

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California, hereinafter called the "County," and RICHARD KOO, an unmarried man hereinafter called "Permittee."

WITNESSETH:

WHEREAS, Permittee is the owner of real property in the County of San Mateo, State of California, and has requested issuance of a Building Permit from the County of San Mateo, to construct a concrete retaining wall which encroaches into a Public Utility Easement(P.U.E.) at the rear of the property on Oak View Way described in Exhibit "A" attached hereto; and

WHEREAS, the proposed retaining wall encroaches into the public utility easement ;

WHEREAS, there is no impediment to the use of the public utility easement at this time; and

WHEREAS, for and in consideration of and as a condition for approval by County of a Building Permit, Permittee is willing to repair, restore, maintain, relocate and/or remove the proposed concrete wall from the public utility easement at Permittee's own expense upon demand of County should they become an impediment to the use of said easement nor its intended purpose. ;

NOW, THEREFORE, IT IS HEREBY AGREED TO BY THE PARTIES, as follows:

1. The real property subject to this agreement is described in Exhibit "A" attached hereto. Upon annexation of said real property to any city, Permittee agrees to fulfill all of the terms of this agreement upon demand by such city as though the Permittee has contracted with such city originally. Any annexing city shall have the rights of a third party beneficiary.
2. Permittee agrees to repair, restore, relocate, maintain, and/or remove that portion of the retaining wall that is encroaching into the public utility easement at Permittee's own expense upon demand of County. Should Permittee fail to satisfy such demand, County may take such action as is necessary to protect the public interest within the public utility easement and Permittee agrees to reimburse County for any and all costs incurred therewith.
3. In the event that the public utility easement is needed for construction of utilities with the result that said encroachments must be altered, reconstructed or removed, the County may notify Permittee at any time in writing to commence the required alteration, reconstruction or removal. The notice shall be sufficient if mailed to the owner of record of said property at the address shown on the latest adopted County assessment roll. The notice shall describe the work to be done by the Permittee, or successor in ownership, the time within which the work shall commence and the time within which it shall be completed.
4. The Permittee shall indemnify and save harmless the County, its officers, agents, employee, and servants from all claims, suits or actions of every name, kind and description, brought for, or on account of injuries to or death of any person, including Permittee, or damage to property of any kind whatsoever and to whomever belonging, including but not limited to, the concurrent active or passive negligence of the County, officers, agent, or employees and servants, resulting

(Individual)

STATE OF CALIFORNIA)
SS.
COUNTY OF SAN MATEO)

On this _____ day of _____, in the year _____, before me, LOUIS E. JENNINGS, JR., a Notary Public in and for said State, personally appeared NEIL R. CULLEN personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____
LOUIS E. JENNINGS, JR.

State of California
County of San Mateo } SS.
On May 21, 2003 before me, Christopher Wayne Caton
(DATE) (NOTARY)
personally appeared Richard Koo
SIGNER(S)

personally known to me - OR- proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.
Christopher Wayne Caton
NOTARY'S SIGNATURE

from the installation, maintenance, use and/or existence of said encroachment within the public utility easement as authorized and required by this agreement of Permittee, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of the Permittee to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in section 2778 of the California Civil Code.

5. Should legal action be necessary to enforce any provision of this agreement, Permittee agrees to pay all reasonable attorney fees and costs incurred by County in connection therewith.
6. This agreement shall be recorded by County. All covenants herein contained shall pertain to and run with the real property described herein, and this agreement shall apply to, bind and inure to the heirs, successors and assigns of the parties hereto.

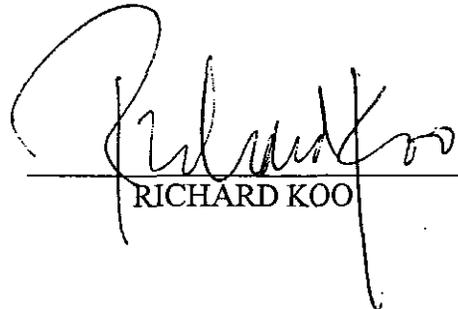
IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officers on the day and year first above written.

“County”

COUNTY OF SAN MATEO

BY: _____
DIRECTOR OF PUBLIC WORKS

“Permittee”



RICHARD KOO

May 21, 2003

“EXHIBIT A”

That certain real property described as lots 2,3 and 18, Block 19, “Highlands of Emerald Lake Sub.1”,RSM 13/24 and further described in Document #2001-132069 filed in the Recorder’s Office of the County of San Mateo, State of California.

fence.agr
(FRM00418)