

GGP78F24

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: CONTRACT

NAME OF AGENCY OR CONTRACTOR: GENERAL GROWTH PROPERTIES

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: CONSTRUCTION OF SEWAGE
COLLECTION SYSTEM FOR REGIONAL SHOPPING CENTER LOCATED ON F ROAD BETWEEN 24
AND 24 ½ ROADS (MESA MALL), CONNECTING TO THE 25 ½ ROAD SEWAGE LINE

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1978

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

A G R E E M E N T

THIS AGREEMENT, made and entered into this 31 day of August, 1978, by and between the CITY OF GRAND JUNCTION, hereinafter referred to as the "City", and GENERAL GROWTH PROPERTIES, a Massachusetts voluntary association, hereinafter referred to as "General Growth".

WITNESSETH:

WHEREAS, General Growth owns certain properties/ ^("Property") upon which they intend to construct a regional shopping center; such Property being located generally in the vicinity of F Road between 24 Road and 24 1/2 Road, Mesa County, Colorado, more particularly described in Exhibit A, attached hereto and by this reference made a part hereof; and

WHEREAS, General Growth desires to construct a sewage collection system/ ^{to serve said Property} and connect the same to the City's sewage disposal facilities by constructing a trunk line east from the above mentioned property to the 25 1/2 Road interceptor line heretofore constructed and installed by the City;

NOW, THEREFORE, in consideration of the covenants and the agreements herein contained, it is agreed:

1. General Growth agrees to design a sewage collection system to serve the Property and to connect to the 25 1/2 Road sewage line, above described, now owned by the City. General Growth agrees to submit engineering and design specifications and plans to the City for its review to determine that the same conform to the engineering standards set by the City.* At such time as the City engineering department advises that such General Growth plans and specifications conform to the City's engineering standards, the City will so notify General Growth of such fact.

2. General Growth shall construct the sewage collection system referred to above and connect the same to the 25 1/2 Road sewage trunk line, above described. General Growth shall permit

*City shall review same promptly and so advise General Growth.

the City to make periodic inspections, from time to time, as the work progresses. Following the completion of construction, the City shall make a final inspection of the system to determine if the construction fully complies with City standards. If corrections are necessary for the system to comply to such standards, General Growth agrees to make such corrections as necessary to bring the system into full compliance with City standards prior to any connection to such line.

3. Immediately following construction, General Growth shall file with the City a reproducible mylar "as built" set of drawings, showing the location of the line and all facilities, easement locations, and related details necessary to locate, use and operate such line. Such "as built" drawings shall bear the properly executed seal of a professional engineer, registered with the State of Colorado.

4. Upon the completion of such construction and the City's notification to General Growth that the facilities as constructed meet the City's standards, such act shall constitute the transfer of full ownership and responsibility of such system to the City. Such notification shall further constitute approval by the City for use of such system.

5. General Growth agrees to obtain such easements as may be required for the construction, operation, maintenance and repair of such system, and such easements, when acquired, shall be transferred to the City. City shall cooperate with General Growth in the obtaining of said easements should same be necessary.

6. General Growth agrees that it will consent to the annexation to the City when the City desires such annexation and the land described in Exhibit A, alone or together with other lands, qualified therefor. Further, on request, General Growth agrees to execute a power of attorney, executed by the appropriate officials of General Growth, designating the City Clerk of Grand Junction as attorney in fact to petition the City Council for annexation at such time as the City may determine and such land described in

Exhibit A, alone or together with other lands, qualified for annexation.

7. The City agrees to permit General Growth to use the easements obtained by General Growth in the name of the City for the purpose of the construction of the sewer system referred to above.

8. General Growth agrees to pay as an initial plant investment fee as specified in the City ordinances at the time of the connection, payable to the City in cash prior to the commencement of the use of the facilities referred to above, and further agrees to pay such monthly service charges as the City may elect to charge in accordance with standard sewer service charges which the City may, from time to time, impose upon the users of the City facilities. Other than the above-referenced initial plant investment fee and monthly service charges, General Growth shall not be required to pay any other type of related fee or fees in the future.

9. If, for a period of five (5) years from and after the commencement of use of the aforementioned facilities by General Growth, any third party desires to tap on to the sewer system to be constructed by General Growth as above provided, the City agrees to collect from such third party a capital contribution based upon that portion of the facilities to be used by such third party and further based upon the anticipated volume of the sewage to be introduced into such facilities by such third party. The foregoing formula shall be based upon the premise that when such sewer facilities are fully utilized, each person tapping on thereto shall bear their proportionate share of such capital cost. Such capital contributions, when collected, shall be reimbursed annually to General Growth. To the extent that such reimbursements have not been made on or before the expiration of the period last above mentioned, no further reimbursements shall be made to General Growth.

10. In the event that General Growth does not undertake the construction of the system herein contemplated on or before the 1st day of August, 1983, this Agreement shall be terminated and be of no further force and effect.

11. The City reserves the right to refuse to permit persons other than General Growth, and other owners and lessees of portions of the Property, to tap on to the aforementioned sewer facilities, if, in so doing, the proposed connection might result in an overloading of the City sewer treatment facilities or outfall lines.

12. General Growth Properties (the Trust) is a voluntary association established under the laws of the Commonwealth of Massachusetts by a Declaration of Trust dated May 19, 1970, which together with all Amendments thereto is on file with the Secretary of the Commonwealth of Massachusetts. The obligations of the Trust are not personally binding upon, nor shall resort be had to the private property of any of the Trustees, shareholders, officers, employees or agents of the Trust, but the Trust property only shall be bound.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 16 day of August, 1978.

CITY OF GRAND JUNCTION

Attest:

Heva B. Lockhart, CMC
City Clerk

By James E. Wypocki
City Manager

GENERAL GROWTH PROPERTIES

By Ruth Francis
Ruth Francis, Secretary

EXHIBIT A

LEGAL DESCRIPTION

Beginning at the Southwest Corner of Section 4, Township 1 South, Range 1 West of the Ute Meridian, thence $N0^{\circ}06'21''E$ along the West line of said Section 4 1,080.02 feet, thence $N89^{\circ}59'40''E$ 1,050.0 feet, thence $N0^{\circ}06'21''E$ 240.0 feet to the North line of the $SW\frac{1}{4}$ $SW\frac{1}{4}$ of said Section 4, thence along the North line of the $SW\frac{1}{4}$ $SW\frac{1}{4}$ and the $SE\frac{1}{4}$ $SW\frac{1}{4}$ $N89^{\circ}59'40''E$ 1,586.73 feet to the Northeast Corner of the $SE\frac{1}{4}$ $SW\frac{1}{4}$ of said Section 4, thence along the East line of said $SE\frac{1}{4}$ $SW\frac{1}{4}$ $S0^{\circ}09'17''W$ 1,317.39 feet to the South $1/4$ Corner of said Section 4, thence $S0^{\circ}11'55''W$ 1,317.79 feet to the Southeast Corner of the $NE\frac{1}{4}$ $NW\frac{1}{4}$ of Section 9, Township 1 South, Range 1 West of the Ute Meridian, thence $S0^{\circ}08'56''W$ along the East line $SE\frac{1}{4}$ $NW\frac{1}{4}$ of said Section 9 136.01 feet to the Northerly Right-of-Way of U.S. Highway 6 and 50, thence $N58^{\circ}59'30''W$ along said Northerly Right-of-Way of U.S. Highway 6 and 50 34.95 feet to the Westerly Right-of-Way of 24.5 Road, a county road, thence $S67^{\circ}02'41''W$ along said U.S. Highway 6 and 50 Right-of-Way 50.08 feet, thence along said Northerly Right-of-Way along the arc of a 5830.0 foot radius curve to the left 790.28 feet (the chord of which bears $N63^{\circ}29'29''W$ 789.67 feet), thence along said Right-of-Way $N67^{\circ}22'30''W$ 501.8 feet, thence along said Right-of-Way along the arc of a 5,630.0 foot radius curve to the right 310.19 feet (the chord of which bears $N65^{\circ}47'47''W$ 310.15 feet), thence leaving said Highway Right-of-Way $N0^{\circ}03'47''W$ 780.96 feet to the North line of said Section 9, thence $S89^{\circ}56'13''W$ along the North line of said Section 9 1,101.0 feet to the Southwest Corner of said Section 4 and the Point of Beginning. Containing a gross area of 113.39685 acres and a net area of 107.95439 acres, exclusive of a 30.0 foot road Right-of-Way along the East side for 24 Road and along the West side for 24.5 Road, also a 60.0 foot road Right-of-Way 30.0 feet both sides of the South line of the $SW\frac{1}{4}$ of said Section 4 for "F" Road. The above real estate is subject to a maintenance Right-of-Way for the Independent Ranchman's Ditch, as per State Law.
Said real estate is subject to all other easements of record.

And:

Beginning at the NW corner of the $NW\frac{1}{4}$ of Section 9, Township 1 South, Range 1 West of the U.M., thence East 822 feet, thence South to the North boundary of U. S. Highway No. 50, thence Northwesterly along the North boundary of said Highway to its intersection with the West line of said Section 9, thence North to the point of beginning; EXCEPT, Beginning at the NW corner of Section 9, Township 1 South, Range 1 West of the U.M., thence East 233.50 feet along the North line of said Section 9, thence South $05^{\circ}30'$ West 251.60 feet to the North boundary of U. S. Highway No. 50, thence along said North boundary of U. S. Highway No. 50 North $57^{\circ}20'$ West 248.73 feet, thence North 116.19 feet to the point of beginning: AND EXCEPT that part conveyed to County of Mesa by instrument recorded May 25, 1976 in Book 1069 at page 554, County of Mesa and State of Colorado.

And:

Beginning at a point from whence the Northwest Corner of Section 9, Township 1 South, Range 1 West, Ute Meridian bears South $89^{\circ}57'$ West 822 feet, thence North $89^{\circ}57'$ East 279 feet, thence South $0^{\circ}09'$ East 839.1 feet to the North right of way line of U. S. Highway 50, thence Northwesterly along a circular curve on said North right of way line a distance of 316.9 feet, thence North $0^{\circ}05'$ West 692.8 feet to the point of beginning, Mesa County, Colorado.