

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made this 1st day of January, 2023, between the Board of County Commissioners of the County of Arapahoe (the “County”) and the Arapahoe County Public Airport Authority (“Centennial Airport”), collectively referred to herein as the “Parties.”

Preamble

WHEREAS, pursuant to Colorado Constitution Article XIV, §18(2)(a), and Colorado Revised Statutes §29-1-203, Colorado local governments may cooperate or contract with each other to provide any function, service, or facility lawfully authorized to each; and

WHEREAS, this Agreement shall apply to the interior road segments shown on Exhibit A, including Isbill Drive from East County Line Road to South Wallace Court, South Wallace Court from East County Line Road to the entrance of parking lot North, and South Interport Blvd. from East County Line Road to the entrance of parking lot North; and

WHEREAS, the Parties wish to establish an agreement for the payment of expenses associated with the maintenance and repair of these interior road segments.

Terms

NOW, THEREFORE, in consideration of the mutual covenants, promises, and premises contained herein, and the mutual benefits to be gained by performance, the Parties hereby agree as follows:

1. **General Road Maintenance.** The County shall provide reasonable general road maintenance for the road segments shown on Exhibit A:
 - a. General maintenance includes the following:
 - Long line painting
 - Durable markings
 - Roadway Signs – designed for road operations, does not include guide signs
 - Minor pothole repairs
 - Sweeping
 - Inventory and database containing condition assessments for asphalt and roadway signs

General maintenance also includes snow plowing services with a limited extent of service level due to the inability of plow trucks to turn around. See attached Exhibit B for snow plowing limits. These segments of roads will be added to the

Arapahoe County plow maps and receive the same service as other streets receive with the same priority level.

- Interport Blvd Priority 1
- Wallace Ct Priority 2
- Isbill Dr Priority 2

General maintenance does not include the following:

- Landscaping
 - Irrigation
 - Mowing
 - Trimming, maintenance, or removal of trees
- b. The County will perform major maintenance, such as but not limited to crack fill maintenance, asphalt overlay, surface treatments, concrete repairs, major maintenance project estimates, large full depth asphalt patches, project management and inspections, or any other road maintenance activity or work not identified in 1.a. above, upon consultation with and agreement by Centennial Airport to pay for the major maintenance. Nothing in this Agreement is intended to or shall be interpreted as giving Centennial Airport any right or remedy to demand or compel the County to perform any such additional maintenance items or to spend any funds on any maintenance of the road segments.
- c. By approving this Agreement, Centennial Airport grants the County access to enter the listed road segments to perform maintenance duties described hereunder and the County shall not be required to seek any further access permit or permission to perform the work.

2. Payment for work

- a. General maintenance. The cost for general maintenance for the first year is \$23,500 (January 1st to December 31st) and shall increase by 3% each year after the first year. Centennial Airport shall make payment to the County of the above amount by no later than January 10th of the year for which it is being paid. The County is not obligated to provide general maintenance in any year unless and until payment has been made to the County.
- b. Major maintenance. The County will schedule major maintenance treatments based on the needs of the roads, after consultation with and approval by Centennial Airport to pay the costs associated with the project. When a road segment covered by this Agreement is scheduled for major maintenance treatment, the County will notify the Airport by June of the year prior to the year the treatment is scheduled to be performed. The County will provide cost estimates for the major maintenance treatment project, scope of the project and

schedule. Approval of payment of the estimated project costs will be via a letter signed by the Executive Director of Centennial Airport, and the costs shall be paid by January 31st of the year the major maintenance treatment is to be performed unless another arrangement is agreed to by the Parties. The County is not obligated to provide major maintenance unless and until payment for the major maintenance has been made to the County.

Upon the completion of the major maintenance treatment project, the County will provide reimbursement for any overpayment if the actual costs are less than the estimated cost paid, or Centennial Airport shall provide payment for any costs incurred above the estimated amount, but only if the over payment or under payment amounts to greater than 5% of the total estimated project costs.

Centennial Airport may contract with one or more third-parties to perform major maintenance, in lieu of such work being performed by the County, so long as the third-parties comply with all applicable codes, standards and regulations, including the road design standards and specifications of the County, and so long as the plans and schedule for the major maintenance are approved in advance by the County. The County shall not unreasonably withhold its approval.

3. **Level of Maintenance and Budget Discretion.** Notwithstanding any provision or language to the contrary, it is the intent of this Agreement that the County retain sole discretion and decisional authority regarding the need for and level of maintenance to be performed under this Agreement and regarding the amount of funding to be budgeted for such maintenance.
4. **Liability and Governmental Immunity.** The Parties hereto do not waive any governmental immunity available under CRS 24-10-101, *et seq.*
5. **Right-of-Way and Easements.** The Parties agree to cooperate in securing any needed right-of-way or easements required within the other jurisdiction in order to provide for maintenance or as the Parties may agree are needed for a future capital road project. Copies of easements existing at the time of this Agreement applicable to the road segments that are the subject of this Agreement are attached as Exhibits C and D.
6. **Term of Agreement and Termination.**
 - a. The Effective Date of this Agreement shall commence on January 1, 2023.
 - b. This Agreement shall remain in full force and effect from the time of commencement until terminated.
 - c. This Agreement may be terminated at any time with or without cause by either of parties upon sixty (60) days advance written notice to the other party.

7. **Successors and Assigns.** The Agreement shall be to the benefit of, and be binding upon, the Parties, their successors, and assigns.
8. **No Third-Party Beneficiaries.** The benefits and burdens of the Agreement shall inure solely to the Parties. There are no third-party beneficiaries of the Agreement.
9. **Applicable Law.** The Agreement shall be governed by and construed in accordance with the law of the State of Colorado.
10. **Non-Appropriation/TABOR.** Pursuant to Section 29-1-110, C.R.S., as amended, the financial obligations of the County and Centennial Airport payable as set forth herein, after the current fiscal year, are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. This Agreement may be terminated on January 1 of the first fiscal year for which funds are not appropriated. County or the Town shall give advance written notice of such termination for non-appropriation as provided in this Agreement. Nothing in this Agreement is intended to be or shall be interpreted as creating a multi-fiscal year obligation within the meaning of Article X, Section 20 of the Colorado Constitution.
11. **Insurance.** The Parties shall each maintain adequate insurance or self-insurance to protect against any liability not covered by Governmental Immunity.
12. **Non-Waiver.** No waiver of any of the provisions of the Agreement shall be deemed to constitute a waiver of any other of the provisions of the Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.
13. **Severability.** Should any one or more provisions of the Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the Parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft such language that will achieve the original intent of the Parties hereto.
14. **Assignability.** Neither Party shall assign its rights or delegate its duties hereunder without the prior written consent of the other Party.
15. **Liability of the Parties.** Except as may otherwise be provided herein, no Party shall have any obligation whatsoever to repay any debt, financial obligation, or liability of the other Party.
16. **Survival.** Each and every covenant, promise, or term contained in the Agreement shall not merge in any deed or other document executed by either or both Parties to affect the Agreement, but shall survive such instrument.

17. **Headings for Convenience.** The headings, captions, and titles contained herein are for convenience and reference only and are not intended to enlarge or restrict the content thereof.
18. **Entire Agreement.** The Agreement constitutes the entire Agreement between the Parties with respect to the matters addressed herein. Any prior agreements, promises, negotiations, representations, or understandings not expressly set forth in the Agreement are of no force and effect. The Agreement may not be modified except in writing executed by both Parties.
19. **Notice of Communications.** All notice required under the Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return-receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States Postal Service mail with the proper address as set forth below.

Notice to Arapahoe County:

Chairman
Board of County Commissioners
Arapahoe County
5334 South Prince Street
Littleton, Colorado 80126-0001

With copy to:

Arapahoe County Attorney
Arapahoe County
5334 South Prince Street
Littleton, Colorado 80126-0001

and

Director
Department of Public Works and Development
Arapahoe County
6924 South Lima Street
Centennial, Colorado 80112

Notice to Centennial Airport:

TBD
Centennial Airport
4565 S. Peoria St.
Englewood, Colorado 80112

With copy to:

TBD

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the day and year first above written:

**ARAPAHOE COUNTY, STATE OF COLORADO
BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ARAPAHOE:**

BY: _____ **DATE:** _____
Nancy Jackson,
Chair, Board of County Commissioners

CENTENNIAL AIRPORT, STATE OF COLORADO:

BY: _____ **DATE:** _____
TBD

ATTEST

BY: _____ **DATE:** _____
TBD