



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of  
Supervisors

105 E. Anapamu Street, Suite  
407

Santa Barbara, CA 93101  
(805) 568-2240

Department Name: General Services  
Department No.: 063  
For Agenda Of: April 7, 2009  
Placement: Administrative  
Estimated Tme:  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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**TO:** Board of Supervisors  
**FROM:** Department Bob Nisbet, Director (560-1011) *Robert Nisbet*  
Directors(s) General Services Department  
Contact Info: Paddy Langlands, (568-3096)  
Assistant Director, Support Services Division  
**SUBJECT:** Acceptance of an Easement, Execution of an Agreement to Provide Water, and  
Execution of a Subordination Agreement; re: 716 Ballard Canyon Road, Solvang  
Third Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:** Risk

As to form: Yes

**Recommended Actions:** That the Board of Supervisors:

- a. Accept the Grant of Utility Easement and Water Rights executed by David J. Petersen and Sheila Petersen (husband and wife), and by Nathan Giacinto and Susan Giacinto (husband and wife), all as owners of 716 Ballard Canyon Road, by authorizing the Clerk of the Board to execute the Certificate of Acceptance for a water well and water rights on 716 Ballard Canyon Road, Solvang (APN 137-120-056); and
- b. Authorize the Chair to execute the attached Agreement to Provide Water with David J. Petersen and Sheila Petersen (husband and wife), and Nathan Giacinto and Susan Giacinto (husband and wife), all as owners of 716 Ballard Canyon Road. The Agreement allows the County to install a water production well on the owners' property and pump water off that property free of charge; in exchange the County will deliver free water to the owners; and
- c. Authorize the Chair to execute the attached Subordination Agreement (Trust Deed to Easement) for the purpose of subordinating the existing loan on the subject property to the above Easement Deed.

**Summary Text:**

Acceptance of the Grant of Utility Easement and Water Rights (herein the "Easement") by your Board will grant to the County the right to install, operate, remove water from, and maintain a water production well, storage facilities, piping and associated infrastructure on 716 Ballard Canyon Road (herein the "Property"), which Property is owned by the Petersen family. In exchange for granting the Easement, the Petersen family will receive free water for the Property upon which the water well is located and for the two neighboring properties Mr. and Mrs. Petersen owned when they contracted with the County to sign the Easement. The neighboring properties are known as 710 and 718 Ballard Canyon Road.

The Agreement to Provide Water will allow the delivery of water from the County well site on the Property to the two homes located thereon, thus supplying water to the owners of that parcel who have executed the Easement and the Agreement to Provide Water. Execution of additional agreements will be needed prior to the delivery of water to 710 and 718 Ballard Canyon Road.

The Subordination Agreement will place the Easement before the Deed of Trust which is currently recorded against the Property. This assures the County's easement will not be eradicated in the event of a default on the existing Deed of Trust.

**Background:**

Between approximately 1950 and 1969 the County operated a landfill on a portion of the parcels currently known as 940 and 942 Ballard Canyon Road. In 1999 the County was sued by the then-current owners of those properties, and by the owners of surrounding properties (herein the "Impacted Properties") who claimed their water wells were contaminated by materials leaching out of the closed landfill. After years of research and negotiation the County entered into a Settlement Agreement with the owners of the Impacted Properties, which Agreement was signed on September 21, 2001. The Settlement Agreement required the County to supply trucked in water to the Impacted Properties until the County could install a new water well, storage and pumping system to serve the Impacted Properties. The new water well has been installed on the Property at 716 Ballard Canyon Road. The Settlement Agreement also allows the County to suspend delivery of water to the Impacted Properties when and if the groundwater in the water wells serving the Impacted Properties test below the California Maximum Contaminant Levels for all compounds of concern for a period of one year of at least quarterly monitoring.

The County is complying with the Settlement Agreement by delivering water to the Impacted Properties via truck. As part of the ongoing effort to obtain a local source of water, the County entered into a Water System Agreement with Mr. and Mrs. Dave Petersen as owners of 716 Ballard Canyon Road. That Water System Agreement laid the groundwork for the Grant of Utility Easement and Water Rights which grants the County the right to install the well and remove water from their Property at 716 Ballard Canyon Road free of charge and deliver it to the Impacted Properties which are approximately one mile away. In exchange for granting those rights, and in accordance with the Agreement to Provide Water the Petersen family will receive free water for the two homes located on the Property, and for the two homes on adjacent properties at 710 and 718 Ballard Canyon Road which they owned at the time the Water System Agreement was executed.

Since reaching agreement on the Settlement Agreement, Public Works Resource Recovery and Waste Management has been actively working to design, permit and install a water well, storage and pumping

system on the Property, and a system to deliver water to the Impacted Properties via an underground pipeline located in Ballard Canyon Road.

Acceptance of the Petersen Easement was found to be in conformance with the County's adopted General Plan by the Planning Commission at its regularly scheduled meeting of December 3, 2008.

Installation of the Water System was found to be in compliance with CEQA guidelines via the Notice of Exemption signed by Mr. Brian Baca on May 22, 2001.

**Fiscal and Facilities Impacts:**

There are no Fiscal or Facilities Impacts associated with acceptance of the Easement or execution of the Agreement to Provide Water. The Fiscal and Facilities components of this project have been addressed by Public Works, Resource Recovery and Waste Management in previous Board actions. Budgeted: Yes.

**Special Instructions:** After Board action, distribute as follows:

- |   |                                  |
|---|----------------------------------|
| 1) Original Easement Deed & Certificate of Acceptance | GS/Real Estate Svcs, Attn: JJH   |
| 2) Copy of Easement Deed & Certificate of Acceptance  | Clerk of the Board File          |
| 3) Original Agreement to Provide Water                | GS/Real Estate Svcs, Attn: JJH   |
| 4) Copy of the Agreement to Provide Water             | Clerk of the Board File          |
| 5) Original Subordination Agreement                   | GS/Real Estate Svcs, Attn: JJH   |
| 6) Copy of the Subordination Agreement                | Clerk of the Board File          |
| 7) Minute Order                                       | GS/Real Estate Svcs, Attn: JJH   |
| 8) Minute Order                                       | Chris Wilson, Resource Recovery. |

**NOTE:** The Office of Real Estate Services will deliver the Grant of Utility Easement and Water Rights, the Agreement to Provide Water, and the Subordination Agreement to the County Recorder's office for recordation. After recordation a copy of each of the above listed documents will be returned to the Clerk of the Board.

**Attachments:**

Grant of Utility Easement and Water Rights  
Agreement to Provide Water  
Subordination Agreement

**Authored by:**

Jeff Havlik, SR\WA  
Office of Real Estate Services

**cc:**

Chris Wilson, Resource Recovery and Waste Management  
Imelda Cragin, Resource Recovery and Waste Management

Recording requested by  
and to be returned to:  
General Services Department  
Office of Real Estate Services  
Will Call

**COUNTY OF SANTA BARBARA**  
**OFFICIAL BUSINESS**

No fee pursuant to Government Code § 6103  
No Tax Due

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SPACE ABOVE THIS LINE FOR RECORDER'S USE  
APN: 137-120-056

**GRANT OF UTILITY EASEMENT**  
**And WATER RIGHTS**

DAVID J. PETERSEN, SHEILA PETERSEN, (husband and wife as joint tenants) SUSAN GIACINTO, and NATHAN GIACINTO (husband and wife as joint tenants) each as 25% owners as tenants in common of all that real property commonly known as 716 Ballard Canyon Road and currently identified as Santa Barbara County Assessor's Parcel Number 137-120-056 located in the unincorporated area of the County of Santa Barbara, State of California, ("Property") collectively referred to herein as the "GRANTORS"

FOR A VALUABLE CONSIDERATION, DO HEREBY GRANTS AND CONVEYS TO

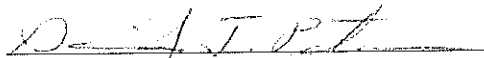
the COUNTY OF SANTA BARBARA, a political subdivision of the State of California, and its successors, assigns, and transferees, as "GRANTEE" herein, a perpetual exclusive easement in gross upon, over, under, through and across that certain portion of the Property as described and shown on "Exhibit A" attached hereto and incorporated herein ("Easement Area"), for the purpose of present and future drilling, constructing, repairing, equipping, maintaining, replacing and operating water production wells, pumping equipment, chlorination and treatment facilities, storage, water pipelines, utility lines, electrical and control equipment, and appurtenances thereto, and for driveway purposes to permit pedestrian and vehicular ingress, egress and passage across such real property, together with the right and privilege to take and to use all the water from said wells, and further the right to replace present or future wells when in the judgment of the County Board of Supervisors it becomes necessary, by drilling, sinking, or constructing another well, and further granted the right to improve, pave, fence the Easement Area, and further granted hereunder the right to install water pipeline connections to pump water to parcels of land near the closed Ballard Canyon landfill.

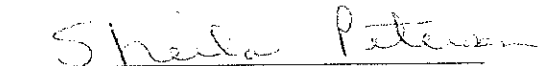
GRANTEE shall indemnify, defend and hold GRANTOR, and GRANTOR'S agents, officers and employees, harmless from and against all claims, damages, losses, causes of action and expenses, including attorneys' fees, for any personal injury, bodily injury, loss of life or damage to property, violation of any federal, state or municipal law, ordinance or constitutional provision, or other cause which arise out of, relate to, or result from the activities or omissions, negligent or otherwise, of GRANTEE, and GRANTEE'S officers, agents and employees, under this Easement.

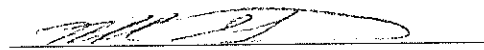
GRANTOR shall indemnify, defend and hold GRANTEE, and GRANTEE'S agents, officers and employees, harmless from and against all claims, damages, losses, causes of action and expenses, including attorneys' fees, for any personal injury, bodily injury, loss of life or damage to property, violation of any federal, state or municipal law, ordinance or constitutional provision, or other cause which arise out of, relate to, or result from the activities or omissions, negligent or otherwise, of GRANTOR, and GRANTOR'S officers, agents and employees, under this Easement.

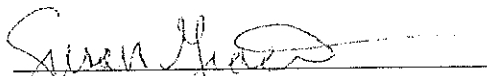
In the event the indemnity hereunder exceeds that permitted by applicable law, such indemnity shall be construed as the maximum permitted by law.

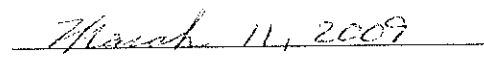
GRANTORS:

  
Mr. David J. Petersen

  
Mrs. Sheila Petersen

  
Nathan Giacinto

  
Susan Giacinto

  
Date

State of California

County of Santa Barbara

On March 11, 2009 before me, J. Jeffery Havlik, a Deputy Clerk,  
personally appeared \_\_\_\_\_  
Name of Clerk

David J. Petersen, Sheila Petersen, Nathan Giacinto, and Susan Giacinto, who proved to  
me on the basis of satisfactory evidence

to be the person(s) whose names(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.

I certify under PENALTY OF PERJURY under the laws of State of California that the  
foregoing paragraph

is true and correct.

MICHEAL F. BROWN  
CLERK OF THE BOARD

By: J. Havlik  
Deputy Clerk  
(Seal)

## LEGAL DESCRIPTION

That Portion of Tract 23 Rancho San Carlos de Jonata in the County of Santa Barbara, State of California as per map recorded in Book 5, Page 84 of Maps and Surveys in the Office of the County Recorder in said County, more particularly described as follows:

**Commencing** at a  $\frac{3}{4}$  inch iron pipe with tag marked "L.S. 3146", a point on the southerly boundary of Parcel 1 per Parcel Map No. 11,966 recorded in Book 13, Page 74 of Parcel Map in the Office of the County Recorder of said County, said point being S 22°36'09" E, 104.25 feet as measured (S 24°02'10" E, 104.09 feet per said Parcel Map) from a  $\frac{3}{4}$  inch pipe and as shown on record map in Book 67, Page 3 of Record of Survey filed in the Office of the County Recorder in said County;

Thence N 67°41'47" W, 92.48 feet to a point which is also S 36°39'36" W 76.49 feet from the  $\frac{3}{4}$  inch pipe as shown in said Record of Survey;

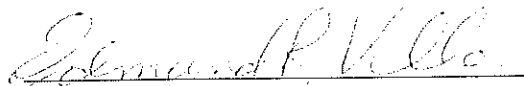
Thence N 00°00'00" E, 10.00 feet to the **True Point of Beginning**;

Thence the following courses:

- 1) Thence, N 90°00'00" E, 23.72 feet to the southwesterly boundary of a 40 foot wide public right of way for Ballard Canyon Road as shown on Parcel Map 11,966 recorded in Book 13 Page 74 of Parcel Maps in the Office of the County Recorder of said County;
- 2) Thence, S 22°36'09" E, 21.66 feet along said right of way line;
- 3) Thence, N 90°00'00" W, 42.05 feet;
- 4) Thence, N 00°00'00" E, 20.00 feet;
- 5) Thence, N 90°00'00" E, 10.00 feet to the **True Point of Beginning**.

End of description

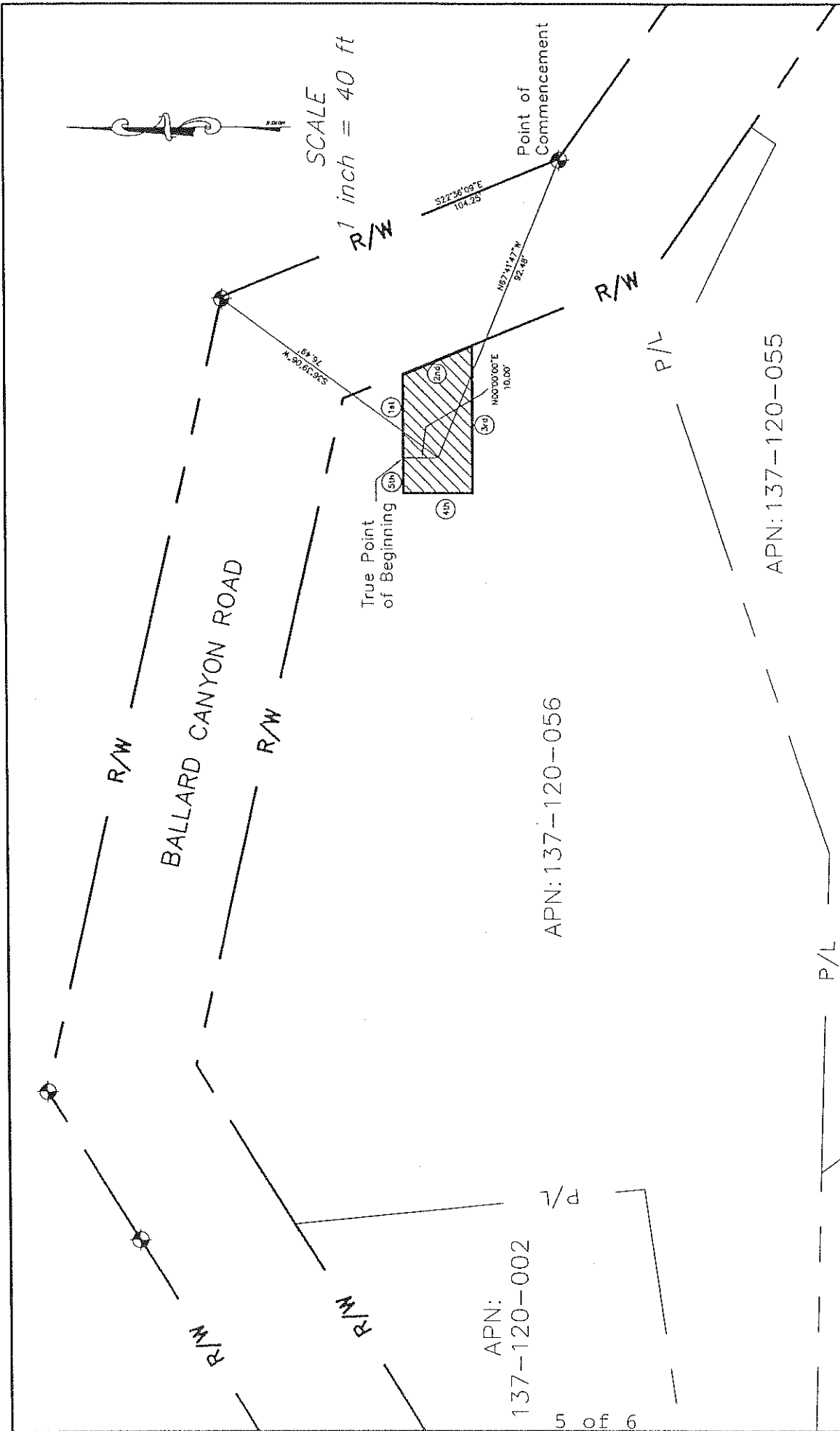
This legal description was prepared by me or under my direction in the conformance with the requirements of the Professional Land Surveyors Act on March 23, 2009



Edmund R. Villa  
PLS 6232  
Expiration 3/31/2010



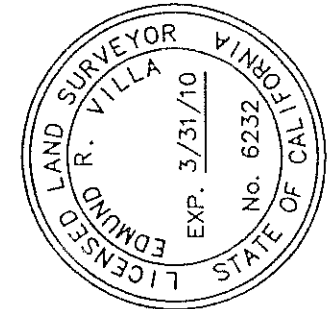
**EXHIBIT A** 686



COUNTY OF SANTA BARBARA DEPARTMENT OF PUBLIC WORKS  
 COUNTY SURVEYOR'S OFFICE

APN 137-120-056  
 BALLARD CANYON WATER SYSTEM  
 EASEMENT  
 SANTA BARBARA COUNTY, CALIFORNIA  
 MARCH 2009

S686



THIS MAP WAS PREPARED BY ME, OR  
 UNDER MY DIRECTION, IN  
 CONFORMANCE WITH PROFESSIONAL  
 LAND SURVEYORS ACT. 3/24/09  
*Edmund R. Villa* DATE  
 EDMUND R. VILLA

APN: 137-120-002  
 APN: 137-120-056  
 APN: 137-120-055



CERTIFICATE OF ACCEPTANCE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA: SS. § 27281

THIS IS TO CERTIFY that the interest in real property conveyed by the GRANT OF UTILITY EASEMENT dated \_\_\_\_\_, from David J. Petersen, Sheila Petersen, Nathan Giacinto, and Susan Giacinto to the COUNTY OF SANTA BARBARA, a political subdivision of the State of California, is hereby accepted by Order of the Board of Supervisors of the County of Santa Barbara on \_\_\_\_\_, and the County of Santa Barbara as Grantee consents to recordation thereof by its duly authorized officer.

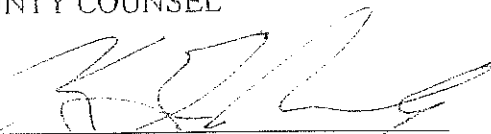
WITNESS my hand and official seal

this \_\_\_\_\_ day of \_\_\_\_\_, 2009

MICHAEL F. BROWN  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
DENNIS MARSHALL  
COUNTY COUNSEL

By:   
Kevin E. Ready, Sr.  
Deputy County Counsel

Recording requested by  
and to be returned to:  
General Services Department  
Office of Real Estate Services  
Will Call

**COUNTY OF SANTA BARBARA**  
**OFFICIAL BUSINESS**  
No fee pursuant to Government Code § 6103  
No Tax Due

*This Document is not valid until it is recorded*

SPACE ABOVE THIS LINE FOR RECORDER'S USE  
A.P.N. 137-120-056

### **AGREEMENT TO PROVIDE WATER**

This "Agreement to Provide Water" (herein the "Agreement") is made by between DAVID J. PETERSEN and SHEILA PETERSEN, husband and wife, as joint tenants and NATHAN S. GIACINTO and SUSAN GIACINTO, husband and wife, as joint tenants as tenants in common (herein collectively the "OWNERS") of all that real property commonly known as 716 Ballard Canyon Road, Solvang, CA and currently identified as Santa Barbara County Assessor's Parcel Number 137-120-056 (herein the "Supplying Property") and the COUNTY OF SANTA BARBARA, a political subdivision of the State of California, and its successors, assigns, and transferees (herein the "COUNTY").

**WHEREAS**, in compliance with a legal settlement dated September 21, 2001 (herein the "Settlement Agreement") the COUNTY is installing a water production and delivery system to supply water to various properties near the closed Ballard Canyon Landfill; and

**WHEREAS**, on March 28, 2000 the COUNTY signed a "Water System Agreement" with the OWNERS. In accordance with that Water System Agreement the COUNTY has conducted several tests and studies and has determined the aquifer under the Property can support a water extraction, pumping, storage and purification system (the "Water System") sufficient to supply water to the water users identified in the Settlement Agreement and those identified herein; and

**WHEREAS**, as part of the Water System Agreement the COUNTY agreed to provide water from the Water System to the two (2) residences located on the Supplying Property (716 Ballard Canyon Road), as well as to the residence at 710 Ballard Canyon Road (APN 137-120-002) and the residence at 718 Ballard Canyon Road (APN 137-120-055) (the "Neighboring Properties"); and

**WHEREAS**, the OWNERS have granted to the COUNTY a Grant of Utility Easement and Water Rights which easement granted the County the right to install and operate the Water System thereon along with the right to take and to use water from the Supplying Property.

NOW, THEREFORE, in consideration of the premises and the provisions, covenants, and conditions, hereinafter set forth, OWNERS and COUNTY agree as follows:

1. **ADMINISTRATION AND ENFORCEMENT:** The provisions and conditions of this Agreement shall be administered and enforced for the COUNTY by the Director of the Public Works Department, or designee.

2. **COUNTY'S RESPONSIBILITIES:** In compliance with the Settlement Agreement, and the Water System Agreement, the COUNTY has installed a water production well, water pump and storage tank to serve the following properties: 880 Ballard Canyon Road, APN 137-120-063, 940 Ballard Canyon Road, 137-710-017, 942 Ballard Canyon Road, 137-710-016, 948 Ballard Canyon Road, 137-710-015, 950 Ballard Canyon Road, 137-710-013, 952 Ballard Canyon Road 137-710-012, 954 Ballard Canyon Road, 137-710-011, (herein the "Impacted Properties"), and 716 Ballard Canyon Road APN 137-120-056 (Supplying Property), 710 Ballard Canyon Road, 137-120-002 and 718 Ballard Canyon Road, APN 137-120-055 (Neighboring Properties). Pursuant to the Settlement Agreement, OWNERS recognize that other users may be added to or removed from the Water System.

Except for contributions from the OWNERS and the owners of the Impacted Properties as noted in Section 5 **OWNERS MAINTENANCE and REPAIR** herein, the COUNTY shall be responsible for maintaining and operating the Water System. The COUNTY shall install a water line from the Water System to within three (3) feet of the water system currently serving the residences located on the OWNER'S Supplying Property, and shall deliver water thereto if the OWNERS connect their residential water system to the Water System. The quality and quantity of water delivered to the OWNER'S residences shall be in compliance with applicable Government Code.

3. **OWNER'S STATEMENTS & RESPONSIBILITIES:** The OWNERS have previously viewed and approved plans for the Water System and/or have observed construction thereof and are satisfied with the construction and installation of the Water System components on their Supplying Property.

By their signatures below the OWNERS do hereby declare they have the right to remove water from beneath the Supplying Property and allow that water to be delivered off the Supplying Property.

OWNERS and their successors in interest shall not sell or distribute water from the Water System to others.

In the event the COUNTY portion of the Water System is damaged or needs repair the OWNERS shall call the COUNTY at 805-739-8755 and immediately report the need for repair. In the event the leak or damage happens when the COUNTY is closed and poses a threat to public health and safety, the OWNERS shall immediately call Layne Christensen Company at 805-925-9931 or 805-896-4951, if no one responds at either of those numbers the OWNERS shall call a plumber licensed in the State of California and order the needed repair. The COUNTY shall pay for repairs performed on the portion of the Water System which is the responsibility of the COUNTY.

4. **COSTS:** COUNTY shall pay all costs associated with the installation of the Water System. The COUNTY shall also pay the cost of operating and maintaining the Water System until such time as the water wells on the Impacted Properties test below the California Maximum Contaminant Levels for all compounds of concern that have emanated from the closed Ballard Canyon Landfill for a period of one year of (at least) quarterly monitoring, at which time the COUNTY may shut down the Water System or transfer title to the Water System improvements and responsibility for operation of the Water System in accordance with Section 9, herein.

5. **OWNERS MAINTENANCE & REPAIR:** The OWNERS shall maintain the water line from the Water System well head to their respective homes. In the event the OWNERS do not maintain the water line serving their home(s) to the extent it is leaking, or poses a danger to the Water System or the public, COUNTY reserves the right to shut off the water serving the OWNER'S Property at the well head after sending OWNERS a notice requiring OWNERS to repair the water line. If said repairs are not completed in a timely manner and COUNTY turns the water off, the water will not be turned back on until the OWNERS have had the damage to their facilities professionally repaired and said repairs have been inspected and approved by the COUNTY. The COUNTY approval shall be given in a timely manner and shall not unreasonably be withheld.

6. **INDEMNIFICATION:** For as long as the COUNTY operates the Water System the COUNTY shall defend and indemnify the OWNERS, from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments, or liabilities and causes of action arising from the operation, use and maintenance of the Water System, including but not limited to any act or omission to act on the part of COUNTY or its agents, personnel, employees, or independent contractors directly responsible to COUNTY; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting solely from the negligence or willful misconduct of the OWNERS, their agents, heirs, tenants, volunteers and employees. The Water System does not include the waterline extending from the well head to the residence on OWNER'S property.

For as long as the COUNTY operates the Water System the OWNERS shall defend and indemnify the COUNTY, its officers, agents, volunteers, contractors and employees (if any) from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments, or liabilities and causes of action arising from the operation, use and maintenance of all water line(s) and facilities from the Water System well head to the residence on OWNER'S property, including but not limited to any act or omission to act on the part of OWNERS or their agents, personnel, tenants, employees, or independent contractors directly responsible to OWNERS; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting solely from the negligence or willful misconduct of the COUNTY, its officers, agents, volunteers and employees.

7. **MUTUAL WAIVER OF SUBROGATION RIGHTS:** OWNERS and COUNTY hereby waive any rights each may have against the other on account of any loss or damage suffered by OWNERS or COUNTY, as the case may be, to their respective property arising from any risk generally covered by "all risk" property insurance; and the parties each, on behalf of their respective insurance companies insuring the property of either OWNERS or COUNTY against any such loss, waive any right of subrogation that either may have against the other, as the case may be.

8. **NOTICES:** Any notice to be given to either party, by the other, shall be in writing and shall be served, either personally or by first class mail to the following:

COUNTY: Santa Barbara County; Public Works  
Resource Recovery Division Deputy Director  
123 East Anapamu Street  
Santa Barbara, CA 93101  
(805) 882-3600

OWNERS: David J. Petersen, Sheila Petersen,  
Nathan Giacinto, Susan Giacinto, or Current Owner  
716 Ballard Canyon Road  
Solvang, CA 93463

OWNERS agree to promptly notify the COUNTY of any change in ownership. All notices hereunder shall be in writing and shall be deemed to have been given on the date delivered, if personally delivered, or if mailed, then on the first business day following the date on which it is mailed, by certified or registered mail, postage prepaid, addressed to the address specified above, or to such other address designated by the party as provided for herein.

9. **ALTERNATIVE WATER SYSTEM OPERATOR:** As set forth in the Settlement Agreement, and Section 4, herein, the County’s obligation to deliver water to the Impacted Properties and the Neighboring Properties is extinguished when the water drawn from the water wells serving those properties is determined to be fit for human consumption in accordance with applicable health and government standards. The COUNTY hereby reserves those same rights in relation to the Supplying Property and this Agreement.

In the event the COUNTY terminates its involvement in the Water System the OWNERS shall retain all rights to the water well located on the Supplying Property and shall negotiate in good faith with the owners of the Impacted and Neighboring Properties to establish a small water company to manage, maintain, operate and hold title to a Water System to provide water to the Supplying Property, the Impacted Properties, and the Neighboring Properties. Terms regarding payments of costs associated with the management, maintenance and operation of the Water System will be negotiated in good faith between the OWNERS of the water well located on the Supplying Property and the owners of the Impacted and Neighboring Properties.

In either event the COUNTY shall have no further liability or responsibility associated with the Water System including the water line(s) on the OWNER'S property.

10. **WAIVER:** It is understood and agreed that any waiver, express or implied of any term of this Agreement shall not be, nor construed to be a waiver of any subsequent breach of a like kind or of any other provision of this Agreement.

11. **FIRST RIGHT OF REFUSAL:** OWNERS agree that they will not sell the Property to any other entity until OWNERS have given to COUNTY written notice of their intent to sell, specifying the fair market value for the Property, and the terms of the contemplated sale. Within 30 days after OWNERS give COUNTY written notice of OWNER’S intent to sell,

COUNTY shall have the right to purchase the Property on the same terms and conditions set forth in OWNER'S written notice of intent to sell.

12. **COMPLIANCE WITH THE LAW:** OWNERS shall comply with all local, County, State, and Federal laws, rules, ordinances, and regulations affecting their connection to the Water System. Nothing herein shall be construed to exempt the OWNERS from obtaining building or other permits required to connect to the Water System.

13. **NEGATION OF PARTNERSHIP/JOINT VENTURE:** Nothing in this Agreement is intended, and no provision of this Agreement shall be construed, to make COUNTY a partner of, nor a joint venturer with OWNERS, or associated in any other way with OWNERS in the use of the Water System, or to subject the COUNTY to any obligation, loss, charge or expense resulting from or attributable to OWNER'S use of the Water System.

14. **AGENCY DISCLOSURE:** OWNERS acknowledges that the Santa Barbara County Public Works Department is the agent for the COUNTY exclusively, and is neither the agent for the OWNERS nor a dual agent in this transaction.

15. **SUCCESSORS IN INTEREST:** This Agreement shall bind and inure to the benefit of the parties hereto and their successors in interest.

16. **CAPTIONS:** The title or headings to the sections of this Agreement are not a part of this Agreement, and shall have no effect upon the construction or interpretation of any part hereof.

17. **SEVERABILITY:** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

18. **CERTIFICATION OF SIGNATORIES:** Signatories represents and certify that they are the OWNERS of the Property and that no additional signatures are required to carry out the activities contemplated herein.

19. **RELOCATION/ TENANT RIGHTS:** OWNERS understand and hereby agree that OWNERS, their tenants, employees, agents or others are in no way entitled to any relocation assistance and that this Agreement confers no tenant or relocation rights to OWNERS or others.

20. **AMENDMENTS:** This Agreement may only be amended by written consent of the parties.

21. **ENTIRE AGREEMENT:** The parties to this Agreement intend that their negotiations, conversations and statements made prior to execution of this Agreement are fully

integrated and expressed herein, and no such negotiations, conversations and statements shall be deemed to create rights or obligations other than those stated herein.

22. **CONSTRUCTION:** The parties agree that each party and its respective counsel have reviewed and approved this Agreement to the extent that each party in its sole discretion has desired. The terms and provisions of this Agreement embody the parties' mutual intent, and this Agreement shall not be construed more liberally in favor of, nor more strictly against any party hereto.

IN WITNESS WHEREOF, COUNTY and OWNERS have executed this Agreement to Provide Water by the respective authorized officers and owners as set forth below to be effective as of the date of recordation.

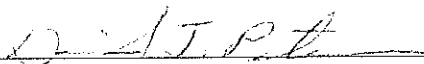
"COUNTY"  
COUNTY OF SANTA BARBARA


ATTEST:  
MICHAEL F. BROWN  
CLERK OF THE BOARD

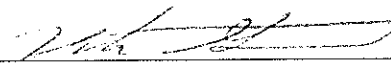
By: \_\_\_\_\_  
Chair, Board of Supervisors  
County of Santa Barbara

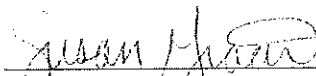
By: \_\_\_\_\_

OWNERS:

  
\_\_\_\_\_  
David J. Petersen

  
\_\_\_\_\_  
Sheila Petersen

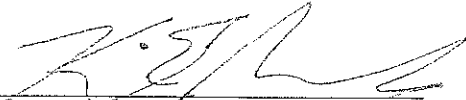
  
\_\_\_\_\_  
Nathan Giacinto

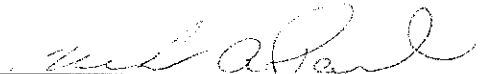
  
\_\_\_\_\_  
Susan Giacinto

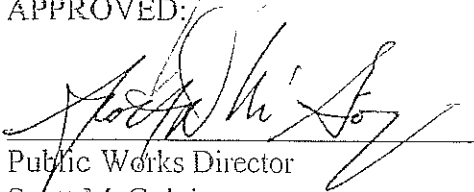
COUNTY signature page continued

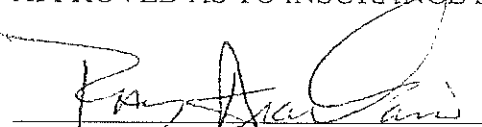
APPROVED AS TO FORM:  
DENNIS MARSHALL  
COUNTY COUNSEL

APPROVED AS TO FORM:  
ROBERT W. GEIS, CPA  
AUDITOR-CONTROLLER

By:   
KEVIN E. BRADY, SR. DEPT. COUNTY COUNSEL

By:   
ROBERT W. GEIS, CPA

APPROVED:  
  
Public Works Director  
Scott McGolpin

APPROVED AS TO INSURANCE FORM:  
  
Ray Aromatorio, ARM, AIC  
Risk Program Administrator

APPROVED:  
  
Royh Carlentine  
Real Property Manager



State of California

County of Santa Barbara

On March 11, 2009 before me, J. Jeffery Havlik, a Deputy Clerk,  
personally appeared \_\_\_\_\_  
Name of Clerk

David J. Petersen, Sheila Petersen, Nathan Giacinto, and Susan Giacinto, who proved to  
me on the basis of satisfactory evidence

to be the person(s) whose names(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.

I certify under PENALTY OF PERJURY under the laws of State of California that the  
foregoing paragraph

is true and correct.

MICHEAL F. BROWN  
CLERK OF THE BOARD

By: \_\_\_\_\_  


Deputy Clerk  
(Seal)

California Civil Code section 1189

COUNTY ACKNOWLEDGEMENT

State of California  
County of Santa Barbara

On \_\_\_\_\_, before me, \_\_\_\_\_, a  
(Name of Deputy Clerk)

Deputy Clerk, personally appeared \_\_\_\_\_,  
who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

Witness my hand and Official seal.

Signature: \_\_\_\_\_ (Seal)

**RECORDING REQUESTED BY:**

Chicago Title Company  
Escrow No.: 08-77602448-MW  
Locate No.: CACT17742-7742-4776-0077602448  
Title No.: 08-77602448-KJ

**When Recorded Mail Document To:**

Chicago Title Company  
Will Call

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 137 120 056

**SUBORDINATION AGREEMENT**

(Trust Deed to Easement)

NOTE: This Subordination Agreement results in your Security Interest in the property becoming subject to and of lower priority than the lien of some other or later Security Instrument.

THIS AGREEMENT, made this 18<sup>th</sup> day of December, 2008 by and between **New Century Mortgage Corporation** present holder(s) of the beneficial interest in that certain deed of trust dated **May 10, 2005** and recorded **May 20, 2005**, document id # 2005-0046815, in book **N/A**, page **N/A**, of Official Records of **Santa Barbara** County, in the State of California, herein called "First Party" which said deed of trust affects the following described real property;

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

And **County of Santa Barbara** herein called "Second Party" being the present owner(s) of the easement (conveyed to/reserved by) \_\_\_\_\_ by document recorded \_\_\_\_\_, as Document No. \_\_\_\_\_, Book \_\_\_\_\_, Page \_\_\_\_\_, of Official Records of **Santa Barbara** County, in the State of California, said easement being described as follows:

SEE EXHIBIT "B" ATTACHED HERETO AND MADE PART OF

WHEREAS the parties hereto desire to subordinate the lien or charge of said deed of trust to said easement hereinabove set forth.

NOW THEREFORE, the parties hereto, in consideration of these premises and of the mutual benefits to be derived by them for the agreement herein contained, do hereby agree that said easement (conveyed to/reserved by) said "Second Party" dated and recorded as aforesaid shall be and said easement is hereby made prior and paramount to said deed of trust and the lien thereof;

THAT the lien or charge of and said deed of trust as to the lands and premises hereinabove described is hereby subordinated to said easement;

AND THAT, in the event of Foreclosure of said deed of trust, the trustees sale and conveyance thereunder of the property described therein shall be subject to said easement and said easement shall not be affected thereby.

APN: 137 120 056

IN WITNESS WHEREOF, the parties hereto have set their hands or have caused this instrument to be executed by the proper Officers thereunto duly authorized the day and year first above written.

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS SUBORDINATION AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT THERETO.

FIRST PARTY

SECOND PARTY

New Century Mortgage Corporation,  
by Countrywide Home Loans, Inc. as Attorney-in-Fact

County of Santa Barbara

DeSean K. Akins  
By: DeSean K. Akins / Assistant Secretary

By: \_\_\_\_\_

Texas  
State of California  
County of Dallas }

On December 18, 2008 before me,  
Karen R Shuler, Notary Public (here insert name and title of the officer),  
personally appeared DeSean K Akins, Assistant Secretary

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Karen R Shuler (Seal)



Escrow No.: 08-77602448-MW  
Locate No.: CACTI7742-7742-4776-0077602448  
Title No.: 08-77602448-10

## EXHIBIT "A"

### PARCEL ONE:

Those portions of Tract No. 23 of the Rancho San Carlos De Jonata, in the County of Santa Barbara, State of California, according to the map thereof entitled "7, 8 and 9 of the continuation of the 6 sheets of the Map of Survey made by F. F. Flournoy of part of the Rancho San Carlos De Jonata" filed April 8, 1910 in the office of the County Recorder of said County, which map was filed October 24, 1910 in Book 5, at Pages 84, 85 and 86 of Maps and Surveys, said Tract 23 being shown on Pages 84 and 85 described as follows:

Beginning at a 1 inch pipe survey monument set on the Northerly line of Ballard Canyon Road at the common corner of Tracts 21, 22 and 23 of said Rancho; thence along the Northerly line of said Ballard Canyon road, which is also the line between said Tracts 22 and 23, North 56° 49' East 194.12 feet to the true point of beginning; thence continuing along said Northerly line of Ballard Canyon Road, and said line between Tracts 22 and 23, the following courses and distances; North 56° 29' East 50.08 feet to a 1 inch pipe survey monument; South 78° 59' 30" East 232.40 feet to a 1 inch pipe survey monument; South 23° 53' 30" East 104.20 feet to a 1 inch pipe survey monument; South 56° 31' 30" East 39.84 feet to a point; thence leaving said road and line between Tracts 22 and 23, South 33° 28' 30" West 40 feet to a 3/4 inch pipe marked "R.E. 1564" on the Southerly line of said Ballard Canyon Road, thence continuing South 33° 28' 30" West 8.36 feet to a 3/4 inch pipe marked "R.E. 1564"; thence North 64° 31' 30" West 71.98 feet to a 3/4 inch pipe marked "R.E. 1564"; South 69° 32' 30" West 146.97 feet to a 3/4 inch pipe marked "R.E. 1564"; thence South 89° 59' West 91.24 feet to a 3/4 inch pipe; thence North 7° 12' West 164.45 feet to a 3/4 inch pipe; thence continuing North 7° 12' West 31.98 feet to the true point of beginning.

EXCEPTING therefrom all oil, petroleum and other hydrocarbon substances, including natural gas in, upon or under said land.

Said land is also shown in Book 29, at Page 71 of Record of Surveys.

### PARCEL TWO:

That portion of Tract 23 of Rancho San Carlos de Jonata according to the map thereof recorded in Book 5, Pages 84 thru 86, inclusive, of Maps and Surveys, in the Office of the County Recorder of Santa Barbara County, in the County of Santa Barbara, State of California, described as follows:

Beginning at the common corner of Tracts 21, 22 and 23 of said Rancho said point being marked by an old 3/4 inch survey pipe; thence 1st, South 26° 28' 10" East into said Tract 23, 69.55 feet to a point, from which a 1/2 inch survey pipe bears North 80° 07' 30" East 40.00 feet; thence 2nd, North 80° 07' 30" East 151.27 feet to a 1/2 inch survey pipe set on the Westerly line of a tract of land described as Parcel One in the Deed to W. H. Broadwell, et ux., recorded April 5, 1954 as Instrument No. 6248 in Book 1231, Page 391 of Official Records, records of said County; thence 3rd, along the Westerly line of said Broadwell Tract, South 7° 13' 30" East 51.77 feet to a 3/4 inch survey pipe set at the Southwesterly corner of said Broadwell Tract, said point also being on the Northerly line of the tract of land described in the deed to Evans S. Pillsbury, 2nd, recorded June 5, 1944 as Instrument No. 5465 in Book 607, Page 494 of Official Records, records of said County; thence 4th, along the Northerly line of said Pillsbury Tract, South 89° 34' West 115.34 feet more or less, to a 1 inch survey pipe set at an angle point in said line; thence 5th, continuing along said Northerly line of said Pillsbury Tract, South 72° 41' 30" West 298.75 feet to a point in the line between Tracts 21 and 23 of said Rancho; thence 6th, along the line between said Tracts 21 and 23, North 50° 21' 30" East 277.74 feet to the point of beginning.

EXCEPTING therefrom all oil, petroleum and other hydrocarbon substances including natural gas in, upon and under the property herein described.

APN: 137 120 056

## LEGAL DESCRIPTION

That Portion of Tract 23 Rancho San Carlos de Jonata in the County of Santa Barbara, State of California as per map recorded in Book 5, Page 84 of Maps and Surveys in the Office of the County Recorder in said County, more particularly described as follows:

**Commencing** at a ¼ inch iron pipe with tag marked "L.S. 3146", a point on the southerly boundary of Parcel 1 per Parcel Map No.11,966 recorded in Book 13, Page 74 of Parcel Map in the Office of the County Recorder of said County, said point being S 22°36'09" E, 104.25 feet as measured (S 24°02'10" E, 104.09 feet per said Parcel Map) from a ¼ inch pipe and as shown on record map in Book 67, Page 3 of Record of Survey filed in the Office of the County Recorder in said County;

Thence N 67°41'47" W, 92.48 feet to a point which is also S 36°39'36" W 76.49 feet from the ¼ inch pipe as shown in said Record of Survey;

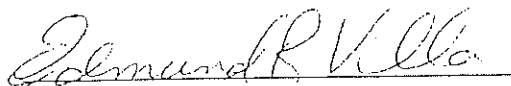
Thence N 00°00'00" E, 10.00 feet to the **True Point of Beginning**;

Thence the following courses:

- 1) Thence, N 90°00'00" E, 23.72 feet to the southwesterly boundary of a 40 foot wide public right of way for Ballard Canyon Road as shown on Parcel Map 11,966 recorded in Book 13 Page 74 of Parcel Maps in the Office of the County Recorder of said County;
- 2) Thence, S 22°36'09" E, 21.66 feet along said right of way line;
- 3) Thence, N 90°00'00" W, 42.05 feet;
- 4) Thence, N 00°00'00" E, 20.00 feet;
- 5) Thence, N 90°00'00" E, 10.00 feet to the **True Point of Beginning**.

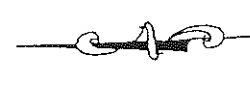
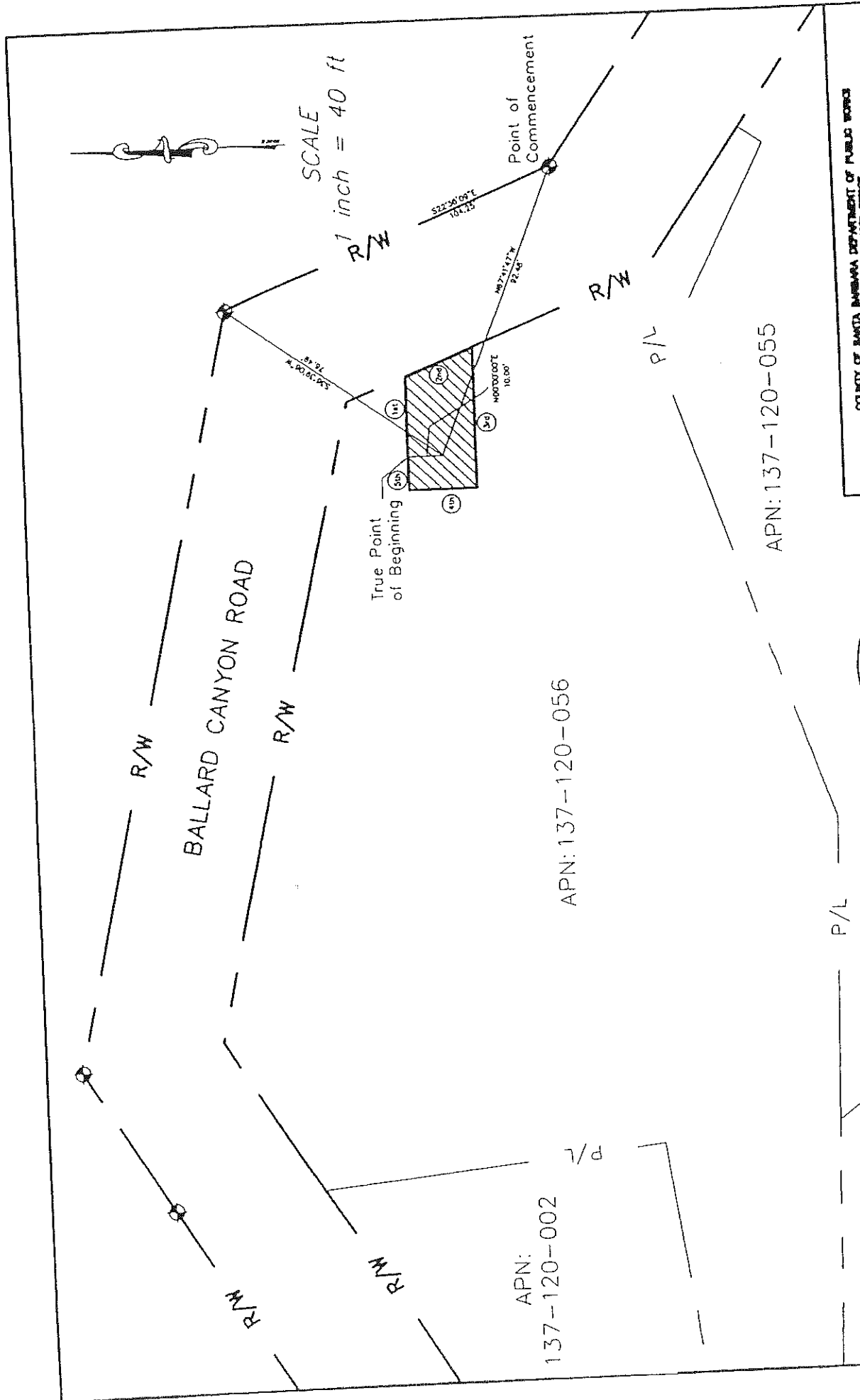
End of description

This legal description was prepared by me or under my direction in the conformance with the requirements of the Professional Land Surveyors Act on March 23, 2009



Edmund R. Villa  
PLS 6232  
Expiration 3/31/2010





SCALE  
1 inch = 40 ft

BALLARD CANYON ROAD

R/W

R/W

True Point of Beginning

APN: 137-120-056

APN: 137-120-002

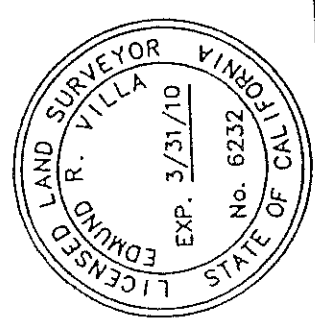
APN: 137-120-055

P/L

P/L

P/L

P/L



THIS MAP WAS PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH PROFESSIONAL LAND SURVEYORS ACT.  
*Edmund R. Villa*  
 EDMUND R. VILLA  
 DATE 3/24/09

COUNTY OF SANTA BARBARA DEPARTMENT OF PUBLIC WORKS  
 COUNTY SURVEYOR'S OFFICE

APN 137-120-056  
 BALLARD CANYON WATER SYSTEM  
 EASEMENT  
 SANTA BARBARA COUNTY, CALIFORNIA  
 MARCH 2009

S686

**EXHIBIT E**

