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3900 Main Street
Riverside, CA 92522
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DOC # 2013-0072567

02/11/2013 03:15P 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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**PARTIAL JUDGMENT AND FINAL ORDER OF CONDEMNATION
RE DEFENDANT MAGNOLIA TOWN CENTER ASSOCIATES,
A CALIFORNIA GENERAL PARTNERSHIP
CASE NO. RIC513720**



D - 16858

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."

DEC 18 2012

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
JAN 10 2013
J. Castillo

AAA CIV
JAN 11 2013
FEB 08 2013
R

None Pro Tunc as of 2/1/13

10 Attorneys for Plaintiff, City of Riverside (Fee Exempt Gov't Code § 6103)

11
12 SUPERIOR COURT OF CALIFORNIA
13 COUNTY OF RIVERSIDE

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

16 Plaintiff,

17 vs.

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

21 Defendants.

) Case No. RIC513720
) Assigned for case management to the
) Honorable Gloria Connor Trask
) Dept. 3
)
) PARTIAL JUDGMENT AND FINAL
) ORDER OF CONDEMNATION RE
) DEFENDANT MAGNOLIA TOWN
) CENTER ASSOCIATES, A CALIFORNIA
) GENERAL PARTNERSHIP

22 APN 225-051-035

23 [Stipulation re Settlement and for Entry of
24 Partial Judgment and Final Order of
25 Condemnation submitted concurrently
26 herewith.]

27 Complaint Filed: 11/26/2008

28 ///
///

CITY ATTORNEY'S OFFICE
3900 MAIN STREET
RIVERSIDE, CA 92523
(951) 826-5567

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PARTIAL JUDGMENT AND FINAL ORDER OF CONDEMNATION
RE DEFENDANT MAGNOLIA TOWN CENTER ASSOCIATES



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1 Pursuant to a written stipulation by and between plaintiff City of Riverside (hereinafter
2 "City"), by and through Brandon S. Mercer, Deputy City Attorney, and defendant Magnolia
3 Town Center Associates, a California General Partnership, ("Defendant"), by and through its
4 attorneys, Hubbard Law Firm, that a Partial Judgment and Final Order of Condemnation as to
5 Assessor's Parcel Number 225-051-035 may be made and entered herein in accordance with the
6 terms and conditions hereof without further notice to said defendants,

7 IT IS HEREBY FOUND AND DETERMINED:

8 1. The interest of Defendant in and to the real property designated in the complaint
9 as Assessor's Parcel Number 225-051-035 is fee simple absolute. The interests being acquired
10 by the City through this eminent domain action are a retaining wall and footing easement,
11 temporary construction easement, temporary construction easement for sanitary sewer facilities,
12 and sanitary sewer easement, as more particularly described in Exhibit 'A' hereto.

13 2. By execution of the Stipulation re Settlement and for Entry of Partial Judgment
14 and Final Order of Condemnation herein ("Stipulation"), Defendant waives the right to jury trial,
15 Statement of Decision, Notice of Entry of Judgment in Condemnation, Notice of Entry of Final
16 Order of Condemnation as to Assessor's Parcel Number 225-051-035, and the right and time for
17 appeal.

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

22 4. By execution of the Stipulation, the total compensation is in complete settlement
23 of any and all claims for compensation arising from the taking of the real property described in
24 Exhibit 'A' hereto ("Subject Property"), including costs, statutory interest, severance damages,
25 fixtures, equipment, or inventory, loss of business goodwill, relocation assistance, loss of or
26 damage to improvements pertaining to the realty, damages for precondemnation or inverse
27 condemnation, attorney's fees, all costs and litigation expenses of Defendant against the City by
28 reason of taking of the Subject Property.



1 5. Pursuant to the Stipulation, Defendant makes a knowing waiver of any and all
2 rights created by California Civil Code section 1542.

3 6. Pursuant to the Stipulation, the total amount of just compensation to be paid by
4 plaintiff to Defendant is the sum of Five Hundred Thousand Dollars (\$500,000.00) ("Award").

5 7. On November 10, 2008, the City deposited the sum of One Hundred Sixty-seven
6 Thousand Three Hundred Dollars (\$167,300.00) ("Deposit") with the Treasurer of the State of
7 California, Condemnation Fund, as the probable just compensation for Assessor's Parcel
8 Number 225-051-035.

9 8. No funds have been withdrawn from the Deposit and \$167,300.00 remains on
10 deposit with the State Treasurer condemnation fund.

11 9. City represents that payment of the Award will be made on or before January 3,
12 2013.

13 10. An Order of Prejudgment Possession became effective as to the interest of
14 Defendant in and to Assessor's Parcel Number 225-051-035 on May 15, 2009.

15 11. The use for which an interest in and to Assessor's Parcel Number 225-051-035 is
16 being acquired is a use authorized by law and the acquisition of said interest is necessary to said
17 use.

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

19 1. The total compensation, award, and damages to be paid as a result of the
20 condemnation of the interests of defendant Magnolia Town Center Associates, a California
21 General Partnership, ("Defendant") in and to Assessor's Parcel Number 225-051-035, as
22 described in Exhibit A, is the total sum of Five Hundred Thousand Dollars (\$500,000.00)
23 ("Award").

24 2. Payment of the Award hereunder shall be deemed to expressly include all costs of
25 suit pursuant to California Code of Civil Procedure section 1268.710 and all litigation expenses
26 including, but not limited to, those defined in California Code of Civil Procedure section
27 1235.140. Payment hereunder shall further be deemed to be the total just compensation and
28 damages, if any, to which Defendant shall be entitled by reason of the condemnation of and



1 construction activities by plaintiff, as reflected in Exhibit A, on Assessor's Parcel Number 225-
2 051-035.

3 3. The Award shall be paid by plaintiff outside these court proceedings to Defendant
4 as follows: the draft shall be made payable to "Hubbard Law Firm Trust Account" and
5 forwarded to:

6 David F. Hubbard, Esq.
7 HUBBARD LAW FIRM
8 3877 12th Street
9 Riverside CA 92501

10 4. Payment to Defendant of the total Award shall constitute payment in full for the
11 real property taken and for all damages of any kind and nature whatsoever suffered by said
12 defendant by reason of such taking as reflected in Exhibit A.

13 5. An Order of Prejudgment Possession became effective as to the interest of
14 Defendant in and to Assessor's Parcel Number 225-051-035 on May 15, 2009.

15 6. The State Treasurer is authorized and directed to disburse to the City of Riverside
16 the sum of One Hundred Sixty-seven Thousand Three Hundred Dollars (\$167,300.00) from
17 those funds on deposit in the Condemnation Fund in connection with the above-entitled matter.
18 Payment of said funds shall be made payable to "City of Riverside" and forwarded as follows:

19 Attn: Brandon S. Mercer, Deputy City Attorney
20 City Hall, Office of the City Attorney
21 3900 Main Street
22 Riverside CA 92522

23 WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF
24 CONDEMNATION:

25 The interest of defendant Magnolia Town Center Associates, a California General
26 Partnership, ("Defendant") in the real property described in Exhibit "A" as to Assessor's Parcel
27 Number 225-051-035 is hereby condemned for the public use and purposes described in the
28 Complaint as 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 Defendant in said real property, together with all improvements thereon in

1085R



1 which said defendants have an interest, free and clear of any and all liens, encumbrances,
2 easements, and leaseholds, of whatever kind or nature.

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DATED: 31 JAN 13

James Holmes
Judge of the Superior Court

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EXHIBIT A

16858



EXHIBIT "A"

A.P.N. 225-051-035
Temporary Construction Easement

That portion of Section 34, Township 2 South, Range 5 West, San Bernardino Meridian, described as follows:

COMMENCING at the most southerly corner of that certain parcel of land described in deed to Paul D'Arca, Jr., et ux., as Parcel 1 in document recorded May 18, 1989, as Instrument No. 161206 of Official Records of Riverside County, California; said point being in the northwesterly line of Magnolia Avenue distant therein, 326.2 feet northeasterly from the intersection of said northwesterly line of Magnolia Avenue with the northerly line of the Union Pacific Railroad Right-of-Way;

THENCE along said northwesterly line of Magnolia Avenue, North 27°35'30" East, a distance of 90.0 feet to the POINT OF BEGINNING of the parcel of land being described;

THENCE North 62°24'30" West, at right angle to said northwesterly line, a distance of 15.0 feet;

THENCE South 27°35'30" West, parallel with said northwesterly line, a distance of 10.0 feet;

THENCE South 62°24'30" East, at right angle to said northwesterly line, a distance of 7.0 feet;

THENCE South 27°35'30" West, parallel with said northwesterly line, a distance of 80.0 feet to the southwesterly line of said parcel of land described in deed to Paul D'Arca, Jr., et ux.;

THENCE North 62°24'30" West, along said southwesterly line, a distance of 7.0 feet;

THENCE North 27°35'30" East, parallel with said northwesterly line, a distance of 75.0 feet;

THENCE North 62°24'30" West, at right angle to said northwesterly line, a distance of 80.0 feet;

THENCE North 27°35'30" East, parallel with said northwesterly line, a distance of 25.0 feet;

THENCE South 62°24'30" East, at right angle to said northwesterly line, a distance of 25.0 feet;

THENCE North 27°35'30" East, parallel with said northwesterly line, a distance of 35.0 feet;



THENCE South 62°24'30" East, at right angle to said northwesterly line, a distance of 45.0 feet;

THENCE North 72°35'30" East, a distance of 21.21 feet;

THENCE North 27°35'30" East, parallel with said northwesterly line, a distance of 190.0 feet;

THENCE South 62°24'30" East, at right angle to said northwesterly line, a distance of 10.0 feet to said northwesterly line;

THENCE South 27°35'30" West, along said northwesterly line, a distance of 250.0 feet to the POINT OF BEGINNING.

Area - 7323 square feet.

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

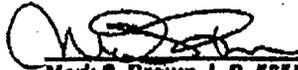

Mark S. Brown, L.S. 5655 1/03/08 Date Prep. 
License Expires 9/30/09





EXHIBIT "A"

A.P.N. 225-051-035
Retaining Wall & Footing Easement

That portion of Section 34, Township 2 South, Range 5 West, San Bernardino Meridian, described as follows:

BEGINNING at the most southerly corner of that certain parcel of land described in deed to Paul D'Arca, Jr., et ux., as Parcel 1 in document recorded May 18, 1989, as Instrument No. 161206 of Official Records of Riverside County, California; said point being in the northwesterly line of Magnolia Avenue distant therein, 326.2 feet northeasterly from the intersection of said northwesterly line of Magnolia Avenue with the northerly line of the Union Pacific Railroad Right-of-Way;

THENCE along said northwesterly line of Magnolia Avenue, North 27°35'30" East, a distance of 90.0 feet;

THENCE North 62°24'30" West, at right angle to said northwesterly line, a distance of 15.0 feet;

THENCE South 27°35'30" West, parallel with said northwesterly line, a distance of 10.0 feet;

THENCE South 62°24'30" East, at right angle to said northwesterly line, a distance of 7.0 feet;

THENCE South 27°35'30" West, parallel with said northwesterly line, a distance of 80.0 feet to the southwesterly line of said parcel of land described in deed to Paul D'Arca, Jr., et ux.;

THENCE South 62°24'30" East, along said southwesterly line, a distance of 8.0 feet to the POINT OF BEGINNING.

Area - 790 square feet.

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

 1/2/08 Date Prep. Ksp
Mark S. Brown, L.S. 5855
License Expires 9/30/09





EXHIBIT "A"

A.P.N. 225-051-035
Temporary Construction Easement
for Sanitary Sewer Facilities

PARCEL 1

A strip of land 20.00 feet in width, lying within a portion of Section 34, Township 2 South, Range 5 West, San Bernardino Meridian, and lying within a portion of Lots 26 and 28 of Nogales Tract, as shown by map on file in Book 9, Page 7 of Maps, records of Riverside County, California, the centerline of said strip of land, described as follows:

COMMENCING at the intersection of the centerline of Nogales Street with the northerly line of the Union Pacific Railroad Right-of-Way, formerly S.P.L.A. & S. L. R.R. Right-of-Way; said Nogales Street and said Right-of-Way are shown by said map of Nogales Tract;

THENCE North $0^{\circ}41'37''$ East, along the centerline of said Nogales Street, a distance of 463.04 feet;

THENCE North $89^{\circ}56'19''$ East, a distance of 33.00 feet to the easterly line of that certain parcel of land described in Grant Deed to the City of Riverside as Parcel "C" by document recorded June 6, 1991, as Instrument No. 190353 of Official Records of Riverside County, California, and the POINT OF BEGINNING of this centerline description; said Point of Beginning is hereinafter referred to as POINT "A";

THENCE continuing North $89^{\circ}56'19''$ East, a distance of 161.12 feet;

THENCE North $26^{\circ}38'19''$ East, a distance of 43.78 feet to a point hereinafter referred to as POINT "B";

THENCE continuing North $26^{\circ}38'19''$ East, a distance of 47.85 feet to the END of this centerline description;

The sidelines of said strip of land shall be lengthened or shortened to terminate at right angles at said END of the centerline and lengthened or shortened to terminate in said easterly line of Parcel "C";

EXCEPTING THEREFROM that portion lying within a strip of land 12.00 feet in width, the centerline described as follows:

BEGINNING at POINT "A" hereinabove described;

THENCE North $89^{\circ}56'19''$ East, a distance of 161.12 feet;

THENCE North $26^{\circ}38'19''$ East, a distance of 46.60 feet to the END of this centerline description.



PARCEL 2

A strip of land 20.00 feet in width, lying within a portion of Section 34, Township 2 South, Range 5 West, San Bernardino Meridian, the centerline of said strip of land, described as follows:

BEGINNING at POINT "B" hereinabove described;

THENCE South 61°33'41" East, a distance of 129.50 feet to the END of this centerline description;

The sidelines of said strip of land shall be lengthened or shortened to terminate at right angles at said END of the centerline;

EXCEPTING THEREFROM any portion contained within PARCEL 1 hereinabove described.

Area - 4952 square feet.

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

 1/22/09 Date Prep. Kgo
Mark S. Brown, L.S. 5655
License Expires 9/30/09



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EXHIBIT "A"

A.P.N. 225-051-035
Sanitary Sewer Easement

A strip of land 12.00 feet in width, lying within a portion of Section 34, Township 2 South, Range 5 West, San Bernardino Meridian, and lying within a portion of Lots 26 and 28 of Nogales Tract, as shown by map on file in Book 9, Page 7 of Maps, records of Riverside County, California, the centerline of said strip of land, described as follows:

COMMENCING at the intersection of the centerline of Nogales Street with the northerly line of the Union Pacific Railroad Right-of-Way, formerly S.P.L.A. & S. L. R.R. Right-of-Way; said Nogales Street and said Right-of-Way are shown by said map of Nogales Tract;

THENCE North $0^{\circ}41'37''$ East, along the centerline of said Nogales Street, a distance of 463.04 feet;

THENCE North $89^{\circ}56'19''$ East, a distance of 33.00 feet to the easterly line of that certain parcel of land described in Grant Deed to the City of Riverside as Parcel "C" by document recorded June 6, 1991, as Instrument No. 190353 of Official Records of Riverside County, California, and the POINT OF BEGINNING of this centerline description;

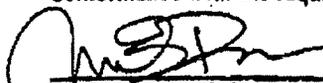
THENCE continuing North $89^{\circ}56'19''$ East, a distance of 161.12 feet;

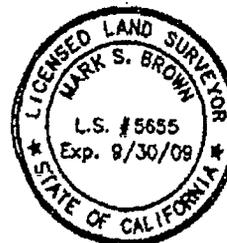
THENCE North $26^{\circ}38'19''$ East, a distance of 46.60 feet to the END of this centerline description;

The sidelines of said strip of land shall be lengthened or shortened to terminate at right angles at said END of the centerline and lengthened or shortened to terminate in said easterly line of Parcel "C".

Area - 2493 square feet.

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 1/22/09 Prep. K92
License Expires 9/30/09 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.

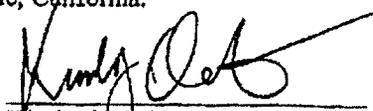
On December 18, 2012, I served the within PARTIAL JUDGMENT AND FINAL ORDER OF CONDEMNATION RE DEFENDANT MAGNOLIA TOWN CENTER ASSOCIATES on the interested parties in said action addressed as follows:

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 December 18, 2012, at Riverside, California.



Kimberly Gehlert



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

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Hardware

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Daniel E. Katz, Esq.
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dkatz@rhlaw.com

Attorneys for defendant:
Phyllis E. Hall, Trustee of the Phyllis E. Hall
Revocable Living Trust

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

Attorneys for defendants:
CD World-Red Planet Records;
Wassi Issa dba Olympic Plus;
The Mark and Doreen Johnson Revocable Trust; and
Magnolia Town Center Associates, a California
General Partnership

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Priscilla C. Mendoza, Esq.
John H. Morkos, Esq.
GUTIERREZ & ASSOCIATES
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