

Recording Requested for the
Benefit of the County of Fresno,
Department of Public Works
And Planning

When Recorded Return To:
Department of Public Works
And Planning
Development Services
Division Stop 214
Attn: Development Engineering

Exempt from Recording Fees:
Government Code §§ 27383,
27388.1(a)(2)(D) (AB 110, SB 2)

AMENDMENT NO. 1 TO

COUNTY OF FRESNO SUBDIVISION AGREEMENT 18-236

THIS Amendment No. 1 to County of Fresno Subdivision Agreement 18-236 (hereinafter "AMENDMENT NO. 1") is made and entered into this 24th day of November, 2020 by and between the COUNTY OF FRESNO, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and JPJ INCORPORATED, a California Corporation, whose address is 7030 N. Fruit Avenue, Suite 101, Fresno, CA 93711, the subdivider of Tract No. 4968 and referred to herein as "SUBDIVIDER." This AMENDMENT NO. 1 amends that certain County of Fresno Subdivision Agreement, number 18-236 (hereinafter the "AGREEMENT"), entered into on May 1, 2018 by and between the COUNTY and SUBDIVIDER.

RECITALS

- A. On May 1, 2018, the Board of Supervisors ("BOARD") approved a Final Map for Tract No. 4968, a 106-lot subdivision in the R-1-C (Single-Family Residential, 6,000 square-foot minimum lot size) and R-2-C (Low Density Multiple Family Residential, 6,600 square-foot minimum parcel size) Zone Districts, located on the south side of Millerton Road between Friant and Auberry Roads referred to herein as "TRACT 4968."
- B. The COUNTY, under Section 17.48.400 of the Ordinance Code of the County of Fresno (hereinafter, the "COUNTY's Ordinance Code") requires SUBDIVIDER to make certain dedications and construct certain works or improvements subject to acceptance and

- 1 approval by the COUNTY.
- 2 C. The COUNTY's Ordinance Code requires SUBDIVIDER to enter an agreement with
3 COUNTY when all required dedications, works, or improvements have not been
4 completed.
- 5 D. On May 1, 2018, the BOARD, on behalf of the COUNTY, approved the AGREEMENT,
6 which requires SUBDIVIDER to construct certain improvements that were not completed
7 at the time of the COUNTY's approval of the Final Map for TRACT 4968.
- 8 E. As a condition of AGREEMENT, SUBDIVIDER agreed that a backup lake pump
9 generator will be in-place and operational prior to the COUNTY's issuance of a building
10 permit for the 53rd home within TRACT 4968.
- 11 F. The COUNTY has issued building permits for 52 homes to SUBDIVIDER for TRACT
12 4968.
- 13 G. SUBDIVIDER has not constructed the backup lake pump generator as required by
14 AGREEMENT and, for that reason, the COUNTY, as provided under the AGREEMENT,
15 has not issued additional building permits to SUBDIVIDER for TRACT 4968.
- 16 H. SUBDIVIDER requested the COUNTY to consider an amendment to the AGREEMENT
17 to enable SUBDIVIDER to design, permit, and construct a backup lake pump generator,
18 so that SUBDIVIDER can request the COUNTY to issue the remaining building permits
19 under the amended terms of the AGREEMENT, as further provided herein.
- 20 I. SUBDIVIDER has proposed to the COUNTY an interim alternative, to accomplish the
21 intent of the Section V, paragraph 9 of the AGREEMENT, requiring completion of the
22 backup lake pump generator, while continuing to work towards timely fulfilling the backup
23 lake pump generator requirement, as further provided herein.
- 24 J. SUBDIVIDER's interim alternative is for SUBDIVIDER to purchase for COUNTY and for
25 SUBDIVIDER, and to deploy and place in the possession of the COUNTY, as needed by
26 COUNTY, a "Mobile Pump and Generator," as defined below, sufficient in size to reliably
27 provide fresh potable water into the County Service Area delivery system for then-current
28 needs as well as those additional needs anticipated with the future population growth and

1 development within County Service Area No. 34 up until such time as the backup lake
2 pump generator is in-place and operational according to the COUNTY's requirement, as
3 provided herein.

4 K. COUNTY has requested that, upon the conclusion of such interim alternative,
5 SUBDIVIDER shall transfer ownership of the Mobile Pump and Generator to COUNTY,
6 at no cost to COUNTY, and SUBDIVIDER is agreeable to such request, as provided
7 herein.

8 L. SUBDIVIDER shall bear all costs associated with the interim alternative, and such
9 transfer of ownership of the Mobile Pump and Generator to the COUNTY, and the
10 COUNTY shall bear none of such costs, except only those costs of the COUNTY
11 associated with the COUNTY's operation of the interim alternative while the Mobile Pump
12 and Generator is in the possession of the COUNTY, and fully operational according to
13 the manufacturer's requirements, and the COUNTY's ownership of the Mobile Pump and
14 Generator, as provided herein.

15 **AGREEMENT**

16 In consideration of the foregoing recitals, which are incorporated herein by reference, and
17 of the following covenants and conditions, SUBDIVIDER and COUNTY mutually agree to amend
18 the AGREEMENT as provided in this AMENDMENT NO. 1 as follows:

19 1. Section V, paragraph 9 of the AGREEMENT (constituting lines 6 and 7, inclusive, of page
20 6) is hereby deleted in its entirety and replaced with the following:

21 9.a. That SUBDIVIDER shall transfer to the COUNTY ownership, free
22 and clear of any and all liens, encumbrances, security interests, claims of any
23 creditors, or court orders (collectively, "Claims"), of the backup lake pump
24 generator (hereinafter "Permanent Generator"), which shall be in-place at a
25 suitable permanent location, and fully operational according to the manufacturer's
26 requirements, and SUBDIVIDER shall assign all of the manufacturer's warranties
27 for the Permanent Generator to the COUNTY, prior to the COUNTY's issuance of
28 a building permit for the 53rd home in TRACT 4968.

1 9.b. Notwithstanding Section V, paragraph 9.a., above, the Director
2 may issue, at his or her sole and absolute discretion, additional building permits
3 for single family residences, beyond 52 and up to the 106 lots that were created
4 by TRACT 4968, based upon the SUBDIVIDER's measurable progress made
5 towards satisfying the requirements of Section V, paragraph 9.a., above, for the
6 Permanent Generator, provided that (i) the SUBDIVIDER is not in default of this
7 Agreement, and (ii) a mobile pump and generator, including a lake pump and
8 motor assembly, along with all necessary appurtenances and controls
9 (hereinafter "Mobile Pump and Generator") has been approved by the Director for
10 purchase by the SUBDIVIDER and will be made available for the COUNTY's use,
11 as provided in this paragraph 9.b. of Section V, commencing prior to the
12 COUNTY's issuance of a certificate of occupancy for any single family residence
13 beyond the 53rd lot created by TRACT 4968, or at a time as determined by the
14 Director, whichever is earlier, and continuing at all times until the Director accepts
15 the Permanent Generator. The Director's release of any portion of the additional
16 building permits, or certificates of occupancy, for single family residences, beyond
17 52 and up to the 106 lots that were created by TRACT 4968, shall not obligate
18 the Director to release any such remaining additional building permits, or
19 certificates of occupancy. Said Mobile Pump and Generator shall have sufficient
20 capacity to reliably provide fresh potable water, meeting all requirements of all
21 federal, state and local health and safety laws and regulations, even in the event
22 of a power outage or other system failure, from a freshwater body into the County
23 Service Area No. 34 (hereinafter "CSA 34") water delivery system for said
24 system's then-current needs as well as those additional needs anticipated with
25 the future population growth and development within CSA 34, as determined by
26 the Director in his sole and absolute discretion, up until such time as the
27 Permanent Generator is in-place and fully operational according to the
28 manufacturer's requirements. SUBDIVIDER shall deliver the Mobile Pump and

1 Generator in good working condition to the COUNTY, at any location of the
2 Director's choosing, within five (5) miles of Millerton Lake, within forty eight (48)
3 hours written or oral notice by the COUNTY to SUBDIVIDER that an emergency
4 situation exists for the CSA 34 water delivery system, as determined by the
5 Director. The COUNTY is not responsible in any way under this AGREEMENT or
6 any amendment hereto for the purchase, transportation, storage, repair,
7 maintenance, delivery, removal, acceptance, or approval of the Mobile Pump and
8 Generator, provided however, the COUNTY shall have the right to own the Mobile
9 Pump and Generator as provided in paragraph 9.c. of Section V. SUBDIVIDER is
10 responsible for all costs associated with the purchase, transportation, storage,
11 repair, maintenance, delivery, installation/startup, removal, and approvals for the
12 Mobile Pump and Generator prior to SUBDIVIDER's transfer of ownership of the
13 Mobile Pump and Generator to the COUNTY pursuant to paragraph 9.c. of
14 Section V.

15 9.c. Notwithstanding any of the foregoing in paragraphs 9.a and 9b. of
16 Section V, prior to May 1, 2023, and at SUBDIVIDER's sole cost, (i) SUBDIVIDER
17 shall transfer to the COUNTY (or CSA 34, if requested by the Director) ownership,
18 free and clear of any and all Claims, of the Permanent Generator, which shall be
19 in-place at a suitable permanent location, and fully operational according to the
20 manufacturer's requirements, (ii) SUBDIVIDER shall assign all of the
21 manufacturer's warranties for the Permanent Generator to the COUNTY (or CSA
22 34, if requested by the Director), (iii) SUBDIVIDER shall transfer to the COUNTY
23 (or CSA 34, if requested by the Director) ownership, free and clear of any and all
24 Claims, of the Mobile Pump and Generator, which shall be fully operational
25 according to the manufacturer's requirements, and in good condition, subject to
26 its normal and reasonable wear taking into account the requirements for its repair
27 and maintenance under paragraph 9.b of Section V, and assign all of the
28 manufacturer's warranties for the Mobile Pump and Generator to the COUNTY

(or CSA 34, if requested by the Director), and (iv) SUBDIVIDER shall provide the manufacturer's operating manual for Mobile Pump and Generator to the COUNTY, all as determined by and subject to the acceptance of the Director.

1. Unless expressly modified by the terms of this AMENDMENT NO. 1, all other terms of the AGREEMENT remain in full force and effect.
2. This AMENDMENT 1 may be executed in two or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.
3. Each individual executing or attesting this AMENDMENT 1 hereby covenants, warrants, and represents to the other party: (1) that he or she is duly authorized to execute and deliver this AMENDMENT 1 on behalf of his or her respective party in accordance with the following: for SUBDIVIDER, its articles of organization or operating agreement, and for COUNTY, its governing legal authority; (2) that this AMENDMENT 1 is binding upon his or her respective party; and (3) that his or her respective party is duly organized and legally existing in good standing in the State of California.

(Signature page follows.)


1 IN WITNESS WHEREOF, the parties hereto have caused this AMENDMENT NO. 1 to
2 be executed as of the day and year first above written.

3 **SUBDIVIDER**

4 JPJ, Incorporated, a California
5 Corporation

6 By: 
7 John Bonadette, President

COUNTY OF FRESNO

8 By: 
9 Ernest Buddy Mendes, Chairman of the
10 Board of Supervisors of the County of
11 Fresno

ATTEST:

12 Bernice E. Seidel
13 Clerk of the Board of Supervisors
14 County of Fresno, State of California

15 By: 
16 Deputy

17 **FOR ACCOUNTING USE ONLY:**

18 **ORG:** 43600200

19 **FUND:** 0001

20 **SUBCLASS:** 10000

21 **ACCOUNT:** 4910

22 G:\4360Dev_Engr\ADMIN\Board Agenda Items\AMENDMENT NO. 1.docx
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CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

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)SS
COUNTY OF Fresno)

On November 17, 2020 before me, Anna M Renna, Notary Public, personally appeared

John A. Bonadelle

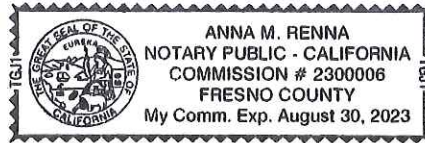
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), 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

Anna M Renna



This area for official notarial seal.

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the documents.

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER(S) TITLE(S)
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER

SIGNER IS REPRESENTING:

Name of Person or Entity

Name of Person or Entity

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT: _____

NUMBER OF PAGES _____ DATE OF DOCUMENT _____

SIGNER(S) OTHER THAN NAMED ABOVE _____