



2016-0004061

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Official Records		
County of		
County of San Benito		
JOE PAUL GONZALEZ		
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01:49PM 25-Apr-2016	Page 1 of 79

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:  
San Benito County  
Attn: San Benito County Clerk  
440 Fifth St., Room 206  
County Courthouse  
Hollister, CA 95023

RECORDING FEE EXEMPT  
PURSUANT TO GOVERNMENT CODE  
SECTION 27383

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**DEVELOPMENT AGREEMENT BY AND AMONG  
THE COUNTY OF SAN BENITO,  
PULTE HOME CORPORATION AND SAN JUAN OAKS, LLC**

**DEVELOPMENT AGREEMENT BY AND AMONG THE COUNTY OF SAN BENITO, PULTE HOME CORPORATION AND SAN JUAN OAKS, LLC**

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into on November 3, 2015 by and among the County of San Benito, a political subdivision of the State of California ("**County**"), Pulte Home Corporation, a Michigan corporation ("**Pulte**") and San Juan Oaks, LLC, a California limited liability company ("**SJO**"). Pulte and SJO are sometimes herein referred to individually as an "**Owner**" and collectively as "**Owners**". County and Owners are sometimes herein referred to individually as a "**party**" and collectively as "**parties**."

**RECITALS**

This Agreement is predicated on the following facts, which are incorporated into and made a part of this Agreement.

**A. Capitalized Terms.**

This Agreement uses certain terms with initial capital letters that are defined in Section 1 below. Any terms not defined in Section 1 below shall have the meaning assigned to them in this Agreement unless otherwise expressly indicated. County and Owners intend to refer to those definitions when the capitalized terms are used in this Agreement.

**B. Nature and Purpose of Development Agreements.**

The Legislature enacted Government Code section 65864 *et seq.* ("**Development Agreement Statute**") in response to the lack of certainty in the approval of development projects, which can result in a waste of resources, escalate the cost of housing, and discourage investment in and commitment to planning that would maximize the efficient utilization of resources. The Development Agreement Statute is designed to strengthen the public planning process, to encourage private participation in comprehensive, long-range planning, and to reduce the economic costs of development. It authorizes a county to enter into a binding agreement with any person having a legal or equitable interest in real property located in the county regarding the development of that property and providing for the development of such property and establishing certain development rights therein. Among other things, the legislative findings in the Development Agreement Statute state that the lack of public facilities, including, without limitation, streets, wastewater, transportation, potable water, schools, and utilities is a serious impediment to the development of new housing, and that applicants and local governments may include provisions in development agreements relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

**C. County's Development Agreement Procedures.**

Pursuant to the Development Agreement Statute, County adopted San Benito County Code Chapter 19.11 (as may be amended from time to time), which sets forth procedures and requirements for the consideration of development agreements ("**County Development Agreement Procedures**"). This chapter enables County and a property owner seeking County approval of a project to enter into a development agreement that vests certain rights and that requires the property owner to provide certain public benefits beyond those that could otherwise be imposed by County as conditions of development. Consistent with the Development Agreement Statute, the purpose of the County Development Agreement Procedures is to

strengthen the public planning process, to encourage private participation in comprehensive, long range planning, and to reduce the economic costs of development through the use of development agreements. Also stated therein is the conclusion that the appropriate use of development agreements will reduce uncertainty in the development review process, will promote long-term stability in the land use planning process, and will result in significant public gain.

#### D. Owners' Respective Interests in the Property.

The land governed by this Agreement consists of a total of approximately one thousand nine hundred ninety four (1,994) acres in unincorporated San Benito County, as more particularly described in attached Exhibit 1 and depicted on attached Exhibit 2 ("**Property**"). Pulte has an equitable interest in approximately five hundred (500) acres of the Property ("**Pulte Property**") and SJO has a legal interest in the remaining approximately one thousand four hundred ninety-four (1,494) acres of the Property ("**SJO Property**"), as depicted on attached Exhibit 2. The Property currently contains multiple legal parcels that are contiguous, which are intended to be part of a single integrated plan of development.

#### E. Existing Uses on the Property; Background on Prior Development Proposal.

In connection with the below-referenced prior development proposal, the Property was designated by the San Benito County Board of Supervisors ("**Board**") in the County's 1992 General Plan as Rural Transitional (RT)/Planned Unit Development (PUD) Overlay designations as well as Commercial Thoroughfare (C-1), Agricultural Productive (AP), and Agricultural Rangeland (AR) designations; these designations allow for agricultural uses, recreational uses, commercial uses, and residential uses. Existing uses on the Property consist of an 18-hole golf course and a clubhouse with related dining facilities and a pro shop ("**Existing Golf Club**"), along with rangeland and cultivated dry farming. In October 2002, the property owner of the Existing Golf Club submitted a development application (including a vesting tentative subdivision map application) for the purpose of constructing one hundred fifty six (156) non-age-restricted, market rate single-family residential units, thirty (30) affordable units, a resort hotel, a village commercial site, a park, open space, an additional 18-hole golf course, and an additional 9-hole golf course. County approved this proposed development application, including, among other approvals, the vesting tentative subdivision map in July 2004, TSM-02-67 ("**2004 VTM**"), pursuant to Board Resolution 2004-85. Collectively, the above-referenced approvals shall be referred to herein as "**2004 Development**".

#### F. Proposed Development of the Property.

Owners now seek to amend the 2004 VTM and to obtain the additional required approvals, entitlements and permits so that they may develop the Property with the Project as further set forth herein. Specifically, Owners, with County's input, have prepared the draft San Juan Oaks Specific Plan, which relates to the proposed development of the Property as described more fully therein, including, without limitation, the following: an age-restricted active adult community of up to one thousand and seventeen (1,017) single family detached residential units (collectively, "**Active Adult Units**"); an amenity center to serve Project residents and users (approximately 17,500 to 25,000 square feet) ("**Amenity Center**"); sixty seven (67) non-age-restricted, single family detached residential units (collectively, "**Conventional Units**"); a resort hotel with up to two hundred (200) rooms; an approximately sixty-five thousand (65,000) square foot neighborhood commercial and office center; an approximately four (4) acre facility (with up

to a total of one hundred (100) beds) providing a mix of assisted living, skilled nursing and memory care services; approximately forty-one (41) acres for the On-Site Agricultural Preserve; approximately seven (7) acres of private parkland to serve Project residents and users ("**Private Parkland**"); two (2) community parks (totaling approximately seventeen (17) acres) available to the public (collectively, "**Community Parks**"), which will consist of approximately thirteen (13) acres of passive recreational uses within the existing olive orchards on the Property ("**Olive Hill Park Area**") and approximately four (4) acres located further south on San Juan Oaks Drive for community gardens, dog parks and related facilities ("**Community Garden and Dog Park**"); approximately one hundred fourteen (114) acres of common open space area (including landscaped areas and informal trails); approximately one thousand two hundred and forty three (1,243) acres to be set aside for the Permanent Wildlife Habitat Preservation Area; trails and bicycle networks throughout the Property; and other on- and off-site infrastructure and improvements necessary to serve the Project. In connection with the Project, Owners are also proposing to preserve approximately one hundred fifty three (153) acres for the Off-Site Agricultural Preserve; the Existing Golf Club will remain largely unchanged except for some minor renovations. For purposes of this Agreement, the development described in this Recital F and as further detailed in the Specific Plan and the other Project Approvals shall be known as the "**Project**."

**G. Initial Project Approvals.**

County has taken or intends to take various planning, land use entitlement and environmental review actions relating to the Project (collectively, "**Initial Approvals**") as follows:

1. Subsequent Environmental Impact Report (Resolution No. 2015-82). On November 3, 2015, pursuant to the California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.*), the CEQA Guidelines (14 Cal. Regs. § 15000 *et seq.*), and County's local Implementing Procedures for CEQA (collectively, "**CEQA**"), and following review and recommendation by the Planning Commission and after a duly noticed public hearing, the Board took the following actions: (a) certified a Subsequent Environmental Impact Report (State Clearinghouse No. 2013101006) for the Project ("**Project SEIR**"); (b) adopted written findings relating to significant environmental impacts; (c) adopted a Statement of Overriding Considerations; and (d) adopted a mitigation monitoring and reporting plan ("**MMRP**").
2. General Plan Amendment (Resolution No. 2015-84). On November 3, 2015, following review and recommendation by the Planning Commission and after a duly noticed public hearing, the Board took the following actions: (a) approved General Plan Amendment No. 13-14 as an amendment to the County's General Plan ("**General Plan Amendment**") in connection with the Project; and (b) made determinations regarding the Project's consistency with the County's General Plan (as amended).
3. Specific Plan Adoption (Resolution No. 2015-85). On November 3, 2015, following review and recommendation by the Planning Commission and after a duly noticed public hearing, the Board adopted the Specific Plan ("**Specific Plan Adoption**").
4. County Code, Zoning Text and Zoning Map Amendments (Ordinance No. 941). On November 3, 2015, following review and recommendation by the Planning Commission and after a duly noticed public hearing, the Board took the following actions: (a) amended the text in the County's Zoning Code to reflect the new zoning designation of "San Juan Oaks – Specific Plan (SJO–SP)" to be applied to the Property; (b) amended the County's Zoning Map to show the Property as rezoned to "San Juan Oaks – Specific Plan (SJO–SP);" and (c) made other

conforming amendments to ensure consistency between the County Code and the Project (collectively, "**Code Amendments**").

5. Development Agreement (Ordinance No. 942). On November 3, 2015, following review and recommendation by the Planning Commission and after a duly noticed public hearing, the Board made the following findings with respect to the Agreement:

(a) It has been processed in accordance with the Development Agreement Statute and the County Development Agreement Procedures.

(b) It is consistent with the San Benito County General Plan (as amended), the Specific Plan, any area plans and other applicable Rules, Regulations and Official Policies.

(c) It is compatible with the uses authorized in, and the regulations prescribed for, the applicable zoning of the Property.

(d) It will not adversely affect the orderly development of the surrounding community.

(e) It is fair, just and reasonable.

(f) It is consistent with and best serves the public health, safety and general welfare of the County's citizens and good land use practice because, among other things, it provides for public benefits beyond those benefits that would be forthcoming through conditions of approval as set forth more fully herein.

(g) It should be encouraged in order to meet important economic, social, environmental and planning goals of the County.

On this basis, the Board approved this Agreement. On November 3, 2015, the Board adopted Ordinance No. 942, enacting this Agreement ("**DA Ordinance**"). This Agreement shall become effective on December 3, 2015 (the date thirty (30) days after the adoption of Ordinance No. 942) ("**Effective Date**").

**H. Intent of Parties.**

County and Owners have, in good faith, negotiated the terms and conditions of this Agreement, and have determined that use of a development agreement is appropriate for development of the Project in accordance with the other Project Approvals. Among other things, the parties desire to: delineate how Owners' obligations as set forth herein including, without limitation, those relating to the provision and/or funding of Project infrastructure, improvements, services and facilities will be met; eliminate uncertainty in planning and provide for the orderly development of the Property with the Project and to obtain assurance that Owners may proceed with development of the Project in accordance with the Project Approvals; ensure the maximum efficient utilization of resources within the County and the surrounding community; provide for public benefits beyond those that otherwise could be imposed as conditions of approval; and to otherwise achieve the goals and purposes of the Development Agreement Statute and the County's Development Agreement Procedures as these relate to the Property.

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NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises, obligations and covenants contained herein, Owners and County agree as follows:

**AGREEMENT**

**Section 1 Definition of Terms.**

The following defined terms are used in this Agreement:

- 1.1 "2004 VTM" has the meaning set forth in Recital E.
- 1.2 "2004 Development" has the meaning set forth in Recital E.
- 1.3 "Active Adult Units" has the meaning set forth in Recital F.
- 1.4 "Agreement" means this Development Agreement between County and Owners.
- 1.5 "Amended VTM" has the meaning set forth in Recital G(6).
- 1.6 "Amenity Center" has the meaning set forth in Recital F.
- 1.7 "Assignment" has the meaning set forth in Section 10.1.
- 1.8 "Assignment and Assumption Agreement" has the meaning set forth in Section 10.2.
- 1.9 "Basic Community Park Improvements" has the meaning set forth in Section 2.4(b).
- 1.10 "Board" has the meaning set forth in Recital E.
- 1.11 "Building Permit" refers to a document authorizing the holder to construct a building or other structure, as provided for in the San Benito County Code.
- 1.12 "CDFW" has the meaning set forth in Section 2.9(a).
- 1.13 "CEQA" has the meaning set forth in Recital G(1).
- 1.14 "Certificate of Occupancy" means a final certificate of occupancy issued by the County's Building Official or, if the County's Building Code does not provide for the issuance of a certificate of occupancy for a particular building or other structure, the functional equivalent thereto.
- 1.15 "Code Amendments" has the meaning set forth in Recital G(4).
- 1.16 "COG" shall mean the Council of San Benito County Governments.
- 1.17 "Community Benefit Fee" has the meaning set forth in Section 2.6(a)(i).

- 1.18 **“Community Financing District”** or **“CFD”** shall mean a financing district formed under the Mello-Roos Community Facilities Act of 1982, pursuant to Government Code section 53311 *et seq.*
- 1.19 **“Community Garden and Dog Park”** has the meaning set forth in Recital F.
- 1.20 **“Community Parks”** has the meaning set forth in Recital F.
- 1.21 **“Consent to Assignment”** has the meaning set forth in Section 10.1.
- 1.22 **“Conventional Units”** has the meaning set forth in Recital F.
- 1.23 **“County”** has the meaning set forth in the preamble.
- 1.24 **“County Development Agreement Procedures”** has the meaning set forth in Recital C.
- 1.25 **“DA Ordinance”** has the meaning set forth in Recital G(5).
- 1.26 **“Days”** shall mean calendar days. If the last day to perform an act under this Agreement is a Saturday, Sunday or legal holiday in the State of California, said act may be performed on the next succeeding calendar day that is not a Saturday, Sunday or legal holiday in the State of California and in which the County offices are open to the public for business.
- 1.27 **“Defense Counsel”** has the meaning set forth in Section 12.17.
- 1.28 **“Development Agreement Statute”** has the meaning set forth in Recital B.
- 1.29 **“Development Impact Fee”** or **“Development Impact Fees”** means any requirement of County or other governmental or quasi-governmental agency in connection with a Project Approval for the dedication of land, the construction of public improvements, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development of the Project on the environment; facilities, services, improvements and/or infrastructure; or other public interests.
- 1.30 **“Dispute”** has the meaning set forth in Section 9.1.
- 1.31 **“Effective Date”** has the meaning set forth in Recital G(5).
- 1.32 **“Endowment”** has the meaning set forth in Section 2.9(a).
- 1.33 **“Enforced Delay”** has the meaning set forth in Section 7.
- 1.34 **“Existing Golf Club”** has the meaning set forth in Recital E.
- 1.35 **“Existing Rules”** means the Rules, Regulations and Official Policies in effect on the Effective Date; provided, however, that the parties acknowledge and agree that pursuant to Section 3.2(a)(i) below, for purposes of determining the date upon which Owners vest for purposes of Development Impact Fees only, the Fee Vesting Date rather than the Existing Rules shall govern.

- 1.36 **"Fee Vesting Date"** shall mean March 6, 2014, which is the date upon which County deemed the Amended VTM application complete.
- 1.37 **"Fee Vesting Time Period"** has the meaning set forth in Section 3.2(a)(l).
- 1.38 **"Full Build Out"** shall mean upon the issuance of the last Certificate of Occupancy for all or any component of the Project; e.g., Full Build Out of the residential portion of the Project shall occur when County issues the last Certificate of Occupancy for the Project's residential component.
- 1.39 **"General Plan Amendment"** has the meaning set forth in Recital G(2).
- 1.40 **"GHAD"** has the meaning set forth in Section 1.82.
- 1.41 **"Initial Approvals"** has the meaning set forth in Recital G.
- 1.42 **"Innocent Owner"** has the meaning set forth in Section 6.1.
- 1.43 **"JAMS"** has the meaning set forth in Section 9.1.
- 1.44 **"Legal Challenge"** has the meaning set forth in Section 12.17.
- 1.45 **"MAI"** has the meaning set forth in Section 3.8.
- 1.46 **"MMRP"** has the meaning set forth in Recital G(1).
- 1.47 **"Mortgage"** shall mean any mortgage, deed of trust, security agreement, assignment or other like security instrument encumbering all or any portion of the Property or any Owner's rights under this Agreement.
- 1.48 **"Mortgagee"** shall mean the holder of any Mortgage encumbering all or any portion of the Property or any Owner's rights and obligations under this Agreement, and any successor, transferee, or Subsequent Owner of any such Mortgagee.
- 1.49 **"Mortgagee Successor"** has the meaning set forth in Section 11.1.
- 1.50 **"New Rules"** has the meaning set forth in Section 3.3.
- 1.51 **"Notice of Default"** has the meaning set forth in Section 6.1.
- 1.52 **"Notice of Intent to Terminate"** has the meaning set forth in Section 8.2.
- 1.53 **"Offsite Land"** shall mean lands other than the Property that are necessary to support Project Infrastructure, as is further detailed in Section 3.8.
- 1.54 **"Olive Hill Park Area"** has the meaning set forth in Recital F.
- 1.55 **"Off-Site Agricultural Preserve"** has the meaning set forth in Section 2.9(b).
- 1.56 **"On-Site Agricultural Preserve"** has the meaning set forth in Section 2.9(b).



- 1.57 **“Owner” or “Owners”** has the meaning set forth in the Preamble, and also includes their respective successors and assignees.
- 1.58 **“Periodic Review”** has the meaning set forth in Section 5.
- 1.59 **“Permanent Wildlife Habitat Area”** has the meaning set forth in Section 2.9(a).
- 1.60 **“Planning Commission”** shall mean the San Benito County Planning Commission.
- 1.61 **“Planning Director”** shall mean the head of the Planning and Building Departments and the Chief Planning Officer of San Benito County.
- 1.62 **“Private Parkland”** has the meaning set forth in Recital F.
- 1.63 **“Project”** has the meaning set forth in Recital F.
- 1.64 **“Project Approvals”** shall mean the Initial Approvals and Subsequent Approvals, collectively.
- 1.65 **“Project SEIR”** has the meaning set forth in Recital G(1).
- 1.66 **“Project Infrastructure”** has the meaning set forth in Section 2.3(a).
- 1.67 **“Project Land Use Plan”** shall mean the anticipated location of various Project components, as set forth in more detail in the Specific Plan and other Project Approvals (as may be amended from time to time).
- 1.68 **“Project Revenues”** shall mean, collectively, any and all revenues generated in connection with the Project, whether by property taxes, sales taxes, special taxes, special assessments or otherwise.
- 1.69 **“Property”** has the meaning set forth in Recital D.
- 1.70 **“Public Safety Facility Site”** has the meaning set forth in Section 2.7.
- 1.71 **“Pulte”** has the meaning set forth in the Preamble.
- 1.72 **“Pulte Property”** has the meaning set forth in Recital D.
- 1.73 **“Recorder”** shall mean the San Benito County Recorder.
- 1.74 **“Regulatory Processing Fees”** shall mean any and all fees, costs, and/or charges adopted by County for the purpose of defraying County’s actual costs incurred or to be incurred in the processing and administration of any form of regulatory permit, license, land use entitlement, financing district or mechanism, or other approval, or imposed by County to defray the costs of periodically updating its plans, policies, and procedures, including, without limitation, the fees and charges referred to in Government Code section 66014.
- 1.75 **“Revenue Neutral”** has the meaning set forth in Section 3.12(a).

- 1.76 **"RWQCB"** has the meaning set forth in Section 2.9(a).
- 1.77 **"Rules, Regulations and Official Policies"** shall mean the County rules, regulations, ordinances, laws, general or specific plans, zoning and official policies governing development, including, without limitation, density and intensity of use; permitted uses; the maximum height and size of proposed buildings; the provisions for the reservation or dedication of land for public purposes or payment of fees in lieu thereof; the construction, installation and extension of public improvements; growth management; environmental review; and other criteria relating to development or use of real property and applicable to the Property.
- 1.78 **"SJO"** has the meaning set forth in the Preamble.
- 1.79 **"SJO Property"** has the meaning set forth in Recital D.
- 1.80 **"Specific Plan"** means the San Juan Oaks Specific Plan adopted by the Board on November 3, 2015 by Resolution No. 2015-85.
- 1.81 **"Specific Plan Adoption"** has the meaning set forth in Recital G(3).
- 1.82 **"Subsequent Approvals"** shall mean, collectively, any and all land use, environmental, building and development approvals, entitlements and permits required subsequent to County's approval of the Initial Approvals in connection with development of the Project on the Property, including, without limitation, formation of a Geologic Hazard Abatement District ("**GHAD**") and/or a CFD or similar financing district/mechanism; tentative and final subdivision maps, parcel maps and lot line adjustments; conditional use permits; design review approvals; Building Permits; grading permits; Certificates of Occupancy; and any amendments thereto.
- 1.83 **"Subsequent Owner" or "Assignee"** shall mean an individual or entity that has acquired all or a portion of the Property from an Owner in accordance with the assignment and assumption obligations set forth in Sections 10.1 and Section 10.2 below other than: (1) a Mortgagee; or (2) the ultimate user of any residential lot that has been released from liability under this Agreement pursuant to Section 8.3.
- 1.84 **"Substantial Completion"** shall mean when the improvement at issue has been constructed such that it may be used for its intended purpose.
- 1.85 **"Term"** has the meaning set forth in Section 4.1.
- 1.86 **"Traffic Impact Mitigation Fee Program" or "TIMF Program"** shall mean the City of Hollister/San Benito County Regional Traffic Impact Fee Program.
- 1.87 **"Traffic Impact Mitigation Fees" or "TIMF Fees"** shall mean the fees required under the TIMF Program.
- 1.88 **"USFWS"** has the meaning set forth in Section 2.9(a).

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## Section 2 Owners' Obligations.

**2.1 Development of the Project.** Subject to compliance with the provisions of this Agreement, during the Term, Owners shall have the vested right to develop all or a portion of the Project in accordance with the Project Approvals including, without limitation, the Specific Plan and this Agreement. Such development shall occur pursuant to the following: (a) this Agreement; (b) the San Benito County General Plan as it existed on the Effective Date as modified by the General Plan Amendment; (c) the San Benito County Code as it existed on the Effective Date as modified by the Code Amendments; (d) the other Initial Approvals, including, without limitation, the Specific Plan; (e) the Subsequent Approvals, as and when they are issued, approved, or adopted, including, without limitation, all conditions of approval attached thereto; and (f) all other applicable Existing Rules except in the case of payment of Development Impact Fees in which case the Fee Vesting Date shall govern development of the Project. Notwithstanding anything to the contrary in this Section 2.1, in the event of a conflict between any provision of this Agreement and the Specific Plan or other Project Approvals, the Specific Plan shall prevail over any other Project Approval except for this Agreement which shall prevail over the Specific Plan.

**2.2 Site Plan Adjustments.** Owners retain the right to apportion uses, intensities and densities in each area identified in the Specific Plan between themselves and any Subsequent Owner(s), upon the Assignment (pursuant to Sections 10.1 and 10.2 below) in accordance with the requirements set forth in Section 8.1.9 of the Specific Plan. Further, subject to Section 2.4(b) below, nothing in this Agreement shall preclude an Owner from subsequently applying to increase the total number of residential units that may be constructed on the Property upon proper application to County to amend this Agreement, the Specific Plan, the Amended VTM, and any other necessary Project Approvals to effectuate such a request. Notwithstanding anything to the contrary in this Section 2.2, the parties acknowledge and agree that County is under no obligation under this Agreement or otherwise to approve any such application(s), and that County retains its authority under its local police power and other applicable laws and regulations in making any and all such decisions related to any such application(s).

### **2.3 Financing of Infrastructure, Improvements, Facilities and Services; Formation of GHAD and CFD.**

(a) County Reliance on Owners' Provision of, or Contribution Towards, Project Infrastructure. The parties acknowledge and agree that County's approval of the Project is, in part, in reliance upon and in consideration of Owners' provision of, or pro rata or fair share contribution(s) towards the infrastructure, facilities, improvements, services and amenities (including, without limitation, construction, operation (including personnel) and maintenance thereof) necessary to serve the Project, as described more fully in the Specific Plan and other Project Approvals (collectively, "**Project Infrastructure**") in accordance with Owners' obligations set forth herein and in the Specific Plan.

(b) Formation of GHAD. It is the intent of the parties to form a GHAD to effectively respond to, address, and abate any identified geologic hazards within the Property and, among other responsibilities, to provide for the long-term monitoring and maintenance of identified areas covered by the approved GHAD's Plan of Control and consistent with applicable law (which may include, without limitation, open space, slopes, drainages, storm water facilities and water treatment improvements), and to perform such monitoring and maintenance in a timely, cost-effective and efficient manner consistent with the approved GHAD Plan of Control.

Upon formation, the GHAD's source of funding to perform such responsibilities shall be through landowner assessments imposed on the Project in accordance with applicable law. The parties agree to work together in good faith and in a timely fashion to form the GHAD, subject to Owners' payment of any and all costs incurred by County (including, without limitation, staff and attorney time) in connection therewith.

(c) Formation and Purpose of CFDs or Other Financing Districts. It is the intent of the parties to form a CFD or other financing district(s)/mechanisms to provide funding to County to be used, in County's sole discretion, to fund various public safety infrastructure, facilities, improvements and services as well as maintenance and operation of the Community Parks. The parties agree to work together in good faith and in a timely fashion to form the CFD as further specified herein. Upon formation, the CFD's source of funding to perform such responsibilities shall be through special taxes on landowners within the Property in accordance with applicable law and as follows:

(i) Upon Full Build Out of the residential component of the Project or seven and one half (7 ½) years from the Effective Date, whichever is earlier, the total annual amount to be generated through the CFD for public safety purposes shall be Two Hundred Thousand Dollars (\$200,000), plus an inflationary rate of two percent (2%) per annum. Imposition of said special taxes for public safety purposes shall commence upon the recordation of the grant deed for the first (1<sup>st</sup>) residential unit within the Project and shall be in the amount of Two Hundred Fifty Six Dollars (\$256) for each Conventional Unit; One Hundred Sixty Seven Dollars (\$167) for each Active Adult Unit; Four Cents (\$0.04) per building square foot for neighborhood commercial and office uses (up to sixty-five thousand (65,000) square feet) but not hotel uses; and Twenty Three Cents (\$0.23) per building square foot for the assisted living facility uses (up to forty-six thousand (46,000) square feet).

(ii) Upon Substantial Completion of the Community Parks, the total annual amount to be generated through the CFD for park operation and maintenance purposes shall equate to the actual cost to perform all ongoing operation and maintenance obligations for the Community Parks as determined during the CFD formation process, plus an inflationary rate of two percent (2%) per annum. In addition to the special taxes to be imposed pursuant to this CFD to cover the maintenance and operation of the Community Parks, Pulte shall be obligated to pay to County the amount of Forty Thousand and Seven Dollars (\$40,007) at the time of the recordation of the first (1<sup>st</sup>) final map that covers any portion of the Active Adult Units in order to cover the anticipated shortfall to ensure that all actual costs for the operation and maintenance of the Community Parks are fully covered. Imposition of said special taxes for park maintenance and operations purposes shall commence upon the Substantial Completion of the Olive Hill Park Area and the Community Garden and Dog Park, respectively, and shall be in the amount determined during the CFD formation process that is sufficient to fully cover all costs of operation and maintenance and shall be imposed only on the Active Adult Units.

(d) Funding of Permanent Wildlife Habitat Area. It is the parties' intention that ongoing maintenance of the Permanent Wildlife Habitat Area on which a conservation easement shall be recorded as required by the applicable USFWS, CDFW and RWQCB permits and the Project SEIR and MMRP will be funded either: (i) through the GHAD, if allowed by the relevant resource agencies and if otherwise permitted under applicable law (including, without limitation, Proposition 218), or (ii) the Endowment funded by Owners by such time as is specified in the

above-referenced permits, but in any event no later than the issuance of the first (1st) grading permit or Building Permit for the Project (whichever is earlier).

**2.4 Construction of Neighborhood Parks and Trail Network.**

The parties acknowledge and agree that Owners, collectively, are providing a substantial amount of private park and recreational facilities consisting of the Private Parkland (approximately seven (7) acres) directly serving the new Project residents in the new neighborhoods, recreational facilities (including construction of new multi-purpose facilities, club houses, pools, and active play areas as well as the maintenance and minor enhancements of the Existing Golf Club), and common open space (approximately one hundred fourteen (114) acres) as part of the Project. However, the parties further acknowledge and agree that pursuant to County Code Section 23.15.008, private park and recreational facilities do not qualify for receipt of credit in order to satisfy County's parkland requirements. Accordingly, to satisfy said requirements, Owners shall construct all of the following additional public park and recreational facilities, and offer them for dedication to County (with operations and maintenance of said facilities funded as provided for herein):

(a) Class 2 bicycle and pedestrian routes along both sides of San Juan Drive connecting Union Road to the Project's neighborhood commercial area, as set forth more fully in Section 2.6(b)(iv) below and the Specific Plan. Provided, however, that for purposes of said Class 2 bicycle and pedestrian routes, the parties acknowledge that, as of the Effective Date, the intention is for said land and improvements to remain private, and therefore the following shall occur: (i) the homeowner's association(s) formed in connection with the Project shall be responsible to cover all costs associated with the maintenance and operation of said lands and improvements until such time as County may accept the offer of dedication, if at all; and (ii) Owners shall grant an easement to County, in a form acceptable to County, to allow for public access on, and use of, said lands and improvements until such time as County may accept the offer of dedication, if at all.

(b) The Community Parks within the Property, which shall total approximately seventeen (17) acres in size and which shall be improved in accordance with the Specific Plan and other Project Approvals and shall include, at a minimum, the following amenities (or other such similar facilities as proposed by Owners and approved by County): dog park(s); a community garden area for County residents to set up garden plots and "urban agriculture" programs; parking areas for visitors; park restroom facilities; trails within the olive grove area; a pedestrian crossing connecting the Olive Hill Park Area and the Community Garden and Dog Park; and sitting and picnicking areas with firepits; and trails and trail access (collectively, "**Basic Community Park Improvements**"). Construction of, and the related offer of dedication for, the Community Parks including, without limitation, the improvements thereon shall be in lieu of paying otherwise applicable County park impact fees (under County Code Section 23.15.008). The Project is providing an approximately four (4) acre Community Garden and Dog Park and related open space facility. In addition, the Project is providing a hiking trail system through the Olive Grove Park now at the Project's entrance of approximately thirteen (13) acres. Said facilities would be located on the publicly accessible San Juan Oaks Drive, and would include parking facilities to allow free unrestricted access and use of said facilities by residents throughout the County. The Community Garden and Dog Park also would include a Project-constructed and Project-maintained restroom facility to improve the experience of park users, which exceeds the typical County Park requirements. The Dog Park component is designed to provide a variety of recreational activities to help ensure that recreational opportunities are available to all members of the community. Pursuant to this Section 2.4(b),

the Project shall also fund the ongoing operation and maintenance costs associated with the Community Park, including, without limitation, long-term capital replacement, which is not required by the County Parkland Dedication to Park and Recreation Impact Codes. Owners shall construct the Community Parks in the general location specified on the Project's Land Use Plan (see Specific Plan), and shall be constructed in accordance with the Specific Plan and other Project Approvals as well as all other requirements under the County Code to receive parkland credit under County Code Section 23.15.008. The Olive Hill Park Area shall be Substantially Complete no later than issuance of the Certificate of Occupancy for the Two Hundred Fiftieth (250<sup>th</sup>) Active Adult Unit, and the Community Garden and Dog Park shall be Substantially Complete no later than issuance of the Certificate of Occupancy for the Five Hundredth (500<sup>th</sup>) Active Adult Unit; provided, however, that Owners shall construct both of said parks in any event no later than seven and one half (7 ½) years from the Effective Date regardless of the status of the Project's bulldout. Upon Substantial Completion of each of the above referenced parks, Owners shall offer to dedicate said park(s) (including the land and all improvements located thereon) to County; provided, however, that such dedication shall not affect the agricultural easement and right to continue agricultural uses of the existing Olive Grove. Provided, however, that even after such time as County accepts said offer, County shall not be responsible at any time to fund or perform any portion of the operation and maintenance of the Community Parks; rather, Owners shall ensure an ongoing source of CFD funding for this purpose pursuant to Section 2.3 above. To effectuate this arrangement, County and Owners shall enter into a mutually acceptable agreement prior to County's acceptance of said offer(s) of dedication whereby County agrees to allow the homeowner's association(s) formed in connection with the Project to perform the maintenance and operation responsibilities in connection with the Community Parks subject to adherence to, among other terms and conditions: (1) all applicable County and other standards and requirements; and (2) acceptable indemnification and insurance provisions for the County's benefit. Until such time as County accepts said offer of dedication, Owners shall be responsible for operating and maintaining the Community Parks (including the land and all improvements located thereon), including, without limitation, any and all costs associated therewith. Further, County and Owners acknowledge and agree that the public park acreage and construction of the public park amenities provided for under this Section 2.4(b) exceeds current County standards and thus reflects an additional public benefit that could not otherwise be achieved without this Agreement. To ensure the Project continues to so exceed County parkland standards, in the event any Owner subsequently seeks and obtains all necessary approvals to construct additional residential units in the Project beyond the maximum number currently permitted in the Specific Plan as of the Effective Date, the applicable Owner(s) agree to construct an additional amount of qualifying public parks and related improvements pursuant to applicable County Code requirements, rather than relying on the Project's park acreage that was provided pursuant to this Agreement, to ensure that the Project continues to exceed the County park standards as contemplated herein.

**2.5 Street Improvements and Other Project Infrastructure.**

(a) General Construction Obligations. Owners shall construct, or cause to be constructed or contribute their respective pro rata or fair share towards the construction of, the Project Infrastructure in accordance with the provisions of this Agreement, the Specific Plan, and the other Project Approvals. Development of the Property, including, without limitation, the Project Infrastructure, shall be subject to final design review, plan check and inspection by County in accordance with the Specific Plan, the other Project Approvals, and the County Code, as applicable. The Project Approvals, and all required improvement plans prepared in accordance with and in connection thereto and as approved by County, shall govern the design

and scope of all Project Infrastructure to be constructed on or benefiting the Property and the Project.

(b) On-Site Improvements. Owners shall construct all street improvements and all other Project Infrastructure to be located within the Property in accordance with their obligations under this Agreement and as required by the Specific Plan, the other Project Approvals (including, without limitation, all conditions of approval attached thereto), and the Project SEIR (including, without limitation, the MMRP). Said improvements shall include, without limitation, construction of San Juan Oaks Drive (including, without limitation, construction of thirty two (32) feet of pavement width that shall include Class 2 bicycle and pedestrian routes); an emergency vehicle access (EVA) to connect from Del Webb Boulevard to the existing State Route 156; utility improvements; and integrated storm drainage facilities into the Project's landscape design. With respect to the above-referenced improvements on San Juan Oaks Drive, County agrees that Owners' construction of said improvements shall occur prior to issuance of the Certificate of Occupancy for the Two Hundred Seventieth (270<sup>th</sup>) Active Adult Unit; construction of said Improvements shall be governed by the applicable standards set forth in the Specific Plan rather than those set forth in the County Code with respect to curbs, gutters, attached sidewalks, and street width. County further agrees that: (i) with respect to: the southbound Class 2 route on San Juan Oaks Drive that would cross the existing drainage channel, Owners may construct it by building a separate pre-fabricated bridge instead of widening the existing narrow bridges, and it shall connect to the planned Class 1 facility in order to provide access to the residential portions of the Project as well as the Existing Golf Club; and (ii) with respect to the northbound Class 2 route, Owners may construct it by building a separate pre-fabricated bridge, which is anticipated to cross the existing drainage channel through the Project's neighborhood commercial area (initially constructed as a Class 3 route) and then continue onto San Juan Oaks Drive as a Class 2 facility from the northerly commercial road.

(c) Off-site Improvements. Owners shall provide, or contribute towards, all of those street improvements and other Project Infrastructure that are to be located off-site but that are necessary or desirable to serve the Project, in accordance with their obligations under this Agreement and as required by the Specific Plan, the other Project Approvals (including, without limitation, all conditions of approval attached thereto), and the Project SEIR (including, without limitation, the MMRP). Said obligations shall include, without limitation, the following:

(i) State Route 156 and Bixby Road. To mitigate for the Project's cumulative impacts and as set forth more fully in the Project SEIR and the MMRP, Owners shall pay their respective pro rata or fair share contributions towards the funding of the proposed traffic signal at the intersection of State Route 156 and Bixby Road, which amounts shall be based on the Project's overall percentage contribution of trips towards the cumulative scenario. For purposes of this Section 2.5(c)(i), the parties agree that Owners' collective pro rata or fair share contribution shall be paid at the time of the recordation of the final map that covers the two hundred seventy fifth (275<sup>th</sup>) Active Adult Unit, and shall equate to seven percent (7%) of the total estimated costs (including, without limitation, both hard and soft costs (i.e., design, administration and installation costs) to construct the above-referenced proposed signal based on an engineer's report approved by County and paid for by Owners.

(ii) San Juan Oaks Drive and Union Road Intersection. As required in the Project SEIR and the MMRP, Owners shall be responsible for funding and constructing the traffic signal at the intersection of San Juan Oaks Drive and Union Road, and the widening of the roadway that is necessary to accommodate said signalization for safe operations of the Project entrance intersection until such time that Union Road is widened through the TIMF

program to a full four (4) lane facility. Improvements at said intersection beyond those required (if any) to construct the signal and mitigate any operational safety issues, which may overlap with improvements identified in the TIMF shall be subject to credit against TIMF fees otherwise due consistent with attached Exhibit 3; and to the extent that a portion of the above-referenced improvements are subject to TIMF fee credit and said construction exceeds said Owner's mitigation requirements, then said Owner shall be eligible for reimbursement from the TIMF Program pursuant to Section 2.8(b) below.

(iii) Union Road and State Route 25. Owners shall be responsible for funding and constructing an eastbound right turn lane from Union Road onto southbound Airline Highway (State Route 25). Notwithstanding the fact that said improvement was not included in the TIMF Program as of the Fee Vesting Date, the constructing Owner shall be eligible for credit under the TIMF Program pursuant to Section 2.8(a) in the event that the TIMF Program is updated in the future to expressly include said improvement. Furthermore, in the event and to the extent the constructing Owner can demonstrate that said improvement exceeds the Project's mitigation requirements and it is expressly included in an updated TIMF Program, then the constructing Owner shall be eligible for reimbursement pursuant to Section 2.8(b) below.

(iv) Construction of Wastewater Collection and Conveyance Infrastructure. In the event and to the extent Owners desire to connect the Project to the City of Hollister's wastewater treatment plant, then Owners shall be responsible for funding and constructing the necessary Project Infrastructure to convey Project wastewater to the City of Hollister for processing. To facilitate said construction, County shall: (A) have the right to review and approve plans for pipeline construction to the extent said plans reflect work within the County's existing public right of way; (B) allow the constructing Owner reasonable access within County's existing right of way for said pipeline construction so long as said Owner has obtained the required encroachment permit and adheres to the standards and conditions set forth therein; and (C) adhere to the provisions set forth in Section 3.8 below in the event and to the extent triggered.

**2.6 Additional Public Benefits of the Project.**

(a) Community Benefit Fee. In addition to making the payments required in connection with Development Impact Fees, satisfying all Project SEIR mitigation measures, constructing the Community Parks, Private Parkland and other Project Infrastructure, and paying all other identified fees and contributions as required herein, Owners shall provide the following additional public benefits:

(i) Pay to County the total amount of Five Million Five Hundred and Fifty Nine Dollars (\$5,559,000) ("**Community Benefit Fee**)," which shall be used in County's sole and absolute discretion as it deems appropriate for the benefit of the County, which may include: general community benefits, street improvements, affordable housing, public safety services, library services, and communications.

(A) Owners shall pay the Community Benefit Fee as follows: (1) Pulte shall pay the amount of One Million Dollars (\$1,000,000) within five (5) days of County's approval of the Project's first (1<sup>st</sup>) final map that covers all or any portion of the Active Adult Units; (2) SJO shall pay the total amount of Five Hundred and Five Thousand Nine Hundred and Ten Dollars (\$505,910), which may be divided into two (2) equal installments of Two Hundred Fifty Two Thousand Nine Hundred and Fifty Five Dollars (\$252,955), each due upon recordation of the first (1<sup>st</sup>) and second (2<sup>nd</sup>) final maps that cover all or any portion of the



Conventional Units; provided, however, that if only one (1) final map is recorded for all of the Conventional Units, then the total amount of \$505,910 shall be due upon recordation of said map; and (3) Pulte shall pay the total amount of Four Million Fifty Three Thousand and Ninety Dollars (\$4,053,090), which may be divided in three (3) equal payments of One Million Six Hundred Thousand Eighty Four and Three Hundred Sixty Three Dollars (\$1,684,363), each due upon recordation of the first (1<sup>st</sup>), second (2<sup>nd</sup>) and third (3<sup>rd</sup>) final maps that cover the Adult Active Units; provided, however, that if fewer than three (3) final maps are recorded for all of the Adult Active Units, then the total amount of \$4,053,090 shall be due upon recordation of the final map that covers all such units. Notwithstanding anything to the contrary in this Section 2.6(a)(i)(A), if full payment of the Community Benefit Fee has not occurred within seven and one half (7 1/2) years from the Effective Date, then the remaining balance shall be immediately due and payable by Owners at that time and County shall have the right to withheld issuance of any further Building Permits for the Project until full payment has been received.

(b) Other Public Benefits. Owners shall also provide the following additional benefits as set forth herein and in the other Project Approvals, which the parties acknowledge and agree constitute additional public benefits justifying the Board's approval of this Agreement:

(i) Provide for the permanent preservation of the Off-Site Agricultural Preserve by recording an acceptable easement covering said land in favor of the San Benito Land Trust (which was recorded on October 15, 2014);

(ii) Provide for the permanent preservation of the On-Site Agricultural Preserve by SJO recording an acceptable easement covering said land in favor of the San Benito Land Trust in accordance with the provisions set forth herein prior to issuance of the Project's first (1<sup>st</sup>) Building Permit; said easement shall be in substantially the same form as attached Exhibit 4 or as otherwise may be required by the San Benito Land Trust or San Juan Oaks, subject to prior County approval of any such revised easement;

(iii) Provide for the permanent on-site conservation of the Permanent Wildlife Habitat Area by recording an acceptable conservation easement as required by the applicable permits issued by the relevant resource agencies (i.e., USFWS, CDFW, and RWQCB) and in accordance with the provisions set forth herein;

(iv) Construct Class 2 bicycle and pedestrian routes along both sides of San Juan Drive connecting Union Road to the Project's neighborhood commercial area in accordance with the provisions set forth herein; and

(v) Support and facilitate the formation of a CFD and GHAD on the Property in accordance with the provisions set forth herein, which, once formed, shall provide funding for public safety and Community Park operation and maintenance purposes, as well as funding to appropriately address any identified geologic hazards on the Property.

**2.7 Public Safety Improvements.**

As a condition of approval on the Amended VTM (and consistent with the prior conditions of approval imposed on the 2004 VTM), SJO shall offer to dedicate to County an approximately two (2) acre site (as shown on attached Exhibit 5) to be used by County for a public safety facility ("**Public Safety Facility Site**"). Provided, however, in the event County has not accepted said offer of dedication and commenced construction of said public safety facility within fifteen (15) years of the offer of dedication, then said offer shall terminate and any interest

of County in the Public Safety Facility Site shall automatically revert to SJO. Notwithstanding anything to the contrary in this Section 2.7, the parties agree that each Owner shall pay all applicable Fire Service Fees in connection with the Project pursuant to Section 3.2 below, and no Owner shall receive a credit against such fees as a result of making the offer of dedication required in this Section 2.7.

**2.8 Reimbursement; Credits.**

No Owner shall be entitled to any fee credits or reimbursement in connection with any Project Infrastructure required under this Agreement or by any other Project Approvals, except under the following limited circumstances:

(a) Fee Credits for TIMF Improvements. If an Owner constructs an improvement that is expressly identified in the TIMF Program as of the Fee Vesting Date, then said constructing Owner shall be entitled to credit against its TIMF Fees it would otherwise owe in connection with Project development in the amount listed in the TIMF Program as the estimated cost for the improvement at issue. Notwithstanding the foregoing, the parties agree that, except pursuant to Section 2.5(c)(iii) above, no TIMF Fee credit shall be due if the improvement at issue is not expressly identified in the TIMF Program as of the Fee Vesting Date, even if said improvement is later identified in an updated TIMF Program.

(b) Reimbursement for TIMF Improvements. Subject to Section 2.5(c)(iii) above, if an Owner constructs an improvement that is expressly identified in the TIMF Program as of the Fee Vesting Date (i.e., Union Road and State Route 25 intersection improvements), and said improvement exceeds the constructing Owner's mitigation requirements, then said Owner shall be entitled to receive reimbursement for an amount that equates to the difference between the estimated cost of the improvement at issue listed in the TIMF Program and said Owner's pro rata or fair share contribution of said improvement (based on the Project's contribution to the identified traffic impacts as described in the Project SEIR). Provided, however, that County shall be obligated to reimburse the constructing Owner under this Section 2.8(b) only if and to the extent sufficient funds are available in the TIMF Program to cover such reimbursement request(s) for the improvements at issue and under no circumstances shall County be required to reimburse said Owner with General Fund monies or TIMF funding slated for development of other non-related traffic improvements.

(c) Reimbursement From Other Property Owners Generally. In the event and to the extent other private property owners outside of the Property directly benefit from an Owner's construction of any Project Infrastructure on-site or off-site which is not covered under Section 2.8(b) above, the constructing Owner(s) shall be entitled to reimbursement from any such other property owner(s) based on an apportionment of the relevant pro rata or fair share contribution of costs of the improvement at issue. To the extent an Owner seeks reimbursement under this Section 2.8(c), County shall use diligent and good faith efforts to facilitate said reimbursement consistent with County's Subdivision Ordinance and all applicable federal, state, and local laws and regulations (including, without limitation, Proposition 218), through the formation of a local benefit district or Area of Benefit. Said reimbursement shall occur as promptly as feasible after assessment(s) or fees (as applicable) are available for purposes of reimbursing the requesting Owner for the improvement at issue. Notwithstanding anything to the contrary in this Section 2.8(c), an Owner who is requesting reimbursement shall pay all of County's costs (including, without limitation, staff and attorney time) associated with the requested reimbursement hereunder and shall indemnify and hold County harmless from and against any and all claims in connection therewith. Further, Owners agree that County's

obligations under this Section 2.8(c) are limited to facilitating reimbursement from other private property owners, and County shall have no obligation to directly or indirectly reimburse Owners. County's obligation to facilitate reimbursement as set forth in this Section 2.8(c) shall survive for a period of ten (10) years after the expiration of the Term, including any extensions thereto, if the required reimbursement does not occur prior to Full Buildout of the Project.

**2.9 Permanent Habitat Conservation and Agricultural Preservation.**

(a) Permanent Wildlife Habitat Area. Owners shall provide for the permanent conservation of approximately one thousand two hundred and forty three (1,243) acres of the Property as shown on attached Exhibit 6 and referenced as Parcels W.1.1, W1.2, W1.3, W1.4, and W1.5 in the Specific Plan and the Project SEIR (collectively, "**Permanent Wildlife Habitat Area**"). Owners shall record a conservation easement over the Permanent Wildlife Habitat Area, which shall be funded either by GHAD assessments (if permitted under applicable law and approved by the relevant resource agencies) or through Owners establishing an endowment acceptable to the relevant resource agencies, which shall provide sufficient funding for management activities in perpetuity ("**Endowment**"). Owners shall be responsible for ensuring that the conservation easement covering the Permanent Wildlife Habitat Area complies with all requirements of applicable resource agency permits issued, including those by United States Fish and Wildlife Service ("**USFWS**"), California Department of Fish and Wildlife ("**CDFW**") and Regional Water Quality Control Board ("**RWQCB**") as well as those set forth in the Project SEIR and the MMRP, and shall include all such necessary provisions to ensure the Permanent Wildlife Habitat Area is managed accordingly. County agrees that Owners' provision of the Permanent Wildlife Habitat Area in accordance with the requirements of this Section 2.9(a), to be protected in perpetuity, along with the provision of the Endowment, shall satisfy the purpose of the County's Habitat Conservation Mitigation Fee (Ordinance No. 541; Chapter 19.19 of the San Benito County Code) and shall be in lieu of payment otherwise due by Owners thereunder. Satisfaction of the obligations set forth in this Section 2.9(a) shall occur prior to the issuance of the first (1<sup>st</sup>) grading permit or Building Permit for the Project, whichever comes earlier.

(b) Agricultural Preserves. Pursuant to Section 2.6(b) above, SJO shall record easements covering the following acreage for the purpose of preserving said land in perpetuity for agricultural uses: approximately forty-one (41) acres within the Property (as shown on attached Exhibit 7) ("**On-Site Agricultural Preserve**") and approximately one hundred fifty three (153) acres off-site (as shown on attached Exhibit 8) ("**Off-Site Agricultural Preserve**").

**Section 3 Owners' Vested Rights.**

**3.1 Vested Right to Develop the Project.**

Subject to Owners' compliance with the provisions of this Agreement, Owners shall have the vested right to develop the Property with the Project in accordance with this Agreement and other Project Approvals. The parties acknowledge and agree that Subsequent Approvals will be required to fully implement the Project. County shall process and consider any application for a Subsequent Approval in accordance with the Existing Rules; provided, however, the parties acknowledge and agree that the Fee Vesting Date shall govern payment of the Development Impact Fees except as otherwise set forth herein. The permitted uses of the Property; the density and intensity of such uses; the maximum height and size of proposed buildings; the provisions for the reservation or dedication of land for public purposes or payment

of fees in lieu thereof; the construction, installation and extension of Project Infrastructure; and the development standards and design guidelines shall be as set forth in the Project Approvals. Owners retain the right to apportion the uses, intensities, and densities between itself and any subsequent owners, upon the sale, transfer or Assignment of all or any portion of the Property, so long as such apportionment is consistent with the Existing Rules and Section 2.1 above.

### 3.2 Development Impact Fees and Regulatory Processing Fees.

#### (a) Development Impact Fees Generally.

(i) Fee Vesting Time Period. Each Owner seeking to develop all or a portion of the Project shall pay all Development Impact Fees due in connection with the proposed development at Issue as identified in attached Exhibit 9 and in accordance with this Section 3.2(a). For a period of seven and one half (7 ½) years from the Effective Date ("**Fee Vesting Time Period**"), the parties agree that (i) each Owner shall be vested such that it shall be permitted to pay said fees, including, without limitation, the TIMF Fees, in the amount that was in place as of the Fee Vesting Date, and (ii) no Owner shall be required to pay any said fees that are newly established after the Fee Vesting Date. Notwithstanding the foregoing, at the end of said Fee Vesting Time Period, if Full Build Out of the Project has not occurred, no Owner shall be vested into any Development Impact Fees (either amount or type) and therefore each Owner shall be required to pay any and all then-applicable Development Impact Fees (in both amount and type) at the time said Owner seeks to develop the remaining portion(s) of the Project. Each Owner shall pay the applicable Development Impact Fees upon issuance of each Building Permit for the proposed development at issue unless otherwise provided for under applicable law.

(ii) Confirmation of Applicable TIMF Fees. County's TIMF Program as of the Fee Vesting Date (March 2014) shall govern the Project during the Fee Vesting Time Period, and the parties agree that the Project is located in Zone 2 identified in the TIMF Program. The parties agree that the TIMF Program, as of the Fee Vesting Date, provides that the following fees would apply to the Project during the Fee Vesting Time Period: (i) for the Conventional Units, it shall equate to Five Thousand One Hundred and Thirty Dollars (\$5,130) per unit; (ii) for the Active Adult Units, it shall be Five Thousand One Hundred Thirty Dollars (\$5,130) per unit; (iii) for the commercial uses, it shall be Three Dollars and Thirty Three Cents (\$3.33) per square foot; and (iv) for office uses, it shall be Eight Dollars and Eight Cents (\$8.08) per square foot. No TIMF shall be required for amenity space (including, without limitation, clubhouses, multi-purpose rooms, swim and tennis centers and other recreational facilities) that are solely for the non-commercial use of residents of the Project and their guests. Provided, however, that a constructing Owner shall be entitled to reimbursement in the event and to the extent said Owner constructed traffic improvements expressly identified in the TIMF Program as of the Fee Vesting Date in accordance with Section 2.8(b) above and subject to Section 2.5(c)(iii).

(iii) Wastewater, Domestic and Reclaimed Water Fees. The parties agree that Owners shall not be required to pay any wastewater, domestic or reclaimed water Development Impact Fees to County since a private utility will be formed to provide such utility services; provided, however that Owners agree that in the event and to the extent the Project will utilize existing wastewater facilities owned and operated by the City of Hollister, the Project shall be subject to any applicable fees imposed by the City related thereto.

(b) Regulatory Processing Fees Generally. Each Owner shall pay all Regulatory Processing Fees in connection with its proposed development in accordance with Section 3.3 below.

**3.3 Application of Subsequently Enacted Rules, Regulations and Official Policies.**

This Agreement is a legally binding contract that shall supersede any initiative, measure, moratorium, statute, ordinance, or other limitation enacted after the Effective Date except as provided herein and as otherwise provided for in accordance with applicable law. Notwithstanding the foregoing, the parties acknowledge and agree that County may adopt new or modified Rules, Regulations and Official Policies after the Effective Date (collectively, "**New Rules**"); provided, however, such New Rules shall be applicable to the Project or the Property only to the extent that such application will not modify, prevent or impede development of the Project on the Property or conflict with any of the vested rights granted to Owners under this Agreement. Any New Rules shall be deemed to conflict with Owners' vested rights hereunder if they seek to limit or reduce the density or intensity of development of the Project; or to limit the timing of the development of the Project, either with specific reference to the Property or as part of a general enactment that applies to the Property. Notwithstanding anything to the contrary in this Section 3.3, County shall not be precluded from applying any New Rules to the Project or Property under the following circumstances, where the New Rules are: (i) specifically mandated by changes in state or federal laws or regulations adopted after the Effective Date as provided in Government Code section 65869.5; (ii) specifically mandated by a court of competent jurisdiction; (iii) changes to the Uniform Building Code or similar uniform construction codes, or to County's local construction standards for public improvements so long as such code or standard has been adopted by County and is in effect on a County-wide basis; (iv) required as a result of facts, events or circumstances presently unknown or unforeseeable that would otherwise have an immediate and material adverse risk on the health or safety of the surrounding community; or (v) new or increased Regulatory Processing Fees so long as such fees are applied to all similar development projects on a County-wide basis.

**3.4 Modification or Suspension by State or Federal Law.**

In the event that state or federal laws or regulations enacted after the Effective Date apply to the Project and prevent or preclude compliance with one or more provisions of this Agreement, such provision(s) of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Notwithstanding the foregoing, the remainder of this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

**3.5 CEQA.**

Owners acknowledge that implementation of the Project will require County's consideration and approval of applications for Subsequent Approvals and that County will complete environmental review in connection with those Subsequent Approvals as required by CEQA and other applicable federal, state and local laws and regulations. County's environmental review of the Subsequent Approvals pursuant to CEQA shall utilize the Project SEIR to the fullest extent permitted by law; provided, however, nothing in this Agreement shall be deemed to limit the legal authority of County to conduct any environmental review required under CEQA or other applicable laws and regulation.

**3.6 Timing of Development.**

The parties acknowledge that Owners cannot at this time predict when, or at what rate the Project will be developed. Such decisions depend upon numerous factors that may not be within Owners' control, such as market orientation and demand, interest rates, absorption, completion and other similar factors. It is the intent of the parties to avoid the result of the decision in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal.3d 465 by acknowledging and providing that Owners shall have the right but not the obligation to develop the Project, and in such order, at such rate, and at such times as Owners deem appropriate within their exercise of subjective business judgment, subject to any and all requirements. Provided, however, nothing in this section is intended to excuse an Owner from any obligation in this Agreement which is required to be performed on or before a specified calendar date or event without regard to whether or not said Owner proceeds with any portion of the Project. The parties further acknowledge and agree that nothing in this Agreement or in the other Initial Approvals require that the hotel component of the Project be built at a specific time or at all, and that said hotel component will be built, if at all, at Owner(s)' sole and absolute discretion.

**3.7 Regulation by Other Public Agencies.**

It is acknowledged by the parties that other public agencies not within County's control may possess authority to regulate aspects of the construction and operation of the Project, and this Agreement in no way constrains or limits any such authority of other public agencies.

**3.8 Eminent Domain.**

The parties acknowledge and agree that development of the Project Infrastructure is a critical component of the Project and also will result in benefits to the community generally. While not anticipated, the parties acknowledge that fulfilling said obligations may require acquisition of additional land outside the Property. If such acquisition is necessary to develop any aspect of the Project Infrastructure, Owners shall use their best efforts to acquire any and all such land ("**Offsite Land**"), which shall include: paying for and obtaining an appraisal prepared by a qualified Member of the Appraisal Institute ("**MAI**"), in connection with the acquisition of the Offsite Land; and offering to acquire the Offsite Land based on such appraisal. In the event Owners are not successful in acquiring the Offsite Land, County and Owners shall meet and confer to determine: (a) whether the need for the Offsite Land is such that County should consider informally intervening to facilitate said acquisition; (b) whether there may be other feasible means of accomplishing the public objectives at issue such that acquisition of the Offsite Land is no longer needed; and (c) whether it would be appropriate for County to consider using its statutory powers of eminent domain to acquire the Offsite Land. In the event that County, in its discretion, determines to use its statutory powers of eminent domain to pursue acquisition of the Offsite Land, Owners shall be responsible for all costs associated therewith. Notwithstanding the foregoing, neither this Section 3.6 nor any other provision of this Agreement is intended to abrogate County's responsibilities, in the exercise of eminent domain, to satisfy the substantive and procedural requirements of the Eminent Domain Law (California Code of Civil Procedure Part 3, Title 7, Sections 1230.010-1273.050), as amended from time to time. In the event the Offsite Land is not ultimately acquired because Owners were unable to acquire said land privately and because the County determined not to pursue eminent domain of the Offsite Land after a request to do so by Owners has been made, then Owners' obligations in connection with that aspect of the Project Infrastructure that necessitated acquisition of the Offsite Land shall terminate and be of no further force or effect in accordance with Government Code section 66462.5 of the Subdivision

Map Act.

**3.9 Life of Project Approvals.**

The Life of all Initial Approvals and any and all Subsequent Approvals for the Project to be built on the Property, including, without limitation, tentative subdivision maps or parcel maps, shall be at least equal to the Term of this Agreement and any extensions thereto in accordance with applicable laws, unless this Agreement is earlier terminated pursuant to the provisions hereof, in which event the life of said approvals shall be governed by the applicable provisions of this Agreement with respect to entitlements after termination. Provided, however, the life of all Initial Approvals and Subsequent Approvals may extend beyond the term of this Agreement in the event and to the extent allowed by applicable law.

**3.10 Owners' Applications for Subsequent Approvals.**

Consistent with their respective vested rights hereunder, Owners shall be obligated to obtain any and all required Subsequent Approvals to develop the Project. Owners shall apply for such Approvals in a timely manner. Owners' obligations under this Section 3.10 apply to those Approvals that are under County's jurisdiction and also to those Project Approvals that may be required by other governmental or quasi-governmental agencies having jurisdiction over the implementation of any aspect of the Project (including, without limitation, the Department of Transportation; agencies having jurisdiction over outside service agreements or district formation, flood control, wastewater service, water service or fire protection; and agencies having jurisdiction over air quality, biological resources, solid wastes and hazardous wastes and materials). At such time as Owners seek such Project Approval(s) from non-County agencies, County agrees to reasonably cooperate and coordinate with Owners in such efforts for the purpose of implementing the Project, upon Owners' request and subject to the requesting Owner(s) paying any and all costs incurred by County in connection therewith (including, without limitation, costs associated with staff and attorney time).

**3.11 County's Processing of Subsequent Approvals.**

(a) Expedited Processing. County shall cooperate and diligently work to promptly process and consider all applications for Subsequent Approvals, provided that: each such application is in a proper form with all relevant information provided; it includes payment of any and all applicable fees; and the applicable Owner is in compliance with its respective obligations under this Agreement. In the event that County and the applicable Owner mutually determine that additional personnel or outside consultants need to be retained to assist County to expeditiously process any Subsequent Approval, the cost of any such personnel or consultants shall be paid by said Owner but shall be under the direction of County. County shall retain its discretion in its consideration of any and all Subsequent Approvals but shall exercise that discretion in a manner consistent with Owners' vested rights under this Agreement, including any action(s) to impose additional conditions, fees, and/or exactions.

(b) Financing and Conveyance Maps. Owner(s) may seek County approval of a "Master Tract Map" or "Large Lot Map" for the sole purposes of conveying portions of the Property to others and/or for creating legal lots which may be used as security for loans to develop the Property or portions thereof, as otherwise permitted under the Subdivision Map Act. Any such map shall not authorize any development of any Project component (including, without limitation, any Project Infrastructure) and shall not be subject to any conditions other than those relating to monumentation and those that do not require the payment of Development Impact

Fees or the installation or construction of improvements; provided, however, that the Owner at issue shall pay all applicable Regulatory Processing Fees for said map application.

(c) Multiple Final Maps. Owner(s) may seek to file multiple final maps on all or a portion of the Property in accordance with applicable law, including, without limitation, Government Code section 66456.1 and County's Subdivision Ordinance.

(d) Building Permits. County agrees to implement a Master Plan check process to expedite plan check for issuance of Building Permits for the Project as follows: (a) Owners will present model house plans with all variations for one detailed plan check, County shall complete such plan check in accordance with applicable laws and regulations; (b) thereafter, so long as the Building Permit application(s) are otherwise complete, County shall issue, no later than twenty (20) business days after an application submittal is deemed complete, Building Permits for up to twenty five (25) plans at a time submitted for those identical model house styles. Notwithstanding the foregoing, said expedited review shall not apply to County's initial review and processing of the plans at issue.

**3.12 Revenue Neutrality of Project; Cooperation in Forming Financing Districts.**

(a) Revenue Neutrality Generally. The parties acknowledge and agree that so long as Owners satisfy their obligations hereunder as they relate to specified financial payments, contributions and fees and so long as Owners pursue, fund, support and facilitate the formation of the GHAD and CFD as provided for herein, then the Project shall be considered "**Revenue Neutral**".

(b) Formation of CFD. In addition to, among others, Owners' payment to County of the monetary benefits set forth in Section 2.3 above, and Owners' agreement to pursue, fund, support and facilitate formation of the GHAD, Owners shall request that County form a CFD or some other mutually acceptable financing district or mechanism, to the extent permitted under applicable law, to impose an annual special tax on the Project in accordance with Section 2.3(c) above. In connection with said request, Owners shall cooperate in the establishment of the CFD and the imposition of the related levy over the Property, including, without limitation, not exercising any right of protest; preparing and submitting, at Owners' sole cost and expense, any and all studies and other documentation necessary to form the CFD (or, at County's request, funding County's consultant(s) for preparing such studies and other documentation); and paying all of County's actual costs and expenses associated with the formation process. After Owners have initiated said formation process, County shall use diligent and good faith efforts to complete said formation process within one hundred and eighty (180) days after County issues the required Notice of Intention to Form the San Juan Oaks CFD. Notwithstanding the foregoing, in the event that County elects not to form a CFD, Owners' obligations under Section 2.3(c) above to fund the annual \$200,000 (plus inflationary increases) for additional public safety services and all actual costs to operate and maintain the Community Parks (plus inflationary increases) shall terminate so long as Owners have otherwise satisfied their obligations in this Section 3.12(b).

**Section 4. Duration of Agreement.**

4.1 Term. The term of this Agreement shall commence on the Effective Date, and shall continue for a period of fifteen (15) years unless extended in accordance with other provisions of this Agreement, or sooner terminated as provided herein ("**Term**"). Following the expiration of the Term, this Agreement shall be deemed terminated and of no further force and



effect except for the rights and obligations described in Sections 2.8(c), 8.1, 12.13. and 12.17 of this Agreement, which shall survive termination as provided for herein. Provided, however, that termination of this Agreement that occurs as a result of the Term expiring shall not modify any right or obligation arising from the Specific Plan or other Project Approvals or any expiration date related thereto.

4.2 Tolling In Event of Litigation. in the event litigation is filed challenging this Agreement and/or other Project Approvals and such litigation would delay the Project or prevent the DA Ordinance from becoming effective on the Effective Date (i.e., court issues injunctive relief in connection with the DA Ordinance and other Initial Approvals such that said approvals are stayed and not presumed to be valid), the Term shall be automatically tolled for the duration of the litigation which is defined to mean the litigation is fully and finally resolved in such a manner that the Agreement and other related Initial Approvals become effective. Provided, however, that in the event such litigation is filed but does not result in the delay or prevention of the DA Ordinance from becoming effective on the Effective Date (i.e., court does not issue injunctive relief in connection with the DA Ordinance and other Initial Approvals and therefore said approvals are presumed valid), then the parties may, but are not required, to extend this Agreement by mutual consent pursuant to Section 4.3 below.

4.3 Extension by Agreement. The Term may be extended at any time before its termination date by the parties' mutual agreement.

**Section 5. Periodic Compliance Review.**

County shall review each Owner's respective good faith compliance with the terms of this Agreement on an annual basis. This periodic compliance review shall be conducted in accordance with the Development Agreement Statute and the County's Development Agreement Procedures, and shall address all items set forth therein, and include, among other things, Owners' Development Impact Fee payment obligations under Section 3.2 above and Owners' other payment obligations hereunder ("**Periodic Review**"). The applicable Owner(s) shall reimburse County for the actual costs of preparing for and conducting the Periodic Review within thirty (30) days of written demand from County. Upon completion of a Periodic Review, County shall provide an Estoppel Certificate as described in Section 12.21 below in substantially the same form attached as Exhibit 12 upon request of the applicable Owner(s).

If County finds and determines during the Periodic Review that an Owner is not in compliance with the terms and conditions of this Agreement for the period under review, County may provide a Notice of Default to said Owner pursuant to the provisions of Section 6.1 below. Prior to any further action taken under this Agreement, County and Owner not in compliance shall meet and confer regarding the alleged default as required by Section 9.1 below. If after compliance with the provisions of Section 9.1, a Dispute remains regarding compliance with this Agreement, County or applicable Owner(s), in accordance with Sections 6 and 9.2 below, may either elect to cure the default, challenge such default determination by instituting arbitration proceedings pursuant to Section 9.2 below, in which event the arbitrator shall exercise its review, based on substantial evidence, as to the existence of default, and/or elect to pursue other remedies as set forth in this Agreement. The arbitration determination shall be binding on County and the Owner at issue.

**Section 6. Default; Cure; Remedies.**

6.1 Notice of Default. Failure or unreasonable delay by County or an Owner to perform any material provision herein shall constitute a default under this Agreement. In the event of a default, the party alleging such default shall give the defaulting party not less than thirty (30) days' written notice of default ("**Notice of Default**") in the manner set forth in Section 12.12 below, unless the parties extend such time by mutual written consent or except in cases where an Owner's default presents a threat of imminent harm to the public; provided, however, failure or delay in giving a Notice of Default shall not waive a party's right to give future notice of the same or any other default. The Notice of Default shall specify the nature of the alleged default, the manner and period of time in which said default may be satisfactorily cured, and shall otherwise adhere to the noticing requirements set forth in this Agreement. The time of the Notice of Default shall be measured from the date actually delivered in accordance with Section 12.12 below. Notwithstanding any provision in this Section 6.1 to the contrary, in the event and to the extent this Agreement expressly and solely obligates a particular Owner, then a default by the expressly obligated Owner shall not constitute a default by any other Owner(s) ("**Innocent Owner**"). No Innocent Owner shall have any liability to County for or concerning said default by the expressly obligated Owner, and County's decision to terminate this Agreement as a result of said default as it relates to said obligation shall not result in termination of this Agreement on that basis with respect to the Innocent Owner or that portion of the Property owned legally or equitably by the Innocent Owner.

6.2 Cure Period; Right to Terminate or Initiate Arbitration Proceedings. The defaulting party shall provide evidence establishing it was never, in fact, in default or shall cure the default within thirty (30) days; provided, however, that if the nature of the alleged default is such that it cannot be reasonably cured within such 30-day period, the commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure within such period. During any period of curing, the party charged shall not be considered in default for purposes of terminating this Agreement or instituting arbitration proceedings. If the default is cured, then no default shall exist or be deemed to have existed and the noticing party shall take no further action. After proper notice and the expiration of such 30-day cure period without cure and subject to the Dispute Resolution process set forth in Section 9.1 and 9.2 below, the noticing party, at its option, may terminate this Agreement without legal action pursuant to Section 8.2 below.

6.3 Remedies Generally. The parties agree that remedies to enforce the terms of this Agreement shall be limited to actions for mandamus, specific performance, declaratory relief, injunctive relief or other equitable relief, and that no party shall be liable for monetary damages. Notwithstanding anything to the contrary in this Section 6.3, County reserves the right to seek payment from the applicable Owner(s) through binding arbitration proceedings for any fees, charges, costs or other monies owed under this Agreement, and to obtain recovery thereof. Likewise, Owners reserve the right to seek repayment from County of the actual amount of any Development Impact Fees (or land or improvements provided by Owners in lieu thereof) that County imposed on the Project that violated Owners' rights under Section 3.2 above.

**Section 7. Enforced Delay; Extension of Time of Performance.** No party shall be deemed in default of its obligations under this Agreement where a delay or default is due to an act of God, natural disaster, accident, breakage or failure of equipment, enactment of conflicting federal or state laws or regulations, third-party litigation, strikes, lockouts or other labor disturbances or disputes of any character, interruption of services by suppliers thereof,

unavailability of materials or labor, rationing or restrictions on the use of utilities or public transportation whether due to energy shortages or other causes, war, civil disturbance, riot, or by any other severe and unforeseeable occurrence that is beyond the control of that party (collectively, "Enforced Delay"); provided, however, the parties agree a delay that results from unforeseen economic circumstances shall not constitute an Enforced Delay for purposes of this Section 7. Performance by a party of its obligations under this Section 7 shall be excused during, and extended for a period of time equal to, the period (on a day-for-day basis) for which the cause of such Enforced Delay is in effect.

**Section 8. Termination.**

8.1 Termination Upon Completion of Project or Expiration of Term. This Agreement shall terminate upon the expiration of the Term (plus any extensions mutually agreed upon in accordance with Section 4 above or as otherwise provided for in this Agreement) or when Full Build Out of the Project has occurred as provided for in this Agreement and other Project Approvals, and all of Owners' obligations hereunder have been satisfied, whichever is earlier. Upon termination of this Agreement, the County Recorder may cause a notice of such termination in a form satisfactory to County Counsel to be duly recorded in the official records of San Benito County. Following expiration of the Term, this Agreement shall be deemed terminated and of no further force and effect except for any and all obligations provided herein that expressly provide that they shall survive termination.

8.2 Termination Due to Default. After notice and expiration of the thirty (30) day cure period and after satisfaction of the Dispute Resolution obligations set forth in Section 9.1 below, if the default has not been cured or it is not being diligently cured in the manner set forth above, the noticing party may, at its option, give notice of its intent to terminate this Agreement ("**Notice of Intent to Terminate**") with such termination becoming effective sixty (60) days after such notice is provided unless the party receiving the notice elects to commence arbitration pursuant to Section 9.2 below or seek judicial relief. Notwithstanding anything to the contrary in this Section 8.2, a written Notice of Intent to Terminate given under this Section 8.2 is effective to terminate the obligations of the noticing party only if a default has occurred, and such default, as a matter of law, authorizes the noticing party to terminate its obligations under this Agreement. In the event the noticing party is not so authorized to terminate, the party alleged to be in default shall have all rights and remedies provided herein or under applicable law, including, without limitation, the right to specific performance of this Agreement. Once the noticing party has given a Notice of Intent to Terminate, and the defaulting party elects to take no further action contesting the decision, arbitration proceedings may be instituted to obtain a declaratory judgment determining the respective termination rights and obligations under this Agreement.

8.3 Termination of Agreement with Respect to Individual Units Upon Sale to Ultimate User and Completion of Construction. The assignment and assumption provisions of Section 10.1 and 10.2 below shall not apply, and the obligations hereunder shall terminate with respect to any unit and the owner of such unit shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

- (a) The lot upon which the unit is located has been finally subdivided and individually (i.e., not in "bulk") sold to a member of the public or other ultimate user; and
- (b) A Certificate of Occupancy has been issued for a residential building on said lot.

8.4 Termination by Mutual Consent. This Agreement may be terminated by mutual consent of the parties in the manner provided in the Development Agreement Statute and herein.

**Section 9. Dispute Resolution**

9.1 Informal Discussions; Mediation. If a dispute arises related to the interpretation or enforcement of, or compliance with, the provisions of this Agreement ("**Dispute**"), County and the applicable Owner(s) shall first attempt to resolve it through informal discussions. In the event a Dispute cannot be resolved in this manner within twenty one (21) days, County and the applicable Owner(s) shall endeavor to settle the Dispute by mediation. The Dispute shall be submitted to the San Jose, California office of Judicial Arbitration and Mediation Services, Inc. ("**JAMS**") for mediation, and shall take place at JAMS' San Jose Office; if the matter is not resolved through mediation, then it shall be submitted to JAMS for final binding arbitration pursuant to Section 9.2 below. Either County or the applicable Owner(s) may commence mediation by providing to JAMS and the other party(ies) a written request for mediation setting forth the subject of the Dispute and the relief requested. County and the applicable Owner(s) shall cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals, who shall be a retired judge, and in scheduling the mediation proceedings. If the parties cannot agree on the appointment of the mediator or the date of the mediation within thirty (30) days after the written request for mediation has been received, then JAMS shall: (a) provide the parties with a list of ten (10) mediators and give each party the opportunity to strike three (3) names on said list and rank the remainder, and (b) select the mediator who, collectively, is the highest ranked by the parties. The selected mediator shall then promptly set a mediation date, for which the parties shall agree. County and the applicable Owner(s) agree to participate in any such mediation in good faith. The costs and fees of mediation (including, without limitation, those costs and fees set forth in JAMS' fee schedule in effect at the time of commencement of the mediation) shall be borne equally by County and the applicable Owner(s); provided, however, each party shall be responsible for its own attorneys' fees and any expert witness fees in connection with said proceedings. All offers, promises, conduct, and statements, whether oral or written, made in the course of the mediation by any of the parties, their respective agents, employees, experts and attorneys, and by the mediator and any JAMS employees, shall be treated by the parties as confidential, privileged, and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Any party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process.

9.2 Arbitration. Either County or the applicable Owner(s) may initiate arbitration with respect to a Dispute by filing a written demand for arbitration at any time following completion of the informal dispute resolution and mediation processes described in Section 9.1 above; provided, however, that mediation may continue after the commencement of arbitration, if County and the applicable Owner(s) so mutually desire. Unless otherwise agreed to by County and the applicable Owner(s), the mediator shall be disqualified from serving as the arbitrator in the case. The provisions of this Section 9.2 may be enforced by any court of competent jurisdiction, and the prevailing party shall be entitled to an award of all costs, fees, and expenses, including attorneys' fees, to be paid by the non-prevailing party. Any Dispute arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or

applicability of this Agreement to arbitrate, which is not resolved by the mediation process set forth above, shall be determined by arbitration to be held in San Jose, California before one (1) arbitrator who shall be a retired judge. The arbitrator shall apply the law in the same manner as in a judicial proceeding. No party may request an arbitration hearing until after the completion of informal dispute resolution and mediation processes under Section 9.1 above are complete. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures, which rules shall govern the commencement of arbitration. If the parties cannot agree on the appointment of an arbitrator, then JAMS shall: (a) provide the parties with a list of ten (10) arbitrators and give each party the opportunity to strike three (3) names from the list and rank the remainder, and (b) shall select the arbitrator who is, collectively, the highest ranked by the parties. Judgment on the arbitration award may be entered in the San Benito County Superior Court or any court having jurisdiction. This Section 9.2 shall not preclude County or the applicable Owner(s) from seeking provisional remedies in aid of arbitration from a court of competent jurisdiction. The costs and fees of arbitration (including, without limitation, those costs and fees set forth in JAMS' fee schedule in effect at the time of commencement of the arbitration) shall be borne equally by County and the applicable Owner(s); provided, however, the prevailing party in said proceeding shall be entitled to recover for its own attorneys' fees and any expert witness fees.

9.3 Good Faith Participation in Dispute Resolution. The dispute resolution process described under Sections 9.1 and 9.2 above shall be undertaken in good faith. The parties may select a mediator or arbitrator utilizing another methodology than that which is set forth in Sections 9.1 and 9.2 above upon the parties' mutual written agreement. By agreeing to the above-referenced dispute resolution process, neither County nor the applicable Owner(s) hereby loses or waives its right to assert the operation of any applicable statute of limitations as an affirmative defense. Any arbitration award or determination shall be final and binding upon County and the applicable Owner(s) and each shall accept such decision and award and/or determination as binding and conclusive and shall abide thereby and no party to said proceeding may commence civil litigation as a means of resolving the Dispute that was at issue in said proceeding except for an action to obtain equitable relief.

9.4 Attorneys' Fees and Dispute Resolution Costs. Except as otherwise provided in Sections 9.1 and 9.2 above, in any action or proceeding brought by any party to enforce or interpret a provision of this Agreement, or to seek specific performance or injunctive relief or declaratory relief against any other party to this Agreement, the prevailing party is entitled to recover attorneys' fees and any other costs incurred in the action or proceeding in addition to any other relief to which it is entitled.

**Section 10. Assignment and Assumption; Rights and Duties of Mortgagees.**

10.1 Assignment of Rights, Interests and Obligations. Subject to compliance with this Section 10.1 and Section 10.2 below, an Owner may sell, assign or transfer (collectively, "**Assignment**") in whole or in part the Property to any individual or entity at any time during the Term of this Agreement. Said Owner shall seek County's prior written consent to any Assignment (which shall be documented in a form substantially the same as attached Exhibit 10) ("**Consent to Assignment**"), which consent shall not be unreasonably withheld or delayed; provided, however, that such consent shall not be required if the proposed Assignment would involve an entity directly related to any of the entities that make up said Owner such that it holds a majority interest (fifty-one percent (51%) or more) therein, or if the proposed Assignment

would involve an entity such that the Owner at issue would retain a minimum of fifty one percent (51%) of the ownership or beneficial interest and would retain management and control of that portion of the Property so Assigned. County may refuse to give its consent to a requested Assignment only if, in light of the following factors: (a) financial strength and capability of the proposed Subsequent Owner to perform the obligations of this Agreement; and (b) the proposed Subsequent Owner's experience and expertise in planning, financing, development, ownership, and operation of similar projects; such Subsequent Owner would not be able to perform the obligations hereunder proposed to be assumed by such Subsequent Owner. Such determination shall be made by the Planning Director, and the Planning Director's decision is appealable by said Owner to the Board, which shall also evaluate the decision based on the criteria specified above. Failure by County to respond within sixty (60) days to any request made by an Owner for the required consent shall be deemed to be County's approval of the Assignment. Notwithstanding anything to the contrary in this Section 10.1 and in accordance with Section 8.3 above, this Section 10.1 shall not apply to: the owner of any residential unit located on a lot that has been finally subdivided and individually sold to the ultimate user and a Certificate of Occupancy has been issued for a residential building on said lot; any mortgage, deed of trust, sale/leaseback or other form of conveyance for financing (subject to Section 11.2 below); the granting of any easement interests or offers of dedication to any governmental or quasi-governmental agency or utility; or the transfer of common areas to a homeowner's association(s) formed in connection with the Project. Further, the parties agree that upon receipt of a payment from a foreclosing Mortgagee, County shall permit said Assignment in accordance with Section 11.2 below.

10.2 Assumption of Rights, Interests and Obligations. Express written assumption by a proposed individual or entity of the obligations and other terms and conditions of this Agreement with respect to that portion (or all) of the Property thereof Assigned, shall relieve the applicable Owner of such obligations so expressly assumed. The Assignment and Assumption Agreement shall be substantially in the form attached as Exhibit 11 to this Agreement ("**Assignment and Assumption Agreement**"), shall be recordable and shall be approved as to form by County Counsel. Said agreement shall provide for the proposed Subsequent Owner to contractually assume and be bound by all of the applicable Owner's obligations under this Agreement with respect to the Property, or portion(s) thereof, which are Assigned to the proposed Subsequent Owner. The applicable Owner shall ensure that such Assignment and Assumption Agreement is recorded by the County Recorder in the official records of San Benito County within ten (10) days of receipt after County executes the required Consent to Assignment, or as promptly thereafter as feasible. Subject to County's consent of such Assignment pursuant to Section 10.1 above, upon recordation of said Assignment and Assumption Agreement, the applicable Owner shall automatically be released from those obligations expressly assumed by the Subsequent Owner at issue.

**Section 11. Rights and Duties of Mortgagee in Possession of Property.**

11.1 Mortgagee Successor Generally. This Agreement shall be superior and senior to all liens placed upon the Property or any portion thereof after the Effective Date, including, without limitation, the lien of any Mortgage. Notwithstanding anything to the contrary in this Section 11.1, no breach of this Agreement shall defeat, render invalid, diminish or impair any Mortgage made in good faith and for value; provided, however, this Agreement shall be binding upon and effective against all persons and entities, including all Mortgagees who acquire title to the Property or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise, and including any subsequent transferee of the Property acquired by foreclosure,

trustee's sale, deed in lieu of foreclosure, or otherwise after the Effective Date (in either case, a "Mortgagee Successor"), subject, however, to the terms of Section 11.2 below.

11.2 Rights and Obligations Hereunder. The provisions of Section 11.1 above notwithstanding, a Mortgagee Successor shall have the right but not any obligation under this Agreement to commence or complete the construction of any Project Infrastructure, or to guarantee such construction or completion. County, upon receipt of a written request from a foreclosing Mortgagee, shall permit the Mortgagee to succeed to the rights and obligations of the Owner at issue under this Agreement. The foreclosing Mortgagee shall be obligated to comply with this Agreement, including, without limitation, complying with the requirements set forth in Section 10.2 above. Notwithstanding anything to the contrary in this Section 11.2, a Mortgagee Successor shall not be entitled to construct the Project and/or develop the Property pursuant to the Project Approvals unless and until said Mortgagee Successor enters into an Assignment Agreement with the County in a form acceptable to the County whereby said Mortgagee Successor expressly assumes any and all rights and obligations of the applicable Owner hereunder. In the event that any Mortgagee Successor shall acquire title to the Property or any portion thereof, the Mortgagee Successor further shall not be (a) liable for any breach or default under this Agreement on the part of any Owner or its successor, or (b) obligated to cure any breach or default under this Agreement on the part of any Owner or its successor. Provided, however, in the event such Mortgagee Successor desires to succeed to an Owner's rights, benefits, privileges and obligations under this Agreement, however, County may, in its sole discretion, condition such succession upon the assumption of this Agreement by the Mortgagee Successor of the obligation to cure any breach or default on the applicable Owner's part.

11.3 Notice. If County receives notice from a Mortgagee requesting a copy of any Notice of Default regarding compliance with this Agreement as it relates to all or a portion of the Property, then County shall deliver said notice to such Mortgagee, concurrently with service thereof to each Owner, any notice given to Owner with respect to any claim by County that said Owner is in default. Each Mortgagee shall have the right (but not the obligation) for a period of ninety (90) days after receipt of such notice to cure, or to commence to cure, the alleged default set forth in said notice in accordance with Section 6.2 above. If the default or such noncompliance is of a nature that can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee shall have the right (but not the obligation) to seek to obtain possession with diligence and continuity through a receiver or otherwise, and thereafter to remedy or cure the default within ninety (90) days after obtaining possession, except if any such default cannot, with diligence, be remedied or cured within such ninety (90) day period, then such Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such default if such Mortgagee commences cure during such ninety (90) day period, and thereafter diligently pursues completion of such cure to the extent possible. Notwithstanding anything to the contrary in this Section 11.3, nothing contained in this Agreement shall be deemed to permit or authorize any Mortgagee or Mortgagee Successor to undertake or continue construction or completion of any improvements comprising the Project (beyond the extent necessary to conserve or protect improvements or construction already made) without first having expressly assumed the defaulting Owner's continuing obligations hereunder in the manner specified in Section 11.2 above.

**Section 12. General Provisions.**

12.1 Independent Contractors. Each party is an independent contractor and shall be solely responsible for the employment, acts, omissions, control and directing of its employees

and its other agents. All persons employed or utilized by an Owner in connection with this Agreement and the Project shall not be considered employees of County in any respect. Except as expressly set forth herein, nothing contained in this Agreement shall authorize or empower any party to assume or create any obligation whatsoever, express or implied, on behalf of any other party or to bind any other party or to make any representation, warranty or commitment on behalf of any other party.

12.2 Invalidity of Agreement and Severability of Provisions. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment, including any appeals. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, that provision shall not affect, impair, or invalidate any other provision, and the remaining provisions shall continue in full force and effect unless the court determination affects a material part of the Agreement in which case the parties shall comply with the provisions of Section 3.3 above.

12.3 No Third Party Beneficiary. There are no third party beneficiaries to this Agreement, and this Agreement is not intended, and shall not be construed to benefit or be enforceable by any other person or entity other than the parties to this Agreement.

12.4 Execution of Other Instruments. Each party shall execute and deliver to the other parties all other instruments and documents as may be reasonably necessary to carry out the purpose of this Agreement in order to provide or secure to the other parties the rights and privileges granted by this Agreement.

12.5 Time of Essence. Time is of the essence in the performance of each and every covenant and obligation to be performed by the parties hereunder, including, without limitation, the resolution of any Dispute which may arise concerning the obligations of Owner(s) and County as set forth in this Agreement.

12.6 Amendments. This Agreement may be amended from time to time by mutual consent of the parties, in accordance with the Development Agreement Statute and the County Development Procedures. In the event the parties amend this Agreement, the party requesting said amendment shall record the amended Agreement with the County Recorder to in the official records of San Benito County within ten (10) days of the amended Agreement being fully executed by all parties.

12.7 Subsequent Approvals Do Not Require Amendment; Effect of Amendment.

(a) No Amendment to Agreement for Subsequent Approvals. County's approval of any Subsequent Approval shall not require an amendment to this Agreement except in the event and to the extent an Owner expressly seeks and County approves such amendment in connection with Subsequent Approval(s). Upon County's approval of any Subsequent Approval, it shall become part of the Project Approvals governing development of the Project covered by this Agreement.

(b) Effect of Amendment to Development Agreement. Except as expressly set forth therein, an approved amendment to this Agreement shall not be construed to materially modify, impair, or waive any other rights or obligations of any party under this Agreement that were not modified as a result of said amendment.



12.8 Project is a Private Undertaking. The parties agree that: (a) any development by Owners of the Property shall be a private development; (b) County has no interest in or responsibilities for or duty to third parties concerning any Project Infrastructure constructed in connection with the Property until such time that County accepts the same pursuant to the provisions of this Agreement or in connection with any subdivision map approvals; (c) the contractual relationship between County and Owners is such that Owners are independent contractors and are not agents of County; and (d) nothing in this Agreement is intended or shall be construed to create or reflect any form of partnership or joint venture among the parties. The only relationship between County and each of the Owners is that of a government entity regulating the development of private property and the owners of such private property.

12.9 No Discrimination Permitted. No Owner shall not discriminate in any way against any person on the basis of race, color, national origin, sex, marital status, sexual orientation, age, creed, religion, or condition of physical disability in connection with or related to the performance of this Agreement.

12.10 Covenants Running with the Land. Subject to Section 10 above and pursuant to the Development Agreement Statute, all of the provisions contained in this Agreement are binding upon and benefit the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or any portion of the Property, whether by operation of law or in any manner whatsoever, during their ownership of the Property, or any portion thereof. All of the provisions of this Agreement constitute covenants running with land pursuant to California law.

12.11 Recordation of Agreement. Owners shall cause this Agreement to be duly recorded in the official records of San Benito County at the time provided for in this Agreement.

12.12 Notices. Any notice required under this Agreement shall be in writing and personally delivered, or sent by certified mail (return receipt requested and postage prepaid), overnight delivery, with a courtesy copy by email to the following:

County: San Benito County Planning and Building Department  
Attn: Planning Director  
3224 Southside Road  
Hollister, CA 95023  
Telephone: (831) 637-5313  
Email: BTurner@cosb.us

Copy to: County Counsel's Office  
Attn: County Counsel  
481 4th Street, 2nd Floor  
Hollister, CA 95023  
Telephone: (831) 636-4040  
Email: MGranger@cosb.us

Copy to: Miller Starr Regalla  
Attn: Nadia Costa, Esq.  
1331 N. California Blvd., Fifth Floor  
Walnut Creek, CA 94596  
Telephone: (925) 935-9400  
Email: nadia.costa@msrlegal.com

Pulte: Pulte Home Corporation  
Attn: John S. Kalmbach, Division President  
6210 Stoneridge Mall Road, Suite 500  
Pleasanton, CA 94588  
Email: Steve.Kalmbach@PulteGroup.com

SJO: San Juan Oaks, LLC  
Attn: Ken Gimelli, President  
3825 Union Road  
Hollister, CA 95023  
Email: Kkgimelli@aol.com

Copy to: Pulte Group  
Donald J. Sajor, Esq., Vice President & Division General Counsel  
27101 Puerta Real, Suite 300  
Mission Viejo, CA 92691  
Email: don.sajor@pultegroup.com

AND San Juan Oaks  
Attn: Scott Fuller, General Manager  
3825 Union Road  
Hollister, CA 95023  
Email: Scott@sanjuanoaks.com

AND Brownstein Hyatt Farber Schreck  
Attn: Lisabeth Rothman, Esq.  
2049 Century Park East, Suite 3550  
Los Angeles, CA 90067  
Telephone: 310.500.4600  
Email: lrothman@bhfs.com

Any Notice to a Mortgagee by County shall be given as provided above using the address provided by such Mortgagee. Any Notice to a Subsequent Owner shall be given by County as required above only for those Subsequent Owners who have given County written notice of their addresses for the purpose of receiving such notices. Any party may change its mailing address/email at any time by giving written notice of such change to the other parties in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices under this Agreement shall be deemed given, received, made or communicated on the earlier of the date personal delivery is effected or on the delivery date shown on the return receipt, air bill or email.

12.13 Prevailing Wage. Owners shall be solely responsible for determining whether construction of any or all of the Project Infrastructure required in connection with the Project trigger the obligation to pay prevailing wages under California or federal law. In the event and to the extent that payment of prevailing wages is required, Owners shall comply with those requirements. Owners shall defend, indemnify and hold harmless County, its agents, employees, officers and officials from any claims, injury, liability, loss, costs or damages sought by a third party for a failure to pay prevailing wages in connection with the Project. The indemnification obligation set forth in this Section 12.13 shall survive the termination of this Agreement if the statute of limitations on any prevailing wage claim has not yet run.

12.14 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

12.15 Venue. Any action brought relating to this Agreement shall be held exclusively in a state court in the County of San Benito.

12.16 Reimbursement Agreement. The parties acknowledge and agree that Owners shall be responsible for any and all costs incurred by County in connection with the processing of the Project Approvals in accordance with the Reimbursement Agreement (as it may be amended from time to time). In the event that Owners fail to satisfy said obligations, County may, in its discretion, halt the processing of any applications for Project Approval(s) until said obligations have been fully satisfied.

12.17 Cooperation in the Event of Legal Challenge; Indemnification. In the event of any legal action or proceeding brought by a third party challenging the validity of this Agreement or any provision hereof or any Project Approval ("**Legal Challenge**"), the parties shall cooperate in defending said action or proceeding as provided for in this Section 12.17. County shall provide Owners with notice of the pendency of such action or proceeding and may, in its discretion, request that Owners defend such action or proceeding. It being understood that the Project is a private undertaking, the parties may agree that it is Owners' primary responsibility to defend any Legal Challenge, as defined herein. In this event, Owners shall engage the services of competent counsel at their sole cost and expense ("**Defense Counsel**"), subject to County's reasonable approval, to defend the parties' interests in any Legal Challenge challenging any aspect of the Project Approval(s); provided, however, that nothing in this Section 12.17 shall preclude County Counsel's involvement in the Legal Challenge to defend County's interest therein. Furthermore, in accordance with the Reimbursement Agreement between County and Owners, in the event that County determines, in its sole and absolute discretion, that separate counsel is necessary to serve the interests of the County and the public welfare, County may retain special counsel, for which Owners shall pay all actual legal fees and costs related thereto. If County retains special counsel in accordance with this Section 12.17, County shall direct special counsel to cooperate with Defense Counsel to the extent feasible and to use diligent and good faith efforts to avoid duplication with the efforts of Defense Counsel; such efforts may include, for example, the filing of joint briefs and other papers. Defense Counsel, County Counsel, and County's special counsel, if any, shall consult with each other and act in good faith in considering any settlement or compromise of any Legal Challenge. During the pendency of any legal challenge, this Agreement and all Project approvals shall remain in place subject to any changes that may be required by judicial determination.

Owners further agree to and shall defend and hold harmless County, its agents, employees, officers, and officials from any claims, injury, liability, loss, costs or damages sought by a third party, relating to personal injury, death or property damage, arising from or relating to the construction of the Project by an Owner(s) or those of its employees, officers, agents, contractors or subcontractors. It is understood that Owners' duty to indemnify and hold harmless under this Section 12.17 includes the duty to defend as set forth in California Civil Code Section 2778; the parties further agree that County shall have the option to choose its own legal representation for which Owners shall pay all actual legal fees and costs related thereto. Acceptance by County of insurance certificates and endorsements required under this Agreement does not relieve Owners from liability hereunder. The provisions of this Section 12.17 shall survive the termination of this Agreement, for any reason other than the County's default.

12.18 No Waiver. No waiver by any party of any provision of this Agreement shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision, including, without limitation, the time for performance of any such provision. The exercise by a party of any right or remedy provided in this Agreement or provided by law shall not prevent the exercise by that party of any other remedy provided in this Agreement or under the law.

12.19 Construction. This Agreement has been reviewed and revised by legal counsel for both County and Owners, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. The provisions of this Agreement and the attached exhibits shall be construed as a whole according to their common meaning and not strictly for or against any party, and in a manner that shall achieve the purposes of this Agreement. Wherever required by the context, the masculine gender shall include the feminine or neuter genders, or vice versa.

12.20 Entire Agreement. This Agreement and all exhibits hereto constitute the entire agreement between the parties and supersede all prior discussions, negotiations, and agreements whether oral or written. Any oral representations or modifications concerning this instrument shall be of no force or effect unless contained in a subsequent written modification signed by both parties.

12.21 Estoppel Certificate. Any party from time to time (or a Mortgagee under Section 11) may deliver written notice to the other parties requesting an Estoppel Certificate stating: (a) this Agreement is in full force and effect and constitutes a binding obligation of the parties; (b) this Agreement has not been amended either orally or in writing, or if it has been amended, specifying the nature of the amendment(s); and (c) there are no existing defaults in the performance of its obligations under this Agreement to the actual knowledge of the party signing the Estoppel Certificate. A party receiving a request shall execute and return the certificate within thirty (30) days after receipt thereof. The Planning Director shall, on County's behalf, have the right to execute any certificate requested by the applicable Owner. The Estoppel Certificate shall be substantially in the same form as attached Exhibit 12. An Estoppel Certificate prepared in accordance with this Section 12.21 may be relied on by Assignees and Mortgagees.

12.22 Counterparts. This Agreement and any and all amendments thereto may be executed in multiple counterparts, and all counterparts together shall be construed as one document.

12.23 Authority to Execute. Each party hereto expressly warrants and represents that it has the authority to execute this Agreement on behalf of its entity and warrants and represents that it has the authority to bind its entity to the performance of its obligations hereunder.

12.24 Captions. The caption headings and subsection headings provided herein are for convenience only and shall not affect the construction of this Agreement.

12.25 Recitals. The recitals in this Agreement constitute part of this Agreement and each party shall be entitled to rely on the truth and accuracy of each recital.

12.26 Compliance, Monitoring, and Management Duties; Default. If an Owner fails to perform any duties related to compliance review processes, monitoring, or the management of

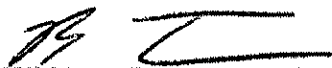
any programs as required herein, County has the right, but not the obligation, to undertake such duties and perform them at said Owner's sole expense.

12.27 Listing and Incorporation of Exhibits.

The exhibits to this Agreement, each of which is hereby incorporated herein by reference, are as follows:

- Exhibit 1: Legal Description of the Property
- Exhibit 2: Map of the Property
- Exhibit 3: San Juan Oaks Drive/Union Road Intersection Improvements
- Exhibit 4: Form of Agricultural Easement for On-Site Agricultural Preserve
- Exhibit 5: Public Safety Facility Site
- Exhibit 6: Permanent Wildlife Habitat Area
- Exhibit 7: On-Site Agricultural Preserve
- Exhibit 8: Off-Site Agricultural Preserve
- Exhibit 9: Development Impact Fees
- Exhibit 10: Form of Consent to Assignment
- Exhibit 11: Form of Assignment and Assumption Agreement
- Exhibit 12: Form of Estoppel Certificate

COUNTY OF SAN BENITO



Byron Turner  
Assistant Director, San Benito County  
Planning & Building Inspection Services  
Date:

APPROVED AS TO FORM:  
San Benito County Counsel's Office



Matthew Granger  
County Counsel  
Date: 4-5-2016

SAN JUAN OAKS, a California limited liability company

By:

\_\_\_\_\_  
Ken Gimelli

Its: Owner

PULTE HOME CORPORATION, a Michigan corporation

By:

\_\_\_\_\_  
John S. Kalmbach

Its: Division President

APPROVED AS TO FORM:  
Brownstein Hyatt Farber Schreck

\_\_\_\_\_

Date:

ATTESTATION  
Before the Board of Supervisors  
County of San Benito, State of California

MOTION:

To Adopt Ordinance 942 approving a Development Agreement by and among the County of San Benito, CA, Pulte Homes Corporation and San Juan Oaks, LLC.

This item appeared on Regular Meeting Agenda of the San Benito County Board of Supervisors on Tuesday, November 3, 2015.

I HEREBY CERTIFY AND ATTEST that the above order was passed and adopted on November 3, 2015 by the following vote of the Board of Supervisors, to wit:

- Ayes: 5 Supervisors Barrios, Botelho, De La Cruz, Muenzer and Rivas.
- Noes: 0
- Absent: 0
- Abstain: 0

I HEREBY CERTIFY THAT THE FOREGOING SIGNATURES ON THE ATTACHED DOCUMENT WERE AFFIXED THERE TO IN MY PRESENCE ON APRIL 5, 2016.

Louie Valdez  
Clerk of the Board of Supervisors  
County of San Benito  
State of California

*Louie Valdez*



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COUNTY OF SAN BENITO

\_\_\_\_\_  
Byron Turner  
Assistant Director, San Benito County  
Planning & Building Inspection Services  
Date:

APPROVED AS TO FORM:  
San Benito County Counsel's Office

\_\_\_\_\_  
Matthew Granger  
County Counsel  
Date:


SAN JUAN OAKS, a California limited liability company

By:

\_\_\_\_\_  
Ken Gimelli

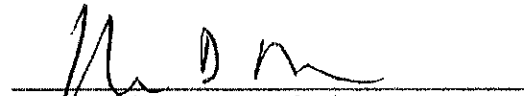
Its: Owner

PULTE HOME CORPORATION, a Michigan corporation

By:   
\_\_\_\_\_  
John S. Kalmbach

Its: Division President

APPROVED AS TO FORM:  
Brownstein Hyatt Farber Schreck

  
\_\_\_\_\_  
Date: Lieberman Rothman  
February 18, 2016



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 ALAMEDA

On February 8, 2016, before me, Jeanne Miller, Notary Public  
(here insert name and title of the officer)

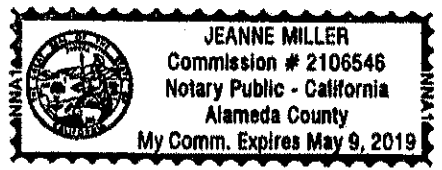
Personally appeared John Steven Kalmbach

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/she executed the same in his/~~her~~ authorized capacity, and that by his/~~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.

Jeanne Miller  
Signature



(Seal)

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COUNTY OF SAN BENITO

\_\_\_\_\_  
Byron Turner  
Assistant Director, San Benito County  
Planning & Building Inspection Services  
Date:

APPROVED AS TO FORM:  
San Benito County Counsel's Office

\_\_\_\_\_  
Matthew Granger  
County Counsel  
Date:

SAN JUAN OAKS, a California limited liability company

By:

\_\_\_\_\_  
Ken Gimelli

Notary Public  
See Attached

Its: Owner

PULTE HOME CORPORATION, a Michigan corporation

By:

\_\_\_\_\_  
John S. Kalmbach

Its: Division President

APPROVED AS TO FORM:  
Brownstein Hyatt Farber Schreck

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

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# CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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 Cruz )

On 2/11/2016 before me, James Hassett II, Notary Public,  
(Here insert name and title of the officer)

personally appeared Ken Gimelli  
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]  
Notary Public Signature

(Notary Public Seal)



### ADDITIONAL OPTIONAL INFORMATION

#### DESCRIPTION OF THE ATTACHED DOCUMENT

Contract  
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 2 Document Date 2/11/16

#### CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer

\_\_\_\_\_  
(Title)

- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other \_\_\_\_\_

### INSTRUCTIONS FOR COMPLETING THIS FORM

*This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is /are ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple

**EXHIBIT 1  
LEGAL DESCRIPTIONS OF SAN JUAN OAKS PARCELS**

**Parcel 1**

Certain real property situate in the unincorporated area of the County of San Benito, State of California, being a portion of the parcel of land described in deed from San Juan Valley, a California Limited Partnership to Rancho San Justo Company, a California Corporation, dated December 24, 1994 and filed for record in the office of the County recorder of said County on January 5, 1995 under Recorder's Instrument Number 9500071, and a portion of the parcel of land described in the Memorandum of Agreement between San Juan Valley, a California Limited Partnership and Rancho San Justo Company, a California Corporation, dated January 5, 1995 and filed for record in the office of the County recorder of said County on January 5, 1995, under Recorder's Instrument Number 9500074, said portions being particularly described as follows:

**Beginning** at a point in the easterly boundary of said parcel described under Recorder's Instrument Number 9500071, at the easterly terminus of course number (24) therein; thence, along said easterly boundary

- (1) S. 63° 01' 18" W., 879.16 feet; thence
- (2) S. 26° 31' 58" W., 271.35 feet; thence
- (3) S. 45° 21' 17" E., 1059.96 feet; thence
- (4) S. 43° 34' 38" W., 1410.76 feet; thence
- (5) S. 46° 25' 22" E., 108.27 feet; thence
- (6) N. 83° 31' 22" E., 557.74 feet; thence
- (7) S. 46° 25' 22" E., 353.84 feet; thence
- (8) S. 43° 39' 45" W., 799.70 feet; thence depart said easterly boundary
- (9) N. 65° 19' 42" W., 1753.74 feet; thence
- (10) S. 61° 35' 02" W., 354.54 feet; thence
- (11) N. 52° 24' 57" W., 292.55 feet; thence
- (12) S. 69° 30' 32" W., 839.86 feet; thence
- (13) N. 72° 45' 51" W., 430.95 feet; thence
- (14) N. 86° 48' 57" W., 523.48 feet; thence
- (15) N. 19° 32' 00" W., 304.24 feet; thence
- (16) N. 66° 05' 43" W., 785.71 feet; thence

- (17) N.  $83^{\circ} 05' 53''$  W., 779.03 feet; thence
- (18) S.  $18^{\circ} 24' 18''$  W., 1683.23 feet; thence
- (19) S.  $53^{\circ} 27' 19''$  W., 1039.05 feet, to a point on the westerly boundary of said parcel described under Recorder's Instrument Number 9500071, at the northerly terminus of course number (54) therein; thence depart said westerly boundary
- (20) N.  $4^{\circ} 09' 19''$  W., 1206.20 feet; thence
- (21) N.  $44^{\circ} 03' 31''$  E., 558.26 feet; thence
- (22) N.  $34^{\circ} 01' 56''$  W., 269.78 feet; thence
- (23) N.  $29^{\circ} 52' 02''$  E., 377.00 feet; thence
- (24) N.  $60^{\circ} 45' 35''$  E., 296.82 feet; thence
- (25) N.  $22^{\circ} 07' 19''$  E., 212.78 feet; thence
- (26) N.  $9^{\circ} 51' 10''$  W., 121.84 feet; thence
- (27) N.  $24^{\circ} 19' 05''$  E., 189.55 feet; thence
- (28) N.  $1^{\circ} 28' 38''$  W., 391.64 feet; thence
- (29) N.  $9^{\circ} 27' 25''$  E., 500.76 feet; thence
- (30) N.  $88^{\circ} 31' 22''$  E., 322.12 feet; thence
- (31) N.  $49^{\circ} 07' 30''$  E., 492.71 feet; thence
- (32) Along the arc of a non-tangent circular curve, the center of which bears S.  $49^{\circ} 07' 30''$  W., 742.00 feet distant, through a central angle of  $6^{\circ} 31' 50''$ , for an arc distance of 84.57 feet; thence
- (33) Along the arc of a tangent circular curve to the right, with a radius of 562.00 feet, through a central angle of  $47^{\circ} 33' 05''$ , for an arc distance of 466.42 feet; thence tangentially
- (34) N.  $0^{\circ} 08' 45''$  E., 264.59 feet; thence
- (35) Along the arc of a tangent circular curve to the right, with a radius of 548.00 feet, through a central angle of  $77^{\circ} 41' 42''$ , for an arc distance of 743.11 feet; thence tangentially
- (36) N.  $79^{\circ} 50' 26''$  E., 613.57 feet; thence
- (37) S.  $63^{\circ} 20' 00''$  E., 1138.29 feet; thence
- (38) N.  $26^{\circ} 42' 09''$  E., 1306.74 feet; thence

- (39) N. 84° 51' 37" E., 473.96 feet; thence
- (40) Along the arc of a tangent circular curve to the right, with a radius of 350.00 feet, through a central angle of 31° 51' 23", for an arc distance of 194.60 feet; thence tangentially
- (41) S. 63° 17' 00" E., 810.50 feet; thence
- (42) N. 26° 03' 17" E., 238.65 feet to a point on the northeasterly boundary of said parcel described under Recorder's Instrument Number 9500071, at the southerly terminus of course number (19) therein; thence along said northeasterly boundary
- (43) S. 50° 39' 06" E., 888.42 feet; thence
- (44) S. 57° 49' 06" E., 456.27 feet; thence
- (45) S. 46° 51' 41" E., 278.37 feet; thence
- (46) S. 47° 08' 44" E., 691.06 feet; thence
- (47) S. 55° 16' 03" E., 528.18 feet, to the **point of beginning.**

**PARCEL 2**

Certain real property situate in the unincorporated area of the County of San Benito, State of California, lying in the western or Flint-Bixby part of the Rancho San Justo, and being a portion of the parcel of land described in deed from Silver Creek Valley, A California Limited Partnership, to Rancho San Justo Company, a California Corporation, dated December 24, 1994 and filed for record in the office of the County recorder of said County on January 5, 1995 under Recorder's Instrument Number 9500070, Official Records of said County, and a portion of the parcel of land described in deed from San Juan Valley, a California Limited Partnership to Rancho San Justo Company, a California Corporation, dated December 24, 1994 and filed for record in the office of the County recorder of said County on January 5, 1995 under Recorder's Instrument Number 9500071, said portions being particularly described as follows:

**Beginning** at the most northwesterly corner of said parcel of land described under Recorder's Instrument Number 9500070; thence along the northerly boundary of said parcel

- (1) N. 89° 11' 21" E., 4930.67 feet; thence
- (2) N. 89° 10' 09" E., 370.28 feet; thence
- (3) N. 0° 48' 00" W., 45.00 feet; thence
- (4) N. 88° 51' 29" E., 170.31 feet to the most northeasterly corner of said parcel described under Recorder's Instrument Number 9500070, and the most northwesterly corner of said parcel described under Recorder's Instrument Number 9500071; thence along the boundary of said parcel described under Recorder's Instrument Number 9500071

- (5) N. 88° 51' 29" E., 380.43 feet; thence
- (6) S. 60° 05' 59" E., 825.69 feet; thence
- (7) N. 72° 48' 57" E., 283.05 feet; thence
- (8) N. 51° 16' 14" E., 410.81 feet; thence
- (9) N. 28° 42' 08" E., 150.00 feet; thence
- (10) N. 82° 10' 27" E., 447.67 feet; thence
- (11) N. 66° 31' 03" E., 774.42 feet; thence
- (12) N. 26° 42' 09" E., 1056.39 feet; thence
- (13) N. 26° 43' 00" E., 1241.88 feet; thence
- (14) N. 8° 07' 02" E., 268.03 feet; thence
- (15) N. 16° 43' 00" W., 268.03 feet; thence
- (16) N. 35° 18' 58" W., 588.33 feet; thence
- (17) N. 3° 12' 46" E., 335.25 feet; thence
- (18) N. 36° 12' 26" E., 304.18 feet; thence
- (19) N. 58° 05' E., 575.00 feet; thence
- (20) N. 23° 36' 24" E., 60.65 feet; thence
- (21) S. 31° 55' E., 130.02 feet; thence
- (22) S. 50° 35' E., 145.99 feet; thence
- (23) S. 62° 38' E., 226.38 feet; thence
- (24) S. 71° 17' 52" E., 186.71 feet; thence
- (25) S. 26° 48' 10" W., 2583.70 feet; thence
- (26) S. 63° 10' 59" E., 155.60 feet; thence
- (27) S. 36° 10' 34" E., 166.10 feet; thence
- (28) S. 4° 53' 39" E., 353.76 feet; thence
- (29) S. 18° 48' 09" E., 723.70 feet; thence
- (30) S. 50° 37' 06" E., 400.00 feet; thence

- (31) S.  $26^{\circ} 43'$  W., 307.30 feet; thence depart said boundary
- (32) S.  $26^{\circ} 03' 17''$  W., 238.65 feet; thence
- (33) N.  $63^{\circ} 17' 00''$  W., 810.50 feet; thence
- (34) Along the arc of a tangent circular curve to the left, with a radius of 350.00 feet, through a central angle of  $31^{\circ} 51' 23''$ , for an arc distance of 194.60 feet; thence tangentially
- (35) S.  $84^{\circ} 51' 37''$  W., 473.96 feet; thence
- (36) S.  $26^{\circ} 42' 09''$  W., 1306.74 feet; thence
- (37) N.  $63^{\circ} 20' 00''$  W., 1138.29 feet; thence
- (38) S.  $77^{\circ} 50' 26''$  W., 613.57 feet; thence
- (39) Along the arc of a tangent circular curve to the left, with a radius of 548.00 feet, through a central angle of  $77^{\circ} 41' 42''$ , for an arc distance of 743.11 feet; thence tangentially
- (40) S.  $0^{\circ} 08' 45''$  W., 264.59 feet; thence
- (41) Along the arc of a tangent circular curve to the left, with a radius of 562.00 feet, through a central angle of  $47^{\circ} 33' 05''$ , for an arc distance of 466.42 feet; thence
- (42) Along the arc of a tangent circular curve to the right, with a radius of 742.00 feet, through a central angle of  $6^{\circ} 31' 50''$ , for an arc distance of 84.57 feet; thence
- (43) S.  $49^{\circ} 07' 30''$  W., 492.71 feet; thence
- (44) S.  $88^{\circ} 31' 22''$  W., 322.12 feet; thence
- (45) S.  $9^{\circ} 27' 25''$  W., 500.76 feet; thence
- (46) S.  $1^{\circ} 28' 38''$  E., 391.64 feet; thence
- (47) S.  $24^{\circ} 19' 05''$  W., 189.55 feet; thence
- (48) S.  $9^{\circ} 51' 10''$  E., 121.84 feet; thence
- (49) S.  $22^{\circ} 07' 19''$  W., 212.78 feet; thence
- (50) S.  $60^{\circ} 45' 35''$  W., 296.82 feet; thence
- (51) S.  $29^{\circ} 52' 02''$  W., 377.00 feet; thence
- (52) S.  $34^{\circ} 01' 56''$  E., 269.78 feet; thence
- (53) S.  $44^{\circ} 03' 31''$  W., 558.26 feet; thence



- (54) S. 4° 09' 19" E., 1206.20 feet to a point on the westerly boundary of said parcel described under Recorder's Instrument Number 9500071; thence
- (55) N. 66° 37' 27" W., 515.29 feet; to the most southerly corner of said parcel described under Recorder's Instrument Number 9500070; thence along the boundary of said parcel
- (56) N. 64° 09' 26" W., 1001.23 feet; thence
- (57) N. 47° 58' 35" W., 864.21 feet; thence
- (58) N. 24° 02' 56" E., 1954.42 feet; thence
- (59) N. 75° 25' 00" W., 3283.49 feet; thence
- (60) N. 0° 49' 44" W., 1979.14 feet, to the **point of beginning.**

**PARCEL 3**

Certain real property situate in the County of San Benito, State of California, in the Rancho San Justo and Rancho Cienega del Gabilan, being a portion of the parcel of land described in deed from San Juan Valley, a California Limited Partnership to Rancho San Justo Company, a California Corporation, dated December 24, 1994 and filed for record in the office of the County recorder of said County on January 5, 1995 under Recorder's Instrument Number 9500071, and a portion of the parcel of land described in the Memorandum of Agreement between San Juan Valley, a California Limited Partnership and Rancho San Justo Company, a California Corporation, dated January 5, 1995 and filed for record in the office of the County recorder of said County on January 5, 1995, under Recorder's Instrument Number 9500074, said portions being particularly described as follows:

**Beginning** at the most southerly corner of said parcel described under Recorder's Instrument Number 9500074, said corner also being the most southerly corner of Hill Lot 8, as shown on the map filed for record in Book 1 of Maps at Page 64, Records of said County, thence along the boundary of said parcel described under Recorder's Instrument Number 9500074

- (1) N. 56° 00' 19" W., 2935.84 feet (N. 56° 04' W., 2936.5 feet in said document filed under Recorder's Instrument Number 9500074); thence
- (2) S. 44° 12' 16" W. 1316.91 feet (S. 44° 15' 30" W. 1318.0 feet in said document), to the center line of San Juan Canyon Road; thence continuing along said boundary and also along the center line of said road
- (3) N. 49° 45' 38" W., 85.70 feet (N. 48° 17' W., 85.7 feet in said document); thence
- (4) N. 53° 03' 38" W., 72.20 feet (N. 51° 35' W., 72.2 feet in said document); thence
- (5) N. 56° 57' 38" W., 33.40 feet (N. 55° 29' W., 33.44 feet in said document); thence, leaving said road center line and continuing along said boundary

- (6) N. 84° 05' 35" E., 144.55 feet (N. 85° 03' 20" E., 141.86 feet in said document); thence
- (7) N. 45° 20' 50" E., 88.39 feet (N. 45° 24' 45" E., 88.41 feet in said document); thence
- (8) N. 12° 52' 43" E., 186.94 feet (N. 12° 58' 12" E., 186.89 feet in said document); thence
- (9) N. 39° 25' 04" E., 584.29 feet (N. 39° 29' 38" E., 584.27 feet in said document); thence
- (10) N. 40° 28' 37" W., 197.06 feet (N. 40° 22' 54" W., 197.10 feet in said document); thence
- (11) N. 24° 15' 30" W., 282.59 feet (N. 24° 11' 12" W., 282.57 feet in said document); thence
- (12) N. 15° 36' 05" W., 222.97 feet (N. 15° 29' W., 222.61 feet in said document); thence
- (13) N. 56° 08' 32" W., 1347.39 feet (N. 56° 04' W., 1323.16 feet in said document); thence
- (14) N. 26° 38' 12" E., 868.12 feet (N. 26° 33' 45" E. in said document), to a point on the westerly boundary of said parcel described under Recorder's Instrument Number 9500071, at the southerly terminus of course number (47) therein; thence depart said boundary of said parcel described under Recorder's Instrument Number 9500074, and following the boundary of said parcel described under Recorder's Instrument Number 9500071
- (15) N. 31° 01' 54" W., 511.38 feet; thence
- (16) N. 63° 13' 02" W., 183.59 feet; thence
- (17) N. 14° 17' 37" E., 686.88 feet; thence
- (18) N. 34° 12' 37" W., 75.37 feet; thence
- (19) N. 23° 59' 14" E., 189.94 feet; thence
- (20) S. 77° 01' 52" E., 105.03 feet; thence
- (21) N. 23° 59' 52" E., 649.96 feet, to a point in said boundary of said parcel described under Recorder's Instrument Number 9500071, at the northerly terminus of course number (54) therein; thence depart said boundary
- (22) N. 53° 27' 19" E., 1039.05 feet
- (23) N. 18° 24' 18" E., 1683.23 feet; thence
- (24) S. 83° 05' 53" E., 779.03 feet; thence
- (25) S. 66° 05' 43" E., 785.71 feet; thence
- (26) S. 19° 32' 00" E., 304.24 feet; thence
- (27) S. 86° 48' 57" E., 523.48 feet; thence

- (28) S. 72° 45' 51" E., 430.95 feet; thence
- (29) N. 69° 30' 32" E., 839.86 feet; thence
- (30) S. 52° 24' 57" E., 292.55 feet; thence
- (31) N. 61° 35' 02" E., 354.54 feet; thence
- (32) S. 65° 19' 42" E., 1753.75 feet to a point on the easterly boundary of said parcel described under Recorder's Instrument Number 9500071, at the southerly terminus of course number (32) therein; thence following the boundary of said parcel described under Recorder's Instrument Number 9500071
- (33) S. 0° 37' 34" E., 1070.38 feet; thence
- (34) S. 15° 57' 01" W., 232.13 feet, to the most easterly corner of said parcel described under Recorder's Instrument Number 9500074; thence depart said boundary of said parcel described under Recorder's Instrument Number 9500071, and following the boundary of said parcel described under Recorder's Instrument Number 9500074
- (35) S. 15° 57' 01" W., 1195.16 feet (S. 15° 50' W., 1172.00 feet in said document); thence
- (36) S. 32° 46' 32" W., 4919.73 feet (S. 33° 01' W., 4943.4 feet in said document), to the **point of beginning.**

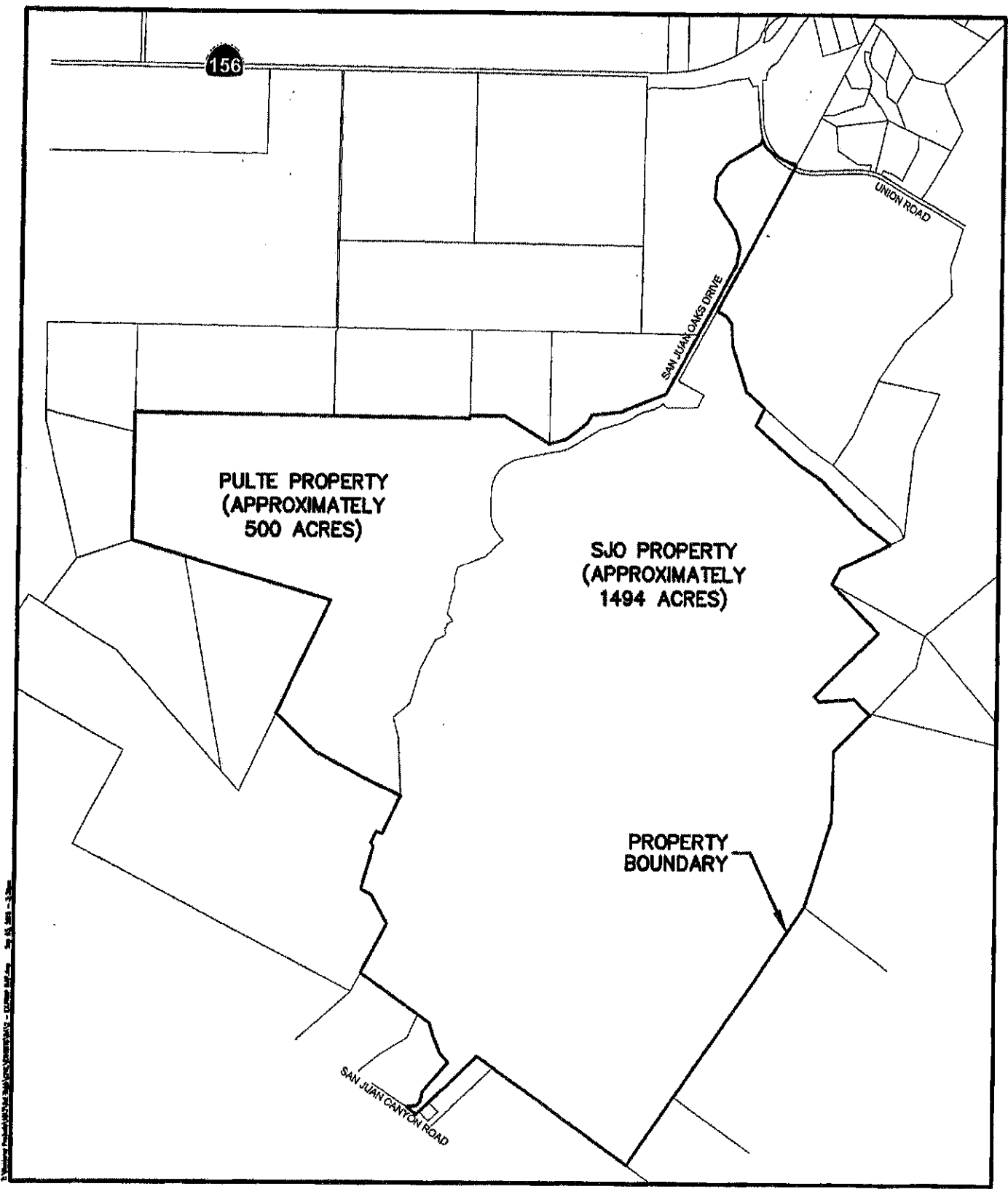
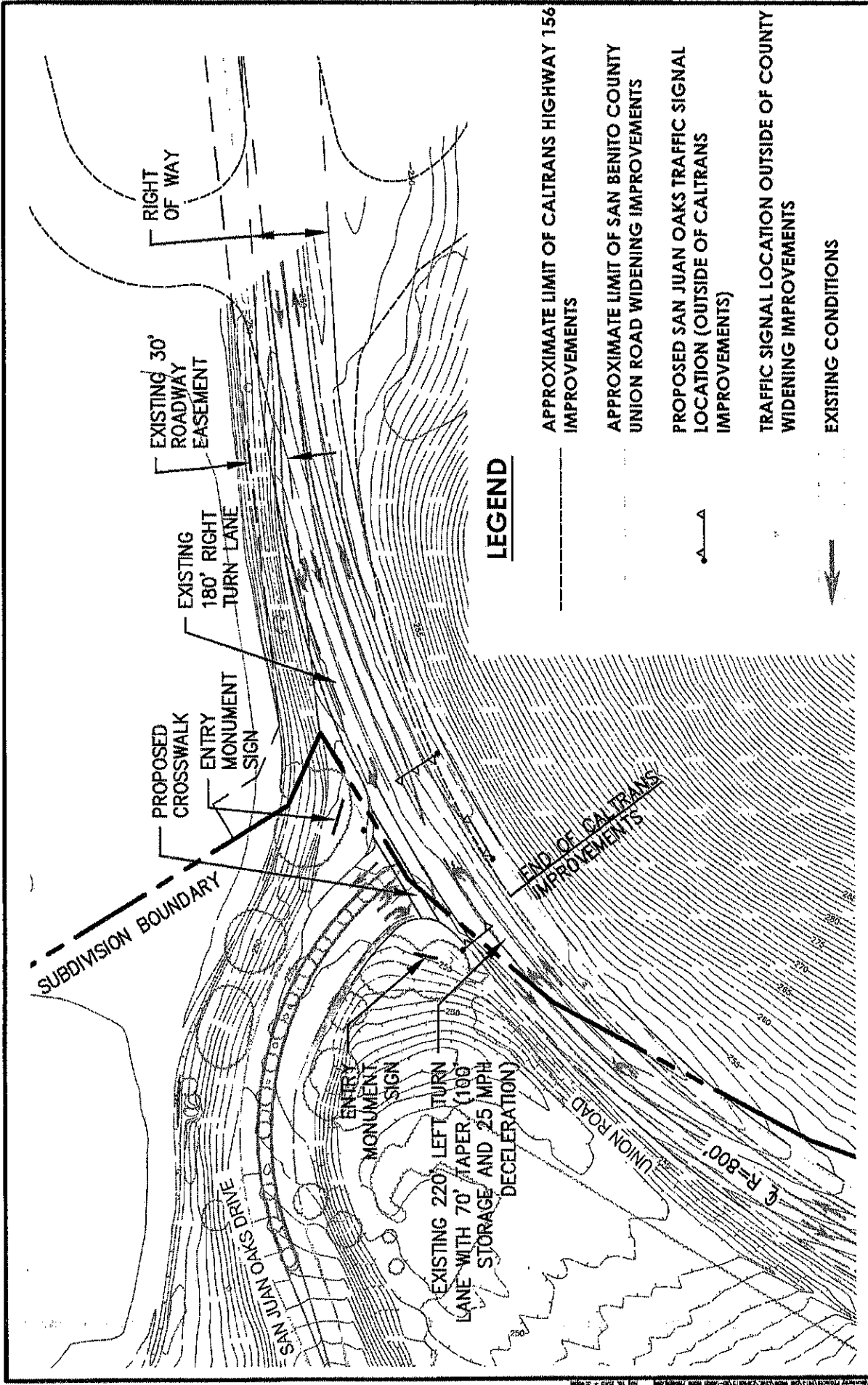


EXHIBIT 2  
 PROPERTY (TOTAL - APPROXIMATELY 1,994 ACRES)  
**DEL WEBB at SAN JUAN OAKS**  
 SAN JUAN COUNTY, CALIFORNIA



SEP. 3, 2015  
 Sheet 1 of 1





**LEGEND**

- APPROXIMATE LIMIT OF CALTRANS HIGHWAY 156 IMPROVEMENTS
- APPROXIMATE LIMIT OF SAN BENITO COUNTY UNION ROAD WIDENING IMPROVEMENTS
- PROPOSED SAN JUAN OAKS TRAFFIC SIGNAL LOCATION (OUTSIDE OF CALTRANS IMPROVEMENTS)
- TRAFFIC SIGNAL LOCATION OUTSIDE OF COUNTY WIDENING IMPROVEMENTS
- EXISTING CONDITIONS

**EXHIBIT 3**

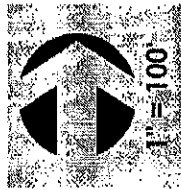
UNION ROAD AND SAN JUAN OAKS DRIVE INTERSECTION PHASING

**DEL WEBB AT SAN JUAN OAKS**

SAN BENITO COUNTY, CALIFORNIA



8/18/2015  
Sheet 1 of 1



Whitson Engineers  
9588 Blue Larkspur Lane | Suite 105 | Monterey, CA 93940 | 831 649-5228 | E 831 373-5685  
Civil, Environmental, Land Surveying & Project Management | www.whitsonengineers.com  
Project No.: 15-015

**EXHIBIT 4**

**FORM OF GRANT OF EASEMENT:**

**AGRICULTURAL OPEN SPACE EASEMENT GRANT DEED AND AGREEMENT**

THIS AGRICULTURAL OPEN SPACE EASEMENT GRANT DEED AGREEMENT is made by and between SAN JUAN OAKS, LLC (referred to herein as "Grantor"), and \_\_\_\_\_, a California Nonprofit Public Benefit Corporation (referred to herein as "Grantee"), for the purpose of protecting and preserving in perpetuity for the public benefit the agricultural values of the land described herein.

**RECITALS**

- A. Grantor is the owner of approximately one thousand four hundred ninety-four (1,494) acres in unincorporated San Benito County, California, hereinafter described and referred to as the "**SJO Property**" and as shown in attached Exhibit "A".
- B. Grantor has plans to develop the SJO Property in accordance with the San Juan Oaks Specific Plan and the terms and conditions set forth in that certain *Development Agreement by and among the County of San Benito, Pulte Home Corporation, and San Juan Oaks, LLC*, entered into on \_\_\_\_\_, 2015 ("**Development Agreement**"). In accordance with Section 2.6(b)(ii) of the Development Agreement, Grantor desires to grant an easement over an approximately forty-one (41) acre portion of the SJO Property, as shown on attached Exhibit "B-1" and more particularly described in attached Exhibit "B-2" ("**Easement Area**") for the purposes set forth in the Development Agreement and herein.
- C. Grantor and Grantee acknowledge that pursuant to the San Juan Oaks Specific Plan and the Development Agreement (as well as the other land use entitlements and approvals granted in connection with the proposed development to occur on the SJO Property and the adjacent lands), a portion of the Easement Area is also intended to be used for passive park purposes as well as a potential future public safety facility.
- D. The Easement Area is a valuable, integral part of the agricultural resources of San Benito County. The Easement Area possesses agricultural, open space and scenic values of great importance to Grantor, Grantee, and the people of San Benito County and the people of the State of California.
- E. Grantor and Grantee desire to preserve and conserve for the public benefit the use of the Easement Area for agricultural purposes (as well as ancillary passive park and potential public safety purposes), and to restrict development on and use of the Easement Area so as to continue and preserve the use of the Easement Area for such purposes.
- F. Grantor and Grantee understand and intend that an Agricultural Open Space Easement, which has as its primary purpose the preservation of land for agricultural uses, will also serve to preserve and maintain said land in a substantially open space and scenic condition and that such an easement comes within the definition of an "open space easement" under the State of California's Open Space Easement Act of 1974 (California Government Code Section 51070 *et seq.*)

- G. Pursuant to Government Code Section 51075, any dedication of an open space easement to a non-governmental entity must be to a tax-exempt nonprofit organization qualified under the Internal Revenue Code Section 501(c)(3) and which includes the preservation of open space as a stated purpose in its articles of incorporation. Grantee possesses such qualifications.
- H. The Constitution of the State of California, Article XIII, Section 8, promotes and encourages the creation of open space land and the conservation of natural resources for scenic and agricultural values by mandating the adjustment of property tax rates in a manner consistent with all such restrictions.
- I. Grantor and Grantee intend that this Easement shall be irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8, of the California Constitution and for purposes of Section 422(d) of the California Revenue and Taxation Code.
- J. Grantor and Grantee intend by this Easement to preserve and protect in perpetuity, the agricultural and open space values of the Easement Area, to prevent the use of, or development of, the Easement Area for any purpose or in any manner that would conflict with such preservation and protection. Provided, however, that Grantor and Grantee acknowledge and agree that development of the passive park uses as well as a public safety facility in accordance with the San Juan Oaks Specific Plan, the Development Agreement and the other County land use entitlements, permits and approvals obtained in connection with the proposed development of the SJO Property and the adjacent lands shall be deemed consistent with the purposes of this Easement.

NOW, THEREFORE, in consideration of the facts recited above and the mutual covenants, terms, conditions and restrictions contained herein and pursuant to California Government Code Section 51070 *et seq.*, Grantor hereby grants and conveys to Grantee, and its successors and assigns, an Agricultural Open Space Easement in perpetuity over the Easement Area, of the nature and character and to the extent set forth below:

- 1. **PURPOSES:** It is the purpose of this Agricultural Open Space Easement to enable the Easement Area to remain in agricultural use for the production of food and fiber by preserving and protecting in perpetuity its agricultural values, character, use or utility and to prevent any use of the Easement Area which would significantly impair or interfere with its agricultural value, character, use or utility. It is also the purpose of this Easement to preserve and protect open space and scenic values of the Easement Area. Notwithstanding the foregoing, Grantor and Grantee acknowledge and agree that development of the passive park uses as well as a public safety facility in accordance with the San Juan Oaks Specific Plan, the Development Agreement and the other County land use entitlements, permits and approvals obtained in connection with the proposed development of the SJO Property and the adjacent lands shall be deemed consistent with the purposes of this Easement and shall not be deemed to significantly impair or interfere with the Easement Area's agricultural value, character, use or utility.

**2. AFFIRMATIVE RIGHTS AND INTERESTS CONVEYED:**

- a. to identify, preserve and protect in perpetuity the agricultural values, character, use and utility including the soil and water quality and the open space and scenic values of the Easement Area;
- b. to enter upon, inspect, observe and study the Easement Area for the purposes of (1) identifying the current uses and practices thereon and the baseline condition thereof, and (2) monitoring the uses and practices regarding the Easement Area to determine whether they are consistent with this Easement. Such entry shall be permitted upon prior notice to Grantor and shall be made in a manner that will not unreasonably interfere with Grantor's use and quiet enjoyment of the Easement Area; and,
- c. to prevent any activity on or use of the Easement Area that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Easement Area that may be damaged by any inconsistent activity or use. However, it is the intention of this Easement not to limit Grantor's discretion to employ its choices of farm and ranch uses and management practices so long as those used and practiced are consistent with the purpose of the Easement.

**3. CURRENT PRACTICES AND CONDITIONS:** Within ninety (90) days of the execution and recording hereof, a compilation of baseline agricultural and man-made features shall be made jointly by Grantor and Grantee. Such compilation shall include photographs and/or maps of the Easement Area depicting all improvements and major agricultural features and current contemplated uses of the Easement Area to be protected hereby. Failure to compile all the information required hereby shall not affect the enforceability or validity of other provisions of this Agricultural Open Space Easement. Grantee acknowledges by acceptance of this Agricultural Open Space Easement that Grantor's historical, present and contemplated future use of the Easement Area are compatible with the purposes of this Agricultural Open Space Easement. The parties further acknowledge and agree that in the event a controversy arises with respect to the nature and extent of Grantor's historical, present or contemplated future uses or the physical condition of the Easement Area as of the date hereof, the parties shall not be foreclosed from utilizing, in addition to the compilation, all other relevant or material documents, surveys, reports and other evidence to assist in the resolution of the controversy.

**4. USES AND PRACTICE WITHIN THE TERMS OF THIS EASEMENT:** Grantee and Grantor intend that this Easement shall confine the uses of the Easement Area to agriculture, ranching, passive park, and public safety uses, as described herein. Examples of uses and practices which are consistent with the purpose of this Easement and which are hereby expressly permitted are set forth in Exhibit "C", attached hereto and incorporated herein by this reference. Examples of uses and practices which are inconsistent with the purpose of this Easement and which are hereby expressly prohibited are set forth in Exhibit "D", attached hereto and incorporated herein by this reference. The uses and practices set forth in attached Exhibits "C" and "D" are not necessarily exhaustive recitals of consistent and inconsistent activities, respectively. They are set forth to establish specific permitted



and prohibited activities and to provide guidance in determining the consistency of other activities within the purposes of this Easement. In general, Grantor agrees that this Agricultural Open Space Easement shall confine the use of the Property to activities which are deemed reasonable and in good faith by Grantee and its successors in accordance with San Benito County's land use policies so as not to constitute an actual or threatened degradation or impairment of the agricultural and related use features of the Easement Area.

- 5. **ARBITRATION:** If a dispute arises between the parties concerning the consistency of any proposed use or activity with the purpose of this Easement and Grantor agrees not to proceed with the use or activity pending resolution of the dispute, either party may refer the dispute to arbitration by request made in writing upon the other. Within thirty (30) days of the receipt of such a request, the parties shall select a single arbitrator to hear the matter if the parties are unable to agree on the selection of a single arbitrator, then each party shall name one arbitrator and the two arbitrators thus selected shall elect a third arbitrator; provided, however, if either party fails to select an arbitrator, or if the two arbitrators selected by the parties fail to select a third arbitrator within fourteen (14) days after the appointment of the second arbitrator, then in each such instance a proper court, on petition of a party, shall appoint the second or third arbitrator or both, as the case may be. A judgment on the arbitration award may be entered in any court having jurisdiction thereof. The prevailing party shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for all its costs and expenses related to such arbitration including, without limitation, the fees and expenses of the arbitrator(s) and attorney fees which shall be determined by the arbitrator(s) and any court of competent jurisdiction which may be called upon to enforce or review the award.
- 6. **RESERVED RIGHTS:** Grantor reserves to itself, its heirs, and successors and assigns all rights as owners of the SJO Property (including, without limitation, the Easement Area) including the right to engage in all uses of the Easement Area which are not expressly prohibited herein and are not inconsistent with the purposes of this Agricultural Open Space Easement, including the right to take such actions as it deems appropriate to protect the agricultural values of the Easement Area.
- 7. **ACCESS:** No right of access by the general public to any portion of the Easement Area is conveyed by this Easement except that the general public, as well as County and/or other governmental or quasi-governmental staff persons and officials shall be permitted access to those portions of the Easement Area that are developed with passive park uses and/or a public safety facility for the purposes of utilizing, operating, maintaining, improving, repairing and/or replacing any improvements constructed in relation thereto.
- 8. **COSTS AND TAXES:** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Easement Area. Grantor shall pay any and all taxes, assessments, fees and charges levied by competent authority on the Easement Area or on this Easement. It is intended that this Easement constitutes an enforceable restriction within the meaning of Article XIII Section 8 of the California Constitution and that this Easement qualifies as an enforceable restriction under the provisions of California Revenue and Taxation Code Section 422(d).

- 9. **HOLD HARMLESS:** Grantor shall hold harmless, indemnify and defend Grantee and its directors, officers, employees, agents and contractors and the heirs, personal representatives, successors and assigns of each of them (collectively, "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments including, without limitation, reasonable attorney fees arising from or in any way connected with: (1) injury to or the death of any person or physical damage to any property resulting from any act, omission, condition or other matter related to or occurring on or about the Easement Area, regardless of cause, except to the extent of the adjudicated proportionate fault of any of the Indemnified Parties; or, (2) the obligations specified in paragraph 8 above.
  
- 10. **MAINTENANCE AND OVERSIGHT FUND:** Grantor agrees that concurrent with its execution of this Agreement, Grantor shall supply Grantee with a current preliminary title report. In order to defray Grantee's future costs for maintenance and oversight of the Easement, Grantor shall pay Grantee 1) an initial lump sum payment of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_); and 2) an annual fee of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_). Grantor shall pay to Grantee the initial lump sum payment within thirty (30) days of the execution of this Agreement. Thereafter, Grantor shall pay the annual fee due on the anniversary of the recording date of this Agreement. Grantee shall be permitted to use this fee in its sole discretion and to accomplish its general use as a land trust; Grantee shall not be obligated to limit use of this fee to maintenance of the particular Easement described in this Agreement or be obligated to account in any manner to Grantor for use of this fee. The fees paid hereunder shall not be used by Grantor to offset or satisfy any other monetary obligation required to be borne by Grantor under the terms of this Agreement. The obligations herein shall be binding upon and inure to the benefit of the parties' successors and assigns.
  
- 11. **ENFORCEMENT; COSTS OF ENFORCEMENT:** Grantor agrees that should Grantor, its successors or assigns, undertake any activity in violation of this Easement, Grantee and its successors and assigns shall have the right, in addition to all other remedies allowed by law, to compel the restoration of that portion of the Easement Area affected by such activity to the condition that existed prior to the undertaking of such unauthorized activity. Any costs incurred by Grantee in enforcing the terms of this Easement against Grantor including, without limitation, costs of suit and attorney fees and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor. Grantor expressly acknowledges that its obligation to bear such costs shall not be satisfied or offset by its payment of the fee described in paragraph 10. If Grantor prevails in any action to enforce the terms of this Easement, Grantor's costs of suit including, without limitation, attorney fees shall be borne by Grantee.
  
- 12. **GRANTEE'S DISCRETION:** Enforcement of the terms of this Easement shall be at the discretion of Grantee and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver. Further, in the event that Grantee fails to

exercise its discretion as provided herein, the County of San Benito shall have the authority to enforce the terms and provisions of the Easement.

13. **ACTS BEYOND GRANTOR'S CONTROL:** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to, or change in, the Easement Area resulting from causes beyond Grantor's control including, without limitations, fire, flood, storm, and earth movement or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Easement Area resulting from such causes.

14. **ASSIGNMENT OF GRANTEE'S INTEREST:** Grantee may assign its interest in this Easement only to a "qualified organization" within the meaning of Section 170 (h)(3) of the Internal Revenue Code of 1954, as amended, or any successor provision, and which is authorized to acquire and hold conservation easements under California law, or to the County of San Benito, upon obtaining the prior written consent of Grantor and the County of San Benito. Any assignment without such consent shall be void and of no effect. Such consent shall not be unreasonably withheld by Grantor or San Benito County.

15. **EXECUTORY LIMITATIONS:** If Grantee shall cease to exist or to be a qualified organization under Section 170(h)(3) of the Internal Revenue Code of 1954 as amended, or to be authorized to acquire and hold conservation easements under California law, then Grantee's rights and obligations under this Easement shall become immediately vested in the County of San Benito.

16. **GENERAL PROVISIONS:**

- a. **Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of California.
- b. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purposes of this Easement and the policy and purpose of the California Open Space Easement Act of 1974, as amended. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement which would render the provision valid shall be favored over any interpretation which would render it invalid.
- c. **Severability.** If any provision of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- d. **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Easement, all of which are merged herein.

- e. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- f. Joint Obligation. The obligation imposed by this Easement upon Grantor shall be joint and several.
- g. Successors. The Grantee's interest in the Easement Area, as well as all of the covenants, terms, conditions, exceptions, obligations, reservations, and restrictions of this Easement, shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns, whether voluntary or involuntary, and shall continue as covenants and/or servitudes running in perpetuity with the Easement Area.
- h. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or the Easement Area, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
- i. Future Conveyance. All future conveyances of the Easement Area shall be subject to the Grantee's interest in the Easement Area, and shall be subject to all covenants, terms, conditions, exceptions, obligations, reservations, and restrictions of this Easement, and this Easement shall be referenced in any subsequent deed or other legal instrument by means of which any interest in the Easement Area, including, without limitation, a leasehold interest, is conveyed or otherwise transferred.
- j. Third Party Beneficiary. The parties agree that the County of San Benito shall be treated as a third party beneficiary under this Easement for the purpose of enforcing the obligations set forth herein.

SAN JUAN OAKS, LLC

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

SAN BENITO AGRICULTURAL LAND TRUST

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

61

Exhibit A

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**Exhibit B-1**

Exhibit B-2

### Exhibit C

The following uses and practices, though not necessarily an exhaustive recital of consistent uses and practices, are expressly permitted under this Easement, and they are not to be precluded, prevented, or limited by this Easement:

1. To engage in any and all agricultural uses of the Easement Area in accordance with sound, generally accepted agricultural practices. For the purposes of this Easement, "agriculture uses" shall be defined as: breeding, raising, pasturing and grazing livestock of every nature and description for the production of food and fiber; breeding and raising bees, fish, poultry and other fowl; planting, raising, harvesting and producing agricultural, aquacultural, horticultural and forestry crops and products of every nature and description; and the processing, storage and sale (including direct retail sale to the public) within areas of not more than 5,000 square feet, upon the County's issuance of a conditional use permit for a permanent stand for the sale of agricultural products, pursuant to San Benito County Code section 25.07.005(K), as may be amended) of crops and products harvested and produced on the Easement Area, so long as the above-referenced uses are otherwise consistent with the Specific Plan and other Project Approvals (as may be amended from time to time).
2. To allow passive park uses as well as a public safety facility in accordance with the San Juan Oaks Specific Plan and the other Project Approvals.
3. To maintain and repair existing structures, fences, corrals, roads, ditches, and other improvements on the Easement Area. Additional structures, fencing, and any paved roads, subject to the County's review and approval under applicable provisions of the County Code, the Development Agreement, the San Juan Oaks Specific Plan and other relevant County land use entitlements, approvals and permits, which are reasonably necessary to the agricultural, passive park, and public safety uses of the Easement Area shall be permitted. In the event of destruction, deterioration or obsolescence of any improvements, structures, fences, corrals, roads or ditches whether existing at the date hereof or constructed subsequently pursuant to the provisions of this paragraph, Grantor may replace the same with improvements or structures of similar size, function, capacity and location;
4. To develop and maintain such water resources on the Easement Area as are necessary or convenient for ranching, agricultural, irrigation, passive park and public safety uses in a manner consistent with the purpose of this Easement, including, without limitation: (i) importing water from and exporting water to other lands for irrigation purposes or other agricultural uses, and (ii) development and maintenance of ponds or other methods of water containment for irrigation purposes or other agricultural uses upon the Easement Area;
5. To use agrichemicals including, without limitation, fertilizers and biocides in those amounts and with that frequency of application necessary to accomplish reasonable grazing and agricultural purposes as long as the amounts and frequency of application conform to the requirements set forth in the San Juan Oaks Specific Plan and other Project Approvals (as well as the Project's Mitigation Monitoring and Reporting Plan (MMRP));



6. To control predator and problem animals by the use of selective control techniques in accordance with applicable laws and regulations;  
and
7. To utilize the Easement Area for passive park, recreational or educational purposes including, without limitation, hiking, horseback riding, hunting and fishing which require no surface alteration or other development of the land, and provided further that any such activities do not significantly impair the agricultural uses of the Easement Area.
8. To lease all or a portion of the Easement Area for agricultural use, except for those areas used or intended for use as passive parks and/or a public safety facility.

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**Exhibit D**

The following uses and practices, though not necessarily an exhaustive recital of inconsistent uses and practices, are inconsistent with the purposes of this Easement and expressly prohibited upon or within the Property:

1. The impairment of the protected values except as otherwise provided herein;
2. The establishment of commercial or industrial uses or the construction, placing or erection of any signs or billboards provided that neither ranching, agriculture nor the production or processing of food and fiber products as contemplated by the provisions of Exhibit "C" shall be considered commercial or industrial uses;
3. The use of motorized vehicles except by Grantor or others under Grantor's control for agricultural, ranching, passive park, or attendant uses of the Easement, or except by the public agency that develops and operates any future public safety site. Any use of motorized vehicles off of roadways is prohibited except when necessary for agricultural, ranching, passive park, and/or public safety purposes;
4. The commercial harvesting of timber, provided that Grantor shall have the right to: (i) cut or collect firewood for the heating of ranching facilities on the Easement Area, (ii) cut trees as necessary or desirable for agricultural purposes for the construction of fences and for the repair and construction of such building or other improvement on the Easement Area as are allowed hereunder, and (iii) develop and implement a long-range plan for the growing and harvesting of plants and trees in a manner which is consistent with the purpose of this Easement upon the express written consent of Grantee which shall not be unreasonably withheld; and,
5. The dumping or other disposal of non-combustible refuse on the Easement Area.

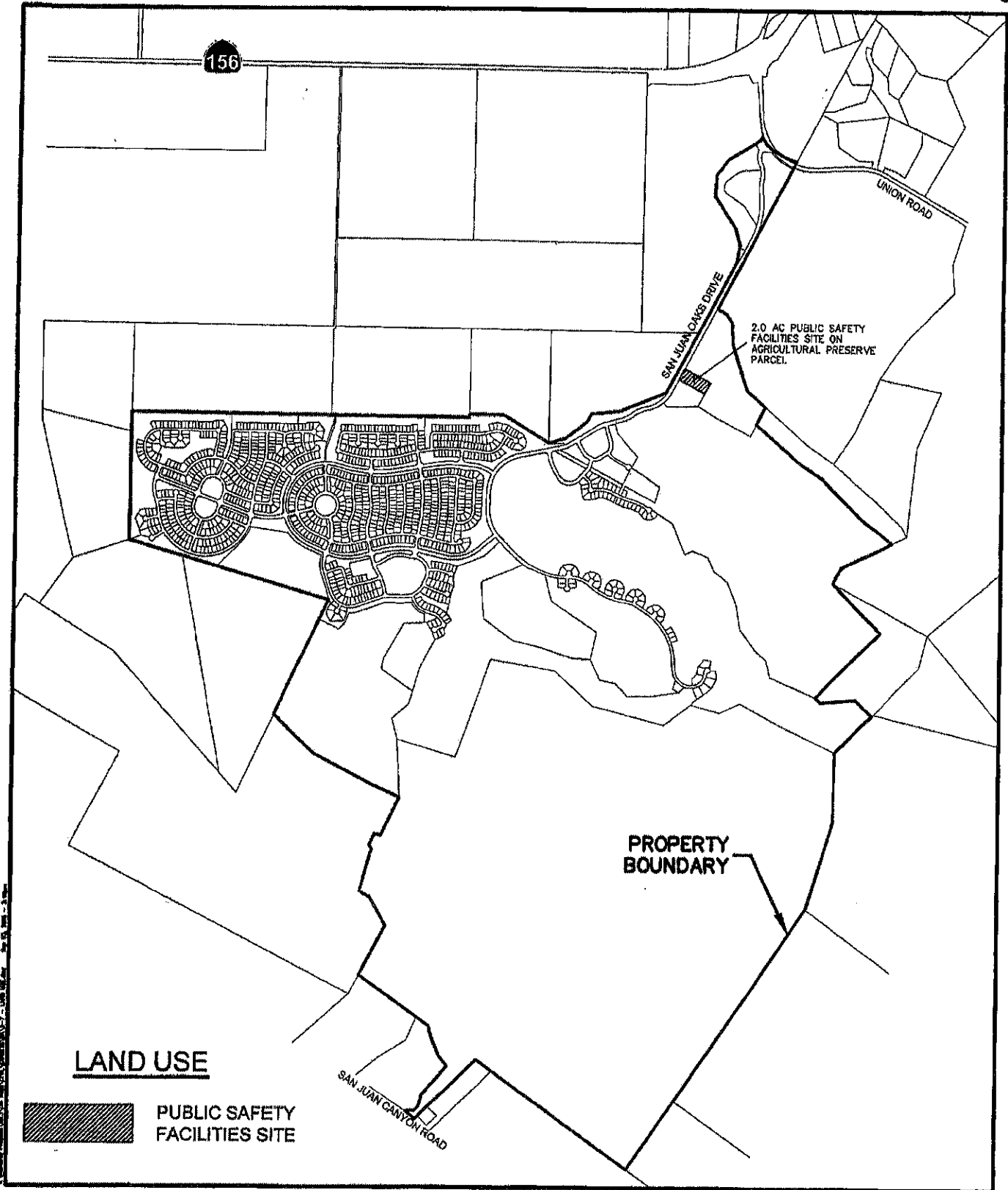
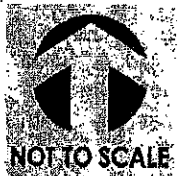


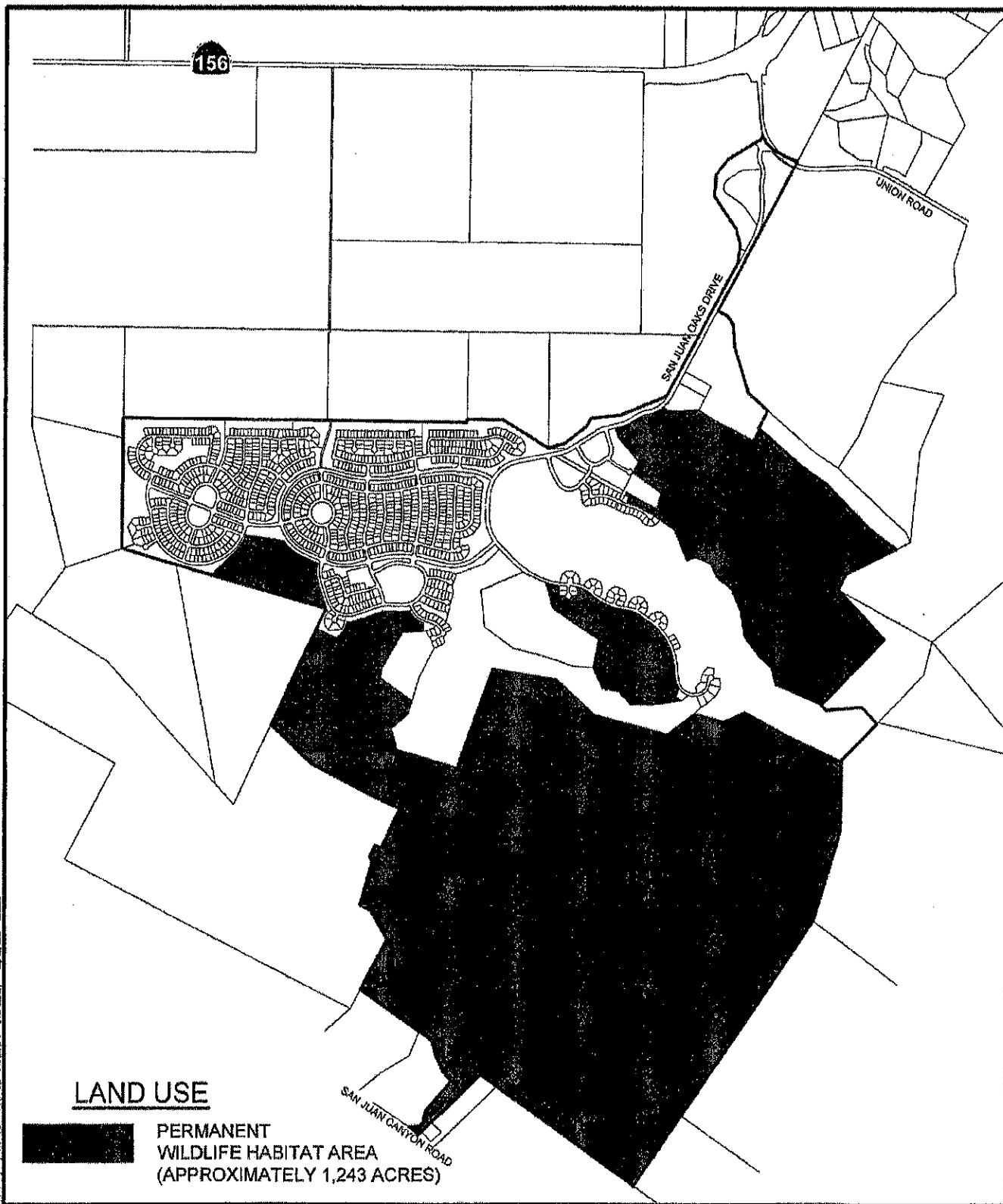
EXHIBIT 6  
 PUBLIC SAFETY FACILITIES SITE  
**DEL WEBB at SAN JUAN OAKS**  
 SAN JUAN COUNTY, CALIFORNIA



SEP. 3, 2015  
 Sheet 1 of 1



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Del Webb - 9699 Blue Larkspur Lane, Suite 108 - Monterey, CA 93940 - 831-649-5225

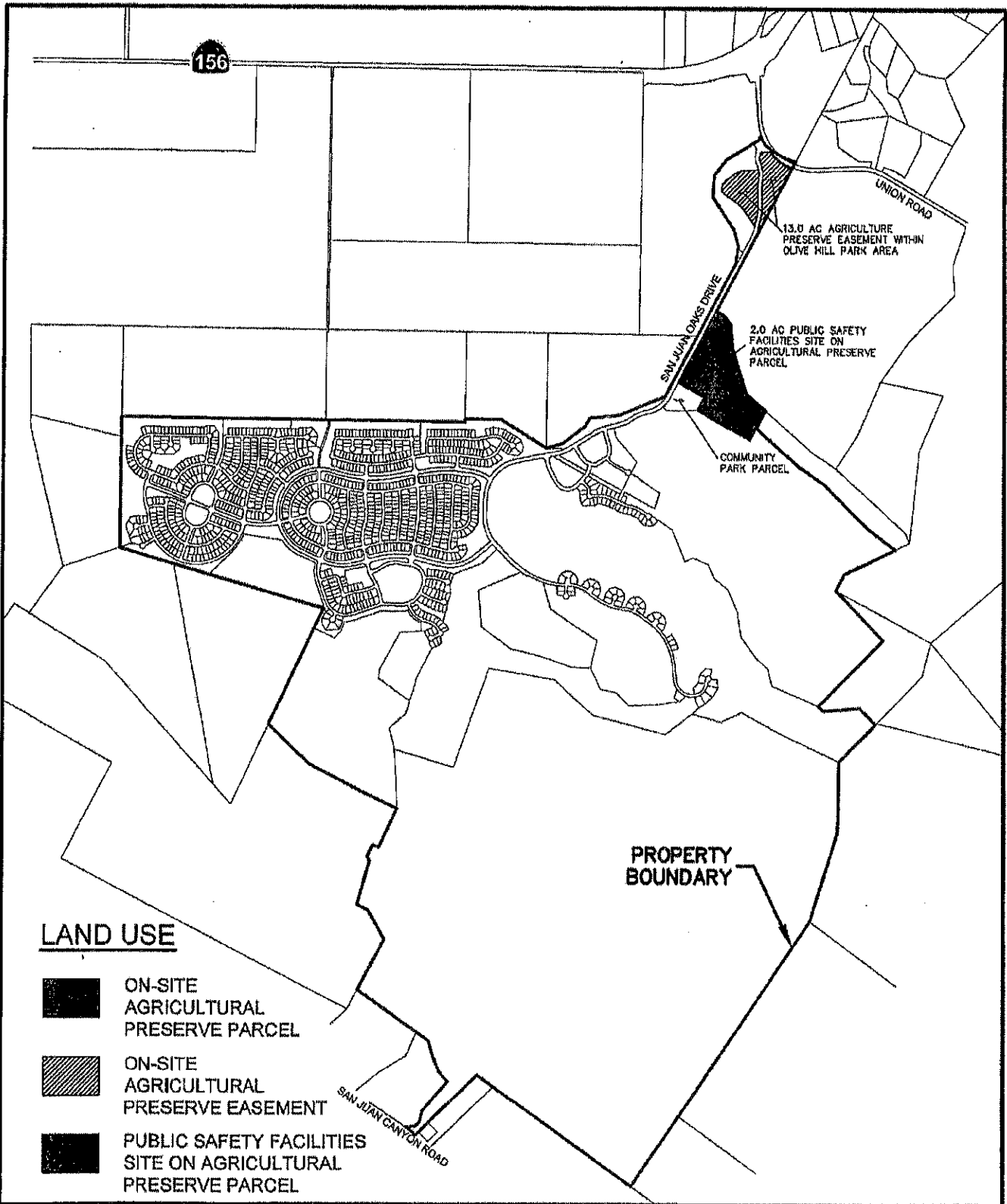
**EXHIBIT 6**  
**PERMANENT WILDLIFE HABITAT AREA**  
**DEL WEBB at SAN JUAN OAKS**  
**SAN BENITO COUNTY, CALIFORNIA**



SEP. 3, 2015  
 Sheet 1 of 1



**NOT TO SCALE**



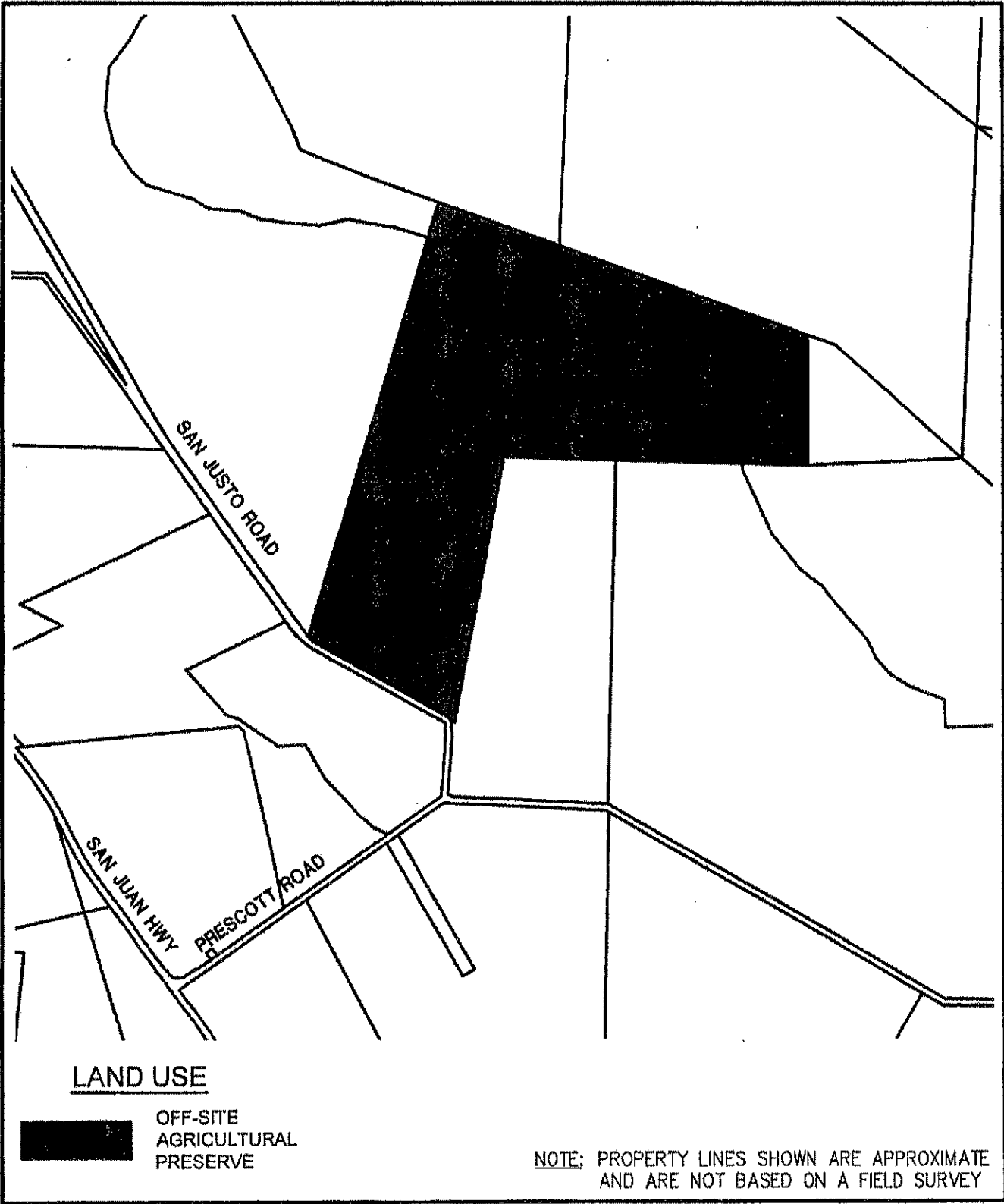
**EXHIBIT 7**  
**ON-SITE AGRICULTURAL PRESERVE**  
**DEL WEBB at SAN JUAN OAKS**  
**SAN BENITO COUNTY, CALIFORNIA**



SEP. 3, 2015  
 Sheet 1 of 1



NOT TO SCALE



**EXHIBIT 8**  
**OFF-SITE AGRICULTURAL PRESERVE**  
**DEL WEBB at SAN JUAN OAKS**  
**SAN BENITO COUNTY, CALIFORNIA**



SEP. 3, 2016  
 Sheet 1 of 1

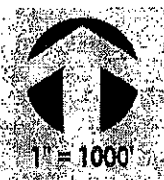


Exhibit 9

Development Impact Fees

San Juan Oaks Development Agreement

Road Heavy Equipment Impact Fee	\$0.70 per square foot of Residential Living Space
Fire Protection Impact Fee	\$0.25 per square foot (Residential and Commercial)
General Capital Impact Fee	\$0.38 per square foot (Residential and Commercial)
Jail and Juvenile Hall Impact Fee	\$0.47 per square foot of Residential Covered Space
Habitat Conservation Mitigation Fee <sup>1</sup>	\$0.15 per square foot of Living space (Residential and Commercial)
Habitat Conservation Mitigation Fee <sup>1</sup>	\$150.00 for lots under 1 acre
Habitat Conservation Mitigation Fee <sup>1</sup>	\$300.00 for lots from 1 acre to 5 acres
Habitat Conservation Mitigation Fee <sup>1</sup>	\$600.00 for lots over 5 acres
Park and Recreation Impact Fee <sup>2</sup>	\$1.80 per square foot Residential living space
Quimby Act Park Impact Fee <sup>2</sup>	5 acres of parkland per 1,000 residents
CoG Traffic Impact Fee	\$5,130 per Residential unit
CoG Traffic Impact Fee	\$3.33 per square foot for commercial uses
CoG Traffic Impact Fee	\$8.08 per square foot for office uses

Note: Fees are condensed for applicability. Refer to obligations set forth in the Development Agreement for additional details of payment requirements.

<sup>1</sup> Pursuant to Section 2.9(a), Owners' provision of the Permanent Wildlife Habitat Area in accordance with the requirements of the Development Agreement, to be protected in perpetuity, along with the provision of the Endowment, shall satisfy the purpose of the County's Habitat Conservation Mitigation Fee (Ordinance No. 541; Chapter 19.19 of the San Benito County Code) and shall be in lieu of payment otherwise due by Owners thereunder.

<sup>2</sup> Pursuant to Section 2.4(b), Owners' provision of the Community Parks in accordance with the terms and conditions of the Development Agreement shall be in lieu of payment otherwise due by Owners thereunder.  
SABE\5148A\978355.1

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EXHIBIT 10

FORM OF CONSENT TO ASSIGNMENT AND ASSUMPTION

The COUNTY OF SAN BENITO, a political subdivision of the State of California (the "**County**"), hereby consents to the Assignment and Assumption Agreement by and between \_\_\_\_\_, a \_\_\_\_\_, as Assignor, and \_\_\_\_\_, a \_\_\_\_\_, as Assignee (the "**Assignment**"), to which this Consent to Assignment and Assumption is attached as Exhibit A, and releases Assignor from its obligations under the Development Agreement that are expressly assumed by Assignor as set forth in said Assignment and Assumption Agreement relating to the period from and after the effective date of the Assignment, so long as the parties to said Assignment and Assumption Agreement have expressly and with specificity set forth therein each and every right and obligation that comprise the Assigned Interests.

COUNTY:

COUNTY OF SAN BENITO, a political  
subdivision of the State of California

\_\_\_\_\_  
Director, San Benito County Planning &  
Building Department

Date:

APPROVED AS TO FORM:  
San Benito County Counsel's Office

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

Date:



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STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, 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)

**EXHIBIT 11**

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

**FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT  
(Development Agreement By and Among the County of San Benito,  
Pulte Home Corporation and San Juan Oaks, LLC)**

This Assignment and Assumption Agreement (Development Agreement By and Among the County of San Benito, Pulte Home Corporation and San Juan Oaks, LLC) ("**Assumption and Assumption Agreement**") is made effective as of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ ("**Assignor**"), and \_\_\_\_\_, a \_\_\_\_\_ ("**Assignee**").

A. Pulte Home Corporation, San Juan Oaks, LLC and the County of San Benito ("**County**") entered into that certain Development Agreement, dated as of \_\_\_\_\_, 2015 and recorded as Instrument No. \_\_\_\_\_ on \_\_\_\_\_ ("**Development Agreement**"), relating to certain real property in located in unincorporated San Benito County, State of California ("**Property**"). The Property is more particularly described in the Development Agreement. All capitalized terms used herein shall have the definitions given to them in the Development Agreement, unless otherwise expressly stated herein.

B. The Development Agreement provides for development of the Project (as that term is defined therein) on the Property, as more particularly described in the Development Agreement.

C. Assignor desires to assign to Assignee all of Assignor's rights and obligations as an "Owner" under the Development Agreement with respect to the Property in whole or in part (collectively, "**Assigned Interests**") and Assignee desires to assume from Assignor the Assigned Interests.

NOW, THEREFORE, in consideration of the promises and the mutual agreements and covenants set forth herein and intending to be legally bound hereby, Assignor and Assignee do hereby agree as follows:

1. Assignment. Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Assigned Interests.

2. Assumption. Assignee hereby assumes from Assignor all of Assignor's right, title and interest in and to the Assigned Interests relating to the period from and after the effective date of this Assignment and Assumption Agreement, and agrees to perform all of Assignor's obligations as "Owner" under the Development Agreement with respect to the Assigned

Interests relating to the period from and after the effective date of this Assignment and Assumption Agreement.

3. Consent; Release. The County has consented to such assignment and assumption pursuant to the Consent set forth in attached Exhibit A.

4. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation shall no affect the validity or enforceability of the offending term or provision in any other situation.

5. Successors and Assigns. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted successors and assigns.

6. Applicable Law. This Agreement shall be governed by, and constructed in accordance with, the laws of the State of California, applicable to contracts executed in and to be performed entirely within that state, and without regard to the conflict of laws provisions thereof.

7. Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ASSIGNOR:

\_\_\_\_\_

a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ASSIGNEE:

\_\_\_\_\_

a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, 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)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, 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)

**EXHIBIT A**

**CONSENT TO ASSIGNMENT AND ASSUMPTION**

The COUNTY OF SAN BENITO, a political subdivision of the State of California (the "**County**"), hereby consents to the Assignment and Assumption Agreement by and between \_\_\_\_\_, a \_\_\_\_\_, as Assignor, and \_\_\_\_\_, a \_\_\_\_\_, as Assignee (the "**Assignment**"), to which this Consent to Assignment and Assumption is attached as Exhibit A, and releases Assignor from its obligations under the Development Agreement that are expressly assumed by Assignor as set forth in said Assignment and Assumption Agreement relating to the period from and after the effective date of the Assignment, so long as the parties to said Assignment and Assumption Agreement have expressly and with specificity set forth therein each and every right and obligation that comprise the Assigned Interests.

COUNTY:

COUNTY OF SAN BENITO, a political  
subdivision of the State of California

\_\_\_\_\_  
Director, San Benito County Planning &  
Building Department

Date:

APPROVED AS TO FORM:  
San Benito County Counsel's Office

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

Date:

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STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, 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)

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**EXHIBIT 12**

**FORM OF ESTOPPEL CERTIFICATE**

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

**Parties:** \_\_\_\_\_

This document is intended to confirm the terms and conditions of the DEVELOPMENT AGREEMENT BY AND AMONG THE COUNTY OF SAN BENITO, PULTE HOME CORPORATION AND SAN JUAN OAKS, LLC

1. On \_\_\_\_\_, 2015, the County of San Benito approved that certain DEVELOPMENT AGREEMENT BY AND AMONG THE COUNTY OF SAN BENITO, PULTE HOME CORPORATION AND SAN JUAN OAKS, LLC

2. This Estoppel Certificate certifies that, as of the Date of Certificate set forth above:

- \_\_\_ The Development Agreement remains in full force and effect and constitutes a binding obligation of the parties.
- \_\_\_ The Development Agreement has not been amended either orally or in writing.
- \_\_\_ The Development Agreement has been amended in the following aspects: [Specify the nature of said amendment(s).]
- \_\_\_ There are no existing defaults in the performance of \_\_\_\_\_ [specify party requesting Estoppel Certificate] obligations under the Development Agreement to the actual knowledge of the individual executing this Estoppel Certificate.

This Estoppel Certificate may be relied upon by an Assignee or Mortgagee (as those terms are defined in the Development Agreement).

Executed this \_\_\_\_\_ day of \_\_\_\_\_, in \_\_\_\_\_, California.

I declare that the foregoing is true and correct.

COUNTY OF SAN BENITO

By: \_\_\_\_\_  
Planning Director