

AGREEMENT BY AND AMONG THE COUNTY OF SAN BENITO AND
SAN JUAN OAKS, LLC

THIS AGREEMENT ("Agreement") is entered into by and among the County of San Benito, a political subdivision of the State of California ("County") and San Juan Oaks, LLC, a California limited liability company ("SJO").

WHEREAS, pursuant to section 2.6 of the Development Agreement (DA) previously entered into by the County, Pulte and SJO (collectively "Owners"), Owners agreed to pay County a "Community Benefit Fee" ("CBF") to County in installments totaling \$5,559,000; and

WHEREAS, pursuant to section 3.2 and Exhibit 9 of the DA, Owners agreed to pay certain Development Impact Fees, the amounts of which were to be fixed for a term of seven and one-half years ("Lock Term") measured from December 3, 2015 ("Effective Date"); and

WHEREAS, pursuant to section 2.7 of the DA, Owners agreed to offer to dedicate to County an approximately two (2) acre site to be used by County for a public safety facility (Public Safety Facility Site), with such offer of dedication terminating and the Public Safety Facility site reverting to Owners, if County has not accepted said offer of dedication and commenced construction of a public safety facility within fifteen (15) years of the offer of dedication; and

WHEREAS, Pulte is no longer an Owner under the DA, which has resulted in a delay of the development contemplated by the DA; and

WHEREAS, SJO anticipates contracting with a replacement Owner in the near future; and

WHEREAS, SJO and County desire to adjust the Agreement to account for the development delay, assure the County it will receive the CBF in a timely manner and compensate the County for this adjustment.

THEREFORE, the Parties agree as follows:

1. At Owners' sole discretion, Owners may elect to pay the entire CBF, upon the date the first residential building permit is pulled, or March 31, 2021, whichever date occurs first ("Trigger Date"). If Owners makes such an election, then Owners shall pay an additional \$500,000 to County, bringing the total CBF to \$6,059,000. If Owners do not make this election, sections 2.6, 2.7 and 3.2 in the DA remain in full force and effect, except as modified in section 3, below.
2. If Owners make such an election, then County shall extend the Lock Term ("e.g. Fee Vesting Time Period") for the Development Impact Fees to run seven and one-half years, with the Lock Term commencing six months following the Trigger Date.
3. Owners' offer of dedication of the Public Safety Facility Site shall remain open, and shall not terminate fifteen (15) years following the offer. Should County accept Owners offer of dedication for the Public Safety Facility Site, but subsequently decide to sell said site, County shall give Owners the right of first refusal to purchase said site back from the County at then-prevailing fair market price, as may be determined by a mutually agreed upon appraiser.
4. Owners shall advise the County of its election regarding the CBF no later than sixty days prior to pulling the first building permit, and in no event later than sixty days prior to March 31, 2021. If Owners make the election to pay the entire CBF at once, pursuant to paragraph 1 above, that election shall be final.

5. Exhibit "9" of the DA does not alter Owners' obligations with respect to the payment of school impact fees, if any, which may be owed as a result of the project development. School impact fees are not included in any increased Lock Term.

6. Owners shall defend, indemnify, and hold County free and harmless from any and all third party suits, claims, demands, causes of action, proceedings (hereinafter collectively referred to as "Legal Actions"), fees, costs, losses, damages, liabilities and expenses (including, but not limited to, an award of attorneys' fees, expert witness fees, and court costs) incurred by County in connection with any Legal Actions related to this Agreement. If this Agreement is determined by a Court to be invalid or unenforceable, this Agreement shall automatically terminate and be of no force and effect.

7. All other terms of the Agreement remain in full force and effect, and are binding upon the Parties, their successors in interest and assigns.

San Juan Oaks, A California limited liability company

By: _____

Its: _____

Date: _____

County of San Benito

By: _____
Anthony Botelho, Chair

Date: _____