

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

THIS SPOT WATER LEASE AGREEMENT (“Agreement”) is entered into [DATE], 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 \_\_\_\_\_, 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 [YEAR]; and

**WHEREAS**, [LESSEE] 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 a substitute or replacement supply [A DESCRIPTION OF HOW THE WATER WILL BE USED].

**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 [LESSEE] agree as follows:

1. Water Rights Lease. The Town hereby leases to [LESSEE] a total of \_\_\_\_ acre-feet (AF) annually of the Surplus Water (“Leased Spot Water”), which will be made available as follows:

A. Not to exceed \_\_\_\_ AF per day from \_\_\_\_\_;

2. Deliveries.

A. Amount. The Town shall provide [LESSEE] 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. Actual day-to-day deliveries of Leased Spot Water to [LESSEE] will vary and are in the Town’s sole discretion, provided that the Town guarantees a minimum of \_\_\_\_ AF will be available daily unless the Water Commissioner declares the Plum Creek is not a live stream at the Titan Gage. [LESSEE] 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. The point of delivery of the Leased Spot Water shall be at the Plum Creek Water Reclamation Authority (“PCWRA”) outfall to East Plum Creek [OR WITHIN CHATFIELD, IF THROUGH CHATFIELD REALLOCATION PARTNERS, OR

**DOWNSTREAM OF CHATFIELD IF LESSEE'S ARE LOCATED DOWNSTREAM].**

**[LESSEE]** shall bear any transit losses the Water Commissioner imposes between the PCWRA outfall and **[LESSEE]** point of use. The augmentation point for this water is **[ONLY USE THIS SENTENCE IF APPLICABLE]**, which is approximately \_\_\_\_ miles below PWCRA following the stream channel.

C. Acceptance of Deliveries. Subject to the non-refundable payment obligation below, **[LESSEE]** may either accept or decline delivery of any portion of the Leased Spot Water the Town delivers to Plum Creek 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. **[LESSEE]** must provide the Town with a weekly accounting of the water and on the 1<sup>st</sup> of each month it uses as a substitute or replacement supply in any approved augmentation plan. **[LESSEE]** must supply the Town its augmentation plan accounting on a monthly basis, no later than the fifteenth day of the month following the month of accounting, or on a more frequent basis and at the times required to report to the water commissioner or division engineer as required in the decreed augmentation plan.

3. Fees and Costs.

A. Lease Rate. **[LESSEE]** shall pay to the Town **[NO LESS THAN \$300.00 – THIS RATE IS SUBJECT TO ADJUSTMENT BY CASTLE ROCK WATER STAFF]** per acre foot for each acre-foot of Leased Spot Water measured at the point the Leased Spot Water is discharged from the PCWRA into Plum Creek, and used for augmentation by **[LESSEE]**.

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. EPA 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, **[LESSEE]** acknowledges that water meeting the requirements of this paragraph is suitable for augmentation 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 **[DATE]**. By mutual written agreement of the Parties, this Lease Agreement may be renewed on the same or on different terms.

6. Lessee's Obligations. **[LESSEE]** obligations 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  
Attn: Director of Castle Rock Water  
100 N. Wilcox Street  
Castle Rock, CO 80104

with copy to: Town of Castle Rock  
Attn: Town Attorney  
100 N. Wilcox Street  
Castle Rock, CO 80104

If to [LESSEE]: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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 [LESSEE] 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

\_\_\_\_\_  
Mark Marlowe, Dir. of Castle Rock Water

**Approved as to form:**

\_\_\_\_\_  
Michael J. Hyman, Town Attorney

**LESSEE:**

By:

\_\_\_\_\_  
Lessee's Authorized Agent

**STATE OF COLORADO )**

**) ss.**

**COUNTY OF [SPECIFY COUNTY])**

The foregoing instrument as acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by  
[LESSEE].

Witness my official hand and seal.

My commission expires:

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