

## RIGHT OF ENTRY AGREEMENT

This Right of Entry Agreement ("Agreement") is made and entered into as of August 29th, 2023 ("Effective Date"), by and between the County of Mendocino ("Grantor") California Department of Transportation ("Grantee").

### Recitals

This Agreement is entered into pursuant to the following facts:

- A. Grantee performs certain projects for the purpose of environmental surveys to assess the environmental impacts of the proposed project to restore the surface of the existing highway along Highway 128 from Post Mile 17.9 to Post Mile 30.7 as described in Attachment A.
- B. Grantor owns property identified as Assessor Parcel Number (APN) 029-150-06-00, located at 14400 CA-128, Boonville, generally known as the Mendocino County Fairgrounds and more specifically shown in greater detail in Exhibit A attached to this Agreement and incorporated herein by this reference.
- C. Grantee desires to temporarily access APN 029-150-06-00 for the limited purpose of conducting activities related to Grantee's Archeological Phase 1 field surveys – surface disturbance only, and biological surveys for plants (observation/collecting plant specimens) and animals (observation only). The surveys will take place within the areas outlined on the enclosed map contained in Exhibit B.

Now, therefore, it is mutually agreed as follows:

- 1. Permission is hereby granted to Grantee or its authorized agent[s] to enter upon APN 029-150-06-00 for the purpose of conducting environmental surveys of the area of APN 029-150-06-00 outlined on the map attached hereto as Exhibit B, to assess the environmental impacts of the proposed project to restore the surface of the existing highway along Highway 128 from Post Mile 17.9 to Post Mile 30.7.
- 2. Grantor's permission in Paragraph 1 is subject to the following conditions, all of which are the responsibility of Grantee:
  - a. Leaving APN 029-150-06-00 after Grantee's use in a clean, neat and sanitary condition, and shall properly and promptly dispose of all litter and debris during Grantee's use of APN 029-150-06-00.
  - b. Securing any permits required for its activities in APN 029-150-06-00.
  - c. Grantee's use of APN 029-150-06-00 shall be in such a manner as to minimize disruption or inconvenience to the Grantor's or the public's use of APN 029-150-06-00.
- 3. Grantee accepts the use of APN 029-150-06-00 in an "as is" condition, with Grantor providing no warranties as to its condition.
- 4. Grantee's permission to use APN 029-150-06-00 shall terminate on June 30, 2024. Grantor shall have the right to terminate this Agreement with or without cause upon 30-days written notice to Grantee. This Agreement shall be effective as of the Effective Date.

5. Grantee shall notify Grantor concerning the release of petroleum products or other hazardous materials that have come or will come to be located in, on or beneath APN 029-150-06-00. Grantee shall indemnify, defend and hold Grantor harmless from any and all loss, claims, liability or costs (including court costs and attorney's fees) incurred by reason of any actual or asserted failure of Grantee to fully comply with all federal, state and local laws relating to the keeping, handling, use or disposition of hazardous materials.
7. Grantee covenants and agrees to indemnify, defend and to hold Grantor, and its agents, officers, attorneys, and employees harmless from any and all claims, demands, damages, costs, liabilities and losses whatsoever (including reasonable attorney's fees and costs incurred in defending claims) alleged or arising out of Grantee's, and its officers, employees, agents, subcontractors, invitees, or any individual or entity for which Grantee is legally liable, use of APN 029-150-06-00, or to attack or set aside the approval of this Agreement. Grantee shall add Grantor to any and all insurance policies pertaining to the Grantee's use of APN 029-150-06-00 as an additional insured, subject to the approval of Grantor's Risk Manager. Grantee agrees that it shall access APN 029-150-06-00 only after securing all permits, licenses, or other legal authorizations required.
8. Any notices, demands, or communications under this Agreement between the parties shall be in writing, and may be given either by (i) personal service, (ii) overnight delivery, or (iii) mailing via United States mail, certified mail, postage prepaid, return receipt requested ("US Mail"), addressed to each party as set forth on the signature page of this Agreement or such other address as may be furnished in writing by a party, and such notice or communication shall, if properly addressed, be deemed to have been given as of the date so delivered, or three (3) business days after deposit into the US Mail.
9. If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
10. This Agreement shall be construed and enforced in accordance with the laws of the State of California. If any legal action is necessary to enforce the terms and conditions of this Agreement, the parties agree that a court of competent jurisdiction in Mendocino County shall be the sole venue and jurisdiction for the bringing of such action.
11. In any action to enforce or interpret the terms of this agreement, including but not limited to any action for declaratory relief, each party shall be solely responsible for and bear its own attorneys' fees, regardless of which party prevails.

The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**DEPARTMENT FISCAL REVIEW:**

Janelle Rau 08/15/2023

DEPARTMENT HEAD DATE

Budgeted: ☐ Yes ☒ No

Budget Unit: N/A

Line Item: N/A

Grant: ☐ Yes ☒ No

Grant No.: N/A

**CONTRACTOR/COMPANY NAME:**

By: [Signature] 08/15/2023  
For Julie Nellis

**NAME AND ADDRESS OF CONTRACTOR:**

California Department of Transportation –  
District 1

PO Box 3700

Eureka, CA 95502-3700

**COUNTY OF MENDOCINO**

By: [Signature]  
GLENN MCGOURTY, Chair  
BOARD OF SUPERVISORS

Date: 08/29/2023

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

**ATTEST:**

DARCIE ANTLE, Clerk of said Board

By: [Signature]  
Deputy 08/29/2023

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: [Signature]  
Deputy 08/29/2023

**COUNTY COUNSEL REVIEW:**

APPROVED AS TO FORM:

CHRISTIAN M. CURTIS,  
County Counsel

By: [Signature]  
Deputy

Date: 08/15/2023

**INSURANCE REVIEW:**

By: [Signature]  
Risk Management

Date: 08/15/2023

**EXECUTIVE OFFICE/FISCAL REVIEW:**

By: [Signature]  
Deputy CEO or Designee

Date: 08/15/2023

Signatory Authority: \$0-25,000 Department; \$25,001- 50,000 Purchasing Agent; \$50,001+ Board of Supervisors

Exception to Bid Process Required/Completed ☐

Mendocino County Business License: Valid ☐

Exempt Pursuant to MCC Section: \_\_\_\_\_



## California Department of Transportation

DISTRICT 1

P.O. BOX 3700 | EUREKA, CA 95502-3700

(707) 815-4381 | FAX (707) 441-6314 TTY 711

[www.dot.ca.gov/dist1](http://www.dot.ca.gov/dist1)

July 27, 2023

01-MEN-128-PM 17.9/30.7

**County of Mendocino**  
**General Services – Real Property**

EA: 0K000

**841 Low Gap Road**

APN: 158-0004530-001

**Ukiah, CA 95482**

PTE #: 214010

Dear Property Owner,

The State of California, Department of Transportation (Caltrans) is preparing to conduct environmental surveys to assess the environmental impacts of the proposed project to restore the surface of the existing highway along Highway 128 from Post Mile 17.9 to Post Mile 30.7. These environmental surveys are required by the National Environmental Policy Act (NEPA), the California Environmental Quality Act (CEQA), and other state and federal regulations.

The surveys will include Archeological Phase 1 field surveys – surface disturbance only, and biological surveys for plants (observation/ collecting plant specimens) and animals (observational only). The surveys will take place within the areas outlined on the enclosed map.

Your property located at the Mendocino County Assessor's Parcel Number listed above is located in the mandated survey area. During the course of these surveys, project specialists will be required to enter onto your property. The area of entry onto your property will be limited to the areas outlined on the enclosed map.

Please be assured that these surveys will have little to no impact on your property. We anticipate the surveys will take place intermittently from June 30, 2023, to June 30, 2024.

**Please sign the attached response form** and return it in the enclosed self-addressed stamped envelope. Please include your daytime telephone number on the form. In addition, we encourage you to utilize the "special instructions" portion of the form as well. We are happy to work with you in any way we can.

You may return this form by email to [Brett.benson@dot.ca.gov](mailto:Brett.benson@dot.ca.gov).

Thank you for your cooperation. Should you have any questions, please feel free to reach out to me at either of the contacts listed above.

Sincerely,

*Brett Benson*

Brett Benson  
Associate Right of Way Agent

Enclosures

01-MEN-128-PM 17.9/30.7  
EA: 0K000

APN: 158-0004530-001  
PTE #: 214010

This is to acknowledge receipt of the California Department of Transportation letter dated July 27<sup>th</sup>, 2023, and to grant permission for field studies to be conducted at the above listed property:

County of Mendocino	8/15/2023	707-234-6050
Property Owner Name	Date	Telephone Number

**SPECIAL INSTRUCTIONS / COMMENTS**

Refer to pages 1-2 above.

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Map produced by the Mendocino County Planning & Building Svcs. Dept., November, 2020  
 Coordinate System: NAD 83, Calif. State Plane Zone II  
 Projection: Lambert Conformal Conic  
 Parcel Data: Mendocino County Information Services, October, 2018  
 Aerial Imagery: US Dept. of Agriculture/ArcGIS Online mosaic  
 Topographic Data: USGS 7.5 minute quad series Mount Diablo Base & Meridian  
 Parcel numbers are for tax purposes only and do not represent legal or salable parcels.  
 All spatial data is approximate. This map is not a substitute for a proper land survey.

- Named Rivers
- Public Roads
- - - Private Roads

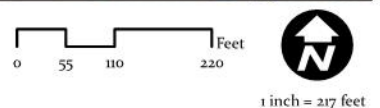
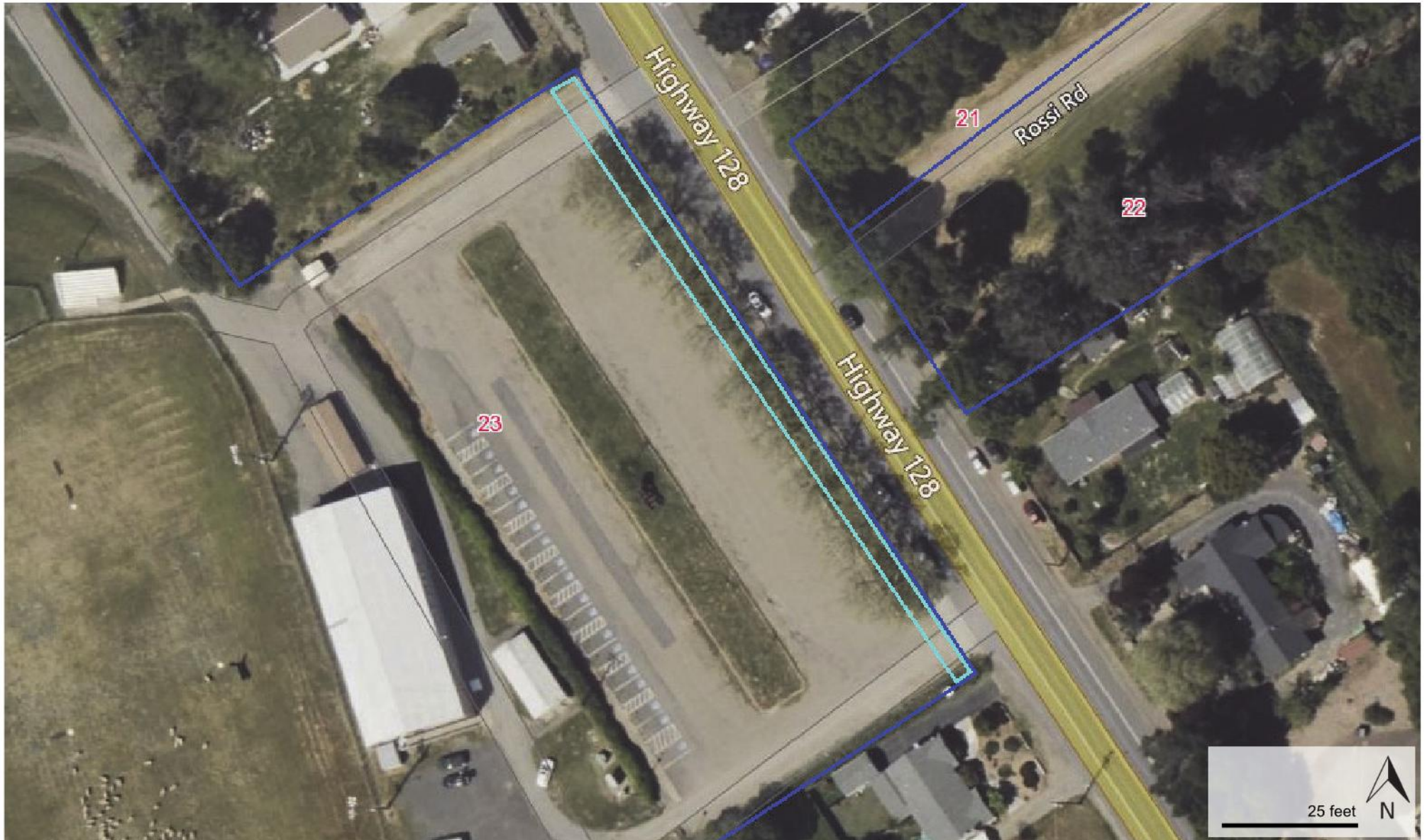




EXHIBIT B



APN: 158-0004530-001