

CON-2023-0969



WATER RIGHTS BROKERAGE AGREEMENT

THIS WATER RIGHTS BROKERAGE AGREEMENT (the "Agreement") is made and entered into effective this 19th day of January, 2024, by and between Stillwater Resources & Investments, Inc., a Colorado corporation, 4551 Prado Drive, Boulder, Colorado 80303 ("Stillwater") and the Town of Castle Rock, a home rule municipal corporation of the State of Colorado, by and through the Town of Castle Rock Water Enterprise, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (the "Town").

RECITALS

WHEREAS, the Town, on its own and through affiliation with water providers, has undertaken studies of various renewable water rights and projects that Town may consider for acquisition and development; and

WHEREAS, in 2013, after an extensive RFP process, the Town entered into a Water Rights Brokerage Agreement with Stillwater, whereby Stillwater acted as the Town's exclusive agent for the purchase of water rights; and

WHEREAS, Stillwater is qualified as a water rights broker and is experienced in the acquisition of water rights for municipal entities and has represented the Town in a number of completed water rights transactions; and

WHEREAS, the original contract, as amended in 2015 and 2017, has since lapsed; and

WHEREAS, the Town desires to employ Stillwater for purposes of representing the Town in the acquisition of one package of water rights that Stillwater initially identified and presented to the Town for potential purchase; and

WHEREAS, upon completion of such due diligence, Town may request Stillwater to ascertain the definitive terms and conditions under which the Town may contractually secure the designated water rights; and

WHEREAS, Stillwater desires to act as Town's exclusive limited agent to the negotiation and purchase of the identified water rights upon the terms and conditions contained in this Agreement; and

NOW THEREFORE, in consideration of the promises and good and valuable consideration, including the payments, terms, covenants and promises herein, the parties agree as follows:

Section 1. Services. During the term of this Agreement, Stillwater shall exercise reasonable care, skill and diligence in performing the following services for the Town (the "Services"):

- A. **Due Diligence.** Subject to the limitation on Services contained in Section 2, Stillwater shall assist Town staff, experts and professional consultants, including, but not

CON-2023-0969



limited to, the Town's water resource engineer and attorneys, in performing due diligence on the potential acquisition of water rights associated with Well Permit Numbers 31623, 8298, 31540, 5867, 31530 and 5866 (each, singularly, a "Prospect," or collectively, the "Prospects"). Based on such collaborative due diligence, Stillwater shall prepare a written summary of the proposed acquisition terms for the Prospect ("Term Sheet"). Town shall approve, reject or amend the Term Sheet. Stillwater shall assist Town staff and/or the Town Council in the evaluation of the Term Sheet.

- B. Brokerage. Based on an approved Term Sheet, Stillwater shall negotiate as Town's agent the purchase price and terms for each Prospect acceptable to Town. Town shall have the right, in its sole discretion, for whatever reason to: (i) approve the final terms for any Prospect and enter into a conforming contract with the seller, or (ii) reject any Prospect, irrespective of the fact that Stillwater has secured a commitment from the seller consistent with the approved Term Sheet. Under Town regulations, any contract for acquisition of a Prospect in excess of \$250,000 must be approved by the Town Council.

Stillwater shall provide the Town with regular status reports on the Services, which may be subject to the Non-Disclosure Agreement executed between the parties in 2012 and attached to this Agreement as *Exhibit 1*.

Section 2. Limitations on Services. Services are limited to those activities prescribed in Section 1. Stillwater will not, and shall not be obligated to provide any legal or engineering review or analysis, including but not limited to, determining the technical feasibility of water resource alternatives, drafting agreements or legal or closing documents; examining title or water court records, or related services, all of which shall be the obligation of the Town to procure at its expense and make available to Stillwater in the performance of the Services.

Stillwater shall have no duty to conduct an independent inspection of the water rights associated with any Prospect for the benefit of Town and shall have no duty to independently verify the accuracy or completeness of statements made by the seller of a Prospect or any independent inspector; provided, however, that Stillwater shall inform Town if it believes that any such statements are inaccurate. Stillwater shall have no duty to verify the accuracy or completeness of any statement made by Town. Stillwater shall not disclose to any person, including any prospective seller, any adverse material facts concerning Town, absent the Town's prior written authorization.

Section 3. Agency; Vicarious Liability. Town irrevocably appoints Stillwater as Town's exclusive limited buyer's agent during the term of this Agreement to represent Town in acquiring any Prospect, and authorizes and empowers Stillwater to exercise and perform such acts reasonably necessary or incidental to the Services. Stillwater, as Town's agent, shall promote the interests of the Town with utmost good faith, loyalty and fidelity. Town agrees to conduct all negotiations for any Prospect through Stillwater. Town shall not be vicariously liable for the acts of Stillwater that are not approved, directed or ratified by Town.

Section 4. Cooperation. The parties shall fully cooperate with one another in order to

CON-2023-0969



facilitate the Services by timely providing information, documentation and expert and/or professional assistance necessary to enable the performance of the Services and as reasonably requested by Stillwater or the Town; provided, however, that Town shall only be obligated to incur such costs and expenses as it deems necessary and authorizes pursuant to Section 6.

Section 5. Compensation for Services. Stillwater shall be compensated for the Services on a commission basis when the Town acquires an interest in any Prospect as approved in this Section ("Brokerage Fee"), subject to the Town's annual appropriation and budgeting processes (if and as applicable). The Brokerage Fee for the transaction shall be based on one of the following provisions, as applicable. The Brokerage Fee shall be due with the closing of the transaction between Town and the Prospect seller.

- A. Purchase. In the event that Town acquires the Prospect or any partial interest in a Prospect, Town shall pay Stillwater a Brokerage Fee of 5% of the purchase price paid by Town to the seller of such Prospect, inclusive of all real and/or personal property simultaneously acquired, provided that the acquisition of such real or personal property is necessary for the acquisition of the Prospect. The Brokerage Fee shall be calculated on the total purchase price paid by Town as evidenced by the closing statements approved by Town and the respective seller(s) for each purchase.
- B. Lease. In the event that Town leases the Prospect or any partial interest in a Prospect, Town shall pay Stillwater a Brokerage Fee of 5% of the aggregate rents payable during such initial lease term, and 5% of the aggregate rents payable under any renewal term of such lease exercised by the Town, provided that irrespective of the duration of the primary term or the number and duration of renewal terms, the Brokerage Fee shall apply only to the first 10 years of lease payments for which the Town is contractually obligated to make. The Brokerage Fee with respect to the initial lease term shall be paid at the time of lease execution, and the Brokerage Fee calculated on renewal terms shall be paid when the Town exercises such renewal term. Consequently, if Town enters into a lease with an initial term of 15 years, the Brokerage Fee would apply and be calculated on the total lease payments for lease years 1 through 10 only. If the lease provides for an initial term of 5 years with two 5-year renewal terms, both of which are exercised by the Town, the Brokerage Fee would apply to and be calculated on the lease payments under the primary term and the first renewal term, but not on the second renewal term.
- C. Option. In the case of an option to acquire or lease the Prospect, in addition to any other Brokerage Fee due Stillwater as provided herein, Town shall pay Stillwater a Brokerage Fee of 5% of each non-refundable option payment, contemporaneously with such option payment. If the subject non-refundable option payment is also credited against the purchase price, at the time of closing of the subject option, the Town shall be entitled to a credit against the Brokerage Fee due Stillwater in consideration of such closing in an amount equal to the Brokerage Fee the Town paid Stillwater with respect to non-refundable option payments which were credited against the purchase price. In the event of an option which provides for an option term of one year or longer from the date the Town's inspection, due diligence,

CON-2023-0969



feasibility or investigation period (the "Inspection Period") ends until the date of closing, if the Town does not terminate the option prior to the end of the Inspection Period and does not close its acquisition or terminate the option on or before the first annual anniversary of the end of the Inspection Period, on the first annual anniversary of the end of the Inspection Period (the "Fee Accrual Date") the Town shall pay Stillwater a Brokerage Fee as calculated under subsection 5.A (if the option is for the purchase of a Prospect) or subsection 5.B (if the option is for the lease of a prospect). However, in that event, the Brokerage Fee shall be based on the net present value of the purchase price or sum of the initial term lease payments calculated from the last day the option may be exercised to the date of payment, based on a 5% interest rate, non-compounded. Upon such payment, Town shall not be required to make any further Brokerage Fee payments to Stillwater with respect to the subject option. By way of example (and not limitation), if the Town entered into an option to purchase the Prospect for \$1,000,000, which provided that the Town could exercise the Option at any time within five (5) years from the date of contract execution, and the option had a one (1) year Inspection Period. If the Town did not terminate the option prior to the second annual anniversary of option execution (one year after the end of the Inspection Period), Stillwater would be entitled to receive a Brokerage Fee of \$46,250.00 on the Fee Accrual Date (one year after the end of the Inspection Period), calculated as follows:

\$1,000,000 purchase price - \$75,000 (3-year remaining option term times 5% per annum net present value interest rate) = \$925,000 net present value of purchase price x 5% = Brokerage Fee of \$46,250

And if, under the foregoing example, the Town had made non-refundable option payments which applied to the purchase price, and had paid Stillwater a Brokerage Fee with respect to same, the Town would be entitled to a credit against the above-calculated Brokerage Fee of \$46,250 equal to the Brokerage Fee paid Stillwater with respect to the non-refundable option payments which applied to the purchase price. Likewise, if the Town, in its discretion, terminates an option prior to the Fee Accrual Date, it shall owe no Brokerage Fee with respect to the terminated option, except any Brokerage Fee due as a result of each non-refundable option payment made prior to termination. Similarly, if the Town pays Stillwater a Brokerage Fee on the Fee Accrual Date with respect to a lease pursuant to the foregoing provisions and later renews or extends that lease, the Town will pay Stillwater a Brokerage Fee with respect to each such renewal or extension (subject to the ten (10)-year limitation set forth above in subsection 5.B).

In the event the purchase price or lease rate is not determinable on the Fee Accrual Date, for the purposes of calculating the Brokerage Fee due Stillwater on the Fee Accrual Date, the purchase price or lease rate used for calculating the Brokerage Fee due Stillwater on the Fee Accrual Date shall be the lesser of (i) \$400 per acre foot or (ii) the minimum purchase or lease rate provided in the option.

D. Other Acquisition. In the event that Town acquires any interest or control in the

CON-2023-0969



Prospect by exchange or other means other than a direct purchase subject to subsection 5.A, a direct lease subject to subsection 5.B, or an option subject to subsection 5.C, in the absence of further written agreement between the Town and Stillwater with respect to the Brokerage Fee due Stillwater with respect to any Prospect, Town shall pay Stillwater a fee of \$1,000.00 per acre foot of water subject to such transaction at the time of the Town's acquisition of the Prospect.

The Brokerage Fee required to be paid to Stillwater pursuant to this Section 5 shall apply to any Prospect placed under contract by the Town: (i) during the term of this Agreement and then is later closed after the term; or (ii) within 180 calendar days after this Agreement expires or is terminated for any reason other than the default of Stillwater, provided that the Prospect is one on which Stillwater submitted a Term Sheet or a written description of the Prospect during the term of this Agreement, which Term Sheet or Prospect description was approved in writing by the Town or its staff, or concerning which Term Sheet or Prospect, Stillwater was instructed in writing to proceed by the Town or its staff. For the purpose of the prior sentence, written approval or written instruction to proceed includes, but is not limited to, an approval or instruction to proceed by email.

Section 6. Responsibility for Outside Expenses. Stillwater shall not obtain or order any services or products from third party sources without the Town's prior written consent, including, but not limited to, legal, engineering and other expert and professional services all of which, shall be obtained and promptly paid for by Town. Stillwater shall not be obligated to advance any funds on behalf of Town. Town shall provide its own legal review and counsel of all contracts for acquisition of a Prospect.

Section 7. Non-Exclusivity of Services/Disclosure. Town acknowledges receipt of disclosure from Stillwater of the clients for whom Stillwater currently performs work similar to the Services, and Town agrees that Stillwater may continue to provide such third-party services to such clients. In the event that either Stillwater or Town perceives that there may be a potential conflict with Stillwater's duty to Town under this Agreement with either such existing clients or new clients acquired after the commencement of the term of this Agreement, such party shall inform the other in writing of the potential conflict. In such event, the parties shall endeavor to resolve the potential conflict such that there is no material impairment of the Services or Stillwater's performance of the other services. However, if the potential conflict of interest cannot be resolved to their mutual satisfaction, Stillwater shall either: (i) terminate the engagement, (ii) decline such other engagement, or (iii) withdraw from and terminate this Agreement. For the purpose of qualification for payment of Brokerage Fee under Section 5, a termination under this Section 7 shall be considered a termination without fault or breach by Stillwater.

Section 8. Term. This Agreement and the provision of the Services shall commence upon the effective date indicated above and shall terminate two years from the effective date of this Agreement, unless previously terminated pursuant to Sections 7 or 9, or unless the term is extended by mutual written agreement.

Section 9. Termination and Brokerage Fee. In the event of a default of this Agreement by either party, the non-defaulting party shall give the defaulting party 30 days' written notice of such default and the opportunity to cure such default within such 30-day period. In the event that the

CON-2023-0969



defaulting party fails or refuses to cure the default within such 30- day period, this Agreement shall terminate on the 30th calendar day after such notice is given. If such termination for cause results from an uncured default by Stillwater, Stillwater shall not be entitled to any further Brokerage Fees, irrespective of the provisions Section 5. In addition to such termination for cause, Town shall have the right to terminate this Agreement at any time for any reason with 60 days' prior written notice to Stillwater. In the event of such termination for convenience by Town or a termination under Section 7, Stillwater shall be entitled to Brokerage Fees as provided in Section 5.

Section 10. Limitation of Liability. In no event will either party be liable to the other for any lost profits, incidental, special, exemplary, punitive, indirect or other consequential damages, even if such party knows or has been advised of the possibility of such damages.

Section 11. Limitation on Third-Party Compensation. Stillwater shall not accept compensation from any other person or entity in connection with any Prospect without the written consent of the Town. Additionally, Stillwater shall not be permitted to assess and receive mark-ups or compensation for services performed by any third party or affiliated business entity unless the Town signs a separate written consent for such services.

Section 12. Separate Business Operations; Independent Contractor. By this Agreement, Stillwater and Town are not creating, nor do they intend to create, an employer-employee relationship, a partnership, joint venture, merger of business operations or any business association and specifically agree and represent that their respective business operations shall remain separate and distinct.

Stillwater and the Town hereby represent that Stillwater is an independent contractor for all purposes hereunder. Stillwater further represents and warrants that: (i) Stillwater is free from the Town's direction and control in the performance of the Services; (ii) Stillwater has an independent business doing the specific type of work or services which are the subject of this Agreement; (iii) the Town does not control what work or services Stillwater will perform or the manner in which such work or services will be performed; and (iv) Stillwater 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. Stillwater has executed an Affidavit of Independent Contractor Status, which Affidavit is attached to this Agreement as *Exhibit 2*.

Section 13. Assignability. This Agreement shall not be assigned by Town or Stillwater without the other party's written consent.

Section 14. Notice. Any notice required or permitted to be given pursuant to this Agreement shall be in writing and addressed with the address set forth at the beginning of this Agreement for the particular party to be notified. The address of any party may be changed by giving written notice of such change to the other party in the manner provided herein. Any notice delivered in person shall be deemed to have been duly given on the date of such delivery. Any notice delivered by mail in accordance with this provision shall be deemed to have been duly given on the third calendar day after the same is deposited in any post office or postal box regularly maintained by the United States Postal Service with postage prepaid.

CON-2023-0969



Section 15. Insurance.

- A. Stillwater shall procure and maintain, and shall cause each subcontractor of Stillwater, if any, to procure and maintain, at or before the execution of this Agreement, the following insurance:
 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 Services under this Agreement, and Employer's Liability insurance with limits of \$500,000 per occurrence for each bodily injury claim, \$500,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.
 2. Commercial General Liability insurance with limits of \$1,000,000 for each occurrence and \$1,000,000 policy aggregate. The policy shall be applicable to all premises and operations and include coverage for bodily injury, broad form property damage (including for contractual and employee acts), blanket contractual, independent contractors, products liability, and completed operations.
 3. Business Automobile Liability insurance with limits of \$1,000,000 for bodily injury per person, \$1,000,000 for bodily injury per accident, and \$1,000,000 for property damage. The policy shall include coverage for each of Stillwater's owned, hired, leased, or borrowed vehicles assigned to or used in performance of the Services.
 4. Professional Liability/Errors and Omissions insurance with limits of \$1,000,000 for each occurrence and \$1,000,000 policy aggregate. The policy shall include coverage for damages or claims for damages arising from the rendering of, or the failure to render, any professional services.
- B. The Commercial General Liability, Business Automobile Liability, and Professional Liability policies required above shall provide the following: (i) the Town, its officers and employees, are named as additional insureds; (ii) this Agreement is an Insured Contract under the policy; (iii) defense costs are in excess of policy limits; (iv) the inclusion of a severability of interests provision; and (v) coverage is primary and non-contributory with other coverage or self-insurance maintained by the Town. For all coverages required above, Stillwater's insurer shall waive subrogation rights against the Town. If any policy is in excess of a deductible or self-insured retention, the Town must be notified by Stillwater. Stillwater shall be solely responsible for the payment of any deductible losses or self-insured retention under each of the policies required above.
- C. For any claims-made coverage: (i) The retroactive date must be on or before the contract date. (ii) Stillwater shall advise the Town in the event any general aggregate

CON-2023-0969



or other aggregate limits are reduced below the required per occurrence limits. At its own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, Stillwater will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

- D. Stillwater shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-" VIII or better. The insurance companies issuing the policy or policies to Stillwater shall have no right against the Town for payment of any premiums due or for any assessments under any form of any policy.
- E. Certificates of insurance shall be completed by Stillwater's insurance agent 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 Agreement 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. Stillwater certifies that the ACORD certificate of insurance provided to the Town and attached to this Agreement as *Exhibit 3* complies with all insurance requirements of this Agreement; provided, however, that the Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
- F. Stillwater 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. Failure on the part of Stillwater to procure or maintain policies providing the required coverage, conditions, and minimum limits shall constitute a material breach of contract upon which the 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 Stillwater to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Stillwater from the Town.

Section 16. Colorado Governmental Immunity Act. The parties understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$424,000 per person, \$1,195,000 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 17. Indemnification.

CON-2023-0969



- A. Stillwater expressly agrees to indemnify and hold harmless Town or any of its officers or employees from any and all claims, actual out-of-pocket damages (but not consequential or other 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 Stillwater 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 Stillwater.
- B. To the maximum extent permitted by law, Town expressly agrees to indemnify and hold harmless Stillwater or any of its officers or employees from any and all claims, actual out-of-pocket damages (but not consequential or other 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 Town 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 Stillwater, Stillwater will give notice within ten (10) days thereof to Town.

Section 18. Attorney's Fees and Costs. In any action to enforce, interpret or seek damages for breach or default of this Agreement, whether in law or in equity, the substantially prevailing party shall be entitled to and shall be awarded all of its attorney's fees, expenses and costs thereof.

Section 19. 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 20. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns permitted pursuant to the provisions of this Agreement.

Section 21. Modification. No provision of this Agreement may be amended, waived or otherwise modified without the prior written consent of both of the parties hereto.

Section 22. Severability. Any provision of this Agreement which is held by a court of competent jurisdiction to be prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating or rendering unenforceable the remaining provisions of this Agreement.

Section 23. Governing Law. This Agreement is made and entered into and shall be governed by and construed in accordance with the laws of the State of Colorado.

CON-2023-0969



Section 24. Jurisdiction and Venue. Any and every legal action, in law or in equity, concerning enforcement, interpretation, effect, breach, default or dispute regarding this Agreement shall be resolved in District Court for the County of Douglas, State of Colorado and each party hereto consents to any such action being brought in the District Court for the County of Douglas, State of Colorado.

Section 25. Section Headings. This section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

Section 26. Representations of Authority. Each of the parties signing this document on behalf of Stillwater and Town respectively represent and warrant to each that they have full and complete legal authority to execute this Agreement on behalf of such party.

ATTACHED EXHIBITS:

EXHIBIT 1 – NON-DISCLOSURE AGREEMENT

EXHIBIT 2 – TOWN OF CASTLE ROCK AFFIDAVIT OF INDEPENDENT CONTRACTOR STATUS

EXHIBIT 3 – CERTIFICATE OF INSURANCE

CON-2023-0969



**STILLWATER RESOURCES &
INVESTMENTS, INC.**

By:


Walraven Ketellapper, President

DS

ATTEST:



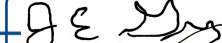
**TOWN OF CASTLE ROCK, by and
through the Town of Castle Rock Water
Enterprise**

DocuSigned by:



298A6A4EDEF34AF
Lisa Anderson, Town Clerk

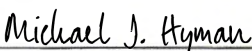
DocuSigned by:



994B383A84E
Jason Gray, Mayor

Approved as to form:

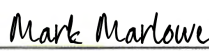
DocuSigned by:



73473327679D
Michael J. Hyman, Town Attorney

Approved as to content:

DocuSigned by:



FEAD2EE1B041D
Mark Marlowe, Director of Castle Rock Water

CON-2023-0969



EXHIBIT 1

NON-DISCLOSURE AGREEMENT
(see attached)

RECIPROCAL CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This Reciprocal Confidentiality and Nondisclosure Agreement (hereafter called "Agreement") is made and entered into this 2nd day of November, 2012, ("Effective Date") by and between the Town of Castle Rock, Colorado, by and through the Town of Castle Rock Water Enterprise ("Castle Rock"), Stillwater Resources and Investments, Inc., a Colorado corporation ("Stillwater") and Boxelder Properties, LLC, a Colorado limited liability company ("Box Elder"). For purposes of this Agreement, each party may be referred to as a "Party", and when disclosing Confidential Information (as defined in Section 1.e. herein) shall be deemed the "Disclosing Party", and each Party, when receiving Confidential Information, shall be deemed the "Receiving Party".

RECITALS

A. Pursuant to its January, 2006 Water Resources Strategic Master Plan, Castle Rock determined to acquire a water supply mix of renewable and reusable water that is 75% sustainable. In furtherance of the Water Resources Strategic Master Plan, on August 5, 2011 Castle Rock published its Request for Proposals (RFP) for Alternative Source of Water Supply Provider, RFP No. 2011-05.

B. Stillwater submitted a Water Supply Proposal dated September 2, 2011 in response to RFP No. 2011-05. Stillwater's Proposal included the provision of land and water owned by Box Elder. On October 5, 2012, Castle Rock's staff recommended that the Town pursue the Water Infrastructure and Supply Efficiency (WISE) agreement among South Metro Water Supply Authority, Aurora Water and Denver Water, as well as an agreement with Stillwater. On October 9, 2012 Castle Rock's City Council adopted a resolution accepting Staff's recommendations, and authorizing further negotiations with Stillwater and Box Elder. These negotiations may result in the execution of one or more agreements between the Parties, including, without limitation, a purchase and sale agreement between Castle Rock and Box Elder, a brokerage agreement between Castle Rock and Stillwater, and the execution of additional purchase and sale agreements, leases or other agreements with potential water suppliers and others as needed to implement Stillwater's Water Supply Proposal and further Castle Rock's efforts to cost effectively obtain an alternative water supply as contemplated by the Water Resources Strategic Master Plan and RFP No. 2011-05.

C. The Parties recognize and acknowledge that negotiations between the Parties will involve the disclosure of sensitive, confidential and proprietary information including, *inter alia*, the identification and analysis of various water resource options and assets specific targeted water rights augmentation sources and structures, delivery systems, etc, as well as specific direction from Castle Rock to Stillwater regarding the negotiating of the acquisition of identified water assets. Disclosure of such confidential information could threaten the availability and pricing of these items, to the detriment of the Castle Rock and materially and adversely impact the success of the negotiations, and Castle Rock's ability to implement its Water Resources Strategic Master Plan and RFP No. 2011-05.

D. Castle Rock is subject to the obligations imposed by 24-72-201 *et seq.* CRS as it may be amended ("CORA"), concerning open public records. The confidential information exchanged by the Parties under this Agreement may be protected from disclosure under the express provisions of CORA, or as otherwise provided under law. Therefore, to the greatest extent available by law, the Parties desire protect confidential information provided to each other to enter into this Agreement in order to protect the confidentiality of, and assure the nondisclosure of, confidential information incident to the negotiation, preparation, execution and performance of the anticipated agreements between and among the Parties and others.

1. **Definitions:**

- a. "Party" means a party to this Agreement.
- b. "Parties" include Disclosing Party(ies) and Receiving Party(ies).
- c. "Person" shall be interpreted broadly to include, without limitation corporations or other company entities, trusts, groups, partnerships, governmental authority or individual, but excluding a Party.
- d. "Representatives" mean directors, officers, employees, lenders, agents, financial advisors, consultants, contractors, attorneys and accountants of the Parties.
- e. "Confidential Information" means and includes any and all of the items described in paragraph i. below that has been or may hereafter be disclosed to one Party by the other Party or by the Representatives of each Party:
 - i. information related to water rights or other business interests or holdings of a Party, Stillwater's water rights solutions including (but not limited to) (a) sources of water used for provision of renewable water to Castle Rock to augment pumping at the Box Elder Well Field, how these water rights might be integrated into Castle Rock's water system and specific deal structures that might lead to successful acquisition, each Party's, aquifer hydrological data and ground water models, and information, however documented, or is otherwise obtained from review of each Party's documents or property or discussions with each Party's Representatives (including current or prospective water sources) or Representatives of a Party's Representatives irrespective of the form of the communication, and also includes all notes, analyses, compilations, studies, summaries and other material prepared by a Party or a Party's Representatives containing or based, in whole or in part, upon any information included in the foregoing; or
 - ii. any trade secrets of each Party will also be entitled to all of the protections and benefits under applicable trade secret law. If any information that a Party deems to be a trade secret is found by a court of competent jurisdiction not to be a trade secret for purposes of this Agreement, such information will in any event still be considered Confidential Information for purposes of this Agreement. In the case of trade secrets, the Parties hereby waive any requirement that the other Party submit proof of the economic value of any trade secret or post a bond or other security; or
 - iii. ,any confidential commercial, financial, geological or geophysical data.
- f. "Affiliate and/or Affiliates" means any company or legal entity which controls a Party, or is controlled by a Party, or which is controlled by an entity which controls a Party. "Control", as used in this definition, means the ownership directly or indirectly of fifty percent (50%) or more of the voting rights in a company or other legal entity.

2. **Description of Possible Transactions.** The Parties have commenced discussions concerning a series of possible business transactions wherein Castle Rock would engage Stillwater as its broker to identify potential augmentation water supplies and water rights to Castle Rock, including, but not limited to, water derived from Box Elder's alluvial well field located in Weld County, CO, and other sources,

analyze and evaluate water transmission and treatment facilities, and otherwise assist Castle Rock in the implementation of Stillwater's Water Supply Proposal and Castle Rock's Water Resources Strategic Master Plan and RFP No. 2011-05. ("Possible Transactions"). In order to further determine, define and anticipate the needs and accommodations of the Possible Transactions, each Party desires from the other Confidential Information including ownership rights, the physical and legal entitlement to the use of water for the intended purposes, water assets, volumes of water, water decrees, the use, sharing and management of water and how best to integrate into Castle Rock's water portfolio, the type and sources of water, the water needs and volumes necessary. Ultimately, the Parties may enter into separate agreement(s) with respect to their respective operations and the Possible Transactions. However, nothing herein constitutes any obligation on each Party to consummate either the Possible Transactions or any other. The Parties have agreed to disclose to one another the Confidential Information subject to the terms of this Agreement.

3. **Restrictions on Use of Confidential Information.** In consideration of the disclosure of Confidential Information, Receiving Party, its Representatives and Affiliates shall:

- a. treat the Confidential Information as confidential, using the same care in storage and handling thereof as normally used for its own proprietary information to prevent theft, unauthorized copying or disclosure;
- b. not use the Confidential Information, directly or indirectly, for any purpose other than in connection with evaluating the Confidential Information for the purpose of evaluating or implementing the Possible Transactions or providing direction to Stillwater.
- c. not disclose Confidential Information to any Person except as provided in Paragraphs 4 and 5 hereof;
- d. not make copies or allow copies to be made of the Confidential Information from the Disclosing Party (except for internal distribution) and, upon written request from Disclosing Party, shall promptly return all Confidential Information provided by the Disclosing Party to Disclosing Party. In the event the Possible Transactions are not consummated or an alternative agreements are not entered into between the Parties concerning the Possible Transactions, Receiving Party shall promptly return all Confidential Information provided by Disclosing Party to Disclosing Party. In the event Receiving Party prepares any analysis (including mental impressions), compilation, study, or other documents for Receiving Party's internal use that reflect the Confidential Information provided by the Disclosing Party, same shall be held in strict confidence to the same extent as the Confidential Information and Receiving Party its Representatives and Affiliates shall promptly provide to the other Party all originals, if in document form, and all copies of all such analysis, compilation, study, or other documents in the event the Possible Transactions are not consummated. Notwithstanding the foregoing provisions, (i) Receiving Party will not be obligated to destroy any internally generated documents referring to the Confidential Information provided by the Disclosing Party in a generalized manner and (ii) to the extent computer back up procedures create copies of any documents generated from Confidential Information provided by the Disclosing Party, Receiving Party may retain such copies for the period it normally archives backed-up computer records; however, such electronic backups shall not be retrieved, used or consulted after Disclosing Party makes the written request contemplated in this Section 3(d). Notwithstanding the term of the Agreement, the board minutes, resolutions, briefing materials and back-up computer records shall be subject to the provisions of this Agreement until same are destroyed. Receiving Party, its Representatives and Affiliates agree, upon request by

Disclosing Party, to acknowledge in writing its compliance with the provisions of this provision 3(d);

- e. not disclose and will direct its Representatives and Affiliates not to disclose that Receiving Party has received Confidential Information from Disclosing Party regarding the Possible Transactions, or that evaluations or due diligence activities are taking place concerning the Possible Transactions, including terms, conditions or other facts regarding the Possible Transactions; and
- f. not remove any Confidential Information from the location of a presentation or remove any Confidential Information reviewed in a data room provided by Disclosing Party, except as Disclosing Party may specifically authorize in writing.

Receiving Party has no obligations with regard to any Confidential Information which, other than by breach of this Agreement is: (a) already in its possession without restriction on disclosure (except Appendix A to Stillwater's Water Supply Proposal, which was submitted in confidence to Castle Rock, and shall remain confidential and shall be subject to this Agreement); (b) independently developed by Receiving Party without benefit or utilization of the Confidential Information provided by the Disclosing Party; or (c) in or subsequently comes into, the public domain through no fault of Receiving Party.

4. **Limited Disclosure of Confidential Information.** Subject to restrictions set forth herein, Receiving Party may disclose Confidential Information to Representatives and/or Affiliates of Receiving Party to the extent they need same to evaluate the Possible Transactions. Receiving Party shall require every Person to whom Confidential Information from the Disclosing Party is disclosed and who is not a director, officer or employee of Receiving Party to agree in writing to keep confidential and not disclose such Confidential Information to any unauthorized Person. Receiving Party accepts responsibility for any breach of this Agreement by Receiving Party and/or any of Receiving Party's Representatives or Affiliates.

5. **Required Disclosure of Confidential Information.** If Receiving Party or any Representative or Affiliate of Receiving Party to whom Receiving Party has directly or indirectly transmitted Confidential Information shall be requested or required to disclose same by law, order, decree, regulation or rule (including without limitation, those of any regulatory agency,) or if any Person seeks to legally compel (by interrogatories, document requests, subpoena or otherwise) Receiving Party or any Representative or Affiliate of Receiving Party to whom Receiving Party has directly or indirectly transmitted Confidential Information to disclose any Confidential Information, Receiving Party shall provide Disclosing Party prompt written notice so Disclosing Party may in its sole discretion: (a) seek a protective order or other remedy to protect against the disclosure of such information and documents or (b) waive compliance with this Agreement. Receiving Party, its Affiliates and Representatives shall use reasonable commercial efforts to consult and cooperate with Disclosing Party with respect to the timing, manner and content of any such disclosure. If, in the absence of the protective order or other remedy or the receipt of a written waiver by the Disclosing Party with respect to such specific disclosure, Receiving Party or any of Receiving Party's Representatives or Affiliates are nonetheless, in the written opinion of legal counsel, legally compelled to disclose Confidential Information to any tribunal, Receiving Party or Receiving Party's Representatives or Affiliates may, without liability hereunder, disclose to such tribunal only that portion of the Confidential Information which such counsel advises Receiving Party it is legally required to disclose, provided that Receiving Party uses reasonable efforts to preserve the confidentiality of the Confidential Information, including, without limitation, by cooperating with the Disclosing Party to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information from Disclosing Party.

6. **Exceptions.** All of the foregoing obligations and restrictions do not apply to that part of the Confidential Information that each Party demonstrates (a) was or becomes generally available to the public prior to, and other than as a result of, a disclosure by the Receiving Party or its Representatives, or (b) was available, or becomes available, to the Receiving Party on a non-confidential basis prior to its disclosure to the Receiving Party by the Disclosing Party or its Representative, provided the source of such information is not bound by a confidentiality agreement with the Disclosing Party or is not otherwise prohibited from transmitting the information to the Receiving Party or its Representatives by a contractual, legal, fiduciary or other obligation, (c) is independently developed by or for the Receiving Party without reliance on the Confidential Information disclosed hereunder, or (d) is required to be disclosed pursuant to a court order, government order or any other legal requirement of disclosure, including, but not limited to, the Colorado Open Records Act (C.R.S. § 24-72-201 et seq., as it may be amended). Determination as to whether the Colorado Open Records Act requires disclosure of Confidential Information in the possession of Castle Rock shall be determined by Castle Rock after consultation with Stillwater and Box Elder.

7. **Remedies.** No failure or delay by Disclosing Party in exercising any of its rights or pursuing any remedies available to Disclosing Party hereunder or at law or in equity shall in any way constitute a waiver or prohibition of such rights and remedies in the event of a breach of this Agreement. Equitable relief shall not be exclusive of other remedies to which Disclosing Party is entitled at law or in equity. Receiving Party acknowledges that its breach of this Agreement would irreparably harm Disclosing Party and agrees that money damages would not be a sufficient remedy for its breach. In addition to all other remedies, Disclosing Party shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach.

8. **Warranty Disclaimer.** RECEIVING PARTY ACKNOWLEDGES AND ACCEPTS THE INHERENT RISK IN ACQUISITION, PROCESSING AND INTERPRETATION OF GEOLOGICAL AND GEOPHYSICAL DATA AND INTERPRETATIVE DATA OF ALL KINDS. DISCLOSING PARTY REPRESENTS THAT IT HAS THE RIGHT TO DISCLOSE THE CONFIDENTIAL INFORMATION. DISCLOSING PARTY MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO ACCURACY, QUALITY OR COMPLETENESS OF THE INFORMATION, AND ONLY SPECIFIC REPRESENTATIONS AND WARRANTIES MADE IN A DEFINITIVE AGREEMENT (WHEN AND IF THE SAME IS FULLY EXECUTED AND DELIVERED) SHALL HAVE LEGAL EFFECT. WITHOUT LIMITING ANY OBLIGATION THAT DISCLOSING PARTY MAY EXPRESSLY UNDERTAKE IN A DEFINITIVE AGREEMENT IN RESPECT OF THE POSSIBLE TRANSACTIONS, NEITHER DISCLOSING PARTY NOR ITS REPRESENTATIVES OR AFFILIATES SHALL BE LIABLE TO RECEIVING PARTY OR ANY OTHER PERSONS IN CONTRACT, TORT, SECURITIES LAWS OR OTHERWISE AS A RESULT OF THE POSSIBLE TRANSACTIONS AND/OR USE OF THE INFORMATION, OR ERRORS THEREIN OR OMISSIONS THEREFROM, BY RECEIVING PARTY OR THOSE IN PRIVITY WITH RECEIVING PARTY. RECEIVING PARTY AGREES THAT NEITHER RECEIVING PARTY NOR ITS AFFILIATES AND/OR REPRESENTATIVES SHALL RELY UPON THE INFORMATION WITHOUT SATISFYING ITSELF AS TO ITS ACCURACY AND COMPLETENESS NOR THAT RECEIVING PARTY SHALL MAKE INDEPENDENT VERIFICATION THEREOF.

9. **Relationship and No Obligation.** It is not the intention of the Parties and nothing contained in this Agreement shall be deemed or construed to create the relationship of partnership, association, principal and agent or joint venture between the Parties. Execution of this Agreement and/or this Agreement and the disclosure of Confidential Information hereunder shall create no obligation on the part of each Party to further discussions with the other Party or to enter into any further agreement with the other Party. Unless and until a definitive agreement has been fully executed and delivered, no relationship, contract or agreement providing for a transaction between the Parties shall be deemed to

exist and each Party will be under any legal obligation of any kind whatsoever with respect to such transaction by virtue of this or any written or oral expression thereof, except, in the case of this Agreement, for the matters specially agreed to herein. For purposes of this Agreement, the term "definitive agreement" means a definitive written agreement executed by the Parties or their respective Affiliates and/or Representatives with respect to the Possible Transactions, but does not include a nonbinding executed letter of intent, negotiations between the Parties, exchanges of drafts or documents relating to the Possible Transactions or any other preliminary written agreement or offer, unless specifically so designated in writing and executed by both Parties.

10. **Entire Agreement and Amendments.** This Agreement comprises the full and complete agreement of the Parties with respect to disclosure of Confidential Information and replaces and supersedes all prior communications, understandings and agreements between the Parties, whether written or oral, express or implied relating to the Confidential Information and the subject matter of this Agreement. Notwithstanding the preceding sentence, this Agreement shall not supersede any written agreement under which either Disclosing Party or its Affiliates or Representatives have heretofore provided evaluation materials, Confidential Information, or a portion of the Confidential Information to Receiving Party, its Affiliates or Representatives and Receiving Party's obligations under any such prior written agreement shall remain in full force and effect and shall not be superseded by, but shall be cumulative of and in addition to the obligations of Receiving Party and its Affiliates and Representatives under this Agreement. Any purported future modification or amendment hereto shall be binding on the Parties only if same is in writing, is executed by an authorized representative of the Parties and expressly refers to this Agreement.

11. **Choice of Law.** This Agreement shall be governed by and interpreted under the laws of the State of Colorado (excluding any choice of law provision which would refer to the laws of another state). Each Party agrees that the exclusive venue and forum for any action brought in connection with this Agreement shall be initiated and maintained in any State or Federal court located in Denver, Colorado and irrevocably waives any right such Party may have to object to such venue and forum.

12. **Economic Risk.** Receiving Party acknowledges that (i) it is able to bear the economic risk of any investment it might decide to make with respect to the Possible Transactions, (ii) it is capable of evaluating the merits and risks of doing work or providing resources to Castle Rock, (iii) it will be making decisions concerning such Possible Transactions for its own account and not with a view to the distribution or sale thereof, and (iv) it is acting solely for its own account in evaluating a possible business arrangement with respect to the Possible Transactions.

13. **Prospectus Disclaimer.** This document is not, and should not be considered as, a prospectus or other offer to sell a security or an interest in water resources or properties.

14. **Electronic Transmission.** The electronic transmission of any signed original document, and transmission or retransmission of any signed electronic transmission, shall be the same as delivery of an original. At the request of each Party, the Parties hereto will confirm electronic transmitted signatures by signing an original document for delivery between them.

15. **Counterpart Execution.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

16. **Term.** The duties and obligations of each Party under this Agreement are deemed to have commenced as of the earlier of the Effective Date or the date a Disclosing Party provides Confidential Information to a Receiving Party and shall remain in effect thereafter until the date the

contemplated Possible Transactions are completed between Disclosing Party and/or its Affiliates or Representatives, as applicable, and Receiving Party and/or its Affiliates and Representatives, as applicable, pursuant to a definitive agreement containing provisions dealing with confidentiality of the Confidential Information, which expressly supersede the provisions of this Agreement. Provided however, termination of this Agreement shall not (i) release any obligations, liabilities, rights and remedies arising out of a breach of, or failure to comply with this Agreement occurring prior to such termination (including the continuation thereof after such termination) or (ii) release, impair or affect the covenants and agreements contained in this Agreement which shall survive such termination and continue in full force and effect.

17. **Withdrawal of Possible Transactions.** All leases, lands, water rights, water decrees, ownership information, plans of operation, and related business opportunities shown by Disclosing Party hereunder are subject to withdrawal or prior sales, at Disclosing Party's sole discretion, and nothing herein shall obligate Disclosing Party to provide notice to Receiving Party with respect to any such withdrawal or sale. Nothing contained herein is intended to confer upon Receiving Party any rights whatsoever to Disclosing Party's interest in the leases and lands, if any, identified in this Agreement but is intended only to govern the rights and obligations of the respective Parties concerning the Confidential Information. Disclosing Party reserves the right, in its sole discretion, to reject any and all proposals made by the Receiving Party with respect to the Possible Transactions between Disclosing Party and Receiving Party and, subject to the terms hereof, to terminate discussions with the Receiving Party at any time.

18. **Successors and Assigns.** This Agreement shall be binding upon the Parties, their respective successors and assigns and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

19. **Notices.** Identification of Representative and addresses of the Parties for notice purposes are as follows:

Castle Rock:

Town Attorney
Town of Castle Rock
100 Wilcox Street
Castle Rock, CO 80104
Phone: 303-660-1388
Fax: 303-660-1028

Stillwater:

Walraven Ketellapper, President
Stillwater Resources and Investments, Inc.
2355 Canyon Blvd. Suite 105
Boulder, CO 80302
Phone: 303-415-0029
Fax: 303-415-9077

Box Elder:

Michael Jeronimus, Manager
Boxelder Creek Properties, LLC
6355 W. Lakeside Ct.
Littleton, CO 80125
P.O. Box 221

Littleton, CO 80160

Phone: _____

Fax: _____

20. **Assignment.** This Agreement and the obligations set forth hereunder shall not be assigned in whole or in part by Receiving Party or any of Receiving Party's Representatives or Affiliates.

21. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

22. **Waiver.** No waiver by any Party shall be effective unless in writing and any such waiver shall only affect the matter, and the occurrence thereof, specifically identified therein and shall not extend to any other matter or occurrence.

23. **Ongoing Activities.** Stillwater understands and acknowledges that Castle Rock is involved in ongoing and widespread water acquisition and analysis activities and receives information and data, including concerning water resources and treatment, from many different sources. Castle Rock cannot assure Stillwater, and makes no representation that Castle Rock has not, or that it never will, evaluate other water sources and/or acquire leasehold or other water interests which may encompass any prospects to which the Confidential Information disclosed hereunder relates. Nothing in this provision shall be deemed to prohibit, restrict, or apply to any acquisition by Receiving Party of an interest in the lands attributable to the Possible Transactions including but not limited to corporate merger, reorganization, consolidation or acquisition of the assets of an entity, whether by cash, like-kind exchange, stock purchase or otherwise.

24. **Ongoing Water Resource Activities.** Castle Rock understands and acknowledges that Stillwater is involved in ongoing and widespread water resource activities in the water industry and receives information and data, including concerning water resources and treatment, from many different sources. Stillwater cannot assure Castle Rock, and makes no representation that Stillwater has not, or that it never will, evaluate other opportunities for the provision of water sources and/or acquire leasehold or other water interests which may encompass other prospects to which the Confidential Information disclosed hereunder relates. Nothing in this Agreement shall be deemed to prohibit, restrict, or apply to Stillwater's water resource activities with other participants which compete with or are an alternative to the Possible Transactions.

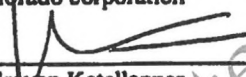
25. **Mental Impressions.** Disclosing Party understands that Receiving Party's Representatives who need to review the Confidential Information may now or in the future be working on other Possible Transactions in the vicinity of the lands attributable to the Possible Transactions and may retain mental impressions of the Confidential Information. Disclosing Party agrees that Receiving Party's Representatives shall not be precluded from working on such Possible Transactions because of such mental impressions.

If Receiving Party is in agreement with the foregoing terms as a basis upon which Disclosing Party will provide you with the Confidential Information from Disclosing Party, please acknowledge such agreement by executing a copy of this letter in the space provided below and returning a copy to the noticed Party in Section 19 above.

TOWN OF CASTLE ROCK, by and through the TOWN
OF CASTLE ROCK WATER ENTERPRISE

By: 
Name: Ray P. Radd
Its: Utilities Director

STILLWATER RESOURCES AND INVESTMENT,
INC., a Colorado corporation

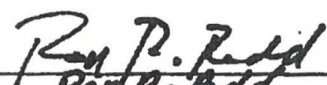
By: 
Name: Walraven Ketellapper
Its: President

BOXELDER PROPERTIES, LLC, a Colorado limited
liability company

By: _____
Name: Michael Jeronimus
Its: Manager

noticed Party in Section 19 above.

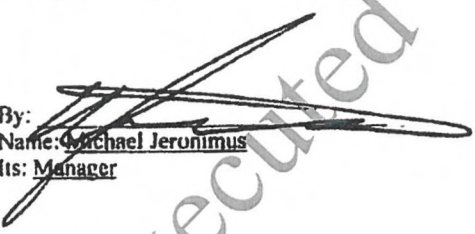
TOWN OF CASTLE ROCK, by and through the TOWN
OF CASTLE ROCK WATER ENTERPRISE

By: 
Name: Ron P. Radd
Its: Utilities Director

STILLWATER RESOURCES AND INVESTMENT,
INC., a Colorado corporation

By: _____
Name: Walraven Ketellapper
Its: President

BOXELDER PROPERTIES, I L.C, a Colorado limited
liability company

By: 
Name: Michael Jeronimus
Its: Manager

Previously Executed

CON-2023-0969

**EXHIBIT 2****TOWN OF CASTLE ROCK
AFFIDAVIT OF INDEPENDENT CONTRACTOR STATUS**

In accordance with Section 8-70-115, C.R.S., we certify the following:

- With respect to the Agreement, **STILLWATER RESOURCES & INVESTMENTS, INC.** ("Stillwater") represents and warrants that it is Stillwater's express intention to be employed as an independent contractor of the Town of Castle Rock (the "Town") for purposes of performing the work or services which are the subject of the Agreement, to include all employees and agents of the above-named entity. Stillwater understands and confirm that the Town reasonably relied on this intention in entering into the Agreement.
- The Town does not require Stillwater to work exclusively for the Town, except that Stillwater may choose to work exclusively for the Town for a finite period of time specified in the document.
- The Town does not establish a quality standard for the work or services performed pursuant to the Agreement, except that the Town may provide plans and specifications regarding the work but cannot oversee the actual work or provide instruction as to how the work is performed.
- The Town does not pay a salary or hourly rate but rather a fixed or contract rate, as noted in the terms and conditions of the Agreement, and any Exhibits made part of the Agreement.
- The Town cannot terminate the work or services performed during the contract period unless otherwise agreed to in the terms and conditions of the Agreement.
- Stillwater is not provided with anything, if at all, more than minimal training from the Town.
- The Town does not provide Stillwater with tools or benefits for the performance of the work or services which are the subject of the Agreement, except materials and equipment may be supplied.
- The Town does not dictate the time of performance, except that a completion schedule and a range of mutually agreeable work hours may be established in the Agreement.
- The Town does not pay Stillwater personally but rather makes checks payable to the trade or business name of Stillwater, who is a party to the Agreement; and the Town does not combine their business operations in any way with Stillwater's business, but instead maintains such operations as separate and distinct.

Exhibit 2 – Page 2

CON-2023-0969



EXHIBIT 3

CERTIFICATE OF INSURANCE
(see attached)



STATE FARM FIRE AND CASUALTY COMPANY
A STOCK COMPANY WITH HOME OFFICES IN BLOOMINGTON, ILLINOIS

Po Box 2915
Bloomington IL 61702-2915

Named Insured

AT2 000955 3125 M-20-0004-FA65 F U
STILLWATER RESOURCES &
INVESTMENTS INC
4551 PRADO DR
BOULDER CO 80303-9633



RENEWAL DECLARATIONS

Policy Number	96-21-3609-9	
Policy Period	Effective Date	Expiration Date
12 Months	AUG 7 2023	AUG 7 2024
The policy period begins and ends at 12:01 am standard time at the premises location.		

Agent and Mailing Address

PAUL WALDEN
1650 38TH ST STE 205E
BOULDER CO 80301-2621

PHONE: (303) 447-2048

Office Policy

Automatic Renewal - If the **policy period** is shown as **12 months**, this policy will be renewed automatically subject to the premiums, rules and forms in effect for each succeeding policy period. If this policy is terminated, we will give you and the Mortgagee/Lienholder written notice in compliance with the policy provisions or as required by law.

Entity: Corporation

NOTICE: Information concerning changes in your policy language is included. Please call your agent if you have any questions.

POLICY PREMIUM	\$ 300.00	Claim Record
Minimum Premium		
Disaster Mitigation	\$ 2.00	
Total Amount	\$ 302.00	

Discounts Applied:
Renewal Year
Years in Business

Prepared
APR 25 2023
CMP-4000

© Copyright, State Farm Mutual Automobile Insurance Company, 2008
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

Continued on Reverse Side of Page

Page 1 of 7

006895 294 I
E

RENEWAL DECLARATIONS (CONTINUED)

Office Policy for **STILLWATER RESOURCES &**
Policy Number **96-21-3609-9**

SECTION I - PROPERTY SCHEDULE

Location Number	Location of Described Premises	Limit of Insurance* Coverage A - Buildings	Limit of Insurance* Coverage B - Business Personal Property	Seasonal Increase-Business Personal Property
001	4551 PRADO DR BOULDER CO 80303-9633	No Coverage	\$ 2,200	25%

* As of the effective date of this policy, the Limit of Insurance as shown includes any increase in the limit due to Inflation Coverage.

SECTION I - INFLATION COVERAGE INDEX(ES)

Cov A - Inflation Coverage Index: N/A
Cov B - Consumer Price Index: 301.8

SECTION I - DEDUCTIBLES

Basic Deductible \$500

Special Deductibles:

Money and Securities	\$250	Employee Dishonesty	\$250
Equipment Breakdown	\$500		

Other deductibles may apply - refer to policy.

Prepared
APR 25 2023
CMP-4000

© Copyright, State Farm Mutual Automobile Insurance Company, 2008
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

006895

Continued on Next Page

Page 2 of 7

StateFarm



M 6895

RENEWAL DECLARATIONS (CONTINUED)

Office Policy for STILLWATER RESOURCES &
Policy Number 96-21-3609-9

**SECTION I - EXTENSIONS OF COVERAGE - LIMIT OF INSURANCE - EACH DESCRIBED PREMISES**

The coverages and corresponding limits shown below apply separately to each described premises shown in these Declarations, unless indicated by "See Schedule." If a coverage does not have a corresponding limit shown below, but has "Included" indicated, please refer to that policy provision for an explanation of that coverage.

COVERAGE	LIMIT OF INSURANCE
Accounts Receivable	
On Premises	\$50,000
Off Premises	\$15,000
Arson Reward	\$5,000
Back-Up Of Sewer Or Drain	\$15,000
Collapse	Included
Damage To Non-Owned Buildings From Theft, Burglary Or Robbery	Coverage B Limit
Debris Removal	25% of covered loss
Equipment Breakdown	Included
Fire Department Service Charge	\$5,000
Fire Extinguisher Systems Recharge Expense	\$5,000
Forgery Or Alteration	\$10,000
Glass Expenses	Included
Increased Cost Of Construction And Demolition Costs (applies only when buildings are insured on a replacement cost basis)	10%
Money And Securities (Off Premises)	\$5,000
Money And Securities (On Premises)	\$10,000
Money Orders And Counterfeit Money	\$1,000
Newly Acquired Business Personal Property (applies only if this policy provides Coverage B - Business Personal Property)	\$100,000
Newly Acquired Or Constructed Buildings (applies only if this policy provides Coverage A - Buildings)	\$250,000

Prepared
APR 25 2023
CMP-4000

© Copyright, State Farm Mutual Automobile Insurance Company, 2008
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

006896 294
E

Continued on Reverse Side of Page

Page 3 of 7

0209-ST-1-1001

RENEWAL DECLARATIONS (CONTINUED)

**Office Policy for STILLWATER RESOURCES &
Policy Number 96-21-3609-9**

Ordinance Or Law - Equipment Coverage	Included
Outdoor Property	\$5,000
Personal Effects (applies only to those premises provided Coverage B - Business Personal Property)	\$5,000
Personal Property Off Premises	\$15,000
Pollutant Clean Up And Removal	\$10,000
Preservation Of Property	30 Days
Property Of Others (applies only to those premises provided Coverage B - Business Personal Property)	\$2,500
Signs	\$2,500
Unauthorized Business Card Use	\$5,000
Valuable Papers And Records	
On Premises	\$50,000
Off Premises	\$15,000
Water Damage, Other Liquids, Powder Or Molten Material Damage	Included

SECTION I - EXTENSIONS OF COVERAGE - LIMIT OF INSURANCE - PER POLICY

The coverages and corresponding limits shown below are the most we will pay regardless of the number of described premises shown in these Declarations.

COVERAGE	LIMIT OF INSURANCE
Dependent Property - Loss Of Income	\$5,000
Employee Dishonesty	\$10,000
Utility Interruption - Loss Of Income	\$10,000
Loss Of Income And Extra Expense	Actual Loss Sustained - 12 Months

Prepared
APR 25 2023
CMP-4000

© Copyright, State Farm Mutual Automobile Insurance Company, 2008
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

006896

Continued on Next Page

Page 4 of 7

State Farm



M 6895

RENEWAL DECLARATIONS (CONTINUED)

Office Policy for STILLWATER RESOURCES &
Policy Number 96-21-3609-9



SECTION II - LIABILITY

COVERAGE

LIMIT OF
INSURANCE

Coverage L - Business Liability

\$1,000,000

Coverage M - Medical Expenses (Any One Person)

\$5,000

Damage To Premises Rented To You

\$300,000

AGGREGATE LIMITS

LIMIT OF
INSURANCE

Products/Completed Operations Aggregate

Excluded

General Aggregate

\$2,000,000

Each paid claim for Liability Coverage reduces the amount of insurance we provide during the applicable annual period. Please refer to Section II - Liability in the Coverage Form and any attached endorsements.

Your policy consists of these Declarations, the BUSINESSOWNERS COVERAGE FORM shown below, and any other forms and endorsements that apply, including those shown below as well as those issued subsequent to the issuance of this policy.

FORMS AND ENDORSEMENTS

CMP-4100	Businessowners Coverage Form
CMP-4561.4	*Policy Endorsement
CMP-4206.2	*Amendatory Endorsement
FE-6999.3	*Terrorism Insurance Cov Notice
CMP-4845	Excl Product Comp Operatn Liab
CMP-4713.1	Excl Testing Consulting E&O
CMP-4819.1	Unauthorized Business Card Use
CMP-4706	Back-Up of Sewer or Drain
CMP-4704.1	Dependent Prop Loss of Income
CMP-4710	Employee Dishonesty
CMP-4709	Money and Securities
CMP-4703.1	Utility Interruption Loss Incm
CMP-4705.2	Loss of Income & Extra Expnse

Prepared
APR 25 2023
CMP-4000

© Copyright, State Farm Mutual Automobile Insurance Company, 2008
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

Continued on Reverse Side of Page

Page 5 of 7

RENEWAL DECLARATIONS (CONTINUED)

**Office Policy for STILLWATER RESOURCES &
Policy Number 96-21-3609-9**

FE-3650 Actual Cash Value Endorsement
CMP-4787 Waiver of Trans Rgt of Recov
CMP-4786 Addl Insd Owners Lessee Sched
FD-6007 Inland Marine Attach Dec
* New Form Attached

SCHEDULE OF ADDITIONAL INTERESTS

Interest Type: Addl Insured-Section II
Endorsement #: CMP4786
Loan Number: N/A

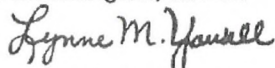
COLORADO STATE LAND BOARD
C/O PROCUREMENT
1127 N SHERMAN ST STE 300
DENVER CO 802032398

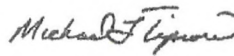
This policy is issued by the State Farm Fire and Casualty Company.

Participating Policy

You are entitled to participate in a distribution of the earnings of the company as determined by our Board of Directors in accordance with the Company's Articles of Incorporation, as amended.

In Witness Whereof, the State Farm Fire and Casualty Company has caused this policy to be signed by its President and Secretary at Bloomington, Illinois.


Secretary


President

Prepared
APR 25 2023
CMP-4000

© Copyright, State Farm Mutual Automobile Insurance Company, 2008
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

006897

Continued on Next Page

Page 6 of 7



RENEWAL DECLARATIONS (CONTINUED)

Office Policy for STILLWATER RESOURCES &
Policy Number 96-21-3609-9



0409-ST-1-1-1001

NOTICE TO POLICYHOLDER:

For a comprehensive description of coverages and forms, please refer to your policy.

Policy changes requested before the "Date Prepared", which appear on this notice, are effective on the Renewal Date of this policy unless otherwise indicated by a separate endorsement, binder, or amended declarations. Any coverage forms attached to this notice are also effective on the Renewal Date of this policy.

Policy changes requested after the "Date Prepared" will be sent to you as an amended declarations or as an endorsement to your policy. Billing for any additional premium for such changes will be mailed at a later date.

If, during the past year, you've acquired any valuable property items, made any improvements to insured property, or have any questions about your insurance coverage, contact your State Farm agent.

Please keep this with your policy.

Your coverage amount....

It is up to you to choose the coverage and limits that meet your needs. We recommend that you purchase a coverage limit equal to the estimated replacement cost of your structure. Replacement cost estimates are available from building contractors and replacement cost appraisers, or, your agent can provide an estimate from Xactware, Inc.® using information you provide about your structure. We can accept the type of estimate you choose as long as it provides a reasonable level of detail about your structure. State Farm® does not guarantee that any estimate will be the actual future cost to rebuild your structure. Higher limits are available at higher premiums. Lower limits are also available, as long as the amount of coverage meets our underwriting requirements. We encourage you to periodically review your coverages and limits with your agent and to notify us of any changes or additions to your structure.

Prepared
APR 25 2023
CMP-4000

© Copyright, State Farm Mutual Automobile Insurance Company, 2008
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

006898 294
E

State Farm



STATE FARM FIRE AND CASUALTY COMPANY

A STOCK COMPANY WITH HOME OFFICES IN BLOOMINGTON, ILLINOIS

Po Box 2915
Bloomington IL 61702-2915

Named Insured

M-20-0004-FA65 F U

STILLWATER RESOURCES &
INVESTMENTS INC
4551 PRADO DR
BOULDER CO 80303-9633

INLAND MARINE ATTACHING DECLARATIONS

Policy Number	96-21-3609-9	
Policy Period	Effective Date	Expiration Date
12 Months	AUG 7 2023	AUG 7 2024
The policy period begins and ends at 12:01 am standard time at the premises location.		

0509-ST-1-1001

ATTACHING INLAND MARINE

Automatic Renewal - If the **policy period** is shown as **12 months**, this policy will be renewed automatically subject to the premiums, rules and forms in effect for each succeeding policy period. If this policy is terminated, we will give you and the Mortgagee/Lienholder written notice in compliance with the policy provisions or as required by law.

Annual Policy Premium Included

The above Premium Amount is included in the Policy Premium shown on the Declarations.

Your policy consists of these Declarations, the INLAND MARINE CONDITIONS shown below, and any other forms and endorsements that apply, including those shown below as well as those issued subsequent to the issuance of this policy.

Forms, Options, and Endorsements

FE-8739 Inland Marine Conditions
FE-8743.1 Inland Marine Computer Prop

See Reverse for Schedule Page with Limits

Prepared
APR 25 2023
FD-6007

006899

© Copyright, State Farm Mutual Automobile Insurance Company, 2008
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

ATTACHING INLAND MARINE SCHEDULE PAGE**ATTACHING INLAND MARINE**

ENDORSEMENT NUMBER	COVERAGE	LIMIT OF INSURANCE	DEDUCTIBLE AMOUNT	ANNUAL PREMIUM
FE-8743.1	Inland Marine Computer Prop	\$ 25,000	\$ 500	Included
	Loss of Income and Extra Expense	\$ 25,000		Included

OTHER LIMITS AND EXCLUSIONS MAY APPLY - REFER TO YOUR POLICY

Prepared
APR 25 2023
FD-6007

006899

© Copyright, State Farm Mutual Automobile Insurance Company, 2008
Includes copyrighted material of Insurance Services Office, Inc., with its permission.