

RETURN TO:
Real Estate Division
Department of Public Works
P.O. Box 4186, Civic Center Branch
San Rafael, CA 94913-4186
Attention: Christy McRoy

Project: Vineyard Creek
Address: Open Door Christian Church
APN: 140-011-64

RIGHT-OF-WAY CONTRACT

THIS CONTRACT is made and entered into this ____ day of _____, 2008, by and between the MARIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a public district of the State of California, hereinafter referred to as "DISTRICT", and Open Door Christian Church, a non-profit corporation, hereinafter referred to as "OWNER".

W I T N E S S E T H:

RECITALS

- A. Open Door Christian Church, a non-profit corporation, is the owner of that certain real property situate in the City of Novato, County of Marin, State of California and commonly known as 1915 Novato Boulevard and also referred to as Assessor's Parcel Number 140-011-64.
- B. DISTRICT desires to acquire a permanent easement for flood control purposes and a temporary construction easement over a portion of OWNER'S property which are more particularly described on Exhibits "A, B and C", attached hereto and made a part hereof.
- C. OWNER is willing to grant said easements and DISTRICT agrees to purchase said easements upon the terms and conditions herein below.

NOW, THEREFORE, IT IS MUTUALLY UNDERSTOOD AND AGREED as follows:

1. OWNER shall convey the permanent flood control easement described in Exhibit "A" by depositing in an escrow designated by DISTRICT an Easement Deed suitable for recordation upon the following terms and conditions:

- a) DISTRICT shall deposit in escrow the sum of SEVENTY EIGHT THOUSAND THREE HUNDRED TWENTY FIVE DOLLARS (\$78,325.00) payable contemporaneously with delivery of said deed as consideration for the easements and all improvements and landscaping therein.
 - b) The easement shall be conveyed to DISTRICT free and clear of all liens and encumbrances, taxes and assessments, penalties and costs, leases and licenses (recorded or unrecorded), easements, rights-of-way, bonds and any and all restrictions of record other than items numbered 1 through 9 in Preliminary Report No. 270784-AVC dated as of December 20, 2007 issued by California Land Title of Marin, attached hereto as Exhibit "D."
 - c) DISTRICT shall pay all escrow and recording fees incurred in this transaction including the cost of title insurance, if desired by DISTRICT. Evidence of title shall be a standard policy of title insurance issued by the title company that acts as escrow.
2. OWNER shall convey the temporary construction easement (TCE) described in Exhibits "B & C" by their acceptance and signature of this agreement upon the following terms and conditions:
- a) District shall deposit into escrow the sum stated in paragraph 1.a) as consideration for the permanent easement and the TCE and all improvements and landscaping therein, excepting those improvements, if any, specifically noted herein that will remain or will be restored at the time construction is completed.
 - b) OWNER agrees for the considerations herein to permit and allow DISTRICT, its agents and/or contractors to enter upon that portion of OWNER'S property, as depicted on Exhibit "B" on a temporary basis for a period of five (5) months for staging construction equipment for use for the project and construction of the new boundary fencing. Execution of this agreement by the parties hereto shall serve as conveyance of the TCE to the DISTRICT. Said TCE shall be for the construction of the project. This permission becomes valid acceptance of this agreement by DISTRICT and will expire upon completion of the Project or in no

event later than five (5) months from commencement of construction on the property, whichever is sooner.

- c) OWNER agrees that term of TCE shall commence upon the construction start date described in the notice delivered to OWNER as described in paragraph 4.a) herein.
- d) OWNER agrees that should it become necessary that use of the area described herein shall be longer than five (5) months, DISTRICT shall pay OWNER One Hundred Fifty Four Dollars (\$154.00) each additional week of use.

3. It is agreed and confirmed by the parties hereto that notwithstanding other provisions of this agreement, the right of possession and use of the property by the DISTRICT, including the right to remove and dispose of landscaping and improvements within the permanent easement area; and TCE, shall commence on the date that DISTRICT deposits the funds specified in paragraph 1.a) herein into escrow at California Land Title of Marin, Escrow No. 270784-AVC, and the amount specified in paragraph 1.a) includes, but is not limited to, full payment for such possession and use, including damages, if any, from said date.

4. OWNER and DISTRICT understand and agree that the following issues will be addressed during construction of the project in the manner set forth herein:

- a) DISTRICT shall deliver notice of the construction start date with regard to OWNER'S property, not less than 24 hours in advance, in the manner as prescribed in paragraph 7, herein.
- b) DISTRICT's compensation to OWNER includes landscaping. DISTRICT may at its sole discretion remove any or all of the following landscaping within the permanent easement area.
- c) As part of the project DISTRICT shall construct a new fence along the easement boundary. The new fence will be a wood fence four (4) feet in height as depicted in Exhibit "E" attached hereto and made a part hereof.
- d) DISTRICT shall fence in the TCE area using temporary fencing while construction equipment is onsite.

5. The parties agree that placement of permanent improvements will not be permitted within the permanent easement area. Damages that may occur to DISTRICT'S facilities as a result of OWNER'S actions will be the liability of the OWNER.

6. When property is sold to the DISTRICT, there is the same obligation as in a private transaction for OWNER to pay in escrow the amounts needed to remove liens and encumbrances as well as pay for current and past due property taxes. It is the responsibility of the OWNER for payment of any demand under authority of a Mortgage or Deed of Trust and/or to clear liens and encumbrances out of OWNER'S proceeds from this transaction. Any demand in excess of the amount set forth in Paragraph 1 a) shall be the responsibility of OWNER to resolve with the mortgage or deed of trust holder.

7. Any notice or demand which either the OWNER or DISTRICT desire to serve upon the other may be served either personally or by depositing the notice or demand in the United States Post Office, postage prepaid, addressed as follows:

OWNERS: Open Door Christian Church
1915 Novato Blvd.
Novato, CA 94947

DISTRICT: Marin County Flood Control and Water Conservation District
3501 Civic Center Drive, Room 304
San Rafael, CA 94903
Attn: Tim Hampton

and

Real Estate Division
Public Works Department
County of Marin
P.O. Box 4186
San Rafael, CA 94913

8. The parties to this contract agree that the interests to be conveyed by OWNER do not consist of the residence of OWNER. Therefore, OWNER agrees that they are not eligible to receive relocation assistance or benefits under the Uniform Relocation Assistance Act.

9. Real Estate commissions will not be paid by DISTRICT under this contract.

10. The parties have set forth the whole of their agreement herein. The performance of this agreement constitutes the entire consideration for the conveyance to DISTRICT of said interests in real property and shall relieve DISTRICT of all further obligations or claims on this account or on account of the location, grade or construction of the proposed public improvement. OWNER, or OWNER'S representatives, has examined the draft plans showing the location and the proposed manner of construction of the DISTRICT improvement for which the property interests referred to herein are conveyed. Said draft plans have been reviewed by OWNER or OWNER'S representatives with a representative of DISTRICT and OWNER acknowledges that a full and complete explanation of the draft plans has been provided.

MARIN COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT

Charles McGlashan
President, Board of Supervisors

Approved as to form.

ATTEST:

Deputy County Counsel

Deputy Clerk

OWNER: Open Door Christian Church

By: _____

Date: _____

Its: _____

By: _____

Date: _____

Its: _____