

DOC # 2012-0325922

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Recorded in Official Records

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# L10-0223.5

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

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Space above this line reserved for Recorder's use.

PARTIAL JUDGMENT AND FINAL ORDER OF CONDEMNATION AS TO DEFENDANTS WILLIAM H. SACKETT AND KATE RIEMER SACKETT CASE NO. RIC10022421

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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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1 GREGORY P. PRIAMOS, City Attorney, SBN 136766
2 HERIBERTO F. DIAZ, Deputy City Attorney, SBN 132821
3 BRANDON S. MERCER, Deputy City Attorney, SBN 244413
4 CITY OF RIVERSIDE
5 City Hall, 3900 Main Street
6 Riverside, California 92522
7 Telephone (951) 826-5567
8 Facsimile (951) 826-5540
9 ediaz@riversideca.gov

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

JUL 09 2012

REC

R. Gonzalez

6 Attorneys for Plaintiff, City of Riverside

(Fee Exempt Gov't Code § 6103)

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF RIVERSIDE

10	CITY OF RIVERSIDE, a California charter city)	Case No. RIC10022421
11	and municipal corporation,)	Assigned to the Honorable Craig G. Riemer
12)	Dept. 5
13	Plaintiff,)	
14	vs.)	PARTIAL JUDGMENT AND FINAL
15)	ORDER OF CONDEMNATION AS TO
16	WILLIAM H. SACKETT AND KATE RIEMER)	DEFENDANTS WILLIAM H. SACKETT
17	SACKETT, etc.; et al,)	AND KATE RIEMER SACKETT
18	Defendants.)	APN: 247-140-009

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

19 Pursuant to a written stipulation by and between plaintiff City of Riverside (hereinafter
20 "City"), by and through Brandon S. Mercer, Deputy City Attorney, and defendants William H.
21 Sackett and Kate Riemer Sackett, Trustee of the Sackett Family Trust dated December 14, 1995
22 (collectively "Defendants"), by and through their attorneys, Hubbard Law Firm, that a Partial
23 Judgment and Final Order of Condemnation as to Assessor's Parcel Number 247-140-009 may
24 be made and entered herein in accordance with the terms and conditions hereof without further
25 notice to said defendants,

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IT IS HEREBY FOUND AND DETERMINED:

1. The interest of Defendants in and to the real property designated in the complaint as Assessor's Parcel Number 247-140-009 is fee simple absolute. The interests being acquired by the City through this eminent domain action are electric energy distribution & telecommunication facilities easement, public street & highway easement, temporary construction easements, sanitary sewer facilities 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 247-140-009, 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. By execution of the Stipulation, the total compensation is in complete settlement of any and all claims for compensation arising from the taking of the real property described in Exhibit 'A' hereto ("Subject Property"), including costs, statutory interest, severance damages, fixtures, equipment, or inventory, loss of business goodwill, relocation assistance, loss of or damage to improvements pertaining to the realty, damages for precondemnation or inverse condemnation, attorney's fees, all costs and litigation expenses of Defendants against the City by reason of taking of the Subject Property.

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

6. Pursuant to the Stipulation, the total amount of just compensation to be paid by plaintiff to Defendants is the sum of Three Hundred Eighty Thousand Dollars (\$380,000.00) ("Award").

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- 1 7. Pursuant to the Stipulation, the City and Defendants agree to the following
2 specific terms:
- 3 a) The City will restore the paving within the ramp temporary construction
4 easement area;
- 5 b) The City will pave and/or restore the existing pavement where applicable
6 in the area between the retaining wall and the limits of the sanitary sewer
7 facilities easement and inclusive of the sanitary sewer facilities easement
8 as required to match existing pavement; and
- 9 c) Defendants may retain, at their own cost, an independent engineer who
10 will have an opportunity to review City's plans regarding the ramp
11 temporary construction easement, the sanitary sewer facilities easement,
12 and access to the Defendants' property from Citrus Avenue.
- 13 8. On November 17, 2010, the City deposited the sum of Sixty-six Thousand Five
14 Hundred Dollars (\$66,500.00) ("Deposit") with the Treasurer of the State of California,
15 Condemnation Fund, as the probable just compensation for Assessor's Parcel Number ("APN")
16 247-140-009.
- 17 9. No funds have been withdrawn from the Deposit and \$66,500.00 remains on
18 deposit with the State Treasurer condemnation fund.
- 19 10. City represents that payment of the Award will be made within thirty (30) days
20 after approval of this settlement by the City Council of the City of Riverside.
- 21 11. An Order of Prejudgment Possession became effective as to the interest of
22 Defendants in and to Assessor's Parcel Number 247-140-009 on April 23, 2011.
- 23 12. The use for which an interest in and to Assessor's Parcel Number 247-140-009 is
24 being acquired is a use authorized by law and the acquisition of said interest is necessary to said
25 use.

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

- 27 1. The total compensation, award, and damages to be paid as a result of the
28 condemnation of the interests of defendants William H. Sackett and Kate Riemer Sackett,

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1 Trustee of the Sackett Family Trust dated December 14, 1995 (collectively "Defendants") in and
2 to Assessor's Parcel Number 247-140-009 is the total sum of Three Hundred Eighty Thousand
3 Dollars (\$380,000.00) ("Award").

4 2. Payment of the Award hereunder shall be deemed to expressly include all costs of
5 suit pursuant to California Code of Civil Procedure section 1268.710 and all litigation expenses
6 including, but not limited to, those defined in California Code of Civil Procedure section
7 1235.140. Payment hereunder shall further be deemed to be the total just compensation and
8 damages, if any, to which Defendants shall be entitled by reason of the condemnation of and
9 construction activities by plaintiff on Assessor's Parcel Number 247-140-009.

10 3. The Award shall be paid by plaintiff outside these court proceedings to
11 Defendants as follows: the draft shall be made payable to "Sackett Family Trust" and forwarded
12 to:

13 David F. Hubbard, Esq.
14 HUBBARD LAW FIRM
15 3877 12th Street
16 Riverside CA 92501

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

20 5. An Order of Prejudgment Possession became effective as to the interest of
21 Defendants in and to Assessor's Parcel Number 247-140-009 on April 23, 2011.

22 6. The State Treasurer is authorized and directed to disburse to the City of Riverside
23 the sum of Sixty-six Thousand Five Hundred Dollars (\$66,500.00) from those funds on deposit
24 in the Condemnation Fund in connection with the above-entitled matter. Payment of said funds
25 shall be made payable to "City of Riverside" and forwarded as follows:

26 Attn: Brandon S. Mercer, Deputy City Attorney
27 City Hall, Office of the City Attorney
28 3900 Main Street
Riverside CA 92522

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WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF
CONDEMNATION:

The interest of defendants William H. Sackett and Kate Riemer Sackett, Trustee of the Sackett Family Trust dated December 14, 1995 (collectively "Defendants") in the real property described in Exhibit "A" as to Assessor's Parcel Number 247-140-009 is hereby condemned for the public use and purposes described in the Complaint as construction of a grade separation across the existing Burlington Northern Santa Fe railroad tracks at Iowa Avenue, between Palmyrita Avenue and Spring Street. 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: *July 9, 2012*

Craig A. Riemer
Judge of the Superior Court

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EXHIBIT A



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IOWA AVENUE OVERPASS
POR. APN: 247-140-009
Electric Energy Distribution
and Telecommunication Facilities Easement

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

That portion of Lot 81 of Map of East Riverside on file in Book 7 of Maps, at Page 33 thereof, Records of San Bernardino County, California, described as follows:

Beginning at the Northerly corner of said Lot 81;

Thence S.35°42'43"W. along the Southeasterly line of the B.N.S.F. Railway Company right-of-way (formerly Riverside, Santa Ana and Los Angeles Railroad) as shown on said Map of East Riverside, also being the Westerty line of said Lot 81, a distance of 17.36 feet to a line parallel with and distant 10.00 feet Westerty, measured at right angles from the Easterly line of said Lot 81;

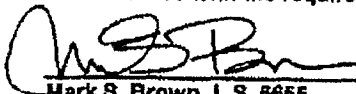
Thence S.00°32'48"W. along said parallel line, a distance of 15.81 feet;

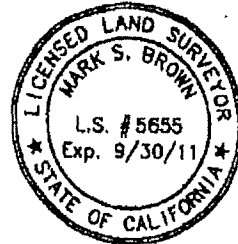
Thence S.89°27'12"E., a distance of 10.00 feet to said Easterly line;

Thence N.00°32'48"E. along said Easterly line, a distance of 30.00 feet to the point of beginning.

The above described parcel of land contains 229 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.

 3/9/2010 Prep. E.V.
Mark S. Brown, L.S. 5655 Date
License Expires 9/30/11



IOWA AVENUE OVERPASS
POR. APN: 247-140-009
Public Street & Highway Esmt.

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

That portion of Lot 81 of Map of East Riverside on file in Book 7 of Maps, at Page 33 thereof, Records of San Bernardino County, California, described as follows:

Commencing at the Northeast corner of Parcel 1 of Parcel Map 31914 on file in Book 212 of Parcel Maps at Pages 39 through 40 thereof, Records of Riverside County, California, said corner being on a line parallel with and distant 60.00 feet Westerly, measured at right angles from the centerline of Iowa Avenue as shown on said Parcel Map 31914;

Thence S.89°04'54"E. along the Easterly prolongation of the Northerly line of said Parcel Map 31914, a distance of 10.00 feet to the Westerly line of Iowa Avenue as shown on said Parcel Map 31914, being the Point of Beginning of the parcel of land to be described;

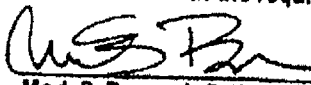
Thence N.00°32'48"E. along said Westerly line, a distance of 147.32 feet;

Thence Southerly on a non-tangent curve concave Southeastery having a radius of 2058.50 feet, through an angle of 04°06'22", an arc length of 147.52 feet (the initial radial line bears N.84°14'41"W.) to the Easterly prolongation of said Northerly line;

Thence S.89°04'54"E. along said Easterly prolongation of said Northerly line, a distance of 8.12 feet to the point of beginning.

The above described parcel of land contains 728 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 9/30/11

3/1/10 Prep. EV
Date



IOWA AVENUE OVERPASS
POR. APN: 247-140-009
TEMPORARY CONSTRUCTION EASEMENT

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

That portion of Lot 81 of Map of East Riverside on file in Book 7 of Maps, at Page 33 thereof, Records of San Bernardino County, California, described as follows:

Beginning at the Northeast corner of Parcel 1 of Parcel Map 31914 on file in Book 212 of Parcel Maps at Pages 39 through 40 thereof, Records of Riverside County, California, said corner being on a line parallel with and distant 60.00 feet Westerly, measured at right angles from the centerline of Iowa Avenue as shown on said Parcel Map 31914;

Thence S.89°04'54"E. along the Easterly prolongation of the Northerly line of said Parcel Map 31914, a distance of 1.88 feet;

Thence Northerly on a non-tangent curve concave Southeasterly having a radius of 2058.50 feet, through an angle of 01°27'35", an arc length of 52.45 feet (the initial radial line bears N.88°21'03"W.);

Thence N.44°27'12"W., a distance of 26.99 feet to a point on a line concentric with and distant 20.00 feet Westerly, measured radially from the above described curve having a radius of 2058.50 feet;

Thence Southerly along said concentric line on a non-tangent curve concave Southeasterly having a radius of 2078.50 feet, through an angle of 00°15'33", an arc length of 9.40 feet (the initial radial line bears N.86°23'21"W.) to a line parallel with and distant 62.00 feet Northerly, measured at right angles from the Northerly line of said Parcel Map 31914;

Thence N.89°04'54"W. along said parallel line, a distance of 268.00 feet;

Thence S.00°55'06"W., a distance of 62.00 feet to the Northerly line of said Parcel Map 31914;

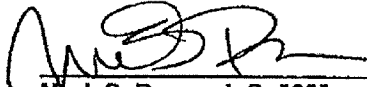


Thence S.89°04'54"E. along said Northerly line, a distance of 284.41 feet to the point of beginning.

The above described parcel of land contains 17,792 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



IOWA AVENUE OVERPASS
POR. APN: 247-140-009
Sanitary Sewer Facilities Easement

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

That portion of Lot 81 of Map of East Riverside on file in Book 7 of Maps, at Page 33 thereof, Records of San Bernardino County, California, described as follows:

Commencing at the Northeast corner of Parcel 1 of Parcel Map 31914 on file in Book 212 of Parcel Maps at Pages 39 through 40 thereof, Records of Riverside County, California, said corner being on a line parallel with and distant 60.00 feet Westerly, measured at right angles from the centerline of Iowa Avenue as shown on said Parcel Map 31914;

Thence S.89°04'54"E. along the Easterly prolongation of the Northerly line of said Parcel Map 31914, a distance of 10.00 feet to the Westerly line of Iowa Avenue as shown on said Parcel Map 31914;

Thence N.00°32'48"E. along said Westerly line, a distance of 147.32 feet to the Point of Beginning of the parcel of land to be described;

Thence Southerly on a non-tangent curve concave Southeasterly having a radius of 2058.50 feet, through an angle of 02°38'47", an arc length of 95.08 feet (the initial radial line bears N.84°14'41"W.);

Thence N.44°27'12"W., a distance of 26.99 feet to a point on a line concentric with and distant 20.00 feet Westerly, measured radially from the above described curve having a radius of 2058.50 feet;

Thence Northerly along said concentric line on a non-tangent curve concave Southeasterly having a radius of 2078.50 feet, through an angle of 02°07'09", an arc length of 76.88 feet (the initial radial line bears N.86°23'21"W.) to a line parallel with and distant 70.00 feet Westerly, measured at right angles from the centerline of Iowa Avenue as shown on said Parcel Map 31914;

Thence N.00°32'48"E. along said parallel line, a distance of 421.84 feet;



Thence S.89°27'12"E., a distance of 20.00 feet to the Westerly line of said Iowa Avenue;

Thence S.00°32'48"W. along said Westerly line, a distance of 422.74 feet to the point of beginning.

The above described parcel of land contains 10,165 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 9/30/11

3/2/10
Date

Prep. E.V.



IOWA AVENUE OVERPASS
POR. APN: 247-140-009
TEMPORARY CONSTRUCTION EASEMENT

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

That portion of Lot 81 of Map of East Riverside on file in Book 7 of Maps, at Page 33 thereof, Records of San Bernardino County, California, described as follows:

Commencing at the Northeast corner of Parcel 1 of Parcel Map 31914 on file in Book 212 of Parcel Maps at Pages 39 through 40 thereof, Records of Riverside County, California, said corner being on a line parallel with and distant 60.00 feet Westerly, measured at right angles from the centerline of Iowa Avenue as shown on said Parcel Map 31914;

Thence S.89°04'54"E. along the Easterly prolongation of the Northerly line of said Parcel Map 31914, a distance of 10.00 feet to the Westerly line of Iowa Avenue as shown on said Parcel Map 31914;

Thence N.00°32'48"E. along said Westerly line, a distance of 147.32 feet;

Thence Southerly on a non-tangent curve concave Southeasterly having a radius of 2058.50 feet, through an angle of 02°38'47", an arc length of 95.08 feet (the initial radial line bears N.84°14'41"W.) to the Point of Beginning of the parcel of land to be described;

Thence N.44°27'12"W., a distance of 26.99 feet to a point on a line concentric with and distant 20.00 feet Westerly, measured radially from the above described curve having a radius of 2058.50 feet;

Thence Northerly along said concentric line on a non-tangent curve concave Southeasterly having a radius of 2078.50 feet, through an angle of 02°07'09", an arc length of 76.88 feet (the initial radial line bears N.86°23'21"W.) to a line parallel with and distant 70.00 feet Westerly, measured at right angles from the centerline of Iowa Avenue as shown on said Parcel Map 31914;

Thence N.00°32'48"E. along said parallel line, a distance of 421.84 feet;

Thence S.89°27'12"E., a distance of 10.00 feet to a line parallel with and distant 60.00 feet Westerly, measured at right angles from the centerline of said Iowa Avenue;

Thence N.00°32'48"E. along said parallel line, a distance of 15.81 feet to the Southeasterly line of the B.N.S.F. Railway Company right-of-way (formerly Riverside, Santa Ana and Los Angeles Railroad) as shown on said Map of East Riverside, also being the Westerly line of said Lot 81;



Thence S.35°42'43"W. along said Southeasterly line, a distance of 31.25 feet to a line parallel with and distant 78.00 feet Westerly, measured at right angles from the centerline of said Iowa Avenue;

Thence S.00°32'48"W. along said parallel line, a distance of 411.73 feet to a point on a line concentric with and distant 8.00 feet Westerly, measured radially from the above described curve having a radius of 2078.50 feet

Thence Southerly along said concentric line on a non-tangent curve concave Southeasterly having a radius of 2086.50 feet, through an angle of 02°12'26", an arc length of 80.38 feet (the initial radial line bears N.84°16'48"W.);

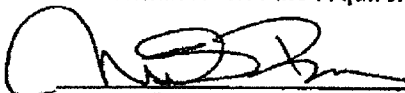
Thence S.44°27'12"E., a distance of 37.91 feet;

Thence Northerly on a non-tangent curve concave Southeasterly having a radius of 2058.50 feet, through an angle of 00°18'09", an arc length of 10.87 feet (the initial radial line bears N.87°11'37"W.) to the point of beginning.

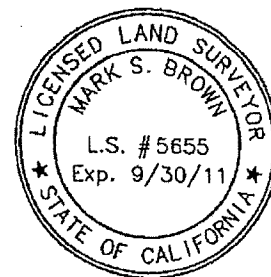
The above described parcel of land contains 4,316 square feet, more or less.

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.


Mark S. Brown, L.S. 5655
License Expires 9/30/11

10/5/2010 Prep. EV
Date



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 July 2, 2012, I served the within PATIAL JUDGMENT AND FINAL ORDER OF CONDEMNATION AS TO DEFENDANTS WILLIAM H. SACKETT AND KATE RIEMER SACKETT on the interested parties in said action addressed as follows:

David F. Hubbard, Esq.
HUBBARD LAW FIRM
3877 12th Street
Riverside CA 92501
Tel: 951-686-2660
Fax: 951-686-5970

Attorneys for defendant:
William H. Sackett and Kate Riemer Sackett,
Trustee of the Sackett Family Trust dated
December 14, 1995

- () **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 July 2, 2012, at Riverside, California


Kimberly Oehlert



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