

Attachment A

ATTACHMENT A

**RELEASE AND WAIVER OF
LIABILITY AGREEMENT**

Recorded at request by
and to be returned to:
County of Santa Barbara
General Services Department
Real Property Division
Will Call
1105 Santa Barbara St 2nd Flr
Santa Barbara CA 93101
COUNTY OF SANTA BARBARA
OFFICIAL BUSINESS

No fee pursuant to Government Code §27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 061-061-018
District #17TPM-00002
General Service #003739

RELEASE AND WAIVER OF LIABILITY AGREEMENT

The Parties to this Agreement are Linda Barrett and Devin Dierenfield and the Santa Barbara County Flood Control and Water Conservation District ("District"). Linda Barrett and Devin Dierenfield, as owners of real property in Santa Barbara County, commonly known as 244 Puente Drive, APN 061-061-018, and more particularly described in Exhibit A attached hereto and incorporated herein by reference (hereinafter the "Property"), enter this Agreement on their own behalf and on behalf of all of their heirs, administrators, executors, successors, and assigns (collectively referred to as "Owners").

The Parties intend through this Release and Wavier of Liability Agreement (hereinafter "Release") to resolve and extinguish forever any and all past, present, and potential future claims by Owners against County (as defined below) with respect to any and all Injuries and Damages arising in any way from the Owners' use of and encroachment upon a portion of approximately 30' of the County's flood control channel 60' easement, recorded on November 17, 1955, in Book 1346, Pages 569 through 573, of Official Records of the County Recorder of Santa Barbara County (hereinafter "Flood Control Easement"), adjoining to and with the Property and to hold County entirely harmless with respect thereto.

Owners hereby forever waive, release, acquit, discharge and hold harmless Santa Barbara County Flood Control & Water Conservation District, its officers, agents, and employees, the County of Santa Barbara, its officers, agents, and employees, including, but not limited to, the County of Santa Barbara Public Works Department, its officers, agents, and employees, and all successors (collectively referred to as "County") from all past, present and potential future claims, liens, actions, causes of action, demands, obligations, and reimbursement rights (collectively referred to as "Claims") for or in any way arising out of County's use of the Flood Control Channel (as defined below) and Owners' use of and improvement(s) (as defined in Cal. Rev. & Tax. Code § 105) located upon or within the Flood Control Easement, including the patio (the "Patio"), walkway (the "Walkway") and converted garage structure ("Garage Structure") as depicted in Exhibit B, attached hereto and incorporated herein by reference, and further including the landscaping improvements,

shed, and any other structures or improvements currently located within the Flood Control Easement (collectively, the "Structures"). "Claims" includes, without limitation, all claims for past, present or potential future injury, property damage, costs, expenses, damages, attorneys' fees, loss of service, or other injury, damage, detriment, or liability (collectively referred to as "Injuries" or "Damages"), without regard to whether such Injuries or Damages presently are known or unknown, discoverable or undiscoverable, patent or latent, suspected or unsuspected, or foreseen or unforeseen, and without regard to whether Owners presently know, foresee, or understand the facts, theories, or circumstances that have given or may give rise thereto.

Owners acknowledge that the Flood Control Easement and the related flood control facilities and other improvements, including, but not limited to, the flood wall, (collectively referred to as the "Flood Control Channel"), were not designed, developed or constructed as load-bearing or to support Structures and hereby forever waive, release, acquit, discharge and hold harmless County from any and all past, present and potential future claims for any Injuries or Damages to Structures, including, but not limited to, Injuries or Damages resulting from the Flood Control Channel or any failure, deterioration, repair or maintenance of the Flood Control Channel. Additionally, to the extent any failure or deterioration of the Flood Control Channel is attributed to the Structures, Owners assume liability for damages, including replacement or repair of the portion of the Flood Control Channel on or adjacent to the Property as depicted in Exhibit B.

In the event of any replacement, repair or maintenance to the Flood Control Channel that may impact Structures, Owners are solely responsible for any costs related to Structures, including, but not limited to, moving, elevating, shoring up, or adding structural supports to Structures, etc. County will notify, except in cases of emergency, as determined by County, Owners of any planned replacement, repair or maintenance to the Flood Control Channel.

Owners have read Civil Code section 1542, set forth below:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Having read Civil Code section 1542, Owners hereby expressly waive the provisions of Civil Code section 1542, and any similar law of any state, territory, or jurisdiction of the United States. Owners understand that this waiver bars Owners from making any claim against the County, for any Injury or Damage to Structures arising out of the alleged acts or omissions that are the subject of this Release, even Injuries or Damages that may now exist unbeknown to Owner, and even Injuries or Damages that may not presently exist, but may arise in the future unforeseen by Owner, regardless of whether Owner's lack of knowledge or foresight is a result of ignorance, oversight, error, negligence, or any other cause.

Owners shall indemnify County and shall hold County entirely harmless, with respect to any and all losses and liabilities, including, without limitation, attorney fees, in connection with any and all claims by any other person or entity relating in any manner to Injuries or Damages sustained by Owners as a result of the acts or omissions that are the subject of the Release.

In exchange for this Release, District hereby grants Owners (a) a license to maintain the Patio in its current location within the Flood Control Easement; (b) a license to maintain the Walkway in its current location within the Flood Control Easement; and (c) a license to maintain the Garage Structure in its current location within the Flood Control Easement (the "Licenses"). These Licenses shall not entitle Owners to expand any of the Structures beyond the space that they currently occupy within the Flood Control Easement as depicted in Exhibit B. In the event that any or all of the Structures require total reconstruction or replacement for any reason – including but not limited to a catastrophic casualty loss such as fire or earthquake or a determination by a public agency with jurisdiction that the entire Structure is unsafe or in violation of health and safety laws and cannot be repaired – the License with respect to that Structure shall be terminated. In the event that Owners voluntarily elect to remove any or all of the Structures, the License with respect to that particular Structure shall also terminate. The Parties agree to record an amendment, notice or other document to memorialize any such termination. Following termination of the License for the Garage Structure, Owner may request and District may consent to vacate, abandon or otherwise dispose of other interest in the Property held by District in District's reasonable discretion, provided however such consent shall not be unreasonably withheld, conditioned or delayed. Any such vacation, abandonment or disposition shall be processed in accordance with applicable law. This Agreement shall not be construed to limit or restrict the District's legislative or governmental authority.

Owner shall, upon 30 days notice from District, remove at their expense any other Structures located within the Flood Control Easement that is not subject to the above-described Licenses.

Owners warrant:

- they are of lawful age, legally competent, and have authority to make this Release;
- they are the sole owners of the Property, and have not assigned any right, title, or interest therein to any person or entity;
- except as provided in this Release no promise, representation, or inducement of any sort, oral or written, have been made to Owners in connection with this Release;
- this Release contains all of the terms agreed upon, and that the terms of this Release are contractual, and not a mere recital;
- they willingly and voluntarily consent to all of the terms of this Release free from any pressure, menace, or duress; and
- they have been given ample opportunity to review and consider this Release and Waiver of Liability, and have received and relied upon the advice of independent advisors, including an attorney chosen by Owners, regarding the advantages and disadvantages of making this Release, and the meaning and consequences of its terms; and that Owners enters into this Release based upon that advice, with full knowledge and understanding of the meaning and consequences of its terms, and of Owners' legal rights and alternatives.

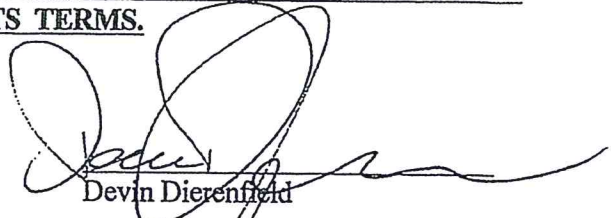
If any action is brought by any party to this Release for interpretation, breach, or enforcement of this Release, or any term, warranty, or covenant herein, the prevailing party in that action shall be entitled to recover their reasonable costs and attorney's fees, in addition to any other available relief.

The wording of this Release is the result of negotiations between the parties, and shall be deemed to have been drafted jointly by them, such that any uncertainty or ambiguity it may contain shall not be construed for or against any party based on attribution of drafting. This Release shall be construed and enforced in accordance with the laws of the State of California. The terms of this Release are severable, and the invalidity of any term shall not affect the validity of any other term.

OWNERS HAVE READ THIS RELEASE AND WAIVER OF LIABILITY, AND FULLY UNDERSTAND AND AGREE TO ALL OF ITS TERMS.


Linda Barrett

Date: 3-30-20


Devin Dierenfield

Date: 4-1-20

SANTA BARBARA COUNTY FLOOD
CONTROL AND WATER CONSERVATION
DISTRICT

By: _____
Gregg Hart, Chair
Board of Directors


Date: _____

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD
Ex Officio Clerk of the Santa Barbara County
Flood Control and Water Conservation District

By: _____
Sheila de la Guerra
Deputy


(Additional County Signatures Not for Recordation)

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: 

Scott Greenwood
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

By: 


Betsy M. Schaffer
Auditor-Controller

APPROVED AS TO FORM:
RAY AROMATORIO
CEO/RISK MANAGEMENT

By: 

Greg Milligan
Safety Officer

APPROVED:

By: 


Scott D. McGolpin, Director
Public Works Department

APPROVED

By: 

Thomas D. Fayram, Assistant Director
PW/Flood Control & Water Conservation

APPROVED:

By: 

Carlo Achdjian, Manager
General Services-Real Property

ACKNOWLEDGEMENT

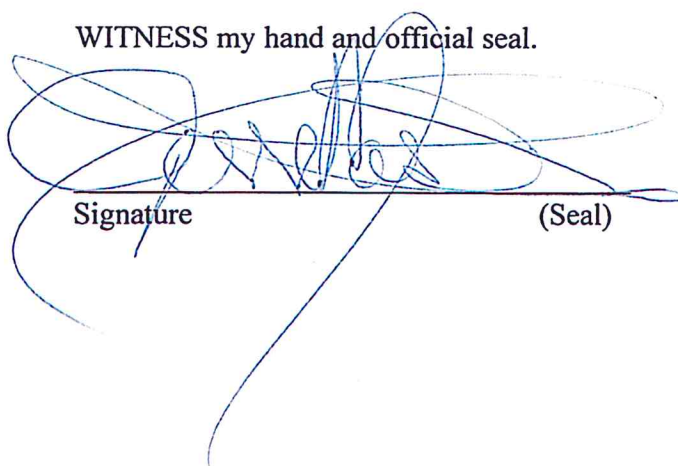
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

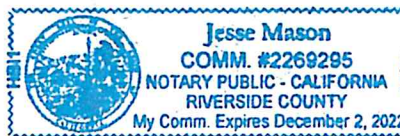
STATE OF CALIFORNIA)
)
COUNTY OF RIVERSIDE)

On . March 30, 2020 , before me, Jesse Mason ,
Notary Public, personally appeared Linda Barrett who 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 she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person 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)



ACKNOWLEDGEMENT

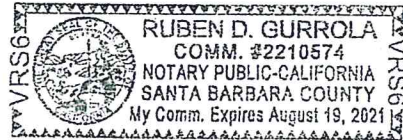
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA)

On April 1, 2020, before me, Ruben D Gurrola,
Notary Public, personally appeared Devin Dierenfield who proved to me on the basis of
satisfactory evidence to be the person whose names 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.

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]
Signature (Seal)

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA)

On _____, before me, _____, Deputy Clerk, personally appeared Gregg Hart, who 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.

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.

MONA MIYASATO
Ex Officio Clerk of the Board of
Directors of the Santa Barbara
County Flood Control and Water
Conservation District

Signature: _____ (Seal)

EXHIBIT "A"

All that certain lot or parcel of land situate in The County of Santa Barbara, State of California, and bounded and more particularly described as follows:

Commencing at the intersection of the center line of Auhay Drive with the South right of way line of Hollister Avenue (U.S. Highway 101), in La Cumbre Estates Corporation's, Hope Ranch, as shown on Sheet #4 of that map filed with the County Recorder of Santa Barbara County, State of California, in Map Book 15 at Pages 117 to 126 inclusive; thence along the South right of way line of said Hollister Avenue, which is also the North line of Lot 22A as shown on said map, South 77°21' West, a distance of 207.79 feet; thence South 76°53' West, a distance of 204.72 feet to the Northerly common corner of Lots 22A and 21A as shown on said map; thence along the South line of Hollister Avenue and the North line of said Lot 21A, South 76°53' West, a distance of 71.88 feet; thence leaving said line of Hollister Avenue, South 1°58' West, a distance of 156.62 feet to the point of true beginning of the tract of land herein described;

thence South 1°58' West, a distance of 130.27 feet to the center line of a drainage easement 60 feet in width, and the beginning of a curve to the right having a tangent bearing South 64°06'20" West, whose radius is 309.85 feet and whose central angle is 27°49'10", the long chord of which bears South 78°00'55" West a distance of 148.97 feet;

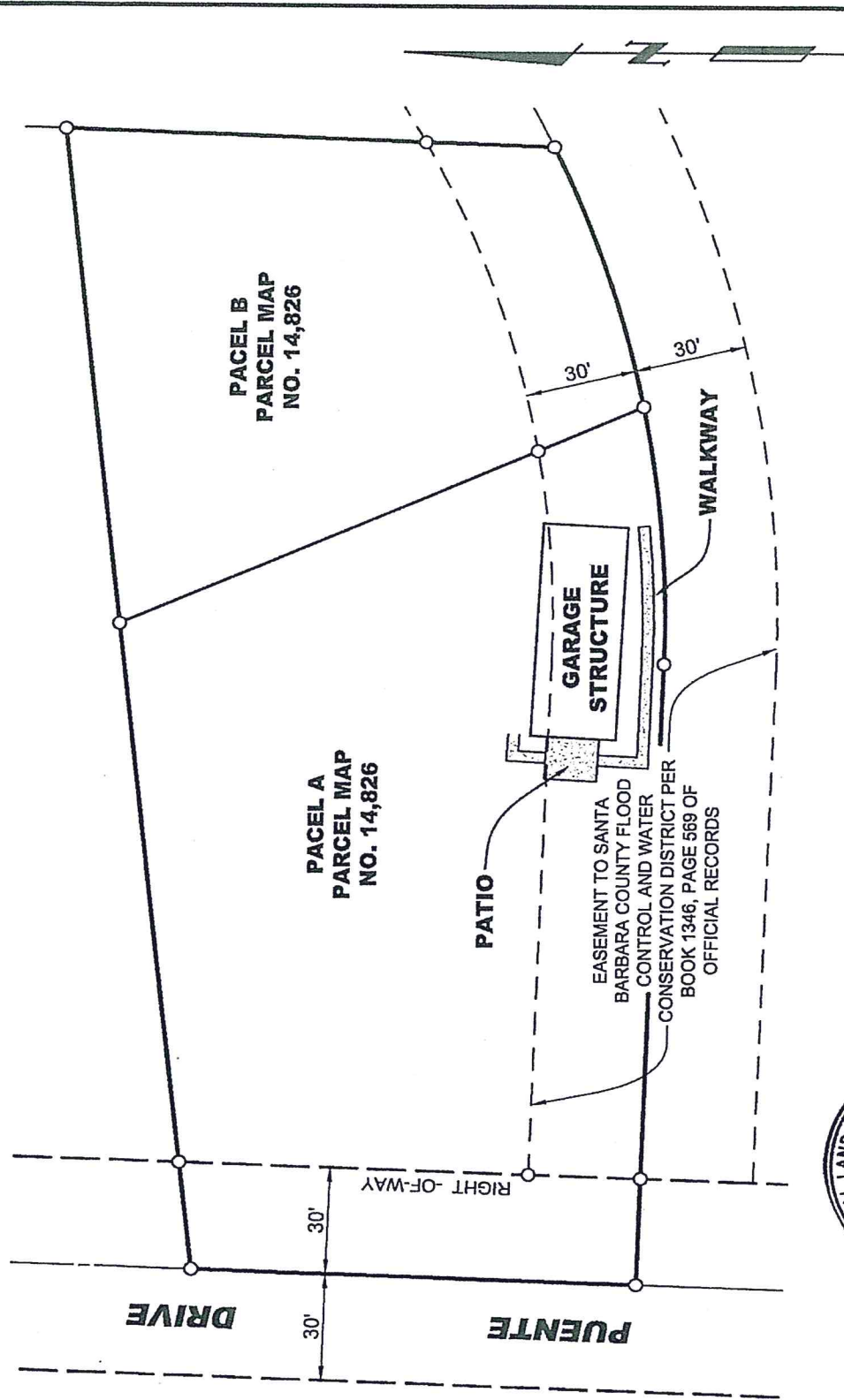
thence Southwesterly and Westerly along arc of said curve and center line of said drainage easement to the end of said curve;

thence North 88°04'30" West along the center line of said drainage easement, a distance of 175.67 feet to the center line of Puente Drive, whose right of way is 60 feet in width, which said center line is also the West line of said Lot 21A as shown on said map;

thence North 1°58' East, along said center line of said Puente Drive, a distance of 118.29 feet to a point from which the true point of beginning bears North 83°26'58" East;

thence leaving the center line of said Puente Drive, North 83°26'58" East, a distance of 323.63 feet to the true point of beginning.

APN: 061-061-18



EASEMENT TO SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT PER BOOK 1346, PAGE 569 OF OFFICIAL RECORDS



[Signature]
13 MARCH 2020

EXHIBIT B
13 MARCH 2020
1 OF 1

RDH
LAND SURVEYING & CONSULTING
2242EM1.DWG (EXHIBIT B)