

**TOWN OF CASTLE ROCK / DOMINION WATER
AND SANITATION DISTRICT
CANYONS PIPELINE CAPACITY LICENSE AGREEMENT**

DATE: August 16, 2016.

PARTIES: **TOWN OF CASTLE ROCK** acting by and through the **TOWN OF CASTLE ROCK WATER ENTERPRISE**, a Colorado home rule municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (“Town”).

DOMINION WATER AND SANITATION DISTRICT, acting by and through its **STERLING RANCH WATER ACTIVITY ENTERPRISE**, 8390 E. Crescent Parkway, Suite 500, Greenwood Village, Colorado 80111 (“Dominion”).

WHEREAS, the Town and Dominion, through the South Metro WISE Authority (the “WISE Authority”), are participants in the "WISE Partnership - Water Delivery Agreement between Denver Water, the City of Aurora, acting by and through its Utility Enterprise, and the South Metro WISE Authority" ("WDA") which provides for delivery of water from Denver Water/Aurora Water to the WISE Authority;

WHEREAS, the Town has entered into the Canyons Pipeline IGA (as defined herein) which provides for the construction, and the Town’s acquisition of capacity in a 36-inch waterline and related infrastructure to be constructed by Parker Water and Sanitation District, as further described in the Canyons Pipeline IGA;

WHEREAS, the Town and Dominion support regional water supply projects, recognizing such projects benefit participants by reducing duplication of facilities and operations, thereby reducing the costs to the customers of the Town and Dominion;

WHEREAS, Dominion and the Town seek to identify infrastructure that they may use jointly or cooperatively to facilitate efficient and cost-effective delivery of water service to their customers;

WHEREAS, Dominion has determined that it needs capacity in the Canyons Pipeline (as defined herein) in order to utilize water it will receive under the WDA;

WHEREAS, Dominion desires to secure 4.2 million gallons per day (“MGD”) of the Town’s license to utilize capacity in the Canyons Pipeline;

WHEREAS, the parties have reached agreement on the terms and conditions of such license to Dominion of a portion of the designated Canyons Pipeline interest of the Town.

AGREEMENT

NOW THEREFORE, in consideration of the mutual benefits and obligations set forth in this Agreement and other good and valuable consideration, the Town and Dominion agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 Definitions. All capitalized terms used herein shall have the following meanings under this Agreement:

Agreement means this Town of Castle Rock/Dominion Water and Sanitation District Canyons Pipeline Capacity License Agreement.

Additional License Fees means any payment required by this Agreement not covered under Base License Fees, and Dominion's pro rata share of all operational, maintenance and standby costs imposed on the Town under the PWSD Infrastructure Operations Agreement, including Variable Operating Costs.

Appropriation means the procedure by which the Board of Directors specifically appropriates funds for a purpose. The term "Appropriation" includes an initial Appropriation and any Supplemental Appropriation.

Base License Fees means the quarterly License payments required of Dominion during the License Term for and in consideration of the right to possess and use the Licensed Capacity as provided in Section 4.2.

Board Authorized Representative means the person or persons authorized by resolution of the Board of Directors to perform any act or execute any document on behalf of the Dominion with respect to this Agreement.

Board of Directors means the Board of Directors of the Dominion Water and Sanitation District as the same is constituted during the term of this Agreement.

Business Day means any day, other than Saturday or Sunday, or a legal holiday.

Canyons Pipeline means the 36-inch pipeline, pump station and associated infrastructure to be constructed by PWSD in accordance with the Canyons Pipeline IGA.

Canyons Pipeline IGA means the Town of Castle Rock and Parker Water and Sanitation District Intergovernmental Water Infrastructure Cost Sharing, Design, Construction and Capacity Allocation Agreement dated _____, 2016.

Director of Utilities means the Town's Director of Utilities or the written designee of the Director of Utilities (which designee shall also be a duly authorized officer or other representative of the Town).

Effective Date means the first day of the month following the Town's acquisition of the Licensed Capacity under the Canyons Pipeline IGA.

Event(s) of Default means any event as defined in Section 11.1 or 11.3 of this Agreement.

Event of Nonappropriation means the termination and non-renewal of this Agreement by Dominion's exercise of its right, for any reason, to not enact by the last day of each Fiscal Year an appropriation resolution or ordinance for the ensuing Fiscal Year which includes (a) amounts authorized and directed to be used to pay all License Option Payments, (b) amounts authorized and directed to be used to pay all Base License Fees and (c) sufficient amounts to pay such Additional License Fees as are estimated to become due.

Fiscal Year means a calendar year.

Force Majeure means, without limitation, the following: strikes, lockouts, or other industrial disturbances, acts of public enemies, orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials or any civil or military authority, insurrection, riots, landslides, earthquakes, fires, storms, droughts, floods, explosions, breakage or accidents to machinery, transmission pipes or canals, or any other cause or event not within the control of Town or Dominion.

Hazardous Substance means and includes: (a) the terms "hazardous substance," "release and removal" which, as used herein, shall have the same meaning and definition as set forth in paragraphs (14) (22) and (23), respectively, of Title 42 U.S.C. §9601 and in Colorado law, provided, however, that the term "hazardous substance" as used herein shall also include "hazardous waste" as defined in paragraph (5) of 42 U.S.C. §6903 and "petroleum" as defined in paragraph (8) of 42 U.S.C. §6991; (b) the term "superfund" as used herein means the Comprehensive Environmental Response, Compensation and Liability Act, as amended, being Title 42 U.S.C. §9601 et seq., as amended and any similar State statute or local ordinance applicable to the Project, including, without limitation, Colorado rules and regulations promulgated, administered and enforced by any governmental agency or authority pursuant thereto; and (c) the term "underground storage tank" as used herein shall have the same meaning and definition as set forth in paragraph (1) of 42 U.S.C. §6991.

Initial Term means the period that commences on the Effective Date and terminates on December 31 of the same Fiscal Year.

Interest Rate: means 3.55% per annum, calculated as of the date of this Agreement as the weighted average interest rate for all outstanding Castle Rock Utilities debt, plus 1%.

License Fees means the combined Base License Fees and Additional License Fees due under this Agreement.

License Option Payment means the quarterly payments in the same amount as Base License Fees, accruing prior to the Effective Date as provided in Section 4.4.

License Term means the Initial Term and any Renewal Terms as to which Dominion may exercise its option to renew this License by affecting Appropriations of funds for the payment of Base License Fees, License Option Payments, and Additional License Fees during such Renewal Term.

License Option Term means the time from execution of this agreement to the Effective Date.

License Value the cost of the Licensed Capacity equal to a percentage of the final cost of the Canyons Pipeline, as such costs are determined under the Canyons Pipeline IGA. As of the date of execution of this Agreement, the pre-construction License Value is estimated to be \$4,689,369 based on 4.2 MGD of Licensed Capacity.

Licensed Capacity means 4.2 MGD of the TCR Canyons Pipeline Interest licensed to Dominion under this Agreement.

Permitted Encumbrances with respect to the Licensed Capacity, means: (a) easements, covenants, restrictions, liens and encumbrances (if any) to which title to any portion of the Canyons Pipeline was subject when the Town Acquired the Licensed Capacity, and (b) terms conditions and restrictions on the use of the Licensed Capacity by Town or Dominion under the terms of the Canyons Pipeline IGA.

PWSD: means the Parker Water and Sanitation District.

PWSD Infrastructure Operations Agreement: means the agreement between the Town and PWSD (however such agreement is finally captioned) governing the ownership, on-going operation and the “wheeling” of water through the PWSD infrastructure, including the Canyons Pipeline, which will be executed prior to the Effective Date. This Agreement is conditioned on Dominions acceptance of the terms of the PWSD Infrastructure Operations Agreement prior to the Effective Date, which consent shall not be unreasonably withheld.

Prepayment Price means the unamortized balance of the License Value as of the date of closing of the Prepayment Option which can only occur on or after the Effective Date.

Renewal Term means any portion of the License Term commencing on January 1 of any year after the Initial Term and terminating on or before December 31 of the same year as provide in Article 3 of this Agreement.

Supplemental Appropriation means any Appropriation after an initial Appropriation in respect of Base License Fees or Additional License Fees due under this Agreement.

TCR Canyons Pipeline Interest means the Town’s perpetual license in the Canyons Pipeline acquired by and through, and subject to the terms and conditions of the Canyons Pipeline IGA.

Town means the Town of Castle Rock, by and through the Town of Castle Rock Water Enterprise, only in its capacity as licensor under this Agreement and not in respect of any other capacity, power or function of the Town.

Town Authorized Representative means the Director of Utilities as specifically set forth herein, and, additionally, the person or persons authorized by ordinance or resolution of the Town Council to perform any act or execute any document on behalf of the Town with respect to this Agreement.

Town Council means the Town Council of the Town.

Variable Operating Costs means those costs which are imposed based on actual utilization of the Canyons Pipeline, i.e. the carriage of water, in accordance with the PWSO Infrastructure Operations Agreement.

ARTICLE II REPRESENTATIONS OF THE PARTIES; RESERVED LEGISLATIVE POWERS

Section 2.1 Representations of Dominion. Dominion represents to Town the following.

(a) Dominion is a quasi-municipal corporation and political subdivision duly organized and existing under the Special District Act and other laws of the State and Dominion has lawfully constituted its Sterling Ranch Water Activity Enterprise and is entering this License in its Sterling Ranch Water Activity Enterprise capacity. Dominion is authorized to enter into this License and to carry out its obligations under this License. Dominion has duly authorized and approved the execution and delivery of this License and all other documents related to the execution and delivery of this License.

(b) The Licensed Capacity will be used at all times in connection with Dominion's governmental and proprietary purposes and functions and in compliance with all terms and conditions of the Canyons Pipeline Agreement, as the same is amended from time to time, and this Agreement.

(c) Dominion has completed its due diligence on the Licensed Capacity, including the obligations and restrictions Dominion will assume with use or retention of the right to use the Licensed Capacity imposed through the Canyon Pipeline IGA and all applicable agreements and documents.

(d) Neither the execution and delivery of this License, nor the fulfillment of or compliance with the terms and conditions of this License conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Dominion is a party, or violates any statute, regulation, rule, order of any court having jurisdiction, judgment or administrative order applicable to Dominion.

(e) There is no litigation or proceeding pending against Dominion affecting the rights of Dominion to execute this License or the ability of Dominion to make the payments required hereunder or to otherwise comply with the obligations contained herein.

Section 2.2 Representations of Town. The Town represents to Dominion the following.

(a) The Town is a municipal corporation and political subdivision duly organized and existing as a home rule municipality under the provisions of Article XX of the Constitution and laws of the State and Charter. The Town is authorized to enter into this License and to carry out its obligations under this Agreement.

(b) There is no litigation or proceeding pending against the Town affecting the right of the Town to execute this License or the ability of the Town to make or to otherwise comply with the obligations contained herein.

(c) Neither the execution and delivery of this License, nor the fulfillment of or compliance with the terms and conditions of this License conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Town is a party or by which Town or its property is bound, or violates any statute, regulation, rule, order of any court having jurisdiction, judgment or administrative order applicable to Town.

(d) As of the Effective Date, the Town will own the TCR Canyons Pipeline Interest, a portion of which constitutes the Licensed Capacity, free of any lien or encumbrance or claims of any other parties but subject to the terms, conditions and restrictions of the Canyons Pipeline IGA.

(e) The Town shall comply with all terms and conditions of this Agreement and the Canyons Pipeline IGA, as the same may be amended from time to time.

Section 2.3 Financial Obligation. The annual financial obligations of Dominion under this Agreement shall not constitute or give rise to a general obligation or other indebtedness of Dominion. In the event that funds are not specifically budgeted and available from an Appropriation which has been effected by Dominion to meet the financial requirements of this Agreement for the next Fiscal Year, Dominion shall have no further financial obligation accruing in the succeeding Fiscal Year. In the event of such Nonappropriation, the Town shall retain all payments received or accrued under this Agreement, through the date of termination.

ARTICLE III LICENSE OF THE PROPERTY

Section 3.1 License of the Property. Commencing on the Effective Date, the Town licenses the Licensed Capacity to Dominion in accordance with the provisions of this Agreement for the License Term. At the time of the execution and delivery of this Agreement, the Town has not acquired rights to the Licensed Capacity pursuant to the Canyons Pipeline IGA. The Town

will make best efforts to enforce the Town's rights under the Canyons IGA to obtain the Licensed Capacity.

Section 3.2 Duration of the License Term. The License Term shall commence as of the Effective Date. The Initial Term for this License shall terminate on the following December 31st. This License may be renewed solely at the option of Dominion, for four (4) Renewal Terms.

Not later than December 15 of the Initial Term or any Renewal Term, Dominion's Authorized Representative shall give written notice to Town (in substantially the form set forth in *Exhibit _*), that either:

(a) Dominion has effected or intends to effect on a timely basis an Appropriation for the ensuing Fiscal Year that includes (1) sufficient amounts authorized and directed to be used to pay all of the Base License Fees as are estimated to become due and (2) sufficient amounts to pay such Additional License Fees as are estimated to become due, all as further provided in Article IV of this Agreement, whereupon this License shall be renewed for the ensuing Fiscal Year; or

(b) Dominion has determined, for any reason, not to renew this License for the ensuing Fiscal Year.

Irrespective of whether such notice is given by Dominion to the Town, Dominion's option to renew or not to renew this License shall be conclusively determined by whether or not the applicable Appropriation has been made before December 31 of each Fiscal Year, and payment of all License Fees, all as further provided in Article IV of this Agreement.

Section 3.3 Termination of License Term. The License Term shall terminate upon the earliest of any of the following events:

(a) The expiration of the Initial Term or any Renewal Term during which there occurs an Event of Nonappropriation pursuant to Section 3.2 and Article IV of this License (provided that the License Term will not be deemed to have been terminated if the Event of Nonappropriation is cured as provided in Section 4.8);

(b) The assignment of the License to the Licensed Capacity to Dominion under this Agreement upon payment to Town of the Prepayment Price; or

(c) an uncured Event of Default and termination of this License by the Town under Article IV and Article XI of this Agreement.

Except for an event described in subparagraph (b) above, upon termination of this License, Dominion agrees to peaceful delivery of the Licensed Capacity at its own cost and expense on or prior to March 1 of the Renewal Term in respect of which an Event of Nonappropriation has occurred.

Termination of the License Term under subparagraphs (a) or (c) above shall terminate all unaccrued obligations of Dominion under this Lease, and shall terminate Dominion's rights of possession of the Licensed Capacity under this License (except to the extent of the holdover

provisions of Sections 4.9 and 11.2(c)(i). All obligations of Dominion accrued prior to such termination shall be continuing until Town agrees that such accrued obligations have been satisfied.

Section 3.4 Town's Covenant of Quiet Enjoyment. The Town covenants that Dominion shall, during the License Term, peaceably and quietly have, hold and enjoy the Licensed Capacity except as expressly required or permitted by this License. The Town shall not interfere with the quiet use and enjoyment of the Licensed Capacity by Dominion in compliance with the PWSO Infrastructure Operations Agreement during the License Term so long as no Event of Default which remains uncured beyond any applicable notice and cure period shall have occurred.

Section 3.5 Reservation of License Option. In exchange for the timely payment of the License Option Payments, Town shall reserve for the exclusive use of Dominion its contractual right to the Licensed Capacity.

ARTICLE IV PAYMENTS BY DOMINION

Section 4.1 Payments to Constitute Currently Budgeted Expenditures of Dominion. Dominion's obligation to pay License Option Payments, Base License Fees, Additional License Fees and any other obligations under this License shall be from year to year only, shall extend only to moneys for which an Appropriation or Supplemental Appropriation has been effected by Dominion. No provision of this License shall be construed or interpreted as a general obligation or other indebtedness of Dominion within the meaning of any constitutional or statutory debt limitation. This License shall not directly or indirectly obligate Dominion to make any payments beyond those for which an Appropriation or Supplemental Appropriation has been effected by Dominion for Dominion's then current Fiscal Year.

Section 4.2 Base License Fees. The Base License Fees during the Initial Term and Renewal Term are \$_____ per quarter until such time as the License Value has been fully amortized in accordance with Section 4.5. The Base License Fee shall be adjusted for partial quarters on a per diem basis. Dominion shall pay Base License Fees for which an Appropriation or Supplemental Appropriation has been effected by Dominion, directly to the Town during the Initial Term and any Renewal Term on the first Business Day of each quarter (January, April, July, and October).

Section 4.3 Additional License Fees. All Additional License Fees shall be paid by Dominion on a timely basis when due directly to the Town or to the designated payee to whom such Additional License Fees are owed. Town will provide Dominion with billings and invoices Town receives applicable to the Licensed Capacity. Dominion shall provide Town with copies of records evidencing timely payment of all Additional License Fees. If estimates of Additional License Fees for any Fiscal Year are not itemized in the budget required to be furnished to the Town under Section 3.2(a) of this Agreement, and itemization of such estimated Additional License Fees shall be furnished by Dominion to the Town on or before the December 31 preceding such Fiscal Year.

If Dominion fails to pay any Additional License Fees during the License Term as such Additional License Fees become due, the Town may (but shall not be obligated) pay such Additional License Fees and Dominion agrees to reimburse Town, to the extent permitted by law.

Except for non-renewal and non-appropriation as set forth in this Article IV, if Dominion fails to perform any act which Dominion is required to perform under this Agreement, the Town may, but shall not be obligated to, following ten (10) days' written notice to Dominion and Dominion's failure to perform within said ten (10) day period, perform or cause to be performed such act, and any reasonable expense incurred by the Town in connection therewith shall be an obligation owing by Dominion (from moneys for which an Appropriation has been effected) to the Town, and shall bear interest at an annual rate of 12% until paid and shall be a part of Additional License Fees.

Section 4.4 License Option Payments. In order to reserve Licensed Capacity in the Canyons Pipeline, prior to the Effective Date, Dominion shall make License Option Payments in the amount of \$_____per quarter (to be adjusted on a per diem basis for any partial quarters). The first License Option Payment shall be due 30- days from the date of execution of this Agreement (the October 2016 payment), and thereafter on the tenth Business Day of each quarter (January, April, July, and October). Each License Option Payment shall be applied to amortize the License Value in the same manner as Base License Fees in accordance with Section 4.5, below. Should Dominion fail to enter into the Initial Term for any reason other than an uncured default by the Town, the Town shall retain the License Option Payments and this Agreement shall terminate, in which event neither party shall have any further rights or responsibilities hereunder.

Section 4.5 License Value/Prepayment Option Price. The amortization of the License Value as 20 License Option Payments are made is illustrated on *Exhibit 1*. This amortization schedule will be adjusted (retroactively and prospectively) to reflect the final License Value based on the final cost of the Licensed Capacity under the Canyons Pipeline IGA. Interest on the License Value shall commence August 16, 2016. Each License Option Payment and Base Rental payment shall be applied first to interest, and then to the unrecovered License Value.

Section 4.6 Exercise of Prepayment Option. After, but not before the Effective Date, Dominion may pay for the Licensed Capacity at the Prepayment Price in accordance with Article VIII, at which time all prospective Base License Fees will terminate.

Section 4.7 Manner of Payment. The Base License Fees and License Option Payments for which an Appropriation or Supplemental Appropriation has been effected by Dominion, and if paid, the Prepayment Price, shall be paid by Dominion by wire transfer or certified funds or other method of payment acceptable to the Town. The obligation of Dominion to pay the Base License Fees, License Option Payments and Additional License Fees as required under this Article IV and other sections hereof in any Fiscal Year for which an Appropriation or Supplemental Appropriation has been effected by Dominion for the payment of the Base License Fees, and License Option Payments and Additional License Fees in such Fiscal Years shall not be abated through accident or unforeseen circumstances, or under any other agreement between Town and Dominion.

Dominion shall, during the License Term, make all payments of Base License Fees and Additional License Fees in such Fiscal Years and shall not withhold any Base License Fees or Additional License Fees, for which an Appropriation or Supplemental Appropriation has been effected by Dominion, nor shall Dominion assert any right of set-off or counterclaim against its obligation to make such payment required hereunder.

Section 4.8 Nonappropriation; Supplemental Appropriation. In the event that Dominion gives notice that it intends to not renew the License as provided in Section 3.2 or Dominion shall not effect an Appropriation or Supplemental Appropriation, on or before December 15 of each Fiscal Year, of moneys to pay all reasonably estimated Base License Fees and reasonably estimated Additional License Fees coming due for the next ensuing Renewal Term, an Event of Nonappropriation shall be deemed to have occurred; subject, however, to each of the following provisions:

(a) In the event the Town does not receive the written notice provided for by Section 3.2(a) or evidence that an Appropriation or Supplemental Appropriation has been effected by Dominion on or before December 15 of a Fiscal Year, then the Town, shall declare in writing delivered to Dominion an Event of Nonappropriation on the first Business Day of the January following such Fiscal Year or such declaration shall be made on any date on which (1) the Town received official, specific written notice from Dominion that this License will not be renewed or (2) the Town has determined that a Supplemental Appropriation has not been effected by Dominion to provide the Base License Fees remaining to be paid in the then current License Term.

(b) The Town shall waive any Event of Nonappropriation which is cured by Dominion, within 21 days of the receipt of notice as provided in (a), above, by a duly effected Appropriation or Supplemental Appropriation to pay all Base License Fees and sufficient amounts to pay reasonably estimated Additional License Fees coming due for such Renewal Term.

In the event that during the Initial Term or any Renewal Term, any Additional License Fees shall become due which are not included in a duly effected Appropriation or Supplemental Appropriation and moneys are not specifically budgeted and appropriated or otherwise made available to pay such Additional License Fees within 60 days subsequent to the date upon which such Additional License Fees are due, an Event of Nonappropriation shall be deemed to have occurred upon notice by the Town to Dominion to such effect.

If an Event of Nonappropriation occurs, Dominion shall not be obligated to make payment of the Base License Fees or Additional License Fees or any other payments provided for herein which accrue after the last day of the Initial Term or any Renewal Term during which such Event of Nonappropriation occurs; provided, however, that subject to the limitations of Section 1 and 3, Dominion shall continue to be liable for Base License Fees and Additional License Fees allocable to any period during which Dominion shall continue to occupy, use or retain possession of the Licensed Capacity. If an Event of Nonappropriation occurs, the Town shall retain all License Option Payments and Base License Fees paid by Dominion through the date of License expiration.

Dominion shall vacate or surrender possession of the Licensed Capacity by March 1 of the Renewal Term and thereby cease all utilization of the Canyons Pipeline in respect of which an Event of Nonappropriation has occurred and shall deliver the Licensed Capacity to Town on or prior to such March 1.

In the event that an Event of Nonappropriation has occurred and is continuing, the Town may proceed to exercise all or any License Remedies; subject to the holdover rights of Dominion existing prior to March 1 in accordance with Section 4.9.

Section 4.9 Holdover. If Dominion fails to vacate the Licensed Capacity after termination of this License, with the written permission of the Town, it will be deemed to be a holdover licensee on a month-to-month basis, and will be bound by all of the other terms, covenants and agreements of this Agreement. The amount of Base License Fees to be paid during any period when Dominion is deemed to be a holdover licensee will be equal to 110% of the Base License Fees and Dominion shall also be responsible for Additional License Fees accruing during the holdover period.

ARTICLE V MAINTENANCE, TAXES, INSURANCE AND OTHER CHARGES

Section 5.1 Utilization of the Licensed Capacity by Dominion. Subject to its right to not appropriate, Dominion shall at all times during the License Term utilize the Licensed Capacity in strict conformance with the Canyons Pipeline IGA, PWSD Infrastructure Operations Agreement, this License and applicable state and federal laws and regulations. Further Dominion shall maintain its separate facilities and infrastructure connecting to Licensed Capacity in good condition and repair. The Town agrees at all times during the License Term to utilize its interest in the Canyons Pipeline and the Town Use Rights (as defined in Section 10.1) in strict conformance with the Canyons Pipeline IGA, PWSD Infrastructure Operations Agreement, this License and applicable state and federal laws and regulations. The Town shall maintain its separate facilities and infrastructure connecting to the Canyons Pipeline in good condition and repair.

Section 5.2 Hazardous Substances. Dominion shall not cause or permit any Hazardous Substance to be brought upon, generated at, stored or kept or used in or about the Licensed Capacity. If Dominion's use of the Licensed Capacity results in contamination of the Licensed Capacity, or if contamination of the Licensed Capacity by Hazardous Substance otherwise occurs for which Dominion is legally liable for damage resulting therefrom, Dominion shall, to the extent allowable by law, defend the Town from claims for damages, penalties, fines, costs or losses. This duty to defend is not an indemnification, it is expressly understood that Dominion is not indemnifying the Town and expenses of such defense shall constitute Additional License Fees. Without limiting the foregoing, if the presence of any Hazardous Substance on the Licensed Capacity caused or permitted by Dominion results in any contamination of the Licensed Capacity, Dominion shall provide prior written notice to the Town and promptly take all actions at its sole expense (which expenses shall constitute Additional License Fees) as are necessary to effect remediation of the contamination in accordance with legal requirements.

Section 5.3 Modification of the Licensed Capacity. Dominion may modify or make improvements to the Licensed Capacity only if: (a) expressly authorized in the PWSD Infrastructure Operations Agreement, (b) necessary to receive and transmit water from the Licensed Capacity into the Dominion proprietary system, and (c) approved by the Town, which approval shall not be unreasonably withheld. Modification and improvements to the Licensed Capacity shall be made at Dominion's sole cost and expense, and the same shall be subject to this License and shall be included as Licensed Capacity under the terms of this License.

Section 5.4 Taxes, Other Governmental Charges and Utility Charges. In the event that the Licensed Capacity shall, for any reason, be deemed subject to taxation, assessments or charges lawfully made by any governmental body, Dominion shall pay the *pro rata* amount of all such taxes, assessments and governmental charges then due, as Additional License Fees. With respect to special assessments or other governmental charges which may be lawfully paid in installments over a period of years, Dominion shall be obligated to provide for Additional License Fees only for such installments as are required to be paid during the upcoming Fiscal Year. Except for Permitted Encumbrances, Dominion shall not allow any liens for taxes, assessments or governmental charges to exist with respect to the Licensed Capacity (including, without limitation, any taxes levied upon the Licensed Capacity which, if not paid, will become a charge on the rentals and receipts from the Licensed Capacity, or any interest therein.).

Section 5.5 Provision for Liability, Property and Worker's Compensation Insurance. To the extent required under the Canyons Pipeline IGA and PWSD Infrastructure Operations Agreement, Dominion shall, at its own expense, cause casualty and/or property insurance to be carried and maintained with respect to the Licensed Capacity in an amount equal to the estimated replacement cost of the Licensed Capacity. Dominion may, in its discretion, insure the Licensed Capacity under blanket insurance policies which insure not only the Licensed Capacity, but other property as well, as long as such blanket insurance policies comply with the requirements hereof.

Dominion shall, at its own expense, cause commercial general liability insurance and public liability insurance, including blanket contractual liability or specific contractual liability insurance for this License, to be carried and maintained in connection with the use and possession of the Licensed Capacity. Such coverage shall be in amounts not less than the limits of liability per occurrence set by the Colorado Governmental Immunity Act as the same may be amended from time to time, for claims which the defense of sovereign immunity applies. The public liability insurance required by this Section may be by blanket insurance policy or policies.

Section 5.6 Governmental Immunity. Nothing in this Agreement shall be construed to be a waiver, in whole or in part, of any right, privilege, or protection afforded Dominion, or its Board of Directors, officers, employees, servants, agents, or authorized volunteers, pursuant to the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S.

Nothing in this Agreement shall be construed to be a waiver, in whole or in part, of any right, privilege, or protection afforded the Town, or its Town Council, officers, employees, servants, agents, or authorized volunteers, pursuant to the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S.

**ARTICLE VI
DAMAGE, DESTRUCTION AND CONDEMNATION;
USE OF NET PROCEEDS**

Section 6.1 Damage, Destruction and Condemnation. If during the License Term, due to causes not attributable to the action of Town,

(a) the Licensed Capacity shall be destroyed (in whole or in part), or damaged by fire or other casualty; or

(b) title to, or the temporary or permanent use of, the Licensed Capacity or the interest of Dominion in the Licensed Capacity is taken under the exercise of the power of eminent domain by any governmental body or by any person, firm, or corporation acting under governmental authority; or

(c) title to or the use of the Licensed Capacity is lost by reason of a defect in title thereto;

then Dominion shall be obligated to continue to pay Base License Fees and Additional License Fees provided that in the event of receipt of funds from insurance proceeds, condemnation proceeds, or settlement amounts under any warranty claims against contractors, Town shall apply funds attributable to the Licensed Capacity for the purpose of offsetting obligations to pay Rentals and/or deduct from the Prepayment Option Price.

Section 6.2 No Obligation to Repair or Replace the Licensed Capacity. Town assumes no obligation to replace the Licensed Capacity in the event one of the events enumerated in Section 6.1 occurs.

**ARTICLE VII
DISCLAIMER OF WARRANTIES; OTHER COVENANTS**

Section 7.1 Disclaimer of Warranty and Obligation. THE TOWN DOES NOT MAKE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE LICENSED CAPACITY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LICENSED CAPACITY. DOMINION HEREBY ACKNOWLEDGES AND DECLARES THAT DOMINION IS SOLELY RESPONSIBLE FOR ITS PORTION OF MAINTENANCE AND OPERATION EXPENSE FOR THE LICENSED CAPACITY AND THAT THE TOWN DOES NOT HAVE ANY RESPONSIBILITY THEREFOR.

Section 7.2 Access to the Licensed Capacity; Rights to Inspect Books. Dominion agrees that the Town shall have the right at all reasonable times to examine and inspect the Licensed Capacity and all of Dominion's books and records with respect thereto. Dominion further agrees that the Town shall have such rights of access to the Licensed Capacity as may be

reasonably necessary to cause the proper maintenance of the Licensed Capacity in the event of failure by Dominion to perform its obligations under this Agreement.

ARTICLE VIII PURCHASE OPTION

Section 8.1 Prepayment Option. Dominion shall have the option to prepay the Base License Fee for the Licensed Capacity at the then current License Value, during the License Term on or after the Effective Date, but only if neither an Event of Default nor an Event of Nonappropriation has occurred and is continuing. Dominion may not prepay less than the entirety of the Licensed Capacity. Dominion shall give Town notice of its intention to exercise its option not less than 60 days in advance of the date of exercise and shall deposit with the Town the Prepayment Option Price, together with any other accrued obligations under this Agreement with the Town not later than the selected date for closing.

If Dominion gives notice to the Town of its intention to prepay the License Value for the Licensed Capacity, but does not deposit the amounts with the Town on the date specified in such notice, Dominion shall continue to pay Base License Fees, which have been specifically appropriated by Dominion for such purpose, as if no such notice had been given.

Section 8.2 Conditions for Prepayment Option. Town shall assign to Dominion the license to the Licensed Capacity as authorized under the Canyons Pipeline IGA in the manner provided in Section 8.3 of this License; provided however, prior to such assignment Dominion shall have paid to Town the Prepayment Price plus all then current and applicable Base and Additional License Fees required to be paid through the date of closing of the Prepayment Option.

Section 8.3 Manner of Conveyance. At the closing of the prepayment of the Licensed Capacity the Town shall release and terminate this License, execute and deliver to Dominion all necessary documents assigning to Dominion a license to the Licensed Capacity as authorized under the Canyons Pipeline IGA, subject only to the following:

- (a) Permitted Encumbrances, other than this License;
- (b) terms, conditions and restrictions of the Canyons Pipeline IGA, the PWSD Infrastructure Operations Agreement and any other agreement then in effect applicable to participants in the Canyons Pipeline.

Section 8.4 Effective Assignment. After assignment of the Licensed Capacity to Dominion pursuant to this Article VIII, Dominion shall pay all pro rata fees and financial obligations directly to PWSD pursuant to the Canyons Pipeline IGA and the PWSD Infrastructure Operations Agreement.

ARTICLE IX ASSIGNMENT AND SUBLEASING

Section 9.1 Assignment by the Town. This Agreement may not be assigned by the Town for any reason other than to a successor by operation of law or with the prior written consent of Dominion, which consent shall not be unreasonably withheld. The Town will notify Dominion of any assignment to a successor by operation of law.

Section 9.2 Assignment and Subleasing by Dominion. Dominion may not assign this Agreement or otherwise permit a third party to use the Licensed Capacity for any reason other than to a successor by operation of law.

ARTICLE X USE OF LICENSED CAPACITY BY TOWN

Section 10.1 Town Option. Until Dominion has the ability to withdraw water from the Canyons Pipeline and input water into its proprietary system, Town may utilize the Licensed Capacity subject to the terms and conditions of this Article X.

Section 10.2 Notice and Duration. In the event Town elects to utilize any portion of the Licensed Capacity (“Town Use Rights”), it shall give notice of such election to Dominion (the “Election Notice”). Unless, within 30 days of delivery of the Election Notice, (i) Dominion disputes that the exercise of the Town Use Rights is not authorized under 10.1, or (ii) Town is in default of this Agreement, the Town may utilize all or any portion of the Licensed Capacity on the first Business Day occurring after expiration of such 30-day Notice period. The Town Use Right shall expire upon the first to occur of any of the following events:

- (a) 30-days’ notice from Dominion that Dominion has the ability to utilize the Licensed Capacity and intends to do so, or
- (b) upon Dominion’s exercise of the Prepayment Option, or
- (c) upon 30-days’ notice from Town that Town intends to terminate the Town Use Rights.

Section 10.3 Payment. During the period of time the Town is exercising the Town Use Rights, Town shall assume the financial obligation for the Variable Operations Costs attributable to such Town usage. Dominion shall continue to pay Base and Additional License Fees which are not abated by exercise of the Town Use Rights.

Section 10.4 Reciprocal Covenant. Town shall assume the obligations of Dominion under Section 5.2 when exercising the Town Use Rights.

ARTICLE XI EVENTS OF DEFAULT AND REMEDIES

Section 11.1 Events of Default Defined. Any one of the following shall be Events of Default under this Agreement:

(a) failure by Dominion to pay any License Option Payments, Base License Fees and Additional License Fees, which have been specifically appropriated by Dominion for such purpose, during the Initial Term or any Renewal Term, on the date on which either or both are due and such failure continues for a period of ten (10) days following written notice thereof from the Town to Dominion; or

(b) failure by Dominion to vacate or surrender possession of the Licensed Capacity by March 1 of any Renewal Term in respect of which an Event of Nonappropriation has occurred; or

(c) failure by Dominion to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in (a) or (b), for a period of 45 days after written notice, specifying such failure and requesting that it be remedied shall be received by Dominion, unless Town shall agree in writing to an extension of such time prior to its expiration; provided that if the failure stated in the notice cannot be corrected within the applicable period, the Town shall not withhold their consent to an extension of such time if, in Town's reasonable judgment, corrective action can be instituted by Dominion within the applicable period and diligently pursued until the default is corrected within 120 days after such written notice is received.

The foregoing provisions of this Section 11.1 are subject to the following limitations:

(i) Dominion shall be obligated to pay the License Option Payments, Base License Fees and Additional License Fees, which have been specifically appropriated by Dominion for such purpose, only during the License Term, except as otherwise expressly provided in this Agreement; and

(ii) if, by reason of *Force Majeure*, Dominion or the Town shall be unable in whole or in part to carry out any agreement on their respective parts herein contained other than Dominion's agreement to pay the License Option Payments Base License Fees and Additional License Fees due hereunder, Dominion or the Town, as the case may be, shall not be deemed in default during the continuance of such inability. Dominion and the Town each agree, however, to remedy, as promptly as legally and reasonably possible, the cause or causes preventing Dominion or the Town, as the case may be, from carrying out their respective agreements; provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of Dominion.

Section 11.2 Remedies on Default. Whenever any Event of Default shall have happened or be continuing beyond any applicable cure period, the Town may, without any further demand or notice, take one or any combination of the following remedial steps:

(a) terminate the License Term and give notice to Dominion to vacate and surrender possession of the Licensed Capacity which vacation and surrender Dominion agrees to complete within sixty days from the date of such notice; or

(b) License or sublease License the Licensed Capacity or sell and assign any interest the Town has in the Licensed Capacity; or

(c) recover from Dominion:

(i) the portion of the Base License Fees and Additional License Fees, for which a specific Appropriation or Supplemental Appropriation has been effected by Dominion for such purpose, which would otherwise have been payable hereunder, during any period in which Dominion continues to occupy, use or possess the Licensed Capacity; and

(ii) Base License Fees and Additional License Fees, for which a specific Appropriation has been affected by Dominion for such purpose, which otherwise have been payable by Dominion hereunder during the remainder, after Dominion vacates and surrenders possession of the Licensed Capacity, of the Fiscal Year in which such Event of Default occurs; or

(d) take whatever action at law or in equity may appear necessary or desirable to enforce its rights in and to the Licensed Capacity under this Agreement.

Section 11.3 Town Default. If the Town fails to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, the same shall be an Event of Default if such failure continues for a period of 45 days after written notice from Dominion to the Town specifying such failure and requesting that it be remedied, unless Dominion shall agree in writing to an extension of such time prior to the expiration of such 45 days; provided that if the failure stated in the notice cannot be corrected within the applicable period, Dominion shall not withhold its consent to an extension of such time if, in Dominion's reasonable judgment, corrective action can be instituted by the Town within the applicable period and diligently pursued until the default is corrected within 120 days after such written notice is received.

Section 11.4 Dominion's Remedies. In the Event of Default shall have happened or be continuing beyond any applicable notice or cure period, Dominion may, without any further demand or notice take one or more of the following steps:

(a) terminate this License and thereafter Dominion shall be relieved of any further liability or obligation hereunder;

(b) exercise self-help to cure such Event of Default and deduct the actual and reasonable amount expended in curing such Event of Default from any future Base License Fees due hereunder; or

(c) pursue an action at law or in equity as necessary or desirable to enforce its rights under this Agreement.

Section 11.5 Limitations on Remedies. The remedies in connection with an Event of Default shall be limited as set forth in this section. A judgment requiring a payment of money may be entered against Dominion by reason of an Event of Default only as to Dominion's liabilities described in paragraph (c) of Section 11.2. A judgment requiring a payment of money may be entered against Dominion by reason of an Event of Nonappropriation only to the extent that Dominion fails to vacate and surrender possession of the Licensed Capacity and only as to the liabilities described in paragraph (c) (i) of Section 11.2.

Section 11.6 No Remedy Exclusive. Subject to 11.5, no remedy conferred upon or reserved to the Town is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Town to exercise any remedy reserved in this Article 11, it shall not be necessary to give any notice, other than such notice as may be required in this Article 11.

Section 11.7 Waivers. The Town and Dominion may each waive any Event of Default under this License and its consequences. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. Payment of Base License Fees or Additional License Fees by Dominion shall not constitute a waiver of any breach or default by the Town hereunder.

ARTICLE XII MISCELLANEOUS

Section 12.1 Sovereign Powers. Nothing in this License shall be construed as diminishing, delegating, or otherwise restricting any of the sovereign powers of Dominion or the Town. Nothing in this License shall be construed to require Dominion to occupy and operate the Licensed Capacity other than as lessee, or to require Dominion to exercise its right to purchase the Licensed Capacity.

Section 12.2 Notices. All notices or other communications to be given shall be sufficiently given and shall be deemed given when delivered by facsimile or other electronic means or mailed by first class mail, postage prepaid, addressed as follows:

If to Town: Town of Castle Rock
Attn: Utilities Director
100 N. Wilcox Street
Castle Rock, CO 80104

If to Dominion: Dominion Water and Sanitation District
Attn: Dave Peak
8390 E. Crescent Parkway, Suite 500
Greenwood Village, CO 80111

The Town or Dominion may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 12.3 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 Dominion as lessee, the Town as lessor and nothing contained in this License shall give or allow any such claim or right of action by any other or third party on this Agreement.

Section 12.4 Binding Effect. This License shall inure to the benefit of and shall be binding upon the Town and Dominion and their respective successors and assigns, subject however to the limitations contain in Article IX of this Agreement.

Section 12.5 Amendments. This License may only be amended, changed, modified or altered by written amendment.

Section 12.6 Computation of Time. In computing period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month. This section shall not be used for the purpose of calculating the Interest Portion of Base License Fees due under this Agreement.

Section 12.7 Payments Due on Holidays. If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Agreement, shall be a day other than a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominate date provided in this Lease.

Section 12.8 Severability. In the event that any provision of this Agreement, other than the requirement of Dominion to pay Base License Fees for which a specific Appropriation has been effected by Dominion for such purpose and the requirement of the Town to provide quiet enjoyment of the Licensed Capacity and to convey the Licensed Capacity to Dominion under the

