

INTERGOVERNMENTAL AGREEMENT BETWEEN THE DOUGLAS COUNTY SCHOOL DISTRICT AND THE TOWN OF CASTLE ROCK, STATE OF COLORADO, REGARDING THE LOCATION OF LAWN IRRIGATION RETURN FLOW MONITORING WELLS ON FUTURE SCHOOL PROPERTY

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the DOUGLAS COUNTY SCHOOL DISTRICT RE-1, a Colorado public school district (the “District”), and the TOWN OF CASTLE ROCK, a Colorado home rule municipality, acting by and through the CASTLE ROCK WATER ENTERPRISE, (the “Town”), hereinafter collectively referred to as the “Parties.”

RECITALS

WHEREAS, Section 16.08.100.A of the Castle Rock Municipal Code provides that the Town shall require all residential subdivision proposals to provide land or cash-in-lieu of land for school facility needs as generated by the proposed development; and

WHEREAS, pursuant to this requirement, land has been dedicated for a school site north of the intersection of Fairway Wood Circle and Red Hawk Drive, which land is further described in the legal description and map attached to *Exhibit 1* of this Agreement (the “Property”); and

WHEREAS, the Property was conveyed to the Town at the time of plat recordation, and is being held until such time as needed by the District for the construction of a public school; and

WHEREAS, the District acknowledges that, as the record owner of the Property, the Town has all rights associated with property ownership under Colorado law, including, but not limited to, the right to construct a groundwater well on the Property; and

WHEREAS, the Town has expressed its interest in constructing a temporary well on the Property for the purpose of monitoring and quantifying lawn irrigation return flows to Plum Creek (the “LIRF Monitoring Well”); and

WHEREAS, the District has no objection to the construction of the LIRF Monitoring Well, but would like to make sure that, if title to the Property should pass to the District while the well is in use, the Town acquires no additional rights in and to the Property other than as a licensee of the District; and

WHEREAS, accordingly, the Parties wish to enter into an arrangement whereby the District, upon the dedication of the Property, will grant the Town a license to enter the Property if necessary to facilitate the construction, maintenance, and monitoring of a LIRF Monitoring Well.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which are mutually acknowledged, the Parties hereto agree as follows:

1. Construction of LIRF Monitoring Well. If Town constructs the LIRF Monitoring Well on the Property prior to conveying it to the District, then Town shall obtain District's written approval for the location of the LIRF Monitoring Well, which approval shall not be unreasonably withheld.

2. License. Upon the dedication of the Property by the Town to the District, the District agrees to grant to the Town, at the time of closing, a License for the purpose of constructing, operating, and repairing the LIRF Monitoring Well, installing monitoring equipment, and storing construction materials and equipment at an agreed-upon location on the Property, as well as the right of ingress and access to the Property for purposes of gathering data, inspecting and maintaining the LIRF Monitoring Well and monitoring equipment, and abandoning the LIRF Monitoring Well in accordance with applicable governmental regulations. The License shall be in the form attached hereto and incorporated herein as *Exhibit 1*.

2. Responsibility/Liability. Each Party to this Agreement shall be responsible for that Party's own performance under this Agreement and each Party shall be responsible for its own defense in connection with any claims made against such Party by reason of that Party's performance of the matters covered by this Agreement.

3. Additional Documents. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out the intent of this Agreement.

4. Notice. If under the terms of this Agreement, notice is to be provided to any Party, said notice shall be deemed provided upon (i) personal delivery, (ii) three (3) business days after the mailing of the same by registered or certified mail, return receipt requested, (iii) when delivered (and signed for) by an overnight delivery service, or (iv) when delivered by email transmission for which automatic confirmation or written acknowledgement has been received, addressed in each case as follows:

If to District: Douglas County School District  
Attn: Chief Operations Officer  
620 N. Wilcox Street  
Castle Rock, CO 80104  
[richard.cosgrove@dcsdk12.org](mailto:richard.cosgrove@dcsdk12.org)

with a copy to: Douglas County School District  
Attn: General Counsel  
620 N. Wilcox Street  
Castle Rock, CO 80104  
[mary.klimesh@dcsdk12.org](mailto:mary.klimesh@dcsdk12.org)

If to Town: Town of Castle Rock  
Attn: Director of Castle Rock Water  
175 Kellogg Court  
Castle Rock, CO 80109  
[mmarlowe@crgov.com](mailto:mmarlowe@crgov.com)

with a copy to:           Town of Castle Rock  
                                  Attn: Town Attorney  
                                  100 N. Wilcox Street  
                                  Castle Rock, CO 80104  
                                  [mhyman@crgov.com](mailto:mhyman@crgov.com)

Any Party may change the address to which notices should be sent by giving the other Party written notice of the new address in the manner set forth in this paragraph.

5.     Governing Law. The laws of the State of Colorado shall govern this Agreement. Venue for any action hereunder shall be in the District Court, County of Douglas, State of Colorado and the Parties waive any right to remove any action to any other court, whether state or federal.

6.     No Waiver of Governmental Immunity. The Parties hereto understand and agree that this Agreement is relying on, and in no way is intended to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, sections 24-10-101 to 120, C.R.S., or otherwise available to the Parties.

7.     Amendment. This Agreement may only be amended in writing signed by the parties hereto.

8.     Entire Agreement. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding and all of the remaining provisions of this Agreement shall continue in full force and effect.

9.     No Third-Party Beneficiaries. 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 Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement. Any beneficiary of the terms and conditions of this Agreement are not intended beneficiaries but are incidental beneficiaries only.

10.    Term. This Agreement shall remain in full force and effect until such time as (i) the License set forth in Exhibit 1 has been granted, accepted, and executed by the Parties or (ii) this Agreement has otherwise been terminated by either Party. Either Party may terminate this Agreement upon providing ninety (90) days written notice to the other Party.

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto as of the date first written above.

DISTRICT:

ATTEST:

DOUGLAS COUNTY SCHOOL  
DISTRICT RE-1

\_\_\_\_\_  
By:  
Title:

\_\_\_\_\_  
By:  
Title:

ATTEST:

TOWN OF CASTLE ROCK,  
acting by and through the Castle Rock  
Water Enterprise

\_\_\_\_\_  
Lisa Anderson, Town Clerk

\_\_\_\_\_  
David L. Corliss, Town Manager

Approved as to form:

Approved as to content:

\_\_\_\_\_  
Michael J. Hyman, Town Attorney

\_\_\_\_\_  
Mark Marlowe, Director Castle Rock Water

## EXHIBIT 1

### LICENSE TO ENTER REAL PROPERTY (Lawn Irrigation Return Flow (LIRF) Monitoring Well)

DOUGLAS COUNTY SCHOOL DISTRICT RE-1, a Colorado public school district (“District”), for good and valuable consideration, grants to the TOWN OF CASTLE ROCK, a Colorado home rule municipality, acting by and through the CASTLE ROCK WATER ENTERPRISE (“Town”), a nonexclusive license and right to enter upon District’s real property (“License”) further described in the legal description attached as *Exhibit A* and map attached as *Exhibit B* (“Property”). The License is granted subject to the following terms, conditions and limitations:

1. Purpose. The Town has constructed and operates a temporary well on the Property for the purpose of monitoring and quantifying lawn irrigation return flows to Plum Creek. This License will facilitate the Town’s continued operation of the temporary well on the Property. The grant of this License shall not imply future approval of permanent well facilities on the property.

2. Permitted Work. The Town, its employees, contractors, and agents are authorized to undertake the following activities on the Property (“Work”):

The construction, operation, and repair of a temporary well and the installation, operation, and repair of monitoring equipment, storage of construction material and equipment, the right of ingress and access at each location identified on the map attached as *Exhibit B* for purposes of gathering data and inspecting and maintaining the well and monitoring equipment, and the abandonment of the temporary well in accordance with applicable governmental regulations.

3. Compliance with All Applicable Permits. The Town shall acquire any necessary permits and complete the Work in compliance with all applicable permits and applicable governmental regulations. Upon request, the Town will provide copies of any permits acquired for the Work to the District before starting the Work.

4. Performance of Work. The Town’s Work shall be conducted during daylight hours, to the extent practicable. The Town shall use reasonable best efforts to avoid any interference with the District’s use of the Property and to ensure the safety of the District’s employees and students. The Town shall notify the District’s designated representative reasonably prior to entering onto the Property. The District’s representative may choose to accompany the Town on the Property and to designate a monitor to monitor the Work.

5. Term. The term of this License shall commence on the execution by the District and the Town and expire upon the Town’s closure of the well. This License is irrevocable during its term unless the Town should materially violate any term or fail to comply with any condition of this License. In the event of any such violation or failure, the District shall provide notice of the default to the Town and provide the Town a reasonable opportunity to cure. In the event the Town fails to undertake efforts to cure the default within 60 days, the District shall have the right

to terminate this License by written notice to the Town, in which event, this License will terminate and the Town shall abandon the well and remove all of its equipment and materials from the Property within 60 days.

6. Site Disturbance. Neither the Town nor its employees, contractors, or agents shall make any physical alterations to the Property beyond those reasonably necessary to complete the Work, nor shall they disturb trees, shrubs or other vegetation or any drainage courses beyond what is absolutely necessary to complete the Work. Upon completion of the Work, the Town shall return the Property as close as possible to its prior condition, subject to seasonal plant regeneration. The temporary well shall be abandoned in strict accordance with the State of Colorado Division of Water Resources State Board of Examiners of Water Well Construction and Pump Installation Contractors Rules and Regulations for Water Well Construction, Pump Installation, Cistern Installation, and Monitoring and Observation Well/Hole Construction (Construction Rules) 2 CCR402-2, Rule 16, as from time to time amended.

7. Town Responsibility. To the extent permitted under law, Town assumes any risk arising directly or indirectly from this License or any activities of the Town relating to this License, and does hereby release and discharge the District from any liability for loss, damage or injury incurred by the District arising out of Town's activities under the License, except for such loss, damage or injury caused by the District's negligence or misconduct.

8. Insurance. The Town, and its contractors and agents that enter upon the Property shall maintain Commercial General Liability Insurance covering the obligations to the District under this License. General aggregate liability coverage shall be \$2,000,000, personal and advertising injury coverage shall be \$1,000,000, each occurrence of bodily injury and property damage coverage shall be \$1,000,000, and excess or umbrella liability shall be covered for \$1,000,000 both general aggregate and each occurrence. The Town and its contractors and agents that enter upon the Property shall also maintain worker's compensation insurance in at least the statutory minimum amounts. Such insurance shall name the District as an additional insured, and a Certificate of Insurance evidencing such coverage shall be provided to the District and shall be satisfactory to District prior to commencement of the Work.

9. Miscellaneous Provisions. In the event that either party to this License shall institute legal proceedings with respect to the License, the prevailing party shall be awarded its reasonable attorneys' fees and costs incurred in connection with such proceedings.

No term or condition of this License shall be construed or interpreted as a waiver, express or implied, by either party, of any of the immunities, rights, benefits, protections or other provisions, of the Colorado Governmental Immunity Act §§24-10-101 et seq., as applicable now or hereafter amended ("CGIA"), by either party.

The Town may not assign or transfer this License, or any interest herein, without the prior written consent of the District, which the District may reasonably grant or withhold in its sole discretion.

This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

Effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**TOWN:**

ATTEST:

TOWN OF CASTLE ROCK, acting by and through the CASTLE ROCK WATER ENTERPRISE

\_\_\_\_\_  
Lisa Anderson, Town Clerk

\_\_\_\_\_  
Mark Marlowe, Director Castle Rock Water

Approved as to form:

\_\_\_\_\_  
Michael J. Hyman, Town Attorney

**DISTRICT:**

ATTEST:

DOUGLAS COUNTY SCHOOL DISTRICT RE-1

\_\_\_\_\_  
By:  
Title:

\_\_\_\_\_  
By:  
Title:

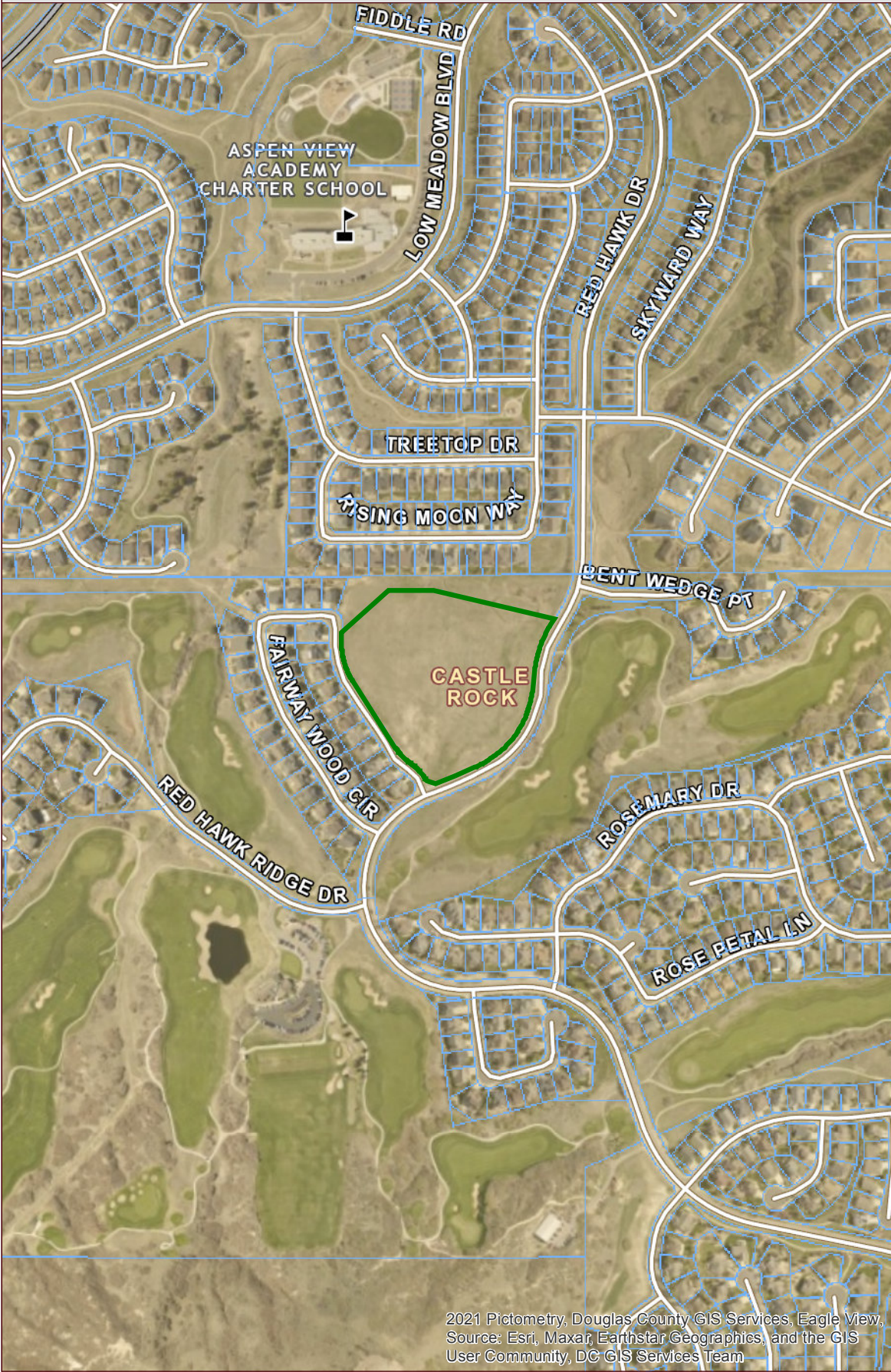
**EXHIBIT A**  
**DESCRIPTION OF PROPERTY**

Parcel #: 2505-032-09-007, Tract G Red Hawk 3, 10.01 acres, more or less.



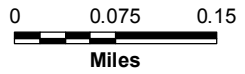
**EXHIBIT B**  
**MAP OF PROPERTY**  
(see attached)

# Red Hawk Dedicated School Site



2021 Pictometry, Douglas County GIS Services, Eagle View,  
 Source: Esri, Maxar, EarthStar Geographics, and the GIS  
 User Community, DC GIS Services Team

- Real Property**
- Parcel
- Public Land Survey System**
- Township
- Section
- General Features**
- School
- Private Road
- Railroad



**DISCLAIMER:**

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Douglas County GIS Division  
 Philip S. Miller Bldg., 100 Third St.  
 Castle Rock, Colorado 80104