



Castle Rock Water Commission Agenda - Final

David Hammelman, Chair
Tony Rathbun, Vice Chair
Angie Brown
Brian Gaddie
KiKi Miller
Melanie Penoyar-Perez
Cortland Wolfe

Wednesday, September 25, 2024

6:00 PM

Castle Rock Water
175 Kellogg Ct., Bldg. 171
Castle Rock, CO 80109

This meeting is open to the public and will be held in a hybrid format in accordance with Town Council Electronic Participation, Connected, and Hybrid Meeting Policy. The in-person meeting will be held at 171 Kellogg Ct. Castle Rock CO 80109 or this meeting can be accessed online at:

<https://crgov.webex.com/crgov/j.php?MTID=ma80efd2dcf006454e5a35a6f45f8ffa> the Meeting password: Sep25CRWC (73725279 from video systems) or phone in by calling (720) 650-7664, meeting code 2492 089 6924. One or more Council members may also attend this meeting, during which the items listed herein will be discussed.

6:00 pm CALL TO ORDER / ROLL CALL

COUNCIL UPDATE

COMMISSION COMMENTS

DOUGLAS COUNTY WATER COMMISSION MTG. UPDATE

1. [WC 2024-093](#) Pine Canyon Water Appeal

ADMINISTRATIVE BUSINESS

2. [WC 2024-094](#) November/December WC Meeting Date
3. [WC 2024-095](#) August Water Commission Meeting Minutes

Attachments: [Attachment A: August Meeting Minutes](#)

4. [WC 2024-096](#) Boards & Commissions Appreciation Event

ACTION ITEMS (HIGH PRIORITY / TIME CRITICAL)

5. [WC 2024-097](#) Resolution Approving a Spot Water Lease Agreement between the Town of Castle Rock and Central Colorado Water Conservancy District [Chatfield Reservoir, Douglas County]

6. [WC 2024-098](#) Resolution Approving the Infrastructure Development and Purchase Agreement and Water Lease Agreement between the Town of Castle Rock, acting by and through the Castle Rock Water Enterprise, and Tallgrass, Colorado Municipal Water, LLC [Lost Creek area of Weld County, Colorado]
- Attachments:** [Attachment A: Resolution.docx](#)
 [Attachment B: Location Map.pdf](#)
7. [WC 2024-099](#) Resolution Approving a Variance Pursuant to Chapter 9.16.070E of the Castle Rock Municipal Code for the Cobblestone Ranch Water Storage Tank 18 Project [Pleasant View Drive and Antelope Place]
- Attachments:** [Attachment B: Location Map.pdf](#)
8. [WC 2024-100](#) Resolution Approving the Intergovernmental Agreement Between the Town of Castle Rock and Parker Water and Sanitation District for the Platte Valley Water Partnership [located in Morgan, Washington, Logan and Sedgwick Counties]
- Attachments:** [Exhibit 1: Agreement.docx](#)
 [Attachment D: Lower South Platte Resolution.pdf](#)

DIRECTOR FOLLOW-UP AND INFORMATIONAL / UPDATE ITEMS

9. [WC 2024-101](#) Update: Water Court Cases [Cases located in Douglas County, Weld County and other areas near the Lower South Platte River]
- Attachments:** [Attachment A: Active Court Cases](#)
10. [WC 2024-102](#) Rates and Fees follow-up, outcome and request for proposal (RFP) for next year
11. [WC 2024-103](#) Upcoming Town Council Items

COMMISSIONER MEETING COMMENTS



Town of Castle Rock

Agenda Memorandum

Agenda Date: 9/25/2024

Item #: 1. **File #:** WC 2024-093

To: Members of the Castle Rock Water Commission

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

Pine Canyon Water Appeal
Town Council Agenda Date: NA

Executive Summary

This will be a discussion item only.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 9/25/2024

Item #: 2. **File #:** WC 2024-094

To: Members of the Castle Rock Water Commission

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

November/December Water Commission Meeting Date
Town Council Agenda Date: NA

Executive Summary

This will be a discussion item.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 9/25/2024

Item #: 3. **File #:** WC 2024-095

To: Members of the Castle Rock Water Commission

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

Approval of the August 28, 2024 Meeting Minutes
Town Council Agenda Date: NA

Executive Summary

Attached are the meeting minutes for the August 28, 2024 Water Commission Meeting.

Proposed Motion

"I move to approve the Minutes as presented"

Attachments

Attachment A: Aug 28th Mtg. Minutes



Castle Rock Water Commission Meeting Minutes - Draft

David Hammelman, Chair
Tony Rathbun, Vice Chair
Angie Brown
Brian Gaddie
KiKi Miller
Melanie Penoyar-Perez
Cortland Wolfe

Wednesday, August 28, 2024

6:00 PM

Castle Rock Water
175 Kellogg Ct., Bldg. 171
Castle Rock, CO 80109

This meeting is open to the public. Three or more Council members may also attend this meeting, during which the items listed herein will be discussed. If you are unable to access any portion of these materials due to a disability as defined under Colorado House Bill 21-1110, please call us at 303-663-4440, email the Town’s accessibility team at accessibility@CRgov.com or submit an accommodation request form at CRgov.com/A11yRequest.

CALL TO ORDER / ROLL CALL

- Present** 7 - Chair David Hammelman, Vice Chair Tony Rathbun, Angie Brown, Brian Gaddie, KiKi Miller, Melanie Penoyar-Perez, and Cortland Wolfe
- Attendance** 12 - Jason Gray, Mark Marlowe, David Van Dellen, Nichol Bussey, Paul Rementer, Roy Gallea, Matt Hayes, Erin Evans, Shawn Griffith, Matt Benak, Rick Schultz, and MaryJo Reese

COUNCIL UPDATE

Time was allowed for Mayor Gray to share a council update.

COMMISSION COMMENTS

Time was allowed for Commissioner Comments.

DOUGLAS COUNTY WATER COMMISSION MTG. UPDATE

Time was allowed for Mr. Marlowe to share an update.

ADMINISTRATIVE BUSINESS

[WC 2024-078](#) **Approval of the July 24, 2024 Meeting Minutes**
Town Council Agenda Date: NA

I move to approve the Minutes as presented.

Yes: 6 - Chair Hammelman, Vice Chair Rathbun, Gaddie, Miller, Penoyar-Perez, and Wolfe

Abstain: 1 - Brown

[WC 2024-079](#) **Plum Creek Water Purification Facility Open House**
Town Council Agenda Date: NA

Mr. Marlowe invited everyone to attend an Open House and Tour at the Plum Creek Water Purification Facility on Wednesday, September 18th from 4:00

pm to 6:00 pm. Castle Rock Water (CRW) will begin the plant expansion in October and the ability to tour PCWPF will be very limited until 2028 so this is a great time to check it out and enjoy some activities and information on CRW.

WC 2024-092 Walker Reservoir Celebration & Tour
Town Council Agenda Date: NA

The Cherry Creek Project Water Authority has completed the Walker Reservoir Project and would like to invite Castle Rock Water Commission members to celebrate. The celebration will be held on Thursday, September 26th from 11:00 am to 2:00 pm.

ACTION ITEMS (HIGH PRIORITY / TIME CRITICAL)

[WC 2024-080](#) **An Ordinance Approving the 2025 Rates and Fees**
Town Council Agenda Date: 1st Reading September 3rd

Ms. Bussey and Mr. Rementer shared the staff recommendations for the 2025 Rates & Fees:

- Continue temporary reduction of the Catastrophic Failure reserve in Water and Stormwater. Current remaining reserve is 1% which is still within industry standards.
- Maintain 2% in the Catastrophic Failure Reserve in Water Resources and Wastewater
- Existing customers rate increase in the water fund 5%
- System development fee (SDF) rate increase in the water fund 20%
- Existing customers rate increase in the wastewater fund 0.5%
- SDF rate increase in wastewater 3%
- Existing customers rate increase in stormwater 5%
- SDF rate increase in stormwater 0% for the Cherry Creek basin and 5% for Plum Creek
- Existing customers rate increase for water resources 8%
- SDF rate increase for water resources 7%

Mr. Rementer explained that the higher increase in the Stormwater SDF for Plum Creek is due to the increase in building that affects Plum Creek. Building in the Cherry Creek basin has slowed.

I move to recommend to Town Council approval of the Ordinance as presented.

Yes: 7 - Chair Hammelman, Vice Chair Rathbun, Brown, Gaddie, Miller, Penoyar-Perez, and Wolfe

[WC 2024-081](#) **Resolution Approving the Supervisory Control and Data Acquisition (SCADA) Master Plan Phase IV Implementation Project** *[Entire Castle Rock Water Service Area]*

Town Council Agenda Date: September 3, 2024

Mr. Griffith reported that this item is a continuation of the SCADA upgrades that have been presented to Water Commission in the past. The overall goal of the project is to standardize all of the SCADA hardware and software. This phase of the project will focus on the Miller Water Treatment plant and associated remote sites (i.e., well sites, water pump stations, pressure reducing valve (PRV) vaults, lift stations). The project will replace antiquated equipment, improve cybersecurity, overall system reliability and staff operating efficiencies.

The budget for this phase of the project is \$4,475,720 plus a 10% contingency for a total expected budget cost of \$4,923,292. This phase should be completed in 2025. The total SCADA project anticipated costs have increased to \$19,055,774 and are anticipated to be completed in 2029.

I move to recommend to Town Council approval of the Resolution as presented.

Yes: 7 - Chair Hammelman, Vice Chair Rathbun, Brown, Gaddie, Miller, Penoyar-Perez, and Wolfe

[WC 2024-082](#)

Resolution Approving the Infrastructure Development and Purchase Option Agreement and Water Lease Agreement between the Town of Castle Rock, Acting by and through the Castle Rock Water Enterprise, and Tallgrass Colorado Municipal Water, LLC [Box Elder Property in Weld County, Colorado]

Town Council Agenda Date: September 3, 2024

Mr. Marlowe explained that staff would like to table this item because the agreement is still in the negotiation phase. The item will come back to Water Commission once all details have been finalized and prior to a Town Council meeting.

I move to recommend the above reference item be tabled.

Yes: 7 - Chair Hammelman, Vice Chair Rathbun, Brown, Gaddie, Miller, Penoyar-Perez, and Wolfe

[WC 2024-083](#)

Resolution Approving a Services Agreement between the Town of Castle Rock and Consor Engineering for the Plum Creek Pipeline Central Well Field to PCWPF Project [Located parallel to East Plum Creek through Central Castle Rock, CO]

Town Council Agenda Date: September 3, 2024

Ms. Evans shared that this is a services agreement for design and engineering services for the Plum Creek Pipeline project. This project is to design and construct a pipeline from the Central Well Field to the Plum Creek Water Purification Facility (PCWPF).

The scope of work will include:

- Upsize the existing Plum Creek Raw Water return pipeline from the

existing 16” diameter to a 30” diameter pipe.

- An evaluation of environmental considerations.
- An alignment study
- Coordination for the anticipated BNSF railroad crossing

The proposed budget is \$390,676 plus a 10% contingency for a total proposed budget of \$429,744.

The planned schedule is to start the design phase in September 2024 and have designs completed by April 2025. Construction would start shortly after that so that the entire project is completed before the PCWPF expansion is completed in the spring of 2028.

I move to recommend to Town Council approval of the Resolution as presented.

Yes: 6 - Chair Hammelman, Vice Chair Rathbun, Brown, Miller, Penoyar-Perez, and Wolfe

Abstain: 1 - Gaddie

[WC 2024-085](#)

**An Ordinance Amending Castle Rock Municipal Code
Section 15.10.030 to Permit the use of the IAPMO Water
Demand Calculator Approach [Castle Rock Service Area]
Town Council Agenda Date: September 3, 2024**

Mr. Hayes explained that the purpose of this item is to revise Town Code to use the International Association of Plumbing and Mechanical Officials (IAPMO) Water Demand Calculator for service line sizing. CRW would like to move to 0.8 gallon per flush (gpf) toilets in new residential construction. The Plumbing Manufacturers International (PMI) shared concerns about the current pipe structure being a larger size and that water would sit in the pipes longer, which could potentially develop Legionella within the supply-side plumbing.

CRW staff contracted with Dewberry Engineers to evaluate the use of the Water Demand Calculator to reduce the internal plumbing sizes which would reduce the possible water age within the internal plumbing. When looking at a typical residential water demand, water quality, and solids removal, the study indicated there was not a concern.

Since this is an Ordinance it will be presented to Town Council for 1st Reading on September 3rd and 2nd Reading on September 17th. If approved the Ordinance would take effect on October 17th.

I move to recommend to Town Council approval of the Resolution as presented.

Yes: 7 - Chair Hammelman, Vice Chair Rathbun, Brown, Gaddie, Miller, Penoyar-Perez, and Wolfe

DIRECTOR FOLLOW-UP AND INFORMATIONAL / UPDATE ITEMS

[WC 2024-086](#) **Update on Pine Canyon Development**
Town Council Agenda Date: NA

Mr. Marlowe gave an update on the next steps of the Pine Canyon, water appeal.

[WC 2024-087](#) **Resolution Approving the Second Amendment to the Services Agreement between the Town of Castle Rock and Burns & McDonnell Engineering Company, Inc. for the Chatfield Pump Back Project Infrastructure Preliminary Engineering and Design Services [Northwestern Douglas County and Southeastern Jefferson County]**
Town Council Agenda Date: September 3, 2024

Mr. Marlowe shared that this is the 2nd Amendment to the Services agreement with Burns & McDonnell for the Chatfield Pump Back Project. The purpose of the amendment is to extend the completion date on the agreement to September 30, 2025. Because this item made no changes to the financial piece it did not have to go back to Town Council so staff is just sharing the information with Water Commission.

[WC 2024-088](#) **Changes to the ColoradoScape Criteria**
Town Council Agenda Date: September 17, 2024

Mr. Schultz explained that it has been a year since the ColoradoScape Criteria changes were approved so CRW staff have taken a look at what is working and what items may need further discussion/clarification.

Mr. Schultz shared that the good news is that CRW has seen a reduction in residential water bills for homes with no turf in the front yard and 500 square feet (sf) of turf in the backyard.

He also explained that they have seen a few items that need some additional instruction/clarification. These items include:

- Many of the homes do not have a safe way to get from the front yard to the backyard.
- Gates are obstructed and do not open and close.
- The hardscape material in these areas is not suitable for the slope (often rock that slides or pools at the bottom of the slope)
- There are large amounts of rock with no variation in color, size or type.
- No wood mulch.
- Not achieving 75% plant material coverage.
- Very little variety of plant material or color variety.

To correct these items staff is suggesting the below updates:

- Functionality
- Must provide a clear, safe, unobstructed path between front and back yard

- Gates must be clear, accessible, and operable
- Visual interest
- Hardscape materials must include a variety of sizes, shapes, colors, and textures
- Landscape materials must provide a variety of sizes, and seasonal interest (ex: flowering throughout the season)
- Water savings
- Plant material must be hydro-zone 1 or 2 (not to exceed 10" per season)
- Maximize plant material coverage while adhering to fire mitigation guidelines to the greatest extent possible
- 75% plant coverage at maturity on the irrigable area within the lot
- Create specific plant quantity requirements based on lot size
 - Small lot
 - Less than 5,000 square feet
 - Medium lot
 - 5,000 to 10,000 square feet
 - Large lot
 - More than 10,000 square feet

[WC 2024-089](#)**Drought Management Plan Update**

Town Council Agenda Date: December 3, 2024

Mr. Marlowe explained that CRW is currently updating the Drought Management Plan. The second stakeholder meeting is scheduled for September 11th to discuss suggested changes. If anyone has questions or suggested changes please reach out to Matt Benak, mbenak@crgov.com <<mailto:mbenak@crgov.com>>.

[WC 2024-091](#)**Upcoming Town Council Items**

Town Council Agenda Date: NA

This is a standing item that will be used to share information about projects that are being worked on at the time of the meeting but that staff doesn't have information ready yet.

There were no items at this time.

COMMISSIONER MEETING COMMENTS

Time was allowed for Commissioner Comments.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 9/25/2024

Item #: 4. **File #:** WC 2024-096

To: Members of the Castle Rock Water Commission

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

Boards & Commissions Appreciation Event
Town Council Agenda Date: NA

Executive Summary

The Town of Castle Rock would like to invite you to the Boards and Commissions Appreciation Event, on Tuesday, October 8th from 6 to 7:30 pm at the Millhouse at Phillip S. Miller Park.

The event is in recognition of all of the Town's boards and commission volunteers, who make a difference through their service to the Town.

You should have received an invitation via email. Please RSVP by 5 pm, Friday, September 27th.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 9/25/2024

Item #: 5. **File #:** WC 2024-097

To: Members of the Castle Rock Water Commission

From: Mark Marlowe, P.E., Director of Castle Rock Water
Matt Benak, P.E., Water Resources Manager
Lauren Moore, Water Resources Project Manager

Resolution Approving a Spot Water Lease Agreement between the Town of Castle Rock and Central Colorado Water Conservancy District [Chatfield Reservoir, Douglas County]

Town Council Agenda Date: October 15, 2024

Executive Summary

Castle Rock Water is seeking Town Council approval of a resolution (**Attachment A**) for a Spot Water Lease Agreement with Central Colorado Water Conservancy District (Central). Central wishes to lease some of the Town’s surplus water stored in Chatfield Reservoir to increase their storage supplies within Chatfield and have additional water upon which to make projections for their well pumping augmentation plans. While the Town currently owns 848 Acre-Feet (AF) of storage in Chatfield, the Colorado Water Conservation Board (CWCB) allows for rental of the remaining permitted amount, for a total of 2,000 AF of storage. The Town currently has upwards of 1,464 AF of water stored in Chatfield with additional reusable supplies coming in each day.

If Council approves this lease, up to 800 AF of water may be released from the Town’s Chatfield Reservoir storage account as a book-over into Central’s Chatfield Reservoir storage account during 2024. This release may occur between October 1, 2024 and December 31, 2024. The Town will assess a \$110 per AF price for the water, with payment required within 30 days from requested releases. The potential revenue for this lease is up to \$88,000. The agreement will terminate at the end of 2024.

Discussion

Castle Rock Water has a strategic goal to strive to maintain sustainable rates and fees, and demonstrate fiscal responsibility, accountability, and transparency. One of the tactics to achieve this goal is to maximize leasing opportunities for idle water rights. Over the past six years, the Town has generated over \$1.38 million by leasing idle water rights to downstream users (see **Table 1** below), with \$42,199 generated to date in 2024. Until these water rights can be fully utilized by the Town, Staff will continue to work with partners that can put these rights to beneficial use.

Table 1. Revenue generated from leasing idle water rights to downstream users over the past six years.

2018	2019	2020	2021	2022	2023
\$29,019.13	\$30,606.65	\$70,699.75	\$499,449.73	\$531,292.81	\$214,123.90

The key terms of the 2024 spot water lease agreement are summarized below:

- Central will lease up to 800 AF of water at a rate of \$110/AF;
- Point of delivery measurement will be a book-over at Chatfield Reservoir (accomplished within the official Chatfield accounting check sheet);
- There are no renewal options; and
- The agreement will terminate on December 31, 2024.

The Town has been able to store excess supplies in Chatfield Reservoir over the past year, which have exceeded the purchased storage amounts (848 AF). Since the Town does not physically have a way to utilize these excess storage supplies at this point in time, CWCB has developed, and Town Council has approved, a lease agreement with the Town to lease the optioned storage space for \$50/AF. With a current annual lease rate for 1,152 AF (2,000 AF minus 848 AF), the Town will pay the State \$57,600 in 2024. The spot lease with Central would allow the Town to further maximize storage space within the reservoir and will help to cover the annual lease option of storage space with CWCB, realizing a net revenue of \$30,400.

Budget Impact

If Council approves the agreement, Castle Rock Water would potentially receive up to \$88,000 of additional revenue in 2024. The revenue will be deposited into the Water Resources Fund Capital Leases account 211-4375-393.70-00.

Staff Recommendation

Staff recommends approval of the resolution as presented.

Proposed Motion

“I move to recommend to Town Council approval of the Resolution as presented”

Attachments

- Attachment A: Resolution (Not Attached)
- Exhibit 1: Agreement (Not Attached)



Town of Castle Rock

Agenda Memorandum

Agenda Date: 9/25/2024

Item #: 6. **File #:** WC 2024-098

To: Members of the Castle Rock Water Commission

From: Mark Marlowe, P.E., Director of Castle Rock Water
Matt Benak, P.E., Water Resources Manager

Resolution Approving the Infrastructure Development and Purchase Agreement and Water Lease Agreement between the Town of Castle Rock, acting by and through the Castle Rock Water Enterprise, and Tallgrass Colorado Municipal Water, LLC [Lost Creek area of Weld County, Colorado]

Town Council Agenda Date: October 1, 2024

Executive Summary

Castle Rock Water (CRW) staff request Town Council approval of a Resolution (see **Attachment A**) for the Infrastructure Development and Purchase Agreement and Water Lease Agreement between the Town of Castle Rock and Tallgrass Colorado Municipal Water, LLC (Tallgrass).

CRW owns the Box Elder property and recently adjudicated water rights on the property of 557 acre feet (AF) in Weld County along with eleven wells and associated water rights with a decreed volume of 1,492 AF in the Lost Creek Designated Basin. Furthermore, CRW owns 770 AF of water rights along the South Platte River as part of the Rothe Recharge project. Collectively, the property and water rights are the backbone of what will be the Town's Box Elder renewable water delivery project. The Box Elder project has been identified as a key piece of the Town's renewable water supply portfolio accounting for around 15% or more of our future water demands. The Town obtained the final Water Court decree for the Box Elder augmentation plan and water rights on April 18, 2024.

The overall concept is to gather raw water from the Lost Creek wells, deliver that water to the Box Elder property for augmentation of Box Elder alluvial well pumping and direct delivery to East Cherry Creek Valley's (ECCV) Water Treatment Plant. The Town plans to enter into subsequent agreements with ECCV for treatment and pumping of our water and delivery within existing pipeline infrastructure back to the Town.

The Town has identified an opportunity to work with a private entity (Tallgrass) to construct some of the key pieces of pipeline and pumping infrastructure to be able to spread out the large capital costs over time and to have the opportunity to purchase additional water rights (1,000 AF) that Tallgrass currently owns. This additional water will help the Town achieve its goal of 100% renewable water (in an average water year) by 2065. Furthermore, leasing of our Lost Creek water to Tallgrass in the near term will allow the Town to realize some additional revenue helping to offset the overall cost of

the Box Elder project with a positive benefit to our ratepayers.

The Infrastructure Development and Purchase Agreement will involve improvements to all eleven (11) wells that Castle Rock owns in the Lost Creek designated basin. These improvements will allow Tallgrass to pump, control and meter the wells as needed for their industrial (oil and gas development) operations in the near term. Tallgrass will construct approximately 9 miles of water transmission pipeline to tie the wells together and transmit the water to their water delivery system located north of our well field.

Within the 1-year term of this agreement, Castle Rock and Tallgrass will continue to negotiate on a larger infrastructure development project for a pipeline and pumping system from the Castle Rock wells back to the Box Elder property and further on to ECCV's treatment plant. If the two parties cannot come to agreement on the subsequent infrastructure phases, Castle Rock will purchase the improved wells and pipeline system from Tallgrass for \$15,000,000. If Tallgrass were to fail in constructing a complete water delivery system as part of Phase 1A, the Agreement has a 'Parental Guaranty' term where Tallgrass' parent company would need to provide adequate funding for Castle Rock to complete the water delivery system.

The Water Lease Agreement allows Tallgrass to lease Castle Rock's water rights at \$1,550 per acre-foot through December 31, 2027. This agreement would provide additional revenue to Castle Rock in the short term and help to offset some of the capital costs associated with the Box Elder project. There is a 257 AF take-or-pay provision over the three-year term of the Water Lease Agreement, so Castle Rock would receive a minimum of \$398,500 as part of this lease and could receive upwards of \$6,000,000 if Tallgrass elects to lease the majority of the water rights over this three-year period.

Discussion

As part of the Town's hybrid renewable water solution, the Town purchased the 850-acre Box Elder Farm and closed on the property on December 30, 2016. This farm is located approximately six miles east of Lochbuie, CO in southern Weld County as shown in **Attachment B**. The water rights associated with this property will serve as a source of supply, along with the Lost Creek Basin wells and Rothe Recharge water rights, for the increased water demands that the Town will face as population growth continues.

The Box Elder project has been envisioned as an approximately 2,500 AF yield water delivery project. The overall concept is to gather raw water from the Town's Lost Creek wells, deliver that water to the Box Elder property for augmentation of Box Elder alluvial well pumping and direct delivery to ECCV's Water Treatment Plant. The Town plans to enter into subsequent agreements with ECCV for treatment and pumping of our water and delivery within existing pipeline infrastructure back to the Town.

Because the infrastructure is not yet in place to transport this water to ECCV, the Town has been leasing the Lost Creek water to other entities for agricultural purposes, which has helped to generate approximately \$192,000 in revenue for Castle Rock Water since 2018.

The Town now has an opportunity to lease our Lost Creek water to Tallgrass at a much higher lease

rate than what the Town has been leasing for agricultural purposes. Additionally, Tallgrass is agreeable to constructing what we refer to as Phase 1A of the Box Elder infrastructure project. This will consist of approximately 9 miles of a high-density polyethylene (HDPE) pipeline gathering system that ties all eleven (11) of Castle Rock's Lost Creek wells together to give the ability to tie that water into Tallgrass' adjacent water gathering system located just to the north of Castle Rock's wells (see **Attachment C**). Additionally, Tallgrass will be improving (redrilling and equipping) the Lost Creek wells since these wells are currently agricultural wells and in need of improvement for industrial and municipal production purposes.

Importantly, this well gathering system is infrastructure that will be needed by Castle Rock in the future when water must be delivered to the Box Elder property and subsequently to ECCV for treatment and delivery to the Town to meet its customer's demands. Tallgrass will operate the improved wells and own the pipeline gathering system initially. The Town will take ownership of this system at such time that the larger infrastructure system is in place and ready to delivery water to ECCV, or, if an agreement cannot be reached with Tallgrass on a larger infrastructure deal, by October 2025.

The Town and Tallgrass would like to enter into an agreement where Tallgrass constructs the pipeline gathering system; improves all eleven wells; develops a telemetry system and ties the wells into Tallgrass' system for lease of the water. The agreement states that the two parties will continue to negotiate towards a larger deal where Tallgrass will construct the other necessary infrastructure in phases and the Town pays down the construction and financing costs over time. Other infrastructure that is needed includes a booster pump station out of Lost Creek, a raw water pipeline to Box Elder, new wells on the Box Elder property; a pipeline manifold system on the Box Elder property; infiltration/percolation beds on Box Elder; a pump station at Box Elder to pump water to ECCV and treatment and pumping capacity additions to ECCVs system. This entire infrastructure is anticipated to cost \$80 to \$100 million to implement over the next ten years.

If a larger deal can be struck with Tallgrass, they have an additional 1,000 AF of water they are willing to sell to Castle Rock at an approximate price of \$39,000 per AF (this includes the water sale and a transmission fee). This water would represent approximately 5% of the Town's future water demands and would bolster our goal of being 100% renewable by 2065. This water would also tie in readily to the overall Box Elder project since Tallgrass's and Castle Rock's Lost Creek supplies would be tied together.

If Tallgrass and the Town cannot come to an agreement on the large project, the Town agrees to buy the newly constructed Lost Creek gathering system for \$15 million.

Key Terms of the Infrastructure Development and Purchase Agreement:

- Tallgrass to manage, design, permit, & construct well gathering system (47,150 feet of pipe and appurtenances and 11 new wells, pumps, controls and appurtenances);
- Term - 1 year from execution;
- Construction completion within 6 months;
- Phase 1B and 2 negotiated or if no agreement \$15,000,000 purchase
- Concurrent water lease agreement;

Item #: 6. File #: WC 2024-098

- Partial assignment of Castle Rock easements valued at \$775,000;
- Castle Rock Water maintains ownership of wells throughout;
- Operation and maintenance costs include primarily *Ad Valorem* taxes and insurance \$100k;
- Parental guaranty;
- Warranty of 1 year from acceptance by Castle Rock Water.

Key terms of the Water Lease Agreement

- Lease up to 4,476 AF - potential value of \$6,944,961;
- Term is a little more than 3 years through 12/31/27;
- Price is \$1,551.60/AF vs. \$44/AF for agricultural leases;
- Firm take or pay of 257 AF or \$398,750;
- Right of first refusal if we want to lease to others;
- As is / where is lease;
- Metering and calibration of meters to be done by Tallgrass;
- Monthly billing.

Castle Rock Water brought in Burns and McDonnell Engineering to review the infrastructure being provided by Tallgrass in Phase 1a and provide an engineering estimate on the capital costs of this infrastructure. Burns and McDonnell Engineering estimated the total cost to permit, purchase easements, manage, design, and construct Phase 1a at \$XXM. This is within X% of the Tallgrass capital cost proposal. This work was done to ensure that Castle Rock Water is getting a good deal on the constructed infrastructure from a cost standpoint.

Castle Rock Water also hired legal counsel to review the private / public partnership agreements to ensure that these agreements met the Town's needs and worked within the Town's required contracting framework.

Budget Impact

If the Town and Tallgrass cannot come to agreement to continue to negotiate a deal, the Town will owe \$15 million by October 2025 (one year following the execution of the Infrastructure Development and Purchase Agreement). Per the Water Lease Agreement, the Town expects a minimum of \$398,750 of revenue from water leases to Tallgrass over the three-year lease term and potentially up to \$6 million if Tallgrass takes full advantage of our water right volumes for their oil and gas development operations. While Tallgrass owns the gathering system, Castle Rock will be responsible for operations and maintenance costs which primarily include *Ad Valorem* taxes and insurance at a cost of approximately \$100,000 per year. Once Castle Rock owns the system the tax component of approximately \$90,000 per year could potentially go away based on our tax-exempt status.

Staff Recommendation

Staff and Castle Rock Water Commission recommend that Town Council approve the Infrastructure Development and Purchase Option Agreement between the Town of Castle Rock and Tallgrass Colorado Water, LLC.

Item #: 6. File #: WC 2024-098

Proposed Motion

"I move to recommend to Town Council approval of _____ as presented"

Attachments

Attachment A: Resolution
 Exhibit 1: Agreement
Attachment B: Location Map
Attachment C: Well Site Map

RESOLUTION NO. 2024- ____

**A RESOLUTION APPROVING THE INFRASTRUCTURE DEVELOPMENT
AND PURCHASE AGREEMENT AND WATER LEASE AGREEMENT
BETWEEN THE TOWN OF CASTLE ROCK, ACTING BY AND THROUGH
THE CASTLE ROCK WATER ENTERPRISE, AND TALLGRASS
COLORADO MUNICIPAL WATER, LLC**

WHEREAS, the Town of Castle Rock, acting by and through the Castle Rock Water Enterprise (the “Town”), is the owner and operator of a municipal water system, which system includes but is not limited to collection points, gathering lines, treatment facilities, and distribution lines within and without the Town boundaries (the “System”); and

WHEREAS, Tallgrass Colorado Municipal Water LLC (the “Developer”) is the owner and operator of a groundwater gathering and transmission system located in Township 1 North, Range 63 West, Weld County, Colorado (the “Existing Tallgrass Infrastructure”); and

WHEREAS, the Town owns certain property in Weld County, along with eleven wells and the right to divert and use 1,492 acre-feet of water in the Lost Creek Designated Basin (the “Town Water Rights”); and

WHEREAS, the Town desires to put the Town Water Rights to beneficial use and, ultimately, connect to the System in accordance with the Town’s 2021 Water Resources Strategic Master Plan; and

WHEREAS, the Developer is interested in constructing necessary infrastructure and connecting it to the Existing Tallgrass Infrastructure in order to assist the Town in accessing the Town Water Rights and to allow the Developer to lease the Town Water Rights for a certain period of time, prior to the Town using such water as part of the System (the “New Tallgrass Infrastructure”); and

WHEREAS, the Town and the Developer have determined that a three-phase approach is appropriate for constructing the New Tallgrass Infrastructure, the first phase of which the Town will purchase if negotiations regarding the construction of the second and third phases prove unsuccessful; and

WHEREAS, the Developer also owns substantial water rights within Weld County (the “Tallgrass Water Rights”), of which, the Town is interested in purchasing up to approximately 1,000 acre-feet should an agreement be reached on the second and third phases of the New Tallgrass Infrastructure; and

WHEREAS, the Town Council finds that entering into agreements with the Developer for the construction of the New Tallgrass Infrastructure, the lease of Town Water Rights , and the potential purchase of Tallgrass Water Rights to be in the best interests of the Town’s water customers and supportive of the Town’s goal of diversifying and expanding its water portfolio to ensure that affordable and adequate water remains available now and in the future.

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

Section 1. Approval. The Infrastructure Development and Purchase Agreement and Water Lease Agreement between the Town and the Developer are hereby approved in substantially the same form as presented at tonight’s meeting, with such technical changes, additions, modifications, deletions, or amendments as the Town Manager may approve upon consultation with the Town Attorney and the Director of Castle Rock Water. The Mayor and other proper Town officials are hereby authorized to execute these Agreements and any technical amendments thereto by and on behalf of the Town.

Section 2. Encumbrance and Authorization. In order to meet the Town’s financial obligations under the Amendment, the Town Council authorizes an expenditure and payment from the Capital Improvement Program/Alternative Source of Supply account in an amount not to exceed \$15,000,000.00, which expenditure and payment shall be contingent upon the inability of the Town and the Developer to reach agreement on the construction of the second and third phases of the New Tallgrass Infrastructure.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2024, by the Town Council of the Town of Castle Rock, Colorado, on first and final reading, by a vote of ___ for and ___ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

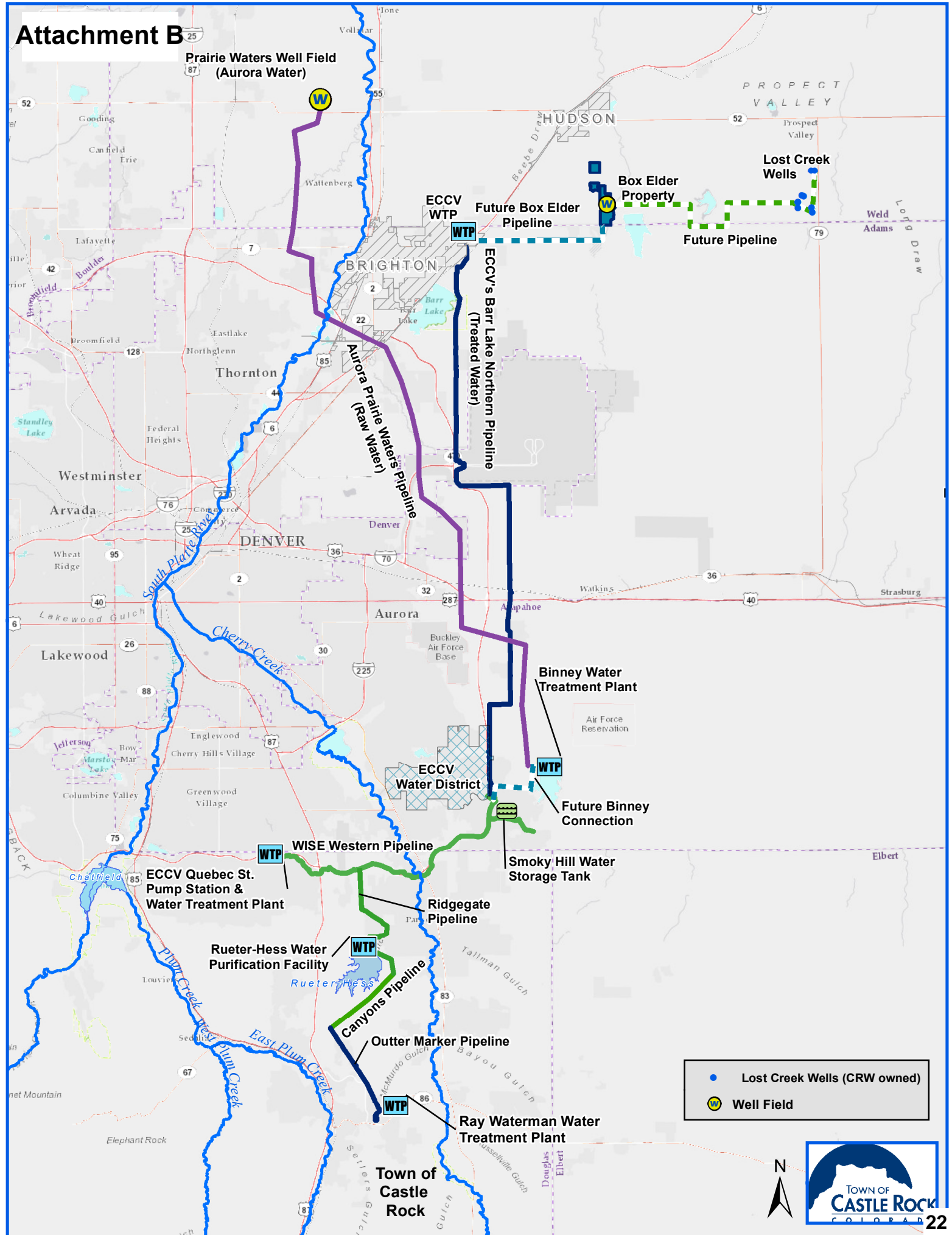
Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Mark Marlowe, Director of Castle Rock Water

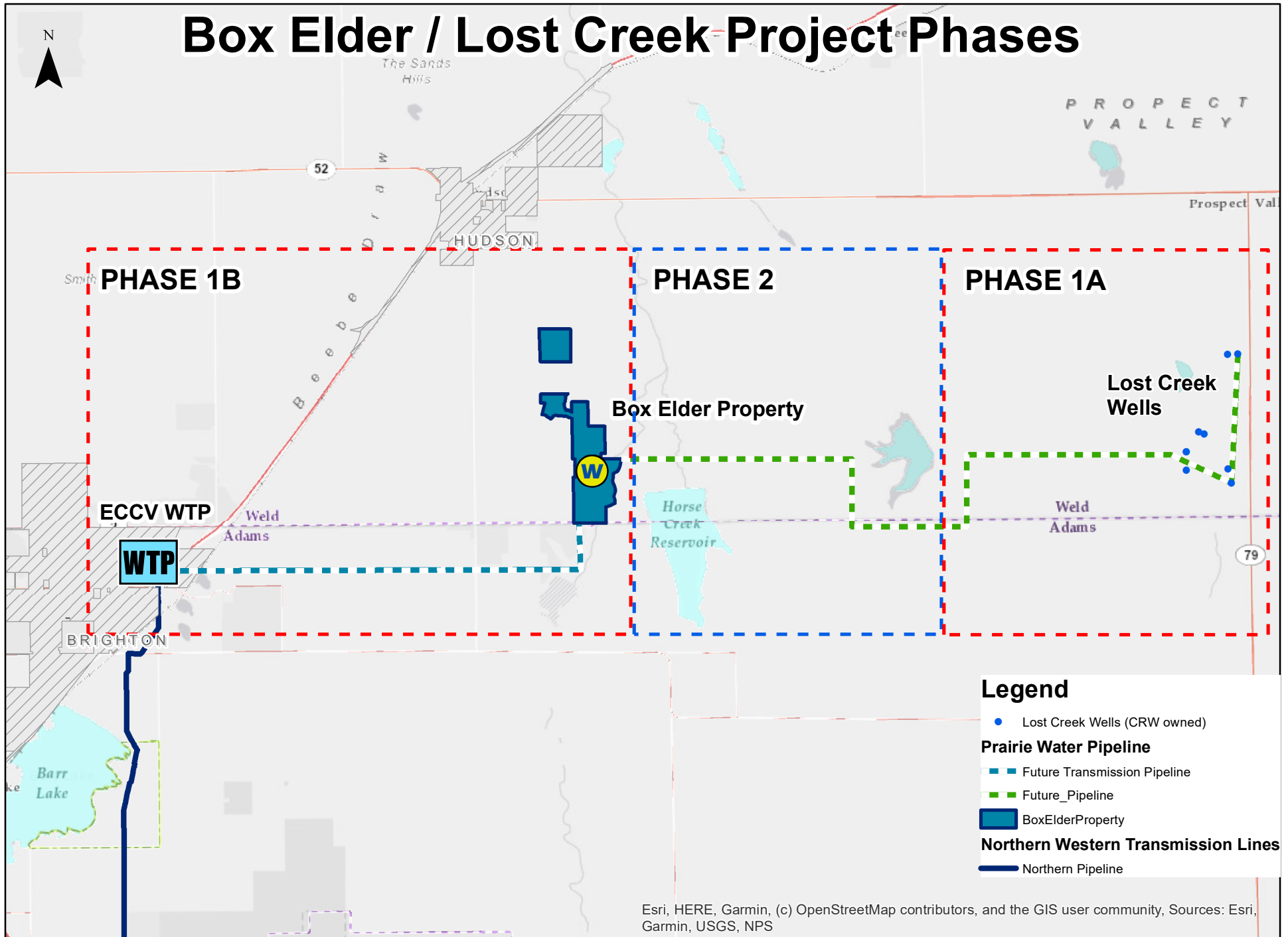
Attachment B



- Lost Creek Wells (CRW owned)
- ⊙ Well Field



Box Elder / Lost Creek Project Phases



Legend

- Lost Creek Wells (CRW owned)
- Prairie Water Pipeline**
 - Future Transmission Pipeline
 - Future_Pipeline
- BoxElderProperty
- Northern Western Transmission Lines**
 - Northern Pipeline

Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Sources: Esri, Garmin, USGS, NPS



Town of Castle Rock

Agenda Memorandum

Agenda Date: 9/25/2024

Item #: 7. **File #:** WC 2024-099

To: Members of the Castle Rock Water Commission

From: Mark Marlowe, P.E., Director of Castle Rock Water
David Van Dellen, P.E., Assistant Director
Roy Gallea, P.E., Engineering Manager
Josh Hansen, P.E., CIP Project Manager

Resolution Approving a Variance Pursuant to Chapter 9.16.070E of the Castle Rock Municipal Code for the Cobblestone Ranch Water Storage Tank 18 Project [Pleasant View Drive and Antelope Place]
Town Council Agenda Date: October 1, 2024

Executive Summary

Construction of Cobblestone Ranch Water Storage Tank 18 began in July 2022 and is nearing completion. Castle Rock Water is seeking Town Council approval of a variance to allow overnight construction work for the Cobblestone Ranch Water Storage Tank 18 Project. DN Tanks was retained by the Town to construct the project in 2022. In order to complete the project, DN Tanks needs to install an interior tank liner overnight. Night installation is necessary as the liner requires declining ambient temperatures during application to allow the coating to cure correctly.

DN Tanks will complete the construction work from 4pm to 3am over two weeks in October. Local residents have been notified in advance of the work. Noise and light mitigation measures will be installed during construction activities.

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

On March 15, 2022 Castle Rock Town Council voted unanimously to approve a construction contract in the amount of \$4,386,765 with DN Tanks along with authorization of \$438,700 in staff-managed contingency to complete construction of Cobblestone Ranch 2 MG Water Storage Tank 18.

On April 4, 2022 Douglas County Planning Commission voted unanimously to approve the Location and Extent application for the Tank 18 Blue Zone Transmission Project.

On August 16, 2022 Castle Rock Town Council voted unanimously to approve a construction contract in the amount of \$4,081,473 with Reynolds along with authorization of \$408,147 in staff-managed contingency to complete the construction of Tank 18 Blue Zone Transmission Project.

Item #: 7. File #: WC 2024-099

On March 21, 2023 Town Council voted unanimously to approve a Variance Pursuant to Chapter 9.16.070.E of the Castle Rock Municipal Code for Nighttime Construction Activities Related to the Tank 18 Blue Zone Main Project.

Notification and Outreach Efforts

Local outreach and notification of this project has been ongoing including mailed project information letters, phone calls and emails.

Local residents surrounding Tank 18 have been contacted recently to inform them of the proposed night work to install the CIM topcoat.

Discussion

In March 2022 the Town contracted with DN Tanks to construct a new 2 million-gallon potable water storage tank, Tank 18, to support the Cobblestone Ranch development. Construction of the water tank began in July and the concrete structure was generally complete by November 2022. In 2022 the Town contracted with Reynolds Construction to install 8,000 feet of water pipeline to connect the blue zone pipeline in Castle Oaks Drive to Tank 18. Pipeline construction was complete in July 2023. Prior to putting the tank in service backfilling, testing and tank site work and installation of the interior tank liner are required to be completed.

Equipment that will be used at night over two weeks in October by DN Tanks includes a forklift, generator, fans and exterior and interior lighting. Noise and light mitigation measures will be used throughout construction activities. Staging will be near the tank to minimize vehicle movement up and down the access road at night, forklifts will be operated in the afternoon, sound dampening material will be erected around generators, and lighting will be minimal to allow for safety of individuals walking around the base of the tank at night to access stockpiled materials.

Budget Impact

There is currently no anticipated project budget impact related to the night construction work.

Staff Recommendation

Staff requests approval of a Resolution approving a variance pursuant to Chapter 9.16.070E of the Castle Rock Municipal Code for the Cobblestone Ranch Water Storage Tank 18 Project.

Proposed Motion

"I move to recommend to Town Council approval of _____ as presented"

Alternative Motions

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

Item #: 7. File #: WC 2024-099

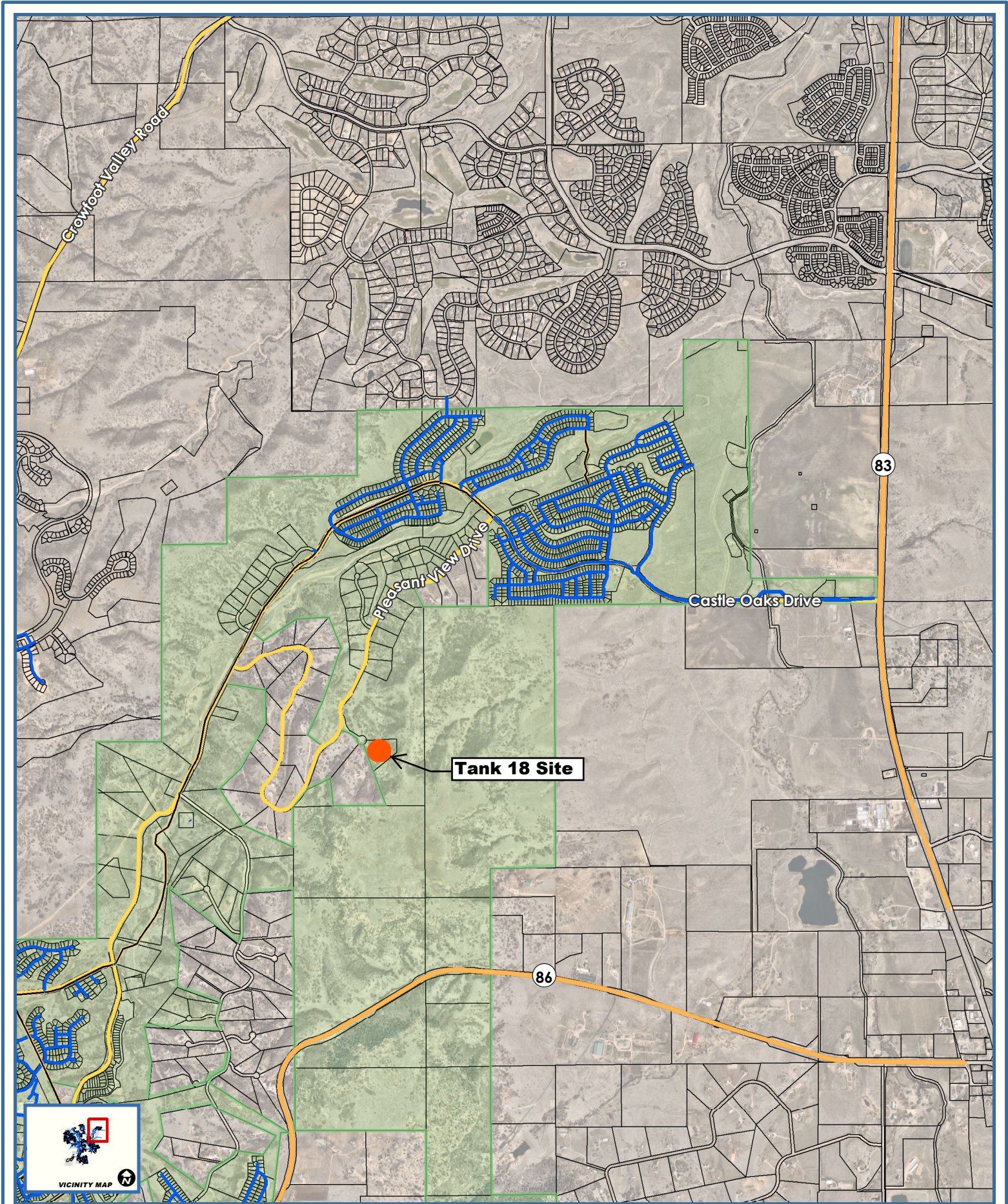
"I move to continue this item to the Town Council meeting on _____ date to allow additional time to (list information needed)."

Attachments

Staff Report

Attachment A: Resolution (**Not Attached**)

Attachment B: Map of Area Impacted by Night Work



Tank 18 Site



0 1,250 2,500 5,000 Feet

Date: 11/17/2021

1 inch = 2,500 feet



Disclaimer: The data presented has been compiled from various sources, each of which introduces varying degrees of inaccuracies or inconsistencies. Such discrepancies in data are inherent and in supplying this product the Town of Castle Rock assumes no liability for its use or accuracy. Questions or comments regarding the cartographic composition of this map including, but not limited to, errors, omissions, corrections, and/or updates, should be directed to the Utilities Department, Town of Castle Rock, (720) 733-6056. Copyright 2020, Town of Castle Rock Utilities Mapping.

**TANK 18
SITE LOCATION
MAP**



Town of Castle Rock

Agenda Memorandum

Agenda Date: 9/25/2024

Item #: 8. **File #:** WC 2024-100

To: Members of the Castle Rock Water Commission

From: Mark Marlowe, P.E., Director of Castle Rock Water
Matt Benak, P.E., Water Resources Manager

Resolution Approving an Intergovernmental Agreement between the Town of Castle Rock and Parker Water and Sanitation District for the Platte Valley Water Partnership
[located in Morgan, Washington, Logan and Sedgwick Counties]

Town Council Agenda Date: October 15, 2024

Executive Summary

The purpose of this memorandum is to request Town Council approval of a Resolution (**Attachment A**) to approve the execution of the Intergovernmental Agreement (IGA), see Exhibit 1 to **Attachment A**, between the Town of Castle Rock and Parker Water and Sanitation District (PWSD) for the Platte Valley Water Partnership (PVWP). This project involves the development of a raw water storage and conveyance project on the lower South Platte River. The project, upon completion, is anticipated to consist of major physical facilities such as diversion structures, reservoir storage facilities, pumping stations, pipelines, and treatment facilities. The project will also include the Lower South Platte Water Conservancy District (LSPWCD); however, they are not a signatory to this IGA. **Attachment B** provides a map showing basic concepts and locations of the infrastructure.

This IGA will be for cooperation in the preconstruction phase of the project to determine the most effective way in which the Town of Castle Rock may use the project infrastructure. This preconstruction phase is anticipated to include design, engineering, permitting, land acquisition, financial planning and other activities necessary to seek construction bids and support our water court application for a significant water right in the area. However, nothing in the IGA obligates the Town of Castle Rock to actually construct any project infrastructure.

Discussion

The PVWP is an innovative, long-term water supply solution that will benefit both agricultural and municipal communities in the South Platte River Basin. After over a decade of working together, the PVWP was formally launched in 2021 between the LSPWCD and PWSD. The project purpose is to provide the participants with additional reliable water supplies in a manner that preserves and supports agricultural uses in the South Platte River Basin by capturing water that would otherwise leave the state of Colorado without being put to a beneficial use. The limitations are that the project infrastructure cannot be used to store, convey or treat any water rights obtained and changed after

2019 that result in the permanent dry up of irrigated agricultural land (Buy and Dry).

The PVWP will create crucial water storage along the lower South Platte River and the infrastructure to transport and treat it. The project is currently in the planning stage, with construction anticipated to begin in the 2030s and water being delivered in 2040 to 2045 timeframe. The key infrastructure will include a small storage reservoir near Illiff, a forebay, potential treatment facilities, pipeline and other infrastructure for transport to Rueter-Hess Reservoir and delivery within LSPWCD and a large storage reservoir near Akron (i.e. Fremont Butte Reservoir).

Castle Rock desires to take part in the project and will benefit by the economies of scale. The Town envisions approximately 3,000 acre-feet (AF) of average annual future yield from the project with individual year supplies up to 8,000 AF (in accordance with the water right filed) once deliveries occur around 2045. Castle Rock has appropriated a new water right along the lower South Platte River (Case No. 21CW3185) that can be delivered as part of this project. Castle Rock's existing water rights that are part of the Box Elder Project can also be delivered via this project if so desired in the future.

Key terms of the agreement include:

- IGA focus on preplanning for oversized project infrastructure
- PWSD/CRW agree with cooperate on project infrastructure to store and transmit water back to RHR
- No obligations to construct oversized infrastructure
- Permitted water rights are described
- Initial Payment of \$280,000
- CRW will make annual payments for 25% of preconstruction costs
- PWSD/CRW/LSPWCD have equal interest in all planning documents under IGA
- PWSD/CRW/LSPWCD have equal interest in all permits and approvals obtained under IGA
- CRW has first right of refusal for land acquired by PWSD and *vice versa*
- LSPWCD has a senior right of first refusal for purchase of PWSD real property
- This IGA does not override agreement between PWSD and LSPWCD, see **Attachment C**
- If approvals are required in PWSD/LSPWCD IGA, CRW will also be required to obtain approvals
- LSPWCD has endorsed CRW participation, see **Attachment D**
- CRW can terminate IGA at any time and stop payments

Budget Impact

The PVWP IGA will impact the Water Rights Acquisition capital projects budget (Acct. No. 211-4375-443.75-47) which has a remaining balance of \$1,661,417 for 2024. Upon execution of this IGA, Castle Rock will pay PWSD \$280,000 for costs already incurred by PWSD on the project. The continuing participation payments will be 25% of PWSD's preconstruction costs which is Castle Rock's anticipated participation level in the project infrastructure to put our new proposed water right to full use. Castle Rock has budgeted \$500,000 per year over the next 5-year budgeting horizon for this agreement.

Item #: 8. File #: WC 2024-100

Proposed Motion

"I move to recommend to Town Council approval of _____ as presented"

Attachments

Staff Report

Attachment A: Resolution (Not Attached)

Exhibit 1: Intergovernmental Agreement

Attachment B: Concept Map of Infrastructure (Not Attached)

Attachment C: IGA Between PWSD and LSPWCD (Not Attached)

Attachment D: Resolution of Support from LSPWCD

**INTERGOVERNMENTAL AGREEMENT
RE PLATTE VALLEY WATER PARTNERSHIP**
(Town of Castle Rock and Parker Water and Sanitation District)

This INTERGOVERNMENTAL AGREEMENT RE PLATTE VALLEY WATER PARTNERSHIP (“the Agreement”) is made and entered into this _____ day of _____ 2024 (the “Effective Date”), by and between the PARKER WATER AND SANITATION DISTRICT, a quasi-municipal special district organized and existing pursuant to the provisions of Title 32 of the Colorado Revised Statutes (“PWSD”) and the TOWN OF CASTLE ROCK, a Colorado home rule municipality (“CR”) (the parties hereto referred to individually as a “Party” and collectively as the “Parties”).

RECITALS

- A. 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;
- B. WHEREAS, the Parties are authorized to operate water delivery systems to provide water service and/or augmentation water to their service areas;
- C. WHEREAS, PWSD is a party to an agreement with the Lower South Platte Water Conservancy District (“LSP”) entitled, “Lower South Platte Water Conservancy District and Parker Water and Sanitation District Platte Valley Water Partnership Intergovernmental Agreement,” dated September 9, 2021 (the “PVWP Agreement”);
- D. WHEREAS, LSP and PWSD intend to develop a water storage and conveyance project, commonly referred to as the Platte Valley Water Partnership (the “Project”), to store and convey certain water rights owned by LSP and/or PWSD and other water rights LSP and PWSD are seeking to confirm, including but not limited to those in Case No. 19CW3253, District Court, Water Division No. 1 (the “LSP Water Rights” or the “PWSD Water Rights” respectively and “LSP/PWSD Water Rights” collectively);
- E. WHEREAS, the Project is contemplated to consist of major physical facilities that will serve LSP and PWSD, including without limitation diversion structures, storage facilities, pumping stations, pipelines, treatment facilities, and other related facilities (collectively, the “Project Infrastructure”);
- F. WHEREAS, CR desires to participate in the Project to store and convey certain water rights owned by CR and other water rights CR is seeking to obtain, including but not limited to those in Case No. 21CW3185, District Court, Water Division No. 1 (collectively, the “CR Water Rights”) to meet the water needs of CR’s service area;
- G. WHEREAS, the Parties desire to oversize the Project Infrastructure to divert, convey, store and treat the LSP/PWSD Water Rights and CR Water Rights (collectively “Collective Project Water Rights”) in a manner that allows the Project Participants to fully utilize the Collective Project Water Rights and wish to cooperate with LSP (“Oversized Project Infrastructure”);

H. WHEREAS, the Parties acknowledge that the Project is intended to provide additional reliable water supplies for LSP's, PWSD's and CR's ("Project Participants") service needs in a manner that preserves and supports agricultural uses in the South Platte River Basin by capturing South Platte River water that would otherwise leave the State of Colorado without being put to a beneficial use ("Project Purposes");

I. WHEREAS, CR acknowledges that, for all CR Water Rights stored or conveyed via the Oversized Project Infrastructure, CR intends to comply with the restrictions set forth in this Agreement, which are designed to further the Project Purposes;

J. WHEREAS, the Parties believe that CR's participation in the Project and use of the Oversized Project Infrastructure can occur without interfering in any way with the ability of the Project Participants to achieve the Project Purposes;

K. WHEREAS, the Parties desire to cooperate in the preconstruction phase of the Project to determine the most effective manner in which CR may participate in the Project and use the Oversized Project Infrastructure;

L. WHEREAS, this preconstruction Project phase is anticipated to include design, engineering, permitting, land acquisition, financial planning, and other activities necessary to seek construction bids and commence construction of the Project;

M. WHEREAS, the Parties acknowledge that the Project is in the planning stage and various elements of the Project Infrastructure, Oversized Project Infrastructure and any other infrastructure contemplated are subject to modification;

N. WHEREAS, the Parties desire to cooperate and maintain flexibility to address issues as they arise so that the Parties can best fulfill the Project Purposes;

O. WHEREAS, CR's participation in the Project will contribute to economies of scale and benefit LSP and PWSD by contributing substantial additional financial resources towards the Project costs; and

P. WHEREAS, for the reasons outlined in these Recitals, the Parties determine that it is in their best interests 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 adequacy of which is hereby acknowledged, for themselves and their successors, do hereby agree as follows

1. Preconstruction Cooperation and Coordination.

a. LSP and PWSD intend to design, construct, and operate the Project Infrastructure in such a manner that PWSD and LSP are able to fully develop divert, store, treat, and convey the

LSP/PWSD Water Rights to fullest extent permissible. The Parties shall coordinate and cooperate in the preconstruction phase of the Project, which shall include without limitation, all activities up to bidding on construction of the Project such as engineering studies to support the Collective Project Water Rights, design, engineering, permitting, land acquisition, environmental assessments, financial planning, and other matters necessary to obtain all of the necessary Project permits and approvals and then to seek construction bids and commence construction of the Oversized Project Infrastructure. The intent of these activities is to allow the Project Participants to plan for the conveyance, storage, and treatment infrastructure needed for each entity to best carry, store, deliver and utilize the Collective Project Water Rights in the Oversized Project Infrastructure. It is anticipated that planning for CR's use of the Oversized Project Infrastructure will involve oversizing of the Project Infrastructure to convey, store and treat CR Water Rights in a manner that allows the Project Participants to fully utilize the Collective Project Water Rights subject to paragraph 1.d below.

b. PWSD and CR shall share specific plans and guidelines for the timing, design, permitting, land or land use acquisition and construction of Oversized Project Infrastructure, including without limitation, the estimated cost allocations. The Parties shall make reasonable efforts to coordinate and cooperate to modify or to add to such plans and guidelines any infrastructure needed for diverting, storing, and conveying the CR Water Rights. The Parties shall cooperate and coordinate with each other to estimate the costs of completing the Oversized Project Infrastructure.

c. Ownership, operation, maintenance, repair, and replacement of the Oversized Project Infrastructure will be determined at a later date. Nothing set forth herein shall obligate CR or PWSD to construct any Oversized Project Infrastructure or complete the Project. During, or upon completion of, the design of the Oversized Project Infrastructure, the Parties shall cooperate, including cooperation with LSP, to determine the appropriate capacity rights in the Oversized Project Infrastructure to be allocated to the Project Participants. Nothing set forth herein shall limit the ability of the Project Participants to include parties other than the Project Participants in the Project or to allow such other parties to use the Oversized Project Infrastructure; provided that additional uses of Oversized Project Infrastructure by such other parties shall not interfere with use of the Oversized Project Infrastructure by the Project Participants or the exercise of LSP's Water Rights, PWSD's Water Rights, or CR's Water Rights as part of operation of the Project. The Parties intend that allocation of any capacity in the Oversized Project Infrastructure among the Project Participants and any such other parties shall be in a manner that allows and does not interfere in any way with the ability of Project Participants to fully realize their individual water rights. The specific procedures and requirements for including such other parties in the Project and for allowing such other parties to use Oversized Project Infrastructure shall be determined at a later date, which the Parties anticipate will be prior to commencement of construction of the Project Infrastructure but which could be after construction.

d. Nothing set forth herein shall be deemed to grant to CR any rights:

a. To share or use any of the LSP/PWSD Water Rights ;

b. To interfere with or diminish PWSD's or LSP's ability to use Project

Infrastructure;

c. To interfere with or diminish PWSO's or LSP's ability to develop, divert, store, treat, and convey the LSP/PWSO Water Rights to the fullest extent permissible by law;

d. To, or that will interfere with or diminish PWSO's PWSO or LSP's rights with respect to operation and governance of the Project.

2. Permitted Water Rights. CR acknowledges the Project Purposes. To support the Project Purposes, the Oversized Project Infrastructure shall not be used by CR to store, convey, or treat any CR Water Rights that results in the permanent dry up of irrigated agricultural land ("Buy and Dry") except as specifically provided for in subsections (a) to (c) below.

a. As of the Effective Date, the sole approved sources of CR Water Rights to be stored, conveyed, or treated via the Project Infrastructure shall be as follows:

i. those water rights described in Case No. 21CW3185 as of the date of this Agreement;

ii. new appropriations of water rights, the applications for which were filed after December 1, 2019;

iii. existing irrigation water rights located in Morgan, Washington, Logan, and Sedgwick Counties senior to December 1, 2019, if changed from irrigation uses ("changed water") only if:

1. a) all changed water is used for non-irrigation purposes for a maximum of three out of every ten years; or b) a maximum of thirty percent in any given year if the changed water is used for non-irrigation purposes on a rotational basis; and

2. the changed water continues to be used to irrigate the historically irrigated parcels when it is not used for the changed purposes.

iv. existing irrigation water rights located outside Morgan, Washington, Logan, and Sedgwick Counties senior to December 1, 2019 and changed from irrigation uses ("changed water"), only if:

1. the changed water was purchased for non-irrigation purposes prior to December 1, 2019; or

2. the changed water was purchased after December 1, 2019, for non-irrigation purposes and: a) all changed water is used for non-irrigation purposes for a maximum of three out of every ten years; or b) a maximum of thirty percent in any given year if the changed water is used for non-irrigation purposes on a rotational basis; and

3. the changed water continues to be used to irrigate the historically irrigated parcels when it is not used for the changed purposes.

b. Notwithstanding the restrictions in paragraph 2(a), if CR desires to use Oversized Project Infrastructure to divert, store, convey, or treat any sources of water other than the CR Water rights, it shall request PWSD's approval and LSP's approval in writing. LSP and PWSD each may, at their sole discretion, approve or disapprove additional sources of water CR may divert, store, convey and/or treat through the Oversized Project Infrastructure. Both LSP's and PWSD's written approval must be secured for CR to divert, store, convey, or treat any such other water.

c. Pursuant to paragraph 2.b., PWSD and LSP, by the acknowledgement and consent described in paragraph 10 and **EXHIBIT A**, approves, approve the following additional sources of water CR may store, convey and/or treat through the Oversized Project Infrastructure, subject to paragraph 1.d..

Designated Ground Water from the Lost Creek Basin. Case No. 99CV97, District Court, Adams County, quantified the historical consumptive use of and changed the uses of the Lost Creek ground water associated with Well Permit Nos. 8533-FP, 8534-FP, 8535-FP, and 31542-FP. The changed uses included municipal, replacement of depletions, recharge of the aquifer and for augmentation or replacement purposes.

<i>Amended Final Well Permit Nos.</i>	<i>Q40</i>	<i>Q160</i>	<i>Section</i>	<i>Appropriation Dates</i>	<i>Flow Rates (gpm)</i>	<i>Average Annual Volumetric Limits (af)</i>	<i>Maximum Banking Reserve (af)</i>
8533-RFP	SW	NW	29	8/15/1951	950	84.0	588.0
8534-RFP	SW	SW	29	3/1/1952	600	81.5	355.5
8535-RFP	SW	NW	29	5/1/1954	1,100	96.9	669.3
31542-FP	NE	NE	27	7/29/1964	1,000	193.3	1,094.1
TOTAL						455.7	2,706.9

Case No. 98CV1727, District Court, Adams County, approved the export of ground water associated with Well Permit Nos. 8533-FP, 8534-FP, 8535-FP, and 31542-FP from the Lost Creek Basin to the South Platte River Basin.

3. Participation Payments.

a. Initial Participation Payment. CR acknowledges that PWSD has incurred costs associated with pursuing the Project. Upon execution of this Agreement, CR shall pay to PWSD an initial participation payment of Two Hundred Eighty Thousand dollars (\$280,000.00) as compensation for costs already incurred by PWSD as of the Effective Date in pursuing the Project, except for any real property rights acquired by PWSD ("Initial Participation Payment"). PWSD shall determine with LSP how to allocate the Initial Participation Payment to the Project or between PWSD and LSP.

b. Continuing Participation Payments. PWSD agrees that it shall be responsible for incurring costs associated with pursuing the Project. After the Initial Payment, at periodic intervals to be determined by the Parties, but no less frequently than annually, CR shall pay PWSD a continuing participation payment equal to a percentage of total preconstruction costs for design, engineering, permitting, land acquisition, financial planning, and other activities necessary to seek

construction bids and commence construction of the Project (“Preconstruction Costs”) incurred by PWSD since the last payment (“Continuing Participation Payment”). Unless the Project Participants agree otherwise in writing, any real property rights acquired by PWSD for the Project will be excluded from the Continuing Participation Payment costs. As of the Effective Date, the CR Participation Percentage shall be 25% of PWSD’s Preconstruction Costs, which the Parties may adjust in good faith based upon future economic and financial analysis reflecting the percent of the Oversized Project Infrastructure the Project Participants are projected to utilize to fully realize their anticipated yields and due to a variety of factors including without limitation participation of additional parties in the Project, the resizing of the Project, and allocation of use or ownership of Oversized Project Infrastructure as between Project Participants. PWSD shall adjust CR’s Continuing Participation Payments to reflect the then-current CR Participation Percentage. PWSD shall not reimburse CR for prior payments based on a higher CR Participation Percentage. If LSP so agrees, PWSD may include LSP’s Preconstruction Costs in these calculations for purposes of this Agreement. The Parties acknowledge that the PVWP Agreement grants LSP a 50% undivided interest in the Project Water Rights and a 50% voting right with respect to certain decisions related to Project construction and operation. Nothing herein shall change or dilute LSP’s interest in Project Water Rights or Project Infrastructure, or LSP’s rights, including voting rights, with respect to construction and operation of the Project pursuant to the PVWP Agreement.

4. **Right of First Refusal to Purchase Real Property - PWSD.** In consideration for the mutual promises contained in this Agreement, PWSD hereby grants CR a right of first refusal to purchase any land or interests in land acquired solely by PWSD for the Project (“PWSD Land”). If PWSD elects to sell any or all of its interest in the PWSD Land during the term of this Right of First Refusal, PWSD and CR shall comply with the following procedure.

a. CR acknowledges that LSP has a right of first refusal to purchase the PWSD Land that is senior to CR’s right of first refusal. .

b. If and/when PWSD completes the process described in paragraph 4.a., PWSD shall give written notice to CR of PWSD’s election to sell and of the proposed purchase terms (the “Notice”). CR shall have 28 days after receipt of Notice to deliver a written offer to purchase the PWSD Real Property on certain terms and conditions (the “CR Offer”).

i. If CR submits the CR Offer within the 28-day period, PWSD shall have 7 days to either accept the CR Offer or submit a counteroffer for CR’s consideration (the “PWSD Counteroffer”). CR shall have 7 days to accept in writing the PWSD Counteroffer.

ii. If CR fails to submit the CR Offer within the 28-day period or if CR rejects the PWSD Counteroffer, this Right of First Refusal shall terminate as to the portion of PWSD Real Property covered by the Notice, and PWSD shall be free to sell said portion of the PWSD Real Property to a *bona fide* purchaser at the terms of the Notice. However, if PWSD does not consummate the sale to a *bona fide* purchaser on the terms communicated to CR in the Notice, this Right of First Refusal shall remain in full force and effect with regard to PWSD’s subsequent decision(s) to sell all or any portion of the PWSD Real Property.

c. The Right of First Refusal hereby shall terminate on the 20th anniversary of the Effective Date of this Agreement unless terminated earlier or extended by subsequent agreement.

d. CR shall have the right to record a memorandum of this Right of First Refusal in any county in which PWSD Real Property is located.

e. This provision shall survive the termination of this Agreement, as to any PWSD Real Property owned by PWSD as of the date of the termination.

f. For purposes of this right of refusal, PWSD Land shall not include any water rights owned or acquired by PWSD. PWSD Land shall be limited to raw unimproved land. If any Project Infrastructure or Oversized Project Infrastructure is constructed on raw unimproved land owned or controlled by PWSD, the right of first refusal set forth in this paragraph 4 shall not apply to such Project Infrastructure or Oversized Project Infrastructure or the land upon which it is constructed. Any CR rights to real property upon which Oversized Project Infrastructure is being or has been constructed shall be set forth in a separate agreement, which the Parties anticipate will be executed prior to construction of any Oversized Project Infrastructure.

5. **Right of First Refusal to Purchase Real Property - CR.** In consideration for the mutual promises contained in this Agreement, CR hereby grants PWSD right of first refusal to purchase any real property acquired by CR for the Project (“CR Real Property”). If CR elects to sell any or all of its interest in the CR Real Property during the term of this Right of First Refusal, PWSD and CR shall comply with the following procedure.

a. CR shall give written notice to PWSD of CR’s election to sell and of the proposed purchase terms (the “Notice”). PWSD shall have 28 days after receipt of Notice to deliver a written offer to purchase the CR Real Property on certain terms and conditions (the “CR Offer”).

i. If PWSD submits the PWSD Offer within the 28-day period, CR shall have 7 days to either accept the PWSD Offer or submit a counteroffer for PWSD’s consideration (the “CR Counteroffer”). PWSD shall have 7 days to accept in writing the CR Counteroffer.

ii. If PWSD fails to submit the PWSD Offer within the 28-day period or if PWSD rejects the CR Counteroffer, this Right of First Refusal shall terminate as to the portion of CR Real Property covered by the Notice. However, if CR does not consummate the sale to a *bona fide* purchaser on the terms communicated to PWSD, in the Notice, this Right of First Refusal shall remain in full force and effect with regard to CR’s subsequent decision(s) to sell all or any portion of the CR Real Property.

b. The Right of First Refusal hereby shall terminate on the 20th anniversary of the Effective Date of this Agreement unless terminated earlier or extended by subsequent agreement.

c. PWSD shall have the right to record a memorandum of this Right of First Refusal in any county in which CR Real Property is located.

d. This provision shall survive the termination of this Agreement, as to any CR Real Property owned by CR as of the date of the termination.

e. For purposes of this right of refusal, CR Real Property shall not include any water rights owned or acquired by CR. CR Real Property shall be limited to raw unimproved land. If any Project Infrastructure or Oversized Project Infrastructure is constructed on raw unimproved land owned or controlled by CR, the right of first refusal set forth in this paragraph 5 shall not apply to such real property. Any CR rights to CR Real Property upon which Oversized Project Infrastructure is being or has been constructed shall be set forth in a separate agreement, which the Parties anticipate will be executed prior to construction of any Oversized Project Infrastructure.

6. **Joint Ownership of Project Information.** The Project Participants shall each have an undivided ownership in all information in all formats used by or generated by one or more of the Project Participants or any contractors hired by one or more of the Project Participants in furtherance of the Project (“Project Information”). Such Project Information includes but not limited to reports, analyses, drawings, estimates, assessments, studies, engineering, and plans and specifications associated with the design, engineering, permitting, land acquisition, environmental assessments, financial planning, and other matters necessary to obtain all of the necessary project permits and approvals and then to seek construction bids and commence construction of the Project as outlined in this Agreement. Such Project Information also includes but is not limited to any information that is the subject of the Initial Participation Payment or a Continuing Participation Payment. This provision shall survive the termination of this Agreement, as to any Project Information existing as of the date of the termination.

7. **Joint Ownership of Permits and Approvals.** To the extent permissible under the terms and conditions of the permits and approvals, the Project Participants shall each have an undivided ownership in permits and approvals (“Project Permits/Approvals”) obtained by one or more of the Project Participants or any contractors hired by one or more of the Project Participants in furtherance of the Oversized Project Infrastructure as outlined in this Agreement. This provision shall survive the termination of this Agreement, as to any Project Permits/Approvals existing as of the date of the termination.

8. **Term and Termination.** This Agreement shall be perpetual, unless terminated by either Party upon written notice to the other Party. Upon termination, CR shall pay PWSD for any outstanding expenses incurred by PWSD but not yet reimbursed by CR in a Continuing Participation Payment. PWSD shall reimburse CR for any funds advanced to PWSD by CR that were not for expenses incurred on or before the date of termination.

9. **LSP Approvals.** CR acknowledges that PWSD and LSP have obligations to one another, which are set forth in the PVWP Agreement.. Nothing set forth herein shall supersede PWSD’s obligations to LSP set forth in the PVWP Agreement or change, dilute, or increase any rights or obligations of LSP pursuant to the PVWP Agreement.. Any time approval by LSP is required pursuant to the PVWP Agreement, PWSD’s obligations to CR under this Agreement shall be subject to such approval.

10. LSP's Acknowledgement and Consent. By the resolution of the Board of LSP attached hereto as **EXHIBIT A**, LSP has acknowledged the benefit of CR's participation in the Project, has consented to and only to CR's participation in the Project, and has consented to the sources of CR Water described in paragraph 2(a) to (c) above subject to the requirements and limitations described herein.

10. **Miscellaneous.**

a. **Assignment.** Except as set forth herein, neither this Agreement, nor any of a Party's rights, obligations, duties or authority hereunder, may be assigned in whole or in part without the prior written consent of the other Party and the consent of LSP, which consent may be withheld in such Party's sole discretion regardless of the qualifications, capabilities, or virtues or any proposed assignee. Any attempted assignment without approval of the other Party or without the consent of LSP shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed to be consent to any subsequent assignment, nor the waiver of any right to withhold consent to any subsequent assignment.

b. **Relationship of Parties.** This Agreement does not and shall not be construed as creating a relationship of joint ventures or partners between the Parties. None of the Parties shall have any right or authority to act on behalf of or bind the other Party.

c. **Modification.** This Agreement may be modified, amended, changed or terminated, in whole or in part, only by an agreement in writing duly authorized and executed by the Parties.

d. **Waiver.** The waiver of a breach of any of the provisions of this Agreement by a Party shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or another provision of this Agreement.

e. **Integration.** This Agreement contains the entire agreement between the Parties and no statement, promise or inducement made by any Party or the agent of any Party that is not contained in this Agreement shall be valid or binding.

f. **Severability.** Invalidation of any of the provisions of this Agreement or of any section, sentence, clause, phrase or work herein, or the application thereof in any given circumstance, shall not affect the validity of any other provision of this Agreement.

g. **No third-party beneficiaries.** There are no third-party beneficiaries of this Agreement, except LSP as described herein.

h. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Douglas County, Colorado.

i. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which when taken together shall constitute one

Agreement. In addition, the Parties agree to recognize signatures of this Agreement transmitted by telecopy or email as if they were original signatures.

j. Remedies. In addition to all remedies allowed at law or equity and those set forth in this Agreement, this Agreement may be terminated for a material breach by either Party. In the event a Party alleges a breach or default of this Agreement, the non-defaulting Party shall first notify the defaulting Party in writing of such default and specify the exact nature of the alleged default in such notice. The defaulting Party shall have 28 days from receipt of such notice within which to cure such default before the non-defaulting Party may exercise any of its remedies hereunder, provided that: (i) such default is capable of being cured, (ii) the defaulting Party has commenced such cure within said 28-day period, and (iii) the defaulting Party diligently prosecutes such cure to completion. If such default is not of a nature that can be cured in such 28-day period, corrective action must be commenced within such period by the defaulting Party and thereafter diligently pursued.

k. No Waiver of Governmental Immunity. The Parties, their directors, officers, agents and employees are relying upon and do not waive or abrogate or intend to waive or abrogate by any provision of this Agreement the monetary limitations or any other rights immunities or protections afforded by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as the same may be amended.

l. Multi-year Financial Obligation. All financial obligations of the Parties under this Agreement are expressly made subject to annual appropriation and budgeting by their governing bodies.

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the date set forth herein as evidenced by signature of each of the Parties.

[Remainder of Page Intentionally Blank – Signatures on Following Page]

PARKER WATER & SANITATION DISTRICT
A Colorado special district and political subdivision

By: _____
Merlin Klotz, Chair

ATTEST:

Title: _____

TOWN:

ATTEST:

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

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Mark Marlowe, Director of Castle Rock Water

RESOLUTION
09-2024-001

LOWER SOUTH PLATTE WATER CONSERVANCY DISTRICT

WHEREAS, the Lower South Platte Water Conservancy District (“LSP”) has entered into an agreement with Parker Water and Sanitation District (“PWSD”) to develop and construct the Platte Valley Water Partnership Project (“Project”), and to store and convey certain water rights owned by the LSP and/or PWSD and other water rights LSP and PWSD are seeking to confirm, including but not limited to those in Case No. 19CW3253, District Court, Water Division No. 1 (“LSP/PWSD Water Rights”);

WHEREAS, the Project is intended to provide additional reliable water supplies for LSP’s and PWSD’s service needs in a manner that preserves and supports agricultural uses in the South Platte River Basin by capturing South Platte River water that would otherwise leave the State of Colorado without being put to a beneficial use (“Project Purposes”);

WHEREAS, the Town of Castle Rock (“CR”) desires to participate in the Project and use the oversized Project infrastructure to store and convey certain water rights owned by CR and other water rights CR is seeking to obtain, including but not limited to those in Case No. 21CW3185, District Court, Water Division No. 1;

WHEREAS, CR and PWSD desire to oversize the Project infrastructure (“Oversized Project Infrastructure”) to divert, convey, store and treat the LSP/PWSD Water Rights and CR Water Rights (collectively “Project Water Rights”) in a manner that allows the Project participants to fully utilize the Project Water Rights and wish to cooperate with LSP to do so;

WHEREAS, PWSD and CR have negotiated an Intergovernmental Agreement regarding the Platte Valley Water Partnership, a copy of which is attached to this Resolution, to address payment by CR of some preconstruction costs and the potential for CR’s participation in the Project;

WHEREAS, PWSD, LSP, and CR intend to design, construct, and operate the Oversized Project Infrastructure in such a manner that PWSD and LSP are able to fully develop divert, store, treat, and convey the LSP/PWSD Water Rights to the fullest extent permissible.;

WHEREAS, it is believed that CR’s participation in the Project and use of the Oversized Project Infrastructure can occur without interfering in any way with the ability to achieve the Project Purposes or the ability to fully develop divert, store, treat, and convey the LSP/PWSD Water Rights to the fullest extent permissible; and

WHEREAS, CR has requested that the LSP acknowledge the benefit of and consent to CR’s participation in the Project.

NOW, THEREFORE, be it resolved by the Board of Directors of LSP that:

1. LSP hereby acknowledges the benefit of CR's potential participation in the Project and consents to and only to CR's participation in the Project and that CR may store, convey, and/or treat through the Oversized Project Infrastructure the sources of CR Water described in paragraph 2 of that agreement between PWSD and CR, a copy of which is attached to this Resolution, subject to the requirements and limitations in that agreement.

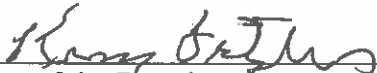
2. LSP does not hereby waive any rights regarding the Project, its participation in the Project, or pursuant to its agreements with PWSD.

3. Nothing herein shall grant to or acknowledge any rights of CR except as specifically described herein. Nothing set forth herein shall be deemed to grant to CR any rights to share or use any of the LSP/PWSD Water Rights or that will interfere with or diminish PWSD's or LSP's ability to use Project infrastructure or to develop, divert, store, treat, and convey the PWSD Water Rights or the LSP Water Rights to the fullest extent permissible by law, or that will interfere with or diminish PWSD or LSP's rights with respect to operation and governance of the Project.

The provisions of this Resolution shall take effect immediately.

Adopted and approved this 10th day of September, 2024

Lower South Platte Water Conservancy District

By: 
President of the Board

ATTEST:

By: 
Secretary of the Board



Town of Castle Rock

Agenda Memorandum

Agenda Date: 9/25/2024

Item #: 9. **File #:** WC 2024-101

To: Members of the Castle Rock Water Commission

From: Mark Marlowe, P.E., Director of Castle Rock Water
Matt Benak, P.E., Water Resources Manager
Adriana Alfaro, Water Resources Program Analyst

Update: Water Court Cases [*Cases located in Douglas County, Weld County and other areas near the Lower South Platte River*]

Town Council Agenda Date: October 15, 2024

Executive Summary

Acquiring, changing, using and protecting the Town’s water rights is a key component of the Town’s long-term renewable water plan as well as an important aspect of managing our groundwater rights. This requires the Town to file applications in Water Court and file oppositions where an application by another entity has the potential to injure the Town’s water rights. The Town is continuing to contract with Lyons Gaddis as our water attorneys and W.W. Wheeler Associates and Miller Groundwater Engineering for water resources consulting support. The purpose of this memorandum is to update Town Council on the Town’s current Water Court cases.

The Town currently has five active cases where we are the applicant and three pending cases where we will be the applicant. Two of the cases are related to Castle Rock’s future water rights along the lower South Platte River at Fremont Butte Reservoir. Castle Rock is partnering with Parker Water & Sanitation District and Lower South Platte Water Conservancy District on the Platte Valley Water Partnership (PVWP) Project. Two of the applications are for changing the place of use for senior water rights (Deer Creek and Meadow Ditch) that the Town recently acquired. Finally, one application is for proving that Castle Rock Water conducted its proper diligence on conditional renewable water rights associated with the Heckendorf wells. There is one active case in which the Town is an intervenor and another that we are a plaintiff. There are twelve cases that the Town is or was opposing that could have a negative impact (i.e. injure) our water rights. These cases are summarized in **Attachment A** with additional details in the following discussion.

To date in 2024, Castle Rock Water has spent \$594,306 of our budgeted \$891,000 on costs related to water court cases of which \$39,114 was spent on our Box Elder case.

Discussion

The Town has five active and three pending Water Court Cases in which the Town is the applicant. These cases are summarized below:

1. 21CW3185 - This case was filed on October 25, 2021. This is an application for a conditional storage right on the South Platte River at (a future) Fremont Butte Reservoir. The case is before the Water Judge. The status conference is scheduled on April 29, 2025 and the trial is scheduled between October 12 to October 30, 2026. The Town's case is trailing Parker and Lower South Platte's Case No. 19CW3253. This is a project with Parker Water and Sanitation District (PWSD) that would divert water from the lower South Platte River and pipe it south and west to Rueter-Hess Reservoir for delivery to Parker and the Town. There are 35 opposers to the case. One opposer has stipulated.

To date in 2024, the Town has spent \$20,680 on this case between legal and water resources consulting fees.

2. 22CW3155 - This case was filed on October 27, 2022. In this case, the Town seeks conditional rights of appropriative right of exchange on Plum Creek and East Plum Creek to reuse and successively use to extinction the Fremont Butte Water Rights (21CW3185) for all decreed purposes after the first use in the Town's municipal system. The case is before the Water Referee. The status conference is scheduled for December 28, 2024 and the Town's responses to opposer's comments are also due that day. There is one opposer remaining and three who have stipulated. As of June 28, 2024, the case has not yet been re-referred to the Water Judge.

To date in 2024, the Town has spent \$2,281 on this case between legal and water resources consulting fees.

3. 23CW3061 - This case was filed on May 31, 2023. The Town seeks change to the Deer Creek water rights and exchanges. The case is before the Water Referee. There are seven opposers remaining and one opposer has stipulated. Opposer's comments are due October 4, 2024. The Town is to respond to comments December 6, 2024. The status conference is scheduled December 17, 2024.

To date in 2024, the Town has spent \$21,470 on this case between legal and water resources consulting fees.

4. 24CW3037 - This case was filed March 27, 2024 and is an application for the change of Meadow Ditch water rights and exchanges. There are 7 opposers and the status conference is scheduled for November 14, 2024.

To date in 2024, the Town has spent \$7,571 on this case between legal and water resources consulting fees.

5. 24CW3052 - This case was filed in April 2024 and is an application for diligence for the Heckendorf Wells and Exchange. There are no opposers and we are prepared to file motion

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for entry of ruling.

To date in 2024, the Town has spent \$7,272 on this case between legal and water resources consulting fees.

6. 24CW____ - Pending application for diligence on Chatfield Refill and Pump Station. Diligence application due 10/31/2024.

To date in 2024, the Town has spent \$22,463 on this case between legal and water resources consulting fees.

7. 25CW____ - Pending application for diligence 12CW232 (1985 wells and prior exchanges). Diligence application due 9/30/2025.

To date in 2024, the Town has spent \$0 on this case between legal and water resources consulting fees.

8. 25CW____ - Pending application for diligence 17CW3211 Plum Creek Diversion and Storage. Diligence application due 10/31/2025.

To date in 2024, the Town has spent \$0 on this case between legal and water resources consulting fees.

The Town has two cases in which we are the plaintiff.

1. The case is known as Parker v. Rein Case No. 21CW3046 (23SA141). The question is related to whether or not non-tributary groundwater is subject to a total allowed withdrawal. This question concerns the Town's deep Denver Basin groundwater and the legal ability to continue to withdraw water in the legislatively defined "average annual amount" in perpetuity or until the supply has been exhausted. This case is being appealed at the Supreme Court. This case has been fully briefed and oral argument occurred May 7, 2024. We are awaiting the Supreme Court decision which is expected in November 2024.

To date, the Town has spent \$125,646 on this case and previous work opposing the proposed non-tributary rules leading up to this case for legal fees. In 2024, the Town has spent \$6,975 on this case.

2. The Town filed Castle Rock v. Rein Case No. 22CW3145. The case is currently under a Motion to Stay pending the outcome of 21CW3046. Case 21CW3046 is now going to the Supreme Court. See previous item for more details.

To date in 2024, the Town has spent \$25.50 on this case.

The Town has twelve current active cases where the Town is an opposer.

Costs for opposition to date in 2024 have been \$301,758. Costs are typically on the order of

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\$55,000 annually.

These cases are summarized below:

1. 19CW3253 - The Town was an opposer in the PWSD and Lower South Platte Water Conservancy District's storage rights, appropriative rights of exchange and change of water rights on the South Platte near Box Elder Creek during 2024. This case is before the Water Judge. The Town was opposing this case because it may have caused injury to Town's water rights on the South Platte River and Box Elder Creek. It is also important to note that the Town may partner with PWSD on the project which is related to this water court case, the Logan Farms Project (i.e. Platte Valley Water Partnership). The Town has stipulated. The trial is scheduled for August 11, 2025 to August 29, 2025, but the Town is no longer opposing so we will just monitor progress. Outcomes in this trial will impact or ability to get approval on our water right application in the same location, case number 21CW3185, see above.

To date in 2024, the Town has spent \$433 on this case.

2. 20CW3214 - The Town is currently an opposer in the State Land Board, Rangeview Metropolitan District and Pure Cycle application to change conditional water rights and amend their augmentation plan. The case is currently before the Water Judge. We are awaiting final trial transcripts (written Rule 41(b) motions to be filed within 25 days). The Town is opposing this case because it may cause injury to Town's water rights on Box Elder Creek in Case No. 19CW3231.

To date in 2024, the Town has spent \$271,868 on this case.

3. 21CW3193 - The Town was an opposer in the Central Colorado Water Conservancy District application for appropriative rights of exchange and approval of augmentation plan including exchanges. The case is currently before the Water Judge, and the Town has stipulated. The Town was opposing this case due to potential injury to Town's water rights on Box Elder Creek.

To date in 2024, the Town has spent \$1,825 on this case.

4. 22CW3103 - The Town is currently an opposer to the Perry Park Metropolitan District's application for water rights and approval of plan for augmentation with conditional rights of exchange. The case is before the Water Referee. The status conference is scheduled for January 15, 2025. The Town is opposing this case due to potential injury to Town's rights on West Plum Creek.

To date in 2024, the Town has spent \$120 on this case.

5. 22CW3111 - The Town was an opposer to the Castle Pines Metropolitan District's (CPMD) application for changes of non-tributary groundwater rights. The case is before the Water Referee. The Town has stipulated. The Town was opposing this case due to disputed ownership of the groundwater between the two entities. The Town has already claimed ownership of the disputed groundwater with the Town's wellfield case 19CW3039, but has

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agreed to release that minor ownership of X AF.

To date in 2024, the Town has spent \$8,914 on this case.

6. 23CW3011 - The Town was an opposer to the Greatrock Water and Sanitation District application for new conditional and absolute water rights and amendments to plans for augmentation. The case is before the Water Referee. Castle Rock has stipulated. The Town was opposing this case due to potential injury to Town's water rights on Box Elder Creek.

To date in 2024, the Town has spent \$148 on this case.

7. 23CW3121 - The Town is currently an opposer to the Parker Water & Sanitation District application for change of water rights (Herzog Ditch shares). The case is before the Water Referee. On October 18, 2024, Parker's proposed ruling and engineering is due. On December 20, 2024, the opposer's (Town's) comments are due. The status conference is scheduled for January 7, 2025. The Town is opposing this case due to potential injury to Town's water rights on Cherry Creek.

To date in 2024, the Town has spent \$1,953 on this case.

8. 23CW3124 - The Town was an opposer to the Lloyd Land application for underground water rights, an amendment of underground water rights, and approval of a plan for augmentation. The case is before the Water Judge. Castle Rock has stipulated. The Town was opposing this case due to potential injury to Town's water rights on Box Elder Creek.

To date in 2024, the Town has spent \$4,854 on this case.

9. 23CW3129 - The Town is currently an opposer to the Mountain Plains Investment Corporation application for change of water rights and addition of replacement water to the existing plan for augmentation. The case is before the Water Judge. The status conference is scheduled for October 3, 2024. The Town is opposing this case due to potential injury to Town's water rights on Cherry Creek.

To date in 2024, the Town has spent \$1,252 on this case.

10. 23CW3180 - The Town is currently an opposer to the Central Colorado Water Conservancy District application for change of water rights to include alternate places of storage and alternate points of diversion. The case is before the Water Referee. The status conference is scheduled for August 27, 2024. The Town is opposing this case due to potential injury to the Town's water rights in Chatfield Reservoir and Rueter-Hess Reservoir. The Town is trying to work with Central Colorado Water Conservancy District to partner on this water right.

To date in 2024, the Town has spent \$5,197 on this case.

11. 24CW3088 - The Town is currently an opposer to the Central Colorado Water Conservancy District application to make conditional water rights partially absolute and for finding a

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reasonable diligence. The case is before the Water Referee. No deadlines are yet set. The Town is opposing this case due to potential injury to the Town's water rights in Chatfield Reservoir.

To date in 2024, the Town has spent \$215 on this case.

12. 24CW3094 - The Town is currently an opposer to the Mount Carbon Metropolitan District application for findings of reasonable diligence. The case is before the Water Referee. No deadlines are yet set. The Town is opposing this case due to potential injury to the Town's water rights in Chatfield Reservoir.

To date in 2024, the Town has spent \$186 on this case.

Budget Impact

In the annual budgeting process, Castle Rock Water budgets money for Legal Services related to Water Court cases, other water resource legal matters, and Intergovernmental Agreement negotiations. Castle Rock Water also budgets money for water resources consulting services related to support of Water Court cases and the Town's water rights, water resources planning and evaluation, preparation of technical memos and engineering reports, water rights accounting, and other as-directed matters. To date in 2024, Castle Rock Water has spent \$594,306 of our budgeted \$891,000 on costs related to water court cases of which \$39,114 was spent on our Box Elder case. Legal services cost for the Town to date have been \$322,506 while engineering services have cost \$241,800.

Staff Recommendation

Staff recommends continuing to file and work water court cases as the applicant, which will provide maximum benefit for use of our water rights, and file cases as an opposer where our water rights could be impacted. Where we are the applicant, the goal is to obtain stipulations from opposers as quickly as possible while being protective of the Town's water rights. On cases we oppose, we want to stipulate as early as possible but we must make sure we can do this while protecting our rights. Staff will continue to keep Council updated regarding active Water Court cases on an annual basis.

Attachments

Attachment A: Summary of Cases

**TOWN OF CASTLE ROCK WATER COURT CASES
(AUGUST 2024)**

Pending and Near Future Cases as Applicant			
Case No.	Applicant	Claims	Comments and Deadlines
21CW3185	Castle Rock	Application for conditional storage right on South Platte River at Fremont Butte Reservoir	Before the Water Judge 35 opposers remaining; 1 opposer stipulated 4/29/25 - Status conference Trial scheduled - 10/12/26 – 10/30/26 Trailing application of Parker Water & Sanitation District
22CW3155	Castle Rock	Application for exchange of water on Plum Creek from Fremont Butte Reservoir	Before the Water Referee 1 opposer remaining; 3 opposers stipulated 12/28/24 – Status conference and Castle Rock’s responses to Opposers’ comments 6/28/24 - Not yet re-referred to the Water Judge
23CW3061	Castle Rock	Application for change of Deer Creek water rights, exchanges	Before the Water Referee 7 opposers remaining; 1 opposer stipulated 10/4/24 – Opposers’ comments due 12/6/24 – Castle Rock to respond to comments 12/17/24 - Status conference
24CW3037	Castle Rock	Application for change Meadow Ditch water rights	Before the Water Referee 7 opposers; none have stipulated 8/30/24 – Castle Rock’s proposed ruling due 11/1/24 – Opposers’ comments due 11/14/24 – Status conference
24CW3052	Castle Rock	Application for diligence for Heckendorf Wells and Exchange	Before the Water Referee No opposers Prepared to file motion for entry of ruling
24CW____	Castle Rock	Application for diligence on Chatfield Refill and Pump Station	Diligence application due 10/31/2024
25CW____	Castle Rock	Application for diligence 12CW232 (1985 wells and prior exchanges)	Diligence application due 9/30/2025
25CW____	Castle Rock	Application for diligence 17CW3211 Plum Creek Diversion and Storage	Diligence application due 10/31/2025

**TOWN OF CASTLE ROCK WATER COURT CASES
(AUGUST 2024)**

Pending Case as a Plaintiff			
Case No.	Caption	Claims	Comments and Deadlines
23SA141 (21CW3046)	Parker Water v. Rein	Complaint in intervention and answer in intervention related to whether non-tributary groundwater is subject to a total allowed withdrawal	Appealed to Supreme Court Fully- briefed and oral argument occurred 5/7/24 Awaiting Supreme Court decision
22CW3145	Castle Rock v. Rein	Complaint related to whether Castle Rock's well permits should contain total allowed withdrawal	Case stayed pending outcome of 21CW3046 (23SA141)
Pending Cases as Opposer			
Case No.	Applicant	Claims	Comments and Deadlines
19CW3253	Parker Water & Sanitation District and Lower South Platte Water Conservancy District	Application for storage rights, appropriative rights of exchange and change of water rights on South Platte	Before the Water Judge Castle Rock has stipulated Trial scheduled – 8/11/25 to 8/29/25
20CW3214	State Land Board; Rangeview Metropolitan District; Pure Cycle Corp	Application to change conditional water rights and amend augmentation plan	Before Water Judge Awaiting final trial transcripts; written Rule 41(b) motions to be filed within 35 days Issue: Injury to Castle Rock's Box Elder Creek water rights
21CW3193	Central Colorado Water Conservancy District	Application for appropriative rights of exchange and approval of augmentation plan including exchanges	Before Water Judge Castle Rock has stipulated Issue: Injury to Castle Rock's Box Elder Creek water rights
22CW3103	Perry Park Metropolitan District	Application for water rights and approval of plan for augmentation with conditional rights of exchange	Before Water Referee Case stayed 1/15/25 – Status conference Issue: Injury to Castle Rock's water rights on West Plum Creek
22CW3111	Castle Pines Metropolitan District	Application for changes of nontributary groundwater rights	Before Water Referee Castle Rock has stipulated Issue: Ownership of groundwater
23CW3011	Greatrock Water and Sanitation District	Application for new conditional and absolute water rights and amendments to plans for augmentation	Before Water Referee Castle Rock has stipulated Issue: Injury to Castle Rock's Box Elder Creek water rights

**TOWN OF CASTLE ROCK WATER COURT CASES
(AUGUST 2024)**

23CW3121	Parker Water & Sanitation District	Application for change of water rights - Herzog Ditch shares	Before Water Referee 10/18/24 - Parker's proposed ruling and engineering due 12/20/24 - Opps' comments due 1/7/25 - status conference Issue: Injury to Castle Rock's water rights on Cherry Creek
23CW3124	Lloyd Land	Application for underground water rights, amendment of underground water rights, and approval of plan for augmentation	Before Water Judge Castle Rock has stipulated Issue: Injury to Castle Rock's Box Elder Creek water rights
23CW3129	Mountain Plains Investment Corporation	Application for change of water rights and addition of replacement water to existing plan for augmentation	Before the Water Judge 10/3/24 - Status conference Issue: Injury to Castle Rock's water rights on Cherry Creek
23CW3180	Central Colorado Water Conservancy District	Application for change of water rights to include alternate places of storage and alternate points of diversion	Before Water Referee 8/27/24 - Status conference Issue: Injury to Castle Rock's water rights in Chatfield Reservoir and Rueter-Hess Reservoir
24CW3088	Central Colorado Water Conservancy District	Application to make conditional water rights partially absolute and for finding of reasonable diligence	Before Water Referee No deadlines yet set Issue: Injury to Castle Rock's water rights in Chatfield Reservoir
24CW3094	Mount Carbon Metropolitan District	Application for findings of reasonable diligence	Before Water Referee No deadlines yet set Issue: Injury to Castle Rock's water rights in Chatfield Reservoir



Town of Castle Rock

Agenda Memorandum

Agenda Date: 9/25/2024

Item #: 10. **File #:** WC 2024-102

To: Members of the Castle Rock Water Commission

From: Mark Marlowe, P.E., Director of Castle Rock Water
Nichol Bussey, Business Solutions Manager
Paul Rementer, Enterprise Fund Analyst

Rates and Fees follow-up, outcome and request for proposal (RFP) for next year
Town Council Agenda Date: Na

Executive Summary

This will be a presentation only.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 9/25/2024

Item #: 11. **File #:** WC 2024-103

To: Members of the Castle Rock Water Commission

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

Upcoming Town Council Items
Town Council Agenda Date: NA

Executive Summary

This item is an informational update only, and is designed to give Commission a preview of time critical items that may need to go to Council prior to review at a Commission Meeting.

Items for this month include:

There are no items at this time.