

**TOWN OF CASTLE ROCK/ BOW-MAR OWNERS, INC., AND BOW
MAR SOUTH, INC., SPOT WATER LEASE AGREEMENT**

THIS SPOT WATER LEASE AGREEMENT (“Agreement”) is entered into this 21st day of November, 2023 by and between the Town of Castle Rock, a home rule municipal corporation, acting by and through the Town the Castle Rock Water Enterprise (the “Town”), as Lessor, and Bow-Mar Owners, Inc., a Colorado nonprofit corporation (“Bow-Mar Owners”), and Bow Mar South, Inc., a Colorado nonprofit corporation (“Bow Mar South”) (Bow-Mar Owners and Bow Mar South are collectively referred to as the “Lessees”). Hereinafter, the Town and the Lessees are collectively referred to as the “Parties.”

RECITALS

WHEREAS, the Town owns certain water in the Chatfield Basin that is reusable and fully consumable after its first use for municipal purposes by the Town; and

WHEREAS, from time to time, a certain amount of this water is surplus to the needs and obligations of the Town (“Surplus Water”); and

WHEREAS, the Town anticipates it will have Surplus Water available from time to time in 2024; and

WHEREAS, the Lessees desire to lease a certain portion of the Surplus Water from the Town in accordance with the terms and conditions of this Agreement for use in a Substitute Water Supply Plan (“SWSP”) as an additional source of water to replace depletions to the South Platte River from inflow diversions to the Patrick, Upper Tule, and Lower Tule Reservoirs.

AGREEMENT

NOW THEREFORE, in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Lessees agree as follows:

1. Water Rights Lease. The Town hereby leases to the Lessees a total of 115 acre-feet (AF) annually of the Surplus Water (“Leased Spot Water”), which will be made available from June 1, 2024, through October 31, 2024, with deliveries not to exceed 2 AF per day.

2. Deliveries.

A. Amount. The Town shall provide the Lessees each day with flow measurement data at the discharge point for the Leased Spot Water for the preceding day. Notwithstanding the notice requirements below, the Town may provide flow measurement data by phone, fax, email or other suitable means to assure effective delivery management. The Town shall deliver the Leased Spot Water to the Lessees on the following monthly schedule: 30.60 AF in June, 31.31 AF in July, 26.04 AF in August, 15.30 AF in September, and 6.51 AF in October. Actual day-to-day

deliveries of Leased Spot Water to the Lessees will vary and are in the Town's sole discretion, provided that the Town guarantees a minimum of 0.01 AF will be available daily. The Lessees may verify at any time the accuracy of the flow measurement device used by the Town to measure the Leased Spot Water at the discharge point.

- B. Location of Delivery. The Leased Spot Water shall be released from Chatfield Reservoir into the main stem of the South Platte River.
- C. Acceptance of Deliveries. Subject to the non-refundable payment obligation below, the Lessees may either accept or decline delivery of any portion of the Leased Spot Water the Town delivers from Chatfield Reservoir in accordance with this Agreement. Acceptance of delivery will be confirmed only by inclusion of Leased Spot Water in substitute water supply plan or augmentation plan accounting described below.
- D. Accounting. Beginning on the first day of each month, the Lessees must provide the Town with a weekly accounting of the water they use from this supply as a replacement source. The Lessees must supply the Town their augmentation accounting on a monthly basis, by no later than the fifteenth day of the month following the month of such accounting, or on a more frequent basis and at the times required to report to the water commissioner or division engineer as required by the Division of Water Resources.

3. Lease Rate. The Lessees shall pay to the Town \$8,100.00 for the minimum lease of twenty (20) AF of Leased Spot Water. Additional leased quantities shall be paid at the rate of \$405 per acre-foot. Payment for the minimum lease quantity shall be made within ten (10) days following mutual execution of this Agreement and is nonrefundable. Payment for other quantities leased shall be made thirty (30) days following the issuance of an invoice from the Town.

4. Quality of Leased Water. Leased Water shall be delivered "as is," but shall be of a quality that meets all standards and effluent limitations specified in Colorado Discharge Permit System Permit No. CO-0038547, as amended, or in any other discharge permit issued by the Water Quality Control Division or by the U.S. Environmental Protection Agency authorizing discharges from the Plum Creek Water Reclamation Authority facility, such quality to be measured at the authorized discharge point(s) specified in any such discharge permit. By entering into this Agreement and utilization of the Leased Spot Water, the Lessees acknowledge that water meeting the requirements of this paragraph is suitable for replacement purposes and will accept such water as meeting the terms of this Agreement.

5. Lease Term. The term of this Agreement shall commence on its execution and expire December 31, 2024. By mutual written agreement of the Parties, this Agreement may be renewed on the same or on different terms.

6. Lessees' Obligations. The obligations of the Lessees under this Agreement are limited to making the payments as described in paragraph 3 above.

7. Notice. All notices which may be required to be given by either Party to the other shall be made in writing and either hand delivered or sent by first class United States mail, postage prepaid, addressed as follows, or by facsimile, or via electronic means:

If to Town: Town of Castle Rock
Castle Rock Water
Attn: Matt Benak, Water Resources Manager
175 Kellogg Court
Castle Rock, CO 80109

with copy to: Town of Castle Rock
Attn: Michael J. Hyman, Town Attorney
100 North Wilcox Street
Castle Rock, CO 80104

If to Lessees: Bow Mar Owners, Inc.
Attn: Rob Dennis, President
5380 Lakeshore Drive
Littleton, Colorado 80123

Bow Mar South, Inc.
Attn: Kevin Lessmann
c/o KC & Associates, LLC
P.O. Box 270487
Littleton, CO 80127

8. Assignment. Lessees may not assign its rights hereunder without the prior written consent of the Town, which may be withheld in the Town's sole discretion. In the event that the Town consents to an assignment of Lessees' rights hereunder, the assignee shall execute an assumption agreement pursuant to which it shall assume the Lessees' obligations hereunder. The terms of such assumption agreement must be approved by the Town.

9. Entire Agreement. This Agreement represents the entire Agreement between the Parties on the matters set forth herein and supersedes all prior negotiations, representations or agreements respecting said matters whether written or oral.

10. Binding Effect. The execution of the Agreement by the Town and the Lessees constitutes the execution of a binding lease agreement by the Parties on the terms and conditions contained herein and may not be modified except in writing signed by both Parties. This Lease shall be binding on the Parties' respective successors and assigns.

11. Controlling Law. This Lease Agreement shall be governed under, and construed pursuant to the laws of the State of Colorado.

(signature pages to follow)

ATTEST:

Lisa Anderson, Town Clerk

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Mark Marlowe, Director, Castle Rock Water

[illegible]

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

Witness my official hand and seal.
My commission expires:

Notary Public

LESSEES:

BOW MAR OWNERS, INC.

By:

Robert Dennis
Rob Dennis

STATE OF COLORADO)

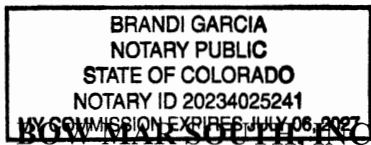
) ss.

COUNTY OF DOUGLAS)

The foregoing instrument as acknowledged before me this 20 day of November, 2023 by Rob Dennis of Bow Mar Owners, Inc.

Witness my official hand and seal.

My commission expires: July 06, 2027



Brandi Garcia
Notary Public

By:

Kevin Lessmann
Kevin Lessmann

STATE OF COLORADO)

) ss.

COUNTY OF DOUGLAS)

The foregoing instrument as acknowledged before me this ____ day of _____, 2023 by Kevin Lessmann of Bow Mar South, Inc.

Witness my official hand and seal.

My commission expires:

Notary Public

LESSEES:

BOW MAR OWNERS, INC.

By: _____
Rob Dennis

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument as acknowledged before me this ____ day of _____, 2023 by Rob Dennis of Bow Mar Owners, Inc.

Witness my official hand and seal.
My commission expires:

Notary Public

BOW MAR SOUTH, INC.

By: _____
Kevin Lessmann

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument as acknowledged before me this 17th day of November, 2023 by Kevin Lessmann of Bow Mar South, Inc.

Witness my official hand and seal.
My commission expires:

Notary Public

