

**INTERGOVERNMENTAL AGREEMENT FOR TAX INCREMENT REVENUE
SHARING
BY AND BETWEEN
THE TOWN OF LYONS URBAN RENEWAL AUTHORITY
AND
ST. VRAIN VALLEY SCHOOL DISTRICT**

This Intergovernmental Agreement (“**Agreement**”), is entered into effective as of the ____ day of June, 2019 (the “**Effective Date**”), by and between the **TOWN OF LYONS URBAN RENEWAL AUTHORITY**, a body corporate and politic of the State of Colorado (“**LURA**”), whose address is 432 5th Avenue, P.O. Box 49, ATTN: Executive Director, Lyons, CO, 80540, and the **ST. VRAIN VALLEY SCHOOL DISTRICT RE-1J**, a political subdivision of the State of Colorado (the “**School District**”), whose address is 395 S. Pratt Parkway, ATTN: Chief Financial Officer, Longmont, CO 80501. LURA and the School District may be referred to herein individually as a “**Party**” and may be collectively referred to herein as the “**Parties.**”

RECITALS

A. LURA is a public body corporate and politic authorized to transact business and exercise its powers as an urban renewal authority under and pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “**Act**”).

B. The Board of Trustees (the “**Town Board**”) for the Town of Lyons (the “**Town**”) approved the creation of LURA on May 18, 2015 and, at that time, designated the Town Board as the LURA Board of Commissioners (the “**Commissioners**”), and on February 22, 2018 and at subsequent meetings, LURA accepted Commissioner appointments from Boulder County, the School District and the special districts in conformance with the Act; and

C. The School District is a public body corporate and political subdivision of the State of Colorado. The School District’s boundaries overlap LURA’s jurisdictional boundaries such that the School District has the authority to impose a mill levy within LURA’s jurisdictional boundaries.

D. The Town Board is anticipated to consider a Resolution approving the Urban Renewal Plan for the Eastern Corridor (the “**Plan**”), which, in addition to creating the Eastern Corridor Urban Renewal Area, authorizes the use tax increment financing (“**TIF Financing**”) within the Eastern Corridor Urban Renewal Area (the “**TIF Area**”), as contemplated by C.R.S. § 31-25-107(9)(a).

E. The Act provides that taxes levied after the effective date of the approval of an urban renewal plan upon taxable real property in the area described in such urban renewal plan shall be divided each year for a period not to exceed twenty-five (25) years from the effective date of the urban renewal plan and that a portion of said property tax revenues shall be allocated to and paid into a special fund of the applicable urban renewal authority, as more particularly described in the Act.

F. Pursuant to the Plan, taxes levied after the effective date of the Town Board’s approval of the Plan on taxable real property located within the TIF Area, as it currently exists or

hereafter as it may be modified by expansion, shall be divided each year for a period not to exceed twenty-five (25) years from the effective date of the Plan and that a portion of said property tax revenues (the “**TIF Revenue**”) shall be allocated to and paid into a special fund of LURA to pay the principal of, interest on, and any premiums due in connection with bonds of, loans or advances to, or indebtedness incurred by LURA for financing an urban renewal project or to make payments in accordance with an agreement executed pursuant to C.R.S. § 31-25-107(11).

G. In accordance with the Act (including the requirements of HB 15-1348 and SB 18-248), LURA and the School District desire to enter into this Agreement and recognize that a division of taxes pursuant to C.R.S. § 31-25-107(9)(a) on taxable real property within the boundaries of the School District without an agreement concerning the sharing of TIF Revenue may hinder (a) the effectuation of the Plan and the planned urban renewal projects to be located within the TIF Area, and (b) the School District’s ability to provide its educational services and facilities to its constituents. The Agreement addresses, among other things, the estimated impacts of the Plan on School District services associated solely with the TIF Area.

H. The Parties acknowledge that the eligible electors of the School District did approve in November 2008 and 2012, and may in the future approve the levy of additional mills by the School District for its operations by way of a School District Mill Levy Override (i.e., additional local revenues in excess of the School District’s total program as provided in the Public School Finance Act of 1994, Colorado Revised Statutes Title 22, Article 54, Part 1, or successor act) (“**Mill Levy Overrides**”).

I. The Parties further acknowledge that the eligible electors of the School District have also approved the levy of additional mills by the School District for the servicing of the District’s issued bonded indebtedness, and may in the future approve the issuance of additional bonded indebtedness, the debt service of which is financed by additional mills. For purposes hereof, the debt service mill levies may include indebtedness incurred as a result of the refunding of any School District debt, now or in the future. Collectively, such debt service levies are referred to herein as “**Debt Service Mill Levies**.”

J. Therefore, LURA and the School District desire to enter into this Agreement to provide for the transfer to the School District of certain portions of the TIF Revenue. The School District shall be entitled to receive all of the TIF Revenue generated by the imposition of its mill levies (Mill Levy Overrides and Debt Service Mill Levies, plus annual abatement levies, if any) if and when received by LURA as a result of the imposition of the Urban Renewal Plan and the collection of the TIF Revenue from the TIF Area as set forth in this Agreement, except for that TIF Revenue that is generated by the mill levy established by the Colorado Public School Finance Act, Sec. 22-54-106, C.R.S., (total program). As of the date of this Agreement, the School District’s total program mill levy within the TIF Area is **24.995 mills** (the School District’s “**Total Program Mill Levy Increment**”).

K. The Parties agree that this division of TIF Revenue and LURA’s retention of only the Total Program Mill Levy Increment from such TIF Revenue does not hinder or substantially interfere with the effectuation of the Urban Renewal Plan and the planned urban renewal projects to be located within the TIF Area, and does not substantially diminish the School District’s ability to provide its educational services and facilities to its constituents.

L. In consideration therefore, the School District expressly consents to the formation of the Eastern Corridor Urban Renewal Area.

M. LURA and the School District are authorized to enter into this Agreement pursuant to law, including, without limitation, C.R.S. § 31-25-112.

NOW THEREFORE, in consideration of the foregoing recitals and the covenants, promises and agreements of each of the Parties hereto, it is agreed by and between the Parties hereto as follows:

1. Incorporation of Recitals. The foregoing recitals are incorporated into and made a part of this Agreement.

2. TIF Revenue Sharing.

(a) After deducting its Administrative Fee, LURA agrees to transfer to the School District all of the property tax TIF Revenues calculated, raised, produced, allocated, and transferred to LURA as a result of the levy by the School District's Mill Levy Overrides and Debt Service Mill Levies, plus annual abatement levies, if any, now and in the future, upon taxable property within the TIF Area pursuant to and in accordance with Section 31-25-107(9)(a)(II) of the Act and the rules and regulations of the Property Tax Administrator of the State of Colorado for the purposes of compensating the School District for the services it will provide to the TIF Area and for the capital facilities it has constructed, or will construct, for servicing, in whole or in part, students in the TIF Area. LURA's obligation to transfer to the School District its designated portion of the TIF Revenues generated by the School District's Mill Levy Overrides and Debt Service Mill Levies, plus annual abatement levies, if any, as described in this Section 2 shall be referred to herein as the "**Transfer Obligation.**"

(b) All revenues from the District's Total Program Mill Levy Increment as described in paragraph J, above, shall remain with LURA to be utilized by it pursuant to its Plan, applicable state law, and LURA Board action, and shall not be subject to the Transfer Obligation, commencing on the date of approval by the Town Board of the Plan and ending upon the expiration of the twenty-five (25) year period that the tax increment or tax allocation provisions will be in effect as specified in §31-25-107(9)(a) of the Act and the Plan.

(c) An administrative fee equal to one percent (1%) of the TIF Revenue as determined on an annual basis shall be retained by LURA (the "**Administrative Fee**"). Notwithstanding anything to the contrary set forth in this Agreement or in the Plan, LURA shall be entitled to retain the Administrative Fee to pay the reasonable and customary administrative costs of the Authority incurred in connection with LURA's obligations under this Agreement including, but not limited to, the collection, enforcement, disbursement, and administrative fees and costs related to TIF Revenue and the TIF Area. The Administrative Fee shall be deducted annually from the payments made to the District pursuant to the Transfer Obligation.

3. Agreement Confined to Specified Revenue. In compliance with the requirements of the Act (including HB 15-1348 and SB 18-248), LURA and the School District have negotiated and agreed to the sharing of TIF Revenue as set forth herein. This Agreement applies only to TIF Revenue derived from imposition of real property taxes (land and improvements to land) in the

TIF Area, if any, that is calculated, produced, allocated and transferred to LURA in accordance with C.R.S. § 31-25-107(9)(a)(II) and the rules and regulations of the Property Tax Administrator of the State of Colorado, and does not include any other revenues of LURA. The School District agrees and acknowledges that the School District is not entitled to and expressly disclaims any and all right, title or interest in and to any other taxes or revenues collected by LURA including, without limitation, any personal property tax, sales tax, or private improvement fees.

4. Consent. The School District expressly waives and agrees not to object to: (a) the Town's approval or the Commissioners' recommendation of approval of the Plan, including, without limitation, its approval of the use of TIF Financing and collection of TIF Revenue, and (b) LURA's imposition of any personal property tax, sales tax, private improvement fees or other fees in connection with the Plan or TIF Area. The District acknowledges that this Agreement constitutes notice to the District of, and its advisory participation on, the Plan pursuant to C.R.S. § 31-25-107(9)(d).

5. Subordination. By written consent of the School District, as evidenced by a future resolution or resolutions approved by the Board of Directors of the School District, the Transfer Obligation may be made subordinate to any payment of the principal of, the interest on, and any premiums due in connection with bonds of, loans or advances to, or indebtedness incurred by LURA for financing or refinancing, in whole or in part, any urban renewal project specified in the Plan.

6. Delays. Any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God; acts of public enemy; acts of the Federal or state government; acts of third parties; litigation concerning the validity of this Agreement or relating to transactions contemplated hereby; fire, floods, strikes, labor disputes, accidents, regulations or order of civil or military authorities; shortages of labor or materials; or other causes, similar or dissimilar, which are beyond the control of such Party. Notwithstanding the foregoing, where any of the above events shall occur which temporarily interrupt the ability of LURA to transfer to the School District revenues as provided in this Agreement, as soon as the event causing such interruption shall no longer prevail, LURA shall transfer the total amount of the effected revenues that have been received by LURA that is then in the account, as determined according to the provisions of this Agreement.

7. Termination and Subsequent Legislation. This Agreement may be terminated at any time upon the mutual written agreement of LURA and the School District. In addition, in the event of termination of the Plan, including, without limitation, the provisions of the Plan authorizing TIF Financing, LURA may terminate this Agreement by delivering written notice to the School District. LURA may also terminate this Agreement by delivering written notice to the School District if the School District no longer provides any services within the TIF Area. The Parties further agree that in the event legislation is adopted after the Effective Date of this Agreement that invalidates or materially or adversely affects any provisions hereof, the Parties will in good faith negotiate for an amendment to this Agreement that most fully implements the original intent, purpose and provisions of this Agreement.

8. Entire Agreement. This instrument embodies the entire agreement of the Parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations

other than those contained herein and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto. No modification to this Agreement shall be valid unless agreed to in writing by the Parties hereto.

9. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their successors in interest.

10. No Third-Party Enforcement. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned Parties and nothing in this Agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement. It is the express intention of the undersigned Parties that any entity other than the undersigned Parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

11. No Waiver of Immunities. Nothing contained herein shall be construed as a waiver, in whole or in part, by any Party hereto of the rights, protections, and privileges afforded under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., or under any other law, nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a Party to this Agreement.

12. Severability. If any provision of this Agreement is found to be invalid, illegal or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. Further, in the event of any such holding of invalidity, illegality or unenforceability, the Parties will in good faith negotiate for an amendment to this Agreement that achieves to the greatest degree possible the intent of the affected provision of this Agreement.

13. No Assignment. No Party may assign any of its rights or obligations under this Agreement without the express prior written consent of the other Party. Any attempted assignment in violation of this provision shall be null and void and of no force and effect.

14. Paragraph Captions. The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

15. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

16. Governing Law. This Agreement and the provisions hereof shall be governed by and construed in accordance with the laws of the State of Colorado.

17. No Presumption. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

18. Notices. Any notice required by this Agreement shall be in writing. All notices,

19. Days. If the day for any performance or event provided for herein is a Saturday, a Sunday, a day on which national banks are not open for the regular transactions of business, or a legal holiday pursuant to C.R.S. § 24-11-101(1), such day shall be extended until the next day on which such banks and state offices are open for the transaction of business.

20. Parties Not Partners. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint venturers, and no Party shall be responsible for any debt or liability of any other Party.

21. Waiver. Pursuant to C.R.S. §31-25-107(11), the School District agrees to waive all provisions of Part 1 of the Act that provide for notice to the School District, require any filing with or by the School District, require or permit consent from the School District, or provide for any enforcement right to the School District.

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IN WITNESS WHEREOF, LURA and the School District have caused their duly authorized officials to execute this Agreement effective as of the Effective Date.

ST. VRAIN VALLEY SCHOOL DISTRICT RE-1J, a political subdivision of the State of Colorado

By: _____
Title: _____

ATTEST:

By: _____,

TOWN OF LYONS URBAN RENEWAL AUTHORITY, body corporate and politic of the State of Colorado

By: _____
Title: _____

ATTEST:

By: _____

Exhibit A
Legal Description of the TIF Area

[to be inserted]

Exhibit B
Depiction of the TIF Area

[to be attached]