extension and airport expansion violate these policies.

The principal justifications set forth in the findings emphasize the economic advantages of expanding the Aurora State Airport, without adequate consideration of other plan policies which favor the protection of high-value agricultural land and urbanization only in cities. These other policies ensure urban development that can be accommodated within existing urban growth boundaries is not built on resource land. To that end, they mandate that development outside urban growth boundaries must be compatible with surrounding agricultural uses, and require development in rural areas to mitigate its traffic impacts and to dispose of its sewage on site. As explained in the comprehensive plan, "the State land use program provides greater protection for high-value farmland compared with other farmland protected under Goal 3." (II Goals and Policies, Agricultural Lands, Introduction.) The airport expansion properties are Class 2 soils, which is high-value farmland.

The master plan lacks substantial evidence for compliance with plan policies, and thus is inconsistent with the purposes, policies, and text of the plan, and inconsistent with the state land use regulations which the comprehensive plan implements. As a result, the proposed runway extension and airport expansion are not allowed under the Comprehensive Plan.

The introduction to the comprehensive plan section on agriculture includes two statements that emphasize agriculture's vital role. "Protection and preservation of farmland is primarily for the purpose of maintaining the soil resource and farm industry as a basis for food and fiber production now and in the future. Because of its dependence on the land resource, farming is sensitive to the effects of land use change and intensity. As explained in the rural issues and problems discussion, the division of land into small parcels and the presence of non-

farm activities can drastically affect farm operations. Therefore, to achieve the goal of protecting and preserving the agricultural industry, non-farm activities in rural farm areas of Marion County must be strictly controlled."

"It is the intent of Marion County to maintain the ability to economically farm these lands by limiting conflicts with non-farm uses. This will be accomplished by prohibiting incompatible non-farming activities and by limiting land division to those compatible with agricultural needs consistent with the requirements of either ORS 215.213 or 215.283 and OAR 660-033."

ORS 836.610 and .616 do not apply because the airport expansion areas are not within the "airport" as defined in ORS 836.605(2) because the property was not "the strip of land used for taking off and landing aircraft, together with all adjacent land used in 1994 in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for the existing commercial and recreational airport uses and activities as of December 31, 1994." In 1994 the expansion areas were a rural church camp and farms. Therefore, the state policy to encourage airports in ORS 836.600 does not apply to the geographic expansion of the airport onto EFU land.

ORS 836.608(7) requires ODAV and OAB to ensure that the "standards and requirements" applied to the proposed expansion of this rural airport "shall comply with applicable statewide land use planning laws." Those laws include, without limitation, the laws protecting high-value farmland, prohibiting reliance on a transportation facility as a basis for a goal exception (OAR 660-012-0060(5)), and ORS 197.732, Goals 2, 3, 6, 11, 12, 13, and 14, and OAR 660-004, OAR 660-011-0060, and OAR 660-014 regarding the exceptions, and OAR 660-033 regarding agricultural lands.

The Court of Appeals and LUBA have repeatedly ruled that urban development of the EFU properties for urban aviation uses is contrary to the land use laws. This master plan is no different, and the Oregon Aviation Board should reject it.

Thanks for your consideration.

Sincerely,



Joseph Schaefer