

Agenda Item

DATE: MARCH 31, 2023
TO: DOUGLAS COUNTY BOARD OF COUNTY COMMISSIONERS
THROUGH: DOUGLAS J. DEBORD, COUNTY MANAGER
FROM: DAN AVERY, SPECIAL PROJECTS MANAGER
SUBJECT: HIGHWAY 85 WASTEWATER PROJECT UPDATE

Representatives from Castle Rock Water will present an overview of the Highway 85 Wastewater Project. \$26.8 M is allocated to the project from the County's American Rescue Plan Act (ARPA) funds, subject to approval of an intergovernmental agreement at a future business meeting.

The overview will:

- Summarize the draft Intergovernmental Agreement between the Town of Castle Rock and Douglas County for the Highway 85 Wastewater Collection and Treatment System.
- Present the design alternatives for the corridor with an emphasis on the preferred alternative.

NEXT STEPS

Staff is prepared to advance the IGA and other funding agreements for ARPA-funded water infrastructure projects to a business meeting as soon as April 11, 2023. Other projects include:

- Sedalia Water and Sanitation District – Water Line replacement
- Louviers Water and Sanitation District – Water treatment for radium
- Dominion Water and Sanitation District – Water line to Louviers for emergency and future renewable supplies.

ATTACHMENTS

- DRAFT Intergovernmental Agreement between the Town of Castle Rock and Douglas County for the Highway 85 Wastewater Collection and Treatment System.

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF
CASTLE ROCK AND DOUGLAS COUNTY FOR THE HIGHWAY 85
WASTEWATER COLLECTION AND TREATMENT SYSTEM**

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made and entered into this _____ day of _____, 2023 (the “Effective Date”), by and between the Town of Castle Rock, a home rule municipal corporation, acting by and through the Town of Castle Rock Water Enterprise (“Castle Rock”), and the Board of County Commissioners of the County of Douglas (“Douglas County”), (each, individually, a “Party” and, collectively, the “Parties”).

WITNESSETH:

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

WHEREAS, Castle Rock operates a wastewater collection system and owns wastewater treatment capacity in the Plum Creek Water Reclamation Authority (“PCWRA”) treatment facility to provide retail wastewater service to its customers; and

WHEREAS, Douglas County desires to utilize American Rescue Plan Act funding to design and construct a wastewater collection and treatment system along the Highway 85 corridor (the “Highway 85 Wastewater Collection and Treatment System” or “System”) in Douglas County, starting in the unincorporated Town of Louviers and extending as far south towards the PCWRA wastewater treatment facility as funding will allow; and

WHEREAS, Castle Rock has the experienced project engineering and management staff that are needed to help Douglas County construct the System; and

WHEREAS, Castle Rock also has the operational capacity and experience to own, operate, maintain, and, if necessary, replace the System, and/or manage the contracting for these services, for the benefit of the future customers of the System in unincorporated Douglas County; and

WHEREAS, Castle Rock is willing to make available at cost, plus an extraterritorial surcharge, wastewater treatment capacity it owns in the PCWRA treatment facility to serve customers of the System, but only if this proves to be the most cost-effective method of providing such service; and

WHEREAS, Castle Rock is willing to use its project engineering and management expertise to design and construct a System for Douglas County and to give Douglas County full authority to allocate capacity in the System to existing and future customers of the System; and

WHEREAS, Douglas County further desires to utilize American Rescue Plan Act funding to obtain easements to facilitate the construction, operation, and maintenance of the System along Plum Creek, which easements can exist in combination with existing and future trails, thereby expanding recreational amenities for Douglas County residents; and

WHEREAS, Castle Rock has the ability to acquire these easements on behalf of Douglas County; and

WHEREAS, Douglas County and Castle Rock believe the System will improve water quality in Plum Creek and Chatfield Reservoir, both of which are drinking water sources for Douglas County and Castle Rock, by eliminating failing wastewater lagoon systems and, eventually, septic systems; and

WHEREAS, Douglas County believes that the System will stimulate economic development and growth in the Highway 85 corridor; and

WHEREAS, based upon the foregoing reasons, the Parties find and determine that it is in the best interests of their respective customers and citizens to enter into this Agreement.

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

1. DEFINITIONS.

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

- A. “Collection System” means that portion of the Project Infrastructure utilized for the collection and delivery of wastewater to the Collection System Treatment Facility, in the event that such Facility is designed and constructed as part of the Project.
- B. “Collection System Development Fee” means the fee that Castle Rock will charge to those persons seeking to develop or redevelop property within the Service Area for the right to connect to the Highway 85 Wastewater Collection and Treatment System. Said fee shall be charged for the purpose of defraying all costs associated with the design and construction of the Collection System and any improvements thereto, and shall consist of: (i) the capital recovery fee, which shall be calculated based on the Final Infrastructure Costs for the Collection System, (ii) the capital improvement fee, which shall be calculated based on the costs of increasing the capacity of the Collection System as may be necessary to serve new development or redevelopment in the Service Area, (iii) the Extraterritorial Surcharge, and (iv) any other costs determined by Castle Rock to be necessary and appurtenant. All revenues generated by the Collection System Development Fee, except for those revenues attributable to the Extraterritorial Surcharge, shall be invested by Castle Rock in the Collection System.
- C. “Collection System Treatment Capacity” means wastewater treatment capacity in the Collection System Treatment Facility, in the event that such Facility is designed and constructed as part of the Project.

- D. “Collection System Treatment Facility” means any treatment works, as defined in section 212 of the Federal Clean Water Act (33 U.S.C. §§1251, *et seq.*), that is designed and constructed as part of the Project to be used in the storage, treatment, recycling, and reclamation of domestic and/or industrial wastewater generated by customers of the System for purposes of complying with the Federal Clean Water Act.
- E. “Collection System Treatment Facility Development Fee” means the fee that Castle Rock will charge to those persons seeking to develop or redevelop property within the Service Area for the right to connect to the Highway 85 Wastewater Collection and Treatment System. Said Fee shall be charged for the purpose of defraying all costs associated with design and construction of Collection System Treatment Facility and any improvements thereto, and shall consist of: (i) the capital recovery fee, which shall be calculated based on the Final Infrastructure Costs for the Collection System Treatment Facility, (ii) the capital improvement fee, which shall be calculated based on the costs of increasing the capacity of the Collection System Treatment Facility as may be necessary to serve new development or redevelopment in the Service Area, (iii) the Extraterritorial Surcharge, and (iv) any other costs determined by Castle Rock to be necessary and appurtenant. All revenues generated by the Collection System Treatment Facility Development Fee, except for those revenues attributable to the Extraterritorial Surcharge, shall be invested by Castle Rock in the Collection System Treatment Facility.
- F. “Dominion” means the Dominion Water and Sanitation District, a quasi-municipal special district organized and existing pursuant to the provisions of Title 32 of the Colorado Revised Statutes.
- G. “Dominion and Castle Rock Wastewater Service Agreement” means the intergovernmental agreement between Dominion and Castle Rock that will be executed in the event that Castle Rock proceeds with the alternative for the Project that utilizes any portion of the Dominion System in the design and construction of the Highway 85 Wastewater Collection and Treatment System.
- H. “Dominion System” means any collection system or treatment works, as defined in section 212 of the Federal Clean Water Act (33 U.S.C. §§1251, *et seq.*), that is used by Dominion in the collection, storage, treatment, recycling, and reclamation of domestic and/or industrial wastewater generated by Dominion customers for purposes of complying with the Federal Clean Water Act.
- I. “Dominion System Development Fee” means the fee that Castle Rock will charge and collect from those persons seeking to develop or redevelop property within the Service Area that connect to the Highway 85 Wastewater Collection and Treatment System and use any portion of the Dominion System. Said Fee shall be charged for the purpose of defraying all costs associated with connecting to the Dominion System, and shall consist of (i) the capital recovery fee, which shall be calculated based on the total infrastructure costs of the Dominion System, (ii) the capital

improvement fee, which shall be calculated based on the costs of increasing the capacity of the Dominion System as may be necessary to serve new development or redevelopment connecting to the Dominion System, (iii) the Extraterritorial Surcharge, and (iv) any other costs determined by Castle Rock to be necessary and appurtenant.

- J. “Estimated Project Infrastructure Costs” means the estimated costs of designing, constructing and installing the Project Infrastructure, as more particularly described in the attached Exhibit A.
- K. “Extraterritorial Surcharge” means the ten percent (10%) surcharge that Castle Rock will add to the Collection System Development Fees, the Collection System Treatment Facility Development Fees, the Dominion System Development Fee, the PCWRA Treatment System Development Fee, and all other rates and fees charged by Castle Rock in providing extraterritorial retail wastewater service to System customers.
- L. “Final Project Infrastructure Costs” means the final costs of designing, constructing and installing the Project Infrastructure, as more particularly described in the amended Exhibit A.
- M. “Louviers” means the Louviers Water and Sanitation District, a quasi-municipal special district organized and existing pursuant to the provisions of Title 32 of the Colorado Revised Statutes
- N. “Louviers and Castle Rock Reuse Water Purchase and Sale Agreement” means the intergovernmental agreement between Louviers and Castle Rock for the purchase by Castle Rock of certain Reusable Water presently owned by Louviers.
- O. “MGD” means million gallons per day.
- P. “Necessary Improvement” means any improvement to Project Infrastructure, (i) the construction or installation of which Castle Rock reasonably deems to be a necessary prerequisite for any person seeking to develop or redevelop property within the Service Area to connect to the Highway 85 Wastewater Collection and Treatment System, and (ii) which is in addition to those improvements to Project Infrastructure that are funded by Collection System Development Fees, Collection System Treatment Facility Development Fees, or Dominion System Development Fees.
- Q. “PCWRA Treatment Capacity” means wastewater treatment capacity that Castle Rock owns in the PCWRA wastewater treatment facility, which capacity may be used in the Highway 85 Wastewater Collection and Treatment System.
- R. “PCWRA Treatment System Development Fee” means the fee that Castle Rock will charge and collect from Douglas County or existing and/or future customers

that connect to the Highway 85 Wastewater Collection and Treatment System and use PCWRA Treatment Capacity for the purpose of defraying all costs associated with connecting to the PCWRA wastewater treatment facility. Said Fee shall consist of: (i) the capital recovery fee, which shall be calculated based on the amount of PCWRA Treatment Capacity required for a Single Family Equivalent and retained by Castle Rock and (ii) the Extraterritorial Surcharge, which shall be retained by Castle Rock as reimbursement for the value of its Treatment Capacity in the PCWRA treatment facility. The current fee is set at \$4,900 per Single Family Equivalent and shall be adjusted each year based on Castle Rock's annual study of rates and fees.

- S. "Project" means the design, construction, and installation of the Highway 85 Wastewater Collection and Treatment System.
- T. "Project Infrastructure" means the Highway 85 Wastewater Collection and Treatment System, all as more particularly identified in the description attached as Exhibit B and shown on the map attached as Exhibit B-1.
- U. "Project Management Fee" means the fee that Castle Rock charges Douglas County to manage the design, construction, and installation of the Project, which fee shall be equal to one percent (1%) of the total Project costs.
- V. "Reusable Water" means wastewater from water rights that can be used and reused to extinction, which wastewater shall be put into the Project Infrastructure and, thereby, made available for purchase by Castle Rock.
- W. "Service Area" means the area located in unincorporated Douglas County within which Castle Rock will provide retail wastewater service through the Highway 85 Wastewater Collection and Treatment System as shown on the map attached as Exhibit C. Upon the delivery of written notice thereof to Castle Rock, Douglas County may designate additional property in unincorporated Douglas County to be included within the Service Area, subject to the availability of sufficient capacity in the System to serve such property.
- X. "Single Family Equivalent" means the relative measure of demand placed on any wastewater facility or infrastructure by an average single-family residential unit.
- Y. "System Development Fees" means, collectively and individually, as applicable, Collection System Development Fees, Collection System Treatment Facility Development Fees, Dominion System Development Fees and PCWRA Treatment System Development Fees.

2. DESCRIPTION OF PROJECT.

- A. Consideration. Douglas County agrees to use available American Rescue Plan Act funds to: (i) finance the design, construction, and installation of a wastewater

collection and treatment system along the Highway 85 corridor, extending approximately from the unincorporated Town of Louviers to the PCWRA wastewater treatment facility, or as far south as such available funding will allow, and (ii) acquire all easements, whether temporary or permanent, rights-of-way, and other real property interests as may be necessary to construct, operate, maintain, repair, and replace the System. In consideration of obtaining access to available Reusable Water in vicinity of the Highway 85 corridor and the payment by Douglas County of the Project Management Fee, Castle Rock agrees to manage the design, construction, and installation of the Project Infrastructure.

- B. Ownership. Upon the substantial completion of construction and the initial acceptance of the Project Infrastructure by Douglas County and Castle Rock, ownership of the Project Infrastructure shall be conveyed to Castle Rock by the general contractor of the Project, along with all warranties associated therewith. Thereafter, with the exception of those portions of the System it may convey to Dominion pursuant to the Dominion and Castle Rock Wastewater Service Agreement, Castle Rock agrees to own, operate, maintain, repair and replace the System and to provide retail wastewater service to those Douglas County residents within the Service Area who agree to connect to the System.

3. PROJECT DESIGN, CONSTRUCTION, AND INSTALLATION.

- A. Costs. The Estimated Project Infrastructure Costs 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 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 Project; provided, however, that Douglas County acknowledges and agrees that Castle Rock staff time shall not be tracked.
- B. Change Orders. Douglas County acknowledges and agrees that the Estimated Project Infrastructure Costs may increase at any time during the design, construction or installation of the Project Infrastructure. Castle Rock shall provide updated Estimated Project Infrastructure Costs to Douglas County on a quarterly basis through completion of the Project Infrastructure. Upon completion and initial acceptance of the Project Infrastructure, Castle Rock shall prepare an amended Exhibit A showing the Final Project Infrastructure Costs. Upon agreement of the Parties as to the amount of the Final Project Infrastructure Costs, the amended Exhibit A shall be substituted for the original Exhibit A and shall be incorporated into this Agreement.
- C. Scope of Work. The general proposed scope of work for the Project Infrastructure and the estimated timeline are provided in the attached Exhibit D (the "Scope of Work"). As part of the Scope of Work, Castle Rock will evaluate the most cost-effective and beneficial overall approach to providing the Project Infrastructure and

long-term service to the existing and future residents of the Highway 85 corridor, while taking into account the total available funds for the Project and the costs to each portion of the Service Area. In so doing, Castle Rock shall consider the various benefits that will result from the Project to the broadest cross-section of Douglas County residents, including, but not limited to, environmental, economic development, and recreational benefits, as well as the availability of additional drinking water and reuse water supplies. In particular, this evaluation shall identify the most cost-effective and beneficial means of providing wastewater treatment from among the following three alternatives: (i) the construction of a new wastewater treatment facility in the unincorporated Town of Louviers, (ii) the construction of a new wastewater treatment facility on Dominion's property located along the South Platte River, and (iii) the utilization of Castle Rock's existing treatment capacity in PCWRA. Castle Rock will also work with Louviers to negotiate a separate intergovernmental agreement, the Louviers and Castle Rock Reuse Water Purchase and Sale Agreement, to purchase reuse water supply from Louviers, thereby providing Louviers with additional capital to reinvest in its water and wastewater system. These evaluations will be reviewed with Douglas County and agreed to prior to Castle Rock proceeding with final design of the Project Infrastructure. In the event that Castle Rock proceeds with the alternative set forth in Subsection C.(ii) above, Castle Rock will work with Dominion to negotiate a separate intergovernmental agreement, the Dominion and Castle Rock Wastewater Service Agreement to set forth the terms and conditions the will govern the construction of the wastewater treatment facility and the use of the Dominion System.

- D. Examination of Records; Dispute Resolution. At Douglas County's request, Castle Rock shall provide records relating to the design, construction, and installation of the Project Infrastructure, including copies of each draw request from the general contractor, together with paid invoices or such other documentation as may be available and reasonably requested for Douglas County to verify the Final Project Infrastructure Costs. The Parties shall cooperate to resolve any disputes concerning the Final Project Infrastructure Costs. If the Parties are unable to resolve their dispute informally, they shall submit the dispute to non-binding mediation before a mutually agreeable mediator. If the Parties remain unable to resolve their dispute within sixty (60) days of commencing mediation, the Parties may pursue any remedies lawfully available to them.
- E. Costs in Excess of Contingency. Castle Rock shall administer the Project in substantially the same manner and with the same care as other Castle Rock design and construction projects of a similar scope and nature. Castle Rock shall manage all change orders and costs adjustments within a contingency amount agreed to by the Parties. Adjusted cost estimates will be made based upon actual construction bids or change orders. If the Estimated Project Infrastructure Costs need to be adjusted over and above the contingency amount, Castle Rock shall give written notice to Douglas County. Douglas County shall have 30 days to provide approval of such additional costs. If Douglas County does not approve the additional costs,

the Parties will meet to review and identify opportunities to decrease the overall Scope of Work to bring the Estimated Project Infrastructure Costs within the amount of funding available under the American Rescue Plan Act. If the Parties cannot identify opportunities to decrease the overall Scope of Work and Estimated Project Infrastructure Costs, then the Parties agree to submit the dispute to non-binding mediation as provided in Subsection D of this Section.

- F. Easements. Castle Rock agrees to undertake the acquisition of all easements, whether temporary or permanent, rights-of-way, and other real property interests as may be necessary to construct, operate, maintain, repair, and replace the Project. All such real property interests shall be granted to Castle Rock at the time of acquisition. In addition, provision shall be made for recreational trail easements in locations consistent with Douglas County's draft Plum Creek Regional Trail feasibility study. Any trail easements acquired by Castle Rock for this purpose shall be granted to Douglas County at the time of acquisition. Wherever feasible, such easements may be non-exclusive and occupy the same location as the real property interests granted to Castle Rock pursuant to this Subsection F.
- G. Contract Solicitation. Castle Rock will undertake the bidding and contracting for design, property acquisition, and construction services utilizing its standard design and construction contracting processes. Selected consultants and contractors will be recommended to Douglas County by Castle Rock with Douglas County confirming approval of each contract prior to signing. Douglas County shall fully fund each contract prior to award by Castle Rock. For any construction contract, the Parties will enter into a separate agreement to establish an escrow account, which account shall be funded by Douglas County to the full amount of each such contract, plus a reasonable contingency. This escrow account will be used for payment of all invoices for each such contract. The Parties acknowledge and agree that the construction of the Project may be phased as the Parties may deem appropriate, and that separate construction contracts may be entered into for each phase of the Project.
- H. Escrow. Castle Rock will review and approve all contractor invoices and then forward said invoices to Douglas County for approval on a monthly basis. Douglas County will review and approve said invoices within fifteen (15) days following receipt of the invoice and then submit the approved invoices to the escrow agent for payment to the contractor. Payment from the escrow account shall be made in full within thirty (30) days following receipt of the invoice from the contractor.
- I. Insurance. Castle Rock will require each Project contractor to procure and maintain the following types and amounts of insurance in accordance with the requirements of Castle Rock's purchasing policies, with each policy to be issued to include Douglas County, its officers and employees, as and additional named insured:
 - (i) Commercial General Liability Insurance, including coverage for bodily injury, broad form property damage (including for contractual and

employee acts), blanket contractual, independent contractors, products, and completed operations, with minimum combined single limits of \$1,000,000 for each occurrence and \$1,000,000 aggregate.

- (ii) Comprehensive Automobile Liability Insurance, including coverage for each of the contractor's owned, hired and/or non-owned vehicles assigned to or used in performance of the services, with minimum combined single limits for bodily injury and property damage of not less than \$1,000,000 for each occurrence and \$1,000,000 aggregate.
- (iii) 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 the contract, and Employer's Liability insurance with minimum limits of \$500,000 each accident, \$500,000 disease-policy limit, and \$500,000 disease-each employee.
- (iv) Builder's Risk or Installation Floater Policy, at Castle Rock's discretion, in an amount equal to the value of the Project where the possibility exists of loss or damage to the Project (for the construction contract only).
- (v) Professional Liability Insurance, including coverage for damages or claims for damages arising out of the rendering, or failure to render, any professional services, with minimum combined single limits of \$1,000,000 for each occurrence and \$1,000,000 aggregate (for the design contract only).

4. CAPACITY ALLOCATION.

- A. Capacity Reservation and Allocation. Concurrent with the substantial completion and initial acceptance of the Project Infrastructure, Castle Rock shall grant Douglas County a license for Douglas County's proportional share in the permanent capacity of the System (the "License"). Castle Rock will retain _____ MGD of capacity in the System for the purpose of providing retail or wholesale wastewater service to Louviers. All remaining capacity shall be granted to Douglas County by virtue of the License. This will result in an estimated initial allocation of permanent capacity in the System of _____ % for Castle Rock and _____ % for Douglas County. A final allocation shall be determined by the Parties at the time of final design of the Project Infrastructure. As new customers connect to the System, Castle Rock's share of the allocation of permanent capacity shall increase, while Douglas County's share of the allocation of permanent capacity will decrease, by the amount of permanent capacity needed to serve each new customer.
- B. Access Restriction. The Parties acknowledge and agree that the License granted herein is for capacity in the System only. Following the transfer of ownership of Project Infrastructure as provided in Subsection A of this section, Douglas County

shall not at any time access the Project Infrastructure or other facilities or property owned or controlled by Castle Rock, except pursuant to the terms, restrictions and conditions set forth in this Agreement.

- C. License Capacity. The total capacity of the Project Infrastructure is set forth in Exhibit B. The License granted to Douglas County is limited to the percentage share set forth in Subsection A of this Section, which share may not be sold or assigned by Douglas County. If the total capacity of the Project Infrastructure should ever exceed the amounts set forth in Exhibit B for any reason, as determined by Castle Rock in its sole discretion, the excess capacity shall be allocated to Douglas County until such time as new customers connect to the System and such capacity is allocated to Castle Rock as set forth in Subsection A of this Section.
- D. Capacity Restriction. If capacity in the Project Infrastructure is restricted on account of maintenance, emergencies, force majeure, or legal or regulatory requirements, Castle Rock shall forthwith advise Douglas County of such capacity restriction and the anticipated duration thereof, and apportion capacity in the Project Infrastructure based upon Douglas County's proportional share of Project Infrastructure capacity.
- E. Conveyance of Capacity. Castle Rock will be the retail provider of wastewater service in the Service Area. With regard to property within the Service Area that (i) is undeveloped as of January 1, 2023, or (ii) is fully developed, but for which approval is being sought from Douglas County to redevelop, the property owner shall submit an application to Douglas County for the development or redevelopment of such property, which application shall include a request to connect to the System. Within fifteen (15) days of receipt, Douglas County shall notify Castle Rock of each such application. Castle Rock will then calculate the amount of System Development Fees that it will charge the applicant for the right to connect to the System. Castle Rock will also determine what Necessary Improvements, if any, are required as a condition precedent for the applicant to connect to the System. Thereafter, Castle Rock will provide a "will serve" letter to the applicant stating the total System Development Fees that the applicant will be required to pay and identifying the Necessary Improvements that the applicant will be required to provide. Douglas County, as the land use agency for the Service Area, will provide the required review(s) for the development or redevelopment application in accordance with its land use rules and regulations. Upon approval by Douglas County of the development or redevelopment application, the payment of all applicable System Development Fees to Castle Rock, and the substantial completion of all Necessary Improvements, the applicant will be allowed to connect to the System and retail wastewater service shall be provided to the newly developed or redeveloped property.

With regard to property within the Service Area that is fully developed as of January 1, 2023, and for which no approval is being sought from Douglas County to redevelop, the property owner shall submit an application to Douglas County for

connection to the System. Within fifteen (15) days of receipt, Douglas County shall notify Castle Rock of each such application. If Douglas County has adequate capacity to serve the property under the License granted by Subsection C of this Section, Castle Rock will then determine what Necessary Improvements, if any, are required as a condition precedent for the applicant to connect to the System. Thereafter, Castle Rock will provide a “will serve” letter to the applicant identifying the Necessary Improvements that the applicant will be required to provide. No System Development Fees will be charged to the applicant, as long as Douglas County has adequate capacity to serve the property; provided, however, that if the applicant will be using PCWRA Treatment Capacity, Castle Rock will charge and collect from the property owner the PCWRA Treatment System Development Fee. If Douglas County does not have adequate capacity available, then the application will be treated as if it is an application for the development or redevelopment of property within the Service Area. In such cases, Castle Rock will calculate System Development Fees in a manner similar to how they are calculated for new development or redevelopment. Upon approval by Douglas County of the connection application and the substantial completion of all Necessary Improvements, and, if applicable, the payment of System Development Fees to Castle Rock, the applicant will be allowed to connect to the System and retail wastewater service shall be provided to the property.

Each connection shall meet all of Castle Rock’s connection requirements, which requirements are generally set forth in Title 13 of the Castle Rock Municipal Code. If PCWRA Treatment Capacity is being used, such connection shall also meet the PCWRA Code of Rules and Regulations dated May 19, 2020, and adopted by reference pursuant to Section 13.04.020 of the Castle Rock Municipal Code. If Dominion’s System is used to provide wastewater service, the applicant must also meet all of Dominion’s connection requirements. As consideration for allowing the connection to the System, Douglas County will allocate to Castle Rock the pro-rated capacity in the Project Infrastructure that will be used by new development or redevelopment. The allocation of such capacity shall be memorialized in an annual statement to be provided by Castle Rock to Douglas County by no later than thirty (30) days following the end of each calendar year. Within thirty (30) days following the date upon which all capacity in the Project Infrastructure has been allocated to Castle Rock pursuant to the terms of this Subsection E, Castle Rock will send Douglas County written notice that the License granted to Douglas County herein is terminated.

- F. Dominion System Development Fee. Notwithstanding any provision of this Agreement to the contrary, the Dominion System Development Fee shall not be charged and collected until such time as the average daily capacity of the Highway 85 Wastewater Collection and Treatment System exceeds 200,000 gallons of wastewater. Thereafter, if any portion of the Dominion System is being used, Castle Rock will commence collecting Dominion System Development Fees and, with the exception of the Extraterritorial Surcharge, remit any such Fees it collects to Dominion.

- G. Renewable Water Requirement. For new development or redevelopment in the Service Area, after the first 200,000 gallons of wastewater capacity has been allocated, Castle Rock will require new development and redevelopment requiring capacity beyond the first 200,000 gallons to have renewable water supply for their development as a condition precedent to obtaining a “will serve” letter from Castle Rock to connect to the System.
- H. Limitations. The allocation of costs set forth herein between Castle Rock and Douglas County is intended to apply solely to the costs of designing, constructing, and installing the Project Infrastructure, and shall not be construed to include costs and fees related to the operation, maintenance, repair, or replacement of the Project Infrastructure. Such costs and other related terms and conditions, shall be managed by Castle Rock as the retail wastewater provider in the Service Area in accordance with Castle Rock’s standard rate setting policies and procedures.
- I. Warranty. Upon the completion of construction, initial acceptance, and conveyance of the Project Infrastructure, Castle Rock shall be the sole owner of the Project Infrastructure and all warranties associated therewith, subject to the rights of Douglas County as further set forth herein. Castle Rock represents and warrants to Douglas County that Castle Rock either has, or will obtain, all necessary right, title and interest in the Project Infrastructure to convey the License set forth in Subsection A of this Section. Castle Rock does covenant and agree that it shall warrant and forever defend Douglas County in its quiet and peaceful possession of its license rights granted herein against all and every person or persons. In the event that the license or any part thereof is challenged by the person or entity granting rights, interests or title to Castle Rock or any portion thereof, Castle Rock shall, to the extent permitted by law, take all necessary actions to acquire the requisite interest needed to satisfy its obligations hereunder; provided that, for so long as Douglas County has capacity in the System, Douglas County may be required by Castle Rock to pay its proportional share of the costs related to any action taken by Castle Rock if the need for such action is not due to the negligence of Castle Rock.
- J. Insurance. Castle Rock shall procure and maintain property insurance for the Project Infrastructure that is substantially similar to the coverage maintained by Castle Rock for other similar Castle Rock-owned water and wastewater infrastructure. If the Project Infrastructure is damaged, Castle Rock shall allocate all proceeds from the insurance policy towards repairing the Project Infrastructure.

5. AMERICAN RESCUE PLAN ACT PROVISIONS.

- A. Acknowledgement. Castle Rock acknowledges and agrees that the funds encumbered by Douglas County to pay for the design, construction, and installation of the Project Infrastructure, and the acquisition of all easements, rights-of way, and other real property interests necessary and appurtenant thereto, have been provided in accordance with Section 603(b) of the Social Security Act, as added by

Section 9901 of the American Rescue Plan Act, Public Law No. 117-2 (March 11, 2021) (together with all rules and regulations promulgated thereunder, “ARPA”). The Parties acknowledge that all funding from ARPA (“ARPA Funds”) may only be used to cover those eligible costs incurred by Douglas County during the period that begins on March 3, 2021, and ends on December 31, 2024, including costs incurred to make necessary investments in sewer infrastructure. The Parties anticipate that the total amount of ARPA Funds available for the Project shall not exceed \$26,800,000.

- B. Use of ARPA Funds. Castle Rock shall only utilize ARPA Funds for the purposes described in this Agreement. Castle Rock agrees and acknowledges that, as a condition to receiving the ARPA Funds, it shall strictly follow the Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions attached as Exhibit E. All invoices submitted by Castle Rock to Douglas County pursuant to this Agreement shall use “COVID-19” or “Coronavirus” as a descriptor for those costs that are paid by ARPA Funds to facilitate the tracking of Agreement-related spending related to COVID-19. Castle Rock shall segregate and specifically identify the time and expenditures billed to Douglas County on each invoice to allow for future review and analysis of COVID-19 related expenses. To avoid an unlawful duplication of federal benefits, the Parties agree and acknowledge that the services provided by Castle Rock for which ARPA Funds are used shall not, to the extent that ARPA Funds are used, also be paid for or reimbursed by monies provided under any other federal program.
- C. ARPA Deadlines. Douglas County agrees and acknowledges that it shall obligate the use of ARPA funds for the services performed by Castle Rock under this Agreement no later than December 31, 2024. Castle Rock agrees and acknowledges that all services performed by Castle Rock using ARPA Funds must be performed by no later than December 31, 2026.
- D. Reporting Requirements. To the extent that Castle Rock’s services hereunder contemplate the spending of ARPA Funds, Castle Rock shall provide to Douglas County information responsive to mandatory performance measures, including programmatic data sufficient to conduct oversight as well as understand aggregate program outcomes. Further, in providing the ARPA-required information to the City, to the extent possible, Castle Rock shall provide this programmatic data related to such services disaggregated by race, ethnicity, gender, income, and other relevant demographic factors as may be determined by Douglas County. Castle Rock shall insert the foregoing requirement into all subcontracts related to this Agreement, thereby obligating all subcontractors to the same reporting requirement as Castle Rock.
- E. Inspection of Records. Castle Rock shall maintain records of the documentation supporting the use of ARPA Funds in an auditable format, for the later of five (5) years after final payment on this Agreement or the expiration of the applicable statute of limitations. Any authorized agent of Douglas County or of the Federal

government, including the Special Inspector General for Pandemic Recovery, have the right to access, and the right to examine, copy and retain copies, at the official's election in paper or electronic form, any pertinent books, documents, papers and records related to Castle Rock's use of ARPA Funds pursuant to this Agreement. Castle Rock shall cooperate with Federal and Douglas County representatives and such representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of five (5) years after the final payment under this Agreement or expiration of the applicable statute of limitations. No examination of records and audits pursuant to this section shall require Castle Rock to make disclosures in violation of state or federal privacy laws.

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

7. MISCELLANEOUS.

- A. Governing Law and Venue. The Parties hereto agree that exclusive jurisdiction and venue for the resolution of any dispute relating to this Agreement shall lie in the District Court for Douglas County, State of Colorado.
- B. Entire Agreement. This Agreement constitutes the entire agreement between the parties relating to the subject matter thereof, and there are no prior or contemporaneous agreements, either oral or written, relating to the subject matter hereof except as expressly set forth herein.
- C. Agreement Modification. The Agreement may not be amended, altered, or otherwise changed except by a written agreement between the Parties.
- D. Counterpart Execution. The Agreement may be executed in one or more counterparts, each of which when executed shall be deemed an original, all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by electronic delivery and, upon receipt, shall be deemed originals and binding upon the parties hereto.
- E. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Parties or their officials, employees, contractors, or

agents, or any other person acting on behalf of the Parties and, in particular, governmental immunity that may be afforded or available to the Parties pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.

- F. Assignability. This Agreement and the License granted herein may not be assigned, pledged or transferred, in whole or in part, without the express written consent of the other Party which consent shall not be unreasonably withheld.
- G. No Public Dedication/No Third Party Beneficiary. Nothing contained herein shall be deemed to be a grant or dedication of any rights or use to the public in general, and no third party beneficiary interests are created nor intended to be created by this Agreement.
- H. Headings for Convenience. The headings and captions in this Agreement are intended solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.
- I. Notice. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given, at the address set forth below, or at such other address as has been previously furnished in writing, to the other party. Such notice shall be deemed to have been given when deposited in the United States mail.

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

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

If to Douglas County: Douglas County
Attn: Special Projects Manager
100 Third Street
Castle Rock, CO 80104

with copy to: Douglas County
Attn: County Attorney
100 Third Street
Castle Rock, CO 80104

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

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

(Signature pages to follow)

DRAFT

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

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument as acknowledged before me this ___ day of _____, 2023, by Lisa Anderson as Town Clerk and Jason Gray as Mayor of the Town of Castle Rock, Colorado.

Witness my official hand and seal.

My commission expires:

Notary Public

ATTEST:

**BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF DOUGLAS**

Approved as to form:

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument as acknowledged before me this ___ day of _____,
2023, by _____ for the Board of County Commissioners of the County of Douglas.

Witness my official hand and seal.

My commission expires:

Notary Public

EXHIBIT A

ESTIMATED COSTS OF PROJECT INFRASTRUCTURE

(to be inserted)

DRAFT

EXHIBIT B

DESCRIPTION OF PROJECT INFRASTRUCTURE

(to be inserted)

DRAFT

EXHIBIT B-1

MAP OF PROJECT INFRASTRUCTURE

(to be inserted)

DRAFT

EXHIBIT C

MAP OF SERVICE AREA

(to be inserted)

DRAFT

EXHIBIT D
SCOPE OF WORK

(to be inserted)

DRAFT

EXHIBIT E

U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS LOCAL FISCAL RECOVERY FUND AWARD TERMS AND CONDITIONS

1. Use of Funds.
 - a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.
4. Maintenance of and Access to Records.
 - a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.

8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
9. Compliance with Applicable Law and Regulations.
 - a. Recipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
 - b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

- vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Recipient’s noncompliance with section 602 of the Act, other applicable laws, Treasury’s implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or

local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury.”
14. Debts Owed the Federal Government.
 - a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
 - b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
15. Disclaimer.
 - a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
 - b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.
16. Protections for Whistleblowers.
 - a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably

believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
 - c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the “Recipient”) provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient’s beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient’s program(s) and activity(ies), so long as any portion of the Recipient’s program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury’s implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient’s programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.
7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.

9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.
10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.