

MVC94WIN

TYPE OF RECORD:	PERMANENT
CATEGORY OF RECORD:	CONTRACT
NAME OF CONTRACTOR:	MESA COUNTY VALLEY SCHOOL DISTRICT NO. 51
SUBJECT/PROJECT:	SCHOOL DISTRICT SEWER SERVICE AGREEMENT FOR WINGATE ELEMENTARY SCHOOL
CITY DEPARTMENT:	UTILITIES AND STREETS
YEAR:	1994
EXPIRATION DATE:	NONE
DESTRUCTION DATE:	NONE

## SEWERAGE SERVICE AGREEMENT

1. **Parties:** The parties to this agreement are Mesa County Valley School District No. 51, ("School District") and the City of Grand Junction, Colorado ("City").

For valuable consideration, the receipt and adequacy of which is acknowledged, the Parties agree as follows:

2. **Effective Date:** The effective date of this Agreement will be January 18, 1994.

3. **Recitals:** The School District owns property known as Wingate School which is not presently served by sewer. The School District hereby agrees to pay for sewerage services at such time as the City extends a sewer line to serve Wingate school and to otherwise provide sewer service to the school. The mutual promises, covenants, and obligations contained in this agreement are authorized by the School District and the City by and through the undersigned signatories, and is in pursuance of the City's sewer ordinances, policies and regulations.

4. **School District Obligation:** The School District acknowledges and agrees that, by receiving the benefit of sewer service, it is legally obligated to pay any and all sewer rents, charges and fees including but not necessarily limited to monthly recurring charges, plant investment fees and line extension fees. Monthly charges shall be perpetual. Monthly charges are calculated as the base sewer rate per E.Q.U., as established by the City Council, or other governing body having jurisdiction. A total plant investment fee equal to \$20,250.00 plus trunk extension reimbursement charge of \$27,000.00 shall be paid as set forth: \$4,419.64 per month beginning January 23, 1994, and continuing until July 23, 1994, and then plus \$562.50 per month beginning August 1, 1994 until December 23, 1996. The payment terms of this agreement are not mere recitals but are contractual in nature. To the extent the above plant investment fees and line extension fees represent a multiple fiscal year direct or indirect district debt or other financial obligation within the meaning of Article X, Section 20 of the Colorado Constitution (Amendment 1), the School District has pledged irrevocably sufficient present cash reserves of the District to meet such payment obligations in all future fiscal years in which such obligations must be performed. If payment does not occur as required the City has the right to discontinue service and to proceed without notice to the collection of any and all unpaid sums; School District agrees to pay the City's reasonable attorney's fees incurred in such regard.

5. **City Obligation:** The City, as co-owner and manager of the Persigo Wastewater Treatment System, shall provide sewer service to Wingate School on a basis equivalent to that provided to other customers of the sewer system. The City, by this agreement, does not warrant, either expressly or impliedly, the proper functioning of the sewer, sewer system or that sewer service will be trouble free.

6. **Amendment:** The parties to this agreement may amend or modify it only by written instrument executed on behalf of the City by the City Manager or his designee and by the School District by the Superintendent or his designee. Such amendment or modification shall be properly acknowledged and notarized before it may be effective.

7. **Power of Attorney:** School District shall execute such documents as the City may require, including a power of attorney, in order to annex the Wingate School property to the City at such time as the City deems appropriate. This agreement shall be effective upon the delivery to the City of a properly executed and acknowledged power of attorney, the form of which is attached hereto.

8. **Limitation of Actions:** No person or entity not a party to this agreement shall have any right of action under this agreement.

9. **Venue:** Personal jurisdiction and venue for any civil action commenced by either party to this agreement whether arising out of or relating to the agreement, improvements, or any action to collect will be deemed to be proper only if such action is commenced in Mesa County.

EXECUTED this 18<sup>th</sup> day of January, 1994.

Mesa County Valley School District No. 51

City of Grand Junction

By Debra Johns  
Debra Johns  
President, Board of Education

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



Attest:

Mary K. Kalenian  
Mary Kalenian  
Secretary, Board of Education

Attest:  
Stephanie Nye  
Stephanie Nye, City Clerk

## RESOLUTION

WHEREAS, Wingate Elementary School does not presently have sewer service, and the Board of Education desires the City of Grand Junction to extend a sewer line to Wingate Elementary School and to otherwise provide sewer service to the school; and

WHEREAS, the City of Grand Junction, as a condition for providing sewer service to Wingate Elementary School requires that the Board covenant and agree to pay sewer charges and fees, including monthly sewer charges, a plant investment fee and a line extension fee; and


WHEREAS, to the extent authorized by law, the Board is willing to consent and agree to such charges and fees upon the terms more fully set forth in the attached Sewerage Service Agreement (Agreement), which is incorporated and made a part of this resolution, and

WHEREAS, the plant investment and line extension fee provisions of the Agreement may represent a multiple fiscal year direct or indirect district debt or other financial obligation of the District within the meaning of Article X, Section 20 of the Colorado Constitution (Amendment 1), and if so, the District must obtain voter approval in advance for such obligation unless adequate present cash reserves have been irrevocably pledged for payment of same in accordance with the Agreement in all future fiscal years.

WHEREAS, the District desires to avoid any uncertainty as to whether an election is required with respect to the Agreement by irrevocably pledging adequate present cash reserves for payment of the plant investment and line extension fees in all future fiscal years;

NOW, THEREFORE, the President and Secretary of the Board are hereby authorized to execute and deliver, on behalf of the Board, the Power of Attorney and Sewerage Service Agreement attached hereto, and the Board shall henceforth, to the extent authorized by law, be bound by the terms thereof. To the extent the plant investment and line extension fee provisions of the Agreement represent a multiple fiscal year direct or indirect district debt or other financial obligation of the District within the meaning of Article X, Section 20 of the Colorado Constitution (Amendment 1), the Board hereby pledges irrevocably present cash reserves of the District adequate to meet such obligation, and directs the Superintendent to hold such reserves for payment under the Agreement in all future fiscal years in which payments are due.

*I hereby certify that the information contained in the above resolution is accurate and was adopted by the Mesa County Valley School District No. 51 Board of Education on January 18, 1994.*

  
\_\_\_\_\_  
Mary K. Kalenian  
Secretary, Board of Education

ACTION OF THE BOARD:

Wingate School

334 S. Camp Road actually 3

SOUTH CAMP ROAD

Original in Easement File

GRANT OF EASEMENT

THIS GRANT OF EASEMENT is made this 18<sup>th</sup> day of January, 1994, between Mesa County Valley School District No. 51, Grantor, and the City of Grand Junction, a Colorado home rule municipality, Grantee, whose legal address is 250 North 5th Street, Grand Junction, Colorado 81501.

WHEREAS, Grantee, in order to perpetuate the health, safety and welfare of the City of Grand Junction and Mesa County 201 Sewer Service Area, intends to install a sanitary sewer pipeline and related facilities known as the Buffalo Court Sanitary Sewer Lateral; and

WHEREAS, Grantee is desirous of securing from Grantor an easement for that portion of the sewer lateral which will traverse the real property owned by Grantor which is commonly known as Wingate Elementary School, hereinafter referred to as "the Property"; and

WHEREAS, Grantor has determined that the sewer project and requested easement will not interfere with present or future school activities on the Property.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants and conveys to Grantee, its successors and assigns, a Perpetual Easement for the installation, operation, maintenance and repair of a Sanitary Sewer Pipeline and related facilities, together with the right of ingress and egress for workers and equipment, on, along, over, under, through and across the following described tract of land situate in the Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4) and in the Northeast Quarter of the Southeast Quarter (NE 1/4 SE 1/4) of Section 35, Township 11 South, Range 101 West of the Sixth Principal Meridian, County of Mesa, State of Colorado, to wit:

Commencing at the Northeast Corner of Tract 39 in said Section 35, and considering the line from the Northeast Corner of said Tract 39 to the Northeast Corner of said Section 35 to bear N 00°02'00" E with all bearings contained herein being relative thereto; thence S 89°54'21" W along the North line of said Tract 39 a distance of 30.0 feet to the intersection of the West Right-of-Way for South Camp Road and the Westerly Right-of-Way for Buffalo Court, said point being the True Point of Beginning; thence along the Westerly Right-of-Way for Buffalo Court 10.5 feet along the arc of a curve to the right having a radius of 60.58 feet, a central angle of 09°30'14", and a long chord which bears S 04°47'07" W a distance of 10.04 feet; thence S 89°54'21" W a distance of 168.02 feet; thence S 15°50'02" W a distance of 128.43 feet; thence S 89°54'21" W a distance of 20.80 feet; thence N 15°50'02" E a distance of 138.83 feet; thence S 89°54'21" W a distance of 489.12 feet; thence N 00°02'42" W a distance of 20.00 feet; thence N 89°54'21" E a distance of 675.97 feet to the West Right-of-Way for South Camp Road; thence S 00°02'00" W along said Right-of-Way a distance of 20.00 feet to the True Point of Beginning,

containing 17,967.36 square feet as described above and depicted on the attached Exhibit "A".

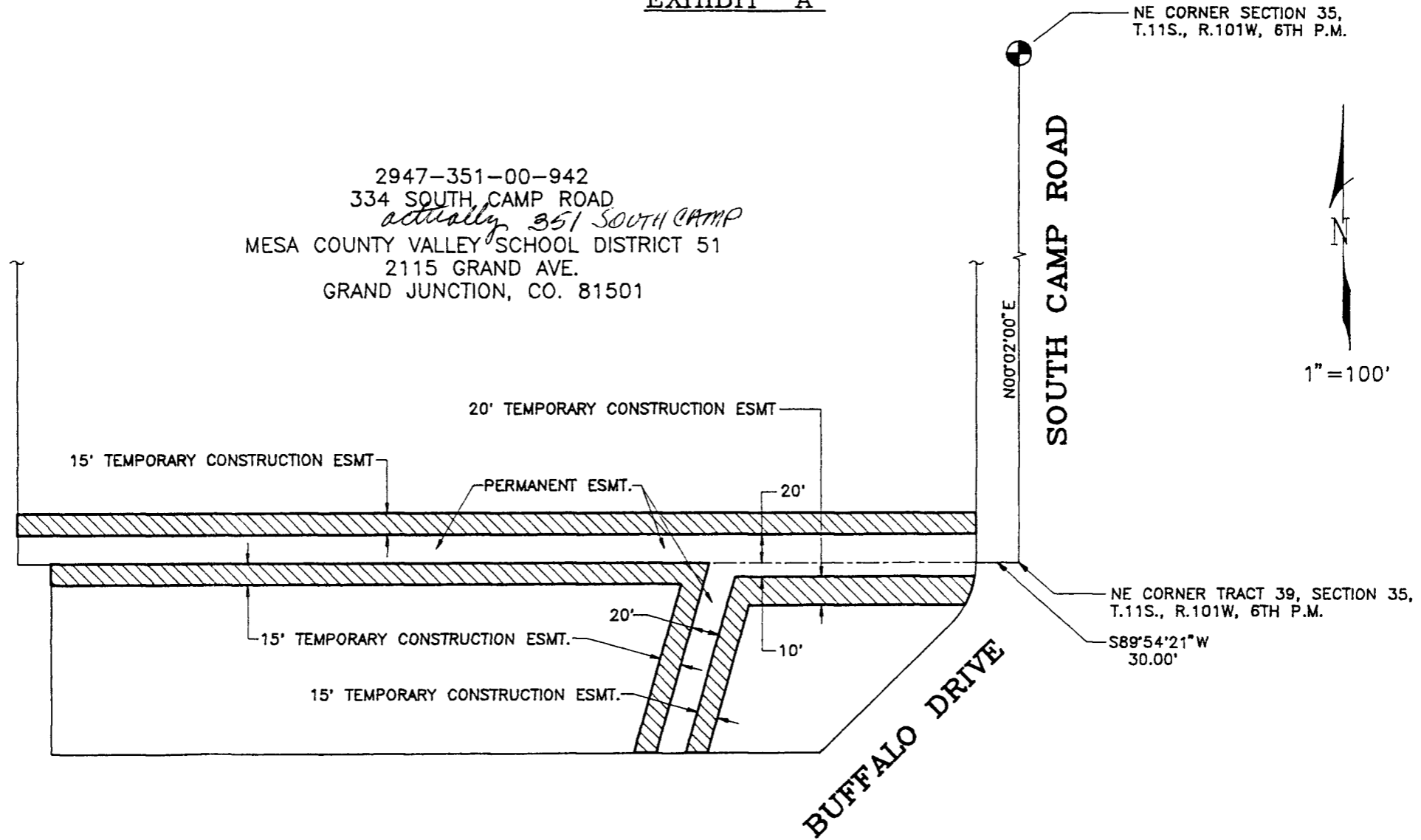
RESERVING unto the Grantor the right to use, modify and enjoy the premises for any purpose consistent with the rights and purpose herein granted to the Grantee and which will not interfere with or endanger any of the Grantee's property or facilities or the use thereof; provided, however, that the reservation shall not include the right to erect or cause to be erected any buildings, structures, trees or other obstructions on the premises without the Grantee's written consent, which consent shall not be unreasonably withheld. The Easement herein granted shall be restricted for the installation, operation, maintenance and repair of the Buffalo Court Sanitary Sewer Lateral.

RESERVING ALSO unto the Grantor the right, on six months' notice to the Grantee or its successors or assigns, and at Grantor's expense, to require the removal and relocation of Grantee's property to an adjacent location owned by Grantor, which new location shall be expressed in a substituted grant of right-of-way prepared and recorded at Grantor's expense, and provided that such removal and relocation would not unreasonably interfere with Grantor's business operations.

EXHIBIT "A"

2947-351-00-942  
 334 SOUTH CAMP ROAD  
*actually 351 SOUTH CAMP*  
 MESA COUNTY VALLEY SCHOOL DISTRICT 51  
 2115 GRAND AVE.  
 GRAND JUNCTION, CO. 81501

NE CORNER SECTION 35,  
 T.11S., R.101W, 6TH P.M.



99322ROW.DWG

EASEMENT DESCRIPTION MAP  
 PARCEL NO. 2947-351-00-942  
 APPROVED \_\_\_\_\_  
 DATE                      C.A.K. 01/13/93

CITY OF GRAND JUNCTION ENGINEERING DEPARTMENT  
 WINGATE ELEMENTARY TEMPORARY CONSTRUCTION EASEMENT

## TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

**PROJECT:** South Camp Sanitary Sewer, Buffalo Court Lateral

**LOCATION:** Parcel No. 2947-351-00-942

This Temporary Construction Easement Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1994, by and between Mesa County Valley School District No. 51, hereinafter referred to as the "District", and The City of Grand Junction, a municipal corporation, hereinafter referred to as the "City";

WHEREAS, in the installation of a sanitary sewer line and related facilities, the City requires a Temporary Construction Easement on, along, over, under, through and across the real property owned by the District as shown on Exhibit "A" attached hereto and incorporated herein by reference.

**NOW, THEREFORE, IT IS AGREED:**

1. For the consideration of One dollar (\$1.00), the District hereby grants and conveys to the City said temporary construction easement to allow access for construction workers and equipment to install said sanitary sewer line and related facilities.

2. The temporary easement area shall consist of and include the right to use the real property as shown on attached Exhibit "A".

3. Said temporary easement will commence on the first date of construction of the above-referenced project and terminate when construction of said project is completed and formally accepted by the Grand Junction City Engineer.

4. All land surfaces within this easement which are disturbed from said construction activities of the project shall be returned as nearly as practicable to their original condition, or better.

5. This Agreement shall be deemed a contract extending to and binding upon the parties hereto, and upon their respective heirs, devisees, executors, administrators, legal representatives, successors and assigns.


IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first written above.

**MESA COUNTY VALLEY SCHOOL DISTRICT NO. 51 BY:**

  
Secretary

  
President of the Board of Education

**Accepted By:**

  
Tim Woodmansee  
City Property Agent

*Original in POA File*

**POWER OF ATTORNEY**

BE IT KNOWN THAT:

Mesa County Valley School District 51, as owner of the real property described herein, all situate in Mesa County Colorado, and more particularly known as Wingate School, 334 S. Camp Road, Grand Junction, CO 81503 and described as:

*ACTUALLY  
351 S. CAMP ROAD*

Beginning at the NE Corner of Tract 39 Section 35 Township 11 South Range 101 West;  
thence South 89°54'21" West a distance of 30 feet along an arc of a curve to the right having a radius of 60.58 feet and a chord which bears South 22°43'00" West a distance of 46.72 feet;  
thence South 45°24'00" West a distance of 129.01 feet;  
thence South 89°54'21" West a distance of 542.44 feet;  
thence North 00°02'00" East a distance of 133.50 feet;  
thence South 89°54'21" West a distance of 23.68 feet;  
thence North 00°02'42" West a distance of 845.97 feet;  
thence South 86°43'14" East a distance of 678.19 feet;  
thence South 00°02'00" West a distance of 806.06 feet to the Point of Beginning

does hereby, to the extent authorized by law, designate and appoint the City Clerk of the City of Grand Junction as its Attorney in Fact, granting to the City Clerk full power and authority for it and in its stead to execute any and all petitions, documents and instruments to effectuate its intention to annex the described property to the City of Grand Junction when eligible. The property described herein may be annexed to the City of Grand Junction in part or parts, at any time and is in consideration for allowing connection to the Persigo Wastewater treatment facility system. The City Clerk is hereby empowered by it to do and perform any and all acts which the City Clerk shall deem necessary, convenient or expedient to accomplish annexation, as fully as it might do if personally present.

This instrument shall be recorded in the land records of Mesa County and the authority granted shall be deemed to be a covenant which runs with the land. This authority and the covenant created thereby shall be binding upon any and all successors in interest to the above described property and shall not cease upon the dissolution of partnership, corporation or other form of association which may hold title or claim an interest to the property described herein.

As a further covenant to run with the land, it agrees that, to the extent authorized by law, in the event a counter-petition to a proposed annexation is prepared, any signature on such petition purporting to affect the land herein described may be ignored as of no force and effect by the City.

This power of attorney is not terminable; it shall terminate only upon all of the property being finally annexed, to and becoming a part of, the City of Grand Junction.