



**To:** Honorable Mayor and Members of Town Council

**Through:** David L. Corliss, Town Manager

**From:** Mark Marlowe, P.E., Director of Castle Rock Water

**Title** **Resolution Approving a Purchase and Sale Agreement with XXXX for the Deer Creek Water Rights and Associated Real Property** *[Deer Creek Golf Course, Jefferson County, Colorado]*

---

### **Executive Summary**

This memorandum is to obtain Town Council's approval of a Resolution (see **Attachment A**) approving a purchase and sale agreement with XXXX to purchase what is collectively known as the "Deer Creek" water rights and associated real property for \$6 million dollars. The "Deer Creek" water rights include water rights that have been used in recent times to irrigate a golf course located along the northern edge of E470 between Kipling and Ken Caryl Road. The water rights include several different individual water rights (Glyn Plym Ditch, Deer Creek Canon Ditch, Tinker and Shaffer Reservoir, Shaffer Ditch, Couch Ditch, Meadow Ranch Reservoirs, and the Mann Reservoir Enlargement) which are further discussed in **Attachment B**. There are some very senior water rights in this mix and some junior water rights as well. These water rights will have to be taken through water court to be changed for storage in Chatfield Reservoir and for municipal use in Castle Rock. The estimated amount of water that will be approved through water court for these water rights is 110 acre feet (AF). It is important to understand that the actual amount of water awarded in water court could be significantly less or more than 110 AF.

Castle Rock Water has been looking at trying to purchase these water rights since 2020. Recently, Dominion Water and Sanitation District (Dominion) and Castle Rock Water have been working together to get the owner interested in selling the water rights without putting them on the open market. The owner has agreed to sell the water rights and related property for \$6M. The related property includes approximately 128 acres of golf course land that is zoned as open space as well as interests in reservoirs, easements and other infrastructure to manage the water rights. Castle Rock Water and Dominion have agreed verbally to split the cost and the water rights in half assuming their respective Council and Board approve the deal. Castle Rock would initially purchase all of the rights directly from the seller. Subsequently, Castle Rock Water would sell a half interest to Dominion through separate agreement.

### **Notification and Outreach Efforts**

Notification and outreach efforts are not applicable to this item.

## **History of Past Town Council, Boards & Commissions, or Other Discussions**

This item was presented to the Castle Rock Water Commission (CRW Commission) on May 25, 2022. The CRW Commission voted unanimously to recommend Council approve the Resolution as presented.

### **Discussion**

There are limited opportunities to purchase senior renewable water rights especially where the water rights are not competitively bid on the open market. Castle Rock Water has been interested in purchasing these water rights for a number of years now because these water rights can be collected in Chatfield Reservoir. As such, no new infrastructure beyond water is already planned for our existing long term renewable water program will be necessary to fully develop and use these water rights. The water rights compose a number of ditches on Deer Creek and Massey Draw, both of which flow into Chatfield Reservoir naturally. **Attachment C** provides a map of the water rights operation as they are currently diverted and used.

Castle Rock Water has obtained concurrence from the current owner of the water rights to sell those water rights and associated property, easements, and other assets for \$6M in cash. Other key terms of the proposed purchase and sale agreement include:

Cash will be paid to the seller at closing  
60-day due diligence period  
Closing scheduled within 60 days of due diligence completion  
Earnest money of \$100,000 to go towards purchase price  
Water and assets being sold “as is”  
Title insurance and title opinion to be provided by seller  
Castle Rock Water and Dominion will take all risk in water court.

Castle Rock Water is proposing a purchase price above current water rights market values to avoid having the water rights sold in a competitive bid on the open market. The last competitive bid was for water rights being sold on the South Platte River by Castle Pines North Metropolitan District. The going rate for those water rights was \$XXXX. Castle Rock Water has had an appraisal completed on the real property that will be purchased as part of this agreement. The approximate value of the property has been appraised at \$XX per square foot or \$XM, see **Attachment D**. Taking this into account and assuming an outcome of 110 AF of useable water supply from water court, the per acre foot cost of the water will be approximately \$XXX.

Once this purchase is complete, assuming it is approved by Council, Castle Rock Water will enter into a separate agreement with Dominion to sell a half interest in the water rights to Dominion. Castle Rock and Dominion will then coordinate on the timing and approach to water court and share costs of water court. Castle Rock and Dominion will also share costs associated with the maintenance of the open space property in the near term. In the longer term, Castle Rock and Dominion will work together to maximize returns on the real property either through a sale, lease, or other management form.

### **Budget Impact**

These water rights are not currently identified in the 2022 budget. Capital reserves are available in the Water Resources Fund to complete the purchase. The final budget impact to Castle Rock will be \$3M once the sale of a fifty percent interest in the water

rights to Dominion is completed. A budget amendment will be necessary and, if Council approves the resolution, will be completed. While these water rights are not budgeted in the near term, Castle Rock continues to grow and opportunities to expand our long term renewable water portfolio will benefit existing customers to increase the reliability of supplies already acquired and planned and future customers by providing an additional resource to support those potential new customers.

### **Staff Recommendation**

Castle Rock Water staff recommend approval of the resolution as introduced by title.

### **Proposed Motion**

*“I move to approve the Resolution as introduced by title.”*

### **Alternative Motions**

*“I move to approve the resolution as introduced by title, with the following conditions: (list conditions).”*

*“I move to continue this item to the Town Council meeting on \_\_\_\_\_ date to allow additional time to (list information needed).”*

### **Attachments**

Attachment A:	Resolution
Exhibit 1:	Purchase and Sale Agreement
Attachment B:	Any additional documents
Attachment C:	
Attachment D:	