

AGENDA FOR A REGULAR MEETING OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
WEDNESDAY, OCTOBER 5, 2022, AT 5:00 P.M.
AT THE DISTRICT OFFICE
201 VALLECITOS DE ORO, SAN MARCOS, CALIFORNIA

CALL TO ORDER – PRESIDENT ELITHARP

NOTICE TO THE PUBLIC

Meetings of the Board of Directors of the Vallecitos Water District will be held in the Board Room at the District Office located at 201 Vallecitos de Oro, San Marcos, California, on the date and time identified above.

Vallecitos Water District is following the guidance issued by the County of San Diego, effective March 1, 2022, which follows the California Department of Public Health guidance which recommends that persons attending public meetings are strongly recommended to wear a face covering in indoor public settings, whether vaccinated or not. The Department of Industrial Relations also strongly recommends, but does not require, the use of face coverings by all visitors.

BROADCAST OF THE MEETING. Members of the public may watch the meeting live via computer or smart device by going to the District's website: www.vwd.org/meetings and clicking on the "Watch Live" icon; however, they will not be able to participate in the meeting remotely.

LISTEN TO THE MEETING. Members of the public may listen to the meeting live on their phone by dialing (888) 788-0099 (Toll Free) or (877) 853-5247 (Toll Free). When prompted, enter the meeting ID and Passcode displayed on the District's website.

PLEDGE OF ALLEGIANCE

ROLL CALL

ADDITIONS TO THE AGENDA

Items may be added to the Agenda in accordance with Section 54954.2(b)(2) of the Government Code upon a determination by a majority vote of the Vallecitos Board that an emergency situation exists, as defined in Section 54956.5, or upon a determination by a two-thirds vote of the Board present at the meeting, or, if less than two-thirds of the Board are present, a unanimous vote of Board members present, that there is a need to take immediate action and that the need for action came to the attention of the Vallecitos Water District subsequent to the agenda being posted.

ADOPT AGENDA FOR THE REGULAR MEETING OF OCTOBER 5, 2022

PUBLIC COMMENT

Persons wishing to address a matter not on the Agenda may be heard at this time; however, no action will be taken until the matter is placed on a future agenda in accordance with Board policy. Public comments are limited to three minutes. A Request to Speak form is required to be submitted to the Senior Executive Assistant prior to the start of the meeting, if possible. Public comment should start by stating name, address, and topic. The Board is not permitted during this time to enter into a dialogue with the speaker.

PRESENTATION(S)

To further encourage customers to reduce outdoor water use, Vallecitos participates in the regional WaterSmart Landscape Contest to award customers whose yards best exhibit the beauty of a California-friendly garden. The top three winners earn a gift certificate to a local nursery. The 2022 winners are: Third place – Tania and Tony Lopez; Second place – Davis and Stephanie Chen; and First place – John and Jay Delaplane.

CONSENT CALENDAR

All matters listed under the Consent Calendar are expected to be routine and non-controversial, to be acted upon by the Board by one motion. There will be no separate discussion of these items, unless a Board member or member of the public requests that a particular item(s) be removed from the Consent Calendar, in which case it will be considered separately under Action Items.

1.1 APPROVAL OF MINUTES (pp. 5-16)

- A. CLOSED SESSION BOARD MEETING – SEPTEMBER 21, 2022
- B. REGULAR BOARD MEETING – SEPTEMBER 21, 2022
- C. SPECIAL BOARD MEETING – SEPTEMBER 28, 2022

Approved minutes become a permanent public record of the District.

Recommendation: Approve Minutes

1.2 WARRANT LIST THROUGH OCTOBER 5, 2022 - \$1,462,667.17 (pp. 17-18)

Recommendation: Approve Warrant List

1.3 APPROVAL OF CONSTRUCTION AGREEMENT FOR NORTH CITY UTILITY RELOCATIONS (URBAN VILLAGES SAN MARCOS, LLC.) (pp. 19-35)

The project is located on North City Drive east of Twin Oaks Valley Road.

Recommendation: Approve the construction agreement for North City utility relocation improvements

1.4 AWARD OF CONSTRUCTION CONTRACT FOR THE PAINTING OF DISTRICT FACILITIES (pp. 36-38)

The project is located at the District headquarters.

Recommendation: Authorize the General Manager to execute a contract with Parada Painting, Inc.

*****END OF CONSENT CALENDAR*****

PUBLIC HEARING

2.1 CONSIDER ADOPTING RESOLUTIONS OF NECESSITY FOR THE ACQUISITION OF EASEMENT INTERESTS IN (1) ASSESSOR'S PARCEL NUMBER (APN) 228-360-43 AND (2) APNS 228-370-38 AND 228-370-04 FOR THE MONTIEL LIFT STATION AND FORCEMAIN REPLACEMENT PROJECT IN SAN MARCOS, CALIFORNIA (pp. 39-256)

The immediate need for the easement acquisitions is necessary to proceed with the construction of the project which will benefit the community.

Recommendation: (1) Hold public hearing; and (2) Adopt Resolutions of Necessity for the acquisition of certain permanent and temporary easement interests by Eminent Domain for the Montiel Lift Station and Forcemain Rehabilitation Project

*****END OF PUBLIC HEARING*****

ACTION ITEM(S)

*****END OF ACTION ITEMS*****

REPORTS

- 3.1 GENERAL MANAGER
- 3.2 DISTRICT LEGAL COUNSEL
- 3.3 SAN DIEGO COUNTY WATER AUTHORITY
- 3.4 ENCINA WASTEWATER AUTHORITY
 - *Board of Directors Meeting*
 - *Capital Improvement Committee*
 - *Policy and Finance Committee*

3.5 STANDING COMMITTEES

3.6 DIRECTORS REPORTS ON MEETINGS/CONFERENCES/SEMINARS ATTENDED

*******END OF REPORTS*******

OTHER BUSINESS

4.1 MEETINGS

*******END OF OTHER BUSINESS*******

5.1 DIRECTORS COMMENTS/FUTURE AGENDA ITEMS

*******END OF DIRECTORS COMMENTS/FUTURE AGENDA ITEMS*******

6.1 ADJOURNMENT

*******END OF AGENDA*******

If you have any disability which would require accommodation in order to enable you to participate in this meeting, please call the Senior Executive Assistant at 760.744.0460 ext. 264 at least 48 hours prior to the meeting.

Audio and video recordings of all Board meetings are available to the public at the District website www.vwd.org

AFFIDAVIT OF POSTING

I, Anthony Flores, Senior Executive Assistant of the Vallecitos Water District, hereby certify that I caused the posting of this Agenda in the outside display case at the District office, 201 Vallecitos de Oro, San Marcos, California by 5:00 p.m., Thursday, September 29, 2022.

Anthony Flores

MINUTES OF A CLOSED SESSION MEETING
OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
WEDNESDAY, SEPTEMBER 21, 2022, AT 4:00 PM, AT THE DISTRICT OFFICE
201 VALLECITOS DE ORO, SAN MARCOS, CALIFORNIA

President Elitharp called the Closed Session meeting to order at the hour of 4:00 p.m.

Present: Director Elitharp
Director Hernandez
Director Pennock
Director Sannella

Absent: Director Boyd-Hodgson

Staff Present: Assistant General Manager Gumpel
District Engineer Hubbard
Legal Counsel Gilpin
Senior Executive Assistant Flores

Others Present: Whitney Blackhurst, Best Best & Krieger

ADDITIONS TO THE AGENDA

None.

ADOPT AGENDA FOR THE CLOSED SESSION MEETING OF SEPTEMBER 21, 2022

22-09-10 MOTION WAS MADE by Director Sannella, seconded by Director Hernandez, and carried unanimously, with Director Boyd-Hodgson absent, to adopt the agenda for the Closed Session Meeting of September 21, 2022.

PUBLIC COMMENT

None.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION (Per Government Code § 54956.9(a)) – *Vallecitos Water District v. Butler, et al.*, San Diego County Superior Court Case No. 37-2019-00015914-CU-OR-NC

CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION (Per Government Code § 54956.9(a)) – *Occiano v. Impression at La Costa Owners Association et al.*, San Diego County Superior Court Case No. 37-2022-00025622-CU-PO-CTL

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Per Government Code § 54957)
– Title: General Manager

22-09-11 MOTION WAS MADE by Director Sannella, seconded by Director Pennock, and carried unanimously, with Director Boyd-Hodgson absent, to move into Closed Session pursuant to Government Code § 54956.9(a) and § 54957.

REPORT AFTER CLOSED SESSION

The Board adjourned to Open Session at 4:43 p.m. There was no reportable action from the Closed Session Meeting.

ADJOURNMENT

There being no further business to discuss, President Elitharp adjourned the Closed Session Meeting of the Board of Directors at the hour of 4:44 p.m.

A Regular Meeting of the Vallecitos Water District Board of Directors has been scheduled for Wednesday, September 21, 2022, at 5:00 p.m. at the District office, 201 Vallecitos de Oro, San Marcos, California.

Craig Elitharp, President
Board of Directors
Vallecitos Water District

ATTEST:

James Gumpel, Assistant General Manager
Vallecitos Water District

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
WEDNESDAY, SEPTEMBER 21, 2022, AT 5:00 PM, AT THE DISTRICT OFFICE
201 VALLECITOS DE ORO, SAN MARCOS, CALIFORNIA

President Elitharp called the Regular meeting to order at the hour of 5:00 p.m.

Present: Director Boyd-Hodgson
Director Elitharp
Director Hernandez
Director Pennock
Director Sannella

Staff Present: Assistant General Manager Gumpel
Legal Counsel Gilpin
District Engineer Hubbard
Chief Financial Officer Owen
Operations & Maintenance Manager Pedrazzi
Development Services Senior Engineer Lopez
Asset Management Supervisor Bennett
Public Information/Conservation Supervisor Robbins
Information Technology Analyst Todd
Senior Executive Assistant Flores

Others Present: Scott McClelland, General Manager, Encina Wastewater Authority

Director Boyd-Hodgson led the pledge of allegiance.

ADDITIONS TO THE AGENDA

None.

ADOPT AGENDA FOR THE REGULAR MEETING OF SEPTEMBER 21, 2022

22-09-12 MOTION WAS MADE by Director Sannella, seconded by Director Hernandez, and carried unanimously, to adopt the agenda for the Regular Board Meeting of September 21, 2022.

PUBLIC COMMENT

None.

CONSENT CALENDAR

22-09-13 MOTION WAS MADE by Director Boyd-Hodgson, seconded by Director Pennock, and carried unanimously, to approve the Consent Calendar as presented.

1.1 Approval of Minutes

- A. Closed Session Board Meeting – September 7, 2022
- B. Regular Board Meeting – September 7, 2022
- C. Public Awareness/Personnel/Policy Committee Meeting – September 14, 2022

1.2 Warrant List through September 21, 2022 - \$4,339,036.09

1.3 Financial Reports

- A. Water Meter Count – August 31, 2022
- B. Water Production/Sales Report – 2022/2023
- C. Per Capita Water Consumption – August 31, 2022
- D. Water Revenue and Expense Report – August 31, 2022
- E. Sewer Revenue and Expense Report – August 31, 2022
- F. Reserve Funds Activity – August 31, 2022
- G. Investment Report – August 31, 2022
- H. Legal Fees Summary – August 31, 2022

1.4 Adoption of Resolution Ordering the Annexation of Certain Property Designated as the “Papp-Lundblade Annexation” into the Vallecitos Water District and Sewer Improvement District 5 (Szilard Papp and Jeff Lundblade)

1.5 Approval of Additional As-Needed Engineering Professional Services Agreement

POTABLE REUSE ADVOCACY AGENCY

Assistant General Manager Gumpel stated the District is a member of the Encina Wastewater Authority (EWA) and that EWA is seeking support from the District as an advocacy agency for EWA’s Potable Reuse Project.

Scott McClelland, General Manager of EWA, facilitated a presentation on One Water North San Diego as follows:

- The Time Is Now
 - Uncertainty
 - Funding
 - Sustainability
- Drought Impacts Region
- North County Needs a New Local Sustainability Supply
- Potable Reuse Strategic Plan Development
- Ask: Become an Advocacy Agency
- Next Steps: Advocacy Activities

Mr. McClelland asked the District to participate in the One Water North San Diego effort as an advocacy agency and stated the District's participation is critical to the success of the project.

General discussion took place regarding details of the project and the estimated cost for the District to participate. The District was not asked to commit any funds to the project at this time. Legal Counsel Gilpin clarified that the District was being asked to sign a Principal of Understanding that defines the role of an advocacy agency for the EWA Potable Reuse Project for the time period of 2022 to 2023. President Elitharp requested another presentation with further details be presented to the Board at a future meeting.

22-09-14 MOTION WAS MADE by Director Hernandez, seconded by Director Sannella, and carried unanimously, to approve the Principles of Understanding.

WATER SUPPLY CONDITIONS UPDATE

Public Information/Conservation Supervisor Robbins facilitated a presentation, Update on Water Supply Conditions, as follows:

- Vallecitos Currently in a Level 2 – Drought Alert
- Northern Sierra 8-Station Precipitation Index
- Snowpack Water Content
- California Reservoir Storage
- Colorado River Status
- Three-Month Temperature Outlook
- Three-Month Precipitation Outlook

This item was presented for information only.

ADOPTION OF REVISED ORDINANCE NO. 216

Public Information/Conservation Supervisor Robbins facilitated a presentation that provided background on the Public Awareness/Personnel/Policy Committee's work over the past several months on revisions to Ordinance No. 216 which included the following Sections:

- 1.5: Agenda
- 1.8: Standing Advisory Committees
- 1.8B: Board Reorganization
- 1.8C: Board Reorganization
- 2.1: Authorized District Memberships

Staff recommended the Board adopt an ordinance approving the recommended changes, including membership additions and deletions.

General discussion took place.

22-09-15 MOTION WAS MADE by Director Sannella, seconded by Director Hernandez, and carried unanimously, to adopt an ordinance approving the revisions to Ordinance No. 216 as presented with the addition of the San Marcos Chamber of Commerce “State of the City” event to the list of events authorized for per diem reimbursement and repealing Ordinance No. 216.

Ordinance No. 221 - The roll call vote was as follows:

AYES: Boyd-Hodgson, Hernandez, Pennock, Sannella, Elitharp
NOES:
ABSTAIN:
ABSENT:

AMENDMENT TO THE CONFLICT-OF-INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974 BIENNIAL REVIEW AND ADOPTION

Assistant General Manager Gumpel stated the District is required to review and adopt its Conflict-of-Interest Code every two years.

Staff recommended the Board adopt a resolution approving and adopting the amended Conflict-of-Interest Code pursuant to the Political Reform Act of 1974.

22-09-16 MOTION WAS MADE by Director Sannella, seconded by Director Pennock, and carried unanimously, to approve staff’s recommendation.

REPORTS

GENERAL MANAGER

Assistant General Manager Gumpel reported the following:

- The District’s newly reformatted website will go live on Thursday, September 22.
- The City of San Marcos informed the District that they will not proceed with land use adoption in the process of updating their General Plan which would have set land use in September. This may affect the District’s facilities planning.
- Meetings have taken place to finalize the securing of grant money for the North County Group of which the District is a member. A total of \$23.9 million in federal grant funds was awarded. The grant is a 75/25 match, meaning 75% must be spent to receive 25% matching funds. The District’s \$5.3 million Chlorine Contact Tank Expansion Project will receive approximately \$1.3 million in federal grant funds and is in line to receive 15% to 20% of the \$5.3 million in state grants. The District will

seek additional state grants with the goal of paying for 50% to 60% of the project with grant funds.

- District crews will be performing night work on San Marcos Boulevard on September 27. This is a tentative date as this work has been rescheduled several times by the City of San Marcos and their contractor.

DISTRICT LEGAL COUNSEL

Legal Counsel Gilpin stated he began working with Monterey One Water in April, and that they completed their first plant one year ago. There is a lot of money available on the federal level via grants and loans for such projects.

Legal Counsel Gilpin reported that one of the bills moving through the state legislature pertaining to teleconferencing has received tremendous pushback from outside agencies to curtail the availability of continued use of teleconferencing outside of state of emergency conditions for transparency and other reasons. Assembly Bill (AB) 2449 passed. AB 2449 amended Government Code 54953 to allow a Director to participate in a public meeting virtually in limited emergency situations.

SAN DIEGO COUNTY WATER AUTHORITY

Director Elitharp stated the next SDCWA Board meeting will be held on September 22.

ENCINA WASTEWATER AUTHORITY

Director Hernandez reported the Capital Improvement Committee met this morning at which updates on several capital improvement projects were provided.

Director Sannella reported that EWA has contracted with a firm to conduct a comprehensive compensation study.

STANDING COMMITTEES

None.

DIRECTORS REPORTS ON TRAVEL/CONFERENCES/SEMINARS ATTENDED

Director Hernandez reported on his attendance to the WateReuse Annual Conference.

President Elitharp reported on his attendance to the Council of Water Utilities meeting on August 20.

Director Pennock reported on his attendance to the Special Districts Leadership Academy.

OTHER BUSINESS

None.

DIRECTORS COMMENTS/FUTURE AGENDA ITEMS

Director Hernandez requested staff inquire about a webinar on the Colorado River scheduled for October.

Director Boyd-Hodgson stated she is considering having a discussion of potential charitable opportunities for the District to engage in at a future Public Awareness/Personnel/Policy Committee meeting. She requested the Board send their suggestions for environment and water-focused charities to staff.

ADJOURNMENT

There being no further business to discuss, President Elitharp adjourned the Regular Meeting of the Board of Directors at the hour of 6:28 p.m.

A Special Meeting of the Vallecitos Board of Directors has been scheduled for Wednesday, September 28, 2022, at 5:00 p.m. at the District office, 201 Vallecitos de Oro, San Marcos, California.

Craig Elitharp, President
Board of Directors
Vallecitos Water District

ATTEST:

James Gumpel, Assistant General Manager
Vallecitos Water District

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
WEDNESDAY, SEPTEMBER 28, 2022, AT 5:00 PM, AT THE DISTRICT OFFICE
201 VALLECITOS DE ORO, SAN MARCOS, CALIFORNIA

President Elitharp called the Special meeting to order at the hour of 5:00 p.m.

Present: Director Boyd-Hodgson
Director Elitharp
Director Pennock
Director Sannella

Absent: Director Hernandez

Staff Present: General Manager Pruim
Assistant General Manager Gumpel
Legal Counsel Kharuf
District Engineer Hubbard
Chief Financial Officer Owen
Principal Financial Analyst Arthur
Information Technology Analyst Todd
Senior Executive Assistant Flores
Executive Assistant Johnson

Others Present: John Wright, Raftelis

Director Sannella led the pledge of allegiance.

ADDITIONS TO THE AGENDA

None.

ADOPT AGENDA FOR THE SPECIAL MEETING OF SEPTEMBER 28, 2022

22-09-17 MOTION WAS MADE by Director Sannella, seconded by Director Pennock, and carried unanimously, with Director Hernandez absent, to adopt the agenda for the Special Board Meeting of September 28, 2022.

PUBLIC COMMENT

Tom Scaglione, member of the public, expressed his opinion regarding ratepayer subsidies paid for development, and asked that a buy in component for capacity fees and correction of the capacity fee calculation be placed on a future Board agenda.

PRESENTATION

The Board accepted a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association of the United States and Canada awarded to the District for its Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2021.

PUBLIC HEARING

PUBLIC HEARING TO CONSIDER WATER SERVICE RATE CHANGES

Legal Counsel Kharuf explained the requirements of Proposition 218 governing the public hearing and the proposed adoption of water rates and charges.

General Manager Pruiim stated the purpose of the public hearing was to provide the public the opportunity to comment on or protest the District's proposed new water rate structure. The District last increased its water rates approximately 3.3% in March of 2020. Since that time the District's cost to purchase water has increased approximately 11% and inflation has increased drastically as well. Purchased water accounts for approximately 70% of the District's overall water budget.

General Manager Pruiim further stated that as a requirement of the rate setting process, a Cost-of-Service Study (COSS) was conducted to determine how to fairly allocate the cost of providing water service to the District's customers. John Wright of Raftelis, an independent rate consultant, conducted the COSS.

Principal Financial Analyst Arthur and Mr. Wright facilitated a presentation on the Water Cost-of-Service Study as follows:

- Questions to Address
- Cost-of-Service Process
- What is Cost-of-Service?
- California Proposition 218: A Cost-of-Service Mandate
- Cost-of-Service: Allocation to Cost Components
- Vallecitos Water District Revenue Requirement
- Study Objectives
- Calendar
- Items to Note
- Fixed Ready-to-Serve (RTS) Charges
- Commodity Rates
- Single Family Residence (SFR) Customer Usage
- Sample Bills
- Sample Bills – Statistics
- Drought Rates
- Drought Rate Impacts
- Rate Survey
- 5-Year Comparison

- Questions to Address
- Overview
- Water Replacement Reserves

Question and answer took place during and after the presentation.

General Manager Pruim stated the proposed rate increase is 1.77% for the average single family residential customer, no ratepayer funds are being used to subsidize developers, and that the Board was only being asked to consider a rate increase for water for one year effective October 1, 2022, and approve the rate methodology for the next four years. Any future rate increases will require Board action.

President Elitharp opened the hearing as duly noticed and posted to consider water service rate changes. The hearing opened at 6:26 p.m.

Tom Scaglione, member of the public, expressed his opposition to the proposed water service rate changes.

There being no other persons wishing to address the Board, President Elitharp closed the hearing at 6:31 p.m.

General Manager Pruim stated that 127 written protest letters regarding the proposed water service charges were received prior to the public hearing being closed and that a majority protest did not exist.

ACTION ITEM(S)

ORDINANCE ESTABLISHING RATES, RULES, AND REGULATIONS FOR WATER SERVICE RATE INCREASE

General discussion took place.

22-09-18 MOTION WAS MADE by President Elitharp, seconded by Director Pennock, and carried unanimously, with Director Hernandez absent, to adopt the ordinance repealing Ordinance No. 215 and establishing rates, rules, and regulations for water service.

Ordinance No. 222 - The roll call vote was as follows:

AYES: Boyd-Hodgson, Pennock, Sannella, Elitharp
NOES:
ABSTAIN:
ABSENT: Hernandez

OTHER BUSINESS

None.

DIRECTORS COMMENTS/FUTURE AGENDA ITEMS

None.

ADJOURNMENT

There being no further business to discuss, President Elitharp adjourned the Special Meeting of the Board of Directors at the hour of 6:41 p.m.

A Regular Meeting of the Vallecitos Board of Directors has been scheduled for Wednesday, October 5, 2022, at 5:00 p.m. at the District office, 201 Vallecitos de Oro, San Marcos, California.

Craig Elitharp, President
Board of Directors
Vallecitos Water District

ATTEST:

Glenn Pruij, Secretary
Board of Directors
Vallecitos Water District

VALLECITOS WATER DISTRICT
WARRANTS LIST
October 5, 2022

| PAYEE | DESCRIPTION | CHECK# | AMOUNT |
|--------------------------------------|--|--------|------------|
| AT&T | Cell Phone Svc - Aug | 125033 | 5,200.76 |
| Home Depot Credit Services | Hardware Supplies - Aug | 125034 | 2,702.11 |
| North County Auto Parts | Fleet Supplies - Aug | 125035 | 2,857.77 |
| Smart & Final | Office Supplies - Aug | 125036 | 23.22 |
| Union Bank FKA 1st Bank Card | Meetings & Travel - Aug | 125037 | 3,695.24 |
| Union Bank FKA 1st Bank Card | Meetings & Travel - Aug | 125038 | 3,618.41 |
| Union Bank FKA 1st Bank Card | Meetings & Travel - Aug | 125039 | 4,575.73 |
| Garnishments | Payroll Garnishments | 125041 | - |
| A Waters Co. | Potable Water Testing Supplies | 125042 | 774.24 |
| Ace Coolers Inc | Svc - Ice Machine - Bldg A | 125043 | 271.37 |
| Advanced Imaging Solutions, Inc. | Copier Lease - Sept | 125044 | 2,451.32 |
| Advanced Industrial Services, Inc. | Sage Canyon Tank Refurbishment Prj 20201-6 | 125045 | 80,180.00 |
| Air Pollution Control District | Emission Fee Renewal - District HQ | 125046 | 1,062.00 |
| Airgas USA LLC | Cylinder Rental | 125047 | 207.67 |
| All Star Signs, Inc | Wall Signs - 12 | 125048 | 554.92 |
| Ambius | Plant Maintenance - Sept | 125049 | 296.00 |
| Fieldman, Rolapp & Associates, Inc. | 2022 Fitch Surveillance | 125050 | 1,000.00 |
| Aqua-Metric Sales Co | 3/4" Meters - 300, 1" Meters - 40, MXU's - 108 | 125051 | 92,329.36 |
| AT&T | Phone Svc - Aug | 125052 | 29.20 |
| Automated Water Treatment | Calcium Hypochlorite Tablets - 24 Buckets | 125053 | 4,835.50 |
| Boncor Water Systems | Drinking Water Svc - Sept | 125054 | 50.00 |
| Breeanne Macouzet | Closed Account Refund | 125055 | 23.52 |
| Brown & Bigelow, Inc. | Company Uniform Hats - 200 | 125056 | 1,485.45 |
| Jeffrey Colwell | Video Production Svcs - Prj 20231-66 | 125057 | 323.75 |
| Core Logic Information Solutions Inc | Real Quest Engineering Map Svcs - Aug | 125058 | 225.10 |
| Corodata Media Storage Inc | Backup Storage Tapes - Aug | 125059 | 218.19 |
| County of San Diego | Recording Fees - Aug | 125060 | 368.96 |
| Cummins Pacific, LLC | Generator Oil Sample Kits - 12 | 125061 | 436.69 |
| CWEA | Collection Cert Renewal - T Moritz | 125062 | 105.00 |
| CWEA | Membership Renewal - D Richardson | 125063 | 202.00 |
| CWEA | Membership Renewal - I Murguia | 125064 | 202.00 |
| Doane & Hartwig Water Systems Inc | Rollers & Tube Assemblies - Qty 11 - For Chemical Injection System, CL2 Motor | 125065 | 3,277.44 |
| Davis Farr LLP | Financial Statement Audit Year Ended 6-30-22 | 125066 | 5,500.00 |
| DirecTV Inc | Satellite Svc - Sept | 125067 | 221.48 |
| Electrical Sales Inc | Palos Vista Pump Station Main Breaker, Timing Relay - LS 2 Pump 4 | 125068 | 11,256.72 |
| Employment Development Dept. | Pest Control Svcs - Sept | 125069 | 150.00 |
| Employment Screening Services Inc | Employment Screening Svcs | 125070 | 95.00 |
| EnviroMix, Inc | Aeration Basin Improvements - Oil Water Separator Prj 20191-2 | 125071 | 630.71 |
| Ferguson Enterprises, Inc | Ball Valves - 10, Rapidset Repair Mortar, Cla-Val Repair Kits - 2 | 125072 | 4,907.90 |
| J.R. Filanc Construction Co Inc | Tertiary Structural Rehabilitation - MRF Prj 20181-11 | 125073 | 207,363.63 |
| Fisher Scientific LLC | Lab Supplies | 125074 | 63.76 |
| Fleet Pride | Fleet Supplies | 125075 | 139.62 |
| Freshworks Inc | IT Help Desk Ticket System Support 22-23 | 125076 | 4,468.80 |
| Gallade Chemical Inc. | Phosphoric Acid & Sodium Hypochlorite | 125077 | 1,637.80 |
| Grainger Inc | Tools - Veh 253, Hitches For New Trailer Bathrooms - 2, Desk Fan | 125078 | 1,387.39 |
| Granicus, LLC | Website Re-Design Services Prj 20221-35 | 125079 | 3,000.00 |
| Gregory Zembroski | Closed Account Refund | 125080 | 108.46 |
| James Gumpel | COWU Meeting 9-19-22 | 125081 | 33.23 |
| Haaker Equipment Co. | Ramjet Digital Footage Counter | 125082 | 2,174.46 |
| Hach Company | Odor Scrubber #2 ORP Sensor (Oxidation Reduction Potential) | 125083 | 1,827.29 |
| Harper & Associates Inc | Sage Canyon Tank Rehabilitation Prj 20201-6, Tertiary Effluent Chamber MRF Prj 20181-11 | 125084 | 25,586.00 |
| Hodge Products Inc | Warehouse Stock - District Padlocks - Qty 360 | 125085 | 10,087.60 |
| Idexx Distribution Corp. | Sample Vessels - 4 & Reagents | 125086 | 4,084.57 |
| Infosend Inc | Postage, Printing, Door Hangers & Processing - Aug | 125087 | 12,130.32 |
| James Nicholas Vent Jr. | Annual Hazwoper Refresher Course 6-14-22 & 6-21-22 | 125088 | 1,980.00 |
| Jesse Halbig | Reimbursement - CWEA Collections Cert Renewal | 125089 | 110.00 |
| JCI Jones Chemicals Inc | Chlorine | 125090 | 16,064.92 |
| Jordan & Adam Morgenrogh | Closed Account Refund | 125091 | 119.43 |
| Juntian Li | Closed Account Refund | 125092 | 77.01 |
| JWC Environmental Inc. | Influent Grinder #2 Refurbishment - MRF | 125093 | 32,120.28 |
| Kaman Industrial Technologies | Hardware Supplies | 125094 | 277.65 |
| Ken Grody Ford | Fleet Supplies - Veh 242 | 125095 | 251.12 |
| Knight Security & Fire Systems | Answering, Patrol, & Monitoring Svcs - Sept | 125096 | 656.69 |
| Linda Barnett | Closed Account Refund | 125097 | 118.21 |
| Lloyd Pest Control | Pest Control Svcs - Sept | 125098 | 105.00 |
| Matheson Tri-Gas Inc | Cylinder Rental | 125099 | 139.35 |
| Michael Senger | Closed Account Refund | 125100 | 9.89 |
| Morton Salt, Inc. | Industrial Salt | 125101 | 4,899.67 |
| Murray Smith, Inc. | Sodium Hypochlorite On-Site Generation - MRF Prj 20171-2 | 125102 | 57,004.42 |
| NV5, Inc. | Failsafe Rehabilitation Prj 20201-5, Landscape Improvements Prj 20221-8, Health & Safety Specialist - July | 125103 | 46,636.35 |
| Occu Med Ltd | Medical Svcs - Aug | 125104 | 370.00 |
| Parkhouse Tire Inc | Tire Stock - 14 Tires | 125105 | 3,573.93 |

VALLECITOS WATER DISTRICT
WARRANTS LIST
October 5, 2022

| PAYEE | DESCRIPTION | CHECK# | AMOUNT |
|--|---|--------|-----------------|
| Penco, Inc. | Calcium Nitrate | 125106 | 62,671.85 |
| Quantum Group | Employee Gifts - Binoculars - Qty 125 | 125107 | 3,022.86 |
| R. A. Backflow Testing | Backflow Testing & Repair - Twin Oaks Reservoir | 125108 | 1,516.90 |
| Ramco | Concrete Recycling | 125109 | 130.00 |
| Rusty Wallis Inc | Water Softener & Water System Service June - MRF | 125110 | 1,194.00 |
| Safety-Kleen Systems Inc | Parts Washer Rental | 125111 | 547.08 |
| SDG&E | Power - Aug | 125112 | 4,710.25 |
| SCADA Integrations | Water Quality Analyzer Programming & Configuration - MRF Prj 20211-20 | 125113 | 1,870.00 |
| Schalk Opperman | Closed Account Refund | 125114 | 104.63 |
| Sensus Metering Systems | Meter Reading Software Support Renewal 22-23 | 125115 | 1,949.94 |
| Southern Counties Lubricants, LLC | Diesel Fuel | 125116 | 2,523.70 |
| SSA Solar of CA 5, LLC | District Wide Solar Project | 125117 | 29,754.03 |
| Stericycle, Inc. | Shredding Svcs - Aug & Sept | 125118 | 549.40 |
| Sunset Ridge Maintenance Corp | District Wide Solar Project | 125119 | 25.00 |
| State Water Resources Control | ELAP - Annual Lab Accreditation Program | 125120 | 3,550.00 |
| U.S. Bank | COP Admin Fees - 2015 & 2021 | 125121 | 5,125.00 |
| Union-Tribune Publishing Co. | Advertising Svcs - Aug | 125122 | 160.51 |
| Unitis, Inc. | Water Softening Salt & Concrete | 125123 | 3,181.16 |
| Univar USA Inc | Sodium Hypo Lqhichlor & Sodium Bisulfite | 125124 | 5,742.90 |
| UPS | Shipping Svcs - Sept | 125125 | 128.46 |
| Urban Corps San Diego County | Weed Abatement - June | 125126 | 7,259.36 |
| Valley CM Inc | Discovery Street Inspection Prj 20191-541 | 125127 | 1,160.00 |
| Verizon Wireless | Cell Phone Svc - Aug | 125128 | 2,403.32 |
| Vesta Housing Solutions LLC | Covid Trailer Rental Prj 20211-850 | 125129 | 511.82 |
| City of Vista | Sewer Flow Fees 20-21 | 125130 | 71,192.72 |
| Erik Warner | Reimbursement - CWEA Collections Cert Renewal | 125131 | 95.00 |
| Action Mail | Splash Winter Newsletter Prj 20231-65 | 125132 | 1,268.16 |
| Adobe Lock & Safe | Lock Repair - MRF | 125133 | 85.00 |
| Airwave Mechanical | HVAC Quarterly Maintenance - MRF & District HQ | 125134 | 3,935.00 |
| Bonsall Petroleum Constr Inc | Fuel Island Annual Testing & Repairs | 125135 | 750.00 |
| Boot Barn | Safety Boots | 125136 | 150.00 |
| CCI | Water Treatment - Sept | 125137 | 220.00 |
| FTR, LTD | FTR Board Meeting Software Support 22-23 | 125138 | 699.00 |
| Golden State Graphics | Between The Pipes Winter Newsletter Prj 20231-65 | 125139 | 5,990.56 |
| Harrington Industrial | PVC Piping - Qty 16 | 125140 | 509.49 |
| Integrity Municipal Services LLC | Fan For Odor Scrubber 1 - MRF | 125141 | 5,378.88 |
| Mallory Safety & Supply, LLC | Safety Gloves, Straw Hats, & Safety Glasses | 125142 | 2,560.21 |
| McMaster-Carr Supply Co | Hardware Supplies | 125143 | 185.54 |
| Pacific Pipeline Supply | Zinc Anodes - 25, Valve Gate, Valve Replacement Supplies - Prj 20231-19, Air Vac Cans - 5 | 125144 | 18,620.55 |
| Patriot Portable Restroom Inc | Portable Restroom Rental - Sept | 125145 | 308.05 |
| Plumbers Depot Inc | Replacement Swivels For Vactor Hose Reels - 25 | 125146 | 1,092.46 |
| Schmidt Fire Protection Co Inc | Quarterly Sprinkler Inspections - MRF & District HQ | 125147 | 1,669.00 |
| SHI International Corp. | Dell Docking Stations - 23 | 125148 | 9,811.39 |
| South Bay Foundry Inc | Sewer Frames & Lid Replacements - Qty 40 | 125149 | 12,321.21 |
| T.S. Industrial Supply | Tools - Veh 218 & 227, Warehouse Construction Marking Paint Restock | 125150 | 3,096.73 |
| Think Forward, LLC | SCADA Radio Network Administration Svcs July - Sept | 125151 | 2,635.00 |
| Traffic Safety Solutions LLC | Traffic Control Svcs - Annual Night Cleaning of San Marcos Blvd & Rancho Santa Fe | 125152 | 2,100.00 |
| Traffic Supply Inc | LED Arrow Board - Veh 273 | 125153 | 4,256.13 |
| Trane US Inc | HVAC Program Training 9-6-22 | 125154 | 648.00 |
| Unifirst Corporation | Uniform Delivery | 125155 | 1,482.17 |
| Walters Wholesale Electric | Mag Switches 10 - MRF | 125156 | 305.48 |
| Total Disbursements (122 Checks) | | | 966,109.48 |
| WIRES | | | |
| Public Employees Retirement System | Retirement Contribution - September 20, 2022 Payroll | Wire | 78,814.03 |
| PAYROLL | | | |
| Total direct deposits | | | Wire 262,806.48 |
| VWD Employee Association | | 125040 | 566.00 |
| Payroll & Garnishments | Payroll Garnishments | 125041 | 997.37 |
| IRS | Federal payroll tax deposits | Wire | 102,413.52 |
| Employment Development Department | California payroll tax deposit | Wire | 21,514.23 |
| CalPERS | Deferred compensation withheld | Wire | 21,385.39 |
| VOYA | Deferred compensation withheld | Wire | 8,060.67 |
| Total September 20, 2022 Payroll Disbursements | | | 417,743.66 |
| TOTAL DISBURSEMENTS | | | 1,462,667.17 |

DATE: OCTOBER 5, 2022
TO: BOARD OF DIRECTORS
SUBJECT: APPROVAL OF CONSTRUCTION AGREEMENT FOR NORTH CITY UTILITY RELOCATIONS (URBAN VILLAGES SAN MARCOS, LLC.)

BACKGROUND:

Urban Villages San Marcos, LLC., owner of the project, has completed the plan check process with the District. The project is located on North City Drive east of Twin Oaks Valley Road, west of Campus Way in the University District.

DISCUSSION:

A Construction Agreement is typically entered into between a developer and the District to ensure that the required public facilities are constructed to support the demands of development.

The project will remove approximately 180 feet of 8-inch diameter polyvinyl chloride (PVC) sewer main, 270 feet of 12-inch diameter PVC sewer main, and 350 feet of 12" PVC water main. The project will construct approximately 797 feet of 12-inch diameter PVC sewer main, and 159 feet of relocated 12-inch diameter PVC water main. These improvements will be constructed to accommodate future development at this site.

Upon completion of the water and sewer facilities, water and sewer services will be available to future Residential Mixed-Use, Retail/Commercial, Medical Office, Hotel, Parks/Open Space and Student Housing.

All engineering fees and inspection deposits have been paid prior to Board approval of the Construction Agreement. Water and wastewater capital facility fees are due and payable prior to issuance of the final building inspection and/or utility release per Resolution 1441. Capital facility fees will be collected with future development of this site.

The owner has submitted standard surety bonds to guarantee completion of the project. The following bond amounts have been reviewed and approved by staff:

| | |
|----------------------|--------------|
| Labor and Materials | \$891,806.25 |
| Faithful Performance | \$891,806.25 |

FISCAL IMPACT:

There are no operational fiscal impacts associated with the recommended actions. Future water and sewer revenues will offset costs of service.

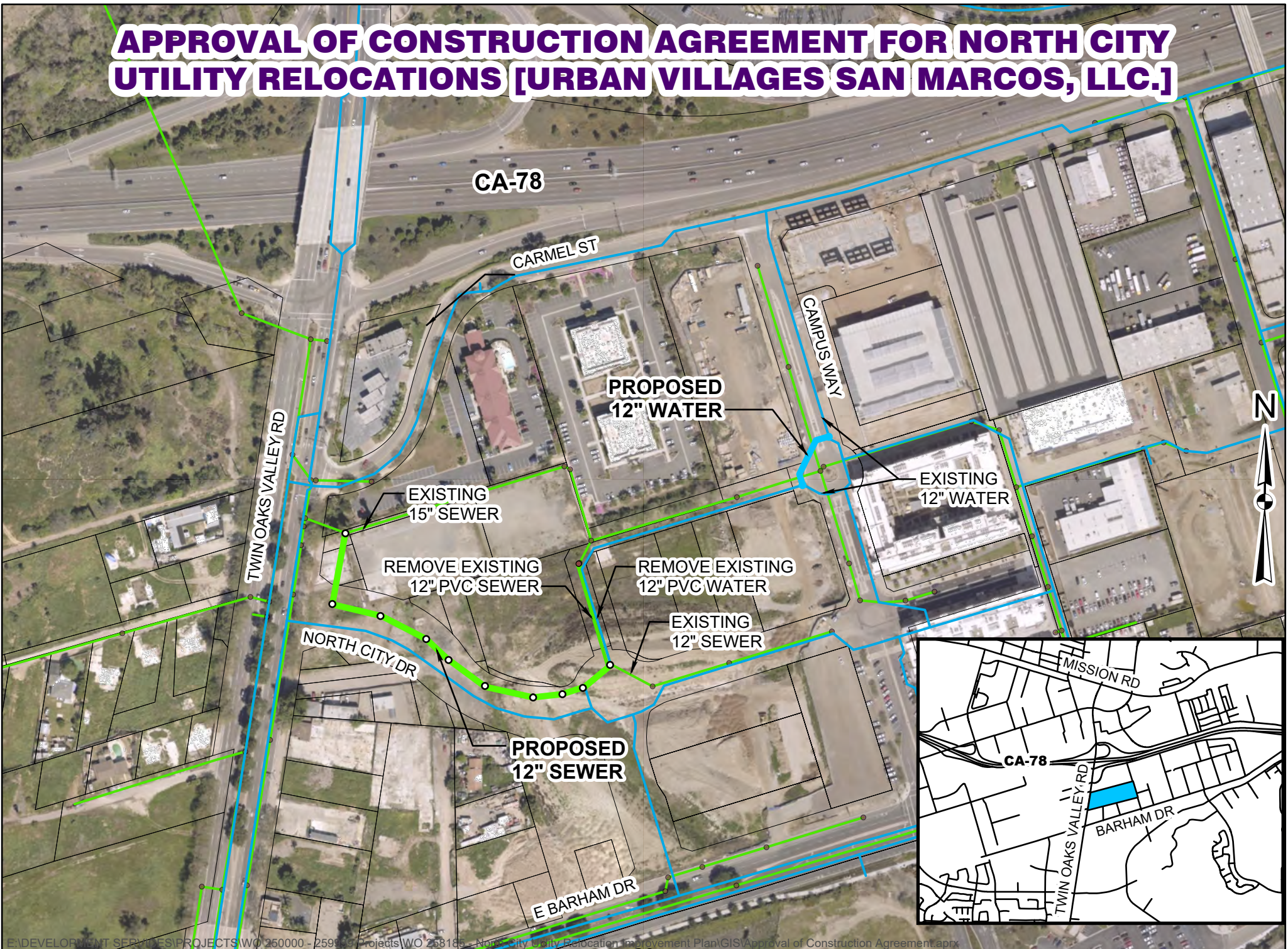
RECOMMENDATION:

Approve the Construction Agreement for North City utility relocation improvements.

ATTACHMENTS:

1 Map Exhibit – 1 Aerial Map
Construction Agreement

APPROVAL OF CONSTRUCTION AGREEMENT FOR NORTH CITY UTILITY RELOCATIONS [URBAN VILLAGES SAN MARCOS, LLC.]



**AGREEMENT FOR CONSTRUCTION OF FACILITIES TO BE
DEDICATED TO THE VALLECITOS WATER DISTRICT**

THIS AGREEMENT is entered into on this ___ day of _____, 2022 by and between VALLECITOS WATER DISTRICT (“DISTRICT”), a County Water District organized and operating pursuant to the County Water District Law, California Water Code §§ 30000 et seq., and **URBAN VILLAGES SAN MARCOS, LLC.** (“DEVELOPER”), a California Limited Liability Company.

RECITALS

A. DEVELOPER desires to improve certain real property which lies within the boundaries of the DISTRICT consisting of approximately **10.2** acres commonly described as Tax Assessor's Parcel Nos. **221-110-46, 221-110-55, 221-110-56, 221-110-57, 221-110-66, 221-110-67, 221-110-68 & 221-110-70, 220-202-68 & 220-110-69** (“PROJECT”).

B. DEVELOPER has requested that DISTRICT provide water and/or sewer service to parts of the PROJECT upon payment of applicable fees, construction and installation by DEVELOPER of the water and/or sewer facilities (“FACILITIES”) necessary to serve the PROJECT and acceptance of the FACILITIES by the DISTRICT.

C. DEVELOPER is required to submit plans and specifications for construction of the FACILITIES for review and approval by DISTRICT. The plans and specifications have been prepared by **STEVENS CRESTO ENGINEERS – 9665 Chesapeake Drive. Suite 200 San Diego, CA 92123** and are identified as **NORTH CITY DRIVE & CAMPUS WAY UTILITY RELOCATION IMPROVEMENTS VWD WO# 258185 PN#2022100748**. DEVELOPER shall construct the FACILITIES pursuant to the approved plans and specifications which shall include DISTRICT's standard specifications and applicable special provisions. DEVELOPER shall comply with all terms of this Agreement. All work covered by this Agreement shall be completed on or before _____, **2024**. In the event work is not completed by that date, this AGREEMENT shall terminate unless DEVELOPER obtains a written extension from DISTRICT.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **CONDITIONS PRECEDENT TO EXECUTION OF AGREEMENT.** Each of the following items is an express condition precedent to the obligation of the DISTRICT to execute this Agreement:

- 1.1 **FEES AND CHARGES.** DEVELOPER shall pay all fees and charges due as established by the DISTRICT in its discretion from time to time. All Capital Facility and Connection fees are non-refundable.
- 1.2 **ENVIRONMENTAL REVIEW.** DEVELOPER shall provide the DISTRICT with all environmental documents previously utilized to obtain approvals for the PROJECT. In the event that the DISTRICT determines additional environmental review is necessary, all fees and costs to prepare this additional environmental review shall be borne solely by the DEVELOPER.
- 1.3 **APPROVED PLANS AND SPECIFICATIONS.** DEVELOPER shall prepare and submit to the DISTRICT a set of plans and specifications for the FACILITIES. The plans and specifications for the FACILITIES include DISTRICT's standard specifications and applicable special provisions and are incorporated herein by reference as if set forth in full. Approval of these plans and specifications by the DISTRICT shall be a condition precedent to the obligations of the DISTRICT to execute this Agreement. Approval of these plans and specifications by the DISTRICT shall not relieve the DEVELOPER of liability for any improper design or construction of the FACILITIES.
- 1.4 **CHANGES TO PLANS AND SPECIFICATIONS.** DISTRICT, without liability to DISTRICT, DISTRICT's engineer and their consultants, and each of their directors, officers, employees, and agents, may require such changes, alterations, or additions to the plans and specifications which do not exceed ten percent (10%) of the original DISTRICT estimated cost of the work as may be determined necessary or desirable by DISTRICT in its

sole discretion, including those necessary due to errors or omissions in the approved plans or specifications. Changes, alterations, or additions without said 10% limitation may be made for unforeseen conditions such as rock excavation, unstable soil conditions, or high water tables requiring dewatering.

2. COMMERCIAL GENERAL LIABILITY AND AUTOMOBILE LIABILITY INSURANCE. Prior to construction of FACILITIES under this Agreement, the DEVELOPER shall provide and maintain the following commercial general liability and automobile liability insurance:

2.1 COVERAGE. Coverage for commercial general liability and automobile liability insurance shall be at least as broad as the following:

- A. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001);
- B. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any auto).

2.2 LIMITS. The DEVELOPER shall maintain limits no less than the following:

- A. General Liability - One million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to DISTRICT) or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.
- B. Automobile Liability - One million dollars (\$1,000,000) per occurrence for bodily injury and property damage each accident limit.

2.3 REQUIRED PROVISIONS. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- A. DISTRICT, its directors, officers, employees, and authorized volunteers are to be given additional insured status (using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or

endorsements providing the exact same coverage) as respects: liability arising out of activities performed by or on behalf of the DEVELOPER; products and completed operations of the DEVELOPER; premises owned, occupied or used by the DEVELOPER; and automobiles owned, leased, hired or borrowed by the DEVELOPER. The coverage shall contain no special limitations on the scope of protection afforded to DISTRICT, its directors, officers, employees, or authorized volunteers.

- B. For any claims related to this project, the DEVELOPER's insurance shall be primary insurance as respects DISTRICT, its directors, officers, employees, or authorized volunteers. Any insurance, self-insurance, or other coverage maintained by DISTRICT, its directors, officers, employees, or authorized volunteers shall not contribute to it.
- C. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to DISTRICT, its directors, officers, employees, or authorized volunteers.
- D. The DEVELOPER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- E. Each insurance policy required by this agreement shall state, or be endorsed to state, that coverage shall not be canceled by the insurance carrier or the DEVELOPER, except after thirty (30) days (10 days for non-payment of premium) prior written notice by U.S. mail has been given to DISTRICT.
- F. Such liability insurance shall indemnify the DEVELOPER and its sub-developers against loss from liability imposed by law upon, or assumed under contract by, the DEVELOPER or its sub-developers for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.

G. The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, underground excavation, and removal of lateral support. Additionally, the automobile liability policy shall cover all owned, non-owned, and hired automobiles.

H. All of the insurance shall be provided on policy forms and through companies satisfactory to DISTRICT.

3. DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductible or self-insured retention must be declared to and approved by DISTRICT. At the option of DISTRICT, the insurer shall either reduce or eliminate such deductibles or self-insured retentions.

4. ACCEPTABILITY OF INSURANCE. All insurance required hereunder is to be placed with insurers having a current A.M. Best rating of no less than A-:VII or equivalent or as otherwise approved by DISTRICT.

5. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE. The DEVELOPER and all sub-developers shall insure (or be a qualified self-insured) under the applicable laws relating to workers' compensation insurance, all of their employees working on or about the construction site, in accordance with the "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The DEVELOPER shall provide employer's liability insurance with limits of no less than \$1,000,000 each accident, \$1,000,000 disease policy limit, and \$1,000,000 disease each employee.

5.1 Labor Certification. By its signature hereunder, DEVELOPER certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code. DEVELOPER agrees to comply with such provisions and to require its consultants and contractors to comply with such provisions before commencing any work on the FACILITIES

6. RESPONSIBILITY FOR WORK. Until the completion and final acceptance by DISTRICT of all the work under and implied by this agreement, the work shall be under the DEVELOPER's responsible care and charge. The DEVELOPER shall rebuild, repair, restore and

make good all injuries, damages, re-erections, and repairs occasioned or rendered necessary by causes of any nature whatsoever.

7. EVIDENCE OF INSURANCE. Prior to construction of FACILITIES under this Agreement, the DEVELOPER shall file with DISTRICT a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this agreement. Such evidence shall include an additional insured endorsement and evidence of waiver of rights of subrogation against DISTRICT. If umbrella or excess liability coverage is used to meet any required limit(s) specified herein, DEVELOPER shall provide a "follow form" endorsement satisfactory to DISTRICT indicating that such coverage is subject to the same terms and conditions as the underlying liability policy. Such evidence shall also include confirmation that coverage includes or has been modified to include **Required Provisions**, A-E. The DEVELOPER shall, upon demand of DISTRICT, deliver to DISTRICT such policy or policies of insurance and the receipts for payment of premiums thereon.

8. CONTINUATION OF COVERAGE. If any of the required coverage expires during the term of this agreement, the DEVELOPER shall deliver the renewal certificate(s) including the general liability additional insured endorsement and evidence of waiver of rights of subrogation against DISTRICT (if builder's risk insurance is applicable) to DISTRICT at least ten (10) days prior to the expiration date.

9. SUB-DEVELOPERS. In the event that the DEVELOPER employs other developers (sub-developers) as part of the work covered by this agreement, it shall be the DEVELOPER's responsibility to require and confirm that each sub-developer meets the minimum insurance requirements specified above.

10. SECURITY. Upon execution of this Agreement and prior to Board approval, DEVELOPER shall provide the DISTRICT with a payment bond and a performance bond, each in the amount of **\$ 891,806.25**. Each payment and performance bond shall represent 100% of the estimated construction costs of the FACILITIES. Bonds shall be furnished by an admitted surety insurer, as defined in Code of Civil Procedure section 995.120, authorized to do business in the State of California and satisfactory to the DISTRICT.

If at any time a surety on any such bond is declared as bankrupt or loses its right to do business in the state of California for any reason, DEVELOPER shall, within ten (10) days after notice from the DISTRICT, substitute acceptable bonds in such form and sum and signed by such

other surety or sureties as may be satisfactory to the DISTRICT in its sole discretion. The premium on such bonds shall be paid by the DEVELOPER.

In the event the PROJECT is sold, transferred or assigned the performance and payment bonds shall remain in effect unless new bonds acceptable to the DISTRICT have been provided.

The performance and the payment bonds must remain in effect throughout the period for performance of the work until the work is accepted by formal action of the Board of Directors of the DISTRICT.

In lieu of providing these performance and payment bonds and subject to the DISTRICT's approval, DEVELOPER may provide the DISTRICT with a cash deposit to replace either or both of these bonds, or may provide the DISTRICT with an Instrument of Credit, or Irrevocable Letter of Credit on a form acceptable to the DISTRICT. No substitution or modification of the DISTRICT's standard Instrument of Credit or Irrevocable Letter of Credit shall be accepted without approval of the DISTRICT.

11. DEVELOPER'S FAILURE TO PROVIDE INSURANCE OR BONDS. In the event any insurance or security provided to the DISTRICT in accordance with this Agreement is terminated or canceled for any reason, or is limited in the scope of coverage required by this Agreement, DEVELOPER shall have thirty (30) consecutive days from written notice from DISTRICT to procure the required insurance or security. The failure of DEVELOPER to present alternative insurance or security acceptable to DISTRICT within this thirty- (30-) day period shall constitute a material breach of this Agreement entitling the DISTRICT to unilaterally terminate this Agreement or sue DEVELOPER for damages at the election of the DISTRICT.

12. EASEMENTS. Prior to execution of this Agreement, DEVELOPER shall provide DISTRICT with a current preliminary title report issued within the last 90 days covering all properties in which easements are to be granted to the DISTRICT. The cost of the preliminary title report shall be borne solely by DEVELOPER. DEVELOPER shall provide the DISTRICT with such easements as the DISTRICT may require, as determined by the DISTRICT in its sole discretion. All easements to be conveyed to the DISTRICT shall be prepared on the DISTRICT's standard form easements. All easements shall: (1) be of a width satisfactory to DISTRICT, in no case less than twenty (20) feet without specified approval of the Board of Directors; (2) be free and clear of all liens and/or encumbrances which could affect title to the easement; and (3) have recorded subordination agreements for all trust deeds or other liens to insure that the DISTRICT

has prior rights in any easements being conveyed to the DISTRICT. DEVELOPER shall procure a policy of title insurance in favor of the DISTRICT covering easements to be granted in amounts determined by the DISTRICT subject only to those conditions of record acceptable to the DISTRICT. All fees and costs to procure easements required by the DISTRICT shall be borne solely by DEVELOPER. Nothing in this Agreement shall obligate the DISTRICT to exercise its condemnation authorities to acquire any easement determined necessary by the DISTRICT. All easements being conveyed to the DISTRICT must be in a recordable form acceptable to the DISTRICT prior to approval of plans and specifications by the DISTRICT.

13. QUALIFIED SERVICE COMMITMENT. Nothing in this Agreement is intended to limit the power of the DISTRICT to restrict the use of water as provided by California Water Code §§ 350 et seq., and §§ 31026 et seq. DEVELOPER is advised and understands that the ability of the DISTRICT to provide water service to the PROJECT is dependent upon the continuing availability of water imported to the DISTRICT from other agencies. In the event of a water shortage, threatened water shortage, or an emergency, water service to DEVELOPER's project may not be available or may be curtailed or restricted. Consequently, the DISTRICT cannot guarantee that water will be available at the time service is requested. The declaration of a water shortage, threatened water shortage or emergency shall be exercised in the sole discretion of the DISTRICT. DEVELOPER agrees that the DISTRICT shall not be liable for any damages, costs, fees, or expenses of any kind, caused by any curtailment, restriction, or termination of potable water service determined necessary by the DISTRICT.

14. CONSTRUCTION OF FACILITIES. DEVELOPER shall not commence construction of any FACILITIES required by this Agreement until DEVELOPER has received written authorization from the DISTRICT to proceed. All work performed on the FACILITIES shall be: (1) done in strict compliance with the approved plans and specifications; (2) in a good and workmanlike manner as determined by the DISTRICT in its sole discretion; and (3) in accordance with DISTRICT's current published standards and criteria for projects and standards and criteria which may be required by DISTRICT at any time, whether published or not, in the District's sole discretion. All work performed on the FACILITIES by DEVELOPER shall be subject to inspection by the DISTRICT's designated representatives and DEVELOPER shall comply with all instructions given by the DISTRICT's representative during construction of the work. All fees and costs to construct the FACILITIES shall be borne by DEVELOPER.

15. COMPLIANCE WITH APPLICABLE LAW. DEVELOPER shall insure that all work performed on the project is performed in a manner which complies with all applicable federal and state laws and all county and local government rules and regulations, including all rules and regulations of DISTRICT, as these rules and regulations may be modified or changed from time to time. DEVELOPER shall be solely responsible for obtaining and paying for all permits, licenses and approvals necessary to construct the FACILITIES. DEVELOPER shall provide verification that permits, licenses and approvals have been obtained promptly upon demand from DISTRICT. As a material part of this Agreement, DEVELOPER agrees to assume all risk of liability arising from non-compliance with applicable federal, state, county, and local government rules and regulations, including all rules and regulations of the DISTRICT

16. CALIFORNIA LABOR CODE REQUIREMENTS.

16.1 DEVELOPER is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" projects. If the requirements of this Agreement are performed as part of an applicable “public works” project, as defined by the Prevailing Wage Laws, DEVELOPER agrees to fully comply with such Prevailing Wage Laws, if applicable. DEVELOPER shall defend, indemnify and hold the DISTRICT and its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising from any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the DEVELOPER and DEVELOPER’s contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors.

16.2 If the work is being performed as part of an applicable “public works” or “maintenance” project, in addition to the foregoing, then pursuant to Labor Code Sections 1725.5 and 1771.1, DEVELOPER’s contractor and all subcontractors must be registered with the Department of Industrial Relations (“DIR”). DEVELOPER’s contractor shall maintain registration for the duration of the project and require the same of any subcontractors. This

project may also be subject to compliance monitoring and enforcement by the DIR. It shall be DEVELOPER's sole responsibility to comply with all applicable registration and labor compliance requirements including the submission of payroll records directly to the DIR.

17. UTILIZATION OF A PORTION OF WORK. DISTRICT shall have the right upon written notification to the DEVELOPER to utilize such portions of the work DISTRICT deems sufficiently complete to be utilized or placed into service.

18. ACCEPTANCE OF WORK. Upon completion of the FACILITIES required by this Agreement to the satisfaction of the DISTRICT, the FACILITIES which have been constructed shall be presented to the Board of Directors of the DISTRICT for dedication and acceptance, and to authorize the filing of a Notice of Completion by the DEVELOPER. The DISTRICT shall have no obligation to accept the FACILITIES if the design and/or construction of the work is not satisfactory to the DISTRICT in its sole discretion. Upon acceptance of the FACILITIES by the DISTRICT's Board of Directors, all right, title, ownership and interest in the FACILITIES shall be deemed to have been transferred to the DISTRICT, including any warranties as set forth in the approved contract documents. The form of said title shall be determined by DISTRICT. DEVELOPER shall not allow any part of PROJECT to be occupied prior to acceptance of FACILITIES by DISTRICT.

19. WATER SERVICE MAINTENANCE AFTER ACCEPTANCE OF WORK. Due to the uncertainty of prompt sale/construction/occupancy of the project's lots and based on the need to provide adequate flow to residences, DEVELOPER shall be responsible for periodic flushing of the services within the subdivision until such time as the subdivision is sold. The DISTRICT and DEVELOPER will cooperate to provide manpower and schedule work.

20. LIABILITY FOR WORK PRIOR TO FORMAL ACCEPTANCE. Until the Board of Directors of the DISTRICT has formally accepted all work performed in accordance with this Agreement, DEVELOPER shall be solely responsible for all damage to the work regardless of cause and for all damages or injuries to any person or property from any cause excepting injury or damage caused by the sole or active negligence of DISTRICT, its agents, or employees.

21. LIABILITY AFTER ACCEPTANCE OF WORK. After the Board of Directors of the DISTRICT has accepted the FACILITIES by formal action of the Board, DEVELOPER and DEVELOPER's successors in interest shall remain liable for all injuries or damage to persons or

property including damage to the work itself, arising from or related to design or construction of the FACILITIES to the fullest extent permitted by California law.

22. RELEASE OF SECURITY. Forty (40) days after the acceptance of the FACILITIES by the DISTRICT, the DISTRICT shall release any security previously provided by DEVELOPER, as long as no claims have been filed. The security shall not be released until the DISTRICT has received a warranty bond or alternative security acceptable to the DISTRICT covering 25% of the original performance bond or alternative security amount. DISTRICT must have a warranty bond prior to Board acceptance of the project. This new security shall remain in effect for the full duration of the one-year warranty period, which commences upon final Board Acceptance, and until DEVELOPER has corrected all defects noted by the DISTRICT during the warranty period.

23. WARRANTY. DEVELOPER shall and hereby does guarantee all work and materials for the FACILITIES to be free from all defects due to faulty materials or workmanship for a period of one (1) year after the date of acceptance of the work by the DISTRICT. The DEVELOPER shall repair or remove and replace any and all such work, together with any other work which may be displaced in so doing, that is found to be defective in workmanship and/or materials within said one-year period without expense whatsoever to the DISTRICT, ordinary wear and tear and unusual abuse or neglect excepted. In the event DEVELOPER fails to comply with the above-mentioned conditions within one (1) week after being notified in writing, the DISTRICT is authorized to proceed to have the defects remedied and made good at the expense of DEVELOPER who agrees to pay the cost and charges therefore immediately upon demand. Such action by the DISTRICT will not relieve the DEVELOPER of the guarantee required by this section. This section does not in any way limit liability of the DEVELOPER for any design defects or defects in the work subsequently discovered by the DISTRICT.

24. INDEMNITY. DEVELOPER shall be solely responsible and liable for design defects or defects in work performed to construct the FACILITIES required by this Agreement. This shall include liability and responsibility for injury or damage to the work itself. To the fullest extent permitted by law, DEVELOPER shall defend, indemnify and hold the DISTRICT, the DISTRICT's representatives and each of the DISTRICT's officers, employees and agents free and harmless from any and all claims, liabilities, losses, costs, expenses, damages, or injuries to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of or incident to any acts, omissions or willful misconduct of DEVELOPER, its officials, officers,

employees, agents, consultants and contractors resulting from the design or construction of the FACILITIES, except where the Claim has been caused by the sole and active negligence of the DISTRICT. In the event that any suit is instituted naming the DISTRICT as a party, the DISTRICT shall be entitled to appoint its own independent counsel to represent the DISTRICT; and DEVELOPER agrees to pay all attorney's fees and litigation costs associated with this defense. This indemnity shall extend to any claims arising because DEVELOPER has failed to properly secure any necessary easement, land right, contract or approval.

25. AS-BUILT DRAWINGS. Prior to acceptance of the work by DISTRICT, DEVELOPER shall provide the DISTRICT with two (2) blueprint copies of "as-built" drawings. Upon approval of the mylar copies the DISTRICT will require a bonded mylar or original drawing, disk and certification by a licensed engineer in the state of California as to the accuracy and completeness of the "as-built" drawings. DEVELOPER shall be solely responsible and liable for insuring the completeness and accuracy of these as-built drawings.

26. CASH DEPOSITS. DEVELOPER shall provide the DISTRICT with an initial cash deposit in the amount of **\$ 26,465.50** to cover all DISTRICT fees and costs associated with the FACILITIES. When this deposit has been drawn down to **\$ 1,500.00**, DEVELOPER agrees to deposit such additional sums as the DISTRICT may determine from time to time to cover all fees and costs of the DISTRICT. Prior to final acceptance of the project, a final accounting will be forwarded to the DEVELOPER for payment. Additional deposits for additional inspections after acceptance of the project may be requested.

27. MISCELLANEOUS PROVISIONS.

27.1 NOTICES. All notices required pursuant to this Agreement shall be deemed effective upon receipt when personally served or when sent certified mail, return receipt requested to the following addresses:

DISTRICT:

VALLECITOS WATER DISTRICT
201 VALLECITOS DE ORO
SAN MARCOS, CA 92069

DEVELOPER:

URBAN VILLAGES SAN MARCOS,
5550 CARMEL MOUNTAIN RD.
SUITE #204
SAN DIEGO, CA 92130

- 27.2 GOVERNING LAW AND VENUE.** This Agreement shall be governed by the laws of the State of California. In the event of any legal or equitable proceeding to enforce or interpret the terms or conditions of this Agreement, the parties agree that venue shall lie only in the federal or state courts in or nearest to the North County Judicial District, County of San Diego, State of California.
- 27.3 MODIFICATION.** This Agreement may not be altered in whole or in part except by a modification, in writing, executed by all the parties to this Agreement.
- 27.4 ATTORNEY'S FEES.** In the event of any legal or equitable proceeding to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to all reasonable attorney's fees and costs in addition to any other relief granted by law. This provision shall apply to the entire Agreement.
- 27.5 ENTIRE AGREEMENT.** This Agreement, together with all the exhibits attached to this Agreement, contains all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda or agreements are in conflict with this Agreement are intended to be replaced in total by this Agreement and its exhibits.
- 27.6 ASSIGNMENTS.** DEVELOPER shall not be entitled to assign all or any portion of its rights or obligations contained in this Agreement without obtaining the prior consent of the DISTRICT, which consent shall not be unreasonably withheld. Any purported assignment without the DISTRICT's prior written consent shall be void.
- 27.7 BINDING EFFECT.** This Agreement shall inure to the benefit of and be binding upon the parties and their respective purchasers, successors, heirs and assigns.
- 27.8 UNENFORCEABLE PROVISIONS.** The terms, conditions and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this

Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.

27.9 REPRESENTATION OF CAPACITY TO CONTRACT. Each of the parties to this Agreement represents and warrants that he has the authority to execute this Agreement on behalf of the entity represented by that individual.

27.10 OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT COUNSEL. DEVELOPER warrants and represents that DEVELOPER has been advised to consult independent legal counsel of its own choosing and has had a reasonable opportunity to do so prior to executing this Agreement.

27.11 NO WAIVER. The failure of either party to enforce any term, covenant or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that party's right to enforce this, or any other, term, covenant or condition of this Agreement at any later date or as a waiver of any term, covenant or condition of this Agreement.

27.12 COUNTERPARTS. This Agreement may be signed in counterparts, each of which shall constitute an original.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

[SIGNATURES ON FOLLOWING PAGE]

**AGREEMENT FOR CONSTRUCTION OF FACILITIES TO BE
DEDICATED TO THE VALLECITOS WATER DISTRICT**

SIGNATURE PAGE

| | |
|--|--------------|
| “DISTRICT” VALLECITOS WATER DISTRICT | |
| By: _____ Glenn Pruum, Secretary Board of Directors Vallecitos Water District | Dated: _____ |

| | |
|--------------------|--------------|
| “DEVELOPER” | |
| Name: _____ | |
| Title: _____ | |
| Company: _____ | |
| Signature*: _____ | Dated: _____ |

*Acknowledgment of the signature(s) of authorized representative(s) of DEVELOPER executing this Construction Agreement, by a Notary Public, is required. Attach acknowledgment to this page.

DATE: OCTOBER 5, 2022
TO: BOARD OF DIRECTORS
SUBJECT: AWARD OF CONSTRUCTION CONTRACT FOR THE PAINTING OF DISTRICT FACILITIES

BACKGROUND:

The Operations & Maintenance Department is responsible for maintaining the District's headquarters and facilities. The buildings and structures occasionally require minor repairs and painting. This includes the concrete wall that encloses part of the District's equipment yard. The exterior portion of the wall will have a finish coat of anti-graffiti paint applied as it has experienced vandalism over the years.

The District's warehouse building will be painted after some repair work has been completed. The exterior wall of the warehouse facing Mission Road will have a finish coat of anti-graffiti paint eight (8) feet high to match the yard wall. The two projects were placed in the 2022/23 Capital budget for this work. The projects were combined into one bid package to maximize potential savings.

DISCUSSION:

District staff requested bids from several painting companies for the work. The bid results are as follows:

| Vallecitos Operations Yard & Warehouse Painting Projects | |
|---|--------------|
| <u>Bidder</u> | |
| United Painting & Coatings Co. | \$163,760.00 |
| Anemos Enterprises, Inc. | \$144,900.00 |
| MEAR Construction Inc. | \$116,500.00 |
| Irwin Painting & Finishing Inc. | \$111,955.00 |
| Painting & Decor Inc. | \$107,300.00 |
| Color New Co. | \$106,000.00 |
| Yoda Painting Inc. | \$ 92,000.00 |
| Pacific Rim Painting Co. | \$ 79,000.00 |
| Parada Painting Inc. | \$ 69,000.00 |

Staff completed the evaluation of qualifications and determined that Parada Painting, Inc. was the lowest, most responsive bidder for the Vallecitos Operations Yard and Warehouse Painting Projects. Construction management will be performed by District staff.

FISCAL IMPACT:

Funds were included in the 2022/23 budget for the two painting projects. The budget and estimated cost summary is as follows:

| | |
|---------------------------------|---------------------|
| Combined Budget | \$180,000.00 |
| Parada Painting, Inc. | \$ 69,000.00 |
| Staff Time | \$ 2,085.00 |
| Overhead | \$ 4,399.00 |
| <hr/> | |
| Total | \$ 75,484.00 |
| | |
| Projected Budget Surplus | \$104,516.00 |

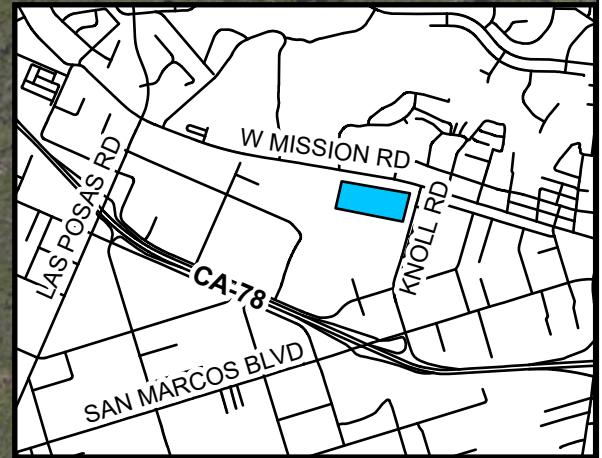
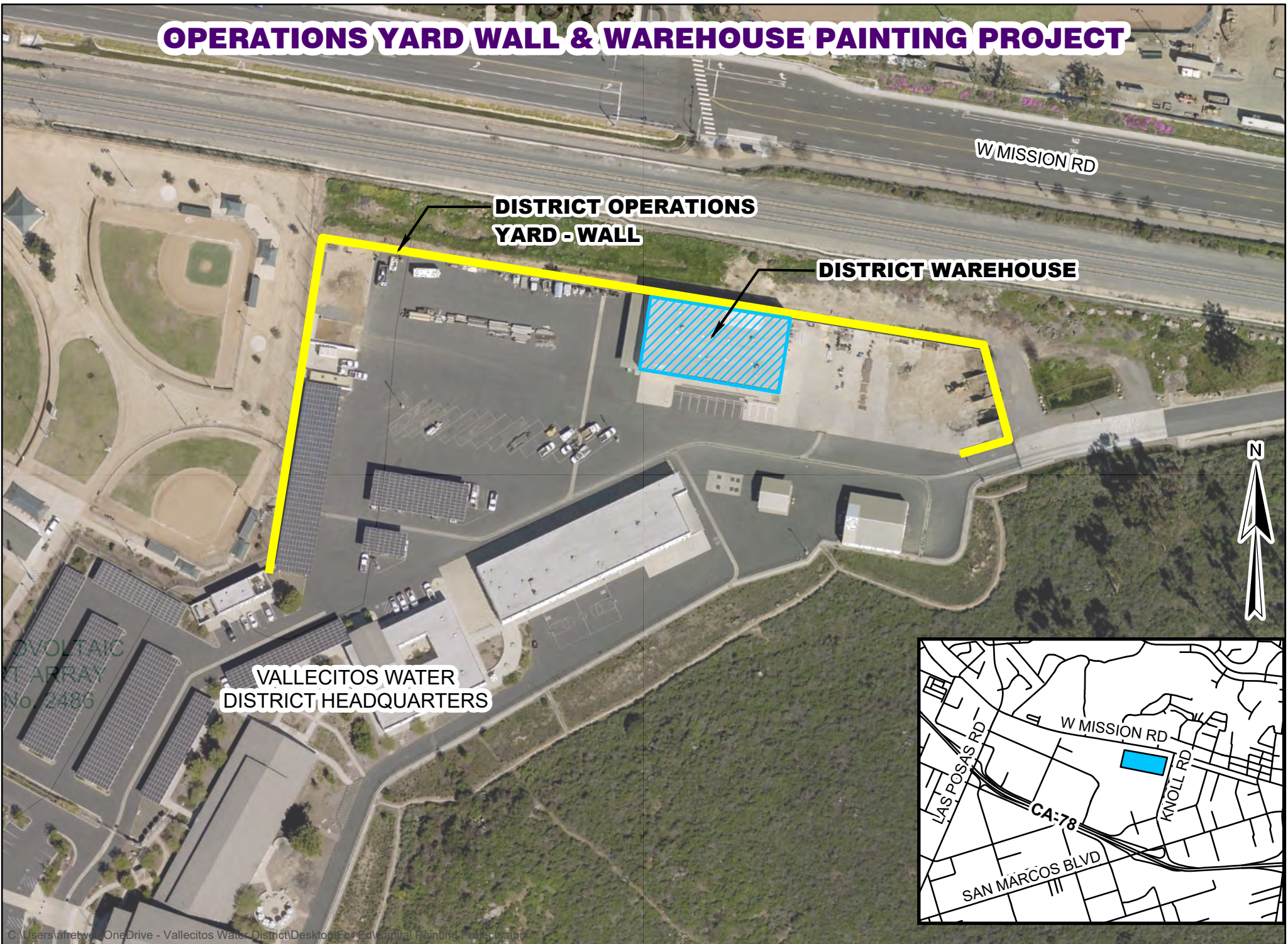
RECOMMENDATION:

Authorize the General Manager to execute a contract with Parada Painting, Inc. for a total of \$69,000.00, subject to provisions of the contract.

ATTACHMENT(S):

1 Map Exhibit – 1 Aerial Map.

OPERATIONS YARD WALL & WAREHOUSE PAINTING PROJECT



PHOTOVOLTAIC
ARRAY
No. 2486

DATE: OCTOBER 5, 2022
TO: BOARD OF DIRECTORS
SUBJECT: CONSIDER ADOPTING RESOLUTIONS OF NECESSITY FOR THE ACQUISITION OF EASEMENT INTERESTS IN (1) ASSESSOR'S PARCEL NO. 228-360-43 AND (2) ASSESSOR'S PARCEL NOS. 228-370-38 AND 228-370-04 FOR THE MONTIEL LIFT STATION AND FORCEMAIN REPLACEMENT PROJECT IN SAN MARCOS, CALIFORNIA

BACKGROUND:

The Board of Directors is being asked to consider the adoption of two Resolutions of Necessity declaring its intent to acquire certain easement interests in certain real property by eminent domain for the Montiel Lift Station and Forcemain Replacement Project in San Marcos, California (Project). The properties are generally described as Assessor's Parcel Number 228-360-43 and Assessor's Parcel Numbers 228-370-38 and 228-370-04, and are further described below.

The immediate need for the easement acquisitions is to proceed with the construction of the Project. The acquisitions are required for and will benefit the community by replacing the existing Montiel sewer basin sewage conveyance facility (lift station) that has exceeded its useful life while also improving the flow capacity of the facility to meet ultimate peak flow demands.

Preliminary title reports were obtained from Corinthian Title Company and Chicago Title Company to confirm and identify the record owners of the parcels affected by the Project. District staff then provided the affected property owners with a notice of the District's decision to appraise the property.

The District had the properties appraised and made offers to the record owners. Negotiations have thus far been unsuccessful for the purchase of the easement interests necessary for the Project. The adoption of Resolutions of Necessity for the interests will not prevent negotiations from continuing.

Since agreements have not been reached with the owners of record, it may be necessary to acquire the easement interests described in the attachments by eminent domain. The authorization for the District's General Counsel to initiate the eminent domain process is included in the proposed Resolutions of Necessity.

DISCUSSION:

Description of the Affected Properties and Easements To Be Acquired:

Coles Parcel:

Assessor Parcel No. 228-360-43 (Coles Property) is owned by MONTIEL RD., LLC. The property is located at 2175 Montiel Road in San Marcos, San Diego County, California. The property is occupied. The District desires to acquire permanent easement interests on a portion of the Coles Property in order to construct, operate, maintain, repair, and replace

Montiel Lift Station, which is part of the scope of the Project. The legal description and depiction of the Coles Property and the easement to be acquired thereon are attached.

Future Hotel Property:

Assessor Parcel Nos. 228-370-38 and 228-370-04 (Future Hotel Property) are owned by SAN MARCOS HOSPITALITY, LLC. The property is located at Leora Lane in San Marcos, San Diego County, California. The property is unoccupied. The District desires to acquire permanent easement interests on a portion of the Future Hotel Property in order to access, operate, maintain, and repair the proposed Montiel Lift Station. The District also desires to acquire temporary construction easements on a portion of the future site of the hotel property for the District's construction activities, including earthwork, drainage and grading improvements, construction staging and temporarily spoils storage from the construction activities in the immediate vicinity of the replacement of the Montiel Lift Station which is part of the Project. The legal description and depiction of the Future Hotel Property and the easements to be acquired are attached.

Project Description:

This Project is known as the Montiel Lift Station and Forcemain Replacement Project. The Project is located at 2175 Montiel Road, Leora Lane, and the surrounding vicinity in San Marcos, San Diego County, California.

The District's Montiel Lift Station pumps wastewater collected from the Montiel sewer basin through a 6-inch diameter force main to a gravity sewer heading west through the Nordahl Shopping Center at the intersection of Nordahl Road and Montiel Road. Several system deficiencies have been identified with this current infrastructure:

- The Montiel Lift Station was constructed in 1985 as a temporary facility intended to be in operation for less than 5 years. The lift station has exceeded its useful life expectancy and requires replacement. The District's 2018 Master Plan identifies replacement of this lift station.
- The 6-inch diameter force main serving the Montiel Lift Station is corroded, at-risk of failing, and is in severe need of replacement.
- The existing 8-inch diameter gravity sewer conveys wastewater from the 6-inch force main through the Nordahl Shopping Center is undersized and cannot serve additional development in the Montiel sewer basin without replacement. The District's 2018 Master Plan identifies upsizing of this pipeline.

The Montiel Lift Station has a history of operational ineffectiveness including occasional pump failure in the wet well requiring emergency action to make repairs. The Board of Directors authorized a professional services agreement (PSA) for engineering design and environmental services on November 6, 2019, with Michael Baker International (MBI) to design the Montiel Lift Station and Forcemain Replacement Improvements (Project). The Board of Directors adopted a resolution approving an addendum to the 2018 Program Environmental Impact Report on September 7, 2022, and Notice of Determination was filed on September 13, 2022. The Project is currently in final design.

The Project will include demolition, grading, drainage, yard piping replacements, structural improvements, electrical and telemetry improvements, standby generator improvements, gravity sewer rehabilitation or replacement, forcemain replacement and extension, surface restoration, and connection to the existing gravity sewer system. Temporary fencing will be placed around the construction area or environmentally sensitive areas during construction.

Subject to the timely acquisition of the necessary property interests and bidding and award of a construction contract, construction is expected to commence in January 2023 and extend through approximately January 2024.

Hearing and Required Findings:

The action requested of the Board at the conclusion of this hearing is the adoption of two Resolutions of Necessity, authorizing the acquisition of real property interests by eminent domain. Title to the Coles Property is vested in Montiel Rd., a limited liability company. Title to the Future Hotel Property is vested in San Marcos Hospitality, a limited liability company. The requested action would authorize the acquisition of permanent easements over a portion of the Coles Property, and permanent and temporary easements over a portion of the Future Hotel Property.

The properties and proposed easement interests are further identified in the legal descriptions and depictions attached hereto.

California eminent domain law provides that a public entity may not commence with eminent domain proceedings until its governing body has adopted a resolution of necessity, which resolution may only be adopted after the governing body has given each party with an interest in the affected property, or their representatives, a reasonable opportunity to appear and be heard on the following matters:

1. The public interest and necessity require the proposed project,
2. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury,
3. The real property to be acquired is necessary for the project, and
4. The offer of just compensation has been made to the property owner.

A notice of the hearing was sent by first class mail to the property owners and stated the District's intent to consider the adoption of a resolution, the right of the property owners to appear and be heard on these issues, and failure to file a written request to appear would result in a waiver of the right to appear and be heard. The Board has scheduled this hearing at which all persons who filed a written request within 15 days of the date of notice was mailed may appear and be heard. The District mailed the required notice to the property owners on September 13, 2022, in accordance with California Code of Civil Procedure, Section 1245.235.

The public hearing was originally scheduled for the September 21, 2022, Board meeting; however, representatives for the property owners requested the date be moved to the October 5 Board meeting. Staff has accommodated this request.

The property owners were also invited to meet with District staff to discuss the Project and address any concerns the property owners may have with the design of the Project in the manner proposed and the necessity of the acquisition.

The four required findings of the public hearing are addressed as follows:

1. The Public Interest and Necessity Require the Proposed Project.
The Project is required for and will benefit the community by replacing the existing Montiel sewer lift station that has exceeded its useful life while also improving the flow capacity of the facility to meet ultimate peak flow demands for existing and future sewer customers served by the facilities.
2. The Project Is Planned or Located in a Manner That Will Be Most Compatible with the Greatest Public Good and the Least Private Injury.
A thorough analysis was conducted to find the single best location for this Project. Environmental analyses and findings indicate that this and other sites uniquely satisfy the engineering, public health, and environmental issues, and these locations are the most compatible with the greatest public good, as the proposed improvement location occupies the footprint of the existing lift station being replaced which resides within existing District sewer easements. This location will result in the least private injury.
3. The Property Sought To Be Acquired Is Necessary for the Proposed Project.
As described above, a careful analysis was performed regarding this (and other) locations and what property and property rights were needed, and easements on these parcels meet all the desired characteristics for the construction of the improvements for the Project. Based on that analysis, the acquisition of the easement interests in the properties is necessary for construction of the Project.
4. The Offers of Just Compensation Have Been Made.
Appraisals were prepared by the District's appraiser Anderson & Brabant, MAI, of California, to establish the fair market value of the real property interests the District is seeking to acquire from the interest owned by the property owner identified herein. An offer of just compensation was made to the property owners to purchase the property interests, based on the approved appraisals, as required by Section 7267.2 of the California Government Code. The District made an offer of \$9,000 for the permanent easement interests on Coles Property on August 4, 2022 and an offer of \$61,000 for the permanent and temporary easement interests on the Future Hotel Property on August 11, 2022.

Although negotiated settlements may still be possible, it would be appropriate to commence the procedures to acquire the interests sought through eminent domain, to ensure that the property will be available to meet the timeframes associated with the Montiel Lift Station and Forcemain Rehabilitation Project.

Environmental Compliance:

Compliance with the California Environmental Quality Act (CEQA) has been satisfied by the September 7, 2022, Board of Directors adoption of a resolution approving an addendum to the 2018 Program Environmental Impact Report for the Montiel Lift Station and Forcemain Replacement Project. A Notice of Determination was filed on September 13, 2022.

FISCAL IMPACT:

Funding for this Project is provided 51% through the District's Sewer Replacement Fund 210 and 49% through the District's Sewer Capacity Fund. The Project was approved in the District's Fiscal Year 2022-2023 Budget totaling \$7,215,000.

Costs associated with the acquisition of the requested easements are included in the approved project budget. Staff and legal fees to coordinate the easement acquisition has also been included in the project budget.

RECOMMENDATION:

1. Hold a hearing to consider the adoption of two Resolutions of Necessity, including providing all parties interested in the affected properties or their representatives an opportunity to be heard on the issues relevant to the Resolutions of Necessity,
2. After holding the hearing, adopt a Resolution of Necessity for the Acquisition of Certain Permanent Easement Interests in Certain Real Property Identified as Assessor Parcel No. 228-360-43 by Eminent Domain for the Montiel Lift Station and Forcemain Rehabilitation Project in San Marcos, California, including making the findings described therein, and
3. After holding the hearing, adopt a Resolution of Necessity for the Acquisition of Certain Permanent and Temporary Easement Interests in Certain Real Property Identified as Assessor Parcel Nos. 228-370-38 and 228-370-04 by Eminent Domain for the Montiel Lift Station and Forcemain Rehabilitation Project in San Marcos, California, including making the findings described therein.

ATTACHMENTS:

1 Map Exhibit – 1 Aerial Map

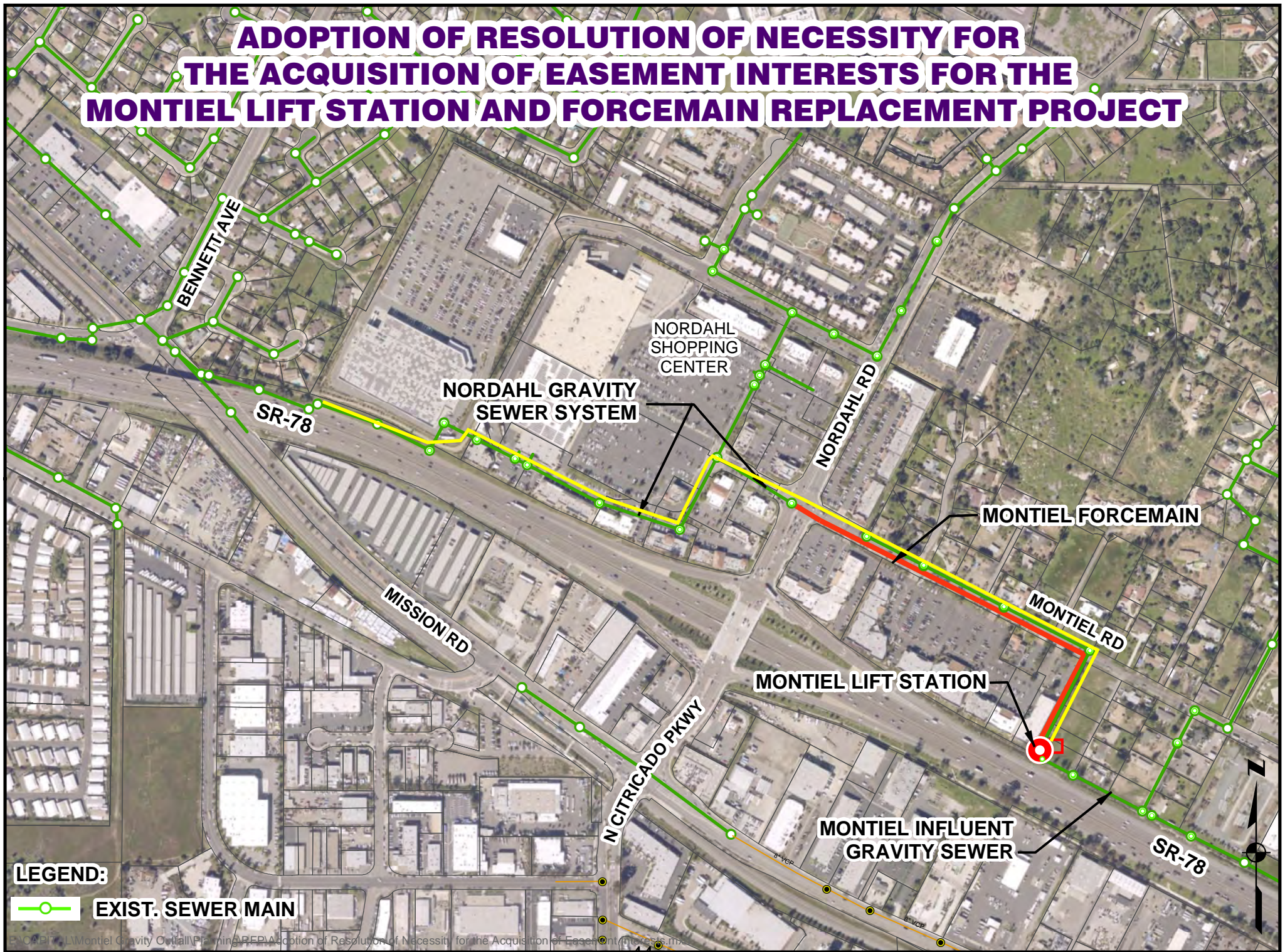
APN 228-360-43 (Coles Property):

1. Proposed Resolutions of Necessity
2. Offer Letters to Property Owner
3. Notices of Hearing to Property Owner

APN 228-370-38 and 228-370-04 (Future Hotel Property):

1. Proposed Resolutions of Necessity
2. Offer Letters to Property Owner
3. Notices of Hearing to Property Owner

ADOPTION OF RESOLUTION OF NECESSITY FOR THE ACQUISITION OF EASEMENT INTERESTS FOR THE MONTIEL LIFT STATION AND FORCEMAIN REPLACEMENT PROJECT



LEGEND:
—○— EXIST. SEWER MAIN

RESOLUTION NO.

RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLECITOS WATER DISTRICT DECLARING THAT ACQUISITION OF EASEMENT INTERESTS IN THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NO. 228-360-43 ARE NECESSARY FOR THE FOR THE MONTIEL LIFT STATION AND FORCEMAIN REPLACEMENT PROJECT IN SAN MARCOS, CALIFORNIA

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE VALLECITOS WATER DISTRICT as follows:

WHEREAS, Vallecitos Water District ("District") is a county water District established and organized pursuant to California Water Code § 30000 *et seq.*; and

WHEREAS, the District proposes to acquire permanent easement interests in real property owned by MONTIEL RD, LLC. ("Property Owner") and generally identified as Assessor's Parcel Number ("APN") 228-360-43 for the Montiel Lift Station and Forcemain Replacement Project in San Marcos, California, pursuant to Water Code section 31040 and Code of Civil Procedure section 1240.040; and

WHEREAS, pursuant to Code of Civil Procedure section 1245.235, the District scheduled a public hearing for October 5, 2022, at 5:00 p.m. in the Board Room of Vallecitos Water District, 201 Vallecitos De Oro, San Marcos, CA 92069, and gave to each person whose property is to be acquired and whose name and address appears on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Code of Civil Procedure section 1240.030; and

WHEREAS, said hearing has been held by the District and each person whose property is to be acquired by eminent domain was afforded the opportunity to be heard on said matters; and

WHEREAS, the District may adopt a resolution of necessity pursuant to Code of Civil Procedure section 1240.040.

NOW THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED, by a vote of two-thirds or more of all members of the Board of the District as follows:

SECTION 1: Notice and Hearing Compliance.

Section 1.1 The District has provided notice of this hearing as required by Code of Civil Procedure section 1245.235.

SECTION 2: Compliance with the California Environmental Quality Act.

Section 2.1: The District, as lead agency for the Project, prepared an Addendum ("Addendum") to the certified 2018 Water, Wastewater, and Recycled Water

Master Plan Program Environmental Impact Report (“PEIR”; SCH No. 2017111082) that analyzed the Project’s potential environmental impacts under the California Environmental Quality Act (“CEQA”). The Addendum concluded that the Project (1) would not result in any new significant environmental impacts or substantially increase any previously identified significant effects; (2) there are no new circumstances under which the improvements will be undertaken that would cause any new or more severe significant effects; and (3) there is no new information showing the improvements would have new or more severe significant effects or that there are new feasible mitigation measures or alternatives that would reduce any identified significant effects. On September 7, 2022, the Board of Directors of the District adopted a resolution approving the Addendum to the PEIR for the Project, which includes mitigation monitoring measures. A Notice of Determination was filed on September 13, 2022.

SECTION 3: Public Use.

Section 3.1: The public use for which the easement interests are to be acquired is for the District’s proposed Project to replace the existing Montiel sewer basin sewage conveyance facility (“Montiel Lift Station”) that has exceeded its useful life while also improving the flow capacity of the facility to meet ultimate peak flow demands for existing and future sewer customers in the area served by the facility. The Project will replace the existing Montiel Lift Station, which was initially constructed in 1985 as a temporary facility intended to be in operation for less than 5 years. The lift station has exceeded its useful life expectancy and requires replacement. The permanent easement interests sought are needed to construct, operate, maintain, repair, and replace Montiel Lift Station. The District is authorized to acquire by eminent domain property interests necessary for such a purpose in accordance with Water Code section 31040 and Code of Civil Procedure section 1240.040.

SECTION 4: Description of Property.

Section 4.1: The property on which the easement is sought is generally described as APN 228-360-43. Attached hereto as Exhibits are the legal descriptions and depictions of the real property interests required for the Project, which describe the general location of the property and the easement area to be acquired by the District with sufficient detail for reasonable identification.

SECTION 5: Findings.

Section 5.1: The District hereby finds and determines the following:

- a. The public interest and necessity require the proposed Project; and
- b. The proposed Project is planned or located in the manner that will be the most compatible with the greatest public good and least private injury; and
- c. The easement is necessary for the proposed Project; and
- d. The offer required by Government Code section 7267.2 was made.

SECTION 6: Further Activities.

Section 6.1: Best Best & Krieger LLP (“BBK”), as counsel for the District, is hereby authorized to acquire the described real property interests in the name of and on behalf of the District by eminent domain. BBK is further authorized to institute and prosecute such legal proceedings as may be required. BBK may take such steps as may be authorized and required by law, and make such deposits as may be required, to permit the District to take possession of and use said real property interests at the earliest possible time. BBK is further authorized to correct any errors or to make or agree to non-material changes in the legal descriptions of the real property that is deemed necessary for the conduct of the condemnation action, or any other proceedings or transactions required to acquire the property interests.

SECTION 7: Severability.

Section 7.1: If any provision of this resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are severable. The Board of Directors hereby declares that it would have adopted this resolution irrespective of the invalidity of any particular portion thereof.

SECTION 8: Effective Date.

Section 8.1: This resolution shall become effective immediately upon its final passage; this resolution being adopted pursuant to Section 32552 of the Water Code of the State of California.

PASSED AND ADOPTED by the Board of Directors of the Vallecitos Water District at a regular meeting held on this 5th day of October, 2022, by the following roll call vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

Craig Elitharp, President
 Board of Directors
 Vallecitos Water District

ATTEST:

Glenn Pruum, Secretary
 Board of Directors
 Vallecitos Water District

EXHIBITS:

Legal Description and Depiction of Property

Legal Description and Depiction of Easement

Recording requested by, and
when recorded, return to:

Vallecitos Water District
201 Vallecitos de Oro
San Marcos, CA 92069

APN: 228-360-43

(Space above for Recorder's Use)
Document Transfer Tax: None

**VALLECITOS WATER DISTRICT
GRANT OF RIGHT-OF-WAY**

MONTIEL RD., LLC, as Grantor, for and in consideration of the sum of One Dollar and other valuable consideration paid by **VALLECITOS WATER DISTRICT**, as Grantee, receipt of which is hereby acknowledged, does hereby grant to said Grantee, its successors and assigns, an easement of right-of-way, **10** feet in width upon, over, under and across the lands hereinafter described, to erect, construct, reconstruct, replace, repair, maintain and use sewer or water facilities, which may include, but not be limited to, a pump station, control house, storage shelter, back-up generator, SCADA antenna, pipeline or pipelines for any and all purposes, together with their necessary fixtures and appurtenances including but not limited to conduits and cables for power transmission and communication purposes specifically related to Grantee's facilities, at such locations and elevations, upon, along, over and under the hereinafter described right-of-way as Grantee may now or hereafter deem convenient and necessary from time to time, together with the right of ingress thereto and egress therefrom, to and along said right-of-way by a practical route or routes in, upon, over and across the hereinafter lands, together with the right to clear and keep clear said right-of-way from vehicles, vegetation, explosives, buildings and structures of any type.

The lands in which said easement of right-of-way is hereby granted are situated in the County of San Diego, State of California, and particularly described as follows:

A PORTION OF LOT 12 IN BLOCK 7 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895. BEING PARCEL 1 DESCRIBED IN GRANT DEED TO MONTIEL RD., LLC RECORDED MAY 21, 2018, AS DOC. NO. 2018-0204854, OFFICIAL RECORDS.

The **10** -foot-wide easement of right-of-way in the aforesaid lands is particularly described as follows: SEE **EXHIBIT "A"** ATTACHED.

A.P.N.: 228-360-43

AREA: 950 SQUARE FEET OR 0.022 ACRE, MORE OR LESS.

PLAT: SEE EXHIBIT "B" ATTACHED.

It is understood by the parties hereto that the Grantor and their successors and assigns:

Shall not grant any other easement on, under or over said easement of right-of-way without the prior written consent of Grantee.

Shall not erect or construct, or permit to be erected or constructed, any building or other structure, plant any tree or trees, or drill any well or wells, within the limits of said right-of-way.

Shall not increase or decrease, or permit to be increased or decreased, the proposed surface elevations of the above-described right-of-way, as shown on improvement plans titled **Montiel Lift Station and Forcemain Replacement Project (VWD WO 217904)**, prepared by **Michael Baker International**, without the prior written consent of Grantee.

Shall not park vehicles of any kind within the easement in such a manner as to hinder full access and use of the easement by Grantee.

It is understood by the parties hereto that the Grantee and its successors and assigns:

Shall have the right to erect, maintain and use any gates in any fences which cross or shall hereafter cross said easement of right-of-way, and to trim and cut and clear away any trees and vegetation whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby conveyed.

Shall have the right to make any and all excavations and the right to alter the existing or proposed surface elevations within the easement right-of-way, now and in the future as may be deemed necessary and convenient. Grantee shall only be responsible for repair of improvements made necessary by the direct action of Grantee.

Shall not be responsible for maintenance or costs of maintenance of any improvements within the easement right of way, including all surface areas within the easement area, except those specific Grantee owned/maintained facilities within said easement, unless by separate agreement.

Shall have the right and privilege to spill water in natural channels which cross said lands adjacent to the easement right-of-way.

Shall have the right to transfer and assign this easement of right-of-way in whole or in part.

In Witness whereof, the Grantor executed these presents the ____ day of _____, 20__.

"Grantor"

Company: MONTIEL RD. LLC

Name*: STEPHEN COLES

Title: MANAGING MEMBER

Signature †: _____

Date: _____

**CERTIFICATE OF ACCEPTANCE
VALLECITOS WATER DISTRICT**

This is to certify that the interest in real property conveyed by the deed or grant dated _____, from MONTIEL RD. LLC, to VALLECITOS WATER DISTRICT, a political corporation and/or a governmental agency, is hereby accepted by the undersigned officer of the Board of Directors of the VALLECITOS WATER DISTRICT pursuant to Resolution No. 1358, adopted on the 21st day of July, 2010, and the Grantee consents to the recording thereof by its duly authorized officer.

By: _____ Dated: _____

Glenn Pruim, Secretary
Board of Directors
Vallecitos Water District
201 Vallecitos De Oro
San Marcos, CA 92069

* Name of Authorized Representative of Developer/Owner

† Acknowledgement of the signature(s) executing this Easement Document, by a Notary Public, is required. Attach acknowledgement to this page.

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

EXHIBIT 'A'
WATER / SEWER EASEMENT

A PORTION OF PARCEL 1 DESCRIBED IN GRANT DEED TO MONTIEL RD., LLC RECORDED MAY 21, 2018 AS DOC. NO. 2018-0204854, OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LAND; THENCE SOUTHWESTERLY ALONG THE EASTERLY LINE THEREOF SOUTH 26°58'28" WEST, 303.41 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING ALONG SAID EASTERLY LINE SOUTH 26°58'28" WEST, 95.00 FEET TO THE NORTHERLY LINE OF AN EXISTING 40' X 40' EASEMENT FOR THE MONTIEL LIFT STATION RECORDED NOVEMBER 28, 1984 AS DOC. NO. 84-444160, OFFICIAL RECORDS; THENCE LEAVING SAID EASTERLY LINE AND WESTERLY ALONG SAID NORTHERLY LINE NORTH 62°50'50" WEST 10.00 FEET TO THE INTERSECTION WITH A LINE THAT LIES 10.00 FEET WESTERLY OF AND PARALLEL WITH SAID EASTERLY LINE; THENCE LEAVING SAID NORTHERLY LINE OF EXISTING EASEMENT AND NORTHERLY ALONG SAID PARALLEL LINE NORTH 26°58'28" EAST 95.00 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 62°50'50" EAST 10.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINS: 950 SQUARE FEET OR 0.022 ACRE, MORE OR LESS.

SEE EXHIBIT B PLAT, ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



PAUL E. GOEBEL, PLS 8486 10/13/2021
MBI JN 176090
APN 228-360-43 MONTIEL RD. LLC

LEGEND



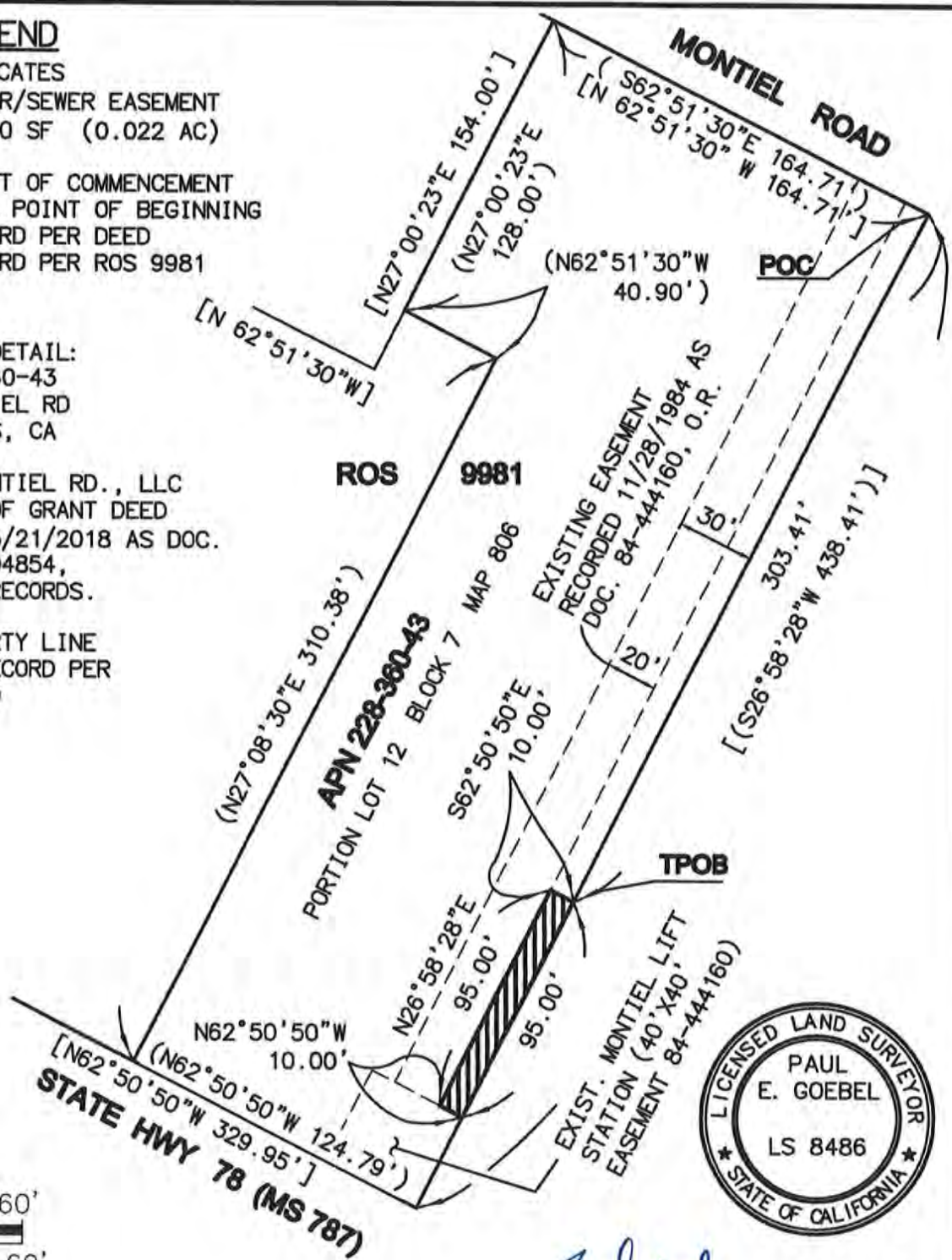
INDICATES
WATER/SEWER EASEMENT
950.0 SF (0.022 AC)

POC POINT OF COMMENCEMENT
TPOB TRUE POINT OF BEGINNING
() RECORD PER DEED
[] RECORD PER ROS 9981

NOTES:
PROPERTY DETAIL:
APN 228-360-43
2175 MONTIEL RD
SAN MARCOS, CA

OWNER: MONTIEL RD., LLC
PARCEL 1 OF GRANT DEED
RECORDED 5/21/2018 AS DOC.
NO. 2018-204854,
OFFICIAL RECORDS.

ALL PROPERTY LINE
DATA IS RECORD PER
GRANT DEED



Paul E. Goebel

8/2/2022

PAUL E. GOEBEL LS 8486 DATE

**EXHIBIT B - PLAT APN 228-360-43
PROPOSED WATER/SEWER EASEMENT EXHIBIT**

PORTION OF LOT 12, BLOCK 7, MAP 806 GRANTED TO MONTIEL RD
LLC BY DEED REC. 5/21/2018 AS DOC. NO. 2018-204854, O.R.
CITY OF SAN MARCOS
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

SHEET 1 OF 1 SHEET
Michael Baker International
9755 Clairemont Mesa Blvd.,
San Diego, CA 92124
(858)614-5000

DATE 10/13/2021 176090

August 4, 2022

VIA FEDERAL EXPRESS

Montiel RD., LLC
 Attn: Stephen Coles
 1170 W. Morena Blvd.
 San Diego, CA 92110

**Subject: OFFER FOR ACQUISITION OF PROPERTY INTERESTS
 2175 Montiel Road, San Marcos, CA, APN 228-360-43**

Dear Mr. Coles:

My name is Jeff Sykes, and I am the Land Manager at NV5, and we have been retained to acquire easements on behalf of Vallecitos Water District (“District”) for the project described below and other projects.

The Vallecitos Water District is in the process of designing the Montiel Lift Station and Force Main Replacement Project (“Project”). The Project will demolish and replace the Montiel Lift Station that was originally designed and built in 1985 to be a temporary solution pending a new outfall, The anticipated new outfall is not going to be realized. Due to its age which has put it past its design life, and the now permanent nature the lift station, it has been budgeted and scheduled for replacement with larger pumps and new supporting infrastructure. This will add 50 years to the lift station and decrease the chances of a sewage spill in the area. The lift station serves an area of approximately 200 acres east of Nordahl Rd. and until it is replaced no additional sewer connections will be approved in the service area.

Records show that you are the property owner of the above-numbered parcel (see **Exhibit A** attached hereto). The District seeks to acquire permanent easement rights on your property located at 2175 Montiel Road, APN 228-360-43, in San Marcos, California for the Project. A copy of the legal descriptions of the easement and the easement document sought to be acquired are attached as **Exhibit B** to this letter.

Your representative, Ms. Rhea Williams, was previously contacted during the appraisal phase of this project and was offered an opportunity to meet with the VWD’s independent appraiser during the inspection of the property. The appraiser was informed that the appraisal could be done without an onsite meeting with you or your representative.

A market-value appraisal has now been completed. Based on that, and pursuant to California Government Code section 7267.2, the District hereby makes an offer of \$9,000.00 (“Purchase Price”) for the easement. The District had the easement appraised to determine the fair market value. The appraisal was conducted in accordance with commonly accepted appraisal standards and included consideration of the highest and best use of the land. The Purchase Price is the full amount established by the appraisal as the fair market value of the easement and the just compensation for such

acquisition. A written statement of, and a summary of the basis for, the amount established as the Purchase Price is set forth in the attached Appraisal as **Exhibit C**.

The fair market value of the easements:

- a. Is the full amount believed by the District to be just compensation for the easements to be acquired;
- b. Is not less than the approved appraisal of the fair market value of the easements;
- c. Disregards any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for the property which is to be acquired or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant; and
- d. Does not reflect any consideration of or allowance for any relocation assistance and payments or other benefits to which the owner may be entitled to receive under an agreement with the District.

In addition, pursuant to Government Code section 7267.2(a)(2), we have also enclosed an informational pamphlet explaining the eminent domain process (**Exhibit D**). The District has made no decision to exercise its powers of eminent domain and can do so only after it holds a hearing at which all affected property owners have had the opportunity to be heard. The District reserves the right to consider any environmental issues that may pertain to the property.

Pursuant to Code of Civil Procedure section 1263.025, you are entitled to reimbursement from the District for the reasonable costs, not to exceed \$5,000, for an independent appraisal, should you retain an appraiser. In order to receive this reimbursement, the independent appraisal can only be conducted by an appraiser licensed by the Office of Real Estate Appraisers.

It is the District's hope that this offer is acceptable and we can proceed with the purchase of the easement. However, if you are not satisfied with the District's offer of just compensation, you will be given reasonable opportunity to present relevant material, which the District will carefully consider. A response to this offer would be appreciated by **August 25, 2022**.

I have attached the following documents for your review and/or approval:

1. One copy of an Assessor's Parcel Map, site plan showing your parcel. Exhibit A
2. One original and one copy of an Easement which includes the legal description and plat of the easement area, by which you would convey this property interest to VWD. Exhibit B
3. One copy of the Appraisal which is the basis of the amount established as Just Compensation for your information. Exhibit C
4. One original and one copy of the Easement Purchase and Sale Agreement, which establishes terms and conditions primarily related to the payment of compensation for the easement.
5. One copy of a brochure entitled Property Owner's Information Pamphlet on Use of Eminent Domain in California. Exhibit D

July 27, 2022

Page 3

However, please note that it is our desire to reach a settlement without the use of eminent domain. The pamphlet is being provided for information purposes.

6. Request for Taxpayer Identification Number and Certification (W-9).
7. Withholding Exemption Certificate (Form 590).

If you have any question regarding this offer, please contact me at 858-270-7010 or email me at Jeff.Sykes@NV5.com.

Sincerely,

A handwritten signature in black ink that reads "Jeff Sykes" with a horizontal line extending to the right.

Jeff Sykes
NV5
Land Manager

Enclosures

EXHIBIT A

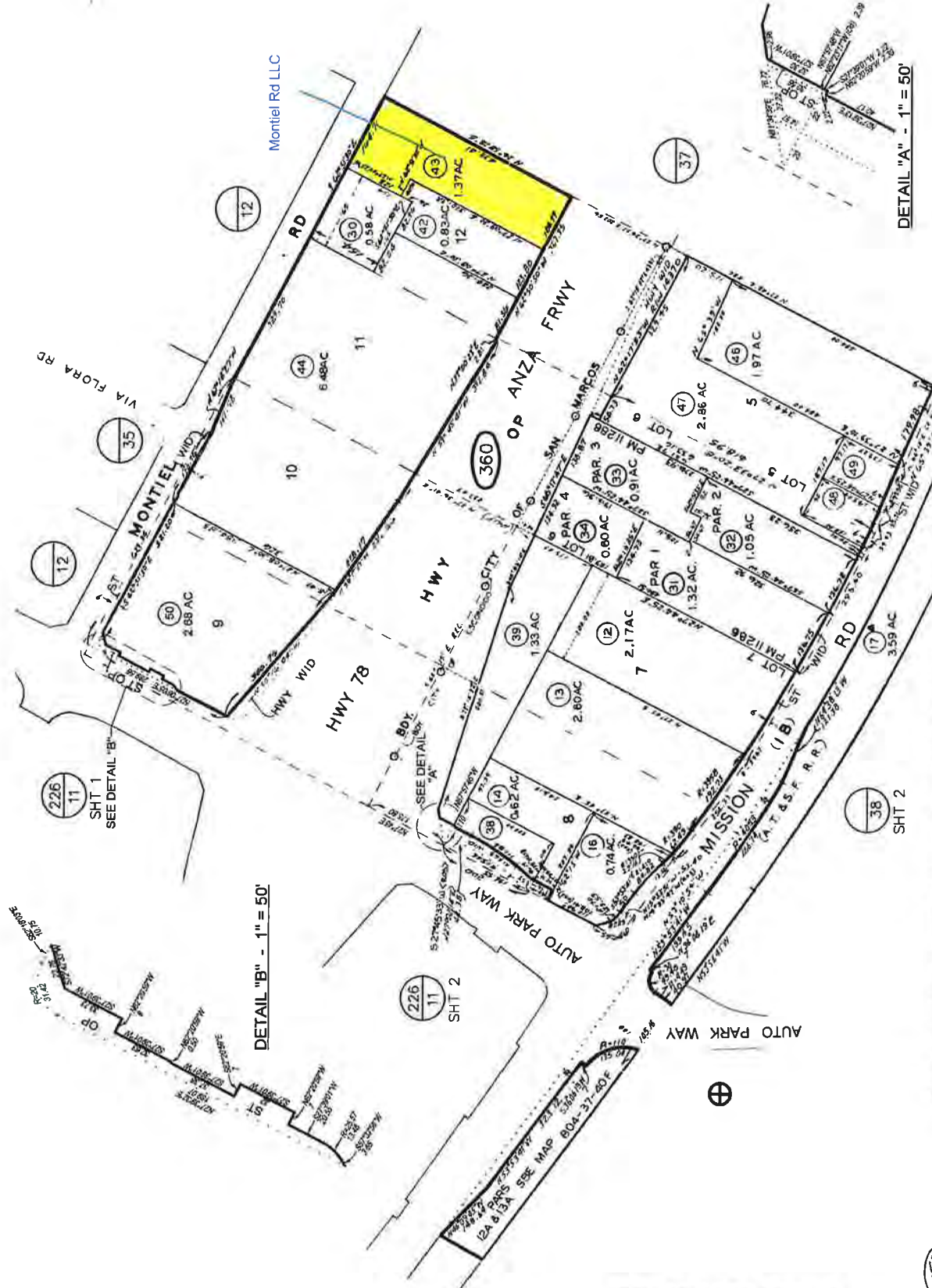


228-36



02/13/12 DEP

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THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

MAP 806 - RANCHO LOS VALLECITOS DE SAN MARCOS
FOR BLK 7
ROS 4803, 9747, 9981, 10980, 11639, 15957

SAN DIEGO COUNTY
ASSESSOR'S MAP
BOOK 228 PAGE 36

Recording requested by, and
when recorded, return to:

Vallecitos Water District
201 Vallecitos de Oro
San Marcos, CA 92069

APN: 228-360-43

(Space above for Recorder's Use)
Document Transfer Tax: None

**VALLECITOS WATER DISTRICT
GRANT OF RIGHT-OF-WAY**

MONTIEL RD., LLC, as Grantor, for and in consideration of the sum of One Dollar and other valuable consideration paid by **VALLECITOS WATER DISTRICT**, as Grantee, receipt of which is hereby acknowledged, does hereby grant to said Grantee, its successors and assigns, an easement of right-of-way, **10** feet in width upon, over, under and across the lands hereinafter described, to erect, construct, reconstruct, replace, repair, maintain and use sewer or water facilities, which may include, but not be limited to, a pump station, control house, storage shelter, back-up generator, SCADA antenna, pipeline or pipelines for any and all purposes, together with their necessary fixtures and appurtenances including but not limited to conduits and cables for power transmission and communication purposes specifically related to Grantee's facilities, at such locations and elevations, upon, along, over and under the hereinafter described right-of-way as Grantee may now or hereafter deem convenient and necessary from time to time, together with the right of ingress thereto and egress therefrom, to and along said right-of-way by a practical route or routes in, upon, over and across the hereinafter lands, together with the right to clear and keep clear said right-of-way from vehicles, vegetation, explosives, buildings and structures of any type.

The lands in which said easement of right-of-way is hereby granted are situated in the County of San Diego, State of California, and particularly described as follows:

A PORTION OF LOT 12 IN BLOCK 7 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895. BEING PARCEL 1 DESCRIBED IN GRANT DEED TO MONTIEL RD., LLC RECORDED MAY 21, 2018, AS DOC. NO. 2018-0204854, OFFICIAL RECORDS.

The **10** -foot-wide easement of right-of-way in the aforesaid lands is particularly described as follows: SEE **EXHIBIT "A"** ATTACHED.

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

A.P.N.: 228-360-43

AREA: 950 SQUARE FEET OR 0.022 ACRE, MORE OR LESS.

PLAT: SEE EXHIBIT "B" ATTACHED.

It is understood by the parties hereto that the Grantor and their successors and assigns:

Shall not grant any other easement on, under or over said easement of right-of-way without the prior written consent of Grantee.

Shall not erect or construct, or permit to be erected or constructed, any building or other structure, plant any tree or trees, or drill any well or wells, within the limits of said right-of-way.

Shall not increase or decrease, or permit to be increased or decreased, the proposed surface elevations of the above-described right-of-way, as shown on improvement plans titled Montiel Lift Station and Forcemain Replacement Project (VWD WO 217904), prepared by Michael Baker International, without the prior written consent of Grantee.

Shall not park vehicles of any kind within the easement in such a manner as to hinder full access and use of the easement by Grantee.

It is understood by the parties hereto that the Grantee and its successors and assigns:

Shall have the right to erect, maintain and use any gates in any fences which cross or shall hereafter cross said easement of right-of-way, and to trim and cut and clear away any trees and vegetation whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby conveyed.

Shall have the right to make any and all excavations and the right to alter the existing or proposed surface elevations within the easement right-of-way, now and in the future as may be deemed necessary and convenient. Grantee shall only be responsible for repair of improvements made necessary by the direct action of Grantee.

Shall not be responsible for maintenance or costs of maintenance of any improvements within the easement right of way, including all surface areas within the easement area, except those specific Grantee owned/maintained facilities within said easement, unless by separate agreement.

Shall have the right and privilege to spill water in natural channels which cross said lands adjacent to the easement right-of-way.

Shall have the right to transfer and assign this easement of right-of-way in whole or in part.

In Witness whereof, the Grantor executed these presents the _____ day of

_____, 20__.

"Grantor"

Company: MONTIEL RD. LLC

Name*: STEPHEN COLES

Title: MANAGING MEMBER

Signature †: _____

Date: _____

**CERTIFICATE OF ACCEPTANCE
VALLECITOS WATER DISTRICT**

This is to certify that the interest in real property conveyed by the deed or grant dated _____, from MONTIEL RD. LLC, to VALLECITOS WATER DISTRICT, a political corporation and/or a governmental agency, is hereby accepted by the undersigned officer of the Board of Directors of the VALLECITOS WATER DISTRICT pursuant to Resolution No. 1358, adopted on the 21st day of July, 2010, and the Grantee consents to the recording thereof by its duly authorized officer.

By: _____

Dated: _____

Glenn Pruijm, Secretary
Board of Directors
Vallecitos Water District
201 Vallecitos De Oro
San Marcos, CA 92069

* Name of Authorized Representative of Developer/Owner

† Acknowledgement of the signature(s) executing this Easement Document, by a Notary Public, is required. Attach acknowledgement to this page.

EXHIBIT 'A'
WATER / SEWER EASEMENT

A PORTION OF PARCEL 1 DESCRIBED IN GRANT DEED TO MONTIEL RD., LLC RECORDED MAY 21, 2018 AS DOC. NO. 2018-0204854, OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LAND; THENCE SOUTHWESTERLY ALONG THE EASTERLY LINE THEREOF SOUTH 26°58'28" WEST, 303.41 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING ALONG SAID EASTERLY LINE SOUTH 26°58'28" WEST, 95.00 FEET TO THE NORTHERLY LINE OF AN EXISTING 40' X 40' EASEMENT FOR THE MONTIEL LIFT STATION RECORDED NOVEMBER 28, 1984 AS DOC. NO. 84-444160, OFFICIAL RECORDS; THENCE LEAVING SAID EASTERLY LINE AND WESTERLY ALONG SAID NORTHERLY LINE NORTH 62°50'50" WEST 10.00 FEET TO THE INTERSECTION WITH A LINE THAT LIES 10.00 FEET WESTERLY OF AND PARALLEL WITH SAID EASTERLY LINE; THENCE LEAVING SAID NORTHERLY LINE OF EXISTING EASEMENT AND NORTHERLY ALONG SAID PARALLEL LINE NORTH 26°58'28" EAST 95.00 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 62°50'50" EAST 10.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINS: 950 SQUARE FEET OR 0.022 ACRE, MORE OR LESS.

SEE EXHIBIT B PLAT, ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



PAUL E. GOEBEL, PLS 8486 10/13/2021
MBI JN 176090
APN 228-360-43 MONTIEL RD. LLC

LEGEND



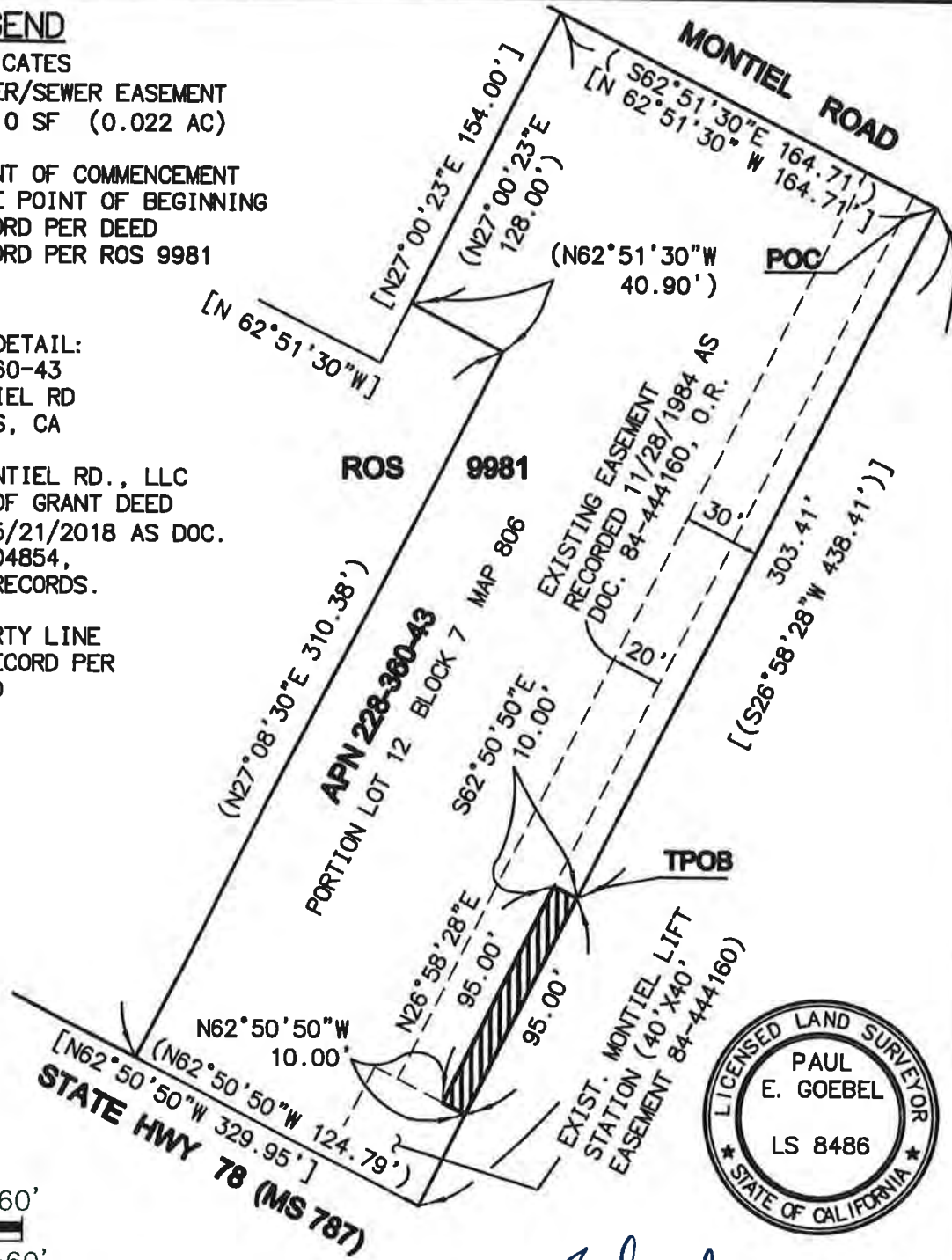
INDICATES
WATER/SEWER EASEMENT
950.0 SF (0.022 AC)

POC POINT OF COMMENCEMENT
TPOB TRUE POINT OF BEGINNING
() RECORD PER DEED
[] RECORD PER ROS 9981

NOTES:
PROPERTY DETAIL:
APN 228-360-43
2175 MONTIEL RD
SAN MARCOS, CA

OWNER: MONTIEL RD., LLC
PARCEL 1 OF GRANT DEED
RECORDED 5/21/2018 AS DOC.
NO. 2018-204854,
OFFICIAL RECORDS.

ALL PROPERTY LINE
DATA IS RECORD PER
GRANT DEED



SCALE: 1"=60'



Paul E. Goebel

8/2/2022

PAUL E. GOEBEL LS 8486 DATE

**EXHIBIT B - PLAT APN 228-360-43
PROPOSED WATER/SEWER EASEMENT EXHIBIT**

PORTION OF LOT 12, BLOCK 7, MAP 806 GRANTED TO MONTIEL RD
LLC BY DEED REC. 5/21/2018 AS DOC. NO. 2018-204854, O.R.
CITY OF SAN MARCOS
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

SHEET 1 OF 1 SHEET
Michael Baker International
9755 Clairemont Mesa Blvd.,
San Diego, CA 92124
(858)614-5000

DATE 10/13/2021 176090

APPRAISAL REPORT

**PROPOSED PERMANENT
EASEMENT RIGHTS PERTAINING TO
IMPROVED 1.37 ACRE SITE**

**2175 MONTIEL ROAD
SAN MARCOS, CA 92069**

CLIENT

Ryan Morgan, P.E.
Capital Facilities Senior Engineer
Vallecitos Water District
201 Vallecitos de Oro
San Marcos, California 92069

DATE OF VALUATION

June 7, 2022

DATE OF REPORT

June 22, 2022

APPRAISED BY

Anderson & Brabant, Inc.
353 West Ninth Avenue
Escondido, California 92025

File No. 22-049A

ANDERSON & BRABANT, INC.

REAL ESTATE APPRAISERS AND CONSULTANTS

353 W. NINTH AVENUE

ESCONDIDO, CALIFORNIA 92025-5032

TELEPHONE (760) 705-1615

June 22, 2022

Ryan Morgan, P.E.
Capital Facilities Senior Engineer
Vallecitos Water District
201 Vallecitos de Oro
San Marcos, California 92069

**RE: Appraisal of proposed permanent easement rights
1.37 acre parcel improved with commercial building
2175 Montiel Road
San Marcos, California 92069 (Assessor Parcel Number 228-360-43-00)**

Dear Mr. Morgan:

Per your request, we have conducted an appraisal pertaining to the above-referenced property located at 2175 Montiel Road, San Marcos, California. The site is improved with a commercial building. The specific purpose of this appraisal is to estimate the fair market value of a proposed permanent easement over a long and narrow, 950 square foot area at the southeast side of the larger parcel. The proposed property rights are intended to accommodate what is known as the Montiel (sewer) Lift Station and Force Main Replacement Project. As part of the analysis, we have also considered the potential for severance damages and benefits due to the acquisition and project.

The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice* (USPAP) and the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute. The current analysis is based on a valuation date of June 7, 2022.

Ryan Morgan, P.E.
 Vallecitos Water District
 June 22, 2022
 Page 2

In accordance with our analysis of applicable market data, we have arrived at the following opinions of fair market value related to the subject larger parcel and the property rights that are proposed to be acquired, as of the indicated valuation date.

| | | |
|---|-------------|-----------------------|
| Value of the Identified Larger Parcel (Land Only) | \$2,180,000 | |
| Value of the Part Taken as Part of the Whole | | |
| Permanent Easement Rights | \$8,669 | |
| Site Improvements | <u>\$0</u> | |
| Total | | \$8,669 |
| Value of the Remainder as Part of the Whole | \$2,171,331 | |
| Value of the Remainder before Considering Benefits | \$2,171,331 | |
| Severance Damages | <u>\$0</u> | |
| Value of the Remainder Considering Benefits | \$2,171,331 | |
| Benefits | <u>\$0</u> | |
| Net Severance Damages | | <u>\$0</u> |
| Total | | \$8,669 |
| Fair Market Value of Property Rights to be Acquired, Rounded up to | | <u>\$9,000</u> |

The opinions of value expressed herein are subject to certain assumptions and limiting conditions as set forth in the attached report.

Respectfully submitted,

ANDERSON & BRABANT, INC.



 David C. Ottley, MAI
 State Certification No. AG002149



 James Brabant, MAI
 State Certification No. AG002100

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ADDENDA

Aerial Photographs of the Market Data

Preliminary Title Report

Easement Exhibit (Proposed Subject Easement Highlighted in Green)

Qualifications of the Appraisers

EXECUTIVE SUMMARY

| | |
|--------------------------------|--|
| Larger Parcel Location: | 2175 Montiel Road San Marcos, California 92069 |
| Legal Description: | A Portion of Lot 12 in Block 7 of Rancho Los Vallecitos de San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806, filed in the Office of the County Recorder of San Diego County, December 21, 1895. |
| Owner of Record: | Montiel Road, LLC |
| Assessor Parcel No.: | 228-360-43-00 |
| Property Description: | The subject is comprised of a 1.37 acre (59,677 square foot) parcel of land improved with a commercial building. The project will require the acquisition of a permanent easement over a 950 square foot portion of the site. |
| Zoning: | SPA, Specific Plan Area City of San Marcos |
| General Plan: | SPA, Specific Plan Area City of San Marcos |
| Specific Plan: | Commercial, per Montiel Corporate Center Specific Plan City of San Marcos |
| Flood Zone: | According to FEMA Flood Insurance Rate Map (FIRM) No. 06073C0813G, dated May 16, 2012, the subject is within Zone X, an area determined to be outside of a flood hazard zone. |
| Earthquake Fault Zone: | No |
| Toxic Hazards: | None noted |
| Interests Appraised: | Fee and easement rights |
| Highest and Best Use: | Commercial development (as if vacant) |
| Date of Valuation: | June 7, 2022 |
| Date of Report: | June 22, 2022 |
| Special Assumptions: | (see page 3) |

EXECUTIVE SUMMARY (continued)

FAIR MARKET VALUE CONCLUSIONS:

| | | |
|---|-------------|-----------------------|
| Value of the Identified Larger Parcel | \$2,180,000 | |
| Value of the Part Taken as Part of the Whole | | |
| Permanent Easement Rights | \$8,669 | |
| Site Improvements | <u>\$0</u> | |
| Total | | \$8,669 |
| Value of the Remainder as Part of the Whole | \$2,171,331 | |
| Value of the Remainder before Considering Benefits | \$2,171,331 | |
| Severance Damages | <u>\$0</u> | |
| Value of the Remainder Considering Benefits | \$2,171,331 | |
| Benefits | <u>\$0</u> | |
| Net Severance Damages | | <u>\$0</u> |
| Total | | \$8,669 |
| Fair Market Value of Property Rights to be Acquired, Rounded up to | | <u>\$9,000</u> |

ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal is subject to the following special assumptions and limiting conditions:

1. It is assumed that the existence of significant cultural resources, if any, discovered within the subject parcel will not create any abnormal hardship nor measurably impact market value in conjunction with our determination of highest and best use.
2. The subject property is developed with a commercial building that, according to public records, was constructed in 1990. For purposes of this appraisal, we have estimated the value of the land segment of the property only as, in our opinion, the value of the remainder parcel will not be impaired as the result of the proposed project and acquisition. As such, the land component of the property is deemed to be the larger parcel in the valuation process.
3. We were provided with a preliminary title report relating to the subject property that was prepared by Corinthian Title Company. The report is dated October 21, 2021, and it can be identified by reference to Order No. 2013699SH. The document identifies several existing easements for utility and access purposes. A plat that illustrates the locations of all the easements except one was not furnished. For purposes of this appraisal, we have assumed that the easements for which the locations are unknown to the appraisers do not impact the value or use of the subject larger parcel in accordance with its estimated highest and best use.
4. The corners of the proposed acquisition parcel were not staked at the time of the property inspection, and the appraisers estimated the corner locations based on provided maps. It is an assumption of this report that the herein described physical features of the proposed acquisition parcel are reasonably accurate.

This appraisal is subject to the following general assumptions and limiting conditions:

1. It is assumed that information furnished to us by our client, including maps, and legal descriptions, is substantially correct.
2. No responsibility is assumed for matters legal in character, nor do we render an opinion as to title, which is assumed to be held in full fee interest, subject to all easements of record, as of the date of valuation unless otherwise specified.
3. It is assumed that the property is readily marketable, free of all liens and encumbrances except any specifically discussed herein, and under responsible ownership and management.
4. Photographs and maps furnished in this report and prepared by the appraiser or a third party are to assist the reader in visualizing the property. No surveys of the property have been made and no responsibility has been assumed in this matter.
5. It is assumed that there are no legitimate environmental or ecological reasons that would prevent the continued use of the property or orderly development of the land as though vacant to its highest and best use under economically feasible conditions.
6. For purposes of this appraisal, it is assumed that there are no hidden or unapparent conditions of the property such as hazardous or toxic wastes and/or other subsoil conditions, which would render it more or less valuable. No responsibility is assumed for such conditions or for engineering, which might be required to discover such factors.

7. We are not qualified to detect hazardous waste and/or toxic materials. Any comment by us that might suggest the possibility of the presence of such substances should not be taken as confirmation of the presence of hazardous waste and/or toxic materials. Such determination would require investigation by a qualified expert in the field of environmental assessment. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property.

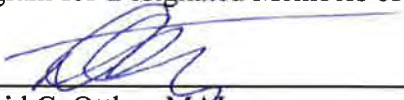
Our value estimates are predicated on the assumption that there is no such material on or in the property that would cause a loss in value unless otherwise stated in this report. No responsibility is assumed for any environmental conditions, or for any expertise or engineering knowledge required to discover them. Our descriptions and resulting comments are the result of the routine observations made during the appraisal process.

8. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may be used for any purpose or by any person other than the party to whom it is addressed without the written consent of Anderson and Brabant, Inc., and in any event, only with proper written qualification and only in its entirety.
9. Disclosure of the contents of this appraisal report is governed by the by-laws and regulations of the Appraisal Institute. Neither all nor any part of the contents of this report (especially reference to the Appraisal Institute or the MAI designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media, or any other public means of communication without prior written consent and approval of Anderson and Brabant, Inc.
10. The submission of this report constitutes completion of the services authorized. It is submitted on the condition that the client will provide the appraiser customary compensation relating to any subsequent required depositions, conferences, additional preparation or testimony.
11. The valuation estimate is of surface rights only and the mineral rights, if any, have been disregarded.
12. No warranty is made as to the seismic stability of the subject property.
13. It is assumed that all required licenses, or other legislative or administrative permits from any local, state, or national governmental or private entity or organization can be obtained for any use on which the value estimate contained in this report is based.

APPRAISER'S SIGNED CERTIFICATION

I do hereby certify that, to the best of my knowledge and belief ...

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, are my personal, impartial, and unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective future interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the property or parties involved with this assignment.
4. I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three (3) year period immediately preceding the agreement to perform this assignment.
5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. My compensation for completing this assignment is not contingent upon the developing or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice* and the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute.
8. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
9. I made a personal inspection of the property that is the subject of this report.
10. No one provided significant real property appraisal assistance to the persons signing this appraisal report.
11. As of June 22, 2022, the date of this report, I have completed the continuing education program for Designated Members of the Appraisal Institute.




David C. Ottley, MAI
Certified General Real Estate Appraiser
BREA Appraiser No. AG002149

APPRAISER'S SIGNED CERTIFICATION

I do hereby certify that, to the best of my knowledge and belief ...

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, are my personal, impartial, and unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective future interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the property or parties involved with this assignment.
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10. No one provided significant real property appraisal assistance to the persons signing this appraisal report.
11. As of June 22, 2022, the date of this report, I have completed the continuing education program for Designated Members of the Appraisal Institute.


James Brabant, MAI
Certified General Real Estate Appraiser
BREA Appraiser No. AG002100

INTRODUCTION

IDENTIFICATION OF THE LARGER PARCEL

The subject is comprised of a 1.37 acre parcel of land improved with a commercial building that, according to public records, was built in 1990. The property address is 2175 Montiel Road, San Marcos, California. The purpose of this appraisal is to estimate the fair market value of a proposed permanent easement over a portion of the larger parcel. It appears that the acquisition and project will not preclude the continued use of the property as now developed. As such, the larger parcel is deemed to be only the land component of the subject. Thus, we have disregarded the contributory value of the existing structural improvements in the valuation process.

Legal Description

The subject larger parcel is legally described in brief as *A Portion of Lot 12 in Block 7 of Rancho Los Vallecitos de San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806, filed in the Office of the County Recorder of San Diego County, December 21, 1895.* A complete legal description is also set forth in a preliminary title report that is included in the addenda to this report. Additionally, the larger parcel can be identified by reference to Assessor Parcel Number 228-360-43-00.

Ownership

As of the date of value, title to the subject property is held as follows: **MONTIEL ROAD, LLC.**

PURPOSE OF THE ASSIGNMENT

The purpose of this appraisal is to provide an estimate of fair market value for the defined subject larger parcel and to form an opinion as to the value of the easement interest that is proposed for acquisition. As part of the valuation process, we also considered severance damages or benefits, if any, resulting from the acquisition and construction of the project as proposed. As used in this report, **Fair Market Value** is defined as follows:

“(a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other will full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

(b) The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable”¹

¹ California Code of Civil Procedure, Title 7, Sec. 1263.320

EFFECTIVE DATE OF VALUE OPINIONS

The effective date of the value opinions expressed herein is June 7, 2022.

DATE OF REPORT

This date of the appraisal report is June 22, 2022.

INTENDED USE AND USER

The intended use of this report is to provide a basis for the client, Vallecitos Water District, to acquire the herein described easement rights. Any other party who may receive this report is not an intended user, and we are not responsible for unauthorized use of this report.

PROPERTY RIGHTS APPRAISED

We have estimated the fair market value of the fee interest in the herein described larger parcel, subject to any easements of record. The results were used as the basis for estimating the value of a proposed permanent easement over the parcel. An easement interest is defined as follows.

Easement: “The right to use another’s land for a stated purpose.”²

GENERAL DEFINITIONS

Larger Parcel: In governmental land acquisitions and in valuation of charitable donations of partial interests in property such as easements, the tract or tracts of land that are under the beneficial control of a single individual or entity and have the same, or an integrated, highest and best use. Elements for consideration by the appraiser in making a determination in this regard are contiguity, or proximity, as it bears on the highest and best use of the property, unity of ownership, and unity of highest and best use. In most states, unity of ownership, contiguity, and unity of use are the three conditions that establish the larger parcel for the consideration of severance damages. In federal and some state cases, however, contiguity is sometimes subordinated to unitary use.³

Remainder: In condemnation, that portion of a larger parcel remaining in the ownership of the property owner after a partial taking.⁴

Damages: In condemnation, the loss in value to the remainder in a partial taking of property.⁵

Benefits: In eminent domain valuation, the advantageous factors that arise from a public improvement for which private property has been taken.⁶

² *The Dictionary of Real Estate Appraisal*, 7th ed. (Chicago: Appraisal Institute, 2022), p. 58

³ *Ibid.*, p. 105

⁴ *Ibid.*, p. 161

⁵ *Ibid.*, p. 48

⁶ *Ibid.*, p. 17

EXTRAORDINARY ASSUMPTIONS

An extraordinary assumption is defined as an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraisers' opinions or conclusions. No extraordinary assumptions were considered in this analysis; nevertheless, this appraisal is subject to certain special and general assumptions as outlined on pages 3 and 4 of this report.

HYPOTHETICAL CONDITIONS

A hypothetical condition is defined as a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis. In our valuation of the larger parcel we have disregarded any project influence as stated below. We have also assumed that the proposed project has been completed in our analysis of the remainder. These are hypothetical conditions that are necessary for reasonable analysis. No other hypothetical conditions were considered in our analysis.

PROJECT INFLUENCE

Our conclusions of fair market value stated in this appraisal do not consider any project influence. The term **Project Influence** as used in this report is defined as follows:

The fair market value of the property taken shall not include any increase or decrease in the value of the property that is attributable to any of the following:

- (a) The project for which the property is taken;
- (b) The eminent domain proceeding in which the property is taken; or
- (c) Any preliminary actions of the plaintiff relating to the taking of the property.

SCOPE OF WORK

Critical elements to this appraisal assignment are the identification of the client(s), intended use and user(s), type and definition of value, the effective date of the appraisal, and assignment conditions. These were addressed previously in this report. Another important element is to include relevant characteristics pertaining to the subject property, which are outlined in detail in a later section of the appraisal.

In preparing this appraisal, the following steps were taken.

- Legal aspects of the subject property were investigated regarding their potential uses within the context of the surrounding area. As such, we reviewed portions of the City of San Marcos land use summaries and requirements.
- We have relied upon information and exhibits provided by the client that identify the property rights that are proposed for acquisition over the subject larger parcel. We also reviewed a preliminary title report, easement plat, and other documents.
- The property was inspected by the appraisers on multiple dates in June 2022, with Mr. Ottley taking photographs of the site on June 7, 2022.

- The three traditional approaches to value include the Cost, Sales Comparison, and Income Approaches. Of these three, only the Sales Comparison was considered to have specific applicability in the valuation of the subject property. Upon determination of highest and best use, reliable market data were analyzed on the basis of their overall degree of comparability to the appraised property.
- A detailed search of the primary market area of the subject was performed in order collect relevant sales. Sources of data included the County Recorder's office and various market data services. These data were confirmed with principals, their representatives, or agents.
- We first estimated the value of the defined larger parcel, and the results of the analysis were then employed to estimate the value of the property rights that are proposed for acquisition.
- The final step entailed the organization and drafting of the Appraisal Report.

REPORT OPTION

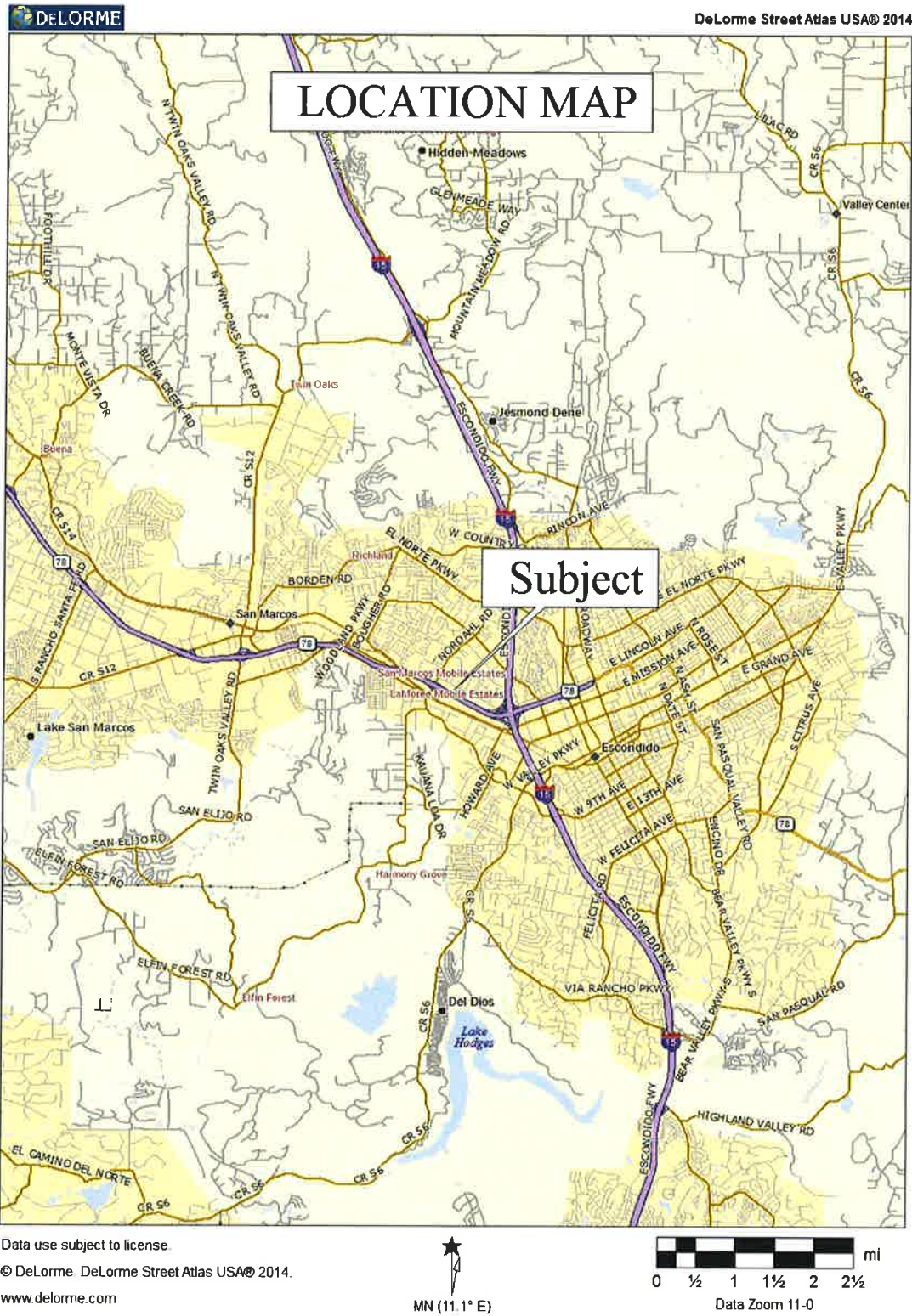
This is an Appraisal Report as defined by the Uniform Standards of Professional Appraisal Practice (USPAP). It presents summary discussions of the data, reasoning and analyses that were used in the appraisal process to develop the appraisers' opinions of value.

SALES HISTORY OF THE SUBJECT PROPERTY

According to public records, the subject property was has been held in title by the current ownership for more than 20 years. Also, the property is not currently offered for sale.

PRIOR APPRAISAL SERVICES

We have performed no services, as appraisers or in any other capacity, regarding the property that is the subject of this report within the three (3) year period immediately preceding the agreement to perform this assignment.



LOCATION DESCRIPTION

Region

The subject property is located in the City of San Marcos in North San Diego County, California. San Diego County is the second largest county in the State of California based on population which, as of January 1, 2022, was estimated by the California Department of Finance Demographic Research Unit at 3,387,306 persons. This reflects a slight decrease from the January 1, 2021 total of 3,388,503. The County includes the State's second most populous city and offers such geographic features as mountainous regions of the Cleveland National Forest, the Anza Borrego Desert, the International Border with Mexico, and over 50 miles of Pacific Ocean coastline. Most of the county's population is located along the coastal region, inland valleys, and foothills, within approximately 25 to 30 miles of the ocean.

On a regional basis, San Diego County is served by three major freeways. These include Interstate 5, a coastal route connecting San Diego with Baja California to the south and the states of California, Oregon, and Washington to the north; Interstate 8, a major east-west route connecting San Diego with Arizona and other southwestern states to the east; and Interstate 15, an inland route connecting San Diego with Riverside and San Bernardino Counties and other points to the northeast. There are several important local freeways that provide access within the region. These include Interstate 805 that runs inland from and parallel to Interstate 5; State Route 94, parallel to Interstate 8; State Route 163, connecting Interstate 15 with Downtown San Diego; and State Route 78, the major east-west freeway in northern San Diego County.

San Diego International Airport (Lindbergh Field) is located about 40 miles to the south of the subject and is close to Downtown San Diego. This airport is serviced by 18 commercial airlines and four scheduled air-freight services. There are an additional eight small public airports located throughout the county. There is little commercial air activity at these facilities. Rail service is provided by San Diego and Arizona Eastern Railroad, Santa Fe Railroad, and Amtrak. Industrial/commercial use of the rail lines for freight carriage has declined in San Diego over the past 15+ years. However, the Amtrak line between San Diego and Los Angeles is popular with commuters. The San Diego Trolley (light rail transit system) has opened several commuter routes in the southern and eastern portions of San Diego County that have proven very popular. Individual transit districts throughout the county provide local bus service.

An important factor needs to be addressed that has impacted national, state, and local economic conditions, at least over the short-term. The outbreak of the coronavirus in China in December 2019 and January 2020 spread as a worldwide pandemic and severely impacted the United States, including the State of California. The term "social distancing" became familiar to everyone, and the wearing of face covering masks became common. As a result of the pandemic, many industries were hit hard with some severely impacted including, among others, entertainment, travel, lodging, restaurants, and other types of retail businesses. Millions of employees in the country lost their jobs, much of which can be attributed to businesses being forced to close to comply with social distancing restrictions. The Federal Reserve stepped up in an attempt to offset the economic impact of the virus that began with an emergency half-percentage-point rate cut in early March 2020, and the government later approved stimulus bills into law aimed at relieving workers and businesses hurt by the pandemic. It is clear that the short-term impact of the virus on the economy has been very significant, yet there is little data on

how it will be impacted over time. It should be noted that the unemployment rate appears to be steadily improving over the past 12+ month period. As for real estate, there is limited empirical evidence of an immediate impact on the local market for vacant parcels with the subject characteristics, and it remains to be seen what the long-term impacts might be for that market.

More recently, there have been several other factors that have come into play that, although they may not have had an immediate impact, could affect the market in the future. These include a volatile stock market, high inflation rates, supply chain shortages, and a reduction in the labor market. Although incomes, in general, have increased over the past year or so, the increase has not kept pace with rising prices of real estate, fuel, and general goods and services. In an effort to curb inflation, which has been the highest in nearly 40 years, the Federal Reserve has raised interest rates twice since the beginning of 2022, with additional increases anticipated. The readers of this appraisal are cautioned and reminded that the value conclusions presented herein apply only as of the effective valuation date. The appraisers make no representation as to any impacts on the subject property that could result due to any unforeseen events subsequent to the date of value.

Community and Neighborhood

The City of San Marcos is located about 30 miles north of Downtown San Diego, 95 miles south of Los Angeles, and approximately ten miles inland from the Pacific coast. The City was incorporated in January 1963, and the corporate boundaries currently encompass an area of about 24 square miles, with an additional eight square miles of land area located within the city's sphere of influence. The City is situated along the State Highway 78 freeway corridor and is bordered by Escondido to the east, Vista to the north and west, Carlsbad to the south and west, and unincorporated areas of the county to the north and south. The population of the City as of January 2022 was 93,585, which represents a 0.7 percent increase from the reported population of 92,958 one year earlier.

Primary access to San Marcos is provided by State Highway 78 which is a major transportation corridor that extends in a general east/west direction between Escondido and Interstate 15 to the east and Oceanside and Interstate 5 to the west. This is one of the few major transportation corridors linking the coastal areas to inland North San Diego County. San Marcos can be accessed at various points along the highway including Nordahl Road, Barham Drive, Woodland Parkway, Twin Oaks Valley Road, San Marcos Boulevard, Las Posas Road, and Rancho Santa Fe Road. This network of roads provides access to the various neighborhoods and districts dispersed throughout the community. The most significant and intense shopping facilities in San Marcos are near State Highway 78 at San Marcos Boulevard and Las Posas Road toward the center of the City corporate limits, and at the far easterly extreme of the City off the north side of Highway 78 at Nordahl Road, the location of the subject property. Specifically, the subject is situated between Montiel Road on its northeast side and Highway 78 to the southwest. The area to the north is an older, established residential neighborhood, and a mix of primary and secondary commercial uses are on the subject side of Montiel Road along with some older residential uses. The Highway 78 and Nordahl Road interchange is within one-quarter mile to the west. At the northwest quadrant of that freeway interchange is the Nordahl Marketplace neighborhood shopping center that is anchored by Walmart and Kohl's. Costco is just to the west of the commercial center. The adjoining property to the immediate southeast of the subject is planned for development with a new hotel.

AERIAL PHOTOGRAPH OF THE SUBJECT LARGER PARCEL



SUBJECT PROPERTY PHOTOGRAPHS

(Taken By David C. Ottley, MAI on June 7, 2022)



Looking southwesterly over the subject larger parcel from the drive entrance to the site on the south side of Montiel Road.



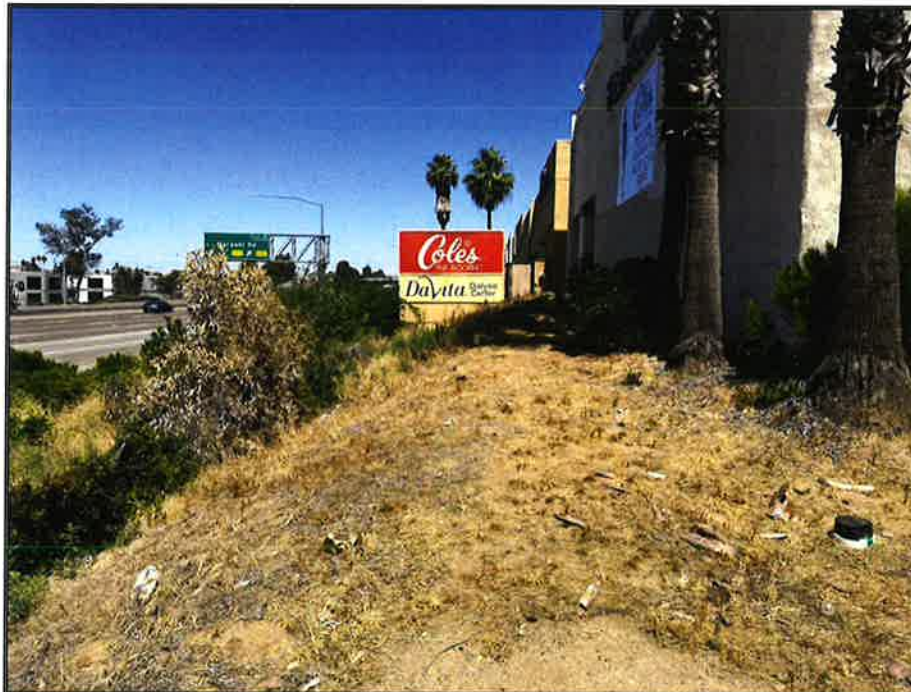
View to the southeast along Montiel Road with the subject larger parcel visible at the right.

SUBJECT PROPERTY PHOTOGRAPHS

(Taken By David C. Ottley, MAI on June 7, 2022)



Viewing southwesterly over the subject larger parcel from near the northeasterly property corner.



Looking northwesterly toward the southernmost side of the subject larger parcel from near the southeasterly property corner.

SUBJECT PROPERTY PHOTOGRAPHS

(Taken By David C. Ottley, MAI on June 7, 2022)



View to the northeast from the sewer lift station toward the location of the proposed easement.

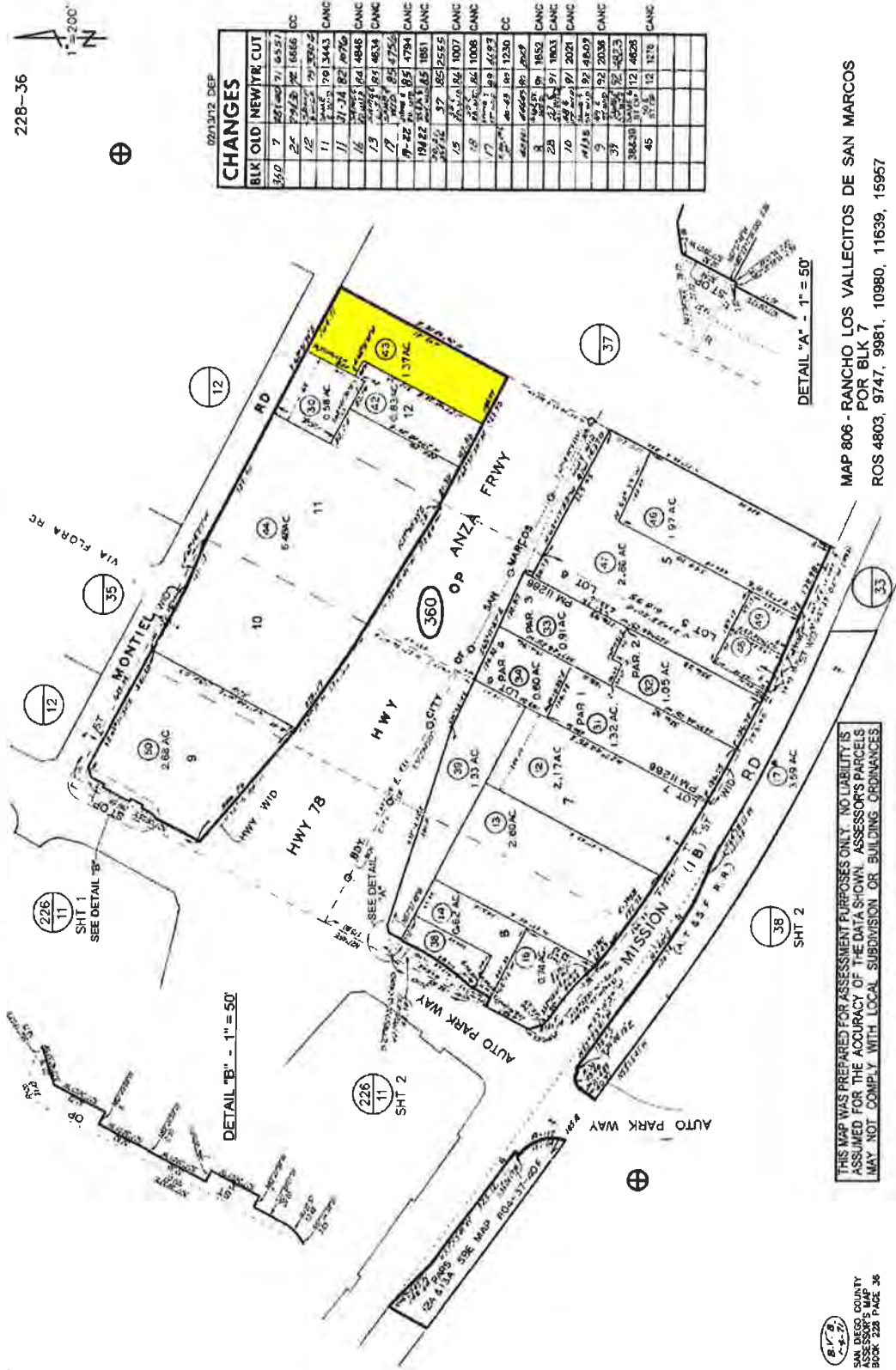


Looking northeasterly along the southeast side of the subject larger parcel and toward the location of the proposed easement parcel.

PLAT MAP - LARGER PARCEL

04
13

228-36



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

SAN DIEGO COUNTY
BOOK 228 P. 452, 36

DESCRIPTION OF THE LARGER PARCEL

LAND DESCRIPTION

Land Area/Shape

The subject larger parcel is 1.37 acres (59,677 square feet) in size, according to County of San Diego Assessor records. As can be seen on the plat on page 18, the site is slightly irregular in configuration.

Topography/Drainage

The subject larger parcel is mostly comprised of a level, finish graded site with slope banks on portions of the property perimeter. We did not detect any evidence of site drainage concerns.

Soils/Environmental Conditions

We were not furnished with any recently prepared studies relating to subsurface soil conditions associated with the subject property. As part of this appraisal analysis, we have assumed that soil conditions are adequate to allow legally permitted uses of the property in accordance with its estimated highest and best use.

Utilities

All public utilities are available to the subject larger parcel. These include water, sewer, electrical power, natural gas, and cable.

Streets

The appraised larger parcel directly fronts on the south side of Montiel Road, an asphalt paved, two lane public street with concrete curbing and sidewalks on the subject side of the street.

Land Use

The appraised larger parcel is zoned and designated (per the General Plan) SPA, Specific Plan Area, by the City of San Marcos. The site is within the Montiel Corporate Center Specific Plan and is set aside for commercial use.

Flood Zone

According to FEMA Flood Insurance Rate Map (FIRM) No. 06073C0813G dated May 16, 2012, the subject is within Zone X, an area determined to be outside of a flood hazard zone.

Earthquake Zone

The subject property is not within an Earthquake Fault Zone as designated by the California State Division of Mines and Geology. However, the property is located in an area that is prone to seismic events, a condition that it shares with other properties located in the general Southern California area.

Easements/Encumbrances

We were provided with a preliminary title report relating to the subject property that was prepared by Corinthian Title Company. The report is dated October 21, 2021, and it can be identified by reference to Order No. 2013699SH. The document identifies several existing easements for utility and access purposes. No plat was furnished that illustrates the locations of the easements except one near the southeast boundary of the larger parcel. As can be seen on the plat on page 21, the majority of that existing easement is 20 feet wide and set back 10 feet from the property line, and includes a 40 foot by 40 foot area at the far southerly corner of the lot. The easement is for utility purposes, including the use of the 40 foot by 40 foot area for a sewer lift station. No structures or trees are allowed within the boundaries of this easement. For purposes of this appraisal, we have assumed that the easements set forth in the title report for which the locations are unknown to the appraisers do not impact the value or use of the subject larger parcel in accordance with its estimated highest and best use.

DESCRIPTION OF THE IMPROVEMENTS

The subject is improved with a 15,878 square foot commercial building that, according to public records, was built in 1990. The improvements will not be impacted due to the acquisitions and project. As such, the larger parcel is deemed to be the land component of the subject property only. Thus, we have disregarded the contributory value of the existing structural improvements in the valuation process.

ASSESSMENT DATA

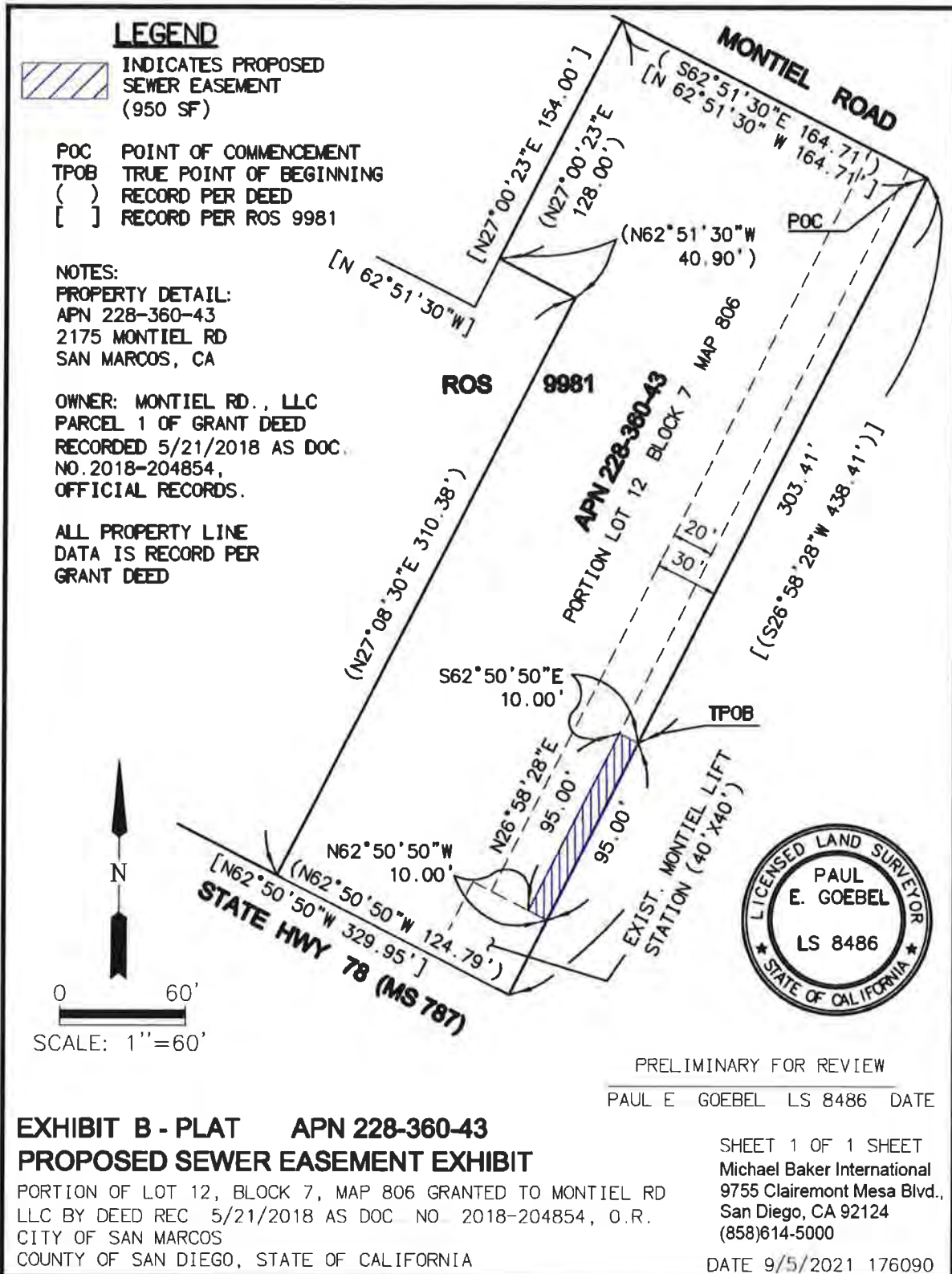
| Assessor Parcel No | Tax Rate Area | ASSESSED VALUES | | | 2021/2022 Taxes |
|-----------------------|------------------|-----------------|--------------|-------------|--------------------|
| | | Land | Improvements | Total | |
| 228-360-43-00 | 13106 | \$1,228,078 | \$928,222 | \$2,156,300 | \$24,254.88 |

PROJECT DESCRIPTION


The proposed property rights are intended to accommodate what is known as the Montiel (sewer) Lift Station and Force Main Replacement Project at the far southeast side of the subject site.

DESCRIPTION OF THE PARCEL TO BE ACQUIRED

The acquisition includes a proposed permanent easement for sewer and water lines and related improvements over a 10 foot by 95 foot strip of land covering 950 square feet at the southeast side of the larger parcel, as shown on the plat on page 21. The boundaries of the easement area were not marked, but it appears that at least a portion of the area to be encumbered is within a slope bank. As part of the analysis, we have considered the potential for severance damages and benefits due to the acquisition and project construction.



LEGEND

 INDICATES PROPOSED SEWER EASEMENT (950 SF)

POC POINT OF COMMENCEMENT
 TPOB TRUE POINT OF BEGINNING
 () RECORD PER DEED
 [] RECORD PER ROS 9981

NOTES:
 PROPERTY DETAIL:
 APN 228-360-43
 2175 MONTIEL RD
 SAN MARCOS, CA

OWNER: MONTIEL RD., LLC
 PARCEL 1 OF GRANT DEED
 RECORDED 5/21/2018 AS DOC. NO. 2018-204854,
 OFFICIAL RECORDS.

ALL PROPERTY LINE DATA IS RECORD PER GRANT DEED



0 60'
 SCALE: 1"=60'



PRELIMINARY FOR REVIEW

PAUL E GOEBEL LS 8486 DATE

**EXHIBIT B - PLAT APN 228-360-43
 PROPOSED SEWER EASEMENT EXHIBIT**

PORTION OF LOT 12, BLOCK 7, MAP 806 GRANTED TO MONTIEL RD LLC BY DEED REC 5/21/2018 AS DOC NO 2018-204854, O.R. CITY OF SAN MARCOS COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

SHEET 1 OF 1 SHEET
 Michael Baker International
 9755 Clairemont Mesa Blvd.,
 San Diego, CA 92124
 (858)614-5000

DATE 9/5/2021 176090

DESCRIPTION OF THE REMAINDER PARCEL

The gross area of the subject larger parcel will be unchanged as the result of the project and permanent acquisition. However, the fee owner will relinquish some rights of use over the area to be encumbered with the permanent easement.

OWNER CONTACT AND PROPERTY INSPECTION

On June 9, 2022, we contacted a representative of the property ownership by telephone regarding the need to conduct an appraisal. We were instructed by the party to specifically communicate with Ms. Rhea Williams regarding the proposed project. After leaving multiple messages, David Ottley of Anderson and Brabant, Inc. received a return call from Ms. Williams on June 21, 2022. The appraisal process was discussed at that time, and an invitation to meet with the appraisers onsite was extended. Ms. Williams was informed that the property had already been inspected by the appraisers on multiple dates in June 2022, and indicated that it was acceptable to move forward without being accompanied by a representative of the ownership. Please note that Mr. Ottley took photographs of the site on June 7, 2022.

VALUATION

HIGHEST AND BEST USE

Highest and Best Use is an important concept in real estate valuation as it represents the premise upon which value is based. Highest and Best Use is defined in *The Appraisal of Real Estate* as:

“The reasonably probable use of property that results in the highest value.”⁷

The concept of highest and best use addresses the question of legally permissible, physically possible, and financially feasible uses that reflect the degree of profitability. Uses that meet the three criteria of reasonably probable uses are tested for economic productivity, and the reasonably probable use with the highest value is the highest and best use.

The subject is improved with a commercial building that, according to public records, was built in 1990. The improvements will not be impacted due to the acquisitions and project. As such, the larger parcel is deemed to be the land component of the subject property only.

Legally Permissible: The appraised larger parcel is zoned and designated (per the General Plan) SPA, Specific Plan Area, by the City of San Marcos. The site is within the Montiel Corporate Center Specific Plan and is set aside for commercial use.

Physically Possible: The subject larger parcel is comprised of a mostly level, finish graded, 1.37 acre parcel of land that is slightly irregular in configuration. All public utilities are immediately available and connected to the parcel, and it fronts on an improved public roadway. Development of the site as if vacant is not limited to any notable degree by its physical features.

Financially Feasible: The issue of economic viability primarily focuses on supply and demand characteristics of the local marketplace as it relates to land suitable for commercial development. In general, any proposed use that supports a positive land value is considered financially feasible. We have determined that development of the subject (as if vacant) with a commercial use represents the most financially feasible use of the land.

Conclusion: In accordance with the observed characteristics of the subject, it is our opinion that the highest and best use of the property as if vacant is a commercial venture that aligns with the underlying land use criteria and existing development in the immediate area. Also, the existing commercial building improvements are substantial and clearly contribute to the overall value of the property. Thus, it is our opinion that the existing development represents the current highest and best use of the property, as improved.

VALUATION METHODOLOGY

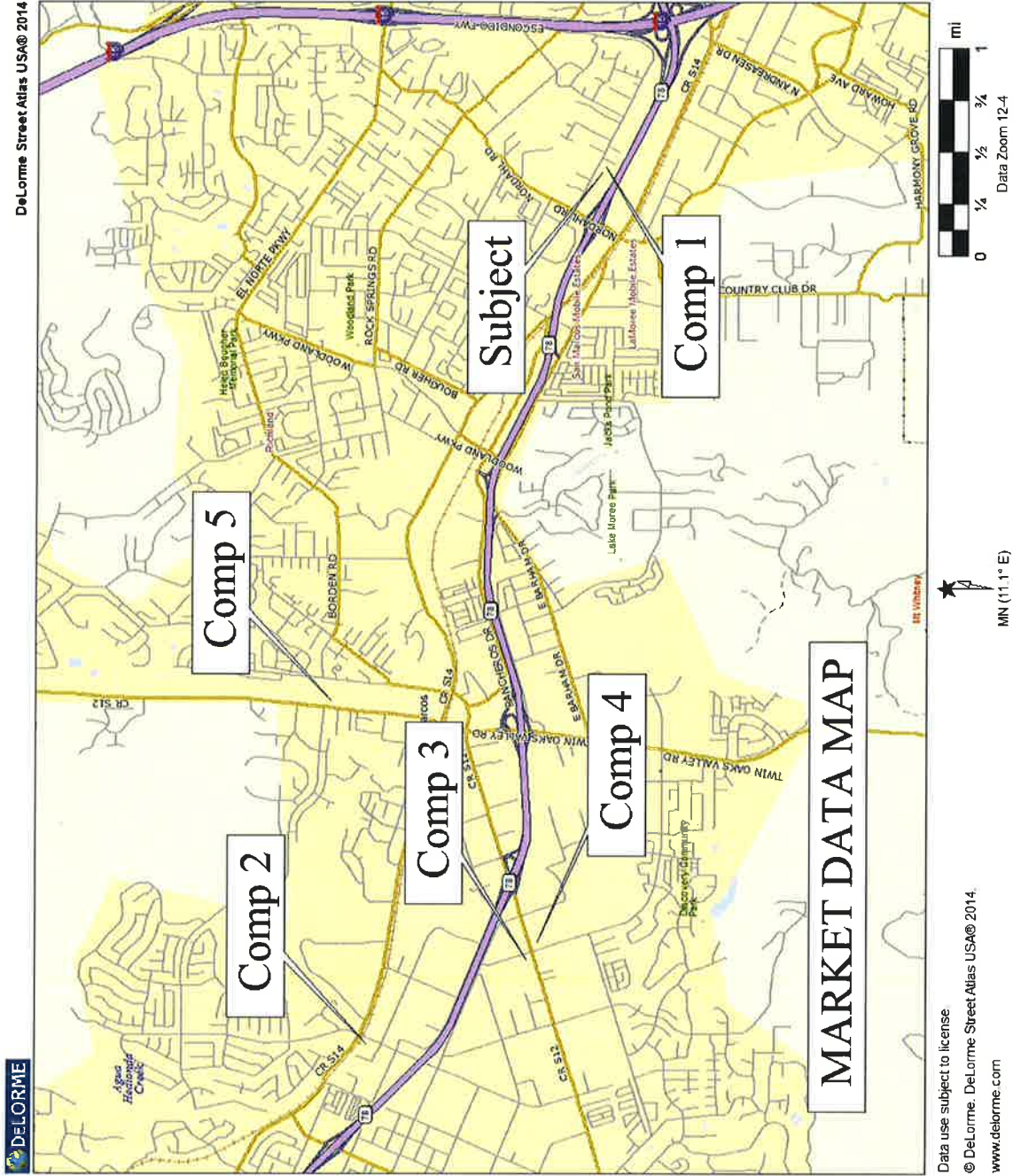
Of the three common valuation techniques, only the Sales Comparison Approach was considered to be pertinent in the analysis of the defined subject larger parcel. Neither the Cost Approach nor Income Approach was considered applicable or useful in the valuation process. The Sales Comparison Approach relies on the concept that a prudent purchaser would pay no more to buy a property than it would cost to acquire a comparable substitute. Sales of similar

⁷ *The Appraisal of Real Estate*, 15th ed. (Chicago: Appraisal Institute, 2020), p. 305

properties are analyzed based on direct comparison with the subject to arrive at an indication of value. The results of the analysis were then employed to estimate the values of the property rights that are proposed for acquisition.

SALES COMPARISON APPROACH – LARGER PARCEL

After carefully investigating the marketplace, we selected five items of market data for purposes of analysis. The sales occurred between May 2019 and April 2022, and they are considered to be the best available data to properly analyze the value of the subject larger parcel by the Sales Comparison Approach. The five selected items of data are summarized on a grid on page 26, and a data location map is on page 25. The summary of market data is followed by a discussion of the comparables and a grid that illustrates the adjustments made for relative differences between the subject and those properties. The unit of comparison is the price per square foot of land area. Aerial photographs of the comparables are included in the addenda to this report.



| Summary of Market Data | | | | | |
|------------------------|--|---|---|---|---|
| Comp No | 1 | 2 | 3 | 4 | 5 |
| Location | 643-661 Leora Ln San Marcos | 200 N Las Posas Rd San Marcos | 1284 W San Marcos Blvd San Marcos | SEC W San Marcos Blvd & S Bent Ave San Marcos | SEC N Twin Oaks Valley Rd & Borden Rd San Marcos |
| APN's | 228-370-01 to 04 & 38 | 219-122-03 | 219-331-46 | 219-270-60 | 220-050-09 |
| Sale Date | Sep-21 | Apr-22 | Nov-19 | May-19 | Jul-19 |
| Doc No | 621100 | 166896 | 553069 | 198313 | 296107 |
| Buyer | San Marcos Hospitality LLC | San Marcos Realty LLC | Patriot San Marcos LLC | Pinter | M5 Twin Oaks LLC |
| Seller | JR Legacy II LLC | Schreiber Trust | LND LLC | Berger Family Trust | The Namou Group LLC |
| Land Area (SF) | 72,343 | 71,874 | 37,026 | 23,958 | 88,862 |
| Zone | SPA City of San Marcos | C City of San Marcos | C City of San Marcos | C City of San Marcos | C City of San Marcos |
| General Plan | SPA (Commercial) City of San Marcos | C City of San Marcos | C City of San Marcos | C City of San Marcos | C City of San Marcos |
| Topography | Level to gently sloping | Level | Level | Level | Level to gently sloping |
| Access | Paved street frontage | Paved street frontage | Paved street frontage | Paved street frontage | Paved street frontage |
| Utilities | All available | All available | All available | All available | All available |
| Improvements | None | None | None | None | None |
| Sale Price | \$2,400,000 | \$1,900,000 | \$1,500,000 | \$1,100,000 | \$1,700,000 |
| Sale Terms | All cash to seller | All cash to seller | All cash to seller | All cash to seller | All cash to seller |
| Price/SF | \$33.18 | \$26.44 | \$40.51 | \$45.91 | \$19.13 |
| Comments | Conveyed with plans for hotel with conditions of approval requiring undergrounding of utilities. | Separated from corner of signalized intersection by railway. Mixed-use designated site planned for development with convenience store, gas station, and car wash. | Corner of signalized intersection. Since developed with commercial use. | Corner of signalized intersection. Purchased by investor with plans for a ground lease or build-to-suit project to a national tenant. | Corner of signalized intersection. Entirely within 100 year floodplain. The site conveyed from the City of San Marcos for \$1,217,000 and immediately spun off to another buyer for the indicated price of \$1,700,000. |

Discussion of the Data

Comparable No. 1 relates to the September 2021 purchase of the vacant parcel that adjoins the subject on its southeast side. This is a mostly gently sloping parcel encompassing 72,343 square feet (1.66 acres) at the corner of Montiel Road and Leora Lane, with an address of 643 to 661 Leora Lane. Sale 1 is a commercially zoned site that conveyed with plans for a new hotel, a use that would require the undergrounding of utilities as a condition of approval. The buyer intends to develop a hotel on the site, but is planning to use a different design and layout than what was previously approved. The property sold at a price of \$2,400,000 or \$33.18 per square foot of land area, all cash to the seller. When compared with the subject, Comparable No. 1 is inferior for site condition and for requiring the undergrounding of utilities prior to development.

Comparable No. 2 is the April 2022 sale of a level, 71,874 square foot (1.65 acre) parcel designated for mixed-use (commercial and residential) development located five+ miles to the northwest of the subject in San Marcos at 200 North Las Posas Road. A railway runs along the north side of the site, which is near Palomar Community College. The property is planned for development with a convenience store, gas station, and car wash. It conveyed at a price of \$1,900,000 or \$26.44 per square foot of land area, all cash to the seller. Sale 2 is inferior to the subject for location.

Comparable No. 3 is the November 2019 sale of a level, 37,026 square foot (0.85 acre) commercial parcel located less than four miles to the west of the subject in San Marcos at the northwest corner of West San Marcos Boulevard and Bent Avenue (address of 1284 West San Marcos Boulevard). This site is situated at the corner of a busy, signalized intersection. Since the purchase, the parcel has been improved with a commercial use. The sale price was \$1,500,000 or \$40.51 per square foot of land area, and the seller was cashed out in the transaction. When compared with the subject, Sale 1 is a smaller property that is superior for location and commercial exposure. We also applied an upward adjustment to reflect changes in market conditions between the sale date and the date of value.

Comparable No. 4 involves a 23,958 square foot (0.55 acre), level, commercial site situated on the corner opposite to Sale 3 in San Marcos. The parcel sold in May 2019 for \$1,100,000 or \$45.91 per square foot of land area, all cash to the seller. It was acquired by an investor with plans to lease the ground or for a build-to-suit project leased to a national tenant. By comparison with the subject, Sale 4 is a smaller site that is considered to be superior for location and commercial exposure. An upward adjustment was made for the 2019 sale date.

Comparable No. 5 is the July 2019 sale of a 88,862 (2.04 acre), level to gently sloping commercial site located in San Marcos at the southeast corner of the signalized intersection of North Twin Oaks Valley Road and Borden Road, less than three miles to the northwest of the appraised property. The parcel is entirely within a 100 year floodplain. It conveyed from the City of San Marcos for \$1,217,000, and was immediately resold to another buyer (Sale 5) for \$1,700,000 or \$19.13 per square foot, all cash to the seller. The intended use was not disclosed. When compared with the subject, Sale 5 is inferior for location and site condition.

Analysis of the Data and Conclusion of Value

The discussed market data have been analyzed based on our conclusion of highest and best use for the subject land, as if vacant. The elements of comparison that were considered in the Sales Comparison Analysis include property rights conveyed, financing terms, conditions of sale, market conditions, location, access, site condition (ie: topography, configuration, and usability), parcel size, land uses, and availability of public utilities. No adjustments were necessary for property rights conveyed or conditions of sale. Financing was not a factor for any of the sales considered in this analysis as the sellers were cashed in all of the transactions. We found insufficient data to suggest price increases of significance within the approximate two year period preceding the date of value during which time Sales 1 and 2 occurred. However, based on various data sources, market prices were rising at a rate of at least three percent and as much as six percent annually between mid-2019 and mid-2020 when Comparables 3 through 5 conveyed. Adjustments were applied to the data to account for this factor. Regarding parcel size, smaller sites tend to attract a greater per square foot price than larger parcels that are otherwise similar. This is due, in part, to the greater number of potential buyers of those properties that have a lower overall cost. In this instance, it is noted that we found no support for quantifiable adjustments due to size differences between the subject (a 59,677 square foot site) and Sales 1, 2, and 5, which range in size from 71,874 and 88,862 square feet. Downward adjustments were applied to the other two items of data, which are smaller at 23,958 to 37,026 square feet in size.

The following is a summary of adjustments made to the comparables that reflect noted differences between those properties and the subject larger parcel.

| Land Sale Data Adjustment Grid | Comp No | 1 | 2 | 3 | 4 | 5 |
|--------------------------------|-----------------------|---------|---------|---------|---------|---------|
| | Price/SF | \$33.18 | \$26.44 | \$40.51 | \$45.91 | \$19.13 |
| | Property Rights | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| | Financing | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| | Conditions of Sale | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| | Market Conditions | 0.0% | 0.0% | 4.0% | 7.0% | 6.0% |
| | Net Adjustment | 0.0% | 0.0% | 4.0% | 7.0% | 6.0% |
| | Adjusted Value/SF | \$33.18 | \$26.44 | \$42.13 | \$49.13 | \$20.28 |
| | Location/Access | 0.0% | 15.0% | -15.0% | -15.0% | 25.0% |
| | Topo/Usability/Config | 5.0% | 0.0% | 0.0% | 0.0% | 50.0% |
| Parcel Size | 0.0% | 0.0% | -5.0% | -10.0% | 0.0% | |
| Land Use | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | |
| Utilities | 5.0% | 0.0% | 0.0% | 0.0% | 0.0% | |
| Net Adjustment | 10.0% | 15.0% | -20.0% | -25.0% | 75.0% | |
| Indicated Value/SF | \$36.49 | \$30.40 | \$33.71 | \$36.85 | \$35.49 | |

Prior to adjustments, the market data reflected unit prices ranging from \$19.13 to \$45.91 per square foot. After adjusting the data for relative differences, the properties support a value range for the subject larger parcel of \$30.40 to \$36.85 per square foot. The median indicated

value is \$35.49 per square foot. Greatest weight was placed on the value suggested by Sale 1, the adjoining parcel to the east. Based on our analysis of the data and considering the overall legal and physical attributes of the appraised property as well as the definition of value employed herein, it is our opinion that the fair market value of the 1.37 acre (59,677 square foot) larger parcel, as of June 7, 2022, is equal to **\$36.50 per square foot** of land area. When applied to the total site area, the result is a total value for the parcel (as if vacant) of **\$2,180,000** (59,677 square feet x \$36.50 per square foot = \$2,178,211, rounded up to \$2,180,000).

VALUATION OF THE PERMANENT EASEMENT RIGHTS TO BE ACQUIRED

As indicated previously, we first estimated the value of the larger parcel, and the result was then used as the basis for estimating the value of proposed permanent easement rights to accommodate what is known as the Montiel (sewer) Lift Station and Force Main Replacement Project at the far southeast side of the subject site. The acquisition includes a proposed permanent easement over a 10 foot by 95 foot strip of land covering 950 square feet area at the southeast side of the larger parcel, as shown on the plat on page 21.

We estimated the value of the subject larger parcel to be equal to \$36.50 per square foot. As illustrated on the plan on page 21, the proposed permanent easement will be sandwiched between the southeast property line and the southeast boundary of an already existing easement for utility purposes that is mostly 20 feet wide, and includes a 40 foot by 40 foot area at the far southerly corner of the lot used for a sewer lift station. The deed for the existing encumbrance states that the easement allows the construction and maintenance of “pipelines for any and all purposes”...“together with their necessary fixtures and appurtenances including but not limited to conduits and cables for power transmission and communication purposes, at such locations and elevations, upon, along, over and under the hereinafter described right of way...” The underlying fee owner is precluded from placing any structure, the planting of any trees, or drilling wells within that area. Inasmuch as the proposed 10 foot wide easement is isolated from the developable portion of the larger parcel by the existing 20 foot wide easement, it is our opinion that the area of the new easement is similarly impacted as it has limited practicality of use. With this in mind, we have determined that the value of the 950 square foot area to be encumbered by the proposed easement is equal to about 25 percent of the average per square foot value of the larger parcel before the new easement granting. Based on the preceding, we have concluded that the fair market value of the 950 square foot easement acquisition parcel is **\$8,669**. This is computed in the following manner: 950 square feet x \$36.50 per square foot x 25 percent = \$8,669.

Improvements

The area of the proposed easement parcel to be acquired is unimproved.

VALUATION OF THE REMAINDER PARCEL AS PART OF THE WHOLE

The value of the remainder parcel as part of the whole is equal to the value of the remainder before consideration of damages and benefits. This is simply a mathematical calculation in which the value of the permanent easement parcel to be acquired of \$8,669 is deducted from the value of the larger parcel in the before condition. Thus, the value of the remainder parcel as part of the whole is estimated as follows:

| | |
|--|--------------------|
| Value of the Identified Larger Parcel – Before Condition | \$2,180,000 |
| Value of the Permanent Easement Parcel to be Acquired | \$ 8,669 |
| Value of the Improvements Within the Easement Boundaries | <u>\$ 0</u> |
| Value of the Remainder as Part of the Whole | <u>\$2,171,331</u> |

VALUATION OF THE REMAINDER BEFORE CONSIDERATION OF BENEFITS

We next considered the impact on value to the remainder parcel resulting from the project and acquisition of the proposed permanent easement parcel. The value of the remainder parcel before consideration of benefits provides an indication of any loss in value, or damages, accruing to the remainder due to the acquisition or project construction. Damages might occur if the acquisitions resulted in diminished utility of the remainder parcel.

We first investigated if and/or how the project and permanent easement acquisition may impact development of the property during or subsequent to the project construction. Based on all known factors, it is our opinion that the acquisition and project will not affect the highest and best use of the remainder parcel in the after condition. We have also concluded that the value of the remainder parcel before consideration of benefits is equal to its value as part of the whole. Consequently, no damages accrue to the remainder.

VALUATION OF THE REMAINDER AFTER CONSIDERATION OF BENEFITS

Since no damages accrue to the remainder, benefits are not applicable and have not been estimated.

SUMMARY OF CONCLUSIONS

Per our analysis, we have concluded that the total fair market value relating to the rights to be acquired over the subject property, set forth as of June 7, 2022, is as follows:

| | | |
|---|-------------|-----------------------|
| Value of the Identified Larger Parcel (Land Only) | \$2,180,000 | |
| Value of the Part Taken as Part of the Whole | | |
| Permanent Easement Rights | \$8,669 | |
| Site Improvements | <u>\$0</u> | |
| Total | | \$8,669 |
| Value of the Remainder as Part of the Whole | \$2,171,331 | |
| Value of the Remainder before Considering Benefits | \$2,171,331 | |
| Severance Damages | <u>\$0</u> | |
| Value of the Remainder Considering Benefits | \$2,171,331 | |
| Benefits | <u>\$0</u> | |
| Net Severance Damages | | <u>\$0</u> |
| Total | | \$8,669 |
| Fair Market Value of Property Rights to be Acquired, Rounded up to | | <u>\$9,000</u> |

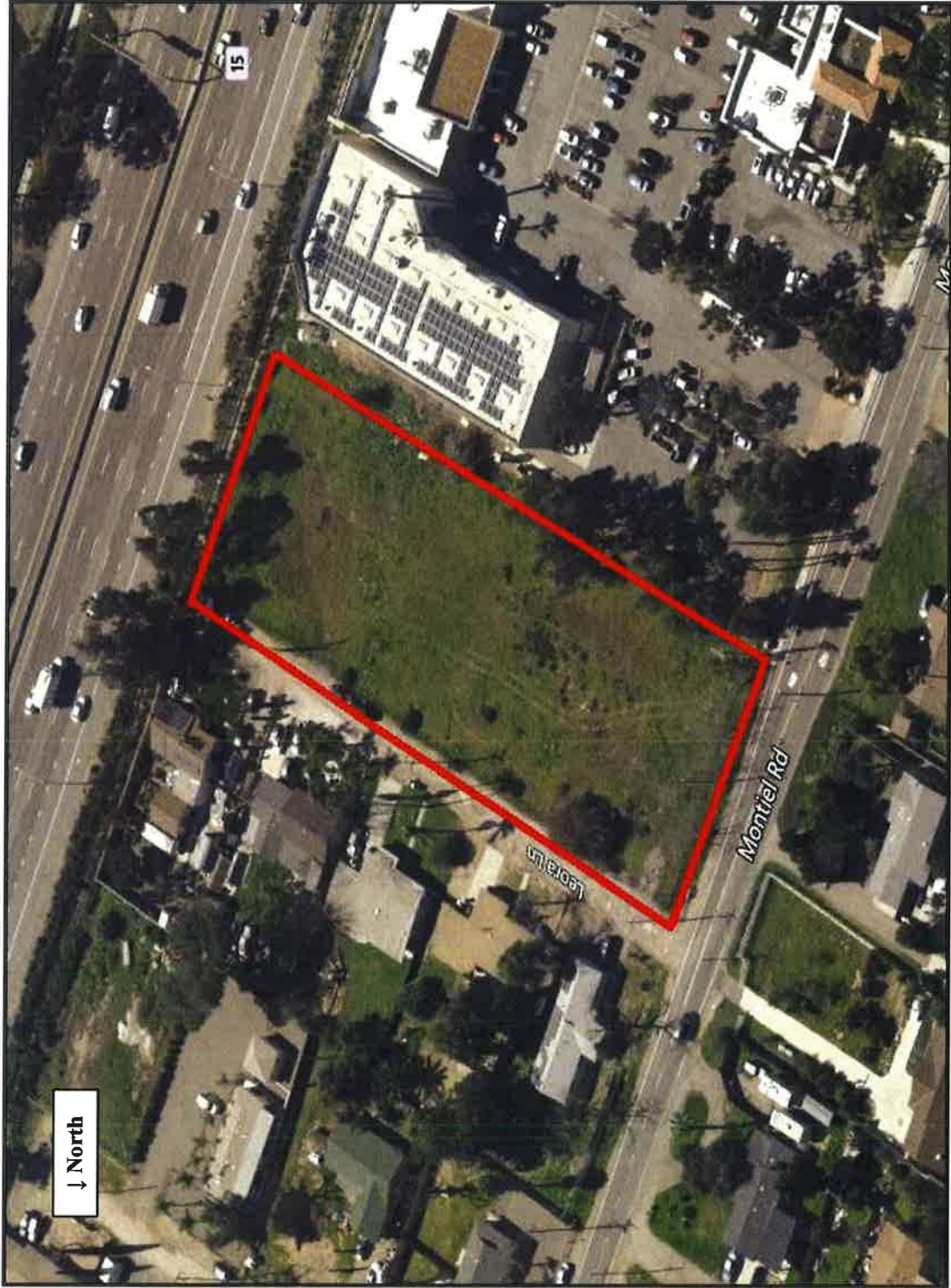
Addenda

**Aerial Photographs of the Market Data
Preliminary Title Report
Draft Deed with Legal Descriptions – Proposed Easement Parcels
Qualifications of the Appraisers**

2175 Montiel Road, San Marcos, CA

COMPARABLE NO. 1

643-661 Leora Lane, San Marcos



Anderson & Brabant, Inc.

2175 Montiel Road, San Marcos, CA

COMPARABLE NO. 2

200 North Las Posas Road, San Marcos

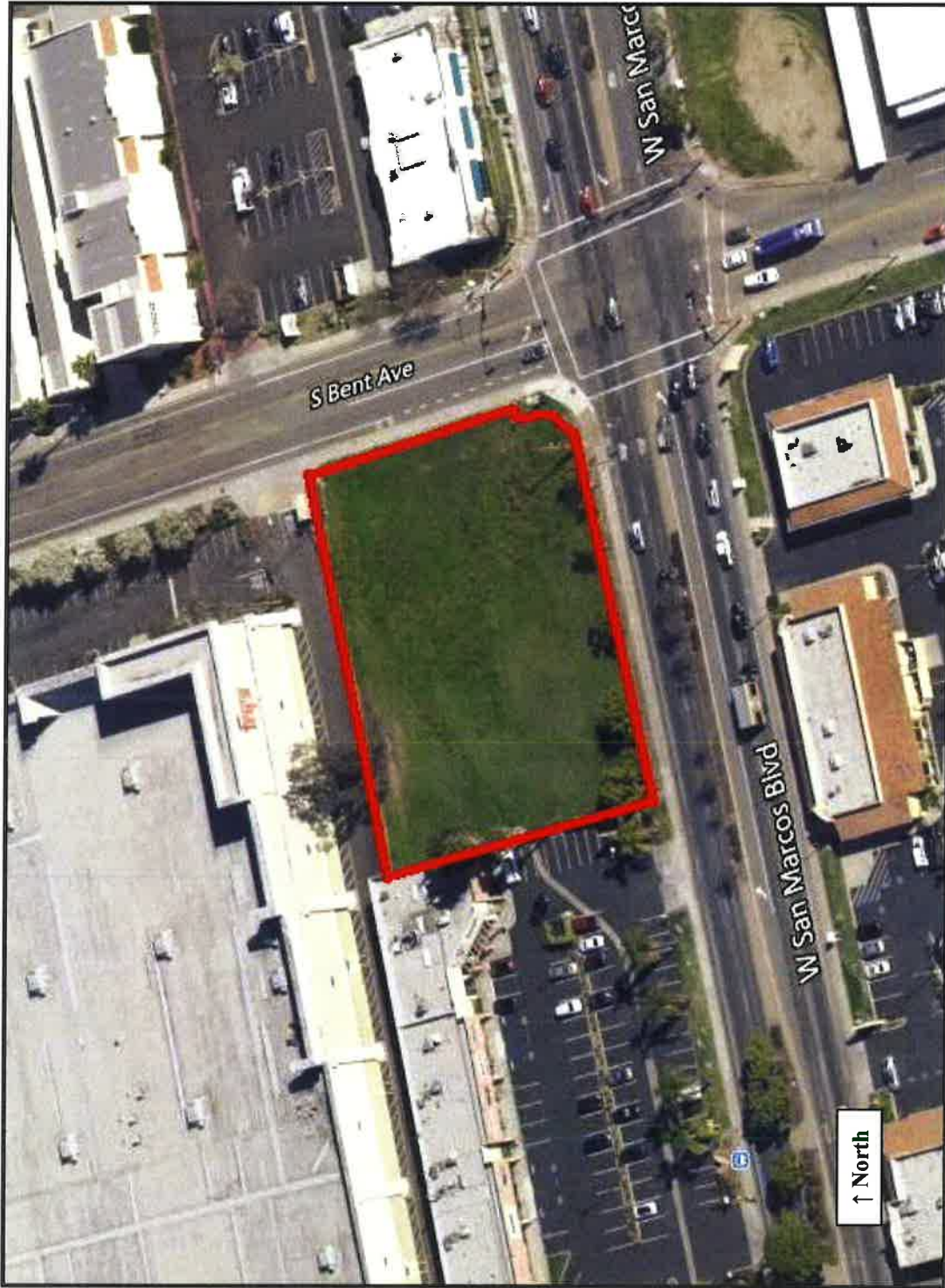


Anderson & Brabant, Inc.

2175 Montiel Road, San Marcos, CA

COMPARABLE NO. 3

1284 West San Marcos Boulevard, San Marcos



Anderson & Brabant, Inc.

2175 Montiel Road, San Marcos, CA

COMPARABLE NO. 4

Southeast corner of West San Marcos Boulevard and South Bent Avenue, San Marcos

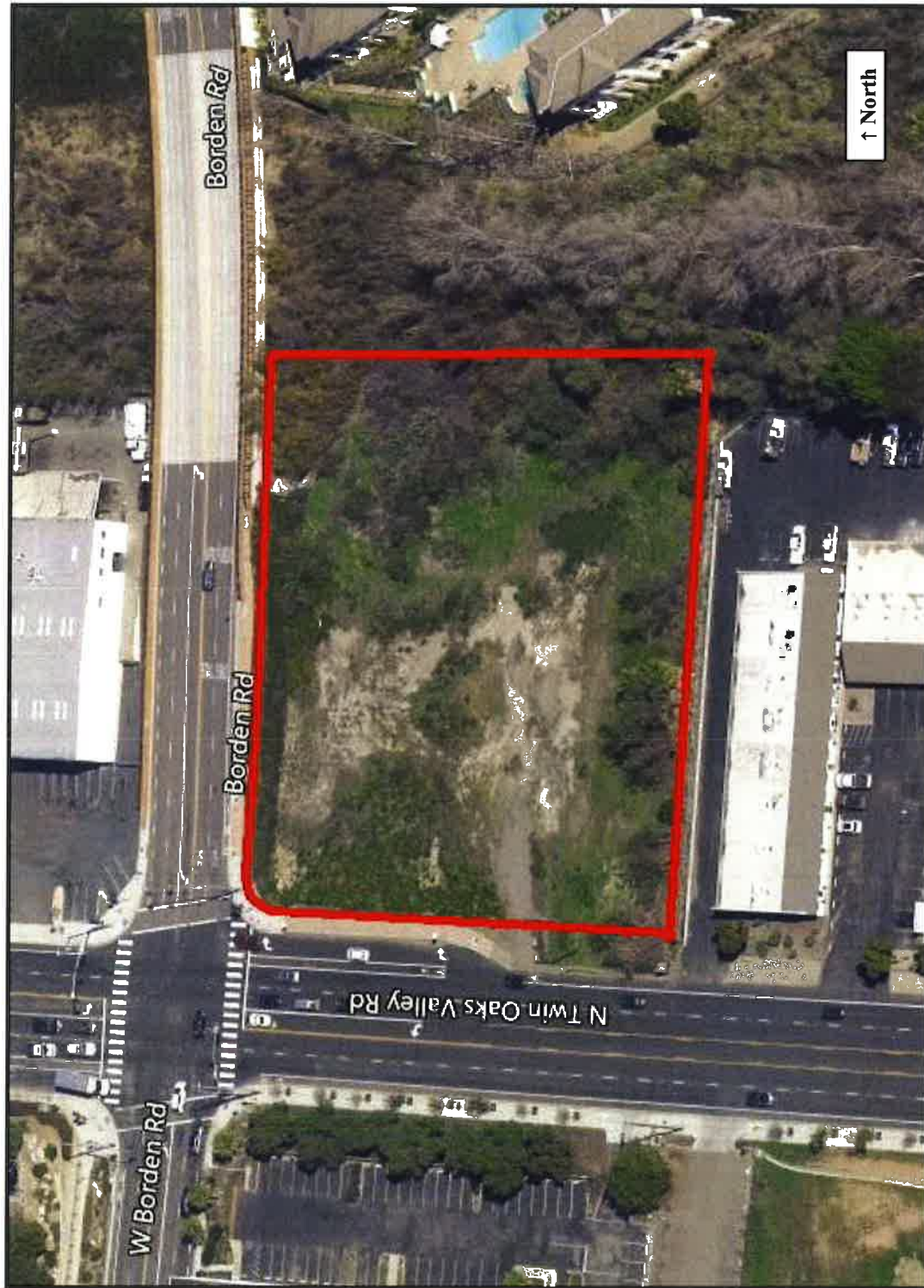


Anderson & Brabant, Inc.

2175 Montiel Road, San Marcos, CA

COMPARABLE NO. 5

Southeast corner of Twin Oaks Valley Road and Borden Road, San Marcos



Anderson & Brabant, Inc.



5030 Camino De La Siesta #100
San Diego, CA 92108 • (619) 299-4800
California Department of Insurance License No. 5128-4
as Agent for Westcor Land Title Insurance Company

ENGINEERING TECH II

ORDER NO.: 2013699-SH

ATTN: INGRID STICHTER

PROPERTY: 2175 MONTIEL ROAD, SAN MARCOS, CA
92069



PRELIMINARY REPORT

In response to the above referenced application for a Policy of Title Insurance, Corinthian Title Company, Inc. hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referenced to as an Exception on Schedule B or not excluded from coverage pursuant to the printed Schedules, Conditions, and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on covered Risks of said policy or policies are set forth in Exhibit A attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limits of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land

This report (and any supplements or amendments thereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a binder or commitment should be requested.

Dated as of October 21, 2021 at 7:30am

Title Officer: **Sheila Hollander**
Title Officer Phone: **619-299-4800**
Title Officer Fax: **619-923-3541**
Title Officer Email: **teamsheila@corinthiantitle.com**

Corinthian Title Company, Inc.

ORDER NUMBER: **2013699-SH**

BY *Larry Vinti*
Authorized Signatory

PRELIMINARY REPORT

The form of Policy of Title Insurance contemplated by this report is:

Preliminary Report

SCHEDULE A

The estate or interest in the land hereinafter described or referred to covered by this report is:

**A FEE as to Parcel 1;
AN EASEMENT more particularly described below as to Parcel 2**

Title to said estate or interest at the date hereof is vested in:

MONTIEL RD RD., LLC

EXHIBIT A
LEGAL DESCRIPTION

The land referred to herein below is situated in the County of SAN DIEGO, State of CALIFORNIA, and is described as follows:

PARCEL 1:

A PORTION OF LOT 12 IN BLOCK 7 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 12 AS SHOWN ON RECORD OF SURVEY 9981 RECORDED MARCH 28, 1985 AS FILE NO. 85-104337; THENCE ALONG THE EASTERLY LINE THEREOF SOUTH 26° 58' 28" WEST, 438.41 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY 78 AS SHOWN ON SAID RECORD OF SURVEY 9981; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE NORTH 62° 50' 50" WEST, 124.79 FEET; THENCE NORTH 27° 08' 30" EAST, 310.38 FEET; THENCE NORTH 62° 51' 30" WEST, 40.90 FEET; THENCE NORTH 27° 00' 23" EAST, 128.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF MONTIEL ROAD THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE 33.00 FEET DISTANT FROM AND PARALLEL WITH THE CENTERLINE OF SAID MONTIEL ROAD SOUTH 62° 51' 30" EAST, 164.71 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

AN EASEMENT AND RIGHT OF WAY FOR ROAD, SEWER, WATER, GAS, POWER AND TELEPHONE LINES AND APPURTENANCES THERETO OVER, UNDER, ALONG AND ACROSS THE SOUTHEASTERLY 10 FEET OF THE NORTHWEST 165.00 FEET OF THE NORTHEASTERLY 154.00 FEET OF SAID LOT 12.

Assessor's Parcel Number: **228-360-43-00**

SCHEDULE B

At the date hereof, exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy or policies would be as follows:

Taxes:

A. **General and Special City and/or County taxes**, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2021-2022:

| | |
|------------------|-------------------|
| 1st Installment: | \$12,127.44 OPEN |
| 2nd Installment: | \$12,127.44 OPEN |
| Land: | \$1,228,078.00 |
| Improvements: | \$928,222.00 |
| Exemption: | \$0.00 HOMEOWNERS |
| Code Area: | 13106 |

Assessment No.: 228-360-43-00

B. IF TAXES ARE POSTED PAID WITHIN 30 DAYS OF CLOSING, UNLESS PAID BY IMPOUND, PROOF OF CLEARED FUNDS WILL BE REQUIRED OR THE TAX AMOUNT PLUS ANY PENALTIES WILL BE HELD FOR 30 DAYS PAST THE POSTED DATE.

C. **The lien of supplemental taxes**, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California.

Exceptions:

1. **This transaction may be subject to the current FinCEN geographic Targeting Order** issued by the Director of FinCEN pursuant to 31 U.S.C. section 5326(a); 31 C.F.R. section 1010.3760; and Treasury Order 180-01. The policy issuing agent must be provided with certain information prior to closing pursuant to the GTO. This transaction will not be insured, and this issuing agent and/or its underwriter will not be involved in the closing and settlement until this information is reviewed by the issuing agent and submitted to FinCEN via the BSA E-Filing through the FinCEN e-file platform.

2. **Water rights, claims or title to water** in or under said land, whether or not shown by the public records.

3. **EASEMENTS AND RIGHTS OF WAY FOR ROAD AND PUBLIC UTILITIES, AND APPURTENANCES THERETO, AS RESERVED AND/OR CONVEYED BY VARIOUS DEEDS OF RECORD.**

AFFECTS: PARCEL 2

4. **Covenants, Conditions, and Restrictions** as set forth in instrument recorded August 17, 1893 IN BOOK 222, PAGE 216 OF DEEDS, but omitting any covenant, condition or restriction, if any, based on race, color, religion, sex, handicap, familial status, or national origin, sexual orientation, marital status, ancestry, disability or source of income unless and only to the extent that the covenant, condition or restriction (a) is exempt under Title 42 of the United States Code, or (b) relates to handicap, but does not discriminate against handicapped persons.

Note: Section 12956.1 of the Government Code provides the following: If this document contains any restrictions based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void. Any person holding an interest in this property may request that the county recorder remove the restrictive language pursuant to subdivision (c) of Section 12956.1 of the Government Code.

SCHEDULE B
(CONTINUED)

5. **An easement** for the purpose shown below and rights incidental thereto as set forth in a document to SAN DIEGO GAS AND ELECTRIC COMPANY as grantee, for the purpose of ACCESS AND UTILITIES, recorded January 28, 1947 IN BOOK 2330, PAGE 257 OF OFFICIAL RECORDS, affects A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT .
6. **The fact** that the ownership of said land does not include rights of access to or from a public street or highway abutting said land, such rights having been severed from said land by the document recorded January 15, 1960 AS INSTRUMENT NO. 1960-9055 OF OFFICIAL RECORDS, which affects HIGHWAY.
7. **An easement** for the purpose shown below and rights incidental thereto as set forth in a document to CHESTER W. SCHELTEMA ET AL as grantee, for the purpose of ACCESS AND UTILITIES, recorded March 12, 1969 AS INSTRUMENT NO. 1969-43030 OF OFFICIAL RECORDS, affects A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT .
8. **An easement** for the purpose shown below and rights incidental thereto as set forth in a document to CHESTER W. SCHELTEMA ET AL as grantee, for the purpose of ACCESS AND UTILITIES, recorded December 28, 1970 AS INSTRUMENT NO. 1970-237944 OF OFFICIAL RECORDS, affects A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT .
9. **The fact** that the ownership of said land does not include rights of access to or from a public street or highway abutting said land, such rights having been severed from said land by the document recorded March 29, 1971 AS INSTRUMENT NO. 1971-59310 OF OFFICIAL RECORDS, which affects HIGHWAY.
10. **An easement** for the purpose shown below and rights incidental thereto as set forth in a document to SAN MARCOS COUNTY WATER DISTRICT as grantee, for the purpose of PIPELINE(S) AND ACCESS AND INCIDENTAL PURPOSES , recorded November 28, 1984 AS INSTRUMENT NO. 1984-444160 OF OFFICIAL RECORDS, affects A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT .
11. **An easement** for the purpose shown below and rights incidental thereto as set forth in a document to SAN DIEGO GAS AND ELECTRIC COMPANY as grantee, for the purpose of ACCESS AND UTILITIES, recorded December 28, 1984 AS INSTRUMENT NO. 1984-483967 OF OFFICIAL RECORDS, affects A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT .
12. A NOTICE OF ASSESSMENT, EXECUTED BY CITY OF SAN MARCOS
Recorded: November 19, 1985 AS INSTRUMENT NO. 1985-437683 OF OFFICIAL RECORDS
13. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "HOLD HOLD HARMLESS", EXECUTED BY AND BETWEEN THE CITY OF SAN MARCOS AND DON ROGER NORMAN
Recorded: February 24, 1989 AS INSTRUMENT NO. 1989-095522 OF OFFICIAL RECORDS
14. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "COVENANT OF EASEMENT"
Recorded: March 23, 1989 AS INSTRUMENT NO. 1989-148512 OF OFFICIAL RECORDS
15. **An easement** for the purpose shown below and rights incidental thereto as set forth in a document to SAN DIEGO GAS AND ELECTRIC COMPANY as grantee, for the purpose of ACCESS AND UTILITIES, recorded May 12, 1989 AS INSTRUMENT NO. 1989-252480 OF OFFICIAL RECORDS, affects THE EXACT LOCATION OF THE EASEMENT IS NOT DISCLOSED OF RECORD .
16. **An easement** for the purpose shown below and rights incidental thereto as set forth in a document to DON ROGER NORMAN, AS TRUSTEE as grantee, for the purpose of ACCESS AND INCIDENTAL PURPOSES , recorded June 13, 1989 AS INSTRUMENT NO. 1989-311112 OF OFFICIAL RECORDS, affects A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT .

SCHEDULE B
(CONTINUED)

17. **An easement** for the purpose shown below and rights incidental thereto as set forth in a document to DON ROGER NORMAN, AS TRUSTEE as grantee, for the purpose of PRIVATE SEWER AND INCIDENTAL PURPOSES , recorded June 13, 1989 AS INSTRUMENT NO. 1989-311112 OF OFFICIAL RECORDS, affects A PORTION OF SAID LAND AS MORE PARTICULARLY DESCRIBED IN SAID DOCUMENT .
18. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "RECIPROCAL GRANT OF EASEMENTS AND DECLARATION ESTABLISHING REESTRICTIONS AND COVENANTS"
Recorded: November 22, 1989 AS INSTRUMENT NO. 1989-636347 OF OFFICIAL RECORDS
19. **An easement** for the purpose shown below and rights incidental thereto as set forth in a document to PACIFIC BELL, A CALIFORNIA CORPORATION as grantee, for the purpose of FACILITIES AND INCIDENTAL PURPOSES , recorded September 12, 1990 AS INSTRUMENT NO. 1990-497562 OF OFFICIAL RECORDS, affects THE EXACT LOCATION OF THE EASEMENT IS NOT DISCLOSED OF RECORD .
20. THE FACT THAT THE LAND LIES WITHIN THE BOUNDARIES OF THE SAN MARCOS REDEVELOPMENT PROJECT ARE NO. 1, AS DISCLOSED BY VARIOUS DOCUMENTS OF RECORD.
21. THE FACT THAT THE LAND LIES WITHIN THE BOUNDARIES OF THE SAN MARCOS REDEVELOPMENT PROJECT AREA NO. 3, AS DISCLOSED BY VARIOUS DOCUMENTS OF RECORD.
22. **Rights of parties in possession.**
23. **Rights of tenants** in possession of said land by reason of unrecorded leases. Kindly forward said lease, or a current certified tenant rent roll.
24. **A deed of trust** to secure an indebtedness in the amount shown below, and any other obligations secured thereby
- | | |
|--------------|--|
| Amount: | \$1,400,000.00 |
| Dated: | 04/28/2014 |
| Trustor: | STEPHEN M. COLES, TRUSTEE OF THE STEPHEN M. COLES SEPARATE PROPERTY TRUST, WHO ACQUIRED TITLE AS STEPHEN M. COLES, TRUSTEE OF THE STEPHEN M. COLES SEPARATE PROPERTY TRUST DATED APRIL 17, 2014, FOR THE BENEFIT OF STEPHEN M. COLES |
| Trustee: | AMERICAN SECURITIES COMPANY, A CORPORATION |
| Beneficiary: | WELLS FARGO BANK, NATIONAL ASSOCIATION |
| Recorded: | <u>April 30, 2014 AS INSTRUMENT NO. 2014-0173923 OF OFFICIAL RECORDS</u> |
| Loan No.: | NOT SET OUT |
- ASSIGNMENT AND ASSUMPTION OF DEED OF TRUST**
Recorded: February 02, 2021 AS INSTRUMENT NO. 2021-0078706 OF OFFICIAL RECORDS
25. If Title is currently in a Trust, has been in a prior Trust, or their act is to be insured into the Trust, this Company will require a copy of a current notarized Trust Certification.

NOTE: If one or more of the trustees have changed due to incapacitation or death, then an additional requirement for a FULL COPY of the Trust along with any amendments to the trust be provided for review prior to the close of Escrow.

Name of the applicable Trust: STEPHEN M. COLES SEPARATE PROPERTY TRUST DATED APRIL 17, 2014

SCHEDULE B
(CONTINUED)

26. **We will require a Statement of Information** from the parties named below in order to complete this report, based on the effect of documents, proceedings, liens, decrees, or other matter which do not specifically describe said land, but which, if any do exist, may affect the title or impose liens or encumbrances thereon.

Parties: STEPHEN C. COLES

(Note: The Statement of Information is necessary to complete the search and examination of title under this order. Any title search includes matters that are indexed by name only, and having a completed Statement of Information assists the Company in the elimination of certain matters which appear to involve the parties but in fact another party with the same or similar name. Be assured that the Statement of Information is essential and will be kept strictly confidential to this file).

FAILURE TO PROVIDE THE STATEMENT(S) OF INFORMATION IN A TIMELY MANNER MAY DELAY THE CLOSING OF THIS TRANSACTION.

27. **Prior to the issuance of any policy of title insurance**, the Company will require the following with respect to MONTIEL RD RD., LLC :

(1) A copy of its operating agreement and any amendments thereto must be submitted to the Company for review.

(2) A certified copy of its articles of organization (LLC-1), any certificate of correction (LLC-11), certificate of amendment (LLC-2), or restatement of articles of organization (LLC-10) must be submitted to the Company for review.

(3) With respect to any deed, deed of trust, lease, subordination agreement or other document or instrument executed by such limited liability company and presented to the Company for recording or upon which the Company is asked to rely, such document or instrument must be executed in accordance with the following:

If the limited liability company properly operates through a manager or managers identified in the articles of organization and/or duly elected pursuant to the terms of a written operating agreement, such document or instrument must be executed by at least two such managers or by one manager if the limited liability company properly operates with the existence of only one manager.

(4) Other requirements which the Company may impose following its review of the material required herein and other information which the Company may require.

28. **We will require a Statement of Information** from the parties named below in order to complete this report, based on the effect of documents, proceedings, liens, decrees, or other matter which do not specifically describe said land, but which, if any do exist, may affect the title or impose liens or encumbrances thereon.

Parties: BUYERS

(Note: The Statement of Information is necessary to complete the search and examination of title under this order. Any title search includes matters that are indexed by name only, and having a completed Statement of Information assists the Company in the elimination of certain matters which appear to involve the parties but in fact another party with the same or similar name. Be assured that the Statement of Information is essential and will be kept strictly confidential to this file).

FAILURE TO PROVIDE THE STATEMENT(S) OF INFORMATION IN A TIMELY MANNER MAY DELAY THE CLOSING OF THIS TRANSACTION.

SCHEDULE B
(CONTINUED)

END OF EXCEPTIONS

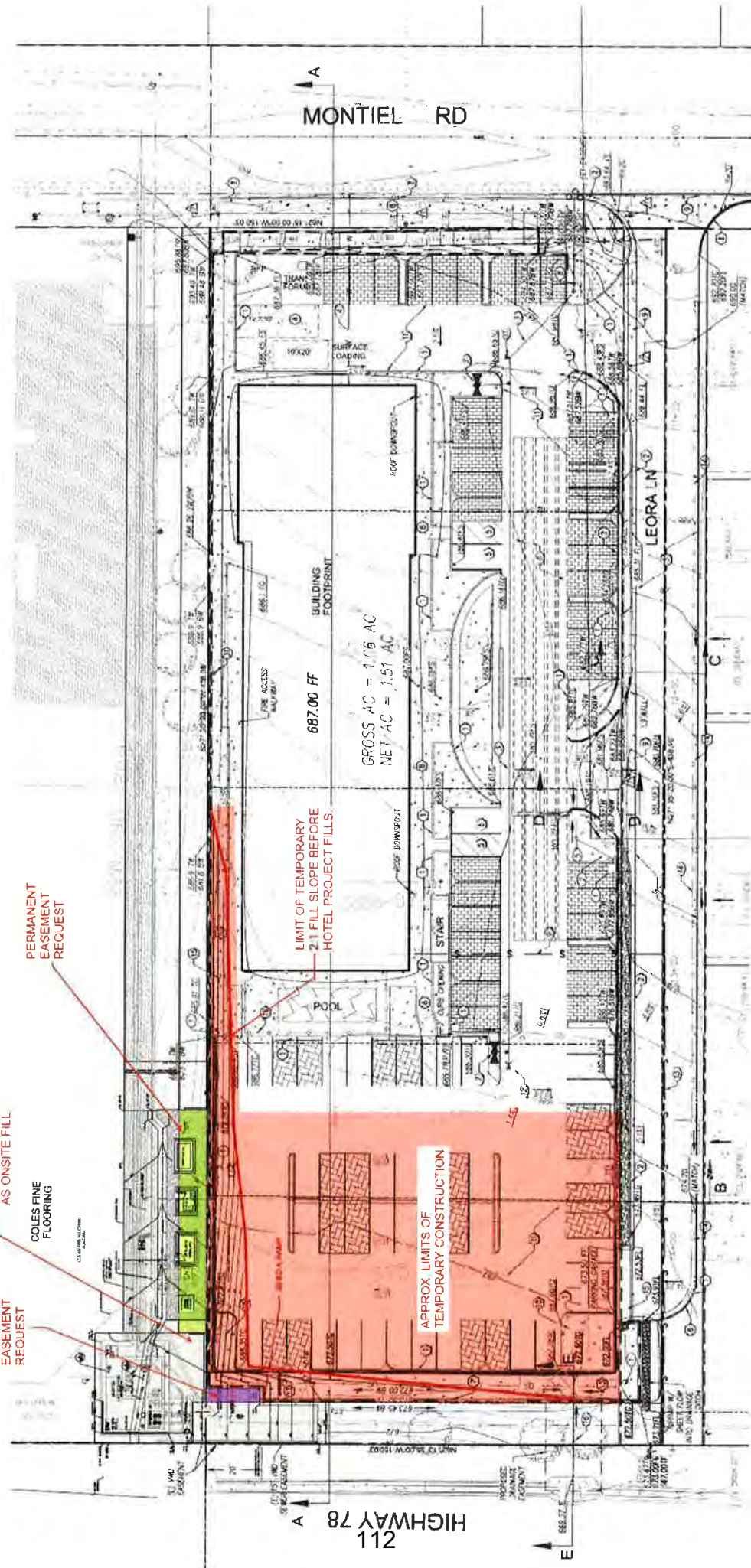
Typist Initials: LT

POTENTIAL TO STOCKPILE EXCAVATION SOIL AND ROCK FOR USE AS ONSITE FILL

PERMANENT EASEMENT REQUEST

PERMANENT EASEMENT REQUEST

COLES FINE FLOORING



MONTIEL RD

LEORA LN

HIGHWAY 78
112

20210622 EXHIBIT TO R MORGAN
-CM

Item 2.1

QUALIFICATIONS OF THE APPRAISER

David C. Ottley, MAI

Anderson & Brabant, Inc.

353 West Ninth Avenue, Escondido, CA 92025

760.705.1615

Resident of San Diego County since 1954

Educational Background

Brigham Young University, Provo, Utah - School of Accountancy (1982-83)

Palomar College, San Marcos, CA - Real Estate emphasis (1976-77; 1980-81)

Professional Education Completed:

Appraisal Institute:

- Case Studies in Real Estate Valuation (1988)
- Valuation Analysis and Report Writing (1988)
- Real Estate Appraisal Principles; and Basic Valuation Procedures (1988)
- Capitalization Theory and Techniques, Parts A & B (1986)
- Real Property Valuation (1977)

Partial List of Recent Seminars and Webinars:

- Appraisal Review (2022)
- Eminent Domain and Condemnation (2021, 2005)
- Uniform Appraisal Standards for Federal Land Acquisitions (2015, 2017)
- San Diego Real Estate Market Symposium, Economic Forecast/Forum (1998-2002; 2004-2012; 2017; 2021)
- Business Practices and Ethics (2010, 2015, 2017)
- Federal and State Laws and Regulations (2014, 2016, 2018)
- Mold, Pollution, and the Appraiser (2014)
- Uniform Standards of Appraisal Practice Update (2004, 2006, 2008, 2010, 2012, 2014, 2016, 2018, 2020, 2022)
- Loss Prevention Seminar (2011 and 2013)
- Liability Issues for Appraisers Performing Litigation Work (2013)
- Complex Litigation Appraisal Case Studies (2013)
- IRWA Eminent Domain Seminar (2012)
- Appraising in a Post-HVCC World (2011)
- San Diego Housing and Apartment Seminar (2004, 2007, 2009)
- The Appraiser as an Expert Witness (2006)

Professional Affiliations

MAI Member, Appraisal Institute

Certified General Real Estate Appraiser (AG002149), Bureau of Real Estate Appraisers, State of California

Professional Real Estate Experience

Appraiser/Consultant, Anderson & Brabant, Inc., Escondido, CA - 01/85 to 03/98; 06/01 to 02/05; 02/06 on

V.P. of Acquisitions, Maisel Presley, Inc., San Diego, CA - 02/05 to 02/06

Director of Finance & Acquisitions, Pacifica Companies, San Diego, CA - 04/98 to 06/01

Appraiser/Analyst, Dodd-Graves & Associates, Escondido, CA - 06/76 to 04/77; & 11/79 to 12/84

Staff Appraiser, Financial Appraisals, Inc., Escondido, CA - 04/77 to 08/77

Expert Witness

Superior Court, Counties of San Diego, Riverside, and Los Angeles

U.S. Bankruptcy Court, San Diego County

Types of Appraisals

| | |
|---------------|---|
| Residential: | Residential Subdivisions, Apartments, Single-family, Condominium and PUD Units, (Existing and Proposed) |
| Commercial: | Single- and Multi-Tenant Commercial and Office Properties, Medical Offices, Self-Storage Facilities (Existing and Proposed) |
| Industrial: | Single- and Multi-Tenant Industrial Buildings and Parks, (Existing and Proposed) |
| Vacant Land: | Residential, Subdivision, Industrial, Commercial, Rural, and Environmentally Sensitive Properties |
| Agricultural: | Avocado and Citrus Groves, Dairies, and Ranches |
| Other: | Mixed-Use Properties, Leasehold and Leased Fee Interests, Partial Acquisitions, and Easements |

Anderson & Brabant, Inc.

Partial List of Appraisal Clients

Government Agencies and Municipalities

| | |
|--|--|
| California Rangeland Trust | Otay Water District |
| CALTRANS | Palomar Community College |
| Center for Natural Lands Management | Pala Band of Mission Indians |
| City of Carlsbad | Poway Municipal Water District |
| City of Chula Vista | Poway Unified School District |
| City of Coronado | Ramona Municipal Water District |
| City of Del Mar | Rincon Del Diablo Municipal Water District |
| City of Escondido | San Diego Community College District |
| City of Menifee | San Diego County Water Authority |
| City of National City | San Diego Gas and Electric Company |
| City of Oceanside | Southwest Resource Management Association |
| City of Palm Springs | The Conservation Fund |
| City of Poway | The Escondido Creek Conservancy |
| City of San Diego | The Nature Conservancy |
| City of San Marcos | The Trust for Public Lands |
| City of Santee | Vallecitos Water District |
| City of Vista | Vista Fire Protection District |
| Civic San Diego | Vista Irrigation District |
| County of Riverside | Vista Unified School District |
| County of San Diego | U S Department of the Interior |
| Endangered Habitats Conservancy | U S Fish and Wildlife |
| Fallbrook Union Elementary School District | U S Postal Service |
| Grossmont-Cuyamaca College District | U S Marshal Service |
| Metropolitan Transit System | University of California |
| North County Transit District | Wildlife Conservation Board |
| Olivenhain Municipal Water District | |

Financial Institutions

| | |
|-------------------------|---------------------|
| Bank of America | First Republic Bank |
| Bank of the West | Torrey Pines Bank |
| California Bank & Trust | Umpqua Bank |
| City National Bank | Union Bank |
| First Interstate Bank | Wells Fargo Bank |

Attorneys

| | |
|---------------------------------|-----------------------------|
| Ablon, Lewis, Bass & Gale, LLP | Galyean, Talley & Wood |
| Asaro Keagy Freeland & McKinley | Loeb & Loeb LLP |
| Best Best & Krieger | Kenneth H. Miller |
| Boss Law Firm | Parks and Oberhansley |
| Daley & Heft | Wes Peltzer |
| Deutsch & Associates | Steven C. Saylor |
| Duckor Spradling Metzger & Wynn | Jeffrey G. Scott |
| Feist, Vetter, Knauf & Loy | Samuels, Green & Steel, LLP |
| Foley & Lardner | White & Bright |

Others

| | |
|--|---------------------|
| Bender Rosenthal, Inc. | Lennar |
| Clark Land Resources | Meritage Homes |
| Commonwealth Land Title | PSOMAS |
| Chicago Title | Stewart Title |
| Fidelity National Title | T-Mobile |
| First American Title | Wiggans Group, Inc. |
| Lavine, Lofgren, Morris & Engelberg, LLP | |

QUALIFICATIONS OF THE APPRAISER

James Brabant, MAI
Anderson & Brabant, Inc.
353 W. Ninth Avenue
Escondido, CA 92025
(760) 705-1592 (Direct)
Email: jlbrabant@aol.com

- I. Resident of San Diego County since 1977
- II. **Educational Background:**
 - A. University of Southern California, B.S. degree in Real Estate — 1960
 - B. School of Theology at Claremont, Master of Theology — 1966
 - C. Professional Education Completed:
 - 1. Appraisal Institute
 - a. "Basic Appraisal Principles, Methods and Techniques" — Course I-A
 - b. "Capitalization Theory and Techniques" — Course I-B
 - c. "Urban Properties" — Course II
 - d. "Investment Analysis" — Course IV
 - e. "Standards of Professional Practice"
 - f. "Litigation Valuation"
 - g. Special Applications of Appraisal Analysis Course 301
 - 2. Lincoln Graduate Center
 - a. Manufactured Housing Appraisal Course 669
 - 3. Continuing Education (Partial List):
 - USPAP Course and Updates (every two years)
 - Four Hour Federal and State Laws, 1/16
 - Fundamentals of Separating Real Property, Personal Property, and Intangible Business Assets 4/12
 - Eminent Domain Case Update, 10/95, 3/97, 10/07, 4/10
 - Business Practice and Ethics, 6/07, 7/12
 - San Diego Apartment & Housing Seminar, 10/98, 5/07, 9/11
 - Appraiser as Expert Witness, 12/06
 - Deal and Development Analysis – Downtown S.D., 9/05
 - Litigation Seminar, 11/04, 11/07, 11/10
 - Appraising Manufactured Housing, 1/04
 - Economic and Real Estate Forum, 09/02
 - Gramm-Leach-Bliley Act, 10/01
 - Condemnation on Trial (Participant), 5/00
 - Digging Into Ground Leases, 2/15
 - Unique Appraisal Assignments (Participant), 2/14
 - Appraisal of Partial Interests; 6/98
 - Vineyard Valuation, 11/12
 - Downtown San Diego Development, 9/15

Qualifications of the Appraiser — James Brabant, MAI
Page Two

III. Professional Affiliations:

- A. Member, Appraisal Institute, MAI (1985 President, San Diego Chapter)
- B. Realtor Member, North County Association of Realtors
- C. Member, International Right of Way Association
- D. Real Estate Brokers License, State of California
- E. Teaching Credential, State of California, Community College Level
- F. Certified General Real Estate Appraiser (AG002100)
Office of Real Estate Appraisers, State of California

IV. Appraisal Experience:

- Co-Owner — Anderson & Brabant, Inc., Since 1979
- Co-Owner — Robert M. Dodd & Associates, Inc., 1977 - 1979
- Appraisal Manager — California First Bank, Huntington Beach, California, 1974 - 1977
- Staff Appraiser — California First Bank, San Diego, California, 1972 - 1974
- Staff Appraiser — O. W. Cotton Co., San Diego, California, 1970 - 1972
- Staff Appraiser — Davis Brabant, MAI, Huntington Park, California, 1960 - 1962

V. Teaching Experience:

- Southwestern College, Chula Vista, California, "Real Estate Appraisal"

VI. Expert Witness:

- Superior Court, San Diego, Los Angeles, Riverside, and San Bernardino Counties
- Rent Control Hearings: Cities of Oceanside, Escondido, Ventura, Concord, Yucaipa, Carpinteria, Palmdale, San Marcos, Carson, Watsonville
- Various Arbitration Hearings
- Assessment Appeals Boards of Riverside County, San Diego County and Orange County
- Federal Bankruptcy Courts in San Diego County & Santa Barbara County
- United States District Court – Northern District of California

VII. Types of Appraisals:

- | | |
|-----------------------------|---|
| Residential Property: | Single-family residence, condominiums, apartments, subdivisions, existing and proposed |
| Commercial Property: | Office buildings, shopping centers, office condominiums, etc., existing and proposed |
| Industrial Property: | Single/multi-tenant, business parks, etc., existing and proposed |
| Vacant Land: | Industrial, commercial, residential, and rural |
| Agricultural: | Ranches, avocado and citrus groves, etc. |
| Special Purpose Appraisals: | Leasehold estates, possessory interest, historical appraisals, etc. |
| Mobile Home Parks: | For a variety of purposes including rent hearings, park closure, park conversions, failure to maintain litigation, eminent domain, etc. |

Qualifications of the Appraiser — James Brabant, MAI

Page Three

VIII. Partial List of Appraisal Clients:

Banks

Bank of America
Bank of New York
City National Bank
Downey Savings
Fidelity Federal Bank
First Interstate Bank
First Pacific National Bank
Flagship Federal Savings
Great Western Bank
Industrial Bank of Japan
Palomar Savings & Loan
Redlands Federal Bank
Union Bank of California
Wells Fargo Bank

Government Agencies and Municipalities

California Department of
Transportation/Caltrans
Carlsbad Municipal Water District
City of Carlsbad
City of Chula Vista
City of Colton
City of Concord
City of Escondido
City of Laguna Beach
City of La Mesa
City of Salinas
City of San Bernardino
City of San Diego
City of San Marcos
City of Vista
City of Yucaipa
County of San Diego
Fallbrook Public Utility District
Metropolitan Water District
Oceanside Unified School District
Pacific Telephone
Poway Municipal Water District
Ramona Unified School District
SANDAG (San Diego Assoc. of Govts.)
San Diego County Water Authority
San Diego Unified Port District
San Marcos Unified School District
U.S. Depart. of the Interior
 Bureau of Indian Affairs
U.S. Department of Justice

Law Firms

Aleshire & Wynder, LLP
Asaro, Keagy, Freeland. & McKinley
Best, Best & Krieger
Daley & Heft
Endeman, Lincoln, Turek & Heater
Foley & Lardner, LLP
Fulbright & Jaworski
Gray, Cary, Ware & Freidenrich
Higgs, Fletcher & Mack
Latham & Watkins
Lounsbery, Ferguson, Altona & Peak
Luce, Forward, Hamilton & Scripps
McDonald & Allen
McInnis, Fitzgerald, Rees, Sharkey & McIntyre
O'Melveny & Meyers
Procopio, Cory, Hargreaves & Savitch
Rutan & Tucker
Singer, Richard
Sullivan Wertz McDade & Wallace
Tatro & Zamoyski
Thorsnes Bartolotta & McGuire
Woodruff, Spradlin & Smart
Worden Williams, APC

Title Companies

Chicago Title
Fidelity National Title Insurance
First American Title
St. Paul Title
Title Insurance & Trust

Others

Avco Community Developers
Coldwell Banker
Dixieline Lumber
Golden Eagle Insurance
National Steel & Shipbuilding Co.
Northern San Diego County Hospital District
Prudential Insurance Corp.
Rosenow, Spevacek, Group
San Diego Gas & Electric Co.
San Luis Rey Downs (Vessels)
Steefel, Levitt & Weiss
Tellwright-Campbell, Inc.
Transamerica Relocation Service
Vedder Park Management

EASEMENT PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “**Agreement**”), dated as of **August 4, 2022** (“Effective Date”), is between **Vallecitos Water District, a governmental agency** (“**Buyer**”), and **Montiel RD. LLC, a limited liability company** (“**Seller**”). Buyer and Seller shall sometimes be referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Purchase and Sale.** Seller, as the owner of the fee interest in certain land situated in the County of San Diego, State of California, comprising approximately one and thirty-seven hundredths (1.37) acres, designated as Assessor’s Parcel Number 228-360-43-00 (“**Land**”), hereby agrees to sell and convey an easement in, on, over, under, across, and through the Land for the purposes of, among other things, constructing, maintaining, owning, operating, and using sewer facilities in the form attached hereto as **Exhibit A (“Easement”)** to Buyer, and Buyer hereby agrees to purchase the Easement from Seller, on the terms and conditions set forth herein. The portion of the Land that will be burdened by the Easement is referred to herein as the “**Easement Area.**”
2. **Purchase Price.** Subject to 4(a) below, the purchase price for the Easement Area shall be **Nine-Thousand Dollars (\$9,000.00) (“Purchase Price”)**, which is the value of the Easement Area set forth in the appraisal, dated as of **June 22, 2022**, prepared by Anderson & Brabant, Inc., as Job Number 22-049A (“**Appraisal**”). The Purchase Price includes severance damage to the remainder, if any. Severance damage to the remainder is damage caused to the remainder by either or both of the following: (a) the severance of the remainder from the Easement acquired; or (b) the construction and operation of the project for which the Easement is acquired.
3. **Conditions Precedent.** In addition to the payment of the Purchase Price by Buyer in accordance with Sections 4(a) and (b) below, the following conditions must be satisfied before the Easement will be deemed to have been fully accepted by and delivered to Buyer (the “**Closing**”):
 - A. Seller shall have removed from the Easement Area any third party using, occupying, or possessing all or any portion of the Easement Area.
 - B. **Environmental Testing Contingency.** Payment of the Purchase Price shall be subject to and conditioned upon Buyer’s acceptance of the physical and environmental conditions of the Easement Area, and the absence from the Easement Area of hazardous materials and any other kind of soil or water contamination. By executing this Agreement, Seller authorizes Buyer, its agents or assigns, commencing upon the execution of this Agreement by Seller, to enter upon the Land at all reasonable times for the purpose of assessing the environmental conditions in and around the Easement Area.
4. **Closing Instructions.** Buyer shall be responsible for performing the following obligations before Closing, except with respect to Section 4(d), which Buyer shall be responsible for post-Closing:
 - (a) If Buyer elects to do so, in its sole discretion, Buyer shall pay and deduct from the Purchase Price any amount necessary to satisfy:
 - (i) Any delinquent taxes, together with penalties and interest, due in any fiscal year, except the fiscal year in which this transaction closes and any delinquent or non-

delinquent assessments or bonds, except those which title is being taken subject to under the terms of this Agreement.

- (ii) Taxes for the assessment year in which this transaction closes, if unpaid at Closing.
 - (iii) Demands of mortgagees and trustees, except prepayment penalties, in accordance with conditions of notes and other obligations secured by mortgages and deeds of trust.
 - (iv) Demands, including charges and costs, of any other lien holders of record, including creditors with recorded abstracts of judgment.
 - (v) Any broker's commissions arising from any agreement entered into by Seller in connection with the purchase and sale of the Easement.
- (b) Buyer shall pay to Seller the balance of the Purchase Price after Buyer has paid any amounts necessary to be paid in accordance with Section 4(a) above once Buyer is reasonably satisfied that (i) there are no hazardous materials on the Easement Area and (ii) the Easement is free of, or unconditionally prior and superior to, all liens, encumbrances, assessments, easements, leases, deeds of trust, security instruments, and taxes other than current property taxes.
- (c) In addition to the payment of the Purchase Price in accordance with Sections 4(a) and (b) above, Buyer shall pay any fees due for recording and documentary transfer tax.
- (d) Buyer shall cause the recording of the Easement in the official records of the county in which the Land is located.

5. Seller's Representations and Warranties.

- (a) Seller represents and warrants as of the Effective Date and the Closing as follows:
- (i) Enforceability. This Agreement and all other documents and agreements to be executed and/or delivered in connection with or pursuant to this Agreement, constitute or shall constitute the valid and binding obligation of Seller, enforceable against Seller in accordance with their terms, except as such enforcement may be limited by applicable laws.
 - (ii) Foreign Person. Seller is not a "foreign person" as defined in Section 1445 of the United States Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.
 - (iii) No Notices of Violations of Applicable Laws. Seller has not received any notice of any violation of any applicable law affecting the Easement Area.
 - (iv) No Pending Proceedings. There are no litigation, bankruptcy, condemnation, or environmental proceedings pending or, to the best of Seller's knowledge, threatened, involving, or affecting the Easement Area or the ability of Seller to perform Seller's obligations under this Agreement or the Easement.
 - (v) No Hazardous Materials. Except as set forth in any Phase I or Phase II environmental assessment of the Easement Area obtained by Buyer as part of its due diligence, to the best of Seller's knowledge there are no hazardous materials on or under the Easement Area
 - (vi) Contracts, Leases, Agreements. There are no leases, contracts, or agreements

affecting the Easement Area, except as otherwise disclosed by Seller.

- (b) Seller's representations and warranties shall survive the execution and delivery of the Easement for a period of twelve (12) months and shall be deemed to have been made again at Closing as a condition to the Closing and shall remain in full force and effect regardless of any investigation made by or on behalf of any Party or of the actual or constructive knowledge by any Party of any inaccuracy or breach thereof.
6. "As-Is" Nature of Sale." Except as otherwise expressly set forth in this Agreement, Buyer shall purchase the Easement and accept the Easement Area "as-is" with all faults and conditions. Buyer hereby acknowledges that, except as otherwise expressly set forth in this Agreement, Seller hereby expressly disclaims (i) any implied warranty of habitability, merchantability, and suitability for a particular purpose, and (ii) any warranties implied or arising from a course of dealing or usage of trade.
7. Contingency. It is understood and agreed between the Parties that the closing of this transaction is contingent upon the specific acceptance and approval of Buyer, which shall be evidenced by the payment of the Purchase Price and the recording of the Easement in the official records of the county in which the Land is located.
8. Indemnification. Seller hereby agrees to indemnify, hold harmless and defend Buyer and its parent company, affiliates, subsidiaries, and its and their respective directors, officers, employees, agents, representatives, successors, and assigns from and against any and all losses, liabilities, claims, demands, damages, causes of action, liens, obligations, fines, penalties, costs, and expenses (including but not limited to all investigation costs and reasonable consulting, engineering, in-house or outside attorney's fees, or other professional fees) (collectively, "Claims") arising from any (i) default of Seller under this Agreement, including but not limited to any breach of Seller's covenants, representations, and warranties set forth in this Agreement, (ii) matters arising from Seller's fraud or intentional misrepresentation, or (iii) Claims that may be made by any real estate broker, agent, finder, or other person alleging to have acted on behalf of Seller, provided, however, that the foregoing indemnity shall not include Claims to the extent directly arising from the sole negligence or willful misconduct of Buyer with respect to the Land prior to the Closing. This indemnity shall survive the Closing and the execution and delivery of the Easement.

Buyer Default. If Buyer defaults in its obligation to consummate the Closing under this Agreement (provided that Seller has not defaulted in any manner under this Agreement), then Seller's sole remedy shall be to terminate this Agreement, in which case neither Seller nor Buyer shall have any further rights or obligations under this Agreement, other than those obligations that survive the expiration or earlier termination of this Agreement.

9. Seller Default. If Seller defaults in its obligation to consummate the Closing in accordance with this Agreement or defaults in any other manner under this Agreement, then Buyer may pursue any and all remedies at law or in equity that are available to Seller as a result of such default of Seller, including but not limited to injunctive relief or specific performance. If Seller shall default in any manner under this Agreement, then in addition to the other remedies available to Buyer at law or in equity, Buyer shall not be under any obligation to purchase or acquire the Easement.
10. Miscellaneous. (a) This Agreement may be amended only by written agreement signed by both of the Parties. (b) Time and each of the terms and conditions of this Agreement are hereby expressly made of the essence. (c) This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. (d) This Agreement shall be governed by the laws of the State of California, without reference to

its choice of law provisions. The Parties hereby agree that any legal action or proceeding arising out of this Agreement shall be brought in a state court of competent jurisdiction in San Diego, California. By execution and delivery of this Agreement, each Party hereby irrevocably and unconditionally accepts and submits to the personal jurisdiction of said courts. (e) This Agreement supersedes any and all oral or written agreements between the Parties regarding the Easement which are prior in time to this Agreement. Neither Buyer nor Seller shall be bound by any prior understanding, agreement, promise, representation, or stipulation, express or implied, not specified herein. (f) If any portion of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect. (g) Nothing in this Agreement shall be construed to confer any third-party benefit on any other person not a party hereto, including but not limited to any broker, with respect to this Agreement. (h) Buyer and Seller shall not be partners or joint venturers with each other and nothing in this Agreement shall create or be deemed to create any partnership or joint venture between Buyer and Seller. (i) The section headings of this Agreement are for purposes of reference only and shall not be used for limiting or interpreting the meaning of any section of this Agreement. (j) Without the prior written consent of Buyer, there shall be no recordation of this Agreement.

11. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties.

12. Sale in Lieu of Condemnation; Condemnation Rights Unimpaired.

- (a) Seller and Buyer acknowledge that Seller has agreed to sell the Easement to Buyer, and Buyer has agreed to purchase the Easement from Seller, in lieu of Buyer exercising its power to acquire the Easement by condemnation under the California Government Code and/or California Code of Civil Procedure. Notwithstanding anything to the contrary contained in this Agreement or elsewhere, nothing contained in this Agreement shall impair, waive, or otherwise affect any rights of Buyer under any applicable law to condemn any portion of the Land, including but not limited to any rights of Buyer under the California Government Code and/or California Code of Civil Procedure (or amendment or successor statute thereto). The provisions of this subsection shall survive the Closing or any earlier termination of this Agreement.
- (b) Seller is hereby notified of the provisions of California Code of Civil Procedure Section 1265.240, which states that “[w]here the property acquired for public use is encumbered by a lien, the amount payable to the lienholder shall not include any penalty for prepayment.”

IN WITNESS WHEREOF, Buyer and Seller hereby execute this Easement Purchase and Sale Agreement as of the date first above written.

SELLER

Montiel Rd., LLC,
a limited liability company

By: _____

Name: _____

Title: _____

BUYER

Vallecitos Water District,
a governmental agency

By: _____

Name: _____

Title: _____

**EXHIBIT A TO PURCHASE AGREEMENT
FORM OF EASEMENT**

[See attached.]

Recording requested by, and
when recorded, return to:

Vallecitos Water District
201 Vallecitos de Oro
San Marcos, CA 92069

APN: 228-360-43

(Space above for Recorder's Use)
Document Transfer Tax: None

**VALLECITOS WATER DISTRICT
GRANT OF RIGHT-OF-WAY**

MONTIEL RD., LLC, as Grantor, for and in consideration of the sum of One Dollar and other valuable consideration paid by **VALLECITOS WATER DISTRICT**, as Grantee, receipt of which is hereby acknowledged, does hereby grant to said Grantee, its successors and assigns, an easement of right-of-way, **10** feet in width upon, over, under and across the lands hereinafter described, to erect, construct, reconstruct, replace, repair, maintain and use sewer or water facilities, which may include, but not be limited to, a pump station, control house, storage shelter, back-up generator, SCADA antenna, pipeline or pipelines for any and all purposes, together with their necessary fixtures and appurtenances including but not limited to conduits and cables for power transmission and communication purposes specifically related to Grantee's facilities, at such locations and elevations, upon, along, over and under the hereinafter described right-of-way as Grantee may now or hereafter deem convenient and necessary from time to time, together with the right of ingress thereto and egress therefrom, to and along said right-of-way by a practical route or routes in, upon, over and across the hereinafter lands, together with the right to clear and keep clear said right-of-way from vehicles, vegetation, explosives, buildings and structures of any type.

The lands in which said easement of right-of-way is hereby granted are situated in the County of San Diego, State of California, and particularly described as follows:

A PORTION OF LOT 12 IN BLOCK 7 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895. BEING PARCEL 1 DESCRIBED IN GRANT DEED TO MONTIEL RD., LLC RECORDED MAY 21, 2018, AS DOC. NO. 2018-0204854, OFFICIAL RECORDS.

The **10** -foot-wide easement of right-of-way in the aforesaid lands is particularly described as follows: **SEE EXHIBIT "A" ATTACHED.**

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

A.P.N.: 228-360-43

AREA: 950 SQUARE FEET OR 0.022 ACRE, MORE OR LESS.

PLAT: SEE EXHIBIT "B" ATTACHED.

It is understood by the parties hereto that the Grantor and their successors and assigns:

Shall not grant any other easement on, under or over said easement of right-of-way without the prior written consent of Grantee.

Shall not erect or construct, or permit to be erected or constructed, any building or other structure, plant any tree or trees, or drill any well or wells, within the limits of said right-of-way.

Shall not increase or decrease, or permit to be increased or decreased, the proposed surface elevations of the above-described right-of-way, as shown on improvement plans titled Montiel Lift Station and Forcemain Replacement Project (VWD WO 217904), prepared by Michael Baker International, without the prior written consent of Grantee.

Shall not park vehicles of any kind within the easement in such a manner as to hinder full access and use of the easement by Grantee.

It is understood by the parties hereto that the Grantee and its successors and assigns:

Shall have the right to erect, maintain and use any gates in any fences which cross or shall hereafter cross said easement of right-of-way, and to trim and cut and clear away any trees and vegetation whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby conveyed.

Shall have the right to make any and all excavations and the right to alter the existing or proposed surface elevations within the easement right-of-way, now and in the future as may be deemed necessary and convenient. Grantee shall only be responsible for repair of improvements made necessary by the direct action of Grantee.

Shall not be responsible for maintenance or costs of maintenance of any improvements within the easement right of way, including all surface areas within the easement area, except those specific Grantee owned/maintained facilities within said easement, unless by separate agreement.

Shall have the right and privilege to spill water in natural channels which cross said lands adjacent to the easement right-of-way.

Shall have the right to transfer and assign this easement of right-of-way in whole or in part.

In Witness whereof, the Grantor executed these presents the ____ day of _____, 20__.

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

"Grantor"

Company: MONTIEL RD. LLC

Name*: STEPHEN COLES

Title: MANAGING MEMBER

Signature †: _____

Date: _____

**CERTIFICATE OF ACCEPTANCE
VALLECITOS WATER DISTRICT**

This is to certify that the interest in real property conveyed by the deed or grant dated _____, from MONTIEL RD. LLC, to VALLECITOS WATER DISTRICT, a political corporation and/or a governmental agency, is hereby accepted by the undersigned officer of the Board of Directors of the VALLECITOS WATER DISTRICT pursuant to Resolution No. 1358, adopted on the 21st day of July, 2010, and the Grantee consents to the recording thereof by its duly authorized officer.

By: _____

Dated: _____

Glenn Pruim, Secretary
Board of Directors
Vallecitos Water District
201 Vallecitos De Oro
San Marcos, CA 92069

* Name of Authorized Representative of Developer/Owner

† Acknowledgement of the signature(s) executing this Easement Document, by a Notary Public, is required. Attach acknowledgement to this page.

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

EXHIBIT 'A'
WATER / SEWER EASEMENT

A PORTION OF PARCEL 1 DESCRIBED IN GRANT DEED TO MONTIEL RD., LLC RECORDED MAY 21, 2018 AS DOC. NO. 2018-0204854, OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LAND; THENCE SOUTHWESTERLY ALONG THE EASTERLY LINE THEREOF SOUTH 26°58'28" WEST, 303.41 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EASTERLY LINE SOUTH 26°58'28" WEST, 95.00 FEET TO THE NORTHERLY LINE OF AN EXISTING 40' X 40' EASEMENT FOR THE MONTIEL LIFT STATION RECORDED NOVEMBER 28, 1984 AS DOC. NO. 84-444160, OFFICIAL RECORDS; THENCE LEAVING SAID EASTERLY LINE AND WESTERLY ALONG SAID NORTHERLY LINE NORTH 62°50'50" WEST 10.00 FEET TO THE INTERSECTION WITH A LINE THAT LIES 10.00 FEET WESTERLY OF AND PARALLEL WITH SAID EASTERLY LINE; THENCE LEAVING SAID NORTHERLY LINE OF EXISTING EASEMENT AND NORTHERLY ALONG SAID PARALLEL LINE NORTH 26°58'28" EAST 95.00 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 62°50'50" EAST 10.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS: 950 SQUARE FEET OR 0.022 ACRE, MORE OR LESS.

SEE EXHIBIT B PLAT, ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



PAUL E. GOEBEL, PLS 8486 10/13/2021
MBI JN 176090
APN 228-360-43 MONTIEL RD. LLC

LEGEND



INDICATES
WATER/SEWER EASEMENT
950.0 SF (0.022 AC)

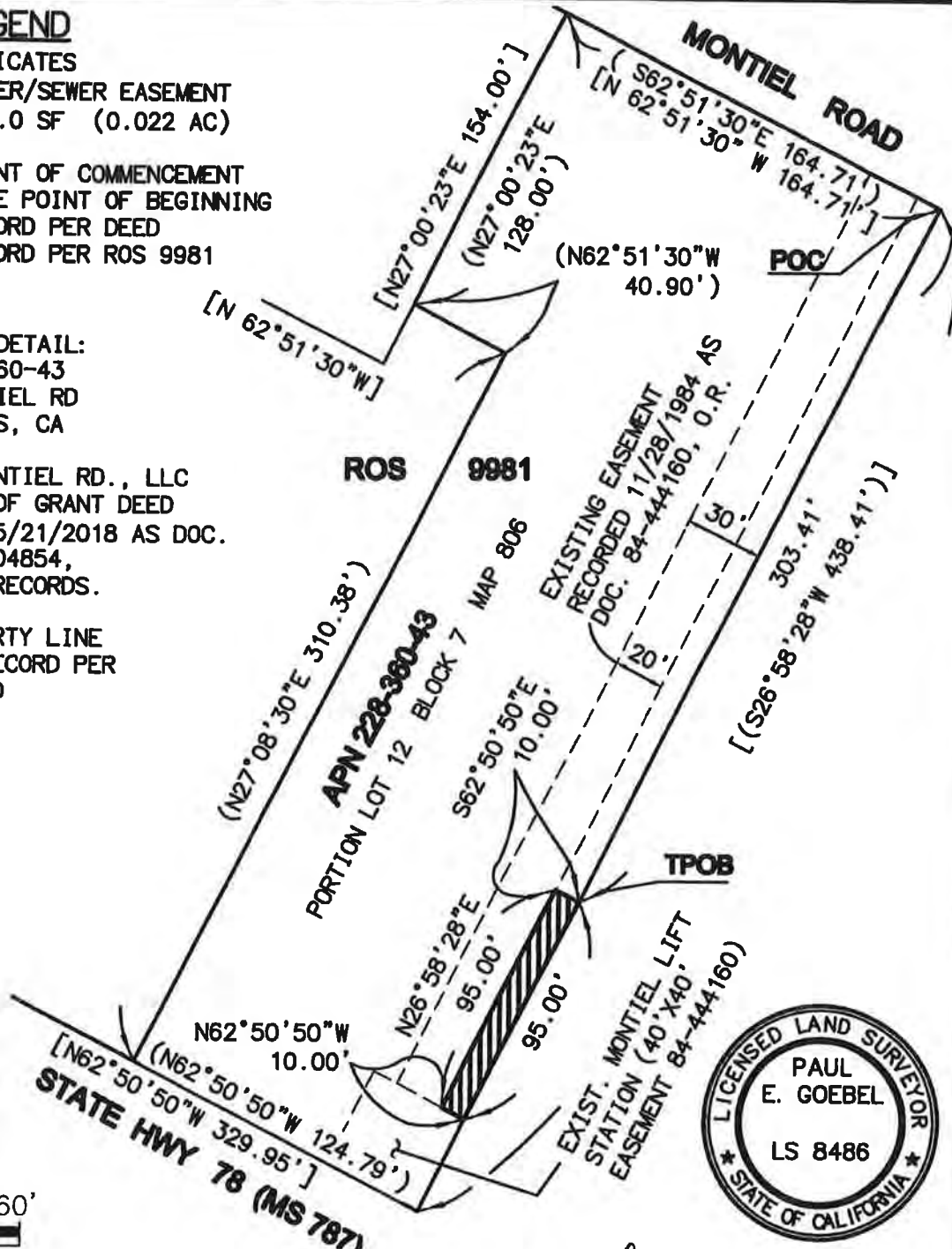
POC POINT OF COMMENCEMENT
TPOB TRUE POINT OF BEGINNING
() RECORD PER DEED
[] RECORD PER ROS 9981

NOTES:

PROPERTY DETAIL:
APN 228-360-43
2175 MONTIEL RD
SAN MARCOS, CA

OWNER: MONTIEL RD., LLC
PARCEL 1 OF GRANT DEED
RECORDED 5/21/2018 AS DOC.
NO. 2018-204854,
OFFICIAL RECORDS.

ALL PROPERTY LINE
DATA IS RECORD PER
GRANT DEED



0 60'
SCALE: 1"=60'



Paul E. Goebel

8/2/2022

PAUL E. GOEBEL LS 8486 DATE

**EXHIBIT B - PLAT APN 228-360-43
PROPOSED WATER/SEWER EASEMENT EXHIBIT**

PORTION OF LOT 12, BLOCK 7, MAP 806 GRANTED TO MONTIEL RD
LLC BY DEED REC. 5/21/2018 AS DOC. NO. 2018-204854, O.R.
CITY OF SAN MARCOS
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

SHEET 1 OF 1 SHEET
Michael Baker International
9755 Clairemont Mesa Blvd.,
San Diego, CA 92124
(858)614-5000

DATE 10/13/2021 176090

EASEMENT PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “**Agreement**”), dated as of **August 4, 2022** (“**Effective Date**”), is between **Vallecitos Water District, a governmental agency (“Buyer”), and Montiel RD. LLC, a limited liability company (“Seller”).** Buyer and Seller shall sometimes be referred to herein individually as a “**Party**” and collectively as the “**Parties.**”

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Purchase and Sale.** Seller, as the owner of the fee interest in certain land situated in the County of San Diego, State of California, comprising approximately one and thirty-seven hundredths (1.37) acres, designated as Assessor’s Parcel Number 228-360-43-00 (“**Land**”), hereby agrees to sell and convey an easement in, on, over, under, across, and through the Land for the purposes of, among other things, constructing, maintaining, owning, operating, and using sewer facilities in the form attached hereto as **Exhibit A (“Easement”)** to Buyer, and Buyer hereby agrees to purchase the Easement from Seller, on the terms and conditions set forth herein. The portion of the Land that will be burdened by the Easement is referred to herein as the “**Easement Area.**”
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3. **Conditions Precedent.** In addition to the payment of the Purchase Price by Buyer in accordance with Sections 4(a) and (b) below, the following conditions must be satisfied before the Easement will be deemed to have been fully accepted by and delivered to Buyer (the “**Closing**”):
 - A. Seller shall have removed from the Easement Area any third party using, occupying, or possessing all or any portion of the Easement Area.
 - B. **Environmental Testing Contingency.** Payment of the Purchase Price shall be subject to and conditioned upon Buyer’s acceptance of the physical and environmental conditions of the Easement Area, and the absence from the Easement Area of hazardous materials and any other kind of soil or water contamination. By executing this Agreement, Seller authorizes Buyer, its agents or assigns, commencing upon the execution of this Agreement by Seller, to enter upon the Land at all reasonable times for the purpose of assessing the environmental conditions in and around the Easement Area.
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 - (a) If Buyer elects to do so, in its sole discretion, Buyer shall pay and deduct from the Purchase Price any amount necessary to satisfy:
 - (i) Any delinquent taxes, together with penalties and interest, due in any fiscal year, except the fiscal year in which this transaction closes and any delinquent or non-

- delinquent assessments or bonds, except those which title is being taken subject to under the terms of this Agreement.
- (ii) Taxes for the assessment year in which this transaction closes, if unpaid at Closing.
 - (iii) Demands of mortgagees and trustees, except prepayment penalties, in accordance with conditions of notes and other obligations secured by mortgages and deeds of trust.
 - (iv) Demands, including charges and costs, of any other lien holders of record, including creditors with recorded abstracts of judgment.
 - (v) Any broker's commissions arising from any agreement entered into by Seller in connection with the purchase and sale of the Easement.
- (b) Buyer shall pay to Seller the balance of the Purchase Price after Buyer has paid any amounts necessary to be paid in accordance with Section 4(a) above once Buyer is reasonably satisfied that (i) there are no hazardous materials on the Easement Area and (ii) the Easement is free of, or unconditionally prior and superior to, all liens, encumbrances, assessments, easements, leases, deeds of trust, security instruments, and taxes other than current property taxes.
- (c) In addition to the payment of the Purchase Price in accordance with Sections 4(a) and (b) above, Buyer shall pay any fees due for recording and documentary transfer tax.
- (d) Buyer shall cause the recording of the Easement in the official records of the county in which the Land is located.

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- (i) Enforceability. This Agreement and all other documents and agreements to be executed and/or delivered in connection with or pursuant to this Agreement, constitute or shall constitute the valid and binding obligation of Seller, enforceable against Seller in accordance with their terms, except as such enforcement may be limited by applicable laws.
 - (ii) Foreign Person. Seller is not a "foreign person" as defined in Section 1445 of the United States Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.
 - (iii) No Notices of Violations of Applicable Laws. Seller has not received any notice of any violation of any applicable law affecting the Easement Area.
 - (iv) No Pending Proceedings. There are no litigation, bankruptcy, condemnation, or environmental proceedings pending or, to the best of Seller's knowledge, threatened, involving, or affecting the Easement Area or the ability of Seller to perform Seller's obligations under this Agreement or the Easement.
 - (v) No Hazardous Materials. Except as set forth in any Phase I or Phase II environmental assessment of the Easement Area obtained by Buyer as part of its due diligence, to the best of Seller's knowledge there are no hazardous materials on or under the Easement Area
 - (vi) Contracts, Leases, Agreements. There are no leases, contracts, or agreements

affecting the Easement Area, except as otherwise disclosed by Seller.

- (b) Seller's representations and warranties shall survive the execution and delivery of the Easement for a period of twelve (12) months and shall be deemed to have been made again at Closing as a condition to the Closing and shall remain in full force and effect regardless of any investigation made by or on behalf of any Party or of the actual or constructive knowledge by any Party of any inaccuracy or breach thereof.
6. "As-Is" Nature of Sale." Except as otherwise expressly set forth in this Agreement, Buyer shall purchase the Easement and accept the Easement Area "as-is" with all faults and conditions. Buyer hereby acknowledges that, except as otherwise expressly set forth in this Agreement, Seller hereby expressly disclaims (i) any implied warranty of habitability, merchantability, and suitability for a particular purpose, and (ii) any warranties implied or arising from a course of dealing or usage of trade.
7. Contingency. It is understood and agreed between the Parties that the closing of this transaction is contingent upon the specific acceptance and approval of Buyer, which shall be evidenced by the payment of the Purchase Price and the recording of the Easement in the official records of the county in which the Land is located.
8. Indemnification. Seller hereby agrees to indemnify, hold harmless and defend Buyer and its parent company, affiliates, subsidiaries, and its and their respective directors, officers, employees, agents, representatives, successors, and assigns from and against any and all losses, liabilities, claims, demands, damages, causes of action, liens, obligations, fines, penalties, costs, and expenses (including but not limited to all investigation costs and reasonable consulting, engineering, in-house or outside attorney's fees, or other professional fees) (collectively, "**Claims**") arising from any (i) default of Seller under this Agreement, including but not limited to any breach of Seller's covenants, representations, and warranties set forth in this Agreement, (ii) matters arising from Seller's fraud or intentional misrepresentation, or (iii) Claims that may be made by any real estate broker, agent, finder, or other person alleging to have acted on behalf of Seller, provided, however, that the foregoing indemnity shall not include Claims to the extent directly arising from the sole negligence or willful misconduct of Buyer with respect to the Land prior to the Closing. This indemnity shall survive the Closing and the execution and delivery of the Easement.

Buyer Default. If Buyer defaults in its obligation to consummate the Closing under this Agreement (provided that Seller has not defaulted in any manner under this Agreement), then Seller's sole remedy shall be to terminate this Agreement, in which case neither Seller nor Buyer shall have any further rights or obligations under this Agreement, other than those obligations that survive the expiration or earlier termination of this Agreement.

9. Seller Default. If Seller defaults in its obligation to consummate the Closing in accordance with this Agreement or defaults in any other manner under this Agreement, then Buyer may pursue any and all remedies at law or in equity that are available to Seller as a result of such default of Seller, including but not limited to injunctive relief or specific performance. If Seller shall default in any manner under this Agreement, then in addition to the other remedies available to Buyer at law or in equity, Buyer shall not be under any obligation to purchase or acquire the Easement.
10. Miscellaneous. (a) This Agreement may be amended only by written agreement signed by both of the Parties. (b) Time and each of the terms and conditions of this Agreement are hereby expressly made of the essence. (c) This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. (d) This Agreement shall be governed by the laws of the State of California, without reference to

its choice of law provisions. The Parties hereby agree that any legal action or proceeding arising out of this Agreement shall be brought in a state court of competent jurisdiction in San Diego, California. By execution and delivery of this Agreement, each Party hereby irrevocably and unconditionally accepts and submits to the personal jurisdiction of said courts. (e) This Agreement supersedes any and all oral or written agreements between the Parties regarding the Easement which are prior in time to this Agreement. Neither Buyer nor Seller shall be bound by any prior understanding, agreement, promise, representation, or stipulation, express or implied, not specified herein. (f) If any portion of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect. (g) Nothing in this Agreement shall be construed to confer any third-party benefit on any other person not a party hereto, including but not limited to any broker, with respect to this Agreement. (h) Buyer and Seller shall not be partners or joint venturers with each other and nothing in this Agreement shall create or be deemed to create any partnership or joint venture between Buyer and Seller. (i) The section headings of this Agreement are for purposes of reference only and shall not be used for limiting or interpreting the meaning of any section of this Agreement. (j) Without the prior written consent of Buyer, there shall be no recordation of this Agreement.

11. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties.

12. Sale in Lieu of Condemnation; Condemnation Rights Unimpaired.

- (a) Seller and Buyer acknowledge that Seller has agreed to sell the Easement to Buyer, and Buyer has agreed to purchase the Easement from Seller, in lieu of Buyer exercising its power to acquire the Easement by condemnation under the California Government Code and/or California Code of Civil Procedure. Notwithstanding anything to the contrary contained in this Agreement or elsewhere, nothing contained in this Agreement shall impair, waive, or otherwise affect any rights of Buyer under any applicable law to condemn any portion of the Land, including but not limited to any rights of Buyer under the California Government Code and/or California Code of Civil Procedure (or amendment or successor statute thereto). The provisions of this subsection shall survive the Closing or any earlier termination of this Agreement.
- (b) Seller is hereby notified of the provisions of California Code of Civil Procedure Section 1265.240, which states that “[w]here the property acquired for public use is encumbered by a lien, the amount payable to the lienholder shall not include any penalty for prepayment.”

IN WITNESS WHEREOF, Buyer and Seller hereby execute this Easement Purchase and Sale Agreement as of the date first above written.

SELLER

Montiel Rd., LLC,
a limited liability company

By: _____

Name: _____

Title: _____

BUYER

Vallecitos Water District,
a governmental agency

By: _____

Name: _____

Title: _____

**EXHIBIT A TO PURCHASE AGREEMENT
FORM OF EASEMENT**

[See attached.]

Recording requested by, and
when recorded, return to:

Vallecitos Water District
201 Vallecitos de Oro
San Marcos, CA 92069

APN: 228-360-43

(Space above for Recorder's Use)
Document Transfer Tax: None

**VALLECITOS WATER DISTRICT
GRANT OF RIGHT-OF-WAY**

MONTIEL RD., LLC, as Grantor, for and in consideration of the sum of One Dollar and other valuable consideration paid by **VALLECITOS WATER DISTRICT**, as Grantee, receipt of which is hereby acknowledged, does hereby grant to said Grantee, its successors and assigns, an easement of right-of-way, **10** feet in width upon, over, under and across the lands hereinafter described, to erect, construct, reconstruct, replace, repair, maintain and use sewer or water facilities, which may include, but not be limited to, a pump station, control house, storage shelter, back-up generator, SCADA antenna, pipeline or pipelines for any and all purposes, together with their necessary fixtures and appurtenances including but not limited to conduits and cables for power transmission and communication purposes specifically related to Grantee's facilities, at such locations and elevations, upon, along, over and under the hereinafter described right-of-way as Grantee may now or hereafter deem convenient and necessary from time to time, together with the right of ingress thereto and egress therefrom, to and along said right-of-way by a practical route or routes in, upon, over and across the hereinafter lands, together with the right to clear and keep clear said right-of-way from vehicles, vegetation, explosives, buildings and structures of any type.

The lands in which said easement of right-of-way is hereby granted are situated in the County of San Diego, State of California, and particularly described as follows:

A PORTION OF LOT 12 IN BLOCK 7 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895. BEING PARCEL 1 DESCRIBED IN GRANT DEED TO MONTIEL RD., LLC RECORDED MAY 21, 2018, AS DOC. NO. 2018-0204854, OFFICIAL RECORDS.

The **10** -foot-wide easement of right-of-way in the aforesaid lands is particularly described as follows: **SEE EXHIBIT "A" ATTACHED.**

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

A.P.N.: 228-360-43

AREA: 950 SQUARE FEET OR 0.022 ACRE, MORE OR LESS.

PLAT: SEE EXHIBIT "B" ATTACHED.

It is understood by the parties hereto that the Grantor and their successors and assigns:

Shall not grant any other easement on, under or over said easement of right-of-way without the prior written consent of Grantee.

Shall not erect or construct, or permit to be erected or constructed, any building or other structure, plant any tree or trees, or drill any well or wells, within the limits of said right-of-way.

Shall not increase or decrease, or permit to be increased or decreased, the proposed surface elevations of the above-described right-of-way, as shown on improvement plans titled Montiel Lift Station and Forcemain Replacement Project (VWD WO 217904), prepared by Michael Baker International, without the prior written consent of Grantee.

Shall not park vehicles of any kind within the easement in such a manner as to hinder full access and use of the easement by Grantee.

It is understood by the parties hereto that the Grantee and its successors and assigns:

Shall have the right to erect, maintain and use any gates in any fences which cross or shall hereafter cross said easement of right-of-way, and to trim and cut and clear away any trees and vegetation whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby conveyed.

Shall have the right to make any and all excavations and the right to alter the existing or proposed surface elevations within the easement right-of-way, now and in the future as may be deemed necessary and convenient. Grantee shall only be responsible for repair of improvements made necessary by the direct action of Grantee.

Shall not be responsible for maintenance or costs of maintenance of any improvements within the easement right of way, including all surface areas within the easement area, except those specific Grantee owned/maintained facilities within said easement, unless by separate agreement.

Shall have the right and privilege to spill water in natural channels which cross said lands adjacent to the easement right-of-way.

Shall have the right to transfer and assign this easement of right-of-way in whole or in part.

In Witness whereof, the Grantor executed these presents the ____ day of

_____, 20__.

"Grantor"

Company: MONTIEL RD. LLC

Name*: STEPHEN COLES

Title: MANAGING MEMBER

Signature †: _____

Date: _____

**CERTIFICATE OF ACCEPTANCE
VALLECITOS WATER DISTRICT**

This is to certify that the interest in real property conveyed by the deed or grant dated _____, from MONTIEL RD. LLC, to VALLECITOS WATER DISTRICT, a political corporation and/or a governmental agency, is hereby accepted by the undersigned officer of the Board of Directors of the VALLECITOS WATER DISTRICT pursuant to Resolution No. 1358, adopted on the 21st day of July, 2010, and the Grantee consents to the recording thereof by its duly authorized officer.

By: _____ Dated: _____

Glenn Pruiam, Secretary
Board of Directors
Vallecitos Water District
201 Vallecitos De Oro
San Marcos, CA 92069

* Name of Authorized Representative of Developer/Owner

† Acknowledgement of the signature(s) executing this Easement Document, by a Notary Public, is required. Attach acknowledgement to this page.

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

EXHIBIT 'A'
WATER / SEWER EASEMENT

A PORTION OF PARCEL 1 DESCRIBED IN GRANT DEED TO MONTIEL RD., LLC RECORDED MAY 21, 2018 AS DOC. NO. 2018-0204854, OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LAND; THENCE SOUTHWESTERLY ALONG THE EASTERLY LINE THEREOF SOUTH 26°58'28" WEST, 303.41 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EASTERLY LINE SOUTH 26°58'28" WEST, 95.00 FEET TO THE NORTHERLY LINE OF AN EXISTING 40' X 40' EASEMENT FOR THE MONTIEL LIFT STATION RECORDED NOVEMBER 28, 1984 AS DOC. NO. 84-444160, OFFICIAL RECORDS; THENCE LEAVING SAID EASTERLY LINE AND WESTERLY ALONG SAID NORTHERLY LINE NORTH 62°50'50" WEST 10.00 FEET TO THE INTERSECTION WITH A LINE THAT LIES 10.00 FEET WESTERLY OF AND PARALLEL WITH SAID EASTERLY LINE; THENCE LEAVING SAID NORTHERLY LINE OF EXISTING EASEMENT AND NORTHERLY ALONG SAID PARALLEL LINE NORTH 26°58'28" EAST 95.00 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 62°50'50" EAST 10.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS: 950 SQUARE FEET OR 0.022 ACRE, MORE OR LESS.

SEE EXHIBIT B PLAT, ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



PAUL E. GOEBEL, PLS 8486 10/13/2021
MBI JN 176090
APN 228-360-43 MONTIEL RD. LLC

LEGEND



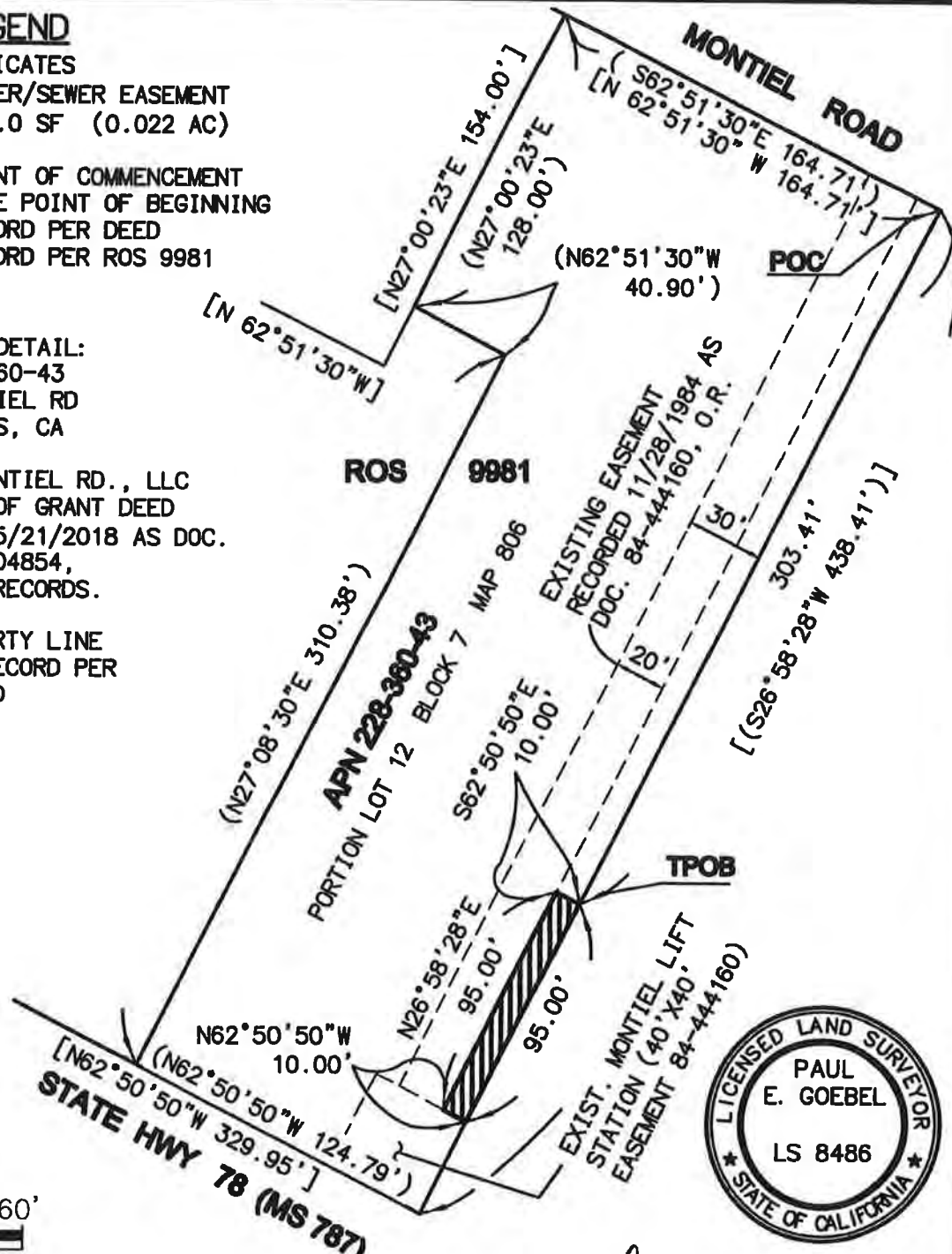
INDICATES
WATER/SEWER EASEMENT
950.0 SF (0.022 AC)

POC POINT OF COMMENCEMENT
TPOB TRUE POINT OF BEGINNING
() RECORD PER DEED
[] RECORD PER ROS 9981

NOTES:
PROPERTY DETAIL:
APN 228-360-43
2175 MONTIEL RD
SAN MARCOS, CA

OWNER: MONTIEL RD., LLC
PARCEL 1 OF GRANT DEED
RECORDED 5/21/2018 AS DOC.
NO. 2018-204854,
OFFICIAL RECORDS.

ALL PROPERTY LINE
DATA IS RECORD PER
GRANT DEED



SCALE: 1"=60'



Paul E. Goebel

8/2/2022

PAUL E. GOEBEL LS 8486 DATE

**EXHIBIT B - PLAT APN 228-360-43
PROPOSED WATER/SEWER EASEMENT EXHIBIT**

PORTION OF LOT 12, BLOCK 7, MAP 806 GRANTED TO MONTIEL RD
LLC BY DEED REC. 5/21/2018 AS DOC. NO. 2018-204854, O.R.
CITY OF SAN MARCOS
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

SHEET 1 OF 1 SHEET
Michael Baker International
9755 Clairemont Mesa Blvd.,
San Diego, CA 92124
(858)614-5000

DATE 10/13/2021 176090

INFORMATIONAL PAMPHLET
OVERVIEW OF THE EMINENT DOMAIN PROCESS
AND DESCRIPTION OF PROPERTY OWNER RIGHTS

(Government Code Section 7267.2(a)(2))

Whenever a public agency makes a formal offer to purchase property under Section 7267.2 of the Government Code, it is required by law to provide a description of the eminent domain process. This pamphlet details the process of eminent domain and property owner rights under eminent domain law.

Public agencies acquire property for all types of public projects, such as schools, roads, water and sewer service, flood control, and fire protection. Sometimes public agencies may have to use eminent domain to acquire property for these projects. Eminent domain is the power to acquire property for a public use conditioned upon payment of just compensation.

The Appraisal Process

Before public agencies can use the power of eminent domain, they must follow certain procedures designed to protect the rights of property owners and the public.

If a public agency is potentially interested in acquiring property for a public project and makes an offer under Section 7267.2 of the Government Code, it is required to send to the owner notice of its decision to appraise the property. This notice will advise the owner that the agency has retained an appraiser to appraise the property. The notice may also provide background information on the acquisition process. It may advise that a business on the property potentially could have a claim for loss of business goodwill. It may also advise that occupants on the property may be entitled to relocation assistance, which can include relocation counseling and the payment for certain costs such as moving costs.

The fact that a public agency has sent a notice of decision to appraise does not mean that it has decided to acquire the property or to use eminent domain. It simply means that the public agency has decided to appraise the property.

The appraiser must also notify the owner that the appraiser is available to meet with the owner to discuss and view the property. After investigating the property and other similar properties, the appraiser will prepare an appraisal report and forward it to the agency.

The Offer of Just Compensation

Upon reviewing the appraisal, the public agency may decide to make an offer to acquire the property. This offer must be in writing. The offer cannot be less than the fair market value established by the approved appraisal. The offer must include certain information, including the public use for which the property is to be acquired and a detailed description of the basis for the

conclusions of value. If the comparable sales approach is used, a description of the principal sales must be included. The appraisal report does not have to be provided unless an owner-occupant of residential property with four or fewer units requests to inspect the report.

The offer must be based upon fair market value. Fair market value is a technical legal phrase but generally it means the highest price that a seller and buyer would agree to on a particular date, with neither being under pressure to buy or sell, and with both being fully informed as to the uses available for the property. The proposed public project for which the property may be acquired is not to be considered for either decreasing or increasing the fair market value.

If only a portion of the property is being acquired, such as for a road widening or an underground sewer pipeline, the appraisal may also consider what are called severance damages. Generally, this refers to the reduction in fair market value to the remaining portion of the property that is not being acquired that results from the partial acquisition or the public project. Sometimes a proposed project will actually increase the value of the remaining property. These benefits can be considered in offsetting severance damages, if there any such damages. These benefits cannot be used to lower the value of the actual portion of the property that is being acquired.

A property may be improved and these improvements, if affixed to the realty, may be taken into consideration in the appraisal and the offer. Businesses may also have a claim for loss of business goodwill.

Just compensation is a concept that comes from the California and U. S. Constitutions. The written offer described above is intended to be an offer for just compensation.

The Negotiation Process

The public agency is required to negotiate in good faith upon making its offer of just compensation. It may not use threatening or coercive tactics. The offer process is a voluntary, negotiation process. The owner is under no obligation to agree to the offer.

In making the offer, the public agency must also offer up to \$5,000 to the owner to retain an appraiser selected by the owner. The appraiser must be state licensed and other conditions may apply.

The owner and the public agency's representatives may negotiate. If the owner believes that certain information is wrong or incomplete, or if the owner has other information that the agency should know about, the owner may offer that information to the public agency. The owner may make a counter-offer, asking for more compensation or suggesting a change in the proposed acquisition. Or, if the owner does not wish to sell the property, the owner may simply reject the offer or not respond.

When property is occupied, the occupants may be entitled to what is called relocation assistance. These are benefits and services to be given to occupants if the proposed acquisition

and public project will require an occupant to move. An occupant need not be an owner of the property to be entitled to such benefits. The nature and extent of the benefits can be technical and will depend upon the particular circumstances of the occupant. Laws and regulations set the amount and nature of applicable benefits. Businesses, homeowners, and renters may be eligible for relocation benefits. These benefits are protections offered by legislation and are different from and in addition to just compensation. When relocation is involved, the public agency will provide an explanation and itemization of the proposed relocation assistance benefits. What is required for relocation is subject to discussion and occupants can provide information they think is important in determining the amount and type of benefits.

Starting Eminent Domain

If the public agency's offer to purchase is not accepted, the public agency may then consider the use of eminent domain. Eminent domain involves the acquisition of property without the owner's consent for a public use conditioned upon payment of just compensation. A public agency may only use the power of eminent domain if it is granted that power by state statute.

The Requirement for a Public Hearing

Before a public agency can consider using eminent domain, it must conduct a public hearing. The public hearing is before the legislative body of the public agency. For example, if a city wishes to consider using eminent domain to build a road, the public hearing must be conducted by the city council. The owner, as identified by the latest tax rolls, is entitled to written notice of the hearing and has a right to speak before the legislative body. At the hearing the public agency considers the adoption of what is called a resolution of necessity. The hearing concerns whether the public interest and necessity require the project, whether the acquisition is most compatible with the greatest public good and the least private injury, whether the property is necessary for the project, and whether the written offer for just compensation has been made. The owner and the legislative body are to address these topics. The owner may be represented by someone at the hearing. This can be legal counsel but does not have to be. The owner must make a timely request to be heard. The notice for the hearing must explain this requirement.

Upon completing the hearing on these topics, the legislative body will determine whether findings on these topics properly can be made, and will consider adopting the resolution of necessity. The resolution can only be adopted if at least two thirds of the full legislative body votes to adopt the resolution.

The Court Process

If the resolution of necessity is adopted, the public agency is then authorized to bring an eminent domain action in state court. This action has to be filed in the county where the property is located. Those with an interest in the property will be named in the action. The action is a lawsuit that must be served on the named parties. The named parties have a right to respond by filing legal papers. In these papers the responding parties may raise legal issues regarding compensation or the public agency's right to use eminent domain.

Once an eminent domain action is filed, the public agency may ask the court for what is called prejudgment possession. This allows the agency to acquire possession of the property so it can begin work on its project without awaiting completion of the court action. The agency may have several actions in court regarding other properties and may not be able to wait until all those actions are resolved before proceeding with construction of its proposed project, such as a road, school, or water pipeline.

To obtain such possession, the public agency must first file and serve a motion on the affected parties. These parties have the right to object and have these objections heard in court. The public agency must also deposit with the court or the State Condemnation Fund the amount of probable just compensation for the property. This amount must be based upon a certified and detailed valuation statement. The owner has the right to challenge this deposit and can file a motion asking to increase the deposit. Those claiming an interest in the deposit may apply to the court to withdraw the deposit or a portion of it.

If the court finds that certain requirements are satisfied and that there are no valid objections to granting prejudgment possession, the court may grant the public agency's motion for possession. State law provides certain time periods to property owners and occupants before possession can take effect.

In many projects, such as road widenings or storm drains, relocation may not be involved at all. If relocation is involved, the public agency must provide relocation counseling and financial benefits to the affected parties. The specific requirements for such counseling and benefits are set by legislation and regulations. Relocation disagreements are subject to appeal to the public agency. Relocation claims may also be presented in court through a lawsuit brought by the claimant. These lawsuits are usually separate from the eminent domain action in court.

The eminent domain action may proceed to trial on the right to use eminent domain or on the amount of just compensation. Trials concerning the right to use eminent domain are conducted only before a judge, without a jury. The California Constitution gives the public agency and the property owner the right to a jury trial on the issue of just compensation. Trials on just compensation focus on the testimony of qualified valuation witnesses. The valuation positions of both sides are usually exchanged in writing on a scheduled date before the trial. These positions are then supported at trial by live testimony, which is subject to cross-examination. At trial, no side has the burden of proof on just compensation. A jury normally must reach a verdict within the range of the valuation opinions allowed into evidence by testimony. In other words, the jury generally cannot find less than the lowest valuation testified to in the trial nor more than the highest valuation.

Before trial either side can make a formal offer to settle. After the trial, if the trial judge finds that the public agency's offer to settle was unreasonable and the owner's offer to settle was reasonable, the public agency is required to pay the owner's reasonable litigation and expert expenses. The public agency cannot recover litigation expenses from the owner for contesting the amount of just compensation. Interest on the awarded just compensation is determined by the court.

During the eminent domain court proceedings, a public agency occasionally may decide that it does not wish to proceed with the acquisition. The owner is given the opportunity to object to the public agency abandoning the proceedings. If the public agency does abandon proceeding with the acquisition, it must pay the other side's reasonable litigation and expert expenses.

Either side may appeal an eminent domain judgment. The appeal process may involve going to the California Court of Appeal, to the California Supreme Court, and to the U. S. Supreme Court. The Court of Appeal must hear a timely appeal. Further review by the California Supreme Court and U. S. Supreme Court is generally within the discretion of those courts.

You Should Seek Professional Advice

This pamphlet is intended to give you an overview of the eminent domain process and property owner rights under state eminent domain law. A public agency does not and cannot represent you or give you legal advice. If you have questions or concerns at any time, you should consider consulting a professional, including an attorney. You always have the right to legal counsel.

RESOLUTION NO.

RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLECITOS WATER DISTRICT DECLARING THAT ACQUISITION OF EASEMENT INTERESTS IN THE PROPERTY KNOWN AS ASSESSOR'S PARCEL NOS. 228-370-38 AND 228-370-04 ARE NECESSARY FOR THE FOR THE MONTIEL LIFT STATION AND FORCEMAIN REPLACEMENT PROJECT IN SAN MARCOS, CALIFORNIA

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE VALLECITOS WATER DISTRICT as follows:

WHEREAS, Vallecitos Water District ("District") is a county water District established and organized pursuant to California Water Code § 30000 *et seq.*; and

WHEREAS, the District proposes to acquire permanent and temporary easement interests in real property owned by SAN MARCOS HOSPITALITY, LLC ("Property Owner") and generally identified as Assessor's Parcel Numbers ("APN") 228-370-38 and 228-370-04 for the Montiel Lift Station and Forcemain Replacement Project in San Marcos, California, pursuant to Water Code section 31040 and Code of Civil Procedure section 1240.040; and

WHEREAS, pursuant to Code of Civil Procedure section 1245.235, the District scheduled a public hearing for October 5, 2022, at 5:00 p.m. in the Board Room of Vallecitos Water District, 201 Vallecitos De Oro, San Marcos, CA 92069, and gave to each person whose property is to be acquired and whose name and address appears on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Code of Civil Procedure section 1240.030; and

WHEREAS, said hearing has been held by the District and each person whose property is to be acquired by eminent domain was afforded the opportunity to be heard on said matters; and

WHEREAS, the District may adopt a resolution of necessity pursuant to Code of Civil Procedure section 1240.040.

NOW THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED, by a vote of two-thirds or more of all members of the Board of the District as follows:

SECTION 1: Notice and Hearing Compliance.

Section 1.1: The District has provided notice of this hearing as required by Code of Civil Procedure section 1245.235.

SECTION 2: Compliance with the California Environmental Quality Act.

Section 2.1: The District, as lead agency for the Project, prepared an Addendum ("Addendum") to the certified 2018 Water, Wastewater, and Recycled Water Master Plan Program Environmental Impact Report ("PEIR"; SCH No. 2017111082) that analyzed the Project's potential environmental impacts under the California Environmental Quality Act

(“CEQA”). The Addendum concluded that the Project (1) would not result in any new significant environmental impacts or substantially increase any previously identified significant effects; (2) there are no new circumstances under which the improvements will be undertaken that would cause any new or more severe significant effects; and (3) there is no new information showing the improvements would have new or more severe significant effects or that there are new feasible mitigation measures or alternatives that would reduce any identified significant effects. On September 7, 2022, the Board of Directors of the District adopted a resolution approving the Addendum to the PEIR for the Project, which includes mitigation monitoring measures. A Notice of Determination was filed on September 13, 2022.

SECTION 3: Public Use.

Section 3.1: The public use for which the easement interests are to be acquired is for the District’s proposed Project to replace the existing Montiel sewer basin sewage conveyance facility (“Montiel Lift Station”) that has exceeded its useful life while also improving the flow capacity of the facility to meet ultimate peak flow demands for existing and future sewer customers in the area served by the facility. The Project will replace the existing Montiel Lift Station, which was initially constructed in 1985 as a temporary facility intended to be in operation for less than 5 years. The lift station has exceeded its useful life expectancy and requires replacement. The permanent easement interests sought are needed to access, operate, maintain, and repair the proposed Montiel Lift Station. The District also desires to acquire temporary construction easements on a portion of the future site of the hotel property for District’s construction activities, including earthwork, drainage and grading improvements, construction staging and temporarily spoils storage from the construction activities in the immediate vicinity of the replacement of the Montiel Lift Station. The District is authorized to acquire by eminent domain property interests necessary for such a purpose in accordance with Water Code section 31040 and Code of Civil Procedure section 1240.040.

SECTION 4: Description of Property.

Section 4.1: The property on which the easement is sought is generally described as APNs 228-370-38 and 228-370-04. Attached hereto as Exhibits are the legal descriptions and depictions of the real property interests required for the Project, which describe the general location of the property and the easement areas to be acquired by the District with sufficient detail for reasonable identification.

SECTION 5: Findings.

Section 5.1: The District hereby finds and determines the following:

- a. The public interest and necessity require the proposed Project; and
- b. The proposed Project is planned or located in the manner that will be the most compatible with the greatest public good and least private injury; and
- c. The easements are necessary for the proposed Project; and
- d. The offer required by Government Code section 7267.2 was made.

SECTION 6: Further Activities.

Section 6.1: Best Best & Krieger LLP (“BBK”), as counsel for the District, is hereby authorized to acquire the described real property interests in the name of and on behalf of the District by eminent domain. BBK is further authorized to institute and prosecute such legal proceedings as may be required. BBK may take such steps as may be authorized and required by law, and make such deposits as may be required, to permit the District to take possession of and use said real property interests at the earliest possible time. BBK is further authorized to correct any errors or to make or agree to non-material changes in the legal descriptions of the real property that is deemed necessary for the conduct of the condemnation action, or any other proceedings or transactions required to acquire the property interests.

SECTION 7: Severability.

Section 7.1: If any provision of this resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are severable. The Board of Directors hereby declares that it would have adopted this resolution irrespective of the invalidity of any particular portion thereof.

SECTION 8: Effective Date.

Section 8.1: This resolution shall become effective immediately upon its final passage; this resolution being adopted pursuant to Section 32552 of the Water Code of the State of California.

PASSED AND ADOPTED by the Board of Directors of the Vallecitos Water District at a regular meeting held on this 5th day of October, 2022, by the following roll call vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

 Craig Elitharp, President
 Board of Directors
 Vallecitos Water District

ATTEST:

 Glenn Pruiim, Secretary
 Board of Directors
 Vallecitos Water District

EXHIBITS:

Legal Description and Depiction of Property

Legal Description and Depiction of Permanent and Temporary Easements

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

| | | | |
|--|--|--|--|
| Print or type. See Specific Instructions on page 3. | 1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. | | |
| | 2 Business name/disregarded entity name, if different from above | | |
| | 3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. | 4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): | |
| | <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate | Exempt payee code (if any) _____ | |
| | <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. | Exemption from FATCA reporting code (if any) _____ | |
| | <input type="checkbox"/> Other (see instructions) ► | <small>(Applies to accounts maintained outside the U.S.)</small> | |
| | 5 Address (number, street, and apt. or suite no.) See instructions. | Requester's name and address (optional) | |
| | 6 City, state, and ZIP code | | |
| | 7 List account number(s) here (optional) | | |

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

| | | | | | | | | | | | |
|---------------------------------------|--|--|--|---|--|--|---|--|--|--|--|
| Social security number | | | | | | | | | | | |
| | | | | | | | | | | | |
| | | | | - | | | - | | | | |
| OR | | | | | | | | | | | |
| Employer identification number | | | | | | | | | | | |
| | | | | | | | | | | | |
| | | | | - | | | | | | | |

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

| | | |
|------------------|----------------------------|--------|
| Sign Here | Signature of U.S. person ► | Date ► |
|------------------|----------------------------|--------|

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

2020 Withholding Exemption Certificate

590

The payee completes this form and submits it to the withholding agent. The withholding agent keeps this form with their records.

Withholding Agent Information

Name _____

Payee Information

Name _____

SSN or ITIN FEIN CA Corp no. CA SOS file no.

Address (apt./ste., room, PO box, or PMB no.) _____

City (If you have a foreign address, see Instructions.) _____

State _____ ZIP code _____

Exemption Reason

Check only one box.

By checking the appropriate box below, the payee certifies the reason for the exemption from the California income tax withholding requirements on payment(s) made to the entity or individual.

- Individuals — Certification of Residency:**
I am a resident of California and I reside at the address shown above. If I become a nonresident at any time, I will promptly notify the withholding agent. See instructions for General Information D, Definitions.
- Corporations:**
The corporation has a permanent place of business in California at the address shown above or is qualified through the California Secretary of State (SOS) to do business in California. The corporation will file a California tax return. If this corporation ceases to have a permanent place of business in California or ceases to do any of the above, I will promptly notify the withholding agent. See instructions for General Information D, Definitions.
- Partnerships or Limited Liability Companies (LLCs):**
The partnership or LLC has a permanent place of business in California at the address shown above or is registered with the California SOS, and is subject to the laws of California. The partnership or LLC will file a California tax return. If the partnership or LLC ceases to do any of the above, I will promptly inform the withholding agent. For withholding purposes, a limited liability partnership (LLP) is treated like any other partnership.
- Tax-Exempt Entities:**
The entity is exempt from tax under California Revenue and Taxation Code (R&TC) Section 23701 _____ (insert letter) or Internal Revenue Code Section 501(c) _____ (insert number). If this entity ceases to be exempt from tax, I will promptly notify the withholding agent. Individuals cannot be tax-exempt entities.
- Insurance Companies, Individual Retirement Arrangements (IRAs), or Qualified Pension/Profit-Sharing Plans:**
The entity is an insurance company, IRA, or a federally qualified pension or profit-sharing plan.
- California Trusts:**
At least one trustee and one noncontingent beneficiary of the above-named trust is a California resident. The trust will file a California fiduciary tax return. If the trustee or noncontingent beneficiary becomes a nonresident at any time, I will promptly notify the withholding agent.
- Estates — Certification of Residency of Deceased Person:**
I am the executor of the above-named person's estate or trust. The decedent was a California resident at the time of death. The estate will file a California fiduciary tax return.
- Nonmilitary Spouse of a Military Servicemember:**
I am a nonmilitary spouse of a military servicemember and I meet the Military Spouse Residency Relief Act (MSRRA) requirements. See instructions for General Information E, MSRRA.

CERTIFICATE OF PAYEE: Payee must complete and sign below.

To learn about your privacy rights, how we may use your information, and the consequences for not providing the requested information, go to ftb.ca.gov/forms and search for 1131. To request this notice by mail, call 800.852.5711.

Under penalties of perjury, I declare that I have examined the information on this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I further declare under penalties of perjury that if the facts upon which this form are based change, I will promptly notify the withholding agent.

Type or print payee's name and title _____ Telephone _____

Payee's signature ► _____ Date _____



VALLECITOS WATER DISTRICT

A PUBLIC AGENCY

201 Vallecitos de Oro • San Marcos, California • 92069-1453 Telephone (760) 744-0460

NOTICE OF HEARING TO PROPERTY OWNER

Pursuant to Section 1245.235 of the California Code of Civil Procedure, you are hereby notified that at a regular meeting to be held on Wednesday, October 5, 2022, at 5:00 p.m., at the Vallecitos Water District Board Room, 201 Vallecitos de Oro, in San Marcos, California, the Board of Directors of the Vallecitos Water District intends to consider adopting a Resolution of Necessity, authorizing the commencement of eminent domain proceedings for the acquisition of a permanent easement on portions of the real property generally located at 2175 Montiel Road, San Marcos, California, and generally identified as APN 228-360-43 (as more fully described and depicted in Exhibits A and B, which are attached hereto and incorporated herein by reference) (the "Easement"), for the Montiel Lift Station and Force Main Replacement Project ("Project"). According to the last equalized county assessment roll, the real property needed for the Easement is owned by Montiel RD., LLC.

A public hearing will be held at the time and place mentioned above and you have the right to appear and be heard on the following matters:

1. Whether the public interest and necessity require the project for which the property is sought to be acquired.
2. Whether the project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
3. Whether the property is necessary for the proposed project.
4. Whether the offer required by Section 7267.2 of the California Government Code has been made.

If you wish to appear and be heard, please make a written request to appear and be heard to the Secretary of the Board of Directors at the address identified below prior to the October 5, 2022 Board Meeting. Failure to make a written request to appear and be heard within 15 days after this Notice was mailed will result in the waiver of your right to appear and be heard.

PUBLIC COMMENT INSTRUCTIONS:

Members of the public may address the Board on any item on the agenda when the item is considered, including the above-described item. A Request to Speak form is required to be submitted to the Senior Executive Assistant prior to the start of the meeting, if possible.

ALL QUESTIONS OR COMMUNICATIONS SHOULD BE ADDRESSED TO:

Anthony Flores
Senior Executive Assistant to the Board of Directors
201 Vallecitos de Oro
San Marcos, California 92069

DATE OF HEARING: Wednesday, October 5, 2022
5:00 p.m.

PLACE OF HEARING: Vallecitos Water District Board Room
201 Vallecitos De Oro
San Marcos, California

DATED: September 12, 2022

VALLECITOS WATER DISTRICT

By: 

Anthony Flores
Senior Executive Assistant to the
Board of Directors

PROOF OF MAILING NOTICE

I, Alison Fretwell, acting on behalf of the Vallecitos Water District, hereby certify that on September 13, 2022, I mailed a copy of the attached notice by first-class mail to the following owners of real property located in the County of San Diego, State of California, more particularly described as Assessor Parcel No. 228-360-43:

Stephen Coles
Managing Member
Montiel RD., LLC
1170 W. Morena Blvd.
San Diego, CA 92110

DATED: September 13, 2022

Alison Fretwell

Recording requested by, and
when recorded, return to:

Vallecitos Water District
201 Vallecitos de Oro
San Marcos, CA 92069

APN: 228-370-04 & 228-370-38

(Space above for Recorder's Use)
Document Transfer Tax: None

**VALLECITOS WATER DISTRICT
GRANT OF RIGHT-OF-WAY**

SAN MARCOS HOSPITALITY, LLC., as Grantor, for and in consideration of the sum of One Dollar and other valuable consideration paid by **VALLECITOS WATER DISTRICT**, as Grantee, receipt of which is hereby acknowledged, does hereby grant to said Grantee, its successors and assigns, an easement of right-of-way, **VARIES** feet in width upon, over, under and across the lands hereinafter described, to erect, construct, reconstruct, replace, repair, maintain and use a pipeline or pipelines for any and all purposes, together with their necessary fixtures and appurtenances including but not limited to conduits and cables for power transmission and communication purposes specifically related to Grantee's facilities, at such locations and elevations, upon, along, over and under the hereinafter described right-of-way as Grantee may now or hereafter deem convenient and necessary from time to time, together with the right of ingress thereto and egress therefrom, to and along said right-of-way by a practical route or routes in, upon, over and across the hereinafter lands, together with the right to clear and keep clear said right-of-way from vehicles, vegetation, explosives, buildings and structures of any type.

The lands in which said easement of right-of-way is hereby granted are situated in the County of San Diego, State of California, and particularly described as follows:

A PORTION OF LOT 13 IN BLOCK 7 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895. BEING PROPERTY GRANTED TO SAN MARCOS HOSPITALITY, LLC BY GRANT DEED RECORDED SEPTEMBER 1, 2021 AS DOC. NO. 2021-0621100, OFFICIAL RECORDS

The **VARIES** - foot-wide easement of right-of-way in the aforesaid lands is particularly described as follows: SEE **EXHIBIT "A"** ATTACHED.

A.P.N.: **228-370-04 - Temporary Construction Easement (TCE) & 228-370-38 - Permanent and (TCE)**

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

AREA: Permanent Easement 112 SQUARE FEET OR 0.003 ACRE, MORE OR LESS.

AREA: Temporary Construction Easement (TCE) 19,594 SQUARE FEET OR 0.450 ACRE, MORE OR LESS. Temporary Construction Easement is granted for a limited term of 12 months from the start of construction as determined by the Vallecitos Water District.

PLAT: SEE EXHIBIT "B" ATTACHED.

It is understood by the parties hereto that the Grantor and their successors and assigns:

Shall not grant any other easement on, under or over said easement of right-of-way without the prior written consent of Grantee.

Shall not erect or construct, or permit to be erected or constructed, any building or other structure, plant any tree or trees, or drill any well or wells, within the limits of said right-of-way.

Shall not increase or decrease, or permit to be increased or decreased, the proposed surface elevations of the above-described right-of-way, as shown on improvement plans titled **Montiel Lift Station and Forcemain Replacement Project (VWD WO 217904)**, prepared by **Michael Baker International**, without the prior written consent of Grantee.

Shall not park vehicles of any kind within the easement in such a manner as to hinder full access and use of the easement by Grantee.

It is understood by the parties hereto that the Grantee and its successors and assigns:

Shall have the right to erect, maintain and use any gates in any fences which cross or shall hereafter cross said easement of right-of-way, and to trim and cut and clear away any trees and vegetation whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby conveyed.

Shall have the right to make any and all excavations and the right to alter the existing or proposed surface elevations within the easement right-of-way, now and in the future as may be deemed necessary and convenient. Grantee shall only be responsible for repair of improvements made necessary by the direct action of Grantee.

Shall not be responsible for maintenance or costs of maintenance of any improvements within the easement right of way, including all surface areas within the easement area, except those specific Grantee owned/maintained facilities within said easement, unless by separate agreement.

Shall have the right and privilege to spill water in natural channels which cross said lands adjacent to the easement right-of-way.

Shall have the right to transfer and assign this easement of right-of-way in whole or in part.

In Witness whereof, the Grantor executed these presents the ____ day of _____, 20__.

"Grantor"

Company: **SAN MARCOS HOSPITALITY, LLC.**

Name*: **DARSHAN PATEL**

Title: **CHIEF EXECUTIVE OFFICER**

Signature †: _____

Date: _____

**CERTIFICATE OF ACCEPTANCE
VALLECITOS WATER DISTRICT**

This is to certify that the interest in real property conveyed by the deed or grant dated _____, from **SAN MARCOS HOSPITALITY, LLC.**, to VALLECITOS WATER DISTRICT, a political corporation and/or a governmental agency, is hereby accepted by the undersigned officer of the Board of Directors of the VALLECITOS WATER DISTRICT pursuant to Resolution No. 1358, adopted on the 21st day of July, 2010, and the Grantee consents to the recording thereof by its duly authorized officer.

By. _____

Dated: _____

Glenn Pruum, Secretary
Board of Directors
Vallecitos Water District
201 Vallecitos De Oro
San Marcos, CA 92069

* Name of Authorized Representative of Developer/Owner

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

† Acknowledgement of the signature(s) executing this Easement Document, by a Notary Public, is required. Attach acknowledgement to this page.

EXHIBIT 'A'
LEGAL DESCRIPTION EASEMENTS

PORTIONS OF THE PROPERTY GRANTED TO SAN MARCOS HOSPITALITY, LLC BY GRANT DEED RECORDED SEPTEMBER 1, 2021 AS DOC. NO. 2021-0621100, OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL A - WATER AND SEWER EASEMENT:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL 7 DESCRIBED IN SAID DEED; THENCE NORTHEASTERLY ALONG THE WESTERLY LINE THEREOF NORTH 27°35'20" EAST, 15.00 FEET TO THE INTERSECTION WITH A LINE THAT LIES 15.00 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID PARCEL 7 AND THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING ALONG SAID WESTERLY LINE NORTH 27°35'20" EAST 8.00 FEET; THENCE LEAVING SAID WESTERLY LINE SOUTH 46°21'40" EAST 29.14 FEET TO SAID PARALLEL LINE; THENCE WESTERLY ALONG SAID PARALLEL LINE NORTH 62°17'53" WEST 28.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINS: 112 SQUARE FEET, OR 0.003 ACRE, MORE OR LESS.

PARCEL B - TEMPORARY CONSTRUCTION EASEMENT <T.C.E.>

ALL OF PARCEL 6 AND 7 OF SAID DEED, EXCEPTING THEREFROM THE SOUTHEASTERLY 15.00 FEET OF PARCEL 7 AND THE PORTION WITHIN PARCEL A DESCRIBED ABOVE.



CONTAINS: 19,594 SQUARE FEET, OR 0.450 ACRE, MORE OR LESS.

SEE EXHIBIT B PLAT, ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



PAUL E. GOEBEL, PLS 8486 8/2/2022
MBI JN 176090
APN 228-370-03,04,38

LEGEND

-  PARCEL A-PERMANENT WATER/SEWER EASEMENT-CONTAINS 112 SF (0.003 AC)
-  PARCEL B-TEMPORARY CONSTRUCTION EASEMENT <T.C.E.> CONTAINS 19,594 SF (0.045 AC)
- POC** POINT OF COMMENCEMENT
- TPOB** TRUE POINT OF BEGINNING
- () RECORD DATA AS SHOWN

OWNER:
 SAN MARCOS HOSPITALITY, LLC
 BY GRANT DEED REC.
 9/1/2021 AS DOC.
 2021-0621100, O.R.(DD1)

0 60'
 SCALE: 1"=60'



TPOB
 SEE DETAIL

POC

HWY 78 EX. 15' SEWER EASEMENT TO VCMWD REC. 9/30/87 AS DEED TO STATE REC. 10/28/1970 DOC. 196839, O.R. 87-553607, O.R. 1320.01'

**EXHIBIT B - PLAT
 PROPOSED WATER / SEWER EASEMENT
 & TEMPORARY CONSTRUCTION
 EASEMENT EXHIBIT**

APN 228-370-03,04,38
 PORTIONS OF NWLY HALF, LOT 13, BLK 7, MAP 806
 CITY OF SAN MARCOS
 COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

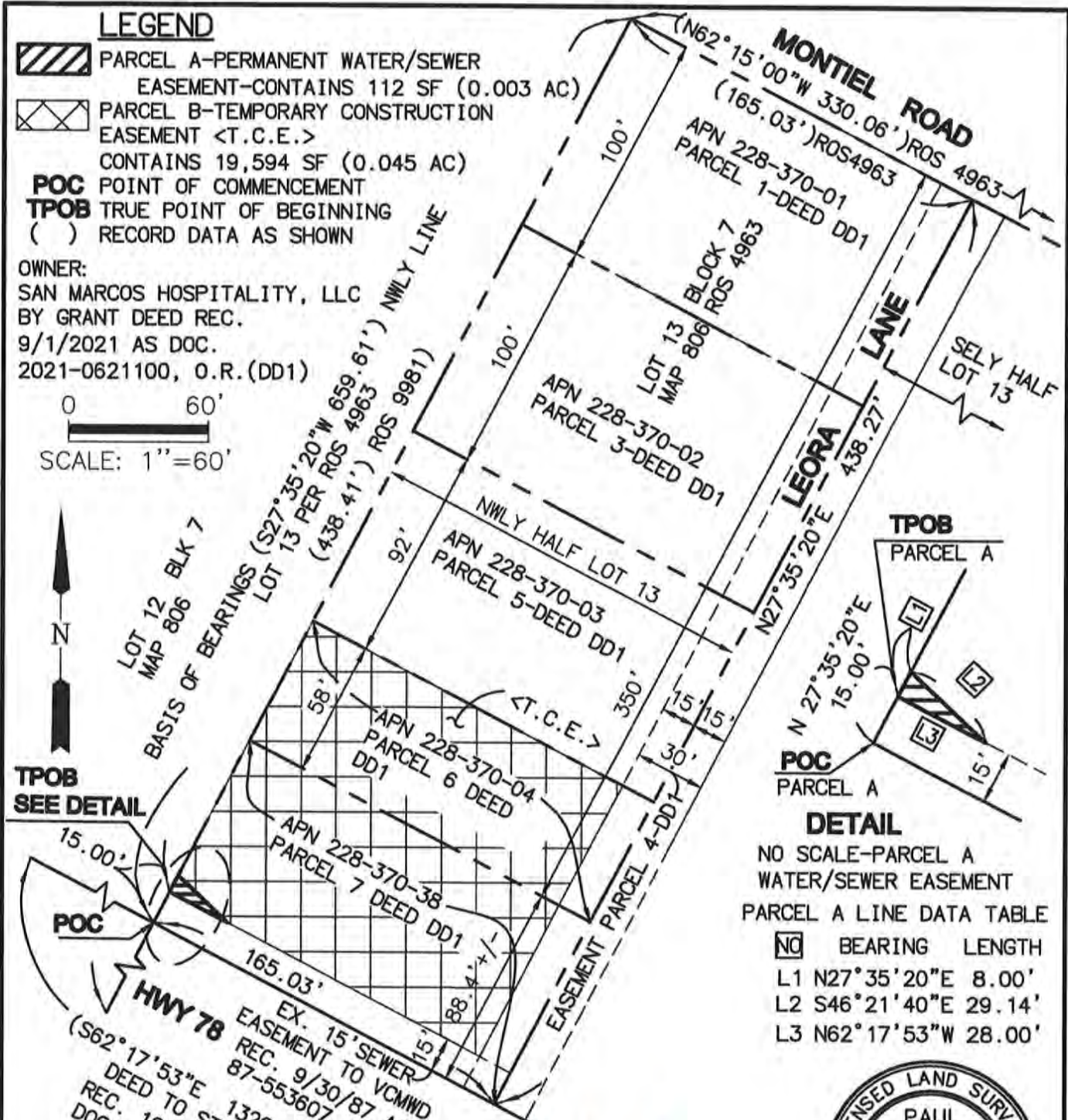
Paul E. Goebel

8/2/2022

PAUL E. GOEBEL DATE
 LS 8486



SHEET 1 OF 1 SHEET
 Michael Baker International
 9755 Clairemont Mesa Blvd.,
 San Diego, CA 92124
 (858)614-5000
 DATE 8/1/2022 176090



DETAIL
 NO SCALE-PARCEL A
 WATER/SEWER EASEMENT
 PARCEL A LINE DATA TABLE

| NO | BEARING | LENGTH |
|----|-------------|--------|
| L1 | N27°35'20"E | 8.00' |
| L2 | S46°21'40"E | 29.14' |
| L3 | N62°17'53"W | 28.00' |

August 11, 2022

VIA FEDERAL EXPRESS

San Marcos Hospitality., LLC
Attn: Bhavesh Patel
1650 Hotel Circle North, Suite 120.
San Diego, CA 92108

**Subject: OFFER FOR ACQUISITION OF PROPERTY INTERESTS
Montiel Road at Leora Lane, San Marcos, CA, APN 228-370-04 and 228-370-38**

Dear Mr. Patel:

My name is Jeff Sykes, and I am the Land Manager at NV5, and we have been retained to acquire easements on behalf of Vallecitos Water District ("District") for the project described below and other projects.

The Vallecitos Water District is in the process of designing the Montiel Lift Station and Force Main Replacement Project ("Project"). The Project will demolish and replace the Montiel Lift Station that was originally designed and built in 1985 to be a temporary solution pending a new outfall, The anticipated new outfall is not going to be realized. Due to its age which has put it past its design life, and the now permanent nature the lift station, it has been budgeted and scheduled for replacement with larger pumps and new supporting infrastructure. This will add 50 years to the lift station and decrease the chances of a sewage spill in the area. The lift station serves an area of approximately 200 acres east of Nordahl Rd. and until it is replaced no additional sewer connections will be approved in the service area.

Records show that you are the property owner of the above-numbered parcels (see Exhibit A attached hereto). The District seeks to acquire permanent easement rights on your property APN 228-370-38 and a Temporary Construction Easement (TCE) on both 228-370-38 and 228-370-04, in San Marcos, California for the Project. A copy of the legal descriptions of the easement area and the easement document sought to be acquired are attached as Exhibit B to this letter.

Your representative, Mr. Enrique Terrazas, was previously contacted during the appraisal phase of this project and was offered an opportunity to meet with the VWD's independent appraiser during the inspection of the property. The appraiser was informed that the appraisal could be done without an onsite meeting with you or your representative.

A market-value appraisal has now been completed. Based on that, and pursuant to California Government Code section 7267.2, the District hereby makes an offer of \$61,000.00 ("Purchase Price") for the easement interests. The District had the easement appraised to determine the fair market value. The appraisal was conducted in accordance with commonly accepted appraisal standards and included consideration of the highest and best use of the land. The Purchase Price is the full amount established by the appraisal as the fair market value of the easement and the just

compensation for such acquisition. A written statement of, and a summary of the basis for, the amount established as the Purchase Price is set forth in the attached Appraisal as **Exhibit C**.

The fair market value of the easements:

- a. Is the full amount believed by the District to be just compensation for the easements to be acquired;
- b. Is not less than the approved appraisal of the fair market value of the easements;
- c. Disregards any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for the property which is to be acquired or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant; and
- d. Does not reflect any consideration of or allowance for any relocation assistance and payments or other benefits to which the owner may be entitled to receive under an agreement with the District.

In addition, pursuant to Government Code section 7267.2(a)(2), we have also enclosed an informational pamphlet explaining the eminent domain process (**Exhibit D**). The District has made no decision to exercise its powers of eminent domain and can do so only after it holds a hearing at which all affected property owners have had the opportunity to be heard. The District reserves the right to consider any environmental issues that may pertain to the property.

Pursuant to Code of Civil Procedure section 1263.025, you are entitled to reimbursement from the District for the reasonable costs, not to exceed \$5,000, for an independent appraisal, should you retain an appraiser. In order to receive this reimbursement, the independent appraisal can only be conducted by an appraiser licensed by the Office of Real Estate Appraisers.

It is the District's hope that this offer is acceptable and we can proceed with the purchase of the easement. However, if you are not satisfied with the District's offer of just compensation, you will be given reasonable opportunity to present relevant material, which the District will carefully consider. A response to this offer would be appreciated by **September 2, 2022**.

I have attached the following documents for your review and/or approval:

1. One copy of an Assessor's Parcel Map, site plan showing your parcel. Exhibit A
2. One original and one copy of an Easement which includes the legal description and plat of the easement area, by which you would convey this property interest to VWD. Exhibit B
3. One copy of the Appraisal which is the basis of the amount established as Just Compensation for your information. Exhibit C
4. One original and one copy of the Easement Purchase and Sale Agreement, which establishes terms and conditions primarily related to the payment of compensation for the easement.
5. One copy of a brochure entitled Property Owner's Information Pamphlet on Use of Eminent Domain in California. Exhibit D

August 11, 2022

Page 3

However, please note that it is our desire to reach a settlement without the use of eminent domain. The pamphlet is being provided for information purposes.

6. Request for Taxpayer Identification Number and Certification (W-9).
7. Withholding Exemption Certificate (Form 590).

If you have any question regarding this offer, please contact me at 858-270-7010 or email me at Jeff.Sykes@NV5.com.

Sincerely,



Jeff Sykes
NV5
Land Manager

Enclosures

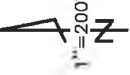
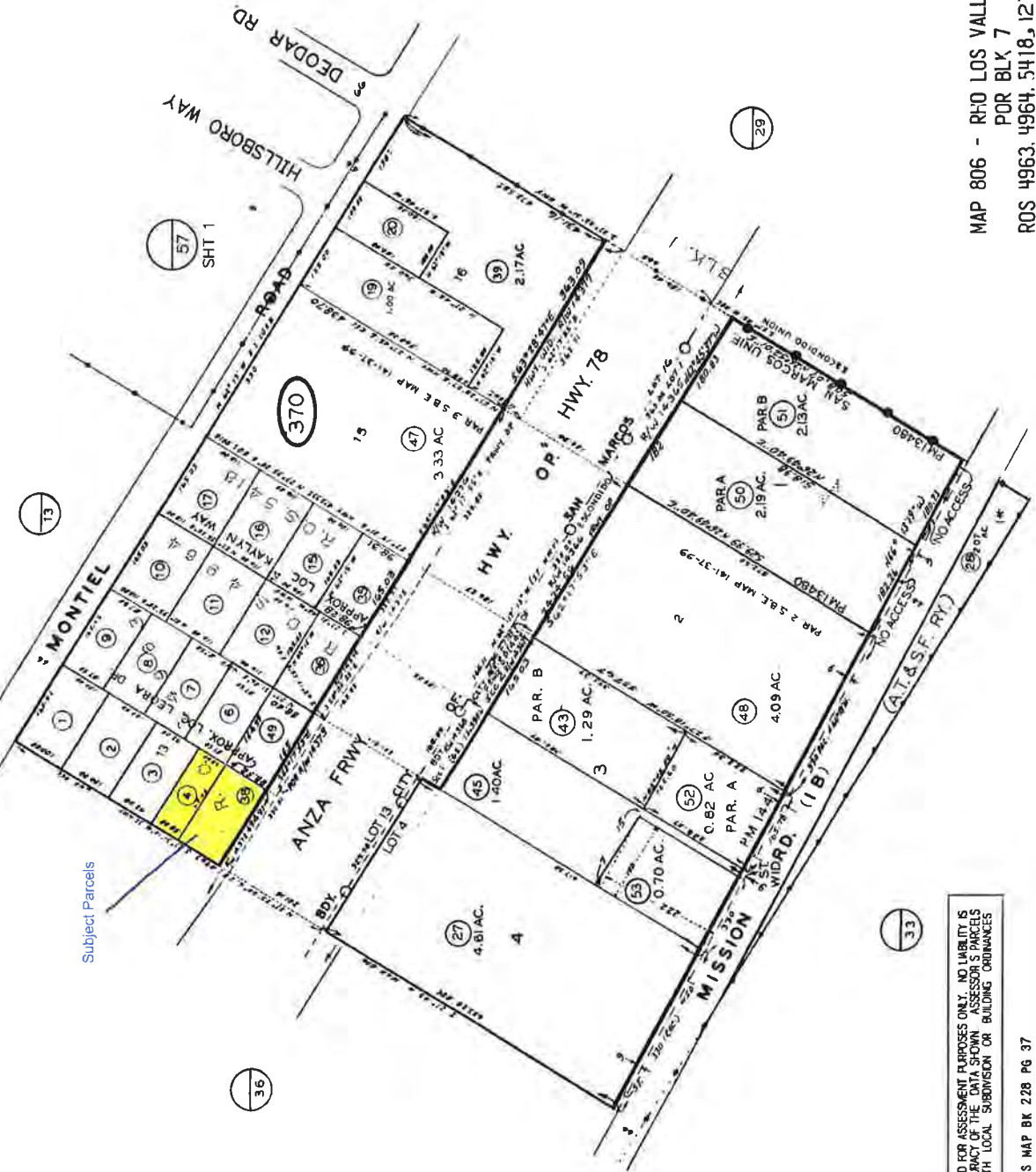


EXHIBIT A



| CHANGES | | |
|---------|---------|------------------|
| BLK | OLD NEW | YR CUT |
| 370 | 21 | 396407 11 0552 |
| | 22 | 406407 21 2212 |
| | 25 | 41-44 72 1422 |
| | 26 | 41 45 46 72 4511 |
| | 33 | 47 48 73 2175 |
| | 37 | HWY 72 2211 |
| | 49 | 74 1906 |
| | 45 | 75 78 1555 |
| | 27 | 80 3036 |
| | 40 | 50251 85 1616 |
| | 48 | 87 88 89 |
| | 32 | 91 1000 |
| | 33 | 92 93 94 1000 |
| | 46 | 95 96 97 1000 |

1* FOR PAR 8A
SBE MAP 804-37-40D

MAP 806 - RHO LOS VALLECITOS DE SAN MARCOS
POR BLK 7
ROS 4963, 4964, 4964, 5418, 12719

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

SAN DIEGO COUNTY ASSESSOR'S MAP BK 228 PG 37

Recording requested by, and
when recorded, return to:

Vallecitos Water District
201 Vallecitos de Oro
San Marcos, CA 92069

APN: 228-370-04 & 228-370-38

(Space above for Recorder's Use)
Document Transfer Tax: None

**VALLECITOS WATER DISTRICT
GRANT OF RIGHT-OF-WAY**

SAN MARCOS HOSPITALITY, LLC., as Grantor, for and in consideration of the sum of One Dollar and other valuable consideration paid by **VALLECITOS WATER DISTRICT**, as Grantee, receipt of which is hereby acknowledged, does hereby grant to said Grantee, its successors and assigns, an easement of right-of-way, **VARIES** feet in width upon, over, under and across the lands hereinafter described, to erect, construct, reconstruct, replace, repair, maintain and use a pipeline or pipelines for any and all purposes, together with their necessary fixtures and appurtenances including but not limited to conduits and cables for power transmission and communication purposes specifically related to Grantee's facilities, at such locations and elevations, upon, along, over and under the hereinafter described right-of-way as Grantee may now or hereafter deem convenient and necessary from time to time, together with the right of ingress thereto and egress therefrom, to and along said right-of-way by a practical route or routes in, upon, over and across the hereinafter lands, together with the right to clear and keep clear said right-of-way from vehicles, vegetation, explosives, buildings and structures of any type.

The lands in which said easement of right-of-way is hereby granted are situated in the County of San Diego, State of California, and particularly described as follows:

A PORTION OF LOT 13 IN BLOCK 7 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895. BEING PROPERTY GRANTED TO SAN MARCOS HOSPITALITY, LLC BY GRANT DEED RECORDED SEPTEMBER 1, 2021 AS DOC. NO. 2021-0621100, OFFICIAL RECORDS

The **VARIES** - foot-wide easement of right-of-way in the aforesaid lands is particularly described as follows: SEE **EXHIBIT "A"** ATTACHED.

A.P.N.: 228-370-04 - Temporary Construction Easement (TCE) & 228-370-38 - Permanent and (TCE)

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

Page 1 of 6

AREA: Permanent Easement 112 SQUARE FEET OR 0.003 ACRE, MORE OR LESS.

AREA: Temporary Construction Easement (TCE) 19,594 SQUARE FEET OR 0.450 ACRE, MORE OR LESS. Temporary Construction Easement is granted for a limited term of 12 months from the start of construction as determined by the Vallecitos Water District.

PLAT: SEE EXHIBIT "B" ATTACHED.

It is understood by the parties hereto that the Grantor and their successors and assigns:

Shall not grant any other easement on, under or over said easement of right-of-way without the prior written consent of Grantee.

Shall not erect or construct, or permit to be erected or constructed, any building or other structure, plant any tree or trees, or drill any well or wells, within the limits of said right-of-way.

Shall not increase or decrease, or permit to be increased or decreased, the proposed surface elevations of the above-described right-of-way, as shown on improvement plans titled Montiel Lift Station and Forcemain Replacement Project (VWD WO 217904), prepared by Michael Baker International, without the prior written consent of Grantee.

Shall not park vehicles of any kind within the easement in such a manner as to hinder full access and use of the easement by Grantee.

It is understood by the parties hereto that the Grantee and its successors and assigns:

Shall have the right to erect, maintain and use any gates in any fences which cross or shall hereafter cross said easement of right-of-way, and to trim and cut and clear away any trees and vegetation whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby conveyed.

Shall have the right to make any and all excavations and the right to alter the existing or proposed surface elevations within the easement right-of-way, now and in the future as may be deemed necessary and convenient. Grantee shall only be responsible for repair of improvements made necessary by the direct action of Grantee.

Shall not be responsible for maintenance or costs of maintenance of any improvements within the easement right of way, including all surface areas within the easement area, except those specific Grantee owned/maintained facilities within said easement, unless by separate agreement.

Shall have the right and privilege to spill water in natural channels which cross said lands adjacent to the easement right-of-way.

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

Shall have the right to transfer and assign this easement of right-of-way in whole or in part.

In Witness whereof, the Grantor executed these presents the ____ day of _____, 20__.

"Grantor"

Company: SAN MARCOS HOSPITALITY, LLC.

Name*: DARSHAN PATEL

Title: CHIEF EXECUTIVE OFFICER

Signature †: _____

Date: _____

CERTIFICATE OF ACCEPTANCE

VALLECITOS WATER DISTRICT

This is to certify that the interest in real property conveyed by the deed or grant dated _____, from SAN MARCOS HOSPITALITY, LLC., to VALLECITOS WATER DISTRICT, a political corporation and/or a governmental agency, is hereby accepted by the undersigned officer of the Board of Directors of the VALLECITOS WATER DISTRICT pursuant to Resolution No. 1358, adopted on the 21st day of July, 2010, and the Grantee consents to the recording thereof by its duly authorized officer.

By. _____

Dated: _____

Glenn Pruiam, Secretary
Board of Directors
Vallecitos Water District
201 Vallecitos De Oro
San Marcos, CA 92069

* Name of Authorized Representative of Developer/Owner

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

† Acknowledgement of the signature(s) executing this Easement Document, by a Notary Public, is required. Attach acknowledgement to this page.

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069
Page 4 of 6

EXHIBIT 'A'
LEGAL DESCRIPTION EASEMENTS

PORTIONS OF THE PROPERTY GRANTED TO SAN MARCOS HOSPITALITY, LLC BY GRANT DEED RECORDED SEPTEMBER 1, 2021 AS DOC. NO. 2021-0621100, OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL A - WATER AND SEWER EASEMENT:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL 7 DESCRIBED IN SAID DEED; THENCE NORTHEASTERLY ALONG THE WESTERLY LINE THEREOF NORTH 27°35'20" EAST, 15.00 FEET TO THE INTERSECTION WITH A LINE THAT LIES 15.00 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID PARCEL 7 AND THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING ALONG SAID WESTERLY LINE NORTH 27°35'20" EAST 8.00 FEET; THENCE LEAVING SAID WESTERLY LINE SOUTH 46°21'40" EAST 29.14 FEET TO SAID PARALLEL LINE; THENCE WESTERLY ALONG SAID PARALLEL LINE NORTH 62°17'53" WEST 28.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINS: 112 SQUARE FEET, OR 0.003 ACRE, MORE OR LESS.

PARCEL B - TEMPORARY CONSTRUCTION EASEMENT <T.C.E.>

ALL OF PARCEL 6 AND 7 OF SAID DEED, EXCEPTING THEREFROM THE SOUTHEASTERLY 15.00 FEET OF PARCEL 7 AND THE PORTION WITHIN PARCEL A DESCRIBED ABOVE.



CONTAINS: 19,594 SQUARE FEET, OR 0.450 ACRE, MORE OR LESS.

SEE EXHIBIT B PLAT, ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

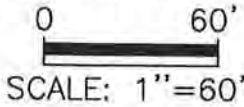


PAUL E. GOEBEL, PLS 8486 8/2/2022
MBI JN 176090
APN 228-370-03,04,38

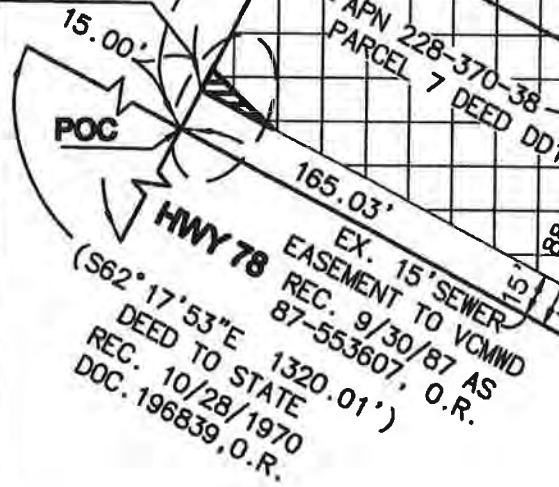
LEGEND

-  PARCEL A-PERMANENT WATER/SEWER EASEMENT-CONTAINS 112 SF (0.003 AC)
-  PARCEL B-TEMPORARY CONSTRUCTION EASEMENT <T.C.E.> CONTAINS 19,594 SF (0.045 AC)
- POC** POINT OF COMMENCEMENT
- TPOB** TRUE POINT OF BEGINNING
- () RECORD DATA AS SHOWN

OWNER:
 SAN MARCOS HOSPITALITY, LLC
 BY GRANT DEED REC.
 9/1/2021 AS DOC.
 2021-0621100, O.R. (DD1)



TPOB
 SEE DETAIL



MONTIEL ROAD
 (N62°15'00"W 330.06') ROS 4963-
 (165.03') ROS 4963

APN 228-370-01
 PARCEL 1-DEED DD1

BLOCK 7
 ROS 4963

LOT 13
 MAP 806

APN 228-370-02
 PARCEL 3-DEED DD1

NWLY HALF LOT 13
 APN 228-370-03
 PARCEL 5-DEED DD1

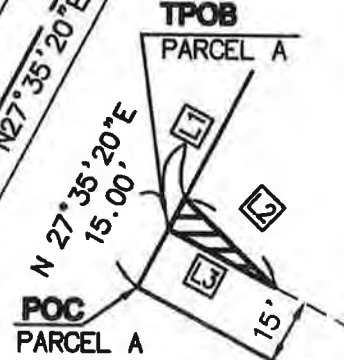
APN 228-370-04
 PARCEL 6 DEED DD1

APN 228-370-38
 PARCEL 7 DEED DD1

HWY 78
 EX. 15' SEWER EASEMENT TO VCMWD
 REC. 9/30/87 AS 87-553607, O.R.
 DEED TO STATE REC. 10/28/1970
 DOC. 196839, O.R.

LEORA LANE
 438.27'

SELY HALF LOT 13



DETAIL
 NO SCALE-PARCEL A
 WATER/SEWER EASEMENT
 PARCEL A LINE DATA TABLE

| NO | BEARING | LENGTH |
|----|-------------|--------|
| L1 | N27°35'20"E | 8.00' |
| L2 | S46°21'40"E | 29.14' |
| L3 | N62°17'53"W | 28.00' |

Paul E. Goebel

8/2/2022

PAUL E. GOEBEL DATE
 LS 8486



**EXHIBIT B - PLAT
 PROPOSED WATER / SEWER EASEMENT
 & TEMPORARY CONSTRUCTION
 EASEMENT EXHIBIT**

APN 228-370-03,04,38
 PORTIONS OF NWLY HALF, LOT 13, BLK 7, MAP 806
 CITY OF SAN MARCOS
 COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

SHEET 1 OF 1 SHEET
 Michael Baker International
 9755 Clairemont Mesa Blvd.,
 San Diego, CA 92124
 (858)614-5000
 DATE 8/1/2022 176090

Recording requested by, and
when recorded, return to:

Vallecitos Water District
201 Vallecitos de Oro
San Marcos, CA 92069

APN: 228-370-04 & 228-370-38

(Space above for Recorder's Use)
Document Transfer Tax: None

**VALLECITOS WATER DISTRICT
GRANT OF RIGHT-OF-WAY**

SAN MARCOS HOSPITALITY, LLC., as Grantor, for and in consideration of the sum of One Dollar and other valuable consideration paid by **VALLECITOS WATER DISTRICT**, as Grantee, receipt of which is hereby acknowledged, does hereby grant to said Grantee, its successors and assigns, an easement of right-of-way, **VARIES** feet in width upon, over, under and across the lands hereinafter described, to erect, construct, reconstruct, replace, repair, maintain and use a pipeline or pipelines for any and all purposes, together with their necessary fixtures and appurtenances including but not limited to conduits and cables for power transmission and communication purposes specifically related to Grantee's facilities, at such locations and elevations, upon, along, over and under the hereinafter described right-of-way as Grantee may now or hereafter deem convenient and necessary from time to time, together with the right of ingress thereto and egress therefrom, to and along said right-of-way by a practical route or routes in, upon, over and across the hereinafter lands, together with the right to clear and keep clear said right-of-way from vehicles, vegetation, explosives, buildings and structures of any type.

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The **VARIES** - foot-wide easement of right-of-way in the aforesaid lands is particularly described as follows: SEE **EXHIBIT "A"** ATTACHED.

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VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

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It is understood by the parties hereto that the Grantor and their successors and assigns:

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Shall not increase or decrease, or permit to be increased or decreased, the proposed surface elevations of the above-described right-of-way, as shown on improvement plans titled Montiel Lift Station and Forcemain Replacement Project (VWD WO 217904), prepared by Michael Baker International, without the prior written consent of Grantee.

Shall not park vehicles of any kind within the easement in such a manner as to hinder full access and use of the easement by Grantee.

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Shall have the right and privilege to spill water in natural channels which cross said lands adjacent to the easement right-of-way.

Shall have the right to transfer and assign this easement of right-of-way in whole or in part.

In Witness whereof, the Grantor executed these presents the ____ day of _____, 20__.

"Grantor"

Company: SAN MARCOS HOSPITALITY, LLC.

Name*: DARSHAN PATEL

Title: CHIEF EXECUTIVE OFFICER

Signature †: _____

Date: _____

CERTIFICATE OF ACCEPTANCE

VALLECITOS WATER DISTRICT

This is to certify that the interest in real property conveyed by the deed or grant dated _____, from SAN MARCOS HOSPITALITY, LLC., to VALLECITOS WATER DISTRICT, a political corporation and/or a governmental agency, is hereby accepted by the undersigned officer of the Board of Directors of the VALLECITOS WATER DISTRICT pursuant to Resolution No. 1358, adopted on the 21st day of July, 2010, and the Grantee consents to the recording thereof by its duly authorized officer.

By. _____

Dated: _____

Glenn Pruiam, Secretary
Board of Directors
Vallecitos Water District
201 Vallecitos De Oro
San Marcos, CA 92069

* Name of Authorized Representative of Developer/Owner

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

† Acknowledgement of the signature(s) executing this Easement Document, by a Notary Public, is required. Attach acknowledgement to this page.

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Page 4 of 6

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CONTAINS: 19,594 SQUARE FEET, OR 0.450 ACRE, MORE OR LESS.

SEE EXHIBIT B PLAT, ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



PAUL E. GOEBEL, PLS 8486 8/2/2022
MBI JN 176090
APN 228-370-03,04,38

LEGEND

-  PARCEL A-PERMANENT WATER/SEWER EASEMENT-CONTAINS 112 SF (0.003 AC)
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- POC** POINT OF COMMENCEMENT
- TPOB** TRUE POINT OF BEGINNING
- () RECORD DATA AS SHOWN

OWNER:
 SAN MARCOS HOSPITALITY, LLC
 BY GRANT DEED REC.
 9/1/2021 AS DOC.
 2021-0621100, O.R.(DD1)

0 60'
 SCALE: 1"=60'



TPOB
 SEE DETAIL

POC
 15.00'
HWY 78
 EX. 15' SEWER EASEMENT TO VCMWD REC. 9/30/87 AS 87-553607, O.R. (S62°17'53"E 1320.01') DEED TO STATE REC. 10/28/1970 DOC. 196839, O.R.

**EXHIBIT B - PLAT
 PROPOSED WATER / SEWER EASEMENT & TEMPORARY CONSTRUCTION EASEMENT EXHIBIT**

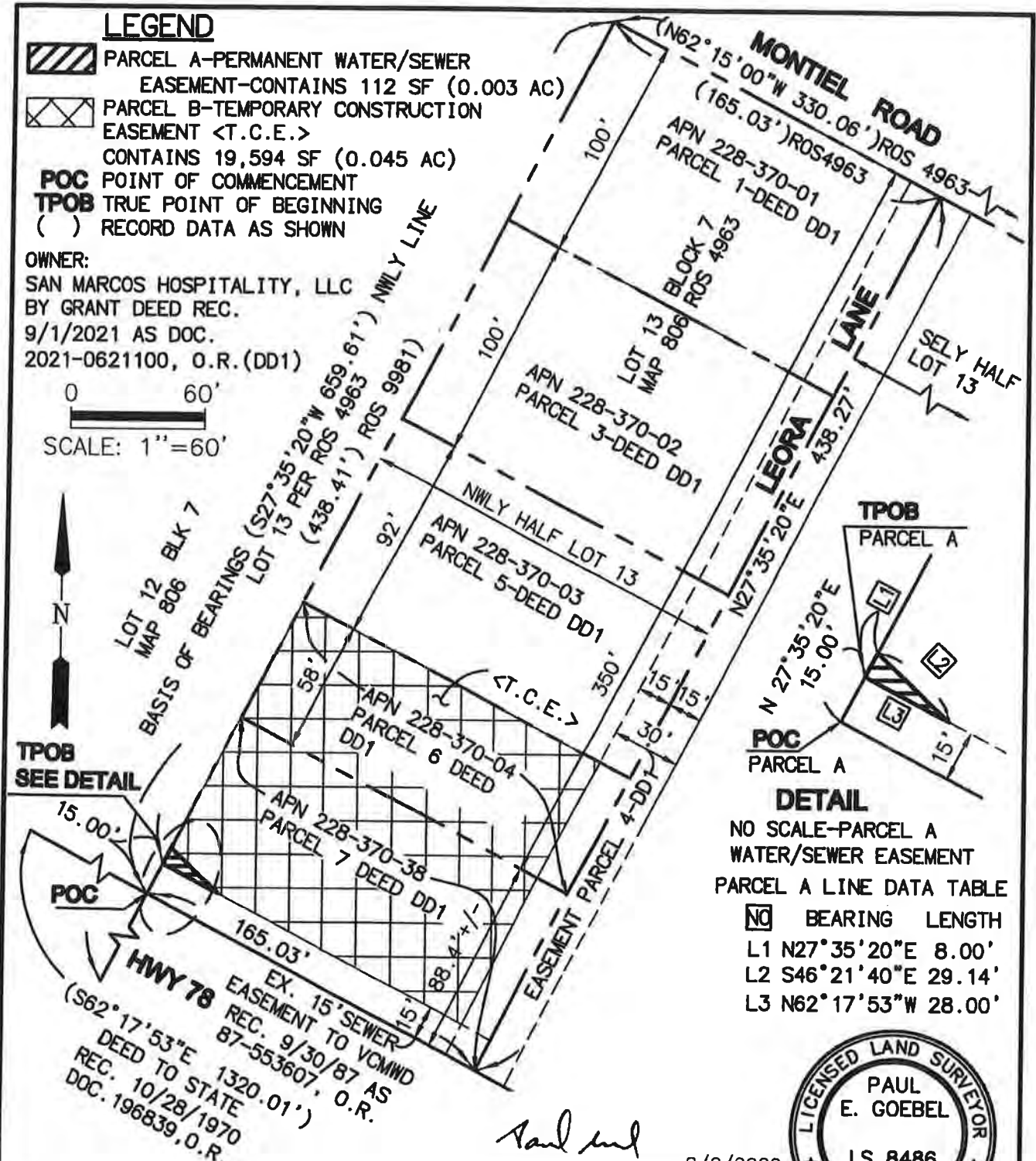
APN 228-370-03,04,38
 PORTIONS OF NWLY HALF, LOT 13, BLK 7, MAP 806
 CITY OF SAN MARCOS
 COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

Paul E. Goebel

8/2/2022
 PAUL E. GOEBEL DATE
 LS 8486



SHEET 1 OF 1 SHEET
 Michael Baker International
 9755 Clairemont Mesa Blvd.,
 San Diego, CA 92124
 (858)614-5000
 DATE 8/1/2022 176090



DETAIL
 NO SCALE-PARCEL A
 WATER/SEWER EASEMENT
 PARCEL A LINE DATA TABLE

| NO | BEARING | LENGTH |
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| L2 | S46°21'40"E | 29.14' |
| L3 | N62°17'53"W | 28.00' |

APPRAISAL REPORT

**PROPOSED PERMANENT & TEMPORARY
EASEMENT RIGHTS PERTAINING TO
UNIMPROVED 1.66 ACRE SITE**

**643 TO 661 LEORA LANE
SAN MARCOS, CA 92069**

CLIENT

Ryan Morgan, P.E.
Capital Facilities Senior Engineer
Vallecitos Water District
201 Vallecitos de Oro
San Marcos, California 92069

DATE OF VALUATION

June 7, 2022

DATE OF REPORT

June 22, 2022

APPRAISED BY

Anderson & Brabant, Inc.
353 West Ninth Avenue
Escondido, California 92025

File No. 22-049B

ANDERSON & BRABANT, INC.

REAL ESTATE APPRAISERS AND CONSULTANTS

353 W. NINTH AVENUE

ESCONDIDO, CALIFORNIA 92025-5032

TELEPHONE (760) 705-1615

June 22, 2022

Ryan Morgan, P.E.
Capital Facilities Senior Engineer
Vallecitos Water District
201 Vallecitos de Oro
San Marcos, California 92069

**RE: Appraisal of proposed permanent and temporary easement rights
1.66 acre parcel
643 to 661 Leora Lane
San Marcos, California 92069
(Assessor Parcel Numbers 228-360-01-00 to 04-00 & 38-00)**

Dear Mr. Morgan:

As requested, we have completed an appraisal pertaining to the above-referenced property located at 643 to 661 Leora Lane, San Marcos, California. The specific purpose of this appraisal is to estimate the fair market value of a proposed permanent easement over a 45 square foot area toward the southwest corner of the larger parcel, and we also estimated the value of a temporary construction easement over a 19,960 square foot area at the south side of the site. The proposed property rights are intended to accommodate what is known as the Montiel (sewer) Lift Station and Force Main Replacement Project. As part of the analysis, we have also considered the potential for severance damages and benefits due to the acquisitions and project.

The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice* (USPAP) and the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute. The current analysis is based on a valuation date of June 7, 2022.

Ryan Morgan, P.E.
Vallecitos Water District
June 22, 2022
Page 2


In accordance with our analysis of applicable market data, we have arrived at the following opinions of fair market value related to the subject larger parcel and the property rights that are proposed to be acquired, as of the indicated valuation date.

| | | |
|---|-------------|------------------------|
| Value of the Identified Larger Parcel | \$2,400,000 | |
| Value of the Part Taken as Part of the Whole | | |
| Permanent Easement Rights | \$747 | |
| Site Improvements | <u>\$0</u> | |
| Total | | \$747 |
| Value of the Remainder as Part of the Whole | \$2,399,253 | |
| Value of the Remainder before Considering Benefits | \$2,399,253 | |
| Severance Damages | <u>\$0</u> | |
| Value of the Remainder Considering Benefits | \$2,399,253 | |
| Benefits | <u>\$0</u> | |
| Net Severance Damages | | \$0 |
| Temporary Construction Easement | | <u>\$59,470</u> |
| Total | | <u>\$60,217</u> |
| Fair Market Value of Property Rights to be Acquired, Rounded up to | | <u>\$61,000</u> |


The opinions of value expressed herein are subject to certain assumptions and limiting conditions as set forth in the attached report.

Respectfully submitted,

ANDERSON & BRABANT, INC.



David C. Ottley, MAI
State Certification No. AG002149



James Brabant, MAI
State Certification No. AG002100

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Anderson & Brabant, Inc.

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ADDENDA

Aerial Photographs of the Market Data

Easement Exhibit (Proposed Subject Easements Highlighted in Purple and Pink)

Qualifications of the Appraisers

EXECUTIVE SUMMARY

| | |
|--------------------------------|--|
| Larger Parcel Location: | 643 to 661 Leora Lane San Marcos, California 92069 |
| Legal Description: | A Portion of Lot 13 in Block 7 of Rancho Los Vallecitos de San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806, filed in the Office of the County Recorder of San Diego County, December 21, 1895. |
| Owner of Record: | San Marcos Hospitality, LLC |
| Assessor Parcel Nos.: | 228-360-01-00 to 04-00 and 38-00 |
| Property Description: | The subject is comprised of a 1.66 acre (72,343 square foot) parcel of land. The project will require the acquisition of a permanent easement over a 45 square foot portion of the site, and also involves the acquisition of a temporary construction easement for a period of 12 months over a 19,960 square foot segment of the land. |
| Zoning: | SPA, Specific Plan Area City of San Marcos |
| General Plan: | SPA, Specific Plan Area City of San Marcos |
| Specific Plan: | Commercial, per Redrock Specific Plan City of San Marcos |
| Flood Zone: | According to FEMA Flood Insurance Rate Map (FIRM) No. 06073C0813G, dated May 16, 2012, the subject is within Zone X, an area determined to be outside of a flood hazard zone. |
| Earthquake Fault Zone: | No |
| Toxic Hazards: | None noted |
| Interests Appraised: | Fee and easement rights |
| Highest and Best Use: | Commercial development |
| Date of Valuation: | June 7, 2022 |
| Date of Report: | June 22, 2022 |
| Special Assumptions: | (see page 3) |

EXECUTIVE SUMMARY (continued)

FAIR MARKET VALUE CONCLUSIONS:

| | | |
|---|-------------|------------------------|
| Value of the Identified Larger Parcel | \$2,400,000 | |
| Value of the Part Taken as Part of the Whole | | |
| Permanent Easement Rights | \$747 | |
| Site Improvements | <u>\$0</u> | |
| Total | | \$747 |
| Value of the Remainder as Part of the Whole | \$2,399,253 | |
| Value of the Remainder before Considering Benefits | \$2,399,253 | |
| Severance Damages | <u>\$0</u> | |
| Value of the Remainder Considering Benefits | \$2,399,253 | |
| Benefits | <u>\$0</u> | |
| Net Severance Damages | | \$0 |
| Temporary Construction Easement | | <u>\$59,470</u> |
| Total | | \$60,217 |
| Fair Market Value of Property Rights to be Acquired, Rounded up to | | <u>\$61,000</u> |

ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal is subject to the following special assumptions and limiting conditions:

1. It is assumed that the existence of significant cultural resources, if any, discovered within the subject parcel will not create any abnormal hardship nor measurably impact market value in conjunction with our determination of highest and best use.
2. The client furnished a plat that illustrates the existence of two easements over the subject larger parcel. One is a sewer easement that extends over the entire southwesterly 15 feet of the site, and the other is a 15 foot wide easement for road purposes that runs along the entire southeast side of the land. In the absence of any documentation to suggest otherwise, for purposes of analysis, the assumption is made that there are no other easements in place that detrimentally impact the value of the property in accordance with its highest and best use.
3. The corners of the proposed acquisition parcels were not staked at the time of the property inspection, and the appraisers estimated the corner locations based on provided maps. It is an assumption of this report that the herein described physical features of the proposed acquisition parcels are reasonably accurate.

This appraisal is subject to the following general assumptions and limiting conditions:

1. It is assumed that information furnished to us by our client, including maps, and legal descriptions, is substantially correct.
2. No responsibility is assumed for matters legal in character, nor do we render an opinion as to title, which is assumed to be held in full fee interest, subject to all easements of record, as of the date of valuation unless otherwise specified.
3. It is assumed that the property is readily marketable, free of all liens and encumbrances except any specifically discussed herein, and under responsible ownership and management.
4. Photographs and maps furnished in this report and prepared by the appraiser or a third party are to assist the reader in visualizing the property. No surveys of the property have been made and no responsibility has been assumed in this matter.
5. It is assumed that there are no legitimate environmental or ecological reasons that would prevent the continued use of the property or orderly development of the land as though vacant to its highest and best use under economically feasible conditions.
6. For purposes of this appraisal, it is assumed that there are no hidden or unapparent conditions of the property such as hazardous or toxic wastes and/or other subsoil conditions, which would render it more or less valuable. No responsibility is assumed for such conditions or for engineering, which might be required to discover such factors.
7. We are not qualified to detect hazardous waste and/or toxic materials. Any comment by us that might suggest the possibility of the presence of such substances should not be taken as confirmation of the presence of hazardous waste and/or toxic materials. Such determination would require investigation by a qualified expert in the field of environmental assessment. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property.


Our value estimates are predicated on the assumption that there is no such material on or in the property that would cause a loss in value unless otherwise stated in this report. No responsibility is assumed for any environmental conditions, or for any expertise or engineering knowledge required to discover them. Our descriptions and resulting comments are the result of the routine observations made during the appraisal process.

8. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may be used for any purpose or by any person other than the party to whom it is addressed without the written consent of Anderson and Brabant, Inc., and in any event, only with proper written qualification and only in its entirety.
9. Disclosure of the contents of this appraisal report is governed by the by-laws and regulations of the Appraisal Institute. Neither all nor any part of the contents of this report (especially reference to the Appraisal Institute or the MAI designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media, or any other public means of communication without prior written consent and approval of Anderson and Brabant, Inc.
10. The submission of this report constitutes completion of the services authorized. It is submitted on the condition that the client will provide the appraiser customary compensation relating to any subsequent required depositions, conferences, additional preparation or testimony.
11. The valuation estimate is of surface rights only and the mineral rights, if any, have been disregarded.
12. No warranty is made as to the seismic stability of the subject property.
13. It is assumed that all required licenses, or other legislative or administrative permits from any local, state, or national governmental or private entity or organization can be obtained for any use on which the value estimate contained in this report is based.

APPRAISER'S SIGNED CERTIFICATION

I do hereby certify that, to the best of my knowledge and belief ...

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, are my personal, impartial, and unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective future interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the property or parties involved with this assignment.
4. I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three (3) year period immediately preceding the agreement to perform this assignment.
5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. My compensation for completing this assignment is not contingent upon the developing or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice* and the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute.
8. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
9. I made a personal inspection of the property that is the subject of this report.
10. No one provided significant real property appraisal assistance to the persons signing this appraisal report.
11. As of June 22, 2022, the date of this report, I have completed the continuing education program for Designated Members of the Appraisal Institute.




David C. Ottley, MAI
Certified General Real Estate Appraiser
BREA Appraiser No. AG002149

APPRAISER'S SIGNED CERTIFICATION

I do hereby certify that, to the best of my knowledge and belief ...

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, are my personal, impartial, and unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective future interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the property or parties involved with this assignment.
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8. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
9. I made a personal inspection of the property that is the subject of this report.
10. No one provided significant real property appraisal assistance to the persons signing this appraisal report.
11. As of June 22, 2022, the date of this report, I have completed the continuing education program for Designated Members of the Appraisal Institute.


James Brabant, MAI
Certified General Real Estate Appraiser
BREA Appraiser No. AG002100

INTRODUCTION

IDENTIFICATION OF THE LARGER PARCEL

The subject is comprised of a 1.66 acre parcel of vacant land located at 643 to 661 Leora Lane, San Marcos, California. The purpose of this appraisal is to estimate the fair market value of proposed permanent and temporary easements over segments of the larger parcel.

Legal Description

The subject larger parcel is legally described in brief as *A Portion of Lot 13 in Block 7 of Rancho Los Vallecitos de San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806, filed in the Office of the County Recorder of San Diego County, December 21, 1895.* Additionally, the larger parcel can be identified by reference to Assessor Parcel Numbers 228-360-01-00 to 04-00 and 38-00.

Ownership

As of the date of value, title to the subject property is held as follows: **SAN MARCOS HOSPITALITY, LLC.**

PURPOSE OF THE ASSIGNMENT

The purpose of this appraisal is to provide an estimate of fair market value for the defined subject larger parcel and to form opinions as to the values of the interests that are proposed for acquisition. As part of the valuation process, we also considered severance damages or benefits, if any, resulting from the acquisition and construction of the project as proposed. As used in this report, **Fair Market Value** is defined as follows:

“(a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other will full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

(b) The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable”¹

EFFECTIVE DATE OF VALUE OPINIONS

The effective date of the value opinions expressed herein is June 7, 2022.

DATE OF REPORT

This date of the appraisal report is June 22, 2022.

¹ California Code of Civil Procedure, Title 7, Sec. 1263.320

INTENDED USE AND USER

The intended use of this report is to provide a basis for the client, Vallecitos Water District, to acquire the herein described easement rights. Any other party who may receive this report is not an intended user, and we are not responsible for unauthorized use of this report.

PROPERTY RIGHTS APPRAISED

We have estimated the fair market value of the fee interest in the herein described larger parcel, subject to any easements of record. The results were used as the basis for estimating the value of a proposed permanent easement on the parcel as well as the value of a temporary construction easement over a segment of the site. An easement interest is defined as follows.

Easement: “The right to use another’s land for a stated purpose.”²

GENERAL DEFINITIONS

Larger Parcel: In governmental land acquisitions and in valuation of charitable donations of partial interests in property such as easements, the tract or tracts of land that are under the beneficial control of a single individual or entity and have the same, or an integrated, highest and best use. Elements for consideration by the appraiser in making a determination in this regard are contiguity, or proximity, as it bears on the highest and best use of the property, unity of ownership, and unity of highest and best use. In most states, unity of ownership, contiguity, and unity of use are the three conditions that establish the larger parcel for the consideration of severance damages. In federal and some state cases, however, contiguity is sometimes subordinated to unitary use.³

Remainder: In condemnation, that portion of a larger parcel remaining in the ownership of the property owner after a partial taking.⁴

Damages: In condemnation, the loss in value to the remainder in a partial taking of property.⁵

Benefits: In eminent domain valuation, the advantageous factors that arise from a public improvement for which private property has been taken.⁶

EXTRAORDINARY ASSUMPTIONS

An extraordinary assumption is defined as an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraisers’ opinions or conclusions. No extraordinary assumptions were considered in this analysis; nevertheless, this appraisal is subject to certain special and general assumptions as outlined on pages 3 and 4 of this report.

² *The Dictionary of Real Estate Appraisal*, 7th ed. (Chicago: Appraisal Institute, 2022), p. 58

³ *Ibid.*, p. 105

⁴ *Ibid.*, p. 161

⁵ *Ibid.*, p. 48

⁶ *Ibid.*, p. 17

HYPOTHETICAL CONDITIONS

A hypothetical condition is defined as a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis. In our valuation of the larger parcel we have disregarded any project influence as stated below. We have also assumed that the proposed project has been completed in our analysis of the remainder. These are hypothetical conditions that are necessary for reasonable analysis. No other hypothetical conditions were considered in our analysis.

PROJECT INFLUENCE

Our conclusions of fair market value stated in this appraisal do not consider any project influence. The term **Project Influence** as used in this report is defined as follows:

The fair market value of the property taken shall not include any increase or decrease in the value of the property that is attributable to any of the following:

- (a) The project for which the property is taken;
- (b) The eminent domain proceeding in which the property is taken; or
- (c) Any preliminary actions of the plaintiff relating to the taking of the property.

SCOPE OF WORK

Critical elements to this appraisal assignment are the identification of the client(s), intended use and user(s), type and definition of value, the effective date of the appraisal, and assignment conditions. These were addressed previously in this report. Another important element is to include relevant characteristics pertaining to the subject property, which are outlined in detail in a later section of the appraisal.

In preparing this appraisal, the following steps were taken.

- Legal aspects of the subject property were investigated regarding their potential uses within the context of the surrounding area. As such, we reviewed portions of the City of San Marcos land use summaries and requirements.
- We have relied upon information and exhibits provided by the client that identify the property rights that are proposed for acquisition over the subject larger parcel. We also reviewed a preliminary title report, easement plat, and other documents.
- The property was inspected by the appraisers on multiple dates in June 2022, with Mr. Ottley taking photographs of the site on June 7, 2022.
- The three traditional approaches to value include the Cost, Sales Comparison, and Income Approaches. Of these three, only the Sales Comparison was considered to have specific applicability in the valuation of the subject property. Upon determination of highest and best use, reliable market data were analyzed on the basis of their overall degree of comparability to the appraised property.
- A detailed search of the primary market area of the subject was performed in order to collect relevant sales. Sources of data included the County Recorder's office and various

market data services. These data were confirmed with principals, their representatives, or agents.

- We first estimated the value of the defined larger parcel, and the results of the analysis were then employed to estimate the values of the property rights that are proposed for acquisition.
- The final step entailed the organization and drafting of the Appraisal Report.

REPORT OPTION

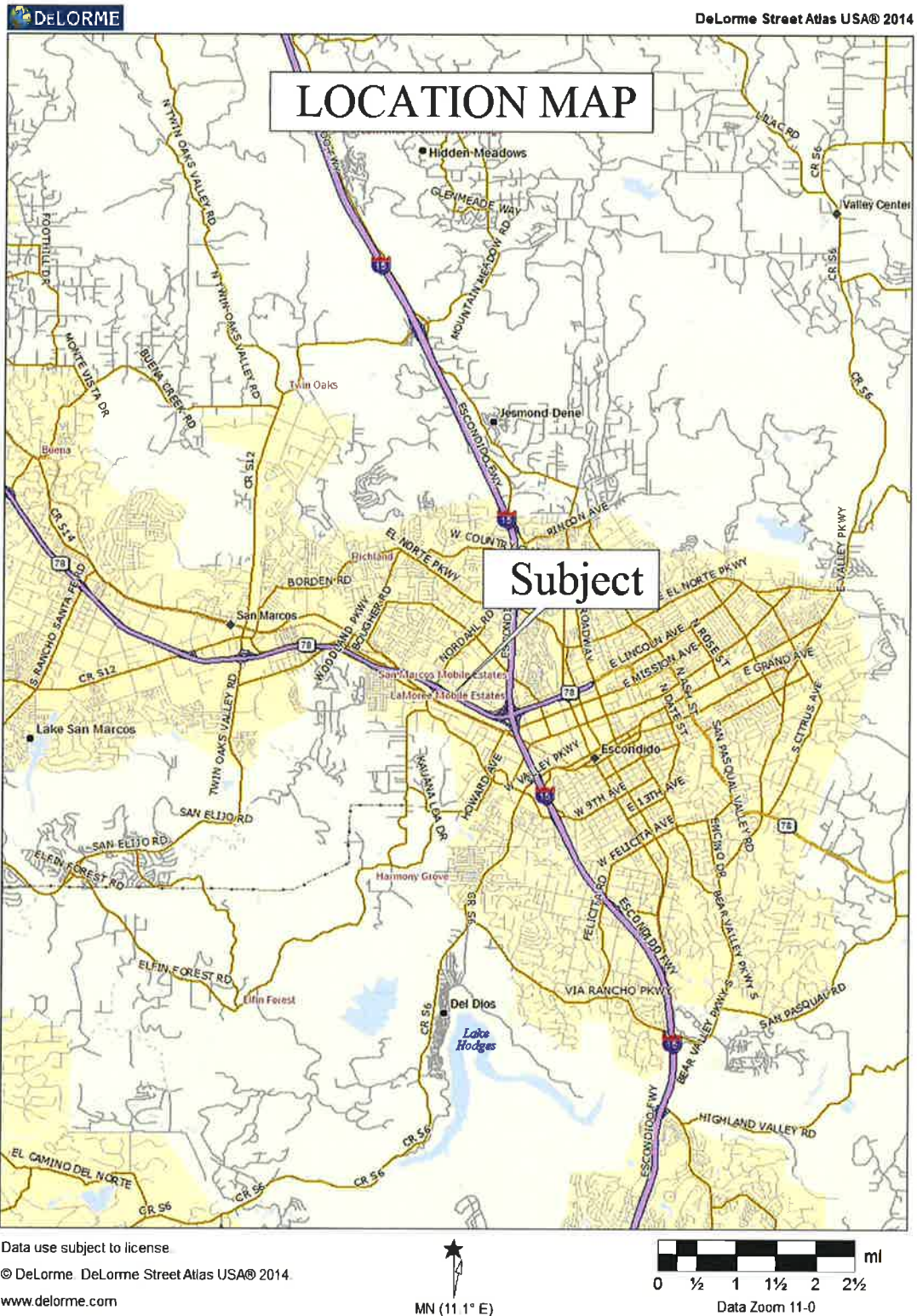
This is an Appraisal Report as defined by the Uniform Standards of Professional Appraisal Practice (USPAP). It presents summary discussions of the data, reasoning and analyses that were used in the appraisal process to develop the appraisers' opinions of value.

SALES HISTORY OF THE SUBJECT PROPERTY

The subject larger parcel was purchased in September 2021 with plans for a new hotel at a price of \$2,400,000. The buyer intends to develop a hotel on the site, but is planning to use a different design and layout than what conveyed in the transaction. According to public records, the subject property has not been involved with any other conventional sale transfer within the three year period that precedes the date of value in this appraisal. Also, the property is not currently offered for sale.

PRIOR APPRAISAL SERVICES

We have performed no services, as appraisers or in any other capacity, regarding the property that is the subject of this report within the three (3) year period immediately preceding the agreement to perform this assignment.



LOCATION DESCRIPTION

Region

The subject property is located in the City of San Marcos in North San Diego County, California. San Diego County is the second largest county in the State of California based on population which, as of January 1, 2022, was estimated by the California Department of Finance Demographic Research Unit at 3,387,306 persons. This reflects a slight decrease from the January 1, 2021 total of 3,388,503. The County includes the State's second most populous city and offers such geographic features as mountainous regions of the Cleveland National Forest, the Anza Borrego Desert, the International Border with Mexico, and over 50 miles of Pacific Ocean coastline. Most of the county's population is located along the coastal region, inland valleys, and foothills, within approximately 25 to 30 miles of the ocean.

On a regional basis, San Diego County is served by three major freeways. These include Interstate 5, a coastal route connecting San Diego with Baja California to the south and the states of California, Oregon, and Washington to the north; Interstate 8, a major east-west route connecting San Diego with Arizona and other southwestern states to the east; and Interstate 15, an inland route connecting San Diego with Riverside and San Bernardino Counties and other points to the northeast. There are several important local freeways that provide access within the region. These include Interstate 805 that runs inland from and parallel to Interstate 5; State Route 94, parallel to Interstate 8; State Route 163, connecting Interstate 15 with Downtown San Diego; and State Route 78, the major east-west freeway in northern San Diego County.

San Diego International Airport (Lindbergh Field) is located about 40 miles to the south of the subject and is close to Downtown San Diego. This airport is serviced by 18 commercial airlines and four scheduled air-freight services. There are an additional eight small public airports located throughout the county. There is little commercial air activity at these facilities. Rail service is provided by San Diego and Arizona Eastern Railroad, Santa Fe Railroad, and Amtrak. Industrial/commercial use of the rail lines for freight carriage has declined in San Diego over the past 15+ years. However, the Amtrak line between San Diego and Los Angeles is popular with commuters. The San Diego Trolley (light rail transit system) has opened several commuter routes in the southern and eastern portions of San Diego County that have proven very popular. Individual transit districts throughout the county provide local bus service.

An important factor needs to be addressed that has impacted national, state, and local economic conditions, at least over the short-term. The outbreak of the coronavirus in China in December 2019 and January 2020 spread as a worldwide pandemic and severely impacted the United States, including the State of California. The term "social distancing" became familiar to everyone, and the wearing of face covering masks became common. As a result of the pandemic, many industries were hit hard with some severely impacted including, among others, entertainment, travel, lodging, restaurants, and other types of retail businesses. Millions of employees in the country lost their jobs, much of which can be attributed to businesses being forced to close to comply with social distancing restrictions. The Federal Reserve stepped up in an attempt to offset the economic impact of the virus that began with an emergency half-percentage-point rate cut in early March 2020, and the government later approved stimulus bills into law aimed at relieving workers and businesses hurt by the pandemic. It is clear that the short-term impact of the virus on the economy has been very significant, yet there is little data on

how it will be impacted over time. It should be noted that the unemployment rate appears to be steadily improving over the past 12+ month period. As for real estate, there is limited empirical evidence of an immediate impact on the local market for vacant parcels with the subject characteristics, and it remains to be seen what the long-term impacts might be for that market.

More recently, there have been several other factors that have come into play that, although they may not have had an immediate impact, could affect the market in the future. These include a volatile stock market, high inflation rates, supply chain shortages, and a reduction in the labor market. Although incomes, in general, have increased over the past year or so, the increase has not kept pace with rising prices of real estate, fuel, and general goods and services. In an effort to curb inflation, which has been the highest in nearly 40 years, the Federal Reserve has raised interest rates twice since the beginning of 2022, with additional increases anticipated. The readers of this appraisal are cautioned and reminded that the value conclusions presented herein apply only as of the effective valuation date. The appraisers make no representation as to any impacts on the subject property that could result due to any unforeseen events subsequent to the date of value.

Community and Neighborhood

The City of San Marcos is located about 30 miles north of Downtown San Diego, 95 miles south of Los Angeles, and approximately ten miles inland from the Pacific coast. The City was incorporated in January 1963, and the corporate boundaries currently encompass an area of about 24 square miles, with an additional eight square miles of land area located within the city's sphere of influence. The City is situated along the State Highway 78 freeway corridor and is bordered by Escondido to the east, Vista to the north and west, Carlsbad to the south and west, and unincorporated areas of the county to the north and south. The population of the City as of January 2022 was 93,585, which represents a 0.7 percent increase from the reported population of 92,958 one year earlier.

Primary access to San Marcos is provided by State Highway 78 which is a major transportation corridor that extends in a general east/west direction between Escondido and Interstate 15 to the east and Oceanside and Interstate 5 to the west. This is one of the few major transportation corridors linking the coastal areas to inland North San Diego County. San Marcos can be accessed at various points along the highway including Nordahl Road, Barham Drive, Woodland Parkway, Twin Oaks Valley Road, San Marcos Boulevard, Las Posas Road, and Rancho Santa Fe Road. This network of roads provides access to the various neighborhoods and districts dispersed throughout the community. The most significant and intense shopping facilities in San Marcos are near State Highway 78 at San Marcos Boulevard and Las Posas Road toward the center of the City corporate limits, and at the far easterly extreme of the City off the north side of Highway 78 at Nordahl Road, the location of the subject property. Specifically, the subject is situated between Montiel Road on its northeast side and Highway 78 to the southwest. The area to the north is an older, established residential neighborhood, and a mix of primary and secondary commercial uses are on the subject side of Montiel Road along with some older residential uses. The Highway 78 and Nordahl Road interchange is within one-quarter mile to the west. At the northwest quadrant of that freeway interchange is the Nordahl Marketplace neighborhood shopping center that is anchored by Walmart and Kohl's. Costco is just to the west of the commercial center.

AERIAL PHOTOGRAPH OF THE SUBJECT LARGER PARCEL



SUBJECT PROPERTY PHOTOGRAPHS

(Taken By David C. Ottley, MAI on June 7, 2022)



Looking southeasterly along Montiel Road with the northeast side of the subject larger parcel visible at the right.



View to the southwest along Leora Lane with the subject larger parcel visible at the right.

SUBJECT PROPERTY PHOTOGRAPHS

(Taken By David C. Ottley, MAI on June 7, 2022)



The two photos on this page were taken from a point near the southwesterly corner of the subject site. The upper photo was directed to the northeast over the subject and toward the location of the proposed permanent and temporary easement parcels, and the lower photo was taken while looking to the southeast over the southernmost segment of the property.



SUBJECT PROPERTY PHOTOGRAPHS

(Taken By David C. Ottley, MAI on June 7, 2022)



View to the northwest toward the location of the proposed permanent and temporary easement parcels at the south side of the subject property.



Looking northerly over the center of the subject larger parcel.

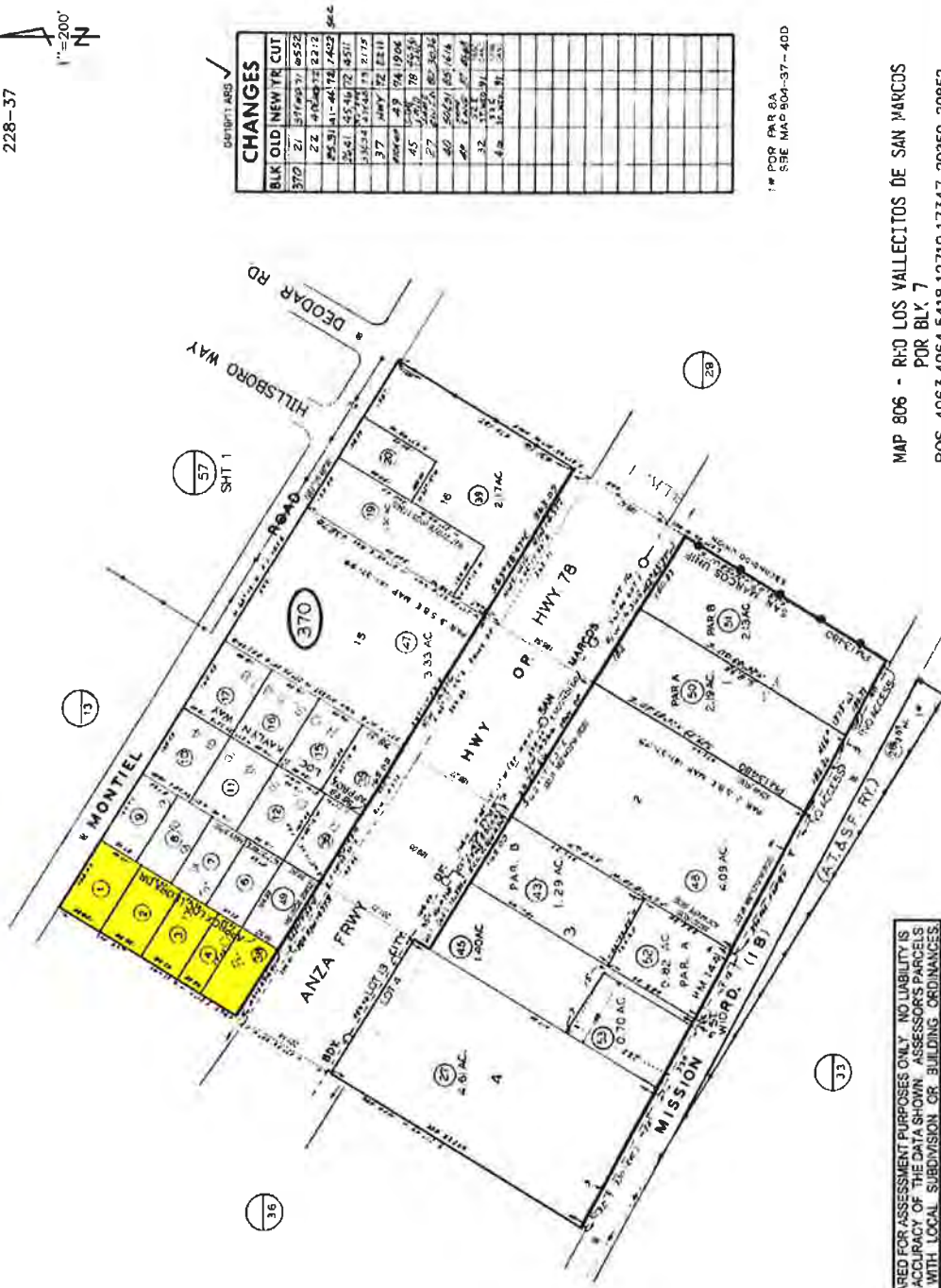
643 to 661 Leora Lane, San Marcos, CA

PLAT MAP - LARGER PARCEL

04

228-37

228-37
1"=200'
N



DEPT: ABS ✓

| BLK | OLD | NEW TR | CUT |
|-----|-----|--------|------|
| 370 | 21 | 517 | 6552 |
| | 22 | 476 | 2312 |
| | 23 | 476 | 7429 |
| | 24 | 55 | 4672 |
| | 25 | 476 | 2312 |
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| | 100 | 476 | 2312 |

1" = PDR PAR 8A
SSE MAP 804-37-40D

MAP 806 - R/O LOS VALLECITOS DE SAN MARCOS
POR BLY. 7
ROS 4963,4964,5418,12719,17347, 20350, 20852

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

SAN DIEGO COUNTY ASSESSOR'S MAP 81 228 98 37

Anderson & Brabant, Inc.

DESCRIPTION OF THE LARGER PARCEL

LAND DESCRIPTION

Land Area/Shape

The subject larger parcel is 1.66 acres (72,343 square feet) in size, according to County of San Diego Assessor records. As can be seen on the plat on page 18, the site is rectangular in configuration.

Topography/Drainage

The subject larger parcel slopes gently downward from northeast to southwest. We did not detect any evidence of site drainage concerns.

Soils/Environmental Conditions

We were not furnished with any recently prepared studies relating to subsurface soil conditions associated with the subject property. As part of this appraisal analysis, we have assumed that soil conditions are adequate to allow legally permitted uses of the property in accordance with its estimated highest and best use.

Utilities

All public utilities are available to the subject larger parcel. These include water, sewer, electrical power, natural gas, and cable.

Streets

The appraised larger parcel directly fronts on the south side of Montiel Road, an asphalt paved, two lane public street with no other street improvements in place at the subject location. Leora Lane, a private, asphalt pave roadway in poor condition, runs along the southeast boundary of the site.

Land Use

The appraised larger parcel is zoned and designated (per the General Plan) SPA, Specific Plan Area, by the City of San Marcos. The site is within the Redrock Specific Plan and is set aside for commercial use.

Flood Zone

According to FEMA Flood Insurance Rate Map (FIRM) No. 06073C0813G dated May 16, 2012, the subject is within Zone X, an area determined to be outside of a flood hazard zone.

Earthquake Zone

The subject property is not within an Earthquake Fault Zone as designated by the California State Division of Mines and Geology. However, the property is located in an area that is prone to seismic events, a condition that it shares with other properties located in the general Southern California area.

Easements/Encumbrances

The client furnished a plat that illustrates the existence of two easements over the subject larger parcel. One is a sewer easement that extends over the entire southwesterly 15 feet of the site, and the other is a 15 foot wide easement for road purposes that runs along the entire southeast side of the land at the location of Leora Lane. In the absence of any documentation to suggest otherwise, for purposes of analysis, the assumption is made that there are no other easements in place that detrimentally impact the value of the property in accordance with its highest and best use.

DESCRIPTION OF THE IMPROVEMENTS

The subject is comprised of a structurally improved parcel of land.

ASSESSMENT DATA

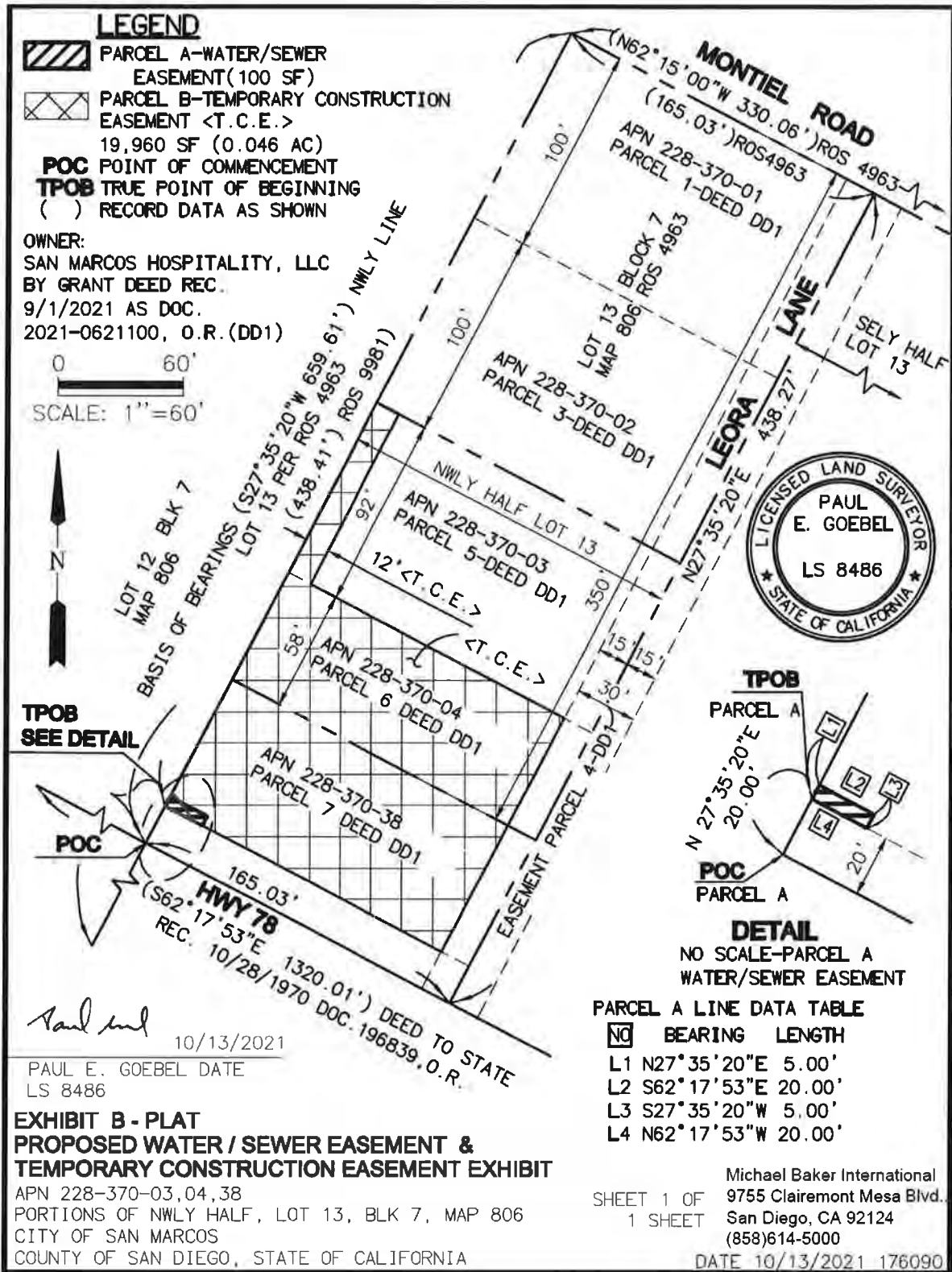
| Assessor Parcel No. | Tax Rate Area | ASSESSED VALUES | | | 2021/2022 Taxes |
|---------------------|---------------|-----------------|--------------|-------------|-----------------|
| | | Land | Improvements | Total | |
| 228-370-01-00 | 13115 | \$580,000 | \$0 | \$580,000 | \$6,496.60 |
| 228-370-02-00 | | \$540,000 | \$0 | \$540,000 | \$6,050.35 |
| 228-370-03-00 | | \$480,000 | \$0 | \$480,000 | \$5,380.96 |
| 228-370-04-00 | | \$310,000 | \$0 | \$310,000 | \$3,484.36 |
| 228-370-38-00 | | \$490,000 | \$0 | \$490,000 | \$5,492.53 |
| Totals | | \$2,400,000 | \$0 | \$2,400,000 | \$26,904.80 |

PROJECT DESCRIPTION

The proposed property rights are intended to accommodate what is known as the Montiel (sewer) Lift Station and Force Main Replacement Project at the far southwest side of the subject site.

DESCRIPTION OF THE PARCELS TO BE ACQUIRED

The acquisitions include a proposed permanent easement for sewer and water lines and related improvements over a triangular shaped area covering 45 square feet toward the southwest corner of the larger parcel, and a temporary construction easement (TCE) over a 19,960 square foot area at the south side of the site, as shown on the plat on page 21. As designed, the 19,960 square feet include the area of the proposed 45 square foot permanent easement. The configuration of the proposed permanent easement is illustrated in red on the plat on page 21 and replaces a previously planned rectangular design with dimensions of 5 feet by 20 feet. The current configuration is a triangle with dimensions of 6 feet by 15 feet on the two sides that meet at a right angle. The proposed permanent easement is adjacent to the north of an existing sewer easement that encumbers the southwest side of the property. The TCE will accommodate the construction of sewer improvements at this location. As part of the analysis, we have considered the potential for severance damages and benefits due to the acquisitions and project construction.



DESCRIPTION OF THE REMAINDER PARCEL

The gross area of the subject larger parcel will be unchanged as the result of the project and permanent acquisition. However, the fee owner will relinquish some rights of use over the area to be encumbered with the permanent and temporary easements.

OWNER CONTACT AND PROPERTY INSPECTION

On June 8, 2022, David C. Ottley of Anderson and Brabant, Inc. contacted Enrique Terrazas, a representative of the property ownership by telephone regarding the need to conduct an appraisal of the larger parcel and proposed easement rights. An invitation was extended to meet with the appraisers on the parcel, and details of the proposed use of the property and the appraisal process were discussed at that time. Mr. Terrazas indicated that it was acceptable for the appraisers to conduct an onsite visit of the property without being accompanied by a representative of the ownership. The property was inspected by the appraisers on multiple dates in June 2022, with Mr. Ottley taking photographs of the site on June 7, 2022.

VALUATION

HIGHEST AND BEST USE

Highest and Best Use is an important concept in real estate valuation as it represents the premise upon which value is based. Highest and Best Use is defined in *The Appraisal of Real Estate* as:

“The reasonably probable use of property that results in the highest value.”⁷

The concept of highest and best use addresses the question of legally permissible, physically possible, and financially feasible uses that reflect the degree of profitability. Uses that meet the three criteria of reasonably probable uses are tested for economic productivity, and the reasonably probable use with the highest value is the highest and best use.

Legally Permissible: The appraised larger parcel is zoned and designated (per the General Plan) SPA, Specific Plan Area, by the City of San Marcos. The site is within the Redrock Specific Plan and is set aside for commercial use.

Physically Possible: The subject larger parcel is comprised of a gently sloping, 1.66 acre parcel of land that is rectangular in configuration. All public utilities are immediately available at the site, which fronts on a paved public street and a private road. Development of the site as if vacant is not limited to any notable degree by its physical features. However, we were informed that approvals were granted to develop the land with a hotel which would require the undergrounding of utilities as a condition of approval.

Financially Feasible: The issue of economic viability primarily focuses on supply and demand characteristics of the local marketplace as it relates to land suitable for commercial development. In general, any proposed use that supports a positive land value is considered financially feasible. We have determined that development of the subject with a commercial use represents the most financially feasible use of the land.

Conclusion: In accordance with the observed characteristics of the subject, it is our opinion that the highest and best use of the property is a commercial venture that aligns with the underlying land use criteria and existing development in the immediate area.

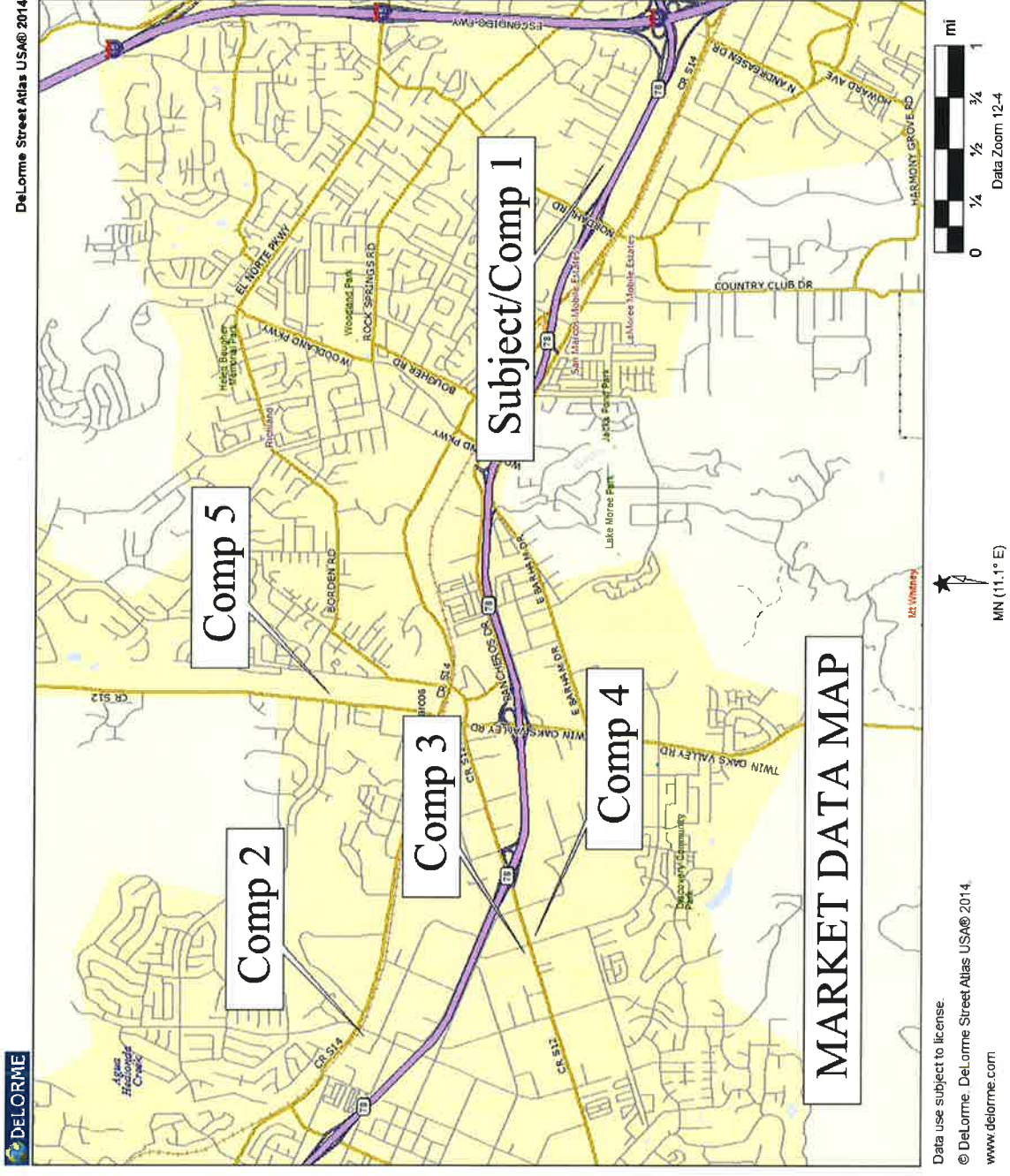
VALUATION METHODOLOGY

Of the three common valuation techniques, only the Sales Comparison Approach was considered to be pertinent in the analysis of the defined subject larger parcel. Neither the Cost Approach nor Income Approach was considered applicable or useful in the valuation process. The Sales Comparison Approach relies on the concept that a prudent purchaser would pay no more to buy a property than it would cost to acquire a comparable substitute. Sales of similar properties are analyzed based on direct comparison with the subject to arrive at an indication of value. The results of the analysis were then employed to estimate the values of the property rights that are proposed for acquisition.

⁷ *The Appraisal of Real Estate*, 15th ed. (Chicago: Appraisal Institute, 2020), p. 305

SALES COMPARISON APPROACH – LARGER PARCEL

After carefully investigating the marketplace, we selected five items of market data for purposes of analysis. The sales occurred between May 2019 and April 2022, and they are considered to be the best available data to properly analyze the value of the subject larger parcel by the Sales Comparison Approach. What is described as Sale 1 is the September 2021 purchase of the subject property by the current owner. The five selected items of data are summarized on a grid on page 26, and a data location map is on page 25. The summary of market data is followed by a discussion of the comparables and a grid that illustrates the adjustments made for relative differences between the subject and those properties. The unit of comparison is the price per square foot of land area. Aerial photographs of the comparables are included in the addenda to this report.



| Summary of Market Data | | | | | |
|------------------------|--|---|---|---|---|
| Comp No | 1 (Subject) | 2 | 3 | 4 | 5 |
| Location | 643-661 Leora Ln San Marcos | 200 N Las Posas Rd San Marcos | 1284 W San Marcos Blvd San Marcos | SEC W San Marcos Blvd & S Bent Ave San Marcos | SEC N Twin Oaks Valley Rd & Borden Rd San Marcos |
| APN's | 228-370-01 to 04 & 38 | 219-122-03 | 219-331-46 | 219-270-60 | 220-050-09 |
| Sale Date | Sep-21 | Apr-22 | Nov-19 | May-19 | Jul-19 |
| Doc No | 621100 | 166896 | 553069 | 198313 | 296107 |
| Buyer | San Marcos Hospitality LLC | San Marcos Realty LLC | Patriot San Marcos LLC | Pinter | M5 Twin Oaks LLC |
| Seller | JR Legacy II LLC | Schreiber Trust | LND LLC | Berger Family Trust | The Namou Group LLC |
| Land Area (SF) | 72,343 | 71,874 | 37,026 | 23,958 | 88,862 |
| Zone | SPA City of San Marcos | C City of San Marcos | C City of San Marcos | C City of San Marcos | C City of San Marcos |
| General Plan | SPA (Commercial) City of San Marcos | C City of San Marcos | C City of San Marcos | C City of San Marcos | C City of San Marcos |
| Topography | Level to gently sloping | Level | Level | Level | Level to gently sloping |
| Access | Paved street frontage | Paved street frontage | Paved street frontage | Paved street frontage | Paved street frontage |
| Utilities | All available | All available | All available | All available | All available |
| Improvements | None | None | None | None | None |
| Sale Price | \$2,400,000 | \$1,900,000 | \$1,500,000 | \$1,100,000 | \$1,700,000 |
| Sale Terms | All cash to seller | All cash to seller | All cash to seller | All cash to seller | All cash to seller |
| Price/SF | \$33.18 | \$26.44 | \$40.51 | \$45.91 | \$19.13 |
| Comments | Conveyed with plans for hotel with conditions of approval requiring undergirding of utilities. | Separated from corner of signalized intersection by railway. Mixed-use designated site planned for development with convenience store, gas station, and car wash. | Corner of signalized intersection. Since developed with commercial use. | Corner of signalized intersection. Purchased by investor with plans for a ground lease or build-to-suit project to a national tenant. | Corner of signalized intersection. Entirely within 100 year floodplain. The site conveyed from the City of San Marcos for \$1,217,000 and immediately spun off to another buyer for the indicated price of \$1,700,000. |

Discussion of the Data

Comparable No. 1 relates to the September 2021 purchase of the subject property by the current titleholder. It conveyed with plans for a new hotel, a use that would require the undergrounding of utilities as a condition of approval. The buyer intends to develop a hotel on the site, but is planning to use a different design and layout than what was previously approved. The property sold at a price of \$2,400,000 or \$33.18 per square foot of land area, all cash to the seller.

Comparable No. 2 is the April 2022 sale of a level, 71,874 square foot (1.65 acre) parcel designated for mixed-use (commercial and residential) development located five+ miles to the northwest of the subject in San Marcos at 200 North Las Posas Road. A railway runs along the north side of the site, which is near Palomar Community College. The property is planned for development with a convenience store, gas station, and car wash. It conveyed at a price of \$1,900,000 or \$26.44 per square foot of land area, all cash to the seller. Sale 2 is inferior to the appraised property for location, and it is superior for site condition and for not requiring the undergrounding of utilities like the subject.

Comparable No. 3 is the November 2019 sale of a level, 37,026 square foot (0.85 acre) commercial parcel located less than four miles to the west of the subject in San Marcos at the northwest corner of West San Marcos Boulevard and Bent Avenue (address of 1284 West San Marcos Boulevard). This site is situated at the corner of a busy, signalized intersection. Since the purchase, the parcel has been improved with a commercial use. The sale price was \$1,500,000 or \$40.51 per square foot of land area, and the seller was cashed out in the transaction. When compared with the subject, Sale 1 is a smaller property that is superior for location and commercial exposure, site condition, and for ready access to all public utilities. We also applied an upward adjustment to reflect changes in market conditions between the sale date and the date of value.

Comparable No. 4 involves a 23,958 square foot (0.55 acre), level, commercial site situated on the corner opposite to Sale 3 in San Marcos. The parcel sold in May 2019 for \$1,100,000 or \$45.91 per square foot of land area, all cash to the seller. It was acquired by an investor with plans to lease the ground or for a build-to-suit project leased to a national tenant. By comparison with the subject, Sale 4 is a smaller site that is considered to be superior for location and commercial exposure, site condition, and for not requiring the undergrounding of utilities. An upward adjustment was made for the 2019 sale date.

Comparable No. 5 is the July 2019 sale of a 88,862 (2.04 acre), level to gently sloping commercial site located in San Marcos at the southeast corner of the signalized intersection of North Twin Oaks Valley Road and Borden Road, less than three miles to the northwest of the appraised property. The parcel is entirely within a 100 year floodplain. It conveyed from the City of San Marcos for \$1,217,000, and was immediately resold to another buyer (Sale 5) for \$1,700,000 or \$19.13 per square foot, all cash to the seller. The intended use was not disclosed. When compared with the subject, Sale 5 is inferior for location and site condition and superior for ready access to all public utilities.

Analysis of the Data and Conclusion of Value

The discussed market data have been analyzed based on our conclusion of highest and best use for the subject land. The elements of comparison that were considered in the Sales Comparison Analysis include property rights conveyed, financing terms, conditions of sale, market conditions, location, access, site condition (ie: topography, configuration, and usability), parcel size, land uses, and availability of public utilities. No adjustments were necessary for property rights conveyed or conditions of sale. Financing was not a factor for any of the sales considered in this analysis as the sellers were cashed in all of the transactions. We found insufficient data to suggest price increases of significance within the approximate two year period preceding the date of value during which time Sale 1 (the subject) and Comparable No. 2 occurred. However, based on various data sources, market prices were rising at a rate of at least three percent and as much as six percent annually between mid-2019 and mid-2020 when Comparables 3 through 5 conveyed. Adjustments were applied to the data to account for this factor. Regarding parcel size, smaller sites tend to attract a greater per square foot price than larger parcels that are otherwise similar. This is due, in part, to the greater number of potential buyers of those properties that have a lower overall cost. In this instance, it is noted that we found no support for quantifiable adjustments due to size differences between the subject (Sale 1, a 72,343 square foot site) and Sales 2 and 5, which range in size from 71,874 and 88,862 square feet. Downward adjustments were applied to the other two items of data, which are smaller at 23,958 to 37,026 square feet in size.

The following is a summary of adjustments made to the comparables that reflect noted differences between those properties and the subject larger parcel.

| | | | | | | |
|---------------------------------------|-----------------------|---------|---------|---------|---------|---------|
| Land Sale Data Adjustment Grid | Comp No | 1 | 2 | 3 | 4 | 5 |
| | Price/SF | \$33.18 | \$26.44 | \$40.51 | \$45.91 | \$19.13 |
| | Property Rights | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| | Financing | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| | Conditions of Sale | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| | Market Conditions | 0.0% | 0.0% | 4.0% | 7.0% | 6.0% |
| | Net Adjustment | 0.0% | 0.0% | 4.0% | 7.0% | 6.0% |
| | Adjusted Value/SF | \$33.18 | \$26.44 | \$42.13 | \$49.13 | \$20.28 |
| | Location/Access | 0.0% | 15.0% | -15.0% | -15.0% | 25.0% |
| | Topo/Usability/Config | 0.0% | -5.0% | -5.0% | -5.0% | 45.0% |
| | Parcel Size | 0.0% | 0.0% | -5.0% | -10.0% | 0.0% |
| | Land Use | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% |
| | Utilities | 0.0% | -5.0% | -5.0% | -5.0% | -5.0% |
| | Net Adjustment | 0.0% | 5.0% | -30.0% | -35.0% | 65.0% |
| | Indicated Value/SF | \$33.18 | \$27.76 | \$29.49 | \$31.93 | \$33.46 |

Prior to adjustments, the market data reflected unit prices ranging from \$19.13 to \$45.91 per square foot. After adjusting the data for relative differences, the properties support a value range for the subject larger parcel of \$27.76 to \$33.46 per square foot. The median indicated

value is \$31.93 per square foot. Greatest weight was placed on the recent sale of the subject (Comparable No. 1). Based on our analysis of the data and considering the overall legal and physical attributes of the appraised property as well as the definition of value employed herein, it is our opinion that the fair market value of the 1.66 acre (72,343 square foot) larger parcel, as of June 7, 2022, is equal to the recent purchase price of \$2,400,000, which equate to \$33.18 per square foot of land area.

VALUATION OF THE PERMANENT EASEMENT RIGHTS TO BE ACQUIRED

As indicated previously, we first estimated the value of the larger parcel, and the result was then used as the basis for estimating the value of proposed permanent easement rights to accommodate what is known as the Montiel (sewer) Lift Station and Force Main Replacement Project at the far southeast side of the subject site. The acquisitions include a proposed permanent easement over a triangular shaped segment of land covering 45 square feet area near the southwest corner of the larger parcel, and a temporary construction easement (TCE) over a 19,960 square foot area at the south side of the site, as shown on the plat on page 21.

We estimated the value of the subject larger parcel to be equal to \$33.18 per square foot. As illustrated on the plan on page 21, the proposed permanent easement is positioned at the far southwest corner of the subject property. In our opinion, the value of the proposed easement rights over the 45 square foot area to be encumbered is equal to about 50 percent of the average unencumbered per square foot value of the larger parcel. The area has limited utility in the before condition beyond being considered in setback calculations. Based on the preceding, we have concluded that the fair market value of the 45 square foot easement acquisition parcel is \$747. This is computed in the following manner: 45 square feet x \$33.18 per square foot x 50 percent = \$747.

Improvements

The area of the proposed easement parcel to be acquired is unimproved.

VALUATION OF THE REMAINDER PARCEL AS PART OF THE WHOLE

The value of the remainder parcel as part of the whole is equal to the value of the remainder before consideration of damages and benefits. This is simply a mathematical calculation in which the value of the permanent easement parcel to be acquired of \$747 is deducted from the value of the larger parcel in the before condition. Thus, the value of the remainder parcel as part of the whole is estimated as follows.

| | |
|--|--------------------|
| Value of the Identified Larger Parcel – Before Condition | \$2,400,000 |
| Value of the Permanent Easement Parcel to be Acquired | \$ 747 |
| Value of the Improvements Within the Easement Boundaries | <u>\$ 0</u> |
| Value of the Remainder as Part of the Whole | <u>\$2,399,253</u> |

VALUATION OF THE REMAINDER BEFORE CONSIDERATION OF BENEFITS

We next considered the impact on value to the remainder parcel resulting from the project and acquisition of the proposed permanent and temporary easement parcels. The value of the remainder parcel before consideration of benefits provides an indication of any loss in value, or

damages, accruing to the remainder due to the acquisition or project construction. Damages might occur if the acquisitions resulted in diminished utility of the remainder parcel.

We first investigated if and/or how the project and permanent easement acquisition may impact development of the property during or subsequent to the project construction. Based on all known factors, it is our opinion that the acquisition and project will not affect the highest and best use of the remainder parcel in the after condition. We have also concluded that the value of the remainder parcel before consideration of benefits is equal to its value as part of the whole. Consequently, no damages accrue to the remainder.

VALUATION OF THE REMAINDER AFTER CONSIDERATION OF BENEFITS

Since no damages accrue to the remainder, benefits are not applicable and have not been estimated.

VALUATION OF TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement (TCE) is commonly secured to accommodate construction activity, typically for a proposed public agency right-of-way project. This particular acquisition will extend over a 19,960 square foot area of the larger parcel at its south side (please see the plat on page 21). The proposed easement rights will constrain the owner's use of the land area it encumbers for a period of 12 months, and the area will be utilized to assist in the project construction. It is our understanding that the owner has not yet submitted for approvals from all related agencies for development of the site, and it appears that the project, if commenced within the near term, will not impede development.

A TCE is typically valued as a rental of the land for a finite period, after which the previous, legally allowed utility of the encumbered area is returned to the underlying fee owner. The rental value is derived by applying an appropriate rate of return to the estimated land value, the conclusion of which is then adjusted for the period of time required for the temporary encroachment. Rates of return vary from property to property and jurisdiction to jurisdiction based on use and in most instances, negotiations between lessor and lessee usually results in some middle ground agreement that effectively changes any rates established by policy. Our research into the private market revealed opinions that in today's low interest rate environment rates of return on land value in the 7.00 to 8.00 percent range are achievable. Reported rates sought by numerous institutional entities are summarized below.

| | |
|-------------------------------------|---------------|
| Port District of San Diego | 9.5% |
| Port of Long Beach, CA | 10.0% |
| City of Los Angeles/Harbor District | 10.0% |
| Port of Oakland, CA | 10.0% |
| Port of San Francisco | 10.0% |
| San Francisco Int. Airport | 8.0% |
| Ontario Int. Airport | 9.0% |
| California State Lands Commission | 9.0% |
| Local Interviews | 8.5% to 10.0% |

These rates reflect not only the most recent lease negotiations, but many relate to long-standing policies without changes for many years. The higher rates are generally for industrial uses while some of the lower rates at airports are for commercial uses. None of the above rates reflect the changing current market and we suspect that any newly negotiated deal would be at or near the mid-point of these rates. For purposes of this analysis, we have concluded that the current market will support a rate of return for a short-term interest in the appraised property of 9.0 percent on land value.

Rent is typically paid in advance on a monthly or annual basis. In this case, the payment for these rights is assumed to be made in a lump sum at the beginning of the term. The estimated fee value for the land underlying the proposed temporary construction area is estimated to be \$33.18 per square foot, the average per square foot value for the larger parcel. During the construction period the owner will have limited use of the encumbered area.

The value of the 19,960 square foot temporary construction easement is based on a value of \$33.18 per square foot of land area, and it is calculated by applying a 9.0 percent annual return on the value of the impacted land. Inasmuch as the 19,960 square feet include the 45 square foot area to be encumbered with the permanent easement, the area to be valued in the TCE analysis excludes the 45 square feet to ensure there is no doubling of value. Thus, this analysis is calculated based on the net of 19,915 square feet (19,960 – 45 square feet = 19,915 square feet). In accordance with the preceding, the value of the proposed temporary construction easement is estimated to be **\$59,470** (19,915 square feet x \$33.18 per square foot x 9.0 percent x 12 months = \$59,470). This constitutes the total estimated value of the rights over for a 12 month period, and computes to \$4,955.83 per month.

SUMMARY OF CONCLUSIONS

Per our analysis, we have concluded that the total fair market value relating to the rights to be acquired over the subject property, set forth as of June 7, 2022, is as follows:

| | | |
|---|-------------|------------------------|
| Value of the Identified Larger Parcel | \$2,400,000 | |
| Value of the Part Taken as Part of the Whole | | |
| Permanent Easement Rights | \$747 | |
| Site Improvements | <u>\$0</u> | |
| Total | | \$747 |
| Value of the Remainder as Part of the Whole | \$2,399,253 | |
| Value of the Remainder before Considering Benefits | \$2,399,253 | |
| Severance Damages | <u>\$0</u> | |
| Value of the Remainder Considering Benefits | \$2,399,253 | |
| Benefits | <u>\$0</u> | |
| Net Severance Damages | | \$0 |
| Temporary Construction Easement | | <u>\$59,470</u> |
| Total | | \$60,217 |
| Fair Market Value of Property Rights to be Acquired, Rounded up to | | <u>\$61,000</u> |

Addenda

Aerial Photographs of the Market Data
Preliminary Title Report
Draft Deed with Legal Descriptions – Proposed Easement Parcels
Qualifications of the Appraisers

643 to 661 Leora Lane, San Marcos, CA

COMPARABLE NO. 1 (Subject)
643-661 Leora Lane, San Marcos



Anderson & Brabant, Inc.

643 to 661 Leora Lane, San Marcos, CA

COMPARABLE NO. 2

200 North Las Posas Road, San Marcos

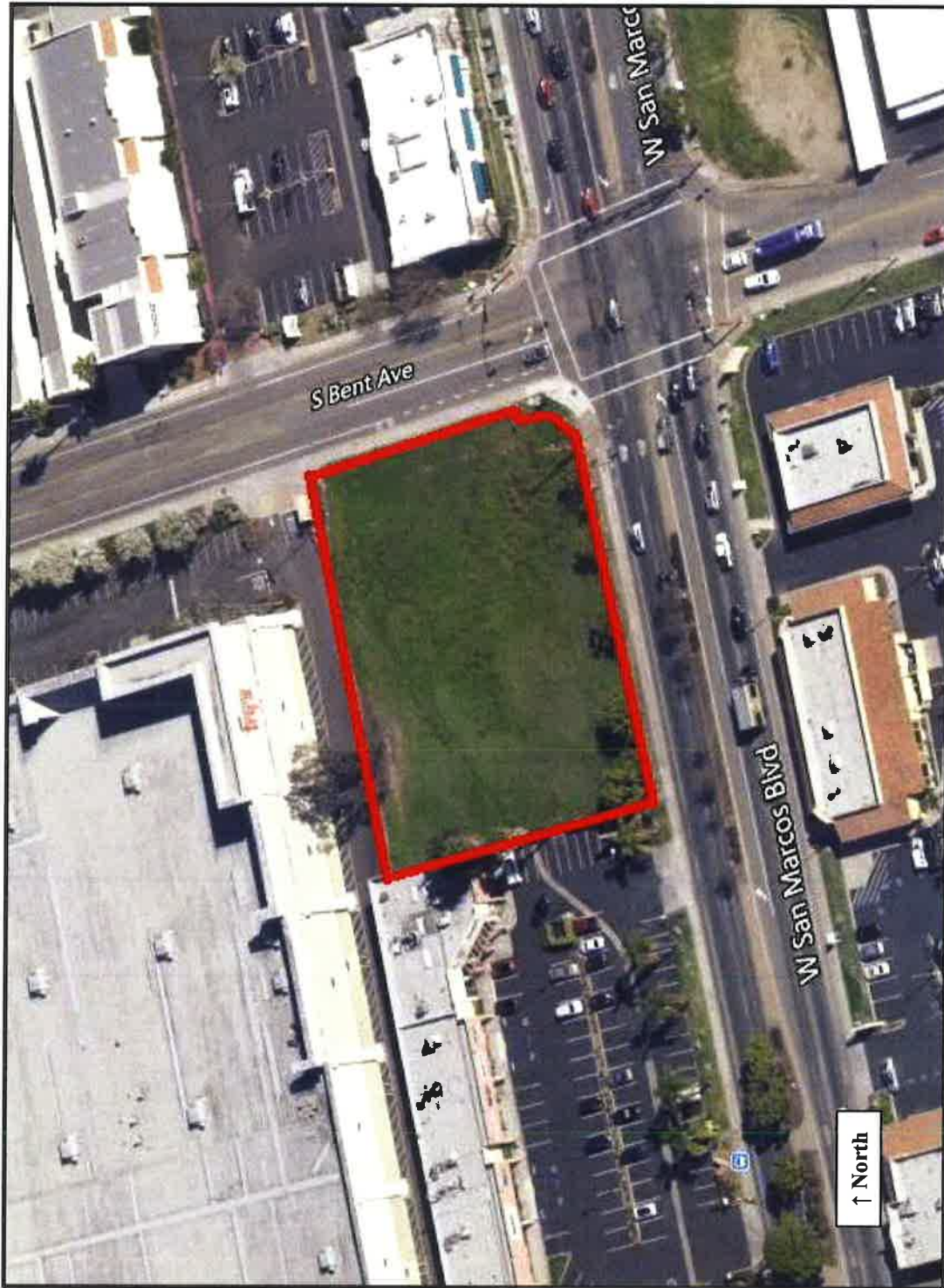


Anderson & Brabant, Inc.

643 to 661 Leora Lane, San Marcos, CA

COMPARABLE NO. 3

1284 West San Marcos Boulevard, San Marcos

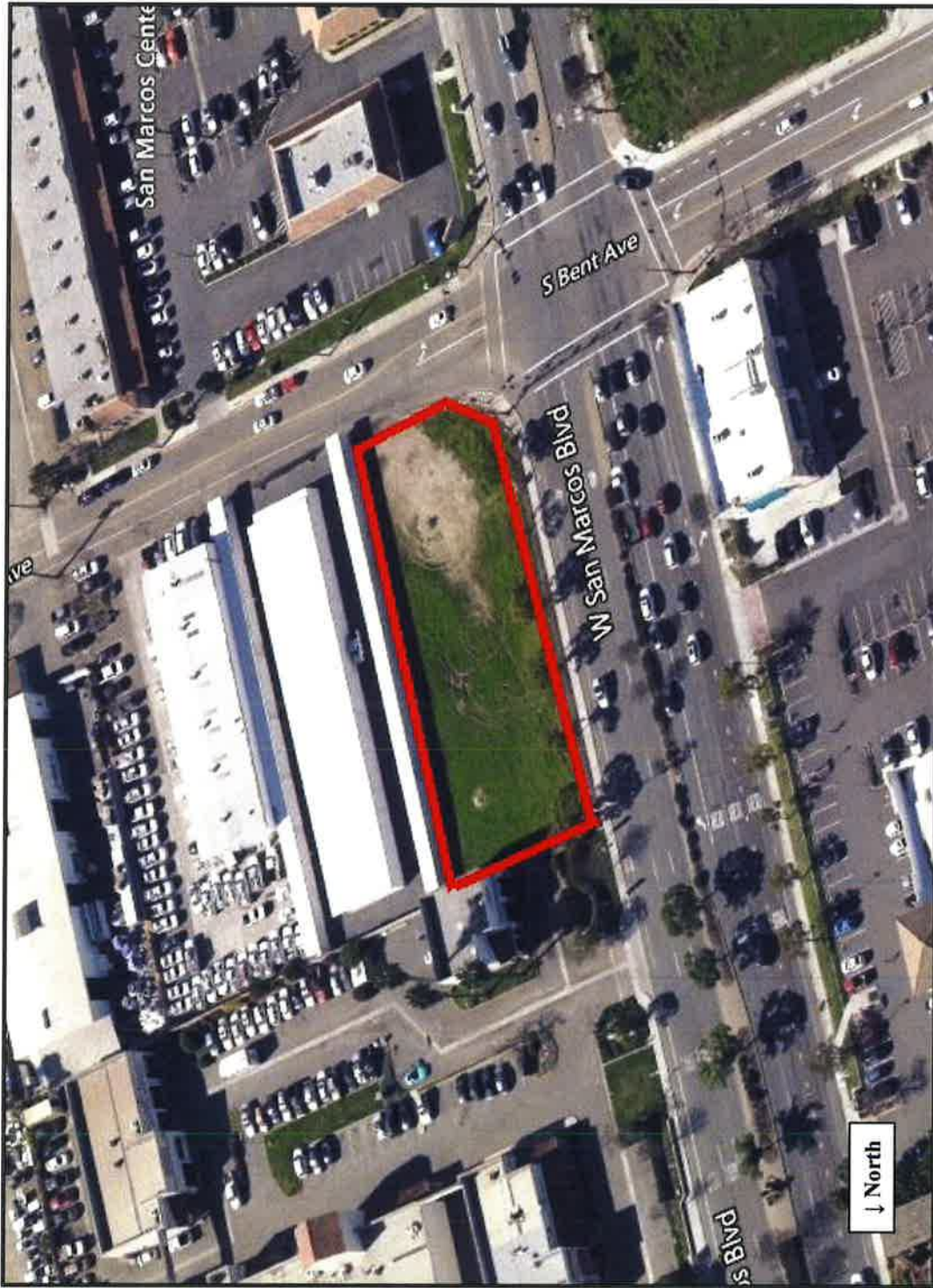


Anderson & Brabant, Inc.

643 to 661 Leora Lane, San Marcos, CA

COMPARABLE NO. 4

Southeast corner of West San Marcos Boulevard and South Bent Avenue, San Marcos

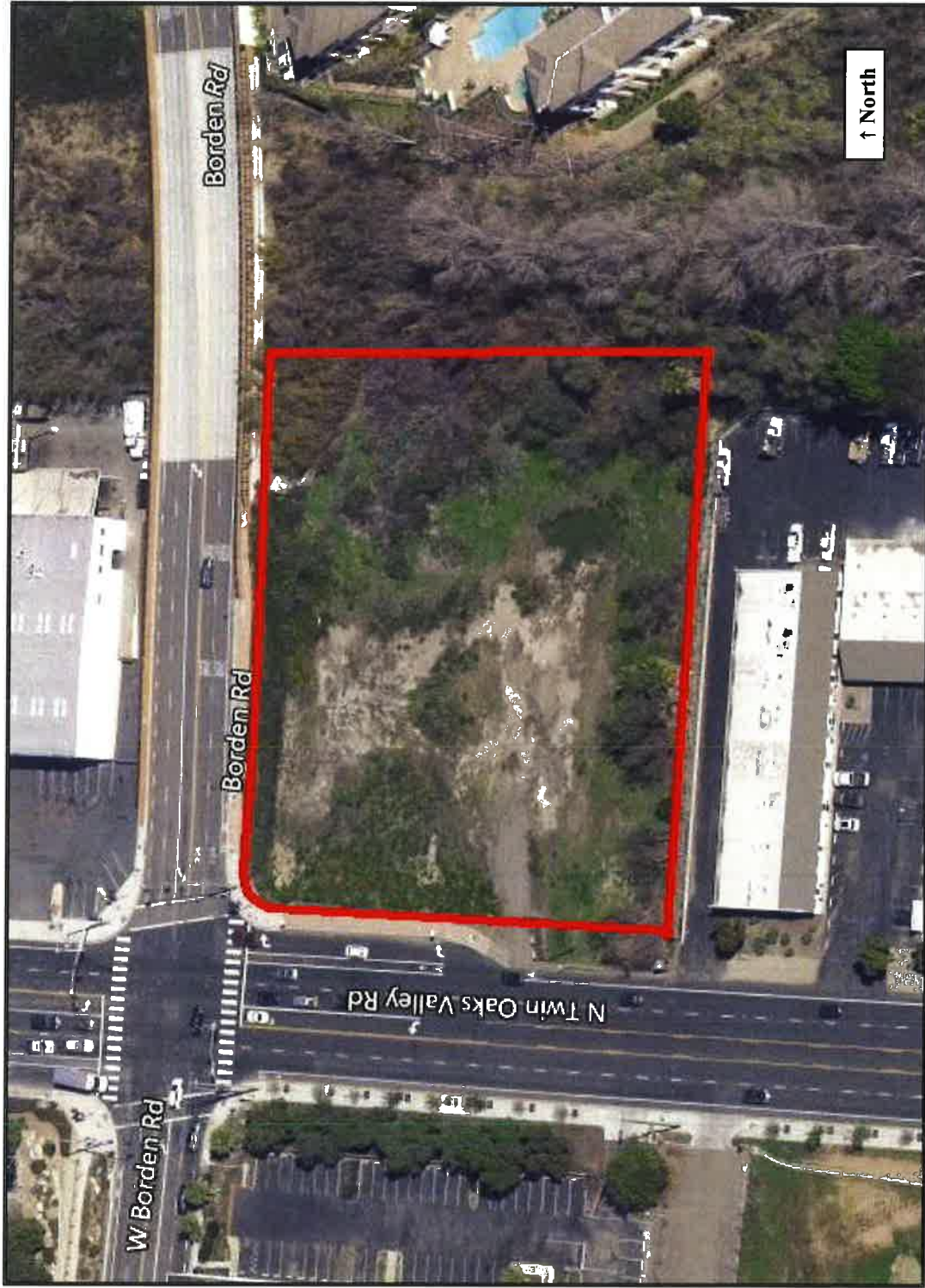


Anderson & Brabant, Inc.

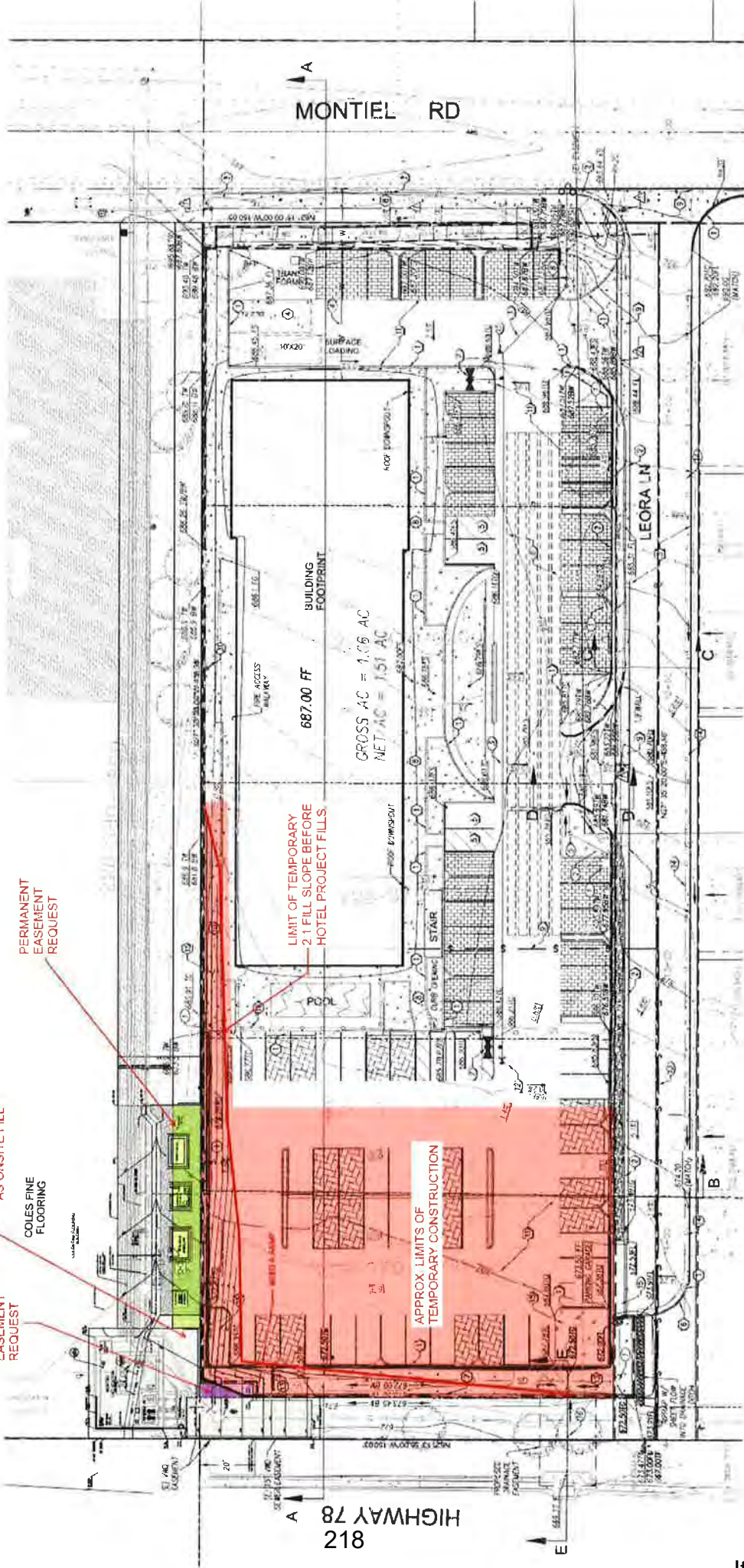
643 to 661 Leora Lane, San Marcos, CA

COMPARABLE NO. 5

Southeast corner of Twin Oaks Valley Road and Borden Road, San Marcos



Anderson & Brabant, Inc.



POTENTIAL TO STOCKPILE EXCAVATION SOIL AND ROCK FOR USE AS ON-SITE FILL

PERMANENT EASEMENT REQUEST

COLES FINE FLOORING

PERMANENT EASEMENT REQUEST

LIMIT OF TEMPORARY 2:1 FILL SLOPE BEFORE HOTEL PROJECT FILLS

APPROX. LIMITS OF TEMPORARY CONSTRUCTION

687.00 FF

GROSS AC = 1.06 AC
NET AC = 1.51 AC

BUILDING FOOTPRINT

MONTIEL RD

LEORA LN

HIGHWAY 78
218

QUALIFICATIONS OF THE APPRAISER

David C. Ottley, MAI

Anderson & Brabant, Inc.

353 West Ninth Avenue, Escondido, CA 92025

760.705.1615

Resident of San Diego County since 1954

Educational Background

Brigham Young University, Provo, Utah - School of Accountancy (1982-83)

Palomar College, San Marcos, CA - Real Estate emphasis (1976-77; 1980-81)

Professional Education Completed:

Appraisal Institute:

- Case Studies in Real Estate Valuation (1988)
- Valuation Analysis and Report Writing (1988)
- Real Estate Appraisal Principles; and Basic Valuation Procedures (1988)
- Capitalization Theory and Techniques, Parts A & B (1986)
- Real Property Valuation (1977)

Partial List of Recent Seminars and Webinars:

- Appraisal Review (2022)
- Eminent Domain and Condemnation (2021, 2005)
- Uniform Appraisal Standards for Federal Land Acquisitions (2015, 2017)
- San Diego Real Estate Market Symposium, Economic Forecast/Forum (1998-2002; 2004-2012; 2017; 2021)
- Business Practices and Ethics (2010, 2015, 2017)
- Federal and State Laws and Regulations (2014, 2016, 2018)
- Mold, Pollution, and the Appraiser (2014)
- Uniform Standards of Appraisal Practice Update (2004, 2006, 2008, 2010, 2012, 2014, 2016, 2018, 2020, 2022)
- Loss Prevention Seminar (2011 and 2013)
- Liability Issues for Appraisers Performing Litigation Work (2013)
- Complex Litigation Appraisal Case Studies (2013)
- IRWA Eminent Domain Seminar (2012)
- Appraising in a Post-HVCC World (2011)
- San Diego Housing and Apartment Seminar (2004, 2007, 2009)
- The Appraiser as an Expert Witness (2006)

Professional Affiliations

MAI Member, Appraisal Institute

Certified General Real Estate Appraiser (AG002149), Bureau of Real Estate Appraisers, State of California

Professional Real Estate Experience

Appraiser/Consultant, Anderson & Brabant, Inc., Escondido, CA - 01/85 to 03/98; 06/01 to 02/05; 02/06 on

V.P. of Acquisitions, Maisel Presley, Inc., San Diego, CA - 02/05 to 02/06

Director of Finance & Acquisitions, Pacifica Companies, San Diego, CA - 04/98 to 06/01

Appraiser/Analyst, Dodd-Graves & Associates, Escondido, CA - 06/76 to 04/77; & 11/79 to 12/84

Staff Appraiser, Financial Appraisals, Inc., Escondido, CA - 04/77 to 08/77

Expert Witness

Superior Court, Counties of San Diego, Riverside, and Los Angeles

U.S. Bankruptcy Court, San Diego County

Types of Appraisals

- | | |
|---------------|---|
| Residential: | Residential Subdivisions, Apartments, Single-family, Condominium and PUD Units, (Existing and Proposed) |
| Commercial: | Single- and Multi-Tenant Commercial and Office Properties, Medical Offices, Self-Storage Facilities (Existing and Proposed) |
| Industrial: | Single- and Multi-Tenant Industrial Buildings and Parks, (Existing and Proposed) |
| Vacant Land: | Residential, Subdivision, Industrial, Commercial, Rural, and Environmentally Sensitive Properties |
| Agricultural: | Avocado and Citrus Groves, Dairies, and Ranches |
| Other: | Mixed-Use Properties, Leasehold and Leased Fee Interests, Partial Acquisitions, and Easements |

Anderson & Brabant, Inc.

QUALIFICATIONS OF THE APPRAISER

James Brabant, MAI
Anderson & Brabant, Inc.
353 W. Ninth Avenue
Escondido, CA 92025
(760) 705-1592 (Direct)
Email: jlbrabant@aol.com

I. Resident of San Diego County since 1977

II. **Educational Background:**

A. University of Southern California, B.S. degree in Real Estate — 1960

B. School of Theology at Claremont, Master of Theology — 1966

C. Professional Education Completed:

1. Appraisal Institute

a. "Basic Appraisal Principles, Methods and Techniques" — Course I-A

b. "Capitalization Theory and Techniques" — Course I-B

c. "Urban Properties" — Course II

d. "Investment Analysis" — Course IV

e. "Standards of Professional Practice"

f. "Litigation Valuation"

g. Special Applications of Appraisal Analysis Course 301

2. Lincoln Graduate Center

a. Manufactured Housing Appraisal Course 669

3. Continuing Education (Partial List):

USPAP Course and Updates (every two years)

Four Hour Federal and State Laws, 1/16

Fundamentals of Separating Real Property, Personal Property, and Intangible
Business Assets 4/12

Eminent Domain Case Update, 10/95, 3/97, 10/07, 4/10

Business Practice and Ethics, 6/07, 7/12

San Diego Apartment & Housing Seminar, 10/98, 5/07, 9/11

Appraiser as Expert Witness, 12/06

Deal and Development Analysis – Downtown S.D., 9/05

Litigation Seminar, 11/04, 11/07, 11/10

Appraising Manufactured Housing, 1/04

Economic and Real Estate Forum, 09/02

Gramm-Leach-Bliley Act, 10/01

Condemnation on Trial (Participant), 5/00

Digging Into Ground Leases, 2/15

Unique Appraisal Assignments (Participant), 2/14

Appraisal of Partial Interests; 6/98

Vineyard Valuation, 11/12

Downtown San Diego Development, 9/15

Qualifications of the Appraiser — James Brabant, MAI
Page Two

III. **Professional Affiliations:**

- A. Member, Appraisal Institute, MAI (1985 President, San Diego Chapter)
- B. Realtor Member, North County Association of Realtors
- C. Member, International Right of Way Association
- D. Real Estate Brokers License, State of California
- E. Teaching Credential, State of California, Community College Level
- F. Certified General Real Estate Appraiser (AG002100)
Office of Real Estate Appraisers, State of California

IV. **Appraisal Experience:**

- Co-Owner — Anderson & Brabant, Inc., Since 1979
- Co-Owner — Robert M. Dodd & Associates, Inc., 1977 - 1979
- Appraisal Manager — California First Bank, Huntington Beach, California, 1974 - 1977
- Staff Appraiser — California First Bank, San Diego, California, 1972 - 1974
- Staff Appraiser — O. W. Cotton Co., San Diego, California, 1970 - 1972
- Staff Appraiser — Davis Brabant, MAI, Huntington Park, California, 1960 - 1962

V. **Teaching Experience:**

- Southwestern College, Chula Vista, California, "Real Estate Appraisal"

VI. **Expert Witness:**

- Superior Court, San Diego, Los Angeles, Riverside, and San Bernardino Counties
- Rent Control Hearings: Cities of Oceanside, Escondido, Ventura, Concord, Yucaipa, Carpinteria, Palmdale, San Marcos, Carson, Watsonville
- Various Arbitration Hearings
- Assessment Appeals Boards of Riverside County, San Diego County and Orange County
- Federal Bankruptcy Courts in San Diego County & Santa Barbara County
- United States District Court – Northern District of California

VII. **Types of Appraisals:**

- | | |
|-----------------------------|---|
| Residential Property: | Single-family residence, condominiums, apartments, subdivisions, existing and proposed |
| Commercial Property: | Office buildings, shopping centers, office condominiums, etc., existing and proposed |
| Industrial Property: | Single/multi-tenant, business parks, etc., existing and proposed |
| Vacant Land: | Industrial, commercial, residential, and rural |
| Agricultural: | Ranches, avocado and citrus groves, etc. |
| Special Purpose Appraisals: | Leasehold estates, possessory interest, historical appraisals, etc. |
| Mobile Home Parks: | For a variety of purposes including rent hearings, park closure, park conversions, failure to maintain litigation, eminent domain, etc. |

Qualifications of the Appraiser — James Brabant, MAI
Page Three

VIII. Partial List of Appraisal Clients:

Banks

Bank of America
Bank of New York
City National Bank
Downey Savings
Fidelity Federal Bank
First Interstate Bank
First Pacific National Bank
Flagship Federal Savings
Great Western Bank
Industrial Bank of Japan
Palomar Savings & Loan
Redlands Federal Bank
Union Bank of California
Wells Fargo Bank

Government Agencies and Municipalities

California Department of
Transportation/Caltrans
Carlsbad Municipal Water District
City of Carlsbad
City of Chula Vista
City of Colton
City of Concord
City of Escondido
City of Laguna Beach
City of La Mesa
City of Salinas
City of San Bernardino
City of San Diego
City of San Marcos
City of Vista
City of Yucaipa
County of San Diego
Fallbrook Public Utility District
Metropolitan Water District
Oceanside Unified School District
Pacific Telephone
Poway Municipal Water District
Ramona Unified School District
SANDAG (San Diego Assoc. of Govts.)
San Diego County Water Authority
San Diego Unified Port District
San Marcos Unified School District
U.S. Depart. of the Interior
 Bureau of Indian Affairs
U.S. Department of Justice

Law Firms

Aleshire & Wynder, LLP
Asaro, Keagy, Freeland. & McKinley
Best, Best & Krieger
Daley & Heft
Endeman, Lincoln, Turek & Heater
Foley & Lardner, LLP
Fulbright & Jaworski
Gray, Cary, Ware & Freidenrich
Higgs, Fletcher & Mack
Latham & Watkins
Lounsbery, Ferguson, Altona & Peak
Luce, Forward, Hamilton & Scripps
McDonald & Allen
McInnis, Fitzgerald, Rees, Sharkey & McIntyre
O'Melveny & Meyers
Procopio, Cory, Hargreaves & Savitch
Rutan & Tucker
Singer, Richard
Sullivan Wertz McDade & Wallace
Tatro & Zamoyski
Thorsnes Bartolotta & McGuire
Woodruff, Spradlin & Smart
Worden Williams, APC

Title Companies

Chicago Title
Fidelity National Title Insurance
First American Title
St. Paul Title
Title Insurance & Trust

Others

Avco Community Developers
Coldwell Banker
Dixieline Lumber
Golden Eagle Insurance
National Steel & Shipbuilding Co.
Northern San Diego County Hospital District
Prudential Insurance Corp.
Rosenow, Spevacek, Group
San Diego Gas & Electric Co.
San Luis Rey Downs (Vessels)
Steeffel, Levitt & Weiss
Tellwright-Campbell, Inc.
Transamerica Relocation Service
Vedder Park Management

EASEMENT PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “**Agreement**”), dated as of **August 11, 2022** (“Effective Date”), is between **Vallecitos Water District, a governmental agency (“Buyer”), and San Marcos Hospitality LLC, a limited liability company (“Seller”).** Buyer and Seller shall sometimes be referred to herein individually as a “**Party**” and collectively as the “**Parties.**”

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Purchase and Sale.** Seller, as the owner of the fee interest in certain land situated in the County of San Diego, State of California, comprising approximately **fifty-five hundredths (.55) acres**, designated as **Assessor’s Parcel Numbers 228-370-38 and 228-370-04 (“Land”)**, hereby agrees to sell and convey an easement in, on, over, under, across, and through the Land for the purposes of, among other things, constructing, maintaining, owning, operating, and using sewer facilities in the form attached hereto as **Exhibit A (“Easement”)** to Buyer, and Buyer hereby agrees to purchase the Easement from Seller, on the terms and conditions set forth herein. The portion of the Land that will be burdened by the Easement is referred to herein as the “**Easement Area.**”
2. **Purchase Price.** Subject to 4(a) below, the purchase price for the Easement Area shall be **Sixty-One Thousand Dollars (\$61,000.00) (“Purchase Price”)**, which is the value of the Easement Area set forth in the appraisal, dated as of **June 22, 2022**, prepared by Anderson & Brabant, Inc., as Job Number 22-049B (“**Appraisal**”). The Purchase Price includes severance damage to the remainder, if any. Severance damage to the remainder is damage caused to the remainder by either or both of the following: (a) the severance of the remainder from the Easement acquired; or (b) the construction and operation of the project for which the Easement is acquired.
3. **Conditions Precedent.** In addition to the payment of the Purchase Price by Buyer in accordance with Sections 4(a) and (b) below, the following conditions must be satisfied before the Easement will be deemed to have been fully accepted by and delivered to Buyer (the “**Closing**”):
 - A. Seller shall have removed from the Easement Area any third party using, occupying, or possessing all or any portion of the Easement Area.
 - B. **Environmental Testing Contingency.** Payment of the Purchase Price shall be subject to and conditioned upon Buyer’s acceptance of the physical and environmental conditions of the Easement Area, and the absence from the Easement Area of hazardous materials and any other kind of soil or water contamination. By executing this Agreement, Seller authorizes Buyer, its agents or assigns, commencing upon the execution of this Agreement by Seller, to enter upon the Land at all reasonable times for the purpose of assessing the environmental conditions in and around the Easement Area.
4. **Closing Instructions.** Buyer shall be responsible for performing the following obligations before Closing, except with respect to Section 4(d), which Buyer shall be responsible for post-Closing:
 - (a) If Buyer elects to do so, in its sole discretion, Buyer shall pay and deduct from the Purchase Price any amount necessary to satisfy:
 - (i) Any delinquent taxes, together with penalties and interest, due in any fiscal year, except the fiscal year in which this transaction closes and any delinquent or non-

delinquent assessments or bonds, except those which title is being taken subject to under the terms of this Agreement.

- (ii) Taxes for the assessment year in which this transaction closes, if unpaid at Closing.
 - (iii) Demands of mortgagees and trustees, except prepayment penalties, in accordance with conditions of notes and other obligations secured by mortgages and deeds of trust.
 - (iv) Demands, including charges and costs, of any other lien holders of record, including creditors with recorded abstracts of judgment.
 - (v) Any broker's commissions arising from any agreement entered into by Seller in connection with the purchase and sale of the Easement.
- (b) Buyer shall pay to Seller the balance of the Purchase Price after Buyer has paid any amounts necessary to be paid in accordance with Section 4(a) above once Buyer is reasonably satisfied that (i) there are no hazardous materials on the Easement Area and (ii) the Easement is free of, or unconditionally prior and superior to, all liens, encumbrances, assessments, easements, leases, deeds of trust, security instruments, and taxes other than current property taxes.
- (c) In addition to the payment of the Purchase Price in accordance with Sections 4(a) and (b) above, Buyer shall pay any fees due for recording and documentary transfer tax.
- (d) Buyer shall cause the recording of the Easement in the official records of the county in which the Land is located.

5. Seller's Representations and Warranties.

- (a) Seller represents and warrants as of the Effective Date and the Closing as follows:
- (i) Enforceability. This Agreement and all other documents and agreements to be executed and/or delivered in connection with or pursuant to this Agreement, constitute or shall constitute the valid and binding obligation of Seller, enforceable against Seller in accordance with their terms, except as such enforcement may be limited by applicable laws.
 - (ii) Foreign Person. Seller is not a "foreign person" as defined in Section 1445 of the United States Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.
 - (iii) No Notices of Violations of Applicable Laws. Seller has not received any notice of any violation of any applicable law affecting the Easement Area.
 - (iv) No Pending Proceedings. There are no litigation, bankruptcy, condemnation, or environmental proceedings pending or, to the best of Seller's knowledge, threatened, involving, or affecting the Easement Area or the ability of Seller to perform Seller's obligations under this Agreement or the Easement.
 - (v) No Hazardous Materials. Except as set forth in any Phase I or Phase II environmental assessment of the Easement Area obtained by Buyer as part of its due diligence, to the best of Seller's knowledge there are no hazardous materials on or under the Easement Area

- (vi) Contracts, Leases, Agreements. There are no leases, contracts, or agreements affecting the Easement Area, except as otherwise disclosed by Seller.
- (b) Seller's representations and warranties shall survive the execution and delivery of the Easement for a period of twelve (12) months and shall be deemed to have been made again at Closing as a condition to the Closing and shall remain in full force and effect regardless of any investigation made by or on behalf of any Party or of the actual or constructive knowledge by any Party of any inaccuracy or breach thereof.
6. "As-Is" Nature of Sale." Except as otherwise expressly set forth in this Agreement, Buyer shall purchase the Easement and accept the Easement Area "as-is" with all faults and conditions. Buyer hereby acknowledges that, except as otherwise expressly set forth in this Agreement, Seller hereby expressly disclaims (i) any implied warranty of habitability, merchantability, and suitability for a particular purpose, and (ii) any warranties implied or arising from a course of dealing or usage of trade.
7. Contingency. It is understood and agreed between the Parties that the closing of this transaction is contingent upon the specific acceptance and approval of Buyer, which shall be evidenced by the payment of the Purchase Price and the recording of the Easement in the official records of the county in which the Land is located.
8. Indemnification. Seller hereby agrees to indemnify, hold harmless and defend Buyer and its parent company, affiliates, subsidiaries, and its and their respective directors, officers, employees, agents, representatives, successors, and assigns from and against any and all losses, liabilities, claims, demands, damages, causes of action, liens, obligations, fines, penalties, costs, and expenses (including but not limited to all investigation costs and reasonable consulting, engineering, in-house or outside attorney's fees, or other professional fees) (collectively, "**Claims**") arising from any (i) default of Seller under this Agreement, including but not limited to any breach of Seller's covenants, representations, and warranties set forth in this Agreement, (ii) matters arising from Seller's fraud or intentional misrepresentation, or (iii) Claims that may be made by any real estate broker, agent, finder, or other person alleging to have acted on behalf of Seller, provided, however, that the foregoing indemnity shall not include Claims to the extent directly arising from the sole negligence or willful misconduct of Buyer with respect to the Land prior to the Closing. This indemnity shall survive the Closing and the execution and delivery of the Easement.

Buyer Default. If Buyer defaults in its obligation to consummate the Closing under this Agreement (provided that Seller has not defaulted in any manner under this Agreement), then Seller's sole remedy shall be to terminate this Agreement, in which case neither Seller nor Buyer shall have any further rights or obligations under this Agreement, other than those obligations that survive the expiration or earlier termination of this Agreement.

9. Seller Default. If Seller defaults in its obligation to consummate the Closing in accordance with this Agreement or defaults in any other manner under this Agreement, then Buyer may pursue any and all remedies at law or in equity that are available to Seller as a result of such default of Seller, including but not limited to injunctive relief or specific performance. If Seller shall default in any manner under this Agreement, then in addition to the other remedies available to Buyer at law or in equity, Buyer shall not be under any obligation to purchase or acquire the Easement.
10. Miscellaneous. (a) This Agreement may be amended only by written agreement signed by both of the Parties. (b) Time and each of the terms and conditions of this Agreement are hereby expressly made of the essence. (c) This Agreement may be executed in counterparts, each of

which shall be deemed an original and all of which shall constitute one and the same agreement. (d) This Agreement shall be governed by the laws of the State of California, without reference to its choice of law provisions. The Parties hereby agree that any legal action or proceeding arising out of this Agreement shall be brought in a state court of competent jurisdiction in San Diego, California. By execution and delivery of this Agreement, each Party hereby irrevocably and unconditionally accepts and submits to the personal jurisdiction of said courts. (e) This Agreement supersedes any and all oral or written agreements between the Parties regarding the Easement which are prior in time to this Agreement. Neither Buyer nor Seller shall be bound by any prior understanding, agreement, promise, representation, or stipulation, express or implied, not specified herein. (f) If any portion of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect. (g) Nothing in this Agreement shall be construed to confer any third-party benefit on any other person not a party hereto, including but not limited to any broker, with respect to this Agreement. (h) Buyer and Seller shall not be partners or joint venturers with each other and nothing in this Agreement shall create or be deemed to create any partnership or joint venture between Buyer and Seller. (i) The section headings of this Agreement are for purposes of reference only and shall not be used for limiting or interpreting the meaning of any section of this Agreement. (j) Without the prior written consent of Buyer, there shall be no recordation of this Agreement.

11. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties.

12. Sale in Lieu of Condemnation; Condemnation Rights Unimpaired.

- (a) Seller and Buyer acknowledge that Seller has agreed to sell the Easement to Buyer, and Buyer has agreed to purchase the Easement from Seller, in lieu of Buyer exercising its power to acquire the Easement by condemnation under the California Government Code and/or California Code of Civil Procedure. Notwithstanding anything to the contrary contained in this Agreement or elsewhere, nothing contained in this Agreement shall impair, waive, or otherwise affect any rights of Buyer under any applicable law to condemn any portion of the Land, including but not limited to any rights of Buyer under the California Government Code and/or California Code of Civil Procedure (or amendment or successor statute thereto). The provisions of this subsection shall survive the Closing or any earlier termination of this Agreement.
- (b) Seller is hereby notified of the provisions of California Code of Civil Procedure Section 1265.240, which states that “[w]here the property acquired for public use is encumbered by a lien, the amount payable to the lienholder shall not include any penalty for prepayment.”

IN WITNESS WHEREOF, Buyer and Seller hereby execute this Easement Purchase and Sale Agreement as of the date first above written.

SELLER

San Marcos Hospitality, LLC,
a limited liability company

By: _____

Name: _____

Title: _____

BUYER

Vallecitos Water District,
a governmental agency

By: _____

Name: _____

Title: _____

**EXHIBIT A TO PURCHASE AGREEMENT
FORM OF EASEMENT**

[See attached.]

Recording requested by, and
when recorded, return to:

Vallecitos Water District
201 Vallecitos de Oro
San Marcos, CA 92069

APN: 228-370-04 & 228-370-38

(Space above for Recorder's Use)
Document Transfer Tax: None

**VALLECITOS WATER DISTRICT
GRANT OF RIGHT-OF-WAY**

SAN MARCOS HOSPITALITY, LLC., as Grantor, for and in consideration of the sum of One Dollar and other valuable consideration paid by **VALLECITOS WATER DISTRICT**, as Grantee, receipt of which is hereby acknowledged, does hereby grant to said Grantee, its successors and assigns, an easement of right-of-way, **VARIES** feet in width upon, over, under and across the lands hereinafter described, to erect, construct, reconstruct, replace, repair, maintain and use a pipeline or pipelines for any and all purposes, together with their necessary fixtures and appurtenances including but not limited to conduits and cables for power transmission and communication purposes specifically related to Grantee's facilities, at such locations and elevations, upon, along, over and under the hereinafter described right-of-way as Grantee may now or hereafter deem convenient and necessary from time to time, together with the right of ingress thereto and egress therefrom, to and along said right-of-way by a practical route or routes in, upon, over and across the hereinafter lands, together with the right to clear and keep clear said right-of-way from vehicles, vegetation, explosives, buildings and structures of any type.

The lands in which said easement of right-of-way is hereby granted are situated in the County of San Diego, State of California, and particularly described as follows:

A PORTION OF LOT 13 IN BLOCK 7 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895. BEING PROPERTY GRANTED TO SAN MARCOS HOSPITALITY, LLC BY GRANT DEED RECORDED SEPTEMBER 1, 2021 AS DOC. NO. 2021-0621100, OFFICIAL RECORDS

The **VARIES** - foot-wide easement of right-of-way in the aforesaid lands is particularly described as follows: SEE **EXHIBIT "A"** ATTACHED.

A.P.N.: 228-370-04 - Temporary Construction Easement (TCE) & 228-370-38 - Permanent and (TCE)

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

AREA: Permanent Easement 112 SQUARE FEET OR 0.003 ACRE, MORE OR LESS.

AREA: Temporary Construction Easement (TCE) 19,594 SQUARE FEET OR 0.450 ACRE, MORE OR LESS. Temporary Construction Easement is granted for a limited term of 12 months from the start of construction as determined by the Vallecitos Water District.

PLAT: SEE **EXHIBIT "B"** ATTACHED.

It is understood by the parties hereto that the Grantor and their successors and assigns:

Shall not grant any other easement on, under or over said easement of right-of-way without the prior written consent of Grantee.

Shall not erect or construct, or permit to be erected or constructed, any building or other structure, plant any tree or trees, or drill any well or wells, within the limits of said right-of-way.

Shall not increase or decrease, or permit to be increased or decreased, the proposed surface elevations of the above-described right-of-way, as shown on improvement plans titled Montiel Lift Station and Forcemain Replacement Project (VWD WO 217904), prepared by Michael Baker International, without the prior written consent of Grantee.

Shall not park vehicles of any kind within the easement in such a manner as to hinder full access and use of the easement by Grantee.

It is understood by the parties hereto that the Grantee and its successors and assigns:

Shall have the right to erect, maintain and use any gates in any fences which cross or shall hereafter cross said easement of right-of-way, and to trim and cut and clear away any trees and vegetation whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby conveyed.

Shall have the right to make any and all excavations and the right to alter the existing or proposed surface elevations within the easement right-of-way, now and in the future as may be deemed necessary and convenient. Grantee shall only be responsible for repair of improvements made necessary by the direct action of Grantee.

Shall not be responsible for maintenance or costs of maintenance of any improvements within the easement right of way, including all surface areas within the easement area, except those specific Grantee owned/maintained facilities within said easement, unless by separate agreement.

Shall have the right and privilege to spill water in natural channels which cross said lands adjacent to the easement right-of-way.

Shall have the right to transfer and assign this easement of right-of-way in whole or in part.

In Witness whereof, the Grantor executed these presents the ____ day of _____, 20__.

"Grantor"

Company: SAN MARCOS HOSPITALITY, LLC.

Name*: DARSHAN PATEL

Title: CHIEF EXECUTIVE OFFICER

Signature †: _____

Date: _____

**CERTIFICATE OF ACCEPTANCE
VALLECITOS WATER DISTRICT**

This is to certify that the interest in real property conveyed by the deed or grant dated _____, from SAN MARCOS HOSPITALITY, LLC., to VALLECITOS WATER DISTRICT, a political corporation and/or a governmental agency, is hereby accepted by the undersigned officer of the Board of Directors of the VALLECITOS WATER DISTRICT pursuant to Resolution No. 1358, adopted on the 21st day of July, 2010, and the Grantee consents to the recording thereof by its duly authorized officer.

By: _____

Dated: _____

Glenn Pruij, Secretary
Board of Directors
Vallecitos Water District
201 Vallecitos De Oro
San Marcos, CA 92069

* Name of Authorized Representative of Developer/Owner

† Acknowledgement of the signature(s) executing this Easement Document, by a Notary Public, is required. Attach acknowledgement to this page.

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069
Page 4 of 6

EXHIBIT 'A'
LEGAL DESCRIPTION EASEMENTS

PORTIONS OF THE PROPERTY GRANTED TO SAN MARCOS HOSPITALITY, LLC BY GRANT DEED RECORDED SEPTEMBER 1, 2021 AS DOC. NO. 2021-0621100, OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL A - WATER AND SEWER EASEMENT:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL 7 DESCRIBED IN SAID DEED; THENCE NORTHEASTERLY ALONG THE WESTERLY LINE THEREOF NORTH 27°35'20" EAST, 15.00 FEET TO THE INTERSECTION WITH A LINE THAT LIES 15.00 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID PARCEL 7 AND THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING ALONG SAID WESTERLY LINE NORTH 27°35'20" EAST 8.00 FEET; THENCE LEAVING SAID WESTERLY LINE SOUTH 46°21'40" EAST 29.14 FEET TO SAID PARALLEL LINE; THENCE WESTERLY ALONG SAID PARALLEL LINE NORTH 62°17'53" WEST 28.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINS: 112 SQUARE FEET, OR 0.003 ACRE, MORE OR LESS.

PARCEL B - TEMPORARY CONSTRUCTION EASEMENT <T.C.E.>

ALL OF PARCEL 6 AND 7 OF SAID DEED, EXCEPTING THEREFROM THE SOUTHEASTERLY 15.00 FEET OF PARCEL 7 AND THE PORTION WITHIN PARCEL A DESCRIBED ABOVE.

CONTAINS: 19,594 SQUARE FEET, OR 0.450 ACRE, MORE OR LESS.

SEE EXHIBIT B PLAT, ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

Paul E. Goebel



PAUL E. GOEBEL, PLS 8486 8/2/2022
MBI JN 176090
APN 228-370-03,04,38

LEGEND

 PARCEL A-PERMANENT WATER/SEWER EASEMENT-CONTAINS 112 SF (0.003 AC)

 PARCEL B-TEMPORARY CONSTRUCTION EASEMENT <T.C.E.> CONTAINS 19,594 SF (0.045 AC)

POC POINT OF COMMENCEMENT

TPOB TRUE POINT OF BEGINNING

() RECORD DATA AS SHOWN

OWNER:

SAN MARCOS HOSPITALITY, LLC
BY GRANT DEED REC.

9/1/2021 AS DOC.

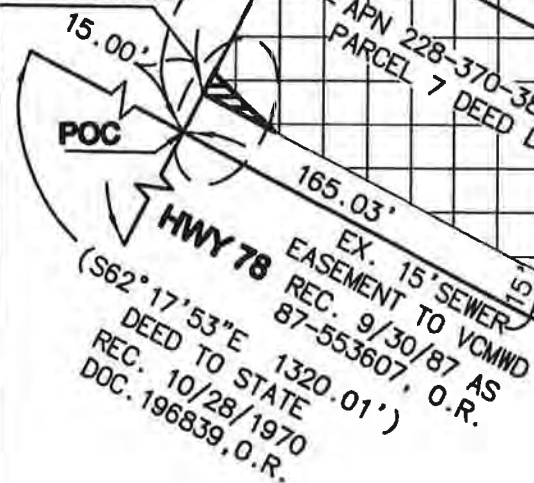
2021-0621100, O.R.(DD1)

0 60'

SCALE: 1"=60'



TPOB
SEE DETAIL



MONTIEL ROAD
(N62°15'00"W 330.06') ROS 4963-
(165.03') ROS 4963-
APN 228-370-01
PARCEL 1-DEED DD1

LEORA LANE
438.27'
N27°35'20"E

TPOB
PARCEL A

POC
PARCEL A

DETAIL

NO SCALE-PARCEL A
WATER/SEWER EASEMENT
PARCEL A LINE DATA TABLE

| NO | BEARING | LENGTH |
|----|-------------|--------|
| L1 | N27°35'20"E | 8.00' |
| L2 | S46°21'40"E | 29.14' |
| L3 | N62°17'53"W | 28.00' |

Paul E. Goebel

8/2/2022

PAUL E. GOEBEL DATE
LS 8486



**EXHIBIT B - PLAT
PROPOSED WATER / SEWER EASEMENT
& TEMPORARY CONSTRUCTION
EASEMENT EXHIBIT**

APN 228-370-03,04,38
PORTIONS OF NWLY HALF, LOT 13, BLK 7, MAP 806
CITY OF SAN MARCOS
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

SHEET 1 OF 1 SHEET
Michael Baker International
9755 Clairemont Mesa Blvd.,
San Diego, CA 92124
(858)614-5000
DATE 8/1/2022 176090

EASEMENT PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “**Agreement**”), dated as of **August 11, 2022** (“**Effective Date**”), is between **Vallecitos Water District, a governmental agency** (“**Buyer**”), and **San Marcos Hospitality LLC, a limited liability company** (“**Seller**”). Buyer and Seller shall sometimes be referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

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4. **Closing Instructions.** Buyer shall be responsible for performing the following obligations before Closing, except with respect to Section 4(d), which Buyer shall be responsible for post-Closing:
 - (a) If Buyer elects to do so, in its sole discretion, Buyer shall pay and deduct from the Purchase Price any amount necessary to satisfy:
 - (i) Any delinquent taxes, together with penalties and interest, due in any fiscal year, except the fiscal year in which this transaction closes and any delinquent or non-

delinquent assessments or bonds, except those which title is being taken subject to under the terms of this Agreement.

- (ii) Taxes for the assessment year in which this transaction closes, if unpaid at Closing.
 - (iii) Demands of mortgagees and trustees, except prepayment penalties, in accordance with conditions of notes and other obligations secured by mortgages and deeds of trust.
 - (iv) Demands, including charges and costs, of any other lien holders of record, including creditors with recorded abstracts of judgment.
 - (v) Any broker's commissions arising from any agreement entered into by Seller in connection with the purchase and sale of the Easement.
- (b) Buyer shall pay to Seller the balance of the Purchase Price after Buyer has paid any amounts necessary to be paid in accordance with Section 4(a) above once Buyer is reasonably satisfied that (i) there are no hazardous materials on the Easement Area and (ii) the Easement is free of, or unconditionally prior and superior to, all liens, encumbrances, assessments, easements, leases, deeds of trust, security instruments, and taxes other than current property taxes.
- (c) In addition to the payment of the Purchase Price in accordance with Sections 4(a) and (b) above, Buyer shall pay any fees due for recording and documentary transfer tax.
- (d) Buyer shall cause the recording of the Easement in the official records of the county in which the Land is located.

5. Seller's Representations and Warranties.

- (a) Seller represents and warrants as of the Effective Date and the Closing as follows:
- (i) Enforceability. This Agreement and all other documents and agreements to be executed and/or delivered in connection with or pursuant to this Agreement, constitute or shall constitute the valid and binding obligation of Seller, enforceable against Seller in accordance with their terms, except as such enforcement may be limited by applicable laws.
 - (ii) Foreign Person. Seller is not a "foreign person" as defined in Section 1445 of the United States Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.
 - (iii) No Notices of Violations of Applicable Laws. Seller has not received any notice of any violation of any applicable law affecting the Easement Area.
 - (iv) No Pending Proceedings. There are no litigation, bankruptcy, condemnation, or environmental proceedings pending or, to the best of Seller's knowledge, threatened, involving, or affecting the Easement Area or the ability of Seller to perform Seller's obligations under this Agreement or the Easement.
 - (v) No Hazardous Materials. Except as set forth in any Phase I or Phase II environmental assessment of the Easement Area obtained by Buyer as part of its due diligence, to the best of Seller's knowledge there are no hazardous materials on or under the Easement Area

- (vi) Contracts, Leases, Agreements. There are no leases, contracts, or agreements affecting the Easement Area, except as otherwise disclosed by Seller.
- (b) Seller's representations and warranties shall survive the execution and delivery of the Easement for a period of twelve (12) months and shall be deemed to have been made again at Closing as a condition to the Closing and shall remain in full force and effect regardless of any investigation made by or on behalf of any Party or of the actual or constructive knowledge by any Party of any inaccuracy or breach thereof.
6. "As-Is" Nature of Sale." Except as otherwise expressly set forth in this Agreement, Buyer shall purchase the Easement and accept the Easement Area "as-is" with all faults and conditions. Buyer hereby acknowledges that, except as otherwise expressly set forth in this Agreement, Seller hereby expressly disclaims (i) any implied warranty of habitability, merchantability, and suitability for a particular purpose, and (ii) any warranties implied or arising from a course of dealing or usage of trade.
7. Contingency. It is understood and agreed between the Parties that the closing of this transaction is contingent upon the specific acceptance and approval of Buyer, which shall be evidenced by the payment of the Purchase Price and the recording of the Easement in the official records of the county in which the Land is located.
8. Indemnification. Seller hereby agrees to indemnify, hold harmless and defend Buyer and its parent company, affiliates, subsidiaries, and its and their respective directors, officers, employees, agents, representatives, successors, and assigns from and against any and all losses, liabilities, claims, demands, damages, causes of action, liens, obligations, fines, penalties, costs, and expenses (including but not limited to all investigation costs and reasonable consulting, engineering, in-house or outside attorney's fees, or other professional fees) (collectively, "Claims") arising from any (i) default of Seller under this Agreement, including but not limited to any breach of Seller's covenants, representations, and warranties set forth in this Agreement, (ii) matters arising from Seller's fraud or intentional misrepresentation, or (iii) Claims that may be made by any real estate broker, agent, finder, or other person alleging to have acted on behalf of Seller, provided, however, that the foregoing indemnity shall not include Claims to the extent directly arising from the sole negligence or willful misconduct of Buyer with respect to the Land prior to the Closing. This indemnity shall survive the Closing and the execution and delivery of the Easement.

Buyer Default. If Buyer defaults in its obligation to consummate the Closing under this Agreement (provided that Seller has not defaulted in any manner under this Agreement), then Seller's sole remedy shall be to terminate this Agreement, in which case neither Seller nor Buyer shall have any further rights or obligations under this Agreement, other than those obligations that survive the expiration or earlier termination of this Agreement.

9. Seller Default. If Seller defaults in its obligation to consummate the Closing in accordance with this Agreement or defaults in any other manner under this Agreement, then Buyer may pursue any and all remedies at law or in equity that are available to Seller as a result of such default of Seller, including but not limited to injunctive relief or specific performance. If Seller shall default in any manner under this Agreement, then in addition to the other remedies available to Buyer at law or in equity, Buyer shall not be under any obligation to purchase or acquire the Easement.
10. Miscellaneous. (a) This Agreement may be amended only by written agreement signed by both of the Parties. (b) Time and each of the terms and conditions of this Agreement are hereby expressly made of the essence. (c) This Agreement may be executed in counterparts, each of

which shall be deemed an original and all of which shall constitute one and the same agreement. (d) This Agreement shall be governed by the laws of the State of California, without reference to its choice of law provisions. The Parties hereby agree that any legal action or proceeding arising out of this Agreement shall be brought in a state court of competent jurisdiction in San Diego, California. By execution and delivery of this Agreement, each Party hereby irrevocably and unconditionally accepts and submits to the personal jurisdiction of said courts. (e) This Agreement supersedes any and all oral or written agreements between the Parties regarding the Easement which are prior in time to this Agreement. Neither Buyer nor Seller shall be bound by any prior understanding, agreement, promise, representation, or stipulation, express or implied, not specified herein. (f) If any portion of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect. (g) Nothing in this Agreement shall be construed to confer any third-party benefit on any other person not a party hereto, including but not limited to any broker, with respect to this Agreement. (h) Buyer and Seller shall not be partners or joint venturers with each other and nothing in this Agreement shall create or be deemed to create any partnership or joint venture between Buyer and Seller. (i) The section headings of this Agreement are for purposes of reference only and shall not be used for limiting or interpreting the meaning of any section of this Agreement. (j) Without the prior written consent of Buyer, there shall be no recordation of this Agreement.

11. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties.

12. Sale in Lieu of Condemnation; Condemnation Rights Unimpaired.

- (a) Seller and Buyer acknowledge that Seller has agreed to sell the Easement to Buyer, and Buyer has agreed to purchase the Easement from Seller, in lieu of Buyer exercising its power to acquire the Easement by condemnation under the California Government Code and/or California Code of Civil Procedure. Notwithstanding anything to the contrary contained in this Agreement or elsewhere, nothing contained in this Agreement shall impair, waive, or otherwise affect any rights of Buyer under any applicable law to condemn any portion of the Land, including but not limited to any rights of Buyer under the California Government Code and/or California Code of Civil Procedure (or amendment or successor statute thereto). The provisions of this subsection shall survive the Closing or any earlier termination of this Agreement.
- (b) Seller is hereby notified of the provisions of California Code of Civil Procedure Section 1265.240, which states that “[w]here the property acquired for public use is encumbered by a lien, the amount payable to the lienholder shall not include any penalty for prepayment.”

IN WITNESS WHEREOF, Buyer and Seller hereby execute this Easement Purchase and Sale Agreement as of the date first above written.

SELLER

San Marcos Hospitality, LLC,
a limited liability company

By: _____

Name: _____

Title: _____

BUYER

Vallecitos Water District,
a governmental agency

By: _____

Name: _____

Title: _____

**EXHIBIT A TO PURCHASE AGREEMENT
FORM OF EASEMENT**

[See attached.]

Recording requested by, and
when recorded, return to:

Vallecitos Water District
201 Vallecitos de Oro
San Marcos, CA 92069

APN: 228-370-04 & 228-370-38

(Space above for Recorder's Use)
Document Transfer Tax: None

**VALLECITOS WATER DISTRICT
GRANT OF RIGHT-OF-WAY**

SAN MARCOS HOSPITALITY, LLC., as Grantor, for and in consideration of the sum of One Dollar and other valuable consideration paid by **VALLECITOS WATER DISTRICT**, as Grantee, receipt of which is hereby acknowledged, does hereby grant to said Grantee, its successors and assigns, an easement of right-of-way, **VARIES** feet in width upon, over, under and across the lands hereinafter described, to erect, construct, reconstruct, replace, repair, maintain and use a pipeline or pipelines for any and all purposes, together with their necessary fixtures and appurtenances including but not limited to conduits and cables for power transmission and communication purposes specifically related to Grantee's facilities, at such locations and elevations, upon, along, over and under the hereinafter described right-of-way as Grantee may now or hereafter deem convenient and necessary from time to time, together with the right of ingress thereto and egress therefrom, to and along said right-of-way by a practical route or routes in, upon, over and across the hereinafter lands, together with the right to clear and keep clear said right-of-way from vehicles, vegetation, explosives, buildings and structures of any type.

The lands in which said easement of right-of-way is hereby granted are situated in the County of San Diego, State of California, and particularly described as follows:

A PORTION OF LOT 13 IN BLOCK 7 OF RANCHO LOS VALLECITOS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 21, 1895. BEING PROPERTY GRANTED TO SAN MARCOS HOSPITALITY, LLC BY GRANT DEED RECORDED SEPTEMBER 1, 2021 AS DOC. NO. 2021-0621100, OFFICIAL RECORDS

The **VARIES** - foot-wide easement of right-of-way in the aforesaid lands is particularly described as follows: SEE **EXHIBIT "A"** ATTACHED.

A.P.N.: 228-370-04 - Temporary Construction Easement (TCE) & 228-370-38 - Permanent and (TCE)

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

AREA: Permanent Easement 112 SQUARE FEET OR 0.003 ACRE, MORE OR LESS.

AREA: Temporary Construction Easement (TCE) 19,594 SQUARE FEET OR 0.450 ACRE, MORE OR LESS. Temporary Construction Easement is granted for a limited term of 12 months from the start of construction as determined by the Vallecitos Water District.

PLAT: SEE EXHIBIT "B" ATTACHED.

It is understood by the parties hereto that the Grantor and their successors and assigns:

Shall not grant any other easement on, under or over said easement of right-of-way without the prior written consent of Grantee.

Shall not erect or construct, or permit to be erected or constructed, any building or other structure, plant any tree or trees, or drill any well or wells, within the limits of said right-of-way.

Shall not increase or decrease, or permit to be increased or decreased, the proposed surface elevations of the above-described right-of-way, as shown on improvement plans titled Montiel Lift Station and Forcemain Replacement Project (VWD WO 217904), prepared by Michael Baker International, without the prior written consent of Grantee.

Shall not park vehicles of any kind within the easement in such a manner as to hinder full access and use of the easement by Grantee.

It is understood by the parties hereto that the Grantee and its successors and assigns:

Shall have the right to erect, maintain and use any gates in any fences which cross or shall hereafter cross said easement of right-of-way, and to trim and cut and clear away any trees and vegetation whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights hereby conveyed.

Shall have the right to make any and all excavations and the right to alter the existing or proposed surface elevations within the easement right-of-way, now and in the future as may be deemed necessary and convenient. Grantee shall only be responsible for repair of improvements made necessary by the direct action of Grantee.

Shall not be responsible for maintenance or costs of maintenance of any improvements within the easement right of way, including all surface areas within the easement area, except those specific Grantee owned/maintained facilities within said easement, unless by separate agreement.

Shall have the right and privilege to spill water in natural channels which cross said lands adjacent to the easement right-of-way.

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

Page 2 of 6

Shall have the right to transfer and assign this easement of right-of-way in whole or in part.

In Witness whereof, the Grantor executed these presents the ____ day of _____, 20__.

"Grantor"

Company: SAN MARCOS HOSPITALITY, LLC.

Name*: DARSHAN PATEL

Title: CHIEF EXECUTIVE OFFICER

Signature †: _____

Date: _____

**CERTIFICATE OF ACCEPTANCE
VALLECITOS WATER DISTRICT**

This is to certify that the interest in real property conveyed by the deed or grant dated _____, from SAN MARCOS HOSPITALITY, LLC., to VALLECITOS WATER DISTRICT, a political corporation and/or a governmental agency, is hereby accepted by the undersigned officer of the Board of Directors of the VALLECITOS WATER DISTRICT pursuant to Resolution No. 1358, adopted on the 21st day of July, 2010, and the Grantee consents to the recording thereof by its duly authorized officer.

By: _____

Dated: _____

Glenn Pruiam, Secretary
Board of Directors
Vallecitos Water District
201 Vallecitos De Oro
San Marcos, CA 92069

* Name of Authorized Representative of Developer/Owner

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069

† Acknowledgement of the signature(s) executing this Easement Document, by a Notary Public, is required. Attach acknowledgement to this page.

RECORDING REQUESTED BY, AND WHEN RECORDED, RETURN TO:
VALLECITOS WATER DISTRICT, 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069
Page 4 of 6

EXHIBIT 'A'
LEGAL DESCRIPTION EASEMENTS

PORTIONS OF THE PROPERTY GRANTED TO SAN MARCOS HOSPITALITY, LLC BY GRANT DEED RECORDED SEPTEMBER 1, 2021 AS DOC. NO. 2021-0621100, OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL A - WATER AND SEWER EASEMENT:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL 7 DESCRIBED IN SAID DEED; THENCE NORTHEASTERLY ALONG THE WESTERLY LINE THEREOF NORTH 27°35'20" EAST, 15.00 FEET TO THE INTERSECTION WITH A LINE THAT LIES 15.00 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID PARCEL 7 AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE NORTH 27°35'20" EAST 8.00 FEET; THENCE LEAVING SAID WESTERLY LINE SOUTH 46°21'40" EAST 29.14 FEET TO SAID PARALLEL LINE; THENCE WESTERLY ALONG SAID PARALLEL LINE NORTH 62°17'53" WEST 28.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS: 112 SQUARE FEET, OR 0.003 ACRE, MORE OR LESS.

PARCEL B - TEMPORARY CONSTRUCTION EASEMENT <T.C.E.>

ALL OF PARCEL 6 AND 7 OF SAID DEED, EXCEPTING THEREFROM THE SOUTHEASTERLY 15.00 FEET OF PARCEL 7 AND THE PORTION WITHIN PARCEL A DESCRIBED ABOVE.



CONTAINS: 19,594 SQUARE FEET, OR 0.450 ACRE, MORE OR LESS.

SEE EXHIBIT B PLAT, ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



PAUL E. GOEBEL, PLS 8486 8/2/2022
MBI JN 176090
APN 228-370-03,04,38

LEGEND

-  PARCEL A-PERMANENT WATER/SEWER EASEMENT-CONTAINS 112 SF (0.003 AC)
-  PARCEL B-TEMPORARY CONSTRUCTION EASEMENT <T.C.E.> CONTAINS 19,594 SF (0.045 AC)
- POC** POINT OF COMMENCEMENT
- TPOB** TRUE POINT OF BEGINNING
- () RECORD DATA AS SHOWN

OWNER:
 SAN MARCOS HOSPITALITY, LLC
 BY GRANT DEED REC.
 9/1/2021 AS DOC.
 2021-0621100, O.R.(DD1)

0 60'
 SCALE: 1"=60'



TPOB
 SEE DETAIL

POC

HWY 78 EX. 15' SEWER EASEMENT TO VCMWD
 REC. 9/30/87 AS DEED TO STATE 1320.01'
 REC. 10/28/1970 DOC. 196839, O.R.

**EXHIBIT B - PLAT
 PROPOSED WATER / SEWER EASEMENT
 & TEMPORARY CONSTRUCTION
 EASEMENT EXHIBIT**

APN 228-370-03,04,38
 PORTIONS OF NWLY HALF, LOT 13, BLK 7, MAP 806
 CITY OF SAN MARCOS
 COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

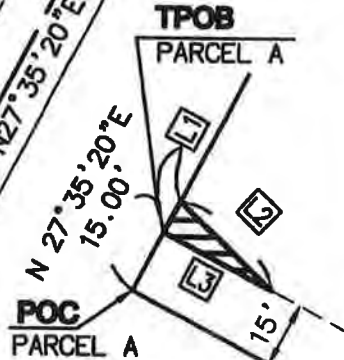
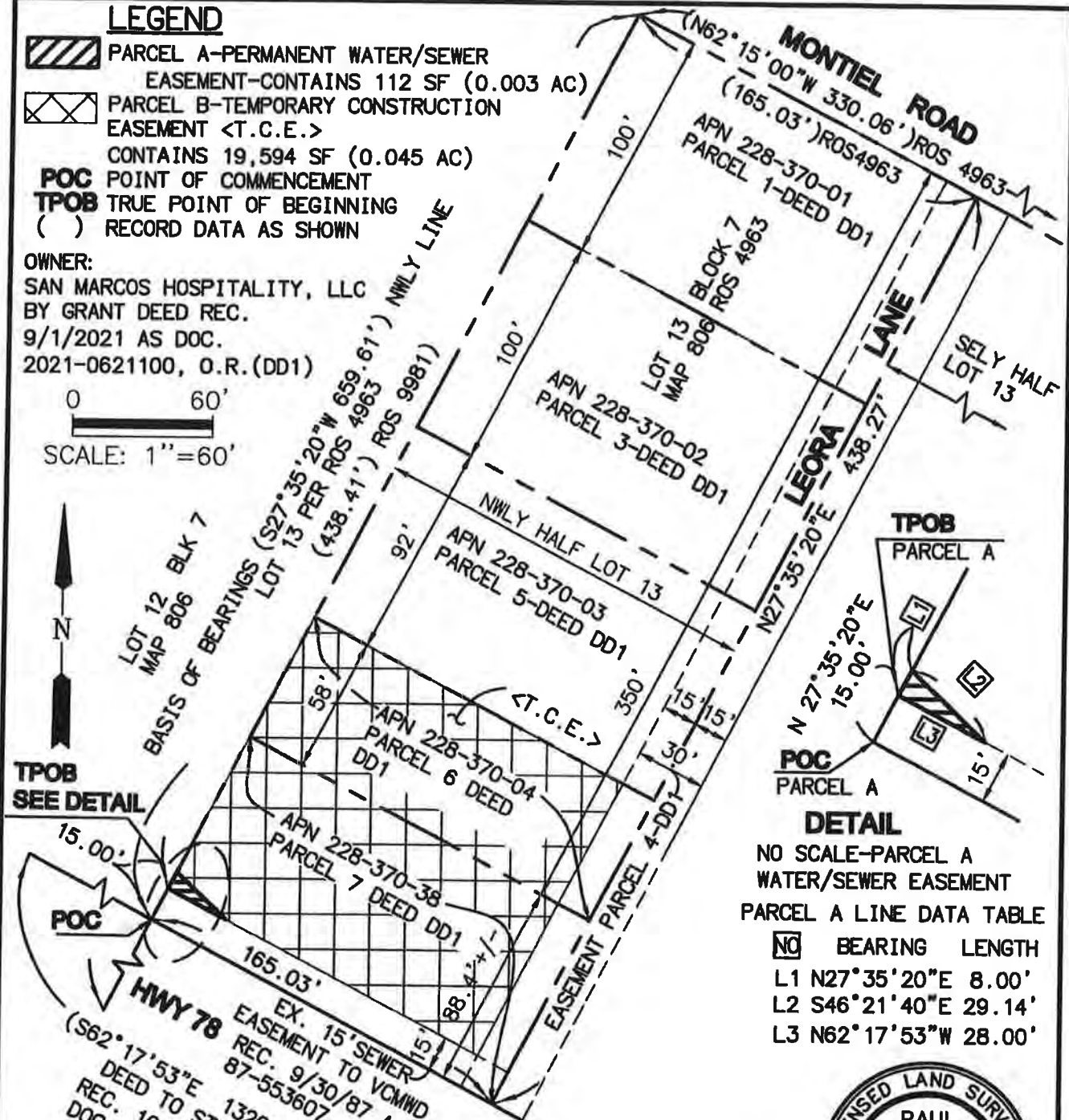
Paul E. Goebel

8/2/2022

PAUL E. GOEBEL DATE
 LS 8486



SHEET 1 OF 1 SHEET
 Michael Baker International
 9755 Clairemont Mesa Blvd.,
 San Diego, CA 92124
 (858)614-5000
 DATE 8/1/2022 176090



INFORMATIONAL PAMPHLET
OVERVIEW OF THE EMINENT DOMAIN PROCESS
AND DESCRIPTION OF PROPERTY OWNER RIGHTS

(Government Code Section 7267.2(a)(2))

Whenever a public agency makes a formal offer to purchase property under Section 7267.2 of the Government Code, it is required by law to provide a description of the eminent domain process. This pamphlet details the process of eminent domain and property owner rights under eminent domain law.

Public agencies acquire property for all types of public projects, such as schools, roads, water and sewer service, flood control, and fire protection. Sometimes public agencies may have to use eminent domain to acquire property for these projects. Eminent domain is the power to acquire property for a public use conditioned upon payment of just compensation.

The Appraisal Process

Before public agencies can use the power of eminent domain, they must follow certain procedures designed to protect the rights of property owners and the public.

If a public agency is potentially interested in acquiring property for a public project and makes an offer under Section 7267.2 of the Government Code, it is required to send to the owner notice of its decision to appraise the property. This notice will advise the owner that the agency has retained an appraiser to appraise the property. The notice may also provide background information on the acquisition process. It may advise that a business on the property potentially could have a claim for loss of business goodwill. It may also advise that occupants on the property may be entitled to relocation assistance, which can include relocation counseling and the payment for certain costs such as moving costs.

The fact that a public agency has sent a notice of decision to appraise does not mean that it has decided to acquire the property or to use eminent domain. It simply means that the public agency has decided to appraise the property.

The appraiser must also notify the owner that the appraiser is available to meet with the owner to discuss and view the property. After investigating the property and other similar properties, the appraiser will prepare an appraisal report and forward it to the agency.

The Offer of Just Compensation

Upon reviewing the appraisal, the public agency may decide to make an offer to acquire the property. This offer must be in writing. The offer cannot be less than the fair market value established by the approved appraisal. The offer must include certain information, including the public use for which the property is to be acquired and a detailed description of the basis for the

conclusions of value. If the comparable sales approach is used, a description of the principal sales must be included. The appraisal report does not have to be provided unless an owner-occupant of residential property with four or fewer units requests to inspect the report.

The offer must be based upon fair market value. Fair market value is a technical legal phrase but generally it means the highest price that a seller and buyer would agree to on a particular date, with neither being under pressure to buy or sell, and with both being fully informed as to the uses available for the property. The proposed public project for which the property may be acquired is not to be considered for either decreasing or increasing the fair market value.

If only a portion of the property is being acquired, such as for a road widening or an underground sewer pipeline, the appraisal may also consider what are called severance damages. Generally, this refers to the reduction in fair market value to the remaining portion of the property that is not being acquired that results from the partial acquisition or the public project. Sometimes a proposed project will actually increase the value of the remaining property. These benefits can be considered in offsetting severance damages, if there any such damages. These benefits cannot be used to lower the value of the actual portion of the property that is being acquired.

A property may be improved and these improvements, if affixed to the realty, may be taken into consideration in the appraisal and the offer. Businesses may also have a claim for loss of business goodwill.

Just compensation is a concept that comes from the California and U. S. Constitutions. The written offer described above is intended to be an offer for just compensation.

The Negotiation Process

The public agency is required to negotiate in good faith upon making its offer of just compensation. It may not use threatening or coercive tactics. The offer process is a voluntary, negotiation process. The owner is under no obligation to agree to the offer.

In making the offer, the public agency must also offer up to \$5,000 to the owner to retain an appraiser selected by the owner. The appraiser must be state licensed and other conditions may apply.

The owner and the public agency's representatives may negotiate. If the owner believes that certain information is wrong or incomplete, or if the owner has other information that the agency should know about, the owner may offer that information to the public agency. The owner may make a counter-offer, asking for more compensation or suggesting a change in the proposed acquisition. Or, if the owner does not wish to sell the property, the owner may simply reject the offer or not respond.

When property is occupied, the occupants may be entitled to what is called relocation assistance. These are benefits and services to be given to occupants if the proposed acquisition

and public project will require an occupant to move. An occupant need not be an owner of the property to be entitled to such benefits. The nature and extent of the benefits can be technical and will depend upon the particular circumstances of the occupant. Laws and regulations set the amount and nature of applicable benefits. Businesses, homeowners, and renters may be eligible for relocation benefits. These benefits are protections offered by legislation and are different from and in addition to just compensation. When relocation is involved, the public agency will provide an explanation and itemization of the proposed relocation assistance benefits. What is required for relocation is subject to discussion and occupants can provide information they think is important in determining the amount and type of benefits.

Starting Eminent Domain

If the public agency's offer to purchase is not accepted, the public agency may then consider the use of eminent domain. Eminent domain involves the acquisition of property without the owner's consent for a public use conditioned upon payment of just compensation. A public agency may only use the power of eminent domain if it is granted that power by state statute.

The Requirement for a Public Hearing

Before a public agency can consider using eminent domain, it must conduct a public hearing. The public hearing is before the legislative body of the public agency. For example, if a city wishes to consider using eminent domain to build a road, the public hearing must be conducted by the city council. The owner, as identified by the latest tax rolls, is entitled to written notice of the hearing and has a right to speak before the legislative body. At the hearing the public agency considers the adoption of what is called a resolution of necessity. The hearing concerns whether the public interest and necessity require the project, whether the acquisition is most compatible with the greatest public good and the least private injury, whether the property is necessary for the project, and whether the written offer for just compensation has been made. The owner and the legislative body are to address these topics. The owner may be represented by someone at the hearing. This can be legal counsel but does not have to be. The owner must make a timely request to be heard. The notice for the hearing must explain this requirement.

Upon completing the hearing on these topics, the legislative body will determine whether findings on these topics properly can be made, and will consider adopting the resolution of necessity. The resolution can only be adopted if at least two thirds of the full legislative body votes to adopt the resolution.

The Court Process

If the resolution of necessity is adopted, the public agency is then authorized to bring an eminent domain action in state court. This action has to be filed in the county where the property is located. Those with an interest in the property will be named in the action. The action is a lawsuit that must be served on the named parties. The named parties have a right to respond by filing legal papers. In these papers the responding parties may raise legal issues regarding compensation or the public agency's right to use eminent domain.

Once an eminent domain action is filed, the public agency may ask the court for what is called prejudgment possession. This allows the agency to acquire possession of the property so it can begin work on its project without awaiting completion of the court action. The agency may have several actions in court regarding other properties and may not be able to wait until all those actions are resolved before proceeding with construction of its proposed project, such as a road, school, or water pipeline.

To obtain such possession, the public agency must first file and serve a motion on the affected parties. These parties have the right to object and have these objections heard in court. The public agency must also deposit with the court or the State Condemnation Fund the amount of probable just compensation for the property. This amount must be based upon a certified and detailed valuation statement. The owner has the right to challenge this deposit and can file a motion asking to increase the deposit. Those claiming an interest in the deposit may apply to the court to withdraw the deposit or a portion of it.

If the court finds that certain requirements are satisfied and that there are no valid objections to granting prejudgment possession, the court may grant the public agency's motion for possession. State law provides certain time periods to property owners and occupants before possession can take effect.

In many projects, such as road widenings or storm drains, relocation may not be involved at all. If relocation is involved, the public agency must provide relocation counseling and financial benefits to the affected parties. The specific requirements for such counseling and benefits are set by legislation and regulations. Relocation disagreements are subject to appeal to the public agency. Relocation claims may also be presented in court through a lawsuit brought by the claimant. These lawsuits are usually separate from the eminent domain action in court.

The eminent domain action may proceed to trial on the right to use eminent domain or on the amount of just compensation. Trials concerning the right to use eminent domain are conducted only before a judge, without a jury. The California Constitution gives the public agency and the property owner the right to a jury trial on the issue of just compensation. Trials on just compensation focus on the testimony of qualified valuation witnesses. The valuation positions of both sides are usually exchanged in writing on a scheduled date before the trial. These positions are then supported at trial by live testimony, which is subject to cross-examination. At trial, no side has the burden of proof on just compensation. A jury normally must reach a verdict within the range of the valuation opinions allowed into evidence by testimony. In other words, the jury generally cannot find less than the lowest valuation testified to in the trial nor more than the highest valuation.

Before trial either side can make a formal offer to settle. After the trial, if the trial judge finds that the public agency's offer to settle was unreasonable and the owner's offer to settle was reasonable, the public agency is required to pay the owner's reasonable litigation and expert expenses. The public agency cannot recover litigation expenses from the owner for contesting the amount of just compensation. Interest on the awarded just compensation is determined by the court.

During the eminent domain court proceedings, a public agency occasionally may decide that it does not wish to proceed with the acquisition. The owner is given the opportunity to object to the public agency abandoning the proceedings. If the public agency does abandon proceeding with the acquisition, it must pay the other side's reasonable litigation and expert expenses.

Either side may appeal an eminent domain judgment. The appeal process may involve going to the California Court of Appeal, to the California Supreme Court, and to the U. S. Supreme Court. The Court of Appeal must hear a timely appeal. Further review by the California Supreme Court and U. S. Supreme Court is generally within the discretion of those courts.

You Should Seek Professional Advice

This pamphlet is intended to give you an overview of the eminent domain process and property owner rights under state eminent domain law. A public agency does not and cannot represent you or give you legal advice. If you have questions or concerns at any time, you should consider consulting a professional, including an attorney. You always have the right to legal counsel.

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Go to www.irs.gov/FormW9 for instructions and the latest information.

| | | |
|--|---|---|
| Print or type. See Specific Instructions on page 3. | <p>1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.</p> | |
| | <p>2 Business name/disregarded entity name, if different from above</p> | |
| | <p>3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.</p> <p><input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate</p> <p><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____</p> <p><small>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</small></p> <p><input type="checkbox"/> Other (see instructions) ▶ _____</p> | <p>4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):</p> <p>Exempt payee code (if any) _____</p> <p>Exemption from FATCA reporting code (if any) _____</p> <p><small>(Applies to accounts maintained outside the U.S.)</small></p> |
| | <p>5 Address (number, street, and apt. or suite no.) See instructions.</p> | Requester's name and address (optional) |
| | <p>6 City, state, and ZIP code</p> | |
| | <p>7 List account number(s) here (optional)</p> | |

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

| | | | | | | | | | | |
|---------------------------------------|--|--|--|---|--|--|---|--|--|--|
| Social security number | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | - | | | - | | | |
| or | | | | | | | | | | |
| Employer identification number | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | - | | | | | | |

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here

Signature of U.S. person ▶

Date ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

2020 Withholding Exemption Certificate

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The payee completes this form and submits it to the withholding agent. The withholding agent keeps this form with their records.

Withholding Agent Information

Name _____

Payee Information

Name _____

SSN or ITIN FEIN CA Corp no. CA SOS file no.

Address (apt./sta., room, PO box, or PMB no.) _____

City (If you have a foreign address, see instructions.) _____

State _____ ZIP code _____

Exemption Reason

Check only one box.

By checking the appropriate box below, the payee certifies the reason for the exemption from the California income tax withholding requirements on payment(s) made to the entity or individual.

Individuals — Certification of Residency:

I am a resident of California and I reside at the address shown above. If I become a nonresident at any time, I will promptly notify the withholding agent. See instructions for General Information D, Definitions.

Corporations:

The corporation has a permanent place of business in California at the address shown above or is qualified through the California Secretary of State (SOS) to do business in California. The corporation will file a California tax return. If this corporation ceases to have a permanent place of business in California or ceases to do any of the above, I will promptly notify the withholding agent. See instructions for General Information D, Definitions.

Partnerships or Limited Liability Companies (LLCs):

The partnership or LLC has a permanent place of business in California at the address shown above or is registered with the California SOS, and is subject to the laws of California. The partnership or LLC will file a California tax return. If the partnership or LLC ceases to do any of the above, I will promptly inform the withholding agent. For withholding purposes, a limited liability partnership (LLP) is treated like any other partnership.

Tax-Exempt Entities:

The entity is exempt from tax under California Revenue and Taxation Code (R&TC) Section 23701 _____ (insert letter) or Internal Revenue Code Section 501(c) _____ (insert number). If this entity ceases to be exempt from tax, I will promptly notify the withholding agent. Individuals cannot be tax-exempt entities.

Insurance Companies, Individual Retirement Arrangements (IRAs), or Qualified Pension/Profit-Sharing Plans:

The entity is an insurance company, IRA, or a federally qualified pension or profit-sharing plan.

California Trusts:

At least one trustee and one noncontingent beneficiary of the above-named trust is a California resident. The trust will file a California fiduciary tax return. If the trustee or noncontingent beneficiary becomes a nonresident at any time, I will promptly notify the withholding agent.

Estates — Certification of Residency of Deceased Person:

I am the executor of the above-named person's estate or trust. The decedent was a California resident at the time of death. The estate will file a California fiduciary tax return.

Nonmilitary Spouse of a Military Servicemember:

I am a nonmilitary spouse of a military servicemember and I meet the Military Spouse Residency Relief Act (MSRRA) requirements. See instructions for General Information E, MSRRA.

CERTIFICATE OF PAYEE: Payee must complete and sign below.

To learn about your privacy rights, how we may use your information, and the consequences for not providing the requested information, go to ftb.ca.gov/forms and search for 1131. To request this notice by mail, call 800.852.5711.

Under penalties of perjury, I declare that I have examined the information on this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I further declare under penalties of perjury that if the facts upon which this form are based change, I will promptly notify the withholding agent.

Type or print payee's name and title _____ Telephone _____

Payee's signature ► _____ Date _____



VALLECITOS WATER DISTRICT

A PUBLIC AGENCY

201 Vallecitos de Oro • San Marcos, California • 92069-1453 Telephone (760) 744-0460

NOTICE OF HEARING TO PROPERTY OWNER

Pursuant to Section 1245.235 of the California Code of Civil Procedure, you are hereby notified that at a regular meeting to be held on Wednesday, October 5, 2022, at 5:00 p.m., at the Vallecitos Water District Board Room, 201 Vallecitos de Oro, in San Marcos, California, the Board of Directors of the Vallecitos Water District intends to consider adopting a Resolution of Necessity, authorizing the commencement of eminent domain proceedings for the acquisition of permanent easements on portions of the real property generally identified as APN 228-370-38 (as more fully described and depicted in Exhibits A and B, which are attached hereto and incorporated herein by reference) (the "Permanent Easements"), and temporary construction easements on portions of APNs 228-370-38 and 228-370-04 (as more fully described and depicted in Exhibits C and D, which are attached hereto and incorporated herein by reference) (the "TCEs," and collectively with the Permanent Easements, the "Easements") for the Montiel Lift Station and Force Main Replacement Project ("Project"). According to the last equalized county assessment roll, the real property needed for the Easements are owned by San Marcos Hospitality, LLC.

A public hearing will be held at the time and place mentioned above and you have the right to appear and be heard on the following matters:

1. Whether the public interest and necessity require the project for which the property is sought to be acquired.
2. Whether the project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
3. Whether the property is necessary for the proposed project.

4. Whether the offer required by Section 7267.2 of the California Government Code has been made.

If you wish to appear and be heard, please make a written request to appear and be heard to the Secretary of the Board of Directors at the address identified below prior to the October 5, 2022 Board Meeting. Failure to make a written request to appear and be heard within 15 days after this Notice was mailed will result in the waiver of your right to appear and be heard.

PUBLIC COMMENT INSTRUCTIONS:

Members of the public may address the Board on any item on the agenda when the item is considered, including the above-described item. A Request to Speak form is required to be submitted to the Senior Executive Assistant prior to the start of the meeting, if possible.

ALL COMMUNICATIONS SHOULD BE ADDRESSED TO:


Anthony Flores
Senior Executive Assistant to the Board of Directors
201 Vallecitos de Oro
San Marcos, California 92069

DATE OF HEARING: Wednesday, October 5, 2022
5:00 p.m.

PLACE OF HEARING: Vallecitos Water District Board Room
201 Vallecitos De Oro
San Marcos, California

DATED: September 12, 2022

VALLECITOS WATER DISTRICT

By: 

Anthony Flores
Senior Executive Assistant to the Board
of Directors

PROOF OF MAILING NOTICE

I, Alison Fretwell, acting on behalf of the Vallecitos Water District, hereby certify that on September 13, 2022, I mailed a copy of the attached notice by first-class mail to the following owners of real property located in the County of San Diego, State of California, more particularly described as Assessor Parcel Nos. 228-370-38 and 228-370-04:

San Marcos Hospitality, LLC
Attn: Bhavesh Patel
1650 Hotel Circle North, Suite 120
San Diego, CA 92108

DATED: September 13, 2022

Alison Fretwell