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When Recorded Return to:
Craig L. White
South Valley Sewer District
P.O. Box 629
Riverton, UT 84065

12217054
02/04/2016 11:45 AM \$0.00
Book - 10400 Pg - 7097-7103
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
SOUTH VALLEY SEWER DIST
1253 WEST JORDAN BASIN LN
RIVERTON UT 84065
BY: CRA, DEPUTY - WI 7 P.

Affects Parcel No.: 27-20-302-013

OWNER: SJ Marketplace LLC

Project: Oquirrh Mountain Marketplace Shops "D" Denny's

AMENDMENT TO COMMERCIAL SEWER CONNECTION AGREEMENT

THIS AMENDMENT TO COMMERCIAL SEWER CONNECTION AGREEMENT is made and entered as of the 15th day of JANUARY, 20 16 and between **SJ MARKETPLACE LLC** whose address is 5670 Wilshire Blvd. #1250, Los Angeles, California 90036 hereinafter referred to as the "Owner," and the **SOUTH VALLEY SEWER DISTRICT**, a political subdivision of the State of Utah, whose address is 1253 West Jordan Basin Lane, Bluffdale, Utah 84065, hereinafter referred to as the "District."

WITNESSETH:

WHEREAS, the Owner and the District have previously entered into a Sewer Connection Agreement, dated the 18 day of September, 2015 hereinafter called the Agreement, recorded as Entry Number 12142275 at Book 10366 Pages 1218-1225 in the office of Salt Lake County Recorder; for a development known as Oquirrh Mountain Marketplace Shops D, located at 11511 South 4000 West, South Jordan, UT hereinafter, "the Development"); and

WHEREAS, the Owner has installed a sewer line or sewer lines, laterals, manholes and related structures and facilities (hereinafter, "Sewer Improvements"), as a part of the Development, which Sewer Improvements are connected to the District's sewer system in order to provide for collection, transmission, treatment, and disposal of sewage for the Development; and

WHEREAS, with respect to the Development, the Owner has previously paid impact fees to the District based on a 4,282 square feet of fast food space; and

WHEREAS, the Owner has recently leased space (4,282 sf) to a restaurant tenant. As a result of the additional water use by the new tenant, and under the District's rules and regulations, the District is required to assess and collect an additional impact fee from the Developer; and

WHEREAS, the parties hereto desire to reduce their respective understandings and agreement to writing.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Owner's Representations and Agreement.** Owner hereby represents and agrees that:

a. Owner is the owner of the real property for which this Agreement is made;

b. Owner understands that Owner's new Tenant will be served by the Sewer Improvements and that the additional impact fees calculated and charged by the District will be based on a 4,282 square feet at the restaurant rate, with a credit for 4,282 square feet at the fast food rate. Should the Development usages change in the future, Owner will pay the required additional impact fees, at the rate established by the District's Board of Trustees with respect to Owner's facilities.

2. **Pretreatment Requirements**

a. In the event the new use is subject to the District's Pretreatment Requirements, the Owner will ensure that the kitchen facilities located in the Denny's space will be designed, installed and/or connected to a separate interceptor pipe, interceptor and sampling manhole, hereinafter collectively referred to as the "Interceptor." The Interceptor shall be sized and designed to meet the pretreatment requirements of the District and comply with any required Discharge Permit(s) of the District. Owner further agrees to maintain or cause to be maintained and repair such interceptor line at Owner's sole expense. Owner hereby agrees to indemnify and hold harmless the District, its officers, employees, engineers, agents and representatives from any liability, expense, claims or damages of any nature which may arise from the operation and/or maintenance of the Interceptor.

3. **Binding Effect.** This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, agents, officers, employees, members, successors and assigns. The covenants contained herein shall be deemed to run with Owner's land which is located in Salt Lake County, Utah and is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof. The parties hereto agree that a copy of this Agreement may be recorded in the office of the Salt Lake County Recorder, State of Utah.

4. **Default.** In the event either party hereto defaults on any of the covenants and agreements contained herein, the defaulting party shall pay all costs and expenses, including a reasonable attorney's fee, incurred by the other party in enforcing its rights hereunder whether incurred through litigation or otherwise.

5. **Counterparts.** The fact that the parties hereto execute multiple but identical counterparts of this Agreement shall not affect the validity or efficacy of their execution, and such counter parts, taken together, shall constitute one and the same instrument, and each such counterpart shall be deemed an original.

6. **Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the remaining portions of the Agreement which shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

7. **Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving party.

8. **Time of Essence.** The parties agree that time is of the essence in the performance of all duties herein.

9. **Captions.** The captions preceding the paragraphs of this Agreement are for convenience only and shall not affect the interpretation of any provision herein.

10. **Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah. [MFB Edit Note → with out of state developers, we might want to insert a forum selection clause here]

11. **Entire Agreement.** The Agreement and this Amendment thereto contains the entire agreement of the parties with respect to the subject matter hereof, and no prior or contemporaneous promises, representations, warranties or understandings between the parties regarding the subject matter hereof which are not contained herein shall be of any force or effect.

12. **Amendments.** Any additional amendment(s) to this Agreement shall be made in writing and signed by the parties hereto.

[remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first above written.

“DISTRICT”

SOUTH VALLEY SEWER DISTRICT

By:

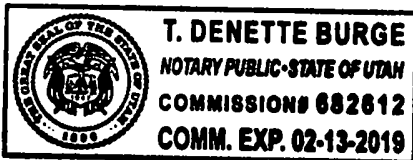

Craig L. White, General Manager

DISTRICT ACKNOWLEDGMENT

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)


On the 18th day of January, 2016 personally appeared before me **Craig L. White**, who being by me duly sworn, did say that he is the General Manager of **SOUTH VALLEY SEWER DISTRICT**, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the District by authority of its Board of Trustees and acknowledged to me that the District executed the same.


Notary Public



“OWNER”

SJ MARKETPLACE LLC

By: 

Its: MANAGING MEMBER
Title

OWNER ACKNOWLEDGMENT

STATE OF UTAH)

:ss

COUNTY OF SALT LAKE)

On the _____ day of _____, 20____, personally appeared before me _____ who being by me duly sworn did say that (s)he is the _____ of SJ Marketplace LLC a limited liability company, and that the within and foregoing instrument was duly authorized by the limited liability company at a lawful meeting held by authority of its operating agreement; and duly acknowledged to me that said limited liability company executed the same.

Notary Public

My Commission Expires: _____

Residing in: _____

*See attached
CA certificate*

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On January 15, 2016 before me, Lori Guttenberg, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Steven Usdan
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he she they executed the same in his her their authorized capacity(ies), and that by his her their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Lori Guttenberg
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY BEING SERVED

LOT 6, OQUIRRH MOUNTAIN MARKETPLACE