

(CBS 2-7-04)

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

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

Date: September 27, 2006

1. **AGREEMENT.** Buyer agrees to buy and the undersigned Seller agrees to sell the Property defined below on the terms and conditions set forth in this contract.
2. **DEFINED TERMS.**
 - a. **Buyer.** Buyer, *the City of Grand Junction, a Colorado home rule municipality, for itself and for the Grand Junction Downtown Development Authority*, will take title to the real property described below.
 - b. **Property.** The Property is the following legally described real estate:

Lots 15 and 16, Block 103, City of Grand Junction

in the County of *Mesa*, Colorado, commonly known as No. *137 N. 5th Street, Grand Junction, CO* together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto, all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded.

- c. **Dates and Deadlines.**

Item No.	Reference	Event	Date of Deadline
1	§5a	Loan Application Deadline	<i>N/A</i>
2	§5b	Loan Commitment Deadline	<i>N/A</i>
3	§5c	Buyer's Credit Information Deadline	<i>N/A</i>
4	§5c	Disapproval of Buyer's Credit Deadline	<i>N/A</i>
5	§5d	Existing Loan Documents Deadline	<i>N/A</i>
6	§5d	Objection to Existing Loan Documents Deadline	<i>N/A</i>
7	§5d	Approval of Loan Transfer Deadline	<i>N/A</i>
8	§6a	Appraisal Deadline	<i>N/A</i>
9	§7a	Title Deadline	<i>15 days after exercise</i>

Item No.	Reference	Event	Date of Deadline
10	§7a	Survey Deadline	<i>N/A</i>
11	§8c	Survey Objection Deadline	<i>N/A</i>
12	§7b	Document Request Deadline	<i>15 days after exercise</i>
13	§8a	Title Objection Deadline	<i>20 days after exercise</i>
14	§8b	Off-Record Matters Deadline	<i>15 days after exercise</i>
15	§8b	Off-Record Matters Objection Deadline	<i>20 days after exercise</i>
16	§10	Seller's Property Disclosure Deadline	<i>10 days after exercise</i>
17	§10a	Inspection Objection Deadline	<i>15 days after exercise</i>
18	§10b	Resolution Deadline	<i>20 days after exercise</i>
19	§10c	Property Insurance Objection Deadline	<i>N/A</i>
20	§11	Closing Date	<i>30 days after determination of purchase price</i>
21	§16	Possession Date	<i>At Closing</i>
22	§16	Possession Time	<i>5:00 p.m.</i>
23	§27	Acceptance Deadline Date	<i>See Option</i>
24	§27	Acceptance Deadline Time	<i>See Option</i>

d. **Attachments.** The following are a part of this contract: *Contract To Exchange Interests In Real Property.*

Note: The following disclosure forms **are attached** but are **not** a part of this contract: *None*

e. **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. *"Exercise" means Sellers proper and timely exercise of the option to purchase contained in the Contract To Exchange Interests in Real Property (the "Option"). The Option may only be exercised during the period and in the manner set forth in the Contract To Exchange Interests In Real Estate.*

3. **INCLUSIONS AND EXCLUSIONS.** The Purchase Price includes the following items (Inclusions):

- a. **Fixtures.** If attached to the Property on the date of this contract, lighting, heating, plumbing, ventilating, and air conditioning fixtures, inside telephone wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, sprinkler systems and controls, and *none other*.
- b. **Exclusions.** The following attached fixtures are excluded from this sale: *None*
- c. **Personal Property.** If on the Property whether attached or not on the date of this contract: storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings, curtain rods, drapery rods, storage sheds, and all keys. If checked the following are included: Smoke/Fire Detectors Security Systems and *none other*.
- d. **Transfer of Personal Property.** The Personal Property to be conveyed at Closing shall be conveyed, by Seller, free and clear of all taxes, (except personal property taxes for the year of closing), liens, encumbrances, except *none*.

Conveyance shall be by bill of sale or other applicable legal instrument.

e. **Trade Fixtures.** With respect to trade fixtures, Seller and Buyer agree as follows: *N/A*

4. **PURCHASE PRICE AND TERMS.** The Purchase Price set forth below shall be payable in U. S. Dollars by Buyer as follows: *current fair market value, to be determined pursuant to the option, payable in certified funds at closing.*

All amounts paid by Buyer at Closing including Cash at Closing, plus Buyer's closing costs, shall be in funds which comply with all applicable Colorado laws, which include cash, electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

5. **FINANCING CONDITIONS AND OBLIGATIONS.** *This paragraph is intentionally omitted.*

6. **APPRAISAL PROVISIONS.** *This paragraph is intentionally omitted.*

7. **EVIDENCE OF TITLE.** *This paragraph applies only if Seller has exercised its option to acquire the Property from Community Office Investors, Inc. and holds fee title to the Property.*

a. **Evidence of Title.** On or before **Title Deadline** (§2c), Seller shall cause to be furnished to Buyer, at Seller's expense, a current commitment for owner's title insurance policy (Title Commitment) in an amount equal to the Purchase Price or if this box is checked, **An Abstract** of title certified to a current date. At Seller's expense, Seller shall cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after closing. If a title insurance commitment is furnished, it **Shall** **Shall Not** commit to delete or insure over the standard exceptions which relate to:

- (1) parties in possession,
- (2) unrecorded easements,
- (3) survey matters,
- (4) any unrecorded mechanics' liens,
- (5) gap period (effective date of commitment to date deed is recorded), and
- (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing.

Any additional premium expense to obtain this additional coverage shall be paid by **Buyer**
 Seller.

- b. **Copies of Exceptions.** On or before **Title Deadline** (§2c), Seller, at Seller's expense, shall furnish to Buyer, (1) a copy of any plats, declarations, covenants, conditions and restrictions burdening the Property, and (2) if a title insurance commitment is required to be furnished, and if this box is checked **Copies of any Other Documents** (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions). Even if the box is not checked, Seller shall have the obligation to furnish these documents pursuant to this subsection if requested by Buyer any time on or before the **Document Request Deadline** (§2c). This requirement shall pertain only to documents as shown of record in the office of the clerk and recorder. The abstract or title insurance commitment, together with any copies or summaries of such documents furnished pursuant to this Section, constitute the title documents (Title Documents).
- c. **Survey.** *This paragraph is intentionally omitted.*
8. **TITLE.** *This paragraph applies only if Seller has exercised its option to acquire the Property from Community Office Investors, Inc. and holds fee title to the Property.*
- a. **Title Review.** Buyer shall have the right to inspect the Title Documents. Written notice by Buyer of unmerchantability of title, form or content of Title Commitment or of any other unsatisfactory title condition shown by the Title Documents, notwithstanding §12, shall be signed by or on behalf of Buyer and given to Seller on or before **Title Objection Deadline** (§2c), or within five (5) calendar days after receipt by Buyer of any change to the Title Documents or endorsement to the Title Commitment together with a copy of the document adding new Exception to the title. If Seller does not receive Buyer's notice by the date specified above, Buyer accepts the condition of title as disclosed by the Title Documents as satisfactory.
- b. **Matters not Shown by the Public Record.** Seller shall deliver to Buyer, on or before **Off-Record Matters Deadline** (§2c) true copies of all leases and surveys in Seller's possession pertaining to the Property and shall disclose to Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters (including, without limitation, rights of first refusal, and options) not shown by the public records of which Seller has actual knowledge. Buyer shall have the right to inspect the Property to determine if any third party has any right in the Property not shown by the public records (such as an unrecorded easement, unrecorded lease, or boundary line discrepancy). Written notice of any unsatisfactory condition disclosed by Seller or revealed by such inspection, notwithstanding §12, shall be signed by or on behalf of Buyer and given to Seller on or before **Off-Record Matters Objection Deadline** (§2c). If Seller does not receive Buyer's notice by said date, Buyer accepts title subject to such rights, if any, of third parties of which Buyer has actual knowledge.
- c. **Survey Review.** *This paragraph is intentionally omitted.*
- d. **Special Taxing Districts.** **SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT**

SUCH AN INCREASE IN MILL LEVIES. BUYER SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL LEVIES.

In the event the Property is located within a special taxing district and Buyer desires to terminate this contract as a result, if written notice is received by Seller on or before **Off-Record Matters Objection Deadline** (§2c), this contract shall then terminate. If Seller does not receive Buyer's notice by such date, Buyer accepts the effect of the Property's inclusion in such special taxing district(s) and waives the right to so terminate.

- e. **Right to Object, Cure.** Buyer's right to object shall include, but not be limited to those matters listed in §12. If Seller receives notice of unmerchantability of title or any other unsatisfactory title condition(s) or commitment terms as provided in §8 a, b, c and d above, Seller shall use reasonable effort to correct said items and bear any nominal expense to correct the same prior to Closing. If such unsatisfactory title condition is not corrected to Buyer's satisfaction on or before Closing, this contract shall then terminate; provided, however, Buyer may, by written notice received by Seller, on or before Closing, waive objection to such items.
 - f. **Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property, including without limitation boundary lines and encroachments, area, zoning, unrecorded easements and claims of easements, leases and other unrecorded agreements, and various laws and governmental regulations concerning land use, development and environmental matters. **The surface estate may be owned separately from the underlying mineral estate, and transfer of the surface estate does not necessarily include transfer of the mineral rights. Third parties may hold interests in oil, gas, other minerals, geothermal energy or water on or under the Property, which interests may give them rights to enter and use the Property.** Such matters may be excluded from the title insurance policy. Buyer is advised to timely consult legal counsel with respect to all such matters as there are strict time limits provided in this contract (*e.g.*, **Title Objection Deadline** [§2c] and **Off-Record Matters Objection Deadline** [§2c]).
9. **LEAD-BASED PAINT.** Unless exempt, if the improvements on the Property include one or more residential dwellings for which a building permit was issued prior to January 1, 1978, this contract shall be void unless a completed Lead-Based Paint Disclosure (Sales) form is signed by Seller and the required real estate licensees, which must occur prior to the parties signing this contract.
 10. **PROPERTY DISCLOSURE, INSPECTION AND INSURABILITY; BUYER DISCLOSURE.** On or before **Seller's Property Disclosure Deadline** (§2c), Seller agrees to provide Buyer a written disclosure of adverse matters regarding the Property completed by Seller to the best of Seller's current actual knowledge.
 - a. **Inspection Objection Deadline.** Buyer shall have the right to have inspection(s) of the physical condition of the Property and Inclusions, at Buyer's expense. If the physical condition of the Property or Inclusions is unsatisfactory in Buyer's subjective discretion, Buyer shall, on or before **Inspection Objection Deadline** (§2c):
 - (1) notify Seller in writing that this contract is terminated, or

~~(2) provide Seller with a written description of any unsatisfactory physical condition which Buyer requires Seller to correct (Notice to Correct).~~

If written notice is not received by Seller on or before **Inspection Objection Deadline** (§2c), the physical condition of the Property and Inclusions shall be deemed to be satisfactory to Buyer.

- b. **Resolution Deadline.** If a Notice to Correct is received by Seller and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Resolution Deadline** (§2c), unless before such termination Seller receives Buyer's written withdrawal of the Notice to Correct.
 - c. **Insurability.** This contract is conditioned upon Buyer's satisfaction, in Buyer's subjective discretion, with the availability, terms, conditions and premium for property insurance. This contract shall terminate upon Seller's receipt, on or before **Property Insurance Objection Deadline** (§2c) of Buyer's written notice that such insurance was not satisfactory to Buyer. If said notice is not timely received, Buyer shall have waived any right to terminate under this provision.
 - d. **Damage; Liens; Indemnity.** Buyer is responsible for payment for all inspections, surveys, engineering reports or for any other work performed at Buyer's request and shall pay for any damage which occurs to the Property and Inclusions as a result of such activities. Buyer shall not permit claims or liens of any kind against the Property for inspections, surveys, engineering reports and for any other work performed on the Property at Buyer's request. Buyer agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller in connection with any such inspection, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to enforce this subsection, including Seller's reasonable attorney and legal fees. The provisions of this subsection shall survive the termination of this contract.
11. **CLOSING.** Delivery of deed from Seller to Buyer shall be at Closing (Closing). Closing shall be on the date specified as the **Closing Date** (§2c) or by mutual agreement at an earlier date. The hour and place of Closing shall be as designated by *mutual agreement*.
12. **TRANSFER OF TITLE.** *This paragraph applies only if Seller has exercised its option to acquire the Property from Community Office Investors, Inc. and holds fee title to the Property.* Subject to tender or payment at Closing as required herein and compliance by Buyer with the other terms and provisions hereof, Seller shall execute and deliver a good and sufficient *general warranty* deed to Buyer, at Closing, conveying the Property free and clear of all taxes except the general taxes for the year of Closing. Except as provided herein, title shall be conveyed free and clear of all liens, including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not. Title shall be conveyed subject to:
- a. those specific Exceptions described by reference to recorded documents as reflected in the Title Documents accepted by Buyer in accordance with §8a (Title Review),
 - b. distribution utility easement,
 - c. those specifically described rights of third parties not shown by the public records of which Buyer has actual knowledge and which were accepted by Buyer in accordance with §8b (Matters Not Shown by the Public Records), and §8c (Survey Review).
 - d. inclusion of the Property within any special taxing district,
 - e. the benefits and burdens of any declaration and party wall agreements, if any, and
 - f. *none other.*

13. **PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid shall be paid at or before Closing from the proceeds of this transaction or from any other source.
14. **CLOSING COSTS; DOCUMENTS AND SERVICES.** Buyer and Seller shall pay, in Good Funds, their respective Closing costs and all other items required to be paid at Closing, except as otherwise provided herein. Buyer and Seller shall sign and complete all customary or reasonably required documents at or before Closing. Fees for real estate Closing services shall be paid at Closing by **One-Half by Buyer and One-Half by Seller** **Buyer** **Seller** **Other ***.

The local transfer tax of *N/A*% of the Purchase Price shall be paid at Closing by **One-Half by Buyer and One-Half by Seller** **Buyer** **Seller**. Any sales and use tax that may accrue because of this transaction shall be paid when due by **Buyer** **Seller**.

15. **PRORATIONS.** The following shall be prorated to **Closing Date** (§2c), except as otherwise provided:

- a. **Taxes.** Personal property taxes, if any, and general real estate taxes for the year of Closing, based on **The Taxes for the Calendar Year Immediately Preceding Closing** **Most Recent Mill Levy and Most Recent Assessment** **Other**
- b. **Rents.** Rents based on **Rents Actually Received** **Accrued**. Security deposits held by Seller shall be credited to Buyer. Seller shall assign all leases to Buyer and Buyer shall assume such leases.
- c. **Other Prorations.** Water, sewer charges; and interest on any continuing loan, and *
- d. **Final Settlement.** Unless otherwise agreed in writing, these prorations shall be final.

16. **POSSESSION.** Possession of the Property shall be delivered to Buyer on **Possession Date and Possession Time** (§2c), subject to the following leases or tenancies: *any existing tenancy in effect on date of exercise*.

If Seller, after Closing, fails to deliver possession as specified, Seller shall be subject to eviction and shall be additionally liable to Buyer for payment of \$*N/A* per day from the **Possession Date** (§2c) until possession is delivered.

17. **NOT ASSIGNABLE.** This contract shall not be assignable by Buyer without Seller's prior written consent. Except as so restricted, this contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties.

18. **INSURANCE; CONDITION OF, AND DAMAGE TO PROPERTY AND INCLUSIONS.**

Except as otherwise provided in this contract, the Property, Inclusions or both shall be delivered in the condition existing as of the date of this contract, ordinary wear and tear excepted.

- a. **Casualty Insurance.** In the event the Property or Inclusions shall be damaged by fire or other casualty prior to Closing, in an amount of not more than ten percent of the total Purchase Price, Seller shall be obligated to repair the same before the **Closing Date** (§2c). In the event such damage is not repaired within said time or if the damages exceed such sum, this contract may be terminated at the option of Buyer by delivering to Seller written notice of termination. Should Buyer elect to carry out this contract despite such damage, Buyer shall be entitled to a credit, at Closing, for all the insurance proceeds resulting from such damage to the Property and Inclusions payable to Seller but not the owners' association, if any, plus the amount of any deductible provided for in such insurance policy, such credit not to exceed the total Purchase Price.
- b. **Damage, Inclusions and Services.** Should any Inclusion or service (including systems and components of the Property, *e.g.* heating, plumbing, etc.) fail or be damaged between

the date of this contract and Closing or possession, whichever shall be earlier, then Seller shall be liable for the repair or replacement of such Inclusion or service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion, service or fixture is not the responsibility of the owners' association, if any, less any insurance proceeds received by Buyer covering such repair or replacement.

- c. **Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, shall have the right to walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this contract.
19. **RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this document, Buyer and Seller acknowledge that the respective broker has advised that this document has important legal consequences and has recommended the examination of title and consultation with legal and tax or other counsel before signing this contract.
20. **TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence hereof. If any note or check received as Earnest Money hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any other obligation hereunder is not performed or waived as herein provided, there shall be the following remedies:
- a. **If Buyer is in Default:**
 - **(1) Specific Performance.** Seller may elect to treat this contract as canceled, in which case all payments and things of value received hereunder shall be forfeited and retained on behalf of Seller, and Seller may recover such damages as may be proper, or Seller may elect to treat this contract as being in full force and effect and Seller shall have the right to specific performance or damages, or both.
 - **(2) Liquidated Damages.** All payments and things of value received hereunder shall be forfeited by Buyer and retained on behalf of Seller and both parties shall thereafter be released from all obligations hereunder. It is agreed that such payments and things of value are LIQUIDATED DAMAGES and (except as provided in subsection c) are SELLER'S SOLE AND ONLY REMEDY for Buyer's failure to perform the obligations of this contract. Seller expressly waives the remedies of specific performance and additional damages.
 - b. **If Seller is in Default:** Buyer may elect to treat this contract as canceled, in which case all payments and things of value received hereunder shall be returned and Buyer may recover such damages as may be proper, or Buyer may elect to treat this contract as being in full force and effect and Buyer shall have the right to specific performance or damages, or both.
 - c. **Costs and Expenses.** In the event of any arbitration or litigation relating to this contract, the arbitrator or court shall award to the prevailing party all reasonable costs and expenses, including attorney and legal fees.
21. **MEDIATION.** If a dispute arises relating to this contract, prior to or after Closing, and is not resolved, the parties shall first proceed in good faith to submit the matter to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved within 30 calendar days of the date written notice requesting mediation is sent by one

party to the other at the party's last known address. This Section shall not alter any date in this contract, unless otherwise agreed.

22. **EARNEST MONEY DISPUTE.** In the event of any controversy regarding the Earnest Money and things of value (notwithstanding any termination of this contract or mutual written instructions), Earnest Money shall not be required to take any action. Earnest Money Holder may await any proceeding, or at its option and sole discretion, interplead all parties and deposit any money or things of value into a court of competent jurisdiction and shall recover court costs and reasonable attorney and legal fees.
23. **TERMINATION.** In the event this contract is terminated, all payments and things of value received hereunder shall be returned and the parties shall be relieved of all obligations hereunder, subject to §§10d, 21 and 22.
24. **ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate Commission.).
 - a. **"AS-IS" Nature of Sale.** Buyer acknowledges and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to: (a) the value, nature, quality or condition of the Property, including, without limitation, the water, soil and geology; (b) the income to be derived from the Property; (c) the suitability of the Property for any and all activities and uses which Buyer may conduct thereon; (d) the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (e) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; or (f) any other matter with respect to the Property, and Seller specifically disclaims any representations regarding compliance with any environmental protection, pollution or land use laws, rules, regulations, orders or requirements, including solid waste, as defined by the U.S. Environmental Protection Agency regulations at 40 C.F.R., Part 261, or the disposal or existence, in or on the Property, of asbestos or any hazardous substance as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder. Buyer further acknowledges and agrees that any information provided or to be provided by or on behalf of Seller with respect to the Property was obtained from a variety of sources and that Seller has not made by independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Seller is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property, or the operation thereof, furnished by any real estate broker, agent, employee, servant or other person. Buyer further acknowledges and agrees that to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "AS IS" condition and basis with all faults. Buyer and anyone claiming by, through or under Buyer hereby fully and irrevocably releases Seller, Seller's employees, representatives and agents, from any and all claims that Buyer may now have or hereafter acquire against Seller, Seller's employees, representatives and agents for any cost, loss, liability, damage, expense, demand, action or cause of action arising from or related to any defects, errors, omissions or other conditions, including environmental matters, affecting the Property, or any portion thereof. It is understood and agreed that

- the Purchase Price has been adjusted by prior negotiation to reflect that all the Property is sold by Seller and purchased by Buyer subject to the foregoing. It is expressly understood that Seller does not represent or warrant acreage or matters of survey. In particular but not by way of limitation, Seller does not warrant that fences are exactly on boundary lines, or against encroachments, if any there be, by neighbor's fences which could, because of the passage of time, possibly establish a new valid boundary line.
- b. Title Insurance. The title insurance policy referred to in Section 8 shall be issued on the ALTA 1987 Owner's Form, amended 10/17/92, with standard printed exceptions 1, 2, 3 and 4 deleted and Colorado endorsement forms added thereto.
 - c. Survey. Prior to **Closing**, Buyer may obtain a current pinned or monumented boundary and improvements survey of the Property, certified by a licensed Colorado surveyor, showing thereon the correct legal description, property dimensions, easements, rights of way and encroachments, if any, recorded or in place, and all improvements, with the dimensions thereof. The Survey shall be considered one of the Title Documents. The cost of the Survey will be paid by Buyer at the closing.
 - d. Contingencies. This Contract and Buyer's performance hereunder are contingent upon satisfaction of all conditions set forth in the Option.
 - e. Access Prior to Closing. Prior to closing, but only after exercise of the option, Buyer shall have the right to enter the Property, provided that (1) such entrance and Buyer's activities on the Property shall not interfere with Seller's or Tenant's use thereof; (2) inspections, surveys and test borings shall be permitted, but no construction of any type shall be allowed; (3) Buyer shall at all times comply with applicable laws and ordinances and shall save and protect the Property, Seller and Tenant harmless from any and all liability and liens on account of Buyer's activities on the Property; (4) Buyer shall engage in no activities that could lead to or cause erosion, permanent harm, damage or littering to or of the Property; (5) Buyer shall fill all test holes, and shall leave the Property in the same condition as when such entrance occurred; and (6) it shall be Buyer's responsibility and obligation to cause its employees, agents and contractors to comply fully with the letter and spirit of this subparagraph.
 - f. Property Information. Seller, without additional cost to Buyer, within twenty (20) days after the date hereof, shall deliver to Buyer copies of all surveys, engineering studies, feasibility studies, soil and water test results, maps, plats, contracts, documents, agreements, permits, licenses, reports and data pertaining to or affecting the Property which are in Seller's possession or under Seller's control. In the event of termination of this Contract for any reason other than Seller's default, Buyer, without additional cost to Seller, shall promptly return to Seller all of the above listed materials pertaining to the Property which are in Buyer's possession or under Buyer's control.
 - g. Brokers. Each of the parties hereto agrees to indemnify and hold the other harmless from any and all broker's and sales agent's commissions and fees, and for all costs and expenses, including reasonable attorney fees, incurred in connection with any such claims, except as to brokers or agents with whom such other party has contracted directly.
 - h. Notices. Any and all notices or other communications between the parties hereto shall be deemed received when delivered personally to **P. J. McGovern** on behalf of Seller or to **the City Attorney** on behalf of Buyer, or two days following deposit thereof with the

United States Postal Service, postage prepaid, registered or certified, addressed as follows:

To Buyer: ***City of Grand Junction***
Attn: City Attorney
City Hall
250 N. 5th Street
Grand Junction, CO 81501

To Seller: ***P. J. McGovern***
H. R. Adventures, LLC
101 S. Third Street, Suite 360
Grand Junction, CO 81501

- i. **Survival.** All representations, warranties and covenants made herein shall survive the closing and conveyance of title hereunder and remain enforceable thereafter.
25. **ENTIRE AGREEMENT, MODIFICATION, SURVIVAL.** This contract constitutes the entire contract between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this contract. No subsequent modification of any of the terms of this contract shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any obligation in this contract that, by its terms, is intended to be performed after termination or Closing shall survive the same.
26. **NOTICE, DELIVERY AND CHOICE OF LAW.**
- a. **Physical Delivery.** Except for the notice requesting mediation described in §21, and except as provided in §26b below, all notices must be in writing. Any notice to Buyer shall be effective when received by Buyer or by Selling Brokerage Firm, and any notice to Seller shall be effective when received by Seller or Listing Brokerage Firm.
- b. **Electronic Delivery.** As an alternative to physical delivery, any signed document and written notice may be delivered in electronic form by the following indicated methods only: **Facsimile** **E-mail** **None.** Documents with original signatures shall be provided upon request of any party.
- c. **Choice of Law.** This contract and all disputes arising hereunder shall be governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in this state for property located in Colorado.
27. **NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal shall expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below, and the offering party receives notice of acceptance pursuant to §26 on or before **Acceptance Deadline Date** (§2c) and **Acceptance Deadline Time** (§2c). If accepted, this document shall become a contract between Seller and Buyer. A copy of this document may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties.

Date: _____

CITY OF GRAND JUNCTION, COLORADO,
a Colorado home rule municipality

By: David Valby
City Manager

City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501

Date: 31 October 2006

H. R. ADVENTURES, LLC, a
Colorado limited liability company

By: _____
P. J. McGovern, Manager

H. R. Adventures, LLC
101 S. Third Street, Suite 360
Grand Junction, CO 81501

RATIFICATION OF AGREEMENT
Rood Avenue Parking Structure

This Ratification of Agreement is made on October 31, 2006, by and between the City of Grand Junction, a Colorado home rule municipality, for itself and for the Grand Junction Downtown Development Authority ("City") and HR Adventures, LLC, a Colorado limited liability company ("HR").

Recitals.

A. On October 31, 2006 the City and HR Adventures closed that certain agreement between the Parties dated September 27, 2006 known as the Contract to Exchange Interests in Real Property ("Exchange Agreement.") A copy of the Exchange Agreement is attached hereto and incorporated by this reference as if fully set forth.

B. Under the Exchange Agreement the City agreed to convey to HR fee title to twenty-one (21) contiguous covered parking spaces in a new parking garage to be constructed by the City on Lots 13 and 14, Block 103 in the City of Grand Junction ("Parking Spaces.")

C. The Parking Spaces will be conveyed upon completion of the construction and condominiumization of the parking garage. The Parking Spaces to be conveyed to HR shall generally be located in the area identified on Exhibit A attached hereto. Conveyance of the Parking Spaces upon completion of construction shall be by general warranty deed. The Parking Spaces, for the purpose of this Agreement, have a gross valuation of \$189,000. The Parking Spaces will be conveyed subject to no liens or encumbrances.

IN CONSIDERATION of the Recitals, the mutual covenants set forth herein and the consideration heretofore exchanged by the Parties which supports the making of this and the other agreements, the City does hereby ratify its obligations under the Exchange Agreement to convey 21 parking spaces to HR Adventures upon completion of the construction and condominiumization of the parking structure, all of which is subject to the terms of the Exchange Agreement and full performance by HR of its obligations in closing the Exchange Agreement.

This Ratification of Agreement does not serve to amend, nor shall either party claim that it does amend the prior agreements of the Parties and accordingly are prior agreements remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seals the date and year first above written.

CITY OF GRAND JUNCTION, a
Colorado home rule municipality,

HR ADVENTURES, LLC, a
Colorado limited liability company,

by David Varley
David Varley
City Manager

by P.J. McGovern
P.J. McGovern
Operating Manager

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Subscribed and sworn to before me this 31st day of October, 2006, by P. J. McGovern, as Manager of H. R. Adventures, LLC.

WITNESS my hand and official seal.

My commission expires:
My Commission Expires
06/30/2010

Susan Mueller
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Subscribed and sworn to before me this 31st day of October, 2006, by David A. Varley, City Manager for the City of Grand Junction, Colorado.

WITNESS my hand and official seal.

My commission expires:
My Commission Expires
06/30/2010

Susan Mueller
Notary Public

Exhibit A

Map identifying parking spaces
to be conveyed to
HR Adventures, LLC
not provided to City Clerk's Office

APPROVAL OF PLANS

Pursuant to the provisions of Paragraph 6(d)(ii) of the Contract to Exchange Interests in Real Property, **H. R. ADVENTURES, LLC** hereby approves the plans for the parking garage identified in that Contract, dated August 30, 2006, Pages C-02 - Site Plan; A1-1 - Floor Plan; A2-1 - Exterior Elevations; and A4-1 - Wall sections and details.

Dated this 31st day of October, 2006.

H. R. ADVENTURES, LLC

By: 

Manager

CONTRACT TO EXCHANGE INTERESTS IN REAL PROPERTY

This CONTRACT TO EXCHANGE INTERESTS IN REAL PROPERTY ("Agreement") is made and entered into this 27th day of September, 2006, by and between **H. R. ADVENTURES, LLC**, a Colorado limited liability company, hereafter referred to as "HR" and the **CITY OF GRAND JUNCTION**, a Colorado home rule municipality, for itself and for the Grand Junction Downtown Development Authority hereafter referred to as "City."

1. **Conveyance to City.** Subject to the terms of this Agreement, HR agrees to convey to City the following described interest in real property located in the County of Mesa, State of Colorado, to-wit:

All rights held by HR under the Lease And Option Agreement dated February 1, 1999 with Community Office Investors, Inc. ("COI") to acquire the following real property: Lots 13 and 14, Block 103, City of Grand Junction.

The two lots are hereafter referred to as the "Property," and the rights to acquire the Property under the Lease And Option Agreement are hereafter referred to as the "Option Rights." Conveyance shall be by good and sufficient assignment. The Option Rights, for the purpose of this Agreement, have a gross valuation of \$189,000. The Option Rights will be conveyed subject to the following encumbrances: None.

The conveyance of the Property follows notice from the City to HR to the effect that if the Property is not voluntarily conveyed, the City will exercise its powers of eminent domain and condemn the Property for a public purpose to wit the Parking Garage identified below.

2. **Conveyance To HR.** The City agrees to convey to HR the following described improvements to be constructed as set forth hereafter, in the County of Mesa, State of Colorado, to-wit:

a. Fee title to twenty-one (21) contiguous covered parking spaces in a new Parking Garage to be constructed by the City on Lots 13 and 14, Block 103 in the City of Grand Junction ("Parking Spaces"). The Parking Spaces to be conveyed will be identified upon completion of the construction and condominiumization of the parking garage as further discussed in Paragraphs 3 and 4 below. The Parking Spaces to be conveyed to HR shall generally be located in the area identified in the map attached hereto as Exhibit A along the eastern side of the garage or near the exit door or elevator closest to the eastern side of the garage.

b. Conveyance of the Parking Spaces shall be by general warranty deed. The Parking Spaces, for the purpose of this Agreement, have a gross valuation of \$189,000. The Parking Spaces will be conveyed subject to the following encumbrances: None.

3. **Creation of Parking Spaces.** The Parking Garage identified in Paragraph 2 has not been constructed as of the date of this Agreement. With respect to the construction of the Parking Garage the following terms apply:

a. **Construction Responsibilities.** HR shall cooperate with the City as reasonably necessary at all stages of the pre-construction and construction activities to allow the City to use the Property for the purpose of constructing the Parking Garage, including performing any and all work, inspections, survey and other matters necessary or required in anticipation of construction. Specifically, the City shall have the right to test, research and confirm the physical and environmental condition of the Property. Furthermore, the City may excavate and demolish the improvements on Lots 13 and 14 and begin construction phase activities prior to Closing. The City shall manage construction of the Parking Garage; however, the City may consider input from HR about the means and methods of construction, but the City shall not be bound to act on the same.

The City shall manage the construction project by providing construction management and engineering oversight by a Colorado licensed professional engineer in good standing. The construction management and engineering review and oversight will be in accordance with the construction plans, generally accepted engineering practices and if applicable, the standards set by the City.

The City will ensure that no portion of the Parking Garage encroaches upon Lots 15 and 16.

The City, by and through its project management personnel, shall be responsible for directing means and methods of construction and supervision of the work. HR may observe, monitor and examine construction means and methods, but final construction decisions are the responsibility of and shall be made by the City.

The City will make available for inspection by HR, upon HR's written request, all solicitations, bids and/or correspondence between the City and project contractor(s), professional service providers and/or agents.

b. **Commencement of Project.** The City will diligently prosecute construction and condominiumization of the Parking Garage. The City agrees that it will commence construction promptly after issuance of a building permit. The City agrees to complete the parking garage within 500 days from the date of issuance of the building permit, save and except delays occasioned by acts of God or failure to obtain appropriate materials and supplies necessary for incorporation into the Parking Garage. Delays occasioned by any matter set forth in the preceding sentence shall serve to extend the completion period by the amount of time equivalent to the time loss. The condominiumization of the Parking Garage will be completed on or before December 31st, 2007.

c. **Quality of Work and Materials.** The City agrees that all work performed by it, or by its contractors, shall be of workmanlike quality and in accordance with the contract documents for the Project. All materials, fixtures and systems placed in the improvements by the City or its subcontractors are to be new, of good quality and free from known defects.

The City agrees with HR to utilize its best skill, efforts and judgment in executing the entire work described in the contract documents; to furnish efficient business administration and supervision; to make best efforts to furnish at all times an adequate supply of workers and materials, and to perform the work in the best way and most expeditious and economical manner.

d. **Mechanic's Lien Provisions.** The City covenants and agrees that it shall save and hold and indemnify HR free and clear of any and all claims that may be filed against the Property pursuant to the terms and provisions of the Colorado Mechanic's Lien Act, and further agrees to pay any and all expenses that HR may incur as a result of such claims being filed. The City agrees that it will require its contractors and materialmen to provide HR with a full and complete release of any claim which they may possess at or before time of final payment of the sums due them.

e. **Responsibility for Those Performing the Work.** The City shall be responsible for the acts and omissions of all of its employees and contractors and their agents and employees and all other persons performing any of the work under the contract documents.

f. **Protection of Persons and Property.** The City shall be responsible for initiating, maintaining and supervising reasonable safety precautions and programs in connection with the work to prevent damage, injury or loss to employees or other persons, the work and other property beside or adjacent thereto.

g. **Default.** If the City or its contractor fails to perform the work diligently, or abandons or ceases work for a period of forty-five (45) or more days, except for reasons beyond the City's control, or fails in any way to perform the conditions hereof, or fails to pay laborers, mechanics, materialmen, and suppliers when due, or shall become insolvent, or unable to meet its obligations as they become due, or shall make an assignment for the benefit of creditors, HR may, and without prejudice to any other rights it may have, obtain specific performance of this Agreement by order of a court of competent jurisdiction, remove all improvements constructed on the Property and restore the Property to its previous condition, with the right to recover its costs of removal and restoration from the City, and/or terminate this Agreement, and by giving fourteen (14) days written notice of its election to the City.

4. **Closing.** HR and the City agree that the terms of this Agreement shall survive Closing. Closing of the conveyance of the Option Rights by HR shall occur if at all on or before October 31st, 2006. Closing of the conveyance of the Parking Spaces shall occur as set forth in Paragraph 5. If Closing does not occur on or before that date the agreement may be cancelled or

the Closing may be extended to a date mutually agreeable to HR and the City. Each party agrees to execute and deliver the property conveyed to the other party, free and clear of all taxes, except general taxes for the year of closing which the other party assumes and agrees to pay subject to the adjustment to the date of closing. The hour and place of closing shall be designated by mutual agreement.

5. **Condominiumization of Parking Garage.** The City and HR agree to reasonably cooperate to condominiumize the Parking Garage. Condominiumization of the Parking Garage shall occur as soon as regulatory approvals allow. The City and HR's interests, as well as other condominium owners' interests, will be reflected in the condominium declarations, covenants, conditions and restrictions. The declarations will include terms that apportion (on a proportionate share of ownership base) the annual maintenance cost of the parking garage. In addition, the declarations will establish common and general elements and address other aspects of operation and maintenance, as follows:

a. **Limitation on Assessments.** The City and HR shall stipulate and agree that the annual assessment to be paid by HR for its 21 parking spaces under the declarations shall not exceed \$100.00/year/space for a period of seven (7) years from the date that the Certificate of Occupancy is issued for the parking garage. This provision shall not apply to any special assessment. Commencing with the eighth (8th) year and for every year thereafter, HR shall pay annual assessments at the prevailing rate. The covenants shall preclude amendment of these terms without the consent of HR or its successor. HR and its successor, if any, shall be responsible for the payment of any and all ad valorem property taxes, possessory interest taxes and other assessments of whatever kind made against its interest in the Parking Garage.

b. **Approval of Covenants.** HR reserves the right to review and approve the covenants, conditions and restrictions and condominium documents for the Parking Garage to ensure that its provisions are consistent with the terms of this Agreement. If the covenants, conditions and restrictions and condominium documents are consistent with the terms of this Agreement, then HR shall approve the same.

c. **Closing – Parking Spaces.** The Closing of the sale of the Parking Spaces shall occur within thirty days after issuance of a Certificate of Occupancy by the city for the Parking Garage, and the recording of both the declaration and condominium map for the Parking Spaces.

6. **Development of Lots 15 and 16.** Due to the anticipated construction of the Parking Garage on Lots 13 and 14, HR (or its successors) expect that Lots 15 and 16 will be developed at some point in the future and has requested and received the following assurances:

a. **Development.** HR shall have sole discretion and control over the development of Lots 15 and 16, in accordance with the requirements of then applicable law, rule or regulation of any entity having jurisdiction over HR and/or Lots 15 and 16.

b. **Compliance With City Codes.** Subject to the Zoning and Development Code in effect at the time, any development of Lots 15 and 16 shall be subject to the City's review and approval of HR's application. All reviews will be conducted by the City in good faith and in the ordinary course of business.

c. **Abutment To Parking Garage.** Notwithstanding the foregoing, the City has expressly agreed that HR's improvements may physically adjoin the Parking Garage, in accordance with applicable codes, laws, rules and regulations in effect at the time.

d. **Conditions To Closing.** All of HR's obligations to close this exchange are expressly made subject to:

i. A written acknowledgment from the City's Chief Building Official that HR's improvements may be constructed so that the west wall/side of HR's structure will physically adjoin the east wall/side of the parking garage without requiring physical separation of HR's improvements from the Parking Garage;

ii. HR's approval, in its sole discretion, of the plans for the east side and walls of the Parking Garage showing the feasibility of the anticipated physical joinder of HR's improvements to the east side and walls of the parking garage. Notwithstanding any provision of this Agreement to the contrary, the plans must show that the east wall/side of the parking garage will be constructed along the boundary line separating Lots 14 and 15 in Block 103 so that HR's improvements may abut the east wall/side without encroachment onto Lot 14. The City agrees that no changes which would materially affect HR's ability to physically join its improvements to the parking garage, and construct direct access to the second and third levels, will be made to the plans without HR's written consent following HR's approval of the plans.

iii. The City has acquired COI, subject to the Lease And Option Agreement with HR, and the City and HR have agreed to an amendment of the Lease and Option Agreement which allows HR to assign its rights to acquire Lots 13 and 14 under the Agreement to the City, and to retain the option to separately acquire Lots 15 and 16 under the original terms of the Agreement.

e. **Fire Wall.** The City may, but is not obligated to, construct, in its sole discretion and at its expense, a fire wall on the east side of the Parking Garage in a manner which will allow the physical joinder of HR's (or its successors') improvements to the east wall of the garage without the necessity of building another fire wall as a part of HR's (or its successors') improvements. If the City constructs a fire wall in this location, if the structure built by HR adjoins the Parking Garage, and if HR is not required to construct a fire wall as a part of its improvements in order to physically adjoin the east wall of the Parking Garage, HR (or its successors) shall pay to the City the sum of \$125,000, plus simple interest at the rate of 5% per annum from the date of completion of the Parking Garage to the date of payment, at the time of issuance of a building permit to HR for construction of improvements on Lots 15 and 16. For purposes of this

subparagraph, the terms “improvements” means an office building or some similar permanent structure on Lots 15 and 16 as allowed by zoning in effect at the time of improvements.

7. **Environmental Conditions.**

a. **Existing Environmental Reports.** COI retained at its expense STTI Environmental and Engineering Consultants, a qualified independent consultant, to evaluate the environmental condition of the Property, and to remediate and monitor the hazardous materials found on the Property. The City acknowledges receipt of, or access to, STTI’s records with respect to the contamination of the Property and its current level of remediation.

b. **“As Is” Nature of Sale to City.** The City acknowledges and agrees that COI and HR have not made, do not make, and specifically negate and disclaim any representations, warranties, promises, covenants, agreements, or guarantees of any kind or character whatsoever, whether express or implied, verbal or written, concerning:

- i. The value, nature, quality, or condition of the Property;
- ii. The suitability of the Property for any and all activities and uses which the City may conduct thereon;
- iii. The compliance of the Property with any laws, rules, ordinances, or regulations of any applicable governmental authority or body; and
- iv. Any other matter with respect to the Property, including compliance with environmental protection, pollution, or land use laws, rules, regulations, orders, or requirements, including solid waste, and the disposal or existence in or on the Property of asbestos or any hazardous substance.

The City further agrees that, having been given the opportunity to inspect the Property, the City is relying solely on the City’s own investigation of the Property, and not on any information provided by HR. The City further acknowledges and agrees that, to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an “AS IS” condition and “WITH ALL FAULTS.” The City and anyone claiming by, through, or under the City hereby fully and irrevocably releases HR, HR’s members, managers employees, representatives, and agents from any and all claims that the City may now have or hereafter acquire against HR, HR’s members, managers employees, representatives and agents, for any cost, loss, liability, damage, expense, demand, action, or cause of action arising from or related to any defects, errors, omissions, or other conditions, including environmental matters, affecting the Property, or any portion thereof. It is understood and agreed that the values have been adjusted by prior negotiation to reflect that the Option Rights to the Property are exchanged by HR and acquired by the City subject to the foregoing.

8. **Title.** Title to the interests in real property to be exchanged between the parties shall be merchantable in the respective parties hereto.

9. **Possession.** Possession of the premises shall be delivered to each party as follows:

a. **Possession of Lots 13 and 14/Substitute Parking.** The City shall be entitled to possession of Lots 13 and 14 prior to Closing at such time as it reasonably requires use of these lots for construction purposes without further notice to HR. HR agrees to allow the City to take possession of the Property effective September 27, 2006 for the purpose of site preparation, including the removal of asphalt and to begin construction phase activities. If this Agreement is terminated prior to Closing, the City shall restore the Property to its current condition as a parking lot, and each party shall bear 50% of the cost of such restoration. As a condition of its right to take possession, the City has provided at no cost to HR, 23 free parking passes for the displaced users of the Property until the City delivers possession of the 21 parking spaces in the Parking Garage to HR. At the request of HR, the City shall designate by appropriate signage up to 23 parking spaces for the exclusive use of the displaced users in the public parking lot between at the 3rd & Main Sts. lot, if requested by HR. Other permits not assigned to this lot, may be used at any 10 hour parking space. Substitute parking rights shall expire when the Parking Garage is open for occupancy.

b. **Cooperation By HR.** As the holder of the Option Rights, HR agrees to sign any development application and otherwise cooperate as reasonably necessary to allow the City to construct the Parking Garage on Lots 13 and 14.

c. **Possession of Parking Spaces.** HR shall be entitled to possession of the Parking Spaces in the Parking Garage when the Parking Garage is open for occupancy.

d. **Temporary Possession of Lots 15 and 16.** HR agrees to reasonably cooperate with the City during construction of the Parking Garage. Reasonable cooperation shall include but not be limited to occasional interference from construction equipment, including noise and dust generated there from and as needed for temporary construction access and easements.

10. **Casualty.** In the event that any of the real property interests to be exchanged is damaged by fire or other casualty prior to time of closing in an amount of not more than twenty percent of the value of the interest, the seller of the damaged interest shall be obligated to repair the same before the closing. In the event such damage shall exceed such value, this contract may be canceled at the option of the other party. Should the other party elect to carry out this agreement despite such damage, such other party shall be entitled to all the credit for the insurance proceeds resulting from such damage, not exceeding, however, the total value.

11. **No Brokers.** It is agreed that no brokers are acting on behalf of either party of this transaction, and that neither has incurred an obligation to pay a commission to any broker as a result of this transaction.

12. **Default.** Time is of the essence hereof, and if any payment or other condition hereof is not made, tendered or performed by either of the parties hereto as herein provided, the non-defaulting party may elect to terminate this Agreement, or to treat this contract as being in full force and effect, and the non-defaulting party shall have the right to an action for specific performance and damages. HR's rights to specific performance expressly include, without limitation, the right to require the City to complete construction of the parking garage once construction has commenced on the Property, the right to compel the City to convey the 21 parking spaces, and the right to develop and acquire improvements constructed on Lots 15 and 16. In the event the Agreement is terminated before completion of the parking garage, HR's remedies shall include the right to require the City to remove any improvements constructed on the Property at the sole expense of the City, and to restore the Property to its previous condition. In the event that either party files an action in the courts to enforce this Agreement, the prevailing party, in the court's opinion, shall be entitled to recover its attorney fees and costs incurred therein.

13. **Assignment.** HR may assign any or all of its rights under this Agreement, before or after Closing. However, sale of the 21 condominiumized parking spaces will be restricted to owners or tenants of the Dalby Wendland Building, and this block of parking will be granted one common vote on any condominium association or property owners group charged with the management of the Parking Garage.

14. **Option To Acquire Lots 15 and 16.** In consideration of the benefits received under this Agreement, the sufficiency of which is acknowledged, HR grants to the City the option to purchase Lots 15 and 16 if and only if all of the conditions set forth below are satisfied.

a. **Conditions Precedent.** The option granted herein may only be exercised on or after October 1, 2013 if HR (or its successors and assigns) has not commenced the development of Lots 15 and 16 by that date. For purposes of this Agreement, "commenced the development of Lots 15 and 16" means that HR has submitted a bona fide development application to the City Community Development Department for construction of an office building or similar structure in good faith, and thereafter exercises reasonable diligence in prosecuting the application. HR may amend, withdraw and re-submit, and/or submit new applications following any denial of an application, and shall still be deemed to have commenced the development of Lots 15 and 16. The option granted herein shall expire, and may no longer be exercised, once HR (or its successors and assigns) has received approval of its development application and has been issued a building permit.

b. **Duration.** If HR has not commenced development of Lots 15 and 16 by October 1, 2013, the City may exercise its option by delivering two duly signed contracts in the form attached hereto as Exhibit B on or before September 30, 2014. HR shall thereupon sign and return one copy of the contract.

c. **Purchase Price and Payment.** The purchase price shall be the fair market value of the property at its highest and best use as of the date of exercise. If the

parties cannot agree on the fair market value of the lots, they shall mutually select an independent appraiser to perform an appraisal, and the result of the appraisal shall be binding on both parties. If the parties are unable to agree on an appraiser, the Chief Judge of the Twenty-First Judicial District, or his designee, shall make the selection from names and resumes submitted by the parties. The purchase price, as finally determined, will be paid to HR in certified funds at the Closing.

d. **Closing.** The Closing shall take place at a time and place as determined by the parties within thirty days from the date the purchase price is determined.

e. **Expiration.** If the conditions to exercise of this option do not occur, or if the City fails to exercise the option within the period allowed, or if the City defaults in the closing of the option after exercise, this option shall automatically expire and terminate, and neither party shall have any further rights hereunder, without the necessity of further action or documentation by either party.

15. **Survival.** All representations and covenants of the parties shall survive the closing hereof. This contract shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, successors, and assigns.

16. **Additional provisions:**

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

b. **Continued Existence of COI.** The City shall continue COI in existence as a Colorado limited liability company in good standing until HR either exercises and closes its option to purchase Lots 15 and 16, or the option expires.

**H. R. ADVENTURES, LLC, a
Colorado limited liability company**

By: _____

Manager

**CITY OF GRAND JUNCTION, COLORADO,
a Colorado home rule municipality**

By: _____

City Manager

Exhibit A

Map identifying parking spaces
to be conveyed to
HR Adventures, LLC
not provided to City Clerk's Office

ADDENDUM TO LEASE AND OPTION AGREEMENT

THIS ADDENDUM is entered into as of the 18th day of October, 2006 between **COMMUNITY OFFICE INVESTORS, INC.** ("COI") and **H. R. ADVENTURES, LLC** ("HR").

Recitals

- A. COI and HR are parties to a Lease and Option Agreement dated February 1, 1999.
- B. Under the Lease and Option Agreement, HR presently leases Lots 13, 14, 15 and 16, Block 103, City of Grand Junction, Mesa County, Colorado. HR also has the option to purchase these lots for consideration already paid to COI.
- C. HR desires to assign its option rights to purchase Lots 13 and 14 to the City of Grand Junction, and to separately retain the option to purchase Lots 15 and 16 under the original terms of the Lease and Option Agreement.
- D. COI is willing to amend the Lease and Option Agreement to consent to HR's assignment of its option rights with respect to Lots 13 and 14, and to confirm its agreement that HR will thereafter retain the option to purchase Lots 15 and 16 separately under the original terms of the Lease and Option Agreement.

Agreement

IN CONSIDERATION of the Recitals and the mutual covenants set forth herein, the parties agree to amend the Lease and Option Agreement as follows:

1. **Consent to Assignment of Option Rights.** COI hereby gives its consent to the assignment of HR's option rights as to Lots 13 and 14, Block 103, City of Grand Junction, to the City of Grand Junction. Following the assignment, COI acknowledges that the City of Grand Junction will have and may exercise all of the rights of HR to purchase Lots 13 and 14 in its name under the terms of the Lease and Option Agreement.
2. **Option Rights to Lots 15 and 16.** COI hereby agrees that the purchase option contained in the Lease and Option Agreement is hereby amended to allow HR to exercise the option rights to purchase Lots 15 and 16, Block 103, City of Grand Junction, separately and without regard to any transactions involving Lots 13 and 14. HR's option rights to purchase Lots 15 and 16 shall be otherwise on the same terms and conditions as set forth in the Lease and Option Agreement. HR may exercise its option to purchase Lots 15 and 16 without regard to whether or when the City of Grand Junction exercises its option to purchase Lots 13 and 14.
3. **Effect.** Except as expressly modified by this Addendum, the terms of the Lease and Option Agreement between the parties, dated February 1, 1999, remain in full force and effect.

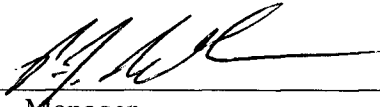
Original

ASSIGNMENT

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **H. R. ADVENTURES, LLC**, a Colorado limited liability company, hereby assigns to the **CITY OF GRAND JUNCTION** its exclusive and irrevocable option under the Lease and Option Agreement with Community Investors, Inc., dated February 1, 1999, to purchase Lots 13 and 14, Block 103, City of Grand Junction, together with the improvements thereon, and all rights, ways, alleys, privileges and appurtenances belonging or in anywise appertaining thereto. This Assignment is subject to the terms and conditions of the foregoing Lease and Option Agreement, including Exhibit A attached to that Agreement. This Assignment is conditioned upon the written consent of Community Office Investors, Inc. to the assignment of H. R.'s option rights as to Lots 13 and 14, and its written acknowledgment that H. R. Adventures, LLC retains an exclusive and irrevocable option to purchase Lots 15 and 16, Block 103, City of Grand Junction, under the terms set forth in the Lease and Option Agreement, following this Assignment.

Dated this 31st day of October, 2006.

H. R. ADVENTURES, LLC

By: 
Manager

STATE OF COLORADO)
) ss
COUNTY OF MESA)

Subscribed and sworn to before me this 31st day of October, 2006, by P. J. McGovern, as Manager of H. R. Adventures, LLC.

WITNESS my hand and official seal.

My commission expires:
My Commission Expires
06/30/2010


Notary Public

LEASE AND OPTION AGREEMENT

This LEASE AND OPTION AGREEMENT made and entered into as of the 1st day of February, 1999, by and between Community Office Investors, Inc. (hereinafter referred to as "Lessor"), and H R Adventures, LLC (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor warrants that it is the owner and in possession of real property situated in Mesa County, Colorado and described more particularly as Lots 13, 14, 15 and 16, Block 103, City of Grand Junction, Mesa County, Colorado (hereinafter referred to as the "Premises"); and

WHEREAS, Lessor is willing to lease said real property to Lessee in accordance with the covenants and agreements hereinafter set forth, and Lessee is willing to accept said Lease in accordance with said covenants and agreements; and

WHEREAS, Lessor is willing to extend to Lessee the option to purchase said Premises in accordance with the terms of the option hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, promises and conditions and payments herein contained and in consideration of that certain Commercial Contract to Buy and Sell Real Estate dated January 20, 1999, the parties agree as follows:

1. Granting. For and in consideration of the rent hereinafter to be received and the covenants and agreements to be kept and performed by Lessee, Lessor does hereby grant, devise and lease unto Lessee the following described real property together with appurtenances now or hereafter appertaining thereto:

Lots 13, 14, 15 and 16, Block 103, City of Grand Junction,
Mesa County, Colorado

2. Term/Right to Renew. The term of this Lease and Option Agreement shall expire on the earliest of the following:

a. Five (5) years from the date notification is received by the Lessor from the Colorado Department of Labor and Employment, Oil Inspection Section, that Lessor has complied with all orders, plans and/or directives required, authorized or approved by said Section; or

b. At 11:59 p.m. on the 30th day of January, 2019, unless the term of this lease is extended as follows in which case expiration shall be extended to the end of the applicable extension term. Lessor agrees that Lessee shall have the option and right to renew this Lease and Option Agreement

for two (2) twenty (20) year terms under the same conditions as herein set out. In order to avail itself of this option, Lessee must notify the Lessor in writing at least thirty (30) days before the expiration of the first twenty (20) year term and, likewise, at least thirty (30) days before the expiration of the second twenty (20) year term of its intention to renew this Lease.

3. **Rental.** Lessee covenants and agrees to pay to Lessor as and for the rental for the full term, and any subsequent terms, the sum of one dollar (\$1.00) per year for each year of the Lease and any subsequent terms; each payment to be made on February 1 of each Lease year. Said payment shall be tendered to Lessor at 464 Main Street, Grand Junction, Colorado or at such other place as Lessor may from time to time designate in writing. As additional rent, Lessee agrees to pay Lessor one thousand dollars (\$1,000.00) per annum, with pro ration for partial years, beginning one (1) month after notification of compliance as set forth in paragraph 2(a) is received by Lessor and continuing until the purchase option is exercised pursuant to the provisions of paragraph 17(c). Additional rent pursuant to the provisions of this paragraph is due at the end of any twelve (12) month period or at the time the purchase option is exercised.

4. **Taxes.** Lessee agrees to pay the yearly general real property taxes levied and assessed against the Premises throughout the term herein granted. Lessee's obligation under this paragraph shall be prorated for any partial years that Lessee is in possession of the Premises under this Lease at the beginning or end of the Lease term. Lessor agrees to furnish to Lessee a copy of the tax notice evidencing the amount of taxes due promptly upon receipt. Lessee shall pay such sum for taxes to Lessor not later than April 30 of each year, or one-half by the last day of February and the balance by June 15, as Lessor shall request.

5. **Expiration.** Lessee agrees that upon the expiration of this Agreement, and in the event Lessee fails to exercise the option to purchase the property contained herein, it will surrender and yield up the Premises and property covered hereby to the Lessor in as good order and condition as when received, loss by fire, flood, the elements or Act of God, and ordinary wear and tear excepted, except by Lessee's negligence.

6. **Holdover.** It is mutually agreed that if, after the expiration of the term of this Lease by limitation of time or as extended as provided above, Lessee, without exercising its option to purchase, shall remain in possession of said Premises and continue to pay rent without a written agreement as to such possession, then it shall be regarded as a tenant from month to month at a monthly rental, payable in advance, equivalent to the last month's rent hereunder.

7. **Repairs, Maintenance and Indemnity.** Lessee covenants that he will keep and maintain the Premises in good and tenantable repair. It is the intention of both parties that Lessee shall be responsible for all maintenance and repairs in connection with improvements to the leased Premises including improvements constructed on the Premises pursuant to the provisions of paragraph 12 of this Lease. Lessee shall also be responsible for maintenance and repair of pipes and connections located below the ground of the leased Premises. Lessee agrees to indemnify and hold harmless Lessor

from all expense, damages, costs and penalties, including interruption or loss of use of the Premises due to excavations and subsidence or loss of support for above ground improvements due to any construction, excavation, repair or remediation on the Premises if such activities are performed by, caused by or authorized by Lessee. Lessor agrees to indemnify and hold harmless Lessee from all expenses, damages, costs and penalties, including interruption or loss of use of the Premises due to excavation and subsidence or loss of support for above ground improvements due to any construction, excavation, repair or remediation occurring below the ground, if such activities are performed by, caused by or authorized by Lessor.

8. Alterations or Modifications. Any alterations, improvements or changes to the leased Premises shall become a part of the leased Premises and remain thereon at the termination of this Agreement. Any trade fixtures, equipment or other personal property installed in the leased Premises by the Lessee shall remain the property of the Lessee and may be removed by the Lessee at any time during the term of this Lease, provided that upon the removal of those trade fixtures or equipment which must necessarily be affixed to walls, ceilings, floors or any other part of the leased Premises, the Lessee shall be responsible for the repair of all damage to any part of the leased Premises occasioned by their installation or removal.

9. Utilities. Lessee agrees to promptly pay any and all charges for utilities including, but not limited to, charges for electricity, gas, water, sewage service and any charge for garbage and trash collection and the like and other utilities supplied to or upon any part of the Premises as well as any other expenses incurred for operation hereunder.

10. Special Assessments, Licenses and Other Taxes. Lessor shall not be obligated or required to pay any special assessments or other charges which may be levied, assessed or charged against the demised Premises, and, in addition, Lessor shall pay no fees, licenses, occupational privilege taxes on or with respect to the maintenance and use of said Premises and property or in any way related to the conduct of the business being conducted upon said Premises, except as shall be its obligation by virtue of any other agreement with Lessee. Otherwise, Lessee shall pay or cause to be paid any such special assessments or other charges, fees, licenses, occupational privilege taxes by virtue of the conduct of the business upon the Premises. Upon request of the Lessor, the Lessee agrees to deliver to Lessor, within ten (10) days of said request, duplicate receipts showing such payment.

11. Insurance. The parties agree that the Premises shall be insured as follows:

a. Lessee agrees to keep the buildings, fixtures, and improvements on said demised Premises insured against loss or damage by a standard fire and casualty policy with extended coverage, to the extent of eighty percent (80%) of the full insurable value thereof, including all improvements, alterations, additions and changes. Lessor shall be named as a named insured to the extent of its interest, and lenders with a secured interest in the demised Premises shall also be named as insureds.

b. Lessee agrees to obtain and maintain and keep current and furnish a copy thereof to the Lessor of a general liability insurance policy in the amount of One Million Dollars (\$1,000,000) total bodily injury for each occurrence and Three Hundred Thousand Dollars (\$300,000) property damage.

c. Lessor and Lessee waive all rights against each other for damages caused by fire or other peril to the extent covered by insurance as provided under this paragraph, and to the extent of any insurance recovery by Lessor or Lessee.

12. Removal and Construction of Improvements. Lessor grants Lessee the right to remove any of the improvements located on the Premises. Removal of any such improvements shall be the expense of Lessee. Lessee shall not be obligated to replace such improvements or reimburse the Lessor for the value of such removed improvements during or upon the termination of this Lease. Lessor grants Lessee the right to construct other improvements on the Premises. Construction of any such improvements shall be the expense of Lessee. The selection of type and size of any improvements constructed by Lessee shall be subject to the absolute and unconditional discretion of the Lessee only. As to any improvements constructed by Lessee on the Premises, Lessee agrees to indemnify and hold harmless Lessor against and from any and all claims, suits, actions, debts, damages, costs, losses, obligations, judgments, charges, expenses, court costs, reasonable attorney fees and expert fees, of any nature whatsoever, suffered or incurred by Lessor with respect to any improvements constructed by Lessee on the Premises. The Lessee, at Lessee's expense, will provide, prior to any construction of improvements on the Premises, a completion bond for the benefit of the Lessor sufficient to insure the completion of any improvements undertaken by the Lessee pursuant to the provisions of this paragraph 12. Based upon the nature of the improvements, Lessor has the option to waive the requirement for a completion bond.

13. Default and Cure. In the event of breach of any of the covenants to be observed on the part of Lessee which continue more than thirty days after written notice of such breach is given to Lessee, or in the event Lessee fails to comply with any of the other terms and conditions of this Agreement within thirty (30) days after a written notice of such default, Lessor may bring an action at law for monetary damages based upon breach of this Agreement. Lessor agrees that its sole and exclusive remedy for breach of this Agreement is limited to a request for monetary relief. Lessor hereby waives any and all other claims for legal and equitable relief including but not limited to termination of this Agreement.

14. No Liens and Encumbrances. Lessor agrees that it will deliver the Premises on February 1, 1999, clear of all liens and encumbrances except property taxes for 1999. Lessor agrees that it will not mortgage or encumber this Agreement or allow any lien or encumbrance to be placed upon the Premises or any part thereof during the term of this Agreement.

15. **Inspection.** Lessor, or any authorized agent of Lessor, shall have the right to enter upon the Premises at any reasonable time in order to inspect the buildings, grounds, property or equipment covered by this Agreement at any reasonable hour provided that such inspection shall not unreasonably interfere with the business operations of Lessee.

16. **Subleasing.** Lessee may sublease portions of Premises, buildings, property or equipment leased hereunder without the consent of Lessor so long as such subleases do not otherwise violate the terms of this Agreement. Lessee shall obtain the written consent of Lessor before entering into any sublease agreement which extends beyond the term of this Agreement.

17. **Purchase Option Agreement.** In consideration of the sum of One Hundred Twenty-Seven Thousand, Six Hundred Twenty and 76/100 Dollars (\$127,620.76) paid by Lessee to Lessor, which sum shall be credited to the purchase price for the Premises in the event this option to purchase is exercised, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

a. **Grant of Option.** The Lessor offers to sell and convey to the Lessee and hereby grants to the Lessee the exclusive and irrevocable option to purchase the Premises, together with the improvements thereon, and all the rights, ways, alleys, privileges and appurtenances belonging or in any wise appertaining thereto, subject to the terms and conditions set forth below and in the form of contract of sale which is attached as a part of this Agreement and is designated as Exhibit A (the "Contract of Sale").

b. **Time for Exercise.** The Lessee's option to purchase the property must be exercised by the Lessee on the earliest of the following.

i. Within five (5) years from the date notification is received by the Lessor from the Colorado Department of Labor and Employment, Oil Inspection Section that Lessor has complied with all orders, plans and/or directives required, authorized or approved by said Section; or

ii. Before 11:59 p.m. on the 30th day of January, 2019, unless the term of this lease has been extended pursuant to the provisions of paragraph 2(b) in which case the option must be exercised before 11:59 p.m. on the 30th day of January of the applicable extension term.

c. **Manner of Exercise.** The Lessee's option to purchase shall be exercised by the timely delivery to the Lessor at the Lessor's address set forth below of two copies of the Contract of Sale duly executed by the Lessee. Promptly upon receiving the same, the Lessor shall execute both copies of the Contract of Sale and return one fully executed copy to the Lessee. The failure of the Lessor to execute and return a fully executed copy of the Contract of Sale to the Lessee shall not affect its enforceability

and the Contract of Sale shall be binding upon and enforceable against the Lessor in the same manner as if it had been executed by the Lessor and returned to the Lessee. The Contract of Sale shall be effective the date subscribed on same.

d. The consideration paid by Lessee is nonrefundable.

e. The consideration shall be paid in U.S. dollars at the closing of that certain Commercial Contract to Buy and Sell Real Estate dated January 20, 1999, between Lessor and Lessee.

f. If the option to purchase is not exercised within any of the deadlines set forth in paragraph 17(b) above, as applicable, then this option to purchase shall automatically cease and terminate, neither party shall have any further rights hereunder, at law or in equity, and this Agreement shall be null and void, all without further action or documentation by either party.

18. Rights and Obligations of the Parties if the Option is Exercised. In the event that Lessee exercises the option to purchase within the time and in the manner herein provided, then thereafter the rights and obligations of Lessee and Lessor with respect to the Premises shall be governed by the terms and conditions contained in the Contract of Sale. At the time of closing, the Lease between Lessor and Lessee shall terminate.

19. Addresses. The address of the Lessor is as follows:

Community Office Investors, Inc.
464 Main Street
Grand Junction, Colorado

The address of the Lessee is as follows:

H R Adventures, LLC
101 S. 3rd Street, Suite 360
Grand Junction, CO 81501

20. Time of the Essence. Time shall be of the essence of this Agreement.

21. Attorneys Fees. The parties agree that if either of them are involuntarily made a party defendant to any litigation concerning the demised Premises by reason of any act or omission of the other and not because of any act or omission of that party made an involuntary defendant, then in such instance, the other party agrees to pay the amount reasonably incurred and expended by the innocent party, including a reasonable fee to agents and attorneys in defending said party.

22. Waiver. The waiver of any breach of any covenant, term or condition contained herein shall not be taken to be a waiver of any subsequent breach of the same or any other covenant, term or condition, nor show any failure of the Lessor to enforce rights or seek remedies upon any default of the Lessee with respect to the obligation of Lessee under prejudice or affect the rights or remedies of the Lessor in the event of any subsequent default of the Lessee.

23. Modifications to be in Writing. It is understood and agreed that no change, alteration, or modification of this Agreement or any of the covenants and agreements herein contained shall be effective unless made in writing and signed by the parties hereto.

24. Successors. Each of the covenants, promises, obligations, and conditions herein contained shall inure to and be binding upon the successors and duly authorized assigns of Lessor and Lessee.

25. Arbitration.

a. Any disputes and controversies of every kind and nature arising out of or in connection with this Agreement as to the existence, construction, validity, interpretation or meaning, performance, nonperformance, enforcement or breach thereof shall be submitted to arbitration pursuant to the following procedure:

i. Any party may demand such arbitration in writing within one hundred and eighty (180) days after the controversy arises, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter in controversy.

ii. Within ten (10) days after such demand, the other party shall name an arbitrator, and the two arbitrators so selected shall name a third arbitrator within ten (10) days.

iii. A decision rendered by a majority of the arbitrators appointed pursuant to this Agreement shall be final and binding on all parties to the proceeding and judgment on such decision may be entered by either party in the highest court, state or federal, having jurisdiction.

b. The arbitration provisions hereof shall, with respect to any such controversy or dispute, survive the termination or expiration of this Agreement. The conduct of any arbitration shall be governed by the Colorado Uniform Arbitration Act.

c. The non-prevailing party shall be obligated to pay the reasonable attorney fees and costs of the prevailing party as well as the

fees of the arbitrators. The arbiters or the Court, as the case may be, shall determine who is the prevailing and non-prevailing party.

d. The failure of any party to demand arbitration within the above one hundred and eighty (180) day period shall constitute a waiver of the arbitration rights set forth in this paragraph 25 and bar the resolution of the applicable dispute or controversy.

Lessor:

Community Office Investors, Inc.

By: _____
Dennis Wagner, President

STATE OF COLORADO)
)
COUNTY OF MESA) ss.

Subscribed and sworn to before me this 1st day of February, 1999, by Dennis Wagner as President of Community Office Investors, Inc.
Witness my hand and official seal.
My commission expires: _____.

Notary Public

Lessee:

H R Adventures, LLC

P.J. McGovern, Manager

STATE OF COLORADO)
)
COUNTY OF MESA) ss.

Subscribed and sworn to before me this 1st day of February, 1999, by P.J. McGovern as Manager of H R Adventures, LLC.
Witness my hand and official seal.
My commission expires: _____.

Notary Public

The printed portions of this form have been approved by the Colorado Real Estate Commission. (CRS 2-7-96)

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

COMMERCIAL CONTRACT TO BUY AND SELL REAL ESTATE

(To be determined) 19

1. PARTIES AND PROPERTY. H R ADVENTURES, LLC

10000 (Buyer) XXXX (Seller) agrees to buy, and the undersigned XXXX [Seller], agrees to sell, on the terms and conditions set forth in this contract, the following described real estate in the County of Mesa Colorado, to wit:

Lots 13, 14, 15 and 16, Block 103, City of Grand Junction, Mesa County, Colorado

known as No. N/A Street Address City State Zip

together with all interest of Seller in vacated streets and alleys adjacent thereto, all easements and other appurtenances thereto, all improvements thereon and all attached fixtures thereon, except as herein excluded (collectively the Property).

2. INCLUSIONS/EXCLUSIONS. The purchase price includes the following items (a) if attached to the Property on the date of this contract: lighting, heating, plumbing, ventilating, and air conditioning fixtures, TV antennas, water softeners, smoke/fire/burglar alarms, security devices, inside telephone wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls; (b) if on the Property whether attached or not on the date of this contract: storm windows, storm doors, window and porch shades, awnings, blinds, screens, curtain rods, drapery rods, all keys and (c)

The above-described included items (Inclusions) are to be conveyed to Buyer by Seller by bill of sale at the closing, free and clear of all taxes, liens and encumbrances, except as provided in Section 12. The following attached fixtures are excluded from this sale: None

3. PURCHASE PRICE AND TERMS. The purchase price shall be \$127,620.76 * payable in U.S. dollars by Buyer as follows: (Complete the applicable terms below.) *Purchase price previously paid by Buyer pursuant to Lease and Option Agreement dated February 1, 1999.

(a) Earnest Money. \$ in the form of as earnest money deposit and part payment of the purchase price, payable to and held by broker, in its trust account on behalf of both Seller and Buyer. Broker is authorized to deliver the earnest money deposit to the closing agent, if any, at or before closing. The balance of \$ (purchase price less earnest money) shall be paid as follows: (b) Cash at Closing: \$ plus closing costs, to be paid by Buyer at closing in funds which comply with all applicable Colorado laws, which include cash, electronic transfer funds, certified check, savings and loan teller's check, and cashier's check (Good Funds). Subject to the provisions of Section 4, if the existing loan balance at the time of closing shall be different from the loan balance in Section 3, the adjustment shall be made in Good Funds at closing or paid as follows: (c) New Loan. \$ by Buyer obtaining a new loan. This loan will be secured by a (1st, 2nd, etc.) deed of trust. The loan shall be amortized over a period of years at approximately \$ per month including principal and interest not to exceed % per annum, plus, if required by Buyer's lender, a monthly deposit of 1/2% of the estimated annual real estate taxes, property insurance premium, and mortgage insurance premium. If the loan is an adjustable interest rate or graduated payment loan, the monthly payments and interest rate initially shall not exceed the figures set forth above. Loan discount points, if any, shall be paid to lender at closing and shall not exceed % of the total loan amount. Notwithstanding

monthly payments and interest shall be _____

Loan discount points, if any, shall be paid to lender at closing and shall not exceed _____ % of the total loan amount. Notwithstanding the loan's interest rate, the first _____ loan discount points shall be paid by _____ and the balance, if any, shall be paid by _____.

Buyer shall timely pay a loan origination fee not to exceed _____ % of the loan amount and Buyer's loan costs.

(d) Assumption.

\$ _____ by Buyer's assuming and agreeing to pay an existing loan in this approximate amount, presently payable at \$ _____ per month principal, interest presently at _____ % per annum, and including escrow for the following as indicated: real estate taxes, property insurance premium, mortgage insurance premium, and _____ . Buyer agrees to pay a loan transfer fee not to exceed \$ _____. At the time of assumption, the new interest rate shall not exceed _____ % per annum and the new monthly payment shall not exceed \$ _____ principal and interest, plus escrow, if any.

Seller shall shall not be released from liability on said loan. If applicable, compliance with the requirements for release from liability shall be evidenced by delivery at closing of an appropriate letter from lender. Cost payable for release of liability shall be paid by _____ in an amount not to exceed \$ _____.



(c) Seller or Private Third-Party Financing

\$ _____ by Buyer executing a promissory note payable to _____ on the note form as indicated: (Check one box only.)

- (U) (JCCC - No Default Rate) (FD 82-3-95) (U) (FD 81-11-83) _____
- secured by a (1st, 2nd, etc.) _____ deed of trust encumbering the Property, using the form as indicated: (Check one box only.)
- (U) Strict Due on Sale (FD 72-7-96) (U) Creditworthy (FD 73-7-96) (U) Assumable - Not Due on Sale (FD 74-7-96)
- _____

The promissory note shall be amortized on the basis of _____ years, payable at \$ _____ per month including principal and interest at the rate of _____ % per annum. Payments shall commence _____ and shall be due on the _____ day of each succeeding month. If not sooner paid, the balance of principal and accrued interest shall be due and payable _____ after closing. Payments shall shall not be increased by 1/2 of estimated annual real estate taxes, and shall shall not be increased by 1/2 of estimated annual property insurance premium.

The loan shall also contain the following terms as indicated: If any payment is not received within _____ calendar days after its due date, a late charge of _____ % of such monthly payment shall be due. Interest on lender disbursements under the deed of trust shall be _____ % per annum. Default interest rate shall be _____ % per annum.

Buyer may prepay without a penalty except _____

4. FINANCING CONDITIONS AND OBLIGATIONS.

(a) **Loan Application(s).** If Buyer is to pay all or part of the purchase price as set forth in Section 3 by obtaining a new loan or if an existing loan is not to be released at closing, Buyer, if required by such lender, shall make written application within _____ calendar days from acceptance of this contract. Buyer shall cooperate with Seller and lender to obtain loan approval, diligently and timely pursue same in good faith, execute all documents and furnish all information and documents required by the lender, and, subject to Section 3, timely pay the costs of obtaining such loan or lender consent.

(b) **Loan Approval.** If Buyer is to pay all or part of the purchase price by obtaining a new loan as specified in Section 3, this contract is conditional upon lender's approval of the new loan on or before _____, 19_____. If not so approved by said date, this contract shall terminate.

(c) **Existing Loan Review.** If an existing loan is not to be released at closing, Seller shall provide copies of the loan documents (including note, deed of trust, modifications) to Buyer within _____ calendar days from acceptance of this contract. This contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer consents to the provisions of such loan documents if no written objection is received by Seller from Buyer within _____ calendar days from Buyer's receipt of such documents. If the lender's approval of a transfer of the Property is required, this contract is conditional upon Buyer's obtaining such approval without change in the terms of such loan, except as set forth in Section 3. If lender's approval is not obtained on or before _____, 19_____, this contract shall be terminated on such date. If Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth in Section 3, this contract may be terminated at Seller's option.

(d) **Assumption Balance.** If Buyer is to pay all or part of the purchase price by assuming an existing loan and if the actual principal balance of the existing loan at the date of closing is less than the amount in Section 3 and the amount of cash required from Buyer at closing is increased by more than \$ _____, then Buyer may terminate this contract effective upon receipt by Seller of Buyer's written notice of termination.

(e) **Credit Information.** If Buyer is to pay all or part of the purchase price by executing a promissory note in favor of Seller or if an existing loan is not to be released at closing, this contract is conditional upon Seller's approval of Buyer's financial ability and creditworthiness, which approval shall be at Seller's sole and absolute discretion. In such case: (1) Buyer shall supply to Seller on or before _____, 19_____, at Buyer's expense, information and documents concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; (3) any such information and documents received by Seller shall be held by Seller in confidence, and not released to others except to protect Seller's interest in this transaction; (4) if Seller does not provide written notice of Seller's disapproval to Buyer on or before _____, 19_____, then Seller waives this condition. If Seller does provide written notice of disapproval to Buyer on or before said date, this contract shall terminate.

5. APPRAISAL PROVISION. (Check only one box.) This Section 5 shall shall not apply.

If this Section 5 applies, as indicated above, Buyer shall have the sole option and election to terminate this contract if the purchase price exceeds the Property's valuation determined by an appraiser engaged by _____. The contract shall terminate by the Buyer causing the Seller to receive written notice of termination and a copy of such appraisal or written notice from lender which confirms the Property's valuation is less than the purchase price, on or before _____ (Appraisal Deadline). If Seller does not receive such written notice of termination on or before the appraisal deadline, Buyer waives any right to terminate under this section.

6. COST OF APPRAISAL. Cost of any appraisal to be obtained after the date of this contract shall be timely paid by _____

7. NOT ASSIGNABLE. This contract shall not be assignable by Buyer without Seller's prior written consent. Except as so restricted, this contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties.

8. EVIDENCE OF TITLE. Seller shall furnish to Buyer, at Seller's expense, either a current commitment for owner's title insurance policy in an amount equal to the purchase price or at Seller's choice, an abstract of title certified to a current date, on or before 5 days after date of this Contract (Title Deadline). If a title insurance commitment is furnished, Buyer may require of Seller that copies of instruments (or abstracts of instruments) listed in the schedule of exceptions (Exceptions) in the title insurance commitment also be furnished to Buyer at Seller's expense. This requirement shall pertain only to instruments shown of record in the office of the clerk and recorder of the designated county or counties. The title insurance commitment, together with any copies or abstracts of instruments furnished pursuant to this Section 8, constitute the title documents (Title Documents). Buyer, or Buyer's designee, must request Seller, in writing, to furnish copies or abstracts of instruments listed in the schedule of exceptions no later than 5 calendar days after Title Deadline. If Seller furnishes a title insurance commitment, Seller will pay the premium at closing and have the title insurance policy delivered to Buyer as soon as practicable after closing.

9. TITLE.

(a) **Title Review.** Buyer shall have the right to inspect the Title Documents or abstract. Written notice by Buyer of unmerchantability of title or of any other _____

(a) **Title Review.** Buyer shall have the right to inspect the Title Documents or abstract. Written notice by Buyer of unsatisfactory title condition shown by the Title Documents or abstract shall be signed by or on behalf of Buyer and given to Seller on or before 8 calendar days after Title Deadline, or within five (5) calendar days after receipt by Buyer of any Title Document(s) or endorsement(s) adding new Exception(s) to the title commitment together with a copy of the Title Document adding new Exception(s) to title. If Seller does not receive Buyer's notice by the date(s) specified above, Buyer accepts the condition of title as disclosed by the Title Documents as satisfactory.

(b) **Matters Not Shown by the Public Records.** Seller shall deliver to Buyer, on or before the Title Deadline set forth in Section 8, true copies of all lease(s) and survey(s) in Seller's possession pertaining to the Property and shall disclose to Buyer all easements, liens or other title matters not shown by the public records of which Seller has actual knowledge. Buyer shall have the right to inspect the Property to determine if any third party(s) has any right in the Property not shown by the public records (such as an unrecorded easement, unrecorded lease, or boundary line discrepancy). Written notice of any unsatisfactory condition(s) disclosed by Seller or revealed by such inspection shall be signed by or on behalf of Buyer and given to Seller on or before (8 days after Title Deadline) if Seller does not receive Buyer's notice by said date, Buyer accepts title subject to such rights, if any, of third parties of which Buyer has actual knowledge.

(c) **Special Taxing Districts.** SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYER SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL LEVIES.

In the event the Property is located within a special taxing district and Buyer desires to terminate this contract as a result, if written notice is given to Seller on or before the date set forth in subsection 9 (b), this contract shall then terminate. If Seller does not receive Buyer's notice by the date specified above, Buyer accepts the effect of the Property's inclusion in such special taxing districts and waives the right to so terminate.

(d) Right to Cure. If Seller receives notice of unmerchantability of title or any other unsatisfactory title condition(s) as provided in subsection (a) or (b) above, Seller shall use reasonable effort to correct said unsatisfactory title condition(s) prior to the date of closing. If Seller fails to correct said unsatisfactory title condition(s) on or before the date of closing, this contract shall then terminate; provided, however, Buyer may, by written notice received by Seller, on or before closing, waive objection to said unsatisfactory title condition(s).

~~10. INSPECTION. Buyer or any designee, shall have the right to have inspection(s) of the physical condition of the Property and Inclusions, at Buyer's expense. If written notice of any unsatisfactory condition, signed by or on behalf of Buyer, is not received by Seller on or before _____, 19____ (Objection Deadline), the physical condition of the Property and Inclusions shall be deemed to be satisfactory to Buyer. If such notice is received by Seller as set forth above, and if Buyer and Seller have not agreed, in writing, to a settlement thereof on or before _____, 19____ (Resolution Deadline), this contract shall terminate three calendar days following the Resolution Deadline; unless, within the three calendar days, Seller receives written notice from Buyer waiving objection to any unsatisfactory condition. Buyer is responsible for and shall pay for any damage which occurs to the Property and Inclusions as a result of such inspection.~~

11. DATE OF CLOSING. The date of closing shall be (20 days after date of / this contract) or by mutual agreement at an earlier date. The hour and place of closing shall be as designated by Buyer

12. TRANSFER OF TITLE. Subject to tender of payment at closing as required herein and compliance by Buyer with the other terms and provisions hereof, Seller shall execute and deliver a good and sufficient general warranty deed to Buyer, on closing, conveying the Property free and clear of all taxes except the general taxes for the year of closing, and except no other

Title shall be conveyed free and clear of all liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not; except (i) distribution utility easements (including cable TV), (ii) those matters reflected by the Title Documents accepted by Buyer in accordance with subsection 9(a), (iii) those rights, if any, of third parties in the Property not shown by the public records in accordance with subsection 9(b), (iv) inclusion of the Property within any special taxing district, and (v) subject to building and zoning regulations.

13. PAYMENT OF ENCUMBRANCES. Any encumbrance required to be paid shall be paid at or before closing from the proceeds of this transaction or from any other source.

14. CLOSING COSTS, DOCUMENTS AND SERVICES. Buyer and Seller shall pay, in Good Funds, their respective closing costs and all other items required to be paid at closing, except as otherwise provided herein. Buyer and Seller shall sign and complete all customary or required documents at or before closing. Fees for real estate closing services shall not exceed \$ 400.00 and shall be paid at closing by Seller and Buyer equally. The local transfer tax of N/A % of the purchase price shall be paid at closing by N/A. Any sales and use tax that may accrue because of this transaction shall be paid when due by Buyer

15. PRORATIONS. General taxes for the year of closing, based on the taxes for the calendar year immediately preceding closing, rents, water and sewer charges, owner's association dues, and interest on continuing loan(s), if any, and any assessments shall be prorated to date of closing.

16. POSSESSION. Possession of the Property shall be delivered to Buyer as follows: on the date of closing

subject to the following lease(s) or tenancy(s):

See Assignment of Leases dated February 1, 1999, between Seller and Buyer

If Seller, after closing, fails to deliver possession on the date herein specified, Seller shall be subject to eviction and shall be additionally liable to Buyer for payment of \$ 500.00 per day from the date of agreed possession until possession is delivered.

17. CONDITION OF AND DAMAGE TO PROPERTY. Except as otherwise provided in this contract, the Property and Inclusions shall be delivered in the condition existing as of the date of this contract, ordinary wear and tear excepted. In the event the Property shall be damaged by fire or other casualty prior to time of closing, in an amount of not more than ten percent of the total purchase price, Seller shall be obligated to repair the same before the date of closing. In the event such damage is not repaired within said time or if the damages exceed such sum, this contract may be terminated at the option of Buyer. Should Buyer elect to carry out this contract despite such damage, Buyer shall be entitled to credit for all the insurance proceeds resulting from such damage to the Property and Inclusions, not exceeding, however, the total purchase price. Should any Inclusion(s) or service(s) fail or be damaged between the date of this contract and the date of closing or the date of possession, whichever shall be earlier, then Seller shall be liable for the repair or replacement of such Inclusion(s) or service(s) with a unit of similar size, age and quality, or an equivalent credit, less any insurance proceeds received by Buyer covering such repair or replacement.

18. TIME OF ESSENCE/REMEDIES. Time is of the essence hereof. If any note or check received as earnest money hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any other obligation hereunder is not performed or waived as herein provided, there shall be the following remedies:

(a) IF BUYER IS IN DEFAULT:
(Check one box only.)

(1) Specific Performance.
Seller may elect to treat this contract as cancelled, in which case all payments and things of value received hereunder shall be forfeited and retained on behalf of Seller, and Seller may recover such damages as may be proper, or Seller may elect to treat this contract as being in full force and effect and Seller shall have the right to specific performance or damages, or both.

(2) Liquidated Damages.
All payments and things of value received hereunder shall be forfeited by Buyer and retained on behalf of Seller and both parties shall thereafter be released from all obligations hereunder. It is agreed that such payments and things of value are LIQUIDATED DAMAGES and (except as provided in subsection (c)) Seller expressly waives the remedies of specific

All payments and things of value received hereunder from all obligations hereunder. It is agreed that such payments and things of value are LIQUIDATED DAMAGES and are SELLER'S SOLE AND ONLY REMEDY for Buyer's failure to perform the obligations of this contract. Seller expressly waives the remedies of specific performance and additional damages.

(b) IF SELLER IS IN DEFAULT:

Buyer may elect to treat this contract as cancelled, in which case all payments and things of value received hereunder shall be returned and Buyer may recover such damages as may be proper, or Buyer may elect to treat this contract as being in full force and effect and Buyer shall have the right to specific performance or damages, or both.

(c) COSTS AND EXPENSES.

Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation arising out of this contract, the arbitrator or court shall award to the prevailing party all reasonable costs and expenses, including attorney fees.

19. EARNEST MONEY DISPUTE. Notwithstanding any termination of this contract, Buyer and Seller agree that, in the event of any controversy regarding the earnest money and things of value held by broker or closing agent, unless mutual written instructions are received by the holder of the earnest money and things of value, broker or closing agent shall not be required to take any action but may await any proceeding, or at broker's or closing agent's option and sole discretion, may interplead all parties and deposit any moneys or things of value into a court of competent jurisdiction and shall recover court costs and reasonable attorney fees.

20. ALTERNATIVE DISPUTE RESOLUTION: MEDIATION. If a dispute arises relating to this contract, and is not resolved, the parties and broker(s) involved in such dispute (Disputants) shall first proceed in good faith to submit the matter to mediation. The Disputants will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. In the event the entire dispute is not resolved within thirty (30) calendar days from the date written notice requesting mediation is sent by one Disputant to the other(s), the mediation, unless otherwise agreed, shall terminate. This section shall not alter any date in this contract, unless otherwise agreed.

21. ADDITIONAL PROVISIONS: (The language of these additional provisions has not been approved by the Colorado Real Estate Commission.)

See Addendum attached hereto and incorporated herein by reference.

~~22. RECOMMENDATION OF LEGAL COUNSEL. By signing this document, Buyer and Seller acknowledge ~~XX~~
~~XXXXXXXXXXXXXXXXXXXX~~ that this document has important legal consequences and ~~XXXXXXXXXXXXXXXXXXXX~~ examination of title and consultation with legal and tax or
other counsel before signing this contract. is recommended.~~

~~23. TERMINATION. In the event this contract is terminated, all payments and things of value received hereunder shall be returned and the parties shall be
relieved of all obligations hereunder, subject to Section 19.~~

~~24. SELLING COMPANY BROKER RELATIONSHIP. The selling broker, _____
_____, and its salespersons have been engaged as _____
Selling Company has previously disclosed in writing to the Buyer that different relationships are available which include buyer agency, seller agency, subagency, or
transaction broker.~~

~~25. NOTICE TO BUYER. Any notice to Buyer shall be effective when received by Buyer, ~~XX~~~~

~~26. NOTICE TO SELLER. Any notice to Seller shall be effective when received by Seller ~~XXXXXXXXXXXXXXXXXXXX~~.~~

~~27. MODIFICATION OF THIS CONTRACT. No subsequent modification of any of the terms of this contract shall be valid, binding upon the parties, or
enforceable unless made in writing and signed by the parties.~~

~~XX~~
~~XX~~
~~29. NOTICE OF ACCEPTANCE: COUNTERPARTS. ~~XX~~
~~XX~~
~~XX~~~~

A copy of this document may be executed by each party, separately, and
when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties.

Buyer _____ Buyer _____
Date of Buyer's signature _____, 19 _____ Date of Buyer's signature _____, 19 _____

Buyer's Address _____

Seller _____ Seller _____

Seller _____ Seller _____
Date of Seller's signature _____, 19____ Date of Seller's signature _____, 19____

Seller's Address _____

The undersigned Broker(s) acknowledges receipt of the earnest money deposit specified in Section 3, and Selling Company confirms its Broker Relationship as set forth in Section 24.

Selling Company _____ Name and Address _____

By: _____ Date _____, 19____
Signature _____

Listing Company _____ Name and Address _____

By: _____ Date _____, 19____
Signature _____

NOTE: Closing Instructions should be signed at the time this contract is signed.

Addendum to Commercial Contract to Buy and Sell Real Estate
[date to be determined]
by and between Community Office Investors, Inc.
and HR Adventures, LLC

Addendum

This Addendum is entered into as part of the above described Contract and the parties hereto expressly agree that the provisions of this Addendum, to the extent that they are inconsistent with the Contract, shall control and take precedence over any such provisions of the Contract.

21(a). Representations and warranties. The Seller makes the following representations and warranties to Buyer with respect to the Property, Inclusions and other assets.

1. Except as to liens, claims, encumbrances and/or equities of others which are attributable to, caused by or for which Buyer is responsible, Seller has good title to all of the Inclusions and assets to be sold to the Buyer pursuant to this Contract free and clear of all liens, claims, encumbrances and/or equities of others of any nature as of the date of closing.

2. That Seller has paid all permit fees, inspection fees and license fees that are due and owing for which Seller is responsible as of the date of closing.

3. To the best of Seller's knowledge, there are no laws, statutes, ordinances, building or use restrictions, or zoning regulations now applicable to the Property which prohibit any of the uses presently being made thereof, and none of such uses constitute, in whole or in part, a non-conforming use.

4. That Seller has duly and validly authorized, executed, and delivered this Contract, and neither the execution or deliver of this Contract nor its performance are restricted by or violate any contractual or other obligation of the Seller.

5. There are no assessments for public improvements against the Property which remain unpaid for which Seller is responsible.

21(b). Representations and warranties. The Buyer makes the following representations and warranties to Seller with respect to the Property, Inclusions and other assets.

1. That Buyer has paid all taxes, permits, fees, utilities and other expenses related to the Property which Buyer is obligated to pay pursuant

to the Lease and Option Agreement between the parties dated February 1, 1999, that are due and owing at the date of closing.

2. There are no assessment for public improvements against the Property which remain unpaid for which Buyer is responsible.

21(c). Except for this Contract, the Purchase and Option Agreement dated February 1, 1999, and the previous assignment of lease between the parties, Seller has not entered into any other agreement, commitment, option, right of first refusal or any other agreement, whether oral or written, with respect to the purchase, assignment or transfer of all or any portion of the Property which is currently in effect.

21(d). Within ten (10) days of the date of this Contract, Seller shall deliver to the Buyer the following:

1. Copies of all notices of any building code or other uncorrected violations relating to the Property, if any, and a description of any building code or other violation of which the Seller is aware.

2. Copies of all original building plans and specifications for the Property which are in the Seller's possession.

21(e). Within ten (10) days of the date of this Contract, Seller shall deliver to Buyer a certificate of taxes covering the Property.

21(f). Seller agrees to defend, indemnify and hold harmless the Buyer against and in respect of any and all loss, liability, lien, damage, cost and expense incurred or resulting from any misrepresentation, breach of warranty, or nonfulfillment of any covenant or agreement on the part of the Seller under or in connection with this Contract.

21(g). Notice. Whenever notice is desired to be given or required to be given pursuant to this Contract, the notice must be in writing and sent either (i) by mail, postage prepaid; (ii) by facsimile transmission; (iii) by recognized overnight courier service, (i.e., Federal Express Mail, Emery, Perolator, United Parcel Service, etc.); or (iv) delivered personally in hand.

Delivery of notice shall be effective upon receipt if delivered personally or two (2) days after posting if delivered by mail or two (2) calendar days after being placed with a recognized overnight courier service or upon date of transmission if by facsimile.

21(h). All provisions of this Contract and the agreements referenced herein which require performance in part or whole after the date of closing shall survive closing of the Property. All representations and warranties shall survive closing of the Property.

21(i). The provisions of paragraph 15 of this Contract shall be applicable only if the closing of the Property occurs on or before December 31, 1999.

21(j). This Contract may be executed in one or more counterparts, all counterparts so executed shall constitute one Contract, binding on all parties, even though all parties are not signatories to the same counterpart.

21(k). This Contract shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors and assigns. This Agreement shall be governed by the laws of Colorado.

Community Office Investors, Inc.

By: _____
Dennis Wagner, President

H R Adventures, LLC

P.J. McGovern, Manager

ASSIGNMENT

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **H. R. ADVENTURES, LLC**, a Colorado limited liability company, hereby assigns to the **CITY OF GRAND JUNCTION** its exclusive and irrevocable option under the Lease and Option Agreement with Community Investors, Inc., dated February 1, 1999, to purchase Lots 13 and 14, Block 103, City of Grand Junction, together with the improvements thereon, and all rights, ways, alleys, privileges and appurtenances belonging or in anywise appertaining thereto. This Assignment is subject to the terms and conditions of the foregoing Lease and Option Agreement, including Exhibit A attached to that Agreement. This Assignment is conditioned upon the written consent of Community Office Investors, Inc. to the assignment of H. R.'s option rights as to Lots 13 and 14, and its written acknowledgment that H. R. Adventures, LLC retains an exclusive and irrevocable option to purchase Lots 15 and 16, Block 103, City of Grand Junction, under the terms set forth in the Lease and Option Agreement, following this Assignment.

Dated this 31st day of October, 2006.

H. R. ADVENTURES, LLC

By: 
Manager

STATE OF COLORADO)
) ss
COUNTY OF MESA)

Subscribed and sworn to before me this 31st day of October, 2006, by P. J. McGovern, as Manager of H. R. Adventures, LLC.

WITNESS my hand and official seal.

My commission expires:
My Commission Expires
06/30/2010


Notary Public

STOCK TRANSFER AGREEMENT

Community Office Investors Shareholders – City of Grand Junction

This Stock Transfer Agreement (“Agreement”) is made on October 30, 2006, by and between the City of Grand Junction, a Colorado home rule municipality (“City”) and the Shareholders of Community Office Investors Inc., a Colorado corporation (“COI”).

RECITALS:

1. COI conveyed a lease and purchase option (“Option”) for the real property known as Lots 13 -16 of Block 103, City of Grand Junction, Colorado (“Property”) in 1999 to HR Adventures LLC (“Lessee”). The Property is used for parking cars and a small retail use with some attendant parking. A copy of the Option is attached hereto and incorporated by this reference as if fully set forth.
2. The Lessee has paid the Option payment of \$127,620.76 to COI in full and the Lessee is not in breach of the terms of the Option. Therefore, upon the execution of the Commercial Contract to Buy and Sell Real Estate attached to the Option, COI is obligated to sell the Property to the Lessee.
3. Because there is no benefit, only liability to COI under the Option and because the City has agreed to assume the liability as described herein, the Shareholders of COI have agreed to convey 100% of all COI shares (issued, unissued and authorized) to the City. A resolution of the Shareholders authorizing and directing the conveyance of their COI stock to the City is attached hereto and incorporated herein as if fully set forth.
4. The Property once held an underground gasoline storage tank(s); the Property is contaminated with petroleum hydrocarbons and other substances found in gasoline. In accordance with the laws of the State of Colorado, COI and/or the Lessee have performed certain environmental remediation activities on the Property including applying for and receiving Leaking Underground Storage Tank (“LUST”) funds for the remediation of the Property. While the cleanup has been ongoing, the Property has not yet been found by the State of Colorado to be “clean”. For so long as environmental monitoring and reporting is required, COI is obligated to perform the same.
5. The City, in cooperation with the Grand Junction Downtown Development Authority (“DDA”) intends to construct a parking structure between 4th and 5th Streets (“Parking Structure”) on some of the Property. Based on that intention and the closing of a separate agreement with the Lessee, the City will agree to assume the liability of COI for the LUST contamination on the Property (“Liability”) as of the date of this Agreement.
6. In exchange for the City assuming the Liability, COI has agreed to:
 - a) transfer and assign to the City the Property and/or whatsoever interest it has in the Property subject to the Option, any and all stock in COI as well as the operating documents, including but not limited to the articles,

bylaws, minutes, corporate resolutions, communications to the Secretary of State, corporate seal(s), stamps etc; and

- b) assign its rights under the Option including the right to modify or release the Option; and,
- c) assign the prior environmental work and benefit therefrom on the Property lien free and without cost to the City, except that the City agrees to pay STTI of Grand Junction the amount of \$7,867.53 for services provided listed in invoices dated from December 31, 2005 through July 31, 2006 ; and,
- d) assign the right to dissolve COI, subject to any continuing legal obligations being assumed or discharged by the City or a lawfully constituted successor.

Furthermore, COI shall provide to the City any and all reports, documents and other information pertaining to the Liability and/or contamination and/or remediation of the Property.

7. Any and all conveyances, transfers and assignment made by COI to the City shall be at no cost to the City.

NOW THEREFORE, COI and the City desire to set forth the terms and consideration for this Agreement all as follows:

- 1. There is sufficient consideration for the making and enforcement of this Agreement.
- 2. The foregoing recitals are restated as contract terms, commitments and obligations to which the parties agree to be bound.
- 3. The City acknowledges and agrees that COI and/or its Shareholders has not made representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether express or implied, verbal or written other than as provided herein, concerning:
 - a) the value, nature, quality or condition of the Property owned by COI;
 - b) the suitability of the COI Property for activities and uses which the City may conduct thereon;
 - c) the compliance of the COI Property with any laws, rules, ordinances, or regulations of any applicable governmental authority or body other than that the corporation (COI Inc.) is in good standing with the Colorado Secretary of State; and
 - d) any other matter with respect to the COI Property, including compliance with environmental protection, pollution, or land use laws, rules, regulations, orders, or requirements, including solid waste, and the

disposal or existence in or on the Property of asbestos or any hazardous substance.

The City further acknowledges and agrees that the COI stock is assigned, taken and conveyed "AS IS" and "WITH ALL FAULTS."

4. The City and anyone claiming by, through or under the City hereby fully and irrevocably releases COI and its Shareholders from any and all claims that the City may now have or hereafter acquire against COI and its Shareholders for any cost, loss, liability, damage, expense, demand, action or cause of action arising from or related to any defects, errors, omissions or other conditions, including environmental matters, affecting the Property or any portion thereof.

5. If the City either fails to perform its obligations under this Agreement as COI or as the City then a stockholder(s) prior to the transfer agreement shall be indemnified and held harmless for claim(s) arising out of or under environmental Liability for the Property. Any person(s) to whom such a claim is made shall give the City written notice and upon the City failing to remedy the claim or indemnify the person(s) from the Claim, the claimant shall have a right to an action for specific performance by the City.

6. In the event that either party files an action in the courts to enforce this Agreement, the prevailing party, in the court's opinion, shall be entitled to recover its attorney fees and costs incurred therein.

7. All representations and covenants of the City shall survive the closing hereof. This contract shall be binding upon and shall inure to the benefit of named beneficiaries.

IN WITNESS WHEREOF, the parties have set their hands and seals the date and year first above written.

CITY OF GRAND JUNCTION,
A Colorado home rule municipality,

COMMUNITY OFFICE INVESTORS,
a Colorado Corporation

By David Varley
David Varley
City Manager

By Dennis Wagner
Dennis Wagner
President - COI



ATTEST:

ATTEST:

Stephanie Tuin
Stephanie Tuin
City Clerk

David R. Hamley
Secretary - COI

LEASE AND OPTION AGREEMENT

This LEASE AND OPTION AGREEMENT made and entered into as of the 1st day of February, 1999, by and between Community Office Investors, Inc. (hereinafter referred to as "Lessor"), and H R Adventures, LLC (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor warrants that it is the owner and in possession of real property situated in Mesa County, Colorado and described more particularly as Lots 13, 14, 15 and 16, Block 103, City of Grand Junction, Mesa County, Colorado (hereinafter referred to as the "Premises"); and

WHEREAS, Lessor is willing to lease said real property to Lessee in accordance with the covenants and agreements hereinafter set forth, and Lessee is willing to accept said Lease in accordance with said covenants and agreements; and

WHEREAS, Lessor is willing to extend to Lessee the option to purchase said Premises in accordance with the terms of the option hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, promises and conditions and payments herein contained and in consideration of that certain Commercial Contract to Buy and Sell Real Estate dated January 20, 1999, the parties agree as follows:

1. Granting. For and in consideration of the rent hereinafter to be received and the covenants and agreements to be kept and performed by Lessee, Lessor does hereby grant, devise and lease unto Lessee the following described real property together with appurtenances now or hereafter appertaining thereto:

Lots 13, 14, 15 and 16, Block 103, City of Grand Junction,
Mesa County, Colorado

2. Term/Right to Renew. The term of this Lease and Option Agreement shall expire on the earliest of the following:

a. Five (5) years from the date notification is received by the Lessor from the Colorado Department of Labor and Employment, Oil Inspection Section, that Lessor has complied with all orders, plans and/or directives required, authorized or approved by said Section; or

b. At 11:59 p.m. on the 30th day of January, 2019, unless the term of this lease is extended as follows in which case expiration shall be extended to the end of the applicable extension term. Lessor agrees that Lessee shall have the option and right to renew this Lease and Option Agreement

for two (2) twenty (20) year terms under the same conditions as herein set out. In order to avail itself of this option, Lessee must notify the Lessor in writing at least thirty (30) days before the expiration of the first twenty (20) year term and, likewise, at least thirty (30) days before the expiration of the second twenty (20) year term of its intention to renew this Lease.

3. **Rental.** Lessee covenants and agrees to pay to Lessor as and for the rental for the full term, and any subsequent terms, the sum of one dollar (\$1.00) per year for each year of the Lease and any subsequent terms; each payment to be made on February 1 of each Lease year. Said payment shall be tendered to Lessor at 464 Main Street, Grand Junction, Colorado or at such other place as Lessor may from time to time designate in writing. As additional rent, Lessee agrees to pay Lessor one thousand dollars (\$1,000.00) per annum, with pro ration for partial years, beginning one (1) month after notification of compliance as set forth in paragraph 2(a) is received by Lessor and continuing until the purchase option is exercised pursuant to the provisions of paragraph 17(c). Additional rent pursuant to the provisions of this paragraph is due at the end of any twelve (12) month period or at the time the purchase option is exercised.

4. **Taxes.** Lessee agrees to pay the yearly general real property taxes levied and assessed against the Premises throughout the term herein granted. Lessee's obligation under this paragraph shall be prorated for any partial years that Lessee is in possession of the Premises under this Lease at the beginning or end of the Lease term. Lessor agrees to furnish to Lessee a copy of the tax notice evidencing the amount of taxes due promptly upon receipt. Lessee shall pay such sum for taxes to Lessor not later than April 30 of each year, or one-half by the last day of February and the balance by June 15, as Lessor shall request.

5. **Expiration.** Lessee agrees that upon the expiration of this Agreement, and in the event Lessee fails to exercise the option to purchase the property contained herein, it will surrender and yield up the Premises and property covered hereby to the Lessor in as good order and condition as when received, loss by fire, flood, the elements or Act of God, and ordinary wear and tear excepted, except by Lessee's negligence.

6. **Holdover.** It is mutually agreed that if, after the expiration of the term of this Lease by limitation of time or as extended as provided above, Lessee, without exercising its option to purchase, shall remain in possession of said Premises and continue to pay rent without a written agreement as to such possession, then it shall be regarded as a tenant from month to month at a monthly rental, payable in advance, equivalent to the last month's rent hereunder.

7. **Repairs, Maintenance and Indemnity.** Lessee covenants that he will keep and maintain the Premises in good and tenantable repair. It is the intention of both parties that Lessee shall be responsible for all maintenance and repairs in connection with improvements to the leased Premises including improvements constructed on the Premises pursuant to the provisions of paragraph 12 of this Lease. Lessee shall also be responsible for maintenance and repair of pipes and connections located below the ground of the leased Premises. Lessee agrees to indemnify and hold harmless Lessor

from all expense, damages, costs and penalties, including interruption or loss of use of the Premises due to excavations and subsidence or loss of support for above ground improvements due to any construction, excavation, repair or remediation on the Premises if such activities are performed by, caused by or authorized by Lessee. Lessor agrees to indemnify and hold harmless Lessee from all expenses, damages, costs and penalties, including interruption or loss of use of the Premises due to excavation and subsidence or loss of support for above ground improvements due to any construction, excavation, repair or remediation occurring below the ground, if such activities are performed by, caused by or authorized by Lessor.

8. Alterations or Modifications. Any alterations, improvements or changes to the leased Premises shall become a part of the leased Premises and remain thereon at the termination of this Agreement. Any trade fixtures, equipment or other personal property installed in the leased Premises by the Lessee shall remain the property of the Lessee and may be removed by the Lessee at any time during the term of this Lease, provided that upon the removal of those trade fixtures or equipment which must necessarily be affixed to walls, ceilings, floors or any other part of the leased Premises, the Lessee shall be responsible for the repair of all damage to any part of the leased Premises occasioned by their installation or removal.

9. Utilities. Lessee agrees to promptly pay any and all charges for utilities including, but not limited to, charges for electricity, gas, water, sewage service and any charge for garbage and trash collection and the like and other utilities supplied to or upon any part of the Premises as well as any other expenses incurred for operation hereunder.

10. Special Assessments, Licenses and Other Taxes. Lessor shall not be obligated or required to pay any special assessments or other charges which may be levied, assessed or charged against the demised Premises, and, in addition, Lessor shall pay no fees, licenses, occupational privilege taxes on or with respect to the maintenance and use of said Premises and property or in any way related to the conduct of the business being conducted upon said Premises, except as shall be its obligation by virtue of any other agreement with Lessee. Otherwise, Lessee shall pay or cause to be paid any such special assessments or other charges, fees, licenses, occupational privilege taxes by virtue of the conduct of the business upon the Premises. Upon request of the Lessor, the Lessee agrees to deliver to Lessor, within ten (10) days of said request, duplicate receipts showing such payment.

11. Insurance. The parties agree that the Premises shall be insured as follows:

a. Lessee agrees to keep the buildings, fixtures, and improvements on said demised Premises insured against loss or damage by a standard fire and casualty policy with extended coverage, to the extent of eighty percent (80%) of the full insurable value thereof, including all improvements, alterations, additions and changes. Lessor shall be named as a named insured to the extent of its interest, and lenders with a secured interest in the demised Premises shall also be named as insureds.

b. Lessee agrees to obtain and maintain and keep current and furnish a copy thereof to the Lessor of a general liability insurance policy in the amount of One Million Dollars (\$1,000,000) total bodily injury for each occurrence and Three Hundred Thousand Dollars (\$300,000) property damage.

c. Lessor and Lessee waive all rights against each other for damages caused by fire or other peril to the extent covered by insurance as provided under this paragraph, and to the extent of any insurance recovery by Lessor or Lessee.

12. Removal and Construction of Improvements. Lessor grants Lessee the right to remove any of the improvements located on the Premises. Removal of any such improvements shall be the expense of Lessee. Lessee shall not be obligated to replace such improvements or reimburse the Lessor for the value of such removed improvements during or upon the termination of this Lease. Lessor grants Lessee the right to construct other improvements on the Premises. Construction of any such improvements shall be the expense of Lessee. The selection of type and size of any improvements constructed by Lessee shall be subject to the absolute and unconditional discretion of the Lessee only. As to any improvements constructed by Lessee on the Premises, Lessee agrees to indemnify and hold harmless Lessor against and from any and all claims, suits, actions, debts, damages, costs, losses, obligations, judgments, charges, expenses, court costs, reasonable attorney fees and expert fees, of any nature whatsoever, suffered or incurred by Lessor with respect to any improvements constructed by Lessee on the Premises. The Lessee, at Lessee's expense, will provide, prior to any construction of improvements on the Premises, a completion bond for the benefit of the Lessor sufficient to insure the completion of any improvements undertaken by the Lessee pursuant to the provisions of this paragraph 12. Based upon the nature of the improvements, Lessor has the option to waive the requirement for a completion bond.

13. Default and Cure. In the event of breach of any of the covenants to be observed on the part of Lessee which continue more than thirty days after written notice of such breach is given to Lessee, or in the event Lessee fails to comply with any of the other terms and conditions of this Agreement within thirty (30) days after a written notice of such default, Lessor may bring an action at law for monetary damages based upon breach of this Agreement. Lessor agrees that its sole and exclusive remedy for breach of this Agreement is limited to a request for monetary relief. Lessor hereby waives any and all other claims for legal and equitable relief including but not limited to termination of this Agreement.

14. No Liens and Encumbrances. Lessor agrees that it will deliver the Premises on February 1, 1999, clear of all liens and encumbrances except property taxes for 1999. Lessor agrees that it will not mortgage or encumber this Agreement or allow any lien or encumbrance to be placed upon the Premises or any part thereof during the term of this Agreement.

15. **Inspection.** Lessor, or any authorized agent of Lessor, shall have the right to enter upon the Premises at any reasonable time in order to inspect the buildings, grounds, property or equipment covered by this Agreement at any reasonable hour provided that such inspection shall not unreasonably interfere with the business operations of Lessee.

16. **Subleasing.** Lessee may sublease portions of Premises, buildings, property or equipment leased hereunder without the consent of Lessor so long as such subleases do not otherwise violate the terms of this Agreement. Lessee shall obtain the written consent of Lessor before entering into any sublease agreement which extends beyond the term of this Agreement.

17. **Purchase Option Agreement.** In consideration of the sum of One Hundred Twenty-Seven Thousand, Six Hundred Twenty and 76/100 Dollars (\$127,620.76) paid by Lessee to Lessor, which sum shall be credited to the purchase price for the Premises in the event this option to purchase is exercised, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

a. **Grant of Option.** The Lessor offers to sell and convey to the Lessee and hereby grants to the Lessee the exclusive and irrevocable option to purchase the Premises, together with the improvements thereon, and all the rights, ways, alleys, privileges and appurtenances belonging or in any wise appertaining thereto, subject to the terms and conditions set forth below and in the form of contract of sale which is attached as a part of this Agreement and is designated as Exhibit A (the "Contract of Sale").

b. **Time for Exercise.** The Lessee's option to purchase the property must be exercised by the Lessee on the earliest of the following.

i. Within five (5) years from the date notification is received by the Lessor from the Colorado Department of Labor and Employment, Oil Inspection Section that Lessor has complied with all orders, plans and/or directives required, authorized or approved by said Section; or

ii. Before 11:59 p.m. on the 30th day of January, 2019, unless the term of this lease has been extended pursuant to the provisions of paragraph 2(b) in which case the option must be exercised before 11:59 p.m. on the 30th day of January of the applicable extension term.

c. **Manner of Exercise.** The Lessee's option to purchase shall be exercised by the timely delivery to the Lessor at the Lessor's address set forth below of two copies of the Contract of Sale duly executed by the Lessee. Promptly upon receiving the same, the Lessor shall execute both copies of the Contract of Sale and return one fully executed copy to the Lessee. The failure of the Lessor to execute and return a fully executed copy of the Contract of Sale to the Lessee shall not affect its enforceability

and the Contract of Sale shall be binding upon and enforceable against the Lessor in the same manner as if it had been executed by the Lessor and returned to the Lessee. The Contract of Sale shall be effective the date subscribed on same.

d. The consideration paid by Lessee is nonrefundable.

e. The consideration shall be paid in U.S. dollars at the closing of that certain Commercial Contract to Buy and Sell Real Estate dated January 20, 1999, between Lessor and Lessee.

f. If the option to purchase is not exercised within any of the deadlines set forth in paragraph 17(b) above, as applicable, then this option to purchase shall automatically cease and terminate, neither party shall have any further rights hereunder, at law or in equity, and this Agreement shall be null and void, all without further action or documentation by either party.

18. Rights and Obligations of the Parties if the Option is Exercised. In the event that Lessee exercises the option to purchase within the time and in the manner herein provided, then thereafter the rights and obligations of Lessee and Lessor with respect to the Premises shall be governed by the terms and conditions contained in the Contract of Sale. At the time of closing, the Lease between Lessor and Lessee shall terminate.

19. Addresses. The address of the Lessor is as follows:

Community Office Investors, Inc.
464 Main Street
Grand Junction, Colorado

The address of the Lessee is as follows:

H R Adventures, LLC
101 S. 3rd Street, Suite 360
Grand Junction, CO 81501

20. Time of the Essence. Time shall be of the essence of this Agreement.

21. Attorneys Fees. The parties agree that if either of them are involuntarily made a party defendant to any litigation concerning the demised Premises by reason of any act or omission of the other and not because of any act or omission of that party made an involuntary defendant, then in such instance, the other party agrees to pay the amount reasonably incurred and expended by the innocent party, including a reasonable fee to agents and attorneys in defending said party.

22. Waiver. The waiver of any breach of any covenant, term or condition contained herein shall not be taken to be a waiver of any subsequent breach of the same or any other covenant, term or condition, nor show any failure of the Lessor to enforce rights or seek remedies upon any default of the Lessee with respect to the obligation of Lessee under prejudice or affect the rights or remedies of the Lessor in the event of any subsequent default of the Lessee.

23. Modifications to be in Writing. It is understood and agreed that no change, alteration, or modification of this Agreement or any of the covenants and agreements herein contained shall be effective unless made in writing and signed by the parties hereto.

24. Successors. Each of the covenants, promises, obligations, and conditions herein contained shall inure to and be binding upon the successors and duly authorized assigns of Lessor and Lessee.

25. Arbitration.

a. Any disputes and controversies of every kind and nature arising out of or in connection with this Agreement as to the existence, construction, validity, interpretation or meaning, performance, nonperformance, enforcement or breach thereof shall be submitted to arbitration pursuant to the following procedure:

i. Any party may demand such arbitration in writing within one hundred and eighty (180) days after the controversy arises, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter in controversy.

ii. Within ten (10) days after such demand, the other party shall name an arbitrator, and the two arbitrators so selected shall name a third arbitrator within ten (10) days.

iii. A decision rendered by a majority of the arbitrators appointed pursuant to this Agreement shall be final and binding on all parties to the proceeding and judgment on such decision may be entered by either party in the highest court, state or federal, having jurisdiction.

b. The arbitration provisions hereof shall, with respect to any such controversy or dispute, survive the termination or expiration of this Agreement. The conduct of any arbitration shall be governed by the Colorado Uniform Arbitration Act.

c. The non-prevailing party shall be obligated to pay the reasonable attorney fees and costs of the prevailing party as well as the

fees of the arbitrators. The arbiters or the Court, as the case may be, shall determine who is the prevailing and non-prevailing party.

d. The failure of any party to demand arbitration within the above one hundred and eighty (180) day period shall constitute a waiver of the arbitration rights set forth in this paragraph 25 and bar the resolution of the applicable dispute or controversy.

Lessor:

Community Office Investors, Inc.

By: _____
Dennis Wagner, President

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Subscribed and sworn to before me this 1st day of February, 1999, by Dennis Wagner as President of Community Office Investors, Inc.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

Lessee:

H R Adventures, LLC

P.J. McGovern, Manager

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Subscribed and sworn to before me this 1st day of February, 1999, by P.J. McGovern as Manager of H R Adventures, LLC.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

CORPORATE RESOLUTION

RESOLVED THAT the Shareholders of Community Office Investors, Inc. ("COI") hereby authorize and empower Dennis W. Wagner, the President of the corporation, to enter into a Stock and Transfer Agreement between COI and the City of Grand Junction ("CITY") and an Addendum To Lease and Option Agreement between COI and H.R. Adventures, LLC (Lessee").

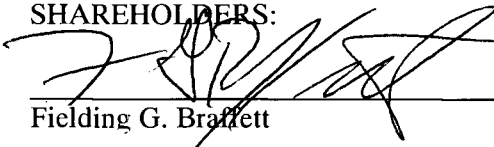
RESOLVED: That COI conveyed a lease and purchase option ("Option") for the real property known as Lots 13-16 of Block 103, City of Grand Junction, Colorado ("Property") in 1999 to Lessee. The Lessee has paid the Option payment to COI in full and COI is obligated to sell the Property to the Lessee. Lessee now desires to assign its option rights to purchase Property to the City of Grand Junction.

RESOLVED: That because the City has agreed to assume the liability of COI for the LUST contamination on the Property as described in the Stock and Transfer Agreement, the shareholders of COI agree to convey 100% of all COI shares (issued, unissued and authorized) as well as all operating documents and all rights under the Option to the City.

RESOLVED: That upon the completion of the transfer of COI shares and related documents, the balance remaining in the checking account of COI will be distributed to the shareholders in proportion to their former ownership.

Dated this 25th day of October, 2006.

SHAREHOLDERS:



Fielding G. Braffett

Steven R. Carver

David L. Hamby

Lynn A. Kleager

James H. Noennig

Cherie L. Shank

Dennis W. Wagner

CORPORATE RESOLUTION

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RESOLVED: That upon the completion of the transfer of COI shares and related documents, the balance remaining in the checking account of COI will be distributed to the shareholders in proportion to their former ownership.

Dated this 24th day of October, 2006.

SHAREHOLDERS:

Fielding G. Braffett

David L. Hamby
David L. Hamby

James H. Noennig

Dennis W. Wagner

Steven R. Carver

Lynn A. Kleager

Cherie L. Shank

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RESOLVED: That upon completion of the transfer of COI shares and related documents, the balance remaining in the checking account of COI will be distributed to the shareholders in proportion to the former ownership.

Dated this 6 day of Nov, 2006.

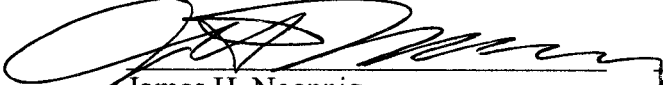
SHAREHOLDERS:

Fielding G. Braffett

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RESOLVED: That upon the completion of the transfer of COI shares and related documents, the balance remaining in the checking account of COI will be distributed to the shareholders in proportion to their former ownership.

Dated this 26th day of October, 2006.

SHAREHOLDERS:

Fielding G. Braffett

Steven R. Carver

David L. Hamby

Lynn A. Kleager

James H. Noennig

Cherie L. Shank

Dennis W. Wagner
Dennis W. Wagner

CORPORATE RESOLUTION

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RESOLVED: That upon the completion of the transfer of COI shares and related documents, the balance remaining in the checking account of COI will be distributed to the shareholders in proportion to their former ownership.

Dated this 25th day of October, 2006.

SHAREHOLDERS:

Fielding G. Braffett



Steven R. Carver

David L. Hamby

Lynn A. Kleager

James H. Noennig

Cherie L. Shank

Dennis W. Wagner

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RESOLVED: That upon completion of the transfer of COI shares and related documents, the balance remaining in the checking account of COI will be distributed to the shareholders in proportion to the former ownership.

Dated this 30th day of October, 2006.

SHAREHOLDERS:

Fielding G. Braffett

Steven R. Carver

David L. Hamby



Lynn A. Kleager

James H. Noennig

Cherie L. Shank

Dennis W. Wagner

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RESOLVED: That upon the completion of the transfer of COI shares and related documents, the balance remaining in the checking account of COI will be distributed to the shareholders in proportion to their former ownership.

Dated this 31ST day of OCTOBER, 2006.

SHAREHOLDERS:

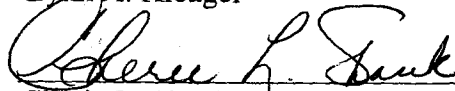
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Cherie L. Shank

Dennis W. Wagner

April 27, 2005

Kelly E. Arnold, City Manager
c/o City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501

Via Hand Delivery

Re: Letter of Intent Regarding Property for Parking Structure

Dear Kelly,

I am pleased with the progress that our discussions have taken so far and believe that it is now time to reduce some of those matters to writing. Set forth below is an outline of the proposed terms and conditions for the exchange of the property known as the Dalby-Wendland parking lot for parking spaces in the proposed downtown parking garage.

As you know, the Dalby-Wendland parking lot (Lots 13, 14 and 15 of Block 103) contains 23 parking spaces which HR Adventures LLC will trade for 23 covered parking spaces to be located in the parking structure anticipated to be constructed between 4th and 5th Streets on Rood Avenue, in downtown Grand Junction (Parking Structure). HR Adventures LLC of which I am the manager, has agreed to participate in this project and will do what is reasonably necessary or required to carry out the agreement. Also, as we have discussed, the LLC has agreed to assign its rights to purchase Lot 16 of Block 103 ("Option") to the Grand Junction Downtown Development Authority for a price not to exceed \$165,000.00.

This Letter sets forth certain terms which shall serve as the basis for a binding written real estate contract between the parties, which shall be prepared on the appropriate Colorado Real Estate Commission approved forms (Contract). This Letter reflects the present understanding of the parties regarding some basic terms of the forthcoming Contract. It further evidences the desire of the parties to reach a final and complete Contract, but does not constitute, nor may it be construed to constitute, a contract. This Letter shall be superseded by the Contract between the parties. In the event that a Contract is not executed by the parties, this Letter, at the option of either party to the Letter, may be rescinded, revoked and canceled and of no further effect. Nothing herein may be deemed to obligate or bind any party to any terms, conditions or agreements, and no party shall assert a claim or incur any liability arising out of the execution of this Letter.

Subject to the foregoing, HR Adventures LLC, a Colorado limited liability company, is prepared to contract with the City and/or the DDA as follows:

Kelly E. Arnold, City Manager
April 27, 2005

- 1) The exchange of land for parking spaces shall be accomplished in general by a 1031 tax free exchange. Furthermore, HR Adventures agrees to assign and/or otherwise transfer to the City its rights to the property and/or the rights in and to the Option dated February 1, 1999 by and between Community Office Investors Inc. and HR Adventures (“Property”).
- 2) HR Adventures and/or Community Office Investors shall convey the Property to the City for the purpose of constructing the Parking Garage, including performing any and all diligence necessary in anticipation of construction. Specifically, the City shall have the right to explore, research and confirm the environmental condition of the property.
- 3) In exchange for Lots 13, 14 and 15 the City will contract with HR Adventures LLC for 23 parking spaces in the Parking Garage.
- 4) During the construction of the Parking Garage the City shall provide at no cost to HR Adventures 23 parking passes for the displaced users of the Dalby-Wendland lot for the duration of the construction of the Parking Garage. At the City’s option it may designate replacement, temporary parking spaces in the public parking lot between 4th and 5th Streets on Colorado Avenue.
- 5) HR Adventures reserves the right to review and approve the contract(s) and the proposed covenants, conditions and restrictions and condominium documents for the Parking Garage.
- 6) The City may act only by and through its City Council or authorized member(s) or staff. The signature of Kelly Arnold below constitutes the authorized signature of staff which HR Adventures may rely on to be the act of the City of Grand Junction for purposes of this letter of intent.
- 7) The City will have until December 31, 2006 to complete the construction. Condominiumization of the Parking Structure shall occur as soon thereafter as regulatory approvals allow. HR Adventures, the City and other condominium owners’ interests will be reflected in the condominium declarations, covenants, conditions and restrictions. The declarations will include terms that apportion (on a proportionate share of ownership base) the annual maintenance cost of the Parking Structure. In addition the declarations will establish common and general elements and address other aspects of operation and maintenance.
 - a) The City and HR Adventures will stipulate and agree that the maintenance cost to be paid by HR Adventures for its 23 parking spaces under the declarations shall not exceed \$60.00/year/space for a period of 7 years from the date that the Certificate of Occupancy is issued for the Parking Structure. This provision shall not apply to any

Kelly E. Arnold, City Manager
April 27, 2005

special assessment required to repair the Parking Garage following a catastrophic, uninsured loss. Commencing with the 8th year and for every year thereafter, HR Adventures shall pay maintenance at the prevailing rate. HR Adventures shall be responsible for the payment of any and all ad valorem property taxes, possessory interest taxes and other assessments of whatever kind made against its interest in the Parking Garage.

b) The City will manage construction of the Parking Garage. The City may consider input from the HR Adventures about the means and methods of construction but the City shall not be bound to act on the same.

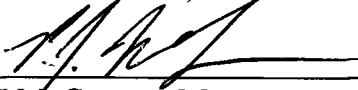
c) The City will manage the construction project by providing construction management and engineering oversight by a Colorado licensed professional engineer in good standing. The construction management and engineering review and oversight shall be in accordance with the construction plans, generally accepted engineering practices and if applicable, the standards set by the City.

d) The City, by and through its project management personnel, shall be responsible for directing means and methods of construction and supervision of the work. HR Adventures may observe, monitor and examine construction means and methods but final construction decisions are the responsibility of and will be made by the City.

e) The City will make available for inspection by HR Adventures, on HR Adventure's written request, all solicitations, bids and/or correspondence between City and project contractor(s), professional service providers and/or agents.

If the general terms and conditions set forth above are acceptable to you, please sign and date the enclosed copy of this Letter and return the same to us on or before April 15, 2005. Upon receipt of a signed copy of this Letter we will have our attorney contact your attorney to finalize the Contract and begin work on the condominium declarations.

HR Adventures, LLC



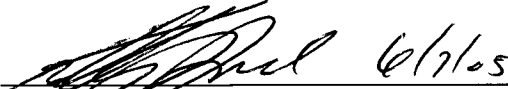
PJ McGovern, Manager

4/27/05

Date

Kelly E. Arnold, City Manager
April 27, 2005

Subject to the execution of a purchase contract the City approves the general terms and conditions of the above proposal.



Kelly E. Arnold, City Manager

Date