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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
03/18/2022 09:33 AM
FEE \$0.00 Pgs: 11

When Recorded, mail to
UDOT
Right of way, Fourth Floor
Box 148420
Salt Lake City, Utah 84114-79420

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REC'D FOR UTAH DEPT OF TRANSPORTATION

Utah Department of Transportation

RIGHT OF ENTRY AND OCCUPANCY AGREEMENT

Project No.: S-R199(229)	Parcel No(s): 262B:2E, 262B:E
Job/Proj/Auth No.: 72698	Pin No.: 11268
Project Location: SR-177, West Davis Hwy; I-15 & SR-67 to SR-193	
County of Property: DAVIS	Tax Id/Sidwell No.: 08-521-0204 <i>PT ✓</i>
Property Address: 1224 South 650 West FARMINGTON UT, 84025	
Owner: ALK AIR, LLC, a Utah limited liability company	
Owner's Address: 8542 Mivu Circle, SANDY, UT 84093	

IN CONSIDERATION of the mutual covenants herein, the above Owners and the Utah Department of Transportation ("UDOT") enter into this Right of Entry and Occupancy Agreement ("Agreement") and agree as follows:

- SUBJECT PROPERTY.** The Subject Property referred to in this Agreement is identified as parcel number(s) 262B:2E, 262B:E, more particularly described in Exhibit A, which is attached hereto and incorporated herein.
- IMMEDIATE OCCUPANCY.** Owners hereby grant to UDOT, its employees and contractors, including but not limited to utility service providers and their contractors performing work as part of the UDOT project identified above, the right to immediately occupy the Subject Property and to do whatever construction, relocation of utilities, and other work as required in furtherance of the above referenced project. Owners represent and warrant that they have the right to grant occupancy of the Subject Property to UDOT.
- ADVANCE PAYMENT.** UDOT agrees to pay Owners the sum of \$471,800.00 (the "Advance Payment") as consideration for entering into this Agreement and as an advance payment on the just compensation to be awarded in a court proceeding or through arbitration or settlement. The Advance Payment shall be applied as a credit towards amounts owed by UDOT at a closing for sale of the Subject Property to UDOT, or if Owner and UDOT fail to agree on a purchase price for the Subject Property, the Advance Payment shall be considered a payment pursuant to Utah Code § 78B-6-510(3) in any lawsuit to condemn the Subject Property. Such Advance Payment shall provide the parties with all the rights and restrictions in Utah Code § 78B-6-510. UDOT shall not be entitled to occupancy of the Subject Property until the Advance Payment to Owners is paid.
- PURPOSE OF AGREEMENT.** UDOT requires immediate occupancy of the Subject Property so that construction of the above-referenced project can begin. This Agreement alleviates the need to immediately file an eminent domain lawsuit to obtain occupancy and allows Owner and UDOT to continue negotiations for the sale of the Subject Property and interests therein. Upon receipt of the Advance Payment, Owners abandon all defenses to a condemnation lawsuit except a claim for greater compensation, as provided in Utah Code § 78B-6-510.

5. **IF NEGOTIATIONS ARE SUCCESSFUL.** UDOT and Owners agree that negotiations under this Agreement will be deemed to be successful only if the terms of sale to UDOT of all interests in the Subject Property have been set forth in fully signed written contract(s).
6. **IF NEGOTIATIONS ARE UNSUCCESSFUL.** If UDOT and Owners have not entered into a written contract or contracts for the sale to UDOT of all interests of Owners in the Subject Property within 90 days following the last signature to this Agreement, UDOT may then file a lawsuit to condemn the Subject Property. Upon written request by Owners pursuant to paragraph 7, UDOT will commence a condemnation lawsuit within 30 days following such request. Such notice may be given by Owner at any time. The occupancy granted to UDOT under this Agreement shall continue throughout any lawsuit to condemn the Subject Property, but UDOT shall have the right to move for and obtain a court order of occupancy, which Owners agree not to contest so long as it is not materially inconsistent with this Agreement.

The date on which the right to compensation and damages, if any, shall be deemed to have accrued for purposes of a condemnation lawsuit or other valuation proceeding, shall be the date of the first signature to this Agreement, or other date as ordered by the court.

7. **NOTICES AND REQUESTS.** All notices or requests required or contemplated under this Agreement shall be (a) in writing; (b) signed by the Owner or UDOT; and (c) sent by certified U.S. mail to the Owners at the address set forth at page 1 of this Agreement, or to UDOT at: Right of Way Division, Director of Right of Way, 4501 South 2700 West, Box 148420, Salt Lake City, Utah 84114-8420.
8. **UDOT'S RIGHT TO CANCEL.** If the Subject Property becomes unnecessary for a public use or is no longer required for the construction of the project referenced above, UDOT may cancel this Agreement by written notice to Owners and will have no obligation to purchase or condemn the Subject Property. However, UDOT will jointly pay Owners, in accordance with their interest, the reasonable rental value of the Subject Property for the period of occupancy and will restore the Subject Property due to any disturbance or construction caused by UDOT during occupancy, or in the alternative, UDOT may elect to pay Owner the cost of such restoration. The Advance Payment shall be repaid to UDOT in accordance with Utah law. In addition, if UDOT cancels this Agreement after filing a condemnation action, it shall be considered an abandonment pursuant to Utah Code § 78B-6-517 and all provisions of that Section shall apply.

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SIGNATURE PAGE
TO
UTAH DEPARTMENT OF TRANSPORTATION
RIGHT OF ENTRY AND OCCUPANCY AGREEMENT


DATED this 18th day of January, 2022

Alicyn King for ALK Air LLC manager
Property Owner Property Owner

STATE OF UTAH
County of Salt Lake

On the 18 day of January, 20 22, Alicyn King, personally appeared before me as the signer(s) of the Agreement set forth above, who duly acknowledged to me that he/she/they executed the same.

[Signature]
NOTARY PUBLIC

 NOTARY PUBLIC
RYAN NORRIS
COMM. # 699965
COMMISSION EXPIRES
APRIL 16, 2022
STATE OF UTAH

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ADDITIONAL SIGNATURE PAGE
TO
UTAH DEPARTMENT OF TRANSPORTATION
RIGHT OF ENTRY AND OCCUPANCY AGREEMENT

DATED this 1st day of February, 2022
Charles A. Stormont

UDOT Director of Right of Way

STATE OF UTAH
County of Salt Lake

On the 1 day of February, 2022, Charles A. Stormont, personally appeared before me as the signer(s) of the Agreement set forth above, who duly acknowledged to me that he/she/they executed the same.

Krisay Pielt
NOTARY PUBLIC
Krisay Pielt
Notary Public - State of Utah
Expires 07/31/2022
Commission # 701558

Exhibit A

262B:2E - Temporary Easement

262B:E - Perpetual Easement

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

Easement
(LIMITED LIABILITY COMPANY)
Davis County

Tax ID No. 08-521-0204
PIN No. 11268
Project No. S-R199(229)
Parcel No. R199:262B:E

ALK AIR, LLC, a Utah limited liability company, Grantor,
hereby GRANTS AND CONVEYS 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 easement in Davis County, State of Utah, to-wit:

A perpetual easement, upon part of an entire tract of property, situate in Lot 202, Farmington Bay Business Park-Subdivision Plat A Amendment #2, according to the official plat thereof, recorded March 27, 2013 as Entry No. 2729134 in Book 5735 at Page 245 in the office of the Davis County Recorder, situate in the SW1/4 SE1/4 of Section 25, Township 3 North, Range 1 West, Salt Lake Base and Meridian, for the purpose of constructing (reconstructing) and maintaining thereon roadway facilities, overhead and buried utilities and appurtenant parts thereof including, but not limited to fiber optics, lighting facilities, communication cables, storm drains, irrigation ditches and pipes, water lines, sewer lines, gas lines, and highway appurtenances including but not limited to slopes and traffic signs to facilitate the construction of SR-67 West Davis Highway, known as Project No. S-R199(229). This easement includes the right to construct, maintain, and continue the existence of said cut and/or fill slopes in the same grade and slope ratio as constructed by Grantee. This easement shall run with the real property and shall be binding upon the Grantor, successors, heirs and assigns, and includes and conveys all rights of Grantor to change the vertical distance or grade of said cut and/or fill slopes. The boundaries of said part of an entire tract are described as follows:

Beginning at the Southeast corner of said Lot 202; and running thence S.78°52'34"W. 29.75 feet along the southerly boundary line of said Lot 202 to a point 370.02 feet perpendicularly distant southerly from the SR-67 right of way control line of said Project, opposite approximate Engineers Station 1017+77.59; thence N.11°05'55"W.

260.00 feet to a point 116.67 feet perpendicularly distant southerly from the SR-67 right of way control line of said Project, opposite Engineers Station 1018+36.00; thence N.78°52'34"E. 29.63 feet to the easterly boundary line of said Lot 202; thence S.11°07'26"E. 260.00 feet along said easterly boundary 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 part of an entire tract contains 7,719 square feet in area or 0.177 acre.

(Note: Rotate above bearings 00°19'26" clockwise to equal NAD83 Highway bearings)

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Utah Department of Transportation
Right of Way, Fourth Floor
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Salt Lake City, Utah 84114-8420

Easement
(LIMITED LIABILITY COMPANY)
Davis County

Tax ID No. 08-521-0204
PIN No. 11268
Project No. S-R199(229)
Parcel No. R199:262B:2E

ALK AIR, LLC, a Utah limited liability company, Grantor,
hereby GRANTS AND CONVEYS 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 easement in Davis County, State of Utah, to-wit:

A temporary easement, upon part of an entire tract of property, situate in Lot 202, Farmington Bay Business Park Subdivision Plat A Amendment #2, according to the official plat thereof, recorded March 27, 2013 as Entry No. 2729134 in Book 5735 at Page 245 in the office of the Davis County Recorder, situate in the SW1/4 SE1/4 and the SE1/4 SW1/4 of Section 25, Township 3 North, Range 1 West, Salt Lake Base and Meridian, for the purpose of blending of slopes, a driveway reconstruct and appurtenant parts thereof to facilitate the construction of SR-67 West Davis Highway, known as Project No. S-R199(229). 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 three (3) 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. The boundaries of said part of an entire tract are described as follows:

Beginning in the southerly boundary line of said Lot 202 at a point 370.02 feet perpendicularly distant southerly from the SR-67 right of way control line of said Project, opposite approximate Engineers Station 1017+77.59, which point is 29.75 feet S.78°52'34"W. from the Southeast corner of said Lot 202; and running thence S.78°52'34"W. 10.98 feet along said southerly boundary line to a point 372.49 feet perpendicularly distant southerly from the SR-67 right of way control line of said Project, opposite approximate Engineers Station 1017+88.28; thence N.11°03'14"W. 39.87 feet;

thence N.78°56'46"E. 5.94 feet; thence N.11°05'55"W. 215.13 feet; thence S.78°52'34"W. 131.28 feet; thence N.11°07'26"W. 5.00 feet to a point 147.35 feet perpendicularly distant southerly from the SR-67 right of way control line of said Project, opposite Engineers Station 1019+68.79; thence N.78°52'34"E. 136.28 feet; thence S.11°05'55"E. 260.00 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 part of an entire tract contains 2,195 square feet in area or 0.050 acre.

(Note: Rotate above bearings 00°19'26" clockwise to equal NAD83 Highway bearings)

