



SECOND AMENDED AND RESTATED JOINT POWERS AGREEMENT

Friedman Memorial Airport Authority

THIS SECOND AMENDED AND RESTATED JOINT POWERS AGREEMENT ("Agreement") is made effective upon its execution between BLAINE COUNTY, a political subdivision of the State of Idaho (the "County"), and THE CITY OF HAILEY, and Idaho municipal corporation located within the County (the "City").

RECITALS

WHEREAS, the County and the City entered into a Joint Powers Agreement dated May 16, 1994 which has been amended on several occasions and subsequently amended and restated in the Amended and Restated Joint Powers Agreement recorded July 26, 2011 in the records of Blaine County, Idaho as Instrument # 589295 (the "2011 Agreement"); and

WHEREAS, by virtue of the 2011 Agreement and the preceding Joint Powers Agreement, the County and the City have created the Friedman Memorial Airport Authority (the "Authority") to operate an airport known as the Friedman Memorial Airport located within the City and County (the "Airport"); and

WHEREAS, an airport is of critical importance to the economy, transportation connectivity, and the overall health, safety and welfare, of the County and the City while acknowledging the sometimes negative impacts on the community as a result of aviation activities; and

WHEREAS, the Airport currently operates under six (6) Federal Aviation Administration (FAA) approved Modifications to Standards (MOS). The MOS are necessary due to geographical constraints at the airport and allow the airport to continue to operate at the present airport site at an acceptable level of safety with no special operational procedures required; and

WHEREAS, the FAA approved MOS could be revoked by the FAA necessitating alternate means for the Airport to meet full standards; and

WHEREAS, an adopted Airport Master Plan and FAA approved Airport Layout Plan (ALP), as the same may be amended or replaced, from time to time, represents the Authority's vision for long-term development of the Airport including the necessary facilities at the present Airport site while maintaining thresholds for considering a Replacement Airport under a "Dual Path Forward" approach; and

WHEREAS, primary efforts to relocate the Airport to a new site between 2006 and 2011 were unsuccessful as a result of, among other things, financial constraints and environmental issues; and

WHEREAS, the County and the City seek the highest quality and safest airport possible within the physical limits imposed by the geography of the Airport site while minimizing the negative impacts associated therewith; and

WHEREAS, Idaho Code Section 67-2328 expressly authorizes public entities to create a separate legal or administrative entity to exercise powers possessed by the public agencies creating such entity; and

WHEREAS, the County and the City have determined that it is in the best interests of the County and the City, and their inhabitants, to continue managing and operating the Airport under the Authority reflected in the current Airport Master Plan and ALP, as the same may be amended or replaced from time to time; and

WHEREAS, the County and the City accordingly wish to amend their prior joint powers agreements, including the 2011 Agreement, while restating pertinent provisions of their prior joint powers agreements;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties agree:

ARTICLE I

DEFINITIONS, PURPOSE, AND AUTHORITY

Section 1.1: DEFINITIONS

For purposes of this Agreement, the following terms shall have the following definitions:

Agreement means this Amended and Restated Joint Powers Agreement, dated as of the execution date.

Airport means the Friedman Memorial Airport, located in the City and County.

Airport Layout Plan (ALP) is a scaled set of drawings (in traditional or electronic form) of existing and proposed land and facilities necessary for the operation and development of an airport, that is required by federal regulations to be maintained by the Authority in a current and accurate form. By definition, the ALP is a plan for an airport that shows:

- Boundaries and proposed additions to all areas owned or controlled by the Authority; and
- The location and nature of all facilities and structures on the Airport and proposed areas for future development.

Airport Master Plan means the Friedman Memorial Airport Master Plan Update, as it may be updated from time to time. The Airport Master Plan represents the Authority's vision for long-term development of the Airport.

Authority means the Friedman Memorial Airport Authority created under Section 3.1 of this Agreement.

Authority Board means the Board of Commissioners of the Authority, constituted under Section 3.2 of this Agreement.

City means the City of Hailey, Blaine County, Idaho.

City Council means the City Council of the City.

Commercial means regularly scheduled airline activities.

County means Blaine County, Idaho.

County Commissioners means the three-member Board of County Commissioners for Blaine County, Idaho.

FAA means the Federal Aviation Administration of the U.S. Department of Transportation.

Friedman Grant Property means the real property conveyed by deed recorded in Book 128, page 213, records of the County Recorder, Blaine County, Idaho, to the City by Leon Friedman, et al., for airport purposes.

Replacement Airport means an airport located outside the city limits of the City which may be pursued if various thresholds reflected in the Airport Master Plan for operation at the present Airport site cannot be maintained. A Replacement Airport shall be independent of and separate from the Airport.

Section 1.2: PURPOSE

The purpose of this Agreement is to amend and restate pertinent provisions of the 2011 Agreement and its preceding joint powers agreements, creating and maintaining an Authority for the management and operation of the Airport in the County and City as reflected in the Airport Master Plan.

Section 1.3: AUTHORITY

This Agreement is entered into under the authority of Idaho Code Sections 21-401 *et seq.* and Sections 67-2326 through 67-2333.

ARTICLE II

DURATION, AMENDMENT, AND TERMINATION

Section 2.1: DURATION

The existence of the Authority commenced May 16, 1994, and this Agreement shall remain valid through December 31, 2045, and shall automatically extend for successive ten (10) year terms unless the City and County agree to terminate in accordance with Section 2.3 below.

Section 2.2: AMENDMENT

The County and the City reserve the right to amend this Agreement at any time by written agreement between the County and the City, provided, that no amendment shall violate or impair any then-existing contractual obligations relating to the Authority or the Airport.

Section 2.3: TERMINATION

A. Before Closure of Airport. In the event a Replacement Airport is pursued, the County and City reserve the right to terminate this Agreement, by mutual written agreement between the County and the City, at any time prior to its stated termination date. In the event of such termination, or upon the stated expiration hereof, any then-existing valid contractual obligations of the Authority and the Airport shall become joint obligations of the County and City.

B. After Closure of Airport. In the event a Replacement Airport is activated and notification by FAA has been made to the Authority that the Airport has been permanently closed to all air traffic, this Agreement shall be terminated 1) either ten days after the recording of a deed conveying the last parcel of Airport real property to a third party, or one year after execution of an irrevocable purchase and sale agreement of the last parcel of the Airport property, whichever event is earlier, or 2) by mutual written agreement between the County and the City, at any time prior to its stated termination date, whichever is sooner.

ARTICLE III

CREATION OF AIRPORT AUTHORITY

Section 3.1: AIRPORT AUTHORITY

There is hereby created a separate administrative entity, pursuant to Section 67-2328, Idaho Code, to be known as the Friedman Memorial Airport Authority (the "Authority"). The Authority shall be a public entity of the State of Idaho with the powers set forth in this Agreement.

Section 3.2: GOVERNING BOARD

The Authority shall be governed by a board of commissioners (the "Authority Board") consisting of seven (7) members, to be appointed as follows: three (3) members shall be appointed by the Commissioners of the County; three (3) members shall be appointed by the City Council; and one (1) member to be appointed by a vote of the other six (6) Authority Board members in accordance with Section 3.7 (the "Independent Member"). The members so appointed may, but need not, be members of the governing board of the appointing entity.

Section 3.3: TERMS OF OFFICE

The members of the Authority Board that are appointed by the City Council or the County Commissioners shall serve for such period as may be determined by the City Council or the County Commissioners, as the case may be, from time to time. The Independent Member shall serve a two-year term commencing on January 1 of the year of appointment. Any member may be removed, and any vacancy filled, by the entity originally appointing such member, except the Independent Member, who may be removed only by a vote of the remaining Authority Board members consistent with Section 3.7.

Section 3.4: OFFICERS

The Authority Board shall designate one (1) of its members as Chair, one (1) as vice-chair, one (1) as secretary, and shall appoint a treasurer who may be, but need not be, a member of the Authority Board, any of whom may be removed in the manner provided in the Bylaws of the Authority Board. The Authority Board may appoint other officers as it deems necessary.

Section 3.5: BYLAWS, MEETINGS

The Authority Board shall adopt bylaws for its own operation and shall establish such regular meeting dates (which shall not be less frequent than monthly) and times as it shall deem necessary. Regular and special meetings of the Authority Board shall be conducted in compliance with the Open Meetings Law, Idaho Code §74-201 *et seq.*

Section 3.6: QUORUM

A quorum for all decisions to conduct business shall consist of at least two (2) City members of the Authority Board and at least two (2) County members of the Authority Board.

Section 3.7: DELIBERATIONS AND DECISIONS

All Authority Board members in attendance shall be entitled to vote on matters before the Board, however matters shall be approved only by a majority consisting of at least two (2) City members of the Board and at least two (2) County members of the Board.

ARTICLE IV

POWERS OF THE AUTHORITY

Section 4.1: POWERS

In addition to any other powers set forth in this Agreement, the Authority Board of the Authority shall have and may exercise the following powers in the name of the Authority with respect to the Airport and a Replacement Airport:

- A. To sue and be sued in its own name.
- B. To adopt an official seal and alter the same at pleasure.
- C. To authorize any action by motion, resolution, or other official action.

D. To promulgate and adopt all necessary rules and regulations for the management and control of Airport property including, but not limited to, landing and takeoff areas (including runways and landing strips for aircraft); taxiway areas for aircraft; passenger and cargo ramp areas and facilities; aircraft parking areas and facilities; facilities for the purpose of controlling or assisting landings, takeoffs, and other movements of aircraft using the Airport, including, without limitation, control towers, flood lights, landing lights, beacons, signals, radio aids, and other conveniences and aids to operation, navigation, or ground control of aircraft; automobile parking; Airport terminal; aircraft tie-downs and hangars; hours and days of operation and all rules and regulations necessary for the safe, effective, and efficient operation of all Airport facilities.

E. To order, direct superintend, and manage all repairs, alterations, and improvements.

F. To lease or acquire land and to acquire, construct, or lease buildings, structures, facilities, and equipment.

G. To acquire in the name of the Authority, by gift or purchase, or by lease, such personal property as it may deem necessary in connection with the improvement, extension, enlargement, or operation of Airport facilities, and to sell, convey, lease, or dispose of any personal property, in accordance with the statutory requirements applicable to counties, upon such terms and conditions and for such consideration as the Authority Board deems appropriate.

H. To enter into contracts and agreements, cooperative and otherwise, affecting the affairs of the Airport, with the federal government or any of its agencies or instrumentalities, the state of Idaho and any of its agencies or instrumentalities, any corporation or person, public or private, any municipality, and any political or governmental subdivision, within or without the state, and to cooperate with any one or more of them in acquiring, constructing, operating, or maintaining the Airport.

I. To receive moneys and real or personal property from the County or the City and to receive gifts, grants, and donations of money or real or personal property from any person or entity, to expend or utilize the same for the purposes of the Authority, to deposit moneys in accordance with the public depository laws of the state, and to invest moneys of the Authority in investments permitted under Idaho Code §§ 67-1210, 67-1210A and 67-1210B.

J. To borrow money and incur indebtedness, not exceeding the budgeted revenues and expenses for the then-current fiscal year of the Authority, and not exceeding any Constitutional limitations or limitations of state law, and to evidence the same by notes, warrants, or other evidence of indebtedness.

K. To manage, control and supervise all the business and affairs of the Airport.

L. To hire an Airport manager and necessary employees, who shall serve at the pleasure of the Authority Board. Compensation for the Airport manager and Airport staff shall be fixed annually by the Board during the normal budget process.

M. To retain and compensate agents, engineers, and consultants.

N. To retain or employ regular legal counsel, and to retain such special legal counsel as may be deemed necessary.

O. To fix, periodically increase or decrease, and collect rates, fees, tolls, or charges for the use or availability of the facilities of the Airport.

P. To maintain civil actions and to enact fines for the abatement of any violation of any of the Authority's rules, regulations, or standards.

Q. To insure Airport property and to enter into contracts for insurance, including, but not limited to, liability insurance.

R. To maintain and administer recordkeeping and management functions.

S. To exercise all or any part or combination of the powers set forth in this Agreement, and to do all things necessary or incidental to the proper operation of this Agreement.

T. To take such actions as may be necessary to plan, secure approvals for, construct and operate a Replacement Airport and, in such event, to remediate and dispose of the site of the present Airport.

Section 4.2: LIMITATIONS ON POWERS

A. Nothing in the foregoing enumerations of powers shall be construed as authorizing the Authority Board (1) to create any legal, contractual, fiscal, or tort obligation binding upon the County or the City, or (2) to incur any indebtedness or liability in excess of the limits or authority provided by state law and the state Constitution.

B. The Authority shall have no power to levy or cause to be levied any taxes nor to require the County or the City to levy any taxes on its behalf.

C. The operation of the Airport by the Authority shall be subject to existing leases, rights, contracts, assurances, and privileges heretofore granted by the City and County.

D. All land owned by the County or the City (except the Friedman Grant Property), or by the County and City jointly, and devoted to use for the Airport as of the date of this Agreement, has been or shall be conveyed to the Authority for the use and benefit of the Airport. Any land hereafter acquired for Airport purposes shall, to the extent consistent with FAA regulations, be acquired by, and title thereto shall be held in the name of, the Authority. Land for a Replacement Airport shall be acquired in the name of the Authority. The Authority may convey or dispose of land at the Airport and/or a Replacement Airport in a manner that facilitates the permanent closure of the Airport, as well as the construction and funding of a Replacement Airport.

E. Title to all land, buildings, improvements, facilities, equipment, and personal property now in use on the Airport shall be held by the Authority. The Authority may convey or dispose of all land buildings, improvements, facilities, equipment, and personal property at the Airport and/or a Replacement Airport in a manner that facilitates the permanent closure of the Airport, as well as the construction and funding of a Replacement Airport.

F. In addition to the foregoing limitations, the Authority shall be bound and limited by the covenants and restrictions set forth in Article VI of this Agreement.

ARTICLE V

FINANCE AND BUDGET

Section 5.1: ANNUAL BUDGET

The fiscal year of the Authority shall commence on October 1 of each year and shall end on September 30 of the following year. The Authority Board shall prepare a preliminary annual budget for each fiscal year, showing the anticipated revenues and expenditures, which budget shall be adopted as set forth hereinafter. If the preliminary budget provides for a revenue request from the County or the City, the preliminary budget shall be certified to the County or the City prior to the publication of the preliminary budget

of the County and the City. Nothing herein shall be construed as obligating the County or the City to grant such revenue request.

On or before the second Tuesday in August, annually, there shall be held at a time and place determined by the Board a meeting and public hearing upon the proposed budget of the Authority. Notice of the meeting and public hearing shall be published in a newspaper of general circulation in the County in one (1) issue thereof. The place, hour, and day of such hearing shall be specified in said notice, as well as the place where such budget may be examined prior to such hearing. A summary of such proposed budget shall be published with and as a part of the publication of such notice of hearing in substantially the form required in Idaho Code §31-1604. On or before August 15 of each year, a budget for the Authority shall be approved by the Authority Board.

Section 5.2: AIRPORT FUNDS

The Authority shall establish such fund or funds for the deposit and expenditure of moneys as it deems necessary or appropriate, consistent with generally accepted municipal accounting practices, and shall provide for the manner of expenditure of funds. All moneys held in Airport funds by the County or the City shall be transferred to the funds of the Authority. The Authority Board shall require the annual audit of all funds by an independent auditor and shall provide copies of each annual audit to the County and the City. Authority funds will not be used in a manner inconsistent with federal law, 49 USC 47133, as the same may be amended from time to time.

ARTICLE VI

COVENANTS AND RESTRICTIONS

Section 6.1: The Authority shall comply with the following covenants and restrictions regarding operation of the Airport. All capitalized terms shall have the meanings assigned thereto in the Airport Master Plan, except as otherwise defined in this Agreement. The covenants and restrictions concerning Airport operations shall not apply to a Replacement Airport.

A. Any expansion of the land owned by the Authority shall be limited to that which is reflected in the Airport Master Plan, the ALP, or which is otherwise deemed to promote safe and economically viable Airport operations through an Authority approved planning process.

B. Future commercial airline activity shall be accommodated as reflected in the Airport Master Plan.

C. Aviation activities (as reflected in the Airport Master Plan) will be requested to observe a voluntary noise abatement program between 11:00 P.M. and 6:00 A.M.

D. The number of tie-downs and aircraft parking apron space for local and transient Airport parking needs should not be less than the space set after the 2013-2015 Runway Safety Area project or as provided in the Airport Master Plan.

E. The Design Aircraft Classification shall remain the equivalent of a CIII level or its successor aircraft (as such terms are defined in the Airport Master Plan).

F. To the extent possible, consistent with FAA regulations, landing from, or take-offs to, the north shall be discouraged.

G. The Authority shall obtain and maintain property damage and comprehensive liability insurance in amounts sufficient to protect the Airport property and to insure the County, the City, the Authority and the Airport against tort and other damage claims. The amount of insurance shall be set by the Authority and subject to approval annually by the County and the City, which approval shall not unreasonably be withheld.

ARTICLE VII

MISCELLANEOUS

Section 7.1: TERMINATION OF PRIOR AGREEMENTS

All prior joint powers agreements relating to the joint operation of the Airport are hereby terminated and superseded by this Agreement. Nothing herein shall be construed as impairing any existing contract obligations, all of which obligations shall continue in force and effect in accordance with their terms as obligations of the Authority. In the event of a conflict between this Agreement and any prior Memorandum of Understanding or other Agreement between the parties, the stated and agreed upon provisions of this Agreement shall control.

Section 7.2: ENFORCEMENT OF RULES AND REGULATIONS

In addition to the Authority Board's powers to enforce Airport rules and regulations by civil action, the City may, by ordinance, provide that the violation of any such rule or regulation shall be a misdemeanor and may provide for the enforcement of the same.

Section 7.3: INVALIDITY

If any section of this Agreement is declared invalid by a court of competent jurisdiction, or if the FAA refuses to honor this Agreement or any portion thereof, either party may terminate this Agreement within 60 days of such declaration of invalidity by written notice to the other party.

Section 7.4: EFFECTIVE DATE

The Agreement shall be in full force and effect from and after the date on which the last party executes this Agreement.



BLAINE COUNTY, IDAHO

By: *Richard Fosbury*
Richard Fosbury, Chair

By: *Jacob Greenberg*
Jacob Greenberg, Commissioner

By: *Angie McCleary*
Angenie McCleary, Commissioner

BLAINE COUNTY CLERK

By: *Jolynn Drage*
Jolynn Drage

CITY OF HAILEY
Blaine County, Idaho

By: *Martha Burke*
Martha Burke, Mayor

ATTEST:

Mary Cone
Mary Cone, City Clerk

Approved By:

FRIEDMAN MEMORIAL AIRPORT AUTHORITY

By: *Jacob Greenberg*
Jacob Greenberg, Chair

