

CITY OF MENIFEE
RIGHT OF WAY CONTRACT

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and pursuant to Civil Code section 1798.21, it
shall be kept confidential in order to protect
against unauthorized disclosure.

Holland Road/I-215 BRIDGE OVERCROSSING PROJECT

27989 Holland Road, Menifee, CA 92584	N/A	360-230-008
Property Address	Caltrans Parcel No.	APN.
EA 08-1F980		920114079
Project No.	Escrow No.	Title Order No.

RIGHT-OF-WAY CONTRACT

Mansland Development, LLC, a California limited liability company (hereinafter, "Grantor"), owns the real property located at 27989 Holland Road, Menifee, CA 92584 in the County of Riverside, Assessor Parcel Number 360-230-008 (the "Property"). A portion of the Property and easements in a portion of the Property are needed for the Holland Road/I-215 Bridge Crossing Project, a public project involving the construction of a new four-lane bridge overcrossing at Holland Road that will span the I-215 freeway and Antelope Road (the "Project"). The Project will address immediate and projected congestion and circulation issues within the City of Menifee (the "City") at this intersection, improve traffic and interchange operations and enhance road safety. The City seeks to acquire a Grant Deed in the form attached hereto as Exhibit "1" ("Partial Fee"), Permanent Maintenance Deed in the form attached hereto as Exhibit "2" ("PME") and a Temporary Construction Easement in the form attached hereto as Deed Exhibit "3" ("TCE"), to facilitate construction of the Project. Grantor has agreed to convey the Partial Fee, PME and TCE to the City on the terms and conditions set forth herein.

It is mutually agreed as follows:

1. (A) The parties have herein set forth the whole of their agreement ("Agreement"). The performance of this Agreement constitutes the entire consideration and shall relieve City of all further obligations or claims relating to its acquisition of the Partial Fee, PME and TCE and the City's construction and use of the Project.
- (B) The City requires the Partial Fee, PME and TCE for the Project. Grantor agrees to convey, and the City agrees to acquire the Partial Fee, PME and TCE.
- (C) It is agreed that City shall open an escrow in accordance with this Agreement at an escrow company of City's choice or open an internal escrow. This Agreement constitutes the joint escrow instructions of City and Grantor. The escrow agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to perform all acts reasonably necessary to close this escrow within sixty (60) days following the opening of escrow.
- (D) 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.

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- (E) 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.
- 2.
- (A) CITY shall pay the undersigned Grantor the sum of FIVE HUNDRED SIX THOUSAND DOLLARS and ZERO CENTS (\$506,000.00) as just compensation for the Partial Fee, PME and TCE, and for all damages, costs, expenses, fees and any claims whatsoever related to the City's acquisition of a Partial Fee, PME and TCE and the construction and use of the Project in the manner proposed.
 - (B) Should the City elect to open an external escrow, the City shall pay all usual escrow and recording fees incurred in this transaction, and if title insurance is desired by the City, the premium charged therefore. Said escrow and recording charges shall not, however, include documentary transfer tax. This transaction may be handled through an external escrow with Commonwealth Land Title Company, or another City-selected escrow company to be determined or may be handled by an internal escrow.
 - (C) The City shall have the authority to deduct and pay from the amount shown on Clause 2(A) above, any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid non-delinquent assessments which have become a lien at the close of escrow.
3. FULL AND COMPLETE SETTLEMENT. Grantor hereby acknowledges that it is the sole and lawful owner of the Property and the compensation paid to Grantor through this Agreement constitutes the full and complete settlement of any and all claims against the City and the State of California, Department of Transportation (hereinafter, individually and collectively, "Releasee") by reason of the Project and/or acquisition of the Property Interest, including, but not limited to, any and all rights or claims that Grantor had, currently has or may in the future have under Article 1, Section 19 of the California Constitution, the Eminent Domain Law (Cal. Code Civ. Proc. § 1230.010 et seq.), or any other law or regulation, except as provided herein. Grantor, on behalf of itself and its successors and assigns, further knowingly and voluntarily waives and expressly releases and discharges Releasee and any and all of Releasee's employees, agents, officers, servants, representatives, contractors, attorneys, partner agencies and assigns, from liability in regard to any claims for the following: pre-condemnation damages, inverse condemnation, lost business goodwill, lost profits, lost rents, severance damages, mitigation damages, compensation for the construction and use of the Project in the manner proposed, damage to or loss of improvements pertaining to the realty, machinery, fixtures, inventory, equipment and/or personal property, interest, any right to repurchase, leaseback, or receive any financial gain from, the sale of any portion of the Property, any right to challenge the adoption of a resolution of necessity, any right to receive any notices pursuant to Code of Civil Procedure section 1245.235, any right to enforce any obligation pursuant to the Eminent Domain Law, any other rights conferred upon Grantor pursuant to the Eminent Domain Law, and claims for litigation expenses, attorney's fees, statutory interest and/or costs.
4. The parties intend that this Agreement will result in a full, complete and final resolution and settlement of any and all claims, causes of action or disputes which exist, or may exist, between them as to the acquisition, possession and/or use of the Property Interest, except as expressly provided herein. It is therefore understood that the waiver, under this Agreement, of any rights, damages, compensation or

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benefits to which Grantor is, or may be, entitled is intended to be full and complete. Accordingly, except as provided herein:

- (A) Pursuant to the releases set forth in this Agreement, Grantor specifically waives the provision of section 1542 of the Civil Code of the State of California which provides:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her-, would have materially affected his or her settlement with the debtor or released party."

- (B) Grantor represents and warrants that it understands the effect of this waiver of section 1542 and has had the opportunity to discuss the effect of this waiver with counsel of its choice.

5. Any monies payable under this Agreement up to and including the total amount of unpaid principal and interest on note(s) secured by mortgage(s) or deed(s) of trust, if any, and all other amounts due and payable in accordance with the terms and conditions of said deed(s) of trust or mortgage(s), shall upon demand(s) be made payable to the mortgagee(s) or beneficiary(ies) entitled thereunder; said mortgagee(s) or beneficiary(ies) are to furnish Grantor with good and sufficient receipt showing said monies credited against the indebtedness secured by said mortgage(s) or deed(s) of trust.
6. Grantor represents and warrants that it is the fee simple owner of the Property and that it has the right to convey the Partial Fee, PME and TCE to the City. Grantor will defend and indemnify CITY, its successors and/or assigns against any and all claims, demands, causes of action filed against the City, its successors and/or assigns by someone claiming a legal interest in or right to the Property, or any portion thereof. Grantor represents and warrants that it will defend and indemnify the City, its successor and/or assigns in the amount of any due and unpaid real property taxes, assessments, liens and any penalties and delinquencies on the Property. Grantor represents and warrants that it has made no assignment of any interest in the Property.
7. Grantor agrees to defend and indemnify and hold the City harmless and reimburse the City for any and all of its losses and expenses occasioned by reason of any lease of said Property held by any tenant of Grantor for a period exceeding one month. Grantor acknowledges that a general release or quitclaim deed will be required from any lessee that has a lease term exceeding one month. Said general release or quitclaim deeds are to be provided to Commonwealth Land Title Company, other selected escrow company, or the City by Grantor, prior to the close of escrow. The provisions of this paragraph shall apply to current leases on Grantor's property as well as future leases, if any, that are entered into after the execution of this Agreement.
8. It is understood and agreed by and between the parties hereto that included in the amount payable under Clause 2(A) above is payment in full to compensate Grantor for the purchase of the following improvements: 25 lf. of wire mesh on wooden post fencing, 1,875 sq. ft. of compacted aggregate base material and one 25 lf. chain link fence.

All purchased improvements listed above will not be replaced by City. Grantor agrees that it is not entitled to compensation for any other improvements located within the areas of the Property Interest being purchased pursuant to this Agreement.

9. [RESERVED]

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10. The City shall not take actual physical possession of the TCE area until after thirty (30) days following advance written notice by City or City's contractor is given to Grantor of City's taking actual physical possession of the TCE area. Prior to the City's actual physical possession of the TCE area, Grantor agrees to hold harmless, defend and indemnify the City its officers, directors, employees and agents against any and all claims including property damage or injuries resulting from the use of the area within the TCE by Grantor and/or Grantor's guests, invitees, or any other person. The City shall not be deemed to have control of the area within the TCE, nor a duty to maintain the area in a safe condition, prior to the time the City or the City's contractor take actual physical possession of the area within the Property Interests.
11. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the Property Interests by the City, including the right to remove and dispose of improvements, shall commence on the date the amount of funds as specified in Clause 2(A) herein are deposited into the escrow controlling this transaction. The amount shown in Clause 2(A) herein includes, but is not limited to, full payment for such possession and use, including damages, if any, from said date.
12. It is understood and agreed by and between the parties hereto that payment as provided in Clause 2(A) includes, but is not limited to, payment for any and all past, present, and/or future damages, which have accrued or may accrue to Grantor's remaining property by reason of its severance from the property conveyed herein and/or the construction and use of the proposed Project, including, but not limited to, any expense which Grantor may incur in restoring the utility of the remaining property. This release is not intended to extend to unanticipated physical damage caused by construction.
13. It is agreed between the parties hereto that the City is not assuming responsibility for payment or subsequent cancellation of unpaid assessments on the Property acquired under this transaction. Said assessments include but are not limited to Schedule B, Section B, Items A-E of order number 92014079 of the Preliminary Title Report prepared by Commonwealth Land Title Insurance Company. Grantor acknowledges it has received and reviewed the Preliminary Title Report. The assessments remain the obligation of Grantor. Payment for the Property Interest acquired under this transaction is made upon the basis that the Grantor retains its obligation to the levying body respecting said assessments.
14. The TCE shall be for a period of thirty (30) months ("TCE Term"). The TCE Term shall commence upon the project's Right of Way Certification date and the Grantor shall be provided at least thirty (30) days written notice prior to commencement of work within the TCE area. Grantor agrees to keep the TCE area free and clear of all materials, shrubbery, crops, improvements and debris during the TCE Term. Grantor further agrees that cost of removal of any materials, shrubbery, crops, improvements or debris that are installed during the TCE term shall be the sole responsibility of Grantor.
15. Any notice either party may or is required to give the other shall be in writing and shall be either personally delivered or sent by registered or certified mail, return receipt requested. If by mail, service shall be deemed to have been received by such party at the time the notice is delivered to the following addresses:

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To Grantor:

Mansland Development, LLC, a California limited liability company
26100 Newport Road #A12,
Menifee, CA 92584-9072

To CITY:

City Clerk
29844 Haun Road, City of Menifee, CA 92586
Attn: Carlos E. Geronimo, PE, City of Menifee

16. It is understood and agreed by and between the parties hereto that this Agreement inures to the benefit of, and is binding on, the parties, their respective heirs, personal representatives, subsequent purchasers, successors, and/or assignees. The City may freely assign any or all of its interests or rights under this Agreement.
17. Grantor represents and warrants that during the period of Grantor's ownership of the Property, there have been no disposals, releases or threatened releases of hazardous substances or hazardous wastes on, from, or under the Property. Grantor further represents and warrants that Grantor has no knowledge of any disposal, release, or threatened release of hazardous substances or hazardous wastes on, from, or under the Property which may have occurred prior to Grantor taking title to the Property.

The acquisition price of the Interests being acquired in this transaction reflects the full and complete settlement of the City's acquisition assuming the absence of contamination. If the Interests being acquired is found to be contaminated by the presence of hazardous waste which requires mitigation under Federal or State law, City may elect to recover its clean-up costs from those who caused or contributed to the contamination including, but not limited to, Grantor.
18. It is understood and agreed that the fully executed Grant Deed (Exhibit 1), Permanent Maintenance Easement Deed (Exhibit 2) and the Temporary Construction Easement Deed (Exhibit 3), shall be recorded in the Recorder's Office for the County of Riverside.
19. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter of this Agreement and may not be modified except by an instrument in writing signed by the party to be bound thereby.
20. If any term or provision of this Agreement shall be held to be invalid or unenforceable, the remainder of the Agreement shall remain in full force and effect.
21. Each individual executing this Agreement on behalf of an entity represents and warrants that he or she has been authorized to do so by the entity on whose behalf he or she executes this Agreement and that said entity will thereby be obligated to perform the terms of this Agreement.
22. This Agreement may be executed in counterparts, including by facsimile and/or electronic mail, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and all such counterparts together shall constitute one and the same instrument.
23. This Agreement may be subject to approval by City Council.

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*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS*

In Witness Whereof, the Parties have executed this Agreement on the day and year set forth below.

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Mansland Development, LLC, a California limited liability company

By: _____

Name: _____

Its: _____

Date: _____

By: _____

Name: _____

Its: _____

Date: _____

APPROVED AS TO FORM:

CITY OF MENIFEE, a California municipal corporation
Approved By:

By: _____
Jeffrey T. Melching, City Attorney

By: _____
Armando G. Villa, City Manager

Date: _____

Attested By:

Sarah A. Manwaring, City Clerk

CITY OF MENIFEE

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Exhibit “1”

GRANT DEED FOR PARTIAL FEE

CITY OF MENIFEE
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**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of Menifee
Attn: City Clerk
29844 Haun Road
Menifee, CA 92586

APN: 360-230-008

The undersigned declares that this document is recorded at the request of and for the benefit of the City of Menifee and is therefore exempt from the payment of the recording fee pursuant to Government Code § 6103 and § 27383 and from payment of the documentary transfer tax pursuant to Revenue and Taxation Code § 11922.

GRANT DEED

(360-230-008 FEE PORTION)

For a valuable consideration, receipt of which is hereby MANS LAND DEVELOPMENT, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY ("GRANTOR") hereby grants to the CITY OF MENIFEE, a municipal corporation ("GRANTEE"), in fee, an approximate 23,276 square feet portion of Grantor's real property commonly known as 27989 Holland Road, Menifee, California, identified as County Assessor's Parcel Number 360-230-008, and described on Exhibit "A-1" and depicted on Exhibit "B-1" attached hereto and incorporated by reference herein.

SEE EXHIBIT "A-1" and "B-1" ATTACHED HERETO AND MADE PART HEREOF.

Subject also to the following, in accordance with U.S. DOT Order 1050.2A, DOT Standard Title VI Assurances and Non-Discrimination Provisions:

A. The GRANTEE, for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

In the event facilities are constructed, maintained, or otherwise operated on the property described in this deed for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the GRANTEE will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

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B. In the event of breach of any of the above Non-discrimination covenants, the STATE will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the property of the STATE and its assigns.

IN WITNESS WHEREOF, Grantor and City have executed this Grant of Easement as of the date first set forth above.

Mansland Development, LLC, a California limited liability company

By: _____

Name: _____

Its: _____

Date: _____

By: _____

Name: _____

Its: _____

Date: _____

CITY OF MENIFEE

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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 California)
County of _____)

On _____, 2021, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature_____

(Seal)

CITY OF MENIFEE

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ACKNOWLEDGMENT

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State of California)
County of _____)

On _____, 2021, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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Exhibit "A-1"
LEGAL DESCRIPTION
FEE ACQUISITION

MANSLAND DEVELOPMENT

Parcel 360-230-008-1

That portion of the Northeast Quarter of the Northeast Quarter of the Northeast Quarter of Section 10, Township 6 South, Range 3 West, San Bernardino Meridian, in the City of Menifee, County of Riverside, State of California, as described in Grant Deed recorded as Instrument No. 2009-0669071 of Official Records, in the Office of the County Recorder of said county, described as follows:

Commencing at the northeast corner of said Section 10, said point monumented with a 3" brass disk, 0.4 feet below the surface within the Right of Way of Interstate 215;

Thence North 89°42'15" West along the northerly boundary of said Section 10, a distance of 80.26 feet;

Thence South 00°17'45" West, perpendicular to said northerly boundary, a distance of 30.00 feet to the southerly Right of Way of Holland Road (30.00 feet half width) and the **True Point of Beginning**;

Thence South 44°26'47" East, along the westerly Right of Way of Interstate 215, a distance of 61.41 feet;

Thence North 87°04'01" West a distance of 202.05 feet;

Thence North 89°30'14" West a distance of 385.64 feet;

Thence South 53°51'41" West a distance of 26.90 feet to a point on a 50.00 foot radius non-tangent curve, concave westerly, said point bears North 53°51'42" East from the radius point;

Thence southerly along said curve through a central angle of 100°33'14" an arc distance of 87.75 feet to the westerly boundary of that property described in said Grant Deed;

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Exhibit "A-1"
LEGAL DESCRIPTION
FEE ACQUISITION

Thence North 00°46'28" East, along said westerly boundary, a distance of 123.63 feet to said southerly Right of Way;

Thence South 89°42'15" East, along said southerly Right of Way, a distance of 583.26 feet to the **True Point of Beginning**.

Containing 23,276 square feet or 0.534 acres more or less.

See Exhibit "B" attached hereto and made a part hereof.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007), Zone 6. Divide distances in the above description by 0.999907542 to obtain ground distances.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.


John C. Bentley, P.L.S. 7223

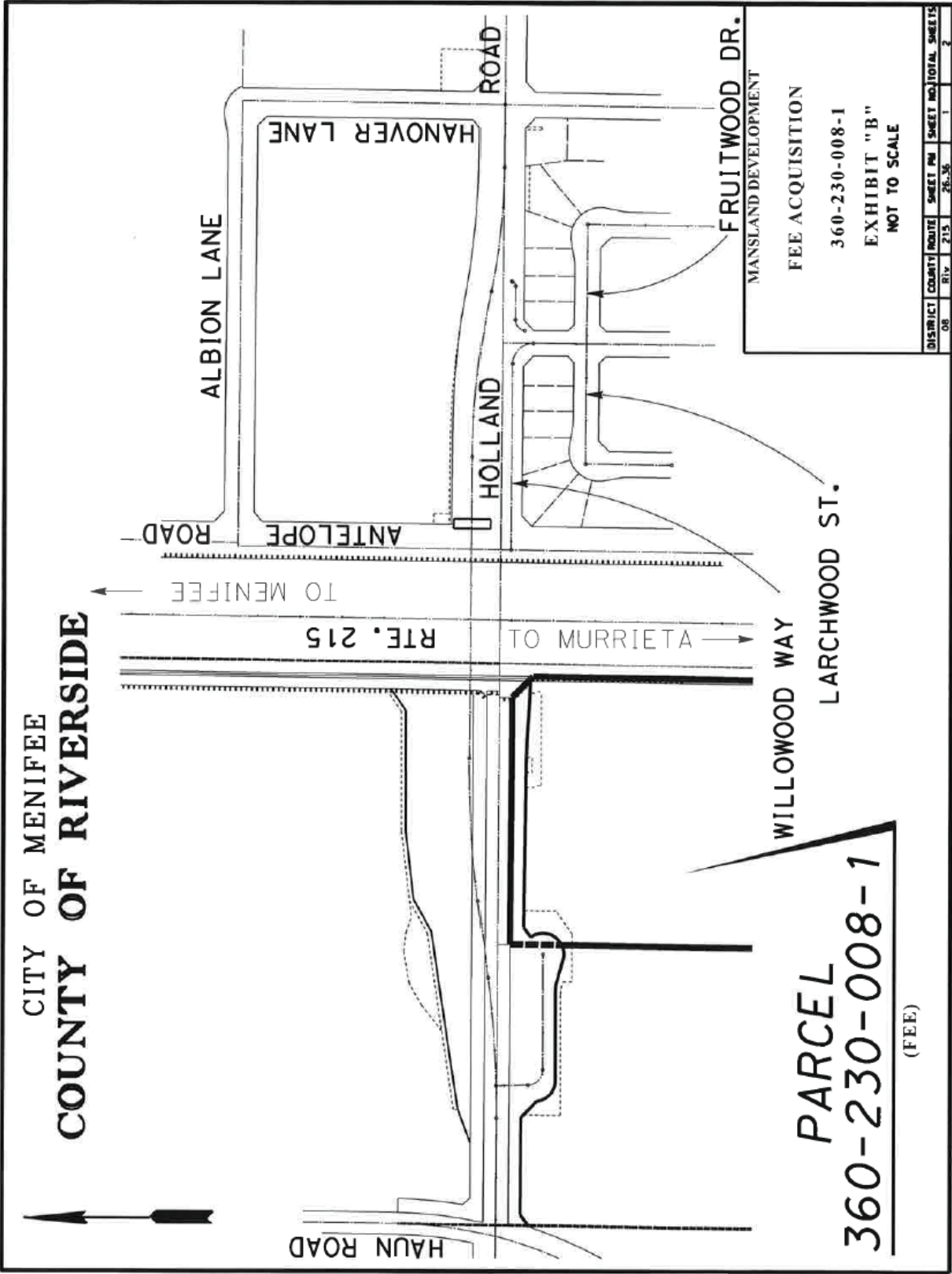
7/30/19
Date

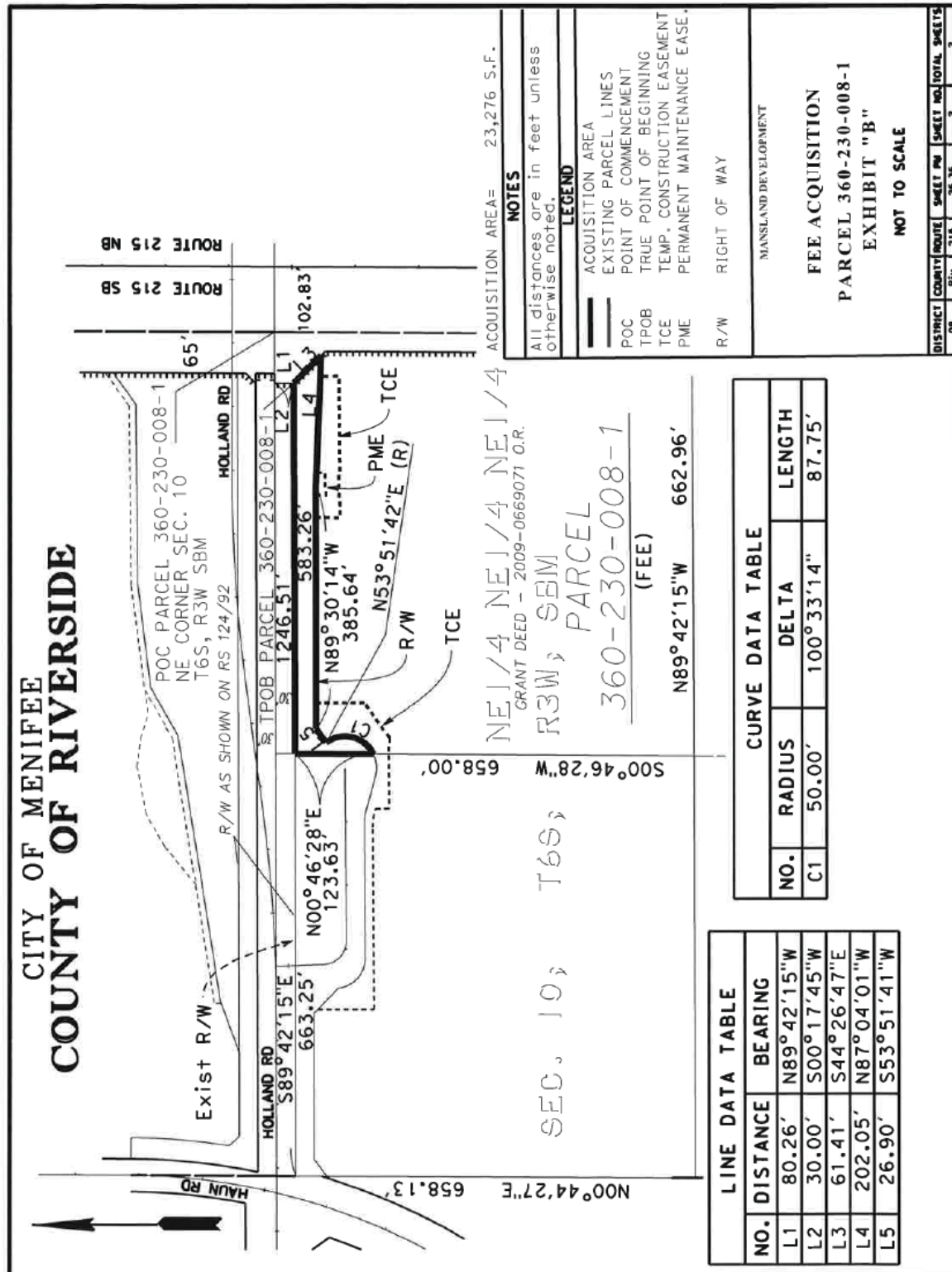


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Exhibit "B-1"





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CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the GRANT OF EASEMENT
dated _____, 2021, from MANSLAND DEVELOPMENT, LLC, A
CALIFORNIA LIMITED LIABILITY COMPANY to the CITY OF MENIFEE, a California
municipal corporation ("City"), is hereby accepted by the undersigned officer or agent on behalf
of the City of Meniffee.

Jonathan G. Smith, P.E.
City Engineer, City of Meniffee

Date

CITY OF MENIFEE

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**Exhibit “2”
PERMANENT MAINTENANCE
EASEMENT**

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**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of Menifee
Attn: City Clerk
29844 Haun Road
Menifee, CA 92586

(Space above line for Recorder's use only)

APN: 360-230-008

The undersigned declares that this document is recorded at the request of and for the benefit of the City of Menifee and is therefore exempt from the payment of the recording fee pursuant to Government Code § 6103 and § 27383 and from payment of the documentary transfer tax pursuant to Revenue and Taxation Code § 11922.

**GRANT OF EASEMENT
(Permanent Maintenance Easement)**

This GRANT OF PERMANENT MAINTENANCE is made this ____ day of _____, 2021, by and between MANSLAND DEVELOPMENT, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY ("Grantor"), and the CITY OF MENIFEE, a California municipal corporation ("City").

For valuable consideration, the receipt of which is hereby acknowledged, Grantor hereby GRANTS unto City, its employees, agents, representatives, contractors, successors and assigns, a non-exclusive PERMANENT MAINTENANCE EASEMENT for the purpose of providing access, in, over, under and across the real property in the County of Riverside, State of California described in Exhibit "A-2" attached hereto and made a part hereof, and depicted in Exhibit "B-2" attached hereto and made a part hereof (the "Grant of Permanent Maintenance Easement").

Grantee is expressly granted the right to convey, transfer, or assign the easement rights described above to other public entities.

SEE EXHIBIT "A-2" and "B-2" ATTACHED HERETO AND MADE PART HEREOF.

560/031858-0001
13815304.

