

RESOLUTION NO. 10-98

**AUTHORIZING THE SALE AND CONVEYANCE OF CITY PROPERTY
TO J & S GAMING VENTURES, LLC**

WHEREAS, the City of Grand Junction is the owner of that certain real property in the County of Mesa, State of Colorado, commonly known as the Berry property consisting of approximately 57 acres of vacant land generally located north of H Road and west of 24 Road; and

WHEREAS, pursuant to City Ordinance No. 2791 and as authorized by the action of the electorate of the City of Grand Junction at the regular municipal election held on April 4, 1995, the above described property is not necessary for governmental purposes and may be sold by the City; and

WHEREAS, J & S Gaming Ventures, LLC, has offered to purchase the said Berry property for a purchase price of \$225,000.00 in accordance with the terms and conditions of the attached Contract to Buy and Sell Real Estate; and

WHEREAS, the City Council has determined to accept said offer subject to the terms and conditions of the attached Counterproposal which, among other things, amends the purchase price for the property from \$225,000.00 to \$250,000.00; and

WHEREAS, the City Council has determined that the sum of \$250,000.00 is a fair and reasonable purchase price for the above described property.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

That the City Manager is hereby authorized and directed, on behalf of the City and as the act of the City, to execute the attached Counterproposal, and to additionally sign all documents necessary and appropriate to convey said property to J & S Gaming Ventures, LLC, a Colorado limited liability company; provided, however, that the City shall make no representations or warranties of any kind or nature whatsoever as to the physical condition of the property, including, without limitation, any warranties as to the environmental condition of the property or fitness of the property for any purpose whatsoever.

PASSED and ADOPTED this 21st day of January, 1998.

Attest:

/s/ Janet Terry
President of the City Council

/s/ Stephanie Nye
City Clerk

Counterproposal

THIS IS A LEGAL INSTRUMENT. IF NOT UNDERSTOOD, LEGAL, TAX OR OTHER COUNSEL SHOULD BE CONSULTED BEFORE SIGNING.

Re: Proposed contract for the purchase of property described as:

See Exhibit "A" attached hereto and incorporated herein by reference.

situated in the County of Mesa, State of Colorado, dated January 15, 1998, between the City of Grand Junction, a Colorado home rule municipality, Seller, and J & S Gaming Ventures, LLC, Purchaser.

The undersigned Seller accepts said proposed contract, subject to the following amendments:

1. Paragraph 3 shall be amended as follows: The purchase price shall be \$ 250,000.00 ;
2. Paragraph 3(a) shall be amended as follows: The balance shall be \$ 240,000.00 ;
3. Paragraph 3(b) shall be amended as follows: Cash as closing shall be \$ 240,000.00 , plus closing costs;
4. Paragraph 5 shall be amended as follows: The appraisal deadline of March 16, 1998, shall be deleted and "N/A" shall be inserted in its place;
5. Paragraph 12 shall be amended as follows: Title shall transfer by Special Warranty Deed;
6. Paragraph 21.(1)a) shall be amended as follows: The following shall be deleted: "Seller shall warrant that to the best of its his knowledge that there is no environmental concerns or violations of any environmental laws or is aware of any environmental laws violated regarding this property and Seller will use its best efforts to not cause or permit any person to violate any applicable laws with respect to the property from now until closing", and replaced with: "Seller makes no representations or warranties regarding any hazardous or toxic materials on the Property except to the extent that Seller represents Seller has not deposited or caused to be deposited on or under the Property, during the time Seller has owned the Property, any hazardous or toxic materials, and, to the best of Seller's knowledge, there are no and have been no: (i) uncured notices from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the property or any portion thereof; (ii) notices or other information giving the Seller reason to believe that any conditions existing on the Property or in the vicinity of the Property or in ground or surface waters associated with the Property may have a material affect on the value of the Property or subject the owner of the Property to potential liability under environmental laws. In consideration of the foregoing, Seller makes no representations or warranties regarding the physical fitness of the Property for any use or purpose. In the event the transaction hereby contemplated is completed pursuant to the terms and conditions of this Contract, Buyer shall be deemed to have accepted the physical condition of the Property as is, where is, in its present condition and location."
7. Paragraph 21.(1)b) shall be deleted in its entirety.
8. Paragraph 21.(2) shall be amended to read as follows: This Contract shall not be assignable by Purchaser 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.

All other terms and conditions shall remain the same. If this counterproposal is accepted by Purchaser, as evidenced by Purchaser's signature hereon, and if Seller receives notice of such acceptance on or before January 23, 1998, the said proposed contract, as amended hereby, shall become a Contract between the parties.

Seller: _____
City of Grand Junction

Date: _____

The foregoing counterproposal is accepted this _____ day of _____, 1998.

Purchaser: _____
J & S Gaming Ventures, LLC

Date: _____

EXHIBIT "A"

A parcel of land situate in the Northeast 1/4 of the Southeast 1/4 (NE1/4 SE1/4) and in the Southeast 1/4 of the Northeast 1/4 (SE1/4 NE1/4) and in the Northwest 1/4 of the Southeast 1/4 (NW1/4 SE1/4) of Section 29, Township 1 North, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado, being more particularly described as follows, to wit:

Commencing at the East 1/4 corner of said Section 29 from whence the South 1/16 corner on the East line of said Section 29 bears S 00°03'05" W a distance of 1319.80 feet, with all bearings contained herein being relative thereto; thence S 00°03'05" W along the East line of said Section 29 a distance of 731.17 feet to a point on the center line of Berry Drain; thence N 89°56'55" W along said center line a distance of 30.00 feet to the True Point of Beginning of the parcel described herein;

thence along the centerline of said Berry Drain the following fourteen (14) courses:

1. N 89°56'55" W a distance of 2.22 feet;
2. S 85°49'23" W a distance of 78.48 feet;
3. S 86°50'47" W a distance of 88.17 feet;
4. N 77°56'02" W a distance of 44.44 feet;
5. N 57°17'30" W a distance of 12.14 feet;
6. S 43°27'27" W a distance of 116.49 feet;
7. S 41°28'47" W a distance of 85.47 feet;
8. S 27°15'05" W a distance of 48.70 feet;
9. S 20°53'24" W a distance of 25.77 feet;
10. S 21°04'20" W a distance of 104.97 feet;
11. S 38°23'48" W a distance of 42.47 feet;
12. S 48°11'33" W a distance of 50.99 feet;
13. S 53°15'44" W a distance of 192.20 feet;
14. S 51°09'34" W a distance of 156.29 feet to a point on the South line of the NE1/4 SE1/4 of said Section 29;

thence S 89°59'01" W along the South line of said NE1/4 SE1/4 a distance of 521.28 feet to the Southeast 1/16 corner of said Section 29;

thence S 89°59'01" W along the South line of the SE1/4 NW1/4 SE1/4 of said Section 29 a distance of 659.53 feet to the Southwest corner of said SE1/4 NW1/4 SE1/4;

thence N 00°01'28" W along the West line of said SE1/4 NW1/4 SE1/4 a distance of 659.88 feet to the Southwest corner of the NE1/4 NW1/4 SE1/4 of said Section 29;

thence N 00°01'28" W along the West line of said NE1/4 NW1/4 SE1/4 a distance of 659.87 feet to the Northwest corner of said NE1/4 NW1/4 SE1/4;

thence N 89°59'02" E along the North line of said NE1/4 NW1/4 SE1/4 a distance of 660.11 feet to the Center - East 1/16 corner of said Section 29;

thence N 89°58'53" E along the North line of the NE1/4 SE1/4 of said Section 29 a distance of 133.74 feet to a point on the centerline of the Grand Valley Canal;

thence along the centerline of said Grand Valley Canal the following eleven (11) courses:

(continued on next page)

Exhibit "A" continued

1. N 71°19'22" E a distance of 14.32 feet;
2. N 71°57'57" E a distance of 84.49 feet;
3. N 69°48'37" E a distance of 110.77 feet;
4. N 71°52'43" E a distance of 114.58 feet;
5. N 71°06'52" E a distance of 103.42 feet;
6. N 72°05'07" E a distance of 110.24 feet;
7. 186.20 feet along the arc of a non-tangent curve concave to the northwest, having a radius of 1224.20 feet, a delta angle of 08°42'53" and a long chord bearing N 67°24'16" E a distance of 186.02 feet;
8. 198.53 feet along the arc of a non-tangent curve concave to the south, having a radius of 262.85 feet, a delta angle of 43°16'35" and a long chord bearing N 82°37'46" E a distance of 193.85 feet;
9. 189.80 feet along the arc of a non-tangent curve concave to the southwest, having a radius of 393.77 feet, a delta angle of 27°37'03" and a long chord bearing S 71°21'35" E a distance of 187.97 feet;
10. S 59°41'50" E a distance of 78.00 feet;
11. S 52°10'45" E a distance of 47.70 feet;

thence S 00°03'54" W along a line 30.0 feet west of and parallel with the East line of the SE1/4 NE1/4 of said Section 29 a distance of 139.28 feet to a point on the South line of said SE1/4 NE1/4; thence S 00°03'05" W along a line 30.0 feet west of and parallel with the East line of the NE1/4 SE1/4 of said Section 29 a distance of 731.13 feet to the Point of Beginning, containing 57.26 acres, more or less,

SUBJECT TO the reservation by the City of a perpetual easement for the operation, maintenance and repair of the Grand Valley Mainline Canal over the above described property, said perpetual easement being more particularly described as follows:

Commencing at the East 1/4 of said Section 29, from whence the South 1/16 corner on the East line of said Section 29 bears S 00°03'05" W a distance of 1319.80 feet, with all bearings contained herein being relative thereto; thence S 89°58'53" W along the North line of the NE1/4 SE1/4 of said Section 29 a distance of 30.00 feet to a point; thence N 00°03'54" E along a line 30.0 feet west of and parallel with the East line of the SE1/4 NE1/4 of said Section 29 a distance of 125.87 feet to a point on the southerly bank of the Grand Valley Canal and **True Point of Beginning** of the parcel described herein;

thence along the southerly bank of said Grand Valley Canal the following fourteen (14) courses:

1. N 58°53'46" W a distance of 108.27 feet;
2. 211.83 feet along the arc of a non-tangent curve concave to the southwest, having a radius of 368.18 feet, a delta angle of 32°57'51" and a long chord bearing N 69°45'02" W a distance of 208.92 feet;

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Exhibit "A" continued

3. 195.53 feet along the arc of a non-tangent curve concave to the south, having a radius of 257.65 feet, a delta angle of 43°28'53" and a long chord bearing S 81°38'39" W a distance of 190.87 feet;
4. 144.19 feet along the arc of a non-tangent curve concave to the northwest, having a radius of 828.56 feet, a delta angle of 9°58'14" and a long chord bearing S 66°17'02" W a distance of 144.00 feet;
5. S 71°40'26" W a distance of 118.84 feet;
6. S 71°21'47" W a distance of 113.50 feet;
7. S 73°22'39" W a distance of 126.11 feet;
8. S 68°42'54" W a distance of 95.77 feet;
9. S 71°47'03" W a distance of 104.35 feet;
10. S 70°21'43" W a distance of 44.12 feet;
11. S 72°38'54" W a distance of 155.98 feet;
12. S 70°06'29" W a distance of 128.47 feet;
13. S 71°30'38" W a distance of 147.28 feet;
14. 369.33 feet along the arc of a non-tangent curve concave to the north, having a radius of 1042.02 feet, a delta angle of 20°18'28" and a long chord bearing S 78°53'39" W a distance of 367.40 feet to a point on the West line of the NE1/4 NW1/4 SE1/4 of said Section 29;

thence N 00°01'28" W along the West line of said NE1/4 NW1/4 SE1/4 a distance of 25.50 feet to a point on the northerly bank of said Grand Valley Canal;

thence along the northerly bank of said Grand Valley Canal the following six (6) courses:

1. 225.78 feet along the arc of a non-tangent curve concave to the north, having a radius of 1602.67 feet, a delta angle of 8°04'18" and a long chord bearing N 81°16'53" E a distance of 225.59 feet;
2. 189.09 feet along the arc of a non-tangent curve concave to the northwest, having a radius of 30450.96 feet, a delta angle of 00°21'21" and a long chord bearing N 73°22'22" E a distance of 189.09 feet;
3. N 70°04'43" E a distance of 109.87 feet;
4. N 70°25'33" E a distance of 123.30 feet;
5. N 72°21'18" E a distance of 41.74 feet;
6. N 73°09'55" E a distance of 88.35 feet to a point on the north line of the NE1/4 SE1/4 of said Section 29;

thence N 89°58'53" E along the north line of said NE1/4 SE1/4 a distance of 45.78 feet to a point on the centerline of said Grand Valley Canal;

hence along the centerline of said Grand Valley Canal the following eleven (11) courses:

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Exhibit "A" continued

1. N 71°19'22" E a distance of 14.32 feet;
2. N 71°57'57" E a distance of 84.49 feet;
3. N 69°48'37" E a distance of 110.77 feet;
4. N 71°52'43" E a distance of 114.58 feet;
5. N 71°06'52" E a distance of 103.42 feet;
6. N 72°05'07" E a distance of 110.24 feet;
7. 186.20 feet along the arc of a non-tangent curve concave to the northwest, having a radius of 1224.20 feet, a delta angle of 8°42'53" and a long chord bearing N 67°24'16" E a distance of 186.02 feet;
8. 198.53 feet along the arc of a non-tangent curve concave to the south, having a radius of 262.85 feet, a delta angle of 43°16'35" and a long chord bearing N 82°37'46" E a distance of 193.85 feet;
9. 189.80 feet along the arc of a non-tangent curve concave to the southwest, having a radius of 393.77 feet, a delta angle of 27°37'03" and a long chord bearing S 71°21'35" E a distance of 187.97 feet;
10. S 59°41'50" E a distance of 78.00 feet;
11. S 52°10'45" E a distance of 47.70 feet to a point; thence S 00°03'54" W along a line 30.0 feet West of and parallel with the East line of the SE 1/4 NE 1/4 of said Section 29 a distance of 13.41 feet to the Point of Beginning;

AND ALSO SUBJECT TO the reservation by the City of a perpetual easement for the installation operation, maintenance and repair of trails for non-motorized public use, said perpetual easement being more particularly described as follows:

Commencing at the East 1/4 of said Section 29 from whence the South 1/16 corner on the East line of said Section 29 bears S 00°03'05" W a distance of 1319.80 feet, with all bearings contained herein being relative thereto; thence S 89°58'53" W along the North line of the NE1/4 SE1/4 of said Section 29 a distance of 30.00 feet to a point; thence N 00°03'54" E along a line 30.0 feet West of and parallel with the East line of the SE1/4 NE1/4 of said Section 29 a distance of 81.81 feet to a point on the approximate southerly toe of the Grand Valley Canal maintenance road and the **True Point of Beginning** of the parcel described herein;

thence along the approximate toe of said Grand Valley Canal maintenance road the following twenty-eight (28) courses:

1. N 58°56'45" W a distance of 143.47 feet;
2. N 59°48'03" W a distance of 46.69 feet;
3. N 68°06'16" W a distance of 55.71 feet;
4. 211.22 feet along the arc of a non-tangent curve concave to the south, having a radius of 303.72 feet, a delta angle of 39°50'44", and a long chord bearing N 87°54'30" W a distance of 206.99 feet;

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Exhibit "A" continued

5. S 68°20'08" W a distance of 50.33 feet;
6. S 67°46'54" W a distance of 74.85 feet;
7. S 69°01'08" W a distance of 80.28 feet;
8. S 71°26'32" W a distance of 76.98 feet;
9. S 71°21'13" W a distance of 65.44 feet;
10. S 71°41'36" W a distance of 69.23 feet;
11. S 71°46'56" W a distance of 97.28 feet;
12. S 71°50'14" W a distance of 72.04 feet;
13. S 71°27'01" W a distance of 79.36 feet;
14. S 70°15'04" W a distance of 54.02 feet;
15. S 71°32'40" W a distance of 58.33 feet;
16. S 81°19'55" W a distance of 73.69 feet;
17. S 76°13'43" W a distance of 44.87 feet;
18. S 79°39'24" W a distance of 23.70 feet;
19. S 59°57'02" W a distance of 42.76 feet;
20. S 70°24'41" W a distance of 75.57 feet;
21. S 73°08'03" W a distance of 48.86 feet;
22. S 74°03'36" W a distance of 79.85 feet;
23. S 69°26'38" W a distance of 48.42 feet;
24. S 71°57'54" W a distance of 74.25 feet;
25. S 76°04'57" W a distance of 87.58 feet;
26. S 79°16'25" W a distance of 113.35 feet;
27. S 82°00'09" W a distance of 51.99 feet;
28. S 85°50'06" W a distance of 59.37 feet to a point on the West line of the NE1/4 NW1/4 SE1/4 of said Section 29;

thence N 00°01'28" W along the west line of said NE1/4 NW1/4 SE1/4 a distance of 21.39 feet to a point on the southerly bank of said Grand Valley Canal;

thence along the southerly bank of said Grand Valley Canal the following fourteen (14 courses):

1. 369.33 feet along the arc of a non-tangent curve concave to the north, having a radius of 1042.02 feet, a delta angle of 20°18'28" and a long chord bearing N 78°53'39" E a distance of 367.40 feet;
2. N 71°30'38" E a distance of 147.28 feet;
3. N 70°06'29" E a distance of 128.47 feet;
4. N 72°38'54" E a distance of 155.98 feet;
5. N 70°21'43" E a distance of 44.12 feet;
6. N 71°47'03" E a distance of 104.35 feet;
7. N 68°42'54" E a distance of 95.77 feet;

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Exhibit "A" continued

8. N 73°22'39" E a distance of 126.11 feet;
9. N 71°21'47" E a distance of 113.50 feet;
10. N 71°40'26" E a distance of 118.84 feet;
11. 144.19 feet along the arc of a non-tangent curve concave to the northwest, having a radius of 828.56 feet, a delta angle of 9°58'14" and a long chord bearing N 66°17'02" E a distance of 144.00 feet;
12. 195.53 feet along the arc of a non-tangent curve concave to the south, having a radius of 257.65 feet, a delta angle of 43°28'53" and a long chord bearing N 81°38'39" E a distance of 190.87 feet;
13. 211.83 feet along the arc of a non-tangent curve concave to the southwest, having a radius of 368.18 feet, a delta angle of 32°57'51" and a long chord bearing S 69°45'02" E a distance of 208.92 feet;
14. S 58°53'46" E a distance of 108.27 feet to a point; thence S 00°03'54" W along a line 30.0 feet West of and parallel with the East line of the SE1/4 NE1/4 of said Section 29 a distance of 44.06 feet to the Point of Beginning;

AND ALSO SUBJECT TO that certain Power of Attorney, including the terms and conditions thereof, recorded April 13, 1995, in Book 2138 at Page 835 in the office of the Mesa County Clerk and Recorder;

AND ALSO SUBJECT TO that certain Easement granted to the Grand Junction Drainage District by instrument recorded January 10, 1996, in Book 2199 at Page 525 in the office of the Mesa County Clerk and Recorder;

AND ALSO SUBJECT TO right-of-way for 24 Road adjacent to the east as described by instrument recorded in Book 2394 at Pages 805 through 807 in the office of the Mesa County Clerk and Recorder,

AND ALSO SUBJECT TO all other rights-of-ways and easements of record or in use.