



## Legislation Details (With Text)

**File #:** 20-1052

**On agenda:** 11/24/2020

**Final action:** 11/24/2020

**Enactment date:**

**Enactment #:** Agreement No. 18-236-1

**Title:** Approve and Authorize Chairman to execute First Amendment to Tract 4968 Subdivision Agreement No. 18-236, modifying Section V, paragraph 9, relating to installation of a backup lake pump generator

**Attachments:** 1. Agenda Item, 2. Exhibit A, 3. Agreement A-18-236-1 Tract 4968 Subdivision

Date	Ver.	Action By	Action	Result
11/24/2020	1	Board of Supervisors	Consent Agenda be approved	Pass

**DATE:** November 24, 2020

**TO:** Board of Supervisors

**SUBMITTED BY:** Steven E. White, Director  
Department of Public Works and Planning

**SUBJECT:** First Amendment to Tract 4968 Subdivision Agreement (Developer: JPJ, Inc.)

### RECOMMENDED ACTION:

**Approve and authorize Chairman to execute First Amendment to Tract 4968 Subdivision Agreement No. 18-236, modifying Section V, paragraph 9, relating to installation of a backup lake pump generator.**

Tract 4968 is located on the south side of Millerton Road, within the Millerton Specific Plan area and is approximately eight miles northeast of the nearest city limits of the City of Fresno.

Your Board's approval of the recommended action will allow for the modification to a condition associated with Tract 4968 Subdivision Agreement ("Subdivision Agreement")-i.e., a permanent lake pump generator shall be in-place and prior to the County's issuance of a building permit for the 53<sup>rd</sup> home in Tract 4968 (Sec. V, par. 9). It is estimated to take two to three years for the Subdivider to complete the permanent lake pump generator.

Under the proposed First Amendment to the Subdivision Agreement, the modification will be:

- (1) the Subdivider will be required to purchase and make available for the County's use a temporary mobile pump and generator as an interim alternative method of compliance while a permanent lake pump generator is completed;
- (2) such County use of the temporary mobile pump and generator will commence prior to the County's issuance of a certificate of occupancy for any single family residence beyond the 53<sup>rd</sup> lot created by Tract 4968, or at a time as determined by the Director of Public Works and Planning (Director), whichever is earlier, and
- (3) prior to May 1, 2023, the Subdivider will, at its sole cost, be required to transfer to the County (or County Service Area No. 34 (CSA 34), if requested by the Director) ownership of the fully-operational permanent generator and fully-operational temporary mobile pump and generator.

Your Board's approval of the interim measure will provide for an alternative source of water for CSA 34 in the event of equipment or other failure, rather than just an alternative source of power. Your Board's approval will

also allow the Director to issue building permits beyond the current 52 building permit limit established by the existing Agreement. This item pertains to a location in District 5.

As of the date that this item was completed, the Subdivider is reviewing the proposed First Amendment, the unsigned form of which is on file with the Clerk of the Board. The Department is working with the Subdivider to secure its signature, and will submit the First Amendment, as signed by the Subdivider, to County Counsel for its approval as to legal form, prior to this item being heard by your Board. If such signature is not obtained in time, the Department will inform your Board when this item is being heard by your Board.

ALTERNATIVE ACTION(S):

Your Board may determine that the modification to the condition of the existing Subdivision Agreement is not acceptable. In doing so, the developer will continue to work towards the completion of the permanent backup lake pump generator as per the existing Subdivision Agreement.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. The Subdivider has paid an agreement administration fee of \$64,872.24 to cover the cost of the preparation of this agenda item and the administration and modification of all other agreements associated with Tract No. 4968.

DISCUSSION:

On May 1, 2018, the Board of Supervisors approved the final map and associated Subdivision Agreement 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 as shown on Exhibit A. The Subdivision Agreement requires the Subdivider to construct certain improvements that were not completed at the time of the County's approval of the final map for Tract 4968.

Under the terms of the Subdivision Agreement, the Subdivider is required, among other things, to have in a place and operational for CSA 34, a backup lake pump generator prior to the County's issuance of a building permit for the 53<sup>rd</sup> home in the development.

The Subdivider has been issued a total of 52 building permits and is unable to obtain any additional building permits until the pump generator condition is met.

The Subdivider, along with representatives from other developers in the Millerton Specific Plan area and Table Mountain Rancheria, collectively "Stakeholders", and the County, have been making progress towards obtaining approval for the placement of the generator within an area owned by United States Bureau of Reclamation. However, Staff estimates that final approval and installation will take two to three years.

As an interim alternative to the backup lake pump generator, the Subdivider is willing to purchase and deploy as needed, a temporary mobile pump and generator, capable of supplying the full needs of the CSA, until such time as the permanent backup lake pump generator is completed. The Subdivider also will continue to work towards timely fulfilling the backup lake pump generator requirement.

Therefore, the recommended First Amendment provides for the following modifications to Section V, paragraph 9 of the Subdivision Agreement:

1. As an interim alternative, the Subdivider will be required to deliver the temporary mobile pump and generator to the County, at any location of the Director's choosing, within five miles of Millerton Lake, within 48 hours' notice by the Director that an emergency situation exists for the CSA 34 water delivery system.

2. The Subdivider will be responsible for all costs associated with the temporary mobile pump and generator, except for the County's cost of its use.
3. The Director may issue, at his or her sole and absolute discretion, additional building permits for single family residences, beyond 52 and up to the 106 lots that were created by Tract 4968, based upon the following key conditions:
  - a. Subdivider's measurable progress made towards satisfying the requirements of Section V, paragraph 9, for the permanent generator, and the Subdivider is not in default under the Subdivider Agreement.
  - b. The temporary mobile pump and generator has been approved by the Director for purchase by the Subdivider, and will be made available for the County's use, commencing prior to the County's issuance of a certificate of occupancy for any single family residence beyond the 53<sup>rd</sup> lot created by Tract 4968, or at a time as determined by the Director, whichever is earlier, and continuing at all times until the Director accepts the permanent generator.
4. Prior to May 1, 2023, the Subdivider shall, at its sole cost, transfer to the County (or CSA 34, if requested by the Director) ownership of the fully-operational permanent generator and fully-operational temporary mobile pump and generator.

Staff supports this proposed alternative, because it provides an alternative source of pumping water from Millerton Lake and not just an alternative source of power. Due to past mechanical or electrical failures within the system, the CSA has utilized this type of system in the past and it has proven to be successful.

REFERENCE MATERIAL:

BAI#17, May 1, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A Location Map  
On file with Clerk - Amendment No. 1 (Subdivision Agreement 18-236)

CAO ANALYST:

Samantha Buck