

**INTERGOVERNMENTAL AGREEMENT
ELECTED OFFICIALS TRANSPORTATION COMMITTEE**

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement"), is made and entered into as of this 3rd day of May, 2021, by and among the CITY OF ASPEN, Colorado, a home-rule municipal corporation (the "City"), THE TOWN OF SNOWMASS VILLAGE, Colorado, a home-rule municipal corporation (the "Town"), and the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF PITKIN, Colorado, a body corporate and politic (the "County").

WITNESSETH:

WHEREAS, the parties to this Agreement have the authority pursuant to Article XIV, Section 18 of the Colorado Constitution and Section 29-1-201, et seq., of the Colorado Revised Statutes, to enter into intergovernmental agreements for the purpose of providing any service or performing any function which they can perform individually; and

WHEREAS, on September 14th, 1993 the parties entered into an Intergovernmental Agreement (the "1993 IGA") establishing a committee made up of the elected officials from the City, the Town, and the County that has become known as the Elected Officials Transportation Committee (the "EOTC"), and

WHEREAS, in 1993 the parties adopted Joint Resolution No. 61 adopting a Comprehensive Valley Transportation Plan (the "Plan") establishing an initial framework for a comprehensive mass transportation strategy for the Roaring Fork Valley; and

WHEREAS, on July 16, 2020 the EOTC approved by separate resolutions an updated Plan that is to be updated from time to time; and

WHEREAS, in 1993 the parties adopted Joint Resolution No. 62 which adopted specific elements to be funded from the proceeds of transportation revenue bonds; and

WHEREAS, on November 2, 1993 the County electorate approved a County-wide one-half (1/2) cent sales tax and one-half (1/2) cent use tax (collectively, the "one-half cent sales and use tax") to fund the Plan, as amended, and other elements for the purpose of increasing and improving the public mass transportation system within the Roaring Fork Valley; and

WHEREAS, on September 12, 2000, the City, the Town, the County and certain other municipalities and counties in the Roaring Fork Valley entered into the Roaring Fork Transportation Authority Intergovernmental Agreement (the "Authority IGA"), forming the Roaring Fork Transportation Authority (the "Authority");

WHEREAS, the Authority IGA furthered the goals set forth in the 1993 IGA and Joint Resolutions 61 and 62, but also amended the uses and distribution of the revenues of

the one-half cent sales and use tax and of the one cent mass transportation sales tax and one cent mass transportation use tax (collectively, the "one cent sales and use tax") approved by County voters at the County-wide election on May 3, 1983, (together with the one-half cent sales and use tax, the "sales and use taxes"); and

WHEREAS, in connection with execution of the Authority IGA and the formation of the Authority, the City, the Town and the County adopted joint Resolution No. 1, Series of 2000, which established a funding commitment to the Authority from the one-half cent sales and use tax; and

WHEREAS, to effectuate such funding commitment, the City, the Town and the County entered into the Intergovernmental Agreement – Transportation Sales Tax Distribution dated as of April 25, 2001 (the "Distribution IGA"), which specified the distribution of (a) the one-half cent sales and use tax between the County and the Authority, and (b) the one cent sales and use tax among the City, the Town and the Authority; and

WHEREAS, as of the date of the Distribution IGA, there were outstanding certain County revenue bonds secured by the County's share of the revenues of the one-cent sales and use tax issued that were issued pursuant to the County's Resolution No. 92-392 and certain subsequent County resolutions supplemental thereto (collectively, the "Bond Resolution"), with voter-approved authority to issue additional such bonds (collectively with such then-outstanding bonds, and together with any bonds or other debt issued thereafter or hereafter that are payable from or secured in whole or in part by the one cent sales and use tax, the one-half cent sales and use tax, or any portion of either such tax, the "Sales and Use Tax Bonds"); and

WHEREAS, accordingly, Section 4 of the Distribution IGA contains certain protections with respect to the sales and uses taxes for the holders of any such Sales and Use Tax Bonds, and additionally contains certain protections for the City, the Town and the Authority with respect thereto; and

WHEREAS, at a County-wide election held on November 2, 2004, the voters of the County approved a multiple fiscal year financial obligation of the County to contribute a portion of the one-half cent sales and use tax to the Authority (the "2004 Ballot Issue") in connection with the approval by the members of the Authority other than the County, the City and the Town of separate sales and uses taxes in their respective jurisdictions to provide funding to the Authority; and

WHEREAS, the purpose of this Intergovernmental Agreement is to update, amend and restate the provisions of the 1993 IGA, Joint Resolution No. 61 and Joint Resolution No. 62 with respect to the EOTC and the Plan; and

WHEREAS, the parties hereto wish to further define and clarify the method and process by which the implementation of the Plan will be funded; and

WHEREAS, it is not the desire or intention of the parties to modify or amend the distribution described above of the sales and uses taxes or any portion thereof, or to modify, amend or impair any of the protections with respect to the sales and use taxes currently in place in the documents described above for the benefit of the holders of the Sales and Use Tax Bonds, the City, the Town or the Authority;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements of the parties, and other good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the parties agree as follows:

Purpose.

1. This Agreement is designed and intended to define and clarify the method and process by which the parties have agreed to fund and implement the Plan.

Elected Officials Transportation Committee

2. Organization and Decision Making

- a. The EOTC shall consist of the elected officials representing the parties to this Agreement (the Pitkin County Board of County Commissioners, the Town of Snowmass Village Town Council, and the City of Aspen City Council). EOTC meetings shall be noticed special meetings for each party. Votes tallied at an EOTC meeting shall be final. A quorum, defined as a majority of the membership from each of the parties, must be in attendance to officially act at an EOTC meeting. In the event that quorum cannot be established at a regularly scheduled EOTC meeting then the meeting may be continued or rescheduled to a date where a quorum can be achieved. In the event a business decision needs to be acted upon sooner than a quorum can be achieved, then the subject matter(s) may be rescheduled by the individual parties for consideration at their respective regular meetings.
- b. The parties hereby agree to conduct regular meetings including other invited members of the public to continue to refine and agree upon proposed projects and transportation elements consistent with or complementary to the Plan, as may be amended from time to time.
- c. The parties shall adopt a Plan as is further outlined in Section 3 of this Agreement. The Plan or amendments thereto should be agreed upon by all three parties at a regular scheduled meeting of the EOTC, but may be acted on by the individual parties at their respective regular meetings. This agreement shall be evidenced by individual resolutions signed by the authorized representative for each party.

- d. The parties further agree that the amount of all expenditures and all projects to be funded with revenues derived from the one-half cent sales and use tax shall be consistent with and/or complementary to the Plan and applicable Colorado Revised Statutes. All expenditures, budgets and amendments thereto should be agreed upon by all three parties at a regular scheduled meeting of the EOTC in advance of any such expenditure and/or project, but may be acted on by the individual parties at their respective regular meetings. This agreement shall be evidenced by individual resolutions signed by the authorized representative for each party.
- e. The EOTC may adopt supporting documents including but not limited to a strategic plan, work plan and capital plan in order to help guide implementation and / or development of the Plan. All supporting documents or amendments thereto should be agreed upon by all three parties at a regular scheduled meeting of the EOTC, but may be acted on by the individual parties at their respective regular meetings. This agreement shall be evidenced by individual resolutions signed by the authorized representative for each party.
- f. The parties may provide administrative direction to staff that advance the implementation of the Plan. Any administrative direction thereto should be agreed upon by all three parties at a regular scheduled meeting of the EOTC, but may be acted on by the individual parties at their respective regular meetings.

EOTC Decision Making Process Overview			
Comprehensive Valley Transportation Plan	Expenditure / Budget	Supporting Document or plan	Administrative Direction
- Agreed upon by all three parties	- Agreed upon by all three parties	- Agreed upon by all three parties	- Agreed upon by all three parties
- Resolution signed by authorized representative from each party	- Resolution signed by authorized representative from each party	- Resolution signed by authorized representative from each party	

3. Comprehensive Valley Transportation Plan

The parties hereby agree to adopt a Plan that is to be updated from time to time for addressing mass transportation problems and issues in the Roaring Fork River Valley.

- a. Adoption or amendment to the Plan shall be approved in accordance with Section 2.c. of this Agreement.
- b. The parties hereto agree to utilize their best efforts to seek and obtain funding from local, state, federal, and private sources to finance the various elements of the Plan. These efforts shall include, when deemed necessary, seeking voter approval for increased sales and use taxes as well as bonding authority for specific projects as they are developed and agreed upon by unanimous consent of the parties hereto.

Annual Renewal and Termination.

4. This Intergovernmental Agreement may not be terminated unless and until such time as the one-half cent sales and use tax referenced above have been rescinded, whereupon any party may terminate the agreement upon ninety (90) days written notice to the other parties.

Miscellaneous.

5. This Agreement shall amend and supersede the 1993 IGA, Joint Resolution No. 61 and Joint Resolution No. 62, but solely to the extent necessary to effectuate the provisions hereof.

Notwithstanding anything to the contrary contained in this Agreement or in the Plan, any supporting documents with respect thereto and hereto, or any amendments thereof or hereof: (a) nothing contained in this Agreement, the Plan, or any such supporting documents or amendments is intended to modify or amend, and the same shall not modify or amend, the distribution of the sales and uses taxes set forth in the Distribution IGA and the 2004 Ballot Issue; and (b) nothing contained in this Agreement, the Plan, or any such supporting documents or amendments is intended to modify, amend or impair, and the same shall not modify, amend or impair, any of the protections granted by the 1993 IGA, Joint Resolutions 61 and 62, the Bond Resolution, the Distribution IGA, the 2004 Ballot Issue or any of the other agreements or other documents described in the recitals hereto to or for the benefit of (i) the holders of any Sales and Use Tax Bonds, so long as any Sales and Use Tax Bonds remain outstanding, or (ii) the City, the Town and the Authority.

6. Nothing contained in this Agreement shall mean or be construed to mean that an individual party to this Agreement may not independently fund or implement a specific element of the Plan or some other transportation related project without the consent of the other parties.

7. If any provision of this Agreement or the application thereof to any person, entity, or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Agreement which can be given effect without the invalid provisions or application, and to this end the provisions of this Agreement are declared to be severable.

8. This Intergovernmental Agreement is not intended to create any right in or for the public, or any member of the public, including any contractor, supplier or any other third party, or to authorize anyone not a party to this Intergovernmental Agreement to maintain a suit to enforce or take advantage of its terms. The duties, obligations and responsibilities of the parties with respect to third parties shall remain as imposed by law.

9. This Agreement is not assignable by any party.

10. This Agreement constitutes the entire agreement between the parties and all other promises and agreements relating to the subject of this Agreement, whether oral or written, are merged herein.

11. Any notice required or permitted under this Agreement shall be in writing and shall be provided by electronic delivery to the e-mail addresses set forth below *and* by one of the following methods 1) hand-delivery or 2) registered or certified mail, postage pre-paid to the mailing addresses set forth below. Each party by notice sent under this paragraph may change the address to which future notices should be sent. Electronic delivery of notices shall be considered delivered upon receipt of confirmation of delivery on the part of the sender. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

To: Pitkin County:

Board of County Commissioners
530 E. Main Street, Suite 302
Aspen, CO 81611
c/o: bocc@pitkincounty.com

With copies to:

Pitkin County Attorney's Office
530 E. Main Street, Suite 301
Aspen, CO 81611
attorney@pitkincounty.com

To: City of Aspen:

130 S. Galena St.
Aspen, CO 81611
c/o City Manager
sara.ott@cityofaspen.com

With copies to:

City Attorney's Office
130 S. Galena St.
Aspen, CO 81611
jim.true@cityofaspen.com

To: Town of Snowmass Village:

P.O. Box 5010
130 Kearns Road
Snowmass Village, CO 81615
Attn: Rhonda B. Coxon, Town Clerk
Council@tosv.com

With copies to:

Town of Snowmass Village
130 Kearns Road
P.O. Box 5010
Snowmass Village, CO 81516
Attn: John Dresser, Town
Attorney
jdresser@tosv.com
ckinney@tosv.com

12. The parties agree and understand that the parties are relying on and do not waive, by any provisions of this Agreement, the monetary limitations or terms or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq., as from time to time amended or otherwise available to the parties or any of their officers, agents, or employees.

13. The rights and obligations of the parties under this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

14. This Agreement shall be construed according to the laws of the State of Colorado, and venue for any action shall be in the District Court in and for Pitkin County, Colorado.

15. In the event that legal action is necessary to enforce any of the provisions of this Agreement, the substantially prevailing party, whether by final judgment or out of court settlement, shall recover from the other party all costs and expenses of such action or suit including reasonable attorney fees.

16. The waiver by any party to this Agreement of any term or condition of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.

17. Each party represents that it has the specific power and authority to enter into and consummate this Agreement according to law and that it has followed the proper legal procedures to authorize those persons whose names are subscribed below to execute this Agreement and obligates that party to perform this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Intergovernmental Agreement on the day and year first above written.

City of Aspen, Colorado

By: DocuSigned by:
Sara G. O'H
0061E4004E00410

Attest:
Nicki H...

Approved as to Form:
John R. ...

Board of County Commissioners of the County of Pitkin:

By: *Kelly M. ...* May-31-2021
Chair

Attest:
Jeanette Jones

Jeanette Jones, Deputy County Clerk

Approved as to Form:
John Ely

John Ely,
County Attorney

Town of Snowmass Village, Colorado:

By: *Clinton M. Kinney*
Clinton M. Kinney, Town Manager

Attest:
Rhonda Coxon

Rhonda Coxon, Town Clerk

Approved as to Form:
John Dresser

John Dresser, Town Attorney