

**INTERGOVERNMENTAL AGREEMENT CONCERNING
FAIR CONTRIBUTIONS FOR PUBLIC SCHOOL SITES
BETWEEN THE TOWN OF MEAD AND
THE ST. VRAIN VALLEY SCHOOL DISTRICT RE-1J**

**EFFECTIVE May 29, 1996
(Revised September 9, 2002)
(Revised August 1, 2013)**

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THIS AGREEMENT is entered into by and between the Town of Mead, a municipal corporation, and the St. Vrain Valley School District RE-1J (School District), a political subdivision of the State of Colorado, to be effective as of the 29th day of May, 1996 (Revised the 9th day of September 2002) and (Revised the 1st day of August 2013).

RECITALS

A. Local governments are encouraged and authorized to cooperate or contract with other units of government, pursuant to C.R.S. 29-20-105, for the purpose of planning or regulating the development of land, including, but not limited to, the joint exercise of planning, zoning, subdivision, building, and related regulations.

B. Growth in residential land development and the construction of new residential dwellings in the Town necessitates the acquisition of additional public school sites to accommodate the corresponding increases in the student population. Requiring land dedication or conveyance for public school sites or payments in lieu of land dedication or conveyance for public school sites (hereinafter collectively referred to as "Fair Contribution for Public School Sites") will provide a portion of the land to meet such demand.

C. To provide adequate public school sites to serve the Town residents of newly constructed residential dwelling units, it is appropriate that the School District and Town cooperate in the area of public school site acquisition by use of Fair Contribution for Public School Sites.

D. Requiring Fair Contribution for Public School Sites implements the goals and policies of the Town to make provision for public improvements in a manner appropriate for a modern, efficiently functioning city and to ensure that new development does not negatively impact the provision of municipal services.

E. It is a reasonable exercise of the power of local self-government to require Fair Contribution for Public School Sites as a method of ensuring that new residential construction and residential development bear a proportionate share of the cost of public school sites acquisition necessary to accommodate the educational service capacity demands of the residents who will be living in the new dwelling units.

F. Requiring Fair Contribution for Public School Sites for new residential construction and development is reasonable and necessary to protect, enhance, and preserve the public health, safety, and welfare of the Town's citizens.

G. The Town and School District, upon consideration of the impacts of new residential construction and residential land development on the ability of the School District to provide public school facilities in the Town, agree that it is in the best interests of the citizens of the Town to mutually enter into an intergovernmental agreement for the purpose of providing for Fair Contribution for Public School sites, as provided in this Agreement.

H. The Town and School District do hereby define the rights and obligations of each entity with respect to the planning, collection, and use of Fair Contribution for Public School Sites.

AGREEMENT

NOW, THEREFORE, in consideration of the objectives and policies expressed in the recitals and the mutual promises contained in this Agreement, the Town and School District agree as follows:

1. School Site Coordination and Development Referrals

a. The School District agrees to locate future public school sites in conformity with the adopted plan of the community, insofar as is feasible, and to consult with and advise the Town in writing in advance of public school sites acquisition and site development.

b. The Town shall refer to the School District all residential land development applications proposed within or affecting the St.Vrain Valley School District RE-1J attendance area (hereinafter referred to as the "residential land development applications") for review and comment concerning the adequacy of public school sites and facilities. The Town will consider the School District's comments in conjunction with the review and processing of each individual residential land development application, and will implement land dedication for public school sites or payments in lieu of land dedication for public school sites consistent with this Agreement and the municipal code then in effect. If a nonresidential land development application is filed with the Town that may have influence or effect on property owned by or activities of the School District, the Town shall also refer information pertaining to that application to the School District for review and comment. The School District agrees to promptly review the referred development application and promptly submit its comments, recommendations, and requests to the Town.

c. The School District shall consult with the Town on a site specific, case-by-case basis prior to the acquisition of any land or construction of any improvements thereon. The School District shall submit to the Town an advisory site plan detailing any proposed construction, and shall consider and respond to any issue(s) raised by the Town.

2. Methodology

a. Contemporaneous with the Effective Date and the effective date of the Town municipal code amendment requiring Fair Contribution for Public School Sites, the Town agrees to enforce such municipal code amendment as a precondition to the lawfully authorized construction of new residential dwelling units not otherwise exempted under Section 5 below.

b. The School District has adopted a methodology dated August 5, 2002 (Methodology), to determine Fair Contribution for Public School Sites for five categories of dwelling units. The Parties agree the Methodology, attached and incorporated herein as Exhibit A, has been developed in a manner so as to fairly apportion the cost of acquiring public school sites made necessary by new residential development.

c. As part of the Methodology, the School District has adopted planning standards related to facility enrollment capacities, public school site acreage requirements, and student yields for each of five types of residential dwellings (single family homes, duplexes/triplexes, multi-family units, condos/townhouses, and mobile homes). The Town and School District agree that the Methodology is reasonable and the approved then-current Methodology shall apply to new residential construction within the Town. The Methodology shall be the basis for computing Fair Contribution for Public School Sites for new residential construction. The Town and School District agree that the Methodology adopted by the School District shall be periodically reviewed and revised to reflect the current standards and conditions within the School District.

d. Unless and until modified by the parties, the Methodology and its supplementary background materials shall include, but shall not be limited to, the following factors:

(1) School planning standards which establish the student yields and technical and educational specifications for facilities for each category of school facility (elementary, middle, and high school levels), consistent with the policy of the Board of Education of the School District;

(2) The capacity demand of each category of school facility resulting from each category of residential dwelling (single family, duplexes/triplexes, multi-family units, condos/townhouses, and mobile homes);

(3) The means for determining the per acre fair market value of land for each type of residential dwelling; and

(4) The procedure for calculating Fair Contribution for Public School Sites required and applicable to each type of residential dwelling.

e. The Methodology shall be updated periodically as conditions warrant by the mutual consent of the Town and the School District. A copy of the updated Methodology shall be furnished to the Town within 30 days after its adoption by the School District. The Town shall hold a public hearing before revising the Methodology.

3. Fair Contribution for Public School Sites Requirement

a. As Fair Contribution for Public School Sites, any person or entity, as part of an applicable residential land development application shall dedicate or convey land for a public school site to the School District, or in the event the dedication of land is not deemed feasible or in the best interests of the School District as determined by the Superintendent or designee, the School District may require a payment in lieu of land dedication or conveyance to the School District. The manner and amount of either type of Fair Contribution for Public School Sites shall be as stated in this Agreement and the incorporated Methodology. This shall not preclude the School District and any person or entity from mutually agreeing to resolve the issue of Fair Contribution for Public School Sites in a manner other than as stated above. Should the School District and any person or entity resolve the issue of Fair Contribution for Public School Sites in a manner other than as stated above, the Town shall be notified of the details in advance of finalizing the agreement.

b. If the Fair Contribution for Public School Sites includes the dedication of land, according to paragraph 3.a. above, the Town agrees before recording of the final plat to require proof that the dedication has been made to the School District in accordance with the following requirements:

(1) The person or entity has conveyed to the School District by general warranty deed, title to the land slated for dedication, which title is to be free and clear of all liens, encumbrances, and exceptions (except those approved in writing by the School District), including, without limitation, real property taxes, which will be prorated to the date of conveyance or dedication. The person or entity shall also enter into a contract for the sale and purchase of real property containing customary terms for the land which is being conveyed to or purchased by the School District.

(2) At the time of dedication or conveyance, the person or entity shall provide a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property. At the appropriate time, not later than the issuance of the first building permit for the land development project, the person or entity shall also pay or provide for the payment of one-half of street development costs, and shall either provide, or pay or make provision for the payment of the costs associated with making improvements for water, sewer, and utilities stubbed to the site, and overlot grading of the dedicated land. The person or entity shall also have furnished any off-site easements which the School District needs to develop the site.

(3) The lands being dedicated or conveyed to the School District shall be located and configured as directed by the School District.

(4) The person or entity conveying the land to the School District shall satisfy the applicable Water District's water rights dedication requirement prior to conveying the property to the School District

(5) In addition to conveyed or dedicated lands, the School District shall have the right to purchase adjacent lands at its fair market value so that the dedicated or conveyed and purchased lands together form a contiguous parcel which meets the School District's land area requirements listed in Exhibit A.

c. The Town agrees that before issuing a building permit for any residential dwelling unit not otherwise exempted under Section 5 below, it will require proof that the Fair Contribution for Public School Sites, according to paragraph 3.a. or 3.b. above, has been received by the School District. The superintendent of the School District, or the superintendent's designee, shall provide such proof in a timely manner to the town manager of the Town, or the town manager's designee.

d. Nothing contained in this Agreement shall preclude the School District from commenting to the Town upon the adequacy of public school sites or facilities, necessary in its judgment, to serve the proposed residential land development project.

4. Use of Fair Contribution for Public School Sites

a. The School District shall hold or deposit in trust for public school sites all funds and interest it receives as Fair Contribution for Public School Sites, and all funds it may receive from the sale of land dedicated or conveyed as Fair Contribution for Public School Sites. The School District shall meet all requirements of C.R.S. §29-1-801 to -803, if applicable. The School District shall be solely responsible for each Fair Contribution for Public School Sites it receives. No Fair Contribution for Public School Sites shall constitute revenue of the Town under the provisions of Article X, Section 20 of the Colorado Constitution.

b. The School District shall use all funds it receives as Fair Contribution for Public School Sites solely for acquisition, development, or expansion of public school sites or for capital facilities planning, site acquisition, or school site capital outlay purposes within the senior high school feeder attendance area boundaries that include the residential dwelling unit for which the Fair Contribution for Public School Sites was paid. Subject to the limitations in this Agreement, the time for, nature, method, and extent of each public school site planning, acquisition, or development shall be within the sole discretion of the School District.

c. Except as otherwise provided in this Agreement, any funds received as Fair Contribution for Public School Sites which the School District has not used for acquisition or development of public school sites within 10 years of collection shall be tendered for refund, with interest earned and credited according to C.R.S. §29-1-801 to 803, to the person who made the Fair Contribution for Public School Sites. The School District shall give written notice by first-class mail to the person who made the Fair Contribution for Public School Sites at his or her address as reflected in the records maintained by the School District. If the person does not file a written claim for refund of the funds with the School District within 90 days' of the mailing of such notice, the Fair Contribution for Public School Sites refund shall be forfeited and surrendered to the Town for capital facilities or improvements that will benefit the residents for which Fair Contribution for Public School Sites funds were paid.

d. The School District may request the Town to extend the ten-year period of time specified in the previous subsection. Such request shall be made at a public hearing before the Town, which may for good cause shown, and in its discretion, extend such period of time as the Town deems reasonable and necessary. Prior to any such request, the School District shall notify all current residents affected by the request and advise such residents of the time and place of said public hearing. Such notification shall be satisfied by the School District's publication, at its expense, of a general notice of such meeting in a local newspaper of general circulation. Such publication shall run at least once in the daily and weekend issues of such newspaper. The School District shall also give written notice by first-class mail to the person who made the Fair Contribution For Public School Sites at such person's address as reflected in the records maintained by the School District.

5. Exemptions From Fair Contribution for Public School Sites

a. The following uses within the Town's boundaries shall be excepted from Fair Contribution for Public School Sites;

(1) Construction of any nonresidential building or structure;

(2) Alteration, replacement, or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units;

(3) Construction of any building or structure for limited term stay or for long term assisted living, including, but not limited to, bed and breakfast establishments, boarding or rooming houses, family-care homes, group care homes, halfway houses, hotels, motels, nursing homes, or hospices; and

(4) Construction of any residential building or structure classified as housing for older persons, pursuant to the Federal Fair Housing Act then in effect.

6. Annual Report, Accounting, and Audit

a. The School District shall submit an annual report on or before March 1 of each year to the Town describing the School District's use of the Fair Contribution for Public School Sites funds during the preceding fiscal year. This report shall also include:

(1) A review of the assumptions and data upon which the Methodology is based, including student generation ratios, and attendance area boundaries;

(2) Statutory changes or changes in the Methodology, including the School Planning Standards, and in School District policies related to acquisition or construction of school sites and facilities; and

(3) Any recommended modifications to Fair Contribution for Public School Sites land areas or amounts included in the Methodology.

b. After receipt of the report, the Town shall review it, considering those matters listed in the previous subsection, and complete its review within 90 days of receipt.

c. The School District shall establish and maintain a separate accounting system to ensure that all Fair Contribution for Public School Sites funds are used according to this Agreement.

d. The School District shall cause an audit to be performed annually of the Fair Contribution for Public School Sites funds it receives, uses, or expends under this Agreement. The audit shall be conducted according to the generally accepted accounting principles for governmental entities. A copy of said audit shall be furnished to the Town. The cost of the audit shall be paid for by the School District.

e. At any time the Town deems necessary, the School District shall honor the Town's request for an accounting from the chief financial officer of the School District concerning the School District's use of the Fair Contribution for Public School Sites.

7. Term of Agreement

The term of this Agreement shall commence on the Effective Date, and continue for a period of ten years thereafter unless renewed or extended by the mutual consent of the Town and the School District. However, either party may terminate this Agreement, at any time and for any reason, upon one year's written notice to the other party. In the event of any such termination, the School District shall, to the extent allowed by law, indemnify and hold the Town harmless from any and all claims, demands, actions, costs, expenses or other proceedings, concerning lands or funds held by or on deposit with the School District, including but not limited to the Town's reasonable attorneys' fees incurred in connection therewith, which the School District agrees to pay.

8. Miscellaneous Provisions

a. Faith and Credit. Neither party shall extend the faith or credit of the other to any third person or entity.

b. Amendments. This Agreement may be amended only by mutual agreement of the parties and shall be evidenced by a written instrument authorized and executed with the same formality as accorded this Agreement.

c. Notice. Any notice required by this Agreement shall be in writing. If such notice is hand delivered or personally served, it shall be effective immediately upon such delivery or service. If given by mail, it shall be certified with return receipt requested and addressed to the following addresses:

Town of Mead
Attention: Town Manager
P.O. Box 626
Mead, CO 80542

St. Vrain Valley School District RE-11
Attention: Superintendent
395 South Pratt Parkway
Longmont, Colorado 80501

Notice given by mail shall be effective upon receipt.

d. Governing Law. This Agreement and the rights and obligations of the parties hereto shall be interpreted and construed in accordance with the laws of the State of Colorado.

e. Severability. If this Agreement, or any portion of it, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the Agreement.

f. Indemnification. The parties agree to cooperate in the defense of any claim or civil action that may be brought contesting the validity of this Agreement or the implementing ordinances. The School District shall be responsible for its attorneys' fees and for the Town's reasonable attorney's fees and, to the extent allowed by law, for payment of any final monetary judgment entered against the Town in any such action. Upon receipt by the Town of any claim, or commencement of a civil action against the Town, the Town shall give the School District prompt written notice thereof following which the parties agree to consult with each other regarding the claim and/or defense of the action and selection of counsel in connection herewith. Nothing contained in this Agreement shall constitute any waiver for the Town or the School District of the provisions of the Colorado Governmental Immunity

Act or other applicable immunity defense. This provision shall survive expiration and termination of the Agreement, and be enforceable until all claims are precluded by statutes of limitation.

g. Provisions Construed as to Fair Meaning. The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attributes to such party of the source of the language in question.

h. Compliance with Ordinances and Regulations. This Agreement shall be administered consistent with all current and future Town laws, rules, charters, ordinances, and regulations concerning land dedication or conveyance for public school sites, or payment in lieu of land dedication or conveyance for public school sites.

i. No Implied Representations. No representations, warranties, or certifications, express or implied, shall exist as between the parties, except as specifically stated in this Agreement.

j. No Third Party Beneficiaries. None of the terms, conditions, or covenants in this Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than the Town or the School District receiving services or benefits under this Agreement shall be only an incidental beneficiary.

k. Financial Obligations. This Agreement shall not be deemed a pledge of the credit of the Town or the School District, or a collection or payment guarantee by the Town to the School District. Nothing in this Agreement shall be construed to create a multiple-fiscal year direct or indirect municipal debt or municipal financial obligation.

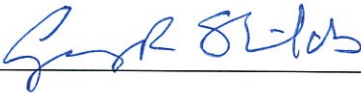
l. Integrated Agreement and Amendments. This Agreement is an integration of the entire understanding of the parties with respect to the matters stated herein. The parties shall only amend this Agreement in writing with the proper official signatures attached hereto.

m. Waiver. No waiver of any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement which shall be in full force and effect the day and year first above written.

TOWN OF MEAD

ATTEST:


_____ Mayor

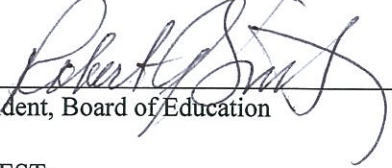
9/29/15 
Date: _____ Town Clerk

APPROVED AS TO LEGAL FORM:



Town Attorney

ST. VRAIN VALLEY SCHOOL DISTRICT RE1J



President, Board of Education

ATTEST:



Secretary, Board of Education Date

APPROVED AS TO LEGAL FORM:



School District Attorney