

COTTONWOOD HEIGHTS

RESOLUTION No. 2017-06

A RESOLUTION AUTHORIZING AND APPROVING PROCEEDINGS IN EMINENT DOMAIN AS NECESSARY

WHEREAS, Cottonwood Heights (the “City”) is a city and political subdivision of the State of Utah and is authorized to acquire private property for public use through the exercise of eminent domain; and

WHEREAS, the City has determined that because of increased traffic congestion at the intersection of Fort Union Boulevard and Highland Drive (“*Intersection*”) it is necessary and in the public interest to enlarge the Intersection by constructing an additional left turn lane in each direction of travel (the “*Project*”); and

WHEREAS, the City has the necessary funding and intends to begin construction of the Project in 2017; and

WHEREAS, because the Project will of necessity require the acquisition of certain private property within the Project, the City has acquired some properties by negotiation and has begun: (i) providing required notifications to affected property owners, (ii) having affected parcels and property interests appraised by independent appraisers, and (iii) offering the appraised amounts to affected property owners and beginning negotiations with affected property owners to acquire the necessary property by negotiations; and

WHEREAS, the City has identified portions of the following properties as more particularly described in the attached Exhibit A (hereinafter the “*Subject Property*”) as necessary to the Project and has provided the required notices and offers, and has begun negotiations with the following owner, but has not yet been able to acquire the Subject Property by negotiation:

1. Sun Development, L.P., Tax ID Parcels 22-21-483-0092000; 22-28-229-013. Project Parcel Nos. 105:C, 105:EC, 105:UE.

WHEREAS, public interests and necessity may require the City to acquire the Subject Property by eminent domain if negotiations are unsuccessful and as necessitated by bidding and construction deadlines for the Project;

NOW THEREFORE, be it resolved by the Cottonwood Heights city council (the “*Council*”) that the Council finds, approves and directs as follows:

Section 1. The Council finds and determines that: (i) the Project and uses to which the Subject Properties will be put are legitimate public purposes; (ii) the acquisition of the Subject Properties is necessary for construction of the Project and authorized by law; and (iii) bidding, construction and use of the Subject Properties will commence within a reasonable time.

Section 2. The proposed location of the Project and associated improvements are planned and located in a manner that will be most compatible with the greatest public good and the least private injury.

Section 3. In light of the equities involved and relative damages that may accrue to the parties, occupancy of the Subject Property pursuant to negotiation or by court order may be necessary prior to final acquisition of the Subject Property.

Section 4. Accordingly, the City Council directs City staff and special counsel for the City, on behalf of the City:

1. To negotiate with the affected property owner and, if a mutually agreeable purchase price can be negotiated in a timely fashion, to acquire, by voluntary purchase and sale, fee title, in the name of the City, to the Subject Property and any necessary easements as more particularly described in Exhibit A;

2. As dictated or required by bidding and construction timelines of the Project, and in the event that the Subject Property cannot be timely acquired by negotiation, to initiate formal proceedings in eminent domain in accordance with Utah law and to prepare and prosecute the necessary condemnations in the proper court having jurisdiction thereof as is necessary for acquisition of the Subject Property;

3. As dictated by the bidding and construction schedules applicable to the Project, to obtain by agreement or by court order permission to take immediate possession and use of the Subject Property for the purposes herein described; and

4. To use the services of outside consultants and legal counsel as necessary to accomplish these directives.

This Resolution, assigned no. 2017-06, shall take effect immediately upon passage.

PASSED AND APPROVED effective 7 February 2017.

ATTEST:

COTTONWOOD HEIGHTS CITY COUNCIL

By:


Paula Melgar, Recorder




Kelvyn H. Cullimore, Jr., Mayor

VOTING:

| | | |
|----------------------------------|---|------------------------------|
| Kelvyn H. Cullimore, Jr. | Yea <input checked="" type="checkbox"/> | Nay <input type="checkbox"/> |
| Michael L. Shelton <i>Absent</i> | Yea <input type="checkbox"/> | Nay <input type="checkbox"/> |
| J. Scott Bracken | Yea <input checked="" type="checkbox"/> | Nay <input type="checkbox"/> |
| Michael. J. Peterson | Yea <input checked="" type="checkbox"/> | Nay <input type="checkbox"/> |
| Tee W. Tyler | Yea <input checked="" type="checkbox"/> | Nay <input type="checkbox"/> |

DEPOSITED in the office of the City Recorder this 7th day of February 2017.

RECORDED this 7th day of February 2017.

Right-of-Way Taking - 105:C

A parcel of land in fee, being part of an entire tract of land, situate in the SE Quarter of Section 21 and NE Quarter of Section 28, Township 2 South, Range 1 East, Salt Lake Base and Meridian, incident to the construction of the intersection of Fort Union Blvd. and Highland Drive Salt Lake County, State of Utah, also known as Project No. F-LC35(202).

The boundaries of said parcel of land are described as follows:

Beginning at a point on the West right of way line of Highland Drive, said point being 46.00 feet North 89°52'11" West along the North line of said Section 28 from the NE corner of said Section 28; and running thence South 00°00'07" East 99.47 feet along the West right of way line of Highland Drive to a point on the South line of the grantor's property; thence North 82°55'00" West 3.33 feet along said South property line to a point on the proposed West right of way line of Highland Drive (Project F-LC35(202)); thence along said proposed West right of way line and the proposed South right of way line of Fort Union Blvd. (Project F-LC35(202)) the following eight (8) courses: (1) North 00°06'56" East 79.67 feet, (2) North 00°56'47" East 28.06 feet, (3) North 89°03'13" West 10.80 feet, (4) North 00°01'39" West 10.75 feet, (5) North 40°56'32" West 21.91 feet, (6) North 82°49'52" West 55.94 feet, (7) North 89°57'22" West 7.94 feet, (8) North 82°50'49" West 51.97 feet to a point on the West line of the grantor's property; thence North 00°00'14" West 19.69 feet along said West property line to a point on the South right of way line of Fort Union Blvd.; thence along said South right of way line and along the East right of way line of Highland Drive the following four (4) courses: (1) South 76°17'09" East 51.97 feet, (2) South 82°54'43" East 75.85 feet, (3) South 41°27'15" East 25.81 feet, (4) South 00°00'07" East 28.26 feet to the Point of Beginning.

The preceding description needs to be rotated 00°12'44" clockwise to match project alignment.

The above described part of an entire tract of land contains 2,659 square feet or 0.061 acres.

Utility Easement – 105:UE

A perpetual easement over a parcel of land located in the Southeast Quarter of Section 21, and the Northeast Quarter of Section 28, Township 2 South, Range 1 East, Salt Lake Base & Meridian, incident to the construction of the intersection of Fort Union Blvd. and Highland Drive Salt Lake County, State of Utah, also known as Project No. FLC35(202), and being more particularly described as follows:

Beginning at a point which lies North 89°52'11" West 48.83 feet along the South line of said Section 21, and South 0.55 feet from the Southeast Corner of said Section 21; and running thence North 86°58'55" West 29.95 feet; thence North 04°08'06" West 15.77 feet; thence North 01°02'47" East 20.09 feet; thence South 82°49'52" East 5.72 feet; thence South 40°56'32" East 21.91 feet; thence South 00°01'39" East 10.75 feet; thence South 89°03'13" East 10.80 feet; thence South 00°56'47" West 9.21 feet to the Point of Beginning.

The preceding description needs to be rotated 00°12'44" clockwise to match project alignment.

Contains 693 Sq.Ft., 0.016 acres

Construction Easement – 105:EC

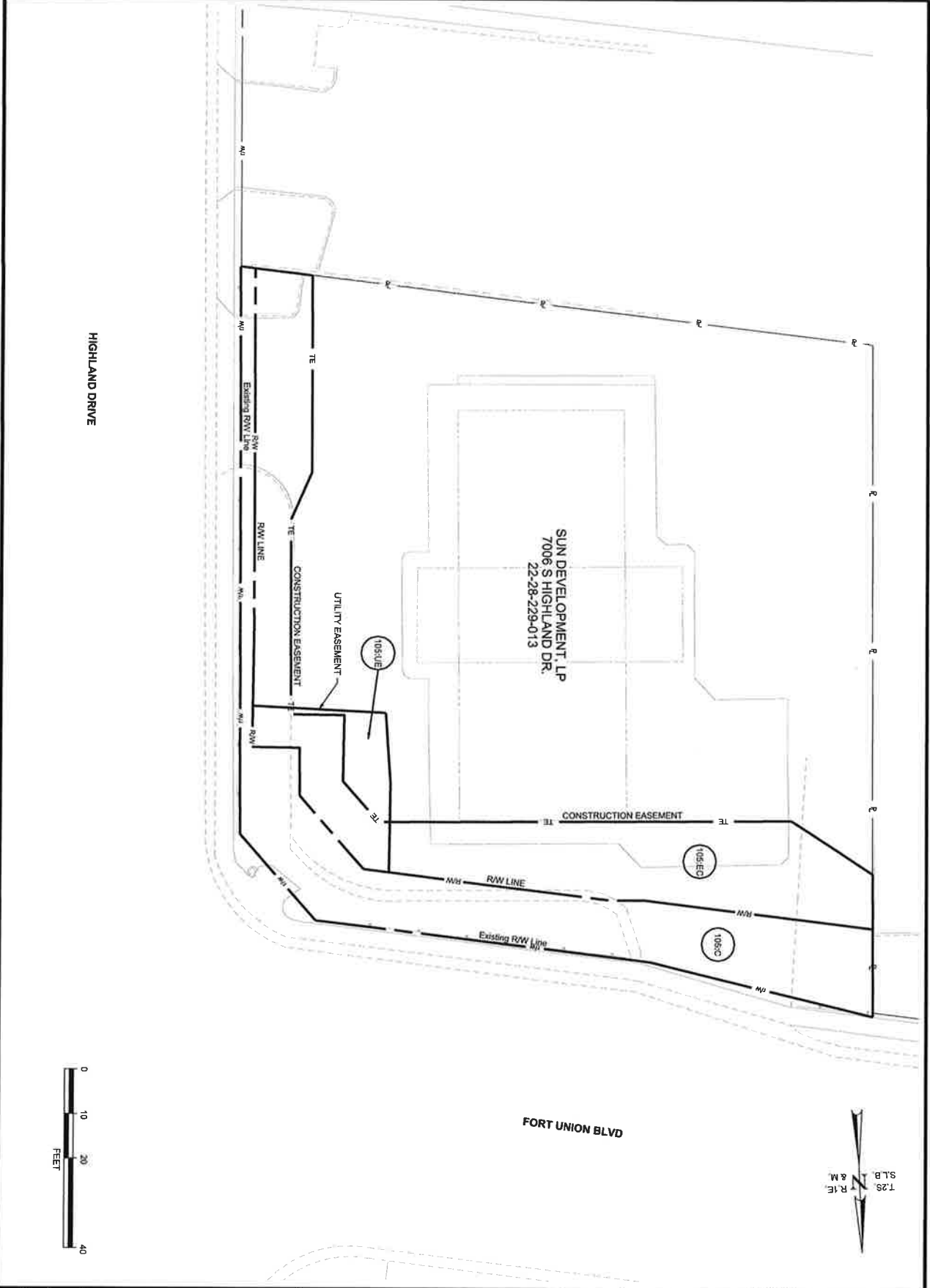
A temporary easement upon a parcel of land in fee, being part of an entire tract of land, situate in the SE Quarter of Section 21 and NE Quarter of Section 28, Township 2 South, Range 1 East, Salt Lake Base and Meridian, incident to the construction of the intersection of Fort Union Blvd. and Highland Drive Salt Lake County, State of Utah, also known as Project No. F-LC35(202). This easement shall continue only until project construction is complete, or for three years, whichever first occurs. The boundaries of said easement are described as follows:

Beginning at the intersection of the South line of the Grantor's property and the proposed West right of way line of Highland Drive (Project F-LC35(202)), said point lies 46.00 feet North $89^{\circ}52'11''$ West along the North line of said Section 28, and 99.47 feet South $00^{\circ}00'07''$ East, and 3.33 feet North $82^{\circ}55'00''$ West from the Northeast corner of said Section 28; and running thence North $82^{\circ}55'00''$ West 13.10 feet; thence along the proposed easement line the following nine (9) courses: (1) North $00^{\circ}06'56''$ East 44.37 feet, (2) North $24^{\circ}19'27''$ East 11.57 feet, (3) North $00^{\circ}00'46''$ West 43.89 feet, (4) North $89^{\circ}07'35''$ West 12.06 feet, (5) North $00^{\circ}52'25''$ East 14.85 feet, (6) North $40^{\circ}56'32''$ West 12.15 feet, (7) South $89^{\circ}51'25''$ West 93.25 feet, (8) North $56^{\circ}49'42''$ West 21.90, (9) North $79^{\circ}26'58''$ West 0.01 feet to a point on the West line of the Grantor's property; thence North $00^{\circ}00'14''$ West 12.27 feet to a point on the proposed South right of way line of Fort Union Blvd. (Project F-LC35(202)); thence along said proposed South right of way line and along the proposed West right of way line of Highland Drive (Project F-LC35(202)) the following eight (8) courses:

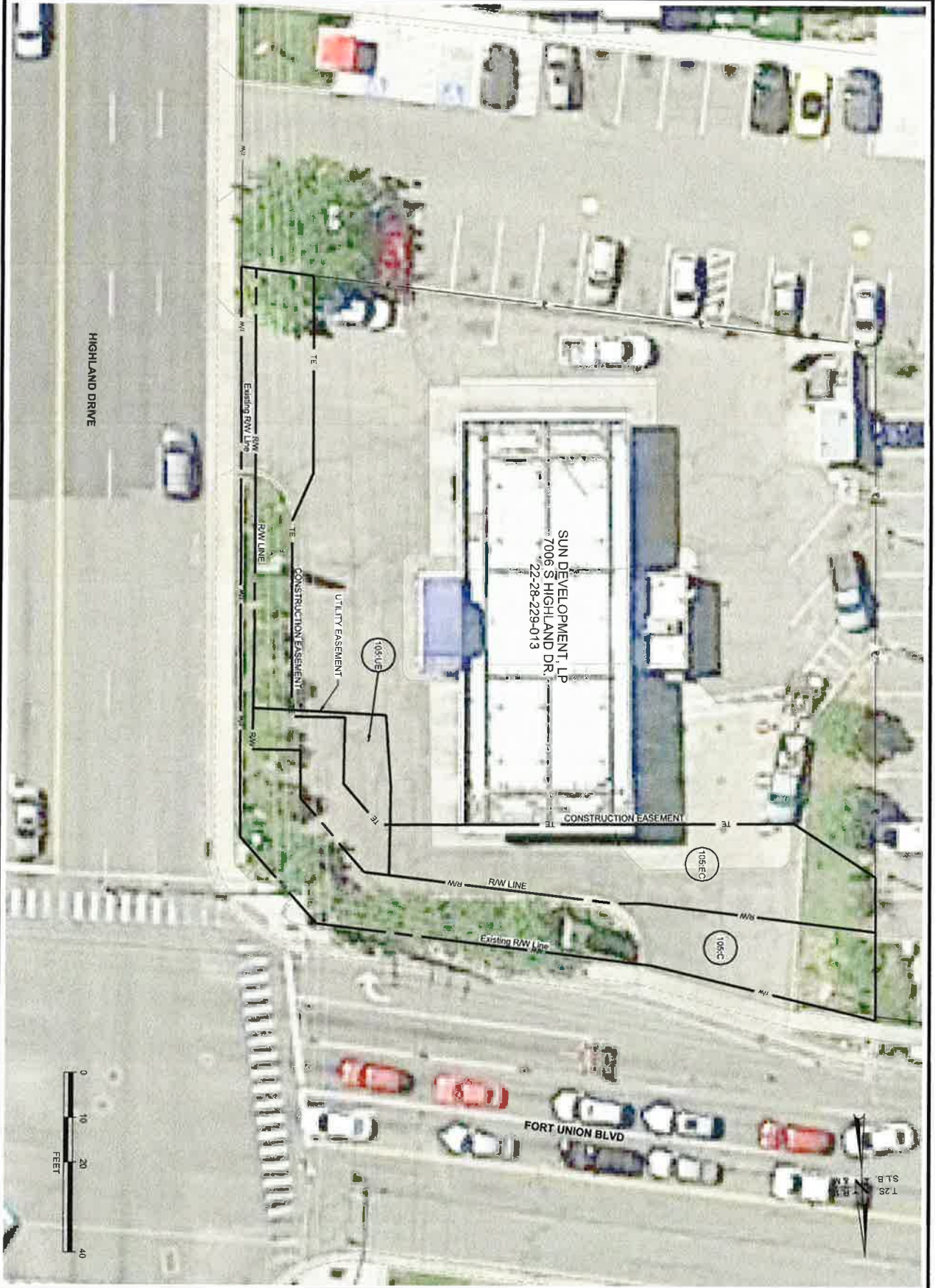
(1) South $82^{\circ}50'49''$ East 51.97 feet, (2) South $89^{\circ}57'22''$ East 7.94 feet, (3) South $82^{\circ}49'52''$ East 55.94 feet, (4) South $40^{\circ}56'32''$ East 21.91 feet, (5) South $00^{\circ}01'39''$ East 10.75 feet, (6) South $89^{\circ}03'13''$ East 10.80 feet, (7) South $00^{\circ}56'47''$ West 28.06 feet, (8) South $00^{\circ}06'56''$ West 79.67 feet to the Point of Beginning.

The preceding description needs to be rotated $00^{\circ}12'44''$ clockwise to match project alignment.

The above described part of an entire tract of land contains 3,351 square feet or 0.077 acres.



| | | | | | |
|----------------------------------|--|--|----------------------------------|-------------------------|--------------------------------------|
| SHEET NO. 1 COUNTY: SALT LAKE | PROJECT: FORT UNION BLVD & HIGHLAND DRIVE INTERSECTION IMPROVEMENTS | UTAH DEPARTMENT OF TRANSPORTATION REGION 2 - CRS ENGINEERS | | REVISIONS | |
| | PROJECT NUMBER: F-LC35(202) PIN: 8110 | APPROVED: _____ PROFESSIONAL LAND SURVEYOR | DRAWN BY: BOW CHECKED BY: SMC | NO. _____ DATE _____ | APPROVED BY: _____ REMARKS: _____ |
| | EXHIBIT A | DATE: 1/20/2017 | DATE: _____ | DATE: _____ | DATE: _____ |



| | | | | | | | | | | | | | | |
|-------------|----------------|--|---------|--|----------------------------|--|--|-----------|------|-----------|----------|-----|---------------|-----|
| SHEET NO. 1 | PROJECT | FORT UNION BLVD & HIGHLAND DRIVE INTERSECTION IMPROVEMENTS | | UTAH DEPARTMENT OF TRANSPORTATION REGION 2 - CRS ENGINEERS | | | | REVISIONS | | | | | | |
| | PROJECT NUMBER | F-LC35(202) | PN 8110 | | | | | APPROVED | DATE | 1/20/2017 | DRAWN BY | BOW | QC CHECKED BY | SMC |
| | COUNTY | SALT LAKE | | | PROFESSIONAL LAND SURVEYOR | | | | | | | | | |
| | EXHIBIT | EXHIBIT A | | | | | | | | | | | | |