



Meeting Date: March 16, 2021

AGENDA MEMORANDUM

To: Honorable Mayor and Members of Town Council

Through: David L. Corliss Town Manager

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

Title: Resolution Approving the Intergovernmental Agreement between the Town of Castle Rock and Parker Water and Sanitation District for the Parker Midsection Pipeline/Canyons Pump Station Project

Executive Summary

The purpose of this memorandum is to request Town Council approval of a resolution (**Attachment A**) for an Intergovernmental Agreement (IGA) between the Town of Castle Rock and Parker Water and Sanitation District (PWSD) for the design, construction and project management of the Parker Midsection Pipeline/Canyons Pump Station Project. This IGA and the corresponding project are part of the larger Water Infrastructure and Supply Efficiency (WISE) project. A map of the key components of the WISE project, including the proposed Parker Midsection Pipeline and Canyons Pump Station is provided as **Attachment B**.

The pipeline and pump station are wholly within PWSD's service area, however, PWSD does not need capacity in this infrastructure for several years while Castle Rock and Dominion Water and Sanitation District (Dominion) have more immediate needs. Furthermore, Castle Rock's existing Wheeling IGA with PWSD limits our pipeline transmission capacity in PWSD's infrastructure to 1 million gallons per day (MGD), and eliminates transmission capacity by December 31, 2023. As such, Castle Rock will be undertaking the cost burden and project management of this project now so that we can be ensured to have adequate water transmission capacity for WISE project water and some of our treated supplies out of Rueter-Hess Reservoir.

The estimated cost of the pipeline and pump station project, from design to the end of construction, is \$13.76 million. Castle Rock will be funding the entire project up front, with PWSD paying back their portion (an estimated \$7.05 million) in early 2024 and Dominion paying their portion (an estimated \$1.6 million) in accordance with a future IGA between Castle Rock and Dominion. Total investments in the larger WISE project are \$52.4 million to date. Some of the additional future projects associated with the larger WISE project include the Denver International Airport (DIA) interconnect and the future WISE desalination plant, along with local pipelines paralleling our existing . Castle Rock currently anticipates \$93 million in future capital costs associated with the overall WISE project.

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

February 24, 2021, Castle Rock Water Commission voted _____ that Town Council approve the IGA between the Town of Castle Rock and PWSD for the Parker Midsection Pipeline/Canyons Pump Station Project.

Discussion

The purpose of this memorandum is to request Town Council approval of an IGA between the Town of Castle Rock and PWSD for the design, construction and project management of the Parker Midsection Pipeline/Canyons Pump Station Project.

The WISE Western Pipeline Purchase Agreement closed on October 21, 2014. Soon thereafter, the WISE Authority selected Western Summit as the design-builder for the modifications to the Western Pipeline. These modifications included a 2 million gallon storage tank, a chloramination disinfection facility, a greensand filtration system in a new water treatment plant, a pump station by-pass and supervisory control and data acquisition system (SCADA) improvements. Substantial completion of the WISE modification work occurred in December 2016 with final completion in mid-2017.

To be able to physically receive WISE water deliveries, infrastructure from the Western Pipeline had to also be constructed. In addition to the Ridgeway Line project, which was described to Council on April 19, 2016, a 36-inch, 3.4-mile pipeline (the "Canyons Pipeline") was also constructed along with the Canyons Pump Station. Castle Rock then constructed the Outer Marker Road pipeline, a 5.1 mile pipeline, that brings the water to Ray Waterman Regional Water Treatment Facility for distribution to customers in the Town (see **Attachment B**).

On March 6, 2018, the Town and PWSD entered into a Wheeling Agreement for PWSD to transport WISE and other water to the Town through portions of the infrastructure owned and operated by PWSD. This Wheeling Agreement described the costs associated with the transport of water, and repair and maintenance of that transport infrastructure. This agreement also discussed a bottleneck in PWSD's system that limits Castle Rock's (and Dominion's) flows to 1 MGD until December 31, 2023. After this date, Castle Rock and Dominion would no longer own capacity in this 24-inch pipeline section.

Thus, a new IGA has been developed between Castle Rock and PWSD for the design and construction of a new 2-mile, 42-inch diameter pipeline (the "Midsection Pipeline") that will parallel the smaller diameter pipeline. Castle Rock will retain 8.8 MGD of capacity in this new pipeline, Dominion will obtain 4.2 MGD of capacity, and PWSD will obtain the balance of the capacity in of the 31.8 MGD total pipeline capacity. Additionally, the Canyons Pump Station will be expanded to increase Castle Rock's capacity from 3 MGD to 8.8 MGD.

Because PWSD does not have an immediate need for the Midsection Pipeline, Castle Rock plans to pay for the design and construction of this pipeline and pump station expansion now, with reimbursement from PWSD in early 2024 for their portion. The Town will be developing a new IGA with Dominion for payment of their portion very soon. Key terms of the IGA with PWSD are as follows:

- Castle Rock initially pays for all costs associated with design, easement acquisition, and construction.
- Castle Rock staff time will be set at 1% of the estimated infrastructure cost and be reimbursed on a pro-rata basis by PWSD.
- Staff will manage the project, adjust costs as necessary and provide regular notices and updates to PWSD.
- An invoice for final cost reimbursement will be sent to PWSD upon project completion and payment will be made by PWSD within 45 days (this is anticipated to be in early 2024).
- Upon completion of the project, Castle Rock will convey ownership of the infrastructure to PWSD by Bill of Sale, but Castle Rock will maintain a capacity of 8.8 MGD in the pipeline and 8.8 MGD in the Canyons Pump Station.

Budget Impact

The overall estimated cost of the project is \$13,762,000. The initial phase of the project will be to select a qualified professional engineering firm to design the new pipeline and pump station expansion. Staff estimates that this phase of the project will cost \$945,000. A request for proposals for the design work is currently being developed and staff will be bringing back its recommendation for a design contract in April or May 2021 for Council consideration.

Monies for the design and construction of the aforementioned infrastructure will come from 211-4375-443.77-72 Water Resources, CIP – WISE Infrastructure, Project Code <WR WLI>. This account has a budget of \$2,300,694 for 2021. The majority of the project expenditures are expected in 2022.

Recommendations

Staff and CRW Commission recommend that Town Council approve the Agreement as presented in Exhibit 1.

Proposed Motion

“I move to approve the Resolution as introduced by title.”

Attachments

Attachment A: Resolution

Exhibit 1: Agreement

Attachment B: Map of WISE Local Infrastructure

RESOLUTION NO. 2021-__

**A RESOLUTION APPROVING THE INTERGOVERNMENTAL
AGREEMENT BETWEEN THE TOWN OF CASTLE ROCK AND
PARKER WATER AND SANITATION DISTRICT
(PARKER MIDSECTION PIPELINE/CANYONS PUMP STATION)**

WHEREAS, C.R.S. § 29-1-203 authorizes the Parties to cooperate and contract with one another regarding functions, services and facilities each is authorized to provide; and

WHEREAS, each of the Parties operates a water delivery system to provide water service to their customers; and

WHEREAS, the Parties are both members of the South Metro WISE Authority, which was formed to manage the delivery of excess water from Denver Water and Aurora Water to the members of the South Metro WISE Authority under the terms of the 2013 WISE Partnership Agreement; and

WHEREAS, Castle Rock and PWSD are parties to a Wheeling Agreement establishing the terms and conditions to which PWSD will wheel Castle Rock Water through Wheeling Infrastructure; and

WHEREAS, per Section 5 of the Wheeling Agreement, Castle Rock has temporary licensed capacity in a portion of the Midsection Infrastructure that expires on December 31, 2023; and

WHEREAS, Section 5.B. of the Wheeling Agreement indicates that the Parties intend to construct a new 42-inch water transmission pipeline to convey Castle Rock Water that will parallel the existing 24-inch waterline; and

WHEREAS, in addition, the Parties will need to undertake an expansion of the Canyons Pump Station to accommodate the conveyance of water from the Midsection Infrastructure to the Castle Rock water system; and

WHEREAS, the Parties find and determine that it is in the best interests of their respective customers to set forth the terms and conditions by which they will share costs in the design and construction of, and allocate capacity in the Project Infrastructure.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK AS FOLLOWS:

Section 1. Approval. The Intergovernmental Agreement Between the Town of Castle Rock and Parker Water and Sanitation District for the Parker Midsection Pipeline/Canyons Pump Station, in the form attached as *Exhibit 1* is hereby approved. The Mayor and other proper Town officials are hereby authorized to execute the Agreement by and on behalf of the Town of Castle Rock, Colorado, including any non-substantive changes approved by Legal and staff.

Section 2. Encumbrance and Authorization for Payment. In order to meet the Town's initial financial obligation under the IGA, the Town Council authorizes the expenditure and payment from the following appropriation accounts: account #211-4375-443.77-72 (Project Code WR WLI) in an amount not to exceed \$13,762,000 unless authorized in writing by the Town of Castle Rock.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2021 by the Town Council of the Town of Castle Rock, Colorado, on first and final reading 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:

Michael J. Hyman, Town Attorney

Mark Marlowe, Director of CR Water

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF
CASTLE ROCK AND PARKER WATER AND SANITATION DISTRICT
(PARKER MIDSECTION PIPELINE/CANYONS PUMP STATION)**

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made and entered into this _____ day of _____, 2021 (the “Effective Date”), by and between the Town of Castle Rock, a home rule municipal corporation, acting by and through the Town of Castle Rock Water Enterprise (“Castle Rock”), and Parker Water and Sanitation District, a quasi-municipal special district organized and existing pursuant to the provisions of Title 32 of the Colorado Revised Statutes, (“PWSD”) (individually a “Party” and collectively, the “Parties”).

WITNESSETH:

WHEREAS, C.R.S. § 29-1-203 authorizes the Parties to cooperate and contract with one another regarding functions, services and facilities each is authorized to provide; and

WHEREAS, each of the Parties operates a water delivery system to provide water service to their customers; and

WHEREAS, the Parties are both members of the South Metro WISE Authority, which was formed to manage the delivery of excess water from Denver Water and Aurora to the members of the South Metro WISE Authority under the terms of the 2013 WISE Partnership Agreement; and

WHEREAS, Castle Rock and PWSD are parties to a Wheeling Agreement establishing the terms and conditions to which PWSD will wheel CR Water through Wheeling Infrastructure; and

WHEREAS, per Section 5 of the Wheeling Agreement, Castle Rock has temporary licensed capacity in a portion of the Midsection Infrastructure that expires on December 31, 2023; and

WHEREAS, Section 5.B. of the Wheeling Agreement indicates that the Parties intend to construct a new 42-inch water transmission pipeline to convey CR Water that will parallel the existing 24-inch waterline; and

WHEREAS, in addition, the Parties will need to undertake an expansion of the Canyons Pump Station to accommodate the conveyance of water from the Midsection Infrastructure to the Castle Rock water system; and

WHEREAS, the Parties find and determine that it is in the best interests of their respective customers to set forth the terms and conditions by which they will share costs in the design and construction of, and allocate capacity in the Project Infrastructure.

NOW, THEREFORE, the Parties, in and for the consideration of the performance of the mutual promises set forth herein, the receipt and adequacy of which is hereby acknowledged, for themselves and their successors, do hereby agree as follows:

1. DEFINITIONS

The following terms, when capitalized, have the meanings indicated:

- A. “Canyons Infrastructure” means the portion of the water delivery infrastructure that is used to convey potable water owned or controlled by Castle Rock from the Midsection Infrastructure to the Castle Rock water system as shown on Exhibit A-1, which Infrastructure includes the Canyon Pump Station.
- B. “Canyons Pump Station Expansion” means all improvements to the existing Canyons Pump Station undertaken for the purpose of expanding its capacity to 13 MGD, as more particularly described in Exhibit A and shown on Exhibit A-1.
- C. “CR Water” means Castle Rock’s share of potable water received from Denver Water and Aurora pursuant to the terms of the WISE Partnership – Water Delivery Agreement and the South Metro WISE Authority Formation and Organizational Intergovernmental Agreement and other potable water, which Castle Rock has a right to convey through the Wheeling Infrastructure. For purposes of this Agreement, “CR Water” does not include non-potable water.
- D. “Dominion” means the Dominion Water and Sanitation District, a quasi-municipal special district organized and existing pursuant to the provisions of Title 32 of the Colorado Revised Statutes.
- E. “Estimated Infrastructure Costs” means the estimated costs of designing, constructing and installing the Project Infrastructure, as more particularly described in Exhibit B.
- F. “Final Infrastructure Costs” means the final costs of designing, constructing and installing the Project Infrastructure, as more particularly described in the amended Exhibit B.
- G. “MGD” means million gallons per day.
- H. “Midsection Infrastructure” means infrastructure owned and operated by PWSD between the RidgeGate Infrastructure and the Canyons Infrastructure, a portion of which will be used to convey potable water to Castle Rock as shown on Exhibit A-1.
- I. “Operations Plan” means the Rueter-Hess Reservoir Operations Plan dated January 25, 2008.
- J. “Parker Midsection Pipeline” means a new 42-inch water transmission pipeline generally running parallel to PWSD’s existing 24-inch midsection pipeline, as more particularly described in Exhibit A and shown on Exhibit A-1.

- K. “Point of Delivery” means the point designated in Exhibit A-1 where the CR Water is delivered from the Wheeling Infrastructure to Castle Rock.
- L. “Points of Receipt” means the points designated in Exhibit A-1 where the CR Water is introduced into the Wheeling Infrastructure.
- M. “Project” means the design, construction, and installation of certain necessary improvements to PWSD’s Wheeling Infrastructure, including the Parker Midsection Pipeline and the Canyons Pump Station Expansion.
- N. “Project Infrastructure” means the Parker Midsection Pipeline and the Canyons Pump Station Expansion, all as more particularly described in the attached Exhibit A and shown on the attached Exhibit A-1
- O. “PWSD Estimated Costs” means PWSD’s proportional share of the Estimated Infrastructure Costs, as more particularly described in Exhibit B.
- P. “PWSD Final Costs” means PWSD’s proportional share of the Final Infrastructure Costs, as more particularly described in amended Exhibit B.
- Q. “RidgeGate Infrastructure” means the water delivery pipeline and related facilities owned and operated by PWSD, which is used to convey WISE water from the pipeline referred to as the WISE Western Pipeline to the PWSD Rueter-Hess Water Purification Facility (RHWPF) where the Midsection Infrastructure begins as shown on Exhibit A-1.
- R. “Rueter-Hess Agreement” means the Rueter-Hess Reservoir Water Storage Space Intergovernmental Agreement dated August 26, 2008 and recorded with the Douglas County Clerk and Recorder on August 28, 2008 at Reception No. 2008060219.
- S. “Storage Documents” means the Rueter-Hess Agreement, the Operations Plan, and all other permits, agreements, policies, rules and regulations, and applicable laws governing storage of water in Rueter-Hess Reservoir.
- T. “Wheeling Agreement” means the Wheeling Agreement, dated March 6, 2018, by and between the Town of Castle Rock and Parker Water and Sanitation District.
- U. “Wheeling Infrastructure” means the PWSD water delivery infrastructure and facilities used to convey CR Water from the Point of Receipt to the Point of Delivery, as listed on Exhibit A-1, which shall consist of the three sections referred to as the RidgeGate Infrastructure, and the Midsection Infrastructure, and the Canyons Infrastructure.
- V. “WISE Organizational Agreement” means the 2013 South Metro WISE Authority Formation and Organizational Intergovernmental Agreement by and between

Centennial Water & Sanitation District, the Town of Castle Rock, Denver Southeast Suburban Water & Sanitation District, Cottonwood Water and Sanitation District, Inverness Water & Sanitation District, Dominion Water & Sanitation District, Parker Water and Sanitation District, Meridian Metropolitan District, Stonegate Village Metropolitan District, and Rangeview Metropolitan District.

- W. “WISE Partnership Agreement” means the 2013 WISE Partnership – Water Delivery Agreement (WDA) by and between Denver Water, the City of Aurora, and the South Metro WISE Authority.

2. DESCRIPTION OF PROJECT. Due to Castle Rock’s expanding water needs, Castle Rock agrees to initially fund and undertake the Project. In consideration thereof, PWSD agrees to reimburse Castle Rock for all PWSD Final Costs. The Project Infrastructure is more particularly described in Exhibit A and shown on Exhibit A-1, which exhibits are attached hereto and incorporated herein by this reference.

3. ALLOCATION OF DESIGN, CONSTRUCTION, AND INSTALLATION COSTS.

- A. The Estimated Infrastructure Costs, including the PWSD Estimated Costs, are set forth in Exhibit B, which exhibit is attached hereto and incorporated herein by this reference. The Estimated Infrastructure Costs shall include, without limitation, the following costs incurred by Castle Rock: (i) staff time spent administering the work set forth herein; (ii) construction and contract management; and (iii) easement acquisition and any right-of-way permitting fees. PWSD acknowledges and agrees that Castle Rock staff time shall not be tracked. Instead, the costs of Castle Rock staff time shall be set at one percent (1%) of the Estimated Infrastructure Costs.
- B. PWSD acknowledges and agrees that the actual costs of the Project Infrastructure may vary from the Estimated Infrastructure Costs. Upon completion of the Project Infrastructure, Castle Rock shall prepare an amended Exhibit B showing the Final Infrastructure Costs, including the PWSD Final Costs. The amended Exhibit B shall be substituted for the original Exhibit B as part of this Agreement. Castle Rock shall provide a copy of the amended Exhibit B to PWSD upon completion of the Project Infrastructure. At PWSD’s request, Castle Rock shall provide records relating to the design and construction of the Project Infrastructure, including copies of each draw request from Castle Rock’s general contractor, together with paid invoices or such other documentation as may be available and reasonably requested for PWSD to verify the Final Infrastructure Costs. The Parties shall cooperate to resolve any disputes concerning either the Final Infrastructure Costs or the PWSD Final Costs informally. If the Parties are unable to resolve their dispute informally, they shall submit the dispute to non-binding mediation before a mutually agreed upon mediator. If the Parties remain unable to resolve their dispute within sixty (60) days of commencing mediation, the Parties may pursue any remedies lawfully available to them.

- C. The Estimated Infrastructure Costs may increase at any time during the design, construction or installation of the Project Infrastructure. Accordingly, the Estimated Infrastructure Costs may be adjusted at any time by Castle Rock. Castle Rock shall administer the Project in substantially the same manner and with the same care as other Castle Rock projects of a similar scope and nature. Castle Rock shall manage all change orders and costs adjustments. Adjusted cost estimates will be made based upon actual construction bids or change orders. If the Estimated Infrastructure Costs are adjusted, Castle Rock shall give written notice to PWSD.
- D. Castle Rock agrees to pay for all costs for pipeline easement research, design, construction and construction management during design and construction of the Project and will track these costs during the course of the Project.
- E. Castle Rock agrees to undertake the acquisition of all real property interests necessary to construct the Project. All easements will be dedicated to PWSD at the time of conveyance of the Project Infrastructure. PWSD will cooperate with the acquisition of easements required for completion of the Project.
- F. Upon the later of January 15, 2024 or final completion of the Project as defined in the Project contract, Castle Rock will invoice PWSD for the PWSD Final Cost of the Project based on its pro-rata share of the capacity. Payment shall be made in full by PWSD within forty-five (45) days following receipt of the invoice.
- G. Ongoing costs for completion of all work associated with the Temporary Erosion and Sedimentation Control (TESC) permit after final completion (as defined in the Project contract), will be shared on a pro-rata basis by PWSD and Castle Rock.

4. INFRASTRUCTURE OWNERSHIP, CAPACITY ALLOCATION, AND INSURANCE.

- A. Infrastructure Ownership. Castle Rock shall maintain ownership of the Project Infrastructure until the Project is finally complete as defined in the Project contract and acceptable to PWSD. Upon acceptance by PWSD, Castle Rock shall convey the Project Infrastructure to PWSD by Bill of Sale in the form attached as Exhibit C, which exhibit is attached hereto and incorporated herein by this reference.
- B. Capacity Reservation and Allocation. Concurrent with the transfer of ownership from Castle Rock to PWSD of the Project Infrastructure, PWSD shall grant Castle Rock a license for Castle Rock's proportional share in the permanent capacity of the Parker Midsection Pipeline and the Canyons Pump Station. PWSD acknowledges that, from its proportional share, Castle Rock intends to grant a license to Dominion in the permanent capacity of the Parker Midsection Pipeline and the Canyons Pump Station by separate agreement. This will result in an allocation of permanent capacity in the Parker Midsection Pipeline of 27.67% for Castle Rock, 13.21% for Dominion, and 59.12% for PWSD and permanent capacity in the Canyons Pump Station of 8.8 MGD for Castle Rock, 4.2 MGD for Dominion,

and 5.3 MGD for PWSD, with a final total capacity of 18.3 MGD for PWSD, however PWSD does not intend to expand its pump station capacity at this time.

- C. Access Restriction. Castle Rock acknowledges that the License granted herein is for capacity in the Project Infrastructure only. Following the transfer of ownership as provided in Section 4.B herein, Castle Rock shall not at any time access the Project Infrastructure or other facilities or property owned or controlled by PWSD, except pursuant to the terms, restrictions and conditions set forth herein. Castle Rock further acknowledges that any license granted to Dominion for capacity in the Project Infrastructure shall be subject to the same restrictions.
- D. License Capacity. The total capacity of the Project Infrastructure is set forth in Exhibit A. The License granted to Castle Rock is limited to the capacities set forth in Exhibit A, which may be sold or assigned by Castle Rock pursuant to the same procedures as set forth in Section 5.F of the WISE Organizational Agreement relating to the assignment or sale of participant pro-rata shares. If the total capacity of the Project Infrastructure is in excess of the amounts set forth in Exhibit A (due to operation of the Project Infrastructure at a higher flow rate than currently anticipated or for any other reason), as determined by PWSD in its sole discretion, the excess capacity shall be allocated to the Parties based on their pro-rata share of the total capacity set forth in Exhibit A.
- E. Capacity Restriction. If capacity in the Project Infrastructure is restricted on account of maintenance, emergencies, force majeure, or legal or regulatory requirements, PWSD shall forthwith advise Castle Rock of such capacity restriction and the anticipated duration thereof, and apportion capacity in the Project Infrastructure based upon Castle Rock's proportional share of Infrastructure capacity.
- F. Conveyance and Delivery of Non-WISE Project Water. Castle Rock may use its licensed capacity in the Project Infrastructure for the delivery of non-WISE Project water; provided the quality of the non-WISE Project water being delivered through the Project Infrastructure meets the same standards as those applicable to WISE Project Water.
- G. Limitations. The allocation of costs set forth herein between Castle Rock and PWSD is intended to apply solely to the costs of designing and constructing the Project Infrastructure, and shall not be construed to include costs and fees related to the maintenance, repair, or replacement of the Project Infrastructure, or conveyance or "wheeling" of Castle Rock Water through the Project Infrastructure. Such costs and other related terms and conditions, including without limitation, metering, delivery scheduling, volume restrictions, and other related matters are the subject of the Wheeling Agreement between the Parties.
- H. Warranty. Upon completion of the Project, transfer of the Project to PWSD and acceptance by PWSD, PWSD shall be the sole owner of the Project Infrastructure

and all warranties associated therewith, subject to the rights of Castle Rock as further set forth herein and in the Wheeling Agreement. PWSD does covenant and agree that it shall warrant and forever defend Castle Rock in its quiet and peaceful possession of its license rights granted herein against all and every person or persons. In the event that the license or any part thereof is challenged by the person or entity granting rights, interests or title to PWSD or any portion thereof, PWSD shall, to the extent permitted by law, take all necessary actions to acquire the requisite interest needed to satisfy its obligations hereunder; provided that Castle Rock may be required by PWSD to pay its proportional share of the costs related to actions taken by PWSD if the need for such actions was not due to the negligence of PWSD.

- I. Insurance. PWSD shall procure and maintain property insurance for the Project Infrastructure that is substantially similar to the coverage maintained by PWSD for other similar PWSD-owned water infrastructure. If the Project Infrastructure is damaged, PWSD shall allocate all proceeds from the insurance policy towards repairing the Project Infrastructure.

5. DEFAULT/REMEDIES. In the event a Party deems the other Party to be in default, it shall provide written notice indicating the event of default. The defaulting party shall have thirty (30) days from the date of the notice to cure the stated default or, if such default is not capable of being cured within thirty (30) days, cure of such default shall commence and be diligently pursued. In no event shall the cure period exceed thirty (30) days for monetary defaults, or sixty (60) days for non-monetary defaults, except by written consent of the non-defaulting party. In the event the defaulting party has failed to cure in accordance with this Section, the non-defaulting party may pursue all available remedies at law or equity. Castle Rock shall have the ability to withhold dedication of the Project Infrastructure due to a monetary default.

6. MISCELLANEOUS.

- A. Governing Law and Venue. The Parties hereto agree that exclusive jurisdiction and venue for the resolution of any dispute relating to this Agreement shall lie in the District Court for Douglas County, State of Colorado.
- B. Entire Agreement. This Agreement constitutes the entire agreement between the parties relating to the subject matter thereof, and there are no prior or contemporaneous agreements, either oral or written, relating to the subject matter hereof except as expressly set forth herein.
- C. Agreement Modification. The Agreement may not be amended, altered, or otherwise changed except by a written agreement between the Parties.
- D. Counterpart Execution. The Agreement may be executed in one or more counterparts, each of which when executed shall be deemed an original, all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by electronic delivery and, upon receipt, shall be deemed originals and binding upon the parties hereto.

- E. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Parties or their officials, employees, contractors, or agents, or any other person acting on behalf of the Parties and, in particular, governmental immunity that may be afforded or available to the Parties pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.
- F. Assignability. This Agreement and the License granted herein may be assigned, pledged or transferred, in whole or in part, by a Party pursuant to the terms and requirements of Section 14 of the WISE Organizational Agreement procedure relating to the assignment, pledge or transfer of the Member's Pro Rata Share.
- G. No Public Dedication/No Third Party Beneficiary. Nothing contained herein shall be deemed to be a grant or dedication of any rights or use to the public in general, and no third party beneficiary interests are created nor intended to be created by this Agreement.
- H. Headings for Convenience. The headings and captions in this Agreement are intended solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.
- I. Notice. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given, at the address set forth below, or at such other address as has been previously furnished in writing, to the other party. Such notice shall be deemed to have been given when deposited in the United States mail.

If to Castle Rock: Town of Castle Rock
 Attn: Director of Castle Rock Water
 175 Kellogg Court
 Castle Rock, CO 80109

with copy to: Town of Castle Rock
 Attn: Town Attorney
 100 N. Wilcox Street
 Castle Rock, CO 80104

If to PWSD: Parker Water and Sanitation District
 Attn: Ron R. Redd
 18100 E. Woodman Drive
 Parker, CO 80134

with copy to: Jefferson Parker, Esq.
Hoffmann, Parker, Wilson & Carberry, P.C.
511 Sixteenth Street, Suite 610
Denver, CO 80202

- J. No Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.
- K. Recordation. The Parties agree that this Agreement may be recorded in the records of the Clerk and Recorder for county in which a Party has its principal place of business.
- L. Binding Agreement. The benefits and burdens of this Agreement shall inure to and be binding upon on the successors, and assigns of the Parties.
- M. Definitions and Interpretations. Except as otherwise provided herein, nouns, pronouns and variations thereof shall be deemed to refer to the singular or plural, and masculine or feminine, as the context may require. Any reference to a policy, procedure, law, regulation, rule or document shall mean such policy, procedure, law, regulation, rule or document as it may be amended from time to time. Any capitalized term not defined herein shall have the meaning set forth in the definitions of the Organizational Agreement.
- N. Survival of Representations. Each and every covenant, promise, and payment contained in this Agreement shall survive each and be binding and obligatory upon each of the Parties and shall not merge into any deed, assignment, covenant, escrow agreement, easement, lease or any other document.
- O. Non-Severability. Each Section of this Agreement is intertwined with the others and is not severable unless by mutual consent of the Parties.
- P. Effect of Invalidity. 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 negotiate valid alternative portions) that as near as possible give effect to any stricken portion(s).
- Q. Force Majeure. Each Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incidence of fire, flood, or strike; acts of God; action of the government (except the parties hereto); war or civil disorder; violence or the threat thereof; severe weather; commandeering of material, products, plants or facilities by the federal, state or local government (except the parties hereto); and national fuel shortage, when

satisfactory evidence of such cause is presented to the other Party, and provided further, that such nonperformance is beyond the reasonable control of, and is not due to the fault or negligence of, the Party not performing.

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto as of the date first written above.

(Signature pages to follow)

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Mark Marlowe, Director Castle Rock Water

ATTEST:

**PARKER WATER AND SANITATION
DISTRICT**

Ron R. Redd, P.E., Manager

EXHIBIT A
DESCRIPTION OF PROJECT INFRASTRUCTURE

1. 42-Inch Midsection Pipeline

A water delivery pipeline, of which the portion serving the Canyons Development and Castle Rock consists of approximately 11,088 linear feet of 42-inch welded steel or ductile iron pipe, which shall be the subject of the License set forth in the Agreement, and all necessary appurtenances to control and monitor the flow and operate the pipeline, and all easements, licenses, and related property rights necessary to construct, operate and maintain the pipeline, including the investigation and remediation, if necessary, of significant historical artifacts in the alignment of the pipeline.

2. WISE Transmission (Canyons) Pump Station Capacity Expansion

The Canyons Pump Station Expansion will involve the addition of pumps, interior piping, valves, electrical wiring and controls to increase the flow capacity from 7.2 MGD to 13 MGD. Castle Rock's current capacity (as of the execution of this IGA) is 3 MGD and its capacity will be increased by 5.8 MGD with this expansion, for a total Castle Rock capacity of 8.8 MGD. Dominion's capacity of 4.2 MGD will be maintained. The ability for PWSD to add capacity in the amount of 5.3 MGD in the future shall be retained.

EXHIBIT A-1
MAP OF PROJECT INFRASTRUCTURE
(see attached)

EXHIBIT B
ESTIMATED COSTS OF PROJECT INFRASTRUCTURE

| Project Phase/Description | Estimated Total Cost | Pro-Rata Cost Shares ¹ | | |
|--|----------------------|-----------------------------------|--------------------|--------------------|
| | | CRW (27.67%) | PWSD (59.12%) | Dominion (13.21%) |
| Pipeline Design Services ² | \$775,000 | \$214,443 | \$458,180 | \$120,377 |
| Pipeline Easement Acquisition Costs | \$250,000 | \$69,175 | \$147,800 | \$33,025 |
| Midsection Pipeline Construction Costs ³ | \$10,400,000 | \$2,877,680 | \$6,148,480 | \$1,373,840 |
| Pump Station Capacity Expansion Design Services ⁴ | \$170,000 | \$170,000 | | |
| Pump Station Capacity Expansion ³ | \$1,700,000 | \$1,700,000 | | |
| Construction Engineering Services | \$363,000 | \$100,442 | \$214,606 | \$47,952 |
| Project administration costs ⁵ | \$104,000 | | \$82,160 | \$21,840 |
| Total Estimated Costs | \$13,762,000 | \$5,131,740 | \$7,051,226 | \$1,597,034 |

¹Cost splits are based on an estimated total flow capacity of 31.8 MGD in the 42-inch pipeline.

²Pipeline Design Services includes \$250,000 in costs for land/easement acquisition services subconsultant and professional land surveying services.

³Construction Cost Estimate is based on Western Loop, Crowfoot Valley, and Mid-Segment Study by Jacobs dated November 5, 2020.

⁴The Pump Station capacity expansion is for the sole benefit of Castle Rock and thus, Castle Rock will bare those costs wholly.

⁵Estimated project administration costs will be paid by PWSD and Dominion at a split of 79% to 21% of the total calculated at 1% of the construction cost of the Midsection Pipeline.

EXHIBIT C
BILL OF SALE AND ASSIGNMENT OF WARRANTY
(EXEMPLAR - NOT FOR EXECUTION)

KNOW ALL BY THESE PRESENTS that THE TOWN OF CASTLE ROCK, a Colorado home rule municipality, acting by and through the Town of Castle Rock Water Enterprise (the “Grantor”) for and in consideration of the sum of _____ Dollars (\$_____) and other good and valuable consideration, the receipt of which is hereby acknowledged, and as contemplated by that certain Intergovernmental Agreement (Parker Midsection Pipeline Pipeline/Canyons Pump Station Expansion Project) dated _____, 2021, between the Grantor and PWSD (hereinafter defined) (the “2021 IGA”), has bargained and sold, and by these presents does grant and convey unto PARKER WATER AND SANITATION DISTRICT a quasi-municipal corporation and political subdivision of the State of Colorado, its successors and assigns, all of Grantor's right, title and interest in and to the facilities, personal property and improvements intended for use by PWSD described in Exhibit A and depicted on Exhibit A-1, both of which are attached hereto and incorporated herein by this reference (the “Project Infrastructure”);

With regard to that certain Construction Contract for Project Infrastructure dated _____, 2021 (the “2021 Construction Contract”) between Grantor and _____ (the “Contractor”), Grantor hereby assigns to PWSD all of Grantor’s right, title and interest in and to the warranty provisions relating to the Project Infrastructure in the 2021 Construction Contract which benefit the “Town,” as such term is defined in the 2021 Construction Contract (such assignment from Grantor being referred to hereunder as the “Assignment”). Contractor, as evidenced by the signature of its authorized signatory below, hereby consents to the Assignment and agrees, from and after the date of this Bill of Sale, to honor such warranty for the benefit of PWSD as though PWSD were the “Town” under the 2021 Agreement.

The conveyance of the Project Infrastructure and Assignment under this Bill of Sale are made on an “as is” “where-is” basis in their present condition with all faults, and Grantor has not made, does not make and specifically disclaims any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past present or future, relating to the Project Infrastructure or the Assignment. PWSD, by acceptance hereof, acknowledges Grantor’s compliance with the terms of the 2021 IGA as it relates to the Project Infrastructure.

Grantor and PWSD acknowledge that Grantor has acquired the real property interests required under Section 3.E. of the 2021 IGA, and such real property interests are further described in Exhibit B, attached hereto and incorporated herein by this reference (the “Project Easements”). Grantor has assigned to PWSD interests in the Project Easements sufficient to allow PWSD the ability to operate, maintain, replace and expand the Project Infrastructure.

(Signatures pages to follow)

IN WITNESS WHEREOF, the Grantor, PWSD, and the Contractor have executed this Bill of Sale and Assignment of Warranty this ____ day of _____, 202_.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Mark Marlowe, Director Castle Rock Water

PWSD hereby accepts the Improvements and the Assignment as set forth in this Bill of Sale.

ATTEST:

**PARKER WATER AND SANITATION
DISTRICT**

Ron R. Redd, P.E., Manager

Contractor hereby consents to the Assignment and agrees to the provisions related thereto contained in this Bill of Sale.

_____,
a _____

By: _____
Its: _____

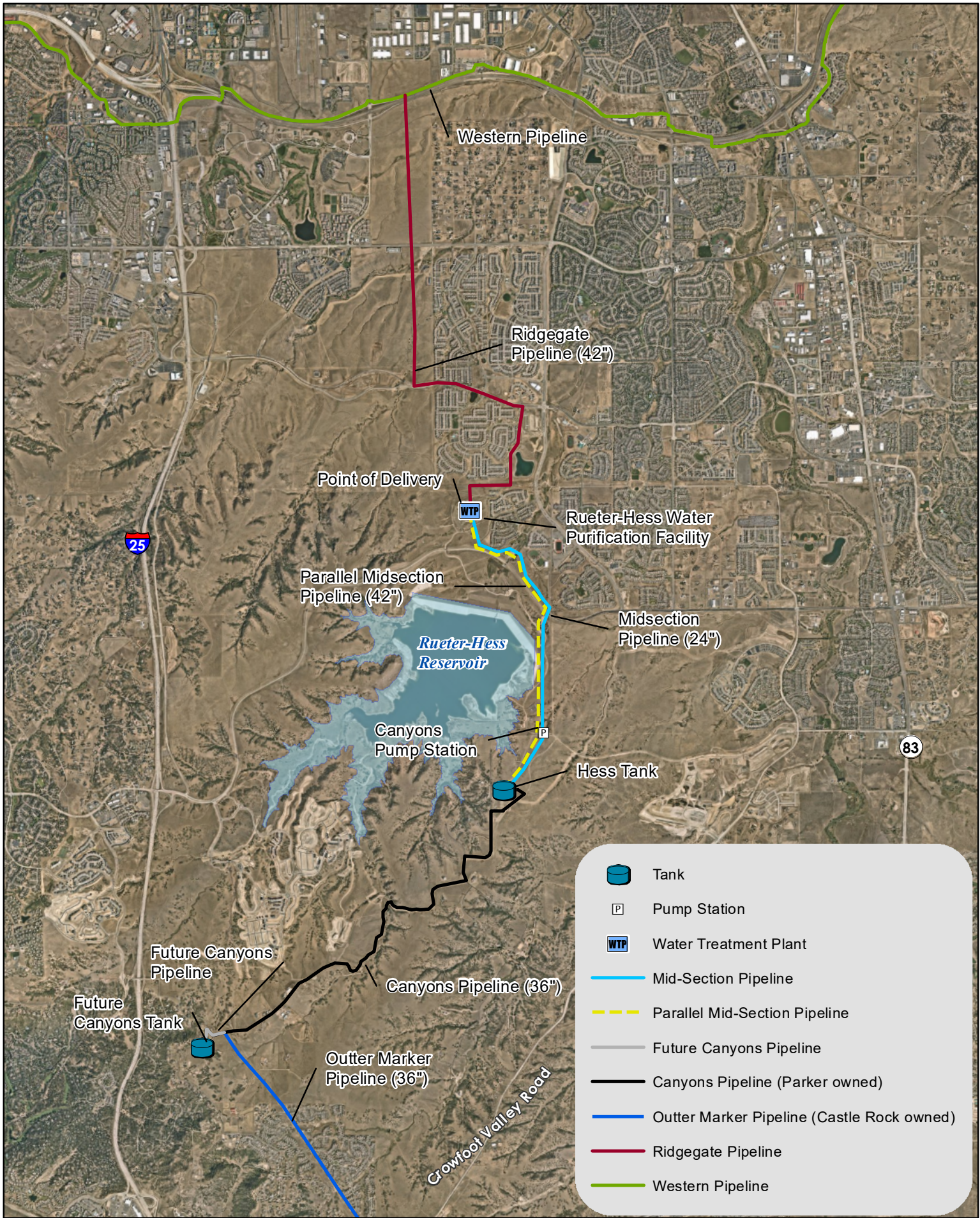
STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument as acknowledged before me this ___ day of _____,
202_ by _____ for _____.

Witness my official hand and seal.

My commission expires:

Notary Public



ATTACHMENT B

Infrastructure for Conveyance of WISE Water

Date: 2/11/2021

