

The Order of the Court is stated below:

Dated: December 20, 2017
05:18:29 PM

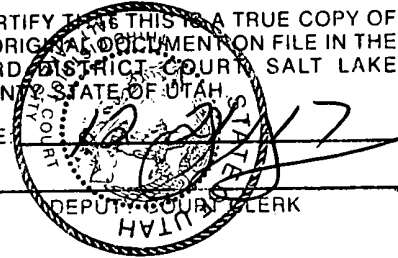
/s/ KARA PETTIT
District Court Judge



BARBARA H. OCHOA - # 4102
JAMES R. SOPER - #3043
Assistant Attorneys General
SEAN D. REYES - #7969
Utah Attorney General
Attorneys for Plaintiff
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, Utah 84114-0857
Telephone (801) 366-0353
bochoa@agutah.gov
jsoper@agutah.gov

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

DATE



12690379
01/03/2018 08:31 AM \$0.00
Book - 10635 Pg - 3657-3662
ADAM BARDINER
RECORDER, SALT LAKE COUNTY, UTAH

<p align="center">IN THE THIRD JUDICIAL DISTRICT COURT</p> <p align="center">IN AND FOR SALT LAKE COUNTY, STATE OF UTAH</p>	
<p>UTAH DEPARTMENT OF TRANSPORTATION,</p> <p align="right">Plaintiff,</p> <p align="center">vs.</p> <p>FPA WEST POINT, LLC, a Delaware corporation; and JOHN DOES I-V;</p> <p align="right">Defendants.</p>	<p align="center">ORDER OF OCCUPANCY, PENDENTE LITE</p> <p align="center">Project No. S-0154(12)11 Parcel Nos. 743:E and 743:2E</p> <p align="center">Affecting Tax ID Nos. 21-17-101-074, 21-17-101-096 and 21-17-101-047</p> <p align="center">Civil No. 170906309</p> <p align="center">Judge Kara Pettit</p> <p align="center">Tier 2</p>

UT-DEPT OF TRANSPORTATION
LUX 148420 ATT: JASON HEMLEY
SLC UT 84114-8420
BY: SNA, DEPUTY - M 6 P.

The Court having considered the Plaintiff's Motion for Order of Occupancy, the
Defendant's Opposition and the pleadings and papers filed herein, and good cause appearing,

IT IS HEREBY ORDERED:

1. Plaintiff, Utah Department of Transportation (UDOT), is granted the right to occupancy of the following premises, *pendente lite*, and to do whatever work thereon is required in furtherance of the project described in Plaintiff's Complaint:

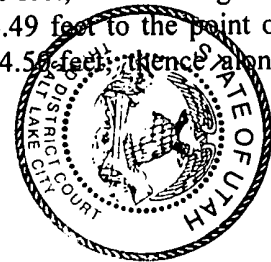
Tax Id No. 21-17-101-074, 21-17-101-096, 21-17-101-047

Parcel No. 0154:743:E

A perpetual easement, upon part of an entire tract of property situate in the NE 1/4 NW 1/4 of Section 17, Township 2 South, Range 1 West, Salt Lake Base and Meridian, in Salt Lake County, Utah, for the purpose of constructing and maintaining cut and/or fill slopes and appurtenant parts thereof to facilitate the construction of State Route-154 known as Project S-0154(12)11. 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(s), 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 perpetual easement are described as follows:

Beginning at the intersection of the existing westerly highway right of way and limited access line of said SR-154 and the southerly boundary line of said entire tract, which point is 823.90 feet N.89°56'30"E and 1090.25 feet S.0°03'30"E. and 823.79 feet S.89°54'30"E. and 45.99 feet

S.89°54'30"E. from the Northwest corner of said Section 17; and running thence N.89°54'30"W. 14.34 feet along a southerly boundary line of said entire tract to a point 135.09 feet perpendicularly distant westerly from the right of way control line of said SR-154, opposite approximate Engineers Station 4019+67.36; thence N.17°03'51 "W. 121.51 feet to the point of curvature of a non-tangent curve to the right with a radius of 14.00 feet; thence along said curve with an arc length of 14.59 feet, chord bears N.04°41 '48"E. 13.94 feet to the point of curvature of a non-tangent reverse curve to the left with a radius of 14.00 feet; thence along said curve with an arc length of 10.83 feet, chord bears N.03°50'13"E. 10.56 feet; thence N.18°06'08"W. 143.85 feet to a point 126.00 feet perpendicularly distant westerly from the right of way control line of said SR-154, opposite Engineers Station 4022+55.43; thence N.19°50'49"W. 37.37 feet to the point of curvature of a non-tangent curve to the left with a radius of 21.00 feet; thence along said curve with an arc length of 26.15 feet, chord bears N.55°30'50"W. 24.49 feet to the point of curvature of a non-tangent reverse curve to the right with a radius of 14.56 feet; thence along said curve with an arc length of 17.78 feet, chord bears



N.4 7°52'48"W. 16.69 feet; thence N. 1 5°43'20"W. 358.93 feet to a point in a northerly boundary line of said entire tract at a point 139.08 feet perpendicularly distant westerly from the right of way control line of said SR-154, opposite approximate Engineers Station 4026+85.24; thence along said northerly boundary line S.89°54'30"E. 16.00 feet to a point in said existing westerly highway right of way and limited access line; thence along said existing westerly highway right of way and limited access line the following to (2) courses and distances; (1) thence S.14°18'28"E. 55.35 feet; (2) thence S. 1 8°05'48"E. 662.14 feet to the point of beginning. The above described part of an entire tract contains 9,498 square feet in area or 0.218 acre.
(Note: Rotate above bearings 0°14'40" clockwise to equal Highway bearings).

Parcel No.0154:743:2E

Two temporary easements, upon part of an entire tract of property situate in the NE1/4 NW1/4 and the NW 1/4NW1/4 of Section 17, Township 2 South, Range 1 West, Salt Lake Base and Meridian, in Salt Lake County, Utah, for the purpose of constructing cut and/or fill slopes, slope paving, curb and gutter, sidewalks, walls and appurtenant parts thereof to facilitate the construction of SR-154, known as Project No. S-0154(12)11.

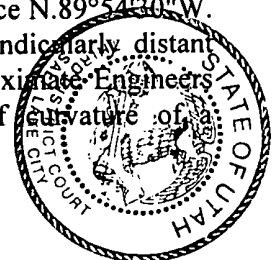
Non-exclusive use. The easement acquired herein does not convey any right except as stated herein, nor does it prevent Defendant(s) from the use of the real property within the easement so long as such use does not interfere with the purposes for which the easement is being acquired. This easement does 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 boundaries of said part of an entire tract of land are described as follows:

Beginning at a point in the southerly boundary line of said entire tract, which point is 823.90 feet N.89°56'30"E and 1090.25 feet S.00°03'30"E. and 823.79 feet S.89°54'30"E. and 31.65 feet S.89°54'30"E. from the Northwest corner of said Section 17; and running thence N.89°54'30"W. 5.23 feet along said southerly boundary line to a point 140.08 feet perpendicularly distant westerly from the right of way control line of said SR-154, opposite approximate Engineers Station 4019+68.95; thence N.17°03'51 "W. 119.64 feet to the point of beginning.



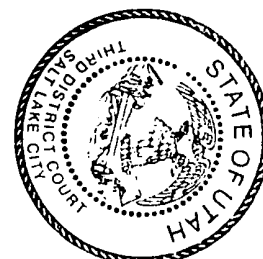
non-tangent curve to the right with a radius of 19.00 feet; thence along said curve with an arc length of 18.98 feet, chord bears N.04°36'08"E. 18.20 feet to the point of curvature of a non-tangent reverse curve to the left with a radius of 9.00 feet; thence along said curve with an arc length of 6.66 feet, chord bears N.02°50'22"E. 6.51 feet; thence N.18°06'08"W. 113.48 feet; thence N.36°45'54"W. 79.39 feet; thence N.15°43'20"W. 387.03 feet to a point in a northerly boundary line of said entire tract at a point 144.03 feet perpendicularly distant westerly from the right of way control line of said SR-154, opposite approximate Engineers Station 4026+86.82; thence along said northerly boundary line S.89°54'30"E. 5.20 feet; thence S.15°43'20"E. 358.93 feet to the point of curvature of a non-tangent curve to the left with a radius of 14.50 feet; thence along said curve with an arc length of 17.78 feet, chord bears S.47°52'48"E. 16.69 feet to the point of curvature of a non-tangent reverse curve to the right with a radius of 21.00 feet; thence along said curve with an arc length of 26.15 feet, chord bears S.55°30'50"E. 24.49 feet; thence S.19°50'49"E. 37.37 feet; thence S.18°06'08"E. 143.85 feet to the point of curvature of a non-tangent curve to the right with a radius of 14.00 feet; thence along said curve with an arc length of 10.83 feet, chord bears S.03°50'13"W. 10.56 feet to the point of curvature of a non-tangent reverse curve to the left with a radius of 14.00 feet; thence along said curve with an arc length of 14.59 feet, chord bears S.04°41'48"W. 13.94 feet; thence S.17°03'51"E. 121.51 feet to the point of beginning. The above described part of an entire tract contains 4,774 square feet in area or 0.110 acre.

ALSO:

Beginning at a northeasterly corner of said entire tract being in the existing southerly highway right of way and limited access line of 5400 S. of said project, which point is 1293.01 feet N.89°56'30"E. (Record 1292.95 feet EAST) and 73.00 feet (Record 71.71) SOUTH from the Northwest corner of said Section 17; and running thence S.00°03'30"E. 62.00 feet along an easterly boundary line of said entire tract to a point 135.00 feet perpendicularly distant southerly from the right of way control line of said 5400 S., opposite Engineers Station 812+92.93; thence S.89°56'30"W. 25.93 feet to a point 135.00 feet perpendicularly distant southerly from the right of way control line of said 5400 S., opposite Engineers Station 812+67.00; thence N.02°48'15"E. 62.08 feet to a point in said existing southerly highway right of way and limited access line; thence along said existing southerly highway right of way and limited access line N.89°56'30"E. 22.83 feet to the point of beginning. The above described part of an entire tract contains 1,512 square feet in area or 0.035 acre.

The above combined described parts of an entire tract contain 6,286 square feet in area or 0.145 acre.

(Note: Rotate above bearings 0°14'40" clockwise to equal Highway bearings).



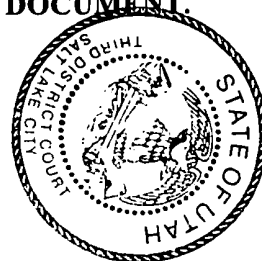
2. Pursuant to Utah Code § 78B-6-510(2), the Court has received proof by declarations:

(a) that the independent appraisals and administrative compensation estimate obtained by UDOT values the premises sought to be condemned at \$99,800.00 with no severance damages to the remainder tract, and

(b) that UDOT requires speedy occupancy of said premises to avoid the waste of public resources associated with project interruptions and delay.

3. As a condition precedent to Plaintiff's occupancy under this Order, Plaintiff shall deposit with the Clerk of the Court the appraised value in the sum of \$99,800.00 for the purposes set forth in Utah Code § 78B-6-510.

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



CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2017, I filed the foregoing **ORDER OF OCCUPANCY, *PENDENTE LITE*** with the Court using the Utah State Court's e-filing system which sent notification to the following:

Christopher R. Hogle
Richard D. Flint
Mark L. Burghardt
HOLLAND & HART, LLP
222 South Main Street, Suite 2200
Salt Lake City, Utah 84101
Attorneys for FPA West Point, LLC

/s/ Barbara H. Ochoa

