

LEWIS CENTER FOR EDUCATIONAL RESEARCH

17500 Mana Road, Apple Valley, CA 92307 (760) 946-5414 (760) 946-9193 fax

Agenda for Special Meeting of the LCER Board of Directors

Meeting at
LCER Gym Conference Room
17500 Mana Road
Apple Valley, CA 92307

Additional Location
503 E. Central Ave., San Bernardino, CA 92408

July 9, 2018 - Public Meeting – 4 p.m.

1. **CALL TO ORDER:** Chairman Kevin Porter
2. **ROLL CALL:** Chairman Kevin Porter
3. **PUBLIC COMMENTS:**
4. **DISCUSSION/ACTION:**
.01 Approve VVWRA Sewer Easement Agreement based upon the waiver valuation for just compensation
5. **CLOSED SESSION:**
.01 Conference with Legal Counsel Existing Litigation: 1 case (Paragraph (1) of Subdivision (d) of Section 54956.9)
Name of Case: County of San Bernardino and City of San Bernardino v. The High Desert Partnership in Academic Excellence Foundation, Inc.
6. **ADJOURNMENT:** Chairman Kevin Porter

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Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency at least 48 hours before the meeting by calling (760) 946-5414 x201.

Any written materials relating to agenda items to be discussed in open session are available for public inspection prior to the meeting at 17500 Mana Rd., Apple Valley, CA.

RECORDING REQUESTED BY:

Victor Valley Wastewater
Reclamation Authority

WHEN RECORDED MAIL TO:

Victor Valley Wastewater
Reclamation Authority
15776 Main Street, Suite 3
Hesperia, CA 92345

EXEMPT FROM RECORDING FEES PER GOVT. CODE §27383
EXEMPT FROM DOCUMENTARY TRANSFER TAX PER REV. & TAX CODE §11922

PERMANENT SEWER EASEMENT

Assessor Parcel No. **0473-183-21**

The UNDERSIGNED, **THE HIGH DESERT “PARTNERSHIP IN ACADEMIC EXCELLENCE” FOUNDATION, INCORPORATED**, a Non-Profit Corporation, (“Grantor”) hereby GRANTS to the **VICTOR VALLEY WASTEWATER RECLAMATION AUTHORITY**, a Joint Powers Authority and Public Agency of the State of California (“Grantee”), an easement in, over, under, upon and across the lands hereinafter described, to construct, operate, reconstruct, install, replace, remove, repair, alter, maintain, inspect and use sewer line(s) and all related appurtenances (“Grantee Facilities”) for public purposes, and for ingress and egress in connection with the exercise of any of the foregoing rights. The property subject to this easement (“Property”) is located in the County of San Bernardino, State of California, described in attached exhibit marked EXHIBIT “A” and shown on the map marked EXHIBIT “B” attached hereto, both of which exhibits are incorporated herein by this reference.

The above described easement is for the construction, use, reconstruction, maintenance, repair, alteration, inspection, replacement and removal of the Grantee Facilities. Said easement is irrevocable and shall continue in full force and effect, unobstructed from permanent structures or improvements, including without limitation, buildings, fences, concrete or trees, so long as said pipeline system is operated and maintained by Grantee, its successors and assigns, upon the Property.

Grantor shall provide Grantee with access to all roads, driveways and walkways that are now and may be located in and around the Property that are necessary or appropriate for proper ingress and egress to and from the Grantee Facilities. Any upgrade, maintenance, repair, replacement or removal of the Grantee Facilities shall be at Grantee’s expense unless the Grantee Facilities are damaged as a result of the negligent acts of Grantor, its contractors, lessees, successors or assigns.

If any legal or equitable action or proceeding is instituted by one party against the other to enforce or interpret any provision of this easement, the party prevailing in such action shall be entitled to recover from the losing party all of its costs of suit, including, but not limited to, reasonable attorneys' fees awarded by the court.

This easement may be amended or modified only by a written instrument executed and acknowledged by the parties or their successors in interest and recorded in the Official Records of Riverside County, California. Any provision of this easement adjudicated by a court of competent jurisdiction to be invalid or unenforceable for any reason shall be ineffective to the extent of such prohibition or invalidity and shall not invalidate or otherwise render invalid or unenforceable any remaining provisions of this grant.

Subject to the easements and offers of dedication of record.

IN WITNESS THEREOF, the undersigned Grantor has executed this instrument as of _____, 2018.

GRANTOR:

**THE HIGH DESERT "PARTNERSHIP IN
ACADEMIC EXCELLENCE" FOUNDATION,
INCORPORATED, a Non-Profit Corporation,**

By: _____

Name: _____

Title: _____

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____ }

County of _____ }

On _____ before me, _____
(Please insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Notary Public Signature (Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
 Corporate Officer

(Title)

- Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, ~~is/are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ◆ Additional information is not required but could help to ensure this acknowledgment is not reissued or attached to a different document.
 - ◆ Indicate title or type of attached document, number of pages and date.
 - ◆ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

VICTOR VALLEY WASTEWATER RECLAMATION AUTHORITY

CERTIFICATE OF ACCEPTANCE

This Certificate of Acceptance pertains to the interests in real property conveyed by the Grant of Permanent Sewer Easement to which this Certificate of Acceptance is attached,

from: **THE HIGH DESERT “PARTNERSHIP IN ACADEMIC EXCELLENCE”
FOUNDATION, INCORPORATED (“Grantor”)**

to: **VICTOR VALLEY WASTEWATER RECLAMATION AUTHORITY (“Grantee”)**

Said Grant of Permanent Sewer Easement is hereby accepted by the undersigned officer on behalf of Grantee pursuant to authority conferred by the Grantee’s governing board, and Grantee hereby consents to recordation of said Grant.

Dated: _____, 2018

VICTOR VALLEY WASTEWATER
RECLAMATION AUTHORITY, a Joint
Powers Authority

By: _____

Logan Olds, General Manager

EXHIBIT "A"
LEGAL DESCRIPTION
V.V.W.R.A. – DESERT KNOLLS WASH INTERCEPTOR
GRANT OF EASEMENT
APN 0473-183-21

PARCEL 1:

A STRIP OF LAND 10.00 FEET IN WIDTH BEING A PORTION OF SECTION 10, TOWNSHIP 5 NORTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF APPLE VALLEY, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, THE CENTERLINE OF SAID STRIP IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST ONE-QUARTER CORNER OF SAID SECTION 10; THENCE NORTH $00^{\circ}58'48''$ EAST A DISTANCE OF 214.30 FEET TO THE TRUE POINT OF BEGINNING; THENCE

- 1) SOUTH $25^{\circ}10'37''$ WEST, 303.43 FEET TO AN ANGLE POINT; THENCE
- 2) SOUTH $29^{\circ}19'06''$ WEST, 549.20 FEET TO AN ANGLE POINT; THENCE
- 3) SOUTH $34^{\circ}38'07''$ WEST, 532.91 FEET TO AN ANGLE POINT; THENCE
- 4) SOUTH $38^{\circ}09'42''$ WEST, 312.66 FEET TO AN ANGLE POINT, SAID POINT REFERRED TO AS "POINT A"; THENCE
- 5) SOUTH $38^{\circ}23'23''$ WEST, 108.97 FEET TO AN ANGLE POINT; THENCE
- 6) SOUTH $76^{\circ}08'12''$ WEST, 164.85 FEET TO THE TERMINUS OF PARCEL 1

THE SIDELINES OF SAID STRIP OF LAND ARE TO BE LENGTHENED OR SHORTENED TO TERMINATE ON THE EAST LINE OF SAID SECTION 10.

CONTAINING 19,720 SQUARE FEET/0.453 ACRES.

PARCEL 2:

BEGINNING AT SAID "POINT A"; THENCE

- 1) NORTH $84^{\circ}13'13''$ EAST, 19.76 FEET TO THE TERMINUS OF PARCEL 2.

THE SIDELINES OF SAID STRIP OF LAND ARE TO BE SHORTENED TO TERMINATE ON THE EASTERLY LINE OF SAID PARCEL 1.

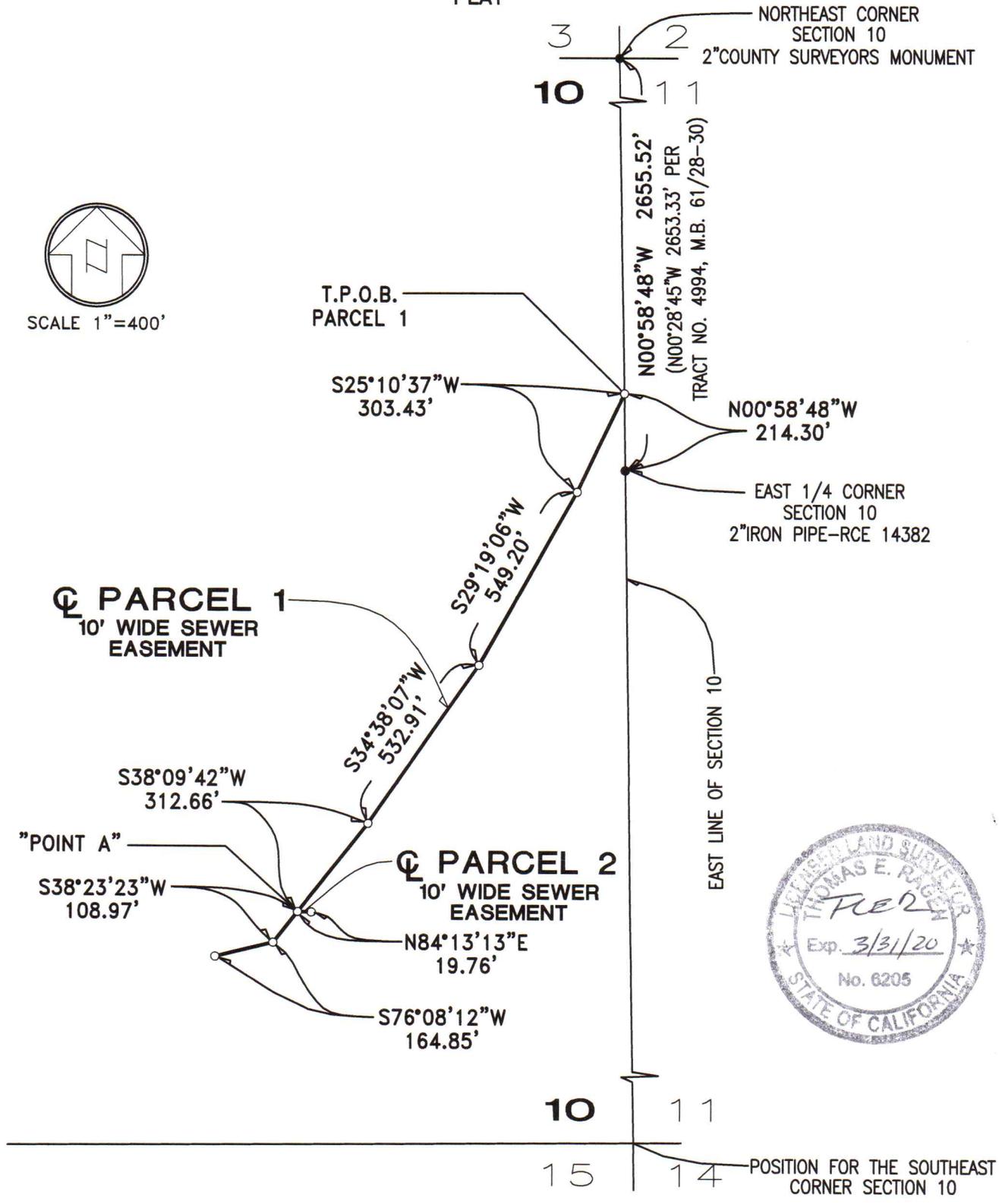
CONTAINING 128 SQUARE FEET/0.003 ACRES.

EXHIBIT "B"

PLAT



SCALE 1"=400'



TRLS ENGINEERING Inc.

10770 I Ave, Ste. 108
 Hesperia, CA 92345
 (760) 948-4900



VICTOR VALLEY WATER RECLAMATION AUTHORITY

A.P.N. 0473-183-21
 DESERT KNOLLS WASH INTERCEPTOR
 APPLE VALLEY, CA



WAIVER VALUATION SUMMARY OF THE BASIS FOR JUST COMPENSATION

Assessor's Parcel:	0473-183-21
Project:	Pipeline Realignment Project– Victor Valley Water Reclamation Authority
Property Owner(s):	High Desert Partnership in Academic Excellence
Property Address:	17500 Mana Road Apple Valley, CA 92307
Description of Property:	A K-12 public Charter School situated on an 89.31acre parcel.
Zoning:	Specific Plan – Public Use
Utilities:	Available at the site
Highest and Best Use (H&B):	Defined as the reasonably probable and legal use of land, which is legally permissible, physically possible and financially feasible that results in the highest value. Highest and best use analysis is used in the process to identify comparable properties and, where applicable, to determine whether the existing improvements should be retained, renovated, or demolished. The highest and best use of the subject property is as follows:
H&B as If Vacant:	Commercial Development
H&B as Improved:	Public Charter School
Date of Value:	June 18, 2018
Interests to be Acquired:	Permanent Sewer Easement
Areas to be Acquired:	Parcel 1 - 19,720 square feet <u>Parcel 2 – 128 square feet</u> TOTAL – 19,848 square feet
Improvements Impacted:	The areas to be acquired for the permanent sewer easement is land only; therefore, there are no improvements impacted as a result of acquisition of a sewer easement.



**WAIVER VALUATION
SUMMARY OF THE BASIS FOR JUST COMPENSATION**

A Permanent Sewer Easement is required for the installation, operation, maintenance and inspection of a subsurface sewer pipeline.

The method to determine applicable compensation for the Permanent Sewer Easement is based on a sales comparison to other comparable properties.

Sales Comparison Approach

The Sales Comparison Approach has been applied to the subject property for the purpose of estimating land value. It takes into account properties that have been sold in the open market. The Sales Comparison Approach attempts to equate the subject property with sale properties by analyzing and weighing the various elements of comparability. This approach was applied after conducting an investigation and review of market data in the greater subject market area.

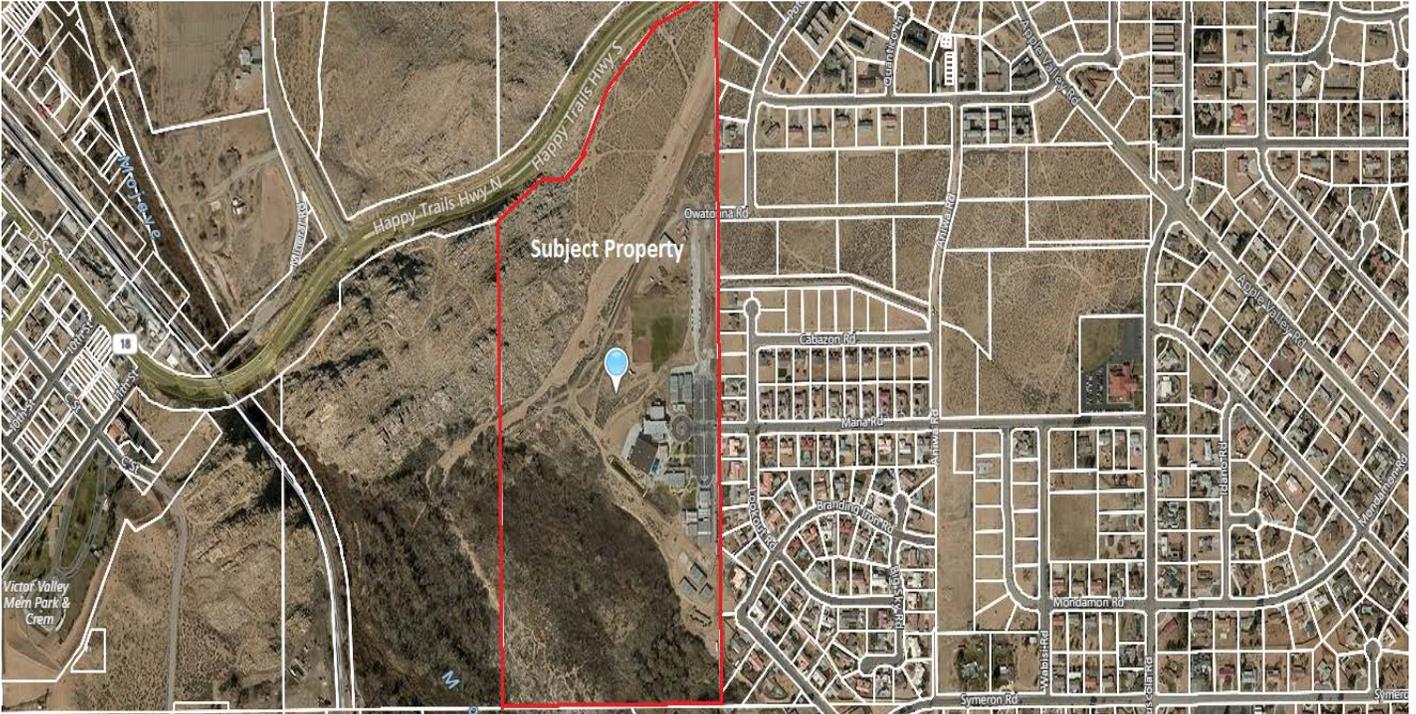
The following is a summary of those sales considered helpful when estimating the value of the subject land, as if vacant and available for a highest and best use development.

	Address	Sale Date	Land SF	Price SF	Zoning	Comments
1	Kasota Road, Apple Valley	N/A	32,234	\$1.50	Multi-Family Residential (R-M)	Site is current on the market for sale. Vacant, no utilities onsite.
2	Outer Highway 18, Apple Valley	12/2017	24,000	\$1.67	Commercial	Vacant land. Utilities nearby.
3	Kasota Road, Apple Valley	02/2018	39,689	\$1.08	Residential (RL3)	Vacant residential lot. Sewer, water and electricity located on street.
4	Tuscola Road, Apple Valley	05/18	34,268	\$1.43	Residential (R3)	Public sewer and water nearby.
5	48 Yanan Road, Apple Valley	05/18	32,800	\$1.52	Residential	Utilities nearby.
6	Taloga Lane, Apple Valley	09/17	40,075	\$1.48	Residential (R3)	Utility connection nearby.

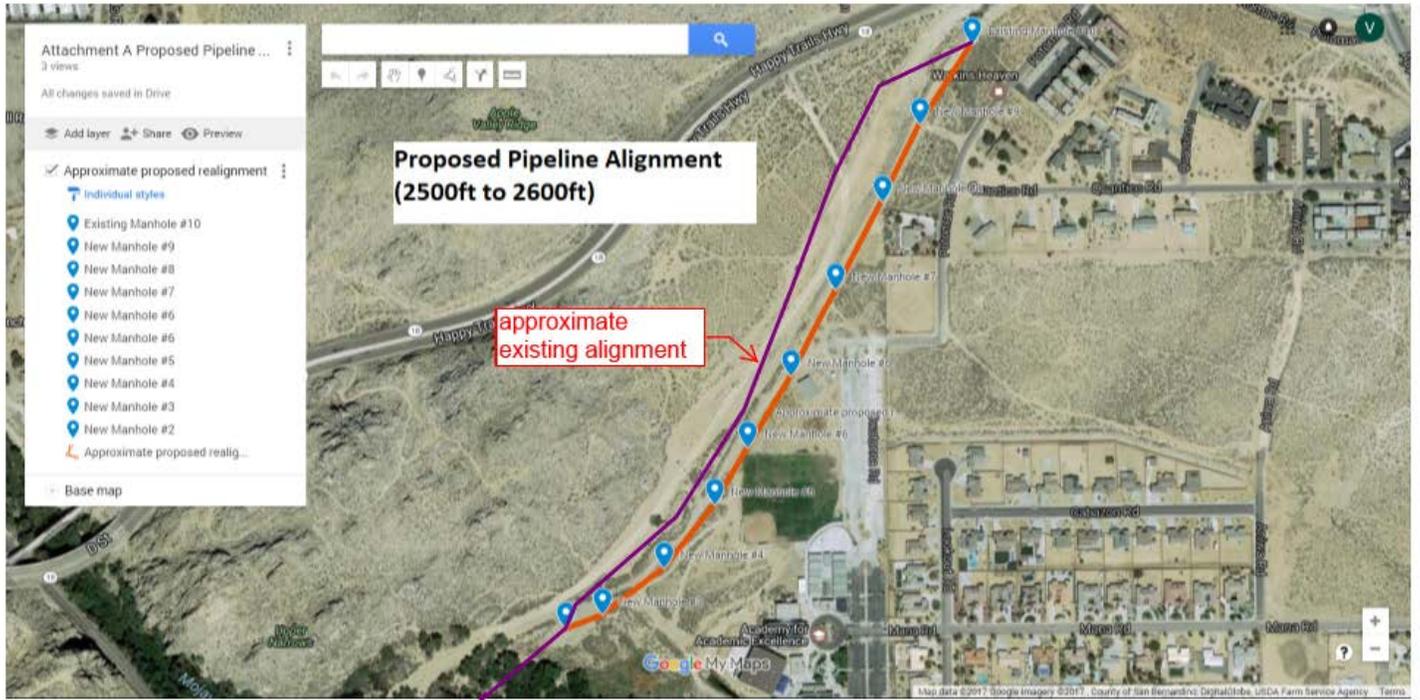
All of land sale properties employed herein were considered helpful in the land valuation analysis of the subject property. The purchase price per square foot of land area has been utilized herein as the primary indication of value. After considering the various elements of comparability, it is the broker’s opinion that the unencumbered fee simple value of the subject parcel is \$1.50 per square foot.

The Permanent Sewer Easement will be utilized for a subsurface pipeline. The fee ownership of the land will be retained by the owner; however, uses within the easement area will be limited to open space, and possibly parking and landscaping. The gross acreage of the parcel will remain the same. Therefore, compensation for the permanent sewer easement is estimated at 50% of the fee simple land value.

Property Location Exhibit



Permanent Sewer Easement Exhibit Map



Permanent Sewer Easement
Legal Description

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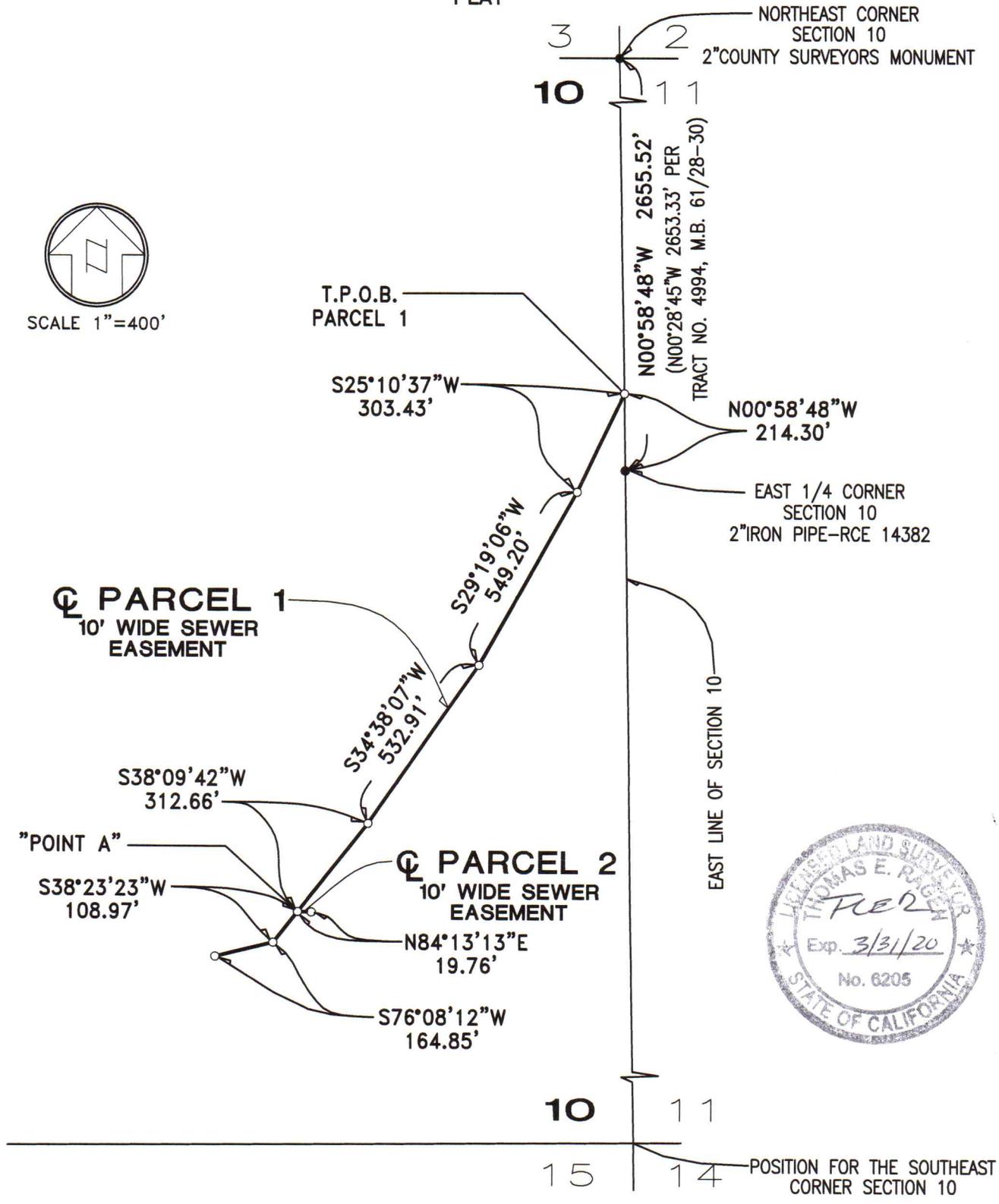
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