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| TYPE OF RECORD: | PERMANENT |
| CATEGORY OF RECORD: | CONTRACT |
| NAME OF CONTRACTOR: | THE FRUITVALE LATERAL AND WASTE DITCH ASSOCIATION |
| SUBJECT/PROJECT: | WATER AND MAINTENANCE AGREEMENT DATED OCTOBER 16, 1986 |
| CITY DEPARTMENT: | UTILITIES AND STREETS |
| YEAR: | 1986 |
| EXPIRATION DATE: | NONE |
| DESTRUCTION DATE: | NONE |

Copy to John Kenney 10-20-86.
Copy to Finance Department 10-21-86.
Copy to [unclear] (10-21-86)
Copy to Jim Shanks 3-16-87

AGREEMENT

BETWEEN THE CITY OF GRAND JUNCTION AND
THE FRUITVALE LATERAL & WASTE DITCH ASSOCIATION.

This Agreement is entered into this 16th day of October, 1986, by and between the CITY OF GRAND JUNCTION, hereinafter "City", and the FRUITVALE LATERAL & WASTE DITCH ASSOCIATION, hereinafter "Association":

RECITALS

The Association operates and maintains irrigation and waste ditches within the City of Grand Junction. The City (prior to annexation of the lands, the County of Mesa) and the State of Colorado have for many years used the ditches of the Association to drain public ways when the occasion demanded. The Association recognizes the need of the City and State to continue to do so. The Association has requested that the City acknowledge some responsibility in contributing to the maintenance, protection and amelioration of the ditch system for such purposes. Whereas the parties wish to arrive at a workable and amicable arrangement and reduce the agreement to writing.

The City and the Association desire to effect an agreement which will promote understanding and cooperation between the parties.

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

1. The City and the State of Colorado, under the terms of the agreement between the City and the State on the maintenance of North Avenue, will continue to use the ditches of the Association as in the past for drainage of streets and residences within the area but not including private commercial property drainage.
2. The Association will modify its charter and by-laws to allow City membership in the Association.
3. The City will pay an annual membership fee based upon the portion of the total ditch system that is used for storm drainage (currently 23,080 linear feet of 43,200 total feet), and 75% of the normal assessment fee (currently 14.7 cents per foot of frontage). The 1986 fee then would be 23,080 linear feet times 11 cents or \$2,538.80. The Association will bill the City at the same time it bills all other Association members, February of each year.
4. The City agrees to inform and request comment from the Association on any development planned in the Association's boundaries.
5. The City will design and implement a new drainage plan for the west side of the Texas Avenue and 29 Road intersection to avoid the backflow and standing of irrigation or drainage waters into the street at that location.

6. The City will cooperate with the Association to minimize contamination from North Avenue accidents that might spill contaminants into the Association's ditches and will work with the Association to remedy contamination problems arising from actions of property owners, particularly commercial establishments.

7. The City will design a remedy to the storm water overflow problems that occur on the North Avenue frontage of the Country Kitchen and City Market.

8. The City will pipe the Association's ditch on Teller Avenue east of 28 1/2 Road to 2857 Teller to create a charged irrigation system along that street.

9. The City will cooperate with the Association in its annual spring weed burning program by fire department monitoring.

10. In consideration of the Association's original 1985 request to the City on this matter, the City will contribute \$1,219.38 to the Association in 1986, \$819.88 of which shall be to conduct an experimental fall weed spraying program.

11. The City will continue to maintain street crossings of the Association's laterals.

12. The Association will continue to maintain all open ditches and will maintain other property-owner installed pipes to the best of the Association's ability, recognizing that anyone who pipes the Association's laterals is ultimately responsible for such piping.

13. In consideration of the above, the Association will permit the City to continue to use the Association system as in the past. However, any additional useage shall be permitted only after additional application by the City and approval by the Association.

14. Should any portion of the Agreement be violated, the aggrieved parties, in addition to all other actions, shall have an action for injunction. The prevailing party will be entitled to reasonable attorneys' fees.

15. This Agreement shall be perpetually binding upon the parties hereto and their successors in interest, and shall be construed in accordance with the laws of the State of Colorado.

This Agreement is intended to provide a foundation for cooperation and understanding between the Association and the City. The Agreement, upon written request by the City or the Association, may be reviewed annually during December to discuss any changes deemed necessary to correct legitimate problems arising from the use of the

Association's irrigation system or of this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the day and date first above mentioned.
CITY OF GRAND JUNCTION

Attest:

Neva B. Lockhart, CMC
Neva B. Lockhart, City Clerk

By: Mark K. Achen
Mark K. Achen, City Manager

FRUITVALE LATERAL & WASTE DITCH
ASSOCIATION

Attest:

Margaret A. Heely
Margaret A. Heely, Secretary

By: Richard L. Heely
Richard L. Heely, President