

**ORDINANCE NO. 2021-010**

**AN ORDINANCE APPROVING THE FIFTH AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF CASTLE ROCK AND DOMINION WATER & SANITATION DISTRICT FOR THE OPTION TO PURCHASE AND RIGHT OF FIRST REFUSAL REGARDING GROUND WATER RIGHTS, EASEMENTS AND RELATED IMPROVEMENTS**

**WHEREAS**, in conjunction with the acquisition of the Plum Creek Diversion Facility, the Town of Castle Rock (the “Town”) acquired certain nontributary and not nontributary water rights underlying the Cherokee Ranch & Castle Foundation property located in unincorporated Douglas County, Colorado (“Cherokee Water”); and

**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; and

**WHEREAS**, the Town has entered into an Intergovernmental Agreement for the Option to Purchase and Right of First Refusal Regarding Ground Water Rights, Easements, and Related Improvements (the “IGA”) with Dominion Water and Sanitation District (“Dominion”) whereby Dominion has the right to exercise an option to purchase Cherokee Water; and

**WHEREAS**, in accordance with the IGA, 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; and

**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; and

**WHEREAS**, Dominion owns excess capacity in certain infrastructure within which WISE water can be delivered; and

**WHEREAS**, the Town has a need for additional WISE infrastructure capacity; and

**WHEREAS**, the Town and Dominion have determined the value of Dominion’s excess WISE infrastructure capacity;

**WHEREAS**, the Town and Dominion desire to exchange WISE infrastructure capacity for an equivalent portion of the Cherokee Water; and

**WHEREAS**, the Town and Dominion have agreed to set forth the terms and conditions of this exchange in a Fifth Amendment to the IGA.

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

**Section 1. Approval.** The Fifth Amendment to the Intergovernmental Agreement for the Option to Purchase and Right of First Refusal Regarding Ground Water, Easements and Related Improvements (“Amendment”), in the form attached as ***Exhibit 1*** is hereby approved.

**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 20th day of April 2021, 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 4th day of May 2021, 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:**

\_\_\_\_\_  
Michael J. Hyman, Town Attorney

\_\_\_\_\_  
Mark Marlowe, Director of Castle Rock Water