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DOC # 2012-0119271

03/14/2012 02:46P Fee:NC

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Recorded in Official Records
County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder



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

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JUDGMENT AND FINAL ORDER OF CONDEMNATION
CASE NO. RIC10022416

D-16777



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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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAR 06 2012



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 and)	Case No. RIC10022416
11 municipal corporation,)	Assigned to Dept. 4
12)	
13 Plaintiff,)	JUDGMENT AND FINAL ORDER OF
14 vs.)	CONDEMNATION
15 HARVEY KATES AND JOYCE KATES, etc.; et al,)	APN 247-150-007
16 Defendants.)	Complaint Filed: 11/18/2010

17 This Judgment and Final Order of Condemnation is hereby made following disposition
18 through the court proceedings described below of all parties and property interests alleged in the
19 Complaint in Eminent Domain.

20 IT IS HEREBY FOUND AND DETERMINED:

21 1. Pursuant to its Charter, sections 37350.5 and 40404 of the Government Code of
22 the State of California, section 1240.010 of the Code of Civil Procedure of the State of
23 California, and Article I, section 19 of the Constitution of the State of California, plaintiff City of
24 Riverside is authorized to acquire real property or interests therein for public uses and purposes,
25 to wit: to construct a grade separation across the existing Burlington Northern Santa Fe railroad
26 tracks at Iowa Avenue, between Palmyrita Avenue and Spring Street.

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1 2. Plaintiff City of Riverside ("City") commenced this eminent domain action to
2 condemn a fee simple interest which is legally described in the attached exhibit "A."

3 3. After a duly noticed public hearing and an opportunity to be heard in compliance
4 with Code of Civil Procedure section 1245.235, on November 16, 2010, plaintiff's City Council
5 adopted Resolution Number 22120 authorizing plaintiff to acquire the property described in the
6 attached exhibit "A" by eminent domain (collectively "Subject Property"). In compliance with
7 sections 1245.220 and 1245.230 of the Code of Civil Procedure, the City Council found and
8 determined that: (a) the public interest and necessity require the proposed project, (b) the
9 proposed project is planned and located in the manner that will be the most compatible with the
10 greatest public good and least private injury, (c) the acquisition and taking of interests in the
11 property sought to be acquired are necessary for the Project, and (d) the offer required by section
12 7267.2 of the Government Code has been made to the owners of record of the Subject Property.

13 4. Plaintiff named the following defendants in this action:

<u>Defendant Name</u>	<u>Property Interest</u>
Harvey Kates and Joyce Kates, individually and as Trustees of the Kates Family Trust of 1986	Owner
The Heirs and Devisees of M. Stanley Muskat, deceased, and all persons claiming by, through, or under said decedent	Owner
East Riverside Land Company	Easement Holder
Southern California Edison Company as Successor in Interest to Pacific Light & Power Company	Easement Holder
PRLAP, Inc. as Successor in Interest to Continental Auxiliary Company	Deed of Trust Trustee
Bank of America NT & SA	Deed of Trust Beneficiary
Experienced Tractor Parts, Inc.	Tenant

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1 5. The following defendant filed a disclaimer on the date indicated below and is
2 entitled to no compensation:

<u>DEFENDANT</u>	<u>DATE OF FILING</u>
Southern California Edison Company as Successor in Interest to Pacific Light & Power Company	June 24, 2011

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6 6. The following defendants were dismissed by plaintiff without prejudice from this
7 action on the dates indicated below:

<u>DEFENDANT</u>	<u>DATE OF FILING</u>
Harvey Kates and Joyce Kates, individually and as Trustees of the Kates Family Trust of 1986	November 2, 2011
Harvey Kates, as Successor Trustee of the M. Stanley Muskat Revocable Trust	November 2, 2011
Experienced Tractor Parts, Inc.	December 13, 2011

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10 7. The following defendants have been regularly served with process herein and
11 having failed to appear or answer within the time allowed by law, had their defaults taken on the
12 dates indicated below:

<u>DEFENDANT</u>	<u>DATE OF FILING</u>
East Riverside Land Company	July 21, 2011
The Heirs and Devisees of M. Stanley Muskat, deceased, and all persons claiming by, through, or under said decedent	May 25, 2011
PRLAP, Inc., as Successor in Interest to Continental Auxiliary Company	January 31, 2011
Bank of America NT & SA	January 31, 2011

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24 8. On November 17, 2010, plaintiff deposited with the Office of the Treasurer for
25 the state of California the amount of One Million Five Hundred Twenty-three Thousand Nine
26 Hundred Sixty-one Dollars (\$1,523,961.00) as a deposit of probable just compensation for the
27 property described in the attached exhibit "A."
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1 9. On November 22, 2011, the court made and entered an order authorizing
2 withdrawal of \$111,961.00 from funds on deposit with the State Treasurer.

3 10. On December 15, 2011, the court made and entered an order authorizing
4 withdrawal of \$1,412,000.00 from funds on deposit with the State Treasurer

5 11. No funds remain on deposit with the State's Treasurer's Office.

6 12. On May 22, 2011, an Order of Prejudgment Possession ("OPP") became effective
7 in and to the property described in the attached exhibit "A."

8 13. The use for which an interest in and to the property described in the attached
9 exhibit "A" is being acquired is a use authorized by law and the acquisition of said interest is
10 necessary to said use.

11 NOW THEREFORE IT IS ORDERED, ADJUDGED, AND DECREED that judgment in
12 condemnation is hereby made in favor of the City of Riverside. The following defendants are
13 entitled to no compensation or damages: The Heirs and Devisees of M. Stanley Muskat,
14 deceased, and all persons claiming by, through, or under said decedent; East Riverside Land
15 Company; Southern California Edison Company as Successor in Interest to Pacific Light &
16 Power Company; PRLAP, Inc., as Successor in Interest to Continental Auxiliary Company; and
17 Bank of America NT & SA.

18 WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF
19 CONDEMNATION:

20 The interests of defendants The Heirs and Devisees of M. Stanley Muskat, deceased, and
21 all persons claiming by, through, or under said decedent; East Riverside Land Company;
22 Southern California Edison Company as Successor in Interest to Pacific Light & Power
23 Company; PRLAP, Inc., as Successor in Interest to Continental Auxiliary Company; and Bank of
24 America NT & SA, in the real property described in the attached exhibit "A" are hereby
25 condemned for the public use and purpose described in the complaint herein, to wit, to construct
26 a grade separation across the existing Burlington Northern Santa Fe railroad tracks at Iowa
27 Avenue, between Palmyrita Avenue and Spring Street, plaintiff to take title to the interest(s) of
28 said defendants in said real property together with all improvements thereon in which said

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1 defendant has an interest, and except as otherwise described in the attached exhibit "A," free and
2 clear of any and all liens, encumbrances, easements, and leaseholds of whatever kind or nature.
3 The interests condemned to the City of Riverside in and to Assessor's Parcel Number
4 247-150-007 are legally described in Exhibit "A" hereto.

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7 DATED: 2/29/12 [Signature]
8 ~~CLERK~~ OF THE SUPERIOR COURT

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11 L10-0223.2

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EXHIBIT A

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IOWA AVENUE OVERPASS
APN: 247-150-007
FEE SIMPLE INTEREST

That certain real property in the City of Riverside, County of Riverside, State of California, as conveyed to M. Stanley Muskat, by Deed recorded June 6, 1974, as Instrument No. 69057 and Harvey Kates and Joyce Kates, Trustees of the Kates Family Trust of 1986, by Deed recorded September 22, 1987, as Instrument No. 273576, both Official Records of Riverside County, California, more particularly being described as follows:

Parcel 1

That portion of Lots 59, 60, 67 and Iowa Avenue (vacated) of Map of East Riverside in the City of Riverside, County of Riverside, State of California, as shown on file in Book 7 of Maps, at Page 33 thereof, Records of San Bernardino County, California, described as follows:

Beginning at the Southwest corner of said Lot 67;

Thence East, on the South line of said Lot, to the Northwestern line of the right-of-way of the B.N.S.F. Railway Company right-of-way (formerly Atchison, Topeka, and Santa Fe Railroad and the Riverside, Santa Ana, and Los Angeles Railroad);

Thence Northeasterly, on the Northwestern line of said railway right-of-way, to an intersection with the Southwesterly line of the parcel of land conveyed to the County of Riverside by Deed recorded September 25, 1914 in Book 402, Page 125 of Deeds, Records of Riverside County, California;

Thence Northwesterly, on the Southwesterly line of said parcel of land so conveyed to the County of Riverside and on the Northwesterly extension thereof (to a point on a line which is 50 feet East of and parallel with the following described line:

Beginning at the intersection of the centerline of Spring Street and Palm Avenue as shown on said Map of East Riverside;

Thence S.00°53'00"E., a distance of 600.00 feet);

Thence South, on said parallel line, to the Northeast corner of Lot 60 1/2 of said Map of East Riverside;

Thence East, on the Easterly extension of the North line of said Lot 60 1/2 to a point on the centerline of Iowa Avenue, as shown on said map;

Thence Southwesterly on the centerline of Iowa Avenue, to an intersection with the Northerly extension of the West line of said Lot 67;

Thence South on said extended line and on the West line of said Lot 67, to the Point of Beginning;



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EXCEPTING THEREFROM that portion included in the Deed to Atchison, Topeka and Santa Fe Railway Company recorded April 7, 1930 in Book 849, Page 72 of Deeds, Records of Riverside County, California, described as follows:

Beginning at a point on the Northwesterly line of the Atchison, Topeka and Santa Fe right-of-way, as described in Deed recorded in Book 50, Page 486 of Deeds, Records of San Bernardino County, California;

Thence S.34°02'00"W. on said right-of-way line, a distance of 769.57 feet from the Southerly line of Spring Street;

Thence S.34°02'00"W. on said right-of-way line, a distance of 185.63 feet;

Thence N.55°58'00"W., a distance of 30.00 feet;

Thence N.34°02'00"E., a distance of 185.71 feet to the Southwesterly line of property conveyed to the County of Riverside by Deed recorded in Book 402, Page 125 of Deeds, Records of Riverside County, California;

Thence S.55°49'00"E. on the Southwesterly line of said property, to the Point of Beginning;

ALSO EXCEPTING THEREFROM that portion thereof conveyed to Riverside County, by Deed recorded August 18, 1915 in Book 406, Page 337 of Deeds, Records of Riverside County, California;

ALSO EXCEPTING THEREFROM that portion of land conveyed to the County of Riverside, more particularly described in that certain document recorded March 14, 1964 as Instrument No. 4996 in Book 3582, Page 200 of Official Records of Riverside County, California, described as follows:

Included within a strip of land 5.00 feet in width, the Westerly line of said 5-foot strip being described as follows:

Beginning at the Southwest corner of said Lot 67, said corner lying in the Easterly line of Iowa Avenue (100.00 feet wide);

Thence Northerly along said Easterly line of Iowa Avenue to an angle point therein as shown on said map;

Thence continuing Northerly along the Northerly extension of said Easterly line of Iowa Avenue to its point of intersection with the Northwesterly prolongation of the Southwesterly line of the property conveyed to the County of Riverside by Deed recorded September 25, 1914, in Book 402, Page 125 of Deeds, Records of Riverside County, California, said point of intersection being the end of this described line.

The Easterly line of said 5-foot strip shall be lengthened or shortened to terminate Northerly in said Northwesterly prolongation of the Southwesterly line of property conveyed to the County of Riverside, and Southerly in the Southerly line of said Lot 67.



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Parcel 2

That portion of Iowa Avenue as shown on Map of East Riverside, in the City of Riverside, County of Riverside, State of California, recorded in Book 7, Page 33 of Maps, Records of San Bernardino County, California, vacated by Resolution of the Board of Supervisors of Riverside County, a certified copy of which was recorded August 12, 1952 as Instrument No. 34429 of Official Records of Riverside County, California, and bounded as follows:

On the North by the Easterly prolongation of the Northerly line of Block 60 1/2 of said Subdivision;

On the Southeast by the centerline of said Iowa Avenue;

On the West by the Northerly prolongation of the Easterly line of said Iowa Avenue, said Easterly line was re-established by said resolution;

EXCEPTING THEREFROM that portion of said land conveyed to the County of Riverside, more particularly described in that certain document recorded March 14, 1964 as Instrument No. 4996 in Book 3582, Page 200 of Official Records of Riverside County, California, described as follows;

Included within a strip of land 5 feet in width, the Westerly line of said 5-foot strip being described as follows;

Beginning at the Southwest corner of said Lot 67, said corner lying in the Easterly line of Iowa Avenue (100.00 feet wide);

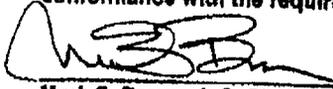
Thence Northerly along said Easterly line of Iowa Avenue to an angle point therein as shown on said map;

Thence continuing Northerly along the Northerly extension of said Easterly line of Iowa Avenue to its point of intersection with the Northwesterly prolongation of the Southwesterly line of the property conveyed to the County of Riverside by Deed recorded September 25, 1914 in Book 402, Page 125 of Deeds, Records of Riverside County, California, said point of intersection being the end of this described line.

The Easterly line of said 5-foot strip shall be lengthened or shortened to terminate Northerly in said Northwesterly prolongation of the Southwesterly line of property conveyed to the County of Riverside, and Southerly in the Southerly line of said Lot 67.

Areas = 4.878 acres, more or less.

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

 4/9/2010 Prep. E.V
Mark S. Brown, L.S. 5655 Date
License Expires 9/30/11



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