



Meeting Date: April 6, 2021

## MEMORANDUM

**To:** Honorable Mayor and Members of Town Council

**Thru:** David Corliss, Town Manager

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

**Title:** Resolution Approving the 2021 Town of Castle Rock/United Water & Sanitation District Spot Water Lease Agreement [*Chatfield Reservoir, Douglas County*]

---

### Executive Summary

Castle Rock Water is seeking Town Council approval of a resolution (**Attachment A**) for a spot water lease with United Water & Sanitation District (United). In anticipation of drought conditions this summer, United wishes to lease some of the Town's surplus water stored in Chatfield Reservoir to augment their downstream reservoir diversions from the main stem of the South Platte River. Completion of the Chatfield Storage Reallocation Project in 2020 prompted the Colorado Water Conservation Board (CWCB) to allow shareholders access to full storage amounts for the first year of storage. While the Town currently owns 590 acre feet (AF) of storage in Chatfield, storage of up to 2,000 AF was permitted until May 2021. After May, the Town will rent storage in excess of 590 AF. The Town currently has upwards of 1,250 AF of water stored in the reservoir with additional reusable supplies coming in each day.

If Council approves this lease, up to 400 AF of water would be released from the Town's Chatfield Reservoir storage account into the main stem of the South Platte River. This release would occur between [REDACTED], 2021. The Town will assess a \$340 per AF price for the water, with a minimum lease of 20 AF. Initial payment of the 20 AF lease will be required 10 days from approval of this lease, with the remaining quantity to be paid upon subsequent releases. The potential revenue for this lease is up to \$136,000. The agreement will terminate at the end of 2021.

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

Castle Rock Water Commission was informed of the project at their March 24, 2021 meeting and \_\_\_\_\_.

### 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 three years the Town has generated over \$130,000 by leasing idle water rights to downstream users (see **table 1** below). Until these water rights can be fully utilized by the Town, Staff will continue to seek out users that can put these rights to beneficial use.

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

<b>2018</b>	<b>2019</b>	<b>2020</b>
\$29,019.13	\$30,606.65	\$70,699.75

The Town currently owns 590 AF of storage space in Chatfield Reservoir and plans to eventually reach 2,000 AF of storage by 2031. As part of the option agreement the Town has with CWCB, the Town will purchase blocks of storage over the next 10 years. Currently, the Town is planning to take a deferral in 2021 and purchase 129 AF in 2022. This will provide 719 AF of total storage by the end of 2022. The Town will then have two deferrals remaining until the full storage space is realized within the 10-year period.

As mentioned in the Executive Summary, the Town has been able to store excess supplies in Chatfield Reservoir over the past year, which have exceeded the purchased storage amounts (590 AF). Since the Town does not physically have a way to utilize these excess storage supplies at this point in time, CWCB is developing a lease agreement with the Town to lease the option amount for \$50/AF. This lease with CWCB should be in place by May 2021, with a current annual lease rate for 1,410 AF (2,000 AF–590 AF) of \$70,500. The spot lease with United would allow the Town to further maximize storage space within the reservoir and will more than cover the annual lease option of storage space with CWCB.

**Budget Impact**

If Council approves the agreement, Castle Rock Water would receive \$6,800-\$136,000 of additional revenue in 2021. 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 approve the resolution as introduced by title”.

**Attachments**

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

**TOWN OF CASTLE ROCK/[LESSEE]  
SPOT WATER LEASE AGREEMENT**

THIS SPOT WATER LEASE AGREEMENT (“Agreement”) is entered into \_\_\_\_\_, 2021, by and between the Town of Castle Rock, a home rule municipal corporation, acting by and through the Town the Castle Rock Water Enterprise (“Town”), as Lessor, whose address is 100 N. Wilcox Street, Castle Rock, Colorado 80104 and United Water and Sanitation District (“United”), as Lessee, whose address is: \_\_\_\_\_, 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. From time to time, a certain amount of this water is surplus to the needs and obligations of the Town (“Surplus Water”);

**WHEREAS**, the Town anticipates it will have Surplus Water available from time to time in 2021; and

**WHEREAS**, **United** desires to lease a certain portion of the Surplus Water from the Town in accordance with the terms and conditions of this Agreement for use as \_\_\_\_\_  
[Indicate location where water will be taken off of South Platte River].

**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 **United** agree as follows:

1. Water Rights Lease. The Town hereby leases to the **United** a minimum of **20** acre-feet (AF) of the Surplus Water (“Leased Spot Water”) up to **400 acre-feet total**, which will be made available as follows:

A. **Between \_\_\_\_\_ and \_\_\_\_\_ with no additional water released thereafter.**

2. Deliveries.

A. Amount. The Town has approximately 1,250 AF of water within its Chatfield Storage Account. The water will be withdrawn from the Town’s storage account upon coordination with the Colorado Department of Natural Resources – Division of Water Resources, who will make the requested release from Chatfield.

B. Location. Release from Chatfield Reservoir into the main stem of the South Platte River.



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

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 as lessor and the Botanic Gardens as lessee 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 page to follow)**

**LESSOR:**

**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, Dir. of Castle Rock Water

**STATE OF COLORADO )**  
**) ss.**  
**COUNTY OF DOUGLAS )**

The foregoing instrument as acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2021 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

**LESSEE:**

United Water and Sanitation District

By: \_\_\_\_\_  
**Xxxx, TITLE**

**STATE OF COLORADO )**  
**) ss.**  
**COUNTY OF \_\_\_\_\_ )**

The foregoing instrument as acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_ as \_\_\_\_\_ of the United Water and Sanitation District.

Witness my official hand and seal.  
My commission expires:

\_\_\_\_\_  
Notary Public