

**INTERGOVERNMENTAL AGREEMENT**  
**METERING VAULT (Canyons Waterline Extension Project)**

**THIS AGREEMENT** ("Agreement") is effective the \_\_\_ day of \_\_\_\_\_ 2022 and is entered by and between the **Town of Castle Rock, a Colorado home rule municipality, acting by and through the Castle Rock Water Enterprise ("Castle Rock")**, the **Dominion Water and Sanitation District ("Dominion")**, and the **Parker Water and Sanitation District ("PWSD")** (collectively, the "Participants"), all quasi-municipal or municipal corporations and political subdivisions of the State of Colorado.

**RECITALS**

**WHEREAS**, the Participants are authorized and desire to enter into this Agreement regarding participation in and payment of the costs associated with the design and construction of a metering vault with an estimated 25.2 MGD capacity that is needed to measure flows through the Canyons Pipeline to deliver WISE and other water to the Participants (the "Vault")

**WHEREAS**, the Vault is intended to replace the meter owned by Castle Rock at Castle Rock's metering location at Ray Waterman as the primary meter for measuring flows to the Participants;

**WHEREAS**, the Participants desire to memorialize their participation in the costs associated with the design and construction of the Vault and the capacity in such Vault to be allocated between Castle Rock and Dominion; and

**WHEREAS**, PWSD shall contract for and lead the design and construction activities on behalf of the Participants under terms reasonably acceptable in the Denver Metropolitan market and shall oversee all aspects of the related contracts (the "Design Contract" and "Construction Contract").

**NOW THEREFORE**, in consideration of the foregoing Recitals, which are incorporated herein, the terms and conditions of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Participants agree as follows:

**SECTION 1. MANAGEMENT / ADMINISTRATION**

A. Meetings of Participants. The Participants shall meet as necessary to address items required under this Agreement and related to the design and construction of the Vault. Should any aspect of the design or any decision by the Participants relating to the design be judged by PWSD to have a detrimental financial, technical or operational impact on PWSD, then PWSD shall provide notice to the Participants objecting to the matter along with a detailed explanation of the basis for the objection, including any relevant information supporting the objection and any proposed alternatives acceptable to PWSD. If the Participants cannot resolve the objection to the satisfaction of PWSD within thirty (30) days of delivery of the objection, PWSD or any Participant may terminate this Agreement by providing written notice of such termination to each of the Participants within fifteen (15) days of expiration of the 30-day resolution period.

B. Design and Construction. PWSD shall contract for the design and construction activities under terms reasonably acceptable in the Denver Metropolitan market and shall oversee all aspects of the Design and Construction Contracts. The other Participants shall not be parties to the Design and Construction Contracts and shall have no liability thereunder. PWSD shall provide reports and documentation as may be reasonably requested by the Participants related to the design process and status of activities related thereto. Following the design, each Participant will be supplied with a complete set of the design documents and plans upon request. Prior to PWSD executing a Construction Contract, the Participants shall approve the total expenditure amount of the Construction Contract. If a Participant does not approve the total expenditure for the Construction Contract, it will have no rights to any use of the Vault and shall be subject to costs as set forth in Section 2, below.

## **SECTION 2. COSTS**

A. Allocation. The costs associated with the Vault design and construction shall be shared by the Participants on a pro rata basis as set forth in **Exhibit A**, which is attached hereto and incorporated herein. The costs in **Exhibit A** are estimates and shall be adjusted after the design is complete and again after the actual final design and construction costs have been incurred. PWSD is prohibited from incurring any costs in excess of those set forth in **Exhibit A**, as adjusted upon completion of the design, without unanimous consent of the Participants.

B. Remaining Funds. If, upon termination of this Agreement, there are funds remaining, such funds shall be refunded to the Participants pro-rata based upon the amount of funds each Participant contributed.

## **SECTION 3. BILLING**

Each Participant agrees to pay the amount set forth in **Exhibit A** to PWSD within forty-five (45) days of the date of the invoice following the execution of this Agreement. Failure of a Participant to pay the amounts due under this Agreement shall be a breach of this Agreement. Upon completion of the design, the amounts paid by each shall be adjusted based upon the final estimated costs. If additional costs are agreed upon, each Participant shall pay their share as agreed upon.

## **SECTION 4. REMEDIES**

A. In the event any Participant alleges any other Participant is in breach or default of this Agreement, the non-defaulting party shall first notify the defaulting party, and other Participants in writing of such default and specify the exact nature of the alleged default in such notice. Except in the case of non-payment of amounts due, the defaulting party shall have thirty (30) working days from receipt of such notice within which to cure such default before the non-defaulting party may exercise any of its remedies hereunder, provided that: (i) such default is capable of being cured, (ii) the defaulting party has commenced such cure within said 30-day period, and (iii) the defaulting party diligently prosecutes such cure to completion. If such default is not of a nature that can be cured in such thirty (30) day period, corrective action must be commenced within such period by the defaulting party and thereafter diligently pursued, but in no

event shall the cure period exceed one hundred twenty (120) days. In the case of default for non-payment of amounts due, the defaulting party shall have seven (7) working days from receipt of such notice within which to cure such default before the non-defaulting party may exercise any of its remedies hereunder.

B. All late payments shall be subject to a one-time late fee of 5% of the amount due.

C. All amounts due but unpaid shall be subject to interest at 1.5% on the invoiced amount per month from the date that the payment was originally due.

D. In the event of breach of any provision of this Agreement, in addition to contractual remedies, any party may seek from a court of competent jurisdiction temporary and/or permanent restraining orders, or orders of specific performance, to compel the other party to perform in accordance with the obligations set forth under this Agreement.

E. All remedies set forth in this Agreement shall be cumulative.

F. Nothing in this Agreement shall be deemed to constitute a waiver of immunity granted to the Participants under Colorado law.

## **SECTION 5. WITHDRAWAL OF A PARTICIPANT**

A Participant may withdraw from this Agreement upon ninety (90) days written notice to the other Participants. If, due to a Participant's withdrawal a redesign is necessary or changes to the construction are required, the withdrawing Participant shall pay the associated costs to accommodate the withdrawal. Except for the payments made per **Exhibit A** and the additional costs associated with the Participant's withdrawal, the withdrawing Participant shall have no further obligations or rights with respect to this Agreement. Additionally, no withdrawing Participant shall be refunded any amounts paid prior to the withdrawal pursuant to this Agreement.

## **SECTION 6. OWNERSHIP AND CAPACITY ALLOCATION**

A. PWSD shall be the sole owner of the Vault upon completion of construction and shall be responsible for its operation, maintenance, repair, and replacement, as necessary.

B. PWSD hereby grants to Dominion and Castle Rock the right to capacity in the Vault as set forth in **Exhibit A**.

## **SECTION 7. MISCELLANEOUS**

A. Further Obligations: This Agreement does not obligate the Participants to participate in any future agreements or any amendment of this Agreement. Performance under this Agreement confers the right to participate in construction, operation, and ownership of the Vault, in accordance with the ownership percentage and pro-rata share shown in **Exhibit A**, subject to future agreements or amendments to this Agreement.

B. Notices: All notices, correspondence and other communications required or permitted by this Agreement shall be in writing and may be delivered by one of the following means:

- 1) In person (by hand delivery or professional messenger service).
- 2) By first class mail. Any such notice sent by mail shall be deemed to have been duly given and received three (3) business days after the same is mailed within the continental United States.
- 3) By Express Mail of the U.S. Postal Service or Federal Express or any other courier service guaranteeing overnight delivery. Notices delivered by overnight service shall be deemed to have been given one (1) business day after delivery of the same to the U.S. Postal Service or private courier.
- 4) By facsimile transmission. If any notice is transmitted by facsimile transmission or similar means, the same shall be deemed given upon confirmation of transmission thereof.
- 5) By e-mail. If any notice is transmitted by e-mail, the same shall be deemed given upon confirmation of receipt thereof.

All notices shall be addressed as set forth in **Exhibit B** or at other such addresses as the Participants may hereafter or from time to time designate by written notice to the other Participants.

C. Annual Appropriation: All monetary obligations under this Agreement are subject to annual appropriation. This Agreement shall not be deemed to constitute a multi-fiscal year obligation or debt of any of the Participants.

D. Relationship of Participants. This Agreement does not and shall not be construed as creating a relationship of joint ventures, partners, or employer-employee between the Participants.

E. Liability of Participants. No provision, covenant or agreement contained in this Agreement, nor any obligations herein imposed upon each Participant nor the breach thereof, nor the issuance and sale of any bonds by a Participant, shall constitute or create an indebtedness of the other Participants within the meaning of any Colorado constitutional provision or statutory limitation. No Participant shall have any obligation whatsoever to repay any debt or liability of the other Participant.

F. Assignment. Neither this Agreement, nor any of a Participant's rights, obligations, duties or authority hereunder may be assigned in whole or in part by such Participant without the prior written consent of a majority in number of the other Participants. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed to be consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.

G. Modification. This Agreement may be modified, amended, changed or terminated, in whole or in part, only by an agreement in writing duly authorized by all of the Participants. No

consent of any third party shall be required for the negotiation and execution of any such agreement.

H. Waiver. The waiver of a breach of any of the provisions of this Agreement by a Participant shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or another provision of this Agreement.

I. Integration. This Agreement contains the entire agreement between the Participants and no statement, promise or inducement made by a Participant or the agent of a Participant that is not contained in this Agreement shall be valid or binding.

J. Severability. Invalidation of any of the provisions of this Agreement or of any paragraph, sentence, clause, phrase, or word herein, or the application thereof in any given circumstance, shall not affect the validity of any other provision of this Agreement.

K. Headings for Convenience Only. The headings, captions and titles contained herein are intended for convenience and reference only and are not intended to define, limit or describe the scope or intent of any of the provisions of this Agreement.

L. No Third Party Beneficiaries. There are no express or implied third-party beneficiaries of this Agreement. No third party has any right to enforce this Agreement.

M. Counterparts. This Agreement may be executed in counterparts, each of which, when combined, shall be deemed to be an original. Facsimile or scanned signatures shall be an acceptable form of execution of this Agreement.

[SIGNATURE PAGE(S) TO FOLLOW]

**APPROVED** by the Participants effective as of the date first set forth above.

	<p>DOMINION WATER AND SANITATION DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado, acting by and in its capacity as a water activity enterprise pursuant to Article 45.1, Title 37, C.R.S.</p> <p>BY: _____</p> <p>ITS: _____</p>
<p>PARKER WATER AND SANITATION DISTRICT</p> <p>BY: _____ Ron R. Redd, P.E., Manager</p>	

**ATTEST:**

**TOWN OF CASTLE ROCK,**  
a municipal corporation and political subdivision of the State of Colorado, acting by and through the Castle Rock Water Enterprise

\_\_\_\_\_  
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

**EXHIBIT A**

**METERING VAULT  
ESTIMATED COSTS AND CAPACITY ALLOCATION**

1. The estimated capacity of the Vault shall be 25.2 MGD.
2. The total estimated costs are Six Hundred Fifty-Eight Thousand Dollars (\$658,000.00), which are comprised of an estimated amount of Fifty Thousand Dollars (\$50,000.00) for design costs and an estimated amount of Six Hundred Eight Thousand Dollars (\$608,000.00) for construction costs.
3. The costs and capacity shall be allocated as follows
  - Castle Rock: 21/25.2 (83.33%)
  - Dominion: 4.2/25.2 (16.67%)

**EXHIBIT B**

**METERING VAULT**

**CONTACT INFORMATION  
FOR PARTICIPANTS**

<p>Castle Rock Water 175 Kellogg Court Castle Rock, CO 80109 Attn: Mark Marlowe Facsimile: 303-688-0437 E-mail: mmarlowe@crgov.com</p> <p>With a copy to: Town of Castle Rock 100 N. Wilcox Street Castle Rock, CO 80104 Attn: Michael J. Hyman, Town Attorney Facsimile: 303-660-1024 E-mail: mhyman@crgov.org</p>	<p>Dominion Water &amp; Sanitation District 1805 Shea Center Drive, Suite 210 Highlands Ranch, CO 80129 Attn: Facsimile: 303-232-9088 E-mail: @sterlingranchcolorado.com</p>
<p>Parker Water and Sanitation District 18100 E. Woodman Drive Parker, CO 80134 Attn: Ron Redd Facsimile: (303) 901-0175 E-mail: rredd@pwsd.org</p>	