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Draper City
1020 East Pioneer Road
Draper, Utah 84020

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03/13/2012 01:36 PM \$0.00
Book - 9999 Pg - 534-538
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
CITY OF DRAPER
1020 E PIONEER RD
DRAPER UT 84020
BY: ZJM, DEPUTY - MA 5 P.

For Recording Purposes Do
Not Write Above This Line

**FIRST AMENDMENT TO GALENA PARK BOULEVARD UNDERPASS FUNDING
AGREEMENT**

This First Amendment to Galena Park Boulevard Underpass Funding Agreement (this "Amendment") is made effective as of the 19th day of July, 2011, by and among Draper City, a Utah municipal corporation ("City"), and Draper Holdings, LLC, a Utah limited liability company ("Draper Holdings").

RECITALS

A. The parties previously entered into that certain Galena Park Boulevard Underpass Funding Agreement (the "Funding Agreement") dated as of October 31, 2010. Defined terms not otherwise specifically defined herein shall have the meaning ascribed to them in the Funding Agreement.

B. The Funding Agreement anticipated the completion of the Underpass and related road segments leading to and from the Underpass by October 31, 2011. Due to property acquisition issues for the road segments on the east side of the Underpass, the road segments will take longer to construct than what was anticipated in the Funding Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Draper Holdings hereby agree as follows:

1. Repayment of Other Available Funds. Section 4.B of the Funding Agreement is amended and restated in its entirety as follows.

4.B Master Developer agrees that the Other Available Funds shall be treated as an interim advance or loan to Master Developer (the "Advance") and shall be fully repaid by August 31, 2012. Master Developer agrees that Master Developer's obligation to repay the Advance shall be secured with a first position deed of trust on that certain real

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- CO RECORDER -

owned by Master Developer or its affiliate described in Exhibit B attached hereto, together with interest thereon on the amount actually advanced from the time such funds are deposited into the Construction Escrow Account. Interest shall be paid at the same rate actually paid by the City, up to a maximum rate of five percent (5%) per annum.

2. Miscellaneous. This Amendment contains the entire understanding of the Parties hereto and supersedes all prior oral or written understandings relating to the subject matter set forth herein. This Amendment may be executed in counterparts each of which shall be deemed an original. In all respects, other than as specifically set forth in this Amendment, the Funding Agreement shall remain unaffected by this Amendment and shall continue in full force and effect, subject to the terms and conditions thereof, and in the event of any conflict, inconsistency, or incongruity between the provisions of this Amendment and any provisions of the Funding Agreement, the provisions of this Amendment shall in all respects govern and control.

3. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

[Signatures appear on the next four pages.]

IN WITNESS WHEREOF, the Parties have entered into this Amendment on the date first set forth above.

CITY:



DRAPER CITY, a municipal corporation organized and existing under the laws of the State of Utah

By: *Darrell H. Smith*
Darrell H. Smith, Mayor

ATTEST:

Tracy B. Nahr
Tracy B. Nahr, City Recorder

CITY ACKNOWLEDGEMENT

STATE OF UTAH)
 : ss.
County of Salt Lake)

On this 19 day of July, 2011, before the undersigned notary public in and for the said state, personally appeared Darrell H. Smith, known or identified to me to be the Mayor of Draper City and the person who executed the foregoing instrument on behalf of said City and acknowledged to me that said City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



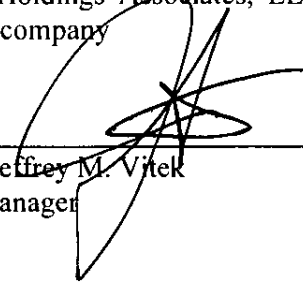
Angelia J. Olsen
Notary Public for Utah
Residing at: Draper City, Ut
My Commission Expires: 12-30-2011

DRAPER HOLDINGS:

DRAPER HOLDINGS, LLC, a Utah limited liability company, by its Manager

Draper Holdings Associates, LLC, a Utah limited liability company

By: _____
 Name: Jeffrey M. Vitek
 Title: Manager



DRAPER HOLDINGS ACKNOWLEDGEMENT

STATE OF _____)
 COUNTY OF _____)

SS *See Attached Inv*

On this _____ day of _____, 2011, before the undersigned notary public in and for the said state, personally appeared Jeffrey M. Vitek, known or identified to me to be the Manager of Draper Holdings Associates, LLC, the Manager of Draper Holdings, LLC, and the person who executed the foregoing instrument and acknowledged to me that said company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

 Notary Public for Utah
 Residing at: _____
 My Commission Expires: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego }

On Jan 25, 2012 before me, Rachel Miller Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Jeffrey M. Vitek
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) 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: Rachel Miller
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: 1st Amendment to Galena Park Underpass Funding Agmt.

Document Date: _____ Number of Pages: 4

Signer(s) Other Than Named Above: Darrell H. Smith

Capacity(ies) Claimed by Signer(s)

Signer's Name: Jeffrey M. Vitek Signer's Name: Darrell H. Smith

Corporate Officer — Title(s): _____ Corporate Officer — Title(s): _____

Individual **RIGHT THUMBPRINT OF SIGNER** Individual **RIGHT THUMBPRINT OF SIGNER**
Top of thumb here Top of thumb here

Partner — Limited General Partner — Limited General

Attorney in Fact Attorney in Fact

Trustee Trustee

Guardian or Conservator Guardian or Conservator

Other: manager Other: mayor

Signer Is Representing: _____ Signer Is Representing: _____

Draper Holding Assoc. Draper City