

This instrument prepared by (and return to):

Daniel B. Harrell  
Gonano & Harrell  
1600 S. Federal Highway, Suite 200  
Fort Pierce, Florida 34950  
(772) 464-1032 Ext. 1010

## **INTERLOCAL AGREEMENT CONCERNING EDUCATIONAL FACILITIES IMPACT FEES**

**THIS AGREEMENT** (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between **SANTA ROSA COUNTY**, a political subdivision of the State of Florida, by and through the Board of County Commissioners (“County”), and **THE SCHOOL BOARD OF SANTA ROSA COUNTY, FLORIDA**, a district school board constituted as provided in Article IX, Section 4, of the Florida Constitution (“School Board”), providing for the School Board’s participation in the County’s educational facilities impact fee program.

### **PRELIMINARY STATEMENT**

**A.** The County has adopted an educational facilities impact fee ordinance, Ordinance No. 2020-01 (“Ordinance”) to be effective May 1, 2020; and

**B.** The education facilities impact fee is to be effected and collected within the entire County, including areas within the boundaries of all incorporated municipalities in the County; and

**C.** The School Board is to be the ultimate recipient and user of educational facilities impact fee funds, except such portion of the funds as may be retained by the County to compensate the County for the administrative expense of collecting and administering the Ordinance.

**NOW, THEREFORE**, in consideration of the mutual advantages accruing to the parties, the County and the School Board agree as follows:

#### **1. Recitations; Authority.**

a. The recitations and findings set forth in the above Preliminary Statement are true and correct and are incorporated by reference.

b. This Agreement is entered into pursuant to the Florida Interlocal Cooperation Act of 1969, Section 163.01, Florida Statutes.

c. The parties agree that the Ordinance shall be effective within all unincorporated areas of the County and within the boundaries of all incorporated municipalities in the County unless this Agreement is terminated as hereinafter provided.

#### **2. County Responsibilities. The County agrees:**

a. To collect the applicable educational facilities impact fee as specified in the Ordinance prior to issuing any building permit to construct a residential unit (as defined in the Ordinance), or install any mobile home within the County, and to decline to issue any residential building permit to a feepayer who owes unpaid educational facilities impact fees for any residential unit in the County.

b. To remit to the School Board all funds collected as educational facilities impact fees with the exception of three percent (3%) of the funds collected, not to exceed actual costs, which amount shall be retained by the County as a fee for the administrative expense of collecting and transmitting the funds. The County shall remit the collected funds monthly to the School Board, with payment being made to the School Board by the 15<sup>th</sup> day of the following month.

c. To notify the Superintendent of Schools for Santa Rosa County or the Superintendent's designee of any application for educational facilities impact fee refund received by the County.

d. To notify the Superintendent of Schools for Santa Rosa County or the Superintendent's designee when a developer in the County, in lieu of paying all or part of the educational facilities impact fee, offers to dedicate or convey land to the School Board for a school site that would be eligible for credit under the Ordinance.

**3. School Board Responsibilities.** The School Board agrees:

a. To provide to the County such administrative procedures and administrative assistance in setting up bookkeeping and other accounting procedures as may be necessary for the County to collect the educational facilities impact fee.

b. To maintain all records of the educational facilities impact fee, including name, address, and amount paid for each building permit issued by the County as furnished by the County as the collecting agency, including maintaining all funds received from the County segregated from other School Board funds, in a separate accounting fund, and spent solely on capital improvements to the educational facilities necessitated by new development consistent with the provisions of Section 163.31801, Florida Statutes, and not used for any expenditure needed to eliminate existing deficiencies or that would be classified as a maintenance or repair expense.

c. To indemnify and hold the County and its officers and employees harmless from and against all liability, claims and suits, costs, and attorneys' fees in any manner connected with this or any future amendment or successor ordinance including but not limited to any suit or legal action brought to contest (i) the validity of the Ordinance, (ii) the administration of the Ordinance, (iii) the amount of any educational facilities impact fee imposed pursuant to the Ordinance, (iv) the appropriateness of the use and expenditure of the educational facilities impact fee funds, or (v) any other matter connected with the Ordinance or any future amendment or successor ordinance, unless caused by the sole negligence of the County. The School Board agrees to provide any legal defense necessary at no cost to the County or its officers or employees. Should any court order any refund of any educational facilities impact fee or should any refund be agreed to by the School Board, such refund shall be paid solely by the School Board.

d. To provide the County, upon request, financial reports and information showing the amount of educational facilities impact fees collected by the County and remitted to the School Board.

**4. Proposed Dedications for Credit Against Fees.** The School Board shall have the final authority pursuant to the Ordinance as to whether to accept an offer by a developer to dedicate or convey land to the School Board for a school site in lieu of payment of all or part of the educational facilities impact fee.

**5. Final Administrative Authority.** Nothing in this Agreement is intended to deprive the County of final administrative authority to determine whether the School Board's use and expenditure of impact fee monies collected pursuant to the Ordinance are for capital improvements to the educational facilities necessitated by new development consistent with the provisions of Section 163.31801, Florida Statutes, provided, however, that any such determination by the County shall be subject to indemnification by the School Board as provided in paragraph 3.c of this Agreement.

**6. Entire Agreement.** This Agreement embodies the whole understanding of the parties. There is no promise, term, condition, or obligation other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either oral or written, between the parties on the subject matter of this Agreement.

**7. Amendment.** This Agreement may only be amended by a written document signed by all parties and filed with the Clerk of the Circuit Court of Santa Rosa County, Florida.

**8. Term; Termination.** This Agreement shall be effective beginning May 1, 2020. Termination of this Agreement may only occur if (a) both parties agree to the termination, (b) imposition of the educational facilities impact fee is not allowed by state law, (c) upon breach of the Agreement by a party and failure to cure the breach within a reasonable time period not to exceed forty-five (45) days, or (d) by either party upon one-hundred eighty (180) days written notice to the other party. The termination of this Agreement shall not require the School Board to refund any money collected by the County and remitted to the School Board pursuant to this Agreement; and shall not cancel or nullify the School Board's obligations to hold harmless and defend as set forth in paragraph 3.c above.

**9. Resolution of Disputes.** Prior to initiating litigation regarding any dispute arising under this Agreement, the parties shall submit the dispute to the conflict resolution procedures provided by the Florida Governmental Conflict Resolution Act, Chapter 164, Florida Statutes.

**10. Notices.** Any notice, demand, direction, request, or other instrument authorized or required by this Agreement to be given to or filed with a party shall be deemed to have been sufficiently given or filed for all purposes of this Agreement if and when provided in writing by (a) personal delivery, (b) "next business day" delivery by a nationally recognized overnight delivery service with evidence of delivery, or (c) electronic mail or by facsimile transmission with confirmation of delivery, addressed to the applicable party as follows:

To the County:

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With copies to:

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To the School Board:

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With copies to:

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Either of the parties may, by notice sent to the other party, designate a different or additional address to which notices under this Agreement are to be sent.

**11. Beneficiaries.** This Agreement has been entered into for the sole benefit and protection of the parties and no other person or entity shall have any right of action under or by reason of this Agreement.

**12. Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules, and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

**13. Filing; Effective Date.** This Agreement shall be filed with the Clerk of the Circuit Court of Santa Rosa County, Florida, prior to its effectiveness. This Agreement shall be effective upon the later of (a) the date of filing with the Clerk of the Circuit Court or (b) the effective date of the Ordinance.

[Signatures on following page]

**IN WITNESS WHEREOF**, the parties hereto have caused the execution of this Agreement by their duly authorized officials on the dates stated below.

**BOARD OF COUNTY COMMISSIONERS OF  
SANTA ROSA COUNTY, FLORIDA**

Attest:

\_\_\_\_\_  
Donald C. Spencer, Clerk of Court

By: \_\_\_\_\_  
W. D. "Don" Salter, Chairman

Date: \_\_\_\_\_, 2020

Approved as to form and correctness:

\_\_\_\_\_  
Roy Andrews  
Santa Rosa County Attorney

**THE SCHOOL BOARD OF SANTA ROSA  
COUNTY, FLORIDA**

Attest:

\_\_\_\_\_  
Timothy Wyrosdick, Superintendent  
And Ex Officio Secretary

By: \_\_\_\_\_  
Clifton L. "Buddy" Hinote, Chairperson

Date: \_\_\_\_\_, 2020

Approved as to form and correctness:

\_\_\_\_\_  
Paul R. Green  
General Counsel to The School Board of Santa Rosa  
County, Florida