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Book - 10114 Pg - 8542-8547
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
CITY OF DRAPER
1020 E PIONEER RD
DRAPER UT 84020

WHEN RECORDED, PLEASE MAIL TO:
Draper City Recorder
1020 East Pioneer Road
Draper, UT 84020

BY: KSR
BY: KSR, DEPUTY - MT 6 P. 6 P.
Affects Tax ID No. 28-32-327-013
Project Parcel No. 18

**RIGHT OF WAY CONTRACT AND
TERMINATION OF DEFERRAL AGREEMENT**

5
THIS AGREEMENT is made by and between RACHEL B. KIMBALL, whose address is 1116 East 13200 South; Draper, UT 84020 (hereinafter referred to as "Grantor"), and DRAPER CITY, a Utah municipal corporation (hereinafter referred to as the "City"), whose address is 1020 East Pioneer Road, Draper, Utah 84020.

RECITALS:

WHEREAS, Grantor is the successor in interest of a certain Agreement dated June 5, 1974 which was recorded as Book 3603 Page 373 in the Salt Lake County Recorder's Office, hereinafter referred to as the "Deferral Agreement"; and

WHEREAS, such agreement pertained to the deferral of installation of, or payment for, certain off-site improvements on a portion of land including 967 East 13200 South, hereinafter referred to as the "Property"; and

WHEREAS, the property is located within the limits of the 13200 South Street Widening Project which was recently initiated by the City; and

WHEREAS, the City is willing to relieve Grantor's obligation to install certain off-site improvements as identified in the Deferral Agreement in trade for Grantor's dedication of the required property and temporary construction easements identified in Exhibit "A" with all existing improvements contained within said property and temporary construction easements;

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

1. **Recitals.** The recitals are hereby incorporated as if fully set forth here within.
2. **Termination.** The Deferral Agreement is hereby terminated and declared to be null and void and of no further effect.
3. **Fee Title Owner.** Grantor hereby represents and warrants that as of the date of Recording of this Agreement, Grantor owns fee title interest to the Property.
4. **Property and/or Temporary Construction Easement Dedication.** Grantor hereby agrees to dedicate and convey herewith, at no cost to the City, a parcel(s) of land known

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as Project Parcel No. 18 and 18:E identified in Exhibit “A”. Property will be transferred free of all liens and encumbrances except recorded easements by using the attached Warranty Deed (Exhibit B) and Temporary Construction Easement (Exhibit C).

5. **New Frontage Improvements.** City will furnish and install, at no cost to the Grantor, the following new frontage improvements: sidewalk, curb and gutter, flared concrete drive approach(es), driveway transition, asphalt tie-in, park strip landscaping and sprinklers.

6. **Existing Improvements.** Grantor agrees to allow City to remove and dispose of all existing landscaping and improvements within Project Parcel No. 18 and 18:E including, but not limited to, paving, fences, pilasters, mailboxes, footings, foundations, trees, boulders, landscaping, and sprinklers. Grantor specifically releases the City from any and all responsibility to compensate for, or maintain, existing landscaping and improvements within the Temporary Construction Easement, and understands and agrees that these items located therein will be the sole property of the Grantor. Grantor shall be liable and responsible for any future reconstruction, maintenance, or adjustment within the Temporary Construction Easement area.

7. **Transition Slopes.** Where transition slopes from sidewalks and driveway tie-ins are constructed in lieu of retaining walls, the City will leave the transition slopes in a ready-to-landscape condition, free of construction debris, upon completion of construction. Landscape restoration within transition slopes shall be the responsibility of the Grantor.

8. **Access and Perimeter Security During Construction.** It is understood that the proposed construction, within the areas being conveyed, will be done in such a manner as to maintain the Grantor’s existing vehicular access and perimeter security. If installation of temporary fencing is necessary, the City will, at no cost to Grantor, install and remove temporary fencing upon completion of construction. Removal of the temporary fencing will be preceded with a minimum 30-day written notice to Grantor to allow Grantor sufficient time to re-construct their permanent fencing as necessary to secure their perimeter. Grantor specifically releases the City from any and all liability for their perimeter security and fence reconstruction providing the above required 30-day written notice has been given to the Grantor.

9. **Notices.** Any notices, requests, or demands required or desired to be given hereunder shall be in writing and shall be mailed to, or served personally upon, the intended party.

10. **Default.** The parties herein each agree that should they default in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including reasonable attorneys’ fees, which may arise or accrue from enforcing this Agreement or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah, whether such remedy is pursued by filing suit or otherwise, and whether such costs and expenses are incurred with or without suit or before or after judgment.

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

12. **Successors.** This Agreement shall be binding upon and inure to the benefit of the legal representatives, subsequent owners, successors and assigns of the parties hereto.

13. **Exhibits.** Any exhibit(s) to this Agreement are incorporated herein by this reference, and failure to attach any such exhibit shall not affect the validity of this Agreement or of such exhibit. An unattached exhibit is available from the records of the parties.

14. **Recording.** This Agreement shall be recorded with the County Recorder's office for all parcels or lots within the Property as notice of the required Improvements and notice of the requirement to pay for the same.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective, duly authorized representatives as of the 25 day of February, 2013

“GRANTOR”

Rachel B. Kimball
By:

Rachel B. Kimball
By:



ATTEST:

“CITY”

DRAPER CITY

Lucy Nou
City Recorder

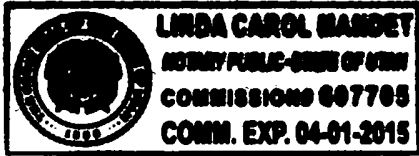
Darrell H. Smith
By: Darrell H. Smith, Mayor

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CITY ACKNOWLEDGMENT

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

On the 25th day of February, 2013, personally appeared before me Darrell H. Smith, who being duly sworn, did say that he is the Mayor of **Draper City**, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said Darrell H. Smith acknowledged to me that the City executed the same.

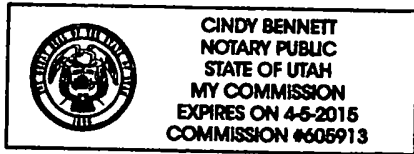


Linda Carol Mandet
Notary Public

GRANTOR ACKNOWLEDGMENT

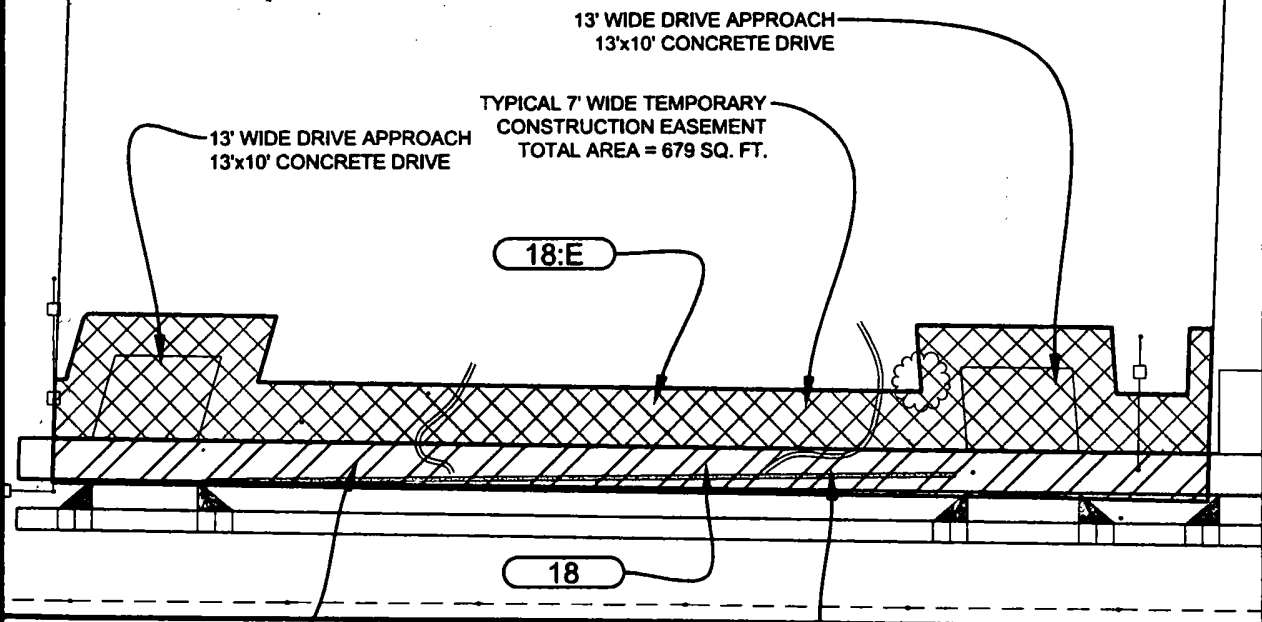
STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On the 25 day of February, 2013, personally appeared before me Rachel B. Kimball who being duly sworn, did say that they are the signers of the foregoing instrument, who duly acknowledged to me that they executed the same.



Cindy Bennett
Notary Public

PROPERTY OWNER:
KIMBALL, RACHEL B.
 PROPERTY ADDRESS:
967 E. 13200 So.
 TAX ID #:
28-32-327-013



769 SF
0.018 ACRES

13200 SO.

AREA TO BE ACQUIRED FOR
RIGHT-OF-WAY WIDENING

EXHIBIT A

Parcel No.
18
18:E



HORIZONTAL SCALE: NA		CONSULTANT INFORMATION: DRAPER CITY ENGINEERING DIVISION 801-576-6536		PROJECT NAME: KIMBALL, RACHEL B. 967 E. 13200 So.	
VERTICAL SCALE: NA		 DRAPER CITY 1020 EAST PIONEER ROAD DRAPER, UTAH 84020		TITLE OF DRAWING: PROPERTY DESCRIPTION	
DESIGNER/CAO Gary Young	REVIEWED				
APPROVAL Todd Hammond	PROJECT NO				

Legal Description Tax ID 28-32-327-013

COM 1158.84 FT S & 317.63 FT W FR CEN SEC 32, T 3S, R 1E, SL

MER., N 89°09'50" W 120 FT; N 1°29'15" E 363.02 FT; S