

**AGREEMENT  
TRACT 28794 / PARK SITE  
FOR PRECISE GRADING & LANDSCAPE PROJECTS  
GP18-026P**

This Agreement, made and entered into by and between the City of Menifee, State of California, herein called City, and Lennar Homes of California, Inc., A California Corporation, hereinafter called Developer.

**WITNESSETH**

**FIRST:** Developer, for and in consideration of the approval of a grading plan and the issuance of a grading permit on that certain land division known as **Lennar Homes of California, Inc.**, A California Corporation, agrees, at Developer's own cost and expense, to furnish all labor, equipment, and material necessary to perform and complete, and within **24** months from the date this agreement is executed, to perform and complete in a good and workmanlike manner, said grading in accordance with the grading plans for the development of said land division which have been approved by the, City Engineer, and are on file in the City, and do all work incidental thereto in accordance with the standards set forth in Riverside County Ordinance No. 457, as amended, which are expressly made a part of this agreement. All of the above required work shall be done under the inspection of and to the satisfaction of the City Engineer and shall not be deemed complete until approval of the grading project is made by the City Engineer. The estimated cost of said work is the sum of **One Million Eight Hundred Forty Two Thousand and no/100**, Dollars **\$ 1,842,000.00** which covers ☐ rough grading only, ☒ precise (fine) grading and Landscape only, ☐ both rough and precise (fine) grading.

**SECOND:** Developer agrees to pay to the City the actual cost of such inspections of the work as may be required by the City Engineer. Landowner further agrees that if suit is brought upon this agreement or any security guaranteeing the completion of the work, all costs and reasonable expenses and fees incurred by the City in successfully enforcing such obligations shall be paid by Developer, including reasonable attorney's fees, and that upon entry of judgment, such costs, expenses, and fees shall be taxed as costs and included in any judgment rendered.

**THIRD:** City shall not nor shall any officer or employee of City, be liable or responsible for any accident, loss or damage happening or occurring to the works specified in this agreement prior to the completion and approval hereof, nor shall City or any officer or employee thereof be liable for any persons or property injured by reason of the acts or omissions of Developer, his agents or employees in the performance of the work, and all of said liabilities are assumed by Developer. Developer agrees to protect, defend and hold harmless City and the officers and employees thereof from all loss, liability or claim because of, or arising out of the acts or omissions of Developer, his agents and employees, in the performance of this agreement, or arising out of the use of any patent or patented article in the performance of this agreement.

**FOURTH:** The Developer hereby grants to the City, and to any agent or employee of the City, the irrevocable permission to enter, upon the lands of the above referenced land division for the purpose of inspecting or completing the grading project. This permission shall terminate in the event that Developer has completed the work within the time specified or any extension thereof granted by the City Engineer.

FIFTH: Developer agrees at all times, up to the completion and approval of the work by the City Engineer, to give good and adequate warning to the traveling public of each and every dangerous condition caused by the grading project, and to protect the traveling public from such defective or dangerous conditions.

SIXTH: The Developer, or his agents and employees shall give notice to the City Engineer at least 48 hours before beginning any work and shall furnish said City Engineer all reasonable facilities for obtaining full information respecting the progress and manner of work.

SEVENTH: If the Developer, or his agents or employees, neglects, refuses, or fails to prosecute the work with such diligence as to insure its completion within the specified time, or within such extensions of time as have been granted by the City Engineer, or if the Developer violates, neglects, refuses, or fails to perform satisfactorily any of the provisions of the plans and specifications, he shall be in default of this agreement. The City Engineer shall have the power to terminate all rights of the Developer because of such default. The determination of the City Engineer of the question as to whether any of the terms of this agreement or the plans and specifications have been violated or have not been performed satisfactorily shall be conclusive upon the Developer, and any and all parties who may have any interest in the agreement or any portion thereof. The foregoing provisions of this section shall be in addition to all rights and remedies available to the City under law.

EIGHTH: The Developer agrees to file with City prior to the date this agreement is executed a good and sufficient security as provided in subsections (1), (2) and (3) of subdivision (a) of Section 66499 of the Government Code in any amount not less than the estimated cost of the work for the faithful performance of the terms and conditions of this agreement, except that when the estimated cost of said work is \$2,500 or less, the security shall be a deposit of cash or its equivalent as determined acceptable by the City Engineer. Developer further agrees that if in the opinion of the City Engineer the security becomes insufficient, Landowner agrees to renew each and every security with good and sufficient sureties or increase the amount of the security, within ten days after being notified by the City Engineer that the sureties or amounts are insufficient.

Notwithstanding any other provision herein, if Developer fails to take such action as is necessary to comply with said notice, he shall be in default of this agreement unless all required works completed within 90 days of the date on which the City Engineer notifies the Developer of the insufficiency of the sureties or the amount of the bonds or both.

NINTH: It is further agreed by and between the parties hereto, including the surety or sureties on the bonds or the issuers of any instruments or letters or credit securing this agreement that, in the event it is deemed necessary to extend the time of completion of the work contemplated to be done under this agreement, extensions of time may be granted from time to time by the City Engineer either at his own option or upon request of the Developer, and such extensions shall in no way affect the validity of this agreement or release the surety or sureties on said bonds. Landowner further agrees to maintain the aforesaid bond or bonds or the issuance of any instruments or letters of credit in full force and effect during the terms of this agreement, including any extensions of time as may be granted thereon.

TENTH: Since the work described in the first paragraph of this agreement consists of only rough or precise grading, upon the satisfactory completion and final approval of said work by the City Engineer, \$1,842,000.00 of the security applicable thereto shall be released or returned by the City to the Developer within 30 days..

ELEVENTH: This agreement shall be binding upon the Developer and his heirs, executors, administrators, successors or assigns, all and each both jointly and severally.

TWELFTH: It is understood and agreed by the parties hereto that if any part, term or provision of this agreement is determined by the Courts to be unlawful and void, the validity of the remaining portions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular part, term or provision held to be invalid. No waiver of any term or condition of this agreement shall be continuing waiver thereof.

THIRTEENTH: The grading operation will conform to the contract documents and the Department of Building and Safety, County of Riverside Grading Notes (2007 CBC), attached. Any conflict or discrepancy between the drawings and the Grading Notes shall be brought to the attention of the City Engineer who will issuing a ruling.

FORTEENTH: The grading operation shall obtain a General Construction Permit from the California Water Quality Control Board and conform to all requirements. This permit shall override any conflicting requirements in the Grading Notes (2007 CBC), attached

FIFTEENTH: The Developer shall provide geotechnical quality control of the grading operation according to Sections 300 and 301 of the latest edition of the Standard Specifications for Public Works Construction. The geotechnical quality control will be under the supervision of a registered geotechnical engineer in the State of California.

SIXTEENTH: The City may elect to perform geotechnical quality assurance of the grading operation which will be compensated as provided in the SECOND paragraph.

SEVENTEENTH: The Developer agrees to grant free access to the City Engineer, his staff and consultants to perform inspections and quality assurance sampling and tests.

EIGHTEENTH: Any notice or notices required or permitted to be given pursuant to this agreement shall be served on the other party by mail, postage prepaid, at the following addresses:

NINETEENTH: This agreement contains the entire agreement of the parties as to the matters set forth herein. No waiver of any term or condition of this Agreement shall be continuing waiver thereof.

**CITY**

City of Menifee  
29844 Haun Road  
Menifee, CA 92586

**Developer**

Lennar Homes of California, Inc.  
980 Montecito Dr. Suite 206  
Corona, CA 92879

IN WITNESS WHEREOF, LANDOWNER HAS AFFIXED HIS NAME, ADDRESS AND SEAL.

Dated: March 5<sup>th</sup>, 2021

By: Lennar Homes of California, Inc.  
A California Corporation

  
\_\_\_\_\_  
Geoffrey Smith, Vice President

Dated: 6/9, 2021

CITY OF MENIFEE

By:   
\_\_\_\_\_  
Yolanda Macalalad, Acting City Engineer

**SIGNATURES OF OWNER MUST BE AKNOWLEDGED BY NOTARY  
AND EXECUTED IN TRIPLICATE**

## ACKNOWLEDGMENT

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  
County of Riverside

On March 5, 2021 before me, Jodie Atha, Notary Public  
(insert name and title of the officer)

personally appeared Gustrey Smith  
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

Jodie Atha

(Seal)

