

MUR075TH

TYPE OF RECORD:	PERMANENT
CATEGORY OF RECORD:	DEED (WARRANTY)
NAME OF PROPERTY OWNER OR GRANTOR:	CARL DAVID MURPHY AND VERNA MURPHY
PURPOSE:	SOUTH DOWNTOWN DEVELOPMENT
ADDRESS:	549 NOLAND AVENUE IN THE SOUTH 5 TH STREET SUBDIVISION
PARCEL NO:	2945-232-03-947
CITY DEPARTMENT:	PUBLIC WORKS AND PLANNING
YEAR:	2007
EXPIRATION:	NONE
DESTRUCTION:	NONE

919380

WARRANTY DEED

Grantors, **Carl David Murphy and Verna Murphy**, tenants in common, whose mailing address is 244 Sherman, Grand Junction, County of Mesa, State of Colorado, for the consideration of SIX HUNDRED AND FIFTY THOUSAND and no/100 Dollars,

hereby convey to the **City of Grand Junction, a Colorado home rule municipality,**

Grantee, the address of which is 250 North Fifth Street, Grand Junction, Colorado 81501, County of Mesa, the following real property in the City of Grand Junction, County of Mesa, and State of Colorado to wit:

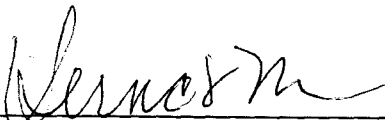
Lots 8 and 12, Block 2 of SOUTH 5TH STREET SUBDIVISION,

And warrant(s) title to the same in fee simple interest, except as follows: Rights or claims of parties in possession not shown by the public records; Easements, or claims of easements, not shown by the public records; Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the premises would disclose and which are not shown by the public records; Any lien or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records; and, Unpatented mining claims, reservations or exceptions in patents or in Acts authorizing the issuance thereof.

Signed this 9th day of March, 2007.



Carl David Murphy, Grantor



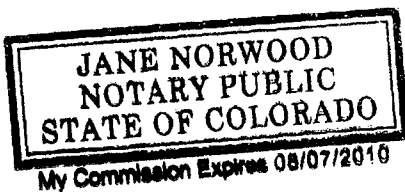
Verna Murphy, Grantor

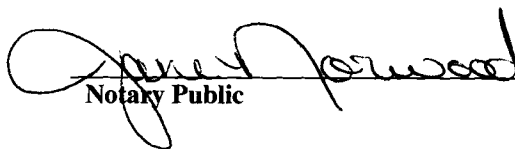
STATE OF COLORADO }
County of Mesa

The foregoing instrument was acknowledged before me this 9th day of March, 2007, by Carl David Murphy and Verna Murphy.

My commission expires:

WITNESS my hand and official seal.





Notary Public

**CONTRACT TO BUY & SELL REAL ESTATE
(COMMERCIAL)**

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

Date: January 30, 2007

Purchase Price: **\$650,000.00**
and other good and valuable consideration

1. AGREEMENT. Buyer agrees to buy, and the undersigned Sellers agree to sell, the Property defined below on the terms and conditions set forth in this Contract.

2. DEFINED TERMS.

a. Buyer. Buyer will take title to the real property described below as the **City of Grand Junction, a Colorado home rule municipality.**

b. Sellers. Sellers are Carl David Murphy and Verna Murphy.

c. Property. The Property is the commonly known and described as 549 Noland Avenue, tax schedule # **2945-232-03-018**, and legally described as Lots 8 and 12, Block 2 of the South 5th Street Subdivision, together with all improvements and attached fixtures appurtenant thereto, interests, easements, rights, benefits, improvements, all interest of Sellers in vacated streets and alleys adjacent thereto, except as herein excluded.

d. Dates and Deadlines.

Item No.	Reference	Event	Date or Deadline
1	§ 5	Title Deadline	February 1, 2007
2	§ 6a	Title Objection Deadline	February 7, 2007
3	§ 6b	Off-Record Matters Deadline	February 7, 2007
4	§ 6b	Off-Record Matters Objection Deadline	February 7, 2007
5	§ 7a	Seller's Property Disclosure Deadline	January 31, 2007
6	§ 7b	Inspection Deadline	February 7, 2007
7	§ 7c	Inspection Objection Deadline	February 12, 2007
8	§ 7d	Resolution Deadline	February 15, 2007
9	§ 8	Closing Date	February 9, 2007
10	§ 20	City Council Approval Deadline	February 8, 2007
11	§ 13	Possession Date	February 19, 2007
12	§ 24	Acceptance Deadline Date	January 30, 2007

e. Attachments. The following exhibits, attachments and addenda are a part of this Contract:

Attachment "A": General Warranty Deed

f. Applicability of Terms. A check or similar mark in a box means that such provision is applicable. The abbreviation "N/A" means not applicable. The abbreviation "MEC" (mutual execution of this contract) means the latest date upon which both parties have signed this Contract.

3. INCLUSIONS AND EXCLUSIONS. The Purchase Price shall include all real property interests, easements, rights and benefits appurtenant to the Property.

4. PURCHASE PRICE AND TERMS. The Purchase Price set forth below shall be payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§	Purchase Price	\$650,000.00	
2	§	Earnest Money	\$ 50,000.00	\$ 50,000.00
3	§	Cash at Closing		\$600,000.00
4		TOTAL	\$650,000.00	\$650,000.00

Note: If there is an inconsistency between the Purchase Price on the first page and this § 4, the amount in § 4 shall control.

46 **5. EVIDENCE OF TITLE.** On or before **Title Deadline** (§2d), Sellers shall cause to be
47 furnished to the City Attorney, at Sellers' expense, a current commitment for owner's title
48 insurance policy ("Title Commitment") in an amount equal to the Purchase Price, together with
49 true and legible copies of all instruments referred to therein, including, but not limited to, true
50 and legible copies of any plats, declarations, covenants, conditions and restrictions describing,
51 affecting or burdening the Property and true and legible copies of any other documents listed in
52 the schedule of exceptions ("Exceptions"). Sellers shall have the obligation to furnish the
53 documents pursuant to this subsection without any request or demand by Buyer. The Title
54 Commitment together with copies of such documents furnished pursuant to this Section shall
55 constitute the title documents ("Title Documents"). The Title Documents shall set forth all
56 matters of record necessary to permit a determination whether title is merchantable or
57 satisfactory to Buyer. At Sellers' expense, Sellers shall cause the title insurance policy to be
58 issued and delivered to Buyer as soon as practicable at or after Closing. If a title insurance
59 commitment is furnished, it shall commit to delete or insure over the standard exceptions which
60 relate to:

- 61 a. parties in possession,
- 62 b. unrecorded easements,
- 63 c. survey matters,
- 64 d. any unrecorded mechanic's liens, and
- 65 e. gap period (effective date of the Title Commitment to the date deed is recorded).

66
67 Any additional premium expense to obtain this additional coverage shall be paid by
68 Buyer. Sellers shall cause the title insurance policy to be delivered to Buyer as soon as
69 practicable, at or after Closing.

70
71 **6. TITLE.**

72
73 a. **Title Review.** Buyer shall have the right to inspect the Title Documents. Written
74 notice by Buyer of unmerchantability of title or any other unsatisfactory title condition shown by
75 the Title Documents shall be signed by or on behalf of Buyer and given to Sellers on or before
76 the **Title Objection Deadline** (§2d), or within five (5) business days after receipt by Buyer of
77 any change to the Title Documents or endorsement(s) to the Title Commitment together with a
78 copy of the document(s) adding new Exception(s) to title, whichever is later. If Buyer does not
79 mail its notice by the date(s) specified above, Buyer shall be deemed to have accepted as
80 satisfactory the condition of title as disclosed by the Title Documents.

81
82 b. **Matters not Shown by the Public Records.** Sellers shall deliver to the City
83 Attorney, on or before the **Off-Record Matters Deadline** (§2d Item No.3), true copies of all
84 lease(s), agreement(s), contract(s), notice(s) and surveys in Sellers' possession pertaining to or
85 affecting the Property and shall disclose to the City Attorney all easements, liens or other title
86 matters (including, without limitation, rights of first refusal and options) not shown by the public
87 records of which Sellers have actual knowledge. The documents and information referred to in
88 the preceding sentence shall constitute "Off-Record Matters." Buyer shall have the right to
89 inspect the Property to determine if any third party(s) has any right in the Property not shown by
90 the public records (such as an unrecorded easements, unrecorded lease, or boundary line
91 discrepancies). Written notice of any unsatisfactory condition(s) disclosed by Sellers or revealed
92 by such inspection(s) shall be signed by or on behalf of Buyer and mailed to Sellers on or before
93 the **Off-Record Matters Objection Deadline** (§2d Item No. 4). If Buyer does not mail Buyer's
94 notice by said date, Buyer shall be deemed to have accepted the condition of title subject to such
95 rights, if any, of third parties of which Buyer has actual notice.

96
97 c. **Right to Object, Cure.** If Sellers receives notice of unmerchantability of title or
98 any other unsatisfactory title condition(s) as provided in §6a and 6b above, Sellers shall use
99 reasonable efforts to correct said items and bear any nominal expense(s) to correct the same prior
100 to Closing. If such unsatisfactory title condition is not corrected to Buyer's satisfaction on or
101 before Closing, this Contract shall then terminate; provided, however, Buyer may, by written
102 notice given to Sellers on or before Closing, waive objection to such items.

103
104 **7. PROPERTY DISCLOSURE AND INSPECTION.**

105
106 a. **Sellers' Property Disclosure.** On or before **Sellers' Property Disclosure**
107 **Deadline** (§2d Item No. 5), Sellers agree to provide the City Attorney with a written disclosure

108 of any and all adverse matters regarding the Property of which Sellers have current and actual
109 knowledge.
110

111 **b. Inspection.** After Sellers have accepted this Contract, Buyer shall have the right,
112 at Buyer's expense, to conduct inspections of the physical condition of the Property
113 ("Inspections"). The Inspections may include, but not be limited to, boundary surveys,
114 engineering surveys, soil samples and surveys, and environmental surveys which including
115 sampling and testing of building materials. Environmental inspections shall be completed, on or
116 before the Inspection Deadline (§2d Item No. 6).
117

118 **c. Inspection Objection Deadline.** If the physical condition of the Property is
119 unsatisfactory as determined by Buyer's sole and subjective discretion, Buyer shall, on or before
120 Inspection Objection Deadline (§2d Item No. 7) either:
121

- 122 (1) notify Sellers in writing that this Contract is terminated, in which case all
123 payments and things of value received hereunder shall be returned to Buyer, or
124
- 125 (2) provide Sellers with a written description of any unsatisfactory physical condition
126 which Buyer requires Sellers to correct, at no cost or expense to Buyer, before the
127 Resolution Deadline ("Notice to Correct").
128

129 **d. Resolution Deadline.** If a Notice to Correct is received by Sellers and if Buyer
130 and Sellers have not agreed in writing to a settlement thereof on or before **Resolution Deadline**
131 (§2d Item No. 8), this Contract shall terminate and all payments and things of value received
132 hereunder shall be returned to Buyer, unless before such termination Sellers receive Buyer's
133 written withdrawal of the Notice to Correct.
134

135 **e. Representations and Warranties Regarding Environmental Matters.**
136

- 137 (1) Sellers represent and warrant that:
138
 - 139 (a) Sellers have no current and actual knowledge of any Hazardous Material at, upon,
140 under or within the Property or, to the best of Sellers' knowledge, within any
141 contiguous real estate and
 - 142 (b) Sellers shall not cause or permit to be introduced any Hazardous Material at, upon,
143 under or within the Property from now until Closing and until termination of Sellers'
144 occupancy pursuant to the Lease. See ¶25, below.
145
- 146 (2) The term "Hazardous Material" for the purposes of this Contract means:
147
 - 148 (a) any hazardous or toxic substance, material or waste, including, but not limited to,
149 those substances, materials, and wastes listed in the United States Department of
150 Transportation Hazardous Material Table (49 CFR 172.101) or by the Environmental
151 Protection Agency as hazardous substances (40 CFR Part 302) and amendments
152 thereto and replacements therefor; or
153
 - 154 (b) such substances, materials or wastes as are regulated by the Resource Conservation
155 and Recovery Act of 1976 (RCRA) or the Comprehensive Environmental Response,
156 Compensation and Liability Act of 1980 (CERCLA) or any amendments thereto or
157 orders, and regulations, directions, or requirements thereunder; or
158
 - 159 (c) "underground storage tanks," "petroleum," "petroleum by products," "regulated
160 substance," "oil" or "used oil" as defined by Colorado law, including §25-7-101 et
161 seq.; or
162
 - 163 (d) "hazardous waste" as defined by the Colorado Waste Act, C.R.S. §25-15-101 et seq.,
164 or by any regulations promulgated thereunder; or
165
 - 166 (e) Any substance the presence of whether on, in or under the Property is prohibited by
167 any law similar to those set forth above; or
168
 - 169 (f) Any other substance which by law, regulation or ordinance requires special handling
170 in its collection, storage, treatment or disposal.
171
- 172 (3) Notwithstanding the definition set forth above, for purposes of this Contract, the term
173 "Hazardous Material" does not include asbestos or asbestos containing materials in the

174 building or fixtures on the Property or lead paint, if any, on the Property as of the date of
175 this Contract.
176

177 (4) To the best of Sellers' knowledge, as of the date of this Contract and as of the date of
178 Closing, the Property (including land, surface water, ground water and improvements) is
179 now and will then be free of all Hazardous Materials as defined herein.
180

181 (5) Buyer represents and warrants that the completion of the Closing by Buyer shall evidence
182 Buyer's acceptance of the physical condition, including the environmental condition, of
183 the Property WHERE IS, AS IS, without warranty or representation from Sellers except
184 as expressly stated in this Section 7.
185

186 **f. Damage; Liens; Indemnity.** Buyer is responsible for payment for all inspections,
187 surveys, engineering reports or any other work performed at Buyer's request. Buyer shall pay for, and/or
188 restore to its prior condition, any damage which occurs to the Property as a result of such activities if
189 Closing does not occur. Buyer shall not permit claims or liens of any kind against the Property for
190 inspection, surveys, engineering reports and for any other work performed on the Property at Buyer's
191 request if Closing does not occur. Buyer agrees to indemnify and hold Sellers harmless from and against
192 any liability, damage, cost or expense incurred by Sellers in connection with the Inspections, including
193 regarding frivolous or groundless claims made by third parties. If Buyer fails to indemnify and/or hold
194 Sellers harmless, as provided, Sellers may recover reasonable costs and expenses incurred by Sellers to
195 enforce this subsection, including Sellers' reasonable attorney fees. The provisions of this subsection
196 shall survive the termination of this Contract or the Closing.
197

198 **8. CLOSING.** Delivery of deed from Sellers to Buyer shall be at Closing ("Closing").
199 Closing shall be on the date specified as **Closing Date** (§2d Item No. 9) or at an earlier date upon
200 request of Buyer. The hour and place of Closing shall be as designated by mutual agreement
201 between Sellers and Buyer.
202

203 **9. TRANSFER OF TITLE.** Subject to terms and provisions hereof, Sellers shall execute
204 and deliver a good and sufficient General Warranty Deed, the form of which is attached as
205 **Attachment "A"**, to Buyer, at Closing, conveying the Property free and clear of all taxes except
206 the general taxes for the year of Closing. Except as provided herein, title shall be conveyed free
207 and clear of all liens, including any governmental liens for special improvements installed as of
208 the date of Buyer's signature hereon. Title shall be conveyed subject to:
209

210 **a.** those specific Exceptions described by reference to recorded documents as
211 reflected in the Title Documents accepted by Buyer in accordance with §6a (Title Review);
212

213 **b.** the Off-Record Matters and those specifically described rights of third parties not
214 shown by the public records of which Buyer has actual knowledge and which were accepted by
215 Buyer in accordance with §6b (Matters not Shown by the Public Records);
216

217 **c.** the Lease, as described in ¶ 25, below.
218

219 **10. PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid shall be
220 paid at or before Closing from the proceeds of this transaction or from any other source.
221

222 **11. CLOSING COSTS; DOCUMENTS AND SERVICES.** Buyer and Sellers shall pay, in
223 Good Funds, their respective Closing costs and all other items required to be paid at Closing,
224 except as otherwise provided herein. Buyer and Sellers shall sign and complete all customary or
225 reasonably required documents at or before Closing. Fees for real estate closing services shall be
226 paid at Closing by One-Half by Buyer and One-Half by Sellers. Any sales, use or other tax that
227 may accrue because of this transaction shall be paid when due by the party so responsible under
228 applicable law.
229

230 **12. PRORATIONS.** The following shall be prorated to the **Closing Date** (§8), except as
231 otherwise provided:
232

233 **a. Personal Property Taxes.** Personal property taxes, if any, shall be paid by
234 Sellers;
235

236 **b. General Real Estate Taxes.** General real estate taxes shall be prorated to the
237 Closing Date based on the most recent mill levy and the most recent assessment;
238

239 c. **Final Settlement.** Unless otherwise agreed in writing, these prorations shall be
240 final.

241
242 **13. POSSESSION.** Possession of the Property shall be delivered to Buyer on **Possession**
243 **Date** (§2d Item No. 11), free and clear of any and all leases, tenancies and personal property,
244 including but not limited to the Seller's business inventory of auto parts/salvage materials, except
245 the Lease, as described in ¶ 25 below. The property shall be clean to the Buyer's satisfaction.
246

247 If Sellers, after Closing, fail to deliver possession as specified Sellers shall be subject to
248 eviction and shall be additionally liable to Buyer for payment of \$50.00 per day from the
249 **Possession Date** (§2d Item No. 11) until possession is delivered as required.
250

251 **14. NOT ASSIGNABLE.** This Contract shall not be assignable by Buyer without Sellers'
252 prior written consent. Except as so restricted, this Contract shall inure to the benefit of and be
253 binding upon the heirs, personal representatives, successors and assigns of both parties.
254

255 **15. INSURANCE, CONDITION OF, DAMAGE TO PROPERTY.** Except as otherwise
256 provided in this Contract, the Property shall be delivered in the condition existing as of the date
257 of this Contract, ordinary wear and tear excepted; however, damage to the Improvements is not a
258 ground for Buyer to terminate this agreement. In the event the Property shall be damaged by fire
259 or other casualty prior to Closing, Sellers shall not be obligated to repair any damage prior to
260 Closing.
261

262 **16. LEGAL AND TAX COUNSEL; AMBIGUITIES.**

263
264 a. Buyer and Sellers have each obtained the advice of its/their own legal and tax
265 counsel regarding this Contract or have knowingly declined to do so.
266

267 b. The parties agree that the rule of construing ambiguities against the drafter shall
268 have no application to this Contract.
269

270 **17. TIME OF THE ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence
271 hereof. If any payment due hereunder is not paid, honored or tendered when due, or if any other
272 obligation hereunder is not performed or waived as herein provided, there shall be the following
273 remedy:
274

275 a. **If Buyer is in Default:** Sellers may elect to treat this contract as cancelled, in
276 which case all payments and things of value received hereunder shall be forfeited and retained on
277 behalf of Sellers, and Sellers may recover such damages as may be proper, or Sellers may elect
278 to treat this contract as being in full force and effect and Sellers shall have the right to specific
279 performance or damages or both.
280

281 b. **If Sellers are in Default.** Buyer may elect to treat this contract as cancelled, in
282 which case all payments and things of value received hereunder shall be returned and Buyer may
283 recover such damages as may be proper, or Buyer may elect to treat this contract as being in full
284 force and effect and Buyer shall have the right to specific performances or damages, or both.
285

286 c. **Costs and Expenses.** In the event of any arbitration or litigation relating to this
287 contract, the arbitrator or court shall award to the prevailing party all reasonable costs and
288 expenses, including attorney and legal fees.
289

290 **18. MEDIATION.** If a dispute arises relating to this Contract, prior to or after Closing, and
291 is not resolved, the parties shall first proceed in good faith to submit the matter to mediation.
292 Mediation is a process in which the parties meet with an impartial person who helps to resolve
293 the dispute informally and confidentially. Mediators cannot impose binding decisions. The
294 parties to the dispute must agree before any settlement is binding. The parties will jointly appoint
295 an acceptable mediator and will share equally in the cost of such mediation. The mediation,
296 unless otherwise agreed, shall terminate in the event the entire dispute is not resolved thirty (30)
297 calendar days from the date written notice requesting mediation is sent by one party to the other
298 at the party's last known address. This section shall not alter any date in this Contract, unless
299 otherwise agreed in writing.
300

301 **19. TERMINATION.** In the event this Contract is terminated, all payments and things of
302 value received hereunder shall be returned and the parties shall be relieved of all obligations

303 hereunder, subject to §7f (Damage; Liens; Indemnity), §17b (If Sellers are in Default), and §18
304 (Mediation).

305 |
306 **20. ADDITIONAL PROVISIONS.**
307

308 **a. Section 1031 Exchange.** This transaction is intended by both parties to qualify as
309 a tax deferred exchange of like kind property under §1031 of the Internal Revenue Code. All
310 terms and provisions of this Agreement shall be interpreted, if possible, to accomplish this
311 purpose.

312
313 **b. City Council Approval.** The execution of this Contract by the City Manager of
314 the City of Grand Junction, Colorado, and the City's obligation to proceed under its terms and
315 conditions is expressly conditioned upon and subject to the formal approval of the Grand
316 Junction City Council with regard to the terms, covenants, conditions, duties and obligations to
317 be performed by the City in accordance with this Contract. In the event such approval is not
318 obtained on or before February 8, 2007, this Agreement shall automatically terminate and both
319 parties shall thereafter be released from all obligations hereunder.

320
321 **21. ENTIRE AGREEMENT; SUBSEQUENT MODIFICATION; SURVIVAL.** This
322 Contract constitutes the entire agreement between the parties relating to the subject hereof and
323 any prior agreements pertaining thereto, whether oral or written, have been merged and
324 integrated into this Contract. No subsequent modification of any of the terms of this Contract
325 shall be valid, binding upon the parties or enforceable unless made in writing and signed by the
326 parties. Any obligation in this Contract that, by its terms, is intended to be performed after
327 termination or Closing shall survive the same.

328
329 **22. FACSIMILE.** Signatures may be evidenced by facsimile. Documents with original
330 signatures shall be provided to the other party at Closing or earlier upon request of any party.

331
332 **23. NOTICE.** Except for the notice requesting mediation described in §18, any notice to
333 Buyer shall be effective when received by Buyer and any notice to Sellers shall be effective
334 when received by Sellers.

335
336 **24. ACCEPTANCE; COUNTERPART.** This proposal shall expire unless accepted in
337 writing, by Buyer and Sellers, as evidenced by their signatures below and the offering party
338 receives notice of such acceptance pursuant to §23 on or before Acceptance Deadline Date (§2d
339 Item No. 12). If accepted, this document shall become a contract between Sellers and Buyer,
340 subject to approval by the Grand Junction City Council. A copy of this document may be
341 executed by each party, separately, and when each party has executed a copy thereof, such copies
342 taken together shall be deemed to be a full and complete contract between the parties.

343
344 **25. LEASE.** So that Seller can be assured that they will have sufficient time to remove
345 the personal property from the Property, and otherwise comply with the terms of this Contract, at
346 Closing, Buyer and Seller shall execute a lease for a term of six months from the date of Closing,
347 at a rental of \$1.00 for the term, pursuant to the Lease, attached as **Exhibit "City-Murphy**
348 **Lease."**

349
350 **The City of Grand Junction, a Colorado home rule municipality, Buyer:**

351
352 By: David A. Varley 26 JANUARY, 2007
353 David A. Varley, City Manager Date of Buyer's signature

354
355 **Buyer's Address:** 250 North 5th Street, Grand Junction, CO 81501

356 **With Copy to:** Grand Junction City Attorney, 250 North 5th Street, Grand Junction, CO 81501

357
358 **Buyer's Telephone Number:** (970) 244-1503

359 **City Attorney's Telephone Number:** (970) 244-1503

360
361 **Buyer's Fax No.:** (970) 244-1456

362 **City Attorney's Fax No.:** (970) 244-1456

363
364

365 **Acceptance by Carl David Murphy, Seller:**

366
367 By: Carl David Murphy
368 Carl David Murphy

1-30-07, 2007
Date of Seller's signature

369
370 **Seller's Address:**

371 **Seller's Telephone Number:**

372 **Seller's Fax No.:**

373

374

375 **Acceptance by Verna Murphy, Seller:**

376
377 By: Verna Murphy
378 Verna Murphy

01-30-07, 2007
Date of Seller's signature

379
380 **Seller's Address:**

381 **Seller's Telephone Number:**

382 **Seller's Fax No.:**

383

384 **24. COUNTER; REJECTION. This offer is Countered Rejected.**

385

386 **Initials only of party (Buyer or Sellers) who countered or rejected offer: _____**

387

388

389

END OF CONTRACT

390

391