

**RESOLUTION NO. 10-02**

**AUTHORIZING THE LEASE AND PURCHASE BY THE CITY  
OF CERTAIN REAL PROPERTY OWNED BY  
ROBERT W. KEMP AND ASENATH I. KEMP  
635 WEST WHITE AVENUE**

WHEREAS, the City has negotiated an agreement to Lease and Purchase certain real property located at 635 West White Avenue in the City of Grand Junction, County of Mesa, State of Colorado, owned by Robert W. Kemp and Asenath I. Kemp; and

WHEREAS, the City Council deems it necessary and appropriate that the City lease and purchase said property together with all improvements thereon and appurtenant thereto.

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

1. All actions heretofore taken by the officers, employees and agents of the City pertaining to the lease and purchase of the subject property which are consistent with the provisions of the attached Lease and Purchase Agreement are hereby ratified, approved and confirmed.
2. That the City Council hereby authorizes the expenditure of the sums of money as more fully set forth in the attached Lease and Purchase Agreement.
3. That the officers, employees and agents of the City are hereby authorized and directed to take all actions necessary and appropriate to effectuate the provisions of this Resolution and the attached Lease and Purchase Agreement.

PASSED and ADOPTED this 6<sup>th</sup> day of February, 2002

Attest:

/s/: Cindy Enos-Martinez  
President of the Council

/s/: Stephanie Tuin  
City Clerk

## LEASE AND PURCHASE AGREEMENT

THIS LEASE AND PURCHASE AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2002, by and between Robert W. Kemp and Asenath I. Kemp, husband and wife, hereinafter referred to as "the Kems", and the City of Grand Junction, a Colorado home rule municipality, hereinafter referred to as "the City".

### RECITALS

A. The Kems represent that they are the owners, as Joint Tenants, of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

**Address:** 635 West White Avenue

**Tax Schedule No.:** 2945-154-32-002

**Legal Description:** Lot 2 of West Grand Subdivision as the same is recorded in Plat Book 12 at Page 250 in the office of the Mesa County Clerk and Recorder,

which property, together with all improvements and fixtures thereon and all rights, privileges and easements appurtenant thereto, including all water and water rights, all ditches and ditch rights, all minerals and mineral rights, is hereinafter referred to as "the Property".

B. The Kems desire to lease and sell the Property to the City, and the City desires to lease and purchase the Property from the Kems, pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

1. **Grant of Lease.** The Kems hereby lease the Property to the City, and the City hereby leases the Property from the Kems, for the term set forth in Paragraph 2 below and subject to each and every other term, condition, duty and obligation hereinafter provided.

2. **Duration of Lease Term.**

2.1 The term of this Lease shall be for a period of three (3) consecutive years, commencing on February 15, 2002 ("Commencement Date") and, unless earlier terminated pursuant to Section 3, continuing through February 15, 2005, at which time one of the following events shall occur:

a. The City may exercise its right and option to purchase the Property as more fully set forth herein, or

- b. The City may determine to not exercise its right and option to purchase the Property , in which event this lease shall automatically terminate.

2.2 For the purposes of this Agreement, the term "Lease Year" shall mean a period of twelve (12) consecutive calendar months following each anniversary of the Commencement Date.

3. **City's Right to Terminate Lease.** The City's obligation to continue with this Lease during the term set forth in Section 2 is expressly contingent upon the City Council of the City appropriating money for each Lease Year to pay the rentals specified in Section 4 hereof. If the City Council fails, for any reason, to specifically budget and appropriate money to pay such rentals or if the City subsequently fails to pay such rentals when due, this Lease shall automatically terminate and the City shall be relieved from all duties and obligations contained in this Agreement. The parties agree and understand that the exercise of the City's option to terminate this Lease shall be conclusively determined by whether or not the City Council has appropriated money to pay the rentals specified in Section 4.

4. **Rent.**

4.1 Subject to the provisions of Section 3, the City agrees to pay to the Kemps the following sums of money as annual rental and applied partial payments for the purchase of the Property:

<b><u>No.</u></b>	<b><u>Payment Date</u></b>	<b><u>Payment Amount</u></b>	<b><u>Accumulative</u></b>
1	February 15, 2002	\$ 32,400.00	\$ 32,400.00
2	February 15, 2003	\$ 32,400.00	\$ 64,800.00
3	February 15, 2004	\$ 100,000.00	\$ 164,800.00

4.2 In the event the City determines to exercise its option to purchase the Property as more fully set forth herein, all rental payments specified above shall be directly applied to the purchase price for the Property.

4.3 The annual rental payments specified above shall be due and payable, without demand by the Kemps, on or before February 15 of each Lease Year. In the event rental payments are not made by the City on or before the specified due dates and this Lease has not been terminated as herein provided for, the City agrees to pay a late charge of \$50.00 for each and every day following the specified due date(s), which late charge shall be added to the amount of rent(s) due. This Lease, at the option of the Kemps, shall automatically terminate and the Kemps may repossess the Property if the specified rental payments are not made by the City on or before February 30 of each Lease Year.

5. **City's Use of the Property / Alterations.**

5.1 The City shall have the full and exclusive right to use, occupy and quietly enjoy the Property during the term of this Lease for general office, general warehouse and general storage related purposes.

5.2 The City shall not make or cause to be made any alterations or additions to the Property without Kemp's prior written approval, which approval shall not be unreasonably withheld, delayed or conditioned. Any approved alterations or additions shall be performed in a good and workmanlike manner and in a manner that will not be detrimental to the Property.

5.3 The parties understand that the City's initial intended use of the Property is for the storing and maintaining of firefighting vehicles and apparatus. Because certain aspects of the building will require modification to properly accommodate such uses, the Kemps hereby authorize the City, at the City's sole cost and expense, to make the following alterations to the Property:

- a. Enlarge the two overhead doors located on the south building wall to minimum widths of 12-feet and minimum heights of 13-feet. To effectuate these alterations, the City shall be authorized to modify all door framing and siding and to relocate utilities and any non-load bearing item necessary to effectuate this purpose.
- b. Within the limits of the warehouse portion of the building, clear, remove and dispose of all non-load bearing walls, partitions, steps and built-up storage areas.
- c. Fill the existing truck well located adjacent to the exterior of the south building wall to a level which is even with the grade of the adjoining ground. Permitted fill materials shall include pit-run, road base, gravel, asphalt and/or concrete.

5.4 Any approved alterations to the Property, except moveable furniture, moveable trade fixtures and communications equipment brought onto the Property by the City, shall become part of the Property and shall remain with the Property upon termination or expiration of this Lease

6. **Destruction.** If, during the term of this Lease, the Property is damaged due to fire, flood, or other casualty, or if the Property is damaged or deteriorates to the extent where it is no longer functional for the purposes of the City, the Kemps shall have no obligation to repair the Property nor to otherwise make the Property usable or occupiable; damages shall be at the City's own risk; provided, however, that in the event the Property is damaged or deteriorates to the extent where it is no longer functional for the purposes of the City, or if the City determines that the costs of making repairs to cure damages or correct deterioration not caused by the City's negligence are too great, the City may, at its option, terminate the Lease by giving notice to the Kemps that this Lease is to be

terminated. Termination shall be effective thirty (30) days following the date of such notice of termination.

7. **Assignment / Sublease.** The City shall have the right to sublet, assign or transfer any or all of its interests in the lease of the Property with the prior written consent the Kemps, which consent shall not be unreasonably withheld, delayed or conditioned. The Kemps agree that any and all rents, charges or fees collected by the City pursuant to a sublease shall become and remain the property of the City; provided, however, that in the event of an assignment of this Lease or a sublease, the City shall not be released from its obligations and duties under this Agreement and this Lease between the City and the Kemps shall remain in full force and effect. Any consent by the Kemps to an assignment of this Lease or a sublease shall not be a consent to a subsequent assignment, sublease or occupation of the Property by any other party.

8. **Utilities.** The City shall pay all utilities charges and other expenses incurred in connection with the City's use, occupancy and operation of the Property, including, but not limited to, all charges for natural gas, electricity, telephone, sanitary sewer, cable television, domestic water, trash service, and any and all other utilities used on or in connection with the Property. The City agrees that the City shall pay any and all such charges before the date the same become due.

9. **Maintenance.**

9.1 The City shall maintain and repair all aspects of the Property at the City's sole cost and expense, including, but not limited to, the structural condition of all buildings thereon, driveways, fences, fixtures, glass, roofing, plumbing, heating and ventilation systems, security devices, the appearance and structural integrity of any improvements and landscaping, in good order, good appearance, condition and repair and in a clean, sanitary, orderly and safe condition.

9.2 The City shall not commit nor permit waste, damage or injury to the Property.

9.3 The City shall not cause or permit to occur by the City and/or the City's sublessees, agents, guests, invitees, contractors, licensees or employees:

- a. any violation of any Environmental Law on, under or about the Property or arising from the City's use and occupancy of the Property, including, but not limited to, air, soil and groundwater conditions; or
- b. the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substance on, under or about the Property, or the transportation to or from the Property of any Hazardous Substance in violation of any federal state or local law, ordinance or regulation either now in force or hereafter enacted.

9.4 The City shall, at the City's sole cost and expense, comply with all Environmental Laws and laws regulating the use, generation, storage, transportation or disposal of Hazardous Substances.

10. **Ad Valorem Taxation**. It is the express intent of the parties that the Property, so long as it is leased, used and occupied by the City, be exempt from ad valorem taxation pursuant to C.R.S. 31-15-802. The Kemps agree to pay all ad valorem taxes, when the same become due and payable, which have accrued prior to the day and year first above written; thereafter, during the term of this Lease, the City agrees to diligently request that the County Assessor find that the Property is exempt from ad valorem taxation due to the City's lease, use and occupancy of the Property.

11. **Representation by the Kemps as to Environmental Matters**. The Kemps represent that they have no knowledge that Property (including land, surface water, ground water and improvements) is contaminated by or contains, whether or not visible: (i) any "hazardous waste", "medical waste", "solid waste", "leaking underground storage tanks", "petroleum", "regulated substances", or "used oil" as defined by the Solid Waste Disposal Act (42 U.S.C. § 6901, *et seq.*), as amended, and the Resource Conservation and Recovery Act (42 U.S.C. § 6991, *et seq.*), as amended, or by any regulations promulgated thereunder; (ii) any "hazardous substance" or "pollutant or contaminant" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601, *et seq.*), as amended, or by any regulations promulgated thereunder; (iii) any "regulated substance", as defined by the Underground Storage Tank Act, C.R.S., § 25-18-101, *et seq.*, as amended, or by any regulations promulgated thereunder; (iv) any "hazardous waste" as defined by C.R.S., § 25-15-101, *et seq.*, as amended, or by any regulations promulgated thereunder; (v) any substance the presence of which on, in, under or about the property, is prohibited by any law similar to those set forth above, and; (vi) any other substance which by law, regulation or ordinance requires special handling in its collection, storage, treatment or disposal. The Kemps agree to dispose of such if determined necessary by conditions which pre-existed the City's lease, use and occupancy of the Property.

12. **Grant of Option**. The Kemps hereby grant and convey to the City the sole, exclusive and irrevocable right to purchase the Property in accordance with the terms and conditions of this Agreement.

13. **Term of Option**. The term of the option hereby granted shall commence on the day and year first above written and shall expire and terminate at 5:00 p.m. on the last day of February, 2005.

14. **Exercise of Option**. The parties agree that the City may exercise its option to purchase the Property at any time during the term of the Lease as set forth in Section 2 above. To exercise its right and option to purchase the Property, the City shall deliver written notice to the Kemps of the City's intention to exercise the option ("Notice to

Exercise”). In the event the City fails to deliver its Notice to Exercise on or before 5:00 p.m. on February 1, 2005, the City’s right and option to purchase the Property shall automatically expire and terminate and all sums paid hereunder shall be forfeited by the City and retained by the Kemps.

15. **Purchase Price.** The purchase price for the Property shall vary depending upon the Lease Year in which the City’s exercises its option to purchase the Property, if at all, as follows:

a. If purchased on or before February 15, 2003:

<u>Received &amp; Credited Rental Payment(s)</u>	<u>Amount Due At Closing</u>	<u>Total Purchase Price</u>
\$32,400.00	\$349,200.00	\$381,600.00

b. If purchased after February 15, 2003, but before February 15, 2004:

<u>Received &amp; Credited Rental Payment(s)</u>	<u>Amount Due At Closing</u>	<u>Total Purchase Price</u>
\$64,800.00	\$337,752.00	\$402,552.00

c. If purchased after February 15, 2004, but on or before February 15, 2005:

<u>Received &amp; Credited Rental Payment(s)</u>	<u>Amount Due At Closing</u>	<u>Total Purchase Price</u>
\$164,800.00	\$258,020.00	\$422,820.00

16. **Inspection.**

16.1 Beginning on the date that the City delivers the Notice to Exercise to the Kemps (“Effective Date”), and extending for a period of thirty (30) days thereafter (“Inspection Period”), the City may, at the City’s sole cost and expense, through its employees, contractors and agents, conduct such inspections and investigations of the Property as the City shall in its sole discretion deem necessary and appropriate to determine the nature and extent of any toxic, hazardous or regulated substance or material that might be present upon the Property, including the right to take samples, perform surveys and assessments, evaluate remedial measures and perform or take any other reasonable action consistent with the expeditious performance and evaluation of any required remedial actions. The City shall be responsible for loss or destruction of or damage to the Property which is caused by the activities of the City in exercising any of the rights pursuant to this Section 16.

16.2 If, at the conclusion of the Inspection Period, the City fails to deliver written notice to the Kemps of any unsatisfactory environmental condition affecting the Property, and if the representations of the Kemps made in Section 11 are not incorrect, the City shall be deemed to have accepted the environmental condition of the Property as it exists at Closing.

16.3 If, during the Inspection Period, the City discovers the presence or existence of any toxic, hazardous, regulated, dangerous or contaminated substance, material or residue ("Contaminants"), the Kemps shall be obligated to fully and completely remove and/or remediate the Contaminants before Closing or provide for adequate monetary security to the City which will cover the City's costs and expenses of performing any such removals and/or remediation after closing. To elaborate, it is the intent of the parties that the City not encumber expenses to remove/remediate Contaminants; to achieve this intent, the parties agree that either (1) the Kemps may perform all acts necessary and appropriate, including, but not limited to, engaging the services of qualified professionals, and pay all expenses associated therewith, to deliver the Property to the City free from all Contaminants ("Option 1"), or (2) the Kemps may obtain binding bids, submitted by qualified professionals, which the City may use to engage the services of qualified professionals to perform work required to render the Property free from all Contaminants ("Option 2"). In the event the Kemps determine to utilize Option 1, the Kemps shall have a reasonable period of time and Closing shall be extended for said period of time, not to exceed ninety (90) days, to render the Property free from all Contaminants. In the event the Kemps determine to utilize Option 2, the amount of said bids, plus an additional amount which is equal to fifteen percent (15%) of said bids, shall be placed in an interest bearing escrow account at Closing from which the City may draw funds to pay the actual costs to remove/remediate the Contaminants. In the event the actual costs to remove/remediate the Contaminants is less than the amount remaining in such escrow account, such remaining amounts, together with any accrued interest, shall be paid to the Kemps after it has been certified that all Contaminants have been removed/remediated. In the event the actual costs to remove/remediate the Contaminants exceed the amount remaining in such escrow account, the City agrees to pay such excess amounts.

17. **Evidence of Title / Title Review.**

17.1 On or before seven (7) days following the Effective Date (as defined in Section 16.1), the Kemps shall furnish to the City's Real Estate Manager, with a copy to the City Attorney, at the Kemp's expense, a current commitment for owner's title insurance policy in an amount equal to the purchase price, together with true and legible copies of all instruments listed in the schedule of exceptions ("Exceptions") therein listed. The title insurance commitment, together with any copies of instruments furnished pursuant to this Section 17, constitute the title documents ("Title Documents"). The Kemps shall arrange for the title insurance policy to be delivered to the City as soon as practicable after closing and shall pay the premium at closing.



17.2. The Kemps shall deliver to the City, on or before the date set forth in Section 17.1, true copies of all any materials in the Kemp's possession related to title, environmental and survey matters and shall disclose to the City all easements, liens or other title matters not shown by the public records of which the Kemp's have actual knowledge.

17.3 The City shall have the right to inspect the Title Documents. Written notice by the City of unmerchantability of title or of any other unsatisfactory title condition shown by the Title Documents shall be signed by or on behalf of the City and given to the Kemps on or before five (5) calendar days after the receipt by the City's Real Estate Manager, with a copy to the City Attorney, of the Title Documents, or within five (5) calendar days after receipt by said two City employees 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 the Kemps do not receive the City's notice by the date(s) specified above, the City shall be deemed to have accepted the condition of title as disclosed by the Title Documents as satisfactory.

17.4 Title to the Property shall be merchantable. If the City delivers to the Kemps written notice of unmerchantability of title or of any other unsatisfactory title condition, the Kemps shall correct said defects prior to Closing. If the Kemps are unable to correct said defects on or before the date of Closing, Closing shall be extended until the Kemps have corrected any such defects.

## 18. **Closing.**

18.1 Subject to complete satisfaction of the provisions of Sections 17 and 18, Closing shall occur within thirty (30) days of the conclusion of the Inspection Period (as defined in Section 16.1). The parties designate Abstract & Title Company of Mesa, County, Inc., as closing agent for the purposes of providing the Title Documents, title insurance and closing this transaction.

18.2 At Closing, the Kemps shall convey to the City, by general warranty deed, marketable, record, fee simple absolute title to the Property, free and clear of: all taxes; all liens for special improvements installed as of the date of closing, whether assessed or not; all liens, mortgages and encumbrances; any covenants, restrictions or reversionary provisions not accepted by the City as exceptions in the Title Documents; and all tenancies and/or leasehold estates.

18.3 At Closing, fees for real estate closing and settlement services shall be paid by the parties equally.

18.4 Any encumbrance required to be paid shall be paid at or before Closing and may be paid from the proceeds of this transaction or from any other source.

19. **Possession**. The Kemps shall deliver possession of the Property to the City at Closing.

20. **Seller's Promise Not to Further Encumber**. During the period of time that this Agreement is valid and in effect, the Kemps shall not do any of the following with respect to the Property without the prior written consent of the City:

- a. Make or permit to be made, extend or permit to be extended, any lease, contract, option or agreement affecting the Property or cause or permit any lien, encumbrance, mortgage, deed of trust, right, restriction or easement to be placed upon or created with respect to the Property;
- b. Cause or permit any mortgage, deed of trust or other lien to be foreclosed upon due to the Kemp's actions or omissions, including failure to make a required payment or failure to obtain any required consent.

21. **Fees or Commissions**. The Kemps agree to defend, indemnify and hold the City harmless from any claim for real estate brokerage commissions or finder's fees asserted by any other party claiming to be entitled to brokerage commissions or finder's fees arising out of this Agreement.

22. **Notices**.

22.1 All notices to be given with respect to this Agreement shall be in writing delivered either by United States mail or Express mail, postage prepaid, by facsimile transmission, personally by hand or courier service, as follows:

To the City:                   City of Grand Junction  
Real Estate Manger  
250 North 5th Street  
Grand Junction, Colorado 81501-2668  
Fax: (970) 256-4022

With Copy to:               City of Grand Junction  
City Attorney  
250 North 5th Street  
Grand Junction, Colorado 81501-2668  
Fax: (970) 244-1456

To the Kemps:               Robert W. Kemp and Asenath I. Kemp

\_\_\_\_\_  
\_\_\_\_\_

Fax: (     ) \_\_\_\_\_

22.2 All notices shall be deemed given: (a) if sent by mail, when deposited in the mail; (b) if delivered by hand or courier service, when delivered; or (c) if transmitted by facsimile, when transmitted. The parties may, by notice as provided above, designate a different address to which notice shall be given.

23. **Legal Counsel / Interpretation.** Each party has obtained the advice of its own legal and tax counsel and, therefore, the rule of construing ambiguities against the drafter shall have no application to this Agreement.

24. **Time of the Essence / Remedies.** Time is of the essence hereof. If any note or check received 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 the City is in default: All payments and things of value received hereunder shall be forfeited by the City and retained on behalf of the Kemps 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 the Kemp's SOLE AND ONLY REMEDY for the City's failure to perform the obligations of this contract. The Kemps expressly waive the remedies of specific performance and additional damages.

(b) If the Kemps are in default: The City may elect to treat this contract as canceled, in which case all payments and things of value received hereunder shall be returned and the City and the City may recover such damages as may be proper, or the City may elect to treat this contract as being in full force and effect and the City 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 litigation or arbitration arising out of this Agreement, the court shall award to the prevailing party all reasonable costs and expense, including attorney fees.

25. **Consent / Memorandum.**

25.1 This entire Agreement and the City's obligation to proceed under its terms is expressly contingent upon the consent approval of the Grand Junction City Council. In the event such approval is not obtained on or before February 15, 2002, this Agreement shall be automatically void and of no effect.

25.2 Concurrent with the execution of this Agreement, the parties shall execute a memorandum substantially in the form provided in **Exhibit "A"** attached hereto and incorporated herein by reference, which memorandum shall be recorded in the office of the Mesa County Clerk and Recorder to provide notice of the existence of this Agreement.

26. **Total Agreement; Applicable to Successors.** This Agreement contains the entire agreement between the parties and, except for automatic expiration or termination, cannot be changed or modified except by a written instrument subsequently executed by the parties hereto. This Agreement and the terms and conditions hereof apply to and are binding upon the successors and authorized assigns of both parties.

27. The parties hereto have each executed and entered into this Lease and Purchase Agreement as of the day and year first above written.

Attest:

For the City of Grand Junction,  
a Colorado home rule municipality

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Robert W. Kemp

\_\_\_\_\_  
Asenath I. Kemp

**Exhibit "A"**  
**Memorandum of Lease**

This is the memorandum of that certain unrecorded Agreement dated \_\_\_\_\_, 2002, between Robert W. Kemp and Asenath I. Kemp ("the Kems"), and the City of Grand Junction, a Colorado home rule municipality ("the City"), concerning the following described real property in the County of Mesa, State of Colorado, to wit:

**Address:** 635 West White Avenue

**Tax Schedule No.:** 2945-154-32-002

**Legal Description:** Lot 2 of West Grand Subdivision as the same is recorded in Plat Book 12 at Page 250 in the office of the Mesa County Clerk and Recorder,

The Kems have leased to the City the full and exclusive right to use and occupy the above described property for the term and under the provisions contained in the above-mentioned unrecorded lease. The term of the lease commences February 15, 2002, and ends February 15, 2005. Additionally, the City has the sole and exclusive option to purchase the Property.

This memorandum is not a complete summary of the Agreement. Provisions in this memorandum shall not be used in interpreting the provisions of the Agreement. In the event of conflict between this memorandum and the unrecorded Agreement, the unrecorded Agreement shall control.

In witness whereof, the parties to this memorandum and the unrecorded Agreement have caused it to be executed in Grand Junction, Colorado, as of the 15<sup>th</sup> day of February, 2002.

Attest:

For the City of Grand Junction,  
a Colorado home rule municipality

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Robert W. Kemp

\_\_\_\_\_  
Asenath I. Kemp

WHEN RECORDED RETURN TO:  
City of Grand Junction  
Real Estate Division  
250 North 5<sup>th</sup> Street  
Grand Junction, Colorado 81501

2106215 02/26/03 0304PM  
JANICE WARD CLK&REC MESA COUNTY CO  
REC FEE \$10.00 SURCHG \$1.00

**RATIFICATION OF LEASE AND PURCHASE OPTION AGREEMENT**

THIS RATIFICATION OF LEASE AND PURCHASE OPTION AGREEMENT is made and effective as of the 15<sup>th</sup> day of February, 2002, by KRISTAL K. SLOUGH, hereinafter referred to as "Slough." The same is for the mutual benefit of Slough and the City of Grand Junction, a Colorado home rule municipality, hereinafter referred to as the "City".

**Recitals.**

A. By that certain Gift Deed – Quit Claim Deed executed on December 21, 2001 and recorded on January 9, 2002 in Book 2999 at Page 336 in the office of the Mesa County Clerk and Recorder, Robert W. Kemp (a.k.a. R.W. Kemp) and Asenath I. Kemp (the "Kemps"), conveyed to Slough all of the Kemps right, title and interest in and to the following described real property situate in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

**Address:** 635 West White Avenue

**Tax Schedule No:** 2945-154-32-002

**Legal Description:** Lot 2 of West Grand Subdivision, situate in Section 15, Township 1 South, Range 1 West of the Ute Meridian as recorded in Plat Book 12 at Page 250 in the office of the Mesa County Clerk and Recorder

hereinafter referred to as "the Property".

B. Prior to the Gift Deed – Quit Claim Deed, the Kemps leased to the City the full and exclusive right to use and occupy the Property and had further granted and conveyed to the City the sole, exclusive and irrevocable right and option to purchase Property pursuant to that certain Lease and Purchase Agreement dated the 15<sup>th</sup> day of February, 2002 ("the Agreement").

C. A Memorandum providing notice of the existence of the Agreement was recorded on February 13, 2002 in Book 3022 at Page 473 in the office of the Mesa County Clerk and Recorder.

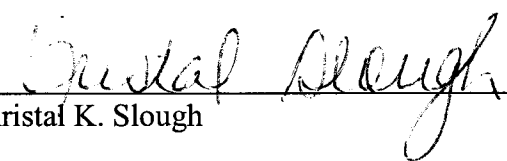
NOW, THEREFORE, pursuant to and for the purpose of perpetuating and carrying out the terms, covenants, conditions, duties and obligations of the Agreement, be it known that Slough does hereby:

1. Agree to be bound by and attorn to each and every provision of the Agreement as fully and to the same extent as if such instrument was executed and delivered by Slough;
2. Agree that all acts of the Kemps pursuant to the Agreement are hereby ratified and confirmed as a full and unequivocal manifestation of Slough's interests and intent with respect to the Agreement and the Property;

3. Agree to waive any and all claims against the City for any and all monies and other things of value paid by the City prior to the 15<sup>th</sup> day of February, 2003, that were paid, due and owing or claimed to be due and owing under the Agreement.

4. Acknowledge that her ratification and consent manifest therefrom, as evidenced by her signature below, is freely and voluntarily given and that sufficient consideration exists in support of the same.

IN WITNESS WHEREOF, Kristal K. Slough has executed this instrument as of the 15<sup>th</sup> day of February, 2002.

  
\_\_\_\_\_  
Kristal K. Slough

State of Nevada )  
 )ss.  
County of Clark )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of February, 2003, by Kristal K. Slough.

My Commission Expires: May 9, 2006  
Witness my Hand and Official Seal.

**ETHEL MILNER**  
Notary Public State of Nevada  
No. 85-1659-1  
Qualified in Clark County  
Commission Expires May 9, 2006

\_\_\_\_\_  
Notary Public