

INTERGOVERNMENTAL AGREEMENT CONCERNING ADEQUATE SCHOOL
CAPACITY BETWEEN THE CITY OF LONGMONT AND THE ST. VRAIN VALLEY
SCHOOL DISTRICT RE-1J

EFFECTIVE 05 / 09, 2018

THIS AGREEMENT is entered into by and between the City of Longmont (City), 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 9th day of May, 2018 (Effective Date).

RECITALS

- A. Pursuant to C.R.S. § 31-23-202, as amended, and article XX of the Colorado Constitution, the City Council of the City of Longmont has adopted the Envision Longmont Multimodal & Comprehensive Plan (Envision Longmont), which provides goals and policies to plan for the orderly growth of the City.
- B. 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.
- C. The City and School District recognize that adequate public school facilities are an essential public service.
- D. Long and short term land development patterns and the construction of new residential dwellings in the City affect the acquisition of additional public school sites to accommodate the corresponding increases in the student population.
- E. To provide adequate public school facilities to serve the City residents it is appropriate that the School District and City cooperate in the area of residential land use planning and approval.
- F. Requiring adequate public school facilities implements the goals and policies of Envision Longmont to ensure education opportunities for Longmont residents and to recognize the impacts that new residential development has on the District's ability to serve additional students.
- G. The City and School District consider the impacts of residential construction, residential land development and the change in character of existing residential neighborhoods on the ability of the School District to provide public school facilities in the City. The City and School District further agree that it is in the best interests of the citizens of the City to mutually enter into and maintain an Intergovernmental Agreement to facilitate the ongoing review of residential development applications as well as the conditions of existing residential neighborhoods, as provided in this Agreement.

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- H. The City and School District do hereby define the rights and obligations of each entity with respect to planning for new public school sites and fair contribution for public school sites.

AGREEMENT

Section 1. Coordination and sharing of information.

Section 1.1. Joint meetings.

- 1.1.1. Staff of the City and the School District will meet at least annually, or more often as needed, to discuss issues regarding coordination of land use and school facilities planning, including such issues as population and student projections, development trends, school needs, colocation and joint use opportunities, and ancillary infrastructure improvements needed to support schools and ensure safe student access

Section 1.2. Student enrollment, population projections, growth and development trends.

- 1.2.1. In fulfillment of their respective planning duties, the City and the School District shall coordinate and base their plans for growth and redevelopment upon consistent projections of the amount, type, and distribution of population growth and student enrollment.
- 1.2.2. The School District shall use both district-wide student population projections and projections based on each school's attendance area.
- 1.2.3. The City will provide the School District with information on growth and development trends within the jurisdiction of the City for the previous calendar year as provided in section 3 of this Agreement. The City will provide, as available, the following:
- A. The type, number, and location of residential units which have received zoning approval or site plan approval;
 - B. Information, to the extent available, regarding the conversion or redevelopment of housing or other structures into residential units which are likely to generate new students;
 - C. An estimate of future residential units or redevelopment potential within the City;
 - D. Building permits issued and certificates of occupancy issued by address and the City's five-year estimate of new building permit issuance; and
 - E. A copy of the City's most current population estimate.

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- 1.2.4. The School District will use the information described in section 1.2.3 to assist in determining projected student enrollment geographically, based on adopted attendance areas, to make the most efficient use of public school facilities. The distribution of projected student enrollment will be presented at the joint meetings described in subsection 1.1.1.

Section 1.3. Comprehensive plan amendments, rezonings, and development approvals.

- 1.3.1. The City shall provide the School District referrals for residential development applications filed with the City that may affect student enrollment, enrollment projections, or school facilities including rezonings, subdivisions, and developments of regional impact. The City shall refer to the School District any rezoning application that includes residential uses.
- 1.3.2. The City shall refer to the School District proposed developments involving amendments to Envision Longmont that may affect student enrollment, enrollment projections, or school facilities.
- 1.3.3. Included within the response provided for each referral, the School District shall provide the estimated school enrollment impacts anticipated to result from the proposed development application, as well as whether sufficient capacity exists or is planned to accommodate the impacts.

Section 2. Planning process.

Section 2.1. District facilities plan.

- 2.1.1. The School District shall annually submit a district facilities plan (DFP) to the City, which shall include the projected student population apportioned geographically by school attendance area, an inventory of existing school facilities, general locations of new schools and anticipated closures of existing schools for the ensuing five-year time period as well as the following information:
- A. All planned school facility projects, which include new construction, expansions, remodeling, and renovations that will create additional capacity;
 - B. Existing and projected enrollment of existing and planned school facilities;
 - C. A proposed date for opening each planned new school;
 - D. The projected source of funding for each planned school facility and the year in which the funding becomes available; and

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- E. The capacity created by each planned school facility.

Section 3. School concurrency implementation.

Section 3.1. Procedure.

- 3.1.1. Capacity standards. The capacity standards set forth herein shall be applied for purposes of implementing school concurrency, including determining whether sufficient school capacity exists to accommodate a particular development proposal. For the purposes of this Agreement, the term “school concurrency” means that adequate school facilities either exist at the time when residential areas generate student demand or that the facilities and capacity will be available at the time of future student demand.
- 3.1.2. The capacity standard to be used by the City and the School District to implement school concurrency shall be as follows:
 - A. Elementary: 125 percent of permanent capacity as adjusted by the School District annually to account for programmatic changes.
 - B. Middle: 125 percent of permanent capacity as adjusted by the School District annually to account for programmatic changes.
 - C. High: 125 percent of permanent capacity as adjusted by the School District annually to account for programmatic changes.

Section 3.2. Demand monitoring and evaluation.

- 3.2.1 The City shall provide the following information to the School District prior to the annual meetings required by section 1.1.1 of this Agreement to facilitate demand projection and student generation rate trends:
 - A. Building permit and certificate of occupancy data;
 - B. Summary of actions on preliminary and final plats; and
 - C. Summary of site development plan approvals for multifamily projects.

Section 3.3. Applicability and capacity determination.

- 3.3.1. Process for determining school facilities concurrency.
 - A. The City will accept and process final plats and residential site plans as provided by the terms of this Agreement.

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- B. Upon the receipt of a complete development application, the City will transmit the application to the School District for a determination of whether there is adequate school capacity, for each level of school, to accommodate the proposed development, based on the capacity standards.
- C. Within 60 days of the initial transmittal from the city, the School District will review the final plat or residential site plan applications and, based on the capacity standards set forth in this Agreement, report in writing to the city:
 - 1. Whether adequate school capacity exists for each level of school, based on the capacity standards set forth in this Agreement; or
 - 2. If adequate capacity does not exist, whether appropriate measurable programmatic changes can be accepted consistent with this Agreement, as identified in section 3.4.
- D. The City will use the information received from the School District to determine whether the proposed programmatic changes and the timing and phasing, if any, of the development application comply with the capacity standards. In all cases, it is the City that will finally determine the applicability of this Agreement to the particular development and whether the development application complies with the capacity standard, and whether the application should be approved.

3.3.2. Concurrency determination.

- A. *Components to consider in the review of adequacy.*
 - 1. *Projections.* Enrollment projections are developed annually based upon growth trends in several distinct areas. These projections are then used in making decisions on staffing, budgeting, and for determining future facility/building needs and boundary adjustments. The primary factors that are considered include: the actual, official enrollment counts in October of each year; a cohort-survival methodology that looks at the progression ratios for each grade level; the amount and location of new residential development; student yields by residential building type; the status of subdivision plats by attendance area; private, charter, and home school enrollments; open enrollment data for students attending schools outside of their assigned attendance areas, birth rates, and the strength or weakness of the overall housing market.
 - 2. *Building capacity.* Building capacity is analyzed on a yearly basis. Capacity can change based upon changes in the following variables:

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- a. *Staffing ratio.* Beyond the actual number of classrooms in a building, the primary determinant in identifying building capacity is the teacher-student ratio. For example, if the policy is for one teacher to be paired with between 18 and 24 students on average in the classroom, then for every 18 to 24 students an additional classroom and teacher are necessary. The individual staffing ratios for each school in the district are adopted by the board of education on a yearly basis. The actual, overall building capacity is based on this staffing ratio multiplied by the number of available rooms. All regular classrooms are to be counted in the capacity of the building at their overall staffing ratio with the exception of those identified as dedicated rooms (defined below). Kindergarten rooms that are used for half days are counted at double their capacity. Therefore an elementary school with 20 regular classrooms and 2 kindergarten rooms (half-day programs) that is staffed at 22 to 1 would have a building capacity of 528.
 - b. *Dedicated rooms.* Dedicated rooms are rooms that do not offer the opportunity for holding a regular class. They include, but are not limited to, special education rooms, and computer, language and literacy labs. At the elementary school level, music rooms, art rooms, and gymnasiums are also considered dedicated rooms.
 - c. *Physical changes.* New construction and physical changes to existing buildings represent another component to be considered in evaluating capacity. New facilities and additions to existing facilities contribute to the overall capacity of the district. As other facilities receive approval for construction through a successful bond election, the projected capacity increases and the timing of these new structures will be factored into determining building capacity across the district.
3. *Student yield.* Student yield has been determined over years of following the trends in the number of students generated from various types of dwelling units. The five major types include single-family, duplex/triplex, multifamily, condo/townhouse, and mobile homes. These yields are also evaluated on a regular basis. The yields for specific grade levels are identified in the Longmont Land Development Code.
 4. *Total school facilities.* Existing school facilities, planned school facilities, and used capacity.

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- a. *Existing school facilities.* School facilities constructed and operational at the time a school concurrency application is submitted to the city.
 - b. *Planned school facilities.* School facility capacity that will be in place or under actual construction within five years after the issuance of final subdivision or site plan approval, pursuant to the School District's adopted five-year work program.
 - c. *Used capacity.* School facility capacity consumed by or reserved for preexisting development.
5. *Previously approved development.* Development approved as follows:
- a. Single family lots of record having received final plat approval.
 - b. Multifamily residential development having received final site plan approval.
- B. *School capacity calculations.* The School District will review whether adequate school capacity exists for a proposed development, based on the capacity standards as follows:
- 1. *Data needed from the developer.* Number of units, type of dwelling units, phasing plan estimating when units would be constructed.
 - 2. *Evaluation.* Each residential development referred to the School District will be analyzed to determine the student yield from the development over the course of the construction phase. These yields are then added to the five-year projected enrollment numbers for the applicable schools corresponding to the timing of the development. This information is provided to the City as part of the referral process. If multiple applications were submitted for a particular feeder, those filed first would be given preference over later projects. If a bond election is successful that includes facilities for the applicable feeder, the number of seats and the date of completion of the new facilities shall be considered in the calculation.
- C. *School attendance areas.* In reviewing whether there is sufficient school capacity to accommodate a proposed development, the School District will consider whether the attendance area in which the proposed development is situated has available school capacity, based on the formula above.

Section 3.4. Programmatic change alternatives.

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- A. In the event that the School District reports that the capacity standards set forth in this Agreement otherwise would be exceeded, the School District may use the following programmatic changes to offset the impacts of a proposed development.

- B. Acceptable forms of programmatic changes may include, but are not limited to:
 - 1. *Split/staggered schedules.* May include altering schedules to better use existing space within the facility.

 - 2. *Alternative utilization of facilities.* May include temporarily restructuring the traditional educational environment by moving a specific grade(s) or placing new students from schools over capacity into other district schools to maximize the utilization of district facilities and staff. This may include transporting students from neighborhood schools to alternate sites within the district.

 - 3. *Additional classrooms.* May include adding permanent classrooms to the existing structure.

 - 4. *Boundary changes.*

 - 5. *Year-round schedules.*

Section 4. Effective date and term.

This Agreement shall become effective upon the signatures of the School District and the City and shall remain in full force and effect for a period of ten years from the effective date. This Agreement may be earlier cancelled by mutual Agreement of the School District and the City, unless otherwise cancelled as provided or allowed by law. This Agreement may be extended as provided or allowed by law, or upon the mutual consent of the School District and the City, for an additional five years, on the same terms and conditions as provided herein, provided that the party seeking an extension gives written notice to the other party of such intent to extend no later than one year prior to the expiration of the then current term, and the other party agrees in writing to such extension. Pursuant to section 1.2 herein this Agreement shall be reviewed annually.

Section 5. Miscellaneous provisions.

- A. *Faith and credit.* Neither party shall extend the faith or credit of the other to any third person or entity.

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- 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:

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|--|---|
| The City of Longmont Attention: City Manager Civic Center Complex 350 Kimbark St. Longmont, Colorado 80501 | The St. Vrain Valley School District RE-1J Attention: Superintendent 395 S. 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 legal action that may be brought contesting the validity of this Agreement or the implementing ordinances. The School District shall be responsible for its own attorneys' fees and, to the extent allowed by law, for the payment of any final monetary judgment entered against the City in any such action. Nothing contained in this Agreement shall constitute any waiver by the City or the School District of the provisions of the Colorado Governmental Immunity Act or other applicable immunity defense. This provision shall survive 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.

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- H. *Compliance with ordinances and regulations.* This Agreement shall be administered consistently with all current and future City 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 City 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 City to the School District or the School District to the City, or a collection or payment guarantee by the City to the School District. Nothing in this Agreement shall be construed to create a multiple-fiscal year direct or indirect City or School District debt or 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 thereto.
- M. *Waiver.* No waiver, 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.

CITY OF LONGMONT

By: _____

MAYOR

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ATTEST:

Valeria H. Stett

CITY CLERK

5/9/18

DATE

APPROVED AS TO FORM:

[Signature]

4/17/18

DATE

ASSISTANT CITY ATTORNEY

Cristi Campbell

4/16/18

DATE

PROOF READ

APPROVED AS TO FORM AND SUBSTANCE:

[Signature]

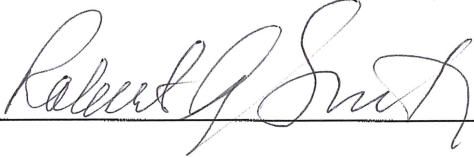
4/18/18

DATE

ORIGINATING DEPARTMENT

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ST. VRAIN VALLEY SCHOOL DISTRICT RE-1J

By: 

President

Board of Education

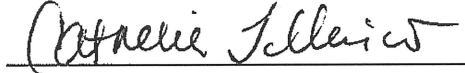
ATTEST:



Secretary

Date: 04-11-2018

APPROVED AS TO LEGAL FORM:



School District Attorney