

RESOLUTION NO. 24-__

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENIFEE
ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2024-1 OF
THE CITY OF MENIFEE (BANNER PARK II), AUTHORIZING THE
LEVY OF A SPECIAL TAX THEREIN, CALLING AN ELECTION AND
APPROVING AND AUTHORIZING CERTAIN ACTIONS RELATED
THERETO**

WHEREAS, the City Council (the “City Council”) of the City of Menifee (the “City”) has heretofore adopted Resolution No. 24-1447 stating its intention to form Community Facilities District No. 2024-1 (Banner Park II) of the City of Menifee (“Community Facilities District No. 2024-1” or the “District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the “Act”); and

WHEREAS, a copy of Resolution No. 24-1447 setting forth a description of the proposed boundaries of Community Facilities District No. 2024-1, the facilities and incidental expenses to be financed by the District and the rate and method of apportionment of the special tax proposed to be levied within the District is on file with the City Clerk; and

WHEREAS, notice was published and mailed to all landowners of the land proposed to be included within the District as required by law relative to the intention of this City Council to form proposed Community Facilities District No. 2024-1 and to levy a special tax (the “Special Tax”) and to incur bonded indebtedness in the amount of up to \$15,000,000 therein to finance the facilities and incidental expenses described in Resolution No. 24-1447; and

WHEREAS, on August 7, 2024, this City Council conducted a noticed public hearing as required by law relative to the proposed formation of Community Facilities District No. 2024-1, the levy of the Special Tax therein and the issuance of bonded indebtedness by the District; and

WHEREAS, at the August 7, 2024, public hearing there was filed with this City Council a report containing a description of the facilities necessary to meet the needs of the District and an estimate of the cost of such facilities as required by Section 53321.5 of the Act (the “Engineer’s Report”); and

WHEREAS, at the August 7, 2024, public hearing all persons desiring to be heard on all matters pertaining to the formation of Community Facilities District No. 2024-1, the levy of the Special Tax and the issuance of bonded indebtedness were heard and full and fair hearings were held; and

WHEREAS, following the public hearing, this City Council has determined to authorize the formation of the District to finance the types of facilities (the “Facilities”) and the incidental expenses (the “Incidental Expenses”) set forth in Exhibit A hereto, which are described in more detail in the Engineer’s Report; and

WHEREAS, at the public hearing evidence was presented to this City Council on the matters before it, and the proposed Special Tax to be levied within the District was not precluded by a majority protest of the type described in Section 53324 of the Act, and this City Council at the conclusion of the hearing was fully advised as to all matters relating to the formation of the District, the levy of the Special Tax and the issuance of bonded indebtedness therein; and

WHEREAS, this City Council has determined, based on a Certificate of Registrar of Voters of the County of Riverside on file in the office of the City Clerk, that no registered voters have been residing in the proposed boundaries of Community Facilities District No. 2024-1 for each of the 90 days

prior to August 7, 2024, and that the qualified electors in Community Facilities District No. 2024-1 are the landowners within the District; and

WHEREAS, on the basis of all of the foregoing, this City Council has determined to proceed with the establishment of Community Facilities District No. 2024-1 and to call an election therein to authorize (i) the levy of the Special Tax pursuant to the rate and method of apportionment of the special tax, as set forth in Exhibit C to Resolution No. 24-1447 (the “Rate and Method”), (ii) the issuance of bonds to finance the Facilities and Incidental Expenses, and (iii) the establishment of an appropriations limit for Community Facilities District No. 2024-1; and

WHEREAS, in order to facilitate the funding of the Facilities, the legislative body of the District desires to enter into an Acquisition, Construction and Funding Agreement (the “Agreement”) with Pulte Home Company, LLC, a Michigan limited liability company (“Pulte”) and the form of the Agreement is on file with the City Clerk; and

WHEREAS, in connection with the proposed formation of the District, the City proposes to enter into a Joint Community Facilities Agreement with Eastern Municipal Water District (the “Water District”) and Pulte, and a Joint Community Facilities Agreement with the Menifee Union School District (the “School District”) and Pulte, relating to certain facilities proposed to be financed by the District and owned and operated by the Water District and the School District (each a “JFCA” and together, the “JCFAs”), and the forms of the JCFAs are on file with the City Clerk.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Menifee, California, hereby finds, determines and orders as follows:

Section 1. Each of the above recitals is true and correct.

Section 2. A community facilities district to be designated “Community Facilities District No. 2024-1 (Banner Park II) of the City of Menifee” is hereby established pursuant to the Act. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the District were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

Section 3. The boundaries of Community Facilities District No. 2024-1 are established as shown on the map designated “Community Facilities District No. 2024-1 (Banner Park II) City of Menifee, County of Riverside, State of California”, which map is on file in the office of the City Clerk and was recorded pursuant to Sections 3111 and 3113 of the Streets and Highways Code in the County Book of Maps of Assessment and Community Facilities Districts in the Assessor-County Clerk-Recorder’s office of the County of Riverside in Book No. 93 Page No. 41 on June 24, 2024 as Instrument No. 2024-0181093.

Section 4. The types of Facilities and Incidental Expenses authorized to be provided for Community Facilities District No. 2024-1 are those set forth in Exhibit A attached hereto. The estimated cost of the Facilities and Incidental Expenses to be financed is set forth in the Engineer’s Report, which estimates may change as the Facilities are designed and bid for construction and acquisition, as applicable.

The City is authorized by the Act to contribute revenue to, or to construct or acquire the Facilities, all in accordance with the Act. The City Council finds and determines that the proposed Facilities are necessary to meet the increased demand that will be placed upon local agencies and public infrastructure as a result of new development within the

District and that the Facilities to be financed, including those to be financed pursuant the JCFA's to be entered into with the Water District and the School District, benefit residents of the City and the future residents of the District.

Section 5.

Except where funds are otherwise available, it is the intention of this City Council, subject to the approval of the eligible voters of the District, to levy annually a Special Tax at the rates set forth in the Rate and Method on all non-exempt property within the District sufficient to pay for (i) the Facilities, (ii) the principal and interest and other periodic costs on the bonds proposed to be issued to finance the Facilities and Incidental Expenses, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity facility fees and other expenses of the type permitted by Section 53345.3 of the Act; and (iii) the Incidental Expenses. The District expects to incur, and in certain cases has already incurred, Incidental Expenses in connection with the creation of the District, the issuance of bonds, the levying and collecting of the Special Tax, the completion and inspection of the Facilities and the annual administration of the bonds and the District. The Rate and Method is described in detail in Exhibit C to Resolution No. 24-1447 and incorporated herein by this reference, and the City Council hereby finds that the Rate and Method contains sufficient detail to allow each landowner within the District to estimate the maximum amount that may be levied against each parcel. As described in greater detail in the Engineer's Report, which is incorporated by reference herein, the Special Tax is based on the expected demand that each parcel of real property within Community Facilities District No. 2024-1 will place on the Facilities and on the benefit that each parcel will derive from the right to access the Facilities and, accordingly, is hereby determined to be reasonable. The Special Tax shall be levied on each assessor's parcel in accordance with the Rate and Method provided, however, that the Special Tax shall not be levied after Fiscal Year 2067-68. The Special Tax is apportioned to each parcel on the foregoing bases pursuant to Section 53325.3 of the Act and such Special Tax is not on or based upon the ownership of real property or the assessed value of real property.

If Special Taxes of the District are levied against any parcel used for private residential purposes, (i) the maximum Special Tax rate shall be specified as a dollar amount which shall be calculated and established not later than the date on which the parcel is first subject to the Special Tax because of its use for private residential purposes and shall not be increased over time except as authorized under the Rate and Method, (ii) the Special Tax shall not be levied after Fiscal Year 2067-68, and (iii) under no circumstances will the Special Tax levied against any such parcel used for private residential uses be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the District by more than ten percent above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults.

The City Manager of the City of Menifee, or his or her designee, will be responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

Section 6.

In the event that a portion of the property within Community Facilities District No. 2024-1 shall become for any reason exempt, wholly or partially, from the levy of the Special Tax specified in the Rate and Method, or in the event of delinquencies in the payment of Special Taxes levied, the City Council shall, on behalf of Community Facilities District No. 2024-1, increase the levy to the extent necessary and permitted by law and these

proceedings upon the remaining property within Community Facilities District No. 2024-1 which is not exempt or delinquent in order to yield the required debt service payments on any outstanding bonds of the District, or to prevent the District from defaulting on any of its other obligations or liabilities; provided, however, under no circumstances will the Special Tax levied against any parcel used for private residential uses be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the District by more than ten percent above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. The amount of the Special Tax will be set in accordance with the Rate and Method. The obligation to pay Special Taxes may be prepaid only as set forth in Section G of the Rate and Method.

Section 7. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all non-exempt real property in the District and this lien shall continue in force and effect until the Special Tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the Special Tax by the District ceases.

Section 8. Consistent with Section 53325.6 of the Act, the City Council finds and determines that the land within Community Facilities District No. 2024-1, if any, devoted primarily to agricultural, timber or livestock uses and being used for the commercial production of agricultural, timber or livestock products is contiguous to other land within Community Facilities District No. 2024-1 and will be benefited by the Facilities proposed to be provided within Community Facilities District No. 2024-1.

Section 9. It is hereby further determined that there is no *ad valorem* property tax currently being levied on property within proposed Community Facilities District No. 2024-1 for the exclusive purpose of paying the principal of or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which provide the same services to the territory of Community Facilities District No. 2024-1 as are proposed to be provided by the Facilities to be financed by Community Facilities District No. 2024-1.

Section 10. Written protests against the establishment of the District have not been filed by one-half or more of the registered voters within the boundaries of the District or by the property owners of one-half (1/2) or more of the area of land within the District. The City Council hereby finds that the proposed Special Tax has not been precluded by a majority protest pursuant to Section 53324 of the Act.

Section 11. An election is hereby called for Community Facilities District No. 2024-1 on the propositions of levying the Special Tax on the property within Community Facilities District No. 2024-1 and establishing an appropriations limit for the District pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness, pursuant to Sections 53351 and 53353.5 of the Act. The language of the propositions to be placed on the ballot is attached hereto as Exhibit B.

Section 12. The date of the election for Community Facilities District No. 2024-1 on the propositions of incurring the bonded indebtedness, authorizing the levy of the Special Tax and establishing an appropriations limit for the District shall be August 7, 2024, or such later

date as is consented to by the City Clerk or Deputy City Clerk (referred to herein as the "City Clerk") of the City of Menifee; provided that, if the election is to take place sooner

than 90 days after August 7, 2024, then the unanimous written consent of each qualified elector within the District to such election date must be obtained. The polls shall be open for said election immediately following the close of the public hearing on August 7, 2024. The election shall be conducted by the City Clerk. Except as otherwise provided by the Act, the election shall be conducted in accordance with the provisions of law regulating elections of the City of Menifee insofar as such provisions are determined by the City Clerk to be applicable. The City Clerk is authorized to conduct the election following the adoption of this resolution, and all ballots shall be received by, and the City Clerk shall close the election by, 11:00 p.m. on the election day; provided the election shall be closed at such earlier time as all qualified electors have voted as provided in Section 53326(d) of the Act. Pursuant to Section 53326 of the Act, the ballots for the special election shall be distributed in person, or by mail with return postage prepaid, to the qualified electors within Community Facilities District No. 2024-1. The City Clerk has secured a certificate from the Registrar of Voters of the County of Riverside certifying that there were no registered voters within the District as of June 12, 2024. Accordingly, since there were fewer than 12 registered voters within the District for each of the 90 days preceding August 7, 2024, the qualified electors shall be the landowners within the District and each landowner, or the authorized representative thereof, shall have one vote for each acre or portion thereof that such landowner owns within Community Facilities District No. 2024-1, as provided in Section 53326 of the Act. The landowner within the District has executed and delivered a waiver of certain election law requirements and consenting to the holding of the election on August 7, 2024, which waiver is on file with the City Clerk.

Section 13. The preparation of the Engineer's Report is hereby ratified. The Engineer's Report, as submitted, is hereby approved and was made a part of the record of the public hearing regarding the formation of Community Facilities District No. 2024-1. The Engineer's Report is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

Section 14. The form of the Agreement on file with the City Clerk is approved as to form, and each of the City Manager, Chief Financial Officer, and their written designees, is authorized to execute the Agreement in substantially the form on file with the City Clerk, together with such changes as are approved by the officer executing the same, with the approval of such changes to be conclusively evidenced by the execution and delivery thereof.

Section 15. The forms of the JCFA's on file with the City Clerk are approved as to form, and each of the City Manager, Chief Financial Officer, and their written designees, is authorized to execute the JCFA's in substantially the forms on file with the City Clerk, together with such changes as are approved by the officer executing the same, with the approval of such changes to be conclusively evidenced by the execution and delivery thereof.

Section 16. This Resolution shall be effective upon its adoption.

{SIGNATURES ON NEXT PAGE}

PASSED, APPROVED AND ADOPTED this the 7th day of August 2024.

Bill Zimmerman, Mayor

Attest:

Stephanie Roseen, Acting City Clerk

Approved as to form:

Jeffrey T. Melching, City Attorney

EXHIBIT A

Types of Facilities to Be Financed by Community Facilities District No. 2024-1 (Banner Park II) of the City of Menifee

The proposed types of public facilities and expenses to be financed by the District include:

The construction, purchase, modification, expansion, rehabilitation and/or improvement of (i) drainage, library, park, street, roadway, traffic signal and streetlights, administration and general government facilities, animal shelter facilities, fire and public safety facilities, and other public facilities of the City, including the foregoing public facilities which are included in the City's fee programs with respect to such facilities and authorized to be financed under the Mello-Roos Community Facilities Act of 1982, as amended (the "City Facilities"); (ii) water and sewer facilities including the acquisition of capacity in the sewer system and/or water system of Eastern Municipal Water District which are included in Eastern Municipal Water District's water and sewer capacity and connection fee programs (the "Water District Facilities"), (iii) interim and permanent school facilities of Menifee Union School District, including classrooms, multi-purpose facilities, administration and auxiliary space at school facilities, athletic fields, playgrounds and recreational facilities and improvements thereto, landscaping, access roadways, drainage, sidewalks and gutters and utility lines, furniture, equipment and technology, including technology upgrades and mobile devices and infrastructure therefore, with a useful life of at least five (5) years at such school facilities, including such school facilities of Menifee Union School District which are included in Menifee Union School District's school fee program (the "School Facilities"), and (iv) electrical utility undergrounding and dry utilities (the "Utilities" and together, with the City Facilities, the Water Facilities, and the School Facilities, the "Facilities"), and all appurtenances and appurtenant work in connection with the foregoing Facilities, including the cost of engineering, planning, designing, materials testing, coordination, construction staking, construction management and supervision for such Facilities, and to finance the incidental expenses to be incurred, including:

- a. The cost of engineering, planning and designing the Facilities;
- b. All costs, including costs of the property owner petitioning to form the District, associated with the creation of the District, the issuance of the bonds, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the District; and
- c. Any other expenses incidental to the construction, acquisition, modification, rehabilitation, completion and inspection of the Facilities.

Capitalized terms used and not defined herein shall have the meaning set forth in the Rate and Method of Apportionment of Special Taxes for the District.

EXHIBIT B

BALLOT PROPOSITIONS

**COMMUNITY FACILITIES DISTRICT NO. 2024-1 (BANNER PARK II)
OF THE CITY OF MENIFEE**

SPECIAL TAX AND SPECIAL BOND ELECTION

PROPOSITION A: Shall Community Facilities District No. 2024-1 (Banner Park II) of the City of Menifee (the "District") incur an indebtedness and issue bonds in the maximum principal amount of \$15,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Incidental Expenses described in Resolution No. 24-1447 of the City Council of the City of Menifee?

YES_____

NO_____

PROPOSITION B: Shall a special tax with a rate and method of apportionment as provided in Resolution No. 24-1447 of the City Council of the City of Menifee be levied to pay for the Facilities, Incidental Expenses and other purposes described in Resolution No. 24-1447, including the payment of the principal of and interest on bonds issued to finance the Facilities and Incidental Expenses?

YES_____

NO_____

PROPOSITION C: For each year commencing with Fiscal Year 2024-25, shall the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, for the District be an amount equal to \$4,000,000?

YES_____

NO_____