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GARY W. OTT

RECORDER, SALT LAKE COUNTY, UTAH

UT ST-DEPT OF TRANSPORTATION

BOX 148420 ATT: MONE WARDLE

SLC UT 84114-8420

BY: KSR, DEPUTY - WI 8 P.

FILED DISTRICT COURT  
Third Judicial District

NOV - 7 2011

SALT LAKE COUNTY

By [Signature]  
Deputy Clerk

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*Attorneys for Plaintiff*

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IN THE THIRD DISTRICT COURT IN AND FOR  
SALT LAKE COUNTY, STATE OF UTAH

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UTAH DEPARTMENT OF  
TRANSPORTATION,

Plaintiff,

vs.

LEJ INVESTMENTS, LLC, a Utah limited  
liability company; ROBERT BOWMAN  
CONSULTING, LLC, a Utah limited liability  
company; CRAIG JENSEN, an individual;  
RICHARD JENSEN, an individual; CAROL  
BOWMAN, an individual; ROBERT  
BOWMAN, an individual,

Defendants.

AMENDED ORDER OF  
OCCUPANCY

Project No. MP-0182(6)  
Parcel Nos. 177NO:A; 177NO:E;  
177NO:2E  
Affecting Tax ID Nos. 20-26-300-001, 20-  
26-100-001

Civil No. 110902201

Judge Kate A. Toomey

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The Court having considered the Stipulation and Motion Regarding Amended Complaint,  
Order of Occupancy, and Other Matters filed by all of the parties to this action, the pleadings and  
papers filed herein, and for good cause appearing,

IT IS HEREBY ORDERED:

1. The Order of Occupancy entered by this Court on January 28, 2011 is hereby amended to conform the previously entered Order of Occupancy to reflect the addition of language relating to ingress/egress with respect to Parcel No. 0182:177NO:A consistent with the addition of the same language to the Condemnation Resolution attached as Exhibit A to Plaintiff's First Amended Complaint in Eminent Domain. This amendment shall be treated as though made retroactively as of the date of the original Order of Occupancy, *i.e.*, January 28, 2011.

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

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

4. That Plaintiff Utah Department of Transportation is granted the right to occupancy of the following premises, *pendente lite*, and to do whatever work thereon is required in furtherance of the project described in Plaintiff's Complaint beginning on February 7, 2011:

The Subject Property is located in Salt Lake County, Utah and described as:

Tax Id No. 20-26-100-001, 20-26-300-001

**Parcel No. 0182:177NO:A**

A parcel of land in fee for a highway known as Project No. MP-0182(6), being part of an entire tract

of property situate in the SW1/4SW1/4, SE1/4SW1/4, SW1/4SE1/4, NE1/4SW1/4, NW1/4SW1/4, SW1/4NW1/4 and the NW1/4NW1/4 of Section 26, T. 2 S., R. 2 W., S.L.B. & M. The boundaries of said parcel of land are described as follows:

Beginning at a point in the southerly line of said Section 26, which point is 945.30 ft. S. 89°45'36" E. along said section line from the Southwest corner of said Section 26, said point is also 1.11 ft. perpendicularly distant northerly from the 7800 South Street Right of Way Control Line opposite approximate engineer station -0+05.00; and running thence N. 00°15'09" E. 78.89 ft.; thence S. 89°44'51" E. 786.81 ft. to a point designated as Point "A", which point is 80.00 ft. perpendicularly distant northerly from said 7800 South Street Right of Way Control Line opposite engineer station 7+81.81; thence S. 89°44'51" E. 300.00 ft.; thence N. 25°09'11" E. 37.47 ft. to the beginning of a 1397.00-foot radius non-tangent curve to the left; thence Northwesterly 254.88 ft. along the arc of said curve (Note: Chord to said curve bears N. 22°59'34" W. for a distance of 254.53 ft.); thence N. 28°13'09" W. 508.23 ft.; thence N. 32°42'46" W. 2116.84 ft.; thence N. 23°04'10" W. 507.09 ft.; thence N. 40°38'36" W. 44.24 ft.; thence N. 49°21'24" E. 16.31 ft.; thence N. 30°15'46" W. 193.13 ft. thence N. 18°01'55" W. 250.48 ft.; thence N. 23°04'10" W. 262.06 ft.; thence N. 21°37'09" W. 232.85 ft. to the westerly boundary line of said entire tract which is the westerly line of said Section 26 at a point designated as Point "B", which point is 44.60 ft. radially distant southwestwardly from the Mountain View Corridor Right of Way Control Line opposite engineer station 1524+63.49; thence N. 00°11'48" W. 1330.42 ft. along said westerly boundary line to the Northwest corner of said entire tract which is also the Northwest corner of said Section 26, said corner is also designated as point "C", which point is 328.63 ft. radially distant easterly from said Mountain View Corridor Right of Way Control Line opposite engineer station 1537+85.74; thence East 36.23 ft. along the north boundary line of said entire tract; thence S. 14°43'25" E. 731.36 ft.; thence N. 76°14'04" E. 48.42 ft.; thence S. 85°32'17" E. 145.75 ft.; thence S. 30°48'37" E. 179.83 ft.; thence S. 08°39'49" W. 127.59 ft.; thence S. 70°43'13" W. 126.81 ft.; thence S. 04°10'37" W. 133.37 ft.; thence S. 19°16'47" E. 357.21 ft.; thence S. 23°22'48" E. 378.38 ft.; thence S. 40°38'36" E. 149.31 ft.; thence S. 49°21'24" W. 37.47 ft.; thence S. 30°10'36" E. 206.28 ft.; thence S. 32°30'59" E. 2373.35 ft.; thence S. 50°27'01" E. 469.01 ft.; thence S. 49°02'02" E. 102.69 ft. to the beginning of a 1108.00-foot radius non-tangent curve to the right; thence Southeasterly 561.16 ft. along the arc of said curve (Note: Chord to said curve bears S. 34°30'33" E. for a distance of 555.19 ft.); thence S. 20°00'00" E. 224.19 ft.; thence East 154.95 ft.; thence S. 88°05'06" E. 145.05 ft. to a point designated as Point "D", which point is 82.50 ft. perpendicularly distant northerly from said 7800 South Street Right of Way Control Line opposite engineer station 22+35.55; thence S. 88°05'06" E. 86.24 ft.; thence S. 89°44'51" E. 285.60 ft. to the easterly boundary line of said entire tract; thence S. 00°22'44" E. 78.32 ft. along said easterly boundary line to the southerly line of said Section 26; thence along said southerly line the following two (2) courses and distances (1) N. 89°45'39" W. 889.53 ft. to the South Quarter corner of said Section 26; thence N. 89°45'35" W. 1723.69 ft. to the point of beginning. The above

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described parcel of land contains 2,794,335 square feet in area or 64.149 acres, more or less of which 39,196 square feet in area or 0.900 acre, more or less, is now occupied by the existing roadway. The balance is 2,755,139 square feet in area or 63.249 acres more or less.

(Note: All bearings in the above description match the above said Right of Way Control Line.)

Together with any and all abutter's rights of underlying fee to the center of the existing right-of-way appurtenant to this conveyance.

To enable the Utah Department of Transportation to construct and maintain a public highway as a freeway, as contemplated by Title 72, Chapter 6, Section 117, Utah Code Annotated, 1998, as amended, the Defendants hereby release and relinquish to said Utah Department of Transportation any and all rights appurtenant to the remaining property of said Defendants 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 Defendants' remaining property contiguous to the lands hereby conveyed, to or from said highway between said designated Point "A" and said designated Point "B" and between said designated Point "C" and said designated Point "D".

**Parcel No. 0182:177NO:E**

A temporary easement, upon a part of an entire tract of property, in the SW1/4SE1/4, SE1/4SW1/4, NE1/4SW1/4, NW1/4SW1/4, SW1/4NW1/4 and the NW1/4NW1/4 of Section 26, T. 2 S., R. 2 W., S.L.B. & M., in Salt Lake County, Utah, for the purpose of constructing thereon appurtenant parts incident to the construction of a highway known as Project No. MP-0182(6).

**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 at a point in the easterly boundary line of said entire tract, which point is 2668.99 ft. S. 89°45'36" E. along the southerly line of said Section 26 to the South Quarter corner of said section and 889.53 ft. S. 89°45'39" E. along said southerly section line and 78.32 ft. N. 00°22'44" W. from Southwest corner of said Section 26, said point is also 80.00 ft. perpendicularly distant northerly from the 7800 South Street Right of Way Control Line opposite approximate engineer station 26+07.35; and running thence N. 89°44'51" W. 285.60 ft.; thence N. 88°05'06" W. 231.29 ft.; thence West 154.95 ft.; thence N. 20°00'00" W. 224.19 ft. to the beginning of a 1108.00-foot radius curve to the left; thence Northwesterly 561.16 ft. along the arc of said curve (Note: Chord to said curve bears N. 34°30'33" W. for a distance of 555.18 ft.); thence N. 49°02'02" W. 102.69 ft.; thence N. 50°27'01" W. 469.01 ft.; thence N. 32°30'59" W. 2373.35 ft.; thence N. 30°10'36" W. 206.28 ft.; thence N. 49°21'24" E. 37.47 ft.; thence N. 40°38'36" W. 149.31 ft.; thence N. 23°22'48" W. 378.38 ft.; thence N. 19°16'47" W. 357.21 ft.; thence N. 04°10'37" E. 133.37 ft.; thence N. 70°43'13" E. 126.81 ft.; thence N. 08°39'49" E. 127.59 ft.; thence N. 30°48'37" W. 179.83 ft.; thence N. 85°32'17" W. 145.75 ft.; thence S. 76°14'04" W. 48.42 ft.; thence N. 14°43'25" W. 731.36 ft. to the north boundary line of said entire tract; thence East 10.34 ft. along said north boundary line; thence S. 14°43'25" E. 718.90 ft.; thence N. 76°14'04" E. 40.19 ft.; thence S. 85°32'17" E. 152.53 ft.; thence S. 30°48'37" E. 188.60 ft.; thence S. 08°39'49" W. 137.20 ft.; thence S. 70°43'13" W. 126.27 ft.; thence S. 04°10'37" W. 124.73 ft.; thence S. 19°16'47" E. 354.77 ft.; thence S. 23°22'48" E. 376.50 ft.; thence S. 40°38'36" E. 157.79 ft.; thence S. 49°21'24" W. 39.15 ft.; thence S. 30°10'36" E. 197.75 ft.; thence S. 32°30'59" E. 2371.57 ft.; thence S. 50°27'01" E. 467.56 ft.; thence S. 49°02'02" E. 102.82 ft. to the beginning of a 1118.00-foot radius non-tangent curve to the right; thence Southeasterly 566.23 ft. along the arc of said curve (Note: Chord to said curve bears S. 34°30'33" E. for a distance of 560.20 ft.); thence S. 20°00'00" E. 217.19 ft.; thence East 148.20 ft.; thence S. 88°05'06" E. 231.23 ft.; thence S. 89°44'51" E. 285.34 ft. to the easterly boundary line of said entire tract; thence S. 00°22'44" E. 10.00 ft. along said easterly boundary line to the point of beginning. The above described part of an entire tract of land contains 70,123 square feet in area or 1.610 acres, more or less.

(Note: All bearings in the above description match the above said Right of Way Control Line.)

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A temporary easement, upon a part of an entire tract of property, in the SW1/4SW1/4, SE1/4SW1/4, NW1/4SW1/4 and the SW1/4NW1/4 of Section 26, T. 2 S., R. 2 W., S.L.B. & M., in Salt Lake County, Utah, for the purpose of constructing thereon appurtenant parts incident to the construction of a highway known as Project No. MP-0182(6).

**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 at a point in the existing northerly right of way line of 7800 South Street, which point is 945.30 ft. S. 89°45'36" E. along the section line and 15.00 ft. N. 00°15'09" E. from the Southwest corner of said Section 26, said point is also 16.11 ft. perpendicularly distant northerly from the 7800 South Street Right of Way Control Line opposite approximate engineer station -0+05.00; and running thence N. 89°45'36" W. 10.00 ft. along said right of way line; thence N. 00°15'09" E. 73.90 ft.; thence S. 89°44'51" E. 1090.43 ft.; thence N. 25°09'11" E. 27.15 ft. to the beginning of a 1387.00-foot radius non-tangent curve to the left; thence Northwesterly 249.13 ft. along the arc of said curve (Note: Chord to said curve bears N. 23°04'25" W. for a distance of 248.80 ft.); thence N. 28°13'09" W. 507.84 ft.; thence N. 32°42'46" W. 2117.29 ft.; thence N. 23°04'10" W. 506.39 ft.; thence N. 40°38'36" W. 52.69 ft.; thence N. 49°21'24" E. 17.97 ft.; thence N. 30°15'46" W. 185.86 ft.; thence N. 18°01'55" W. 251.12 ft.; thence N. 23°04'10" W. 261.75 ft.; thence N. 21°37'09" W. 207.49 ft. to the westerly boundary line of said entire tract; thence N. 00°11'48" W. 27.38 ft. along said westerly boundary line; thence S. 21°37'09" E. 232.85 ft.; thence S. 23°04'10" E. 262.06 ft.; thence S. 18°01'55" E. 250.48 ft.; thence S. 30°15'46" E. 193.13 ft.; thence S. 49°21'24" W. 16.31 ft.; thence S. 40°38'36" E. 44.24 ft.; thence S. 23°04'10" E. 507.09 ft.; thence S. 32°42'46" E.

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2116.84 ft.; thence S. 28°13'09" E. 508.23 ft. to the beginning of a 1397.00-foot radius curve to the right; thence Southeasterly 254.88 ft. along the arc of said curve (Note: Chord to said curve bears S. 22°59'33" E. for a distance of 254.53 ft.); thence S. 25°09'11" W. 37.47 ft.; thence N. 89°44'51" W. 1086.81 ft.; thence S. 00°15'09" W. 63.89 ft. to the point of beginning. The above described part of an entire tract of land contains 55,608 square feet in area or 1.277 acres, more or less.

(Note: All bearings in the above description match the above said Right of Way Control Line.)

5. Pursuant to Utah Code Ann. § 78B-6-510(2), the Court has taken proof by the parties' Joint Motion and Stipulation for Order of Occupancy and Motion for Release of Funds that:

(a) UDOT's appraisal of the value of the premises sought to be condemned for purposes of obtaining occupancy is \$8,068,800;

(b) of the \$8,068,800 appraised value, UDOT's appraisal concludes that \$520,734 is for severance damages to the remaining tract of property; and

(c) that UDOT requires speedy occupancy of said premises to avoid the waste of public resources associated with project interruptions and delay.

6. As a condition precedent to Plaintiff's occupancy under this Order, Plaintiff shall deposit the sum of \$8,068,800 with the Clerk of the Court for the purposes set forth in Utah Code Ann. § 78B-6-510, said amount being Plaintiff's full appraised value for purposes of obtaining occupancy.

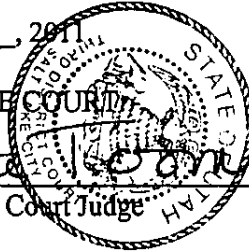
7. That upon application of the parties in interest, the Court shall order that the money deposited with the Court be paid before judgment as an advance on the just compensation to be awarded in the proceedings as provided by Utah Code Ann. § 78B-6-510(6)(a). This advance payment, if any, to Defendants shall be considered to be an abandonment by Defendants

of all defenses except of a claim for greater compensation as provided by Utah Code Ann. § 78B-6-510(6)(b). If the compensation finally awarded exceeds the advance, the Court shall enter judgment against Plaintiff for the amount of the deficiency as provided by Utah Code Ann. § 78B-6-510(6)(c). If the advance received by Defendants is greater than the amount finally awarded, the Court should enter a judgment against the Defendants receiving the advance for the amount of the excess as provided by Utah Code Ann. § 78B-6-510(6)(d).

DATED this 4 day of Nov, 2011

BY THE COURT

  
District Court Judge



Approved as to form:

CLYDE SNOW & SESSIONS

  
PERRIN R. LOVE

*Attorneys for Defendants LEJ Investments, LLC, Robert Bowman Consulting, LLC, Craig Jensen, Richard Jensen, Carol Bowman, and Robert Bowman*

THIS DOCUMENT IS A TRUE COPY OF AN ORIGINAL DOCUMENT FILED IN THE THIRD DISTRICT COURT, SALT LAKE CITY, STATE OF UTAH.

DATE

