

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF MEAD, COLORADO
AND
MEAD PLACE METROPOLITAN DISTRICT NO. 4**

THIS INTERGOVERNMENTAL AGREEMENT (this “**Agreement**”) is made and entered into as of _____, 2022 (the “**Effective Date**”), by and between the TOWN OF MEAD, a municipal corporation of the State of Colorado (the “**Town**”), and MEAD PLACE METROPOLITAN DISTRICT NO. 4, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”). The Town and the District are collectively referred to as the “**Parties**” and each individually as a “**Party**.”

RECITALS

WHEREAS, Mead Place Metropolitan District Nos. 1-12 (the “**Districts**”) were organized to provide those services and to exercise powers as are more specifically set forth in the Consolidated Amended and Restated Service Plan for Mead Place Metropolitan District Nos. 1-6 and Service Plan for Mead Place Metropolitan District Nos. 7-12 approved by the Town on August 9, 2021 (“**Service Plan**”); and

WHEREAS, pursuant to the Service Plan, the Districts and the Town entered into that certain Intergovernmental Agreement dated April 25, 2022 (the “**Service Plan IGA**”); and

WHEREAS, pursuant to Section 7 of the Service Plan IGA, the Districts are prohibited from issuing any Debt until the Town and the Districts have entered into a separate intergovernmental agreement regarding the Districts’ obligation to fund the Intersection Funding Obligation, as that term is defined herein, and which separate intergovernmental agreement shall contain a provision regarding the timing of the payment of the Intersection Funding Obligation to the Town; and

WHEREAS, Section 7 of the Service Plan IGA also provides that the Districts may be released from the requirement to enter into a separate intergovernmental agreement regarding the Intersection Funding Obligation if the master developer of the Mead Place project, EQUINOX MEAD LLC, a Colorado limited liability company, or its successor or assign (the “**Developer**”) provides the Intersection Funding Obligation to the Town; and

WHEREAS, the District and the Town desire to enter into this Agreement to satisfy the requirements of the Service Plan IGA with regards to the Intersection Funding Obligation.

NOW, THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

1. Satisfaction of Service Plan IGA Requirement. The Parties expressly agree that the execution of this Agreement by the Parties satisfies the requirement in the Service Plan IGA

regarding the Intersection Funding Obligation. As of the Effective Date, the provision in Section 7 of the Service Plan IGA prohibiting the Districts from issuing Debt shall not apply.

2. Intersection Funding Obligation. Subject to the conditions and requirements set forth herein, the District shall deposit with the Town five hundred thousand dollars (\$500,000.00) (the “**Intersection Funding Obligation**”), as contribution towards the cost of improvements to the intersection of State Highway 66 and Weld County Road 7, including but not limited to lane-widening, safety enhancements, and signalization, as may be identified by CDOT and the Town (the “**Intersection Improvements**”).

3. Deposit of Intersection Funding Obligation.

a. Debt Issuance as Condition Precedent. The District’s obligation to remit the Intersection Funding Obligation to the Town is expressly contingent on the District’s issuance of bonds, loans, or other debt (the “**Debt Issuance**”) that generate sufficient funds to pay the Intersection Funding Obligation to the Town. If the District does not complete a Debt Issuance, the District shall not be obligated to remit any funds to the Town related to the Intersection Funding Obligation.

b. Timing of Deposit. Within fifteen (15) business days after the closing of the first Debt Issuance transaction, the District shall remit the Intersection Funding Obligation to the Town.

c. Town Receipt of Deposit. The Town shall acknowledge receipt of the Intersection Funding Obligation from the District in writing and deposit the Intersection Funding Obligation received from the District in a segregated Town account and shall thereafter separately account for same. The District shall have the right to inspect the Town’s records related to the accounting and use of the Intersection Funding Obligation at any time, with five (5) business days’ advance written notice to the Town Manager.

4. Town Use of Intersection Funding Obligation. The Town shall apply the Intersection Funding Obligation to pay for the Intersection Improvements. The Town shall not use the Intersection Funding Obligation for any other purpose without the prior written consent of the District.

5. Town Assistance Regarding Reimbursement from Other Properties. The Town agrees to cooperate in good faith with the District to facilitate reimbursement to the District from other properties in the vicinity of the Intersection Improvements or that specifically benefit from the Intersection Improvements, as appropriate and as opportunities therefor arise (including, but not limited to, reimbursement of a portion of Intersection Improvements costs as a condition of annexation of such properties). Notwithstanding the foregoing, the Town shall incur no liability for any failure to condition an annexation or other land use entitlement pertaining to any particular property or properties on the payment of a reimbursement hereunder.

6. Termination.

a. Termination for Developer Funding Agreement. This Agreement shall terminate in the event that, prior to the District’s deposit of the Intersection Funding Obligation

with the Town, the Developer and the Town enter into a subdivision improvement agreement or separate standalone agreement with the Town documenting the Developer's obligation to pay the Intersection Funding Obligation to the Town ("**Developer Funding Agreement**"), and the Developer proceeds to deposit the full amount of the Intersection Funding Obligation with the Town in accordance with the terms and conditions of the Developer Funding Agreement. In no event shall this Agreement terminate unless and until the full amount of the Intersection Funding Obligation is on deposit with the Town. In the event of such termination, Section 1 of this Agreement shall survive termination.

b. Termination Due to Debt Issuance. This Agreement shall automatically terminate in the event that the District determines not to complete a Debt Issuance or does not complete a Debt Issuance before January 31, 2023. In the event of such termination, Section 1 of this Agreement shall not survive termination.

7. Miscellaneous.

a. Default/Remedies. In the event of a breach or default of this Agreement by a Party, the non-defaulting Party, after having given notice to the other Party and a 30-day period to cure said breach or default, shall be entitled to exercise all remedies available at law or in equity. In the event of any litigation, arbitration or other proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall obtain as part of its/their judgment or award its/their reasonable attorneys' and expert witness fees and court costs.

b. Notices. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent, addressed to the address of the intended recipient set forth below or such other address as a Party may designate by notice pursuant to this Section, by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, or (c) sent by confirmed facsimile transmission or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three days after being mailed as provided in clause (a) or (b) above, or upon confirmed delivery as provided in clause (c) above.

To the Town:

Town of Mead
6530 S. Yosemite St., Suite 200
Greenwood Village, CO 80111
Attn: Marcus McAskin, Town Attorney
Phone: (303) 459-2725
marcus@mcm-legal.com

To the District:

Mead Place Metropolitan District Nos. 1-12
c/o WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122
Attn: Blair M. Dickhoner, Esq.
Phone: (303) 858-1800
bdickhoner@wbapc.com

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other Party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

c. Amendments. This Agreement may only be amended or modified by a writing executed by the Parties.

d. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be illegal, void, or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such illegal, void, or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

e. Governing Law/Venue. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for Weld County, Colorado.

f. Assignment. This Agreement may not be assigned by either Party without the prior written consent of the other Party.

g. Authority. By execution hereof, the District and the Town represent and warrant that their representative signing hereunder has full power and lawful authority to execute this Agreement and to bind the respective Party to the terms hereof.

h. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the Parties with respect to the matters set forth herein, and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date set forth above.

i. Inurement. The terms of this Agreement shall be binding upon and inure to the benefit of the Parties as well as their respective successors and permitted assigns.

j. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District or the Town, their respective officials, employees, contractors, or agents, or any other person acting on behalf of the District or the Town and, in particular, governmental immunity afforded or available to the District or the Town pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, et seq., C.R.S.

k. Negotiated Provisions. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared

by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

l. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Parties any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties.

m. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature Pages Follow.]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:
MEAD PLACE METROPOLITAN DISTRICT
NO. 4, a quasi-municipal corporation and
political subdivision of the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel for the District

[District Signature Page]

TOWN:
TOWN OF MEAD

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

[Town Signature Page]