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ENT 77944:2012 PG 1 of 6
JEFFERY SMITH
UTAH COUNTY RECORDER
2012 Sep 12 11:42 am FEE 0.00 BY CLS
RECORDED FOR UTAH DEPARTMENT OF T

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IN THE FOURTH DISTRICT COURT IN AND FOR
UTAH COUNTY, STATE OF UTAH

UTAH DEPARTMENT OF
TRANSPORTATION,

Plaintiff,

vs.

UNIVERSITY MALL SHOPPING CENTER,
L.C.; TITLE WEST TITLE COMPANY as
Trustee; and SUN LIFE ASSURANCE
COMPANY OF CANADA as Beneficiary,

Defendants.

**ORDER OF IMMEDIATE
OCCUPANCY**

Project No. F-0265(18)3
Parcel No. 5NO:E
Affecting Tax ID No. 57-043-0008
Lot 8, Plat "A"

Civil No. 120300118

Judge Donald J. Eyre

Plaintiff Utah Department of Transportation's Motion for Order of Occupancy having
been submitted for decision, and the Court having reviewed the Memorandum in Support thereof
and the pleadings and papers filed herein, and for good cause appearing,

IT IS HEREBY ORDERED:

1. Plaintiff, Utah Department of Transportation ("UDOT"), is a public agency having the power of eminent domain and is entitled to condemn the property easement that is the subject of this lawsuit.

2. The public use for which the power of eminent domain is being exercised in this matter is for state transportation purposes authorized under Utah Code Ann. §§ 72-5-103(1) and 78B-6-501.

3. That Plaintiff Utah Department of Transportation is granted the right to occupy the following premises, *pendente lite*, and to do whatever work thereon required in furtherance of the project described in Plaintiff's Complaint in Eminent Domain:

Tax Id No. 57:043:0008

Parcel No. 0265: 5NO:E

A temporary easement, upon part of an entire tract of property in Lot 8, University Mall Subdivision Plat "A", according to the official plat thereof, recorded as Entry No. 19427:2001 Map #8962, in the office of the Utah County Recorder, situate in the NE1/4NE1/4 of Section 26, T.6 S., R.2 E., S.L.B.& M., in Utah County, Utah, for the purpose of constructing thereon roadway improvements, driveways, side treatments and appurtenant parts thereof and blending slopes to facilitate the widening of an expressway, State Route 265 (University Parkway, Orem), known as Project F-0265(18)3.

Non-exclusive use. The easement acquired herein does not convey any right except as stated herein, nor does it prevent Defendant(s) from the use of the real property within the easement so long as such use does not interfere with the purposes for which the easement is being acquired. This easement does not convey the right to use the easement in a manner that would deny any right the Defendant may possess of reasonable access to property outside of the easement.

Duration of easement. The easement shall begin at the time actual construction of said project is commenced at the location of the easement, and shall continue for a period of the three years or until the earlier completion of the project. The easement shall run with the real property and shall be binding on Defendant(s), their successors, heirs and assigns.

Restoration of property. UDOT will restore the real property as nearly as reasonably possible to its condition prior to any material disturbance from construction activities, consistent with project improvements.

Beginning in the northerly right of way and limited-access line of said State Route 265, at the southwest corner of said Lot 8 (Note: said point is 80.00 feet radially distant northerly from the control line of State Route 265 of said project at approximate Engineer Station 132+30.97); and running thence N. 0°48'32" W. 149.45 feet along the westerly boundary line of said Lot 8; thence N. 89°11'28" E. 30.00 feet; thence S. 0°48'32" E. 156.18 feet to said northerly right of way and limited-access line; thence westerly 30.74 feet along the arc of a spiral which is concentric with and 80.00 feet radially distant northerly from a 400.00 foot ten-chord spiral for a 3°00' curve to the right (Note: Tangent to said spiral at its point of beginning bears N. 78°30'39" W., Chord bears N. 78°10'14" W. 30.74 feet) along said northerly right of way and limited-access line to the point of beginning. The above described part of an entire tract contains 4,585 square feet or 0.105 acre.

(Note: Rotate above bearings 00°15'08" counterclockwise to equal highway bearings.)

4. Pursuant to Utah Code Ann. § 78B-6-510(2), the Court has taken proof by affidavit, or otherwise, of the following:

- (a) that UDOT's appraisal of value of the property easement sought to be condemned is a total of \$21,625.00;
- (b) that UDOT's appraisal of value concludes that there will be no severance damage to the remaining tract; and
- (c) that UDOT requires immediate occupancy of said easement to avoid the waste of public resources associated with project interruptions and delay.

5. Under this Order, UDOT shall deposit the sum of \$21,625.00 with the Clerk of the Court for the purposes set forth in Utah Code Ann. § 78B-6-510.

DATED this 25TH day of July, 2012.

BY THE COURT:

 |S|
DONALD J. EYRE
District Court Judge

I CERTIFY THAT THIS IS A TRUE COPY OF
AN ORIGINAL DOCUMENT ON FILE IN THE
FOURTH JUDICIAL DISTRICT COURT, UTAH
COUNTY, STATE OF UTAH

DATE:



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**ORDER OF IMMEDIATE
OCCUPANCY**

Project No. F-0265(18)3
Parcel No. 5NO:E

Dated: July 25, 2012
01:43:51 PM

/s/ Donald J. Eyre
District Court Judge

