

**AGREEMENT BETWEEN CONTRA COSTA COUNTY
AND HIDDEN OAKS AT BLACKHAWK ASSOCIATION, INC.,
FOR THE QUITCLAIM OF DEVELOPMENT RIGHTS**

This Agreement between Contra Costa County and Hidden Oaks at Blackhawk Association, Inc., for the Quitclaim of Development Rights ("Agreement") is entered into on _____, 2018 (the "Effective Date"), by and among the County of Contra Costa, a political subdivision of the State of California ("County"), and Hidden Oaks at Blackhawk Association, Inc., a California corporation ("Association"). County and Association may be referred to collectively as the "Parties" or individually as a "Party."

RECITALS

- A. On September 21, 1976, the Contra Costa County Board of Supervisors ("Board") approved a final development plan (DP76-3022) and tentative map of the Hidden Oaks at Blackhawk residential subdivision (SD 4878) ("Hidden Oaks"). Thereafter, Hidden Oaks was split into three phases, Subdivision (SD) 4878, SD 4962 and SD 4963. Final maps of SD 4878, 4962 and 4963 were approved by the Board on March 15, 1977 and recorded on March 21, 1977.
- B. The SD 4963 final map depicts a 37.21-acre open space parcel identified as Parcel O, fee title to which is held by Association.
- C. Pursuant to conditions of approval of the Hidden Oaks development, on August 24, 1977, the Hidden Oaks developer, Blackhawk Corporation, recorded a document entitled "Grant Deed," granting to the County development rights in several parcels within Hidden Oaks, including Parcel O.
- D. The development rights are described in the Grant Deed as a form of negative easement and specifically defined as the "right to approve or disapprove any proposed construction, development or improvement which would substantially and materially change the nature of the 'current proposed use' of the real property. The "current proposed use" of Parcel O and the other parcels identified in the Grant Deed is described collectively in the Grant Deed by reference to the Hidden Oaks final development plan and subdivision maps of Hidden Oaks and listing of a range of improvements.
- E. In or about 1978, the Blackhawk Corporation commenced construction of improvements within Hidden Oaks, and at some point, homes were built on Lots 14, 15, 16, 17 and 18 as shown on the SD 4963 final map (the "Lots"). The rear boundaries of the Lots are adjacent to Parcel O.
- F. In the course of construction of the homes on the Lots, a fence was built to the rear of these homes, beyond the actual rear boundaries of the Lots, on Parcel O. Consequently, the rear yards of the Lots encroach into and collectively include approximately .68 acres (29,532.53 square feet) of Parcel O.

G. The .68 acres of Parcel O located within the fenced rear yards of the Lots is described and depicted in Exhibits A and B, attached hereto and incorporated herein by this reference, and referred to hereafter as the "Parcel O Segment."

H. In 2010, Association discovered, and advised the owners of the Lots ("Lot Owners"), that the rear yards of the Lots encroached into Parcel O. The Lot Owners now seek to obtain title to the portions of the Parcel O Segment that are within their respective Lots, and Association seeks to convey title to the Parcel O Segment to the Lot Owners through a series of lot line adjustments.

I. On April 18, 2016, Association obtained the conditional approval of the County Zoning Administrator of a modification to the Hidden Oaks final development plan to remove the Parcel O Segment from Parcel O through the proposed lot line adjustments. The approval was conditioned upon the County's quitclaim of its development rights in the Parcel O Segment to Association.

J. County's development rights in the Parcel O Segment, as defined in the Grant Deed, will be referred to hereafter as the "Property."

K. County has authority under Government Code section 25526.5 to quitclaim the Property to Association under the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual promises and agreements contained herein, County and Association agree as follows:

AGREEMENT

1. QUITCLAIM FOR CONSIDERATION

Subject to the terms and conditions of this Agreement, County agrees to quitclaim the Development Rights to Association, and Association agrees to pay to County the consideration set forth herein.

2. PRICE

The price of the Property is Ten Thousand One Hundred Ninety-One dollars and 25/100 (\$10,191.25) ("Price").

3. COUNTY'S OBLIGATIONS

a. On or after the Effective Date, County will deliver to Association a fully executed copy of this Agreement, together with a statement of the costs to be paid by Association under Section 5 ("Settlement Statement").

b. Within 15 days after County receives Association's payment under Section 4, County will cause a Quitclaim Deed substantially in the form attached hereto as Exhibit C to be recorded in the Office of the Contra Costa County Clerk-Recorder, marked for return to County, and will deliver to Association a copy of the recorded Quitclaim Deed.

4. ASSOCIATION'S OBLIGATIONS

Within 30 days after Association receives from County the Settlement Statement referenced in Section 3, Association shall deliver to County a cashier's check, made payable to "Contra Costa County," in the full amount of the Price, plus the full amount of the Transaction Costs owed under Section 5, as set forth in the Settlement Statement. Association shall deliver that check to the County's Public Works Department, Real Estate Division, 255 Glacier Drive, Martinez, CA 94553.

5. TRANSACTION COSTS

A. Fees, Taxes and Commissions. Association shall pay all escrow fees, recording fees, documentary transfer taxes, and other real estate transaction taxes or fees, by whatever name known, including broker's commission, if any, and personal property sales taxes where applicable, that are associated with the quitclaim of the Property under this Agreement.

B. Staff Costs. Association shall reimburse County for \$4,691.29 in staff costs incurred as of the Effective Date. Staff costs incurred on or after the Effective Date, to the date of preparation of the Settlement Statement, will be calculated by County's Real Estate Agent or her designee and be set forth in a separate line item on the Settlement Statement.

6. PROPERTY INTEREST

The Property interest to be quitclaimed by County pursuant to this Agreement shall not exceed that vested in the County. The Property will be quitclaimed to Association subject to all title exceptions, restrictions, easements, liens, covenants, conditions, and reservations, whether or not of record.

7. CONDITION OF PROPERTY

Neither the County, nor its agents or employees, have made any warranty, guarantee, or representation concerning any matter or thing affecting or relating to the Property, nor does it assume any responsibility for the conformance to codes or permit regulations of the city or County within which the Property is located.

8. INDEMNIFICATION

From and after the date the Quitclaim Deed is recorded in the Office of the Contra Costa County Clerk-Recorder, Association shall defend, indemnify, protect, save, and hold harmless the County and its officers, agents, and employees from any and all claims, costs and liability for any damages, sickness, death or injury to persons or property, including without limitation all consequential damages, from any cause whatsoever, from or connected with the present or future condition of the Property or use of the Property, or any representations, misrepresentations, or non-representations regarding its condition or use, and will make good to and reimburse County for any expenditures, including reasonable attorneys' fees that County may make by reason of such matters, and, if requested by County, will defend any such suits at Association's sole expense.

9. SURVIVAL

All of the terms, provisions, representations, warranties and covenants of the Parties under this Agreement shall survive the assignment, expiration, or termination of this Agreement, and shall not merge in the deed or other documents following the delivery and recordation of said deed or other documents.

10. SUCCESSORS AND ASSIGNMENTS

This Agreement is binding upon and shall inure to the benefit of the Parties and their respective heirs, successors and assigns. Nothing in this Agreement, express or implied, is intended to confer on any person, other than the Parties and their respective heirs, successors, and assigns, any rights of remedies under or by reason of this Agreement.

11. NOTICES

a. All notices (including requests, demands, reports, approvals or other communications) under this Agreement will be in writing. The place for delivery of all notices given under this Agreement will be as follows:

Association: Carol Mitchell
c/o HOA Quality Management, LLC
P.O. Box 269
Oakley, CA 94561

with a copy to: Baydaline & Jacobsen, LLP
895 University Avenue
Sacramento, CA 95825-6724
Attn: John D. Hansen, Esq.

County: Contra Costa County Public Works Department
255 Glacier Drive
Martinez, CA 94553
Attn: Real Estate Division

and

Contra Costa County Department of Conservation and
Development
30 Muir Road
Martinez, CA 94553
Attn: Community Development Division

with a copy to: County Counsel
651 Pine Street, 9th Floor
Martinez, CA 94553

or to such other addresses as County and Association may respectively designate by written notice to the other.

b. Notices shall be sufficiently given for all purposes as follows:

(1) When delivered by first class mail, postage prepaid, notice shall be deemed delivered three (3) business days after deposit in the United States Mail.

(2) When delivered by overnight delivery by a national recognized overnight courier, notice shall be deemed delivered one (1) business day after deposit with that courier.

(3) When personally delivered to the recipient, notice shall be deemed delivered on the date personally delivered.

12. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, representations, and understandings of the Parties.

13. CONSTRUCTION

This Agreement is the product of negotiation and preparation of the Parties. Any rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be applied to the interpretation of this Agreement. The headings of the sections, sections and subsections of this Agreement are included for convenience only and shall not be deemed to constitute part of this Agreement or to affect its construction. The recitals are intended to be, and shall be deemed to constitute part of this Agreement.

14. FURTHER ASSURANCES

Whenever requested to do so by the other Party, each Party shall execute, acknowledge and deliver all further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents and all further instruments and documents as may be necessary, expedient, or proper in order to complete all conveyances, transfers, sales, and assignments under this Agreement, and do all other acts and to execute, acknowledge, and deliver all documents as requested in order to carry out the intent and purpose of this Agreement.

15. WAIVER

No waiver of any provision of this Agreement will be binding unless executed in writing by the Party making the waiver. No waiver of any provision of this Agreement will be deemed, or constitute, a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver.

16. SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law, unless the exclusion of such term or provision, or the application of such term or provision, would result in such a material change so as to cause completion of the obligations contemplated herein to be unreasonable.

17. GOVERNING LAW

This Agreement shall be construed, enforced and administered in accordance with the laws of the State of California, with venue in Contra Costa County.

18. NO THIRD PARTY BENEFICIARIES

The Parties do not intend to create any third party beneficiaries to this Agreement. This Agreement is not intended to confer upon any person other than the Parties any rights or remedies thereunder and no person or entity other than the Parties shall have standing to enforce this Agreement.

19. AMENDMENT

This Agreement may be amended or modified by the Parties only in a writing executed by the Parties.

20. COUNTERPARTS

This Agreement may be executed in counterparts and so executed shall constitute an Agreement which shall be binding upon all Parties hereto. A photocopy of the fully executed Agreement shall have the same force and effect as the original.

COUNTY OF CONTRA COSTA

By: _____
Board Chair - *John Gioia*

Attest: David J. Twa, Clerk of the Board of Supervisors and County Administrator

By: _____
Deputy

Recommended:

Brian M. Balbas
Public Works Director

By: _____
Real Estate Division

Approved as to Form:

Sharon L. Anderson
County Counsel

By: _____
Deputy County Counsel

Attachments:

- Exhibit A: Legal Description
- Exhibit B: Plat
- Exhibit C: Quitclaim Deed

G:\realprop\Carmen\Hidden Oaks - Vacation-QC Deed\Agreement.HiddenOaks.3.16.18 revised with requested changes 5-3-18.docx

HIDDEN OAKS AT BLACKHAWK ASSOCIATION, INC.

By: _____ *10-23-18*
Print Name: PAUL KWELZ
Print Title: PRESIDENT

See Attached for Voting

By: _____ *10-23-18*
Print Name: JOHN MENSENDRIEK
Print Title: SECRETARY

See Attached for Voting

[Note: All corporate signatures must be notarized. Two officers must sign on behalf of a corporation. The first must be the chairman of the board, president, or any vice president; the second must be the secretary, any assistant secretary, the chief financial officer or any assistant treasurer. (See Corp. Code, § 313.)]

Approved as to Form:

*John Hansen, Baydaline & Jacobsen LLP
Counsel for Hidden Oaks at Blackhawk Association, Inc.*

By: _____ *1-9-19*

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 Contra Costa

s.s.

On Oct 23rd 2018 before me, Matthew Robert Medina, Notary Public

Name of Notary Public, Title

personally appeared Paul Scott Kuelz &

Name of Signer (1)

John Richard Mensendiek

Name of Signer (2)

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]

Signature of Notary Public

EXP: October 25th 2020

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- Individual(s)
 Attorney-in-fact
 Corporate Officer(s) _____
Title(s)

- Guardian/Conservator
 Partner - Limited/General
 Trustee(s)
 Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

- form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: 1 (925) 820 - 5522

Other

- Additional Signer Signer(s) Thumbprints(s)

EXHIBIT A

QUITCLAIM OF DEVELOPMENT RIGHTS

All of the "Development Rights" on a portion of Parcel "O" of Subdivision 4963 conveyed to Contra Costa County in the Grant Deed recorded August 24, 1977 in Book 8477 at Page 995, Official Records of said County, more particularly described as follows:

BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 13 AS SHOWN ON THE SUBDIVISION MAP ENTITLED "SUBDIVISION 4963", FILED MARCH 21, 1977, IN BOOK 194 OF MAPS AT PAGES 30 THROUGH 41, CONTRA COSTA COUNTY RECORDS' AND BEING AT THE MOST WESTERLY CORNER OF LOT 14 AS SHOWN ON SAID SUBDIVISION 4963; THENCE N55°36'32"W 5.54'; N38°45'45"E 173.76'; THENCE N44°36'29"W 2.19'; THENCE N40°27'03"E 144.27'; THENCE N48°15'35"E 154.47' THENCE N47°46'14"E 178.70'; THENCE N43°57'25"W 88.00'; THENCE S55°21 '10"E 2.05'; THENCE S55°21 '10"E 95.50' TO THE MOST NORTHERLY CORNER OF LOT 18 OF SUBDIVISION 4963; THENCE S59°31 '29"W 281.22'; THENCE S45°23'31"W 481.55' TO THE POINT OF BEGINNING.

CONTAINING 29,532.53 SQUARE FEET, MORE OR LESS

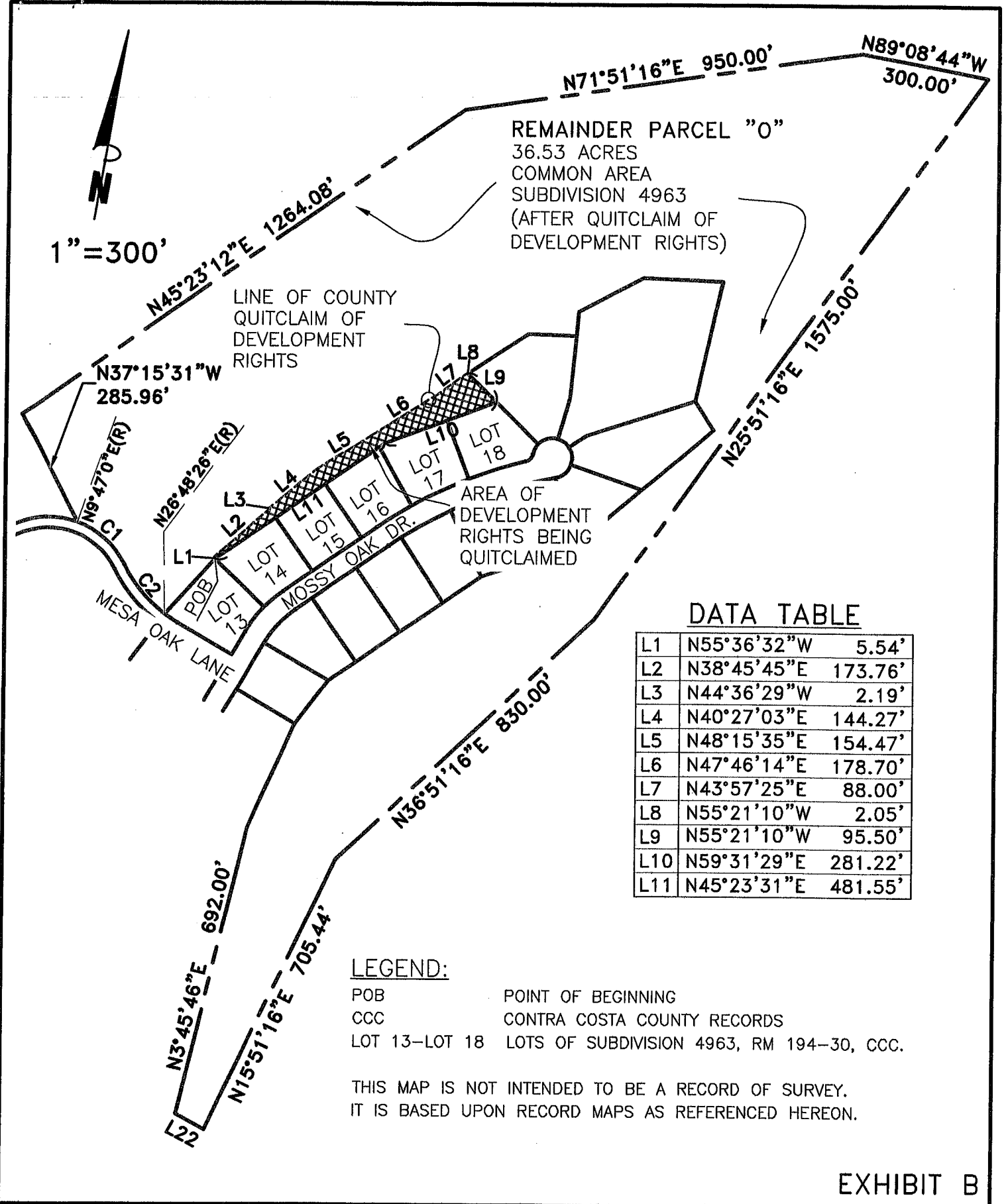
SEE EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF

Signature: Dan Cullen

Date: 11-15-17



STAMP



REMAINDER PARCEL "O"
 36.53 ACRES
 COMMON AREA
 SUBDIVISION 4963
 (AFTER QUITCLAIM OF
 DEVELOPMENT RIGHTS)

LINE OF COUNTY
 QUITCLAIM OF
 DEVELOPMENT
 RIGHTS

AREA OF
 DEVELOPMENT
 RIGHTS BEING
 QUITCLAIMED

DATA TABLE

L1	N55°36'32"W	5.54'
L2	N38°45'45"E	173.76'
L3	N44°36'29"W	2.19'
L4	N40°27'03"E	144.27'
L5	N48°15'35"E	154.47'
L6	N47°46'14"E	178.70'
L7	N43°57'25"E	88.00'
L8	N55°21'10"W	2.05'
L9	N55°21'10"W	95.50'
L10	N59°31'29"E	281.22'
L11	N45°23'31"E	481.55'

LEGEND:

- POB POINT OF BEGINNING
- CCC CONTRA COSTA COUNTY RECORDS
- LOT 13-LOT 18 LOTS OF SUBDIVISION 4963, RM 194-30, CCC.

THIS MAP IS NOT INTENDED TO BE A RECORD OF SURVEY.
 IT IS BASED UPON RECORD MAPS AS REFERENCED HEREON.

EXHIBIT B

**DEVELOPMENT RIGHTS
 QUITCLAIM PLAT
 VICINITY OF MOSSY OAK DR. DANVILLE**

CSA
 Cullen-Sherry
 & Associates, Inc.
 Civil Engineering - Surveying
 1000 Adams Street, Suite A - P.O. Box 591
 Benicia, California 94610
 (707) 745-3219 Fax (707) 745-9436 csa-engineers.com

SCALE:	1"=300'
DATE:	12-09-15
DRAWN BY:	DC
CHECKED BY:	DC
PROJECT NO:	10176

**RECORDED AT THE REQUEST OF, AND
AFTER RECORDING, RETURN TO:**

Contra Costa County
Public Works Department
Real Estate Division
255 Glacier Drive
Martinez, CA 94553

APN: 203-020-023 (Portion)

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

QUITCLAIM DEED

For valuable consideration, receipt of which is hereby acknowledged, CONTRA COSTA COUNTY, a political subdivision of the State of California,

Does hereby remise, release and forever quitclaim to HIDDEN OAKS AT BLACKHAWK ASSOCIATION, INC., the following described interest in real property in Blackhawk, unincorporated area of the County of Contra Costa, State of California:

**FOR DESCRIPTION AND PLAT MAP SEE EXHIBITS A AND B, ATTACHED HERETO
AND MADE A PART HEREOF.**

Date _____

Chair, Board of Supervisors

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 CONTRA COSTA)

On _____ before me, _____, Clerk of the Board of Supervisors, Contra Costa County, 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: _____
Deputy Clerk