



Town Council Agenda - Final-Amended

Mayor Jason Gray
Mayor Pro Tem Kevin Bracken
Councilmember Ryan Hollingshead
Councilmember Laura Cavey
Councilmember Desiree LaFleur
Councilmember Caryn Johnson
Councilmember Tim Dietz

Tuesday, January 4, 2022

6:00 PM

Town Hall Council Chambers
100 North Wilcox Street
Castle Rock, CO 80104
Phone in: 720-650-7664
Meeting Code: 2494 444 1346
www.CRgov.com/CouncilMeeting

This meeting is open to the public and will be held in a virtual format in accordance with the Town Council Electronic Participation, Connected, and Hybrid Meeting Policy. Public may choose to attend in person at Town Hall, or electronically or by phone if preferred. This meeting will be hosted online and can be accessed at www.CRgov.com/CouncilMeeting, or phone in by calling 720-650-7664, meeting code 2494 444 1346 (if prompted for a password enter "Jan4Council"). All Town Council Meetings are also streamed online in real time at www.CRgov.com/WatchCouncil, and are broadcast for Comcast Cable subscribers on Channel 22 (please note there is a delay to the broadcast).

All times indicated on the agenda are approximate. Remote participants please visit www.CRgov.com/CouncilComments to sign up to speak to an item, and for related instructions. Public Comments may also be submitted in writing online by 1:00 p.m. January 4, 2022, to be included in the public record.

5:00 pm COUNCIL DINNER & INFORMAL DISCUSSION

6:00 pm INVOCATION - Mark Marble, Castle Rock Police Chaplain

- CALL TO ORDER / ROLL CALL
- PLEDGE OF ALLEGIANCE
- COUNCIL COMMENTS

[ID 2022-005](#) Senator Jim Smallwood, Colorado State Senate - Presentation

- UNSCHEDULED PUBLIC APPEARANCES

Reserved for members of the public to make a presentation to Council on items or issues that are not scheduled on the agenda. As a general practice, the Council will not discuss/debate these items, nor will Council make any decisions on items presented during this time, rather will refer the items to staff for follow up.

Comments are limited to three (3) minutes per speaker. Time will be limited to 30 minutes. Residents will be given priority (in the order they signed up) to address Council, followed by non-residents representing Castle Rock businesses, then non-residents and businesses outside the Town of Castle Rock, as time permits.

- TOWN MANAGER'S REPORT

1. [ID 2022-001](#) Update: Calendar Reminders
2. [ID 2022-002](#) Update: 2022 Major Projects List
3. [ID 2022-003](#) Development Services Project Updates
4. [ID 2022-004](#) Update: Quasi-Judicial Projects

- **TOWN ATTORNEY'S REPORT**

- **ACCEPTANCE OF AGENDA**

If there are no changes, additions or deletions to the agenda, a motion to accept the agenda as presented will be accepted.

- **CONSENT CALENDAR**

These items are generally routine in nature or have been previously reviewed by Town Council and will be voted on in a single motion without discussion. Any member of Town Council may remove an item from the Consent Calendar.

5. [RES 2022-001](#) Resolution Appointing the Municipal Judge and Approving a Service Contract
6. [RES 2022-002](#) ~~Resolution Appointing the Assistant Municipal Judge and Approving a Service Contract~~ - Item Withdrawn Indefinitely
7. [RES 2022-003](#) Resolution Appointing Substitute Judges for the Town of Castle Rock Municipal Court
8. [RES 2022-004](#) Resolution Designating the Public Place for Posting Notices Pursuant to C.R.S. Section 24-6-402(2)(c)
9. [MIN 2022-001](#) Minutes: December 21, 2021 Draft Minutes

- **ADVERTISED PUBLIC HEARINGS & DISCUSSION ACTION ITEMS**

Public comment will be taken on items and limited to four (4) minutes per speaker. Remote participants please visit www.CRgov.com/CouncilComments to sign up to speak to an item, and for related instructions. Public Comments may also be submitted in writing online by 1:00 p.m. January 4, 2022, to be included in the public record.

10. [ORD 2021-033](#) Ordinance Vacating a Portion of Jerry Street Located in the Northwest Quarter of Section 11, Township 8 South, Range 67 West, of the 6th Principal Meridian, Town of Castle Rock (Second Reading - Approved on First Reading on December 21, 2021, by a vote 4-3) *[located at the corner of Jerry Street and 6th Street]*

11. [ORD](#) **Ordinance Approving the First Amendment to the View at Castle Rock Redevelopment and Financing Agreement Between the Town of Castle Rock, the Castle Rock Downtown Development Authority, and Castle Rock Development, LLC (Second Reading - Approved on First Reading on December 21, 2021, by a vote 4-3) [located at 610 Jerry Street]**
12. [ORD](#) **Ordinance Authorizing the Issuance and Sale of Water and Sewer Enterprise Revenue Bonds, Series 2022, Payable Solely Out of the Net Pledged Revenues to Be Derived from the Operation of the Town's Water and Sewer Enterprise; Providing Other Details Concerning the Bonds, Including, Without Limitation, Covenants and Agreements in Connection Therewith; Providing Other Matters Relating Thereto; and Providing for its Emergency Adoption on Second and Final Reading (First Reading) [Entire Town Service Area]**
13. [RES](#) **Resolution Approving a Service Agreement Between the Town of Castle Rock and Muller Engineering Company, Inc., for the McMurdo Gulch Stream Reclamation Priority 3 Project. [McMurdo Gulch south of the intersection of Castle Oaks Drive and Autumn Sage Street]**
14. [ORD](#) **Ordinance Amending Chapter 9.22 of the Castle Rock Municipal Code Raising the Minimum Age for the Sale and Possession of Tobacco Products (First Reading)**
15. [ORD](#) **Ordinance Amending Various Sections of the Castle Rock Municipal Code Regarding Board and Commission Membership, Term Limits and Bylaws and Adding Chapter 2.18 Concerning the Oath of Office (First Reading)**
16. [ORD](#) **Ordinance Amending Section 2.01.100 of the Castle Rock Municipal Code Regarding the Authority of the Castle Rock Election Commission (First Reading)**

- **ADDITIONAL UNSCHEDULED PUBLIC APPEARANCES**

The Council has reserved this time only if the original 30 minutes allocated for Unscheduled Public Appearances as an earlier part of this agenda has been fully exhausted and speakers who signed up to speak were unable to be heard during the original 30 minutes allocated this topic. Residents will be given priority (in the order they signed up) to address Council, followed by non-residents representing Castle Rock businesses, then non-residents and businesses outside the Town of Castle Rock, as time permits.

- **ADJOURN**



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: **File #:** ID 2022-005

To: Honorable Mayor and Members of Town Council

From: David L. Corliss, Town Manager

Senator Jim Smallwood, Colorado State Senate - Presentation

Executive Summary

Senator Jim Smallwood, District 4, Douglas County Colorado, to make a brief presentation to Council.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 1. **File #:** ID 2022-001

To: Honorable Mayor and Members of Town Council

From: David L. Corliss, Town Manager

Update: Calendar Reminders

Executive Summary

Attached is an outline of upcoming items of general interest.

TOWN COUNCIL MEETING

TOWN MANAGER'S REPORT

DAVID L. CORLISS, TOWN MANAGER
JANUARY 4, 2022



CALENDAR ITEMS

17
JAN

Martin Luther King, Jr. Day – Town Offices Closed

Rec Center, MAC normal hours

18
JAN

Town Council Meeting – 6 p.m. hybrid format (dinner at 5 p.m.)

Council Chambers, online or phone-in

20
JAN

Open House: Fifth Street Widening Project – 4-6 p.m.

Council Chambers

27
JAN

Open House: Crystal Valley Interchange Project – 4-6 p.m.

Fire Station 152, 485 Crystal Valley Pkwy

1
FEB

Town Council Meeting – 6 p.m. hybrid format (dinner at 5 p.m.)

Council Chambers, online or phone-in

15
FEB

Town Council Meeting – 6 p.m. hybrid format (dinner at 5 p.m.)

Council Chambers, online or phone-in

19
FEB

Castle Rock Fire & Rescue Department Awards Banquet – 6:00 p.m.

The Oaks at Plum Creek, 321 Players Club Drive

21
FEB

Presidents' Day – Town Offices Closed

Rec Center, MAC normal hours

NEIGHBORHOOD MEETINGS

Scheduled on Town Calendar:

**05
JAN**

Memmen Young/Founders Vista, 6-7 p.m. Hybrid at Mesa Middle School

Proposed rezoning to amend the Memmen Young PD and Site Development Plan for 180.5 acres to allow for 333 single family detached and 114 paired homes (228 units). The 180.5 acres includes a proposed 5-acre annexation.

**10
JAN**

Meadows Filing 16 Parcel 6 SDP, 6-7 p.m. Hybrid @ The Grange

This property is currently approved for 59 singled family lots. The proposed site plan amendment would increase the number of lots to 81. The lot sizes would be reduce and the amount of open space would be increased.

**11
JAN**

Alexander Place Rezoning PDP, 6-7 p.m. Virtual

Proposing to rezone the Alexander Place PD to allow for a 134 unit independent senior living apartment building located at Brewer Ct. and Alexander Pl.

**12
JAN**

5069 Bear Paw Dr. Accessory Dwelling Unit Project, 6-7 p.m. Virtual

Proposed Accessory Dwelling unit will be located in the basement and includes a 100 sq. ft. expansion of the home.

*The Following Meetings are Tentative:

**20
JAN**

***Avilla at Founders (Bella Mesa South) SDP, 6:30-7:30 p.m. Hybrid at Town Hall**

105 single-story residential units, (71 single family detached and 17 paired homes/34 units) located at northwest corner of Mikelson Blvd. and Mitchell St.



NEIGHBORHOOD MEETINGS

*The Following Meetings are Tentative:

**24
JAN**

***Castle Rock Library SDP, 5-6 p.m. Hybrid at the Library**

New two-story 62,000 sq. ft. library to replace existing library at 100 S. Wilcox St.

**24
JAN**

***611 N. Wilcox St. (Victorian Center/The Silo), 6-7 p.m. Virtual**

Proposed façade improvements on an existing commercial/retail center.

**25
JAN**

***Camp 4 Climbing, 5-6 p.m. Hybrid at the Library**

Proposed Use by Special Review to allow a boulder climbing and workout gym facility at 701 Topeka Way.

**25
JAN**

***Ms. Amy's Tot Academy, 6-7 p.m. Virtual**

Renovate existing structure (locally landmarked) and proposing a 2,000 sq. ft. addition to accommodate relocating Ms. Amy's Tot Academy, a local in-home child care to 203 N. Perry St.

**31
JAN**

***Ms. Amy's Tot Academy, 5-6 p.m. Virtual**

Renovate existing structure (locally landmarked) and proposing a 2,000 sq. ft. addition to accommodate relocating Ms. Amy's Tot Academy, a local in-home child care to 203 N. Perry St.

**07
FEB**

***Dawson Trails PD Amendment 6-7 p.m. Hybrid at Town Hall**

Rezone Dawson Ridge PD and portion of the Westfield Trade Center PD, located at I-25 south of Territorial Road, for 5,850 residential units and approximately 3.2M sq. ft. commercial/office/industrial.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 2. **File #:** ID 2022-002

To: Honorable Mayor and Members of Town Council

From: David L. Corliss, Town Manager

Update: 2022 Major Projects List

Discussion

As the new year approaches, it is helpful to set out a forecast of 2022 major projects. As with any forecast, the below project list is subject to change. It will serve as a short-hand outline for updates that will occur throughout the year. Council should understand that, while this list reflects ongoing projects and items authorized by the Adopted 2022 Budget, Council may desire to alter this list going forward.

Budget priority: Ensure outstanding public safety

Continue dialogue with the community regarding options for fully funding the Town's long-term public safety needs over the next five years

Add four firefighter/paramedics; these positions would eventually be folded into Fire Station 156

Add four Patrol officers in the Police Department

Review and adopt a Community Wildfire Protection Plan

Implement an enhanced pay-for-performance program to bring public safety employees' compensation more in line with their peers

Budget priority: Enhance our roads

Continue making significant progress on our top infrastructure priority, a new interchange on Interstate 25 at Crystal Valley Parkway, by budgeting \$13.6 million toward the project

Complete an aggressive annual Pavement Maintenance Program, focused in 2022 on southern Castle Rock

Begin construction to widen Plum Creek Parkway between Eaton Street and Ridge Road

Begin construction to widen Ridge Road from Plum Creek Parkway to the "Four Corners" intersection

Begin construction on intersection improvements at "Four Corners"

Begin construction to widen Crowfoot Valley Road from Knobcone Drive to Macanta Boulevard

Begin construction on intersection improvements at Crystal Valley Parkway and Plum Creek Boulevard

Once authorized, oversee construction of the Downtown railroad quiet zone

Implement roundabout and streetscape plans

Add an operator and a lead operator

Purchase an asphalt patch truck

Budget priority: Secure our water future

Continue projects, programs and policies to advance the goals of securing 75% renewable water by 2050; reducing per-capita water consumption to 100 gallons per day; and maintaining affordable rates and fees, including:

Begin construction of a pipeline along Newlin Gulch to connect the Town's water system to Rueter-Hess Reservoir

Continue advancing long-term renewable water efforts including the imported water projects WISE and Alternative Source of Supply (Box Elder); specifically in 2022, complete a pipeline through Parker to increase future WISE capacity

Undertake construction of a new reservoir along Plum Creek at the diversion in Sedalia and upgrade the Town's reservoirs along Plum Creek

Begin implementing advanced metering infrastructure

Complete conversion to a new modern billing system that will accommodate future growth and new process efficiencies

Complete water, sewer, stormwater and street improvements in the Craig & Gould neighborhood and complete water line rehabilitations and replacements in the Glovers neighborhood

Complete construction of a new water tank in Liberty Village/Cobblestone Ranch

Complete stream stabilization in McMurdo Gulch and Omni Tributary

Add a meter technician, a system operator and a plant operator

Budget priority: Maintain strong Parks and Recreation

Complete construction of Cobblestone Ranch Park

Open for public access the Metzler Family Open Space

Construct three segments of the Colorado Front Range Trail to complete the project within Castle Rock

Complete improvements to Butterfield Crossing, Mitchell Gulch and Plum Creek South parks

Continue planning for indoor recreation facility needs

Replace the cardio equipment at the Recreation Center and the synthetic turf at Gemstone Park

Add a parks maintenance worker using proceeds from the voter-approved lodging tax

Budget priority: Support economic development

Fulfill existing economic incentive agreements and maintain capacity for new agreements

Budget priority: Manage Town finances conservatively

Receive lodging tax revenues and “excess” TABOR revenues into dedicated new funds to ensure the monies are used only in the manner approved by voters

Plan for the Town’s use of its American Rescue Plan funds

Continue pursuing grants and other opportunities, including use of volunteers and donations, to stretch the Town’s tax dollars as far as possible

Complete the 2023 Budget, along with the annual five-year balanced financial plan and Capital Improvement Program

Bring to Council for consideration a policy regarding the formation of future metropolitan districts and revisions to the Town’s sales tax definitions to ensure consistency

Budget priority: Preserve our community character

Continue appropriate planning for the community, including continued review of existing entitlements on currently undeveloped properties

Implement a wayfinding signage program to assist pedestrians, bicyclists and motorists in Downtown Castle Rock

Begin planning for a program to enhance the entryways into Castle Rock using signage and other means, using proceeds from the voter-approved lodging tax

Additional 2022 work plan items

Implement the Community Development Block Grant program

Continue seeking opportunities for Town energy cost savings

Implement a sister city program as Council desires



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 3. **File #:** ID 2022-003

To: Honorable Mayor and Members of Town Council

Through: David L. Corliss, Town Manager

From: Tara Vargish, Director of Development Services

Development Services Project Updates

The high-growth nature of Castle Rock results in numerous and diverse questions from individuals seeking information about existing conditions and future plans. Information on community development activity and formal land use applications are located on the Town website under the Development Activity Map link.

Development activity continues to be strong, with continued interest for a variety of project types in Castle Rock. Permit activity remains steady, and homebuilders and commercial builders remain active.

Please see the attached Staff Memorandum for project details.

AGENDA MEMORANDUM

To: David L. Corliss, Town Manager

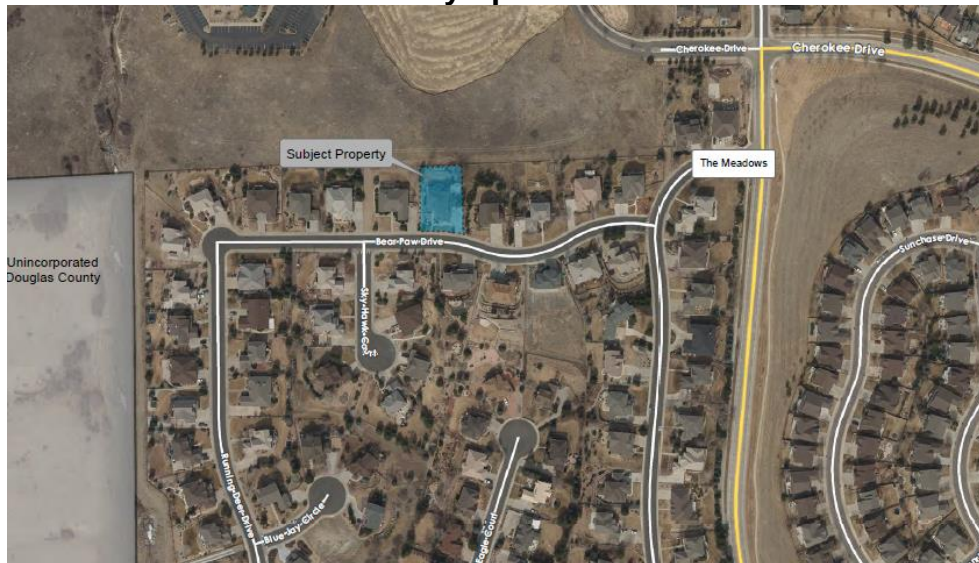
From: Tara Vargish, PE, Director of Development Services

Title: Town Manager Report – Development Project Updates

This report contains development updates and new submittals or requests that have been submitted to staff since the last update to Town Council. The high growth nature of Castle Rock results in numerous and diverse questions from individuals seeking information about existing conditions and future plans, as well as formal applications for development. More information on community development activity and formal land use applications are located on the Town website under the Development Activity Map link, which can be accessed at CRGov.com/DevelopmentActivityMap

1. New Quasi-Judicial Applications Requiring Public Hearings

5069 Bear Paw Drive – Use by Special Review



The owners of 5069 Bear Paw Drive, Mike and Jenn Kelly, have submitted an application for a Use by Special Review (UBSR) for an accessory dwelling unit. The Accessory Dwelling will be located in the basement of the home and includes a 100 square foot expansion of the home, thus requiring a Use by Special Review. The UBSR will require public hearings before the Planning Commission for review and recommendation and Town Council for review and final decision. The property is located in Councilmember Hollingshead's district.

New Pre-Application Meeting Requests

Dunkin Donuts at Founder's Marketplace



A pre-application meeting request was submitted seeking information on application and submittal requirements for a Site Development Plan for a Dunkin Donuts in Founder's Marketplace. The applicant is proposing a one story, 1,850 square foot restaurant with a drive thru on the 1.13-acre parcel located north of Aloha Street and east of Founders Parkway. Timing of the project is unknown at this time. The proposal is located in Councilmember Cavey's district.

Wellspring Communities Annexation and Zoning



A pre-application meeting request was submitted seeking information on application and submittal requirements for annexation and zoning for development of a 2.34-acre parcel at 498 E. Wolfensberger Road, just southeast of Wolfensberger Road and Greyside Circle. The proposal is for a future Wellspring Community facility. The two-story, 25,000 – 30,000

square foot building will include classrooms, conference rooms, kitchen/café and offices. Timing of the project is unknown at this time. The proposal is located adjacent to Mayor Pro Tem Bracken's District.

Ongoing Development Activity:
Commercial Development Activity

- **Promenade:**

- Buffalo Wild Wings, building and site construction, located on southwest corner of Factory Shops Boulevard and New Memphis Court.
- Alana at Promenade Apartments, building and site construction for proposed multi-family residential, located on Alpine Vista Circle, west of Promenade Parkway.
- Cuba Cuba, site plan review for enclosed patio located at 6375 Promenade Parkway.
- Promenade Commons Park, site plan review for new half-acre park connecting the Alana multifamily and the proposed commercial area, located on the west side of Promenade Parkway and Alpine Vista Circle.
- Shake Shack, building and site construction, located west of Promenade Parkway from Whole Foods.

- **Meadows:**

- Town Center:
 - Ubergripen, Certificate of Occupancy issued on 12/3/2021 for 18,000 square foot indoor climbing wall facility, located on Bilberry Street south of Mercantile Street including a trail connection to the tunnel under Meadows Boulevard.
- Aspen View Academy, building and site construction for an addition, located at 2131 Low Meadow Boulevard.
- Bridge and access road, approved plat and construction documents, connection of the roundabout on North Meadows Parkway south, and then east crossing Plum Creek.
- Access road, construction documents review for public street construction that will support future commercial/office developments located northwesterly of the N. Meadows Drive roundabout.
- Grading only permit issued, for future development located south of the roundabout at North Meadows and Timber Mill Parkway.
- Castle Rock Adventist Hospital Medical Office Building, site development plan amendment and construction document review for a new 70,000 square foot medical office building, located at 2350 Meadows Boulevard.
- Kum and Go, site development plan review for a 5,620 square foot Convenience Store and Fuel Canopy at the northwest corner of Meadows Parkway and Lombard Street.
- Lot grading, retaining wall, and waterline construction plan review and plat, located on vacant commercial lots north of the AMC theatre.
- The Learning Experience, revised site development plan and construction plan review for a 10,000 square foot, single-story daycare center to be located on Meadows Boulevard between Springbriar Drive and Shane Valley Trail.
- Castle Rock Industrial at the Meadows Lot 1, site development plan review for new 80,000+/- square foot warehouse space located on the future Timber Mill Parkway north of North Meadows Drive.

- Castle Rock Industrial at the Meadows Lot 2, site development plan review for new 80,000+/- square foot warehouse space located on the future Timber Mill Parkway north of North Meadows Drive.
- **Downtown:**
 - 221 Wilcox Street, site development plan review for mixed use building with 38 residential units and 8,100 square foot retail space, located on the southwest corner of Wilcox and Third Streets.
 - Douglas County Libraries, site development and construction document plan review for 62,000 square foot library building and demolition of the existing building, located at 100 South Wilcox Street.
 - Encore, building Temporary Certificate of Occupancy and site construction, northeast corner of Wilcox and South Streets.
 - Olinger, Andrews, Caldwell Gibson Chapel Renovation, site and building construction, located at 407 Jerry Street.
 - Perry Street Social, site development plan review to create a mini entertainment district, located at 404 N. Perry Street.
 - Pizza Hut Retail Center, building and site construction for new commercial center located at 340 S. Wilcox.
 - Railroad Quiet Zone Railroad, Town project, construction plan review for improvements at 2nd Street, 3rd Street, and 5th Street.
 - Town of Castle Rock Police Department, construction for parking lot expansion, located at Perry Street and 2nd Street.
 - The View, site development plan amendment, ROW vacation and building plans in review for 6-story building with mixed-uses including 218 residential units, located at 6th Street and Jerry Street.
- **Dawson Trails Residential/Commercial:**
 - Dawson Trails, Planned Development Plan amendment under review for 2,062 acres with 5,850 residential dwelling units and a maximum of 3,200,000 square feet of commercial/non-residential uses, located to the west of I-25 and generally south and north of Territorial Road.
- **Other Commercial Projects throughout Town:**
 - 105 West Brewery, site development plan review for façade and proposed silo, located at 1043 Park Street.
 - 282 Malibu Commercial buildings, site construction for two 4,000 square foot commercial buildings, uses area unknown at this time, located at 282 Malibu Street.
 - 7-11 convenience store, fuel island and retail space, building TCO issued, located at the southeast corner of Plum Creek Parkway and Lake Gulch Road, adjacent to the newly constructed Town roundabout.
 - Castle Rock Auto Dealerships, site development plan review for service center expansion, located at 1100 South Wilcox Street.
 - Castle Rock Auto Dealerships, site plan amendment for façade changes to the Ford Dealership located at 1404 S. Wilcox Street.
 - Castle Rock Industrial Park, site and building construction, office, warehouse, and flex space located at the northwest intersection of State Highway 85 and Liggett Road.

- Davey Daycare, site development plan review (historic preservation) for a 300 square foot sunroom, located at 399 North Gilbert Street.
- Founders Marketplace, Liberty Express Carwash, building and site construction, located northeast of Fifth Street and Founders Parkway.
- Founders Marketplace, Retail building, site development plan approved for mixed-use retail building located on Ridge Road between King Soopers Fueling Station and IREA substation.
- Garage Condos, site and building construction, located on Liggett Road.
- Heckendorf Ranch Retail, site plan approved for a new 8,100 square foot retail building, located on Crystal Valley Parkway east of Plum Creek Boulevard.
- In-N-Out Burger, building and site construction on northwest side of Outlets at Castle Rock on Factory Shops Boulevard.
- Outlets at Castle Rock, site development plan review, two new pad sites on west side of mall on Factory Shops Boulevard.
- Phillip S. Miller Regional Park, construction plan approved for Play Loop Trail.
- Plum Creek Golf Course, site plan approved construction document review for new clubhouse located at Plum Creek Boulevard and Players Club Drive.
- Reach Higher Ground, site plan amendment and construction documents, for façade and site changes to the exiting building located at 17 S. Gilbert Street.
- Sanders Business Park, site development plan approved and plat in review for 2.4-acre site located south of The Plum Creek Community Church on the I-25 Frontage Road. The future use is a facility for distribution of heating and plumbing equipment.
- Sanders Business Park Flex Space, site development plan review, for four flex space buildings with an approximate total of 51,000 square feet, located on South Wilcox between South Perry Street and Crystal Valley Parkway.
- StorQuest, site development plan and construction documents review for new 98,000 square foot self-storage and RV parking located off Liggett Road west of Kellogg Court.
- T-Mobile small cell sites, construction documents for 4 locations in the public right-of-way: 1) Park Street and 8th Street, 2) Factory Shops Blvd & New Memphis, 3) Factory Shops and Outlet Entrance, 4) Limelight near Hospital ER Entrance.
- The Famous Steak House, site development plan and interior building renovation, located in former Jarre Creek Brewery building south of Chili's.
- U-Haul self-storage, site construction and buildings permitted for site located on I-25 East Frontage Road north of South Perry Street and Manatt Court.
- Verizon small cell sites, construction documents for multiple locations in public right-of-way: 1) Factory Shops Boulevard and New Beale Street, 2) Promenade Parkway and Castle Rock Parkway, 3) Promenade Parkway, 4) Castlegate Drive West, 5) Castlegate Drive West and Castle Rock Parkway, 6) Factory Shops Boulevard and Meadows Boulevard, and 7) Mitchell Street near Mesa Middle School.
- Walmart, site development plan review for new drive-through ATM at the west end of the existing parking lot.
- Your Storage Center, building TCO for 23,800 square foot indoor car storage building, located on the east I-25 frontage road north of Perry Street.

Residential Development Activity

- 302 North Lewis Street Historic Preservation application, 830 square foot detached garage.
- 306 North Lewis Street Historic Preservation application, 400 square foot addition.

- Alexander Way, annexation petition for 73.76 acres of land located north of Alexander Place and Brewer Court.
- Auburn Heights Apartments, rezoning application to amend the zoning and the currently approved site development plan for lot 2 of Auburn Ridge.
- Canvas at Castle Rock, site construction, for 102 townhome units, located at Plum Creek Boulevard and Crystal Valley Parkway.
- Canyons South Longstory Avenue, construction plans approved for water and sanitary mains for future development, located in Douglas County on the east side of Crowfoot Road.
- Canyons South Filing No. 3, construction plan review for water and sanitary mains for future development, located in Douglas County on the east side of Crowfoot Road.
- Crystal Valley Ranch, site construction, single-family subdivisions located southeast and southwest of Crystal Valley Parkway and West Loop Road. Also, in southern interior portion of Loop Road, south of Loop Road, and between West Loop Road and the Lanterns property.
- Crystal Valley Ranch, revisions to landscaping plans, located west of West Loop Road and River Oaks Street.
- Crystal Valley Ranch, construction plan review for a recreation facility that will serve the new single-family home project located at the southeast corner of West Loop Road and Crystal Valley Parkway.
- Diamond Ridge area, plat for single-family home and outbuilding, located west of Nova Place cul-de-sac.
- Echelon (formerly Caliber at Terrain), site and building construction for a 238 unit multi-family development, located in the northeast quadrant of Founders Parkway and State Highway 86.
- Founders Village, site construction, detached single-family home neighborhood located northeast of Mikelson Boulevard and Mitchell Street.
- Founders Village the Enclave, site construction, 88 additional townhomes to complete the existing development located at Enderud and Wagonwheel.
- Greystone Townhomes, construction plan and plat approved for one three-story building with 5 units located northwest of Plum Creek Parkway and Gilbert.
- Hillside, construction document re-approval, single-family attached and detached age 55 and older at the northeast corner of Coachline Road and Wolfensberger.
- Lanterns/Montaine, site construction, main collector loop roadway, Montaine Boulevard, and amenity center located in the south-central portion of the project.
- Lanterns/Montaine, site construction, 107 single-family lot subdivision located in the northerly portion of the project.
- Lanterns/Montaine, site construction, 85 single-family lot subdivision located in the south-central portion of the project.
- Lanterns/Montaine, grading and construction documents approved, 133 single-family lot subdivision located in the southeasterly portion of the project.
- Lanterns/Montaine, subdivision plat, construction documents and erosion control plans for 164 single-family residential lots located in the east interior of Montaine Circle and southeast portion of property.
- Lanterns/Montaine, subdivision plat, construction documents and erosion control plans for 81 single-family residential lots located in the northerly interior of Montaine Circle.

- Lanterns/Montaine, subdivision plat, construction documents and erosion control review for 68 single-family residential lots located in the northerly interior of Montaine Circle.
- Lanterns/Montaine, subdivision plat, construction documents and erosion control plans for 183 single-family residential lots located southwest of Montaine Circle.
- Lanterns/Montaine, site development plan and construction documents for monument sign located at Crystal Valley Parkway and Plum Creek Boulevard.
- Lanterns/Montaine, construction documents for 117 single-family residential lots located at the northeast corner of the Lanterns development.
- Lanterns/Montaine, site development plan review for family amenity center, located on the northeast corner of E Montaine Circle.
- Liberty Village, site development plan review, for amended lot layout due to floodplain for 42 single-family lots located on the south side of Castle Oaks Drive and Pleasant View Drive.
- Liberty Village, site construction for 19 lot single-family project at Missoula Trail and Castle Oaks Drive and completion of Castle Oaks Drive/bridge replacement within Cobblestone Ranch property.
- Meadows, site construction, 209 single-family lot subdivision located north of Red Hawk subdivision and west of Prairie Hawk Drive.
- Meadows, site construction for 57 single-family detached homes on the east and west sides of Coachline Road north of Wolfensberger.
- Meadows South, site construction for 116 single-family attached homes on the south side of Wolfensberger Road and adjacent to PS Miller Regional Park.
- Meadows, Paint Brush Park, Town Project, tributary improvements plans in review.
- Memmen Young Infill, rezoning, site development plan review, and associated 5-acre annexation under review, located west of Ridge Road and north of Plum Creek Parkway.
- Oakwood Apartments, site construction and building permits, for senior housing project redevelopment, located on the northeast corner of Front Street and Oakwood Drive.
- Red Hawk, site construction, 29 single-family home project located south of Melting Snow Way and east of Bent Wedge Point.
- Ridge at Crystal Valley, site development plan, plat, and construction documents in review for 142 single-family home project. Located southwest of the Loop Road in Crystal Valley Ranch.
- Terrain North Basin, Phase 1, site construction for approximately 96 single-family home project located along Castle Oaks Drive.
- Terrain North Basin, Phase 2, site development plan review for approximately 105 single-family home project located along Castle Oaks Drive.
- Terrain Sunstone Village, site construction, 120 single-family home project located south of intersection of State Highway 86 and Autumn Sage.
- Terrain Upper Sunstone, site construction, 261 single-family home project located south of State Highway 86 and east of King Soopers/Ridge Road.
- The Oaks Filing 3, site construction, 117 single-family home project located on South Ridge Road west of Appleton Way.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 4. **File #:** ID 2022-004

To: David L. Corliss, Town Manager

Through: Tara Vargish, Director Development Services

From: Kevin Wrede, Planning Manager

Update: Quasi-Judicial Projects

Executive Summary

The purpose and intent of this report is to provide Town Council with a summary of quasi-judicial projects. In order to provide all parties with due process under law, decision makers must be fair and impartial when considering quasi-judicial applications such as those included in this memorandum. Many of these projects do not have public hearing dates yet, but Town Council could be asked to consider them in the future.

New Quasi-Judicial Applications:

5069 Bear Paw Drive - Use by Special Review

On-going Quasi-Judicial Applications (currently under review):

The full list of on-going quasi-judicial projects along with vicinity maps can be found on the attached Staff Memorandum.



Meeting Date: January 4, 2022

AGENDA MEMORANDUM

To: David L. Corliss, Town Manager

Through: Tara Vargish, Director Development Services

From: Kevin Wrede, Planning Manager

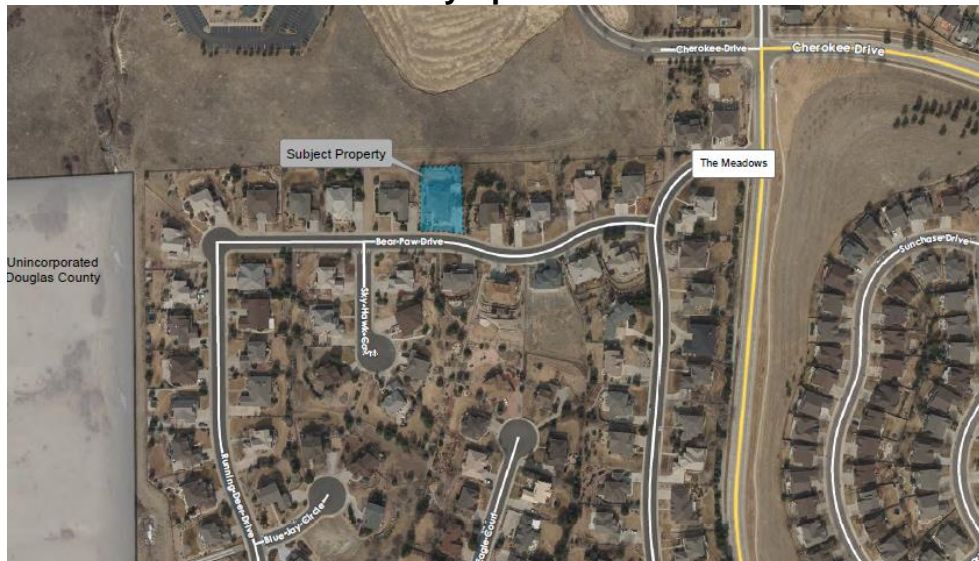
Title: **Update: Quasi-Judicial Projects**

Executive Summary

The purpose and intent of this report is to provide Town Council with a summary of quasi-judicial projects. In order to provide all parties with due process under law, decision makers must be fair and impartial when considering quasi-judicial applications such as those included in this memorandum. Many of these projects do not have public hearing dates yet, but Town Council could be asked to consider them in the future.

New Quasi-Judicial Applications

5069 Bear Paw Drive – Use by Special Review:



The owners of 5069 Bear Paw Drive, Mike and Jenn Kelly, have submitted an application for a Use by Special Review (UBSR) for an accessory dwelling unit. The Accessory Dwelling will be located in the basement of the home and includes a 100 square foot expansion of the home, thus requiring a Use by Special Review. The UBSR will require public hearings before the Planning Commission for review and recommendation and

Town Council for review and final decision. The property is located in Councilmember Hollingshead's district.

On-going Quasi-Judicial Applications (currently under review)

611 N. Wilcox Street - Downtown Site Development Plan:



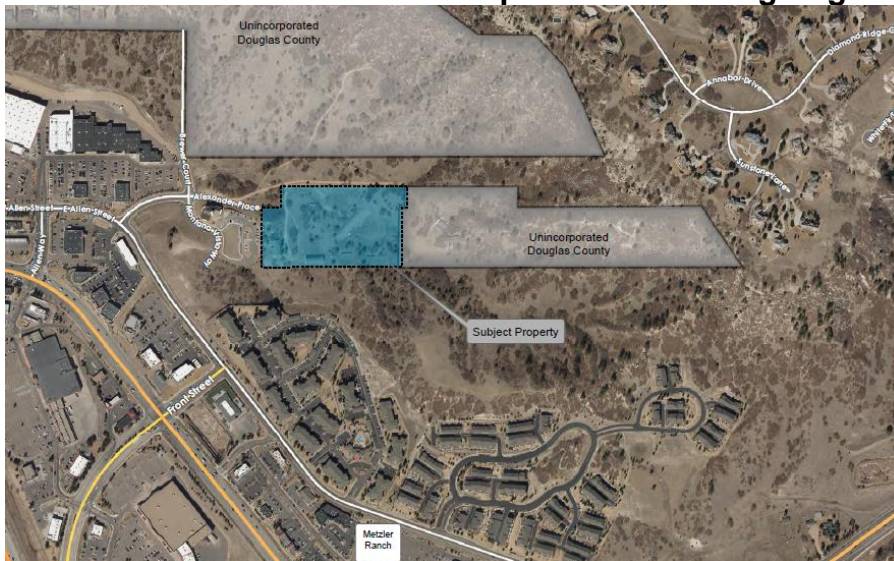
The property owner, Silverwood Investments, has submitted an application for a Downtown Site Development Plan – Façade for their property at 611 N. Wilcox Street. The project, to be known as “The Silo,” proposes to update the façade of the “Victorian Retail Center.” The project seeks to remove all Victorian trim pieces, clock, and signage and replace the façade with new wood accents, paint, columns, wall signage, roof, and lighting. The project site is 0.641 acres (27,922 square feet) in size and is located at the northwest corner of N. Wilcox and Sixth Streets. The Downtown Site Development Plan - Facade will require a public hearing before the Design Review Board. The project is located in Councilmember LaFleur's district.

221 Wilcox Street - Site Development Plan:



The property owner has submitted a Site Development Plan (SDP) application for mixed use project at 221 Wilcox. The property is 0.373 acres in size and located at the southwest corner of N. Wilcox Street and Third Street. The SDP proposes a mixed use development with a total of 38 apartment units, 8,100 sq. ft. of commercial, and 60 parking spaces. The building is proposed at five stories high. The ground floor is to contain the commercial use while the second through fourth floors are to contain the residential use. Parking will be located underground. The SDP will require a public hearing before the Design Review Board for review and final decision. The project is located within Councilmember LaFleur's district.

Alexander Place Planned Development and Zoning Regulations Amendment:



The property owner, Calamar, has submitted an application for an amendment to the Alexander Place Planned Development Plan and Zoning Regulations (PDP Amendment) to allow for a 134-unit independent senior living apartment. The 8.36-acre property located

east of the Alexander Place and Brewer Court intersection has zoning that allows for 26 units of age restricted single family detached and paired homes, 63 units of age restricted multifamily, and 36 assisted living beds. The total number of units allowed with the current zoning is 125 units. The PDP Amendment will require public hearings before the Planning Commission for review and recommendation and Town Council for review and final decision. The property is located in Councilmember LaFleur's district.

Alexander Way Annexation and Planned Development Plan:



The property owner has submitted an annexation petition to annex 73.76 acres north of the Alexander Place and Brewer Court intersection. The project is being referred to as Alexander Way. The property owner has submitted an application for a Planned Development Plan and Zoning Regulations for the annexation area and a 4.2 acre parcel that is already in the Town, for 77.96 acres total. The applicant is seeking zoning which would allow for 53 single family homes, 24 live/work units, and includes 30 acres of open space. This project will require public hearing before the Planning Commission for review and recommendation and Town Council for review and final decision. The proposal is located adjacent to both Councilmember Cavey and Councilmember LaFleur's districts.

Auburn Heights Apartments Planned Development Plan Major Amendment and Site Development Plan Major Amendment:



The property owner has submitted an application to amend the zoning and the currently approved site development plan for lot 2 of Auburn Ridge, which is approximately 6 acres in size and generally located in the southwest quadrant of E. Wolfensberger Road and Auburn Drive, southwest of the Auburn Ridge Senior Apartments. Currently, the zoning permits 100-multi-family units for seniors. The zoning amendment seeks to permit 104 multi-family units for people of all ages and the SDP amendment seeks to rearrange the buildings on the site to reduce impacts to surrounding neighbors. The project is known as Auburn Heights Apartments and proposes a total of five apartment buildings containing a total of 104 units, a clubhouse, pool, dog run, playground, and 222 parking spaces. The proposed parking is a combination of attached garages, detached garages, and surface parking. Both the PDP Amendment and the SDP Amendment will require public hearing before the Planning Commission for review and recommendation and Town Council for review and final decision. The project is located within Mayor Pro Tem Bracken's district.

Avilla at Founders Site Development Plan:



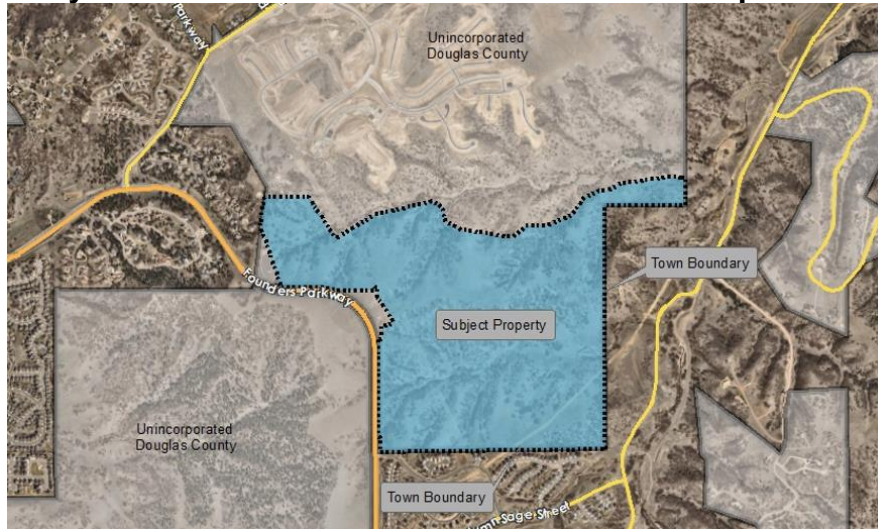
The property owner, NexMetro Communities, has submitted an application for a Site Development Plan (SDP) proposing a 105 unit for rent community on approximately 9 acres. The 105 units are composed of 71 single family detached homes and 17 paired homes (34 units). The property, which is within the Bella Mesa Planned Development (PD), is located at the northwest corner of Mikelson Blvd. and Mitchell St., south of Mesa Middle School. The SDP will require public hearings before the Planning Commission for review and recommendation and Town Council for review and final decision. The property is located in Councilmember Johnson's district.

Bella Mesa Site Development Plan:



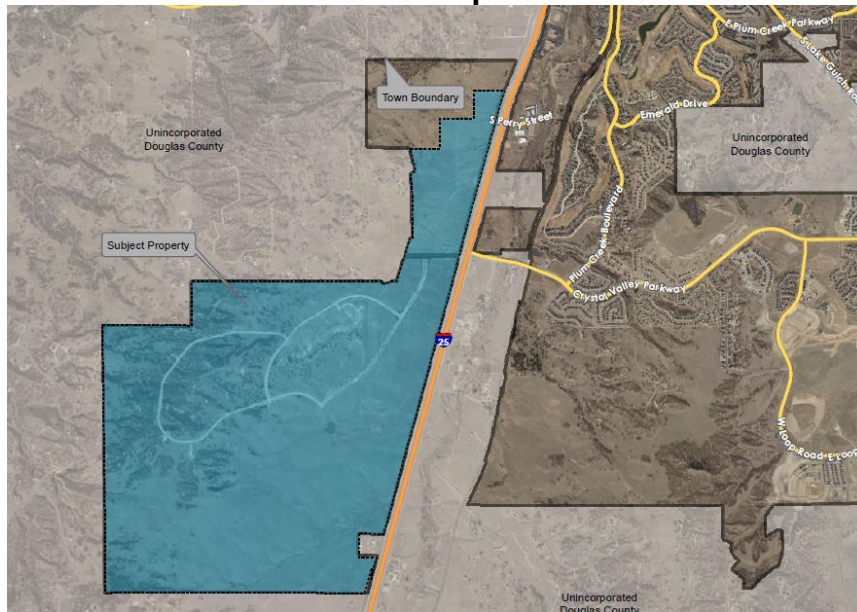
The property owner, Fourth Investments USA, LLC, has submitted an application for a Site Development Plan (SDP) to relocate an existing detention pond on property known as Bella Mesa. Bella Mesa is approximately 197 acres in size and located north of Castlewood Ranch and east of Founders Village. The detention pond is being relocated to the northwest of its current location to a location better suited for future residential development and in conformance with the zoning. No other development is proposed with this application. A separate SDP as well as associated neighborhood meetings will be required for any future residential development. The SDP will require public hearings before the Planning Commission for review and recommendation and Town Council for review and final decision. The property is located within Councilmember Johnson's district.

Canyons South Annexation and Planned Development Plan:



The property owner has submitted an annexation petition to annex a 409-acre site located south of Crowfoot Valley Road, east of Founders Parkway, north of Crimson Sky Drive and west of Castle Oaks Drive into the Town of Castle Rock. The owner has also submitted a Planned Development Plan for zoning of the property for a new neighborhood consisting of 474 single-family homes and 50,000 sq. ft. of neighborhood commercial. The annexation and zoning will require public hearing before the Planning Commission for review and recommendation and Town Council for review and final decision. The project is adjacent to Councilmember Cavey's district.

Dawson Trails Planned Development Plan:



The property owner has submitted an application for the Dawson Trails Planned Development Plan for approximately 2,062 acres located in the southwest quadrant of Town, west of I-25 and generally north and south of Territorial Road. The PD Plan proposes a maximum of 5,850 dwelling units and a maximum of 3,200,000 square feet (sf)

of commercial/non-residential uses. The proposed open space dedication includes 535.8 acres or 26% of the site identified on the plan, with an additional 10% open space to be identified and dedicated with each Site Development Plan, for a total of 35% open space. The public land dedication is 244.6 acres, 11.9% of the site. The PD Plan also reflects the proposed alignment of the west frontage road along I-25 in coordination with the Town's future Crystal Valley Interchange location. The Planned Development Plan will require public hearings before the Planning Commission for review and recommendation, and Town Council for review and final decision. The project is located within Councilmember Dietz's district.

Chateau Valley Site Development Plan:



Highline Engineering & Surveying has submitted an application for a Site Development Plan(SDP) proposing a 423-unit residential subdivision on 113 acres. The 423 units is composed of 297 single family detached homes and 63 paired homes (126 units). The property, which is within the American Young Planned Development (PD), is generally located east of Memmen Park, north of the Baldwin Park subdivision, and south of the Southridge Townhome subdivision. The Site Development Plan calls for a total of 42.2 acres of open space. The SDP will require public hearings before the Planning Commission for review and recommendation and Town Council for review and final decision. The property is located in Councilmember Johnson's district.

Douglas County Library Site Development Plan:



The property owner has submitted an application for a site development plan for a new Castle Rock branch library. The SDP proposes a new two-story 62,000 sq. ft. library to replace the existing one-story 45,000 sq. ft. library. The existing library will remain open until the new building is constructed. Once the new building is constructed, the old library building will be demolished and replaced with parking. The project is 3.5 acres in size and located at the southeast corner of Wilcox and Phelps. The SDP will require a public hearing before the Design Review Board (DRB) for review and final decision. The project is located within Councilmember LaFleur's district.

Kum and Go Convenience and Gas Station (PD Amendment/SDP):



Planned Development Plan Amendment

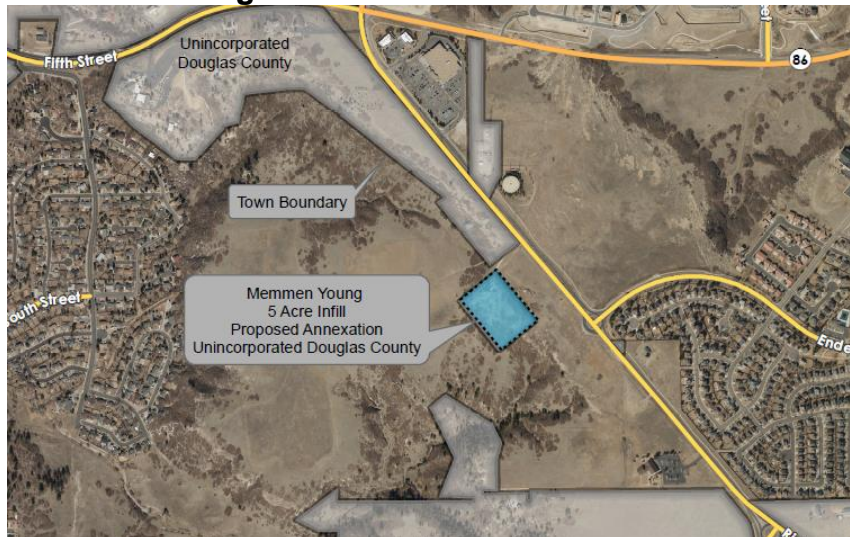
The property representative, Kum & Go, has submitted an application for a Planned Development Plan Amendment to rezone property within the Lanterns Planned Development Plan to permit a fueling station. The property is approximately 2 acres in size and located at the westerly intersection of Crystal Valley Pkwy and Plum Creek Blvd. The Planned Development Plan Amendment will require public hearings before the Planning

Commission for review and recommendation and the Town Council for review and final decision. The project is located within Councilmember Dietz's district.

Site Development Plan

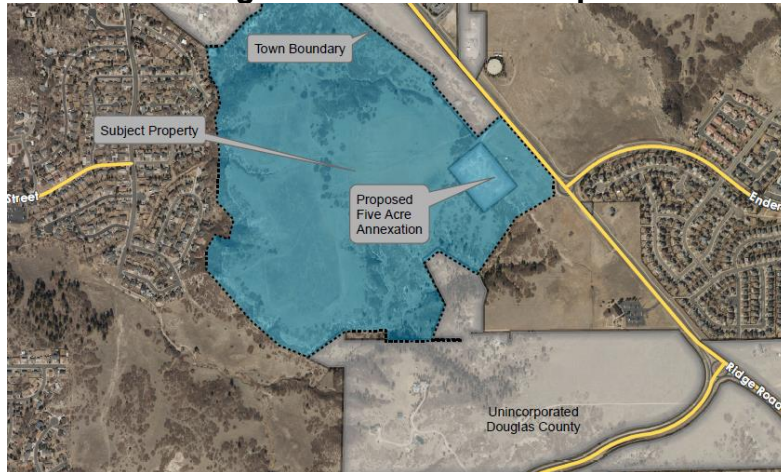
The property representative, Kum & Go, has submitted a Site Development Plan application for an 8,884 sq. ft. convenience store and a 5-pump fueling station. The property is approximately 2 acres in size and located at the westerly intersection of Crystal Valley Pkwy and Plum Creek Blvd and is associated with an application to rezone the property to permit a fueling station use. The Site Development Plan will require public hearings before the Planning Commission for review and recommendation and the Town Council for review and final decision. The project is located within Councilmember Dietz's district.

Memmen Young Infill Annexation:



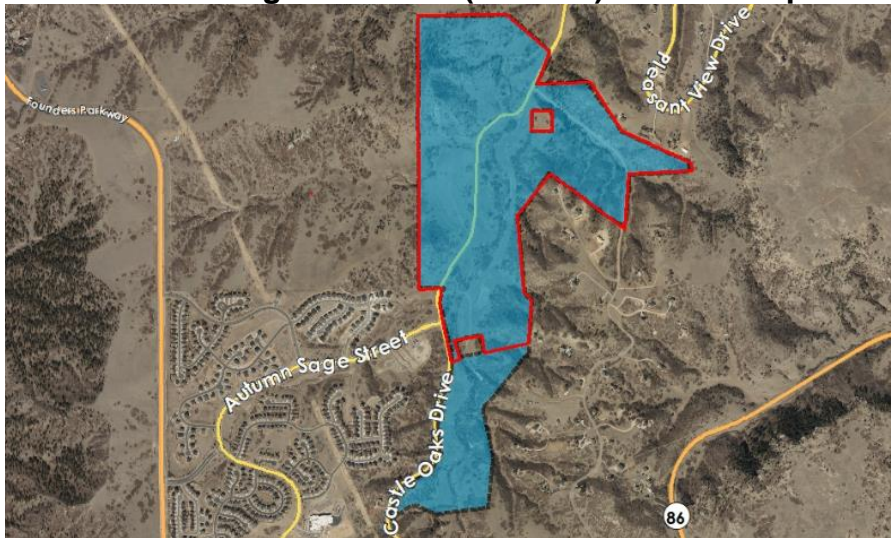
The property owner has submitted a Petition for Annexation for a five-acre parcel. The parcel is located south of Fifth Street, north of East Plum Creek Parkway, and west of Ridge Road. The 5-acre parcel is completely surrounded by the existing Memmen Young Infill Planned Development. A single family residence is currently on the property. The applicant will propose to incorporate the parcel into the Memmen Young Infill PD through the Major Amendment under review. The annexation of the parcel and the Memmen Young Infill PD Major Amendment would be considered concurrently during required public hearings before the Planning Commission for review and recommendation and Town Council for review and final decision. The project is surrounded by Councilmember Johnson's district.

Memmen Young Infill Planned Development Plan and Site Development Plan:



The property owner has submitted a Planned Development Plan and a Site Development Plan (SDP) for a 561-unit residential development within the Memmen Young Planned Development. The Site Development Plan proposes 333 single-family homes and 228 paired homes. The proposed development is 180.5 acres in size of which 86.7 acres is proposed to be open space. The proposed Site Development Plan is contingent on the approval of the Memmen Young Infill Planned Development Major Amendment and the annexation of a 5-acre parcel. The Planned Development Plan and the SDP will require public hearings before the Planning Commission for review and recommendation and Town Council for review and final decision. The project is located within Councilmember Johnson's district.

North Basin Village at Terrain (Phase 2) Site Development Plan:



The property owner has submitted a Site Development Plan (SDP) for 105 single family homes on approximately 1,180 acres within the Terrain North Basin Phase 2 development. The proposed development also includes approximately 150 acres of Open Space dedication. The project is located along Castle Oaks Drive. The SDP will require public hearings before the Planning Commission for review and recommendation, and Town

Council for review and final decision. The project is located within Councilmember Cavey's district.

Perry Street Social District Site Development Plan:



The property owner has submitted an application to convert part of a downtown block on the northeast corner of N. Perry and Fourth Streets into a mini “entertainment district,” which would include a craft beer taproom, three additional food and beverage concepts, and a common covered area pavilion. The common covered area (“The Pavilion”) would be used as a beer garden for the majority of the year and an ice rink during the winter months. Located at the northeast corner of N. Perry and Fourth Streets, the property measures approximately 0.399 acres or approximately 17,380 square feet. The Site Development Plan will require a public hearing before the Design Review Board for review and final decision. The project is located in Councilmember LaFleur’s district.

Pioneer Ranch Annexation and Planned Development Plan:



The property owner has submitted an annexation petition to annex a 388-acre site located west of Founders Parkway and east of Front Street into the Town of Castle Rock. The applicant is proposing the Pioneer Ranch Planned Development Plan zoning to allow 1,123 dwelling units (a mix of single-family and multi-family), 78 acres of open space, and 39 acres dedicated for public uses, such as schools and parks. The annexation requires public hearings before Planning Commission for review and recommendation and Town Council for final decision. The project is adjacent to Councilmember Cavey's district and Councilmember LaFleur's district.

Pinon Manor Apartment Planned Development Plan:



The property owner has submitted a rezoning application for 472, 481 and 498 S. Gilbert Street. The application proposes to consolidate three properties totally 3.25 acres into one zoning classification known as Pinon Manor Planned Development (PD). The rezoning would allow for the existing developed apartments to remain and to provide for the development of an adjacent parcel to contain 3 new apartment buildings with a total of 20 new dwellings. The PDP will require public hearings with the Planning Commission for review and recommendation, and Town Council for final decision. The project is located within Councilmember Dietz's district.

The Town's Development Activity map provides additional information on these quasi-judicial applications, as well as projects that are under administrative (non quasi-judicial) review. This map is available at: CRgov.com/developmentactivity.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 5. **File #:** RES 2022-001

To: Honorable Mayor and Members of Town Council

From: Kristin Read, Assistant Town Manager

Resolution Appointing the Municipal Judge and Approving a Service Contract

Discussion

Town Code calls for Town Council to appoint the Municipal Judge at the first regular Town Council meeting in January of each even-numbered year. Attached is a resolution appointing Louis A. Gresh to serve as Municipal Judge for a two-year term and approving a service contract with Gresh.

Judge Gresh has served as Castle Rock's Municipal Judge since 1986. He also serves as municipal judge for Lone Tree, Larkspur and Castle Pines, among other area jurisdictions.

Town Code requires the Municipal Judge to be licensed to practice in Colorado, in good standing with the State Supreme Court and have a minimum of five years' experience in active practice of law.

Gresh meets those qualifications. He received his undergraduate degree in political science from the University of Denver, where he also worked on a master's degree in international relations. He received his jurisprudence degree from Drake University in Des Moines, Iowa, and he also studied law at the University of Cambridge in England.

Before beginning his employment with the courts, Judge Gresh was employed with Drinkwine and McBride, where he worked on divorce and death penalty cases. He also worked for Berkowitz and Brady and the City Attorney in Littleton.

Other than a proposed \$1,800 increase in annual pay, the terms and conditions of the proposed service contract with Gresh are unchanged from the previous contract.

Proposed Motion

"I move to approve the resolution appointing the Municipal Judge and approving the service contract."

Attachment

Attachment A: Resolution

Item #: 5. File #: RES 2022-001

Exhibit 1: Service Contract

RESOLUTION NO. 2022-

**A RESOLUTION APPOINTING THE MUNICIPAL JUDGE AND
APPROVING A SERVICE CONTRACT WITH LOUIS A. GRESH**

WHEREAS, pursuant to Section 13-10-105, C.R.S., Section 5-2 of the Charter for the Town of Castle Rock (the “Town”), and Section 2.20.020 of the Castle Rock Municipal Code (“CRMC”), Town Council may appoint a municipal judge to preside over the municipal court; and

WHEREAS, pursuant to CRMC Section 2.20.020.C, Town Council wishes to appoint Louis A. Gresh as the Municipal Judge of the municipal court for a two-year term; and

WHEREAS, pursuant to CRMC Section 2.20.020.D, Town Council and Judge Gresh have agreed to terms and conditions under which Judge Gresh will serve as the Municipal Judge.

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

Section 1. Appointment. Town Council hereby appoints Louis A. Gresh as the Municipal Judge for a two-year term.

Section 2. Approval. The Service Contract between the Town and Judge Gresh, in the form attached as *Exhibit I*, is hereby approved. The Mayor and other proper Town officials are hereby authorized to execute the Agreement by and on behalf of the Town.

Section 3. Encumbrance and Authorization for Payment. In order to meet the Town's financial obligations under the Agreement, Town Council authorizes the expenditure and payment from General Fund account no. 110-1311-413.10-20 in an amount not to exceed \$32,036.00, unless otherwise authorized in writing by the Town.

PASSED, APPROVED AND ADOPTED this 4th day of January, 2022 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

Kristin Read, Assistant Town Manager

**TOWN OF CASTLE ROCK
SERVICES AGREEMENT
(Presiding Municipal Judge)**

DATE: _____

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 ("Town").

LOUIS A. GRESH, an individual, 4531 Ridgewood Court, Castle Rock, Colorado 80109 ("Contractor").

RECITALS:

- A. The Town has concurrently reappointed Contractor as the Presiding Municipal Judge of the Castle Rock Municipal Court pursuant to Resolution No. 2022-____ ("Appointment Resolution"), Section 5-2 of the Town's Home Rule Charter and Chapter 2.02 of the Castle Rock Municipal Code (the "Code").
- B. Section 2.20.020(D) of the Code authorizes the Town Council to enter into an engagement agreement with the Presiding Municipal Judge to address compensation and benefits as well as other administrative matters.

COVENANTS:

THEREFORE, in consideration of these mutual promises, the Parties agree and covenant as follows:

Section 1. Compensation and Benefits. As authorized in the Appointment Resolution, the Contractor shall be paid the sum of \$32,036 per annum, in regular biweekly installments, in consideration of Contractor's discharge of all duties, obligations and responsibilities as Presiding Municipal Judge. The Contractor shall not be considered an employee subject to the Town's personnel code or policies and, therefore, the Contractor shall not be entitled to any of the benefits afforded employees of the Town. Subject to the annual appropriation of sufficient revenues, the Town may authorize the reimbursement of expenses incurred by the Contractor for professional training or education.

Section 2. Term. The term of this Agreement shall be two years, as provided in Section 2.20.020(C) of the Code. The Town may remove the Contractor as provided in Section 13-10-105 C.R.S., as amended from time to time.

Section 3. Appointment of Substitute Judges. In the event the Contractor is unavailable to preside over the Municipal Court, the Town Council shall appoint an assistant and/or substitute judges in order to assure the efficient operation of the Municipal Court. Prior to such appointment, the Town Council shall solicit the input and suggestion of the Contractor as to appropriate candidates for such substitute judge appointment.

Section 4. Appointment of Municipal Court Clerk. Not later than April 1 of each year during the term of the Contractor's appointment as presiding Municipal Judge, the Contractor shall designate in writing to the Town Manager the appointment or reappointment of the Municipal Court Clerk for a one-year term. In the event of a vacancy in the office of Municipal Court Clerk, through resignation or otherwise, the Contractor shall coordinate the solicitation, selection and hiring process with the Town administrative staff, provided that the selection of the Clerk shall remain in the exclusive discretion of Contractor. The discharge of the Municipal Court Clerk shall be made only after compliance with the applicable provisions of the Town's personnel policies and code governing discharge of a Town employee.

Section 5. Administrative Support. The Town, through legislative appropriation of funds for operation of the Municipal Court, shall at all times provide suitable facilities for conduct of the public sessions of Municipal Court, as well as the administrative functions of the office of Clerk of the Municipal Court. The Town shall have the exclusive right to designate the courtroom facilities, and the location of the office of the Municipal Court Clerk.

Although the Contractor shall retain the right to appoint the Municipal Court Clerk, the Town shall reserve the right to determine support to the Municipal Court through the Municipal Court Clerk's Office. In this regard, if the Municipal Court Clerk is otherwise a full-time employee of the Town, the Town Manager, as the chief administrative officer of the Town, may designate other duties and responsibilities to the employee serving as Municipal Court Clerk, provided that assignment of such additional duties and responsibilities do not materially impair the efficient operation of the Municipal Court and the interests of justice.

Section 6. Limited Purpose. This Agreement is entered into for the limited purposes authorized under chapter 2.20.020 of the Code, and in no manner shall limit or restrict the powers, duties and prerogatives of the Municipal Judge under the Town's Home Rule Charter, applicable statutes, or the other provisions of the Code. In the event of such conflict, the offending provision or provisions of this Agreement shall be null and void, and entirely severable from the other provisions of this Agreement.

Section 7. Independent Contractor. Contractor and Town hereby represent that Contractor is an independent contractor for all purposes hereunder. As such, Contractor is not covered by any worker's compensation insurance or any other insurance maintained by Town except as would apply to members of the general public. Contractor shall not create any indebtedness on behalf of the Town.

Section 8. Governing Law. This Agreement shall be governed by the laws of the State of Colorado in the Douglas County District Court.

Section 9. Entire Agreement. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

Section 10. Annual Appropriation. The continuance of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the Town. If the Town fails to appropriate sufficient monies to provide for the continuance of the Agreement, the Agreement shall terminate on the final day preceding the date of the beginning of the first fiscal year for which funds are not appropriated. The Town's only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination.

ATTEST:

TOWN OF CASTLE ROCK

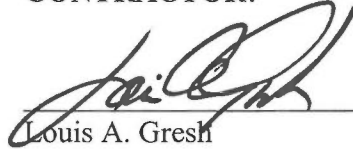
Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

CONTRACTOR:

Michael J. Hyman, Town Attorney



Louis A. Gresh



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 6. **File #:** RES 2022-002

To: Honorable Mayor and Members of Town Council

From: Kristin Read, Assistant Town Manager

~~Resolution Appointing the Assistant Municipal Judge and Approving a Service Contract - Item Withdrawn Indefinitely~~

Update January 3, 2022

This item is withdrawn from Council Consideration, as Judge Cole is no longer available to commit to this contract.

Discussion

Castle Rock Municipal Court had an Assistant Judge from 2008 until 2016, when the former Assistant Judge began working toward retirement. For succession-planning purposes, the Municipal Judge and staff are recommending reinstating an Assistant Municipal Judge beginning this year.

An Assistant Judge differs from a Substitute Judge in that s/he must contractually be available to hold hearings for the Court if the Municipal Judge is unavailable. The Assistant Judge is not paid a salary but rather is paid per actual Court session worked - generally, between \$300 and \$500 per session, depending on its length.

The Service Contract with the presiding Municipal Judge on tonight's agenda authorizes Town Council to appoint assistant and/or substitute judges in order to assure the efficient operation of the Municipal Court, with input from the presiding judge on the appropriate candidates for these roles. Judge Gresh recommends appointing as Assistant Municipal Judge Lilith Zoe Cole. Attached is a resolution appointing Ms. Cole to serve as Assistant Municipal Judge for a two-year term and approving a service contract with her.

Judge Cole has served as a Substitute Judge for our Court since 2016. She also serves as Assistant Municipal Judge for Centennial and Lone Tree.

Town Code requires the Municipal Judge to be licensed to practice in Colorado, in good standing with the State Supreme Court and have a minimum of five years' experience in active practice of law. Judge Cole meets those qualifications.

Proposed Motion

Item #: 6. File #: RES 2022-002

“I move to approve the resolution appointing the Assistant Municipal Judge and approving the service contract.”

Attachment

Attachment A: Resolution

Exhibit 1: Service Contract

RESOLUTION NO. 2022-

**A RESOLUTION APPOINTING THE ASSISTANT MUNICIPAL JUDGE
AND APPROVING A SERVICE CONTRACT WITH LILITH ZOE COLE**

WHEREAS, pursuant to Section 13-10-105, C.R.S., Section 5-2 of the Charter for the Town of Castle Rock (the “Town”), and Section 2.20.020 of the Castle Rock Municipal Code (“CRMC”), Town Council may appoint an assistant municipal judge to serve as a substitute judge where necessary for orderly administration of the court; and

WHEREAS, pursuant to CRMC Section 2.20.020.C, Town Council wishes to appoint Lilith Zoe Cole as the Assistant Municipal Judge of the municipal court for a two-year term; and

WHEREAS, pursuant to CRMC Section 2.20.020.D, Town Council and Judge Cole have agreed to the terms and conditions under which Judge Cole will serve as the Assistant Municipal Judge.

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

Section 1. Appointment. Town Council hereby appoints Lilith Zoe Cole as the Assistant Municipal Judge for a two-year term.

Section 2. Approval. The Service Contract between the Town and Judge Cole, in the form attached as *Exhibit I*, is hereby approved. The Mayor and other proper Town officials are hereby authorized to execute the Agreement by and on behalf of the Town.

Section 3. Encumbrance and Authorization for Payment. In order to meet the Town's financial obligations under the Agreement, Town Council authorizes the expenditure and payment from General Fund account no. 110-1311-413.30-50 in an amount not to exceed \$500.00 per session, unless otherwise authorized in writing by the Town.

PASSED, APPROVED AND ADOPTED this 4th day of January, 2022 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

Kristin Read, Assistant Town Manager

**TOWN OF CASTLE ROCK
SERVICES AGREEMENT
(Assistant Municipal Judge)**

DATE: _____

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (“Town”).

LILITH ZOE COLE, an individual, 1956 Lawrence Street, #701, Denver, Colorado 80202 (“Contractor”).

RECITALS:

- A. The Town has concurrently appointed Contractor as the Assistant Municipal Judge of the Castle Rock Municipal Court pursuant to Resolution No. 2022-____ (“Appointment Resolution”), Section 5-2 of the Town's Home Rule Charter and Chapter 2.02 of the Castle Rock Municipal Code (the “Code”).
- B. Section 2.20.020(D) of the Code authorizes the Town Council to enter into an engagement agreement with the Assistant Municipal Judge to address compensation and benefits as well as other administrative matters.

COVENANTS:

THEREFORE, in consideration of these mutual promises, the Parties agree and covenant as follows:

Section 1. Compensation and Benefits. As authorized in the Appointment Resolution, the Contractor shall be paid the sum of up to \$500 per session in consideration of Contractor's discharge of all duties, obligations and responsibilities as Assistant Municipal Judge. The Contractor shall not be considered an employee subject to the Town's personnel code or policies and, therefore, the Contractor shall not be entitled to any of the benefits afforded employees of the Town. Subject to the annual appropriation of sufficient revenues, the Town may authorize the reimbursement of expenses incurred by the Contractor for professional training or education.

Section 2. Term. The term of this Agreement shall be two years, as provided in Section 2.20.020(C) of the Code. The Town may remove the Contractor as provided in Section 13-10-105 C.R.S., as amended from time to time.

Section 3. Duties. Contractor shall provide Assistant Municipal Judge duties as assigned by the Presiding Municipal Judge.

Section 4. Limited Purpose. This Agreement is entered into for the limited purposes authorized under chapter 2.20.020 of the Code and in no manner shall limit or restrict the powers, duties and prerogatives of the Municipal Judge under the Town's Home Rule Charter,

applicable statutes, or the other provisions of the Code. In the event of such conflict, the offending provision or provisions of this Agreement shall be null and void, and entirely severable from the other provisions of this Agreement.

Section 5. Independent Contractor. Contractor and Town hereby represent that Contractor is an independent contractor for all purposes hereunder. As such, Contractor is not covered by any worker's compensation insurance or any other insurance maintained by Town except as would apply to members of the general public. Contractor shall not create any indebtedness on behalf of the Town.

Section 6. Governing Law. This Agreement shall be governed by the laws of the State of Colorado in the Douglas County District Court.

Section 7. Entire Agreement. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

Section 8. Annual Appropriation. The continuance of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the Town. If the Town fails to appropriate sufficient monies to provide for the continuance of the Agreement, the Agreement shall terminate on the final day preceding the date of the beginning of the first fiscal year for which funds are not appropriated. The Town's only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

CONTRACTOR:

Michael J. Hyman, Town Attorney

DocuSigned by:

Lilith Zoe Cole

Lilith Zoe Cole

11/8/2021 | 12:33 PM MST



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 7. **File #:** RES 2022-003

To: Honorable Mayor and Members of Town Council

From: Kristin Read, Assistant Town Manager

Resolution Appointing Substitute Judges for the Town of Castle Rock Municipal Court

Executive Summary

Attached is a resolution establishing a list of substitute judges who are authorized to preside over Castle Rock Municipal Court, should the Municipal Judge or Assistant Municipal Judge be unavailable, or conflicted out of a particular case.

Proposed Motion

"I move to approve the Resolution appointing substitute judges."

Attachment

Attachment A: Resolution

RESOLUTION NO. 2022-

**A RESOLUTION APPOINTING SUBSTITUTE JUDGES FOR THE TOWN
OF CASTLE ROCK MUNICIPAL COURT**

WHEREAS, pursuant to Section 13-10-105, C.R.S., Section 5-2 of the Charter for the Town of Castle Rock (the “Town”), and Section 2.20.020 of the Castle Rock Municipal Code (“CRMC”), Town Council may appoint substitute judges for the Municipal Court; and

WHEREAS, Town Council desires to appoint persons to serve as substitute judges in the event such judges are necessary for the orderly administration of the Court.

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

Section 1. Appointment. Town Council hereby appoints the following persons as substitute judges for Municipal Court:

John Ciccolella
Lilith Zoe Cole
Beth Elliott-Dumler
Jonathan Lucero
Vincent White
Bradley Yoder

Such persons are appointed for a term ending with the expiration of the sitting Municipal Judge’s term, until the first regular Town Council meeting in January, 2024.

Section 2. Encumbrance and Authorization for Payment. In order to meet the Town's financial obligations under the Agreement, Town Council authorizes the expenditure and payment from the General Fund account no. 110-1311-413.30-50 in an amount not to exceed \$500.00 per session, unless otherwise authorized in writing by the Town.

PASSED, APPROVED AND ADOPTED this 4th day of January, 2022 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

Kristin Read, Assistant Town Manager



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 8. **File #:** RES 2022-004

To: Honorable Mayor and Members of Town Council

Through: David L. Corliss, Town Manager

From: Lisa Anderson, Town Clerk

Resolution Designating the Public Place for Posting Notices Pursuant to C.R.S. Section 24-6-402(2)(c)

Executive Summary

Per Colorado Revised Statutes Section 24-6-402(2)(c), the Town is required to annually designate the public place for posting notices to comply with the Open Meetings Law. The Town wishes to designate the Town website as the public place for posting notices in compliance with the Open Meetings Law.

Proposed Motion

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

Attachments

Resolution

RESOLUTION NO. 2022-

**A RESOLUTION DESIGNATING A PUBLIC PLACE FOR POSTING
NOTICES OF PUBLIC MEETINGS PURSUANT TO THE COLORADO
OPEN MEETINGS LAW**

WHEREAS, according to the provisions of the Colorado Open Meetings Law, Section 24-6-402(2)(c), C.R.S., the Town Council is required to designate the public place for posting notices of public meetings at its first regular meeting of the calendar year; and

WHEREAS, for calendar year 2022, the Town Council wishes to designate the Town website at www.crgov.com as the public place for posting notices; and

WHEREAS, in addition, the Town may post notices on the electronic board in the public entrance of the Town offices located at 100 North Wilcox Street, on the Town's Facebook page, "Town of Castle Rock Government," and on other Town social media accounts; and

WHEREAS, if there is a known emergency power outage, the Town may also post a physical notice in the public entrance of the Town offices.

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

Section 1. Designation. Pursuant to the requirement of the Colorado Open Meetings Law, the Town Council of the Town of Castle Rock hereby designates the Town website at www.crgov.com as the public place for posting notices of public meetings for calendar year 2022.

PASSED, APPROVED AND ADOPTED this 4th day of January 2022, 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

Lisa Anderson, Town Clerk



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 9. **File #:** MIN 2022-001

To: Honorable Mayor and Members of Town Council

Through: David L. Corliss, Town Manager

From: Lisa Anderson, Town Clerk

Minutes: December 21, 2021 Draft Minutes

Executive Summary

Attached are the December 21, 2021, Draft Minutes for approval.



Town Council Meeting Minutes - Draft

Mayor Jason Gray
Mayor Pro Tem Kevin Bracken
Councilmember Ryan Hollingshead
Councilmember Laura Cavey
Councilmember Desiree LaFleur
Councilmember Caryn Johnson
Councilmember Tim Dietz

Tuesday, December 21, 2021

6:00 PM

**Town Hall Council Chambers
100 North Wilcox Street
Castle Rock, CO 80104
Phone in: 720-650-7664
Meeting code: 146 785 0135
www.CRgov.com/CouncilMeeting**

This meeting is open to the public and will be held in a virtual format in accordance with the Town Council Electronic Participation, Connected, and Hybrid Meeting Policy. Public may choose to attend in person at Town Hall, or electronically or by phone if preferred. This meeting will be hosted online and can be accessed at www.CRgov.com/CouncilMeeting, or phone in by calling 720-650-7664, meeting code 146 785 0135 (if prompted for a password enter "Dec21Council"). All Town Council Meetings are also streamed online in real time at www.CRgov.com/WatchCouncil, and are broadcast for Comcast Cable subscribers on Channel 22 (please note there is a delay to the broadcast).

All times indicated on the agenda are approximate. Remote participants please visit www.CRgov.com/CouncilComments to sign up to speak to an item, and for related instructions. Public Comments may also be submitted in writing online by 1:00 p.m. December 21, 2021, to be included in the public record.

COUNCIL DINNER & INFORMAL DISCUSSION

INVOCATION - Joshua Kaighen, Home Churches

CALL TO ORDER / ROLL CALL

Present: 7 - Mayor Pro Tem Bracken, Mayor Gray, Councilmember Hollingshead, Councilmember Cavey, Councilmember LaFleur, Councilmember Johnson, Councilmember Dietz

PLEDGE OF ALLEGIANCE

COUNCIL COMMENTS

Councilmember Cavey wanted to honor Gary Godfrey who passed away last week. He loved this Town, was a pillar in the community, a huge advocate for small businesses, and helped anyone in need and expected nothing in return. She ran against him for Council, and when she won he was the first person to call to congratulate her. That is the kind of person that he was. He will be deeply missed in this community. She proposed several ideas for Council to honor Gary's memory: Dads of Castle Rock would like to put a plaque on one of the benches at Festival Park. Gary was also a photographer and took some amazing pictures of Downtown, The Rock and our community. She asked if the Town would be able to buy one or two of the prints to hang where appropriate.

David Corliss, Town Manager, stated they can discuss after the Proclamation.

Councilmember LaFluer, wished Police, Fire, and Town staff a Merry Christmas and a safe holiday and Happy New Year.

Councilmember Johnson wished our community, our state and nation a Merry Christmas and Happy New Year. She looks forward to hearing the proclamation and has been saddened by Gary's passing. She would see him often when he came to her church for meetings and knows how much he gave to our community. It is sad for us all here.

Councilmember Dietz stated it is a time to rejoice and be grateful. Christmas changes things and people for the better, reminds us there are ways to help, to pray, to slow down, and help others. Gary Godfrey will be missed. He was kind, helpful, and loved Castle Rock and people. God's blessings to Gary and his family. Dietz thanked the Town of Castle Rock voters for voting for two of our ballot issues so that we have extra funds to move forward.

Mayor Pro Tem Bracken conveyed that he talked to Gary about the cell phone issue, and Gary came to Council meetings to comment. They talked a lot about things they could change and he had grandiose visions. Bracken supports something nice to honor Gary.

Mayor Gray said the season can be hard on a lot of people and wants to make sure that everyone lends a hand anyway they can. The movie A Wonderful Life sends a message that your life matters very, very much. There are a lot of people out there hurting. Hurt people have a tendency to hurt other people. He wants to promote forgiveness to people we love, people we care about and for the person he cut off on the highway. Even if they don't deserve it, you deserve it to forgive others. Your life matters and it is important to understand that.

[PROC](#)
[2021-013](#)

Proclamation: Honoring Gary Godfrey

Mayor Gray read the Proclamation honoring Gary Godfrey into the record and presented it to his brother Greg Godfrey who was in attendance at the meeting along with several of his friends.

UNSCHEDULED PUBLIC APPEARANCES

Citizens that addressed Council:

Holly Osborne-Horn, resident, wanted to say some words about her friend Gary Godfrey. She said when you ran into him, your day got better. He was a judgment-free zone, and he was always there to listen. He was a friend to all and he was a champion for this Town. They worked together to help the Governor know how our small businesses were struggling. He was always fighting for small business owners to be successful and thrive. He was different in so many ways but a friend to all. She wanted to convey a message of gratitude and the impact he made on her life.

Councilmember Cavey introduced the video of Gary Godfrey singing a song that he wrote; and his friend David Chapa put it together with a video of photos of Gary.

Mayor Gray asked if Council would like to discuss how to honor Gary. Councilmember Dietz stated there are individuals that want to pay for it. Corliss stated they can also work to obtain some photographs of Gary's.

Councilmember Johnson stated the Public Art Commission may want to ensure they are part of the inventory they keep track of. Corliss will coordinate with them to ensure it is part of the Town inventory.

Online Comments from Citizens:

Sean Hakes became friends with Gary 7 years ago. He came into his office at 5th and Perry and gave him paintings to show his appreciation. They hung out weekly in Downtown Castle Rock. Gary was in retail a long time, but he was passionate about helping businesses thrive and was living his dream. He appreciates what the Town is doing for Gary, and noted that Gary would do the same thing for any of us. It is a huge loss to the community.

Moved by Councilmember Cavey, seconded by Councilmember Dietz, to Direct Staff to put a bench in Festival Park in Gary's honor and buy one or two pieces of his photography collection to display at a Town facility. The motion passed by the following vote:

Yes: 7 - Bracken, Gray, Hollingshead, Cavey, LaFleur, Johnson, Dietz

TOWN MANAGER'S REPORT

David Corliss, Town Manager, wished everyone Merry Christmas and Happy New Year.

[ID 2021-132](#)

Presentation: Indoor Recreation Facility Feasibility Study Update

Corliss noted that Police and Fire salaries are a very high priority. Building a recreation center is from funds that can only be spent on Parks and Recreation from Impact fees.

Jeff Brauer, Director of Parks and Recreation, wished Council happy holidays from his staff. Staff went through the feasibility study, looked at their inventory and feel they should issue a request for proposal in the community for public private partnerships to provide land, financing or other options. The new facility will be focused on sports, teens and active adults. They will bring this back to Council in the first quarter with any updates.

Mayor Gray asked how we compare to other communities. Brauer stated that we could use a third recreation center. The Town hasn't built a competitive swimming pool since 1988, and the Town gym at the recreation center was also built during that timeframe.

Councilmember Cavey asked what the scope and size is for the rec center needed. Brauer stated they look at a 10-12 acre site.

Councilmember Johnson stated the Council recently toured the South Suburban complex. She suggested we need to include consideration for the traffic impacts

of tournaments and parking impacts. Brauer stated they will provide as much information as possible. Johnson also ensured that they consider the capstone when planning any building.

Mayor Pro Tem Bracken asked what is in the RFP. Brauer stated they identify the possibility for land, financial participation, and opened it up to anything else that would be a benefit to the Town. They know there are a lot of creative people in the community.

[ID 2021-133](#)**Update: Calendar Reminders**

David Corliss, Town Manager, wanted to remind everyone about the Town holidays, the Police Swearing In on January 3 for seven new officers, the Fire Rescue Awards Banquet with a dinner and ceremony at 6pm on January 15, and Open Houses on the 5th Street widening and Crystal Valley Interchange. There are various neighborhood meetings also referenced.

[ID 2021-134](#)**Update: Monthly Department Reports**[ID 2021-135](#)**Development Services Project Updates**[ID 2021-136](#)**Update: Quasi-Judicial Projects****TOWN ATTORNEY'S REPORT**

No report; but Mike Hyman, Town Attorney, echoed Dave's wishes to Council with Merry Christmas and Happy New Year. He noted he is scheduled to close on his house on December 30th, move on December 31st and hopes to wake up on January 1st as a Castle Rock resident.

ACCEPTANCE OF AGENDA

Moved by Councilmember Johnson, seconded by Councilmember Cavey, to Accept the Agenda as presented. The motion passed by the following vote:

Yes: 7 - Bracken, Gray, Hollingshead, Cavey, LaFleur, Johnson, Dietz

CONSENT CALENDAR[ORD 2021-032](#)

Ordinance Approving a Franchise Agreement Between the Town of Castle Rock, Colorado, and Black Hills Colorado Gas Inc. (Second Reading - Approved on First Reading on December 7, 2021, by a vote 7-0)

[MIN 2021-022](#)

Minutes: December 7, 2021 Town Council Meeting

Moved by Councilmember Johnson, seconded by Councilmember Hollingshead to Approve the Consent Calendar as read. The motion passed by a vote of:

Yes: 7 - Bracken, Gray, Hollingshead, Cavey, LaFleur, Johnson, Dietz

QUASI JUDICIAL HEARINGS

Mayor Gray read the quasi-judicial script and no Councilmembers voiced any conflict of interest. Lisa Anderson, Town Clerk, confirmed that the items were properly noticed.

Note: Councilmember LaFleur left the meeting at 6:45 pm. prior to the start of this item.

[RES 2021-115](#) **Resolution Approving a Site Development Plan for a New Golf Clubhouse at the Plum Creek Golf Course**

Tara Vargish, Director of Development Services, presented the site development plan. This is on the agenda due to the Residential/Non-Residential Interface Regulations because of the vacant residential lots to the south of the proposed project. A new owner purchased the existing club house in 2018 and operates it as a wedding venue. There has been a temporary building used as the clubhouse until they can build a new one. There are no changes to the entrance/access or to the previous golf clubhouse. The two uses only require 150 spaces, so their current parking capacity is more than adequate.

Councilmember LaFluer returned at 6:50 pm.

Vargish noted there is 365 feet between the proposed club house and the residential lot lines. The building is just under 4,000 square feet, is one story and the architecture fits in with the surrounding area. There is an existing buffer with the open space and landscaping. Staff determined that they meet all of the requirements and objectives, and Planning Commission approved it.

Councilmember Johnson confirmed the existing building is a temporary trailer they use now.

Councilmember Cavey stated it looks like nothing is changing. Vargish stated the new club house is going where the temporary building is right now. It will be a larger building but a permanent fixture.

David Hieronymus, the architect, stated they wanted something simple that fit in the neighborhood. It is walkable from the neighborhood, and he noted they spent a lot of money and time to make improvements to the golf course. The existing lots are 50 feet above them, and will be 30 feet above the top of this building. The inside will have a bar and grill and a pro shop with a lot of outside seating.

Councilmember LaFleur asked if it will house the cart barn. Hieronymus noted the carts will remain in the old clubhouse with a 30 year lease plus a 30 year option.

No public comment.

Mayor Pro Tem Bracken thanked Vargish for her work with the applicant.

Moved by Mayor Pro Tem Bracken, seconded by Councilmember LaFleur, that Quasi-Judicial Resolution 2021-115 be Approved as presented. The motion passed by the following vote:

Yes: 7 - Bracken, Gray, Hollingshead, Cavey, LaFleur, Johnson, Dietz

ADVERTISED PUBLIC HEARINGS & DISCUSSION ACTION ITEMS

[ORD 2021-033](#) Ordinance Vacating a Portion of Jerry Street Located in the Northwest Quarter of Section 11, Township 8 South, Range 67 West, of the 6th Principal Meridian, Town of Castle Rock (First Reading) *[located at the corner of Jerry Street and 6th Street]*

Tara Vargish, Director of Development Services, presented the item showing the location of the portion of the street to be vacated. The street is 50 feet wide to the north, and 80 feet at the southern portion. The vacation is 15'x50'. This street was originally platted in 1874. There will be sidewalk and some columns that hold up the floors above it. The utility providers have no objection, but there will be public access for the sidewalk and a utility easement.

Councilmember Cavey asked if this is currently owned by the Town. Vargish stated it is owned by the Town. When a developer plats a neighborhood, they give the Town the right of way, and returned when it is no longer needed.

Councilmember Dietz stated that he will not be in favor of it because the project involves a decision he was not part of.

Mayor Gray stated there has been a fence around this property and maintained privately, as they just learned it was never conveyed back.

No public comment.

Moved by Councilmember LaFleur, seconded by Councilmember Hollingshead, that Ordinance 2021-033 be Approved on First Reading as presented. The motion passed by the following vote:

Yes: 4 - Bracken, Gray, Hollingshead, LaFleur

No: 3 - Cavey, Johnson, Dietz

[ORD 2021-034](#) Ordinance Approving the First Amendment to the View at Castle Rock Redevelopment and Financing Agreement Between the Town of Castle Rock, the Castle Rock Downtown Development Authority, and Castle Rock Development, LLC (First Reading) *[located at 610 Jerry Street]*

Mike Hyman, Town Attorney, stated this is an amendment to the financing agreement that was approved earlier. They proposed some deadlines for the building permit by June 30, 2021 and a certificate of occupancy for the first residential unit by August 1, 2023. Anything beyond 6 months requires an amendment to the agreement. They requested an extension for the permit until December 30, 2021 that was granted. They have now requested that to be moved to April 30, 2022 and a nine month extension for the first residential unit until May 1, 2024. They have experienced volatile construction pricing and supply chain interruptions. Staff recommends approving the amendment.

Councilmember Johnson inquired if they could add conditions to this ordinance.

Hyman stated it is within her right and it would require a motion and a second and the would either succeed or fail.

No public comment.

Councilmember Deitz again stated he would not vote for it since the original project did not come through Town Council.

Moved by Councilmember LaFleur, seconded by Councilmember Hollingshead, that Ordinance 2021-034 be Approved on First Reading as presented. The motion passed by the following vote:

Yes: 4 - Bracken, Gray, Hollingshead, LaFleur

No: 3 - Cavey, Johnson, Dietz

RES 2021-116 Resolution Approving a Service Agreement with Short Elliott Hendrickson, Inc., for the Design of the Crystal Valley Parkway and Plum Creek Boulevard Roundabout Project

Dan Sailer, Director of Public Works, presented the item. He showed the location of the project at Plum Creek Boulevard and Crystal Valley Parkway. They try to maximize the value and looked at three options. A four-way stop has poor near and long-term performance. It is the least expensive but is not as safe. A traffic signal would work in peak hours, but off-peak is not acceptable. The roundabout met the majority of the requirements. They would maximize the right-of-way, include bicycle lane striping, it will accommodate larger vehicles, minimize impacts on the residential area, ensure there is sufficient capacity for the future, and accommodate pedestrian crossing. They received five proposals for the design phase, and their recommendation is within the budget. They look to complete construction in the first quarter of 2023. The Public Works Commission unanimously recommend approval.

Councilmember Cavey inquired about the benefits of the roundabout and confirmed that the fire trucks are accommodated. Cavey stated the design phase is budgeted at \$400,000 and asked what the total cost for the roundabout will be. Sailer stated that their program costs show close to \$2M more for construction which will be driven by the market.

Mayor Gray stated that Councilmember Dietz has been looking to alleviate problems in his District. Dietz feels it is a huge safety issue and complimented staff.

No public comment.

Moved by Councilmember Johnson, seconded by Councilmember Dietz, that Resolution 2021-116 be Approved as presented. The motion passed by the following vote:

Yes: 7 - Bracken, Gray, Hollingshead, Cavey, LaFleur, Johnson, Dietz

ID 2021-137 Presentation of the Metropolitan District Summary for the year ending December 31, 2020

David Corliss, Town Manager, stated they started reviewing these a few years ago because they felt the metropolitan districts were not doing a good job explaining their financial status to the public. This is a sizable financial issue for the community. Corliss iterated that this is not the Town debt, but staff feels we need to monitor it and alter our policies going forward for new metropolitan districts.

Trish Muller, Director of Finance, stated each year they get these financial reports from metropolitan districts in September for the previous year. A metropolitan district is a separate taxing entity formed by the developer and they have the ability to issue debt to fund the public infrastructure they put in the development. That debt is paid by the homeowners via the mill levy on the property taxes. We have 42 metro districts and 5 of them are inactive. Total metro district debt in December 2020 was \$875M which increased by \$59M from 2019. Some of the new districts like Bella Mesa and Castle View are just getting started with \$16.3M for Bella Mesa and \$3.6M for Castle View. The rest is accumulated interest and developer advances. 7% or \$61M represents developer debt, \$385.7M or 44% is the true outstanding principal, and \$428M or 49% is the accrued interest. Tax collected by the metro districts through property tax is \$29.1M and \$2.5M comes from ownership tax. The Town receives \$1.3M for their mill levy and receives \$338k from ownership tax when you register your vehicle.

Staff recommends debt service have a mill levy cap of 50 mills and a maximum term of 35 years. Staff also recommends there be a mill levy dedication to the Town for an urban services mill levy no less than 2 mills, imposed by the metro district and given to the Town so we can fund services that put a burden on our system. They recommend a total debt issuance limit of 95% of the total public improvements and that compounded interest not be allowed. The rate will be determined by the variable municipal market data plus a certain percent, and specific ownership tax collected by the metro districts should be remitted to the Town since it is a tax on the roads and we maintain the roads. These are the recommended changes to the model service plan to be used for any new metro district or when amendments are made to existing service plans.

Councilmember LaFluer stated Woodlands metro district is paid off and no longer active. Muller stated they can also be under a suspension plan like Dawson metro districts 1-5 that are inactive.

Councilmember Hollingshead asked if we can require them to notify taxpayers. Mike Hyman, Town Attorney, stated the metro districts are required under state Statute to notify residents in their district and feels it is appropriate to require that in future service plans.

Councilmember Cavey inquired about compounding interest and who is paying for that. Muller stated that the interest accrued on interest it is paid by the residents. Cavey asked when the metro districts are formed if we can do more as a Town to help the taxpayers to not allow them to run wild. Corliss stated that is their intent and that the key thing is a term limit on the debt service so property owners will only be paying 35 years of debt service. Some of the existing metro districts do not have that term limit. Corliss noted that Woodlands and Plum Creek both paid off their debt and it worked well. Cavey asked if it is reasonable to reduce it below 35 years. Corliss stated that is what the market tells us because it is the life

expectancy of the infrastructure. If you have a shorter term you will have a larger mill levy. We want developers to bring more equity to the project. Cavey requested time with Trish and Dave to dig into it more.

Councilmember Johnson appreciates the time staff has taken to review these and come up with a model service plan to help future residents. She encourages residents to take a look at this information, it is very important, and to see where most of their property taxes are going if they live in a metro district. Johnson reiterated that most of their taxes are not going to the Town.

David Corliss stated Council will likely see the metro district service plan for one or two developments - one being Dawson Trails.

Mayor Pro Tem Bracken stated these entities are refinancing their debt at all time lows in percentage rates and feels they have a responsibility to refinance them. He feels this is good stuff to put limitations on the service plans.

Councilmember Johnson noted that Lone Tree currently has a 2 mill levy they receive from the metro districts.

Councilmember Cavey thanked staff for what they are doing for the community to be more fiscally responsible with taxpayer dollars.

Mayor Gray stated almost all of this has been done in the past and we have no way to change it. He likes that we are finding better ways to do this in the future.

No public comment.

[RES 2021-117](#) Resolution Approving a Construction Contract with C & L Water Solutions for the Woodlands Sewer Interceptor Manhole Rehabilitation Phase 2 Project [Woodlands Boulevard and Saddleback Drive]

Mark Marlowe, Director of Castle Rock Water, presented this item that will replace existing infrastructure in the Woodlands. Manholes that serve a major interceptor that brings wastewater from the east side of Town and takes it down to the Plum Creek water treatment facility and runs along a heavily used trail. This continues a previous project with 25 more manholes that are severely corroded. They received five proposals with a wide range of costs. Three provided a structural rehabilitation method that is not what they wanted. C&L has the most experience with this method of rehab. Given the high risk nature of this project they felt C&L had the experience needed which allows them to continue to operate the sewer. They also did a great job on the first phase. They expect completion in November 2022. The Water Commission recommended unanimously.

No public comment.

Moved by Councilmember Johnson, seconded by Councilmember Hollingshead, that Resolution 2021-117 be Approved as presented. The motion passed by the following vote:

Yes: 7 - Bracken, Gray, Hollingshead, Cavey, LaFleur, Johnson, Dietz

ADDITIONAL UNSCHEDULED PUBLIC APPEARANCES

None.

ADJOURN

**Moved by Councilmember LaFleur, seconded by Councilmember Hollingshead, to
Adjourn the meeting. The motion passed by the following vote:**

Yes: 7 - Bracken, Gray, Hollingshead, Cavey, LaFleur, Johnson, Dietz

Meeting Adjourned at 8pm.

Submitted by:

Lisa Anderson, Town Clerk



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 10. **File #:** ORD 2021-033

To: Honorable Mayor and Members of Town Council

Through: David L. Corliss, Town Manager

From: Tara Vargish, P.E. Director of Development Services
TJ Kucewesky, Development Services Manager

Ordinance Vacating a Portion of Jerry Street Located in the Northwest Quarter of Section 11, Township 8 South, Range 67 West, of the 6th Principal Meridian, Town of Castle Rock (Second Reading - Approved on First Reading on December 21, 2021, by a vote 4-3) [located at the corner of Jerry Street and 6th Street]

Executive Summary

TREANOR INVESTMENTS LLC & DOUGLAS COUNTY PROPERTIES LLC & ROCK VIEW HOLDINGS LLC, ET AL (the "Applicant") is proposing the construction of "The View" mixed use development. Upon the completion of the property line survey for the project, the applicant determined that Jerry Street Right of Way ("ROW") was not uniform along their frontage. In order to construct the building as designed, the Applicant is requesting a 15-foot-wide ROW vacation for approximately 150 feet along the southern portion of Jerry Street.

The platted ROW for Jerry Street separates Block 3 and 4 of the Town of Castle Rock Plat. On the southern portion of Jerry Street, the ROW is platted at 80 feet wide. To the north of this area, the platted ROW width was reduced to 50 feet due to a previous ROW vacation in 1973. The ROW Vacation request is for the easterly 15 feet of Jerry Street, from Sixth Street (the south property line of Lot 7, Block 3, Town of Castle Rock plat) extending north 150 feet) to the south property line of Lot 10, Block 3, Town of Castle Rock plat.



Proposed Jerry Street ROW Vacation

The proposed vacation provides for a consistent ROW line on the east side of Jerry Street and allows for The View to construct the necessary improvements for their project. Therefore, it is proposed that the Town vacate this 15 ft x 150 ft section of Jerry Street, as legally defined in Exhibit 1. Staff recommends approval of the application.

Discussion

Existing Conditions

Currently, Jerry Street consists of an 80-foot-wide right-of-way from Sixth Street north for 150 feet. At that point, the Jerry Street ROW narrows to 50 feet wide, due to a previous ROW vacation, and continues north at this narrower width. Jerry Street is an improved roadway owned by the Town of Castle Rock. Improvements for The View will remove the existing improvements within the proposed vacation area, which will be reconstructed per the approved Site Development Plan, with elements that include new sidewalk, curb, gutter and parking spaces. There is an existing chain-link fence that encroaches into the ROW as it exists today. A temporary access and utility easement will be maintained over the vacated portion of ROW until the plat is completed and will further define the easements required for pedestrian access and dry utility providers. The Town has no active utilities located in the proposed vacation area. Dry utility providers reviewed the proposed ROW Vacation and had no comments or concerns with the vacation and the proposed access and utility easement.

Public Notice and External Referrals

- *Public Notice:* The ROW vacation was noticed in accordance with the Town of Castle Rock Municipal Code.
- *External Referrals:* Requests for external comments were sent to the various utility service providers and Douglas County Government. All comments have been acknowledged and addressed, if required, by Town staff.

Analysis of Review and Approval Criteria

Staff analyzed the proposed ROW vacation according to the following review criteria and made the following findings:

- Public Works' Transportation Master Plan does not include plans to expand Jerry Street, nor has staff identified any additional reasons to utilize this 80-foot-wide ROW. A blanket temporary easement for access and utilities shall be maintained over the property. Therefore, the vacation of the right-of-way is acceptable.
- The ROW vacation promotes careful planning to accommodate the needs of existing and future residents while preserving and protecting the Town's identity and quality of life. As such, the ROW vacation complies with:
 - The Transportation Master Plan
 - The Vision 2030/Comprehensive Master Plan
 - The Vacated Property is hereby vacated pursuant to the authority granted by Section 43-2-303(1)(a), C.R.S.

Budget Impact

The proposed ROW vacation will not generate revenue nor impact fees.

Recommendation

Based on the analysis and findings outlined in this report, staff recommends that the Town Council approve this ROW vacation.

Proposed Motion

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

"I move to approve the ordinance as introduced by title, with the following conditions: (list conditions)."

"I move to continue this item to the Town Council meeting on (date) to allow additional time to (list

Item #: 10. **File #:** ORD 2021-033

information needed).

Attachments

Attachment A: Ordinance
Exhibit 1: Vacated Property

ORDINANCE NO. 2021-__

**AN ORDINANCE VACATING A PORTION OF JERRY STREET
LOCATED IN THE NORTHWEST QUARTER OF SECTION 11,
TOWNSHIP 8 SOUTH, RANGE 67 WEST, OF THE 6TH PRINCIPAL
MERIDIAN, TOWN OF CASTLE ROCK**

WHEREAS, the Town Council finds that it is necessary to vacate the easterly fifteen feet of Jerry Street from the south property line of Lot 7, Block 3, Town of Castle Rock to the south property line of Lot 10, Block 3, Town of Castle Rock, as more particularly described in the attached *Exhibit I* (the “Vacated Property”) in conjunction with the planned construction of the View mixed-use project, and

WHEREAS, the Vacated Property is not a component of any current or planned transportation network, and

WHEREAS, the Town has no active utilities located in the Vacated Property; and

WHEREAS, the Town will reserve a temporary access and utility easement in the Vacated Property to ensure continued access to and the right to maintain any other existing utilities until such time as a plat is completed and permanent easements are defined.

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

Section 1. Vacation. The Vacated Property is hereby vacated pursuant to the authority granted by Section 43-2-303(1)(a), C.R.S., subject to all matters of record. The vacation shall take effect upon the recordation of this Ordinance in the Douglas County public records.

Section 2. Reservation of Easement. Pursuant to Section 43-2-303(3), C.R.S., the Town, for itself and the providers of any existing utilities in the Vacated Property, reserves a temporary access and utility easement over the entirety of the Vacated Property, for access, maintenance, repair, and replacement of the existing utilities until such time that a plat is completed and permanent easements are defined. The temporary access and utility easement over the Vacated Property will expire upon the recordation of a plat for the Vacated Property in the Douglas County public records.

Section 3. Vesting of Ownership. Ownership of the vacated roadway right of way shall vest in accordance with the provisions of Section 43-2-302, C.R.S.

Section 4. 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 5. 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 21st day of December, 2021 by a vote of 4 for and 3 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 January, 2022, 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

David L. Corliss, Town Manager



DAVID E. ARCHER & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS & ENGINEERS

105 Wilcox Street * Castle Rock, CO 80104
 PHONE (303) 688-4642 * FAX (303) 688-4675 * karcher@davidearcher.com

Job No. 19-1068
 December 10, 2021
 Page 1 of 2

DESCRIPTION – Right of Way Vacation of Jerry Street

A Portion of Jerry Street, Town of Castle Rock, per Reception No. 1874010001, located in Section 11, Township 8 South, Range 67 West of the 6th Principal Meridian, Town of Castle Rock, Douglas County, Colorado, more particularly described as follows:

Beginning at the Southwest Corner of Lot 7, Block 3, Town of Castle Rock and considering the West line of said Block 3 to bear N 00°20'42"E with all bearings contained herein relative thereto;

Thence N 00°20'42"E along said West line a distance of 150.08 feet;

Thence S 89°55'39"W a distance of 15.02 feet;

Thence S 00°20'42"W a distance of 150.08 feet;

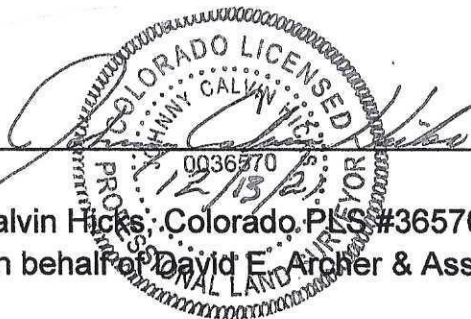
Thence N 89°55'39"E a distance of 15.02 feet to the True Point of Beginning,
 Containing 2,254 square feet, more or less.

This description was prepared under the direct supervision of Johnny Calvin Hicks, PLS36570 for and on behalf of David E. Archer and Associates, Inc.

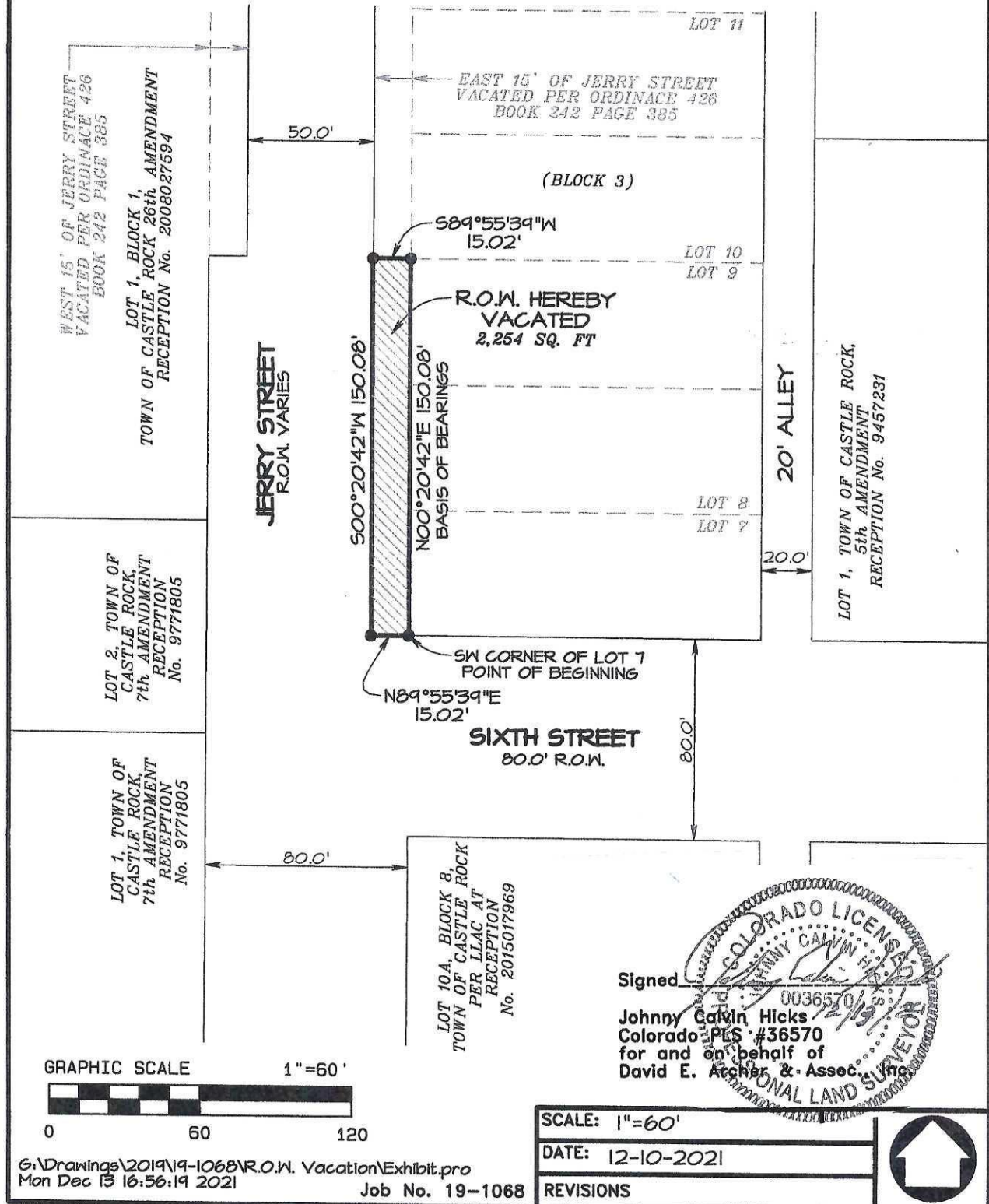
Signed _____

Johnny Calvin Hicks, Colorado PLS #36570

For and on behalf of David E. Archer & Associates, Inc.



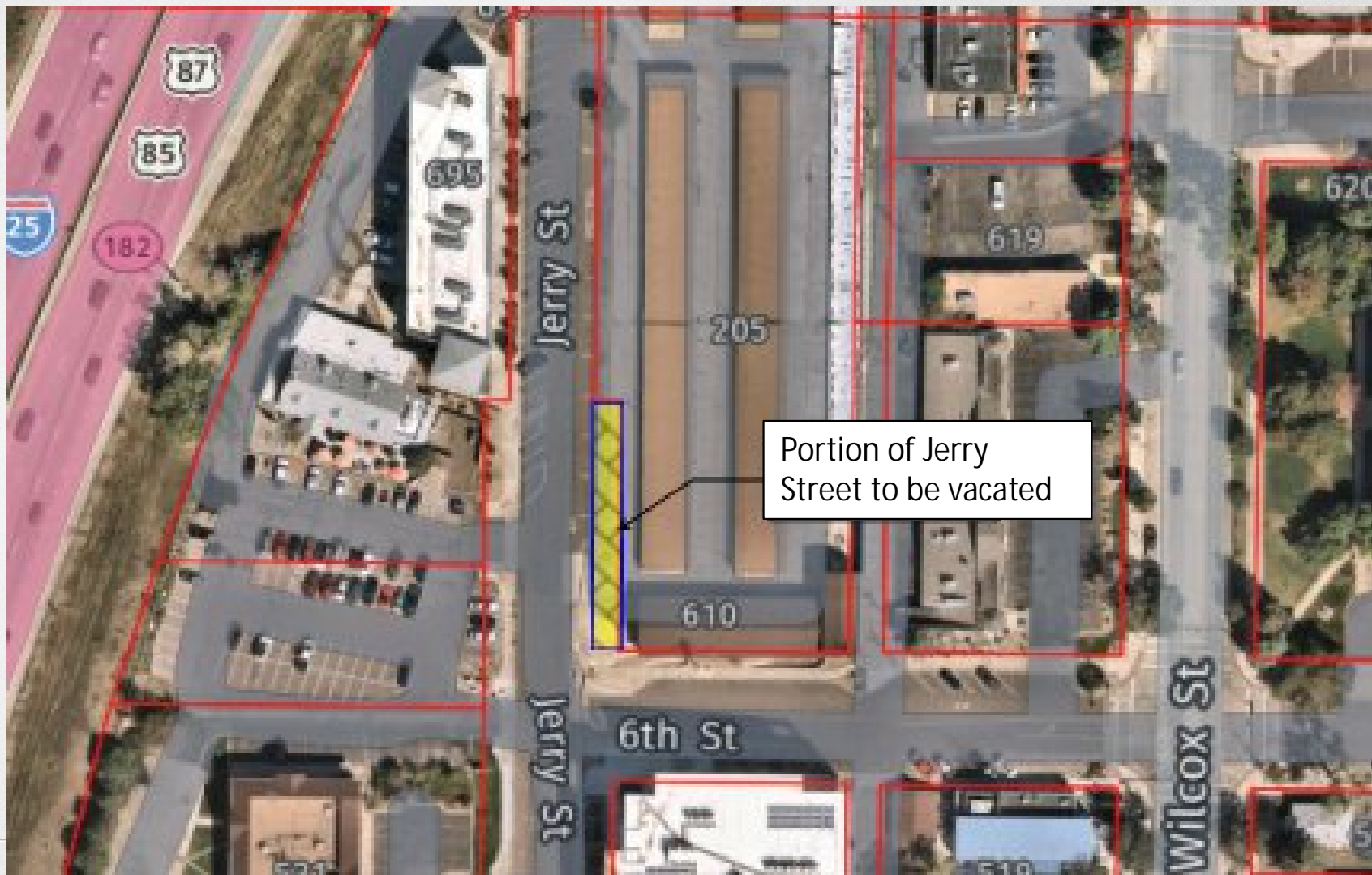
R.O.W. VACATION EXHIBIT
In Section 11, Township 8 South, Range 67 West,
6th P.M., Douglas County, Colorado
Page 2 of 2



JERRY STREET RIGHT-OF-WAY VACATION

TOWN COUNCIL
DECEMBER 21, 2021





Page 2 of 2



PROPOSED MOTION

“I move to approve the Ordinance as introduced by Title, on first reading.”

ALTERNATIVE MOTIONS

“I move to move to approve the Ordinance as introduced by Title, with the following conditions:_____”

“I move to continue this item to the meeting on _____, 2022.”

< >

QUESTIONS?





Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 11. **File #:** ORD 2021-034

To: Honorable Mayor and Members of Town Council

From: Michael J. Hyman, Town Attorney

**Ordinance Approving the First Amendment to the View at Castle Rock
Redevelopment and Financing Agreement Between the Town of Castle Rock, the
Castle Rock Downtown Development Authority, and Castle Rock Development, LLC
(Second Reading - Approved on First Reading on December 21, 2021, by a vote 4-3)
*[located at 610 Jerry Street]***

Executive Summary

Castle Rock Development, LLC ("CRD"), proposes to redevelop property within Downtown Castle Rock (the "Downtown") into a mixed-use (for-rent residential and commercial space) project (the "Project"). The project includes a 399-space parking garage that will provide parking for the Project as well as parking for the general use and convenience of the public.

The Project furthers several of the core priorities for Downtown redevelopment outlined in the 2008 Plan of Development for the Castle Rock Downtown Development Authority ("DDA"). Included among these priorities are more intensive physical development at an urban scale encompassing employment, retail, restaurants, entertainment, parking and additional options for Downtown residents. Accordingly, the Town of Castle Rock ("Town"), the DDA, and CRD have entered into the View at Castle Rock Redevelopment and Financing Agreement, dated April 20, 2021, for the purpose of providing financial incentives for the construction of the Project (the "RDA").

Section 2.12 of the RDA provides that CRD shall obtain from the Town a structural building permit by June 30, 2021, and a certificate of occupancy for the first residential unit by August 1, 2023. At the request of CRD and for good cause, the Town may extend either or both of these benchmarks by up to and including an additional six months upon written notice from the Town Manager.

On June 28, 2021, CRD requested and was granted a six-month extension (until December 30, 2021) to the structural building permit issuance benchmark. This extension was made necessary because of a redesign of significant building structural systems due to volatile construction pricing conditions over the past year caused by unexpected supply chain interruptions.

Recently, CRD has requested an additional extension of four months from the current deadline for the structural building permit benchmark and nine months for the certificate of occupancy benchmark. Again, these extensions are needed because of volatile construction pricing conditions over the past

year. CRD is also working through the process for vacating certain right-of-way along Jerry Street, located in the vicinity of the southwest corner of its intersection with 6th Street. Per CRD's general contractor, the anticipated construction timeline is 24 months, so the date requested for extension of the certificate of occupancy benchmark reflects this timeline.

Each of the parties to the RDA have acknowledged that no more extensions of the respective deadlines for these benchmarks may be granted administratively. As a result, any further extensions beyond the six months contemplated by Section 2.12 will require an amendment to the RDA. The Town has reviewed CRD's request and recommends that it be granted.

Staff Recommendation

Staff favorably recommends approval on first reading of the ordinance approving the First Amendment to the Redevelopment Agreement.

Proposed Motion

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

"I move to approve the ordinance as introduced by title, with the following conditions: (list conditions)."

"I move to continue this item to the Town Council meeting on (date) to allow additional time to (list information needed)."

Attachments

Attachment A:	Ordinance
Exhibit 1:	First Amendment to the View at Castle Rock Redevelopment and Financing Agreement

ORDINANCE NO. 2021-__

**AN ORDINANCE APPROVING THE FIRST AMENDMENT TO THE
VIEW AT CASTLE ROCK REDEVELOPMENT AND FINANCING
AGREEMENT BETWEEN THE TOWN OF CASTLE ROCK, THE
CASTLE ROCK DOWNTOWN DEVELOPMENT AUTHORITY, AND
CASTLE ROCK DEVELOPMENT, LLC**

WHEREAS, Castle Rock Development, LLC (“CRD”) proposes to redevelop property within downtown Castle Rock (the “Downtown”) into a mixed-use (for-rent residential and commercial space) project (the “Project”); and

WHEREAS, the Project includes a 399-space parking garage that will provide parking for the Project as well as 100 spaces of parking that will be conveyed to the Town for the general use and convenience of the public; and

WHEREAS, to facilitate the construction of the Project, the Town, the Castle Rock Downtown Development Authority (“DDA”), and CRD have entered into the View at Castle Rock Redevelopment and Financing Agreement, dated April 20, 2021 (the “RDA”); and

WHEREAS, Section 2.12 of the RDA provides that CRD shall obtain a structural building permit by June 30, 2021, and a certificate of occupancy for the first residential unit by August 1, 2023, which deadlines may be extended by the Town up to and including an additional six months upon written notice from the Town Manager; and

WHEREAS, on June 28, 2021, CRD requested and was granted a six-month extension to the structural building permit issuance benchmark; and

WHEREAS, as a result of the volatile construction pricing conditions over the past year caused by unexpected supply chain interruptions, CRD has recently requested an additional extension of four months for the structural building permit benchmark and nine months for the certificate of occupancy benchmark; and

WHEREAS, any extension of these deadlines beyond the initial six-month period authorized by Section 2.12 will require an amendment to the RDA.

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

Section 1. Approval. The First Amendment to the View at Castle Rock Redevelopment and Financing Agreement between the Town, DDA, and CRD (the “First Amendment”) is hereby approved in substantially the form attached as ***Exhibit 1***, with such technical changes, additions, modifications or deletions as the Town Manager may approve upon consultation with the Town Attorney. The Mayor and other proper Town officials are hereby authorized to execute the First Amendment by and on behalf of the Town.

APPROVED ON FIRST READING this 21st day of December, 2021, by a vote of 4 for and 3 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 January, 2022, 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

David L. Corliss, Town Manager

**FIRST AMENDMENT TO THE VIEW AT CASTLE ROCK
REDEVELOPMENT AND FINANCING AGREEMENT**

DATE: December 21, 2021.

PARTIES: **TOWN OF CASTLE ROCK**, a home rule municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (“Town”).

CASTLE ROCK DOWNTOWN DEVELOPMENT AUTHORITY, a downtown development authority duly organized and existing under Part 8 of Article 25, Title 31, C.R.S., 18 South Wilcox Street, Suite 202, Castle Rock, Colorado 80104 (“DDA”).

CASTLE ROCK DEVELOPMENT, LLC, a Colorado limited liability company, 901 New Hampshire Street, Suite 201, Lawrence, KS 66044 (“CRD”).

RECITALS:

A. CRD proposes to redevelop property within downtown Castle Rock (the “Downtown”) into a mixed-use (for-rent residential and commercial space) project, which project includes a 399-space parking garage that will provide parking for the Project as well as parking for the general use and convenience of the public (the “Project”).

B. The Project furthers several of the core priorities for Downtown redevelopment outlined in the 2008 Plan of Development for the DDA, including more intensive physical development at an urban scale encompassing employment, retail, restaurants, entertainment, parking and additional options for Downtown residents.

C. Accordingly, the Town, DDA, and CRD have entered into the View at Castle Rock Redevelopment and Financing Agreement, dated April 20, 2021, for the purpose of providing financial incentives for the construction of the Project (the “RDA”).

D. Section 2.12 of the RDA provides that CRD shall obtain from the Town a structural building permit by June 30, 2021, and a certificate of occupancy for the first residential unit by August 1, 2023. At the request of CRD and for good cause, the Town may extend either or both of these benchmarks by up to and including an additional six months upon written notice from the Town Manager.

E. On June 28, 2021, CRD requested and was granted a six-month extension (until December 30, 2021) to the structural building permit issuance benchmark. Such extension was made necessary because of a redesign of significant building structural systems due to volatile construction pricing conditions over the past year caused by unexpected supply chain interruptions.

F. Recently, CRD has requested an extension of four months from the current deadline for the structural building permit benchmark and nine months for the certificate of occupancy

benchmark. Again, these extensions are needed because of the volatile construction pricing conditions over the past year caused by unexpected supply chain interruptions. CRD is also working through the process for vacating certain right-of-way along Jerry Street located in the vicinity of the southwest corner of its intersection with 6th Street. Per CRD's general contractor, the anticipated construction timeline is 24 months, so the date requested for extension of the certificate of occupancy benchmark reflects this timeline.

G. The Parties acknowledge and agree that any extension of the respective deadlines for these benchmarks beyond the six months contemplated by Section 2.12 will require an amendment to the RDA.

NOW, THEREFORE, in consideration of these mutual promises, the parties agree and covenant as follows:

Section 1. Amendment. Article VI of the Development Agreement is amended in its entirety to read as follows:

2.12 Project Completion. Timely completion of the entire Project is required in order that the Project generates the incremental revenues allocated to the Parties as provided in this Agreement. Accordingly, CRD shall complete the Project in accordance with the following benchmarks:

Project Structural Building Permit issuance	April 30, 2022
Certificate of Occupancy for first Residential Unit(s)	May 1, 2024

Section 2. Ratification. In all other respects, the RDA shall remain in full force and effect.

Section 3. Recordation. Pursuant to the requirements of Section 6.20 of the RDA, this First Amendment shall be recorded in the public records of Douglas County, Colorado.

(Signature pages to follow)

TOWN:

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael Hyman, Town Attorney

David L. Corliss, Town Manager

DDA:

ATTEST:

**CASTLE ROCK DOWNTOWN
DEVELOPMENT AUTHORITY**

John Manka, Secretary

Stu Butler, Chair

Approved as to form:

Corey Hoffman, General Counsel

CRD:

CASTLE ROCK DEVELOPMENT, LLC,
a Colorado limited liability company

By: _____
Name: Douglas J. Compton
Title: Co-Manager

By: _____
Name: Jason Swords
Title: Co-Manager

By: _____
Name: Michael L. Treanor
Title: Co-Manager

STATE OF _____)
_____) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by Douglas J. Compton as co-Manager for Castle Rock Development, LLC, a Colorado limited liability company.

Witness my official hand and seal.
My commission expires: _____

[S E A L]

Notary Public

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by Jason Swords as co-Manager for Castle Rock Development, LLC, a Colorado limited liability company.

Witness my official hand and seal.
My commission expires: _____

[S E A L] _____
Notary Public

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by Michael L. Treanor as co-Manager for Castle Rock Development, LLC, a Colorado limited liability company.

Witness my official hand and seal.
My commission expires: _____

[S E A L] _____
Notary Public

**ORDINANCE APPROVING THE FIRST AMENDMENT TO
THE VIEW AT CASTLE ROCK REDEVELOPMENT AND
FINANCING AGREEMENT BETWEEN THE TOWN OF
CASTLE ROCK, THE CASTLE ROCK DOWNTOWN
DEVELOPMENT AUTHORITY, AND CASTLE ROCK
DEVELOPMENT, LLC**

DECEMBER 21, 2021



SECTION 2.12

Deadlines

- Structural building permit - June 30, 2021
- Certificate of occupancy for the first residential unit - August 1, 2023
- May be extended for up to six months by the Town Manager
- Additional extensions require an amendment to the RDA

SECTION 2.12

Request

- Structural Permit
 - Six month extension to December 30, 2021, granted by Town Manager in June
 - Request for additional four month extension to April 30, 2022
- Certificate of Occupancy
 - Request for nine month extension to May 1, 2024
- Extensions due to redesign of structural systems
 - Volatile construction pricing
 - Unexpected supply chain interruptions



*"I MOVE TO APPROVE ORDINANCE NO. 2021-034 AS INTRODUCED BY
TITLE ON FIRST READING."*

*"I MOVE TO APPROVE ORDINANCE NO. 2021-034 AS INTRODUCED
BY TITLE, WITH THE FOLLOWING CONDITIONS:_____"*

*"I MOVE TO CONTINUE THIS ITEM TO THE TOWN COUNCIL MEETING
ON _____ DATE TO ALLOW ADDITIONAL TIME
TO:_____"*



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 12. **File #:** ORD 2022-001

To: Honorable Mayor and Members of Town Council

Through: David L. Corliss, Town Manager

From: Mark Marlowe, P.E., Director of Castle Rock Water

Ordinance Authorizing the Issuance and Sale of Water and Sewer Enterprise Revenue Bonds, Series 2022, Payable Solely Out of the Net Pledged Revenues to Be Derived from the Operation of the Town's Water and Sewer Enterprise; Providing Other Details Concerning the Bonds, Including, Without Limitation, Covenants and Agreements in Connection Therewith; Providing Other Matters Relating Thereto; and Providing for its Emergency Adoption on Second and Final Reading (First Reading)
[Entire Town Service Area]

Executive Summary

The purpose of this memorandum is to seek Council approval on first reading of an ordinance (**See Attachment A**) approving the sale of water and sewer enterprise revenue bonds in an amount of \$30,000,000. This memo will outline our current debt position, and provide a case for issuing additional debt to address future capital needs.

Future Capital Needs

During the 2022 budget process and the annual 2021 Rates and Fees Study, Castle Rock Water (CRW) updated the long term renewable water capital plan. The plan was updated to respond to current market conditions for water rights and water infrastructure construction as well as the higher than expected growth occurring in the community. The revised long term renewable water capital plan anticipates long term investments of \$523M. This is a significant increase over the 2020 Rates and Fees Study, which projected long term investments of \$477M. In addition, the timing of capital investments has been pushed forward. The long term renewable water capital plan now calls for increases of approximately \$32M by 2025 and approximately \$65M by 2040. The updated capital plan for 2041-2060 shows decreases of approximately \$20M as a result of CRW's strategy to move plans forward.

Castle Rock Water (CRW), as part of the annual budget process, has presented a plan to Council with 3% annual increases from 2022 through 2026 as part of the response to these capital needs. In addition, system development fees were increased by 40.1% in the Plum Creek Basin and 39.0% in the Cherry Creek Basin. Despite these actions and due to future capital demands, rate models indicated the need for large rate increases beyond the 2022 through 2026 increases, beginning in

2029. In order to mitigate significant impact on the rate payers, CRW has created a model that solves for the large rate increases through both the issuance of debt in 2022 and marginal rate increases through 2044.

Current Borrowing Market

CRW met with Hilltop Securities to discuss debt options on October 13, 2021. Hilltop Securities confirmed that current interest rates are low and that it would be advantageous for CRW to issue new debt sooner rather than later. Hilltop Securities indicated their current timeline would allow for a February 2022 bond issuance date. Hilltop Securities expects that CRW would be able to obtain an interest rate equal to or below 2.5% unless market conditions change significantly in the coming month.

Proposed Debt Issuance

CRW is proposing to issue \$30M in water and sewer revenue bonds in order to mitigate future rate impacts associated with the implementation of the long term renewable water plan. This debt issuance was modelled at a 2.39% interest rate with a 20-year term. A negotiated sale and competitive sale are being considered, and a final recommendation will be made at second reading. The Town and CRW have current ratings by the S&P and Moody's of AA+ and AA2, indicating that we should receive a good interest rate. Annual payments would be on the order of \$1.8M, and total borrowing costs are estimated at \$325,350. With issuance of this debt, the model runs resulted in potential rate increases in the future being smoothed to a maximum of 3.50% through 2060.

Projects to Be Funded with Debt

Projects we would anticipate funding from bond proceeds include:

- A pipeline through Parker Water and Sanitation District to support additional conveyance capacity for water we receive as part of the Water Infrastructure Supply Efficiency (WISE) project. The cost of the pipeline is estimated at \$13M.
- A new 822-acre-foot reservoir to be located on property in Sedalia, Colorado, for an estimated cost of \$11.5M.
- A new pipeline and pump station (the Newlin Gulch Pipeline and Pump Station) to move raw water owned by Castle Rock from the Plum Creek Basin up to Rueter-Hess Reservoir for storage at an estimated cost of \$10M.
- Other long term renewable water projects as funding is available including the expansion of the Plum Creek Advanced Water Purification Facility from 6 million gallons per day to 12 million gallons per day.

Notification and Outreach Efforts

No specific outreach efforts are necessary for this item.

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

Castle Rock Water (CRW) Commission was briefed on the case for issuing \$30,000,000 in additional debt to support the long term renewable water plan on October 27, 2021. General consensus of the CRW Commission was to proceed with the debt issuance.

Discussion

The rates and fees models developed for the 2021 rate study indicated that a potential large rate increase would be needed in 2029 in the Water Resources Fund, assuming implementation of the full capital plan proposed. The 2021 capital plan (through 2060) for the Water Resources Enterprise includes approximately \$523M in investments. There are several options for addressing the potential large rate increase in 2029, including retiming of capital investments through deferment of some of the projects, cancellation of some of the projects to reduce the long term expected investments, utilization of debt to spread the needed rate impacts out over a longer period, and a combination of these options.

One of the options CRW wanted to explore was issuance of additional debt. The model that was created to evaluate using debt to solve for the large projected rate increases in 2029 calls for additional rate increases beyond 2029. Beginning in 2027, the model proposes annual rate increases of 3.5% through 2032 and increases of 3% from 2033 through 2044. In addition to rate increases, the model assumes the issuance of debt of \$30M in 2022, \$52M in 2030 and \$42M in 2045.

This model using debt allows CRW to avoid large rate increases to the rate payers in 2029 while maintaining a Debt Ratio that falls within the AWWA top quartile for lowest debt to asset ratio over the long term.

Current Debt Ratio

Debt Ratio measures the ratio of total liabilities to total assets and is a benchmarking Key Performance Indicator (KPI) in the AWWA Utility Benchmarking Program. Following is a summary of the current AWWA Debt Ratio benchmarking.

	75th Percentile	Median	25th Percentile
Debt Ratio	23%	39%	55%

Our goal is to be in the top 25% of the utilities who participate in the AWWA Benchmarking Survey. The table below summarizes CRW's annual Debt Ratio for 2015 through 2021 Q3. CRW consistently

remains in the top 25% of utilities for this KPI and performance has continued to improve annually.

	2015	2016	2017	2018	2019	2020	2021 *
Debt Ratio	15%	15%	13%	12%	11%	10%	9%

- Through Q3 YTD

Financial Management Plan

The CRW Financial Management Plan (FMP) is set in place to outline the main financial policies, procedures and financial performance for past, present and future. FMP goals were derived based upon CRW's main vision to become a national leader in the water industry and our mission to provide our community with exceptional service. The first two FMP goals are as follows:

1. To minimize future rates at or below the 2013 Hybrid Model levels
2. To minimize debt carrying costs at or below industry standards (the above tables indicate that CRW is achieving this goal)

CRW's current Debt Ratio performance to the benchmarking standards demonstrates that there is opportunity to issue additional debt while still being an industry leader in this KPI. The ability to issue more debt is complicated and depends on a number of factors including current market conditions, interest rates, bond coverage ratios, reliability of revenue streams, ability to increase rates, and agency ratings, among others. Below is a table showing our current debt position, along with the amount of additional debt we are able to take on and still remain in the top quartile of lowest debt ratios among our peers.

	Q3 2021 YTD	75th Percentile	Median	25th Percentile
Liabilities	68,297,639	173,721,315	294,570,925	415,420,535
Assets	765,028,205	755,310,064	755,310,064	755,310,064
Debt Ratio	9%	23%	39%	55%
Theoretical Debt Capacity Based on KPI		106,361,784	227,211,394	348,061,004

Current Debt Portfolio

The current debt portfolio for CRW primarily contains revenue bonds for water, wastewater, and water resources and a bank loan dedicated to the Stormwater Enterprise. Following is a summary of the current CRW debt portfolio.

Debt Obligations	Remaining Principal YE 2020	Interest Rate	Maturity Date
Water and Sewer Revenue Refunding Bonds, Series 2012	\$3,795,000	2.60%	2023
Water and Sewer Revenue Refunding Bonds, Series 2015	\$3,535,000	2.79%	2026
2016 Refunding of COP Bonds	\$40,510,000	2.51%	2034
2019 Stormwater Enterprise Revenue Loan	\$9,000,000	1.92%	2030
Total	\$56,840,000	2.44%	

Budget Impact

The annual impact to the budget would be approximately \$1.8M in additional debt carrying costs. In addition, borrowing costs would include \$325,250. A first quarter budget amendment will be necessary to adjust the revenue and expense budgets for CRW in accordance with the resulting debt issuance.

Staff Recommendation

Staff recommends proceeding with the debt issuance as outlined in this memo.

Proposed Motion

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

Alternative Motions

"I move to approve the ordinance as introduced by title, with the following conditions: (list conditions)."

"I move to continue this item to the Town Council meeting on _____ date to allow additional time to (list information needed)."

Attachments

Attachment A: Ordinance

ORDINANCE NO. 2022-[__]

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF WATER AND SEWER ENTERPRISE REVENUE BONDS, SERIES 2022, PAYABLE SOLELY OUT OF THE NET PLEDGED REVENUES TO BE DERIVED FROM THE OPERATION OF THE TOWN'S WATER AND SEWER ENTERPRISE; PROVIDING OTHER DETAILS CONCERNING THE BONDS, INCLUDING, WITHOUT LIMITATION, COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING OTHER MATTERS RELATING THERETO; AND PROVIDING FOR ITS EMERGENCY ADOPTION ON SECOND AND FINAL READING.

WHEREAS, the Town of Castle Rock, in the County of Douglas and State of Colorado (the "Town") is a municipal corporation duly organized and existing under the laws of the State of Colorado and in particular under the provisions of Article XX of the Constitution of the State of Colorado and the Town's Home Rule Charter (the "Charter"); and

WHEREAS, the members of the Town Council (the "Council") have been duly elected or appointed and qualified; and

WHEREAS, the Town now owns and operates a municipal water system and a municipal sanitary sewer system (together, the "System"); and

WHEREAS, by Ordinance Nos. 2000-25 and 2000-26 heretofore adopted, the Council has determined that the water and sanitary sewer components of the System, respectively, each constitutes an enterprise pursuant to Article X, Section 20 of the Colorado Constitution; and

WHEREAS, pursuant to Ordinance No. 2012-04 of Town finally adopted and approved by the Council on March 6, 2012 (the "2012 Bond Ordinance") the Town has heretofore issued its Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Refunding Bonds, Series 2012 in the aggregate principal amount of \$11,455,000 and currently outstanding in the aggregate principal amount of \$2,570,000 (the "2012 Bonds"); and

WHEREAS, pursuant to Ordinance No. 2015-21 of Town finally adopted and approved by the Council on May 19, 2015 (the "2015 Bond Ordinance") the Town has heretofore issued its Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Refunding Bonds, Series 2015 in the aggregate principal amount of \$5,610,000 and currently outstanding in the aggregate principal amount of \$3,000,000 (the "2015 Bonds"); and

WHEREAS, pursuant to Ordinance No. 2016-17 of Town finally adopted and approved by the Council on June 21, 2016 (the "2016 Bond Ordinance") the Town has heretofore issued its Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Refunding Bonds, Series 2016 in the aggregate principal amount of \$50,635,000 and currently outstanding in the aggregate principal amount of \$38,495,000 (the "2016 Bonds"); and

WHEREAS, the 2012 Bonds, the 2015 Bonds, and the 2016 Bonds are each secured by a pledge of the Net Pledged Revenues of the System; and

WHEREAS, the Council proposes to extend, better, otherwise improve and equip the System (the “Project”) by the issuance of Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Bonds, Series 2022 (the “2022 Bonds”); and

WHEREAS, the 2022 Bonds will be issued on a parity with the 2012 Bonds, the 2015 Bonds and the 2016 Bonds; and

WHEREAS, the Town is not delinquent in the payment of any principal or interest requirements under the 2012 Bonds, the 2015 Bonds or the 2016 Bonds; and

WHEREAS, except for certain development agreements herein described under the definition of Operation and Maintenance Expenses in Section 102 hereof, the 2012 Bonds, the 2015 Bonds and the 2016 Bonds, the Town has never pledged nor in any way hypothecated revenues derived and to be derived directly or indirectly from the operation of the System to the payment of any securities or for any other purpose (excluding securities which have heretofore been redeemed in full, as to all principal, premium, if any, and interest, or are otherwise not outstanding) and with the result that the Net Pledged Revenues may now be pledged lawfully and irrevocably for the payment of the 2022 Bonds on a parity with the 2012 Bonds, the 2015 Bonds and the 2016 Bonds, and they may be made payable from the Net Pledged Revenues; and

WHEREAS, the Town intends to negotiate a proposal with Stifel, Nicolaus & Company, Incorporated, concerning the purchase of the 2022 Bonds; and

WHEREAS, pursuant to Article X, Section 20 of the Colorado Constitution, the 2022 Bonds may be issued without voter approval since the System constitutes an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution; and

WHEREAS, the Town is authorized by Article X, Section 20 of the Colorado Constitution, and Section 10-4 of the Charter to issue securities made payable solely from any revenues other than the proceeds of the general ad valorem property tax, without an election; and

WHEREAS, the Town deems it necessary and advisable to issue the 2022 Bonds, as herein provided, to provide funds to finance the Project; and

WHEREAS, pursuant to Section 11-57-203, Colorado Revised Statutes, as amended, the Town desires to delegate to the Mayor, Town Manager or the Finance Director the power to independently make any of the determinations provided by the Supplemental Public Securities Act (as hereafter defined) subject to the parameters set forth herein; and

WHEREAS, the Council has determined and does hereby declare:

A. The 2022 Bonds shall be issued for the Project;

B. Net Pledged Revenues shall be pledged to the payment of the 2022 Bonds on a parity with the 2012 Bonds, 2015 Bonds and the 2016 Bonds;

C. Because of market conditions, the 2022 Bonds shall be sold by negotiated sale to Stifel, Nicolaus & Company, Incorporated in accordance with its proposal, and that such sale is to the best advantage of the Town; and

D. All action preliminary to the authorization of the issuance of the 2022 Bonds has been taken.

WHEREAS, there are on file with the Town Clerk the forms of the following documents: (i) the form of the Paying Agent Agreement; (ii) the form of a Preliminary Official Statement; (iii) the form of the Continuing Disclosure Certificate; and (iv) the form of Purchase Contract; and

WHEREAS, it is necessary to provide for the form of the 2022 Bonds, the 2022 Bond details, the payment of the 2022 Bonds, and other provisions relating to the authorization, issuance, and sale of the 2022 Bonds.

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

ARTICLE I

DEFINITIONS, INTERPRETATION, RATIFICATION AND EFFECTIVE DATE

Section 101. Short Title. This Ordinance shall be known as and may be cited by the short title “2016 Bond Ordinance” (the “Ordinance”).

Section 102. Meanings and Construction.

A. Definitions. The terms in this Section for all purposes of this Ordinance and of any ordinance amendatory hereof or supplemental hereto, or relating hereto, and of any other ordinance or any other document pertaining hereto, except where the context by clear implication otherwise requires, shall have the meanings herein specified:

“Bond Counsel” means an attorney or a firm of attorneys, designated by the Town and satisfactory to the Paying Agent of nationally recognized standing in matters pertaining to the tax status of interest on bonds issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“Bond Fund” means the special account designated as the “Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Refunding Bonds, Series 2022 Bond Fund” created pursuant to Section 605 hereof.

“Bond Requirements” means the principal of, any prior redemption premiums due in connection with, and the interest on any Bonds or other securities payable from the Net Pledged Revenues and heretofore or hereafter issued, if any, or such part of such securities as may be designated.

“Bonds” or “2022 Bonds” means those securities issued hereunder and designated as the “Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Bonds, Series 2022.”

“Book-entry system” means, with respect to the Bonds, a form or system, as applicable, under which physical Bond certificates in fully registered form are registered only in the name of The Depository Trust Company or its nominee as Owner, with the physical Bond certificates “immobilized” in the custody of The Depository Trust Company. The book-entry system maintained by and the responsibility of The Depository Trust Company and not maintained by or the responsibility of the Town or the Paying Agent is the record that identifies, and records the transfer of the interests of, the owners of book-entry interests in the Bonds.

“Business Day” means a day of the year, other than a Saturday or Sunday, other than a day on which commercial banks located in the city in which the principal corporate trust office of the Paying Agent is located are required or authorized to remain closed and other than a day on which the New York Stock Exchange is closed.

“Capital Improvements” means the acquisition of land, easements, facilities, and equipment (other than ordinary repairs and replacements), and those property improvements or any combination of property improvements which will constitute enlargements, extensions or betterments to the System and will be incorporated into the System.

“Charter” means the home rule charter of the Town, as from time to time amended.

“Clerk” means the town clerk of the Town, or his or her successor in functions, if any.

“Closing Date” means the date of delivery of and payment for the Bonds.

“Combined Maximum Annual Principal and Interest Requirements” means the largest sum of the principal of and interest on the Bonds, any other Outstanding Parity Bonds, and any additional Parity Bonds proposed to be issued, excluding any securities the principal of which is payable within less than one year from the date on which issued, to be paid during any one Fiscal Year for the period beginning with the Fiscal Year in which such computation is made and ending with the Fiscal Year in which any Bond or other such security last becomes due at maturity or on a Redemption Date, whichever time is later (but excluding any reserve requirement to secure such payments unless otherwise expressly provided), subject in all respects to the following, as applicable: (1) the word “Principal as used in this definition means the principal which must be paid to security Owners, whether on stated maturity dates or on mandatory Redemption Dates, or otherwise and (2) any computation made under this definition shall be adjusted for all purposes in the same manner as provided in Section 803 hereof.

“Commercial Bank” means a state or national bank or trust company which is a member of the Federal Deposit Insurance Corporation (or any successors thereto) and of the Federal Reserve System, which has a capital and surplus of \$10,000,000 or more, and which is located within the United States of America.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate for the Bonds executed by the Town.

“Cost of the Project” means all costs, as designated by the Town, of the Project, or any interest therein, which cost, at the option of the Town (except as may be otherwise limited by law) may include all, any one or other portion of the incidental costs pertaining to the Project, including, without limitation:

(a) All preliminary expenses or other costs advanced by the Town or any other Person from any source, with the approval of the Council, or any combination thereof, or otherwise;

(b) The costs of making surveys and tests, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;

- (c) The costs of contingencies;
- (d) The costs of premiums on any builders' risk insurance and performance bonds during the construction, installation and other acquisition of the Project, or a reasonably allocated share thereof;
- (e) The costs of appraising, printing, estimates, advice, inspection, other services of engineers, architects, accountants, financial consultants, attorneys at law, clerical help and other agents and employees;
- (f) The costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the Project and the issuance of the Bonds;
- (g) All costs and expenses of issuing the Bonds including, without limitation, fees of the Paying Agent, Bond Counsel, counsel to the Purchaser, counsel to the Town, financial advisor, rating agencies and printers to the extent not defrayed as an Operation and Maintenance Expense;
- (h) The costs of the filing or recording of instruments and the cost of any title insurance premiums;
- (i) The costs of funding any construction loans and other temporary loans pertaining to the Project and of the incidental expenses incurred in connection with such loans;
- (j) The costs of demolishing, removing, or relocating any buildings, structures, or other facilities on land acquired for the Project, and of acquiring lands to which such buildings, structures or other facilities may be moved or relocated;
- (k) The costs of machinery and equipment;
- (l) The costs of any properties, rights, easements or other interests in properties, or any licenses, privileges, agreements and franchises;
- (m) The payment of the premium for the Insurance Policy issued by the Insurer and Reserve Fund Insurance Policy issued by the Surety Provider;
- (n) The costs of labor, material and obligations incurred to contractors, builders and materialmen in connection with the acquisition and construction of the Project;
- (o) The costs of amending any ordinance or other instrument pertaining to the Bonds or otherwise to the System; and
- (p) All other expenses pertaining to the Project.

“Council” means the town council of the Town, and any successor governing body of the municipal corporation owning the System.

“Events of Default” means the events stated in Section 1003 hereof.

“Federal Government” means the United States of America and any agency, instrumentality or corporation thereof.

“Federal Securities” means bills, certificates of indebtedness, notes, or bonds which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America.

“Finance Director” means the Director of Finance of the Town, or his or her successor in functions, if any.

“Fiscal Year” means the calendar year or any other 12 month period hereafter selected by the Town as its fiscal year.

“Gross Pledged Revenues” means all income, charges and revenues derived directly or indirectly by the Town from the operation and use of and otherwise pertaining to the System, or any part thereof, whether resulting from Capital Improvements or otherwise, and includes all income, charges and revenues received by the Town from the System, including without limitation:

(a) All fees, rates and other charges for the use of the System, or for any service rendered by the Town in the operation thereof, directly or indirectly, the availability of any such service, or the sale or other disposal of any commodities derived therefrom, including, without limitation, connection charges, but:

(i) Excluding any moneys borrowed and used for the acquisition of Capital Improvements or for the refunding of securities, and all income or other gain from any investment of such borrowed moneys; and

(ii) Excluding any moneys received as grants, appropriations or gifts from the Federal Government, the State, or other sources, the use of which is limited by the grantor or donor to the construction of Capital Improvements, except to the extent any such moneys shall be received as payments for the use of the System, services rendered thereby, the availability of any such service, or the disposal of any commodities therefrom; and

(iii) Excluding any moneys received by the Town as cash-in-lieu payments of the Denver Basin groundwater dedication required pursuant to Section 4.04.080 of the Town’s Municipal Code and deposited to the separate cash-in-lieu account established pursuant to Section 4.04.090 of the Town’s Municipal Code.

(b) All income or other gain from any investment of Gross Pledged Revenues (including without limitation the income or gain from any investment of all Net Pledged Revenues, but excluding borrowed moneys and all income or other gain thereon in any acquisition or construction fund, reserve fund, or any escrow fund for any other Parity Bonds payable from Net Pledged Revenues heretofore or hereafter issued and excluding any unrealized gains or losses on any investment of Gross Pledged Revenues) unless the Council or the

qualified electors of the Town otherwise provide by ordinance, or such electors by Charter amendment; and

(c) All income and revenues derived from the operation of any other utility or other income-producing facilities added to the System and to which the pledge and lien herein provided are extended by ordinance adopted by the Council or the qualified electors of the Town or by Charter amendment adopted by such electors.

“improve” or “improvement” means the extension, reconstruction, alteration, betterment or other improvement by the construction, purchase or other acquisition of facilities, including, without limitation, appurtenant machinery, apparatus, fixtures, structures and buildings.

“Income Fund” means the special account designated as the “Town of Castle Rock, Colorado, Water and Sewer Enterprise Gross Income Fund” created pursuant to Section 602 hereof.

“Independent Accountant” means any certified public accountant, or any firm of certified public accountants, duly licensed to practice and practicing as such under the laws of the State:

(a) Who is, in fact, independent and not under the domination of the Town;

(b) Who does not have any substantial interest, direct or indirect, with the Town, and

(c) Who is not connected with the Town as an officer or employee thereof, but who may be regularly retained to make annual or similar audits of any books or records of the Town.

“Independent Engineer” means an individual, firm or corporation engaged in the engineering profession of recognized good standing and having specific experience in respect of business and properties of a character similar to those of the System, which individual, firm or corporation has no substantial interest, direct or indirect, in the Town and in the case of an individual, is not a member of the Council, or an officer or employee of the Town, and in the case of a firm or corporation, does not have a partner, director, officer or employee who is a member of the Council or an officer or employee of the Town.

“Insurance Agreement” means any agreement entered into between the Town and any Insurer pursuant to Section 212 of this Ordinance.

“Insurance Policy” means the municipal bond new issue insurance policy, if any, issued by the Insurer that guarantees payment of principal of and interest on the Bonds when due.

“Insurer” means the issuer of the Insurance Policy, if any, as set forth in the Sale Certificate.

“Investment Securities” means any securities or other obligations permitted as investments of moneys of the Town under the laws of the State.

“Mayor” means the mayor of the Town, or his or her successor in functions.

“Moody’s” means Moody’s Investors Services, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns.

“Net Pledged Revenues” means the Gross Pledged Revenues remaining after the payment of the Operation and Maintenance Expenses of the System.

“Official Statement” means the Official Statement delivered in connection with the original issuance and sale of the Bonds.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the Town, paid or accrued, of operating, maintaining and repairing the System or any component division or other part thereof, or any other designated facilities in connection with which such term is used including, without limitation, all salaries, labor, materials and repairs necessary to render efficient service; and the term includes, at the option of the Town, acting by and through the Council, except as limited by law, without limitation:

(a) Engineering, auditing, reporting, legal and other overhead expenses of the various departments of the Town directly related and reasonably allocable to the administration, operation and maintenance of the System;

(b) Fidelity bond premiums and property and liability insurance premiums pertaining to the System, or a reasonably allocable share of a premium of any blanket bond or policy pertaining to the System;

(c) Payments to pension, retirement, health and hospitalization funds, other insurance, and to any self-insurance fund;

(d) Any general (ad valorem) taxes, assessments, excise taxes or other charges which may be lawfully imposed on the Town, the System, revenues therefrom, or the Town’s income from or operations of any properties under its control and pertaining to the System, or any privilege in connection with the System or its operation (but no payments made in lieu of taxes);

(e) The reasonable charges of the Paying Agent, any alternate Paying Agent, any paying agents or escrow agent for any securities payable from the Net Pledged Revenues which have been or will be refunded, and any other depositary bank pertaining to the Bonds and any other securities payable from the Net Pledged Revenues or otherwise pertaining to the System, and the premium for any Reserve Fund Insurance Policy issued other than

concurrently with the issuance of the Bonds and any periodic fees, premiums, expense or other costs incurred in connection with any letter of credit or with respect to a remarketing, tender, indexing or similar agent;

(f) Contractual services, professional services, salaries, other administrative expenses and costs of materials, supplies, repairs and labor pertaining to the System or to the issuance of the Bonds or any other securities relating to the System, including, without limitation, the expenses and compensation of any trustee, receiver or other fiduciary;

(g) The costs incurred by the Town in the collection and any refunds of all or any part of the Gross Pledged Revenues;

(h) Any costs of utility services furnished to the System by the Town or otherwise, including, without limitation, the contracting by the Town for water, sanitary sewer, electricity, or gas, or any combination thereof, from any Person, for distribution through the System or for the transmission or treatment of water, wastewater, electricity, or gas for use by the Town and its customers and the obligations due under any contract pertaining thereto on a take-and-pay basis or take-or-pay basis or otherwise;

(i) Any payment obligations of the Town pursuant to the following Agreements:

(i) Master Intergovernmental Agreement dated December 1, 1991 between Town of Castle Rock and Meadows Metropolitan Districts Nos. 1-7 and the related Meadows (Fourth Amendment) Development Agreement dated April 14, 2003 between the Town, Castle Rock Development Company and Castle Rock Land Company;

(ii) Castlewood Ranch Development Agreement dated June 11, 1998, between the Town of Castle Rock and DSSD, Limited Liability Company and the related Master Intergovernmental Agreement between the Town and Castlewood Ranch Metropolitan District dated June 11, 1998, as amended by the First Amendment to Master Intergovernmental Agreement dated August 24, 2000;

(iii) Maher Ranch Phase 1 Annexation and Development Agreement dated April 27, 2000, between the Town of Castle Rock and Diamond Ridge, LLC;

(iv) Crystal Valley Ranch Development Agreement dated March 22, 2001, between the Town of Castle Rock and Maple Grove Land Limited Partnership, as amended by the First Amendment thereto dated August 19, 2002;

(v) Castle Rock Estates Annexation and Development Agreement recorded on December 18, 1995 at Reception No. 9561705 beginning in Book 1309 at Page 002 of the public records of Douglas County, Colorado, between the Town of Castle Rock and Diamond Ridge Estates, LLC, as amended by the First Amendment thereto dated April 10, 1997;

(vi) Castle Oaks Development Agreement dated October 28, 2002, between the Town of Castle Rock and Castle Oaks Estates, LLC and the related Master Intergovernmental Agreement between the Town and Castle Oaks Metropolitan District dated October 28, 2002, as amended by the First Amendment to Master Intergovernmental Agreement dated September 2, 2003;

(vii) Master Intergovernmental Agreement dated May 1, 1995, between the Town and Villages at Castle Rock Metropolitan Districts No. 1 and No. 4;

(viii) Liberty Village Development Agreement dated April 27, 2004, between the Town of Castle Rock and MDC Land Corporation; and

(j) All other administrative, general and commercial expenses pertaining to the System and all other current expenses pertaining to the System which are properly classified as operation and maintenance expenses under generally accepted accounting principles; but

(i) Excluding any allowance for depreciation;

(ii) Excluding any costs of Capital Improvements (or any combination thereof);

(iii) Excluding any reserves for major capital replacements (other than normal repairs);

(iv) Excluding any reserves for operation, maintenance or repair of the System;

(v) Excluding any allowance for the redemption of any Bond or other security evidencing a loan or other obligation, or the payment of any interest thereon, or any prior redemption premium due in connection therewith, or any reserve therefor;

(vi) Excluding any liabilities incurred in the acquisition or improvement of any properties comprising any Capital Improvements or any existing facilities (or any combination thereof) incorporated into the System, or otherwise; and

(vii) Excluding any liabilities incurred by the Town as the result of its negligence in the operation of the System or any other ground of legal liability not based on contract.

“Ordinance” means this Ordinance of the Town, which provides for the issuance and delivery of the Bonds.

“Outstanding” when used with reference to the Bonds, Parity Bonds, or any other designated securities and as of any particular date means all the Bonds, Parity Bonds, or any such other securities payable from the Net Pledged Revenues or otherwise pertaining to

the System, as the case may be, in any manner theretofore and thereupon being executed and delivered:

(a) Except any Bond, Parity Bond, or other security canceled by the Town, by any paying agent, or otherwise on the Town's behalf, at or before such date;

(b) Except any Bond, Parity Bond, or other security deemed to be paid as provided in Section 1201 hereof or any similar provision of the Ordinance authorizing the issuance of such other security;

(c) Except any Bond, Parity Bond, or other security in lieu of or in substitution for which another Bond or other security shall have been executed and delivered pursuant to Sections 306, 307 or 1108 hereof or any similar provisions of the Ordinance authorizing the issuance of such other security.

"Owner" means the registered owner of any designated Bond, Parity Bond, or other designated security.

"Parity Bonds" means the 2012 Bonds, the 2015 Bonds, the 2016 Bonds, and any other securities hereafter issued payable from and having an irrevocable lien upon the Net Pledged Revenues on a parity with the Bonds.

"Parity Bond Ordinances" means the 2012 Bond Ordinance, the 2015 Bond Ordinance, the 2016 Bond Ordinance, and any agreements hereafter entered into by the Town with respect to Parity Bonds and, without duplication, any Ordinances hereafter adopted by the Council authorizing the issuance of Parity Bonds.

"Paying Agent" means UMB Bank, n.a., Denver, Colorado, in Denver, Colorado, and being an agent of the Town for the payment of the Bond Requirements due in connection with the Bonds, the registrar for the Bonds and for other administration of moneys pertaining to the Bonds, and includes any successor Commercial Bank as paying agent.

"Paying Agent Agreement" means the agreement dated as of the date of delivery of the Bonds, between the Town and the Paying Agent.

"Person" means a corporation, firm, other body corporate (including, without limitation, the Federal Government, the State, or any other body corporate and politic other than the Town), partnership, limited liability company, association or individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

"Policy Costs" means repayment of draws under the Reserve Fund Insurance Policy, plus all related reasonable expenses incurred by the Surety Provider or any similar costs related to a reserve fund insurance policy for Parity Bonds.

"Preliminary Official Statement" means the Preliminary Official Statement delivered in connection with the original issuance and sale of the Bonds.

“Project” means the extending, betterment, or otherwise improving and equipping the System.

“Project Fund” means the special fund designated as the “Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Bonds, Series 2022, Project Fund” created pursuant to Section 501 hereof.

“Purchaser” means Stifel, Nicolaus & Company Incorporated, Denver, Colorado.

“Purchase Contract” means the Bond Purchase Agreement between the Town and the Purchaser concerning the purchase of the Bonds.

“Rating Agency” means each nationally recognized securities rating agency then maintaining a rating on the Bonds and initially means Moody’s and Standard & Poor’s.

“Rebate Fund” means the special account designated as the “Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Bonds, Series 2022 Rebate Fund” created pursuant to Section 609 hereof.

“Record Date” means the close of business on the fifteenth day (whether or not a Business Day) of the calendar month next preceding an interest payment date.

“Redemption Date” means the date fixed for the redemption prior to their respective maturities of any Bonds or other designated securities payable from Net Pledged Revenues in any notice of prior redemption or otherwise fixed and designated by the Town.

“Reserve Fund” means the special account designated as the “Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Bonds, Series 2022 Reserve Fund” created pursuant to Section 606 hereof.

“Reserve Fund Insurance Policy” means any credit instrument deposited in or credited to the Reserve Fund as provided in Section 606 hereof in lieu of or in partial substitution for cash or Investment Securities on deposit in the Reserve Fund.

“Reserve Fund Requirement” means the amount, if any, set forth is the Sale Certificate.

“Sale Certificate” means the sale certificate of the Town relating to the Bonds issued pursuant to the Supplemental Public Securities Act and described in Section 213 hereof.

“2012 Bond Ordinance” means Town’s Ordinance No. 2012-04, adopted on March 6, 2012, authorizing the issuance of the 2012 Bonds.

“2012 Bonds” means the Town’s Water and Sewer Enterprise Revenue Refunding Bonds, Series 2012, dated May 15, 2012.

“2015 Bond Ordinance” means Town’s Ordinance No. 2015-21, adopted on May 19, 2015, authorizing the issuance of the 2015 Bonds.

“2015 Bonds” means the Town’s Water and Sewer Enterprise Revenue Refunding Bonds, Series 2015, dated July 1, 2015.

“2016 Bond Ordinance” means Town’s Ordinance No. 2016-17, adopted on June 21, 2016, authorizing the issuance of the 2016 Bonds.

“2016 Bonds” means the Town’s Water and Sewer Enterprise Revenue Refunding Bonds, Series 2016, dated July 26, 2016.

“Special Record Date” means a special date fixed by the Paying Agent to determine the names and addresses of Owners of Bonds for the purpose of paying interest on a special interest payment date for the payment of defaulted interest, all as further provided in Section 302 hereof.

“Standard & Poor’s” S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC.

“State” means the State of Colorado.

“Subordinate Securities” means securities payable from the Net Pledged Revenues subordinate and junior to the lien thereon of the Bonds and any Parity Bonds.

“Supplemental Public Securities Act” means Part 2 of Article 57 of Title 11, Colorado Revised Statutes, as amended.

“Surety Provider” means the Insurer or any other entity issuing a Reserve Fund Insurance Policy with respect to the Bonds.

“System” means the municipal water system and municipal sanitary sewer system, consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the Town, through purchase, construction and otherwise, and used in connection with such system of the Town, and in any way pertaining thereto, whether or not located within or without or both within and without the boundaries of the Town; and such defined term includes any other utility or other income-producing facilities added to the System and to which the lien and pledge herein provided are extended by ordinance adopted by the Council or the qualified electors of the Town or by Charter amendment adopted by such electors.

“Tax Code” means the Internal Revenue Code of 1986, as amended to the date of delivery of the Bonds, and the regulations promulgated thereunder.

“Tax Compliance Certificate” means the Tax Compliance and No Arbitrage Certificate executed by the Town in connection with the initial issuance and delivery of the Bonds as it may from time to time be amended.

“Term Bonds” means Bonds that are payable on or before their specified maturity dates from sinking fund payments established for that purpose and calculated to retire such Bonds on or before their specified maturity dates.

“Town” means the Town of Castle Rock, Colorado, or any successor municipal corporation owning the System.

“Town Manager” means the town manager of the Town, or his or her successor.

“Trust Bank” means a Commercial Bank which is authorized to exercise and is exercising trust powers located within or without the State, and also means any branch of the Federal Reserve Bank.

B. Town-Held Securities. Any securities payable from any Net Pledged Revenues held by the Town shall not be deemed to be Outstanding for the purpose of redemption nor Outstanding for the purpose of consents hereunder or for any other purpose herein.

Section 103. Parties Interested Herein. Nothing herein expressed or implied confers any right, remedy or claim upon any Person, other than the Town, the Council, the Paying Agent, the Insurer, the Surety Provider, the Owners of the Bonds and the Owners of any Parity Bonds or other securities payable from the Net Pledged Revenues when reference is expressly made thereto. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the Town shall be for the sole and exclusive benefit of the Town, the Council, the Paying Agent, the Insurer, the Surety Provider, the Owners of the Bonds and the Owners of any such other securities in the event of such a reference.

Section 104. Ratification; Approval of Documents. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Council, the officers of the Town and otherwise taken by the Town directed toward the Project and the sale and delivery of the Bonds for such purposes, be, and the same hereby is, ratified, approved and confirmed.

Section 105. Repealer. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any such bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 106. Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance for any reason is invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

Section 107. Ordinance Irrepealable. After any of the Bonds are issued, this Ordinance shall constitute an irrevocable contract between the Town and the Owner or Owners of the Bonds and this Ordinance shall be and shall remain irrepealable until the Bonds, as to all Bond Requirements, shall be fully paid, canceled, and discharged, except as herein otherwise provided.

Section 108. Conclusive Recitals. Pursuant to Section 11-57-210 of the Supplemental Public Securities Act, the Bonds shall contain a recital that they are issued pursuant to the Supplemental Public Securities Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value.

Section 109. Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Public Securities Act, no legal or equitable action brought with respect to any legislative acts or proceedings of the Town in connection with the authorization or issuance of the Bonds, including but not limited to the adoption of this Ordinance, shall be commenced more than thirty days after the authorization of the Bonds.

Section 110. Emergency Declaration. In order to take advantage of the currently favorable conditions in the municipal bond market, the continuation of which cannot be predicted, the Council hereby determines that this Ordinance is necessary for the immediate preservation of the public peace, health or safety.

Section 111. Effective Date and Disposition. As an emergency ordinance, this Ordinance shall take effect upon adoption, shall be authenticated and shall be numbered and recorded in the official records of the Town as required by the Charter. This Ordinance shall be published by title and summary (with notice that the entire text of the proposed Ordinance is available for public inspection at the office of the Town Clerk) prior to first reading thereon and subsequent to adoption.

ARTICLE II

DETERMINATION OF THE TOWN'S AUTHORITY AND OBLIGATIONS; APPROVAL OF RELATED DOCUMENTS; AND ELECTION TO APPLY SUPPLEMENTAL PUBLIC SECURITIES ACT TO THE BONDS

Section 201. Authority for this Ordinance. This Ordinance is adopted by virtue of the Town's powers as a home rule town reorganized and operating pursuant to Article XX of the State Constitution and the Charter thereunder, the Supplemental Public Securities Act, and all other laws of the State thereunto enabling. Pursuant to Article XX of the State Constitution and the Charter, all statutes of the State which might otherwise apply in connection with the Project or the Bonds are hereby superseded, other than the Supplemental Public Securities Act.

Section 202. Bonds Equally Secured. The covenants and agreements herein set forth to be performed on behalf of the Town shall be for the equal benefit, protection and security of the Owners of any and all of the Outstanding Bonds and any Outstanding Parity

Bonds heretofore or hereafter authorized and issued, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of such securities over any other thereof, except as otherwise expressly provided in or pursuant to this Ordinance.

Section 203. Special Obligations. The Town hereby authorizes the Bonds to be issued in the principal amount approved by the Mayor, Town Manager or the Finance Director in the Sale Certificate, subject to the parameters and restrictions contained in this Ordinance, for the purpose of: (i) paying the cost of the Project; (ii) funding a Reserve Fund, if required, and (iii) paying issuance and other costs in connection with the Bonds. The Town pledges irrevocably, but not necessarily exclusively, the Net Pledged Revenues to the payment of the Bond Requirements of the Bonds. All of the Bond Requirements of the Bonds and the Policy Costs shall be payable and collectible solely out of the Net Pledged Revenues, which revenues are so pledged; the Owner or Owners of the Bonds and the Surety Provider may not look to any general or other fund for the payment of such Bond Requirements, except the herein designated special funds pledged therefor; the Bonds and the Policy Costs shall not constitute an indebtedness or a debt within the meaning of any constitutional, Charter or statutory provision or limitation; and the Bonds and the Policy Costs shall not be considered or held to be general obligations of the Town but shall constitute its special obligations. No Charter, statutory or constitutional provision enacted after the issuance of the Bonds shall in any manner be construed as limiting or impairing the obligation of the Town to comply with the provisions of this Ordinance or to pay the Bond Requirements of the Bonds and the Policy Costs as herein provided.

Section 204. Character of Agreement. None of the covenants, agreements, representations and warranties contained herein or in the Bonds shall ever impose or shall be construed as imposing any liability, obligation or charge against the Town (except the special funds pledged therefor), or against its general credit, or as payable out of its general fund or out of any funds derived from taxation or out of any other revenue source (other than those pledged therefor).

Section 205. No Pledge of Property. The payment of the Bonds and the Policy Costs is not secured by an encumbrance, mortgage or other pledge of property of the Town, except for the Net Pledged Revenues and other moneys pledged for the payment of the Bond Requirements of the Bonds. No property of the Town, subject to such exception, shall be liable to be forfeited or taken in payment of the Bonds or the Policy Costs.

Section 206. No Recourse Against Officers and Agents. No recourse shall be had for the payment of the Bond Requirements of the Bonds or the Policy Costs or for any claim based thereon or otherwise upon this Ordinance or any other ordinance pertaining hereto, against any individual member of the Council or any officer, employee or other agent of the Town, past, present or future, either directly or indirectly through the Council, or the Town, or otherwise, whether by virtue of any penalty or otherwise, all such liability, if any, being by the acceptance of the Bonds and as part of the consideration of their issuance specially waived and released.

Section 207. Authorization of the Project. The Council, on behalf of the Town, does hereby determine to undertake the Project, which is hereby authorized, and the proceeds of the Bonds shall be used therefor.

Section 208. Enterprise Status. The Council, on behalf of the Town, hereby confirms its determination that the System shall be an “enterprise” for the purposes of Article X, Section 20 of the State Constitution. In particular, the System shall be owned by the Town and shall have the power to issue revenue bonds in the manner and payable from the sources set forth in this Ordinance and the Charter.

Section 209. Sale of Bonds. The Bonds shall be sold by negotiated sale to the Purchaser as authorized by Section 10-6 of the Charter. Pursuant to the Supplemental Public Securities Act, the Council hereby delegates to the Mayor, Town Manager or the Finance Director the authority to execute the proposal submitted by the Purchaser.

Section 210. Official Statement. The preparation and use of the Preliminary Official Statement and of the final Official Statement are hereby authorized. The Mayor, the Town Manager and the Finance Director are hereby independently authorized to approve, on behalf of the Town, the Preliminary Official Statement and final Official Statement, in substantially the form of the Preliminary Official Statement on file with such changes and updates as are hereinafter approved. The execution of the Official Statement by the Mayor shall be conclusively deemed to evidence the approval of the form and contents thereof by the Town. The designation of the Preliminary Official Statement by the Mayor, the Town Manager and the Finance Director as a “deemed final Official Statement” for purposes of Rule 15c2-12 of the Securities and Exchange Commission is hereby authorized and confirmed.

Section 211. Paying Agent Agreement. The Council hereby determines to approve the Paying Agent Agreement. The Paying Agent may resign at any time on 30 days’ prior written notice to the Town. The Town may remove the Paying Agent upon 30 days’ prior written notice to the Paying Agent. If the Paying Agent appointed thereunder shall resign, or if the Town shall determine to remove the Paying Agent, then the Town may appoint a successor Paying Agent, upon notice mailed to each owner of any Bond at his address last shown on the registration records maintained by the Paying Agent. No resignation or dismissal of the Paying Agent may take effect until a successor has been appointed and has accepted the duties of the Paying Agent; provided, that if no successor is appointed by the end of 90 days, the Paying Agent or Registrar may petition a court of competent jurisdiction to appoint a successor. Every such successor Paying Agent shall be a Commercial Bank.

Section 212. Other Related Documents. The forms, terms and provisions of, and the performance by the Town of its obligations under the Preliminary Official Statement, the Purchase Contract, the Paying Agent Agreement, and the Continuing Disclosure Certificate are hereby approved and the Mayor, Town Manager or the Finance Director and any deputy thereof are hereby authorized and directed to execute each of such documents on behalf of and in the name of the Town, and to deliver each of such documents, in substantially the form on file with the Town Clerk, with such changes as are not inconsistent herewith or, with respect to the Preliminary Official Statement, in such form as hereafter approved by the Mayor, Town

Manager or the Finance Director. The Mayor, Town Manager or the Finance Director are hereby independently authorized to execute and deliver any Insurance Agreement as may be required by an Insurer relating to the issuance of the Insurance Policy or a Surety Provider relating to the Reserve Fund Insurance Policy. The execution of any instrument by the appropriate officers of the Town herein authorized shall be conclusive evidence of the approval by the Town of such instrument in accordance with the terms hereof.

Section 213. Election to Apply Supplemental Public Securities Act to the Bonds. Pursuant to Section 11-57-204 of the Supplemental Public Securities Act, a public entity, including the Town, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Public Securities Act. The Council hereby elects to apply all of the provisions of the Supplemental Public Securities Act to the Bonds. Pursuant to such election to apply Section 11-57-205 of the Supplemental Public Securities Act to the Bonds, the Council hereby delegates to the Mayor, Town Manager or the Finance Director the authority to make the following determinations with respect to the Bonds, subject to the parameters and restrictions contained in this Ordinance, without any requirement that the Council approve such determinations:

(i) Interest Rate. The net effective interest rate to be borne by the Bonds which shall not exceed 3.15%.

(ii) Redemption Provisions. The Bonds may be sold without a provision for optional redemption prior to maturity, but if the Purchaser's proposal to purchase the Bonds provides for optional redemption of the Bonds prior to maturity, the redemption price on the Bonds shall not exceed 100%

(iii) Purchase Price. The price at which the Bonds will be sold to the Purchaser which shall not be less than 98% of the aggregate principal amount of the Bonds.

(iv) Principal Amount. The aggregate principal amount of the Bonds, provided that such principal amount shall not exceed \$30,000,000.

(v) Maturity Schedule. The amount of principal of the Bonds maturing, or subject to mandatory sinking fund redemption, in any particular year; to be not more than \$1,850,000 annually, and the maximum total repayment cost shall not exceed \$40,200,000, provided however, that the Bonds shall not mature later than December 1, 2042.

(vi) Reserve Fund. The existence and amount of any Reserve Fund.

(vi) Bond Insurance. Whether the Bonds will be secured by an Insurance Policy or a Reserve Fund Insurance Policy and the terms of any agreement with the provider of such Insurance Policy or Reserve Fund Insurance Policy.

Such determinations shall be evidenced by the Sale Certificate signed by the Mayor, Town Manager or the Finance Director dated and delivered as of the Closing Date, which shall not be more than one year from the date of final adoption of this Ordinance. If the Town shall determine to not obtain an Insurance Policy to secure the payment of principal of and interest on the Bonds, or not to obtain a Reserve Fund Insurance Policy, any references to the

Insurer, the Insurance Policy, the Reserve Fund Insurance Policy, the Surety Provider, Policy Costs, the Insurance Agreement, or other provisions relating to bond insurance shall be of no force or effect.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND ISSUANCE OF BONDS

Section 301. Authorization of Bonds. For the purpose of protecting the public health, conserving the property and advancing the general welfare of the citizens of the Town and of defraying wholly or in part the Cost of the Project, the “Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Bonds, Series 2022” in an aggregate principal amount set forth in the Sale Certificate (but not to exceed \$30,000,000) are hereby authorized to be issued; and the Town pledges irrevocably, but not necessarily exclusively, the Net Pledged Revenues to the payment of the Bond Requirements of the Bonds.

Section 302. Bond Details.

A. Basic Provisions. The Bonds shall be issued in fully registered form (*i.e.* registered as to payment of both principal and interest), in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be lettered “R” and shall be numbered separately from 1 upward. The Bonds shall be dated as of the date of their delivery to the Purchaser. The Bonds shall mature on December 1, in the years and amounts and subject to prior redemption as set forth herein and in the Sale Certificate. The Bonds shall bear interest from the most recent interest payment date to which interest has been paid, or if no interest has been paid, from their date until their respective maturities (or prior redemption) at the rates set forth in the Sale Certificate. No interest shall accrue on any Bonds owned by or on behalf of the Town. Interest on the Bonds shall be calculated on the basis of a 360-day year of twelve 30-day months, payable semiannually on each June 1 and December 1, commencing on the date provided in the Sale Certificate.

B. Payment of Bonds. The principal of each Bond shall be payable at the principal corporate trust office of the Paying Agent, or at such other office as the Paying Agent directs in writing to the Owners of the Bonds, or at the principal office of its successor, upon presentation and surrender of the Bond. Payment of interest on any Bond shall be made to the Owner thereof by the Paying Agent on or before each interest payment date, (or, if such interest payment date is not a Business Day, on or before the next succeeding Business Day), to such Owner at his or her address as it appears on the registration records kept by the Paying Agent on the Record Date; but any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the Owner thereof at the close of business on the Record Date and shall be payable to the person who is the Owner thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Such Special Record Date and the date fixed for payment of such defaulted interest shall be fixed by the Paying Agent whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the Owners not less than ten days prior to the Special Record Date by first-

class mail to each such Owner as shown on the Paying Agent's registration books on a date selected by the Paying Agent, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. The Paying Agent may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the Owner of such Bond and the Paying Agent. If any Bond is not paid upon its presentation and surrender at or after its maturity or prior redemption, interest shall continue at its stated rate per annum until the principal thereof is paid in full. All such payments shall be made in lawful money of the United States of America.

Section 303. Execution of Bonds. The Bonds shall be executed in the name of the Town by the manual or facsimile signature of the Mayor, shall be sealed with the corporate seal of the Town or a facsimile thereof thereunto affixed, imprinted, engraved or otherwise reproduced and shall be attested by the manual or facsimile signature of the Clerk. Any Bond may be signed (manually or by facsimile), sealed or attested on behalf of the Town by any person who, at the date of such act, shall hold the proper office, notwithstanding that at the date of authentication, issuance or delivery, such person may have ceased to hold such office. The Mayor and the Clerk may adopt as and for his or her own facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears on any of the Bonds. Before the execution of any Bond, the Mayor and the Clerk shall each file with the Secretary of State of the State his or her manual signature certified by him or her under oath.

Section 304. Authentication Certificate. The authentication certificate upon the Bonds shall be substantially in the form and tenor provided in the form of the Bonds attached to this Ordinance as **Exhibit A**. No Bond shall be secured hereby or entitled to the benefit hereof, nor shall any Bond be valid or obligatory for any purpose, unless the certificate of authentication, substantially in such form, has been duly executed by the Paying Agent and such certificate of the Paying Agent upon any Bond shall be conclusive evidence that such Bond has been authenticated and delivered hereunder. The certificate of authentication shall be deemed to have been duly executed by it if manually signed by an authorized officer or employee of the Paying Agent, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds.

Section 305. Registration and Payment. The Paying Agent shall keep or cause to be kept sufficient records for the registration and transfer of the Bonds, which shall at all times be open to inspection by the Town. Upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said records, Bonds as herein provided. Except as provided in the first paragraph of Section 307 hereof, the Person in whose name any Bond shall be registered on the registration records kept by the Paying Agent shall be deemed and regarded as the absolute owner thereof for the purpose of making payment of the Bond Requirements thereof and for all other purposes; and payment of or on account of the Bond Requirements of any Bond shall be made only to the Owner thereof or his or her legal representative, but such registration may be changed upon transfer of such Bond in the manner and subject to the conditions and limitations provided herein. All such payments shall be valid and effectual to discharge the liability upon

such Bond to the extent of the sum or sums so paid. The foregoing provisions of this Section are subject to the provisions of Section 308 hereof.

Section 306. Transfer and Exchange. Any Bond may be transferred upon the records required to be kept pursuant to the provisions of Section 305 hereof by the Person in whose name it is registered, in person or by his or her duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed. Whenever any Bond or Bonds shall be surrendered for transfer, the Paying Agent shall authenticate and deliver a new Bond or Bonds for a like aggregate principal amount and of the same maturity and interest rate and of any authorized denominations. The Bonds may be exchanged by the Paying Agent for a like aggregate principal amount of Bonds of the same maturity and interest rate and of other authorized denominations. The execution by the Town of any Bond of any denomination shall constitute full and due authorization of such denomination and the Paying Agent shall thereby be authorized to authenticate and deliver such Bond.

The Paying Agent shall not be required to transfer or exchange (a) any Bond subject to redemption during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Bonds and ending at the close of business on the day such notice is mailed, or (b) any Bond so selected for redemption in whole or in part after the mailing of notice calling such Bond or any portion thereof for prior redemption except the unredeemed portion of Bonds being redeemed in part.

The Paying Agent shall require the payment by any Owner requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer, and may charge a sum sufficient to pay the cost of preparing each new Bond upon each exchange or transfer and any other expenses of the Town or the Paying Agent incurred in connection therewith.

The foregoing provisions of this Section are subject to the provisions of Section 308 hereof.

Section 307. Bond Replacement. Upon receipt by the Town and the Paying Agent of evidence satisfactory to them of the ownership of and the loss, theft, destruction or mutilation of any Bond and, in the case of a lost, stolen or destroyed Bond, of indemnity satisfactory to them, and in the case of a mutilated Bond upon surrender and cancellation of the Bond, (a) the Town shall execute and the Paying Agent shall authenticate and deliver a new Bond of the same date, interest rate and denomination in lieu of such lost, stolen, destroyed or mutilated Bond or (b) if such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, in lieu of executing and delivering a new Bond as aforesaid, the Town may pay such Bond. Any such new Bond shall bear a number not previously assigned. The applicant for any such new Bond may be required to pay all expenses and charges of the Town and of the Paying Agent in connection with the issuance of such Bond. All Bonds shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing conditions are exclusive with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds, negotiable instruments or other securities.

Section 308. Custodial Deposit.

A. Depository. Notwithstanding any contrary provision of this Ordinance, the Bonds initially shall be evidenced by one Bond of the same maturity and interest rate in denominations equal to the aggregate principal amount of the Bonds of the same maturity and interest rate. Such initially delivered Bonds shall be registered in the name of “Cede & Co.” as nominee for The Depository Trust Company, the securities depository for the Bonds. The Bonds may not thereafter be transferred or exchanged except:

(1) to any successor of The Depository Trust Company or its nominee, which successor must be both a “clearing corporation” as defined in Section 4-8-102(a)(5), Colorado Revised Statutes and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended; or

(2) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (1) or this clause (2) of this paragraph A, or a determination by the Council that The Depository Trust Company or such successor or a new depository institution is no longer able to carry out its functions, and the designation by the Council of another depository institution acceptable to the Council and to the depository then holding the Bonds, which new depository must be both a “clearing corporation” as defined in Section 4-8-102(a)(5), C.R.S. and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended, to carry out the functions of The Depository Trust Company or such successor new depository institution; or

(3) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (1) above or designation of a new depository institution pursuant to clause (2) above, or a determination of the Council that The Depository Trust Company or such successor or depository institution is no longer able to carry out its functions, and the failure by the Council, after reasonable investigation, to locate another depository institution under clause (2) to carry out such depository institution functions.

B. Successor. In the case of a transfer to a successor of The Depository Trust Company or its nominee as referred to in clause (1) of paragraph A hereof, upon receipt of the outstanding Bonds by the Paying Agent together with written instructions for transfer satisfactory to the Paying Agent, a new Bond for each maturity and interest rate of the Bonds then outstanding shall be issued to such successor or new depository, as the case may be, or its nominee, as is specified in such written transfer instructions. In the case of a resignation or determination under clause (3) of paragraph A hereof and the failure after reasonable investigation to located another qualified depository institution for the Bonds as provided in clause (3) of paragraph A hereof, and upon receipt of the outstanding Bonds by the Paying Agent, together with written instructions for transfer satisfactory to the Paying Agent, new Bonds shall be issued in authorized denominations as provided in and subject to the limitations of Sections 302, 305, and 306 hereof, registered in the names of such Persons, as are requested in such written transfer instructions; however, the Paying Agent shall not be required to deliver

such new Bonds within a period of less than 60 days from the date of receipt of such written transfer instructions.

C. Absolute Owner. The Council and the Paying Agent shall be entitled to treat the Owner of any Bond as the absolute owner thereof for all purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by any or all of them and the Council and the Paying Agent shall have no responsibility for transmitting payments or notices to the beneficial owners of the Bonds held by The Depository Trust Company or any successor or new depository named pursuant to paragraph A hereof.

D. Payment. The Council and the Paying Agent shall endeavor to cooperate with The Depository Trust Company or any successor or new depository named pursuant to clause (1) or (2) of paragraph A hereof in effectuating payment of the principal amount of the Bonds upon maturity or prior redemption by arranging for payment in such a manner that funds representing such payments are available to the depository on the date they are due.

E. Redemption. Upon any partial redemption of Bonds of the same maturity and interest rate, Cede & Co. (or its successor) in its discretion may request the Town to issue and authenticate a new Bond or shall make an appropriate notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Paying Agent prior to payment. The records of the Paying Agent shall govern in the case of any dispute as to the amount of any partial prepayment made to Cede & Co. (or its successor).

Section 309. Bond Cancellation. Whenever any Bond shall be surrendered to the Paying Agent upon payment thereof, or to the Paying Agent for transfer, exchange or replacement as provided herein, such Bond shall be promptly canceled and destroyed by the Paying Agent.

Section 310. Incontestable Recital in Bonds. Pursuant to Article XX of the State Constitution, the Supplemental Public Securities Act and this Ordinance, each Bond shall recite that it is issued under the authority of this Ordinance and the Supplemental Public Securities Act and that it is the intention of the Town that such recital shall conclusively impart full compliance with all the provisions of this Ordinance and shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value and that all the Bonds issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

Section 311. Bond Form. Subject to the provisions of this Ordinance, each Bond shall be in substantially the form attached hereto as Exhibit A, with such omissions, insertions, endorsements and variations as to any recitals of fact or other provisions as may be required by the circumstances, be required or permitted by this Ordinance, be consistent with this Ordinance or be necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto.

ARTICLE IV

REDEMPTION

Section 401. Optional Redemption. The Bonds shall be subject to redemption prior to maturity at the option of the Town from any legally available funds on the dates set forth in the Sale Certificate in whole, or in part from any maturity and interest rate, in any order of maturity and by lot within a maturity and interest rate, in such manner as the Town may determine (giving proportionate weight to Bonds in denominations larger than \$5,000), at a redemption price as set forth in the Sale Certificate.

Notwithstanding the foregoing, the Bonds may not be redeemed pursuant to this Section unless all Policy Costs, if any, due and owing at the time to the Surety Provider have been paid.

Section 402. Mandatory Sinking Fund Redemption. The Term Bonds, if any, shall be subject to mandatory sinking fund redemption at the times, in the amounts and at the prices provided in the Sale Certificate.

On or before the thirtieth day prior to each such sinking fund payment date, the Paying Agent shall proceed to call the Term Bonds, if any, as provided in the Sale Certificate (or any Term Bond or Term Bonds issued to replace such Term Bonds) for redemption from the sinking fund on the next December 1, and give notice of such call without further instruction or notice from the Town.

At its option, to be exercised on or before the sixtieth day next preceding each such sinking fund Redemption Date, the Town may (a) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory sinking fund redemption on such date in an aggregate principal amount desired or (b) receive a credit in respect of its sinking fund redemption obligation for any Term Bonds of the same maturity and interest rate subject to mandatory sinking fund redemption on such date, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Paying Agent and not theretofore applied as a credit against any sinking fund redemption obligation. Each Term Bond so delivered or previously redeemed will be credited by the Paying Agent at the principal amount thereof against the obligation of the Town on such sinking fund date and such sinking fund obligation will be accordingly reduced. The Town will on or before the sixtieth day next preceding each sinking fund Redemption Date furnish the Paying Agent with its certificate indicating whether or not and to what extent the provisions of (a) and (b) of the preceding sentence are to be availed with respect to such sinking fund payment. Failure of the Town to deliver such certificate shall not affect the Paying Agent's duty to give notice of sinking fund redemption as provided in this paragraph.

Section 403. Partial Redemption. In the case of Bonds of a denomination larger than \$5,000, a portion of such Bond (\$5,000 or any integral multiple thereof) may be redeemed, in which case the Paying Agent shall, without charge to the owner of such Bond, authenticate and issue a replacement Bond or Bonds for the unredeemed portion thereof.

Section 404. Notice of Prior Redemption. Notice of optional or mandatory redemption shall be given by the Paying Agent in the name of the Town by sending a copy of such notice by first-class, postage prepaid mail, not more than sixty nor less than thirty days prior to the Redemption Date to each Owner at his address as it last appears on the registration books kept by the Paying Agent; but neither failure to give such notice nor any defect therein shall affect the redemption of any Bond. Such notice shall identify the Bonds to be so redeemed (if less than all are to be redeemed) and the Redemption Date, and shall further state that on such Redemption Date there will become and be due and payable upon each Bond so to be redeemed, at the principal office of the Paying Agent, the principal amount thereof, accrued interest to the Redemption Date, and the stipulated premium, if any, and that from and after such date interest will cease to accrue. Notice having been given in the manner hereinabove provided, the Bond or Bonds so called for redemption shall become due and payable on the Redemption Date so designated; and upon presentation thereof at the principal office of the Paying Agent, the Paying Agent will pay the Bond or Bonds so called for redemption. No further interest shall accrue on the principal of any such Bond called for redemption from and after the Redemption Date, provided sufficient funds are deposited with the Paying Agent and available on the Redemption Date.

Notwithstanding the provisions of this Section, any notice of redemption shall either (a) contain a statement that the redemption is conditioned upon the receipt by the Paying Agent on or before the Redemption Date of funds sufficient to pay the redemption price of the Bonds so called for redemption, and that if such funds are not available, such redemption shall be canceled by written notice to the Owners of the Bonds called for redemption in the same manner as the original redemption notice was mailed, or (b) be given only if funds sufficient to pay the redemption price of the Bonds so called for redemption are on deposit with the Paying Agent in the applicable fund or account.

Section 405. Bonds Owned by the Town. Bonds owned by or on behalf of the Town shall not be subject to redemption. At any time the Town may surrender any Bonds owned by or on behalf of the Town to the Paying Agent, which shall promptly cancel such Bonds.

Section 406. No Partial Redemption After Default. Anything in this Ordinance to the contrary notwithstanding, if there shall have occurred and is continuing an Event of Default hereunder of which an officer of the Paying Agent has actual knowledge, there shall be no redemption of less than all of the Bonds at the time Outstanding (other than pursuant to Section 402 hereof).

ARTICLE V

USE OF BOND PROCEEDS AND OTHER MONEYS

Section 501. Disposition of Bond Proceeds. A portion of net proceeds derived from the sale of the Bonds, upon the receipt thereof, shall accounted for in the following manner and priority:(A). Reserve Fund. An amount equal to the Reserve Fund Requirement as described in the Sale Certificate, if any, shall be credited to the special and separate fund hereby created and to be known as the “Town of Castle Rock Water and Sewer Enterprise Revenue Bonds, Series 2022, Reserve Fund.”

(B) Project Fund. The remaining proceeds derived from the sale of the Bonds shall be credited to the special and separate account hereby created and to be known as the “Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Bonds, Series 2022, Project Fund.” Except as otherwise provided herein, the moneys in the Project Fund shall be used solely for the purpose of paying the Costs of the Project and for the purposes set forth in Section 502 hereof. On the date of delivery of the Bonds, the Town shall pay from the net proceeds of the Bonds the premiums payable to the Insurer for its Insurance Policy and to the Surety Provider for its Reserve Fund Insurance Policy, if any.

Section 502. Payment of Expenses. Moneys deposited in the Project Fund pursuant to Section 501 hereof may be used and paid out by the Town to defray the administrative costs of the Project, including, without limitation, amounts to be paid to the Paying Agent, legal fees, accounting fees, financial advisory fees, printing costs and rating fees. The Town may defray any such administrative costs from time to time as Operation and Maintenance Expenses to the extent the moneys deposited in the Project Fund pursuant to Section 501 hereof are insufficient therefor.

Section 503. Completion of Project. When the Project is completed in accordance with the relevant plans and specifications and all amounts due therefor, including all proper incidental expenses and all administrative costs of the Project referred to in Section 502 hereof, are paid, or for which full provision is made, the Finance Director, to the extent permitted by the Tax Compliance Certificate, shall cause all surplus moneys remaining in the Project Fund, if any, except for any moneys designated in the certificate to be retained to pay any unpaid accrued costs or contingent obligations, to be transferred as follows: (a) to the Rebate Fund so as to enable the Town to comply with requirements of the Tax Compliance Certificate with respect to the Bonds, (b) to the Reserve Fund to such extent as shall not cause the amount in the Reserve Fund to exceed the Reserve Fund Requirement and (c) to the Bond Fund to the extent of any remaining balance of such moneys to be applied against the next principal payment or payments coming due on the Bonds. Nothing herein prevents the transfer from the Project Fund to the Bond Fund, at any time prior to the termination of the Project Fund, of any moneys which the Director of Finance by certificate determines will not be necessary for the Project and will not be designated to be transferred to the Rebate Fund.

Section 504. Lien on Bond Proceeds. Until the proceeds of the Bonds deposited in the Project Fund are applied as herein provided, such Bond proceeds are subject to a lien

thereon and pledge thereof for the benefit of the Owners of the Outstanding Bonds as provided in Section 501 hereof.

Section 505. Purchaser Not Responsible. The validity of the Bonds is not dependent upon nor affected by the validity or regularity of any proceedings relating to the application of the Bond proceeds. The Purchaser and any subsequent Owners of any of the Bonds are not responsible for the application or disposal by the Town or by any of its officers, agents and employees of the moneys derived from the sale of the Bonds or of any other moneys herein designated.

ARTICLE VI

ADMINISTRATION OF AND ACCOUNTING FOR PLEDGED REVENUES

Section 601. Pledge Securing Bonds. Subject only to the right of the Town to cause amounts to be withdrawn and paid on account of Operation and Maintenance Expenses of the System, the Gross Pledged Revenues and, subject to the right of the Town to cause amounts to be withdrawn to pay the Cost of the Project as provided herein and other than moneys and securities held in the Rebate Fund to the extent such amounts are required to be paid to the United States, all moneys and securities paid or to be paid to or held or to be held in any account under this Article or under Section 501 hereof are hereby pledged to secure the payment of the Bond Requirements of the Outstanding Bonds and to secure the obligations of the Town to pay Policy Costs. The pledge of the Net Pledged Revenues to secure the payment of the Bond Requirements of the Outstanding Bonds and any Parity Bonds is on a parity with the pledge of the Net Pledged Revenues for, and lien thereon of the Parity Bonds heretofore issued and any other Parity Bonds hereafter issued in compliance with the provisions of Article VIII hereof. The pledge of the Net Pledged Revenues to secure the payment of the Policy Costs is subordinate only to the pledge to pay the Bond Requirements with respect to the Bonds and any Parity Bonds. This pledge shall be valid and binding from and after the date of the delivery of the Bonds, and the moneys as received by the Town and hereby pledged shall immediately be subject to the lien of this pledge without any physical delivery thereof, any filing, or further act. The lien of this pledge and the obligation to perform the contractual provisions hereby made shall have priority over any or all other obligations and liabilities of the Town except any Outstanding Parity Bonds heretofore or hereafter authorized and any Policy Costs as provided herein. The lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Town (except as herein otherwise provided) irrespective of whether such parties have notice thereof.

Section 602. Income Fund Deposits. So long as any of the Bonds shall be Outstanding, as to any Bond Requirements related to the Bonds, the entire Gross Pledged Revenues, upon their receipt from time to time by the Town, shall be set aside and credited immediately to the special and separate account previously created and continued herein known as the "Town of Castle Rock, Colorado, Water and Sewer Enterprise Gross Income Fund."

Section 603. Administration of Income Fund. So long as any of the Bonds shall be Outstanding, as to any Bond Requirements related to the Bonds, the following payments shall be made from the Income Fund, as provided in Sections 604 through 611 hereof.

Section 604. Operation and Maintenance Expenses. First, as a first charge on the Income Fund, from time to time there shall continue to be held therein moneys sufficient to pay Operation and Maintenance Expenses, as they become due and payable, and thereupon they shall be promptly paid. Any surplus remaining in the Income Fund at the end of the Fiscal Year and not needed for Operation and Maintenance Expenses shall be used for other purposes of the Income Fund as herein provided.

Section 605. Bond Fund Payments. Second, from any remaining Net Pledged Revenues, there shall be credited, concurrently with amounts required to meet the Bond Requirements for any Outstanding Parity Bonds heretofore or hereafter issued, to the special and separate account hereby created and to be known as the “Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Bonds, Series 2022, Bond Fund” the following amounts:

A. Interest Payments. Monthly to the Bond Fund, commencing on the first day of the month immediately succeeding the delivery of any of the Bonds, or commencing on the first day of the month six months next prior to the first interest payment date of any of the Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the interest due and payable on the Outstanding Bonds on the next succeeding interest payment date.

B. Principal Payments. Monthly to the Bond Fund, commencing on the first day of the month immediately succeeding the delivery of any of the Bonds, or commencing on the first day of the month one year next prior to the first principal payment date of any of the Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the principal and redemption premium, if any, due and payable on the Outstanding Bonds on the next succeeding principal payment date.

If prior to any interest payment date or principal payment date, there has been accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in paragraph A or B (whichever is applicable) of this Section 605 may be appropriately reduced; but the required annual amounts again shall be so credited to such account commencing on such interest payment date or principal payment date.

The moneys credited to the Bond Fund shall be used to pay the Bond Requirements of the Bonds then Outstanding, as such Bond Requirements become due, except as provided in Sections 607 and 1201 hereof. No interest or principal shall be paid on any Bonds owned by or on behalf of the Town.

Section 606. Reserve Fund Payments. Upon delivery of the Bonds, the Reserve Fund, if any, shall be funded as provided in the Sale Certificate. Any such Reserve Fund

Requirement shall be funded by a deposit in the special and separate account hereby created and to be known as the "Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Bonds, Series 2022, Reserve Fund" in satisfaction of the Reserve Fund Requirement. If the Reserve Fund is funded by the issuance of a Reserve Fund Insurance Policy, such Reserve Fund Insurance Policy shall be held by the Paying Agent. Any Reserve Fund Insurance Policy deposited to the credit of the Reserve Fund shall be valued at the amount available to be drawn or otherwise paid pursuant to such Policy at the time of calculation. The Paying Agent shall maintain adequate records as to the amount available to be drawn at any time under the Reserve Fund Insurance Policy and as to the amounts of Policy Costs paid and owing to the Surety Provider. Such records shall be open to inspection and verification by the Surety Provider during business hours of the Paying Agent.

Thereafter, thirdly, except as provided in Section 607 and 608 hereof, and concurrently with any payments required to be made pursuant to any Parity Bond Ordinances with respect to any reserve funds (including any operation and maintenance reserve funds) which may be, but are not required to be, established thereby and concurrently with any repayment or similar obligations payable to any surety provider issuing any reserve fund insurance policy with respect to any Parity Bonds, from any moneys remaining in the Income Fund there shall be credited to the Reserve Fund monthly, commencing on the first day of the month next succeeding each date on which the moneys accounted for in the Reserve Fund for any reason are less than the Reserve Fund Requirement, such amounts in substantially equal monthly payments on the first day of each month to reaccumulate the Reserve Fund Requirement by not more than 12 such monthly payments. If a Reserve Fund Insurance Policy is on deposit in the Reserve Fund to fund all or a part of the Reserve Fund Requirement, the amounts payable into the Reserve Fund pursuant to the immediately preceding sentence shall be paid by the Town first to the Surety Provider to reimburse it for Policy Costs due and owing and second to replenish cash in the Reserve Fund. If there are insufficient Net Pledged Revenues to comply with the requirements of the first sentence of this paragraph, available Net Pledged Revenues shall be credited or paid to the Reserve Fund and to reserve funds which may be established by any Parity Bond Ordinances (or to the Surety Provider or any other surety provider issuing any reserve fund insurance policy with respect to any Parity Bonds) pro rata, based upon the aggregate principal amount of the Bonds and any such Parity Bonds then Outstanding; provided, however, that compliance with the provisions of this sentence shall not cure any Event of Default caused by non-compliance with the first sentence of this paragraph. If there are insufficient Net Pledged Revenues to comply with the requirements of the first sentence of this paragraph and more than one Reserve Fund Insurance Policy is on deposit in the Reserve Fund, available Net Pledged Revenues credited to or paid to the Reserve Fund shall be applied to reimburse the Surety Provider and any other surety provider providing a Reserve Fund Insurance Policy pro rata, based upon the original amount available to be drawn on each. The Reserve Fund Requirement shall be accumulated and, if necessary, reaccumulated from time to time, in the Reserve Fund from Net Pledged Revenues, except to the extent other moneys are credited to the Reserve Fund, and maintained as a continuing reserve to be used, except as hereinafter provided in Sections 607, 608, 704 and 1201 hereof, only to prevent deficiencies in the payment of the Bond Requirements of the Bonds Outstanding from time to time from the failure to deposit into the Bond Fund sufficient moneys to pay such Bond Requirements as the same accrue and become due. No payment need be made into the Reserve Fund at any time so long as the

moneys and/or the Reserve Fund Insurance Policy therein equal not less than the Reserve Fund Requirement and there are no Policy Costs due and owing. Unless otherwise provided in the Sale Certificate, the Reserve Fund Requirement shall be re-calculated upon (i) any principal payment, whether at stated maturity or upon redemption, or (ii) the defeasance of all or a portion of the Bonds.

The Town may at any time substitute (a) cash or Investment Securities for a Reserve Fund Insurance Policy or (b) a Reserve Fund Insurance Policy for cash or Investment Securities, so long as the amount on deposit in the Reserve Fund after such substitution is at least equal to the Reserve Fund Requirement. Notwithstanding the foregoing, no Reserve Fund Insurance Policy shall be deposited by the Town in the Reserve Fund for such substitution unless the Town has received an opinion of Bond Counsel to the effect that such substitution and the intended use by the Town of the cash or Investment Securities to be released from the Reserve Fund will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

Section 607. Termination of Deposits. No payment need be made into the Bond Fund or the Reserve Fund if there are no Policy Costs due and owing and if the amount in the Bond Fund and the amount in the Reserve Fund (exclusive of the amount available under a Reserve Fund Insurance Policy) total a sum at least sufficient so that all Bonds Outstanding are deemed to have been paid pursuant to Section 1201 hereof, in which case moneys therein (taking into account the known minimum gain from any investment of such moneys in Investment Securities from the time of any such investment or deposit shall be needed for such payment which will not be designated for transfer to the Rebate Fund) shall be used (together with any such gain from such investments) solely to pay the Bond Requirements of the Outstanding Bonds as the same become due; and any moneys in excess thereof in those two accounts and any other moneys derived from the Net Pledged Revenues or otherwise pertaining to the System may be used to make required payments into the Rebate Fund or in any other lawful manner determined by the Council.

Section 608. Defraying Delinquencies. If at any time the Town shall for any reason fail to pay into the Bond Fund the full amount above stipulated from the Net Pledged Revenues, then an amount shall be paid into the Bond Fund at such time from the Reserve Fund equal to the difference between that paid from the Net Pledged Revenues and the full amount so stipulated. The Town shall use all cash in the Reserve Fund before drawing on a Reserve Fund Insurance Policy. If the Paying Agent determines that it is necessary to draw on the Reserve Fund Insurance Policy, the Paying Agent shall present a demand for payment, in the form and manner required by the Reserve Fund Insurance Policy, at least two days before funds are needed. If there is more than one Reserve Fund Insurance Policy on deposit in the Reserve Fund, the Paying Agent shall draw on them on a pro rata basis, based upon the amount available to be drawn on each.

Any money so used or drawn shall be replaced as provided in Section 606 hereof from the first Net Pledged Revenues thereafter received and not required to be otherwise applied by this Article. Except as provided in Section 606 hereof, the moneys in the Bond Fund and in the Reserve Fund (including any Reserve Fund Insurance Policy) shall be used solely and only

for the purpose of paying the Bond Requirements of the Bonds from time to time. If moneys in the Reserve Fund are in excess of the Reserve Fund Requirement at any time, such excess may be transferred by the Town to the Rebate Fund or the Bond Fund.

Section 609. Rebate Fund. Fourth, concurrently with any payments required to be made pursuant to any Parity Bond Ordinances with respect to any rebate funds established thereby, there shall be deposited into the special and separate account hereby created and to be known as the “Town of Castle Rock, Colorado, Water and Sewer Enterprise Revenue Bonds, Series 2022, Rebate Fund” moneys in the amounts and at the times specified in the Tax Compliance Certificate so as to enable the Town to comply with Section 930 hereof. Amounts on deposit in the Rebate Fund shall not be subject to the lien and pledge of this Ordinance to the extent that such amounts are required to be paid to the United States Treasury. The Town shall cause amounts on deposit in the Rebate Fund to be forwarded to the United States Treasury (at the address provided in the Tax Compliance Certificate) at the times and in the amounts set forth in the Tax Compliance Certificate.

If the moneys on deposit in the Rebate Fund are insufficient for the purposes thereof, the Town shall transfer moneys in the amount of the insufficiency to the Rebate Fund from the Project Fund and, to the extent permitted by Section 606 hereof, from the Reserve Fund and the Bond Fund. Upon receipt by the Town of an opinion of Bond Counsel to the effect that the amount in the Rebate Fund is in excess of the amount required to be contained therein, such excess may be transferred to the Income Fund.

Section 610. Payment of Additional Securities. Fifth, and subject to the provisions hereinabove in this Article, but subsequent to the payments required by Sections 605, 606 and 609 hereof, any moneys remaining in the Income Fund may be used by the Town for the payment of Bond Requirements of Subordinate Securities, including reasonable reserves for such Subordinate Securities and for rebate of amounts to the United States Treasury with respect to such Subordinate Securities.

Section 611. Use of Remaining Revenues. After the payments hereinabove required to be made by Sections 602 through 610 hereof are made, any remaining Net Pledged Revenues in the Income Fund shall be used, firstly, for any one or any combination of necessary purposes relating to the operation, improvement or debt management of the System and, secondly, to the extent of any remaining surplus, for any one or any combination of lawful purposes as the Council may from time to time conclusively determine.

ARTICLE VII

GENERAL ADMINISTRATION

Section 701. Administration of Accounts. The special accounts designated in Articles V and VI hereof shall be administered as provided in this Article (but not any account under Section 1201 hereof).

Section 702. Places and Times of Deposits. Except as hereinafter provided, each of such special accounts shall be maintained by the Town as a book account and kept separate from all other accounts as a trust account solely for the purposes herein designated therefor. The moneys accounted for in such special book accounts may be in one or more bank accounts in one or more Commercial Banks. Each such bank account shall be continuously secured to the fullest extent required or permitted by the laws of the State for the securing of public funds and shall be irrevocable and not withdrawable by anyone for any purpose other than the respective designated purposes. Each periodic payment shall be credited to the proper book account not later than the date therefor herein designated, except that when any such date shall not be a Business Day, then such payment shall be made on or before the next preceding Business Day. Moneys shall be deposited with the Paying Agent for the Bonds not less than three Business Days prior to each interest payment date and each maturity or mandatory Redemption Date in immediately available amounts sufficient to pay the Bond Requirements then becoming due on the Outstanding Bonds.

Section 703. Investment of Moneys. Any moneys in the Income Fund, the Bond Fund, the Project Fund, the Reserve Fund and the Rebate Fund and not needed for immediate use shall be invested or reinvested by the Finance Director in Investment Securities. All such investments shall (a) either be subject to redemption at any time at a fixed value by the holder thereof at the option of such holder, or (b) mature not later than the estimated date or respective dates on which the proceeds are to be expended as estimated by the Finance Director at the time of such investment or reinvestment; provided that (1) Investment Securities credited to the Reserve Fund shall not mature later than ten years from the date of such investment or reinvestment and (2) collateral securities of any Investment Securities may have a maturity of more than five years from the date of purchase thereof. For the purpose of any such investment or reinvestment, Investment Securities shall be deemed to mature at the earliest date on which the obligor is, on demand, obligated to pay a fixed sum in discharge of the whole of such obligations.

Section 704. Accounting for Investments. The Investment Securities so purchased as an investment or reinvestment of moneys in any such account hereunder shall be deemed at all times to be a part of the account. Any interest or other gain from any investments and reinvestments of moneys accounted for in the Income Fund, the Bond Fund and the Rebate Fund shall be credited to such Fund, and any loss resulting from any such investments or reinvestments of moneys accounted for in the Income Fund, the Bond Fund, the Reserve Fund and the Rebate Fund shall be charged or debited to such Fund. Any interest or other gain from any investment or reinvestment of moneys accounted for in the Reserve Fund (a) shall be credited to the Rebate Fund or the Bond Fund, at the discretion of the Finance Director, if the

amount credited to the Reserve Fund immediately after such credit to the Rebate Fund or the Bond Fund is not less than the Reserve Fund Requirement and (b) if the amount credited to the Reserve Fund is less than the Reserve Fund Requirement, shall be credited to the Reserve Fund (up to the amount of the deficiency). No loss or profit in any account on any investments or reinvestments in Investment Securities shall be deemed to take place as a result of market fluctuations of the Investment Securities prior to the sale or maturity thereof. In the computation of the amount in any account for any purpose hereunder, except as herein otherwise expressly provided or for rebate purposes, as described in the Tax Compliance Certificate, Investment Securities shall be valued at the cost thereof (including any amount paid as accrued interest at the time of purchase of the obligation); provided that any time or demand deposits shall be valued at the amounts deposited, in each case exclusive of any accrued interest or any other gain to the Town until such gain is realized by the presentation of matured coupons for payment or otherwise.

Section 705. Redemption or Sale of Investment Securities. The Finance Director shall present for redemption or sale on the prevailing market at the best price obtainable any Investment Securities so purchased as an investment or reinvestment of moneys in the account whenever it shall be necessary in order to provide moneys to meet any withdrawal, payment or transfer from such account. Neither the Finance Director or any other officer or employee of the Town shall be liable or responsible for any loss resulting from any such investment or reinvestment made in accordance with this Ordinance.

Section 706. Character of Funds. The moneys in any account designated in Articles V and VI hereof shall consist either of lawful money of the United States or Investment Securities, or both such money and such Investment Securities. Moneys deposited in a demand or time deposit account in a bank or savings and loan association, appropriately secured according to the laws of the State, shall be deemed lawful money of the United States.

Section 707. Payment of Bond Requirements. The moneys credited to any fund or account designated in Article VI hereof for the payment of the Bond Requirements of any Bonds shall be used without requisition, voucher, warrant, further order or authority (other than is contained herein), or any other preliminaries, to pay promptly the Bond Requirements of any Bonds payable from such fund or account as such amounts are due, except to the extent any other moneys are available therefor.

ARTICLE VIII

SECURITIES LIENS AND ADDITIONAL SECURITIES

Section 801. Lien Status. The Bonds constitute an irrevocable lien (but not necessarily an exclusive such lien) upon the Net Pledged Revenues on a parity with the lien of the Net Pledged Revenues of the Parity Bonds. The Policy Costs constitute an irrevocable and subordinate lien (but not necessarily an exclusive subordinate lien) upon the Net Pledged Revenues.

Section 802. Equality of Bonds. The Bonds and any Parity Bonds heretofore issued or hereafter authorized to be issued and from time to time Outstanding are equitably and ratably secured by a lien on the Net Pledged Revenues and shall not be entitled to any priority one over the other in the application of the Net Pledged Revenues regardless of the time or times of the issuance of the Bonds and any other such Parity Bonds, it being the intention of the Council that there shall be no priority among the Bonds and any such Parity Bonds regardless of the fact that they may be actually issued and delivered at different times, except that (a) moneys in the Bond Fund and Reserve Fund shall secure only the Bonds and the moneys in any acquisition, bond, reserve or similar funds established for other Parity Bonds shall secure only such Parity Bonds and (b) other Parity Bonds may have a lien on Net Pledged Revenues on a parity with lien thereon of the Bonds even if no reserve fund is established for such Parity Bonds or a reserve fund is established but with a different requirement as to the amount of moneys (or the value of a reserve fund insurance policy with respect to such Parity Bonds) required to be on deposit therein or the manner in which such reserve fund is funded or the period of time over which such reserve fund is funded or additional or separate revenues are also pledged to such Parity Bonds.

Section 803. Issuance of Parity Bonds. Nothing herein prevents the issuance by the Town of additional securities payable from the Net Pledged Revenues and constituting a lien thereon on a parity with, but not prior nor superior to, the lien thereon of the Bonds; but before any such additional Parity Bonds, except as provided in Section 808 hereof, are authorized or actually issued:

A. Absence of Default. At the time of the adoption of the ordinance authorizing the issuance of the additional securities, the Town shall not be in default in making any payments required by Article VI hereof, including any payments of Policy Costs.

B. Historic Earnings Test. The Net Pledged Revenues derived in any consecutive twelve month period within the eighteen months immediately preceding the date of issuance of the additional Parity Bonds shall be not less than 120% of the Combined Maximum Principal and Interest Requirements of the Outstanding Bonds, any Outstanding Parity Bonds and the Parity Bonds proposed to be issued and 100% of the Policy Costs then due and owing, if any, except as hereinafter otherwise expressly provided.

C. Adjustment of Gross Pledged Revenues. In any computation under paragraph B of this Section, the amount of the Gross Pledged Revenues for the applicable period shall be decreased and may be increased by the amount of loss or gain conservatively estimated by an Independent Accountant, Independent Engineer or the Finance Director, as the case may be, which results from any changes which became effective not less than 60 days prior to the last day of the period for which Gross Pledged Revenues are determined in any schedule of fees, rates and other charges constituting Gross Pledged Revenues based on the number of users during the applicable period as if such modified schedule of fees, rates and other charges shall have been in effect during such entire time period. However, the Gross Pledged Revenues need not be decreased by the amount of any such estimated loss to the extent the Independent Accountant, the Independent Engineer or the Finance Director estimates the loss is temporary in nature or will be offset within a reasonable temporary period by an increase in revenues or a reduction in Operation and Maintenance Expenses not otherwise included in the calculations under this Section, and estimates any loss under this sentence will not at any time materially and adversely affect the Town's apparent ability to comply with the rate maintenance covenant stated in Section 921 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

D. Reduction of Annual Requirements. The respective annual Bond Requirements (including as such a requirement the amount of any prior redemption premiums due on any Redemption Date) shall be reduced to the extent such Bond Requirements are scheduled to be paid in each of the respective Fiscal Years with moneys held in trust or in escrow for that purpose by any Trust Bank, including the known minimum yield from any investment in Federal Securities and any bank deposits, including any certificate of deposit.

E. Consideration of Additional Expenses. In determining whether or not additional Parity Bonds may be issued as aforesaid, consideration shall be given to any probable increase (but not reduction) in the Operation and Maintenance Expenses of the System as estimated by the Finance Director that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the additional securities; but the Finance Director may reduce any such increase in Operation and Maintenance Expenses by the amount of any increase in revenues or any reduction in Operation and Maintenance Expenses resulting from the Capital Improvements to which such expenditure relates and not otherwise included in the calculations under this Section, if the Finance Director also opines that any such reduction in any such increase in Operation and Maintenance Expenses will not materially and adversely affect the Town's apparent ability to comply with the rate maintenance covenant stated in Section 921 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

Section 804. Certification of Revenues. A written certificate or written opinion by the Finance Director under Section 803 B that such annual revenues, when adjusted as hereinabove provided in paragraphs C, D, and E of Section 803 hereof, are sufficient to pay such amounts, as provided in paragraph B of Section 803 hereof, shall be conclusively presumed to be accurate in determining the right of the Town to authorize, issue, sell and deliver additional securities on a parity with the Bonds.

Section 805. Subordinate Securities Permitted. Nothing herein prevents the Town from issuing additional securities payable from the Net Pledged Revenues and having a lien thereon subordinate, inferior and junior to the lien thereon of the Bonds.

Section 806. Superior Securities Prohibited. Nothing herein permits the Town to issue additional securities payable from the Net Pledged Revenues and having a lien thereon prior and superior to the lien thereon of the Bonds.

Section 807. Use of Proceeds. The proceeds of any additional Parity Bonds or other securities payable from any Net Pledged Revenues shall be used only to finance Capital Improvements or to refund all or a portion of the Bonds, Parity Bonds or other securities payable from Net Pledged Revenues, regardless of the priority or the lien of such securities on Net Pledged Revenues.

Section 808. Issuance of Refunding Securities. The Town may issue any refunding securities payable from Net Pledged Revenues to refund any Outstanding Bonds, Parity Bonds or any subordinate securities heretofore or hereafter issued, with such details as the Council may by ordinance provide so long as there is no impairment of any contractual obligation imposed upon the Town by any proceedings authorizing the issuance of any unrefunded portion of such Outstanding securities of any one or more issues; but so long as the Bonds, or any part thereof, are Outstanding, refunding securities payable from Net Pledged Revenues may be issued on a parity with the unrefunded Bonds only if:

A. Prior Consent. The Town first receives the consent of the Owner or Owners of the unrefunded portion of the Bonds and any Parity Bonds; or

B. Requirements Not Increased. The Combined Maximum Annual Principal and Interest Requirements for the Bonds and Parity Bonds Outstanding immediately after the issuance of the refunding securities is not greater than the Combined Maximum Annual Principal and Interest Requirements for all Bonds and Parity Bonds Outstanding immediately prior to the issuance of the refunding securities and the lien of any refunding Parity Bonds on the Net Pledged Revenues is not raised to a higher priority than the lien thereon of any securities thereby refunded; or

C. Earnings Test. The refunding securities are issued in compliance with Section 803 B hereof.

ARTICLE IX

PROTECTIVE COVENANTS

Section 901. General. The Town hereby covenants and agrees with the Owners of the Bonds and makes provisions which shall be a part of its contract with such Owners to the effect and with the purpose set forth in the following Sections of this Article.

Section 902. Performance of Duties. The Town, acting by and through the Council or otherwise, shall faithfully and punctually perform, or cause to be performed, all duties with respect to the Gross Pledged Revenues and the System required by the Constitution and laws of the State and the Charter and various ordinances of the Town, including, without limitation, the making and collection of reasonable and sufficient fees, rates and other charges for services rendered or furnished by or the use of the System, as herein provided, and the proper segregation of the proceeds of the Bonds and of any securities hereafter authorized and the Gross Pledged Revenues and their application from time to time to the respective accounts provided therefor.

Section 903. Contractual Obligations. The Town shall perform all contractual obligations undertaken by it under any agreements relating to the Bonds, the Gross Pledged Revenues, the Project, or the System, or any combination thereof, with any other Persons.

Section 904. Further Assurances. At any and all times the Town shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge, deliver and file or record all and every such further instruments, acts, deeds, conveyances, assignments, transfers, other documents and assurances as may be reasonably necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, the Gross Pledged Revenues and other moneys and accounts hereby pledged or assigned, or intended so to be, or which the Town may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Ordinance and to comply with any instrument of the Town amendatory thereof, or supplemental thereto and the Charter. The Town, acting by and through the Council, or otherwise, shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Gross Pledged Revenues and other moneys and accounts pledged hereunder and all the rights of every Owner of any Bond hereunder against all claims and demands of all Persons whomsoever.

Section 905. Conditions Precedent. Upon the date of issuance of the Bonds, all conditions, acts and things required by the Federal or State Constitution, the Charter of the Town, the Supplemental Public Securities Act and this Ordinance, or any other applicable law, to exist, to have happened and to have been performed precedent to or in the issuance of the Bonds shall exist, have happened, and have been performed; and the Bonds, together with all other obligations of the Town, shall not contravene any debt or other limitation prescribed by the State Constitution or the Charter of the Town.

Section 906. Efficient Operation and Maintenance. The Town shall at all times operate the System properly and in a sound and economical manner; and the Town shall

maintain, preserve and keep the same properly or cause the same so to be maintained, preserved and kept, with the appurtenances and every part and parcel thereof in good repair, working order and condition, and shall from time to time make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the System may be properly and advantageously conducted. All salaries, fees, wages and other compensation paid by the Town in connection with the maintenance, repair and operation of the System shall be reasonable and proper.

Section 907. Rules, Regulations and Other Details. The Town, acting by and through the Council, shall establish and enforce reasonable rules and regulations governing the operation, use and services of the System. The Town shall observe and perform all of the terms and conditions contained in this Ordinance and the Charter, and shall comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the System or to the Town.

Section 908. Payment of Governmental Charges. The Town shall pay or cause to be paid all taxes and assessments or other municipal or governmental charges, if any, lawfully levied or assessed upon or in respect of the System, or upon any part thereof, or upon any portion of the Gross Pledged Revenues, when the same shall become due, and shall duly observe and comply with all valid requirements of any municipal or governmental authority relative to the System or any part thereof, except for any period during which the same are being contested in good faith by proper legal proceedings. The Town shall not create or suffer to be created any lien upon the System, or any part thereof, or upon the Gross Pledged Revenues, except the pledge and lien created by this Ordinance for the payment of the Bond Requirements of the Bonds and except as herein otherwise permitted. The Town shall pay or cause to be discharged or shall make adequate provision to satisfy and to discharge, within 60 days after the same shall become payable, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the System, or any part thereof, or the Gross Pledged Revenues; but nothing herein requires the Town to pay or cause to be discharged or to make provision for any such tax, assessment, lien or charge, so long as the validity thereof is contested in good faith and by appropriate legal proceedings.

Section 909. Protection of Security. The Town, the officers, agents and employees of the Town, and the Council shall not take any action in such manner or to such extent as might prejudice the security for the payment of the Bond Requirements of the Bonds and any other securities payable from the Net Pledged Revenues or any Policy Costs relating thereto according to the terms thereof. No contract shall be entered into nor any other action taken by which the rights of any Owner of any Bond or other security payable from Net Pledged Revenues or any Policy Costs relating thereto might be prejudicially and materially impaired or diminished.

Section 910. Prompt Payment of Bonds. The Town shall promptly pay the Bond Requirements of the Bonds at the places, on the dates and in the manner specified herein and in the Bonds according to the true intent and meaning hereof.

Section 911. Use of Bond and Reserve Funds. The Bond Fund and the Reserve Fund shall be used solely and only and the moneys credited to such accounts are hereby pledged for the purpose of paying the Bond Requirements of the Bonds to their respective maturities or any Redemption Date or Dates, subject to the provisions of Sections 606, 607, 608, 704 and 1201 hereof.

Section 912. Other Liens. Other than as provided herein, there are no liens or encumbrances of any nature whatsoever on or against the System, or any part thereof, or on or against the Gross Pledged Revenues on a parity with or superior to the lien thereon of the Bonds.

Section 913. Corporate Existence. The Town shall maintain its corporate identity and existence so long as any of the Bonds remain Outstanding, unless another body corporate and politic by operation of law succeeds to the powers, privileges, rights, liabilities, disabilities, duties and immunities of the Town and is obligated by law to operate and maintain the System and to fix and collect the Gross Pledged Revenues as herein provided without adversely and materially affecting at any time the privileges and rights of any Owner of any Outstanding Bond.

Section 914. Disposal of System Prohibited. Except for the use of the System and services pertaining thereto in the normal course of business, or as provided in Section 915 hereof, neither all nor a substantial part of the System shall be sold, leased, mortgaged, pledged, encumbered, alienated or otherwise disposed of, until all the Bonds have been paid in full, as to all Bond Requirements, or unless provision has been made therefor, or until the Bonds have otherwise been redeemed, including, without limitation, the termination of the pledge as herein authorized; and the Town shall not dispose of its title to the System or to any useful part thereof, including any property necessary to the operation and use of the System and the lands and interests in lands comprising the sites of the System, except as provided in Section 915 hereof.

Section 915. Disposal of Unnecessary Property. The Town at any time and from time to time may sell, exchange, lease or otherwise dispose of any property constituting a part of the System and not useful in the construction, reconstruction or operation thereof, or which shall cease to be necessary for the efficient operation of the System, or which shall have been replaced by other property of at least equal value. Any proceeds of any such sale, exchange or other disposition received and not used to replace such property so sold or so exchanged or otherwise so disposed of, shall be deposited by the Town in the Income Fund or into a special book account for the betterment, enlargement, extension, other improvement and equipment of the System, or any combination thereof, as the Council may determine, provided that any proceeds of any such lease received shall be deposited by the Town as Gross Pledged Revenues in the Income Fund.

Section 916. Competing System. So long as any of the Bonds are Outstanding, the Town shall not grant any franchise or license to any competing facilities so that the Gross Pledged Revenues shall not be sufficient to satisfy the covenant in Section 921 hereof.

Section 917. Loss From Condemnation. If any part of the System is taken by the exercise of the power of eminent domain, the amount of any award received by the Town as

a result of such taking shall be paid into the Income Fund or into a capital improvement account pertaining to the System for the purposes thereof, or, applied to the redemption of the Outstanding Bonds and any Outstanding Parity Bonds relating thereto, all as the Town may determine.

Section 918. Employment of Management Engineers. If the Town defaults in paying the Bond Requirements of the Bonds, any Parity Bonds, and any other securities or Policy Costs relating thereto payable from the Gross Pledged Revenues promptly as the same fall due, or in the keeping of any covenants herein contained, and if such default continues for a period of 60 days, or if the Net Pledged Revenues in any Fiscal Year fail to equal at least the amount of the Bond Requirements of the Outstanding Bonds, Parity Bonds, and any other securities (including all reserves therefor specified in the authorizing proceedings, including, without limitation, this Ordinance) or Policy Costs relating thereto payable from the Net Pledged Revenues in that Fiscal Year, the Town shall retain a firm of competent management engineers skilled in the operation of such facilities to assist the management of the System so long as such default continues or so long as the Net Pledged Revenues are less than the amount hereinabove designated in this Section.

Section 919. Budgets. The Council and officials of the Town shall annually and at such other times as may be provided by law prepare and adopt a budget pertaining to the System.

Section 920. Reasonable and Adequate Charges. While the Bonds remain Outstanding and unpaid, the fees, rates and other charges due to the Town for the use of or otherwise pertaining to and services rendered by the System to the Town, to its inhabitants and to all other users within and without the boundaries of the Town shall be reasonable and just, taking into account and consideration public interests and needs, the cost and value of the System, the Operation and Maintenance Expenses thereof, and the amounts necessary to meet the Bond Requirements of all Bonds, the Parity Bonds, and any other securities payable from the Net Pledged Revenues, including, without limitation, reserves and any replacement accounts therefor.

Section 921. Adequacy and Applicability of Charges. There shall be charged against users of service pertaining to and users of the System, including the Town, except as provided by Section 922 hereof, such fees, rates and other charges so that the Gross Pledged Revenues shall be adequate to meet the requirements of this and the preceding Sections hereof. Such charges pertaining to the System shall be at least sufficient so that the Gross Pledged Revenues annually are sufficient to pay in each Fiscal Year:

A. Operation and Maintenance Expenses. An amount equal to the annual Operation and Maintenance Expenses for such Fiscal Year,

B. Principal and Interest. An amount equal to 120% of both the principal and interest on the Bonds and any Parity Bonds then Outstanding payable from the Net Pledged Revenues in that Fiscal Year (excluding the reserves therefor); and

C. Deficiencies. Any amounts required to pay all Policy Costs, if any, due and owing and all sums, if any, due and owing to meet then existing deficiencies pertaining to any fund or account relating to the Gross Pledged Revenues or any securities payable therefrom.

Section 922. Limitations Upon Free Service. No free service or facilities shall be furnished by the System, except as hereinafter provided. If the Town elects to use for municipal purposes any water, water facilities, sanitary sewer facilities, or other services and facilities provided by the System or otherwise to use the System or any part thereof, any such use will be paid for from the Town's general fund or from other available revenues other than Gross Pledged Revenues at the reasonable value of the use so made; provided that the Town need not pay for any such use by the Town of any facilities of the water and sanitary sewer system for fire protection purposes. All the income so derived from the Town shall be deemed to be income derived from the operation of the System, to be used and to be accounted for in the same manner as any other income derived from the operation of the System. Nothing in this Ordinance prohibits the Town from waiving any tap fee or development fee imposed as a condition for a user to connect to the System, so long as the user is a governmental body.

Section 923. Levy of Charges. The Town shall forthwith and in any event prior to the delivery of any of the Bonds, fix, establish and levy the fees, rates and other charges which are required by Section 921 of this Ordinance, if such action is necessary therefor. No reduction in any initial or existing rate schedule for the System may be made:

A. Proper Application. Unless the Town has fully complied with the provisions of Article VI of this Ordinance for at least the full Fiscal Year immediately preceding such reduction of the initial or any other existing rate schedule; and

B. Sufficient Revenues. Unless the audit required by the Independent Accountant by Section 927 hereof for the full Fiscal Year immediately preceding such reduction discloses that the estimated revenues resulting from the proposed rate schedule for the System, after the schedule's proposed reduction, shall be at least sufficient to produce the amounts required by Section 921 hereof.

Section 924. Collection of Charges. The Town shall cause all fees, rates and other charges pertaining to the System to be collected as soon as is reasonable, shall reasonably prescribe and enforce rules and regulations or impose contractual obligations for the payment of such charges, and for the use of the System, and shall provide methods of collection and penalties, to the end that the Gross Pledged Revenues shall be adequate to meet the requirements of this Ordinance and any other ordinance supplemental thereto.

Section 925. Procedure for Collecting Charges. All bills for water services or facilities, sanitary sewer services and all other services or facilities furnished or served by or through the System shall be rendered to customers on a regularly established basis. The fees, rates and other charges due shall be collected in a lawful manner, including, without limitation, discontinuance of service.

Section 926. Maintenance of Records. So long as any of the Bonds and any other Parity Bonds payable from the Gross Pledged Revenues remain Outstanding, proper books of record and account shall be kept by the Town, separate and apart from all other records and accounts.

Section 927. Audits Required. The Town, within 60 days following the close of each Fiscal Year, shall order an audit for the Fiscal Year of such books and accounts to be made forthwith by an Independent Accountant, and order an audit report showing the receipts and disbursements for each account pertaining to the System and the Gross Pledged Revenues.

Section 928. Accounting Principles. System records and accounts, and audits thereof, shall be currently kept and made, as nearly as practicable, in accordance with the then generally accepted accounting principles, methods and terminology followed and construed for utility operations comparable to the System, except as may be otherwise provided herein or required by applicable law or regulation or by contractual obligation existing on the effective date of this Ordinance.

Section 929. Insurance and Reconstruction. Except to the extent of any self-insurance, the Town shall at all times maintain with responsible insurers fire and extended coverage insurance, worker's compensation insurance, public liability insurance and all such other insurance as is customarily maintained with respect to utilities of like character against loss of or damage to the System and against loss of revenues and against public and other liability to the extent reasonably necessary to protect the interests of the Town and of each Owner of a Bond. If any useful part of the System shall be damaged or destroyed, the Town shall, as expeditiously as may be possible, commence and diligently proceed with the repair or replacement of the damaged property so as to restore the same to use. The proceeds of any such insurance shall be payable to the Town and (except for proceeds of any use and occupancy insurance) shall be applied to the necessary costs involved in such repair and replacement and to the extent not so applied shall (together with the proceeds of any such use and occupancy insurance) be deposited in the Income Fund by the Town as revenues derived from the operation of the System. If the costs of such repair and replacement of the damaged property exceed the proceeds of such insurance available for the payment of the same, moneys in the Income Fund shall be used to the extent necessary for such purposes, as permitted by Section 611 hereof.

Section 930. Federal Income Tax Exemption. The Town covenants for the benefit of the Owners of the Bonds at any time Outstanding that it will not take any action or omit to take any action with respect to the Bonds, the proceeds thereof, any other funds reasonably expected to be used to pay the principal of or interest on the Bonds, or any other funds of the Town, or any facilities financed or refinanced with the proceeds of the Bonds if such action or omission (a) would cause the interest on the Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, (b) would cause interest on the Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, or (c) cause interest to be included in Colorado taxable income or Colorado alternative minimum taxable income under Colorado income tax laws. In furtherance of this covenant, the Town agrees to comply with the procedures set forth in the Tax Compliance certificate with respect to the Bonds. The foregoing covenant shall remain in full

force and effect notwithstanding the payment in full or defeasance of the Bonds until the date on which all obligations of the Town in fulfilling the above covenant under the Tax Code and Colorado law have been met.

Section 931. Continuing Disclosure. The Town shall comply with the provisions of the Continuing Disclosure Certificate. Any failure by the Town to perform in accordance with this Section shall not constitute an Event of Default under this Ordinance, and the rights and remedies provided by this Ordinance upon the occurrence of an Event of Default shall not apply to any such failure. The Paying Agent shall not have any power or duty to enforce this Section. No Owner of a Bond shall be entitled to damages for the Town's non-compliance with its obligations under this Section.

ARTICLE X

PRIVILEGES, RIGHTS AND REMEDIES

Section 1001. Owners' Remedies. Each Owner of any Bond shall be entitled to all of the privileges, rights and remedies provided or permitted in the Charter and this Ordinance, and as otherwise provided or permitted by law or in equity or by any statutes, except as provided in Sections 202 through 206 hereof, but subject to the provisions herein concerning the pledge of and the covenants and the other contractual provisions concerning the Gross Pledged Revenues and the proceeds of the Bonds.

Section 1002. Right to Enforce Payment. Nothing in this Article affects or impairs the right of any Owner of any Bond to enforce the payment of the Bond Requirements due in connection with his or her Bond or the obligation of the Town to pay the Bond Requirements of each Bond to the Owner thereof at the time and the place expressed in the Bond.

Section 1003. Events of Default. Each of the following events is hereby declared an "Event of Default," provided however, that in determining whether a payment default has occurred pursuant to paragraphs A or B of this Section, no effect shall be given to payments made under the Insurance Policy:

A. Nonpayment of Principal. Payment of the principal of any of the Bonds is not made when the same becomes due and payable, either at maturity or by proceedings for prior redemption, or otherwise;

B. Nonpayment of Interest. Payment of any installment of interest on any of the Bonds is not made when the same becomes due and payable;

C. Cross Defaults. The occurrence and continuance of an "event of default," as defined in any Parity Bond Ordinance;

D. Failure to Reconstruct. The Town unreasonably delays or fails to carry out with reasonable dispatch the reconstruction of any part of the System which is destroyed or damaged and is not promptly repaired or replaced (whether such failure promptly to repair the same is due to impracticability of such repair or replacement or is due to a lack of moneys therefor or for any other reason), but it shall not be an Event of Default if such reconstruction is not essential to the efficient operation of the System;

E. Appointment of Receiver. An order or decree is entered by a court of competent jurisdiction with the consent or acquiescence of the Town appointing a receiver or receivers for the System or for the Gross Pledged Revenues and any other moneys subject to the lien to secure the payment of the Bonds, or if an order or decree having been entered without the consent or acquiescence of the Town is not vacated or discharged or stayed on appeal within 60 days after entry; and

F. Default Under Insurance Agreement. If an event of default shall have occurred and be continuing under the provisions of the Insurance Agreement; and

G. Default of Any Provision. The Town defaults in the due and punctual performance of any other of the representations, covenants, conditions, agreements and other provisions contained in the Bonds or in this Ordinance on its part to be performed (other than Section 931 hereof), and such default continues for 60 days after written notice specifying such default and requiring the same to be remedied is given to the Town and the Insurer specifying the failure and requiring that it be remedied, which notice may be given by the Paying Agent in its discretion and shall be given by the Paying Agent at the written request of the Owners of not less than 25 percent in aggregate principal amount of Bonds then Outstanding.

Section 1004. Remedies for Defaults. Upon the happening and continuance of any Event of Default, the Owner or Owners of not less than a majority principal amount of the Bonds then Outstanding, including, without limitation, a trustee or trustees therefor, may proceed against the Town and its agents, officers and employees to protect and to enforce the rights of any Owner of Bonds under this Ordinance by mandamus or by other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award of execution of any power herein granted for the enforcement of any proper legal or equitable remedy as such Owner or Owners may deem most effectual to protect and to enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any Owner of any Bond, or to require the Town to act as if it were the trustee of an expressed trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Bonds and any other Parity Bonds.

Section 1005. Receiver's Rights and Privileges. Any receiver appointed in any proceedings to protect the rights of such Owners hereunder, the consent to any such appointment being hereby expressly granted by the Town, may enter and may take possession of the System, may operate and maintain the same, may prescribe fees, rates and other charges, and may collect, receive and apply all Gross Pledged Revenues arising after the appointment of such receiver in the same manner as the Town itself might do.

Section 1006. Rights and Privileges Cumulative. The failure of any Owner of any Outstanding Bond to proceed in any manner herein provided shall not relieve the Town, or any of its officers, agents or employees of any liability for failure to perform or carry out any duty, obligation or other commitment. Each right or privilege of any such Owner (or trustee thereof) is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any Owner shall not be deemed a waiver of any other right or privilege thereof.

Section 1007. Duties upon Defaults. Upon the happening of any Event of Default, the Town shall do and perform all proper acts on behalf of and for the Owners of Bonds to protect and to preserve the security created for the payment of the Bonds and to insure the payment of the Bond Requirements promptly as the same become due. While any Event of

Default exists, except to the extent it may be unlawful to do so, all Gross Pledged Revenues shall be paid into the Bond Fund and into bond or similar funds established for other Parity Bonds then Outstanding, pro rata based upon the aggregate principal amount of the Bonds and Parity Bonds then Outstanding. If the Town fails or refuses to proceed as in this Section provided, the Owner or Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, after demand in writing, may proceed to protect and to enforce the rights of the Owners of the Bonds as hereinabove provided, and to that end any such Owners of the Outstanding Bonds shall be subrogated to all rights of the Town under any agreement, lease or other contract involving the System or the Gross Pledged Revenues entered into prior to the effective date of this Ordinance or thereafter while any of the Bonds are Outstanding.

ARTICLE XI

AMENDMENT OF ORDINANCE

Section 1101. Privilege of Amendments.

A. Except as hereafter provided, this Ordinance may be amended or supplemented by ordinances adopted by the Council in accordance with law, including the Charter, without receipt by the Town of any additional consideration, but with the written consent of the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the adoption of such amendatory or supplemental ordinance excluding, pursuant to Section 102 B hereof, any Bonds which may then be held or owned for the account of the Town. Notwithstanding the foregoing, no such ordinance shall permit:

(1) Changing Payment. A change in the maturity, terms of redemption or interest payment of any Outstanding Bond; or

(2) Reducing Return. A reduction in the principal amount of any Bond or the rate of interest thereon, without the consent of the Owner of the Bond; or

(3) Prior Lien. The creation of a lien upon or a pledge of revenues ranking prior to the lien or to the pledge created by this Ordinance; or

(4) Modifying Any Bond. A reduction of the principal amount or percentages or otherwise affecting the description of Bonds the consent of the Owners of which is required for any such modification or amendment; or

(5) Priorities Between Bonds The establishment of priorities as between Bonds issued and Outstanding; or

(6) Modification of Less Than All the Bonds. The modification of or otherwise affecting the rights of the Owners of less than all of the Outstanding Bonds.

B. Notwithstanding the foregoing provisions of this Section, this Ordinance and the rights and obligations of the Town and of the Owners of the Bonds may also be modified or amended at any time, without the consent of any Owners of the Bonds, but only to the extent permitted by law and only for any or all of the following purposes:

(1) to add to the covenants and agreements of the Town in this Ordinance contained other covenants and agreements thereafter to be observed;

(2) to subject to the covenants and agreements of the Town in this Ordinance additional System revenues, to be defined and treated as Gross Pledged Revenues, for the purpose of providing additional security for the Bonds and any Parity Bonds;

(3) in connection with the provision of a Reserve Fund Insurance Policy subsequent to the issuance of the Bonds;

(4) to provide for the appointment of a new Paying Agent; or

(5) to make such provisions for the purpose of curing any ambiguity or of curing or correcting any formal defect or omission in this Ordinance, or in regard to questions arising under this Ordinance, as the Town may deem necessary or desirable, and which shall not adversely affect the interests of the Owners of the Bonds.

(6) In order to preserve or protect the excludability from gross income for federal income tax purposes of the interest allocable to the Bonds.

Section 1102. Notice of Amendment. Whenever the Council proposes to amend or modify this Ordinance under the provisions of this Article, it shall cause notice of the proposed amendment to be mailed to Owners of all Outstanding Bonds at their addresses as the same last appear on the registration records maintained by the Paying Agent and to the Insurer. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory ordinance is on file in the office of the Clerk for public inspection. Notice of the proposed amendment, together with a copy of the proposed amendatory ordinance, shall be delivered to the Rating Agencies then maintaining a rating on the Bonds at least 15 days in advance of the adoption of the amendment. A full transcript of all proceedings relating to the execution of such amendatory ordinance shall be provided to the Insurer.

Section 1103. Time for Amendment. If the Ordinance is required to be consented to by the Owners of the Bonds, whenever at any time within one year from the date of the giving of such notice there shall be filed with the Clerk an instrument or instruments executed by the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, which instrument or instruments shall refer to the proposed amendatory ordinance described in such notice and shall specifically consent to and approve the adoption of such ordinance, the Council may adopt such amendatory ordinance and such ordinance shall become effective. If the ordinance is not required to be consented to by the Owners of the Bonds, the amendatory ordinance may be adopted by the Council at any time.

Section 1104. Binding Consent to Amendment. If the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the adoption of such amendatory ordinance requiring consent of the Owners of the Bonds, or the predecessors in title of such Owners, shall have consented to and approved the adoption thereof as herein provided, no Owner of any Bond, whether or not such Owner shall have consented to or shall have revoked any consent as in this Article provided, shall have any right or interest to object to the adoption of such amendatory ordinance or to object to any of the terms or provisions therein contained or to the operation thereof or to enjoin or restrain the Town from taking any action pursuant to the provisions thereof.

Section 1105. Time Consent Binding. Any consent given by the Owner of a Bond pursuant to the provisions of this Article shall be irrevocable for a period of 6 months from the date of the giving of the notice above provided for and shall be conclusive and binding upon all future Owners of the same Bond during such period. Such consent may be revoked at any

time after 6 months from the date of such giving of such notice by the Owner who gave such consent or by a successor in title by filing notice of such revocation with the Clerk, but such revocation shall not be effective if the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding as in this Article provided, prior to the attempted revocation, consented to and approved the amendatory ordinance referred to in such revocation.

Section 1106. Unanimous Consent. Notwithstanding anything in the foregoing provisions of this Article, the terms and provisions of this Ordinance or of any ordinance amendatory thereof or supplemental thereto and the rights and the obligations of the Town and of the Owners of the Bonds thereunder may be modified or amended in any respect upon the adoption by the Town and upon the filing with the Clerk of an ordinance to that effect and with the consent of the Insurer and of the Owners of all the then Outstanding Bonds, such consent to be given as provided in Section 1103 hereof; and no notice to Owners of Bonds shall be required as provided in Section 1102 hereof, nor shall the time of consent be limited except as may be provided in such consent.

Section 1107. Exclusion of Town's Bonds. At the time of any consent or of other action taken under this Article, the Town shall furnish to the Clerk a certificate of the Finance Director, upon which the Town may rely, describing all Bonds to be excluded for the purpose of consent or of other action or of any calculation of Outstanding Bonds provided for in this Article, and the Town shall not be entitled with respect to such Bonds to give any consent or to take any other action provided for in this Article, as provided in Section 102 B hereof.

Section 1108. Notation on Bonds. Bonds authenticated and delivered after the effective date of any action taken as in this Article provided may bear a notation by endorsement or otherwise in form approved by the Council as to such action; and after the approval of such notation, then upon demand of the Owner of any Bond Outstanding and upon presentation of his or her Bond for that purpose at the principal office of the Paying Agent, suitable notation shall be made on such Bond by the Paying Agent as to any such action. If the Council so determines, new Bonds, so modified as in the opinion of the Council conform to such action, shall be prepared, executed, authenticated and delivered; and upon demand of the Owner of any Bond then Outstanding, shall be exchanged without cost to such Owner for Bonds then Outstanding upon surrender of such Bonds.

Section 1109. Proof of Instruments and Bonds. The fact and date of execution of any instrument under the provisions of this Article, the amount and number of the Bonds held by any Person executing such instrument, and the date of his or her holding the same may be proved as provided by Section 1203 hereof.

Section 1110. Copies of Supplemental Ordinances to Rating Agencies. Copies of any supplemental or amendatory ordinance shall be sent by the Town to the Rating Agencies at least 10 days prior to the effective date thereof.

ARTICLE XII MISCELLANEOUS

Section 1201. Defeasance. If, when the Bonds shall be paid in accordance with their terms (or payment of the Bonds has been provided for in the manner set forth in the following paragraph), together with all other sums payable hereunder, then this Ordinance and all rights granted hereunder shall thereupon cease, terminate and become void and be discharged and satisfied. Also if all Outstanding Bonds shall have been purchased by the Town and delivered to the Paying Agent for cancellation, and all other sums payable hereunder have been paid, or provision shall have been made for the payment of the same, then this Ordinance and all rights granted hereunder shall thereupon cease, terminate and become void and be discharged and satisfied.

Payment of any Outstanding Bond shall prior to the maturity or Redemption Date thereof be deemed to have been provided for within the meaning and with the effect expressed in this Section if (a) in case said Bond is to be redeemed on any date prior to its maturity, the Town shall have given to the Paying Agent in form satisfactory to it irrevocable instructions to give on a date in accordance with the provisions of Section 404 hereof notice of redemption of such Bond on said Redemption Date, such notice to be given in accordance with the provisions of Section 404 hereof, (b) there shall have been deposited with the Paying Agent or other Trust Bank either moneys in an amount which shall be sufficient, or Federal Securities which shall not contain provisions permitting the redemption thereof at the option of the issuer, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held by the Paying Agent or other Trust Bank at the same time, shall be sufficient to pay when due the Bond Requirements due and to become due on said Bond on and prior to the Redemption Date or maturity date thereof, as the case may be, and (c) in the event said Bond is not by its terms subject to redemption within the next sixty days, the Town shall have given the Paying Agent in form satisfactory to it irrevocable instructions to give, as soon as practicable in the same manner as the notice of redemption is given pursuant to Section 404 hereof, a notice to the Owner of such Bond that the deposit required by (b) above has been made with the Paying Agent or other Trust Bank and that payment of said Bond has been provided for in accordance with this Section and stating such maturity or Redemption Date upon which moneys are to be available for the payment of the Bond Requirements of said Bond. Neither such securities nor moneys deposited with the Paying Agent or other Trust Bank pursuant to this Section or principal or interest payments on any such Federal Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Bond Requirements of said Bond; provided any cash received from such principal or interest payments on such Federal Securities deposited with the Paying Agent or other Trust Bank, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities of the type described in (b) of this paragraph maturing at times and in amounts sufficient to pay when due the Bond Requirements to become due on said Bond on or prior to such Redemption Date or maturity date thereof, as the case may be. At such time as payment of a Bond has been provided for as aforesaid, such Bond shall no longer be secured by or entitled to the benefits of this Ordinance, except for the purpose of any payment from such moneys or securities deposited with the Paying Agent or other Trust Bank.

The release of the obligations of the Town under this Section shall be without prejudice to the right of the Paying Agent to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable expenses, charges and other disbursements incurred on or about the administration of and performance of its powers and duties hereunder.

Upon compliance with the foregoing provisions of this Section with respect to all Bonds then Outstanding, this Ordinance may be discharged in accordance with the provisions of this Section but the liability of the Town in respect of the Bonds shall continue; provided that the Owners thereof shall thereafter be entitled to payment only out of the moneys or Federal Securities deposited with the Paying Agent or other Trust Bank as provided in this Section.

Section 1202. Delegated Powers. The officers and employees and agents of the Town be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including, without limitation:

A. Final Certificates. the execution of such certificates as may be reasonably required by the Purchaser, including the Continuing Disclosure Certificate and Insurance Agreement, if any;

B. Paying Agent Agreement. the execution and delivery of an agreement with the Paying Agent necessary or desirable to evidence the acceptance by the Paying Agent of its duties hereunder;

C. Official Statement. the execution and delivery of the final Official Statement; and

D. Bond Purchase Agreement. the execution and delivery of the Purchase Contract between the Town and the Purchaser.

Section 1203. Evidence of Bond Owners. Any request, consent or other instrument which this Ordinance may require or may permit to be signed and to be executed by the Owners of any Bonds may be in one or more instruments of similar tenor and shall be signed or shall be executed by each such Owner in person or by his or her attorney appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or the holding by any Person of the Bonds shall be sufficient for any purpose of this Ordinance (except as otherwise herein expressly provided) if made in the following manner:

A. Proof of Execution. The fact and the date of the execution by any Owner of any Bonds or his or her attorney of such instrument may be established by a certificate, which need not be acknowledged or verified, of an officer of a bank or trust company satisfactory to the Mayor, Town Manager or the Finance Director or of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he or she purports to act, that the individual signing such request or other instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer; the authority of the individual or individuals executing any such instrument on behalf of a corporate Owner of any securities may be established without further proof if such instrument is signed by an individual purporting to be the president or vice

president of such corporation with a corporate seal affixed and attested by an individual purporting to be its secretary or an assistant secretary; and the authority of any Person or Persons executing any such instrument in any fiduciary or representative capacity may be established without further proof if such instrument is signed by a Person or Persons purporting to act in such fiduciary or representative capacity; and

B. Proof of Holdings. The amount of Bonds held by any Person and the numbers, date and other identification thereof, together with the date of his or her holding the Bonds, shall be proved by the registration records maintained by the Paying Agent.

Section 1204. Parties Interested Herein. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any Person, other than the Town, the Paying Agent, the Insurer and the Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the Town shall be for the sole and exclusive benefit of the Town, the Paying Agent, the Insurer, Surety Provider and the Owners of the Bonds.

Section 1205. Notices. Except as otherwise may be provided in this Ordinance, all notices, certificates, requests or other communications pursuant to this Ordinance shall be in writing and shall be sufficiently given and shall be deemed given by personal delivery or when mailed by first class mail, and either delivered or addressed as follows:

If to the Town at:

Town of Castle Rock, Colorado
100 Wilcox Street
Castle Rock, Colorado 80104
Attention: Finance Director

With a copy to:

Town Attorney
Town of Castle Rock, Colorado
100 Wilcox Street
Castle Rock, Colorado 80104

If to the Paying Agent at:

UMB Bank, n.a.
Corporate Trust Services
1670 Broadway
Denver, Colorado 80202
Attention: Corporate Trust and Escrow Services

Any of the foregoing Persons may, by notice given hereunder to each of the other Persons, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 1206. Additional Notices to Rating Agencies. The Paying Agent hereby agrees that if at any time (a) the Town shall redeem any portion of the Bonds Outstanding prior to maturity, but excluding redemptions pursuant to Section 402 hereof, (b) the Town shall provide for the payment of any portion of the Bonds pursuant to Section 1201 hereof, (c) a successor Paying Agent is appointed hereunder, or (d) any supplement to this Ordinance shall become effective or any Person shall waive any provision of this Ordinance, then, in each case, the Paying Agent shall give notice to each Rating Agency.

Section 1207. Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any rights, as provided in this Ordinance, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal date.

AFTER PUBLICATION ONCE BY TITLE AND SUMMARY (WITH NOTICE THAT THE ENTIRE TEXT OF THE PROPOSED ORDINANCE IS AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICE OF THE TOWN CLERK) THIS ORDINANCE WAS INTRODUCED, READ BY TITLE, PASSED ON FIRST READING, AND APPROVED THIS 4th DAY OF JANUARY, 2022.

TOWN OF CASTLE ROCK, COLORADO

Mayor

ATTEST:

Town Clerk

FINALLY ADOPTED AND APPROVED AS AN EMERGENCY MEASURE TO BECOME EFFECTIVE UPON ADOPTION AND ORDERED PUBLISHED ONCE BY TITLE AND SUMMARY (WITH NOTICE THAT THE ENTIRE TEXT OF THE PROPOSED ORDINANCE IS AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICE OF THE TOWN CLERK) THIS 18TH DAY OF JANUARY, 2022.

Mayor

(SEAL)

Attest:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

First Publication Date: [____], 2022

Second Publication Date: [____], 2022

EXHIBIT A
(FORM OF BOND)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Town or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA

STATE OF COLORADO

COUNTY OF DOUGLAS

**TOWN OF CASTLE ROCK, COLORADO
WATER AND SEWER ENTERPRISE REVENUE BOND
SERIES 2022**

No. R- _____ \$ _____

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED AS OF</u>	<u>CUSIP</u>
_____ %	December 1, 20__	March 3, 2022	_____

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ DOLLARS

The Town of Castle Rock (the "Town"), in the County of Douglas and State of Colorado (the "State"), for value received, hereby promises to pay to the registered owner specified above, or registered assigns, upon the presentation and surrender of this bond, solely from the special funds provided therefor, as hereinafter set forth, the principal amount set forth above on the maturity date specified above (unless this bond shall have been called for prior redemption, in which case on the Redemption Date) and to pay solely from such special funds interest hereon at the interest rate per annum specified above, payable semiannually on June 1 and December 1 in each year, beginning on _____, until the principal amount is paid or payment has been provided for, as described in an ordinance adopted by the Town Council of the Town on January 18, 2022 (the "Ordinance"). This is one of an authorized series of bonds issued under the Ordinance (the "Bonds"). The Bonds are all issued under and equally and ratably secured by and entitled to the security of the Ordinance. To the extent not defined herein, terms used in this Bond shall have the same meanings as set forth in the Ordinance. This Bond bears interest, matures, is payable, is subject to redemption and is transferable as provided in the Ordinance.

Reference is made to the Ordinance and to all ordinances supplemental thereto, with respect to the nature and extent of the security for the Bonds, the accounts, funds or revenues pledged, rights, duties and obligations of the Town, the Paying Agent and the Insurer, the Surety Provider, the rights of the Owners of the Bonds, the events of defaults and remedies, the circumstances under which any Bond is no longer Outstanding, the issuance of additional bonds and the terms on which such additional bonds may be issued under and secured by the Ordinance, the ability to amend the Ordinance, and to all the provisions of which the Owner hereof by the acceptance of this Bond assents.

THE BONDS ARE ISSUED PURSUANT TO AND IN FULL COMPLIANCE WITH THE CONSTITUTION AND LAWS OF THE STATE OF COLORADO, AND PURSUANT TO THE ORDINANCE. THE BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE TOWN, SECURED BY THE NET PLEDGED REVENUES. THE BONDS DO NOT CONSTITUTE A DEBT OF THE TOWN, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE TOWN, THE STATE NOR ANY OF THE POLITICAL SUBDIVISIONS THEREOF IS LIABLE THEREFOR. NEITHER THE MEMBERS OF THE TOWN COUNCIL NOR ANY PERSONS EXECUTING THIS BOND SHALL BE PERSONALLY LIABLE FOR THIS BOND.

It is certified, recited and warranted that all the requirements of law have been fully complied with by the proper officers of the Town in the issuance of this Bond; that it is issued pursuant to and in strict conformity with the Constitution of the State, with the Charter of the Town, and with the Ordinance and any ordinances supplemental thereto; and that this Bond does not contravene any Constitutional, statutory or Charter limitation.

It is also certified, recited, and warranted that the Bonds are issued under the authority of the Ordinance, and the Supplemental Public Securities Act. It is the intention of the Town, as expressed in the Ordinance, that pursuant to Section 11-57-210, C.R.S., such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value and that all of the Bonds issued are incontestable for any cause whatsoever after their delivery for value.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the certificate of authentication hereon shall have been duly executed by the Paying Agent.

IN WITNESS WHEREOF, the Town has caused this Bond to be signed and executed in its name and upon its behalf with the facsimile signature of its Mayor, has caused the facsimile of the seal of the Town to be affixed hereon and has caused this Bond to be signed, executed and attested with the facsimile signature of its Town Clerk, all as of the date specified above.

TOWN OF CASTLE ROCK, COLORADO

(FACSIMILE SEAL)
ATTEST:

By _____ (For Facsimile Signature)
Mayor

(For Facsimile Signature)
Town Clerk

(END OF FORM OF BOND)

(FORM OF CERTIFICATE OF AUTHENTICATION)

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within mentioned Ordinance.

UMB Bank, n.a., Denver, Colorado, as
Paying Agent

By _____
Authorized Signatory

Date of Authentication and Registration: _____

(END OF FORM OF CERTIFICATE OF AUTHENTICATION)

(FORM OF ASSIGNMENT)

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ the within bond and hereby irrevocably constitutes and appoints _____ attorney, to transfer the same on the records of the Registrar, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed by a member
of the Medallion Signature Program:

Address of transferee:

Social Security or other tax
identification number of transferee:

NOTE: The signature to this Assignment must correspond with the name as written on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

EXCHANGE OR TRANSFER FEES MAY BE CHARGED

(END OF FORM OF ASSIGNMENT)

(FORM OF PREPAYMENT PANEL)

PREPAYMENT PANEL

The following installments of principal (or portion thereof) of this bond have been prepaid in accordance with the terms of the Bond Ordinance authorizing the issuance of this bond.

<u>Date of Prepayment</u>	<u>Principal Prepaid</u>	<u>Signature of Authorized Representative of the Depository</u>

(END OF FORM OF PREPAYMENT PANEL)

STATE OF COLORADO)
)
 COUNTY OF DOUGLAS) SS.
)
 TOWN OF CASTLE ROCK)

I, Lisa Anderson, the duly elected, qualified and acting Town Clerk of the Town of Castle Rock, Colorado (the “Town”) do hereby certify:

1. That the foregoing pages are a true, correct, and complete copy of an emergency ordinance (the “Ordinance”) concerning the Town’s Water and Sewer Enterprise Bonds, Series 2022, adopted by the Town Council (the “Council”) of the Town, at regular meetings of the Council held at the Town Hall on January 4, 2022 and January 18, 2022.

2. The Ordinance was adopted on first reading at an open, regular meeting of the Council on Tuesday, January 4, 2022, by an affirmative vote of the members of the Council as follows:

Name	“Yes”	“No”	Absent	Abstain
Jason Gray, Mayor				
Kevin Bracken, Mayor Pro Tem – District 3				
Ryan Hollingshead – District 1				
Laura Cavey – District 2				
Desiree LaFleur – District 4				
Caryn Johnson – District 5				
Tim Dietz - District 6				

3. The Ordinance was passed on second and final reading as an emergency ordinance on Tuesday, January 18, 2022, by an affirmative vote of three fourths (3/4) of the members of the Council as follows:

Name	“Yes”	“No”	Absent	Abstain
Jason Gray, Mayor				
Kevin Bracken, Mayor Pro Tem – District 3				
Ryan Hollingshead – District 1				
Laura Cavey – District 2				
Desiree LaFleur – District 4				
Caryn Johnson – District 5				
Tim Dietz - District 6				

4. The Ordinance has been signed by the Mayor, sealed with the corporate seal of the Town, attested by me as Town Clerk, and duly recorded in the books of the Town; and that the same remains of record in the book of records of the Town.

5. That notice of the regular meetings of January 4, 2022 and January 18, 2022, in the forms attached hereto as **Exhibit A**, was posted and published prior to first reading pursuant to Section 2.02.100.C of the Municipal Code.

6. That prior to adoption on first reading, the Ordinance was posted on the Town's website (www.CRgov.com) on December [___], 2021, at [TIME], which is not later than 12:00 p.m., five (5) calendar days prior to the meeting of January 4, 2022, along with a notice containing the title of the ordinance; a brief summary of the subject matter of the ordinance; where the ordinance can be inspected; The full text of the proposed ordinance; and the date, time and place of the meeting at which the ordinance will be considered and public comment taken.

7. Following adoption after first reading and second reading and final adoption, the Ordinance was posted on the Town's website on January [___], 2022, at [TIME], along with a notice containing a summary of the subject matter of the ordinance and identifying the location where the ordinance is available for public inspection. Such post-adoption notice shall be posted no later than five (5) business days after adoption and remain posted for thirty (30) days post-adoption which date is not later than five (5) business days after adoption, and such ordinance shall remain posted for thirty (30) days post adoption.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town this ____ day of _____, 2022.

(SEAL)

Town Clerk

EXHIBIT A

(Attach Notice of Meetings)

CASTLE ROCK WATER

**ORDINANCE AUTHORIZING THE SALE OF
WATER AND SEWER ENTERPRISE REVENUE
BONDS, SERIES 2022, IN AN AGGREGATE
PRINCIPAL AMOUNT NOT TO EXCEED
\$30,000,000, FIRST READING**

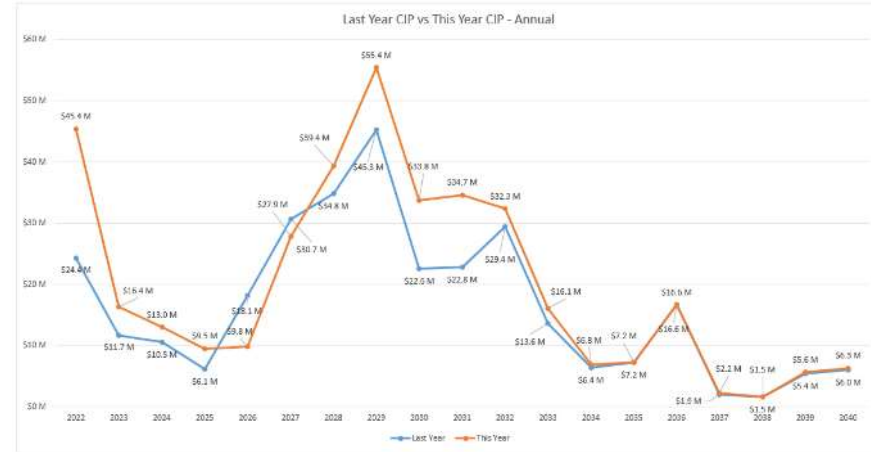
JANUARY 4, 2022



\$30M REVENUE BOND ORDINANCE

BACKGROUND

- Future Capital Needs
 - 2021 Rates & Fees Study investments of \$523M vs. \$477M projected in 2020
 - Long term capital plan calls for increases of \$32M by 2025 and \$65M by 2040
 - Rate model indicated need for large rate increases beginning in 2029
- Current Borrowing Market
 - Hilltop Securities confirmed that current interest rates are low
 - Advantageous for Castle Rock Water (CRW) to issue new debt sooner than later
 - Interest rate at or below 2.5%



\$30M REVENUE BOND ORDINANCE

REVENUE BOND DETAILS

- Bond Details
 - Negotiated sale
 - \$30M
 - 2.5% interest or less
 - 20 year term
 - \$325K borrowing cost
 - \$1.8M annual debt service payments
- CRW Ratings
 - CRW Moody's rating = AA+
 - CRW S&P rating = AA2
- Revenue bonds do not require the issuance going to vote

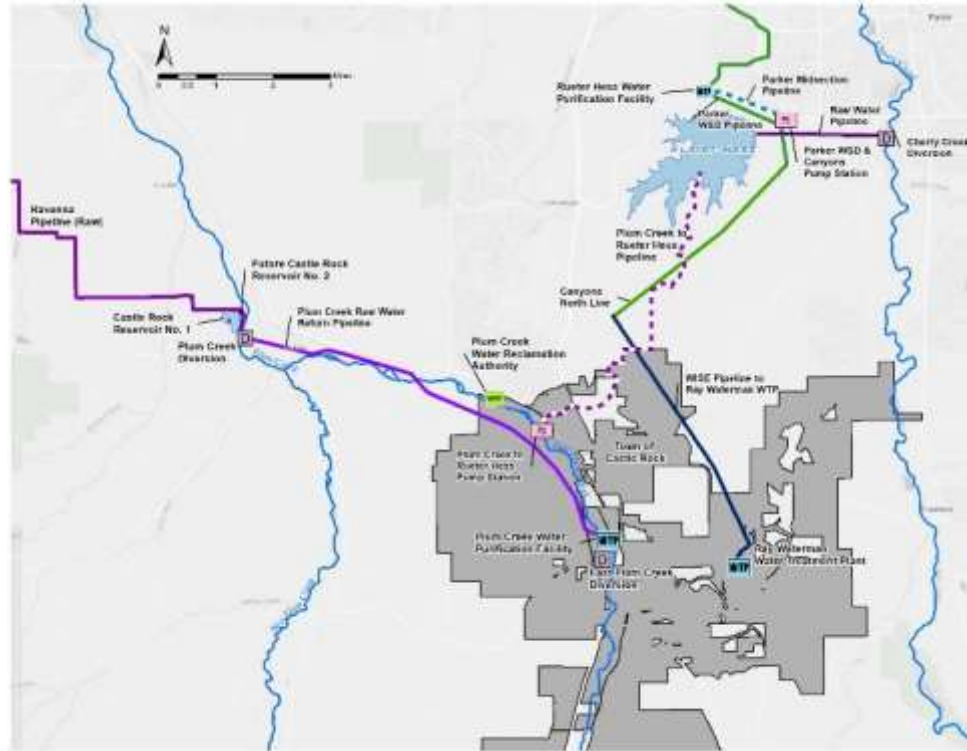
\$30M REVENUE BOND ORDINANCE

PROJECTS ANTICIPATED TO BE FUNDED WITH DEBT

- Parker Midsection Pipeline
 - Support additional conveyance capacity we receive from WISE project
 - \$13M estimated cost
- Castle Rock Reservoir 2 Reservoir Project
 - 822 acre foot reservoir on property in Sedalia
 - \$11.5M estimated cost
- Newlin Gulch Pipeline and Pump Station
 - New pipeline and pump station to move raw water from the PC Basin to RH Reservoir for storage
 - \$10M estimated cost

\$30M REVENUE BOND ORDINANCE

PROJECTS ANTICIPATED TO BE FUNDED WITH DEBT



\$30M REVENUE BOND ORDINANCE

BUDGET, SCHEDULE, RECOMMENDATIONS

- **Timeline**

- Town Council First Reading – January 4, 2022
- Rating Call – January 10, 2022
- Second Reading on Emergency Adoption – January 18, 2022
- Rating Received – January 20, 2022
- Post Offering Statement – January 25, 2022
- Bond Sale – February 1, 2022
- Closing – February 10, 2022
- Final Maturity – November 1, 2042

- **First Quarter Budget Amendment**

- **Recommendations**

- Staff
- Water Commission

- **Questions?**

\$30M REVENUE BOND ORDINANCE

MOTION OPTIONS

PROPOSED MOTION:

“I move to approve the Ordinance as introduced by title on First Reading.”

ALTERNATIVE MOTIONS:

- “I move to approve the Ordinance as introduced by title, with the following conditions: (list conditions).”*
- “I move to continue this item to the Town Council meeting on ____ date to allow additional time to (list information needed).”*



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 13. **File #:** RES 2022-005

To: Honorable Mayor and Members of Town Council

Through: David L. Corliss, Town Manager

From: Mark Marlowe, P.E., Director of Castle Rock Water

Resolution Approving a Service Agreement Between the Town of Castle Rock and Muller Engineering Company, Inc., for the McMurdo Gulch Stream Reclamation Priority 3 Project. [McMurdo Gulch south of the intersection of Castle Oaks Drive and Autumn Sage Street]

Executive Summary

Castle Rock Water is seeking Town Council approval of a Resolution (**Attachment A**) awarding a Services Agreement with Muller Engineering Company, Inc., (Muller) for the McMurdo Gulch Stream Reclamation Priority 3 Project in the amount of \$499,803 plus a 10% Town-managed contingency in the amount of \$49,980 for a total authorization of \$549,783. The project is located adjacent to Castle Oaks Drive, at four sites south of the intersection of Castle Oaks Drive and Autumn Sage Street; see Project Site Map (**Attachment B**).

The scope of work generally includes engineering design for restorative grade control structures, bank protection, channel grading, trails coordination and existing Civilian Conservation Corps (CCC) drop structure rehabilitation.

This project will be funded through the Stormwater Enterprise Fund, a developer contribution and through a Participation Agreement from the Cherry Creek Basin Water Quality Authority (Authority), with a project budget as follows:

Funding Source	Engineering Design	Engineering Construction Services	Construction	Total Project Cost
Developer Contribution	\$ 225,000	\$ 0	\$ 1,545,250	\$ 1,770,250
Cherry Creek Basin Water Quality Authority (25%)	\$ 170,121	\$ 82,443	\$ 824,431	\$ 1,076,995
Town of Castle Rock Stormwater	\$ 285,362	\$ 247,330	\$ 928,043	\$ 1,460,735

TOTAL	\$ 680,483	\$ 329,773	\$ 3,297,724	\$ 4,307,980
-------	------------	------------	--------------	--------------

Design and permitting are scheduled to be complete in summer of 2023, and construction will be complete in spring of 2024.

Notification and Outreach Efforts

The project is generally located within Town-owned open space and vacant land owned by Starwood Land Ventures. Town staff will work with the developer to obtain the necessary easements to construct the project. Three adjacent residential lots in unincorporated Douglas County and one HOA parcel may require additional easements and will be evaluated as part of this scope. Alternatives will be evaluated to eliminate and/or minimize the need for additional easements. If additional easements are required, Town staff will follow appropriate Town policy for acquisition. Project details and updates are also provided on the Town website, CRgov.com.

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

Town Council approved a Subdivision Improvement Agreement with Stratus Terrain, LLC for the Terrain North Basin on October 8, 2021, which obligated funds for design of this project in the amount of \$225,000.

The Cherry Creek Basin Water Quality Authority approved their 2022 Budget on November 18, 2021, which included an allocation of funds under their capital plan for design of this project in the amount of \$170,121.

Castle Rock Water staff will present this design contract to the Castle Rock Water Commission at their meeting to be held on January 26, 2022.

Discussion

McMurdo Gulch is a western tributary to Cherry Creek, extending along the eastern edge of the Town. The entire McMurdo Gulch channel is approximately 6.7 miles long from the headwaters to the confluence with Cherry Creek and encompasses a tributary area of approximately 6.5 square miles.

The Authority has been a funding partner with the Town on McMurdo Gulch since 2011. The original project in 2011 totaled approximately \$1.5 million, of which the Authority contributed \$630,000. Those improvements showed tremendous success and demonstrated a measurable improvement to nutrient concentrations through the Authority's annual monitoring program. In 2017, the Town conducted a stream assessment following significant growth in the upper headwaters of McMurdo Gulch.

In 2020, the Town completed the Priority 1 Improvements at four locations where the channel was experiencing stream degradation. The total length of these four areas was approximately two thousand lineal feet at a project cost totaling approximately \$1.677 million, of which the Authority contributed \$420,000.

Priority 2 Improvements are currently under construction and includes four locations (approximate length of 3,100 lineal feet) where the channel was experiencing stream degradation. This project is estimated to cost \$2.227 million, of which the Authority will contribute up to \$615,000.

The Town issued a Request for Proposals (RFP) for design of the McMurdo Gulch Priority 3 Project on October 27, 2021, on the Town's Rocky Mountain Bid Net site. Four consultants attended the pre-proposal meeting, and one (1) proposal was received from Muller Engineering Company, Inc. Town staff reviewed the proposal and found Muller qualified based on the set of criteria included in the RFP. Following the qualification-based selection process, the fee schedule was opened and reviewed. Review found the fee to be reasonable for the proposed scope included in the fee proposal. Muller's fee was \$499,803.

To aid in evaluating Muller's proposed design fee since only one proposal was received, Muller's 2021 Priority 3 design fee (\$499,803) was compared to the 2021 project construction budget (\$3,297,724) as a percentage (15.2%). Muller's 2019 Priority 2 design fee (\$329,008) was compared to the 2019 project construction engineer's estimate (\$2,130,364) as a percentage (15.4%). Muller's 2018 design fee (\$183,822) was compared to the 2018 construction low bid cost (\$1,054,973) as a percentage (17.3%). Based on this evaluation, Muller's proposed Priority 3 design fee was found to be a consistent value for the project size and scope. Muller's proposal and fee combination represented the best value for the Town in terms of project approach and understanding, technical expertise and scope of services provided.

Budget Impact

Funds for this Services Agreement will be charged to the Stormwater capital account below. Sufficient stormwater funds for this project are included in the 2022 budget. Additionally, the Town has received funds from Stratus Terrain, LLC in the amount of \$225,000 and has requested engineering design funding from the Authority in the amount of \$170,121. It is anticipated that the Authority Board will review and approve this funding through the Participation Agreement at their January 20, 2022 Board meeting.

<i>Fund Description</i>	<i>Account Number</i>	<i>Amount</i>	<i>Contingency</i>	<i>Total</i>	<i>2022 Budget</i>
<i>McMurdo Gulch Stream Stbl</i>	<i>212-4475-444.75-51</i>	<i>\$499,803</i>	<i>\$49,980</i>	<i>\$549,783</i>	<i>\$680,483</i>

Staff Recommendation

Staff recommends Town Council approval of a Resolution awarding a Services Agreement with Muller Engineering Company, Inc., for the McMurdo Gulch Stream Reclamation Priority 3 Project at a cost of **\$499,803** plus a 10% Town-managed contingency in the amount of \$49,980 for a total authorization in the amount of \$549,783.

Proposed Motion

Item #: 13. File #: RES 2022-005

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

Alternative Motions

"I move to approve the resolution as introduced by title, with the following conditions: (list conditions)."

"I move to continue this item to the Town Council meeting on _____ date to allow additional time to (list information needed)."

Attachments

Attachment A:	Resolution
Exhibit 1:	Services Agreement
Attachment B:	Project Site Map

RESOLUTION NO. 2022-

**A RESOLUTION APPROVING A SERVICE AGREEMENT WITH
MULLER ENGINEERING COMPANY, INC., FOR THE MCMURDO
GULCH STREAM RECLAMATION PRIORITY 3 PROJECT**

WHEREAS, The Town of Castle Rock, Colorado (the “Town”) has solicited proposals for design engineering and permitting services for the McMurdo Gulch Stream Reclamation Priority 3 Project (the “Project”); and

WHEREAS, the Project selection team has determined Muller Engineering Company, Inc., (the “Consultant”) is best qualified to perform work for the Project; and

WHEREAS, the Town and the Consultant have agreed to the terms and conditions by which the Consultant will provide work for the Project.

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

Section 1. Approval. The Service Agreement between the Town and Consultant, 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.

Section 2. Encumbrance and Authorization for Payment. In order to meet the Town's financial obligations under the Agreement, the Town Council authorizes the expenditure and payment from the McMurdo Gulch Stream account no. 212-4475-444.75-51 in an amount not to exceed \$499,803.00, plus a Town-managed contingency in the amount of \$49,980.00, unless otherwise authorized in writing by the Town.

PASSED, APPROVED AND ADOPTED this 4th day of January, 2022 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 Castle Rock Water

**TOWN OF CASTLE ROCK
SERVICES AGREEMENT
(McMurdo Gulch Reclamation Project Priority No. 3)**

DATE: _____

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (the “Town”).

MULLER ENGINEERING COMPANY, INC., a Colorado corporation, 777 South Wadsworth Boulevard, Suite 4-100, Lakewood Colorado 80226 (“Consultant”).

RECITALS:

- A. The Town issued a Request for Proposals from qualified firms with expertise in design engineering and permitting services.
- B. Consultant timely submitted its proposal.
- C. The Town wishes to engage Consultant to provide the services more fully described in the following Agreement and Exhibits.

TERMS:

Section 1. Scope of Services. Consultant shall provide design engineering and permitting services in accordance with the scope of work attached as ***Exhibit 1*** (“Services”).

Section 2. Payment. Consultant shall invoice Town on a monthly basis for the Services rendered in accordance with the rate and fee scheduled identified in ***Exhibit 1***. The Town shall pay such invoices within 30 days receipt of such invoice. In no event shall the cumulative payment to Consultant exceed \$499,803.00, unless authorized in writing by Town.

Section 3. Completion. Consultant shall commence the Services on January 4, 2021 and complete the Services December 31, 2023. Consultant shall devote adequate resources to assure timely completion of the Services. Consultant shall perform the Services under this Agreement using a standard of care, skill and diligence ordinarily used by reputable professionals performing under circumstances similar to those required by this Agreement.

Town shall have the right to terminate this Agreement at any time with 30 days written notice to Consultant. The Town’s only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination. Consultant shall turn over all work product produced up to the date of termination.

Section 4. Annual Appropriation. The continuance of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the Town. If the Town fails to appropriate sufficient monies to provide for the continuance of the

Agreement, the Agreement shall terminate on the final day preceding the date of the beginning of the first fiscal year for which funds are not appropriated. The Town's only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination.

Section 5. Subcontractors. Consultant may utilize subcontractors to assist with specialized works as necessary to complete the Services. Consultant will submit any proposed subcontractor and the description of their services to the Town for approval.

Section 6. Assignment. This Agreement shall not be assigned by Consultant without the written consent of the Town.

Section 7. 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 on the first page of this Agreement, or at such other address as has been previously furnished in writing to the other party or parties. Such notice shall be deemed given when deposited in the United States mail.

Section 8. Insurance. Consultant agrees to procure and maintain, at his own cost, the following policy or policies of insurance. Consultant shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

A. Consultant shall procure and maintain, and shall cause each subcontractor of the Consultant to procure and maintain a policy with the minimum insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the Town. All coverage shall be continuously maintained from the date of commencement of services hereunder. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Workers Compensation insurance to cover obligations imposed by the Workers Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract, and Employer's Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-each employee.

2. Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.

3. Comprehensive Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of Consultant's owned, hired and/or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

4. Professional Liability insurance with minimum limits of ONE MILLION DOLLARS (\$1,000,000) per claim and ONE MILLION DOLLARS (\$1,000,000) aggregate.

B. The policies required above, except Workers' Compensation insurance, Employers' Liability insurance and Professional Liability insurance shall be endorsed to include the Town, its officers and employees, as an additional insured. Every policy required above, except Workers' Compensation and Professional Liability insurance, if applicable, shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, shall be excess and not contributory insurance to that provided by Consultant. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Consultant shall be solely responsible for any deductible losses under each of the policies required above.

C. Certificates of insurance shall be completed by Consultant's insurance agent and submitted at the time of execution of this Agreement as *Exhibit 2* as evidence that policies providing the required coverage, conditions and minimum limits are in full force and effect, and shall be subject to review and approval by the Town. Each certificate shall identify the Project and shall provide that coverage afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the Town. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

D. Failure on the part of Consultant to procure or maintain policies providing the required coverage, conditions, and minimum limits shall constitute a material breach of contract upon which at the Town's discretion may procure or renew any such policy or any extended connection therewith, and all monies so paid by the Town shall be repaid by Consultant to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Consultant from the Town.

E. The parties understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently \$387,000 per person, \$1,093,000 for two or more persons, per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S., as from time to time amended, or otherwise available to Town, its officers, or its employees.

Section 9. Indemnification. Consultant expressly agrees to indemnify and hold harmless Town or any of its officers or employees from any and all claims, damages, liability, or court awards including attorney's fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone, including, but not limited to, any person, firm, partnership, or corporation, to the extent caused by the negligent acts, errors or omissions of Consultant or any of their employees or agents in performing work pursuant to this Agreement. In the event that any such suit or action is brought against Town, Town will give notice within ten (10) days thereof to Consultant.

Section 10. Delays. Any delays in or failure of performance by any party of his or its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party.

Section 11. Additional Documents. The parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

Section 12. Entire Agreement. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

Section 13. Time of the Essence. Time is of the essence. If any payment or any other condition, obligation, or duty is not timely made, tendered or performed by either party, then this Agreement, at the option of the party who is not in default, may be terminated by the non-defaulting party, in which case, the non-defaulting party may recover such damages as may be proper.

Section 14. Default and Remedies. In the event either party should default in performance of its obligations under this agreement, and such default shall remain uncured for more than 10 days after notice of default is given to the defaulting party, the non-defaulting party shall be entitled to pursue any and all legal remedies and recover its reasonable attorney's fees and costs in such legal action. In addition, no Party will be entitled to lost profits, economic damages, or actual, direct, incidental, consequential, punitive or exemplary damages in the event of a default.

Section 15. Waiver. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

Section 16. Governing Law. This Agreement shall be governed by the laws of the State of Colorado in the Douglas County District Court.

Section 17. Independent Contractor. Consultant and Town hereby represent that Consultant is an independent contractor for all purposes hereunder. As such, Consultant is not covered by any worker's compensation insurance or any other insurance maintained by Town except as would apply to members of the general public. Consultant shall not create any indebtedness on behalf of the Town.

Section 18. No Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to Town and Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than Town or Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

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

CONSULTANT:

MULLER ENGINEERING COMPANY, INC.

By: _____

Its: _____

EXHIBIT 1

SERVICES

Consultant shall provide engineering design and permitting services for the McMurdo Gulch Stream Reclamation Priority 3 Project, to include design and construction of stream channel improvements to mitigate impacts and preserve natural drainage way. More specifically, Consultant will perform the Services in accordance with the proposal and fee schedule attached as ***Exhibit 1-A***, for a total amount not to exceed \$499,803.00.



McMurdo Gulch Stream Reclamation

PRIORITY 3 PROJECT

12/2/2021



Response to Scope of Work

Response to Primary Objectives of Project/Project Description

The McMurdo Gulch scope of work requested by the Town is based on work previously performed by the Muller team. We completely support the list of objectives identified in the RFP as they are in line with our approach to stream restoration work. Our experience along McMurdo Gulch allows us to hit the ground running with this upcoming phase of work and our intimate knowledge of the McMurdo Gulch watershed will ensure that the Town's vision for the corridor can continue to be brought to life. Since completing the watershed management template in 2011, we are extremely encouraged by how the Town and CCBWQA uphold the principles and values identified in the template document including:

- Regular assessments of the stream followed by restorative efforts
- Retrofitting existing detention ponds to better control flows and water quality within the contributing basins
- Continual management of development to further control future flows and disturbance and leave room for the Gulch
- Coordination with developers to seek cash-in-lieu opportunities to protect the stream
- Implementing nature-based, environmentally friendly stream improvements

Our team will continue to support the Town's and CCBWQA's restoration and protection efforts along McMurdo Gulch, and we hope we can continue to work with the Town and CCBWQA to achieve the overarching goals in the watershed.

Below are sections that discuss how we will respond to the tasks outlined for this latest scope of work:

Key Tasks and Project Elements

Our team is very familiar with all of the steps required for this project. We know that all aspects of a project are crucial to the success of the whole. We place a particular focus on the following tasks which are critical for delivering this project successfully:

- As the first step, we emphasize a very thorough field reconnaissance of the areas identified for improvement at the conceptual level. A deep knowledge of the existing site is necessary to refine the conceptual level improvements and develop a context-sensitive solution. In addition to our team's observations and measurements, this will include new topographic survey of the improvement areas, a series of geotechnical borings to better understand the geology and groundwater level of the sites, environmental fieldwork, and SUE.
- We will perform a detailed hydraulic evaluation of both the existing and post-project stream to identify potential problem areas and implement our continually advancing set of natural channel design skills to counteract existing and potential degradation.
- We will provide proposed improvement concepts and associated costs to the Town early and often throughout the project to ensure that Town input is being incorporated and that the design is fully supported by the Town. This will occur at regular design meetings and as part of conceptual, 30%, and final design review submittals.
- We will begin the environmental fieldwork/permitting and the floodplain analysis process early in the project development, to avoid delays at final design.
- Once the extents of the stream improvements are defined, we will determine how the regional trail and maintenance routes fit in to the improvements. Topographic Land Surveyors will assist with generating legal descriptions and exhibits for maintenance easements, as necessary, so the Town can work through the right-of-way process with the affected property owners.
- All deliverables will provide thorough detail to ensure that the Town understands the design, the contractor can build the design without expensive change orders, and so it can be effectively referenced as part of future phases. We completed several design efforts for the Town and are very familiar with all of the products that are requested in the RFP.
- Finally, our experienced construction staff will work closely with our design staff to help inform construction erosion control and water control details and then work closely with the Town inspector and contractor to construct the improvements using environmentally sensitive techniques.

Key Technical Design Issues: Stream and Bank Restoration Design

Although we have developed a series of conceptual improvements as part of the latest stream assessment completed for the Town in 2016, we understand that the complexity of stream ecosystems and the dynamic nature of the channel in a developing basin demands that we examine every site in more detail. We will consider the existing site and find ways to best manage the multiple objectives of stream stability, aquatic and terrestrial habitat creation, riparian vegetation enhancement, water quality and wetland preservation. The following are a few additional insights for the four priority improvement areas:



Sta. 248+00 to Sta. 263+00

A portion of this reach was previously stabilized in 2012. Nearby development plans show several new stormwater outfalls into the gulch from water quality and detention ponds. This reach will be directly impacted by the increased flows due to the nearby development and stabilization including riffles or boulder cascades and bank protection are required to mitigate against the increased flows and protect the existing channel infrastructure.



Sta. 270+00 to Sta. 274+40

This reach of McMurdo Gulch is at the confluence with Tributaries 5 and 6 and is sensitive to the increased flows due to nearby development. Stabilization of this reach is critical to prevent channel head cuts from forming and traveling upstream on McMurdo Gulch, compromising recently installed channel infrastructure and Tributaries 5 and 6.



Sta. 278+00 to Sta. 295+00

The nearby development plans to install water quality and detention ponds with outfalls directly into McMurdo Gulch. The increased flows will impact the Gulch, including the existing and historic Civilian Conservation Corps (CCC) grade control structures. Channel stabilization, including riffles or boulder cascades and bank protection, will mitigate against the increased flows. The existing CCC structures are experiencing erosion around the sides of the structures due to flow frequently overtopping the structures and flowing down the banks. Overbank protection and reinforcement of the stilling basins around the CCC structures will preserve them and mitigate against end around erosion.



Tributary 5 and 6

Tributaries 5 and 6 are extremely steep drainages that run from Castle Oaks Drive to McMurdo Gulch mainstem. A small channel head cut is forming at the downstream end of the tributaries, near the mainstem. Additionally, the tributaries will be directly subjected to increased flows from stormwater discharges from the nearby development, including a water quality and detention pond slated to be installed by the development in the land between Tributaries 5 and 6. Channel improvements are required to mitigate against the increased flows.

Restoration Techniques

In the paragraphs below, we detail some of the restoration techniques that we will consider as we refine the layout of each area.

Raising a Degraded Stream Invert. A fundamental concept to consider for restoring the creek is raising the channel invert back up to a prior historic elevation and reconnect the channel to the adjacent floodplain benches. Muller successfully implemented this on previous sections of McMurdo Gulch.

Grade Control. To maintain the raised channel invert discussed above, grade control will be required. This is particularly challenging in the very steep tributaries 5 and 6. For this project, a combination of riffles, step-riffles, boulder cascades, and anchor drops (if necessary) could be considered.

Riffles/Step-Riffles/Boulder Cascades. A key element to consider for raising the invert and enhancing aquatic habitat is the implementation of low-height rock grade controls.

- **Riffle-pool complexes** are commonly found in gravel and cobble bed streams and are nature's way of dissipating energy. They can also become "bug factories," useful for improving fish habitat.
- **Step-riffles**, a type of riffle with occasional boulder steps, are a transitional structure for slopes too steep for a riffle but not steep enough for boulder cascades.
- Muller, with support from the Town, pioneered the development of **boulder cascades – "Castle-cades"** – as part of our first design and construction project along McMurdo Gulch. Since these first installations, we have implemented them on several other projects.

On each project, we learn more about advancing the design and construction of these elements and look forward to applying these lessons learned into the design of this phase of McMurdo Gulch.

Anchor Drops. Anchor drops provide a higher level of structural integrity to further protect the channel and surrounding infrastructure during large storm events. These structures use sheet pile or concrete cutoff walls that span the entire length of the riparian corridor. A rigid material such as sculpted concrete or grouted boulders span the active channel, allowing for slightly higher drop heights. These structures will be used as a last resort in locations where the hydraulic forces are too large for loose rock structures.

Stream Geomorphology. A geomorphic analysis of the project reach and proposed improvements will be completed. An assessment of geomorphic stream characteristics will be conducted in comparison to upstream and downstream reference reaches based on field reconnaissance and examination of current and historic aerial photography. This will also include the estimation of bankfull discharge, width, and depth, application of regime relationships between bankfull discharge and various stream parameters, determination of equilibrium slope, and evaluation of sediment balance (supply versus capacity), if necessary.

Bank Protection. Raising the channel invert will ease pressure along actively eroding banks. With the raised channel invert, larger storm flows can spread out into the floodplain, thereby reducing velocities and shear stresses along banks at the outside of bends. However, these outside bends and banks in the vicinity of critical infrastructure require stabilization. We will consider a palette of restoration concepts to lay out bank protection improvements along these areas. The palette will include biotechnical approaches that consist of a combination of woody and herbaceous vegetation, rock, and erosion control blanket (typically coir).

Aquatic and Fish Habitat Improvements. Although we do not anticipate that fish will be prevalent in this reach of McMurdo Gulch, the team will provide expertise on how to incorporate beneficial aquatic habitat elements into the restoration improvements. These elements will include the use of void-filled riprap as aquatic habitat structure, consideration of base flow depths, and placement of vegetation that will shade the creek, reducing water temperatures and increasing dissolved oxygen.



Boulder cascade and riffle sequence on McMurdo Gulch Priority 1.

Vegetation and Plantings. Muller and ERO have experience working together in and around streams and other sensitive environments. The existing project reaches are situated in a beautiful corridor with extremely valuable vegetation. The project will make use of the riparian benches that are adjacent to the active flow channel. We will seek to reduce disturbance of the site during construction. Where disturbance occurs, we will select appropriate vegetation that will improve stability and erosion resistance, improve native plant diversity, enhance aquatic and fish habitat, transition upland species to riparian cover in the proximity of wetter conditions, and provide long-term sustainability.

CCC Structure Preservation. The CCC Structures are extremely valuable features in the upper portion of the project reach. In existence for several decades, they represent the Gulch's unique history. A high level of care must be taken to design and construct protection measures for these structures to preserve their character and function. Perimeter rock will be placed in the surrounding overbanks to arrest ongoing erosion down the banks and the stilling basins will be supplemented with either rock or more structural measures to reinforce the foundation of the structure. Finally, the upstream face of the structure will be evaluated to determine if additional stabilization measures are required to provide additional strength and prevent seepage through the structure.

Additional Items for Consideration

Floodplain Management. We are familiar with the current regulatory floodplain data along McMurdo Gulch and have used it as part of our past design and development review work. We will use this information to create existing and proposed conditions models in the area of the proposed improvements. If practical, the goal will be to avoid any rise in the regulatory floodplain. However, if a rise occurs as a result of designing the most appropriate improvements, Muller has extensive experience in preparing CLOMR applications for FEMA.

Environmental Permitting. Muller and ERO will identify and communicate with the appropriate permitting agencies early in the project design. This will be particularly important when developing stabilization techniques for the CCC structures identified in this phase of work. ERO will delineate and survey wetlands regulated by the USACE. With the natural character of the corridor and the past involvement of the CCC in this area, the existence of threatened and endangered species as well as cultural resources may be possible. ERO will also provide investigation and consultation in both of these areas. Ultimately, ERO will assist in obtaining a 404 permit. It is assumed that this project may require an individual permit (including application of the Stream Quantification Tool); however, applicable nationwide permits will be explored with the USACE and the Town prior to taking a course of action.

Construction Access, Staging, and Phasing. The majority of the improvements will present significant challenges during construction related to access and staging. Between private land and steep terrain, we will need to work closely with the Town early on in the project to define sensible access routes and staging locations that will minimize disturbance and disruption and be compatible with the project improvements. As part of this process, we will also provide the Town with information on earthwork borrow and disposal, so material needs and the phasing of the project can be coordinated well before the start of construction.

Regional Trail Design. The Town would like to ensure that the proposed regional trail is compatible with all applicable drainageway improvements associated with this phase of work. The Town's Trail Master Plan shows the future regional trail meandering along most of the McMurdo Gulch channel alignment and eventually meeting the Cherry Creek Regional Trail at the confluence. With the McMurdo Gulch valley as a backdrop, this trail has the potential to be one of the most beautiful trail experiences along the Colorado Front Range. Muller has intimate knowledge of the McMurdo Gulch valley and shares a vision for this beautiful open space. Muller will assist the Town to ensure the stream reclamation project accommodates this future regional trail.

Subsurface Utility Engineering (SUE). Muller is very familiar with the requirements set forth in Senate Bill 18-167 and is committed to working with the Town to meet these requirements. Muller has teamed with Topographic to complete the SUE in accordance with the ASCE 38-08, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, and Colorado Subsurface Utility Law (SB18-167). Muller and Topographic will work closely to isolate excavation areas within the limits of construction. To minimize costs, SUE Quality Level B will be limited to only areas of excavation within the project limits and a lesser SUE quality level is anticipated outside of the excavation limits.

Action Plan & Schedule

Commitment

Our team is committed to providing the necessary staff and resources to complete project tasks for the Town and CCBWQA. Of utmost importance is our commitment to providing great service to the Town and CCBWQA – we will do what it takes to successfully accomplish the tasks that the Town and CCBWQA entrusts us with.

Muller's culture is to collaborate from principal to design engineer to ensure engineering excellence and that all aspects of the project are being explored and the best ideas are on the table. Also in our culture is our commitment to learning from each project that we do, so that we can do the next project better. With our continual advancement in natural channel design, we are excited to bring the latest technology and innovation to this project.

Willingness to Meet Contract Schedule, Budget, and Quality Requirements

As with all engineering projects, schedule, budget, and quality are all important elements of the services we provide. We are committed to providing services on time, within budget, and at a level of quality to meet the Town's and CCBWQA's expectations.

Schedule - On time is more than just a promise. For this contract, we will prepare a schedule to be maintained by the Muller Project Manager, Sara Johnson. Muller Principal, Joe Juergensen, will assure that staff are available to Sara, along with assisting with the administration of subconsultant agreements and schedules required for the work. Sara is responsible for assigning work tasks to project staff and subconsultant team members in a manner consistent with the schedule's critical path and desired milestones. Critical path items will include environmental clearances/investigations, CLOMR/LOMR reviews with FEMA, and ROW approval. To avoid project delays, Sara will keep communications open to review agencies and project participants, so information required for decision-making is provided in advance of key dates.

With a multi-discipline project, work completed by all disciplines must be assembled into a comprehensive, coherent package, free from errors and conflicting information. For the project team, Muller is the lead design firm and is responsible for managing project design documents. The design document management plan will match our current procedures and use an electronic filing system, team-wide project SharePoint and OneNote, and virtual server environment with backup files.

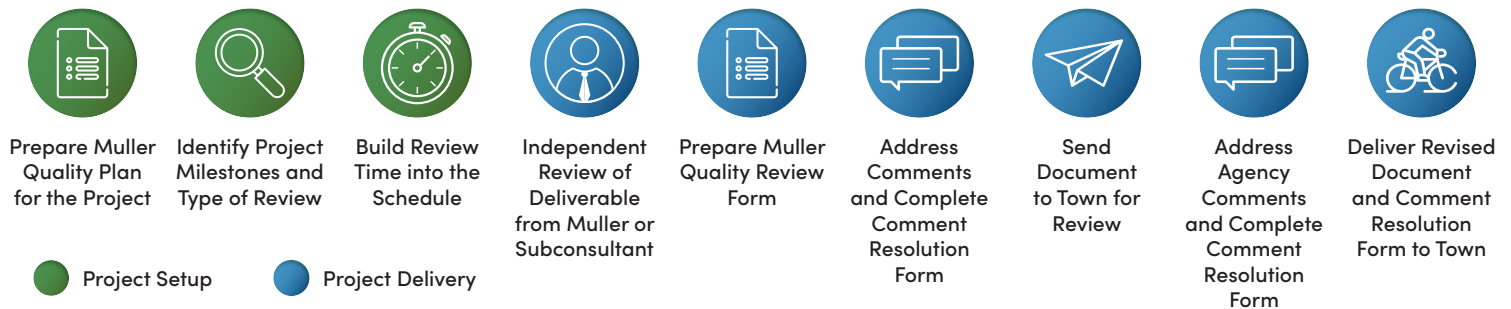
We will provide schedule updates with monthly progress reports. We find that we can provide services on a tight schedule because of the tenure of our staff, familiarity with project requirements, and the support of our subconsultants we work with so often. We will commit the resources necessary to meet contract schedule requirements of each individual project assignment and to meet overall schedule requirements for a construction start of October 2023.

Budget - Sara will be responsible for overall project cost control, consulting fees, and construction cost control. We will keep project scope and goals in mind as project construction documents are prepared. On a monthly basis, we compute the "earned value" of Muller work efforts to date for Muller staff and each subconsultant before reviewing actual charges incurred. Then we compare the earned value to the actual costs to gain an unbiased report of project status. This allows Sara to detect any design budget overrun trends early, when time remains to make corrective adjustments. It also allows us to monitor where overruns and under-runs are occurring on certain tasks and whether we can provide value-added services within the current contract budgets. In addition, when work scope changes due to the Town's decisions or unforeseen circumstances, Muller will advise the Town's Project Manager (PM) before proceeding with out-of-scope work to allow the Town PM to evaluate the need and potential costs before the work is done. This allows the Town's PM to determine the Town's options for spending additional funds, using Town staff for some tasks or reconsidering the need for the work. Coming back for additional compensation after extra work is completed usually results in a bad experience for all project participants.

In addition to controlling design costs, our team will also refresh construction cost estimates early and often through the process to ensure the proposed improvements fit within the Town's project budget. We roll out numerous projects to construction every year, so we have a great feel for the bidding climate and relevant unit costs for typical construction items. This being the case, we can ensure that our construction cost estimates are easy to follow and accurate.

Quality - Illustrated in Figure 2, Muller's Quality Management Program (QMP) is flexible and tailored to fit the scale of each project. Each project requires an individual Quality Plan, with defined review milestones and the type of review required. This is developed by the Design Manager using Muller's Quality Plan Setup Form, which outlines our company-wide quality management standards and project-specific contractual requirements. Roles and responsibilities of those involved are spelled out and required milestone reviews are identified. Muller staff at all levels use this form to ensure that quality processes are executed, and that work is free of errors and completed properly for client reviews. Quality Review Forms are used to document each required review and Comment Resolution Forms track and verify that all client/agency comments are incorporated into the final deliverable.

Figure 2: *Muller's design Quality Management Program ensures complete, coordinated milestone design deliverables.*



Our project manager follows the QMP to develop a project-specific quality assurance/quality control (QA/QC) plan that addresses your design standards and criteria. Internal QC deadlines, including review milestones, the type of review required, and those responsible for senior review, are clearly defined prior to major submittals and milestones. Using comment resolution forms, our project manager verifies all comments received during reviews have been incorporated into the final deliverable.

A true testament to our emphasis on quality is the fact that in more than 41 years of operation, Muller's professional liability insurance has never paid a claim to a third party.

Construction Drawing List

Below is the anticipated sheet list to be assembled to construct the proposed improvements:

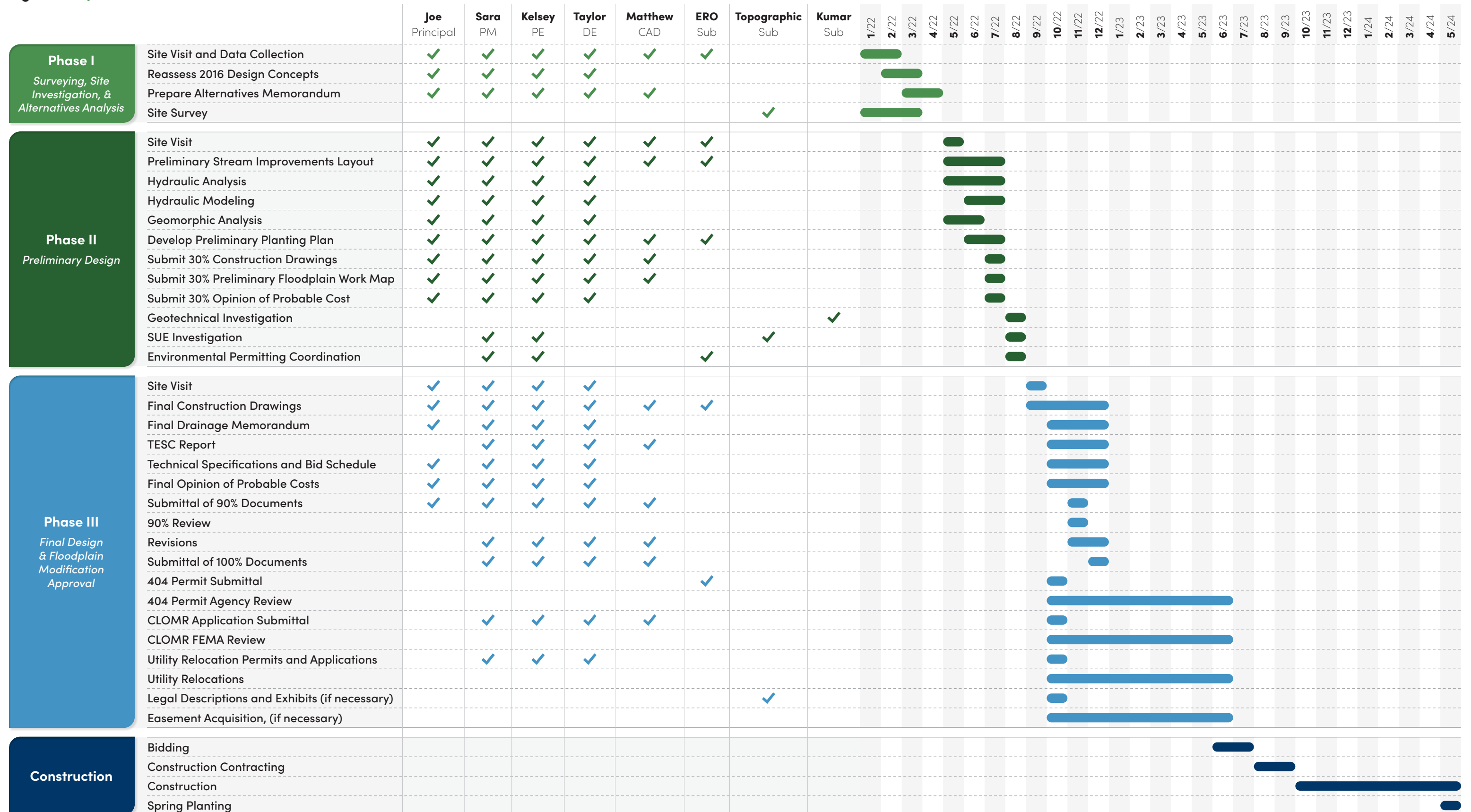
# of Sheets	Sheet #	Construction Drawings - Sheet Title
1	1	Title Sheet
1	2	General Notes and Legend
1	3	Site Plan
8	4-11	Grading Plans and Profiles (assume 8)
1	12	Riffle Structure Plan
2	13-14	Riffle Structure Sections and Details
1	15	Step-Riffle Structure Plan
2	16-17	Step-Riffle Structure Sections and Details
4	18-21	Typical Boulder Cascade Structure Plans

# of Sheets	Sheet #	Construction Drawings - Sheet Title
4	22-25	Typical Boulder Cascade Sections and Details
3	26-28	CCC Structure Preservation Details
1	29	Bank Protection Sections and Details
1	30	Miscellaneous Details
8	31-38	Landscape Plans (Assume 8)
4	39-42	Landscape Notes and Details
1	43	TESC Title Sheet
1	44	TESC Site Plan
1	45	TESC Control Notes
5	46-50	TESC Plans (Assume 5)
5	51-55	TESC Details

Work Breakdown Structure & Schedule

The Town has identified three phases of work for this project as well as milestones to complete this work. **Figure 3** on the following page depicts a breakdown of the tasks to be completed for each phase and the associated schedule to complete each task. Person hours associated with each task are included in our fee submittal under separate cover. Muller is prepared to hit the ground running to meet this schedule.

Figure 3: Project Schedule with Milestone Submittals





McMurdo Gulch Stream Reclamation

PRIORITY 3 PROJECT
Fee Schedule

12/2/2021



TASK LIST AND FEE

CLIENT:	Town of Castle Rock	PROJECT NO.:	PROPOSAL NO.:	921.69
		PREPARED BY: SRJ/JAY	DATE:	12/2/2021
PROJECT:	McMurdo Gulch Stream Reclamation Priority 3 Project	CHECKED BY: JPJ	FEE: \$499,803	

Task No.	Sheet No.	Task Description	TIME (HOURS)						EXPENSES (\$\$)				TOTALS				
			Joe PRIN.	John TECH.	Sara P.M.	Kelsey P.E.	Taylor D.E.	Matthew CAD	O/C	T/L	REPRO	OTHER	(a)	(b)	(c)	(d)	
			\$217	\$197	\$187	\$145	\$132	\$125	<<<2022 Billing Rate								
PHASE I: SURVEYING, SITE INVESTIGATION, & ALTERNATIVES ANALYSIS																	\$55,136
		Basic Services															
		Project Management															
		Progress meetings (assume 1 kickoff meeting and 1 progress meeting)	6		8	12				\$30			26	\$4,538	\$30	\$4,568	
		Prepare Monthly Progress Reports.			6	2							8	\$1,412	\$0	\$1,412	
															Subtotal =	\$5,980	
		Alternatives Analysis															
		Review of existing information/reports.			1	1	1						3	\$464	\$0	\$464	
		Obtain project data and mapping from Town.			1	1		2					4	\$582	\$0	\$582	
		Process survey data			1	4	6	6					17	\$2,309	\$0	\$2,309	
		Site Visits (assume 1 day)	4	8	8	10	10			\$30			40	\$6,710	\$30	\$6,740	
		Reassess 2016 design concepts.	4	4	8	8	12						36	\$5,896	\$0	\$5,896	
		Update concept cost estimates	2		4	8	8						22	\$3,398	\$0	\$3,398	
															Subtotal =	\$19,389	
		Deliverables															
		Alternatives Memorandum w/ Conceptual Level Cost Estimate	2		6	12	6				\$100		26	\$4,088	\$100	\$4,188	
		Preparing Conceptual Level Plans and Profiles	2		4	12	24	18			\$100		60	\$8,340	\$100	\$8,440	
															Subtotal =	\$12,628	
		Special Services															
		Site Survey (Topographic Land Surveyors)			2	8				\$15,605			10	\$1,534	\$15,605	\$17,139	
															Subtotal =	\$17,139	
PHASE II: PRELIMINARY DESIGN																	\$148,725
		Project Management															
		Progress Meetings (assume 2)	4		8	12				\$30			24	\$4,104	\$30	\$4,134	
		Prepare Monthly Progress Reports			6	2							8	\$1,412	\$0	\$1,412	
															Subtotal =	\$5,546	
		Stream Stabilization Design															
		Site Visits (assume 1 day)		8	8	8	8			\$30			32	\$5,288	\$30	\$5,318	
		Layout and initial grading of proposed channel stabilization measures	12	24	36	40	60	30					202	\$31,534	\$0	\$31,534	
		Hydraulic modeling for rock sizing and initial floodplain results (5 Reaches)	8		36	40	60						144	\$22,188	\$0	\$22,188	
		Rock sizing and shear stress calculations	2		4	4	8						18	\$2,818	\$0	\$2,818	
		Geomorphic analysis of project reach	2	4	6	8	12						32	\$5,088	\$0	\$5,088	
		Preliminary Planting Plan		4	4	6	8	12					34	\$4,962	\$0	\$4,962	
															Subtotal =	\$71,908	
		Deliverables															
		30% Construction Drawings	4	4	10	20	40	40			\$100		118	\$16,706	\$100	\$16,806	
		30% Preliminary Floodplain Work Map (Hours for this effort are included in CLOMR Task)											0	\$0	\$0	\$0	
		30% Engineer's Opinion of Probable Cost	1		2	6	8						17	\$2,517	\$0	\$2,517	
															Subtotal =	\$19,323	
		Special Services															
		Survey and Subsurface Utility Engineering (SUE)			2	4				\$7,975			6	\$954	\$7,975	\$8,929	
		404 Permitting Coordination and Meeting with USACE (ERO)	1		6	4				\$19,885			11	\$1,919	\$19,885	\$21,804	
		Preliminary Planting/Revegetation Plan (ERO)	1		16	18				\$7,442			35	\$5,819	\$7,442	\$13,261	
		Geotechnical Investigation (Kumar)			2	4				\$7,000			6	\$954	\$7,000	\$7,954	
															Subtotal =	\$51,948	
PHASE III: FINAL DESIGN & FLOODPLAIN MODIFICATION APPROVAL																	\$295,942
		Basic Services															
		PROJECT MANAGEMENT															
		Prepare Monthly Progress Reports			8	4							12	\$2,076	\$0	\$2,076	
		Progress Meetings (2)	6		8	12				\$60			26	\$4,538	\$60	\$4,598	
		Site Visits (1 Day)	8	8	8	10	10			\$30			44	\$7,578	\$30	\$7,608	
		CONSTRUCTION DRAWINGS															
	1	Title Sheet			1	1	1	1					4	\$589	\$0	\$589	
	1	General Notes and Legend			1	2	1	1					5	\$734	\$0	\$734	
	1	Site Plan			1	1	2	2					6	\$846	\$0	\$846	
	8	Grading Plans and Profiles (assume 8)	2	4	12	24	24	24					90	\$13,114	\$0	\$13,114	
	1	Riffle Structure Plan	1		4	6	8	12					31	\$4,391	\$0	\$4,391	
	2	Riffle Structure Sections and Details	1		2	4	8	12					27	\$3,727	\$0	\$3,727	
	1	Step-Riffle Structure Plan	1	2	6	12	16	12					49	\$7,085	\$0	\$7,085	
	2	Step-Riffle Structure Sections and Details	1	2	4	8	16	12					43	\$6,131	\$0	\$6,131	
	4	Typical Boulder Cascade Structure Plans	2	2	8	12	16	16					56	\$8,176	\$0	\$8,176	
	4	Typical Boulder Cascade Sections and Details		2	4	8	16	16					46	\$6,414	\$0	\$6,414	
	3	CCC Structure Protection Details	3	3	12	24	24	24					90	\$13,134	\$0	\$13,134	
	1	Bank Protection Sections and Details	1		2	4	8	6					21	\$2,977	\$0	\$2,977	
	1	Misc. Details			4	4	8	6					22	\$3,134	\$0	\$3,134	
	8	Landscape Plans (Assume 8)	1	2	4	4	12	18					41	\$5,773	\$0	\$5,773	

TASK LIST AND FEE

CLIENT:	Town of Castle Rock	PROJECT NO.:	PROPOSAL NO.:	921.69
		PREPARED BY: SRJJ/JAY	DATE:	12/2/2021
PROJECT:	McMurdo Gulch Stream Reclamation Priority 3 Project	CHECKED BY: JPJ	FEE: \$499,803	

Task No.	Sheet No.	Task Description	TIME (HOURS)						EXPENSES (\$\$)				TOTALS			
			Joe PRIN.	John TECH.	Sara P.M.	Kelsey P.E.	Taylor D.E.	Matthew CAD	O/C	T/L	REPRO	OTHER	(a)	(b)	(c)	(d)
			\$217	\$197	\$187	\$145	\$132	\$125	<<<2022 Billing Rate							
	4	Landscape Notes and Details		2	4	4	12	18					40	\$5,556	\$0	\$5,556
	1	TESC Title Sheet			1	1	1	1					4	\$589	\$0	\$589
	1	TESC Site Plan			1	1	2	2					6	\$846	\$0	\$846
	1	TESC Control Notes			1	2	1	1					5	\$734	\$0	\$734
	5	TESC Plans (assume 5 sheets)	1		4	8	24	24					61	\$8,293	\$0	\$8,293
	5	TESC Details			1	1	1	2					5	\$714	\$0	\$714
	55	Total Sheets Assumed														
		REPORTS														
		Drainage Calculation Memorandum	1		8	24	12	2					47	\$7,027	\$0	\$7,027
		TESC Report			1	2	4						7	\$1,005	\$0	\$1,005
		Technical Criteria Variance Letter			2	2							4	\$664	\$0	\$664
		SPECIFICATIONS														
		Technical Specifications	1		6	12							19	\$3,079	\$0	\$3,079
		Bid Schedule and Measurement and Payment	1		12	16							29	\$4,781	\$0	\$4,781
		ENGINEER'S COST OPINION AND BID SCHEDULE	2		6	12	12						32	\$4,880	\$0	\$4,880
		SUBMITTALS														
		Internal Senior Review	8	8									16	\$3,312	\$0	\$3,312
		Submittal of 90% Documents			1	2	2	4			\$150		9	\$1,241	\$150	\$1,391
		90% Review and Revisions	2		8	8	16	16					50	\$7,202	\$0	\$7,202
		Submittal of 100% Documents			1	2	2	4			\$150		9	\$1,241	\$150	\$1,391
															Subtotal =	\$141,971
		Special Services														
		404 Permit Preparation (ERO)			12	8			\$16,654				20	\$3,404	\$16,654	\$20,058
		Colorado Stream Quantification Tool (ERO)		4	16	8			\$38,778				28	\$4,940	\$38,778	\$43,718
		Planting/Revegetation Consultation (ERO)			24	16			\$9,983				40	\$6,808	\$9,983	\$16,791
		Cultural Resource Survey and Report (ERO)			8	4			\$13,833				12	\$2,076	\$13,833	\$15,909
		Utility Relocation Permits and Applications (coordination only, no applications anticipated)			4	6		2					12	\$1,868	\$0	\$1,868
		Legal Descriptions and Exhibits (TLS)	1		2	6	8	12	\$900				29	\$4,017	\$900	\$4,917
		CLOMR Application Submittal: (Tributaries 5 and 6 and 4,500 LF of McMurdo Gulch)	20		32	48	68	32			\$100		200	\$30,260	\$100	\$30,360
		CLOMR FEMA Review Fee (online submittal)									\$6,500		0	\$0	\$6,500	\$6,500
		Address FEMA CLOMR Review Comments (two rounds anticipated up to the hours shown)	8		18	24	24	16			\$100		90	\$13,750	\$100	\$13,850
															Subtotal =	\$153,971
CONSTRUCTION ADMINISTRATION																
		None included.														\$0
		Total Hours	127	95	457	611	630	406	-	-	-	-	2326	-	-	-
		Fee, Billing Rate	\$27,559	\$18,715	\$85,459	\$88,595	\$83,160	\$50,750	-	-	-	-	-	\$354,238	-	-
		Total Expenses	-	-	-	-	-	-	\$138,055	\$210	\$800	\$6,500	-	-	\$145,565	-
		Total, Billing Rate(b+c)	-	-	-	-	-	-	-	-	-	-	-	-	-	\$499,803

Assumptions for Scope and Fee:

- Scope and fee assumes two legal descriptions.
- Irrigation design services are not included.
- No changes to regulatory flow rates are anticipated and no hydrologic modeling is included in the scope and fee.
- The estimated level of effort to address CLOMR review comments is indicated in the fee above; this estimate will be re-assessed with the Town after comments are received.
- All submittals will be in PDF format.
- Environmental permitting assumes: wetland delineation, T&E compliance, cultural resources investigation, SQT evaluation, and Individual 404 Permit application.
- Public meetings and Town Council meetings are not included in this scope and fee.

ERO Resources Corporation

Scope of Work for Environmental Services for McMurdo Gulch Priority 3 Stream Reclamation Project Castle Rock, Colorado

November 29, 2021

Background

Muller Engineering, Inc. (Muller) has requested ERO Resources Corporation (ERO) prepare a scope of work and fee estimate to perform ecological and revegetation design services for a stream reclamation project along McMurdo Gulch and two tributaries to McMurdo Gulch in Castle Rock, Colorado (project area) associated with a Request for Proposal (RFP) issued by the Town of Castle Rock (Town). The proposed channel stabilization activities include installing riffle structures, rock lining in the channel bottom, grade control structures, bioengineered bank protection treatments, and site revegetation.

The proposed project will require a Clean Water Act (CWA) Section 404 permit from the U.S. Army Corps of Engineers (Corps). As part of obtaining Section 404 CWA permit authorization from the Corps, the project must also comply with the Endangered Species Act (ESA) and the National Historic Preservation Act (NHPA). Based on current knowledge of the proposed activities, ERO anticipates that the proposed project would require a Section 404 CWA Individual Permit (IP).

The RFP and this scope of work has been divided into three phases (Phase 1, Phase 2, and Phase 3) and are based on the project limits depicted on Attachment 1 of the RFP that will likely require a federal action (i.e., Section 404 IP, Section 7 of the ESA, and Section 106 of the NHPA).

Phase 1. Surveying, Site Investigation, and Alternatives Analysis

Task 1. Kickoff Meeting and Site Visit with the Project Team

ERO will attend the project kickoff meeting and conduct a site visit with the Muller and Town to become familiar with site conditions in the project area and to discuss alternatives and design concepts.

Task Assumptions

- ERO will attend the project kickoff meeting.
- ERO will conduct a site visit with Muller and the Town.

Task 2. Identify and Map Wetlands, Open Water, and Channels

ERO will delineate wetlands, open waters, and channels following the routine on-site wetland determinations in areas of less than 5 acres as described in the revised online version of the 1987 Corps

Wetlands Delineation Manual and appropriate regional supplement. Open water and channels will be determined based on the presence of an ordinary high water mark (OHWM), as defined in 33 Code of Federal Regulations Part 328. ERO will map the boundaries of wetlands, OHWM, open water, and streambeds to submeter accuracy using a Global Positioning System (GPS) unit or, when appropriate, ERO will hand draw boundaries onto an aerial photograph. ERO will incorporate the wetland boundaries into base mapping provided by Muller and will send the Muller a revised base mapping file that includes a layer with the boundaries of wetlands, open water, and channels. A summary of the wetland and waters mapping would be included in the alternative analysis memorandum under Phase 1, Task 4.

Task Assumptions

- Performing the delineation is weather dependent. The ground must be free of snow and, in most instances, the soils must be unfrozen to collect the needed soil data.
- Muller will provide topographical survey mapping data and/or aerial photography.
- Muller will arrange and provide written permission to access the project area.
- Changes to the boundaries of the project area will require additional effort and ERO will coordinate with Muller to determine if changes in the scope or budget are necessary.

Task Products

- Electronic file with wetlands, open water, and channel boundaries delivered to Muller via email.

Task 3. Endangered Species Act and Migratory Bird Treaty Act Compliance

Under this task, ERO will conduct a habitat assessment for federally listed threatened and endangered species within the project area in conjunction with Task 2. Based on ERO's current knowledge of the area, potential habitat for federally threatened or endangered species is not likely present in the project area. Data gathered during this task will be used to prepare a habitat assessment letter for submittal to the U.S. Fish and Wildlife Service (Service) under Phase 3, Task 7; and a description of the habitat assessment, as well as a copy of the response letter from the Service, will be included in the IP application to the Corps under Phase 3, Task 10.

ERO will also note other regulated natural resources that may affect the project, such as raptor or other migratory bird nests protected by the Migratory Bird Treaty Act. ERO will include notes on other regulated resources, if present, under Phase 1, Task 4. Additionally, this scope of work assumes the proposed project would not contribute to depletions to the South Platte River, which could affect federally listed Platte River species, and consultation with the Service will not be required for the project.

Task Assumptions

- No threatened or endangered species habitat occurs in the project area.
- Presence/absence surveys for listed species will not be required by the Service. If a survey is required, ERO can provide a separate scope of work and cost estimate.
- Consultation with the Service on depletions will not be required for the project.

Task 4. Alternatives Analysis

During the alternatives analysis process, ERO will work with Muller to identify environmental compliance and permitting requirements as it relates to the design alternatives. ERO will prepare a brief memorandum that includes a summary of existing conditions, including ecological resources identified in the project area during Tasks 2 and 3, and a discussion of environment compliance and permitting approaches associated with each of the alternatives.

Task Products

- Technical memorandum delivered to Muller via email.

Phase 2. Preliminary Design

Task 5. Environmental Permitting Coordination

Based on the selected design alternative, ERO will work with Muller and Town to identify areas with valuable and sensitive habitat to be avoided or minimized during design and to discuss potential impacts and mitigation approaches needed to meet Corps permit requirements. ERO will attend up to six virtual progress meetings with Muller and the Town to discuss project design and permitting requirements during the preliminary design phase.

Ahead of scheduling a pre-application meeting with the Corps, ERO will conduct a site visit with Muller to review locations for the proposed structures and discuss the Colorado Stream Quantification Tool (SQT) sub-reach locations and parameters in the project area. Following this site visit, ERO will arrange an onsite meeting with the Corps, Muller, and Town to review project goals, preliminary design concepts, the SQT parameters checklist, and impacts on waters of the U.S. This meeting will take place prior to conducting the SQT field assessment and preparing the IP application so that the Corps can review and provide comments on the proposed SQT sub-reach locations and parameters and to determine the appropriate permitting approach.

ERO will arrange a second onsite meeting with the Corps and invite other local agencies, such as the Service, Environmental Protection Agency (EPA), and Colorado Department of Public Health and Environment (CDPHE) to review the project design and identify agency concerns so that they can be incorporated into the project design as practicable. An ERO cultural resources specialist will attend the second onsite meeting with the agencies to help identify potential project consultation strategies needed for compliance with Section 106 of the NHPA (1996, as amended).

Task Assumptions

- ERO will attend up to six virtual progress meetings with Muller and the Town during preliminary design.
- One site meeting with Muller to discuss project design and SQT sub-reaches and parameters ahead of a site meeting with the Corps.

- ERO will coordinate and attend two onsite meetings with the project team and agencies to discuss project design, SQT, permitting requirement, and compliance with the ESA and the NHPA.

Task Products

- Meeting notes from the onsite meetings with the agencies delivered to Muller via email.

Task 6. Preliminary Revegetation Plan

Under this task, ERO will work with Muller to develop a preliminary revegetation plan to minimize impacts to high-quality vegetation and wildlife habitat and would aim to provide the most ecological lift and creation of wetland and riparian habitats within the project area for the 30% design submittal. The preliminary revegetation plan will include recommendations on plant material and native seed mixes. ERO assumes that Muller will be responsible for incorporating planting concepts into the AutoCAD drawings. This task includes two virtual meetings and one in-person meeting with Muller to develop the preliminary revegetation plan and one in-person meeting with Muller and Town for the 30% design submittal review.

Task Assumptions

- ERO will attend two virtual and one in-person meetings with Muller to develop the preliminary revegetation plan.
- ERO will attend one in-person meeting for the 30% design submittal review.

Task Products

- Plant material lists and seed mixes delivered to Muller via email.

Phase 3. Final Design and Floodplain Modification Approval

Task 7. Habitat Assessment Letter

As part of the project, a Conditional Letter of Map Revision (CLOMR) will be submitted to the Federal Emergency Management Agency (FEMA) for its review and approval of modifications to the regulatory floodplain within the project area. As part of the CLOMR submittal process, the applicant (Town) must provide documentation to FEMA that the modifications are in compliance with the ESA. Based on data collected in Phase 1, Task 3, ERO will prepare a habitat assessment letter for submittal to the Service. The habitat assessment letter will be submitted as a draft to Muller and the Town for review and comment before ERO submits it to the Service. ERO will provide Muller with the habitat assessment letter and response letter from the Service for inclusion in the CLOMR submittal package prepared by Muller.

Task Products

- Draft and final habitat assessment letter delivered via email.
- Copy of the response letter from the Service delivered via email.

Task 8. Stream and Wetland Functional Assessment

The Corps is currently implementing a stream functional assessment method that will be required for all IP applications and some Nationwide Permit applications and ERO assumes the Corps will require this analysis for the project. ERO will conduct the full analysis of stream functions using the Colorado Stream Quantification Tool (SQT) Version 1.0, with input from Muller on proposed design conditions, for up to seven sub-reaches in the project area. ERO assumes that up to four virtual meetings with Muller will be required to discuss the channel alignment and cross section, bank stabilization treatments, and proposed conditions to complete the SQT analysis. ERO will summarize the results of the SQT analysis in the IP application under Phase 3, Task 10.

ERO will also conduct a functional assessment of any wetlands found within the project area using the Functional Assessment of Colorado Wetlands Method (FACWet). FACWet data sheets will be completed using the standard practices outlined in the FACWet manual. FACWet results will be incorporated into the IP application under Phase 3, Task 10.

Task Assumptions

- This scope of work includes the full SQT analysis (hydrology, hydraulics, geomorphology, and riparian vegetation) with input from Muller for the proposed conditions.
- This scope of work includes seven sub-reaches in the SQT analysis. If the Corps requires additional sub-reaches for the SQT analysis, ERO will provide a new cost estimate for these additional services.
- ERO will attend up to four virtual meetings with Muller to complete the SQT analysis.

Task Products

- Draft and final SQT worksheets and forms.
- FACWet datasheets and analysis.
- Summary of SQT and FACWet analysis included in the IP application (Task 10).

Task 9. Cultural Resource Services

Section 106 of the NHPA (1996, as amended) requires that the lead federal agency (Corps) consult with the Colorado State Historic Preservation Officer (SHPO) regarding the project's potential to affect historic properties. The project area is located in an area known for its Civilian Conservation Corps (CCC) structures and Native American resources and, therefore, the Corps will likely define the area of potential effect (APE) to include the limits of construction.

Class III Survey and Exploratory Testing

ERO believes that the Corps will require pedestrian survey and evaluative testing of appropriate landforms for this project. Four known cultural resource surveys intersect the project area and ERO will use data and results from those projects to reduce cost for the current project. Two surveys were conducted by ERO in 2018 and 2020 and the other two by PaleoWest 2018 and 2020. Unsurveyed

portions of the project area remain and PaleoWest's 2018 survey was limited to a Class II (reconnaissance survey) which does not qualify as a Class III survey.

ERO will identify the unsurveyed and insufficiently surveyed areas and will survey those areas at a Class III level that conforms to the Secretary of the Interior's Guidelines for Identification and by supervisory personnel that meet the Secretary of the Interior's Professional Qualification Standards. This task will involve two archaeologists walking systematic transects to identify unknown cultural resources within the APE.

ERO identified four CCC-related resources that will intersect the APE based on proposed drop structure locations: two erosion control systems (5DA3750 and 5DA3292), a dump (5DA3747), and a road (5DA3660). Previously documented Native American resources are located near the proposed drop structures on Tributaries 5 and 6. 5DA3750 will require rehabilitation under the proposed project due to historical drop structures threatened by erosion. ERO will work with Muller to identify stabilization techniques that are least likely to avoid adversely affecting the resource. If stabilization results in an adverse effect, the Corps and State Historic Preservation Officer (SHPO) will require Level II documentation of the affected structure. ERO has already collected field data for this effort for previous projects. ERO assumes one more undocumented resource will be present in the APE.

ERO's previous work around the project area has demonstrated buried Native American sites are present in alluvial terraces. ERO identifies such resources through exploratory shovel testing which requires two archaeologists hand-excavating 3-foot-deep circular holes and screening excavated sediments to identified buried artifacts. The SHPO will likely require evaluative testing and ERO recommends conducting the work after approval from the Corps to identify any potential constraints.

Identified cultural resources will be documented on relevant Office of Archaeology and Historic Preservation (OAHP) site forms, mapped, photographed, and located using a sub-meter GeoXH global positioning system unit. Each identified resource will be assessed for its eligibility to be listed in the National Register of Historic Places (NRHP) per 36 CFR 60.4 of the National Historic Preservation Act (NHPA, 1966, as amended).

Reporting

ERO will prepare a cultural resource survey report that conforms to the OAHP (state), Secretary of the Interior's Standards for Documentation, and Corps requirements. This report will include figures depicting the project area and tables listing documented cultural resources, their NRHP eligibility, and management recommendations. A separate appendix will include completed OAHP site forms and cultural resource site location maps (information exempted from the Freedom of Information Act and prohibited from disclosure to the general public). All documents and figures are reviewed for technical and editorial accuracy.

Task Assumptions

- Ground conditions must be 80 percent free of snow and any pedestrian survey areas and access roads must be dry in order to initiate survey. These stipulations are required by the SHPO and federal agencies.
- ERO's cost assumes that four CCC resources will be documented and one buried prehistoric cultural resource will be documented. If more than five resources are encountered during the inventory, ERO will contact Muller after the survey is completed and negotiate a new cost estimate.
- ERO assumes that 12 shovel tests will be necessary to evaluate landforms. If a buried site that is potentially eligible is identified, ERO will contact Muller immediately to prescribe additional steps and negotiate a new cost estimate.
- ERO assumes that evaluative testing and treatment of historic properties, if needed, would be conducted under a separate scope of work.
- ERO assumes that proposed rehabilitation strategies will not adversely affect 5DA3750. If adverse effects are determined by the agency, ERO will use existing documentation to reduce costs associated with a new scope of work and cost estimate.

Task Products

- Draft project team and Agency reports delivered to Muller for review via email.
- Final report documents include two hard copies and a compact disc with accompanying GIS files mailed the Corps and one PDF version emailed to Muller.

Task 10. Prepare Individual Permit Application

ERO will prepare an IP application for submittal to the Corps. The application will include a discussion of the purpose and need for the project, a summary of the wetland delineation, threatened and endangered species information, cultural resources results, an alternatives analysis, information on grading, structures, and best management practices provided by Muller, and a compensatory wetland and stream mitigation plan.

ERO will coordinate with Muller on what information ERO requires for the application. Typical information includes plan and profile views, cross sections, basic sediment and erosion control plan, figures showing and quantifying impacts to jurisdictional areas, quantities of fill material below the ordinary high water mark, details, and background information on other approval requirements (e.g., those of the Federal Emergency Management Agency), and a discussion of the purpose of, and need for, the project. ERO will also coordinate with Muller to develop compensatory wetland and stream mitigation plan concepts that will be incorporated into the final revegetation plan under Phase 3, Task 11. This task includes one round of project impact calculations and one revision to finalize the IP, including reviewing all documents and figures for technical and editorial accuracy.

This task also includes working with Muller and Town throughout the final design phase to discuss project design, SQT analysis, impacts on waters of the U.S., and appropriate mitigation approaches to

meet Corps requirements. ERO will attend up to eight virtual progress meetings with Muller and the Town during the final design phase.

Task Assumptions

- Muller will provide ERO with electronic and PDF project plan sets.
- This task includes with one round of wetland and stream impact calculations based on the project plan set and AutoCAD drawings provided by Muller. Should design plan changes occur after project impact calculations have been completed, revisions would be considered an additional service and ERO will provide a new cost estimate to complete these services.
- One revision to the IP submittal document.
- Muller will develop a suitable range of alternatives to the proposed action for evaluation in the IP process, including why the alternatives considered are not practicable.
- This task assumes that ERO will cover the cost of the section 401 Water Quality Certification fee.
- ERO will attend up to eight virtual progress meetings.

Task Products

- Draft IP submittal documents delivered to Muller and the Town via email.
- Final IP submittal documents including electronic copy submitted to the Corps and hard copies mailed to the Colorado Department of Public Health and Environment (CDPHE) – Water Quality Control Division and Environmental Protection Agency, and a PDF document emailed to Muller and the Town.

Task 11. Final Revegetation Plan

ERO will work with Muller to minimize impacts to wetlands and riparian habitat as much as possible to meet the Corps' required wetland and stream mitigation within the project area and to incorporate these concepts into the final revegetation design plans and construction cost estimate. ERO will provide Muller with the plant material quantities, seed mixes, and revegetation notes in Microsoft Word and/or Excel format and the seeding and planting areas will be represented graphically (redlined) on the plan sheets. ERO assumes that Muller will be responsible for the AutoCAD drawings and will prepare construction documents and specifications. ERO will review Muller's construction drawings and specifications for compliance with Section 404 requirements. This task includes two virtual meetings and one in-person meeting with Muller to develop the final revegetation plan and one in-person meeting with Muller and Town for the 90% design submittal review.

Task Assumptions

- Muller will incorporate final revegetation plan concepts into AutoCAD and prepare construction documents.
- ERO will attend two virtual meetings and one in-person meeting with Muller to develop the final revegetation plan.
- ERO will attend one in-person meeting with Muller and the Town for the 90% design submittal review.

Task Products

- Redlined plan sheets with revegetation concepts delivered to Muller via email.

- Seed mixes, plant lists, and specifications delivered to Muller via email.

Task 12. Comment Resolution and IP Review

With collaboration from Muller, ERO will compile and respond to comments provided by regulatory agencies and the public during the Corps IP review process. This task also includes a review of the draft IP document provided by the Corps. ERO will review the accuracy of the permit's project description, figures, and proposed special conditions to determine if any unexpected or unreasonable conditions are proposed by the Corps. ERO will also identify any Section 404 special conditions or 401 water quality certification compliance requirement that should be updated or included in the construction drawings and specifications. ERO will provide Muller with a memorandum summarizing any concerns with the proposed permit conditions and updates on the final construction drawings and specifications.

Task Assumptions

- During the permit process, the Corps or other entity will not require major changes to the project that will require redesign of the project.

Task Products

- One response to comments delivered to Muller and Corps via email.
- Permit review memorandum delivered to Muller via email.

Estimated Costs

Tasks 1 through 12 will be completed on a times a time-and-materials basis for a cost not to exceed \$106,576.00 (see below for breakout), including expenses billed at cost plus 8%.

Phase 1. Surveying, Site Investigation, & Alternatives Analysis

Task 1. Kickoff Meeting and Site Visit with Project Team	\$2,962
Task 2. Identify and Map Wetlands, Open Water, and Channels	\$7,294
Task 3. ESA and Migratory Bird Treaty Act Compliance	\$1,016
Task 4. Alternatives Analysis	\$2,255
Phase 1 Total	\$13,527

Phase 2. Preliminary Design

Task 5. Environmental Permitting Coordination	\$9,320
Task 6. Preliminary Revegetation Plans	\$4,480
Phase 2 Total	\$13,800

Phase 3. Final Design and Floodplain Modification Approval

Task 7. Habitat Assessment Letter	\$1,537
Task 8. Stream and Wetland Functional Assessments	\$38,778
Task 9. Cultural Resource Services	\$13,833
Task 10. Prepare IP Application	\$12,923
Task 11. Final Revegetation Plan	\$9,984
Task 12. Coordination with Involved Agencies and Comment Resolution	\$2,194
Phase 3 Total	\$79,249

Project Total	\$106,576
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ERO Cost Proposal - McMurdo Gulch Priority 3 Stream Reclamation Project

		Phase 1. Surveying, Site Investigation, & Alternatives Analysis				Phase 3. Preliminary Design		Phase 3. Final Design & Flood Plain Modification Approval							
Labor Category	2022 Unit Rate	Task 1. Kickoff Meeting and Site Visit with Project Team	Task 2. Identify and Map Wetlands, Open Water, and Channels	Task 3. ESA and MBTA Compliance	Task 4. Alternatives Analysis	Task 5. Environmental Permitting Coordination	Task 6. Preliminary Revegetation Plan	Task 7. Habitat Assessment Letter	Task 8. Stream and Wetland Functional Assessment	Task 9. Cultural Resource Services	Task 10. Prepare IP Application	Task 11. Final Revegetation Plan	Task 12. Comment Resolution and IP Review	Labor Hours Total	Totals
Project Principal	\$179.00										1			1	\$179
Senior Project Biologist	\$164.00	10	10	1	4	30	24	2	16		30	52	8	187	\$30,668
Biologist II	\$114.00	10	20	4	8	28	4		260		32	12	6	384	\$43,776
Staff Biologist	\$99.00		20	4				8	16					48	\$4,752
GIS/Graphics Specialist	\$114.00		8		2			2	24	4	20			60	\$6,840
Senior Cultural Resource Specialist	\$120.00					6				19				25	\$3,000
Project Cultural Resource Specialist	\$104.00									50				50	\$5,200
Staff Cultural Resource Specialist II	\$71.00									60				60	\$4,260
Cultural Resources Technician	\$60.00									10				10	\$600
Word Processing/Editor	\$99.00				2			1		4	4		2	13	\$1,287
Administrative Staff	\$84.00				2	1		1		1	2			7	\$588
Total Labor Hours		20	58	9	18	65	28	14	316	148	89	64	16	845	
Total Labor		\$2,780	\$6,812	\$1,016	\$2,162	\$8,916	\$4,392	\$1,531	\$36,584	\$13,276	\$11,591	\$9,896	\$2,194		\$101,150
Expenses	Unit Rate	Task 1. Kickoff Meeting and Site Visit with Project Team	Task 2. Identify and Map Wetlands, Open Water, and Channels	Task 3. ESA and MBTA Compliance	Task 4. Alternatives Analysis	Task 5. Environmental Permitting Coordination	Task 6. Preliminary Revegetation Plan	Task 7. Habitat Assessment Letter	Task 8. Stream and Wetland Functional Assessment	Task 9. Cultural Resource Services	Task 10. Prepare IP Application	Task 11. Final Revegetation Plan	Task 12. Comment Resolution and IP Review	Totals Quantities	Totals
Field Equipment Charges	\$10.00	2	4			9			16	3				34	\$340
Mileage	\$0.58	280	280		150	490	100		1300	175		100		2,875	\$1,668
Photocopy (color/8.5x11)	\$0.30		100		20	100	100	20	100		600	95		1,135	\$341
Photocopy (b&w/8.5x11)	\$0.15										200			200	\$30
File search fee	\$50.00									1				1	\$50
Postage	\$5.00													0	\$0
GPS Rental (per day)	\$125.00		2						10	3				15	\$1,875
401 Water Quality Certification	\$1,122.00										1			1	\$1,122
Total Expenses		\$182	\$482	\$0	\$93	\$404	\$88	\$6	\$2,194	\$557	\$1,332	\$87	\$0		\$5,425
Total estimated costs		\$2,962	\$7,294	\$1,016	\$2,255	\$9,320	\$4,480	\$1,537	\$38,778	\$13,833	\$12,923	\$9,983	\$2,194		\$106,575

An Employee Owned Company

Office Locations: Denver (HQ), Parker, Colorado Springs, Fort Collins, Glenwood Springs, and Summit County, Colorado

November 22, 2021

Attn: John Yager, PE, CFM
Muller Engineering Co.
777 S Wadsworth Boulevard 4-100
Lakewood, Colorado 80226

Subject: Proposal for Geotechnical Engineering Study, McMurdo Gulch Stream
Reclamation Project, Priority III, Castle Rock, Colorado.

Proposal No. C21-394

Dear Mr. Yager:

Kumar & Associates, Inc., is pleased to submit this proposal for the subject project. We understand the project will include channel improvements at the third priority areas identified by the Town of Castle Rock. The reach of McMurdo Gulch considered in this study will include the upstream portion from approximately Sta. 240+00 to 350+00, and will also include Tributaries 5 and 6. We have assumed that access to the project area will be possible using a 2wd truck mounted drill rig.

Scope of Work: Based on the information provided, we propose the following:

1. As requested, drill a total of 8 exploratory borings within the project area at the locations identified by the client. The borings are anticipated to extend about 25 to 30 feet deep. If practical auger drilling refusal is encountered, the boring depths may be less. The final depth of the borings will be determined in the field as drilling progresses and as the subsurface profile becomes evident. The borings will be made to provide information on the subsurface profile, to obtain samples for laboratory testing, and to estimate the ground-water level and depth to bedrock, if encountered within the drilled depth. The groundwater level will be checked after drilling, and the borings will then be backfilled.

We will coordinate with the Utility Notification Center of Colorado to locate buried utilities prior to drilling. Utilities cleared through this service will not include privately owned on-site utility lines. The property owner should identify any privately owned underground utilities that may be present within the property, and notify us of the locations prior to drilling. We will not be responsible for damage to utility lines that are not properly identified.

2. Conduct a laboratory testing program on selected samples obtained from the borings to determine:
 - Moisture content,
 - Density of undisturbed fine-grained samples,
 - Gradation characteristics,
 - Atterberg limits,
 - Swell-consolidation of fine-grained samples (if appropriate), and
 - Water soluble sulfate concentrations.

3. Analyze the data obtained from the field and laboratory portions of the study to provide engineering recommendations for:
 - Foundation type or types, depths and allowable bearing pressures
 - Foundation construction criteria
 - Mitigation of sulfate attack, if any, on concrete
 - Seismic Site Class designation in accordance with Chapter 16 of the IBC
 - Excavation and dewatering considerations
4. Prepare a report summarizing the site exploration data and laboratory test results, and providing our conclusions and recommendations. The field work and report preparation will be supervised by a registered professional engineer.

Fee: We propose to perform the above-described scope of work for a lump sum fee of **\$7,000**.

Schedule: We propose to initiate the study immediately upon being given notice to proceed. We anticipate the field work will be completed within 6 weeks of notice to proceed, and a final report will be available within 2 to 3 weeks after completion of the field program. Specific times may vary somewhat if weather conditions or other conditions beyond our control prevent access. In any event, we will notify you of our progress and any available information.

Please call if you have any questions about the scope of work. If this proposal meets your approval, please sign one copy and return it to this office. Thank you for considering us for the study of this project.

Sincerely,

KUMAR & ASSOCIATES, INC.

By 
Arben Kalaveshi, P.E.

AFK:bj
Rev. by: DPC
Attachment

ENGINEERING, ENVIRONMENTAL AND FIELD TECHNICAL SERVICES

Principal Engineer	\$180.00 - \$220.00/hr.
Senior Project Engineer/Geologist/Manager	\$125.00 - \$160.00/hr.
Project Engineer/Geologist/Scientist	\$100.00 - \$130.00/hr.
Staff Engineer/Geologist/Scientist	\$80.00 - \$105.00/hr.
Project Supervisor	\$90.00 - \$140.00/hr.
Construction Inspector I	\$65.00 - \$75.00/hr.
Construction Inspector II	\$75.00 - \$90.00/hr.
Environmental Specialist/Scientist	\$90.00 - \$135.00/hr.
Environmental Field Technician/Geologist	\$85.00 - \$95.00/hr.
Safety Professional	\$110.00 - \$125.00/hr.
Project Administrator	\$110.00 - \$130.00/hr.
Staff Administrator	\$70.00 - \$80.00/hr.
Exploration Field Engineer/Technician/Geologist	\$70.00 - \$90.00/hr.
Construction Materials Testing Technicians:	
▪ Field Observation	\$65.00 - \$75.00/hr.
▪ Concrete	\$50.00 - \$60.00/hr.
▪ Soils, Reinforcing Steel, Asphalt	\$53.00 - \$62.00/hr.
▪ Piers, Masonry	\$60.00 - \$70.00/hr.
▪ Fireproofing	\$75.00 - \$85.00/hr.
▪ Post-Tensioning	\$60.00 - \$70.00/hr.
▪ Floor Flatness	\$80.00 - \$90.00/hr.
▪ Structural Steel	\$80.00 - \$90.00/hr.
▪ UL Fire Stop Inspection	Call for Pricing
Laboratory Technician/Sample Preparation	\$45.00 - \$55.00/hr.
Word Processing	\$50.00 - \$60.00/hr.
Drafting	\$80.00 - \$100.00/hr.
Litigation/Expert Witness/Deposition	\$175.00 - \$350.00/hr.

OTHER DIRECT CHARGES

Out of Town Expenses, Travel, Rental Etc.	Cost + 15%
--	------------

SUBSURFACE EXPLORATION, SAMPLING, MONITORING WELL INSTALLATION

Exploration Subcontractor Subconsultant's (4-Inch Solid Auger, Hollow Stem Auger, Rotary and Diamond Core Drilling, Exploratory Pit Excavation, ATV Drill Rig, Geophysical Exploration, Specialty Sampling, etc.)	Cost + 15%
Materials/Equipment Rental/Outsourced Laboratory Testing/Subconsultants	Cost + 15%
Falling Weight Deflectometer (Includes Operator)	\$250.00/hr.
Concrete/Asphalt Coring	\$100.00/hr.
Photoionization Detector	\$100.00/Day
LEL/CO/H ₂ S/O ₂ Meter	\$100.00/Day
Conductivity, Temperature, pH Tester	\$25.00/Day
Personal Protective Equipment	Rates Quoted on Project Basis

LABORATORY TESTING

Soils	
Moisture Content (ASTM D2216)	\$10.00 ea.
Moisture Content & Density (ASTM D2216)	\$15.00 ea.
Gradation (ASTM D6913)	\$85.00 ea.
Hydrometer (ASTM D7928)	\$90.00 ea.
Double Hydrometer (ASTM D4221)	\$225.00 ea.
Percent Less than #200 Sieve (ASTM D1140)	\$30.00 ea.
Atterberg Limits (ASTM D4318) Method A	\$75.00 ea.
Atterberg Limits (ASTM D4318) Method B	\$50.00 ea.
Standard Proctor (ASTM D698)	\$100.00 ea.
Modified Proctor (ASTM D1557)	\$120.00 ea.
Soil/Cement Proctor (ASTM D558)	\$135.00 ea.
Proctor Checkpoint (ASTM D698 or ASTM D1557)	\$50.00 ea.
Relative Density (ASTM D4253 and ASTM D4254)	\$175.00 ea.
Specific Gravity (ASTM D854)	\$90.00 ea.
Standard Swell-Consolidation (ASTM D4546)	\$75.00 ea.
Air-Dried Swell-Consolidation (ASTM D4546)	\$90.00 ea.
Remolded Swell-Consolidation (ASTM D4546)	\$120.00 ea.
Time/Consolidation (ASTM D2435)	\$325.00 ea.
Unconfined Compressive Strength (ASTM D2166)	\$70.00 ea.
Slake Durability (ASTM D4644)	\$100.00 ea.
Pinhole Dispersion (ASTM D4647)	\$150.00 ea.
Water Soluble Sulfates (AASHTO T290, CP-L 2103)	\$50.00 ea.
pH (ASTM E70)	\$50.00 ea.
Chloride (AASHTO T291, CP-L 2104)	\$50.00 ea.
Re-Dox (ASTM D1498)	\$50.00 ea.
Sulfides (Hach Procedure)	\$50.00 ea.
Electrical Resistivity (ASTM G57)	\$150.00 ea.
Organics (AASHTO T267)	\$75.00 ea.
R-Value (ASTM D2844)	\$350.00 ea.
California Bearing Ratio (ASTM D1883) 1-Pt.	\$150.00 ea.
California Bearing Ratio (ASTM D1883) 3-Pt.	\$400.00 ea.
Soil/Lime, Soil/Cement Mix Analysis	Call for Pricing
Freeze/Thaw (ASTM D560)	\$400.00 ea.
Wet/Dry (ASTM D559)	\$400.00 ea.
Compressive Strength of Soil-Cement (ASTM D1633)	\$70.00 ea.
Direct Shear/per point (ASTM D3080)	
Unconsolidated-Undrained (Quick Test)	\$150.00 ea.
Residual Strength, Additional Per Carriage Reversal	\$50.00 ea.
Drained Tests Quoted on Project-Specific Basis	

McMurdo Gulch P3 Topographic Design Survey

Muller Engineering

John A. Yager

777 S. Wadsworth Blvd
Suite 4-100
Lakewood CO 80226
(303) 988-4939 x222

Tuesday, November 30, 2021

Section 6, T8S, R66W
Castle Rock, Douglas County, CO
LL 39.389580°,-104.815860°

Scope of work:

- ° Project setup and client coordination.
- ° Research public records for surveys of record, utilities, maps by others, and survey control.
- ° Compile data and prepare for field surveys.
- ° Establish two horizontal and vertical survey control points, for future design and construction layout. - Survey datum NAD83 and NAVD88, unless otherwise specified by client.
- ° Field survey existing conditions in 4 areas, approximately 4000' total. (See Exhibit A)
- ° Prepare field sketches and pictures.
- ° Process field survey data.
- ° Prepare topographic design survey showing all physical features including utility markings by others, locate and measure inverts on 4 sanitary manholes, trees larger than 6" and caliper, groupings of smaller trees and shrubs, 1' contours, and spot elevations.
- ° Prepare SUE plan set.
- ° Prepare 2 easement exhibits based on record information.
- ° Provide copies of field notes, site pictures, research data and field sketches.
- ° Provide final electronic files in AutoCAD 2020 format along with a sealed Topographic Survey and SUE.

McMurdo Gulch P3	hrs.	rate	cost
° Project research and preparation for field surveys	8	110	880.00
° Field surveys - establish & recover horizontal and vertical site control	8	190	1,520.00
° Field surveys - topographic design survey	50	190	9,500.00
° Field sketches and photos	5	95	475.00
° Process field data - prepare base drawing files	10	95	950.00
° Prepare topographic design survey	24	95	2,280.00
° Prepare SUE plan set	16	110	1,760.00
° PE - SUE Review	8	185	1,480.00
° Mileage / Materials			510.00
° PLS Review	4	145	580.00
° Prepare 2 easement exhibits	2	450	900
° Underground Utility Locates (by others)	Est		810.00
° 4 pothole locations (by others)	Est		2,835.00
Total			24,480.00

Survey Area

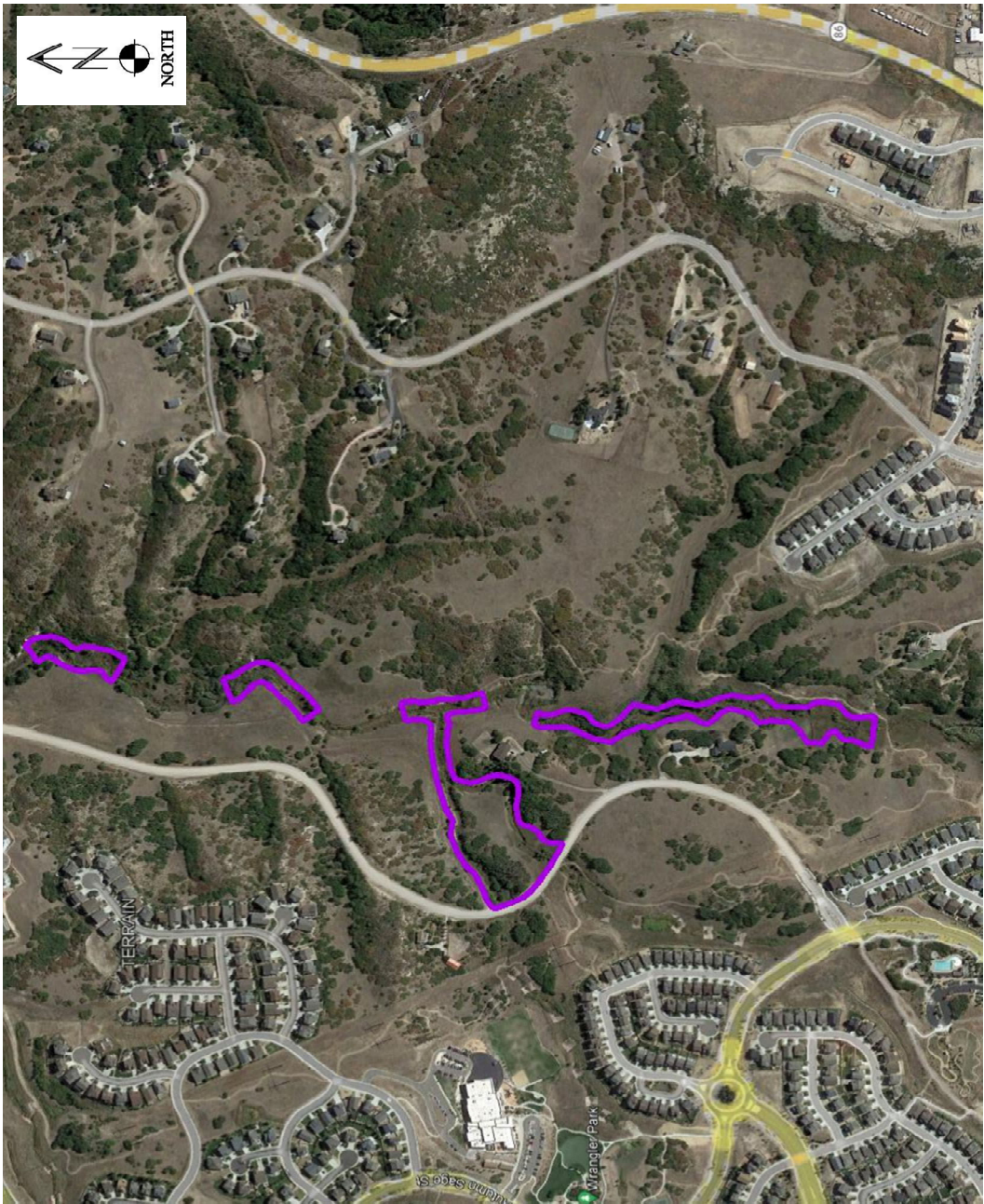


EXHIBIT 2

CONSULTANT'S CERTIFICATION OF INSURANCE (COI)

Untitled Map

Write a description for your map.

Legend

- Castle Rock
- 📍 Castle Rock

Tributary 5 & 6
Improvements

Channel Improvements,
Sta. 248+00 to Sta. 295+00

McMurdo Gulch

State Highway 86

CASTLE ROCK WATER

RESOLUTION 2022 – 005 SERVICES AGREEMENT FOR MCMURDO GULCH STREAM RECLAMATION PRIORITY 3 PROJECT

JANUARY 4, 2022



MCMURDO GULCH PRIORITY 3

BACKGROUND

- Identified in Stormwater Master Plan for improvements
- Degradation resulting from urbanization
- Nutrient load concern within Cherry Creek basin
- Previous projects in partnership with Cherry Creek Basin Water Quality Authority since 2011
- Developer cash-in-lieu applied as part of Terrain North Basin project



MCMURDO GULCH PRIORITY 3

SCOPE

- Approximately 5,400 linear feet of stream stabilization improvements
- Four locations along McMurdo Gulch and tributaries
- Restore sustainable channel system – reduce channel slope & erosive velocities
- Continuation of phased improvements to maintain health stream



Boulder Cascade Structure on McMurdo Gulch in 2011

MCMURDO GULCH PRIORITY 3

PROJECT SUMMARY

Consultant

- Muller Engineering Company, Inc.

Budget

- Requested Authorization: \$549,783
- Construction Estimate: \$3.3M
- Requesting \$171,000 from Cherry Creek
- Received \$225,000 from Stratus Terrain

Schedule

- Design & Permitting: 2022 – 2023
- Construction: Fall 2023 – Spring 2024

Recommendations

- Staff



Completed drop structure on McMurdo Gulch

MCMURDO GULCH PRIORITY 3

MOTION OPTIONS

- PROPOSED MOTION:

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

- ALTERNATIVE MOTIONS:

- *“I move to approve the Resolution as introduced by title, with the following conditions: (list conditions).”*
 - *“I move to continue this item to the Town Council meeting on ____ date to allow additional time to (list information needed).”*



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 14. **File #:** ORD 2022-002

To: Honorable Mayor and Members of Town Council

From: Michael J. Hyman, Town Attorney
Jack Cauley, Police Chief
Lisa Anderson, Town Clerk

Ordinance Amending Chapter 9.22 of the Castle Rock Municipal Code Raising the Minimum Age for the Sale and Possession of Tobacco Products (First Reading)

Executive Summary

Staff proposes to amend the Code to reflect the change to the minimum age for the sale or possession of tobacco products to age 21 so that it is consistent with federal and state law.

On December 20, 2019, President Trump signed legislation to amend the Federal Food, Drug, and Cosmetic Act, Chapter IX: Tobacco Products, 21 U.S. Code § 387f(d)(5) - General provisions respecting control of tobacco product, to raise the federal minimum age of sale of tobacco products from 18 to 21 years effective December 30, 2019. The Colorado legislature adopted House Bill 20-1001 effective July 14, 2020; it is now illegal for a retailer to sell any tobacco product, including cigarettes, cigars and e-cigarettes, to anyone under 21 according to federal and state law.

Between 2017 and 2021, the Castle Rock Police department (CRPD) issued 35 citations for the consummation or possession of nicotine products. During that same time frame, 9 citations were issued by CRPD for furnishing tobacco products to persons under 18.

Staff proposes to amend our Code so that it will allow local enforcement of this law.

Proposed Motion

"I move to approve the Ordinance as proposed."

"I move to amend the Ordinance as follows."

"I move to approve the Ordinance as amended."

Attachment

Ordinance

ORDINANCE NO. 2022-__

**AN ORDINANCE AMENDING CHAPTER 9.22 OF THE CASTLE ROCK
MUNICIPAL CODE RAISING THE MINIMUM AGE FOR THE SALE
AND POSSESSION OF TOBACCO PRODUCTS**

WHEREAS, on December 20, 2019, President Trump signed legislation amending the Federal Food, Drug, and Cosmetic Act, raising the federal minimum age for sale of tobacco products from 18 to 21 years; and

WHEREAS, it is now illegal for a retailer to sell any tobacco product—including cigarettes, cigars, and e-cigarettes—to anyone under 21; and

WHEREAS, the new federal minimum age of sale applies to all retail establishments and persons with no exceptions; and

WHEREAS, corresponding legislation, in the form of House Bill 20-1001, was adopted by the Colorado Legislature and went into effect on July 14, 2020; and

WHEREAS, according to that legislation, no home rule municipality, including the Town of Castle Rock (the “Town”), shall enact an ordinance that establishes a minimum age to purchase cigarettes, tobacco products, or nicotine products that is under twenty-one (21) years of age;

WHEREAS, at present, the minimum age to purchase cigarettes, tobacco products, or nicotine products under the Town Code is eighteen (18) years; and

WHEREAS, the Town Council finds that it is in the best interests of the Town and its residents to revise its code to ensure compliance with this legislation.

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

Section 1. Legislative Findings. The recitals of this ordinance are adopted as findings of the Town Council in support of the enactment of this Ordinance.

Section 2. Amendment. Section 9.22.010 of the Castle Rock Municipal Code is amended to read as follows:

9.22.010 - Definitions.

AS USED IN THIS CHAPTER, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS INDICATED:

Cigarette, tobacco product, or nicotine product means:

A. A product that contains nicotine, tobacco, synthetic tobacco, cloves, marijuana, tobacco derivatives, or other plant matter and is intended to be ingested, absorbed, inhaled, chewed, or applied to the skin of an individual; or

B. Any device that can be used to deliver nicotine, tobacco, synthetic tobacco, cloves, marijuana, tobacco derivatives, or any other plant matter to the person ingesting, absorbing, or inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, vaporizer, vape pen, or pipe.

~~Minor means a person under the age of eighteen (18) years of age.~~

Section 3. Amendment. Section 9.22.020 of the Castle Rock Municipal Code is amended to read as follows:

9.22.020 - Prohibition.

A. It is unlawful for any person ~~eighteen (18) years of age or older~~ to ~~furnish to any minor by gift, sale or other means~~ GIVE, SELL, DISTRIBUTE, DISPENSE, OR OFFER FOR SALE any cigarettes, tobacco products, or nicotine products TO ANY PERSON UNDER TWENTY-ONE (21) YEARS OF AGE.

B. It is unlawful for any ~~minor~~ PERSON UNDER TWENTY-ONE (21) YEARS OF AGE to consume, possess, or to purchase or attempt to purchase, either directly or through an intermediary, or in any other manner obtain any cigarette, tobacco product, or nicotine product.

Section 4. 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 ____ day of _____, 2022, by a vote of __ for and __ against, after publication in compliance with section 2.02.100C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2022, 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

Jack Cauley, Chief of Police

ORDINANCE AMENDING CHAPTER 9.22 OF THE CASTLE ROCK MUNICIPAL CODE RAISING THE MINIMUM AGE FOR THE SALE AND POSSESSION OF TOBACCO PRODUCTS

JANUARY 4, 2022



REASON FOR THE AMENDMENT

- December 20, 2019 – Amendment to the Federal Food, Drug, and Cosmetic Act raising the federal minimum age for sale of tobacco products from 18 to 21 years signed into law.
- July 14, 2020 – Corresponding legislation adopted by the Colorado Legislature (House Bill 20-1001) takes effect.
- Chapter 9.22 of the Town Code needs to be updated to conform to federal and state law.



“I MOVE TO APPROVE ORDINANCE NO. 2022-002 AS INTRODUCED BY
TITLE ON FIRST READING.”

“I MOVE TO APPROVE ORDINANCE NO. 2022-002 AS INTRODUCED
BY TITLE, WITH THE FOLLOWING CONDITIONS:
_____.”

“I MOVE TO CONTINUE THIS ITEM TO THE TOWN COUNCIL
MEETING ON _____.”



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 15. **File #:** ORD 2022-003

To: Honorable Mayor and Members of Town Council

From: Lisa Anderson, Town Clerk
Michael J. Hyman, Town Attorney

Ordinance Amending Various Sections of the Castle Rock Municipal Code Regarding Board and Commission Membership, Term Limits and Bylaws and Adding Chapter 2.18 Concerning the Oath of Office (First Reading)

Executive Summary

The proposed amendments to the Code were presented to Town Council at the October 19, 2021 Town Council Meeting. Town Council provided direction to provide an Ordinance to amend the Code.

Summary of organization of the code

- 1) Centralize general provisions for boards and commissions under Section 2.14.
- 2) Remove repetitive general provisions from the individual board or commission codes and leave only provisions specific to that board or commission.
- 3) Insert Editor's Notes to cross-reference to the main boards and commissions code and to specific boards or commissions codes.
- 4) Codify Downtown Development Authority provisions outlined in the creating Ordinance.

Summary of changes made to the code

- 5) Require that all boards and commission members take an Oath of Office.
- 6) Require Town residency for all Town boards and commissions.
- 7) Any non-resident currently serving on a Town board or commission as of the effective date of this ordinance will be allowed to serve out their current term.
- 8) Non-resident positions are approved by Town Council.

- 9) Modify unexcused absences - boards or commissions scheduled for twice monthly meetings (Planning Commission and Design Review Board) cannot exceed four (4) unexcused absences, boards and commissions meeting monthly cannot exceed three (3) unexcused absences, and boards meeting quarterly or as needed cannot exceed one (1) unexcused absence. The Town Manager or designee will determine if an absence is excused.
- 10) Codify terms and term limits
- 11) Revise the waiting period to be proportional to the term: boards or commissions with two-year terms wait two terms (four years), and boards or commissions with three and four-year terms wait one term (three or four years)
- 12) Define a partial term.
- 13) Create Model bylaws and post them on the website.

Proposed Motion

"I move to Approve the Ordinance on first reading."

"I move to make the following amendments to the proposed Ordinance."

"I move to Approve the Ordinance as amended on first reading."

Attachments

Ordinance

ORDINANCE NO. 2022-

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE CASTLE
ROCK MUNICIPAL CODE REGARDING BOARD AND COMMISSION
MEMBERSHIP, TERM LIMITS AND BYLAWS AND ADDING
CHAPTER 2.18 CONCERNING THE OATH OF OFFICE**

WHEREAS, Town Council desires to provide clarity and updates to the Castle Rock Municipal Code (the “Code”) regarding Board and Commission membership, absences, term limits, bylaws, and to require all Boards and Commissions members to take an oath of office; and

WHEREAS, Town Council wishes to codify a standard oath of office for Board and Commission Members already taken by Council Members, Town officers and department heads; and

WHEREAS, the Town Council has determined that amendments to the Code are necessary to provide said clarity, updates, and a codified oath of office.

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

Section 1. Amendment. Section 2.14.010 of the Castle Rock Municipal Code is amended to read as follows:

2.14.010- ~~General~~ MEMBERSHIP.

ALL TOWN BOARDS AND COMMISSIONS AND THE DOWNTOWN DEVELOPMENT AUTHORITY, EXCEPT INsofar AS EXPRESSLY MODIFIED ELSEWHERE IN THIS CODE, THE CHARTER, OR STATE STATUTE, SHALL SERVE IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER 2.14 AS FOLLOWS:

- A. THE MEMBERS OF ~~A~~-all TOWN boards and commissions ~~of the Town of Castle Rock (including, but not limited to,~~ Board of Adjustment, Board of Building Appeals, Castle Rock Water Commission, Design Review Board, Election Commission, Historic Preservation Board, ~~Liquor Licensing Authority,~~ Parks and Recreation Commission, Planning Commission, Public Art Commission, Public Safety Commission, and Public Works Commission) AND THE MEMBERS OF THE DOWNTOWN DEVELOPMENT AUTHORITY BOARD SHALL BE APPOINTED BY A MAJORITY VOTE OF THE MEMBERS OF TOWN COUNCIL PRESENT AT THE MEETING.
- B. TOWN COUNCIL WILL APPOINT MEMBERS TO FILL THE REMAINDER OF UNEXPIRED TERMS OF ALL TOWN BOARDS AND COMMISSIONS AND THE DOWNTOWN DEVELOPMENT AUTHORITY IN ORDER TO RETAIN STAGGERED TERMS.

- C. THE MEMBERS OF ALL TOWN BOARDS AND COMMISSIONS AND THE TOWN COUNCIL MEMBER OF THE DOWNTOWN DEVELOPMENT AUTHORITY BOARD shall serve at the pleasure of Town Council.
- D. ALL MEMBERS OF TOWN BOARDS AND COMMISSIONS AND THE DOWNTOWN DEVELOPMENT AUTHORITY BOARD SHALL TAKE AN OATH OF OFFICE PER CHAPTER 2.18 OF THIS CODE.
- ~~B-E.~~ Any member of a TOWN board or commission may be removed with or without cause by AN AFFIRMATIVE VOTE OF a majority ~~vote (four (4) or more)~~ of the ENTIRE MEMBERSHIP OF Town Council. REMOVAL OF THE MEMBERS OF THE DOWNTOWN DEVELOPMENT AUTHORITY SHALL BE GOVERNED BY SECTIONS 31-25-805(2)(A) AND 31-25-806(4), C.R.S., AS AMENDED.
- ~~C-F.~~ All TOWN BOARD OR COMMISSION members ~~of a board or commission~~ shall be bona fide residents of the Town of Castle Rock at the time of appointment and discontinuance of residency shall terminate membership, ~~unless otherwise specified in such board or commission's by-laws.~~ The residency requirement shall not apply to:
1. ~~m~~Members of the Downtown Development Authority who are ~~business or property owners~~ OTHERWISE ELIGIBLE TO SERVE PURSUANT TO SECTION 31-25-806(1), C.R.S.; ~~members of the Historic Preservation Board who are residents of Douglas County and/or are subject matter experts specifically recruited to fill vacancies; or to members of the Public Art Commission.~~
 2. ANY POSITION ON A TOWN BOARD OR COMMISSION THAT TOWN COUNCIL HAS EXPRESSLY AUTHORIZED BY ORDINANCE TO BE FILLED BY A NON-RESIDENT.
 3. ~~Other~~ ANY NON-RESIDENT TOWN boards or commissions ~~who wish to allow nonresidents to serve shall require approval of this exception from Town Council~~ MEMBER SERVING AS OF JANUARY 18, 2022, WILL BE ALLOWED TO SERVE OUT THEIR CURRENT TERM.
- ~~D-G.~~ All Board and Commission members shall serve without compensation.
- ~~E.~~ ~~Except for emergency absences, medical condition absences and absences resulting from military leave of less than two (2) continuous months, no Commissioner shall miss more than six (6) meetings in any twelve month period. Upon any seventh absence within twelve (12) months, other than for an emergency, medical condition or military leave of less than two (2) months, as determined by the Chair, the Commissioner shall be deemed to have resigned from the board or commission, and the Council shall appoint a replacement.~~

Section 2. Amendment. The Castle Rock Municipal Code is amended by the addition of a new Section 2.14.015, which Section reads as follows:

2.14.015 - Absences.

- A. Except for emergency absences, medical condition absences and absences resulting from military leave of less than two (2) continuous months, between June 1 to May 31 of the following year, a board or commission member shall not exceed the following unexcused absences:
1. A board or commission that schedules meetings twice monthly cannot exceed four (4) unexcused absences;
 2. A board or commission that schedules meetings monthly cannot exceed three (3) unexcused absences; and
 3. A board or commission that schedules quarterly meetings or as needed cannot exceed one (1) unexcused absence.
- B. The Town Manager or designee shall determine whether an absence is excused or unexcused.
- C. If a Town board or commission member exceeds the number of unexcused absences, the member shall be deemed to have resigned from the board or commission and the Town Council shall appoint a replacement.
- D. If a member of the Downtown Development Authority exceeds the number of unexcused absences permitted by subsection A of this section, such fact shall be considered cause for removal under Section 31-25-806(4), C.R.S.

Section 3. Amendment. Section 2.14.020 of the Castle Rock Municipal Code is amended to read as follows:

2.14.020 - Term limits.

- A. ~~Effective June 1, 2015, the termS for all TOWN board or commission members (with the exception of Downtown Development Authority and Election Commission) shall be two (2) years. Each board and commission shall establish a schedule within their by laws to effect staggered terms.~~ WITH THE FOLLOWING EXCEPTIONS:
1. DOWNTOWN DEVELOPMENT AUTHORITY: FOUR (4)-YEAR TERMS;
 2. ELECTION COMMISSION: THREE (3)-YEAR TERMS;
 3. BOARD OF BUILDING APPEALS: THREE (3)-YEAR TERMS; AND
 4. DESIGN REVIEW BOARD:
 - a. MEMBERS APPOINTED AS REPRESENTATIVES FROM OTHER

BOARDS AND COMMISSIONS: ONE (1)-YEAR TERMS.

- b. MEMBERS APPOINTED AS PROPERTY OWNERS WITHIN THE DOWNTOWN DEVELOPMENT AUTHORITY BOUNDARY: TWO (2)-YEAR TERMS.
- B. No TOWN board or commission member, ~~with the exception of members of the Historic Preservation Board~~, shall serve more than three (3) consecutive two (2)-year terms ("Term Limit"). ~~A partial term shall be counted as a full term served. A partial term is defined as any period of time less than two (2) years. Members of the Historic Preservation Board may serve four consecutive two-year terms.~~ WITH THE FOLLOWING EXCEPTIONS:
1. MEMBERS OF THE HISTORIC PRESERVATION BOARD MAY SERVE FOUR (4) CONSECUTIVE TWO (2)-YEAR TERMS;
 2. MEMBERS OF THE ELECTION COMMISSION MAY SERVE TWO (2) CONSECUTIVE THREE (3)-YEAR TERMS;
 3. MEMBERS OF THE BOARD OF BUILDING APPEALS MAY SERVE TWO (2) CONSECUTIVE THREE (3)-YEAR TERMS; AND
 4. MEMBERS OF THE DOWNTOWN DEVELOPMENT AUTHORITY BOARD ARE NOT SUBJECT TO THE TERM LIMITATION REQUIREMENTS OF THIS SECTION.
- C. ~~TOWN B~~-board and commission term limits shall be retroactive. Any member who has served ~~six (6) consecutive years~~ THE MAXIMUM NUMBER OF CONSECUTIVE TERMS PURSUANT TO THIS SECTION by the end of the member's current term will not be eligible for reappointment to a new term.
- D. A ~~citizen~~-TOWN BOARD OR COMMISSION MEMBER must wait ~~four (4) years~~ (two (2) full terms) FOR BOARDS AND COMMISSIONS WITH TWO (2)-YEAR TERMS, AND ONE (1) FULL TERM FOR BOARDS AND COMMISSIONS WITH THREE (3) AND FOUR (4)-YEAR TERMS prior to reapplying to serve on the same TOWN board or commission for which the member was ~~disqualified to serve due to Term Limits~~ TERM LIMITED.
- E. A PARTIAL TERM SHALL NOT BE COUNTED FOR PURPOSES OF DETERMINING TERM LIMITS. FOR THE PURPOSES OF THIS SECTION, A PARTIAL TERM IS DEFINED AS SERVING LESS THAN ONE HALF (1/2) OF THE TERM.

Section 4. Amendment. Section 2.14.030 of the Castle Rock Municipal Code is repealed and reenacted in its entirety to read as follows:

2.14.030 – Town board and commission meeting conduct.

A. For each Town board or commission:

1. A chair and vice-chair will be elected from the members at the first meeting at the beginning of the term year to serve a one-year term. The chair shall be the executive officer and shall preside over all meetings, sign documents on behalf of the board or commission, call special meetings as needed and see that all actions of the board or commission are properly taken. The vice-chair will assume the duties of the chair in the chair's absence. Both the chair and vice chair will retain their voting rights at all meetings. In the absence of the chair and vice-chair, the members in attendance at such meeting may designate a chair pro-tem to preside over the meeting. Regular meetings may be cancelled by the chair or the Town Manager or designee.
2. A majority of the membership shall constitute a quorum. A quorum is required in order for the board or commission to conduct a meeting.
3. If a quorum is present, an affirmative vote of a majority of the members in attendance is required for any formal action to be taken. In the event that a quorum is not present, a meeting may nevertheless be continued by an affirmative vote of a majority of the members in attendance.
4. A tie vote shall be deemed a denial of the motion or recommended action.
5. Strict adherence to the Town Charter and Code, the rules, regulations, and policies adopted pursuant thereto, and any applicable federal or state laws, rules, regulations, or policies shall be required.
6. All meetings at which public business is discussed or formal action is taken shall be open to the public and noticed in compliance with the Colorado Open Meetings Law, Section 24-6-402, C.R.S.
7. Special meetings may be called by the chair, any two members of the board or commission, or the Town Manager or designee and must adhere to the same noticing requirements as a regular meeting.
8. Executive sessions may be conducted for any reason permitted by the Colorado Open Meetings Law, Section 24-6-402, C.R.S.
9. Robert's Rules of Order shall govern any procedural matter not addressed in the bylaws; provided, however, that the failure of a board or commission to follow Robert's Rules of Order shall not invalidate an otherwise lawful action.
10. A recording of minutes and votes are required for each meeting and shall be archived, along with any agenda packets and executed documents, using the Town archival software.

11. Town staff is available to serve as a liaison and to offer assistance.
 12. Each member must adhere to the Town Code of Conduct as set forth in Chapter 2.05 of the Code.
- B. Notwithstanding any provision of this section to the contrary, the Town Council shall have the sole authority to adopt, and amend from time to time, by resolution, rules and procedures governing the remote attendance and participation of board and commission members and the general public by telephone or other electronic means, subject to reasonable qualifications and limitations.

Section 5. Amendment. Section 2.14.040 of the Castle Rock Municipal Code is amended to read as follows:

2.14.040 - Bylaws.

- A. Each board and commission shall be responsible for adopting ~~its own~~ bylaws ~~promulgating the rules and regulations on~~ GOVERNING the conduct of their meetings THAT GENERALLY ADHERE TO THE MODEL BOARD AND COMMISSION BYLAWS MAINTAINED AND ADMINISTRATIVELY AMENDED BY THE TOWN MANAGER OR DESIGNEE; provided, however, that SUCH BYLAWS DO NOT CONFLICT WITH THE CODE OR OTHER CONTROLLING DOCUMENTS ~~the Town Council shall have the sole authority to adopt, and amend from time to time, by resolution, rules and procedures governing the remote attendance and participation of board and commission members and the general public by telephone or other electronic means, subject to reasonable qualifications and limitations.~~
- B. ALL BOARD AND COMMISSION BYLAWS WILL BE PUBLISHED ON THE TOWN WEBSITE.

Section 6. Amendment. Section 2.16.050 of the Castle Rock Municipal Code is amended to read as follows:

2.16.050 - Membership.

- A. The Planning Commission shall consist of seven members ~~to be selected and appointed by the Town Council.~~
- B. ~~The term for Planning Commission membership shall be in accordance with Chapter 2.14.~~
- C. ~~Geographic representations shall be a factor considered in appointments, along with interest in planning and related support fields.~~

Section 7. Amendment. Section 2.16.060 of the Castle Rock Municipal Code is amended to read as follows:

2.16.060 – ~~Selection~~ VACANCIES.

All vacancies occurring otherwise than through the expiration of terms shall be filled ~~for the remainder of the unexpired term by appointment by the Town Council~~, with appointment to be completed within ninety (90) days of the vacancy. ~~Vacancies created by term expiration shall be filled by appointment prior to May 31. For the purpose of this Section, the expiration of a term shall be considered as creating a vacancy, irrespective of the interest of the incumbent to reappointment.~~

Section 8. Amendment. Section 2.16.070 of the Castle Rock Municipal Code is amended to read as follows:

2.16.070 - Chairman.

The Planning Commission shall ~~elect from its appointed regular members a chairman for a one year term of office. The chairman shall be eligible for reelection AS CHAIR FOR not to exceed three (3) successive terms of office YEARS. The chairman shall retain his or her voting rights.~~

Section 9. Amendment. Section 2.16.080 of the Castle Rock Municipal Code is amended to read as follows:

2.16.080 - Meetings.

The Planning Commission shall hold regular public meetings, not less than once per calendar month, ~~at which time the Town Clerk or some party designated by the Clerk shall maintain public minutes and records of the proceedings before the Planning Commission. No official meeting shall take place unless a majority of the membership is present. A majority vote of the membership present shall be required on all approvals or official actions of the commission. The commission may adopt rules of procedure for its meetings which shall constitute official protocol.~~

Section 10. Amendment. Section 2.16.090 of the Castle Rock Municipal Code is repealed in its entirety. Sections 2.16.100, 2.16.110, and 2.16.120 of the Castle Rock Municipal Code are renumbered 2.16.090, 2.16.100, and 2.16.110, respectively.

Section 11. Amendment. The Castle Rock Municipal Code is amended by the addition of a new Chapter 2.18, which Chapter reads as follows:

Chapter 2.18 - Oath of Office.

2.18.010 - When Required.

Before assuming their respective offices or positions, the following individuals shall take and file with the Town Clerk or other designated person an oath or affirmation:

- A. Mayor and members of Town Council
- B. Town Manager
- C. Deputy Town Manager
- D. Assistant Town Manager
- E. Town Attorney
- F. Town Clerk
- G. Police Chief
- H. Fire Chief
- I. Department heads
- J. Members of Town boards and commissions
- K. Liquor Licensing Authority hearing officer
- L. Director of the Downtown Development Authority and members of the Downtown Development Authority board.

2.18.020 - Form of Oath.

The oath or affirmation to be taken by the individuals designated in Section 2.18.010 shall read as follows:

I, [name], do solemnly [swear, affirm, or swear by the everliving God] that I will support the constitution and laws of the United States and the state of Colorado and the Charter, ordinances, and laws of the Town of Castle Rock, and will faithfully perform the duties of [name of office or position] for the Town of Castle Rock upon which I am about to enter to the best of my ability.

Section 12. Amendment. Section 15.30.090 of the Castle Rock Municipal Code is hereby amended to read as follows:

15.30.090 - Board of Building Appeals.

- A. Authority. In order to hear and decide appeals of orders, decisions or determinations made by the Chief Building Official relative to the application and interpretation of the Town-adopted building codes and regulations, as well as the Town's contractor registration ordinances, there shall be and is hereby created a Board of Building Appeals (Board), also

referred to as the Advisory Board in Paragraph 15.03.070.B.5. The Chief Building Official shall be an ex officio member of and shall act as secretary to said Board but shall have no vote on any matter before the Board. ~~The Board shall be appointed by the Town Council and shall hold office at its pleasure.~~ The Board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the applicant with a duplicate copy to the Chief Building Official.

- B. Membership. The Board shall consist of five (5) qualified electors of the Town, ~~who shall be appointed by the Town Council.~~ To the extent practicable, four members shall be persons qualified by experience and training to pass on matters pertaining to building construction.
- C. ~~Appointments and terms of office. Of those initially appointed, two shall be for a term of three years, two shall be for a term of two years, and one shall be for a term of one year. Thereafter, appointments shall be for a three year term. Any member of the Board may be removed with or without cause by a majority vote of the Town Council. Any vacancy occurring on the Board shall be filled for the unexpired term by the Town Council.~~
- D. ~~Attendance. To ensure the orderly conduct of business, member attendance is vital. Except for emergency absences, medical condition absences and absences resulting from military leave of less than two continuous months, no Board member shall miss more than three meetings in any twelve month period. Upon any fourth absence within 12 months, other than for an emergency, medical condition or military leave of less than two months, as determined by the chair, the Board member shall be deemed to have resigned from the Board, and the Town Council shall appoint a replacement. Nothing herein prohibits the Town Council from reappointing the resigning member under this Paragraph.~~
- E. ~~Quorum and v Voting. Quorum shall consist of three members, and a decision of a majority of the members of the Board shall control. Any absent member may join in a decision of the Board after he or she has considered the evidence presented in any hearings conducted during his or her absence. All decisions are final, subject only to appeal to a court of competent jurisdiction.~~
- F. ~~Officers. The Board shall annually elect a chair from its number who shall preside over all hearings and proceedings of the Board. A vice chair elected annually by the Board shall assume the chair's duties in the chair's absence.~~
- G-D. Meetings. The Board shall hold meetings at regularly scheduled intervals, but shall meet at a minimum four times a year. ~~Minutes shall be kept of all Board proceedings.~~
- H-E. Limitations of authority. The Board shall have no authority relative to interpretation of the administrative provisions of the Code, as adopted by the Town, nor shall the Board be empowered to waive requirements of the Code as adopted by the Town.

Section 13. Amendment. Section 15.64.030 of the Castle Rock Municipal Code is hereby amended to read as follows:

15.64.030 - Historic Preservation Board established.

There is hereby created a Historic Preservation Board, referred to in this Chapter as the "Board," which shall have principal responsibility for matters of historic preservation.

- A. Membership. The Board shall consist of seven (7) voting members providing a balanced, community-wide representation and one (1) non-voting liaison.
 - 1. The Castle Rock Historical Society and Museum Board may provide Town Council with a recommendation for the liaison. The liaison shall be affiliated with the Castle Rock Historical Society and Museum Board. ~~All members shall be residents of Douglas County, with preference given to Town of Castle Rock residents.~~
 - 2. The Board shall be composed of both professional and lay members, all of whom have demonstrated interest, knowledge or training in fields closely related to historic preservation.
 - a. At least three (3) members shall be professionals or shall have extensive expertise in a preservation-related discipline, including but not limited to history, architecture, planning or archaeology. If the required number of professional members cannot be found to serve on the Board, this requirement may be waived until the next vacancy occurs, at which time the Town shall again diligently seek professional representation. In the case of a lack of professional appointees, the Board may, with Council approval, be allowed to retain professional consultants to advise the Board as necessary to fulfill its duties.
 - b. At least three (3) members shall be residents or property owners from the Craig and Gould neighborhood. If the required number of residents or property owners from the Craig and Gould neighborhood cannot be found to serve on the Board, this requirement may be waived until the next vacancy occurs, at which time the Town shall diligently seek Craig and Gould representation. The Castle Rock Historical Society and the Castle Rock Chamber of Commerce are encouraged to submit nominees for Council consideration.
 - 3. The Director of Development Services or a designated department representative shall serve as staff to the Board.
- B. ~~Appointments and terms of office. The appointment and terms of the members shall be in accordance with Chapter 2.17 of this CRMC.~~
- C. ~~Attendance. To ensure the orderly conduct of business, member attendance is vital. Except for emergency absences, medical condition absences and absences resulting from~~

~~military leave of less than two continuous months, no Board member shall miss more than three meetings in any twelve month period. Upon any fourth absence within 12 months, other than for an emergency, medical condition or military leave of less than two months, as determined by the Chairperson, the Board member shall be deemed to have resigned from the Board, and the Council shall appoint a replacement. Nothing herein prohibits the Council from reappointing the resigning member under this Subsection.~~

~~D. Quorum and voting. A quorum for the Board shall consist of a majority of the regular membership. A quorum is necessary for the Board to hold a public hearing or to take official actions, except that a public hearing may be continued by a majority vote of the members present when a quorum is not present. A tie vote shall be deemed a denial of the motion or recommended action.~~

~~E. Officers. The Board shall, by majority vote, elect one of its members to serve as chairperson to preside over the Board's meetings and one member to serve as vice chairperson. The members so designated shall serve in these capacities for terms of one year and may serve successive terms.~~

F. Meetings. The Board shall hold meetings at regularly scheduled intervals, but shall meet at minimum four times a year. ~~Minutes shall be kept of all Board proceedings.~~

G-C. Powers and duties. The Board shall:

1. Adopt criteria for review of Historic Properties and for review of proposals to alter, demolish or relocate designated Landmarks.
2. Review properties nominated for designation as a Historic Landmark or Historic District in the Craig and Gould neighborhood and recommend that the Town Council designate by ordinance those properties qualifying for such designation.
3. Review and rule on any application for Alterations to a Historic District in the Craig and Gould neighborhood.
4. Review and rule on any application for the Alteration, relocation or Demolition of a Historic Landmark.
5. Review and approve new construction and Alterations to non-Landmarked properties within the Craig and Gould neighborhood.
6. Maintain a system for survey and inventory.
7. Advise and assist owners of Historic Properties regarding physical and financial aspects of preservation, renovation, Rehabilitation and reuse, including nomination to the National Register of Historic Places.
8. In conjunction with the Castle Rock Historical Society, develop and assist with

public education programs, including but not limited to walking tours, brochures, a marker program for historic properties, lectures and conferences.

9. Conduct surveys of historic areas for the purpose of defining those of historic Significance and prioritizing the importance of identified historic areas and structures.
10. Advise the Planning Commission and Town Council on matters related to preserving the historic character of the Town.
11. In conjunction with other entities and private individuals, actively pursue financial assistance for preservation-related programs through grants and other means.
12. Administer the local economic incentive programs set forth in Section 15.64.050.
13. Review and make recommendations to the Town Council regarding amendments to the Historic Preservation Plan. The Plan, and any amendments thereto, shall be adopted by resolution of the Town Council.

~~H. Rules and procedures. The Board shall adopt rules of procedure or bylaws which shall be made available to the public. All meetings of the Board shall be open to the public.~~

Section 14. Amendment. Section 17.06.010 of the Castle Rock Municipal Code is hereby amended to read as follows:

~~17.06.010 – Organization~~ BOARD OF ADJUSTMENT.

- A. The Board of Adjustment ("Board") shall consist of five (5) members ~~appointed by the Town Council. All members shall be residents of the Town. If at any time a Board member is no longer a resident, such seat shall be considered vacant and subject to appointment by the Town Council.~~
- B. ~~The terms of the members of the Board shall be in accordance with Chapter 2.14 of this CRMC.~~
- C. ~~Members of the Board shall serve at the pleasure of the Town Council, and may be removed by a majority vote of the Town Council for any good cause, as determined in its absolute discretion.~~
- D. ~~The members of the Board shall select their own Chair. The services of any Town employee shall be available to the Board. The Board shall adopt such rules and regulations necessary to carry into effect the provisions of this Title, specifically including attendance requirements and a method of terminating a member for nonattendance. Meetings OF THE BOARD shall be held at such times as may be necessary and shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question.~~

Section 15. 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 16. 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 ____ day of ____, 2022 by a vote of _ for and _ 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 ____ day of ____, 2022 by the Town Council of the Town of Castle Rock, Colorado, 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

David L. Corliss, Town Manager

BOARDS & COMMISSIONS

CODE REVISIONS

JANUARY 4, 2022 TOWN COUNCIL MEETING



REORGANIZATION OF THE CODE

- Centralize general provisions under Section 2.14
- Remove repetitive provisions from individual codes
- Insert Editor's Notes in Code to cross-reference
- Codify DDA provisions outlined in creating Ordinance

PROPOSED CODE AMENDMENTS

- Create an Oath of Office section in our Code
- Require all members take an Oath of Office
- Modify unexcused absences per meeting frequency
- Create model bylaws and post on the website

PROPOSED CODE AMENDMENTS ON RESIDENCY

- Require Town residency for all Town boards and commissions members
- Non-residents currently serving may serve out their current term
- Non-resident positions must be approved by Ordinance

PROPOSED CODE AMENDMENTS FOR TERMS

- Codify term limits
- Revise waiting period proportionate to the term
- Define a partial term

PROPOSED MOTION

- I move to Approve the Ordinance on first reading.
- I move to make the following amendments to the proposed Ordinance.
 - I move to Approve the Ordinance as amended on first reading.
- I move to Continue the Ordinance.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 1/4/2022

Item #: 16. **File #:** ORD 2022-004

To: Honorable Mayor and Members of Town Council

From: Michael J. Hyman, Town Attorney
Lisa Anderson, Town Clerk

Ordinance Amending Section 2.01.100 of the Castle Rock Municipal Code Regarding the Authority of the Castle Rock Election Commission (First Reading)

Executive Summary

The purpose of the proposed amendment is to grant the Election Commission the authority to determine which election district newly annexed property resides in prior to the deadline for the next election.

The Castle Rock Town Charter Section 4-5 states the Election Commission has the authority to review the boundaries of Town Council districts every six years and to make adjustments as necessary. Both the Castle Rock Town Charter and Municipal Code are silent as to how district boundary adjustments are made when property is annexed into the Town boundaries. This could potentially cause an issue if an election were to occur prior to redistricting and electors resided within the annexed property.

Staff recommends granting the Election Commission the authority to make the determination which election district the annexed property will be included in.

Proposed Motion

I move to approve the Ordinance as introduced.

-or-

I move to approve the Ordinance as amended.

Attachments

Ordinance

ORDINANCE NO. 2022-_____

AN ORDINANCE AMENDING SECTION 2.01.100 OF THE CASTLE ROCK MUNICIPAL CODE REGARDING THE AUTHORITY OF THE CASTLE ROCK ELECTION COMMISSION

WHEREAS, under Section 4-5 of the Castle Rock Town Charter (“Charter”), the Castle Rock Election Commission (the “Commission”) has the authority to review the boundaries of Town Council districts every six years to determine if an adjustment in district boundaries is required and, if so, to make the necessary adjustments to conform to the requirements of federal, state, and local law; and

WHEREAS, both the Charter and the Castle Rock Municipal Code (the “Code”) are silent as to how district boundary adjustments are made when property is annexed into the Town boundaries; and

WHEREAS, the Town Council wishes to amend the Code to grant authority to the Commission to make such adjustments under these limited circumstances.

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

Section 1. Amendment. Section 2.01.100 of the Castle Rock Municipal Code is amended to read as follows:

2.01.100 - Town elections; Election Commission; powers of TOWN clerk ~~and deputy~~ OR DESIGNEE.

A. All Town elections shall be held pursuant to this Chapter.

B. In accordance with the Town Charter, the Election Commission shall have charge of all activities and duties required of it by the Charter and this Chapter relating to the conduct of elections in the Town. In any case where election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed.

C. THE ELECTION COMMISSION SHALL HAVE SUCH AUTHORITY TO ADJUST THE BOUNDARIES OF DISTRICTS AS IS PROVIDED FOR BY SECTION 4-5 OF THE TOWN CHARTER. IN ADDITION, UPON THE ANNEXATION OF TERRITORY INTO THE TOWN, THE ELECTION COMMISSION SHALL DETERMINE INTO WHICH DISTRICT SUCH TERRITORY SHALL BE INCLUDED; PROVIDED, HOWEVER, THAT NO SUCH DETERMINATION SHALL BE MADE WITHIN THE 120 DAYS BEFORE A REGULAR TOWN ELECTION.

D. The Election Commission shall have the power to adopt reasonable rules and regulations not inconsistent with the Constitution and the State of Colorado, the Town's Charter and this Chapter. It is unlawful for any person to violate any rule or regulation of the Election Commission.

~~C. E.~~ Except where otherwise provided in this Chapter, the Town Clerk shall render all interpretations and shall make all initial decisions as to controversies or other matters arising in the operation of this Chapter 2.01. All powers and authority granted to the Town Clerk by this Chapter may be exercised by ~~a deputy clerk~~ THE TOWN CLERK'S DESIGNEE in the absence of the Town Clerk or in the event the Town Clerk for any reason is unable to perform his or her duties.

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 ____ day of _____, 2022 by a vote of ____ for and ____ against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2022, 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:

Michael J. Hyman, Town Attorney

ELECTION COMMISSION CODE REVISIONS

JANUARY 4, 2022 TOWN COUNCIL MEETING



REDISTRICTING PROCESS

- Currently the Election Commission sets the election district boundaries every 6 years
- The last redistricting occurred in 2021
- The next redistricting won't occur until 2027

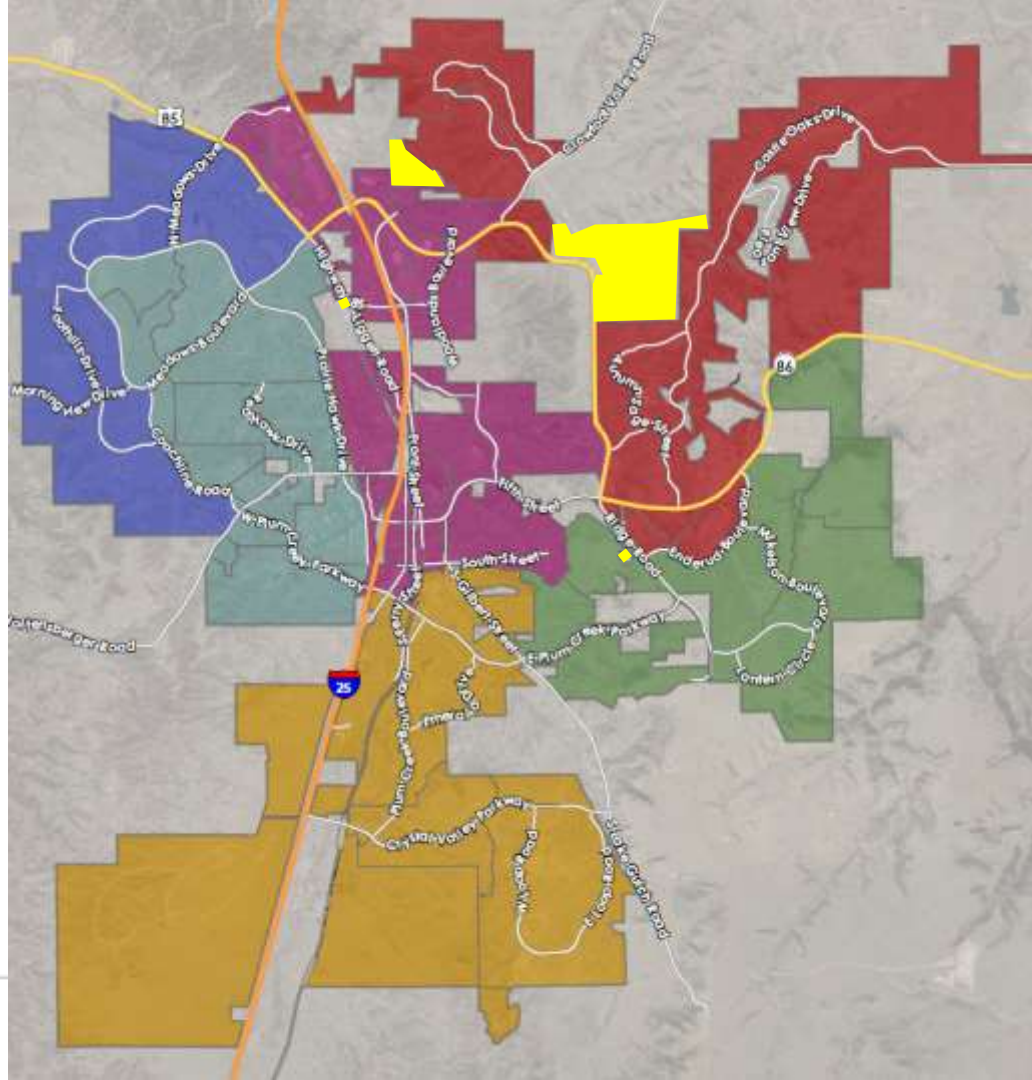
ELECTION DISTRICTS FOR ANNEXED PROPERTIES

- Town Charter and Code are silent on how election districts are determined when property is annexed
- Potential exists that an election will occur in an annexed property that has electors before the next redistricting

PROPOSED CODE AMENDMENT

Propose the Election Commission determine the election district for newly annexed property

2021 Election District Map



Annexations
in Process

PROPOSED MOTION

- I move to Approve the Ordinance on first reading.
- I move to make the following amendments to the proposed Ordinance.
 - I move to Approve the Ordinance as amended on first reading.
- I move to Continue the Ordinance.