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STATE OF UTAH }
COUNTY OF DAVIS } SS.

I HEREBY CERTIFY THAT THIS IS A TRUE
COPY OF THE ORIGINAL ON FILE IN THE
UTAH STATE COURTS.



DATED: November 3 20 20
DISTRICT COURT

BY Richard T. Maughan DEPUTY

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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
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DEPT RTT REC'D FOR UTAH DEPT OF TRAF
SPORTATION

IN THE SECOND JUDICIAL DISTRICT COURT

IN AND FOR DAVIS COUNTY, STATE OF UTAH

UTAH DEPARTMENT OF
TRANSPORTATION,

Plaintiff,

vs.

FARMINGTON CITY, a municipal corporation,

Defendant.

**ORDER OF IMMEDIATE
OCCUPANCY, PENDENTE LITE**

Project No. S-R199(299)
Parcel Nos. 139D:RE, 140B:RE, 355B:RE,
911B:RE

Affecting Tax ID Nos.: 08-069-0020,
08-427-0141, 08-427-0144, 08-066-0007, 08-
067-0018, 08-066-0006, 08-083-0005

Civil No. 200700692

Judge David J. Williams

Plaintiff's Motion for Order of Occupancy, *Pendente Lite*, having been submitted for
decision and the Court having reviewed the memorandum in support thereof, Defendant's
opposition, and Plaintiff's reply memorandum, and for good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff's Motion for Order of Occupancy, *Pendente Lite*, is granted.
2. The Plaintiff Utah Department of Transportation is an agency of the State of Utah with the power of eminent domain.
3. The Plaintiff Utah Department of Transportation is entitled to condemn the property which is the subject of this lawsuit.
4. 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 §§ 72-5-101 *et. seq.* and 78B-6-501 *et. seq.*
5. Pursuant to Utah Code § 78B-6-510(2), the Court has taken proof by declaration that:
 - (a) UDOT's approved appraised value of the premises sought to be condemned is in the amount of \$190,400 with no severance damages;
 - (b) the Subject Property is necessary for the transportation needs of Davis County to provide a safe means of travel and UDOT requires speedy occupancy of the described premises to avoid the waste of public resources associated with project interruptions and delay.
5. The Plaintiff has deposited with the Clerk of the Court the appraised value of the Subject Property interests in the sum of \$190,400 for the purposes set forth in Utah Code § 78B-6-510.
6. The Plaintiff, its contractors, assignees and permittees are granted the right to immediate occupancy of the following premises, *pendente lite*, and to do whatever construction, relocation of utilities, and other work thereon as may be required in furtherance of the project described in Plaintiff's Complaint in Eminent Domain on the Subject Property described as

follows:

Affecting Tax Id Nos. 08-069-0020, 08-427-0141, 08-427-0144, 08-066-0007, 08-067-0018, 08-066-0006, 08-083-0005

Parcel No. S-R199:139D:RE

A part of the Conservation Easement granted to Farmington City by Boyer Wheeler Farm, LC, a Utah limited liability company, executed on February 6, 2007 and recorded as Entry No. 2243263 in Book No. 4217 at Page No. 108 in the Davis County Recorder's Office, situate in the NW1/4 NE1/4 and the NE1/4 NE1/4 of Section 22 Township 3 North, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at a point which is 126.48 feet N.89°51'14"E. and 1004.26 feet N.89°51'46"E. along the Section line from the North Quarter corner of said Section 22; and running thence N.89°51'46"E. 275.49 feet along said northerly section line to a point of curvature of a curve to the right with a radius of 2275.00 feet; thence southerly along said curve with an arc length of 629.98 feet, chord bears S.4°35'08"W. 627.97 feet; thence S.54°46'48"W. 282.42 feet; thence S.12°30'22"E. 178.87 feet; thence N.37°16'53"W. 165.93 feet; thence S.54°46'47"W. 79.21 feet; thence N.17°02'30"E. 165.40 feet to a point of curvature of a curve to the left with a radius of 2000.00 feet; thence northerly along said curve with an arc length of 727.15 feet, chord bears N.6°37'34"E. 723.15 feet; to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described parcel of land contains 214,877 square feet in area or 4.933 acres.

Parcel No. S-R199:140B:RE

A part of the Conservation Easement granted to Farmington City by Boyer Farmington Meadows, L.C., a Utah limited liability company, and Pleasant Valley Investments, L.C., a Nevada limited liability company, executed on October 12, 2007, and recorded as Entry No. 2318163 in Book No. 4401 at Page No. 370 in the Davis County Recorder's Office, situate in Parcel D and G, Farmington Meadows Phase 1 Subdivision recorded as Entry No. 2301822 in Book 4356 at Page 443 in the office of the Davis County Recorder, situate in the SW1/4 SE1/4 and the SE1/4 SE1/4 of Section 15 Township 3 North, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at a point which is 1406.21 feet N.89°51'23"E. along the Section line from the South Quarter corner of said Section 15, being the southwest corner of said Parcel D; and running thence S.89°51'23"W. 275.49 feet along said section line to a point of curvature of a curve to the left with a radius of 2000.00 feet; thence northerly along said curve with an arc length of 1227.05 feet, chord bears N.21°22'04"W. 1207.89 feet; thence N.38°56'38"W. 254.97 feet; thence N.89°56'45"E. 353.31 feet; thence S.38°56'38"E. 33.16 feet to a point of curvature of a curve to

the right with a radius of 2275.00 feet; thence southerly along said curve with an arc length of 1413.29 feet, chord bears S.21°08'49"E. 1390.68 feet; to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described parcel of land contains 402,665 square feet in area or 9.244 acres.

Parcel No. S-R199:355B:RE

A part of the Conservation Easement granted to Farmington City by Woodside Hunters Creek, LLC, executed on November 19, 2013 and recorded as Entry No. 2777950 in Book No. 5899 at Page No. 717 in the Davis County Recorder's Office, situate in the NW1/4 SE1/4 and the NE1/4 SW1/4 of Section 15 Township 3 North, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the center of said Section 15; and running thence S.89°57'52"E. 205.48 feet along the quarter section line; thence S.0°02'08"W. 136.32 feet; thence S.26°59'53"E. 1027.46 feet; thence S.38°56'58"E. 351.39 feet; more or less to the north boundary line of the Farmington Meadow Phase 1 Subdivision as recorded in the Davis County Recorder's Office; thence S.89°56'45"W. 353.34 feet along said north boundary line; thence N.38°56'58"W. 51.76 feet; thence N.83°56'58"W. 14.14 feet to a point of curvature of a curve to the left with a radius of 3364.00 feet; thence northwesterly along said curve with an arc length of 753.43 feet, chord bears N.45°21'57"W. 751.85 feet to a point of curvature of a curve to the right with a radius of 8086.00 feet; thence northerly along said curve with an arc length of 478.00 feet, chord bears N.50°05'18"W. 477.93 feet; thence N.48°23'42"W. 96.21 feet; thence S.41°36'18"W. 80.00 feet; thence N.48°23'42"W. 178.96 feet; thence N.41°36'18"E. 40.00 feet; thence N.48°23'42"W. 445.97 feet to said quarter section line; thence East 974.62 feet, more or less along said quarter section line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described parcel of land contains 890,760 square feet in area or 20.449 acres.

Parcel No. S-R199:911B:RE

A part of the Conservation Easement granted to Farmington City by Viking Real Estate, L.L.C, a Utah limited liability company, executed on July 2, 2003 and recorded as Entry No. 1893293 in Book No. 3341 at Page No. 1691 in the Davis County Recorder's Office, situate in the West 1/2 East 1/2 and the SE1/4 SE1/4 of Section 22 and the NW1/4 NE1/4, NE1/4 NE1/4 and the SE1/4 NE1/4 of Section 27, Township 3 North, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at a point which is 126.48 feet North 89°51'14" East along the Section line and 705.67 feet South 37°28'18" East and 442.94 feet South 37°16'21" East and 69.91 feet South 42°23'39" East and 156.25 North 54°46'47" East from the North Quarter corner of said Section 22; and

running thence N.54°46'47"E. 79.22 feet; thence S.37°16'53"E. 278.89 feet; thence S.17°02'36"W. 763.96 feet to a point of curvature of a curve to the left with a radius of 2800.00 feet; thence southerly along said curve with an arc length of 1398.64 feet, chord bears S.2°44'00"W. 1384.14 feet; thence S.11°34'36"E. 1406.25 feet to a point of curvature of a curve to the left with a radius of 2875.00 feet; thence southeasterly along said curve with an arc length of 2492.53 feet, chord bears S.36°24'49"E. 2415.20 feet; thence S.0°14'54"E. 303.97 feet to a point of curvature of a curve to the right with a radius of 3150.00 feet; thence northwesterly along said curve with an arc length of 2874.06 feet, chord bears N.37°49'09"W. 2775.40 feet; thence N.11°40'51"W. 1401.23 feet to a point of curvature of a curve to the right with a radius of 3075.00 feet; thence northerly along said curve with an arc length of 1541.49 feet, chord bears N.2°40'49"E. 1525.40 feet; thence N.17°02'30"E. 864.00 feet to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described parcel of land contains 1,749,551 square feet in area or 40.164 acres.

7. This Order is entered pursuant Utah Code § 78B-6-510. Accordingly, consistent with § 78B-6-510(6): (a) the money deposited in the Court shall be an advance on the just compensation to be awarded in this proceeding; (b) withdrawal of the deposited funds by the Defendant shall be considered to be an abandonment by the Defendant of all defenses except a claim for greater compensation; (c) if the compensation finally awarded exceeds the advance, the Court shall enter judgment against UDOT for the amount of the deficiency; and, (d) if the advance received by the Defendant is greater than the amount finally awarded, the court shall enter judgment against the Defendant for the amount of the excess.

8. This Order is entered without prejudice to the right of the Defendant to contest the amount of just compensation to be paid to the Defendant for the Subject Property and/or severance damages. Pursuant to Utah Code § 78B-6-510(5)(c)(i), if any additional compensation were ordered to be paid to the Defendant for the acquisition of the Subject Property such additional compensation amount would bear interest at an annual rate of 8% over and above that sum deposited with the Court in connection with this Order of Immediate Occupancy, with

interest to be calculated from the date of entry of this Order.

**ENTERED BY THE COURT EFFECTIVE AS OF THE DATE THE
COURT'S STAMP IS AFFIXED TO THE FIRST PAGE OF THIS DOCUMENT.**

Approved as to Form:

Todd J. Godfrey
Jayme L. Blakesley
HAYES GODFREY BELL, P.C.
Attorneys for Farmington City

CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2020, I served a true and correct copy of the foregoing **ORDER OF IMMEDIATE OCCUPANCY, PENDENTE LITE**, via e-mail on the following:

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/s/ Barbara H. Ochoa