

17 Mile Drive Public Use Agreement

This 17 Mile Drive Public Use Agreement (“Agreement”) is made this 20th day of October, 1987, by and between PEBBLE BEACH COMPANY, a California general partnership (“PBC”) and the COUNTY OF MONTEREY, a political subdivision of the State of California (the “County”).

This agreement is made with reference to the following facts and circumstances:

A. PBC is the owner of land located in the Del Monte Forest Area, County of Monterey, State of California, including the private recreational road and nearby recreational areas and facilities commonly known as 17 Mile Drive.

B. The roads in Del Monte Forest are privately owned and maintained by PBC and are not established, maintained or held open for public use. Entrance into Del Monte Forest and use of the Del Monte Forest roads by members of the public are restricted by PBC. Members of the public who enter Del Monte Forest roads do so only with the permission of PBC.

C. The 17 Mile Drive provides valuable opportunities to the public for recreational use. PBC and its predecessors have in the past permitted the public to enter Del Monte Forest and use 17 Mile Drive for recreational purposes during daylight hours subject to payment of an entrance fee and to the rules and regulations of PBC.

D. The certified Monterey County Local Coastal Program Del Monte Forest Area Land Use Plan (the “Del Monte Forest LUP”) adopted by the County and certified by the California Coastal Commission under the California Coastal Act of 1976, as well as permits for development in Del Monte Forest issued by the County and the California Coastal Commission, all recognize PBC’s ongoing right to restrict entry into Del Monte Forest and to own, operate and control the use of the Del Monte Forest roads as private roads and to charge and collect an entrance fee for entry into Del Monte Forest and public recreational use of 17 Mile Drive, and confirm such right as consistent with the California Coastal Act of 1976 and the Del Monte Forest LUP.

E. The County and the California Coastal Commission desire to obtain an agreement from PBC to embody PBC’s continuing permission to the public to enter

Del Monte Forest and use 17 Mile Drive during daylight hours for recreational use, subject to payment of an entrance fee and reasonable restrictions on the time, place and manner of such public use.

F. PBC is willing to enter into this Agreement with the County subject to the express premise and understanding that this Agreement constitutes permission only and shall not create any public rights in the Del Monte Forest roads or any other PBC land, or affect or impair PBC's recognized right to regulate entry into the Del Monte Forest roads and charge and collect an entrance fee, or otherwise alter the status of the Del Monte Forest roads as restricted access private roads that are not established, maintained or held open for public use.

NOW, THEREFORE, PBC and the County agree as follows.

I

DEFINITIONS

As used in this Agreement, the following terms have the following meanings:

A. "Daylight Hours" means the period of the day between sunrise and sunset.

B. "Del Monte Forest" mean the area of land located in the County of Monterey, State of California, generally shown on the map attached hereto as Exhibit "A" and incorporated by reference herein.

C. "Del Monte Forest Roads" means the paved Del Monte Forest roads owned by PBC intended for vehicular use, and includes the Entrance Gates. The Del Monte Forest Roads are generally shown on the map attached hereto as Exhibit "A."

D. "17 Mile Drive" means the recreational route along certain Del Monte Forest Roads designated as such on the map attached hereto as Exhibit "A," and the recreational areas, improvements and amenities adjoining such route provided for Recreational Use, and such other routes along Del Monte Forest Roads as may be necessary and specifically designated by PBC to provide access to the Public Access Areas, and such additions, deletions or modifications to the foregoing as may be designated from time to time as 17 Mile Drive by PBC. "17 Mile Drive" does not include any lands or facilities in Del Monte Forest operated for commercial purposes or for which a charge in addition to the Entrance Fee is required for the use thereof.

E. "Entrance Fee" means the fee charged by PBC to the General Public traveling by motor vehicle for entrance into Del Monte Forest and the use of 17 Mile Drive.

F. "Entrance Gates" mean the points of vehicular entry to Del Monte Forest at entrance gates maintained by PBC, currently designated as the Highway 1 Gate, the County Club Gate, the Pacific Grove Gate and the Carmel Gate, with such additions, limitations and modifications to such entrance gates and such additional entrance gates as may from time to time be constructed or instituted by PBC.

G. "General Public" means all persons other than PBC, owners of real property in Del Monte Forest, and their respective tenants, guests and employees.

H. "Public Access Areas" means those locations in Del Monte Forest that have been designated for Recreational Use by the General Public through an express written offer and written acceptance of dedication of public access easements.

I. "Recreational Use" means noncommercial uses by persons for sightseeing, picnicking, hiking, nature observation and other recreational purposes consistent with the Del Monte Forest LUP, and includes gaining access to Public Access Areas and gaining access to such visitor serving facilities in Del Monte Forest as may be open and available to the General Public from time to time.

II

PURPOSE AND EFFECT OF THIS AGREEMENT

A. The Del Monte Forest Roads are privately owned and maintained by PBC and constitute "private roads" as defined in California Vehicles Code section 490. The Del Monte Forest Roads are not now and never have been established or maintained for public use and are not intended or used to provide through access between public highways, streets or roads. Access to the Del Monte Forest Roads is restricted. The use of the Del Monte Forest Roads by members of the General Public, at such times when use by the General Public is permitted, is subject to payment of the Entrance Fee. All use of the Del Monte Forest Roads is subject to rules and regulations imposed by PBC. This Agreement is not intended, and shall not be construed, to alter or impair in any manner the foregoing described status of the Del Monte Forest Roads or PBC's rights of private ownership and control of the Del Monte Forest Roads and all rights inherent in or incidental thereto. Specifically, but without limitation, this

Agreement is not intended, and shall not be construed, to alter or impair in any manner the foregoing described status of the Del Monte Forest Roads or PBC's rights of private ownership and control of the Del Monte Forest Roads and all rights inherent in or incidental thereto. Specifically, but without limitation, this Agreement is not intended to, and does not, constitute a dedication of the Del Monte Forest Roads or any portion thereof to the County or to the public, or make the Del Monte Forest Roads or any portion thereof "public roads" for any purpose of this Agreement to expressly confirm the foregoing described status of the Del Monte Forest Roads as restricted access private roads that are not established, maintained or held open for public use, and PBC's rights to charge and collect the Entrance Fee and regulate and control the use of the Del Monte Forest Roads.

B. Historically, in order to allow the General Public to enjoy various recreational amenities in Del Monte Forest, the General Public has been permitted by PBC and its predecessors to enter Del Monte Forest and use 17 Mile Drive during Daylight Hours for Recreational Use subject to payment of the Entrance Fee and to the rules and regulations established by PBC. The parties desire and agree that this situation should continue. Thus, this Agreement constitutes an agreement under the provisions of and pursuant to California Civil Code section 1009(f)(3) for the limited purpose of providing the continuing permission of PBC for the General Public to enter Del Monte Forest and use 17 Mile Drive during Daylight Hours for Recreational Use subject to payment of the Entrance Fee and reasonable restrictions on time, place and manner of public use established by PBC.

III

PUBLIC USE OF 17 MILE DRIVE

A. PBC agrees that PBC will permit the General Public to enter Del Monte Forest and use 17 Mile Drive during Daylight Hours for Recreational Use subject to payment of the Entrance Fee and reasonable restrictions on the time, place and manner of use as provided in this Agreement.

B. The permission for the General Public to enter Del Monte Forest under this Agreement is specifically limited to permission to enter for the sole purposes of gaining access to and using 17 Mile Drive and the Public Access Areas during Daylight Hours for Recreational Use. No permission is conferred under this Agreement for the General Public to enter Del Monte Forest at any other times or for any other

purposes, or to use any other Del Monte Forest lands for any purposes whatsoever. PBC has the inherent right to deny or permit in its sole discretion entrance to Del Monte Forest and use of 17 Mile Drive or any other Del Monte Forest Roads by any or all members of the General Public during non-Daylight Hours or for purposes other than recreational Use, and if permission is provided to make such permission subject to such terms and conditions as PBC may determine appropriate in each case in its sole discretion, including payment of the Entrance Fee or any other charge that PBC may choose to impose.

IV RULES AND REGULATIONS

All entrance to Del Monte Forest and use of 17 Mile Drive shall be subject to restrictions, rules and regulations established from time to time by PBC. Such restrictions, rules and regulations may be established based upon considerations related to protection of the public health or safety, preservation of the environmental or aesthetic values of Del Monte Forest, the smooth and efficient movement of traffic in and about Del Monte Forest, respect for the rights of private property owners in Del Monte Forest, protection of the rights of PBC and any other reasonable purpose. Such restrictions, rules and regulation may include, but are not limited to, the following:

A. The General Public will be permitted to use those Del Monte Forest Roads included within the definition of 17 Mile Drive. All other Del Monte Forest Roads are primarily intended for local residential traffic and may be used by the General Public only to the extent and on the terms permitted by PBC.

B. PBC has the right to change the route of the 17 Mile Drive; provided, however, that PBC agrees that in the event of a change in the route of 17 Mile Drive, the General Public will always be permitted to use a route along the Del Monte Forest Roads, designated by PBC, that provides access to the Public Access Areas. PBC also has the right to detour or temporarily close portions of 17 Mile Drive and other Del Monte Forest Roads. Entrance to Del Monte Forest and/or the use of 17 Mile Drive by the General Public may be restricted or prohibited by PBC when necessary for reasons of public health or safety, or during special events in Del Monte Forest, in each case in accordance with the restrictions or prohibition declared by PBC; provided, however, that PBC agrees that 17 Mile Drive will not be closed to the

General Public on account of special events more than a total of twenty (20) calendar days, which shall include not more than ten (10) weekend days, in any calendar year.

C. Entrance to Del Monte Forest and use of 17 Mile Drive for Recreational Use by the General Public is limited to Daylight Hours. Admission of General Public at the Entrance Gates may begin one-half hour after sunrise and end one-half hour before sunset.

D. Entrance to Del Monte Forest by the General Public travelling by motor vehicle or bicycle is limited to the Entrance Gates. In the case of pedestrians, entrance to Del Monte Forest is limited to the Entrance Gates, at the Spanish Bay Public Access Area adjoining the City of Pacific Grove, and at such other locations as may be permitted from time to time by PBC. PBC may designate certain of the entrance Gates for entrance by the General Public and restrict entrance by the General Public at the remainder of the Entrance Gates.

E. Bicyclists must enter at the Entrance Gates designated for bicycle entry and are restricted to the designated bicycle routes for Del Monte Forest Roads; provided, however, that PBC agrees that the designated bicycle route will allow bicycle use from the Pacific Grove Gate to the Carmel Gate.

F. In utilizing 17 Mile Drive and Public Access Areas, all members of the General Public shall observe and comply with all limitations, rules and regulations applicable to, and all signs posted for, the use of recreational areas and facilities.

G. Use of motorcycles, mopeds and similar two or three wheeled motorized vehicles by the General Public in Del Monte Forest is not permitted.

H. All members of the General Public shall observe and comply with all applicable traffic rules, regulations and laws.

I. Members of the General Public may be required to execute binding instruments releasing PBC from liability for personal injury and property damage as a condition to entering Del Monte Forest and using 17 Mile Drive and other Del Monte Forest Roads and Public Access Areas.

PBC may in its discretion enforce such restrictions, rules and regulations for public use as are provided in this Agreement or as may be established by PBC from time to time pursuant to this Agreement. Nothing in this Agreement, however, imposes or shall be construed to impose on PBC any affirmative obligation to enforce

any such restrictions, rules or regulations. No use by the General Public of Del Monte Forest lands, whether in accordance with or contrary to or in violation of such restrictions, rules or regulations, shall ever constitute or be construed to be public use adverse to PBC or public use crafting expressor implied dedication of Del Monte Forest lands. Further, in the event that a governmental entity is using PBC lands by expending public funds on visible improvements or on the cleaning or maintenance related to the public use of any of PBC's lands in Del Monte Forest (except the Public Access Area), such use is hereby declared and shall be conclusively deemed to be with the express permission of PBC, unless and until such permission is expressly revoked by PBC.

V

ENTRANCE FEE

A. PBC shall be entitled to charge the Entrance Fee. The Entrance Fee is a fee for the entrance to and use of the recreational facilities of 17 Mile Drive, and payment of the Entrance Fee permits entrance into Del Monte Forest and the use of 17 Mile Drive during Daylight Hours for Recreational Use. The Entrance Fee does not permit or constitute payment (either direct or indirect) of consideration for the use of any other lands or facilities in Del Monte Forest. However, it is understood that, upon achieving access to a Public Access Area in accordance with the permission conferred by this Agreement, the use of the Public Access Area in accordance with the terms of the public access easement dedicated for such area is free of charge and no consideration is required. Except as other directed by PBC, the Entrance Fee shall be collected by PBC at the Entrance Gates.

B. Increases in the Entrance Fee from and after the date of this Agreement shall not exceed, in percentage of increase, in percentage of increase, the percentage of increase in the Consumer Price Index for All Urban Consumers, All Items, United States City Average, published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), between the date of such increase and the date of the immediately preceding increase. If the Index is discontinued or revised during the term of this Agreement, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised. In no event shall the percentage of increase exceed five percent (5%) per year applied on a cumulative basis between the date of such increase and the date of the immediately preceding

increase. For purposes of calculation of the first increase under this Agreement, the date of the immediately preceding increase. For purposes of calculation of the first increase under this Agreement, the date of the immediately preceding increase is July, 1985.

C. Neither this paragraph nor any other provision of this Agreement has any effect on, and this Agreement shall not be construed in any manner to affect, limit, or impair PBC's right and ability to charge or increase fees or charges for entrance to Del Monte Forest or the use of 17 Mile Drive, Del Monte Forest Roads or any other Del Monte Forest lands to persons other than the General Public or to the General Public or any other persons for uses other than Recreational Use.

VI NO RECOURSE

No recourse shall be had against any partner of PBC or any partner of PBC or any partner or sub-partner of a partner of PBC, or any legal representative, heir, successor or assign of any thereof, on account of any obligation or for any claim arising out of or in respect to this Agreement, or any act or omission with respect to the performance of this Agreement or in the course thereof. Recourse for any such obligation or claim shall be limited solely to PBC and the assets of PBC (a deficit capital account of any partner or PBC or other funding obligation of a partner under the partnership agreement of PBC shall not be deemed an asset or property of PBC), and no judgement, order or execution entered in any suit, action or proceeding, whether legal or equitable, on any such obligation or claim shall be sought, obtained or enforced against any partner or heir, successor or assign, or against their respective individual assets.

VII AMENDMENT

This Agreement may be amended in writing by an amendment approved and signed respectively by PBC and the County. Any such amendment shall be subject to the advance written approval of the Executive Director of the California Coastal Commission.

VIII
ASSIGNMENT

PBC shall have the right to assign its rights and/or delegate its obligations under this Agreement, in whole or in part, and upon such an assignment and/or delegation the assignee or delegate shall assume and shall have all of the rights and be obligated to fully perform all of the obligations of PBC so assigned and/or delegated, and PBC shall be fully relieved and discharged from all the obligations of this Agreement so assigned and/or delegated.

IX
BINDING ON SUCCESSORS

A. This Agreement shall be binding upon and inure to the benefit of PBC and its successors and assigns in the ownership of the Entrance Gates and 17 Mile Drive, or any portion of the foregoing. PBC shall have the absolute right to transfer its right, title and interest in and to all or any portion of the Entrance Gates or 17 Mile Drive, and upon such a transfer the transferee, by acceptance of the deed, shall have assumed and be obligated to perform all of PBC's obligations under this Agreement, and shall have all of the rights and obligations of PBC for all purposes under this Agreement with respect to the portion so transferred, except for such rights as may be excepted or reserved by PBC in the deed; and upon such a transfer PBC shall be fully relieved and discharged from all of its obligations under this Agreement with respect to the portion so transferred.

B. This Agreement shall be binding upon and inure to the benefit of the County and its successors and assigns.

X
ENTIRE AGREEMENT

This Agreement constitutes and embodies the entire agreement between PBC and the County with respect to entrance to Del Monte Forest and the use of 17 Mile Drive and the Del Monte Forest Roads by the General Public, and supersedes all prior agreements and understandings of the parties, whether written or oral, on entrance to Del Monte Forest and the use of 17 Mile Drive and the Del Monte Forest and the Del Monte Forest Roads by the General Public.

In WITNESS WHEREOF, this Agreement is executed this 27 day of October, 1987.

PBC:

PEBBLE BEACH COMPANY,
a California General Partnership

By: MKDG II, A Colorado General
Partnership, a general partner

By: 3m INVESTMENT CO., a general
partnership, a general partner

MYRON M. MILLER

By: MKDG IV, a Colorado General
Partnership, a general partner

By: 3m INVESTMENT CO., a general
partnership, a general partner

MYRON M. MILLER

County:

County of Monterey

By: _____

KARIN STRASSER KAUFFMAN

Chair Board of Supervisors

Monterey County Approval

The undersigned certifies that this 17 Mile Drive Public Use Agreement dated October 20, 1987, has been reviewed, fully satisfies all applicable requirements of the Monterey County Combined Development Permit PC-5202 for the Spanish Bay Resort Project and is hereby approved.

County Of Monterey

Dated: October 20, 1987

By: JOSE RAFAEL RAMOS,
Deputy County Counsel

Dated: October 20, 1987

By: ROBERT SLIMMON,
Its Director of Planning

Coastal Commission Approval

The undersigned certifies that this 17 Mile Drive Public Use Agreement dated October 20, 1987, has been reviewed, fully satisfies all applicable requirements of the Coastal Development Permit No. 3-84-226 for the Spanish Bay Resort Project and is hereby approved.

Dated: October 20, 1987

California Coastal Commission

By: PETER DOUGLAS,
Its Executive Director

EXHIBIT A

The 17 Mile Drive

17 Mile Drive indicated by dark line.

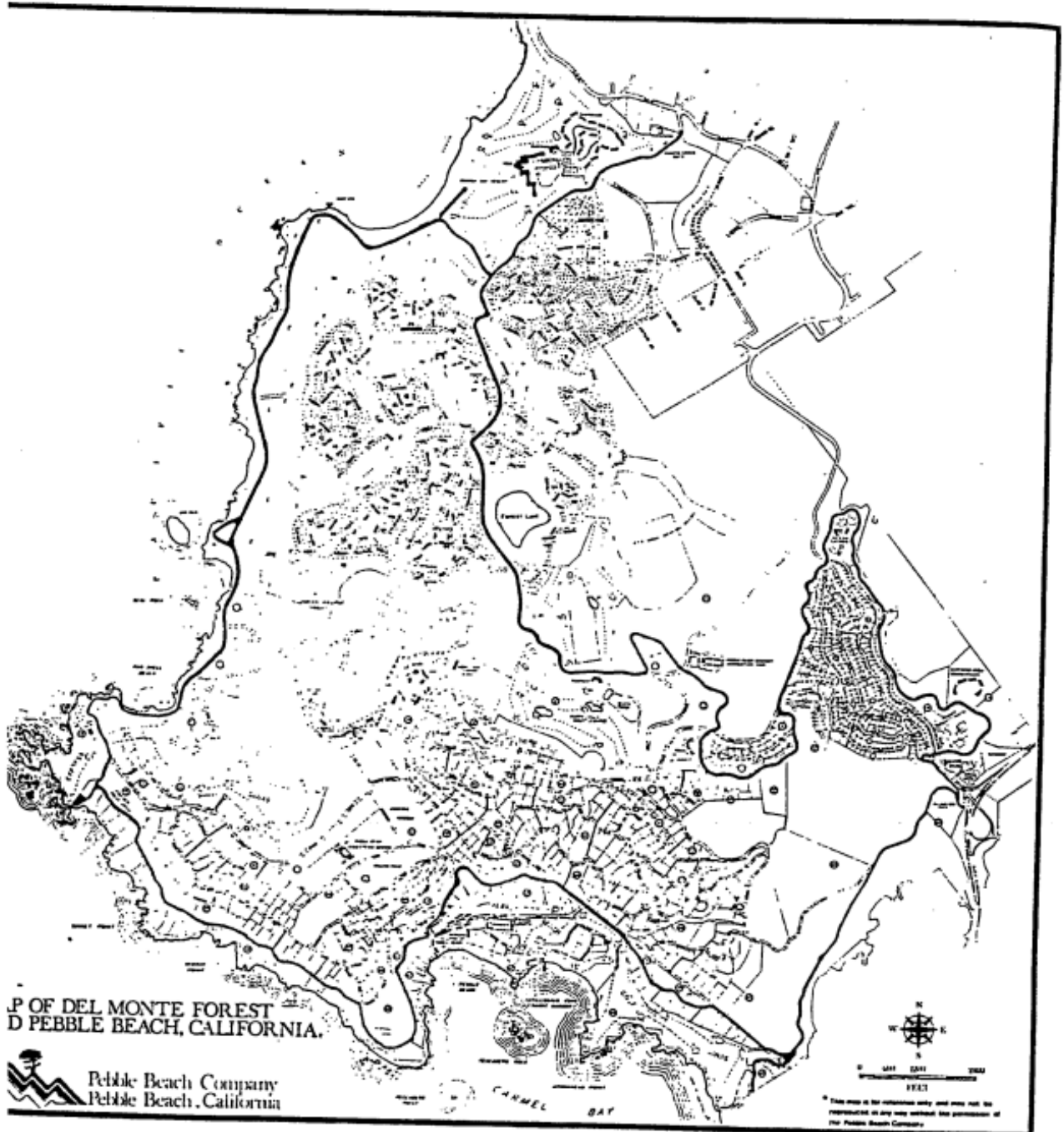


EXHIBIT A