



Town of Castle Rock

Agenda Memorandum

Agenda Date: 2/5/2019

Item #: 17. **File #:** ORD 2019-003

To: Honorable Mayor and Members of Town Council

From: Mark Marlowe, P.E., Director of Castle Rock Water
Matt Benak, P.E., Water Resources Program Manager

Ordinance Approving the Intergovernmental Agreement for the Option to Purchase and First Right of Refusal Regarding Groundwater Rights, Easements and Related Improvements (Second Reading - Approved on First Reading on January 22, 2019 by a vote of 6-1) [The sale of Town water rights that the Town cannot use at Cherokee Ranch to Dominion Water and Sanitation District.]

Executive Summary

The Ordinance was approved on First Reading on January 22, 2019 by a vote of 6-1.

The purpose of this memorandum is to seek Town Council approval of an Ordinance (see **Attachment A**) regarding the sale of certain Denver Basin aquifer water rights to Dominion Water and Sanitation District (Dominion) known as the Cherokee Ranch water rights. These water rights were acquired by the Town as part of the United Water and Sanitation District (United) transaction in November 2017. Since the initial negotiations began with United, Castle Rock Water had always intended to sell all or a portion of these water rights in order to recoup some of the costs of the transaction and because they are not readily usable by the Town. Dominion has requested an option to purchase 1,574 acre-feet (AF) of Arapahoe aquifer water; 1,614 AF of Denver aquifer water; and 381 AF of Laramie Fox Hills water that we own under the Cherokee Ranch and Castle Foundation property (Property). The purchase will also include use of the well site easements and the easements to the south of the Property that provide for access for pipelines and appurtenances to deliver replacement water from the Property. The option to purchase the water rights will extend until September 30, 2022, and the initial purchase would be for a minimum of 500 AF of water rights. The price for the initial purchase is \$1,450,000. The total price is \$8.4 million with potential option payments of \$0.8 million.

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

Staff discussed the proposed purchase option agreement with the Castle Rock Water Commission on May 23, 2018. Castle Rock Water Commission unanimously recommended that Council approve the agreement.

Discussion

Dominion is a wholesale water district located in northwest Douglas County, and provides water and wastewater service to the Sterling Ranch planned development and, will potentially provide this service to other existing nearby special districts that may request water in the future. Sterling Ranch is a 3,450-acre planned community which will build out to approximately 12,000 residential units located in northwest Douglas County. It has a planned build-out water demand of approximately 4,800 AF with a conjunctive use water supply consisting of renewable water sources (such as WISE) and Denver basin groundwater sources.

The key terms of this Intergovernmental Agreement for the Option to Purchase and Right of First Refusal Regarding Ground Water Rights, Easements and Related Improvements (hereinafter referred to as "Agreement" or "IGA") are as follows:

1. The option to purchase all of the Town's real property interests and non-tributary and not non-tributary water rights located beneath the Cherokee Ranch and Castle Foundation property (Property) and the additional easements that extend from the Property to East Plum Creek. The groundwater rights consist of the following:
 - a. 1,574 AF of non-tributary groundwater rights in the Arapahoe aquifer, valued at \$2,900 per AF;
 - b. 1,614 AF of not non-tributary groundwater rights in the Denver aquifer, valued at \$1,970 per AF;
 - c. 381 AF of non-tributary groundwater rights in the Laramie Fox Hills (LFH) aquifer, valued at \$1,970 per AF.
2. The Option term extends until September 30, 2022, and if Dominion has not defaulted on the Agreement, a Right of First Refusal will be in effect from October 1, 2022 to October 1, 2026 whereby Dominion shall be notified of any bona fide offers to purchase the remaining water rights and shall have the ability purchase under the same terms and conditions of the qualified offer.
3. Use of the permanent easements associated with the Property that were part of the Town's purchase from United. The easements include four, 10,000 square foot well sites, thirty foot wide permanent easements to the edge of the Cherokee Castle Ranch property for pipelines, electrical and access roads, and a thirty foot wide permanent easement across the BCK Farms property so that the water pipeline is able to discharge into East Plum Creek.
4. Within five days of execution of the Agreement, Dominion will pay \$50,000 into escrow as an Initial Option Payment which can be applied to the initial closing. Dominion will have up to 90 days to perform its due diligence and may then elect to close on a minimum of 500 AF of water rights from any of the three aquifers.
5. Each year, on the anniversary of the end of the due diligence period, Dominion will pay the Town annual option payments of \$115 per AF for remaining Arapahoe aquifer water and \$78 per AF for remaining Denver or LFH aquifer water. These option payments are non-refundable and cannot be applied to future closings.

Future closings on water rights will be for a minimum of 200 AF each.

Budget Impact

The IGA has positive impacts to the Water Enterprise fund. By selling the water rights at the calculated rates, Castle Rock Water could realize up to \$8,494,750. Additionally, if the option payments are extended to their full dates then Castle Rock Water would realize up to an additional \$768,360 in revenue.

The sale of these water rights will have a positive impact on the Town's water enterprise budget. Proceeds from the sales will be placed into Account Number 210-4275-392.10-00 (Water Fund - Capital Asset Disposals/Proceeds-Sale of Assets).

Staff Recommendation

Staff and Castle Rock Water Commission recommend that Town Council approve the Purchase Option Agreement on second reading.

Proposed Motion

"I move to approve the ordinance as introduced by title."

Attachments

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| Attachment A: | Ordinance - Second Reading |
| Exhibit 1: | Agreement |
| Attachment B: | Map of water rights locations and easements |

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

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

THIS AGREEMENT is executed this ____ day of _____, 2019, by and between the Town of Castle Rock, a Colorado home rule municipal corporation by and through the Town of Castle Rock Water Enterprise (the “Town” or “Seller”) and Dominion Water & Sanitation District, acting in its capacity as a Water Activity Enterprise (“Dominion” or “Buyer”), (jointly “Parties”).

RECITALS

WHEREAS the Town of Castle Rock is a home rule municipal corporation; and

WHEREAS, Dominion is a quasi-municipal corporation and political subdivision of the State of Colorado formed and organized pursuant to Title 32 of the Colorado Revised Statutes; and

WHEREAS, Dominion is authorized, pursuant to its service plan, to provide water services to customers located both within and outside of its boundaries for multiple uses, including for human consumption and household use, commercial, irrigation, industrial and other uses; and

WHEREAS, Dominion plans to provide wholesale water service to the Sterling Ranch development northwest of the Town and other locations in Northwest Douglas County; and

WHEREAS, the Town owns the following certain real property interests and nontributary and not nontributary water rights:

- the “Cherokee Ranch Easements” described in 1.3.3;
- approximately 1,574 acre feet per year of nontributary Denver Basin groundwater as originally decreed by the Division No. 1 Water Court in Case No. 98CW219, as modified by Case No. 03CW117, in the Arapahoe formation (“Arapahoe Water Right”);
- approximately 1,614 acre feet per year of not nontributary Denver Basin groundwater as originally decreed by the Division No. 1 Water Court in Case No. 98CW219, as modified by Case No. 03CW117, in the Denver formation (“Denver Water Right”);
- approximately 381 acre feet per year of nontributary Denver Basin groundwater as originally decreed by the Division No. 1 Water Court in Case No. 98CW219, as modified by Case No. 03CW117, in the Laramie Fox Hills formation (“LFH Water Right”);

all of which groundwater underlies that real property in Douglas County, Colorado, as more particularly described in **Exhibit A** hereto (collectively, the “Water Rights”), and

WHEREAS, the Water Rights are surplus to the Town’s needs and are not easily incorporated into the Town’s existing water system; and

WHEREAS, Dominion desires to obtain the option to purchase the Water Rights, and after expiration of the option to purchase, a right of first refusal with respect to the Water Rights; and

WHEREAS, the Town is a party to that certain First Amendment to the First Amended Operating and Maintenance Agreement dated November 16, 2017 between the Cherokee Ranch & Castle Foundation (the “Foundation”) and the Town pursuant to which the Town granted the Foundation a right of first refusal pertaining to the sale of the Water Rights; and

WHEREAS, Dominion, the Town and the Foundation have, concurrently with the execution of this Agreement, entered into that certain Tri-Party Agreement Regarding Cherokee Ranch & Castle Foundation Rights dated _____, 2019 (the “Tri-Party Agreement”). Among other things, the Tri-Party Agreement modifies the Foundation’s right of first refusal such that Dominion may exercise its rights pursuant to this Agreement without interfering with the Foundation’s rights.

WHEREAS, the Water Rights fall within the classification under Chapter 14.02.040.B of the Castle Rock Municipal Code, and therefore the Town Council may approve by Ordinance the conveyance of extraterritorial surplus property; and

WHEREAS, the Town and Dominion have numerous existing agreements and mutually beneficial relationships, and have mutual interests in securing water supplies for the benefit of their respective citizens and customers,

NOW THEREFORE, in consideration of the mutual promises and benefits described herein, the adequacy and sufficiency of which are hereby acknowledged, Dominion and the Town hereby agree as follows:

AGREEMENT

1. **Option to Purchase.** The Town hereby grants Dominion an option to purchase the Water Rights together with certain easements and agreements as described in Section 1.3, subject to the terms and conditions as provided in this Agreement (the “Option”).

1.1 **Term.** Dominion’s right to exercise the option to purchase the Water Rights as described herein shall terminate on Sept. 30, 2022 (“Option Term”).

1.2 **Purchase Price.** The purchase price of the Water Rights shall be as follows (“Purchase Price”):

1.2.1 Two Thousand Nine Hundred Dollars (\$2,900) per acre foot for the Arapahoe Water Right (“Arapahoe Purchase Price”). If Dominion exercises

its option to purchase all of the Water Rights, the total Arapahoe Purchase Price shall be Four Million Five Hundred Sixty-Four Thousand Six Hundred Dollars (\$4,564,600).

1.2.2 One Thousand Nine Hundred Seventy Dollars (\$1,970) per acre foot for the Denver Water Right (“Denver Purchase Price”). If Dominion exercises its option to purchase all of the Denver Water Right, the total Denver Purchase Price shall be Three Million One Hundred Seventy-Nine, Five Hundred Eighty Dollars (\$3,179,580).

1.2.3 One Thousand Nine Hundred Seventy Dollars (\$1,970) per acre foot for the LFH Water Right (“LFH Purchase Price”). If Dominion exercises its option to purchase all of the LFH Water Right, the total LFH Purchase Price shall be Seven Hundred Fifty, Five Hundred Seventy Dollars (\$750,570).

1.2.4 The applicable Purchase Price shall be paid, subject to (i) application of the Initial Option Payment, as defined in 1.4, and (ii) any prorations and adjustments provided in Section 1.4.2, payable by Dominion to the Town at the Closings, described in Section 4, in cash, certified check or federal funds wire transfer.

1.3 At the Initial Closing, the Purchase Price shall include the following:

1.3.1 The amount of the Water Rights Dominion elects to purchase at any Closing.

1.3.2 All additional amounts of “banked” water associated with the Water Rights purchased at any Closing, as determined on a pro rata basis, that may be available pursuant to the water banking provision of the 98CW219 decree.

1.3.3 A non-exclusive interest in the following permanent easements (hereinafter the “Cherokee Ranch Easements”):

1.3.3.1: Easement Agreement dated April 22, 2013, recorded in the public records of Douglas County, Colorado April 29, 2013 at Reception No. 2013034803.

1.3.3.2: Second Amended Easement Deed dated December 28, 2012, recorded in the public records of Douglas County, Colorado at Reception No. 2013005243.

1.3.4 The rights and obligations of the Town provided for in the following agreements (hereinafter “O&M Agreements”):

1.3.4.1: First Amended Operating and Maintenance Agreement dated March 6, 2008 between the Cherokee Ranch & Castle Foundation, Bromley District Water Providers, LLC and Robert A. Lembke;

1.3.4.2: First Amendment to the First Amended Operating and Maintenance Agreement dated November 16, 2017 between the Cherokee Ranch & Castle Foundation and the Town of Castle Rock, acting by and through the Town of Castle Rock Water Enterprise, as modified by the Tri-Party Agreement.

1.4 Option Payments.

1.4.1 Within five (5) business days after this Option Agreement is fully executed by the Town and Dominion, Dominion shall pay the sum of Fifty Thousand Dollars (\$50,000.00) to North American Title Insurance Company (the "Title Company") as escrow holder, for deposit into an interest-bearing account. Such deposit together with any interest earned thereon is collectively referred to as the "Initial Option Payment." Title Company's receipt of the Initial Option Payment shall be acknowledged in a separate escrow agreement executed by the Town, Dominion and Title Company. The Initial Option Payment shall be nonrefundable to Dominion except in the event of (i) the Town's uncured default; or (ii) Dominion timely terminates this Option Agreement pursuant to Section 2.2 or 2.3. The Initial Option Payment will be applied against the Purchase Price at the Initial Option Closing.

1.4.2 On the first anniversary of the end of the Due Diligence Period set forth in Section 2 ("Due Diligence Anniversary"), and on each subsequent Due Diligence Anniversary thereafter during the Option Term, Dominion shall pay directly to the Town \$115 per acre foot of the amount of the Arapahoe Water Right remaining for purchase and \$78 per acre foot of the amount of the Denver Water Right and LFH Water Right remaining for purchase to maintain its Option ("Annual Option Payment"). Such Annual Option Payments shall continue until either (a) Dominion purchases all of the Water Rights, or (b) the Option Term expires, or (c) Dominion relinquishes its option on any remaining portion of the Water Rights by giving written notice to the Town, or (d) the Option terminates by mutual agreement of the Parties. The Annual Option Payments shall be non-refundable to Dominion, and shall not be applicable towards the Purchase Price at the next Closing to occur.

2. Due Diligence. Dominion shall have the right to conduct due diligence regarding the Water Rights for ninety (90) days, beginning on the Effective Date of this Option Agreement (the "Due Diligence Period").

2.1 Title Insurance. The Town has furnished to Dominion, at the Town's expense, a commitment for title insurance issued by North American Title Insurance Company, File No. 35100-18-10424, attached as **Exhibit B**, committing to insure Dominion's interest in the

Cherokee Ranch Easements (the “Title Commitment”). The easement interests insured under the Title Commitment shall be referred to as the “Insured Property.” The Town will cause the Title Company to deliver to Dominion, promptly after the Closing, an owner’s title insurance policy issued by the Title Company insuring Dominion’s interest to the Insured Property consistent with the Title Commitment (the “Title Policy”), subject only to the Schedule B-2 exceptions, as such permitted exceptions are fixed under 6.1 (the “Permitted Exceptions”) identified in the Title Commitment. The Town and Dominion will each pay one half of the premium for the Title Policy at Closing. Dominion, at its discretion and at its sole expense, may obtain additional endorsements to the Title Commitment and establish a greater amount of the insurance on the Insured Properties and the endorsement, the additional cost of which shall be paid entirely by Dominion.

2.2 Cherokee Easements Title Acceptance. Dominion will have twenty (20) business days from of the Effective Date, and an additional twenty (20) business days with any amendment to the Title Commitment, to notify the Town of any objections to any items identified in the Title Commitment or subsequent amendments, or any items impacting marketable title to the Insured Property (the “Title Objection Notice”). Any exceptions noted in the amended Title Commitment or any items impacting marketable title to the Insured Property Rights that are not objected to within such twenty (20) business day period will be deemed approved by Dominion and will become Permitted Exceptions. The Town will have twenty (20) business days after receipt of Dominion’s Title Objection Notice (“Cure Period”) to elect, at its sole option and discretion, to (a) cure any or all items to which Dominion has objected, (b) cause such items to be modified in a manner which is satisfactory to Dominion, or (c) not to cure any or all such items. If, during the Cure Period, the Town fails to cure to the satisfaction of the Dominion any title objection in the Title Objection Notice, or elects not to cure, then the Dominion may elect, as its exclusive remedy with respect to the objections in the Title Objection Notice, either to (a) waive the objections by written notice to the Town and proceed to Closing, or (b) terminate this Agreement by giving written notice to the Town within three (3) business days after the Cure Period, in which case the Initial Option Payment will be returned to Dominion, and thereafter the parties will have no further rights and will be released from all obligations hereunder other than those rights and obligations that expressly survive termination of this Agreement. If Dominion fails to give timely notice of termination or if Dominion proceeds to Closing, Dominion will be deemed to have elected to waive all objections and accepted all of the Permitted Exceptions. The Closing Date established in Section 3.1 shall be extended on a day for day basis to accommodate the notice and cure time periods outlined in this Section 7.

2.3 Water Rights Title Acceptance. Dominion shall have the Due Diligence Period to undertake due diligence on title to the Water Rights and to notify the Town of any objections to any items impacting marketable title to the Water Rights (the “Water Title Objection Notice”). Any items impacting marketable title to the Water Rights that are not objected to within the Due Diligence Period will be deemed approved by Dominion. The Town will have twenty (20) business days after receipt of Dominion’s Water Title Objection Notice (“Water Title Cure

Period”) to elect, at its sole option and discretion, to (a) cure any or all items to which Dominion has objected, (b) cause such items to be modified in a manner which is satisfactory to Dominion, or (c) not to cure any or all such items. If, during the Water Title Cure Period, the Town fails to cure to the satisfaction of Dominion any title objection in the Water Title Objection Notice, or elects not to cure, then Dominion may elect, as its exclusive remedy with respect to the objections in the Water Title Objection Notice, either to (a) waive the objections by written notice to the Town and proceed to Closing, or (b) terminate this Agreement by giving written notice to the Town within three (3) business days after the Water Title Cure Period, in which case the Initial Option Payment will be returned to Dominion, and thereafter the parties will have no further rights and will be released from all obligations hereunder other than those rights and obligations that expressly survive termination of this Agreement. If Dominion fails to give timely notice of termination or if Dominion proceeds to Closing, Dominion will be deemed to have elected to waive all objections and accepts title to the Water Rights.

The Closing Date established in Section 4 shall be extended on a day for day basis to accommodate the notice and cure time periods outlined in this Section.

2.4 Property Documents. Dominion acknowledges that prior to and following the Agreement Date, Dominion has had complete access to, and the Town has made available to Dominion and its consultants and representatives, copies of its files and records, except privileged documents, related to the Water Rights and Cherokee Easements (collectively, the “Property”) including the following documents in the possession or control of the Town: all documents relating to the Water Rights (including, but not limited to, all documents conveying an interest in the Water Rights and/or related facilities, all water decrees, well permits, water rights engineering reports and correspondence, diversion records, and any correspondence with the local or state agencies concerning water rights or water supply issues), soils reports, mineral studies, oil, gas and mineral leases, environmental reports and studies, environmental notices received by the Town, plats, permits, development agreements, topographical and other maps, engineering plans and reports, easement agreements, and all other information and documentation pertaining to the Property in the possession of or known to the Town (collectively, the “Property Documents”). Dominion acknowledges and agrees that all Property Documents delivered or made available by the Town to Dominion are for Dominion’s information and use only, and the Town makes no representation or warranty as to the accuracy or completeness of any such Property Documents or Dominion’s ability to use any of such Property Documents. Dominion acknowledges that it shall be solely responsible for verifying all information contained in the Property Documents, including the completeness, accuracy and applicability of the Property Documents.

3. Exercise of Option.

3.1 At the end of the Due Diligence Period, Dominion shall elect whether to exercise its Initial Option. If Dominion does not exercise its Initial Option and terminates this Option Agreement, then all further option rights and all rights shall terminate as described in Section 2.

If Dominion elects to exercise the Initial Option, then the Parties shall, within 14 days, Close on a minimum of three hundred (300) acre feet of the Water Rights, as provided in Section 4.

3.2 Dominion may purchase all or a portion of the Water Rights at any time during the Option Period subject to 3.3. Dominion shall determine the formation(s) and the quantity of the Water Rights from each formation that it will purchase at each Closing, provided that the minimum amount that Dominion may purchase at any Closing shall be 200 acre feet. Dominion shall notify the Town in writing of the formation(s) from which and the quantity of the Water Rights in each such formation that Dominion it intends to purchase thirty (30) days prior to any Closing.

3.3 For any exercise of Dominion's Option that includes the last two hundred (200) acre feet of available Arapahoe Water Right, Dominion shall notify the Town in writing of the quantity of the Water Rights it intends to purchase thirty (30) days prior to the requested Closing. Pursuant to the November 16, 2017 First Amendment to the First Amended Operating and Maintenance Agreement between the Town and the Cherokee Ranch & Castle Foundation (the "Foundation"), ("ROFR Agreement"), the Town shall provide notice to the Foundation regarding the particulars of the offer for the remaining two hundred (200) acre feet of the Arapahoe Water Right (number of acre feet, price, closing date and other relevant terms). If the Foundation exercises its right of first refusal pursuant to the ROFR Agreement, the Town shall notify Dominion, and the Closing between Dominion and the Town shall automatically be extended by sixty (60) days. If the Foundation and the Town enter into a written agreement for the Foundation's purchase of the final two hundred (200) acre feet of the Arapahoe Water Right within the time permitted by the ROFR Agreement, the Town shall notify Dominion in writing, and Dominion Closing will be modified or cancelled, accordingly.

4. Closings. At each closing that occurs pursuant to this Option Agreement ("Closing"), the Parties shall deliver or cause to be delivered the following:

4.1 The Town shall deliver to Dominion a Special Warranty Deed for the designated quantity of the Water Rights, free and clear of all liens and encumbrances, in the form attached hereto as **Exhibit C** (subject to variation in the amount of water being conveyed).

4.2 Dominion shall deliver to the Town the applicable Purchase Price for each formation being purchased (Arapahoe, Denver and/or LFH) multiplied by the number of acre feet being purchased from that formation. If Dominion is purchasing water from more than one formation, the Purchase Price for each formation will be added together to derive the total Purchase Price for that Closing. The Purchase Price shall be made by wire transfer or other immediately available funds. At the Initial Closing, Dominion will receive a credit against the Purchase Price for the Initial Option Payment of Fifty Thousand Dollars (\$50,000.00) made by Dominion pursuant to Section 1.4.1.

4.3 At the Initial Closing, the Town shall execute and deliver to Dominion a special warranty deed conveying a nonexclusive interest in the Cherokee Ranch Easements in the form attached hereto as **Exhibit D**, free and clear of all liens and encumbrances except for the Permitted Exceptions.

4.4 At the Initial Closing, the Town shall assign the O&M Agreements to Dominion in the form attached hereto as **Exhibit E**.

4.5 The Parties shall deliver such other documents as may be reasonably necessary to complete the transaction described herein.

4.6 Each Closing shall occur at a mutually agreeable time and location.

4.7 Costs of Closing shall be allocated one-half each to the Town and Dominion. Dominion shall pay all recording fees. Any other expenses shall be prorated as of the date of closing ("Closing Adjustments"). Both parties are exempt from property taxation; therefore, there are no real property taxes to be prorated.

5. Right of First Refusal.

5.1 Upon expiration of the Option Term pursuant to section 11 and provided Dominion is not then in default of this Agreement, the Town hereby grants to Dominion a right of first refusal ("Right of First Refusal") to purchase the Water Rights on the following terms and conditions:

5.1.1 The term of the Right of First Refusal shall begin on October 1, 2022 and end on October 1, 2026 ("Right of First Refusal Term").

5.1.2 During the Right of First Refusal Term, if the Town receives a bona fide offer to purchase the Water Rights that the Town desires to accept "Qualified Offer"), the Town shall notify Dominion in writing of its receipt of a Qualified Offer and shall provide a copy of the Qualified Offer to Dominion (collectively, the "Offer Notice"). Upon receipt of the Offer Notice, Dominion shall have thirty (30) days within which to notify the Town of Dominion's election to exercise its Right of First Refusal to purchase the portion of the Water Rights that is the subject of the Qualified Offer for the purchase price in the Offer Notice and otherwise substantially on the same terms and conditions as set forth in the Qualified Offer, which election shall be evidenced by written notice to the Town (the "Notice of Exercise").

5.1.3 No later than sixty (60) days from the date of the Notice of Exercise, the Town and Dominion shall work together in good faith to prepare and enter into a purchase and sale agreement for the purchase of the Water Rights by Dominion that is the subject of the Notice of Exercise ("Purchase Agreement"). Such Purchase Agreement shall provide for a closing date not later than thirty (30) days after execution of the Purchase Agreement, and shall

include, without limitation, a provision which makes Dominion's obligation to purchase the Water Rights that are the subject of the Notice of Exercise subject to appropriation of the necessary funds therefore by the Dominion Board of Directors.

5.1.4 In the event that Dominion fails to timely deliver its Notice of Exercise to the Town in the same manner set forth herein, or the Purchase Agreement and closing requirements set forth in Section 5.1.3 are not met, then the Town shall be free to sell the Water Rights that are the subject of the Qualified Offer and this Right of First Refusal shall be void and of no further force or effect with regard to the Water Rights that are the subject of the Qualified Offer; provided, however, that if the Town shall enter into any modifications or amendments to the Qualified Offer which change any material provision of the Qualified Offer including, without limitation, any reduction of the purchase price, then this Right of First Refusal shall remain in full force and effect and Dominion shall have the right to exercise its Right of First Refusal with respect to any such modified or amended Qualified Offer in the same manner as the initial Qualified Offer.

6. Representations and warranties.

6.1 The Town represents and warrants to Dominion that, as of the date of this Agreement and as of the date of Closing:

6.1.1 The Town is duly authorized under its charter and ordinances to enter into and consummate this transaction. The person signing on behalf of the Town is authorized to do so.

6.1.2 There is no pending litigation, and the Town has not received any notice of any claim or action, which could materially interfere with this transaction.

6.1.3 There are no leases, encumbrances, service contracts, operating agreements, or other agreements granting rights in the Property to any third parties that have not been disclosed to Dominion.

6.1.4 The Town has received no warning or notice alleging any violation of any environmental or hazardous substance law affecting the Property.

6.1.5 The Town has not retained any broker, agent or finder or agreed to pay any commissions or finders' fees in connection with this Agreement or the transfer of the Property. To the extent permitted by law, the Town shall indemnify and hold harmless Dominion from liability for any fees or commissions owing pursuant to this transaction caused by breach of this representation.

The above representations and warranties shall survive closing.

6.2 Dominion represents and warrants to the Town that, as of the date of this Agreement and as of the date of closing:

6.2.1 Dominion is duly authorized under its governing statutes and ordinances to enter into and consummate this transaction. The person signing on behalf of Dominion is authorized to do so.

6.2.2 Dominion has not retained any broker, agent or finder or agreed to pay any commissions or finders' fees in connection with this Agreement or the transfer of the Property. To the extent permitted by law, Dominion shall indemnify and hold harmless the Town from liability for any fees or commissions owing pursuant to this transaction caused by breach of this representation.

7. Default, Remedy and Termination.

7.1 Buyer's Default.

7.1.1. Initial Option Closing. If the Initial Option Closing the transaction contemplated herein is not completed solely as a result of the default by the Buyer of its obligations hereunder, as Seller's sole and exclusive remedy, the Title Company shall pay the Initial Option Payment to Seller as liquidated damages and in full settlement of any claims for damages, whereupon Buyer shall have no further liability or obligation hereunder to Seller and no other remedy shall be available for Buyer's breach of this Agreement.

7.1.2 Subsequent Closings. If any of the subsequent Closings contemplated herein are not consummated solely as a result of a default by Buyer of its obligations hereunder, Seller shall be entitled to terminate this Agreement, including the Right of First Refusal, as its sole and exclusive remedy.

7.2 Seller's Default.

7.2.1 Initial Option Closing. If the Initial Option Closing contemplated herein is not completed solely as a result of a default by Seller of its obligations hereunder, Buyer shall be entitled to one of the following remedies as its sole and exclusive remedy: (i) the right to terminate this Agreement, in which event this Agreement shall terminate and be of no further force or effect and the Title Company will refund to Buyer the Initial Option Payment held by the Title Company; or (ii) seek specific performance of this Agreement; provided however, that unless Buyer has provided written notice to the Seller and the Title Company no later than ninety (90) days from the Closing Date that Buyer has elected to commence an action for specific performance, Buyer shall be deemed to have irrevocably chosen the foregoing option (i) (termination of this Agreement, refund of the Initial Option Payment).

7.2.2 Subsequent Closings. If any of the subsequent Closings contemplated herein are not consummated solely as a result of a default by Seller of its obligations hereunder, Buyer shall be entitled to one of the following remedies as its sole and exclusive remedy: (i) the right to terminate this Agreement, or (ii) seek specific performance of this Agreement, provided however, that unless Buyer has provided written notice to the Seller and the Title Company no later than one hundred eighty (180) days from the Closing Date that Buyer has elected to commence an action for specific performance, Buyer shall be deemed to have irrevocably chosen the foregoing option (i) - termination of this Agreement).

7.3 Each party waives any right to special, indirect, consequential and punitive damages, including loss of revenues in the event of an uncured default by the other party.

7.4 Prior to commencing legal action, the non-defaulting party shall give notice to the defaulting party. The defaulting party shall have 10 days to cure such default.

8. Miscellaneous Provisions.

8.1 Amendment. Except as otherwise provided herein, this Agreement may be modified, amended, changed, or terminated, in whole or in part, only by an agreement in writing duly authorized and executed by both parties.

8.2 Notice. For purposes of notice pursuant to this Agreement, the Parties' representatives shall be:

For the Town: Castle Rock Water
 Attn: Director of Castle Rock Water
 175 Kellogg Court
 Castle Rock, CO 80109

With a copy to: Town Attorney
 Town of Castle Rock
 100 Wilcox Street
 Castle Rock, CO 80104

For Dominion: Dominion Water & Sanitation Dist.
 Clifton Larson Allen, LLP
 8390 E. Crescent Parkway, Suite 500
 Greenwood Village, CO 80111

With a copy to: Dominion Water & Sanitation District
 Attn: General Manager
 9250 E. Costilla Ave. Suite 210

Greenwood Village, CO 80016

With a copy to: Welborn Sullivan Meck & Tooley, P.C.
1125 17th Street, Suite 2200
Denver, CO 80220

With a copy to: MaryAnn M. McGeady
McGeady Becher P.C.
450 East 17th Ave Suite 400
Denver, CO 80203

Any notices required or permitted to be given hereunder shall be in writing and shall be deemed given when given personally or sent by certified or registered mail, return receipt requested, postage prepaid. Either party hereto may designate a new address by giving written notice thereof to the other party as provided herein. Notice shall be effective upon receipt.

8.3 Assignment. This Agreement may not be assigned by Dominion to another party unless such assignment is approved in writing by the Town.

8.4 Governing Law. The terms, conditions, and provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

8.5 Defense Against Third Parties. In the event of litigation by any third party concerning this Agreement, and to the extent permitted by law, the Parties agree to jointly defend any such third party action.

8.6 No Third Party Beneficiaries. Except as otherwise explicitly provided for herein, there are no third party beneficiaries of this Agreement. No third party has any right to enforce this Agreement.

8.7 Sole Obligation of Water Activity Enterprise.

8.7.1 This Agreement shall never constitute a general obligation or other indebtedness of the Town or Dominion, or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town or Dominion within the meaning of the Constitution and laws of the State of Colorado or of the service plan, rules or regulations of the Town or Dominion.

8.7.2 The Town represents that this Agreement has been duly authorized, executed and delivered by the Town and constitutes a valid and legally binding obligation of the Town, enforceable against the Town in accordance with the terms

hereof, subject only to the terms hereof and to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

8.7.3 Dominion represents that this Agreement has been duly authorized, executed and delivered by Dominion and constitutes a valid and legally binding obligation of Dominion, enforceable against Dominion in accordance with the terms hereof, subject only to the terms hereof and to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

8.8 Entire Agreement. This Agreement represents the entire agreement of the parties and neither party has relied upon any fact or representation not expressly set forth herein. If there is a conflict between this Agreement and the Tri-Party Agreement, the Tri-Party Agreement shall control.

8.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed original, but all of which constitute one and the same agreement.

8.10 Non-severability and Effect of Invalidity. Each provision of this Agreement is integral to the others and is not severable from the others. If any portion of this Agreement is held invalid or unenforceable for any reason by a court of competent jurisdiction as to either party or as to both parties, the parties will immediately attempt to negotiate either valid alternative portions that as near as possible give effect to any stricken portions or a valid replacement agreement.

8.11 No Attorney's Fees and Costs. In the event of any litigation arising out of this Agreement, the parties agree that each will be responsible for their own attorney's fees and costs associated with any such legal action.

8.12 Joint Draft. The parties agree they drafted this Agreement jointly with each having the advice of legal counsel and an equal opportunity to contribute to its content. Therefore, this Agreement shall not be construed for or against a party on the basis of authorship.

8.13 Intent of Agreement. This Agreement is intended to describe the rights and responsibilities of and between the parties and is not intended to and shall not be deemed to confer rights upon any persons or entities not signatories hereto nor to limit, impair, or enlarge in any way the powers, regulatory authority and responsibilities of either party or any other governmental entity not a party hereto.

8.14 Non-Business Days. If any date for any action under this IGA falls on a Saturday, Sunday or Holiday, as such term is defined in Rule 6 of the Colorado Rules of Civil Procedure, then the relevant date shall be extended automatically until the next business day.

IN WITNESS WHEREOF, the parties hereby executed this Agreement on the date first written above.

TOWN OF CASTLE ROCK

Jason Gray, Mayor

ATTEST:

Lisa Anderson, Town Clerk

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Mark Marlowe, Director of Castle Rock Water

**DOMINION WATER & SANITATION
DISTRICT**

Harold Smethills, President

ATTEST:

Denise Denslow, Secretary

**EXHIBIT A TO PURCHASE AND SALE AGREEMENT
DESCRIPTION OF WATER RIGHTS**

All of the non-tributary and not non-tributary groundwater, including those water rights originally decreed by the Division No. 1 Water Court in Case No. 98CW219, as modified by Case No. 03CW117, in the Denver, Arapahoe and Laramie Fox Hills formations, all of which groundwater underlies that real property more particularly described in the **Attachment** hereto, EXCEPT FOR:

1. One hundred (100) acre feet per year of Arapahoe formation non-tributary groundwater, which was reserved to the Cherokee Ranch and Castle Foundation by Special Warranty Deed recorded on November 21, 2002 at Reception No. 2002126810, Douglas County Clerk and Recorder;
2. Sixty (60) acre feet per year of Arapahoe formation non-tributary groundwater, which was conveyed to the Cherokee Ranch and Castle Foundation by Special Warranty Deed for Water Rights recorded March 10, 2008 at Reception No. 2008016986, Douglas County Clerk and Recorder;
3. Three hundred eighty (380) acre feet per year of the Laramie Fox Hills formation nontributary groundwater which was reserved by the Cherokee Ranch and Castle Foundation by Special Warranty Deed recorded on Mar. 6, 2008 at Reception No. 2008016984 and Special Warranty Deed recorded on Mar. 6, 2008 at Reception No. 2008016985, Douglas County Clerk and Recorder.
4. Any right, title, interest or claim to use the underground storage capacity resulting from withdrawal of any water described herein, which was reserved to the Cherokee Ranch and Castle Foundation by Special Warranty Deed recorded November 21, 2002 at Reception No. 2002126810; Special Warranty Deed for Water Rights recorded on March 10, 2008 at Reception No. 2008016984 and by Special Warranty Deed for Water Rights recorded on March 10, 2008 at Reception No. 2008016985, Douglas County Clerk and Recorder.

ATTACHMENT TO EXHIBIT A

A parcel of land located in Sections 5, 6, 7, 8, 17, 18, & 19 of Township 7 South, Range 67 West and in Sections 12, 13, 14 & 24 of Township 7 South, Range 68 West of the Sixth Principal Meridian, County of Douglas, State of Colorado, and being more particularly described as follows:

BEGINNING at the NE corner of Section 19, Township 7 South, Range 67 West of the Sixth Principal Meridian;

THENCE along the East line of the NE $\frac{1}{4}$ of said Section 19, S 00°23'17" W, a distance of 1612.27 feet to the Northerly right of way line of State Highway No. 85;

THENCE along said Northerly right of way line the following fifteen (15) courses:

- 1) N 74°01'07" W, a distance of 442.12 feet;
- 2) N 70°56'17" W, a distance of 269.96 feet;
- 3) N 66°37'01" W, a distance of 813.47 feet;
- 4) N 78°26'56" W, a distance of 1581.82 feet;
- 5) N 73°42'23" W, a distance of 211.93 feet;
- 6) N 71°13'27" W, a distance of 281.07 feet;
- 7) N 67°40'00" W, a distance of 562.02 feet;
- 8) N 75°53'08" W, a distance of 346.26 feet;
- 9) N 80°38'47" W, a distance of 969.60 feet to a point from which the NW corner of said Section 19 bears N 05°30'46" W, a distance of 28.00 feet;
- 10) N 82°57'44" W, a distance of 1053.89 feet;
- 11) N 80°27'38" W, a distance of 584.58 feet;
- 12) N 71°01'17" W, a distance of 471.19 feet;
- 13) N 70°58'10" W, a distance of 2093.66 feet;
- 14) N 71°05'24" W, a distance of 1147.32 feet;
- 15) N 69°36'49" W, a distance of 2074.89 feet to the Southeasterly corner of a parcel of land described in deed recorded in the land records of Douglas County in Book 358 at Page 833;

THENCE along the Easterly line of said parcel the following seven (7) courses:

- 1) N 08°37'34" E, a distance of 172.03 feet;
- 2) N 31°37'52" E, a distance of 442.82 feet;
- 3) N 53°35'59" E, a distance of 194.24 feet;
- 4) N 73°28'44" E, a distance of 264.63 feet;
- 5) N 51°18'55" E, a distance of 177.71 feet;
- 6) N 38°08'20" E, a distance of 487.64 feet;
- 7) N 00°26'53" E, a distance of 391.26 feet to the Northeasterly corner of said parcel;

THENCE along the Northerly line of said parcel, S 89°41'36" W, a distance of 1438.25 feet to the Northwesterly corner of said parcel;

THENCE along the Westerly line extended of said parcel, N 00°01'02" E, a distance of 213.47 feet;

THENCE N 89°41'57" E, a distance of 1979.77 feet to the North 1/16 corner between Sections 13 and 14 of T7S, R68W;

THENCE along the West line of the NW¼ of said Section 13, N 00°11'10" W, a distance of 1319.99 feet to the SW corner of said Section 12;

THENCE along the West line of the SW¼ of the SW¼ of said Section 12, N 00°09'51" W, a distance of 1309.82 feet to the South 1/16 corner of Sections 11 & 12;

THENCE along the W line of the NW¼ of the SW¼ of said Section 12, N 00°13'35" W, a distance of 1310.61 feet to the W¼ corner of said Section 12;

THENCE along the West line of the SW¼ of the NW¼ of said Section 12, N 00°09'43" W, a distance of 1309.48 feet to the N 1/16 corner of Sections 11 & 12;

THENCE along the West line of the NW¼ of the NW¼ of said Section 12, N 00° 13'44" W, a distance of 1310.95 feet to the NW corner of said Section 12;

THENCE along the North line of the NW¼ of said Section 12, N 89°58'04" E, a distance of 2683.10 feet to the N¼ corner of said Section 12;

THENCE along the North line of the NE¼ of said Section 12, N 89°49'52" E, a distance of 2752.86 feet to the NE corner of said Section 12, also being the NW corner of Section 7, T7S, R67W;

THENCE along the North line of the NW¼ of said Section 7, N 89°55'53" E, a distance of 2633.78 feet to the N¼ corner of said Section 7;

THENCE N 00°05'26" W, a distance of 43.58 feet to an existing fence corner;

THENCE along an existing fence line as described in a boundary agreement between Cherokee Ranch and Castle Foundation, Sanctuary, Inc. and Paul V. and Bonnie G. Grenney, recorded in the land records of Douglas County on Nov. 3, 1997 at Reception No. 9761904 the following five (5) courses:

- 1) N 89°06'35" E, a distance of 2599.66 feet to a point at an existing fence corner from which the NE corner of said Section 7 bears S 08°34'17" W, a distance of 41.11 feet;
- 2) N 00°03'38" W, a distance of 1256.34 feet;
- 3) N 89°59'09" E, a distance of 588.75 feet;
- 4) N 87°01'25" E, a distance of 1332.82 feet;
- 5) N 85°17'08" E, a distance of 767.69 feet to a point on the Westerly right of way line of Daniels Park Road;

THENCE along said right of way line as described in Deed recorded in the land records of Douglas County in Book 541 at Page 29 the following four (4) courses:

- 1) S 11°05'24" E, a distance of 306.86 feet;
- 2) Along the arc of a curve to the right 280.45 feet, having a radius of 598.90 feet, a central angle of 26°49'49" and a chord bearing and distance of S 02°19'30" W, 277.90 feet;
- 3) S 15°44'25" W, a distance of 418.21 feet;
- 4) Along the arc of a curve to the left 307.26 feet, having a radius of 362.65 feet, a central angle of 48°32'39" and a chord bearing and distance of S 08°31'55" E, 298.15 feet to the Northeasterly corner of a parcel of land described in deed recorded in the land records of Douglas County in Book 1073 at Page 260;

THENCE along the boundary of said parcel the following seven (7) courses:

- 1) S 88°46'02" W, a distance of 399.06 feet;
- 2) N 51°04'40" W, a distance of 243.10 feet;
- 3) S 30°09'50" W, a distance of 399.37 feet;
- 4) S 87°35'11" W, a distance of 559.55 feet;
- 5) S 51°13'16" W, a distance of 336.12 feet;
- 6) S 14°44'13" W, a distance of 1028.18 feet;
- 7) N 89°40'54" E, a distance of 2019.95 feet to a point on the Westerly right of way line of Daniels Park Road, (determined to be 60 feet Westerly from the monumented Easterly right of way line shown on the plat of Castle Pines Village Filing 8-A, at Reception #9211515);

THENCE along said Westerly right of way line the following nineteen (19) courses:

- 1) S 01°18'44" E, a distance of 440.02 feet;
- 2) Along the arc of a curve to the right 183.64 feet, having a radius of 419.04 feet, a central angle of 25°06'33" and a chord bearing and distance of S 11°14'32" W, 182.17 feet;
- 3) S 23°47'49" W, a distance of 205.18 feet;
- 4) Along the arc of a curve to the left 327.65 feet, having a radius of 836.68 feet, a central angle of 22°26'14" and a chord bearing and distance of S 12°34'42" W, 325.56 feet;
- 5) S 01°21'31" W, a distance of 185.15 feet;
- 6) S 01°16'36" W, a distance of 657.56 feet;
- 7) Along the arc of a curve to the left 76.61 feet, having a radius of 1378.34 feet, a central angle of 03°11'05" and a chord bearing and distance of S 00°12'27" E, 76.60 feet;
- 8) S 01°48'06" E, a distance of 349.28 feet;
- 9) Along the arc of a curve to the right 253.68 feet, having a radius of 1711.45 feet, a central angle of 08°29'34" and a chord bearing and distance of S 02°26'41" W, 253.45 feet;
- 10) Along the arc of a compound curve to the right 167.76 feet, having a radius of 345.00 feet, a central angle of 27°51'39" and a chord bearing and distance of S 20°37'18" W, 166.11 feet;
- 11) S 34°31'24" W, a distance of 576.43 feet;

- 12) Along the arc of a curve to the left 272.42 feet, having a radius of 390.00 feet, a central angle of 40°01'18" and a chord bearing and distance of S 14°31'00" W, 266.91 feet;
 - 13) S 05°31'06" E, a distance of 168.88 feet;
 - 14) Along the arc of a curve to the left 177.15 feet, having a radius of 998.35 feet, a central angle of 10°10'01" and a chord bearing and distance of S 10°34'30" E, 176.92 feet;
 - 15) S 15°39'30" E, a distance of 621.49 feet;
 - 16) Along the arc of a curve to the left 139.59 feet, having a radius of 871.13 feet, a central angle of 09°10'51" and a chord bearing and distance of S 20°13'15" E, 139.44 feet;
 - 17) S 24°48'40" E, a distance of 236.86 feet;
 - 18) Along the arc of a curve to the right 345.51 feet, having a radius of 770.23 feet, a central angle of 25°42'05" and a chord bearing and distance of S 11°57'38" E, 342.62 feet;
 - 19) S 00°51'27" W, a distance of 1342.16 feet to the Northeasterly corner of Lot 1, Block One of Hockaday Heights Subdivision, recorded in the land records of Douglas County at Reception #139949;
- THENCE along the Northerly line of Hockaday Heights Subdivision, also being the South line of the NW¼ of said Section 17, S 87°46'51" W, a distance of 2513.82 feet to the W¼ corner of said Section 17;
- THENCE along the Westerly line of Hockaday Heights Subdivision, also being the East line of the SE¼ of said Section 18, S 00°21'26" W, a distance of 2595.77 feet to the POINT OF BEGINNING;

CONTAINING 3,140.54 acres of land, more or less.

EXHIBIT A TO PURCHASE AND SALE AGREEMENT
DESCRIPTION OF WATER RIGHTS

All of the non-tributary and not non-tributary groundwater, including those water rights originally decreed by the Division No. 1 Water Court in Case No. 98CW219, as modified by Case No. 03CW117, in the Denver, Arapahoe and Laramie Fox Hills formations, all of which groundwater underlies that real property more particularly described in the **Attachment** hereto, EXCEPT FOR:

1. One hundred (100) acre feet per year of Arapahoe formation non-tributary groundwater, which was reserved to the Cherokee Ranch and Castle Foundation by Special Warranty Deed recorded on November 21, 2002 at Reception No. 2002126810, Douglas County Clerk and Recorder;
2. Sixty (60) acre feet per year of Arapahoe formation non-tributary groundwater, which was conveyed to the Cherokee Ranch and Castle Foundation by Special Warranty Deed for Water Rights recorded March 10, 2008 at Reception No. 2008016986, Douglas County Clerk and Recorder;
3. Three hundred eighty (380) acre feet per year of the Laramie Fox Hills formation nontributary groundwater which was reserved by the Cherokee Ranch and Castle Foundation by Special Warranty Deed recorded on Mar. 6, 2008 at Reception No. 2008016984 and Special Warranty Deed recorded on Mar. 6, 2008 at Reception No. 2008016985, Douglas County Clerk and Recorder.
4. Any right, title, interest or claim to use the underground storage capacity resulting from withdrawal of any water described herein, which was reserved to the Cherokee Ranch and Castle Foundation by Special Warranty Deed recorded November 21, 2002 at Reception No. 2002126810; Special Warranty Deed for Water Rights recorded on March 10, 2008 at Reception No. 2008016984 and by Special Warranty Deed for Water Rights recorded on March 10, 2008 at Reception No. 2008016985, Douglas County Clerk and Recorder.

ATTACHMENT TO EXHIBIT A

A parcel of land located in Sections 5, 6, 7, 8, 17, 18, & 19 of Township 7 South, Range 67 West and in Sections 12, 13, 14 & 24 of Township 7 South, Range 68 West of the Sixth Principal Meridian, County of Douglas, State of Colorado, and being more particularly described as follows:

BEGINNING at the NE corner of Section 19, Township 7 South, Range 67 West of the Sixth Principal Meridian;

THENCE along the East line of the NE¼ of said Section 19, S 00°23'17" W, a distance of 1612.27 feet to the Northerly right of way line of State Highway No. 85;

THENCE along said Northerly right of way line the following fifteen (15) courses:

- 1) N 74°01'07" W, a distance of 442.12 feet;
- 2) N 70°56'17" W, a distance of 269.96 feet;
- 3) N 66°37'01" W, a distance of 813.47 feet;
- 4) N 78°26'56" W, a distance of 1581.82 feet;
- 5) N 73°42'23" W, a distance of 211.93 feet;
- 6) N 71°13'27" W, a distance of 281.07 feet;
- 7) N 67°40'00" W, a distance of 562.02 feet;
- 8) N 75°53'08" W, a distance of 346.26 feet;
- 9) N 80°38'47" W, a distance of 969.60 feet to a point from which the NW corner of said Section 19 bears N 05°30'46" W, a distance of 28.00 feet;
- 10) N 82°57'44" W, a distance of 1053.89 feet;
- 11) N 80°27'38" W, a distance of 584.58 feet;
- 12) N 71°01'17" W, a distance of 471.19 feet;
- 13) N 70°58'10" W, a distance of 2093.66 feet;
- 14) N 71°05'24" W, a distance of 1147.32 feet;
- 15) N 69°36'49" W, a distance of 2074.89 feet to the Southeasterly corner of a parcel of land described in deed recorded in the land records of Douglas County in Book 358 at Page 833;

THENCE along the Easterly line of said parcel the following seven (7) courses:

- 1) N 08°37'34" E, a distance of 172.03 feet;
- 2) N 31°37'52" E, a distance of 442.82 feet;
- 3) N 53°35'59" E, a distance of 194.24 feet;
- 4) N 73°28'44" E, a distance of 264.63 feet;
- 5) N 51°18'55" E, a distance of 177.71 feet;
- 6) N 38°08'20" E, a distance of 487.64 feet;
- 7) N 00°26'53" E, a distance of 391.26 feet to the Northeasterly corner of said parcel;

THENCE along the Northerly line of said parcel, S 89°41'36" W, a distance of 1438.25 feet to the Northwestern corner of said parcel;

THENCE along the Westerly line extended of said parcel, N 00°01'02" E, a distance of 213.47 feet;

THENCE N 89°41'57" E, a distance of 1979.77 feet to the North 1/16 corner between Sections 13 and 14 of T7S, R68W;

THENCE along the West line of the NW¼ of said Section 13, N 00°11'10" W, a distance of 1319.99 feet to the SW corner of said Section 12;

THENCE along the West line of the SW¼ of the SW¼ of said Section 12, N 00°09'51" W, a distance of 1309.82 feet to the South 1/16 corner of Sections 11 & 12;

THENCE along the W line of the NW¼ of the SW¼ of said Section 12, N 00°13'35" W, a distance of 1310.61 feet to the W¼ corner of said Section 12;

THENCE along the West line of the SW¼ of the NW¼ of said Section 12, N 00°09'43" W, a distance of 1309.48 feet to the N 1/16 corner of Sections 11 & 12;

THENCE along the West line of the NW¼ of the NW¼ of said Section 12, N 00° 13'44" W, a distance of 1310.95 feet to the NW corner of said Section 12;

THENCE along the North line of the NW¼ of said Section 12, N 89°58'04" E, a distance of 2683.10 feet to the N¼ corner of said Section 12;

THENCE along the North line of the NE¼ of said Section 12, N 89°49'52" E, a distance of 2752.86 feet to the NE corner of said Section 12, also being the NW corner of Section 7, T7S, R67W;

THENCE along the North line of the NW¼ of said Section 7, N 89°55'53" E, a distance of 2633.78 feet to the N¼ corner of said Section 7;

THENCE N 00°05'26" W, a distance of 43.58 feet to an existing fence corner;

THENCE along an existing fence line as described in a boundary agreement between Cherokee Ranch and Castle Foundation, Sanctuary, Inc. and Paul V. and Bonnie G. Grenney, recorded in the land records of Douglas County on Nov. 3, 1997 at Reception No. 9761904 the following five (5) courses:

- 1) N 89°06'35" E, a distance of 2599.66 feet to a point at an existing fence corner from which the NE corner of said Section 7 bears S 08°34'17" W, a distance of 41.11 feet;
- 2) N 00°03'38" W, a distance of 1256.34 feet;
- 3) N 89°59'09" E, a distance of 588.75 feet;
- 4) N 87°01'25" E, a distance of 1332.82 feet;
- 5) N 85°17'08" E, a distance of 767.69 feet to a point on the Westerly right of way line of Daniels Park Road;

THENCE along said right of way line as described in Deed recorded in the land records of Douglas County in Book 541 at Page 29 the following four (4) courses:

- 1) S 11°05'24" E, a distance of 306.86 feet;
- 2) Along the arc of a curve to the right 280.45 feet, having a radius of 598.90 feet, a central angle of 26°49'49" and a chord bearing and distance of S 02°19'30" W, 277.90 feet;
- 3) S 15°44'25" W, a distance of 418.21 feet;
- 4) Along the arc of a curve to the left 307.26 feet, having a radius of 362.65 feet, a central angle of 48°32'39" and a chord bearing and distance of S 08°31'55" E, 298.15 feet to the Northeasterly corner of a parcel of land described in deed recorded in the land records of Douglas County in Book 1073 at Page 260;

THENCE along the boundary of said parcel the following seven (7) courses:

- 1) S 88°46'02" W, a distance of 399.06 feet;
- 2) N 51°04'40" W, a distance of 243.10 feet;
- 3) S 30°09'50" W, a distance of 399.37 feet;
- 4) S 87°35'11" W, a distance of 559.55 feet;
- 5) S 51°13'16" W, a distance of 336.12 feet;
- 6) S 14°44'13" W, a distance of 1028.18 feet;
- 7) N 89°40'54" E, a distance of 2019.95 feet to a point on the Westerly right of way line of Daniels Park Road, (determined to be 60 feet Westerly from the monumented Easterly right of way line shown on the plat of Castle Pines Village Filing 8-A, at Reception #9211515);

THENCE along said Westerly right of way line the following nineteen (19) courses:

- 1) S 01°18'44" E, a distance of 440.02 feet;
- 2) Along the arc of a curve to the right 183.64 feet, having a radius of 419.04 feet, a central angle of 25°06'33" and a chord bearing and distance of S 11°14'32" W, 182.17 feet;
- 3) S 23°47'49" W, a distance of 205.18 feet;
- 4) Along the arc of a curve to the left 327.65 feet, having a radius of 836.68 feet, a central angle of 22°26'14" and a chord bearing and distance of S 12°34'42" W, 325.56 feet;
- 5) S 01°21'31" W, a distance of 185.15 feet;
- 6) S 01°16'36" W, a distance of 657.56 feet;
- 7) Along the arc of a curve to the left 76.61 feet, having a radius of 1378.34 feet, a central angle of 03°11'05" and a chord bearing and distance of S 00°12'27" E, 76.60 feet;
- 8) S 01°48'06" E, a distance of 349.28 feet;
- 9) Along the arc of a curve to the right 253.68 feet, having a radius of 1711.45 feet, a central angle of 08°29'34" and a chord bearing and distance of S 02°26'41" W, 253.45 feet;
- 10) Along the arc of a compound curve to the right 167.76 feet, having a radius of 345.00 feet, a central angle of 27°51'39" and a chord bearing and distance of S 20°37'18" W, 166.11 feet;
- 11) S 34°31'24" W, a distance of 576.43 feet;

- 12) Along the arc of a curve to the left 272.42 feet, having a radius of 390.00 feet, a central angle of 40°01'18" and a chord bearing and distance of S 14°31'00" W, 266.91 feet;
 - 13) S 05°31'06" E, a distance of 168.88 feet;
 - 14) Along the arc of a curve to the left 177.15 feet, having a radius of 998.35 feet, a central angle of 10°10'01" and a chord bearing and distance of S 10°34'30" E, 176.92 feet;
 - 15) S 15°39'30" E, a distance of 621.49 feet;
 - 16) Along the arc of a curve to the left 139.59 feet, having a radius of 871.13 feet, a central angle of 09°10'51" and a chord bearing and distance of S 20°13'15" E, 139.44 feet;
 - 17) S 24°48'40" E, a distance of 236.86 feet;
 - 18) Along the arc of a curve to the right 345.51 feet, having a radius of 770.23 feet, a central angle of 25°42'05" and a chord bearing and distance of S 11°57'38" E, 342.62 feet;
 - 19) S 00°51'27" W, a distance of 1342.16 feet to the Northeasterly corner of Lot 1, Block One of Hockaday Heights Subdivision, recorded in the land records of Douglas County at Reception #139949;
- THENCE along the Northerly line of Hockaday Heights Subdivision, also being the South line of the NW¼ of said Section 17, S 87°46'51" W, a distance of 2513.82 feet to the W¼ corner of said Section 17;
- THENCE along the Westerly line of Hockaday Heights Subdivision, also being the East line of the SE¼ of said Section 18, S 00°21'26" W, a distance of 2595.77 feet to the POINT OF BEGINNING;

CONTAINING 3,140.54 acres of land, more or less.

Exhibit B to Dominion/Castle Rock IGA for Option to Purchase
Ground Water Rights, Easements and Related Improvements

NORTH AMERICAN TITLE COMPANY OF COLORADO
101 University Blvd., Suite 310, Denver, CO 80206
Phone: (303)316-3400
Fax: (303)322-3696

Susan Dahm, Branch Manager, can be reached at: 303-316-3400
Cassandra Millers, Escrow Officer, can be reached at: 303-316-3400
Stevie Schaefer-Hill, Business Development Manager, can be reached at: 303-220-1112
E-Mail Address for Loan Documents: cherrycreek@nat.com
The following changes have been made: property address

OUR FILE NO.: 35100-18-10424 REVISION NO.: 1
PROPERTY ADDRESS: Cherokee Ranch, Parcels D and E, Douglas County, CO

DISTRIBUTION: VIA EMAIL TO ALL PARTIES REFERENCED BELOW.

In the event we have not been provided with a valid email address at the time of distribution, an alternative method of distribution may be used.

BUYER/BORROWER

Company Name: Dominion Water & Sanitation District acting in its capacity as a Water Activity Enterprise
Street Address: 9250 East Costilla Avenue, Suite 210
City, State, Zip: Greenwood, CO 80016
Attn: Mary Kay Provaznik

SELLER

Company Name: Town of Castle Rock, a home rule municipality, acting by and through the Town of Castle Rock Water Enterprise
Street Address: c/o Office of the Town Attorney, 100 North Wilcox Street
City, State, Zip: Castle Rock, CO 80104
Attn: Jennifer King

ATTORNEY

Company Name: Welborn, Sullivan, Meek & Tooley, P.C.
Street Address: 1125 17th Street, Suite 2200
City, State, Zip: Denver, CO 80220
Attn: Carolyn Burr, Esq.

AMERICAN LAND TITLE ASSOCIATION Commitment for Title Insurance

Issued by North American Title Insurance Company

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, North American Title Insurance Company, a California Corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within 180 days after the Commitment Effective Date, this Commitment terminates and the Company's liability and obligation end.

NORTH AMERICAN TITLE INSURANCE COMPANY

BY



Emilio Fernandez, PRESIDENT

ATTEST



Jefferson E. Howeth, SECRETARY



This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I – Requirements; and Schedule B, Part II – Exceptions.

COMMITMENT CONDITIONS

1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
- (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
- (h) "Title": The estate or interest described in Schedule A.

- 2. If all of the Schedule B, Part I - Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

- 3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- (a) the Notice;
- (b) the Commitment to Issue Policy;
- (c) the Commitment Conditions;
- (d) Schedule A;
- (e) Schedule B, Part I - Requirements;
- (f) Schedule B, Part II - Exceptions; and
- (g) a counter-signature by the Company or its issuing agent that may be in electronic form.

4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
 - (i) comply with the Schedule B, Part I - Requirements;
 - (ii) eliminate, with the Company's written consent, any Schedule B, Part II - Exceptions; or
 - (iii) acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.

This page is only a part of a 2016 ALTA Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I – Requirements; and Schedule B, Part II – Exceptions.

- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I - Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II - Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

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SCHEDULE A
AMERICAN LAND TITLE ASSOCIATION COMMITMENT

Transaction Identification Data for reference only:

Issuing Agent: North American Title Company of Colorado
Issuing Office: 101 University Blvd., Suite 310, Denver, CO 80206
ALTA Universal ID:
Commitment No.: 35100-18-10424
Property Address: Cherokee Ranch, Parcels D and E, Douglas County, CO
Revision No.: 1

1. **COMMITMENT EFFECTIVE DATE:** November 29, 2018 at 12:00 AM

2. **POLICIES TO BE ISSUED:**

A. **ALTA Owners Policy (06/17/06)**

AMOUNT: \$0.00

Proposed Insured:

Dominion Water & Sanitation District acting in its capacity as a Water Activity Enterprise

3. **THE ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS COMMITMENT IS EASEMENT.**

4. **TITLE TO THE ESTATE OR INTEREST IN THE LAND IS AT THE COMMITMENT EFFECTIVE DATE VESTED IN:**

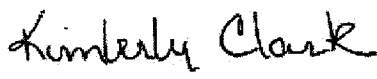
Town of Castle Rock, a home rule municipality of the County of Douglas, State of Colorado acting by and through the Town of Castle Rock Water Enterprise

5. **THE LAND IS DESCRIBED AS FOLLOWS:**

LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND MADE A PART HEREOF

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ISSUE DATE: DECEMBER 12, 2018

By: 

Authorized Officer or Agent

EXHIBIT "A"
Legal Description

Commitment No.: 35100-18-10424 Revision No.: 1

PARCEL D:

Those easement rights created by instrument recorded January 18, 2013 at Reception No. 2013005243, Assignment of Easements recorded November 17, 2017 at Reception No. 2017078456, County of Douglas, State of Colorado

Easement Owner - Town of Castle Rock, a home rule municipality of the County of Douglas, State of Colorado acting by and through the Town of Castle Rock Water Enterprise

PARCEL E:

Those easement rights created by instrument recorded April 29, 2013 at Reception No. 2013034803, Assignment of Easements recorded November 17, 2017 at Reception No. 2017078456, County of Douglas, State of Colorado

Easement Owner - Town of Castle Rock, a home rule municipality of the County of Douglas, State of Colorado acting by and through the Town of Castle Rock Water Enterprise

File No.: 35100-18-10424

Revision No.: 1

Date: December 12, 2018

Property Address: Cherokee Ranch, Parcels D and E, Douglas County, CO

Owner: Town of Castle Rock, a home rule municipality of the County of Douglas, State of Colorado acting by and through the Town of Castle Rock Water Enterprise

ESTIMATE OF TITLE PREMIUMS / FEES

| | | |
|---------------------------------|----------------------------|---------|
| ALTA Owners Policy (06/17/06) | Commercial Short Term Rate | \$0.00 |
| Tax Statement Fee (Rate Area A) | | \$60.00 |

SCHEDULE B-I
AMERICAN LAND TITLE ASSOCIATION COMMITMENT

Commitment No.: 35100-18-10424 Revision No.: 1

REQUIREMENTS

All of the following Requirements must be met:

- A. **The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.**
- B. **Pay the agreed amount for the estate or interest to be insured.**
- C. **Pay the premiums, fees, and charges for the Policy to the Company.**
- D. **Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.**
- E. **Payment of all taxes and assessments now due and payable.**
- F. **Duly executed and acknowledged Statement of Authority for Town of Castle Rock, a home rule municipality of the County of Douglas, State of Colorado, acting by and through the Town of Castle Rock Water Enterprise, pursuant to C.R.S. 38-30-172.**
- G. **Duly executed and acknowledged Statement of Authority for Dominion Water & Sanitation District acting in its capacity as a Water Activity Enterprise, pursuant to C.R.S. 38-30-172.**
- H. **Special Warranty Deed sufficient to convey the easement interest in the land described herein, from Town of Castle Rock, a home rule municipality of the County of Douglas, State of Colorado, acting by and through the Town of Castle Rock Water Enterprise. (PARCELS D AND E)**
- I. **Execution of Company's Final Affidavit by the Purchaser(s) and Seller(s).**

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SCHEDULE B-II
AMERICAN LAND TITLE ASSOCIATION COMMITMENT

Commitment No.: 35100-18-10424 Revision No.: 1

EXCEPTIONS

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. **Rights or claims of parties in possession not recorded in the Public Records.**
2. **Easements, or claims of easements, not recorded in the Public Records.**
3. **Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.**
4. **Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not recorded in the Public Records.**
5. **Any defect, lien, encumbrance, adverse claim or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Effective Date and the date on which all of the Schedule B, Part I – Requirements are met.**
6. **Taxes or special assessments required to be paid in the year 2018 and subsequent years.**
7. **(a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.**
8. The right of the proprietor of a vein or lode to extract or remove his ore, should the same be found to penetrate or intersect the premises thereby granted and rights of way for ditches and canals as reserved in the United States Patent recorded Book P at Page 133 and in Book X at Page 390 and in Book 12 at Page 0207, and any and all assignments thereof or interests therein.
9. Undivided 1/2 interest in all oil, gas and/or other minerals as reserved by Deed recorded December 22, 1980 in Book 402 at Page 684 and in Book 402 at Page 689 and in Book 402 at Page 694, and any and all assignments thereof or interests therein.
10. Reservations as contained in Deed recorded August 24, 1971 in Book 221 at Page 131 and in Book 221 at Page 133.
11. Terms, conditions, provisions, agreements and obligations specified under the Deed recorded October 25, 1978 in Book 345 at Page 135 and in Deed recorded April 23, 1979 in Book 358 at Page 833.
(Section 14)

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SCHEDULE B-II

(Continued)

12. The effect of the inclusion of the subject property in the West Douglas County Fire Protection District, as disclosed by the instrument recorded May 21, 1980 in Book 387 at Page 523 and recorded May 29, 1980 in Book 387 at Page 779.
13. Terms, conditions, provisions, agreements and obligations specified under the Findings of Fact in the Matter of the Application for Water Rights recorded February 22, 1983 in Book 466 at Page 384 and recorded March 31, 1981 in Book 466 at Page 397 and recorded February 22, 1983 in Book 466 at Page 413 and in Book 466 at Page 439.
14. Terms, conditions, provisions, agreements and obligations specified under the Lis Pendens recorded August 12, 1983 in Book 486 at Page 517. Order recorded August 22, 1983 in Book 487 at Page 274.
15. Terms, conditions, provisions, agreements and obligations specified under the General Right of Way Easement recorded September 19, 1983 in Book 490 at Page 1151. (Section 8)
16. Terms, conditions, provisions, agreements and obligations specified under the Survey recorded in Book 535 at Page 239. (Section 13)
17. Terms, conditions, provisions, agreements and obligations specified under the Easement Agreement recorded September 27, 1984 in Book 541 at Page 34. (Sections 5, 7 and 8)
18. Terms, conditions, provisions, agreements and obligations specified under the Rule, Order and decree recorded January 30, 1985 in Book 559 at Page 838. (Sections 19 and 24)
19. Terms, conditions, provisions, agreements and obligations specified under the Deed recorded November 18, 1986 in Book 680 at Page 251. (Section 12)
20. The effect of the inclusion of the subject property in the Castlewood Fire Protection District, as disclosed by the instrument recorded December 31, 1986 in Book 691 at Page 462.
21. Terms, conditions, provisions, agreements and obligations specified under the General Right of Way Easement recorded April 1, 1987 in Book 710 at Page 70. (Sections 8 and 17)
22. Terms, conditions, provisions, agreements and obligations specified under the Conveyance of Easement recorded February 25, 1988 in Book 777 at Page 937.
23. Terms, conditions, provisions, agreements and obligations specified under the Conveyance of Easement and Agreement recorded May 3, 1988 in Book 790 at Page 134.
24. Terms, conditions, provisions, agreements and obligations specified under the Agreement recorded October 13, 1988 in Book 819 at Page 732. First Amendment of Agreement recorded October 6, 1994 in Book 1223 at Page 142. (Section 5)
25. Terms, conditions, provisions, agreements and obligations specified under the Water Lease and Water Facility Purchase Agreement recorded September 20, 1989 in Book 873 at Page 745.
26. Terms, conditions, provisions, agreements and obligations specified under the Stipulation and Order recorded April 5, 1990 in Book 905 at Page 703. (Section 19)
27. Terms, conditions, provisions, agreements and obligations specified under the Easement recorded March 13, 1992 Book 1035 at Page 605. (Sections 5, 7, 13, 14, 17, 18 and 20)

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SCHEDULE B-II

(Continued)

28. Terms, conditions, provisions, agreements and obligations specified under the General Right-of-Way Easement recorded July 13, 1995 in Book 1274 at Page 1147. (Section 5)
29. Terms, conditions, provisions, agreements and obligations specified under the General Right-of-Way Easement recorded July 13, 1995 in Book 1274 at Page 1150. (Section 5)
30. Terms, conditions, provisions, agreements and obligations specified under the General Right-of-Way Easement recorded July 13, 1995 in Book 1274 at Page 1153. (Section 5)
31. Water Deed recorded November 19, 1996 in Book 1387 at Page 1688 and in Book 1387 at Page 1690.
32. Terms, conditions, provisions, agreements and obligations specified under the Resolution No. R-996-150 recorded December 12, 1996 in Book 1393 at Page 1871.
33. Terms, conditions, provisions, agreements and obligations specified under the Deed of Conservation Easement recorded December 12, 1996 in Book 1394 at Page 38.
34. Terms, conditions, provisions, agreements and obligations specified under the Boundary Agreement recorded November 3, 1997 in Book 1479 at Page 1889.
35. Terms, conditions, provisions, agreements and obligations specified under the Findings of Fact Concerning the Application of Water Rights recorded November 9, 1999 in Book 1776 at Page 165.
36. Terms, conditions, provisions, agreements and obligations specified under the Agreement recorded March 6, 2000 in Book 1816 at Page 1700.
37. Terms, conditions, provisions, agreements and obligations specified under the Easement Agreement recorded June 7, 2000 in Book 1854 at Page 170.
38. Terms, conditions, provisions, agreements and obligations specified under the Easement Agreement recorded June 7, 2000 in Book 1854 at Page 178.
39. Terms, conditions, provisions, agreements and obligations specified under the Resolution No. 001-095 recorded August 8, 2001 in Book 2104 at Page 1808.
40. Terms, conditions, provisions, agreements and obligations specified under the Special Warranty Deed recorded September 27, 2001 in Book 2139 at Page 1543.
41. Terms, conditions, provisions, agreements and obligations specified under the Permanent Slope and Drainage Easement Deed recorded September 27, 2001 in Book 2139 at Page 1546.
42. Terms, conditions, provisions, agreements and obligations specified under the Request for Notification of Surface Development recorded May 16, 2002 in Book 2330 at Page 1492.
43. Terms, conditions, provisions, agreements and obligations specified under the Findings of Fact Concerning the Application of Water Rights recorded July 1, 2002 in Book 2359 at Page 2029.
44. Terms, conditions, provisions, agreements and obligations specified under the Affidavit recorded November 21, 2002 at Reception No. 2002126812.

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SCHEDULE B-II

(Continued)

45. The effect of any failure to comply with the terms, conditions, provisions, agreements and obligations specified under the Easement Deed recorded November 21, 2002 at Reception No. 2002126814. Assignment of Easement Deed recorded November 21, 2002 at Reception No. 2002126815. Amended Easement Deed recorded March 10, 2008 at Reception No. 2008016987, Second Amended Easement Deed recorded January 18, 2013 at Reception No. 2013005243.
46. Terms, conditions, provisions, agreements and obligations specified under the Agreement recorded March 3, 2003 at Reception No. 2003027204.
47. Terms, conditions, provisions, agreements and obligations specified under the Agreement recorded March 3, 2003 at Reception No. 2003027205.
48. Terms, conditions, provisions, agreements and obligations specified under the Possession and Use Agreement recorded July 9, 2003 at Reception No. 2003101829.
49. Terms, conditions, provisions, agreements and obligations specified under the Gas Pipeline Easement recorded July 22, 2003 at Reception No. 2003109215.
50. Terms, conditions, provisions, agreements and obligations specified under the General Right-of-Way Easement recorded September 16, 2003 at Reception No. 2003138153.
51. Terms, conditions, provisions, agreements and obligations specified under the Map recorded at Reception No. 2003173278.
52. Terms, conditions, provisions, agreements and obligations specified under the Easement Agreement recorded December 19, 2003 at Reception No. 2003179223.
53. Terms, conditions, provisions, agreements and obligations specified under the Lis Pendens recorded February 23, 2004 at Reception No. 2004018733. Rule and Order recorded April 3, 2008 at Reception No. 2008024043.
54. Terms, conditions, provisions, agreements and obligations specified under the Notice of Lis Pendens recorded March 26, 2004 at Reception No. 2004030100. Rule and Order recorded July 21, 2008 at Reception No. 2008051132.
55. Terms, conditions, provisions, agreements and obligations specified under the Lis Pendens recorded November 29, 2006 at Reception No. 2006102715.
56. Terms, conditions, provisions, agreements and obligations specified under the Resolution No. R-007-076 recorded June 6, 2007 at Reception No. 2007045318.
57. Terms, conditions, provisions, agreements and obligations specified under the First Amended Operating And Maintenance Agreement recorded March 10, 2008 at Reception No. 2008016983.
58. Terms, conditions, provisions, agreements and obligations specified under the Grant of Temporary Construction Easement recorded December 22, 2008 at Reception No. 2008085553.
59. Terms, conditions, provisions, agreements and obligations specified under the Rule and Order Department of Transportation recorded June 17, 2010 at Reception No. 2010036761.
60. Oil and gas lease recorded April 25, 2011 at Reception No. 2011025710 and any and all assignments thereof or interest therein.

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SCHEDULE B-II

(Continued)

61. Terms, conditions, provisions, agreements and obligations specified under the Temporary Construction Easement recorded April 29, 2013 at Reception No. 2013034802.
62. The effect of any failure to comply with the terms, conditions, provisions, agreements and obligations specified under the Easement Agreement recorded April 29, 2013 at Reception No. 2013034803.
63. Terms, conditions, provisions, agreements and obligations specified under the Approval of Water Rights recorded August 1, 2013 at Reception No. 2013064111.
64. Terms, conditions, provisions, agreements and obligations specified under the Declaration of Restrictive Covenants recorded January 7, 2015 at Reception No. 2015001032.
65. Terms, conditions, provisions, agreements and obligations specified under the General Right-of-Way Easement recorded May 17, 2016 at Reception No. 2016030717.
66. Terms, conditions, provisions, agreements and obligations specified under the Special Warranty Easement Deed and Assignment of Easements recorded November 17, 2017 at Reception No. 2017078456.

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DISCLOSURE STATEMENT

1. Pursuant to C.R.S. 30-10-406(3)(a), all documents received for recording or filing in the Clerk and Recorder's office shall contain a top margin of at least one inch and a left, right and bottom margin of at least one-half of an inch. The Clerk and Recorder will refuse to record or file any document that does not conform to the requirements of this section.
2. If this transaction includes a sale of the property and the price exceeds \$100,000.00, the seller must comply with the disclosure/withholding provisions of C.R.S. 39-22-604.5 (Nonresident withholding).
3. Colorado Division of Insurance Regulation 8-1-2 requires that "Every title insurance company shall be responsible to the proposed insured(s) subject to the terms and conditions of the title commitment, other than the effective date of the title commitment, for all matters which appear of record prior to the time of recording whenever the title insurance company, or its agent, conducts the closing and settlement service that is in conjunction with its issuance of an owner's policy of title insurance and is responsible for the recording and filing of legal documents resulting from the transaction which was closed.
4. Pursuant to C.R.S. 10-11-122, the company will not issue its owner's policy or owner's policies of title insurance contemplated by this commitment until it has been provided a Certificate of Taxes due or other equivalent documentation from the County Treasurer or the County Treasurer's authorized agent; or until the Proposed Insured has notified or instructed the company in writing to the contrary.

The subject real property may be located in a special taxing district. A Certificate of Taxes due listing each taxing jurisdiction shall be obtained from the County Treasurer or the County Treasurer's authorized agent. Information regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder, or the County Assessor.

5. Pursuant to C.R.S. 10-11-123, notice is hereby given:

This notice applies to owner's policy commitments containing a mineral severance instrument exception, or exceptions, in Schedule B, Section 2.

- A. That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is a substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and
 - B. That such mineral estate may include the right to enter and use the property without the surface owner's permission.
6. Pursuant to Colorado Division of Insurance Regulation 8-1-1, affirmative mechanic's lien protection for the Owner may be available (typically by deletion of Exception No. 4 of Schedule B, Section 2 of the Commitment from the Owner's Policy to be issued) upon compliance with the following conditions:
 - A. The land described in Schedule A of this commitment must be a single family residence which includes a condominium or townhouse unit.
 - B. No labor or materials have been furnished by mechanics or material-men for purposes of construction on the land described in Schedule A of this Commitment within the past 6 months.
 - C. The Company must receive an appropriate affidavit indemnifying the Company against unfilled mechanic's and material-men's liens.
 - D. The Company must receive payment of the appropriate premium.

- E. If there has been construction, improvements or major repairs undertaken on the property to be purchased within six months prior to the Date of the Commitment, the requirements to obtain coverage for unrecorded liens will include: disclosure of certain construction information; financial information as to the seller, the builder and or the contractor; payment of the appropriate premium, fully executed Indemnity Agreements satisfactory to the Company, and any additional requirements as may be necessary after an examination of the aforesaid information by the Company.

No coverage will be given under any circumstances for labor or material for which the insured has contracted for or agreed to pay.

7. Pursuant to C.R.S. 38-35-125(2) no person or entity that provides closing and settlement services for a real estate transaction shall disburse funds as a part of such services until those funds have been received and are available for immediate withdrawal as a matter of right.
8. C.R.S. 39-14-102 requires that a Real Property Transfer Declaration accompany any conveyance document presented for recording in the State of Colorado. Said Declaration shall be completed and signed by either the grantor or the grantee.
9. Pursuant to C.R.S. 10-1-128(6)(a), It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.
10. Pursuant to Colorado Division of Insurance Regulation 8-1-3, notice is hereby given that an ALTA Closing Protection Letter is available to the consumers identified in this Commitment and will be provided to said consumer upon request.

NOTHING HEREIN CONTAINED WILL BE DEEMED TO OBLIGATE THE COMPANY TO PROVIDE ANY OF THE COVERAGES REFERRED TO HEREIN UNLESS THE ABOVE CONDITIONS ARE FULLY SATISFIED.

Privacy Policy

Rev. 05/22/2018

North American Title Group Family of Companies

| FACTS | WHAT DOES NORTH AMERICAN TITLE GROUP, LLC FAMILY OF COMPANIES DO WITH YOUR PERSONAL INFORMATION? | | |
|---|--|------------------|-----------------------------|
| Why? | Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some, but not all, sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do. | | |
| What? | The types of personal information we collect and share depend on the product or service you have with us. This information can include: <ul style="list-style-type: none">• Social Security number and income• Transaction history and payment history• Purchase history and account balances | | |
| How? | All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information, the reasons North American Title Group, LLC Family of Companies ("NATG") chooses to share, and whether you can limit this sharing. | | |
| Reasons we can share your personal information | | Does NATG share? | Can you limit this sharing? |
| For our everyday business purposes Such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus | | Yes | No |
| For our marketing purposes To offer our products and services to you | | Yes | No |
| For joint marketing with other financial companies | | No | We don't share |
| For our affiliates' everyday business purposes Information about your transactions and experiences | | Yes | No |
| For our affiliates' everyday business purposes Information about your creditworthiness | | No | We don't share |
| For our affiliates to market to you | | Yes | Yes |
| For nonaffiliates to market to you | | No | We don't share |
| To limit our sharing | <ul style="list-style-type: none">• Visit the following webpage for full instructions and a link to the Opt Out process via our NATTRACK system: www.nat.com/Opt-Out OR• Mail the form below <p>Please note: If you are a new customer, we can begin sharing your information 30 days from the date we sent this notice. When you are no longer our customer, we continue to share your information as described in this notice. However, you can contact us at any time to limit our sharing.</p> | | |
| Questions? | Call 1 (844) 654-5408 | | |

| Mail-in Form | |
|--|--|
| If you have a joint account, your choice(s) will apply to everyone on your account unless you mark below. <input type="checkbox"/> Apply my choices only to me. | Mark any/all you want to limit: <input type="checkbox"/> Do not allow your affiliates to use my personal information to market to me. |
| | Name |
| | Address |
| | City, State, Zip |
| | Account # |

Mail To:
North American Title Group, LLC Family of Companies
ATTN: General Counsel
760 Northwest 107th Avenue, Suite 400
Miami, FL 33172

Who we are

| | |
|--------------------------------------|--|
| Who is providing this notice? | North American Title Group, LLC Family of Companies (identified below), which offers title insurance and settlement services and property and casualty insurance |
|--------------------------------------|--|

What we do

| | |
|---|--|
| How does NATG protect my personal information? | To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secure files and buildings. |
|---|--|

| | |
|---|--|
| How does NATG collect my personal information? | <p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> • Apply for insurance; • Apply for financing; • Give us your contact information • Provide your mortgage information • Show your government-issued ID <p>We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.</p> |
|---|--|

| | |
|---------------------------------------|--|
| Why can't I limit all sharing? | <p>Federal law gives you the right to limit only</p> <ul style="list-style-type: none"> • Sharing for affiliates' everyday business purposes – information about your creditworthiness • Affiliates from using your information to market to you • Sharing for nonaffiliates to market to you <p>State laws and individual companies may give you additional rights to limit sharing.</p> |
|---------------------------------------|--|

| | |
|---|---|
| What happens when I limit sharing for an account I hold jointly with someone else? | Your choices will apply to everyone on your account – unless you tell us otherwise. |
|---|---|

Definitions

| | |
|------------------------|--|
| Affiliates | <p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> • Our affiliates include companies with a Lennar name; financial companies such as Eagle Home Mortgage, Eagle Home Mortgage of California, CalAtlantic Mortgage, Inc., and Rialto Capital Management; and nonfinancial companies, such as Lennar Corporation, Lennar Multifamily Companies, Lennar Commercial, Lennar Homes USA, Lennar Family of Builders, CalAtlantic Homes, Lennar Sales Corp., SPH Title, Inc., Sunstreet Energy Group, Five Point Communities, WCI Communities, LLC, Watermark Realty Referral, Inc., and WCI Realty, Inc. |
| Nonaffiliates | <p>Companies not related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> • Nonaffiliates we share with can include collection agencies, IT service providers, companies that perform marketing services on our behalf, and consumer reporting agencies. |
| Joint marketing | <p>A formal agreement between nonaffiliated financial companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> • NATG doesn't jointly market. |

The North American Title Group, LLC Family of Companies consists of the following entities:

North American Title Company
 North American Title Company, Inc.
 North American Title Company of Colorado
 North American Title Insurance Company
 North American Services, LLC
 North American Title Agency, Inc.
 CalAtlantic Title, Inc.
 CalAtlantic Title of Maryland, Inc.

North American Abstract Agency
 NASSA, LLC
 North American Title, LLC
 North American Advantage Insurance Services, LLC
 North American National Title Solutions, LLC
 North American Title Agency, LLC
 CalAtlantic Title Atlanta, LLC
 CalAtlantic Title Charleston, LLC

EXHIBIT C
to Dominion/Castle Rock IGA for Option to Purchase Ground
Water Rights, Easements and Related Improvements

**SPECIAL WARRANTY DEED
WATER RIGHTS**

THIS DEED is made to be effective as of this _____ day of _____, 2018, by the TOWN OF CASTLE ROCK, a Colorado home rule municipality, acting by and through the CASTLE ROCK WATER ENTERPRISE ("Grantor") for the benefit of DOMINION WATER AND SANITATION DISTRICT acting in its capacity as a Water Activity Enterprise ("Grantee").

WITNESSETH, that the Grantor, in consideration of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed and by the presents does grant, bargain, sell, convey and confirm unto the Grantee, it successors and assigns forever, all of Grantor's right, title and interest in and to the following water, water rights, and rights to water in the County of Douglas, State of Colorado:

- A. 300 acre feet per year of the non-tributary groundwater originally decreed by the Division No. 1 Water Court in Case No. 98CW219, as modified by Case No. 03CW117, in the Arapahoe formations, all of which groundwater underlies that real property more particularly described in **Exhibit A** attached to this Deed, EXCEPT FOR:
1. One hundred (100) acre feet per year of Arapahoe formation non-tributary groundwater, which was reserved to the Cherokee Ranch and Castle Foundation by Special Warranty Deed recorded on November 21, 2002 at Reception No. 2002126810, Douglas County Clerk and Recorder;
 2. Sixty (60) acre feet per year of Arapahoe formation non-tributary groundwater, which was conveyed to the Cherokee Ranch and Castle Foundation by Special Warranty Deed for Water Rights recorded March 10, 2008 at Reception No. 2008016986, Douglas County Clerk and Recorder;
 3. Any right, title, interest or claim to use the underground storage capacity resulting from withdrawal of any water described herein, which was reserved to the Cherokee Ranch and Castle Foundation by Special Warranty Deed recorded November 21, 2002 at Reception No. 2002126810; Special Warranty Deed for Water Rights recorded on March 10, 2008 at Reception No. 2008016984 and by Special Warranty Deed for Water Rights recorded on March 10, 2008 at Reception No. 2008016985, Douglas County Clerk and Recorder.

The above-described decreed non-tributary ground water rights are conveyed together with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all

TO HAVE AND TO HOLD the said water, water rights, and rights to water with the hereditaments and appurtenances thereto, unto the Grantee, its successors and assigns forever. The Grantor, for itself, its successors and assigns, does covenant and agree that it shall and will WARRANT AND FOREVER DEFEND the above-bargained and described water, water rights, and rights to water, with the hereditaments and appurtenances thereto, in the quiet and peaceable possession of the Grantee, its successors and assigns, against all and every person and persons claiming the whole or any part thereof, by, through or under the Grantor.

**GRANTOR: TOWN OF CASTLE ROCK,
acting by and through the CASTLE
ROCK WATER ENTERPRISE**

STATE OF COLORADO)
) ss
COUNTY OF)

Notary Public

EXHIBIT A to Special Warranty Deed

A parcel of land located in Sections 5, 6, 7, 8, 17, 18, & 19 of Township 7 South, Range 67 West and in Sections 12, 13, 14 & 24 of Township 7 South, Range 68 West of the Sixth Principal Meridian, County of Douglas, State of Colorado, and being more particularly described as follows:

BEGINNING at the NE corner of Section 19, Township 7 South, Range 67 West of the Sixth Principal Meridian;

THENCE along the East line of the NE $\frac{1}{4}$ of said Section 19, S 00°23'17" W, a distance of 1612.27 feet to the Northerly right of way line of State Highway No. 85;

THENCE along said Northerly right of way line the following fifteen (15) courses:

- 1) N 74°01'07" W, a distance of 442.12 feet;
- 2) N 70°56'17" W, a distance of 269.96 feet;
- 3) N 66°37'01" W, a distance of 813.47 feet;
- 4) N 78°26'56" W, a distance of 1581.82 feet;
- 5) N 73°42'23" W, a distance of 211.93 feet;
- 6) N 71°13'27" W, a distance of 281.07 feet;
- 7) N 67°40'00" W, a distance of 562.02 feet;
- 8) N 75°53'08" W, a distance of 346.26 feet;
- 9) N 80°38'47" W, a distance of 969.60 feet to a point from which the NW corner of said Section 19 bears N 05°30'46" W, a distance of 28.00 feet;
- 10) N 82°57'44" W, a distance of 1053.89 feet;
- 11) N 80°27'38" W, a distance of 584.58 feet;
- 12) N 71°01'17" W, a distance of 471.19 feet;
- 13) N 70°58'10" W, a distance of 2093.66 feet;
- 14) N 71°05'24" W, a distance of 1147.32 feet;
- 15) N 69°36'49" W, a distance of 2074.89 feet to the Southeasterly corner of a parcel of land described in deed recorded in the land records of Douglas County in Book 358 at Page 833;

THENCE along the Easterly line of said parcel the following seven (7) courses:

- 1) N 08°37'34" E, a distance of 172.03 feet;
- 2) N 31°37'52" E, a distance of 442.82 feet;
- 3) N 53°35'59" E, a distance of 194.24 feet;
- 4) N 73°28'44" E, a distance of 264.63 feet;
- 5) N 51°18'55" E, a distance of 177.71 feet;
- 6) N 38°08'20" E, a distance of 487.64 feet;
- 7) N 00°26'53" E, a distance of 391.26 feet to the Northeasterly corner of said parcel;

THENCE along the Northerly line of said parcel, S 89°41'36" W, a distance of 1438.25 feet to the Northwesterly corner of said parcel;

THENCE along the Westerly line extended of said parcel, N 00°01'02" E, a distance of 213.47 feet;

THENCE N 89°41'57" E, a distance of 1979.77 feet to the North 1/16 corner between Sections 13 and 14 of T7S, R68W;

THENCE along the West line of the NW $\frac{1}{4}$ of said Section 13, N 00°11'10" W, a distance of 1319.99 feet to the SW corner of said Section 12;

THENCE along the West line of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 12, N 00°09'51" W, a distance of 1309.82 feet to the South 1/16 corner of Sections 11 & 12;

THENCE along the W line of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 12, N 00°13'35" W, a distance

of 1310.61 feet to the W $\frac{1}{4}$ corner of said Section 12;
 THENCE along the West line of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 12, N 00°09'43" W, a distance of 1309.48 feet to the N 1/16 corner of Sections 11 & 12;
 THENCE along the West line of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 12, N 00° 13'44" W, a distance of 1310.95 feet to the NW corner of said Section 12;
 THENCE along the North line of the NW $\frac{1}{4}$ of said Section 12, N 89°58'04" E, a distance of 2683.10 feet to the N $\frac{1}{4}$ corner of said Section 12;
 THENCE along the North line of the NE $\frac{1}{4}$ of said Section 12, N 89°49'52" E, a distance of 2752.86 feet to the NE corner of said Section 12, also being the NW corner of Section 7, T7S, R67W;
 THENCE along the North line of the NW $\frac{1}{4}$ of said Section 7, N 89°55'53" E, a distance of 2633.78 feet to the N $\frac{1}{4}$ corner of said Section 7;
 THENCE N 00°05'26" W, a distance of 43.58 feet to an existing fence corner;
 THENCE along an existing fence line as described in a boundary agreement between Cherokee Ranch and Castle Foundation, Sanctuary, Inc. and Paul V. and Bonnie G. Grenney, recorded in the land records of Douglas County on Nov. 3, 1997 at Reception No. 9761904 the following five (5) courses:

- 1) N 89°06'35" E, a distance of 2599.66 feet to a point at an existing fence corner from which the NE corner of said Section 7 bears S 08°34'17" W, a distance of 41.11 feet;
- 2) N 00°03'38" W, a distance of 1256.34 feet;
- 3) N 89°59'09" E, a distance of 588.75 feet;
- 4) N 87°01'25" E, a distance of 1332.82 feet;
- 5) N 85°17'08" E, a distance of 767.69 feet to a point on the Westerly right of way line of Daniels Park Road;

THENCE along said right of way line as described in Deed recorded in the land records of Douglas County in Book 541 at Page 29 the following four (4) courses:

- 1) S 11°05'24" E, a distance of 306.86 feet;
- 2) Along the arc of a curve to the right 280.45 feet, having a radius of 598.90 feet, a central angle of 26°49'49" and a chord bearing and distance of S 02°19'30" W, 277.90 feet;
- 3) S 15°44'25" W, a distance of 418.21 feet;
- 4) Along the arc of a curve to the left 307.26 feet, having a radius of 362.65 feet, a central angle of 48°32'39" and a chord bearing and distance of S 08°31'55" E, 298.15 feet to the Northeasterly corner of a parcel of land described in deed recorded in the land records of Douglas County in Book 1073 at Page 260;

THENCE along the boundary of said parcel the following seven (7) courses:

- 1) S 88°46'02" W, a distance of 399.06 feet;
- 2) N 51°04'40" W, a distance of 243.10 feet;
- 3) S 30°09'50" W, a distance of 399.37 feet;
- 4) S 87°35'11" W, a distance of 559.55 feet;
- 5) S 51°13'16" W, a distance of 336.12 feet;
- 6) S 14°44'13" W, a distance of 1028.18 feet;
- 7) N 89°40'54" E, a distance of 2019.95 feet to a point on the Westerly right of way line of Daniels Park Road, (determined to be 60 feet Westerly from the monumented Easterly right of way line shown on the plat of Castle Pines Village Filing 8-A, at Reception #9211515);

THENCE along said Westerly right of way line the following nineteen (19) courses:

- 1) S 01°18'44" E, a distance of 440.02 feet;
- 2) Along the arc of a curve to the right 183.64 feet, having a radius of 419.04 feet, a central angle of 25°06'33" and a chord bearing and distance of S 11°14'32" W, 182.17 feet;

- 3) S 23°47'49" W, a distance of 205.18 feet;
- 4) Along the arc of a curve to the left 327.65 feet, having a radius of 836.68 feet, a central angle of 22°26'14" and a chord bearing and distance of S 12°34'42" W, 325.56 feet;
- 5) S 01°21'31" W, a distance of 185.15 feet;
- 6) S 01°16'36" W, a distance of 657.56 feet;
- 7) Along the arc of a curve to the left 76.61 feet, having a radius of 1378.34 feet, a central angle of 03°11'05" and a chord bearing and distance of S 00°12'27" E, 76.60 feet;
- 8) S 01°48'06" E, a distance of 349.28 feet;
- 9) Along the arc of a curve to the right 253.68 feet, having a radius of 1711.45 feet, a central angle of 08°29'34" and a chord bearing and distance of S 02°26'41" W, 253.45 feet;
- 10) Along the arc of a compound curve to the right 167.76 feet, having a radius of 345.00 feet, a central angle of 27°51'39" and a chord bearing and distance of S 20°37'18" W, 166.11 feet;
- 11) S 34°31'24" W, a distance of 576.43 feet;
- 12) Along the arc of a curve to the left 272.42 feet, having a radius of 390.00 feet, a central angle of 40°01'18" and a chord bearing and distance of S 14°31'00" W, 266.91 feet;
- 13) S 05°31'06" E, a distance of 168.88 feet;
- 14) Along the arc of a curve to the left 177.15 feet, having a radius of 998.35 feet, a central angle of 10°10'01" and a chord bearing and distance of S 10°34'30" E, 176.92 feet;
- 15) S 15°39'30" E, a distance of 621.49 feet;
- 16) Along the arc of a curve to the left 139.59 feet, having a radius of 871.13 feet, a central angle of 09°10'51" and a chord bearing and distance of S 20°13'15" E, 139.44 feet;
- 17) S 24°48'40" E, a distance of 236.86 feet;
- 18) Along the arc of a curve to the right 345.51 feet, having a radius of 770.23 feet, a central angle of 25°42'05" and a chord bearing and distance of S 11°57'38" E, 342.62 feet;
- 19) S 00°51'27" W, a distance of 1342.16 feet to the Northeasterly corner of Lot 1, Block One of Hockaday Heights Subdivision, recorded in the land records of Douglas County at Reception #139949;

THENCE along the Northerly line of Hockaday Heights Subdivision, also being the South line of the NW¼ of said Section 17, S 87°46'51" W, a distance of 2513.82 feet to the W¼ corner of said Section 17;

THENCE along the Westerly line of Hockaday Heights Subdivision, also being the East line of the SE¼ of said Section 18, S 00°21'26" W, a distance of 2595.77 feet to the POINT OF BEGINNING; CONTAINING 3,140.54 acres of land, more or less.

EXHIBIT D
to Dominion/Castle Rock IGA for Option to Purchase Ground
Water Rights, Easements and Related Improvements

**SPECIAL WARRANTY EASEMENT DEED AND
ASSIGNMENT OF EASEMENTS**

THIS SPECIAL WARRANTY EASEMENT DEED AND ASSIGNMENT OF EASEMENTS is made as of _____, 2019, between TOWN OF CASTLE ROCK, a home rule municipality of the County of Douglas, State of Colorado acting by and through its CASTLE ROCK WATER ENTERPRISE ("Grantor") and DOMINION WATER AND SANITATION DISTRICT, acting in its capacity as a Water Enterprise ("Grantee").

GRANTOR, for and in consideration of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, sells, conveys, assigns, transfers and sets over unto Grantee, its successors and assigns forever, a non-exclusive interest in and to the easements described on Exhibit A attached hereto and incorporated herein by reference (the "Property"), all of which encumber real property located in Douglas County, Colorado.

TOGETHER WITH all appurtenances thereto belonging or in any way appertaining, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or in equity, of, in and to the Property.

GRANTOR does covenant and agree to and with Grantee to warrant and defend title to the Property and the quiet and peaceful possession of the Grantee, its successors and assigns, against all and every person or persons claiming the whole or any part thereof by, through or under Grantor, subject to all real property taxes and assessments for the year in which this deed is dated, and all of the covenants, conditions, restrictions, easements and other matters described on Exhibit B attached hereto.

THIS DEED is dated as of the day and year first above written.

**GRANTOR: TOWN OF CASTLE ROCK,
acting by and through the CASTLE ROCK
WATER ENTERPRISE**

Jason Gray, Mayor

STATE OF COLORADO

)

)ss.

COUNTY OF _____

)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by Jason Gray, as Mayor of the TOWN OF CASTLE ROCK, acting by and through the CASTLE ROCK WATER ENTERPRISE.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

**EXHIBIT A to Special Warranty Easement Deed
and Assignment of Easements**

LEGAL DESCRIPTION OF THE PROPERTY

1. Easement Agreement dated April 22, 2013, recorded in the public records of Douglas County, Colorado April 29, 2013 at Reception No. 2013034803.
2. Second Amended Easement Deed dated December 28, 2012, recorded in the public records of Douglas County, Colorado at Reception No. 2013005243.

EXHIBIT E
to Dominion/Castle Rock IGA for Option to Purchase Ground
Water Rights, Easements and Related Improvements

**ASSIGNMENT AND ASSUMPTION OF
OPERATING AND MAINTENANCE AGREEMENTS**

THIS ASSIGNMENT AND ASSUMPTION, is made as of _____, 2019, by and between by and between the TOWN OF CASTLE ROCK acting by and through the CASTLE ROCK WATER ENTERPRISE, a Colorado municipal corporation ("Assignor") and DOMINION WATER AND SANITATION DISTRICT, acting in its capacity as a WATER ENTERPRISE ("Assignee").

R E C I T A L

WHEREAS, on March 6, 2008, Assignor's predecessor-in-interest entered into a First Amended Operating and Maintenance Agreement, as further described in Exhibit 1 hereto, with Cherokee Ranch and Castle Foundation (the "Property Owner"), pursuant to which Assignor's predecessor agreed that the Property Owner could withdraw up to 102.17 acre feet of water per year in the event an Arapahoe well was drilled on the property.

WHEREAS, on November 15, 2017, Assignor acquired most of the not nontributary and nontributary ground water rights underlying the property, as well as the interests and obligations set forth in the First Amended O&M Agreement.

WHEREAS, on November 16, 2017, Assignor entered into the First Amendment to the First Amended Operating and Maintenance Agreement, as further described on Exhibit 1 hereto, with the Property Owner.

WHEREAS, as part of the transactions contemplated by the Purchase and Sale Agreement dated _____ between Assignor and Assignee, Assignor has agreed to assign, and Assignee has agreed to assume, the rights and obligations under the First Amended O&M Agreement and the First Amendment to the First Amended O&M Agreement (collectively, the "O&M Agreements"), subject to the terms and conditions of this Assignment;

NOW THEREFORE, for good and valuable consideration, the receipt of which are acknowledged by Assignor and Assignee, the parties agree as follows.

A G R E E M E N T

1. Assignment and Assumption of Water Supply Agreement. Assignor hereby assigns and transfers to Assignee the rights, interests and obligations of Assignor by, through and under the O&M Agreements. Assignee hereby accepts the foregoing assignment and assumes and agrees to perform all of the covenants, obligations and agreements to be performed by Assignor under the O&M Agreements that arise or accrue from and after the date of this Assignment.

2. Further Assurances. Assignor and Assignee agree to execute such other documents and perform such other acts as may be reasonably necessary or proper and usual to affect this Assignment.

3. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Colorado.

4. Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of Assignor and Assignee and their respective personal representatives, heirs, successors and assigns.

5. Counterparts and Electronic Signatures. This Agreement may be executed in counterparts, which, taken together, shall constitute the agreement of the parties. Signatures transmitted by facsimile or electronic mail shall be valid and binding for all purposes.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first hereinabove written.

ATTEST:

TOWN OF CASTLE ROCK acting by and
through the **TOWN OF CASTLE ROCK**
WATER ENTERPRISE

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

**DOMINION WATER & SANITATION
DISTRICT, acting in its capacity as a Water
Enterprise**

Harold Smethills, President

ATTEST:

Denise Denslow, Secretary

EXHIBIT 1
To Assignment and Assumption of
Operating and Maintenance Agreements

1. First Amended Operating and Maintenance Agreement dated March 6, 2008 between the Cherokee Ranch & Castle Foundation, Bromley District Water Providers, LLC and Robert A. Lembke, recorded in the real property records of Douglas County, Colorado on Mar. 10, 2008, Reception No. 2008016983.
2. First Amendment to the First Amended Operating and Maintenance Agreement dated November 16, 2017 between the Cherokee Ranch & Castle Foundation and the Town of Castle Rock, acting by and through the Town of Castle Rock Water Enterprise, recorded in the real property records of Douglas County, Colorado on Nov. 17, 2017, Reception No. 2017078464.

**TRI-PARTY AGREEMENT REGARDING CHEROKEE
RANCH & CASTLE FOUNDATION RIGHTS**

THIS AGREEMENT is executed this ____ day of _____, 2019, by and between the Town of Castle Rock, a Colorado home rule municipal corporation by and through the Town of Castle Rock Water Enterprise (the “Town”) and Dominion Water & Sanitation District, acting in its capacity as a Water Activity Enterprise (“Dominion”) and the Cherokee Ranch & Castle Foundation, a Colorado nonprofit corporation (“Foundation”), (jointly “Parties”).

WHEREAS the Town of Castle Rock is a home rule municipal corporation; and

WHEREAS, Dominion is a quasi-municipal corporation and political subdivision of the State of Colorado formed and organized pursuant to Title 32 of the Colorado Revised Statutes; and

WHEREAS, the Foundation owns the property described in **Exhibit A** (“the Property”); and

WHEREAS, the Town owns the following certain real property interests and nontributary and not nontributary water rights:

- the “Cherokee Ranch Easements” described as follows;
 - Easement Agreement dated April 22, 2013, recorded in the public records of Douglas County, Colorado April 29, 2013 at Reception No. 2013034803.
 - Second Amended Easement Deed dated December 28, 2012, recorded in the public records of Douglas County, Colorado at Reception No. 2013005243.
- approximately 1,574 acre feet per year of nontributary Denver Basin groundwater as originally decreed by the Division No. 1 Water Court in Case No. 98CW219, as modified by Case No. 03CW117, in the Arapahoe formation (“Arapahoe Water Right”);
- approximately 1,614 acre feet per year of not nontributary Denver Basin groundwater as originally decreed by the Division No. 1 Water Court in Case No. 98CW219, as modified by Case No. 03CW117, in the Denver formation (“Denver Water Right”);
- approximately 381 acre feet per year of nontributary Denver Basin groundwater as originally decreed by the Division No. 1 Water Court in Case No. 98CW219, as modified by Case No. 03CW117, in the Laramie Fox Hills formation (“LFH Water Right”);

(collectively the “Water Rights”) all of which groundwater underlies the Property; and

WHEREAS, Dominion desires to obtain the option to purchase the Water Rights and Cherokee Ranch Easements, and has negotiated an Option Agreement with the Town, which is attached hereto as **Exhibit B** (“Dominion Option Agreement”).

WHEREAS, the Foundation and the Town are parties to the First Amendment to the First Amended Operating and Maintenance Agreement dated November 16, 2017 (“2017 Amendment”), attached hereto as **Exhibit C**, pursuant to which the Town has granted the Foundation a right of first refusal (“ROFR”) if the Town receives and accepts a bona fide offer to purchase the Water Rights, or any portion thereof, to consummate the transaction contemplated by the offer on the terms and subject to the conditions set forth in the offer; and

WHEREAS, the Option Agreement between Dominion and the Town provides that Dominion will assume the responsibilities to set forth in the First Amended Operating and Maintenance Agreement dated March 6, 2008 (“2008 O&M Agreement”) between the Foundation and the Town’s predecessors, Bromley District Water Providers, LLC and Robert A. Lembke, as amended by the 2017 Amendment, to provide the Foundation with the option to use capacity in one or more Arapahoe wells to deliver Arapahoe aquifer water owned by the Foundation. The 2008 O&M Agreement is attached hereto as **Exhibit D**.

WHEREAS, Dominion is authorized, pursuant to its service plan, to provide wholesale water services to customers located both within and outside of its boundaries for multiple uses, including for human consumption and household use, commercial, irrigation, industrial and other uses; and

WHEREAS, the Town, Dominion and the Foundation have mutual interests concerning the development of the Water Rights and use of the Cherokee Ranch Easements,

NOW THEREFORE, in consideration of the mutual promises and benefits described herein, the adequacy and sufficiency of which are hereby acknowledged, Dominion, the Town and the Foundation hereby agree as follows:

1. **Partial Waiver and Amendment of Foundation’s Right of First Refusal**. During the term of the Option Agreement between Dominion and the Town, the Foundation hereby agrees as follows:
 - 1.1. The Foundation agrees that Dominion may exercise its option to purchase up to 1,374 acre feet of 1,574 acre feet per year decreed to the Arapahoe Water Right and all of the Denver and LFH Water Rights without triggering the Foundation’s ROFR.
 - 1.2. The Foundation shall retain a right of first refusal on 200 acre feet of the Arapahoe Water Right. If Dominion, pursuant to the Option Agreement, elects to purchase a portion of the Water Rights that includes the last 200 acre feet per year of the Arapahoe Aquifer available for purchase from the Town, the Foundation shall be entitled to exercise its right of first refusal and purchase up to 200 acre feet per year of the Arapahoe Water Right at the same price as Dominion has agreed to pay the Town in the Option Agreement.

1.2.1. The Town shall notify the Foundation in writing by Certified U.S. Mail if Dominion elects to purchase a portion of the Water Rights that includes the last 200 acre feet per year of the Arapahoe Water Right. The notice shall include a summary of the price per acre foot that Dominion has offered to the Town.

1.2.2. Sections 3.C through 3.F of the 2017 Amendment are not altered by this Partial Waiver and Amendment of the Foundation's ROFR, and shall remain in full force and effect.

1.2.3. Dominion's purchase of the Water Rights shall be adjusted, if necessary, based on the Foundation's exercise of its ROFR.

2. **Arapahoe Well Capacity for Foundation.** If (a) Dominion purchases some or all of the Arapahoe water pursuant to the Option Agreement, and (b) if Dominion subsequently constructs an Arapahoe aquifer well, Dominion and the Foundation agree that the 2017 Amendment and the 2008 O&M Agreement are amended as follows to provide the Foundation with the opportunity to use a portion of the well capacity:

2.1. The cost of constructing the initial Arapahoe well shall be borne solely by Dominion.

2.2. Dominion shall notify the Foundation once an Arapahoe well has been completed, and the capacity thereof. The Foundation shall have thirty (30) days to elect whether or not to share the well capacity with Dominion, and shall provide written notice of its election to Dominion within that time.

2.3. If the Foundation elects to share in the initial Arapahoe well capacity with Dominion, Dominion shall reserve 15.5 gallons per minute (gpm) of firm capacity for the Foundation "(Foundation's Firm Capacity)" for the Foundation to pump up to either 102 acre feet per year or up to 302 acre feet per year, depending on whether the Foundation exercises its right of first refusal as described in Section 1, above.

2.4. If the Foundation elects to use the Foundation's Firm Capacity, the Foundation may also, use pumping capacity above 15.5 gpm, to pump up to 102 acre feet per year (or up to 302 acre feet per year); provided, however, that use of capacity above 15.5 gpm shall only be permitted at times when Dominion is not using all or some portion of the remaining Arapahoe well capacity and pursuant to a schedule acceptable to both Dominion and the Foundation.

2.5. The Foundation shall be responsible for paying all operating and maintenance expenses, including without limitation, variable, fixed and capital expenses, associated with its pro

rata share of total pumping as set forth in Sections 4 and 5 of the 2008 O&M Agreement . Dominion shall provide an itemized invoice to the Foundation of its operating and maintenance costs at least annually.

2.6. The Foundation shall have a right to purchase additional firm pumping capacity of 15.5 gpm in up to three additional Arapahoe wells, if such wells are completed by Dominion or a successor to Dominion..

2.6.1. The total Firm Capacity available to the Foundation if Dominion completes four or more Arapahoe wells is 62 gpm, which may be used to deliver the Foundation's 102 acre feet per year (or up to 302 acre feet per year).

2.6.2. The Foundation shall pay for any Firm Capacity over and above the initial 15.5 gpm provided for herein based on the Foundation's pro rata share of the total pumping capacity of the well multiplied by the cost of drilling and equipping the well.

3. **Dominion's Option to Provide Water From the Denver Aquifer.** If the Foundation elects to share well capacity pursuant to Section 2.2, and if Dominion has exercised its option to purchase sufficient Denver aquifer water pursuant to the Dominion Option Agreement, then at Dominion's election, it may provide the Foundation with 102 acre feet per year (or up to 302 acre feet per year) of water from the Denver aquifer instead of the Arapahoe aquifer pursuant to the following conditions:

3.1. Dominion must first develop one or more Denver aquifer wells at its sole cost and expense.

3.2. Dominion shall be responsible for augmenting any Denver aquifer pumping attributable to delivery of water to the Foundation.

3.3. The Foundation shall have the right to a firm capacity of 50 gpm to pump 102 acre feet per year (or up to 302 acre feet per year) from one Denver aquifer well.

3.4. The Foundation shall have a right to purchase additional firm pumping capacity of 50 gpm in up to three additional Denver wells, if such wells are completed by Dominion or a successor to Dominion..

3.5. The total Firm Capacity available to the Foundation if Dominion completes four or more Denver wells is 200 gpm, which may be used to deliver the Foundation's 102 acre feet per year (or up to 302 acre feet per year).

3.6. The Foundation and Dominion will complete a no-cost trade of water rights whereby the Foundation shall assign its Arapahoe aquifer water (either 102 acre feet per year or up to 302 acre feet per year) to Dominion by special warranty deed and Dominion shall convey an equal amount of water from the Denver aquifer to the Foundation by special warranty deed.

4. **Option to Purchase Potable Water.**

4.1. The Foundation shall have an option to purchase, through a qualified retail provider, up to 20 acre feet per year of potable water supplied through Dominion's wholesale system.

4.2. The Foundation's option to purchase potable water shall terminate ten (10) years from the Execution Date of this Agreement.

4.3. Dominion shall not be obligated to deliver potable water for the Foundation's benefit until it has all of the necessary infrastructure in place to do so.

4.4. If the Foundation exercises its option to receive potable water, the connection point shall be along the Eastern Regional Pipeline Project at or near the point labeled Potential Interconnect Location on the map attached hereto as **Exhibit E**. The final connection location shall be mutually agreed upon with Dominion, the retail provider and the Foundation.

5. **Default and Remedies.** In the event of default hereunder by any Party, the remedies set forth below and the provisions of Section 5 shall survive the termination of this Agreement.

5.1. A default shall be deemed to have occurred if any Party breaches its obligations hereunder and fails to cure such breach within 20 days of receipt of written notice from a non-breaching Party specifying the breach. Waiver or failure to give notice of a particular default shall not be construed as condoning or acquiescing to any continuing or subsequent default. The Parties acknowledge that due to the uniqueness of the subject matter of this Agreement, legal remedies may be inadequate. Accordingly, the non-breaching Party shall have the right to pursue any legal or equitable remedies which it may have, including specific performance, in accordance with the provisions of this Section 5.

5.2. If Dominion, the Town or the Foundation employ an attorney to enforce its rights pursuant to this Agreement because of the default of another Party, the parties agree that

each will be responsible for their own attorney's fees and costs associated with any such legal action.

6. **Miscellaneous Provisions.**

6.1. Amendment. Except as otherwise provided herein, this Agreement may be modified, amended, changed, or terminated, in whole or in part, only by an agreement in writing duly authorized and executed by the Parties.

6.2. Notice. For purposes of notice pursuant to this Agreement, the Parties' representatives shall be:

For the Town: Castle Rock Water
Attn: Director of Castle Rock Water
175 Kellogg Court
Castle Rock, CO 80109

With a copy to: Town Attorney
Town of Castle Rock
100 Wilcox Street
Castle Rock, CO 80104

For Dominion: Dominion Water & Sanitation Dist.
Clifton Larson Allen, LLP
8390 E. Crescent Parkway, Suite 500
Greenwood Village, CO 80111

With a copy to: Dominion Water & Sanitation District
Attn: General Manager
9250 E. Costilla Ave. Suite 210
Greenwood Village, CO 80016

With a copy to: Welborn Sullivan Meck & Tooley, P.C.
1125 17th Street, Suite 2200
Denver, CO 80220

With a copy to: MaryAnn M. McGeady
McGeady Becher P.C.
450 East 17th Ave Suite 400
Denver, CO 80203

For the Foundation: Cherokee Ranch & Castle Foundation
Attn: Executive Director

With a copy to: James J. Petrock
Petrock, Fendel, Poznanovic, P.C.
700 17th Street, Suite 1800
Denver, CO 80202

Any notices required or permitted to be given hereunder shall be in writing and shall be deemed given when given personally or sent by certified or registered mail, return receipt requested, postage prepaid. Any Party hereto may designate a new address by giving written notice thereof to the other parties as provided herein. Notice shall be effective upon receipt.

6.3. Assignment. This Agreement may not be assigned by any Party to another party unless such assignment is approved in writing by Dominion, the Town and the Foundation.

6.4. Governing Law. The terms, conditions, and provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

6.5. Defense Against Third Parties. In the event of litigation by any third party concerning this Agreement, and to the extent permitted by law, the Parties agree to jointly defend any such third party action.

6.6. No Third Party Beneficiaries. Except as otherwise explicitly provided for herein, there are no third party beneficiaries of this Agreement. No third party has any right to enforce this Agreement.

6.7. Sole Obligation of Water Activity Enterprise.

6.7.1. This Agreement shall never constitute a general obligation or other indebtedness of the Town or Dominion, or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the Town or Dominion within the meaning of the Constitution and laws of the State of Colorado or of the service plan, rules or regulations of the Town or Dominion.

6.7.2. The Town represents that this Agreement has been duly authorized, executed and delivered by the Town and constitutes a valid and legally binding obligation of the Town, enforceable against the Town in accordance with the terms hereof, subject only to the terms hereof and to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

6.7.3. Dominion represents that this Agreement has been duly authorized, executed and delivered by Dominion and constitutes a valid and legally binding obligation of Dominion, enforceable against Dominion in accordance with the terms hereof, subject only to the terms hereof and to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

6.7.4. The Foundation represents that this Agreement has been duly authorized, executed and delivered by the Foundation and constitutes a valid and legally binding obligation of the Foundation, enforceable against the Foundation in accordance with the terms hereof, subject only to the terms hereof and to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

6.8. Entire Agreement. This Agreement represents the entire agreement of the parties and none of the parties has relied upon any fact or representation not expressly set forth herein.

6.9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed original, but all of which constitute one and the same agreement.

6.10. Non-severability and Effect of Invalidity. Each provision of this Agreement is integral to the others and is not severable from the others. If any portion of this Agreement is held invalid or unenforceable for any reason by a court of competent jurisdiction as to either party or as to both parties, the parties will immediately attempt to negotiate either valid alternative portions that as near as possible give effect to any stricken portions or a valid replacement agreement.

6.11. Joint Draft. The parties agree they drafted this Agreement jointly with each having the advice of legal counsel and an equal opportunity to contribute to its content. Therefore, this Agreement shall not be construed for or against a party on the basis of authorship.

6.12. Intent of Agreement. This Agreement is intended to describe the rights and responsibilities of and between the parties and is not intended to and shall not be deemed to confer rights upon any persons or entities not signatories hereto nor to limit, impair, or enlarge in any way the powers, regulatory authority and responsibilities of either party or any other governmental entity not a party hereto.

6.13. Non-Business Days. If any date for any action under this Agreement falls on a Saturday, Sunday or Holiday, as such term is defined in Rule 6 of the Colorado Rules of

Civil Procedure, then the relevant date shall be extended automatically until the next business day.

IN WITNESS WHEREOF, the parties hereby executed this Agreement on the date first written above.

TOWN OF CASTLE ROCK

Jason Gray, Mayor

ATTEST:

Lisa Anderson, Town Clerk

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Mark Marlowe, Director of Castle Rock Water
**DOMINION WATER & SANITATION
DISTRICT**

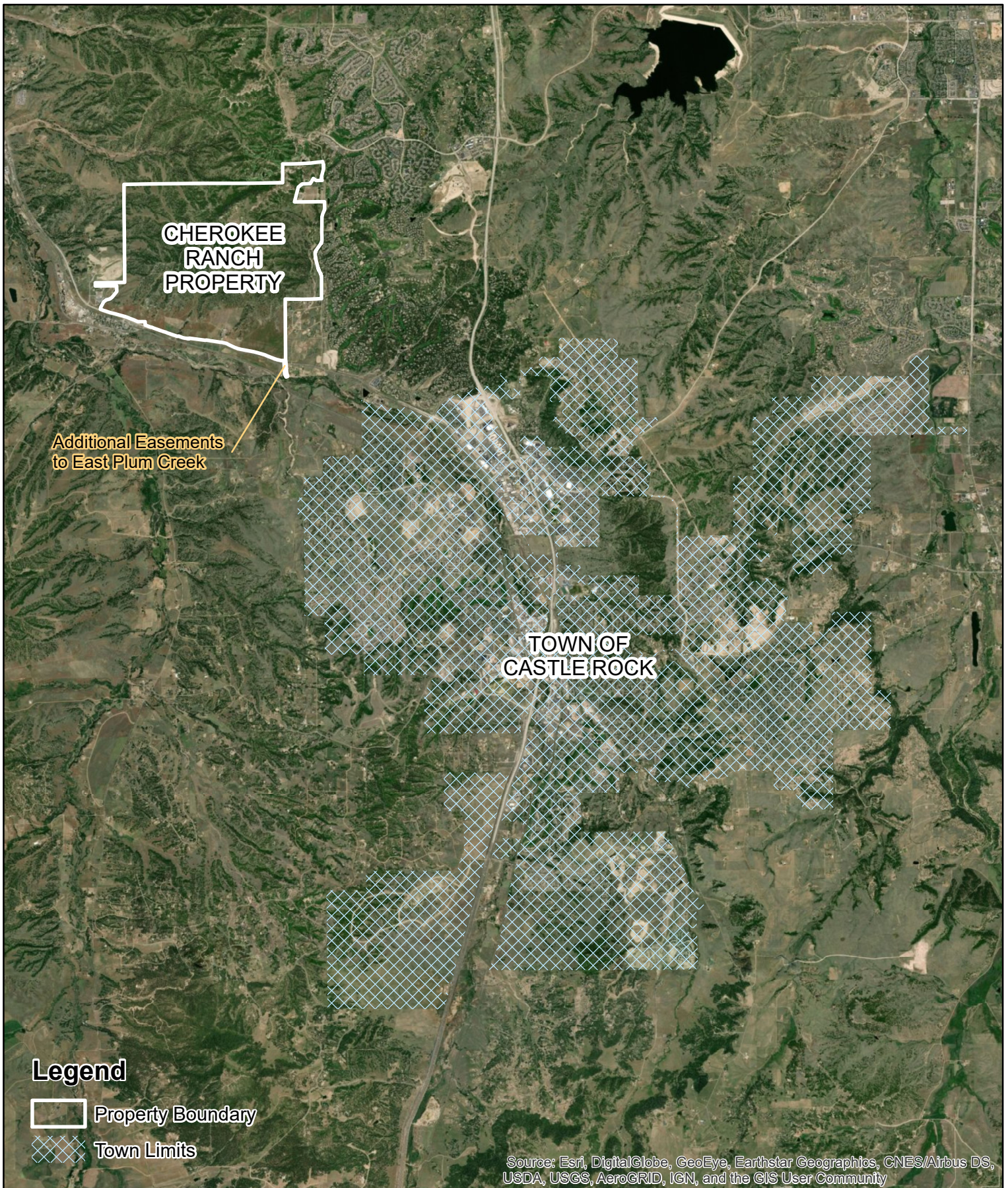
Harold Smethills, President

ATTEST:

Denise Denslow, Secretary

**CHEROKEE RANCH & CASTLE
FOUNDATION**, a Colorado non-profit corporation

By _____
James A. Holmes, Executive Director



ATTACHMENT B

Map of Water Rights' Locations & Easements

