

NOTICE OF PROPOSED ORDINANCE

Pursuant to Section 7-3 of the Town of Castle Rock Home Rule Charter, notice is hereby given that the Town Council will consider adoption of the following named and described Ordinance during its SPECIAL Meeting on March 28, 2017 at 6:00 P.M. at the Castle Rock Town Council Chambers, 100 N. Wilcox St., Castle Rock, CO 80104

Title of Proposed Ordinance:

Ordinance Approving the First Amendment to Water Lease Agreement
Between the Town of Castle Rock and the Town of Wiggins

Subject Matter Summary:

The purpose of the Ordinance is to amend an existing water lease of the Town's Rothe Recharge Credits to the Town of Wiggins Colorado. The proposed amendment extends the lease for three additional years and also increases the lease amount from 300 to 600 acre-feet per year.

The entire text of the proposed Ordinance is contained herein, and copies of all documents are available for public inspection at the office of the Town Clerk, 100 N. Wilcox St., Castle Rock, CO 80104, during normal working hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

Publication Date: March 22, 2017

ORDINANCE NO. 2017-

AN ORDINANCE APPROVING THE FIRST AMENDMENT TO WATER LEASE AGREEMENT BETWEEN THE TOWN OF CASTLE ROCK AND THE TOWN OF WIGGINS

WHEREAS, the Town and the Town of Wiggins (Wiggins) are parties to a Water Lease Agreement dated January 5, 2016, by which the Town leases to Wiggins certain excess recharge credits for augmentation use ("Lease Agreement"),

WHEREAS, the Town and Wiggins have determined that it is necessary and appropriate to amend the Lease Agreement to extend the term an additional three years and to address Wiggins option to lease additional recharge credits from the Town as they become available

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

Section 1. Approval. The First Amendment to Water Lease Agreement between the Town of Castle Rock and the Town of Wiggins, in the form attached as Exhibit 1 is hereby approved. The Mayor and other proper Town officials are hereby authorized to execute the First Amendment by and on behalf of the Town of Castle Rock, Colorado.

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 _____, 2017 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 _____, 2017, by the Town Council of the Town of Castle Rock by a vote of ___ for and ___ against.

ATTEST:

TOWN OF CASTLE ROCK

Sally A. Misare, Town Clerk

Jennifer Green, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Mark Marlowe, Director of Castle Rock Water

**FIRST AMENDMENT TO
WATER LEASE AGREEMENT BETWEEN THE TOWN OF CASTLE ROCK AND
THE TOWN OF WIGGINS**

DATE: _____ MARCH 8 _____, 2017.

PARTIES: **TOWN OF CASTLE ROCK**, acting by and through the **TOWN OF CASTLE ROCK WATER ENTERPRISE**, 100 N. Wilcox Street, Castle Rock, Colorado 80104 ("Castle Rock").

TOWN OF WIGGINS acting by and through the **WIGGINS WATER ENTERPRISE**, 304 Central Avenue, Wiggins, Colorado 80654 ("Wiggins").

RECITALS:

- A. Castle Rock and Wiggins are parties to a Water Lease Agreement dated January 5, 2016 ("Agreement").
- B. The Parties desire to amend the Agreement to (i) extend the term of the Agreement an additional three years, and (ii) increase the amount of Lease Water as it becomes available in accordance with 1.a of the Agreement.

AGREEMENT

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

1. **Lease of Water.** Castle Rock hereby leases to Wiggins the following excess Rothe Recharge Credits ("Leased Water") for the Lease Price indicated:

Lease Year	Leased Quantity (a.f.)	Lease Rate (per a.f.)	Lease Price
2016 (July 1, 2016 – June 30, 2017)	180	\$50	\$9,000
2017 (July 1, 2017 – June 30, 2018)	600	\$100	\$60,000
2018 (July 1, 2018 – June 30, 2019)	600	\$100	\$60,000
2019 (July 1, 2019 – June 30, 2020)	600	\$100	\$60,000
2020 (July 1, 2020 – June 30, 2021)	600	\$100	\$60,000
2021 (July 1, 2021 – June 30, 2022)	600	\$100	\$60,000

For the purpose of this Lease Agreement, the first year shall begin on June 30, 2016 ("Fulfillment Date"), and all subsequent Lease Years shall commence on the anniversary of the Fulfillment Date.

a. Wiggins shall have the option, exercisable in writing, to lease additional Rothe Recharge Credits at any time during the term of this Lease, provided Castle Rock has additional Rothe Recharge Credits available not needed for its own use or previously committed to others. Payment shall be made at the Lease Rate in effect for that year and each subsequent year by the later of the payment date specified in paragraph 3 or on the date Wiggins exercises its option.

Section 2. Amendment. Section 3 of the Agreement is amended in its entirety to read as follows:

3. **Lease Price.** Wiggins shall pay to Castle Rock the Lease Price for each Lease Year, as set forth in Section 1, above. Such Lease Price payment shall be due not later than July 31 of the Lease Year.

Section 3. Amendment. Section 4 of the Agreement is amended in its entirety to read as follows:

4. **Term.** This Agreement shall terminate automatically on the sixth anniversary of the Fulfillment Date, unless specifically renewed in writing by both parties pursuant to the terms and conditions contained in such renewal.

Section 4. Amendment. Section 5.c of the Agreement is amended in its entirety to read as follows:

c. Because of the possibility of drought, mechanical failures, or other extraordinary circumstances, Castle Rock cannot guarantee delivery of water. If Castle Rock is unable to deliver to Wiggins the Leased Quantity in any given Lease Year, then Castle Rock shall refund to Wiggins the Lease Price for any Leased Water requested but not delivered. Such refund shall be Wiggins' sole and exclusive remedy against Castle Rock for any breach or non-performance of any obligation under this Agreement.

Section 5. Miscellaneous. Except to the extent expressly modified by this First Amendment, the Agreement is in full force and effect. To the extent of any inconsistency between this First Amendment and the Agreement, the terms and conditions of this First Amendment shall control.

LESSOR:

ATTEST:

TOWN OF CASTLE ROCK
by and through the Town of Castle Rock
Water Enterprise

Sally A. Misare, Town Clerk

Jennifer Green, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Mark Marlowe, Director of Castle Rock Water

State of)
) ss.
County of)

The foregoing instrument was acknowledged before me this ___ day of _____, 2017
by Sally Misare as Town Clerk and Jennifer Green as Mayor of the Town of Castle Rock, Colorado.

Witness my official hand and seal.

My commission expires: _____


(S E A L)

Notary Public

LESSOR:

ATTEST:




Town Clerk

TOWN OF WIGGINS
by and through the Wiggins Water
Enterprise


Mayor