

RIGHT OF ENTRY

GRANTOR:

Central Contra Costa Sanitary District ("District")

5019 Imhoff Place
Martinez, California 94553

PERMITTEE:

Contra Costa Flood Control and Water Conservation
District ("Permittee")

255 Glacier Drive
Martinez, CA 94553

Permission is hereby given to Permittee, its authorized employees, agents, and contractors, to enter upon the property ("Property") commonly known as:

**A Portion of APN: 159-150-057 as shown
on the Attached Exhibit "A"**

Permission to enter is granted for the purpose of: Temporary nonexclusive access to the Property for use as an access route to and from Permittee's adjacent property

This Right of Entry Agreement ("Agreement") shall remain in effect during the following time period:

May 1, 2019 through December 31, 2020. Extension beyond this period shall be permitted by discretion of Grantor on a month-to-month basis.

And it is hereby agreed to as follows:

1. Permittee shall be responsible for obtaining any permits or approvals from any other agency having jurisdiction.
2. Permittee, at its own expense, shall comply with all applicable laws, regulations, and rules with respect to Permittee's use of the Property, regardless of when they become or became effective, including without limitation, those relating to health, safety, noise, environmental protection, waste disposal, water and air quality, and furnish satisfactory evidence of such compliance upon request of the District. No hazardous materials shall be handled at any time upon the Property. Permittee shall investigate and clean up any discharge, leakage, spillage, emission, or pollution of any type that occurs upon or from the Property due to Permittee's use and occupancy thereof to the reasonable satisfaction of any governmental body having jurisdiction thereover, and to the extent required by law, pay for all costs related to cleanup including, but not limited to, costs of investigation, cleanup, and remediation.
3. Permittee shall be responsible for the maintenance and control over the work performed under this Agreement that is conducted upon and within said Property.

4. For the duration of this agreement the Flood Control District shall maintain general liability insurance coverage with limits of not less than \$1,000,000 per occurrence and \$5,000,000 in the aggregate. Self-insurance may be substituted for commercial insurance when such insurance is provided by a funded reserve to pay claims. Flood Control District contractors must comply with the insurance requirements shown in Exhibit B.
5. Save and except claims or litigation arising through the sole or active negligence or willful misconduct of the District, its officers, agents, or employees, Permittee, agrees to defend, indemnify, save, protect, and hold harmless the District, its officers, agents, and employees, from and against any and all claims, costs (including but not limited to the costs of any required or necessary testing, remediation, repair, removal, cleanup or detoxification of the property and surrounding properties and from and against the preparation of any cleanup, remediation, closure or other required plans whether such action is required or necessary prior to or following the termination of this Agreement), and liabilities for any damage, injury, or death to persons or property arising from the presence, use of, or other activities of any nature on the Property by Permittee, its officers, agents, contractors, or employees in connection with this Agreement.

Permittee agrees the Property is in an "as is" physical condition, with no warranty express or implied on the part of the District as to any matter, including but not limited to the condition of the soil, water, subsurface strata or ambient air in, on, under, at or in the vicinity of the property. Permittee agrees that neither Permittee, nor its heirs, successors or assigns shall ever claim, or have or assert any right or action against the District for any loss, damage or other matter arising out of or resulting from the presence of any hazardous substance or any other condition of the property which existed at the time of this Agreement, or from the release of any hazardous substance in, on, or around any part of the Property or in the soil, water, subsurface strata or ambient air by any person or entity other than the District. As used herein, "hazardous substance" means any substance, material, or waste which is or may become designated, classified or regulated as being "toxic," "hazardous" or a "pollutant" under any federal, state or local law, regulation or ordinance. Nothing in this section is intended in any way to restrict the right of Permittee to seek contribution or indemnity from any person or entity other than the District whose activities are a cause of any discharge, leakage, spillage or emission of hazardous substances on or to the property. However, the rights of the District set forth above with regard to indemnity and defense shall apply if Permittee's attempt to obtain contribution or indemnity resulting in cross claims or contributions being brought against the District.

6. Permittee is not permitted to do evaluations, testing or examinations, environmental or otherwise. Should Permittee desire to perform any other types of evaluations, testing or examinations, environmental or otherwise, a new Right of Entry Agreement or written amendment to this Agreement must be negotiated between Permittee and the District before Permittee can conduct any such work. Notwithstanding the foregoing, the District is under no obligation to grant Permittee permission to perform any other types of evaluations, testing or examinations, environmental or otherwise.
7. Any and all of the District's facilities, landscaping, or miscellaneous improvements, removed or damaged by Permittee shall be repaired or replaced with no less than equivalent replacements at the sole cost and expense of Permittee.

8. Permittee shall provide control of the work site with suitable barricades, fencing, signs and lights, as needed, to effectively warn and protect the public.
9. Permittee shall provide the District with a minimum of twenty-four (24) hours notice prior to entry onto the Property. Permittee shall contact:

David Kramer
Senior Right of Way Agent
5019 Imhoff Drive
Martinez, CA 94553
(925) 229-7117

10. This Agreement and all of its terms, conditions, and covenants is intended to be fully effective and binding, to the extent permitted by law, on successors, heirs, and assigns of the parties hereto.
11. This Agreement is intended by the parties to be the final expression of this Agreement; it embodies the entire agreement and understanding between the parties hereto concerning the Right of Entry; it constitutes a complete and exclusive statement of the terms and conditions concerning the stated issues, and it supercedes any and all prior correspondence, conversations, negotiations, agreements, or understandings relating to the same subject matter. This Agreement may be modified only in writing, signed by both Permittee and the District.
12. The laws of the State of California shall govern the interpretation, validity, and enforcement of this Agreement.
13. Permittee and the District have each had an adequate opportunity to review and contribute to the contents of this Agreement, and therefore agree that the rule of construction that ambiguities in contracts are to be construed against the drafter thereof does not apply to this Agreement.
14. If any provision of this Agreement shall be ruled unenforceable under law, such provision shall be severed from this Agreement and the remainder of this Agreement shall be enforceable to the fullest extent permitted by law.
15. This Agreement may be executed in counterpart, each of which shall be deemed an original and both of which together shall be treated as one document.
16. The permission granted by this Agreement shall not be effective until both Permittee and the District have signed this Agreement below.
17. Each of the undersigned declares that he has the fullest and complete authority to bind the party on behalf of which he is executing this Agreement.

///

CENTRAL CONTRA COSTA SANITARY DISTRICT

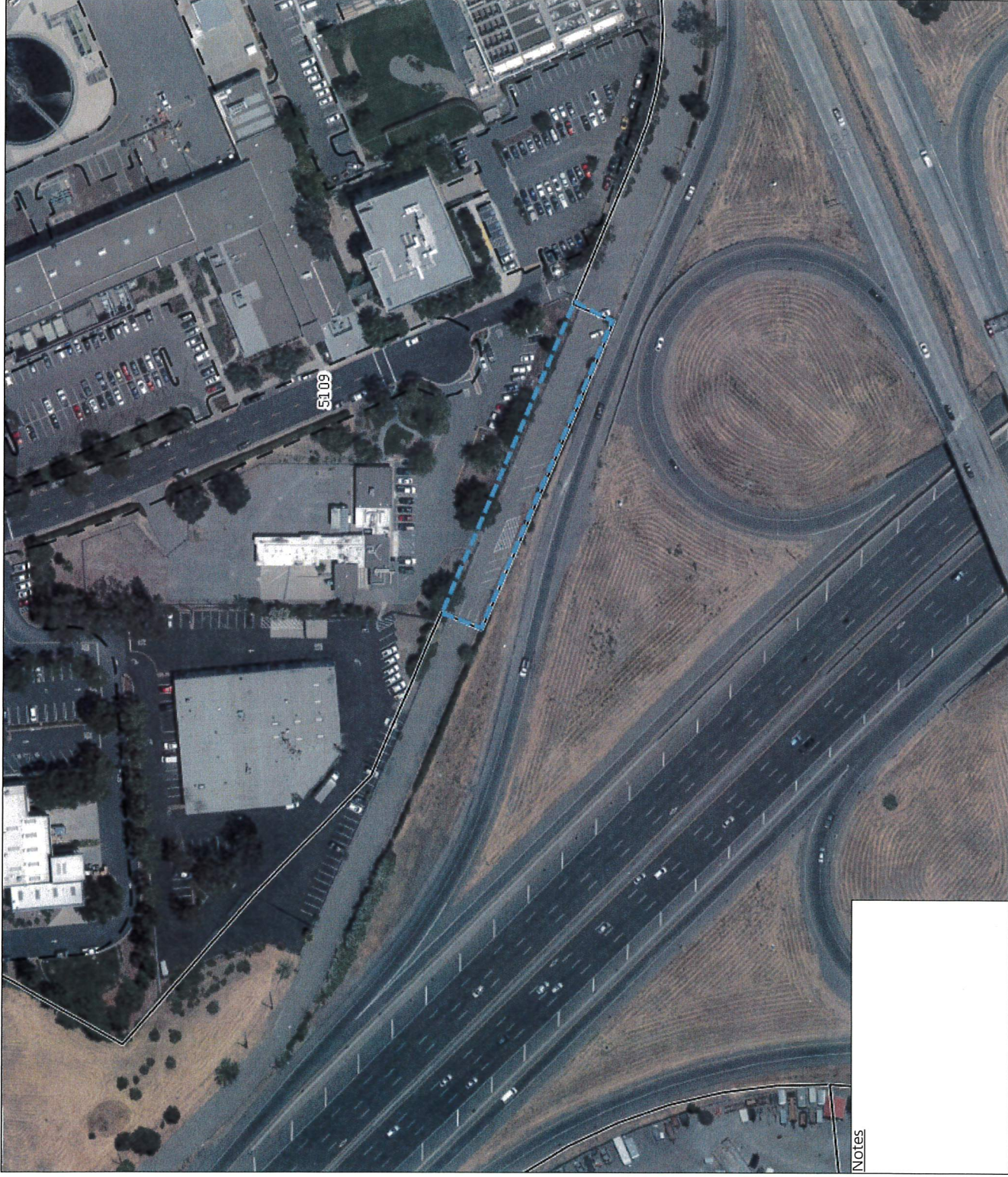
BY:  For DAWSA GEMMELL
Danae Gemmell, Manager
Environmental Services Division

DATE: 4-10-19

Permittee

BY: _____
Brian M. Balbas
Chief Engineer

DATE: _____



Reimbursement Information

- Collect Rebate
- Installer

Easement Document Number

- Private Access
- Recycled Water
- Sewer



- Parcel
- Parcel - Tentative



This map is a user generated static output from Central San's Geoportal and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
Map Created On: 1/10/2019 Map Projection: WGS84



200 Feet

100

0



Notes

EXHIBIT B

INSURANCE REQUIREMENTS

A. Coverages. While the Agreement is in effect, Licensee and each of the Licensee Entities performing any of the Planned Activities shall maintain and furnish evidence of insurance meeting the requirements stated below, in form and amount reasonably satisfactory to Owner, for each of the following types of insurance:

1. Commercial General Liability Insurance (Occurrence Form). A policy of commercial general liability insurance (occurrence form) having a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence, providing coverage for, among other things, blanket contractual liability, premises, products/completed operations and personal and advertising injury coverage;

2. Automobile Liability Insurance. Comprehensive automobile liability insurance having a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence and insuring Licensee and/or Licensee Entities against liability for claims arising out of ownership, maintenance, or use of any owned, hired or non-owned automobiles;

3. Workers' Compensation and Employer's Liability Insurance. Workers' compensation insurance having limits not less than those required by law and covering all persons employed in the conduct of the work to be performed under this Agreement (including the all states endorsement), together with employer's liability insurance coverage in the amount of at least One Million Dollars (\$1,000,000); and

4. Professional Liability Insurance. Professional liability insurance insuring each of the Licensee Entities performing any of the Planned Activities in an amount not less than \$2,000,000 combined each loss and annual aggregate. This coverage may be provided on a "claims made" basis including tail coverage for at least three years from the end of this Agreement.

B. General.

1. Insurance Companies. Insurance required to be maintained by Licensee and/or Licensee Entities, except for Professional Liability Insurance, shall be issued by insurance companies licensed to do business in California and have a rating of at least A as set forth in the most current issue of "Best's Insurance Guide." Professional Liability Insurance required to be maintained by Licensee Entities, if not rated by Best's, shall be issued by insurance companies approved, in writing, by Owner.

2. Certificates of Insurance. Licensee shall deliver to Owner certificates of insurance for all insurance required to be maintained by Licensee and/or Licensee Entities in the form acceptable to Owner, no later than seven (7) days prior to start date of the project. Licensee shall, at least ten (10) days prior to expiration of the policy, furnish Owner with certificates of renewal or "binders" thereof. Each certificate shall expressly provide that such policies shall not be cancelable or otherwise subject to modification except after thirty (30) days prior written notice to the parties named as additional insureds in this Agreement (except in the case of cancellation for nonpayment of premium in which case cancellation shall not take effect until at least ten (10) days' notice has been given to Owner. If Licensee and/or Licensee Entities fail to maintain any insurance required in this Agreement, Licensee shall be liable for all losses and costs resulting from said failure.

3. Additional Insureds. Owner shall be named as an additional insured under all of the policies required by Paragraph A.1 and A.2 of this Exhibit. The policies required under these Paragraphs shall provide for severability of interest.

4. Primary Coverage. All insurance to be maintained by Licensee and/or Licensee Entities shall, except for workers' compensation and employer's liability insurance, be primary, without right of contribution from insurance of Owner. Any umbrella liability policy or excess liability policy shall provide that if the underlying aggregate is exhausted, the excess or umbrella policy will drop down as primary

insurance. The limits of insurance maintained by Licensee and/or Licensee Entities shall not limit Licensee's liability under this Agreement.