

County of Mendocino
Department of Transportation
ACQUISITION OF RIGHT OF WAY AGREEMENT

THIS AGREEMENT made and entered on this 6th day of June 2023, by and between Matthew A. McCarthy and Dixie Lee McCarthy, as Trustees of the Matthew A. and Dixie Lee McCarthy Trust, dated April 1, 1994, hereinafter referred to as "OWNER," and the COUNTY OF MENDOCINO, a political subdivision of the State of California, hereinafter referred to as "COUNTY."

WHEREAS, in conjunction with Mendocino County Department of Transportation (DOT) Project Number (No.) 3041-B1302, on County Road 123A, at approximately Milepost 0.10, hereinafter referred to as "PROJECT," plans for replacing the bridge over Robinson Creek Bridge (No. 10C0146) on Lambert Lane, in the CDP of Boonville, California, situated at the above mentioned location, will involve and require acquisition, by COUNTY, of certain lands and rights affecting the real property of OWNER as follows:

- a) acquire permanent maintenance easement of 1,463 square feet, more or less, of certain lands of OWNER, and which is more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and fully incorporated herein.
- b) temporarily acquire a temporary construction easement of 1,430 square feet, more or less, over certain lands of OWNER, and which is more particularly depicted in Exhibit "C" attached hereto and fully incorporated herein.

NOW THEREFORE, in consideration of the covenants hereinafter set forth, the parties hereto agree as follows:

1. OWNER represents and warrants that they are owner in fee simple of the real property described in Exhibit "A" and as depicted on Exhibits "B" and "C" attached hereto, said property lying within the unincorporated area of the County of Mendocino, State of California.
2. OWNER agrees to grant to COUNTY the lands, as described in the aforesaid Exhibit "A" and as depicted on Exhibits "B" and "C", free and clear of all liens and encumbrances.
3. COUNTY agrees to compensate OWNER in the total amount of Two Thousand Two Hundred Dollars (\$2,200.00), for those certain lands and rights as set forth herein and described in the aforesaid Exhibit "A" and as depicted on Exhibits "B" and "C" and for the use of those certain lands identified and depicted as Temporary Construction Easement and Permanent Maintenance Easement as described in Clause 4 below. Upon execution of this Agreement and recordation of the Easement Deed, COUNTY shall pay said amount to OWNER.
4. It is understood and agreed by and between the parties hereto that a portion of the amount payable under Clause 3 above is compensation in full for the actual possession and use of the Temporary Construction Easement depicted in Exhibit "C" attached hereto and incorporated herein by this reference. Said right to enter to be effective as of the project's Right of Way Certification date for a period of forty-eight (48 months). In the case of unpredictable delays in construction, the terms

of this Temporary Construction Easement may be extended at the option of the COUNTY for another twenty-four (24) month period, and shall be reappraised upon written notification from COUNTY to OWNER, and payment of current market value will be paid in advance for the one or two-year extension. This Temporary Construction Easement shall also extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors and assigns of the parties. It is mutually understood that COUNTY shall leave all area of OWNERS' property affected by said temporary construction easement in a neat and workmanlike condition upon completion of PROJECT.

5. OWNER further grants to COUNTY the right, from time to time, to trim, without COUNTY paying compensation, any and all trees and vegetation now or hereafter within either or both easement areas, and the right to trim trees or vegetation located within ten feet (10') of either side of either side of a public utility facility installed hereunder, to comply with applicable state or federal regulations..
6. COUNTY will perform the following work under the terms of the PROJECT:
 - a. Remove and replace, at no cost to OWNER, wire fencing and wood privacy fencing located within the acquisition area. Upon completion of construction of said fencing, any area within the County right-of-way will be considered as a permitted encroachment on the County roadway and is to be maintained, repaired, and operated as such by OWNER in accordance with and subject to the laws of the State of California and the County of Mendocino and the rules and regulations of said County.
7. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the subject property by the COUNTY, including the right to remove and dispose of improvements, shall commence on the date the amount of funds as specified in Clause 3 herein are deposited into the escrow controlling this transaction. The amount shown in Clause 3 herein includes, but is not limited to, full payment for such possession and use, including damages, if any, from said date.
8. The parties to this contract shall, pursuant to Section 21.7(a) of Title 49, Code of Federal Regulations, comply with all elements of Title VI of the Civil Rights Act of 1964. This requirement under Title VI and the Code of Federal Regulations is to complete the USDOT-Non-Discrimination Assurance requiring compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R Section 50.3.
9. No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that is the subject of this contract.
10. This transaction will be handled by Redwood Empire Title Company of Mendocino County, 405 South Orchard Avenue, Ukiah, CA 95482 through Escrow No. 20220235DN.
11. OWNER warrants that there are no oral or written leases on all or any portion of the property exceeding a period of one month, and OWNER agrees to hold COUNTY harmless and reimburse COUNTY for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of OWNER for a period exceeding one month.

12. COUNTY agrees to release, hold harmless, and defend OWNER from any and all claims of damage or injury due to the actions of COUNTY, its agents, employees, and/or contractors while constructing PROJECT.
13. The compensation set forth in Paragraph 3 of this Agreement comprises full compensation for the lands and rights as described in the aforesaid Exhibit "A" to be conveyed by OWNER to COUNTY and as depicted on Exhibit "B" attached hereto and fully incorporated herein.
14. Complete Agreement. The parties agree that this is the full and entire agreement between them, that it supersedes any prior or contemporaneous written or oral agreements, promises, or representations, and that it may be amended only in writing executed by each of the parties hereto.

Signature Page to Follow

THE PARTIES HERETO HAVE set forth the whole of their Agreement. The performance of this Agreement constitutes the entire consideration of said document and shall relieve COUNTY of all further claims on this account or on account of the location, grade, or construction of the proposed public improvements.

IN WITNESS WHEREOF, this Agreement has been executed.

OWNER: Matthew A. McCarthy and Dixie Lee McCarthy, as Trustees of the Matthew A. and Dixie Lee McCarthy Trust, dated April 1, 1994

Matthew A. McCarthy 3/22/23
Matthew A. McCarthy, Trustee DATE

Dixie Lee McCarthy 3/22/23
Dixie Lee McCarthy, Trustee DATE

RECOMMENDED FOR APPROVAL BY:

Howard N. Dashiell 4/3/23
HOWARD N. DASHIELL DATE

Director of Transportation
County of Mendocino

COUNTY OF MENDOCINO

By: Glenn McGourty 06/06/2023
GLENN MCGOURTY, Chair DATE
BOARD OF SUPERVISORS

ATTEST:

DARCIE ANTLE, Clerk of Said Board

By: Amrap 06/06/2023
Deputy DATE

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

DARCIE ANTLE, Clerk of Said Board

By: Amrap 06/06/2023
Deputy DATE

NO OBLIGATIONS OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED.

SPACE BELOW FOR OFFICIAL USE:

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

CHRISTIAN M. CURTIS
County Counsel

By: Christian M. Curtis 04/27/2023
Deputy DATE

EXECUTIVE OFFICE/FISCAL REVIEW:

APPROVAL RECOMMENDED

By: [Signature] 04/27/2023
Deputy CEO DATE

INSURANCE REVIEW:

By: Darcie Antle 04/27/2023
Risk Management DATE

Exhibit "A"

Exhibit A

All that real property situated in the Southeast Quarter of Section 2, Township 13 North, Range 14 West, Mount Diablo Baseline and Meridian, in the Unincorporated Area, County of Mendocino, State of California, being a portion of that certain Parcel described in the Grant Deed to Matthew A. McCarthy and Dixie Lee McCarthy, as Trustees of the Matthew A. and Dixie Lee McCarthy Trust, dated April 1 1994 in that certain Grant Deed recorded in Instrument Number 2014-12673, Mendocino County Records (M.C.R.) more particularly described as follows:

A strip of land for a Permanent Maintenance Easement, the perimeter of which is more particularly described as follows;

Commencing at a 3/4" iron pipe tagged R.E. 6083 set on the southeasterly Right of Way line of Lambert Lane C.R. 123A as shown on that certain Parcel Map of Minor Division No. 205-72 recorded in Map Case 2, Drawer 22, Page 11, M.C.R. said 3/4" iron pipe bears North 22°20'01" West, 638.86 feet (North 23°14'19" West, 638.94 feet calculated record per said Parcel Map) from a 1/2" iron pipe marked L.S. 3089 set on the common boundary line of Parcel 1 and Parcel 3 marking the westerly end of the course annotated as South 60°00'00" West, 47.18' as shown on said Parcel Map; thence North 41°27'10" East, 184.22 feet to a point on the northerly Right of Way line of said Lambert Lane and the **Point of Beginning**; thence North 05°15'39" West, 20.76 feet, thence North 21°04'43" West, 20.87 feet; thence North 55°27'04" East, 23.61 feet; thence North 78°40'16" East, 20.95 feet more or less to the boundary line in common with said Grant Deed recorded in Instrument Number 2014-12673, M.C.R. and that certain Parcel described in the Grant Deed to B R H Associates, INC., a California Corporation recorded in Book 1663, Official Records, Page 251, M.C.R.; thence along said common boundary line South 68°01'18" East, 16.63 feet; thence continuing along said common boundary line South 41°49'07" West, 69.00 feet more or less to the **Point of Beginning** and the end of this description.

Containing 1,463 square feet more or less.

APN: 029-130-07

The Basis of Bearings of this description is the State Plane Coordinate System, NAD 83 (CORS), California Zone 2, Reference Epoch 2010. Being South 22°20'01" East (South 23°14'19" East, calculated record per said Parcel Map) between a 3/4" iron pipe tagged R.E. 6083 set on the southeasterly Right of Way line of Lambert Lane C.R. 123A and a 1/2" iron pipe marked L.S. 3089 set on the common boundary line of Parcel 1 and Parcel 3 marking the westerly end of the course annotated as South 60°00'00" West, 47.18' as shown on said Parcel Map

Distances are ground.

Matthew T. Herman
Matthew T. Herman, PLS 8335
SHN Consulting Engineers and Geologists, Inc.
Willits, California

3/07/2023
Date



Exhibit "B"

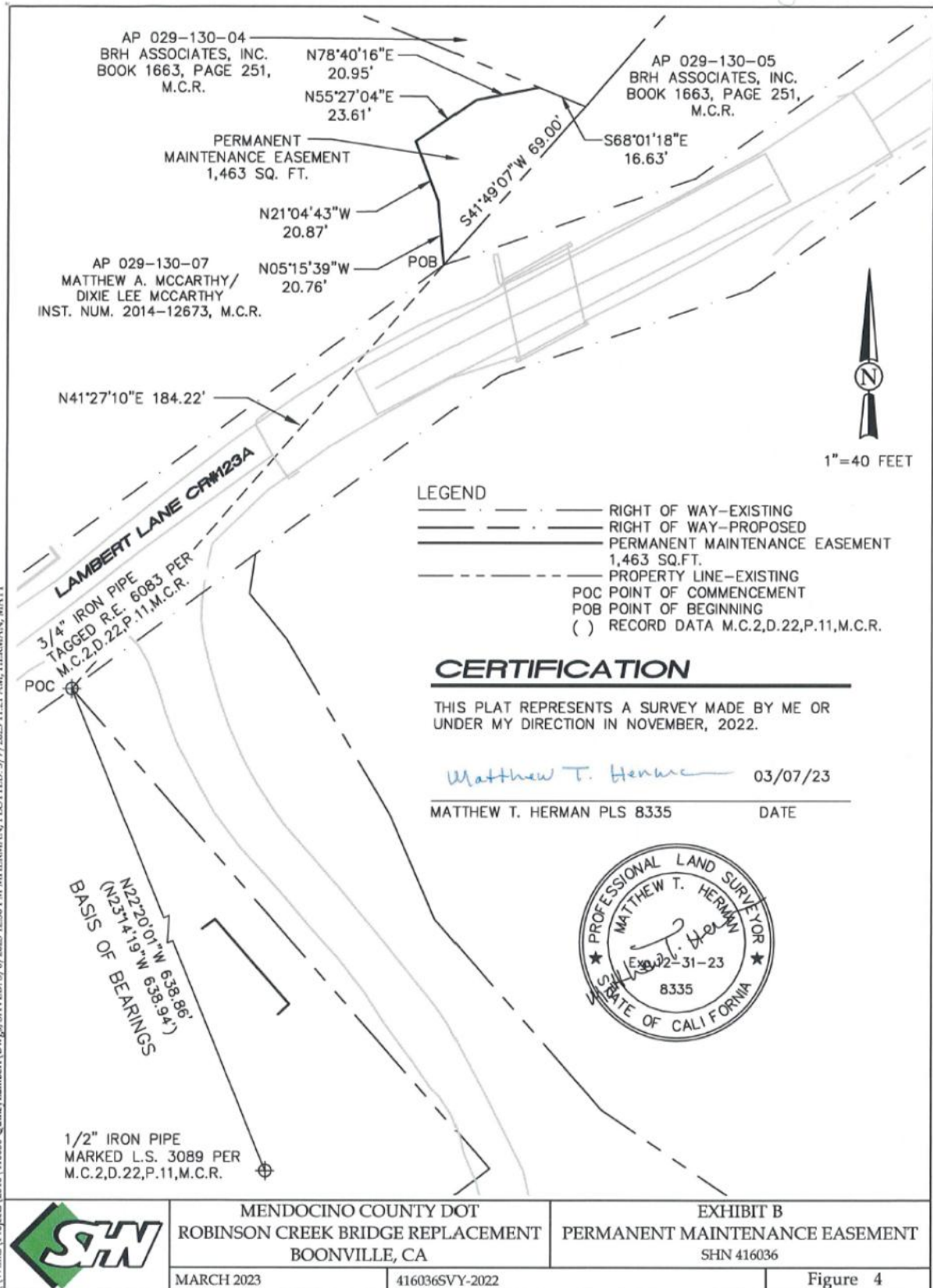


Exhibit "C"

