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# **AIRPORT JOINT USE AGREEMENT**

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BETWEEN

**CITY AND COUNTY OF DENVER**

AND

**UNITED STATES OF AMERICA**

AND

**STATE OF COLORADO**

**(DENVER INTERNATIONAL AIRPORT)  
DIA**

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## **AIRPORT JOINT USE AGREEMENT**

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2014, by and between the CITY AND COUNTY OF DENVER , Denver International Airport ("City"); and the UNITED STATES OF AMERICA, acting by and through the Chief, National Guard Bureau, and the STATE OF COLORADO, acting by and through its Adjutant General (collectively, "Government").

### **RECITALS**

A. The City and County of Denver owns and operates Denver International Airport (DIA) ("Airport"), located in the City of Denver, State of Colorado.

B. Title 49, United States Code, Chapter 471, "Airport Development," (49 U.S.C. Sections 47101-47129), provides that each of the Airport's facilities developed with financial assistance from the United States Government and each of the Airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by Government aircraft in common with other aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facility used.

C. The Government requires substantial use of the flying facilities at the Airport for the Colorado Air National Guard, as well as for other occasional transient government aircraft.

D. The City is agreeable to such substantial use, in common with other users of the Airport, of the flying facilities by the Government under this Agreement.

E. The Government and the City desire to provide for the delineation of responsibility for operation and maintenance of the flying facilities jointly used in common with others at the Airport, and to establish the Government's reasonable share, proportional to such use, of the cost of operating and maintaining such jointly used flying facilities.

### **AGREEMENT:**

#### **1. DEFINITIONS**

For purposes of this Agreement, the jointly used flying facilities of the Airport are the runways, taxiways, lighting systems, navigational aids, markings and appurtenances open to public use and use by the Government, including all improvements and facilities pertaining thereto and situated thereon and all future additions, improvements, and facilities thereto as may be added or constructed from time to time ("Jointly Used Flying Facilities"). The Jointly Used Flying Facilities do not include land areas used exclusively by the Government or the terminal

buildings, hangars, aircraft parking aprons and ramps, or other areas or structures used exclusively by the Authority or its lessees, permittees, or licensees for civilian or commercial purposes.

## **2. JOINT USE**

Subject to the terms and conditions of this Agreement; including Exhibit A, the Government shall have the use, in common with other users of the Airport, present and prospective, of the Jointly Used Flying Facilities, together with all necessary and convenient rights of ingress and egress to and from the Air National Guard installation and other Government facilities located on the Airport. Routes for ingress and egress for the Government's employees, agents, customers and contractors shall not unduly restrict the Government in its operations.

## **3. CITY RESPONSIBILITIES**

The City will be responsible for the following services and functions, to standards in accordance with Paragraph 6 below:

a. Furnishing all personnel, materials and equipment required in the rendering of the services to be provided under the Agreement.

b. Performing any and all maintenance of the Jointly Used Flying Facilities, including but not limited to:

(1) Joint sealing, crack repair, surface repairs, airfield markings and repair or replacement of damaged sections of airfield pavement;

(2) Runway, taxiway, and approach lighting and the regulators and controls therefor;

(3) Beacons, obstruction lights, wind indicators, and other navigational aids;

(4) Grass cutting and grounds care, drainage, and dust and erosion control of unpaved areas, adjacent to runways and taxiways;

(5) Sweeping runways and taxiways;

(6) Controlling insects and pests;

(7) Removing snow, ice and other hazards from runways and taxiways within a reasonable time after such runways and taxiways have been so encumbered.

c. Furnishing utilities necessary to operate the Jointly Used Flying Facilities.

d. Removing disabled aircraft as expeditiously as possible, subject to the rules and regulations of the National Transportation Safety Board, in order to minimize the time the Jointly Used Flying Facilities, or any part thereof, would be closed because of such aircraft.

#### **4. GOVERNMENT RESPONSIBILITIES**

The Government will be responsible for the following:

a. Removing disabled Government aircraft as expeditiously as possible in order to minimize the time the Jointly Used Flying Facilities, or any part thereof, would be closed because of such aircraft.

b. Removing snow and ice from all ramps, aprons, and taxiways used exclusively by Government aircraft.

c. Subject to availability of appropriations therefor, repairing within a reasonable time; damage to the Jointly Used Flying Facilities to the extent that such damage is caused solely by Government aircraft operations and is in excess of the fair wear and tear resulting from the military use contemplated under this Agreement.

#### **5. PAYMENTS**

a. The Government agrees to pay the Airport \$5,000 per month for the right to use the Airport runway for aircraft takeoffs and landings. Payments shall be made upon submission of appropriate invoices to the Government. Invoices shall be sent to:

140 WG/CE  
18848 E Crested Butte Ave, Stop 12  
Buckley Air Force Base, CO 80011

b. Payments will be sent to the address below. Payments for partial months shall be pro-rated based upon the number of days in a partial month which the Government has the right to use the Airport runway as compared to a 30-day month.

Denver International Airport  
ATTN: Dan Sprinkle  
Director Airside Operations  
Airport Office Building, 10<sup>th</sup> Floor  
8500 Pena Boulevard  
Denver, CO 80249-6340

c. The City agrees that the Government shall have the right to use the runway and related facilities for the duration of this agreement without being subject to incidental use limitations.

d. Either party may request renegotiation if either party, at the request or with the formal concurrence of the other, as the case may be, requires services not contemplated by this Agreement, or reduces or eliminates services it undertakes to provide under this Agreement.

## **6. AIRFIELD MANAGEMENT**

a. The City agrees that maintenance of the Jointly Used Flying Facilities shall at all times, be in accordance with Federal Aviation Administration ("FAA") standards for the operation of a commercial airport and operation of jet aircraft.

b. The Government agrees that any markings and equipment installed by it pursuant to Paragraph 7 of the Agreement shall be coordinated with the City, and not be in conflict with FAA standards.

## **7. GOVERNMENT RESERVED RIGHTS**

The Government reserves the right, at its sole cost and expense and subject to Paragraph 6b above, to:

a. Provide and maintain in the Jointly Used Flying Facilities airfield markings required solely for military aircraft operations.

b. Install, operate and maintain in the Jointly Used Flying Facilities any and all additional equipment, necessary for the safe and efficient operation of military aircraft including but not limited to arresting systems and navigational aids.

## **8. RECORDS AND BOOKS OF ACCOUNT**

The City agrees to keep records and books of account, showing the actual cost to it of all items of labor, materials, equipment, supplies, services, and other expenditures made in fulfilling the obligations of this Agreement. The Comptroller General of the United States or any of his or her duly authorized representatives shall, until the expiration of three (3) years after final payment, have access at all times to such records and books of account, or to any directly pertinent books, documents, papers, and records of any of the City's contractors or subcontractors engaged in the performance of and involving transactions related to this Agreement. The City further agrees that representatives of the Air Force Audit Agency or any

other designated representative of the Government shall have the same right of access to such records, books of account, documents and papers as is available to the Comptroller General.

## **9. TERM**

a. The parties anticipate that the Government's runway at Buckley AFB will be unavailable from on or about 1 April 2014 through 31 Jul 2014. The Government shall have the right to use City's runway facilities during the aforesaid period subject to an obligation to pay the City for such rights.

b. In addition, because unpredictable weather conditions and other variables pose a risk that the Government may not be able to complete its runway repairs at Buckley AFB, CO on the desired schedule, the Government shall have the unilateral right to extend this agreement through 31 December 2014. The Government's right to extend this agreement is delegated to the National Guard Bureau (NGB) A7, without power of re-delegation. NGB/A7 may exercise the option to extend this agreement one or more times for any whole number of days through 31 December 2014 by providing reasonable notice to the City.

c. This agreement will become binding on the parties upon the signature of the last principal signing in approval for the respective party.

## **10. TERMINATION**

a. This Agreement may be terminated by the Government at any time by giving at least thirty (30) days' notice thereof in writing to the City.

(1) The Government, by giving written notice to the City, may terminate the right of the City to proceed under this Agreement if it is found, after notice and hearing by the Secretary of the Air Force or his or her duly authorized representative, that gratuities in the form of entertainment, gifts, or otherwise, were offered or given by the City, or any agent or representative of the City, to any officer or employee of the Government with a view toward securing this Agreement or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such agreement, provided that the existence of the facts upon which the Secretary of the Air Force or his or her duly authorized representative makes such findings shall be an issue and may be reviewed in any competent court.

(2) In the event this Agreement is terminated as provided in subparagraph 11a(1) above, the Government shall be entitled to pursue the same remedies against the Authority as it could pursue in the event of a breach of the Agreement by the Authority and in addition to any other damages to which it may be entitled by law, the Government shall be entitled to exemplary damages in an amount (as determined by the Secretary of the Air Force or his or her

duly authorized representative) which shall be not less than three (3) or more than ten (10) times the costs incurred by the Authority in providing any such gratuities to any such officer or employee.

(3) The rights and remedies of the Government provided in subparagraph 11a(1) above shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

## **11. GENERAL PROVISIONS**

a. Compliance with Law. The City shall comply with all Federal, state and local laws, rules and regulations applicable to the activities conducted under this Agreement.

b. Assignment. The City shall neither transfer nor assign this Agreement without the prior written consent of the Government, which shall not be unreasonably withheld or delayed.

c. Liability. Except as otherwise provided in this Agreement, neither party shall be liable for damages to property or injuries to persons arising from acts of the other in the use of the Jointly Used Flying Facilities or occurring as a consequence of the performance of responsibilities under this Agreement.

d. Third Party Benefit. No member or delegate to Congress shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

e. Entire Agreement. It is expressly agreed that this written instrument embodies the entire financial arrangement and agreement of the parties regarding the use of the Jointly Used Flying Facilities by the Government, and there are no understandings or agreements, verbal or otherwise, between the parties in regard to it except as expressly set forth herein. Specifically, no landing fees or other fees not provided in this Agreement will be assessed by the City against the Government in the use of the Jointly Used Flying Facilities during the term of this Agreement.

f. Modification. This Agreement may only be modified or amended by mutual agreement of the parties in writing and signed by each of the parties hereto.

g. Waiver. The failure of either party to insist, in any one or more instances, upon the strict performance of any of the terms, conditions, covenants, or provisions of this Agreement shall not be construed as a waiver or relinquishment of the right to the future performance of any such terms, conditions, covenants, or provisions. No provision of this Agreement shall be deemed to have been waived by either party unless such waiver be in writing signed by such party.



h. Paragraph Headings. The brief headings or titles preceding each Paragraph and subparagraph are merely for purposes of identification, convenience, and ease of reference, and will be completely disregarded in the construction of this Agreement.

## **12. MAJOR REPAIRS AND NEW CONSTRUCTION**

Major repair projects and/or new construction projects required for the Jointly Used Flying Facilities (collectively, "Joint Use Projects") are not included under this Agreement. Any Government contribution to Joint Use Projects shall be the subject of separate negotiations and written agreement between the City and the Government at such time as the work is required. Any Government participation in the costs of Joint Use Projects is subject to the availability of Federal funds for such purpose at the time the work is required.

## **13. NOTICES**

No notice, order, direction, determination, requirement, consent or approval under this Agreement shall be of any effect unless it is in writing and addressed as provided herein.

a. Written communications to the City shall be addressed to:

Denver International Airport  
ATTN: Dan Sprinkle  
Director Airside Operations  
Airport Office Building, 10<sup>th</sup> Floor  
8500 Pena Boulevard  
Denver, CO 80249-6340

b. Written communications to the Government shall be in duplicate with copies to the United States of America and the State of Colorado addressed respectively, as follows:

To the United States of America:

NGB/A7  
3501 Fetchet Avenue  
Joint Base Andrews, Maryland 20762-5157

To the State of:

The Adjutant General  
6848 South Revere Parkway  
Centennial, CO 80112-390

IN WITNESS WHEREOF, the respective duly authorized representatives of the parties hereto have executed this Agreement on the date set forth opposite their respective signatures.

Dated: \_\_\_\_\_

CITY AND COUNTY OF DENVER

By: \_\_\_\_\_

(Title) \_\_\_\_\_

Approved as to form and legal sufficiency:

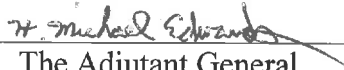
\_\_\_\_\_

Dated: 4/18/2014

STATE OF COLORADO

Coordinated with:

  
\_\_\_\_\_  
U.S. Property & Fiscal Officer

By:   
\_\_\_\_\_  
The Adjutant General

Dated: \_\_\_\_\_

UNITED STATES OF AMERICA

By: \_\_\_\_\_  
For the Chief, National Guard Bureau



**Contract Control Number:**

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at  
Denver, Colorado as of

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By\_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By\_\_\_\_\_

By\_\_\_\_\_

By\_\_\_\_\_



**EXHIBIT A**  
**LETTER OF AGREEMENT**  
**BETWEEN**  
**DENVER INTERNATIONAL AIRPORT**  
**AND**  
**THE COLORADO AIR NATIONAL GUARD, 140<sup>th</sup> WING**

This agreement made and entered by and between the United States Air Force, for and behalf of the United States of America (Air Force) and the City and County of Denver Department of Aviation (Airport). The parties hereto enter into an agreement for the joint use of the runways and certain associated flight facilities at Denver International Airport (DIA) during runway reconstruction at Buckley Air Force Base, Colorado.

The parties do hereby mutually agree as follows:

**1. Effective Dates:**

The terms of this agreement shall be effective 1 April 2014 through 30 September 2014, or as modified by supplemental agreement.

**2. Purpose:**

The purpose of this agreement is to establish procedures and requirements for the operations of the Colorado Air National Guard, 140<sup>th</sup> Wing (Wing) aircraft, equipment, and personnel at DIA.

**3. Responsibilities:**

1. The Airport is responsible for the safe operation of DIA in accordance with the Federal Aviation Administration (FAA).
2. The Airport shall operate DIA in accordance with approved local policies and procedures.
3. The Airport will have final authority in all matters concerning use of its facilities and airport operations.
4. The FAA Air Traffic Control Tower (ATCT) shall have the responsibility to provide traffic control services based on FAA regulations, observed or known traffic and airport conditions.

5. Upon request, the Airport will provide copies of the Daily Airfield Inspection Report to the Wing deployed site Supervisor of Flying. Contact information will be supplied to the Airport by the Wing once the deployed location is established and occupied.
6. The Airport will provide mutual aid in accordance with established agreements for DIA Denver Fire Department (DFD) to support Wing operations.
7. The Wing shall be responsible to comply with the procedures and requirements of this letter of agreement, and provide support required for their operations (i.e., arresting gear, Aircraft Rescue & Fire Fighting (ARFF), explosive ordinance disposal support, etc.) for their F-16 aircraft utilizing DIA Facilities.
8. The Wing will provide a noise liaison and noise complaint contact number to the Airport.
9. The Airport will facilitate installation of the arresting gear with necessary pavement closures to runway 17R/35L in order to facilitate the installation, setup, testing, and removal of the arresting system.

#### **4. Procedures:**

1. Barrier Installation (Runway 17L/35R):
  - a. The arresting gear shall be installed at the agreed upon location as identified in the Military Construction Cooperative Agreement (MCCA) technical design documents, 1,960 feet south of the Runway 17L threshold.
  - b. The arresting gear shall be installed in accordance with FAA AC No. 150/5220-9A.
  - c. The arresting gear installation will start after completion of the construction under the MCCA, written approval from FAA is received, this letter is signed, and crews have completed training and security clearance documentation required by the Airport. All activities associated with installation and removal of the arresting gear shall be coordinated with the Airport. To the extent possible, installation activities should be limited to nighttime work.
  - d. Installation crews shall follow written Airport procedures while in the movement area. Installation crews will remain under escort of the Airport personnel or, be given a designated area that they are approved to work in. Any movement outside of a designated work area must be under escort.

## 2. Arresting Gear In-Service/Out-of-service:

- a. Prior to installing or removing the arresting gear cable the Wing will be required to coordinate access to runway 17L/35R with the duty Airport Operations Manager (call sign OPS 7). OPS 7 or designee will coordinate all runway access and closures with Denver ATCT and provide escort of Wing personnel onto the closed runway.
- b. For departing aircraft, the arresting gear cable will be in place, functional and certified no later than 15 minutes prior to the first Wing take-off and will be removed following the take-off of the last Wing aircraft.
- c. For arriving aircraft, the arresting gear cable will be in place, functional and certified 15 minutes prior to the arrival of any Wing aircraft. The cable removal shall begin no later than 15 minutes after the last Wing aircraft has landed.
- d. Use of Runway 17L/35R will be suspended to all non-military aircraft during the time the arresting gear cable is in place. Removal of the cable and reopening of the runway will be required prior to air carrier use.
- e. Crews operating vehicles within the Aircraft Movement Area shall be accompanied by escort at all times.
- f. Crews shall remain in contact with Airport Operations while in the Aircraft Movement Area and during arresting gear operations by radio.
- g. During Wing non-flying hours and between the last aircraft departure and the first aircraft landing, the arresting system cable will be removed from the runway and placed parallel and adjacent to the runway edge lights.
- h. Military in-flight emergencies (referred to Alert's at DIA) requiring an arresting system engagement will be handled on a case by case basis given enough time for the arresting gear cable to be placed into operational service (45 minutes).
- i. If there is an engagement of the cable system, the crew will recover the aircraft, re-install the arresting gear cable and return the runway back to normal operations as soon as can be safely done.
- j. If Runway 17L/35R becomes un-usable/disabled due to Instrument Meteorological Conditions (IMC) below the runway's instrument approach, the arresting gear cable will be removed from service.

3. Air Defense Response (Scrambles):

- a. Runway 35L will be used as the departure runway for Wing scramble aircraft.
- b. If the airport is in a north configuration, the Wing will install the cable across Runway 17L/35R within 15 minutes of the departure of the scramble aircraft and begin to remove the cable within 15 minutes of the last alert aircraft being recovered.
- c. If DIA is in IFR conditions or a south configuration, the cable will not be installed.

4. Arresting Gear Removal:

- a. Removal of the arresting gear cable shall be coordinated with the Airport.
- b. The arresting gear cable shall be completely removed and areas disturbed restored to the original grade and condition per the signed MCCA.

5. Driving on the Airfield:

- a. Wing personnel with driving privileges will follow all applicable Denver International Airport Rules and Regulations while operating in the secured area.
- b. In the event of an aircraft emergency on runway 17L/35R, Airport Operations will meet the Wing ARFF Truck at 84<sup>th</sup> Avenue, short of taxiway P and escort the vehicle to a proper setup location or to the scene of an incident.
- c. In the event of an emergency on any other runway, Airport Operations will meet the Wing ARFF truck at the D deice pad and escort the vehicle to the appropriate location.
- d. Airport Operations will meet the Wing at ARFF station 3 and escort Wing personnel to runway 17L/35R when the arresting gear needs to be put into or taken out of service.
- e. All movement of F-16s under tow must be under the escort of Airport Operations. Wing personnel may request an escort through the on-duty Airport Operations Manager (call-sign OPS 7).
- f. Airport Operations will have personnel on the east airfield at all times during the relocation of the Wing to the Airport to ensure a timely response to escort requests.

6. During special circumstances these operational procedures may not be applicable. If an alternate arrangement is to be used, it will be agreed to in advance by the Airport, Wing, and the FAA. If circumstances warrant, FAA ATCT may limit Runway 17L/35R to Wing aircraft only.
7. DIA Rules and Regulations are hereby incorporated into this agreement by reference.
8. Airport Joint Use Agreement: The Wing will fall under the DIA and National Guard Bureau (NGB) AJUA for use of the Joint Used Flying Facilities enumerated in the agreement. NGB A7 and the Airport have negotiated this agreement for the Wing F-16 Operations during the effective dates of this agreement.