

10

DOC # 2007-0436761

07/03/2007 08:00A Fee:NC  
Page 1 of 14

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# 05-1698

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

S	R	U	PAGE	SIZE	DA	MISC	LONG	RFD	COPY	
1			14							
M	A	L	465	426	PCOR	NCOR	SMF	NCHG	EXAM	
DOC OK NG			NCHG CC							512

Space above this line reserved for Recorder's Use

D-16098

Amended JUDGMENT NUNC PRO TUNC AND FINAL ORDER OF CONDEMNATION  
CASE NO. RIC437553

C  
512

<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."

16098

1 GREGORY P. PRIAMOS, City Attorney #136766  
2 HERIBERTO F. DIAZ, Deputy City Attorney #132821  
3 CITY OF RIVERSIDE  
4 City Hall, 3900 Main Street  
5 Riverside, California 92522  
6 Telephone (951) 826-5567  
7 Facsimile (951) 826-5540

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

JUN 05 2007

*[Signature]*  
(Fee Exempt Govt. Code § 6103)

Attorneys for Plaintiff, City of Riverside

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

10 CITY OF RIVERSIDE, a California charter  
11 city and municipal corporation,  
12  
13 Plaintiff,

vs.

14 JEFFREY ESHELMAN; DENISE  
15 ESHELMAN; COURTESY MORTGAGE  
16 SERVICE, a California corporation; ROLAND  
17 F. MOSHIER; MARGARET M. MOSHIER;  
18 FIRST AMERICAN TITLE INSURANCE  
19 COMPANY, a California corporation;  
20 ALFRED O. ANGLE; PEARL S. ANGLE;  
21 ORANGE COUNTY DISTRICT ATTORNEY;  
CHRISTIAN CENTER RESTAURATION;  
DOES 1 through 100; and ALL PERSONS  
UNKNOWN CLAIMING AN INTEREST IN  
THE PROPERTY,  
Defendants.

CASE NO. RIC437553  
Assigned for all purposes to the  
Honorable Judge Craig G. Riemer  
Department 7

**AMENDED JUDGMENT NUNC PRO  
TUNC AND FINAL ORDER OF  
CONDEMNATION**

[Application and Declaration of Heriberto  
F. Diaz in Support of Court Judgment, and  
Request for Court Judgment submitted  
concurrently herewith]

Assessor's Parcel Number: 191-313-002

Complaint filed: September 21, 2005  
OSC: May 7, 2007

22 ///  
23 ///  
24 ///  
25 ///  
26 ///  
27 ///

2007-0436761  
07/03/2007 08:00A  
2 of 14



City Attorney's Office  
3900 Main Street  
Riverside, CA 92522  
(951) 826-5567

16098

1 Pursuant to a written stipulation by and between plaintiff City of Riverside (hereinafter  
2 "City"), by and through Heriberto F. Diaz, Deputy City Attorney, and defendants Jeffrey Eshelman  
3 and Denise Eshelman (collectively hereinafter "Eshelman"), by and through their attorneys of  
4 record, David B. Cosgrove, Esq., of Rutan & Tucker that a Judgment and Final Order of  
5 Condemnation as to Assessor's Parcel Number 191-313-002 may be made and entered herein in  
6 accordance with the terms and conditions hereof without further notice to said defendants:

7 IT IS HEREBY FOUND AND DETERMINED:

8 1. The interest of defendants Eshelman in and to the real property designated in the  
9 complaint as Assessor's Parcel Number 191-313-002 is fee simple absolute.

10 2. Pursuant to its Charter, Sections 37350.5 and 40404 of the Government Code of the  
11 State of California, Section 4090 of the Streets and Highways Code of the State of California,  
12 Section 1240.010 of the Code of Civil Procedure of the State of California and Article I, Section  
13 19 of the Constitution of the State of California, City is authorized to acquire real property or  
14 interests therein for public uses and purposes, to wit: the widening and improvement of Van Buren  
15 Boulevard from Garfield Street to Andrew Street and for related and incidental improvements  
16 ("Project").

17 3. After a duly noticed public hearing and an opportunity to be heard in compliance  
18 with Code of Civil Procedure section 1245.235, on September 13, 2005, City adopted Resolution  
19 No. 21039 authorizing City to acquire the property described in the complaint on file herein,  
20 including Riverside County Assessor's Parcel Number ("APN") 191-313-002 by eminent domain.  
21 In compliance with sections 1245.220 and 1245.230 of the Code of Civil Procedure, City found  
22 and determined that: (a) the public interest and necessity require the Project; (b) the Project is  
23 planned or located in the manner that will be most compatible with the greatest public good and  
24 the least private injury; (c) the property sought to be acquired is necessary for the Project; (d) the  
25 offer required by Government Code section 7267.2 has been made to the owner or owners of  
26 record. No party challenged City's right to take the subject property interests.

27 ///

2007-0436761  
67/03/2007 08:00A  
3 of 14



1 4. Plaintiff commenced this eminent domain action to condemn the following property  
2 interests: a fee simple in and to APN 191-313-002.

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

4 <u>Defendant</u>	<u>Parcel</u>	<u>Interest</u>
5 Jeffrey Eshelman	191-313-002	Owner
6 Denise Eshelman	191-313-002	Owner
7 Courtesy Mortgage Service,	191-313-002	Trustee
8 Roland F. Moshier	191-313-002	Beneficiary
9 Margaret M. Moshier	191-313-002	Beneficiary
10 First American Title Insurance	191-313-002	Trustee
11 Alfred O. Angle	191-313-002	Beneficiary
12 Pearl S. Angle	191-313-002	Beneficiary
13 Orange County District Attorney	191-313-002	Possible Claimant
14 Christian Center Restauration	191-313-002	Tenant

15 6. On September 23, 2005, plaintiff City of Riverside deposited with the State  
16 Treasury Condemnation Fund the amount of Five Hundred Fifty-five Thousand Three Hundred  
17 Thirty Dollars (\$555,330.00) as a deposit of probable just compensation apportioned as follows:

18 <u>APN</u>	<u>Defendant</u>	<u>Interest</u>	<u>Deposit</u>
19 191-313-002	Jeffrey Eshelman & Denise Eshelman	Real Estate	\$540,000
20 191-313-002	Christian Center Restauration	Improvements to Real Property	\$15,330

21  
22 None of the parties in this action have made an application to withdraw any portion  
23 of the deposit of probable compensation. All funds remain on deposit with the State Treasurer.

24 7. The use for which an interest in and to Assessor's Parcel Number 191-313-002 is  
25 being acquired is a use authorized by law and the acquisition of said interest is necessary to said  
26 use.

27 ///

2007-0436761  
07/03/2007 08:00A  
4 of 14



1 8. An Order for Prejudgment Possession was signed by the Honorable Judge Thomas  
2 H. Cahraman on September 29, 2005, authorizing plaintiff to take possession of APN 191-313-002  
3 on the later of ninety (90) days following the date of service of said order or January 31, 2006.  
4 Pursuant to said order plaintiff was authorized to take possession of APN 191-313-002 on  
5 February 12, 2006.

6 9. By execution of the Stipulation re Settlement and for Entry of Judgment and Final  
7 Order of Condemnation ("Stipulation") herein, defendants Eshelman waive the right to jury trial,  
8 Statement of Decision, Notice of Entry of Judgment in Condemnation, Notice of Entry of Final  
9 Order of Condemnation as to Assessor's Parcel Number 191-313-002 and the right and time for  
10 appeal.

11 10. Pursuant to the Stipulation, defendants Eshelman expressly waive the right to  
12 challenge the City's right to acquire the property by eminent domain, the right to further and  
13 greater compensation, and the right to an award of attorneys fees, to the extent that they may be  
14 allowable by law.

15 11. Pursuant to the Stipulation, the total amount of just compensation to be paid by  
16 plaintiff to defendants Eshelman is the sum of One Million Dollars (\$1,000,000.00) ("Award").  
17 The Award is inclusive of statutory interest, attorney fees and all costs of suit, including those  
18 costs defined in California Code of Civil Procedure § 1268.710, and litigation expenses including,  
19 but not limited to those defined in California Code of Civil Procedure § 1235.140.

20 12. The total of all applicable unpaid taxes, penalties, and costs for prior, current, and  
21 next succeeding tax years, prorated, to the date of possession are as follows:

<u>Assessor's Parcel Number</u>	<u>Total Unpaid Taxes, Penalties and Costs</u>
191-313-002	\$0.00
24 ///	
25 ///	
26 ///	
27 ///	

2007-0436761  
07/03/2007 09:00A  
5 of 14



1 13. Only defendants Eshelman appeared in this action seeking just compensation for the  
2 property interests alleged in the complaint. The following defendants having been regularly served  
3 with process herein and, having failed to appear or answer within the time allowed by law, had  
4 their defaults taken on the dates indicated below:

<u>Defendant</u>	<u>Date Filed</u>
Roland F. Moshier	January 11, 2006
Margaret M. Moshier	January 11, 2006
Orange County District Attorney	January 11, 2006
Christian Center Restauration	January 11, 2006
Courtesy Mortgage Service	May 1, 2006
Alfred O. Angle	May 1, 2006
Pearl S. Angle	May 1, 2006

13 14. Concurrently herewith, the court has entered a court judgment against the following  
14 defaulted defendants pursuant to Code of Civil Procedure §§ 585(b) and 585(c): Roland F.  
15 Moshier, Margaret M. Moshier, Orange County District Attorney, Christian Center Restauration,  
16 Courtesy Mortgage Service, Alfred O. Angle, and Pearl S. Angle.

17 15. The following defendant filed a disclaimer on the date indicated below and is  
18 entitled to no compensation herein:

<u>Defendant</u>	<u>Date Filed</u>
First American Title Insurance Company	December 28, 2005

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

- 23 1. The total compensation, award, and damages to be paid as a result of the  
24 condemnation of the interests of defendants Eshelman in and to APN 191-313-002 is the total sum  
25 of One Million Dollars (\$1,000,000.00) ("Award").
- 26 2. Defendants Eshelman waive any claims to statutory interest, all costs of suit  
27 pursuant to California Code of Civil Procedure § 1268.710, and all litigation expenses including,

2007-0436761  
07/03/2007 08:06A  
6 of 14



16098

1 13. Only defendants Eshelman appeared in this action seeking just compensation for the  
2 property interests alleged in the complaint. The following defendants having been regularly served  
3 with process herein and, having failed to appear or answer within the time allowed by law, had  
4 their defaults taken on the dates indicated below:

<u>Defendant</u>	<u>Date Filed</u>
Roland F. Moshier	January 11, 2006
Margaret M. Moshier	January 11, 2006
Orange County District Attorney	January 11, 2006
Christian Center Restauration	January 11, 2006
Courtesy Mortgage Service	May 1, 2006
Alfred O. Angle	May 1, 2006
Pearl S. Angle	May 1, 2006

13 14. Concurrently herewith, the court has entered a court judgment against the following  
14 defaulted defendants pursuant to Code of Civil Procedure §§ 585(b) and 585(c): Roland F.  
15 Moshier, Margaret M. Moshier, Orange County District Attorney, Christian Center Restauration,  
16 Courtesy Mortgage Service, Alfred O. Angle, and Pearl S. Angle.

17 15. The following defendant filed a disclaimer on the date indicated below and is  
18 entitled to no compensation herein:

<u>Defendant</u>	<u>Date Filed</u>
First American Title Insurance Company	December 28, 2005

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

- 23 1. The total compensation, award, and damages to be paid as a result of the  
24 condemnation of the interests of defendants Eshelman in and to APN 191-313-002 is the total sum  
25 of One Million Dollars (\$1,000,000.00) ("Award").
- 26 2. Defendants Eshelman waive any claims to statutory interest, all costs of suit  
27 pursuant to California Code of Civil Procedure § 1268.710, and all litigation expenses including,

2007-0436761  
07/03/2007 08:00A  
6 of 14



16098

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

3 The interest condemned to the City of Riverside is a fee simple absolute in and to  
4 Assessor's Parcel Number 191-313-002.

5 Upon payment of the Award, the interest of defendants Jeffrey Eshelman and Denise  
6 Eshelman in the real property designated as Assessor's Parcel Number 191-313-002 is hereby  
7 condemned for the public use and purposes described in the Complaint herein, to wit, the widening  
8 and improvement of Van Buren Boulevard from Garfield Street to Andrew Street and for related  
9 and incidental improvements. Plaintiff City of Riverside to take title to the interests of said  
10 defendants in the real property described in Exhibit "A" hereto, together with all improvements  
11 thereon in which said defendants have an interest, free and clear of any and all liens,  
12 encumbrances, easements, and leaseholds, of whatever kind or nature.

13 Plaintiff has caused final disposition as to all parties named in the Complaint and/or  
14 appearing and this matter requires no further court action. Wherefore this Amended Judgment and  
15 Final Order of Condemnation is now made and entered.

16  
17  
18 DATED: June 4, 2007

Craig A. Riem  
Judge of the Superior Court

19  
20  
21  
22  
23  
24  
25  
26 O:\Cycorn\WPDocs\021\003\00077374.WPD  
CA 05-1698  
27

2007-0436761  
07/03/2007 08:00A  
8 of 14



A



2007-0436761  
07/03/2007 08:00A  
9 of 14

16098

EXHIBIT "A"

PARCEL 150  
A.P.N. 191-313-002

Parcel 150 E - *Fee Simple Interest*

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

Lot 2 and the northeasterly 10 feet of Lot 1 all in Block 12 of the Village of Arlington, as shown by map recorded in Book 1, Page 62 of Maps, records of San Bernardino County, California, more particularly described as follows:

BEGINNING at the most easterly corner of said Lot 2, Block 12;

THENCE northwesterly and parallel with the southwesterly line of said Lot 2, a distance of 150 feet to the northwesterly line of said Lot 2;

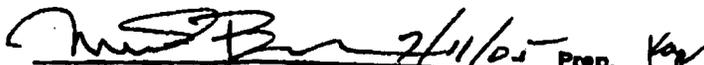
THENCE southwesterly on the southeasterly line of Miller Street, 60 feet;

THENCE southeasterly at a right angles to Miller Street and parallel with the northeasterly line of said Lot 2, a distance of 150 feet to the northwesterly line of Magnolia Avenue;

THENCE northeasterly on the said northwesterly line of Magnolia Avenue, 60 feet to the POINT OF BEGINNING;

EXCEPTING THEREFROM an undivided one-half interest of the northeasterly 1 foot thereof as conveyed to William A. Burrows, by deed recorded in Book 321, Page 194 of Deeds, records of Riverside County, California, and an undivided one-half interest of the southwesterly 1 foot thereof as conveyed to C. H. Ormsby, by deed recorded in Book 302, Page 230 of Deeds, records of Riverside County, California.

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      Date 2/11/05      Prep. Kay  
License Expires 9/30/05



11-44



2007-0436761  
07/03/2007 08:00A  
18 of 14

16098

EXHIBIT "A"

PARCEL 150  
A.P.N. 191-313-002  
**OPTIONAL ACQUISITION**

*Parcel 150 A - Public Street Easement*

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

That portion of Lots 1 and 2 in Block 12 of the Village of Arlington, as shown by map on file in Book 1, Page 62 of Maps, records of San Bernardino County, California, described as follows:

COMMENCING at the most westerly corner of said Lot 1;

THENCE North  $56^{\circ}22'23''$  East, along the northwesterly line of said Lot 1, a distance of 40.00 feet to the POINT OF BEGINNING of the parcel of land being described; said point also being the most westerly corner of that certain parcel of land described in deed recorded July 20, 1989, as Instrument No. 90716 of Official Records of Riverside County, California;

THENCE North  $56^{\circ}22'23''$  East, continuing along the northwesterly line of said Lots 1 and 2, a distance of 31.05 feet;

THENCE South  $11^{\circ}19'10''$  West, a distance of 18.46 feet;

THENCE South  $33^{\circ}38'46''$  East, parallel with the southwesterly line of said Lot 1, a distance of 137.05 feet to the southeasterly line of said Lot 2;

THENCE South  $56^{\circ}22'23''$  West, along the southeasterly line of said Lots 1 and 2, a distance of 18.00 feet to the most southerly corner of said parcel of land described in document recorded July 20, 1989;

THENCE North  $33^{\circ}38'46''$  West, a distance of 150.12 feet to the POINT OF BEGINNING.

Area - 2787 square feet.

*Parcel 150 B - Temporary Construction Easement*

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

That portion of Lot 2 in Block 12 of the Village of Arlington, as shown by map on file in Book 1, Page 62 of Maps, records of San Bernardino County, California, lying within a strip of land 5.00 feet in width, the westerly line of which is described as follows:

11-45



2007-0436761  
07/03/2007 08:00A  
11 of 14

16098

RECEIVED  
BOOK 6 P 100  
VILLAGE OF ARLINGTON

COMMENCING at the most westerly corner of Lot 1 in said Block 12;

THENCE North 56°22'23" East, along the northwesterly line of said Lots 1 and 2, a distance of 71.05 feet to the POINT OF BEGINNING of this line description;

THENCE South 11°19'10" West, a distance of 18.46 feet;

THENCE South 33°38'46" West, a distance of 137.05 feet to the southeasterly line of said Lot 2 and the END of this line description.

The sidelines of said strip of land 5.00 feet in width, shall be lengthened or shortened to terminate in said northwesterly line and lengthened or shortened to terminate in said southeasterly line.

Area - 780 square feet.

*Parcel 150 C - Temporary Construction Easement (1 Month)*

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

Lot 2 in Block 12 of the Village of Arlington, as shown by map on file in Book 1, Page 62 of Maps, records of San Bernardino County, California;

EXCEPTING THEREFROM that portion of said Lot 2, lying westerly of a line that is parallel with and distant 5.00 feet easterly, as measured at right angles, from the following described line;

COMMENCING at the most westerly corner of Lot 1 in said Block 12;

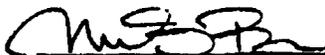
THENCE North 56°22'23" East, along the northwesterly line of said Lots 1 and 2, a distance of 71.05 feet to the POINT OF BEGINNING of this line description;

THENCE South 11°19'10" West, a distance of 18.46 feet;

THENCE South 33°38'46" West, a distance of 137.05 feet to the southeasterly line of said Lot 2 and the END of this line description.

Area - 5540 square feet.

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

 7/11/05 Prep.   
Mark S. Brown, L.S. 5655 Date  
License Expires 9/30/05

11-46



2007-0436761  
07/03/2007 08:00A  
12 of 14

16098



LARRY W. WARD  
COUNTY OF RIVERSIDE  
ASSESSOR-COUNTY CLERK-RECORDER

Recorder  
P.O. Box 751  
Riverside, CA 92502-0751  
(951) 486-7000

www.riversideacr.com

**CERTIFICATION**

Pursuant to the provisions of Government Code 27361.7, I certify under the penalty of perjury that the following is a true copy of illegible wording found in the attached document:

(Print or type the page number(s) and wording below):

12 - A distance of

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 9/30/05

Date:

7/3/07

Signature:

Jessica Smith

Print Name:

Jessica Smith

