2497005

BK 4911 PG 1402



# **Utah Department of Transportation** Right of Entry and Occupancy Agreement

Project No: S-15-8(211)332

Parcel No.(s): 68, 68:E, 68:A

Job/Proj / Auth No: 51018

Pin No: 4184

Project Location: I-15; South Layton Interchange

Tax ID / Sidwell No: 11-061-0083

County of Property: DAVIS Property Address: 150 S. Fort Lane LAYTON UT, 84041

Owner / Grantor (s): Fort Lane Village, L.C.

Owner's Address: 476 W, Heritage Blvd, Suite 200, Layton, UT, 84041

Owner's Home Phone:

Owner's Work Phone:

E 2497005 B 4911 P 1402-1418

RICHARD T. MAUGHAN

DAVIS COUNTY, UTAH RECORDER

12/1/2009 3:32:00 PM

FEE \$0.00 Pgs: 17

DEP eCASH REC'D FOR FOUNDERS TITLE CO - LAYTON

Acquiring Entity: Utah Department of Transportation (UDOT)

For the subject property described in the attached deed (Exhibit A). 11-06[-0083, 0084]

This Right of Entry and Occupancy Agreement ("Agreement") is entered between Fort Lane Village, L.C. ("Property Owners") and State of Utah, Department of Transportation ("UDOT").

Property Owners hereby grant to UDOT and its contractors permission to enter upon, take possession of, and commence construction of its public works facility, a portion of which is to be located on the property described in attached Exhibit A, subject to the terms and conditions contained herein. This Agreement is made in anticipation of a possible condemnation action by UDOT and is intended to provide for the entry and occupancy of the property pending further negotiations or the filing and pursuit of condemnation proceedings and possible alternative informal proceedings as provided for in this Agreement. Property Owners understand that, by executing this Agreement, Property Owners have waived and abandoned all defenses to the acquisition of the property.

It is understood and agreed that the sum of \$ 924,000.00 will be paid to the Property Owners as consideration for entering into this Agreement. This amount paid to the Property Owners shall be deducted from a final settlement, award of arbitration, or other determination of just compensation in an eminent domain action should one be pursued to acquire the property that is determined to be necessary for the project. The amount paid will be for the purposes of this Agreement only, and will not be admissible as evidence in any subsequent process used to establish the value of the property or the amount of compensation that may be due to the Property Owners. In the event property taxes are validly assessed after the date of this Agreement, said property taxes will be the responsibility of the Property Owners.

The parties to this Agreement understand that a title report may indicate that other third parties may have a claim to part of the proceeds being paid by UDOT to the Property Owners under this Agreement. It is understood that Property Owners are obligated to provide good and marketable title to the property when conveyance of any fee interest is made to UDOT. It is not the intent of the Agreement to properly assess potential third-party claims. In the event it is later determined that part of the compensation paid to the Property Owners herein should properly be paid to other third parties, then it shall be the sole obligation of the Property Owners to satisfy such claims and deliver good and marketable title to UDOT. It shall also be the sole obligation of the Property Owners to hold UDOT harmless as to such encumbrances by third parties.

It is understood and agreed that this Agreement is granted without prejudice to the rights of the Property Owners, pending any settlement, to contest the amount of compensation to be paid the Property Owners for the property described in Exhibit A. If a satisfactory settlement cannot be agreed upon, UDOT will, upon notice from the Property Owners that the amount of compensation offered and/or other proposed settlement terms are

#### BK 4911 PG 1403

not acceptable, or at its own election, proceed at once to commence and diligently prosecute a condemnation proceeding in the appropriate court for a judicial determination of such compensation. If requested to do so by the Property Owners, UDOT will, prior to commencing a condemnation proceeding, enter into a mediation or arbitration procedure provided for in Utah Code Annotated Section 78B-6-522 and 13-43-204 through the Office of the Property Rights Ombudsman.

If the Property Owner uses the property for a residence, business, or farming operation and is required to move as a result of UDOT's acquisition of the property, the Property Owners may be entitled to relocation assistance and/or payments as a displaced person. The relocation assistance and payment are available as a matter of right and subject to federal and state law if the Property Owners are displaced by the acquisition of this property and are not conditional upon the Property Owners signing this Right of Entry and Occupancy Agreement.

The effective date of the Right Of Entry and Occupancy Agreement shall be the date this Agreement is executed by the Property Owners, as shown below, and that date shall be the date of value for fair market valuation purposes in the context of settlement negotiations, arbitration, or an eminent domain proceeding, should one be necessary, unless the Property Owners have been previously served with a summons in regard to this property acquisition or the parties have otherwise agreed in writing to a different date for purposes of valuation. It is understood that, according to state law, any additional compensation that is ordered to be paid to the Property Owners for the acquisition of the property will include interest at an annual rate of 8 % on any additional compensation that is determined to be payable to the Property Owners over and above that paid with this Agreement, calculated from the date of this Agreement.

T7 _ L *L *A
Exhibits:
DATED this 9th day of Machiner . 2009
1200 11C 2 1 (11)
touhone Village Like By My Manager
Property Owner Property Owner
STATE OF UTAH
County of Dans
On the 9 day of Nov , JW9 , personally appeared before me
Con do M. O. La at the signaria of the Agreement set fouth above
who duly acknowledged to me that they executed the same.
Jems Total
NOTARY PUBLIC
DATED thisday of, Notary Public pavin   PFTFRSON
10537 North Party Way South Jordan, Utah 84095
Lyle McMilan, UDOT Director of Right of Way
State of Utah
CTATE OF IPPAIL
STATE OF UTAH, County of Salt Leke
On the With day of November, 2009, personally appeared before me
On the 4 day of Null , 2009, personally appeared before me
Lyle D. M. William the signer(s) of this Agreement for UDOT
who duly acknowledged to me that they executed the same.
TERRY BUTCHER MOTARY PUBLIC
NOTARY PUBLIC - STATE OF UTAH
4501 S. 2700 W. SALT LAKE CITY, UT 84114

COMM. EXP. 07/30/2012

Exhibit "A" BK 4911 PG 1404

WHEN RECORDED, MAIL TO: Utah Department of Transportation Right of Way, Fourth Floor Box 148420 Salt Lake City, Utah 84114-8420

## **Warranty Deed**

(Controlled Access)
(Limited Liability Company)
Davis County

Parcel No. 15-8:68:A Project No. S-15-8(211)332 Affecting Tax ID. No. 11-061-0083, 0084

<u>Fort Lane Village, L.C.</u> , a Limited Liability Company of the State of <u>Utah</u> ,
Grantor, hereby CONVEY AND WARRANT to the UTAH DEPARTMENT OF
TRANSPORTATION, at 4501 South 2700 West, Salt Lake City, Utah 84119, Grantee,
for the sum of, Dollars,
and other good and valuable considerations, the following described parcel of
land in Davis County, State of Utah, to-wit:
A parcel of land, in fee, being part of an entire tract incident to the widening of SR-126 and the realignment of the I-15 interchange known as Project S-15-8(211)332, located in the

A parcel of land, in fee, being part of an entire tract incident to the widening of SR-126 and the realignment of the I-15 interchange known as Project S-15-8(211)332, located in the NE½NW½ of Section 28, T4N, R1W, SLB&M, the boundary lines are further described as follows:

Beginning at a point in the southerly line of said entire tract, said point also being in the easterly Right of Way and No-Access line of I-15 that is 238.59 ft perpendicularly distant easterly of Engineer Station 461+71.81 of the control line for I-15 for said project, said point also being 1089.66 ft South, 402.60 ft S. 89°35′00″ E., 347.82 ft S. 0°14′00″ W., 223.00 ft N. 43°20′00″ W., and 483.53 ft N. 87°30′00″ W. more or less from the North Quarter of said Section 28 and running thence along said Right of Way and No-Access Line the following 3 courses: 1) N. 16°15′50″ W. 440.40 ft; 2) Northwesterly 445.55 ft along the arc of a curve to the left having a radius of 1100.00 ft, the chord bears N. 27°52′03″ W. 442.51 ft; 3) N. 39°28′16″ W. 6.25 ft; thence along the westerly line of said entire tract the following 2 courses: 1) S. 12°08′39″ E. 111.18 ft; 2) Southerly 735.07 ft along the arc of a curve to the right having a radius of 2029.86 ft, the chord bears S. 15°55′08″ E. 731.06 ft to a point in the southerly line of said entire tract; thence S. 86°19′24″ E. 110.48 ft along said southerly line to the point of beginning.

Parcel No. 15-8:68:A Project No. S-15-8(211)332

The above described parcel contains 57,496 square feet or 1.320 acres.

To enable the Utah Department of Transportation to construct and maintain a public highway as freeway, as contemplated by Title 72, Chapter 6, Section 117, Utah Code Annotated, 1998, as amended, the Owners of said entire tract of property hereby release and relinquish to said Utah Department of Transportation any and all rights appurtenant to the remaining property of said Owners by reason of the location thereof with reference to said highway, including, without limiting the foregoing, all rights of ingress to or egress from said Owner's remaining property contiguous to the lands hereby conveyed to or from said highway.

				_			ent to be executed by its proper day of,
A.D. 20		-					-
STATE OF				)			Fort Lane Village, L.C.
•			) ss.			Limited Liability Company	
COUNTY OF				)		Ву_	
							Manager
•		<del></del>		, who	o, being by	me d	sonally appeared before me, duly sworn, says that he is the
			•			-	Company, and that the within and
• •			•			•	any by authority of its Articles of
							acknowledged to
me that said o	omp	any e	execut	ed the sam	e.		
WITNE	SS r	ny ha	nd and	l official sta	imp the date	in thi	is certificate first above written:
			No	tary Public	- :		

WHEN RECORDED, MAIL TO: Utah Department of Transportation Right of Way, Fourth Floor Box 148420 Salt Lake City, Utah 84114-8420 AND TO: Questar Regulated Services Company P.O. Box 45360, Right-of-way Salt Lake City, UT 84145-0360

## **Warranty Deed**

(Limited Liability Company)

Davis County

Parcel No. 15-8:68 Project No. S-15-8(211)332 Affecting Tax ID. No. 11-061-0083

FORT LANE VILLAGE, L.C., a Limited Liability Company of the State	of <u>Utah</u> , Grantor,
hereby GRANTS AND CONVEYS to the QUESTAR GAS COMPANY, a	corporation of the
State of Utah, Grantee, for the sum of	, Dollars,
and other good and valuable considerations, the following described parce	el of land in Davis
County, State of Utah, to-wit:	
A parcel of land, in fee, being part of an entire tract incident to the widening the realignment of the I-15 interchange known as Project S-15-8(211)33 NE¼NW¼ of Section 28, T4N, R1W, SLB&M, the boundary lines are furtfollows:	32, located in the

Beginning on the easterly Right of Way and No-Access Line of I-15 at a point 2394.91 feet S. 89°06'21" E. along the section line and 1234.92 feet SOUTH from the Northwest corner of Section 28; running thence S. 16°15'50" E. a distance of 26.91 feet along said easterly Right of Way and No-Access Line of I-15, thence S. 86°19'24" E. a distance of 76.59 feet along said Right of Way and No-Access line, thence N. 16°15'50" W. a distance of 53.04 feet, thence S. 73°44'10" W. a distance of 72.00 feet to the point of beginning as shown on the official plans for said project on file in the office of the Utah Department of Transportation.

Together with and subject to any and all easements, rights-of-way and restrictions appearing of record or enforceable in law and equity

The above described part of an entire tract contains 2878 square feet or 0.066 acre in area.

Parcel No. 15-8:68

Project No. S-15-8(211)332

(All bearings in the above description are Highway Bearings and are based on the Utah State Plane Coordinate System, NAD 83, North Zone).

It is hereby understood that any parties securing this grant on behalf of Grantee are without authority to make any representations, covenants or agreements not herein expressed.

The Grantors agree to defend, indemnify and hold harmless the Utah Department of Transportation ("UDOT"), the State of Utah ("STATE"), and any and all employees, agents, contractors and officials of said "UDOT" and/or said "STATE" against any and all damages, claims, liabilities, losses, penalties, fines or expenses, including attorney's fees and litigation costs; all related to the presence, disposal, release or clean-up of any contaminants, hazardous materials or pollutants, fire or explosions located on, over, under, from or affecting the property described in the within instrument. The indemnity set forth herein shall apply to all conditions existing on or before the date title to said property is transferred by the within instrument.

officers thereunt A.D. 20	o duly								
STATE OF			) ) ss.			FORT LA			
COUNTY OF			)	В	у				
								Man	ager
Or  Manager of FC within and forec Articles of Organ me that said cor	RT LA joing in	ANE V	ent was signe said	being by m , a Limited in behalf	e du ed Lia of sa	ly sworn, ability Con ild compar	says th npany, ny by au	at he is and tha uthority	s the it the of its
WITNESS	my ha	and and	d official stamp	o the date in	this o	certificate f	īrst abo	ve writte	en:
		No	tary Public						

WHEN RECORDED, MAIL TO: Utah Department of Transportation Right of Way, Fourth Floor Box 148420 Salt Lake City, Utah 84114-8420 AND TO: Questar Regulated Services Company P.O. Box 45360, Right-of-way Salt Lake City, UT 84145-0360

## **Perpetual Easement**

Davis County (Limited Liability Company)

ompany) Parcel No. 15-8:68:E Project No. S-15-8(211)332 Affecting Tax ID No. 11-061-0083, 0084

FORT LANE VILLAGE, L.C., Grantor, of Layton, County of Davis, State of Utah, hereby GRANTS AND CONVEYS to the QUESTAR GAS COMPANY, a corporation of the State of Utah, Grantee, its successors and assigns, Grantee, for the sum of Dollars, and other good and valuable considerations, a perpetual easement through and across a part of an entire tract of property, situate in the NE¼NW¼ and the SE¼NW¼ of Section 28, T4N, R1W, SLB&M, to lay, maintain, operate, repair, inspect, protect, remove and replace pipelines, valves, valve boxes and other gas transmission and distribution facilities (hereinafter collectively called "facilities"), and access for operational purposes to adjacent properties called Parcel No. 68 of said project. The boundaries of said part of an entire tract are further described as follows:

Beginning in the intersection of the southerly line of said entire tract, with the easterly Right of Way and No-Access line of I-15, at a point 234.02 ft. radially distant easterly from the control line of I-15 for said project at Engineer Station 461+95.53, said point also being at 2394.91 feet S. 89°06'21" E. along said section line and 1234.92 feet SOUTH from the Northwest corner of said Section 28; running thence N. 73°44'10" E. a distance of 30.00 feet; thence N. 16°15'50" W. a distance of 225.17 feet; thence N. 28°44'10" E. a distance of 18.60 feet; thence N. 16°15'50" W. a distance of 50.00 feet; thence N. 61°15'50" W. a distance of 18.60 feet; thence N. 16°15'50" W. a distance of 112.01 feet; Northwesterly 414.00 feet along the arc of a 1130.00-foot radius curve to the left (Note: Chord bears N. 26°45'35" W. for a distance of 411.69 feet) to the grantors northerly property line; thence S. 47°02'56" W. a distance of 30.15 feet along said northerly property line to said highway Right of Way and No-Access line; thence Southeasterly 400.02 feet along the arc of a 1100.00-foot radius curve to the right (Note: Chord bears S. 26°40'54" E. for a distance of 397.82 feet) following said Right of Way and No-Access line; thence S. 16°15'50" E. a distance of 124.44 feet along said Right of Way and No-Access line; thence S. 61°15'50" E. a distance of 18.60 feet; thence S. 16°15'50" E. a distance of 25.15 feet; thence S. 28°44'10" W. a distance of 18.60 feet; thence S. 16°15'50" E. a distance of 237.60 feet along said Right of Way and No-Access line to the point of beginning as shown on the official plans for said project on file in the office of the Utah Department of Transportation.

Parcel No. S-15-8:68:E Project No. S-15-8(211)332

The above described easement contains 24,942 square feet or 0.573 acre.

(Note: All bearings in the above description are Highway Bearings and are based on the Utah State Plane Coordinate System, NAD 83, North Zone. Rotate the above bearings 0°20'51" clockwise to match Davis County bearings.)

TO HAVE AND TO HOLD the same unto said Questar Gas Company, its successors and assigns, so long as such facilities shall be maintained, with the right of ingress and egress to and from said easement to maintain, operate, repair, inspect, protect, remove and replace the same. Grantee may use such portion of the property along and adjacent to said easement as may be reasonably necessary in connection with construction, maintenance, repair, removal or replacement of the facilities. Grantor(s) shall have the right to use said premises except for the purposes for which said easement is granted to Grantee, provided such use does not interfere with the facilities or any other rights granted to Grantee hereunder.

Grantor(s) shall not build or construct, nor permit to be built or constructed, any building or other improvement over or across said easement, nor change the contour thereof, without written consent of Grantee. This easement shall be binding upon and inure to the benefit of the successors and assigns of Grantor(s) and the successors and assigns of Grantee, and may be assigned in whole or in part by Grantee.

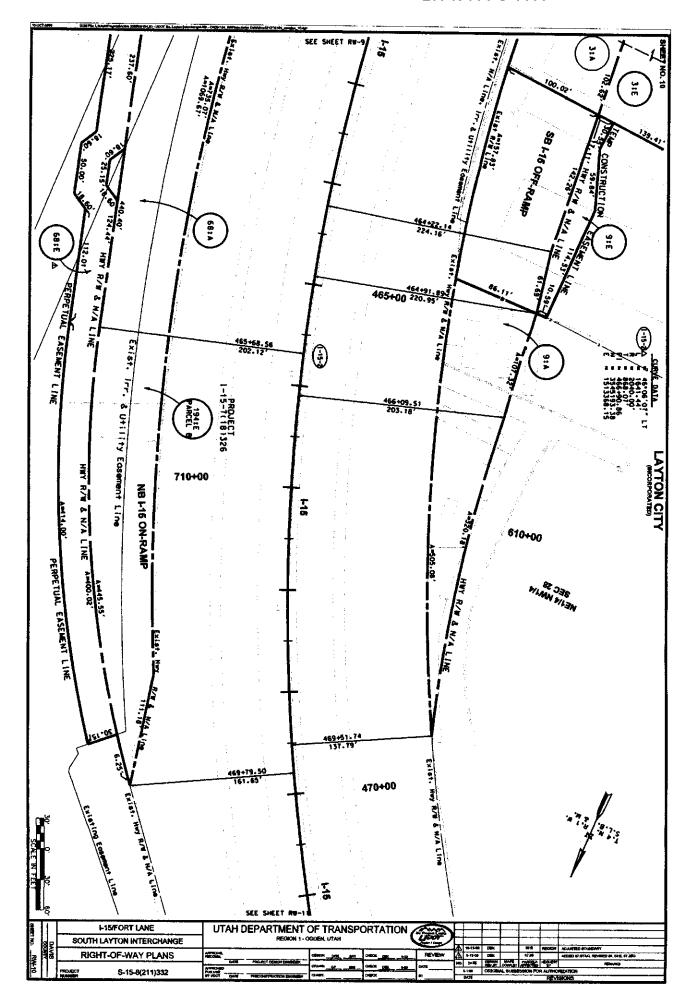
It is hereby understood that any parties securing this grant on behalf of Grantee are without authority to make any representations, covenants or agreements not herein expressed.

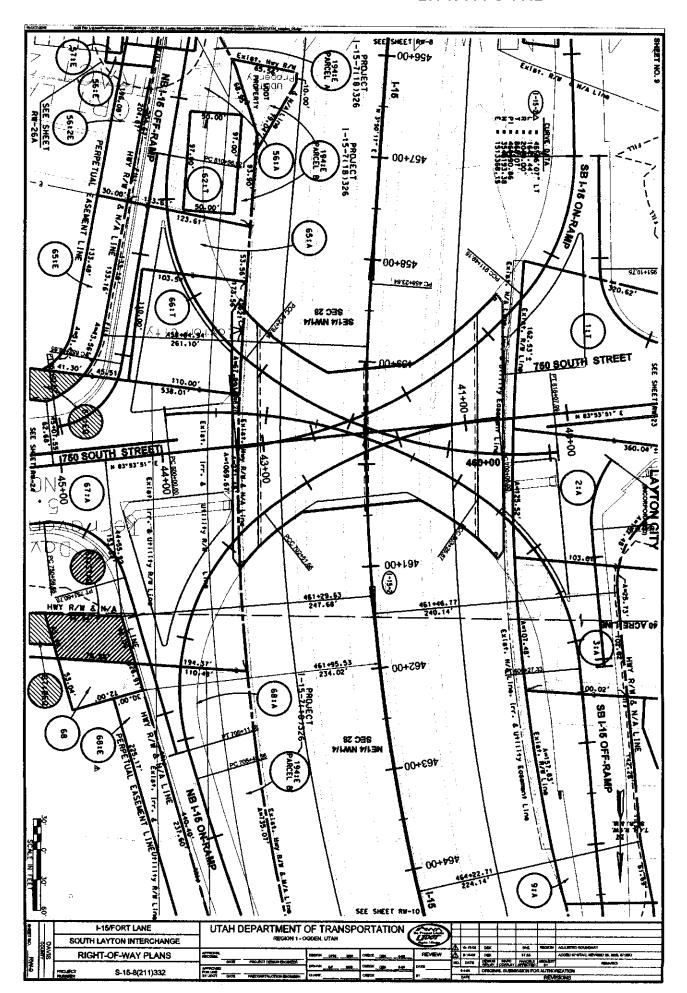
Together with and subject to any and all easements, rights-of-way and restrictions appearing of record or enforceable in law and equity.

The Grantors agree to defend, indemnify and hold harmless the Utah Department of Transportation ("UDOT"), the State of Utah ("STATE"), and any and all employees, agents, contractors and officials of said "UDOT" and/or said "STATE" against any and all damages, claims, liabilities, losses, penalties, fines or expenses, including attorney's fees and litigation costs; all related to the presence, disposal, release or clean-up of any contaminants, hazardous materials or pollutants, fire or explosions located on, over, under, from or affecting the property described in the within instrument. The indemnity set forth herein shall apply to all conditions existing on or before the date title to said property is transferred by the within instrument.

Parcel No. S-15-8:68:E Project No. S-15-8(211)332

IN WITNESS WH	EREOF, said	has caused this
instrument to be execut	ed by its proper officers	s thereunto duly authorized, this day
of, A.D. 2		•
STATE OF	<b>)</b>	FORT LANE VILLAGE, L.C.
01/112 01	) \	Limited Liability Company
COUNTY OF	) ss. )	Ву
	,	Manager
Manager of <u>FORT LA</u> within and foregoing in	, who, bei NE VILLAGE, L.C. strument was signed i , and said	vritten personally appeared before mening by me duly sworn, says that he is the an alimited Liability Company, and that the number behalf of said company by authority of its acknowledged to
WITNESS my ha	nd and official stamp th	e date in this certificate first above written:
	Notary Public	





# MEMORANDUM OF UNDERSTANDING BETWEEN UTAH DEPARTMENT OF TRANSPORTATION AND FORT LANE VILLAGE, L.C.

This Memorandum of Understanding is entered into this 9th day of verified, 2009 between Utah Department of Transportation ("UDOT") and Fort Lane Village ("Fort Lane"), L.C., a Utah limited liability company.

#### **RECITALS**

Whereas, UDOT is constructing the South Layton Interchange, Project No. S-15-8(211)332; and

Whereas, UDOT is acquiring easements on the property located at 150 S. Fort Lane, Layton, Utah 84041 (Parcel No. 15-8:68:E) for the project; and

Whereas, the Parties desire to reach an understanding as to the issues of the power pole placement, access to the ditch for the drainage of the water and the location of the gas line regulator station on Parcel 68:E.

#### **TERMS**

- 1. Rocky Mountain Power Transmission Pole Relocation. Fort Lane and Rocky Mountain Power will agree to the relocation of the pole. The pole will stay within Rocky Mountain Power's utility easement and will not be located on an easement obtained by UDOT.
- 2. Storm Water Drainage. Fort Lane's Parcel will be allowed to release its storm water from a detention basin on their property into UDOT's storm drain system or pipe culvert at a rate of 2.5 cfs. The attached plans (Exhibit A) show the location of the pipe culvert and the location where the discharge of the storm water will occur into UDOT's storm drain system. Fort Lane will be required to obtain a permit from UDOT Region One for the discharge into UDOT's storm drain system.

The Storm Water Drainage inlet connection for Fort Lane will be east of the Questar Gas Regulator Station Property and Questar Easement (see Exhibit B), providing Fort Lane connection ability at Fort Lane property and without crossing or entering onto UDOT or Questar property or easements, or as the Parties may direct and agree to during the course of construction.

UDOT shall install, construct and maintain the Storm Water Drainage system in a workman like manner so as to accommodate the Fort Lane storm water drainage at a maximum rate of 2.5 cfs, in accord with the attached plans and intent of this Agreement.

3. Location of Questar Regulator Station. The regulator station will be located at the southwest corner of Fort Lane's property on Parcel 68, which is being acquired in fee, as shown in Exhibit B.

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4. This Agreement contains the entire agreement between the Parties, with respect to the subject matter and maybe amended only in writing signed by both parties. This Agreement shall be governed by the laws of the State of Utah.

FORT LANE VILLAGE, LLC

By.

UTAH DEPARTMENT OF TRANSPORTATION

By:

Its:

