

## **RESOLUTION NO. 2024-115**

### **A RESOLUTION APPROVING THE THIRD AMENDMENT TO THE PARTICIPATION AGREEMENT FOR DESIGN AND CONSTRUCTION OF STREAM RECLAMATION IMPROVEMENTS FOR MCMURDO GULCH**

**WHEREAS**, the Town of Castle Rock, Colorado (the “Town”) and Cherry Creek Basin Water Quality Authority (the “Authority”) are parties to the Participation Agreement for Design and Construction of Stream Reclamation Improvements for McMurdo Gulch, dated October 20, 2020, the First Amendment to same dated December 7, 2021, and the Second Amendment to same dated June 21, 2022 (collectively, the “Agreement”); and

**WHEREAS**, pursuant to the Agreement, the Town and the Authority have collaborated on the design and construction of the McMurdo Gulch Stream Reclamation Project (the “Project”), involving the Priority 1, Priority 2, and Priority 3 Improvements to the McMurdo Gulch; and

**WHEREAS**, the estimated total cost of the Project, including funds previously spent for design, is \$5,162,000.00 funded, or to be funded, by contributions from (i) a private developer in the amount of \$1,770,250.00 (34%); (ii) the Town in the amount of \$2,101,403.00 (41%); and (iii) the Authority in the amount of \$1,290,347.00 (25%); and

**WHEREAS**, the Authority is to contribute \$1,290,347.00 for the Project, which amount consists of \$170,121.00 previously contributed by the Authority, \$251,380.00 currently held by the Town and not spent for the construction of the Priority 1 and 2 Improvements, and \$868,846.00 in new funding; and

**WHEREAS**, the Town is to contribute \$2,101,403.00 for the Project, which amount consists of \$285,362.00 previously contributed by the Town, \$675,345.00 currently held by the Town and not spent for the construction of the Priority 1 and 2 Improvements, and \$1,140,696.00 in new funding; and

**WHEREAS**, subject to Town Council’s approval, the Town and the Authority have agreed to the terms and conditions governing the implementation of the construction of the Priority 3 Improvements portion of the Project (the “Third Amendment”).

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

**Section 1. Approval.** The Third Amendment to the Agreement between the Town and the Authority is hereby approved in substantially the same form as presented at tonight’s meeting, with such technical changes, additions, modifications, deletions, or amendments as the Town Manager may approve upon consultation with the Town Attorney. The Mayor and other proper Town officials are hereby authorized to execute the Third Amendment and any technical amendments thereto by and on behalf of the Town.

**Section 2. Encumbrance and Authorization for Payment.** In order to meet the Town's financial obligations under the Third Amendment to the Agreement, the Town Council authorizes the additional expenditure and payment by the Town in an amount not to exceed \$1,140,696.00, unless otherwise authorized in writing by the Town. The total authorized payment by the Town under the Agreement, the First Amendment, the Second Amendment, and the Third Amendment to the Agreement is \$2,101,403.00, inclusive of \$285,362.00 previously contributed by the Town, \$675,345.00 currently held by the Town and not spent for the construction of the Priority 1 and 2 Improvements, and \$1,140,696.00 in new funding authorized under this Resolution.

**PASSED, APPROVED AND ADOPTED** this 19<sup>th</sup> day of November, 2024, by the Town Council of the Town of Castle Rock, Colorado, on first and final reading, by a vote of \_\_\_\_ for and \_\_\_\_ against.

**ATTEST:**

**TOWN OF CASTLE ROCK**

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

\_\_\_\_\_  
Jason Gray, Mayor

**Approved as to form:**

**Approved as to content:**

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

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