

# RIGHT OF WAY CONTRACT - INTERNAL ESCROWS

RW 8-3A (4/93)

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Grantor: Gonsalves & Santucci, Inc.  
Portion of APNS: 159-250-006, -018, -019, -021, -022  
Project Name: Lower Walnut Creek Restoration  
Project No.: 7520-6B8285

\_\_\_\_\_, California  
\_\_\_\_\_, 2021

Documents in the form of a Grant of Easement (Ingress & Egress) and Temporary Construction Easements (Floating & Access), each dated \_\_\_\_\_, 2021, covering the property particularly described in the above instruments and clause 5 below, (collectively the "Property") , has been executed and delivered to Angela Bell, Senior Real Property Agent for Contra Costa Flood Control & Water Conservation District.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. (A) The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the District of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.  
  
(B) District requires the Property for levee restoration purposes, a public use for which the District has the authority to exercise the power of eminent domain. Grantor is compelled to sell, and District is compelled to acquire the Property.
2. The District shall pay the undersigned Grantor the sum of Forty Nine Thousand and Nine Hundred, (\$49,900) for the Property or interest conveyed by above document and clause 5 below. Title to be taken subject to Grantor underlying fee title and:
  - (a) Covenants, conditions, restrictions and reservations of record, if any.
  - (b) Easements or rights of way of record over said Property.
3. To the extent permitted by law, and except as otherwise provided herein, the District shall indemnify, defend, and save harmless Grantor, its officers, employees, and agents from and against any and all costs, losses, damages, liabilities, expenses (including reasonable attorneys' fees and costs of defense), claims, and demands of whatever character, (collectively, "Liabilities") to the extent that the Liabilities arise from or are connected with the negligence or willful misconduct of the District, its officers, employees, contractors, or agents while occupying and using the Property for the Project under this contract.

4. Grantor warrants that there is no oral or written grazing lease on all or any portion of the Property exceeding a period of one month, and the Grantor further agrees to hold the District harmless and reimburse the District 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.
5. Permission is hereby granted to the District, its contractors, and their authorized agents to enter upon Grantors' land within that certain area described in Exhibits "A" and "A-1" and shown on Exhibits "B" and "B-1" attached to the Temporary Construction Easement (TCEs), mentioned above, in connection with the Project.

The use of the TCEs under the Right of Entry effective January 1, 2021, shall continue to be effective under this contract and terminate on June 30, 2022.

In case of unpredictable delays in construction, upon written notification, the terms of the TCEs may be extended by an amendment to this Right of Way Contract. Grantor shall be compensated based on the fair market value at the time of the extension. Payment shall be made to the Grantor prior to the expiration of the original period.

6. The location of Access Easement 4, described in Grant of Easement may be relocated from time to time as mutually agreed upon by Grantor and District's Chief Engineer, or designee, provided that the Chief Engineer, or designee, determines such relocated Access Easement 4 is consistent with being substantially the same dimensions, having the substantially the same contiguity, and providing substantially the same access, as Access Easement 4 described in the Grant of Easement. Upon any relocation of Access Easement 4, in accordance with the terms of the Easement, the parties will prepare a new instrument and, if necessary, amendment to this Right of Way Contract to document the relocation.
7. The undersigned Grantor hereby agrees and consents to the dismissal of any eminent domain action in the Superior Court wherein the herein described land is included and also waives any and all claims to any money that may now be on deposit in said action.
8. The Grantor hereby represents and warrants that during the period of Grantor's ownership of the Property, Grantor has no knowledge of, disposals, releases or threatened releases of hazardous substances of Hazardous Wastes on, from, or under the Property.

The acquisition price of the Property being acquired in this transaction reflects the fair-market value of the Property without the presence of contamination. If the Property being acquired is found to be contaminated by the presence of Hazardous Waste, which requires mitigation under Federal or State law, the District may elect to recover its clean-up costs from those who caused or contributed to the contamination.

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9. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the subject Property by the District, including the right to remove and dispose of improvements shall commence upon close of escrow controlling this transaction. Upon close of escrow, this contract supersedes the Right of Entry between said parties. The amount shown in Clause 2 herein includes, but is not limited to, full payment for such possession and use, including damages, if any, and interest from said date.
10. This transaction will be handled through an internal escrow with Contra Costa District, 255 Glacier Drive, Martinez, California, 94553.

*In Witness Whereof*, the Parties have executed this agreement the day and year first above written.

CONTRA COSTA DISTRICT  
Recommended for Approval:

By \_\_\_\_\_  
Angela Bell  
Senior Real Property Agent

By \_\_\_\_\_  
Jessica L. Dillingham  
Principal Real Property Agent

APPROVED:

By \_\_\_\_\_  
Brian M. Balbas  
Public Works Director

Date \_\_\_\_\_  
(Date of Approval)

GONSALVES & SANTUCCI, INC.  
dba CONCO, INC.

By \_\_\_\_\_ 4/5/21  
Name: Joe Sostaric  
Title: Conco Vice-President

By \_\_\_\_\_ 4/5/21  
Name: Holly Bertucelli  
Title: CFO - V.P.

AB:dw

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