

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

12217059
02/04/2016 11:46 AM \$0.00
Book - 10400 Pg - 7132-7138
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.: 27-36-151-034
OWNER: BG Vista Station LLC
Gardner Bingham Junction Holdings LC
Project: Vista 4 - Cafeteria Addition

AMENDMENT TO COMMERCIAL SEWER CONNECTION AGREEMENT

THIS AMENDMENT TO COMMERCIAL SEWER CONNECTION AGREEMENT is made and entered as of the 28 day of JANUARY, 20 16 and between **BG VISTA STATION LLC & GARDNER BINGHAM JUNCTION HOLDINGS LC** whose address is 90 South 400 West, Salt Lake City UT 84101 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 3 day of August, 2015 hereinafter called the Agreement, recorded as Entry Number 12106980 at Book 10350 Pages 2498-2504 in the office of Salt Lake County Recorder; for a development known as Vista Station Phase 4, located at 12936 South Frontrunner Blvd. Draper, 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 4,500 square feet of office; and

WHEREAS, the Owner has recently changed the uses of their space (4,500 sf) to a fast food (cafeteria space) 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 4,500 square feet at the fast food rate, with a credit for 4,500 square feet at the office 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 cafeteria 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

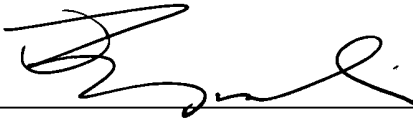
11. **Entire Agreement.** The Agreement and this Amendment thereto contains the entire agreement of the parties with respect to the subject matter hereof, and no prior or contemporaneous promises, representations, warranties or understandings between the parties regarding the subject matter hereof which 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]

"OWNER"

BG VISTA STATION LLC

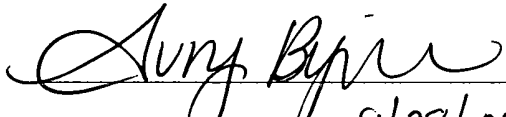
By: 

Its: MANAGER
Title

OWNER ACKNOWLEDGMENT

STATE OF UTAH)
)
:SS
COUNTY OF SALT LAKE)

On the 28 day of January, 2016, personally appeared before me Brian Gochnour who being by me duly sworn did say that (s)he is the manager of BG Vista Station 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.



My Commission Expires: 8/28/2017

Residing in: Salt Lake County

Notary Public

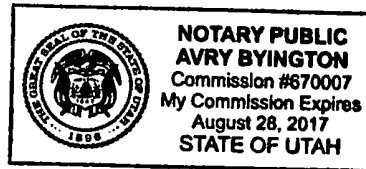


EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY BEING SERVED
LOT 225, VISTA STATION OFFICE PARK SUB.