

SECURITY TITLE & ABST.CO.
ACCOMMODATION RECORDING ONLY

RECORDED AT THE REQUEST OF,
AND AFTER RECORDING RETURN TO:

JARDINE, LINEBAUGH, BROWN & DUNN
A Professional Corporation
370 East South Temple, Suite 400
Salt Lake City, Utah 84111-1290

ENT 6923 BK 2670 PG 791
NINA B REID UTAH CO RECORDER BY MB
1990 MAR 7 8:51 AM FEE 17.00
RECORDED FOR SECURITY TITLE AND ABSTRACT

File No. 10517.33

Easement

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, BRIGHAM YOUNG UNIVERSITY, a Utah corporation ("Grantor"), hereby grants to NEW PLUM TREE, a Utah general partnership whose address is 56 Exchange Place, Salt Lake City, Utah 84111 ("Grantee"), the following non-exclusive easements (the "Easements"):

A. Water Line Easement. A non-exclusive easement (the "Water Line Easement") over, under and across the following parcel of real property:

A parcel of real property (the "Water Line Easement Area") that is located in Utah County, Utah and that is described as the "Water Line" on exhibit A that is attached hereto and that is incorporated herein by reference;

for the purposes of replacing, removing, using, maintaining and obtaining ingress to and egress from culinary, irrigation and other water lines and related facilities.

B. Storm Drain Line Easement. A non-exclusive easement (the "Storm Drain Line Easement") over, under and across the following parcel of real property:

A parcel of real property (the "Storm Drain Line Easement Area") that is located in Utah County, Utah and that is described as the "Storm Drain Line" on exhibit A that is attached hereto and that is incorporated herein by reference;

for the purposes of replacing, removing, using, maintaining and obtaining ingress to and egress from storm sewer drainage lines and related facilities.

C. Inlet Easement. A non-exclusive easement (the "Inlet Easement") over, under and across the following parcel of real property:

A parcel of real property (the "Inlet Easement Area") that is located in Utah County, Utah and that is described as the "Irrigation Line Inlet Structure" on exhibit A that is attached hereto and that is incorporated herein by reference;

for the purposes of (a) replacing, removing, using, maintaining and obtaining ingress to and egress from irrigation water lines, other water lines, inlet structures and related facilities; and (b) replacing, removing, using, relocating and maintaining fences (the "Fence" or the "Fences") around all or a portion of the perimeter of the Inlet Easement Area so as to enclose the Inlet Easement Area and to permit ready ingress to and egress from the Inlet Easement Area from the adjacent "Project" (as hereafter defined); subject, however, to the provisions of paragraph 3 of this "Easement" (the "Easement Agreement") with respect to the Fences.

This Easement is subject to the following provisions:

1. BYU Easement Areas. The Water Line Easement Area, the Storm Drain Line Easement Area and the Inlet Easement Area shall be referred to herein collectively as the "BYU Easement Areas."

2. Project as Benefited Parcel. The Easements are appurtenant to and shall benefit the following parcel of real property (the "Project"):

That certain real property that is located in Utah County, Utah; that is described more particularly on exhibit B that is attached hereto and that is incorporated herein by reference; and that is commonly known as the Plum Tree Shopping Center;

and may not be transferred, assigned or encumbered except as an appurtenance thereto. The Project shall constitute the dominant estate and that BYU Easement Areas shall constitute the servient estate.

3. Fences on Inlet Easement Area. The right of Grantee, its successors and assigns to maintain Fences on the Inlet Easement Area shall be subject to the following limitations:

3.1. Type of Fence. Any Fence that is replaced or relocated shall be of the same height, quality and design as the existing Fence on the Inlet Easement Area, unless Grantor (or its successor-in-interest who owns fee title to the Inlet Easement Area) gives its prior written consent to a variance therefrom.

3.2. Relocation of Fences. No replacement Fence shall be constructed at a place on the Inlet Easement Area different than the place on which the existing Fence is located without

the prior written consent of Grantor (or its successor-in-interest who owns fee title to the Inlet Easement Area), which consent shall not be withheld unreasonably.

3.3. Removal of Fence. The existing Fence on the Inlet Easement Area shall not be removed without the prior written consent of Grantor (or its successor-in-interest who owns fee title to the Inlet Easement Area), which consent shall not be withheld unreasonably.

4. Access to Water Line Easement Area and Storm Drain Line Easement Area. Prior to exercising the right granted to Grantee hereunder to gain access to the Water Line Easement Area and the Storm Drain Line Easement Area, Grantee shall give Grantor notice at least one business day in advance.

5. Notices to Grantor. During periods in which Brigham Young University owns the BYU Easement Areas, any notices given, or requests made, with respect to this Easement Agreement shall be given to the office of the University Civil Engineer (or such other office that is indicated by Brigham Young University from time to time). As of the date of this Easement Agreement, the place for notification is as follows:

Brigham Young University
Office of Civil Engineer
240 Brewster Building
Provo, Utah 84602
Attention: Paul Reese
(Telephone Number: 801 378-5552)

6. Character of Easements. The Easements (a) shall create equitable servitudes upon the BYU Easement Areas in favor of the Project; (b) shall constitute covenants running with the land; (c) shall bind every person having any fee, leasehold or other interest in any portion of the BYU Easement Areas at any time or from time to time; and (d) shall inure to the benefit of and shall be binding upon the parties hereto, their respective successors and assigns and the customers, invitees, guests and licensees of such parties and their respective tenants and sub-tenants.

7. Restoration of BYU Easement Areas. In exercising any of its rights with respect to the Easements, Grantee (or its successor-in-interest that owns fee title to any portion of the Project that is benefited by the Easements), at its expense, (a) shall restore the surface of any portions of the BYU Easement Areas that are damaged by such exercise to the condition in which such areas existed prior to such exercise and (b) shall indemnify and hold harmless Grantor (and its successor-in-interest that owns fee title to the portion of the BYU Easement Areas that is affected by such exercise) from any damages, claims, liabilities, costs and expenses (including, without limitation, a reasonable attorney's

fee and mechanics' liens) arising out of Grantee's failure so to restore the BYU Easement Areas.

DATED this 23 day of February 1990.

BRIGHAM YOUNG UNIVERSITY,
a Utah corporation

By: *Dee F. Andersen* *for.*
DEE F. ANDERSEN
Administrative Vice President

STATE OF UTAH)
):SS
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 23 day of February 1990 by DEE F. ANDERSEN, as the Administrative Vice President of BRIGHAM YOUNG UNIVERSITY, a Utah corporation.

My Commission Expires:

7-4-90

Karink Jordan
Notary Public
Residing in: *Provo, Utah*

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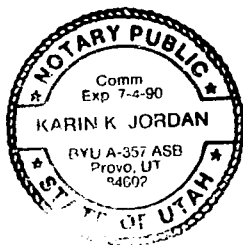


EXHIBIT A TO
EASEMENT

JHR Development Inc.

ENT 6923 BK 2670 PG 795

P. O. BOX 27492 SALT LAKE CITY, UTAH 84127

As-Built utility easements onto BYU property for Plum Tree Commercial Site, Provo, Utah

Water Line

Description of a 10.0 foot easement 5.0 feet either side of the following described centerline.

Beginning at a point on the Easterly boundary of the Plum Tree shopping Center said point also being North 1159.30 feet and East 546.55 feet from the South quarter corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian, (Based on the Utah Coordinate System, Central Zone, bearings of Section lines) and running thence East 28.4 feet more or less to the centerline of an existing 12" diameter waterline.

Storm Drain Line

Description of a 15.0 foot easement for a storm drain line being 7.5 feet either side of the following described centerline.

Beginning at a point on the Easterly boundary of the Plum Tree shopping Center, said point being North 1213.90 feet and East 545.21 feet from the South quarter corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (Based on the Utah Coordinate System, Central Zone, bearings of Section lines) and running thence South 72°19'38" East, 121.75 feet; thence South 6°34'08" East, 67.00 feet to the West bank of the Provo River.

Irrigation Line Inlet Structure (For maintenance purposes)

Beginning at a point on the North Eastern boundary of the Plum Tree Shopping Center, said point being North 1925.33 feet and East 419.46 feet from the South Quarter corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (Based on the Utah Coordinate System, Central Zone, bearings of Section lines) and running thence North 26°14'06" East, 23.04 feet along an existing fence; thence South 77°25'06" East, 14.55 feet along an existing fence, thence South 3°14'25" East, 43.01 feet along an existing fence to the afore mentioned North Eastern boundary; thence along said boundary North 46°30'04" West, 36.97 feet to the point of beginning.

EXHIBIT "B"
TO EASEMENT
[Legal Description]

Real property situate in the County of Utah, State of Utah and more particularly described as follows:

PARCEL 1

BEGINNING on the North right-of-way line of 2200 North Street at a point which is North 1052.12 feet and East 548.93 feet from the South Quarter corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based on the Utah Coordinate System, Central Zone, bearings of Section lines) and running thence North 87°17'24" West 385.43 feet along said right-of-way to a point of tangency with a 517.47 foot radius curve to the left; thence Westerly along the arc of said curve and right-of-way line 436.517 feet thru a central angle of 48°19'57" to the Easterly right-of-way line of University Parkway and a point on a 11539.16 foot radius curve to the left (radius point bears South 44°49'53" West); thence Northwesterly along the arc of said curve and said right-of-way line 846.67 feet thru a central angle of 4°12'14.4"; thence continuing along said right of way along the arc of a spiral curve 200.70 feet (chord bears North 49°51'55" West 200.70 feet); thence North 42°26'40" West 21.14 feet along said right-of-way; thence leaving said right-of-way North 43°26' East 170.31 feet to a point on a 121.5 foot radius curve to the right (radius point bears North 53°57'22" East); thence Northerly along the arc of said curve 77.65 feet thru a central angle of 36°37'04"; thence North 0°34'22" East 501.70 feet to the point of tangency with a 25.00 foot radius curve to the left (radius point bears North 89°25'38" West); thence Northwesterly along the arc of said curve 40.19 feet thru a central angle of 92°06'45"; thence South 88°27'37" West 94.28 feet; thence North 43°13'18" East 8.79 feet; thence North 87°58'07" East 5.63 feet; thence North 1°32'23" West 18.71 feet; thence North 88°27'37" East 344.65 feet; thence South 46°34' East 687.70 feet; thence North 88°26' East 596.92 feet; thence South 46°30'04" East 164.34 feet; thence South 1°26'08" East 654.02 feet; thence South 1°16'14" East 114.52 feet to the point of beginning.

PARCEL 2

Beginning at a point which is North 1549.98 feet and West 271.20 feet from the South quarter corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based on the Utah Coordinate System, Central Zone, bearings of Section lines) and running thence North 43°26' East 92.95 feet; thence South 46°34' East 5.00 feet; thence South 43°26' West 92.95 feet; thence North 46°34' West 5.00 feet to the point of beginning.

EXCEPTING FROM SAID PARCEL 1 THE FOLLOWING DESCRIBED PARCELS:

EXCEPTION PARCEL NO. 1

BEGINNING at a point on the North right-of-way line of University Parkway, said point being on the arc of a 11539.16 foot radius curve (Radius point bears South 42°31'04" West), said point also being North 1237.125 feet and West 567.40 feet from the South Quarter corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based on the Utah Co-ordinate System Central Zone, bearings of Section lines), and running thence North 43°26' East 148.82 feet; thence South 46°34' East 240.00 feet; thence South 43°26' West 23.18 feet; thence North 88°26' East 28.28 feet; thence North 43°26' East 378.14 feet; thence North 46°34' West 260.00 feet; thence South 43°26' West 92.95 feet; thence North 46°34' West 80.00 feet; thence North 43°26' East 435.88 feet; thence South 88°26' West 156.33 feet; thence North 46°34' West 294.79 feet; thence South 43°26' West 238.33 feet; thence South 46°34' East 56.00 feet; thence South 43°26' West 328.96 feet; thence South 46°34' East 44.33 feet; thence South 43°26' West 201.50 feet to a point on 200.70 foot long spiral curve, said point also being on the Northerly Right-of-way line of University Parkway; thence Southeasterly along the arc of said spiral curve 4.53 feet to a point on a 11539.16 foot radius curve to the right, (Radius point bears South 40°37'39" West); thence Southeasterly along the arc of said curve and said Right-of-way Line 380.70 feet through a central angle of 1°53'25" (L.C.

bears South 48°25'39" East) to the point of beginning.

EXCEPTION PARCEL NO. 2:

Beginning at a point on the North right-of-way line of 2230 North Street at a point which is North 1062.99 feet and East 319.24 feet from the South quarter corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based on the Utah Coordinate System, Central Zone, bearings of Section lines); and running thence along said right-of-way line of North 87°17'24" West 155.485 feet to the point of tangency with a 517.47 foot radius curve to the left; thence Westerly along the arc of said curve and right-of-way line 87.64 feet through a central angle of 9°42'17" to a point on a 25.00 foot radius curve to the right; thence leaving said right-of-way Northerly along the arc of said curve 19.05 feet through a central angle of 43°39'32"; thence North 0°53'57" East 90.59 feet to the point of tangency with a 25.00 foot radius curve to the right; thence Easterly along the arc of said curve 38.19 feet through a central angle of 87°32'03"; thence North 88°26' East 219.89 feet; thence South 1°34' East 142.70 feet to the point of beginning.

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