

**RESOLUTION No. 22-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENIFEE APPROVING A TEMPORARY DEFERRAL OF ENFORCEMENT OF CONDITIONS OF APPROVAL FOR TRACT MAPS 28786, 28791, 28792, 28793, AND 28794 RELATING TO PUBLIC PARK DEDICATION REQUIREMENTS IN PLANNING AREA 6B AND APPROVING AN AMENDMENT TO THE QUIMBY PARK MITIGATION AGREEMENT BY AND BETWEEN THE CITY OF MENIFEE (AS SUCCESSOR IN INTEREST TO COUNTY SERVICE AREA 145) AND LENNAR HOMES OF CALIFORNIA, LCC (AS SUCCESSOR IN INTEREST TO PACIFIC COMMUNITIES) FOR DEDICATION OF PUBLIC PARKS**

**WHEREAS**, on or about July 17, 2001, the County of Riverside ("County") approved Tentative Tract Map Nos. 28786, 28787, 28788, 28789, 28790, 28791, 28792, 28793, and 28794 ("TTM 28786-28794"); and

**WHEREAS**, TTM 28786-28794 are located within the Newport Estates Specific Plan (also known as Specific Plan #140); and

**WHEREAS**, certain conditions of approval for TTM 28786-28794 impose timing requirements for the design, construction, and acceptance of a public park in Planning Area 6B of Specific Plan #140-W, a copy of those conditions of approval are attached hereto as Exhibit A; and

**WHEREAS**, in or around August 2007, Pacific Communities, as developer, and County's County Service Area 145 ("CSA 145") entered into a Quimby Park Mitigation Agreement for the Dedication of Public Parks in the area covered by Specific Plan #140-W, which includes Planning Area 6B (the "Quimby Agreement"), a copy of the Quimby Agreement is attached hereto as Exhibit B; and

**WHEREAS**, effective October 1, 2008, the City of Menifee ("City") incorporated as a general law city; and

**WHEREAS**, since the City's incorporation, Specific Plan #140-W and TTM 28786-28794 have been located within the City's jurisdiction, CSA 145 has been dissolved, and the City became the successor in interest to CSA 145 (see LAFCO Resolution No. 113-07, adopted October 25, 2007); and

**WHEREAS**, on or about November 18, 2015, pursuant to City Council Resolution No. 15-487, enforcement of some of the timelines in the conditions of approval for TTM 28786-28794 were temporarily deferred; and

**WHEREAS**, on or about November 18, 2015, pursuant to City Council Resolution No. 15-487, the Quimby Agreement was revised to extend the deadlines set forth therein for the public park in Planning Area 6B of Specific Plan #140-W as stated in the First Amendment to Quimby Mitigation Agreement for the Dedication of Public Parks in the area covered by Specific Plan #140-W, which includes Planning Area 6B ("First Amendment to the Quimby Agreement"), a copy of the First Amendment to the Quimby Agreement is attached hereto as Exhibit C; and

**WHEREAS**, in or about September 2020, Lennar Homes of California, LLC, (“Lennar”) acquired from Pacific Communities property within TTM 28786-28794 and became the successor in interest to Pacific Communities for purposes of the Quimby Agreement and the First Amendment to the Quimby Agreement; and

**WHEREAS**, based on the timelines, as amended in November 2015, the City cannot issue any additional building permits to Lennar within TTM 28786, 28791, 28792, 28793, and 28794 until the public park in Planning Area 6B of Specific Plan #140-W is completed; and

**WHEREAS**, Lennar has received City approval of construction plans for the public park in Planning Area 6B and has provided the required performance security; and

**WHEREAS**, Lennar has requested the City extend the deadline set forth in the conditions of approval for TTM 28786, 28791, 28792, 28793, and 28794 and the Quimby Agreement, as revised by the First Amendment to the Quimby Agreement; and

**WHEREAS**, Lennar has stated to City staff that that Lennar will work expeditiously with City staff to complete park construction by May 2023 and finish the 90-day maintenance period to turn over the park to the City by August 2023; and

**WHEREAS**, Lennar has provided the City a Letter of Credit in the amount of \$3,836,256.90 to ensure the completion of the park dedicated to Planning Area 6B of Specific Plan #140-W. The additional assurance of the Letter of Credit is above and beyond the park completion performance security bond of \$2.7 million; and

**WHEREAS**, Lennar has requested the City Council further amend the schedule for the public park in Planning Area 6B of Specific Plan #140-W as follows:

Stage of Public Park	Planning Area 6B (Future 5.52 acres) As amended in November 2015	Current Request from Lennar
Park Construction Complete & Open to Public	Before issuance of 500 <sup>th</sup> building permit	Before issuance of the <b>700<sup>th</sup></b> building permit
Park Turnover to City	Before issuance of the 550 <sup>th</sup> occupancy permit or 90 days after construction is complete	Before issuance of the <b>625<sup>th</sup></b> occupancy permit or 90 days after construction is complete

**NOW, THEREFORE**, the City Council of the City of Menifee does hereby resolve as follows:

**Section 1.** The City Council hereby approves and authorizes the City Manager to execute the Second Amendment to the Quimby Agreement, attached hereto as Exhibit D.

**Section 2.** Provided Lennar and its assigns and successors in interest comply with the timing requirements set forth in the Second Amendment to the Quimby Agreement (as summarized in the table below), the City Council hereby authorizes City staff to temporarily defer enforcement of the timing requirements for the construction and acceptance of the public park in Planning Area 6B of Specific Plan #140-W set forth in the conditions of approval for TTM 28786, 28791, 28792, 28793, and 28794, attached hereto as Exhibit A.

Stage of Public Park	Current Request from Lennar
Park Construction Complete & Open to Public	Before issuance of the <b>700<sup>th</sup></b> building permit
Park Turnover to City	Before issuance of the <b>625<sup>th</sup></b> occupancy permit or 90 days after construction is complete

**Section 3.** If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the Resolution would be subsequently declared invalid or unconstitutional.

**Section 4.** The provisions of this Resolution shall become effective immediately upon its adoption.

**Section 5.** The City Clerk of the City of Menifee shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED THIS 16th DAY OF NOVEMBER, 2022.

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Bill Zimmerman, Mayor

ATTEST:

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Kay Vinson, Acting City Clerk

Approved as to form:

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Jeffrey T. Melching, City Attorney