

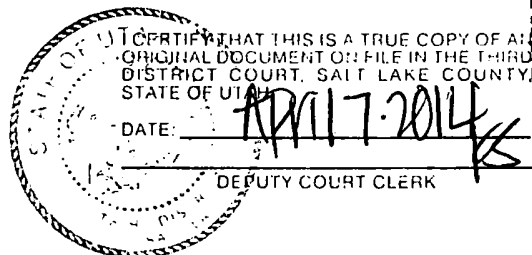
The Order of Court is stated below:

Dated: April 07, 2014
11:13:32 AM

/s/ Sandra Peuler
District Court Judge



KEVIN M. MCDONOUGH (#5109)
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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH

UT ST-DEPT OF TRANSPORTATION
BOX 148420 ATT: JASON HENLEY
SLC UT 84114-8420
BY: SSP, DEPUTY - WT 10 P.

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

UTAH DEPARTMENT OF
TRANSPORTATION,

Petitioner,

vs.

RURAL ENTERPRISES, LC, fka Rural
Enterprizes, a Utah Limited Partnership;
BOYER-PLAZA 5400 ASSOCIATES, L.C.;
FRED MEYER STORES, INC., successor-
in-interest to Grand Central, Inc., a Utah
corporation; SMITH'S FOOD & DRUG
CENTERS, INC., successor-in-interest to
Grand Central, Inc., a Utah corporation;
THE KROGER CO.; FURNITURE
WAREHOUSE; LANDMARK TITLE
COMPANY (Trustee); BANK OF
AMERICA, NA, successor-in-interest to
LaSalle Bank National Association
(Beneficiary),

Defendants.

**FINAL JUDGMENT OF
CONDEMNATION AND RELEASE OF
FUNDS**

Project No. CM-0068(38)52
Parcel Nos. 10, 10:E and 10:2E
Affecting Tax ID No. 21-10-379-013

Civil No. 110901428

Judge Anthony B. Quinn

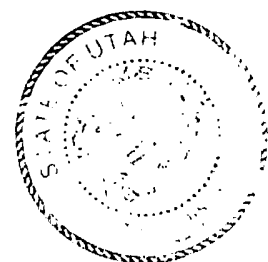
The Court, having reviewed the Stipulation and Joint Motion for Final Judgment of

Condemnation and Release of Funds executed by Plaintiff Utah Department of Transportation (“UDOT”) and Defendants Rural Enterprises, LC (“Rural Enterprises”), Boyer-Plaza 5400 Associates, L.C. (“Boyer”), Bank of America, NA, Fred Meyer Stores, Inc., Smith’s Food & Drug Centers, Inc. (“Smith’s), and The Kroger Company (collectively “Defendants”), and being fully advised in the premises and for good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That the parcels of land hereinafter described at Paragraph No. 12 (“Subject Property”) are hereby condemned and acquired by UDOT for the purposes and rights set forth below.
2. That the purpose of said condemnation is a public use authorized by law.
3. That UDOT shall pay Rural Enterprises \$265,048.00.
4. That in addition to the \$265,048.00 payment from UDOT, Rural Enterprises is entitled to \$404,952.00 of the \$825,809.00 that UDOT has heretofore deposited with the Court.
5. That the Court shall release to Rural Enterprises \$404,952.00 which is on deposit with the Court.
6. That on or about May 31, 2013, Smith’s, Fred Meyer Stores, Inc., and The Kroger Company (collectively “Smith’s Defendants”) assigned to Boyer “any just compensation award to which it is or may be entitled arising out of or relating to the Condemnation Action, including but not limited to any funds deposited by UDOT in Court pursuant to the Order of Occupancy,

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any award in favor of Smith's by way of settlement or judgment, and any statutory interest, attorneys' fees or costs which may be awarded to Smith's in connection with the Condemnation Action."

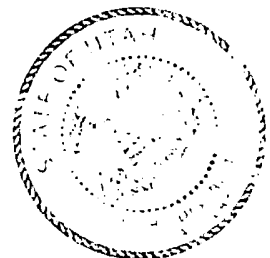
7. That UDOT shall pay Boyer \$479,143.00. This amount is inclusive of the amounts assigned to Boyer from the Smith's Defendants on or about May 31, 2013.

8. That in addition to the \$479,143.00 payment from UDOT, Boyer is entitled to \$420,857.00 of the \$825,809.00 that UDOT has heretofore deposited with the Court. This amount is inclusive of the amounts assigned to Boyer from the Smith's Defendants on or about May 31, 2013.

9. That the Court shall release to Boyer \$420,857.00 which is on deposit with the Court.

10. That based upon the Order Dismissing Defendant Landmark Title Company entered on January 22, 2014, the Court finds that Defendant Landmark Title Company has disclaimed any interest it may have in any and all amounts owing as just compensation, and as such, no just compensation is due to said Defendant.

11. That Defendant Furniture Warehouse (Gary Riddle, Inc. dba Furniture Warehouse) was duly served with process in this lawsuit, failed to plead or otherwise defend itself, and its default was entered on May 25, 2011. Accordingly, Judgment by Default is hereby entered against said Defendant, and its rights and interest in the Subject Property, if any, shall



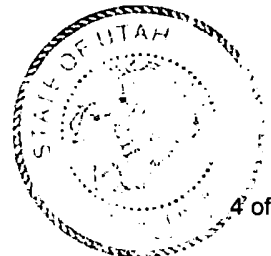
vest in Plaintiff, Utah Department of Transportation.

12. That a copy of this Final Judgment of Condemnation and Release of Funds shall be filed with the County Recorder of Salt Lake County, State of Utah, and thereupon the rights and interests of all named party-defendants in and to the following described property, situated in Salt Lake County, State of Utah, shall vest in the Plaintiff, Utah Department of Transportation, 4501 South 2700 West, Salt Lake City, Utah 84119:

Parcel No. 0068:10 (FEE SIMPLE ACQUISITION)

A parcel of land in fee, being part of an entire tract of property situate in the SE1/4SW1/4 of Section 10, T.2S., R.1W., S.L.B.&M. in Salt Lake County, State of Utah. The boundaries of said parcel of land are described as follows:

Beginning at a point on the northerly right-of-way line of 5400 South Street 980.93 feet S.89°53'41"W. along the section line and 56.47 feet N.00°06'19"W. from the South Quarter Corner of said Section 10, which point is 56.74 feet perpendicularly distant northerly from the control line of said 5400 South Street opposite approximate Engineer Station 74+29.04, and running thence N.83°00'11"E. 150.49 feet to a point 69.56 feet perpendicularly distant northerly from said control line opposite Engineer Station 75+78.99; thence N.89°08'10"E. 311.82 feet to a point 63.16 feet radially distant northerly from said control line opposite Engineer Station 78+90.23; thence N.74°09'54"E. 88.86 feet to a point 85.25 feet radially distant northerly from said control line opposite Engineer Station 79+75.74 and the beginning of a non-tangent 154.32-foot radius curve to the right (Note: Radius bears S.15°50'09"E.); thence Easterly along the arc of said curve 40.14 feet through a delta of 14°54'07" (Note: Chord to said curve bears N.81°36'55"E. for a distance of 40.02 feet) to a point 90.31 feet radially distant northerly from said control line opposite Engineer Station 80+15.14 and the beginning of a non-tangent 1273.69-foot radius curve to the right (Note: Radius bears S.00°59'50"E.); thence Easterly along the arc of said curve 106.27 feet through a delta of 04°46'50" (Note: Chord to said curve bears S.88°36'25"E. for a distance of 106.24 feet) to a point of reverse curvature with a radius of 1988.00 feet, which point is 86.31 feet radially distant northerly from said control line opposite Engineer Station 81+20.50; thence Easterly along the arc of said curve 144.53 feet through a delta of 04°09'56" (Note: Chord to said curve bears S.88°17'58"E. for a distance of 144.50 feet) to a point 81.47 feet perpendicularly distant northerly from said control line opposite Engineer



Station 82+64.34; thence N.89°37'04"E. 45.19 feet to a point 81.69 feet perpendicularly distant northerly from said control line opposite Engineer Station 83+09.53; thence N.44°19'52"E. 41.12 feet to a point 11.05 feet perpendicularly distant northerly from said control line opposite Engineer Station 83+38.32; thence N.89°46'59"E. 17.09 feet to the easterly right-of-way line Redwood Road at a point 111.08 feet perpendicularly distant northerly from said control line opposite Engineer Station 83+55.40; thence S.00°03'46"E. 25.75 feet along said easterly right-of-way line to said northerly right-of-way line of 5400 South Street; thence along said northerly right-of-way line the following five (5) courses and distances: (1) S.73°38'24"W. 114.46 feet; thence (2) S.89°53'41"W. 126.78 feet to the beginning of a 11512.16-foot radius curve to the left; thence (3) Westerly along the arc of said curve 401.85 feet through a delta of 02°00'00" (Note: Chord to said curve bears S.88°53'41"W. for a distance of 401.83 feet); thence (4) S.87°53'41"W. 173.03 feet to the beginning of a 11406.16-foot radius curve to the right; thence (5) Westerly along the arc of said curve 116.70 feet through a delta of 00°35'10" (Note: Chord to said curve bears S.88°11'16"W. for a distance of 116.68 feet) to the point of beginning. The above described parcel of land contains 16,970 square feet or 0.390 acres in area, more or less.

(Note: Rotate all bearings in the above description 0°01'11" clockwise to obtain highway bearings.)

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

Parcel No. 0068:10:E (TEMPORARY EASEMENT – ALREADY TERMINATED BY PASSAGE OF TIME AND COMPLETION OF WORK.)

A temporary easement, upon part of an entire tract of property, in the SE1/4SW1/4 of Section 10, T.2S., R.1W., S.L.B.&M., in Salt Lake County, Utah, for the purpose of constructing thereon driveways, side treatments and appurtenant parts thereof and blending slopes incident to the construction of Project No. CM-0068(38)52.

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 Defendant(s) may possess of reasonable access to property outside of the easement.

Duration of Easement. ALREADY TERMINATED BY PASSAGE OF TIME AND COMPLETION OF WORK

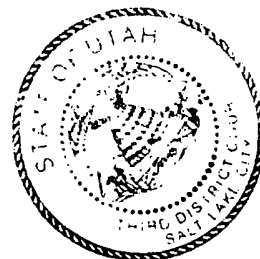
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Restoration of Property. UDOT will restore the real property as nearly as reasonably possible to its condition prior to any material disturbance from construction activities, consistent with project improvements. The boundaries of said portion are described as follows:

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

Beginning at a point on the northerly right-of-way line of the existing highway State Route 173 (5400 South Street) 980.93 feet S.89°53'41"W. along the section line and 56.47 feet N.00°06'19"W. from the South Quarter Corner of said Section 10, which point is 56.74 feet perpendicularly distant northerly from the control line of said 5400 South Street opposite approximate Engineer Station 74+29.04, said point is also being the beginning of a non-tangent 11406.16-foot radius curve to the right (Note: Radius bears N.01°31'09"W.), and running thence Westerly 2.89 feet along said northerly right-of-way line and arc of said curve through a delta of 00°00'52" (Note: Chord to said curve bears S.88°29'18"W. for a distance of 2.89 feet); thence N.01°30'01"W. 4.75 feet; thence N.83°00'11"E. 88.83 feet; thence N.00°01'11"W. 9.96 feet; thence N.89°58'49"E. 35.57 feet; thence S.00°01'11"E. 5.60 feet; thence N.83°00'11"E. 42.56 feet; thence N.89°08'10"E. 164.47 feet; thence N.00°55'00"W. 13.75 feet; thence N.89°10'19"E. 61.30 feet; thence S.00°55'02"E. 11.71 feet; thence N.89°08'10"E. 72.01 feet; thence N.74°09'54"E. 93.34 feet to the beginning of a non-tangent 1278.69-foot radius curve to the right (Note: Radius bears S.02°35'47"E.); thence Easterly 142.38 feet along the arc of said curve through a delta of 06°22'46" (Note: Chord to said curve bears S.89°24'23"E. for a distance of 142.30 feet) to a point of reverse curvature with a radius of 1983.00 feet; thence Easterly 144.17 feet along the arc of said curve through a delta of 04°09'56" (Note: Chord to said curve bears S.88°17'58"E. for a distance of 144.14 feet); thence N.89°37'04"E. 34.66 feet; thence N.44°19'52"E. 41.16 feet; thence N.89°46'59"E. 27.61 feet to the westerly right-of-way line of the existing highway State Route 68 (Redwood Road); thence S.00°03'46"E. 5.00 feet along said westerly right-of-way line; thence S.89°46'59"W. 17.09 feet; thence S.44°19'52"W. 41.12 feet; thence S.89°37'04"W. 45.19 feet to the beginning of a 1988.00-foot radius curve to the right; thence Westerly 144.53 feet along the arc of said curve through a delta of 04°09'56" (Note: Chord to said curve bears N.88°17'58"W. for a distance of 144.50 feet) to a point of reverse curvature with a radius of 1273.69 feet; thence Westerly 106.27 feet along the arc of said curve through a delta of 04°46'50" (Note: Chord to said curve bears N.88°36'25"W. for a distance of 106.24 feet) to the beginning of a non-tangent 154.32-foot radius curve to the left (Note: Radius bears S.00°56'01"E.); thence Westerly 40.14 feet along the arc of said curve through a delta of 14°54'07" (Note: Chord to said curve bears S.81°36'55"W. for a distance of 40.02 feet); thence S.74°09'54"W. 88.86 feet; thence S.89°08'10"W. 311.82 feet; thence S.83°00'11"W. 150.49 feet to the point of beginning. The above described part of an entire tract of land contains 7,063



square feet or 0.162 acres in area, more or less.

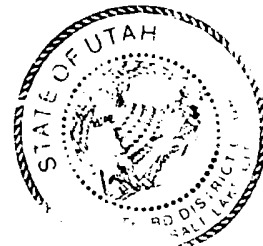
(Note: Rotate all bearings in the above description 0°01'11" clockwise to obtain highway bearings.)

Parcel No. 0068:10:2E (PERMANENT EASEMENT)

An easement for a right of way for the construction, reconstruction, operation, maintenance, repair, replacement, enlargement, and removal of underground electric power transmission, 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 of Defendant in Salt Lake County, State of Utah more particularly described as follows:

Legal Description: Beginning at a point on the southerly boundary line of the Defendant's land, said point being in the northerly right-of-way line of the existing highway State Route 173 (5400 South Street), which point is 980.93 ft., S. 89°53'41" W. along the section line and 56.47 ft., N. 00°06'19" W. from the South Quarter Corner of Section 10, said point also being the beginning of a non-tangent 11406.16 foot-radius curve to the right (Note: Radius bears N. 01°31'08" W.); and running thence Westerly, 137.12 ft. along the arc of said curve through a delta of 00°41'20" (Note: Chord to said curve bears S. 88°49'31" W. for a distance of 137.12 ft.); thence N. 00°01'11" W., 20.71 ft.; thence N. 89°58'49" E., 29.00 ft.; thence S. 00°01'11" E., 7.66 ft.; thence S. 88°54'14" E., 104.25 ft.; thence N. 83°38'27" E., 69.11 ft.; thence N. 06°37'05" W., 10.96 ft.; thence N. 83°22'55" E., 20.00 ft.; thence S. 06°37'05" E., 10.39 ft.; thence N. 88°05'20" E., 300.00 ft.; thence N. 24°54'53" E., 13.45 ft.; thence N. 89°58'49" E., 20.00 ft.; thence S. 22°31'56" E., 11.49 ft.; thence N. 87°05'04" E., 74.13 ft.; thence N. 63°01'24" E., 36.52 ft.; thence N. 75°35'18" E., 37.51 ft.; thence N. 88°03'27" E., 44.81 ft.; thence S. 88°18'12" E., 253.75 ft.; thence N. 44°19'52" E., 53.39 ft.; thence N. 00°03'46" W., 21.37 ft.; thence N. 89°56'14" E., 34.71 ft. to the westerly right-of-way line of the existing highway State Route 68 (Redwood Road); thence S. 00°03'46" E., 37.64 ft. along said westerly right-of-way line; thence S. 89°46'59" W., 17.09 ft.; thence S. 44°19'52" W., 41.12 ft.; thence S. 89°37'04" W., 45.19 ft. to the beginning of a 1988.00 foot-radius curve to the right; thence Westerly, 144.53 ft. along the arc of said curve through a delta of 04°09'56" (Note: Chord to said curve bears N. 88°17'58" W. for a distance of 144.50 ft.) to a point of reverse curvature with a radius of 1273.69 ft.; thence Westerly, 106.27 ft. along the arc of said curve through a delta of 04°46'50" (Note: Chord to said curve bears N. 88°36'25" W. for a distance of 106.24 ft.) to the beginning of a non-tangent 154.32 foot-radius curve to the left (Note: Radius bears

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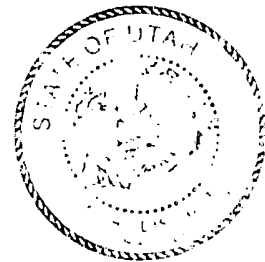
S. 00°56'01" E.); thence Westerly, 40.14 ft. along the arc of said curve through a delta of 14°54'07" (Note: Chord to said curve bears S. 81°36'55" W. for a distance of 40.02 ft.); thence S. 74°09'54" W., 88.86 ft.; thence S. 89°08'10" W., 311.82 ft.; thence S. 83°00'11" W., 150.49 ft. to the point of beginning, and being in the SE1/4 of the SW1/4 of Section 10, T. 2S., R. 1W., S.L.B.&M., containing 10,791 square feet in area or 0.248 acre, more or less.

Assessor Parcel No. 21-10-379-013

Together with the right of access to the right of way from adjacent lands of Defendant for all activities in connection with the purposes for which this easement has been granted; however, in the absence of the landowner's express written consent, or by virtue of UDOT securing a permit, UDOT shall not use Defendants' adjacent lands for construction, staging, storage, or any purpose other than access and UDOT shall repair or reimburse Defendants for any damage caused by said access; and together with the present and (without payment therefor) the future right to keep the right of way clear of all brush, trees, timber, structures, buildings and other hazards which might endanger Grantee's facilities or impede Grantee's activities.

At no time shall Defendant place or store any flammable materials (other than agricultural crops), or light any fires, on or within the boundaries of the right of way. Subject to the foregoing limitations, the surface of the right of way may be used for agricultural crops and other purposes not inconsistent, as determined by Grantee, with the purposes for which this easement has been granted.

The rights and obligations of the parties hereto shall be binding upon and shall benefit their respective heirs, successors and assigns. This easement does not convey the right to use the easement in a manner that would deny any right Defendant(s) may possess of reasonable access to property outside of the easement.



APPROVED AS TO FORM:

/s/ Kevin M. McDonough
KEVIN M. MCDONOUGH
Attorney for Plaintiff UDOT

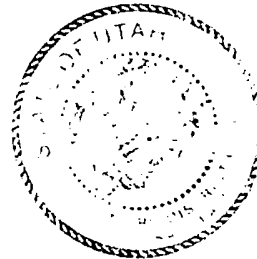
APPROVED AS TO FORM:
*(Electronically signed with permission
from Thomas K. Checketts)*

/s/ Thomas K. Checketts
THOMAS K. CHECKETTS
PETER C. SCHOFIELD
Attorneys for Defendant Rural Enterprises LC

APPROVED AS TO FORM:
*(Electronically signed with permission
of Justin P. Matkin)*

/s/ Justin P. Matkin
STEPHEN E. W. HALE
JUSTIN P. MATKIN
*Attorneys for Defendant and Cross-Claim Plaintiff Boyer-Plaza 5400 Associates, L.C.,
Defendant Bank of America, N.A., properly named herein as U.S. Bank National Association, as
Trustee, as holders of Bear Stearns Commercial Mortgage Securities, Commercial Mortgage
Pass-Through Certificates, 2004-PWR5, Fred Meyer Stores, Inc., Smith's Food & Drug Centers,
Inc. and The Kroger Co.*

**Order becomes effective on the date when electronically signed
by the Court on the first page.**



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Salt Lake County Civil No. 110901428
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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of April, 2014, I electronically filed the foregoing **FINAL JUDGMENT OF CONDEMNATION AND RELEASE OF FUNDS** with the Court by using the ECF system which will electronically notify the following:

Thomas K. Checketts
Peter C. Schofield
Kirton & McConkie
50 East South Temple, Suite 400
Salt Lake City, UT 84111-1004
Attorneys for Rural Enterprises

Stephen E. W. Hale
Justin P. Matkin
Parr Brown Gee & Loveless
185 South State Street, Suite 800
Salt Lake City, Utah 84111
*Attorneys for Defendant and Cross-Claim Plaintiff Boyer-Plaza 5400 Associates, L.C.,
Defendant Bank of America, N.A., properly named herein as U.S. Bank National Association, as
Trustee, as holders of Bear Stearns Commercial Mortgage Securities, Commercial Mortgage
Pass-Through Certificates, 2004-PWR5, Fred Meyer Stores, Inc., Smith's Food & Drug Centers,
Inc. and The Kroger Co.*



/s/ Stacey K. Calvin