

**Town of Basalt, Colorado  
Ordinance No. 15  
Series of 2020**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,  
COLORADO, APPROVING AN EASEMENT AGREEMENT WITH THE  
ROARING FORK SCHOOL DISTRICT NO. RE-1**

**RECITALS:**

A. The Town of Basalt (the "Town") is a home-rule municipality. Section 1.3(G) of the Town Charter empowers the Town "to acquire, own, sell, lease, exchange, dispose of, or otherwise deal with real or personal property by ordinance without the need for an election."

B. Roaring Fork School District No. RE-1 (the "District") owns property commonly known as the Basalt Middle School.

C. The Town owns real property known commonly known as Arbaney Park and wishes to construct a waterline to the Park across the Basalt Middle School.

D. The District is willing to grant the Town an easement for the waterline across the Middle School property, as set forth in **Exhibit A** (the "Waterline Easement Agreement").

E. The Town Council believes it is in the best interests of the Town to approve the Waterline Easement Agreement and wishes to do so as set forth herein.

G. At a public meeting held on July 14, 2020, the Town Council considered approval of the Contract on first reading and scheduled a public hearing and second reading for the ordinance for July 28, 2020, at a meeting beginning no earlier than 6:00 P.M. at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

H. At a public hearing and second reading on July 28, 2020, the Town Council heard evidence and testimony as offered by the Town Staff and members of the public.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF  
THE TOWN OF BASALT, COLORADO, AS FOLLOWS:**

After recording please return to:  
Town of Basalt  
101 Midland Avenue  
Basalt, CO 81621

1. The foregoing recitals are incorporated herein as if set forth in full.
2. The Town Council hereby approves the Waterline Easement Agreement enclosed as **Exhibit A** and incorporated herein by this reference, and authorizes the Mayor to execute the same. The Town Council authorizes the Town Attorney to make clarifying edits to the Waterline Easement as necessary.
3. If any part, section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the Town Council hereby declares it would have passed this Ordinance and each part, section, subsection, sentence, clause, or phrase thereof regardless of the fact that any one or more parts, sections, subsections, sentences, clauses, or phrases be declared invalid.
4. This Ordinance shall be effective fourteen (14) days after final publication. This Ordinance after being fully executed, shall be recorded in the office of the Eagle County Clerk and Recorder.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON July 28, 2020, by a vote of 6 to 0 on July 14, 2020.

READ ON SECOND READING AND ADOPTED, by a vote of 7 to 0 on July 28, 2020.

TOWN OF BASALT, COLORADO

By:   
William G. Kane, Mayor

ATTEST:

By:   
Pamela Schilling, Town Clerk



First Publication: Thursday, July 23, 2020  
Final Publication: Thursday, August 6, 2020  
Effective Date: Thursday, August 20, 2020

**Exhibit A**

**WATERLINE EASEMENT AGREEMENT**

THIS WATERLINE EASEMENT AGREEMENT (“Agreement”) is made and entered this \_\_\_ day of \_\_\_\_\_, 2020, by and between the Roaring Fork School District No. RE-1 (the “District” or “Grantor”) and the Town of Basalt, Colorado, a Colorado home-rule municipal corporation (the “Town” or “Grantee”).

W I T N E S S E T H:

WHEREAS, the District owns real property located in Eagle County and Pitkin County, Colorado commonly known as the Basalt Middle School, and legally described in that deed recorded in the public records of Pitkin County, Colorado on March 27, 1967 at Reception No. 126931 and recorded in the public records of Eagle County, Colorado on July 18, 1991 at Reception No. 454157(the “District Property” or “Grantor Property”); and

WHEREAS, the Grantee owns real property in Eagle County, Colorado commonly known as Arbaney Park, and legally described as:

Arbaney Park, Basalt South Planned Unit Development, according to the Plat thereof recorded in the public records of Eagle County, Colorado on July 16, 1980 at Book 305 at Page 508.

(the “Town Property” or “Grantee Property”); and

WHEREAS, the District wishes to grant the Town a non-exclusive, perpetual easement over the District Property to construct, locate, operate, maintain, repair, and replace an underground waterline serving Arbaney Park (the “Water Service Line”), as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are incorporated by reference herein.
2. Grant of Easement – Permanent Waterline Easement – Grantor to the Grantee. Grantor hereby grants and conveys unto the Grantee, its successors and assigns, a perpetual, non-exclusive easement, twenty-feet (20’) in width under, across, and through that portion of the Grantor Property depicted and described in **Exhibit A** (the “Permanent Waterline Easement Area”), for the purpose of constructing, installing, operating, maintaining, repairing, replacing, and servicing an underground Water Service Line, including reasonable access thereto, subject to the following terms and conditions:

Return to:  
Town of Basalt, Colorado  
101 Midland Ave.  
Basalt, CO 81621

- a. After construction and installation of the Water Service Line, prior to accessing the Permanent Waterline Easement Area for routine operation, maintenance, repair, or service of the Water Service Line, the Grantee shall provide Grantor with at least 24 hours advance notice via telephone or email; provided, however, in the case of an emergency, advance notice is not required.
- b. After construction and installation of the Water Service Line, the Grantee shall repair, repave, restore, and/or reseed any disturbed area of the Permanent Easement Area to the condition it existed prior to installation, and to Grantor's reasonable satisfaction.
- c. The Water Service Line shall be buried to a minimum depth of 6 feet.
- d. Prior to any replacement of the Water Service Line, the Grantee shall provide Grantor with at least 21 days advance notice, including copies of any engineered plans and specifications of such work.
- e. The Grantor shall not construct or place any permanent structure of any kind or plant any tree, shrub, woody plant or nursery stock on any part of the Permanent Waterline Easement Area without the prior written consent of the Grantee. Notwithstanding the foregoing, Grantor may pave the surface of the Temporary or Permanent Waterline Easement Area with asphalt or similar materials and may utilize the area for transient uses (e.g., parking of vehicles), and may construct and maintain temporary structures within such area, including but not limited to temporary storage sheds, playground equipment, and sporting equipment.
- f. The parties recognize the Water Service Line will be located adjacent to a school building. Subject to such adjacent improvements, the Grantee shall have the right of subjacent and lateral support in its current condition as of the date of mutual execution hereof. Grantor shall take no action that would significantly impair the current status of lateral or subjacent support for the Water Service Line within the Permanent Waterline Easement Area. Likewise, Grantee recognizes the Water Service Line is adjacent to a school building, and Grantee represents and warrants that it will take no action that would significantly impair the lateral or subjacent support for the adjacent school building.
- g. In the event it is reasonably necessary for the District to utilize the Permanent Waterline Easement Area, or a portion thereof, for the construction of District facilities (e.g. foundation for a new building), the Parties agree to relocate the Permanent Waterline Easement Area and the Water Service Line located therein to a new location on the District Property on the following conditions:
  - i. The District shall provide at least 9 months advance notice to the Town of the need to relocate the Permanent Waterline Easement Area and Water Service Line, and provide information supporting such need to the Town as reasonably requested;

- ii. The Town shall provide the District with final engineered plans and specifications;
  - iii. The Parties shall record an amendment to this Agreement, identifying the relocated Permanent Waterline Easement Area;
  - iv. Upon relocation, the Water Service Line will be capable of serving the Town to the same extent as in its original location; and
  - v. The Town shall complete such relocation work at its own expense.
  - vi. Alternatively, the District may relocate the Permanent Waterline Easement Area and Water Service Line for any reason in its sole discretion upon the terms set forth above, but at its own expense. Prior to any relocation of the Water Service Line and Permanent Waterline Easement Area, the District shall provide the Town with copies of any engineered plans and specifications of such work. The Town shall have the opportunity to review such plans and provide any comments, concerns, and recommendations about such plans and specifications not later than 28 days thereafter, and the District shall promptly make appropriate revisions and refinements to accommodate and respond to such comments, concerns and recommendations so provided. Upon completion of the relocation, the Town shall have the opportunity to inspect and approve the final work.
3. Grant of Easement – Temporary Construction Easement – Grantor to the Grantee. Grantor hereby grants and conveys unto the Grantee, its successors and assigns, a temporary, non-exclusive easement over, under, across, and through that portion of the Grantor Property depicted and described in **Exhibit A** (the “Temporary Easement Area”), for the purpose of constructing and installing a Water Service Line, subject to the following terms and conditions:
- a. The Grantee shall repair, restore, and reseed any disturbed area of the Temporary Easement Area similar to the remainder of the Grantor Property to Grantor’s reasonable satisfaction.
  - b. This temporary construction easement shall automatically terminate upon completion of the installation of the Water Service Line.
4. No Liens. The Grantee shall keep the Permanent Waterline Easement Area and Temporary Easement Area free and clear of any mechanics’ or materialman’s liens for labor performed or material furnished within the Permanent Waterline Easement Area and Temporary Easement Area at the instance or request of the Grantee or anyone claiming thereunder.

5. Warranty of Title. Grantor represents and warrants that she has good title to the Grantor Property, free and clear of any encumbrances that would affect this Agreement.
6. Professional Fees. Each party hereto shall pay its own costs and attorney fees incurred in the preparation of this Agreement and exhibits hereto.
7. Severability. Should any portion of this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be deemed severable, shall not be affected, and shall remain in force and effect.
8. Entire Agreement. This Agreement is the entire agreement of the parties, and neither party has relied on any promises or representations except as expressly described herein. This Agreement may only be modified by a writing signed by all parties.
9. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. The District Court in and for Eagle County, Colorado, shall be the exclusive venue for any dispute arising hereunder. In the event of such a dispute, the prevailing party shall be entitled to reasonable expenses, including attorney fees, to the extent the court with jurisdiction deems an award of such expenses and fees just and reasonable under all circumstances.
10. Easement Runs with the Land, Binding on Successors and Assigns. This Agreement shall run with the land and be binding upon and inure to the benefit and/or burden of Grantor and Grantee, and their respective heirs, successors and assigns.
11. Recordation. This Agreement shall be recorded in the public records of Eagle County, Colorado and shall be deemed to run with the land.
12. Authority. The parties represent and warrant that they have full right and lawful authority to enter into this Agreement.
13. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one instrument.
14. Notices. All notices or other communications under this Agreement shall be in writing and shall be deemed to have been given upon personal service; or three (3) days after deposit in the U.S. mail, via registered or certified mail, postage prepaid and return receipt requested; or one day after deposit with an overnight courier service (which obtains a receipt evidencing delivery) and shall be addressed as follows:

To Grantor:

Roaring Fork School District No. RE-1  
1405 Grand Ave  
Glenwood Springs, CO 81601

To Grantee:

Town Manager  
Town of Basalt  
101 Midland Ave.  
Basalt, CO 81621

Either party or their successors or assigns may designate a change of name or address by written notice given in the same manner as provided above.

14. No Third-Party Beneficiaries. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Grantor and the Grantee and their successors and assigns.

15. No Waiver. No failure or delay of either party in the exercise of any right or remedy given to such party hereunder or the waiver by any party of any condition hereunder for its benefit shall constitute a waiver of any other or further right or remedy. No waiver by either party of any breach hereunder or failure or refusal by the other party to comply with its obligation shall be deemed a waiver of any other or subsequent breach, failure or refusal to so comply.

WHEREFORE, the parties have executed this Agreement effective as of the date first written above.

*~ Signature Pages Follow ~*

GRANTOR: ROARING FORK SCHOOL DISTRICT NO. RE-1


By: \_\_\_\_\_  
President

ATTEST:

By: \_\_\_\_\_  
Secretary



GRANTEE: TOWN OF BASALT:

By:   
William G. Kane, Mayor

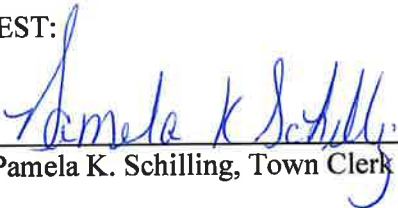
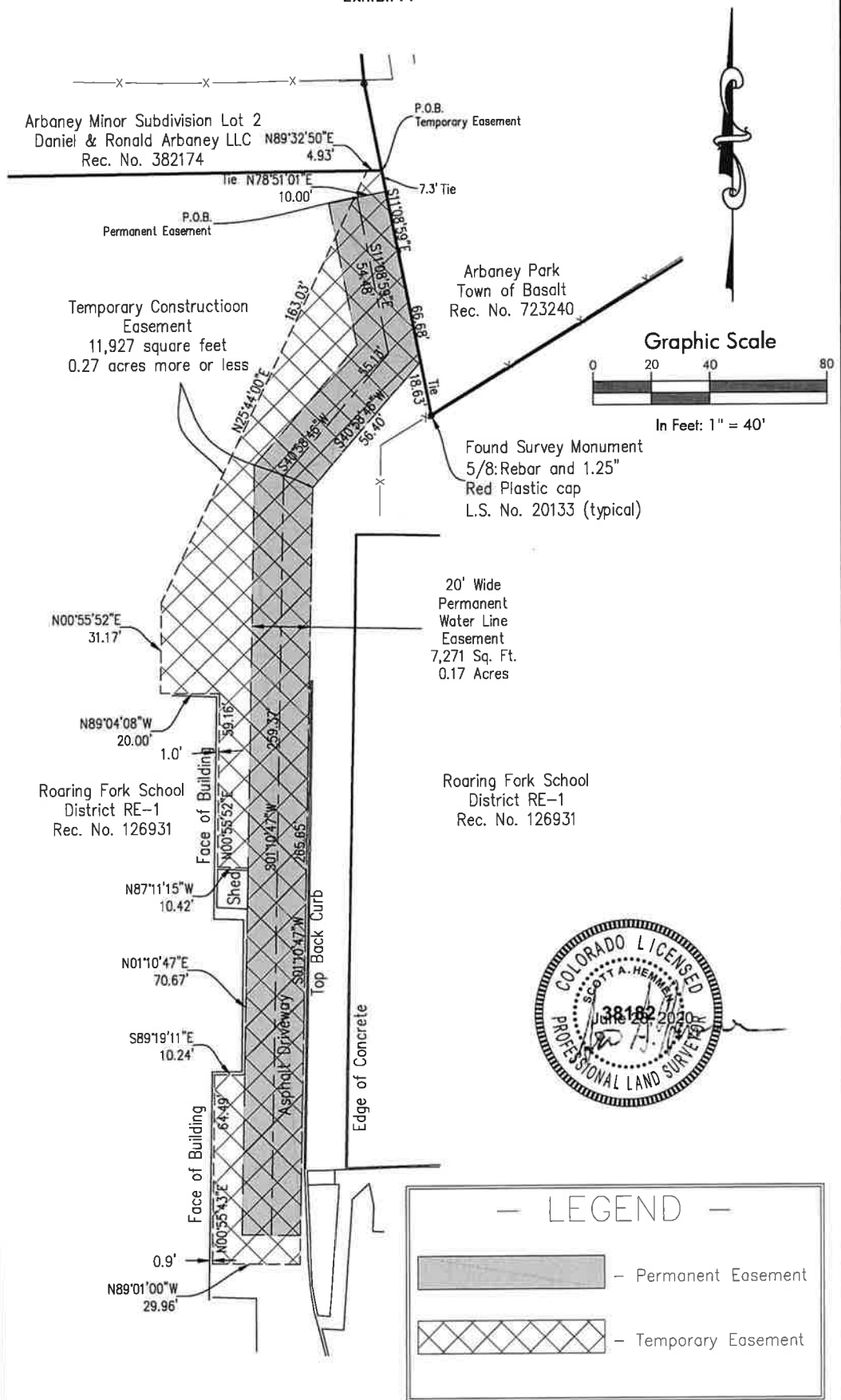
ATTEST:  
By:   
Pamela K. Schilling, Town Clerk



Exhibit A



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Water Line Easements  
Basalt Middle School

Job No: 1983-3125A 137  
 Drawn by: HS  
 Date: 1/21/2020  
 Approved: SH  
 File: ArbaneyPark\Joiners

Page No.  
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 of 3

## - Permanent Easement -

A permanent easement situated entirely within that Roaring Fork School District RE-1 Parcel as described at Reception Number (No.) 454157, County of Eagle, Colorado. Being more particularly described as follows:

Said easement being a strip of land twenty (20') feet in width with the sidelines lying ten (10') feet each side of the following described centerline with the sidelines of said strip being shortened or lengthened to form a strip exactly twenty (20') feet in width, said centerline line being more particularly described as follows:

Commencing at the coincidental angle point of said Reception No.454157, Arbaney Park as recorded at Reception No. 723240 and Lot 2, Arbaney Minor Subdivision as recorded at Reception No. 382174 with all bearings being relative to S11°08'59" E an assumed bearing between found monuments both being 5/8" diameter rebar and 1.25" Red Plastic Caps Stamped LS 20133, as shown hereon; thence S 11°08'59" E along the coincidental lines of said Reception No. 126931 and Reception No. 723240 a distance of 7.30 feet; thence S78°51'01"W a distance of 10.00 feet to the true point of beginning:

Thence S 11°08'59" E a distance of 54.48 feet;  
thence S 40°58'46"W a distance of 55.13 feet;  
thence S 01°10'47" W a distance of 259.37 feet to the point of termination, said strip contains 0.17 acres (7,271 square feet), more or less.



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Permanent Easement  
Basalt Middle School  
Water Line

|          |                     |
|----------|---------------------|
| Job No.  | 1983-3125A-137      |
| Drawn by | HS                  |
| Date     | 1/21/2020           |
| Approved | SH                  |
| File     | ArbaneyPark\joiners |

|          |      |
|----------|------|
| Page No. | 2    |
|          | of 3 |

# Temporary Construction Easement

## Temporary Construction Easement

A temporary construction easement situated entirely within that Roaring Fork School District RE-1 Parcel as described at Reception Number (No.) 454157, County of Eagle, Colorado. Being more particularly described as follows:

Beginning at the coincidental angle point of said Reception No. 454157, Arbaney Park as recorded at Reception No. 723240 and Lot 2, Arbaney Minor Subdivision as recorded at Reception No. 382174 with all bearings being relative to S11°08'59"E an assumed bearing between found monuments both being 5/8" diameter rebar and 1.25" Red Plastic Caps Stamped LS 20133, as shown hereon; thence S 11°08'59" E along the coincidental lines of said Reception No. 126931 and Reception No. 723240 a distance of 66.68 feet;  
 Thence S 40°58'46" W a distance of 56.40 feet;  
 Thence S 01°10'47" W a distance of 265.65 feet;  
 Thence S 89°01'00" W a distance of 29.96 feet;  
 Thence N 00°55'43" E a distance of 64.49 feet;  
 Thence S89°19'11" E a distance of 10.24 feet;  
 Thence N 01°10'47" W a distance of 165.40 feet;  
 Thence N 25°44'00" E a distance of 70.67 feet;  
 Thence N 87°11'15" W a distance of 10.42 feet;  
 Thence N 00°55'42" E a distance of 59.16 feet;  
 Thence N 89°04'08" W a distance of 20.00 feet;  
 Thence N 00°55'52" E a distance of 31.17 feet;  
 Thence N 25°44'00" E a distance of 163.03 feet to the point of beginning, said temporary easement containing 0.27 acres (11,927 square feet), more or less.



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|--|---|--|
| Temporary Construction Easement<br>Basalt Middle School<br>Waterline | Job No. 1983-3125A-137<br>Drawn by HS<br>Date: 1/21/2020<br>Approved: SH<br>File: ArbaneyPark.dwg | Page No.<br><div style="font-size: 24pt; font-weight: bold; margin: 5px 0;">3</div> of 3 |
|--|---|--|