

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

Project: Vineyard Creek  
Address: 10 Fredson Court  
APN: 140-151-55

## 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 John P. Wyek Jr. and Leann J. Wyek, hereinafter referred to as "OWNERS".

### WITNESSETH:

#### RECITALS

- A. OWNERS are the owners of that certain real property situate in the City of Novato, County of Marin, State of California and commonly known as 10 Fredson Court, Novato CA 94947 and also referred to as Assessor Parcel Number 140-151-55.
- B. DISTRICT desires to acquire a temporary construction easement (TCE) for flood control purposes over a portion of OWNERS' property which is more particularly described on Exhibit "A" and depicted on Exhibit "B", attached hereto and made a part hereof.
- C. OWNERS are willing to grant said TCE and DISTRICT agrees to purchase said TCE upon the terms and conditions herein below.

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

1. OWNERS shall convey the TCE described in Exhibit "A" and depicted on Exhibit "B" by their acceptance and signature of this agreement upon the following terms and conditions:
  - a) District shall pay owner ONE THOUSAND, SIX HUNDRED & FIFTY-EIGHT AND No/100 Dollars (\$1,658) as consideration for

the TCE and all improvements and landscaping therein, excepting those improvements specifically noted herein that will remain or will be restored at the time construction is completed.

- b) OWNERS agree for the considerations herein to permit and allow DISTRICT, its agents and/or contractors to enter upon that portion of OWNERS' property, as described in Exhibit "A" and depicted on Exhibit "B" on a temporary basis for sixty (60) days. 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 upon acceptance of this agreement by DISTRICT and will expire upon completion of the Project or in no event later than 60 days from commencement of construction on the property, whichever is sooner.
  - c) OWNERS agree that the term of the TCE shall commence upon the construction start date described in the notice delivered to OWNERS as described in paragraph 3.a) herein.
  - d) OWNERS agree that should it become necessary to use the area described herein for longer then 60 days, DISTRICT shall pay OWNERS SEVEN AND 25/100 Dollars (\$7.25) each additional week of use.
2. 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 TCE, shall commence on the date that DISTRICT delivers the funds specified in paragraph 1.a) herein to OWNERS, 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.
3. OWNERS 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'S contractor shall deliver notice of the construction start date with regard to OWNER'S property, not less than 3 days in advance, in the manner as prescribed in paragraph 4, herein.
- b) DISTRICT'S compensation to OWNERS includes payment for :

Landscaping 4 ft. x 51 ft.

Irrigation, 3 rhododendrons, small palm tree

- c) As part of the project DISTRICT shall construct a new fence along the easement boundary. The new fence will be wood fencing, more particularly depicted on Exhibit "C" attached hereto, (except that OWNERS have requested that replacement fence be 4 ft. in height) and shall be installed upon completion of construction along the true permanent easement line.
- d) As part of the project, DISTRICT agrees that the Redwood tree located in the TCE area will not be removed.

4. 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: John P. Wyek Jr. and Leann J. Wyek  
10 Fredson Court  
Novato, CA 94947

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

and

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

5. The parties to this contract agree the interests to be conveyed by OWNERS do not consist of the residence of OWNERS. Therefore, OWNERS agree they are not eligible to receive relocation assistance or benefits under the Uniform Relocation Assistance Act.
6. Real Estate commissions will not be paid by DISTRICT under this contract.
7. 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 representative, 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 OWNERS or OWNERS' representatives with a representative of DISTRICT and OWNERS acknowledge that a full and complete explanation of the draft plans has been provided.
8. This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and to their respective successors and assigns.

SIGNATURE PAGE TO FOLLOW

MARIN COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT

\_\_\_\_\_  
Charles McGlashan  
President, Board of Supervisors

Approved as to form.

ATTEST:

\_\_\_\_\_  
Deputy County Counsel

\_\_\_\_\_  
Deputy Clerk

OWNERS:

\_\_\_\_\_  
John P. Wyek, Jr.

Date: \_\_\_\_\_

\_\_\_\_\_  
Leann J. Wyek

Date: \_\_\_\_\_

KW:\pacf:\real estate\flood control\vineyard creek\140-151-55 wyek\wyek\_rw contract temp.doc