



STAFF REPORT

To: Honorable Mayor and Members of Town Council

Through: David L. Corliss, Town Manager

From: Mark Marlowe, P.E., Director of Castle Rock Water
Mark Henderson, P.E., Assistant Director of Castle Rock Water
Lauren Moore, Water Resources Manager

Title: **Resolution Approving a First Amendment to the Water Rights Brokerage Agreement between the Town of Castle Rock and Stillwater Resources & Investments, Inc.**

Executive Summary

Castle Rock Water is seeking Town Council approval of a resolution (**Attachment A**) to amend a Water Rights Brokerage Agreement between the Town and Stillwater Resources & Investments, Inc. (Stillwater). This First Amendment (**Exhibit 1**) is to extend the term of the agreement and apply to water rights opportunities that the Town is investigating in the Lost Creek basin located in Weld County. These water rights would complement the Town's existing Lost Creek wells and Box Elder project. Stillwater has been operating as the Town's water rights broker since 2013. The existing agreement was executed on January 19, 2024 with a two-year term and would expire on January 19, 2026. Castle Rock Water continues to investigate additional water rights opportunities to support the Box Elder project. The proposed amendment adds an additional two-years to the term of the agreement to allow Stillwater to investigate, recommend, and prepare terms of agreement for acquisition of additional water rights opportunities.

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

On February 19, 2013 Town Council passed a resolution approving a water rights brokerage agreement between Stillwater Resources & Investments Inc. and the Town of Castle Rock for evaluating renewable water rights in conjunction with the Box Elder Project for a term of two-years. Under this agreement the Town was able to acquire 770-acre feet (AF) of renewable water rights as part of the Rothe-Sublette project.

On February 17, 2015 the first Amendment to the 2013 agreement was approved to extend the term for an additional two years to February 19, 2017 such that Castle Rock Water could continue to pursue additional water rights opportunities and an additional 1,035 AF of renewable water rights were secured in the Lost Creek basin.

On March 7, 2017 Town Council passed a resolution approving a new agreement between Stillwater Resources & Investments Inc. and the Town of Castle Rock to continue to evaluate acquisition of water rights that could contribute to the Box Elder Project. The new agreement maintained many of the same terms of the original agreement but clarified that the agreement applies only to water leases for water rights located north of the City of Denver and would not apply to water rights acquired on Plum Creek or Cherry Creek. It also added terms for the addition of alternative transfer mechanisms to minimize permanent buy-and-dry effects on Agricultural property. The new agreement was for a term of 2 years until March 7, 2019.

On February 5, 2019 the first Amendment to the 2017 agreement was approved to extend the term for an additional two years to March 7, 2021 such that Castle Rock Water could continue to pursue additional water rights opportunities.

On January 19, 2024, Council approved a resolution approving a new agreement between Stillwater Resources & Investments Inc. and the Town of Castle Rock to continue to evaluate acquisition of water rights that could contribute to the Box Elder Project. This agreement was intended to focus on potential acquisition of water rights in Lost Creek basin. The agreement was for a term of two-years until January 19, 2026.

Castle Rock Water staff presented this item to the Castle Rock Water Commission at their meeting held on December 10, 2025, and the Castle Rock Water Commission voted unanimously 7 to 0 to recommend Town Council approval of the Resolution as presented.

Discussion

Since 2013 the Town has used the services of Stillwater to help identify and recommend water rights that would complement the Box Elder project, located in Weld County, which is one of the key elements of the Town's Long-Term Water Plan. The Town obtained 1,485 AF of renewable water rights in the Lost Creek Basin and 770 AF of renewable water rights as part of the Rothe-Sublette project (located along the South Platte River near Orchard, Colorado) through the brokerage agreement with Stillwater. Castle Rock continues to investigate opportunities to obtain additional renewable water rights to ensure that there is enough water to support a 3,000 AF annual yield from the Box Elder project. The focus of Stillwater's efforts will be to support this goal by investigating additional water rights prospects for the Town's consideration, and negotiating the terms of potential purchase agreements. Stillwater has helped the Town purchase 2,255 AF of water. All the water has been purchased within the planned budget. Total brokerage fees to date have been approximately \$800,000 and total investments in water rights associated with the Box Elder project have been approximately \$15.3 million. Stillwater has been developing similar scale water supplies for clients since 1987.

The agreement with Stillwater includes compensation of 5% of the purchase price paid by the Town to the seller of such Prospect (inclusive of all real and/or personal property provided that such property is necessary for the acquisition of the prospect). There are also terms in the agreement for leasing water rights or option agreements whereby Stillwater will receive compensation.

The proposed amendment extends the agreement an additional two years to January 19, 2028, and identifies additional water rights opportunities of approximately 1,100 AF that the town is investigating in the Lost Creek Basin. The amendment allows Stillwater to investigate, recommend and evaluate the water rights opportunities; as well as prepare terms for purchase for the Town to review and take action if desired.

Budget Impact

The budget impact is variable and dependent on the total of amount of water rights acquired and the final purchase price. Based on the total amount of water rights currently being investigated the brokerage fee could be up to \$1M. The 2026 budget includes \$500,000 for water rights acquisition in Account 211-4375-443.75-47. Depending on the timing and the final purchase price a budget amendment or budget transfer may be pursued as necessary to complete an acquisition.

Staff Recommendation

Staff recommends approval of the resolution as presented.

Proposed Motion

“I move to approve the Resolution as introduced by title.”

Alternative Motions

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

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

Attachments

Attachment A: Resolution
Exhibit 1: First Amendment to the Agreement