

**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 SCOTT HUBLOU and AMY FAUNCE, husband and wife 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 an Encroachment Permit from the County of San Mateo, to install a new retaining wall (the wall) which encroaches into County rights-of-way on Lakeview Way and Vernal Way fronting the property described in Exhibit "A" attached hereto; and

WHEREAS, the proposed wall encroaches into the public rights-of-way of Lakeview Way and Vernal Way ;

WHEREAS, there is no impediment to the use of the rights-of-way at this time; and

WHEREAS, for and in consideration of and as a condition for approval by County of an Encroachment Permit, Permittee is willing to repair, restore, maintain, relocate and/or remove the proposed wall from the rights-of-way at Permittee's own expense upon demand of County should they become an impediment to the exercise of County's right within the rights-of-way of Lakeview Way and Vernal Way ;

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 wall that is encroaching into the Lakeview Way and Vernal Way rights-of-way 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 rights-of-way of Lakeview Way and Vernal Way and Permittee agrees to reimburse County for any and all costs incurred therewith.
3. In the event that Lakeview Way and Vernal Way are realigned or adjusted in elevation 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

from the installation, maintenance, use and/or existence of said encroachment within the Lakeview Way and Vernal Way rights-of-way 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.

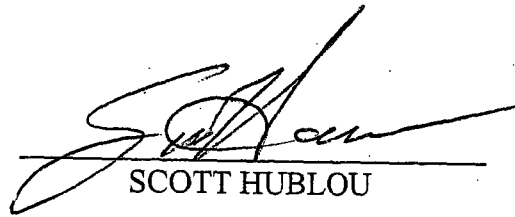
"County"

COUNTY OF SAN MATEO

BY:

Richard S. Gordon, President  
Board of Supervisors

"Permittee"

  
SCOTT HUBLOU

  
AMY FAUNCE

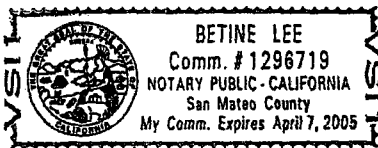
**ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of San Mateo } SS.

On August 24, 2004 before me, Betina Lee  
(DATE) (NOTARY)  
personally appeared Scott Hublou & Amy Faunce  
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.

  
NOTARY'S SIGNATURE

"EXHIBIT A"

That certain real property described as Lot 8, Block 400 as shown on that certain map entitled "HIGHLANDS OF EMERALD LAKE SUB.NO.4, SAN MATEO COUNTY, CALIFORNIA", filed in the office of the County Recorder of San Mateo County, State of California, in Book 15, at page 12, and further described in Document #2002-119942 recorded on June 20, 2002.