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Fourth Judicial District Court
of Utah County, State of Utah
12/14/12 *MR* Deputy

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Attorneys for Defendant

IN THE FOURTH JUDICIAL DISTRICT COURT IN AND FOR
UTAH COUNTY, STATE OF UTAH

UTAH DEPARTMENT OF
TRANSPORTATION,

Plaintiff,

v.

IM FLASH TECHNOLOGIES, LLC,

Defendant.

**FINAL JUDGMENT OF
CONDEMNATION**

Project No.: F-0092(12)1
Parcel No.: 27:A, 27:E; 27:2E, 27:3E
Affecting Tax ID No.: 11-029-0035

Civil No. 090402696

Judge Howard

The Court, having reviewed the parties' Joint Motion for Entry of Final Judgment of
Condemnation and being fully advised in the matter, IT IS HEREBY ORDERED, ADJUDGED
AND DECREED as follows:

1. The following described real property (the "Property"), owned by Defendant IM
Flash Technologies, LLC "IM Flash" is hereby condemned and acquired by UDOT.

Parcel No. 0092:27:A

A parcel of land in fee, for the widening of highway State Route 92 known as Project F-0092, being part of an entire tract of property, situate in the N1/2NE1/4 of Section 33 and the N1/2NW1/4 of Section 34, Township 4 South, Range 1 East, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the intersection of the northerly right of way line of existing State Route 92 (Timpanogos Highway) and the westerly boundary line of said entire tract, which point is 403.26 feet S.89°58'38"E. along the north line of said Section 33 and 1,303.41 feet S.04°02'40"E. from the North Quarter corner of said Section 33; and running thence N.04°02'40"W. 220.69 feet along said westerly boundary to a point 97.89 feet radially distant northerly from said centerline, opposite approximate Engineers Station 154+45.51; thence S.85°20'33"E 82.17 feet to a point 100.00 feet radially distant northerly from said centerline, opposite approximate Engineers Station 155+30.00; thence N.77°58'28"E. 239.83 feet to a point 164.33 feet radially distant northerly from said centerline, opposite approximate Engineers Station 157+70.00; thence N.89°42'00"E. 2,581.54 feet to a point 181.06 feet perpendicularly distant northerly from said centerline, opposite approximate Engineers Station 183+30.00; thence S.80°51'23"E 438.82 feet to a point 175.28 feet radially distant northerly from said centerline, opposite approximate Engineers Station 187+82.87; thence N.89°42'00"E 238.39 feet to the easterly boundary line of said entire tract, at a point 186.95 feet perpendicularly distant northerly from said centerline, opposite approximate Engineers Station 190+28.75; thence S.01°24'45"W. 192.48 feet along said easterly boundary line to said existing northerly right of way line; thence along said existing northerly right of way line the following six (6) courses and distances: (1) S.89°41'35"W. 366.16 feet; (2) thence S.89°43'46"W. 790.00 feet; (3) thence S.89°40'02"W. 1,110.00 feet; (4) thence S.89°44'09"W. 670.00 feet; (5) thence S.89°41'35"W. 200.09 feet; (6) thence N.89°58'01"W. 413.08 feet to the point of beginning . The above described parcel of land contains 898,684 square feet in area or 20.631 acres.

To enable the Utah Department of Transportation to construct and maintain a public highway as an expressway, 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 of ingress to or egress from said Owner's remaining property contiguous to the lands hereby conveyed to or from said highway; **EXCEPTING** and reserving to said Owners, their successors or assigns, the right of access to the nearest roadway of said highway over and across the northerly right of way line for a 180.00-

foot section, which said section centers at a point directly opposite Highway Engineer Station 176+36.00.

Parcel No. 0092:27:E

A perpetual easement, upon part of an entire tract of property, situate in the N1/2NE1/4 of Section 33 and in the N1/2NW1/4 of Section 34, Township 4 South, Range 1 East, Salt Lake Base and Meridian for the purpose of constructing and maintaining thereon public utilities and appurtenant parts thereof including, but not limited to ATMS Fiber Optic conduit, phone/communication lines, electrical service lines, gas lines, and cut and/or fill slopes to facilitate for the widening of State Route 92, known as Project F-0092. The easement specifically including the right to maintain and continue the existence of said cut and/or fill slopes in the same grade and slope ratio as constructed by UDOT. The easement includes and conveys all rights of the servient estate owner 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 in the westerly boundary line of said entire tract at a point 138.85 feet radially distant northerly from the centerline of said project, opposite approximate Engineers Station 154+37.32, which point is 403.26 feet S.89°58'38"E. along the north line of said Section 33 and 1,040.99 feet S.04°02'40"E. from the North Quarter corner of said Section 33; and running thence N.04°02'40"W. 50.11 feet along said westerly boundary line; thence N.89°42'00"E. 3,421.60 feet; thence S.00°18'00"E. 122.00 feet to the northerly highway right of way and limited access line of said project; thence S.89°42'00"W. 30.00 feet along said highway right of way and limited access line; thence N.00°18'00"W. 72.00 feet; thence S.89°42'00"W. 3,388.33 feet to the point of beginning. The above described part of an entire tract contains 173,164 square feet in area or 3.975 acres.

Parcel No. 0092:27:2E

A temporary construction easement, upon part of an entire tract of property, situate in the NE1/4NE1/4 of Section 33 and NW1/4NW1/4 of Section 34, Township 4 South, Range 1 East, Salt Lake Base and Meridian, for the purpose of constructing thereon 1200 East Street and appurtenant parts thereof to facilitate the widening of State Route 92, known as Project F-0092.

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

Duration of easement. The easement shall begin at the time actual construction of said project is commenced at the location of the easement, and shall continue for a period of the three years or until the earlier completion of the project. The easement shall run with the real property and shall be binding on Defendant(s), their successors, heirs and assigns.

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 said part of an entire tract is described as follows:

Beginning 403.26 feet S.89°58'38"E. along the Section line and 990.88 feet S.04°02'40"E. and 2,059.71 feet N.89°42'00"E. from the North Quarter corner of said Section 33, at a point 189.62 feet perpendicularly distant northerly from the centerline of said project, opposite approximate Engineers Station 175+12.89; and running thence N.89°42'00"E. 265.73 feet; thence northwesterly 841.83 feet along the arc of a 800.00-foot radius non-tangent curve to the left (chord bears N.40°12'34"W. 803.53 feet); thence S.19°38'41"W. 260.00 feet; thence southeasterly 523.12 feet along the arc of a 540.00-foot radius non-tangent curve to the right (chord bears S.42°36'10"E. 502.90 feet) to the point of beginning. The above described part of an entire tract contains 177,464 square feet in area or 4.074 acres.

Parcel No. 0092:27:3E

Three (3) temporary construction easements, upon part of an entire tract of property, situate in the N1/2NE1/4 of Section 33 and in the N1/2NW1/4 of Section 34, Township 4 South, Range 1 East, Salt Lake Base and Meridian to facilitate the widening of State Route 92, known as Project F-0092. These easements shall commence Aug. 11, 2009 .

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

Duration of easement. The easement shall begin at the time actual construction of said project is commenced at the location of the easement, and shall continue for a period of the three years or until the earlier completion of the project. The easement shall run with the real property and shall be binding on Defendant(s), their successors, heirs and assigns.

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 said part of an entire tract is described as follows:

Beginning at the intersection of the northerly right of way and limited-access line of said project and the westerly boundary line of said entire tract at a point 97.89 feet radially distant northerly from the centerline of said project, opposite approximate Engineers Station 154+45.51, which point is 403.26 feet S.89°58'38"E. along the north line of the NE1/4 of said Section 33 and 1,082.71 feet S.04°02'40"E. from the North Quarter corner of said Section 33; and running thence N.04°02'40"W. 41.73 feet along said westerly boundary line; thence N.89°42'00"E. 319.41 feet to said northerly right of way and limited access line; thence along said northerly highway right of way and limited access line the following two (2) courses and distances: (1) S.77°58'28"W. 239.82 feet; (2) thence N.85°20'32"W. 82.17 feet to the point of beginning. The above described part of an entire tract contains 9,479 square feet in area or 0.218 acre.

Also:

Beginning at a point on the northerly right of way and limited-access line of said project 179.12 feet radially distant northerly from the centerline of said project, opposite approximate Engineers Station 188+42.53, which point is 1,433.57 feet S.89°57'12"W. along the north line of the NW1/4 of said Section 34 and 1,092.75 feet South from the North Quarter corner of said Section 34; and running thence along said northerly highway right of way and limited access line the following two (2) courses and distances: (1) S.89°42'00"W. 54.51 feet; (2) thence N.80°51'23"W. 438.82 feet; thence N.89°42'00"E. 487.38 feet; thence S.00°18'00"E. 72.00 feet to the point of beginning. The above described part of an entire tract contains 19,508 square feet in area or 0.448 acre.

Also:

Beginning at the intersection of the northerly right of way and limited-access line of said project and the easterly boundary line of said entire tract at a point 186.95 feet perpendicularly distant northerly from the centerline of said project, opposite approximate Engineers Station 190+28.75, which point is 1,222.77 feet S.89°57'12"W. along the north line of the NW1/4 said Section 34 and 1,092.29 feet S.01°24'45"W. from the North Quarter corner of said Section 34; and running thence S.89°42'00"W. 153.88 feet along said northerly right of way and limited-access line; thence N.00°18'00"W. 122.00 feet; thence N.89°42'00"E. 157.53 feet to said easterly

boundary line; thence S.01°24'45"W. 122.05 feet along said easterly boundary line to the point of beginning. The above described part of an entire tract contains 18,996 square feet in area or 0.436 acre.

The combined area of the above described parts of an entire tract contains 47,983 square feet in area, or 1.102 acres.

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED THAT:

2. The purpose of the condemnation of the Property is for a necessary public use, authorized by law.

3. The Defendant IM Flash is awarded final judgment in the total amount of SIX MILLION ONE HUNDRED FIFTY-SEVEN THOUSAND DOLLARS (\$6,157,000.00) satisfying any and all claims or demands of any kind, from any sources, including claims for condemnation just compensation, severance damages, cost-to-cure damages, alternative accesses, easements, applicable interest, attorney fees and all costs, arising out of UDOT's condemnation of the Property and which may have been recoverable in this condemnation action.

4. In addition to UDOT's previous payment to IM Flash of Two Million Nine Hundred Ninety-Five Thousand Dollars (\$2,995,000.00), UDOT shall pay to IM Flash the remaining balance of Three Million One Hundred Sixty-Two Thousand Dollars (\$3,162,000.00) (the "Remaining Balance") as follows:

a. UDOT will pay Two Million Eighty-Four Thousand Five Hundred Ninety-Eight (\$2,084,598.00) of the Remaining Balance directly to IM Flash.

b. UDOT will pay to Micron Technology, Inc. ("Micron"), on behalf and direction of IM Flash, the sum of One Million Seventy-Seven Thousand Four Hundred Two Dollars (\$1,077,402.00) for access, construction, and easement costs associated with the loss and relocation of an access road to the IM Flash property (referred to as "Road A") that, in part, crosses Micron property. IM Flash shall indemnify and hold harmless UDOT against any claims by Micron concerning any alternative access, easement, or road, including Roads A and C.

5. With the full payment of the Remaining Balance, UDOT and IM Flash fully release each other from any and all claims, damages, demands, actions, causes of action or suits of any kind, nature or description whatsoever, known or unknown, foreseen or unforeseen, stated or unstated, which have arisen or could have arisen out of the events generally described in this condemnation action. Also released and discharged are all claims for condemnation just compensation, property interests, severance damages, cost-to-cure damages, alternative Roads A and C accesses and easements, applicable interest, attorney fees and all costs arising out of UDOT's condemnation of IM Flash's property and which may have been recoverable in this condemnation action.

6. A copy of this Final Judgment of Condemnation shall be filed with the County Recorder of Utah County, State of Utah; thereupon, any and all rights and interests of Defendant IM Flash in the Property, located in Utah County, State of Utah, shall vest in Plaintiff Utah Department of Transportation, 4501 South 2700 West, Salt Lake City, Utah 84119.

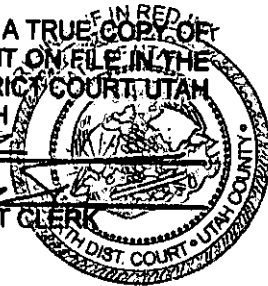
Dated this 14 day of Dec., 2012.

BY THE COURT

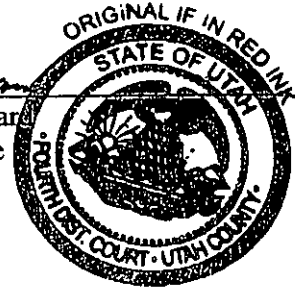
I CERTIFY THAT THIS IS A TRUE COPY OF
AN ORIGINAL DOCUMENT ON FILE IN THE
FOURTH JUDICIAL DISTRICT COURT, UTAH
COUNTY, STATE OF UTAH

DATE 12/17/12

[Signature]
DEPUTY COURT CLERK



[Signature]
Judge Fred D. Howard
District Court Judge



CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of December, 2012 a true and correct copy of the foregoing **FINAL JUDGMENT OF CONDEMNATION** was mailed via U.S. Mail to the following:

David J. Williams
STOEL RIVES LLP
201 South Main Street, #1100
Salt Lake City, Utah 84111
