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FILED

AUG 22 2012

4TH DISTRICT  
STATE OF UTAH  
UTAH COUNTY

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*Attorney for Plaintiff*



ENT 79438:2012 PG 1 of 8  
JEFFERY SMITH  
UTAH COUNTY RECORDER  
2012 Sep 17 4:32 pm FEE 0.00 BY SS  
RECORDED FOR UTAH DEPARTMENT OF TRANSPOR

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

<p>UTAH DEPARTMENT OF TRANSPORTATION,  Plaintiff,</p> <p>vs.</p> <p>UNIVERSITY MALL SHOPPING CENTER, L.C.; TITLE WEST TITLE COMPANY as Trustee; and SUN LIFE ASSURANCE COMPANY OF CANADA as Beneficiary,  Defendants.</p>	<p><b>FINAL JUDGMENT OF CONDEMNATION (Upon Stipulation)</b></p> <p>Project No. F-0265(18)3 Parcel Nos. 2:E, 4:2E, 4:E Affecting Tax ID No. 57-043-0005 and 57-043-0007</p> <p>Civil No. 120400850</p> <p>Judge Samuel McVey</p>
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The Court, having reviewed the Stipulation and Joint Motion for Final Judgment of  
Condemnation entered into by Plaintiff Utah Department of Transportation ("UDOT") and  
Defendants University Mall Shopping Center, L.C. ("University Mall") and Sun Life Assurance  
Company of Canada ("Sun Life") and being fully advised in the matter, makes the following Order:

**ORDER**

1. The property easements described below is property, along with property rights, owned by Defendants University Mall and Sun Life.

2. The property easements described below is hereby condemned and acquired by UDOT for highway purposes.

3. The purpose of this condemnation of Defendants University Mall's and Sun Life's property is for a necessary public use, authorized by law.

4. The Defendants University Mall and Sun Life are hereby awarded final judgment in the total amount of Seventy-Eight Thousand Fifty Dollars (\$78,050.00), satisfying any and all claims and demands, including condemnation just compensation, damages, applicable interest, attorney fees and costs, which may have been recoverable in this condemnation action.

5. The final judgment amount will be paid as follows:

- (a) The Court will withdraw UDOT's previously court deposited amount of Seventy-Seven Thousand Five Hundred Twenty-Five Dollars (\$77,525.00) and make payment by check in that amount to "University Mall Shopping Center L.C.". The check will be mailed to the following:

Chris Mancini, Attorney at Law  
Woodbury Corporation  
2733 E. Parleys Way, Suite 300  
Salt Lake City, Utah 84109

- (b) UDOT will make payment by check in the amount of Five Hundred Twenty-Five Dollars (\$525.00) to "Sun Life Assurance Company of Canada and Attorney Bryce Panzer". The check will be mailed to the following:

Bryce Panzer  
Blackburn & Stoll, LC  
257 East 200 South, Suite 800  
Salt Lake City, Utah 84111

6. A copy of this Final Judgment of Condemnation shall be filed with the County Recorder of Utah County, State of Utah; thereupon, any rights and interests of Defendants University Mall and Sun Life in the following described property easements, located in Utah County, State of Utah, shall vest in Plaintiff Utah Department of Transportation, 4501 South 2700 West, Salt Lake City, Utah 84119:

Tax Id No. 57:043:0005

**Parcel No. 0265:2:E**

A temporary easement, upon part of an entire tract of property in Lot 5, 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 NW1/4NE1/4 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.

The boundaries of said part of an entire tract are described as follows:

Beginning in the northerly right of way and limited-access line of said State Route 265, which point is 7.77 feet S. 89°20'29" W. (Note: subdivision plat bearing = N. 89°03'00" W.) from the Southeast corner of said Lot 5 (Note: said point is 80.00 feet radially distant northerly from the control line of State Route 265 of said project at Engineer Station 123+99.22); and running thence westerly 40.03 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 left (Note: Tangent to said spiral at it's point of beginning bears S. 89°16'53" W., Chord bears S. 89°02'43" W. 40.03 feet) along said northerly right of way and limited-access line; thence N. 1°26'14" E. 9.00 feet; thence S. 88°33'46" E. 13.00 feet; thence N. 1°26'14" E. 106.00 feet; thence S. 88°33'46" E. 27.00 feet; thence S. 1°26'14" W. 113.33 feet to the point of beginning. The above described part of an entire tract contains 3,188 square feet or 0.073 acre.

Tax Id No. 57-043-0007, 57-043-0005

**Parcel No. 0265:4:E**

A temporary easement, upon part of an entire tract of property in Lot 7, 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.

The boundaries of said part of an entire tract are described as follows:

Beginning in the northerly right of way and limited-access line of said State Route 265, at the Southeast corner of said Lot 7 (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 westerly 30.25 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 it's point-of-beginning bears N. 78°20'36" W., Chord bears N. 78°01'52" W. 30.25 feet) along said northerly right of way and limited-access line; thence N. 0°48'32" W. 142.76 feet; thence N. 89°11'29" E. 29.50 feet to the easterly boundary line of said Lot 7; thence S. 0°48'32" E. 149.45 feet along said easterly boundary line to the point of beginning. The above described part of an entire tract contains 4,310 square feet or 0.099 acre.

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

**Parcel No. 0265:4:2E**

A perpetual easement, upon part of an entire tract of property in Lot 7, 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, situated in the NE1/4NE1/4 of Section 26, T.6 S., R.2 E., S.L.B. & M., in Utah County, Utah, incident to a Highway Improvement Project known as Project No. F-0265(18)3 and for the purpose of constructing and maintaining thereon electrical and/or power facilities, also for the construction, reconstruction, operation, maintenance, repair, replacement, enlargement, and removal of underground electric power distribution and communication lines and all necessary or desirable accessories and

appurtenances thereto, including without limitation: wires, fibers, cables and other conductors and conduits therefore; and pads, transformers, switches, cabinets, and vaults on, across or under the surface of the real property more particularly shown on Exhibit "A", attached hereto and by this reference made a part hereof, and is described as follows:

Beginning at a point in the northerly right of way and limited-access line of State Route 265, University Parkway, Orem, which point is 52.61 feet westerly 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 it's point of beginning bears N. 78°20'36" W., Chord bears N. 78°00'15" W. for a distance of 52.61 feet) along said northerly right of way and limited-access line from the Southeast corner of said Lot 7 (Note: said point is 80.00 feet radially distant northerly from the control line of State Route 265 of said project at Engineer Station 131+78.187); and running thence 15.38 feet westerly 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 it's point of beginning bears N. 78°12'16" W., Chord bears N. 77°57'01" W. for a distance of 15.38 feet); thence N. 24°43'53" E. 61.98 feet; thence N. 0°48'32" W. 68.08 feet; thence S. 89°14'50" W. 26.51 feet; thence N. 0°45'10" W. 15.00 feet; thence N. 89°14'50" E. 41.50 feet; thence S. 0°48'32" E. 86.46 feet; thence S. 24°43'53" W. 62.01 feet to the point of beginning. The above described part of an entire tract contains 2,600 square feet.

(Note: Rotate above bearings 0°15'08" counterclockwise to equal Project F-0265(18)3 highway bearings.)


Together with the right of access to the right of way from Defendants adjacent lands for all activities in conection with the purposes for which this easement has been granted; and together with the present and (without payment therefor) the future right to keep the right of way clear of all landscaping, trees, structures, buildings and other hazards which might endanger or impede said purposes.

Subject to the foregoing limitations, Defendants may use the surface of the right of way for purposes not inconsistent with the easement; provided however, that at no time shall Defendant place or store any flammable materials or light any fires on or within the boundaries of the right of way.

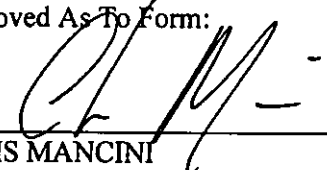
The easement shall run with the land and bind Defendants' heirs, successors and assigns.

Dated this 22 day of Aug, 2012.

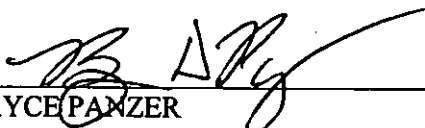
BY THE COURT

  
\_\_\_\_\_  
SAMUEL MCVEY  
District Court Judge

Approved As To Form:

  
\_\_\_\_\_  
CHRIS MANCINI  
*Attorney for Defendant University Mall Shopping Center, L.C.*

Approved As To Form:

  
\_\_\_\_\_  
BRYCE PANZER  
*Attorney for Defendant Sun Life Assurance Company of Canada*

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: 8/22/12 IF IN RED  
  
\_\_\_\_\_  
DEPUTY COURT CLERK

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20 day of August, 2012, a true and correct copy of this

**FINAL JUDGMENT OF CONDEMNATION** was mailed via U.S. Mail, postage pre-paid to the following:

Chris Mancini  
Woodbury Corporation  
2733 E. Parleys Way, Suite 300  
Salt Lake City, Utah 84109  
*Attorney for University Mall Shopping Center, L.C.*

Title West Title Company  
Attn: Thomas H. Roberts, Registered Agent  
857 North 900 West  
Orem, Utah 84057-7701

Bryce Panzer  
BLACKBURN & STOLL, LC  
257 East 200 South, Suite 800  
Salt Lake City, Utah 84111  
*Attorney for Sun Life Assurance Company of Canada*

  
Legal Secretary