

RESOLUTION NO. 2021-042

A RESOLUTION APPROVING THE THIRD AMENDMENT TO THE MASTER INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF CASTLE ROCK, FOUNDERS VILLAGE METROPOLITAN DISTRICT AND VILLAGES AT CASTLE ROCK METROPOLITAN DISTRICT NO. 4

WHEREAS, the Town of Castle Rock (the "Town"), Founders Village Metropolitan District ("FVMD"), and Villages at Castle Rock Metropolitan District No. 4 ("VCR") (collectively, the "Districts") have entered into a Master Intergovernmental Agreement dated May 1, 1995 (the "MIGA"); and

WHEREAS, the MIGA has since been amended twice; by the First Amendment dated August 22, 1996, and by the Second Amendment dated June 13, 2006; and

WHEREAS, FVMD has informed the Town that it has received a petition for inclusion of certain property which it desires to approve; and

WHEREAS, pursuant to paragraph 11.3 of the MIGA, FVMD must obtain the Town's approval for the inclusion of any property within its boundaries; and

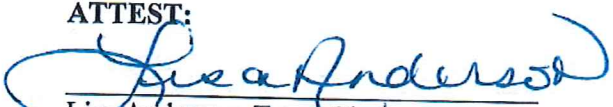
WHEREAS, the Town and the Districts wish to enter into a Third Amendment to the MIGA to confirm the Town's approval for the proposed inclusion.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK AS FOLLOWS:

Section 1. Approval. The Third Amendment to the Master Intergovernmental Agreement in the form attached as *Exhibit 1* is hereby approved. The Mayor and other proper Town officials are hereby authorized to execute the necessary documents by and on behalf of the Town.

PASSED, APPROVED AND ADOPTED this 20th day of April, 2021, by the Town Council of the Town of Castle Rock, Colorado, on first and final reading by a vote of 7 for and 0 against.

ATTEST:



Lisa Anderson, Town Clerk

TOWN OF CASTLE ROCK



Jason Gray, Mayor

Approved as to form and content:



Michael J. Hyman, Town Attorney



**THIRD AMENDMENT
TO
MASTER INTERGOVERNMENTAL AGREEMENT**

(Founders Village Metropolitan District (formerly Villages at Castle Rock Metropolitan District No.1) and Villages at Castle Rock Metropolitan District No. 4)

The Town of Castle Rock ("Town"), a home rule municipal corporation, Founders Village Metropolitan District (formerly Villages at Castle Rock Metropolitan District No.1) ("FVMD"), a quasi-municipal corporation and political subdivision of the State of Colorado, and the Villages at Castle Rock Metropolitan District No. 4 ("District 4"; together with FVMD, the "Districts"), a quasi-municipal corporation and political subdivision of the State of Colorado, hereby enter into this Third Amendment to Master Intergovernmental Agreement (this "Third Amendment") as of April 20, 2021.

Recitals

A. Town and the Districts entered into a Master Intergovernmental Agreement dated May 1, 1995 (the "Original MIGA"). The Original MIGA has been amended by that certain First Amendment to Master Intergovernmental Agreement dated August 22, 1996 (the "First Amendment"), and that certain Second Amendment to Master Intergovernmental Agreement dated June 13, 2006 (the "Second Amendment"). The Original MIGA, as amended by the First Amendment and Second Amendment is referred to herein as the MIGA.

B. FVMD has informed the Town that FVMD has received a petition for inclusion of, and subject to execution of this Third Amendment, desires to approve the inclusion of, certain real property legally described in Exhibit A attached hereto and incorporated herein by this reference (the "Inclusion Property") into the boundaries of FVMD, with the consent and approval of the fee owner of 100% of the Inclusion Property, pursuant to the procedures set forth in C.R.S. § 32-1-401, *et. seq.* Exhibit B attached hereto and incorporated herein by this references reflects the boundaries of FVMD following the inclusion of the Inclusion Property therein. As a condition to the inclusion of the Inclusion Property into the boundaries of FVMD, and concurrent with the addition of the Inclusion Property into the boundaries of FVMD, the Inclusion Property is being separately excluded from the boundaries and territory of Villages at Castle Rock Metropolitan District No. 9 ("District 9"), pursuant to the procedures set forth in C.R.S. § 32-1-501, *et seq.* Exhibit C attached hereto and incorporated herein by this reference reflects the boundaries of District 9 following the exclusion of the Inclusion Property therefrom.

C. Pursuant to paragraph 11.3 of the MIGA, FVMD must obtain the Town's approval for the addition of any territory outside of FVMD's boundaries into the boundaries of FVMD.

D. Section 5.5 and Exhibit F of the MIGA describe various Fee Rebates (the "Fee Rebates") to be rebated by the Town to District 4, for surplus water and sewer capacities developed by District 4. The properties benefiting from the Fee Rebates are described in Section 5.5. and Exhibit F to the MIGA (the "Rebate Areas"). The Inclusion Property is not located within the

Rebate Areas and District 4 shall not be entitled to receive Fee Rebates issued within the Inclusion Property.

E. The Town and the Districts have agreed to enter into this Third Amendment to confirm the Town's approval of the addition of the Inclusion Property into the boundaries of FVMD.

Agreement

NOW, THEREFORE, in consideration of these mutual promises, the Town and the Districts hereby agree and covenant as follows:

1. Approval of Inclusion. The Town hereby approves the addition of the Inclusion Property into the boundaries of FVMD. "Exhibit A" (Map of Districts) attached to the MIGA is hereby amended to reflect the adjusted boundaries of FVMD as set forth in Exhibit B attached hereto and incorporated herein by this reference.

2. Ratification of MIGA. Except as expressly modified by this Third Amendment, all of the terms and provisions of the MIGA are hereby ratified and confirmed and shall be binding upon the parties hereto, their successors and permitted assigns.

3. Binding Effect. This Third Amendment shall become effective only after the full execution and delivery hereof by the Town and both of the Districts.

4. Conflict. In the event of any conflict between the provisions of this Third Amendment and the provisions of the MIGA, the provisions of this Third Amendment shall control.

5. Counterparts. This Third Amendment may be executed in counterparts and shall be binding on all the parties hereto as if one document had been signed. The delivery of an executed copy of this Third Amendment by facsimile or other electronic transmission shall have the same force and effect as the delivery of the original, signed copy of this Third Amendment.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the date first above written.

Town of Castle Rock

[Signature]
Jason Gray, Mayor

Attest:

[Signature]
Lisa Anderson, Town Clerk

Approved as to form:

[Signature]
Michael J. Hyman, Town Attorney



STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me on _____, 2021, by Jason Gray, as Mayor, and Lisa Anderson, as Town Clerk of the Town of Castle Rock.

WITNESS my hand and official seal.

Notary Public

My commission expires _____

Founders Village Metropolitan District

DocuSigned by:

Jeremy Groves, President

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me on _____,
2020, by _____, as _____ of the Founders Village
Metropolitan District.

WITNESS my hand and official seal.

Notary Public

My commission expires _____

EXHIBIT A

Legal Description of Inclusion Property

EXHIBIT A

W 1/2, SECTION 7 TOWNSHIP 8 SOUTH, RANGE 66 WEST 6th P.M.
 -----TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS-----

PROPERTY DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THAT GRANT DEED DESCRIBED AT RECEPTION NO. 2017055394, RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER, LOCATED IN THE WEST HALF OF SECTION 7, TOWNSHIP 8 SOUTH, RANGE 66 WEST OF THE 6th PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 7 WHENCE THE SOUTH QUARTER CORNER OF SAID SECTION 7 BEARS S00°15'04"E A DISTANCE OF 2649.68 FEET;
 THENCE S00°15'04"E, ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 7, A DISTANCE OF 257.77 FEET TO THE SOUTHERLY CORNER OF A WARRANTY DEED DESCRIBED AT RECEPTION NO. 2007804876 RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER, SAID POINT BEING ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF N. RIDGE ROAD AND THE **POINT OF BEGINNING**;
 THENCE S00°15'04"E CONTINUING ALONG SAID EAST LINE A DISTANCE OF 1005.18 FEET TO THE NORTHERLY LINE OF THAT WARRANTY DEED DESCRIBED AT RECEPTION NO. 2017045169 RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER;
 THENCE S89°37'24"W ALONG SAID NORTHERLY LINE A DISTANCE OF 799.92 FEET TO THE NORTHWESTERLY CORNER OF SAID RECEPTION NO. 2017045169;
 THENCE S01°11'48"W ALONG THE WESTERLY LINE OF SAID RECEPTION NO. 2017045169 A DISTANCE OF 75.35 FEET TO THE NORTHEASTERLY CORNER OF PARCEL A OF THAT QUIT CLAIM DEED DESCRIBED AT RECEPTION NO. 2017033592 RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER;
 THENCE ALONG THE EASTERLY AND NORTHERLY LINE OF SAID RECEPTION NO. 2017033592 THE FOLLOWING THREE (3) COURSES:
 1. S88°24'10"W A DISTANCE OF 11.88 FEET;
 2. THENCE N00°17'40"E A DISTANCE OF 69.26 FEET;
 3. THENCE S89°03'01"W A DISTANCE OF 405.69 FEET TO THE EASTERLY LINE OF PARCEL 1 OF THAT DEED OF DISTRIBUTION DESCRIBED AT RECEPTION NO. 2012100323 RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER;
 THENCE ALONG SAID EASTERLY LINE THE FOLLOWING FIVE (5) COURSES:
 1. N09°10'50"E A DISTANCE OF 8.19 FEET;
 2. THENCE N89°03'01"E A DISTANCE OF 118.10 FEET;
 3. THENCE N00°59'09"W A DISTANCE OF 268.48 FEET;
 4. THENCE N14°35'08"E A DISTANCE OF 148.33 FEET;



KENNETH G. OUELLETTE, PLS 24673
 DATE: July 24, 2019
 JOB NO. 65319930
 FOR AND ON BEHALF OF MERRICK & COMPANY

REVISION DESCRIPTION MERRICK PROJECT NO. 65319930 DRAWN KGO	WILLIAM MEMMEN LIVING TRUST PROPERTY
5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111 Telephone: 303-751-8741	
DATE: JULY 24, 2019 SCALE: N/A SHEET 1 OF 2	

* SURVEY/ASSURANCE: MEMMEN ALTA UPDATE WITH TOPO EXHIBIT/FILE DATA/ADJUSTMENTS TO BASE DRAWING/KGO MEMMEN BOUNDARY DWS

EXHIBIT A

W 1/2, SECTION 7 TOWNSHIP 8 SOUTH, RANGE 66 WEST 6th P.M.
 ----TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS----

PROPERTY DESCRIPTION

5. THENCE N28°06'13"W A DISTANCE OF 198.32 FEET TO THE SOUTHEASTERLY LINE OF THAT WARRANTY DEED DESCRIBED AT RECEPTION NO. 2009065058 RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER;
 THENCE N35°58'41"E ALONG SAID SOUTHEASTERLY LINE, NON-TANGENT WITH THE FOLLOWING DESCRIBED CURVE A DISTANCE OF 658.12 FEET;
 THENCE ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 51°43'48", A RADIUS OF 145.00 FEET, A CHORD BEARING N76°13'52"E A DISTANCE OF 126.51 FEET, AND AN ARC DISTANCE OF 130.91 FEET;
 THENCE N50°21'58"E TANGENT WITH THE LAST DESCRIBED CURVE A DISTANCE OF 198.57 FEET TO SAID SOUTHEASTERLY LINE OF RECEPTION NO. 2009065058;
 THENCE N61°51'35"E ALONG SAID SOUTHEASTERLY LINE A DISTANCE OF 157.56 FEET TO THE WESTERLY CORNER OF SAID RECEPTION NO. 2007004876;
 THENCE ALONG THE SOUTHWESTERLY LINE OF SAID RECEPTION NO. 2007004876 THE FOLLOWING THREE COURSES:

1. S39°57'54"E A DISTANCE OF 53.48 FEET;
2. THENCE S84°57'54"E A DISTANCE OF 77.76 FEET;
3. THENCE S39°57'54"E A DISTANCE OF 377.71 FEET TO THE POINT OF BEGINNING.

CONTAINING 28.247 ACRES, MORE OR LESS.

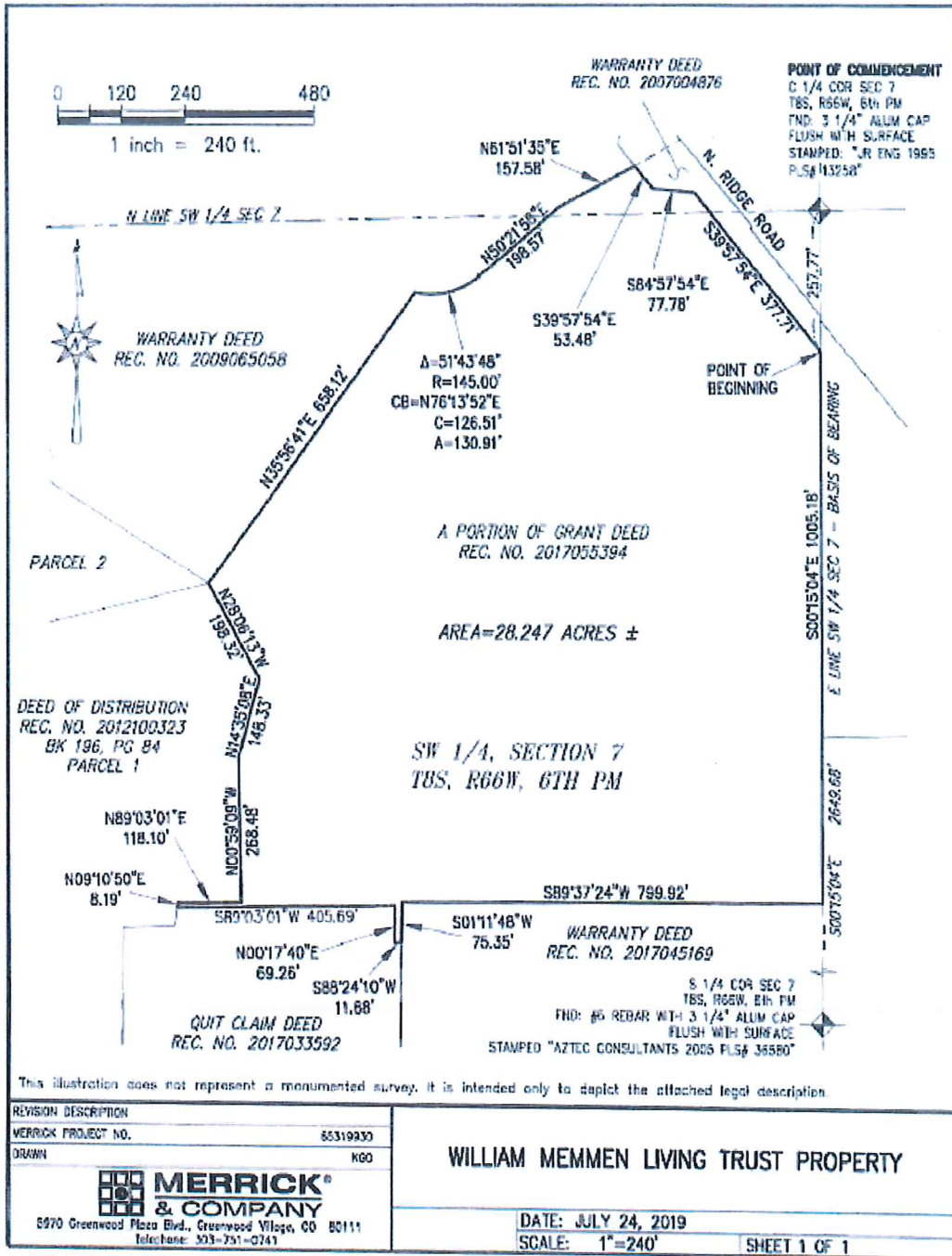


KENNETH G. ORELLE, PLS 24673
 DATE: JULY 24, 2019
 JOB NO. 65319930
 FOR AND ON BEHALF OF MERRICK & COMPANY

REVISION DESCRIPTION MERRICK PROJECT NO. 65319930 DRAWN KGO	WILLIAM MEMMEN LIVING TRUST PROPERTY
MERRICK & COMPANY 5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111 Telephone: 303-751-0741	DATE: JULY 24, 2019 SCALE: N/A SHEET 2 OF 2

Y:\SHEETS\65319930-MEMMEN_AJA_UPDATE_WITH_TORG_EXHIBIT\OFFICE_DATA\ADSS\CVL_ID_BASIC_DRAWING\65319930-MEMMEN_BOUNDARY.DWG

ILLUSTRATION FOR EXHIBIT A



Y:\SURVEY\55319333-MEMMEN ALTA UPDATE WITH TORO EXHIBIT\TORO DATA\WGS84.DWG ID: BASE DRAWING\19333 MEMMEN BOUNDARY.DWG

EXHIBIT B

Amend Boundary Map for FVMD

The boundaries of FVMD are hereby amended to be as follows (with the existing FVMD boundaries being shown as "Parcel 1" in the below depiction and the Inclusion Property being identified as "Parcel 2" in the below depiction):

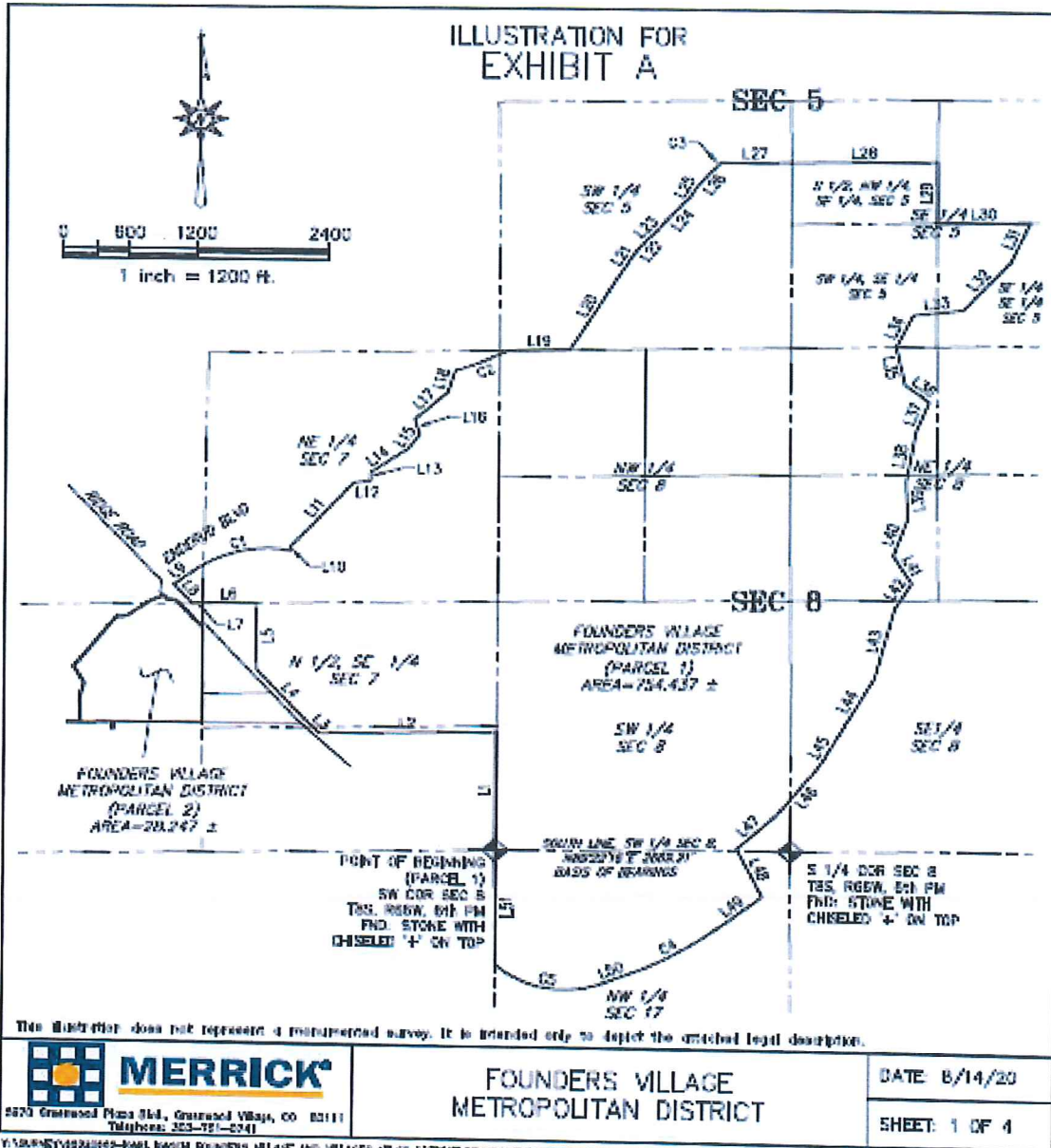


EXHIBIT C

Amend Boundary Map for District 9

The boundaries of District 9 after the exclusion of the Inclusion Property therefrom are generally modified as follows (with the Inclusion Property being shown as the cross-hatched parcel below):

