

SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

543B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE: September 16, 2008

SUBJECT: Palm Springs MDP Line 41, Stage 3; Project No. 6-0-00160 Adopt a Resolution of Necessity Regarding the Palm Springs MDP Line 41, Stage 3 Project

RECOMMENDED MOTION:

Approve Resolution No. F2008-22, Resolution of Necessity Regarding the Palm Springs MDP Line 41, Stage 3 Project.

BACKGROUND:

See Page 2

FINANCIAL:

Sufficient funds were budgeted and are available in the Zone 6 fund.

GSW:rlp

FOR Steve Thomas WARREN D. WILLIAMS General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. District Cost:	\$3,750,000.00	In Current Year Budget:	YES
	Current F.Y. County Cost:	\$N/A	Budget Adjustment:	N/A
	Annual Net District Cost:	\$N/A	For Fiscal Year:	08-09

SOURCE OF FUNDS: 25160 947500 540040 (Land Acquisition)	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: Alex Gann Alex Gann

County Executive Office Signature

FISCAL PROCEDURES APPROVED BY MAN M. CHAND, FINANCE DIRECTOR 9/14/08
Department of Public Works
FORM APPROVED COUNTY COUNSEL BY: Glenn R. Beltran 9/3/08 DATE

Dept Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

**FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD SUBMITTAL
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

SUBJECT: Palm Springs MDP Line 41, Stage 3; Project No. 6-0-00160
Adopt a Resolution of Necessity Regarding
the Palm Springs MDP Line 41, Stage 3 Project

SUBMITTAL DATE: September 16, 2008

Page 2

BACKGROUND:

In 1979 the City of Palm Springs, having undergone tremendous growth during the 1970's, began to experience serious local drainage problems and recognized the need for implementation of a master drainage plan. The existing plan was nearly 15 years old and, therefore, the City requested the District reevaluate the 1966 plan. Subsequently, the revised Master Drainage Plan (MDP) for the Palm Springs Area was completed in 1982.

In the 1982 MDP, Line 41 system, Eagle Retention and Debris Basin, and Line 43 system together were planned to collect and convey the tributary 100-year storm runoff across this area and into existing Cathedral Canyon Channel. In the late 80's and early 90's, Line 41, Stages 1 and 2 were constructed from Cathedral Canyon North Channel to Golf Club Drive. However, due to various constraints, this portion of the MDP facility was constructed as an underground storm drain with less than 100-year flow capacity. In the late 90's, community growth prompted the need to implement the remainder of the Line 41 system. A new study was initiated with the intent of formulating a project that would fulfill the intent of the original MDP and remove the FEMA 100-year floodplain despite the limited capacity of the existing portion of Line 41.

To attain the greatest public benefit, the District has been consulting with the City of Palm Springs and the City of Cathedral City in completing an alternative study. In addition, alternative property was evaluated for the basin alternative. The "No Project" alternative is the least costly of all. However, it would not best serve the public, is not compatible with community development and is not supported by either of the Cities, as it does not remove any of the floodplain. Alternative 2 (Small Residual Floodplain) would help alleviate the flooding problems in the area. However, the size of the residual floodplain is still not acceptable to either City in the best interest of the community. Both additional downstream storm drain (Alternative 3A) and additional detention basin (Alternative 3B) alternatives would remove the FEMA 100-year floodplain. Alternative 3A is the most expensive and, due to the need to construct within Palm Canyon Drive (Highway 111), is the most disruptive. The retention basin alternative would require acquisition of additional properties and ultimately the retention basin alternative was chosen in providing the greatest public benefit. Of the two basin sites studied, Alternative 3B1 basin located on the south side of Matthew Drive is less costly and is more compatible with the community.

After careful consideration, Alternative 3B1 for the Line 41 system fully supported by both Cities was selected. On April 25, 2006, the Palm Springs MDP Line 41, Stage 3 Mitigated Negative Declaration was presented to and the project was approved by the Flood Control District's Board of Supervisors.

Negotiations have been conducted with the affected owner, but to date, have not been successful. Although these negotiations will continue in order to facilitate the timely construction of the flood control facilities for the Palm Springs MDP Line 41, Stage 3 Project, staff is recommending the approval of Resolution No. F2008-22.

1 BOARD OF SUPERVISORS

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

2 RESOLUTION NO. F2008-22

3 RESOLUTION OF NECESSITY REGARDING
4 THE PALM SPRINGS MDP LINE 41, STAGE 3 PROJECT

5 WHEREAS, the parcel of real property that is the subject of this Resolution (the "Subject
6 Property") is located in the City of Palm Springs, County of Riverside, State of California; is located in
7 the vicinity of the intersection of Matthew Drive and Linden Way; is presently designated as Riverside
8 County Assessor's Parcel No. 681-170-066; is located entirely within the boundaries of the Riverside
9 County Flood Control and Water Conservation District; and is legally described and pictorially depicted
10 in the documents attached hereto as Exhibits "A" and "B" (and incorporated herein by this reference);

11
12 WHEREAS, the proposed project that is the subject of this Resolution (the "Proposed Project") is
13 one to use the Subject Property for the construction and development of public flood control facilities
14 including a flood control detention basin, and is one to use the Subject Property for other uses incidental
15 to those stated uses and required by those stated uses (including but not limited to "remnant[s]" within the
16 meaning of Code of Civil Procedure Section 1240.410);

17 WHEREAS, the interest in property that is the subject of this Resolution (the "Subject Property
18 Interest") is fee simple ownership of Riverside County Assessor's Parcel No. 681-170-066; and

19
20 WHEREAS, the authorities that authorize the Riverside County Flood Control and Water
21 Conservation District to acquire the Subject Property Interest by eminent domain are Article 1, Section 19
22 of the California Constitution; Section 25350.5 of the Government Code; Section 48-9 of the Water Code-
23 Appendix; and Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.110, 1240.410, 1240.510, and
24 1240.610 of the Code of Civil Procedure.

25 Now, therefore, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the Riverside
26 County Flood Control and Water Conservation District (the "District"), not less than four-fifths of all
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1 members concurring, in regular session assembled on September 16, 2008, that this Board finds and
2 determines each of the following::

3 1. Notice of the Board's intention to adopt this resolution of necessity was duly given as
4 required by Section 1245.235 of the Code of Civil Procedure and, on the date and at the time and place
5 fixed for hearing, this Board did hear and consider *all of the evidence presented*;

6 2. The public interest and necessity require the Proposed Project;

7
8 3. The Proposed Project is planned and located in the manner that will be most compatible with
9 the greatest public good and the least private injury;

10 4. The Subject Property Interest is necessary for the Proposed Project;

11 5. The offer required by Section 7267.2 of the Government Code has been made to the owner or
12 owners of record of the Subject Property;

13 6. To the extent that the Subject Property is already devoted to a public use, the use of the
14 Proposed Project is a compatible use that will not unreasonably interfere with or impair the continuance
15 of the public use as it presently exists or may reasonably be expected to exist in the future (California
16 Code of Civil Procedure Section 1240.510) or the use of the Proposed Project is a more necessary public
17 use than is the presently existing public use (California Code of Civil Procedure Section 1240.610); and

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19 7. The mitigated negative declaration prepared for the Proposed Project adequately addresses
20 the environmental effects and feasible mitigation measures associated with the acquisition of the Subject
21 Property Interest and, therefore, as previously considered, is adequate to serve as environmental
22 documentation for the acquisition of the Subject Property Interest under the *California Environmental*
23 *Quality Act*.

24
25 BE IT FURTHER RESOLVED AND ORDERED that the County Counsel of the County of
26 Riverside (and any associated private attorneys) are hereby authorized and empowered:

27 1. To acquire (in the name of the District) the Subject Property Interest by condemnation in
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1 accordance with the Constitution and laws relating to eminent domain.

2 2. To prepare and prosecute in the name of the District such proceedings in the proper court
3 having jurisdiction thereof as are necessary for such acquisition.

4 3. To apply to the court for orders to deposit the probable amount of compensation out of proper
5 funds under the control of the District into the County Treasury and to move for an order permitting the
6 District to take prejudgment possession and use the Subject Property Interest.

7 4. To compromise and settle such proceedings if such settlement can be reached and, in that
8 event, to take all necessary actions to complete the acquisition, including stipulations as to judgment and
9 other matters, and the causing of all payments to be made.
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27 FORM APPROVED COUNTY COUNSEL
BY: Glenn R. Beloian 9/2/08
GLENN R. BELOIAN DATE

Palm Springs MDP - Line 41
Parcel 6160-500

Being a portion of the Southeast quarter of Section 30, Township 4 South, Range 5 East, San Bernardino Base and Meridian, in the City of Palm Springs, Riverside County, California, described as follows:

All of Parcel 4, as shown on Book 191, Pages 6 and 7, of Parcel Maps, Records of Riverside County, California.



DAVID L. STONE

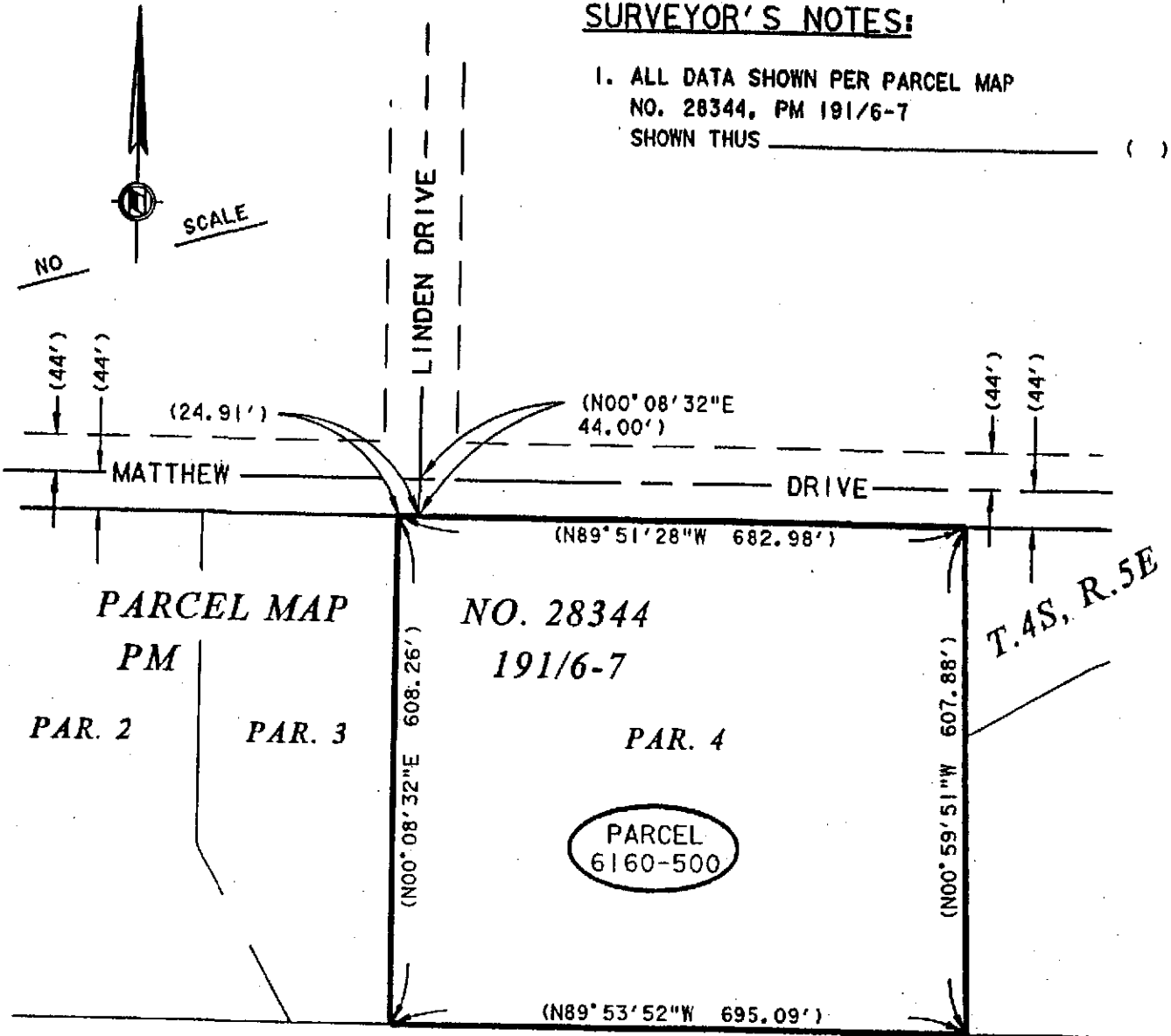
Land Surveyor No. 4758
Signed For: Riverside County Flood Control
and Water Conservation District

Date: August 4, 2006

EXHIBIT "A"

SURVEYOR'S NOTES:

- ALL DATA SHOWN PER PARCEL MAP NO. 28344, PM 191/6-7 SHOWN THUS _____ ()



PARCEL MAP
PM

NO. 28344
191/6-7

PAR. 2

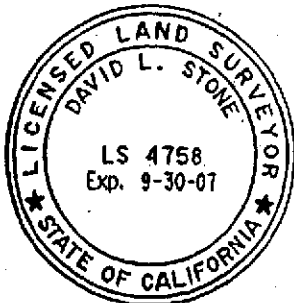
PAR. 3

PAR. 4

PARCEL
6160-500

SEC. 30

EXHIBIT "B"



RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
1995 MARKET ST. RIVERSIDE, CA. 92501

PROJECT: PALM SPRINGS MDP - LINE 41	PARCEL: 6160-500
THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED DOCUMENT. IT IS NOT A PART OF THE WRITTEN DESCRIPTION THEREIN.	PREPARED BY: DAC
	SCALE: N. T. S.
APPROVED BY: <i>[Signature]</i>	DATE: AUGUST 2, 2006
DATE: August 4, 2006	SHEET 1 OF 1



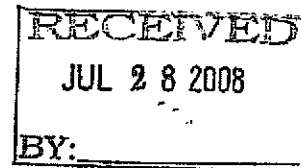
OFFICE OF
CLERK OF THE BOARD OF SUPERVISORS
1st FLOOR, COUNTY ADMINISTRATIVE CENTER
P.O. BOX 1147, 4080 LEMON STREET
RIVERSIDE, CA 92502-1147
PHONE: (909) 955-1060
FAX: (909) 955-1071

NANCY J. ROMERO
Clerk of the Board of Supervisors

KECIA HARPER
Assistant Clerk of the Board

July 18, 2008

Matthew Place Drive, LLC
c/o Mr. Geoffrey Payne, Manager
5305 East 2nd Street, Suite 204
Long Beach, CA. 90803-5339



SUBJECT: CONDEMN REAL PROPERTY
Resolution No. F2008-21
Project No. 6-0-00160
APN 681-170-066

PROJECT: PALM SPRINGS MDP LINE 41, STAGE 3

Dear Property Owner:

We have enclosed herewith the following documents:

1. *Notice of Intention to Condemn Real Property for Flood Control Purposes*
2. *Legal Description of Property*
3. *Plat Map.*

As noted in the enclosed Notice, you may appear and be heard on four specified matters which are underlined for your quick and easy reference.

You may use the second page portion of this letter to request to be heard on these matters; however, it must be filed or delivered within 15 days after this letter and enclosed Notice were mailed to you. Please mail or personally deliver your request to:

Nancy Romero
Clerk of the Board of Supervisors
County Administrative Center
Post Office Box 1147
4080 Lemon Street, 1st Floor
Riverside, California 92502-1147

If you should have any questions concerning the proposed public improvement, we suggest that you contact:

Warren D. Williams
General Manager-Chief Engineer
Riverside County Flood Control and Water Conservation District
1995 Market Street
Riverside, California 92501
Telephone: (951) 955-1250

Sincerely,

NANCY ROMERO
CLERK OF THE BOARD

By:


Cecilia Gil, Board Assistant

*Tahiti Partners Real Estate, its counsel
& development, by itself or through* REQUEST TO APPEAR AND
BE HEARD ON THE MATTERS REFERRED TO IN THE NOTICE OF INTENTION ON
SEPTEMBER 16, 2008 AT 1:30 P.M. TO CONDEMN REAL PROPERTY FOR FLOOD
CONTROL PURPOSES (11.6 of 7/15/08)

NAME:

Geoffrey S. Payne

ADDRESS:

*5305 E. 2ND ST., STE 204
LONG BEACH CA 90803*

TELEPHONE NO.:

(562) 433-1286

DATED:

7-30-08

(Signature)

