

## AGRICULTURAL FARMING LEASE

THIS AGRICULTURAL FARMING LEASE ("Lease") is entered into this 01<sup>st</sup> day of July, 2008, nunc pro tunc January 1, 2008, by and between the CITY OF LOVELAND, COLORADO, a home rule municipality, whose address is 500 E. 3<sup>rd</sup> Street, Loveland, Colorado 80537 ("City"), and JOHNSON AND SONS, LLP, a Colorado limited liability partnership ("Tenant").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Premises. The City hereby leases to the Tenant the following-described premises for agricultural farming purposes: see Exhibit A, attached hereto and incorporated herein by reference (the "Premises"). The Tenant agrees to farm the Premises in a good and farm-like manner, and in due season to plow, plant, cultivate, irrigate, and harvest the crops grown thereon; to follow the rotation practices required by the City, if any; to properly clean out the ditches on the Premises prior to irrigation season; and to engage in such farming practices and soil conservation practices as will protect the fertility of the Premises.

2. Farming Expenses. The Tenant shall pay all expenses in connection with the agricultural farming of the Premises, including, without limitation, expenses associated with preparing the ground, planting, cultivating, irrigating, fertilizing, providing pest control, providing weed control, and harvesting the crops.

3. Hazardous Substances. The Tenant shall be solely responsible for any and all hazardous substances used or stored on the Premises and shall indemnify, save, and hold harmless the City, its officers, employees, and agents from any and all liability, loss, costs, charges, obligations, expenses, attorney's fees, litigation, judgments, damages, claims, and demands of any kind whatsoever arising from or out of the Tenant's use or storage of said hazardous substances on the Premises.

4. Water. The City shall provide the Tenant with water to irrigate the Premises for agricultural purposes and pay all applicable assessments. Said water is described in Exhibit B, attached hereto and incorporated herein by reference.

5. Fencing and Driveways. The Tenant shall keep and maintain all appurtenances to and improvements on the Premises, including, without limitation, fences, buildings, and private driveways and roadways, in good repair at all times, at the Tenant's sole cost and expense. No alterations or extraordinary repairs to the appurtenances to and improvements on the Premises shall be made by the Tenant without the City's prior written approval. Once approved, all such alternations and repairs shall be done at the Tenant's sole cost and expense.

6. Insurance Requirements. The Tenant shall procure and keep in force during the duration of this Lease a policy of comprehensive general liability insurance insuring the Tenant and naming the City as an additional insured against any liability for personal injury, bodily injury, or death arising out of its use of the Premises with at least One Million Dollars

(\$1,000,000) each occurrence. The Tenant shall furnish to the City a certificate of insurance evidencing insurance coverage required by this Lease.

7. Indemnification. To the extent permitted by law, the Tenant hereby covenants and agrees to indemnify, save, and hold harmless the City, its officers, employees, and agents from any and all liability, loss, costs, charges, obligations, expenses, attorney's fees, litigation, judgments, damages, claims, and demands of any kind whatsoever arising from or out of the use of the Premises by the Tenant, its employees, or agents. This paragraph shall survive the expiration or termination of this Lease.

8. Term. This Lease shall be effective from January 1, 2008 to December 31, 2008, unless sooner terminated as provided herein. This Lease shall automatically continue in full force and effect for successive one year terms until terminated by either party.

9. Termination.

a. Either party shall have the right to terminate this Lease, without cause, upon one hundred twenty (120) days written notice of termination to the other party. The City shall endeavor to give the Tenant as much notice as possible in order to prevent the Tenant from suffering any lost crops or inability to harvest. However, in no event shall the City be liable for any damages sustained by the Tenant, including those resulting from lost crops or inability to harvest, if the City terminates this Lease by giving at least one hundred twenty (120) days written notice of termination to the Tenant.

b. If the Tenant violates any provision of this Lease, or violates any applicable law, the City shall have the right to terminate this Lease for cause upon thirty (30) days written notice of termination to the Tenant, during which time the Tenant shall have the right to cure any such violation. In the event the City terminates this Lease in accordance with this subparagraph, the City shall not be liable for any damages sustained by the Tenant, including those resulting from lost crops or inability to harvest.

10. Other Agreements and Regulations. This Lease is made subject to the agreements and contracts entered into with the Big Thompson Soil Conservation District and the regulations prescribed by the U.S. Department of Agriculture, the Soil Conservation Service, and Farm Plan.

11. Governing Law and Venue. This Lease shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.

12. Assignment. The Tenant shall not assign this Lease without the City's prior written consent. This Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors, and assigns.

13. Severability. In the event a court of competent jurisdiction holds any provision of this Lease invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Lease.

14. Notices. Written notices required under this Lease and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by regular U.S. mail:

If to the City: Ken Cooper, Facilities Manager  
Department of Public Works  
City of Loveland  
410 East 5<sup>th</sup> Street  
Loveland, CO 80537  
Phone: (970) 962-2635  
Email: [coopek@ci.loveland.co.us](mailto:coopek@ci.loveland.co.us)

If to the Tenant: Johnson and Sons, LLP  
2331 South County Road 7  
Loveland, CO 80537

15. Entire Agreement. This Lease contains the entire agreement of the parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the parties. This Lease expressly supersedes and replaces the previous lease between the parties relating to the subject matter hereto dated February 14, 2006, which was assigned to the City by separate instrument effective January 1, 2008.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first above written.

CITY OF LOVELAND, COLORADO  
a home rule municipality

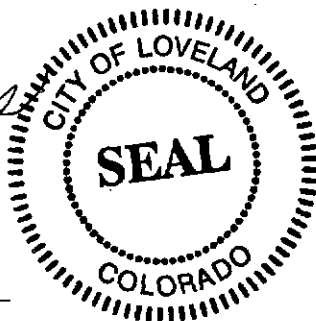
By: Don F. Williams  
Don F. Williams, City Manager

ATTEST:

Shirley H. Andrews  
City Clerk

APPROVED AS TO FORM:

Shirley H. Andrews  
Assistant City Attorney



JOHNSON AND SONS, LLP,  
a Colorado limited liability partnership

By: Rick Johnson  
Rick Johnson, Partner

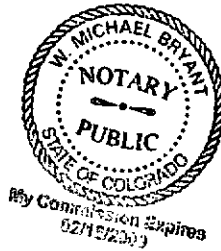
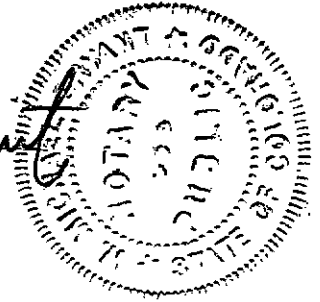
STATE OF COLORADO )  
 ) ss.  
COUNTY OF LARIMER )

The foregoing Agreement was acknowledged before me this \_\_\_\_ day of July, 2008 by Rick Johnson, as Partner of Johnson and Sons, LLP, a Colorado limited liability partnership.

Witness my hand and official seal.

My commission expires 2-16-2009.

*W. Michael Bryant*  
Notary Public



## EXHIBIT A

### Legal Description of Premises

#### Parcel I:

Lot 2, Ehrlich MLD #03-S2229, County of Larimer, State of Colorado.

#### Parcel II:

A parcel of land located in the North  $\frac{1}{2}$  of Section 27, Township 5 North, Range 68 West of the Sixth Principal Meridian, County of Larimer, State of Colorado being more particularly described as follows:

Considering the west line of the Northwest  $\frac{1}{4}$  of Section 27, Township 5 North, Range 68 West of the Sixth Principal Meridian, monumented on the north by a 2.5" aluminum cap marked "1995 LS 20676" and on the south by a 2.5" aluminum cap marked "1993 LS 12374" as bears north 00 degrees 14 minutes 56 seconds west with all bearing contained herein relative thereto.

Commencing at the northwest corner of Section 27, Township 5 North, Range 68 West of the Sixth Principal Meridian, County of Larimer, State of Colorado; thence run north 89 degrees 38 minutes 50 seconds east along the north line of the Northwest  $\frac{1}{4}$  of said Section 27 for a distance of 30.00 feet; thence leaving said north line run south 00 degrees 14 minutes 56 seconds east for a distance of 30.00 feet to a point on the south right of way line of State Highway 402 said right of way line being 30.00 feet southerly and parallel with the north line of the aforesaid Northwest  $\frac{1}{4}$ ; thence run north 89 degrees 38 minutes 50 seconds east along said south right of way line for a distance of 1776.91 feet to the point of beginning; thence continue north 89 degrees 38 minutes 50 seconds east along said south right of way line for a distance of 244.93 feet to the westerly right of way to Interstate Highway 25; thence leaving said south right of way line run southeasterly along said westerly right of way for the following four courses;

1. Thence run south 00 degrees 01 minutes 18 seconds east for a distance of 4.72 feet;
2. Thence run south 56 degrees 02 minutes 04 seconds east for a distance of 59.72 feet;
3. Thence run south 34 degrees 14 minutes 24 seconds east for a distance of 1289.50 feet;
4. Thence run south 23 degrees 48 minutes 54 seconds east a distance of 1129.70 feet to the southerly line of Parcel 4 of the land survey plat dated March 31, 1997 and recorded April 4, 1997 at Reception No. 97020793, thence leaving said westerly right of way line run along said southerly line for the following two courses:

1. Thence run south 89 degrees 28 minutes 20 seconds west for a distance of 1030.62 feet;
2. Thence run north 00 degrees 06 minutes 52 seconds east for a distance of 697.05 feet to the south line of Parcel 3 of the aforesaid land survey plat;

Thence leaving said southerly line run south 89 degrees 28 minutes 19 seconds west along said south line for a distance of 371.82 feet; thence leaving said south line run north 00 degrees 47 minutes 40 seconds west for a distance of 563.23 feet to the center of a concrete ditch and the beginning of a curve concave to the north having a radius of 180.22 and a chord bearing north 85 degrees 53 minutes 47 seconds west; thence run westerly along the center of said concrete ditch for the following four courses:

1. Thence run westerly along the arc of said curve through a central angle of 27 degrees 18 minutes 47 seconds for a distance of 85.91 feet to the end of said curve;
2. Thence run north 72 degrees 14 minutes 24 seconds west for a distance of 214.69 feet to the beginning of a curve concave to the south having a radius of 1155.17 feet and a chord bearing of north 76 degrees 28 minutes 52 seconds west;
3. Thence run westerly along the arc of said curve through a central angle of 08 degrees 28 minutes 58 seconds for a distance of 171.03 feet to the end of said curve;
4. Thence run north 80 degrees 43 minutes 21 seconds west a distance of 313.76 feet; thence leaving the center of said concrete ditch run north 43 degrees 50 minutes 12 seconds east for a distance of 1007.44 feet to the point of beginning, County of Larimer, State of Colorado.

## **EXHIBIT B**

### **Description of Water Rights**

1. All water associated with share certificate number 6100 in the Consolidated Home Supply Ditch and Reservoir Company.
2. All water associated with share certificate numbers 738, 745, and 757 in the Big Thompson Ditch and Manufacturing Company.
3. All rights for carriage associated with share certificate number 52 in the Consolidated Christian-Connors Lateral Ditch Company.

Copies of the above-referenced share certificates are attached.

No 6100

Incorporated Under the  
Laws of the State of Colorado

9 1/2  
Shares

# The Consolidated Home Supply Ditch and Reservoir Co.

CAPITAL STOCK

\$100,000

2,000 SHARES

\$50 EACH



This is to Certify that

Paul Ehrlich

is the owner of NINE HUNDRED AND SIXTY-THREE Shares of Capital Stock of The Consolidated Home Supply Ditch and Reservoir Company, full paid transferable only on the books of the Company, in person, or by attorney, on surrender of this certificate.

Witness the Seal of the Company and the Signatures of the President and Secretary at Loveland, Colorado, this 11 day of December 1919

*Donald W. Williams*  
President

*Walter G. Keller*  
Secretary

No 738

Perpetual Charter  
56/120th Shares

# THE BIG THOMPSON DITCH AND MANUFACTURING CO.

CAPITAL STOCK, \$4,800.00  
48 SHARES, \$100.00 EACH

This Certifies That PAUL EHRLICH

is the owner of 56/120th Shares of the Capital Stock of the Big Thompson Ditch and Manufacturing Company, incorporated under the laws of the State of Colorado. Stock transferable only on the books of the Company, in person, or by attorney on the surrender of this Certificate.

Witness, the seal of the Company and the signatures of the President and Secretary at Loveland, Colorado,

this 8th day of February A. D., 1999

*Paul Probst*  
President.

*John W. Kelly*  
Secretary.

No 745

Perpetual Charter

1/3rd Shares

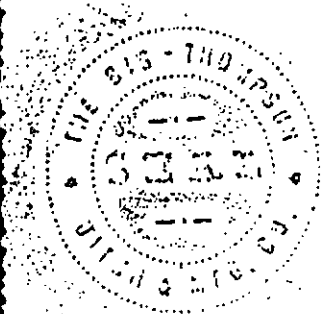
# THE BIG THOMPSON DITCH AND MANUFACTURING CO.

CAPITAL STOCK, \$4,800.00

48 SHARES, \$100.00 EACH

This Certifies That PAUL EHRLICH as to an undivided 14/40ths and the TOWN OF JOHNSTOWN, COLORADO, as to an undivided 26/40ths

are the owner of 1/3rd Shares of the Capital Stock of the Big Thompson Ditch and Manufacturing Company, incorporated under the laws of the State of Colorado. Stock transferable only on the books of the Company, in person, or by attorney on the surrender of this Certificate.



Witness, the seal of the Company and the signatures of the President and Secretary at Loveland, Colorado,

this 31st day of January A. D., 2000

Paul Probasco  
President.

John Weber  
Secretary.

*Randy Starr  
has original*

Nº 757

Perpetual Charter

5/120th Shares

# THE BIG THOMPSON DITCH AND MANUFACTURING CO.

CAPITAL STOCK, \$4,800.00

48 SHARES, \$100.00 EACH

This Certifies That PAUL EHRLICH

is the owner of 5/120th Shares of the Capital Stock of the Big Thompson Ditch and Manufacturing Company, incorporated under the laws of the State of Colorado.

Stock transferable only on the books of the Company, in person, or by attorney on the surrender of this Certificate.

Witness, the seal of the Company and the signatures of the President and Secretary at Loveland, Colorado,

this 12th day of December A. D., 2001

Richard Decker  
President.

John Walker  
Secretary.

80  
Shares



CERTIFICATE NUMBER  
52  
CHRISTIAN / CONNORS CLASS

INCORPORATED UNDER THE LAWS OF THE STATE OF COLORADO  
Consolidated on April 16, 2003

# CONSOLIDATED CHRISTIAN-CONNORS LATERAL DITCH COMPANY

The Corporation is authorized to issue 1800 Shares - CONNORS CLASS

This Certificate that PAUL EHRLICH is the owner of 80 Shares paid and assessable  
Shares of the above Corporation transferable only on the books of the Corporation by the holder hereof in person or by duly authorized  
Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with  
the Seal of the Corporation.

Witness Paul H. 2003

Minerva G. Lee Secretary  
Rodney D. Johnson President