

## RELEASE OF EASEMENT DEED AND AGREEMENT & GRANT OF SANITARY SEWER EASEMENT TO THE CITY OF GRAND JUNCTION

This Release of Easement Deed and Agreement & Grant of Sanitary Sewer Easement to the City of Grand Junction ("Agreement") is made and entered into this 7<sup>th</sup> day of September, 2020, by and between Wade R. Bretey and Linda Bretey (hereinafter "the Breteys"), whose address is 771 23 ½ Road, Grand Junction, Colorado 81505, and South Twenty, LLC (hereinafter "South Twenty"), a Colorado limited liability company whose address is 2306 H Road, Grand Junction, Colorado 81505.

### RECITALS

WHEREAS, the Breteys are the owners of the following described property in Mesa County, Colorado:

The Northerly 215 feet of the N ½ SE ¼ NW ¼ of Section 32, Township 1 North, Range 1 West of the Ute Meridian; Except beginning at the Northeast corner of said SE ¼ NW ¼ of Section 32, thence West 110.0 feet, thence South 72.0 feet, thence East 110.0 feet thence North 72.0 feet to the point of beginning (hereinafter "the Bretey Property" or "Bretey Property").

WHEREAS, South Twenty is the owner of the following described property in Mesa County, Colorado:

Parcel 1 Muller Simple Land Division (hereinafter "the South Twenty Property" or "South Twenty Property").

WHEREAS, The Breteys and South Twenty's predecessors-in-interest, Jack D. Muller and Janice G. Muller, entered into an Easement Deed and Agreement that was made effective September 27, 1999 ("1999 Easement"), and this 1999 Easement was recorded with the Mesa County Clerk & Recorder's Office at Book 2664, Page 48 at Reception Number 1932715. This 1999 Easement provided an easement for ingress, egress, and installation of a sewer system. A copy of this 1999 Easement is attached hereto as Exhibit "A."

WHEREAS, the Breteys and South Twenty desire to enter into this Agreement in order to release the 1999 Easement and provide the City of Grand Junction, for the use and benefit of the Persigo 201 Sewer System, an easement for the installation, operation, maintenance, repair, and replacement of sanitary sewer facilities.

WHEREAS, the Breteys have and rely upon an irrigation ditch within and near the easement area, and the parties desire and intend that the Breteys will have continued used of the irrigation ditch and that the construction, installation and maintenance of the sewer line will not interfere with the Breteys' use of the irrigation ditch; accordingly, South Twenty will protect the ditch, or, if necessary to accommodate the sewer facilities, move the ditch to another location, as close to its present location as is reasonably practicable, at South Twenty's expense;

NOW THEREFORE, for and in consideration of the sum of One Thousand Five Hundred and 00/100ths Dollars (\$1500.00), payable by and from South Twenty to the Breteys, and for and in consideration of the easement that is being granted herein and the mutual covenants, promises, agreements, and obligations set forth in this Agreement, as well as for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Breteys and South Twenty hereby agree as follows:

## AGREEMENT

1. South Twenty hereby agrees to vacate and abandon the 1999 Easement that was for ingress, egress, and installation of a sewer system.

2. Due to South Twenty vacating and abandoning the 1999 Easement, and in consideration of the obligations of South Twenty set forth in this Agreement, the Breteys now hereby grant and convey to the City of Grand Junction, a Colorado Home Rule Municipality, and its successors and assigns, for the use and benefit of the Persigo 201 Sewer System, a Perpetual Easement (hereinafter "Perpetual Easement") for the installation, operation, maintenance, repair, and replacement of sanitary sewer facilities, on, along, over, through, and across the west twenty feet (20') of the Bretey Property, together with the right to enter upon said Perpetual Easement with workers and equipment, to survey, maintain, operate, repair, replace, control, and use said Perpetual Easement, as well as to remove objects interfering therewith, including the trimming of trees and bushes as may be required to permit the operation of standard construction and repair machinery, subject to the terms and conditions contained herein. Said Perpetual Easement contains 4299.3 Square Feet, more or less, as described herein and depicted on Exhibit "B," which is attached hereto and incorporated herein by reference.

### Obligations of South Twenty and Consideration for Easement:

2a. South Twenty shall cause to be constructed, to applicable standards and specifications of the City of Grand Junction and the Persigo 201 Sewer System, a "Y" sanitary sewer pipe connection to the sewer line that South Twenty will install in the Easement, which will serve as a sewer connection point for a single residence on the Bretey Property;

2b. South Twenty shall ensure that the Breteys' irrigation tail water ditch in and near the easement area is not damaged or compromised and that it remains in substantially the same condition and effectively serves the same function as prior to the sewer pipe installation. If construction or installation of the sewer line necessitates that the ditch be relocated or piped, South Twenty agrees to and shall relocate or pipe the ditch at its sole expense, in such a manner that is handles the same flow that it handled prior to the relocation/piping. If relocation is required, the ditch shall be as close as reasonably practicable to its present location.

3. The interest conveyed herein is an easement for the purposes and uses and upon the terms stated herein. The Breteys reserve the right to use and occupy the real property burdened by

this Perpetual Easement for any lawful purpose which is not inconsistent with and which will not substantially interfere with the full use and quiet enjoyment of the rights herein granted. The Breteys agree that they will not install on the Perpetual Easement, or permit the installation on the Perpetual Easement, of any building, structure, improvement, retaining wall, sidewalk, patio, tree, or other landscaping, other than the usual and customary grasses and other ground cover. In the event such obstacles are installed in the Perpetual Easement, the City of Grand Junction has the right to require that such obstacles be removed from the Perpetual Easement. If such obstacles are not removed by the Breteys or their successors and/or assigns, then the City of Grand Junction may remove them without any liability or obligation for repair and replacement thereof and all costs of removal shall be paid by the Breteys or their successors and/or their assigns. If the City of Grand Junction chooses not to remove the obstacles, the City of Grand Junction will not be liable for any damage to the obstacles or any other property to which they are attached.

4. The Perpetual Easement shall be for the use and benefit of the City of Grand Junction, its members, employees, agents, contractors, or any of its successors in title or interest, and the public for the purposes of a sanitary sewer and related facilities.

5. The Breteys also hereby covenant that they have good title to the herein described Bretey Property; that they have good and lawful right to grant this Perpetual Easement; that they will warrant and forever defend the title and quiet possession thereof, subject to the easements, servitudes, covenants, and encumbrances of record as of the effective date of this Agreement, against the lawful claims and demands of all persons claiming under the Breteys.

6. This Perpetual Easement shall run with the land and shall be binding on and shall inure to the benefit of the Parties to this Agreement and the City of Grand Junction, as well as all of their respective heirs, successors, or assigns.

Executed and delivered this 8<sup>th</sup> day of September, 2020.

THE BRETEYS:

Wade R. Bretey  
Wade R. Bretey

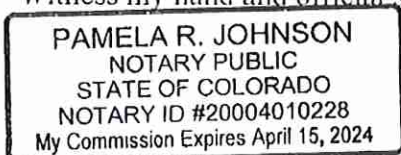
Linda M. Bretey  
Linda M. Bretey

State of Colorado     )  
  )ss.  
County of Mesa        )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of September, 2020, by Wade R. Bretey and Linda M. Bretey.

My commission expires 4/15/2024.

Witness my hand and official seal.



Pamela R. Johnson  
Notary Public

SOUTH TWENTY, LLC

*Amanda Rush*  
Amanda Rush, Managing Member

State of Colorado    )  
                                  )ss.  
County of Mesa        )

The foregoing instrument was acknowledged before me this 29th day of December, 2020, by Amanda Rush, Managing Member of South Twenty, LLC.

My commission expires *8/7/2021* .

Witness my hand and official seal.

*CBurke*  
Notary Public



**Consent of Lien Holder**

Wells Fargo Bank, N.A. ("Lien Holder"), is the current holder of a Mortgage /Deed of Trust dated November 9, 2010 as recorded in Instrument No. 2553251 Book/Page 5087/67, hereby consents to the grant of the foregoing Sanitary Sewer Easement dated September 8, 2020 and signed by Wade R. Bretey and Linda Bretey and joins in the execution hereof solely as Lien Holder and hereby does agree that in the event of the foreclosure of said mortgage, or other sale of said property described in said mortgage under judicial or non-judicial proceedings, the same shall be sold and the same is hereby deemed to be sold subject to said Easement.

SIGNED AND EXECUTED this 4<sup>th</sup> day of January, 2021

Wells Fargo Bank, N.A.

By: Celeste Araneta-Bassiri  
Celeste Araneta-Bassiri 1/4/2021  
Vice President Loan Documentation

State of Maryland  
County of Frederick

On this 4<sup>th</sup> day of January, 2021, before me, the undersigned officer, personally appeared Celeste Araneta-Bassiri who acknowledged himself/herself/themselves to be the Vice President Loan Documentation of Wells Fargo Bank, N.A., a national banking association, and that he/she/they, as such Vice President Loan Documentation of Wells Fargo Bank N.A., being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the national banking association by himself/herself/themselves as Vice President Loan Documentation.

In witness thereof I hereunto set my hand and official seal.



(Seal/stamp)

Jennifer Leigh Kelley

Notary name: Jennifer Leigh Kelley  
Notary Public  
My commission expires: 10/12/2024

**EASEMENT DEED AND AGREEMENT**

This EASEMENT DEED AND AGREEMENT ("Agreement") made, effective as of September 21, 1999, by and between WADE R. BRETEY and LINDA M. BRETEY, 771 23 1/2 Road, Grand Junction, CO 81505, hereinafter referred to as "Grantor," and JACK D. MULLER and JANICE G. MULLER, as joint tenants with right of survivorship, 2327 H Road, Grand Junction, CO 81505 hereinafter referred to as "Grantee."

The parties agree as follows:

**SECTION ONE  
CONVEYANCE OF EASEMENT**

Grantor, for and in consideration of good and valuable consideration, hereby grants and conveys to Grantee an easement subject to all current and subsequent real property taxes and assessments, restrictions and reservations of record over and across the property of Grantor described as follows:

The West twenty (20) feet of the north 215 feet of the N 1/2 SE 1/4 NW 1/4 in Section 32, Township 1 North, Range 1 West, Ute Meridian, Mesa County, Colorado, except that part beginning at the NE Corner of the SE 1/4 NW 1/4 of said Section 32, West 110 feet, South 72 feet, East 110 feet, North to the point of beginning.

Tax Parcel Number 2701-322-00-068

The easement is and shall be perpetual and nonexclusive.

**SECTION TWO  
DESCRIPTION OF EASEMENT**

An easement over and across the property of Grantor for the benefit of Grantee's property described as follows:

A tract of land located in a part of the NE 1/4 NW 1/4 of Section 32, Township 1 North, Range 1 West, Ute Meridian, being more particularly described as follows:

Commencing at the Northwest Corner of said Section 32; thence North 89°58'00" East along the North line of the NW 1/4 of said Section 32, a distance of 1,320.12 feet to the Northeast Corner of the NW 1/4 NW 1/4 of said Section 32 and the True Point of Beginning; thence continuing North 89°58'00" East along said North line of the NW 1/4 of Section 32 a distance of 823.15 feet; thence South 00°20'32" East along the East line of the West 25 acres of the NE 1/4 NW 1/4 of said Section 32 a distance of

1,320.60 feet to a point on the North line of the S½ NW¼ of Section 32; thence South 89°57'15" West along said North line of the S½ NW¼ of said Section 32; a distance of 826.18 feet to the Northeast Corner of the SW¼ NW¼ of said Section 32; thence North 00°12'40" West along the East line of the W½ of the NW¼ of said Section 32 a distance of 1,320.76 feet to the True Point of Beginning.

Mesa County, Colorado.

for the use and benefit of Grantee, their employees, agents and contractors, or any of their successors in title. The easement is for the sole and exclusive purpose of ingress, egress and installation of sewer for residential and agricultural use. Grantee shall have the right to access sewer utilities located in the easement subject to the rules, regulations and fees of the sewer provider.

### SECTION THREE CONDITIONS

- (a) Grantee shall not fence the easement, and agrees and understands that Grantor has no responsibility for the repair and maintenance of the sewer located in the easement;
- (b) Grantee shall promptly repair any damage it shall do to Grantor's real property; shall maintain any sewer line located in the easement in a reasonable manner;
- (c) Grantee shall indemnify and hold Grantor harmless from and against any and all loss and damage that shall be caused by the exercise of the rights granted herein or by any wrongful or negligent act or omission of Grantee or of their agents in the course of their employment;
- (d) Grantor reserves the right to use the easement for purposes that will not interfere with Grantee's full enjoyment of the rights granted by this instrument.

### SECTION FOUR EASEMENT TO RUN WITH LAND

This grant of easement shall run with the land and shall be binding on and shall inure to the benefit of the parties to this agreement, their respective heirs, successors, or assigns.

### SECTION FIVE NOTICES

Any notice provided for or concerning this agreement shall be in writing and be deemed sufficiently given when sent by certified or registered mail if sent to the respective address of each property owner as set forth in the records of the Mesa County Assessor.

**SECTION SIX  
GOVERNING LAW**

It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Colorado. The rule of strict construction does not apply to this instrument. This Easement Deed shall be given a reasonable construction in light of the intention of the parties to provide sewer for the property of Grantee subject to the maintenance obligations of Grantee.

**SECTION SEVEN  
ENTIRE AGREEMENT**

This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

**SECTION EIGHT  
MODIFICATION OF AGREEMENT**

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

IN WITNESS WHEREOF, each party to the Agreement has caused it to be executed as of the date and year first above written.

"GRANTOR"

Wade R. Bretey  
Wade R. Bretey

Linda M. Bretey  
Linda M. Bretey

"GRANTEE"

Jack D. Muller  
Jack D. Muller

Janice G. Muller  
Janice G. Muller



STATE OF COLORADO )  
 ) ss.  
COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 27 day of September, 1999,  
by Wade R. Bretey and Linda M. Bretey.

WITNESS my hand and official seal.  
My commission expires: 8/26/2003



Kathleen A. Richmond  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 27 day of September, 1999  
by Jack D. Muller and Janice G. Muller.

WITNESS my hand and official seal.  
My commission expires: 8/26/2003



Kathleen A. Richmond  
Notary Public

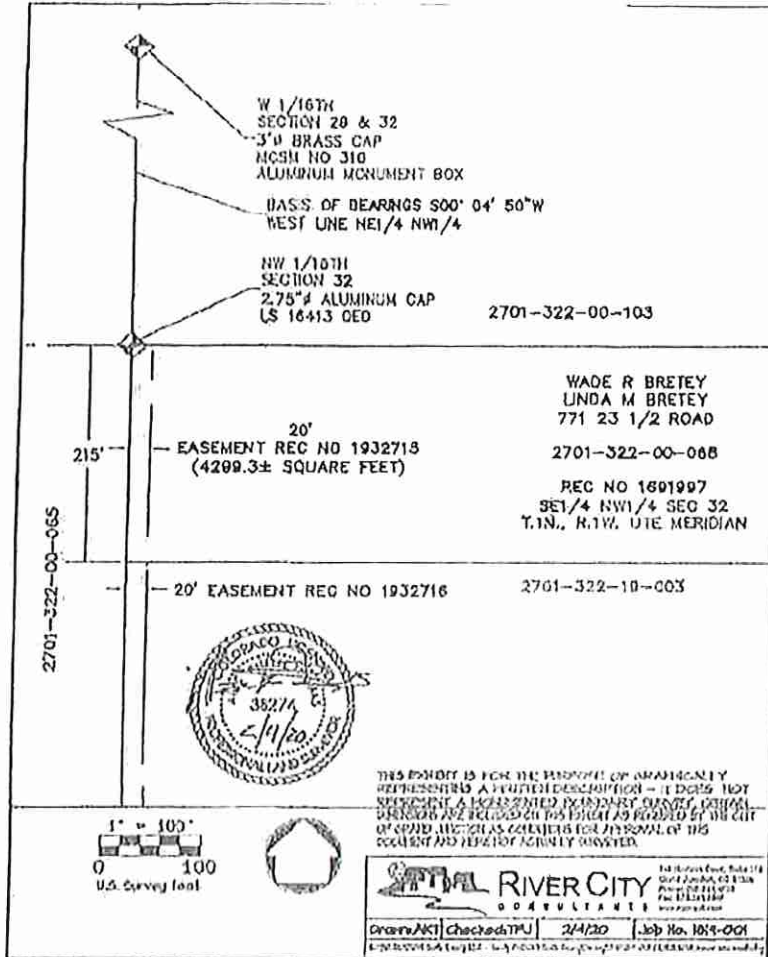


EXHIBIT B