

Recorded at the request of:
Contra Costa County Flood
Control and Water Conservation
District

After recording return to:
Contra Costa County
Public Works Department
Real Estate Division
255 Glacier Drive
Martinez, CA 94553
Attn: Angela Bell

EXEMPT FROM RECORDING FEES PURSUANT TO GOV'T. CODE SECTION 27383 AND DOCUMENTARY TRANSFER
TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.

Portion of Assessor's Parcel No.: 138-280-005

GRANT OF EASEMENT

THIS INDENTURE, made by and between **CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**, a flood control district organized under the laws of the State of California, called the "GRANTOR," and **EAST BAY REGIONAL PARK DISTRICT**, a California special district, hereinafter called the "GRANTEE."

WITNESSETH:

That the GRANTOR, for value received, hereby grants to the GRANTEE, and its successors and assigns, a perpetual easement and right of way for ingress and egress and for the purpose of constructing, operating, and maintaining a recreational trail, to be used by the general public using pedestrian, equestrian, bicyclists, and other non-motorized modes of transportation, for trail purposes as determined by the Grantee (not to be exclusive) over and across that certain real property in the County of Contra Costa, State of California, described as follows: (the "Easement Area"):

FOR DESCRIPTION SEE EXHIBIT "A & B" ATTACHED HERETO AND MADE A PART HEREOF

The easement herein granted shall include the right by said GRANTEE, its officers, agents and employees, and by persons under contract with it and their employees, to enter upon the Easement Area with personnel, vehicles, and equipment whenever necessary to access GRANTEE'S Stage Road Trail improvements located on GRANTOR'S land. GRANTEE shall access said trail improvements by means of roads and lanes located within the Easement Area. Said Easement shall also include the right to place appropriate signs within the Easement Area for the benefit of the general public and, from time to time thereafter, to police, inspect, and maintain the Easement Area. GRANTOR acknowledges that the general public shall have use of said trail. GRANTEE shall have the right to remove all trees and

vegetation within and along any roads and lanes within the Easement Area that may otherwise interfere with the purpose for which the Easement herein is granted.

The foregoing grant is made subject to the following terms and conditions:

1. CONSTRUCTION AND MAINTENANCE ACTIVITIES:

(a) Prior to any construction, reconstruction, remodeling, excavation, installation, or plantings within the Easement Area, GRANTEE shall submit specific plans and specifications to the GRANTOR for review and approval. Any such approval by GRANTOR, together with any additional requirements, will be issued in the form of a written permit issued by GRANTOR to GRANTEE.

(b) Normal maintenance by GRANTEE of its facilities within the easement area, including routine maintenance, vegetation removal and weed abatement, shall not require prior notice to the GRANTOR. GRANTEE shall perform maintenance of its facilities so as to prevent damage to the Easement Area.

2. DAMAGE TO DISTRICT PROPERTY: Any and all GRANTOR Property, facilities, landscaping, or other improvements removed or damaged as a result of the use of the Easement Area by GRANTEE, or any other person or entity acting under GRANTEE's direction or control, shall, at GRANTOR's discretion and direction, either (a) be repaired or replaced by GRANTOR, with all reasonable costs and expenses to be paid by GRANTEE (including but not limited to engineering costs and legal costs of collecting any unpaid expenses), or (b) shall be repaired or replaced by GRANTEE, at the sole cost and expense of GRANTEE, equivalent to or better than their existing condition. In the event that GRANTEE fails to commence the required work within thirty days after being directed to do so by GRANTOR, or such reasonable extension as GRANTOR may agree to in writing, or fails to complete the required work within a reasonable time thereafter, GRANTOR may perform or complete the work at the expense of GRANTEE, which expense GRANTEE agrees to pay to GRANTOR promptly upon demand, including but not limited to engineering costs and any legal expenses incurred to collect such costs.

3. DAMAGE TO GRANTEE'S FACILITIES: GRANTOR shall have no responsibility for the protection, maintenance, damage to, or removal of GRANTEE's facilities, appurtenances, or improvements, caused by or resulting from GRANTOR's use of the Property or work or operation thereon. It shall be the sole responsibility of the GRANTEE to provide and maintain adequate protection and surface markings for its own facilities.

4. INDEMNIFICATION, AS-IS CONDITION OF PROPERTY:

(a) In the exercise of all rights under this Easement, GRANTEE shall be responsible for any and all injury to the public, to persons, and to property arising out of or connected with the use of the Easement Area by GRANTEE, its officers, employees, contractors, agents, licensees, invitees, or members of the public. GRANTEE shall

indemnify, defend, save, protect, and hold harmless, GRANTOR, its officers, agents, employees, and contractors ("GRANTOR INDEMNITEES") from and against any and all threatened or actual loss, damage (including foreseeable and unforeseeable consequential damages), liability, claims, suits, demands, judgments, orders, costs, fines, penalties or expense of whatever character, including but not limited to those relating to inverse condemnation, and including attorneys' fees, (hereinafter collectively referred to as "Liabilities") to persons or property, direct or consequential, directly or indirectly contributed to, caused by, connected with any of the following: (i) the granting of this Easement; (ii) GRANTEE's operations, acts, or omissions pursuant to this Easement; (iii) GRANTEE's, its officer's, employee's, contractor's, or agent's occupancy, use, or improvement of the Easement Area; or (iv) the occupancy or use of the Easement Area by the public. Notwithstanding the foregoing GRANTEE shall not be required to indemnify, defend, save, protect, and hold harmless GRANTOR INDEMNITEES from any Liabilities that arise from the sole negligence or sole willful misconduct of any GRANTOR INDEMNITEES. GRANTEE acknowledges that the property subject to this Easement is in a flood control area. GRANTEE agrees that GRANTEE shall never have, claim, or assert any right or action against GRANTOR or the County of Contra Costa in the event of damage to or disruption of GRANTEE's facilities caused or contributed to by flooding or water, and GRANTEE shall indemnify, defend, save, protect and hold GRANTOR INDEMNITEES harmless from all Liabilities resulting from such damage or disruption.

(b) GRANTEE further agrees to defend, indemnify, save, protect, and hold harmless GRANTOR from any and all actual or threatened claims, costs, actions or proceedings to attack, set aside, void, abrogate or annul this grant of easement or any act or approval of GRANTOR related thereto.

(c) GRANTEE accepts the easement area in an "as is" physical condition, with no warranty, guarantee, representation or liability, express or implied on the part of the GRANTOR as to any matter, including but not limited to the physical condition of the Property and/or the condition and/or possible uses of the land or any improvements thereon, the condition of the soil or the geology of the soil, the condition of the air, surface water or groundwater, the presence of known and unknown faults, the presence of any hazardous substance, materials, or other kinds of contamination or pollutants of any kind in the air, soil, groundwater or surface water, or the suitability of the Property for the construction and use of the improvements thereon. It shall be the sole responsibility of GRANTEE, at its sole cost and expense, to investigate and determine the suitability of the soil, water, geologic, environmental and seismic conditions of the Property for the intended use contemplated herein, and to determine and comply with all building, planning and zoning regulations relative to the Property and the uses to which it can be put. GRANTEE relies solely on GRANTEE's own judgment, experience and investigations as to the present and future condition of the Property or its suitability for GRANTEE's intended use and is not relying in any manner on any representation or warranty by GRANTOR. GRANTEE agrees that neither GRANTEE, its heirs, successors or assign shall ever claim have or assert any right or action against GRANTOR 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 at the commencement of the easement 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 GRANTOR following the commencement of this easement. 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 GRANTEE to seek contribution or indemnity from any person or entity other than GRANTOR whose activities are a cause of any discharge, leakage, spillage or emission of hazardous materials on or to the Property.

(d) To the extent permitted by law, GRANTEE shall indemnify, defend, save, protect and hold the GRANTOR harmless from and against any and all claims, demands, Liabilities, expenses (including without limitation attorneys fees and consultants fees), penalties, damages, consequential damages and losses, and 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 the easement), of any kind or nature, to the extent caused or contributed to by GRANTEE's operation or performance under this easement, or GRANTEE's use, release or disposal of any hazardous substance, including all costs, claims, damages (including property and personal injury) caused by the uncovering, release or excavation of hazardous materials (including petroleum) as a result of GRANTEE's construction, reconstruction, maintenance, use, replacement, or removal of its facilities, to the extent that such activities increase the costs attributable to the cleanup or remediation of such hazardous materials.

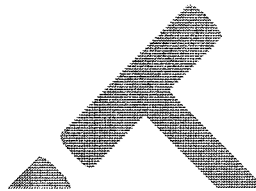
(e) The obligations contained in this section shall survive the expiration or other termination of this easement.

TO HAVE AND TO HOLD, all and singular, the rights above described unto the GRANTEE and the GRANTEE'S successors and assigns forever.

IN WITNESS WHEREOF, this Grant of Easement is signed and executed this _____ day of _____ 2020.

CONTRA COSTA COUNTY FLOOD
CONTROL & WATER CONSERVATION
DISTRICT

By _____
Candace Andersen,
Chair, Board of Supervisors



STATE OF CALIFORNIA)
COUNTY OF CONTRA COSTA)

On _____ before me, Clerk of the Board of Supervisors, Contra Costa County, 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: _____
Deputy Clerk

APPROVED AS TO FORM
by County Counsel
July, 1999

