

A JOINT RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS AND THE GRAND JUNCTION CITY COUNCIL REGARDING EXTENSION OF SANITARY SEWER SERVICE TO THE APPLETON ELEMENTARY SCHOOL, THE FELLOWSHIP CHURCH, AND VICINITY

Recitals.

A. The Board of County Commissioners of Mesa County, Colorado (“Board” ) and the Grand Junction City Council (“Council”) have received a request from School District 51 (“School District”) to allow the school district to extend the Persigo sanitary sewer system to the Appleton Elementary School (the “School”).

B. The School District has indicated that it needs to extensively remodel/expand the existing school facilities at the Appleton school but is restricted in doing so because its old septic system will not suffice to serve the newly constructed improvements. While technical alternatives exist, they are expensive and can never protect the public health as well as having the School connected to the Persigo sewer system.

C. In addition, the Board and the Council have received a request from the Grand Junction Fellowship Church (“Church”) to allow the Church to extend the Persigo sanitary sewer system to the Church property (which is located on the northwest corner of 24 Road and Interstate 70).

D. The Church desires to improve its property substantially but to do so must provide adequate sanitary sewer disposal. Technical alternatives exist, which are quite expensive, but can never protect the long-term public health as well as having the Church, and the associated improvements, served by the Persigo sewer system.

E. The Board and the Council are in the process of resolving, through negotiation, questions surrounding the ownership and operation of the Persigo Wastewater Treatment facility, the Persigo sewer system, the management of the sewer service boundaries and other issues. Since the negotiations have not been completed, the Board and the Council have agreed to resolve the School District and Church requests prior to completion of the negotiations and have agreed that the resolution of these requests will not be used by either the Board or the Council in any future resolution of sewer system issues.

F. A portion of the expense of providing sewer service to the School and to the Church is the crossing of Interstate 70. From the crossing of Interstate 70, one line will be ~~to-be~~ constructed generally north to the School and a separate line east to the Church. A map indicating the specific location of the proposed new facilities needed to serve the School and the Church is attached hereto, and incorporated herein by this reference as Exhibit A, “Appleton Service Area.” In addition, estimated costs of construction are also attached and incorporated herein by this reference as Exhibit B.

G. The School District has offered to pay \$150,000 and the Church has offered to pay \$100,000 toward the costs of extending sewer for the benefit of, respectively, the School and the Church. However, according to both the City and County staff estimates, these contributions will not pay all of the costs needed to extend sewer service to the Church or the School, as is evident from Exhibit B.

H. Both the School and the Church are outside the current Persigo sewer service area. The boundary of the Persigo sewer service area defines the area which may be served by the Persigo sewer system, based on the existing capacity of collection system lines and plant capacity. In short, if an area is added to the Persigo sewer service area, another area should be deleted or existing zoning/growth assumptions downgraded, otherwise areas within the Persigo sewer service area, which have been designated for many years as appropriate for urban development, will not be able to develop since no system capacity will be available.

I. The recently-updated study of Sewer Basin 47 by HDR Engineering, Inc. (Sept 2, 1997) and City Utility staff (Oct 31, 1997), which includes the School and the Church, indicates that currently there is capacity in the Persigo Plant for treatment of anticipated sewage volumes from the Appleton Service Area, and the existing sewer lines downstream of the area have sufficient capacity if the gross residential density of the Appleton Service Area does not exceed 0.42 dwelling units per acre.

J. The City and the County are jointly developing a neighborhood land use plan (the North Central Valley Plan) which includes the School vicinity. As part of the public process, many neighbors and property owners have expressed opposition to extending sewer north of Interstate 70 will result in increased development pressures in the north central valley area.

K. The Council and the Board have attempted to balance the needs of the School District and the Church with the concerns of the area residents to avoid urban sprawl. The solution which has been accepted is to limit in time and in area those properties which may be served by the to-be-constructed sewer lines.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MESA AND THE GRAND JUNCTION CITY COUNCIL FIND AS FOLLOWS:

1. The existing Trunk Line Extension Fund is the appropriate funding source to extend a trunk line across Interstate 70.
2. The School and the Church must provide for the construction of line extensions to serve their respective properties (the "School Extension" and the "Church Extension"), as shown on Exhibit A.
3. (a) The Persigo sewer system is capable of serving that portion of Sewer Basin 47 as shown on the attached Exhibit A, ("Appleton Service Area") if the overall residential density of

the Appleton Service Area does not exceed 0.44 dwelling units per acre up to a maximum, on a “first come, first serve” basis, of 174.5 EQUs. The Appleton Service Area is defined as shown on the attached Exhibit A and includes those properties or portions of those properties which lie within such area. (each tax parcel shall be considered separately).

(b). “overall residential density” means: the total EQUs in the Appleton Service Area divided by the total number of acres contained within the boundary of the Appleton Service Area.

(c). If a portion of a parcel lies outside of the service area, that portion which is outside of the service area cannot be used in calculating the density of the development within the service area.

4. In order to avoid answering the question: “Which entity, the Board or the Council, has the right to change or to recommend changes to the boundary of the Persigo sewer?”, the Board and the Council have agreed to act in concert, via this joint resolution. Both parties agree that this joint resolution shall not be offered into evidence in any form in order to prove which entity may have such powers.

5. The issue as to whether or not the Urban Growth Boundary, (as defined and delineated in the Mesa County-wide Land Use Plan and the Grand Junction Growth Plan) should be amended is not the subject of this resolution and will be decided later, in part based on the recommendations of the forthcoming North Central Valley Plan.

6. Extension of sewer service to the Appleton Service Area provides for the health, safety and welfare of the residents of Mesa County and the City of Grand Junction.

7. The Persigo system will, at its expense, extend sewer service, as a trunk line extension (in accordance with existing adopted policies and resolution) to a point just north of Interstate 70, as shown on Exhibit A. The Persigo system will obtain any necessary right-of-way or easements.

8. From the end of the trunk line extension provided by the Persigo system at 23 1/2 Road, north of I-70, the School District will cause to be constructed the School Extension, in accordance with City standards and procedures, to provide sewer service to the School. The City shall approve all plans prior to construction. The School District will be responsible for obtaining any necessary right-of-way or easements and shall, upon completion, offer same to the Persigo System for no consideration.

9. From the end of the trunk line extension provided by the Persigo system at 23 1/2 Road, north of I-70, the Church will cause to be constructed the Church extension, in accordance with City standards and procedures, as the City requires to provide sewer service to the Church. The City shall approve all plans prior to construction. The Church will be responsible for obtaining any necessary right-of-way or easements and shall, upon completion, offer same to the Persigo system for no consideration.

BASED ON THE FOREGOING, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MESA COUNTY, COLORADO AND THE GRAND JUNCTION CITY COUNCIL THAT:

10. The City, using the Trunk Line Extension Fund to finance the costs, shall construct a trunk line north and under Interstate 70 to service the Appleton Service Area, pursuant to and subject to the Trunk Line Extension policies, (City of Grand Junction Resolution No. 47-93, Mesa County Resolution 93-118). The School District and the Church shall, prior to service or connection to the Persigo system, pay a portion of these extension costs as provided by the policies in City Resolution 47-93 and County Resolution 93-118. Future basin users will also pay in accordance with City Resolution 47-93 and County Resolution 93-118.

11. The School District is responsible for the costs of extending a sewer collection line from the point where the Interstate trunk line extension terminates in 23 1/2 Road, as shown in Exhibit A, to the School ("School Extension"). The City Utilities staff shall administer, according to Exhibit C, a reimbursement agreement (which shall provide for interest, City administration costs equal to 10% of each transaction, term of the reimbursement period, *etc.*), for connections to such line after acceptance by the City. The School District will be entitled to be reimbursed by any person benefiting from the School Extension. The School District may record such agreement in order to provide notice to those persons whose lands might benefit. Construction standards, inspections, and specifications shall be as established and approved by the City.

12. The Church is responsible for the costs of extending a sewer collection line to the Church property from the point where the Interstate trunk line extension terminates at 23 1/2 Road, as shown in Exhibit A, to the Church property ("Church Extension"). The City Utilities staff shall administer, according to Exhibit C, a reimbursement agreement (which shall provide for interest, City administration costs equal to 10% of each transaction, term of the reimbursement period, *etc.*), for connections to such line after acceptance by the City. The Church will be entitled to be reimbursed by any person benefiting from the Church extension. The Church may record such agreement in order to provide notice to those persons whose lands might benefit. Construction standards, inspections, and specifications shall be as established and approved by the City.

13. The Appleton Service Area shall not be revised prior to January 1, 2010. Thereafter, the Appleton Service Area may be revised by the joint resolution of the Council and the Board, or as provided for as a result of the on-going negotiations if future reviews of the North Central Valley Plan recommend amendment.

14. The North Central Valley Plan should be reviewed every five years after initial adoption. Revision of the Appleton service area boundary shall not be considered prior to 2010 and only then upon the completion of a review of the North Central Valley Plan and only if the findings of said review so direct. In contemplating a revised Appleton service area boundary, the Board and Council shall apply criteria which include, but are not limited to, the following:

(a). Whether the revised boundary is consistent with the goals, objectives, policies and findings of the most recent Mesa County County-wide Land Use Plan and City of Grand Junction Growth

Plan, particularly those concerning the control of urban sprawl, the appropriate extension of urban services, the preservation of open lands and the conservation of agricultural lands.

(b). Whether the revised boundary is consistent with the goals, objectives, policies and findings of the most recent North Central Valley Plan, particularly with regard to the proposed future land use intensities and densities of the areas to be served.

(c). The potential for in-fill development within the present Urban Growth Boundary and Persigo sewer service area to absorb the proposed growth and development needing service outside the current boundary.

(d). The capacity of the Persigo system (plant and lines) to handle additional sewer areas.

(e). The general health and safety of residents outside the current service area boundary.

(f). The availability of alternatives to address failed septic systems and/or the needs of future land uses located outside the current boundaries other than extending the boundary.

15. The Board and Council agree to, at an appropriate future time as agreed by them, take all actions reasonably required to be taken by each or both of them to allow amendment of the boundaries of the Persigo sewer service area to include the Appleton Service Area.

16. The parties acknowledge that actions and approvals of other entities beyond the control of the Board and Council may be required to complete the process to amend the Persigo sewer service area boundary.

DULY MOVED, SECONDED, AND PASSED, this 23rd day of February, 1998

BOARD OF COUNTY COMMISSIONERS OF MESA COUNTY

By: /s/ James R. Baughman  
Chairman, James R. Baughman

Attest:

/s/ Monika Todd  
Clerk and Recorder

DULY MOVED, SECONDED, AND PASSED, this 18th day of February, 1998

CITY COUNCIL OF GRAND JUNCTION

By: /s/ Janet Terry  
Janet Terry, President

Attest:

/s/ Stephanie Nye  
City Clerk

apple6.doc; 11/19/97

**EXHIBIT C**

**APPLETON ELEMENTARY  
REIMBURSEMENT AGREEMENT**

This agreement is made and entered into this \_\_\_ day of \_\_\_\_, 1999, by and between the City of Grand Junction, a Colorado home rule municipality (“City”), and Mesa County Valley School District #51, hereinafter referred to as Developer.

**RECITALS.**

The City is the manager of the Persigo Wastewater Treatment Facility and in such capacity controls the use of and tapping into the sewer facilities located within the 201 Study Area boundary as reflected by themap on record with the City Utilities Director. Developer represents that he is the owner of property as shown on Exhibit 1, attached hereto and incorporated herein by this reference, and with a street address of \_\_\_\_\_ Road, hereafter referred to as the Property. Developer is required to dispose of its sewage waste through the City-managed sewer system. Developer desires to recoup some of his costs incurred in construction of a sewer line extension, along with appurtenant facilities, such as manholes (“system”) from persons who will in the future receive a benefit from use of the sewer system paid for and installed by the Developer (“future users” are those persons who develop within the area shown on the attached Exhibit 2 which, by this reference, is hereby incorporated herein). The City has sufficient capacity to provide sewage disposal and treatment for the Developer.

The City has determined that it is in the best interests of the system as a whole to install the system which will serve the Developers’ lots in order that future users will also tie into the system constructed by Developer. The City recognizes that future users will receive some benefit from this Developer's construction in as much as future users will not have to construct as long of a line as such user(s) would otherwise have to do in order to receive sewer service. The Developer desires that the City act as a Developer’s collection agent. The City, on the other hand, is only willing to enter into such collection efforts on behalf of the developer so long as” Developer waives and holds the City harmless from, and indemnifies the City with respect to any claims the Developer, his successors or assigns, may have with regard to any failure of the City

collect any such fee, and so long as the City is fairly compensated for such collection efforts as it does make.

Based on the foregoing, the parties have agreed as follows:

1. The above Recitals are intended to form a basis to construe the several provisions hereof in the event that there is an ambiguity or the intent of the parties is otherwise unclear.
2. Developer agrees to construct the system to serve his development and agrees to connect such system with the City's sewage collection and disposal facilities at such location as is required by the City. Such system shall be constructed in accordance with the engineering standards then applicable as required by the city Engineer of the City.
3. After one year following substantial completion of the system, as determined by the City Engineer, the Developer may apply to the City for transfer of ownership (for no consideration) of the system to the City. The City agrees to accept such transfer if the system is then in good operating condition and has been constructed in accordance with the standards set by the City Engineer. Upon such acceptance the City shall thereafter own the system under the name and style of the "City for the benefit of the Persigo 201 sewer system."
4. The Developer shall obtain any required prior approvals in the name of the City at no cost to the City, as deemed necessary by the engineer, for the construction, repair and maintenance of the system.
5. The transfer to, and acceptance by, the city of the system shall only be for those portions of the system which are not service liens and not structures appurtenant to service lines. City agrees to permit the Developer the non-exclusive use of any easements obtained in the name of the City for the purposes of the construction of the Developer's system, but only so long as Developer complies with the reasonable requirements of the City Engineer in such regard.
6. Transfer to and acceptance by the City shall constitute Developer's agreement to hold harmless and indemnify the City, its officers, and employees from any and all claims arising out of this agreement and the construction of the system, except causes of action or claims resulting from the sole misconduct of the City; said agreement includes Developer's promise to indemnify the City, its officers and employees, for all reasonable attorneys' fees incurred



by the City, or the value thereof, including experts, fees and costs, and the Developer shall indemnify and hold harmless the City, its employees and officers from claims by the Developer, any purchaser of the Developer, and any third party, whether or not any such claim or cause of action is frivolous.

7. The Developer agrees that the construction of the system, and the possible acceptance in the future by the City of said system, does not waive or limit the payment by the Developer, or any purchaser of the Developer, of any costs, fees or charges such as plant investment fees, inspection fees, monthly sewer service charges, or any other charges or fees which the City if now, or may be in the future, entitled to charge the Developer or any user or person.
8. If the City accepts the improvements constructed by Developer, the Developer shall be entitled to be reimbursed by those person specially benefited by the system for the reasonable and necessary costs incurred by the Developer for actual construction costs, as approved by the City Engineer, as follows:
  - a. Reimbursable costs are those costs actually paid which may include reasonable engineering fees, but not legal other consulting fees, paid by the developer and actually required to design, construct, and inspect the system, but in no event shall reimbursable costs exceed \$\_\_\_\_\_.
  - b. For a period of ten years following the substantial completion of the system, as evidenced by a writing from the City, or until the Developer is reimbursed for those costs set forth in (a.) above, whichever first occurs, the City agrees that it will not authorize any other person to use the system unless each future user first pays, in addition to all other applicable charges and fees, a sum calculated as follows:

$$\frac{RC}{A} + \frac{(RCxi)}{A} + B$$

where:

RC = actual reimbursable costs incurred by Developer and approved by the City Utility Engineer.

- I= 0.67 per month simple interest (interest rate per month may change as determined by City Finance Director) times the number of complete months (up to a maximum of 120 months) following the date of substantial completion.
- B=  $(RC/A) \times 10\%$  (this represents the amount to be paid to the City for administration of this agreement and will be paid by each future user to the City.)
- x= multiply.
- A= Number of lots/EQU's that could be served by the sewer extension as determined by the City Utility Engineer.

Once the reimbursable costs have been approved by the City Utility Engineer, the fee established by the above formula will be calculated and paid by each future user other than those users within the Developer's lots. Lots/EQU's within the platted boundaries of the Developer's acreage are not subject to the terms of this "Reimbursement Agreement."

9. In the event the Developer does not substantially complete the construction of the system within one year of the execution of this agreement, this agreement shall terminate and shall be of no further force or effect.
10. Developer may sign his rights pursuant to his agreement, but only so long as notice of such assignment, with the address of the assignee, is made by certified mail to the City, in care of the City Utility Engineer. If the City makes any collections pursuant to this agreement, the City shall be obligated only to mail a check to the Developer, or his properly designated assignee, to the last known address of the Developer or assignee; the City has no duty and is not obligated to locate a proper payee. In the event that any claim is made or cause of action is filed by any person alleging that this agreement is unconstitutional, unenforceable, or otherwise contrary to law, or that the interest payable to the Developer hereunder from such future user is excessive or is not enforceable in a court of law, the Developer agrees that he shall be bound by any settlement of such claim or cause of action, whether or not Developer or his assigns is a party hereto, and that he waives and releases the City, its officers and employees, from any claims or causes of action Developer may have due to the failure of the City to abide by or enforce this agreement.

11. To be entitled to be reimbursed, Developer shall present to the City Utility Engineer adequate documentation so that the City Engineer may determine the actual costs of construction. In the event that the City fails to collect the fee from any future user, the Developer has the right to sue such future user and the City agrees to cooperate, without expense to the City, in such collection efforts of the Developer.
12. In the event that the Developer is in default with regard to any other obligation of the Developer as it relates to this agreement and the several rights and duties of the parties reasonable related hereto, the City shall have the right to set off any reimbursements that may be due hereunder to satisfy in whole or in part any such default, in addition to any other remedy which the City may have.
13. In the event that the Developer has received reimbursement directly from any owner or developer of any property which may be subject to the fees in accordance with the terms of this agreement, the Developer shall immediately upon receipt thereof, notify the City Utility Engineer in writing of the amount collected, the name and address of the person from whom collection was made, and the property to which the collection is applicable.
14. This agreement shall bind the signatory parties and their respective heirs, successors and assigns.
15. At the time of acceptance of the system by the City, Developer shall convey to the City in the name provided in paragraph three (3) hereof, at no cost to the City, by general warranty deed, marketable title, subject to no liens or encumbrances, to such rights of way as may be required by the City in order that the City may own, operate and maintain the system and the wastewater transmission and delivery system. Developer shall also supply evidence that established to the satisfaction of the City that such rights-of-way are free from hazardous, toxic and other regulated materials and substances.
16. Upon request from the Developer, which request shall not occur more than once every twelve months, the City shall provide an accounting during the term of this agreement. Said accounting shall contain a listing of each Fee collected during the preceding twelve months, the name and address of the remitter of said Fee, the property address for which the Fee was paid, a current balance of the RC, and total interest credited to the Developer's account. The

City shall pay all fees collected within the preceding twelve months at the time of each accounting, less amounts paid to the City for costs of administration.

17. Upon on-performance by the City pursuant to this Agreement, the Developer shall give notice of default 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 the full force and effect. This is the only remedy enforceable against the City, other than a right of specific performance but without any right to any claim for damages, costs or attorney's fees.

CITY OF GRAND JUNCTION

BY: \_\_\_\_\_  
Utilities Director

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Date: \_\_\_\_\_

DEVELOPER:

BY: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Attest: \_\_\_\_\_

Date: \_\_\_\_\_

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**Project: Appleton Sewer Service Area between H 1/8, I-70 , 23 1/8, and 24Rd**

**Subject: Basin Analysis / Cost Estimates**

Basin Area 285 Acres  
 HDR Proposed Overall Basin 47.3 Density 0.5 units/acre  
 Maximum Basin EQUs per HDR Study 142.5

Proposed Basin Density 0.42 units/acre

	Hookup Time Frame	EQUs
Appleton Elementary / EQUs	Immediate	18 based on 450 students
Fellowship of Excitement Church / EQUs	Immediate	16 based on 1600 seats
Existing parcels / EQU	Short Term	32 Lots adjacent to sewer lines to church/school
Existing parcels / EQU	Long Term	38 Lots requiring further extension of sewer lines
Proposed development	Long Term	40 Developable EQUs
Basin demand		144.0

**Basin Overcapacity 1 EQUs**

<b>Trunk Extension Cost Estimate</b>		\$ (250,000)	Cost per Basin EQU	\$ (1,754.39)
Immediate Revenue	\$ 51,000			
Short Term Revenue	\$ 53,178			
Long Term Revenue	\$ 64,250			
Development Revenue	\$ 100,000			
<b>Total Trunk Extension Revenue</b>		\$ 268,428		
<b>Net to Trunk Extension Fund</b>		\$ 18,428		

<b>School Cost Estimate</b>	\$ 226,500	EQUs served by line	38
Reimbursement agreement for 20 lots	\$ (119,211)	Add'l parcels benefited	20
Trunk Extension Fee (\$1500 per EQU)	\$ 27,000	Cost per benefited EQU	\$ 5,960.53
Plant Investment fee (\$750 per EQU)	\$ 13,500		
<b>Net to School</b>	\$ 147,789		
<b>Total upfront outlay / District 51</b>	\$ 267,000		

<b>Church Cost Estimate</b>	\$ 106,500	EQUs served by line	18
Reimbursement agreement for 2 lots	\$ (11,833)	Add'l parcels benefited	2
Trunk Extension Fee (\$1500 per EQU)	\$ 24,000	Cost per benefited EQU	\$ 5,917
Plant Investment fee (\$750 per EQU)	\$ 12,000		
<b>Net to Church</b>	\$ 130,667		
<b>Total upfront outlay / Church</b>	\$ 142,500		

**Project: Appleton Sewer Service Area between H 1/8, I-70 , 23 1/8, and 24 1/4 Rd**

**Subject: Basin Analysis / Cost Estimates**

Basin Area	349 Acres
HDR Proposed Overall Basin 47.3 Density	0.5 units/acre
Maximum Basin EQUs per HDR Study	174.5

Proposed Basin Density 0.44 units/acre

	Hookup Time Frame	EQUs
Appleton Elementary / EQUs	Immediate	18 based on 450 students
Fellowship of Excitement Church / EQUs	Immediate	16 based on 1600 seats
Existing parcels / EQU	Short Term	31 Lots adjacent to sewer lines to church/school
Existing parcels / EQU	Long Term	53 Lots requiring further extension of sewer lines
Proposed development	Long Term	56 Developable EQUs
Basin demand		174.1

**Basin Extra Capacity 0 EQUs**

Trunk Extension Cost Estimate		\$	250,000	Cost per Basin EQU	\$ 1,432.66
Immediate Revenue	\$	51,000			
Short Term Revenue	\$	51,711			
Long Term Revenue	\$	89,250			
Development Revenue	\$	140,000			
<b>Total Trunk Extension Revenue</b>	<b>\$</b>	<b>331,961</b>			
<b>Net to Trunk Extension Fund</b>	<b>\$</b>	<b>581,961</b>			

<b>School Cost Estimate</b>	\$	226,500	EQUs served by line	38
Reimbursement agreement for 20 lots	\$	(119,211)	Add'l parcels benefited	20
Trunk Extension Fee (\$1500 per EQU)	\$	27,000	Cost per benefited EQU	\$ 5,960.53
Plant Investment fee (\$750 per EQU)	\$	13,500		
<b>Net to School</b>	<b>\$</b>	<b>147,789</b>		
<b>Total upfront outlay / District 51</b>	<b>\$</b>	<b>267,000</b>		

<b>Church Cost Estimate</b>	\$	106,500	EQUs served by line	18
Reimbursement agreement for 2 lots	\$	(11,833)	Add'l parcels benefited	2
Trunk Extension Fee (\$1500 per EQU)	\$	24,000	Cost per benefited EQU	\$ 5,917
Plant Investment fee (\$750 per EQU)	\$	12,000		
<b>Net to Church</b>	<b>\$</b>	<b>130,667</b>		
<b>Total upfront outlay / Church</b>	<b>\$</b>	<b>142,500</b>		