



***First American Title***

First American Title Company  
4750 Willow Road, #100  
Pleasanton, CA 94588  
(925)738-4050  
Fax - (866)648-7806

## **Instructions to Hold Funds**

To: **First American Title Insurance Company ("Escrow Holder")**  
**Tammi Buna, Escrow Officer**

File No.: 0131-624708ala

Re: **APNs: 025-420-005-000, , 025-420-006-000 &, 025-420-019-000**  
**Hollister, CA ("Property")**

Buyer: Century Communities of California, LLC  
Seller: Bates Stringer Hollister II LLC ("Seller")

**First American Title Insurance Company** is instructed to hold the sum of **\$869,755.00** (the "Holdback Amount") in escrow from the proceeds payable to Seller upon the close of escrow for the Property ("Close of Escrow"), until such time as a final determination has been made as to whether there is a legal requirement that development of the Property must be subject to an agricultural mitigation fee as a condition of such development, pursuant to the EIR, adopted Mitigation Monitoring and Reporting Program, and Conditions of Approval (Condition 51, MM-Ag-1) of the Tentative Subdivision Map, San Benito County Planning Commission Resolutions 2018-02 and 2018-03 dated April 2, 2018, for the proposed development of the Property. The County of San Benito (the "County") found that the development of the Property requires mitigation for the permanent conversion of 36.4 acres of FMMP Important Farmland to non-agricultural use, which may be satisfied by making an in-lieu payment of agricultural mitigation fees in the amount of the Holdback Amount to the San Benito County Agricultural Land Trust. Seller intends to seek a legal determination that no agricultural mitigation fee is due and owing with respect to the development of the Property, and intends to bring this matter initially before the County Planning Commission within 90 days of the Closing for resolution of this issue to delete or modify Condition of Approval 51, MM Ag-1.

Escrow Holder shall release the Holdback Amount to Seller or County (or to its assignee, the San Benito County Agricultural Land Trust) upon a final legal determination as to whether the developer of the Property is obligated to make an agricultural mitigation fee payment upon development of the Property in the amount of up to the Holdback Amount. Either Seller or County may deliver to Escrow Holder written confirmation of a legal determination of this issue (the "Determination") together with a demand for release of all or a portion of the Holdback Amount to such party. Such Determination may take the form of a resolution from the County Planning Commission, with the time period for all appeals or other challenges thereto ("Challenges") having expired and no Challenge having been taken or commenced, or if taken it has been resolved to a final non-appealable decision, or the time for further Challenges has expired with no such Challenge having been taken. Escrow Holder shall release the requested amount of the Holdback Amount to the requesting party, unless the other party delivers to Escrow Holder and the requesting party a written objection to such release within five (5) business days after receipt of such written confirmation, setting forth the reasons why such funds should not be released. If the parties are unable to resolve such dispute within ten (10) business days thereafter, Escrow Holder may commence an interpleader action to resolve such dispute. County agrees that (1) the Holdback Amount will be used to satisfy any agricultural mitigation requirement for the Property, and (2) the County will not withhold any permits/approvals for the Property pending the Determination and release of the appropriate portion of the Holdback to the County.



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The funds will NOT be placed in an interest bearing account. If funds are to be held in an interest bearing account, separate instructions and a \$50.00 fee will be required for opening and maintaining the account.

Escrow Holder will continue to hold the funds in the above referenced file until:

1. Funds are released to either Seller or the County as provided above, or pursuant to a court order; OR
2. Three (3) years have elapsed from the Close of Escrow and no party has requested release of the Holdback Amount or notified Escrow Holder of a pending Challenge to such release. At that time, pursuant to Section 1513 of the California Code of Civil Procedure, Escrow Holder will forward the remaining balance of the funds held to the State of California Controllers Office for disposition. Once any remaining balance of funds held has been escheated to the State of California, it will be necessary for the parties to file a claim with the State Controller for the return of those funds.

*In the event no mutual instruction to release funds is deposited into escrow prior to three (3) years after Close of Escrow, escrow holder may, AT ITS SOLE DISCRETION, file an interpleader action, deposit the funds held with court clerk and allow the court to disburse said funds. (In an interpleader action, attorney's fees incurred by the escrow holder in bringing the action may be deducted from the amount deposited with the court clerk).*

**Any modification of the instruction shall be given mutually by Seller and Buyer in writing prior to Close of Escrow and escrow holder is specifically instructed that only such mutual written instructions given prior to Close of Escrow are to be recognized.**

**Funds Held Fee Agreement:** In the event that funds remain in escrow for any reason more than two (2) years after last disbursement made by Escrow Holder pursuant to the Purchase Agreement ("Dormancy Period"), Escrow Holder will make reasonable efforts to notify the parties regarding same. If funds remain in escrow beyond the Dormancy Period, a monthly "funds held fee" of \$25.00 shall accrue for each month or fraction of a month thereafter that the funds, or any portion thereof, remain in escrow. Escrow Holder is instructed to deduct the monthly funds held fee directly from the funds held in escrow on a monthly or other periodic basis (i.e. quarterly, semi-annually, etc.). The parties agree to pay these sums to compensate Escrow Holder for administering, monitoring, accounting, reminders and other notifications and processing of the funds so held in accordance with this provision.

Seller:

BATES STRINGER HOLLISTER II LLC,  
a California limited liability company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

County:

COUNTY OF SAN BENITO,

Provisionally signed by staff subject to Board  
of Supervisors ratification on September 28,  
2021

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

Name: ROBIN BOLSTER-GRANT

Title: ASSISTANT DIRECTOR  
PLANNING & BUILDING SVCS

