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SHERYL L. WHITE, DAVIS CNTY RECORDER
2002 SEP 17 8:03 AM FEE .00 DEP MT
REC'D FOR UTAH DEPT OF TRANSPORTATION

SE 36, 2NW

IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR

*06-095-0023, 0024,
0122, 0123 pt*

DAVIS COUNTY, STATE OF UTAH

UTAH DEPARTMENT OF
TRANSPORTATION,

Plaintiffs,

vs.

WILLIAM K. OLSEN; U.S. REALTY 86
ASSOCIATES, a General Partnership
("Landlord"); PNS STORES, INC. aka)
MACFRUGAL'S BARGAIN STORES, INC.,
a California Corporation ("Tenant"); and
ZIONS FIRST NATIONAL BANK, a National
Association (Trustee and Beneficiary);

Defendants.

FINAL ORDER OF CONDEMNATION

Project No. INH-15-7(193)316

Parcel Nos. 11:A, 11B:A, 11D,
11F:A, 11:E, 11:2E and 11:3E

Civil No. 970700114 CD

Judge Rodney S. Page

It appearing to the Court and the Court now finds that on the 22nd day of July, 1999, this
Court entered a Summary Judgment in the above-entitled proceeding; and

It appearing to the Court and the Court now finds that pursuant to the law and the said Judgment, the Plaintiff did pay said Judgment to the Defendants, together with all interest required by said Judgment to be paid; and

It further appearing to the Court that the Plaintiff has made all payments as required by law and order of this Court, and that this is not a case where any bond was required to be given, and all and singular the law in the premises being given by the Court understood and fully considered,

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the parcels of land hereinafter described are hereby taken and condemned in fee simple title identified as Parcel Nos. 11:A, 11:BA, 11D, 11F:A, and easement interests as described in Parcel Nos. 11:E, 11:2E, 11:3E for the purpose described and set forth in the Plaintiff's Complaint, i.e., for the use of the Plaintiff, Utah Department of Transportation, for highway purposes.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said use is a public use and a use authorized by law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a copy of this Final Order of Condemnation be filed with the County Recorder of Davis County, State of Utah, and thereupon the property interests hereinafter referred to and set forth shall vest in the Plaintiff, Utah Department of Transportation, 4501 South 2700 West, Salt Lake City, Utah 84119. The following is a description of the property condemned as hereinabove provided, which is hereby

vested in the Plaintiff, all of such property being situated in Davis County, State of Utah, more particularly described as follows:

~~Parcel No. 15-7:11:A~~

A parcel of land in fee for a frontage road incident to the reconstruction of a freeway known as Project No. 15-7, being part of an entire tract of property situate in Lot 4 of Section 36 in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T. 2 N., R. 1 W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at a Southeast corner of said entire tract at a point 83.040 meters S. 89°50'00" W. and 11.281 meters (by deed, but 10.396 by measurement) S. 26°44'00" W. and 181.630 meters (by deed, but 183.144 meters by measurement) S. 89°50'00" W. and 6.038 meters S. 15°54'00" E. from the Davis County monument marking the intersection of 2600 South Street and Highway 91 (Note: said point of beginning is also 149.216 meters N. 89°51'48" E. along the Section Line and 560.197 meters north from the South Quarter Corner of said Section 36), and running thence S. 74°06'00" W. 7.916 meters along the northwesterly right of way line of 2600 South Street; thence N. 32°56'00" E. 10.516 meters to a point which is 10.361 meters perpendicularly distant southwesterly from the center line of said frontage road known as the "K" line of said project at Engineer Station 1+021.829; thence along a northeasterly boundary line of said entire tract for the following six (6) courses and distances: (1) N. 15°54'00" W. 7.498 meters; thence (2) N. 00°10'00" E. 10.314 meters; thence (3) N. 07°45'38" W. 7.532 meters; thence (4) S. 07°45'38" E. 7.532 meters; thence (5) S. 00°10'00" W. 10.314 meters; thence (6) S. 15°54'00" E. 7.498 meters; thence S. 15°54'00" E. 6.922 meters along said northeasterly boundary line of said entire tract to the point of beginning. The above described parcel of land contains 27.4 square meters.

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.764 to obtain square feet)

To enable the Utah Department of Transportation to construct and maintain a public highway, as contemplated by Title 27, Chapter 12, Section 96, Utah Code Annotated, 1953, as amended, the Owners of said entire tract of property hereby release and relinquish to said Utah Department of Transportation any and all rights or easements appurtenant to the remaining property of said Owner 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 conveyed, to or from said highway.

Parcel No. 15-7:11B:A

A parcel of land in fee for a frontage road incident to the reconstruction of a freeway known as Project No. 15-7, being part of an entire tract of property situate in the NW¼SE¼ of Section 36, T.2N., R.1W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

06-095-0122

Beginning at a point 207.369 meters N. 89°57'16" W. along the Lot Line from the Southeast corner of Lot 9 of said Section 36; and running thence S. 00°10'00" W. 2.091 meters along an easterly boundary line of said entire tract to a point which is 10.000 meters perpendicularly distant southwesterly from the "K" line of said project at Engincer Station 1+039.468; thence N. 07°45'38" W. 2.110 meters along a line parallel to said "K" line; thence N. 89°50'00" E. 0.291 meters to the point of beginning. The above described parcel of land contains 0.3 square meter.

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.764 to obtain square feet)

To enable the Utah Department of Transportation to construct and maintain a public highway as a freeway, as contemplated by Title 27, Chapter 12, Section 96, Utah Code Annotated, 1953, as amended, the Owners of said entire tract of property hereby release and relinquish to said Utah Department of Transportation any and all rights or easement appurtenant to the remaining property of said Owner 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 frontage road.

Parcel No. 15-7:11D

06-095-0122

A parcel of land in fee for a frontage road incident to the reconstruction of a freeway known as Project No. 15-7, being part of an entire tract of property situate in Lot 9 of Section 36 in the NW¼SE¼ of Section 36, T.2N., R.1W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at a point 208.791 meters N. 89°57'16" W. along the Lot Line and 8.297 meters north from the Southeast corner of said Lot 9, which point is 10.000 meters perpendicularly distant southwesterly from the "K" line of said project at Engineer Station 1+049.948, and running thence N. 07°45'38" W. 26.575 meters along a line parallel to said "K" line to a point of curvature with a 500.000-meter radius curve to the left; thence Northwesterly 27.398 meters along the arc of said curve concentric with said "K" line (Note: Chord to said curve bears N. 09°19'49" W. for a distance of 27.395 meters) to the northerly boundary line of said entire tract opposite Engineer Station 1+104.469; thence N. 89°44'00" E. 8.030 meters along said northerly boundary line; thence South 53.401 meters to the point of beginning. above described parcel of land contains 201.0 square meters.

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.764 to obtain square feet)

Parcel No. 15-7:11F:A

06-095-0123

A parcel of land in fee for a frontage road incident to the reconstruction of a freeway known as Project No. 15-7, being part of an entire tract of property situate in Lot 9 of Section 36 in the NW¼SE¼ of Section 36, T.2N., R.1W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at a point designated as Point "A" 207.660 meters N. 89°57'16" W. along the Lot Line from the Southeast corner of said Lot 9, which point is 10.000 meters perpendicularly distant southwesterly from the "K" line of said project at Engineer Station 1+041.577, and running thence N. 07°45'38" W. 5.422 meters along a line parallel to said "K" line to a point designated as point "B"; thence N. 07°45'38" W. 2.948 meters along a line parallel to said "K" line; thence North 53.401 meters to the northerly boundary line of said entire tract; thence N. 89°44'00" E. 12.306 meters along said northerly boundary line to a point 10.000 meters radially distant northeasterly from said "K" line at Engineer Station 1+100.789; thence Southeasterly 24.742 meters along the arc of a 520.000-meter radius curve to the right concentric with said "K" line (Note: Chord to said curve bears S. 09°07'25" E. for a distance of 24.739 meters) to a point of tangency opposite Engineer Station 1+076.523 and a point designated as Point "C"; thence S. 07°45'38" E. 37.687 meters along a line parallel to said "K" line to a point designated as Point "D"; thence N. 89°57'16" W. 20.187 meters along a southerly boundary line of said entire tract to the point of beginning. The above described parcel of land contains 1046.7 square meters.

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.764 to obtain square feet)

To enable the Utah Department of Transportation to construct and maintain a public highway as a freeway, as contemplated by Title 27, Chapter 12, Section 96, Utah Code Annotated, 1953, as amended, the Owners of said entire tract of property hereby release and relinquish to said Utah Department of Transportation any and all rights or easement appurtenant to the remaining property of said Owner 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 frontage road across the above described line between said designated Point "A" and Point "B" and across the above described line between said designated Point "C" and Point "D".

Parcel No. 15-7:11:E

A temporary construction easement, upon part of an entire tract of property in Lot 9 and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T.2N., R.1W., S.L.B.&M., in Davis County, Utah, for the purpose of constructing thereon drive approaches and cut and/or fill slopes and appurtenant parts thereof for a frontage road incident to the reconstruction of a freeway known as Project No. 15-7. The boundaries of said part of an entire tract are described as follows:

Beginning at a point 208.791 meters N. 89°57'16" W. along the Lot Line from the Southeast corner of said Lot 9, and running thence North 8.297 meters to a point which is 10.000 meters perpendicularly distant southwesterly from the "K" line of said project at Engineer Station 1+049.948; thence S. 07°45'38" E. 8.371 meters along a line parallel to said "K" line; thence S. 89°50'00" W. 1.130 meters to the point of beginning. The above described part of an entire tract of property contains 4.7 square meters.

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.764 to obtain square feet)

This easement shall expire upon the completion of the construction of said project or 5 years after the date of the execution of the within instrument, whichever first occurs.

After said drive approaches and cut and/or fill slopes and appurtenant parts thereof are constructed on the above described part of an entire tract, at the expense of the Utah Department of Transportation, said Utah Department of Transportation is thereafter relieved of any further

claim or demand for costs, damages or maintenance charges which may accrue against said drive approaches and cut and/or fill slopes and appurtenant parts thereof. Thereafter it is agreed hereby, thence the Grantor, by consent of the Utah Department of Transportation, shall have the right to lessen but not to increase the vertical distance or grade of said slopes.

Parcel No. 15-7:11:2E

A temporary construction easement, upon part of an entire tract of property in Lot 9 of Section 36 in the NW¼SE¼ of Section 36, T. 2 N., R. 1 W., S.L.B.&M., in Davis County, Utah, for the purpose of constructing thereon drive approaches and cut and/or fill slopes and appurtenant parts thereof for a frontage road incident to the reconstruction of a freeway known as Project No. 15-7. The boundaries of said part of an entire tract are described as follows:

Beginning at a point 187.473 meters N. 89°57'16" W. from the Southeast corner of said Lot 9, said point being 10.000 meters perpendicularly distant northeasterly from the center line of said frontage road known as the "K" line of said project at Engineer Station 1+038.836; and running thence N. 07°45'38" W. 37.687 meters along a line parallel to said "K" line to a point of curvature with a 520.000-meter radius curve to the left; thence Northwesterly 24.742 meters along the arc of said curve concentric with said "K" line (Note: Chord to said curve bears N. 09°07'25" W. for a distance of 24.739 meters); thence N. 89°44'00" E. along the northerly boundary line of said entire tract 3.048 meters to a point on a 523.000-meter radius curve to the right; thence Southeasterly 24.344 meters along the arc of said curve (Note: Chord to said curve bears S. 09°05'38" E. for a distance of 24.341 meters) to a point of tangency; thence S. 07°45'38" E. 38.098 meters; thence N. 89°57'16" W. 3.028 meters along a southerly boundary line of said entire tract to the point of beginning. The above described part of an entire tract of property contains 187.3 square meters.

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.764 to obtain square feet)

This easement shall expire upon the completion of the construction of said project or 5 years after the date of the execution of the within instrument, whichever first occurs.

After said drive approaches and cut and/or fill slopes and appurtenant parts thereof are constructed on the above described part of an entire tract, at the expense of the Utah Department of Transportation, said Utah Department of Transportation is there-after relieved of any further claim or demand for costs, damages or maintenance charges which may accrue against said drive

approaches and cut and/or fill slopes and appurtenant parts thereof. Thereafter it is agreed hereby, that the Grantor, by consent of the Utah Department of Transportation, shall have the right to lessen but not to increase the vertical distance or grade of said slopes.

Parcel No. 15-7:11:3E

A temporary construction easement, upon part of an entire tract of property in Lot 9 and the NW¼SE¼ of Section 36, T.2N., R.1W., S.L.B.&M., in Davis County, Utah, for the purpose of constructing thereon drive approaches and cut and/or fill slopes and appurtenant parts thereof for a frontage road incident to the reconstruction of a freeway known as Project No. 15-7. The boundaries of said part of an entire tract are described as follows:

Beginning at a point 83.040 meters S. 89°50'00" W. and 11.281 meters (by deed, but 10.396 meters by measurement) S. 26°44'00" W. and 181.630 meters (by deed, but 183.144 meters by measurement) S. 89°50'00" W. and 0.884 meters N. 15°54'00" W. from the Davis County monument marking the intersection of 2600 South Street and Highway 91 (Note: said point of beginning is also 147.320 meters N. 89°51'48" E. along the section line and 566.859 meters north from the South Quarter Corner of said Section 36), said point being 10.361 meters perpendicularly distant southwesterly from the center line of said frontage road known as the "K" line of said project at Engineer Station 1+021.829; and running thence S. 32°56'00" W. 4.048 meters; thence N. 07°45'38" W. 57.763 meters; thence N. 17°10'21" W. 28.684 meters; thence N. 89°44'00" E. 7.000 meters along the northerly boundary line of said entire tract to a point 10.000 meters perpendicularly distant southwesterly from said center line at Engineer Station 1+104.469; thence Southeasterly 27.398 meters along the arc of a 500.000-meter radius curve to the right concentric with said "K" line (Note: Chord to said curve bears S. 09°19'49" E. for a distance of 27.395 meters); thence S. 07°45'38" E. 26.575 meters along a line parallel to said "K" line; thence South 8.297 meters; thence N. 89°50'00" E. 1.130 meters to a point which is 10.000 meters perpendicularly distant southwesterly from said "K" line at Engineer Station 1+041.577; thence S. 07°45'38" E. 2.110 meters along a line parallel to said "K" line; thence S. 00°10'00" W. 10.314 meters; thence S. 15°54'00" E. 7.498 meters to the point of beginning. The above described part of an entire tract of property contains 290.1 square meters.

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.764 to obtain square feet)

DATED this 8th day of August, 2002.

BY THE COURT:

Rodney S. Page
RODNEY S. PAGE
District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER OF CONDEMNATION was served by mailing the same, first-class postage prepaid, this 18th day of July, 2002, to:

George K. Fadel
Attorney for Defendant
William K. Olsen
170 West 400 South
Bountiful, UT 84010

Amy Carterline

Final Order of Condemnation
Davis County Civil No. 970700114
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I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE.

DATED THIS 9 DAY OF Aug 20 02
ALYSON E. BROWN
CLERK OF THE COURT

BY K-L DEPUTY

