

ORDINANCE NO. 2019-003

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR THE OPTION TO PURCHASE AND RIGHT OF FIRST REFUSAL REGARDING GROUND WATER RIGHTS, EASEMENTS AND RELATED IMPROVEMENTS

WHEREAS, in conjunction with the Town's acquisition of the Plum Creek Diversion Facility, the Town acquired certain nontributary and not nontributary water rights located in unincorporated Douglas County ("Cherokee Water"),

WHEREAS, the Town has determined that development of the Cherokee Water is uneconomical to incorporate into its water system and the sale of the Cherokee Water would recoup a portion of the costs incurred with the Plum Creek Diversion acquisition,

WHEREAS, Dominion Water and Sanitation District ("Dominion") has requested an option to purchase the Cherokee Water, and the Town and Dominion have reached agreement on the terms and conditions of the option to purchase,

WHEREAS, pursuant to 14.02.040.B of the Castle Rock Municipal Code any property which is not (i) within Town limits, (ii) contiguous with the Town boundary, and (iii) currently utilized or planned for use in providing municipal services may be conveyed by ordinance.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Approval. Subject to the satisfaction of the conditions prescribed in Section 2, the Intergovernmental Agreement for the Option to Purchase and Right of First Refusal Regarding Ground Water, Easements and Related Improvements ("Agreement"), in the form attached as *Exhibit I* is hereby approved.

Section 2. Condition to Approval. The approval and execution of the Agreement is conditioned on (i) the execution of an agreement between the Town, Dominion and the Cherokee Ranch & Castle Foundation ("Foundation") which provides for the Foundation's consent and subordination to Dominion's rights to purchase the Cherokee Water, or (ii) the satisfaction of the Foundation's first right of refusal under the First Amendment to the First Amended Operating and Maintenance Agreement. Upon satisfaction of the conditions set forth in this Section 2, the Mayor and other proper Town officials are authorized to execute the Agreement by and on behalf of the Town of Castle Rock, Colorado.

Section 3. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

Section 3. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 22nd day of January, 2019 by a vote of 6 for and 1 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this 5th day of February, 2019, by the Town Council of the Town of Castle Rock 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:

Robert J. Slentz, Town Attorney

Mark Marlowe, Director of Castle Rock Water