

**CONTRACT FOR PURCHASE OF WATER RIGHTS**  
(Burlington Ditch, Reservoir and Land Company Shares  
and Brighton Lateral Ditch Company Shares)

This Contract for Purchase of Water Rights (this "Agreement") is made this 17th day of August, 2017, by and between ORCHARD CHURCH, a Colorado nonprofit corporation ("SELLER"), whose address is 10422 Heinz Way, Unit A Henderson, CO 80640, and the CITY OF BRIGHTON, a Colorado home rule municipal corporation of the County of Adams, State of Colorado (the "BUYER") (BUYER and SELLER are collectively referred to as the "PARTIES").

1. Description of Water Shares. SELLER is the sole owner of the water rights represented by Three and 79/100 (3.79) shares of capital stock in The Burlington Ditch, Reservoir and Land Company (the "BURLINGTON SHARES") certificate number #3994, and Three and 79/100 (3.79) shares of capital stock in The Brighton Lateral Ditch Company (the "LATERAL SHARES") certificate number #424 (collectively the "SHARES"). Copies of the SHARES are attached as Exhibit 1.

2. Purchase Price. Subject to the terms of this Agreement, SELLER shall sell to BUYER and BUYER shall buy from SELLER the SHARES for a purchase price of Ninety-Four Thousand Seven Hundred Fifty Dollars and 00/100 (\$94,750.00).

3. Closing Date. BUYER's obligation to purchase the SHARES is contingent upon the approval of funding by the City Council of the City of Brighton. It is understood and agreed that this Agreement may be submitted to City Council for approval (with this funding contingency) on or before September 5, 2017, so long as said Agreement has been executed prior to that date by SELLER. BUYER shall have until October 5, 2017 ("Funding Contingency Date") to secure approval of funding. If funding is not approved on or before the Funding Contingency Date, this Agreement shall automatically terminate and be of no force or effect. If this funding contingency is satisfied by the Funding Contingency Date, then, subject to the other provisions of this Agreement, closing of this Agreement shall take place no later than October 5, 2017. Closing shall take place at the offices of the City of Brighton, or at such other time and place as may be mutually agreed upon by the parties.

4. Closing.

A. On the date of closing, SELLER shall:

(1) Deliver to BUYER, BURLINGTON SHARES certificate number #3994 and LATERAL SHARES certificate number #424, together with executed assignments thereof in the form of Exhibits 2 and 3, giving BUYER the authority to transfer the ownership of the SHARES evidenced by the stock certificates from SELLER to the BUYER on the records of The Burlington Ditch, Reservoir and Land Company and The Brighton Lateral Ditch Company at no cost and expense to SELLER;

(2) Deliver an executed Water Rights Quit Claim Deed, in the form of Exhibit 4 (the "Deed"), conveying to BUYER the SHARES. The assignments and Deed shall be given free and clear from all liens, mortgages, encumbrances, ditch assessments, or adverse claims, except any ditch assessments now due and owing, and subject to the Articles of

Incorporation, Bylaws, and Rules and Regulations of The Burlington Ditch, Reservoir and Land Company and The Brighton Lateral Ditch Company. Notwithstanding anything contained herein to the contrary, BUYER agrees that it shall not record the Deed until the Burlington Ditch, Reservoir and Land Company and the Brighton Lateral Ditch Company boards of directors have approved the stock transfers that are the subject of this Agreement.

5. Title. Title to the SHARES shall be merchantable in SELLER. SELLER represents that it is, and on the closing date will be, the lawful owner of the SHARES and has full authority to sell and deliver the same to BUYER in accordance with this AGREEMENT, free and clear of all liens, mortgages, assessments, claims and encumbrances of any type. Any encumbrance existing at the time of closing may be paid at the closing from the proceeds of this transaction or from any other source. SELLER represents that it has full right, power and authority to execute this AGREEMENT and to endorse over the stock certificates to BUYER pursuant to the statutory requirements of the State of Colorado. SELLER further represents that to SELLERS' actual knowledge without duty to investigate there are no present pending actions or claims which might give rise to any court proceedings or contingent claims affecting ownership of the water.

6. Remedies. There shall be the following remedies:

A. If SELLER is in default, (1) BUYER may elect to treat this Agreement as terminated, or (2) BUYER may treat this Agreement as being in full force and effect and BUYER shall have the right to an action for specific performance. In the event BUYER elects to pursue specific performance, BUYER shall initiate its action for specific performance no later than thirty (30) days following SELLER's default and failure to consummate this Agreement, and in the event that BUYER does not initiate an action for specific performance within such timeframe, BUYER shall have waived its right to pursue specific performance. BUYER hereby waives all right to recover damages from SELLER.

B. If BUYER is in default, (1) SELLER may elect to treat this AGREEMENT as terminated, or (2) SELLER may treat this AGREEMENT as being in full force and effect and SELLER shall have the right to an action for specific performance.

7. Notices: All notices, requests, demands, or other communications ("Notices") hereunder shall be in writing and given by (i) established express delivery service which maintains delivery records requiring a signed receipt, (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested to the PARTIES at the following address, or at such other address as the PARTIES may designate by Notice in the above manner.

To SELLER:

The Orchard Church,  
10422 Heinz Way, Unit A  
Henderson, CO 80640  
Attn: Jac Cuney

with a copy to:

Burns, Figa & Will, P.C.  
6400 S. Fiddlers Green Circle, Suite 1000  
Greenwood Village, CO 80111  
Attn: Matt Dillman

To BUYER:

City of Brighton  
500 South 4<sup>th</sup> Avenue  
Brighton, Colorado 80603  
Attn: Dawn Hessheimer

8. Successors and Assigns. This contract shall be binding upon and inure to the benefit of the heirs, successors, assigns, and legal representatives of the parties hereto.

9. Legal and Tax Advice. All parties are advised to consult legal counsel, tax counsel or other counsel before signing.

10. Notice. Any notice to BUYER shall be effective when received by BUYER and any notice to SELLER shall be effective when received by SELLER.

11. Contingencies: SELLER and BUYER acknowledge and agree that this Agreement is contingent on stock transfer approvals by the Burlington Ditch, Reservoir and Land Company and the Brighton Lateral Ditch Company boards of directors, and that these approvals will not occur until after Closing. This Agreement shall at BUYER's option terminate if either board of directors does not approve the proposed stock transfer within ninety (90) days of Closing ("Ditch Board Approval Date"). In the event BUYER terminates this Agreement by providing written notice of termination to SELLER by no later than five (5) business days following the Ditch Board Approval Date, BUYER shall return and re-assign the stock certificates to SELLER, and shall return the unrecorded Deed to SELLER; and SELLER shall return the Purchase Price to BUYER. BUYER agrees to pay any transfer fees charged by The Burlington Ditch, Reservoir and Land Company or The Brighton Lateral Ditch Company in connection with the transaction that is the subject of this Agreement. This paragraph shall survive the Closing.

BUYER:

**CITY OF BRIGHTON**

By: \_\_\_\_\_  
Clint Blackhurst, Interim City Manager

SELLER: **ORCHARD CHURCH, a Colorado non-profit Corporation**

By:  \_\_\_\_\_  
Doug Dameron, Pastor  
10422 Heinz Way, Unit A  
Henderson, CO 80640