

ORDINANCE NO. 2020 - 006

**AN ORDINANCE APPROVING A TANK SITE EASEMENT OPTION
AGREEMENT BETWEEN THE TOWN OF CASTLE ROCK, COLORADO AND PV,
LLC**

WHEREAS, in conjunction with the Town's acquisition of Lost Creek water rights for the Town's Box Elder Creek long term renewable water project, the Town acquired an easement for a tank site as well as water line capacity in a pipeline near Keenesburg, Colorado,

WHEREAS, the Town has determined that it will not use the tank site or the water line capacity for development of the Box Elder Creek project,

WHEREAS, the Town and PV, LLC entered into a Contract for Purchase and Sale of Water Assets (additional Lost Creek water rights) to the Town and Water Line Capacity to PV, LLC ("Agreement") dated February 4, 2020,

WHEREAS, the Town and PV, LLC are entering into the Third Amendment to the Contract for Purchase and Sale of Water Assets and Water Line Capacity ("Third Amendment") dated May 19, 2020, to address the changes of circumstance due to the 2020 COVID-19 pandemic,

WHEREAS, the Town is evaluating whether to proceed with the purchase of the additional Lost Creek water rights contemplated in the Contract, but PV, LLC wants the option to continue with the purchase of the Water Line Capacity and tank site easement,

WHEREAS, the Third Amendment identifies the purchase price and conditions of PV, LLC's purchase of the Water Line Capacity, and the Tank Site Easement Option Agreement identifies the purchase price and conditions of PV, LLC's purchase of the Tank Site Easement,

WHEREAS, the Third Amendment and the Tank Site Easement Option Agreement make it clear that PV, LLC cannot purchase the Water Line Capacity without also purchasing the Tank Site Easement or the Tank Site Easement without also purchasing the Water Line Capacity,

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 the Tank Site Easement Option Agreement, in the form attached as *Exhibit 1* sale of the Tank Site Easement is hereby approved. 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 2. 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 19th day of May, 2020 by a vote of 7 for and 0 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 2nd day of June, 2020, 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