

**FIRST AMENDMENT TO THE AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF CASTLE ROCK
AND DOUGLAS COUNTY FOR THE HIGHWAY 85 WASTEWATER COLLECTION
AND TREATMENT SYSTEM**

THIS FIRST AMENDMENT TO THE AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT (the “First Amendment”) is made and entered into this ____ day of _____, 2025 (“Effective Date”), by and between the Town of Castle Rock, a home rule municipal corporation, acting by and through the Town of Castle Rock Water Enterprise (“Castle Rock”), and the Board of County Commissioners of the County of Douglas (“Douglas County”), (each individually, a “Party”, and collectively, the “Parties”).

RECITALS:

WHEREAS, Castle Rock and Douglas County entered into an Amended and Restated Intergovernmental Agreement on May 22, 2024 (the “Agreement”) for the design, construction, and operation of the Highway 85 Wastewater Collection and Treatment System the “Project”); and

WHEREAS, the Agreement provides that Douglas County shall commit fourteen million dollars in American Rescue Plan Act funds to the Project; and

WHEREAS, engineering for the Project, currently at 30% design, has determined the Project will actually have a total cost of up to \$18.8 million, leaving a potential \$4.8 million shortfall not accounted for in the Agreement; and

WHEREAS, Castle Rock wishes to fund the shortfall under specific terms related to reimbursement, interest, and surcharges on system development fees; and

WHEREAS, the Parties agree to incorporate said terms into the Agreement.

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

1. **Definitions.** Terms used in this Amendment, when capitalized, shall have the same meanings assigned to them as set forth in the Agreement.

2. **Amendment.** Section 3(A) of the Agreement is hereby amended to read as follows:

“3. PROJECT DESIGN, CONSTRUCTION AND INSTALLATION.

A. Costs. The Estimated Castle Rock-Managed Project Infrastructure Costs, as shown in Exhibit A, shall include, without limitation, the following costs incurred by Castle Rock: (i) staff time spent administering the work set forth herein, which time shall be accounted for within the Project Management Fee; (ii) design of the Castle Rock-Managed Project Infrastructure; (iii) easement research and acquisition, and any right-of-way or other permitting fees; and (iv) construction and contract management. Castle Rock shall track all costs incurred during the course of the designing, constructing, and installing the Castle Rock-Managed Project Infrastructure; provided, however, that Douglas County acknowledges and agrees that Castle Rock staff time shall not be tracked.

(i) ARPA Funds. The total ARPA Funds that Douglas County will provide for the Castle Rock-Managed Project Infrastructure is fourteen million dollars (\$14,000,000.00).

(ii) Funding Shortfall Commitment. Castle Rock shall pay up to a maximum of four million, eight-hundred thousand dollars (\$4,800,000.00) beyond the \$14 million in ARPA funding to complete final design and construction (the “Funding Shortfall Payment”). The Funding Shortfall Payment shall be reimbursed to Castle Rock as detailed herein. Any portion of the Funding Shortfall Payment not reimbursed to Castle Rock shall accrue interest at a rate of 5% per year (“Accrued Interest”).

(iii) Reimbursement of Funding Shortfall Payment. All System Development Fees collected from customers connecting to the Highway 85 Wastewater System shall first be used to reimburse Castle Rock for the Funding Shortfall Payment and any Accrued Interest until fully repaid. Once Castle Rock has been reimbursed in full for its Funding Shortfall Payment and any Accrued Interest, all System Development Fees shall be processed as outlined in Sections 5(C) and 3(A)(iv) of the Agreement.

(iv) System Development Fee Surcharge. Castle Rock shall assess a surcharge of 25% of the portion of the System Development Fee financed by Castle Rock and that surcharge shall be to customers for all System Development Fees charged under this Agreement. This surcharge shall be retained by Castle Rock for the benefit of its existing customers and system. Once the Town is reimbursed in full for its Funding Shortfall Payment and any Accrued Interest, Castle Rock shall apply these surcharge funds only to improvements and expansions of the Sedalia sewer system.

3. **Ratification.** Except as expressly modified by this Amendment, the Agreement remains in full force and effect. To the extent any conflict arises between this Amendment and the Agreement, the provisions of this Amendment shall prevail.

IN WITNESS WHEREOF, the parties hereby execute this Amendment on the date first written above.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Sarah Jean Rodger, Assistant Town Attorney

Mark Marlowe, Director of Castle
Rock Water

ATTEST:

Clerk to the Board

DOUGLAS COUNTY

By: _____

Name: _____

Title: _____

APPROVED AS TO FISCAL CONTENT:

Director of Finance

APPROVED AS TO LEGAL FORM:

Sr. Asst. County Attorney