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County of Riverside

Larry W. Ward
Assessor, County Clerk & Recorder



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

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JUDGMENT AND FINAL ORDER OF CONDEMNATION
CASE NO. RIC1203986

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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."

16848

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
GLV
DEC 19 2012
C. Andrews
[Signature]
DEC 20 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
11 municipal corporation,

12 Plaintiff,

13 vs.

14 ANITA S. YODER, etc.; et al.,

15 Defendants.

) Case No. RIC1203986
) Assigned to the Honorable
) Judge Gloria Connor Trask
) Dept. 3

) **JUDGMENT AND FINAL ORDER OF
) CONDEMNATION**

) APN 225-140-008

Complaint Filed: March 20, 2012

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 (underpass) along Riverside Avenue from Merrill Avenue
26 to approximately 300 feet north of Elizabeth Street.

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2. Plaintiff City of Riverside ("City") commenced this eminent domain action to condemn a temporary construction easement which is legally described in the attached exhibit "A."

3. After a duly noticed public hearing and an opportunity to be heard in compliance with Code of Civil Procedure section 1245.235, on March 6, 2012, plaintiff's City Council adopted Resolution Number 22356 authorizing plaintiff to acquire the property described in the attached exhibit "A" by eminent domain (collectively "Subject Property"). In compliance with sections 1245.220 and 1245.230 of the Code of Civil Procedure, the City Council found and determined that: (a) the public interest and necessity require the proposed project, (b) the proposed project is planned and located in the manner that will be the most compatible with the greatest public good and least private injury, (c) the acquisition and taking of interests in the property sought to be acquired are necessary for the Project, and (d) the offer required by section 7267.2 of the Government Code has been made to the owners of record of the Subject Property.

4. Plaintiff named the following defendants in this action:

<u>Defendant Name</u>	<u>Property Interest</u>
Anita S. Yoder, as Trustee Under the Will of M.J. Yoder, Deceased	Owner
M. David Yoder, as Trustee of the Survivor's Trust Created Under the M. David And Evangelene Yoder Trust	Owner
Joseph E. Yoder and Mary D. Yoder, as Trustees of the Joseph & Mary Yoder Trust Dated August 24, 2005	Owner
William J. Tatton and Mary Evelyn Tatton, as Trustees of the Tatton Family Living Trust Dated December 10, 1990	Owner
Madena Y. Anderson	Owner
Charles E. Yoder	Owner
Marie Callender Pie Shops, LLC, d/b/a Marie Callender's Pie Shop #5	Tenant
The Heirs and Devisees of Madena Anderson, Deceased, and All Persons Claiming by, through, or under Said Decedent	Potential Claimant



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<u>Defendant Name</u>	<u>Property Interest</u>
David Anderson	Potential Claimant
All Persons Unknown Claiming an Interest in the Property	Potential Claimant

5. The following defendant was dismissed by plaintiff without prejudice from this action on the date indicated below:

<u>DEFENDANT</u>	<u>DATE OF FILING</u>
Madena Y. Anderson	06/18/2012

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

<u>DEFENDANT</u>	<u>DATE OF FILING</u>
Anita S. Yoder, as Trustee Under the Will of M.J. Yoder, Deceased	11/21/2012
M. David Yoder, as Trustee of the Survivor's Trust Created Under the M. David and Evangelene Yoder Trust	11/21/2012
Joseph E. Yoder and Mary D. Yoder, as Trustees of the Joseph & Mary Yoder Trust Dated August 24, 2005	11/21/2012
William J. Tatton and Mary Evelyn Tatton, as Trustees of the Tatton Family Living Trust Dated December 10, 1990	11/21/2012
The Heirs and Devisees of Madena Anderson, Deceased and All Persons Claiming by, through, or under Said Decedent	06/18/2012
David Anderson	06/18/2012
Charles E. Yoder	11/21/2012
Marie Callender Pie Shops, LLC, d/b/a Marie Callender's Pie Shop #5	11/21/2012
All Persons Unknown Claiming an Interest in the Property	06/18/2012



1 8. On March 7, 2010, plaintiff deposited with the Office of the Treasurer for the
2 state of California the amount of Ten Thousand Dollars (\$10,000.00) as a deposit of probable
3 just compensation for the property interest described in the attached exhibit "A." No funds have
4 been withdrawn and \$10,000.00 remains on deposit with the State Treasurer for the benefit of
5 Anita S. Yoder, as Trustee Under the Will of M.J. Yoder, Deceased; M. David Yoder, as Trustee
6 of the Survivor's Trust Created Under the M. David And Evangelene Yoder Trust; Joseph E.
7 Yoder and Mary D. Yoder, as Trustees of the Joseph & Mary Yoder Trust Dated August 24,
8 2005; William J. Tatton and Mary Evelyn Tatton, as Trustees of the Tatton Family Living Trust
9 Dated December 10, 1990; Charles E. Yoder; The Heirs and Devisees of Madena Anderson,
10 Deceased, and All Persons Claiming by, through, or under Said Decedent; and David Anderson.

11 9. On September 29, 2012, an Order of Prejudgment Possession ("OPP") became
12 effective in and to the property described in the attached exhibit "A."

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

16 NOW THEREFORE IT IS ORDERED, ADJUDGED, AND DECREED that judgment in
17 condemnation is hereby made in favor of the City of Riverside. The following defendants are
18 entitled to no compensation or damages: Marie Callender Pie Shops, LLC, d/b/a Marie
19 Callender's Pie Shop #5 and All Persons Unknown Claiming an Interest in the Property.

20 WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF
21 CONDEMNATION:

22 The interests of defendants Anita S. Yoder, as Trustee Under the Will of M.J. Yoder,
23 Deceased; M. David Yoder, as Trustee of the Survivor's Trust Created Under the M. David And
24 Evangelene Yoder Trust; Joseph E. Yoder and Mary D. Yoder, as Trustees of the Joseph & Mary
25 Yoder Trust Dated August 24, 2005; William J. Tatton and Mary Evelyn Tatton, as Trustees of
26 the Tatton Family Living Trust Dated December 10, 1990; The Heirs and Devisees of Madena
27 Anderson, Deceased, and All Persons Claiming by, through, or under Said Decedent; David
28 Anderson; Charles E. Yoder; Marie Callender Pie Shops, LLC, d/b/a Marie Callender's Pie Shop



1 #5; and All Persons Unknown Claiming an Interest in the Property, in the real property described
2 in the attached exhibit "A" are hereby condemned for the public use and purpose described in the
3 complaint herein, to wit, to construct a grade separation (underpass) along Riverside Avenue
4 from Merrill Avenue to approximately 300 feet north of Elizabeth Street, plaintiff to take title to
5 the interest(s) of said defendants in said real property together with all improvements thereon in
6 which said defendant has an interest, and except as otherwise described in the attached exhibit
7 "A," free and clear of any and all liens, encumbrances, easements, and leaseholds of whatever
8 kind or nature.

9 The interest condemned to the City of Riverside in and to Assessor's Parcel Number 225-
10 140-008 is legally described in Exhibit "A" hereto.

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DATED: 12/17/12 *[Signature]*
JUDGE OF THE SUPERIOR COURT

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EXHIBIT A



2012-0628772
12/26/2012 11:45A
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EXHIBIT "A"

Riverside Avenue
Grade Separation
Por. APN: 225-140-008
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 Record of Survey on file in Book 35 at Page 94 thereof, Records of Riverside County, California, lying within the Southwest one-quarter of the Northeast one-quarter of Section 34, Township 2 South, Range 5 West, S.B.M., described as follows:

Beginning at the Southeast corner of said Parcel 2;

Thence N.89°50'46"W. along the Southerly line of said Parcel 2, a distance of 55.00 feet;

Thence N.00°09'14"E., a distance of 10.00 feet;

Thence S.89°50'46"E., a distance of 50.11 feet to a line parallel with and distant 5.00 feet Westerly, measured at right angles from the Easterly line of said Parcel 2;

Thence N.00°46'05"E. along said parallel line, a distance of 158.75 feet to the Southerly line of that parcel of land described in deed to the City of Riverside, recorded April 5, 1981 as instrument no. 28902, Official Records of Riverside County, California;

Thence S.89°50'42"E. along said Southerly line, a distance of 5.00 feet to the Easterly line of said Parcel 2;

Thence S.00°46'05"W. along said Easterly line, a distance of 168.75 feet to the point of beginning.

The above described parcel of land contains 1,344 square feet, more or less.

This temporary easement and right-of-way shall terminate 18 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.

 5/5/2011 Prep. EV
Mark S. Brown, L.S. 5855 Date
License Expires 9/30/11

