

Project Name: Conveyance of Access Easement CCCFCWCD
Appurtenant to Assessor's Parcel Number: 409-300-002
Property: Parcel 5132, Richmond, CA
Project Number: 7505-6F8336

REAL PROPERTY EXCHANGE AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2022 ("Effective Date") 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, hereinafter called "District," and Fujii Nursery Company, a California corporation, and Tokumaru Raymond Fujii, **Ungyo Lynn Sugiyama, Erica Satoko Sugiyama-Hill, and Enid Takako Sugiyama-Murray, Executors of the Estate of Kaoru Fujii Sugiyama also known as Kaye Sugiyama, also known as Kaoru Kay Sugiyama deceased, pursuant to the Letters of Testamentary filed January 9, 2018 in the Superior Court of California, County of Contra Costa, under Case No. P17-01644 and Karen K. Suyama, Executor of the Estate of Jiro Fujii, deceased, pursuant to the Letters of Testamentary filed January 9, 2018 in the Superior Court of California, County of Contra Costa, under Case No. P17-01643** (together, "Grantees"). The District and the Grantees are sometimes referred to herein together as the "Parties," and each as a "Party."

RECITALS

- A. In 1986, the District purchased a ±2.7 acres of real property identified as APN 409-300-011 described as Parcels 1 and 2 in the Grant Deed, recorded on December 31, 1986, Book 13359 Page 667, which became current APN 409-300-036 and is hereinafter called "District's Property", from Fukushima Nursery, a California Corporation, to construct a basin and widen the channel at Wildcat Creek, in the Richmond area of Contra Costa County. Before the District acquired the District's Property, Grantees possessed a 30-foot-wide "Right of Way for Road Purposes" ("Prior Easement") along the easterly boundary of the District's Property for access to the adjacent Grantee's property identified as APN 409-300-002 ("Grantee Property").
- B. Following the District's purchase of the District Property, the Prior Easement was physically terminated by the District due to the construction of the basin and the widening of the channel. Further, the bridge spanning Wildcat Creek was removed, leaving Grantees with no legal access to the Grantee Property.
- C. The District will agree to Grantees' request to convey to Grantees a nonexclusive 25-foot-wide access easement, ("New Access Easement") over an area known as Parcel 5132, in Richmond, California, and described and depicted in the Grant of Easement attached hereto as Exhibit "A." The New Access Easement is upon, over, and across a private road on the District's Property and is currently maintained by the District. In consideration for the granting of the Access Easement, the Grantees will quitclaim to the District any remaining right, title, and interest they may have in the Prior Easement area by that quitclaim deed attached as Exhibit "B" ("Quitclaim Deed"). The Parties agree that the exchange of such property rights between the Parties shall be subject to the terms of this Agreement.

AGREEMENT

In consideration of the covenants and conditions hereinafter contained, and for good and valuable consideration the receipt and adequacy of which are hereby acknowledged, it is mutually agreed as follows:

1. **Exchange of Easements.** Subject to the terms of this Agreement, District will convey to the Grantees the New Access Easement by that Grant of Easement attached hereto and incorporated herein as Exhibit "A." As partial consideration for the conveyance of the New Access Easement, Grantees shall quitclaim all of their right, title, and interest in and to Parcel 5133 by the Quitclaim Deed attached hereto and incorporated herein as Exhibit "B."
2. **Internal Escrow.** Grantees shall deliver to the Real Estate Division at the address specified in Section 6, this Agreement, the Grant of Easement, and the Quitclaim Deed, all executed by Grantees and with all signatures duly acknowledged by a notary public. Within 10 days thereafter, Real Estate Division staff, on behalf of the District, will do the following: (a) return to Grantee a fully-executed copy of this Agreement, and (b) cause the fully executed Grant of Easement and Quitclaim Deed to be recorded in the Official Records of Contra Costa County. District will pay all recording fees and other fees incurred to process this transaction.
3. **Title.** Grantees hereby acknowledge and agree that the right, title, and interest in the property to be conveyed to Grantees by the Grant of Easement shall not exceed that vested in the District, and said property interest is conveyed subject to all existing easements, covenants, conditions, restrictions, reservations, and all other encumbrances, whether the same be recorded or unrecorded.
4. **Board Approval Required.** District shall have no obligation under this Agreement unless and until this Agreement is approved by the Contra Costa County Board of Supervisors, acting as District's governing body.
5. **Release.** As partial consideration for District's performance of its obligations under this Agreement, Grantees, on behalf of themselves, their agents, subsidiaries, affiliates, successors and assigns, hereby release and discharge District, its employees, agents, attorneys, officers, divisions, related agencies and entities, affiliates, successors and assigns, ("District Parties") from any and all claims, demands, causes of action, obligations, damages and liabilities, including without limitation, attorneys' fees and costs, (collectively, "Liabilities") that Grantees, now have or could assert in any manner related to or arising from the conveyance of the Access Easement, the Quit Claim Deed, or relating to or arising from District's acquisition of District's Property and Grantees' Prior Easement. Grantees knowingly waive their right to make any claim against any District Parties for any Liabilities discussed in this Section, and, as to those Liabilities, Grantees expressly waive all rights provided by section 1542 of the California Civil Code, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

This Section 5 shall survive the recording of the Grant of Easement and the Quitclaim Deed and shall remain enforceable thereafter.

6. **Notices.** All notices, communications, and other writings exchanged between the parties shall be delivered personally, by overnight carrier with delivery charges for next day prepaid, or by U.S. Mail with all postage charges prepaid, and delivered or addressed as follows:

To District:

Contra Costa County Flood Control and Water Conservation District
C/o Real Estate Division, Public Works Department
255 Glacier Drive
Martinez, CA 94553

To Grantees:

Tokumaru Raymond Fujii, Trustee
812 Duncardine Way
Sunnyvale, CA 84087

Each notice, communication, or other writing shall be deemed delivered immediately if personally delivered, on the next business day after deposit with an overnight carrier with delivery charges for next day delivery prepaid, or on the fifth day after mailing if mailed by U.S. Mail with postage prepaid. Any party may change its address for deliveries by providing written notice to the other party in the manner required by this Section 6.

7. **Entire Agreement.** This Agreement, inclusive of its exhibits, contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. The terms of this Agreement shall remain enforceable after the recording of the Grant of Easement and Quitclaim Deed and shall not merge into those deeds.
8. **Governing Law.** This Agreement shall be governed by the laws of the State of California. Any action to enforce or interpret this Agreement shall be filed in a California state court where jurisdiction and venue are proper.
9. **Successor Owners.** This Agreement shall inure to the benefit of and shall be binding upon the Parties and their successors, including all successor owners of the Grantee Property.
10. **Counterparts.** This Agreement may be executed in counterparts.

[Signatures on next page.]

The parties herein have set forth the whole of their agreement and the performance of this agreement shall relieve the District of all further obligations or claims on this account.

CONTRA COSTA COUNTY FLOOD CONTROL and WATER CONSERVATION DISTRICT, a flood control district organized under the laws of the State of California

By: _____
Brian M. Balbas
Chief Engineer

Date: _____
(Date of Board Approval)

RECOMMENDED TO THE BOARD OF SUPERVISORS FOR APPROVAL

By _____
Olivia D. Reynolds-Freeman
Senior Real Property Agent

By _____
Jessica L. Dillingham
Principal Real Property Agent

Fujii Nursery Company,
a California corporation

By: Tokumaru Fujii
Tokumaru Fujii
Its: President/Secretary

Tokumaru Raymond Fujii
Tokumaru Raymond Fujii

The Estate of Kaoru Fujii Sugiyama also known as Kaye Sugiyama also known as Kaoru Kay Sugiyama, deceased, pursuant to the Letters of Testamentary filed January 9, 2018 in the Superior Court of California, County of Contra Costa, Case No. P17-01644

Ungyo Lynn Sugiyama, Executor

Erica Satoko Sugiyama-Hill, Executor

Enid Takako Sugiyama-Murray

The Estate of Jiro Fujii, deceased, pursuant to the Letters of Testamentary filed January 9, 2018 in the Superior Court of California, County of Contra Costa, Case No. P17-01643

Karen K. Suyama, Executor

The parties herein have set forth the whole of their agreement and the performance of this agreement shall relieve the District of all further obligations or claims on this account.

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a California corporation

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Brian M. Balbas
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By: _____
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Its: President/Secretary

Date: _____
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By _____
Olivia D. Reynolds-Freeman
Senior Real Property Agent

DocuSigned by:
Ungyo Lynn Sugiyama
B6498E2880EE42E
Ungyo Lynn Sugiyama, Executor

By _____
Jessica L. Dillingham
Principal Real Property Agent

Erica Satoko Sugiyama-Hill, Executor

Enid Takako Sugiyama-Murray

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DocuSigned by:
Karen K. Suyama
C28A3351E5A44D0
Karen K. Suyama, Executor

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Karen K. Suyama, Executor

EXHIBIT "A"

A strip of land 25 feet in width being a portion of those parcels of land conveyed to the Contra Costa County Flood Control & Water Conservation District (CCCFC & WCD) in documents recorded: November 9, 1988 in Book 14705 of Official Records at page 758 (series number 88-208403); October 12, 1988 in 14648 OR 185 (88-187965); March 9, 1989 in 14926 OR 583 (89-43101); and December 31, 1986 in 13359 OR 667 (86-241324); situate in Lot 198, San Pablo Rancho, County of Contra Costa, State of California, described as follows:

Parcel 5132 - Access Easement

For the purpose of ingress and egress to assessors' parcel number 409-300-002.

Beginning at the northwest corner of Parcel Two described in the deed from the City of Richmond to CCCFC & WCD (14705 OR 758), said point being on the easterly line of Third Street; thence from said Point of Beginning, along the north line of said Parcel Two, south 89°59'35" east, 556.54 feet to the southwest corner of the parcel described in the deed from Ninomiya Nursery Co. to CCCFC & WCD (14648 OR 185); thence along the northwesterly line of said parcel, north 39°41'56" east, 38.35 feet to a point on the west line of the parcel described in the deed from Richmond Unified School District to CCCFC & WCD (14926 OR 583); thence continuing north 39°41'56" east, 44.73 feet to a point on the north line of said CCCFC & WCD parcel (14926 OR 583); thence along said north line the following three (3) courses: 1) north 90°00'00" east 285.22 feet; 2) north 64°20'00" east 110.91 feet; 3) north 90°00'00" east 270.00 feet to the northwest corner of Parcel One described in the deed from Fukushima Nursery to CCCFC & WCD (13359 OR 667); thence along the north line of Parcel One and Parcel Two of said deed (13359 OR 667) north 90°00'00" east, 250.00 feet to the east line of said Lot 198, San Pablo Rancho; thence along said east line, south 0°15'00" east, 25.00 feet; thence parallel to said north line (13359 OR 667), south 90°00'00" west, 514.41 feet; thence south 64°20'00" west, 110.91 feet; thence parallel to said north line of 14926 OR 583, south 90°00'00" west, 266.18 feet; thence south 39°41'56" west, 83.09 feet to a point on the west line of said parcel described in the deed from Richmond Unified School District to CCCFC & WCD (14926 OR 583); thence parallel with and 25.00 feet southerly of (as measured perpendicular to) the north line of said Parcel Two to CCCFC & WCD (14705 OR 758), north 89°59'35" west, 582.10 feet to the easterly line of Third Street; thence along said easterly line, north 1°56'00" east, 25.01 feet to the Point of Beginning.

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

Date: 10/21/21



Quitclaim of access rights
appurtenant to APN 409-300-002
from Fujii Nursery Company, et. al.
to CCCFC & WCD
Drawing No. FA-20,050

EXHIBIT "A"

Access rights appurtenant to assessor parcel number 409-300-002 and crossing over assessor parcel number 409-300-036, being a portion of Lot 198, Rancho San Pablo, situate in the County of Contra Costa, State of California, described as follows:

Parcel 5133

All of "Parcel Two" described in the deed recorded October 6, 2008 in document number 2008-0218883-00 as: The "Right of Way for Road Purpose" granted in the deed to Joe Davilla, Jr., et al, recorded August 1, 1918 in Book 319 of Deeds at Page 289 over a strip of land 30 feet wide along the easterly boundary line of the Tract of Land known as the "Homestead Tract".

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

Date: 10/21/21



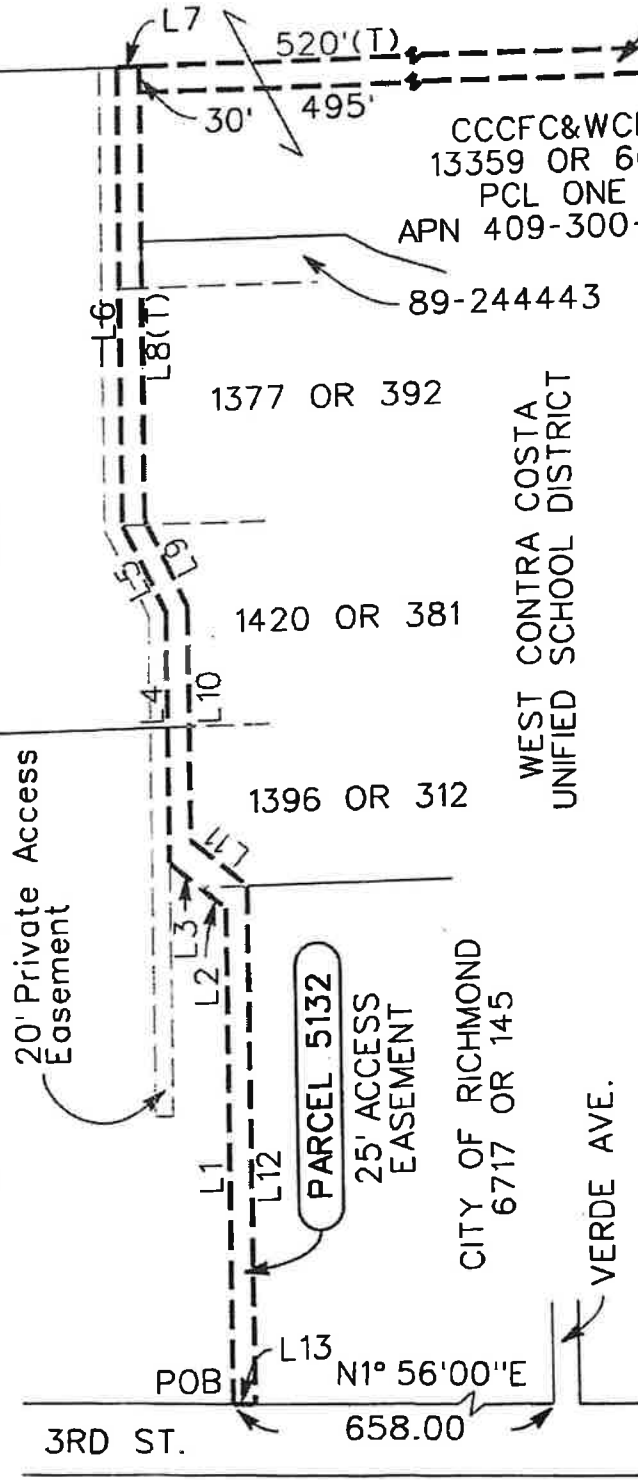
EXHIBIT "B"

PARCEL 5133

30' WIDE
RIGHT OF WAY
FOR ROAD PURPOSES
(319 Deeds 289)

FUJII NURSERY COMPANY, et. al.
220 OR 103
& 2008-0218883
APN 409-300-002

CENTERPOINT PROPERTIES TRUST
2018-0043323



WEST CONTRA COSTA
UNIFIED SCHOOL DISTRICT

LINE DATA TABLE

No.	Bearing	Length	No.	Bearing	Length
L1	S89° 59' 35" E	556.54	L8	S90° 00' 00" W	514.41
L2	N39° 41' 56" E	38.35	L9	S64° 20' 00" W	110.91
L3	N39° 41' 56" E	44.73	L10	S90° 00' 00" W	266.18
L4	N90° 00' 00" E	285.22	L11	S39° 41' 56" W	83.08
L5	N64° 20' 00" E	110.91	L12	N89° 59' 35" W	582.10
L6	N90° 00' 00" E	520.00	L13	N1° 56' 00" E	25.01
L7	S0° 15' 00" E	25.00			

Instrument : Access Easement to Fujii Nursery Company, et. al.	Scale: 1" = 200'	File No. FA-20,050
	Drawn By: TL	Plot Date: 10/21/2021
Document No. Recorded	Checked By: JS	Drawing: FC833612.dgn