

Recording Requested By:

Town of Apple Valley

Mail To:

TOWN OF APPLE VALLEY
Engineering Division 14955
Dale Evans Parkway Apple
Valley, CA 92307

Record without fee subject to Gov't
Code 6103 and 27383

Project: Bear Valley Rd. Bridge
No.: 4-101
Parcel No 345
Dept. Code: 11600

**EASEMENT DEED
ACCESS & MAINTENANCE**

D.P. No.:
APN: 0444-121-18
Date: January 4, 2023

The undersigned grantor(s) declare(s):

DOCUMENTARY TRANSFER TAX \$ 0.00 Conveyance to Government Entity R&T 11922

- ☐ computed on full value of property conveyed, or
☐ computed on full value less liens and encumbrances remaining at the time of sale
☐ Unincorporated Area ☐ City: [FILL IN]

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the **SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT**, a body corporate and politic, hereinafter referred to as "**Grantor**", does hereby **grant** to the **TOWN OF APPLE VALLEY, a California municipal corporation**, hereinafter referred to as "**Grantee**", a **non-exclusive access and maintenance easement** (hereinafter "**easement**" or "**grant**") for the purposes of access to adjacent utility easements, including, without limitation, the right to temporarily store or move equipment, on, over and across a strip within that certain real property, located on a certain portion ("**Easement Property**") of **Grantor's** real property ("**Fee Property**") situated in the County of San Bernardino, State of California and more particularly described in **Exhibit "A"**, Legal Description attached hereto and made a part hereof, and shown on **Exhibit "B"**, Plat, attached hereto and made a part hereof. Grantor and Grantee may be referred to individually as a "**Party**" or collectively referred to as the "**Parties**."

This easement is granted subject to all permits, agreements, licenses, leases, easements, reservations, restrictions, terms, conditions, covenants, encumbrances, liens and claims of title which may affect said **Easement Property**. The use of the word "**grant**" herein shall not imply any warranty on the part of the **Grantor** with respect to the **Easement Property**.

Mail Tax Statement As Directed Above

This easement is also subject to the following terms, conditions and restrictions:

1. This easement is subject to the **Grantor's** superior right to use the **Easement Property**, and **Grantor** reserves to itself and its successors and assigns a continuing right to use and make any improvements to the **Easement Property** for **Grantor's** use.
2. **Grantor** may grant further permits, agreements, licenses, leases, easements, reservations, restrictions, terms, conditions, covenants, encumbrances, liens, or other rights over the **Easement Property** (or portions thereof) for the benefit of other entities not parties to this grant, provided that such further grants do not materially and adversely interfere with **Grantee's** use of the **Easement Property**, as determined by the Parties.
3. Unless in the case of emergency or to maintain the Easement Property as required by this grant, prior to commencing use of **Grantee's** easement, and appurtenances pursuant to this grant, **Grantee** shall submit all plans for any proposed excavation, construction, installation, removal, or replacement of improvements to **Grantor** for **Grantor's** review and approval with **Grantor** to issue to **Grantee** a permit if such plans are approved by **Grantor** in **Grantor's** sole discretion, which shall not be unreasonably withheld. The existence of **Grantee's** easement and attendant easement does not give **Grantee** any rights to do further work of any type within the **Easement Property** without first obtaining additional permit(s) from **Grantor** pursuant to the above-stated requirements and conditions.
4. **Grantee** shall be responsible for securing and maintaining all necessary permits and approvals from other appropriate local, state and federal agencies for its use of the **Easement Property**, and **Grantee** shall comply with all applicable laws and regulations concerning construction of improvements and its use of **Easement Property**.
5. Any improvements constructed by or on behalf of **Grantee** on the **Easement Property** shall not interfere with or impede **Grantor's** conveyance of storm water or **Grantor's** flood control improvements, if any, now existing or later installed on the **Easement Property** by **Grantor**. **Grantee's** construction of its improvements shall be in accordance with the plan approved by **Grantor** in accordance with paragraph 3 and must further meet all applicable construction standards and applicable laws.
6. **Grantee** shall not change the existing grade, modify the topography, or impede or diminish the floodwater conveyance capacity of the **Easement Property** or the **Fee Property** without prior written consent of **Grantor** (in **Grantor's** sole discretion).
7. **Grantee** shall at all times, and at its sole cost and expense, maintain the **Easement Property** and any improvements constructed (or caused to be constructed) thereon by **Grantee** and/or its agents in good condition and repair, and free of trash, debris weeds and unauthorized uses, except to the extent caused by **Grantor**. **Grantee** shall perform all necessary maintenance associated with its improvements, including but not limited to wingwalls, curb and gutter, sidewalks and appurtenances thereto constructed within the **Easement Property** in conjunction with the easement, and shall remove graffiti, and any unauthorized uses or encroachments within or on any part of the Easement Property structures and its appurtenances, as well as performing all necessary weed abatement work within the **Easement Property**.

8. **Grantor** shall at all times have free and clear access through and over the **Easement Property** (except as temporarily approved by **Grantor** during periods of **Grantee's** construction and/or maintenance).

9. **Grantor** shall not be required to contribute any part of the costs associated with **Grantee's** street, highway, road and/or bridge on the **Easement Property** and furthermore, if **Grantor** is included in an assessment district to pay such costs, **Grantee** shall promptly reimburse **Grantor** for any assessment therefore levied upon it upon **Grantor** demand.

10. **Grantee** agrees to indemnify, defend and hold harmless the **Grantor, San Bernardino County**, and their authorized officers, employees, agents and volunteers (**Indemnitees**) from any and all claims, actions, losses, damages, and/or liability arising out of this grant of easement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by **Grantor, said County** or **Indemnitees** on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of **Grantor, said County** or **Indemnitees**. The **Grantee's** indemnification obligation does not apply to the **Grantor's, said County's** or **Indemnitees'** "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

11. **Grantee** agrees to comply with the following insurance requirements (for the purpose of this paragraph, **Grantor** shall be deemed to include **San Bernardino County**):

Grantor and Grantee are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability, Worker's Compensation and Property Damage and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Contract.

(1) Subcontractor Insurance Requirements. **Grantee** agrees to require all parties, including (but not limited to) subcontractors, architects, or others it hires or contracts with related to the excavation, construction, installation, replacement, maintenance and repair, removal, use, or any other work performed by or on behalf of **Grantee** for the street, highway, road and/or bridge at the **Easement Property** to provide insurance covering the contracted operation with the same policies and provisions required of **Grantee** in this easement and with builder's risk property insurance, providing all risk, including theft coverage for all property and materials to be used for or related to the street, highway, road and/or bridge and said insurance policies shall not have any coinsurance penalty. All policies required under this provision shall include waiver of subrogation rights against **Grantor** and shall name **Grantor** as an additional insured. **Grantee** agrees to monitor and review all such coverage and assumes all responsibility ensuring that such coverage is provided as required herein.

12. In the event of **Grantee's** default of the terms, conditions and/or restrictions set forth herein, **Grantor** shall give written notice to **Grantee** of the same. Except in the case of the emergency as determined by **Grantor** in its sole discretion, **Grantee** shall have thirty (30) calendar days from the date of the **Grantor's** notice to cure the default. If **Grantee**, within thirty (30) calendar days from the date of the **Grantor's** notice to cure the default (except in the case of an emergency as determined by **Grantor** in its sole discretion), commences the elimination of such default and continuously and diligently proceeds in good faith to eliminate such default, then the period for correction shall be extended for such length of time as is reasonably necessary to complete such correction. In the event **Grantee** fails to cure the default within the time prescribed herein, **Grantor** has the right but not the obligation to cure said default at the sole expense of **Grantee**, or **Grantee's** successors and assigns, and without liability to **Grantor** for loss thereof. **Grantee**

and **Grantee's** successors and assigns agree to pay **Grantor** on demand all expenses incurred by Grantor in curing such default of **Grantee**. In addition, **Grantor** may pursue all other remedies available to it at law or in equity and such remedies shall be cumulative.

13. The easement, as well as the terms, conditions and restrictions, created hereby shall constitute covenants running with the land and shall be binding upon and shall benefit all successors and assigns of **Grantor** and **Grantee** respectively.

14. This easement shall be governed by the laws of the State of California.

15. This grant may only be amended by a writing executed by both **Grantor** and **Grantee** and recorded in the Official Records of San Bernardino County.

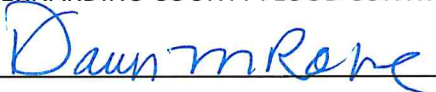
16. If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorneys' fees directly arising from a third-party legal action against a party hereto and payable under paragraph 10.

17. If a court of competent jurisdiction declares any provision of this easement invalid, illegal, or otherwise unenforceable, the remaining provisions shall continue in full force and effect, unless the purpose of this easement is frustrated.

IN WITNESS WHEREOF **Grantor** and **Grantee** have executed this Easement Deed for street, highway, road and/or bridge purposes on the day and year written below and have agreed to be bound by the terms and provisions hereof.

GRANTOR:

SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT

By: 

Name: Dawn M. Rowe

Title: Chairman, Board of Supervisors

Date: MAY 23 2023

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 San Bernardino

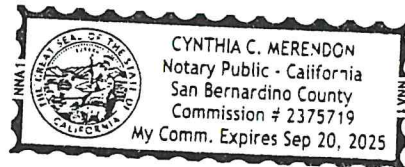
On May 23, 2023 before me, Cynthia C. Merendon, Notary Public
(insert name and title of the officer)

personally appeared Dawn Rowe,
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 Cynthia C. Merendon (Seal)



ACCEPTANCE OF TERMS AND CONDITIONS

This is to certify that the interest in real property conveyed by the Easement Deed for street, highway, road and/or bridge purposes by the SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT to the TOWN OF APPLE VALLEY, a Municipal Corporation, is accepted by the undersigned officer on behalf of Grantee and Grantee agrees to be bound by the terms and provisions hereof.

GRANTEE:

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT "A"
LEGAL DESCRIPTION
ACCESS AND MAINTENANCE EASEMENT
APN: 0444-121-18



BEING A PORTION OF WEST ½ OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND APPROVED BY THE SURVEYOR GENERAL MARCH 19, 1856 SAID LAND IS BOUNDED ON THE WEST BY THE EASTERLY BOUNDARY OF AS DESCRIBED IN A DEED RECORDED IN BOOK 5775, PAGE 258, OFFICIAL RECORDS OF SAID COUNTY AND BOUNDED ON THE EAST BY THE WESTERLY BOUNDARY OF TRACT NO. 8032, IN SAID COUNTY, AS PER PLAT RECORDED IN BOOK 108 OF MAPS, PAGES 1 THROUGH 13, INCLUSIVELY, RECORDS OF SAID COUNTY AND PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT;

THENCE NORTH 01°09'11" EAST ALONG THE WESTERLY LINE OF SAID TRACT, A DISTANCE OF 11.01 FEET TO A POINT 11.00 FEET NORTHERLY OF THE SOUTH SECTION LINE OF SAID SECTION AND THE TRUE POINT OF BEGINNING.

THENCE SOUTH 89°09'11" WEST PARALLEL WITH AND 11.00 FEET NORTHERLY OF THE SOUTH SECTION LINE OF SAID SECTION, A DISTANCE OF 222.38 FEET;

THENCE SOUTH 00°50'49" EAST 5.00 FEET TO A POINT 6.00 FEET NORTHERLY OF THE SOUTH SECTION LINE OF SAID SECTION;

THENCE SOUTH 89°09'11" WEST PARALLEL WITH AND 6.00 FEET NORTHERLY OF THE SOUTH SECTION LINE OF SAID SECTION, A DISTANCE OF 30.65 FEET;

THENCE NORTH 00°50'49" WEST, A DISTANCE OF 152.00 FEET TO A POINT 158.00 FEET NORTHERLY OF THE SOUTH SECTION LINE OF SAID SECTION;

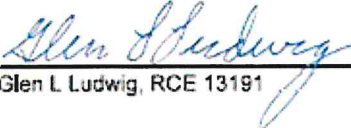
THENCE NORTH 89°09'11" EAST PARALLEL WITH AND 158.00 FEET NORTHERLY OF THE SOUTH SECTION LINE OF SAID SECTION, A DISTANCE OF 258.17 FEET TO THE WESTERLY LINE OF SAID TRACT;

THENCE SOUTH 01°09'11" WEST ALONG THE WESTERLY LINE OF SAID TRACT, A DISTANCE OF 147.09 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.866 ACRES, MORE OR LESS.

SEE EXHIBIT "B" ATTACHED HERETO AND MADE APART HEREOF.

LUDWIG ENGINEERING ASSOCIATES, INC.
PREPARED BY ME OR UNDER MY SUPERVISION

 1-31-2022
Glen L. Ludwig, RCE 13191 Date



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