

CONTRACT

This CONTRACT (this “*Contract*”) is made by and between JOHN KUERSTEN (“*Seller*”) and TOWN OF NEW CASTLE, COLORADO, WATER AND SEWER ENTERPRISE, an enterprise of the Town of New Castle, Colorado within the meaning of Article X, Section 20 of the Colorado Constitution (“*Buyer*”) and is effective on the last date this Contract is signed by both parties (“*Effective Date*”) as shown on the signature page of this Contract.

W I T N E S S E T H:

WHEREAS, Seller desires to sell and Buyer desires to purchase, upon the terms and conditions hereinafter set forth, 8 shares in the Ware and Hinds Ditch Association and the water right interests represented thereby.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Ditch Shares.** Subject to the terms and conditions of this Contract, Buyer agrees to purchase and Seller agrees to sell 8 shares (delineated as Class A Stock) in the Ware and Hinds Ditch Association, a Colorado nonprofit corporation (the “*Company*”), which shares are represent entitlement to delivery of approximately 72 g.p.m. of water decreed to the Ware & Hinds Ditch adjudicated in the District Court in and for Garfield County, Colorado, as follows:

A. Civil Action No. 103, with an adjudication date of 5/11/1889 and an appropriation date of 10/1/1883 for 5 c.f.s. for irrigation;

B. Civil Action No. 103, with an adjudication date of 5/11/1889 and an appropriation date of 3/1/1886 for 10.30 c.f.d.s for irrigation;

C. Civil Action No. 103, with an adjudication date of 5/11/1889 and an appropriation date of 5/1/1888 for 5.50 c.f.s. for irrigation;

D. Civil Action No. 767, with an adjudication date of 11/15/1897 and an appropriation date of 4/18/1896 for 1.60 c.f.s. for irrigation;

E. Civil Action No. 779, with an adjudication date of 6/15/1898 and an appropriation date of 3/3/1896 for 0.20 c.f.s. for irrigation;

F. Civil Action No. 883, with an adjudication date of 12/18/1900 and an appropriation date of 10/8/1898 for 3.60 c.f.s for irrigation;

G. Civil Action No. 3431, with an adjudication date of 1/11/1943 and an appropriation date of 3/4/1921 for 21.3 c.f.s. for irrigation.

(the “*Ditch Shares*”).

2. **Purchase Price.** The purchase price for the Ditch Shares is **\$120,000.00** (the "***Purchase Price***"), to be paid to Seller in good and sufficient funds at Closing (as hereinafter defined).

3. **Seller's Documents.** Within ten (10) days after the Effective Date, Seller agrees to deliver to Buyer any and all documents in Seller's possession or control relating to the Ditch Shares ("***Seller's Documents***").

4. **Buyer's Due Diligence Review.** Buyer shall have from the Effective Date until the date which is thirty (30) days after delivery to Buyer of Seller's Documents to perform such inspections and investigations related to the Ditch Shares as Buyer in its sole and absolute discretion deems necessary or appropriate, including without limitation, investigations related to title to the Ditch Shares, information regarding the Company, any Company limitations or requirements on use of the Ditch Shares, and suitability of the Ditch Shares for Buyer's intended uses ("***Due Diligence Period***"). In the event Buyer is not satisfied with its inspections or determines not to purchase all or any portion of the Ditch Shares for any or no reason at all, Buyer may, in its sole and absolute discretion, either (a) submit a due diligence objection ("***Objection***") to Seller on or before the expiration of the Due Diligence Period or (b) terminate the Contract by providing written notice to Seller prior to expiration of the Due Diligence Period, in which event the parties shall have no further obligations hereunder. In the event Buyer elects to submit an Objection, Seller will respond to the same within three (3) days of the date of the Objection. If the parties cannot resolve Buyer's Objection within three (3) days of the date of the Objection, Buyer may, in its sole and absolute discretion, terminate the Contract, in which event the parties shall have no further obligations hereunder.

5. **Financing Contingency/Seller Financing.** Buyer may obtain a new loan for all or a portion of the Purchase Price. Buyer shall apply for such financing no later than seven (7) days following the expiration of the Due Diligence Period ("***Application Deadline***"). Seller is also willing to finance Buyer based upon ___% down at ___% interest amortized over ___ months with a final payment due on _____. This Contract is conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the new loan or the Seller financing is satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions and cost. This condition is for the sole benefit of Buyer. Buyer has the right to terminate this Contract within thirty (30) days of the Application Deadline ("***Loan Termination Deadline***"), if the new loan or Seller financing terms are not satisfactory to Buyer, in Buyer's sole subjective discretion.

6. **Seller's Representations.** Seller makes the following representations:

(a) Other than this Contract, Seller is not a party to any contract for sale, option to purchase, lease, or any other agreement existing and in force with respect to or in any manner affecting all or any portion of the Ditch Shares or any interest therein;

(b) Seller obtained title to the Ditch Shares via quitclaim deed from CB Minerals, LLC, on April 11, 2019 and shall convey title to the Ditch Shares via quitclaim deed to Buyer. Seller *does not* warrant title; (c) Neither the execution of the Contract nor the consummation of the transaction contemplated herein will result in a breach, default, or violation of any agreement to which Seller is a party;

(e) Since acquiring the Ditch Shares on April 11, 2019, Seller has taken no action and does not have any knowledge of facts which would give rise to a claim for a lien, encumbrance, or any other type of claim to or against the Ditch Shares;

(f) Seller has not received written notice and has no actual knowledge of: (i) any condemnation or governmental taking threatened or pending against all or any portion of the Ditch Shares; or (ii) any litigation, claim, judgment, or proceeding relating to, affecting, or which could become a lien on, the Ditch Shares part thereof;

(g) Seller has not received written notice and has no actual knowledge that the Ditch Shares are not in compliance with all governing documents and requirements of the Company; and

(i) There are no maintenance, service, or other contracts or agreements concerning or affecting the Ditch Shares to which Seller is a party which would be binding on Buyer after Closing, except as disclosed in Seller's Documents.

7. **Closing; Closing Costs; and Deliverables.** This transaction shall close no later than seven (7) days after the end of Buyer's Due Diligence Period ("**Closing**"). Seller and Buyer shall equally share all costs associated with the Closing, including any and all fees and costs charged or assessed by the Company for the transaction and Closing, if any. Except as otherwise provided herein, each party shall pay its own attorney's fees. At Closing, Buyer shall deliver the Purchase Price in good and sufficient funds to Seller, and Seller shall execute and deliver to Buyer the following:

(a) Quitclaim Deed conveying Seller's title to the Ditch Shares (the "**Deed**"), which Deed shall be recorded in the records of the Office of the Garfield County Clerk and Recorder;

(b) Such further documents as may be required for the transfer to Buyer of the Ditch Shares, including without limitation as may be required by the Company to complete the transaction contemplated by this Contract and the recording in the Company records of Buyer's ownership of the Ditch Shares.

At Closing, Seller shall request the Company to transfer the Ditch Shares to Buyer on the books and records of the Company.

8. **Proration of Assessments.** All 2019 Company assessments and charges against the Ditch Shares, if any, shall be paid by Buyer at Closing.

9. **Default and Remedies.** If either party defaults or breaches its obligations under this Contract, the non-defaulting party may (i) sue to specifically enforce this Contract; or (ii) terminate this Contract by written notice to the defaulting party. 10. **Ratification _____ by Buyer.** This Contract must be ratified by the Town Council for the Town of New Castle at its next regularly scheduled meeting on May __, 2019. In the event the Town Council does not

ratify the Town Administrator's execution of this Contract, this Contract shall be void and of no force and effect.

11. **Miscellaneous.** The parties acknowledge and agree that the following terms and conditions are a material part of this Contract:

(a) In the event either party is required to provide notice to the other party, such notice shall be by hand-delivery, by U.S. First Class Mail, or by overnight delivery service or by electronic mail. Notice shall be deemed given (i) when received if transmitted by hand-delivery, (ii) on the third (3rd) business day if transmitted by U.S. Mail, (iii) the next business day if transmitted by overnight delivery, or (4) within one hour of sending via electronic mail if sender does not receive a notice of undeliverability. Notice shall be sent to the following addresses:

To Seller: John Kuersten
4250 County Road 214
Silt, Colorado 81652
john@kuerstenconstruction.com

with copy to: Edward B.Olszewski
Olszewski, Massih & Maurer, P.C.
P.O. Box 916
Glenwood Springs, CO 81601
ed@ommpc.com

To Buyer: Town of New Castle
Attn: David Reynolds, Town Administrator
450 W. Main Street
New Castle, Colorado 81647
dreynolds@newcastlecolorado.org

With copy to: Garfield & Hecht, P.C.
Attn: David H. McConaughy
901 Grand Avenue, Suite 201
Glenwood Springs, CO 81601
Email: dmcconaughey@garfieldhecht.com

(b) This Contract shall be governed by and construed according to the laws of the State of Colorado. Venue for any legal action or suit related to this Contract shall be in the District Court in and for Garfield County, Colorado.

(c) There are no oral agreements, understanding, representations or promises made by either party which modify, contradict, or supersede this Contract. This Contract constitutes the entire and complete agreement of the parties concerning the subject matter hereof. This Contract may be modified only by a written agreement signed by both parties.

(d) Should either party commence legal action to enforce or construe this Contract, the prevailing party in such action is entitled to recover its attorney fees and costs actually incurred in such action from the other party.

(e) This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

(f) This Contract may be executed in duplicate original counterparts, each of which shall constitute an original, but all of which when taken together shall constitute one and the same document.

IN WITNESS WHEREOF, the Seller and Buyer have caused this Contract to be executed on the dates shown below.

SELLER:

BUYER:

Town of New Castle, Colorado, Water and
Sewer Enterprise

John Kuersten

David Reynolds, Town Administrator

Date: _____

Date: _____

CONTRACT

This CONTRACT (this “*Contract*”) is made by and between CHET STICKLER and MERIYA STICKLER (collectively, “*Seller*”) and TOWN OF NEW CASTLE, COLORADO, WATER AND SEWER ENTERPRISE, an enterprise of the Town of New Castle, Colorado within the meaning of Article X, Section 20 of the Colorado Constitution (“*Buyer*”) and is effective on the last date this Contract is signed by both parties (“*Effective Date*”) as shown on the signature page of this Contract.

W I T N E S S E T H:

WHEREAS, Seller desires to sell and Buyer desires to purchase, upon the terms and conditions hereinafter set forth, 10 shares in the Ware and Hinds Ditch Association and the water right interests represented thereby.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Ditch Shares.** Subject to the terms and conditions of this Contract, Buyer agrees to purchase and Seller agrees to sell 10 shares (delineated as Class A Stock) in the Ware and Hinds Ditch Association, a Colorado nonprofit corporation (the “*Company*”), which shares are represent entitlement to delivery of approximately 90 g.p.m. of water decreed to the Ware & Hinds Ditch adjudicated in the District Court in and for Garfield County, Colorado, as follows:

A. Civil Action No. 103, with an adjudication date of 5/11/1889 and an appropriation date of 10/1/1883 for 5 c.f.s. for irrigation;

B. Civil Action No. 103, with an adjudication date of 5/11/1889 and an appropriation date of 3/1/1886 for 10.30 c.f.d.s for irrigation;

C. Civil Action No. 103, with an adjudication date of 5/11/1889 and an appropriation date of 5/1/1888 for 5.50 c.f.s. for irrigation;

D. Civil Action No. 767, with an adjudication date of 11/15/1897 and an appropriation date of 4/18/1896 for 1.60 c.f.s. for irrigation;

E. Civil Action No. 779, with an adjudication date of 6/15/1898 and an appropriation date of 3/3/1896 for 0.20 c.f.s. for irrigation;

F. Civil Action No. 883, with an adjudication date of 12/18/1900 and an appropriation date of 10/8/1898 for 3.60 c.f.s for irrigation;

G. Civil Action No. 3431, with an adjudication date of 1/11/1943 and an appropriation date of 3/4/1921 for 21.3 c.f.s. for irrigation.

(the “*Ditch Shares*”).

2. **Purchase Price.** The purchase price for the Ditch Shares is **\$150,000.00** (the “***Purchase Price***”), to be paid to Seller in good and sufficient funds at Closing (as hereinafter defined).

3. **Seller’s Documents.** Within ten (10) days after the Effective Date, Seller agrees to deliver to Buyer any and all documents in Seller’s possession or control relating to the Ditch Shares “***Seller’s Documents***”).

4. **Buyer’s Due Diligence Review.** Buyer shall have from the Effective Date until the date which is thirty (30) days after delivery to Buyer of Seller’s Documents to perform such inspections and investigations related to the Ditch Shares as Buyer in its sole and absolute discretion deems necessary or appropriate, including without limitation, investigations related to title to the Ditch Shares, information regarding the Company, any Company limitations or requirements on use of the Ditch Shares, and suitability of the Ditch Shares for Buyer’s intended uses (“***Due Diligence Period***”). In the event Buyer is not satisfied with its inspections or determines not to purchase all or any portion of the Ditch Shares for any or no reason at all, Buyer may, in its sole and absolute discretion, either (a) submit a due diligence objection (“***Objection***”) to Seller on or before the expiration of the Due Diligence Period or (b) terminate the Contract by providing written notice to Seller prior to expiration of the Due Diligence Period, in which event the parties shall have no further obligations hereunder. In the event Buyer elects to submit an Objection, Seller will respond to the same within three (3) days of the date of the Objection. If the parties cannot resolve Buyer’s Objection within three (3) days of the date of the Objection, Buyer may, in its sole and absolute discretion, terminate the Contract, in which event the parties shall have no further obligations hereunder.

5. **Financing Contingency.** Buyer may obtain a new loan for all or a portion of the Purchase Price. Buyer shall apply for such financing no later than seven (7) days following the expiration of the Due Diligence Period (“***Application Deadline***”). This Contract is conditional upon Buyer determining, in Buyer’s sole subjective discretion, whether the new loan is satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions and cost. This condition is for the sole benefit of Buyer. Buyer has the right to terminate this Contract within thirty (30) days of the Application Deadline (“***Loan Termination Deadline***”), if the new loan is not satisfactory to Buyer, in Buyer’s sole subjective discretion.

6. **Seller’s Representations.** Seller makes the following representations:

(a) Other than this Contract, Seller is not a party to any contract for sale, option to purchase, lease, or any other agreement existing and in force with respect to or in any manner affecting all or any portion of the Ditch Shares or any interest therein;

(b) Seller obtained title to the Ditch Shares via quitclaim deed from CB Minerals, LLC on April 11, 2019 and shall convey title to the Ditch Shares via quitclaim deed to Buyer. Seller *does not* warrant title;

(c) Neither the execution of the Contract nor the consummation of the transaction contemplated herein will result in a breach, default, or violation of any agreement to which Seller is a party;

(e) Since acquiring the Ditch Shares on April 11, 2019, Seller has taken no action and does not have any knowledge of facts which would give rise to a claim for a lien, encumbrance, or any other type of claim to or against the Ditch Shares;

(f) Seller has not received written notice and has no actual knowledge of: (i) any condemnation or governmental taking threatened or pending against all or any portion of the Ditch Shares; or (ii) any litigation, claim, judgment, or proceeding relating to, affecting, or which could become a lien on, the Ditch Shares part thereof;

(g) Seller has not received written notice and has no actual knowledge that the Ditch Shares are not in compliance with all governing documents and requirements of the Company; and

(i) There are no maintenance, service, or other contracts or agreements concerning or affecting the Ditch Shares to which Seller is a party which would be binding on Buyer after Closing, except as disclosed in Seller's Documents.

7. **Closing; Closing Costs; and Deliverables.** This transaction shall close no later than seven (7) days after the end of Buyer's Due Diligence Period ("**Closing**"). Seller and Buyer shall equally share all costs associated with the Closing, including any and all fees and costs charged or assessed by the Company for the transaction and Closing, if any. Except as otherwise provided herein, each party shall pay its own attorney's fees. At Closing, Buyer shall deliver the Purchase Price in good and sufficient funds to Seller, and Seller shall execute and deliver to Buyer the following:

(a) Quitclaim Deed conveying Seller's title to the Ditch Shares (the "**Deed**"), which Deed shall be recorded in the records of the Office of the Garfield County Clerk and Recorder;

(b) Such further documents as may be required for the transfer to Buyer of the Ditch Shares, including without limitation as may be required by the Company to complete the transaction contemplated by this Contract and the recording in the Company records of Buyer's ownership of the Ditch Shares.

At Closing, Seller shall request the Company to transfer the Ditch Shares to Buyer on the books and records of the Company.

8. **Proration of Assessments.** All 2019 Company assessments and charges against the Ditch Shares, if any, shall be paid by Buyer at Closing.

9. **Default and Remedies.** If either party defaults or breaches its obligations under this Contract, the non-defaulting party may (i) sue to specifically enforce this Contract; or (ii) terminate this Contract by written notice to the defaulting party. 10. **Ratification by Buyer.** This Contract must be ratified by the Town Council for the Town of New Castle at its next regularly scheduled meeting on May __, 2019. In the event the Town Council does not ratify the Town Administrator's execution of this Contract, this Contract shall be void and of no force and effect.

11. **Miscellaneous.** The parties acknowledge and agree that the following terms and conditions are a material part of this Contract:

(a) In the event either party is required to provide notice to the other party, such notice shall be by hand-delivery, by U.S. First Class Mail, or by overnight delivery service or by electronic mail. Notice shall be deemed given (i) when received if transmitted by hand-delivery, (ii) on the third (3rd) business day if transmitted by U.S. Mail, (iii) the next business day if transmitted by overnight delivery, or (4) within one hour of sending via electronic mail if sender does not receive a notice of undeliverability. Notice shall be sent to the following addresses:

To Seller:

Chet Stickler
4100 County Road 214
Silt, Colorado 81652
stickman1511@LIVE.COM

with copy to: Edward B. Olszewski
Olszewski, Massih & Maurer, P.C.
P.O. Box 916
Glenwood Springs, CO 81602
ed@ommpc.com

To Buyer: Town of New Castle
Attn: David Reynolds, Town Administrator
450 W. Main Street
New Castle, Colorado 81647
dreynolds@newcastlecolorado.org

With copy to: Garfield & Hecht, P.C.
Attn: David H. McConaughy
901 Grand Avenue, Suite 201
Glenwood Springs, CO 81601
Email: dmcconaughey@garfieldhecht.com

(b) This Contract shall be governed by and construed according to the laws of the State of Colorado. Venue for any legal action or suit related to this Contract shall be in the District Court in and for Garfield County, Colorado.

(c) There are no oral agreements, understanding, representations or promises made by either party which modify, contradict, or supersede this Contract. This Contract constitutes the entire and complete agreement of the parties concerning the subject matter hereof. This Contract may be modified only by a written agreement signed by both parties.

(d) Should either party commence legal action to enforce or construe this Contract, the prevailing party in such action is entitled to recover its attorney fees and costs actually incurred in such action from the other party.

(e) This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

(f) This Contract may be executed in duplicate original counterparts, each of which shall constitute an original, but all of which when taken together shall constitute one and the same document.

IN WITNESS WHEREOF, the Seller and Buyer have caused this Contract to be executed on the dates shown below.

SELLER:

BUYER:

Town of New Castle, Colorado, Water and
Sewer Enterprise

Chet Stickler

David Reynolds, Town Administrator

Date: _____

Date: _____

Meriya Stickler

Date: _____