




Interoffice Memorandum

October 5, 2017

TO: Mayor Teresa Jacobs
And the Board of County Commissioners

FROM: Mark V. Massaro, P.E., Director, Public Works Department 

CONTACT PERSON: Mark V. Massaro, P.E., Director
Public Works Department

PHONE NUMBER: (407) 836-7970

SUBJ: Agreement by and between Orange County and Pulte Home Company,
LLC for Traffic Law Enforcement on Private Roads – Phillips Grove

Section 316.006, Florida Statutes allows counties to exercise traffic law enforcement over private roads if the owner of the private road enters into a written agreement with the County. Prior to entering into such an agreement, the Sheriff's Office must be consulted. Such agreements cannot go into effect until the beginning of the County's fiscal year, unless the Sheriff waives such requirement in writing.

Pulte Home Company, LLC has requested such an agreement for the private roads located within the gated community of Phillips Grove. The Sheriff's Office has been involved with the negotiation of the contract and has executed a waiver that will allow this agreement to go into effect upon Board approval.

No relationship disclosure form is provided because this is neither a development-related nor a procurement-related item. No specific project expenditure report is provided because this is a ministerial item.

This Agreement has been reviewed by the County Attorney's Office and has been found acceptable.

Action Requested: Approval and execution of Agreement for Traffic Law Enforcement on Private Roads by and between Orange County, Florida and Pulte Home Company, LLC located in the gated community of Phillips Grove. District 1.

MVM/DMA/ja

BCC Mtg. Date: October 31, 2017

AGREEMENT FOR TRAFFIC LAW ENFORCEMENT ON PRIVATE ROADS

This Agreement for Traffic Law Enforcement on Private Roads ("Agreement") located within the gated community of **PHILLIPS GROVE** is entered into by and between **Orange County, Florida**, a charter county and political subdivision of the State of Florida (hereinafter "County"), and **PULTE HOME COMPANY, LLC**, a Michigan limited liability company, successor by conversion to **PULTE HOME CORPORATION**, a Michigan corporation (hereinafter "Owner").

WITNESSETH:

WHEREAS, Owner owns fee simple title to all the private roadways lying within a gated community known as **PHILLIPS GROVE** (hereinafter "Private Roads"), more specifically described in **Exhibit "A"**, attached hereto and incorporated by reference; and

WHEREAS, pursuant to Florida law, County does not have traffic law enforcement jurisdiction over Private Roads such as those owned by the Owner; and

WHEREAS, Section 316.006(3)(b), Florida Statutes, provides that a county may exercise jurisdiction over any private road or roads if the county and the party owning such roads enter into a written agreement, approved by the governing board of the county, providing the county with traffic control jurisdiction; and

WHEREAS, Section 316.006(3)(b)(2), Florida Statutes, further provides that prior to entering into an agreement for the enforcement of traffic laws over Private Roads, the governing board of the county shall consult with the Sheriff; and

WHEREAS, the Owner wants the County to enforce the traffic laws upon the Private Roads of said Owner; and

WHEREAS, pursuant to consultations between the Parties and the Orange County Sheriff's Office (hereinafter "Sheriff"), the County and Sheriff are willing to exercise traffic law enforcement upon the Private Roads; and

WHEREAS, pursuant to Section 30.2905, Florida Statutes, the Sheriff operates an off-duty employment program; and

WHEREAS, Section 316.006(3)(b)(2), Florida Statutes, provides *inter alia* that no such agreement for the enforcement of traffic laws over Private Roads shall take effect prior to October 1 unless such provision is waived in writing by the Sheriff; and

WHEREAS, the Sheriff has waived this provision as evidenced by **Exhibit "B"** attached hereto and incorporated by reference.

NOW, THEREFORE, in consideration of the covenants and conditions herein, County and the Owner hereby agree as follows:

1. The above recitals are true and correct, and are incorporated herein by reference and form a material part of this Agreement.

2. **Jurisdiction.** County agrees to exercise jurisdiction over enforcement of the traffic laws (including Section 316.2045, Florida Statutes, concerning obstruction of streets, as additionally regulated by the Orange County Block Party Ordinance) upon the Private Roads pursuant to the terms and conditions expressed in Section 316.006(3)(b), Florida Statutes, and subject to the terms and conditions specified in **Exhibit "C"** attached hereto and incorporated by this reference.

3. **Signage.** The Owner shall establish the speed limit for the Private Roads and shall be solely responsible for posting the speed limit by appropriate Department of Transportation ("DOT") approved signage along said roads.

4. **Authority in Addition to Existing Authority.** The County's exercise of traffic law enforcement pursuant to this Agreement shall be in addition to that authority presently exercised by County over the Private Roads and nothing herein shall be construed to limit or remove any such authority.

5. **Compensation.** The Owner shall compensate the Sheriff for the services performed under this Agreement at an hourly rate as otherwise determined by the Sheriff.

6. **County to Retain Revenues.** All revenue from any fines, costs, and penalties imposed by the traffic citations issued for violation of traffic laws on the Private Roads in accordance with this Agreement shall be apportioned in the manner set forth in applicable Florida Statutes.

7. **Liability not Increased.** Neither the existence of this Agreement, nor anything contained herein, shall give rise to any greater liability on the part of the County or the Sheriff than that which the County or the Sheriff would ordinarily be subjected to when providing its normal police services.

8. **Indemnification.** To the fullest extent permitted by law, the Owner shall indemnify, defend, and hold the County and the Orange County Sheriff's Office harmless from any loss, cost, damage or expense, including attorneys' fees, for any action arising out of, related

to, or stemming from, either directly or indirectly, the maintenance, repair, construction and/or reconstruction of any roads, road drainage or signage located within the gated community of **PHILLIPS GROVE**. To ensure its ability to fulfill its obligation under this paragraph, the Owner shall maintain General Liability insurance in the minimum amount of One Million dollars (\$1,000,000.00), and shall file with the County current certificates of the required insurance providing a thirty (30) day advance written notice of cancellation. Such insurance shall (a) name the County and the Orange County Sheriff's Office as an additional insureds and (b) be issued by a company authorized to do business under the laws of the State of Florida and shall be acceptable to the County. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes.

9. **Road Maintenance.** Neither the existence of this Agreement, nor anything contained herein, shall impose any obligation or duty upon the County to provide maintenance on and/or drainage of the Private Roads. The maintenance, repair and construction or reconstruction of all Private Roads, drainage and signage within the gated community of **PHILLIPS GROVE** shall at all times be solely and exclusively the responsibility of the Owner.

10. **Term.** The term of this Agreement shall be for a period of one (1) year, commencing on the date of the execution by the last of the two Parties signing hereto, and shall thereafter automatically continue for successive one (1) year terms unless otherwise terminated by any party by thirty (30) days written notice to the other Parties. The provisions of Paragraph 8 herein shall survive the termination of this Agreement.

11. **Entire Agreement.** This Agreement, including all exhibits attached hereto, constitutes the entire understanding and agreement between the Parties and may not be changed, altered, or otherwise modified except when reduced to writing and executed in the same manner with approval by the Orange County Board of County Commissioners.

12. **Notice.** Any notice required or permitted hereunder shall be delivered by hand delivery, express courier, or certified mail, return receipt requested, and shall be effective upon receipt of the same. Notice shall be delivered to each of the Parties at the following addresses or at such other addresses as specified by written notice in compliance with the terms of this paragraph.

As to County:

Orange County Administrator
201 South Rosalind Avenue, 5th Floor
Orlando, Florida 32801

Copy to:

Orange County Attorney's Office
201 S. Rosalind Avenue, 3rd Floor
Orlando, Florida 32801

As to Sheriff:

Orange County Sheriff's Office
P.O. Box 1440
Orlando, Florida 32802-1440

As to Owner:

PULTE HOME COMPANY, LLC
ATTN: Carlos Gregory
4901 Vineland Road, Suite 500
Orlando, FL 32811

13. **Severability.** If any sentence, phrase, paragraph, provision or portion of this Agreement is held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be considered an independent provision and the finding shall have no effect on the validity of the balance of this Agreement.

14. **Assignment.** It is acknowledged and understood that Owner anticipates assigning ownership of the Private Roads, as more specifically described in **Exhibit "A"** herein, to a homeowner's association at a future date. At such time, Owner shall also assign this Agreement and shall notify the Orange County Sheriff's Office of such assignment. The homeowner's association shall thereafter assume the duties and responsibilities provided for herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement for Traffic Law Enforcement on Private Roads for the community of **PHILLIPS GROVE** on the dates indicated below.

{Signature Pages Follow}



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

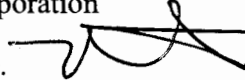
BY: *[Signature]*
Teresa Jacobs, County Mayor

ATTEST: Phil Diamond, CPA, Orange County Comptroller
As Clerk of the Board of County Commissioners

By: *[Signature]*
Deputy Clerk

DATE: OCT 31 2017

PULTE HOME COMPANY, LLC, a Michigan limited liability company, successor by conversion to PULTE HOME CORPORATION, a Michigan corporation

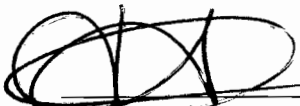
BY: 

NAME: Neil Klaproth

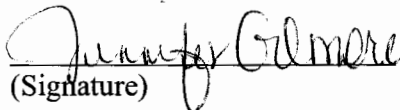
TITLE: Director – Land Development (North Florida)

DATE: August, 30, 2017

WITNESS:


(Signature)

KATHLEEN
(Print Name)


(Signature)

Jennifer Gilmore
(Print Name)

EXHIBIT "A"

LEGAL DESCRIPTION

That part of Sections 9 and 10, Township 24 South, Range 28 East, Orange County, Florida, described as follows:

BEGIN at the Southeast corner of Section 9, Township 24 South, Range 28 East; thence S89°57'41"W along the South line of the Southeast 1/4 of the Southeast 1/4 of said Section 9 a distance of 1334.95 feet; thence N00°15'02"E along the West line of said Southeast 1/4 of the Southeast 1/4 a distance of 1333.64 feet; thence N89°58'20"E along the North line of said Southeast 1/4 of the Southeast 1/4 a distance of 1331.38 feet; thence S89°58'15"E along the North line of the South 1/2 of the Southwest 1/4 of said Section 10 a distance of 1373.51 feet; thence N44°57'02"E along the South line of AVALON PHASE ONE AT TURTLE CREEK, according to the plat thereof, as recorded in Plat Book 36, Pages 76 and 77, of the Public Records of Orange County, Florida, a distance of 121.92 feet to the Westerly right-of-way line of Apopka-Vineland Road; thence S00°02'54"E along said Westerly Right-of-Way line, 1024.88 feet to the North line of lands described in Official Records Book 4125, Page 289, of said Public Records; thence S89°50'24"W along said North line, 339.99 feet; thence S00°02'54"E along the West line of said lands, 359.99 feet to the North Right-of-Way line of Fenton Street (60.00 feet wide Right-of-Way) as recorded in Official Records Book 127, Page 578, Official Records Book 441, Page 66 and Official Records Book 1049, Page 126 of said Public Records and a point on the North line of the South 30.00 feet of the Southwest 1/4 of said Section 10; thence S89°50'24"W along said North line, a distance of 1123.05 feet to the East line of the Southeast 1/4 of the Southeast 1/4 of said Section 9; thence S00°05'51"W along said East line a distance of 30.00 feet to the POINT OF BEGINNING. This description is based on Florida State Plane Coordinate System East Zone, reciprocal grid factor of 1.000029420207080, NAD 83/2011 Datum.

EXHIBIT "B"

(MEMO FROM ORANGE COUNTY SHERIFF'S DEPARTMENT)



Sheriff Jerry L. Demings
ORANGE COUNTY SHERIFF'S OFFICE
INTEROFFICE MEMORANDUM

August 28, 2017

TO: Mayor Teresa Jacobs
Board of County Commissioners

FROM: Sheriff Jerry L. Demings

SUBJECT: Traffic Agreement with OCSO and Pulte Home Company, LLC
for the Phillips Grove Gated Community

I understand Orange County will enter into an agreement with Pulte Home Company, LLC for the Phillips Grove gated community for traffic control and enforcement pursuant to Section 316.006(3)(b), F.S. The agreement will allow the Pulte Home Company to employ deputies through this agency's off-duty employment program to enforce traffic laws within the subdivision.

As you know, Section 316.006(3)(b), F.S., reads in part: "No such agreement shall take effect prior to October 1st, the beginning of the county fiscal year, unless this requirement is waived in writing by the Sheriff." Please be informed I hereby waive the October 1st requirement.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance in this matter.

J.L.D.

JLD/km

c: Off-Duty Services
Dorothy Burk, Sr. Assistant General Counsel

EXHIBIT "C"

Owner shall obtain traffic law enforcement by means of employing deputies through the Sheriff's off-duty program.

Residents of **PHILLIPS GROVE** wishing to make a traffic complaint, or to request a traffic law enforcement detail, shall contact the Owner. Residents contacting the Sheriff's Office directly with such complaints or requests shall be directed to the Owner for further action.