EXHIBIT A

WELD COUNTY SCHOOL DISTRICT RE-4

Plan for Distribution of Additional Mill Levy Revenue

Background.

The Public School Finance Act of 1994 is the primary source of funding for the public schools in Weld County School District RE-4 (School District), including charter schools that are authorized by the District. See, §§ 22-54-101 – 139, C.R.S. (2017) (Finance Act). As part of the adoption of the Finance Act, however, the General Assembly also specifically authorized the voters in school districts to hold elections within the boundaries of their districts for the purpose of determining whether they wished to raise and expend additional local revenues generated by taxes on real and personal property within their district. § 22-54-108, C.R.S. (2017). These “mill levy override” (MLO) elections are also authorized and governed by the Colorado Constitution, art. X, section 20 (TABOR).

Starting in 2001 and acting pursuant to the express authority of the Finance Act and TABOR, the elected directors of the School District have submitted and received approval from its voters of three MLO ballot questions.

In the November 2001 election, School District voters approved a ballot question authorizing the collection and spending of $595,350 “for educational purposes to be approved by the Board of Education which shall include but not be limited to: funding new costs necessary for operating a new elementary school [Grandview Elementary School]; and funding new costs necessary for operating additions to other district schools.” This question was submitted hand-in-hand with a general obligation bond question seeking funds for the construction of the new elementary school. Following the favorable vote on both questions, the Board of Education constructed Grandview Elementary School and has carried out the will of the voters in every fiscal year since then by consistently allocating the total amount of the $595,350 MLO revenues to the operation of that school through annual budgeting and appropriation of the mill levy override funds.

The second MLO election was held in November 2007. In that election, the School District voters approved an increase in taxes “up to $2,000,000 annually, to be phased in over a three-year period for the purpose of: funding operating costs of a new elementary school, of a new middle school, of additions to Grandview Elementary School and of Windsor Charter Academy.” As indicated, the Windsor Charter Academy was specially included in the MLO question. Prior to the election, the School District and Windsor Charter Academy negotiated and agreed to a Memorandum of Understanding (MOU) that would apply in the event the Board of Education submitted a ballot question and if it was successful. In anticipation of that, the MOU provided for
the allocation of MLO funds plus credits against future purchased services to Windsor Charter Academy to set off the increased debt service of additional financing for the improvement and expansion of its building. The proposed allocation of funds was presented to voters before the election and, as referenced above, specifically included Windsor Charter Academy in the ballot question.

As with its commitment to the voters in 2001, for the past 10 years, the Board of Education has consistently allocated and the Windsor Charter Academy as also applied the 2007 mill levy override funds as presented in the election.

Again, in November 2016, the Board of Education submitted a MLO question to School District voters seeking an increase in local taxes “up to $3.6 million annually (to be phased-in $1.2 million each year over a three-year period) to provide funds for, among other things, the operating costs of a new high school, the operating costs relating to facility improvements at Windsor Charter Academy, and expanding and improving student access to technology in every school.” A companion bond question seeking approval to incur debt to construct a new high school referred to in the MLO question was also certified. Prior to submitting these ballot questions, the Board of Education and Windsor Charter Academy agreed to an allocation of the funds, if approved by the voters, and information about the allocation was made known prior to the election. Both ballot measures were approved by the voters. In both of the last two years, the MLO funds have been budgeted and appropriated by the Board of Education as promised to the voters.

**Charter School Contracts.**

Windsor Charter Academy was originally authorized by the Board of Education as a charter school of and within the School District under a Charter School Contract approved on September 18, 2000, for a term of three years. The school commenced operations in the fall of 2001. The charter has been consistently renewed by the Board of Education since then, including approval of the expansion in 2015 to serve students in grades nine through twelve. As indicated above, in August 2016 the Board of Education and Windsor Charter Academy entered into an amendment to the Charter School Renewal Contract specifying how the parties would share in MLO funds if a question was submitted to and approved by the voters in 2016. In that amendment, the Board of Education and Windsor Charter Academy (referred to therein as “WCA”) confirmed their prior agreements with respect to the allocation of previously-approved MLO moneys and how funds would be allocated from any question submitted in 2016 as follows:

**Mill Levy Override Funding.** In addition to the proposed allocation and distribution of local revenues collected under the 2016 MLO (if certified by the Board and approved by the voters), the Parties have previously negotiated and reached agreements concerning whether funds from previous School District override elections would be distributed to WCA, including the MOU attached to the Charter Contract and this Amendment No. 1 as Exhibit B (which shall remain in full force and effect and shall survive this Amendment No. 1). This Amendment No. 1 and the Charter Contract including, but not limited to, the financial provisions and accommodations to WCA, reflect essential, material, and vested
rights and are elements of and consideration for the Parties’ full, final, and permanent settlement of any and all claims related to previous mill levy override elections of the School District and the possible 2016 Bond and 2016 MLO and are contract terms upon which both Parties have specifically relied in approving this Amendment No. 1. In consideration of the promises and provisions contained herein, therefore, WCA permanently releases and waives any claim to prior mill levy override elections, other than as provided in Exhibit B and this Amendment No. 1. Without limiting the foregoing, the Parties specifically intend and agree that this Amendment No. 1 as to the possible 2016 MLO and this settlement, waiver, and release as to any other or previous mill levy overrides shall be binding even in the event that a retrospective, retroactive, and/or prospective legislative mill levy-sharing bill or other measure is approved by the Colorado General Assembly at any time in the future, which the Parties hereby agree would substantially impair their contractual relationship hereunder. The Parties further agree that this Amendment No. 1 and any prior actions by the Board or agreements of the Parties shall not be grounds for challenging the School District’s exclusive chartering authority or otherwise form the basis for any appeal to the State Board of Education (“State Board”). In the event that the State Board or any court of final jurisdiction determines that this Amendment No. 1 or the settlement, waiver, and release related to any prior mill levy override is invalid for any reason whatsoever, either retroactively, retrospectively or prospectively, then WCA agrees that this Amendment No. 1 and Exhibit B shall terminate at the end of the then-current fiscal year. This subparagraph shall survive the termination or renewal of the Charter Contract, unless otherwise expressly agreed in writing by the Parties.

House Bill 17-1375.

During the 2017 session of the Colorado General Assembly, House Bill 17-1375 (HB 1375) was adopted (codified as § 22-32-108.5, C.R.S.) (HB 1375). Beginning in the 2019-2020 budget year, HB 1375 requires participating school districts to either: (a) implement a plan for distributing “additional mill levy revenue” or (b) distribute that revenue to each charter school and innovation school in an amount equal to at least ninety-five percent of the participating school district’s per pupil mill levy share multiplied by the number of students enrolled in the charter or innovation school. §§ 22-32-108.5(3) and (5)(a), C.R.S. (2017).

Additional mill levy revenue is revenue that is collected from mills that were authorized before, on, or after the effective date of the legislation above the mills needed to fund the district’s “total program” (generally referred to as MLO revenue), but not including mills that are levied for bonded indebtedness, for installment sales agreements, or lease purchase agreements. § 22-32-108.5(2)(a), C.R.S. (2017).

A school district is a participating school district if it collects MLO revenue and is a district of innovation or authorizes at least one charter school. § 22-32-108.5(2)(f), C.R.S. (2017). Per pupil mill levy share means the amount of a district’s total MLO revenue divided by its funded pupil count. § 22-32-108.5(2)(h), C.R.S.

Subject to a special exception described below, the plan must ensure that the MLO revenue is distributed to programs that benefit a district’s schools regardless of the type of school. § 22-
32-108.5(4)(a), C.R.S. (2017). The statute does not define the term ‘program,’ but provides that a plan, among other things, may use MLO revenue to provide additional per pupil funding to students enrolled in alternative education campuses, who are eligible for free and reduced lunch, English Language Learners or have individual education programs. § 22-32-108.5(4)(b), C.R.S. (2017).

As related to the Weld County School District RE-4, HB 1375 includes a notable exception upon which the District has relied in developing this plan. Section 22-32-108.5(4)(a), C.R.S., provides that the distribution of mill levies is “subject to statutory limits or requirements that apply to specific mill levy authorizations and any purposes specifically approved by voters in approving additional mill levy revenue . . . “ (emphasis added). It is this provision that compels the Board of Education to honor the representations and commitments made to school district voters in submitting the MLO ballot questions in 2001, 2007, and 2016.

To the extent HB 1375 could be interpreted as affecting or abrogating the Charter School Contracts between the School District and Windsor Charter Academy and the parties’ reliance on their prior agreements, the School District further grounds its plan on legal principles that prohibit the impairment of the contracts with Windsor Charter Academy that have been in existence since 2000, long before HB 1375 was envisioned or adopted.


Unless and until otherwise modified by the Board of Education in future budget years, which authority is specifically reserved by the Board, the School District’s plan will continue to distribute the MLO revenues beginning in the 2019-2020 fiscal year as directed by the voters in 2001, 2007, and 2016; as consistently implemented in prior years; and as contained in the pre-existing agreements with Windsor Charter Academy as follows:

A. The 2001 MLO revenues of $595,350 will continue to be distributed as they have in every year since approval by the voters to funding the costs necessary for operating Grandview Elementary School.

B. The 2007 MLO revenues of $2,000,000 will continue to be distributed as they have in every year since approval by the voters by funding operating costs at the new elementary and middle schools, allocating $90,000 to Windsor Charter Academy, and by continuing to cap the charter school’s purchased services, including special education, at 2006-2007 levels plus “Inflation” (as defined in TABOR).

C. The 2016 MLO revenues of $3,600,000 will continue to be distributed as they have been in every year since approval by the voters for operating costs of the new high school, operating costs relating to facility improvements at Windsor Charter Academy, and by setting aside $559,250 each year for expanding and improving student access to technology in every school and allocating that based upon the percentage of in-district students enrolled in Windsor Charter Academy at the time of the election in 2016 (12.85%) compared to the number of in-district students enrolled in other schools
of the School District (87.15%) with the remainder to continue to be allocated based upon the same percentages.

D. In the event future MLO ballot questions are approved by the School District’s voters, the new MLO funds will be allocated by any specific methods included in the authorizations and any purposes specifically approved by voters. Absent any restrictions, 95% of the new MLO revenues will be allocated to Windsor Charter Academy and any new charter schools authorized by and operating within the School District boundaries at the time of voter approval of the new MLO funds by a percentage derived by dividing each charter school’s audited funded pupil count by the School District’s total audited funded pupil count.

E. The Board will review this plan at least annually as part of the budget adoption process.
WELD COUNTY SCHOOL DISTRICT RE-4

RESOLUTION

(Adoption of Plan for Distribution of Additional Mill Levy Revenue)

WHEREAS, House Bill 17-1375, codified as Section 22-32-108.5, C.R.S. (2017), provides that a “participating school district” may create and adopt a plan, to be effective in the 2019-2020 fiscal year, to allocate all or a portion of additional mill levy revenue to charter schools authorized by a school district; and

WHEREAS, the voters of Weld County School District RE-4 (School District) have generously approved additional mill levy revenues for the District in elections held in 2001, 2007, and 2016 (MLO Elections); and

WHEREAS, Weld County School District RE-4 (School District) is a participating school district because it collects additional mill levy revenue and in September 2000 authorized the Windsor Charter Academy, a charter school that has been in operation within the District since the fall of 2001; and

WHEREAS, Section 22-32-108.5(4)(a), C.R.S., provides that the distribution of additional mill levy revenues is “subject to statutory limits or requirements that apply to specific mill levy authorizations and any purposes specifically approved by voters in approving additional mill levy revenue;” and

WHEREAS, the voters in the MLO Elections authorized and approved mill levy override revenues for specific purposes that the Board of Education has honored in every year since obtaining voter approval; and

WHEREAS, consistently since September 18, 2000, the School District has been a party to ongoing charter school contracts with the Windsor Charter Academy; and

WHEREAS, the charter school contracts were entered into in reliance upon and included consideration based on the allocation of additional mill levy revenues approved by the voters in the MLO Elections; and

WHEREAS, the Board of Education has considered and held public meetings concerning the adoption of a plan under Section 22-32-108.5, C.R.S., and

WHEREAS, the Board of Education finds and determines that it is necessary and in the best interests of the District to honor the authorizations approved by the voters in the MLO Elections, the revenues from which have been consistently allocated since approval, and to honor
and uphold the charter school contracts with Windsor Charter Academy that have included consideration tied to the MLO Elections.

NOW, THEREFORE, BE IT RESOLVED by the Board of Education of Weld County School District RE-4 that, unless and until otherwise modified by the Board in future budget years, which authority is specifically reserved by the Board, the “Plan for Distribution of Additional Mill Levy Revenue,” attached and incorporated into this Resolution as Exhibit A, is hereby adopted and approved.

Adopted this 18 day of June, 2018.

ATTEST:

[Signature]
Regan Price, Secretary

WELD COUNTY SCHOOL DISTRICT RE-4

By: [Signature]
Tempy Bowman, President, Board of Education