

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

This AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (the “Agreement”) is made and entered into by and between THE CITY OF FRUITA, a home rule municipal corporation, of 325 E. Aspen, Fruita, Colorado 81521 (“Seller”) and Jeffery S. Collins and Angela I. Collins, of 557 20 ½ Road, Grand Junction, Colorado 81507 (s “Buyers”).

1. The Property. Subject to the terms and provisions hereof, Seller agrees to sell to Buyers, and Buyers agree to purchase from Seller, title to the real property described as follows:

Beginning at a point whence the Northwest Corner of Section 5, Township 14 South, Range 101 West, 6th P.M. bears North 5°05’ West 3361.5 feet; thence North 700 feet; thence West 250 feet; thence South 700 feet; thence East 250 feet to point of beginning, containing approximately 4.05 acres

all in Mesa County, Colorado, and commonly known as Mesa County Parcel No. 3223-053-00-001 (the “Property”).

2. Effective Date. The “Effective Date” of this Agreement shall be the date which is the last date of execution by Seller and Buyers. In the event his Agreement is not executed by both parties on or before August 20, 2023, the Agreement shall be null and void.

3. Purchase Price. The purchase price for the Property shall be Thirty-Two Thousand Four Hundred Dollars (\$32,400.00) (the “Purchase Price”), to be paid by Buyers to Seller as follows:

a. Earnest Money Deposit. Within five (5) business days of the Effective Date, Buyers will deliver to Land Title Guarantee Company (“Title Company”), the sum of Three Thousand Dollars (\$3,000.00) (“Earnest Money Deposit”). If Buyers terminate this Agreement as allowed by this Agreement, the Title Company shall refund the Earnest Money to Buyers. If Buyers do not terminate this Agreement, then the Earnest Money Deposit shall be held by the Title Company as a partial payment of the Purchase Price, which shall be non-refundable to Buyers except in the event of Seller’s default under this Agreement. At Closing, the Title Company shall deliver to Seller the entire Earnest Money Deposit.

b. Cash at Closing. Buyers shall pay to Seller at Closing the balance of the Purchase Price, Twenty-Nine Thousand Four Hundred Dollars (\$29,400.00) in good funds.

4. Inspection Period. Buyers shall have until 11:59 p.m. on the date that is fifteen (15) business days after the Effective Date (the “Inspection Period”) to enter the Property from time-to-time and conduct any and all tests and investigations with respect to the Property that Buyers may desire. Buyers shall have the right to terminate this Agreement, for any or no reason, prior to the expiration of the Inspection Period, by providing written notice to Seller and in such event, Buyers shall receive a full refund of the Earnest Money Deposit.

5. Title Commitment Review. Within ten (10) business days from the Effective Date, Seller shall, at Buyers’ sole cost and expense, furnish to Buyers a current commitment (“Title Commitment”) for the issuance of an owner’s policy of title insurance in the amount of the Purchase Price to Buyers from the Title Company, together with good and legible copies of all documents constituting exceptions to Seller’s title. Buyers shall have a period equal to the Inspection Period in which to review such items and to deliver to Seller in writing such objections as Buyers may have to anything contained or set forth in the Title Commitment. Any items to which Buyers do not object within the Inspection Period shall be deemed to be “Permitted Exceptions.” As to items to which Buyers make objections, Seller shall have the right, but not the obligation, to attempt to effectuate the cure of such objections. In the event Seller is not able to cure such matters prior to Closing, Buyers shall have the right to either (i) terminate this Agreement, in which event neither party hereto shall have any further obligations hereunder, or (ii) waive such title matters and proceed to Closing, whereupon such waived title matters shall also be deemed Permitted Exceptions. In the event Buyers terminate this Agreement pursuant to the provisions of this Section, the Earnest Money Deposit shall be returned to Buyers.

If, following the title review period, any new title matters are reflected in an update to the Title Commitment, then at Buyers’ sole option, Buyers may approve such new title matter as an additional Permitted Exception, or Buyers may object to such new title matter. If Buyers object to a new title matter, then the provisions for Seller cure and the provisions for Buyers’ remedies in the event Seller is not able to cure, as set forth in the preceding paragraph, shall apply to such new title matter.

6. Title Policy. At Closing, Seller shall furnish to Buyers, at Buyers’ sole cost and expense, an owner’s title insurance policy issued by the Title Company, in an amount equal to the Purchase Price, on standard ALTA Policy Form, insuring good and indefeasible title to the Property in Buyer, subject only to the Permitted Exceptions.

7. Seller’s Representations and Warranties. Seller represents and warrants the following to Buyers:

a. Seller has full power and authority to enter into and perform this Agreement in accordance with its terms, and the persons executing this Agreement on behalf of Seller have been duly authorized to do so.

b. Seller is the owner in fee simple of the Property.

c. There is no litigation or proceeding pending or, to the best of Seller's actual knowledge, threatened against the Property.

d. There are no contracts, leases, or other agreements affecting the Property other than those recorded in the Mesa County real property records.

8. Buyers' Representations and Warranties. Buyers represent and warrant the following to Seller:

a. Buyers have full right, power, and authority to enter into and perform this Agreement in accordance with its terms.

b. Neither this Agreement nor any exhibit nor any written statement furnished or to be furnished by Buyers to Seller in connection with the transaction contemplated by this Agreement contain or will contain any untrue statement of material fact or omits or will omit any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

9. AS-IS Nature of Sale. Buyers acknowledge and agree that Seller has not made, does not make, and specifically negates and disclaims any representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, verbal or written, past, present or future, of, as to, concerning or with respect to: (a) the value, nature, quality, or condition of the Property, including, without limitation, availability of utility services, the water, soil, and geology; (b) the income to be derived from the Property; (c) the suitability of the Property for any and all activities and uses which Buyers may conduct thereon; (d) the compliance of or by the Property or its operation with any laws, rules, ordinances, or regulations of any applicable governmental authority or body; (e) the habitability, merchantability, marketability, profitability, or fitness for a particular purpose of the Property; or (f) any other matter with respect to the Property, and Buyers specifically disclaim any representations regarding compliance with any environmental protection, pollution, or land use laws, rules, regulations, orders, or requirements, including sold waste, or the disposal or existence, in or on the Property, of asbestos or any hazardous substance. Buyers further acknowledge and agree that having been given the opportunity to inspect the Property, Buyers are relying solely on buyers' own investigation of the Property, and not on any information provided or to be provided by Seller other than as is stated in this Agreement. Buyers further acknowledge and agree that any information provided or to be provided by or on behalf of Seller with respect to the Property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Seller is not liable or bound in any

manner by any verbal or written statements, representations or information pertaining to the Property, or the operation thereof, furnished by any real estate broker, agent, employee, servant, or other person. Buyers further acknowledge and agree that to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "AS IS" condition and basis with all faults. Buyers and anyone claiming by, through, or under Buyers hereby fully and irrevocably release Seller, Seller's employees, representatives and agents, from any an all claims that Buyers may now have or hereafter acquire against Seller, Seller's employees, representatives and agents for any cost, loss, liability, damage, expense, demand, action or cause of action arising from or related to any defects, errors, omissions or other conditions, including environmental matters, affecting the Property, or any portion thereof. It is understood and agreed that the Purchase Price has been adjusted to reflect that all the Property is sold by Seller and purchased by Buyers subject to the foregoing. The foregoing disclaimer shall not apply to or in any way diminish the warranties of title contained in the Special Warranty Deed to be delivered at closing.

10. Condemnation or Damage Prior to Closing. In the event of damage or casualty to the Property or in the event of a taking by condemnation or similar proceedings or actions of all or any part of the Property, Buyers shall have the option to terminate this Agreement upon written notice to Seller prior to Closing, in which event neither Buyers nor Seller shall have any further rights or obligations hereunder and the Earnest Money Deposit shall be returned to Buyers. If Buyers do not exercise their option to so terminate this Agreement, then this Agreement shall remain in full force and effect.

11. Closing. The date of the exchange of documents ("Closing") hereinafter described shall take place at the offices of the Title Company. The Closing shall occur on August 4, 2023, or on such earlier date as may be mutually agreed upon by Seller and Buyers in writing. The parties may close by mail. Closing is expressly contingent upon Seller, in its sole discretion, satisfying any legal requirements required for this sale of real estate.

12. Seller Deliveries. At Closing, Seller shall deliver or cause to be delivered to Buyers:

- a. A special warranty deed, duly executed and acknowledged by Seller, conveying good and indefeasible fee simple title to the Property to Buyers as joint tenants, subject only to the Permitted Exceptions;
- b. The owner's title insurance policy;
- c. Possession to the Property; and
- d. Any other additional documents and instruments as in the mutual opinion of Buyers' counsel and Seller's counsel are reasonably necessary to the property consummation of this transaction.

13. Buyers' Deliveries. At Closing, Buyers shall deliver to Seller:

a. The balance of the Purchase Price, after credit for the Earnest Money Deposit; and

b. Any other additional documents and instruments as in the mutual opinion of Buyers' counsel and Seller's counsel are reasonably necessary to the proper consummation of this transaction.

14. Adjustments and Prorations. At Closing, Buyers shall be responsible for the following:

a. Ad valorem taxes for the Property for the calendar year of Closing; and

b. The Title Company closing fee.

15. No Brokers' Commissions. Buyers and Seller each represent and warrant that no broker or finder has represented or acted on behalf of the representing party in connection with the transaction contemplated by this Agreement, and any such representing party agrees to indemnify and hold harmless the other party against any loss, claim, damage, or expense, including reasonable attorneys' fees, incurred by the other party as a result of any claim for any fee or commission asserted by any person claiming as a broker or finder to have represented or acted on behalf of the representing party.

16. Transaction Expenses. Each party shall bear its own costs and expenses (including legal fees and expenses) incurred in connection with this Agreement and the transaction contemplated hereby.

17. Seller Default. Seller shall be in default hereunder upon the occurrence of any one or more of the following events:

a. Any of Seller's warranties or representations set forth herein are materially untrue or inaccurate in any respect; or

b. Seller fails to meet, comply with, or perform any covenant, agreement, or obligation within the time limits and in the manner required in this Agreement.

In the event of a default by Seller, Buyers may, at Buyers' sole option, do either of the following:

c. Terminate this Agreement by written notice delivered to Seller at or prior to the Closing in which even the Earnest Money Deposit shall be returned to Buyer; or

- d. Enforce specific performance of this Agreement against Seller.

Buyers shall not be required to tender performance hereunder prior to exercising the remedies set forth in this Section. In the event of default by Seller, Buyers may, in addition to and not to the exclusion of any other remedy at law or equity available to Buyers, bring an action against Seller for monetary damages.

18. Buyers Default. Unless this Agreement is terminated by Buyers in accordance with the specific provisions hereof, Buyers shall be in default hereunder if Buyers fail to meet, comply with, or perform any covenant, agreement, or obligation within the time limits and in the manner required by this Agreement. In the event of a default by Buyers hereunder, Seller, as Seller's sole and exclusive remedy for such default, shall receive the Earnest Money Deposit as liquidated damages, and both parties shall be released from all obligations under this Agreement.

19. Notices. Except as otherwise specifically provided in this Agreement, any notice, consent, request, or approval required or permitted to be given under this Agreement shall be writing and shall be deemed to have been given upon (i) hand delivery to the party's address; (ii) electronic delivery; or (iii) confirmed delivery to the party's address by any commercial mail carrier service provider.

To Seller at: Mike Bennett
325 E. Aspen Ave.
Fruita, Colorado 81521
mbennett@fruita.org

With a copy to: Mary Elizabeth Geiger
Garfield & Hecht, P.C.
910 Grand Ave., Suite 201
Glenwood Springs, Colorado 81601
megeiger@garfieldhecht.com

To Buyers at: Jeffrey & Angela Collins
557 20 ½ Road
Grand Junction, Colorado 81507
colincolo@msn.com

With a copy to: Karoline Henning
Hoskin Farina & Kampf, P.C.
Post Office Box 40
Grand Junction, Colorado 81502
khennig@hfak.com

20. Governing Law and Venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of Colorado. Venue shall be exclusively in Mesa County, Colorado.

21. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors, and assigns.

22. Electronic Signatures. Electronic or scanned signatures and documents shall be considered acceptable and binding.

23. No Oral Modifications. This Agreement may not be modified or amended, except by an agreement in writing signed by both Seller and Buyers.

24. Time of Essence. Time is of the essence of this Agreement.

25. Attorneys' Fees. In the event it becomes necessary for either party hereto to commence legal action or any alternative dispute resolution proceeding to enforce this Agreement or any provisions contained herein, the party prevailing in such action shall be entitled to recover, in addition to all other remedies or damages, reasonable attorneys' fees and court costs incurred by such prevailing party in such suit.

26. Headings. The descriptive headings of the various Sections contained in this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

27. Entire Agreement. All prior understandings and agreements between the parties are merged into this Agreement, which constitutes the entire agreement between the parties.

28. Counterparts. This Agreement may be executed in as many counterparts as may be convenient or required. All counterparts shall collectively constitute a single instrument.

29. Holidays. In the event the date upon which any duties or obligations hereunder to be performed shall occur upon a Saturday, Sunday, or legal holiday, then, in such event, the due date for performance of any duty or obligation shall thereupon be automatically extended to the next succeeding business day.

EXECUTED on this ____ day of _____, 2023.

“SELLER”

THE CITY OF FRUITA, a home rule
municipal corporation

By: _____
Fruita City Manager

ATTEST:

Fruita City Clerk

“BUYERS”

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Jeffery S. Collins
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Jeffery S. Collins

DocuSigned by:
Angela I. Collins
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Angela I. Collins