

WHEN RECORDED, MAIL TO:  
Utah Transit Authority  
669 W. 200 South  
  
Salt Lake City, UT 84101

ENT 70882:2017 PG 1 of 17  
**Jeffery Smith**  
**Utah County Recorder**  
2017 Jul 25 11:47 AM FEE 0.00 BY VP  
RECORDED FOR National Title Agency of Utah, Inc.  
ELECTRONICALLY RECORDED



## Utah Transit Authority Right of Entry and Occupancy Agreement

Project No: S-0265(23)3 Parcel No.(s): 141:A, 141:E, 141:EC

Job/Proj / Auth No: Pin No: 10266  
Project Location: Provo/Orem Transportation Improvement Project  
County of Property: UTAH Tax ID / Sidwell No: 57:012:0005, 57:014:0001  
Property Address: 130 E University Parkway OREM UT, 84058  
Owner / Grantor (s): Family Center Orem Shopping Center, LLC, a Delaware limited liability company  
Owner's Address: 5670 Wilshire Boulevard, Suite 1250, Los Angeles, CA, 90036  
Owner's Home Phone: Owner's Work Phone: (323)605-6238

### Acquiring Entity: Utah Transit Authority (UTA)

### For the subject property described in the attached deed (Exhibit A).

This Right of Entry and Occupancy Agreement ("Agreement") is entered between Family Center Orem Shopping Center, LLC, a Delaware limited liability company ("Property Owner") and Utah Transit Authority (UTA).

Property Owner hereby grant to UTA, its contractors, permittees, and assigns, including but not limited to, utilities and their contractors, the right to occupy and commence construction or other necessary activity on the property sought to be acquired/occupied with this Agreement, and to do whatever construction, relocation of utilities, and other work as may be required in furtherance of the state transportation project, located on the property described in attached Exhibit A (the "Property"). This Agreement is made in anticipation of a possible condemnation action by UTA 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 Owner understands that, by executing this Agreement, Property Owner has waived and abandoned all defenses to the acquisition of the property.

The sum of \$296,400.00 (the "Deposit") will be paid into escrow, a non-interest bearing account, at a title company for the benefit of Property Owner as consideration for entering into this Agreement. UTA will be responsible for the expenses of the escrow account. This amount paid into escrow 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 Owner. This Agreement shall constitute a right of entry agreement for purposes of Utah Code § 59-2-1337. Property taxes assessed against those portions of the property sought to be condemned in fee will be the responsibility of the UTA upon the effective date of this Agreement in accordance with the provisions of Utah Code § 59-2-1337.

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 UTA to the Property Owner under this Agreement. UTA will have the right to approve the release of the Deposit from Escrow to Property Owner and to require a conveyance of the subject property from the Property Owner to UTA prior to the release. 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 Deposit should properly be paid to other third parties, then UTA will have the right to require that the third parties participate in the release of the Deposit or the Deposit will be applied to any remaining liens. In the event that UTA desires to obtain title insurance in connection with the release of the deposit, UTA will pay the premiums for the title coverage.

This Agreement is granted without prejudice to the rights of the Property Owner, pending any settlement, to contest the amount of compensation to be paid the Property Owner for the property described in Exhibit A. If

NTA 17-2583

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Owner's Home Phone:	Owner's Work Phone: (323)605-6238

a satisfactory settlement can not be agreed upon, UTA will, upon notice from the Property Owner that the amount of compensation offered and/or other proposed settlement terms are not acceptable, or at its own election, proceed 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 Owner, UTA will, prior to commencing a condemnation proceeding, enter into a mediation or arbitration procedure provided for in the Utah Code Annotated 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 UTA's acquisition of the property, the Property Owner 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 Owner are displaced by the acquisition of this property and are not conditional upon the Property Owner 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 Owner, 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 Owner 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 Owner 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 Owner over and above that paid with this Agreement, calculated from the date of entry upon the property.

**Additional Terms:**

UTA will indemnify, defend and hold the Property Owner harmless from any and all third-party claims, lawsuits, or causes of action arising out of harm or damage to such third parties occurring in connection with the use of the Property by UTA or its employees, agents, contractors or invitees pursuant to UTA's rights under this Agreement. This paragraph shall not be deemed to (i) constitute a waiver by UTA in favor of any third party of any limits or damage caps described and set forth in, the Governmental Immunity Act of Utah, Utah Code § 64G-7-1 et seq. (provided, however, that if such limits or damage caps do not inure to the benefit of Property Owner, then this sentence shall not limit UTA's indemnification, defense and hold harmless obligations in favor of Property Owner under this paragraph); or (ii) require UTA to indemnify, defend, or hold Property Owner harmless for claims, lawsuits, or causes of action arising out of Property Owner's negligence, or the negligence of Property Owner's employees, agents, contractors or invitees acting in such capacities.

The parties hereto acknowledge that the Deposit includes the following amounts as cost to cure items that will be the responsibility of the Property Owner to cure: Reset/Relocate Chili's sign = \$13,500.00, Relocate directional signs = \$3,000.00. Nothing in the prior sentence shall be considered a waiver by the Property Owner of its rights, pending any settlement, to contest the amount of compensation to be paid the Property Owner for the property described in Exhibit A. The Deposit also includes \$2,500 as a cost to cure item for a parking lot lamp post, which UTA hereby agrees to relocate at its sole expense, and UTA reserves the right to adjust compensation to be paid to the Property Owner on that basis or otherwise. Property Owner agrees that UTA and its contractors may access Property Owner's remaining property to the extent necessary to relocate the parking lot lamp post.

**Exhibits:** Exhibit A – Property Descriptions

*[Signatures and Acknowledgments to Follow Immediately]*

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Owner's Address: 5670 Wilshire Boulevard, Suite 1250, Los Angeles, CA, 90036  
Owner's Home Phone: Owner's Work Phone: (323)605-6238

SIGNATURE PAGE  
TO  
UTAH TRANSIT AUTHORITY  
RIGHT OF ENTRY AND OCCUPANCY AGREEMENT

DATED this 10<sup>th</sup> day of July, 2017

Family Center Orem Shopping Center, LLC  
Steven Usdan

Property Owner

~~Property Owner~~

Managing Member of

CCA Acquisition Company, LLC,  
a California limited liability company  
the Managing Member

~~Property Owner~~

STATE OF UTAH

County of \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared before me

\_\_\_\_\_ the signer(s) of the Agreement set forth above,  
who duly acknowledged to me that they executed the same.

SEE ATTACHED  
CA CERTIFICATE

NOTARY PUBLIC

DATED this 18<sup>th</sup> day of July, 2017

Derrek Sorensen  
Derrek Sorensen, Director of Right of Way

STATE OF UTAH  
County of Salt Lake

On the 18<sup>th</sup> day of July, 2017, personally appeared before me

Derrick Sorensen the signer(s) of this Agreement for UTA  
who duly acknowledged to me that they executed the same.

Gale Padgett  
NOTARY PUBLIC



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

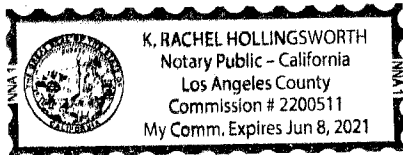
State of California )  
County of LOS ANGELES )

On JULY 10, 2017 before me, K RACHEL HOLLINGSWORTH, NOTARY PUBLIC  
*Date Here Insert Name and Title of the Officer*  
personally appeared STEVEN USDAN  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]  
*Signature of Notary Public*

*Place Notary Seal Above*

**OPTIONAL**

*Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_  
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_  
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

EXHIBIT A  
(Property Descriptions)

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

MAIL COPY TO:  
Utah Transit Authority  
PO Box 30810  
Salt Lake City, Utah 84130-0810

**Warranty Deed**  
(CONTROLLED ACCESS)  
(LIMITED LIABILITY COMPANY)

Utah County

Tax ID No. 57:012:0005  
57:014:0001  
Pin No. 10266  
Project No. S-0265(23)3  
Parcel No. 0265:141:A

Family Center Orem Shopping Center, LLC, a Delaware limited liability company,  
Grantor, CONVEYS AND WARRANTS to the UTAH DEPARTMENT OF  
TRANSPORTATION, Grantee, at 4501 South 2700 West, Salt Lake City, Utah 84114,  
for the sum of TEN (\$10.00) Dollars, and other good and valuable consideration, the  
following described parcel of land in Utah County, State of Utah, to-wit:

A parcel of land in fee, being part of an entire tract of property, situate in Lot 5, Plat "A",  
University Square Subdivision, according to the official plat thereof on file and recorded  
April 30, 1991 as Entry No. 15740 as Map No. 4167-52 and situate in Lot 1 Plat "C",  
University Square Subdivision, according to the official plat thereof on file and recorded  
December 10, 1991 as Entry No. 48721 as Map No. 4355-55, situate in the  
NW1/4NW1/4 of Section 26, T.6S., R.2E., S.L.B.&M., for the construction of  
improvements incident to the Provo-Orem Transportation Improvement Project, known  
as project number S-0265(23)3.

Pin No. 10266  
Project No. S-0265(23)3  
Parcel No. 0265:141:A

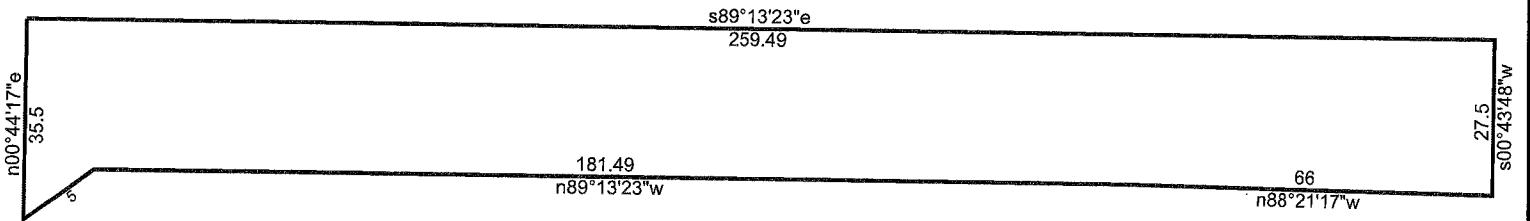
Beginning at the northwest corner of said Lot 5, which point is on the southerly right of way and limited access line of State Route 265 (University Parkway) in Orem, Utah, which point is also 1,956.41 feet N.  $00^{\circ}44'08''$  W. along the section line and 57.74 feet East and 660.71 feet S.  $89^{\circ}14'59''$  E. (*S.  $89^{\circ}10'57''$  E. measured*) from the West Quarter Corner of said Section 26; thence along the northerly boundary line of said Lot 5 and said Lot 1 and said southerly right of way and limited access line S.  $89^{\circ}06'37''$  E. 259.50 feet (*S.  $89^{\circ}13'23''$  E. 259.49 feet measured*) to the northeast corner of said Lot 1, thence along the easterly boundary line of said Lot 1 S.  $00^{\circ}43'48''$  W. 27.50 feet to a point which is 92.50 feet perpendicularly distant southerly from the control line of said project, opposite approximate Engineer Station 151+06.41; thence N.  $88^{\circ}21'17''$  W. 66.00 feet to a point which is 91.50 feet perpendicularly distant southerly from the control line of said project, opposite Engineer Station 150+40.42; thence N.  $89^{\circ}13'23''$  W. 181.49 feet to a point which is 91.50 feet perpendicularly distant southerly from the control line of said project, opposite Engineer Station 148+58.93; thence S.  $53^{\circ}55'03''$  W. 15.00 feet, more or less, to the westerly boundary line of said Lot 5, which point is also 100.50 feet perpendicularly distant southerly from the control line of said project, opposite Engineer Station 148+46.92; thence along said boundary line N.  $00^{\circ}44'17''$  E. 35.50 feet, more or less, to the point of beginning as shown on the official map of said project on file at the office of the Utah Department of Transportation. The above described parcel of land contains 6,964 square feet or 0.160 acre in area, more or less.

(Note: Rotate above bearings counterclockwise  $00^{\circ}14'37''$  to equal project bearings.)

To enable the Utah Department of Transportation to construct and maintain a limited access public highway, 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







Parcel 141:A

12/12/2016

Scale: 1 inch= 34 feet

File: 10266\_S-0265(23)3\_19P\_141\_A\_DeedPlot.ndp

Tract 1: 0.1599 Acres (6964 Sq. Feet), Closure: n00.0000e 0.00 ft. (1/117220), Perimeter=585 ft.

- 01 s89.1323e 259.49
- 02 s00.4348w 27.5
- 03 n88.2117w 66
- 04 n89.1323w 181.49
- 05 s53.5503w 15
- 06 n00.4417e 35.5

WHEN RECORDED, MAIL TO:  
Utah Transit Authority  
PO Box 30810  
Salt Lake City, Utah 84130-0810

**Easement**  
(LIMITED LIABILITY COMPANY)

Utah County

Tax ID No. 57:012:0005  
57:014:0001  
Pin No. 10266  
Project No. S-0265(23)3  
Parcel No. 0265:141:E

Family Center Orem Shopping Center, LLC, a Delaware limited liability company,  
Grantor, hereby GRANTS AND CONVEYS to the UTAH TRANSIT AUTHORITY, at 669  
West 200 South, Salt Lake City, Utah 84101, Grantee, for the sum of TEN (\$10.00)  
Dollars, and other good and valuable consideration, the following described easement  
in Utah County, State of Utah, to-wit:

A temporary easement, upon part of an entire tract of property, situate in Lot 5, Plat "A",  
University Square Subdivision, according to the official plat thereof on file and recorded  
April 30, 1991 as Entry No. 15740 as Map No. 4167-52 and situate in Lot 1 Plat "C",  
University Square Subdivision, according to the official plat thereof on file and recorded  
December 10, 1991 as Entry No. 48721 as Map No. 4355-55, situate in the  
NW1/4NW1/4 of Section 26, T.6S., R.2E., S.L.B.&M., for the construction of  
improvements incident to the Provo-Orem Transportation Improvement Project, known  
as project number S-0265(23)3. This easement shall commence upon the beginning of  
actual construction on the property and shall continue only until project construction on  
the property is complete, or for two years, whichever first occurs. The easement shall be  
non-exclusive such that the Grantor may use the property at any time in a manner  
which does not interfere with construction activities.

Pin No. 10266  
Project No. S-0265(23)3  
Parcel No. 0265:141:E

Beginning at a point on the westerly boundary line of said Lot 5, which point is on the southerly project right of way and limited access line of State Route 265 (University Parkway) in Orem, Utah, which point is also 1,956.41 feet N. 00°44'08" W. along the section line and 57.74 feet East and 661.72 feet S. 86°06'27" E. from the West Quarter Corner of said Section 26, which point is also 100.50 feet perpendicularly distant southerly from the control line of said project, opposite approximate Engineer Station 148+46.92; thence along said project right of way and limited access line the following three (3) courses: (1) N. 53°55'03" E. 15.00 feet; (2) S. 89°13'23" E. 181.49 feet; (3) S. 88°21'17" E. 66.00 feet, more or less, to the easterly boundary line of said Lot 1; thence along said boundary line S. 00°43'48" W. 9.00 feet; thence N. 89°13'23" W. 4.39 feet; thence S. 00°46'37" W. 20.50 feet; thence N. 89°13'23" W. 43.49 feet; thence N. 00°46'37" E. 22.00 feet; thence N. 89°13'23" W. 183.75 feet; thence S. 00°46'37" W. 20.50 feet; thence N. 89°13'23" W. 27.84 feet, more or less, to the westerly boundary line of said Lot 5; thence along said boundary line N. 00°44'17" E. 20.00 feet, more or less, to the point of beginning. The above described part of an entire tract of land contains 3,653 square feet or 0.084 acre in area, more or less.

(Note: Rotate above bearings counterclockwise 00°14'37" to equal project bearings.)

After said improvements and appurtenant parts thereof are constructed at the expense of the Utah Transit Authority, said Utah Transit Authority is thereafter relieved of any further claim or demand for costs, damages or maintenance charges which may accrue against said improvements and appurtenant parts thereof.

Pin No. 10266  
Project No. S-0265(23)3  
Parcel No. 0265:141:E

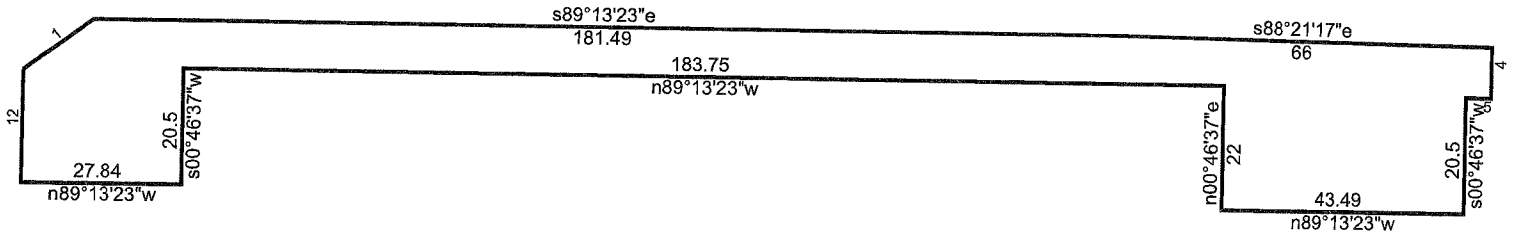
**IN WITNESS WHEREOF**, said Family Center Orem Shopping Center, LLC, a Delaware limited liability company, has caused this instrument to be executed by its proper officers thereunto duly authorized, this \_\_\_\_ day of \_\_\_\_\_, A.D. 20 \_\_\_\_.

STATE OF \_\_\_\_\_ ) Family Center Orem Shopping Center, LLC  
 ) a Delaware limited liability company  
 ) ss.  
COUNTY OF \_\_\_\_\_ ) By \_\_\_\_\_  
 Manager

On the date first above written personally appeared before me, \_\_\_\_\_, who, being by me duly sworn, says that he is the Manager of Family Center Orem Shopping Center, LLC, a Delaware limited liability company, and that the within and foregoing instrument was signed in behalf of said company by authority of its Articles of Organization, and said \_\_\_\_\_ acknowledged to me that said company executed the same.

**WITNESS** my hand and official stamp the date in this certificate first above written:

\_\_\_\_\_  
Notary Public



Parcel 141:E

12/12/2016

Scale: 1 inch= 34 feet

File: 10266\_S-0265(23)3\_19P\_141\_E\_DeedPlot.ndp

Tract 1: 0.0839 Acres (3653 Sq. Feet), Closure: n72.1425w 0.01 ft. (1/74681), Perimeter=614 ft.

- |                     |                    |
|---------------------|--------------------|
| 01 n53.5503e 15     | 10 s00.4637w 20.5  |
| 02 s89.1323e 181.49 | 11 n89.1323w 27.84 |
| 03 s88.2117e 66     | 12 n00.4417e 20    |
| 04 s00.4348w 9      |                    |
| 05 n89.1323w 4.39   |                    |
| 06 s00.4637w 20.5   |                    |
| 07 n89.1323w 43.49  |                    |
| 08 n00.4637e 22     |                    |
| 09 n89.1323w 183.75 |                    |

WHEN RECORDED, MAIL TO:  
 Utah Transit Authority  
 PO Box 30810  
 Salt Lake City, Utah 84130-0810

**Easement**  
 (LIMITED LIABILITY COMPANY)

Utah County

Tax ID No. 57:014:0001  
 Pin No. 10266  
 Project No. S-0265(23)3  
 Parcel No. 0265:141:EC

Family Center Orem Shopping Center, LLC, a Delaware limited liability company, Grantor, hereby GRANTS AND CONVEYS to the UTAH TRANSIT AUTHORITY, at 669 West 200 South, Salt Lake City, Utah 84101, Grantee, for the sum of TEN (\$10.00) Dollars, and other good and valuable consideration, the following described easement in Utah County, State of Utah, to-wit:

A temporary easement, upon part of an entire tract of property, situate in Lot 1 Plat "C", University Square Subdivision, according to the official plat thereof on file and recorded December 10, 1991 as Entry No. 48721 as Map No. 4355-55, situate in the NW1/4NW1/4 of Section 26, T.6S., R.2E., S.L.B.&M., for the construction of improvements incident to the Provo-Orem Transportation Improvement Project, known as project number S-0265(23)3. This easement shall commence upon the beginning of actual construction on the property and shall continue only until project construction on the property is complete, or for two years, whichever first occurs. The easement shall be non-exclusive such that the Grantor may use the property at any time in a manner which does not interfere with construction activities.

Beginning at a point on a northerly boundary line of said Lot 1, which point is 1,956.41 feet N. 00°44'08" W. along the section line and 57.74 feet East and 1,116.79 feet S. 75°40'58" E. from the West Quarter Corner of said Section 26, which

Pin No. 10266  
Project No. S-0265(23)3  
Parcel No. 0265:141:EC

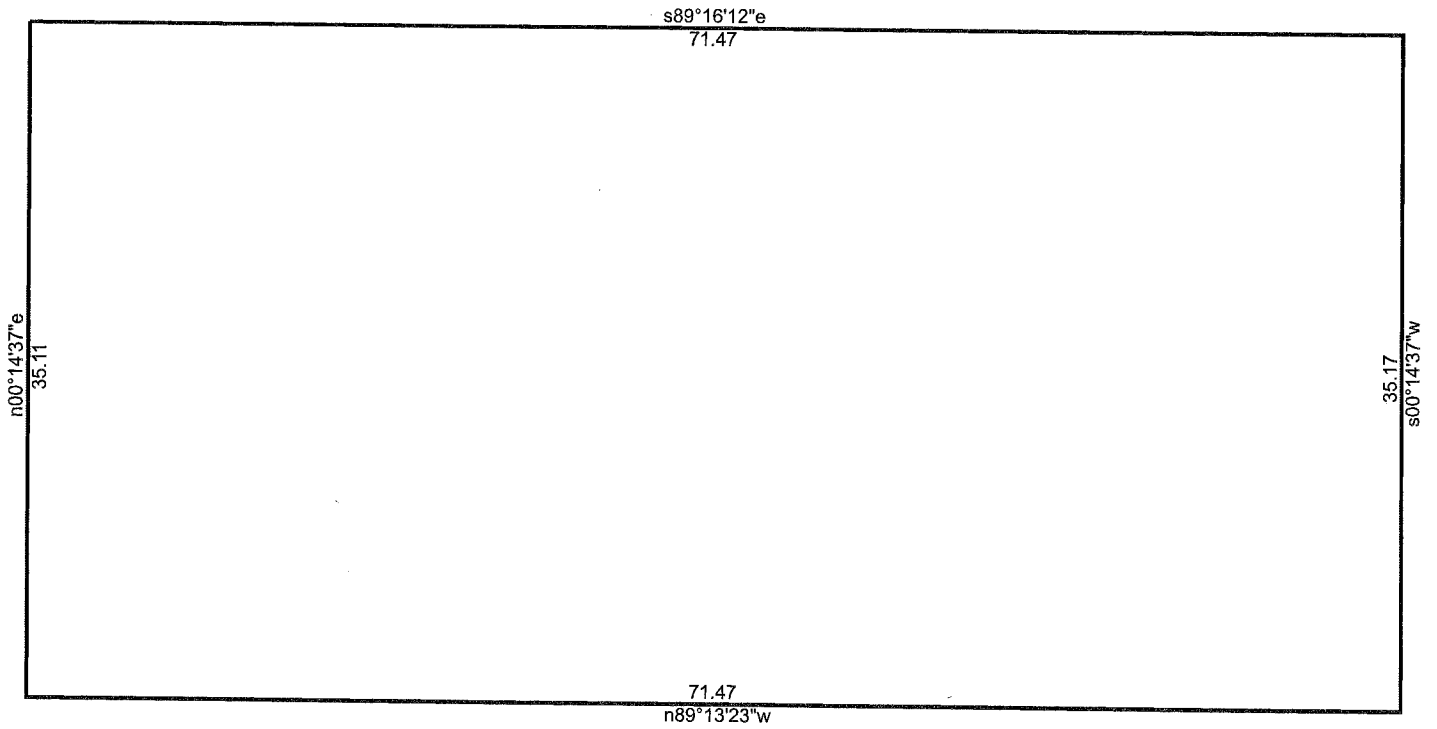
point is also 191.02 feet perpendicularly distant westerly from the control line of 200 East Street, opposite approximate Engineer Station 1600+57.84; thence along said boundary line S. 89°16'12" E. 71.47 feet; thence S. 00°14'37" W. 35.17 feet; thence N. 89°13'23" W. 71.47 feet; thence N. 00°14'37" E. 35.11 feet, more or less, to the point of beginning. The above described part of an entire tract of land contains 2,511 square feet or 0.058 acre in area, more or less.

(Note: Rotate above bearings counterclockwise 00°14'37" to equal project bearings.)

After said improvements and appurtenant parts thereof are constructed at the expense of the Utah Transit Authority, said Utah Transit Authority is thereafter relieved of any further claim or demand for costs, damages or maintenance charges which may accrue against said improvements and appurtenant parts thereof.







Parcel 141:EC

2/21/2017

Scale: 1 inch= 10 feet

File: 10266\_S-0265(23)3\_25P\_141\_EC\_DeedPlot.ndp

Tract 1: 0.0577 Acres (2511 Sq. Feet), Closure: n00.0000e 0.00 ft. (1/138765), Perimeter=213 ft.

- 01 s89.1612e 71.47
- 02 s00.1437w 35.17
- 03 n89.1323w 71.47
- 04 n00.1437e 35.11