

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF
LITTLETON AND THE COUNTY OF ARAPAHOE FOR THE PROVISIONMENT
OF AN INSTITUTIONAL NETWORK (I-NET)**

This agreement is made this 7th day of December, 2021 by and between the City of Littleton, Colorado (City) and the County of Arapahoe, Colorado (County), for the exchange and/or sharing of telecommunications services and/or infrastructure.

WHEREAS, the Parties desire to jointly develop an Institutional Network for the exchange and/or the sharing of telecommunications- services and infrastructure; and

WHEREAS, in accordance with Section 29-1-203, C.R.S., each of the Parties are authorized to enter into this Agreement; and

WHEREAS, the development of the network is in the public interest of the Parties;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree as follows:

I. City shall provide to and for the use of County the following:

A. A secure enclosed space with a minimum area of 30 square feet within the City's Municipal Court building located at 2069 West Littleton Boulevard, Littleton, Colorado to house County's fiber optic network equipment and necessary related utilities and supporting facilities/services, including, but not limited to heating/cooling, electrical and safety.

B. Access to said location shall be available to authorized employees of County and authorized employees of any necessary contractor, vendor or consultant to County twenty-four hours, every day of the year. Provided, however, that employees of outside contractors, vendors or consultants must be accompanied at all times by an authorized County employee.

C. City shall also provide trained authorized personnel available on a twenty-four hour, every day of the year basis for immediate response and resolution of any/and all emergency conditions affecting the subject space provided by City to County including, but not limited to fire, power outages and water leaks.

D. Any and all necessary temporary and/or permanent easements, rights of way or licenses for the construction, installation and/or maintenance of conduit and fiber cabling on or in City owned or controlled property, to serve the subject location to be provided the County by the City within the City Municipal Court building.

II. County shall provide to and for the exclusive use of City the following:

A. Dedicated usage of ten (10) strands of multi-mode fiber and two (2) strands of single-mode fiber from within County's existing private fiber network that extends or runs generally speaking from 5334 Prince Street, Littleton, south along Rio Grande Street to a point adjacent to the property line of the City municipal complex (City Hall) and thence easterly within and across the right of way and under the tracks of the BNSF Railroad across county owned land to the current Arapahoe County Sheriff's office at Court Place, Littleton, continuing easterly and southerly to the County's "Arapahoe Plaza" office complex on Littleton Blvd., then extending southward along South Windermere Street, eastward behind the Woodlawn Shopping Center to the County's former "CSU Extension" office building on South Datura Street.

B. Any and all necessary temporary and/or permanent easements, rights of way or licenses for the construction, installation and/or maintenance of conduit and fiber cabling on or in County owned or controlled property, to serve the subject location to be provided the City by the County within the County's fiber network.

C. Access to said location shall be available to authorized employees of City and authorized employees of any necessary contractor, vendor or consultant to City twenty-four hours, every day of the year. Provided, however, that employees of outside contractors, vendors or consultants must be accompanied at all times by an authorized City employee.

D. County shall also provide trained authorized personnel available on a twenty-four hour, every day of the year basis for immediate response and resolution of any/and all emergency conditions affecting the subject space provided by County to City including, but not limited to fire, power outages and water leaks.

III. Each party hereto shall be responsible for all maintenance of its respective fiber and related equipment.

IV. County shall retain ownership of the conduit, fiber and non-City rights of way and control of access to the subject fiber and conduit from 5334 South Prince Street, Littleton to Arapahoe Plaza terminating at 1610 West Littleton Blvd, Littleton. The City will hereby be responsible for any conduit, fiber and non-County rights of way, utility locates, and control of access to the subject fiber from the end of the County's property at 1610 West Littleton Blvd, Littleton to the utility pole located at the former County CSU Extension building at 5804 South Datura Street, Littleton.

V. City shall retain ownership of all space within its Court building.

VI. All costs for any and all equipment, conduit, fiber and connectivity of City's facilities to the County's fiber network; and all costs of future maintenance and support of the City's portion of the network are the sole responsibility of the City.

VII. Financial liability for conduit and fiber repair in the event of damage shall be as follows:

A. County is responsible for any and all such events on County property.

B. City is responsible for any and all such events on City property.

C. Events in other right of way locations shall be the responsibility of the third party that caused any and all damage to or on said property. Provided, however, in the event of the inability to recover any or all such damages from such third party, the parties hereto shall share pro rata the costs of said repairs.

D. In the event of acts of God and other acts or events beyond the control of the parties hereto, as by way of example, power outages caused by the third party power provider, neither party shall be liable to the other for any actual or indirect damages.

E. This agreement shall be for a term of ten (10) years from and after the execution of this agreement and shall be renewable for consecutive terms of ten years.

F. Termination of this agreement for any reason shall require advance written notice of eighteen months to allow the parties to make other arrangements.

VIII. This agreement shall be expressly contingent on the continuing legal existence of any and all easements and rights of way currently in existence relative to this agreement. In addition, it is further expressly contingent on the continuing legal existence of any and all necessary easements and or rights of way on the County's Court Place property in the event of any future disposition of said property by County.

IX. In the event of City's need in the future for additional fiber strands, County agrees to use its best efforts to negotiate an agreement with City to accommodate City's additional strand needs. If County is unable to provide additional strands to City, County will permit City at its sole expense to "pull" additional strands in the County conduits. Provided, however, any such "work" in the County's conduits shall be subject to the County's approval and terms and conditions established by the County. Further, "City's sole expense" shall include any and all direct or indirect costs incurred by the County in connection with such "work" by City in County's conduits.

X. SEVERABILITY

If any clause or provision herein contained herein shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable clause or provisions shall not affect the validity of this Agreement as a whole and all other clauses or provisions shall be given full force and effect.

XI. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

XII. ASSIGNABILITY

No Party to this Agreement shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the non-assigning Party to this Agreement.

XIII. BINDING EFFECT

The Parties hereto agree and acknowledge that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available subject to the provisions of the statutes of the State of Colorado.

XIV. TERMINATION OF AGREEMENT

Except as provided by Section XVIII hereof, this Agreement may be terminated only by mutual consent of the Parties, and only if there are no contingent, outstanding contracts. All costs associated with the cancellation of the contingent contracts shall be shared equally between the Parties.

XV. RENEWAL OF AGREEMENT

In accordance with Article X, Section 20 of the Colorado Constitution, the Parties agree that any provisions of this Agreement, to the extent that they may be deemed a multi-year financial obligation, shall expire on December 31st of each year but automatically be renewed effective January 1st of each year unless any Party gives 30 days cancellation to the others prior to December 31st of the year preceding the year in which cancellation is sought.

XVI. INDEPENDENT STATUS

It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of agents, partners, joint venturer or associates between the parties hereto.

XVII. RIGHTS CUMULATIVE

All remedies available to either party under the terms of this Agreement or by law are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

XVIII. NO CONTINUING WAIVER

The waiver of any default by either party, or the failure to give notice of any default, shall not constitute a waiver of a subsequent default or be deemed to be a failure to give notice with respect to any subsequent default. Waiver of the breach of any provision of this Agreement shall not be construed to be modification of the terms of this Agreement unless stated to be such in writing and signed by authorized representatives of the parties.

XIX. NOTICES

At the time of execution of this Agreement, the parties hereto shall provide each other written information regarding their respective authorized representative and the respective addresses for purposes of any notices. Said information shall be kept current at all times.

XX. MODIFICATIONS

Any alterations, variations, modifications, or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, and signed by authorized representatives of the parties.

XXI. NO THIRD PARTY BENEFICARY

This Agreement is for the benefit of the parties only and conveys no rights upon persons not parties to it.

WHEREFORE, the Parties hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

CITY OF LITTLETON

By:

Kyle Schlachter, Mayor
Littleton City Council

ATTEST:

Colleen L. Norton, City Clerk

Date:

APPROVED AS TO FORM:

Reid Betzing, Littleton City Attorney

ARAPAHOE COUNTY, COLORADO

By:

Chair
Board of County Commissioners