

DOC # 2012-0085115

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County of Riverside

Larry W. Ward
Assessor, County Clerk & Recorder



When Recorded Mail To:

Riverside City Attorney's Office
3900 Main Street
Riverside, CA 92522
Ref: CA# L10-0223.4

This instrument is for the benefit
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(Government Code § 27383¹)

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**PARTIAL JUDGMENT AND FINAL ORDER OF CONDEMNATION AS TO DEFENDANTS
PRODUCTION CIRCLE, LLC, AND CHARLES AVILA DBA C.A. CONSTRUCTION
CASE NO. RIC10022408**

D- 16768

¹ Government Code § 27383: "No fee shall be charged by the recorder for services rendered to the State, to any municipality, county in the State or other political subdivision thereof, except for making a copy of a paper or record."

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Riverside Superior Court
Date Received: 1/12/12

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

FEB 14 2012

R. Stout

GG
FEB 15 2012
FEB 17 2012
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1 GREGORY P. PRIAMOS, City Attorney, SBN 136766
2 KRISTI J. SMITH, Supervising Deputy City Attorney, SBN 120218
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4 CITY OF RIVERSIDE
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6 Riverside, California 92522
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9 bmercerc@riversideca.gov

Attorneys for Plaintiff, City of Riverside

(Fee Exempt Gov't Code § 6103)

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

10 CITY OF RIVERSIDE, a California charter city and)
11 municipal corporation,)
12 Plaintiff,)
13 vs.)
14 PRODUCTION CIRCLE, LLC; et al,)
15 Defendants.)

Case No. RIC10022408
Assigned to Dept. 4

**PARTIAL JUDGMENT AND FINAL
ORDER OF CONDEMNATION AS TO
DEFENDANTS PRODUCTION CIRCLE,
LLC, AND CHARLES AVILA DBA C.A.
CONSTRUCTION**

APN: 247-140-035

[Stipulation re Settlement and for Entry of
Partial Judgment and Final Order Of
Condemnation submitted concurrently
herewith.]

Complaint Filed: 11/18/2010
Trial Setting Conference: 01/10/2012

Pursuant to a written stipulation by and between plaintiff City of Riverside (hereinafter
"City"), by and through Brandon S. Mercer, Deputy City Attorney, and defendants Production
Circle, LLC, and Charles Avila dba C.A. Construction (collectively "Defendants"), by and
through their attorneys, Chandler, Potter & Associates, that a Partial Judgment and Final Order
of Condemnation as to Assessor's Parcel Number 247-140-035 may be made and entered herein
in accordance with the terms and conditions hereof without further notice to said defendants,

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IT IS HEREBY FOUND AND DETERMINED:

1. The interest of defendant Production Circle, LLC, in and to the real property designated in the complaint as Assessor's Parcel Number 247-140-035 is fee simple absolute. The interest being acquired by the City through this eminent domain action is a temporary construction easement, as more particularly described in Exhibit 'A' hereto.

2. By execution of the Stipulation re Settlement and for Entry of Partial Judgment and Final Order of Condemnation herein ("Stipulation"), Defendants waive the right to jury trial, Statement of Decision, Notice of Entry of Judgment in Condemnation, Notice of Entry of Final Order of Condemnation as to Assessor's Parcel Number 247-140-035, and the right and time for appeal.

3. By execution of the Stipulation, Defendants expressly waive the right to challenge the City's right to acquire the property by eminent domain, the right to further and greater compensation and damages of whatever kind or nature, and the right to an award of interest, attorneys fees and costs, to the extent that they may be allowable by law.

4. Pursuant to the Stipulation, Defendants make a knowing waiver of any and all rights created by California Civil Code section 1542.

5. Pursuant to the Stipulation, the total amount of just compensation to be paid by plaintiff to Defendants is the sum of Thirty Thousand Dollars (\$30,000.00) ("Award"). Said sum is inclusive of fair market value and interest thereon, attorney's fees and all costs of suit, including those costs defined in California Code of Civil Procedure section 1268.710 and litigation expenses including, but not limited to those defined in California Code of Civil Procedure section 1235.140.

6. On November 17, 2010, the City deposited the sum of Four Thousand Nine Hundred Fifty Dollars (\$4,950.00) ("Deposit") with the Treasurer of the State of California, Condemnation Fund, as the probable just compensation for Assessor's Parcel Number ("APN") 247-140-035.

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1 7. No funds have been withdrawn from the Deposit and Four Thousand Nine
2 Hundred Fifty Dollars (\$4,950.00) remains on deposit with the State Treasurer condemnation
3 fund.

4 8. City represents that payment of the Award will be made within thirty (30) days
5 after entry of the Partial Judgment and Final Order of Condemnation submitted with this
6 stipulation.

7 9. An Order of Prejudgment Possession became effective as to the interest of
8 Defendants in and to Assessor's Parcel Number 247-140-035 on April 16, 2011.

9 10. The use for which an interest in and to Assessor's Parcel Number 247-140-035 is
10 being acquired is a use authorized by law and the acquisition of said interest is necessary to said
11 use.

12 WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

13 1. The total compensation, award, and damages to be paid as a result of the
14 condemnation of the interests of defendants Production Circle, LLC, and Charles Avila dba C.A.
15 Construction (collectively "Defendants") in and to Assessor's Parcel Number 247-140-035 is the
16 total sum of Thirty Thousand Dollars (\$30,000.00) ("Award").

17 2. Payment of the Award hereunder shall be deemed to expressly include all costs of
18 suit pursuant to California Code of Civil Procedure section 1268.710 and all litigation expenses
19 including, but not limited to, those defined in California Code of Civil Procedure section
20 1235.140. Payment hereunder shall further be deemed to be the total just compensation and
21 damages, if any, to which Defendants shall be entitled by reason of the condemnation of and
22 construction activities by plaintiff on Assessor's Parcel Number 247-140-035.

23 3. The Award shall be paid by plaintiff outside these court proceedings to
24 Defendants as follows: the draft shall be made payable to "Chuck Avila" and forwarded to:

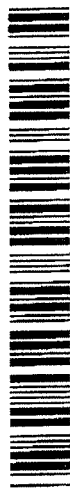
25 Robert C. Chandler, Esq.
26 CHANDLER, POTTER & ASSOCIATES
27 3800 Orange Street, Suite 270
28 Riverside CA 92501

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1 4. Payment to Defendants of the total Award shall constitute payment in full for the
2 real property taken and for all damages of any kind and nature whatsoever suffered by said
3 defendant by reason of such taking.

4 5. An Order of Prejudgment Possession became effective as to the interest of
5 Defendants in and to Assessor's Parcel Number 247-140-035 on April 16, 2011.

6 6. The State Treasurer is authorized and directed to disburse to the City of Riverside
7 the sum of Four Thousand Nine Hundred Fifty Dollars (\$4,950.00) from those funds on deposit
8 in the Condemnation Fund in connection with the above-entitled matter. Payment of said funds
9 shall be made payable to "City of Riverside" and forwarded as follows:

10 Attn: Brandon S. Mercer, Deputy City Attorney
11 City Hall, Office of the City Attorney
12 3900 Main Street
13 Riverside CA 92522

14 WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF
15 CONDEMNATION:

16 The interest of defendants Production Circle, LLC, and Charles Avila dba C.A.
17 Construction (collectively "Defendants") in the real property described in Exhibit "A" as to
18 Assessor's Parcel Number 247-140-035 is hereby condemned for the public use and purposes
19 described in the Complaint as construction of a grade separation across the existing Burlington
20 Northern Santa Fe railroad tracks at Iowa Avenue, between Palmyrita Avenue and Spring Street.
21 Plaintiff City of Riverside to take title to the interests of Defendants in said real property,
22 together with all improvements thereon in which said defendants have an interest, free and clear
23 of any and all liens, encumbrances, easements, and leaseholds, of whatever kind or nature.

24 DATED: 1/20/12.

Handwritten signature of Pamela Thatcher
25
26 **of the Superior Court
Pamela Thatcher**

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EXHIBIT 1



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IOWA AVENUE OVERPASS
POR. APN: 247-140-035
TEMPORARY CONSTRUCTION EASEMENT

That certain real property in the City of Riverside, County of Riverside, State of California described as follows:

That portion of Parcel 2 of Parcel Map 31914 on file in Book 212 of Parcel Maps at Pages 39 through 40 thereof, Records of Riverside County, California, described as follows:

Beginning at the Northeast corner of said Parcel 2;

Thence N.89°27'59"W. along the Northerly line of said Parcel 2, a distance of 57.00 feet to a line parallel with and distant 57.00 feet Westerly, measured at right angles from the Easterly line of said Parcel 2;

Thence S.00°32'48"W. along said parallel line, a distance of 34.00 feet to a line parallel with and distant 34.00 feet Southerly, measured at right angles from the Northerly line of said Parcel 2;

Thence S.89°27'59"E. along said parallel line, a distance of 35.28 feet;

Thence S.42°39'39"E., a distance of 12.00 feet to a line parallel with and distant 13.50 feet Westerly, measured at right angles from the Easterly line of said Parcel 2;

Thence S.00°32'48"W. along said parallel line, a distance of 135.83 feet;

Thence S.59°21'04"W., a distance of 16.69 feet;

Thence S.30°38'56"E., a distance of 1.97 feet to the Southeasterly line of said Parcel 2;

Thence Northeasterly along said Southeasterly line on a non-tangent curve concave Northwesterly having a radius of 43.50 feet, through an angle of 50°10'50", an arc length of 38.10 feet (the initial radial line bears S.17°52'11"E.) to the Easterly line of said Parcel 2;




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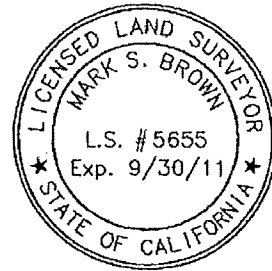
Thence N.00°32'48"E. along said Easterly line, a distance of 163.52 feet to the point of beginning.

The above described parcel of land contains 3,912 square feet, more or less.

This temporary easement and right-of-way shall terminate 16 months after issuance of the notice to proceed or upon completion of the public improvements and acceptance by City as demonstrated by recordation of a notice of completion, whichever occurs first.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

 10/5/2010 Prep. E.V.
Mark S. Brown, L.S. 5655 Date
License Expires 9/30/11



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