

SGT94SAC

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: CONTRACT

NAME OF AGENCY OR CONTRACTOR: SACCOMANNO GIRLS TRUST

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: 26 TO 26 1/2
ROAD, H 1/2 TO H 3/4 ROAD ANNEXATION AGREEMENT

CITY DEPARTMENT: COMMUNITY DEVELOPMENT

YEAR: 1994

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

**SACCOMANNO GIRLS TRUST
ANNEXATION AGREEMENT**

1693396 03:37 PM 08/26/94
MONIKA TODD CLK&REC MESA COUNTY CO

THIS AGREEMENT is made and entered into this 19th day of August, 1994, by and between Saccomanno Girls Trust, 860 26 $\frac{1}{2}$ Road, Grand Junction, CO, 81506 ("Developer"), and the City of Grand Junction, a municipal corporation, State of Colorado, 250 N. 5th Street, Grand Junction, CO 81501, hereinafter referred to as "CITY".

In consideration of the mutual obligations, benefits, duties and promises the parties hereto agree as follows:

1. Developer represents that it is the owner of the property described below (the "Property") and that it has the authority to enter into this agreement on the terms and conditions set forth. If Developer needs to obtain the consent or agreement of another party or parties in order to effectuate this agreement, Developer agrees to do so.

The legal description of the Property is:

The following described real property situate in the West Half of Section 26, Township 1 North Range 1 West of the Ute Meridian, County of Mesa, State of Colorado:

The South Half ($S\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$), and the North Half ($N\frac{1}{2}$) of the Southwest Quarter ($SW\frac{1}{4}$), EXCEPTING THEREFROM the North 40 feet of the Southeast Quarter ($SE\frac{1}{4}$) of the Northwest Quarter ($NW\frac{1}{4}$), AND ALSO EXCEPT the East 30 feet of the Southeast Quarter ($SE\frac{1}{4}$) of the Northwest Quarter ($NW\frac{1}{4}$), AND ALSO EXCEPT the East 30 feet of the Northeast Quarter ($NE\frac{1}{4}$) of the Northeast Quarter ($NE\frac{1}{4}$) of the Southwest Quarter ($SW\frac{1}{4}$), AND ALSO EXCEPT the East 40 feet of the Southeast Quarter ($SE\frac{1}{4}$) of the Northeast Quarter ($NE\frac{1}{4}$) of the Southwest Quarter ($SW\frac{1}{4}$), AND ALSO EXCEPT the following described real property: Beginning at a point which bears N 89°52' W a distance of 188 feet from the Northeast Corner of the Southeast Quarter ($SE\frac{1}{4}$) of the Northwest Quarter ($NW\frac{1}{4}$) of said Section 26, thence N 89°52' W a distance of 1043.6 feet, thence South a distance of 248.7 feet, thence S 89°52' E a distance of 1043.6 feet, thence North a distance of 248.7 feet to the Point of Beginning.

City has agreed to consider annexing the Property into the City. The timing of the City's actions to annex the Property is solely as determined by the City. If the City determines to annex all or a portion of the Property, the City may do so in

conjunction with other properties in the area in order that the City may maximize the extent of territory annexed. The property described herein may be annexed to the City of Grand Junction in part or parts, at any time. Consent is hereby given to annex portions of tracts and parcels even if the annexation has the effect of dividing tracts or parcels into separate parts or parcels.

3. This agreement may be recorded with the Clerk and Recorder in Mesa County, Colorado, and if recorded shall run with the land, and shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto.

4. Nothing contained in this agreement shall constitute or be interpreted as a repeal of existing codes or ordinances or as a waiver or abnegation of City's legislative, governmental, or police powers to promote and protect the health, safety, or general welfare of the municipality or its inhabitants; nor shall this Agreement prohibit the enactment or collection by City of any fee or charge which is of uniform or general application, or necessary for the protection or promotion of the public health or welfare.

5. If any annexation of the property or any portion thereof is challenged by a referendum or an initiative, all provisions of this Agreement, together with the duties and obligations of each party, shall be suspended pending the outcome of the election. If the final judgment of a court of competent jurisdiction orders the disconnection of all or any portion of the property from the City, then, at the election of the City, this Agreement and all provisions contained herein shall be null and void and of no further effect. If such final judgment does not require the disconnection of all or a portion of the Property from the City, then Developer and City shall continue to be bound by all the terms and provisions of this Agreement.

6. In the event that any annexation of the property or any portion thereof is voided by final action of any court (such action not being associated with a referendum or initiative election), Developer shall cooperate, if requested by the City, to cure the legal defect which resulted in disconnection of the property, and upon such cure this Agreement shall be deemed to be, in part, an agreement to annex the property to City pursuant to § 31-12-121, C.R.S. and the terms of this agreement shall be binding on the parties. Developer shall reapply for annexation, or the City may sign, as Developer's attorney-in-fact, a petition to annex, when the property becomes eligible for annexation as determined by City.

7. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the Courts held to be illegal or in conflict with any law of the

State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular part, term, or provision held illegal or invalid.

8. Except as otherwise stated herein, no right or remedy of disconnection of the described property from the City shall accrue from this agreement, other than that provided by § 31-12-119, C.R.S. In the event the Property or any portion thereof is disconnected at Developer's request, this agreement shall be void and of no further force and effect as to any portion of the Property, and any zoning which has been applied to the Property shall revert to the zoning which applied prior to annexation to the City.

9. The Developer has proposed that the City adopt, in accordance with the provisions of the Zoning and Development Code of the City, zoning which results in a density of not more than two units per acre for the Property. The Developer may request such zoning at the discretion of the Developer. If the City Council does not adopt zoning for the Property substantially as provided herein, this agreement may be terminated at the option of the Developer if Developer gives written notice of such termination within 30 calendar days of the Council's adoption of a zoning which is substantially different for the Property and the Council does not, within said thirty day period, adopt or re-adopt zoning substantially as provided herein.

10. Developer shall, contemporaneously herewith, execute a power of attorney for the purpose of annexing the Property to the City which shall terminate upon termination of this Agreement. A copy of the power of attorney is attached hereto and labelled Exhibit "Saccomanno Girls Trust Power of Attorney." At such times as the City deems necessary, Developer agrees to take such other steps and to execute such other documents as may be required by the City in order to accomplish the annexation to the City of the Property. The City may annex all or a portion of the Property in conjunction with other properties so as to maximize the annexation efforts of the City, as determined by the City.

11. This agreement shall bind the signatory parties and their respective heirs, successors and assigns.

12. The Developer's remedies, upon non-performance by the City pursuant to this Agreement, are limited to the following: the developer shall give notice of default to the City Manager specifying the action giving cause to said default. The City shall have 30 days from its receipt of said notice to correct the alleged default. Upon the correction of said default within the 30 days period the agreement shall be restored and all terms and conditions will be in full force and effect.

In the event a default is not timely corrected, the Developer has the right to sue for specific performance, however, in no event shall the City be liable for any damages whether indirect, special or consequential. Each party agrees to pay its own attorney's fees in such event, unless otherwise provided by law.

13. This agreement constitutes the entire agreement of the parties and supersedes any prior discussions, agreements or negotiations.

14. Notice pursuant to this agreement shall be given by certified mail to the address listed above the signature lines or to such other address as a party may hereafter designate by certified mail.



Stephanie Nye

Stephanie Nye
City Clerk

City of Grand Junction
250 North Fifth Street
Grand Junction CO 81501

By: Mark K. Achen

Mark K. Achen
City Manager

Attest:

SACCOMANNO GIRLS TRUST
860 26½ Road
Grand Junction, CO
81506

By: Carol Ann Murphy
Carol Ann Murphy

Lenna Marie Watson
Lenna Marie Watson

Linda Marie Siedow
Linda Marie Siedow