

CITY OF RIVERSIDE, a California charter city and municipal corporation (herein referred to as "GRANTOR"), and

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a body corporate and politic, (herein referred to as "DISTRICT")

Project: Riverside Levee Santa Ana
River Stabilization
Project No. 1-8-00010
APN: 0277-022-75

RIGHT OF ENTRY AND TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

RECITALS

- A. GRANTOR is the owner of certain real property located in the County of San Bernardino, State of California, with Assessor's Parcel Number 0277-022-75 ("Property") and has the right to grant permission to enter upon and use the Property for the construction of the Riverside Levee Stabilization Project.
- B. DISTRICT, together with the United States Army Corps of Engineers, is constructing and implementing the right and left levee diversion in the Santa Ana River, which is also known as the Riverside Levee Santa Ana River Stabilization Project ("Project").
- C. DISTRICT, on behalf of itself, the United States Army Corps of Engineers, and their contractors, subcontractors, agents, representatives and employees ("DISTRICT AND ITS CONTRACTORS") desires to obtain from GRANTOR and GRANTOR desires to accommodate DISTRICT'S request to enter upon and use a portion of the Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, GRANTOR and DISTRICT do hereby enter into this Right of Entry and Temporary Construction Easement Agreement ("Agreement") as follows:

AGREEMENT

- 1. The non-exclusive right is hereby granted to DISTRICT AND ITS CONTRACTORS to enter upon and use the Property for staging purposes necessary to facilitate and accomplish the construction of the right and left levee diversion for the purpose of constructing the Project. GRANTOR may still use the Property for any purpose deemed necessary. If GRANTOR has the need to use the Property in such a manner of time that would conflict with the rights granted to DISTRICT AND ITS CONTRACTORS, GRANTOR and DISTRICT intend to coordinate as needed to minimize delays or disruption.
- 2. The right of entry and temporary construction easement used during the construction of the right and left levee diversion consists of approximately 11.56 acres of the Property, ("TCE Area") as more particularly described in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

3. DISTRICT agrees to pay GRANTOR an annual rental amount of \$579,156, (Five Hundred Seventy-Nine Thousand One Hundred Fifty-Six Dollars), payable monthly at \$48,263 (Forty-Eight Thousand Two Hundred Sixty-Three Dollars) for each month and fraction thereof, for the right of DISTRICT AND ITS CONTRACTORS to enter upon the TCE area and use the land in accordance with the terms hereof.
4. The rights granted herein may be exercised by DISTRICT AND ITS CONTRACTORS from June 1, 2022 through December 31, 2026 ("Term"), commencing upon the completion of a forty-eight (48) hour notice period, which notice period commences upon GRANTOR'S actual receipt of written or electronic mail notice ("Notice") of DISTRICT'S AND ITS CONTRACTORS' intent to commence the Project. GRANTOR grants to DISTRICT AND ITS CONTRACTORS the right to use and occupy the temporary construction easement for the Term to facilitate DISTRICT AND ITS CONTRACTORS construction of the Project. Upon the sale of GRANTOR'S Property during the Term, this Agreement shall automatically transfer to new ownership of GRANTOR Property.
5. DISTRICT shall, at its sole cost and expense, be responsible for maintenance, repair, and improvement of the temporary construction easement area during the Term of the temporary construction easement.
6. DISTRICT agrees to keep the temporary construction easement free of any liens or lien claims made by contractors, subcontractors, suppliers, engineers and/or architects and surveyors who might have lien rights as a result of DISTRICT'S AND ITS CONTRACTORS' use of the temporary construction easement in connection with the construction of the Project. If any such lien is filed on GRANTOR'S Property in connection with this temporary construction easement, DISTRICT shall, at its sole cost and expense, have the lien released and discharged of record in a manner satisfactory to GRANTOR within thirty (30) calendar days of receiving notice of the lien. If DISTRICT fails to remove or have removed the lien within such thirty (30) day period, GRANTOR will have the right to remove the lien, and DISTRICT, upon demand, will reimburse GRANTOR for all costs and expenses, including without limitation reasonable attorneys' fees incurred by GRANTOR in connection with such removal. Without limiting DISTRICT'S obligation to indemnify and hold harmless GRANTOR set forth below, DISTRICT hereby indemnifies GRANTOR from and against all claims and demands for payment, or liens or lien claims made against GRANTOR by contractors, subcontractors, suppliers, engineers and/or architects and surveyors who might have lien rights as a result of this Agreement and DISTRICT'S AND ITS CONTRACTORS' use of GRANTOR'S Property for the construction of the Project.
7. DISTRICT shall, and shall cause DISTRICT AND ITS CONTRACTORS, its agents, licensees, employees or invitees, subcontractors, suppliers and vendors, to take all prudent and reasonable safety precautions with respect to the use of GRANTOR'S Property and the activities thereon and shall immediately report to GRANTOR any injury to any person or substantial damage to any property occurring at GRANTOR'S Property.

DISTRICT shall, at its own expense, throughout the term of this Agreement be responsible to:

(i) take all prudent and reasonable precautions to protect GRANTOR'S Property from any loss or damage caused by the activities of DISTRICT AND ITS CONTRACTORS;

(ii) take all prudent and reasonable precautions to protect all persons, personal property and vehicles from injury, loss or damage due to the activities of DISTRICT AND ITS CONTRACTORS;

(iii) take all prudent and reasonable precautions to protect GRANTOR'S Property from any loss or damage due to the activities of DISTRICT AND ITS CONTRACTORS; and

(iv) promptly restore to GRANTOR'S reasonable satisfaction or replace any portion of GRANTOR'S Property or any improvements thereon, damaged or destroyed due to the activities of DISTRICT AND ITS CONTRACTORS.

DISTRICT AND ITS CONTRACTORS are solely responsible for, and shall bear the cost of, all loss due to theft or vandalism of, or damage from the elements to, materials, supplies and equipment. DISTRICT hereby releases and acquits GRANTOR from, and waives all claims for, any such loss, on behalf of DISTRICT AND ITS CONTRACTORS. DISTRICT AND ITS CONTRACTORS shall include a substantially similar release of GRANTOR in all subcontracts for the work. DISTRICT AND ITS CONTRACTORS shall, at their own expense take whatever actions may be necessary for the protection of their materials or equipment.

At the end of each workday, DISTRICT shall ensure that DISTRICT AND ITS CONTRACTORS shall clear GRANTOR'S Property and its surroundings of trash, debris and material waste caused by the activities of DISTRICT AND ITS CONTRACTORS or the performance of the work. DISTRICT AND ITS CONTRACTORS shall comply with all local, state and federal codes, laws, rules, ordinances, regulations, permitting conditions and orders relating to their activities under this Agreement and in no event shall DISTRICT AND ITS CONTRACTORS permit any condition to exist that would constitute a nuisance or a violation of local, state and federal codes, laws, rules, ordinances, and regulations.

8. DISTRICT, on behalf of DISTRICT AND ITS CONTRACTORS, shall indemnify and hold harmless GRANTOR, its elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any negligent act or omission of DISTRICT AND ITS CONTRACTORS, their officers, employees, subcontractors, agents or representatives arising out of or in any way relating to or in any way connected with DISTRICT'S AND ITS CONTRACTORS' use of the premises or this Agreement, including but not limited to, property damage, bodily injury, or death or any other element of any kind or nature whatsoever. DISTRICT shall defend, at its sole expense, all costs and fees including, but not limited to, attorney fees, cost of investigation, defense and settlements or awards, GRANTOR, its elected and appointed officials, employees, agents and representatives in any claim or action based upon such alleged acts or omissions. The obligations set forth in this paragraph shall survive the termination of this agreement. With respect to any action or claim subject to indemnification herein by DISTRICT AND ITS CONTRACTORS, DISTRICT shall, at their sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of GRANTOR; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever

limits or circumscribes DISTRICT'S indemnification to GRANTOR as set forth herein. DISTRICT'S obligation hereunder shall be satisfied when DISTRICT has provided to GRANTOR the appropriate form of dismissal relieving GRANTOR from any liability for the action or claim involved. The specified insurance limits required in this Agreement shall in no way limit or circumscribe DISTRICT'S obligations to indemnify and hold harmless GRANTOR herein from third party claims. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve DISTRICT AND ITS CONTRACTORS from indemnifying GRANTOR to the fullest extent allowed by law.

9. Notices. The parties agree to the following minimum noticing requirements with respect to use of the property.

DISTRICT shall provide written or electronic mail notice to GRANTOR by DISTRICT at least forty-eight (48) hours prior to the initial mobilization on to the property. During period of active use of the site by DISTRICT AND ITS CONTRACTORS, GRANTOR agrees to notify DISTRICT at least 48 hours prior to any planned activities by GRANTOR on the site, to allow coordination of the activities and to minimize delays and/or interference with each other.

Notices shall be sent to:
CITY OF RIVERSIDE
Sheryn Smay, Supervising Real Property Agent
3900 Main Street
Riverside, CA 92522
951.826.5343
ssmay@riversideca.gov

RIVERSIDE COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT
Yolanda King Wilder, Supervising Real Property Agent
1995 Market Street
Riverside, CA 92501
951.955.1304
Yking@rivco.org

10. At the termination of the period of use of GRANTOR'S land by DISTRICT AND ITS CONTRACTORS but before its relinquishment to GRANTOR, debris generated by DISTRICT'S AND ITS CONTRACTORS' use will be removed, and the surface will be graded and left in a neat condition.
11. GRANTOR shall be held harmless by DISTRICT from all claims of third persons arising from the use by DISTRICT AND ITS CONTRACTORS of GRANTOR'S land.
12. This Agreement is the result of negotiations between the parties hereto. This Agreement is intended by the parties as a final expression of their understanding with respect to the

matters herein and is a complete and exclusive statement of the terms and conditions thereof.

13. This Agreement shall not be changed, modified, or amended except upon the written consent of the parties hereto.
14. This Agreement supersedes any and all other prior agreements or understanding, oral or written, in connection therewith.
15. DISTRICT AND ITS CONTRACTORS, their assigns, and successors in interest shall be bound by all the terms and conditions contained in this Agreement, and all the parties thereto shall be jointly and severally liable thereunder.
16. This Agreement will be governed and construed by the laws of the State of California. Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the Parties hereby waive all provisions of law providing for change of venue of such proceedings to any other county.
17. This Agreement may be signed in counterparts, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and all such counterparts together shall constitute one and the same instrument. Any exhibits referenced herein this Agreement shall constitute a part of this Agreement and are incorporated into the Agreement by this reference.
18. The Effective Date of this Agreement (“Effective Date”) is the date on which this Agreement is approved and fully executed by GRANTOR and DISTRICT.

[SIGNATURES ON NEXT PAGE]

GRANTOR:

APPROVED AS TO FORM:

CITY OF RIVERSIDE, a California charter city
and municipal corporation

By: 
Deputy City Attorney

By: _____
Chris Christopoulos, Acting Director
Community & Economic Development

Date: _____

**BOARD OF SUPERVISORS FOR
RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT,**
a body corporate and politic

By: _____

Karen Spiegel, Chair
Riverside County Flood Control and Water
Conservation District, Board of Supervisors

APPROVED AS TO FORM:
COUNTY COUNSEL

By: _____
RYAN YABKO
Deputy County Counsel

RIVERSIDE COUNTY FLOOD CONTROL AND WATER
CONSERVATION DISTRICT

EXHIBIT "A"

LEGAL DESCRIPTION

SANTA ANA RIVER – RIVERSIDE LEVEE

APN: 0277-022-75

In the City of Colton, County of San Bernardino, State of California, being that portion of Parcel 3 described in the Grant Deed recorded July 20, 1962, filed in Book 5737, pages 359 through 364, inclusive, of Official Records of said county, described as follows:

Beginning at the southeasterly corner of Parcel 1010-82 as shown on a Record of Survey, filed in Book 22, pages 36 through 47, inclusive, of Records of Survey, records of said county;

Thence North $83^{\circ}12'05''$ East 856.95 feet along the southerly line of said Grant Deed to an angle point thereof;

Thence North $31^{\circ}09'44''$ East 617.89 feet along the southeasterly line of said Grant Deed and the northeasterly prolongation of said southeasterly line;

Thence North $79^{\circ}47'34''$ West 678.51 feet to the southeasterly line of said Parcel 1010-82;

Thence South $35^{\circ}56'36''$ West 812.03 feet along said southeasterly line to a curve concave easterly having a radius of 140.00 feet;

Thence southwesterly and southerly along said curve 98.65 feet through a central angle of $40^{\circ}22'30''$ to the **Point of Beginning**.

Containing 503,616 square feet / 11.561 acres more or less

See Exhibit "B" attached hereto and made a part hereof.




JAMES R. McNEILL

Land Surveyor No. 7752

Date: 1-5-22

DESCRIPTION APPROVAL:



CURTIS C. STEPHENS, L.S. 7519 1/11/22
CITY SURVEYOR DATE

EXHIBIT "B"

APN: 0260-091-23

NORTHWESTERLY LINE
OF PARCEL 1010-82
PER RS 22/36-47

SOUTHEASTERLY LINE
OF PARCEL 1010-82
PER RS 22/36-47

APN: 0260-022-42
PARCEL 1010-82
RS 22/36-47



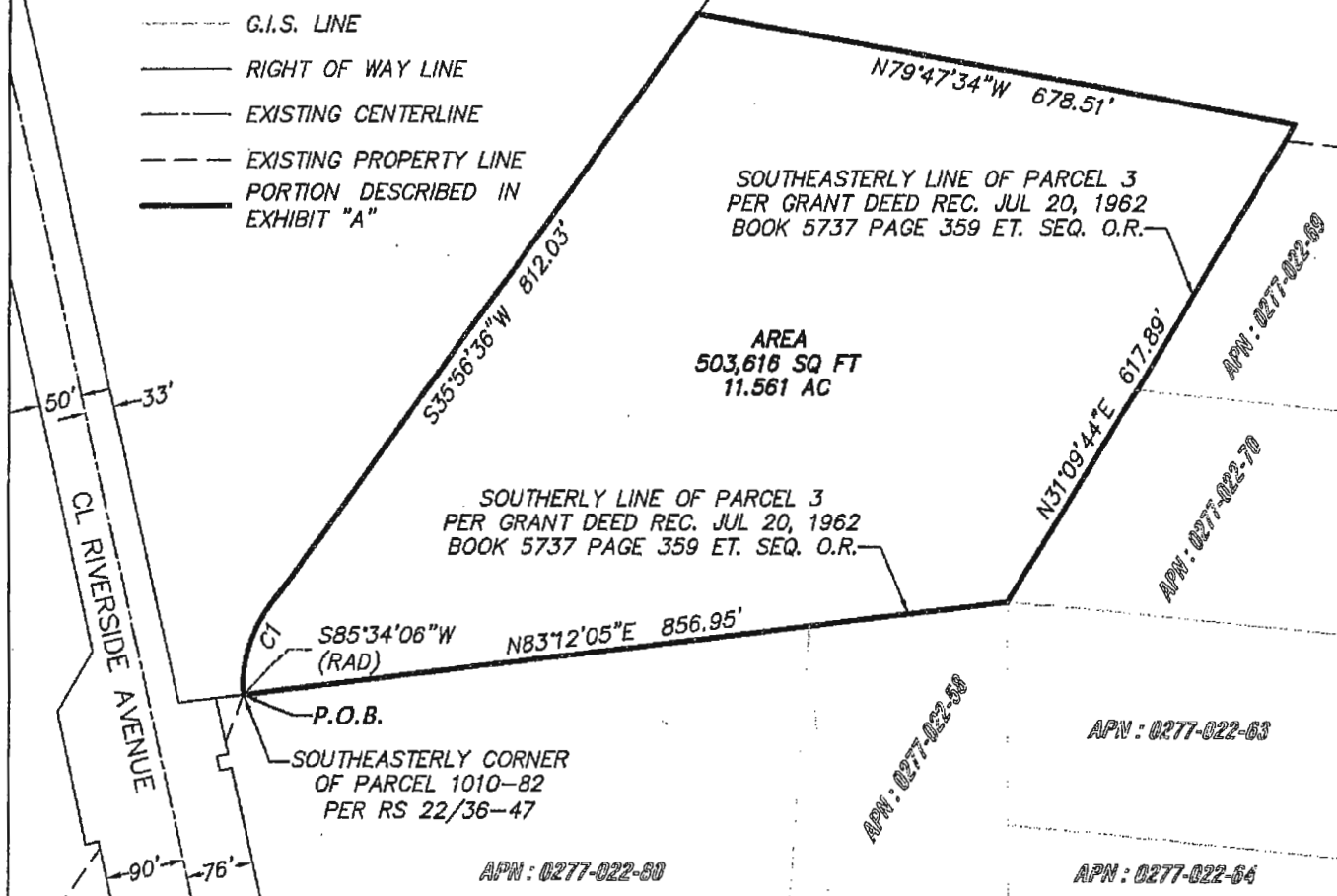
1 INCH = 200 FEET

CURVE TABLE			
CURVE #	DELTA	RADIUS	LENGTH
C1	$\Delta=40^{\circ}22'30''$	140.00'	98.65'

APN: 0277-022-75
PORTION PARCEL 3
GRANT DEED REC. 7/20/1962
BOOK 5737 PAGE 359 ET. SEQ. O.R.

LEGEND:

- G.I.S. LINE
- RIGHT OF WAY LINE
- EXISTING CENTERLINE
- EXISTING PROPERTY LINE
- PORTION DESCRIBED IN EXHIBIT "A"



RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
1995 MARKET STREET, RIVERSIDE, CA. 92501

PROJECT NAME:	SANTA ANA RIVER - RIVERSIDE LEVEE	SCALE 1"=200'	DRAWN BY SB
RCFC-WCD PARCEL NUMBER(S):	NOT APPLICABLE	DATE 11/30/21	CHECK BY DC
RCFC-WCD PROJECT NUMBER:	1-0-00010	SHEET NO.	1 OF 1