

**CONTRACT FOR PURCHASE
OF FOUNTAIN MUTUAL IRRIGATION COMPANY STOCK**

This Contract for Purchase of Fountain Mutual Irrigation Company stock ("Contract") is entered into and effective as of the Effective Date, by and between Comanche Resources L.L.C., whose address is c/o Gary Smith, P.O. Box 25068, Colorado Springs, Colorado 80936 ("Seller"), and the City of Colorado Springs, a home rule city and Colorado municipal corporation, on behalf of its enterprise, Colorado Springs Utilities, whose address is P.O. Box 1103, Colorado Springs, Colorado, 80947-1015 ("Buyer").

RECITALS

WHEREAS, Seller is the owner of one hundred and thirty-one (131) shares of stock in the Fountain Mutual Irrigation Company represented by stock certificate numbers 1568 and 1506; and

WHEREAS, Buyer is a municipal water utility, and as such has a need and necessity for the Subject Water Rights for the purposes of supplying water for municipal and other uses to the inhabitants of the City of Colorado Springs, Colorado (the "City") and other water customers within its water service territory; and

WHEREAS, Buyer desires to purchase the Subject Stock and associated Subject Water Rights in up to two separate phased transactions where Buyer will close over time on the purchase of the shares represented by the Subject Stock ("Phase(s)") upon the terms and conditions hereinafter described.

NOW THEREFORE, in consideration of the foregoing recitals and representations and the covenants, promises, payments, and agreements herein set forth, the adequacy, sufficiency, and receipt of which are hereby acknowledged, the parties agree as follows:

1. **Definitions.** For purposes of this Contract, the following terms shall have the following meanings, unless the context clearly requires otherwise:
 - 1.1. "Closing" means those activities described herein that are required for consummation of the purchase and sale of the Subject Stock during each Phase.
 - 1.2. "Closing Date" means the date identified in Section 8 of this Contract by which all Closing activities related to a particular Phase will be completed.
 - 1.3. "Ditch Company" means the Fountain Mutual Irrigation Company, a Colorado mutual ditch company.
 - 1.4. "Due Diligence Period" means the period described in Section 6 during which Buyer may conduct due diligence activities related to the purchase and sale of the Subject Stock.

- 1.5 “Effective Date” means the date on which this Contract (1) has been executed by an authorized representative of Buyer; and (2) has been executed by an authorized representative of Seller.
- 1.6 “Escrow Agent” means a third party selected by the parties who will hold funds and documents in escrow pending completion of conditions for closing set forth in this Contract, in accordance with this Contract and a separate escrow agreement signed by the parties and the Escrow Agent, which sets forth the terms under which such funds and documents may be released.
- 1.7 “Purchase Price” means the price agreed to between Buyer and Seller in Section 3 of this Contract for the purchase and sale of the Subject Stock.
- 1.8 “Subject Stock” means the 131 shares of stock from the 141 shares of stock represented by Fountain Mutual Irrigation Company stock certificate number 1568.
- 1.9 “Subject Water Rights” means the proportional interest in the water rights corresponding with and represented by the Subject Stock, and all beneficial rights, title, and interests in all water, water rights, ditches, ditch rights, reservoirs, reservoir rights, canals, canal rights, headgates, and all other assets, rights, title, or interests of the Ditch Company derived from or represented by the Subject Stock. The term Subject Stock includes the Subject Water Rights.
2. Sale and Purchase. Subject to the terms and conditions hereinafter provided, Seller hereby agrees to sell and Buyer agrees to buy the Subject Stock in up to two separate Phases where Buyer will close on the purchase of all of the shares represented by Subject Stock.
3. Purchase Price. The Purchase Price for the Subject Stock to be paid by Buyer, subject to the terms and conditions set forth herein, is:

Price Per Share: \$11,250.00

Number of Shares: 131

Total Price: \$1,473,750.00

This price per share is based upon the historical average consumptive use of the Subject Stock of 0.7 annual acre feet per share as set forth in *Williams v. Midway Ranches Property Owners Ass’n, Inc.* 1997, Division 2, Water Court. At closing on each Phase, the Purchase Price for the shares of the Subject Stock purchased during that Phase will be determined by multiplying the price per share set forth above by the number of shares of the Subject Stock Buyer is purchasing during that Phase.

4. Water Court Action. The Subject Stock is currently dedicated as a source of replacement water in three plans for augmentation to replace depletions from Midway Ranches POA Well

No. 1 and C.R. Well No. 1 ("Comanche Wells"), as provided in Case Nos. 99CW146, 00CW152 and 02CW112, Water Court for Water Division 2, State of Colorado ("Augmentation Plans"). The Subject Stock will have to be removed from dedication as replacement water rights in the Augmentation Plans through a proceeding in the Water Court for Water Division 2 before this transaction can close and they can be used by Buyer. Seller is in the process of preparing for the Water Court proceeding necessary to remove the Subject Stock from the Augmentation Plans and is in need of funds to pay attorney's fees associated with that proceeding. To further such Water Court Case, within thirty (30) days after the mutual execution of this Contract, Buyer agrees to pay Seller \$25,000.00 of the Purchase Price as an earnest money deposit to assist Seller with funding such proceeding. The deposit payment will be applied to the Purchase Price of the Subject Stock. Should the Buyer or Seller terminate this Contract pursuant to its terms and conditions, Seller shall within thirty (30) days of receiving or providing notice of such termination, refund the deposit payment to Buyer. Seller shall proceed with the Water Court Case to withdraw the Subject Stock from the Augmentation Plans on the basis that the Subject Stock is surplus replacement water under the Augmentation Plans and can be removed from the Augmentation Plans without injury to the Augmentation Plans and other vested water rights. The conduct of said Water Court Case shall be at Seller's expense and the timing, prosecution, and conclusion of the Water Court Case shall be entirely within Seller's control and discretion. Buyer shall have the right to participate, at its own expense, in such Water Court Case to protect its water rights interests. Buyer will cooperate with the Seller in the Water Court Case and will not take any action to impair, impede, or interfere with the Seller's ability to obtain any such required authorization to remove the Subject Stock from the Augmentation Plans. Buyer's cooperation with Seller shall not include incurring legal or engineering costs.

5. Title, Title Review, and Diligence.

- 5.1. The parties agree that in order to consummate the transaction contemplated by this Contract, title to the Subject Stock must be unencumbered and marketable in Seller so that the Subject Stock may be delivered free, clear, and unencumbered to Buyer, and that Buyer's obligations under this Contract are specifically conditioned and contingent on Seller possessing such title prior to Closing. Notwithstanding any other provisions of this Contract, if Seller does not have such free and unencumbered and marketable title in any shares of the Subject Stock as of the Closing Date for each Phase, Buyer may terminate this Contract by providing written notice delivered to Seller. In the event of such termination by Buyer, Seller and Buyer shall be relieved of all obligations hereunder except for the obligation of Seller to refund the deposit payment to Buyer.
- 5.2. On or before the date that is ten (10) days after the Effective Date, Seller shall deliver to Buyer complete and legible copies of all non-privileged documents or reports in the possession of Seller or Seller's agents, engineers, and/or consultants, under Seller's control and relating to representation of Seller, that concern the Subject Stock, including: (1) a complete copy of the certificates for the Subject Stock (front and back); (2) a complete description of the service area for which the Subject Stock has been changed to serve; (3) for any share or share certificate that is held or issued in the name of the Seller where there is an encumbrance holder whose lien needs to be released upon closing, a copy of any

deed of trust, mortgage, pledge, lien, or other encumbrance on the Subject Stock, together with evidence of the current amount of the secured debt; (4) such other documents as Buyer may reasonably request to prove that Seller owns the Subject Stock and can deliver the same free and clear of all encumbrances at Closing; (5) a copy of any and all documents (such as leases) establishing or identifying possessory interests held by third parties in the Subject Stock that are in Seller's possession, and written disclosure of any such document of which Seller has knowledge but not possession; (6) information and documents concerning Seller's use of the Subject Water Rights and any engineering reports concerning the historical consumptive use and the historical stream depletions of such water rights; (7) any title commitments, title opinions, title abstracts, surveys, drawings, legal descriptions, aerial or other photographs related to the Subject Stock; (8) any reports evaluating the Subject Stock, or any diversion records or engineering reports, court decrees, or administrative agency documents pertaining to the Subject Stock; (9) any operating agreements and/or ditch agreement related to the Subject Stock; (10) any and all communications regarding the Subject Stock with a ditch company or a state agency; and (11) if the Seller is not a natural person, proof that the person acting for the Seller is authorized by the Seller (a) to enter into this Agreement on behalf of the shareholder(s) whose name appears on the share certificate, and (b) to execute the share assignments and special warranty deed on its behalf.

- 5.3. Seller hereby consents to Buyer's review of the Ditch Company records as they relate to the ownership and status of the Subject Stock. Buyer agrees it will be responsible for the costs of evaluating any materials necessary to determine the status of the Subject Stock. Seller hereby further consents to Buyer's lawful actions in obtaining information related to notes, mortgages, deeds of Seller, encumbrances, liens, taxes, or any other claims upon the Subject Stock, the Subject Water Rights, or the service area.
- 5.4. If in Buyer's sole good faith opinion after review of the documents described in Section 5.2, Seller's title to the Subject Stock is not unencumbered and merchantable, Buyer shall give notice thereof in writing to Seller within the Due Diligence Period established in Section 6, or any written extensions thereof. Upon receipt of such notice, Seller will then have twenty (20) business days to attempt to cure the defects. If at the end of such twenty (20) business day period title cannot be rendered unencumbered and merchantable in Buyer's sole good faith opinion, then Buyer shall have the right, in its sole discretion, either to: (1) terminate this Contract by providing written notice delivered to Seller; or (2) proceed to Closing and either waive such objections or defects in writing. Buyer shall make its election among the options described above on or before the fifth business day following the end of such twenty (20) business day cure period provided to Seller. No such defect or objection shall be deemed cured or waived unless Buyer so specifies in writing. In the event Buyer terminates this Contract pursuant to this paragraph, Seller and Buyer shall be relieved of all obligations

hereunder, except for the obligation of Seller to refund the deposit payment to Buyer.

5.5. In the event Buyer discovers during the course of its review of Seller's title to the Subject Stock that Seller's stock certificates represent fewer shares than originally stated or represented by Seller to Buyer, Buyer shall only have the obligation to purchase the number of shares actually represented by Seller's stock certificates at the price per share set forth in Section 3 above.

6. Due Diligence Period.

6.1. The Due Diligence Period shall run for a period of 90 calendar days beginning on the Effective Date. During the Due Diligence Period, Buyer may terminate this Contract for any reason or no reason at its sole, absolute and subjective discretion by Buyer's written notice delivered to Seller. In the event of such termination by Buyer, Seller and Buyer shall be relieved of all obligations hereunder except for the obligation of Seller to refund the deposit payment to Buyer.

6.2. During the Due Diligence Period, Buyer may complete an engineering analysis of the historical consumptive use of the Subject Water Rights to determine whether the annual historical consumptive use of the Subject Water Rights is equal to the amounts set forth in Section 3 above ("HCU Analysis").

7. Confidential Documents. Buyer shall keep all information supplied by Seller confidential and use only for purposes of this transaction without disclosure to any other party except for necessary consultants, who also agree to confidentiality, and as may be required by law.

8. Closing.

8.1. The parties anticipate that there will be a closing on each Phase of Buyer's purchase of the Subject Stock. The number of shares of the Subject Stock that Buyer will close on during Phase 1 shall be determined at the sole discretion of Buyer. Buyer shall have no obligation to consummate a purchase of any shares of the Subject Stock during Phase 1. On or before November 1, 2016, Buyer will provide Seller with notice of whether it intends to proceed with the purchase of some or all of the shares of the Subject Stock during Phase 1 and, if applicable, the number of shares it intends to close upon at the closing on Phase 1. Buyer agrees that, subject to the terms and conditions of this Contract, it will at the Phase 2 Closing close on the purchase of all the shares of the Subject Stock that were not purchased during the previous Phase 1 Closing.

8.2. Closing Contingent on City Council Approval. Buyer's obligation to close on the purchase of the Subject Stock is contingent on Buyer receiving approval of the purchase from the Colorado Springs City Council after the close of the Due Diligence Period. Buyer shall attempt to obtain approval of the purchase of the Subject Stock from the Colorado Springs City Council within sixty (60) days of the close of the Due Diligence Period. If Buyer does not obtain such approval

within the sixty (60) day time period, then either party may terminate this Contract by providing written notice to the other party, in which case neither party shall have any further obligations hereunder except for the obligation of Seller to refund the deposit payment to Buyer.

8.3. Closing Dates. If applicable, Closing on the Phase 1 purchase shall occur on or before December 31, 2016, and the closing on the Phase 2 purchase shall occur on or before February 28, 2017. At least twenty (20) days prior to the Phase 1 closing, Buyer shall provide Seller with notice of the number of shares of the Subject Stock it intends to purchase during Phase 1. If the Subject Stock has not been completely removed from dedication to the Augmentation Plans and restored to their condition prior to inclusion within the Augmentation Plans through the Water Court Case discussed in Section 4 above, by December 1, 2016, Buyer may elect to postpone closing on all the Subject Stock until the Phase 2 Closing. Closing on each Phase shall occur at the offices of Colorado Springs Utilities. The parties agree to extend the closing on the Phase 2 purchase until November 1, 2017 in the event that Seller needs additional time to obtain the Water Court decree for the withdrawal of the Subject Stock from the Augmentation Plans as provided in Section 4. If Closing is extended, it shall occur within 30 days after the final Water Court decree allowing removal of the Subject Stock has been entered, but in any event shall not occur after November 1, 2017. Seller shall have no liability to Buyer, beyond the return of the deposit, if Seller is not able to obtain the removal of the Subject Stock from the Augmentation Plans, free and clear of all terms and conditions of the Augmentation Plans by November 1, 2017.

8.4. Subject to Appropriations. Buyer's obligation to close on each Phase of the purchase of the Subject Stock is contingent upon the Colorado Springs City Council's approval of the appropriation of the necessary funds for the closing on each Phase through the normal process for approving Buyer's budget for the calendar year in which that Phase is scheduled to occur. Notwithstanding the above, in order to close on Phase 2 of this Contract, Buyer must purchase the entire remaining balance of the 131 shares of the Subject Stock. The Purchase Price per share for the Subject Stock reflects a price for the bulk sale of all 131 shares of the Subject Stock and Buyer cannot purchase less than the 131 shares of the Subject Stock, whether through one or two closings, without renegotiating the Purchase Price per share.

8.5. Closing Deliveries.

8.5.1. At Closing on each Phase, Buyer shall deliver or cause to be delivered to Escrow Agent the following items:

- (1) The Purchase Price for the number of shares of the Subject Stock Buyer is purchasing during that Phase (subject to all debits, credits and adjustments provided for hereunder); and

- (2) Such entity resolutions, instruments, agreements, or other documents as may reasonably and customarily be required to complete the transactions related to that Phase contemplated under this Contract.

8.5.2. On or before the Closing Date for each Phase, Seller shall deliver or cause to be delivered to the Escrow Agent each of the following items:

- (1) Original certificates for the shares of the Subject Stock that are being purchased during that Phase, endorsed to Buyer;
- (2) Special warranty deed to Buyer for the Subject Water Rights related to the shares of the Subject Stock being purchased during that Phase from Seller, free and clear of any encumbrance substantially in the form attached hereto as Exhibit A-1;
- (3) Share assignment agreement from Seller for the shares of the Subject Stock that are being purchased during that Phase in a form mutually agreed upon by the parties and acceptable to the Ditch Company, which assignment shall include the appointment of an officer of the Ditch Company as attorney-in-fact with authority to change the ownership records of the Ditch Company with respect to the Subject Stock being purchased;
- (4) Documentation from the Ditch Company in a form acceptable to Buyer and approved during Buyer's Due Diligence Period certifying that: (a) all assessments due for the current water year with respect to the Subject Stock have been paid in full; (b) the Subject Stock is outstanding on the books of the Company in the name of Seller; (c) Seller is the owner of record of the Subject Stock on the books of the Ditch Company; and (d) the Ditch Company shall permit the transfer of the Subject Stock to Buyer upon compliance with the bylaws and typical requirements of the Ditch Company.
- (5) Valid releases of any encumbrances on the shares of the Subject Stock and the Subject Water Rights that are being purchased during that Phase; and
- (6) Such entity resolutions, instruments, agreements, or other documents as may reasonably and customarily be required by Buyer to complete the transactions contemplated for that Phase under this Contract.

8.5.3. Each party shall further execute and deliver such documentation as may be reasonably requested by Escrow Agent or title company in order to effectuate the Closing on each Phase.

9. Ditch Assessments. Seller agrees to fully pay and continue to pay any and all ditch assessments associated with and accruing on each share of the Subject Stock from the Effective Date up to and including the Closing Date for the applicable Phase. Ditch Company assessments for the year of closing shall be prorated between the parties to the date of closing. Any ditch assessments made prior to the Closing Date for the applicable Phase that have not been paid at the time of Closing on that Phase, including any late payment fees, will be withheld from the Purchase Price for that Phase and paid by the Escrow Agent/Buyer to the Ditch Company at Closing on that Phase. From and after Closing on each Phase, Buyer agrees to assume any such future obligations for assessments on the shares of the Subject Stock purchased during any Phase incurred after the Closing Date for that Phase.
10. Change of Water Rights. Buyer intends to prosecute a change of the Subject Water Rights with the main purpose of adding as permitted uses of the Subject Water Rights represented by the Subject Stock all beneficial uses for which Buyer may use water. Buyer shall be solely responsible for all costs associated with the proceedings required to obtain any required approvals, permits, or decrees to permit it to change the type, time, and place of use of the Subject Water Rights ("Change Proceedings"). Seller on behalf of itself, its officers, directors, employees, agents or any party controlling, controlled by, or under common control with Seller shall have the right to participate, at its own expense, in any Change Proceeding to protect its water rights interests in its remaining Ditch Company shares within the Augmentation Plans. The Seller will cooperate with the Buyer in any such proceeding, and will not take any action to impair, impede, or interfere with the Buyer's ability to obtain any such required authorization that do not impair Seller's interests in its remaining Ditch Company shares within the Augmentation Plans. Seller's cooperation with Buyer shall not include incurring legal or engineering costs unless such costs are reimbursed by Seller.
11. Commissions. The Seller shall be responsible for payment of any brokers' fees or commissions due any broker or other agent representing the Seller.
12. Transfer Fees and Escrow Charges. Seller shall pay the transfer costs imposed by the Ditch Company with respect to the transfer of the Subject Stock. The parties shall each pay one-half of the closing costs of the Escrow Agent and applicable recording costs.
13. Status and Authority of Seller. Seller hereby represents and warrants the following:
 - 13.1. It has full power and authority to enter into this Contract and to carry out the transactions contemplated by this Contract, and
 - 13.2. This Contract and its execution and delivery to Buyer will not result in a breach of, or constitute a default under, any indenture, loan or credit agreement,

mortgage, deed, or other agreement of Seller to which it is a party or otherwise bound.

14. Additional Representations and Warranties of Seller. In addition to Seller's other representations and warranties contained in this Contract, Seller hereby represents, warrants, and agrees that as of the Effective Date, and on the date of Closing on each Phase:
 - 14.1. Seller is the sole owner of the unencumbered marketable title to the Subject Stock and the Subject Water Rights, subject to the withdrawal of the Subject Stock from the Augmentation Plans as provided herein;
 - 14.2. There is no litigation pending or, to the best of Seller's knowledge, threatened that in any manner that affects the Subject Stock;
 - 14.3. The execution and delivery of this Contract and the performance of all obligations hereunder by Seller do not and will not require any consent or approval of any third party and do not and will not result in a breach of, or constitute a default under, any indenture, loan or credit agreement, mortgage, deed or other agreement of Seller;
 - 14.4. The Subject Stock, except for the Augmentation Plans, is not subject to any conservation easement or other limitations or restrictions not stated in the Articles of Incorporation or Bylaws of the Ditch Company;
 - 14.5. There are no third party claims to any right, title, or interest in or to all or any portion of the Subject Stock; and
 - 14.6. Seller has received no written notice of any violations of any law, code, ordinance, rule or regulation or insurance policy affecting the Subject Stock.
15. Seller's Covenants.
 - 15.1. From the Effective Date through the Closing Date for each Phase, Seller shall reasonably cooperate with the Buyer's investigation into the historical use of the Subject Stock and Subject Water Rights. Such cooperation shall include, but is not limited to, identifying the service area; allowing Buyer and its agents to inspect all facilities used for delivery of water; and providing any other information in the Seller's possession that will assist the Buyer in its evaluation of the historical use of the Subject Stock.
 - 15.2. Seller shall provide information and records of water use that are within Seller's possession concerning the Subject Stock to be used by Buyer in the change of water rights process in Water Court. Seller shall testify without subpoena or payment of witness or expert witness fees at any deposition, motions hearing, or trial involving the Change Proceeding.

- 15.3. From the effective date of this Agreement, and until three (3) years following the Closing Date for Phase 2, the Seller shall retain all records in its possession concerning its historical use of the Subject Stock.
16. Condition of Property. The Subject Stock is contracted for and shall be sold in a strictly "as is" condition. Except as may be expressly set forth in writing in this contract, the Seller and its agents have not made and do not make any representations, warranties or guarantees as to the physical or legal condition of the Subject Stock, its suitability for Buyer's desired or intended uses, financial projections, ability or likelihood of obtaining desired Water Court decrees, or any other matters. Buyer is not relying upon any statements, warranties, guarantees, financial projections or representations express or implied made by the Seller, or its agents not embodied herein. Buyer hereby expressly acknowledges that no representations or warranties outside of the Contract have been made to it. All matters concerning the Subject Stock shall be independently investigated and verified by Buyer, and Buyer acknowledges that Buyer's purchase of the property is and shall be based upon its own investigations, inspections, examinations, and opinions.
17. Disclosures. Between the Effective Date and the Closing Date for each Phase, Seller shall promptly, but prior to the Closing, notify Buyer in writing of any fact, event, circumstance or action known to Seller that the existence or occurrence of which would cause any of Seller's representations, covenants or warranties under this Contract not to be correct and complete. Buyer may elect, within three (3) business days after receipt of Seller's Notice under this Section, but prior to the Closing, to terminate this Contract for any material change in Seller's representations by giving written notice to Seller and Escrow Agent. In the event of such termination, neither party shall have any further obligations hereunder, except for the obligation of Seller to refund the deposit payment to Buyer.
18. Escrow of Funds. The parties shall enter into an escrow agreement identifying the Escrow Agent to be selected jointly by the parties who will administer the escrow of funds and setting forth the terms and conditions under which the escrowed funds may be deposited and released for closing, in accordance with the terms of this Agreement. Costs associated with the escrow shall be shared equally by the parties.
19. Notices. All notices, requests, demands, or other communications (collectively, "Notices") hereunder shall be in writing and given by: (1) an established express delivery service that maintains delivery records requiring a signed receipt; (2) hand delivery; or (3) 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 Buyer:

Courier Service Address:
Colorado Springs Utilities
ATTN: Wayne Vanderschuere

121 S. Tejon St., 3rd Floor
Colorado Springs, CO 80903

United States Postal Service Address:
Colorado Springs Utilities
ATTN: Wayne Vanderschuere
P.O. Box 1103
Colorado Springs, CO 80947-0950

With copies to:

City Attorney's Office - Utilities Division

Courier Service Address:
City Attorney's Office – Utilities Division
30 S. Nevada Ave, Suite 501
Colorado Springs, CO 80903

United States Postal Service Address:
City Attorney's Office – Utilities Division
P.O. Box 1575, Mail Code 510
Colorado Springs, CO 80901-1575

To Seller:

Comanche Resources, L.L.C.
c/o Gary Smith
P.O. Box 25068
Colorado Springs, CO 80936

Notices shall be effective: (1) the next day following the date sent by an established express delivery service that maintains delivery records requiring a signed receipt; (2) upon receipt by the addressee of a hand delivery; or (3) three days following the date of mailing via certified or registered mail, postage prepaid, return receipt requested.

20. Amendment. This Contract may be extended, modified, amended, or changed in whole or in part only by written agreement duly authorized and executed by each of the parties with the same formality as this Contract.
21. Waiver. Any waiver of any breach of any provision of this Contract by any party shall not constitute a continuing waiver of any subsequent breach of either the same or any other provision of this Contract.
22. Entire Agreement. This Contract represents the entire agreement of the parties and neither party has relied upon any fact or representation not expressly set forth herein. All prior and contemporaneous conversations, negotiations, possible alleged agreements, representations, covenants, and warranties concerning the subject matter hereof are merged in this Contract.

23. Headings for Convenience Only. Section headings and titles contained herein are intended for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Contract.
24. Binding Effect and Assignability. This Contract and the rights and obligations created hereby shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, if any. Seller may not assign its rights or delegate its duties hereunder without the prior written consent of Buyer, which consent shall not unreasonable be withheld. Buyer shall not be entitled to assign its rights and obligations hereunder without the consent of Seller, which consent shall be in Seller's reasonable discretion.
25. Appropriations. In accordance with the Colorado Springs City Charter, performance of Buyer's obligations under this Contract including, but not limited to, Buyer's obligation to close on the purchase of any shares of the Subject Stock during any Phase, is expressly subject to appropriation of funds by the Colorado Springs City Council. Seller shall diligently proceed to obtain the necessary appropriation of funds by City Council for the respective appropriation year of the closings. In the event funds are not appropriated in whole or in part sufficient for performance of Buyer's obligations under this Contract, or appropriated funds may not be expended due to City Charter spending limitations, then this Contract will thereafter become null and void by operation of law, and Buyer will thereafter have no liability for compensation or damages to Seller in excess of Buyer's authorized appropriation for this Contract or the applicable spending limit, whichever is less, and Seller will be released from any obligation to perform the terms of this Contract. Buyer will notify Seller as soon as reasonably practicable in the event of non-appropriation or in the event a spending limit becomes applicable.
26. Governing Law and Venue. This Contract and its application shall be construed in accordance with the law of the State of Colorado. Should it be necessary to initiate court proceedings concerning this Contract, the parties agree that venue shall be in the District Court for El Paso County, Colorado.
27. Survival of Representations. Each and every representation, warranty, covenant, promise, and payment contained in this Contract shall not merge in any deed, assignment, covenant, escrow agreement, easement, lease or any other document, but shall survive at the Closing, and be binding and obligatory upon each of the parties hereto.
28. Multiple Originals. This Contract may be executed in any number of counterparts, each of which shall be deemed an original, but all of which constitute the same agreement.
29. Interpretation. Except as otherwise provided herein, nouns, pronouns and variations thereof shall be deemed to refer to the singular or plural, and masculine or feminine, as the context may require.
30. Defaults and Remedies. Remedies available to both parties regarding any action concerning this Contract will include, but not be limited to, the remedy of specific


performance; provided that both parties expressly waive the right to seek consequential and punitive damages.

31. Attorney's Fees and Costs. In the event of any dispute between the parties concerning this Agreement, or in the event of any action to enforce this Agreement or to collect damages on account of any breach of the obligations provided for herein, the prevailing party shall be entitled to recover from the other party all costs and expenses, including reasonable attorney's fees, incurred in such litigation, as well as all additional such costs and expenses incurred in enforcing and collecting any judgment rendered in such action.
32. Non-Severability; Effect of Invalidity. Each Section in this Contract is intertwined with the others and not severable unless by mutual consent of Buyer and Seller or as provided for below. If any provision or portion of this Contract or the application thereof to any person or circumstance shall, at any time or to any extent, be held invalid or unenforceable for any reason by a Court of competent jurisdiction, and the basis of the bargain between the parties hereto is not destroyed or rendered ineffective thereby, the remainder of this Contract, or the application of such provisions to persons or circumstances other than those which are held invalid or unenforceable, shall not be affected thereby.
33. Intent of Contract. This Contract is intended to describe the rights and responsibilities of and between Buyer and Seller and are not intended to, and shall not be deemed to, confer rights upon any other person or entities, or to limit, impair, or enlarge in any way the powers, regulatory authority and responsibilities of Buyer or any other governmental entity not a party hereto.
34. Non-Business Days. If any date for any action under this Contract falls on a Saturday, Sunday, or a day that is a "holiday" as such term is defined in C.R.C.P. 6, then the relevant date shall be extended automatically until the next business day.
35. Recitals and Exhibits. The recitals and exhibits attached hereto are hereby incorporated into this Contract.

IN WITNESS WHEREOF, the parties have set their hands and seals this day and year indicated below.

BUYER:

Colorado Springs Utilities

By: 
Title: General Manager
12/2/15

SELLER:

Comanche Resources L.L.C.

By: 
Title: Manager 12/2/15

EXHIBITS:
Form of Special Warranty Deed

**Exhibit – A-1 to
Contract for Purchase**

**Form of
Special Warranty Deed**

WHEN RECORDED RETURN TO:

**SPECIAL WARRANTY DEED
(Water Rights)**

THIS DEED, made this _____ day of _____, 201_,
between _____, whose address is _____ ("Grantor"), and
the _____, whose address is _____ ("Grantee").

WITNESSETH, that Grantor, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold, and conveyed, and by theses presents does grant, bargain, sell, convey, and confirm unto Grantee, Grantee's successors and assigns forever all of the water rights described below (the "Water Rights"):

- (a) The proportional interest in the Water Rights represented by _____ shares of the capital stock of the Fountain Mutual Irrigation Company, (the "Ditch Company"), which share(s) are evidenced by Stock Certificate No. ____ (the "Shares") and the water derived therefrom.
- (b) All beneficial right, title, and interest, if any, in all water, water rights, ditches, ditch rights, reservoirs, reservoir rights, canals, canal rights, headgates, and all other assets, rights, title and interests of the Ditch Company represented by said Shares.

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, claim, and demand whatsoever of the Grantor, either in law or equity, of, in, and to the above bargained Water Rights, with their hereditaments and appurtenances.

TO HAVE AND TO HOLD the said Water Rights above bargained and described with their appurtenances, unto the Grantee, the Grantee's successors and assigns forever. And the Grantor, for the Grantor, the Grantor's successors and assigns, does covenant and agree that Grantor shall **WARRANT AND FOREVER DEFEND** the above-bargained Water Rights in the quiet and peaceable possession of the Grantee, and the Grantee's successors and assigns, against all and

every person or persons claiming the whole or any part thereof, by, through, or under the Grantor.

IN WITNESS WHEREOF, the Grantor has executed this Deed on the date set forth above.

GRANTOR:

NOTARY