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**Riverside City Attorney's Office**  
3750 University Ave. #250  
Riverside, CA 92501  
Ref: CA# L14-0033.03

This instrument is for the benefit  
of the City of Riverside and is  
exempt from recording fees  
(Government Code § 27383<sup>1</sup>)

**2018-0183099**

05/10/2018 11:16 AM Fee: \$ 0.00

Page 1 of 13

Recorded in Official Records  
County of Riverside  
Peter Aldana  
Assessor-County Clerk-Recorder



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Space above this line reserved for Recorder's use.

**JUDGMENT AND FINAL ORDER OF CONDEMNATION**

**CASE NO. 1403128**

**D - 17477**

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<sup>1</sup> 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."

MAY 0 1 2018

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

MAY 04 2018

E. Usher *[Signature]*

1 GARY G. GEUSS, City Attorney, SBN 128022  
2 BRANDON S. MERCER, Deputy City Attorney, SBN 244413  
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Attorneys for Plaintiff, City of Riverside

(Fee Exempt Gov't Code § 6103)

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

KTC

MAY 08 2018

10 CITY OF RIVERSIDE, a California charter city and )  
11 municipal corporation, )

12 Plaintiff, )

13 vs. )

14 MARIO ESTRADA; et al., )

15 Defendants. )

Case No. RIC 1403128  
ASSIGNED TO THE HONORABLE  
JUDGE DANIEL A. OTTOLIA  
DEPT. 4

JUDGMENT AND FINAL ORDER OF  
CONDEMNATION

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

18 This Judgment and Final Order of Condemnation is made following disposition through  
19 the court proceedings described below of all parties and property interests alleged in the  
20 Complaint in Eminent Domain. Pursuant to a written stipulation by and between plaintiff City of  
21 Riverside ("City"), and defendants Mortgage Electronic Registration Systems, Inc. ("MERS"),  
22 Wells Fargo Bank, N.A. as Trustee, on Behalf of the Holders of the HarborView Mortgage Loan  
23 Trust Mortgage Loan Pass-Through Certificates, Series 2007-1 ("Wells Fargo"), Mario Estrada,  
24 and Esperanza Rojas, (collectively "Defendants") that a Judgment and Final Order of  
25 Condemnation as to Assessor's Parcel Number 147-251-019 may be made and entered herein in  
26 accordance with the terms and conditions hereof without further notice to said Defendants,

27 ///  
28 ///

D-17477

1 IT IS HEREBY FOUND AND DETERMINED:

2 1. Pursuant to its Charter, sections 37350.5 and 40404 of the Government Code of  
3 the State of California, section 4090 of the Streets and Highways Code of the State of California,  
4 section 1240.010 of the Code of Civil Procedure of the State of California, and Article I, section  
5 19 of the Constitution of the State of California, plaintiff City of Riverside is authorized to  
6 acquire real property or interests therein for public uses and purposes, to wit: widening  
7 approximately one mile of Tyler Street between Hole and Wells Avenues.

8 2. After a duly noticed public hearing and an opportunity to be heard in compliance  
9 with Code of Civil Procedure section 1245.235, on March 25, 2014, plaintiff's City Council  
10 adopted Resolution Number 22645 authorizing plaintiff to acquire by eminent domain the  
11 property described in the attachments to Resolution Number 22645. In compliance with sections  
12 1245.220 and 1245.230 of the Code of Civil Procedure, the City Council found and determined  
13 that: (a) the public interest and necessity require the proposed project, (b) the proposed project  
14 is planned and located in the manner that will be the most compatible with the greatest public  
15 good and least private injury, (c) the acquisition and taking of interests in the property sought to  
16 be acquired are necessary for the Project, and (d) the offer required by section 7267.2 of the  
17 Government Code has been made to the owners of record of the property.

18 3. Plaintiff named the following defendants in this action:

19

| <u>Defendants Name</u>                                   | <u>Property Interest</u>        |
|--|---------------------------------|
| Mario Estrada  | Owner                           |
| Esperanza Rojas  | Owner                           |
| Alliance Title Company, Inc.                             | Trustee under deed of trust     |
| Mortgage Electronic Registration Systems, Inc.           | Beneficiary under deed of trust |
| State Farm Mutual Automobile Insurance Company           | Potential claimant              |
| Consuelo Luna  | Tenant                          |
| Vicente Perez  | Tenant                          |
| All Persons Unknown Claiming An Interest In The Property | Potential claimant              |

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| <u>Defendants Name</u>      | <u>Property Interest</u> |
|-----------------------------|--------------------------|
| The Bank of New York        | Potential Claimant       |
| The Bank of New York Mellon | Potential Claimant       |
| Sergio Aceves Reyes         | Potential Claimant       |
| Erica Aceves                | Potential Claimant       |

4. By virtue of its answer filed on or about August 26, 2014, defendant Wells Fargo appeared in the action claiming an interest in the property.

5. On or about January 19, 2017, the Court granted leave for the City to file a first amended complaint adding a second cause of action for reformation. Pursuant to the Court's order, defendants had 20 days from date of service to file an answer, otherwise the previous answer would stand as to the first amended complaint. The first amended complaint was also filed on January 19, 2017.

6. Pursuant to the Stipulation re Settlement and for Entry of Judgment and Final Order of Condemnation herein ("Stipulation") by and between plaintiff City of Riverside and defendants MERS, Wells Fargo, Mario Estrada, and Esperanza Rojas, the interest being acquired by the City through this eminent domain action is a fee simple absolute, as more particularly described in Exhibit 'A' hereto.

7. By execution of the 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 147-251-019, and the right and time for appeal.

8. 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.

9. 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

1 Exhibit 'A' hereto ("Subject Property"), including costs, statutory interest, severance damages,  
2 fixtures, equipment, or inventory, loss of business goodwill, relocation assistance, loss of or  
3 damage to improvements pertaining to the realty, damages for precondemnation or inverse  
4 condemnation, attorney's fees, all costs and litigation expenses of Defendants against the City  
5 by reason of taking of the Subject Property.

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

8 11. Pursuant to the Stipulation, the total amount of just compensation to be paid by  
9 plaintiff to Defendants is the sum of Two Hundred Twenty-eight Thousand Dollars  
10 (\$228,000.00) ("Award"), to be apportioned and paid as follows:

- 11 a) The total amount of just compensation to be paid by plaintiff to defendant  
12 Wells Fargo is Two Hundred Twenty-eight Thousand Dollars (\$228,000.00),  
13 which shall be paid to Select Portfolio Servicing Inc. on behalf of Wells  
14 Fargo.  
15 b) Defendants Mario Estrada and Esperanza Rojas shall receive no monetary  
16 compensation.

17 12. On March 26, 2014, the City deposited the sum of One Hundred Fifty Thousand  
18 Five Hundred Dollars (\$150,500.00) ("Deposit") with the Treasurer of the State of California,  
19 Condemnation Fund, as the probable just compensation for Assessor's Parcel Number 147-251-  
20 019.

21 13. No funds have been withdrawn from the Deposit and \$150,500.00 remains on  
22 deposit with the State Treasurer condemnation fund.

23 14. Pursuant to the Stipulation, payment of the Award by the City shall be made  
24 within thirty (30) days after entry of this Judgment and Final Order of Condemnation.

25 15. An Order of Prejudgment Possession ("OPP") became effective as to the interests  
26 of all defendants in and to Assessor's Parcel Number 147-251-019 on December 1, 2014.

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1           16. Taxes shall be prorated in accordance with Revenue and Taxation Code sections  
2 5081 through 5091 as of the date when the City took possession of the Subject Property under  
3 the OPP.

4           17. The use for which an interest in and to Assessor's Parcel Number 147-251-019 is  
5 being acquired is a use authorized by law and the acquisition of said interest is necessary to said  
6 use.

7           18. The following defendants were dismissed from this action on the dates indicated  
8 below:

| <u>DEFENDANT</u>   | <u>DATE OF FILING</u>                             |
|--|---|
| All Persons Unknown Claiming an Interest in the Property | Concurrently with the submission of this Judgment |
| The Bank of New York                                     | 03/12/2018  |
| The Bank of New York Mellon                              | 03/12/2018  |

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

| <u>DEFENDANT</u>                               | <u>DATE OF FILING</u> |
|--|-----------------------|
| State Farm Mutual Automobile Insurance Company | 07/22/2014            |
| Consuelo Luna                                  | 07/22/2014            |
| Vicente Perez                                  | 07/22/2014            |
| Alliance Title Company, Inc.                   | 07/07/2015            |
| Sergio Aceves Reyes                            | 08/24/2017            |
| Erica Aceves                                   | 08/24/2017            |

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26           20. Pursuant to the Stipulation, the deed identified in the Official Records of the  
27 County of Riverside recorded as document number 2003-297931 transferring title to the Subject  
28 Property to Mario Estrada had the incorrect legal property description attached thereto. Further,  
the deeds of trust identified in the Official Records of the County of Riverside recorded as

1 instrument numbers 2006-0847913 and 2006-0847914 also had incorrect legal property  
2 descriptions attached thereto. The incorrect and defective legal property descriptions may place a  
3 cloud over the title to the Subject Property being conveyed by Defendants to the City. The legal  
4 descriptions in their respective deeds of trusts referenced herein, and the deed transferring title to  
5 the Subject Property to Mario Estrada shall be reformed by entry of this Judgment and the legal  
6 description set forth in Exhibit A attached hereto and incorporated by reference shall  
7 immediately replace the original legal descriptions set forth on these respective recorded  
8 documents bearing instrument numbers 2003-297931, 2006-0847913, and 2006-0847914.  
9 Defendants shall relinquish all rights to the Subject Property such that any further action to  
10 convey title by the respective Defendants shall not be necessary.

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

12 1. The total compensation, award, and damages to be paid as a result of the  
13 condemnation of the interest of defendants Mortgage Electronic Registration Systems, Inc.  
14 ("MERS"), Wells Fargo Bank, N.A. as Trustee, on Behalf of the Holders of the HarborView  
15 Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2007-1 ("Wells Fargo"),  
16 Mario Estrada, and Esperanza Rojas (collectively "Defendants") in and to Assessor's Parcel  
17 Number 147-251-019 is the total sum of Two Hundred Twenty-eight Thousand Dollars  
18 (\$228,000.00).

19 2. Payment of the Award hereunder shall be deemed to expressly include all costs of  
20 suit pursuant to California Code of Civil Procedure section 1268.710 and all litigation expenses  
21 including, but not limited to, those defined in California Code of Civil Procedure section  
22 1235.140. Payment hereunder shall further be deemed to be the total just compensation and  
23 damages, if any, to which Defendant shall be entitled by reason of the condemnation of and  
24 construction activities by plaintiff on Assessor's Parcel Number 147-251-019.

25 3. The State Treasurer is authorized and directed to disburse to plaintiff the sum of  
26 One Hundred Fifty Thousand Five Hundred Dollars (\$150,500.00) from those funds on deposit  
27 in the Condemnation Fund in connection with the above-entitled matter. Payment of said funds  
28 shall be made payable to "City of Riverside" and forwarded to:

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Office of the City Attorney  
c/o Brandon Mercer, Esq.  
3750 University Avenue, Suite 250  
Riverside, CA 92501

4. The Award in the amount of Two Hundred Twenty-eight Thousand Dollars (\$228,000.00) shall be paid by plaintiff to Select Portfolio Servicing Inc. on behalf of Wells Fargo via wire transfer outside these court proceedings as follows:

Account Name: Select Portfolio Servicing, Inc.  
Wire Retaining  
Account Number: XXXXX0308\*  
Bank: JPMorgan Chase  
80 W. Broadway, Salt Lake City, UT 84101  
Routing/ABA#: XXXXX0021\*

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

6. An Order of Prejudgment Possession became effective as to the interests of all defendants in and to Assessor's Parcel Number 147-251-019 on December 1, 2014.

7. Pursuant to Revenue and Taxation Code section 5082, all current, general, and special county taxes due and owing to the County of Riverside as to the real property described in Exhibit "A" shall be prorated to December 1, 2014. As of December 1, 2014, the property shall be exempt from general and 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.

8. The documents recorded in the Official Records of the County of Riverside bearing instrument numbers 2003-297931, 2006-0847913, and 2006-0847914, are hereby reformed and the legal description set forth in Exhibit A attached hereto and incorporated by reference shall immediately replace the original legal descriptions set forth in those respective recorded documents.

///

\* Partial account and routing numbers displayed in the interest of confidentiality.



1 WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF  
2 CONDEMNATION:

3 The interests of defendants Mortgage Electronic Registration Systems, Inc.; Wells Fargo  
4 Bank, N.A. as Trustee, on Behalf of the Holders of the HarborView Mortgage Loan Trust  
5 Mortgage Loan Pass-Through Certificates, Series 2007-1; Mario Estrada; Esperanza Rojas;  
6 Alliance Title Company, Inc.; State Farm Mutual Automobile Insurance Company; Consuelo  
7 Luna; Vicente Perez; Sergio Aceves Reyes; and Erica Aceves (herinafter collectively  
8 "Defendants") in the real property described in Exhibit "A" as to Assessor's Parcel Number  
9 147-251-019 is hereby condemned for the public use and purposes described in the Complaint as  
10 widening approximately one mile of Tyler Street between Hole and Wells Avenues. Plaintiff  
11 City of Riverside to take title to the interests of Defendants in said real property, together with  
12 all improvements thereon in which said Defendants have an interest, free and clear of any and all  
13 liens, encumbrances, easements, and leaseholds, of whatever kind or nature.

14 The interest condemned to the City of Riverside in and to Assessor's Parcel Number 147-  
15 251-019 is legally described in Exhibit 'A' hereto.

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18 DATED: 5-2-18

  
Judge of the Superior Court

**Daniel A. Ottolia**

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20 \\rc-citylawprod\Cycom\WPDocs\D026\018\00366277.DOC  
L14-0033.03

**EXHIBIT A**

**EXHIBIT A**  
**LEGAL DESCRIPTION**

All that certain real property situated in the County of Riverside, State of California, described as follows:

All that portion of Lot 8 of Block 10 of La Granada, in the City of Riverside, County of Riverside, State of California, as per map recorded in Book 12 Pages 42 to 51 of Maps, in the Office of the County Recorder of said County, described as follows:

Beginning at a point on the Northeasterly line of said Lot, 55 feet, Northwesterly from the most Easterly corner thereof;

Thence South  $45^{\circ}54'34''$  West and parallel with the Southeasterly line of said Lot, 300 feet to a point on the Southwesterly line thereof;

Thence North  $30^{\circ}19'$  West along said Southwesterly line 55 feet;

Thence North  $45^{\circ}54'34''$  East and parallel with the Southeasterly line of said Lot 300 feet to a point on the Northeasterly line thereof;

Thence South  $30^{\circ}19'$  East along said Northeasterly line 55 feet to the point of beginning.

Excepting therefrom that portion described in the deed to the City of Riverside, recorded January 19, 1993 as Instrument No. 20819 of Official Records of Riverside County, California.

APN: 147-251-019-6

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**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 May 1, 2018, I served the within JUDGMENT AND FINAL ORDER OF CONDEMNATION on the interested parties in said action addressed as follows:

Gina L. Albertson, Esq., #216960  
Allison C. Gordon, Esq., #292444  
ALBERTSON LAW  
2603 Main Street, Suite 860  
Irvine, CA 92614  
Tel: (949) 577-9464  
Fax: (949) 577-9460  
galbertson@albertsonlaw.org

Attorneys for defendants:  
Mortgage Electronic Registration  
Systems, Inc.; and  
Wells Fargo Bank, N.A. as Trustee, on  
Behalf of the Holders of the HarborView  
Mortgage Loan Trust Mortgage Loan Pass-  
Through Certificates, Series 2007-1

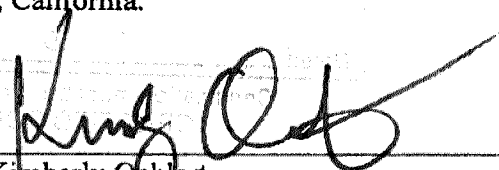
Mark F. Von Esch, Esq., #101452  
VON ESCH & VON ESCH  
810 E. Commonwealth Avenue  
Fullerton, CA 92831  
Tel: 714-879-5306  
Fax: 877-640-4144  
markvoneschlaw@hotmail.com

Attorneys for defendant:  
Mario Estrada

(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.

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

Executed on May 1, 2018, at Riverside, California.

  
\_\_\_\_\_  
Kimberly Oehlert