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This instrument is for the benefit of the City of Riverside and is exempt from recording fees (Government Code § 27383¹)

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D-16784



**PARTIAL JUDGMENT AND FINAL ORDER OF CONDEMNATION
AS TO DEFENDANTS ELEANOR H. CRABTREE, BANK OF AMERICA, N.A.,
MARGARET M. CAMERON, STEVEN H. CRABTREE AND JOAN K. BUCHMAN
CASE NO. RIC513720**

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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10 Attorneys for Plaintiff, City of Riverside

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

APR 10 2012

(Fee Exempt Gov't Code § 6103)

BPC

APR 12 2012

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

CITY OF RIVERSIDE, a California charter city and
municipal corporation,

Plaintiff,

vs.

MARK JOHNSON AND DOREEN JOHNSON,
TRUSTEES OF THE MARK AND DOREEN
JOHNSON REVOCABLE TRUST; et al,

Defendants.

) Case No. RIC513720

) Assigned for case management to the

) Honorable Judge Craig G. Riemer

) Dept. 5

) **PARTIAL JUDGMENT AND FINAL
ORDER OF CONDEMNATION AS TO
DEFENDANTS ELEANOR H.**

) **CRABTREE, BANK OF AMERICA, N.A.,**

) **MARGARET M. CAMERON, STEVEN H.**

) **CRABTREE AND JOAN K. BUCHMAN**

APN: 225-133-011

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

Complaint Filed: 11/26/2008

Pursuant to a written stipulation by and between plaintiff City of Riverside ("City"), a
California charter city and municipal corporation, by and through Brandon S. Mercer, Deputy
City Attorney, and defendants i) Eleanor H. Crabtree, Co-trustee of the Roland H. and Eleanor
H. Crabtree Trust Established on January 31, 1986, ii) Bank of America, N.A., as Successor in
Interest to Security Pacific National Bank, Co-trustee of the Roland H. and Eleanor H. Crabtree
Trust Established On January 31, 1986, iii) Margaret M. Cameron, Trustee of the Margaret M.
Cameron Revocable Trust Dated April 23, 1993, and iv) Steven H. Crabtree and Joan K. Buchman,

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1 Co-Trustees of the Roland H. and Eleanor H. Crabtree Trust Established on January 31, 1986,
2 (collectively "Defendants") by and through their attorneys, the Hubbard Law Firm, that a Partial
3 Judgment and Final Order of Condemnation as to Assessor's Parcel Number 225-133-011 may
4 be made and entered herein in accordance with the terms and conditions hereof without further
5 notice to Defendants,

6 IT IS HEREBY FOUND AND DETERMINED:

7 1. The interest of Defendants in and to the real property designated in the complaint
8 as Assessor's Parcel Number 225-133-011 is fee simple absolute. The interest being acquired by
9 the City through this eminent domain action is a fee simple, as more particularly described in
10 Exhibit 'A' hereto.

11 2. By execution of the Stipulation re Settlement and for Entry of Partial Judgment
12 and Final Order of Condemnation herein ("Stipulation"), Defendants waive the right to jury trial,
13 Statement of Decision, Notice of Entry of Judgment in Condemnation, Notice of Entry of Final
14 Order of Condemnation as to Assessor's Parcel Number 225-133-011, and the right and time for
15 appeal.

16 3. By execution of the Stipulation, Defendants expressly waive the right to challenge
17 the City's right to acquire the property by eminent domain, the right to further and greater
18 compensation, and the right to an award of interest, attorney's fees and costs, to the extent that
19 they may be allowable by law.

20 4. Pursuant to the Stipulation, the total amount of just compensation to be paid by
21 plaintiff to Defendants is the sum of Seven Hundred Thousand Dollars (\$700,000.00), less the
22 City's environmental remediation costs in the amount of Three Hundred Fifty Thousand Dollars
23 (\$350,000), for a total payment to Defendants of Three Hundred Fifty Thousand Dollars
24 (\$350,000) ("Award"). Said Award is inclusive of fair market value and interest thereon,
25 attorney's fees and all costs of suit, including those costs defined in California Code of Civil
26 Procedure section 1268.710 and litigation expenses including, but not limited to those defined in
27 California Code of Civil Procedure section 1235.140.

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1 5. On November 10, 2008, City deposited the sum of Seven Hundred Thousand
2 Dollars (\$700,000.00) with the Treasurer of the State of California, Condemnation Fund, as a
3 deposit of probable just compensation for Assessor's Parcel Number 225-133-011, none of
4 which has been withdrawn to date.

5 6. An Order of Prejudgment Possession became effective as to the interest of
6 Defendants in and to Assessor's Parcel Number 225-133-011 on May 15, 2009.

7 7. The use for which an interest in and to Assessor's Parcel Number 225-133-011 is
8 being acquired is a use authorized by law and the acquisition of said interest is necessary to said
9 use.

10 8. The total of all applicable unpaid taxes, penalties, and costs for prior, current, and
11 next succeeding tax years, prorated, to the date of possession are as follows:

<u>Assessor's Parcel Number</u>	<u>Total Unpaid Taxes, Penalties and Costs</u>
225-133-011	\$0

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

15 1. The total compensation, award, and damages to be paid as a result of the
16 condemnation of the interests of defendants i) Eleanor H. Crabtree, Co-trustee of the Roland H.
17 and Eleanor H. Crabtree Trust Established on January 31, 1986, ii) Bank of America, N.A., as
18 Successor in Interest to Security Pacific National Bank, Co-trustee of the Roland H. and Eleanor
19 H. Crabtree Trust Established On January 31, 1986, iii) Margaret M. Cameron, Trustee of the
20 Margaret M. Cameron Revocable Trust Dated April 23, 1993, and iv) Steven H. Crabtree and Joan
21 K. Buchman, Co-Trustees of the Roland H. and Eleanor H. Crabtree Trust Established on January 31,
22 1986, (collectively "Defendants") in and to Assessor's Parcel Number 225-133-011 is the total
23 sum of Seven Hundred Thousand Dollars (\$700,000.00), less the City's environmental
24 remediation costs in the amount of Three Hundred Fifty Thousand Dollars (\$350,000), for a
25 total payment to Defendants of Three Hundred Fifty Thousand Dollars (\$350,000) ("Award").

26 2. Payment hereunder shall be deemed to expressly include all costs of suit pursuant
27 to California Code of Civil Procedure section 1268.710 and all litigation expenses including, but
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1 not limited to, those defined in California Code of Civil Procedure section 1235.140. Payment
2 hereunder shall further be deemed to be the total just compensation and damages, if any, to
3 which Defendants shall be entitled by reason of the condemnation of Assessor's Parcel Number
4 225-133-011.

5 3. The funds remaining on deposit with the Treasurer of the State of California,
6 Condemnation Fund, in the amount of Seven Hundred Thousand Dollars (\$700,000.00) shall be
7 disbursed as follows:

8 a) A draft in the amount of Three Hundred Fifty Thousand Dollars
9 (\$350,000) shall be made payable to City of Riverside and forwarded to:

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

14 b) A draft in the amount of Three Hundred Fifty Thousand Dollars
15 (\$350,000) shall be made payable to Hubbard Law Firm Trust Account and forwarded to:

16 David F. Hubbard, Esq.
17 HUBBARD LAW FIRM
18 3877 12th Street
19 Riverside CA 92501

20 4. Payment to Defendants of the sums herein above specified shall constitute
21 payment in full for the real property taken and for all damages of any kind and nature
22 whatsoever suffered by said defendant by reason of such taking.

23 5. An Order of Prejudgment Possession became effective as to the interest of
24 Defendants in and to Assessor's Parcel Number 225-133-011 on May 15, 2009.

25 6. Pursuant to Revenue and Taxation Code section 5082, all current, general, and
26 special county taxes due and owing to the county of Riverside as to the property shall be
27 prorated to May 15, 2009. As of May 15, 2009, the property shall be exempt from general and
28 special county taxes and all such taxes shall be canceled after that date pursuant to Revenue and
Taxation Code sections 4985 et seq. and 5081 et seq. Defendants reserve the right to seek a
refund of overpaid taxes, if any, outside of these proceedings.

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WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF
CONDEMNATION:

The interest of i) Eleanor H. Crabtree, Co-trustee of the Roland H. and Eleanor H. Crabtree Trust Established on January 31, 1986, ii) Bank of America, N.A., as Successor in Interest to Security Pacific National Bank, Co-trustee of the Roland H. and Eleanor H. Crabtree Trust Established On January 31, 1986, iii) Margaret M. Cameron, Trustee of the Margaret M. Cameron Revocable Trust Dated April 23, 1993, and iv) Steven H. Crabtree and Joan K. Buchman, Co-Trustees of the Roland H. and Eleanor H. Crabtree Trust Established on January 31, 1986, (collectively "Defendants") in the real property described in Exhibit "A" as a fee simple in and to Assessor's Parcel Number 225-133-011 is hereby condemned for the public use and purposes described in the Complaint as the construction of an underpass at the Union Pacific railroad tracks and Magnolia Avenue, between Elizabeth Street and Sunnyside Drive. Plaintiff City of Riverside to take title to the interests of Defendants in said real property, together with all improvements thereon in which said defendants have an interest, free and clear of any and all liens, encumbrances, easements, and leaseholds, of whatever kind or nature.

DATED: 4/5/12

[Signature]
JUDGE OF THE SUPERIOR COURT

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Ex A



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EXHIBIT A

MAGNOLIA AVENUE GRADE SEPARATION
FEE SIMPLE INTEREST
APN: 225-133-011

THAT CERTAIN REAL PROPERTY IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

THAT PORTION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF THE
NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 2 SOUTH, RANGE 5 WEST, SAN
BERNARDINO BASE AND MERIDIAN, BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF MAGNOLIA AVENUE,
DISTANT 967 FEET NORTH OF THE ORIGINAL NORTH LINE OF CENTRAL AVENUE;

THENCE WEST, PARALLEL WITH THE ORIGINAL NORTH LINE OF SAID CENTRAL
AVENUE, 70.65 FEET TO THE EASTERLY LINE OF THE LAND CONVEYED TO RALPH
HILLERMAN, ET AL, BY DEED RECORDED OCTOBER 2, 1952 IN BOOK 1405 PAGE 57 OF
OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

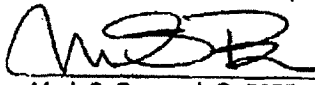
THENCE NORTH 00°32' EAST, 102.88 FEET TO THE SOUTH LINE OF MERRIL AVENUE;

THENCE EAST ALONG THE SOUTH LINE OF MERRIL AVENUE, 123.89 FEET TO ITS
INTERSECTION WITH THE NORTHWESTERLY LINE OF MAGNOLIA AVENUE;

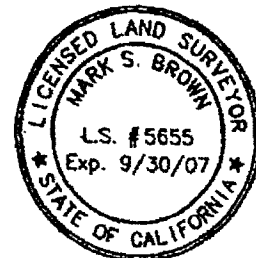
THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF MAGNOLIA
AVENUE TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 10,003 SQUARE FEET, MORE OR
LESS

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


Mark S. Brown, L.S. 5655
License Expires 9/30/07

7/3/07 Date Prep. E.V.



PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I am a resident of the county aforesaid; I am over the age of 18 years and not a party to the within above-entitled action; my business address is 3900 Main Street, Riverside, California 92522.

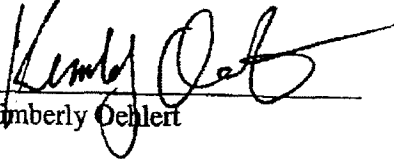
On March ²⁴27, 2012, I served the within PARTIAL JUDGMENT AND FINAL ORDER OF CONDEMNATION AS TO DEFENDANTS ELEANOR H. CRABTREE, BANK OF AMERICA, N.A., MARGARET M. CAMERON, STEVEN H. CRABTREE AND JOAN K. BUCHMAN on the interested parties in said action addressed as follows:

SEE MAILING LIST ON FOLLOWING PAGE.

- (XX) **VIA MAIL** - In accordance with the regular mail collection and processing practices of this business office, with which I am familiar, by means of which mail is deposited with the United States Postal Service at Riverside, California, that same day in the ordinary course of business, I deposited such sealed envelope for collection and mailing on this same date following ordinary business practices.
- () **PERSONAL** - I caused such envelope to be delivered by hand to the above-listed addressee pursuant to C.C.P. § 1011.
- () **VIA OVERNIGHT DELIVERY** - I caused such envelope to be delivered by hand to the office of the addressee via overnight delivery pursuant to C.C.P. § 1013(c). Said document was deposited at the box regularly maintained by said express service carrier on the date set forth above.
- () **VIA FACSIMILE** - I caused such document to be delivered to the office of the addressee via facsimile machine pursuant to C.C.P. § 1013(e). Said document was transmitted from the office of City Attorney in Riverside, California, on the date set forth above.

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Executed on March ²⁸27, 2012, at Riverside, California.


Kimberly Oehlert



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City of Riverside v. Mark Johnson, et al.
Riverside County Superior Court Case Number RIC513720
Mailing List

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Attorneys for defendant:
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Fax: 714-546-9035

Attorneys for defendants:
Jeff Eshelman, Denise Eshelman, and
Angle and Babbage, Inc., dba Center Lumber &
Hardware

David G. Moore, Esq.
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Attorneys for defendant:
Phyllis E. Hall, Trustee of the Phyllis E. Hall
Revocable Living Trust

David F. Hubbard, Esq.
HUBBARD LAW FIRM
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Riverside CA 92501
Tel: 951-686-2660
Fax: 951-686-5970

Attorneys for defendants:
CD World-Red Planet Records;
Eleanor H. Crabtree, Co-trustee of the Roland H.
and Eleanor H. Crabtree Trust Established on
January 31, 1986;
Bank of America, N.A., as Successor in Interest to
Security Pacific National Bank, Co-trustee of the
Roland H. and Eleanor H. Crabtree Trust
Established On January 31, 1986;
Margaret M. Cameron, Trustee of the Margaret M.
Cameron Revocable Trust Dated April 23, 1993;
Wassi Issa dba Olympic Plus;
The Mark and Doreen Johnson Revocable Trust;
Magnolia Town Center Associates, a California
General Partnership; and
Steven H. Crabtree and Joan K. Buchman, Co-
Trustees of the Roland H. and Eleanor H. Crabtree
Trust Established on January 31, 1986



Proof of Service Mailing List Continued

Gilbert M. Gutierrez, Esq.
Priscilla C. Mendoza, Esq.
John H. Morkos, Esq.
GUTIERREZ & ASSOCIATES
4110 Brockton Avenue
Riverside CA 92501
Tel: 951-788-2254
Fax: 951-788-1692

Attorneys for defendant:
Victorian Salon and Day Spa

10 pages

This must be in red to be a
"CERTIFIED COPY"

Each document filed with this court is to be filed in red ink. If a document is not filed in red ink, the court will not accept it for filing and the filer will be required to re-file the document in red ink.

By: Priscilla C. Mendoza
Priscilla C. Mendoza
DEPUTY

Date: 4-13-2012

