

**RESOLUTION NO. 20-16**

**A RESOLUTION AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY  
LOCATED AT 2887 NORTH AVENUE AND RATIFYING ACTIONS HERETOFORE  
TAKEN IN CONNECTION THEREWITH**


Recitals:

The City of Grand Junction and Mesa County own the property located at 2887 North Avenue ("Property" or "the Property") as an asset of the Persigo sewer system. The Property was formerly the office of the Fruitvale Sanitation District and was conveyed to Persigo by and as a result of the dissolution of the Fruitvale Sanitation District. The Property has been offered for sale and recently Burner Construction LLC offered to purchase the Property as more particularly described in the attached contract. Because the Property is an asset of the Persigo system both the City and the County must approve the sale. The City Council has reviewed the proposed sale and a majority of the members of the Council recommend the sale on the terms established and do hereby ratify the sale and sales agreement.

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

1. That the City Council hereby authorizes the sale of the Property by the City to Burner Construction LLC for \$150,000.00.
2. All actions heretofore taken by the officers, employees and agents of the City relating to the purchase of the Property which are consistent with the provisions of the attached Contract to Buy and Sell Real Estate and this Resolution are hereby ratified, approved and confirmed.
3. That the officers, employees and agents of the City are hereby authorized and directed to take all actions necessary or appropriate to effectuate the provisions of this Resolution and the attached Contract to buy and Sell Real Estate, including but not limited to the delivery of the deed.

PASSED and ADOPTED this 4<sup>th</sup> day of May 2016.

The seal of the City of Grand Junction, Colorado, is circular with the text "CITY OF GRAND JUNCTION" around the perimeter. In the center is a map of the city. The word "Attest:" is printed to the left of the seal. A blue ink signature, "Stephanie Yuen", is written across the bottom of the seal. Below the signature, the text "City Clerk" is printed.

Attest:  
*Stephanie Yuen*  
City Clerk

A handwritten signature in black ink, "Douglas Dorrice", is written above the printed text "President of the City Council".

President of the City Council



**Bray Commercial**  
 Theresa Englbrecht  
 Ph: 970-241-2909 Fax: 970-241-6223

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (LC50-8-13) (Mandatory 1-14)

**THIS IS A BINDING CONTRACT. THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.**

**Compensation charged by brokerage firms is not set by law. Such charges are established by each real estate brokerage firm.**

**DIFFERENT BROKERAGE RELATIONSHIPS ARE AVAILABLE WHICH INCLUDE BUYER AGENCY, SELLER AGENCY OR TRANSACTION-BROKERAGE.**

**EXCLUSIVE RIGHT-TO-SELL LISTING CONTRACT**

**SELLER AGENCY                      TRANSACTION-BROKERAGE**

Date: 3/8/2016

**1. AGREEMENT.** Seller and Brokerage Firm enter into this exclusive, irrevocable contract (Seller Listing Contract) and agree to its provisions. Broker, on behalf of Brokerage Firm, agrees to provide brokerage services to Seller. Seller agrees to pay Brokerage Firm as set forth in this Seller Listing Contract.

**2. BROKER AND BROKERAGE FIRM.**

**2.1. Multiple-Person Firm.** If this box is checked, the individual designated by Brokerage Firm to serve as the broker of Seller and to perform the services for Seller required by this Seller Listing Contract is called Broker. If more than one individual is so designated, then references in this Seller Listing Contract to Broker include all persons so designated, including substitute or additional brokers. The brokerage relationship exists only with Broker and does not extend to the employing broker, Brokerage Firm or to any other brokers employed or engaged by Brokerage Firm who are not so designated.

**2.2. One-Person Firm.** If this box is checked, Broker is a real estate brokerage firm with only one licensed natural person. References in this Seller Listing Contract to Broker or Brokerage Firm mean both the licensed natural person and brokerage firm who serve as the broker of Seller and perform the services for Seller required by this Seller Listing Contract.

80 **3. DEFINED TERMS.**

81 **3.1.**

82 **Seller:** City of Grand Junction

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87 **3.2. Brokerage Firm:** Bray Commercial

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91 **3.3. Broker:** Theresa Englbrecht

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94 **3.4. Property.** The Property is the following legally described real estate in  
95 the County of Mesa ,Colorado:  
96 BEG AT NE COR E2 W2 NE4 NE4 SEC 18 1S 1E W 94FT S 215 FT E 94FT N  
97 215FT TO BEG EXC 40FT FOR RD & ALSO EXC RD ROW ON N & E AS DESC  
98 IN B-1779 P-565 MESA CO RECORDS ,  
99 known as No. 2887 North Avenue, Grand Junction, CO 81501,  
100 together with the interests, easements, rights, benefits, improvements and attached  
101 fixtures appurtenant thereto, and all interest of Seller in vacated streets and alleys  
102 adjacent thereto, except as herein excluded.

103 **3.5. Sale; Lease.**

104 **3.5.1.** A Sale is the voluntary transfer or exchange of any interest in the  
105 Property or the voluntary creation of the obligation to convey any interest in the  
106 Property, including a contract or lease. It also includes an agreement to transfer any  
107 ownership interest in an entity which owns the Property.

108  **3.5.2.** If this box is checked, Seller authorizes Broker to negotiate leasing the  
109 Property. Lease of the Property or Lease means any agreement between the Seller and a  
110 tenant to create a tenancy or leasehold interest in the Property.

111 **3.6. Listing Period.** The Listing Period of this Seller Listing Contract begins  
112 on 3/9/2016 , and continues through the earlier of (1) completion of the Sale of the  
113 Property or (2) 12/30/2016 , and any written extensions (Listing Period). Broker  
114 must continue to assist in the completion of any Sale or Lease for which compensation  
115 is payable to Brokerage Firm under § 7 of this Seller Listing Contract.

116 **3.7. Applicability of Terms.** A check or similar mark in a box means that such  
117 provision is applicable. The abbreviation "N/A" or the word "Deleted" means not  
118 applicable. The abbreviation "MEC" (mutual execution of this contract) means the date  
119 upon which both parties have signed this Seller Listing Contract.

120 **3.8. Day; Computation of Period of Days, Deadline.**

121 **3.8.1. Day.** As used in this Seller Listing Contract, the term "day" means the  
122 entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight  
123 Savings as applicable).

124 **3.8.2. Computation of Period of Days, Deadline.** In computing a period of  
125 days, when the ending date is not specified, the first day is excluded and the last day is  
126 included, e.g., three days after MEC. If any deadline falls on a Saturday, Sunday or  
127 federal or Colorado state holiday (Holiday), such deadline  **Will**  **Will Not** be  
128 extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box  
129 be checked, the deadline will not be extended.

160 **4. BROKERAGE RELATIONSHIP.**

161 **4.1.** If the Seller Agency box at the top of page 1 is checked, Broker represents  
 162 Seller as Seller's limited agent (Seller's Agent). If the Transaction-Brokerage box at the  
 163 top of page 1 is checked, Broker acts as a Transaction-Broker.  
 164

165 **4.2. In-Company Transaction – Different Brokers.** When Seller and buyer in a  
 166 transaction are working with different brokers, those brokers continue to conduct  
 167 themselves consistent with the brokerage relationships they have established. Seller  
 168 acknowledges that Brokerage Firm is allowed to offer and pay compensation to brokers  
 169 within Brokerage Firm working with a buyer.  
 170

171 **4.3. In-Company Transaction – One Broker.** If Seller and buyer are both  
 172 working with the same broker, Broker must function as:  
 173

174 **4.3.1. Seller's Agent.** If the Seller Agency box at the top of page 1 is  
 175 checked, the parties agree the following applies:  
 176

177 **4.3.1.1. Seller Agency Only.** Unless the box in § 4.3.1.2 (Seller  
 178 Agency Unless Brokerage Relationship with Both) is checked, Broker represents  
 179 Seller as Seller's Agent and must treat the buyer as a customer. A customer is a party to  
 180 a transaction with whom Broker has no brokerage relationship. Broker must disclose to  
 181 such customer Broker's relationship with Seller.  
 182

183  **4.3.1.2. Seller Agency Unless Brokerage Relationship with Both.** If  
 184 this box is checked, Broker represents Seller as Seller's Agent and must treat the buyer  
 185 as a customer, unless Broker currently has or enters into an agency or Transaction-  
 186 Brokerage relationship with the buyer, in which case Broker must act as a Transaction-  
 187 Broker.  
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189 **4.3.2. Transaction-Broker.** If the Transaction-Brokerage box at the top of  
 190 page 1 is checked, or in the event neither box is checked, Broker must work with Seller  
 191 as a Transaction-Broker. A Transaction-Broker must perform the duties described in § 5  
 192 and facilitate sales transactions without being an advocate or agent for either party. If  
 193 Seller and buyer are working with the same broker, Broker must continue to function as  
 194 a Transaction-Broker.  
 195

196 **5. BROKERAGE DUTIES.** Brokerage Firm, acting through Broker, as either a  
 197 Transaction-Broker or a Seller's Agent, must perform the following **Uniform Duties**  
 198 when working with Seller:  
 199

200 **5.1.** Broker must exercise reasonable skill and care for Seller, including, but not  
 201 limited to the following:  
 202

203 **5.1.1.** Performing the terms of any written or oral agreement with Seller;  
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205 **5.1.2.** Presenting all offers to and from Seller in a timely manner regardless  
 206 of whether the Property is subject to a contract for Sale;  
 207

208 **5.1.3.** Disclosing to Seller adverse material facts actually known by Broker;  
 209

210 **5.1.4.** Advising Seller regarding the transaction and advising Seller to obtain  
 211 expert advice as to material matters about which Broker knows but the specifics of  
 212 which are beyond the expertise of Broker;  
 213

214 **5.1.5.** Accounting in a timely manner for all money and property received;  
 215 and  
 216

217 **5.1.6.** Keeping Seller fully informed regarding the transaction.  
 218

219 **5.2.** Broker must not disclose the following information without the informed  
 220 consent of Seller:  
 221

240 consent of Seller:

241       **5.2.1.** That Seller is willing to accept less than the asking price for the  
242 Property;

243       **5.2.2.** What the motivating factors are for Seller to sell the Property;

244       **5.2.3.** That Seller will agree to financing terms other than those offered;

245       **5.2.4.** Any material information about Seller unless disclosure is required by  
246 law or failure to disclose such information would constitute fraud or dishonest dealing;  
247 or

248       **5.2.5.** Any facts or suspicions regarding circumstances that could  
249 psychologically impact or stigmatize the Property.

250       **5.3.** Seller consents to Broker's disclosure of Seller's confidential information to  
251 the supervising broker or designee for the purpose of proper supervision, provided such  
252 supervising broker or designee does not further disclose such information without  
253 consent of Seller, or use such information to the detriment of Seller.

254       **5.4.** Brokerage Firm may have agreements with other sellers to market and sell  
255 their property. Broker may show alternative properties not owned by Seller to other  
256 prospective buyers and list competing properties for sale.

257       **5.5.** Broker is not obligated to seek additional offers to purchase the Property  
258 while the Property is subject to a contract for Sale.

259       **5.6.** Broker has no duty to conduct an independent inspection of the Property for  
260 the benefit of a buyer and has no duty to independently verify the accuracy or  
261 completeness of statements made by Seller or independent inspectors. Broker has no  
262 duty to conduct an independent investigation of a buyer's financial condition or to  
263 verify the accuracy or completeness of any statement made by a buyer.

264       **5.7.** Seller understands that Seller is not liable for Broker's acts or omissions that  
265 have not been approved, directed, or ratified by Seller.

266       **5.8.** When asked, Broker  **Will**  **Will Not** disclose to prospective buyers  
267 and cooperating brokers the existence of offers on the Property and whether the offers  
268 were obtained by Broker, a broker within Brokerage Firm or by another broker.

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**6. ADDITIONAL DUTIES OF SELLER'S AGENT.** If the Seller Agency box at the top of page 1 is checked, Broker is Seller's Agent, with the following additional duties:

300       **6.1.** Promoting the interests of Seller with the utmost good faith, loyalty and  
301 fidelity;

302       **6.2.** Seeking a price and terms that are set forth in this Seller Listing Contract;  
303 and

304       **6.3.** Counseling Seller as to any material benefits or risks of a transaction that are  
305 actually known by Broker.

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**7. COMPENSATION TO BROKERAGE FIRM; COMPENSATION TO COOPERATIVE BROKER.** Seller agrees that any Brokerage Firm compensation that is conditioned upon the Sale of the Property will be earned by Brokerage Firm as set forth herein without any discount or allowance for any efforts made by Seller or by any other person in connection with the Sale of the Property.

319       **7.1. Amount.** In consideration of the services to be performed by Broker, Seller

320 agrees to pay Brokerage Firm as follows:

321 **7.1.1. Sale Commission.** (1) 6 % of the gross purchase price or (2)  
322 n/a, in U.S. dollars.

323 **7.1.2. Lease Commission.** If the box in § 3.5.2 is checked, Brokerage Firm will  
324 be paid a fee equal to (1) n/a % of the gross rent under the lease, or (2) n/a, in  
325 U.S. dollars, payable as follows:  
326

327 \_\_\_\_\_ n/a

328 **7.1.3. Other Compensation.**

329 \_\_\_\_\_ n/a

330 **7.2. Cooperative Broker Compensation.** Brokerage Firm offers compensation to  
331 outside brokerage firms, whose brokers are acting as:

332  **Buyer Agents:** 3.0 % of the gross sales price or n/a,  
333 in U.S. dollars.

334  **Transaction-Brokers:** 3.0 % of the gross sales price or  
335 n/a, in U.S. dollars.

336 **7.3. When Earned.** Such commission is earned upon the occurrence of any of the  
337 following:

338 **7.3.1.** Any Sale of the Property within the Listing Period by Seller, by Broker  
339 or by any other person;

340 **7.3.2.** Broker finding a buyer who is ready, willing and able to complete the  
341 Sale or Lease as specified in this Seller Listing Contract; or

342 **7.3.3.** Any Sale (or Lease if § 3.5.2 is checked) of the Property within  
343 60 calendar days after the Listing Period expires (Holdover Period) (1) to anyone  
344 with whom Broker negotiated and (2) whose name was submitted, in writing, to Seller  
345 by Broker during the Listing Period (Submitted Prospect). Provided, however, Seller

346  **Will**  **Will Not** owe the commission to Brokerage Firm under this § 7.3.3 if a  
347 commission is earned by another licensed real estate brokerage firm acting pursuant to  
348 an exclusive agreement entered into during the Holdover Period and a Sale or Lease to a  
349 Submitted Prospect is consummated. If no box is checked in this § 7.3.3, then Seller  
350 does not owe the commission to Brokerage Firm.

351 **7.4. When Applicable and Payable.** The commission obligation applies to a  
352 Sale made during the Listing Period or any extension of such original or extended term.  
353 The commission described in § 7.1.1 is payable at the time of the closing of the Sale, or,  
354 if there is no closing (due to the refusal or neglect of Seller) then on the contracted date  
355 of closing, as contemplated by § 7.3.1 or § 7.3.3, or upon fulfillment of § 7.3.2 where  
356 the offer made by such buyer is not accepted by Seller.

357 **8. LIMITATION ON THIRD-PARTY COMPENSATION.** Neither Broker nor  
358 Brokerage Firm, except as set forth in § 7, will accept compensation from any other  
359 person or entity in connection with the Property without the written consent of Seller.  
360 Additionally, neither Broker nor Brokerage Firm is permitted to assess or receive mark-  
361 ups or other compensation for services performed by any third party or affiliated  
362 business entity unless Seller signs a separate written consent for such services.  
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400 **9. OTHER BROKERS' ASSISTANCE, MULTIPLE LISTING SERVICES**

401 **AND MARKETING.** Seller has been advised by Broker of the advantages and  
 402  
 403 disadvantages of various marketing methods, including advertising and the use of  
 404 multiple listing services (MLS) and various methods of making the Property accessible  
 405 by other brokerage firms (e.g., using lock boxes, by-appointment-only showings, etc.),  
 406 and whether some methods may limit the ability of another broker to show the Property.  
 407 After having been so advised, Seller has chosen the following:  
 408  
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410 **9.1. MLS/Information Exchange.**

411 **9.1.1.** The Property  **Will**  **Will Not** be submitted to one or more MLS  
 412  
 413 and  **Will**  **Will Not** be submitted to one or more property information  
 414 exchanges. If submitted, Seller authorizes Broker to provide timely notice of any status  
 415 change to such MLS and information exchanges. Upon transfer of deed from Seller to  
 416 buyer, Seller authorizes Broker to provide sales information to such MLS and  
 417 information exchanges.  
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420 **9.1.2.** Seller authorizes the use of electronic and all other marketing methods  
 421 except: n/a.  
 422

423 **9.1.3.** Seller further authorizes use of the data by MLS and property  
 424 information exchanges, if any.  
 425

426 **9.1.4.** The Property Address  **Will**  **Will Not** be displayed on the  
 427 Internet.  
 428

429 **9.1.5.** The Property Listing  **Will**  **Will Not** be displayed on the  
 430 Internet.  
 431

432 **9.2. Property Access.** Access to the Property may be by:

433  Manual Lock Box  Electronic Lock Box

434  Key at Bray Commercial office

435 Other instructions:  
 436  
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438 **9.3. Brokerage Marketing.** The following specific marketing tasks will be  
 439 performed by Broker:  
 440

441 n/a  
 442  
 443

444 **10. SELLER'S OBLIGATIONS TO BROKER; DISCLOSURES AND**  
 445 **CONSENT.**

446 **10.1. Negotiations and Communication.** Seller agrees to conduct all  
 447 negotiations for the Sale of the Property only through Broker, and to refer to Broker all  
 448 communications received in any form from real estate brokers, prospective buyers,  
 449 tenants or any other source during the Listing Period of this Seller Listing Contract.  
 450

451 **10.2. Advertising.** Seller agrees that any advertising of the Property by Seller  
 452 (e.g., Internet, print and signage) must first be approved by Broker.  
 453

454 **10.3. No Existing Listing Agreement.** Seller represents that Seller  **Is**   
 455 **Is Not** currently a party to any listing agreement with any other broker to sell the  
 456 Property.  
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480 **10.4. Ownership of Materials and Consent.** Seller represents that all materials  
 481 (including all photographs, renderings, images or other creative items) supplied to  
 482 Broker by or on behalf of Seller are owned by Seller, except as Seller has disclosed in  
 483 writing to Broker. Seller is authorized to and grants to Broker, Brokerage Firm and any  
 484 MLS (that Broker submits the Property to) a nonexclusive irrevocable, royalty-free  
 485 license to use such material for marketing of the Property, reporting as required and the  
 486 publishing, display and reproduction of such material, compilation and data. This  
 487 license survives the termination of this Seller Listing Contract.  
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493 **10.5. Colorado Foreclosure Protection Act.** The Colorado Foreclosure  
 494 Protection Act (Act) generally applies if (1) the Property is residential (2) Seller resides  
 495 in the Property as Seller's principal residence (3) Buyer's purpose in purchase of the  
 496 Property is not to use the Property as Buyer's personal residence and (4) the Property is  
 497 in foreclosure or Buyer has notice that any loan secured by the Property is at least thirty  
 498 days delinquent or in default. If all requirements 1, 2, 3 and 4 are met and the Act  
 499 otherwise applies, then a contract, between Buyer and Seller for the sale of the Property,  
 500 that complies with the provisions of the Act is required. If the transaction is a Short Sale  
 501 transaction and a Short Sale Addendum is part of the Contract between Seller and  
 502 Buyer, the Act does not apply. It is recommended that Seller consult with an attorney.  
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511 **11. PRICE AND TERMS.** The following Price and Terms are acceptable to Seller:  
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513 **11.1 Price.** U.S. \$ 200000  
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515 **11.2. Terms.**  Cash  Conventional  FHA  VA   
 516

517 Other: n/a  
 518

519 **11.3. Loan Discount Points.**  
 520 n/a  
 521  
 522  
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524 **11.4. Buyer's Closing Costs (FHA/VA).** Seller must pay closing costs and fees,  
 525 not to exceed \$ n/a, that Buyer is not allowed by law to pay, for tax service and  
 526 n/a.  
 527  
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530 **11.5. Earnest Money.** Minimum amount of earnest money deposit U.S. \$  
 531 2000 in the form of Check or wire transfer  
 532  
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534 **11.6. Seller Proceeds.** Seller will receive net proceeds of closing as indicated:  
 535

536  Cashier's Check at Seller's expense;  Funds Electronically Transferred  
 537 (Wire Transfer) to  
 538

539 an account specified by Seller, at Seller's expense; or  Closing Company's Trust  
 540 **Account Check**  
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545 **11.7. Advisory: Tax Withholding.** The Internal Revenue Service and the  
 546 Colorado Department of Revenue may require closing company to withhold a  
 547 substantial portion of the proceeds of this Sale when Seller either (1) is a foreign person  
 548 or (2) will not be a Colorado resident after closing. Seller should inquire of Seller's tax  
 549 advisor to determine if withholding applies or if an exemption exists.  
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556 **12. DEPOSITS.** Brokerage Firm is authorized to accept earnest money deposits  
 557 received by Broker pursuant to a proposed Sale contract. Brokerage Firm is authorized  
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560 to deliver the earnest money deposit to the closing agent, if any, at or before the closing  
561 of the Sale contract.  
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564 **13. INCLUSIONS AND EXCLUSIONS.**

566 **13.1. Inclusions.** The Purchase Price includes the following items (Inclusions):  
567

568 **13.1.1. Fixtures.** The following items are included if attached to the Property  
569 on the date of this Seller Listing Contract, unless excluded under Exclusions (§ 13.2):  
570 lighting, heating, plumbing, ventilating, and air conditioning fixtures, TV antennas,  
571 inside telephone, network and coaxial (cable) wiring and connecting blocks/jacks,  
572 plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler  
573 systems and controls, built-in vacuum systems (including accessories), garage door  
574 openers including n/a remote controls.  
575  
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**Other Fixtures:**

n/a

If any fixtures are attached to the Property after the date of this Seller Listing Contract, such additional fixtures are also included in the Purchase Price.

**13.1.2. Personal Property.** The following items are included if on the Property, whether attached or not, on the date of this Seller Listing Contract, unless excluded under Exclusions (§ 13.2): storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings, curtain rods, drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, and all keys. If checked, the following are included:  **Water Softeners**  **Smoke/Fire Detectors**  **Carbon Monoxide Alarms**  **Security Systems**  **Satellite Systems** (including satellite dishes); and

n/a

The Personal Property to be conveyed at closing must be conveyed by Seller free and clear of all taxes (except personal property taxes for the year of closing), liens and encumbrances, except n/a.

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

**13.1.3. Trade Fixtures.** The following trade fixtures are included:

n/a

The Trade Fixtures to be conveyed at closing must be conveyed by Seller, free and clear of all taxes (except personal property taxes for the year of closing), liens and encumbrances, except n/a. Conveyance will be by bill of sale or other applicable legal instrument.

**13.1.4. Parking and Storage Facilities.**  **Use Only**  **Ownership** of the following parking facilities:

n/a;

and  **Use Only**  **Ownership** of the following storage facilities:

n/a.

**13.1.5. Water Rights.** The following legally described water rights: n/a.

Any water rights must be conveyed by n/a deed or other applicable legal

instrument. The Well Permit # is n/a.

**13.1.6. Growing Crops.** The following growing crops: n/a.

**13.2. Exclusions.** The following are excluded (Exclusions):  
n/a

**14. TITLE AND ENCUMBRANCES.** Seller represents to Broker that title to the Property is solely in Seller's name. Seller must deliver to Broker true copies of all relevant title materials, leases, improvement location certificates and surveys in Seller's possession and must disclose to Broker all easements, liens and other encumbrances, if any, on the Property, of which Seller has knowledge. Seller authorizes the holder of any obligation secured by an encumbrance on the Property to disclose to Broker the amount owing on said encumbrance and the terms thereof. In case of Sale, Seller agrees to convey, by a general warranty deed, only that title Seller has in the Property. Property must be conveyed free and clear of all taxes, except the general taxes for the year of closing.

All monetary encumbrances (such as mortgages, deeds of trust, liens, financing statements) must be paid by Seller and released except as Seller and buyer may otherwise agree. Existing monetary encumbrances are as follows: n/a.

The Property is subject to the following leases and tenancies: none.

If the Property has been or will be subject to any governmental liens for special improvements installed at the time of signing a Sale contract, Seller is responsible for payment of same, unless otherwise agreed.

**15. EVIDENCE OF TITLE.** Seller agrees to furnish buyer, at Seller's expense, unless the parties agree in writing to a different arrangement, a current commitment and an owner's title insurance policy in an amount equal to the Purchase Price as specified in the Sale contract, or if this box is checked,  **An Abstract of Title** certified to a current date.

**16. ASSOCIATION ASSESSMENTS.** Seller represents that the amount of the regular owners' association assessment is currently payable at approximately \$ 0 per n/a and that there are no unpaid regular or special assessments against the Property except the current regular assessments and except n/a. Seller agrees to promptly request the owners' association to deliver to buyer before date of closing a current statement of assessments against the Property.

**17. POSSESSION.** Possession of the Property will be delivered to buyer as follows: delivery of deed, subject to leases and tenancies as described in § 14.

**18. MATERIAL DEFECTS, DISCLOSURES AND INSPECTION.**

**18.1. Broker's Obligations.** Colorado law requires a broker to disclose to any prospective buyer all adverse material facts actually known by such broker including but not limited to adverse material facts pertaining to the title to the Property and the

physical condition of the Property, any material defects in the Property, and any environmental hazards affecting the Property which are required by law to be disclosed. These types of disclosures may include such matters as structural defects, soil conditions, violations of health, zoning or building laws, and nonconforming uses and zoning variances. Seller agrees that any buyer may have the Property and Inclusions inspected and authorizes Broker to disclose any facts actually known by Broker about the Property.

## **18.2. Seller's Obligations.**

**18.2.1. Seller's Property Disclosure Form.** Disclosure of known material latent (not obvious) defects is required by law. Seller  **Agrees**  **Does Not Agree** to provide a Seller's Property Disclosure form completed to Seller's current, actual knowledge.

**18.2.2. 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, a completed Lead-Based Paint Disclosure (Sales) form must be signed by Seller and the real estate licensees, and given to any potential buyer in a timely manner.

**18.2.3. Carbon Monoxide Alarms.** Note: If the improvements on the Property have a fuel-fired heater or appliance, a fireplace, or an attached garage and one or more rooms lawfully used for sleeping purposes (Bedroom), Seller understands that Colorado law requires that Seller assure the Property has an operational carbon monoxide alarm installed within fifteen feet of the entrance to each Bedroom or in a location as required by the applicable building code, prior to offering the Property for sale or lease.

**18.2.4. Condition of Property.** The Property will be conveyed in the condition existing as of the date of the sales contract or lease, ordinary wear and tear excepted, unless Seller, at Seller's sole option, agrees in writing to any repairs or other work to be performed by Seller.

## **19. RIGHT OF PARTIES TO CANCEL.**

**19.1. Right of Seller to Cancel.** In the event Broker defaults under this Seller Listing Contract, Seller has the right to cancel this Seller Listing Contract, including all rights of Brokerage Firm to any compensation if the Seller Agency box is checked. Examples of a Broker default include, but are not limited to (1) abandonment of Seller, (2) failure to fulfill all material obligations of Broker and (3) failure to fulfill all material Uniform Duties (§ 5) or, if the Seller Agency box at the top of page 1 is checked, the failure to fulfill all material Additional Duties Of Seller's Agent (§ 6). Any rights of Seller that accrued prior to cancellation will survive such cancellation.

**19.2. Right of Broker to Cancel.** Brokerage Firm may cancel this Seller Listing Contract upon written notice to Seller that title is not satisfactory to Brokerage Firm. Although Broker has no obligation to investigate or inspect the Property, and no duty to verify statements made, Brokerage Firm has the right to cancel this Seller Listing Contract if any of the following are unsatisfactory (1) the physical condition of the Property or Inclusions, (2) any proposed or existing transportation project, road, street or highway, (3) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants, or (4) any facts or suspicions

regarding circumstances that could psychologically impact or stigmatize the Property. Additionally, Brokerage Firm has the right to cancel this Seller Listing Contract if Seller or occupant of the Property fails to reasonably cooperate with Broker or Seller defaults under this Seller Listing Contract. Any rights of Brokerage Firm that accrued prior to cancellation will survive such cancellation.

**20. FORFEITURE OF PAYMENTS.** In the event of a forfeiture of payments made by a buyer, the sums received will be divided between Brokerage Firm and Seller, one-half thereof to Brokerage Firm but not to exceed the Brokerage Firm compensation agreed upon herein, and the balance to Seller. Any forfeiture of payment under this section will not reduce any Brokerage Firm compensation owed, earned and payable under § 7.

**21. COST OF SERVICES AND REIMBURSEMENT.** Unless otherwise agreed upon in writing, Brokerage Firm must bear all expenses incurred by Brokerage Firm, if any, to market the Property and to compensate cooperating brokerage firms, if any. Neither Broker nor Brokerage Firm will obtain or order any other products or services unless Seller agrees in writing to pay for them promptly when due (examples: surveys, radon tests, soil tests, title reports, engineering studies, property inspections). Unless otherwise agreed, neither Broker nor Brokerage Firm is obligated to advance funds for Seller. Seller must reimburse Brokerage Firm for payments made by Brokerage Firm for such products or services authorized by Seller.

**22. DISCLOSURE OF SETTLEMENT COSTS.** Seller acknowledges that costs, quality, and extent of service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

**23. MAINTENANCE OF THE PROPERTY.** Neither Broker nor Brokerage Firm is responsible for maintenance of the Property nor are they liable for damage of any kind occurring to the Property, unless such damage is caused by their negligence or intentional misconduct.

**24. NONDISCRIMINATION.** The parties agree not to discriminate unlawfully against any prospective buyer because of the race, creed, color, sex, sexual orientation, marital status, familial status, physical or mental disability, handicap, religion, national origin or ancestry of such person.

**25. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this document, Seller acknowledges that Broker has advised that this document has important legal consequences and has recommended consultation with legal and tax or other counsel before signing this Seller Listing Contract.

**26. MEDIATION.** If a dispute arises relating to this Seller Listing Contract, prior to or after closing, and is not resolved, the parties must 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, in writing, 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, will terminate in the event the entire dispute is not resolved within 30 calendar days of the date written notice requesting mediation is delivered by one party to the other at the other party's last known address.

**27. ATTORNEY FEES.** In the event of any arbitration or litigation relating to this Seller Listing Contract, the arbitrator or court must award to the prevailing party all reasonable costs and expenses, including attorney and legal fees.

**28. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate Commission.)  
none

**29. ATTACHMENTS.** The following are a part of this Seller Listing Contract:  
n/a

**30. NO OTHER PARTY OR INTENDED BENEFICIARIES.** Nothing in this Seller Listing Contract is deemed to inure to the benefit of any person other than Seller, Broker and Brokerage Firm.

**31. NOTICE, DELIVERY AND CHOICE OF LAW.**

**31.1. Physical Delivery.** All notices must be in writing, except as provided in § 31.2. Any document, including a signed document or notice, delivered to the other party to this Seller Listing Contract, is effective upon physical receipt. Delivery to Seller is effective when physically received by Seller, any signator on behalf of Seller, any named individual of Seller or representative of Seller.

**31.2. Electronic Delivery.** As an alternative to physical delivery, any document, including a signed document or written notice, may be delivered in electronic form only by the following indicated methods:

**Facsimile**     **E-mail**     **Internet.** If no box is checked, this § 31.2 is not applicable and § 31.1 governs notice and delivery. Documents with original signatures will be provided upon request of any party.

**31.3. Choice of Law.** This Seller Listing Contract and all disputes arising hereunder are 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.

**32. MODIFICATION OF THIS LISTING CONTRACT.** No subsequent modification of any of the terms of this Seller Listing Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties.

**33. COUNTERPARTS.** This Seller Listing Contract may be executed by each of the parties, separately, and when so executed by all the parties, such copies taken together are deemed to be a full and complete contract between the parties.

**34. ENTIRE AGREEMENT.** This agreement constitutes the entire contract between the parties, and any prior agreements, whether oral or written, have been merged and integrated into this Seller Listing Contract.

**35. COPY OF CONTRACT.** Seller acknowledges receipt of a copy of this Seller Listing Contract signed by Broker, including all attachments.

Brokerage Firm authorizes Broker to execute this Seller Listing Contract on behalf of Brokerage Firm.

*Susan J Hyatt*

Signature

Date: 3/9/2016

Seller: City of Grand Junction

By: Susan Hyatt, Sr. Buyer

Address:

Phone:

Fax:

Electronic Address:

Signature

Date: 3/8/2016

Broker: Theresa Englbrecht

Brokerage Firm s Name: Bray Commercial  
Bray

Address: 244 N. 7th Street Grand Junction, CO 81505

Ph: 970-241-2909 Fax: 970-241-6223 Electronic Address: [theresa@brayandco.com](mailto:theresa@brayandco.com)

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**LC50-8-13 EXCLUSIVE RIGHT-TO-SELL LISTING CONTRACT**

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