

318A



SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FROM: Department of Facilities Management and Transportation Department
SUBMITTAL DATE: March 6, 2009

SUBJECT: Temporary Construction Easement Deed for the Miles Avenue and Clinton Street Road Widening Project

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Temporary Construction Easement Deed for a portion of Assessor's Parcel Number 608-063-011 and authorize the Chairman of the Board to execute this document on behalf of the County;
2. Authorize the Assistant County Executive Officer/EDA/FM, or his designee, to execute any other documents and administer all actions to complete this transaction.

(Continued)

[Signature]

[Signature]

Juan C. Perez, Director
Transportation Department

Robert Field
Assistant County Executive Officer/EDA/FM

FINANCIAL DATA	Current F.Y. Total Cost:	\$16,260	In Current Year Budget:	Partially
	Current F.Y. Net County Cost:	\$ -0-	Budget Adjustment:	Yes
	Annual Net County Cost:	\$ -0-	For Fiscal Year:	08/09

SOURCE OF FUNDS: Transportation Uniform Mitigation Fee (TUMF) Coachella Valley Association of Governments (CVAG) 100%	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
[Signature]
BY: Jennifer L. Sargent

County Executive Office Signature

Dep't Recomm.: Consent Policy

Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: 9/16/08, 3.29 | District: 4 | Agenda Number:

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

3.15

FISCAL PROCEDURES APPROVED
 ROBERKE, BYRD, AUDITOR-CONTROLLER
 BY: *[Signature]* 4/9/09
 SUSANA GARCIA-BOCANEGRA
 DATE: 3-22-09
 SYNTHIA M. GUNZEL
 Departmental Concurrence

FORM APPROVED, COUNTY COUNSEL
 BY: *[Signature]* 3-22-09
 SYNTHIA M. GUNZEL
 DATE: 3-22-09
 Departmental Concurrence

RECOMMENDED MOTION: (Continued)

3. Authorize the Auditor-Controller to adjust the Department of Facilities Management's FY 2008/09 budget as outlined on Schedule A; and
4. Authorize and allocate the sum of \$9,710 to rent a portion of real property and \$6,550 to pay all related transaction costs.

BACKGROUND:

The Miles Avenue and Clinton Street widening project, is located in the City of Indio and eastern Riverside County. In order to significantly reduce construction cost and accelerate construction of the project, the project is proposed to be constructed in three phases, under three separate contracts, as discussed below.

Phase I will widen Miles Avenue to four lanes and replace existing low water crossing at the Whitewater River with a bridge. These improvements are currently under construction.

Phase 2A will widen Miles Avenue between Madison Street and Clinton Street to four lanes and construct curb, gutter, sidewalk and storm drain improvements within the existing right of way. These improvements are currently under construction.

Phase 2B will widen Clinton Street between Miles Avenue and Fred Waring Drive to four lanes and construct curb, gutter, sidewalk, and storm drains improvements.

The Department of Facilities Management (DOFM) has negotiated the acquisition of temporary rights for a portion of Assessor's Parcel Number 608-063-011 from Thomas Dean Dailey and Kelley Elizabeth Dailey for a price of \$9,710. There are costs of \$6,550 associated with this transaction. This property is one of 18 properties located in Phase 2B of the project.

This Form 11 has been reviewed and approved by County Counsel as to legal form.

Department of Facilities Management and Transportation Department
Temporary Construction Easement Deed for the Miles Avenue and Clinton Street Road
Widening Project
March 6, 2009
Page 3

FINANCIAL DATA:

The following summarizes the funding necessary for the rental of a portion of Assessor's Parcel Number 608-063-011:

Temporary Construction Easement:	\$ 9,710
Estimated Title and Escrow Charges:	\$ 1,500
Preliminary Title Report:	\$ 350
Appraisal:	\$ 1,900
DOFM Real Property Staff Time:	\$ 2,800
Total Estimated Acquisition Costs:	\$16,260

While Facilities Management will cover the cost for the due diligence services (Preliminary Title Report and Appraisal) at the time of this property transaction, it is understood that the Transportation Department will reimburse Facilities Management for these costs. The budget adjustment attached (Schedule A) is necessary to allow this transaction. The remaining cost will be paid directly by the Transportation Department.

All costs associated with this property acquisition are fully funded in the Transportation Department's budget for FY 08/09. Thus, no net county cost will be incurred as a result of this transaction.

SCHEDULE A

Increase Estimated Revenues:

10000-7200400000-778280	Interfund-Reimb for Service	\$2,250
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Increase Appropriations:

10000-7200400000-525400	Title Company Services	\$ 350
10000-7200400000-524550	Appraisal Services	\$1,900

Recorded at request of and return to:
Department of Facilities Management
Real Estate Division
On behalf of the Transportation Department
3133 Mission Inn Avenue
Riverside, California 92507-4199

FREE RECORDING
This instrument is for the benefit of the
County of Riverside, and is entitled to be
recorded without fee. (Govt. Code 6103)

12.246\100208\243TR\COjw

(Space above this line reserved for Recorder's use)

Contract No. 09-04-002
Riverside Co. Transportation

PROJECT: MILES AVENUE & CLINTON STREET
PARCEL: 65A
APN: 608-063-011

TEMPORARY CONSTRUCTION EASEMENT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

THOMAS DEAN DAILEY AND KELLEY ELIZABETH DAILEY,
HUSBAND AND WIFE AS COMMUNITY PROPERTY, ("Grantor" herein),

Hereby GRANTS AND CONVEYS to the

COUNTY OF RIVERSIDE, a political subdivision ("Grantee" herein),
and its successors and assigns,

A Temporary Non-exclusive Construction Easement for construction of a road improvement project by the Grantee (the "Road" herein), in, on, and along the real property situated in the County of Riverside, State of California, identifying a portion or portions of Assessor's Parcel Number 608-063-011 referenced as Parcel 65A and described on Exhibits "A" and "B" attached hereto and made a part hereof.

Other terms of Temporary Construction Easement Deed (hereinafter, the "Deed"):

1.1 County shall pay to the order of Grantor the sum of Nine Thousand Seven Hundred Ten Dollars (\$9,710) for the right to enter upon and use Grantor's land in accordance with the terms hereof.

2.1 The temporary construction easement, used during construction of the project consists of approximately one thousand one hundred (1100) square feet referenced as Parcel 65A and described on Exhibits "A" and "B attached hereto and made a part hereof.

3.1 The rights granted herein may be exercised for four (4) months commencing on the date that the thirty (30) day written notice by County is delivered to Grantor in accord to the notice provision herein, and concludes at the end of four months of the grant of the easement, or the conclusion of the project, whichever shall be later.

3.2 The rights granted herein include the right to enter upon and to pass and repass over and along the Easement Area, and to deposit tools, implements and other materials thereon by Grantee, or its successors and assigns, its officers, agents and employees, and by persons or entities under contract with Grantee, its successors and assigns, wherever and whenever necessary for the purpose of constructing the Road. Grantee agrees not to damage Grantor's property in the process of performing such activities.

3.3 Reasonable access to Grantor's property across the Temporary Construction Easement shall be maintained by the Grantee at all times during the term of this Easement.

3.3 At the expiration of the Temporary Construction Easement term, Grantee shall quitclaim its interest in such property to Grantor or Grantor's successor.

3.4 At the termination of the period of use of Grantor's land by Grantee, but before its relinquishment to Grantor, debris generated by Grantee's use will be removed and the surface will be graded and left in a neat condition.

4.1 It is mutually understood and agreed by and between the parties hereto that the right to enter upon and use Grantor's land includes the right to remove and dispose of real and personal property located thereon.

5.1 Grantor shall be held harmless from all claims of third persons arising from the use by Grantee of Grantors' land.

5.2 Grantor hereby warrants that they are the owners of the property described above and that they have the right to grant County permission to enter upon and use the land.

5.3 Any notice, payment or instrument, or other documents required or permitted to be given or delivered may be given or delivered by personal delivery or by depositing the same in any United States mail depository, first class postage prepaid, and addressed as follows:

If to Grantor: Thomas Dean Dailey and Kelley Elizabeth Dailey
81-486 Alberta Avenue
Indio, California 92201

If to County: COUNTY OF RIVERSIDE
Department of Facilities Management
Real Estate Division
3133 Mission Inn Avenue
Riverside, California 92507
Attention: Maribel Hyer
Real Property Agent
Phone Number: (951) 955-8431
Fax: (951) 955-4837
E-mail address: MAHyer@rc-facilities.org

Or such other person or address as either party may direct in writing to the other, provided, however, that such new or different person or address shall not become effective until acknowledged in writing by the party to who directed. Except where service is by personal delivery or by registered or certified mail, return receipt requested, service of any instrument or writing shall be deemed completed forty-eight (48) hours after deposit in a United States mail depository.

5.4 Each Grantor and County affixing his or her signature to this Temporary Construction Easement Deed warrants and represents by such signature that he or she has the full legal authority to bind his or her respective party to all of the terms, conditions, and provisions therein, that his or her respective party has the full legal right, power, capacity and authority to enter into this Deed and perform all of its provisions and obligations, and that no other approvals or consents are necessary in connection therewith.

5.5 The titles and headings of Sections and Paragraphs of this Temporary Construction Easement Deed, as herein set forth, have been inserted for the sake of convenience only, and are not to be taken, deemed or construed to be any part of the terms, covenants or conditions of this Easement, or to control, limit or modify any of the terms, covenants or conditions hereof.

5.6 This Temporary Construction Easement Deed entered into between the parties dated _____, contains the entire understanding of the parties herein and supersedes any and all other written or oral understandings as to those matters contained therein, and no prior oral or written understanding shall be of any

force or effect with respect to those matters covered thereby. This Deed shall be construed and interpreted with and shall be governed and enforced in all respects according to the laws of the State of California and as if drafted by both Grantor and County. No amendment, change or modification of this document shall be valid unless in writing, stating that it amends, changes or modified this Deed, signed by all of the parties hereto. No provision contained shall be construed against the County solely because it prepared this Deed in its executed form.

5.7 This Deed and the provisions contained herein shall be binding upon and inure to the benefit of Grantor, County, and their respective heirs, executors, administrators, personal representatives, successors and assigns.

5.8 If any term, covenant, condition or provision of this Deed is held by a court of competent jurisdiction to be invalid, void, illegal, or unenforceable, the remainder of the provisions herein shall remain in full force and effect and shall in no way affect, impair, or invalidate any other terms, covenant, condition or provision contained in the Deed.

5.9 Each of the parties hereto shall execute and deliver any and all additional papers, documents or other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the parties hereto.

5.10 Grantor, their assigns and successors in interest shall be bound by all the terms and conditions contained in this Deed, and all the parties thereto shall be jointly and severally liable thereunder.

5.11 Time if of the essence of this Deed. Failure to comply with any requirement, including but not limited to any time requirement, of this Deed shall constitute a material breach of this Deed.

5.12 Subject to any other provision stated herein, in any action or proceeding between the parties hereto seeking interpretation or enforcement of any of the terms and provision of this Deed or in connection with the Easement Area, the prevailing party in such action or proceeding shall be entitled to have and to recover from the other party its reasonable attorney's fees and other reasonable expenses in connection with such action or proceeding in addition to its recoverable court cost.

5.13 This Deed shall not take effect until the Board of Supervisors have approved and executed all documents.

GRANTOR

Dated: 01/24/09

By: Thomas Dean Dailey
Thomas Dean Dailey
By: Kelley Elizabeth Dailey
Kelley Elizabeth Dailey

COUNTY OF RIVERSIDE

ATTEST:
Nancy Romero
Clerk of the Board

By: _____
Jeff Stone, Chairman
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

Pamela J. Walls
County Counsel

By: Synthia M. Gunzel
Synthia M. Gunzel
Deputy County Counsel

GRANTOR

Dated: _____

By: _____
Thomas Dean Dailey

By: _____
Kelley Elizabeth Dailey

ATTEST:
Nancy Romero
Clerk of the Board

COUNTY OF RIVERSIDE

By: _____
Deputy

By: _____
Jeff Stone, Chairman
Board of Supervisors

APPROVED AS TO FORM:
Pamela J. Walls
County Counsel

By: Synthia M. Gunzel
Synthia M. Gunzel
Deputy County Counsel

GRANTOR

Dated: _____

By: _____
Thomas Dean Dailey

By: _____
Kelley Elizabeth Dailey

ATTEST:
Kecia Harper-Ihem
Clerk of the Board

COUNTY OF RIVERSIDE

By: _____
Deputy

By: _____
Jeff Stone, Chairman
Board of Supervisors

APPROVED AS TO FORM:
Pamela J. Walls
County Counsel

By: _____
Synthia M. Gunzel
Deputy County Counsel

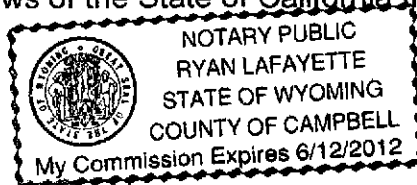
STATE OF ~~CALIFORNIA~~ WYOMING)
)ss.
COUNTY OF Campbell)

On January 24, 2009, before me, Ryan Lafayette, a Notary Public in and for said County and State, personally appeared Kelley and Thomas Dailey who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal:

Signature [Handwritten Signature]



[SEAL]

STATE OF CALIFORNIA)
)ss.
COUNTY OF _____)

On _____, before me, _____, a Notary Public in and for said County and State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal:

Signature _____

[SEAL]

STATE OF CALIFORNIA)
)ss.
COUNTY OF RIVERSIDE)

On _____, before me, _____, a Notary Public in and for said County and State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal:

Signature _____

[SEAL]

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the within deed to the COUNTY OF RIVERSIDE, a political subdivision, is hereby accepted by order of the Board of Supervisors on the date below and the Grantee consents to the recordation thereof by its duly authorized officer.

Date _____

By: _____
Robert Field, Director
Department of Facilities Management

FORM APPROVED COUNTY COUNSEL
BY: Synthia M. Gunzel 2-20-09
SYNTHIA M. GUNZEL DATE

EXHIBIT "A"

LEGAL DESCRIPTION

CLINTON STREET
TEMPORARY CONSTRUCTION EASEMENT
PARCEL NO. 0389-65A

That certain parcel of land situated in the unincorporated territory of the County of Riverside, State of California, being that portion of Lot 144 of Oasis Palms, as shown on a map thereof filed in Book 31, Pages 18 and 19 of Maps, in the Office of the County Recorder of said Riverside County, lying in a portion of Section 22, Township 5 South, Range 7 East, San Bernardino Meridian, more particularly described as follows:

BEGINNING at the northeast corner of said Lot 144, also being in the westerly right-of-way line of Clinton Street (having a westerly half width of 30.00 feet);

thence along the easterly line of said Lot South $00^{\circ}21'30''$ East 104.41 feet to the beginning of a tangent curve concave westerly and having a radius of 20.00 feet;

thence along said easterly line and said curve southerly 31.51 feet through a central angle of $90^{\circ}15'30''$;

thence continuing along said southerly line South $89^{\circ}54'00''$ West 0.79 feet;

thence leaving said northerly right-of-way line North $45^{\circ}15'49''$ East 8.23 feet;

thence North $00^{\circ}21'30''$ West 118.72 feet to the northerly line of said line of said Lot;

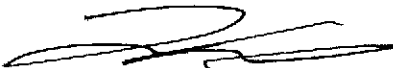
thence along said northerly line North $89^{\circ}54'00''$ East 15.00 feet to the **POINT OF BEGINNING**.

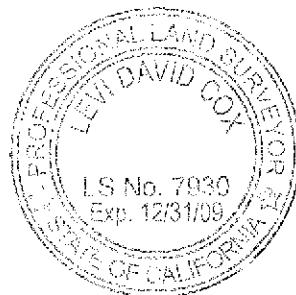
CONTAINING: 1682.71 Square Feet, more or less.

EXHIBIT "B" attached and by this reference made a part hereof.

This description was prepared by me or under my direction.

THIS DOCUMENT REVIEWED BY RIVERSIDE COUNTY SURVEYOR. BY: <u>Robert F. Robinson</u> DATE: <u>06/10/08</u>


Levi David Cox, P.L.S. 7930
My license expires 12/31/09.



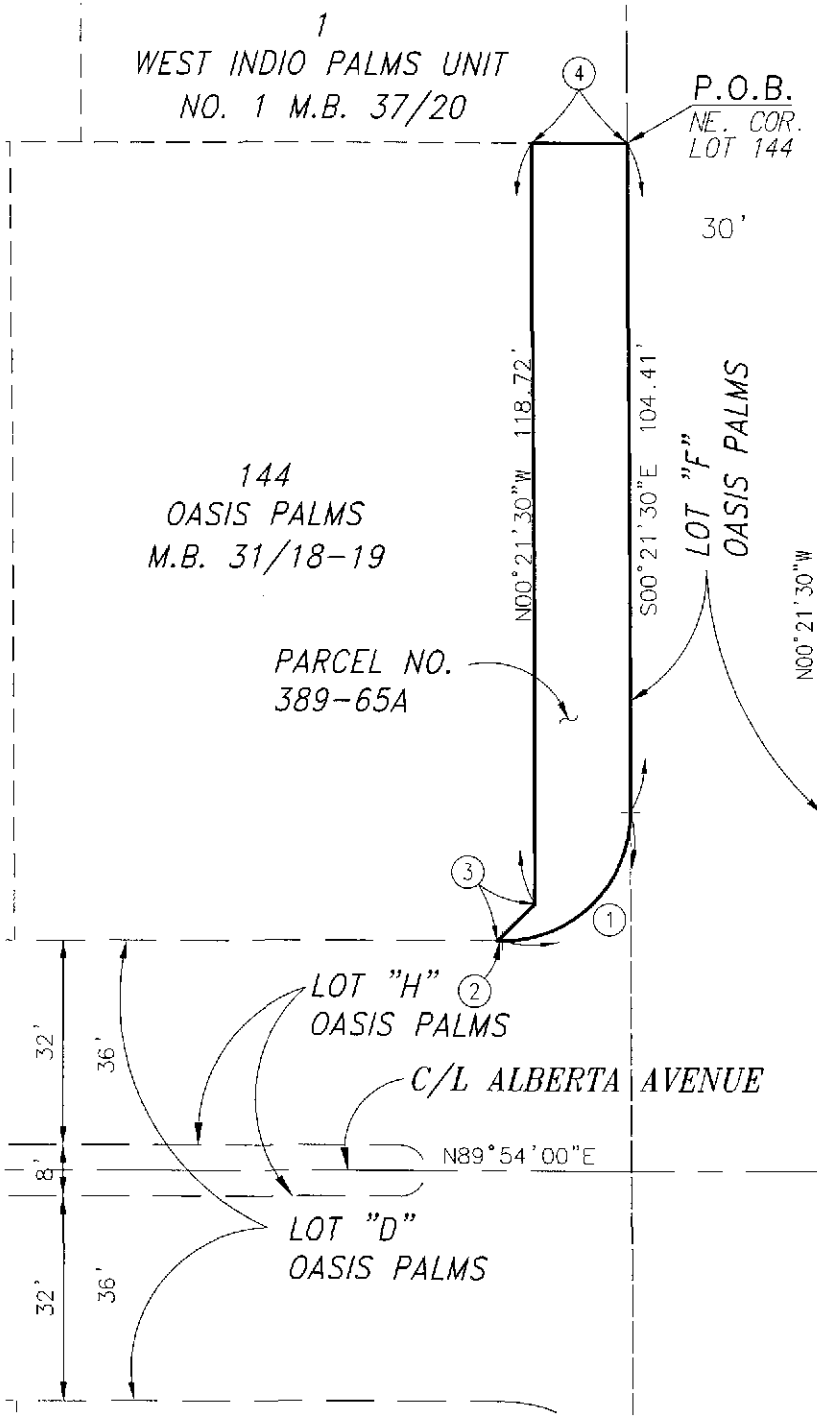
Date: 5/2/2008



INDICATES TEMPORARY
CONSTRUCTION EASEMENT:
1,682.71 +/- S.F.

EXHIBIT "B"

PLAT
CLINTON STREET
TEMPORARY CONSTRUCTION EASEMENT



THIS DOCUMENT REVIEWED BY
RIVERSIDE COUNTY SURVEYOR.
BY: *Robert E. Robinson*
DATE: 06/10/08

DATA TABLE			
(NO)	BEARING/DELTA	RADIUS	LENGTH
1	90° 15' 30"	20.00'	31.51'
2	N89° 54' 00"E	--	0.79'
3	N45° 15' 49"E	--	8.23'
4	N89° 54' 00"E	--	15.00'

NORTHWEST QUARTER OF SECTION 22
TOWNSHIP 5 SOUTH, RANGE 7 EAST,
SAN BERNARDINO MERIDIAN
PARCEL NO. 0389-65A



PLAT TO ACCOMPANY A LEGAL
DESCRIPTION FOR CLINTON STREET
TEMPORARY CONSTRUCTION EASEMENT.

SHEET 1 OF 1 SHEET

RBF PLANNING ■ DESIGN ■ CONSTRUCTION
CONSULTING

74-130 COUNTRY CLUB DRIVE, SUITE 201
PALM DESERT, CALIFORNIA 92260-1655
760.346.7481 • FAX 760.346.8315 • www.RBF.com

DATE: APRIL 30, 2008 JN: 20-100220-65A