

AGREEMENT FOR PURCHASE AND SALE OF RIDGEGATE PIPELINE CAPACITY

This AGREEMENT FOR PURCHASE AND SALE OF RIDGEGATE PIPELINE CAPACITY (“Agreement”) is made and entered into this ____ day of _____, 2022, by and between the TOWN OF CASTLE ROCK, a home rule municipality and political subdivision of the State of Colorado, by and through Castle Rock Water Enterprise (“Castle Rock”), and STONEGATE VILLAGE METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (“Stonegate”) (Castle Rock and Stonegate may be referred to herein individually as a “Party” and collectively as the “Parties”).

RECITALS

A. The Parties are parties to the South Metro WISE Authority Formation and Organizational Intergovernmental Agreement (“Organizational Agreement”), the primary purpose of which is to create the South Metro WISE Authority (“Authority”) to facilitate the WISE Project (as defined in the Organizational Agreement); and

B. The Parties are also parties to the Intergovernmental Water Infrastructure Cost Sharing, Construction and Capacity Allocation Agreement (the “Ridgeway Construction Agreement”), dated June 6, 2016, which agreement set forth certain provisions and allocations of capacity regarding the Ridgeway Pipeline (as defined in the Ridgeway Construction Agreement); and

C. Pursuant to Section 14 of the Organizational Agreement and Section 4 of the Ridgeway Construction Agreement, the Parties are authorized to sell and convey their rights in the Ridgeway Pipeline to one or more other Members without restriction; and

D. Pursuant to the Ridgeway Construction Agreement, Stonegate is the original holder of a peak flow capacity of 3.00 million gallons per day (“mgd”) of in the Ridgeway Pipeline, which equates to of 19.9% of the total capacity of the Ridgeway Pipeline (the “Stonegate Ridgeway Pipeline Capacity”), as depicted in Exhibit A attached hereto; and

E. Pursuant to that certain Agreement for Purchase and Sale of Western Pipeline and Ridgeway Pipeline Capacity dated April 17, 2019, by and between Castle Rock and the Denver Southeast Suburban Water and Sanitation District, d/b/a Pinery Water and Wastewater District (“Pinery”), Castle Rock previously acquired 1.00 mgd of Pinery’s interest in the Ridgeway Pipeline, as shown in Exhibit A; and

F. Stonegate desires to sell to Castle Rock, and Castle Rock desires to acquire from Stonegate, 2.5 mgd of the Stonegate Ridgeway Pipeline Capacity, which equates to 16.58% of the total capacity of the Ridgeway Pipeline (the “Purchased Capacity”); and

G. The Parties understand that contemporaneously with this Agreement Stonegate intends to convey to the Parker Water and Sanitation District the remaining 0.5 mgd of the Stonegate Ridgeway Pipeline Capacity, which equates to 3.32% of the total capacity of the Ridgeway Pipeline; and

H. The Parties understand that following Stonegate's conveyance of the separate portions of the Stonegate Ridgeway Pipeline Capacity to Castle Rock (2.5 mgd) and PWSD (0.5 mgd), Stonegate will no longer have any interest in the Ridgeway Pipeline; and

I. The Parties desire to enter into this Agreement in order to set forth their mutual understanding and the terms and conditions upon which Stonegate will sell to Castle Rock and Castle Rock will acquire from Stonegate the Purchased Capacity.

J. It is the intention of the Parties that all prior negotiations, discussions, offers and agreements between them regarding the purchase of such rights be merged and incorporated in this Agreement, except as otherwise stated.

AGREEMENT

In consideration of the mutual promises and covenants herein contained, the recitals set forth above which are hereby incorporated, and other good and valuable consideration, the receipt and sufficient of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. All capitalized terms in this Agreement not otherwise defined herein shall have the meaning(s) as defined in the Organizational Agreement and/or the Ridgeway Construction Agreement, as the case may be.

2. Sale of Stonegate Ridgeway Pipeline Capacity. Subject to the terms of this Agreement, Stonegate agrees to sell the Purchased Capacity to Castle Rock and to transfer to Castle Rock all rights and responsibilities of Stonegate associated therewith, said Purchased Capacity being 2.5 mgd or 16.58% of the total capacity of the Ridgeway Pipeline consistent with the Ridgeway Construction Agreement.

3. Purchase Price and Terms. The total purchase price for the Purchased Capacity is Three Million Two Hundred Seventy-Two Thousand Nine Hundred Eighty-Eight Dollars (\$3,272,988) (the "Purchase Price"). The Purchase Price shall be paid by Castle Rock to Stonegate in full on or before seven (7) days after the Effective Date and shall be made by any means mutually agreeable to the Parties.

4. Delivery of Purchased Capacity. Upon receipt of the Purchase Price, Stonegate shall deliver to Castle Rock an executed Bill of Sale (the "Bill of Sale") in substantially the form attached hereto as **Exhibit A**. Upon delivery of the Bill of Sale, Castle Rock shall have full use of the Purchased Capacity and shall assume all rights and responsibilities of Stonegate associated therewith as set forth in the Ridgeway Construction Agreement and any other applicable agreements. Castle Rock shall be responsible, with cooperation from Stonegate as needed, for notifying the Authority and all other parties to the Ridgeway Construction Agreement and any other applicable agreements of the new allocation of their respective capacities in the Ridgeway Pipeline resulting from this Agreement as shown in Exhibit A.

5. Representations, Covenants, and Agreements of Stonegate. Stonegate represents and covenants as follows:

a. Stonegate is a political subdivision duly organized and existing under the Constitution and laws of the State of Colorado. Stonegate has taken all necessary actions and is duly authorized to enter into this Agreement and to carry out its obligations hereunder.

b. There is no litigation or proceeding pending or, to the best of Stonegate's knowledge, threatened against Stonegate affecting the right of Stonegate to execute this Agreement or the ability of Stonegate to take the actions required hereunder or to otherwise comply with the obligations contained herein.

c. Stonegate covenants and agrees to comply with any applicable covenants and requirements set forth in the Organizational Agreement and the Ridgeway Construction Agreement and to take such actions as necessary to facilitate the transfer of the Purchased Capacity pursuant to the terms thereof.

6. Representations and Covenants of Castle Rock. Castle Rock represents and covenants as follows:

a. Castle Rock is a political subdivision of the State of Colorado which has the lawful authority to acquire the Purchased Capacity from Stonegate.

b. Castle Rock shall not pledge or assign its right, title and interest in and to: (1) this Agreement; or (2) the Purchased Capacity and attendant rights and obligations that may be derived under this Agreement or assign, pledge, mortgage, encumber or grant a security interest in its right, title and interest in, to and under this Agreement or the Purchased Capacity until such time as the Purchase Price has been delivered to Stonegate.

c. There is no litigation or proceeding pending against Castle Rock affecting the right of Castle Rock to enter into this Agreement and perform its obligations hereunder or thereunder.

d. Castle Rock shall be responsible for applying for, obtaining, and complying with any and all necessary requirements for Castle Rock's use of the Purchased Capacity under the Organizational Agreement and the Ridgeway Construction Agreement, and to take all actions necessary to facilitate the transfer of the Purchased Capacity pursuant thereto.

7. Future Cooperation. Stonegate and Castle Rock, for themselves, their respective agents, representatives and assigns, agree to provide to each other and the Authority, its agents, representatives, experts and attorneys, such information and documentation as may be reasonably necessary to implement this Agreement.

8. Notices. Notices under this Agreement and other mailings to the Parties shall be sent to the Parties at the addresses for notifications on file with the Authority and a copy of any notices hereunder shall be sent to the Authority.

9. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto.

10. Anti-Merger Clause. This Agreement shall not merge with either the Organizational Agreement or the Ridgeway Construction Agreement referenced herein.

11. Execution. This Agreement may be executed and transmitted by electronic methods and in duplicate originals. When each Party has executed a copy thereof, such copies taken together shall be deemed a full and complete agreement between the Parties. The date this Agreement is last signed by either Party shall be the effective date ("Effective Date").

12. Agents. Castle Rock and Stonegate each warrant that neither has retained any real estate broker or real estate agent who would be due a commission or other fee as a result of the closing of this transaction.

13. Modification of Agreement. No subsequent modification of any of the terms of this Agreement shall be valid or enforceable unless made in writing and signed by both Parties hereto.

14. No Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to Castle Rock and Stonegate, and their respective successors and assigns, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on this Agreement. It is the express intention of Castle Rock and Stonegate that any person other than Castle Rock or Stonegate receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

15. Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

16. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Colorado. Any legal action concerning the provisions hereof shall be brought in Douglas County, Colorado.

17. Non-Waiver of Governmental Immunity. The parties, their directors, officers, agents and employees are relying upon and do not waive or abrogate, or intend to waive or abrogate by any provision of this Agreement the monetary limitations or any other rights immunities or protections afforded by the Colorado Governmental Immunity Act, C.R.S §§ 24-10-101, et. seq., as the same may be amended.

18. Entire Agreement. Other than the Organizational Agreement and the Ridgeway Construction Agreement, this Agreement constitutes the entire understanding between the Parties

relating to the subject hereof, and any prior agreements pertaining hereto, whether oral or written, have been merged and integrated into this Agreement.

[remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, Castle Rock and Stonegate have executed this Agreement effective as of the last date set forth below.

**STONEGATE VILLAGE METROPOLITAN
DISTRICT**

By:_____

Name: Lisa Hyvonen

Title: President

Date:_____

ATTEST:

By:_____

Name:_____

Title:_____

TOWN OF CASTLE ROCK

By:_____

Name:_____

Title:_____

Date:_____

ATTEST:

By:_____

Name: Lisa Anderson

Title: Town Clerk

APPROVED AS TO FORM:

By:_____

Name: Michael Hyman

Title: Town Attorney

APPROVED AS TO CONTENT:

By:_____

Name: Mark Marlowe

Title: Director of Castle Rock Water

EXHIBIT A
TO AGREEMENT FOR PURCHASE AND SALE
OF RIDGEGATE PIPELINE CAPACITY

Ridgegate Pipeline Capacity and Proposed Conveyances

Current Ridgegate Pipeline Capacities

Authority Member	Peak Flow (mgd)	Ownership Percentage
Dominion	3.98	26.4%
PWSD	3.60	23.9
Castle Rock	4.0	26.5%
Pinery	0.5	3.3%
Stonegate	3.0	19.9%

Proposed Conveyances of Stonegate Ridgegate Pipeline Capacity (2022)

Selling Member	Acquiring Member	Peak Flow Acquired (mgd)	Ownership Percentage Acquired
Stonegate	Castle Rock	2.5 mgd	16.58%
Stonegate	PWSD	0.5 mgd	3.32%

Ridgegate Capacities after Proposed Stonegate Conveyances (2022)

Authority Member	Peak Flow (mgd)	Ownership Percentage
Dominion	3.98	26.4%
PWSD	4.1	27.22%
Castle Rock	6.5	43.08%
Pinery	0.5	3.3%
Stonegate	-	-

**EXHIBIT B
TO AGREEMENT FOR PURCHASE AND SALE
OF RIDGEGATE PIPELINE CAPACITY**

[Form of Bill of Sale]

**ASSIGNMENT AND BILL OF SALE
RIDGEGATE PIPELINE CAPACITY**

KNOW ALL PERSONS BY THESE PRESENTS that the Stonegate Village Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (“Stonegate”), in consideration of the receipt of the sum of _____ Dollars (\$_____), the receipt whereof is hereby acknowledged, has assigned, granted, bargained, sold, conveyed, transferred and delivered and by these presents does assign, bargain, sell, grant, convey, transfer and deliver unto the Town of Castle Rock, a home rule municipality and political subdivision of the State of Colorado, by and through Castle Rock Water Enterprise (“Castle Rock”), and Castle Rock hereby assumes and accepts, the following goods, rights and interests here set forth:

2.5 million gallons per day (mgd) of Stonegate’s capacity in the Ridgeway Pipeline, which equates to 16.58% of the total capacity, as such Ridgeway Pipeline is described in that certain Ridgeway Pipeline Intergovernmental Water Infrastructure Cost Sharing, Construction and Capacity Allocation Agreement, dated June 6, 2016, and all rights and responsibilities of Stonegate associated therewith.

TO HAVE AND TO HOLD the same unto Castle Rock and its assigns and successors forever, and Stonegate does covenant and agree to and with Castle Rock to warrant and defend the rights in Stonegate hereby conveyed against all and every person and persons whomsoever, subject to the terms, conditions, covenants, and agreements set forth in that certain Agreement for Purchase and Sale of Ridgeway Pipeline Capacity dated _____, 2022, by and between Castle Rock and Stonegate.

1. Nothing herein shall be construed as conveying or shall convey or otherwise alter or affect any subscription or other interests of Stonegate pursuant to the South Metro WISE Authority Formation and Organizational Intergovernmental Agreement.

2. This Bill of Sale may be executed in one or more counterparts, each of which shall be an original, but all of which when taken together shall constitute one Bill of Sale. In addition, the parties agree to recognize signatures of this Bill of Sale transmitted by telecopy or email as if they were original signatures.

[remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, Castle Rock and Stonegate have executed this Bill of Sale effective as of the last date set forth below.

**STONEGATE VILLAGE METROPOLITAN
DISTRICT**

By:_____

Name: Lisa Hyvonen

Title: President

Date:_____

ATTEST:

By:_____

Name:_____

Title:_____

TOWN OF CASTLE ROCK

By:_____

Name:_____

Title:_____

Date:_____

ATTEST:

By:_____

Name: Lisa Anderson

Title: Town Clerk

APPROVED AS TO FORM:

By:_____

Name: Michael Hyman

Title: Town Attorney

APPROVED AS TO CONTENT:

By:_____

Name: Mark Marlowe

Title: Director of Castle Rock Water