



ENT 169363:2020 PG 1 of 7  
JEFFERY SMITH  
UTAH COUNTY RECORDER  
2020 Oct 28 8:53 am FEE 40.00 BY NA  
RECORDED FOR PROVO CITY CORPORATION

**Improvement Agreement  
For  
Wastewater Services at The Mix  
  
(2300 N University Parkway)**

THIS IMPROVEMENT AGREEMENT (“Agreement”) is made and entered into as of the 5<sup>TH</sup> day of DECEMBER 2019 (the “Effective Date”), by and between the CITY OF PROVO, a Utah municipal corporation, hereinafter referred to as the “City,” and PLUM TREE PROPERTY, LLC, a Delaware limited liability company, hereinafter referred to as “Developer.” City and Developer are hereinafter collectively referred to as “Parties.”

**RECITALS**

WHEREAS, the City and Developer have signed a Development Agreement for Developer’s mixed use development to be known as “*The Mix*” (the “Project”), which Development Agreement is attached hereto and incorporated herein as EXHIBIT A, which document anticipated this side agreement with respect to certain costs of sewer facility improvements, a portion of which are to be borne by Developer and some by the City; and

WHEREAS, both the City and Developer have negotiated in good faith to provide a mutually agreeable document that provides a reasonable expectation as to specified costs, timeframes and responsibilities.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree that:

1. The City shall line sections of the sewer main on 450 West from approximately 1850 North to 1975 North.
2. Developer shall submit to City a \$350,000 cash bond, after which the City shall replace the segments of the sewer main in Exchange Park from 980 North to 1100 North. The completion bond is intended to protect the City if the City does the work described in this paragraph and the Developer does not sufficiently complete the Project. The bond will be released in full once the foundations and footings are completed for at least 40,000 square feet of combined residential and retail development in the Project. If the Developer does not meet the requirements for the release of this bond within 48 months of the City’s receipt of this bond , this bond shall be forfeit to the City.
3. The foregoing projects shall be completed by the City within 18 months from the receipt of the bond described in Paragraph 2 in order to allow for enough time for the first phase of development at the Project to begin, and for Developer to submit application for its onsite improvements at the Project.
4. The City shall design, bid, and construct approximately 2,300 linear feet of 18” sewer main to replace the 15” main line on 600 West between 500 North and 980 North (the

“Sewer Line Improvement Project”). Developer shall pay to City all costs associated with design, bidding assistance, construction, and construction management of the Sewer Line Improvement Project, up to a maximum of \$1,000,000. Developer shall pay \$250,000 to the City up front to cover initial costs, including design work and construction management. After the City has incurred \$250,000 in costs, Developer shall make payments as the City submits invoices for such costs to the Developer. City shall pay for any costs of the Sewer Line Improvement Project in excess of \$1,000,000 and as provided in paragraph 5.

5. Should the City desire to upsize the sewer line in the Sewer Line Improvement Project beyond the 18” size, the City will pay the incremental cost for such additional upsizing at the City’s sole cost. The City represents and warrants to Developer that upon completion of the Sewer Line Improvement Project, sufficient sewer capacity shall be available to the Project based on the Developer’s proposed development approval (and the demand/capacities required thereby).
6. The City agrees to timely commence construction of the Sewer Line Improvement Project within six (6) months of bid selection and Developer’s submission to the City of a contract bond to guarantee payment of the costs described in Paragraph 4; and shall diligently prosecute the same to completion so as to not delay issuance of certificates of occupancy for any portion of the Project. Delays in the Sewer Line Improvement Project beyond 18 months from the \$250,000 payment described in Paragraph 4 shall not delay issuance of certificates of occupancy.
7. After the Developer has paid the entire amount due for the Sewer Line Improvement Project under paragraph 4, the City shall credit such payments against the Developer’s sewer impact fees for residential units as described in this paragraph. For up to 250 residential units for which Developer submits building permit plans, Developer shall pay all associated permit fees except the sewer impact fee (\$2,370.64 per unit as of the Effective Date), for which Developer will receive a credit based on Developer’s contribution to the Sewer Line Improvement Project, which is a part of the Impact Fee Facilities Plan. The City’s obligation to give Developer a credit for residential sewer impact fees shall end when the City has applied such credit to 250 residential units, or 60 months from the time the first residential certificate of occupancy is issued, whichever is sooner. All sewer impact fees not covered by the credit described in this paragraph shall be paid by the Developer.
8. In calculating impact fees for the commercial and hospitality components, the City shall calculate new demand based on the sewer demand (determined by fixture counts) that existed when the shopping center was fully occupied, in accordance with Provo City Code 10.03.220. Such previous sewer demand is set forth in SCHEDULE 1 attached hereto and incorporated herein by this reference.
9. The City will work with Developer collaboratively, in good faith, to secure CDA tax increment funding, which, if available, may further offset Developer’s costs for the Sewer Line Improvement Project and other associated infrastructure project costs. It is

anticipated that Provo City and the Developer will ask the taxing entities to approve tax increment funding up to \$1,500,000.00 or for a term of 5 years, whichever occurs first. The five years shall commence as determined in the establishment of the CDA by the taxing entities. This process, however, shall not delay the City's completion of the items set forth above in Paragraphs 1, 2, and 4.

10. If the taxing entities other than the City fail to approve CDA tax increment financing as described in Paragraph 9, then Provo City Administration and Staff will work in good faith with the Developer to seek approval from the Provo Municipal Council for CDA tax increment financing solely from the City. This request will be limited to asking the City to approve tax increment funding up to the amount the Developer paid to the City for the Sewer Line Improvement Project or for a term of 5 years, whichever occurs first. The five years shall commence as determined in the establishment of the CDA.
11. Any tax increment funding received from a CDA related to this Agreement, regardless of which taxing entities are involved, shall be split 75/25 between the Developer and the City, respectively, until such time as the City has been reimbursed for any amounts paid by the City rather than the Developer for the Sewer Line Improvement Project. Once the City has been reimbursed, any additional funding received from the CDA shall be paid to the Developer to offset Developer's costs for the Sewer Line Improvement Project and other associated infrastructure project costs as described in Paragraph 9.

*[Signatures on following page]*

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 hereinabove written.

CITY:

CITY OF PROVO

ATTEST:

By: [Signature]  
Deputy City Recorder

By: [Signature]  
Mayor Michelle Kaufusi



DEVELOPER:

PLUM TREE PROPERTY, LLC,  
a Delaware limited liability company

By: [Signature]  
Name: Greg Geiger  
Title: Authorized Signer

By: [Signature]  
Name: **PETER ARONSON**  
Title: **AUTHORIZED SIGNER**

[Attached appropriate notary pages based on location of signatory]

### ACKNOWLEDGMENT

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.

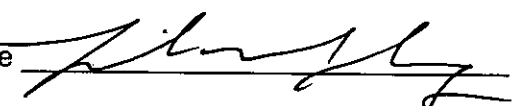
State of California  
County of Los Angeles )

On December 5, 2019 before me, Trisha Murphy, Notary Public  
(insert name and title of the officer)

personally appeared Wm Greg Geiger and Peter Aronson  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are 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.

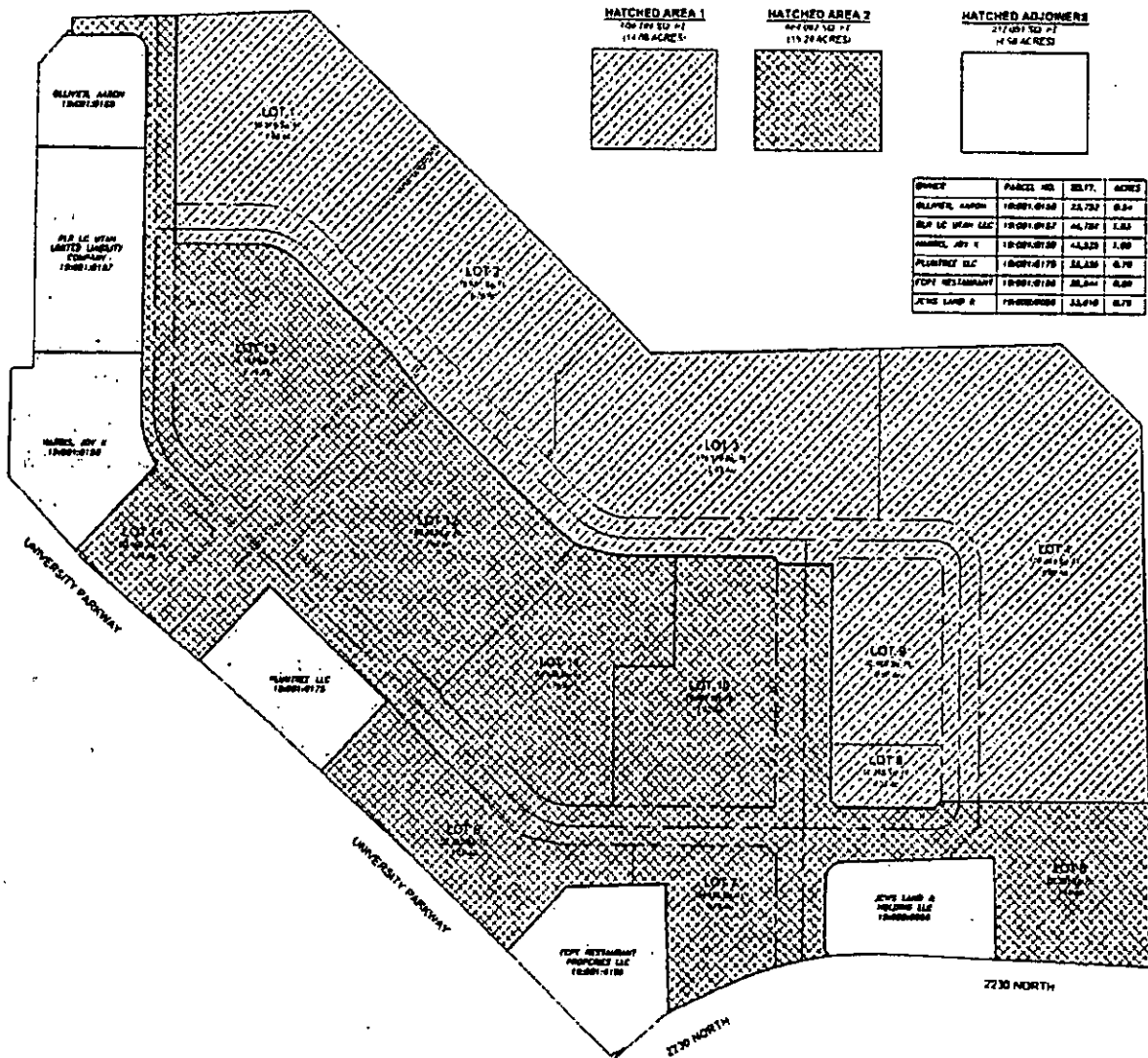
WITNESS my hand and official seal.

Signature  (Seal)



**Exhibit A**

**Zoning Map of the Property**



**DESCRIBED AS:**

- LOT 1, THE MIX AT RIVERS EDGE SUB AREA 1.985 AC.
- LOT 2, THE MIX AT RIVERS EDGE SUB AREA 1.759 AC.
- LOT 3, THE MIX AT RIVERS EDGE SUB AREA 2.533 AC.
- LOT 4, THE MIX AT RIVERS EDGE SUB AREA 4.057 AC.
- LOT 8, THE MIX AT RIVERS EDGE SUB AREA 0.329 AC.
- LOT 9, THE MIX AT RIVERS EDGE SUB AREA 0.972 AC.

# SCHEDULE 1

## Provo the Mix

			building	toilets	sinks	water heater	other sinks	mop sink	grease trap	washer dryer	drink ftn.	water heater	water meter
1	388 w 2230 n	Old Taco Time	2,171	2	2	1	4	1	1			1	1 inch
2	2244 N.	Old Kyoto	5,410	6	4	1	9	1	1				2 inch
3	2342 N.	Old Big - O Tires	5,908	3	3			1	1			11	3/4 in.
4	2424 N.	Old Movies 8	24,149	12	12	1	4	1	1		1	2	1-1/2
5	2338 N.	Old Fiesta Palace	8,480	6	6	1	4	1	1			1	1-1/2
6	2266 N.	Old Shopko	94,693	15	11	1	5	2	2		2	1	1-1/2
7	2250 N.	Old Suite # 58		1	1								
8	2250 N.	Old Seagull Books		1	1								2 inch
9	2250 N.	Old # 54 - Sybergate	shops	2	2	1	3	1	1				
10	2250 N.	Old Suite # 52	#22-#58	1	1	1							
11	2250 N.	Old Suite # 50	42,136	1	1	1							
12	2250 N.	Old Suite # 48 - Post Mart		1	1						1		
13	2250 N.	Old Suite # 47 - Professio Nails		1	1	1	6	1	1	1			
14	2250 N.	Old Suite # 46		1	1								
15 & 16	2250 N.	Old Suite # 44 & # 42 - Armed Forces		1	1								
17	2250 N.	Old Suite # 40 - Jenny Craig		1	1								
18 & 19	2250 N.	Old Suite # 38 & Suite # 34		1	1	1		1					1-1/2
20	2250 N.	Old Suite # 32 - BFP - Verizon		1	1								
21 & 22	2250 N.	Old Suite # 30 & Suite # 28		2	2								
23	2250 N.	Old Suite # 26 Kids Kid		1	1								
24 & 25	2250 N.	Old Suite # 24 & Suite # 22		4	2	2	6	1	1			2	
26	2250 N.	Old LoLo's Food Warehouse	60,500	8	6	2	12	4	3		2		2 inch
27 & 28	2250 N.	Old Suite # 18 & Suite # 16		2	2								
29	2250 N.	Old Suite # 15 - Spoon it Up	shops	2	2	1	4	1	1				
30	2250 N.	Old Suite #14 - Fantastic Sams #18-A5		1	1	1	4			1		1	2 inch
31	2250 N.	Old Suite # 12	19,530	1	1								
32	2250 N.	Old Suite # 10		2	2	1	6	1					
33	2250 N.	Café Rio - Suite A5		4	2	1	6	1	1				1-1/2
			<b>262,977</b>										