

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 ("Permitee")
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:

**Portions of APN: 159-250-020, 159-140-050 and 159-140-057 as described
in Exhibit "A" and shown on Exhibit "B" Attached hereto**

Permission to enter is granted for the purpose of: nonexclusive access over the Property for use as an access route to and from Permittee's Lower Walnut Creek Restoration Project ("Project").

This permission is granted on the understanding that the Permittee will hereafter without unnecessary delay negotiate with the undersigned, and any other person, if any, having any right, title or interest in the Property, to agree upon terms of compensation, and that, if any agreement cannot be reached, the Permittee will promptly commence eminent domain proceedings to have such compensation determined.

This Right of Entry Agreement ("Agreement") shall remain in effect until all property rights required for the Project have been acquired or until a reasonable time after the Permittee has been requested by the District to commence eminent domain proceedings.

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 Permittee shall maintain general liability insurance coverage with limits of not less than \$1,000,000 per occurrence and \$5,000,000 in the aggregate. Permittee, at its discretion, may substitute self-insurance for commercial insurance when such self-insurance is provided by a funded reserve to pay claims. Permittee's contractors must comply with the insurance requirements shown in Exhibit C.
5. Permittee shall defend, indemnify, save, protect, and hold harmless the District, its officers, agents, and employees, from and against all claims, costs, expenses, damages, fees, attorney's fees, and liabilities for any damage, injury to or death of persons, or damage to or loss of property (collectively, "Liabilities") to the extent that any Liabilities arise from the negligence or willful misconduct of the Permittee, its officers, employees, contractors, agents, and representatives while occupying and using the Property under this Agreement.
5. 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.
6. 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.
7. Permittee shall provide control of the work site with suitable barricades, fencing, signs and lights, as needed, to effectively warn and protect the public.
8. 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

9. 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.
10. 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.

11. The laws of the State of California shall govern the interpretation, validity, and enforcement of this Agreement.
12. 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.
13. 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.
14. 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.
15. The permission granted by this Agreement shall not be effective until both Permittee and the District have signed this Agreement below.
16. 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.

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CENTRAL CONTRA COSTA SANITARY DISTRICT

BY: _____
Danea Gemmell,
Planning and Development Services Division Manager
Permittee

DATE: _____

BY: _____
Brian M. Balbas
Chief Engineer

DATE: _____

EXHIBIT C

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.

EXHIBIT "A"

Real property located in an unincorporated area of the County of Contra Costa, State of California, being a portion of Section 15, Township 2 North, Range 2 West, Mount Diablo Meridian, also being a portion of the parcel described in the Grant Deed from Gonsalves & Santucci, Inc. to Central Contra Costa Sanitary District recorded on August 6, 2007 at Recorder's Series Number 2007-0224784, Contra Costa County records, described as follows

Access Easement 2 FCPID 5251

Commencing at the east corner of that property described in the Grant Deed from LandBank Baker, L.L.C. to Gonsalves & Santucci, Inc. recorded July 2, 2002 in Recorder's Series Number 2002-0232100; thence, along the southeast line of said Parcel (2002-0232100), south 33°05'10" west for a distance of 130.58 feet to the southeast corner of said Central Contra Costa Sanitary District Parcel (2007-0224784); thence along the northeast line of said Parcel (2007-0224784), north 29°37'46" west for a distance of 14.67 feet to the Point of Beginning; thence leaving said northeast line south 33°05'10" west for a distance of 112.52 feet to a point on the southwest line of said Parcel (2007-0224784); thence along said southwest line north 29°37'46" west for a distance of 28.13 feet; thence leaving said southwest line north 33°05'10" east for a distance of 108.23 feet to the beginning of a tangent curve, concave to the northwest, having a radius of 87.50; thence along said curve through a central angle of 2°50'38" for an arc distance of 4.34 feet to a point on said northeast line of said Parcel (2007-0224784); thence along said northeast line, south 29°37'46" east for a distance of 28.25 feet to the Point of Beginning.

Containing 2813 square feet (0.065 acres), more or less.

Exhibit "B", a plat is attached hereto, and by this reference, made a part hereof.

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

Signature: James A. Stein

Licensed Land Surveyor
Contra Costa County Public Works Department

Date: 10/20/2020



EXHIBIT "B"

PLAT TO ACCOMPANY EXHIBIT "A"

Central Contra Costa
Sanitary District
2007-0224784
APN 159-250-020

Gonsalves & Santucci, Inc.
(Conco Site)
2002-0232100
APN 159-250-022

Parcel Two of
LLA 01-0032
2003-104328
APN 059-250-019



(R) N59° 45' 28"W

R=87.50'
L=4.34'
 $\Delta=2^{\circ}50'38''$

S29° 37' 46"E
28.25'

S33° 05' 10"W
130.58'

P.O.B. Access Easement

N33° 05' 10"E
108.23'

N29° 37' 46"W
14.67'

Gonsalves & Santucci, Inc.
(Conco Site)
2002-0232100
APN 159-250-021

FCPID 5251

S33° 05' 10"W
112.52'

N29° 37' 46"W
28.13'

BNSF Railroad

Central Contra Costa
Sanitary District
Book 8698 O.R. Page 644
APN 159-140-050

Access Easement 2 FCPID 5251

Instr _____ Recorded _____

Series # _____



Contra Costa County
Public Works Department
255 Glacier Drive
Martinez, CA 94553

SCALE: 1"=50'

DATE: 10/19/2020

DRAWN BY: BD

DRAWING NO.

CHECKED BY: JS

FA-20158

EXHIBIT "A"

Real property located in an unincorporated area of the County of Contra Costa, State of California, being a portion of Section 22, Township 2 North, Range 2 West, Mount Diablo Meridian, also being a portion of that parcel described in the Grant Deed from Pacific Gas and Electric Company to Central Contra Costa Sanitary District, recorded February 6, 1978 in Book 8698 of Official Records at Page 643, also being a portion of that parcel described in the Deed from Annie Loucks to Central Contra Costa Sanitary District, recorded October 29, 1947 in Book 1141 of Official Records at Page 402, also being a portion of that parcel described in the Grant Deed from V. P. Baker, et al. to Central Contra Costa Sanitary District, recorded December 28, 1964 in Book 4771 of Official Records at Page 68, also being a portion of that parcel described in the Grant Deed from V. P. Baker et al. to Central Contra Costa Sanitary District, recorded July 26, 1967 in Book 5418 of Official Records at Page 311 and a portion of that parcel described in the Grant Deed from Allied Properties et al. to Central Contra Costa Sanitary District, recorded July 7, 1970 in Book 6165 Official Records at Page 448, Contra Costa County records, described as follows:

Access Easement 6 FCPID 5255

All of that parcel described in EXHIBIT "C" of the Grant of Road Easement from Central Contra Costa Sanitary District to Gonsalves & Santucci, Inc. recorded on August 6, 2007 at Recorder's Series Number 2007-0224782.

Together with:

All of that 49.00 feet wide parcel described in the Easement from Pacific Gas and Electric Company to Industrial Tank, Inc. recorded on January 23, 1974 in Book 7140 of Official Records at Page 437.

Containing 117,663 square feet (2.701 acres), more or less

Exhibit "B", a plat is attached hereto, and by this reference, made a part hereof.

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

Signature: James A. Stein

Licensed Land Surveyor
Contra Costa County Public Works Department

Date: 10/20/2020



EXHIBIT "B"

PLAT TO ACCOMPANY EXHIBIT "A"

BNSF Railroad

50' Easement
2014-0087269

49'

FCPID 5255

Central Contra
Costa Sanitary
District
Book 8698
O.R. Page 643
APN 159-140-050



49' Easement
Book 7140
O.R. Page 437

Central Contra Costa
Sanitary District
Book 6165 O.R. Page 448
Book 5418 O.R. Page 311
Book 4771 O.R. Page 68
Book 1141 O.R. Page 402
APN 159-140-057

Road Easement
2007-0224782

Central Contra Costa
Sanitary District
Book 15802 O.R. Page 559
APN 159-140-042

34'

FCPID 5255

See Sheet 2 of 4

Access Easement 6 FCPID 5255

Instr _____ Recorded _____

Series # _____



Contra Costa County
Public Works Department
255 Glacier Drive
Martinez, CA 94553

SCALE: 1"=150'

DATE: 10/19/2020

DRAWN BY: BD

DRAWING NO.

CHECKED BY: JS

FA-20162

EXHIBIT "B"

PLAT TO ACCOMPANY EXHIBIT "A"

See Sheet 1 of 4



34'

FCPID 5255

**Central Contra Costa
Sanitary District
Book 6165 O.R. Page 448
Book 5418 O.R. Page 311
Book 4771 O.R. Page 68
Book 1141 O.R. Page 402
APN 159-140-057**

**Central Contra Costa
Sanitary District
Book 15802 O.R. Page 559
APN 159-140-042**

**Road Easement
2007-0224782**

34'

**Central Contra Costa
Sanitary District
Book 6700 O.R. Page 28
APN 159-140-057**

See Sheet 3 of 4

Access Easement 6 FCPID 5255

Instr _____ Recorded _____

Series # _____



Contra Costa County
Public Works Department
255 Glacier Drive
Martinez, CA 94553

SCALE: 1"=150'

DATE: 10/19/2020

DRAWN BY: BD

DRAWING NO.

CHECKED BY: JS

FA-20162

EXHIBIT "B"

PLAT TO ACCOMPANY EXHIBIT "A"

See Sheet 2 of 4

**Central Contra Costa
Sanitary District
Book 15802 O.R. Page 559
APN 159-140-042**



34'

**Road Easement
2007-0224782**

**Central Contra Costa
Sanitary District
Book 6700 O.R. Page 28
APN 159-140-057**

FCPID 5255

**Central Contra Costa
Sanitary District
Book 6165 O.R. Page 448
Book 5418 O.R. Page 311
Book 4771 O.R. Page 68
Book 1141 O.R. Page 402
APN 159-140-057**

**Road Easement
2007-0224782**

34'

**Contra Costa County
Book 6179 O.R. Page 466
APN 159-140-059**

See Sheet 4 of 4

Access Easement 6 FCPID 5255

Instr _____ Recorded _____

Series # _____



**Contra Costa County
Public Works Department
255 Glacier Drive
Martinez, CA 94553**

SCALE: 1"=150'

DATE: 10/19/2020

DRAWN BY: BD

DRAWING NO.
FA-20162

CHECKED BY: JS

EXHIBIT "B"

PLAT TO ACCOMPANY EXHIBIT "A"

See Sheet 3 of 4

**Central Contra Costa
Sanitary District
Book 6700 O.R. Page 28
APN 159-140-057**

34'

FCPID 5255

**Central Contra Costa
Sanitary District
Book 6165 O.R. Page 448
Book 5418 O.R. Page 311
Book 4771 O.R. Page 68
Book 1141 O.R. Page 402
APN 159-140-057**

**Contra Costa County
Book 6179 O.R. Page 465
APN 159-140-059**

**Road Easement
2007-0224782**

Inhoff Drive

**Central Contra Costa
Sanitary District
APN 159-150-057**

Access Easement 6 FCPID 5255

Instr _____ Recorded _____

Series # _____



**Contra Costa County
Public Works Department
255 Glacier Drive
Martinez, CA 94553**

SCALE: 1"=150'

DATE: 10/19/2020

DRAWN BY: BD

**DRAWING NO.
FA-20162**

CHECKED BY: JS