

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR THE  
JOINT OPERATION OF THE  
FORT COLLINS-LOVELAND MUNICIPAL AIRPORT**

THIS AGREEMENT is made and entered into this 22<sup>nd</sup> day of January, 2015, between THE CITY OF LOVELAND, COLORADO, a municipal corporation, and THE CITY OF FORT COLLINS, COLORADO, a municipal corporation, hereinafter collectively referred to as "Cities."

**WITNESSETH:**

WHEREAS, in 1963, the Cities agreed to the establishment of a regional general aviation facility and became the owners and operators of the Fort Collins-Loveland Municipal Airport ("Airport") more specifically described as follows:

Barnstorm First Addition to the City of Loveland, being a portion of Sections 20, 21, 28, 29 and 33, Township 6 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado.

Barnstorm Second Addition to the City of Loveland, being a portion of Section 28 and Section 33, Township 6 North, Range 68 West of the 6th P.M. and a portion of Section 3 and Section 4, Township 5 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado; and

WHEREAS, the Cities have heretofore entered into agreements addressing the ownership, operation and maintenance of the Airport dated July 3, 1979; September 1, 1981 (amended by Addendum dated December 19, 1989); January 9, 1991; December 21, 1993; June 18, 1996, and May 16, 2000 (amended by the First Amendment to the Administrative Guidelines (Exhibit A) of the Intergovernmental Agreement Concerning the Joint Operation of the Fort Collins-Loveland Municipal Airport dated November 10, 2003, and the Second Amendment to the Intergovernmental Agreement for the Joint Operation of the Fort Collins-Loveland Municipal Airport dated May 15, 2007); and

WHEREAS, the Councils of the Cities have determined that the operation and maintenance of the Airport should be continued as a joint venture between the Cities; and

WHEREAS, the Councils of the Cities have further determined that this amendment and restatement is necessary to reflect their desire to change the governance structure of the Airport and to delegate certain Airport duties and responsibilities in order to provide more effective and efficient Airport management and operation; and

WHEREAS, the Councils of the Cities desire that the Airport governance structure be in the nature of a "commission" that pursues the development of the Fort Collins-Loveland Airport as a regional airport in Northern Colorado and that the commission should be named the

“Northern Colorado Regional Airport Commission” to reflect the regional nature of the Airport’s character; and

WHEREAS, pursuant to Section 29-1-203 of the Colorado Revised Statutes (and Article II, Section 16, of the Fort Collins City Charter), the Cities are authorized by law to contract with one another to provide for the joint exercise of any function, service or facility lawfully authorized to each of the Cities if such contracts are approved by the Councils of the Cities; and

WHEREAS, the purpose of this Agreement is to set forth fully the purposes, powers, rights, obligations and the responsibilities, financial and otherwise, of the contracting Cities.

NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

1. Joint Airport Operation. The operation and maintenance of the Airport is a joint venture between the City of Fort Collins and the City of Loveland, with full management and policy-making authority vested equally in both Cities. “Policy issues” shall include, but shall not be limited to, the adoption of the master Airport plan, participation in federal and state grant agreements, purchases and sales of real property or structures, construction of capital projects, and approval of the annual contributions to the Airport budget, all of which shall require the approval of the City Councils.

2. Facility Management and Commission Appointments.

A. Subject to the Policy Issues reserved to the City Councils set forth in Section 1 or as otherwise provided herein, Management authority over Airport operation and commercial, industrial or other operations and activities of any kind located on the Airport is vested in the Northern Colorado Regional Airport Commission (the “Commission”). The Commission shall elect a chairperson and vice chairperson from its members. Said officers shall perform the duties customary for said offices including: (i) the chairperson shall sign all contracts on behalf of the Commission, except contracts that may be signed by the Airport Manager as authorized by the Commission and shall perform such other duties as may be imposed by the Commission; and (ii) the vice chairperson shall perform all of the chairperson’s duties in the absence of the chairperson.

B. The Commission shall be comprised of seven members as follows: (a) two members shall be appointed by the Loveland City Council which members shall be City of Loveland council members or employees; (b) two members shall be appointed by the Fort Collins City Council which members shall be City of Fort Collins council members or employees; (c) one Citizen Member (defined below) shall be appointed by the Loveland City Council; (d) one Citizen Member (defined below) shall be appointed by the Fort Collins City Council, and (e) one Joint Citizen Member (defined below) shall be appointed by the City Councils upon mutual agreement. A “Citizen Member” is defined as an individual residing within the Growth Management Area (“GMA”) of the City of the appointing City

Council, or owning or leasing real property or operating a business within the Airport area of influence as defined in the Airport Master Plan; provided that such member shall not be an employee or city council member of the Cities. The "Joint Citizen Member" is defined as an individual residing within the GMA of the either of the Cities, or owning or leasing real property or operating a business within the Airport area of influence as defined in the Airport Master Plan; provided that such member shall not be an employee or city council member of the Cities. Citizen Members shall serve a term of four years at the pleasure of the appointing City Council, subject to removal at any time without cause. The Joint Citizen Member shall serve a term of four years, subject to removal at any time without cause upon the mutual agreement of the City Councils. City Council members and employees of the Cities appointed as members of the Commission shall have no fixed term, but shall be subject to reappointment or removal at the pleasure of the appointing City Council. Appointments to fill vacancies by Citizen Members or the Joint Citizen Member shall be made for the remainder of the term and shall be filled by the appointing City Council, or, in the case of the Joint Citizen Member, by the mutual agreement of the City Councils.

3. Bylaws. The Commission shall adopt By-laws governing the responsibilities and duties of the Commission consistent with the terms and conditions of this Agreement. The By-laws and any amendments thereto shall be approved the City Councils before going into effect.

4. Commission Powers and Scope of Authority. The Cities do hereby delegate to the Commission the following powers and authority subject to any Airport plans or policies jointly adopted by the City Council, applicable federal and state law, the Cities' charters, ordinances and regulations, as they exist or as amended, the terms and conditions of Federal Aviation Administration ("FAA") or other grant agreements, including without limitation any grant assurances set forth therein, and any other limitations set forth herein:

- A. Enter into Airport agreements, including Airport property leases and contracts for goods and services, provided that such agreements are in a form generally approved by the Cities;
- B. Authorize Airport activities;
- C. Adopt or revise Airport rules and regulations, including minimum standards;
- D. Develop budgets and propose capital projects;
- E. Establish Airport rates, fees and charges on an annual basis;
- F. Establish Airport service levels;
- G. Develop an Airport operating plan, including security and emergency plans; and
- H. Direct the Airport Manager in the provision of Airport services, including the establishment of goals and objectives for each year and annual evaluations of the Airport Manager's performance in relation thereto on order to make recommendation to the Loveland City Manager regarding employment matters involving the Airport Manager.

5. Provision of Administrative Services. It is agreed that the Cities shall provide Administrative Services to the Airport Operations.

- A. Such services shall include but shall not be limited to personnel, salary and benefits administration, legal services, accounting, budget preparation assistance, engineering, risk management, purchasing and other similar administrative services;
- B. The City providing such services shall be entitled to recover, out of funds budgeted and appropriated for the Airport, its reasonable expenses incurred. The administrative charge shall be calculated in the same manner as charges made by the providing City to its own governmental enterprise funds;
- C. The City Managers shall maintain Administrative Guidelines which specify the duties and responsibilities of each City and any method or methods by which one City may enter into purchasing, consulting and other contracts pertaining to the Airport on behalf of both Cities. The Administrative Guidelines shall also specify, within the limits as set forth in subparagraph B above, the expenses which each City shall be entitled to recover for specific services provided. The Administrative Guidelines which have heretofore been developed are attached hereto as Exhibit "A" and incorporated herein by this reference. Modifications may be made to said Administrative Guidelines by mutual agreement of the City Managers in order to effect more efficient administration of the Airport.

6. Airport Manager, Appointment and Duties. The City Manager of the City of Loveland shall appoint an Airport Manager subject to the regulations and policies of the City of Loveland, after consultation with the City Manager of the City of Fort Collins and the Commission. The Airport Manager shall:

- A. Subject to the direction of the Commission, manage the operations of the Airport in a safe and efficient manner and maintain the grounds, structures and equipment in a clean, orderly, safe and operational condition in conformity with all applicable federal, state and local laws, rules and regulations and other legal requirements;
- B. Manage such operations in a manner which is compatible with the interests of the Cities, Commission and users of the Airport;
- C. Perform all duties normally associated with sound, safe, innovative, prudent and efficient Airport management and provide all services as are customary and usual to such an operation, including, but not limited to, the following:
  - i. Maintenance and Repair Services. Maintain and repair (structurally and otherwise) in a good and skillful manner, and enforce the obligations of any tenant to maintain and repair in such manner:

- a. all runways, ramps and taxiways, runway and taxiway lights, markings and striping, navigation aides not maintained by the FAA;
  - b. vehicles, equipment, machinery and tools used in the operation, maintenance or repair of the Airport;
  - c. Airport grounds including, without limitation, perimeter fences, parking lots, grass cutting and removing or topping trees and shrubs where and when necessary; and
  - d. all Airport buildings and structures, including, without limitation, plumbing, electrical, sprinkler, heating and air conditioning systems, apparatus and equipment.
- ii. Aviation Support Functions. In a manner consistent with sound Airport operating and safety practices, perform or cause to be performed:
- a. operation of the fuel farm with due regard for the operational requirements of the suppliers of petroleum products at the Airport;
  - b. operation of the ramp area adjacent to the terminal for the benefit of users thereof;
  - c. expeditious removal of snow and ice from all runways, taxiways, ramps, parking lots and access roads;
  - d. periodic visual checks to locate and remove all foreign objects from all runways, taxiways, ramps and aircraft parking areas.
- iii. Negotiations with Third Parties.
- a. In connection with the solicitation of proposals and negotiation of such leases, concessions and other agreements as may be necessary or desirable for the proper operation of the Airport in accordance with federal, state and local laws, rules and regulations and any grant agreements or related assurances, the Airport Manager shall prepare specific programs and courses of action and shall, at the direction of the Commission and on behalf of the Cities, implement such programs and courses of action in conformity with the same.
  - b. Administer and monitor all agreements with Airport concessionaires, tenants and construction contractors, see full and

complete compliance with the terms and conditions contained in such agreements, and endeavor to see that such agreements are carried out in a manner which is consistent with the proper operation of the Airport, provide coordination to avoid or minimize disruption of Airport operations and services and perform or cause to be performed all obligations imposed on the Cities pursuant to such agreements.

- c. Subject to direction from the Commission and in conformance with applicable procurement requirements, procure such aviation and related services, equipment, materials and supplies as may be necessary for the proper operation and marketing of the Airport.
- D. Prepare the Airport Annual Operating Budget in time to submit said budget and plan to the Commission and the City of Loveland for approval and to submit the annual request for Airport budget contributions through both Cities' annual budget processes for approval, and concurrently provide a copy of the Airport Annual Operating Budget to the City of Fort Collins, for information purposes. The Annual Operating Budget shall itemize all anticipated revenues and operating expenses and shall support such items of revenue and expense with records and documents.
- E. In conjunction with the Airport Annual Operating Budget, prepare an Annual Operating Plan which shall include, but not be limited to: a maintenance and repair schedule; a schedule of proposed Airport fees; a list of all aviation and aviation-related concessionaires, contractors and tenants; a schedule of all leases, concessions, contracts and agreements to be negotiated or renegotiated; recommendations, if any, for revisions of the Emergency Contingency Plan, Airport Rules and Regulations, Noise Reduction Plan, Community Information Plan and the Airport Security Plan; recommendations, if any, for non-capital equipment; a five-year projection of anticipated revenues and expenses based on a comparison with the previous fiscal year and prepared with reference to other relevant data; a schedule of proposed staffing levels of full-time, part-time and seasonal employees and any factors which may affect Airport operation and management. Appropriate modification of the Airport Operating Plan shall be made as required to conform to the Airport Operating Budget as adopted or amended.
- F. Prepare and submit to the Commission and the Cities a written five-year Capital Improvement Plan for 2015 and each year thereafter as may be necessary in accordance with Paragraph 10 of this Agreement. Such Capital Improvement Plan shall include, but not be limited to, an appropriate construction schedule for each project; a projection of the total and annual cost of each project; evaluation of the availability of federal,

state or private financing options such as build/own/operate/manage and turnkey, for each such project on the Airport Master Plan and on Airport operations, preliminary data to provide order of magnitude cost estimates for each project; and a statement of all major actions required to implement each such project.

7. Airport Funding. Each City acknowledges that ongoing funding for proper maintenance and capital development of the Airport will be necessary and each City agrees to review any request for funds from the Commission during its respective Annual Budget process.

- A. The Cities agree to continue the practice of sharing equally in the revenues and expenses arising from Airport operations. If financially feasible, each City shall appropriate necessary funds for capital items, i.e., to maintain the facility, build additional facilities, and match any grants for Airport Improvement Program Projects funded by the FAA.
- B. Financial contributions to the Annual Operating Budget and the implementation of the Capital Improvement Plan shall be shared equally between the Cities, except that each party reserves the right to invest additional funds in the Airport as it sees fit.
- C. Improvements to the real property as well as any personal property resulting from such single party investments shall be and remain an asset of the investor. However, single party investments shall have no effect of the percentages of ownership in the Airport as presently divided between the Cities.
- D. Each City's equal share of the Annual Operating Budget and the Capital Improvement Plan shall be appropriated by each City and transferred or otherwise paid into the designated account to be used for Airport funding on an annual basis by the City providing finance and accounting administrative services for the enduring budget year.
- E. It is understood and agreed that the City providing finance and accounting administrative services for the Airport may collect, hold, invest and disburse funds belonging to the other City (whether such funds are revenues from the Airport or financial contributions made by such other City or other funds belonging to such other City) only as an agent of such other City, and subject to the general duties and responsibilities of an agency relationship. Accordingly, the City providing such services shall, with respect to such funds of the other City, be under the control of the Financial Officer of such other City and shall make monthly reports to such Financial Officer, which reports shall contain a detailed accounting of all such funds collected, held, invested and disbursed by the City providing such services for the period of time covered by such report.

8. Effective Date. This Agreement shall become effective on the date first listed above.

9. Effect Upon Prior Agreements. This Agreement shall:

A. extinguish and replace the intergovernmental agreements related to operation and management of the Airport entitled Joint Operating Agreement for the Fort Collins-Loveland Municipal Airport dated July 3, 1979; Agreement dated September 1, 1981, and its Addendum to Agreement dated December 19, 1989; Inter-governmental Agreement for the Joint Operation of the Fort Collins-Loveland Municipal Airport dated January 9, 1991; Intergovernmental Agreement for the Joint Operation of the Fort Collins-Loveland Municipal Airport dated December 21, 1993; Intergovernmental Agreement for the Joint Operation of the Fort Collins-Loveland Municipal Airport dated June 18, 1996; and Intergovernmental Agreement for the Joint Operation of the Fort Collins-Loveland Municipal Airport dated May 16, 2000 (amended by the First Amendment to the Administrative Guidelines (Exhibit A) of the Intergovernmental Agreement Concerning the Joint Operation of the Fort Collins-Loveland Municipal Airport dated November 10, 2003, and the Second Amendment to the Intergovernmental Agreement for the Joint Operation of the Fort Collins-Loveland Municipal Airport dated May 15, 2007); and

B. not abrogate or otherwise nullify the terms and conditions of the Intergovernmental Agreement dated June 19, 1992, concerning the Airport fire station, which agreement shall be considered an amendment to the provisions of this Agreement should the provisions conflict.

10. Term, Modifications, Extensions. This Agreement shall remain in full force and effect until December 31, 2015, unless earlier terminated by mutual written agreement of the parties hereto. This Agreement may be modified only by the written agreement of the parties hereto. This Agreement may be extended (a) by written agreement of the parties or (b) automatically for successive one year periods by virtue of each City, in its respective annual budgets, having appropriated funds to support the annual operating budget for the Airport for the ensuing budget year in accordance with the provisions of Paragraph 7 of this Agreement.

11. Indemnity. To the extent authorized by law, each party shall indemnify, save and hold harmless the other party, its boards, employees, officers and agents, against any and all claims, damages, liability and court awards, including costs, expenses and attorney's fees, incurred as a result of any act or omission by that party or its officers, agents, employees, subcontractors pursuant to the terms of this Agreement.

12. Ownership of Land and Facilities. Except for single City purchases which shall become vested in the purchasing City in accordance with the provisions of Paragraph 7, ownership of the real and personal property, buildings, structures and facilities located on the Airport shall be divided according to the date of acquisition as follows:



- A. Real property, improvements and personal property acquired prior to July 3, 1979, as described on Exhibits "B" and "C" attached hereto and made a part hereof, or as established by extrinsic evidence shall be deemed to be vested in both Cities according to the following proportions:
1. An undivided one-third (1/3) interest to the City of Loveland; and
  2. An undivided two-thirds (2/3) interest to the City of Fort Collins.
- B. Real property, improvements and personal property acquired on or after July 3, 1979, as well as any appreciation in value accruing to such properties or the properties described in Paragraph A above, shall be deemed to be vested in both Cities according to the following proportions:
1. An undivided one-half (1/2) interest to the City of Loveland; and
  2. An undivided one-half (1/2) interest to the City of Fort Collins.
- C. In the event either party does not pay its one-half (1/2) share of agreed expenses in any given year, such City shall relinquish in each such year in which it shall fail to apply such expenses, all right, title and interest in and to ten percent (10%) of its total ownership interest in real and personal property at the Airport and shall convey the same to the other City.

13. Non-multiple year fiscal obligation. Nothing in this Agreement shall be construed to create a multiple fiscal year direct or indirect financial obligation of or on behalf of any party to this Agreement.

14. Non-liability of Individuals. No officer, agent or employee of either party hereto shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or of any supplement, modification or amendment to this Agreement because of any breach thereof, or because of his, her or their execution or attempted execution of the same.

15. Benefits. This Agreement is made for the sole and exclusive benefit of the Cities, their successors and assigns, and is not made for the benefit of any third party.

16. Relationship of Parties. The parties enter into this Agreement as separate, independent governmental entities and maintain such status throughout.

17. No Assignment. The parties covenant and agree that they will not assign this Agreement, any interest or part thereof or any right or privilege pertinent thereto, without written consent of the other party first having been obtained.

18. Entire Agreement/Ambiguities. This Agreement embodies the entire agreement of the parties. The parties shall not be bound by or be liable for any statement, representation,

promise, inducement or understanding of any kind or nature not set forth herein. No changes, amendments or modifications of any of the terms or conditions of this Agreement shall be valid unless reduced to writing and executed by both parties. In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

19. Applicable Law, Severability, Arbitration. The laws of the State of Colorado shall be applied in the interpretation, execution and enforcement of this Agreement. Any provision rendered null and void by operation of law shall not invalidate the remainder of this Agreement to the extent that this Agreement is capable of execution. The parties agree to submit any dispute over the interpretation or application of this Agreement to final and binding arbitration with the Judicial Arbitrator Group of Denver, Colorado. The cost of arbitration shall be borne equally by the parties unless the arbitrator shall find that a claim or defense is frivolous and without reasonable justification.

**[End of page.]**

IN WITNESS HEREOF, this Intergovernmental Agreement has been executed that day and year first above written.



THE CITY OF LOVELAND, COLORADO  
A Municipal Corporation

By: *Tim A. Gutwirth*  
Mayor

ATTEST:

*Leanne Andrews*  
City Clerk

APPROVED AS TO FORM:

*Moses Jorua*  
Assistant City Attorney



THE CITY OF FORT COLLINS, COLORADO  
A Municipal Corporation

By: *Feren Weitzel*  
Mayor

ATTEST:

*Wanda Nelson*  
City Clerk

APPROVED AS TO FORM:

*[Signature]*  
City Attorney