

**MEMORANDUM OF AGREEMENT
BETWEEN KITTITAS COUNTY AND CENTRAL WASHINGTON UNIVERSITY
REGARDING CO-SPONSORSHIP OF BOWERS FIELD AIRPORT**

This Memorandum of Agreement (MOA) is intended to establish the basic principles Kittitas County (County) and Central Washington University (CWU), hereinafter referred to as the “Parties” or “Party”, will employ in order to determine if co-sponsorship/joint operation of Bowers Field Airport is in the best interest of both Parties.

I. BACKGROUND

The Bowers Field Airport is a public-use facility, owned and operated by Kittitas County. It is designated as a general aviation facility according to the *National Plan of Integrated Airport Systems*, and also identified by the *Washington State Airport System Plan* to provide a general aviation service-level role. The County is charged with maintaining and operating the airport in accordance with Federal Aviation Administration (FAA) grant assurance agreements, to ensure continued safety and efficiency as a federally supported facility. The facility was first deeded to the County in 1947.

In 1990, CWU began its Flight Technology program, a four-year degree program. The County and CWU entered into a lease for use of property at Bowers Field commencing March 1, 1992 and ending February 28, 2067 for the purpose of conducting Flight Technology or other Engineering or Technology related educational programs. CWU later assumed Midstate Aviation’s lease with the County for the county-owned Main Hangar Building and ground lease for training, maintenance, and vehicle parking on November 8, 2016. Finally, CWU and the County amended the November 8, 2016 lease to include Fixed-Base Operator Services provided by CWU on December 19, 2017. CWU continues to utilize Bowers Field as its primary facility for the Flight Technology program and its operations there represent the majority of aviation-related activity at the airport.

Recently, the County and CWU have been actively engaged in discussions regarding long-term operations considerations of Bowers Field and CWU’s planning for expansion of the Flight Technology program. CWU has expressed concerns regarding the County’s decision to close runway 7-25 and its ability to be more involved in the overall long-range planning decisions regarding improvements and operations at the airport. The County has expressed concerns about level of service demands, inadequate financial resources to sustain and improve facilities and safety considerations of current infrastructure. In addition, CWU has identified and expressed a desire to keep their Flight Technology program at Bowers Field. Likewise, the County has expressed that it is also in the County’s interest that CWU’s Flight Technology program remain at the Airport.

In recognition of the mutual interests of both Parties, the County and CWU have decided to consider a co-sponsorship or joint operating agreement for Bowers Field Airport.

Kittitas County and Central Washington University agree, as follows:

II. PROVISIONS

A. Joint Operating Agreement Advisory Committee – The Parties agree to establish and implement a Joint Operating Agreement Advisory Committee (JOAAC). The County and CWU will each appoint four representatives to the JOAAC by sending notification in writing to the other Party no later than thirty (30) days after the effective date of this MOA. In the written notification of appointment, the County and CWU shall each designate one member to serve as Co-Chairman of the JOAAC. The appointed members will serve for the term of this MOA, during which time the JOAAC will collaborate to develop a recommendation for a Joint Operating Agreement between the County and CWU for operations at Bowers Field Airport. The JOAAC will operate as follows:

- 1. Open public meetings** – The JOAAC will follow the requirements of the Washington Open Public Meetings Act, codified in chapter 42.30 RCW. The meeting and notice requirements will be managed by County staff. All committee members must attend training to assure compliance with the OPMA. The County will provide the appropriate training as part of the first meeting of the JOAAC.
- 2. Advisory** – The JOAAC is established as an advisory body only and is authorized to provide draft recommendations for consideration by each entity. Final decision-making authority is reserved by the Kittitas County Board of Commissioners and by Central Washington University. All draft recommendations will be provided in writing.
- 3. Consensus recommendations** – The JOAAC will make every effort to provide draft recommendations that are supported by consensus of the committee. Consensus shall be achieved through good-faith negotiation and collaboration. Any recommendations which do not achieve consensus shall be noted accurately and the minority opinion shall be provided. If a recommendation cannot be reached by consensus or majority vote, a report shall be drafted describing the issues and the reason for the impasse. The report shall be supported by consensus of the committee prior to being forwarded to final decision makers for further consideration. For any recommendation to be valid, all six members of the JOAAC must be in attendance at the meeting at which a decision is reached.
- 4. Best available information** – The JOAAC will strive to seek out and utilize the best information available at all times as it conducts its work. In doing so, it may utilize County and CWU staff and outside experts and consultants as necessary and as funding allows. The JOAAC is provided full authority and discretion to determine who will participate in various meetings of the committee. However, final decisions regarding recommendations of the JOAAC shall only be made by the appointed members.
- 5. Co-Chairmanship** – One designated representative from the County and one designated representative from CWU shall act as Co-Chairmen of the JOAAC. The Co-Chairmen shall alternate presiding over meetings of the JOAAC and shall

share the responsibility for determining agendas, setting meetings dates, directing staff work product, and all other duties normally vested with the committee Chairmanship. In the instance where one Co-Chairman is not available for a JOAAC meeting, the other Co-Chairman shall preside regardless of the rotation. No meeting of the JOAAC shall take place without at least one Co-Chairman present.

- 6. Airport Advisory Committee consultation required** – The JOAAC shall provide updates to the Airport Advisory Committee (Committee) at the Committee’s regular meetings. The JOAAC shall consult with the Committee on each of the elements B through K of this Section prior to finalizing draft recommendations.

B. Development of Governing Structure, Bylaws and Other Rules of Operation – The JOAAC will meet as necessary to develop recommendations for creating the following:

- 1. Governing structure**– The JOAAC shall develop a recommended governing structure for a potential Joint Operating Agreement between the County and CWU for operations of Bowers Field Airport. The JOAAC shall consider the current and long-term operations strategies and needs for each entity, those of the general aviation public, other Bowers Field leaseholders and County citizens.
- 2. Bylaws and other rules of operation**– Based on the recommended governing structure, the JOAAC shall draft recommended Bylaws and other appropriate Rules of Operation defining how the new entity will conduct business.

C. Designate Areas of Responsibility – The JOAAC shall meet as necessary to develop recommendations for designating areas of responsibility between the County and CWU at the Bowers Field Airport. This includes determining how to define the responsibility for aviation operations sections and industrial park sections of the facility. The final recommendation will include a map of the facility with the areas of responsibility clearly defined. The County will be responsible for producing the map.

D. Develop Operations Responsibilities Matrix – The JOAAC shall meet as necessary to assess and assign airport operational requirements. The JOAAC will consider aviation operations and industrial park operations as well as general facility requirements which may not be clearly defined by aviation or industrial park agreed boundaries. The operational responsibilities matrix shall include annual, short and long term maintenance considerations as well as day-to-day requirements. Operational responsibilities shall also include consideration of finance and record keeping requirements as well as other administrative functions and any other functions determined necessary to operate the airport.

E. Develop Communications Strategy – The JOAAC shall meet as necessary to recommend a communications strategy for managing and operating Bowers Field Airport

jointly. The communications strategy shall include, at a minimum, the following elements:

1. **Top-down** – Develop how the newly-formed management structure will communicate with the rest of the organization and with the public.
2. **Bottom-up** – Develop strategies for how elements within the organization will be able to effectively communicate with the management structure.
3. **Management-level** - Define rules for how the members of the management element of the organization will communicate with each other, both formally and informally.
4. **Executive-authority** – Outline strategies for the organization to communicate with the decision-making departments within the County and CWU.
5. **Public and stakeholders** – Discuss and agree on appropriate strategies that the organization will commit to for providing accurate and up-to-date information to the public, stakeholders, and the press. In addition, create rules for how the general public, stakeholders, and the press can directly communicate with management.

F. Develop Capital Projects Strategy – The JOAAC will meet as needed to develop a recommendation for managing the Airport Capital Improvement Program and other capital projects as needed, including:

1. **Planning**
2. **Implementation**
3. **Financial planning** – May include strategy development for joint capital budget funding requests to the Washington State Legislature.
4. **Project financing**
5. **Project management**
6. **FAA compliance**
7. **Compliance with other regulations and grant obligations.**

G. Develop Staffing Plan – The JOAAC will develop a recommended staffing plan based on the governing structure, designated areas of responsibility, operational responsibilities matrix, communications strategy and capital projects strategy. The staffing plan will include only positions required to implement and manage joint responsibilities of the recommended governing structure and operations. It will not include individual staffing

requirements of the County or CWU necessary to meet each entity's respective individual obligations agreed to with the designated areas of responsibility and operational responsibilities matrix. The staffing plan recommendation shall include an organizational chart, job descriptions, and compensation requirements. The plan will also include a human resources management strategy.

H. Assets Distribution – The JOAAC shall meet as necessary to consider a recommended distribution of assets agreement. The JOAAC recommendation shall include, at a minimum, the following:

- 1. Inventory analysis** – The JOAAC shall inventory all assets which are considered to be necessary to include in a joint operating agreement. The inventory shall include a full description of the asset including its type, size (if necessary), location(s), current owner, age, expected life/replacement, annual maintenance costs, replacement cost and current appraised value.
- 2. Asset assignment** – Develop a matrix to make recommendations for what assets will be owned/controlled by which entity. Include a narrative as to how any asset transfer (if any) will take place and how compensation will be provided if necessary.
- 3. Future asset acquisition** – Draft a policy for how future asset acquisition decisions will be made.
- 4. Dissolution distribution** – Draft a policy for asset distribution upon dissolution of the joint operating agreement.

I. Financial Strategy Recommendation – The JOAAC shall meet as necessary to develop a comprehensive financial strategy for operating Bowers Field Airport under a joint operating agreement. The recommendation shall include policies and procedures for budget development, approval, and amendment. It shall also include policies and procedures for approving and implementing fee schedules, lease rates, and other revenue strategies. The financial strategy development shall be based on the following principles:

- 1. Enterprise fund** – The Bowers Field Airport facility will operate as an enterprise fund. All revenue generated by the lands and operations of the facility will remain with the facility.
- 2. Industrial park generated revenue** – All revenue generated by the industrial park lands of the airport in excess of the costs of maintenance and operations of those lands and associated marketing costs, will be utilized in maintaining and enhancing aviation operations at Bowers Field Airport.
- 3. Sustainability** – The agreed-upon financial plan will include strategies that generate revenue from the airport and industrial park operations, when combined with existing grants and any other revenue-generating opportunities not related to

the general fund of Kittitas County, sufficient to maintain the day-to-day operations and maintenance requirements and to fund necessary capital improvement needs of the facility. This may include reconsideration of existing and/or creation of new fees, lease rates, and any and/or new airport use payments. This may also include renegotiation of existing contracts.

J. Review Airport Layout Plan/Airport Master Plan Compatibility – The JOAAC will meet as needed to review the current Airport Layout Plan and Airport Master Plan to determine if the recommendations made regarding a joint operating agreement are compatible with the currently adopted planning documents. If the JOAAC determines that any of the recommendations are incompatible with the most current version of the Airport Layout Plan and Airport Master Plan, the JOAAC shall recommend modifications to either the planning documents or one or more elements of the joint operating agreement as necessary to achieve compatibility.

K. Review Title 19 Airports K.C.C. Amendments – The JOAAC shall meet as needed to review Title 19 Airports K.C.C. to determine compatibility of a joint operating agreement proposal as developed through this MOA with current code requirements. The JOAAC will develop recommended code amendments (if needed).

III. APPROVAL PROCESS

After completion of each individual element in Section II Provisions, the recommendation will be submitted to the respective decision-making authority of the Parties. Each Party shall utilize whatever process is required for consideration of the element, which may include meeting with the JOAAC in public, to determine if it approves the recommendation. The County and CWU may approve each element by sending written notification of such to the other Party. Upon approval by both parties on an individual element, final work will commence on the subsequent element.

Upon approval of all elements of Section II Provisions, the decision-making authorities of both Parties will meet and conduct a joint Public Hearing to consider the Joint Operating Agreement. Upon conclusion of the public hearing, each entity will enter a final decision.

IV. TERM OF MOA AND RIGHT TO WITHDRAW

This MOA will take effect upon the first date that both the County and CWU have signed the agreement. The MOA will expire December 31, 2018 or upon completion of Section II.A through K, whichever is sooner, unless extended in writing by the Parties. A party may withdraw from the agreement by providing advance written notice; however, such termination shall not be effective until the completion of the dispute resolution process on the issues that form the basis for the termination, unless the parties agree in writing to waive the dispute resolution process.

V. MODIFICATION OF AGREEMENT

This agreement may be modified by written consent of both parties at any time during the term of the agreement as may be necessary to amend, change, or modify the agreement.

VI. MUTUAL DEFENSE OF THIS MOA OR IMPLEMENTING ACTIONS

In the event that this MOA or the County implementing actions are legally challenged on issues relating to this MOA, upon request of the County, CWU will seek to intervene in support of the MOA or other actions to the extent such actions are consistent with this agreement. In the event that this MOA or CWU actions implementing this MOA are legally challenged on issues relating to this MOA, upon request of CWU, the County will seek to intervene in support of the MOA or actions to the extent such actions are consistent with this agreement.

VII. DISPUTE RESOLUTION

- A. Good Faith Commitment to Resolving Disputes** – The Parties agree to devote such time, resources, and attention as needed to attempt to resolve disagreements concerning this MOA at the earliest time possible. In the event that any disagreement arises among the Parties concerning this Agreement, including disagreements regarding the meaning of, or any Party's compliance with, this MOA, the Parties shall first attempt to resolve such disagreements on an informal basis.

- B. Formal Dispute Resolution Process** – In the case of any disagreement arising from the implementation of the MOA, the County or CWU may initiate the formal dispute resolution process after the Parties have attempted in good faith to resolve the disagreement informally. To initiate the formal dispute resolution process, a requesting Party shall provide written notice to the other Party that describes the issues in dispute. Upon receiving a notice of formal dispute, the Parties signatories or their designated representatives shall convene a meeting within 30 days to consider the dispute and may resolve any or all issues or refer any or all issues in dispute back to the originating individuals with specific instructions and a deadline for reporting back to the designated executives, or institute or any other alternative dispute resolution procedures it deems useful under the circumstances. If the Parties' signatories or designated representatives fail to resolve the dispute within the 30 days upon meeting convened to resolve the dispute, or a dispute is not resolved within the timeframe established by the designated executives, the dispute resolution process shall then be deemed completed and any Party may withdraw from this MOA. Unless a Party seeks to withdraw, upon completing the dispute resolution process, the designated executives shall prepare a joint statement of the remaining issues in dispute, which may also include a discussion of how to resolve such issues consistent with the MOA.

VIII. RESERVATION OF AUTHORITY

Nothing in this MOA affects any authority the County may have to continue to operate Bowers Field Airport according to current policy, practice and Kittitas County Code, or to enforce any contracts related to the same, or to enforce other appropriate requirements of state law and FAA

regulations. Both Parties reserve all authority to themselves and grant none to the other by virtue of entering into this agreement.

IX. INVALIDITY

If any provision of this MOA or any regulation or ordinance adopted pursuant to this MOA is found by a court or administrative body of competent jurisdiction to be invalid, void, or illegal, neither Party will be obligated to enforce such provisions pursuant to this MOA, which shall otherwise continue to be in effect.

X. THIRD PARTY BENEFICIARIES

This MOA does not create any third party beneficiaries.

XI. SIGNATURES:

**CENTRAL WASHINGTON
UNIVERSITY**

**KITTITAS COUNTY
BOARD OF COMMISSIONERS**

James Gaudino, President

Laura Osiadacz, Chairman

Date: _____

Date: _____

Obie O'Brien, Vice-Chairman

ATTEST:

Date: _____

Julie A. Kjorsvik
Clerk of the Board

Paul Jewell, Commissioner

Date: _____

Approved as to form for Kittitas County:

Gregory L. Zempel, Prosecuting Attorney
WSBA #19125

Approved as to form for Central Washington University:

Alan Smith, Assistant Attorney General
WSBA #22188