

KOOTENAI METROPOLITAN PLANNING ORGANIZATION

FIRST AMENDED JOINT POWERS AGREEMENT

Table of Contents

Prelude	Introduction
Article I	Definitions
Article II	Creation of KMPO
Article III	Purposes and Duration
Article IV	Financial Operations
Article V	Non-Waiver of Governmental or Other Immunity
Article VI	KMPO Powers and Duties
Article VII	Jurisdictional Area.
Article VIII	Participation
Article IX	Obligations of MEMBERS
Article X	Budgeted Expenditures
Article XI	BOARD of Directors
Article XII	Powers and Duties of the BOARD of Directors
Article XIII	Meetings of the BOARD of Directors
Article XIV	Liability of BOARD of Directors or Officers
Article XV	Withdrawal from Membership
Article XVI	Expulsion of Members
Article XVII	Contractual Obligation
Article XVIII	Distribution of Property, Funds and Supplies Upon Termination of Agreement
Article XIX	Severability
Article XX	Amendments
Article XXI	Effective Date and Termination of Agreement

FIRST AMENDED JOINT POWERS AGREEMENT

Kootenai Metropolitan Planning Organization

THIS AMENDED AGREEMENT is entered into pursuant to the provisions of Idaho Code, Sections 67-2326 through 67-2333, relating to the Joint Exercise of Powers by and among the following public agencies of the State of Idaho:

- (a) The city of Coeur d'Alene;
- (b) The city of Post Falls;
- (c) The city of Hayden;
- (d) The city of Rathdrum;
- (e) Lakes Highway District;
- (f) East Side Highway District;
- (g) Worley Highway District;
- (h) Post Falls Highway District;
- (i) Idaho Transportation Department; and
- (j) Kootenai County.

WITNESSETH:

WHEREAS, the city of Coeur d'Alene, city of Post Falls, city of Hayden, city of Rathdrum, Lakes Highway District, East Side Highway District, Worley Highway District, Post Falls Highway District, Idaho Transportation Department and Kootenai County entered into a joint powers agreement on the 2nd day of January, 2003 to coordinate the transportation planning in Kootenai County and to meet the prerequisites of Federal legislative and regulatory requirements specified in 23 U.S.C. 134, and title 49, Section 5303 of the federal Transit Act, as amended, CFR 49 part 613, subpart A and 23 CFR part 450, subpart C; and

WHEREAS, the Governor of Idaho has designated Kootenai Metropolitan Planning Organization as the Metropolitan Planning Organization for the Coeur d'Alene Urbanized Area and Kootenai County.

WHEREAS, this Amended Joint Power Agreement is entered into in order to establish the KMPO as a separate legal entity and to set forth the powers and authority of that separate legal entity; and

WHEREAS, it is the intent of the parties hereto that this amended agreement shall supercede all other previous agreements.

NOW, BE IT THEREFORE RESOLVED, and in consideration of the mutual advantages and benefits to each public agency, which is a party hereto, and the mutual covenants herein contained, the public agencies agree as follows:

ARTICLE I. Definitions. As used in this agreement, the following terms shall have the meaning hereinafter set forth:

(1) **KMPO.** The Kootenai Metropolitan Planning Organization, established pursuant to the statutes of this state by this Joint Powers Agreement.

(2) **BOARD.** Board of Directors of KMPO, shall be the governing body of KMPO and shall consist of one representative appointed by each of the MEMBERS of KMPO. The Board shall also be considered the "policy board" for KMPO for purposes of 23 USC §134(b)(2).

(3) **MEMBERS.** The public agencies, as defined in I.C. 67-2327, which originally entered into this Joint Powers Agreement and any other public agencies which qualify and agree to the terms of this first amended agreement subsequent to the original formation of KMPO.

ARTICLE II. Creation of KMPO. The Kootenai Metropolitan Planning Organization is hereby created as a separate Joint Powers Entity, separate and apart from any member political subdivision or public agency, through this First Amended Joint Powers Agreement by the MEMBERS pursuant to the provisions of Idaho Code, Sections 67-2326 through 67-2333.

ARTICLE III. Purposes and Duration.

(1) Recognizing that coordinated transportation planning of the Members is necessarily interwoven and interdependent and that the interests of all citizens will best be served by coordinated and cooperative transportation planning, KMPO is established to facilitate such appropriate coordination and cooperation and provide for continuing area wide transportation planning.

The KMPO is not authorized to in any way supersede the authority vested in the Members, but is intended to meet the prerequisites of Federal legislative and regulatory requirements specified in 23 U.S.C 134, and Title 49, Section 5303 of the Federal Transit Act, as amended, CFR 49 part 613, subpart A and 23 CFR part 450, subpart C.

(2) It is the intent of the MEMBERS of KMPO to create an entity with unlimited duration which will perform the coordinated transportation planning duties of a metropolitan planning organization for the area designated in the United States Census Bureau as the Coeur d'Alene Urbanized Area and for Kootenai County as provided in federal legislative and regulatory requirements specified in 23 U.S.C 134, and Title 49, Section 5303 of the Federal Transit Act, as amended, CFR 49 part 613, subpart A and 23 CFR part 450, subpart C and any subsequent regulations relating to the duties of a metropolitan planning organization, unless terminated or dissolved as herein provided.

(3) The operations of KMPO shall be governed by the terms of this First Amended Joint Powers Agreement and any bylaws passed and adopted by its governing BOARD.

ARTICLE IV. Financial Operations. Financial operations of KMPO shall be committed to the sound discretion of the BOARD. All income and assets of KMPO shall be at all times dedicated to the exclusive benefit of its MEMBERS through KMPO.

ARTICLE V. Non-Waiver of Governmental or Other Immunity. MEMBERS of KMPO, by participation in this program, do not waive any immunities or limitations of liability provided to political subdivisions or their employees by any state or federal law.

ARTICLE VI. KMPO Powers and Duties. The powers of KMPO to perform and accomplish the purposes set forth above shall, within the budgetary limits and procedures set forth in this Agreement, be the following:

- (1) To perform the functions of a Metropolitan Planning Organization within the jurisdictional area defined herein, including those functions set forth in the Transportation Equity Act for the 21st Century, Public Law 105-178 (TEA-21), and the Federal Register as it presently exists or as it may be hereinafter modified implementing TEA-21, as well as those functions, which may be required hereinafter by Federal Transportation legislation.
- (2) To prepare, develop, and approve a twenty-year multi-modal transportation plan (Long Range Transportation Plan) that identifies strategies and actions for improving and integrating transportation services in the metropolitan planning area as specified in 23 USC 134(g) and 49 USC 5303 (f).
- (3) To prepare, develop, and approve a Metropolitan Transportation Improvement Program (MTIP) as specified in 23 USC 134 (h) and 49 USC 5304.
- (4) To provide opportunities for public comment and review of metropolitan area transportation plans and programs as required by 23 USC 134 and 49 USC 5303 and 5304.
- (5) To participate in the development and maintenance of transportation related data base information.
- (6) To contract with appropriate entities in order to meet requirements of State and/or Federal Transportation legislation.
- (7) To create technical and citizen committees, and any other committees deemed necessary, to advise KMPO on transportation related matters.
- (8) To perform such other transportation planning related functions as the Board may hereinafter determine to be in the best interests of the KMPO and the citizens of Kootenai County.
- (9) To receive grants-in-aid from the State or Federal Government or any other department or agency and may accept gifts for the purpose of carrying out the terms of this Agreement.
- (10) To employ agents, employees and independent contractors.
- (11) To purchase, sell, encumber and lease real property; to incur obligations on behalf of the program to the extent permitted by Article 8, §3 of the Idaho Constitution; and to purchase, sell, or lease equipment, machinery, and personal property.
- (12) To invest funds as allowed by Idaho statutes.

(13) To carry out such other activities as are necessarily implied or required to carry out the purposes of KMPO specified in Article III of this Agreement or the specific powers enumerated in this Article.

(14) To sue and be sued.

(15) To provide security for the official responsibilities of all officers, BOARD members, and employees of KMPO.

ARTICLE VII. Jurisdictional Area. The KMPO's jurisdictional area shall consist of all incorporated and unincorporated areas of Kootenai County, Idaho, and may include contiguous areas across county or state boundaries as deemed appropriate and which meet the criteria of State and/or Federal Transportation legislation.

ARTICLE VIII. Participation. Any MEMBER of KMPO shall be permitted to participate in the activities of KMPO as provided in this Agreement. Additional public agencies authorized under Idaho code to participate in a joint powers agreement may be included as MEMBERS upon a majority vote of the existing MEMBERS to allow said public agency to participate, conditioned upon the public agency agreeing in writing to be subject to the terms of this Agreement.

ARTICLE IX. Obligation of MEMBERS. The obligations of MEMBERS of KMPO shall be as follows:

(1) To pay promptly the MEMBER'S pro-rata share of the annual cost of the budgeted expenditures for the KMPO in such amounts as shall be established by the BOARD pursuant to this agreement.

(2) To designate a representative to be a member of the Board of Directors of KMPO. The representative shall be an elected official, except that the representative of the Idaho Transportation Department shall be the District Engineer for District 1.

(3) To cooperate fully with the officers, agents and employees of KMPO in activities relating to the purposes and powers of KMPO.

(4) To continue their respective functions as provided by charter and/or State law, including preparation of City and County Comprehensive Plans, to which the Long Range Transportation Plan shall be coordinated, and administering the zoning, subdivision and similar implementing controls as may be assigned them by their respective legislative bodies.

(5) To pay promptly the MEMBER'S share of the projects and programs which provide a particular benefit to that MEMBER.

ARTICLE X. Budgeted Expenditures. The BOARD of KMPO shall establish the annual operating budget for the KMPO and determine the pro-rata share of each MEMBER and establish the time period for which the pro-rata share payment is due. The annual budget and/or work program of the Board may

be amended by vote of the Board, provided such amendment does not require additional budget appropriation, or by the joint approval of the Board and Members where such amendment does require additional budget appropriation. After approval of the Board budget, no Member may terminate or withhold its share during the year of which it was allocated.

ARTICLE XI. BOARD of Directors. The BOARD of Directors will be composed of a representative of each of the MEMBERS. Each director of the BOARD shall serve for the term designated by the MEMBER which they represent. Each director may be allowed to provide an issue-specific proxy in accordance with by-laws adopted by the BOARD.

ARTICLE XII. Powers and Duties of the BOARD of Directors. The BOARD shall have the following powers and duties:

- (1) To annually elect a chairman and vice-chairman. Each officer shall serve until his or her successor is elected. The officers must be elected from among the BOARD by majority vote of the BOARD. Only representatives who are elected officials may serve as officers. Officers shall serve a one-year term.
- (2) To admit new MEMBERS in accordance with Article VIII.
- (3) To establish the annual operating budget for the KMPO and determine the pro-rata share of each MEMBER and establish the time period for which the pro-rata share payment is due.
- (4) To provide for selection of all personnel and contractors necessary for the administration of KMPO.
- (5) To establish a schedule for all BOARD meetings.
- (6) To exercise all powers of KMPO, except powers reserved to the MEMBERS.
- (7) To prepare and adopt a proposed Unified Planning Work Program (UPWP). The UPWP shall include administrative and transportation planning activities to be accomplished by KMPO and list specific work projects to be undertaken. The Board or their designee shall confer with and inform Members concerning the preparation of and progress on the technical areas of work programs and projects.
- (8) To make reports to the MEMBERS at their meetings.
- (9) To provide for the investment and disbursement of funds.
- (10) To establish by-laws, rules and regulations governing its own conduct and procedures and the powers and duties of its officers, not inconsistent with this Agreement.
- (11) To provide to MEMBERS an annual report of operations and financial affairs.

(12) To form committees and advisory panels; and to provide other services as needed by KMPO. The BOARD shall determine the method of appointment and terms of members of committees and advisory panels.

(13) To dissolve the KMPO in accordance with 23 CFR 450.306, or any other federal regulations governing the dissolution of a Metropolitan Planning Organization.

(14) To disburse its assets upon dissolution of the KMPO, provided that notice of the intent to dissolve it shall be provided to all MEMBERS at least thirty (30) days before such vote.

(15) To do all acts necessary and proper for the implementation of this Agreement.

ARTICLE XIII. Meetings of the BOARD of Directors.

(1) The BOARD may set a time and place for regular meetings in accordance with applicable law. All provisions of law applicable to open public meetings shall be observed.

(2) The Chairman of the BOARD may call a special meeting or shall call a special meeting at the request of a majority of the members of the BOARD.

(3) A majority of seated Directors shall constitute a quorum to do business. All acts of the BOARD shall require a majority vote of the Directors present and voting.

(4) Each Board member shall be entitled to one vote.

ARTICLE XIV. Liability of BOARD of Directors or Officers. The Directors and officers of KMPO should use ordinary care and reasonable diligence in the exercise of their power, and in the performance of their duties hereunder; they shall not be liable for any mistake of judgment or other action made, taken or omitted by them in good faith; nor for any action taken or omitted by any agent, employee or independent contractor selected with reasonable care. No Director shall be liable for any action taken or omitted by any other Director. The assets of KMPO shall be used to defend and indemnify any Director, officer, or employee for actions taken by each such person in good faith within the scope of his or her authority for KMPO. KMPO may purchase insurance providing coverage for Directors, officers and employees.

ARTICLE XV. Withdrawal from MEMBERSHIP. Any MEMBER may withdraw from KMPO after giving written notice to the BOARD prior to August 1 of any year, for the following year, except any MEMBER may withdraw from KMPO within fifteen (15) days after the adoption of an amendment to this agreement by giving notice in writing to the BOARD of its intent to withdraw.

ARTICLE XVI. Expulsion of MEMBERS.

(1) By a two-thirds (2/3) vote of the entire BOARD any MEMBER may be expelled for failure to carry out the obligations of the MEMBER which failure impairs the ability of KMPO to carry out its purpose or powers. Expulsion shall take effect in accordance with the terms of the action expelling

the MEMBER.

(2) No MEMBER may be expelled except after notice from the BOARD of the alleged failure along with the reasonable opportunity of not less than fifteen (15) days to cure. The MEMBER may request a hearing before the BOARD before any final decision, which shall be held no more than fifteen (15) days after the expiration of the time to cure has passed. The rights of any expelled MEMBER shall be as set forth in the by-laws.

ARTICLE XVII. Contractual Obligation. This document shall constitute a Joint Powers Agreement among those public agencies which are MEMBERS of KMPO. The terms of this Agreement may be enforced in court by KMPO itself or by any of its MEMBERS. The consideration for the duties herewith imposed upon the MEMBERS to take certain actions and to refrain from certain other actions are based upon the mutual promises and agreements of the MEMBERS set forth herein. Except to the extent of the financial contributions to KMPO agreed to herein, or such additional obligations as may come about through amendments to this Agreement, no MEMBER agrees or contracts herein to be held responsible for any claims in tort or contract made against any other MEMBERS. The contracting parties intend in the creation of KMPO to establish an organization for coordinated transportation planning only within the scope therein set out, and have not herein created as between MEMBER and MEMBER any relationship of surety, indemnification or responsibility for the debts of or claims against any other MEMBER.

ARTICLE XVIII. Distribution of Property, Funds and Supplies Upon Termination of this Agreement. In the event of termination of this Agreement, all unused consumable supplies, non-consumable supplies or other property acquired by KMPO shall be disposed of in a manner permissible by law, and the proceeds of such liquidation shall be disbursed to the MEMBERS at a rate equal to each MEMBER'S pro rata share of the assets of KMPO based upon the MEMBER'S contribution of funds and in-kind services relevant to the acquisition of the asset from the time said Metropolitan Planning Organization was created until the time that it was terminated. Said determination shall be made by the BOARD.

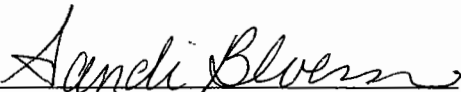
ARTICLE XIX. Severability. In the event that any Article, provision, clause or other part of this Agreement should be held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability with respect to other Articles, provisions, clauses, applications or occurrences, and these agreements are expressly declared to be severable.

ARTICLE XX. Amendments. This Agreement may be amended by a mutual agreement of all of the MEMBERS that are a party hereto.

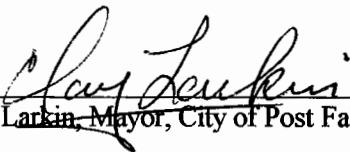
ARTICLE XXI. Effective Date and Termination of Agreement.

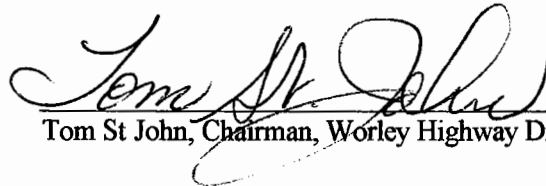
The effective date of this First Amended Joint Powers Agreement shall be the date signed by the MEMBERS. This Agreement shall remain in effect until such time as the MPO is re-designated or dissolved as provided for in 23 CFR 450.306.

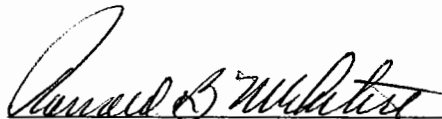
IN WITNESS WHEREOF, the MEMBERS hereto have entered into this Amended Joint Powers Agreement.

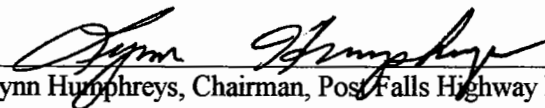

Sandi Bloem, Mayor, City of Coeur d'Alene

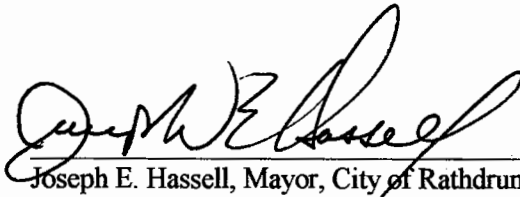

Dave Atwood, Chairman, Lakes Highway District


Clay Larkin, Mayor, City of Post Falls

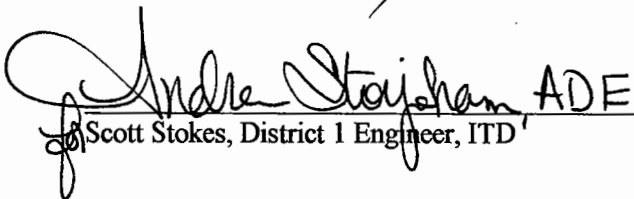

Tom St John, Chairman, Worley Highway District


Ronald B. McIntire, Mayor, City of Hayden


Lynn Humphreys, Chairman, Post Falls Highway District


Joseph E. Hassell, Mayor, City of Rathdrum


Lawrence R. Edinger, Chairman, East Side Highway District


Scott Stokes, District 1 Engineer, ITD


Richard Panabaker, Chairman, Kootenai County Commissioner

Date: April 1, 2003