City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Regular Agenda

Ord. No. 1879 Reso. No 2022-001

Tuesday, January 25, 2022

7:00 PM

WORKSHOP	**5:00 P.M.**
CLOSED SESSION	**6:00 P.M.**
REGULAR MEETING	**7:00 P.M.**

Grover W. Taylor Council Chambers

City Council Meeting

Acquanetta Warren - Mayor
Peter A. Garcia- Mayor Pro Tem
Phillip W. Cothran - Council Member
John B. Roberts - Council Member
Jesus "Jesse" Sandoval - Council Member
Tonia Lewis - City Clerk
Janet Koehler-Brooks - City Treasurer

Welcome to a meeting of the Fontana City Council.

Welcome to a meeting of the Fontana City Council. A complete agenda packet is located in the binder on the table in the lobby of the Grover W. Taylor Council Chambers 8353 Sierra Avenue Fontana, CA 92335. To address the Council, please fill out a card located at the entrance to the right indicating your desire to speak on either a specific agenda item or under Public Communications and give it to the City Clerk. Your name will be called when it is your turn to speak. In compliance with Americans with Disabilities Act of 1990 (42 USC § 12132), the Grover W. Taylor Council Chambers 8353 Sierra Avenue Fontana, CA 92335 is wheelchair accessible, and a portable microphone is available. Upon request, this agenda will be made available in appropriate alternative forms to persons with disabilities, as required by Section 12132 of the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such a request to the City Clerk's Office at (909) 350-7602 at least 48 hours before the meeting, if possible. Any public record, relating to an open session agenda item, that is distributed within 72 hours prior to the meeting is available for public inspection in the Grover W. Taylor Council Chambers 8353 Sierra Avenue Fontana, CA 92335.

Traduccion en Español disponible a peticion. Favor de notificar al Departamento "City Clerk". Para mayor informacion, favor de marcar el numero (909) 350-7602.

WORKSHOP:

A. 5:00 P.M. City Council Workshop

(A) Police Department 2021 Annual Report (Chief Billy Green, to present); 21-1128
(B) Fire Annex Construction Concept (Deputy City Manager Phil Burum, to present);
(C) Fontana Honor Roll Organizing Committee: Veteran's Memorial (Interim City Manager Shannon Yauchzee, to present);
(D) Public Communications;
(E) Agenda Review; and
(F) City Manager Comments

PUBLIC COMMUNICATION - CLOSED SESSION:

This is an opportunity for citizens to speak to the City Council for up to 3 minutes on the following Closed Session. The Mayor and City Council reserve the right to adjust this time limit based on the number of speakers who wish to address the Mayor and City Council.

A. Public Communications - Closed Session

CLOSED SESSION:

A. 6:00 P.M. CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54957.6 21-1132
City Negotiator: Shannon Yauchzee, Interim City Manager and Rakesha Thomas,
Director of Human Resources and Risk Management
Employee Organization(s): Teamsters Local 1932 City Hall Bargaining Unit;
Teamsters Local 1932 Yard Bargaining Unit; Police Officers Association; and Management/Confidential Employees

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1)
Case: Anthony Ricci vs. City of Fontana Workers' Compensation
Claim Numbers: 201000006; 180900036

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Government Code section 54956.9(d)(4))
Initiation of litigation: One Potential Case

CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Gov. Code Section 54956.8)
Property: APN 01911-16-218
Agency Negotiator: Phillip Burum, Deputy City Manager
Negotiating parties: Carlos Sandoval
Under Negotiation: Price and terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Gov. Code Section 54956.8)
Property: APN 01911-16-242
Agency Negotiator: Phillip Burum, Deputy City Manager
Negotiating parties: Yolanda Geivett
Under Negotiation: Price and terms of payment

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of case: Sierra Club v. City of Fontana, et al. San Bernardino Superior Court
Case No. CIVSB2121605; and People of the State of California v. City of Fontana, et al. San Bernardino Superior Court Case No. CIVSB2121829

CALL TO ORDER/ROLL CALL:

A. 7:00 P.M. Call To Order/Roll Call:

INVOCATION/PLEDGE OF ALLEGIANCE:

A. Fontana Police Department Chaplain Greg Peck/Pledge of Allegiance:

Redistricting - Public Hearing #3

A. (A) Redistricting Draft Maps (National Demographic Corporation, Todd Tatum to present);
(B) Public Communications:
(C) Mayor and City Council Comments **21-1131**

Attachments: Public Hearing Presentation
Fontana Redistricting Public Hearing Notice #3
Fontana-NDC Map 101
Fontana-Map 101-Demographics
Fontana-NDC Map 102
Fontana-Map 102 -Demographics
Fontana-NDC Map 103
Fontana-Map 103-Demographics
Fontana-Public Map 401
Fontana-Public 401-Demographics
Fontana-Public 601-Map.pdf
Fontana-Public 601 (1)-Demographics.pdf

PROCLAMATION:

A. Mayor Warren and City Council to proclaim January as National Mentoring Month (Manager of Site Based Programs Megan Ramos,to accept). **21-1041**

SPECIAL PRESENTATIONS:

A. Mayor Warren and City Council to recognize retiring Public Works Director Keith Kramer (Deputy City Manager Phillip Burum to present). **21-1121**

B. Mayor Warren and City Council to recognize retiring Community Services Director Garth Nelson (Interim Deputy City Manager Ray Ebert to present).

C. Mayor Warren and City Council to recognize Officer Adrian Garcia as the Police Department's 2021 Employee of the Year (Chief Green to present).

D. Mayor Warren and City Council to recognize Corporal Valerie Gutierrez, Dispatch Supervisor Amy Blessinger, and Dispatchers Diana Zick and Melodi Mundrick as the Police Department's December 2021 Employees of the Month (Captain Burton and Captain Stover to present).

E. Mayor Warren and City Council to recognize Armando Martinez, Benjamin Parra, Ivan Torres and William Byrne as Public Works Department 2021 Employees of the Year (Public Works Manager Dan West to present).

F. Mayor Warren and City Council to swear in new Fontana Police Officers Cody Chick, Edward Lopez, Brandon McCaulley, Sean Olson, and Jorge Trujillo (Chief Green to present).

G. Mayor Warren and City Council to recognize Deputy City Clerk Ashton R. Arocho on recent Master Municipal Clerk (MMC) designation (Interim Deputy City Manager Ray Ebert to present).

H. Special Recognition of Council Members Phillip Cothran and Jesse Sandoval's Birthdays (Mayor Warren to present).

PUBLIC COMMUNICATIONS:

This is an opportunity for members of the public to address the City Council for up to three (3) minutes total on items either on the Agenda or items not on the Agenda, but within the City Council's jurisdiction. Note that Public Hearing items have individual and specific public input opportunities during the public hearing and testimony on those items will only be taken during the public hearing. The Council is prohibited by law from discussing or taking immediate action on non-agendized items. The Mayor and City Council reserve the right to adjust this time limit based on the number of speakers who wish to address the Mayor and City Council.

A. Public Communications

CONSENT CALENDAR:

All matters listed under CONSENT CALENDAR will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time Council votes on them, unless a member of the Council requests a specific item be removed from the Consent Calendar for discussion.

A. Approval of Minutes **21-1139**

Approve the minutes of the December 14, 2021, Regular City Council Meeting.

Attachments: Minutes - City Council Regular City Council Minutes 12.14.21

B. Adoption of Ordinance No.1876 **21-1134**

Second Reading/Adopt **Ordinance No. 1876**, an Ordinance of the City Council of the City of Fontana, California approving Municipal Code Amendment (MCA) No. 21-002 to amend Chapter 11 - Fire Prevention of the Municipal Code to (1) increase the minimum building square footage exception for requiring fire sprinklers, (2) require the installation of fire sprinklers or other appropriate fire suppression system as approved by the Fire Marshall for all buildings housing vehicles, and (3) allow installation of residential 13R or 13D fire sprinkler systems in place of commercial 13 systems for commercial buildings under 5,000 square feet.

Attachments: Ordinance No. 1876 - Fontana Fire Code Amendment

C. Adoption of Ordinance No.1878 **21-1122**

Second Reading/Adopt **Ordinance No. 1878** adding Article III to Chapter 7 of the Fontana Municipal Code, regarding mandate of electronic and paperless filing of Campaign Finance Disclosure Statements.

Attachments: Ordinance No.1878

D. Accept Donation From Fontana Foundation of Hope **21-1074**

Accept donation from Fontana Foundation of Hope in the amount of $5,000 for use towards the 2021 Festival of Winter.

Attachments: Fontana Foundation of Hope (Festival of Winter)

E. Accept Donation From Options for Youth **21-1075**

Accept donation from Options for Youth in the amount of $2,500 for use towards the 2021 Festival of Winter.

Attachments: Options for Youth (Festival of Winter)

F. Accept Donation From Kaiser Permanente **21-1076**

Accept donation from Kaiser Permanente in the amount of $1,000 for use towards the 2021 Let's Move on the Trail.

Attachments: Kaiser Permanente (Let's Move on the Trail).pdf

G. Accept Grant Award from Kaiser Permanente **21-1095**

Accept grant award from Kaiser Permanente in the amount of $14,000 for use towards Healthy Fontana's "The Awareness Project."

Attachments: Kaiser Permanente (The Awareness Project)

H. Approve a Bond Reduction for Tract No.'s 18825 and 18915 **21-1126**

Approve a reduction of the Faithful Performance and Labor and Materials bonds posted by RSI Communities-California, LLC for Tract No.'s 18825 and 18915 located at the northeast corner of Summit Avenue and Citrus Avenue.

Attachments: Vicinity Map
Tract Map - 18825
Tract Map - 18915

I. 311 Customer Relationship Management System (CRM) **21-1111**

1. Authorize the Purchasing Office to utilize the State of California Master Service Agreement (MSA) for IT Management and Consulting Services (MSA 5167010).

2. Approve and authorize the City Manager to execute a contract with 120VC for Project Management (MSA 5167010-330) for implementation of the 311 CRM System.

3. Authorize the purchase of the subscription service platform Customer Community from Salesforce.com, Inc. for (5) years.

Attachments: Salesforce City of Fontana 311 Quote
211210 120VC SOW - City of Fontana 311 SalesForceFullTime

J. 2021 Police Department Donations **21-1117**

Accept monetary and gift donations from multiple donors including community programs, businesses, and citizens.

Attachments: 21-1117 PD Donations

K. 2022 Statement of Investment Policy **21-1125**

1. Adopt the City of Fontana Statement of Investment Policy for 2022.

2. Adopt **Resolution No. 2022-___** designating City officers who are authorized to invest funds for the City of Fontana and repealing Resolution No. 2021-004.

Attachments: Resolution-nvestment Authorization
2022 Investment Policy

L. Homekey2 Project and Application Resolution **21-1124**

1. Approve an affordable housing project containing 10 to 14 units of interim housing for chronically homeless, homeless households, or households at risk of homelessness and up to seven units of market rate housing to be sited at most two Fontana Housing Authority and City of Fontana owned properties located at 8996 Olive Street and 8344 Bennett Avenue.

2. Adopt **Resolution No. 2022-_____**, a resolution of the City Council of the

City of Fontana authorizing application to and participation in the California Department of Housing and Community Development Homekey program.

3. Authorize the City Manager to execute and transmit any documents necessary or appropriate to ensure the City's timely submission of the Homekey application, inclusive of an Funding Commitment letter demonstrating the City's intent to commit Permanent Local Housing Allocation (PLHA) funds not to exceed $1,312,326 to support project operating expenses for up to 4-years, and the City's intent to commit up to $992,936 in development costs for non-assisted units from either PLHA or Housing Trust funds.

Attachments: City of Fontana Homekey Resolution.2
Unit Distribution by Target Population.docx

M. Purchase & Sale Agreement - Downtown Fontana Properties **21-1079**

1. Approve a Purchase & Sale Agreement for the sale of 16756 Arrow Blvd. and APN #019116208, two properties located on Arrow Blvd. in Downtown Fontana.

2. Authorize the City Manager to execute any documents necessary or appropriate to effectuate said approvals and/or agreement.

Attachments: Pina Furniture & Vacant Lot P&S Agreement.pdf

N. Resolution Ratifying the 2021-2023 Confirmation of Understanding for Management Confidential Employees **21-1061**

Adopt **Resolution No. 2022-_____** a Resolution of the City Council of the City of Fontana ratifying the Confirmation of Understanding (COU) between the City of Fontana and Management Confidential Employees.

Attachments: Resolution Ratifying MC COU
MC COU 2021 - 2023

O. A Resolution Supporting the Our Neighborhood Voices (Brand-Huang-Mendoza Tripartisan Land Use) Initiative **21-1144**

Adopt **Resolution No. 2022-_____,** to support the Our Neighborhood Voices Initiative.

Attachments: Resolution - Brand-Huangmendoza Tripartisan Land Use Initiative

Approve Consent Calendar Item as recommended by staff.

PUBLIC HEARINGS:

To speak on Public Hearing Items, submit comments via e-mail at publiccomments@fontana.org. In the subject of your e-mail please indicate whether you are in

favor or opposition of the item. Comments must be received no later than 5:00 P.M. on the day of the meeting. Comments of no more than three (3) minutes will be read into the record at the appropriate time during the meeting. If you challenge in court any action taken concerning a Public Hearing item, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City at, or prior to, the Public Hearing.

All Public Hearings will be conducted following this format:

(a) hearing opened

(b) written communication

(c) council/staff comments

(d) applicant comments (applicant not limited to 5 minutes)

(e) oral - favor

(f) oral - opposition

(g) hearing closed

A. Municipal Code Amendment (MCA) No. 21-001 for an amendment to Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and other environmental quality for warehouse (industrial commercial center) developments throughout the city **21-1096**

Read by title only and waive further reading of and introduce **Ordinance No.___**, an Ordinance of the City Council of the City of Fontana, approving Municipal Code Amendment (MCA) No. 21-001 for an amendment to Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and other environmental quality for warehouse (industrial commercial center) developments throughout the city, and the reading of the title constitutes the first thereof.

Attachments: Attachment No. 1 - City Council Ordinance
Attachment No. 2 - Planning Commission Staff Report and attachments
Attachment No. 3 - Planning Commission Minutes from December 21, 2021
Attachment No. 4 - Exemption Memorandum
Attachment No. 5 - Notice of Exemption
Attachment No. 6 - Public Hearing Notice

B. MCN. No. 21-032, ZCA No. 21-001, DA No. 21-003, TPM No. 20370 (TPM No. 21-006) CUP No. 21-004, CUP No. 21-005, CUP 21-006, DRP No. 21-010, DRS No. 21-018 for the Proposed Development of a New Commercial Shopping Center with an Anchor Grocery Store consisting of an Anchor Building and Various Outlying Building Pads Totaling Approximately 53,740 Square Feet of Building(s) **21-1113**

1. Read by title only and waive further reading of and introduce **Ordinance No. ___**, an Ordinance of the City Council of the City of Fontana, approving Zone Change No. 21-001 for text and figure changes that include changing Planning Area 1 to Planning Area 3 within the Auto Overlay of the Zoning and Development Code on approximately 6.20 adjusted gross acres (APN: 0240-011-03, -05, -06, -35, -38, -41, -42, and -44), and amending Section 6403(a) to allow for a grocery store use, and the reading of the title constitutes the first thereof.

2. Read by title only and waive further reading of and introduce **Ordinance No. ____,** an Ordinance of the City Council of the City of Fontana approving Development Agreement No. 21-003, between the City of Fontana and Sage Citrus Fontana, LLC which provides a public benefit fee in the amount of $376,180.00 dollars and the reading of the title constitutes the first reading thereof.

2. Adopt **Resolution No. 2022-___** a Resolution of the City Council of the City of Fontana, adopting the initial study and Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) pursuant to Section 15070 of the California Environmental Quality Act (CEQA) and Section 6.16 of the 2019 Local Guidelines for Implementing CEQA, approving Tentative Parcel Map No. 20370 (TPM No. 21-006) for consolidation of eight (8) parcels into five (5) parcels, approving Conditional Use Permit No. 21-004 for a Type 21 ABC license, approving Conditional Use Permit No. 21-005 and CUP No. 21-006 for drive-thru establishments, approving Design Review No. 21-010 for site and architectural review of a commercial shopping center with a grocery store and five (5) additional pads for a total building square footage of approximately 53,740 square feet and approving Design Review Sign No. 21-018 for a sign program to the Auto Center Overlay District on a 6.20 adjusted gross acre project site (APN: 0240-011-38, -41, -03, -05, -42, -06, -35 and -44) subject to the findings and conditions of approval.

Attachments: Attachment No. 1 - Vicinity Map
Attachment No. 2 - Site Plan
Attachment No. 3 - Planning Commission Staff Report from Dec. 7, 2021 and Minutes
Attachment No. 4 - City Council Ordinance for ZCA No. 21-001
Attachment No. 5 - City Council Ordinance for DA No. 21-003
Attachment No. 6 - City Council Resolution for TPM, CUPs, and DRs
Attachment No. 7 - Public Hearing Notice

C. Resolution of Necessity Public Hearing: Assessor Parcel Nos. 0232-201-12 and 0232-201-13 **21-1116**

1. That the Mayor and City Council conduct a Public Hearing to consider adoption of a proposed Resolution of Necessity, making the following findings:

(a) The public interest and necessity require the proposed project;

(b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
(c) Acquisition of the two vacant parcels (APNs 0232-201-12 and 0232-201-13) is necessary for the proposed project;

(d) The offers required by section 7267.2 of the California Government Code were made; and

(e) The public use for this property is a more necessary use than the use for which the property is appropriated.

2. Adopt **Resolution No. 2022-___,** a Resolution of Necessity by the Fontana City Council, declaring that acquisition of a fee interest in certain real property located in the City of Fontana, San Bernardino County, California, more particularly described as Assessor Parcel Numbers 0232-201-12 and 0232-201-13, by eminent domain, is necessary for the installation of infrastructure improvements within the City of Fontana.

Attachments: Rosemead Properties Exhibit A Legal Description and Assessor Parcel Map
Resolution of Necessity - Rosemead Properties - Citrus Arrow
Rosemead Properites - Notice of Hearing to Property Owner - Resolution of Necessity

D. Municipal Code Amendment (MCA) No. 22-01 - Adoption of an Urgency Ordinance of the City Council of the City of Fontana, Amending Sections 13-27 and 13-30 of the Fontana Municipal Code, Amending the Enforcement Authority regarding the City's Environmental Health Code, and Adoption of a Regular Ordinance for Long-Term Implementation of same **21-1135**

1. Approve Municipal Code Amendment (MCA) No. 22-01 - Adopt **Urgency Ordinance No. _____**, of the City Council of the City of Fontana, amending sections 13-27 and 13-30 of the Fontana Municipal Code, amending the enforcement authority regarding the City's environmental health code.

2. Read by title only and waive further reading of and introduce **Ordinance No. ___,** an Ordinance of the City Council of the City of Fontana, approving Municipal Code Amendment (MCA) No. 22-01 amending sections 13-27 and

13-30 of the Fontana Municipal Code, amending the enforcement authority regarding the City's environmental health code and the reading of the title constitutes the first thereof.

Attachments: Attachment No. 1 - Urgency Ordinance
Attachment No. 2 - Ordinance
Attachment No. 3 - Notice of Exemption
Attachment No. 4 - Public Hearing Notice

NEW BUSINESS:

A. Amending Fontana Municipal Code Section 2-39 to Increase the Salary for Members of the City Council and Mayor; Introduction and First Reading of Ordinance **21-1093**

Read by title only and waive further reading of and introduce **Ordinance No. ____,** Amending Section 2-39 Of The Fontana Municipal Code, Regarding The Salary For Members Of The City Council And Mayor

Attachments: Fontana Ordinance Amending Mayor and City Councilmembers Compensation

CITY MANAGER COMMUNICATIONS:

A. City Manager Communications

ELECTED OFFICIALS COMMUNICATIONS/REPORTS:

A. Discussion and Possible Action Regarding Appointment to the Parks, Community, and Human Services Commission to fill an unscheduled vacancy **21-1119**

B. Elected Officials Communications/Reports

ADJOURNMENT:

A. Adjournment

Adjourn to the State of the City Address to be held on Thursday, January 27, 2022, at 5:00 p.m. at the Water of Life Church located at 7625 East Avenue, Fontana, California; and to the next Regular City Council Meeting on February 8, 2022, at 7:00 p.m. in the Grover W. Taylor Council Chambers located at 8353 Sierra Avenue, Fontana, California.

8353 Sierra Avenue
Fontana, CA 92335

File #: 21-1128
Agenda #:

Agenda Date: 1/25/2022
Category: Workshop

City Council Workshop

Tuesday, January 25, 2022

5:00 P.M.

Council Chambers

City Council

Acquanetta Warren, Mayor

Peter Garcia, Mayor Pro Tam

John Roberts, Council Member

Jesse “Jesus” Sandoval, Council Member

Phillip W. Cothran, Council Member

8353 Sierra Avenue
Fontana, CA 92335

City of Fontana

Action Report

City Council Meeting

File #: 21-1132
Agenda #:

Agenda Date: 1/25/2022
Category: Closed Session

Closed Session

Tuesday, January 25, 2022

6:00 P.M.

City Hall - Executive Conference Room

City Council

Acquanetta Warren, Mayor

Peter Garcia, Mayor Pro Tam

John Roberts, Council Member

Jesse “Jesus” Sandoval, Council Member

Phillip W. Cothran., Council Member

8353 Sierra Avenue
Fontana, CA 92335

City of Fontana

Action Report

City Council Meeting

File #: 21-1131
Agenda #: A.

Agenda Date: 1/25/2022
Category: Unfinished Business

Redistricting Public Hearing (#3)

Tuesday, January 25, 2022

7:00 P.M.

Council Chambers

City Council

Acquanetta Warren, Mayor

Peter Garcia. Mayor Pro Tam

John Roberts, Council Member

Jesse “Jesus” Sandoval, Council Member

Phillip W. Cothran, Council Member

National Demographics Corporation

City of Fontana
Redistricting 2021-2022

1/25/2022

Todd Tatum
National Demographics Corporation

Redistricting Process

Step	Description
Two Initial Hearings October 12 & October 26	Held prior to release of draft maps. Education and to solicit input on the communities in the Districts.
Census Data Release Mid/Late August	Census Bureau releases official 2020 Census population data.
California Data Release Early October 2021	California Statewide Database releases California's official 'prisoner-adjusted' 2020 redistricting data.
Two Draft Map Hearings January 25 & March 8	Two Public Hearings to discuss and revise the draft maps and to discuss the election sequence.
Map Adoption By April 17, 2022	Final map must be posted at least 7 days prior to adoption. Map adopted via ordinance.*

NDC

*SB 594 would explicitly confirm maps may be adopted by resolution.

Redistricting Rules and Goals

1. Federal Laws

Equal Population

Federal Voting Rights Act

No Racial Gerrymandering

2. California Criteria for Cities (rank ordered)

1.Geographically contiguous

2.Undivided neighborhoods and "communities of interest"
(Socio-economic geographic areas that should be kept together)

3.Easily identifiable boundaries

4.Compact
(Do not bypass one group of people to get to a more distant group of people)

Prohibited:

"Shall not favor or discriminate against a political party."

3. Other Traditional Redistricting Principles

Minimize voters shifted to different election years

Respect voters' choices / continuity in office

Future population growth

Preserving the core of existing districts

NDC

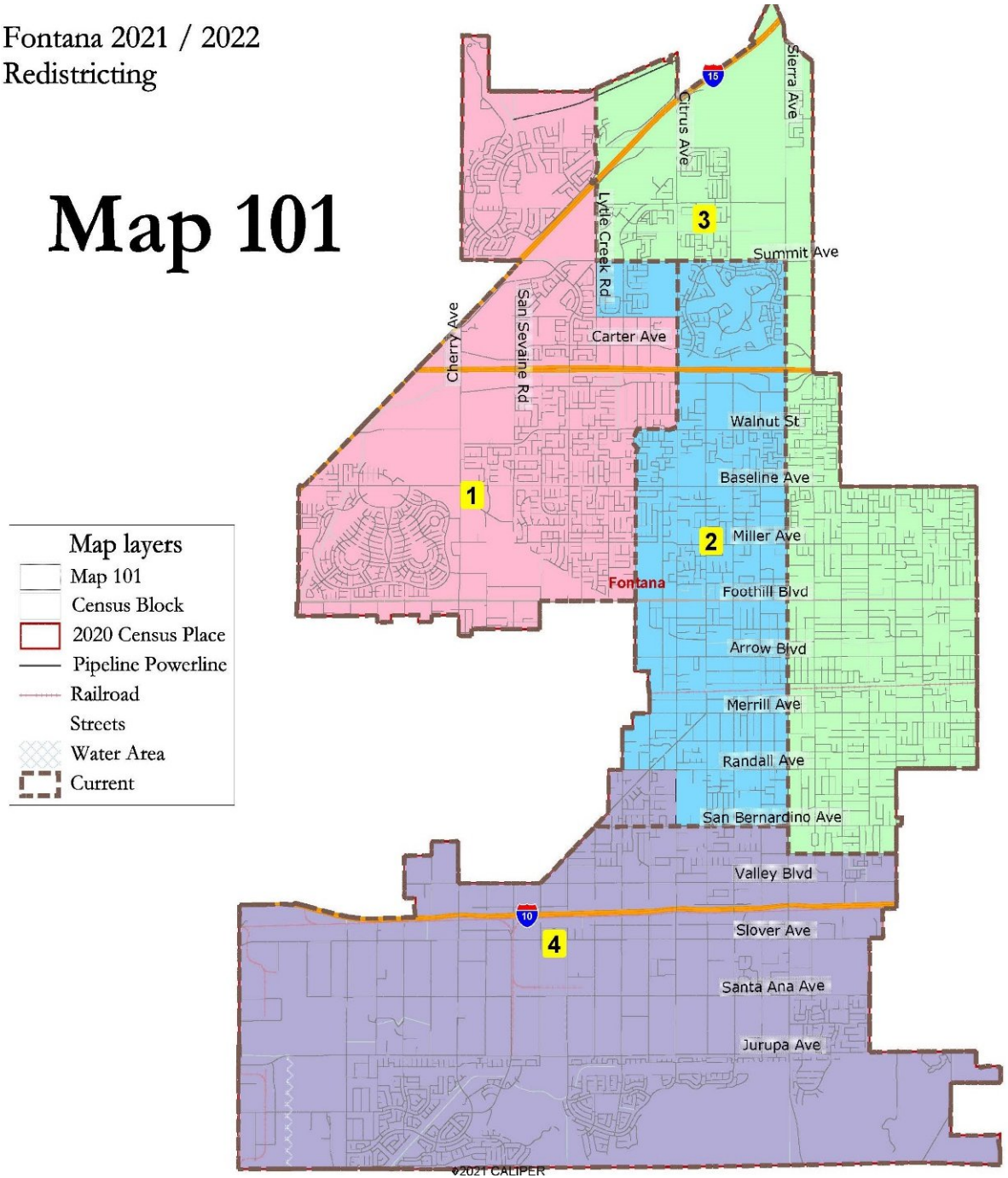
Initial Draft Maps

- Three initial draft maps have been developed by NDC, and 2 draft maps submitted from the Public.
- All of the maps created by NDC have a deviation under the required 10%.
- NDC Map 101 has a deviation of 3.85%
- NDC Map 102 has a deviation of 4.70%
- NDC Map 103 has a deviation of 4.28%
- Public Map 401 has a deviation of 4.78%
- Public Map 601 has a deviation of 21.49% (a 6 district Map)
- Existing Districts deviation is 12.16%

NDC

NDC Draft Map 101

Fontana 2021 / 2022
Redistricting

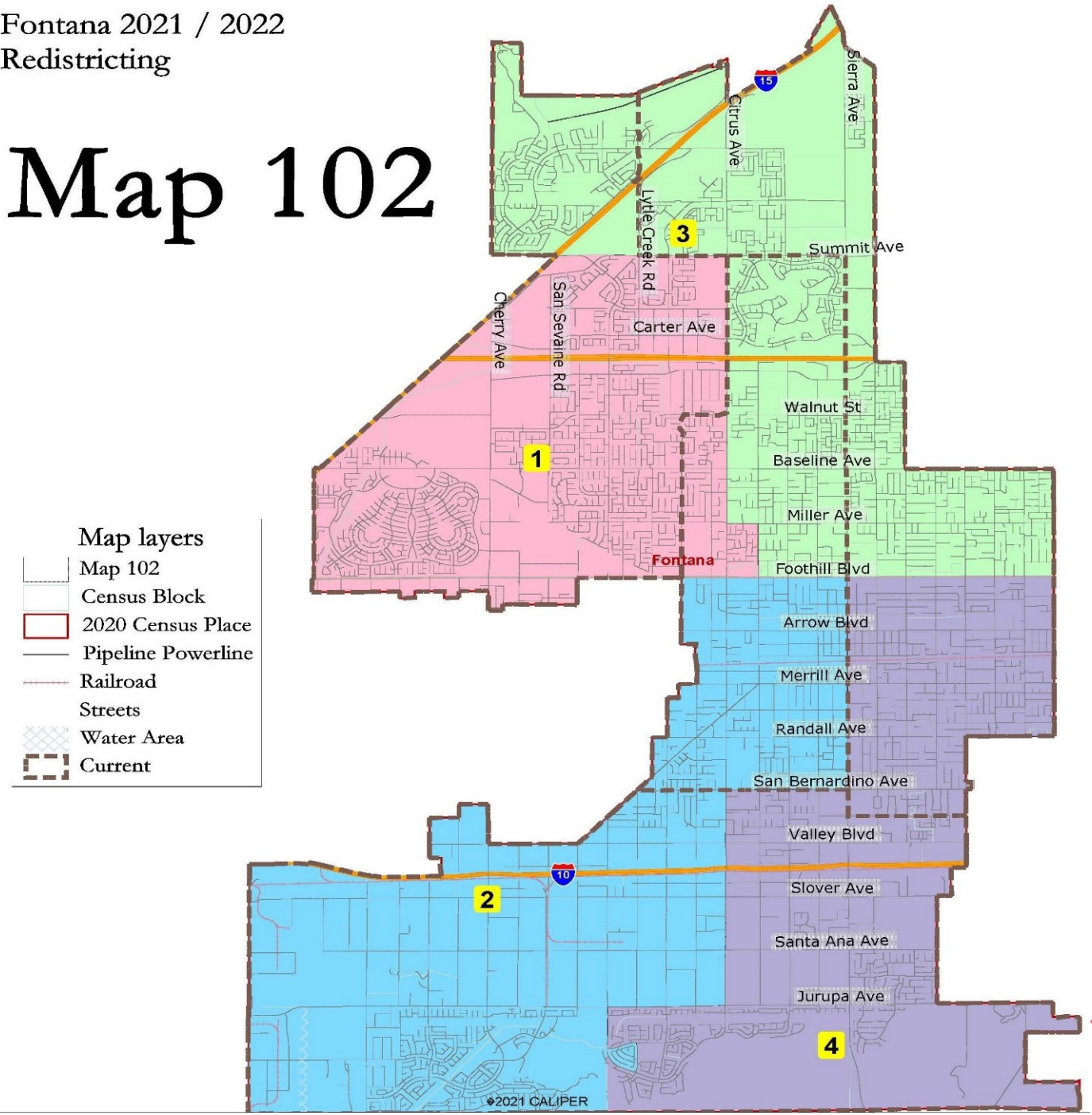


NDC Map 101 Demographics

Fontana Map 101						
District		1	2	3	4	Total
	Total Pop	52,751	53,041	52,237	51,031	209,060
	Deviation from ideal	486	776	-28	-1,234	2,010
	% Deviation	0.93%	1.48%	-0.05%	-2.36%	3.85%
Total Pop	% Hisp	47.9%	72%	75%	76%	68%
	% NH White	20%	9%	12%	8%	12%
	% NH Black	13%	9%	6%	7%	9%
	% Asian-American	15%	8%	5%	7%	9%
Citizen Voting Age Pop	Total	34,285	26,950	28,076	32,285	121,597
	% Hisp	49%	67%	69%	69%	63%
	% NH White	22%	16%	19%	13%	18%
	% NH Black	17%	9%	7%	11%	11%
	% Asian/Pac.Isl.	10%	7%	4%	5%	7%
Voter Registration (Nov 2020)	Total	31,188	21,928	25,280	24,571	102,967
	% Latino est.	45%	63%	67%	70%	60%
	% Spanish-Surnamed	40%	58%	61%	63%	54%
	% Asian-Surnamed	5%	3%	2%	2%	3%
	% Filipino-Surnamed	3%	3%	2%	2%	2%
	% NH White est.	30%	22%	26%	17%	24%
	% NH Black	21%	13%	9%	14%	15%
Voter Turnout (Nov 2020)	Total	24,958	15,394	17,922	17,832	76,106
	% Latino est.	43%	60%	65%	68%	57%
	% Spanish-Surnamed	39%	55%	59%	61%	52%
	% Asian-Surnamed	4%	3%	2%	3%	3%
	% Filipino-Surnamed	3%	3%	2%	2%	2%
	% NH White est.	31%	23%	27%	17%	25%
	% NH Black	21%	14%	9%	15%	16%

NDC Draft Map 102

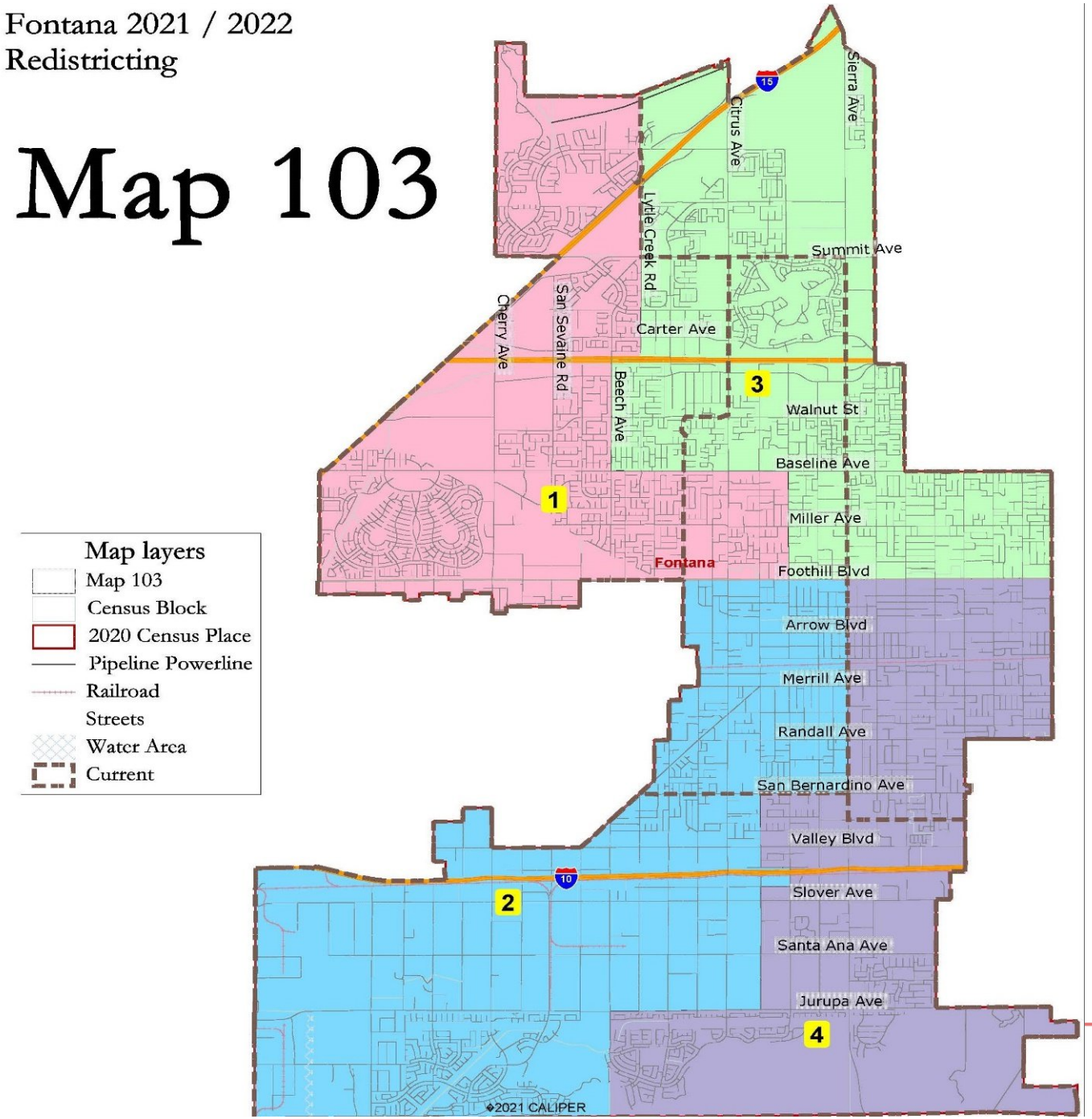
Fontana 2021 / 2022
Redistricting



NDC Map 102 Demographics

Fontana Map 102						
District		1	2	3	4	Total
	Total Pop	52,259	52,411	50,966	53,424	209,060
	Deviation from ideal	-6	146	-1,299	1,159	2,458
	% Deviation	-0.01%	0.28%	-2.49%	2.22%	4.70%
Total Pop	% Hisp	51.4%	82%	61%	76%	68%
	% NH White	17%	7%	16%	10%	12%
	% NH Black	14%	6%	10%	7%	9%
	% Asian-American	15%	3%	11%	5%	9%
Citizen Voting Age Pop	Total	33,385	28,340	28,835	31,036	121,597
	% Hisp	54%	76%	57%	66%	63%
	% NH White	18%	13%	22%	17%	18%
	% NH Black	17%	9%	9%	11%	11%
	% Asian/Pac.Isl.	9%	2%	10%	5%	7%
Voter Registration (Nov 2020)	Total	30,012	20,943	27,290	24,722	102,967
	% Latino est.	48%	74%	55%	68%	60%
	% Spanish-Surnamed	43%	67%	50%	62%	54%
	% Asian-Surnamed	5%	1%	4%	2%	3%
	% Filipino-Surnamed	3%	1%	3%	2%	2%
	% NH White est.	26%	17%	30%	22%	24%
	% NH Black	22%	11%	12%	12%	15%
Voter Turnout (Nov 2020)	Total	23,634	14,148	20,679	17,645	76,106
	% Latino est.	46%	72%	53%	66%	57%
	% Spanish-Surnamed	42%	66%	48%	60%	52%
	% Asian-Surnamed	4%	1%	4%	2%	3%
	% Filipino-Surnamed	3%	1%	3%	2%	2%
	% NH White est.	27%	18%	31%	22%	25%
	% NH Black	22%	11%	13%	13%	16%

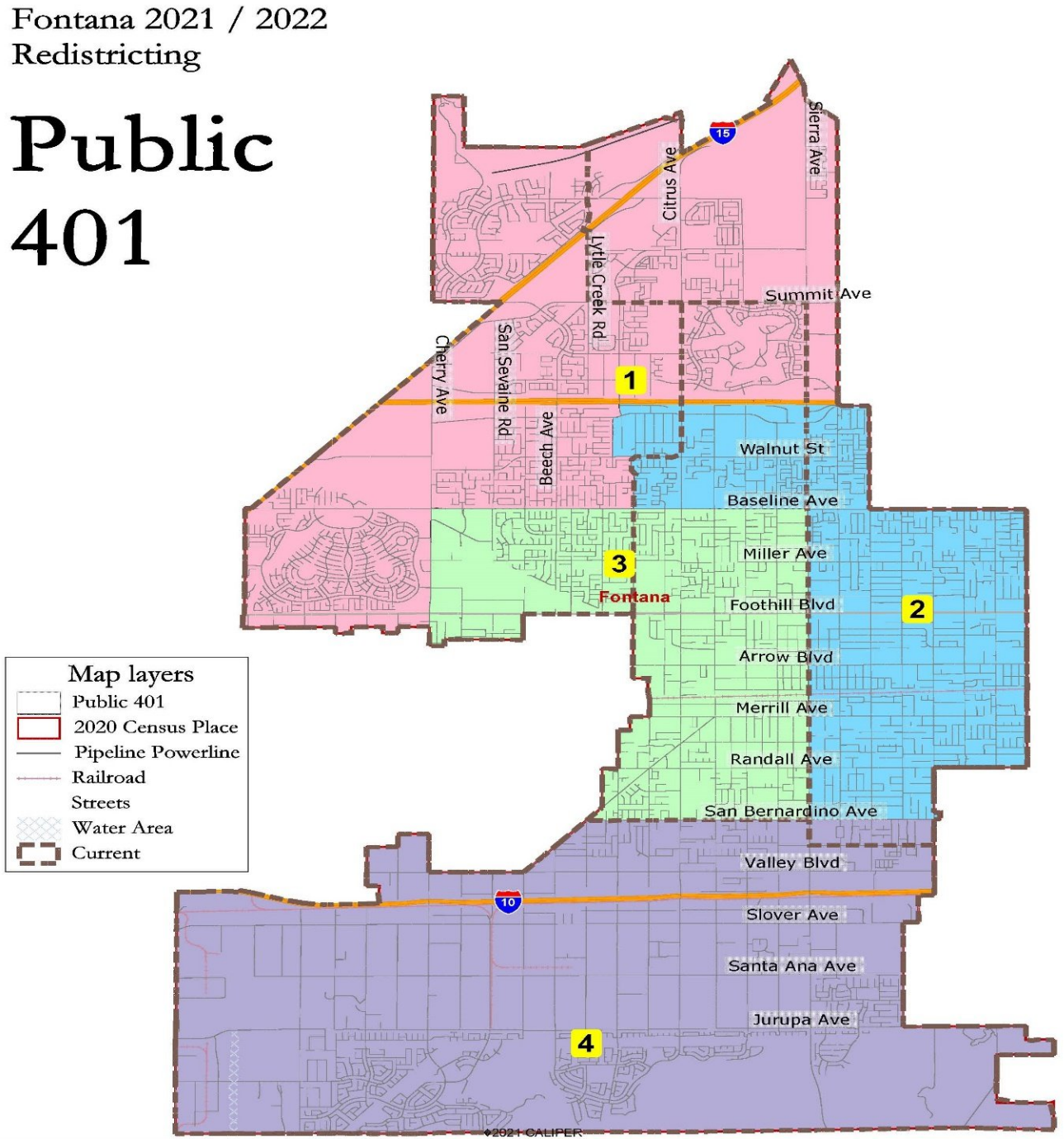
NDC Draft Map 103



NDC Map 103 Demographics

Fontana Map 103						
District		1	2	3	4	Total
	Total Pop	52,363	52,735	50,862	53,100	209,060
	Deviation from ideal	98	470	-1,403	835	2,238
	% Deviation	0.19%	0.90%	-2.68%	1.60%	4.28%
Total Pop	% Hisp	51.7%	83%	60%	76%	68%
	% NH White	19%	7%	14%	10%	12%
	% NH Black	12%	6%	11%	7%	9%
	% Asian-American	14%	3%	12%	5%	9%
Citizen Voting Age Pop	Total	33,408	28,362	28,812	31,014	121,597
	% Hisp	51%	76%	60%	66%	63%
	% NH White	22%	13%	18%	17%	18%
	% NH Black	16%	8%	10%	11%	11%
	% Asian/Pac.Isl.	9%	2%	11%	5%	7%
Voter Registration (Nov 2020)	Total	30,068	21,006	27,234	24,659	102,967
	% Latino est.	47%	74%	56%	68%	60%
	% Spanish-Surnamed	43%	68%	51%	62%	54%
	% Asian-Surnamed	4%	1%	4%	2%	3%
	% Filipino-Surnamed	3%	1%	3%	2%	2%
	% NH White est.	29%	18%	26%	21%	24%
	% NH Black	19%	10%	15%	13%	15%
Voter Turnout (Nov 2020)	Total	23,868	14,173	20,445	17,620	76,106
	% Latino est.	46%	72%	53%	66%	57%
	% Spanish-Surnamed	42%	66%	49%	60%	52%
	% Asian-Surnamed	4%	1%	4%	2%	3%
	% Filipino-Surnamed	3%	1%	3%	2%	2%
	% NH White est.	30%	18%	27%	22%	25%
	% NH Black	20%	11%	16%	13%	16%

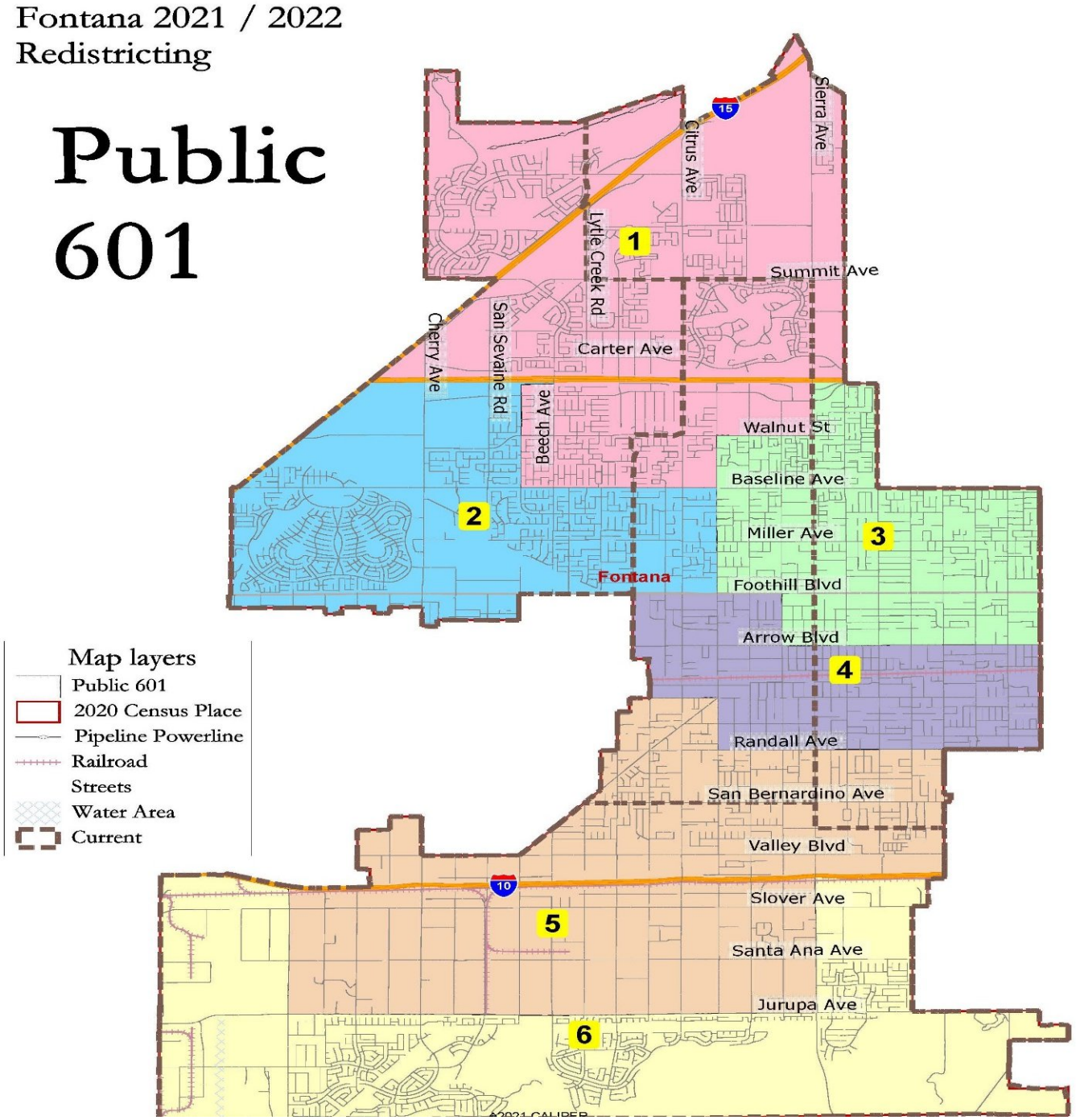
Public Map 401



Public Map 401 Demographics

Fontana Public Map 401						
District		1	2	3	4	Total
	Total Pop	53,311	52,670	52,266	50,813	209,060
	Deviation from ideal	1,046	405	1	-1,452	2,498
	% Deviation	2.00%	0.77%	0.00%	-2.78%	4.78%
Total Pop	% Hisp	43.0%	75%	78%	76%	68%
	% NH White	22%	11%	8%	9%	12%
	% NH Black	15%	7%	7%	7%	9%
	% Asian-American	17%	5%	5%	7%	9%
Citizen Voting Age Pop	Total	34,282	29,061	26,112	32,141	121,597
	% Hisp	43%	70%	74%	69%	63%
	% NH White	26%	15%	14%	14%	18%
	% NH Black	17%	8%	8%	11%	11%
	% Asian/Pac.Isl.	12%	5%	3%	5%	7%
Voter Registration (Nov 2020)	Total	32,757	24,737	21,065	24,408	102,967
	% Latino est.	41%	69%	69%	69%	60%
	% Spanish-Surnamed	37%	62%	63%	62%	54%
	% Asian-Surnamed	5%	2%	2%	3%	3%
	% Filipino-Surnamed	3%	2%	2%	2%	2%
	% NH White est.	33%	22%	20%	18%	24%
	% NH Black	20%	11%	12%	14%	15%
Voter Turnout (Nov 2020)	Total	26,526	17,405	14,425	17,750	76,106
	% Latino est.	40%	66%	67%	67%	57%
	% Spanish-Surnamed	36%	61%	61%	61%	52%
	% Asian-Surnamed	5%	2%	2%	3%	3%
	% Filipino-Surnamed	3%	2%	2%	2%	2%
	% NH White est.	34%	23%	21%	18%	25%
	% NH Black	20%	12%	12%	15%	16%

Public Map 601



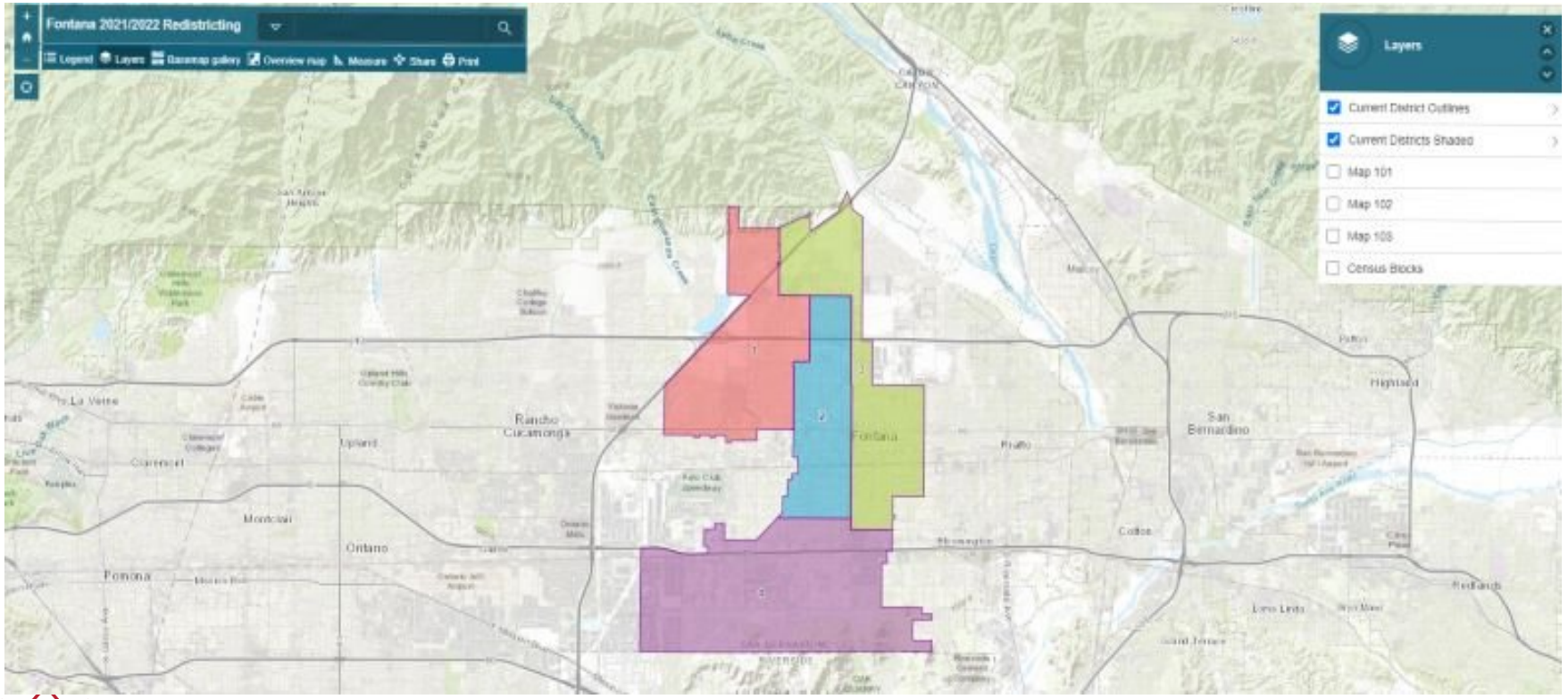
Public Map 601 Demographics

Fontana Public Map 601								
District		1	2	3	4	5	6	Total
	Total Pop	40,289	34,501	35,437	33,102	32,800	32,931	209,060
	Deviation from ideal	5,446	-342	594	-1,741	-2,043	-1,912	7,489
	% Deviation	15.63%	-0.98%	1.70%	-5.00%	-5.86%	-5.49%	21.49%
Total Pop	% Hisp	43.9%	55%	75%	83%	83%	72%	68%
	% NH White	22%	16%	9%	8%	9%	8%	12%
	% NH Black	14%	12%	8%	6%	4%	9%	9%
	% Asian-American	17%	14%	6%	2%	3%	8%	9%
Citizen Voting Age Pop	Total	24,821	22,080	19,501	15,310	18,886	20,999	121,597
	% Hisp	44%	55%	72%	76%	74%	65%	63%
	% NH White	27%	18%	13%	16%	17%	12%	18%
	% NH Black	14%	17%	9%	6%	5%	15%	11%
	% Asian/Pac.Isl.	14%	8%	6%	1%	2%	7%	7%
Voter Registration (Nov 2020)	Total	24,266	19,512	16,485	12,008	13,554	17,142	102,967
	% Latino est.	42%	50%	70%	73%	75%	67%	60%
	% Spanish-Surnamed	38%	46%	63%	66%	68%	60%	54%
	% Asian-Surnamed	5%	4%	2%	1%	1%	3%	3%
	% Filipino-Surnamed	3%	3%	2%	1%	1%	2%	2%
	% NH White est.	35%	25%	20%	22%	23%	15%	24%
	% NH Black	18%	21%	12%	8%	5%	18%	15%
Voter Turnout (Nov 2020)	Total	19,653	15,242	11,422	7,787	9,154	12,848	76,106
	% Latino est.	41%	49%	68%	71%	74%	65%	57%
	% Spanish-Surnamed	37%	44%	62%	64%	67%	59%	52%
	% Asian-Surnamed	5%	4%	2%	1%	1%	3%	3%
	% Filipino-Surnamed	3%	3%	2%	1%	1%	3%	2%
	% NH White est.	36%	25%	21%	24%	23%	16%	25%
	% NH Black	18%	22%	12%	8%	5%	19%	16%

Simple Map Review Tool

Online Interactive Review Map

- ESRI's "ArcGIS Online" – similar to Google Maps in ease of use
- Used to review, analyze and compare maps, not to create them
- Includes overlays of "community of interest" and other data



Discussion

- Conduct a Public Hearing
- Any questions on the Draft Maps?
- Provide direction on what map the Council prefers or new map the Council would like see at the next hearing

NDC

Redistricting Process Details

Date(s)	Description	Comments
October 12, 2021	1st Public Hearing	
October 26, 2021	2nd Public Hearing	
Mid-October 2021	Mapping software released to the public.	
	*Estimated time depending on Census data	
January 25, 2022	3rd Public Hearing	
February 25, 2022	Maps due from the public.	
March 1, 2022	Publish Draft Maps	
March 8, 2022	4th Public Hearing and Council adopt District map. Must be completed no later than April 17, 2022	The 4th hearing could also be the adoption hearing
April 17, 2022	Deadline to adopt and submit map to Registrar	

NDC

Share Your Thoughts

Website

https://www.fontana.org/3431/Redistricting-Information

Phone

(909) 350-7602

Email

redistricting21@fontana.org

NDC

NOTICE OF CITY COUNCIL PUBLIC HEARING

TO REECIVE PUBLIC INPUT AND PROPOSALS REGARDING CITY COUNCIL DISTRICT BOUNDARIES

NOTICE IS HEREBY GIVEN that, pursuant to California Elections Code Section EC 22001, the Mayor and City Council of the City of Fontana will hold a public hearing to receive input regarding redistricting of Council Member districts.

Public Hearing #3 is scheduled as follows:

DATE: January 25, 2022
TIME: 7:00 p.m.
LOCATION: City Council Chambers; 8353 Sierra Avenue, Fontana, California 92335

The public is invited to attend an informational presentation from National Demographics Corporation (NDC) and presentation on NDC draft maps and maps submitted by the public. Public input will also be received at this meeting.

Questions or input may also be emailed to: redistricting2021@fontana.org

Complete redistricting information can be found at www.fontana.org

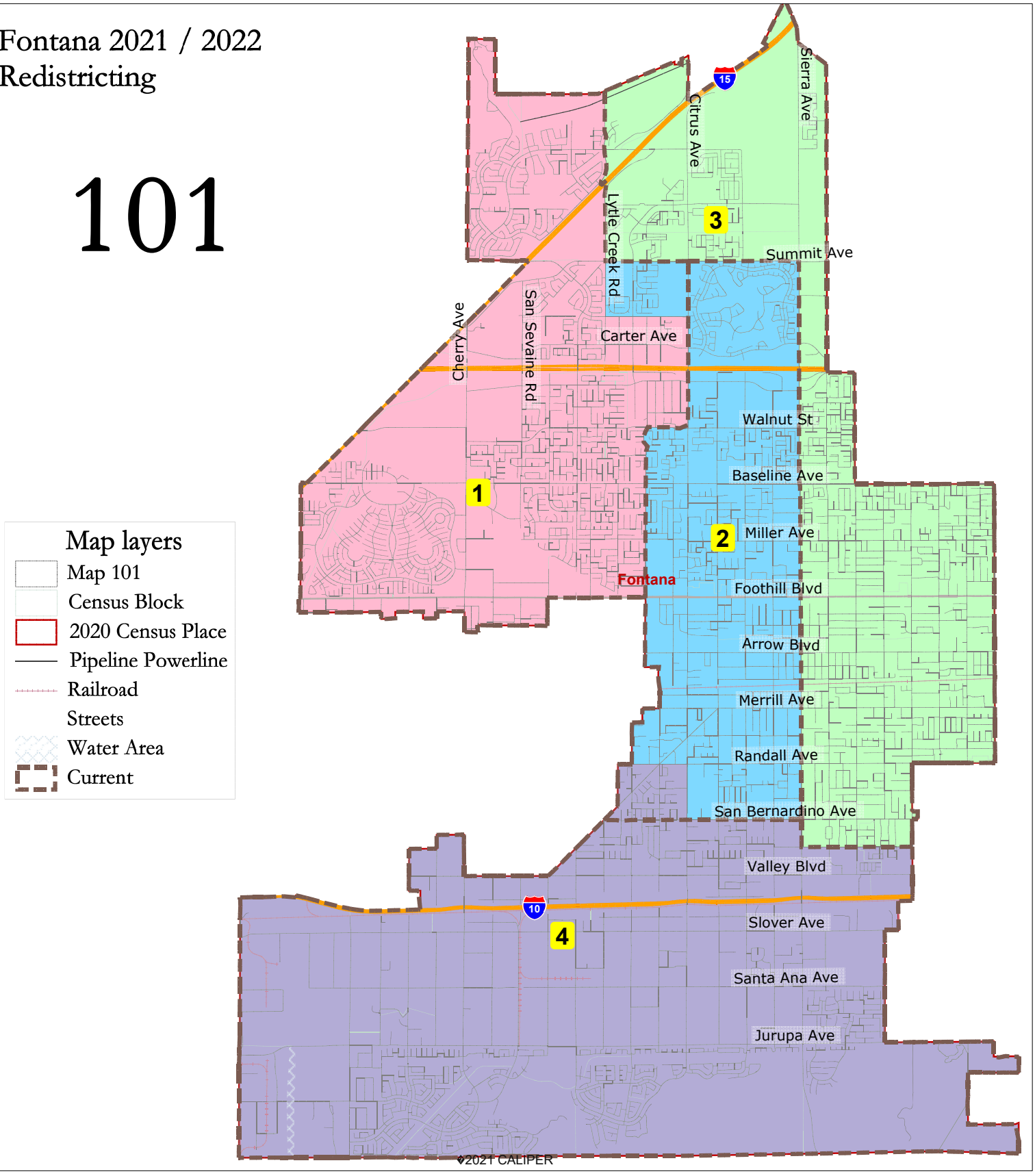
In compliance with the Americans with Disabilities Act, if you need special assistance to participate in a City meeting, contact the City Clerk's Office at (909) 350-7602 at least three (3) working days before the meeting or time when such special services are needed. This notification will help City staff in making reasonable arrangements to provide you with access to the meeting. If you need language translation assistance, contact the City Clerk's Office at (909) 350-7602 at least 72 hours before the meeting.

/s/ Ashton R. Arocho, CMC
Deputy City Clerk

Publication: January 14, 2022; January 21, 2022

Fontana 2021 / 2022 Redistricting

101



Map 101						
District		1	2	3	4	Total
	Total Pop	52,751	53,041	52,237	51,031	209,060
	Deviation from ideal	486	776	-28	-1,234	2,010
	% Deviation	0.93%	1.48%	-0.05%	-2.36%	3.85%
Total Pop	% Hisp	47.9%	72%	75%	76%	68%
	% NH White	20%	9%	12%	8%	12%
	% NH Black	13%	9%	6%	7%	9%
	% Asian-American	15%	8%	5%	7%	9%
Citizen Voting Age Pop	Total	34,285	26,950	28,076	32,285	121,597
	% Hisp	49%	67%	69%	69%	63%
	% NH White	22%	16%	19%	13%	18%
	% NH Black	17%	9%	7%	11%	11%
	% Asian/Pac.Isl.	10%	7%	4%	5%	7%
Voter Registration (Nov 2020)	Total	31,188	21,928	25,280	24,571	102,967
	% Latino est.	45%	63%	67%	70%	60%
	% Spanish-Surnamed	40%	58%	61%	63%	54%
	% Asian-Surnamed	5%	3%	2%	2%	3%
	% Filipino-Surnamed	3%	3%	2%	2%	2%
	% NH White est.	30%	22%	26%	17%	24%
	% NH Black	21%	13%	9%	14%	15%
Voter Turnout (Nov 2020)	Total	24,958	15,394	17,922	17,832	76,106
	% Latino est.	43%	60%	65%	68%	57%
	% Spanish-Surnamed	39%	55%	59%	61%	52%
	% Asian-Surnamed	4%	3%	2%	3%	3%
	% Filipino-Surnamed	3%	3%	2%	2%	2%
	% NH White est.	31%	23%	27%	17%	25%
	% NH Black	21%	14%	9%	15%	16%
Voter Turnout (Nov 2018)	Total	14,804	8,282	9,576	10,103	42,765
	% Latino est.	39%	57%	60%	64%	53%
	% Spanish-Surnamed	36%	52%	55%	59%	49%
	% Asian-Surnamed	3%	3%	1%	2%	2%
	% Filipino-Surnamed	2%	2%	1%	2%	2%
	% NH White est.	33%	25%	30%	19%	28%
	% NH Black est.	23%	15%	10%	16%	17%
ACS Pop. Est.	Total	53,339	52,695	49,778	54,054	209,867
Age	age0-19	32%	35%	31%	32%	32%
	age20-60	56%	55%	56%	58%	56%
	age60plus	13%	10%	14%	11%	12%
Immigration	immigrants	21%	31%	28%	27%	27%
	naturalized	60%	40%	43%	51%	48%
Language spoken at home	english	58%	34%	38%	37%	42%
	spanish	30%	61%	57%	58%	51%
	asian-lang	9%	4%	3%	3%	5%
	other lang	3%	2%	2%	2%	2%
Language Fluency	Speaks Eng. "Less than Very Well"	12%	23%	22%	19%	19%
Education (among those age 25+)	hs-grad	51%	50%	52%	53%	51%
	bachelor	21%	11%	9%	13%	14%
	graduatedegree	8%	4%	3%	3%	4%
Child in Household	child-under18	52%	56%	47%	51%	52%
Pct of Pop. Age 16+	employed	66%	68%	63%	67%	66%
Household Income	income 0-25k	6%	18%	16%	14%	14%
	income 25-50k	11%	20%	22%	19%	18%
	income 50-75k	17%	21%	24%	19%	20%
	income 75-200k	52%	37%	35%	44%	42%
	income 200k-plus	13%	4%	4%	3%	6%
Housing Stats	single family	98%	70%	80%	88%	84%
	multi-family	2%	30%	20%	12%	16%
	rented	16%	52%	39%	33%	35%
	owned	84%	48%	61%	67%	65%

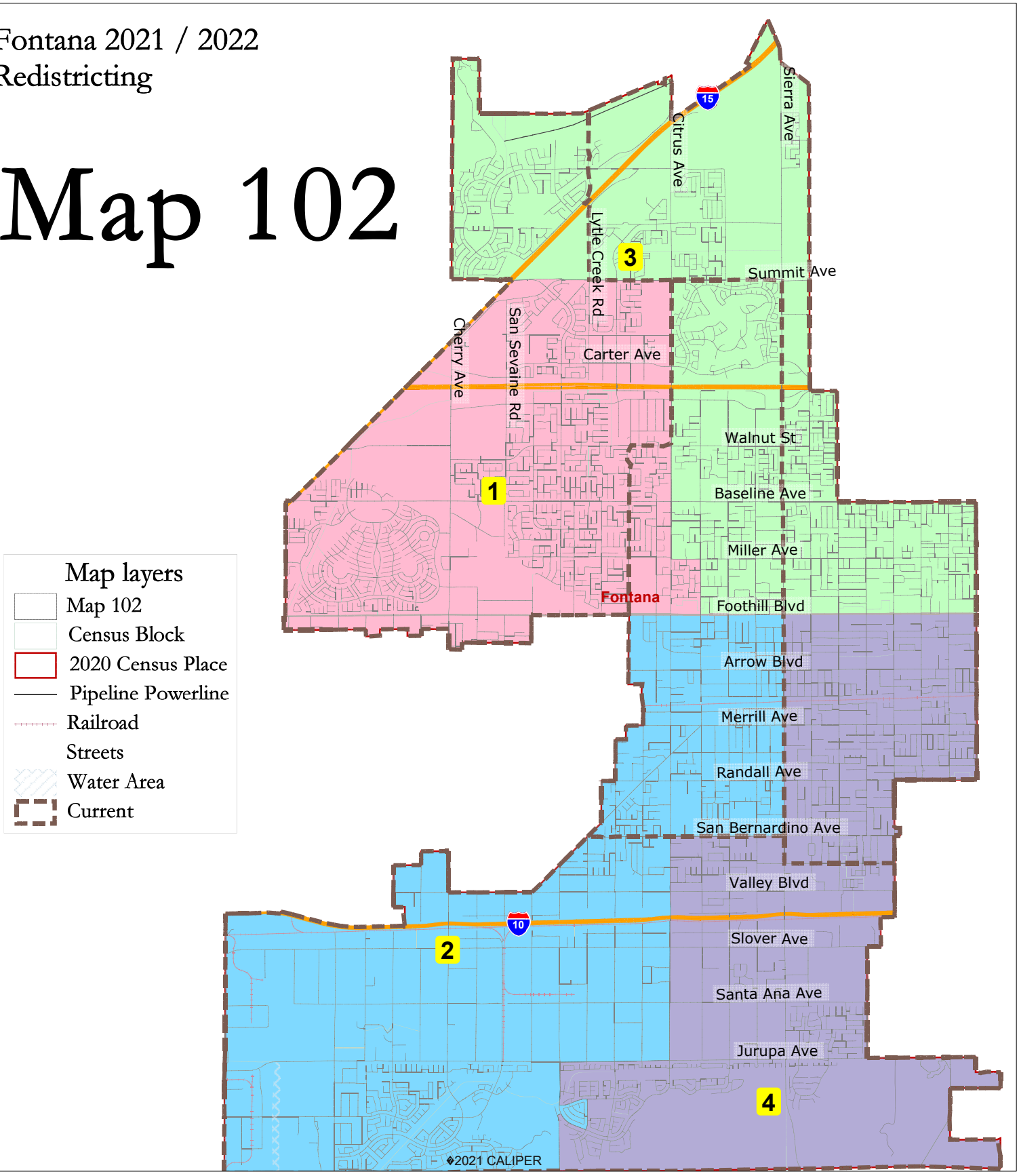
Total population data from the 2020 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2015-2019 American Community Survey and Special Tabulation 5-year data.

Fontana 2021 / 2022
Redistricting

Map 102



Map 102						
District		1	2	3	4	Total
	Total Pop	52,259	52,411	50,966	53,424	209,060
	Deviation from ideal	-6	146	-1,299	1,159	2,458
	% Deviation	-0.01%	0.28%	-2.49%	2.22%	4.70%
Total Pop	% Hisp	51.4%	82%	61%	76%	68%
	% NH White	17%	7%	16%	10%	12%
	% NH Black	14%	6%	10%	7%	9%
	% Asian-American	15%	3%	11%	5%	9%
Citizen Voting Age Pop	Total	33,385	28,340	28,835	31,036	121,597
	% Hisp	54%	76%	57%	66%	63%
	% NH White	18%	13%	22%	17%	18%
	% NH Black	17%	9%	9%	11%	11%
	% Asian/Pac.Isl.	9%	2%	10%	5%	7%
Voter Registration (Nov 2020)	Total	30,012	20,943	27,290	24,722	102,967
	% Latino est.	48%	74%	55%	68%	60%
	% Spanish-Surnamed	43%	67%	50%	62%	54%
	% Asian-Surnamed	5%	1%	4%	2%	3%
	% Filipino-Surnamed	3%	1%	3%	2%	2%
	% NH White est.	26%	17%	30%	22%	24%
	% NH Black	22%	11%	12%	12%	15%
Voter Turnout (Nov 2020)	Total	23,634	14,148	20,679	17,645	76,106
	% Latino est.	46%	72%	53%	66%	57%
	% Spanish-Surnamed	42%	66%	48%	60%	52%
	% Asian-Surnamed	4%	1%	4%	2%	3%
	% Filipino-Surnamed	3%	1%	3%	2%	2%
	% NH White est.	27%	18%	31%	22%	25%
	% NH Black	22%	11%	13%	13%	16%
Voter Turnout (Nov 2018)	Total	13,773	7,766	11,180	10,046	42,765
	% Latino est.	43%	69%	48%	60%	53%
	% Spanish-Surnamed	39%	64%	45%	55%	49%
	% Asian-Surnamed	3%	1%	3%	1%	2%
	% Filipino-Surnamed	2%	2%	2%	2%	2%
	% NH White est.	29%	19%	34%	26%	28%
	% NH Black est.	24%	11%	14%	14%	17%
ACS Pop. Est.	Total	53,066	55,604	48,050	53,147	209,867
Age	age0-19	32%	34%	31%	31%	32%
	age20-60	56%	57%	56%	56%	56%
	age60plus	12%	9%	13%	13%	12%
Immigration	immigrants	22%	32%	26%	27%	27%
	naturalized	57%	39%	53%	46%	48%
Language spoken at home	english	54%	29%	48%	37%	42%
	spanish	36%	68%	42%	58%	51%
	asian-lang	8%	1%	7%	3%	5%
	other lang	2%	1%	3%	2%	2%
Language Fluency	Speaks Eng. "Less than Very Well"	14%	24%	19%	20%	19%
Education (among those age 25+)	hs-grad	52%	52%	51%	51%	51%
	bachelor	18%	9%	16%	11%	14%
	graduatedegree	7%	2%	6%	3%	4%
Child in Household	child-under18	54%	55%	48%	49%	52%
Pct of Pop. Age 16+	employed	66%	68%	68%	63%	66%
Household Income	income 0-25k	7%	18%	10%	19%	14%
	income 25-50k	11%	23%	16%	21%	18%
	income 50-75k	20%	23%	16%	22%	20%
	income 75-200k	52%	34%	48%	35%	42%
	income 200k-plus	10%	2%	10%	3%	6%
Housing Stats	single family	97%	71%	92%	78%	84%
	multi-family	3%	29%	8%	22%	16%
	rented	19%	52%	27%	39%	35%
	owned	81%	48%	73%	61%	65%

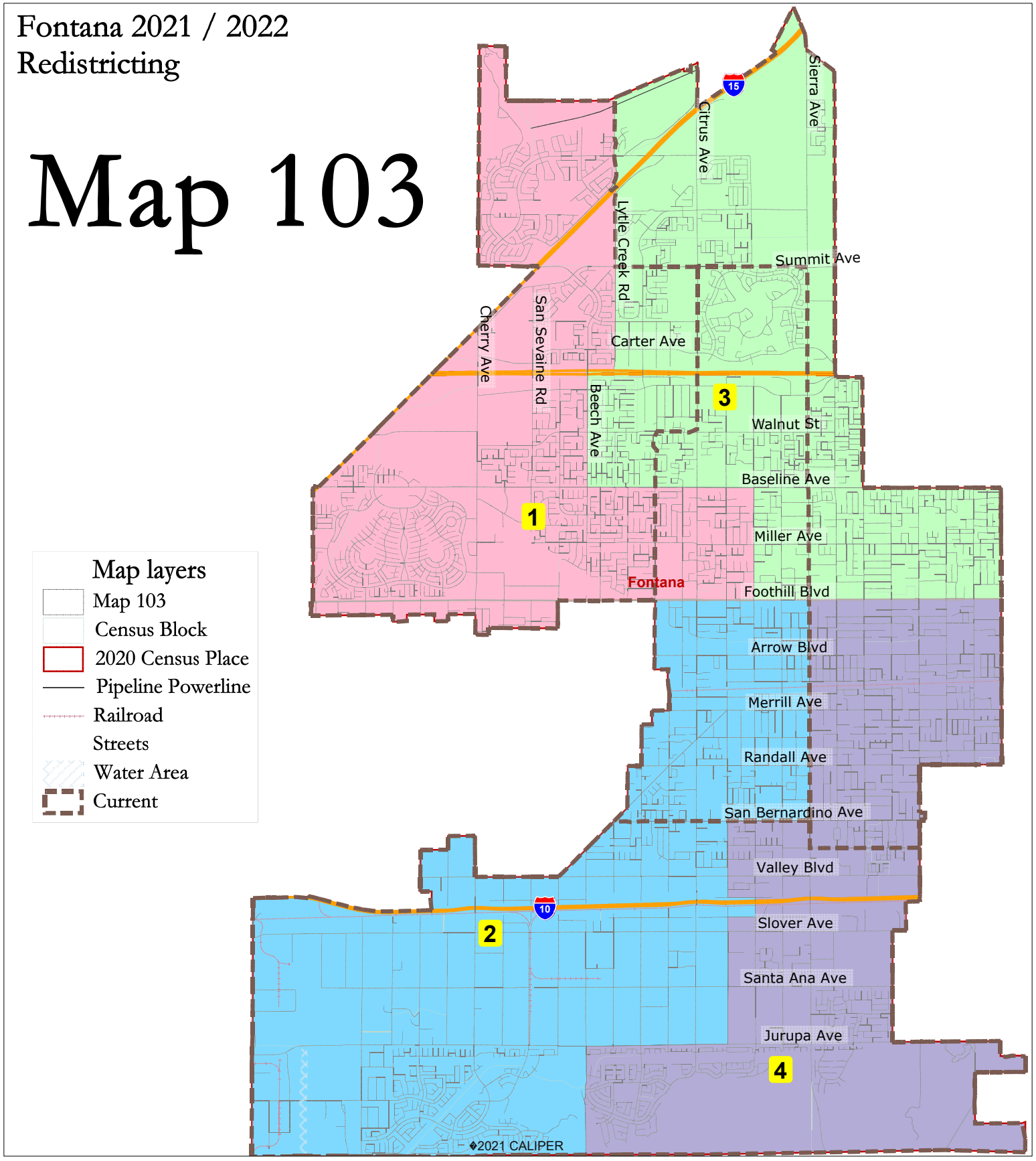
Total population data from the 2020 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2015-2019 American Community Survey and Special Tabulation 5-year data.

Fontana 2021 / 2022
Redistricting

Map 103



Map 103						
District		1	2	3	4	Total
	Total Pop	52,363	52,735	50,862	53,100	209,060
	Deviation from ideal	98	470	-1,403	835	2,238
	% Deviation	0.19%	0.90%	-2.68%	1.60%	4.28%
Total Pop	% Hisp	51.7%	83%	60%	76%	68%
	% NH White	19%	7%	14%	10%	12%
	% NH Black	12%	6%	11%	7%	9%
	% Asian-American	14%	3%	12%	5%	9%
Citizen Voting Age Pop	Total	33,408	28,362	28,812	31,014	121,597
	% Hisp	51%	76%	60%	66%	63%
	% NH White	22%	13%	18%	17%	18%
	% NH Black	16%	8%	10%	11%	11%
	% Asian/Pac.Isl.	9%	2%	11%	5%	7%
Voter Registration (Nov 2020)	Total	30,068	21,006	27,234	24,659	102,967
	% Latino est.	47%	74%	56%	68%	60%
	% Spanish-Surnamed	43%	68%	51%	62%	54%
	% Asian-Surnamed	4%	1%	4%	2%	3%
	% Filipino-Surnamed	3%	1%	3%	2%	2%
	% NH White est.	29%	18%	26%	21%	24%
	% NH Black	19%	10%	15%	13%	15%
Voter Turnout (Nov 2020)	Total	23,868	14,173	20,445	17,620	76,106
	% Latino est.	46%	72%	53%	66%	57%
	% Spanish-Surnamed	42%	66%	49%	60%	52%
	% Asian-Surnamed	4%	1%	4%	2%	3%
	% Filipino-Surnamed	3%	1%	3%	2%	2%
	% NH White est.	30%	18%	27%	22%	25%
	% NH Black	20%	11%	16%	13%	16%
Voter Turnout (Nov 2018)	Total	14,031	7,774	10,922	10,038	42,765
	% Latino est.	42%	69%	49%	60%	53%
	% Spanish-Surnamed	38%	64%	46%	55%	49%
	% Asian-Surnamed	3%	1%	3%	1%	2%
	% Filipino-Surnamed	2%	2%	2%	2%	2%
	% NH White est.	33%	20%	29%	25%	28%
	% NH Black est.	22%	11%	17%	14%	17%
ACS Pop. Est.	Total	52,452	55,782	48,664	52,970	209,867
Age	age0-19	32%	34%	32%	31%	32%
	age20-60	55%	57%	56%	56%	56%
	age60plus	13%	9%	12%	13%	12%
Immigration	immigrants	22%	32%	25%	27%	27%
	naturalized	58%	39%	52%	47%	48%
Language spoken at home	english	55%	29%	47%	38%	42%
	spanish	35%	68%	43%	57%	51%
	asian-lang	8%	1%	7%	3%	5%
	other lang	2%	1%	3%	2%	2%
Language Fluency	Speaks Eng. "Less than Very Well"	13%	24%	19%	19%	19%
Education (among those age 25+)	hs-grad	50%	52%	52%	52%	51%
	bachelor	19%	9%	15%	11%	14%
	graduatedegree	8%	2%	6%	3%	4%
Child in Household	child-under18	51%	55%	51%	49%	52%
Pct of Pop. Age 16+	employed	67%	67%	67%	64%	66%
Household Income	income 0-25k	8%	18%	9%	19%	14%
	income 25-50k	12%	24%	15%	20%	18%
	income 50-75k	17%	23%	19%	22%	20%
	income 75-200k	51%	34%	49%	36%	42%
	income 200k-plus	12%	2%	8%	3%	6%
Housing Stats	single family	97%	71%	91%	78%	84%
	multi-family	3%	29%	9%	22%	16%
	rented	20%	53%	27%	39%	35%
	owned	80%	47%	73%	61%	65%

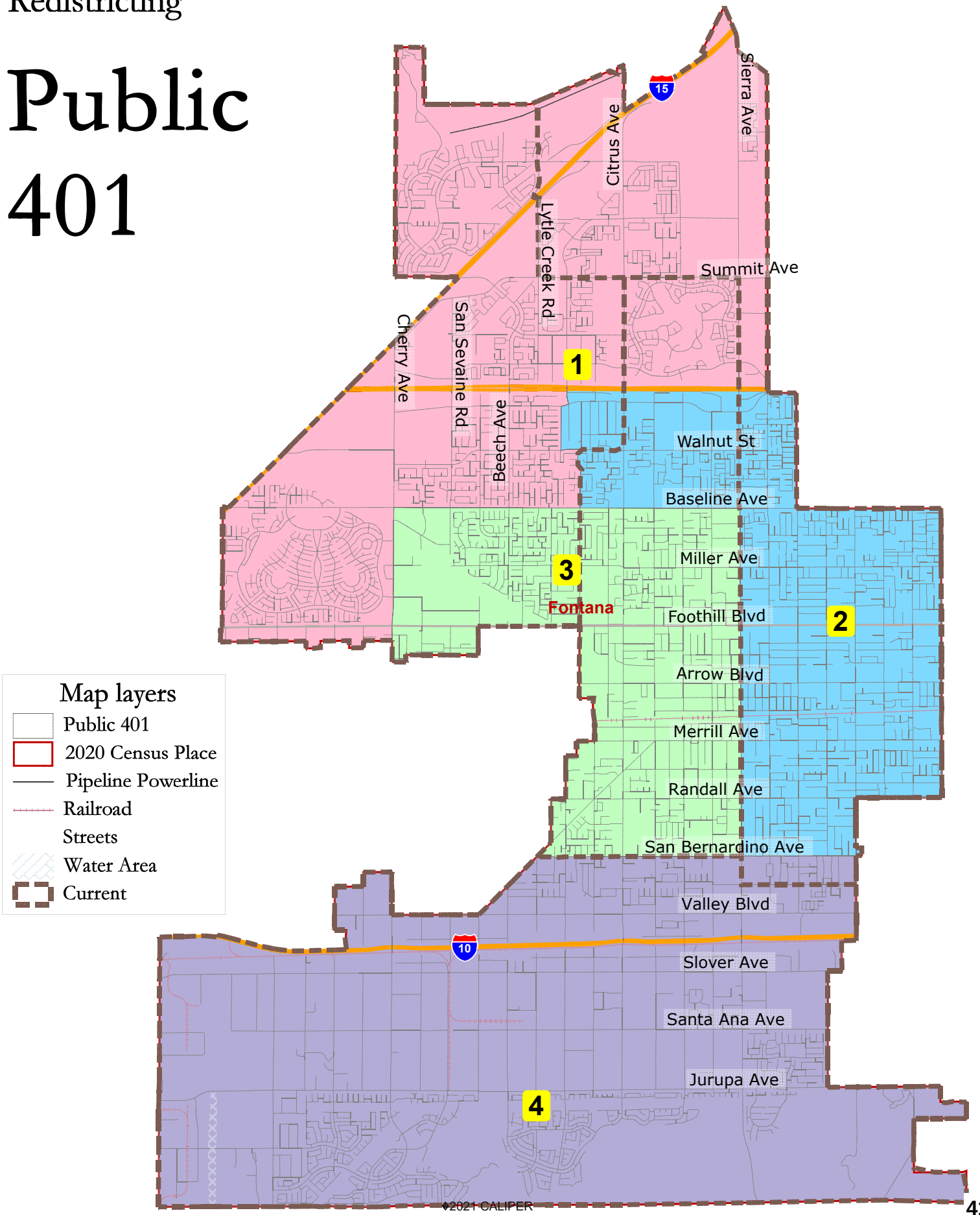
Total population data from the 2020 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2015-2019 American Community Survey and Special Tabulation 5-year data.

Fontana 2021 / 2022
Redistricting

Public 401



Public 401						
District		1	2	3	4	Total
	Total Pop	53,311	52,670	52,266	50,813	209,060
	Deviation from ideal	1,046	405	1	-1,452	2,498
	% Deviation	2.00%	0.77%	0.00%	-2.78%	4.78%
Total Pop	% Hisp	43.0%	75%	78%	76%	68%
	% NH White	22%	11%	8%	9%	12%
	% NH Black	15%	7%	7%	7%	9%
	% Asian-American	17%	5%	5%	7%	9%
Citizen Voting Age Pop	Total	34,282	29,061	26,112	32,141	121,597
	% Hisp	43%	70%	74%	69%	63%
	% NH White	26%	15%	14%	14%	18%
	% NH Black	17%	8%	8%	11%	11%
	% Asian/Pac.Isl.	12%	5%	3%	5%	7%
Voter Registration (Nov 2020)	Total	32,757	24,737	21,065	24,408	102,967
	% Latino est.	41%	69%	69%	69%	60%
	% Spanish-Surnamed	37%	62%	63%	62%	54%
	% Asian-Surnamed	5%	2%	2%	3%	3%
	% Filipino-Surnamed	3%	2%	2%	2%	2%
	% NH White est.	33%	22%	20%	18%	24%
	% NH Black	20%	11%	12%	14%	15%
Voter Turnout (Nov 2020)	Total	26,526	17,405	14,425	17,750	76,106
	% Latino est.	40%	66%	67%	67%	57%
	% Spanish-Surnamed	36%	61%	61%	61%	52%
	% Asian-Surnamed	5%	2%	2%	3%	3%
	% Filipino-Surnamed	3%	2%	2%	2%	2%
	% NH White est.	34%	23%	21%	18%	25%
	% NH Black	20%	12%	12%	15%	16%
Voter Turnout (Nov 2018)	Total	15,315	9,697	7,705	10,048	42,765
	% Latino est.	36%	61%	64%	63%	53%
	% Spanish-Surnamed	33%	56%	59%	58%	49%
	% Asian-Surnamed	3%	1%	1%	2%	2%
	% Filipino-Surnamed	3%	1%	2%	2%	2%
	% NH White est.	36%	26%	23%	20%	28%
	% NH Black est.	22%	13%	13%	16%	17%
ACS Pop. Est.	Total	52,999	51,206	51,991	53,671	209,867
Age	age0-19	32%	31%	35%	32%	32%
	age20-60	56%	56%	55%	57%	56%
	age60plus	12%	13%	10%	11%	12%
Immigration	immigrants	20%	28%	33%	26%	27%
	naturalized	63%	43%	38%	52%	48%
Language spoken at home	english	63%	38%	29%	38%	42%
	spanish	24%	58%	68%	57%	51%
	asian-lang	10%	3%	2%	3%	5%
	other lang	3%	2%	2%	2%	2%
Language Fluency	Speaks Eng. "Less than Very Well"	10%	22%	25%	19%	19%
Education (among those age 25+)	hs-grad	51%	52%	50%	53%	51%
	bachelor	22%	10%	9%	13%	14%
	graduatedegree	9%	3%	3%	3%	4%
Child in Household	child-under18	53%	49%	54%	51%	52%
Pct of Pop. Age 16+	employed	68%	64%	65%	67%	66%
Household Income	income 0-25k	4%	16%	20%	15%	14%
	income 25-50k	9%	20%	22%	20%	18%
	income 50-75k	14%	25%	22%	20%	20%
	income 75-200k	56%	36%	34%	43%	42%
	income 200k-plus	17%	3%	2%	3%	6%
Housing Stats	single family	98%	80%	69%	87%	84%
	multi-family	2%	20%	31%	13%	16%
	rented	17%	37%	52%	35%	35%
	owned	83%	63%	48%	65%	65%

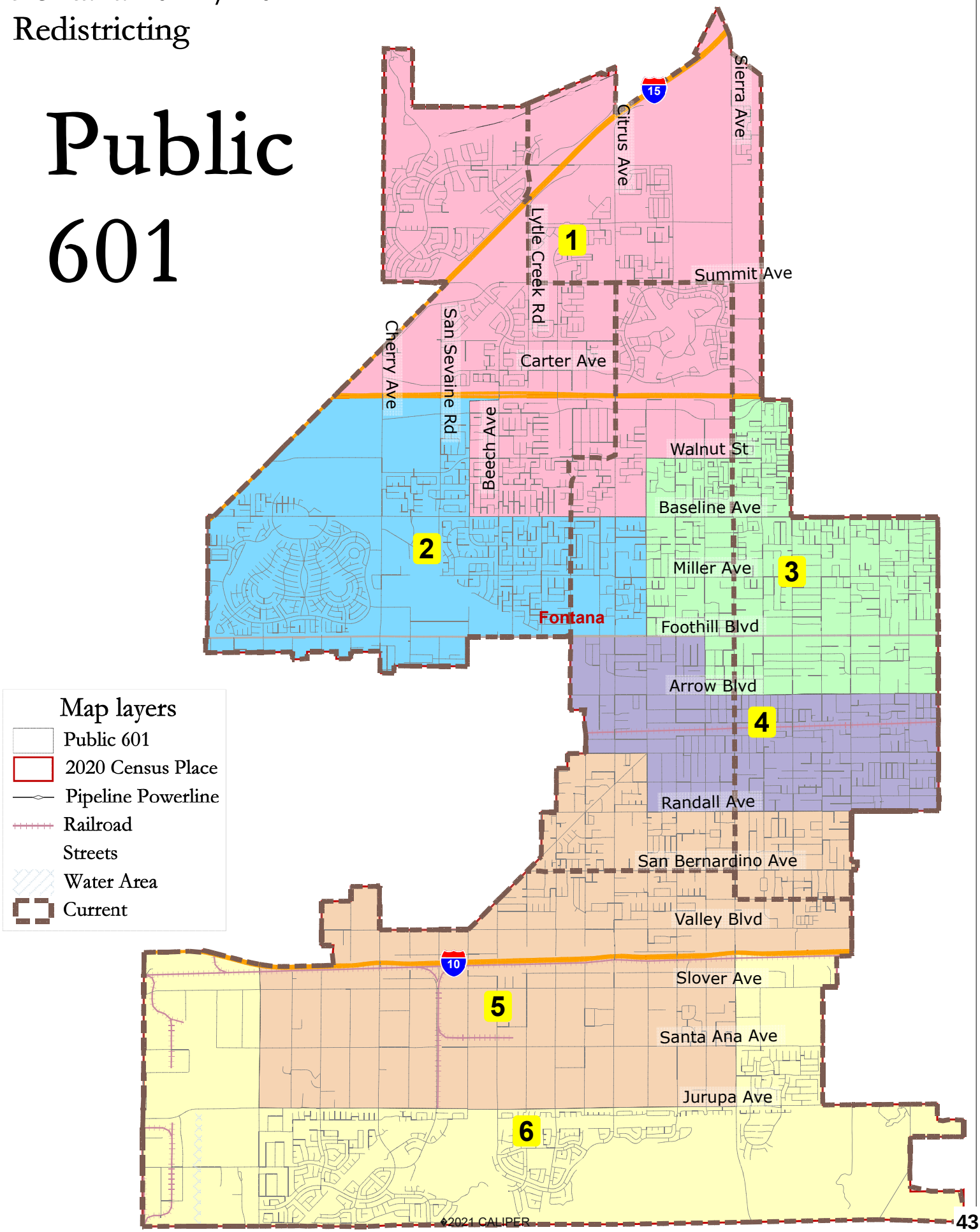
Total population data from the 2020 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2015-2019 American Community Survey and Special Tabulation 5-year data.

Fontana 2021 / 2022
Redistricting

Public 601



©2021 CALIPER

Public 601								
District		1	2	3	4	5	6	Total
	Total Pop	40,289	34,501	35,437	33,102	32,800	32,931	209,060
	Deviation from ideal	5,446	-342	594	-1,741	-2,043	-1,912	7,489
	% Deviation	15.63%	-0.98%	1.70%	-5.00%	-5.86%	-5.49%	21.49%
Total Pop	% Hisp	43.9%	55%	75%	83%	83%	72%	68%
	% NH White	22%	16%	9%	8%	9%	8%	12%
	% NH Black	14%	12%	8%	6%	4%	9%	9%
	% Asian-American	17%	14%	6%	2%	3%	8%	9%
Citizen Voting Age Pop	Total	24,821	22,080	19,501	15,310	18,886	20,999	121,597
	% Hisp	44%	55%	72%	76%	74%	65%	63%
	% NH White	27%	18%	13%	16%	17%	12%	18%
	% NH Black	14%	17%	9%	6%	5%	15%	11%
	% Asian/Pac.Isl.	14%	8%	6%	1%	2%	7%	7%
Voter Registration (Nov 2020)	Total	24,266	19,512	16,485	12,008	13,554	17,142	102,967
	% Latino est.	42%	50%	70%	73%	75%	67%	60%
	% Spanish-Surnamed	38%	46%	63%	66%	68%	60%	54%
	% Asian-Surnamed	5%	4%	2%	1%	1%	3%	3%
	% Filipino-Surnamed	3%	3%	2%	1%	1%	2%	2%
	% NH White est.	35%	25%	20%	22%	23%	15%	24%
	% NH Black	18%	21%	12%	8%	5%	18%	15%
Voter Turnout (Nov 2020)	Total	19,653	15,242	11,422	7,787	9,154	12,848	76,106
	% Latino est.	41%	49%	68%	71%	74%	65%	57%
	% Spanish-Surnamed	37%	44%	62%	64%	67%	59%	52%
	% Asian-Surnamed	5%	4%	2%	1%	1%	3%	3%
	% Filipino-Surnamed	3%	3%	2%	1%	1%	3%	2%
	% NH White est.	36%	25%	21%	24%	23%	16%	25%
	% NH Black	18%	22%	12%	8%	5%	19%	16%
Voter Turnout (Nov 2018)	Total	10,948	8,902	6,224	4,332	5,205	7,154	42,765
	% Latino est.	37%	45%	62%	65%	69%	61%	53%
	% Spanish-Surnamed	34%	41%	57%	60%	63%	56%	49%
	% Asian-Surnamed	4%	3%	2%	1%	1%	2%	2%
	% Filipino-Surnamed	3%	3%	2%	1%	1%	3%	2%
	% NH White est.	38%	27%	24%	28%	26%	17%	28%
	% NH Black est.	19%	24%	13%	9%	6%	20%	17%
ACS Pop. Est.	Total	39,138	34,892	34,293	32,835	34,665	34,044	209,867
Age	age0-19	32%	32%	31%	35%	34%	30%	32%
	age20-60	58%	54%	55%	55%	54%	60%	56%
	age60plus	10%	14%	13%	10%	12%	10%	12%
Immigration	immigrants	20%	23%	30%	33%	30%	26%	27%
	naturalized	60%	57%	46%	33%	43%	53%	48%
Language spoken at home	english	62%	51%	36%	28%	29%	42%	42%
	spanish	24%	41%	59%	71%	67%	52%	51%
	asian-lang	11%	6%	3%	1%	2%	4%	5%
	other lang	3%	2%	2%	0%	2%	2%	2%
Language Fluency	Speaks Eng. "Less than Very Well"	11%	15%	23%	26%	23%	17%	19%
Education (among those age 25+)	hs-grad	51%	51%	52%	51%	50%	54%	51%
	bachelor	23%	16%	10%	6%	8%	15%	14%
	graduatedegree	9%	7%	3%	1%	2%	4%	4%
Child in Household	child-under18	52%	52%	48%	55%	51%	52%	52%
Pct of Pop. Age 16+	employed	69%	65%	65%	63%	64%	70%	66%
Household Income	income 0-25k	5%	9%	16%	23%	22%	8%	14%
	income 25-50k	8%	13%	23%	26%	23%	16%	18%
	income 50-75k	16%	19%	21%	25%	23%	20%	20%
	income 75-200k	54%	51%	38%	25%	30%	51%	42%
	income 200k-plus	17%	8%	2%	1%	2%	4%	6%
Housing Stats	single family	98%	96%	76%	60%	77%	94%	84%
	multi-family	2%	4%	24%	40%	23%	6%	16%
	rented	16%	22%	44%	61%	44%	27%	35%
	owned	84%	78%	56%	39%	56%	73%	65%

Total population data from the 2020 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

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File #: 21-1041
Agenda #:

Agenda Date: 1/25/2022
Category: Proclamation

Proclamation

National Mentoring Month

Tuesday, January 25, 2022

Council Chambers

City Council

Acquanetta Warren, Mayor

Peter Garcia, Mayor Pro Tem

John Roberts, Council Member

Jesse “Jesus” Sandoval, Council Member

Phillip W. Cothran, Council Member

File #: 21-1121
Agenda #:

Agenda Date: 1/25/2022
Category: Special Presentation

Special Presentations

Tuesday, January 25, 2022

Council Chambers

City Council

Acquanetta Warren, Mayor

Peter Garcia, Mayor Pro Tem

John Roberts, Council Member

Jesse “Jesus” Sandoval, Council Member

Phillip W. Cothran, Council Member

File #: 21-1139
Agenda #: A.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
City Clerk

SUBJECT:
Approval of Minutes

RECOMMENDATION:
Approve the minutes of the December 14, 2021, Regular City Council Meeting.

COUNCIL GOALS:

- To create a team by working together to provide stability and consistent policy direction.
- To create a team by communicating Goals and Objectives to all sectors of the community.

DISCUSSION:
The City Council will consider approval of the minutes of the December 14, 2021, Regular City Council meeting. The draft minutes are attached to this report for Council review and approval.

FISCAL IMPACT:
None

MOTION:
Approve staff recommendation

City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Minutes

Tuesday, December 14, 2021

7:00 PM

Grover W. Taylor Council Chambers

City Council Meeting

Acquanetta Warren - Mayor
Peter A. Garcia- Mayor Pro Tem
Phillip W. Cothran - Council Member
John B. Roberts - Council Member
Jesus "Jesse" Sandoval - Council Member
Tonia Lewis - City Clerk
Janet Koehler-Brooks - City Treasurer

WORKSHOP:

A. 5:00 P.M. City Council Workshop

The City Council Workshop was held on Tuesday, December 14, 2021, in the Grover W. Taylor Council Chambers located at 8353 Sierra Avenue, Fontana, California. Mayor Warren called the meeting to order at 5:01 p.m. with all members of the City Council present.

The City Council Regular meeting agenda was received and there were no City Manager comments.

There were no public communications received.

Housing Development Manager Valerie Gonzales and Deputy City Manager Phil Burum provided the Mayor and City Council with a brief overview of Housing Solutions available to the community.

Mayor Warren asked for clarification from staff if there is a cap on how long an individual can partake in the housing program through the City and what the certification process entails. Housing Development Manager Gonzalez confirmed that there is no cap for such benefits and there is an annual recertification process to confirm qualifications are still met.

Public Works Director Keith Kramer and Infrastructure Management Services (IMS) Vice-President of Engineering, Kurt Keifer, provided the Mayor and City Council with an overview on pavement management throughout the City.

Council Member Roberts added that the new Infrastructure Bill passed by President Biden should provide some funding for maintenance of our current pavement infrastructure and stated that it is cheaper to maintain than to replace.

Due to the remaining time allotted for the workshop, Mayor Warren asked Interim City Manager Shannon Yauchzee to introduce newly hired Chief Financial Officer Jessica Brown to the Council and community.

The Workshop adjourned at 5:53 p.m.

CLOSED SESSION:

A. 6:00 P.M. CLOSED SESSION

A Closed Session was held in the Executive Conference Room at 6:00 p.m. located at 8353 Sierra Avenue, Fontana, California, with all members of the City Council present.

PUBLIC COMMUNICATION - CLOSED SESSION:

A. Public Communications - Closed Session

There were no public communications received on the following Closed Session Items:

CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO
GOVERNMENT CODE SECTION 54957.6
City Negotiator: Shannon Yauchzee, Interim City Manager and Rakesha Thomas, Director of Human Resources and Risk Management
Employee Organization(s): Teamsters Local 1932 City Hall Bargaining Unit; Teamsters Local 1932 Yard Bargaining Unit; Police Officers Association; Police Benefits Association; and Management/Confidential Employees

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO
GOVERNMENT CODE SECTION 54956.9 (d) (1)
Case: Glenn Thomas v. City of Fontana
Court: United States District Court-Central District of California Court Case No. 5:21cv-00452 JGB KK

CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO
GOVERNMENT CODE SECTION 54956.8
Property: Vacant Land on Arrow Blvd (APN 0191-162-05)
City Negotiator: Phillip Burum, Deputy City Manager
Negotiating Party: Cieba Inc.
Under negotiation: Price and terms of payment

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of case: Sierra Club v. City of Fontana, et al. San Bernardino Superior Court Case No. CIVSB2121605; and
People of the State of California v. City of Fontana, et al.
San Bernardino Superior Court Case No. CIVSB2121829

CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov. Code section 54956.8)
Property: APN's 1108-072-01 thru -16 and 1108-074-01 thru -16
City Negotiator: Shannon Yauchzee, Interim City Manager
Negotiating Parties: Diversified Pacific Communities
Under Negotiation: Price and terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov. Code section 54956.8)
Property: APN's 0191-116-239 and 0191-162-08
City Negotiator: Shannon Yauchzee, Interim City Manager
Negotiating Parties: Labra Investments, LLC
Under Negotiation: Price and terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov. Code section 54956.8)
Property: APN 0237-411-13
City Negotiator: Shannon Yauchzee, Interim City Manager
Negotiating Parties: Newbridge Homes
Under Negotiation: Price and terms of payment

CALL TO ORDER/ROLL CALL:

A. 7:00 P.M. Call To Order/Roll Call:

The Regular meeting of the Fontana City Council was held concurrently with the Fontana Successor Agency, Fontana Public Financing Authority, Fontana Industrial Development Authority, Fontana Community Foundation, Fontana Fire Protection District, and Fontana Housing Authority meeting.

The meetings took place in the Grover W. Taylor Council Chambers, 8353 Sierra Avenue, Fontana, California on Tuesday, December 14, 2021. Mayor Warren called the meeting to order at 7:08 p.m.

ROLL CALL:
Present: Mayor Warren, Mayor Pro Tem Cothran, Council Members Garcia, Roberts, and Sandoval

Absent: None

INVOCATION/PLEDGE OF ALLEGIANCE:

A. Fontana Police Department Chaplain Valerie Torres/ Pledge of Allegiance:

Following the invocation led by Fontana Police Department Chaplain Valerie Torres, the pledge of allegiance was led by Mayor Pro Tem Cothran.

CLOSED SESSION ANNOUNCEMENT

City Attorney Duran noted that the Mayor and City Council met in closed session on the seven items listed on the agenda and took no reportable action.

SPECIAL PRESENTATIONS:

A. Special Presentations

A. Mayor Warren and City Council to recognize Veterans Day Writing and Art Contest Winners Essay Winner

Council Member Sandoval introduced Special Events Coordinator Salena Zapata to recognize the following winners: Canaan Mejia - 2nd Place (Poetry); Aria Shah - 2nd Place (Art); and Julienne Ramiterre - 2nd Place (Writing).

B. Mayor Warren and City Council to introduce Chief Financial Officer Jessica Brown

Interim City Manager Shannon Yauchzee introduced Chief Financial Officer Jessica Brown to the Fontana team and community.

C. Mayor Warren and City Council to recognize retiring Human Resources Analyst, Terri Truitt, and Human Resources Analyst, Nora Haynes

Human Resource Department Director Rakesha Thomas recognized her two retiring employees and thanked them for their exceptional years of service to the Fontana team. In lieu of attendance, Human Resources Department Director Thomas accepted the awards on behalf of her employees.

D. Mayor Warren and City Council to recognize Sergeant Jon VanTuinen, Corporal Buddy Porch, Officers Aaron Alcala, Johnsull Doakes, Brandon Gossert, Dustin Hodgins, Christine Tomicic and Reserve Officer Ryan Starling as the Police Department's October 2021 Employees of the Month

Fontana Police Captain Dorsey recognized the following as the Police Department October 2021 Employees of the Month: Sergeant Jon VanTuinen, Corporal Buddy Porch, Officers Aaron Alcala, Johnsull Doakes, Dustin Hodgins, Christine Tomicic and Reserve Officer Ryan Starling. Officer Brandon Gossert was absent.

E. Mayor Warren and City Council to recognize Officer Christopher Drayer and Dispatch Shift Supervisor Mary Jo Grinceri as the Police Department's November 2021 Employees of the Month

Fontana Police Captain Dorsey recognized the following as the Police Department November 2021 Employee of the Month: Officer Christopher Drayer. Dispatch Shift Supervisor Mary Jo Grinceri was absent.

21-1050

PUBLIC COMMUNICATIONS:

A. Public Communications

The following individuals spoke under public communications:

Lauren Ensbera, Representative of Chaffey College, provided a brief report on upcoming events hosted by Chaffey College - Fontana Campus.

Bishop Emory James, announced the upcoming 34th Annual Martin Luther King event and other upcoming events in the community.

Elizabeth Sena voiced concerns of public health due to warehouse developments within the community.

Amparo Munoz voiced concerns of public health due to warehouse developments within the community.

Ana Gonzalez voiced concerns of public health due to warehouse developments within the community.

Gabriela Mendez voiced concerns of public health due to warehouse developments within the community.

Matt provided a review of current data on the air quality of Fontana.

Selene voiced concerns of public health due to warehouse developments within the community.

After public communications, Mayor Warren asked Fire Chief Jeff Birchfield to provide the Council and Community on an update of the recent weather conditions and call for evacuations in the Lytle Creek area.

CONSENT CALENDAR:

The following individuals spoke under public communications:

Elizabeth Sena, Consent Calendar Item 'C', commented on the plan including South Fontana and urged the Mayor, City Council and City staff not to forget this when developing; and concluded with concerns of truck routes that pass schools during school hours.

Andrea De Leon, Consent Calendar Item 'H'.

Interim City Manager Yauchzee provided a brief update on the addition of an application from 'Ronald McDonald - House Walk for Kids', under Consent Calendar Item 'K'. City Attorney Duran confirmed with Deputy City Clerk Gout that the additional application will be included in the record and has been made available for the public review during tonight's meeting.

Council Member Garcia noted for the record that he must abstain from Consent Calendar Items 'G, I' under the Political Reform Act of owning property near the project site. Deputy City Clerk Gout will note this abstaintion for the record.

ACTION: Motion was made by Council Member Sandoval, seconded by Mayor Pro Tem

Cothran, and passed unanimously by a vote of 5-0 to adopt Consent Calendar Items 'A-L'. The motion carried by the following vote: (AYES: Warren, Cothran, Garcia, Roberts, and Sandoval; NOES: None; ABSTAIN; Garcia (Items G, I); ABSENT: None)

A. Approval of Minutes **21-1046**

Approve the minutes of the October 26, 2021, and November 9, 2021, Regular City Council Meetings.

B. 2022 City Hall Holiday and City Council Meeting Calendar **21-986**

Approve the attached proposed Calendar of City Holidays and City Council Meetings for the year 2022.

C. Accept the 2021 TDA Article 3 Grant Award for the Kathy Binks Safe Routes to School Project **21-1052**

1. Accept the 2021 Transportation Development Ace (TDA) Article 3 Grant Award approved by San Bernardino County Transportation Authority (SBCTA) for the Kathy Binks Safe Routes to School Project in the amount of $160,000.00.

2. Accept the 2021 Transportation Development Ace (TDA) Article 3 Grant Award approved by San Bernardino County Transportation Authority (SBCTA) for the Transit Stop Access Improvement Program in the amount of $37,580.00.

3. Approve Resolution Authorizing the submittal of Claim Forms, submission of Reimbursement Request Forms, and designate the City Engineer to certify project completions for the Kathy Binks Safe Routes to School Project and the Transit Stop Improvement Project related to TDA Article 3 Grant Awards.

D. Adopt the Part Time and City Hall Salary Tables to Comply with Minimum Wage Increases **21-1071**

Adopt the non-classified, part time salary table and the City Hall Unit salary table to comply with minimum wage increases, effective January 1, 2022.

E. Annual Report on Development Impact Fees **21-1048**

Adopt **Resolution No. 2021-119** of the City Council of the City of Fontana, approving the Annual Report on Development Impact Fees and making findings as to unexpended funds.

F. Approval of the Declaration of Dedication Flood Regulation Replacement Basin Agreement for Tract Map No. 18820 and 18944 **21-974**

Authorize the City Manager to execute the Second Declaration of Dedication Flood Regulation Basin Agreement with LCD Sierra Crest, LLC. For Tract Map No. 18820 and 18944

G. Approve Amendment No. 1 to Professional Services Agreement with WLC Architects, Inc. for Fire Station No. 81 **21-1078**

Approve and authorize the City Manager to execute Amendment No. 1 to Professional Services Agreement with WLC Architects, Inc. for Construction Phase Services in the additional amount of $90,000 for Fire Station No. 81 (SQ-97-DE-20).

H. Approval of the 2022 Fontana Legislative Platform **21-1089**

Staff recommends the City Council approve the Legislative Platform and bring back updates from time to time.

I. Award a Construction Contract for Fire Station No. 81 **21-1035**

1. Award bid and authorize the City Manager to execute a Construction Contract with TELACU Construction Management, Inc. for the construction of the Fire Station No. 81 project in the amount of $8,205,000.00, authorize a 10% contingency in the amount of $820,500.00 (Bid No. SB-06-DE-22) and ratify determination that the protest and appeal filed in connection therewith are without merit and any deficiencies asserted in connection with the protest and appeal are insubstantial and waived by the City on such basis as not affecting the amount of the bid or otherwise providing a competitive advantage.

2. Authorize the City Manager to execute any and all utility agreements, utility easements, and any related items on behalf of the City of Fontana for Fire Station No. 81.

J. Award a Bid for the Valley Boulevard/Kaiser Sewer Project. **21-1058**
SB-19-PW-22

Award bid and authorize the City Manager to execute a contract with GRBCON Inc., for the Valley Boulevard/Kaiser Sewer Project in the amount of $706,746.00 and a 10% contingency of $70,674.60.

K. Co-Sponsorship Applications Cycle (2) FY 2021/2022 **21-1055**

Review and approve the four (4) Co-Sponsorships recommended for the second half of 2021/2022 fiscal year (January 2022 through June 2022 totaling an amount of $10,546 as recommended by Parks, Community, and Human Services Commission).

L. Consider Opting Into Settlement Agreements With Distributors Of Opioids, Amerisource Bergan, Cardinal Health, And Mckesson, And Opioid Manufacturer Janssen (Owned By Johnson & Johnson) **21-1065**

It is recommended that the City Council adopt **Resolution No. 2021-120**, authorizing the Interim City Manager to:

1. Opt into settlement agreement with opioid distributors, Amerisource Bergen, Cardinal Health, and McKesson, and direct the Interim City Manager to execute any documents necessary to implement the action.

2. Opt into settlement agreement with opioid manufacturer, Janssen (owned by Johnson & Johnson), and direct the Interim City Manager to execute any documents necessary to implement the action.

PUBLIC HEARINGS:

A. Quarterly Lien Action for Delinquent Sewer, Rubbish and Weed Abatement Accounts **21-1070**

ACTION: Motion was made by Council Member Sandoval, seconded by Council Member Garcia, and passed unanimously by a vote of 5-0 to adopt Public Hearing 'A' as follows:

1. Authorize staff to complete and record lien notices against real property for those sewer accounts sixty days or more delinquent as described in the Certified Lien List and direct staff to forward recorded liens to the County for collection.

2. Authorize staff to complete and record liens against real property for those rubbish accounts more than ninety days delinquent as described in the Certified Lien List and direct staff to forward recorded liens to the County for collection.

3. Adopt Resolution No. 2021-121 of the City Council of the City of Fontana adopting the statement of unpaid expenses for weed abatement and imposing a lien against real property for payment thereof.

The motion carried by the following vote (AYES: Warren, Cothran, Garcia, Roberts, and Sandoval; NOES: None; ABSTAIN: None)

B. Municipal Code Amendment (MCA) No. 21-002 - Amendments to Municipal Code Chapter 11 - Fire Prevention **21-1069**

Mayor Warren opened the public hearing.

Deputy City Manager Phillip Burum provided the staff report and answered questions of the City Council.

There were no public communications received for this item.

Mayor Warren closed the public hearing.

ACTION: Motion was made by Council Member Roberts, seconded by Council Member Cothran, and passed unanimously by a vote of 5-0 to approve Public Hearing 'B' as follows:

Read by title only and waive further reading of and introduce Ordinance No. 1876, an Ordinance of the City Council of the City of Fontana, California approving Municipal Code Amendment (MCA) No. 21-002 to amend Chapter 11 – Fire Prevention of the Municipal Code to (1) increase the minimum building square footage exception for requiring fire sprinklers, (2) require the installation of fire sprinklers or other appropriate fire suppression system as approved by the Fire Marshall for all buildings housing vehicles, and (3) allow installation of residential 13R or 13D fire sprinkler systems in place of commercial 13 systems for commercial buildings under 5,000

square feet, and the reading of the title constitutes the first thereof.

The motion carried by the following vote: (AYES: Warren, Cothran, Garcia, Roberts, and Sandoval; NOES: None; ABSTAIN: None)

C. Zoning Code Amendment No. 21-009: A request for the adoption of an Urgency Ordinance amending Chapter 30, Article II, Division 21 to add Subdivision IV to the City Municipal Code and amending Chapter 30, Article V, Division 4 to add Section 30-434.1 to regulate urban lot splits and two-unit projects under SB 9; and finding the action to be exempt from CEQA **21-1081**

Mayor Warren opened the public hearing.

Associate Planner, Cecily Session-Goins, provided the staff report and answered questions of the City Council.

There were no public communications received for this item.

Mayor Warren closed the public hearing.

ACTION: Motion was made by Council Member Cothran, seconded by Council Member Roberts, and passed unanimously by a vote of 5-0 to adopt this Public Hearing as follows:

1. Determine that the project is exempt pursuant to Section 15061 (b) (3) (General Rule Exemption), of the California Environmental Quality Act (CEQA) and Section No. 3.07 of the 2019 Local Guidelines for Implementing CEQA and direct staff to file the Notice of Exemption; and,

2. Read by title only and waive further reading of and introduce Ordinance No. 1877, an Ordinance of the City Council of the City of Fontana, approving amendments to Chapter 30 (Zoning and Development Code) of the Fontana Municipal Code, and that the reading of the title constitutes the first reading thereof.

The motion carried by the following vote: AYES: Warren, Cothran, Garcia, Roberts, and Sandoval; NOES: None; ABSTAIN: None.

NEW BUSINESS:

A. Appointment of Mayor Pro Tem **21-1039**

ACTION: Motion was made by Mayor Pro Tem Cothran, seconded by Council Members Roberts, and passed unanimously by a vote of 5-0 to appoint Council Member Garcia as Mayor Pro Tem. (AYES: Warren, Cothran, Garcia, Roberts, and Sandoval; NOES: None; ABSTAIN: None)

B. Amendment to Chapter 7 of the Fontana Municipal Code adding Article III. Related to Mandate Electronic and Paperless Filing of Campaign Finance Disclosure Statements by Elected Officials, Candidates, or Committees: Introduction and First Reading of Ordinance **21-1060**

Ashton R. Gout, CMC, Deputy City Clerk, provided the staff report and answered questions of the City Council.

No public communications were received on this item.

ACTION: Motion was made by Council Member Sandoval, seconded by Mayor Pro Tem Garcia, and passed unanimously by a vote of 5-0 to adopt this New Business Item A as follows:

Read by title only and waive further reading of and introduce Ordinance No.1878, adding Article III to Chapter 7 of the Fontana Municipal Code, regarding mandate of electronic and paperless filing of Campaign Finance Disclosure Statements.

The motion carried by the following vote: AYES: Warren, Cothran, Garcia, Roberts, and Sandoval; NOES: None; ABSTAIN: None.

CITY MANAGER COMMUNICATIONS:

A. City Manager Communications

Interim City Manager Shannon Yauchzee wished the community a safe and happy holiday season.

ELECTED OFFICIALS COMMUNICATIONS/REPORTS:

A. Elected Officials Communications/Reports

City Treasurer Koehler-Brooks welcomed Jessica Brown, Chief Financial Officer, to the Fontana team and closed with wishing the community a safe and healthy holiday season.

Mayor Pro Tem Garcia thanked those who came out to the recent Christmas parade; announced ribbon cutting for Sierra Fountains and commended those involved for implementing such a great project; and closed with wishing the community a safe and healthy holiday season.

Council Member Cothran thanked his colleagues for the re-appointment as President of the Fire Protection District and wished the community a safe and healthy holiday season.

Mayor Pro Tem Garcia thanked his colleagues for his appointment as Mayor Pro Tem and looks forward to serving in this role.

Council Member Sandoval provided a brief update on his recent attendance at the ICSC Conference in Las Vegas, NV; thanked those who came out to the recent Christmas parade; thanked those involved in creating this year's parade route as it was most convenient for those to attend; and closed with wishing the community and staff a safe and healthy holiday season.

Council Member Roberts thanked those who came out to the recent Christmas parade; commented on the Sierra Fountains ribbon cutting ceremony; and closed with wishing the community and staff a safe and healthy holiday season.

Mayor Warren commented on the recent Christmas parade and thanked those who attended; commented on the Sierra Fountains ribbon cutting ceremony; discussed the current climate due to the pandemic and announced opportunities for the public to be vaccinated; provided comments on how Fontana is moving forward; announced the upcoming development of adding a Chaffey College campus in South Fontana; announced the City involvement in the television series, Undercover Boss, which will be aired in April 2022; announced upcoming community events; and closed with wishing the community and staff a safe and healthy holiday season.

ADJOURNMENT:

A. Adjournment

The meeting was adjourned in memory of the following: Ollie Ruth Bond; First Lady Blacksher Owens; Socorro Garcia; James "Jimmy" Reyes; and Claudia "Micki" Wright-Hall.

Mayor Warren adjourned the meeting at 9:00 p.m. to the next Regular City Council Meeting on January 25, 2022, at 7:00 p.m. in the Grover W. Taylor Council Chambers located at 8353 Sierra Avenue, Fontana, California.

_____
Ashton R. Gout, CMC
Deputy City Clerk

THE FOREGOING MINUTES WERE APPROVED AND ADOPTED BY THE FONTANA CITY COUNCIL ON THE 25TH DAY OF JANUARY 2022.

_____
Tonia Lewis
City Clerk

File #: 21-1134
Agenda #: B.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
City Clerk

SUBJECT:
Adoption of Ordinance No.1876

RECOMMENDATION:
Second Reading/Adopt **Ordinance No. 1876**, an Ordinance of the City Council of the City of Fontana, California approving Municipal Code Amendment (MCA) No. 21-002 to amend Chapter 11 - Fire Prevention of the Municipal Code to (1) increase the minimum building square footage exception for requiring fire sprinklers, (2) require the installation of fire sprinklers or other appropriate fire suppression system as approved by the Fire Marshall for all buildings housing vehicles, and (3) allow installation of residential 13R or 13D fire sprinkler systems in place of commercial 13 systems for commercial buildings under 5,000 square feet.

COUNCIL GOALS:
- To practice sound fiscal management by developing long-term funding and debt management plans.

DISCUSSION:
Ordinance No. 1876 was introduced by a vote of 5-0 at the December 14, 2021 Regular City Council Meeting.

FISCAL IMPACT:
None.

MOTION:
Approve staff recommendation.

ORDINANCE NO. 1876

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA AMENDING FIRE SPRINKLER EXCEPTIONS SECTION 11-28 OF THE FONTANA MUNICIPAL CODE INCREASING THE MINIMUM BUILDING SQUARE FOOTAGE EXCEPTION TO THE REQUIREMENT FOR FIRE SPRINKLER SYSTEMS FROM 200 SQUARE FEET TO 500 SQUARE FEET AND AMENDING THE FIRE SPRINKLER SYSTEM STANDARDS SECTION 11-31 OF THE FONTANA MUNICIPAL CODE REQUIRING THE INSTALLATION OF FIRE SPRINKLER SYSTEMS OR OTHER APPROPRIATE FIRE SUPPRESSION SYSTEM APPROVED BY THE FIRE MARSHALLIN FOR ALL BUILDINGS THAT HOUSE VEHICLES AND ALLOWING THE INSTALLATION OF A 13R OR 13D RESIDENTIAL FIRE SRINKLER SYSTEM IN PLACE OF A 13 SYSTEM FOR COMMERCIAL BUILDINGS LESS THAN 5,000 SQUARE FEET.

WHEREAS, pursuant to California Government Code section 18941.5, the City of Fontana ("City") may adopt more restrictive building standards than those provided for by State Building Standards Laws, including the California Fire Code; and

WHEREAS the California Fire Code requires the installation of a fire sprinkler system on all commercial buildings 5,000 square feet or larger; and

WHEREAS the California Fire Code requires the installation of a fire sprinkler system on all commercial buildings 5,000 square feet or larger; and

WHEREAS, Section 11-28 (Fire Prevention) of the Fontana Municipal Code ("Code") defines fire sprinkler system requirements in the City; and

WHEREAS, the City is amending the fire sprinkler requirements of the municipal code to create more appropriate and efficient standards; and

WHEREAS, the proposed Code amendments are consistent with the protection and promotion of the public health, safety, and general welfare; and

WHEREAS, all of the notices required by State statute or the City of Fontana Municipal Code have been given as required; and

WHEREAS, On December 14, 2021, the City Council held a duly noticed public hearing to consider the proposed Municipal Code Amendment and received testimony and supporting documents in evidence.

THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Approve Municipal Code Amendment MCA No. 21-002, requesting changes to Municipal Code Chapter 11 – Fire Prevention, Section 11-28 and 11-31, as provided in Exhibit "A" attached hereto, which shows all language proposed to be deleted as strikethrough and language proposed to be added as bold and underlined.

Section 3. CEQA. This approval is not subject to the California Environmental Quality Act ("CEQA"), because it is exempt under State CEQA Guidelines section 15061(b)(3), as it can be seen with certainty that there is no possibility that the activities in question may have a significant effect on the environment. Alternatively the approval is exempt pursuant to CEQA Guidelines 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA

Section 4. Existing Code Provisions. All existing provisions of the Municipal Code that are repeated in Exhibit A are repeated only to aid decision-makers and the public in understanding the effect of the proposed changes. Restatement of existing provisions does not constitute a new enactment.

Section 5. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 8353 Sierra Avenue, Fontana, CA 92335. The custodian of these records is the City Clerk.

Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The people of the City of Fontana hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 7. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

Section 8. Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Fontana.

APPROVED AND ADOPTED this 14th day of December 2021.

READ AND APPROVED AS TO LEGAL FORM:

_____
City Attorney

I, Tonia Lewis, City Clerk of the City of Fontana and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance introduced at a regular meeting of said City Council on December 14, 2021, and was finally passed and adopted not less than five days thereafter on January 25, 2025, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
City Clerk

_____
Mayor

ATTEST:

_____
City Clerk

EXHIBIT "A"

Amendments to Municipal Code

Sec. 11-28. Exceptions; permissible sprinkler omissions.

(a) Subject to the approval and concurrence of the fire chief and the building official, sprinklers may be omitted where they are considered undesirable because of the nature of the contents of a building or structure. Alternative fire extinguishing systems, as determined by the chief may be required. Sprinklers shall not be omitted from any building, structure or room merely because it is damp, contains electrical equipment, is constructed out of noncombustible materials, or is constructed out of fire-resistive construction.

(b) Buildings and other structures of 500 square feet (46.5m^2) or less in gross floor area.

(c) Additions to existing buildings or structures of less than 5,000 square feet in gross floor area, when the total gross floor area of the addition(s) over a period of five years does not exceed 50 percent of the total gross floor area of the existing building or structure. (Note: if the addition is required to be fire sprinklered, the automatic fire sprinkler system shall be installed throughout the entire existing building or structure as well as the addition.)

(d) If the change of use or occupancy of a building or structure places the proposed new use in a less hazardous occupancy group, based on life or fire risk, than the existing use.

(e) Structures that have an open roof or that are open on three or more sides, such as, but not limited to, patio covers, gazebos, carports, awnings, canopies, or equipment enclosures.

(f) Public restrooms, snack bars and storage buildings located within city parks, excluding community centers.

Sec. 11-31. Sprinkler system standards.

(a) Every sprinkler system shall have at least one Fire Department Connection (FDC).

Exception. Upon approval of the fire prevention office, the FDC may be omitted.

(b) Every sprinkler system shall have backflow protection.

(c) Post indicator valves and riser control valves shall be installed as determined by the fire prevention office upon submission of plans.

(d) Sprinkler systems shall be designed to a working pressure of no more than 175 psi and tested at a minimum of 200 psi.

(e) Minimum underground pipe size shall be six inches in diameter.

Exception. Upon approval of the fire prevention office, pipe size and system riser may be of a smaller diameter.

(f) Every sprinkler system shall be tested in accordance with the applicable NFPA standard, or other standard approved by the fire prevention office.

(g) Commercial buildings smaller than 5,000 square feet may install a residential NFPA 13R or residential NFPA 13D fire sprinkler system in place of a commercial NFPA 13 fire sprinkler system. (g)

(h) All commercial buildings with the potential to house vehicles shall install a commercial NFPA 13 fire sprinkler system or other appropriate fire suppression system as may be approved by the Fire Marshal. Non-commercial buildings with the potential to house vehicles may install a residential NFPA 13R or residential NFPA 13D fire sprinkler system in place of a commercial NFPA 13 fire sprinkler system.

File #: 21-1122
Agenda #: C.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
City Clerk

SUBJECT:
Adoption of Ordinance No.1878

RECOMMENDATION:
Second Reading/Adopt **Ordinance No. 1878** adding Article III to Chapter 7 of the Fontana Municipal Code, regarding mandate of electronic and paperless filing of Campaign Finance Disclosure Statements.

COUNCIL GOALS:

- To operate in a businesslike manner by becoming more service oriented.
- To operate in a businesslike manner by improving services through the effective use of technology.
- To improve public safety by increasing operational efficiency, visibility, and availability.
- To increase citizen involvement by utilizing technology to promote communication and linkages in the community.

DISCUSSION:
Ordinance No. 1878 was introduced by a vote of 5-0 at the December 14, 2021 Regular City Council Meeting.

FISCAL IMPACT:
None.

MOTION:
Approve staff recommendation.

ORDINANCE NO. 1878

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA ADDING ARTICLE III TO CHAPTER 7 OF FONTANA MUNICIPAL CODE TO MANDATE ELECTRONIC AND PAPERLESS FILING OF FAIR POLITICAL PRACTICES COMMISSION CAMPAIGN DISCLOSURE STATEMENTS AND STATEMENTS OF ECONOMIC INTEREST

WHEREAS, California Government Code Section 84615 provides that a legislative body of a local government agency may adopt an ordinance that requires an elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 of the Political Reform Act to file such statements,reports, or other documents online or electronically with the Deputy City Clerk; and

WHEREAS, the City of Fontana("City") has entered into an agreement with a vendor approved by the California Secretary of State and meets the requirements set by Government Code Section 84615, to provide an online electronic filing system ("System") for the California Fair Political Practices Commission campaign statements; and

WHEREAS, the System will operate securely and effectively and will not unduly burden filers. Specifically: (1) the System will ensure the integrity of the data and includes safeguards against efforts to temper with, manipulate, alter, or subvert the data; (2) the System will only accept a filing in the standardized record format developed by the Secretary of State and compatible with the Secretary of State's system for receiving an online or electronic filing; and (3) the System will be available free of charge to filers and to the public for viewing filings.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FONTANA DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS.

The City Council of the City of Fontana finds and determines as follows:

A. California Government Code Section 84615 provides that a legislative body of a local government agency may adopt an ordinance that requires an elected officer, candidate, or committee required to file statements, reports, or other documents required by Chapter 4 of the Political Reform Act to file such statements, reports, or other documents online or electronically with the Deputy City Clerk.

B. The web-based system operated by the Deputy City Clerk contains multiple safeguardsto protect the integrity and security of the data, it will operate securely and effectively, and it will not unduly burden filers.

C. The Deputy City Clerk will operate the electronic filing system in compliance with the requirements of California Government Code Section 84615 and any other applicable laws.

SECTION 2. **ADOPTION OF CITY CODE CHAPTER 7, ARTICLE III.**

Fontana Municipal Code Chapter 7 (Elections), Article III (Electronic Filing of Campaign Disclosure Statements and Statements of Economic Interest) is hereby added to read as follows:

ARTICLE III. - ELECTRONIC FILING OF CAMPAIGN DISCLOSURE STATEMENTSAND STATEMENTS OF ECONOMIC INTEREST

Section 7.31. Purpose and Authority.

A. The purpose of this ordinance is to require the filing of Campaign Disclosure Statements and Statements of Economic Interest by elected officials, candidates, staff, consultants or committees to be completed electronically. The City Council enacts this ordinance in accordance with the authority granted to cities by state law. This ordinance is intended to supplement, and not conflict with, the Political Reform Act.

B. While electronic filing of statements will be mandated under this ordinance, the Deputy City Clerk, as the City's filing officer, will have the right to accept a paper filing in lieu of an electronic filing at the Deputy City Clerk's discretion, under certain circumstances, and to accommodate an Americans with Disabilities Act (ADA) request.

Section 7.32. Basic Requirement.

A. An elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 of the Political Reform Act or designated in the City's local conflict of interest code adopted pursuant to Government Code Section 87300 shall file any required Statement of Economic Interests (Form 700) online or electronically with the Deputy City Clerk. Electronic filing is mandatory unless the officer, candidate, or committee is exempt as described Government Code 8415(a).

B. The Deputy City Clerk shall issue an electronic confirmation that notifies the filer that the Statement was received, and the notification shall include the date and the time that the Statement was received and the method by which the filer may view and print the data received by the Deputy City Clerk. The date of filing for a Statement filed online shall be the day that it is received by the Deputy City Clerk.

C. If the Deputy City Clerk's system is not capable of accepting a Statement due to technical difficulties, a Statement in paper format shall be filed with the Deputy City Clerk.

D. The Deputy City Clerk will operate the electronic filing system in compliance with the requirements of California Government Code Section 84615.

SECTION 3. **CEQA- EXEMPTION**: This proposed ordinance has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.). The ordinance is not a project under CEQA Guidelines Section 15378 because it involves administrative activities that will not result in direct or indirect physical changes in the environment.

SECTION 4. **SEVERABILITY**. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City of Fontana hereby declares that it wouldhave passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

SECTION 5. **EFFECTIVE DATE.** This Ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

APPROVED AND ADOPTED this 25th day of January 2022.

READ AND APPROVED AS TO LEGAL FORM:

_____
City Attorney

I, Tonia Lewis, City Clerk of the City of Fontana and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance introduced at a regular meeting of said City Council on December 14, 2021, and was finally passed and adopted not less than five days thereafter on January 25, 2025, by the following vote, to wit:

AYES:
NOES:
ABSENT:

_____
City Clerk

_____
Mayor

ATTEST:

_____

City Clerk

8353 Sierra Avenue
Fontana, CA 92335

File #: 21-1074
Agenda #: D.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
Community Services

SUBJECT:
Accept Donation From Fontana Foundation of Hope

RECOMMENDATION:
Accept donation from Fontana Foundation of Hope in the amount of $5,000 for use towards the 2021 Festival of Winter.

COUNCIL GOALS:

- To operate in a businesslike manner by becoming more service oriented.
- To invest in the city's infrastructure (streets, sewers, parks, etc.) by creating and promoting community through people, parks, and programs.
- To increase citizen involvement by seeking community input.

DISCUSSION:
The Community Services Department receives donations and sponsorships from many local companies to help support and enhance various programs, activities and events. Fontana Foundation of Hope donated $5,000 towards the 2021 Festival of Winter and is recognized as a Presenting Title Sponsor of this event.

FISCAL IMPACT:
The $5,000 was deposited into account 10124310.5531 for use in offsetting cost for the 2021 Festival of Winter.

MOTION:
Approve staff recommendation

CITY OF FONTANA
COMMUNITY SERVICES DEPARTMENT

DONATION ACCEPTANCE
(For All Donations)

Name of Donor/Organization
Jack Long/Fontana Foundation of Hope

Address	*PO*
Box 473 Fontana, CA 92334	

Contact Person, Title	*Phone No.*
Jack Long	*909.904.1735*

Type of Donation: (Check boxes)

[X] Monetary

Amount $5,000	*Receipt No.* *402450* *(Attach copy of Receipt)*

[ ] Goods/Services

Estimated Value $	*Description*

Intended use of Donation:

[X] Specific ⟶

[ ] General

Description: Platinum Sponsor for Fontana Festival of Winter

[X] **Thank you/acknowledgement letter sent to Donor? (Required for ALL donations)**

[X] **Attach copy of acknowledgement letter to this form.**

[ ] **G.E.T. Online Donation Tracking Form Has Been Completed.**
(Required for ALL donations with a value greater than $500.00)

Received By	*Date 11/09/2021*
Salena Zapata	

[X] **Copy of this form sent to Supervisor/Manager**

= = = FOR ADMINISTRATION USE ONLY = = =

City Council Agenda Date

Entered in Novus by:	*Date*

This form must be filled out for all donations received regardless of value amount. This donation must be approved by City Council prior to any spending or use of the donation.

CITY OF FONTANA FESTIVAL OF WINTER 2021

FONTANALAND

Sponsorship Application

Company Name: Fontana Foundation of Hope

Contact Person: Jack Long

Address: P.O. Box 473

City: Fontana State: Ca Zip: 92334

Phone: 909-904-1735 Fax:

Email: MWD5U@msn.com

Please complete the appropriate level of sponsorship below and fill in the dollar amount of the item donated.

Platinum Sponsor: $5,000	$ 5,000
Gold Sponsor: $2,500-$4,999	$
Silver Sponsor: $1,000-$2,499	$
Bronze: Product Donation	$

Please pick up donation from:

Location Name:

Address:

City:

Pick Up Date:

Contact Name & Title:

Phone:

Email:

Mail To: Festival of Winter 2021
16860 Valencia Ave.
Fontana, CA 92335

Phone: (909) 349-6946
Fax: (909) 349-6911
Email: Events@Fontana.org

FONTANA
CALIFORNIA

Community Services Department
16860 Valencia Ave
Fontana
California
United States, 92336
Tel: 909-349-6900

1 QTY Donations-Festival of Winter (9/01/21) Event ID: 0610.301.FA21 Attendee(s): Fontana Foundation Of Hope	$5,000.00
SUBTOTAL	$5,000.00
TOTAL	$5,000.00
INITIAL PAYMENT	$5,000.00

CHECK TEND	$5,000.00
STATUS	Success
Payment#	PYMT-434058
Payment Date	11/09/21 11:49:08
Customer	Fontana Foundation Of Hope
Telephone	(909)904-1735
Type	Sale
Transaction#	402450
Transaction Date	11/09/21 11:49:09
Clerk	CSanchez

FONTANA
CALIFORNIA

City of Fontana

COMMUNITY SERVICES DEPARTMENT

November 15, 2021

Jack Long
Fontana Foundation of Hope
PO Box 473
Fontana, CA 92334

Dear Jack Long:

On behalf of the City of Fontana, Community Service Department, we would like to thank you for your donation of Five-thousand dollars as Platinum Sponsor for the 2021 Fontana Festival of Winter. With your generous donation the City of Fontana is able to obtain the necessary tools and equipment to have the best Festival of Winter yet. We would not have been able to achieve such success if it weren't for your help. It is with deepest gratitude that we thank you for your efforts in helping the City improve this of community event.

We look forward to working with you in the future.

Sincerely,

Salena Zapata
Community Services Coordinator
City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

File #: 21-1075
Agenda #: E.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
Community Services

SUBJECT:
Accept Donation From Options for Youth

RECOMMENDATION:
Accept donation from Options for Youth in the amount of $2,500 for use towards the 2021 Festival of Winter.

COUNCIL GOALS:

- To operate in a businesslike manner by becoming more service oriented.
- To invest in the city's infrastructure (streets, sewers, parks, etc.) by creating and promoting community through people, parks, and programs.
- To increase citizen involvement by seeking community input.

DISCUSSION:
The Community Services Department receives donations and sponsorships from many local companies to help support and enhance various programs, activities and events. Options for Youth donated $2,500 towards the 2021 Festival of Winter and is recognized as a Presenting Title Sponsor of this event.

FISCAL IMPACT:
The $2,500 was deposited into account 10124310.5531 for use in offsetting the cost of the 2021 Festival of Winter.

MOTION:
Approve staff recommendation.

CITY OF FONTANA
COMMUNITY SERVICES DEPARTMENT

DONATION ACCEPTANCE
(For All Donations)

Name of Donor/Organization
Karen Ho/ Lisa Kunz /Options For Youth

Address
17216 Slover Ave Ste L-102 Fontana Ca, 92337

Contact Person, Title	*Phone No.*
Karen Ho	*(626)372-1533*

Type of Donation: (Check boxes)

X	Monetary	*Amount $2,500*	*Receipt No. 403923* *(Attach copy of Receipt)*
	Goods/Services	*Estimated Value $*	*Description*

Intended use of Donation:

X	Specific →	*Description: Gold Sponsor for Fontana Festival of Winter*
	General	

X **Thank you/acknowledgement letter sent to Donor? (Required for ALL donations)**

X **Attach copy of acknowledgement letter to this form.**

X **G.E.T. Online Donation Tracking Form Has Been Completed.**
(Required for ALL donations with a value greater than $500.00)

Received By	*Date 11/24/2021*
Salena Zapata	

X **Copy of this form sent to Supervisor/Manager**

= = = FOR ADMINISTRATION USE ONLY = = =

City Council Agenda Date

Entered in Novus by:	*Date*

This form must be filled out for all donations received regardless of value amount. This donation must be approved by City Council prior to any spending or use of the donation.

FONTANALAND

Sponsorship Application

Company Name: Options For Youth

Contact Person: Karen Ho, Lisa Kunz

Address: 17216 Slover Ave. Ste L-102

City: Fontana State: CA Zip: 92337

Phone: (626) 372-1533 Fax:

Email: Karenho@skyrocket-ed.com, Lkunz@ofy.org

Please complete the appropriate level of sponsorship below and fill in the dollar amount of the item donated.

Platinum Sponsor: $5,000 $

Gold Sponsor: $2,500-$4,999 $ 2,500.00

Silver Sponsor: $1,000-$2,499 $

Bronze: Product Donation $

Please pick up donation from:

Location Name: Check will be mailed.

Address:

City:

Pick Up Date:

Contact Name & Title:

Phone:

Email:

Mail To: Festival of Winter 2021
16860 Valencia Ave.
Fontana, CA 92335

Phone: (909) 349-6946
Fax: (909) 349-6911
Email: Events@Fontana.org

FONTANA
CALIFORNIA

Community Services Department
16860 Valencia Ave
Fontana
California
United States, 92336
Tel: 909-349-6900

1 QTY Events General Revolving (9/01/21) Event ID: 0168.301.FA21 Attendee(s): Karen Ho	$2,500.00
SUBTOTAL	$2,500.00
TOTAL	$2,500.00
INITIAL PAYMENT	$2,500.00

CHECK TEND	$2,500.00
STATUS	Success
Payment#	PYMT-435806
Payment Date	11/22/21 12:32:53
Customer	Karen Ho
Telephone	(626) 204-2552
Type	Sale
Transaction#	403923
Transaction Date	11/22/21 12:32:54
Clerk	JCastellon Solares

See Refund Policy at:, http://www.fontana.org/index.aspx?NID=159, No Camp Refunds

403923

CSD Administration Office

City of Fontana
CALIFORNIA

FONTANA
CALIFORNIA

City Council

Acquanetta Warren
Mayor

Phillip W. Cothran
Mayor Pro Tem

John B. Roberts
Council Member

Jesus "Jesse" Sandoval
Council Member

Peter A. Garcia
Council Member

November 15, 2021

Karen Ho
Options For Youth
17216 Slover Ave Ste L-102
Fontana Ca, 92337

Dear Karen Ho:

On behalf of the City of Fontana, Community Service Department, we would like to thank you for your donation of Twenty-Five Hundred dollars as Gold Sponsor for the 2021 Fontana Festival of Winter. With your generous donation the City of Fontana can obtain the necessary tools and equipment to have the best Festival of Winter yet. We would not have been able to achieve such success if it weren't for your help. It is with deepest gratitude that we thank you for your efforts in helping the city improve this community event.

We look forward to working with you in the future.

Sincerely,

Salena Zapata
Community Services Coordinator
City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

File #: 21-1076
Agenda #: F.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
Community Services

SUBJECT:
Accept Donation From Kaiser Permanente

RECOMMENDATION:
Accept donation from Kaiser Permanente in the amount of $1,000 for use towards the 2021 Let's Move on the Trail.

COUNCIL GOALS:

- To operate in a businesslike manner by becoming more service oriented.
- To invest in the city's infrastructure (streets, sewers, parks, etc.) by creating and promoting community through people, parks, and programs.
- To increase citizen involvement by seeking community input.

DISCUSSION:
The Community Services Department receives donations and sponsorships from many local companies to help support and enhance various programs, activities, and events. Kaiser Permanente donated $1,000 towards the 2021 Let's Move on the Trail and is recognized as a Presenting Title Sponsor of this event.

FISCAL IMPACT:
The $1,000 was deposited into account 10124250.5531 for use in offsetting costs for the 2021 Let's Move on the Trail.

MOTION:
Approve staff recommendation.

CITY OF FONTANA
COMMUNITY SERVICES DEPARTMENT

DONATION ACCEPTANCE
(For All Donations)

Name of Donor/Organization
Kaiser Permanente

Address
75 N. Fair Oaks Avenue, 4th Fl Pasadena, CA 91103

Contact Person, Title | *Phone No.*
Elizabeth Pia, Public Affairs Representative | 909-427-5269 (Tie 8-250)

Type of Donation: (Check boxes)

☑ Monetary — *Amount $* 1,000 — *Receipt No.* Invoice No. 78088 — *(Attach copy of Receipt)*

☐ Goods/Services — *Estimated Value $* — *Description*

Intended use of Donation:

☑ Specific → *Description* Let's Move on the Trail 2021 Sponsorship

☐ General

☑ **Thank you/acknowledgement letter sent to Donor? (Required for ALL donations)**

☑ **Attach copy of acknowledgement letter to this form.**

☐ **G.E.T. Online Donation Tracking Form Has Been Completed.**
(Required for ALL donations with a value equal to or greater than $500.00)

Received By | *Date*
Jasmine Sarsadias | 4/26/21

☐ **Copy of this form sent to Supervisor/Manager**

= = = FOR ADMINISTRATION USE ONLY = = =

City Council Agenda Date

Entered in Novus by: | *Date*

This form must be filled out for all donations received regardless of value amount. This donation must be approved by City Council prior to any spending or use of the donation.

FONTANA
CALIFORNIA

City of Fontana

COMMUNITY SERVICES DEPARTMENT

April 26, 2021

Elizabeth Pia, Public Affairs Representative
Kaiser Permanente, San Bernardino County Area

COPY

Dear Elizabeth:

It is with great gratitude that the City of Fontana, Healthy Fontana program thanks you for your generous donation of $1,000 (Invoice No. 78088) from Kaiser Permanente to support our Let's Move on the Trail event this year.

With support from partners like Kaiser Permanente, we are able to provide much needed resources and services to the Fontana community. The Let's Move on the Trail event highlights the Pacific Electric Trail as a means of active transportation, opportunities for physical activity, and recreation and connectivity to valuable resources like community centers, schools, parks, and more.

Thank you again for your support, we look forward to continuing to work with you in the future.

Sincerely,

Jasmine Sarsadias
City of Fontana
Community Services Coordinator

FONTANA
CALIFORNIA

Community Services Department
16860 Valencia Ave
Fontana
California
United States, 92336
Tel: 909-349-6900

1 QTY General Donations (3/01/21)	$1,000.00

Event ID: 00057924
Attendee(s): Kaiser Permanente

SUBTOTAL	$1,000.00
TOTAL	$1,000.00
INITIAL PAYMENT	$1,000.00

CHECK TEND	$1,000.00
STATUS	Success
Payment#	PYMT-403518
Payment Date	4/28/21 10:40:27
Customer	Kaiser Permanente
Telephone	(626) 381-2200
Type	Sale
Transaction#	372367
Transaction Date	4/28/21 10:40:28
Clerk	NBrooks

See Refund Policy at:, http://www.fontana.org/index.aspx?NID=159, No Camp Refunds

372367

File #: 21-1095
Agenda #: G.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
Community Services

SUBJECT:
Accept Grant Award from Kaiser Permanente

RECOMMENDATION:
Accept grant award from Kaiser Permanente in the amount of $14,000 for use towards Healthy Fontana's "The Awareness Project."

COUNCIL GOALS:

- To operate in a businesslike manner by becoming more service oriented.
- To invest in the city's infrastructure (streets, sewers, parks, etc.) by creating and promoting community through people, parks, and programs.
- To increase citizen involvement by seeking community input.

DISCUSSION:
The City's Healthy Fontana Program received a grant from Kaiser Permanente as part of their Community Health Contributions Program to focus on supporting efforts to improve the community and social support system's knowledge, attitudes, beliefs, and perceptions about mental health, trauma, and resilience. The program was granted $14,000 to conduct activity around the focus area of mental and behavioral health through various activities in 2022.

"The Awareness Project" has three (3) main objectives:

- Provide mental health awareness education to students participating in the City's Fontana Expanded Learning Program (after-school)
- Host workshops that link gardening to mental health in conjunction with the City's Community Garden
- Create a Public Service Announcement around mental health to raise awareness and reduce stigma

FISCAL IMPACT:
The $14,000 was deposited into account 101.3511 for use in off-setting costs for "The Awareness Project."

MOTION:
Approve staff recommendation.

CITY OF FONTANA
COMMUNITY SERVICES DEPARTMENT

DONATION ACCEPTANCE
(For All Donations)

Name of Donor/Organization
Kaiser Permanente

Address
75 N. Fair Oaks Avenue, 4th Fl Pasadena, CA 91103

Contact Person, Title | *Phone No.*
Martha Valencia, Community Health Manger | (909) 427-5268

Type of Donation: (Check boxes)

☑ Monetary — *Amount $* 14,000 — *Receipt No.* Invoice No. 80348 *(Attach copy of Receipt)*

☐ Goods/Services — *Estimated Value $* — *Description*

Intended use of Donation:

☑ Specific → *Description*: Community Health Contributions Program "The Awareness Project" grant

☐ General

☑ **Thank you/acknowledgement letter sent to Donor? (Required for ALL donations)**

☑ **Attach copy of acknowledgement letter to this form.**

☑ **G.E.T. Online Donation Tracking Form Has Been Completed.**
(Required for ALL donations with a value equal to or greater than $500.00)

Received By | *Date*
Jasmine Sarsadias | 11/22/2021

☑ **Copy of this form sent to Supervisor/Manager**

= = = FOR ADMINISTRATION USE ONLY = = =

City Council Agenda Date

Entered in Novus by: | *Date*

This form must be filled out for all donations received regardless of value amount. This donation must be approved by City Council prior to any spending or use of the donation.

FONTANA
CALIFORNIA

City Council

Acquanetta Warren
Mayor

Phillip W. Cothran
Mayor Pro Tem

John B. Roberts
Council Member

Jesus "Jesse" Sandoval
Council Member

Peter A. Garcia
Council Member

November 22, 2021

Kaiser Permanente

Martha Valencia, MPH, Community Health Manger

9961 Sierra Avenue

Fontana, CA 92335

Dear Martha,

On behalf of Healthy Fontana and the City's Community Services Department, thank you for choosing our proposal of 'The Awareness Project' as one of the funded Community Health Contributions Program grants for next year. We are so excited to work on this project to bring awareness and reduce stigma associated with mental health and mental illness. This much needed funding will help to bring education and activities to the most vulnerable populations including the youth of our community.

It is with deep gratitude that Healthy Fontana accepts this funding to bring much needed resources for all in the City of Fontana and we look forward to continuing to partner with Kaiser Permanente in the future.

Sincerely,

Jasmine Sarsadias

Jasmine Sarsadias, Community Services Coordinator

Healthy Fontana

FONTANA
CALIFORNIA

Community Services Department
16860 Valencia Ave
Fontana
California
United States, 92336
Tel: 909-349-6900

COPY

1 QTY Healthy Fontana-Donation	$14,000.00
SUBTOTAL	$14,000.00
TOTAL	$14,000.00
INITIAL PAYMENT	$14,000.00

CHECK TEND	$14,000.00
STATUS	Success
Payment#	PYMT-435800
Payment Date	11/22/21 12:16:02
Customer	Kaiser Permanente
Telephone	(626) 381-2200
Type	Sale
Transaction#	403919
Transaction Date	11/22/21 12:16:03
Clerk	JCastellon Solares

See Refund Policy at:, http://www.fontana.org/index.aspx?NID=159, No Camp Refunds

403919

CSD Administration Office

KAISER PERMANENTE
KAISER FOUNDATION HEALTH PLAN INC.
ACCOUNTS PAYABLE DEPARTMENT
75 N. Fair Oaks Avenue, 4th Fl
Pasadena, CA 91103
(626) 381-2200

KAISER PERMANENTE®

0121953 01 RE 0.458 **AUTO T6 0 6219 92335-359853 -P21974 C07

CITY OF FONTANA
8353 SIERRA AVE
FONTANA CA 92335-3598

11/12/2021

COPY

VENDOR 100021809

INVOICE NO.	INVOICE DATE	GROSS AMOUNT	DISCOUNT	NET AMOUNT
80348	11/05/2021	$14,000.00		$14,000.00
Preferred payment is ACH. Email kp-vendorportal-support@kp.org.				
	TOTALS	$14,000.00	$0.00	$14,000.00

DETACH AND RETAIN THIS STUB FOR YOUR RECORDS

CHECK # 0020634350 ATTACHED BELOW

KAISER PERMANENTE®

KAISER PERMANENTE
KAISER FOUNDATION HEALTH PLAN INC.
ACCOUNTS PAYABLE DEPARTMENT
75 N. Fair Oaks Avenue, 4th Fl
Pasadena, CA 91103
(626) 381-2200

62-20
311

No. 0020634350

11/12/2021

PAY TO THE ORDER OF
CITY OF FONTANA
8353 SIERRA AVE
FONTANA CA 92335

DISBURSING AGENT FOR
KAISER FOUNDATION HEALTH PLAN INC.

VENDOR 100021809

$$$$$$$$$14,000.00

NOT VALID AFTER ONE YEAR

KAISER FOUNDATION HEALTH PLAN, INC.
GENERAL ACCOUNT

Fourteen Thousand and 00/100 Dollars

CITIBANK, N.A.
ONE PENN'S WAY, NEW CASTLE, DE 19720

⑈00 20634350⑈ ⑆031100209⑆ 3878 1009⑈

8353 Sierra Avenue
Fontana, CA 92335

File #: 21-1126
Agenda #: H.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
Engineering

SUBJECT:
Approve a Bond Reduction for Tract No.'s 18825 and 18915

RECOMMENDATION:
Approve a reduction of the Faithful Performance and Labor and Materials bonds posted by RSI Communities-California, LLC for Tract No.'s 18825 and 18915 located at the northeast corner of Summit Avenue and Citrus Avenue.

COUNCIL GOALS:

- To promote economic development by being business friendly at all levels of operation.
- To invest in the city's infrastructure (streets, sewers, parks, etc.) by maintaining and improving the city's existing infrastructure.

DISCUSSION:
Tract No.'s 18825 and 18915 are located at the northeast corner of Summit Avenue and Citrus Avenue. These single-family residential subdivisions have a total of 94 residential lots. As a requirement of the Subdivision Map Act and as a condition of development, RSI Communities-California, LLC posted bonds to secure 100% of the installation of all public infrastructure improvements for the residential tract. Currently, the developer has completed the majority of the street and public infrastructure work.

This action will authorize an 80% reduction in securities to an amount sufficient to guarantee the completion of all remaining public infrastructure work as follows:

Tract No.	Bond No.	Bond Amount	Reduce to
18825	1083542	$831,992.00	$166,398.40
18915	1083543	$326,058.00	$65,211.60

FISCAL IMPACT:
This action will only authorize the reduction of the posted bond, therefore there is no fiscal impact to City resources at this time.

MOTION:
Approve staff recommendation

SITE PLAN
TR 18825 & TR 18915

NOT TO SCALE

Prepared For:

RSI COMMUNITIES – CALIFORNIA
680 NEWPORT CENTER DRIVE, 3RD FLOOR
NEWPORT BEACH, CA 92660
OFFICE (949) 554-2838

Prepared By:

ALLARD ENGINEERING
Civil Engineering - Land Surveying - Land Planning
16866 Seville Avenue
Fontana, California 92335
(909) 356-1815 Fax (909) 685-1795

I:\RSI\DWG's\FINAL DESIGN\EXHIBITS\Planning Site Exhibit.dwg

TRACT NO. 18825

IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

BEING A SUBDIVISION OF PARCEL "B" OF CITY OF FONTANA LLA NO. 15-016 RECORDED AS INSTRUMENT NO. 2016-0136067 O.R. AND A PORTION OF GOVERNMENT LOT 4, SECTION 19, T.1N., R.5W., S.B.M.,

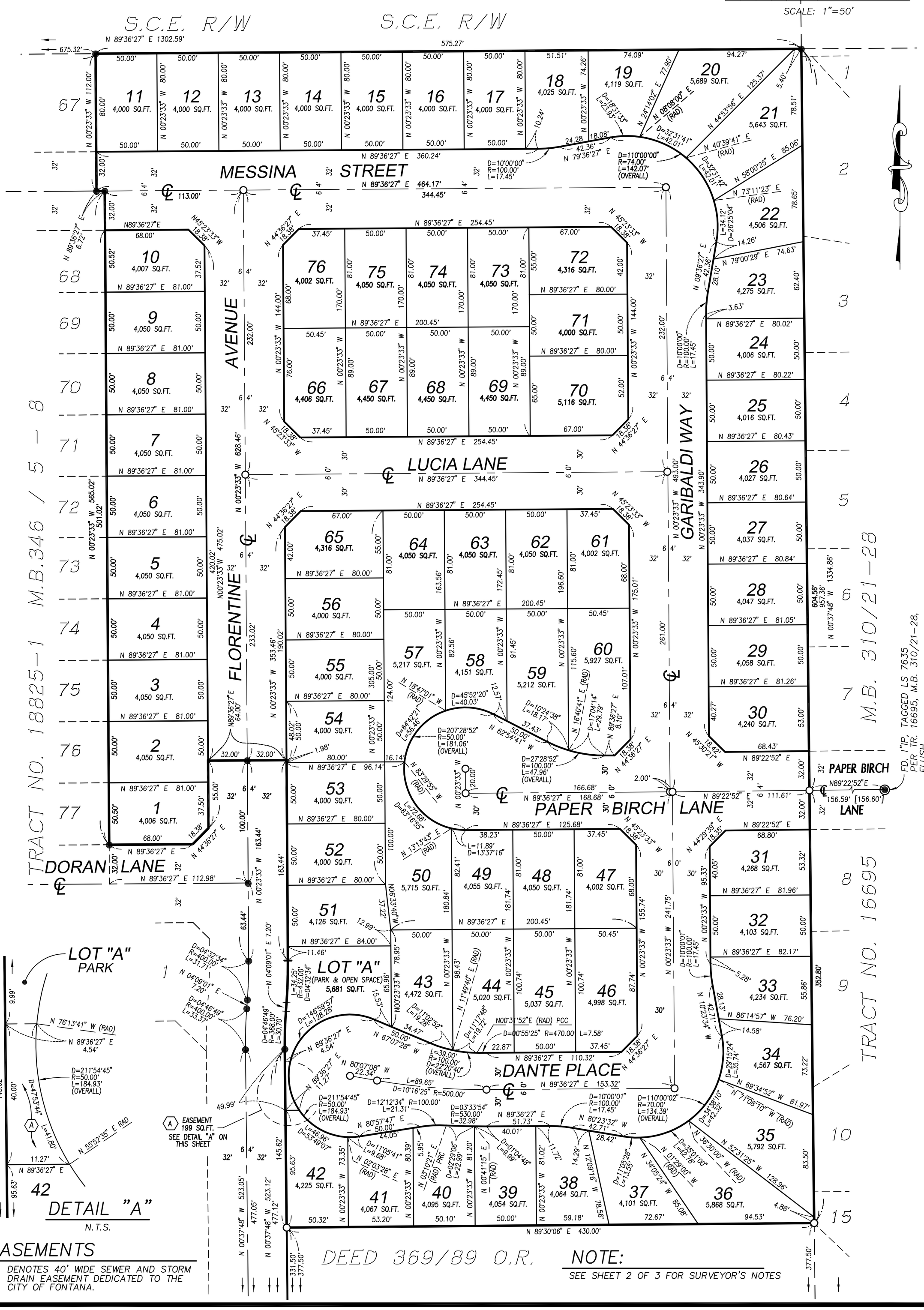
SECTION 19, T.1N., R.5W., S.B.M.

MARK WARE, PLS

JANUARY 2013

50 0 25 50 100

SCALE: 1"=50'



EASEMENTS

(A) DENOTES 40' WIDE SEWER AND STORM DRAIN EASEMENT DEDICATED TO THE CITY OF FONTANA.

NOTE:

SEE SHEET 2 OF 3 FOR SURVEYOR'S NOTES

TRACT NO. 18915

IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

BEING A SUBDIVISION OF A PORTION OF GOVERNMENT LOT 4, SECTION 19, T.1N., R.5W., S.B.M.

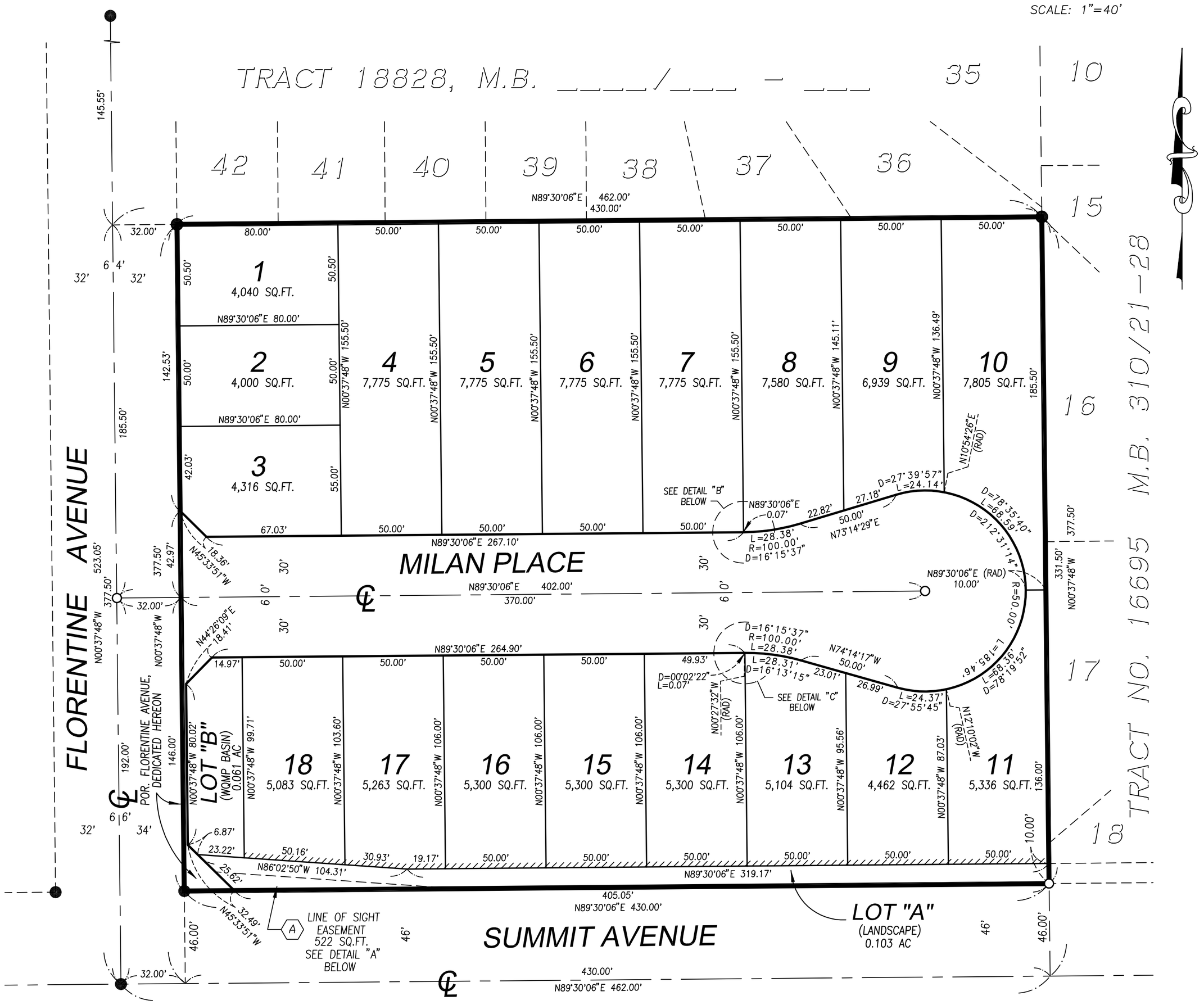
SECTION 19, T.1N., R.5W., S.B.M.

MARK WARE, PLS

JANUARY 2013

40 0 20 40 80

SCALE: 1"=40'



DETAIL "A"
N.T.S.

DETAIL "B"
N.T.S.

DETAIL "C"
N.T.S.

NOTE:

SEE SHEET 2 OF 3 FOR SURVEYOR'S NOTES

File #: 21-1111
Agenda #: I.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
Information Technology

SUBJECT:
311 Customer Relationship Management System (CRM)

RECOMMENDATION:
1. Authorize the Purchasing Office to utilize the State of California Master Service Agreement (MSA) for IT Management and Consulting Services (MSA 5167010).

2. Approve and authorize the City Manager to execute a contract with 120VC for Project Management (MSA 5167010-330) for implementation of the 311 CRM System.

3. Authorize the purchase of the subscription service platform Customer Community from Salesforce.com, Inc. for (5) years.

COUNCIL GOALS:
- To operate in a businesslike manner by becoming more service oriented.
- To operate in a businesslike manner by improving services through the effective use of technology.
- To operate in a businesslike manner by ensuring that the public debate is based on accurate information.

DISCUSSION:
The 311 Customer Relationship Management system will help residents, visitors and businesses locate services, information, file forms/complaints, or report problems like graffiti or road damage. This new system will vastly improve our customer's, visitors, and businesses online experience when interacting with our city.

After extensive analysis the city is electing to move forward with the Salesforce Platform. The city-wide implementation will be used to facilitate all daily aspects for customer service request and information from our residents.

Salesforce is an American cloud-based software company headquartered in San Francisco, California. The platform provides customer relationship management (CRM) service and provides enterprise applications focused on customer service, marketing automation, analytics, and application development.

The city is currently operating a legacy app called “Access Fontana”. The Access Fontana app does not offer the full functionality desired to assist businesses and residents to identify and request city services. The app will be discontinued once the implementation of the Salesforce platform is complete.

Under the Fontana City Code Article V - Purchasing (Section 10-152) authorizes bidding to be exempt from bid procedures conducted by another public agency. Staff is recommending that the City Council authorize this contract between Salesforce and the City for a 311 Customer Relationship Management system. Staff is also recommending the city enter a contract with 120VC for Project Management for the 311 Customer Relationship Management System project. 120VC is a reputable project management company previously used by the city for high profile projects. This partnership will be beneficial and cost effective to the city.

FISCAL IMPACT:
120 VC Services will be billed as hours are rendered. Estimated 52 weeks of engagement totaling 2,040 hours for a total cost of $269,750 to be paid from the 311 System Project #26101023 in the City Technology Fund #102.

Salesforce Software Project #26101023, total cost for the first five years needed for user licensing, annual support, hosting and maintenance will be $607,000 to be paid from Salesforce System Project #26101023 in the City Technology Fund #102. Following the discovery process it is anticipated that the City will purchase additional program features for an estimated price of $1,288,000 over the five year period to complete the platform build.

Please be aware in the near future after the discovery phase, staff will be bringing a staff report for the implementation phase.

Funds for the project are budgeted in FY 2021-2022.

MOTION:
Approve staff recommendation

salesforce.com, inc.
Salesforce Tower
415 Mission Street, 3rd Floor
San Francisco, CA 94105
United States

ORDER FORM for City of Fontana - 311
Offer Valid Through: 1/31/2022
Proposed by:Coco Khan
Quote Number: Q-05165903

ORDER FORM

Address Information

Bill To:
8353 Sierra Ave
Fontana
CA, 92316
US - United States

Ship To:
8353 Sierra Ave
Fontana
CA, 92316
US - United States

Billing Company Name: City of Fontana - 311
Billing Contact Name: Ray Ebert
Billing Email Address: rebert@fontana.org

Billing Phone: (909) 350-6676
Billing Fax:
Billing Language: English

Terms and Conditions

Contract Start Date*: 1/31/2022
Contract End Date*: 1/30/2023
Billing Frequency: Annual

Payment Method: Check
Payment Terms: Net 30
Billing Method: Email

Services

Services	Order Start Date*	Order End Date*	Order Term (months)*	Monthly/ Unit Price**	Quantity	Total Price
Customer Community - Enterprise Edition - Logins (Per Month)	1/31/2022	1/30/2023	12	USD 0.80	3,750	USD 36,000.00
Service Cloud - Enterprise Edition	1/31/2022	1/30/2023	12	USD 118.50	60	USD 85,320.00
						Total: USD 121,320.00

*If this Order Form is executed and/or returned to salesforce.com by Customer after the Order Start Date above, salesforce.com may adjust the Order Start Date and Order End Date, without increasing the Total Price, based on the date salesforce.com activates the products and provided that the total term length does not change. Following activation, any adjustments to such Order Start Date and Order End Date may be confirmed by logging into Checkout, by reference to the order confirmation email sent by salesforce.com to the Billing Email Address above, and/or by contacting Customer Service.

**The Monthly/Unit Price shown above has been rounded to two decimal places for display purposes. As many as eight decimal places may be present in the actual price. The totals for this order were calculated using the actual price, rather than the Monthly/Unit Price displayed above, and are the true and binding totals for this order

Prices shown above do not include any taxes that may apply. Any such taxes are the responsibility of Customer. This is not an invoice.

For customers based in the United States, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer on this Order Form.

Pricing Schedule

Product	Monthly/ Unit Price**	Quantity For
Service Cloud - Enterprise Edition	USD 118.50	60+
Customer Community - Enterprise Edition - Logins (Per Month)	USD 0.80	3750+

The pricing in the Pricing Schedule above (“Pricing Schedule”) reflects the monthly per-subscription fees for the applicable Service. In the event the Pricing Schedule sets forth tiered pricing, any such tiered pricing levels are based upon the Aggregate Total Number of active subscriptions of the relevant Service purchased. “Aggregate Total Number” as it relates to a subscription, is the aggregate total number of active subscriptions, purchased by the Customer executing this Order Form, commencing on the Contract Start Date of this Order Form, as measured at the time of execution of the applicable Order Form. If a single additional order raises the aggregate number of subscriptions for any Service listed in the Pricing Schedule above the threshold limits specified therein, only those subscriptions exceeding the new threshold are entitled to the reduced pricing. Only additional orders by Customer that are associated with this Order Form, for purchase of subscriptions to the same Service and edition as set forth in the Pricing Schedule, during the period commencing on the Contract Start Date and ending on the Contract End Date of this Order Form, are eligible for the applicable volume pricing levels under the Pricing Schedule. For clarity, restricted use subscriptions (those subscriptions that either have the term “Restricted Use” in the Service name, or are indicated as a Restricted Use Subscription in a Quote Special Term) are not included when determining the Aggregate Total Number of a full use subscription, and full use subscriptions are not included when determining the Aggregate Total Number of a restricted use subscription. Any price decreases shall have no effect on previously purchased subscriptions. Volume discounts do not accumulate across different Services or editions. Any renewals of the subscriptions purchased under this Order Form are not eligible for the Pricing Schedule unless expressly agreed to in writing between the parties in an applicable renewal Order Form.

Product Special Terms

Einstein Features

SFDC may access Customer Data submitted to the Einstein features for the purpose of improving and training services and features Customer may access, and Customer instructs SFDC to process its Customer Data for such purpose. Customer retains all ownership of its Customer Data and SFDC retains all ownership in and to aggregated machine learning results. The portions of the Services and features branded as Einstein provided on separate infrastructure: (i) may involve privacy and security protections that are different than your other services; (ii) may be hosted in physical locations that are different than your other services; and (iii) are further described in the Salesforce Trust and Compliance Documentation. Instructions for enabling/disabling each Einstein feature in any instance are outlined in the Documentation here: https://help.salesforce.com/articleView?id=admin_einstein_features_setup.htm&type=5. The Einstein features are not available to some customers, including Government Cloud customers, as stated in the Documentation.

Purchase Order Information

Is a Purchase Order (PO) required for the purchase or payment of the products on this Order Form?(Customer to complete)

[ ] No

[ ] Yes - Please complete below

PO Number: _____

PO Amount: _____

Upon signature by Customer and submission to salesforce.com, this Order Form shall become legally binding unless this Order Form is rejected by salesforce.com for any of the following reasons: (1) the signatory below does not have the authority to bind Customer to this Order Form, (2) changes have been made to this Order Form (other than completion of the purchase order information and the signature block), or (3) the requested purchase order information or signature is incomplete or does not match our records or the rest of this Order Form. Subscriptions are non-cancelable before their Order End Date. This Order Form is governed by the terms of the salesforce.com Master Subscription Agreement found at https://www.salesforce.com/company/msa.jsp, unless (i) Customer has a written master subscription agreement executed by salesforce.com for such Services] as referenced in the Documentation, in which case such written [salesforce.com master subscription agreement will govern or (ii) otherwise set forth herein. Additional information related to the Services may be found in the Documentation at https://sfdc.co/ptd. For the avoidance of doubt, the applicable master subscription agreement takes precedence over the Documentation.

Customer: City of Fontana - 311

Signature

Name

Business Title

Date

Confidential and proprietary. © Copyright 2000-2017 salesforce.com, inc. All rights reserved.

Statement of Work to the
Master Services Agreement between 120VC
and City of Fontana

This Statement of Work (SOW) to the 120VC Master Services Agreement by and between 120VC ("Contractor" or "120VC") and City of Fontana's is effective as of the last date signed by both parties.

1. STATEMENT OF WORK

This document is a Statement of Work (SOW) that outlines the work requested by City of Fontana (also referred to herein as "Company") on 12/13/2021. This document details all consulting activities, including the roles and responsibilities of both 120VC and Company for the entire duration of the engagement.

1.1. Project Scope

120VC will provide a Senior Project Manager to lead the City of Fontana's 311 Salesforce project.

120VC will be providing consulting services to lead the engagement as directed by the City's project owner.

120VC Project Manager will collaborate City's internal Team and vendor(s) to plan out and execute the project to provide enhancements and or new functionality to the SalesForce platform.

1.2. Deliverables

The primary role of the Project Manager is to facilitate the planning of projects, management of the project tasks, and status reporting. Additionally, the Project Manager will oversee all resources performing the planned work and facilitating communication between stakeholders and the project team. The Project Manager ensures that a formal project lifecycle is followed, that everything is documented comprehensively, and that issues are tracked, escalated, and resolved satisfactorily. Specific responsibilities are as follows:

- Professional Project Management
- Development and approval of the Project Charter (scope, goals, objectives, etc.)
- Development and approval of the Project Work Plan (schedule with tasks, resources, dependencies, and milestones)
- Development and approval of the Roles / Responsibilities and Communication Plan
- Development and approval of the project cost baseline
- Establishment of the risk assessment and project change processes
- Development and publishing of daily status reports, meeting minutes and weekly status reports
- Establish vendor proposals for 311 SalesForce system and facilitate the gathering of requirements from all stakeholder divisions/departments

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1.3. Key Assumptions

This SOW and 120VC's estimate to perform the work are based on the following key assumptions. Should any of these assumptions prove inaccurate, the estimated project schedule, fees, or other terms of the SOW may be modified via 120VC's Project Change Control Process.

- Project Management hours and engagement durations are based on estimates from prior engagements of a similar nature to the instant engagement and initial discussions with Customer. Actual hours and durations will be defined during the planning phase and may result in a change to the current estimates.

1.4. Estimated Cost

Item Description	Quantity	Unit Cost	Total
Sr. Project Manager	2080	$125	$260,000
120VC Practice Lead (program management oversight)	78	$125	$9,750
Total Estimated Investment			$269,750

- Cost estimates based on Time & Materials
- Hours are billed at actual
- Weekly budget report will be published to ensure hours are managed

1.5. Incorporation by Reference

For all other material terms and conditions associated with the contractual relationship between Company and Contractor, the parties hereby refer to and incorporate all other non-conflicting terms of the Master Services Agreement executed on as of May 25, 2021.

120VC

Signature: _____

Name: Jake Roig

Title: Managing Partner, EVP

Date: _____

11601 Wilshire Blvd, 5th Floor
Brentwood, CA 90025

City of Fontana's

Signature: _____

Name: _____

Title: _____

Date: _____

8353 Sierra Avenue, Fontana, California 92335

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File #: 21-1117
Agenda #: J.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
Police Department

SUBJECT:
2021 Police Department Donations

RECOMMENDATION:
Accept monetary and gift donations from multiple donors including community programs, businesses, and citizens.

COUNCIL GOALS:

- To improve public safety by increasing operational efficiency, visibility, and availability.
- To improve public safety by emphasizing community-oriented policing and community involvement.

DISCUSSION:
The Fontana Police Department received various donations including snack items, drinks, meals, gift cards, hand sanitizer, handmade blanket, toys, Christmas trees, and monetary donations to charity. Please reference the attached spreadsheet for the complete list of generous donations which help support the Police Department and its various programs.

FISCAL IMPACT:
Increase funds to the following accounts:

· $8,650.00 for Holiday Program fund, deposited to account #101.3308

MOTION:
Approve staff recommendation

DONATION LOG				
DATE	DONOR	ITEM	APPROX VALUE	REASON
7/4/2021	Working Dogs for Warriors	Starbucks Nitro Cold Brew and High Ball Organic Energy drinks		Appreciation
7/12/2021	Covering The Blue - Diane Baughman Huggins	Handmade blanket for K9 Wyatt		Appreciation
7/22/2021	Farmers In - Jasmine Pineda	Water balloons, popsicles	$ 60.00	Playdate with the Police
8/17/2021	07/11	Water, hand sanitizer, snacks		Appreciation
9/1/2021	Niagra Waters	84 cases of bottled water	$ 370.00	For PD community use
9/12/2021	Keller Williams Realty - Kristen Geraci	Snacks, gatorade		Appreciation
9/16/2021	EcoBEAR	Snack box		Business promotion
9/26/2021	Panera Bread - Summit Ave.	Bread		Appreciation
9/27/2021	Shotspotter	Cupcakes		Appreciation
9/29/2021	Amazon Warehouse	Bagels and Coffee		Appreciation
10/6/2021	State Farm - Phil Cothran	Donuts & Coffee		National Coffee w/ Cop Day
10/28/2021	Hadley Tow	Check	$ 1,500.00	Shop with a cop
10/28/2021	Armada Tow	Check	$ 1,500.00	Shop with a cop
10/28/2021	My Mortgage Group CA	Gift basket		Appreciation
11/8/2021	Sunrise Ford	Check	$ 300.00	Shop with a senior
11/17/2021	Burtec Waste	40 cardboard trash boxes		Spark of Love Toy Drive
11/18/2021	Jasmine Arteaga	Toys	$ 200.00	Patrol toy donation
11/18/2021	Universal Soccer League	Toys	$ 2,000.00	Patrol toy donation
11/23/2021	Jeannifer Heredia	Check	$ 350.00	Shop with a senior
11/23/2021	Mr Bartley	Toys	$ 200.00	Patrol toy donation
11/23/2021	Amazon	Toys, school supplies, hygene products	$ 500.00	Homeless outreach, back to school supplies
11/25/2021	Preplife Meal Prep	Food	$ 200.00	Appreciation
11/29/2021	Three Fort Logistics - Tiffany Liu	Ten (10) $50 giftcards	$ 500.00	Appreciation
11/29/2021	Fontana Pachucas Soccer League	Toys	$ 300.00	Patrol toy donation
12/10/2021	Manufacturing Green Products -Lee Moses Macias	2 pallets of hand sanitizers		Appreciation
12/13/2021	Jamacor Industries	Toys	$ 500.00	Patrol toy donation
12/13/2021	Simplistic Car Club	Toys	$ 500.00	Patrol toy donation
12/14/2021	Walmart	Check	$ 5,000.00	Holiday Events
12/15/2021	Loy (Resident)	Pizza, snacks, candy, drinks		Appreciation
12/15/2021	Loy Ragan	Pizza, water bottles, snacks	$ 500.00	Appreciation
12/18/2021	Youth Power Group	Donuts & Coffee		Appreciation
12/18/2021	Panera Bread	Food	$ 801.36	Shop with a cop
12/18/2021	Jasmine Arteaga	Christmas stockings & candy	$ 300.00	Shop with a cop
12/18/2021	Home Depot	Christmas trees, giveaways, wooden toys	$ 300.00	Shop with a cop
12/20/2021	Chris Mosely with South Bay International	Blankets	$ 200.00	Shop with a senior
		Total Cash/Checks	**$8,650.00**	**101.3308**

File #: 21-1125
Agenda #: K.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
Management Services

SUBJECT:
2022 Statement of Investment Policy

RECOMMENDATION:
1. Adopt the City of Fontana Statement of Investment Policy for 2022.

2. Adopt **Resolution No. 2022-___** designating City officers who are authorized to invest funds for the City of Fontana and repealing Resolution No. 2021-004.

COUNCIL GOALS:
- To create a team by working together to provide stability and consistent policy direction.

DISCUSSION:
The City of Fontana Statement of Investment Policy requires annual review and adoption by the City Council in January of each year. The Policy has been certified by the Association of Public Treasurers of the United States and Canada (APT US&C).

The Investment Review Committee, which includes the City Treasurer, Management Services Director/Deputy City Treasurer, Budget Manager and Accounting Manager, will continue to meet quarterly to discuss the status of current investments, strategies for future investments, and other matters deemed relevant. Twice a year, these meetings include a representative at the partner or manager level from the City's external auditing firm.

The Policy currently lists the following Authorized Investment Officers:

Authorized Investment Officers:
City Manager
Management Services Director/Deputy City Treasurer
Budget Manager
Accounting Manager

The only recommended revision to the Policy for 2022 is updating the Management Services Director title to Chief Financial Officer. There are no other changes to the Policy for 2022.

FISCAL IMPACT:
None.

MOTION:

Approve staff recommendation.

RESOLUTION NO. 2022-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA DESIGNATING CITY OFFICERS WHO ARE AUTHORIZED TO INVEST FUNDS FOR THE CITY OF FONTANA AND REPEALING RESOLUTION NO. 2021-004

WHEREAS, on January 12, 2021, the City Council adopted Resolution No. 2021-004 which designated City officers who are authorized to invest funds for the City of Fontana; and

WHEREAS, personnel title changes have been made since that time.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fontana as follows:

Section 1. Resolution No. 2021-004 designating City officers who are authorized to invest funds for the City of Fontana is hereby repealed.

Section 2. The City Council does hereby authorize the investment of city funds not required for immediate disbursement in accordance with the City's Statement of Investment Policy by designated City officials.

Section 3. The signatures of at least two of the following City officers shall be required to approve and/or order such investment transactions: City Manager, Chief Financial Officer/Deputy City Treasurer, Budget Manager and Accounting Manager.

APPROVED and ADOPTED by the City Council of the City of Fontana on the 25th day of January, 2022.

READ AND APPROVED AS TO LEGAL FORM:

_____
City Attorney

I, Tonia Lewis, City Clerk of the City of Fontana, California, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Resolution is the actual Resolution duly and regularly adopted by the City Council of said City at a regular meeting on the 25th day of January, 2022, by the following vote to-wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
City Clerk of the City of Fontana

_____
Mayor of the City of Fontana

ATTEST:

_____
City Clerk

CITY OF FONTANA

STATEMENT OF INVESTMENT POLICY 2022

Certified by the Association of Public Treasurers of the United States and Canada (APT US&C)

Prepared by the Management Services Department
Jessica Brown, Chief Financial Officer/Deputy City Treasurer
Reviewed and Approved by
Janet Koehler-Brooks, City Treasurer

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I. OVERVIEW

INTRODUCTION

The purpose of this document is to provide guidelines for the prudent investment of the unexpended cash in the City's treasury and outline policies for maximizing the efficiency of the City's cash management system. The ultimate goal is to enhance the economic status of the City while protecting its pooled cash.

SCOPE

Included in the scope of the City's investment policy are the following major guidelines and practices which are to be used in achieving the City's primary investment objectives:

- Investment Authority and Responsibilities
- Eligible Financial Institutions
- Authorized Investments
- Investment Maturities
- Cash Management
- Evaluation of Investment Performance
- Investment Reporting
- Investment Policy Review and Adoption

It is intended that this policy cover all funds and investment activities under the direct authority of the City. These funds are accounted for in the City's Comprehensive Annual Financial Report (CAFR) and include the general fund, special revenue funds, debt service funds, capital project funds, enterprise funds, internal service funds and agency funds.

Funds excluded from this policy include proceeds of debt issuance, retirement/pension funds and deferred compensation funds, and pension or other post-employment benefit funds held in a trust.

OBJECTIVES

The City's cash management system is designed to accurately monitor and forecast expenditures and revenues, thus enabling the City to invest funds to the fullest extent possible. The City attempts to obtain the highest ***yield*** obtainable as long as investments meet the criteria established for ***safety*** and ***liquidity***.

Criteria for selecting investments in the order of priority are:

1. ***Safety.*** The safety and risk associated with an investment refers to the potential loss of principal, interest, or a combination of these amounts. The City shall invest in a manner that seeks to avoid capital losses resulting from institution default or the erosion of market value.

2. ***Liquidity.*** This refers to the ability to convert an investment into cash with a minimal risk of losing some portion of principal or interest. Liquidity is an important investment quality, especially when the need for unexpected funds occurs occasionally.

3. ***Yield.*** Yield is the potential dollar earnings an investment can provide and becomes a consideration only after the basic requirements of safety and liquidity have been met.

Portfolio diversification in terms of maturity, instrument types and issuer helps to reduce the overall risk while obtaining an average market rate of return. Therefore, the portfolio should consist of a mix of various types of securities, issuers and maturities. Occasional measured losses are inevitable and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

The City operates its pooled cash investments under the "Prudent Person Rule" which obligates a fiduciary to ensure that:

"... investment shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment considering the probable safety of their capital as well as the probable income to be derived."

All participants in the investment process shall act as custodians of the public trust. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust.

II. INVESTMENT AUTHORITY AND RESPONSIBILITIES

AUTHORIZED INVESTMENT OFFICERS

Cash management and investment transactions are the responsibility of the Chief Financial Officer or designee. The City Council has authorized the following officials to undertake investment transactions on behalf of the City:

City Manager
Chief Financial Officer/Deputy City Treasurer
Budget Manager
Accounting Manager

Daily portfolio management responsibilities have been delegated to the Management Services Director/Deputy City Treasurer.

The City may retain the services of an outside investment advisor or manager as approved by the City Council to assist with the City's investment program who shall make all investment decisions and transactions in strict accordance with State Law, this Policy and such other written instructions as are provided.

INVESTMENT REVIEW COMMITTEE

At least quarterly, the Investment Review Committee, consisting of the City Treasurer, Chief Financial Officer/Deputy City Treasurer, Budget Manager and Accounting Manager, shall meet to discuss the status of current investments, strategies for future investments, and other matters deemed relevant, and shall report to the City Council as necessary. At least twice a year, these meetings shall include a representative at the partner or manager level from the City's external auditing firm.

INVESTMENT PROCEDURES

The Chief Financial Officer/Deputy City Treasurer has established investment procedures which:

- ❖ Adhere to the Statement of Investment Policy
- ❖ Prioritize safety and liquidity
- ❖ Determine risk and optimizes return
- ❖ Provide for a system of due diligence in making investment decisions.

In order to accomplish these goals, a "Model" investment portfolio has been designed to provide the strategic framework for supervising and reporting on the investment portfolio.

This model was developed according to the policy's maturity guidelines and is used to facilitate decisions regarding security transactions. Each security selection shall be designed to move the actual portfolio toward the model portfolio without taking any immediate losses.

No person shall engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Chief Financial Officer/Deputy City Treasurer.

INTERNAL CONTROL

The Management Services Department is responsible for ensuring compliance with the City's investment policy as well as for establishing systems of internal control designed to prevent loss due to fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by city officers and employees. Timely bank reconciliations are conducted to ensure proper handling of all transactions.

An independent analysis by an external auditor shall be conducted annually to review internal control and compliance with policies and procedures.

CONFLICTS OF INTEREST

The City adopts the following policy concerning conflicts of interest:

1. Officers and employees involved in the investment process shall not conduct personal business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions.

2. Officers and employees involved in the investment process shall disclose to the City Clerk any material financial interests in financial institutions that conduct business with the City of Fontana and they shall further disclose any large personal financial/investment positions that could be related to the performance of the City's portfolio.

III. ELIGIBLE FINANCIAL INSTITUTIONS

SELECTION OF ELIGIBLE FINANCIAL INSTITUTIONS

In selecting financial institutions for deposit or investment of funds, the Management Services Department shall consider the creditworthiness of the institution.

1. *Deposits.* The City will only deposit funds with an institution that has a rating of at least "A" as assigned by an established rating service based on quarterly financial information provided by the Federal Reserve Board and the Federal Home Loan Bank Board (i.e., The Financial Directory). Ratings will be monitored on a quarterly basis and any downgrade in rating below "A" will be reported to the Investment Review Committee together with a recommendation for possible action.

2. *Brokers/Dealers.* Investments must be purchased directly from the issuer, from an institution licensed by the state as a broker-dealer, from a member of a federally regulated securities exchange, or from a brokerage firm designated as a primary government dealer by the Federal Reserve Bank.

All financial institutions which desire to do business with the City must supply the Management Services Department with the following:

- Completed broker/ dealer questionnaire including certification that the financial institution has reviewed the City's Statement of Investment Policy and applicable California Government Code sections and that it will exercise due diligence in informing the City of all foreseeable risks associated with financial transactions conducted with the firm.

- Certified financial statements.

- Resumé of the primary representative who will be dealing with the City.

The Deputy City Treasurer shall review the information submitted and designate the institution as either eligible or ineligible for City investment transactions. The City will only do business with those institutions designated as "eligible"; however, an "eligible" designation does not guarantee that the City will do business with that institution.

A current audited financial report prepared by an independent certified public accountant shall be submitted to the City annually within six months after the end of the institution's fiscal year in order for the institution to remain on the "eligible" list. Within the context of the City's policies regarding portfolio limitations, investment transactions shall be distributed as evenly as possible between financial institutions.

If the City has an investment advisor, the investment advisor may use its own list of

authorized broker/dealers to conduct transactions on behalf of the City. The advisor shall make available its list of authorized broker/dealers to City staff upon request.

SAFEKEEPING AND CUSTODY

The City shall enter into an agreement with a bank trust department to serve as the safekeeping agent for all direct investments. The safekeeping agent shall hold all investments in an account for the sole benefit of the City.

All security transactions, including collateral requirements, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by a third-party custodian and evidenced by safekeeping receipts.

IV. AUTHORIZED INVESTMENTS

INVESTMENT TYPES

Investment of City funds is governed by the California Government Code Sections 16429.1 and 53601. Investments may not have a term or maturity at the time of investment of longer than that authorized by Section 53601 or five years (measured by settlement date) unless the City Council has granted express authority, no less than three (3) months prior to the investment, for a specific investment to exceed such limit.

It should be noted that while the Government Code specifies the maximum percentage of the portfolio which may be held in each type of investment at any one time, fluctuations in the portfolio balance will prevent strict adherence to such restrictions. Therefore, percentage limitations shall apply to investments at the time of purchase. The City will diversify its investments by security type and institution.

Within the context of the State limitations, the following investments are authorized:

1. State Treasurer's Local Agency Investment Fund (LAIF)

Government Code Section 16429.1: Pursuant to LAIF policy, local government agencies are authorized to invest in this program administered by the California State Treasurer. Monies invested with LAIF are pooled with State monies in order to earn the maximum rate of return consistent with safe and prudent treasury management. A thorough investigation of the pool is required on a continual basis. (See Due Diligence Requirement on page 12.)

2. U.S. Treasury Obligations

Government Code Sections 53601(b): U.S. Treasury Notes or other indebtedness secured by the full faith and credit of the federal government.

3. U.S. Government Securities

Government Code Sections 53601(f): Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies of the United States government-sponsored enterprises.

4. California State, California State, California Local Government Agencies, and other United States State Bonds

Government Code Sections 53601(c) through (e): Twenty percent (20%) of the City's portfolio may be invested in this category having at the time of investment a minimum "AA" or its rating equivalent or better by an NRSRO. This category includes:

- Registered state warrants or treasury notes or bonds of the State of California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state or by a department, board, agency, or authority of the state.

- Registered treasury notes or bonds of any of the other 49 states in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 states, in addition to California.

- Bonds, notes, warrants, or other evidence of indebtedness of a local agency within the State of California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

5. Bankers Acceptances

Government Code Section 53601(g): Forty percent (40%) of the City's portfolio may be invested in Bankers Acceptances which are defined as bills of exchange or time drafts, drawn on and accepted by a commercial bank, which are eligible for purchase by the Federal Reserve System, although no more than 30% of the portfolio may be invested in Bankers Acceptances with any one commercial bank. Additionally, the maturity period cannot exceed 180 days.

6. Commercial Paper

Government Code Section 53601(h): Twenty-five percent (25%) of the City's portfolio may be invested in "Prime" commercial paper as rated by a nationally recognized statistical-rating organization (NRSRO). Issuing corporations must be organized and operating in the United States, have $500 million total assets, and have at least an "A" rating by an NRSRO on debt other than commercial paper. No more than 10% of the portfolio may be invested in the commercial paper and

medium-term notes of any single issuer. The maturity period cannot exceed 270 days.

7. Negotiable Certificates of Deposit

Government Code Section 53601(i): Thirty percent (30%) of the City's portfolio may be invested in Negotiable Certificates of Deposit issued by a nationally or state-chartered bank or a state or federal association or by a state-licensed branch of a foreign bank. These securities shall be rated in a ratings category of "A" or its equivalent or better by an NRSRO.

8. Medium-Term Notes

Government Code Section 53601(k): Defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less (measured by settlement date), issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision must be rated in a rating category of "A" or its equivalent or better by an NRSRO. No more than 10% of the portfolio may be invested in the commercial paper and medium-term notes of any single issuer. Up to 30% of the City's portfolio may be so invested.

9. Mortgage or Asset-Backed Securities (ABS)

Government Code Section 53601(o): Up to twenty percent (20%) of the City's portfolio may be invested in mortgage pass-through securities, collateralized mortgage obligations, mortgage-backed or other pay-through bonds, equipment lease-backed certificates, consumer receivable passthrough certificates, or consumer receivable-backed bonds. Securities eligible for investment under this subdivision shall be rated in a rating category of "AA" or its equivalent or better by an NRSRO and have a maximum remaining maturity of five years or less measured on a weighted average life (WAL) basis.

10. Supranational Obligations

Government Code Section 53601(q): Defined as United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, and eligible for purchase and sale within the United States. These

securities shall be rated in a ratings category of "AA" or its equivalent or better by an NRSRO. Purchases of supranationals shall not exceed 30 percent (30%) of the City's portfolio nor exceed a five-year term.

11. Certificates of Deposit

Government Code Section 53635: There is no limit as to the amount of the investment portfolio that may be deposited in certificates of deposit.

California law requires that public funds be collateralized. The depository must secure its public fund accounts by maintaining with the agent of the depository government securities having a market value of at least one hundred ten percent (110%) of the value of the public fund accounts. If a depository uses mortgage-backed securities (i.e., promissory notes secured by first mortgages or first deeds of trust) as collateral for public deposits, the market value of the mortgage-backed securities must be at least one hundred fifty percent (150%) of the value of the public fund accounts.

The collateralization requirement may be waived to the extent that funds are federally insured (currently up to $100,000 per institution). For deposits equivalent to the maximum insured amount, security may also be waived for interest accrued on the deposit provided the interest is computed by the depository on the average daily balance of the deposits, paid monthly and computed on a 360-day basis.

It is the current practice of the City of Fontana to invest in the following types of securities. In order to avoid the risks associated with investing in unfamiliar instruments, any new type of security allowed by the State of California but not listed below must be approved by the Investment Review Committee prior to the investment of City funds.

The portfolio can invest in 144A-registered securities.

Investment Type	Maximum Maturity	Maximum % of Portfolio	Minimum Quality Requirements	Government Code Section
State Treasurer's Local Agency Investment Fund (LAIF)	5 years	LAIF maximum per account	N/A	16429.1
U.S. Government Securities	5 years	None	None	53601(b) 53601(f)
California State, California Local Government Agencies, and other United States State Bonds	5 years	20%	"AA" rating category or its equivalent or better	53601(c) 53601(d) 53601(e)
Bankers Acceptances	180 days	40%	None	53601(g)
Commercial Paper	270 days	25% (10% with one issuer)*	A-1 or higher	53601(h)
Negotiable Certificates of Deposit	5 years	30%	None	53601(i)
Medium-Term Notes	5 years	30% (10% with one issuer)*	"A" rating category or its equivalent or better	53601(k)
Pass-Through Securities	5 years	20%	"AA" rating category or its equivalent or better	53601(o)
Supranational Obligations	5 years	30%	"AA" rating category or its equivalent or better	53601(q)
Certificates of Deposit	5 years	None	None	53635

***Commercial paper and medium-term notes are combined to determine the 10% limit per issuer.**

DUE DILIGENCE REQUIREMENT

As stated, the Chief Financial Officer/Deputy City Treasurer shall make a thorough investigation of an investment pool or mutual fund prior to investing funds and on a continual basis. At a minimum, the following information shall be on file for each pool and/or mutual fund:

1. A description of eligible investment securities, and a written statement of investment policy and objectives.

2. A description of interest calculations, how interest is distributed, and how gains and losses are treated.

3. A description of how the securities are safeguarded (including the settlement processes), and how often the securities are priced and the program audited.

4. A description of who may invest in the program, how often, and the size of deposits and withdrawals.

5. A schedule for receiving statements and portfolio listings.

6. Whether reserves, retained earnings, etc. are utilized by the pool/fund.

7. A fee schedule, and when and how fees are assessed.

8. Whether the pool/fund is eligible for bond proceeds and/or will it accept such proceeds.

PROHIBITED INVESTMENTS

In compliance with Government Code Section 53631.5, the City of Fontana shall not invest in inverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages. Additionally, the City shall not invest in any security that could result in zero interest accrual if held to maturity.

The City does not participate in any form of portfolio leverage, including but not limited to securities lending programs, reverse repurchase agreements and margin accounts.

DERIVATIVE INVESTMENTS

Derivatives are investments whose value is “derived” from or based upon the value of other assets or on the level of an interest rate index. The City of Fontana does not invest in derivative products.

LEGISLATIVE CHANGES

Any State of California legislative action that further restricts allowable maturities, investment types or percentage allocations will be incorporated into the City of Fontana Statement of Investment Policy and supersede any and all previous applicable language. If the City is holding an investment that is subsequently prohibited by a legislative change, the City may hold that investment, if it is deemed prudent by the Investment Review Committee, until the maturity date to avoid an unnecessary loss.

V. INVESTMENT MATURITIES

In order to minimize the impact of market risk, it is intended that all investments will be held to maturity. In order to implement this policy, the following guidelines will be used:

1. *Liquidity.* Approximately ten percent (10%) of the portfolio shall be held in short-term investments (less than twelve months) as insufficient liquidity could cause the premature sale of a security at a price below the original investment cost.

2. *Weighted Average Life.* The weighted average life (WAL)of the portfolio should not exceed two and one-half years.

3. *Duration.* The target duration of the portfolio shall be two years.

4. *Diversification of Maturities.* Projected cash flow requirements are the primary factor to be used in determining investment maturity terms. After cash flow needs have been met, yield considerations will be the next factor used in determining maturity terms, with the expectation that longer maturity periods will generally yield greater returns. However, the City will diversify its investments by maturity in order to avoid over concentration (in excess of 25%) in a specific maturity sector.

5. *Sale of Securities.* Investments may be sold prior to maturity for cash flow or appreciation purposes. However, no investment shall be made based solely on earnings anticipated from capital gains.

6. *Maximum Maturity.* As previously stated, the maximum maturity term of any investment shall not exceed five (5) years (measured by settlement date) unless prior express authority from Council has been granted.

VI. CASH MANAGEMENT

In order to obtain a reasonable return on public funds, the following cash management practices will be followed:

1. Maintain maximum investment of all City funds not required to meet immediate cash flow needs.

2. Pool cash from all City administered funds for investment purposes with interest earnings allocated monthly based on the average cash balance of each fund at month end as a percentage of the entire pooled portfolio.

3. Maximize the City's cash flow through immediate deposit of all cash receipts, use of direct deposit when available, and appropriate timing of payment to vendors.

4. Maximize cash flow information available through the use of only one operating bank account.

VII. EVALUATION OF INVESTMENT PERFORMANCE

The investment portfolio shall be managed using a passive style; market timing shall be ignored and the focus instead shall be on obtaining a market average rate of return during budgetary and economic cycles, taking into account the City's investment risk constraints and cash flow needs. Investments shall be managed at the portfolio level, not at the level of the individual securities.

BENCHMARK COMPARISON

The investment portfolio shall be structured to optimize the return given the risk constraints and cash flow needs.

Investment performance shall be continually monitored and evaluated by the Investment Review Committee. Investment performance statistics and activity reports shall be generated on a monthly basis for presentation to the City Council.

For reporting purposes, the portfolio's monthly rate of return shall be compared to the BBG Barc Treasury 1-3 Yr Index.

VIII. INVESTMENT REPORTING

The Management Services Department shall prepare and submit a monthly investment report to the City Council. This report will include the following elements relative to the investments held at month-end:

1. Face value
2. Security description
3. Coupon rate
4. Maturity date
5. Investment rating
6. Investment type
7. Purchase date
8. Cost of security
9. Purchase yield
10. Estimated market value
11. Amortized premium/discount
12. Statement relating the report to the Statement of Investment Policy
13. Statement that there are sufficient funds to meet the next six months' obligations.

The Monthly Investment Report shall be issued and available within 30 days after the end of the monthly reporting period.

IX. INVESTMENT POLICY REVIEW AND ADOPTION

The Statement of Investment Policy shall be submitted annually to the City Council for adoption in January. The policy shall be reviewed at least annually to ensure its consistency with the overall objectives of the City and its relevance to current law and financial and economic trends. Any modifications made thereto must be approved by the City Council.

X. GLOSSARY

AGENCIES: Federal agency securities.

BANKERS' ACCEPTANCE (BA): Time draft for which a bank has committed to making the payment to the holder at maturity.

BROKER: A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides.

COLLATERAL: Securities pledged by a bank to secure deposits of public monies.

COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR): The official annual report for the city.

CERTIFICATE OF DEPOSIT (CD): A time deposit with a specific maturity evidenced by a certificate. Large-denomination CD's are typically negotiable.

COMMERCIAL PAPER (CP): Short-term, negotiable, unsecured promissory notes.

COUPON: The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value.

DELIVERY VERSUS PAYMENT (DVP): Delivery of securities with an exchange of money for the securities.

DERIVATIVE PRODUCTS: Financial instruments whose own value is "derived" from or based upon the value of other assets or on the level of an interest rate index. These instruments often have complex structures with option-like features.

DISCOUNT: The difference between the cost price of a security and its value at maturity when quoted at lower than face value.

DISCOUNT SECURITIES: Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U.S. Treasury Bills.

DIVERSIFICATION: Dividing investment funds among a variety of securities offering independent returns.

DURATION: A measure of the timing of the cash flows to be received from a given fixed income security. The duration of a security is a useful indicator of its price volatility for given changes in interest rates.

FEDERAL AGENCY SECURITIES (AGENCIES): Discount and coupon obligations of the federal agencies established by Congress to provide credit to specific sectors of the economy.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC): A federal agency that insures bank deposits currently up to $100,000 per deposit.

FEDERAL HOME LOAN BANKS (FHLB): The institutions that regulate and lend to savings and loan associations.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA): A federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). FNMA securities are highly liquid and widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA): Securities are backed by FHA, VA or FMHM mortgages. Security holder is protected by full faith and credit of the U.S. Government.

LIQUIDITY: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value.

LOCAL AGENCY INVESTMENT FUND (LAIF): Investment program administered by the California State Treasurer where monies invested are pooled with State monies to earn the maximum rate of return consistent with safe and prudent treasury management.

MARKET VALUE: The price at which a security is trading and could presumably be purchased or sold.

MASTER REPURCHASE AGREEMENT: A written contract covering all future transactions between the parties to repurchase agreements that establishes each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer to liquidate the underlying securities in the event of default by the seller.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MEDIUM-TERM NOTES: all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States.

MONEY MARKET: The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

MONEY MARKET MUTUAL FUND: A type of fixed income mutual fund that invests in debt securities characterized by their short maturities and minimal credit risk.

MORTGAGE PASS-THROUGH SECURITIES: A security created when one or more mortgage holders form a pool of mortgages and sells shares or participation certificates in the pool. The cash flow from the collateral pool is “passed through” to the security holder as monthly payments of principal, interest and prepayments.

MUTUAL FUNDS: Open-end professionally managed investment fund that pools money from many investors to purchase securities.

NEGOTIABLE CERTIFICATES OF DEPOSIT: CDs with a minimum face value of $100,000 that can be traded in a highly-liquid secondary market.

NRSRO: Nationally Recognized Statistical Rating Organization, a credit rating agency approved by the U.S. Securities and Exchange Commission (SEC) to provide information that financial firms must rely on for regulatory purposes. The top firms including Moody’s Investor Services, Standard and Poor’s and Fitch Group.

PORTFOLIO: Collection of securities held by an investor.

PRUDENT PERSON RULE: An investment standard.

PRIMARY DEALER: A group of government securities dealers that submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange commission (SEC) registered securities broker-dealers, banks, and a few unregulated firms.

RATE OF RETURN: The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

REPURCHASE AGREEMENT (REPO): A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date.

SAFEKEEPING: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

SECONDARY MARKET: A market made for the purchase and sale of outstanding issues following the initial distribution.

SECURITIES AND EXCHANGE COMMISSION (SEC): Agency created by Congress to protect investors in securities transactions by administering securities legislation.

SUPRANATIONAL OBLIGATIONS: United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, and eligible for purchase and sale within the United States.

TREASURY BILLS: A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

TREASURY BOND: Long-term U.S. Treasury securities having initial maturities of more than ten years.

TREASURY NOTES: Intermediate term coupon bearing U.S. Treasury securities having initial maturities of from one to ten years.

YIELD: The rate of annual income return on an investment expressed as a percentage. ***Income Yield*** is obtained by dividing the current dollar income by the current market price for the security. ***Yield to Maturity*** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

File #: 21-1124
Agenda #: L.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
Housing

SUBJECT:
Homekey2 Project and Application Resolution

RECOMMENDATION:
1. Approve an affordable housing project containing 10 to 14 units of interim housing for chronically homeless, homeless households, or households at risk of homelessness and up to seven units of market rate housing to be sited at most two Fontana Housing Authority and City of Fontana owned properties located at 8996 Olive Street and 8344 Bennett Avenue.

2. Adopt **Resolution No. 2022-_____**, a resolution of the City Council of the City of Fontana authorizing application to and participation in the California Department of Housing and Community Development Homekey program.

3. Authorize the City Manager to execute and transmit any documents necessary or appropriate to ensure the City's timely submission of the Homekey application, inclusive of an Funding Commitment letter demonstrating the City's intent to commit Permanent Local Housing Allocation (PLHA) funds not to exceed $1,312,326 to support project operating expenses for up to 4-years, and the City's intent to commit up to $992,936 in development costs for non-assisted units from either PLHA or Housing Trust funds.

COUNCIL GOALS:
- To concentrate on inter-governmental relations by pursuing financial participation from county, state and federal governments.
- To promote affordable housing by acquisition, substantial rehabilitation, and professional management of selected multi-family properties as a vehicle to reduce crime and code enforcement activity and to address the affordability needs of this community

DISCUSSION:
The California Department of Housing and Community Development (HCD) has made available approximately $1.45 billion in Homekey funding to sustain and rapidly expand the inventory of housing for people experiencing homelessness or At Risk of Homelessness (collectively the "Target Population") and who are, thereby, inherently impacted by or at increased risk for medical diseases or conditions due to the COVID-19 pandemic or other communicable diseases. Before the COVID-19 pandemic, homelessness data showed Black, Indigenous, and People of Color (BIPOC) were overrepresented in the homelessness system. The pandemic made racial disparities more apparent, and communities are dealing with the additional disproportionate impact of illness and death among

people experiencing homelessness.

Homekey, Round 2 (Homekey2) is defined in an extensive Notice of Funding Availability made public by HCD on September 9, 2021. The program is designed to support development of a broad range of housing types as Permanent or Interim Housing for the Target Population including specified sub-populations. Eligible uses include acquisition and/ or rehabilitation. Eligible projects include multifamily rental housing and, shared housing or scattered site housing under common ownership. Interim Housing Projects must be encumbered with a 15-year covenant, or similar recorded use restriction. Mixed projects with assisted and unassisted units are permitted, however only costs for assisted units will be eligible for Homekey funds.

Homekey2 awards will be made based on scored applications. In addition to capital expenditures the program will provide an operating subsidy based on an annualized calculation per assisted door. Early submission before February 1, 2022, is strategically beneficial, because the applicant pool is limited to defined geographies and bonus funds are awarded. Bonus points and funds are also awarded for quickly reaching full occupancy.

Overview: The City proposes a Homekey2 project which would add 10 to 14 units of interim housing and preserve up to seven units of market rate housing to the community, in a project totaling 17 units. The final determination of the assisted units to be provided will be based on responses from HCD regarding inquiries made relevant to the structure of the project. This report presents maximum project costs based on a 17-unit project, 14 of which are assisted.

Assisted units, providing wrap around supportive services, would be for those inherently impacted by COVID-19 by nature of being homeless or chronically homeless, or at risk of homelessness, who are residents of San Bernardino County and preferably the City of Fontana. The units, spread over up to two City and Housing Authority owned properties, would be operated as a cohesive project by Quality Management Group (QMG) as the property manager, and Water of Life (WOL) as the lead service provider.

Development Budget & Cash Flow:

Development Budget	
Cost	Amount ($)
Land Cost/ Acquisition	1,479,175
Rehabilitation	452,232
Relocation Expenses	114,493
Reserves	410,171
Other Costs	100,300
Developer Costs	57,606
Total Project Costs	2,613,977

Total project costs are estimated at a maximum of $2,613,977. This includes $1,479,175 in acquisition and closing costs, $452,232 of rehabilitation, $114,493 for relocation, $410,171 in reserves, $100,300 in other costs (furnishings and Policy of Title Insurance), and $57,606 in developer costs. No capital match is required. However, the City will be required to fund development

costs for unassisted units, which represents the pro rata development expense for non-assisted units, and can be derived from the City's PLHA allocation or Housing Trust Fund, subject to City Council approval. In the model presented here the costs to the city will be $444,029.

Rent will be derived from three, currently existing, market rate units. Current rents are under review by the City. For the purposes of this model rents are unchanged, which will result in adjusted project rental income in year 1 of $43,890.

Operating expenses in year 1 are estimated at $394,141. This includes $62,364 in supportive services staffing, $59,950 in additional supportive services, $60,320 in property management staffing, $147,850 in property management and operating expenses, $43,657 in fringe benefits for all staff, and a replacement reserve of $20,000.

To access the maximum Homekey2 operating subsidy, the City will commit 4 years of operating match to the project, which is estimated to be $1,312,326 and is subject to Council approval can be derived from the City's PLHA allocation. The City seeks a total Homekey2 award - capital, operating subsidy, and bonus awards - of $3,054,395. With the Homekey2 operating subsidy there is no operating deficit for the first 2 years. Over 15 years, the cumulative cash flow deficit is estimated at $5,972,798, which the City will be responsible for securing.

Proforma Cash Flow		
Cost	Year 1 ($)	Year 15 ($)
Effective Gross Incor	43,890	62,015
Total Expenses & Re	394,141	593,158
Net Operating Reven	(350,251)	(531,143)
Homekey2 subsidy d	350,251	-
Net Cash Flow	-	(531,143)
Cumulative Net Cash	-	(5,972,798)

Property Descriptions:

The presented project is comprised of at most two properties, owned by the Fontana Housing Authority or the City of Fontana, and inclusive of the following: 8996 Olive Street and 8344 Bennett Avenue.

The Olive Street property contains ten 2-bedroom units. The property lot size is 18,900 square feet, with 8,280 square feet of floorspace.

The Bennett Avenue property contains seven units: six 2-bedroom units and one 3-bedroom unit. The property lot size is 18,000 square feet, with 6,310-square feet of floorspace.

For Unit Distribution by Target Population reference Exhibit A.

SUMMARY OF FISCAL IMPACTS:

Cost	Amount ($)
Grant Request	3,054,395
Total Project Costs	2,613,977
Development Costs to City	444,029
Cumulative Net Cash Flow Y1	-
Cumulative Net Cash Flow Y15	(5,972,798)
Average annual operating deficit over 15 years	(398,187)

The Homekey program stipulates the City will be required to enter into a 15-year covenant agreement for provision of the project's interim housing under the terms of HCD's Standard Agreement. Every effort has been made to project anticipated costs over the duration of the covenant in accordance with HCD stipulated provisions and requirements. However, as with all long-term projections, forecasting with any degree of certainty is difficult at best.

The project was initially structured with all 21 units dedicated to the Target Population; however, when the proforma disclosed the City would be required to provide $55,725,804 in operating subsidy over its 55-year term, an alternative project structure was developed. This led to the recommended Interim and market rate housing option, providing 14 units of Target Population housing, and three units of market rate housing; resulting in a sizable yet manageable 15-year operating subsidy expenditure to the City of $5,972,798, while maintaining eligibility for Homekey funding.

FISCAL IMPACT:
If awarded by the State, and approved by the City Council, the applicable revenue and expenditure budgets will be adjusted at one of the quarterly budget meetings. The City of Fontana will authorize the use of Permanent Local Housing Allocation (PLHA Fund #295) funds to fund any deficit.

MOTION:
Accept staff recommendation.

AUTHORIZING RESOLUTION

RESOLUTION NO. _____

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF FONTANA AUTHORIZING APPLICATION TO AND PARTICIPATION IN THE HOMEKEY PROGRAM

WHEREAS:

A. The Department of Housing and Community Development ("**Department**") has issued a Notice of Funding Availability, dated September 9, 2021 ("**NOFA**"), for the Homekey Program ("**Homekey**" or "**Program**"). The Department has issued the NOFA for Homekey grant funds pursuant to Health and Safety Code section 50675.1.3 (Assem. Bill No. 140 (2021-2022 Reg. Sess.), § 20.).

B. The City of Fontana ("**Applicant**") desires to apply for Homekey grant funds. Therefore, Applicant is submitting an application for Homekey funds ("**Application**") to the Department for review and consideration.

C. The Department is authorized to administer Homekey pursuant to the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code). Homekey funding allocations are subject to the terms and conditions of the NOFA, the Application, the Department-approved STD 213, Standard Agreement ("**Standard Agreement**"), and all other legal requirements of the Homekey Program.

THEREFORE, IT IS RESOLVED THAT:

1. Applicant is hereby authorized and directed to submit an Application to the Department in response to the NOFA, and to apply for Homekey grant funds in a total amount not to exceed **$3,054,395**.

2. If the Application is approved, Applicant is hereby authorized and directed to enter into, execute, and deliver a Standard Agreement in a total amount not to exceed **$3,054,395**, any and all other documents required or deemed necessary or appropriate to secure the Homekey funds from the Department and to participate in the Homekey Program, and all amendments thereto (collectively, the "**Homekey Documents**").

3. Applicant acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreement, and that the NOFA and Application will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures and activities identified in the Standard Agreement.

4. Acting City Manager is authorized to execute the Application and the Homekey Documents on behalf of Applicant for participation in the Homekey Program.

PASSED AND ADOPTED this _____ day of _____, 202_, by the following vote:

AYES: **[#_]** NAYES: **[#_]** ABSTAIN: **[#_]** ABSENT: **[#_]**

The undersigned, Tonia Lewis, City Clerk, of Applicant, does hereby attest and certify that the foregoing is a true and full copy of a resolution of the governing body adopted at a duly convened meeting on the date above-mentioned, and that the resolution has not been altered, amended, or repealed.

SIGNATURE:_____ DATE: _____

NAME: Tonia Lewis TITLE: City Clerk

[NOTICE AND INSTRUCTIONS APPEAR ON THE FOLLOWING PAGE]

NOTICE AND INSTRUCTIONS

1. **Notice.** The Department is providing this template Authorizing Resolution as informational guidance only. The Department encourages each Applicant to consult with professional legal counsel during the development of its own formal, legally binding statement that it is authorized to apply to and participate in the Homekey Program.
    a. Please note, however, that any limitations or conditions on the authority of the signatory or signatories to execute the Application or the Homekey Documents may result in the Department rejecting the Authorizing Resolution.

2. **Accuracy, Verification.** The Department will verify that this Authorizing Resolution comports with the legal authority and composition of Applicant's governing body. Applicant must timely notify the Department, in writing, of any factors that limit its ability to provide an Authorizing Resolution which is materially in line with this template.

3. **Dollar Amounts of Grant Awards.** The Department recommends identifying an authorized dollar amount that is at least double the anticipated award (based on current formula calculations). Award amounts are subject to change. If Applicant is ultimately awarded an amount in excess of the amount identified in the Authorizing Resolution, the Department will require a new Authorizing Resolution from Applicant before execution of a Standard Agreement.

4. **Authorized Signatory or Signatories, Designee.** Applicant, as a state, regional, or local public entity, may designate an authorized signatory by title only. In addition, Applicant may authorize multiple signatories, so long as there is clarifying language as to whether the signatories are authorized to execute the Homekey Documents individually or collectively. In addition, Applicant may authorize a designee of the authorized signatory to execute the Homekey Documents. In such case, Applicant must append a supporting document (e.g., memorandum, meeting notes of official action), which indicates the name and title of the designee who is authorized to legally bind the governing body.

5. **Vote Count.** Please fill out the field by every voting category (i.e., Ayes, Nayes, Abstain, Absent). If none, please indicate zero (0) for that field. The vote count must comport with the legal authority and membership of the Applicant's governing body.

6. **Certification of Authorizing Resolution.** The individual who certifies the Authorizing Resolution cannot also be authorized to execute the Homekey Documents on behalf of Applicant.

EXHIBIT A

Unit Distribution by Target Population

Property	Unit Count	Unit Distribution by Target Population			Square feet
		2-Br	3-Br	Target Population	
Olive Street	10	3	-	Homeless	8,280
		7	-	Chronically homeless	
Bennett Avenue	7	2	1	Market rate	6,310
		4	-	At risk of homelessness	
Total	17	16	1		14,590

File #: 21-1079
Agenda #: M.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
Administrative Services

SUBJECT:
Purchase & Sale Agreement - Downtown Fontana Properties

RECOMMENDATION:
1. Approve a Purchase & Sale Agreement for the sale of 16756 Arrow Blvd. and APN #019116208, two properties located on Arrow Blvd. in Downtown Fontana.

2. Authorize the City Manager to execute any documents necessary or appropriate to effectuate said approvals and/or agreement.

COUNCIL GOALS:
- To promote economic development by concentrating on job creation.
- To promote economic development by pursuing business retention, expansion and attraction.

DISCUSSION:
The City of Fontana will be undertaking an expansive and comprehensive revitalization of Downtown Fontana. The specific geographic area to be targeted includes Upland Ave to the North, Merrill Ave to the South, Mango Ave to the East and Juniper Ave to the West. In an effort to facilitate the implementation of this revitalization, the City will be assisting with the acquisition and assemblage of various properties in Downtown Fontana.

Two properties recently became available for acquisition in Downtown Fontana.

The properties are 16756 Arrow Blvd. (Pina Furniture) and APN #019116208 (a vacant lot). The property located at 16756 Arrow Blvd. includes a 4,900 square foot building on a 9,800 square foot lot. APN #019116208 is a 6,500 square foot lot located on the North side of Arrow Blvd.

The City and the sellers brokers have reached agreement on a Purchase Agreement with the following proposed deal-points;

- The City of Fontana would acquire both properties (16756 Arrow Blvd. & APN #019116208) for the price of $1,150,000.

- The City of Fontana and sellers (Labra Investments, LLC) will equally split any/all escrow and title fee's as appropriate.

- The City will have sixty days to perform any due-diligence on the subject property, including completion of an environmental assessment and title review.

- Following the due-diligence period the City will have a fifteen-day financing period to complete all wire-transfers and documents necessary for the close of escrow.

- The property and building located at 16756 Arrow Blvd. is currently occupied and in use by Pina Furniture. The City of Fontana and Pina Furniture will execute a lease-agreement for the continued use and operation of the building following the close of escrow.

- For a period of six months following the close of escrow, Pina Furniture will lease the building (with no required rent payment) from the City of Fontana. Pina Furniture will be required to pay for all utility costs and to provide insurance on the property and building.

- Following the six month lease period, Pina Furniture will be required to vacate the building and property, including the timely removal of any furniture, equipment and/or supplies.

Approval of the Purchase Agreement and sale of 16756 Arrow Blvd. and APN #019116208 will assist with the assemblage of various properties located in Downtown Fontana. That assemblage will facilitate the City's vision and plans to dramatically revitalize the Downtown Community.

FISCAL IMPACT:
Monies are available for the sale of these properties, totaling approximately $1.2M - in Fund 601 - Capital Reinvestment. Appropriate paperwork will be submitted with the Mid-Year Budget Status Report.

MOTION:
Accept Staff Recommendation.

CALIFORNIA ASSOCIATION OF REALTORS®

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(Buyer's Brokerage Firm to Buyer)
(As required by the Civil Code)
(C.A.R. Form AD, Revised 12/18)

☐ (If checked) This form is being provided in connection with a transaction for a leasehold interest exceeding one year as per Civil Code section 2079.13(j), (k) and (l).

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A Fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A Buyer's agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more salespersons and broker associates, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

(a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the Buyer's or Seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the Seller's willingness to accept a price less than the listing price or the Buyer's willingness to pay a price greater than the price offered.

SELLER AND BUYER RESPONSIBILITIES

Either the purchase agreement or a separate document will contain a confirmation of which agent is representing you and whether that agent is representing you exclusively in the transaction or acting as dual agent. Please pay attention to that confirmation to make sure it accurately reflects your understanding of your agent's role.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

If you are a Buyer, you have the duty to exercise reasonable care to protect yourself, including as to those facts about the property which are known to you or within your diligent attention and observation.

Both Sellers and Buyers should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. **This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).**

☒ Buyer ☐ Seller ☐ Landlord ☐ Tenant _____ Date 12-16-21
City of Fontana

☐ Buyer ☐ Seller ☐ Landlord ☐ Tenant _____ Date _____

Agent ***Sierra Realty*** DRE Lic. # ***02038519***
Real Estate Broker (Firm)

By _____ DRE Lic. # ***00570875*** Date _____
(Salesperson or Broker-Associate, if any) ***Ken Galasso***

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EQUAL HOUSING OPPORTUNITY

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Ken Galasso
Produced with Lone Wolf Transactions (zipForm Edition) 231 Shearson Cr. Cambridge, Ontario, Canada N1T 1J5 www.lwolf.com

CIVIL CODE SECTIONS 2079.13 – 2079.24 (2079.16 APPEARS ON THE FRONT)

2079.13. As used in Sections 2079.7 and 2079.14 to 2079.24, inclusive, the following terms have the following meanings:
(a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. The agent in the real property transaction bears responsibility for that agent's salespersons or broker associates who perform as agents of the agent. When a salesperson or broker associate owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the salesperson or broker associate functions. **(b)** "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee of real property. **(c)** "Commercial real property" means all real property in the state, except (1) single-family residential real property, (2) dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, (3) a mobilehome, as defined in Section 798.3, (4) vacant land, or (5) a recreational vehicle, as defined in Section 799.29. **(d)** "Dual agent" means an agent acting, either directly or through a salesperson or broker associate, as agent for both the seller and the buyer in a real property transaction. **(e)** "Listing agreement" means a written contract between a seller of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer, including rendering other services for which a real estate license is required to the seller pursuant to the terms of the agreement. **(f)** "Seller's agent" means a person who has obtained a listing of real property to act as an agent for compensation.**(g)** "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the seller's agent. **(h)** "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. **(i)** "Offer to purchase" means a written contract executed by a buyer acting through a buyer's agent that becomes the contract for the sale of the real property upon acceptance by the seller. **(j)** "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property, and includes (1) single-family residential property, (2) multiunit residential property with more than four dwelling units, (3) commercial real property, (4) vacant land, (5) a ground lease coupled with improvements, or (6) a manufactured home as defined in Section 18007 of the Health and Safety Code, or a mobilehome as defined in Section 18008 of the Health and Safety Code, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. **(k)** "Real property transaction" means a transaction for the sale of real property in which an agent is retained by a buyer, seller, or both a buyer and seller to act in that transaction, and includes a listing or an offer to purchase. **(l)** "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. **(m)** "Seller" means the transferor in a real property transaction and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor of real property. **(n)** "Buyer's agent" means an agent who represents a buyer in a real property transaction.
2079.14. A seller's agent and buyer's agent shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and shall obtain a signed acknowledgment of receipt from that seller and buyer, except as provided in Section 2079.15, as follows: **(a)** The seller's agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. **(b)** The buyer's agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase. If the offer to purchase is not prepared by the buyer's agent, the buyer's agent shall present the disclosure form to the buyer not later than the next business day after receiving the offer to purchase from the buyer.
2079.15. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent shall set forth, sign, and date a written declaration of the facts of the refusal.
2079.16 Reproduced on Page 1 of this AD form.
2079.17(a) As soon as practicable, the buyer's agent shall disclose to the buyer and seller whether the agent is acting in the real property transaction as the buyer's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the buyer's agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. **(b)** As soon as practicable, the seller's agent shall disclose to the seller whether the seller's agent is acting in the real property transaction as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the seller's agent prior to or coincident with the execution of that contract by the seller.
CONFIRMATION: The following agency relationships are confirmed for this transaction:

Seller's Brokerage Firm DO NOT COMPLETE. SAMPLE ONLY License Number _____
Is the broker of (check one): ☐ the seller; or ☐ both the buyer and seller. (dual agent)
Seller's Agent DO NOT COMPLETE. SAMPLE ONLY License Number _____
Is (check one): ☐ the Seller's Agent. (salesperson or broker associate) ☐ both the Buyer's and Seller's Agent. (dual agent)
Buyer's Brokerage Firm DO NOT COMPLETE. SAMPLE ONLY License Number _____
Is the broker of (check one): ☐ the buyer; or ☐ both the buyer and seller. (dual agent)
Buyer's Agent DO NOT COMPLETE. SAMPLE ONLY License Number _____
Is (check one): ☐ the Buyer's Agent. (salesperson or broker associate) ☐ both the Buyer's and Seller's Agent. (dual agent)

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14. An agent's duty to provide disclosure and confirmation of representation in this section may be performed by a real estate salesperson or broker associate affiliated with that broker.
2079.18 (Repealed pursuant to AB-1289)
2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.
2079.20 Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.
2079.21 (a) A dual agent may not, without the express permission of the seller, disclose to the buyer any confidential information obtained from the seller. **(b)** A dual agent may not, without the express permission of the buyer, disclose to the seller any confidential information obtained from the buyer. **(c)** "Confidential information" means facts relating to the client's financial position, motivations, bargaining position, or other personal information that may impact price, such as the seller is willing to accept a price less than the listing price or the buyer is willing to pay a price greater than the price offered. **(d)** This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.
2079.22 Nothing in this article precludes a seller's agent from also being a buyer's agent. If a seller or buyer in a transaction chooses to not be represented by an agent, that does not, of itself, make that agent a dual agent.
2079.23 A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.
2079.24 Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

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CALIFORNIA ASSOCIATION OF REALTORS®

FAIR HOUSING & DISCRIMINATION ADVISORY

(C.A.R. Form FHDA, 10/20)

1. **EQUAL ACCESS TO HOUSING FOR ALL:** All housing in California is available to all persons. Discrimination as noted below is prohibited by law. Resources are available for those who have experienced unequal treatment under the law.
2. **FEDERAL AND STATE LAWS PROHIBIT DISCRIMINATION AGAINST IDENTIFIED PROTECTED CLASSES:**
   A. FEDERAL FAIR HOUSING ACT ("FHA") Title VIII of the Civil Rights Act; 42 U.S.C. §§ 3601-3619; Prohibits discrimination in sales, rental or financing of residential housing against persons in protected classes;
   B. CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT ("FEHA") California Government Code ("GC") §§12900-12996,12955; 2 California Code of Regulations ("CCR") §§12005-12271; Prohibits discrimination in sales, rental or financing of housing opportunity against persons in protected classes by providers of housing accommodation and financial assistance services as related to housing;
   C. CALIFORNIA UNRUH CIVIL RIGHTS ACT ("Unruh") California Civil Code ("CC") §51; Prohibits business establishments from discriminating against, and requires full and equal accommodation, advantages, facilities, privileges, and services to persons in protected classes;
   D. AMERICANS WITH DISABILITIES ACT ("ADA") 42 U.S.C. §§12181-12189; Title III of the ADA prohibits discrimination based on disability in public accommodations; and
   E. OTHER FAIR HOUSING LAWS: Section 504 of Rehabilitation Act of 1973 29 U.S.C. §794; Ralph Civil Rights Act CC §51.7.; California Disabled Persons Act; CC §§54-55.32; any local city or county fair housing ordinances, as applicable.
3. **POTENTIAL LEGAL REMEDIES FOR UNLAWFUL DISCRIMINATION: Violations of fair housing laws may result in monetary civil fines, injunctive relief, compensatory and/or punitive damages, and attorney fees and costs.**
4. **PROTECTED CLASSES/CHARACTERISTICS:** Whether specified in Federal or State law or both, discrimination against persons if based on that person's belonging to, association with, or perceived membership to, any of the following classes or categories is prohibited.

Race	Color	Ancestry	National Origin	Religion
Sex	Sexual Orientation	Gender	Gender Identity	Gender Expression
Marital Status	Familial Status (family with a child or children under 18)	Source of Income (e.g., Section 8 Voucher)	Disability (Mental & Physical)	Medical Condition
Citizenship	Primary Language	Immigration Status	Military/Veteran Status	Age
Criminal History (non-relevant convictions)		Any arbitrary characteristic		

5. **THE CALIFORNIA DEPARTMENT OF REAL ESTATE REQUIRES TRAINING AND SUPERVISION TO PREVENT HOUSING DISCRIMINATION BY REAL ESTATE LICENSEES:**
   A. California Business & Professions Code ("B&PC") §10170.5(a)(4) requires 3 hours of training on fair housing for DRE license renewal; Real Estate Regulation §2725(f) requires brokers who oversee salespersons to be familiar with the requirements of federal and state laws relating to the prohibition of discrimination.
   B. Violation of DRE regulations or real estate laws against housing discrimination by a real estate licensee may result in the loss or suspension of the licensee's real estate license. B&PC §10177(l)(1); 10 CCR §2780
6. **REALTOR® ORGANIZATIONS PROHIBIT DISCRIMINATION**: NAR Code of Ethics Article 10 prohibits discrimination in employment practices or in rendering real estate license services against any person because of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity by REALTORS®.
7. **WHO IS REQUIRED TO COMPLY WITH FAIR HOUSING LAWS?**
   Below is a non-exclusive list of providers of housing accommodations or financial assistance services as related to housing who are most likely to be encountered in a housing transaction and who must comply with fair housing laws.
   - Sellers
   - Real estate licensees
   - Mobilehome parks
   - Insurance companies
   - Landlords
   - Real estate brokerage firms
   - Homeowners Associations ("HOAs");
   - Government housing services
   - Sublessors
   - Property managers
   - Banks and Mortgage lenders
8. **EXAMPLES OF CONDUCT THAT MAY NOT BE MOTIVATED BY DISCRIMINATORY INTENT BUT COULD HAVE A DISCRIMINATORY EFFECT:**
   A. Prior to acceptance of an offer, asking for or offering buyer personal information or letters from the buyer, especially with photos. Those types of documents may inadvertently reveal, or be perceived as revealing, protected status information thereby increasing the risk of **(i)** actual or unconscious bias, and **(ii)** potential legal claims against sellers and others by prospective buyers whose offers were rejected.
   B. Refusing to rent **(i)** an upper level unit to an elderly tenant out of concern for the tenant's ability to navigate stairs or **(ii)** a house with a pool to a person with young children out of concern for the children's safety.
9. **EXAMPLES OF UNLAWFUL OR IMPROPER CONDUCT BASED ON A PROTECTED CLASS OR CHARACTERISTIC:**
   A. Refusing to negotiate for a sale, rental or financing or otherwise make a housing opportunity unavailable; failing to present offers due to a person's protected status;
   B. Refusing or failing to show, rent, sell or finance housing; "channeling" or "steering" a prospective buyer or tenant to or away from a particular area due to that person's protected status or because of the racial, religious or ethnic composition of the neighborhood;
   C. "Blockbusting" or causing "panic selling" by inducing a listing, sale or rental based on the grounds of loss of value of property, increase in crime, or decline in school quality due to the entry or prospective entry of people in protected categories into the neighborhood;
   D. Making any statement or advertisement that indicates any preference, limitation, or discrimination;

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E. Inquiring about protected characteristics (such as asking tenant applicants if they are married, or prospective purchasers if they have children or are planning to start a family);
F. Using criminal history information before otherwise affirming eligibility, and without a legally sufficient justification;
G. Failing to assess financial standards based on the portion of the income responsible by a tenant who receives government subsidies (such as basing an otherwise neutral rent to income ratio on the whole rent rather than just the part of rent that is the tenant's responsibility);
H. Denying a home loan or homeowner's insurance;
I. Offering inferior terms, conditions, privileges, facilities or services;
J. Using different qualification criteria or procedures for sale or rental of housing such as income standards, application requirements, application fees, credit analyses, sale or rental approval procedures or other requirements;
K. Harassing a person;
L. Taking an adverse action based on protected characteristics;
M. Refusing to permit a reasonable modification to the premises, as requested by a person with a disability (such as refusing to allow a wheel chair bound tenant to install, at their expense, a ramp over front or rear steps, or refusing to allow a physically disabled tenant from installing, at their own expense, grab bars in a shower or bathtub);
N. Refusing to make reasonable accommodation in policies, rules, practices, or services for a person with a disability (such as the following, if an actual or prospective tenant with a disability has a service animal or support animal):
(i) Failing to allow that person to keep the service animal or emotional support animal in rental property,
(ii) Charging that person higher rent or increased security deposit, or
(iii) Failing to show rental or sale property to that person who is accompanied by the service animal or support animal, and;
O. Retaliating for asserting rights under fair housing laws.

10. **EXAMPLES OF POSITIVE PRACTICES:**
A. Real estate licensees working with buyers or tenants should apply the same objective property selection criteria, such as location/neighborhood, property features, and price range and other considerations, to all prospects.
B. Real estate licensees should provide complete and objective information to all clients based on the client's selection criteria.
C. Real estate licensees should provide the same professional courtesy in responding to inquiries, sharing of information and offers of assistance to all clients and prospects.
D. Housing providers should not make any statement or advertisement that directly or indirectly implies preference, limitation, or discrimination regarding any protected characteristic (such as "no children" or "English-speakers only").
E. Housing providers should use a selection process relying on objective information about a prospective buyer's offer or tenant's application and not seek any information that may disclose any protected characteristics (such as using a summary document, e.g. C.A.R. Form SUM-MO, to compare multiple offers on objective terms).

11. **FAIR HOUSING RESOURCES**: If you have questions about your obligations or rights under the Fair Housing laws, or you think you have been discriminated against, you may want to contact one or more of the sources listed below to discuss what you can do about it, and whether the resource is able to assist you.
A. Federal: **https://www.hud.gov/program_offices/fair_housing_equal_opp**
B. State: **https://www.dfeh.ca.gov/housing/**
C. Local: local Fair Housing Council office (non-profit, free service)
D. DRE: **https://www.dre.ca.gov/Consumers/FileComplaint.html**
E. Local Association of REALTORS®. List available at: **https://www.car.org/en/contactus/rosters/localassociationroster.**
F. Any qualified California fair housing attorney, or if applicable, landlord-tenant attorney.

12. **LIMITED EXCEPTIONS TO FAIR HOUSING REQUIREMENTS: No person should rely on any exception below without first seeking legal advice about whether the exception applies to their situation. Real estate licensees are not qualified to provide advice on the application of these exceptions.**
A. Legally compliant senior housing is exempt from FHA, FEHA and Unruh as related to age or familial status only;
B. An owner of a single-family residence who resides at the property with one lodger may be exempt from FEHA for rental purposes, PROVIDED **no real estate licensee is involved** in the rental;
C. An owner of a single-family residence may be exempt from FHA for sale or rental purposes, PROVIDED **(i) no real estate licensee is involved** in the sale or rental and **(ii)** no discriminatory advertising is used, and **(iii)** the owner owns no more than three single-family residences. Other restrictions apply;
D. An owner of residential property with one to four units who resides at the property, may be exempt from FHA for rental purposes, PROVIDED **no real estate licensee is involved** in the rental; and
E. Both FHA and FEHA do not apply to roommate situations. See, *Fair Housing Council v Roommate.com LLC*, 666 F.3d 1216 (2019).
F. Since both the 14th Amendment of the U.S. Constitution and the Civil Rights Act of 1866 prohibit discrimination based on race; the FHA and FEHA exemptions do not extend to discrimination based on race.

Buyer/Tenant and Seller/Landlord have read, understand and acknowledge receipt of a copy of this Fair Housing & Discrimination Advisory.

Buyer/Tenant _____ ***City of Fontana*** Date 12-16-21

Buyer/Tenant _____ Date _____

Seller/Landlord _____ ***LABRA Investments LLC*** Date _____

Seller/Landlord _____ Date _____

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CALIFORNIA ASSOCIATION OF REALTORS®

WIRE FRAUD AND ELECTRONIC FUNDS TRANSFER ADVISORY

(C.A.R. Form WFA, Revised 12/17)

Property Address: ***16756 Arrow Blvd and APN 0191162080000, Fontana, CA 92335-3802*** ("Property").

WIRE FRAUD AND ELECTRONIC FUNDS TRANSFERS ADVISORY:

The ability to communicate and conduct business electronically is a convenience and reality in nearly all parts of our lives. At the same time, it has provided hackers and scammers new opportunities for their criminal activity. Many businesses have been victimized and the real estate business is no exception.

While wiring or electronically transferring funds is a welcome convenience, we all need to exercise extreme caution. Emails attempting to induce fraudulent wire transfers have been received and have appeared to be legitimate. Reports indicate that some hackers have been able to intercept emailed transfer instructions, obtain account information and, by altering some of the data, redirect the funds to a different account. It also appears that some hackers were able to provide false phone numbers for verifying the wiring or funds transfer instructions. In those cases, the victim called the number provided to confirm the instructions, and then unwittingly authorized a transfer to somewhere or someone other than the intended recipient.

ACCORDINGLY, YOU ARE ADVISED:

1. **Obtain phone numbers and account numbers only from Escrow Officers, Property Managers, or Landlords at the beginning of the transaction.**
2. **DO NOT EVER WIRE OR ELECTRONICALLY TRANSFER FUNDS PRIOR TO CALLING TO CONFIRM THE TRANSFER INSTRUCTIONS. ONLY USE A PHONE NUMBER YOU WERE PROVIDED PREVIOUSLY. Do not use any different phone number or account number included in any emailed transfer instructions.**
3. **Orally confirm the transfer instruction is legitimate and confirm the bank routing number, account numbers and other codes before taking steps to transfer the funds.**
4. **Avoid sending personal information in emails or texts. Provide such information in person or over the telephone directly to the Escrow Officer, Property Manager, or Landlord.**
5. **Take steps to secure the system you are using with your email account. These steps include creating strong passwords, using secure WiFi, and not using free services.**

If you believe you have received questionable or suspicious wire or funds transfer instructions, immediately notify your bank, and the other party, and the Escrow Office, Landlord, or Property Manager. The sources below, as well as others, can also provide information:

Federal Bureau of Investigation: https://www.fbi.gov/; the FBI's IC3 at www.ic3.gov; or 310-477-6565

National White Collar Crime Center: http://www.nw3c.org/

On Guard Online: https://www.onguardonline.gov/

NOTE: There are existing alternatives to electronic and wired fund transfers such as cashier's checks. By signing below, the undersigned acknowledge that each has read, understands and has received a copy of this Wire Fraud and Electronic Funds Transfer Advisory.

Buyer/Tenant _____ ***City of Fontana*** Date 12-16-21

Buyer/Tenant _____ Date _____

Seller/Landlord _____ ***LABRA Investments LLC*** Date _____

Seller/Landlord _____ Date _____

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CALIFORNIA ASSOCIATION OF REALTORS®

COMMERCIAL PROPERTY PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

(NON-RESIDENTIAL)
(C.A.R. Form CPA, Revised 12/18)

Date Prepared: 12/07/2021

1. **OFFER:**
   A. **THIS IS AN OFFER FROM** City of Fontana ("Buyer").
   ☐ Individual(s), ☐ A Corporation, ☐ A Partnership, ☐ An LLC, ☐ An LLP, or ☒ Other Municipal Corporation.
   B. **THE REAL PROPERTY** to be acquired is 16756 Arrow Blvd and APN 0191162080000, situated in Fontana (City), San Bernardino (County), California, 92335-3802 (Zip Code), Assessor's Parcel No. 01911162390 ("Property").
   C. **THE PURCHASE PRICE** offered is One Million, One Hundred Fifty Thousand Dollars $1,150,000.00.
   D. **CLOSE OF ESCROW** shall occur on ☐ _____ (date) (or ☒ 105 **Days** After Acceptance).
   E. Buyer and Seller are referred to herein as the "Parties." Brokers are not Parties to this Agreement.
2. **AGENCY:**
   A. **DISCLOSURE:** The Parties each acknowledge receipt of a ☒ "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD)
   B. **CONFIRMATION:** The following agency relationships are confirmed for this transaction:
   Seller's Brokerage Firm Anderson Real Estate License Number 00683792
   Is the broker of (check one): ☒ the seller; or ☐ both the buyer and seller. (dual agent)
   Seller's Agent Pamela Anderson License Number 00683792
   Is (check one): ☒ the Seller's Agent. (salesperson or broker associate) ☐ both the Buyer's and Seller's Agent. (dual agent)
   Buyer's Brokerage Firm Sierra Realty License Number 02038519
   Is the broker of (check one): ☐ the buyer; or ☐ both the buyer and seller. (dual agent)
   Buyer's Agent Ken Galasso License Number 00570875
   Is (check one): ☐ the Buyer's Agent. (salesperson or broker associate) ☐ both the Buyer's and Seller's Agent. (dual agent)
   C. **POTENTIALLY COMPETING BUYERS AND SELLERS:** The Parties each acknowledge receipt of a ☒ "Possible Representation of More than One Buyer or Seller - Disclosure and Consent" (C.A.R. Form PRBS).
3. **FINANCE TERMS:** Buyer represents that funds will be good when deposited with Escrow Holder.
   A. **INITIAL DEPOSIT:** Deposit shall be in the amount of ..... $ 25,000.00
   (1) Buyer Direct Deposit: Buyer shall deliver deposit directly to Escrow Holder by electronic funds transfer, ☐ cashier's check, ☐ personal check, ☐ other _____ within 3 business days after Acceptance (or _____);
   OR (2) ☐ Buyer Deposit with Agent: Buyer has given the deposit by personal check (or _____) to the agent submitting the offer (or to _____), made payable to _____. The deposit shall be held uncashed until Acceptance and then deposited with Escrow Holder within **3** business days after Acceptance (or _____).
   Deposit checks given to agent shall be an original signed check and not a copy.
   (Note: Initial and increased deposit checks received by agent shall be recorded in Broker's trust fund log.)
   B. **INCREASED DEPOSIT:** Buyer shall deposit with Escrow Holder an increased deposit in the amount of.. . $ _____
   within ____ **Days** After Acceptance (or _____).
   If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount in a separate liquidated damages clause (C.A.R. Form RID) at the time the increased deposit is delivered to Escrow Holder.
   C. ☒ **ALL CASH OFFER:** No loan is needed to purchase the Property. This offer is NOT contingent on Buyer obtaining a loan. Written verification of sufficient funds to close this transaction IS ATTACHED to this offer or ☐ Buyer shall, within **3 (or ____) Days** After Acceptance, Deliver to Seller such verification.
   D. **LOAN(S):**
   (1) **FIRST LOAN:** in the amount of ..... $ _____
   This loan will be conventional financing **OR** ☐ Seller financing (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form AFA), ☐ subject to financing, ☐ Other _____. This loan shall be at a fixed rate not to exceed _____% or, ☐ an adjustable rate loan with initial rate not to exceed _____%. Regardless of the type of loan, Buyer shall pay points not to exceed _____% of the loan amount.
   (2) ☐ **SECOND LOAN** in the amount of ..... $ _____
   This loan will be conventional financing **OR** ☐ Seller financing (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form AFA), ☐ subject to financing, ☐ Other _____. This loan shall be at a fixed rate not to exceed _____% or, ☐ an adjustable rate loan with initial rate not to exceed _____%. Regardless of the type of loan, Buyer shall pay points not to exceed _____% of the loan amount.
   E. **ADDITIONAL FINANCING TERMS:** _____
   _____
   F. **BALANCE OF DOWN PAYMENT OR PURCHASE PRICE** in the amount of ..... $ 1,125,000.00
   to be deposited with Escrow Holder pursuant to Escrow Holder instructions.
   G. **PURCHASE PRICE (TOTAL):** ..... $ 1,150,000.00

Buyer's Initials (MV) (_____) Seller's Initials (_____) (_____)

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H. **VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Buyer (or Buyer's lender or loan broker pursuant to paragraph 3J(1)) shall, within **3 (or ___) Days** After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. (☐ Verification attached.)

I. **APPRAISAL CONTINGENCY AND REMOVAL:** This Agreement is (**or** ☒ is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the purchase price. Buyer shall, as specified in **paragraph 18B(3)**, in writing, remove the appraisal contingency or cancel this Agreement within **17 (or ____) Days** After Acceptance.

J. **LOAN TERMS:**

(1) LOAN APPLICATIONS: Within **3 (or ___) Days** After Acceptance, Buyer shall Deliver to Seller a letter from Buyer's lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in paragraph 3D. If any loan specified in paragraph 3D is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate. (☐ Letter attached.)

(2) LOAN CONTINGENCY: Buyer shall act diligently and in good faith to obtain the designated loan(s). Buyer's qualification for the loan(s) specified above **is a contingency** of this Agreement unless otherwise agreed in writing. If there is no appraisal contingency or the appraisal contingency has been waived or removed, then failure of the Property to appraise at the purchase price does not entitle Buyer to exercise the cancellation right pursuant to the loan contingency if Buyer is otherwise qualified for the specified loan. Buyer's contractual obligations regarding deposit, balance of down payment and closing costs **are not contingencies** of this Agreement.

(3) LOAN CONTINGENCY REMOVAL:

Within **21 (or ____) Days** After Acceptance, Buyer shall, as specified in paragraph 18, in writing, remove the loan contingency or cancel this Agreement. If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.

(4) ☐ **NO LOAN CONTINGENCY:** Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result Buyer does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

(5) LENDER LIMITS ON BUYER CREDITS: Any credit to Buyer, from any source, for closing or other costs that is agreed to by the Parties ("Contractual Credit") shall be disclosed to Buyer's lender. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit shall be reduced to the Lender Allowable Credit, and (ii) in the absence of a separate written agreement between the Parties, there shall be no automatic adjustment to the purchase price to make up for the difference between the Contractual Credit and the Lender Allowable Credit.

K. **BUYER STATED FINANCING:** Seller is relying on Buyer's representation of the type of financing specified (including but not limited to, as applicable, all cash, amount of down payment, or contingent or non-contingent loan). Seller has agreed to a specific closing date, purchase price and to sell to Buyer in reliance on Buyer's covenant concerning financing. Buyer shall pursue the financing specified in this Agreement. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in the Agreement and the availability of any such alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

4. SALE OF BUYER'S PROPERTY:

A. This Agreement and Buyer's ability to obtain financing are NOT contingent upon the sale of any property owned by Buyer.

OR B. ☐ This Agreement and Buyer's ability to obtain financing are contingent upon the sale of property owned by Buyer as specified in the attached addendum (C.A.R. Form COP).

5. ADDENDA AND ADVISORIES:

A. ADDENDA:	☒ Addendum # 1 (C.A.R. Form ADM)
☐ Back Up Offer Addendum (C.A.R. Form BUO)	☐ Court Confirmation Addendum (C.A.R. Form CCA)
☐ Septic, Well and Property Monument Addendum (C.A.R. Form SWPI)	
☐ Short Sale Addendum (C.A.R. Form SSA)	☐ Other
B. BUYER AND SELLER ADVISORIES:	☒ Buyer's Inspection Advisory (C.A.R. Form BIA)
☐ Probate Advisory (C.A.R. Form PA)	☐ Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
☐ Trust Advisory (C.A.R. Form TA)	☐ REO Advisory (C.A.R. Form REO)
☐ Short Sale Information and Advisory (C.A.R. Form SSIA)	☐ Other

6. OTHER TERMS: *Sales includes two APNs. Parcels 0191162390000 and 0191162080000. Offer is contingent upon City Council approval.*

7. ALLOCATION OF COSTS

A. INSPECTIONS, REPORTS AND CERTIFICATES: Unless otherwise agreed, in writing, this paragraph only determines who is to pay for the inspection, test, certificate or service ("Report") mentioned; it **does not determine who is to pay for any work recommended or identified in the Report.**

(1) ☐ Buyer ☒ Seller shall pay for a natural hazard zone disclosure report, including tax ☐ environmental ☐ Other: _____ prepared by *First American*.

(2) ☐ Buyer ☐ Seller shall pay for the following Report _____ prepared by _____.

(3) ☐ Buyer ☐ Seller shall pay for the following Report _____ prepared by _____.

Buyer's Initials ( ) ( ) Seller's Initials ( ) ( )

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B. GOVERNMENT REQUIREMENTS AND RETROFIT:

(1) ☐ Buyer ☒ Seller shall pay for smoke alarm and carbon monoxide device installation and water heater bracing, if required by Law. Prior to Close Of Escrow ("COE"), Seller shall provide Buyer written statement(s) of compliance in accordance with state and local Law, unless Seller is exempt.

(2) (i) ☐ Buyer ☐ Seller shall pay the cost of compliance with any other minimum mandatory government inspections and reports if required as a condition of closing escrow under any Law.

(ii) ☐ Buyer ☐ Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards required as a condition of closing escrow under any Law, whether the work is required to be completed before or after COE.

(iii) Buyer shall be provided, within the time specified in paragraph 18A, a copy of any required government conducted or point-of-sale inspection report prepared pursuant to this Agreement or in anticipation of this sale of the Property.

C. ESCROW AND TITLE:

(1) (a) ☒ Buyer ☒ Seller shall pay escrow fee ***1/2 each per local custom*** .

(b) Escrow Holder shall be ***Bennett Escrow Services Inc*** .

(c) The Parties shall, within **5 (or ___) Days** After receipt, sign and return Escrow Holder's general provisions.

(2) (a) ☐ Buyer ☒ Seller shall pay for **owner's** title insurance policy specified in paragraph 17E _____.

(b) Owner's title policy to be issued by ***Orange Cost Title*** .

(Buyer shall pay for any title insurance policy insuring Buyer's **lender**, unless otherwise agreed in writing.)

D. OTHER COSTS:

(1) ☐ Buyer ☒ Seller shall pay County transfer tax or fee _____.

(2) ☐ Buyer ☐ Seller shall pay City transfer tax or fee _____.

(3) ☐ Buyer ☐ Seller shall pay Owners' Association ("OA") transfer fee _____.

(4) Seller shall pay OA fees for preparing all documents required to be delivered by Civil Code §4525.

(5) ☐ Buyer ☐ Seller shall pay OA fees for preparing all documents other than those required by Civil Code §4525.

(6) Buyer to pay for any HOA certification fee.

(7) ☐ Buyer ☐ Seller shall pay for any private transfer fee _____.

(8) ☐ Buyer ☐ Seller shall pay for _____.

(9) ☐ Buyer ☐ Seller shall pay for _____.

8. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:

A. NOTE TO BUYER AND SELLER: Items listed as included or excluded in the MLS, flyers or marketing materials are **not** included in the purchase price or excluded from the sale unless specified in paragraph 8 B, C or D.

B. ITEMS INCLUDED IN SALE:

(1) All EXISTING fixtures and fittings that are attached to the Property;

(2) EXISTING electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar power systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water features and fountains, water softeners, water purifiers, security systems/alarms.

(3) A complete inventory of all personal property of Seller currently used in the operation of the Property and included in the purchase price shall be delivered to Buyer within the time specified in paragraph 18A.

(4) Seller represents that all items included in the purchase price are, unless otherwise specified or identified pursuant to 8B(7), owned by Seller. Within the time specified in paragraph 18A, Seller shall give Buyer a list of fixtures not owned by Seller.

(5) Seller shall deliver title to the personal property by Bill of Sale, free and clear of all liens and encumbrances, and without seller warranty of condition regardless of value.

(6) As additional security for any note in favor of Seller for any part of the purchase price, Buyer shall execute a UCC-1 Financing Statement to be filed with the Secretary of State, covering the personal property included in the purchase, replacement thereof, and insurance proceeds.

(7) LEASED OR LIENED ITEMS AND SYSTEMS: Seller shall, within the time specified in paragraph 18A, (i) disclose to Buyer if any item or system specified in paragraph 8B or otherwise included in the sale is leased, or not owned by Seller, or specifically subject to a lien or other encumbrance, and (ii) Deliver to Buyer all written materials (such as lease, warranty, etc.) concerning any such item. Buyer's ability to assume any such lease, or willingness to accept the Property subject to any such lien or encumbrance, is a contingency in favor of Buyer and Seller as specified in paragraph 18B and C.

C. ITEMS EXCLUDED FROM SALE: Unless otherwise specified, the following items are excluded from sale: _____

_____

_____.

D. OTHER ITEMS:

(1) Existing integrated phone and automation systems, including necessary components such as intranet and Internet-connected hardware or devices, control units (other than non-dedicated mobile devices, electronics and computers) and applicable software, permissions, passwords, codes and access information, are (☐ are NOT) included in the sale.

9. CLOSING AND POSSESSION:

A. Seller-occupied or vacant property: Possession shall be delivered to Buyer: (i) ☐ at 6 PM or (_____ ☐ AM/ ☐ PM) on the date of Close Of Escrow; (ii) ☐ no later than ___ calendar days After Close Of Escrow; or (iii) ☐ at _____ ☐ AM/ ☐ PM on _____.

B. Seller Remaining in Possession After Close Of Escrow: If Seller has the right to remain in possession after Close Of Escrow, (i) the Parties are advised to sign a separate occupancy agreement such as ☐ C.A.R. Form CL; and (ii) the Parties are advised to consult with their insurance and legal advisors for information about liability and damage or injury to persons and personal and real property; and (iii) Buyer is advised to consult with Buyer's lender about the impact of Seller's occupancy on Buyer's loan.

C. Tenant Occupied Units: Possession and occupancy, subject to the rights of tenants under existing leases, shall be delivered to Buyer on Close Of Escrow.

D. At Close Of Escrow: **(i)** Seller assigns to Buyer any assignable warranty rights for items included in the sale; and **(ii)** Seller shall Deliver to Buyer available Copies of any such warranties. Brokers cannot and will not determine the assignability of any warranties.

E. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys, passwords, codes and/or means to operate all locks, mailboxes, security systems, alarms, home automation systems and intranet and Internet-connected devices included in the purchase price, and garage door openers. If the Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Owners' Association ("OA") to obtain keys to accessible OA facilities.

10. **SECURITY DEPOSITS:** Security deposits, if any, to the extent they have not been applied by Seller in accordance with any rental agreement and current Law, shall be transferred to Buyer on Close Of Escrow. Seller shall notify each tenant, in compliance with the Civil Code.

11. **SELLER DISCLOSURES:**

A. **NATURAL AND ENVIRONMENTAL DISCLOSURES:** Seller shall, within the time specified in paragraph 18, if required by Law: **(i)** Deliver to Buyer earthquake guides (and questionnaire) and environmental hazards booklet; **(ii)** even if exempt from the obligation to provide an NHD, disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; Seismic Hazard Zone; and **(iii)** disclose any other zone as required by Law and provide any other information required for those zones.

B. **ADDITIONAL DISCLOSURES:** Within the time specified in paragraph 18, Seller shall Deliver to Buyer, in writing, the following disclosures, documentation and information:

(1) **RENTAL SERVICE AGREEMENTS: (i)** All current leases, rental agreements, service contracts, and other agreements pertaining to the operation of the Property; and **(ii)** a rental statement including names of tenants, rental rates, period of rental, date of last rent increase, security deposits, rental concessions, rebates, or other benefits, if any, and a list of delinquent rents and their duration. Seller represents that no tenant is entitled to any concession, rebate, or other benefit, except as set forth in these documents.

(2) **INCOME AND EXPENSE STATEMENTS:** The books and records, including a statement of income and expense for the 12 months preceding Acceptance. Seller represents that the books and records are those maintained in the ordinary and normal course of business, and used by Seller in the computation of federal and state income tax returns.

(3) ☐ **TENANT ESTOPPEL CERTIFICATES:** (If checked) Tenant estoppel certificates (C.A.R. Form TEC) completed by Seller or Seller's agent, and signed by tenants, acknowledging: **(i)** that tenants' rental or lease agreements are unmodified and in full force and effect (or if modified, stating all such modifications); **(ii)** that no lessor defaults exist; and **(iii)** stating the amount of any prepaid rent or security deposit.

(4) **SURVEYS, PLANS AND ENGINEERING DOCUMENTS:** Copies of surveys, plans, specifications and engineering documents, if any, in Seller's possession or control.

(5) **PERMITS:** If in Seller's possession, Copies of all permits and approvals concerning the Property, obtained from any governmental entity, including, but not limited to, certificates of occupancy, conditional use permits, development plans, and licenses and permits pertaining to the operation of the Property.

(6) **STRUCTURAL MODIFICATIONS:** Any known structural additions or alterations to, or the installation, alteration, repair or replacement of, significant components of the structure(s) upon the Property.

(7) **GOVERNMENTAL COMPLIANCE:** Any improvements, additions, alterations or repairs made by Seller, or known to Seller to have been made, without required governmental permits, final inspections, and approvals.

(8) **VIOLATION NOTICES:** Any notice of violations of any Law filed or issued against the Property and actually known to Seller.

(9) **WATER CONSERVING PLUMBING DEVICES:** Section 1101.5 of the Civil Code, requires that by January 1, 2019, all multi-family residential and commercial real property be equipped with water-conserving plumbing devices. Seller shall disclose in writing whether the property includes any noncompliant plumbing fixtures. Seller may use C.A.R. Form SPQ or ESD. See C.A.R. Form WCMD for further information.

(10) **MISCELLANEOUS ITEMS:** Any of the following, if actually known to Seller: **(i)** any current pending lawsuit(s), investigation(s), inquiry(ies), action(s), or other proceeding(s) affecting the Property, or the right to use and occupy it; **(ii)** any unsatisfied mechanic's or materialman's lien(s) affecting the Property; and **(iii)** that any tenant of the Property is the subject of a bankruptcy.

C. **WITHHOLDING TAXES**: Within the time specified in paragraph 18A, to avoid required withholding Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law, (C.A.R. Form AS or QS).

D. **NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES:** This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at http://www.npms.phmsa.dot.gov/. To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.

E. **CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:**

(1) SELLER HAS: 7 (or ___) Days After Acceptance to disclose to Buyer whether the Property is a condominium, or is located in a planned development or other common interest subdivision.

(2) If the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has **3 (or ___) Days** After Acceptance to request from the OA (C.A.R. Form HOA1): **(i)** Copies of any documents required by Law; **(ii)** disclosure of any pending or anticipated claim or litigation by or against the OA; **(iii)** a statement containing the location and number of designated parking and storage spaces; **(iv)** Copies of the most recent 12 months of OA minutes for regular and special meetings; and **(v)** the names and contact information of all OAs governing the Property (collectively, "CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the OA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 18B(3). The Party specified in paragraph 7, as directed by escrow, shall deposit funds into escrow or direct to OA or management company to pay for any of the above.

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12. [X] **ENVIRONMENTAL SURVEY** (If checked): Within *70* **Days** After Acceptance, Buyer shall be provided a phase one environmental survey report paid for and obtained by [X] Buyer [ ] Seller. Buyer shall then, as specified in paragraph 18, remove this contingency or cancel this Agreement.
13. **SUBSEQUENT DISCLOSURES:** In the event Seller, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer of which Buyer is otherwise unaware, Seller shall promptly Deliver a subsequent or amended disclosure or notice in writing, covering those items. **However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies disclosed in reports ordered and paid for by Buyer.**
14. **CHANGES DURING ESCROW:**
    A. Prior to Close Of Escrow, Seller may only engage in the following acts, ("Proposed Changes"), subject to Buyer's rights in paragraph 14B: **(i)** rent or lease any vacant unit or other part of the premises; **(ii)** alter, modify, or extend any existing rental or lease agreement; **(iii)** enter into, alter, modify or extend any service contract(s); or **(iv)** change the status of the condition of the Property.
    B. **(1) 7 (or [ ] ___) Days** prior to any Proposed Changes, Seller shall Deliver written notice to Buyer of any Proposed Changes.
    (2) Within **5 (or ___) Days** After receipt of such notice, Buyer, in writing, may give Seller notice of Buyer's objection to the Proposed Changes in which case Seller shall not make the Proposed Changes.
15. **CONDITION OF PROPERTY:** Unless otherwise agreed in writing: **(i)** the Property is sold (a) "AS-IS" in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's Investigation rights; **(ii)** the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and **(iii)** all debris and personal property not included in the sale shall be removed by Close Of Escrow.
    A. Seller shall, within the time specified in paragraph 18A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.
    B. Buyer has the right to conduct Buyer Investigations of the property and, as specified in paragraph 18B, based upon information discovered in those investigations: (i) cancel this Agreement; or (ii) request that Seller make Repairs or take other action.
    C. **Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.**
16. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**
    A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 18B. Within the time specified in paragraph 18B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to, the right to: **(i)** inspect for lead-based paint and other lead-based paint hazards; **(ii)** inspect for wood destroying pests and organisms. Any inspection for wood destroying pests and organisms shall be prepared by a registered Structural Pest Control company; shall cover the main building and attached structures; may cover detached structures; shall NOT include water tests of shower pans on upper level units unless the owners of property below the shower consent; shall NOT include roof coverings; and, if the Property is a unit in a condominium or other common interest subdivision, the inspection shall include only the separate interest and any exclusive-use areas being transferred, and shall NOT include common areas; and shall include a report ("Pest Control Report") showing the findings of the company which shall be separated into sections for evident infestation or infections (Section 1) and for conditions likely to lead to infestation or infection (Section 2); **(iii)** review the registered sex offender database; **(iv)** confirm the insurability of Buyer and the Property including the availability and cost of flood and fire insurance; **(v)** review and seek approval of leases that may need to be assumed by Buyer; and **(vi)** satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA). Without Seller's prior written consent, Buyer shall neither make nor cause to be made: **(i)** invasive or destructive Buyer Investigations except for minimally invasive testing required to prepare a Pest Control Report; or **(ii)** inspections by any governmental building or zoning inspector or government employee, unless required by Law.
    B. Seller shall make the Property available for all Buyer Investigations. Buyer shall **(i)** as specified in paragraph 18B, complete Buyer Investigations and either remove the contingency or cancel this Agreement, and **(ii)** give Seller, at no cost, complete Copies of all such Investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.
    C. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.
    D. **Buyer indemnity and seller protection for entry upon property:** Buyer shall: **(i)** keep the Property free and clear of liens; **(ii)** repair all damage arising from Buyer Investigations; and **(iii)** indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.
17. **TITLE AND VESTING:**
    A. Within the time specified in paragraph 18, Buyer shall be provided a current preliminary title report ("Preliminary Report"). The Preliminary Report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the Preliminary Report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 18B. The company providing the Preliminary Report shall, prior to issuing a Preliminary Report, conduct a search of the General Index for all Sellers except banks or other institutional lenders selling properties they acquired through foreclosure (REOs), corporations, and government entities. Seller shall within 7 Days After Acceptance, give Escrow Holder a completed Statement of Information.
    B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except for: **(i)** monetary liens of record (which Seller is obligated to pay off) unless Buyer is assuming those obligations or taking the Property subject to those obligations; and **(ii)** those matters which Seller has agreed to remove in writing.
    C. Within the time specified in paragraph 18A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.

D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.

E. Buyer shall receive a standard coverage owners CLTA policy of title insurance. An ALTA policy or the addition of endorsements may provide greater coverage for Buyer. A title company, at Buyer's request, can provide information about the availability, desirability, coverage, and cost of various title insurance coverages and endorsements. If Buyer desires title coverage other than that required by this paragraph, Buyer shall instruct Escrow Holder in writing and shall pay any increase in cost.

18. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).

A. **SELLER HAS: 7 (or ___) Days** After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 5A, 6, 7, 8B(7), 11A, B, C, D and E, 12, 15A and 17A. Buyer after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP) may cancel this Agreement if Seller has not Delivered the items within the time specified.

B. (1) **BUYER HAS: 17 (or 75) Days** After Acceptance, unless otherwise agreed in writing, to:
(i) complete all Buyer Investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to paragraph 8B(7) and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property.

(2) Within the time specified in paragraph 18B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to (C.A.R. Form RRRR) Buyer's requests.

(3) By the end of the time specified in paragraph 18B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller a removal of the applicable contingency or cancellation (C.A.R. Form CR or CC) of this Agreement. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in paragraph 18A, then Buyer has **5 (or ___) Days** After Delivery of any such items, or the time specified in paragraph 18B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.

(4) **Continuation of Contingency:** Even after the end of the time specified in paragraph 18B(1) and before Seller cancels, if at all, pursuant to paragraph 18C, Buyer retains the right, in writing, to either (i) remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to paragraph 18C(1).

C. **SELLER RIGHT TO CANCEL:**

(1) **Seller right to Cancel; Buyer Contingencies:** If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement, then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

(2) **Seller right to Cancel; Buyer Contract Obligations:** Seller, after first delivering to Buyer a NBP, may cancel this Agreement if, by the time specified in this Agreement, Buyer does not take the following action(s): **(i)** Deposit funds as required by paragraph 3A or 3B or if the funds deposited pursuant to paragraph 3A or 3B are not good when deposited; **(ii)** Deliver a letter as required by paragraph 3J(1); **(iii)** Deliver verification as required by paragraph 3C or 3H or if Seller reasonably disapproves of the verification provided by paragraph 3C or 3H; or **(iv)** In writing assume or accept leases or liens specified in 8B(7); **(v)** Sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 25B; or **(vi)** Provide evidence of authority to sign in a representative capacity as specified in paragraph 23. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

D. **NOTICE TO BUYER OR SELLER TO PERFORM:** The NBP or NSP shall: **(i)** be in writing; **(ii)** be signed by the applicable Buyer or Seller; and **(iii)** give the other Party at least **2** (or ___) **Days** After Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP or NSP may not be Delivered any earlier than **2 Days** Prior to the expiration of the applicable time for the other Party to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 18.

E. **EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES:** If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in writing, Buyer shall conclusively be deemed to have: **(i)** completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; **(ii)** elected to proceed with the transaction; and **(iii)** assumed all liability, responsibility and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.

F. **CLOSE OF ESCROW:** Before Buyer or Seller may cancel this Agreement for failure of the other Party to close escrow pursuant to this Agreement, Buyer or Seller must first Deliver to the other Party a demand to close escrow (C.A.R. Form DCE). The DCE shall: **(i)** be signed by the applicable Buyer or Seller; and **(ii)** give the other Party at least **3 (or _____) Days** After Delivery to close escrow. A DCE may not be Delivered any earlier than **3 Days** Prior to the scheduled close of escrow.

G. **EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, the Parties agree to Sign mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Except as specified below, **release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award.** If either Party fails to execute mutual instructions to cancel escrow, one Party may make a written demand to Escrow Holder for the deposit (C.A.R. Form BDRD or SDRD). Escrow Holder, upon receipt, shall promptly deliver notice of the demand to the other Party. If, within **10 Days** After Escrow Holder's notice, the other Party does not object to the demand, Escrow Holder shall disburse the deposit to the Party making the demand. If Escrow Holder complies with the preceding process, each Party shall be deemed to have released Escrow Holder from any and all claims or liability related to the disbursal of the deposit. Escrow Holder, at its discretion, may nonetheless require mutual cancellation instructions. **A Party may be subject to a civil penalty of up to $1,000 for refusal to sign cancellation instructions if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1057.3).**

19. **REPAIRS:** Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: **(i)** obtain invoices and paid receipts for Repairs performed by others; **(ii)** prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and **(iii)** provide Copies of invoices and paid receipts and statements to Buyer prior to final verification of condition.
20. **FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final verification of the Property within **5 (or** ☐ __ **) Days** Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: **(i)** the Property is maintained pursuant to paragraph 15; **(ii)** Repairs have been completed as agreed; and **(iii)** Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).
21. **PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, OA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: **(i)** for periods after Close Of Escrow, by Buyer; and **(ii)** for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.
22. **BROKERS:**
    A. **COMPENSATION**: Seller or Buyer, or both, as applicable, agrees to pay compensation to Broker as specified in a separate written agreement between Broker and that Seller or Buyer. Compensation is payable upon Close Of Escrow, or if escrow does not close, as otherwise specified in the agreement between Broker and that Seller or Buyer.
    B. **BROKERAGE:** Neither Buyer nor Seller has utilized the services of, or for any other reason owes compensation to, a licensed real estate broker (individual or corporate), agent, finder, or other entity, other than as specified in this Agreement, in connection with any act relating to the Property, including, but not limited to, inquiries, introductions, consultations and negotiations leading to this Agreement. Buyer and Seller each agree to indemnify, defend, and hold the other, the Brokers specified herein and their agents, harmless from and against any costs, expenses or liability for compensation claimed inconsistent with the warranty and representations in this paragraph.
    C. **SCOPE OF DUTY:** Buyer and Seller acknowledge and agree that Broker: **(i)** Does not decide what price Buyer should pay or Seller should accept; **(ii)** Does not guarantee the condition of the Property; **(iii)** Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; **(iv)** Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; **(v)** Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Broker; **(vi)** Shall not be responsible for inspecting public records or permits concerning the title or use of Property; **(vii)** Shall not be responsible for identifying the location of boundary lines or other items affecting title; **(viii)** Shall not be responsible for verifying square footage, representations of others or information contained in Investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; **(ix)** Shall not be responsible for determining the fair market value of the Property or any personal property included in the sale; **(x)** Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and **(xi)** Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.
23. **REPRESENTATIVE CAPACITY:** If one or more Parties is signing the Agreement in a representative capacity and not for him/herself as an individual then that Party shall so indicate in paragraph 40 or 41 and attach a Representative Capacity Signature Disclosure (C.A.R. Form RCSD). Wherever the signature or initials of the representative identified in the RCSD appear on the Agreement or any related documents, it shall be deemed to be in a representative capacity for the entity described and not in an individual capacity, unless otherwise indicated. The Party acting in a representative capacity (i) represents that the entity for which that party is acting already exists and (ii) shall Deliver to the other Party and Escrow Holder, within **3 Days** After Acceptance, evidence of authority to act in that capacity (such as but not limited to: applicable portion of the trust or Certification Of Trust (Probate Code §18100.5), letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).
24. **JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:**
    A. **The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder,** which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: paragraphs 1, 3, 4B, 5A, 6, 7, 10, 11D, 17, 18G, 21, 22A, 23, 24, 30, 38, 39, 41, 42 and paragraph D of the section titled Real Estate Brokers on page 11. If a Copy of the separate compensation agreement(s) provided for in paragraph 22A, or paragraph D of the section titled Real Estate Brokers on page 11 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder and will execute such provisions within the time specified in paragraph 7C(1)(c). To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow and, as directed by Escrow Holder, within 3 **(or __) Days**, shall pay to Escrow Holder or HOA or HOA management company or others any fee required by paragraphs 7, 11 or elsewhere in this Agreement.

Property Address: ***16756 Arrow Blvd and APN 0191162080000, Fontana, CA 92335-3802*** Date: ***December 7, 2021***

B. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within **3 Days** After Acceptance (or _____). Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement. Escrow Holder shall provide Seller's Statement of Information to Title company when received from Seller. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 10C, Escrow Holder shall deliver to Buyer a Qualified Substitute statement that complies with federal Law.

C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 22A and paragraph D of the section titled Real Estate Brokers on page 11. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 22A, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement.

D. Upon receipt, Escrow Holder shall provide Seller and Seller's Broker verification of Buyer's deposit of funds pursuant to paragraph 3A and 3B. Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify all Brokers: **(i)** if Buyer's initial or any additional deposit is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or **(ii)** if Buyer and Seller instruct Escrow Holder to cancel escrow.

E. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within **3** Days after mutual execution of the amendment.

25. REMEDIES FOR BUYER'S BREACH OF CONTRACT:

A. Any clause added by the Parties specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase in violation of this Agreement shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.

B. LIQUIDATED DAMAGES: If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. Buyer and Seller agree that this amount is a reasonable sum given that it is impractical or extremely difficult to establish the amount of damages that would actually be suffered by Seller in the event Buyer were to breach this Agreement. Release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award. AT TIME OF ANY INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION INCORPORATING THE INCREASED DEPOSIT AS LIQUIDATED DAMAGES (C.A.R.FORM RID).

Buyer's Initials CW / _____ Seller's Initials _____ / _____

26. DISPUTE RESOLUTION:

A. MEDIATION: The Parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action through the C.A.R. Consumer Mediation Center **(www.consumermediation.org)** or through any other mediation provider or service mutually agreed to by the Parties. The Parties **also agree to mediate any disputes or claims with Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker.** Mediation fees, if any, shall be divided equally among the Parties involved. If, for any dispute or claim to which this paragraph applies, any Party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that Party shall not be entitled to recover attorney fees, even if they would otherwise be available to that Party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED. **Exclusions from this mediation agreement are specified in paragraph 26C.**

B. ARBITRATION OF DISPUTES:

The Parties agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. The Parties also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of transactional real estate Law experience, unless the parties mutually agree to a different arbitrator. The Parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 26C.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials CW / _____ Seller's Initials _____ / _____

C. **ADDITIONAL MEDIATION AND ARBITRATION TERMS:**
   (1) **EXCLUSIONS: The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; and (iii) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court.**
   (2) **PRESERVATION OF ACTIONS: The following shall not constitute a waiver nor violation of the mediation and arbitration provisions: (i) the filing of a court action to preserve a statute of limitations; (ii) the filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies; or (iii) the filing of a mechanic's lien.**
   (3) **BROKERS: Brokers shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Broker(s) participating in mediation or arbitration shall not be deemed a party to the Agreement.**

27. **SELECTION OF SERVICE PROVIDERS:** Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.
28. **MULTIPLE LISTING SERVICE/PROPERTY DATA SYSTEM:** If Broker is a participant of a Multiple Listing Service ("MLS") or Property Data System ("PDS"), Broker is authorized to report to the MLS or PDS a pending sale and, upon Close Of Escrow, the terms of this transaction to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS or PDS.
29. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorneys fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 26A.
30. **ASSIGNMENT:** Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the written consent of Seller. Such consent shall not be unreasonably withheld unless otherwise agreed in writing. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless otherwise agreed in writing by Seller (C.A.R. Form AOAA).
31. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon, and inure to the benefit of, Buyer and Seller and their respective successors and assigns, except as otherwise provided herein.
32. **ENVIRONMENTAL HAZARD CONSULTATION:** Buyer and Seller acknowledge: **(i)** Federal, state, and local legislation impose liability upon existing and former owners and users of real property, in applicable situations, for certain legislatively defined, environmentally hazardous substances; **(ii)** Broker(s) has/have made no representation concerning the applicability of any such Law to this transaction or to Buyer or to Seller, except as otherwise indicated in this Agreement; **(iii)** Broker(s) has/have made no representation concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property; and **(iv)** Buyer and Seller are each advised to consult with technical and legal experts concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property.
33. **AMERICANS WITH DISABILITIES ACT:** The Americans With Disabilities Act ("ADA") prohibits discrimination against individuals with disabilities. The ADA affects almost all commercial facilities and public accommodations. The ADA can require, among other things, that buildings be made readily accessible to the disabled. Different requirements apply to new construction, alterations to existing buildings, and removal of barriers in existing buildings. Compliance with the ADA may require significant costs. Monetary and injunctive remedies may be incurred if the Property is not in compliance. A real estate broker does not have the technical expertise to determine whether a building is in compliance with ADA requirements, or to advise a principal on those requirements. Buyer and Seller are advised to contact an attorney, contractor, architect, engineer or other qualified professional of Buyer's or Seller's own choosing to determine to what degree, if any, the ADA impacts that principal or this transaction.
34. **COPIES:** Seller and Buyer each represent that Copies of all reports, documents, certificates, approvals and other documents that are furnished to the other are true, correct and unaltered Copies of the original documents, if the originals are in the possession of the furnishing party.
35. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
36. **GOVERNING LAW:** This Agreement shall be governed by the Laws of the state of California.
37. **TERMS AND CONDITIONS OF OFFER:** This is an offer to purchase the Property on the above terms and conditions. The liquidated damages paragraph or the arbitration of disputes paragraph is incorporated in this Agreement if initialed by all Parties or if incorporated by mutual agreement in a counter offer or addendum. If at least one but not all Parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. Buyer has read and acknowledges receipt of a Copy of the offer and agrees to the confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.
38. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the Parties are incorporated in this Agreement. Its terms are intended by the Parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as otherwise specified, this Agreement shall be interpreted and disputes shall be resolved in accordance with the Laws of the State of California. **Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.**
39. **DEFINITIONS:** As used in this Agreement:
   A. **"Acceptance"** means the time the offer or final counter offer is accepted in writing by a Party and is delivered to and personally received by the other Party or that Party's authorized agent in accordance with the terms of this offer or a final counter offer.
   B. **"Agreement"** means this document and any counter offers and any incorporated addenda, collectively forming the binding agreement between the Parties. Addenda are incorporated only when Signed by all Parties.

C. **"C.A.R. Form"** means the most current version of the specific form referenced or another comparable form agreed to by the parties.
D. **"Close Of Escrow" or "COE"** means the date the grant deed, or other evidence of transfer of title, is recorded.
E. **"Copy"** means copy by any means including photocopy, NCR, facsimile and electronic.
F. **"Days"** means calendar days. However, after Acceptance, the last **Day** for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.
G. **"Days After"** means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59 PM on the final day.
H. **"Days Prior"** means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
I. **"Deliver", "Delivered" or "Delivery",** unless otherwise specified in writing, means and shall be effective upon: personal receipt by Buyer or Seller or the individual Real Estate Licensee for that principal as specified in the section titled Real Estate Brokers on page 11, regardless of the method used (i.e., messenger, mail, email, fax, other).
J. **"Electronic Copy" or "Electronic Signature"** means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either Party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other Party.
K. **"Law"** means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
L. **"Repairs"** means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
M. **"Signed"** means either a handwritten or electronic signature on an original document, Copy or any counterpart.

40. **AUTHORITY:** Any person or persons signing this Agreement represent(s) that such person has full power and authority to bind that person's principal, and that the designated Buyer and Seller has full authority to enter into and perform this Agreement. Entering into this Agreement, and the completion of the obligations pursuant to this contract, does not violate any Articles of Incorporation, Articles of Organization, By Laws, Operating Agreement, Partnership Agreement or other document governing the activity of either Buyer or Seller.
41. **EXPIRATION OF OFFER:** This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless the offer is Signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by _____, who is authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or by ☐ _____ ☐ AM/ ☐ PM, on _____(date)).

☐ One or more Buyers is signing the Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-B) for additional terms.

Date 12/16/21 BUYER _____

(Print name) City of Fontana

Date _____ BUYER _____

(Print name) _____

☐ Additional Signature Addendum attached (C.A.R. Form ASA).

42. **ACCEPTANCE OF OFFER:** Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer and agrees to sell the Property on the above terms and conditions, and agrees to the above confirmation of agency relationships. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to Deliver a Signed Copy to Buyer.

☐ (If checked) SELLER'S ACCEPTANCE IS **SUBJECT TO ATTACHED COUNTER OFFER (C.A.R. Form SCO or SMCO) DATED:** _____.

☐ One or more Sellers is signing the Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-S) for additional terms.

Date _____ SELLER _____

(Print name) LABRA Investments LLC

Date _____ SELLER _____

(Print name) _____

☐ Additional Signature Addendum attached (C.A.R. Form ASA).

(M /) (Initials) **(Do not initial if making a counter offer.) CONFIRMATION OF ACCEPTANCE:** A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) _____ at _____ ☐ AM/ ☐ PM. **A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.**

REAL ESTATE BROKERS:

A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.

B. Agency relationships are confirmed as stated in paragraph 2.

C. If specified in paragraph 3A(2), Agent who submitted the offer for Buyer acknowledges receipt of deposit.

D. **COOPERATING (BUYER'S) COMPENSATION:** Seller's Broker agrees to pay Buyer's Broker and Buyer's Broker agrees to accept, out of Seller's Broker's proceeds in escrow, the amount specified in the MLS, provided Buyer's Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS. If Seller's Broker and Buyer's Broker are not both Participants of the MLS, or a reciprocal MLS, in which the Property is offered for sale, then compensation must be specified in a separate written agreement (C.A.R. Form CBC). Declaration of License and Tax (C.A.R. Form DLT) may be used to document that tax reporting will be required or that an exemption exists.

E. **PRESENTATION OF OFFER:** Pursuant to Standard of Practice 1-7, if Buyer's Broker makes a written request, Seller's Broker shall confirm in writing that this offer has been presented to Seller.

Buyer's Brokerage Firm *Sierra Realty* DRE Lic. # *02038519*
By *Ken Galasso* DRE Lic. # *00570875* Date
By DRE Lic. # Date
Address *9410 Sierra Ave.* City *Fontana* State *CA* Zip *92335*
Telephone *909.822.1200* Fax *909.822.0324* E-mail *kgalasso@sierrarealty.net*
Seller's Brokerage Firm *Anderson Real Estate* DRE Lic. # *00683792*
By *Pamela Anderson* DRE Lic. # *00683792* Date
By DRE Lic. # Date
Address City State Zip
Telephone Fax E-mail

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, ☐ a deposit in the amount of $), counter offer numbers ☐ Seller's Statement of Information and , and agrees to act as Escrow Holder subject to paragraph 24 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is

Escrow Holder Escrow #
By Date
Address
Phone/Fax/E-mail
Escrow Holder has the following license number #
☐ Department of Financial Protection and Innovation, ☐ Department of Insurance, ☐ Department of Real Estate.

PRESENTATION OF OFFER: ( ) Listing Broker presented this offer to Seller on (date).
Broker or Designee Initials

REJECTION OF OFFER: ( )( ) No counter offer is being made. This offer was rejected by Seller on (date).
Seller's Initials

Buyer's Initials ( ) ( ) Seller's Initials ( ) ( )

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CALIFORNIA ASSOCIATION OF REALTORS®

BUYER'S INSPECTION ADVISORY

(C.A.R. Form BIA, Revised 11/14)

Property Address ***16756 Arrow Blvd and APN 0191162080000, Fontana, CA 92335-3802***

1. IMPORTANCE OF PROPERTY INVESTIGATION: The physical condition of the land and improvements being purchased is not guaranteed by either Seller or Brokers. You have an affirmative duty to exercise reasonable care to protect yourself, including discovery of the legal, practical and technical implications of disclosed facts, and the investigation and verification of information and facts that you know or that are within your diligent attention and observation. A general physical inspection typically does not cover all aspects of the Property nor items affecting the Property that are not physically located on the Property. If the professionals recommend further investigations, including a recommendation by a pest control operator to inspect inaccessible areas of the Property, you should contact qualified experts to conduct such additional investigations.

2. BROKER OBLIGATIONS: Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as those listed below. If Broker gives you referrals to professionals, Broker does not guarantee their performance.

3. YOU ARE STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO THE FOLLOWING. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS.

A. **GENERAL CONDITION OF THE PROPERTY, ITS SYSTEMS AND COMPONENTS:** Foundation, roof (condition, age, leaks, useful life), plumbing, heating, air conditioning, electrical, mechanical, security, pool/spa (cracks, leaks, operation), other structural and nonstructural systems and components, fixtures, built-in appliances, any personal property included in the sale, and energy efficiency of the Property.

B. **SQUARE FOOTAGE, AGE, BOUNDARIES:** Square footage, room dimensions, lot size, age of improvements and boundaries. Any numerical statements regarding these items are APPROXIMATIONS ONLY and have not been verified by Seller and cannot be verified by Brokers. Fences, hedges, walls, retaining walls and other barriers or markers do not necessarily identify true Property boundaries.

C. **WOOD DESTROYING PESTS:** Presence of, or conditions likely to lead to the presence of wood destroying pests and organisms.

D. **SOIL STABILITY:** Existence of fill or compacted soil, expansive or contracting soil, susceptibility to slippage, settling or movement, and the adequacy of drainage.

E. **WATER AND UTILITIES; WELL SYSTEMS AND COMPONENTS; WASTE DISPOSAL:** Water and utility availability, use restrictions and costs. Water quality, adequacy, condition, and performance of well systems and components. The type, size, adequacy, capacity and condition of sewer and septic systems and components, connection to sewer, and applicable fees.

F. **ENVIRONMENTAL HAZARDS:** Potential environmental hazards, including, but not limited to, asbestos, lead-based paint and other lead contamination, radon, methane, other gases, fuel oil or chemical storage tanks, contaminated soil or water, hazardous waste, waste disposal sites, electromagnetic fields, nuclear sources, and other substances, materials, products, or conditions (including mold (airborne, toxic or otherwise), fungus or similar contaminants).

G. **EARTHQUAKES AND FLOODING:** Susceptibility of the Property to earthquake/seismic hazards and propensity of the Property to flood.

H. **FIRE, HAZARD AND OTHER INSURANCE:** The availability and cost of necessary or desired insurance may vary. The location of the Property in a seismic, flood or fire hazard zone, and other conditions, such as the age of the Property and the claims history of the Property and Buyer, may affect the availability and need for certain types of insurance. Buyer should explore insurance options early as this information may affect other decisions, including the removal of loan and inspection contingencies.

I. **BUILDING PERMITS, ZONING AND GOVERNMENTAL REQUIREMENTS:** Permits, inspections, certificates, zoning, other governmental limitations, restrictions, and requirements affecting the current or future use of the Property, its development or size.

J. **RENTAL PROPERTY RESTRICTIONS:** Some cities and counties impose restrictions that limit the amount of rent that can be charged, the maximum number of occupants, and the right of a landlord to terminate a tenancy. Deadbolt or other locks and security systems for doors and windows, including window bars, should be examined to determine whether they satisfy legal requirements.

K. **SECURITY AND SAFETY:** State and local Law may require the installation of barriers, access alarms, self-latching mechanisms and/or other measures to decrease the risk to children and other persons of existing swimming pools and hot tubs, as well as various fire safety and other measures concerning other features of the Property.

L. **NEIGHBORHOOD, AREA, SUBDIVISION CONDITIONS; PERSONAL FACTORS:** Neighborhood or area conditions, including schools, law enforcement, crime statistics, registered felons or offenders, fire protection, other government services, availability, adequacy and cost of internet connections or other technology services and installations, commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, protected species, wetland properties, botanical diseases, historic or other governmentally protected sites or improvements, cemeteries, facilities and condition of common areas of common interest subdivisions, and possible lack of compliance with any governing documents or Homeowners' Association requirements, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Buyer.

By signing below, Buyers acknowledge that they have read, understand, accept and have received a Copy of this Advisory. Buyers are encouraged to read it carefully.

Buyer _____ Buyer _____

City of Fontana

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POSSIBLE REPRESENTATION OF MORE THAN ONE BUYER OR SELLER - DISCLOSURE AND CONSENT

(C.A.R. Form PRBS, Revised 12/18)

A real estate broker (Broker), whether a corporation, partnership or sole proprietorship, may represent more than one buyer or seller. This multiple representation can occur through an individual licensed as a broker or salesperson or through different individual broker's or salespersons (associate licensees) acting under the Broker's license. The associate licensees may be working out of the same or different office locations.

Multiple Buyers: Broker (individually or through its associate licensees) may be working with many prospective buyers at the same time. These prospective buyers may have an interest in, and make offers on, the same properties. Some of these properties may be listed with Broker and some may not. Broker will not limit or restrict any particular buyer from making an offer on any particular property whether or not Broker represents other buyers interested in the same property.

Multiple Sellers: Broker (individually or through its associate licensees) may have listings on many properties at the same time. As a result, Broker will attempt to find buyers for each of those listed properties. Some listed properties may appeal to the same prospective buyers. Some properties may attract more prospective buyers than others. Some of these prospective buyers may be represented by Broker and some may not. Broker will market all listed properties to all prospective buyers whether or not Broker has another or other listed properties that may appeal to the same prospective buyers.

Dual Agency: If Seller is represented by Broker, Seller acknowledges that broker may represent prospective buyers of Seller's property and consents to Broker acting as a dual agent for both seller and buyer in that transaction. If Buyer is represented by Broker, buyer acknowledges that Broker may represent sellers of property that Buyer is interested in acquiring and consents to Broker acting as a dual agent for both buyer and seller with regard to that property.

In the event of dual agency, seller and buyer agree that: a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the buyer's or seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the seller's willingness to accept a price less than the listing price or the buyer's willingness to pay a price greater than the price offered; and except as set forth above, a dual agent is obligated to disclose known facts materially affecting the value or desirability of the Property to both parties.

Offers not necessarily confidential: Buyer is advised that seller or listing agent may disclose the existence, terms, or conditions of buyer's offer unless all parties and their agent have signed a written confidentiality agreement. Whether any such information is actually disclosed depends on many factors, such as current market conditions, the prevailing practice in the real estate community, the listing agent's marketing strategy and the instructions of the seller.

Buyer and seller understand that Broker may represent more than one buyer or more than one seller and even both buyer and seller on the same transaction and consents to such relationships.

Seller and/or Buyer acknowledges reading and understanding this Possible Representation of More Than One Buyer or Seller - Disclosure and Consent and agrees to the agency possibilities disclosed.

Seller _____ *LABRA Investments LLC* Date _____
Seller _____ Date _____

Buyer _____ *City of Fontana* Date 12-16-21
Buyer _____ Date _____

Buyer's Brokerage Firm *Sierra Realty* DRE Lic # *02038519* Date _____
By _____ DRE Lic # *00570875* Date _____
Ken Galasso
Seller's Brokerage Firm *Anderson Real Estate* DRE Lic # *00683792* Date _____
By _____ DRE Lic # *00683792* Date _____
Pamela Anderson

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Sierra Realty, 9410 Sierra Ave. Fontana CA 92335 Phone: 909.822.1200 Fax: 909.822.0324 16756 Arrow Blvd
Ken Galasso Produced with Lone Wolf Transactions (zipForm Edition) 231 Shearson Cr. Cambridge, Ontario, Canada N1T 1J5 www.lwolf.com

CALIFORNIA ASSOCIATION OF REALTORS®

CALIFORNIA CONSUMER PRIVACY ACT ADVISORY

(C.A.R. Form CCPA, 12/19)

As of January 1, 2020, the California Consumer Privacy Act (commencing with Civil Code § 1798.100) ("CCPA") grants to California residents certain rights in their private, personal information that is collected by companies with whom they do business. Under the CCPA, "personal information" is defined broadly to encompass non-public records information that could reasonably be linked directly or indirectly to you, including, potentially, photographs of or sales information about your property. Some of your personal information will be collected and likely shared with others during the process of buying and selling real estate. Depending on the situation, you may have the right to "opt out" or stop the transfer of your personal information to others and request that certain businesses delete your personal information altogether. Not all businesses you interact with are required to comply with the law, primarily just those who meet the criteria of a covered "Business" as set forth in Section 1798.140 (c)]. For more information, you may ask your Broker for a copy of the C.A.R. Legal Q&A on the subject.

A real estate broker is likely to submit personal information to a Multiple Listing Service ("MLS") in order to help find a buyer for a seller's property. Through the MLS, the information is made available to real estate brokers and salespeople, and others. Even after a sale is complete, the MLS distributes sales information to the real estate community. Brokers, agents and MLSs may also share your personal information with others who post the personal information on websites or elsewhere, or otherwise use it. Thus, there are various service providers and companies in a real estate transaction who may be engaged in using or sharing data involving your personal information.

If your broker is a covered Business, it should have a privacy policy explaining your rights on its website and giving you an opportunity to request that personal information not be shared, used and even deleted. Even if your real estate brokerage is a covered Business, it needs, and is allowed, to keep your information to effectuate a sale and, by law, is required to maintain such information for three years to comply with regulatory requirements. Not all brokers are covered Businesses, however, and those that are not, do not have to comply with the CCPA.

Similarly, most MLSs will not be considered a covered Business. Instead, the MLS may be considered a Third Party in the event a covered Business (ex: brokerages, real estate listing aggregation or advertising internet sites or other outlets who meet the criteria of covered Businesses) exchanges personal information with the MLS. You do not have the right under the CCPA to require a Third Party to delete your personal information. And like real estate brokerages, even if an MLS is a covered Business, MLSs are also required by law to retain and make accessible in its computer system any and all listing and other information for three years.

Whether an MLS is a covered Business or a Third Party, you have a right to be notified about the sharing of your personal information and your right to contact a covered Business to opt out of your personal information being used, or shared with Third Parties. Since the MLSs and/or other entities receiving your personal information do not have direct contact with buyers and sellers and also may not be aware of which entities exchanging personal information are covered Businesses, this form is being used to notify you of your rights under the CCPA and your ability to direct requests to covered Businesses not to share personal information with Third Parties. One way to limit access to your personal information, is to inform your broker or salesperson you want to opt-out of the MLS, and if so, you will be asked to sign a document (Form SELM) confirming your request to keep your listing off the MLS. However, if you do so, it may be more difficult to sell your property or obtain the highest price for it because your property will not be exposed to the greatest number of real estate licensees and others.

I/we acknowledge receipt of a copy of this California Consumer Privacy Act Advisory.

Buyer/Seller/Landlord/Tenant _____ Date 12-16-21

City of Fontana

Buyer/Seller/Landlord/Tenant _____ Date _____

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ADDENDUM

(C.A.R. Form ADM, Revised 12/15) No. 1

The following terms and conditions are hereby incorporated in and made a part of the: [X] Purchase Agreement, [ ] Residential Lease or Month-to-Month Rental Agreement, [ ] Transfer Disclosure Statement (Note: An amendment to the TDS may give the Buyer a right to rescind), [ ] Other _____,
dated December 7, 2021, on property known as 16756 Arrow Blvd and APN 0191162080000 Fontana, CA 92335-3802
in which City of Fontana is referred to as ("Buyer/Tenant")
and LABRA Investments LLC is referred to as ("Seller/Landlord").

LABRA Investments shall, as a concession of the sale, be permitted to remain on site for a period of 6 months from the close of escrow. There shall be no rent paid for this occupancy. Prior to the COE the tenant shall sign a lease agreement outlining the terms of their occupancy. The tenant shall provide liability insurance naming the City of Fontana as an additional insured.

Following the initial 6 month period, the tenant may exercise an option for a period not to exceed 6 additional months. The rental rate shall be $2000. per month.

The foregoing terms and conditions are hereby agreed to, and the undersigned acknowledge receipt of a copy of this document.

Date _____ Date _____

Buyer/Tenant City of Fontana Seller/Landlord LABRA Investments LLC

Buyer/Tenant _____ Seller/Landlord _____

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File #: 21-1061
Agenda #: N.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
Human Resources

SUBJECT:
Resolution Ratifying the 2021-2023 Confirmation of Understanding for Management Confidential Employees

RECOMMENDATION:
Adopt **Resolution No. 2022-_____** a Resolution of the City Council of the City of Fontana ratifying the Confirmation of Understanding (COU) between the City of Fontana and Management Confidential Employees.

COUNCIL GOALS:

- To operate in a businesslike manner by becoming more service oriented.
- To operate in a businesslike manner by ensuring that the public debate is based on accurate information.
- To practice sound fiscal management by living within our means while investing in the future.

DISCUSSION:
The City has concluded negotiations with Management Confidential employees. City staff and representatives of the Management Confidential Unit have agreed on terms and conditions of employment outlined in the new Confirmation of Understanding (COU). Staff is recommending the formal ratification of the new agreement.

The new COU is for the period of July 1, 2021, through June 30, 2023. Among the highlights of the new contract is a salary increase of 1.25%, effective July 2022.

FISCAL IMPACT:
The costs associated with the approval of this item for Fiscal Year 21/22 are estimated to be $112,770 and will be included with the Mid-Year Budget Report.

MOTION:
Approve staff recommendation.

RESOLUTION NO. 2022 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA RATIFYING THE CONFIRMATION OF UNDERSTANDING BETWEEN THE CITY OF FONTANA AND MANAGEMENT CONFIDENTIAL EMPLOYEES

WHEREAS, the City Council of the City of Fontana has adopted a Confirmation of Understanding (COU) which incorporates the terms, working conditions, and compensation levels for the classifications covered by this group; and

WHEREAS, a COU has expired, and the City and this group have agreed on new terms outlined in the new COU.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Fontana, to ratify the Confirmation of Understanding between the City of Fontana and Management Confidential employees.

EFFECTIVE DATE: July 1, 2021

APPROVED AND ADOPTED this 25th day of January, 2022.

READ AND APPROVED AS TO LEGAL FORM:

_____
City Attorney

I, Tonia Lewis, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Resolution is the actual Resolution duly and regularly adopted by the City Council of said City at a regular meeting thereof, held on January 25, 2022, by the following vote to wit:

AYES:
NOES:
ABSENT:

_____
City Clerk of the City of Fontana

_____
Mayor of the City of Fontana

Resolution 2022-

ATTEST:

_____
City Clerk

CITY OF FONTANA

CONFIRMATION OF UNDERSTANDING

FOR

MANAGEMENT/CONFIDENTIAL EMPLOYEES

COVERING THE PERIOD OF

JULY 1, 2021 THROUGH JUNE 30, 2023

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CONFIRMATION OF UNDERSTANDING
BETWEEN
CITY OF FONTANA
AND
MANAGEMENT/CONFIDENTIAL EMPLOYEES

ARTICLE 1: PURPOSE

The purpose of this letter is to confirm our understanding regarding certain terms and conditions of employment for the City's Management/Confidential employee's in the form of a written Confirmation of Understanding (COU). In reaching this understanding, both the City and the Management/Confidential employees agree and recognize that neither the understanding or the discussion surrounding it should constitute or imply that the City has recognized or certified, these employees as an appropriate bargaining unit or the exclusive representative for the City's Management/Confidential employees. The City has chosen to allow the Management/Confidential employees to participate in Wage and Benefit discussions. The terms and conditions of this understanding shall be applicable to employees in those classifications set forth in Appendix A, commencing July 1, 2021 and ending June 30, 2023. No Modifications will be made to this COU without prior notice and meeting with representatives of this group to allow for full discussions regarding any proposed changes.

The City and Management/Confidential employees acknowledge that the City is working through the implementation of a new Human Resources & Payroll System (“System”) during the term of this COU. The completion and readiness of the System shall be a reopener as to all issues that are impacted. To the extent the System’s implementation may impact terms and conditions of employment, the parties will meet, confer, and negotiate prior to implementation.

ARTICLE 2: CITY PERSONNEL RULES AND REGULATIONS

It is understood and agreed that there exists within the City, in written form, certain personnel rules, policies, practices and benefits, generally contained in the "City of Fontana Personnel Rules and Regulations and as amended by City resolutions and Confirmations of Understanding. Those rules, policies and benefits will continue in effect, except for those provisions modified by this COU, unless and until modified by written notification to the Management/Confidential employees from the City Manager or his designee, and enacted by the City Council, if necessary, in accordance with State laws, orders, regulations, official instructions or policies. In the case of changes, Management/Confidential employees shall be consulted with as soon as possible on the change.

The City shall distribute copies and updates of the Personnel Rules and Regulations to the Management/Confidential employee(s) identified as the individual(s) responsible for the receipt and maintenance of such information. The individual(s) identified for receipt

of such copies and updates shall be responsible for their continued maintenance and updates.

ARTICLE 3: WAGES

Effective the beginning of the pay period following July 1, 2022, each employee/classification represented by the group shall receive a 1.25% base salary increase.

For the purposes of compaction, effective July 1, 2023 the City will ensure that there is at least a one (1) percent difference between the wage increase for the Management/Confidential group and the negotiated wage increase for the Teamsters Local 1932, City Hall Unit, as outlined in their Memorandum of Understanding (MOU) Article 5 - Wages. To the extent that an increase to the Management/Confidential group wages is required to maintain the one (1) percent difference, such increase will be effective on the date outlined in the Teamsters Local 1932, City Hall Unit contract as outlined above. Alternatively, if the Teamsters Local 1932, City Hall Unit does not have a City Council approved contract as of July 1st, the wage increase for the Management/Confidential group will not be effective until the effective date of the Teamsters Local 1932, City Hall Unit contract, in which case the Management/Confidential group will not be entitled to receive retroactive payment for the period between July 1st and the date of the Teamsters Local 1932, City Hall Unit contract.

In the event that changes to salaries in groups other than the Management/Confidential group create significant compaction issues (i.e. a supervisor making less than 5% (E step to E step) above a subordinate, the City agrees to review and make necessary corrections to the specific Management/Confidential position(s) identified.

ARTICLE 4: PERSONAL LEAVE

Section A. Personal Leave Accrual

The personal leave accrual rate shall be as follows:

YEARS OF SERVICE	HOURS ASSIGNED	PAY PERIOD ACCUMULATION
0 - 2 Years	224 Hours	8.615
2 - 4 Years	240 Hours	9.230
4 - 6 Years	256 Hours	9.846
6 - 8 Years	264 Hours	10.154
8 - 10 Years	272 Hours	10.462
10 - 14 Years	280 Hours	10.769
14 - 18 Years	296 Hours	11.385
18 + Years	312 Hours	12.000

Section B. Leave Accrual Limits

The number of personal leave hours which can be carried over from year to year will be limited to a maximum of two and one half (2.5) years personal leave accrual. Employees will cease to accrue personal leave time until they have reduced their personal leave balance below their ceiling. The City Manager, at his discretion, reserves the right to pay out an employee's accrued personal leave time which is in excess of the two and one half (2.5) year ceiling and/or the 120-hour maximum, when such payment has been determined to be in the best interest of the City.

Section C. Leave Cash Out

The maximum amount of leave time (personal leave, compensatory time or a combination of both) which can be cashed out under the City's "leave plans" is one hundred and twenty (120) hours per year. The requested cash out can be made at either or both dates below, via direct deposit, not to exceed the maximum amount listed in this Article per calendar year (July 2021):

Payment Dates

- On or before July 31st
- On or before the second Friday in December

Employee's leave time (as mentioned above) may not be reduced to less than eighty (80) hours as a result of participation in the annual leave cash out. (July 2017)

Section D. Negative Leave Usage

All provisions regarding negative leave usage are eliminated. (Employees may only use time accrued). The City Manager may, upon written request, approve exceptions to this provision under extraordinary circumstances where the employee provides a written deduction authorization allowing the City to withhold any monies owed from this negative leave usage from the employee's final paycheck.

ARTICLE 5: BILINGUAL PAY

Effective June 24, 2017, the City shall pay one hundred dollars ($100.00) per pay period for those employees who are assigned by the Department Head to assist with providing translation to and from a foreign language and other related services. Eligible employees will be required to pass a test which shall be administered by a qualified agency or individual.

ARTICLE 6: CAFETERIA PLAN

Effective January 1, 2015 all employees within the Management/Confidential group shall receive $776.70 per month for the purchase of health and welfare benefits through the City Cafeteria Plan.

Effective January 1, 2007, for employees paying out-of-pocket, the City will contribute to the City's Cafeteria Plan an amount equal to the cost of the Anthem Blue Cross HMO family rate with $15.00 co-pay and the high dental family rate. The City's contribution shall not exceed the actual expenditures for the aforementioned coverage. The amount that employees may receive under the City's Cafeteria cash back option shall be limited to $776.70 per month.

ARTICLE 7: CERTIFICATE PAY

Employees currently receiving Certificate Bonus Pay shall continue to receive it so long as the employee remains in the same classification and the certificate continues to be relevant to the employee's job duties and responsibilities. Certificate Bonus Pay shall be eliminated for other Management/Confidential employees.

ARTICLE 8: OVERTIME, ADMINISTRATIVE TIME AND COMPENSATORY TIME

Section A. Non-Exempt Employees.

1. Overtime

   Non-exempt employees shall be compensated for overtime at the rate of time and one-half for all time **actually** worked in excess of forty (40) hours in a work week. There shall be no "pyramiding" of overtime (e.g., if an employee receives a minimum two hours call back pay at the overtime rate, and those hours worked also result in their working in excess of forty (40) hours in a work week, double overtime will not be paid). Pre-approved/prescheduled leave, non-floating holiday time and jury duty will be considered actual time worked for all non-exempt members. Absence due to unscheduled leave shall **not** be regarded as time worked in calculating eligibility for overtime. **No overtime will be recognized except with the prior approval of the Department Head, except as required by law.**

   For the purposes of overtime calculations for classifications represented by the Unit that work in the Fontana Police Department's Communication Center, the workweek will end at the midpoint of the employee's scheduled shift on either Wednesday or Thursday of each week, depending on the employee's designated schedule.

   Non-Exempt Police Management/Confidential employees who are "ordered" to work overtime will have pre-approved/pre-scheduled vacation time, holiday time and jury duty be considered time worked for purposes of calculating overtime.

2. Compensatory Time Off

   A non-exempt employee may not have accrued to their account at the end of any fiscal year more than eighty compensatory time off hours. The cash value of any hours in excess of eighty credited to the employee's account on June 30, of each

year, shall be paid at the salary rate in effect on June 30, and will be paid out in conjunction with the City's Leave Payout program.

Section B. Exempt Employees

Exempt employees (as designated by the City) shall receive sixty (60) hours of administrative time off without loss of compensation in lieu of overtime or any other compensation. With the City Manager's or his designee(s) concurrence, the Department Head may grant additional administrative days off to an exempt employee who has been required to work an excessive number of hours. Such additional administrative time off shall not be granted for the performance of regular duties, but is intended to compensate those employees who have gone above and beyond the normal call of duty (for example, special projects or filling in for an absent employee for a substantial amount of time). Administrative time off does not accumulate from year to year. Thus, any time not taken off prior to June 30th shall be forfeited. All administrative days off must be approved in writing by the Department Head or their designee, prior to their being taken. Administrative time off will be treated the same as personal leave for scheduling and approval purposes. Exempt employees shall be subject to salary reductions only as permitted by the Fair Labor Standards Act and its implementing regulations.

ARTICLE 9: STAND-BY PAY

1. The Information Technology Department must maintain the City's computer system, including the Police computer systems, on a 24-hour basis. The Public Works and Engineering Departments have a routine and regular requirement for employees to respond to emergency situations in the field on a 24-hour basis. This requires staff to be placed on standby in order to be able to respond and provide emergency support within two hours of receiving a call.

2. In order to meet the needs of the City the following classifications shall be eligible for Standby Pay:

   a) Information Technology: In order to meet the needs of the City (stated above), designated Information Technology positions, at the discretion of the Department Director, shall be eligible for standby pay. No single individual will be put on standby on a permanent basis; each group will have at least two individuals who will rotate standby responsibilities on a weekly basis, as assigned. When on standby status, the standby employee must respond to the work site within two hours, if the problem cannot be corrected via remote access.

   b) Public Works: The Utilities & Streets Supervisor, Fleet Maintenance Supervisor and Parks & Landscape Supervisor shall rotate standby responsibilities on a weekly basis, as assigned. When on standby status, the standby employee must respond to the emergency within two hours.

c) Engineering Department: Supervising Traffic Systems Specialist, Supervising Public Works Inspector. When on standby status, the standby employee must respond to the emergency within two hours.

d) The City may designate additional positions for standby as recommended by department director(s) and approved by the Human Resources Director to meet the service needs of the City.

3. Employees assigned to standby shall be compensated $200 per week; classifications that are exempt from FLSA overtime regulations shall not receive overtime compensation for any time worked as a result of being on standby and responding to a call.

Court Stand By and Court Appearance Compensation

4. Court Stand By: Non-Exempt Police Management/Confidential employees who are placed in a "Stand By" status restricting their freedom of movement in lieu of attending court in response to a direct order or lawful subpoena pertaining to matters arising during the course and cope of employment shall be compensated at the rate of one-half of the employee's straight time compensation (e.g., if an employee is earning $20.00 an hour, and is placed in a "Stand By" status, such employee will be compensated at the rate of $10.00 an hour).

5. Court Appearance: Non-Exempt Police Management/Confidential employees assigned to the Police Department who are required to attend court, outside of their scheduled work hours, pursuant to a lawful subpoena relating to events occurring during the course and scope of his/her employment, will receive overtime compensation, in either cash or compensatory time off at the employee's option for time spent in attendance, with a minimum compensation payment of two (2) hours.

ARTICLE 10: COMPENSATION FOR ACTING APPOINTMENTS

Subject to the following conditions, an employee who is required on the basis of an acting appointment to serve in a class with a higher salary range than that of the class in which the employee is normally assigned, shall receive the entrance salary rate of the higher salary range or the rate of five percent (5%) higher than the employee normally receives, whichever is greater.

a) Such pay will be for all hours worked in an acting appointment which are in excess of 80 hours in any six-month period.
b) The employee must perform all the duties and assume all the responsibilities of the higher class.

c) Compensation for acting appointments shall be limited to the temporary filling of a vacant regular position due to termination, promotion, or extended sick leave of the incumbent or the temporary filling of a newly budgeted positions,

where the needs of the City require that the position be filled.

d) The City Manager must approve all such appointments based upon a finding that the criteria set forth in this paragraph have been met.

ARTICLE 11: WORK SCHEDULE

It is not the intent of the City at this time to modify the 9/80, 4/10, or 12 hour work schedules. Should there be a need to change work schedules at a future date, employees will be provided with at least 14 calendar days prior notice.

ARTICLE 12: DISCIPLINE

Exempt employees shall be subject to suspensions in accordance with FLSA (Fair Labor Standards Act) regulations.

Police Management/Confidential employees upon mutual written agreement between the Chief of Police and the affected employee, may have an equivalent amount of unused accrued personal leave time deducted from his/her account in lieu of serving a suspension without pay for that period. Compensatory time off may not be deducted in lieu of serving a suspension.

ARTICLE 13: HOLIDAYS

The following days shall be observed by the City as paid holidays:

New Year's Day	Labor Day
Martin Luther King's Birthday	Veteran's Day
President's Day	Thanksgiving
Memorial Day	Day After Thanksgiving
Independence Day	Christmas Eve
	Christmas Day

In addition to these Holidays employees shall receive (3) Floating Holidays

Section A. Compensation for Holidays

The holidays shall have the same hour equivalent as the employee's regular work schedule (8, 9, up to a maximum of ten (10) hours) for that day, in order that the affected employees no longer have to supplement observed holidays off with paid personal leave. However, the value of the day after Thanksgiving shall be 8 hours, unless an employee would normally work more than eight hours on that Friday (July 2013).

The employee's holiday leave account shall receive 20 hours of Floating Holidays (employees on 4/10 work schedule) or 18 hours (employees on 9/80 work schedule) on January 1, and will receive 10 hours or 9 hours credit (depending on work schedule) on

November 1.

Floating holidays must be used within the fiscal year earned, and may not be carried over from year to year. Floating holiday time not used by June 30 of each year will be forfeited by the employee.

Exempt employees may, at the Department Head's discretion, be granted an additional administrative/floating holiday day off if they are required to work a designated City paid holiday. If a Police Management/Confidential employee is assigned to work a City Holiday due to supervisory needs, the employee will receive the value of the holiday in Floating Time. The value of the holiday will be based on the employees regular work schedule.

Employees whose positions are subject to regularly working holidays shall receive an additional amount of salary computed upon the employee's salary range and step at the time of payment, and will have the same hour equivalent as the employee's regular work schedule per month (10 hours per month for employees on a 4/10 or 3/12 work schedule or 9 hours per month for employees on a 9/80 work schedule, or 8 hours per month for employees on a 5/8 work schedule). Such employees shall be entitled to receive this additional amount of salary regardless of whether or not they actually were required to work the holiday.

Non-Exempt, Management/Confidential Police employees required to work holidays shall receive their regular pay for the actual hours worked on a holiday. In addition, such employees shall also receive an equivalent amount of pay or compensatory time off, at the employees' election, in lieu of holiday compensation. The pay or compensatory time will be paid at 5.38 hours per pay period over 26 pay periods (the equivalent of 14 holidays). Those employees electing Compensatory Time off in lieu of pay shall submit their written request to the Chief of Police. This written request must indicate approval of the Unit Supervisor/Manager and must be submitted prior to July 1 of each year. Upon approval, this election shall remain in effect until June 30th of the following year. The approval of such requests (compensatory time in lieu of pay) are at the complete discretion of the Police Department and may be denied based upon the needs of the department.

Section B. Eligibility for Holiday Pay

In order to be eligible for a paid holiday, employees must be in a paid status both the day before and the day after the holiday. For example, if a holiday fell on a Monday, and the employee was on a 4/10 work schedule with Fridays off, the employee would be required to be in a paid status on the Thursday before the holiday and the Tuesday following the holiday.

This requirement is not applicable for any paid holidays which occur during the City's winter holiday closure described below. Rather, to be eligible for pay on those holidays,

employees must be in a paid status both the day before and the day after the winter holiday closure.

Section C. Winter Holiday Closure

The City and Management/Confidential group mutually agree to the closure of the City for business during the winter holiday period (e.g. Christmas Eve through New Year's Day) as follows:

2021: December 23, 2021 through January 1, 2022
2022: December 22, 2022 through January 1, 2023

In conjunction with City paid holiday time, employees will be required to utilize their leave time (i.e. personal leave, compensatory time, floating holidays) to equal the remainder of their regular work schedule. Employees who have exhausted their leave time will be placed in a Leave Without Pay status. However, if all of an employee's leave time has been exhausted due to a catastrophic event, and leave without pay would result in an undue hardship, the City agrees to review such situations on an individual basis, and where possible, provide alternatives which may help mitigate their situation. Employees requesting such consideration must submit their request in writing to the Human Resources Director prior to December 15th of each year.

ARTICLE 14: LONGEVITY PAY

A. Longevity pay shall be paid to all Management/Confidential employees who complete a minimum of ten (10) years of service based on the employee's anniversary date (date of initial hire into a regular full-time position) at the rates indicated in the subsequent sections of this Article:
   - A bi-weekly basis, equal to the amount indicated in Section B or C (i.e., a prorated portion of the annual longevity payment will be provided with each paycheck) and will be included on the employee's next regular paycheck following eligibility, **OR**
   - A one-time per year payment, payable on or before the second Friday in December. Unit employees shall receive longevity pay via direct deposit by electing one form of payment below:

   The unit employee may not change their payment option once they elect to receive it bi-weekly. For current unit employees (Management/Confidential employees prior to July 1, 2021) payment election must be submitted to the Human Resources Department on or before October 1st of each year to be effective the beginning of the pay period following January 1st of the following year. If an election is not made by the deadline indicated above, the unit employee will be subject to the bi-weekly payment indicated above. Any new Management/Confidential employees (on or after July 1, 2021) shall be subject to the bi-weekly payment.

   Employee's longevity payments shall cease upon termination of employment.

B. Management/Confidential employees who were hired prior to July 1, 1990, shall receive longevity pay in biweekly amounts. In an amount equal to the following applicable percentage of the employee's annual base salary upon the completion of the following length of service:

Such Longevity pay is based on years of service, commencing with ten (10) years, and is calculated as follows:

Years of Service Completed	Longevity Payment
10 years but less than 14 years	3.75% of base salary
14 years but less than 15 years	5.25% of base salary
15 years but less than 20 years	6.50% of base salary
20 years but less than 25 years	7.75% of base salary
25 years but less than 30 years	9.00% of base salary
30 years +	10.25% of base salary

C. All unit employees hired on or after July 1, 1990 who are not eligible for longevity as described in Section B, shall receive longevity pay based on completion of the following applicable length of service in the following amounts:

10 years or more of continuous service $2250
15 years or more of continuous service $2750
20 years or more of continuous service $3250
25 years of more of continuous service $3750

D. These longevity payments shall be reported to PERS as compensation earnable for the purpose of calculating retirement benefits and contributions.

ARTICLE 15: RETIREMENT BENEFITS

Section A. Participation

The City participates in the Public Employees' Retirement System (PERS).

Tier I

Employees hired prior to July 1, 2011 will have the 2.5% at 55 Plan Full Formula for Local Miscellaneous Members and upon retirement an employee's "final compensation" will be based on the highest one-year salary.

Effective the first full pay period in July 2011 employees in this group (pre-7-1-11) will pay

three (3%) percent of the Employees' portion of the CALPERS retirement system. The City shall pay the remaining employee contribution (5%); however, said payments shall not exceed the full employee portion of 8%. These payments are not salary increases but are the City's payment of employees' retirement contribution in accordance with Section 414(h)(2) of the Internal Revenue Code.

For the purposes of any future comparisons of the level of compensation of employees covered by this agreement with comparable employees in other jurisdictions, these payments shall be taken into account along with measuring base salaries.

Tier II

Employees hired on or after July 1, 2011 will have the 2.0% @ 55 PERS Plan for Local Miscellaneous Members and upon retirement an employee's "final compensation" will be based on the highest consecutive 36 month average for determining retirement benefits. Employees in this group (post 7-1-11) will pay the full employee portion of the CALPERS retirement system.

Tier III

Employees hired on or after January 1, 2013, as is mandated by the Public Employee's Pension Reform Act of 2013 (PEPRA), all new miscellaneous members, will have a retirement formula based on 2.0% @ 62 Plan Full Formula for Miscellaneous Members and upon retirement an employee's "final compensation" will be based on the highest consecutive 36 month average. An employee in Tier III will pay 50% of Normal Costs. The amount is approved by CalPERS each year and is subject to change.

Section B. 1959 Survivor's Benefit

The City provides the Level 4 of the Level 1959 Survivor's Benefit for all employees enrolled in the PERS. The cost to employees for this benefit will be $2.00 per month.

Section C. PERS Military Buy-Back

The agreement between the City and PERS shall allow for the buy-back of time served by the employee in the Military.

Section D. Health Insurance for Retired Employees

Section 1 -- Pre July 1, 1990 Employees.

Management/Confidential employees hired prior to July 1, 1990, who retire (i.e., begin to draw from their PERS accounts) and have a minimum of ten (10) years of City service shall be eligible for City paid retiree health benefits. The City's contributions towards retiree medical insurance shall not exceed the actual costs for the employee or employee and spouse (if applicable), based upon the City Kaiser rate. Employees who retire (i.e., begin to draw from their PERS accounts) after 20 years of City service shall be entitled to receive City paid retiree dental insurance for the employee or the employee and spouse.

Section 2 -- Post July 1, 1990 Employees.
Employees who are ineligible for City-paid retiree health and/or dental insurance may elect upon retirement to continue medical and/or dental coverage of their own expense through the City's medical and dental plans.

Section -3 – Medicare

The City will reimburse eligible retirees for the cost of standard "Part B" Medicare premium, which is $134 per month in 2017, for those employees who elect such coverage. This amount is subject to change based on adjustments by the Federal government. The cost is automatically withdrawn from those employees' Social Security checks. Retirees must supply the City with proof of Payment (including deductions from Social security checks) for this coverage, and will be reimbursed on a quarterly basis. No retroactive reimbursements will be given.

Section E. Retirement Health Savings Program Joint Labor/Management Committee

The City and members of the Management/Confidential group agree to form a joint labor/management committee, no later than July 1, 2018, to research/establish a retirement health savings program. Upon mutual agreement, the program would require both City and employee contributions to a retirement health savings program. (July 2017)

ARTICLE 16: DEFERRED COMENSATION

Effective the beginning of the pay period following March 1, 2022, the City shall match employee contributions of up to $200/month into a defined deferred compensation account managed by one of the City's financial providers.

Effective the beginning of the pay period following July 1, 2022, the City shall match employee contributions of up to $400/month into a defined deferred compensation account managed by one of the City's financial providers.

ARTICLE 17: PERFORMANCE EVALUATIONS

Performance Evaluations with an overall rating of less than competent are within the scope of the grievance procedure.

ARTICLE 18: MERIT INCREASES

The City shall utilize a five-step salary range with each step at 5% intervals.

ARTICLE 19: LAYOFFS

A. Full-time Temporary Employment Following Layoff

Qualified employees who are subject to layoff (laid off employees) may fill positions where there is an employee out on a leave who is not receiving salary or health and welfare benefits from the City, on a temporary basis until the absent employee returns, or the position is filled on a non-temporary basis. The laid off employee may be removed from such a position upon written notice from the City and shall not have any grievance or appeal rights.

During such temporary service, employees shall receive the salary and health and welfare benefits of the classification in which they are serving. If the laid off employee is removed from the temporary position they shall be eligible for that portion of the severance package, if any, that would be remaining on the date of removal as if it had run from their date of appointment into the temporary position. Except as explicitly provided herein, the employee shall in all other aspects be a temporary employee.

B. Seniority and Benefits Upon Reinstatement After Layoff

Employees who are reinstated to the same or equivalent classification within two (2) years after layoff shall have their seniority date restored to that prior to layoff. Probationary employees who are laid off, shall upon reinstatement, be required to serve any remaining balance of their original probationary period. In addition, reinstated employees will be entitled to the restoration of personal leave accrual rates they were eligible to receive prior to layoff.

ARTICLE 20: WELLNESS

The City shall allow all Management/Confidential employees use of the Miller and North Fontana Fitness Centers (ONLY) at no cost to the employee. Use of the centers is at each employee's own risk and subject to the rules and regulations and hours of operation determined by the Community Services Department. Employees MUST show City issued ID to obtain access. Violation of any safety rule or regulations shall constitute valid grounds for revocation of the privilege of the Fitness Center usage, not subject to grievance. (July 2017)

ARTICLE 21: CALL BACK PAY

The City will pay a minimum of two (2) hours wages for each time a non-exempt employee is called back to work after his/her regular shift is completed and they have left their assigned work site.

ARTICLE 22: SHIFT DIFFERENTIAL PAY

Management/Confidential employees assigned to the Police Department, whose position

is regularly assigned to work shifts, are eligible to receive shift differential pay for hours actually worked as follows: (a) shift commencing at 1800 and concluding at 2300 shall receive 2.5% differential pay; and (b) shifts commencing at 2301 and concluding at 0600 shall be paid at 5% differential pay.

ARTICLE 23: JURY DUTY

The City agrees that when a Police Department employee's scheduled shift is other than a day shift, the Department Head has the discretion, based on public and employee safety considerations, to reassign said employee to the day shift for the duration of the jury duty obligation. For purposes of this section, a day shift shall be defined as one beginning no earlier than 5:00 am and ending no later than 10:00 pm.

ARTICLE 24: UNIFORM ALLOWANCE

A uniform allowance in the amount of $1,000 per year will be paid to the following classification(s): Supervising Animal Services Officer. The uniform allowance will be paid in semi-annual increments of one-half (1/2) in October and April of each year.

A newly appointed employee in the above classification(s) will receive the appropriate uniform allowance at the end of the first pay period following appointment. If the employee leaves either voluntarily or involuntarily during the probationary period, the full uniform allowance that was provided will be deducted from their final pay check. Once the employee completes the probationary period they will be assigned to the regularly scheduled uniform allowance payment dates in October and April. The Uniform Allowance is intended for the purchase and maintenance of uniforms. The City/Police Department may request verification of annual uniform purchase or maintenance if abuse is reasonably suspected. All classifications receiving a uniform allowance must be in compliance with the City/Police Department's existing policies and procedures in regard to uniforms and safety requirements.

ARTICLE 25: SALARY SURVEY

A "Benchmark" salary survey will commence six months prior to the expiration of the current contract (January 1, 2023). The group representatives will be included in the discussions of the cities and the benchmark classifications that will be utilized in the survey. The final survey documents will be reviewed and discussed with the group representatives and may be distributed to the members after finalization. Any future salary adjustments will be discussed as part the next negotiation process. (July 2017)

ARTICLE 26: EDUCATIONAL ACHIEVEMENT PAY

Beginning in September 2018, the City shall provide a one-time graduation stipend to non-probationary unit members as follows for possessing the corresponding, job-related degree, from an accredited college or university:

Bachelor's Degree: $2,000
OR
Master's Degree: $3,000*

*or $1,000 upon attainment of a Master's Degree when the unit member has previously received the one-time graduation stipend for a Bachelor's Degree.

The City agrees that by September 30, 2018, the City will compensate all current unit members that hold job-related degrees, as indicated by the provisions outlined above, a one-time graduation stipend. Moving forward, educational achievement pay will be paid annually by September 30th of each year for those non-probationary unit members who obtain a degree, as outlined above, during the course of their employment with the City of Fontana. In order to be eligible to receive education pay in September, the degree must have been conferred to the unit member by August 1st of the same year. The unit will submit the appropriate documentation to the Human Resources Department in August of each year for those eligible members. In addition, beginning September 2018, unit members will no longer be eligible for the City's Educational Expense Reimbursement Program. (July 2017)

ARTICLE 27: EMPLOYMENT-RELATED UPDATES

During the term of the COU, a joint labor/management committee shall meet and confer on the City's proposed changes to the Employer-Employee Relations Resolution, as well as proposed legally required updates to the City of Fontana Personnel Rules and Regulations. (July 2017)

ARTICLE 28: SEVERABILITY

If any article of this Agreement shall be found to be in conflict with any statute or regulation of the United States or State of California by an arbitrator at grievance or a court competent jurisdiction, such article or section shall be deemed to be null and void and of no further effect. However, such articles and sections shall be severable from the remainder of this Agreement, and all other provisions hereof shall continue in full force and effect. A ruling at arbitration shall not have precedential effect and will be binding only as to the arbitration at issue. (July 2017)

ARTICLE 29: DIRECT DEPOSIT

Any and all payments outside of regular pay will be paid via direct deposit, unless specified otherwise.

ARTICLE 30: ONE TIME CASH PAYMENT

Effective January 26, 2022, each employee/classification in the COU group shall receive a one-time cash payment in the amount of 3.0% of the employee's base salary paid via direct deposit.

Ratified by City Council: Tentative Agreement on December 14, 2021, Closed Session
Official Ratification on January 25, 2022, Consent Calendar

CITY OF FONTANA **MANAGEMENT/CONFIDENTIAL GROUP**

APPENDIX "A"

Accounting Manager
Administrative Analyst II (Pos. #772 & #14)
Administrative Secretary
(IT) Application Programmer/Developer
Assistant Building Official
Assistant Internal Auditor
Budget Manager
Building Official
(IT) Business Analyst II
Communications & Marketing Manger
Community Improvement Program Mgr.
Community Services Manager
Community Services Supervisor
(IT) Database Administrator
Development Services Supervisor
Economic Development Analyst
Economic Development Manager
Engineering Manager
Environmental Control Supervisor
Executive Secretary to City Manager
Facilities Maintenance Supervisor
Finance Manager
Fleet Supervisor
(IT) GIS Administrator
Housing Development Manager
Human Resources Analyst
Human Resources Clerk
Human Resources Specialist
Human Resources Technician
(IT) Information Technology Manager

Management Analyst
(IT) Network /Security Administrator
Park Development Coordinator
Parks & Landscape Supervisor
Payroll Clerk
Payroll Coordinator
Payroll Technician
Planning Manager
Police Administrative Support Services Manager
Police Communications Supervisor
Police Dispatch Shift Supervisor
Police Records Supervisor
Police Supervising Property Control Clerk
Police Support Services Supervisor
Principal Civil Engineer
Public Information Coordinator
Public Works Inspection Supervisor
Public Works Manager
Purchasing Specialist
Purchasing Supervisor
Real Property Analyst
Records Coordinator
Resources Budget Officer
Senior Accountant
Senior Administrative Aide (Pos. #24043)
Senior Administrative Analyst
Senior Administrative Secretary
(IT) Senior Business Analyst
Senior Civil Engineer
Senior Civil Land Surveyor
Senior Engineer

Senior Human Resources Analyst

Senior Internal Auditor

Senior Planner

Senior Traffic Engineer

(IT) Software Development Supervisor

Strategic Transportation Engineering Manager

Supervising Accountant

Supervising Animal Services Officer

Supervising Building Inspector

Supervising Code Enforcement Inspector

Supervising Plans Examiner

Supervising Real Property Agent

Supervising Technical Engineer

Supervising Traffic Systems Specialist

(IT) Support Supervisor

(IT) Systems Administrator

(IT) Systems/Network Specialist

Transportation Engineering Manager

Utilities & Streets Supervisor

File #: 21-1144
Agenda #: O.

Agenda Date: 1/25/2022
Category: Consent Calendar

FROM:
City Manager's Office

SUBJECT:
A Resolution supporting the Our Neighborhood Voices (Brand-Huang-Mendoza Tripartisan Land Use) Initiative

RECOMMENDATION:
Adopt **Resolution No. 2022-_____,** to support the Our Neighborhood Voices Initiative.

COUNCIL GOALS:

- To create a team by working together to provide stability and consistent policy direction.
- To create a team by communicating Goals and Objectives to all sectors of the community.
- To create a team by supporting the decisions of the majority once made.

DISCUSSION:
The Our Neighborhood Voices Initiative would put a Constitutional Amendment on the Statewide November 2022 ballot to make zoning and land-use locally controlled. It would allow local land use and zoning laws an ability to override conflicting State laws. Initiative proponents argue that recent state laws do not adequately address housing costs and will create gentrification, displacement, traffic gridlock, environmental damage, higher taxes and sprawl.

Specifically, the proposed Initiative:

- Amends Article XI of the California Constitution.
- Prevents the State Legislature and local legislative bodies from passing laws invalidating voter approved local land-use or zoning initiatives.
- Prohibits State from changing, granting, or denying funding to local governments based on their implementation of this measure.
- Does not affect Fair Housing Laws or CEQA requirements.
- Supersedes any previously enacted State laws (SB 9 & SB 10).
- Transfers power for zoning and land use from Sacramento back to local agencies.
- Exceptions for Coastal Act and large infrastructure projects.

By adopting the proposed Initiative, the City of Fontana will allow the Our Neighborhood Voices to use the City on their list of endorsements. Over 10 cities have passed resolutions supporting the initiative. Supporting this effort reinforces the City's stance on local control and is consistent with the City Council's adopted legislative platform.

FISCAL IMPACT:
There is no direct fiscal impact associated with the receiving and filing of this report.

MOTION:
Approve staff recommendation.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, EXPRESSING SUPPORT FOR THE "BRAND-HUANGMENDOZA TRIPARTISAN LAND USE INITIATIVE" TO AMEND ARTICLE XI OF THE CONSTITUTION OF THE STATE OF CALIFORNIA TO MAKE ZONING AND LAND USE COMMUNITY AFFAIRS, AND NOT OF STATE INTEREST.

WHEREAS, the Legislature of the State of California in recent years has proposed, passed, and signed into law a number of bills addressing a range of land use planning and housing issues; and

WHEREAS, the majority of these bills usurp the authority of local jurisdictions to determine for themselves the land use policies and practices that best suit each city and its residents and instead impose "one-size-fits-all" mandates that do not take into account the unique needs and differences of local jurisdictions throughout the State of California; and

WHEREAS, the majority of these bills do not provide any incentives or requirements for low-income affordable or moderate-income workforce housing, but instead impose new policies that will incentivize speculation and result in the addition of market-rate or luxury housing, thereby eliminating the opportunity for local jurisdictions to implement effective policies that will create more affordable housing and affirmatively further fair housing practices; and

WHEREAS, the ability of local jurisdictions to determine for themselves which projects require review beyond ministerial approval; what parking requirements are appropriate for various neighborhoods; what housing plans and programs are suitable and practical for each community; and what zoning should be allowed for residential properties, rather than having these decisions imposed upon cities without regard for the unique circumstances and needs of each individual community, is a matter of critical importance to the City of Fontana and many other municipalities focused on local zoning and housing issues; and

WHEREAS, the City Council of the City of Fontana hereby determines that local government entities are best able to assess and respond to the unique needs of their respective communities and hereby objects to the proliferation of State legislation (including SB 9 and SB 10) that would deprive us of that ability.

NOW, THEREFORE, THE CITY COUNCIL OF THE City of Fontana, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. That the City Council of the City of Fontana is opposed to the legislature of the State of California continually proposing and adopting legislation that overrides the zoning and land use authority of local government and inhibits the ability of local

government to effectively plan for and implement policies to stimulate the efficient production of affordable housing in the City of Fontana.

SECTION 2. That the City Council of the City of Fontana supports the BrandHuang-Mendoza Tripartisan Land Use Initiative (Attached to the Resolution as Exhibit A) to ensure that zoning and land use authority rests with the local government entities that represent the communities in which the residents reside, and to allow local government to participate in solving our affordable housing crisis through solutions that effectively address the unique needs and conditions of each local community.

SECTION 3. That the City Council of the City of Fontana incorporates each recital set forth herein above.
The City Clerk of the City of Fontana shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 25th day of January 2022.

_____
ACQUANETTA WARREN, MAYOR OF FONTANA

ATTEST:

_____
BEST BEST & KRIEGER, LLP
CITY ATTORNEY

November 1, 2021
Initiative 21-0016

The Attorney General of California has prepared the following title and summary of the chief
purpose and points of the proposed measure:

PROVIDES THAT LOCAL LAND-USE AND ZONING LAWS OVERRIDE CONFLICTING STATE LAWS. INITIATIVE CONSTITUTIONAL AMENDMENT.

Provides that city and county land-use and zoning laws (including local housing laws) override

all conflicting state laws, except in certain circumstances related to three areas of statewide

concern: (1) the California Coastal Act of 1976; (2) siting of power plants; or (3) development of

water, communication, or transportation infrastructure projects. Prevents state legislature and

local legislative bodies from passing laws invalidating voter-approved local land-use or zoning

initiatives. Prohibits state from changing, granting, or denying funding to local governments

based on their implementation of this measure. Summary of estimate by Legislative Analyst and

Director of Finance of fiscal impact on state and local governments: **Fiscal effects of the**

measure depend on future decisions by the cities and counties and therefore are unknown.

SECTION 1. The people of the State of California find and declare all of the following:

(a) The circumstances and environmental impacts of local land use decisions vary greatly across the state from locality to locality.

(b) The infrastructure required to maintain appropriate levels of public services, including police and fire services, parklands and public open spaces, transportation, water supply, schools, and sewers varies greatly across the state from locality to locality.

(c) Land use decisions made by local officials must balance development with public facilities and services while addressing the economic, environmental, and social needs of the particular communities served by those local officials.

(d) Thus, it is in the best interests of the state and local communities for these complex decisions to be made at the local level to ensure that the specific, unique characteristics, constraints, and needs of those communities are properly analyzed and addressed.

(e) Gentrification of housing adjacent to public transportation will reduce or eliminate the availability of low or very low income housing near public transit, resulting in the loss of access by low or very low income persons to public transit, declines in public transit ridership, and increases in vehicle miles travelled.

(f) The State Legislature cannot properly assess the impacts upon each community of sweeping centralized and rigid state land use rules and zoning regulations that apply across the state without regard to community impacts and, as a result, statewide land use and zoning will do great harm to local communities with differing circumstances and concerns.

(g) Community development should not be controlled by state planners, but by local governments that know and can address the needs of, and the impacts upon, local communities. Local initiatives approved by voters pertaining to land use and zoning restrictions should not be nullified or superseded by the actions of any local or state legislative body.

(h) Numerous state laws that target communities for elimination of zoning standards have been enacted, and continue to be proposed, that eliminate or erode local control over local

development and circumvent the California Environmental Quality Act ("CEQA"), creating the potential for harmful environmental impacts to occur.

(i) The purpose of this measure is to ensure that all decisions regarding local land use controls, including zoning law and regulations, are made by the affected communities in accordance with applicable law, including but not limited to CEQA (Public Resources Code § 21000 et seq.), the California Fair Employment and Housing Act (Government Code §§ 12900 – 12996), prohibitions against discrimination (Government Code § 65008), and affirmatively furthering fair housing (Government Code § 8899.50). This constitutional amendment would continue to provide for state control in the coastal zone, the siting of a power plant that can generate more than 50 megawatts of electricity, or the development or construction of water, communication or transportation infrastructure projects which the Legislature declares are matters of statewide concern and are in the best interests of the state. For purposes of this measure, it is the intent that a transportation infrastructure project shall not include a transit-oriented development project that is residential, commercial, or mixed-use.

SECTION 2. Section 4.5 is added to Article XI of the California Constitution, to read:
SEC. 4.5. (a) Except as provided in subdivision (b), in the event of a conflict with a state statute, a county charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a county charter, that regulates the zoning, development or use of land within the boundaries of an unincorporated area of the county shall be deemed a county affair within the meaning of Section 4 and shall prevail over a conflicting state statute. No voter approved local initiative that regulates the zoning, development or use of land within the boundaries of any county shall be overturned or otherwise nullified by any legislative body.

(b) A county charter provision, general plan, specific plan, ordinance or a regulation adopted and applicable to an unincorporated area within a county, may be determined only by a court of

competent jurisdiction, in accordance with Section 4, to address either a matter of statewide concern or a county affair if that provision, ordinance, or regulation conflicts with a state statute with regard to only the following:

(1) The California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), or a successor statute.

(2) The siting of a power generating facility capable of generating more than 50 megawatts of electricity and the California Public Utilities Commission has determined that a need exists at that location that is a matter of statewide concern.

(3) The development or construction of a water, communication or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter of statewide concern and is in the best interests of the state. For purposes of this paragraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(c) No modification to appropriations for state funded programs shall occur, and no state grant applications or funding shall be denied as a result of the application of this section. No benefit or preference in state appropriations or grants shall be given to an entity that opts not to utilize the provisions of this section.

(d) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 3. Section 5.5 is added to Article XI of the California Constitution, to read:

SEC. 5.5. (a) Except as provided in subdivision (b), in the event of a conflict with a state statute, a city charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a city charter, that establishes land use policies or regulates zoning or development standards within the boundaries of the city shall be deemed a municipal affair within the meaning of Section 5 and shall prevail over a conflicting state statute. No voter approved local initiative that regulates the zoning, development or use of land within the boundaries of any city shall be overturned or otherwise nullified by any legislative body.

(b) A city charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a city charter, may be determined only by a court of competent jurisdiction, in accordance with Section 5, to address either a matter of statewide concern or a municipal affair if that provision, ordinance, or regulation conflicts with a state statute with regard to only the following:

(1) The California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), or a successor statute.
(2) The siting of a power generating facility capable of generating more than 50 megawatts of electricity and the California Public Utilities Commission has determined that a need exists at that location that is a matter of statewide concern.
(3) The development or construction of a water, communication or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter of statewide concern and is in the best interests of the state. For purposes of this paragraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(c) No modification to appropriations for state funded programs shall occur, and no state grant applications or funding shall be denied as a result of the application of this section. No benefit or preference in state appropriations or grants shall be given to an entity that opts not to utilize the provisions of this section.

(d) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 4. Section 7 of Article XI of the California Constitution is amended to read:

SEC. 7. (a) A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations <u>that are not, except as provided in subdivision (b), in</u>

conflict with general laws. A county or city may not supersede or otherwise interfere with any
voter approved local initiative pertaining to land use or zoning restrictions.

(b) A county or city general plan, specific plan, ordinance or regulation that regulates the zoning,
development or use of land within the boundaries of the county or city shall prevail over conflicting general laws, except for only the following:

(A) A coastal land use plan, ordinance or regulation that conflicts with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), or a successor statute.
(B) An ordinance or regulation that addresses the siting of a power generating facility capable of generating more than 50 megawatts of electricity and the California Public Utilities Commission has determined that a need exists at that location that is a matter of statewide concern.
(C) An ordinance or regulation that addresses the development or construction of a water, communication or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter
of statewide concern and is in the best interests of the state. For purposes of this subparagraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(c) No modification to appropriations for state funded programs shall occur, and no state grant
applications or funding shall be denied as a result of the application of this section. No benefit or
preference in state appropriations or grants shall be given to an entity that opts not to utilize the
provisions of this section.
(d) The provisions of this subdivision are severable. If any provision of this subdivision or its
application is held invalid, that invalidity shall not affect other provisions or applications that can
be given effect without the invalid provision or application.

File #: 21-1096
Agenda #: A.

Agenda Date: 1/25/2022
Category: Public Hearing

FROM:
Planning Department

SUBJECT:
Municipal Code Amendment (MCA) No. 21-001 for an amendment to Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and other environmental quality for warehouse (industrial commercial center) developments throughout the city.

RECOMMENDATION:
Read by title only and waive further reading of and introduce **Ordinance No.___**, an Ordinance of the City Council of the City of Fontana, approving Municipal Code Amendment (MCA) No. 21-001 for an amendment to Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and other environmental quality for warehouse (industrial commercial center) developments throughout the city, and the reading of the title constitutes the first thereof.

COUNCIL GOALS:
- To promote economic development by pursuing business retention, expansion and attraction.
- To promote economic development by establishing a quick, consistent development process.

DISCUSSION:
Click or tap here to enter text. The City of Fontana currently regulates warehouse development in Specific Plans and Chapter 30 of the Zoning and Development Code. In addition to city requirements, warehouse development and operators are required comply with South Coast Air Quality Management District (SCAQMD), California Air Resources Board (CARB), and CALGreen requirements. Thus, the city, SCAQMD, CARB and CALGreen includes air quality improvement requirements and standards for warehouse developments and operators.

Background:
The City Council requested staff to research air quality improvement measures as it relates to warehouse development projects. The results of this research was presented at a September 14, 2021 joint Planning Commission and City Council workshop, which included the following:

- Summary of State and other agencies air quality improvement requirements currently implemented on warehouse projects.
- Routine conditions and air quality improvement measures implemented on warehouse projects beyond what the State and other agencies require.
- At the conclusion of the workshop City Council directed staff to prepare a new Ordinance, the “Industrial Commerce Centers Sustainability Standards Ordinance” that includes sustainability requirements for warehouse projects.

The Planning Commission reviewed the entitlement as listed in this report at its meeting on December 21, 2021 and adopted Resolution PC No. 2021-050 to recommend approval to the City Council.

ENVIRONMENTAL FINDING:
This project is exempt per the California Environmental Quality Act (CEQA) pursuant to Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to reduce potential impacts to air and environmental quality. An Exemption Memorandum has been prepared for this project and included an attachment in the staff report.

ANALYSIS:
The City initiated Municipal Code Amendment (MCA) No. 21-001 ("Amendment') to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability standards for warehouses (industrial commerce centers) throughout the city that will include standardize requirements with the objective to reduce potential impacts to air and environmental quality.

Although the city currently implements air quality improvement and sustainable measures, the proposed Ordinance seeks to further improve air and environmental quality by the creating a new Article (Industrial Commerce Centers Sustainability Standards) in Chapter 9 of the Municipal Code. This new section would include existing routine conditions and measures along with requiring new additional measures for warehouse (industrial commerce center) projects to reduce potential impacts to air and environmental quality.

Summary of Article V of Chapter 9. The following is a brief summary of the standards that shall apply to all warehouse developments in the City of Fontana (a detailed comprehensive list of all the requirements is located in the Ordinance, Attachment No. 1):

A. Solid screen buffering treatments and additional landscaping setbacks are required between loading docks and truck courts adjacent to sensitive receptors.

B. Trees shall be used as part of the solid screen buffering treatment.

C. Anti-idling signs are required to posted at warehouses to stipulate a 3-minute idling restriction.

D. Addresses orientation of trucking activities relative to sensitive receptors.

E. On-site stacking requirements.

F. Facility operators are required to establish and enforce a truck routing plan.

G. Signs and drive aisle pavement markings are required to clearly identify the on-site circulation pattern.

H. Signs are required to be in public view with contact information for a designated representative of the building operator and SCAQMD to receive complaints about excessive dust, fumes, or odors on this site.

I. Alternative energy requirements.

J. Operational and construction requirements.

K. Property owner shall provide facility operator with information on incentive programs such as the Carl Moyer Program and Voucher Incentive Program and shall require all facility operators to enroll in the United States Environmental Protection Agency's SmartWay Program and to use carriers that are SmartWay carriers.

FISCAL IMPACT:
None.

MOTION:
Approve staff's recommendation.

ATTACHMENTS:

1. City Council Ordinance
2. Planning Commission Staff Report with Attachments
3. Planning Commission Draft Minutes
4. Notice of Exemption Memorandum
5. Notice of Exemption
6. Public Hearing Notice

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA AMENDING CHAPTER 9 OF THE FONTANA MUNICIPAL CODE TO ADD ARTICLE V TO ESTABLISH SUSTAINABILITY STANDARDS FOR THE REGULATION OF AIR AND ENVIRONMENTAL QUALITY FOR THE DEVELOPMENT OF INDUSTRIAL COMMERCE CENTERS.

THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, the City of Fontana (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, on or about May 7, 2021, the governing board of the South Coast Air Quality Management District ("SCAQMD") adopted Rule 2305, the Warehouse Indirect Source Rule ("Rule 2305"); and

WHEREAS, Rule 2305 requires warehouses greater than 100,000 square feet to directly reduce nitrogen oxide and diesel particulate matter emissions, or to otherwise facilitate emission and exposure reductions of these pollutants in nearby communities; and

WHEREAS, SCAQMD has also adopted Rule 402 prohibiting emissions that cause injury and/or annoyance to a substantial number of people, including odors; Rule 403 requiring dust control measures during construction; Rule 1113 requiring the use of low Volatile organic compounds ("VOC") paints and coatings; Rule 1186 requiring use of SCAQMD certified street sweepers; and Rule 2202 requiring establishment of rideshare programs for facilities employing more than 250 employees; and

WHEREAS, the California Air Resources Board ("CARB") adopted Rule 2485 restricting diesel engine idling to five minutes or less; and

WHEREAS, California Building Standards Commission adopted Part 11, Title 24 of the California Code of Regulations, known as CALGreen, which generally requires low energy use features, low water use features, all-electric vehicle ("EV") parking spaces and charging facility accommodation, carpool/vanpool parking spaces, and short-term and long-term bicycle parking facilities; and

WHEREAS, the City currently regulates industrial commerce center development in Specific Plan Areas, as well as pursuant to Chapter 30 of the Zoning and Development Code; and

WHEREAS, the City Council requested staff to research air quality improvement and other measures related to industrial commerce center development projects; and

WHEREAS, on September 14, 2021, the results of the requested research were presented at a joint Planning Commission and City Council workshop; and

WHEREAS, the City desires to impose air and other environmental quality improvement measures, and standardize the requirements concerning such improvement measures for all industrial commerce center developments; and

WHEREAS, the City initiated Municipal Code Amendment (MCA) No. 21-001 amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish air and other environmental quality sustainability standards for warehouses (industrial commerce centers) throughout the city that will include standardize requirements with the objective to improve air and environmental quality; and

WHEREAS, on December 21, 2021, the Planning Commission received public testimony and evidence presented by the applicant, City staff, and other interested parties, at the Public Hearing held with respect hereto on Municipal Code Amendment (MCA) No. 21-001; and

WHEREAS, December 21, 2021, the Planning Commission approved Resolution No. PC 2021-050 and recommended approval to City Council of Municipal Code Amendment (MCA) No. 21-001 and after carefully considering all information pertaining to the proposed project, including the staff report, and all the information, evidence, and testimony presented at its public hearing on December 21, 2021; and

WHEREAS, On January 25, 2022, the City Council held a duly noticed public hearing on Municipal Code Amendment (MCA) No. 21-001, and the supporting documents in evidence, the City Council found that the Municipal Code Amendment is in conformance with General Plan and does not change any of the Land Use Designations of any properties and it is consistent with the General Plan and furthers Action B of Goal 3 in Chapter 12 to promote renewable energy programs for government, Fontana businesses, and Fontana residences; and

WHEREAS, a notice of the public hearing was published in the local *Fontana Herald* newspaper on Friday, January 14, 2022 and posted at City; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The recitals above are true and correct and are fully incorporated herein.

SECTION 2. Current Article I is hereby renumbered as Article II and the title is amended to read as follows: “Hazardous Waste Management Plan.”

SECTION 3. Current Article II is hereby renumbered as Article III.

SECTION 4. Current Article III is hereby renumbered as Article IV.

SECTION 5. Article I is hereby amended to read as follows: "This Chapter sets forth the requirements for environmental protection and resource extraction. The requirements of this Chapter are general in nature and apply to all of the articles, sections, and codes adopted by this Chapter."

SECTION 6. Article V of Chapter 9 of the Fontana Municipal Code is hereby added to read as follows:

ARTICLE V. – Industrial Commerce Centers Sustainability Standards

Sec. 9-70. – Applicability.

This Article is applicable to all Warehouse uses throughout the city, as defined in Section 30-12 of Chapter 30, Article 1, Division 4; and as listed as a type of "Warehousing Use" in Table No. 30-530 and includes all warehouse uses in Specific Plans. The following sections shall supersede any existing requirements in the Municipal Code and Specific Plans.

Sec. 9-71. – Buffering and Screening / Adjacent uses.

(1) For any Warehouse larger than 50,000, a ten-foot-wide landscaping perimeter buffer shall be required when adjacent to any sensitive receptors. The perimeter buffer area shall include, at a minimum, a solid decorative wall(s) of at least ten feet in height and solid screen buffering trees, as described below. For any Warehouse building equal to or less than 50,000 square feet in size, a solid decorative wall(s) of at least ten feet in height shall be required when adjacent to any sensitive receptors. Sensitive receptor shall be defined as any residence including private homes, condominiums, apartments, and living quarters, schools, preschools, daycare centers, in-home daycares, health facilities such as hospitals, long term care facilities, retirement and nursing homes, prisons, and dormitories.

(2) Trees shall be used as part of the solid screen buffering treatment. Trees used for this purpose shall be evergreen, drought tolerant, minimum 36-inch box, and shall be spaced at no greater than 40-feet on center. The property owner shall maintain these trees for the duration of ownership, ensuring any unhealthy or dead trees are replaced timely as needed.

(3) If physically possible, loading docks shall be oriented away from adjacent sensitive receptors.

Sec. 9-72. – Signage and Traffic Patterns.

(1) Entry gates into the loading dock/truck court area shall be positioned at a minimum of 140 feet inside the property line. The stacking distance shall be increased by 70 feet for every 20 loading docks beyond 40 docks. Queuing, or circling of vehicles, on public streets immediately pre- or post-entry to an industrial commerce facility is strictly prohibited. Applicants shall submit to the Engineering Department, and obtain approval of, all turning templates to verify truck turning movements at entrance and exit driveways and street intersection adjacent to industrial buildings prior to entitlement approval. Unless not physically possible, truck entries shall be located on Collector Streets (or streets of a higher commercial classification).

(2) Anti-idling signs indicating a 3-minute idling restriction shall be posted at industrial commerce facilities along entrances to the site and in the dock areas and shall be strictly enforced by the facility operator.

(3) Facility operators shall establish and enforce a truck routing plan to and from the State Highway System based on the City's latest Truck Route Map. The plan shall describe the operational characteristics of the proposed use, including, but not limited to, hours of operations, numbers of employees, types of items to be stored within the building, and proposed truck routing to and from the facility to designated truck routes that avoids passing residential and educational uses, to the greatest extent physically possible. The plan shall include measures, such as signage and pavement markings, queuing analysis and enforcement, for preventing truck queuing, circling, stopping, and parking on public streets. A speculative project for which no operator has been identified shall base its truck routing plan on an Institute of Transportation Engineers (11th Generation) designation of ITE Code 150.

(4) Signs and drive aisle pavement markings shall clearly identify the on-site circulation pattern to minimize unnecessary on-site vehicular travel.

(5) Facility operators shall post signs in prominent locations inside and outside of the building indicating that off-site parking for any employee or operation related vehicle is strictly prohibited.

(6) Legible, durable, weather-proof signs shall be installed at all truck exit driveways directing truck drivers to the truck route and State Highway System.

(7) Signs shall be installed in public view with contact information for a local designated representative who works for the facility operator and who is designated to receive complaints about excessive dust, fumes, or odors

on this site, as well as contact information for the SCAQMD's on-line complaint system and its complaint call-line: 1-800-288-7664.

Sec. 9-73. – Alternative Energy.

(1) On-site motorized operational equipment shall be ZE (zero emission).

(2) All building roofs shall be solar-ready, which includes designing and constructing buildings in a manner that facilitates and optimizes the installation of a rooftop solar photovoltaic (PV) system at some point after the building has been constructed.

(3) On buildings over 400,000 square feet, rooftop solar panels shall be installed to cover at least 30% of the rooftop area or in such a manner that they will supply 100% of the power needed to operate all non-refrigerated portions of the building.

(4) Not less than 10% of all required passenger vehicle parking spaces shall be electric vehicle (EV) ready, with all necessary conduit and related appurtenances installed. Not less than 5% of all required passenger vehicle parking spaces shall be EV ready, with working charging stations installed and operational, prior to building occupancy.

(5) Unless the owner of the facility records a covenant on the title of the underlying property ensuring that the property cannot be used to provide chilled, cooled, or freezer warehouse space, a conduit shall be installed during construction of the building shell from the electrical room to 50% of the loading dock doors that have potential to serve the refrigerated space. When tenant improvement building permits are issued for any refrigerated warehouse space, electric plug-in units shall be installed at every dock door servicing the refrigerated space to allow transport refrigeration units to plug in.

(6) Bicycle racks are required per Section 30-714 and in the amount required for warehouse uses by Table 30-7124 of the Zoning and Development Code. The racks shall include electric plugs to charge electric bikes.

Sec. 9-74. – Operation and Construction.

(1) Cool surface treatments shall be added to drive aisles and parking areas or such areas shall be constructed with a solar-reflective cool pavement.

(2) To ensure that warehouse electrical rooms are sufficiently sized to accommodate the potential need for additional electrical panels, either a secondary electrical room shall be provided in the building, or the primary electrical room shall be sized 25% larger than is required to satisfy the service requirements of the building.

(3) Use of low VOC paints shall be required.

(4) The facility operator shall incorporate a recycling program.

(5) The following environmentally responsible practices shall be required during construction:

a. The applicant shall use reasonable best efforts, as determined by the Planning Director, to deploy the highest rated CARB Tier technology that is available at the time of construction. Prior to permit issuance, the construction contractor shall submit an equipment list confirming equipment used is compliant with the highest CARB Tier at the time of construction. Equipment proposed for use that does not meet the highest CARB Tier in effect at the time of construction, shall only be approved for use at the discretion of the Planning Director.

b. Use of electric-powered hand tools, forklifts, aerial lifts, materials lifts, hoists, pressure washers, plate compactors, and air compressors.

c. Designation of an area in any construction site where electric-powered construction vehicles and equipment can charge if the utility provider can provide temporary power for this purpose.

d. Identification in site plans of a location for future electric truck charging stations and installation of a conduit to that location.

(6) A Property Maintenance Program shall be submitted for review and approval by the Planning Director or his/her designee prior to the issuance of building permits. The program shall provide for the regular maintenance of building structures, landscaping, and paved surfaces in good physically condition, and appearance. The methods and maximum intervals for maintenance of each component shall be specified in the program.

(7) Property owner shall provide facility operator with information on incentive programs such as the Carl Moyer Program and Voucher Incentive Program and shall require all facility operators to enroll in the

United States Environmental Protection Agency's SmartWay Program and to use carriers that are SmartWay carriers.

SECTION 7. Based on the foregoing, the City Council determines that the project is categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to improve the environment. The Council hereby directs staff to prepare, execute and file with the San Bernardino County Clerk a notice of exemption within five working days after the adoption of this Ordinance.

SECTION 8. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The people of the City of Fontana hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 9. This Ordinance shall take effect thirty (30) days after the date of its adoption.

SECTION 10. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Fontana. The City Clerk is the custodian of records for this Ordinance and the records are available at 8353 Sierra Avenue, Fontana CA 92335.

APPROVED AND ADOPTED this 25th day of January 2022.

READ AND APPROVED AS TO LEGAL FORM:

_____

City Attorney

I, Tonia Lewis, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council do hereby certify that the foregoing ordinance is the actual ordinance duly and regularly

adopted by the City Council at a regular meeting on the 25th day of January, 2022 by the following vote to wit:

AYES:

NOES:

ABSENT:

_____
City Clerk of the City of Fontana

_____
Mayor of the City of Fontana

ATTEST:

_____
City Clerk

8353 Sierra Avenue
Fontana, CA 92335

City of Fontana

Action Report

Planning Commission

File #: 21-1030
Agenda #: PH-B

Agenda Date: 12/21/2021
Category: Public Hearing

FROM:
Planning

TITLE:
Municipal Code Amendment (MCA) No. 21-001 for an amendment to Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and other environmental qualities for warehouse (industrial commerce center) developments throughout the city.

RECOMMENDATION:
Based on the information contained in this staff report, staff recommends that the Planning Commission adopt Resolution PC No. 2021-___;, and, forward a recommendation to the City Council to:

1. Determine that the project is categorically exempt, respectively from the California Environmental Quality Act (CEQA) pursuant to Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA; and,

2. Adopt an Ordinance approving Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article for "Industrial Commerce Centers Sustainability Standards" for warehouses throughout the city as shown in the Attachment No. 1 as referenced herein.

APPLICANT:
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

LOCATION:
Citywide

REQUEST:
A Municipal Code Amendment (MCA) No. 21-003 for an amendment to Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and other environmental qualities for warehouse (industrial commercial center) developments.

PROJECT PLANNER:
Rina Leung, Senior Planner

ATTACHMENT NO. 2

I. BACKGROUND INFORMATION:

The City of Fontana currently regulates warehouse development in Specific Plans and Chapter 30 of the Zoning and Development Code. In addition to city requirements, warehouse development and operators are required comply with South Coast Air Quality Management District (SCAQMD), California Air Resources Board (CARB), and CALGreen requirements. Thus, the city, SCAQMD, CARB and CALGreen includes air quality improvement requirements and standards for warehouse developments and operators.

The City Council requested staff to research air quality improvement measures as it relates to warehouse development projects. The results of this research was presented at a September 14, 2021 joint Planning Commission and City Council workshop, which included the following:

- Summary of State and other agencies air quality improvement requirements currently implemented on warehouse projects.
- Routine conditions and air quality improvement measures implemented on warehouse projects beyond what the State and other agencies require.
- Staff recommendation for a new Ordinance, the "Industrial Commerce Centers Sustainability Standards Ordinance" that includes sustainability requirements for warehouse projects.

Objective/Purpose:
Although the city currently implements air quality improvement and sustainable measures, the proposed Ordinance seeks to further improve air and environmental quality by the creating a new Article (Industrial Commerce Centers Sustainability Standards) in Chapter 9 of the Municipal Code. This new section would include existing routine conditions and measures along with requiring new additional measures for warehouse (industrial commerce center) projects to improve air and environmental quality.

II. ANALYSIS:

The City initiated Municipal Code Amendment (MCA) No. 21-001 ("Amendment') to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability standards for warehouses (industrial commerce centers) throughout the city that will include standardize requirements with the objective to improve air and environmental quality. The following is the summary of the new Article.

Summary of Article V of Chapter 9. The following is a brief summary of the standards that shall apply to all warehouse developments in the City of Fontana. A detailed comprehensive list of all the requirements is located in Exhibit A of the Planning Commission Resolution (Attachment No. 1):

A. Solid screen buffering treatments (specifically, block walls or, solid walls and landscaping) are required between loading docks and truck courts adjacent to sensitive receptors.

B. Trees shall be used as part of the solid screen buffering treatment. Trees shall be evergreen, drought tolerant, minimum 36-inch box, and shall be spaced at no greater than 40-feet on center.

C. Anti-idling signs are required to posted at warehouses to stipulate a 3-minute idling restriction.

D. If physically possible, loading docks shall be oriented away from adjacent sensitive receptors.

E. On-site stacking requirements for entry gates into the loading dock/truck court area shall be positioned after a minimum of 140 feet of available stacking depth inside the property line. The stacking distance shall be increased by 70 feet for every 20 loading docks beyond 50 docks.

F. Facility operators are required to establish and enforce a truck routing plan to and from the State Highway System.

G. Signs and drive aisle pavement markings are required to clearly identify the on-site circulation pattern to minimize unnecessary on-site vehicular travel. Signage to indicate off-site parking is strictly prohibited.

H. Legible, durable, weather-proof signs are required at all truck exit driveways directing truck drivers to the truck route and State Highway System.

I. Signs are required to be in public view with contact information for a designated representative of the building operator and SCAQMD to receive complaints about excessive dust, fumes, or odors on this site.

J. On-site motorized operational equipment shall be NZE (near zero emission) which shall specifically exclude the use of any diesel-powered equipment.

K. All building roofs are required to be solar-ready.

L. On buildings over 400,000 square feet, rooftop solar panels shall be installed to cover at least 30% of the rooftop area or in such a manner that they will supply 100% of the power needed to operate all non-refrigerated portions of the building.

M. Passenger vehicle EV parking spaces and charging station accommodation are required to be installed at 10% of all required passenger car parking spaces and 5% active prior to the approval of the Certificate of Occupancy.

N. Electric plug-in technology is required for transport refrigeration units ("TRUs") at loading docks servicing chilled, cooled, or freezer space unless the owner of the facility records a covenant on the title of the underlying property ensuring that the property cannot be used to provide chilled, cooled, or freezer warehouse space.

O. Bicycle racks are required on all new projects, including electric plugs to charge electric bikes.

P. Cool surface treatments (i.e solar-reflective cool pavement) shall be added to drive aisles and parking areas.

Q. Requirements for oversized electrical rooms.

R. Requirements for low VOC paints.

S. Requirements for facility operators to incorporate a recycling program.

T. The following environmentally-responsible construction practices are required:
   1) Use of most readily available highest rated CARB Tier technology during construction.
   2) Use of electric-powered hand tools, forklifts, aerial lifts, materials lifts, hoists, pressure washers, plate compactors, and air compressors.
   3) Designate an area of the construction site where electric-powered construction vehicles and equipment can charge if the utility provider can feasibly provide temporary power for this purpose.
   4) Site plans are required to identify a planned location for future electric truck charging stations and install conduit to that location.

U. A Property Maintenance Program is required for all warehouse developments.

V. Property owner shall provide facility operator with information on incentive programs such as the Carl Moyer Program and Voucher Incentive Program and shall require all facility operators to enroll in the United States Environmental Protection Agency's SmartWay Program and to use carriers that are SmartWay carriers.

Environmental Review Finding:

This project is exempt per the California Environmental Quality Act (CEQA) pursuant to Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to improve the environment. An Exemption Memorandum has been prepared for this project and included in the staff report as Attachment No. 2.

MOTION:
Approve staff's recommendation.

ATTACHMENTS:

1. Planning Commission Resolution
2. Exemption Memorandum
3. Notice of Exemption
4. Public Hearing Notice
5. Public Comment E-mail from Mr. Lee

RESOLUTION PC NO. 2021-____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FONTANA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE APPROVING MUNICIPAL CODE AMENDMENT (MCA) NO. 21-001 AMENDING CHAPTER 9 OF THE MUNICIPAL CODE TO ADD ARTICLE V TO SUSTAINABILITY STANDARDS TO IMPROVE AIR AND OTHER ENVIRONMENTAL QUALITY FOR (WAREHOUSE) INDUSTRIAL COMMERCIAL CENTER DEVELOPMENTS THROUGHOUT THE CITY

WHEREAS, the City of Fontana wishes to protect and preserve the quality of life throughout the City, through effective land use and planning; and

WHEREAS notices required by statute of the Fontana City Code have been given as required; and

WHEREAS, on or about May 7, 2021, the governing board of the South Coast Air Quality Management District ("SCAQMD") adopted Rule 2305, the Warehouse Indirect Source Rule ("Rule 2305"); and

WHEREAS, Rule 2305 requires warehouses greater than 100,000 square feet to directly reduce nitrogen oxide and diesel particulate matter emissions, or to otherwise facilitate emission and exposure reductions of these pollutants in nearby communities; and

WHEREAS, SCAQMD has also adopted Rule 402 prohibiting emissions that cause injury and/or annoyance to a substantial number of people, including odors; Rule 403 requiring dust control measures during construction; Rule 1113 requiring the use of low Volatile organic compounds ("VOC") paints and coatings; Rule 1186 requiring use of SCAQMD certified street sweepers; and Rule 2202 requiring establishment of rideshare programs for facilities employing more than 250 employees; and

WHEREAS, the California Air Resources Board ("CARB") adopted Rule 2485 restricting diesel engine idling to five minutes or less; and

WHEREAS, California Building Standards Commission adopted Part 11, Title 24 of the California Code of Regulations, known as CALGreen, which generally require low energy use features, law water use features, all-electric vehicle ("EV") parking spaces and charging facility accommodation, carpool/vanpool parking spaces, and short-term and long-term bicycle parking facilities; and

WHEREAS, the City currently regulates warehouses (industrial commerce center) development in Specific Plans and Chapter 30 of the Zoning and Development Code; and

WHEREAS, the City Council requested staff to research air quality improvement and other measures related to warehouse (industrial commerce center) development projects; and

WHEREAS, on September 14, 2021, the results of the requested research were presented at a joint Planning Commission and City Council workshop; and

WHEREAS, the City desires to impose air and other environmental quality sustainability measures, and standardize the requirements concerning such standards for all warehouse (industrial commerce center) developments; and

WHEREAS, the Planning Commission finds that the proposed amendment to the Municipal Code is to protect and preserve the aesthetics in the community and promote the health, safety, and general welfare of the public and improve air and environmental quality and it is consistent with the General Plan and furthers Action B of Goal 3 in Chapter 12 to promote renewable energy programs for government, Fontana businesses, and Fontana residences; and

WHEREAS, a notice of the public hearing was published in the local *Fontana Herald* newspaper on Friday, December 10, 2021 and posted at City Hall; and

WHEREAS, the Planning Commission carefully considered all information pertaining to the proposed Municipal Code Amendment, including the staff report, and all the information, evidence, and testimony presented at its public hearing on December 21, 2021; and

WHEREAS, the Planning Commission finds that the proposed amendment to the Municipal Code (Exhibit "A") to amend Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and other environmental quality for warehouse (industrial commercial center) developments throughout the city will promote the public health, safety, and general welfare of the public; and

WHEREAS, all other legal prerequisites to the adoption of this resolution have occurred.

NOW, THEREFORE, the Commission RESOLVES as follows:

Section 1. Recitals. The above recitals are incorporated herein by reference.

Section 2. Based on the foregoing, the Planning Commission hereby recommends that the City Council determine the project categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to improve the environment.

Section 3. That the Planning Commission hereby recommends that the City Council approves Municipal Code Amendment (MCA) No. 21-001 (Exhibit "A") to amend Chapter 9 of the Municipal Code to add Article V to establish air and other environmental quality

improvement sustainability standards for warehouses (industrial commerce centers) throughout the city, as referenced herein.

Section 4. Regarding Custodian of Record: The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at the Planning Department, 8353 Sierra Avenue, Fontana, CA 92335. This information is provided in compliance with Public Resources Code section 21081.6.

Section 5. The Secretary of the Planning Commission shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED by the Planning Commission of the City of Fontana, California, at a regular meeting held on this 21st day of December 2021.

City of Fontana

_____
Cathline Fort, Chairperson

ATTEST:

I, Idilio Sanchez, Secretary of the Planning Commission of the City of Fontana, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 21st day of December 2021, by the following vote, to-wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Idilio Sanchez, Secretary

EXHIBIT A

Article V of Chapter 9 of the Municipal Code:

ARTICLE V. – Industrial Commerce Centers Sustainability Standards

Sec. 9-70. – Applicability.

This Article is applicable to all Warehouse uses throughout the city, as defined in Section 30-12 of Chapter 30, Article 1, Division 4; and as listed as a type of "Warehousing Use" in Table No. 30-530 and includes all warehouse uses in Specific Plans. The following sections shall supersede any existing requirements in the Municipal Code and Specific Plans.

Sec. 9-71. – Buffering and Screening / Adjacent uses.

A. For any Warehouse larger than 50,000, a ten-foot-wide landscaping perimeter buffer shall be required when adjacent to any sensitive receptors. The perimeter buffer area shall include, at a minimum, a solid decorative wall(s) of at least ten feet in height and solid screen buffering trees, as described below. For any Warehouse building equal to or less than 50,000 square feet in size, a solid decorative wall(s) of at least ten feet in height shall be required when adjacent to any sensitive receptors. Sensitive receptor shall be defined as any residence including private homes, condominiums, apartments, and living quarters, schools, preschools, daycare centers, in-home daycares, health facilities such as hospitals, long term care facilities, retirement and nursing homes, prisons, and dormitories.

B. Trees shall be used as part of the solid screen buffering treatment. Trees used for this purpose shall be evergreen, drought tolerant, minimum 36-inch box, and shall be spaced at no greater than 40-feet on center. The property owner shall maintain these trees for the duration of ownership, ensuring any unhealthy or dead trees are replaced timely as needed.

C. If physically possible, loading docks shall be oriented away from adjacent sensitive receptors.

Sec. 9-72. – Signage and Traffic Patterns.

(1) Entry gates into the loading dock/truck court area shall be positioned at a minimum of 140 feet inside the property line. The stacking distance shall be increased by 70 feet for every 20 loading docks beyond 40 docks. Queuing, or circling of vehicles, on public streets immediately pre- or post-entry to an industrial commerce facility is strictly prohibited. Applicants shall submit to the Engineering Department, and obtain approval of, all turning templates to verify truck turning movements at entrance and exit driveways and street intersection adjacent to industrial

buildings prior to entitlement approval. Unless not physically possible, truck entries shall be located on Collector Streets (or streets of a higher commercial classification).

(2) Anti-idling signs indicating a 3-minute idling restriction shall be posted at industrial commerce facilities along entrances to the site and in the dock areas and shall be strictly enforced by the facility operator.

(3) Facility operators shall establish and enforce a truck routing plan to and from the State Highway System based on the City's latest Truck Route Map. The plan shall describe the operational characteristics of the proposed use, including, but not limited to, hours of operations, numbers of employees, types of items to be stored within the building, and proposed truck routing to and from the facility to designated truck routes that avoids passing residential and educational uses, to the greatest extent physically possible. The plan shall include measures, such as signage and pavement markings, queuing analysis and enforcement, for preventing truck queuing, circling, stopping, and parking on public streets. A speculative project for which no operator has been identified shall base its truck routing plan on an Institute of Transportation Engineers (11th Generation) designation of ITE Code 150.

(4) Signs and drive aisle pavement markings shall clearly identify the on-site circulation pattern to minimize unnecessary on-site vehicular travel.

(5) Facility operators shall post signs in prominent locations inside and outside of the building indicating that off-site parking for any employee or operation related vehicle is strictly prohibited.

(6) Legible, durable, weather-proof signs shall be installed at all truck exit driveways directing truck drivers to the truck route and State Highway System.

(7) Signs shall be installed in public view with contact information for a local designated representative who works for the facility operator and who is designated to receive complaints about excessive dust, fumes, or odors on this site, as well as contact information for the SCAQMD's on-line complaint system and its complaint call-line: 1-800-288-7664.

Sec. 9-73. – Alternative Energy.

(1) On-site motorized operational equipment shall be ZE (zero emission).

(2) All building roofs shall be solar-ready, which includes designing and constructing buildings in a manner that facilitates and optimizes the

installation of a rooftop solar photovoltaic (PV) system at some point after the building has been constructed.

(3) On buildings over 400,000 square feet, rooftop solar panels shall be installed to cover at least 30% of the rooftop area or in such a manner that they will supply 100% of the power needed to operate all non-refrigerated portions of the building.

(4) Not less than 10% of all required passenger vehicle parking spaces shall be electric vehicle (EV) ready, with all necessary conduit and related appurtenances installed. Not less than 5% of all required passenger vehicle parking spaces shall be EV ready, with working charging stations installed and operational, prior to building occupancy.

(5) Unless the owner of the facility records a covenant on the title of the underlying property ensuring that the property cannot be used to provide chilled, cooled, or freezer warehouse space, a conduit shall be installed during construction of the building shell from the electrical room to 50% of the loading dock doors that have potential to serve the refrigerated space. When tenant improvement building permits are issued for any refrigerated warehouse space, electric plug-in units shall be installed at every dock door servicing the refrigerated space to allow transport refrigeration units to plug in.

(6) Bicycle racks are required per Section 30-714 and in the amount required for warehouse uses by Table 30-7124 of the Zoning and Development Code. The racks shall include electric plugs to charge electric bikes.

Sec. 9-74. – Operation and Construction.

(1) Cool surface treatments shall be added to drive aisles and parking areas or such areas shall be constructed with a solar-reflective cool pavement.

(2) To ensure that warehouse electrical rooms are sufficiently sized to accommodate the potential need for additional electrical panels, either a secondary electrical room shall be provided in the building, or the primary electrical room shall be sized 25% larger than is required to satisfy the service requirements of the building.

(3) Use of low VOC paints shall be required.

(4) The facility operator shall incorporate a recycling program.

(5) The following environmentally responsible practices shall be required during construction:

a. The applicant shall use reasonable best efforts, as determined by the Planning Director, to deploy the highest rated CARB Tier technology that is available at the time of construction. Prior to permit issuance, the construction contractor shall submit an equipment list confirming equipment used is compliant with the highest CARB Tier at the time of construction. Equipment proposed for use that does not meet the highest CARB Tier in effect at the time of construction, shall only be approved for use at the discretion of the Planning Director.

b. Use of electric-powered hand tools, forklifts, aerial lifts, materials lifts, hoists, pressure washers, plate compactors, and air compressors.

c. Designation of an area in any construction site where electric-powered construction vehicles and equipment can charge if the utility provider can provide temporary power for this purpose.

d. Identification in site plans of a location for future electric truck charging stations and installation of a conduit to that location.

(6) A Property Maintenance Program shall be submitted for review and approval by the Planning Director or his/her designee prior to the issuance of building permits. The program shall provide for the regular maintenance of building structures, landscaping, and paved surfaces in good physically condition, and appearance. The methods and maximum intervals for maintenance of each component shall be specified in the program.

(7) Property owner shall provide facility operator with information on incentive programs such as the Carl Moyer Program and Voucher Incentive Program and shall require all facility operators to enroll in the United States Environmental Protection Agency's SmartWay Program and to use carriers that are SmartWay carriers.

INDUSTRIAL COMMERCE CENTERS SUSTAINABILITY STANDARDS ORDINANCE

California Environmental Quality Act (CEQA)
Sections 15061(B)(3), 15307, and 15308
Exemption Memorandum
MCA No. 21-001

INTRODUCTION

The City of Fontana, the Lead Agency, is initiating a Municipal Code Amendment No. 21-001, which would amend Chapter 9 of the Municipal Code to add Article V to establish conditions, regulations, and standards to require sustainability measures for warehouse (industrial commerce center) developments throughout the city. The proposed Municipal Code Amendment is exempt from environmental review pursuant to State CEQA Guidelines Sections 15061(B)(3), 15307, and 15308, which are further described below.

PURPOSE OF NOTICE OF EXEMPTION

Article 19 of the California Environmental Quality Act (CEQA) Guidelines includes, as required by Public Resources Code Section 21084, a list of classes of projects which have been determined not to have a significant effect on the environment. This document demonstrates that the proposed project qualifies for at least three independent CEQA Exemptions. Each exemption on its own would exempt the whole of the project from environmental review.

PROPOSED PROJECT

The City initiated Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for all industrial commercial center developments throughout the city.

The proposed Ordinance for Municipal Code Amendment (MCA) No. 21-001 includes additional sustainability requirements and standards that are intended to impose air and other environmental quality improvement measures, and standardize the requirements concerning such improvement measures with regard to warehouse (industrial commercial center) developments.

All discretionary processes remain in place with regard to Administrative Site Plan and Design Review in Article II of Chapter 30 and in the applicable Specific Plans throughout the City that allows for the establishment of appropriate conditions of approval and mitigation measures.

The following is the summary of the new Article that includes sustainability measures requirements for industrial commerce center developments:

Buffering and Screening / Adjacent uses.

(1) For any Warehouse larger than 50,000, a ten-foot-wide landscaping perimeter buffer shall be required when adjacent to any sensitive receptors. The perimeter buffer area shall include, at a minimum, a solid decorative wall(s) of at least ten feet in height and solid screen buffering

trees, as described below. For any Warehouse building equal to or less than 50,000 square feet in size, a solid decorative wall(s) of at least ten feet in height shall be required when adjacent to any sensitive receptors. Sensitive receptor shall be defined as any residence including private homes, condominiums, apartments, and living quarters, schools, preschools, daycare centers, in-home daycares, health facilities such as hospitals, long term care facilities, retirement and nursing homes, prisons, and dormitories.

(2) Trees shall be used as part of the solid screen buffering treatment. Trees used for this purpose shall be evergreen, drought tolerant, minimum 36-inch box, and shall be spaced at no greater than 40-feet on center. The property owner shall maintain these trees for the duration of ownership, ensuring any unhealthy or dead trees are replaced timely as needed.

(3) If physically possible, loading docks shall be oriented away from adjacent sensitive receptors.

Signage and Traffic Patterns.

(1) Entry gates into the loading dock/truck court area shall be positioned at a minimum of 140 feet inside the property line. The stacking distance shall be increased by 70 feet for every 20 loading docks beyond 40 docks. Queuing, or circling of vehicles, on public streets immediately pre- or post-entry to an industrial commerce facility is strictly prohibited. Applicants shall submit to the Engineering Department, and obtain approval of, all turning templates to verify truck turning movements at entrance and exit driveways and street intersection adjacent to industrial buildings prior to entitlement approval. Unless not physically possible, truck entries shall be located on Collector Streets (or streets of a higher commercial classification).

(2) Anti-idling signs indicating a 3-minute idling restriction shall be posted at industrial commerce facilities along entrances to the site and in the dock areas and shall be strictly enforced by the facility operator.

(3) Facility operators shall establish and enforce a truck routing plan to and from the State Highway System based on the City's latest Truck Route Map. The plan shall describe the operational characteristics of the proposed use, including, but not limited to, hours of operations, numbers of employees, types of items to be stored within the building, and proposed truck routing to and from the facility to designated truck routes that avoids passing residential and educational uses, to the greatest

extent physically possible. The plan shall include measures, such as signage and pavement markings, queuing analysis and enforcement, for preventing truck queuing, circling, stopping, and parking on public streets. A speculative project for which no operator has been identified shall base its truck routing plan on an Institute of Transportation Engineers (11th Generation) designation of ITE Code 150.

(4) Signs and drive aisle pavement markings shall clearly identify the on-site circulation pattern to minimize unnecessary on-site vehicular travel.

(5) Facility operators shall post signs in prominent locations inside and outside of the building indicating that off-site parking for any employee or operation related vehicle is strictly prohibited.

(6) Legible, durable, weather-proof signs shall be installed at all truck exit driveways directing truck drivers to the truck route and State Highway System.

(7) Signs shall be installed in public view with contact information for a local designated representative who works for the facility operator and who is designated to receive complaints about excessive dust, fumes, or odors on this site, as well as contact information for the SCAQMD's on-line complaint system and its complaint call-line: 1-800-288-7664.

Alternative Energy.

(1) On-site motorized operational equipment shall be ZE (zero emission).

(2) All building roofs shall be solar-ready, which includes designing and constructing buildings in a manner that facilitates and optimizes the installation of a rooftop solar photovoltaic (PV) system at some point after the building has been constructed.

(3) On buildings over 400,000 square feet, rooftop solar panels shall be installed to cover at least 30% of the rooftop area or in such a manner that they will supply 100% of the power needed to operate all non-refrigerated portions of the building.

(4) Not less than 10% of all required passenger vehicle parking spaces shall be electric vehicle (EV) ready, with all necessary conduit and related appurtenances installed. Not less than 5% of all required passenger vehicle parking spaces shall be EV ready, with working charging stations installed and operational, prior to building occupancy.

(5) Unless the owner of the facility records a covenant on the title of the underlying property ensuring that the property cannot be used to provide chilled, cooled, or freezer warehouse space, a conduit shall be installed during construction of the building shell from the electrical room to 50% of the loading dock doors that have potential to serve the refrigerated space. When tenant improvement building permits are issued for any refrigerated warehouse space, electric plug-in units shall be installed at every dock door servicing the refrigerated space to allow transport refrigeration units to plug in.

(6) Bicycle racks are required per Section 30-714 and in the amount required for warehouse uses by Table 30-7124 of the Zoning and Development Code. The racks shall include electric plugs to charge electric bikes.

Operation and Construction.

(1) Cool surface treatments shall be added to drive aisles and parking areas or such areas shall be constructed with a solar-reflective cool pavement.

(2) To ensure that warehouse electrical rooms are sufficiently sized to accommodate the potential need for additional electrical panels, either a secondary electrical room shall be provided in the building, or the primary electrical room shall be sized 25% larger than is required to satisfy the service requirements of the building.

(3) Use of low VOC paints shall be required.

(4) The facility operator shall incorporate a recycling program.

(5) The following environmentally responsible practices shall be required during construction:

a. The applicant shall use reasonable best efforts, as determined by the Planning Director, to deploy the highest rated CARB Tier technology that is available at the time of construction. Prior to permit issuance, the construction contractor shall submit an equipment list confirming equipment used is compliant with the highest CARB Tier at the time of construction. Equipment proposed for use that does not meet the highest CARB Tier in effect at the time of construction, shall only be approved for use at the discretion of the Planning Director.

b. Use of electric-powered hand tools, forklifts, aerial lifts, materials lifts, hoists, pressure washers, plate compactors, and air compressors.

c. Designation of an area in any construction site where electric-powered construction vehicles and equipment can charge if the utility provider can provide temporary power for this purpose.

d. Identification in site plans of a location for future electric truck charging stations and installation of a conduit to that location.

(6) A Property Maintenance Program shall be submitted for review and approval by the Planning Director or his/her designee prior to the issuance of building permits. The program shall provide for the regular maintenance of building structures, landscaping, and paved surfaces in good physically condition, and appearance. The methods and maximum intervals for maintenance of each component shall be specified in the program.

(7) Property owner shall provide facility operator with information on incentive programs such as the Carl Moyer Program and Voucher Incentive Program and shall require all facility operators to enroll in the United States Environmental Protection Agency's SmartWay Program and to use carriers that are SmartWay carriers.

EXEMPTION EXPLANATION

The proposed City-initiated Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability requirements for industrial commerce center developments throughout the City is a project as defined by Section 15378 of the CEQA Guidelines. As required by Section 15061(b) of the CEQA Guidelines, the City evaluated the proposal to determine if the project is exempt from CEQA. A project may be exempt if any one of the following criteria is met:

(1) The project is exempt by statute (see, e.g. Article 18, commencing with Section 15260).

There are no applicable statutory exemptions that would apply to the proposed project.

(2) The project is exempt pursuant to a categorical exemption (see Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2.

Section 15307 (Class - 7 Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Class 8 - Actions by Regulatory Agencies for Protection of the Environment) concerning actions taken to maintain, restore, or enhance a natural resource, and actions taken to ensure the maintenance, restoration, enhancement, or protection of the environment, apply here as the proposed project would result in more restrictive development standards and operational requirements for industrial commerce center developments by requiring items such as: perimeter buffers comprised of walls and landscaping, additional vehicle cueing in dock area, signage, reduction of allowed idling times to three (3) minutes for trucks, truck routing plans, and additional alternative energy improvements. Alternative energy requirements include the following: ZE (zero emission) equipment, solar ready roofs, building over 400,000 square feet to install roof top solar, some passenger vehicle parking spaces shall incorporate electric charging stations, installation of conduit and electric plug-in units at dock doors to accommodate transport refrigeration units) to plug-in for refrigeration users, and bicycle racks to have electric plugs to charge bikes. For more detailed information, a comprehensive list is included in the previous section. Further no relaxation of current development requirements is proposed.

Although the installation of walls, landscaping, and solar panels, or other required sustainability features may involve minor additional activities, this work is ancillary in nature to, and will be installed with, the primary structure and other associated improvements. Also, the required sustainability measures; such as utilizing the highest rated CARB tiered technology equipment along will further reduce any potential installation impacts.

The implementation of alternative energy requirements for industrial commerce centers, as outlined in the Ordinance, will provide a renewable electric resource for development and reduce dependence on non-renewable electric resources. Further, the new regulations as they relate to signage, parking, access, and onsite/offsite circulation would lessen potential emission and vehicle impacts relating to queuing and ensure that vehicles can reach arterial streets, truck routes, and freeways efficiently by traveling as few miles as possible while avoiding residential and educational uses.

The new queuing standards would help keep trucks from backing up onto public streets, and prohibit trucks from circling in public streets, which will reduce public safety issues and improve air quality.

Finally, requiring the installation of electric vehicle charging infrastructure will encourage and enable the use of electric vehicles, reducing Green House Gas emissions. Therefore, the sustainability requirements overall would impose greater limitations on industrial commercial centers development than exist today thus serving to maintain, restore, or enhance a natural resource, and to ensure the maintenance, restoration, enhancement, or protection of the environment.

(3) The activity is covered by the common-sense exemption in CEQA Guidelines Section 15061(b)(3), which provides that CEQA applies only to projects which have the potential

for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

The proposed project Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City would overall impose greater limitations on industrial commerce center development than exist today, and will function to impose air and other environmental quality improvement measures, and standardize the requirements concerning such improvement measures as discussed in the above Section 2 discussion. This proposed Ordinance does not change building heights, floor area ratio requirements, or lighting requirements. However, it will include additional screening requirements, enhance landscaping by requiring larger trees, impose alternative energy requirements to improve environmental quality and reducing potential impacts. Further, all projects involving the construction of an industrial commerce center will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted, subject to CEQA review/documentation. Therefore, all industrial commerce center projects will be subject to CEQA, standard Conditions of Approval, and all other State/Federal/Local requirements.

(4) The project will be rejected or disapproved by a public agency.

City staff is recommending approval of the proposed project.

(5) The project is exempt pursuant to the provisions of Article 12.5 of this Chapter.

The proposed industrial commerce center sustainability standards do not include any agricultural housing, affordable house, and residential infill components.

EXCEPTIONS FOR EXEMPTIONS

In addition to investigating the applicability of CEQA Guidelines, this CEQA document also assesses whether any of the exceptions to qualifying for the categorical exemption are present. The following analysis compares the criteria of CEQA Guidelines Section 15300.2 (Exceptions) to the project.

Criterion 15300.2(a): Location: Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

The City is not recommending finding the proposed Industrial Commerce Center Suitability Standards Ordinance project exempt under Classes 3, 4, 5, 6 or 11. Therefore, the exception under criterion 15300.2(a) is not applicable.

Criterion 15300.2(b): Cumulative Impact: All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

As discussed previously, the project is for a Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City is consistent with the General Plan and does not change any of the Land Use Designation of any properties. Furthermore, the proposed project would result in more restrictive development standards and operational requirements for industrial commerce center developments by requiring items such as: perimeter buffers comprised of walls and landscaping, additional vehicle cueing in dock area, signage, reduction of allowed idling times to three (3) minutes for trucks, truck routing plans, and additional alternative energy improvements. Each of these components, individually and cumulatively does not result in the possibility of creating significant to cumulative effects on the environment. As described in the above sections, construction of any industrial commerce center buildings will be subject to discretionary planning entitlements with separate CEQA review and documentation. Therefore, the exception under CEQA Guidelines Section 15300.2 (b) does not apply to the project.

Criterion 15300.2(c): Significant Effects: A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

There are no known unusual circumstances that are applicable to the project that may result in a significant effect on the environment. The proposed project consists of Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. The project is consistent with the General Plan and furthers Action B of Goal 3 in Chapter 12 to promote renewable energy programs for government, Fontana businesses, and Fontana residences. Therefore, the exception under CEQA Guidelines Section 15300.2(c) does not apply to the project.

Criterion 15300.2(d): Scenic Highways: Scenic Highways: A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

The proposed project consists of Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. The City of Fontana does not have any properties designated as a scenic highway corridor. Therefore, the exception under CEQA Guidelines Section 15300.2(d) does not apply to the project.

Criterion 15300.2(e): Hazardous Waste Sites: Hazardous Waste Sites: A categorical exemption shall not be used for a project located on a site which is included on any list complied pursuant to Section 65962.5 of the Government Code.

The project is for a Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. As described in the above sections, all projects involving the construction of industrial commerce centers will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted and subject to a separate CEQA documentation that includes a review of Section 65962.5 of the Government Code. No project located on a site which is included on any list compiled pursuant to Section 65962.4 of the Government Code would be approved pursuant to this Municipal Code Amendment. Therefore, the exception under CEQA Guidelines Section 15300.2(e) does not apply to the project.

Criterion 15300.2(f): Historical Resources: A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resources.

Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. As described in the above sections, all projects involving the construction of industrial commerce centers will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted and subject to a separate CEQA documentation where a review of historical resources will be conducted. No project which may cause a substantial adverse change in the significance of historical resources would be approved pursuant to this Municipal Code Amendment. Therefore, the exception under CEQA Guidelines Section 15300.2(f) does not apply to the project.

NOTICE OF EXEMPTION

PTO: Clerk of the Board of Supervisors
County of San Bernardino
385 N. Arrowhead Avenue, 2nd Floor
San Bernardino, CA 92415-0130

FROM: City of Fontana
Planning Department
8353 Sierra Avenue
Fontana, CA 92335

1. Project Title: **Municipal Code Amendment (MCA) No. 21-001 to Establish Sustainability Standards to Improve Air and Environmental Quality for Warehouse (Industrial Commercial Center) Developments Throughout the City**

2. Project Location - Specific: **Citywide**

3. (a) Project Location - City: **Fontana**
   (b) Project Location - County: **San Bernardino**

4. Description of nature, purpose, and beneficiaries of Project: **Municipal Code Amendment (MCA) to amend Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and environmental quality that includes buffering and screening requirements, regulations for signage, methods to improve traffic circulation, requirements for alternative energy, and improvements to operations and construction as it relates to (warehouse) industrial commercial center developments throughout the city.**

5. Name of Public Agency approving project: **City of Fontana**

6. Name of Person or Agency carrying out project: **City of Fontana**

7. Exempt status: (Check one)
   (a) _____ Ministerial project.
   (b) _____ Not a project.
   (c) _____ Emergency Project.
   (d) __X__ Categorical Exemption. State type and class number Sections 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment) and Section No. 3.22 of the Local 2019 Guidelines for Implementing the CEQA.
   (e) _____ Declared Emergency.
   (f) _____ Statutory Exemption. State Code section number: _____
   (g) __X__ Other. Explanation: 15061(B)(3) (the common-sense exemption)

Reason why project was exempt: The Ordinance includes additional more restrictive standards for (warehouse) industrial commercial center developments to improve environmental quality and does not include the construction of any structures. All new projects involving construction of warehouses (industrial commercial centers) will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted, subject to CEQA review/documentation. Therefore, all industrial commerce center projects will be subject to CEQA, standard Conditions of Approval, and all other State/Federal/Local requirements.

8. Contact Person: Rina Leung, Senior Planner Telephone: (909) 350-6566

Date Received for Filing:

DiTanyon Johnson
Principal Planner

(Clerk Stamp Here)

ATTACHMENT NO. 3

FONTANA
CALIFORNIA

NOTICE OF PUBLIC HEARING

SI DESEA INFORMACION EN ESPAÑOL REFERENTE A ESTA NOTIFICACION O PROYECTO, FAVOR DE COMUNICARSE AL (909) 350-6728.

In compliance with Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132) and the federal rules and regulations adopted in implementation thereof, the Agenda will be made available in appropriate alternative formats to persons with a disability. Should you need special assistance to participate in this meeting, please contact the City Clerk's Department by calling (909) 350-7602. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A PUBLIC HEARING HAS BEEN SCHEDULED BEFORE THE PLANNING COMMISSION OF THE CITY OF FONTANA FOR THE FOLLOWING:

Municipal Code Amendment (MCA) No. 21-001 to Establish Sustainability Standards to Improve Air and Environmental Quality for (Warehouse) Industrial Commercial Center Developments Throughout the City

Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and environmental quality that includes buffering and screening requirements, regulations for signage, methods to improve traffic circulation, requirements for alternative energy, and improvements to operations and construction as it relates to (warehouse) industrial commercial center developments throughout the city. Planning Commission will review and forward a recommendation to the City Council for the proposed project.

Environmental Determination:	This project qualifies for a categorical exemption pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to improve the environment.
Location of Property:	Citywide
Date of Hearing:	December 21, 2021

FONTANA
CALIFORNIA

Place of Hearing: City Hall Council Chambers
8353 Sierra Avenue
Fontana, CA 92335

Time of Hearing: 6:00 pm

Should you have any questions concerning this project, please contact, **Rina Leung**, at (909) 350-6566 or rleung@fontana.org

ANY INTERESTED PARTY MAY PROVIDE INFORMATION BY LETTER OR EMAIL WHICH MAY BE OF ASSISTANCE TO THE PLANNING COMMISSION. A COPY OF THE APPLICATION AND ENVIRONMENTAL DOCUMENTATION IS AVAILABLE FOR INSPECTION. PLEASE CONTACT THE PLANNER LISTED ABOVE.

IF YOU CHALLENGE IN COURT ANY ACTION TAKEN CONCERNING A PUBLIC HEARING ITEM, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE TO THE CITY AT, OR PRIOR TO, THE PUBLIC HEARING.

Publish:
¼ Page

PH-B

Maria Torres

From: William Lee <william.lee97@yahoo.com>
Sent: Monday, December 13, 2021 7:17 PM
To: Planning
Subject: Planning Ordnance Comments-Limit Warehouses & Housing. Need environmental report & companies to pay 3 million each for infrastructure- too many cars and traffic on roads

CAUTION - EXTERNAL SENDER - THIS EMAIL ORIGINATED OUTSIDE OF THE CITY'S EMAIL SYSTEM
Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Fontana Planning Ordnance Committee Members,

I hope you are all well and take our public needs to heart before adding more warehouses! There is a need to limit the Warehouses & Housing developments as it is not adding quality jobs. We also do not more gas stations as in 10 years we are all moving towards electric. Amazon warehouses use employees with no breaks or benefits which needs to stop and by adding more warehouses you are only encouraging anti-union businesses. Look towards jobs that are careers for our citizens in renewable energy and invest in our communities! More Amazons is not the answer!

We also need environmental reports with every proposed planned build & companies to pay 3 million + each for infrastructure for new roads to accommodate the thousands upon thousands of trucks. There were already too many cars and traffic on roads which is making it so everyone else cannot commute to the quality jobs. If you want to plan something, create a 4-year university here as an higher education will help get our citizenry out of poverty and improve quality of life through social mobility. Education not jobs you cannot retire by 65 with, think smart not quick money. Thanks! My name is William Lee and I want a Fontana who cares about our future, with proposing businesses ventures that pay $40K plus benefits. Make it happen!

Sincerely,
William Lee

PH- B Municipal Code Amendment (MCA) No. 21-001 for an amendment to Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and other environmental qualities for warehouse (industrial commerce center) developments throughout the city.

Vice Chair Sangha opened the Public Hearing Item.

Rina Leung, Senior Planner presented the staff report.

The commission and staff discussed the solar power requirement for this project.

The following individuals spoke in opposition of this project:

Bill Blankenship
Amparo Muñoz
Elizabeth Sena
Ana Gonzalez

The following individual spoke in favor of this project:

Andrea De Leon

The Public Hearing was closed.

The commission discussed owner's property rights and how the Code Amendment is a good document that will serve as guidelines for future developments.

RECOMMENDATION:
Based on the information contained in this staff report, staff recommends that the Planning Commission adopt Resolution PC No. 2021-050 and forward a recommendation to the City Council to:

1. **Determine that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA; and,**

2. **Adopt an Ordinance approving Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article for "Industrial Commerce Centers Sustainability Standards" for warehouses throughout the city as shown in the Attachment No. 1 as referenced herein.**

ACTION: Motion was made by Secretary Sanchez, seconded by Commissioner Gordon, and passed unanimously by a vote of 3-0 to adopt the Resolution presented. The motion carried by the following vote:

Aye: Vice Chair Sangha, Secretary Sanchez, Commissioner Gordon

Absent: Chair Fort, Commissioner Thrasher

INDUSTRIAL COMMERCE CENTERS SUSTAINABILITY STANDARDS ORDINANCE

California Environmental Quality Act (CEQA)
Sections 15061(B)(3), 15307, and 15308
Exemption Memorandum

MCA No. 21-001

ATTACHMENT NO. 4

INTRODUCTION

The City of Fontana, the Lead Agency, is initiating a Municipal Code Amendment No. 21-001, which would amend Chapter 9 of the Municipal Code to add Article V to establish conditions, regulations, and standards to require sustainability measures for warehouse (industrial commerce center) developments throughout the city. The proposed Municipal Code Amendment is exempt from environmental review pursuant to State CEQA Guidelines Sections 15061(B)(3), 15307, and 15308, which are further described below.

PURPOSE OF NOTICE OF EXEMPTION

Article 19 of the California Environmental Quality Act (CEQA) Guidelines includes, as required by Public Resources Code Section 21084, a list of classes of projects which have been determined not to have a significant effect on the environment. This document demonstrates that the proposed project qualifies for at least three independent CEQA Exemptions. Each exemption on its own would exempt the whole of the project from environmental review.

PROPOSED PROJECT

The City initiated Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for all industrial commercial center developments throughout the city.

The proposed Ordinance for Municipal Code Amendment (MCA) No. 21-001 includes additional sustainability requirements and standards that are intended to impose air and other environmental quality improvement measures, and standardize the requirements concerning such improvement measures with regard to warehouse (industrial commercial center) developments.

All discretionary processes remain in place with regard to Administrative Site Plan and Design Review in Article II of Chapter 30 and in the applicable Specific Plans throughout the City that allows for the establishment of appropriate conditions of approval and mitigation measures.

The following is the summary of the new Article that includes sustainability measures requirements for industrial commerce center developments:

Buffering and Screening / Adjacent uses.

(1) For any Warehouse larger than 50,000, a ten-foot-wide landscaping perimeter buffer shall be required when adjacent to any sensitive receptors. The perimeter buffer area shall include, at a minimum, a solid decorative wall(s) of at least ten feet in height and solid screen buffering

trees, as described below. For any Warehouse building equal to or less than 50,000 square feet in size, a solid decorative wall(s) of at least ten feet in height shall be required when adjacent to any sensitive receptors. Sensitive receptor shall be defined as any residence including private homes, condominiums, apartments, and living quarters, schools, preschools, daycare centers, in-home daycares, health facilities such as hospitals, long term care facilities, retirement and nursing homes, prisons, and dormitories.

(2) Trees shall be used as part of the solid screen buffering treatment. Trees used for this purpose shall be evergreen, drought tolerant, minimum 36-inch box, and shall be spaced at no greater than 40-feet on center. The property owner shall maintain these trees for the duration of ownership, ensuring any unhealthy or dead trees are replaced timely as needed.

(3) If physically possible, loading docks shall be oriented away from adjacent sensitive receptors.

Signage and Traffic Patterns.

(1) Entry gates into the loading dock/truck court area shall be positioned at a minimum of 140 feet inside the property line. The stacking distance shall be increased by 70 feet for every 20 loading docks beyond 40 docks. Queuing, or circling of vehicles, on public streets immediately pre- or post-entry to an industrial commerce facility is strictly prohibited. Applicants shall submit to the Engineering Department, and obtain approval of, all turning templates to verify truck turning movements at entrance and exit driveways and street intersection adjacent to industrial buildings prior to entitlement approval. Unless not physically possible, truck entries shall be located on Collector Streets (or streets of a higher commercial classification).

(2) Anti-idling signs indicating a 3-minute idling restriction shall be posted at industrial commerce facilities along entrances to the site and in the dock areas and shall be strictly enforced by the facility operator.

(3) Facility operators shall establish and enforce a truck routing plan to and from the State Highway System based on the City's latest Truck Route Map. The plan shall describe the operational characteristics of the proposed use, including, but not limited to, hours of operations, numbers of employees, types of items to be stored within the building, and proposed truck routing to and from the facility to designated truck routes that avoids passing residential and educational uses, to the greatest

extent physically possible. The plan shall include measures, such as signage and pavement markings, queuing analysis and enforcement, for preventing truck queuing, circling, stopping, and parking on public streets. A speculative project for which no operator has been identified shall base its truck routing plan on an Institute of Transportation Engineers (11th Generation) designation of ITE Code 150.

(4) Signs and drive aisle pavement markings shall clearly identify the on-site circulation pattern to minimize unnecessary on-site vehicular travel.

(5) Facility operators shall post signs in prominent locations inside and outside of the building indicating that off-site parking for any employee or operation related vehicle is strictly prohibited.

(6) Legible, durable, weather-proof signs shall be installed at all truck exit driveways directing truck drivers to the truck route and State Highway System.

(7) Signs shall be installed in public view with contact information for a local designated representative who works for the facility operator and who is designated to receive complaints about excessive dust, fumes, or odors on this site, as well as contact information for the SCAQMD's on-line complaint system and its complaint call-line: 1-800-288-7664.

Alternative Energy.

(1) On-site motorized operational equipment shall be ZE (zero emission).

(2) All building roofs shall be solar-ready, which includes designing and constructing buildings in a manner that facilitates and optimizes the installation of a rooftop solar photovoltaic (PV) system at some point after the building has been constructed.

(3) On buildings over 400,000 square feet, rooftop solar panels shall be installed to cover at least 30% of the rooftop area or in such a manner that they will supply 100% of the power needed to operate all non-refrigerated portions of the building.

(4) Not less than 10% of all required passenger vehicle parking spaces shall be electric vehicle (EV) ready, with all necessary conduit and related appurtenances installed. Not less than 5% of all required passenger vehicle parking spaces shall be EV ready, with working charging stations installed and operational, prior to building occupancy.

(5) Unless the owner of the facility records a covenant on the title of the underlying property ensuring that the property cannot be used to provide chilled, cooled, or freezer warehouse space, a conduit shall be installed during construction of the building shell from the electrical room to 50% of the loading dock doors that have potential to serve the refrigerated space. When tenant improvement building permits are issued for any refrigerated warehouse space, electric plug-in units shall be installed at every dock door servicing the refrigerated space to allow transport refrigeration units to plug in.

(6) Bicycle racks are required per Section 30-714 and in the amount required for warehouse uses by Table 30-7124 of the Zoning and Development Code. The racks shall include electric plugs to charge electric bikes.

Operation and Construction.

(1) Cool surface treatments shall be added to drive aisles and parking areas or such areas shall be constructed with a solar-reflective cool pavement.

(2) To ensure that warehouse electrical rooms are sufficiently sized to accommodate the potential need for additional electrical panels, either a secondary electrical room shall be provided in the building, or the primary electrical room shall be sized 25% larger than is required to satisfy the service requirements of the building.

(3) Use of low VOC paints shall be required.

(4) The facility operator shall incorporate a recycling program.

(5) The following environmentally responsible practices shall be required during construction:

a. The applicant shall use reasonable best efforts, as determined by the Planning Director, to deploy the highest rated CARB Tier technology that is available at the time of construction. Prior to permit issuance, the construction contractor shall submit an equipment list confirming equipment used is compliant with the highest CARB Tier at the time of construction. Equipment proposed for use that does not meet the highest CARB Tier in effect at the time of construction, shall only be approved for use at the discretion of the Planning Director.

b. Use of electric-powered hand tools, forklifts, aerial lifts, materials lifts, hoists, pressure washers, plate compactors, and air compressors.

c. Designation of an area in any construction site where electric-powered construction vehicles and equipment can charge if the utility provider can provide temporary power for this purpose.

d. Identification in site plans of a location for future electric truck charging stations and installation of a conduit to that location.

(6) A Property Maintenance Program shall be submitted for review and approval by the Planning Director or his/her designee prior to the issuance of building permits. The program shall provide for the regular maintenance of building structures, landscaping, and paved surfaces in good physically condition, and appearance. The methods and maximum intervals for maintenance of each component shall be specified in the program.

(7) Property owner shall provide facility operator with information on incentive programs such as the Carl Moyer Program and Voucher Incentive Program and shall require all facility operators to enroll in the United States Environmental Protection Agency's SmartWay Program and to use carriers that are SmartWay carriers.

EXEMPTION EXPLANATION

The proposed City-initiated Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability requirements for industrial commerce center developments throughout the City is a project as defined by Section 15378 of the CEQA Guidelines. As required by Section 15061(b) of the CEQA Guidelines, the City evaluated the proposal to determine if the project is exempt from CEQA. A project may be exempt if any one of the following criteria is met:

(1) The project is exempt by statute (see, e.g. Article 18, commencing with Section 15260).

There are no applicable statutory exemptions that would apply to the proposed project.

(2) The project is exempt pursuant to a categorical exemption (see Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2.

Section 15307 (Class - 7 Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Class 8 - Actions by Regulatory Agencies for Protection of the Environment) concerning actions taken to maintain, restore, or enhance a natural resource, and actions taken to ensure the maintenance, restoration, enhancement, or protection of the environment, apply here as the proposed project would result in more restrictive development standards and operational requirements for industrial commerce center developments by requiring items such as: perimeter buffers comprised of walls and landscaping, additional vehicle cueing in dock area, signage, reduction of allowed idling times to three (3) minutes for trucks, truck routing plans, and additional alternative energy improvements. Alternative energy requirements include the following: ZE (zero emission) equipment, solar ready roofs, building over 400,000 square feet to install roof top solar, some passenger vehicle parking spaces shall incorporate electric charging stations, installation of conduit and electric plug-in units at dock doors to accommodate transport refrigeration units) to plug-in for refrigeration users, and bicycle racks to have electric plugs to charge bikes. For more detailed information, a comprehensive list is included in the previous section. Further no relaxation of current development requirements is proposed.

Although the installation of walls, landscaping, and solar panels, or other required sustainability features may involve minor additional activities, this work is ancillary in nature to, and will be installed with, the primary structure and other associated improvements. Also, the required sustainability measures; such as utilizing the highest rated CARB tiered technology equipment along will further reduce any potential installation impacts.

The implementation of alternative energy requirements for industrial commerce centers, as outlined in the Ordinance, will provide a renewable electric resource for development and reduce dependence on non-renewable electric resources. Further, the new regulations as they relate to signage, parking, access, and onsite/offsite circulation would lessen potential emission and vehicle impacts relating to queuing and ensure that vehicles can reach arterial streets, truck routes, and freeways efficiently by traveling as few miles as possible while avoiding residential and educational uses.

The new queuing standards would help keep trucks from backing up onto public streets, and prohibit trucks from circling in public streets, which will reduce public safety issues and improve air quality.

Finally, requiring the installation of electric vehicle charging infrastructure will encourage and enable the use of electric vehicles, reducing Green House Gas emissions. Therefore, the sustainability requirements overall would impose greater limitations on industrial commercial centers development than exist today thus serving to maintain, restore, or enhance a natural resource, and to ensure the maintenance, restoration, enhancement, or protection of the environment.

(3) The activity is covered by the common-sense exemption in CEQA Guidelines Section 15061(b)(3), which provides that CEQA applies only to projects which have the potential

for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

The proposed project Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City would overall impose greater limitations on industrial commerce center development than exist today, and will function to impose air and other environmental quality improvement measures, and standardize the requirements concerning such improvement measures as discussed in the above Section 2 discussion. This proposed Ordinance does not change building heights, floor area ratio requirements, or lighting requirements. However, it will include additional screening requirements, enhance landscaping by requiring larger trees, impose alternative energy requirements to improve environmental quality and reducing potential impacts. Further, all projects involving the construction of an industrial commerce center will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted, subject to CEQA review/documentation. Therefore, all industrial commerce center projects will be subject to CEQA, standard Conditions of Approval, and all other State/Federal/Local requirements.

(4) The project will be rejected or disapproved by a public agency.

City staff is recommending approval of the proposed project.

(5) The project is exempt pursuant to the provisions of Article 12.5 of this Chapter.

The proposed industrial commerce center sustainability standards do not include any agricultural housing, affordable house, and residential infill components.

EXCEPTIONS FOR EXEMPTIONS

In addition to investigating the applicability of CEQA Guidelines, this CEQA document also assesses whether any of the exceptions to qualifying for the categorical exemption are present. The following analysis compares the criteria of CEQA Guidelines Section 15300.2 (Exceptions) to the project.

Criterion 15300.2(a): Location: Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

The City is not recommending finding the proposed Industrial Commerce Center Suitability Standards Ordinance project exempt under Classes 3, 4, 5, 6 or 11. Therefore, the exception under criterion 15300.2(a) is not applicable.

Criterion 15300.2(b): Cumulative Impact: All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

As discussed previously, the project is for a Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City is consistent with the General Plan and does not change any of the Land Use Designation of any properties. Furthermore, the proposed project would result in more restrictive development standards and operational requirements for industrial commerce center developments by requiring items such as: perimeter buffers comprised of walls and landscaping, additional vehicle cueing in dock area, signage, reduction of allowed idling times to three (3) minutes for trucks, truck routing plans, and additional alternative energy improvements. Each of these components, individually and cumulatively does not result in the possibility of creating significant to cumulative effects on the environment. As described in the above sections, construction of any industrial commerce center buildings will be subject to discretionary planning entitlements with separate CEQA review and documentation. Therefore, the exception under CEQA Guidelines Section 15300.2 (b) does not apply to the project.

Criterion 15300.2(c): Significant Effects: A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

There are no known unusual circumstances that are applicable to the project that may result in a significant effect on the environment. The proposed project consists of Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. The project is consistent with the General Plan and furthers Action B of Goal 3 in Chapter 12 to promote renewable energy programs for government, Fontana businesses, and Fontana residences. Therefore, the exception under CEQA Guidelines Section 15300.2(c) does not apply to the project.

Criterion 15300.2(d): Scenic Highways: Scenic Highways: A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

The proposed project consists of Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. The City of Fontana does not have any properties designated as a scenic highway corridor. Therefore, the exception under CEQA Guidelines Section 15300.2(d) does not apply to the project.

Criterion 15300.2(e): Hazardous Waste Sites: Hazardous Waste Sites: A categorical exemption shall not be used for a project located on a site which is included on any list complied pursuant to Section 65962.5 of the Government Code.

The project is for a Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. As described in the above sections, all projects involving the construction of industrial commerce centers will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted and subject to a separate CEQA documentation that includes a review of Section 65962.5 of the Government Code. No project located on a site which is included on any list compiled pursuant to Section 65962.4 of the Government Code would be approved pursuant to this Municipal Code Amendment. Therefore, the exception under CEQA Guidelines Section 15300.2(e) does not apply to the project.

Criterion 15300.2(f): Historical Resources: A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resources.

Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 (Environmental Protection and Resource Extraction) of the Municipal Code to add a new Article to establish sustainability measures requirements for industrial commerce centers developments throughout the City. As described in the above sections, all projects involving the construction of industrial commerce centers will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted and subject to a separate CEQA documentation where a review of historical resources will be conducted. No project which may cause a substantial adverse change in the significance of historical resources would be approved pursuant to this Municipal Code Amendment. Therefore, the exception under CEQA Guidelines Section 15300.2(f) does not apply to the project.

NOTICE OF EXEMPTION

PTO: Clerk of the Board of Supervisors
County of San Bernardino
385 N. Arrowhead Avenue, 2nd Floor
San Bernardino, CA 92415-0130

FROM: City of Fontana
Planning Department
8353 Sierra Avenue
Fontana, CA 92335

1. Project Title: **Municipal Code Amendment (MCA) No. 21-001 to Establish Sustainability Standards to Improve Air and Environmental Quality for Warehouse (Industrial Commercial Center) Developments Throughout the City**

2. Project Location - Specific: **Citywide**

3. (a) Project Location - City: **Fontana**
   (b) Project Location - County: **San Bernardino**

4. Description of nature, purpose, and beneficiaries of Project: **Municipal Code Amendment (MCA) to amend Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and environmental quality that includes buffering and screening requirements, regulations for signage, methods to improve traffic circulation, requirements for alternative energy, and improvements to operations and construction as it relates to (warehouse) industrial commercial center developments throughout the city.**

5. Name of Public Agency approving project: **City of Fontana**

6. Name of Person or Agency carrying out project: **City of Fontana**

7. Exempt status: (Check one)
   (a) _____ Ministerial project.
   (b) _____ Not a project.
   (c) _____ Emergency Project.
   (d) __X__ Categorical Exemption. State type and class number Sections 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment) and Section No. 3.22 of the Local 2019 Guidelines for Implementing the CEQA.
   (e) _____ Declared Emergency.
   (f) _____ Statutory Exemption. State Code section number: _____
   (g) __X__ Other. Explanation: ___15061(B)(3) (the common-sense exemption)_____

Reason why project was exempt: The Ordinance includes additional more restrictive standards for (warehouse) industrial commercial center developments to improve environmental quality and does not include the construction of any structures. All new projects involving construction of warehouses (industrial commercial centers) will continue to be subject to an Administrative Site Plan/Design Review, where a project-specific analysis based on location and project details will be conducted, subject to CEQA review/documentation. Therefore, all industrial commerce center projects will be subject to CEQA, standard Conditions of Approval, and all other State/Federal/Local requirements.

8. Contact Person: Rina Leung, Senior Planner Telephone: (909) 350-6566

Date Received for Filing:

_____
DiTanyon Johnson
Principal Planner

(Clerk Stamp Here)

ATTACHMENT NO. 5

FONTANA
CALIFORNIA

NOTICE OF PUBLIC HEARING

SI DESEA INFORMACION EN ESPAÑOL REFERENTE A ESTA NOTIFICACION O PROYECTO, FAVOR DE COMUNICARSE AL (909) 350-6728.

In compliance with Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132) and the federal rules and regulations adopted in implementation thereof, the Agenda will be made available in appropriate alternative formats to persons with a disability. Should you need special assistance to participate in this meeting, please contact the City Clerk's Department by calling (909) 350-7602. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A PUBLIC HEARING HAS BEEN SCHEDULED BEFORE THE CITY COUNCIL OF THE CITY OF FONTANA FOR THE FOLLOWING:

Municipal Code Amendment (MCA) No. 21-001 to Establish Sustainability Standards to Improve Air and Environmental Quality for (Warehouse) Industrial Commercial Center Developments Throughout the City

Municipal Code Amendment (MCA) No. 21-001 to amend Chapter 9 of the Municipal Code to add Article V to establish sustainability standards to improve air and environmental quality that includes buffering and screening requirements, regulations for signage, methods to improve traffic circulation, requirements for alternative energy, and improvements to operations and construction as it relates to (warehouse) industrial commercial center developments throughout the city.

Environmental Determination:	This project qualifies for a categorical exemption pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(B)(3) (the common-sense exemption) and, alternatively, pursuant to CEQA Guidelines Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of the Environment), and Section No. 3.22 of the 2019 Local Guidelines for Implementing CEQA, as implementation of this Ordinance is to improve the environment.
Location of Property:	Citywide
Date of Hearing:	January 25, 2022

FONTANA
CALIFORNIA

Place of Hearing: City Hall Council Chambers
8353 Sierra Avenue
Fontana, CA 92335

Time of Hearing: 7:00 pm

Should you have any questions concerning this project, please contact**, Rina Leung**, at (909) 350-6566 or rleung@fontana.org

ANY INTERESTED PARTY MAY PROVIDE INFORMATION BY LETTER OR EMAIL WHICH MAY BE OF ASSISTANCE TO THE CITY COUNCIL. A COPY OF THE ENVIRONMENTAL DOCUMENTATION IS AVAILABLE FOR INSPECTION. PLEASE CONTACT THE PLANNER LISTED ABOVE.

IF YOU CHALLENGE IN COURT ANY ACTION TAKEN CONCERNING A PUBLIC HEARING ITEM, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE TO THE CITY AT, OR PRIOR TO, THE PUBLIC HEARING.

Publish:
¼ Page

File #: 21-1113
Agenda #: B.

Agenda Date: 1/25/2022
Category: Public Hearing

FROM:
Planning Department

SUBJECT: MCN. No. 21-032, ZCA No. 21-001, DA No. 21-003, TPM No. 20370 (TPM No. 21-006) CUP No. 21-004, CUP No. 21-005, CUP 21-006, DRP No. 21-010, DRS No. 21-018 for the Proposed Development of a New Commercial Shopping Center with an Anchor Grocery Store consisting of an Anchor Building and Various Outlying Building Pads Totaling Approximately 53,740 Square Feet of Building(s)

RECOMMENDATION:

1. Read by title only and waive further reading of and introduce **Ordinance No. ___**, an Ordinance of the City Council of the City of Fontana, approving Zone Change No. 21-001 for text and figure changes that include changing Planning Area 1 to Planning Area 3 within the Auto Overlay of the Zoning and Development Code on approximately 6.20 adjusted gross acres (APN: 0240-011-03, -05, -06, -35, -38, -41, -42, and -44), and amending Section 6403(a) to allow for a grocery store use, and the reading of the title constitutes the first thereof.

2. Read by title only and waive further reading of and introduce **Ordinance No. ____,** an Ordinance of the City Council of the City of Fontana approving Development Agreement No. 21-003, between the City of Fontana and Sage Citrus Fontana, LLC which provides a public benefit fee in the amount of $376,180.00 dollars and the reading of the title constitutes the first reading thereof.

2. Adopt **Resolution No. 2022-___** a Resolution of the City Council of the City of Fontana, adopting the initial study and Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) pursuant to Section 15070 of the California Environmental Quality Act (CEQA) and Section 6.16 of the 2019 Local Guidelines for Implementing CEQA, approving Tentative Parcel Map No. 20370 (TPM No. 21-006) for consolidation of eight (8) parcels into five (5) parcels, approving Conditional Use Permit No. 21-004 for a Type 21 ABC license, approving Conditional Use Permit No. 21-005 and CUP No. 21-006 for drive-thru establishments, approving Design Review No. 21-010 for site and architectural review of a commercial shopping center with a grocery store and five (5) additional pads for a total building square footage of approximately 53,740 square feet and approving Design Review Sign No. 21-018 for a sign program to the Auto Center Overlay District on a 6.20 adjusted gross acre project site (APN: 0240-011-38, -41, -03, -05, -42, -06, -35 and -44) subject to the findings and conditions of approval.

COUNCIL GOALS:

- To create a team by working together to provide stability and consistent policy direction.
- To create a team by ensuring commissions work within clear guidelines to achieve Council goals.
- To promote economic development by concentrating on job creation.
- To promote economic development by striving to constantly improve the city's competitiveness.

DISCUSSION:

This item was heard by the Planning Commission at the duly noticed public hearing on December 7th, 2021. After opening the public hearing on this item, the Planning Commission received a project report from staff and testimony from the applicant Ralph Tepish, and interested parties in the general public. The applicant spoke in favor of the project and requested support of the Planning Commission, one person from the public spoke in opposition to the project, and one person from the public spoke in favor of the project. The public hearing was closed and there was further discussion by the Planning Commission. The Planning Commission voted (4 - 1) to: Adopt Resolution PC No. 2021-048 thereby forwarding a recommendation to the City Council to adopt a resolution to; adopt a Mitigated Negative Declaration and a Mitigation Monitoring Program and direct staff to file a Notice of Determination; Adopt an ordinance approving Zoning Code Amendment No. 21-001 and Development Agreement No. 21-003, and adopt a resolution approving Tentative Parcel Map No. 20370 (TPM No. 21-006), approving Conditional Use Permit No. 21-004, approving Conditional Use Permit No. 21-005, approving Conditional Use Permit No. 21-006, approving Design Review No. 21-010 and approving a Design Review for a Sign Program (DRS No. 21-018).

I. BACKGROUND INFORMATION:

A. Land Use Designations:

	General Plan	Zoning /Overlay	Existing Land Use
Site:	General Commercial (C-G)	General Commercial (C-2) / Planning Area 1 of the Auto Center Overlay	Vacant
North:	Interstate 210 Freeway	Interstate 210 Freeway	Freeway
South:	General Commercial (C-G)	General Commercial (C-2) / Planning Area 3 of the Auto Center Overlay	Existing service station/vacant
East:	General Commercial (C-G)	General Commercial (C-2) / Planning Area 1 of the Auto Center Overlay	Existing auto dealership
West:	General Commercial (C-G)	General Commercial (C-2)	Vacant

II. PROJECT DESCRIPTION:

A. Site Area:	Approximately 6.20 adjusted gross acres		
B. FAR Ratio:			
	Maximum allowed:	50 percent (maximum coverage)	
	Provided:	19.7 percent	
C. Building/Unit Analysis:			
Grocery Store	Approximately	40,100	square feet
Commercial Center:	Approximately	13,640	square feet
Total Area:	Approximately	53,740	square feet
D. Parking Analysis:			
Vehicle Spaces	Required:	266 spaces	
	Provided:	268 spaces	
E. Landscaping:			
Minimum Required:	15 percent		
Proposed:	15.9 percent		

III. ANALYSIS:

The applicant, Sage Investco, has submitted applications for the proposed development of a new commercial shopping center with an anchor grocery store on an approximately 6.2 adjusted gross acre site. The site has a General Commercial land use designation on both the General Plan Land Use Map and Zoning District Map and is located within Planning Area 1 of the Auto Center Overlay district. The site is located on the northeast corner of Citrus Avenue and South Highland Avenue. The project, as proposed, will require the following approvals: Zoning Code Amendment to amend the Planning Area for the site from Planning Area 1 to Planning Area 3 of the Auto Center Overlay, a Tentative Parcel Map to consolidate eight (8) lots into one (1), a Development Agreement between the City of Fontana and the applicant, one (1) Conditional Use Permit for a Type 21 ABC License for the 40,100 square foot anchor tenant, two (2) Conditional Use Permits for the proposed drive-thru establishments, a Design Review for site and architectural review of the total site, and a Design Review Sign application for a sign program encompassing the project site.

Zoning Code Amendment No. 21-001:

The project site is zoned General Commercial (C-2) within Planning Area 1 of the Auto Center Overlay District. Standards for the Auto Center Overlay are listed in Section 30-636 (Purpose and Intent) of Division 5 (Auto Center Overlay District) of the Fontana Zoning and Development Code. The Auto Center Overlay District is intended to reserve

certain specified properties for certain types of uses within each of the four planning areas.

The applicant is proposing to amend the Auto Center Overlay from the existing Planning Area 1 (reserved primarily for automobile retail sales, service, and related uses) to Planning Area 3 which permits for additional commercial uses such as drive thru restaurants and other supporting uses. All automobile related uses, including car sales dealerships, will continue to be permitted in Planning Area 3. The applicant is also requesting to amend Section 6403(a) to allow for a grocery store use.

City Council approval of a Zoning and Development Code Amendment (Amendment) is required for this proposal. Specifically, this will require an amendment to, Figure 1 (Auto Center Overlay District Planning Area Boundaries Map) Section 30-639 of the Fontana Zoning and Development Code. If approved, Figure 1 will be amended to extend the boundary of Planning Area 3 to encompass the project site as shown in Attachment No. 6 and Section 6403(a) will be amended to allow for a grocery store use. Drive thru fast food restaurants are permitted with a Conditional Use Permit (CUP) application in Planning Area 3 of the Auto Overlay District. Additional proposed commercial retail uses are also permitted in PA3 either by right or with approval of a CUP application.

The General Plan land use designation of General Commercial (C-G) for the site allows for the development of retail, malls, wholesale, auto dealerships and offices that can serve the regional population. Therefore, Planning Area 3 will be consistent with the site.

Development Agreement No. 21-003:

A development agreement has been submitted for consideration by the City Council. As part of the overall project, staff and the Developer have worked together on an agreement with deal points that will provide for a public benefit for the City and residents.

Tentative Parcel Map No. 20370:

Tentative Parcel Map No. 20370 is a request to consolidate eight (8) parcels into one (1) parcel totaling approximately 6.20 adjusted gross acres for the purpose of developing a commercial shopping center. The lot, as proposed, will comply with all standards of the City's Municipal Code including Chapter 26 (Subdivisions) and Chapter 30 (Zoning and Development Code). Three (3) proposed points of access are proposed along South Highland Avenue.

Conditional Use Permit No. 21-004:

The applicant has submitted an application for a Type 21 (Off-Sale General) ABC license for the proposed 40,100 square foot anchor grocery store. The ABC License authorizes the sale of beer, wine and distilled spirits for consumption of alcohol off the licensed premises where sold.

The subject site is located within Census Tract No. 23.01 and is bounded by Sierra Avenue to the east, Miller Avenue to the south, Citrus to the west and the 210 Freeway to the north. This area encompasses approximately 2.5 square miles of area. If approved, the proposed market within the Citrus Crossroads center will be the only off sales full service grocery store within the immediate vicinity of the project site. Therefore, staff supports the approval of the Conditional Use Permit to sell alcohol for offsite consumption. The appropriate findings were made.

Conditional Use Permit No. 21-005 and -006:

Drive-thru establishments are a conditionally permitted use within Planning Area 3 of the Auto Center Overlay. As proposed, the development will have two (2) drive-thru restaurants, anticipated as one (1) for a fast-food restaurant and a second for a proposed coffee shop with drive-thru services. The drive-thru services have been reviewed and meet the development standards as required in the Zoning and Development Code for parking, drive-thru stacking, driveway width, and all other standards as required by the Zoning and Development Code. Given the proximity to the freeway and well-designed site layout, the drive-thrus, if approved, will function correctly and will be successful uses.

Design Review No. 21-010:

As previously mentioned, the applicant is proposing a commercial shopping center called the "Citrus Crossroads" shopping center. If approved, the shopping center would have a total building square footage of approximately 53,354 square feet. The applicant has worked diligently with staff to incorporate site details that will beautify and enhance the overall aesthetics of the site. Some of the features include a modern architectural theme for the center, patios and drive entries, porte cocheres for the drive thru restaurants, a unique and well-designed water feature that will enhance the corner statement of Citrus Avenue and South Highland Avenue, additional landscaping, building lighting and signage that would provide a sense of place and act as a landmark for the prominent corner. The signage, as presented, is conceptual in nature and will require a Design Review Sign application for each building or suite.

The modern architecture theme selected for the shopping center is appropriate for the area and is consistent with surrounding uses, the design guidelines in the Development Code and more specifically the Auto Center Overlay. In addition, the proposed project is consistent with the goals and policies of the General Plan and applicable provisions of the zoning district, including Goal 5.3, Policy 5: (Community Design Element) stating that buildings "shall incorporate distinct and varied architectural details through varied rooflines, and detailed façade treatments". Design characteristics include decorative cornices, wall sconces, veneer, stucco wall surface and decorative awnings.

Design Review Sign No. 21-018:

The applicant has proposed an amendment to the sign provision listed in the Overlay District under Section 644(3)a to permit the additional sign types listed under separate cover to identify and the project and businesses with the center. The proposed signs are designed to be compatible with a shopping center. The applicant has proposed one (1) freeway pylon sign, two (2) multi-tenant monument signs, one enhanced (1) corner statement which includes water features, and on-site directional signage. The signs are of a modern architectural theme that will enhance the overall contemporary look of the shopping center.

Environmental:

Pursuant to Section 15070 of the California Environmental Quality Act (CEQA) Guidelines and Section 6.04 of the City of Fontana's 2019 Local Guidelines for Implementing CEQA, an Initial Study (IS) has been prepared for this project pursuant to the California Environmental Quality Act (CEQA). Based on the information in the IS, no significant impact is anticipated as a result of project implementation, with mitigation incorporated, and a Mitigated Negative Declaration has been prepared for the City Council's consideration.

ATTACHMENTS:

1. Vicinity Map
2. Site Plan
3. PC Packet dated December 7th, 2021, and Minutes
4. City Council Ordinance for ZCA No. 21-001
5. City Council Ordinance for DA No. 21-003

6. City Council Resolution for Tentative Parcel Map No. 20370 (TPM No. 21-006), Conditional Use Permit No. 21-004, Conditional Use Permit No. 21-005, Conditional Use Permit No. 21-006, Design Review No. 21-010 and Design Review for a Sign Program (DRS No. 21-018).
7. Public Hearing Notice

UNDER SEPARATE COVER:

1. Reduced color plans
2. Initial Study (Environmental Checklist), Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program
3. Development Agreement
4. Proposed Sign Criteria for Planning Area 3

FISCAL IMPACT:
None

MOTION:
Approve staff recommendation

CITY OF FONTANA PLANNING DEPARTMENT

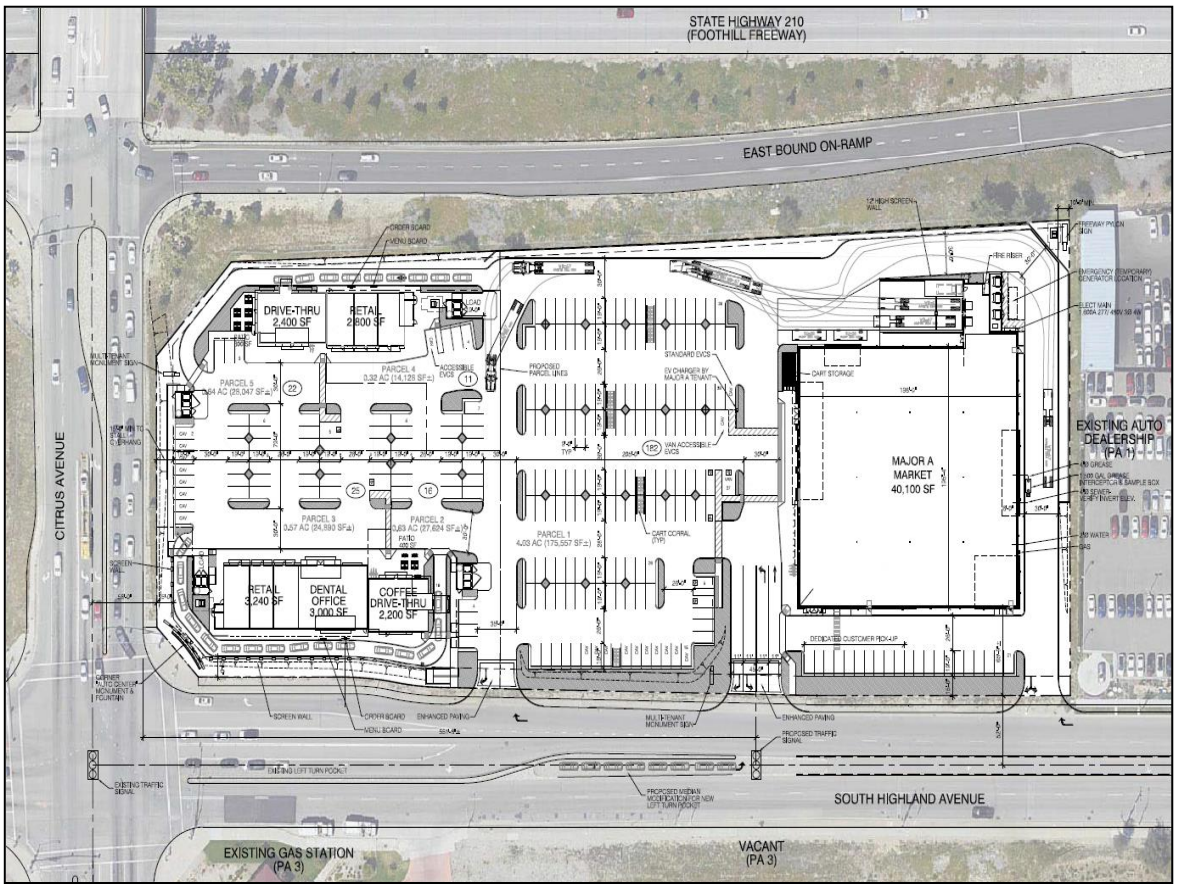
VICINITY MAP

Date: January 25, 2022

CASE: Master Case No. 21-032

ATTACHMENT NO. 1

CITY OF FONTANA PLANNING DEPARTMENT



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SITE PLAN

Date: January 25, 2022

CASE: Master Case No. 21-032

ATTACHMENT NO. 2

File #: 21-1051
Agenda #: PH-E

Agenda Date: 12/7/2021
Category: Public Hearing

FROM:
Planning

TITLE:
Master Case No. 21-032; Zone Code Amendment No. 21-001; Development Agreement No. 21-003; Tentative Parcel Map No. 20370 (TPM No. 21-006); Conditional Use Permit No. 21-004; Conditional Use Permit No. 21-005; Conditional Use Permit No. 21-006;
Design Review Project No. 21-010; and Design Review Sign No. 21-018 - To review the proposed development of a new commercial shopping center with an anchor grocery store on an approximately 6.2 adjusted gross acre site located within Planning Area 1 of the Auto Center Overlay.

RECOMMENDATION:
Based on the information in the staff report and subject to the attached Findings and Conditions of Approval, staff recommends that the Planning Commission adopt Resolution PC No. 2021-___; and, forward a recommendation to the City Council to:

1. Adopt the Mitigated Negative Declaration and Mitigation Monitoring Program (MMRP) and direct staff to file a Notice of Determination; and,
2. Adopt an ordinance approving Zoning Code Amendment No. 21-001; and,
3. Adopt an ordinance approving Development Agreement No. 21-003; and,
4. Adopt a resolution approving Tentative Parcel Map No. 20370 (TPM No. 21-006), approving Conditional Use Permit No. 21-004, approving Conditional Use Permit No. 21-005, approving Conditional Use Permit No. 21-006, approving Design Review No. 21-010 and approving Sign Program (DRS No. 21-018).

APPLICANT:
Sage Investco
4340 Von Karman Avenue, Suite 110
Newport Beach, CA 92660

LOCATION:
The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, -35 and -44).

REQUEST:
A request to recommend approval to the City Council for:

1. Zone Change Amendment (ZCA) No. 21-001 is a proposal to amend text and boundaries within the Auto Center Overlay.

2. Development Agreement (AGR) No. 21-003 is a proposal for a developer agreement between the Applicant and the City of Fontana.
3. Tentative Parcel Map (TPM) No. 20370 is a proposal to consolidate eight (8) parcels into one (1) parcel.
4. Conditional Use Permit (CUP) No. 21-004 is a proposal for a Type-21 ABC License to authorize the sale of beer, wine and distilled spirits for consumption off the premises where sold for to the 40,100 square foot anchor grocery store.
5. Conditional Use Permit (CUP) No. 21-005 is a proposal to develop a 2,400 square foot drive-thru establishment for food services.
6. Conditional Use Permit (CUP) No. 21-006 is a proposal to develop a 2,200 square foot coffee shop with drive-thru services.
7. Design Review Project (DRP) No. 21-010 is a proposal for site and architectural review of a commercial shopping center to include a grocery store of approximately 40,100 square feet, a future drive-thru restaurant of approximately 2,400 square feet, a coffee shop with drive-thru services of approximately 2,200 square feet and three (3) additional pads for future retail development totaling approximately 13,640 square feet.
8. Design Review Sign (DRS) No. 21-018 is a proposal to amend the sign program to the Auto Center Overlay within Planning Area 3.

PROJECT PLANNER:
Paul Gonzales, Senior Planner

I. BACKGROUND INFORMATION:

Land Use Designations:

	General Plan	Zoning /Overlay	Existing Land Use
Site:	General Commercial (C-G)	General Commercial (C-2) / Planning Area 1 of the Auto Center Overlay	Vacant
North:	Interstate 210 Freeway	Interstate 210 Freeway	Freeway
South:	General Commercial (C-G)	General Commercial (C-2) / Planning Area 3 of the Auto Center Overlay	Existing service station/vacant
East:	General Commercial (C-G)	General Commercial (C-2) / Planning Area 1 of the Auto Center Overlay	Existing auto dealership
West:	General Commercial (C-G)	General Commercial (C-2)	Vacant

II. PROJECT DESCRIPTION:

A. Site Area:
Approximately 6.20 adjusted gross acres

B. FAR Ratio:
Maximum Allowed: 50 percent (maximum coverage)
Provided: 19.7 percent

C. Building/Unit Analysis:
Grocery Store: Approximately 40,100 square feet
Commercial Center: Approximately 13,640 square feet
Total Area: Approximately 53,740 square feet

D. Parking Analysis:
Vehicle Spaces:
Required: 266 spaces
Provided: 268 spaces

E. Landscaping:
Minimum Required: 15 percent
Proposed: 15.9 percent

III. ANALYSIS:

The applicant, Sage Investco, has submitted applications for the proposed development of a new commercial shopping center with an anchor grocery store on an approximately 6.2 adjusted gross acre site located within Planning Area 1 of the Auto Center Overlay. The site has a General Commercial land use designation for both the General Plan Land Use Map and Zoning District Map. The site is located on the northeast corner of Citrus Avenue and South Highland Avenue. The project, as proposed, will require the following approvals: Zoning Code Amendment to amend the Planning Area for the site from Planning Area 1 to Planning Area 3 of the Auto Center Overlay, a Tentative Parcel Map to consolidate eight (8) lots into one (1), a Development Agreement between the City of Fontana and the applicant, one (1) Conditional Use Permit for a Type 21 ABC License for the 40,100 square foot anchor tenant, two (2) Conditional Use Permits for the proposed drive-thru establishments, a Design Review for site and architectural review of the total site, and a Design Review Sign application for a sign program encompassing the project site.

Zoning Code Amendment No. 21-001:
The project site is zoned General Commercial (C-2) within Planning Area 1 of the Auto Center Overlay District. Standards for the Auto Center Overlay are listed in Section 30-636 (Purpose and Intent) of Division 5 (Auto Center Overlay District) of the Fontana Zoning and Development Code. The Auto Center Overlay District is intended to reserve certain specified properties for certain types of uses within the four planning areas.

The applicant is proposing to amend the Auto Center Overlay from the existing Planning Area 1 (reserved primarily for automobile retail sales, service, and related uses) to Planning Area 3 which permits for additional commercial uses such as drive thru restaurants and other supporting uses. All automobile related uses, including car sales dealerships, will continue to be permitted in Planning Area 3. The applicant is also requesting to amend Section 6403(a) to allow for a grocery store use.

City approval of a Zoning and Development Code Amendment (Amendment) is required for this proposal. Specifically, this will require an amendment to, Figure 1 (Auto Center Overlay District Planning Area Boundaries Map) Section 30-639 of the Fontana Zoning and Development Code. If approved, Figure 1 will be amended to extend the boundary of Planning Area 3 to encompass the project site as shown in Attachment No. 6. Drive thru fast-food restaurants are permitted with a Conditional Use Permit (CUP) application in Planning Area 3 of the Auto Overlay District. Additional proposed commercial retail uses are also permitted in PA3 either by right or with approval of a CUP application.
The General Plan land use designation of General Commercial (C-G) for the site allows for the development of retail, malls, wholesale, auto dealerships and offices that can serve the regional population. Therefore, Planning Area 3 will be consistent with the site.

Development Agreement No. 21-003:
A development agreement has been submitted for consideration by the City. As part of the overall project, staff and the Developer have worked together on an agreement with deal points that will provide for a public benefit for the City and residents.

Tentative Parcel Map No. 20370:
Tentative Parcel Map No. 20370 is a request to consolidate eight (8) parcels into one (1) parcel totaling approximately 6.20 adjusted gross acres for the purpose of developing a commercial shopping center. The lot, as proposed, will comply with all standards of the City's Municipal Code including Chapter 26 (Subdivisions) and Chapter 30 (Zoning and Development Code). Three (3) proposed points of access are proposed along South Highland Avenue.

Conditional Use Permit No. 21-004:
The applicant has submitted an application for a Type 21 (Off-Sale General) ABC license for the proposed 40,100 square foot anchor grocery store. The ABC License authorizes the sale of beer, wine and distilled spirits for consumption of alcohol off the licensed premises where sold.

Census Tract No: The subject site is located within Census Tract No. 23.01 and is bounded by Sierra Avenue to the east, Miller Avenue to the south, Citrus Avenue to the west and the 210 Freeway to the north. This area encompasses approximately 2.5 square miles of area. If approved, the proposed market within the Citrus Crossroads center will be the only off sales full service grocery store within the immediate vicinity of the project site. Therefore, staff supports the approval of the Conditional Use Permit to sell alcohol for offsite consumption. The appropriate findings were made (Attachment No. 7).

Conditional Use Permit No. 21-005 and -006:
Drive-thru establishments are a conditionally permitted use within Planning Area 3 of the Auto Center Overlay. As proposed, the development will have two (2) drive-thru restaurants: one (1) for a fast-food restaurant and a second for a proposed coffee shop with drive-thru services. The drive-thru services have been reviewed and meet the development standards as required in the Zoning and Development Code for parking, drive-thru stacking, driveway width, and all other standards as required by the Zoning and Development Code. Given the proximity to the freeway and well designed site layout, the drive-thrus, if approved, will function correctly.

Design Review No. 21-010:

As previously mentioned the applicant is proposing a commercial shopping center called the "Citrus Crossroads" shopping center. If approved, the shopping center would have a total building square footage of approximately 53,354 square feet. The applicant has worked diligently with staff to incorporate site details that will beautify and enhance the overall aesthetics of the site. Some of the features include a modern architectural theme for the center, patios and drive entries, porte cochere's for the drive thru restaurants, a unique and well-designed water feature that will enhance the corner statement of Citrus Avenue and South Highland Avenue, additional landscaping, building lighting and signage that would give the sense of place and act as a landmark for the prominent corner. The signage, as presented, is conceptual in nature and will require a Design Review Sign application for each building or suite.

The modern architecture theme selected for the shopping center is appropriate for the area and is consistent with surrounding uses, the design guidelines in the Development Code and more specifically the Auto Center Overlay. In addition, the proposed project is consistent with the goals and policies of the General Plan and applicable provisions of the zoning district, including Goal 5.3, Policy 5: (Community Design Element) stating that buildings "shall incorporate distinct and varied architectural details through varied rooflines, and detailed façade treatments". Design characteristics include decorative cornices, wall sconces, veneer, stucco wall surface and decorative awnings.

Design Review Sign No. 21-018:

The applicant has proposed an amendment to the sign provision listed in the Overlay District under Section 644(3)a to permit the additional sign types listed under separate cover to identify and the project and businesses with the center. The proposed signs sere designed to be compatible with a shopping center. The applicant has proposed one (1) freeway pylon sign, two (2) multi-tenant monument signs, one enhanced (1) corner statement which includes water features, and on-site directional signage. The signs are of a modern architectural theme that will enhance the overall contemporary look of the shopping center.

Environmental:

Pursuant to Section 15070 of the California Environmental Quality Act (CEQA) Guidelines and Section 6.04 of the City of Fontana's 2019 Local Guidelines for Implementing CEQA, an Initial Study (IS) has been prepared for this project pursuant to the California Environmental Quality Act (CEQA). Based on the information in the IS, no significant impact is anticipated as a result of project implementation, with mitigation incorporated, and a Mitigated Negative Declaration has been prepared for the Planning Commission's consideration.

MOTION:

Approve staff's recommendation

ATTACHMENTS:

1. Vicinity Map
2. Site Plan
3. Tentative Parcel Map
4. Elevations
5. Elevations

6. Renderings
7. ABC Census Tract 23.01
8. Planning Commission Resolution, Findings and Conditions of Approval
9. Notice of Public Hearing
10. Notice of Determination

UNDER SEPARATE COVER:

1. Reduced color plans
2. Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program
3. Development Agreement
4. Auto Center Overlay Amendments
5. Proposed Sign Criteria for Planning Area 3

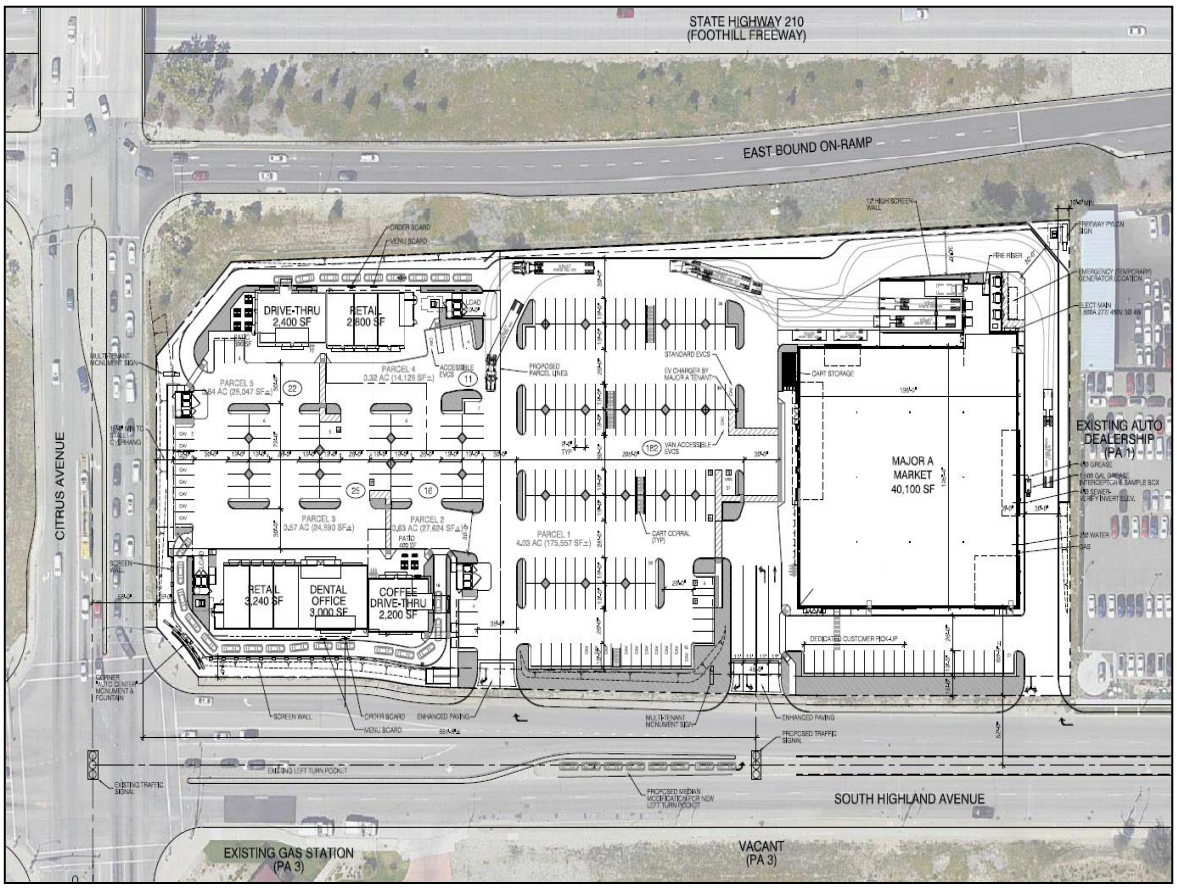
CITY OF FONTANA PLANNING DEPARTMENT

VICINITY MAP

Date: December 7, 2021

CASE: Master Case No. 21-032

CITY OF FONTANA PLANNING DEPARTMENT



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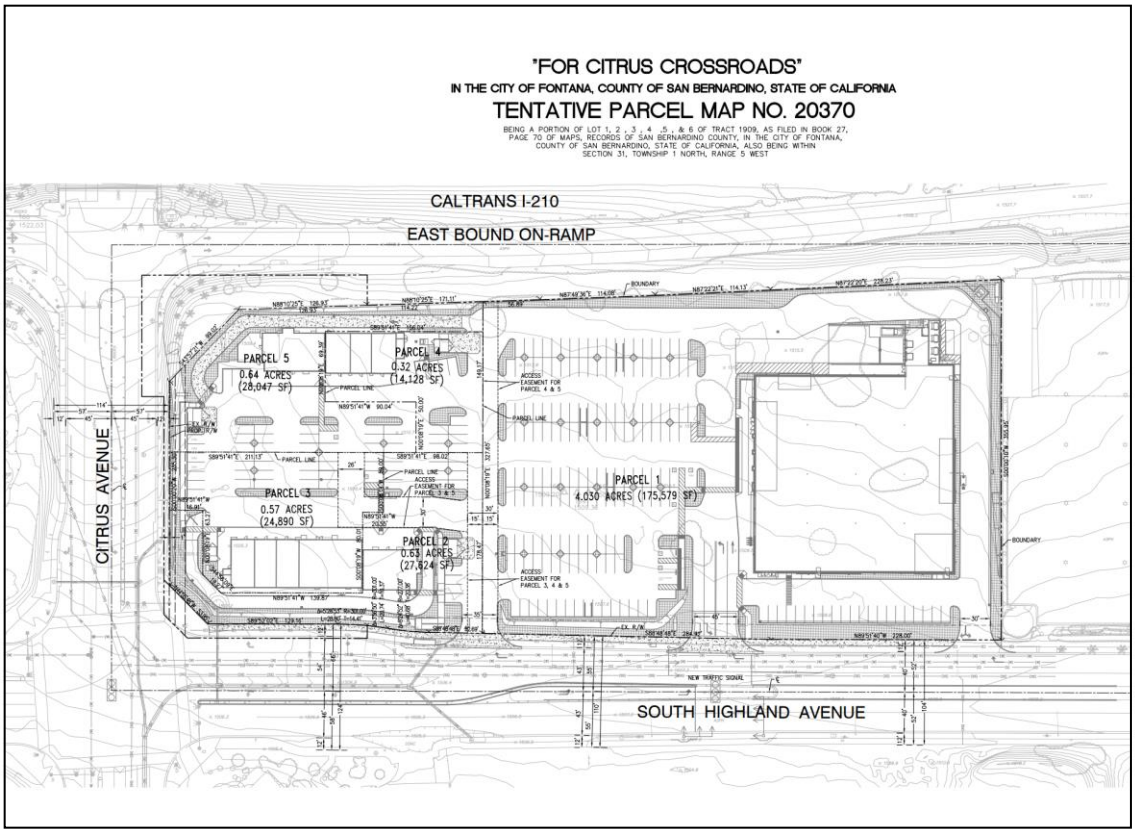
SITE PLAN

Date: December 7, 2021

CASE: Master Case No. 21-032



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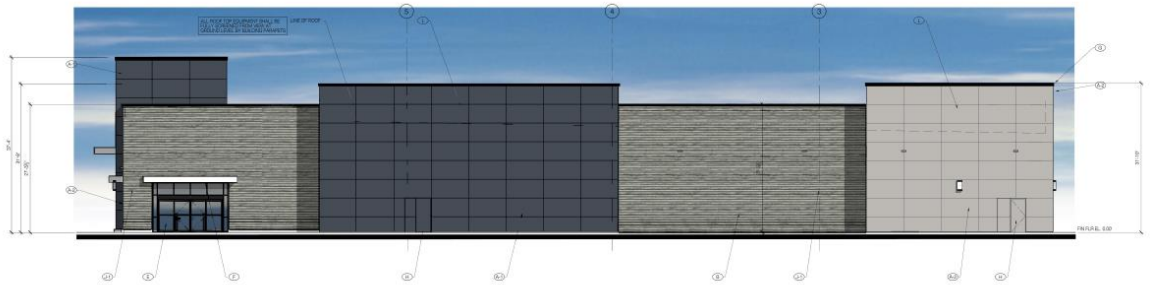
CITY OF FONTANA PLANNING DEPARTMENT

Tentative Parcel Map No. 20370

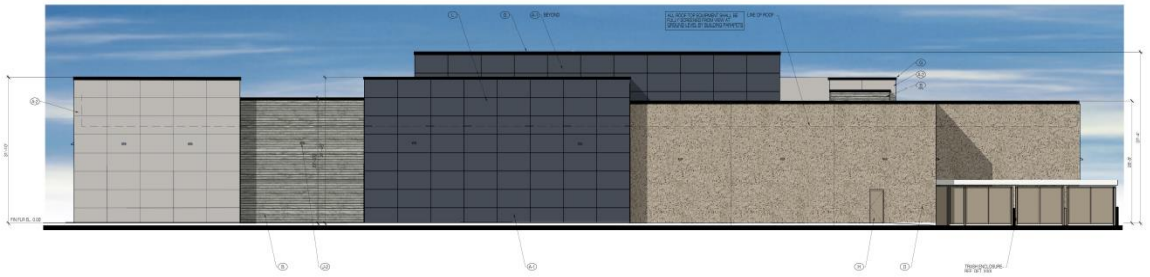
Date: December 7, 2021

CASE: Master Case No. 21-032



SOUTH (HIGHLAND AVENUE) ELEVATION

WEST ELEVATION



EAST ELEVATION

NORTH ELEVATION

CITY OF FONTANA PLANNING DEPARTMENT

ELEVATIONS

Date: December 7, 2021

CASE: Master Case No. 21-032

ATTACHMENT NO. 4

NORTH ELEVATION

WEST (CITRUS AVENUE) ELEVATION

EAST ELEVATION

SOUTH ELEVATION

NORTH ELEVATION

WEST (CITRUS AVENUE) ELEVATION

EAST ELEVATION

SOUTH (HIGHLAND AVENUE) ELEVATION

CITY OF FONTANA PLANNING DEPARTMENT

ELEVATIONS

Date: December 7, 2021

CASE: Master Case No. 21-032

ATTACHMENT NO. 5

The northeast corner of South Highland and Citrus Avenue

Looking north from South Highland Avenue and Citrus Avenue

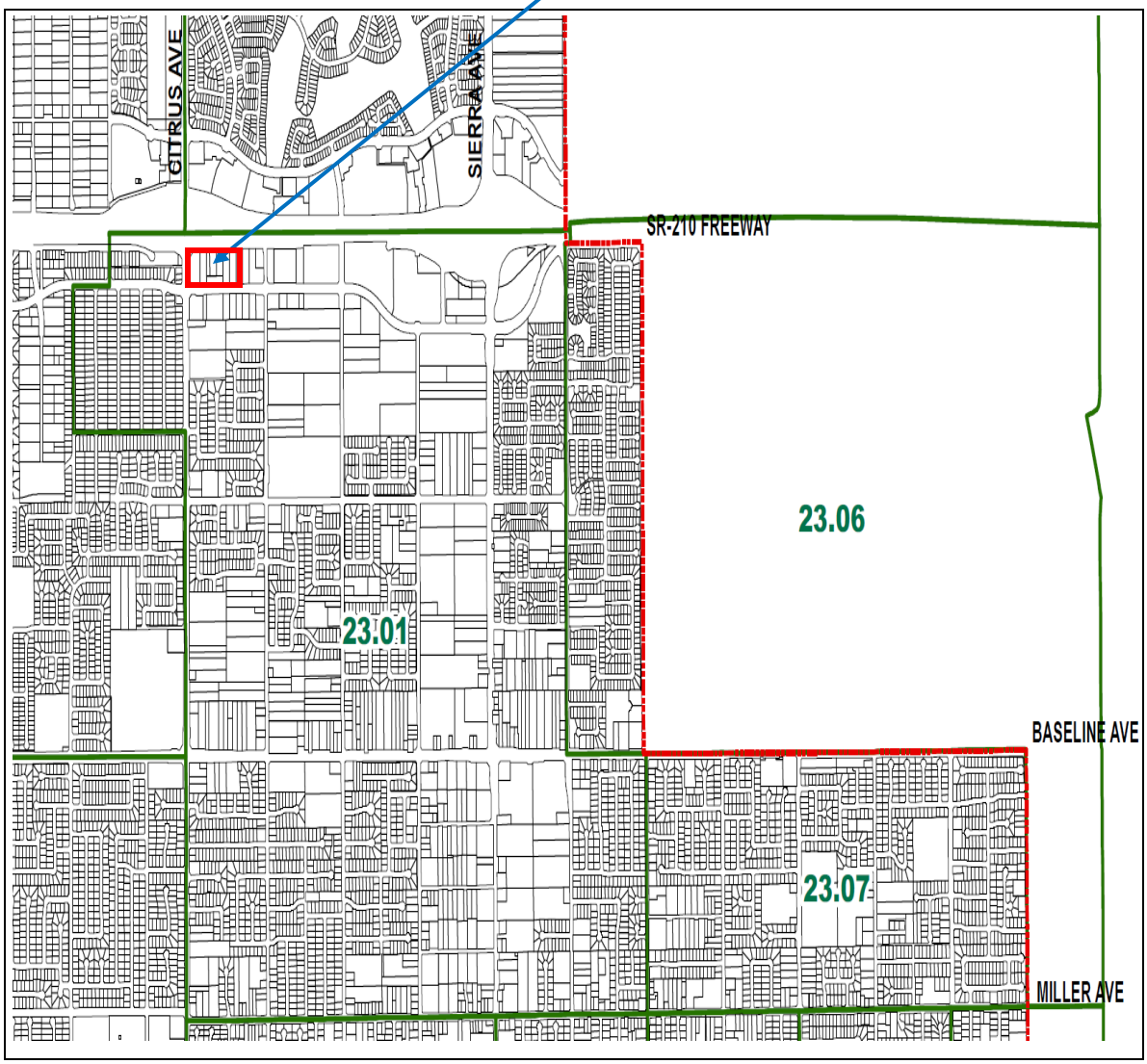
CITY OF FONTANA PLANNING DEPARTMENT

RENDERING

Date: December 7, 2021

CASE: Master Case No. 21-032

ATTACHMENT NO. 6



CITY OF FONTANA PLANNING DEPARTMENT

CENSUS TRACT 23.01 BOUNDARY

Date: December 7, 2021

CASE: Master Case No. 21-032

RESOLUTION NO. PC 2021-____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FONTANA RECOMMENDING THAT THE CITY COUNCIL APPROVE A RESOLUTION TO ADOPT THE INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) AND DIRECT STAFF TO FILE A NOTICE OF DETERMINATION, ADOPT AN ORDINANCE APPROVING ZONING CODE AMENDMENT 21-001 FOR TEXT AND FIGURE CHANGES TO THE ZONING AND DEVELOPMENT CODE, ADOPT A RESOLUTION APPROVING TENTATIVE PARCEL MAP NO. 20370 FOR CONSOLIDATION OF EIGHT (8) LOTS INTO ONE (1) PARCEL, ADOPT AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT 21-003 BETWEEN THE APPLICANT AND THE CITY OF FONTANA, ADOPT A RESOLUTION APPROVING CONDITIONAL USE PERMIT NO. 21-004 FOR A TYPE 21 ABC LICENSE, CONDITIONAL USE PERMIT NO. 21-005 AND -006 FOR DRIVE-THRU ESTABLISHMENTS, DESIGN REVIEW 21-010 FOR SITE AND ARCHITECTURAL REVIEW OF A COMMERCIAL SHOPPING CENTER WITH A GROCERY STORE AND FIVE OTHER PADS FOR A TOTAL BUILDING SQUARE FOOTAGE OF APPROXIMATELY 53,740 SQUARE FEET AND DESIGN REVIEW SIGN 21-018 FOR A SIGN PROGRAM TO THE AUTO CENTER OVERLAY ON A 6.20 ADJUSTED GROSS ACRE PROJECT SITE (APN: 0240-011-38, -41, -03, -05, -42, -06, -35 and -44).

WHEREAS, the City of Fontana received an application on March 24, 2021, for a Zoning Code Amendment (ZCA No. 21-001) to modify text and the boundaries of Planning Area 1 of the Auto Center Overlay, Tentative Parcel Map 20370 (TPM No. 21-006) to combine eight (8) parcels totaling approximately 6.20 adjusted gross acres into one (1) parcel, a Conditional Use Permit (CUP 21-004) for a Type 21 ABC License, Conditional Use Permits 21-005 and 006 for drive-thru establishments, a Design Review (DRP No. 21-010) application for site and architectural review of a proposed 53,740 square foot commercial center consisting of an anchor grocery store and five (5) other pads and Design Review Sign (DRS 21-018) application for a sign program to the Auto Center Overlay.

Project Applicant: Ralph Deppisch
Sage Investco
4340 Von Karman Avenue, #110
Newport Beach, CA 92660

Project Location: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, -35 and -44)

Site Area: Approximately 6.2 adjusted gross acres

WHEREAS, the subject site includes eight (8) parcels that were annexed from the San Bernardino County into the City of Fontana in October, 1981; and

WHEREAS, the City of Fontana received an application on March 24, 2021, for Zone Code Amendment (ZCA No. 21-001) to modify text and the boundaries of Planning Area 1 of the Auto Center Overlay, Tentative Parcel Map 20370 (TPM No. 21-006) to combine eight (8) parcels totaling approximately 6.20 adjusted gross acres into one (1) parcel, a Conditional Use Permit (CUP 21-004) for a Type 21 ABC License, Conditional Use Permits 21-005 and 006 for drive-thru establishments, a Design Review (DRP No. 21-010) application for site and architectural review of a proposed 53,740 square foot commercial center consisting of an anchor grocery store and five (5) other pads and Design Review Sign (DRS 21-018) application for a sign program to the Auto Center Overlay.

WHEREAS, the City of Fontana wishes to protect and preserve the quality of the life throughout the City, through effective land use and planning; and

WHEREAS, Conditions of Approval have been prepared and are attached hereto as **Exhibits "A, B, C, D, E"** for Tentative Parcel Map 20370 (TPM No. 21-006), Conditional Use Permits 21-004, -005, -006 and Design Review No. 21-010; and

WHEREAS, pursuant to the California Environmental Act (CEQA), an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring Program were completed on November 8th, and concluded that no significant impacts would be caused by the project, therefore, a Mitigated Negative Declaration has been recommended for adoption; and

WHEREAS, the owners of property within 660 feet of the proposed project site were notified via public hearing notice mailer prior to the Public Hearing; posted at City Hall and onsite at the project site; and

WHEREAS, on December 7, 2021, a duly noticed public hearing for Tentative Parcel Map 20370 (TPM No. 21-006), Zone Code Amendment No. 21-001, Agreement No. 21-003, Conditional Use Permits 21-004, -005, -006, Design Review No. 21-010 and Design Review Sign No. 21-018, was held by the Planning Commission ("Commission") to consider testimony and evidence presented by the applicant, City staff, and other interested parties, at the Public Hearing held with respect hereto; and

WHEREAS, the Planning Commission carefully considered all information pertaining to the proposed project, including the staff report, findings, and all of the information, evidence, and testimony presented at its public hearing on December 7, 2021; and

WHEREAS, all other legal prerequisites to the adoption of this resolution have occurred.

NOW, **THEREFORE**, the Commission RESOLVES as follows:

Section 1. The City of Fontana Planning Commission hereby makes the following findings for the Tentative Parcel Map No. 20370 in accordance with the Fontana Development Code:

Finding No. 1: **The proposed parcel map is consistent with the City's General Plan.**

Finding of Fact: Tentative Parcel Map No. 20370 is consistent with the General Plan Land Use Designation for the project site of General Commercial (C-G) within the Auto Center Overlay. The C-G with Auto Center Overlay designation is intended for automobile sales and related services. The proposed project for an automotive car dealership is consistent with the General Plan and Auto Center Overlay. The project is for a tentative parcel map to combine eight (8) parcels into one (1) for the development of a commercial center. The use is consistent with the General Plan Land Use Designation.

Finding No. 2: **The design and improvements of the proposed tentative parcel map is consistent with the General Plan.**

Finding of Fact: The design of the proposed parcel map is consistent with the General Plan. The lot width is approximately 790 feet and has an approximate lot depth of 330 feet and street configuration conform to the requirements of the Circulation Master Plan, Subdivisions (Chapter No. 26), and the Zoning and Development Code (Chapter No. 30). The parcel map will combine eight (8) parcels into one (1) parcel to accommodate an anchor grocery store, two drive-thru establishments and three other future commercial pads. Three (3) proposed points of access are proposed along South Highland Avenue.

Finding No. 3: **The site is physically suitable for the type and density of development proposed.**

Finding of Fact: The project site has existing topography of less than two percent gradient and development of the site did not require setback variances; therefore, the site is suitable for this type of development. The lot size, lot width, and lot depth are as indicated in Finding No. 2 above are consistent with other commercial developments and dealerships in the Auto Center Overlay district. Three points of access are proposed for the commercial center along South Highland Avenue.

Finding No. 4: **The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or will not substantially and avoidably injure fish or wildlife or their habitat**.

Finding of Fact: The design of the parcel map is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. An Initial Study (IS) & Mitigated Negative Declaration was completed to identify environmental impacts and mitigation measures are included to make any impacts less than significant. The Initial Study/Mitigated Negative Declaration is included under separate cover and is referenced herein.

Finding No. 5: The design of the subdivision or type of improvements will not cause serious public health problems.

Finding of Fact: The combining of eight (8) parcels into one (1) parcel will not cause health problems. The proposed development complies with the Fontana City Codes and the General Plan as indicated in Findings Nos. 1 through 4 above. Improvements include streets, sidewalks, drainage, and grading to provide a safe and well-designed project for the area. Therefore, the project shall promote the public health, safety, and welfare of the surrounding community.

Finding No. 5: The design of the subdivision or the types of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

Finding of Fact: The design and improvements of Tentative Parcel Map No. 20370 will not conflict with access easements acquired by the public. The proposed lot is accessed from South Highland Avenue which are publicly maintained streets. Currently there are no other public access easements through or within the proposed project site.

Section 2. The City of Fontana Planning Commission hereby makes the following findings for CUP No. 21-004 in accordance with Section 30-150 "Findings for approval of conditional use permits" of the Fontana Zoning and Development Code:

Finding No. 1 The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning and Development Code, Municipal Code, General Plan, any applicable Specific Plan or Area Plan, and City regulations/standards.

Finding of Fact: The request is for a Conditional Use Permit (CUP) for the proposed anchor tenant located within the Citrus Crossroads development for an Alcoholic Beverage Control (ABC) license. The proposed CUP would allow for beer, wine and distilled spirits to be consumed off-site under a Type 21 ABC license. The Zoning and Development

Code allows for grocery stores to operate with a California Department of Alcohol Beverage Control (ABC) Type 21 (Off-Sale Beer, Wine and Distilled Spirits) license subject to approval of a Conditional Use Permit.

The site is located at the northeast corner of Citrus Avenue and South Highland Avenue. The General Plan land use designation for the site is General Commercial (C-G). Specific development types allowed in C-G include: retailing, wholesaling, service activities, offices and businesses providing professional services, as well as retail stores such as grocery stores.

The site is located within the General Commercial (C-2) of the Zoning and Development Code. The C-2 zoning district includes retail and wholesale activities. Type 21 ABC licenses are permitted within this district with a Conditional Use Permit of the Zoning and Development Code. Therefore, the proposed use of a Type 21 ABC license at a retail grocery store is consistent with the General Plan and Zoning regulations.

Finding No. 2: **The site is physically suited for the type, density, and intensity of the proposed use including access, utilities, and the absence of physical constraints and can be conditioned to meet all related performance criteria and development standards.**

Finding of Fact: The proposed grocery store will occupy the anchor building within the shopping center. The building is approximately 40,100 square feet on an approximately 6.20 adjusted gross acre site. The physical characteristics of the site were reviewed, and staff has determined that the project site meets all of the necessary requirements for a type 21 ABC license such as the physical relationship and proximity of the use to other off-sale licenses as well as proximity to sensitive uses such as schools, parks, religious institutions, hospitals and other similar uses. None of the uses listed above are within 600 feet of the project site where the type 21 ABC license is proposed. Furthermore, the proposed use is for the grocery store to operate in conjunction with a new California Department of Alcoholic Beverage Control (ABC) Type 21 license (Off-Sale Beer, Wine and Distilled Spirits) which will not result in any physical change to the site or building.

Adequate streets and highways exist to accommodate the existing and anticipated traffic with adequate on-site circulation. Traffic to and from the project site has three (3) access points proposed along South Highland Avenue. South Highland Avenue is identified as a Primary Highway in the City's General Plan Hierarchy of Street in Fontana General Plan map. South Highland Avenue has been determined to be adequate to handle the traffic generated by the

commercial center. In addition, access to utilities and services can be obtained.

Finding No. 3: **Granting the permit would not be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property, or improvements in the vicinity in which the project is located.**

Finding of Fact: There will be no adverse effect to the neighboring sites or their permitted uses. The proposed project has been reviewed by the Planning Department, Engineering Department, the Building and Safety Division, and County Fire Prevention for site circulation, access, and safety. Any possible adverse effects shall be mitigated by the Conditions of Approval set forth in the Conditional Use Permit and as referenced herein. The Planning Department has drafted Conditions of Approval to mitigate potential negative impacts.

Section 3. The City of Fontana's, Planning Commission hereby makes the following findings for Conditional Use Permit No. 21-005 in accordance with Section No. 30-150 "Findings for approval" of the Fontana Zoning and Development Code:

Finding No. 1: **The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning and Development Code, Municipal Code, General Plan, any applicable specific plan or area plan, and City regulations/standards.**

Findings of Fact: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue. The project site has a General Plan land use designation of General Commercial (C-G). The C-G land use designation category is described by the Zoning and Development code as "retail, malls, wholesale, auto dealerships and offices, including medical offices and clinics, that can serve a broader, regional population". This includes grocery stores, restaurants and retail pads. The Zoning District for the project site is General Commercial (C-2) within the proposed Planning Area 3 of the Auto Center Overlay District. Drive-thru restaurants are permitted in the C-2 zone with the approval of a Conditional Use Permit by the Planning Commission. The proposed project will comply with the applicable building codes, zoning codes, and fire codes and appropriate standards, will make for a safe, attractive, and well-designed project.

Finding No. 2: **The site is physically suited for the type, density, and intensity of the proposed use including access, utilities, and the absence of physical constraints and can be conditioned to meet all related performance criteria and development standards.**

Findings of Fact: The proposed project as identified and referenced in Finding No. 1, above, meets or exceeds the criteria contained in the Zoning and

Development Code. This facility will be built pursuant to all applicable building, zoning, and fire codes and standards. The project includes streets improvements and sidewalks, grading, drainage, and perimeter and privacy walls to provide a safe and well-designed project.

There will be three (3) vehicle access points to the site from South Highland Avenue. The driveway will be designed to accommodate passenger vehicle traffic, tractor-trailer traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety.

The project site is physically suitable in size and shape to support the development of a trailer sales office. The applicable building codes, zoning codes, and fire codes and appropriate standards, will make for a safe, attractive, and well-designed project. As proposed, the project is consistent with the standards of the Zoning and Development Code. The proposal has been designed to be compatible with the surrounding uses while also providing a development that has been designed with features (architectural relief, added landscaping, street improvements, and lighting), to enhance the character of the surrounding neighborhood.

Finding No. 3: **Granting the permit would not be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property, or improvements in the vicinity in which the project is located.**

Findings of Fact: The proposed project as identified and referenced in Finding No. 1 and Finding No. 2, above, has been determined not to be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property. The on-site circulation is adequate. All drive aisle widths meet both the Zoning and Development Code and Fontana Fire Prevention District minimums for access. The site will be accessed from South Highland Avenue. For the anticipated traffic to the project site, there are three (3) proposed driveway for the purpose of ingress and egress. The driveway is designed to accommodate passenger vehicle traffic, tractor-trailers traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. Additionally, adequate utilities and services exist on-site and off-site.

The proposal has been designed to be compatible with the surrounding uses while also providing a development that has been designed with features (architectural relief, added landscaping, street improvements, and lighting), to enhance the character of the surrounding neighborhood. It will also be consistent with the proposed commercial projects in the vicinity.

The proposed development will result in appropriate improvements, not only for the project site, but the surrounding area as well. The project includes sidewalks, drainage, grading, and perimeter and privacy walls to provide a safe and well-designed neighborhood. The proposed building has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. As mentioned in Findings No. 1 and No. 2, above, the proposed project meets or exceeds the standards of the Zoning and Development Code and will provide a safe design for public access.

Section 4. The City of Fontana's, Planning Commission hereby makes the following findings for Conditional Use Permit No. 21-006 in accordance with Section No. 30-150 "Findings for approval" of the Fontana Zoning and Development Code:

Finding No. 1: **The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning and Development Code, Municipal Code, General Plan, any applicable specific plan or area plan, and City regulations/standards.**

Findings of Fact: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue. The project site has a General Plan land use designation of General Commercial (C-G). The C-G land use designation category is described by the Zoning and Development code as "retail, malls, wholesale, auto dealerships and offices, including medical offices and clinics, that can serve a broader, regional population". This includes grocery stores, restaurants and retail pads. The Zoning District for the project site is General Commercial (C-2) within the proposed Planning Area 3 of the Auto Center Overlay District. Drive-thru restaurants are permitted in the C-2 zone with the approval of a Conditional Use Permit by the Planning Commission. The proposed project will comply with the applicable building codes, zoning codes, and fire codes and appropriate standards, will make for a safe, attractive, and well-designed project.

Finding No. 2: **The site is physically suited for the type, density, and intensity of the proposed use including access, utilities, and the absence of physical constraints and can be conditioned to meet all related performance criteria and development standards.**

Findings of Fact: The proposed project as identified and referenced in Finding No. 1, above, meets or exceeds the criteria contained in the Zoning and Development Code. This facility will be built pursuant to all applicable building, zoning, and fire codes and standards. The project includes streets improvements and sidewalks, grading, drainage, and perimeter and privacy walls to provide a safe and well-designed project.

There will be three (3) vehicle access points to the site from South Highland Avenue. The driveway will be designed to accommodate passenger vehicle traffic, tractor-trailer traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety.

The project site is physically suitable in size and shape to support the development of a trailer sales office. The applicable building codes, zoning codes, and fire codes and appropriate standards, will make for a safe, attractive, and well-designed project. As proposed, the project is consistent with the standards of the Zoning and Development Code. The proposal has been designed to be compatible with the surrounding uses while also providing a development that has been designed with features (architectural relief, added landscaping, street improvements, and lighting), to enhance the character of the surrounding neighborhood.

Finding No. 3: **Granting the permit would not be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property, or improvements in the vicinity in which the project is located.**

Findings of Fact: The proposed project as identified and referenced in Finding No. 1 and Finding No. 2, above, has been determined not to be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property. The on-site circulation is adequate. All drive aisle widths meet both the Zoning and Development Code and Fontana Fire Prevention District minimums for access. The site will be accessed from South Highland Avenue. For the anticipated traffic to the project site, there are three (3) proposed driveway for the purpose of ingress and egress. The driveway is designed to accommodate passenger vehicle traffic, tractor-trailers traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. Additionally, adequate utilities and services exist on-site and off-site.

The proposal has been designed to be compatible with the surrounding uses while also providing a development that has been designed with features (architectural relief, added landscaping, street improvements, and lighting), to enhance the character of the surrounding neighborhood. It will also be consistent with the proposed commercial projects in the vicinity.

The proposed development will result in appropriate improvements, not only for the project site, but the surrounding area as well. The project includes sidewalks, drainage, grading, and perimeter and privacy walls to provide a safe and well-designed neighborhood. The proposed building has been reviewed by Planning, Engineering,

Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. As mentioned in Findings No. 1 and No. 2, above, the proposed project meets or exceeds the standards of the Zoning and Development Code and will provide a safe design for public access.

Section 5. The City of Fontana Planning Commission hereby makes the following findings for Design Review No. 21-010 in accordance with Section No. 30-120 "Findings for approval" of the Fontana Zoning and Development Code:

Finding No. 1: **The proposal is consistent with the General Plan, Zoning and Development Code, and any applicable Specific Plan.**

Finding of Fact: The project site is located on the northeast corner of Citrus Avenue and South Highland Avenue. Further, the project site is zoned General Commercial (C-2) and is within the Auto Center Overlay. The C-2, along with the Auto Center Overlay designation, is intended for retail and wholesale activities. The proposed project for an anchor grocery store, two (2) drive-thru establishments and three (3) other commercial pads meets all the minimum standards in the Fontana Municipal Code and Auto Center Overlay District. The project is proposed with a high-quality architectural design appropriate for the General Commercial (C-2) and Auto Center Overlay districts. Appropriate screening from the public right-of-way will also be done.

This project, as proposed, is a request for the Planning Commission to review and recommend that the City Council approve the site and architectural design for the construction of a shopping center totaling approximately 53,354 square feet. The anchor tenant would be approximately 40,100 square feet. The remaining square footage would be for buildings located at five (5) other pads within the center. This project meets or exceeds the criteria contained in the Design Review section of the Zoning and Development Code.

Finding No. 2: **The proposal meets or exceeds the criteria contained in this chapter and will result in an appropriate, safe and desirable development promoting the public health, safety, and welfare of the community.**

Finding of Fact: The applicant has worked diligently with staff to incorporate site details that will beautify and enhance the overall aesthetics of the site. Some of the features include a modern architectural theme for the center, patios and drive entries, porte cochere's for the drive thru restaurants, a unique and well-designed water feature that will enhance the corner statement of Citrus and South Highland, additional landscaping, building lighting and signage that would give the sense of place and act as a landmark for the prominent corner.

The development would encompass a grocery store, restaurants and retail alike to accommodate and residents, visitors and the overall community. Adequate parking and accessibility per standards has been incorporated therefore the project will promote the public health, safety and welfare of the occupants and therefore, the community.

Finding No. 3: **The proposal, in its design and appearance, is aesthetically and architecturally pleasing resulting in a safe, well-designed facility while enhancing the character of the surrounding neighborhood.**

Finding of Fact: The proposed project as identified and referenced in Finding No. 1 and 2, has been determined to be aesthetically and architecturally pleasing and compatible with the neighborhood. The project site which is approximately 6.2 adjusted gross acres is physically suitable in size and shape to support the development of the proposed shopping center. The applicable building codes, zoning codes and fire codes and standards, will make for a safe, attractive, and well-designed project. As proposed, the project is consistent with the Zoning and Development Code with approval of the Zoning Code Amendment.

The modern architecture theme selected for the shopping center is appropriate for the area and is consistent with surrounding uses. The design guidelines in the Development Code and more specifically the Auto Center Overlay. In addition, the proposed project is consistent with the goals and policies of the General Plan and applicable provisions of the zoning district, including Goal 5.3, Policy 5: (Community Design Element) stating that buildings “shall incorporate distinct and varied architectural details through varied rooflines, and detailed façade treatments”. Design characteristics include decorative cornices, wall sconces, veneer, stucco wall surface and decorative awnings.

Finding No. 4: **The site improvements are appropriate and will result in a safe, well-designed facility.**

The proposed development will result in appropriate improvements for the project site and the surrounding area as well. The project includes sidewalks, drainage, grading and a traffic signal with all necessary improvements on Citrus Avenue and South Highland Avenue to provide a safe and well-designed neighborhood. The proposed project has been reviewed by Planning, Engineering, Building and Safety and Fontana Fire Prevention for site circulation, access and safety. The proposed project identified in Finding No. through Finding No. 3, above, meets or exceeds the standards of the

Zoning and Development Code and will provide a safe design for public access.

Section 6. The City of Fontana Planning Commission hereby makes the following findings for Design Review Sign No. 21-018 in accordance with Section No. 30-120 "Findings for approval" of the Fontana Zoning and Development Code:

Finding No. 1: **The proposal is consistent with the General Plan, Zoning and Development Code, and any applicable Specific Plan.**

Finding of Fact: The site currently has a general plan land use designation of General Commercial (C-G) and a current zoning district of General Commercial (C-2). Pylon, monument and wall signs are permitted with approval of a Design Review Sign application. Additionally, the use is required to comply with all other applicable provisions of the Zoning Code, Municipal Code, and General Plan.

Finding No. 2: **The proposal meets or exceeds the criteria contained in this chapter and will result in an appropriate, safe and desirable development promoting the public health, safety, and welfare of the community.**

Finding of Fact: The shopping center, if approved, would meet the regulations, standards, and intent of the Zoning and Development Code. The signs would be located in an area that has a variety of commercial and retail uses meeting development standards.

Finding No. 3: **The proposal, in its design and appearance, is aesthetically and architecturally pleasing resulting in a safe, well-designed facility while enhancing the character of the surrounding neighborhood.**

Finding of Fact: The proposed signage is complimentary to and with the proposed commercial center. Materials and colors of the buildings match the proposed signage thus creating a theme of architectural compatibility throughout the project site.

Finding No. 4: **The site improvements are appropriate and will result in a safe, well-designed facility.**

Finding of Fact: The proposed signs will be reviewed under a separate permit for legibility, sign copy, colors, materials, size and location. The sign will also be reviewed by the Building and Safety Department to ensure the future signage is structurally sound.

Section 7. The Planning Commission has reviewed and considered the Initial Study/Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, any oral or written comments received, and the administrative record prior to making any recommendation on the proposed project. The Planning Commission finds that the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program contain a complete and accurate reporting of all the environmental impacts associated with the Project. The Planning Commission further finds that the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program has been completed in compliance with CEQA and the State CEQA Guidelines.

Section 8. Based on the foregoing, the City of Fontana Planning Commission hereby recommends the City Council to adopt a resolution adopting the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, adopt an ordinance to approve ZCA 21-001, adopt an ordinance approving DA 21-003, and adopt a resolution approving Tentative Parcel Map 20370 (TPM No. 21-006), Conditional Use Permit (CUP 21-004), Conditional Use Permits 21-005 and 006, Design Review (DRP No. 21-010) and Design Review Sign (DRS 21-018) application for a sign program to the Auto Center Overlay, subject to the conditions of approval as shown in the attached Exhibits “A” through “E” for the construction of a commercial shopping center at the northeast corner of Citrus Avenue and South Highland Avenue.

Section 9. Resolution Regarding Custodian of Record: The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at the Community Development Department – Planning Department, 8353 Sierra Avenue, Fontana, CA 92335. This information is provided in compliance with Public Resources Code Section No. 21081.6.

Section 10. The Secretary of the Planning Commission shall certify to the adoption of this Resolution.

APPROVED, AND ADOPTED by the Planning Commission of the City of Fontana, California, at a regular meeting held on this 7th day of December 2021.

City of Fontana

_____

Cathline Fort, Chair

ATTEST:

I, Idilio Sanchez, Secretary of the Planning Commission of the City of Fontana, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 7th day of December 2021, by the following vote, to-wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____

Idilio Sanchez, Secretary

EXHIBIT "A"

CITY OF FONTANA

CONDITIONS OF APPROVAL

PROJECT: Master Case No. 21-032
Tentative Parcel Map 20370
(TPM No. 21-006)

DATE: December 7th, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44).

PLANNING DEPARTMENT:

1. The Tentative Parcel Map shall become null and void two (2) years from the date of approval unless the Final map is recorded or the applicant applies for an extension of time in accordance with the provisions in the Subdivision Map Act and the provisions in the City's Municipal Code.

2. The rights and privileges granted by Tentative Parcel Map No. 20370 shall not become effective, nor shall the Applicant commence the use for which this tentative parcel map approval is granted, until the following has occurred:

   • All conditions of approval imposed by this project have been fulfilled.

3. This tentative parcel map shall comply with all applicable development standards of Chapter No. 26 (Subdivisions), Chapter No. 30 (Zoning and Development) of the Municipal Code of the City of Fontana, and the Subdivision Map Act.

4. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

   In the event of any such third party action or proceeding, the City shall have the right to retain legal counsel. The applicant shall be responsible and reimburse the City

for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

Except as required under applicable State and Federal law, the City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

5. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manger's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Sections 30-30 and 30-31 of the Municipal Code.

6. The applicant/developer shall comply with the mitigation measures identified in the Initial Study/Mitigated Negative Declaration Mitigation Monitoring and Reporting Program for this project.

7. Applicant shall pay all applicable service fees pursuant to the City of Fontana Municipal Code.

ENGINEERING DEPARTMENT:

8. The project shall be served by the City's sanitary sewer system, all sewer facilities shall be constructed in accordance with the City Standards. Main trunk sewer line shall be in accordance with master sanitary sewer plan or as approved by the City Engineer.

9. The applicant shall obtain design and plan approval from all utility providers having jurisdiction over the on-site and off-site utilities. Completion of all undergrounding of onsite and off-site utilities is required by Section 27-52 of the City Municipal Code and in accordance with plans and specifications approved by the City Engineer.

10. It is the Applicant's responsibility to maintain all improvements and utilities within the public right-of-way, including street sweeping, prior to final acceptance by the City.

11. The applicant shall obtain an encroachment permit from Caltrans for any work required within Caltrans' right-of-way.

12. This applicant's engineer shall prepare and submit traffic signal plans per approved site plan and as required to the satisfaction of the City Engineer. PRIOR TO ISSUANCE OF GRADING PERMIT

13. Applicant shall submit and gain approval of a complete WQMP Report in accordance with the County of San Bernardino Technical Guidance Document and latest template.

14. Traffic study must be approved.

PRIOR TO MAP RECORDATION

15. Record parcel map, right-of-way dedications, easements, and reciprocal access agreement as required for the development.

16. Applicant shall provide a Land Improvement Agreement, with accompanying security. The agreement shall be executed on City-provided forms. PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS

17. Applicant shall submit engineered improvement plans and obtain full approval. All required public improvements, including streets, storm drainage systems, sewers, traffic signals, streetlights, striping, signs, landscape, and any required traffic control and/or detour plans. All plans shall conform to City Standards and Specifications, and as approved by the City Engineer. PRIOR TO ISSUANCE OF FINAL CERTIFICATE OF OCCUPANCY

18. Applicant/Engineer to provide the City of Fontana with As Built/Record Drawings for all public improvement plans. Commercial Industrial Land Development Engineering Conditions MCN21-000032 Revised 11-18-21 KS & RG

19. Applicant/Engineer shall provide centerline ties to the City of Fontana reflecting proper setting of all survey monuments within the project limits and replace any existing survey monuments damaged or removed during construction. 13. Applicant/Engineer shall set survey monuments as required by the map and corner records must be recorded with the County.

20. Applicant/Landscape Architect shall provide a "Landscape Certificate of Compliance" certifying that the work has been designed, installed, and will be maintained in accordance with the City of Fontana's Model Water Efficiency Landscape Ordinance (Ordinance 1743, FCC Section 28).

21. All sewers and storm drains shall be video inspected by applicant/contractor. Sewer video shall include clean-out connection, clean-out to lateral segment, lateral, and main line. Storm drain video shall include main lines and laterals. Applicant shall provide a copy of the video on DVD or flash drive to inspection staff. Videos to be

inspected and approved by City Inspection. If removal and replacement of any utility is required, a subsequent video of the repair will be required.

22. Applicant/Engineer of Record shall submit a conforming copy of the recorded Memorandum of Agreement for the Water Quality Management Plan and Storm Water BMP Transfer. The Access, Maintenance, and the WQMP Certification for BMP Completion must be submitted to the City Project Engineer.

BUILDING & SAFETY DIVISION:

23. Shall comply with the latest adopted edition of the following codes as applicable:
    A. California Building Code
    B. California Electrical Code
    C. California Mechanical Code
    D. California Plumbing Code
    E. California Energy Code
    F. California Fire Code
    G. California Green Building Standards Code

24. Automatic fire suppression systems shall be installed in all new construction per Article II, Chapter 11 of the Code of the City of Fontana. Design and type of system shall be based upon the requirements of the Building Code, Fire Code and the requirements of the Fontana Fire Prevention District.

25. The requirements of the South Coast Air Quality Management District shall be satisfied prior to the issuance of any permit if hazardous materials are stored and/or used.

26. Any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project shall comply with City Code.

27. All perimeter/boundary walls shall be designed and constructed so that the outer/exterior face of the wall is as close as possible to the lot line. In any case, the outer/exterior face of the wall shall be within two (2) inches of the lot line. Distances greater than two (2) inches may be approved prior to construction by the Building Official on a case by case basis for extenuating circumstances.

28. The Parcel map shall record prior to the issuance of any permits.

29. Grading Requirements:
    A. Grading plans shall be submitted to and approved by Building & Safety. The grading plans shall indicate all site improvements and shall indicate complete drainage paths of all drainage water run-offs.
    B. All drainage water shall drain via approved methods to an approved location, such as a public street, a public drainage system, etc.
    C. Drainage water shall not cross over a public sidewalk. Drainage water may, however, cross under a sidewalk if an approved drainage structure is used.

D. A recorded drainage acceptance agreement is required from adjoining property(s) receiving flows from this property.

E. No water course or natural drainage shall be obstructed.

F. Minimum slope or grade for ALL drainage structures shall be one half (0.50) percent for concrete and one (1.0) percent for all other, or as otherwise approved by the Building Official.

G. Drainage water shall not pass from an 'improved' type of drainage structure to an 'unimproved' type of drainage structure (e.g., concrete swale to a dirt swale) unless otherwise approved by the Building Official.

H. A complete hydrology study using the latest edition of the San Bernardino County Flood Control Hydrology Manual, and complete hydraulic calculations justifying the size, slope, capacity, etc. of any and all drainage structures being utilized, shall be submitted to and approved by Building & Safety.

The on-site drainage system shall, as a minimum, be designed to handle the run-off generated by a ten (10) year storm. Check for flooding of all on-site structures (buildings) and all adjacent properties during a hundred (100) year storm.

I. The grading plans shall, as a minimum, contain sections at all lot lines and/or permit boundary lines. These sections shall clearly indicate:

1. The relationship between the proposed finished on-site grade elevations and the existing adjacent property grade elevations (Indicate any additional drainage water that may come from an adjacent property.); and
2. The ground cover/finished surface material being proposed (e.g., type of pavement, plant material, etc.); and
3. All proposed drainage structures; and
4. Any proposed and/or required walls or fencing.

30. All signs shall be Underwriters Laboratories approved or equal.

31. Permits are required prior to the removal and/or demolition of structures.

32. All exterior lighting shall be oriented, directed, and/or shielded as much as possible so that direct illumination does not infringe onto adjoining properties.

PRIOR TO ISSUANCE OF BUILDING/CONSTRUCTION PERMITS

33. The following items (as applicable) shall be completed and/or submitted to Building & Safety prior to the issuance of building permits for this project:

A. Precise grading plans shall be approved

B. Rough grading completed
C. Compaction certification
D. Pad elevation certification
E. Rough grade inspection signed off by a City Building Inspector

34. If hazardous substances are used and/or stored, a technical opinion and report, identifying and developing methods of protection from the hazards presented by the hazardous materials, may be required. This report shall be prepared by a qualified person, firm, or corporation and submitted to Building & Safety. This report shall also explain the proposed facility's intended methods of operation and list all of the proposed materials, their quantities, classifications, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.

END OF FINAL CONDITIONS

EXHIBIT "B"

CITY OF FONTANA
CONDITIONS OF APPROVAL

PROJECT: Master Case No. (MCN) 21-032
Conditional Use Permit No. 20-010
Type 21 ABC License for a Grocery Store

DATE: December 7th, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44) within a 40,100 square foot grocery store.

PLANNING DEPARTMENT:

1. This conditional use permit is conditional upon the permittee proceeding with good faith intent to commence upon the proposed use within two (2) years after the effective date of the approval, or such other period specified as a condition of approval.

2. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

   In the event of any such third-party action or proceeding, the City shall have the right to retain its own separate legal counsel to defend the interests of the City. The applicant shall be responsible for reimbursing the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

   The City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or

with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

3. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until all of the following have occurred:
   a. All requirements of the Fontana Municipal Code shall be complied with.
   b. All Conditions of Approval imposed on this project have been fulfilled.

4. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City Manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manager's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Sections 30-23 and 30-24 of the Municipal Code.

5. At any time, the Director of Community Development may bring a status report to the Planning Commission identifying impacts or failure to comply with conditions resulting from the Conditional Use Permit approval. Such status report may contain a police report regarding calls for service at the location. Nothing herein shall modify or limit the City's authority to regulate the business or modify or revoke the permit upon the City's determination that the business is being operated in a manner adverse to the public's health, safety, and welfare.

POLICE DEPARTMENT:

6. The operation of the business shall not violate any federal, state, or local laws or ordinances, including the rules, regulations and orders of the State Alcoholic Beverage Control Department and all conditions of the City of Fontana's Conditional Use Permit. Failure to comply with these requirements shall constitute grounds for revocation of a conditional use permit.

7. All tobacco products shall remain under the control of the management, behind the cashier's counter.

8. Employees engaged in the sale or distribution of alcoholic beverages shall be at least 18 years of age. If the business owner, licensee, or management choose to employ a salesperson between the ages of 18 to 20, that salesperson must be under the continuous supervision of at least one salesperson who is 21 years old or older.

9. No beer, wine or distilled spirits shall be displayed within five feet of the front door or between the register and the front door unless it is under the control of the management within locked shelving units.

10. No display or sale of beer, wine or distilled spirits, shall be made from an ice tub.

11. No alcoholic beverages shall be stored, sold or displayed (even for special events) within any aisle-way of the main sales floor or vestibule.

12. The sale of malt liquor or fortified wine products with an alcoholic content greater than 17 percent by volume is prohibited.

13. The licensee shall not sell single bottles of wine in less than 750 ml. containers. Specialty or dessert wines which are only packaged in 375 milliliter bottles shall be permitted.

14. No distilled spirits shall be sold in bottles or containers smaller than 375 ml.

15. The sale of beer or malt beverages in single size containers of 40 ounces or less is prohibited.

16. The licensed premise shall not sell individual units of beer or wine from the manufacturer's multi-unit packages (three-packs, four-packs, six-packs, etc.).

17. The licensee shall not allocate more than half of the cooler doors for the sale of alcoholic beverages. All designated coolers for alcoholic beverages shall be located furthest away from the entrance doors.

18. The possession of alcoholic beverages in open containers and the consumption of alcoholic beverages are prohibited on or around the licensed premises.

19. On a regular and reasonable basis litter shall be removed daily from the premises, including adjacent public sidewalks and all parking areas under the control of the business owner/licensee. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis to control debris.

20. The business owner/licensee shall comply with the City False Alarm Ordinances.

21. Graffiti abatement by the business owner/licensee shall be immediate and ongoing on the licensed premises, but in no event shall graffiti be allowed unabated on the premises for more than 48 hours. Abatement shall take the form of removal or shall be covered/painted over with a color reasonably matching the color of the existing building, structure, or other surface being abated. Additionally, the business owner/licensee shall notify the City within 24 hours (at 909.350-GONE) of any graffiti elsewhere on the property not under the business owner/licensee's control so that it may be abated by the property owner and/or the City's Graffiti Enforcement Team.

22. The management and employees of the licensed premise shall be required to prevent loitering in the parking lot of the site. The management and employees of the licensed premise shall regularly police the area under its control to prevent the loitering of persons about the premises.

23. Sales of alcoholic beverages will be restricted to, and within the confines of, the building portion of the licensed premises.

24. A digital video surveillance system is required at the premise. It is recommended to be an internet-based system and shall be maintained in proper working order at all times. The surveillance video/visual media shall be maintained for a minimum of sixty (60) days and upon request, shall be accessible to law enforcement personnel for viewing, copying and collection purposes during regular business hours.

25. Signs shall comply with all City of Fontana sign requirements. No more than 25% of the total window area and clear doors shall bear advertising, signs or obstructions of any sort. Window signs or other obstructions shall be placed and maintained in a manner so that there is a clear and unobstructed view of the interior of the premises from the public sidewalk or entrance to the premises (this applies to all windows and glass doors of this location).

26. The exterior of the premise, including all entrances, walkways, adjacent public sidewalks, alleyways and parking lots under the control of the licensee, shall be illuminated at a minimum of one (1) foot candle of light during all hours of darkness, so that persons standing in those areas at night are identifiable by law enforcement personnel. All luminaries utilized are required to have vandal resistant light fixtures.

27. The exterior of the licensed premises, including adjacent public sidewalks and all parking lots under the control of the licensee, shall be illuminated during the hours of darkness, at all entrances, sidewalks or parking surfaces, at a minimum of one foot candle of light.

28. A prominent, permanent sign or signs stating “NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES” shall be posted on the front of the building or in the front windows of the business, and shall be clearly visible to patrons of the licensee. The size, format, placement, and languages of the sign or signs shall be determined by the Department of Alcoholic Beverage Control. Generally, the signs should be 24 inches in length and 14 inches in width with the print of sufficient size to make them clearly readable.

29. A prominent, permanent sign or signs stating “NO OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED ON THE PREMISES” shall be posted on the front of the building or in the front windows of the business, and shall be clearly visible to patrons of the licensee. The size, format, placement and languages of the sign or signs shall be determined by the Department of Alcoholic Beverage Control. Generally, the signs should be 24 inches in length and 14 inches in width with the print of sufficient size to make them clearly readable.

30. No electronic arcade or amusement games are permitted on the licensed premises at any time.

31. In the event security problems occur, the Police Department (Chief of Police) will issue a letter to the owner requesting a meeting to discuss said security problems.

If security problems are not resolved by the owner in the timeframe mutually agreed upon in said meeting, at the discretion of the Chief of Police, the business owner/licensee or management, at his or her own expense, shall provide a California licensed, uniformed security guard(s) on the premises, during such hours as requested and directed by the Police Department. All uniformed security guards shall comply with Fontana City Code section 22-62, and shall be registered with the State of California's Bureau of Security and Investigative Services as a security guard prior to employment within the City of Fontana.

32. Responsible Beverage Service Training: All persons engaged in the sale or service of alcohol shall abide by the following requirements. If compliance with Item B (AB 1221 of 2017) is achieved, the requirement for Item A is void.

33. The licensee, business owner, all managers and employees engaged in the sale of alcohol, shall attend a L.E.A.D. training (Licensee Education on Alcohol and Drugs provided by the Department of Alcoholic Beverage Control) or an alternative responsible beverage service training (RBS), within 90 days of employment.

34. Comply with California Assembly Bill 1221 of 2017, Responsible Beverage Service Training Act. Details can be found on the website for the California Department of Alcoholic Beverage Control.

35. The approved set of Conditions of Approval, and the ABC license shall be posted at all times at a visible location behind the cashier's counter in the facility and shall remain legible at all times.

END OF CONDITIONS OF APPROVAL

EXHIBIT "C"

CITY OF FONTANA

CONDITIONS OF APPROVAL

PROJECT: Master Case No. (MCN) 21-032
Conditional Use Permit No. (CUP) 21-005
Drive Thru Restaurant for a Coffee Shop

DATE: December 7, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue, adjacent to South Highland Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44) within a 2,200 square foot suite.

PLANNING DEPARTMENT:

1. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:
   A. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and
   B. All other Conditions of Approval imposed by this project have been fulfilled.
2. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety, or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City Manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manager's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Section No. 30-30 and Section No. 30-31 of the Municipal Code.
3. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana

shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

In the event of any such third-party action or proceeding, the City shall have the right to retain its own separate legal counsel to defend the interests of the City. The applicant shall be responsible for reimbursing the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

The City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

4. This Conditional Use Permit shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Division inspection, has commenced within this period.

5. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.

6. Color combinations and color schemes for buildings approved under a design review application shall not be modified or changed without prior approval of the original approving body by a revision to the original application. Minor hue color changes may be approved by the Director of Community Development. The Director of Community Development may refer minor hue color changes to the original approving body for consideration under a revision to the original application.

7. Exterior lighting compatible with the design of the building shall be provided for the parking lot. The lighting shall be directed and shielded so as to illuminate only the parking area and to avoid glare impacts on adjacent properties.

8. This project will comply with all applicable provisions, regulations, and development standards of Planning Area 3 of the Auto Overlay District.

9. All signs shall be reviewed under a separate Design Review Sign application.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

10. The current Development fees must be paid prior to issuance of building/construction permits.

POLICE DEPARTMENT:

11. This is a high graffiti area of the city. To discourage graffiti, apply an anti-graffiti coating on all block walls.
12. Adhere to the City standard of one-foot candle minimum for all entrances, exits, pedestrian paths, parking lots, and activity areas. All areas shall be illuminated during all hours of darkness and all luminaries utilized shall be vandal-resistant fixtures. The type of lighting shall be fluorescent, white L.E.D.s or metal halide. Provide a photometric layout under separate exhibit to ensure the minimum light standard is met.
13. Adhere to the Standard Building Security Specifications of the Fontana Police Department.

END OF CONDITIONS

EXHIBIT "D"

CITY OF FONTANA

CONDITIONS OF APPROVAL

PROJECT: Master Case No. (MCN) 21-032
Conditional Use Permit No. (CUP) 21-006
Drive Thru Restaurant

DATE: December 7, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue, adjacent to South Highland Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44) within a 2,200 square foot suite.

PLANNING DEPARTMENT:

1. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:

    A. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and

    B. All other Conditions of Approval imposed by this project have been fulfilled.

2. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety, or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City Manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manager's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Section No. 30-30 and Section No. 30-31 of the Municipal Code.

3. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project,

including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

In the event of any such third-party action or proceeding, the City shall have the right to retain its own separate legal counsel to defend the interests of the City. The applicant shall be responsible for reimbursing the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

The City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

4. This Conditional Use Permit shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Division inspection, has commenced within this period.

5. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.

6. Color combinations and color schemes for buildings approved under a design review application shall not be modified or changed without prior approval of the original approving body by a revision to the original application. Minor hue color changes may be approved by the Director of Community Development. The Director of Community Development may refer minor hue color changes to the original approving body for consideration under a revision to the original application.

7. Exterior lighting compatible with the design of the building shall be provided for the parking lot. The lighting shall be directed and shielded so as to illuminate only the parking area and to avoid glare impacts on adjacent properties.

8. This project will comply with all applicable provisions, regulations, and development standards of Planning Area 3 of the Auto Overlay District.

All signs shall be reviewed under a separate Design Review Sign application.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

9. The current Development fees must be paid prior to issuance of building/construction permits.

POLICE DEPARTMENT:

10. This is a high graffiti area of the city. To discourage graffiti, apply an anti-graffiti coating on all block walls.

11. Adhere to the City standard of one-foot candle minimum for all entrances, exits, pedestrian paths, parking lots, and activity areas. All areas shall be illuminated during all hours of darkness and all luminaries utilized shall be vandal-resistant fixtures. The type of lighting shall be fluorescent, white L.E.D.s or metal halide. Provide a photometric layout under separate exhibit to ensure the minimum light standard is met.

12. Adhere to the Standard Building Security Specifications of the Fontana Police Department.

END OF CONDITIONS

EXHIBIT "E"

CITY OF FONTANA

CONDITIONS OF APPROVAL

PROJECT: Master Case No. 21-032
Design Review No. 21-010
Shopping Center

DATE: December 7, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue, (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44).

PLANNING DEPARRTMENT:

1. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on the first sheet of the final building plans prior to issuance of any building permits.

2. This Design Review shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Division inspection, has commenced within this period.

3. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:

   a. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and

   b. All other Conditions of Approval imposed by this project have been fulfilled.

4. Prior to the construction of any modifications, all structural and aesthetic changes to the project design must be requested and approved in writing by the Director of Community Development or his/her designee.

5. This project will comply with all applicable provisions, regulations and development standards of the City of Fontana Municipal Code.

6. The occupants of this facility shall comply with applicable provisions of local, state and federal laws and regulations with respect to noise, vibration, smoke, odors, fire and explosive hazards, including, but not limited to the City's adopted Hazardous Materials Management Plan and Industrial Wastewater/Discharge requirements.

7. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

   In the event of any such third party action or proceeding, the City shall have the right to retain legal counsel. The applicant shall be responsible and reimburse the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

   Except as required under applicable State and Federal law, the City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

8. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City manager shall bring such proposed

amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manger's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Sections 30-30 and 30-31 of the Municipal Code.

9. Exterior lighting compatible with the design of the building shall be provided for the parking lot. The lighting shall be directed and shielded so as to illuminate only the parking area and to avoid glare impacts on adjacent properties.

10. All roof-mounted equipment and ground mounted equipment shall be screened from view from adjacent properties and streets with colors and materials that are compatible with the architecture of the building(s).

11. Any foam treatment used for architecture treatments and/or projections located on the first floor shall be covered with concrete or similar durable material a minimum of ¼ inch thick, or as determined by the Director of Community Development.]

12. The applicant shall post a publicly visible sign on the project site with the telephone number and 24-hour point of contact for dust, noise, and construction complaints. The 24-hour point of contact shall be available 24 hours a day, 7 days a week and have authority to commit additional assets to control dust, or respond to construction complaints after hours, on weekends and on holidays. Construction shall be limited to 7:00am to 6:00pm on weekdays, 8:00am to 5:00pm on Saturdays, and no construction on Sundays and Holidays.

13. Bicycle parking racks or secured bicycle lockers shall be provided for this development. Bicycle racks or lockers shall be provided at a rate of one bicycle parking space per 20 automobile parking spaces with a minimum of a two-bike rack.

14. All future monument signs shall be reviewed under a separate Design Review Sign application.

PRIOR TO ISSUANCE OF A GRADING PERMIT:

15. The applicant/developer shall comply with the mitigation measures identified in the Initial Study/Mitigated Negative Declaration Mitigation Monitoring and Reporting Program.

16. The applicant shall have fully provided, constructed, or otherwise meet all Planning Department's requirements per approved plans, and shall have addressed all punch list items to the satisfaction of the Director of Planning.

17. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.

18. A Planning Department final inspection fee of $265.00 shall be paid prior to issuance of the Certificate of Occupancy for Industrial and Commercial Development.

19. Applicant shall pay all applicable service fees pursuant to the City of Fontana Municipal Code.

20. All architecture treatments and /or projections located on any elevation of any building shall be of durable non-foam e.g. (extrusive polystyrene) material; the use of foam for additional detailing is permitted above the first 14 feet in height on the elevations.

BUILDING & SAFETY DIVISION:

21. Shall comply with the latest adopted edition of the following codes as applicable:
    A. California Building Code
    B. California Electrical Code
    C. California Mechanical Code
    D. California Plumbing Code
    E. California Energy Code
    F. California Fire Code
    G. California Green Building Standards Code

22. Automatic fire suppression systems shall be installed in all new construction per Article II, Chapter 11 of the Code of the City of Fontana. Design and type of system shall be based upon the requirements of the Building Code, Fire Code and the requirements of the Fontana Fire Prevention District.

23. The requirements of the Air Quality Management District shall be satisfied prior to the issuance of any permit if hazardous materials are stored and/or used.

24. Any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project shall comply with City Code.

25. All perimeter/boundary walls shall be designed and constructed so that the outer/exterior face of the wall is as close as possible to the lot line. In any case, the outer/exterior face of the wall shall be within two (2) inches of the lot line. Distances greater than two (2) inches may be approved prior to construction by the Building Official on a case by case basis for extenuating circumstances.

26. The Parcel map shall record prior to the issuance of any permits.

27. Grading Requirements:
    A. Grading plans shall be submitted to and approved by Building & Safety. The grading plans shall indicate all site improvements and shall indicate complete drainage paths of all drainage water run-offs.
    B. All drainage water shall drain via approved methods to an approved location, such as a public street, a public drainage system, etc.

C. Drainage water shall not cross over a public sidewalk. Drainage water may, however, cross under a sidewalk if an approved drainage structure is used.

D. A recorded drainage acceptance agreement is required from adjoining property(s) receiving flows from this property.

E. No water course or natural drainage shall be obstructed.

F. Minimum slope or grade for ALL drainage structures shall be one half (0.50) percent for concrete and one (1.0) percent for all other, or as otherwise approved by the Building Official.

G. Drainage water shall not pass from an 'improved' type of drainage structure to an 'unimproved' type of drainage structure (e.g., concrete swale to a dirt swale) unless otherwise approved by the Building Official.

H. A complete hydrology study using the latest edition of the San Bernardino County Flood Control Hydrology Manual, and complete hydraulic calculations justifying the size, slope, capacity, etc. of any and all drainage structures being utilized, shall be submitted to and approved by Building & Safety.

The on-site drainage system shall, as a minimum, be designed to handle the run-off generated by a ten (10) year storm. Check for flooding of all on-site structures (buildings) and all adjacent properties during a hundred (100) year storm.

I. The grading plans shall, as a minimum, contain sections at all lot lines and/or permit boundary lines. These sections shall clearly indicate:

1. The relationship between the proposed finished on-site grade elevations and the existing adjacent property grade elevations (Indicate any additional drainage water that may come from an adjacent property.); and
2. The ground cover/finished surface material being proposed (e.g., type of pavement, plant material, etc.); and
3. All proposed drainage structures; and
4. Any proposed and/or required walls or fencing.

28. All signs shall be Underwriters Laboratories approved or equal.

29. Permits are required prior to the removal and/or demolition of structures.

30. All exterior lighting shall be oriented, directed, and/or shielded as much as possible so that direct illumination does not infringe onto adjoining properties.

PRIOR TO ISSUANCE OF BUILDING/CONSTRUCTION PERMITS

31. The following items (as applicable) shall be completed and/or submitted to Building & Safety prior to the issuance of building permits for this project:

A. Precise grading plans shall be approved
B. Rough grading completed
C. Compaction certification
D. Pad elevation certification
E. Rough grade inspection signed off by a City Building Inspector

32. If hazardous substances are used and/or stored, a technical opinion and report, identifying and developing methods of protection from the hazards presented by the hazardous materials, may be required. This report shall be prepared by a qualified person, firm, or corporation and submitted to Building & Safety. This report shall also explain the proposed facility's intended methods of operation and list all of the proposed materials, their quantities, classifications, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.

ENGINEERING LAND DEVELOPMENT:

33. The project shall be served by the City's sanitary sewer system, all sewer facilities shall be constructed in accordance with the City Standards. Main trunk sewer line shall be in accordance with master sanitary sewer plan or as approved by the City Engineer.

34. The applicant shall obtain design and plan approval from all utility providers having jurisdiction over the on-site and off-site utilities. Completion of all undergrounding of onsite and off-site utilities is required by Section 27-52 of the City Municipal Code and in accordance with plans and specifications approved by the City Engineer.

35. It is the Applicant's responsibility to maintain all improvements and utilities within the public right-of-way, including street sweeping, prior to final acceptance by the City.

36. The applicant shall obtain an encroachment permit from Caltrans for any work required within Caltrans' right-of-way.

37. This applicant's engineer shall prepare and submit traffic signal plans per approved site plan and as required to the satisfaction of the City Engineer. PRIOR TO ISSUANCE OF GRADING PERMIT

38. Applicant shall submit and gain approval of a complete WQMP Report in accordance with the County of San Bernardino Technical Guidance Document and latest template.

39. Traffic study must be approved.

PRIOR TO MAP RECORDATION

40. Record parcel map, right-of-way dedications, easements, and reciprocal access agreement as required for the development.

41. Applicant shall provide a Land Improvement Agreement, with accompanying security. The agreement shall be executed on City-provided forms. PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS

42. Applicant shall submit engineered improvement plans and obtain full approval. All required public improvements, including streets, storm drainage systems, sewers, traffic signals, streetlights, striping, signs, landscape, and any required traffic control and/or detour plans. All plans shall conform to City Standards and Specifications, and as approved by the City Engineer. PRIOR TO ISSUANCE OF FINAL CERTIFICATE OF OCCUPANCY

43. Applicant/Engineer to provide the City of Fontana with As Built/Record Drawings for all public improvement plans. Commercial Industrial Land Development Engineering Conditions MCN21-000032 Revised 11-18-21 KS & RG

44. Applicant/Engineer shall provide centerline ties to the City of Fontana reflecting proper setting of all survey monuments within the project limits and replace any existing survey monuments damaged or removed during construction. 13. Applicant/Engineer shall set survey monuments as required by the map and corner records must be recorded with the County.

45. Applicant/Landscape Architect shall provide a “Landscape Certificate of Compliance” certifying that the work has been designed, installed, and will be maintained in accordance with the City of Fontana’s Model Water Efficiency Landscape Ordinance (Ordinance 1743, FCC Section 28).

46. All sewers and storm drains shall be video inspected by applicant/contractor. Sewer video shall include clean-out connection, clean-out to lateral segment, lateral, and main line. Storm drain video shall include main lines and laterals. Applicant shall provide a copy of the video on DVD or flash drive to inspection staff. Videos to be inspected and approved by City Inspection. If removal and replacement of any utility is required, a subsequent video of the repair will be required.

47. Applicant/Engineer of Record shall submit a conforming copy of the recorded Memorandum of Agreement for the Water Quality Management Plan and Storm Water BMP Transfer. The Access, Maintenance, and the WQMP Certification for BMP Completion must be submitted to the City Project Engineer.

PUBLIC WORKS:

48. All commercial facilities must complete an Industrial Wastewater Discharge Permit application prior to final Certificate of Occupancy (FMC 23-218).

49. All commercial or industrial facilities within the following categories must install a gravity separation interceptor to comply with the requirements of FMC Section 23-190 unless the requirement is modified by a variance issued by the Public Services Director.

Solid Waste:

50. All Commercial, Industrial, Institutional, or Residential buildings having 5 or more living units must provide refuse collection areas (AB 1327). Design plans shall be submitted and approved prior to construction and shall meet the following design requirements:

- These areas (Trash Enclosures) shall be of adequate size to contain a refuse and recycling bin and provide convenient accessibility for the deposit and collection of these materials. (AB 1327)
- The standard bin size provided by the City of Fontana's franchise hauler for commercial establishments is 7'L x 4'W x 5'H.
- Collection areas must adequately protect recyclable materials from the harmful effects of the weather. (FMC 24-12, AB 1327)
- Refuse collection areas used by food service facilities (restaurants, bakeries, coffee or juice bars, ice cream stores, or food processing) for the collection of food wastes shall have a solid roof (NPDES Standard BMP).

51. All Commercial, Industrial and construction projects must comply with the requirements of FMC 24-11; General Standards relating to the hauling of refuse and/or recycling by the City's franchise hauler during construction and post-construction.

Storm Water:

52. All parkway culverts constructed for the purpose of conveying storm water from the project to a public right of way must be maintained in operating condition by the property owner.

SCHOOL DISTRICT:

53. Prior to issuance of building permits the applicant shall be responsible for paying the applicable school district fee.

POLICE DEPARTMENT:

54. Adhere to the City standard of one foot candle minimum for all entrances, exits, pedestrian paths, parking lots, and activity areas. All areas shall be illuminated during all hours of darkness and all luminaries utilized shall be vandal-resistant fixtures. The type of lighting shall be fluorescent, white L.E.D.s or metal halide. Provide a photometric layout under separate exhibit.

55. Adhere to the Standard Building Security Specifications of the Fontana Police Department.

SAN BERNARDINO COUNTY HAZARDOUSE MATERIALS DIVSION:

56. Prior to occupancy, the business operator shall be required to apply for one or more of the following permits, or apply for exemption from hazardous materials laws and

regulations: Hazardous Materials Permit, Hazardous Waste Permit, Aboveground Storage Tank Permit, or Underground Storage Tank Permit. Application for one or more of these permits shall occur by submitting a hazardous materials business plan using the California Environmental Reporting System (CERS) http://cers.calepa.ca.gov/ Additional information can be found at http://www.sbcfire.org/ofm/Hazmat/PoliciesProcedures.aspx or you may contact The Office of the Fire Marshal, Hazardous Materials Division at (909) 386-8401.

57. Facilities having an aggregate store capacity of over 1320 gallons of petroleum products on site must prepare and implement a Spill Prevention, Control, and Countermeasures (SPCC) Plan prior to having petroleum product in them. 40 CFR 1 112.3

FIRE DEPARTMENT:

58. **Jurisdiction.** The above referenced project is under the jurisdiction of the Fontana Fire Protection District (herein "Fire Department"). Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department.

59. **Fire Access Road Width**. Prior to map recordation, all fire access roadways shall be designed to meet the requirements for this development and shall be approved by the Fire Department. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height. California Fire Code sec 503, SBCFD Standard 503.1

60. **Fire Lanes**. The applicant shall submit on a site plan to the Fire Department for review and approval all proposed signage and striping for all fire access roadways. All curbs adjacent to fire lanes shall be painted red and "No Parking, Fire Lane" signs shall be installed on public and private roads in accordance with approved standards. SBCFD Standard 501.

61. **Water System Commercial**. Prior to map recordation, all water supply systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using Appendix B of the California Fire Code. A minimum of one new six (6) inch fire hydrant assembly with two (2) two and one half (2 1/2) inch and one (1) four (4) inch outlet shall be provided. All fire hydrants shall be spaced no more than three hundred (300) feet apart as measured along vehicular travel-ways. California Fire Code sec 508, SBCFD Standard 508.1

The Fire Flow for this project shall be: 1500 GPM for a 2 hour duration at 20 psi residual operating pressure.

62. **Hydrant Marking.** Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. SBCFD Standard 508.5.2.

63. **Water System Certification.** The applicant shall provide the Fire Department with a letter from the serving water company, certifying that the required water improvements have been made or that the existing fire hydrants and water system will meet distance and fire flow requirements. Fire flow water supply shall be in place prior to placing combustible materials on the job-site.

64. **Combustible Protection.** Prior to combustibles being placed on the project site an approved paved roadway providing fire access and fire hydrants providing an acceptable fire flow shall be installed. California Fire Code sec 508, SBCFD Standard 508.1

65. **Fire Sprinkler-NFPA #13.** An automatic fire sprinkler system complying with NFPA 13 and Fire Department standards is required. A fire sprinkler contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The plans shall include hydraulic calculations and manufacturer specification sheets. The required fees shall be paid at the time of plan submittal. SBCFD Standard 903.

66. **Fire Alarm, Water Flow Monitoring**. A water flow monitoring fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required for fire sprinkler systems with twenty (20) sprinkler heads or more. A fire alarm contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal. California Fire Code sec. 907, SBCFD Standard 907 FA-M.

67. **Fire Extinguishers.** Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. California Fire Code sec. 906.

68. **Commercial Addressing.** Commercial and industrial developments of 100,000 sq. ft. or less shall have the street address installed on the building with numbers that are a minimum six (8) inches in height and with a one (1) inch stroke. The street address shall be visible from the street. During the hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is two hundred (200) feet or more from the roadway, additional non-illuminated contrasting six (6) inch numbers shall be displayed at the property access entrances. SBCFD Standard 505.1

69. **Key Box.** An approved Fire Department key box is required. The key box shall be provided with a tamper switch and shall be monitored by a Fire Department approved central monitoring service. SBCFD Standard 506

70. **Material Identification Placards**. The applicant shall install, in all locations deemed appropriate by the Fire Department, approved material identification placards on the outside of all buildings and/or storage tanks that store hazardous or flammable materials. Additional placards shall be required inside the buildings when chemicals are segregated into separate areas. Standard 2703.5.

EXHIBIT "F"

CITY OF FONTANA

CONDITIONS OF APPROVAL

PROJECT: Master Case No. 18-033 **DATE**: December 7, 2021
Design Review Sign No. 21-018

LOCATION: The project site is located on the northwest corner of South Highland Avenue and Sierra Avenue within Planning Area 4 of the Auto Center Overlay District (APN 0240-091-39, -41, -43, -48, -54, -57, -58, -59, and -60)

PLANNING DIVISION:

1. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on the first sheet of the final building plans prior to issuance of any building permits.

2. This Design Review shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Division inspection, has commenced within this period.

3. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:

    a. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and

    b. All other Conditions of Approval imposed by this project have been fulfilled.

4. Prior to the construction of any modifications, all structural and aesthetic changes to the project design must be requested and approved in writing by the Director of Community Development or his/her designee.

5. This project will comply with all applicable provisions, regulations and development standards of the City of Fontana Municipal Code.

6. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

   In the event of any such third party action or proceeding, the City shall have the right to retain legal counsel. The applicant shall be responsible and reimburse the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

   Except as required under applicable State and Federal law, the City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

7. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manger's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Sections 30-30 and 30-31 of the Municipal Code.

8. The applicant shall post a publicly visible sign on the project site with the telephone number and 24-hour point of contact for dust, noise, and construction complaints.

The 24-hour point of contact shall be available 24 hours a day, 7 days a week and have authority to commit additional assets to control dust, or respond to construction complaints after hours, on weekends and on holidays. Construction shall be limited to 7:00am to 6:00pm on weekdays, 8:00am to 5:00pm on Saturdays, and no construction on Sundays and Holidays.

PRIOR TO ISSUANCE OF A GRADING PERMIT:

9. The applicant/developer shall comply with the mitigation measures identified in the Initial Study/Mitigated Negative Declaration Mitigation Monitoring and Reporting Program.

10. The applicant shall have fully provided, constructed, or otherwise meet all Planning Division's requirements per approved plans, and shall have addressed all punch list items to the satisfaction of the Planning Director.

11. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.

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BUILDING & SAFETY DIVISION:

15. Shall comply with the latest adopted edition of the following codes as applicable:
    A. California Building Code
    B. California Electrical Code
    C. California Mechanical Code
    D. California Plumbing Code
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19. All perimeter/boundary walls shall be designed and constructed so that the outer/exterior face of the wall is as close as possible to the lot line. In any case, the outer/exterior face of the wall shall be within two (2) inches of the lot line. Distances greater than two (2) inches may be approved prior to construction by the Building Official on a case by case basis for extenuating circumstances.

20. The Parcel map shall record prior to the issuance of any permits.

21. Grading Requirements:
    A. Grading plans shall be submitted to and approved by Building & Safety. The grading plans shall indicate all site improvements and shall indicate complete drainage paths of all drainage water run-offs.
    B. All drainage water shall drain via approved methods to an approved location, such as a public street, a public drainage system, etc.
    C. Drainage water shall not cross over a public sidewalk. Drainage water may, however, cross under a sidewalk if an approved drainage structure is used.
    D. A recorded drainage acceptance agreement is required from adjoining property(s) receiving flows from this property.
    E. No water course or natural drainage shall be obstructed.
    F. Minimum slope or grade for ALL drainage structures shall be one half (0.50) percent for concrete and one (1.0) percent for all other, or as otherwise approved by the Building Official.
    G. Drainage water shall not pass from an ‘improved’ type of drainage structure to an ‘unimproved’ type of drainage structure (e.g., concrete swale to a dirt swale) unless otherwise approved by the Building Official.
    H. A complete hydrology study using the latest edition of the San Bernardino County Flood Control Hydrology Manual, and complete hydraulic calculations justifying the size, slope, capacity, etc. of any and all drainage structures being utilized, shall be submitted to and approved by Building & Safety.

       The on-site drainage system shall, as a minimum, be designed to handle the run-off generated by a ten (10) year storm. Check for flooding of all on-site structures (buildings) and all adjacent properties during a hundred (100) year storm.
    I. The grading plans shall, as a minimum, contain sections at all lot lines and/or permit boundary lines. These sections shall clearly indicate:

       1. The relationship between the proposed finished on-site grade

elevations and the existing adjacent property grade elevations (Indicate any additional drainage water that may come from an adjacent property.); and

2. The ground cover/finished surface material being proposed (e.g., type of pavement, plant material, etc.); and
3. All proposed drainage structures; and
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25. The following items (as applicable) shall be completed and/or submitted to Building & Safety prior to the issuance of building permits for this project:

A. Precise grading plans shall be approved
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END OF CONDITIONS OF APPROVAL

NOTICE OF DETERMINATION

TO: _X_ County Clerk, County of San Bernardino

___ Office of Planning and Research

FROM: City of Fontana
Planning Department
8353 Sierra Avenue
Fontana, CA 92335

SUBJECT: Filing of Notice of Determination in Compliance with Section 21152 of the Public Resources Code.

Project Title: Master Case No. 21-032, ZCA 21-001, TPM 21-006, CUP 21-004, CUP 21-005, CUP 21-006, Design Review No. 21-010 and DRS 21-018 – Citrus Crossroads Commercial Center

State Clearinghouse Number: N/A

Name of Person or Agency carrying out project: Paul Gonzales – Senior Planner. City of Fontana (Lead Agency) 8353 Sierra Avenue, Fontana, CA 92335.

Project Location: Northeast corner of South Highland Avenue and Citrus Avenue (APNs: 0240-011-38, -41, -03, -05, -42, -06, -35 and -44)

Project Description: The project is for the development of a new local-serving shopping center consisting of an anchor building and various outlying building pads totaling approximately 53,740 square feet of building area.

Project Proponent & Address: Sage Investco, 4340 Von Karman Ave. #110, Newport Beach, CA 92660

Contact Name & Phone: Ralph Deppisch– (949) 705-0426

This is to certify that the City of Fontana approved the above described project on _____, and made the following determinations:

1. The project ____ will _X_ will not have a significant effect on the environment.
2. A Mitigated Negative Declaration was prepared and certified for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.

3. Mitigation measures _X_ were ___ were not made a condition of the approval of the project.
4. A Statement of Overriding Considerations __ was _X_ was not adopted for this project.
5. Findings _X_ were ___ were not made pursuant to the provisions of CEQA.
6. The location and custodian of the documents which comprise the record of proceedings for the Addendum are specified as follows:

   Custodian: City of Fontana, Planning Department
   Location: 8353 Sierra Avenue, Fontana, CA 92335

_____
DiTanyon Johnson
Principal Planner

Date Received for Filing

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION AND NOTICE OF PUBLIC HEARING

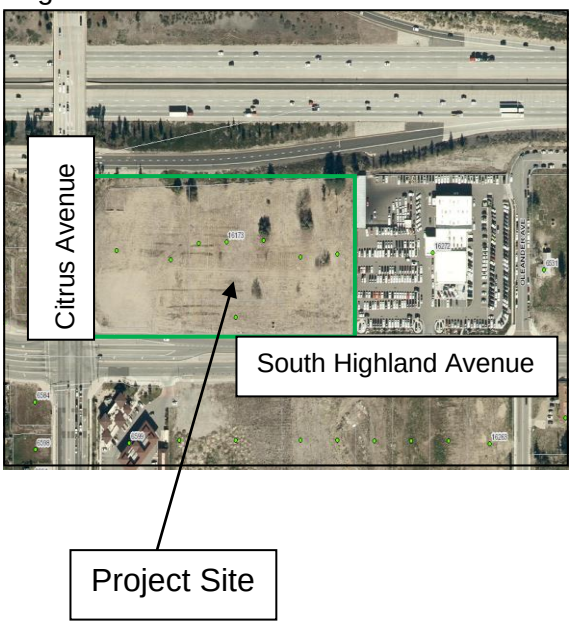
A PUBLIC HEARING HAS BEEN SCHEDULED BEFORE THE PLANNING COMMISSION OF THE CITY OF FONTANA FOR THE FOLLOWING:

MASTER CASE NO. 21-032, ZONE CODE AMENDMENT NO. 21-001, TENTATIVE PARCEL MAP NO. 20370 (TPM NO. 21-006), DEVELOPMENT AGREEMENT NO. 21-003, CONDITIONAL USE PERMIT NO. 21-004, CONDITIONAL USE PERMIT NO. 21-005, CONDITIONAL USE PERMIT NO. 21-006,) DESIGN REVIEW PROJECT NO. 21-010 AND DESIGN REVIEW SIGN NO. 21-018.

The proposed project includes the development of the "Citrus Crossroads" commercial retail center, a new local-serving shopping center and grocery consisting of an anchor building and various outlying building pads totaling approximately 53,740 square feet of building(s).

Environmental Determination: An Initial Study (IS) has been prepared for this project pursuant to the California Environmental Quality Act (CEQA). Based on the information in the IS, no significant impact is anticipated as a result of project implementation, with mitigation incorporated. A Mitigated Negative Declaration has been prepared for the Planning Commission's consideration.

The Initial Study and Mitigated Negative Declaration are available for public review from November 15 to December 7, 2021, at the Planning Department.



Location of Property: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, -35, and -44 is in Planning Area 1 of the Auto Overlay District.

Date of Hearing: December 7, 2021

Place of Hearing: City Hall Council Chambers
8353 Sierra Avenue
Fontana, CA 92335

Time of Hearing: 6:00 p.m.

Should you have any questions concerning this project, please contact Paul Gonzales, Senior Planner, at (909) 350-6658 or at pgonzales@fontana.org.

ANY INTERESTED PARTY MAY APPEAR AND PRESENT ANY INFORMATION WHICH MAY BE OF ASSISTANCE TO THE PLANNING COMMISSION. A COPY OF THE APPLICATION AND ENVIRONMENTAL DOCUMENTATION IS AVAILABLE FOR INSPECTION IN THE PLANNING DEPARTMENT, CITY HALL.

IF YOU CHALLENGE IN COURT ANY ACTION TAKEN CONCERNING A PUBLIC HEARING ITEM, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY AT, OR PRIOR TO, THE PUBLIC HEARING.

PH-E Master Case No. 21-032; Zone Code Amendment No. 21-001; Development Agreement No. 21-003; Tentative Parcel Map No. 20370 (TPM No. 21-006); Conditional Use Permit No. 21-004; Conditional Use Permit No. 21-005; Conditional Use Permit No. 21-006; Design Review Project No. 21-010; and Design Review Sign No. 21-018 - To review the proposed development of a new commercial shopping center with an anchor grocery store on an approximately 6.2 adjusted gross acre site located within Planning Area 1 of the Auto Center Overlay.

Chair Fort opened the Public Hearing.

Paul Gonzales, Senior Planner presented the staff report. In addition, George Velarde, Assistant Planner was present.

The commission and staff discussed the monument sign, the drive-thru, and stacking for the project. In addition, the commission discussed the change to the Planning Areas.

The commission and staff further ensued a discussion regarding other allowed uses for the project site; staff discussed the commercial use for this area. In addition, the commission inquired about which developers had been interested in this project site. The commission further discussed minimum parking standards, stacking, and traffic. The commission also inquired about possible tenants.

The commission commented that an increase in traffic in this area would encourage visitors to visit the current car dealerships in the area. Also, the commission discussed vacant properties within the area for future possible car dealerships.

Speaking on behalf of the applicant, Ralph Tepish, read and agreed to the Conditions of Approval. He further stated that he is proud of the project that is being presented to the city, and briefly discussed the timeline for the project.

The commission and the applicant discussed possible tenants for this project.

The applicant thanked staff, George Velarde for assisting with the project.

The commission and the applicant further discussed a grocery tenant, and a coffee shop.

The commission thanked the applicant for bringing this project and their business to the city. The applicant commented that he looks forward to working with the city in future developments, as working with the city with this project has been business friendly.

The Public Hearing was opened.

The following individual spoke in opposition of the project:

Robert Morris

The following individual spoke in favor of the project:

Lydia Perez

The Public Hearing was closed.

The commission and staff discussed traffic and environmental studies, and signage.

The commission directed Engineering Staff to talk to Ms. Perez's regarding her traffic concerns.

The commission and staff briefly discussed the property owner's rights to sell their property.

The commission and staff further discussed traffic signals for the project site, and additional traffic counts.

RECOMMENDATION:
Based on the information in the staff report and subject to the attached Findings and Conditions of Approval, staff recommends that the Planning Commission adopt Resolution PC No. 2021-048; and, forward a recommendation to the City Council to:

1. Adopt the Mitigated Negative Declaration and Mitigation Monitoring Program (MMRP) and direct staff to file a Notice of Determination; and,

2. Adopt an ordinance approving Zoning Code Amendment No. 21-001; and,

3. Adopt an ordinance approving Development Agreement No. 21-003; and,

4. Adopt a resolution approving Tentative Parcel Map No. 20370 (TPM No. 21-006), approving Conditional Use Permit No. 21-004, approving Conditional Use Permit No. 21-005, approving Conditional Use Permit No. 21-006, approving Design Review No. 21-010 and approving Sign Program (DRS No. 21-018).

ACTION: Motion was made by Commissioner Thrasher, seconded by Vice Chair Sangha, and passed unanimously by a vote of 4-1 to adopt the Resolution presented. The motion carried by the following vote:

Aye: Chairperson Fort, Vice Chair Sangha, Commissioners Gordon and Thrasher

Nay: Secretary Sanchez

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF CITY OF FONTANA, APPROVING ZONING CODE AMENDMENT 21-001 FOR TEXT AND FIGURE CHANGES TO DIVISION 5 – THE AUTO CENTER OVERLAY DISTRICT OF THE ZONING AND DEVELOPMENT CODE THAT INCLUDE CHANGING PLANNING AREA 1 TO PLANNING AREA 3 ON APPROXIMATELY 6.20 ADJUSTED GROSS ACRES (APN: 0240-011-03, -05, -06, -35, -38, -41, -42, and -44) AND ADDING GROCERY STORES AS PERMITTED USES WITHIN THE AUTO CENTER OVERLAY DISTRICT.

THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. On December 7TH, 2021, the Planning Commission duly conducted a noticed public hearing on Zone Change No. 21-001, received testimony and information from any and all parties, and recommended its approval to the City Council by resolution.

Section 2. After the publication of notice as required by law, the City Council of the City of Fontana, California conducted a public hearing on Zone Change No. 21-001.

Section 3. Based on the information presented to the City Council at the public hearing held for Zone Change No. 21-001, on January 25, 2022, the testimony received, and the supporting documents in evidence, the City Council found that the proposed amendment is in conformance with the goals and policies of the General Plan.

Section 4. Zone Change No. 21-001 is consistent with the goals and policies of the City of Fontana, General Plan by providing for a variety of commercial uses; and

Section 5. Based on the information in the Initial Study (IS), a Mitigated Negative Declaration, and Mitigation Monitoring and Reporting Program have been prepared for this project pursuant to the California Environmental Quality Act (CEQA) and the 2019 Local Guidelines for Implementing CEQA. Based on the information in the IS, the project could not have a significant effect on the environment as a result of project implementation and the Mitigated Negative Declaration, and Mitigation Monitoring and Reporting Program have been prepared.

Section 6. Zone Change No. 21-001 is hereby approved and the zoning for Assessor Parcel Nos. 0240-011-38, -41, -03, -05, -42, -06, -35 and -44 is changed from Planning Area 1 to Planning Area 3 as shown on Exhibit “A”, attached hereto and by this reference incorporated.

Section 7. This Ordinance shall take effect thirty (30) days after the date of the adoption and prior to the expiration of fifteen (15) days from the passage thereof, shall be published by the City Clerk at least once in the Herald News, a local newspaper of the general circulation, published and circulation in the City of Fontana, and henceforth and thereafter the same shall be in full force and effect.

APPROVED AND ADOPTED this January 25th, 2022.

READ AND APPROVED AS TO LEGAL FORM:

_____
City Attorney

I, Tonia Lewis, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance adopted by the City Council and was introduced at a regular meeting on the 25th day of January , 2022, and was finally passed and adopted not less than five days thereafter on the 8th day of February, 2022, by the following vote to wit:

AYES:
NOES:
ABSENT:

_____
City Clerk of the City of Fontana

_____
Mayor of the City of Fontana

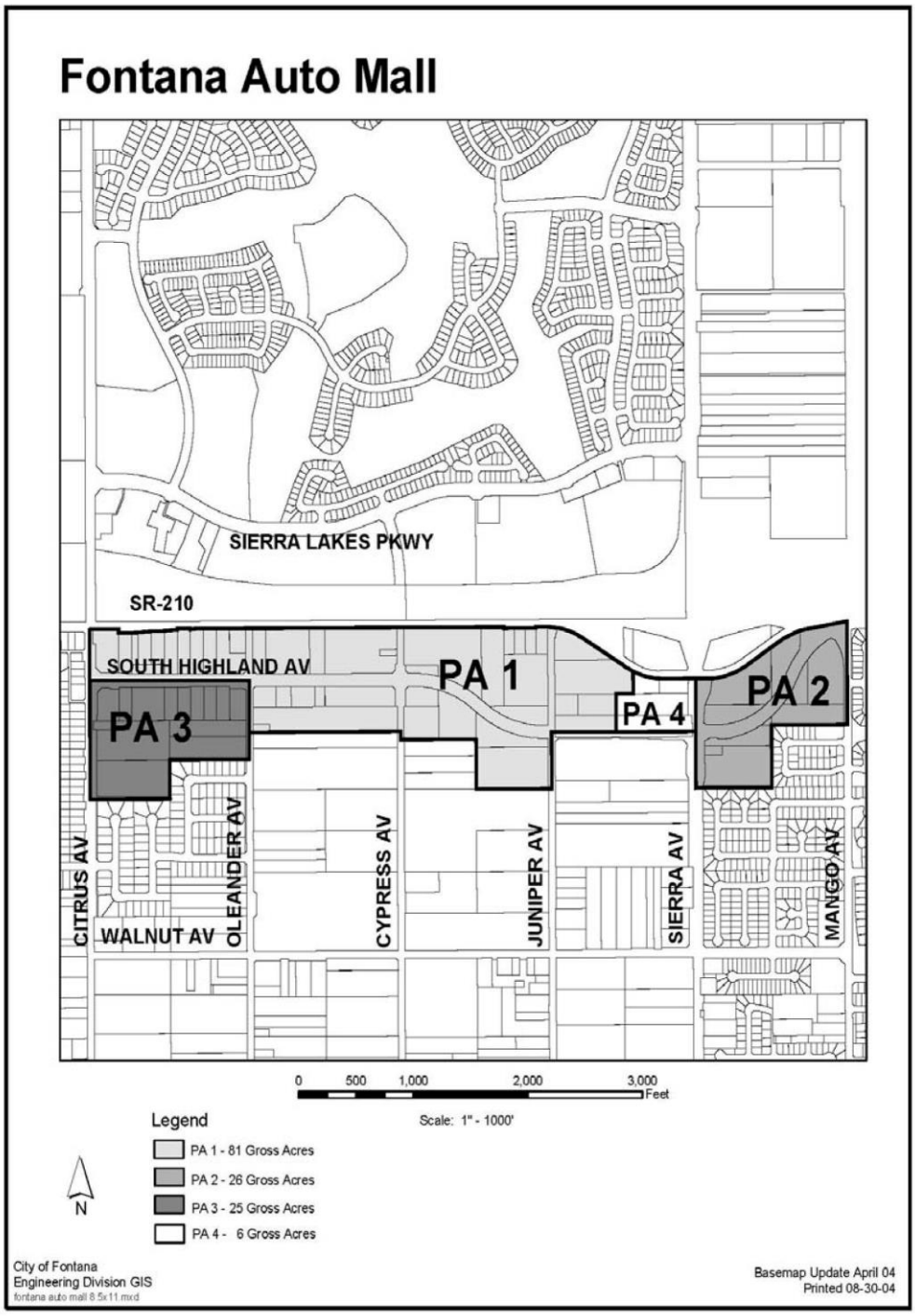
ATTEST:

_____
City Clerk

"EXHIBIT A"

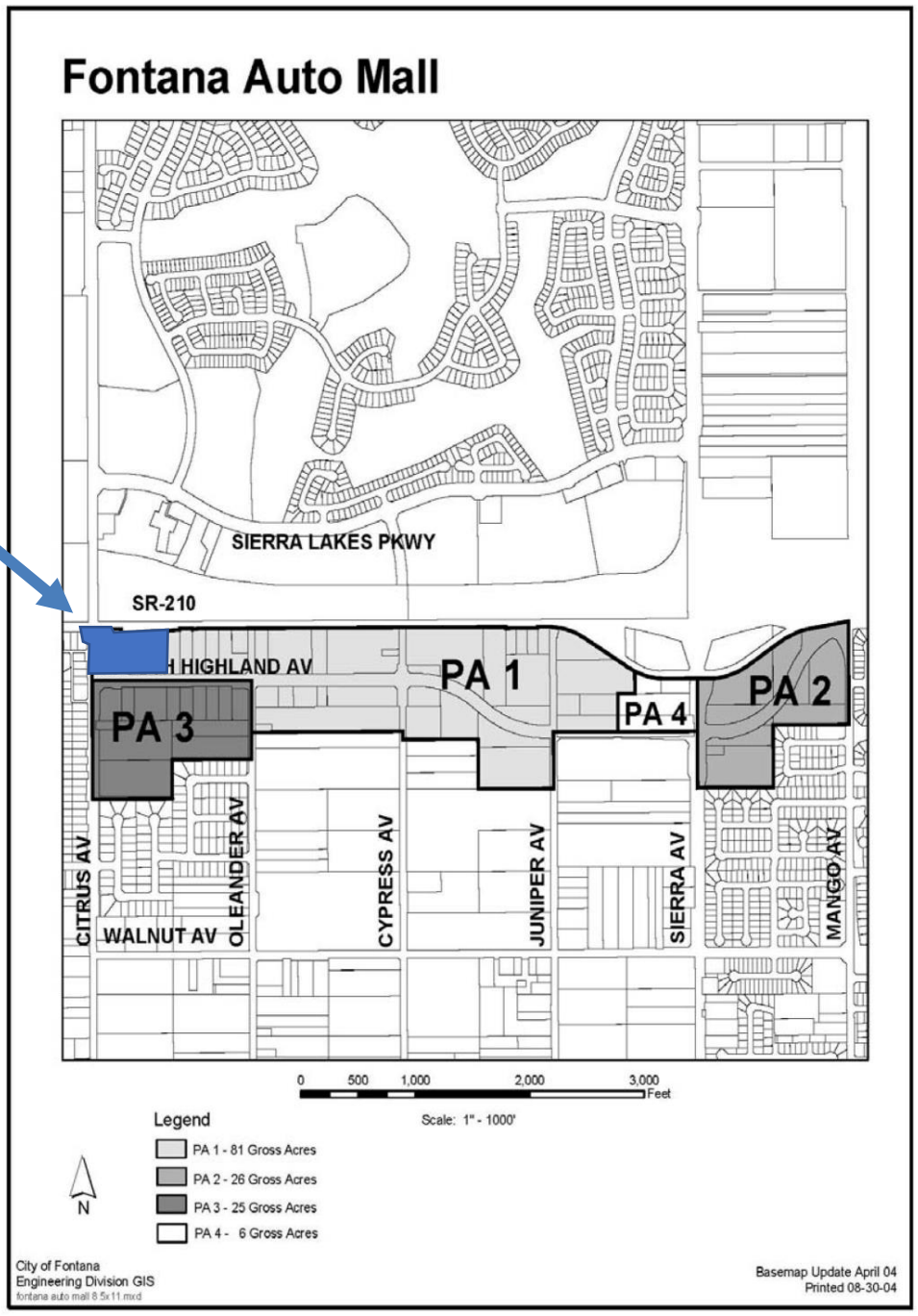
Sec. 30-639, Figure 1

Existing Planning Areas



Proposed Planning Area 3

Proposed Planning Area 3



Sec. 30-640 - Permitted uses.

The Overlay District permits only the following land uses.

(a) *Planning area 1—Auto center.*

(1) *Principal uses.*

a) New vehicle dealerships oriented primarily toward the sale of new passenger vehicles and light-to-medium weight trucks [less than 22,000 pounds gross vehicle weight (GVW)].

(2) *Accessory uses.* As an integral part of, but accessory to the operation of a new vehicle dealership, the following uses shall be permitted subject to approval through the Design Review process:

a) Vehicle parts and accessories supply and sales as an integral, but secondary part of operating a new vehicle sales facility.

b) Vehicle service and repair as an integral, but secondary part of operating a new vehicle sales facility.

c) Used vehicle sales as an integral, but secondary part of operating a new vehicle sales facility.

d) Vehicle leasing and rentals as an integral, but secondary part of operating a new vehicle sales facility.

e) Utility infrastructure.

f) Other accessory uses as determined by the Director of ~~Community~~ Planning ~~Development~~ to be substantially compatible with the principal permitted use of new vehicle dealerships.

(3) *Conditionally permitted uses.*

a) Collision repair and auto body work.

b) Paint spray booths.

c) Specialty vehicle sales, including recreational vehicles and motorcycles.

e) Other uses as determined by the Director of ~~Community~~ Planning ~~Development~~ to be substantially compatible with the principal permitted use of new vehicle dealerships.

(4) *Prohibited uses.*

a) Any use of land not specifically identified in this Overlay for Planning Area 1 is expressly prohibited from the Fontana Auto Center Overlay District.

b) Any use not fully enclosed within a building except vehicle sales, display and storage areas.

c) All uses of land that are found by the Planning Commission or City Council to be objectionable by reason of noise, odor, dust, smoke, vibration or similar causes shall be prohibited pursuant to Chapter 30 of the Fontana Municipal Code.

(b) *Planning area 2—Auto center supporting uses.* The Walnut Village Specific Plan designates Planning Area 2 for General Commercial Uses. The following Overlay District principal uses and conditionally permitted uses are consistent with the land uses allowed by the Specific Plan:

(1) *Principal uses.*

a) Sit-down restaurant.

b) Food court.

c) Sit-down fast food restaurant (excludes drive-thrus).

(2) *Accessory uses.*

a) Utility infrastructure.

(3) *Conditionally permitted uses.* The following uses are permitted only after a conditional use permit has been approved by the City:

a) Gas Station.

b) Car Wash.

c) Drive-through Fast Food Restaurant.

d) Vehicle Parts, Supplies, Accessories Stores and Installations.

e) Vehicle Leasing and Rental.

g) Other uses as determined by the Director of ~~Community~~ Planning ~~Development~~ to be substantially compatible with the principal permitted uses.

(4) *Prohibited uses.*

a) Any use of land not specifically identified in this Overlay for Planning Area 2 is expressly prohibited from the Fontana Auto Center Overlay District.

b) All uses of land that are found by the Planning Commission or City Council to be objectionable by reason of noise, odor, dust, smoke, vibration or similar causes shall be prohibited pursuant to Chapter 30 of the Fontana Municipal Code.

(c) *Planning area 3—Auto center and auto center supporting uses.* Planning Area 3 allows all uses within Planning Areas 1 and 2.

(1) *Principal uses.*

a) New vehicle dealerships oriented primarily toward the sale of new passenger vehicles and light-to-medium weight trucks (less than 35,000 pounds gross vehicle weight (GVW).

b) Sit-down Restaurant.

c) Food Court.

d) Sit-down Fast Food Restaurant (excludes drive-thrus).

e) Grocery store

f) Other uses as determined by the Director of Planning.

(2) *Accessory uses.* As an integral part of, but accessory to the operation of a new vehicle dealership, the following uses shall be permitted subject to approval through the design review process:

a) Vehicle parts supply and sales as an integral, but secondary part of operating a new vehicle sales facility.

b) Vehicle service and repair as an integral, but secondary part of operating a new vehicle sales facility.

c) Used vehicle sales as an integral, but secondary part of operating a new vehicle sales facility.

d) Vehicle leasing and rentals as an integral, but secondary part of operating a new vehicle sales facility.

e) Carwash, but secondary part of operating a new vehicle sales facility.

f) Other accessory uses as determined by the ~~Director of Community Development~~ Director of Planning to be substantially compatible with the ~~principal~~ permitted uses ~~of new vehicle dealerships~~.

(3) *Conditionally permitted uses.* The following uses are permitted only after a conditional use permit has been approved by the City:

a) Specialty vehicle sales, including recreational vehicles and motorcycles.

b) Seniors Housing.

c) Gas Station.

d) Car Wash.

e) Drive-through Fast Food Restaurant.

f) Vehicle Parts, Supplies, Accessories Stores and Installations.

g) Vehicle Leasing and Rental.

i) Hotel

j) Other uses as determined by the Director of ~~Community~~ Planning ~~Development~~ to be substantially compatible with the principal permitted use of new vehicle dealerships.

(4) *Prohibited uses.*

a) Any use of land not specifically identified in this Overlay for Planning Area 3 is expressly prohibited from the Fontana Auto Center Overlay District.

b) Any use not fully enclosed within a building except vehicle sales, display and storage areas.

c) All uses of land that are found by the Planning Commission or City Council to be objectionable by reason of noise, odor, dust, smoke, vibration or similar causes shall be prohibited pursuant to Chapter 30 of the Fontana Municipal Code.

(d) *Planning area 4—Auto center and auto center complimentary uses.*

(1) *Principal uses.*

a) New vehicle dealerships oriented primarily toward the sale of new passenger vehicles and light-to-medium weight trucks (less than 22,000 pounds gross vehicle weight (GVW).

(2) *Accessory uses.* As an integral part of, but accessory to the operation of a new vehicle dealership, the following uses shall be permitted subject to approval through the Design Review process:

a) Vehicle parts and accessories supply and sales as an integral, but secondary part of operating a new vehicle sales facility.

b) Vehicle service and repair as an integral, but secondary part of operating a new vehicle sales facility.

c) Used vehicle sales as an integral, but secondary part of operating a new vehicle sales facility.

d) Vehicle leasing and rentals as an integral, but secondary part of operating a new vehicle sales facility.

e) Carwash, but secondary part of operating a new vehicle sales facility.

f) Other accessory uses as determined by the Director ~~of Community~~ Planning Development to be substantially compatible with the principal permitted use of new vehicle dealerships.

(3) *Conditionally permitted uses.*

a) Sit-down Restaurant.

h) Hotel.

l) Specialty Vehicle Sales, including Recreational Vehicles and Motorcycles.

o) Automobile, Passenger Van, and Pick-up Truck rated one-ton or less (carrying weight) Rental.

v) Other retail uses as determined by the Director of ~~Community~~ Planning ~~Development~~ to be substantially compatible with the principal permitted use of new vehicle dealerships.

(4) *Prohibited uses.*

a) Any use of land not specifically identified in this Overlay for Planning Area 4 is expressly prohibited from the Fontana Auto Center Overlay District.

b) Any use not fully enclosed within a building except vehicle sales, display and storage areas.

c) All uses of land that are found by the Planning Commission or City Council to be objectionable by reason of noise, odor, dust, smoke, vibration or similar causes shall be prohibited pursuant to Chapter 30 of the Fontana Municipal Code.

Sec. 30-641 - Plan review.

Design Review and/or a Conditional Use Permit approval shall be required for all projects located within the Overlay District pursuant to the requirements of Chapter 30 of the Fontana Municipal Code. Projects under 10,000 square feet in size can be approved administratively by City staff.

Sec. 30-642- Site planning.

Site planning shall involve careful consideration of the project site, adjacent properties and how the project fits into the overall context of the Fontana Auto Center Overlay District.

(a) *Planning area 1—Auto center.*

(1) Locate structures and vehicle display areas on each site to enhance the architecture of the auto dealership building and to maximize vehicle displays.

(2) The location of structures shall take into consideration the existing and/or future location of buildings on adjoining properties. Solid block walls adjacent to the 210 Freeway right-of-way are prohibited. Solid block walls that divide adjacent auto dealerships are discouraged, unless controlled pedestrian and vehicle connections are provided for.

(3) Vehicular access and circulation within auto dealerships shall be controlled with properly sized and spaced drive aisles to ensure safe ingress and egress.

(4) All service bays shall be located in such a manner so they are not visible from any public right-of-way, including the 210 Freeway.

(5) All dealerships shall provide attractive, direct and safe pedestrian access and circulation. There should also be convenient pedestrian connections between dealerships.

(6) Locate customer-oriented uses on the ground level of all auto dealership buildings. Business office space and other uses not dependent on customer traffic should be located on upper levels.

(7) There shall be a coordinated landscape setback for all dealerships along South Highland Avenue, Cypress Avenue, Juniper Avenue, Oleander Avenue, and any new streets constructed within the Overlay District.

(8) There shall be coordinated, elevated vehicle display pads for all dealerships located along South Highland Avenue. The vehicle display pads are allowed to encroach within the landscape setback area along South Highland Avenue.

(9) Textured hardscape is required at all major driveway entrances and on vehicle display pads.

(10) On-site exterior lighting shall comply with lighting criteria, as set forth within this Overlay District. Creative lighting designs and reinforcement of lighting intensity for highlighting purposes of vehicle pad displays, signage and other merchandising areas are encouraged.

(11) Vehicle loading and unloading shall be provided on-site. Access to loading and service bays should be separated from customer parking areas wherever feasible. Adequate stacking distance shall be provided on-site for car carrier trucks. Adequate stacking distance is also required on-site when the dealership is closed and gates are locked.

(12) There shall be coordinated edge treatments along the 210 Freeway right-of-way and between dealerships that enhances the visual appearance of this Gateway area into northern Fontana. Solid masonry block walls are not allowed along the Freeway right-of-way. The edge treatment shall consist of decorative pilasters connected by tubular wrought iron fencing.

(13) The intersections of Sierra Avenue/South Highland Avenue, and Citrus Avenue/South Highland Avenue shall have special corner focal point treatments with Gateway features that include theme landscaping, water features, display pads, arches and appropriate monument signage.

(b) *Planning area 2—Auto center supporting uses.*

(1) Allow uses that complement and provide service to the Auto Center dealerships.

(2) Development proposed on the southeast side of South Highland Avenue in Planning Area 2 must demonstrate compatibility with adjacent and nearby Walnut Village Specific Plan residences through creative site planning, setbacks, landscaping and other design and land use considerations.

(3) Design all gas stations "reversed out" with building facilities backed up to the right-of-way setback line and the pump islands to the interior.

(4) The location of structures shall take into consideration the existing and/or future location of buildings on adjoining properties. Solid block walls between adjacent uses are discouraged and pedestrian connections are encouraged.

(5) There shall be a coordinated landscape setback for all uses along South Highland Avenue, and any new streets constructed within Planning Area 2.

(6) Textured hardscape is required at all major driveway entrances.

(7) On-site exterior lighting shall comply with lighting criteria, as set forth within this Overlay District.

(8) There shall be coordinated edge treatments along the 210 Freeway right-of-way between Sierra Avenue and Mango Avenue that enhances the visual appearance of this Gateway area into Northern Fontana. Solid masonry block walls are not allowed along the Freeway right-of-way.

(9) The intersections of Sierra Avenue and South Highland Avenue shall have special corner focal point treatments with Gateway features that include theme landscaping, water features, arches and appropriate monument signage.

(c) *Planning areas 3 and 4.* All site planning criteria for Planning Areas 1 and 2 apply to Planning Areas 3 and 4.

Sec. 30-643 - Minimum development standards.

The minimum site development standards listed in this Section shall only apply to the specific Planning Area within the Overlay District.

(a) *Planning area 1—Auto center development standards.*

(1) *Building and parking setbacks.*

a) All buildings and parking, except for vehicle display pads and allowed monument signs, shall be setback from all street property lines as follows:

Sierra Avenue: 25 Feet

Citrus Avenue: ~~20 Feet~~ 15 Feet

South Highland Avenue: 15 Feet

Secondary Streets: 10 Feet

Collector Streets: 10 Feet

Local Streets: 10 Feet

b) Vehicle Display Pads shall have no required setback and shall be allowed to encroach into the landscape setback . Adequate site distance must be demonstrated at street intersections and driveway entrances for each vehicle display pad. Display pads shall not exceed 14 inches in height as measured from the sidewalk grade.

c) Monument signs are required to be set back a minimum of five feet from the street property line.

(2) *Building height.*

a) Buildings and other structures shall not exceed a maximum of 60 feet in height as measured from the top of curb located adjacent to the street property line to the highest building ridge.

(3) *Lot coverage.*

a) No more than 50 percent of the net lot area may be covered with buildings or other structures.

(4) *Off-street parking and circulation.*

a) Required off-street parking spaces for vehicle dealerships shall be provided at the following ratios:

Show Room: One space per 300 square feet.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA APPROVING DEVELOPMENT AGREEMENT (DA NO. 21-003) BETWEEN THE CITY OF FONTANA AND SAGE CITRUS FONTANA, LLC WHICH PROVIDES A PUBLIC BENEFIT FEE IN THE AMOUNT OF $376,180.00 DOLLARS

WHEREAS, the City Council ("City Council") of the City of Fontana ("City") is authorized by California Government Code sections 65864 et seq. and section 30-102 of the City's Development Code ("Development Code") to enter into an agreement for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property; and

WHEREAS, City has found that development agreements will strengthen the public planning process, encourage private participation in comprehensive planning by providing a greater degree of certainty in that process, reduce the economic costs of development, allow for the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public and private resources in the development process, and ensure that appropriate measures to enhance and protect the environment are achieved; and

WHEREAS, the City of Fontana, a California Municipal Corporation ("City") and Citrus and Slover, LLC., ("Developer") entered into a Development Agreement ("DA"), dated as of January 25, 2022 for reference purposes only, whereby Developer is to acquire fee title to certain real property (the "Property"); and

WHEREAS, Developer's interest in the Property, including that interest to be conveyed pursuant to the DA, constitutes a legal or equitable interest in real property pursuant to California Government Code section 65865; and

WHEREAS, Developer proposes the development of the Property for a commercial retail center consisting of an anchor building and various outlying building pads totaling approximately 53,740 square feet on the Property, entailing front end investment in the planning, entitlement and development of the Property to achieve the goals of the City's General Plan ("General Plan"), as further described and conditioned in the Development Agreement (collectively, such development shall be referred to herein as the "Project"); and

WHEREAS, City desires the timely, efficient, orderly and proper development of the Project in furtherance of the goals of the General Plan; and

WHEREAS, City has found that the development agreement attached hereto as Exhibit A and incorporated herein by reference ("Development Agreement") is consistent with City's General Plan and it has been reviewed and evaluated in accordance with Section 30-102 of the City Development Code; and

WHEREAS, City has determined that by entering into the Development Agreement: (i) City will promote orderly growth and quality development on the Property in accordance with the goals and policies set forth in the General Plan and (ii) City will benefit from increased employment, industrial opportunities created by the Project for residents of the City; and

WHEREAS, on January 25, 2022, the City Council introduced this Ordinance through a first reading of this Ordinance; and

WHEREAS, An Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for this project in accordance with Section 15072 of the California Environmental Quality Act (CEQA) and Section 6.04 of the 2019 City of Fontana Local Guidelines for Implementing the CEQA. Based on the information in the IS/MND, all significant impacts anticipated as a result of project implementation would be less than with mitigation incorporated, and a Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the Planning Commission's consideration; therefore, a Notice of Determination has been prepared.

WHEREAS, the terms and conditions of the Development Agreement have undergone review by City at publicly noticed hearings and have been found to be fair, just and reasonable and consistent with the General Plan. Further, City finds that: (i) the economic interests of the City's citizens and the public health, safety and welfare will be best served by entering into the Development Agreement; (ii) the Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the Property is located; (iii) the Development Agreement is consistent with the General Plan; (iv) the Development Agreement is in conformity with the public convenience, general welfare and good land use practice; (v) the Development Agreement will not be detrimental to the public health, safety and general welfare; and (vi) the Development Agreement will not adversely affect the orderly development or the preservation of property values for the Property or any other property.

THE CITY COUNCIL OF THE CITY OF FONTANA DOES ORDAIN AS FOLLOWS:

Section 1. Based on the foregoing, the City of Fontana City Council adopts the Mitigated Negative Declaration and Mitigation Monitoring Reporting Program in accordance with Section 15072 of the California Environmental Quality Act (CEQA) and Section 6.04 of the 2019 City of Fontana Local Guidelines for Implementing the CEQA.

Section 1. Pursuant to California Government Code sections 65865 et seq., the City Council hereby approves the development agreement, a copy of which is on file with the City Clerk and incorporated by reference herein attached as “Exhibit A” for entitled "Development Agreement No. 21-003 between Citrus and Slover, LLC, a California limited liability company and the City of Fontana a California municipal corporation.

Section 2. Based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council finds this Ordinance promotes the public health, safety and welfare of the community because the Development Agreement will enable needed public improvements at the Property and the economic development of the Property will benefit the citizens of the City.

Section 3. The City Council hereby incorporates by reference the Recitals set forth herein and adopts those recitals as its own as though fully set forth in this Ordinance. Pursuant to California Government Code section 65867.5(b), and based on the entire record before the City Council, including all written and oral evidence presented to the City Council, the City Council hereby finds that the Development Agreement is consistent with the General Plan because the Development Agreement will result in the development of the Property at the intensity and density allowed under the General Plan and with the restrictions and standards set forth in the City's Municipal Code, and the Development Agreement.

Section 4. The City Clerk shall cause to be recorded with the San Bernardino County Recorder a copy of the executed Development Agreement at the time and in the manner provided for in the DA.

Section 5. This Ordinance shall take effect thirty (30) days after the date of its adoption, and prior to the expiration of the fifteen (15) days from the passage thereof, the Ordinance or a summary of the Ordinance shall be published at least once in the Herald News, a newspaper of general circulation in the City of Fontana. Thereafter this Ordinance shall be in full force and effect.

APPROVED and ADOPTED this 25th day of January 25, 2022.

READ AND APPROVED AS TO LEGAL FORM:

_____

City Attorney

I, Tonia Lewis, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance adopted by the City Council and was introduced at a regular meeting on the 25th day of January, 2021, and was finally passed and adopted not less than five days thereafter on the 8th day of February, 2022 by the following vote to wit:

AYES:
NOES:
ABSENT:

_____
City Clerk of the City of Fontana

_____
Mayor of the City of Fontana

ATTEST:

_____
City Clerk

EXHIBIT "A"
DEVELOPMENT AGREEMENT

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City Clerk
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Record for the Benefit of
the City of Fontana
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DEVELOPMENT AGREEMENT

By and Between

THE CITY OF FONTANA

a California Municipal Corporation

and

Sage Citrus Fontana, LLC
("Developer")

San Bernardino County, California

Development Agreement

by and between the

City of Fontana and Developer

Relative to

Citrus Crossroads.

THIS DEVELOPMENT AGREEMENT is made and entered into this _____ day of _____, 2021, by and between the CITY OF FONTANA a California municipal corporation ("City"), and Sage Citrus Fontana, LLC, a California limited liability company ("Developer"), pursuant to the authority of Article 2.5, Chapter 4, Division 1, Title 7 (Section 65864, et seq. of the California Government Code) ("Development Agreement Law") relating to Development Agreements.

R E C I T A L S

In order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (Section 65864, et seq. of the Government Code).

The Development Agreement Law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law, can assure property developers they may proceed with projects assured that approvals granted by public agencies will not change during the period of development of their projects. Cities and counties are equally assured that costly infrastructure such as roads, sewers, schools, fire protection facilities, etc. will be available at the time development projects come online.

This Development Agreement relates to a Zoning and Development Code Amendment, Conditional Use Permits, and Tentative Parcel Map for the Citrus Crossroads commercial retail center, filed on March 24, 2021. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development of the Subject Property.

The means of attaining the aforementioned objectives and the public benefit to be received as a result of development of the Project (defined below) through this Agreement shall provide for the following:

Project includes construction and operation of the Citrus Crossroads commercial retail center, a new local-serving shopping center consisting of an anchor building and various outlying building pads.

Developer owns in fee, that certain real property located in the City of Fontana located at the northwest corner of Citrus Avenue and S Highland Avenue intersection (north side of South Highland Avenue, south of SR-210, west of Citrus Avenue, and east of Oleander Avenue), tax assessor parcel numbers 0240-011-03, -05, -06, -35, -38, -41, -42, and -44 (the "Subject Property"), and desires to create thereon the Citrus Crossroads commercial retail center, consisting of an anchor building and various outlying building pads (the "Project").

City, in response to Developer's applications, after public hearings and extensive environmental analysis, has granted the following entitlements:

By Ordinance No. _____, effective _____, amended the Fontana Zoning and Development Code for the Subject Property—specifically, figure and text amendments. The figure amendment is needed to change the planning area designation of the project site from Planning Area 1 to Planning Area 3 to allow for the mix of commercial retail uses associated with the Project. Specifically, this requires an amendment to Figure 1 (Fontana Auto Center Overlay District Planning Area Boundaries Map) of the Fontana Zoning and Development Code. Figure 1 would be amended to extend the boundary of Planning Area 3 to encompass the project site. Zoning text Amendments are also required to implement the Project, including amendments to the building and parking setback requirements and the pylon sign provisions.

By Resolution No. _____, effective _____, approved a Conditional Use Permit for the following use/activity: an ABC establishment, as the anchor tenant would be selling alcoholic beverages for offsite consumption.

By Resolution No. _____, effective _____, approved a Conditional Use Permit for the following use/activity: two drive-through fast food restaurants.

By Resolution No. _____, effective _____, approved a Tentative Parcel Map (TPM No. 20370) to consolidate the eight parcels that make up the Subject Property (Assessor Parcel Numbers 0240-011-03, -05, -06, -35, -38, -41, -42, and -44) into three legal parcels to ensure common ownership and maintenance of all Project components.

By Ordinance No. _____, effective _____, authorized the City to enter into this Development Agreement with Developer.

In support of the various entitlements described in paragraph 5 above, and in accord with the California Environmental Quality Act (CEQA) and State and City CEQA guidelines, City has certified as adequate and complete a final Mitigated Negative Declaration for the Zoning and Development Code Amendment, Conditional Use Permits, and Tentative Parcel Map and this Development Agreement.

Development of the Subject Property pursuant to the terms and conditions of this Agreement, Zoning and Development Code Amendment, Conditional Use Permits, and Tentative Parcel Map and the Mitigated Negative Declaration will provide for orderly growth and development consistent with the City's General Plan and other development policies and programs of the City.

On _____, 2021, the City Planning Commission, designated by City as the Planning Agency for purposes of Development Agreement review pursuant to Government Code Section 65867, considered this Agreement and recommended its approval to the City Council. The Planning Commission specifically found that this Agreement:

(a) Is consistent with the objectives, policies, general land uses and programs specified in the General Plan;

(b) Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the Subject Property is located;

(c) Is in conformity with public convenience, general welfare and good land use practice;

(d) Will be beneficial to the health, safety and general welfare; and

(e) Will not adversely affect the orderly development of property or the preservation of property values.

City and Developer have taken all actions mandated by and fulfilled all requirements set forth in Development Code Section 17.03.220.

Having duly considered this Agreement and having held duly noticed public hearings, City finds and declares that the provisions of this Development Agreement are consistent with the maps and text of the City's General Plan.

NOW, THEREFORE, the parties hereto agree as follows:

General Provision

The Project. The Project includes construction and operation of the Citrus Crossroads commercial retail center, a new local-serving shopping center consisting of an anchor building and various outlying building pads. Total building square footage would be approximately 53,740 square feet. The anchor building would be single story and encompass approximately 40,100 square feet—it would be occupied by an anchor tenant in the grocery market business. The outlying building pads feature two inline single-story building pads that accommodate approximately 6,040 square feet of building space to be occupied by

smaller retail tenants; an approximately 3,000 square foot dental office; an approximately 2,400 square foot drive thru restaurant; and an approximately 2,200 square foot drive thru coffee shop. Other project components include vehicular access and circulation improvements (both on- and offsite); surface parking areas and drive aisles; pedestrian access and circulation improvements; various landscape, hardscape, and lighting improvements; site and tenant signage; and infrastructure and utility improvements.

Subject Property. The approximately 6.2-acre project site is situated along the north side of South Highland Avenue, south of State Route 210 (SR-210), east of Citrus Avenue, and west of Oleander Avenue. Regional access to the site is via SR-210 and local access is via South Highland and Citrus Avenues. The Subject Property is more legally described and depicted in **Exhibit "A"**, which is incorporated herein and made part of this Agreement.

Definitions. As used in the Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

Adopting Ordinance means Ordinance Number _____ entitled: "_____" dated _____, and effective _____, which approves this Development Agreement as required by Government Code Section 65867.5.

Assumption Agreement means an agreement substantially conforming to the model assignment and assumption agreement attached as **Exhibit "C,"** or other agreement in a form reasonably approved by the City Attorney, executed by a Landowner with the City, expressly assuming various obligations relating to the development of the Project, or portion thereof.

Certificate of Occupancy means either a certificate issued after inspections by City authorizing a person or persons in possession of property to dwell or otherwise use a specific building or dwelling unit, including without limitation a temporary certificate of occupancy, or the final inspection if a formal certificate is not issued.

CEQA means the California Environmental Quality Act, Sections 21000, et seq., of the Public Resources Code of the State of California.

City Manager means the duly appointed City Manager for the City of Fontana.

Council means the duly elected legislative body governing the City of Fontana.

Developer means Sage Citrus Fontana, LLC, a California limited liability company, or its respective permitted successors in interest.

Development Impact Fees means a monetary exaction other than a tax or special assessment, whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include the

following fees specified in Government Code Section 66477, fees collected under development agreements adopted pursuant to Article 2.5 (commencing with Section 65864 of Chapter 4 of the Government Code), or fees collected pursuant to agreements with redevelopment agencies which provide for the redevelopment of property in furtherance or for the benefit of a redevelopment project for which a redevelopment plan has been adopted pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code): processing fees and charges of every kind and nature imposed by City to cover the estimated actual costs to City of processing applications for development approvals or for monitoring compliance with any development approvals granted or issued, including, without limitation, fees for zoning variances, zoning changes, use permits, building inspections, or building permits ("Processing Charges"); filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code; the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code; or planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 of the Government Code; or fees and charges as described in Sections 51287, 56383, 57004, 65104, 65456, 65863.7, 65909.5, 66013, 66014, and 66451.2 of the Government Code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code, as such codes may be amended or superseded, including by amendment or replacement.

Director means the Planning Director for the City of City of Fontana.

Effective Date means the effective date of the Adopting Ordinance.

Existing Land Use Regulations mean the ordinances and resolutions adopted by the City Council of the City of Fontana in effect on the Effective Date, including the adopting ordinances and resolutions that govern the permitted uses of land, the density and intensity of use, and the design, improvement, construction standards and specifications applicable to the development of the Subject Property, including, but not limited to, the General Plan, and the Zoning Ordinance and all other ordinances, codes, rules and regulations of the City establishing subdivision standards, park regulations, impact or Development Impact Fees (but only to the extent the Zoning Ordinance and other such regulations are not inconsistent with this Development Agreement and the Specific Plan). Existing Land Use Regulation does not include any City ordinance, resolution, code, rule, regulation or official policy, governing:

(a) the conduct of businesses, professions, and occupations;

(b) taxes and assessments;

(c) the control and abatement of nuisances;

(d) the granting of encroachment permits and the conveyance of rights and interests which provide for the use of or the entry upon public property;

(e) the exercise of the power of eminent domain;

(f) the collection of Processing Charges.

Mitigated Negative Declaration (MND) means a detailed statement prepared under CEQA as defined in Section 15369.5 of the State Environmental Guidelines, and specifically the Mitigated Negative Declaration described in Recital 6 above.

General Plan means the General Plan of the City of Fontana, including the text and maps, as amended.

Landowner is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

Project means the anticipated development of the Subject Property as specified in paragraph 1.1 and as provided for in the provisions of this Agreement, including all other incorporated exhibits.

Public Benefit Fee means the monetary exaction (not a tax or special assessment) on the Developer as established in Section 2.3.

Subject Property means the property described in Section 1.2 and in Exhibit "A" hereto, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

Exhibits. Exhibits to this Agreement are as follows:

Exhibit "A" Map of Subject Property and legal description

Exhibit "B" Terms of Development

Exhibit "C" Assignment and Assumption Agreement

Exhibit "D" Development Code Chapter 17.25, adopted by Ordinance No. _____, dated _____, and effective on _____, as amended.

Incorporation of Recitals. Recitals 1 through 10 are incorporated herein, including all Exhibits referred to in said Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Parties to Agreement. The parties to this Agreement are:

The City of Fontana. A California municipal corporation and charter city, exercising general governmental functions and power. The principal office of the City is located at 8353 Sierra Avenue, Fontana, California.

Sage Citrus Fontana, LLC. Developer is a private enterprise that owns in fee, or has an equitable interest in, the Subject Property.

Landowner. From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released in accordance with the terms of this Agreement, shall be subject to the applicable provisions of this Agreement related to such retained portion of the Subject Property.

Project Is a Private Undertaking. It is agreed among the parties that the Project is a private development and that City has no interest therein except as authorized in the exercise of its governmental functions.

Term of Agreement. This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement, and shall continue in force for a period of ten (10) years thereafter (the "Initial Term"), unless extended or terminated as provided herein. The term of this Agreement may be extended for an additional five (5) years following expiration of the Initial Term (the "Extended Term" and with the Initial Term, the "Term"), provided the following have occurred:

(a) Developer provides at least 180 days notice to City prior to expiration of the Initial Term;

(b) Developer is not then in uncured default of this Agreement.

Following the expiration of the Initial Term or extension thereof, or if sooner terminated, this Agreement shall have no force and effect, subject, however, to post-termination obligations of City, Developer or Landowner.

No Vested Rights. During the Term of this Agreement, the development rights, obligations, terms, and conditions, including, without limitation, the Land Use Regulations or Development Impact Fees applicable to the Project, shall be those that may exist from time to time, and as may be amended and supplemented by the City from time to time. Except as otherwise provided herein, this Agreement shall provide no vested right to proceed.

Consistency with General Plan/Finding of Special Public Benefit. The City Council finds that the granting of entitlements for the Project and the execution and delivery and the terms and conditions of this Development Agreement are consistent with the text and maps of the General Plan.

Assignment and Assumption. Developer shall have the right to sell, assign, or transfer this Agreement with all its rights, title and interests therein to any person, firm or corporation at any time during the Term of this Agreement. The conditions and covenants set forth in this Agreement and incorporated herein by exhibits shall run with the Subject Property and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide City with written notice of any intent to sell, assign, or transfer all or a portion of the Subject Property at least thirty (30) days in advance of such action. Express written assumption by such purchaser, assignee or transferee, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred in accordance with this Agreement (which shall include, without limitation, a requirement that the assignor, assignee and City execute an assignment and assumption agreement in substantially the form set forth in **Exhibit "C"**), shall relieve the Developer selling, assigning or transferring such interest of such obligations so expressly assumed.

Covenants Running with the Land. Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it.

Amendment to Agreement (Developer and City). Unless otherwise prohibited in this Agreement, this Agreement may be amended by mutual consent of the parties or their applicable successors in interest to the subject property, in writing, in accordance with the provisions of Government Code Section 65868; provided, however, that any amendment that relates to the Term, permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for reservation and dedication of land shall require a public hearing and Council approval before the parties may execute an amendment. Unless otherwise provided by law, all other amendments may be approved by the City Manager or by the Council, with or without a public hearing, all at the City Manager's sole discretion.

Amendment to Agreement (Landowner and City). This Agreement may also be amended, subject to the provisions of Government Code Section 65868 and Section 1.14 above, between a Landowner who has acquired a portion of the Subject Property from Developer and City as to the portions of the Subject Property then owned by Landowner. Whether a public hearing and Council approval is required to approve any amendment under this Section 1.15 shall be governed by the same rule as set forth in Section 1.14.

Releases. Developer, and any subsequent Landowner, shall be released from further obligations relating to the sold, assigned, or transferred Subject Property (or any portion thereof), provided that the buyer, assignee, or transferee expressly assumes the obligations under this Agreement pursuant to Section 1.12 contained hereinabove.

Notices.

(a) As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; or (iii) on the date of delivery shown by facsimile or email receipt after transmission by facsimile or email to the recipient named below. All notices shall be addressed as follows:

If to City:

City of Fontana
8353 Sierra Avenue
Fontana, CA 92335
Attn: Shannon Yauchzee, Interim City Manager
Phone: (909) 350-7654
Fax: (909) 350-6613
Email: syauchzee@fontana.org

With a copy to:
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335
Attn: Planning Director
Email:pnevins@fontana.org

If to Developer:

Sage Citrus Fontana, LLC
c/o Sage Investco
4340 Von Karman Ave, #110
Newport Beach, CA 92660
Attn: Ralph Deppisch
Phone: (949) 705-0426
Email: Ralph@sageinvestco.com

(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a

different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

Attorneys Fees. If any action or proceeding is brought by any party against another for breach of this Agreement, including actions derivative from the performance of this Agreement, or to compel performance under this Agreement, the prevailing party shall be entitled to an award of its costs, including reasonable attorneys' fees and costs of experts.

Recordation of Agreement. The City Clerk of City shall, within ten (10) days after the execution of this Agreement, record this Agreement with the County Recorder, County of San Bernardino. If the parties to the Agreement or their successors in interest amend or cancel this Agreement as provided in Government Code Section 65868, or if the City terminates or modifies this Agreement as provided in Government Code Section 65865.1 for failure of the Developer or an applicable Landowner to comply in good faith with the terms or conditions of this Agreement, the City Clerk shall have notice of such action recorded with the County Recorder, in a form reasonably acceptable to the City Attorney.

Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Invalidity of Agreement/Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of California which became effective after the effective date of the adopting ordinance, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner, challenging this Agreement or any provision herein, the parties and any Landowner agree to cooperate with each other in good faith to defend said lawsuit, each party and any Landowners to be liable for its own legal expenses and costs. Notwithstanding the foregoing, City may elect to tender the defense of any lawsuit filed by a third person or entity to Developer and/or Landowner(s) (to the extent applicable thereto), and, in such event, Developer and/or such Landowner(s) shall hold the City harmless from and defend the City from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. The Developer and/or Landowner shall not settle any lawsuit on grounds, which include, but are not limited to, non-monetary relief, without the consent of the City. The City shall act in good faith, and shall not unreasonably withhold consent to settle.

Project Development

Permitted Uses and Development Standards. The permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation and dedication of land for public purposes, shall be the Land Use Regulations contained in the Development Code, as may be amended from time to time. In the event of any conflict between this Agreement and any other Land Use Regulations, the terms and provisions of this Agreement shall prevail. The parties hereto intend hereby that this Agreement, together with all other exhibits attached hereto, serve as the definitive and controlling document for all subsequent actions, discretionary or ministerial, relating to the development of the Project.

Development Impact Fees. Except as provided otherwise in this Agreement, Development Impact Fees shall be paid in the amounts and at the times specified in Municipal Code Chapter 15.68, as amended or supplemented from time to time.

Public Benefit Fee. Within twelve (12) months of issuance of the first Certificate of Occupancy (as defined in section 1.2) for a building within the Project, Developer shall pay to the City a one-time public benefit fee equal to $7.00 per square foot of actual Developer-constructed square footage on the Subject Property.

Minor Modification. Minor modifications from the approved exhibits may be approved in accordance with the provisions of the Development Code Section 17.03.250 and shall not require an amendment to this Agreement.

Further Discretionary Actions. Developer acknowledges that the Land Use Regulations contemplate the exercise of further discretionary powers by the City. These powers include, but are not limited to, implementation of conditions of approval associated with discretionary land use approvals and monitoring and implementation of environmental mitigation measures, and CEQA review of individual phases of the Project as it builds out. Nothing in this Agreement shall be construed to limit the authority or the obligation of the City to hold legally required public hearings, or to limit the discretion of City and any of its officers or officials in complying with or applying Land Use Regulations.

Financing of Public Improvements. As a condition of development approval, the Developer shall connect the Project on the Subject Property to all utilities necessary to provide adequate water, sewer, gas, electric, and other utility service to the Project and that the Developer shall contract with the City for City-owned or operated utilities for this purpose.

Processing Charges. Processing Charges that are adopted or revised during the Term of this Agreement shall apply to the Project.

Public Works. If Developer is required by this Agreement to construct any improvements that will be dedicated to City or any other public agency upon completion, and if required by applicable laws to do so, Developer shall perform such work in the same manner and subject to the same requirements as would be applicable to City or such other public agency should it have undertaken such construction. Except in extraordinary circumstances, as reasonably determined by the City Manager, Developer or the applicable Landowner shall not be entitled to impact or other fee credits or reimbursement for supplemental or excess

capacity public improvements and that where such fee credits are granted to the Developer or the applicable Landowner. , there shall be no "cross-category" credit of fees; credit shall only be applied to the category of fees in which the excess public improvements are classified.

School Financing. City and Developer acknowledge that the Fontana Unified School District has certain facilities needs related to serving the expected student population to be generated by new development. To the extent legally permissible, the Developer shall provide full mitigation for school impacts caused by the Project. The Developer shall comply with any ordinance or other mechanism approved by the City and the Fontana Unified School District. Any building permit that is issued after the adoption of a school impact ordinance for other plans approved by the City of Fontana shall comply with such requirement.

Timing of Development. The parties acknowledge that the most efficient and economic development of the Subject Property depends upon numerous factors, such as market orientation and demand, interest rates, competition, and similar factors, and that generally it will be most economically beneficial to the ultimate purchasers to have the rate of development determined by Developer. Accordingly, the timing, sequencing, and phasing of the development is solely the responsibility of Developer. In particular, and without limitation thereof, the City acknowledges that it will not unreasonably withhold or delay approval of any entitlements for development of the Subject Property or the construction of public improvements required therefore that are consistent with the terms and conditions of this Agreement.

Dedication of Public Lands. Except as otherwise provided herein, upon 30 days written notice, the Developer and any applicable Landowner agree(s) to dedicate any and all necessary road rights-of-way without expense to the City.

Tentative Parcel Map. Developer shall take all necessary steps to obtain approval and record the Parcel Map for the Project (the "Tentative Parcel Map") pursuant to Article IV of Chapter 26 of the Fontana Municipal Code within two (2) years of the Effective Date of this Agreement (the "Tentative Parcel Map Approval Deadline"). Notwithstanding anything to the contrary in this Agreement, failure by the Developer to obtain such approval and facilitate recordation of same by the Tentative Parcel Map Approval Deadline shall result in automatic termination of this Agreement. Furthermore, notwithstanding anything to the contrary in this Agreement or in the Fontana Municipal Code, the Tentative Parcel Map Approval Deadline shall not be extended by amendment of this Agreement or otherwise.

Construction of Anchor Tenant Building. Developer shall take all necessary steps to obtain approval of plans for the construction of an approximately 40,000 square foot anchor tenant building (the "Anchor Tenant Building") within nine months of the Effective Date of this Agreement. Upon approval of construction plans and issuance of all required permits, Developer shall diligently pursue construction and completion of the Anchor Tenant Building. Failure by the Developer to substantially complete construction of the Anchor Tenant Building within 15 months of the Effective Date of this Agreement shall result in automatic termination of this Agreement. Notwithstanding anything to the contrary contained herein, by written request of the Developer, City may extend the completion date should delays occur to the development and construction schedule that City deems to be outside of the control of the Developer.

Section 2.14 Obligation and Rights of Mortgage Lenders. The holder of any mortgage, deed of trust or other security arrangement with respect to the Subject Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction for completion, but shall otherwise be bound by all of the terms and conditions of this Agreement that pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, and then subject to all of the terms and conditions of this Agreement.

Section 2.15 Obligation to Develop Property. Developer and any subsequent Landowner shall construct the Project, if at all, in accordance with the terms of the development set forth in **Exhibit "B"**, attached hereto and incorporated by reference herein.

Default

General Provisions. Subject to extensions of time by mutual written consent and the notice requirements in this Section, failure or delay by either party or Landowner not released from this Agreement to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party or Landowner written notice specifying the nature of the alleged default, and such allegedly defaulting party shall have thirty (30) days to cure such default. During any such thirty (30) day period, the party or Landowner charged shall not be considered in default of this Agreement for purpose of termination or institution of legal proceedings.

After notice and expiration of the thirty (30) day period, if such default has not been cured or, in the event such default is not reasonably able to be cured in such thirty (30) day period, such cure is not being diligently pursued, the other party or Landowner to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement or give notice of its intent to terminate this Agreement pursuant to California Government Code Section 65868 and any regulations of the City implementing said Government Code Section. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review in the manner set forth in Government Code Sections 65865, 65867, and 65868 and City regulations implementing said sections by the City within thirty (30) calendar days.

Following consideration of the evidence presented in said review before the City and an additional 30-day period to cure, either party alleging the default by the other party or Landowner

may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such a portion of the Subject Property in which Landowner holds an interest.

Evidence of default may also arise in the course of annual or special review of this Agreement pursuant to Government Code Section 65865.1 and in section 3.2 below. If either party or Landowner determines that a party or Landowner is in default following the completion of the normally scheduled periodic review, said party or Landowner may give written notice of termination of this Agreement specifying in said notice the alleged nature of the default, and potential actions to cure said default where appropriate. If the alleged default is not cured in thirty (30) days or within such longer period specified in the notice, or the defaulting party or Landowner waives its right to cure such alleged default, this Agreement may be terminated by City as to the Developer or Landowner and the portion of the Subject Property in which the Developer or Landowner owns an interest.

Notwithstanding the foregoing or anything to the contrary in this Agreement, in the event City remains in default hereunder after expiration of the initial 30-day notice and cure period, Developer or Landowner, as applicable, shall have the right to immediately terminate this Agreement and/or institute legal proceedings.

Annual and Special Reviews.

(a) **Annual Reviews.** City shall, once every twelve (12) months during the Term of this Agreement, review the extent of good faith substantial compliance by Developer and/or Landowner with the terms of this Agreement. The City may charge reasonable fees as necessary to cover the costs of conducting the review. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code Section 65865.1. Said review shall be diligently completed. A finding by City of good faith compliance by Developer and/or Landowner with the terms of the Agreement shall conclusively determine said issue up to and including the date of said review.

(b) **Special Reviews.** The time for an annual review may be shortened or a special review called either by agreement between the parties or by initiation in one or more of the following ways:

(1) Recommendation of the Planning staff;

(2) Affirmative vote of at least four (4) members of the Planning Commission; or

(3) Affirmative vote of at least three (3) members of the City Council.

(c) **Review Procedure.** The City Manager shall begin the review proceeding by giving notice that the City intends to undertake a periodic or special review of Developer and/or

Landowner's good faith compliance with this Agreement to the Developer and/or Landowner. The City Manager shall give the notice at least ten (10) days in advance of the time at which the matter will be considered by the Planning Commission. Notice of any review shall include the statement that any review may result in amendment or termination of this Agreement in the event the City determines, in its good faith discretion after such review, that Developer and/or Landowner is not in good faith compliance with this Agreement.

(d) intentionally deleted

(e) **Notice and Opportunity to be Heard.** The City shall provide, in accordance with the notice provisions in Section 1.17 hereof, Developer and Landowner a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least five (5) business days prior to any such review. Developer and Landowner shall be permitted an opportunity to be heard orally or in writing regarding its performance under this Agreement before the City Council and, if the matter is referred to a City Planning Commission, also before said Commission.

(f) **Planning Commission Hearing.** The Planning Commission shall conduct a hearing at which the Developer and/or Landowner must demonstrate good faith compliance with the terms of this Agreement. The burden of proof on this issue is upon the Developer and Landowner.

(g) **Planning Commission Findings.** The Planning Commission shall determine upon the basis of substantial evidence and in its reasonable discretion whether or not the Developer and/or Landowner have, for the period under review, substantially complied in good faith with the terms and conditions of this Agreement.

(h) **Procedure Upon Findings.**

(1) If the Planning Commission finds and determines on the basis of substantial evidence and in its reasonable discretion that the Developer and Landowner have substantially complied in good faith with the terms and conditions of this Agreement during the period under review, the review for that period is concluded.

(2) If the Planning Commission finds and determines on the basis of substantial evidence and in its reasonable discretion that the Developer and Landowner have not substantially complied in good faith with the terms and conditions of this Agreement during the period under review, the Planning Commission may recommend to the City Council to modify or terminate this Agreement.

(3) The Developer or Landowner may appeal a determination pursuant to subparagraph (h)(2) to the City Council in accordance with the City's rule for consideration of appeals in zoning matters.

(i) **Proceedings Upon Modification or Termination.** If, upon a finding under subparagraph (h)(3) above, the City determines to proceed with modification or termination of this Agreement, the City shall give written notice to the Developer and/or Landowner of its intention so to do. The notice shall contain:

(1) The time and place of the hearing;

(2) A statement as to whether or not the City proposes to terminate or to modify this Development Agreement, and if modification is proposed, the proposed modifications; and

(3) Other information that the City reasonably considers necessary to inform the Developer and Landowner of the nature of the proceeding.

(j) **Hearing on Modification or Termination.** At the time and place set for the hearing on modification or termination, the Developer and/or Landowner shall be given an opportunity to be heard. The Developer and/or Landowner shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on the Developer and/or Landowner. If the City Council finds, in its reasonable discretion based upon substantial evidence in the administrative record, that the Developer and/or Landowner has not substantially complied in good faith with the terms and conditions of this Agreement, the City Council may terminate or modify this Agreement and impose those conditions to the action it takes as it considers necessary to protect the interests of the City. The decision of the City Council is final.

Default by Developer/Withholding of Building Permit. City may, at its discretion, refuse to issue a building permit for any structure within the geographical confines of the Subject Property as the same is defined at the time of said application, if Developer or Landowner thereof has failed and refuses to complete any requirement enumerated therefor in substantial accordance with the terms of this Agreement. No building permit shall be issued or building permit application accepted for the building shell of any structure on the Subject Property if the permit applicant owns or controls any property subject to this Agreement and such applicant or any entity or person controlling such applicant is in default of the terms and conditions of this Agreement as determined pursuant to Section 3.1.

Joint and Several Obligations. If at any time during the Term of this Agreement the Subject Property is owned, in whole or in part, by more than one owner, all obligations of such owners under this Agreement shall be joint and several, and the default of any such owner shall be the default of all such owners.

Default by City. Notwithstanding anything to the contrary in this Agreement, in the event City does not accept, review, approve or issue necessary development permits or entitlements for use in a timely fashion as defined by this Agreement, or as otherwise agreed to by the parties, or the City otherwise defaults under the terms of this Agreement, City agrees that Developer or Landowner shall not be obligated to proceed with or complete the Project or any phase thereof, nor shall resulting delays in Developer performance constitute grounds for termination or cancellation of this Agreement.

Cumulative Remedies of Parties/Waiver of Right to Damages. In addition to any other rights or remedies, City, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Agreement, provided however, that the City and Developer waive any and all rights hereunder to seek consequential or punitive damages as a result of any such breach or alleged breach.

Enforced Delay, Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either party or Landowner hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, global pandemic, government shutdowns, governmental restrictions imposed or mandated by governmental entities, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation enacted by the state or federal government or litigation. Any extension of time for such cause shall be notified in writing by the affected party to the other party and shall be for the period of the enforced delay or longer, as may be mutually agreed upon, but in no case shall the cumulative extensions add more than five years to the effective period of this Agreement.

Termination

Termination upon Completion of Development. This Agreement shall terminate upon the earlier of (i) expiration of the Initial Term or the Term if extended or (ii) when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith are satisfied as determined by the City. Upon termination of this Agreement, the City shall promptly record a notice of such termination in a form reasonably satisfactory to the City Attorney that this Agreement has been terminated.

Effects upon Termination on Developer Obligations. Termination of this Agreement, or the release of the Subject Property or any portion thereof from this Agreement, shall not affect any of the Developer's obligations to comply with the General Plan and the terms and conditions of any applicable zoning, or other land use entitlements approved with respect to the Subject Property, any other covenants of any other development specified in this Agreement to continue after the termination of this Agreement or obligations to pay assessments, liens, fees, or taxes.

Effects upon Termination on City. Upon termination of this Agreement pursuant to Section 3.2 herein, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the property affected by such termination

(provided vesting of such entitlements, conditions or fees may then be established for such property pursuant to the then existing planning and zoning law) and the City shall no longer be limited, by this Agreement, to make any changes or modifications to such entitlements, conditions or fees applicable to such property.

THIS SPACE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth below.

CITY OF FONTANA
a California municipal corporation

By:_____
Shannon Yauchzee, Interim City Manager,
City of Fontana

ATTEST:

_____
Tonia Lewis, City Clerk

APPROVED AS TO FORM:

_____
City Attorney

Sage Citrus Fontana, LLC

a California limited liability company

By:_____

Its:_____

LIST OF EXHIBITS

Exhibit “A” Map of subject property and legal description

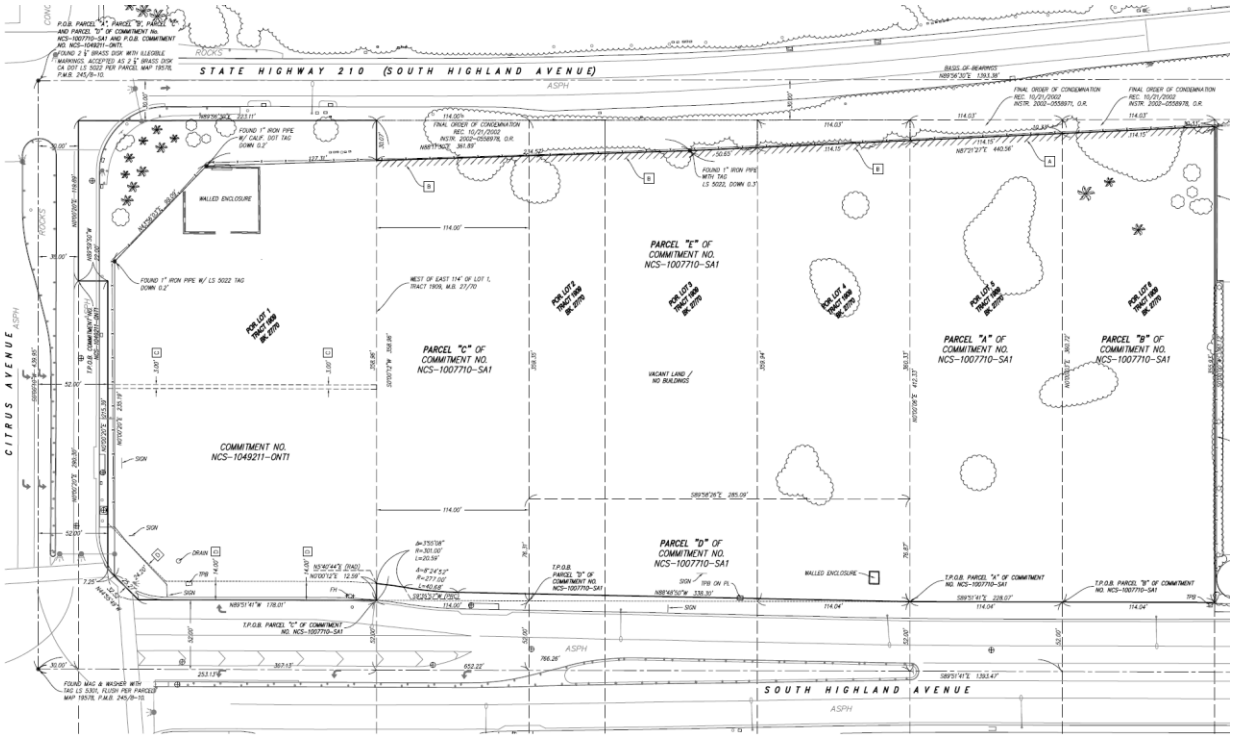
Exhibit “B” Terms of Development

Exhibit “C” Assumption Agreement

Exhibit “D” Development Code Amendment to Chapter 30 adopted by Ordinance No. ___, dated _____, 2022, and effective on _____, 2022, as amended.

EXHIBIT "A"

Map of Subject Property and Legal Description



LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

ASSESSOR PARCEL NUMBERS: 0240-011-35, 0240-011-38, 0240-011-41, 0240-011-42, 0240-011-44, 0240-011-03, 05 & 06

EXHIBIT "B"

TERMS OF DEVELOPMENT OF THE PROPERTY LOCATED AT

_____, ASSESSOR'S PARCEL NUMBER ____-___-__

1. Any development of the Subject Property shall be the Citrus Crossroads commercial retail center, consisting of an anchor building and various outlying building pads.

2. Total building square footage is approximately 53,740 square feet. The anchor building is to be single story and encompass approximately 40,100 square feet, to be occupied by an anchor tenant in the grocery market business. The outlying building pads shall feature two inline single-story building pads that accommodate approximately 6,040 square feet of building space in total: one 3,000 square foot dental office, one 2,400 square foot drive thru restaurant and one 2,200 square foot drive thru coffee shop.

3. The project shall be developed in compliance with the Development Code (Chapter 30 of the City's Municipal Code) of the City of Fontana.

4. The development standards, including but not limited to, building height, building setbacks, maximum lot coverage, minimum open space, and minimum parking requirements, shall be those contained in the entitlements that are detailed in Recital 5 of the Agreement and the Mitigated Negative Declaration.

EXHIBIT "C"

ASSIGNMENT AND ASSUMPTION AGREEMENT

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO: _____ _____ _____ Attn: _____	

Above Space for Recorder's Use

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement ("Agreement") is entered into as of _____, 200__ by and between _____, a California _____ ("Assignor") and _____, a _____ ("Assignee").

RECITALS

A. Assignor is the owner of that certain real property located in the City of Fontana, State of California, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property").

B. Assignor and the City of Fontana ("City") entered into that certain Development Agreement, dated as of _____, 2021 (the "Development Agreement") with respect to the Property.

C. In connection with its sale or other transfer of the Property to Assignee, Assignor desires to assign all of its rights and obligations with respect to the Property under the Development Agreement to Assignee and Assignee desires to accept such assignment and assume such obligations under the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the above recitals and the terms and conditions herein set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment and Delegation. Concurrent with Assignor's conveyance or transfer of the Property to the Assignee, Assignor hereby assigns to Assignee all of Assignor's right, title and interest under the Development Agreement with respect to the Property (the "Assigned

Interests") and delegates to Assignee all of Assignor's duties and obligations under the Development Agreement with respect to the Property (the "Delegated Obligations").

2. Acceptance and Assumption. Assignee hereby accepts Assignor's assignment to Assignee of the Assigned Interests and assumes and shall perform the Delegated Obligations as if named as an original party to the Development Agreement and upon execution of the attached Consent and Release by City the Assignee shall be deemed a party to the Development Agreement and a "Landowner" as defined therein.

3. Assignor's Warranties. Assignor warrants to Assignee that (a) the Development Agreement is in full force and effect and unmodified, (b) Assignor has full and lawful authority to assign its interest in the Development Agreement with respect to the Property in accordance with the terms of the Development Agreement, and (c) to Assignor's actual knowledge, as of the date of this Agreement, there is no default by Assignor under the Development Agreement or any circumstances which by lapse of time or after notice would be a default by Assignor under the Development Agreement. These warranties shall survive the execution of this Agreement.

4. Joint and Several Liability. If the term "Assignee" refers to more than one corporation, partnership, trust, association, other entity or individual, their liability under this Agreement shall be joint and several and they assume the Delegated Obligations jointly and severally.

5. Entire Agreement. This Agreement embodies the entire agreement of Assignor and Assignee with respect to the subject matter of this Agreement, and it supersedes any prior agreements, whether written or oral, with respect to the subject matter of this Agreement.

6. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall constitute one and the same agreement.

7. Binding Effect. The terms and conditions of this Agreement will inure to the benefit of, and will be binding on, the successors, assigns, personal representatives, heirs, executors, devisees, administrators, trustees and legatees of Assignor and Assignee.

8. Exhibit. Exhibit A, Legal Description of Property, is attached hereto and incorporated herein as though fully set forth herein.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Agreement as of the date first set forth above.

ASSIGNOR:

_____,
_____

By:
Name:
Title:

ASSIGNEE:

a _____

By:

Its:

CONSENT AND RELEASE

The City of Fontana ("City") hereby consents to the foregoing Assignment and Assumption Agreement and hereby releases Assignor as provided below on the express condition that City's consent shall not be deemed a consent to any subsequent assignment, but rather any subsequent assignment shall require the consent of City (or approval of the assumption agreement to be signed by the proposed assignee if such assumption agreement is not substantially in the form of the above Assignment and Assumption Agreement) pursuant to and in accordance with the terms and conditions of the Development Agreement.

Subject to the foregoing condition, City hereby releases Assignor from all of the obligations of Developer and/or Landowner under the Development Agreement, including without limitation the Delegated Obligations.

THE CITY OF FONTANA

By: _____
Name: _____
Its: _____

EXHIBIT "D"

DEVELOPMENT CODE AMENDMENT

Adopted by Ordinance No. _____, dated _____

(Attached on following page(s))

RESOLUTION NO. 2022-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA ADOPTING THE INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) PURSUANT TO SECTION NO. 15070 OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND SECTION 6.16 OF THE 2019 LOCAL GUIDELINES FOR IMPLEMENTING CEQA, APPROVING TENTATIVE PARCEL MAP NO. 20370 (TPM NO. 21-006) FOR CONSOLIDATION OF EIGHT (8) LOTS INTO FIVE (5) PARCELS, APPROVING CONDITIONAL USE PERMIT NO. 21-004 FOR A TYPE 21 ABC LICENSE, APPROVING CONDITIONAL USE PERMITS NO. 21-005 AND -006 FOR DRIVE-THRU ESTABLISHMENTS, APPROVING DESIGN REVIEW NO. 21-010 FOR SITE AND ARCHITECTURAL REVIEW OF A COMMERCIAL SHOPPING CENTER WITH A GROCERY STORE AND FIVE OTHER PADS FOR A TOTAL BUILDING SQUARE FOOTAGE OF APPROXIMATELY 53,740 SQUARE FEET AND APPROVING DESIGN REVIEW SIGN NO. 21-018 FOR A SIGN PROGRAM WITHIN THE AUTO CENTER OVERLAY ON A 6.20 ADJUSTED GROSS ACRE PROJECT SITE (APN: 0240-011-38, -41, -03, -05, -42, -06, -35 and -44).

WHEREAS, all the notices required by statute or the Fontana City Code have been given as required; and

WHEREAS, on March 24, 2021, the applicant submitted Tentative Parcel Map 20370 (TPM No. 21-006) to combine eight (8) parcels totaling approximately 6.20 adjusted gross acres into five (5) parcels, a Conditional Use Permit (CUP 21-004) for a Type 21 ABC License, Conditional Use Permits 21-005 and 006 for drive-thru establishments, a Design Review (DRP No. 21-010) application for site and architectural review of a proposed 53,740 square foot commercial center consisting of an anchor grocery store and five (5) other pads and Design Review Sign (DRS 21-018) application for a sign program to the Auto Center Overlay; and,

WHEREAS, on December 7th, 2021, the Planning Commission duly conducted a noticed public hearing on Tentative Parcel Map 20370 (TPM No. 21-006), Conditional Use Permit 21-004, Conditional Use Permit No. 21-005, Conditional Use Permit No. 21-006, Design Review No. 21-010, and Design Review No. 21-018; received testimony and information from any and all parties, and recommended its approval (with a 4-1 vote) to the City Council by resolution; and

WHEREAS, all the notices required by statute or the Fontana City Code have been given as required; and

WHEREAS, the City of Fontana General Plan was adopted by the City Council on November 13, 2018; and

WHEREAS, on January 25, 2022, the City Council conducted a noticed public hearing on Tentative Parcel Map 20370 (TPM No. 21-006), Conditional Use Permit 21-004, Conditional Use Permit No. 21-005, Conditional Use Permit No. 21-006 and Design Review No. 21-010; received testimony from any and all parties, including the staff report and attached supporting documents from the Planning Commission public hearing on December 7th, 2021, as well as testimony from the project applicant and others; and

WHEREAS, An Initial Study (IS), Mitigated Negative Declaration (MND), and Mitigation Monitoring and Reporting Program (MMRP) have been prepared for this project pursuant to the California Environmental Quality Act (CEQA) and the 2019 Local Guidelines for Implementing the CEQA. Based on the information in the IS, no significant impact is anticipated as a result of project implementation, with mitigation incorporated, and a Mitigated Negative Declaration and Notice of Determination has been prepared for the City Council's consideration; and

WHEREAS, based on the information presented to the City Council at the public hearing held for Tentative Parcel Map 20370 (TPM No. 21-006), Conditional Use Permit 21-004, Conditional Use Permit No. 21-005, Conditional Use Permit No. 21-006 and Design Review No. 21-010, the testimony received, and the supporting documents in evidence, the City Council found that the proposed amendment is in conformance with the goals and policies of the General Plan; and

WHEREAS, the City of Fontana wishes to protect and preserve the quality of the life throughout the City, through effective land use and planning; and

WHEREAS, this Resolution shall become effective on the date of adoption.

WHEREAS, Conditions of Approval for Tentative Parcel Map 20370 (TPM No. 21-006), Conditional Use Permit 21-004, Conditional Use Permit No. 21-005, Conditional Use Permit No. 21-006, Design Review No. 21-010 and Design Review No. 21-018; have been prepared and are attached hereto as **Exhibits "A, B, C, D, E, F"** and incorporated herein; and

NOW, THEREFORE, BE IT RESOLVED, determined and ordered by the City Council of the City of Fontana as follows:

Section 1. Findings for Tentative Parcel Map. The City of Fontana City Council hereby makes the following findings for Tentative Parcel Map No. 21-006 (TPM 20370) in accordance with Section 30-284 "Findings for approval" of the Fontana Zoning and Development Code:

Finding No. 1: **The proposed parcel map is consistent with the City's General Plan.**

Finding of Fact: Tentative Parcel Map No. 20370 is consistent with the General Plan Land Use Designation for the project site of General Commercial (C-G) within the Auto Center Overlay. The C-G with Auto Center Overlay

designation is intended for automobile sales and related services. The proposed project for an automotive car dealership is consistent with the General Plan and Auto Center Overlay. The project is for a tentative parcel map to combine eight (8) parcels into five (5) for the development of a commercial center. The use is consistent with the General Plan Land Use Designation.

Finding No. 2: The design and improvements of the proposed tentative parcel map is consistent with the General Plan.

Finding of Fact: The design of the proposed parcel map is consistent with the General Plan. The lot width is approximately 790 feet and has an approximate lot depth of 330 feet and street configuration conform to the requirements of the Circulation Master Plan, Subdivisions (Chapter No. 26), and the Zoning and Development Code (Chapter No. 30). The parcel map will combine eight (8) parcels into five (5) parcels to accommodate an anchor grocery store, two drive-thru establishments and three other future commercial pads. Three (3) proposed points of access are proposed along South Highland Avenue.

Finding No. 3: The site is physically suitable for the type and density of development proposed.

Finding of Fact: The project site has existing topography of less than two percent gradient and development of the site did not require setback variances; therefore, the site is suitable for this type of development. The lot size, lot width, and lot depth are as indicated in Finding No. 2 above are consistent with other commercial developments and dealerships in the Auto Center Overlay district. Three points of access are proposed for the commercial center along South Highland Avenue..

Finding No. 4: The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or will not substantially and avoidably injure fish or wildlife or their habitat.

Finding of Fact: The design of the parcel map is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. An Initial Study (IS) & Mitigated Negative Declaration was completed to identify environmental impacts and mitigation measures are included to make any impacts less than significant. The Initial Study/Mitigated Negative Declaration is included under separate cover and is referenced herein.

Finding No. 5: The design of the subdivision or type of improvements will not cause serious public health problems.

Finding of Fact: The combining of eight (8) parcels into five (5) parcel will not cause health problems. The proposed development complies with the Fontana City Codes and the General Plan as indicated in Findings Nos. 1 through 4 above. Improvements include streets, sidewalks, drainage, and grading to provide a safe and well-designed project for the area. Therefore, the project shall promote the public health, safety, and welfare of the surrounding community.

Finding No. 5: The design of the subdivision or the types of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

Finding of Fact: The design and improvements of Tentative Parcel Map No. 20370 will not conflict with access easements acquired by the public. The proposed lot is accessed from South Highland Avenue which are publicly maintained streets. Currently there are no other public access easements through or within the proposed project site.

Section 2. The City of Fontana City Council hereby makes the following findings for CUP No. 21-004 in accordance with Section 30-150 "Findings for approval of conditional use permits" of the Fontana Zoning and Development Code:

Finding No. 1 The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning and Development Code, Municipal Code, General Plan, any applicable Specific Plan or Area Plan, and City regulations/standards.

Finding of Fact: The request is for a Conditional Use Permit (CUP) for the proposed anchor tenant located within the Citrus Crossroads development for an Alcoholic Beverage Control (ABC) license. The proposed CUP would allow for beer, wine and distilled spirits to be consumed off-site under a Type 21 ABC license. The Zoning and Development Code allows for grocery stores to operate with a California Department of Alcohol Beverage Control (ABC) Type 21 (Off-Sale Beer, Wine and Distilled Spirits) license subject to approval of a Conditional Use Permit.

The site is located at the northeast corner of Citrus Avenue and South Highland Avenue. The General Plan land use designation for the site is General Commercial (C-G) and if approved, would be within Planning Area 3 the Auto Center Overlay District. Specific development types allowed in C-G include: retailing, wholesaling, service activities, offices and businesses providing professional

services, as well as retail stores such as grocery stores. Planning Area 3 would allow for similar uses.

Finding No. 2: **The site is physically suited for the type, density, and intensity of the proposed use including access, utilities, and the absence of physical constraints and can be conditioned to meet all related performance criteria and development standards.**

Finding of Fact: The proposed grocery store will occupy the anchor building within the shopping center. The building is approximately 40,100 square feet on an approximately 6.20 adjusted gross acre site. The physical characteristics of the site were reviewed and staff has determined that the project site meets all of the necessary requirements for a type 21 ABC license such as the physical relationship and proximity of the use to other off-sale licenses as well as proximity to sensitive uses such as schools, parks, religious institutions, hospitals and other similar uses. None of the uses listed above are within 600 feet of the project site where the type 21 ABC license is proposed. Furthermore, the proposed use is for the grocery store to operate in conjunction with a new California Department of Alcoholic Beverage Control (ABC) Type 21 license (Off-Sale Beer, Wine and Distilled Spirits).

Adequate streets and highways exist to accommodate the existing and anticipated traffic with adequate on-site circulation. Traffic to and from the project site has three (3) access points proposed along South Highland Avenue. South Highland Avenue is identified as a Primary Highway in the City's General Plan Hierarchy of Street in Fontana General Plan map. South Highland Avenue has been determined to be adequate to handle the traffic generated by the commercial center. In addition, access to utilities and services can be obtained.

Finding No. 3: **Granting the permit would not be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property, or improvements in the vicinity in which the project is located.**

Finding of Fact: There will be no adverse effect to the neighboring sites or their permitted uses. The proposed project has been reviewed by the Planning Division, Engineering Department, the Building and Safety Division, and County Fire Prevention for site circulation, access, and safety. Any possible adverse effects shall be mitigated by the Conditions of Approval set forth in the Conditional Use Permit and as referenced herein. The Planning Department has drafted Conditions of Approval (Exhibit "B") to mitigate potential negative impacts.

Section 3. The City of Fontana's, City Council hereby makes the following findings for Conditional Use Permit No. 21-005 in accordance with Section No. 30-150 "Findings for approval" of the Fontana Zoning and Development Code:

Finding No. 1: **The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning and Development Code, Municipal Code, General Plan, any applicable specific plan or area plan, and City regulations/standards.**

Findings of Fact: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue. The project site has a General Plan land use designation of General Commercial (C-G). The C-G land use designation category is described by the Zoning and Development code as "retail, malls, wholesale, auto dealerships and offices, including medical offices and clinics, that can serve a broader, regional population". This includes grocery stores, restaurants and retail pads. The Zoning District for the project site is General Commercial (C-2) within the proposed Planning Area 3 of the Auto Center Overlay District. Drive-thru restaurants are permitted in the C-2 zone with the approval of a Conditional Use Permit by the Planning Commission, however, in the instance, related applications to the project require approval by the City Council and the CUP applications will therefore be approved by the City Council as part of the overall project. The proposed project will comply with the applicable building codes, zoning codes, and fire codes and appropriate standards, will make for a safe, attractive, and well-designed project.

Finding No. 2: **The site is physically suited for the type, density, and intensity of the proposed use including access, utilities, and the absence of physical constraints and can be conditioned to meet all related performance criteria and development standards.**

Findings of Fact: The proposed project as identified and referenced in Finding No. 1, above, meets or exceeds the criteria contained in the Zoning and Development Code. This facility will be built pursuant to all applicable building, zoning, and fire codes and standards. The project includes streets improvements and sidewalks, grading, drainage, and perimeter and privacy walls to provide a safe and well-designed project.

There will be three (3) vehicle access points to the site from South Highland Avenue. The driveway will be designed to accommodate passenger vehicle traffic, tractor-trailer traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety.

The project site is physically suitable in size and shape to support the development of a trailer sales office. The applicable building codes, zoning codes, and fire codes and appropriate standards, will make for a safe, attractive, and well-designed project. As proposed, the project is consistent with the standards of the Zoning and Development Code. The character of the surrounding neighborhood reflects industrial uses and non-conforming single-family homes. The proposal has been designed to be compatible with the surrounding uses while also providing a development that has been designed with features (architectural relief, added landscaping, street improvements, and lighting), to enhance the character of the surrounding neighborhood.

Finding No. 3: **Granting the permit would not be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property, or improvements in the vicinity in which the project is located.**

Findings of Fact: The proposed project as identified and referenced in Finding No. 1 and Finding No. 2, above, has been determined not to be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property. The on-site circulation is adequate. All drive aisle widths meet both the Zoning and Development Code and Fontana Fire Prevention District minimums for access. The site will be accessed from South Highland Avenue. For the anticipated traffic to the project site, there are three (3) proposed driveway for the purpose of ingress and egress. The driveway is designed to accommodate passenger vehicle traffic, tractor-trailers traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. Santa Ana Avenue is classified as a Secondary Highway within the City's General Plan, Community, Mobility, and Circulation Element. Additionally, adequate utilities and services exist on-site and off-site.

Section 4. The City of Fontana's, City Council hereby makes the following findings for Conditional Use Permit No. 21-006 in accordance with Section No. 30-150 "Findings for approval" of the Fontana Zoning and Development Code:

Finding No. 1: **The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning and Development Code, Municipal Code, General Plan, any applicable specific plan or area plan, and City regulations/standards.**

Findings of Fact: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue. The project is located within the proposed Planning Area 3 of the Auto Center Overlay District. Drive-

thru restaurants are permitted in the C-2 zone with the approval of a Conditional Use Permit by the City Council. The proposed project will comply with the applicable building codes, zoning codes, and fire codes and appropriate standards, will make for a safe, attractive, and well-designed project.

Finding No. 2: **The site is physically suited for the type, density, and intensity of the proposed use including access, utilities, and the absence of physical constraints and can be conditioned to meet all related performance criteria and development standards.**

Findings of Fact: The proposed project as identified and referenced in Finding No. 1, above, meets or exceeds the criteria contained in the Zoning and Development Code. This facility will be built pursuant to all applicable building, zoning, and fire codes and standards. The project includes streets improvements and sidewalks, grading, and drainage.

There will be three (3) vehicle access points to the site from South Highland Avenue. The driveway will be designed to accommodate passenger vehicle traffic, tractor-trailer traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety.

Finding No. 3: **Granting the permit would not be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property, or improvements in the vicinity in which the project is located.**

Findings of Fact: The proposed project as identified and referenced in Finding No. 1 and Finding No. 2, above, has been determined not to be detrimental to the public interest, health, safety, convenience, welfare, or materially injurious to persons, property. The on-site circulation is adequate. All drive aisle widths meet both the Zoning and Development Code and Fontana Fire Prevention District minimums for access. The site will be accessed from South Highland Avenue. For the anticipated traffic to the project site, there are three (3) proposed driveway for the purpose of ingress and egress. The driveway is designed to accommodate passenger vehicle traffic, tractor-trailers traffic, and service vehicles, as necessary. The proposed project has been reviewed by Planning, Engineering, Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. Additionally, adequate utilities and services exist on-site and off-site.

The proposed development will result in appropriate improvements, not only for the project site, but the surrounding area as well. The project includes sidewalks, drainage, grading, and perimeter and privacy walls to provide a safe and well-designed neighborhood. The proposed building has been reviewed by Planning, Engineering,

Building and Safety, and Fontana Fire Prevention for site circulation, access, and safety. As mentioned in Findings No. 1 and No. 2, above, the proposed project meets or exceeds the standards of the Zoning and Development Code and will provide a safe design for public access.

Section No. 5. The City of Fontana City Council hereby makes the following findings for Design Review No. 21-010 in accordance with Section No. 30-120 "Findings for approval" of the Fontana Zoning and Development Code:

Finding No. 1: **The proposal is consistent with the General Plan, Zoning and Development Code, and any applicable Specific Plan.**

Finding of Fact: The project site is located on the northeast corner of Citrus Avenue and South Highland Avenue. Further, the project site is zoned General Commercial (C-2) and is within the Auto Center Overlay. The C-2, along with the Auto Center Overlay designation, is intended for retail and wholesale activities. The proposed project for an anchor grocery store, two (2) drive-thru establishments and three (3) other commercial pads meets all the minimum standards in the Fontana Municipal Code and Auto Center Overlay District. The project is proposed with a high-quality architectural design appropriate for the General Commercial (C-2) zone and Auto Center Overlay district. Appropriate screening from the public right-of-way will also be done.

This project, as proposed, is approval for architectural design for the construction of a shopping center totaling approximately 53,354 square feet. The anchor tenant would be approximately 40,100 square feet. The remaining square footage would be for buildings located at five (5) other pads within the center. This project meets or exceeds the criteria contained in the Design Review section of the Zoning and Development Code.

Finding No. 2: **The proposal meets or exceeds the criteria contained in this chapter and will result in an appropriate, safe and desirable development promoting the public health, safety, and welfare of the community.**

Finding of Fact: The applicant has worked diligently with staff to incorporate site details that will beautify and enhance the overall aesthetics of the site. Some of the features include a modern architectural theme for the center, patios and drive entries, porte cochere's for the drive thru restaurants, a unique and well-designed water feature that will enhance the corner statement of Citrus and South Highland, additional landscaping, building lighting and signage that would give the sense of place and act as a landmark for the prominent corner. The development would encompass a grocery store, restaurants and

retail alike to accommodate and residents, visitors and the overall community. Adequate parking and accessibility per standards has been incorporated therefore the project will promote the public health, safety and welfare of the occupants and therefore, the community.

Finding No. 3: **The proposal, in its design and appearance, is aesthetically and architecturally pleasing resulting in a safe, well-designed facility while enhancing the character of the surrounding neighborhood.**

Finding of Fact: The proposed project as identified and referenced in Finding No. 1 and 2, has been determined to be aesthetically and architecturally pleasing and compatible with the neighborhood. The project site which is approximately 6.2 adjusted gross acres is physically suitable in size and shape to support the development of the proposed shopping center. The applicable building codes, zoning codes and fire codes and standards, will make for a safe, attractive, and well-designed project. As proposed, the project is consistent with the Zoning and Development Code with approval of the Zoning Code Amendment.

The modern architecture theme selected for the shopping center is appropriate for the area and is consistent with surrounding uses. The design guidelines in the Development Code and more specifically the Auto Center Overlay. In addition, the proposed project is consistent with the goals and policies of the General Plan and applicable provisions of the zoning district, including Goal 5.3, Policy 5: (Community Design Element) stating that buildings “shall incorporate distinct and varied architectural details through varied rooflines, and detailed façade treatments”. Design characteristics include decorative cornices, wall sconces, veneer, stucco wall surface and decorative awnings.

Finding No. 4: **The site improvements are appropriate and will result in a safe, well-designed facility.**

The proposed development will result in appropriate improvements for the project site and the surrounding area as well. The project includes sidewalks, drainage, grading and a traffic signal with all necessary improvements on Citrus Avenue and South Highland Avenue to provide a safe and well-designed neighborhood. The proposed project has been reviewed by Planning, Engineering, Building and Safety and Fontana Fire Prevention for site circulation, access and safety. The proposed project identified in Finding No. through Finding No. 3, above, meets or exceeds the standards of the Zoning and Development Code and will provide a safe design for public access.

Section No. 6. The City of Fontana City Council hereby makes the following findings for Design Review No. 21-018 in accordance with Section No. 30-120 "Findings for approval" of the Fontana Zoning and Development Code:

Finding No. 1: **The proposal is consistent with the General Plan, Zoning and Development Code, and any applicable Specific Plan.**

Finding of Fact: The site currently has a general plan land use designation of General Commercial (C-G) and a current zoning district of General Commercial (C-2) and would be within Planning Area 3 of the Auto Overlay District. Pylon, monument and wall signs are permitted with approval of a Design Review Sign application. Additionally, the use is required to comply with all other applicable provisions of the Zoning Code, Municipal Code, and General Plan.

Finding No. 2: **The proposal meets or exceeds the criteria contained in this chapter and will result in an appropriate, safe and desirable development promoting the public health, safety, and welfare of the community.**

Finding of Fact: The shopping center, if approved, would meet the regulations, standards, and intent of the Zoning and Development Code. The signs would be located in an area that has a variety of commercial and retail uses meeting development standards.

Finding No. 3: **The proposal, in its design and appearance, is aesthetically and architecturally pleasing resulting in a safe, well-designed facility while enhancing the character of the surrounding neighborhood.**

Finding of Fact: The proposed signage is complimentary to and with the proposed commercial center. The applicant has proposed one (1) freeway pylon sign, two (2) multi-tenant monument signs, one enhanced (1) corner statement which includes water features, and on-site directional signage. Materials and colors of the proposed signs will match the proposed center of a modern architectural theme that will enhance the overall contemporary look of the shopping center.

Finding No. 4: **The site improvements are appropriate and will result in a safe, well-designed facility.**

Finding of Fact: The proposed signs have been reviewed by Planning, Engineering, Building and Safety and Fontana Fire Prevention for site circulation, access and safety. The proposed signs will meet or exceeds the standards of the Zoning and Development Code and will provide a safe design for public access.

Section 7. The City Council has reviewed and considered the Initial

Study/Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, any oral or written comments received, and the administrative record prior to making any decision on the proposed project. The City Council finds that the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program contain a complete and accurate reporting of all the environmental impacts associated with the Project. The City Council further finds that the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program has been completed in compliance with the Local Guidelines for Implementing CEQA and the State CEQA Guidelines.

Section 8. Compliance with California Environmental Act. The City Council hereby adopts the Initial Study/Mitigated Negative Declaration on the proposed project. The City Council finds that the Initial Study/Mitigated Negative Declaration contains a complete and accurate reporting of all the environmental impacts associated with the project. The City Council further finds that the Mitigated Negative Declaration has been completed in compliance with CEQA, 2019 Local Guidelines for Implementing the California Environmental Quality Act, and the State CEQA Guidelines.

Section 9. This Resolution shall take effect immediately after the City Council approval of Tentative Parcel Map 20370 (TPM No. 21-006), Conditional Use Permit 21-004, Conditional Use Permit No. 21-005, Conditional Use Permit No. 21-006, Design Review No. 21-010, and Design Review No. 21-018, provided however, if the Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or otherwise do not go into effect for any reason, then this Resolution shall be null and void and have no further force and effect.

Section 10. Based on the foregoing, the City Council of the City of Fontana hereby approves Tentative Parcel Map 20370 (TPM No. 21-006), Conditional Use Permit 21-004, Conditional Use Permit No. 21-005, Conditional Use Permit No. 21-006, Design Review No. 21-010, and Design Review No. 21-018 subject to the findings in Sections 1 through 6 herein and the attached Conditions of Approval, which are attached hereto as **Exhibits "A, B, C, D, E, F"** to this Resolution and incorporated herein by this reference.

Section 11. Resolution Regarding Custodian of Record: The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at the Planning Department, 8353 Sierra Avenue, Fontana, CA 92335. This information is provided in compliance with Public Resources Code section 21081.6.

APPROVED on this **25th** day of **January 2022.**

READ AND APPROVED AS TO LEGAL FORM;

City Attorney

ATTEST:

I, Tonia Lewis, City Clerk of the City of Fontana and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City of Fontana at a regular meeting thereof, held on **January 25, 2022**, by the following vote to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk

EXHIBIT "A"

CITY OF FONTANA

CONDITIONS OF APPROVAL

PROJECT: Master Case No. 21-032
Tentative Parcel Map 20370
(TPM No. 21-006)

DATE: December 7th, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44).

PLANNING DEPARTMENT:

1. The Tentative Parcel Map shall become null and void two (2) years from the date of approval unless the Final map is recorded or the applicant applies for an extension of time in accordance with the provisions in the Subdivision Map Act and the provisions in the City's Municipal Code.

2. The rights and privileges granted by Tentative Parcel Map No. 20370 shall not become effective, nor shall the Applicant commence the use for which this tentative parcel map approval is granted, until the following has occurred:

   • All conditions of approval imposed by this project have been fulfilled.

3. This tentative parcel map shall comply with all applicable development standards of Chapter No. 26 (Subdivisions), Chapter No. 30 (Zoning and Development) of the Municipal Code of the City of Fontana, and the Subdivision Map Act.

4. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

In the event of any such third party action or proceeding, the City shall have the right to retain legal counsel. The applicant shall be responsible and reimburse the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

Except as required under applicable State and Federal law, the City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

5. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manger's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Sections 30-30 and 30-31 of the Municipal Code.

6. The applicant/developer shall comply with the mitigation measures identified in the Initial Study/Mitigated Negative Declaration Mitigation Monitoring and Reporting Program for this project.

7. Applicant shall pay all applicable service fees pursuant to the City of Fontana Municipal Code.

ENGINEERING DEPARTMENT:

8. The project shall be served by the City's sanitary sewer system, all sewer facilities shall be constructed in accordance with the City Standards. Main trunk sewer line shall be in accordance with master sanitary sewer plan or as approved by the City Engineer.

9. The applicant shall obtain design and plan approval from all utility providers having jurisdiction over the on-site and off-site utilities. Completion of all undergrounding of onsite and off-site utilities is required by Section 27-52 of the City Municipal Code and in accordance with plans and specifications approved by the City Engineer.

10. It is the Applicant's responsibility to maintain all improvements and utilities within the public right-of-way, including street sweeping, prior to final acceptance by the City.

11. The applicant shall obtain an encroachment permit from Caltrans for any work required within Caltrans' right-of-way.

12. This applicant's engineer shall prepare and submit traffic signal plans per approved site plan and as required to the satisfaction of the City Engineer.

13. Applicant shall submit and gain approval of a complete WQMP Report in accordance with the County of San Bernardino Technical Guidance Document and latest template.

14. Traffic study must be approved.

PRIOR TO MAP RECORDATION

15. Record parcel map, right-of-way dedications, easements, and reciprocal access agreement as required for the development.

16. Applicant shall provide a Land Improvement Agreement, with accompanying security. The agreement shall be executed on City-provided forms. PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS

17. Applicant shall submit engineered improvement plans and obtain full approval. All required public improvements, including streets, storm drainage systems, sewers, traffic signals, streetlights, striping, signs, landscape, and any required traffic control and/or detour plans. All plans shall conform to City Standards and Specifications, and as approved by the City Engineer. PRIOR TO ISSUANCE OF FINAL CERTIFICATE OF OCCUPANCY

18. Applicant/Engineer to provide the City of Fontana with As Built/Record Drawings for all public improvement plans. Commercial Industrial Land Development Engineering Conditions MCN21-000032 Revised 11-18-21 KS & RG

19. Applicant/Engineer shall provide centerline ties to the City of Fontana reflecting proper setting of all survey monuments within the project limits and replace any existing survey monuments damaged or removed during construction. 13. Applicant/Engineer shall set survey monuments as required by the map and corner records must be recorded with the County.

20. Applicant/Landscape Architect shall provide a "Landscape Certificate of Compliance" certifying that the work has been designed, installed, and will be maintained in accordance with the City of Fontana's Model Water Efficiency Landscape Ordinance (Ordinance 1743, FCC Section 28).

21. All sewers and storm drains shall be video inspected by applicant/contractor. Sewer video shall include clean-out connection, clean-out to lateral segment, lateral, and

main line. Storm drain video shall include main lines and laterals. Applicant shall provide a copy of the video on DVD or flash drive to inspection staff. Videos to be inspected and approved by City Inspection. If removal and replacement of any utility is required, a subsequent video of the repair will be required.

22. Applicant/Engineer of Record shall submit a conforming copy of the recorded Memorandum of Agreement for the Water Quality Management Plan and Storm Water BMP Transfer. The Access, Maintenance, and the WQMP Certification for BMP Completion must be submitted to the City Project Engineer.

BUILDING & SAFETY DIVISION:

23. Shall comply with the latest adopted edition of the following codes as applicable:
    A. California Building Code
    B. California Electrical Code
    C. California Mechanical Code
    D. California Plumbing Code
    E. California Energy Code
    F. California Fire Code
    G. California Green Building Standards Code

24. Automatic fire suppression systems shall be installed in all new construction per Article II, Chapter 11 of the Code of the City of Fontana. Design and type of system shall be based upon the requirements of the Building Code, Fire Code and the requirements of the Fontana Fire Prevention District.

25. The requirements of the South Coast Air Quality Management District shall be satisfied prior to the issuance of any permit if hazardous materials are stored and/or used.

26. Any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project shall comply with City Code.

27. All perimeter/boundary walls shall be designed and constructed so that the outer/exterior face of the wall is as close as possible to the lot line. In any case, the outer/exterior face of the wall shall be within two (2) inches of the lot line. Distances greater than two (2) inches may be approved prior to construction by the Building Official on a case by case basis for extenuating circumstances.

28. The Parcel map shall record prior to the issuance of any permits.

29. Grading Requirements:
    A. Grading plans shall be submitted to and approved by Building & Safety. The grading plans shall indicate all site improvements and shall indicate complete drainage paths of all drainage water run-offs.
    B. All drainage water shall drain via approved methods to an approved location, such as a public street, a public drainage system, etc.
    C. Drainage water shall not cross over a public sidewalk. Drainage water

may, however, cross under a sidewalk if an approved drainage structure is used.

D. A recorded drainage acceptance agreement is required from adjoining property(s) receiving flows from this property.

E. No water course or natural drainage shall be obstructed.

F. Minimum slope or grade for ALL drainage structures shall be one half (0.50) percent for concrete and one (1.0) percent for all other, or as otherwise approved by the Building Official.

G. Drainage water shall not pass from an 'improved' type of drainage structure to an 'unimproved' type of drainage structure (e.g., concrete swale to a dirt swale) unless otherwise approved by the Building Official.

H. A complete hydrology study using the latest edition of the San Bernardino County Flood Control Hydrology Manual, and complete hydraulic calculations justifying the size, slope, capacity, etc. of any and all drainage structures being utilized, shall be submitted to and approved by Building & Safety.

The on-site drainage system shall, as a minimum, be designed to handle the run-off generated by a ten (10) year storm. Check for flooding of all on-site structures (buildings) and all adjacent properties during a hundred (100) year storm.

I. The grading plans shall, as a minimum, contain sections at all lot lines and/or permit boundary lines. These sections shall clearly indicate:

1. The relationship between the proposed finished on-site grade elevations and the existing adjacent property grade elevations (Indicate any additional drainage water that may come from an adjacent property.); and
2. The ground cover/finished surface material being proposed (e.g., type of pavement, plant material, etc.); and
3. All proposed drainage structures; and
4. Any proposed and/or required walls or fencing.

30. All signs shall be Underwriters Laboratories approved or equal.

31. Permits are required prior to the removal and/or demolition of structures.

32. All exterior lighting shall be oriented, directed, and/or shielded as much as possible so that direct illumination does not infringe onto adjoining properties.

PRIOR TO ISSUANCE OF BUILDING/CONSTRUCTION PERMITS

33. The following items (as applicable) shall be completed and/or submitted to Building & Safety prior to the issuance of building permits for this project:

A. Precise grading plans shall be approved
B. Rough grading completed
C. Compaction certification
D. Pad elevation certification
E. Rough grade inspection signed off by a City Building Inspector

34. If hazardous substances are used and/or stored, a technical opinion and report, identifying and developing methods of protection from the hazards presented by the hazardous materials, may be required. This report shall be prepared by a qualified person, firm, or corporation and submitted to Building & Safety. This report shall also explain the proposed facility's intended methods of operation and list all of the proposed materials, their quantities, classifications, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.

END OF FINAL CONDITIONS

CITY OF FONTANA
CONDITIONS OF APPROVAL

PROJECT: Master Case No. (MCN) 21-032
Conditional Use Permit No. 20-010
Type 21 ABC License for a Grocery Store

DATE: December 7th, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44) within a 40,100 square foot grocery store.

PLANNING DEPARTMENT:

1. This conditional use permit is conditional upon the permittee proceeding with good faith intent to commence upon the proposed use within two (2) years after the effective date of the approval, or such other period specified as a condition of approval.

2. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

   In the event of any such third-party action or proceeding, the City shall have the right to retain its own separate legal counsel to defend the interests of the City. The applicant shall be responsible for reimbursing the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

   The City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval.

Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

3. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until all of the following have occurred:
   a. All requirements of the Fontana Municipal Code shall be complied with.
   b. All Conditions of Approval imposed on this project have been fulfilled.

4. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City Manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manager's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Sections 30-23 and 30-24 of the Municipal Code.

5. At any time, the Director of Community Development may bring a status report to the Planning Commission identifying impacts or failure to comply with conditions resulting from the Conditional Use Permit approval. Such status report may contain a police report regarding calls for service at the location. Nothing herein shall modify or limit the City's authority to regulate the business or modify or revoke the permit upon the City's determination that the business is being operated in a manner adverse to the public's health, safety, and welfare.

POLICE DEPARTMENT:

6. The operation of the business shall not violate any federal, state, or local laws or ordinances, including the rules, regulations and orders of the State Alcoholic Beverage Control Department and all conditions of the City of Fontana's Conditional Use Permit. Failure to comply with these requirements shall constitute grounds for revocation of a conditional use permit.

7. All tobacco products shall remain under the control of the management, behind the cashier's counter.

8. Employees engaged in the sale or distribution of alcoholic beverages shall be at least 18 years of age. If the business owner, licensee, or management choose to employ a salesperson between the ages of 18 to 20, that salesperson must be under the continuous supervision of at least one salesperson who is 21 years old or older.

9. No beer, wine or distilled spirits shall be displayed within five feet of the front door or between the register and the front door unless it is under the control of the management within locked shelving units.

10. No display or sale of beer, wine or distilled spirits, shall be made from an ice tub.

11. No alcoholic beverages shall be stored, sold or displayed (even for special events) within any aisle-way of the main sales floor or vestibule.

12. The sale of malt liquor or fortified wine products with an alcoholic content greater than 17 percent by volume is prohibited.

13. The licensee shall not sell single bottles of wine in less than 750 ml. containers. Specialty or dessert wines which are only packaged in 375 milliliter bottles shall be permitted.

14. No distilled spirits shall be sold in bottles or containers smaller than 375 ml.

15. The sale of beer or malt beverages in single size containers of 40 ounces or less is prohibited.

16. The licensed premise shall not sell individual units of beer or wine from the manufacturer's multi-unit packages (three-packs, four-packs, six-packs, etc.).

17. The licensee shall not allocate more than half of the cooler doors for the sale of alcoholic beverages. All designated coolers for alcoholic beverages shall be located furthest away from the entrance doors.

18. The possession of alcoholic beverages in open containers and the consumption of alcoholic beverages are prohibited on or around the licensed premises.

19. On a regular and reasonable basis litter shall be removed daily from the premises, including adjacent public sidewalks and all parking areas under the control of the business owner/licensee. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis to control debris.

20. The business owner/licensee shall comply with the City False Alarm Ordinances.

21. Graffiti abatement by the business owner/licensee shall be immediate and ongoing on the licensed premises, but in no event shall graffiti be allowed unabated on the premises for more than 48 hours. Abatement shall take the form of removal or shall be covered/painted over with a color reasonably matching the color of the existing building, structure, or other surface being abated. Additionally, the business owner/licensee shall notify the City within 24 hours (at 909.350-GONE) of any graffiti elsewhere on the property not under the business owner/licensee's control so that it may be abated by the property owner and/or the City's Graffiti Enforcement Team.

22. The management and employees of the licensed premise shall be required to prevent loitering in the parking lot of the site. The management and employees of the licensed premise shall regularly police the area under its control to prevent the loitering of persons about the premises.

23. Sales of alcoholic beverages will be restricted to, and within the confines of, the building portion of the licensed premises.

24. A digital video surveillance system is required at the premise. It is recommended to be an internet-based system and shall be maintained in proper working order at all times. The surveillance video/visual media shall be maintained for a minimum of sixty (60) days and upon request, shall be accessible to law enforcement personnel for viewing, copying and collection purposes during regular business hours.

25. Signs shall comply with all City of Fontana sign requirements. No more than 25% of the total window area and clear doors shall bear advertising, signs or obstructions of any sort. Window signs or other obstructions shall be placed and maintained in a manner so that there is a clear and unobstructed view of the interior of the premises from the public sidewalk or entrance to the premises (this applies to all windows and glass doors of this location).

26. The exterior of the premise, including all entrances, walkways, adjacent public sidewalks, alleyways and parking lots under the control of the licensee, shall be illuminated at a minimum of one (1) foot candle of light during all hours of darkness, so that persons standing in those areas at night are identifiable by law enforcement personnel. All luminaries utilized are required to have vandal resistant light fixtures.

27. The exterior of the licensed premises, including adjacent public sidewalks and all parking lots under the control of the licensee, shall be illuminated during the hours of darkness, at all entrances, sidewalks or parking surfaces, at a minimum of one foot candle of light.

28. A prominent, permanent sign or signs stating “NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES” shall be posted on the front of the building or in the front windows of the business, and shall be clearly visible to patrons of the licensee. The size, format, placement, and languages of the sign or signs shall be determined by the Department of Alcoholic Beverage Control. Generally, the signs should be 24 inches in length and 14 inches in width with the print of sufficient size to make them clearly readable.

29. A prominent, permanent sign or signs stating “NO OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED ON THE PREMISES” shall be posted on the front of the building or in the front windows of the business, and shall be clearly visible to patrons of the licensee. The size, format, placement and languages of the sign or signs shall be determined by the Department of Alcoholic Beverage Control. Generally, the signs should be 24 inches in length and 14 inches in width with the print of sufficient size to make them clearly readable.

30. No electronic arcade or amusement games are permitted on the licensed premises at any time.

31. In the event security problems occur, the Police Department (Chief of Police) will issue a letter to the owner requesting a meeting to discuss said security problems.

If security problems are not resolved by the owner in the timeframe mutually agreed upon in said meeting, at the discretion of the Chief of Police, the business owner/licensee or management, at his or her own expense, shall provide a California licensed, uniformed security guard(s) on the premises, during such hours as requested and directed by the Police Department. All uniformed security guards shall comply with Fontana City Code section 22-62, and shall be registered with the State of California's Bureau of Security and Investigative Services as a security guard prior to employment within the City of Fontana.

32. Responsible Beverage Service Training: All persons engaged in the sale or service of alcohol shall abide by the following requirements. If compliance with Item B (AB 1221 of 2017) is achieved, the requirement for Item A is void.

33. The licensee, business owner, all managers and employees engaged in the sale of alcohol, shall attend a L.E.A.D. training (Licensee Education on Alcohol and Drugs provided by the Department of Alcoholic Beverage Control) or an alternative responsible beverage service training (RBS), within 90 days of employment.

34. Comply with California Assembly Bill 1221 of 2017, Responsible Beverage Service Training Act. Details can be found on the website for the California Department of Alcoholic Beverage Control.

35. The approved set of Conditions of Approval, and the ABC license shall be posted at all times at a visible location behind the cashier's counter in the facility and shall remain legible at all times.

END OF CONDITIONS OF APPROVAL

EXHIBIT "C"

CITY OF FONTANA

CONDITIONS OF APPROVAL

PROJECT: Master Case No. (MCN) 21-032
Conditional Use Permit No. (CUP) 21-005
Drive Thru Restaurant for a Coffee Shop

DATE: December 7, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue, adjacent to South Highland Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44) within a 2,200 square foot suite.

PLANNING DEPARTMENT:

1. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:
   A. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and
   B. All other Conditions of Approval imposed by this project have been fulfilled.
2. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety, or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City Manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manager's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Section No. 30-30 and Section No. 30-31 of the Municipal Code.
3. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana

shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

In the event of any such third-party action or proceeding, the City shall have the right to retain its own separate legal counsel to defend the interests of the City. The applicant shall be responsible for reimbursing the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

The City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

4. This Conditional Use Permit shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Division inspection, has commenced within this period.

5. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.

6. Color combinations and color schemes for buildings approved under a design review application shall not be modified or changed without prior approval of the original approving body by a revision to the original application. Minor hue color changes may be approved by the Director of Community Development. The Director of Community Development may refer minor hue color changes to the original approving body for consideration under a revision to the original application.

7. Exterior lighting compatible with the design of the building shall be provided for the parking lot. The lighting shall be directed and shielded so as to illuminate only the parking area and to avoid glare impacts on adjacent properties.

8. This project will comply with all applicable provisions, regulations, and development standards of Planning Area 3 of the Auto Overlay District.

9. All signs shall be reviewed under a separate Design Review Sign application.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

10. The current Development fees must be paid prior to issuance of building/construction permits.

POLICE DEPARTMENT:

11. This is a high graffiti area of the city. To discourage graffiti, apply an anti-graffiti coating on all block walls.
12. Adhere to the City standard of one-foot candle minimum for all entrances, exits, pedestrian paths, parking lots, and activity areas. All areas shall be illuminated during all hours of darkness and all luminaries utilized shall be vandal-resistant fixtures. The type of lighting shall be fluorescent, white L.E.D.s or metal halide. Provide a photometric layout under separate exhibit to ensure the minimum light standard is met.
13. Adhere to the Standard Building Security Specifications of the Fontana Police Department.

END OF CONDITIONS

EXHIBIT "D"

CITY OF FONTANA

CONDITIONS OF APPROVAL

PROJECT: Master Case No. (MCN) 21-032
Conditional Use Permit No. (CUP) 21-006
Drive Thru Restaurant

DATE: December 7, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue, adjacent to South Highland Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44) within a 2,200 square foot suite.

PLANNING DEPARTMENT:

1. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:

    A. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and

    B. All other Conditions of Approval imposed by this project have been fulfilled.

2. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety, or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City Manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manager's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Section No. 30-30 and Section No. 30-31 of the Municipal Code.

3. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana

shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

In the event of any such third-party action or proceeding, the City shall have the right to retain its own separate legal counsel to defend the interests of the City. The applicant shall be responsible for reimbursing the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

The City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

4. This Conditional Use Permit shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Division inspection, has commenced within this period.

5. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.

6. Color combinations and color schemes for buildings approved under a design review application shall not be modified or changed without prior approval of the original approving body by a revision to the original application. Minor hue color changes may be approved by the Director of Community Development. The Director of Community Development may refer minor hue color changes to the original approving body for consideration under a revision to the original application.

7. Exterior lighting compatible with the design of the building shall be provided for the parking lot. The lighting shall be directed and shielded so as to illuminate only the parking area and to avoid glare impacts on adjacent properties.

8. This project will comply with all applicable provisions, regulations, and development standards of Planning Area 3 of the Auto Overlay District.

All signs shall be reviewed under a separate Design Review Sign application.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

9. The current Development fees must be paid prior to issuance of building/construction permits.

POLICE DEPARTMENT:

10. This is a high graffiti area of the city. To discourage graffiti, apply an anti-graffiti coating on all block walls.

11. Adhere to the City standard of one-foot candle minimum for all entrances, exits, pedestrian paths, parking lots, and activity areas. All areas shall be illuminated during all hours of darkness and all luminaries utilized shall be vandal-resistant fixtures. The type of lighting shall be fluorescent, white L.E.D.s or metal halide. Provide a photometric layout under separate exhibit to ensure the minimum light standard is met.

12. Adhere to the Standard Building Security Specifications of the Fontana Police Department.

END OF CONDITIONS

EXHIBIT "E"

CITY OF FONTANA

CONDITIONS OF APPROVAL

PROJECT: Master Case No. 21-032
Design Review No. 21-010
Shopping Center

DATE: December 7, 2021

LOCATION: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue, (APN: 0240-011-38, -41, -03, -05, -42, -06, 35 and -44).

PLANNING DEPARRTMENT:

1. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on the first sheet of the final building plans prior to issuance of any building permits.

2. This Design Review shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Division inspection, has commenced within this period.

3. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:

    a. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and

    b. All other Conditions of Approval imposed by this project have been fulfilled.

4. Prior to the construction of any modifications, all structural and aesthetic changes to the project design must be requested and approved in writing by the Director of Community Development or his/her designee.

5. This project will comply with all applicable provisions, regulations and development standards of the City of Fontana Municipal Code.

6. The occupants of this facility shall comply with applicable provisions of local, state and federal laws and regulations with respect to noise, vibration, smoke, odors, fire and explosive hazards, including, but not limited to the City's adopted Hazardous Materials Management Plan and Industrial Wastewater/Discharge requirements.

7. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

   In the event of any such third party action or proceeding, the City shall have the right to retain legal counsel. The applicant shall be responsible and reimburse the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

   Except as required under applicable State and Federal law, the City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

8. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City

Manger's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Sections 30-30 and 30-31 of the Municipal Code.

9. Exterior lighting compatible with the design of the building shall be provided for the parking lot. The lighting shall be directed and shielded so as to illuminate only the parking area and to avoid glare impacts on adjacent properties.

10. All roof-mounted equipment and ground mounted equipment shall be screened from view from adjacent properties and streets with colors and materials that are compatible with the architecture of the building(s).

11. Any foam treatment used for architecture treatments and/or projections located on the first floor shall be covered with concrete or similar durable material a minimum of ¼ inch thick, or as determined by the Director of Community Development.]

12. The applicant shall post a publicly visible sign on the project site with the telephone number and 24-hour point of contact for dust, noise, and construction complaints. The 24-hour point of contact shall be available 24 hours a day, 7 days a week and have authority to commit additional assets to control dust, or respond to construction complaints after hours, on weekends and on holidays. Construction shall be limited to 7:00am to 6:00pm on weekdays, 8:00am to 5:00pm on Saturdays, and no construction on Sundays and Holidays.

13. Bicycle parking racks or secured bicycle lockers shall be provided for this development. Bicycle racks or lockers shall be provided at a rate of one bicycle parking space per 20 automobile parking spaces with a minimum of a two-bike rack.

14. All future monument signs shall be reviewed under a separate Design Review Sign application.

PRIOR TO ISSUANCE OF A GRADING PERMIT:

15. The applicant/developer shall comply with the mitigation measures identified in the Initial Study/Mitigated Negative Declaration Mitigation Monitoring and Reporting Program.

16. The applicant shall have fully provided, constructed, or otherwise meet all Planning Department's requirements per approved plans, and shall have addressed all punch list items to the satisfaction of the Director of Planning.

17. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.

18. A Planning Department final inspection fee of $265.00 shall be paid prior to issuance of the Certificate of Occupancy for Industrial and Commercial Development.

19. Applicant shall pay all applicable service fees pursuant to the City of Fontana Municipal Code.

20. All architecture treatments and /or projections located on any elevation of any building shall be of durable non-foam e.g. (extrusive polystyrene) material; the use of foam for additional detailing is permitted above the first 14 feet in height on the elevations.

BUILDING & SAFETY DIVISION:

21. Shall comply with the latest adopted edition of the following codes as applicable:
    A. California Building Code
    B. California Electrical Code
    C. California Mechanical Code
    D. California Plumbing Code
    E. California Energy Code
    F. California Fire Code
    G. California Green Building Standards Code

22. Automatic fire suppression systems shall be installed in all new construction per Article II, Chapter 11 of the Code of the City of Fontana. Design and type of system shall be based upon the requirements of the Building Code, Fire Code and the requirements of the Fontana Fire Prevention District.

23. The requirements of the Air Quality Management District shall be satisfied prior to the issuance of any permit if hazardous materials are stored and/or used.

24. Any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project shall comply with City Code.

25. All perimeter/boundary walls shall be designed and constructed so that the outer/exterior face of the wall is as close as possible to the lot line. In any case, the outer/exterior face of the wall shall be within two (2) inches of the lot line. Distances greater than two (2) inches may be approved prior to construction by the Building Official on a case by case basis for extenuating circumstances.

26. The Parcel map shall record prior to the issuance of any permits.

27. Grading Requirements:
    A. Grading plans shall be submitted to and approved by Building & Safety. The grading plans shall indicate all site improvements and shall indicate complete drainage paths of all drainage water run-offs.
    B. All drainage water shall drain via approved methods to an approved location, such as a public street, a public drainage system, etc.
    C. Drainage water shall not cross over a public sidewalk. Drainage water may, however, cross under a sidewalk if an approved drainage structure is used.

D. A recorded drainage acceptance agreement is required from adjoining property(s) receiving flows from this property.

E. No water course or natural drainage shall be obstructed.

F. Minimum slope or grade for ALL drainage structures shall be one half (0.50) percent for concrete and one (1.0) percent for all other, or as otherwise approved by the Building Official.

G. Drainage water shall not pass from an 'improved' type of drainage structure to an 'unimproved' type of drainage structure (e.g., concrete swale to a dirt swale) unless otherwise approved by the Building Official.

H. A complete hydrology study using the latest edition of the San Bernardino County Flood Control Hydrology Manual, and complete hydraulic calculations justifying the size, slope, capacity, etc. of any and all drainage structures being utilized, shall be submitted to and approved by Building & Safety.

The on-site drainage system shall, as a minimum, be designed to handle the run-off generated by a ten (10) year storm. Check for flooding of all on-site structures (buildings) and all adjacent properties during a hundred (100) year storm.

I. The grading plans shall, as a minimum, contain sections at all lot lines and/or permit boundary lines. These sections shall clearly indicate:

1. The relationship between the proposed finished on-site grade elevations and the existing adjacent property grade elevations (Indicate any additional drainage water that may come from an adjacent property.); and
2. The ground cover/finished surface material being proposed (e.g., type of pavement, plant material, etc.); and
3. All proposed drainage structures; and
4. Any proposed and/or required walls or fencing.

28. All signs shall be Underwriters Laboratories approved or equal.

29. Permits are required prior to the removal and/or demolition of structures.

30. All exterior lighting shall be oriented, directed, and/or shielded as much as possible so that direct illumination does not infringe onto adjoining properties.

PRIOR TO ISSUANCE OF BUILDING/CONSTRUCTION PERMITS

31. The following items (as applicable) shall be completed and/or submitted to Building & Safety prior to the issuance of building permits for this project:

A. Precise grading plans shall be approved

B. Rough grading completed

C. Compaction certification

D. Pad elevation certification

E. Rough grade inspection signed off by a City Building Inspector

32. If hazardous substances are used and/or stored, a technical opinion and report, identifying and developing methods of protection from the hazards presented by the hazardous materials, may be required. This report shall be prepared by a qualified person, firm, or corporation and submitted to Building & Safety. This report shall also explain the proposed facility's intended methods of operation and list all of the proposed materials, their quantities, classifications, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.

ENGINEERING LAND DEVELOPMENT:

33. The project shall be served by the City's sanitary sewer system, all sewer facilities shall be constructed in accordance with the City Standards. Main trunk sewer line shall be in accordance with master sanitary sewer plan or as approved by the City Engineer.

34. The applicant shall obtain design and plan approval from all utility providers having jurisdiction over the on-site and off-site utilities. Completion of all undergrounding of onsite and off-site utilities is required by Section 27-52 of the City Municipal Code and in accordance with plans and specifications approved by the City Engineer.

35. It is the Applicant's responsibility to maintain all improvements and utilities within the public right-of-way, including street sweeping, prior to final acceptance by the City.

36. The applicant shall obtain an encroachment permit from Caltrans for any work required within Caltrans' right-of-way.

37. This applicant's engineer shall prepare and submit traffic signal plans per approved site plan and as required to the satisfaction of the City Engineer. PRIOR TO ISSUANCE OF GRADING PERMIT

38. Applicant shall submit and gain approval of a complete WQMP Report in accordance with the County of San Bernardino Technical Guidance Document and latest template.

39. Traffic study must be approved.

PRIOR TO MAP RECORDATION

40. Record parcel map, right-of-way dedications, easements, and reciprocal access agreement as required for the development.

41. Applicant shall provide a Land Improvement Agreement, with accompanying security. The agreement shall be executed on City-provided forms. PRIOR TO ISSUANCE OF CONSTRUCTION PERMITS

42. Applicant shall submit engineered improvement plans and obtain full approval. All required public improvements, including streets, storm drainage systems, sewers, traffic signals, streetlights, striping, signs, landscape, and any required traffic control and/or detour plans. All plans shall conform to City Standards and Specifications, and as approved by the City Engineer. PRIOR TO ISSUANCE OF FINAL CERTIFICATE OF OCCUPANCY

43. Applicant/Engineer to provide the City of Fontana with As Built/Record Drawings for all public improvement plans. Commercial Industrial Land Development Engineering Conditions MCN21-000032 Revised 11-18-21 KS & RG

44. Applicant/Engineer shall provide centerline ties to the City of Fontana reflecting proper setting of all survey monuments within the project limits and replace any existing survey monuments damaged or removed during construction. 13. Applicant/Engineer shall set survey monuments as required by the map and corner records must be recorded with the County.

45. Applicant/Landscape Architect shall provide a "Landscape Certificate of Compliance" certifying that the work has been designed, installed, and will be maintained in accordance with the City of Fontana's Model Water Efficiency Landscape Ordinance (Ordinance 1743, FCC Section 28).

46. All sewers and storm drains shall be video inspected by applicant/contractor. Sewer video shall include clean-out connection, clean-out to lateral segment, lateral, and main line. Storm drain video shall include main lines and laterals. Applicant shall provide a copy of the video on DVD or flash drive to inspection staff. Videos to be inspected and approved by City Inspection. If removal and replacement of any utility is required, a subsequent video of the repair will be required.

47. Applicant/Engineer of Record shall submit a conforming copy of the recorded Memorandum of Agreement for the Water Quality Management Plan and Storm Water BMP Transfer. The Access, Maintenance, and the WQMP Certification for BMP Completion must be submitted to the City Project Engineer.

PUBLIC WORKS:

48. All commercial facilities must complete an Industrial Wastewater Discharge Permit application prior to final Certificate of Occupancy (FMC 23-218).

49. All commercial or industrial facilities within the following categories must install a gravity separation interceptor to comply with the requirements of FMC Section 23-190 unless the requirement is modified by a variance issued by the Public Services Director.

Solid Waste:

50. All Commercial, Industrial, Institutional, or Residential buildings having 5 or more living units must provide refuse collection areas (AB 1327). Design plans shall be submitted and approved prior to construction and shall meet the following design requirements:

- These areas (Trash Enclosures) shall be of adequate size to contain a refuse and recycling bin and provide convenient accessibility for the deposit and collection of these materials. (AB 1327)

- The standard bin size provided by the City of Fontana's franchise hauler for commercial establishments is 7'L x 4'W x 5'H.

- Collection areas must adequately protect recyclable materials from the harmful effects of the weather. (FMC 24-12, AB 1327)

- Refuse collection areas used by food service facilities (restaurants, bakeries, coffee or juice bars, ice cream stores, or food processing) for the collection of food wastes shall have a solid roof (NPDES Standard BMP).

51. All Commercial, Industrial and construction projects must comply with the requirements of FMC 24-11; General Standards relating to the hauling of refuse and/or recycling by the City's franchise hauler during construction and post-construction.

Storm Water:

52. All parkway culverts constructed for the purpose of conveying storm water from the project to a public right of way must be maintained in operating condition by the property owner.

SCHOOL DISTRICT:

53. Prior to issuance of building permits the applicant shall be responsible for paying the applicable school district fee.

POLICE DEPARTMENT:

54. Adhere to the City standard of one foot candle minimum for all entrances, exits, pedestrian paths, parking lots, and activity areas. All areas shall be illuminated during all hours of darkness and all luminaries utilized shall be vandal-resistant fixtures. The type of lighting shall be fluorescent, white L.E.D.s or metal halide. Provide a photometric layout under separate exhibit.

55. Adhere to the Standard Building Security Specifications of the Fontana Police Department.

SAN BERNARDINO COUNTY HAZARDOUSE MATERIALS DIVSION:

56. Prior to occupancy, the business operator shall be required to apply for one or more of the following permits, or apply for exemption from hazardous materials laws and regulations: Hazardous Materials Permit, Hazardous Waste Permit, Aboveground Storage Tank Permit, or Underground Storage Tank Permit. Application for one or more of these permits shall occur by submitting a hazardous materials business plan using the California Environmental Reporting System (CERS)

http://cers.calepa.ca.gov/ Additional information can be found at http://www.sbcfire.org/ofm/Hazmat/PoliciesProcedures.aspx or you may contact The Office of the Fire Marshal, Hazardous Materials Division at (909) 386-8401.

57. Facilities having an aggregate store capacity of over 1320 gallons of petroleum products on site must prepare and implement a Spill Prevention, Control, and Countermeasures (SPCC) Plan prior to having petroleum product in them. 40 CFR 1 112.3

FIRE DEPARTMENT:

58. **Jurisdiction.** The above referenced project is under the jurisdiction of the Fontana Fire Protection District (herein "Fire Department"). Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department.

59. **Fire Access Road Width**. Prior to map recordation, all fire access roadways shall be designed to meet the requirements for this development and shall be approved by the Fire Department. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height. California Fire Code sec 503, SBCFD Standard 503.1

60. **Fire Lanes**. The applicant shall submit on a site plan to the Fire Department for review and approval all proposed signage and striping for all fire access roadways. All curbs adjacent to fire lanes shall be painted red and "No Parking, Fire Lane" signs shall be installed on public and private roads in accordance with approved standards. SBCFD Standard 501.

61. **Water System Commercial**. Prior to map recordation, all water supply systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using Appendix B of the California Fire Code. A minimum of one new six (6) inch fire hydrant assembly with two (2) two and one half (2 1/2) inch and one (1) four (4) inch outlet shall be provided. All fire hydrants shall be spaced no more than three hundred (300) feet apart as measured along vehicular travel-ways. California Fire Code sec 508, SBCFD Standard 508.1

    The Fire Flow for this project shall be: 1500 GPM for a 2 hour duration at 20 psi residual operating pressure.

62. **Hydrant Marking.** Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. SBCFD Standard 508.5.2.

63. **Water System Certification.** The applicant shall provide the Fire Department with a letter from the serving water company, certifying that the required water

improvements have been made or that the existing fire hydrants and water system will meet distance and fire flow requirements. Fire flow water supply shall be in place prior to placing combustible materials on the job-site.

64. **Combustible Protection.** Prior to combustibles being placed on the project site an approved paved roadway providing fire access and fire hydrants providing an acceptable fire flow shall be installed. California Fire Code sec 508, SBCFD Standard 508.1

65. **Fire Sprinkler-NFPA #13.** An automatic fire sprinkler system complying with NFPA 13 and Fire Department standards is required. A fire sprinkler contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The plans shall include hydraulic calculations and manufacturer specification sheets. The required fees shall be paid at the time of plan submittal. SBCFD Standard 903.

66. **Fire Alarm, Water Flow Monitoring**. A water flow monitoring fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required for fire sprinkler systems with twenty (20) sprinkler heads or more. A fire alarm contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal. California Fire Code sec. 907, SBCFD Standard 907 FA-M.

67. **Fire Extinguishers.** Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. California Fire Code sec. 906.

68. **Commercial Addressing.** Commercial and industrial developments of 100,000 sq. ft. or less shall have the street address installed on the building with numbers that are a minimum six (8) inches in height and with a one (1) inch stroke. The street address shall be visible from the street. During the hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is two hundred (200) feet or more from the roadway, additional non-illuminated contrasting six (6) inch numbers shall be displayed at the property access entrances. SBCFD Standard 505.1

69. **Key Box.** An approved Fire Department key box is required. The key box shall be provided with a tamper switch and shall be monitored by a Fire Department approved central monitoring service. SBCFD Standard 506

70. **Material Identification Placards**. The applicant shall install, in all locations deemed appropriate by the Fire Department, approved material identification placards on the outside of all buildings and/or storage tanks that store hazardous or flammable materials. Additional placards shall be required inside the buildings when chemicals are segregated into separate areas. Standard 2703.5.

EXHIBIT "F"

CITY OF FONTANA

CONDITIONS OF APPROVAL

PROJECT: Master Case No. 18-033
Design Review Sign No. 21-018

DATE: December 7, 2021

LOCATION: The project site is located on the northwest corner of South Highland Avenue and Sierra Avenue within Planning Area 4 of the Auto Center Overlay District (APN 0240-091-39, -41, -43, -48, -54, -57, -58, -59, and -60)

PLANNING DIVISION:

1. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on the first sheet of the final building plans prior to issuance of any building permits.

2. This Design Review shall become null and void two (2) years from the date of approval, unless the appropriate permits have been obtained and construction, defined as permit obtainment, commencement of construction of the primary building on site, and successful completion of the first Building and Safety Division inspection, has commenced within this period.

3. The rights and privileges granted by this project shall not become effective, nor shall the Applicant commence the use for which this project is granted, until both of the following have occurred:

    a. All of the improvements, construction, alteration and other work set forth in this project have been completed and have been accepted by the City, as evidenced by the City's issuance of a Certificate of Occupancy or other document evidencing the City's final inspection and acceptance of the work; and

    b. All other Conditions of Approval imposed by this project have been fulfilled.

4. Prior to the construction of any modifications, all structural and aesthetic changes to the project design must be requested and approved in writing by the Director of Community Development or his/her designee.

5. This project will comply with all applicable provisions, regulations and development standards of the City of Fontana Municipal Code.

6. The applicant shall defend, indemnify, protect and hold harmless the City of Fontana or its agents, officers, attorneys and employees from any and all actual or alleged claims, actions or proceedings against the City of Fontana or its agents, officers, attorneys or employees to attack, set aside, void, annul or seek monetary damages arising out of any challenge to the applicant's proposed project or to any approvals of the Planning Commission and/or City Council concerning this project, including but not limited to actions challenging CEQA actions, permits, variances, plot plans, design plans, maps, licenses, and amendments. The City of Fontana shall promptly notify the applicant of any claim, action, or proceeding and the City of Fontana shall cooperate in the defense.

   In the event of any such third party action or proceeding, the City shall have the right to retain legal counsel. The applicant shall be responsible and reimburse the City for such legal fees and costs, in their entirety, including actual attorneys' fees, which may be incurred by the City in defense of such action or proceeding. This indemnification shall also include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities and expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, the City and/or any parties bringing such forth.

   Except as required under applicable State and Federal law, the City of Fontana and the applicant acknowledge that the City would not have approved this project if the City were to be liable to applicant in damages under or with respect to all or any part of this application or this condition of approval. Accordingly, applicant shall not sue the City for damages or monetary relief for any matter arising from or related to this condition of approval. Applicant's sole and exclusive remedy shall be limited to declaratory/injunctive relief, mandate, and/or specific performance.

7. In the event that one or more of the Conditions of Approval for this project needs to be amended and/or deleted due to health, safety or welfare concerns, the City Manager is authorized to approve or conditionally approve such amendment/deletion, provided that City manager shall bring such proposed amendment/deletion to the City Council at the next available meeting for City Council ratification, but in no event later than sixty (60) days following the City Manger's decision. The noticing of such City Council meeting for possible ratification shall be pursuant to Sections 30-30 and 30-31 of the Municipal Code.

8. The applicant shall post a publicly visible sign on the project site with the telephone number and 24-hour point of contact for dust, noise, and construction complaints. The 24-hour point of contact shall be available 24 hours a day, 7 days a week and have authority to commit additional assets to control dust, or respond to construction complaints after hours, on weekends and on holidays. Construction shall be limited to 7:00am to 6:00pm on weekdays, 8:00am to 5:00pm on Saturdays, and no construction on Sundays and Holidays.

PRIOR TO ISSUANCE OF A GRADING PERMIT:

9. The applicant/developer shall comply with the mitigation measures identified in the Initial Study/Mitigated Negative Declaration Mitigation Monitoring and Reporting Program.

10. The applicant shall have fully provided, constructed, or otherwise meet all Planning Division's requirements per approved plans, and shall have addressed all punch list items to the satisfaction of the Planning Director.

11. All Conditions of Approval contained herein shall be incorporated into all applicable final construction plans and a copy of these conditions, signed by the property owner or legal representative, shall be placed on a sheet in the final building or grading plans prior to issuance of any building or grading permits.

12. A Planning Department final inspection fee of $265.00 shall be paid prior to issuance of the Certificate of Occupancy for Industrial and Commercial Development.

13. Applicant shall pay all applicable service fees pursuant to the City of Fontana Municipal Code.

14. All architecture treatments and /or projections located on any elevation of any building shall be of durable non-foam e.g. (extrusive polystyrene) material; the use of foam for additional detailing is permitted above the first 14 feet in height on the elevations.

BUILDING & SAFETY DIVISION:

15. Shall comply with the latest adopted edition of the following codes as applicable:
    A. California Building Code
    B. California Electrical Code
    C. California Mechanical Code
    D. California Plumbing Code
    E. California Energy Code
    F. California Fire Code
    G. California Green Building Standards Code

16. Automatic fire suppression systems shall be installed in all new construction per Article II, Chapter 11 of the Code of the City of Fontana. Design and type of system shall be based upon the requirements of the Building Code, Fire Code and the requirements of the Fontana Fire Prevention District.

17. The requirements of the Air Quality Management District shall be satisfied prior to the issuance of any permit if hazardous materials are stored and/or used.

18. Any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project shall comply with City Code.

19. All perimeter/boundary walls shall be designed and constructed so that the outer/exterior face of the wall is as close as possible to the lot line. In any case, the outer/exterior face of the wall shall be within two (2) inches of the lot line. Distances greater than two (2) inches may be approved prior to construction by the Building Official on a case by case basis for extenuating circumstances.

20. The Parcel map shall record prior to the issuance of any permits.

21. Grading Requirements:
    A. Grading plans shall be submitted to and approved by Building & Safety. The grading plans shall indicate all site improvements and shall indicate complete drainage paths of all drainage water run-offs.
    B. All drainage water shall drain via approved methods to an approved location, such as a public street, a public drainage system, etc.
    C. Drainage water shall not cross over a public sidewalk. Drainage water may, however, cross under a sidewalk if an approved drainage structure is used.
    D. A recorded drainage acceptance agreement is required from adjoining property(s) receiving flows from this property.
    E. No water course or natural drainage shall be obstructed.
    F. Minimum slope or grade for ALL drainage structures shall be one half (0.50) percent for concrete and one (1.0) percent for all other, or as otherwise approved by the Building Official.
    G. Drainage water shall not pass from an ‘improved’ type of drainage structure to an ‘unimproved’ type of drainage structure (e.g., concrete swale to a dirt swale) unless otherwise approved by the Building Official.
    H. A complete hydrology study using the latest edition of the San Bernardino County Flood Control Hydrology Manual, and complete hydraulic calculations justifying the size, slope, capacity, etc. of any and all drainage structures being utilized, shall be submitted to and approved by Building & Safety.

       The on-site drainage system shall, as a minimum, be designed to handle the run-off generated by a ten (10) year storm. Check for flooding of all on-site structures (buildings) and all adjacent properties during a hundred (100) year storm.
    I. The grading plans shall, as a minimum, contain sections at all lot lines and/or permit boundary lines. These sections shall clearly indicate:

       1. The relationship between the proposed finished on-site grade elevations and the existing adjacent property grade elevations (Indicate any additional drainage water that may come from an adjacent property.); and

2. The ground cover/finished surface material being proposed (e.g., type of pavement, plant material, etc.); and
3. All proposed drainage structures; and
4. Any proposed and/or required walls or fencing.

22. All signs shall be Underwriters Laboratories approved or equal.

23. Permits are required prior to the removal and/or demolition of structures.

24. All exterior lighting shall be oriented, directed, and/or shielded as much as possible so that direct illumination does not infringe onto adjoining properties.

PRIOR TO ISSUANCE OF BUILDING/CONSTRUCTION PERMITS

25. The following items (as applicable) shall be completed and/or submitted to Building & Safety prior to the issuance of building permits for this project:

A. Precise grading plans shall be approved
B. Rough grading completed
C. Compaction certification
D. Pad elevation certification
E. Rough grade inspection signed off by a City Building Inspector

26. If hazardous substances are used and/or stored, a technical opinion and report, identifying and developing methods of protection from the hazards presented by the hazardous materials, may be required. This report shall be prepared by a qualified person, firm, or corporation and submitted to Building & Safety. This report shall also explain the proposed facility's intended methods of operation and list all of the proposed materials, their quantities, classifications, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.

END OF CONDITIONS OF APPROVAL

FONTANA
CALIFORNIA

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION AND NOTICE OF PUBLIC HEARING

SI DESEA INFORMACION EN ESPAÑOL REFERENTE A ESTA NOTIFICACION O PROYECTO, FAVOR DE COMUNICARSE AL (909) 350-6728.

In compliance with Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132) and the federal rules and regulations adopted in implementation thereof, the Agenda will be made available in appropriate alternative formats to persons with a disability. Should you need special assistance to participate in this meeting, please contact the City Clerk's Department by calling (909) 350-7602. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A PUBLIC HEARING HAS BEEN SCHEDULED BEFORE THE CITY COUNCIL OF THE CITY OF FONTANA FOR THE FOLLOWING:

MASTER CASE NO. 21-032, ZONE CODE AMENDMENT NO. 21-001, TENTATIVE PARCEL MAP NO. 20370 (TPM NO. 21-006), DEVELOPMENT AGREEMENT NO. 21-003, CONDITIONAL USE PERMIT NO. 21-004, CONDITIONAL USE PERMIT NO. 21-005, CONDITIONAL USE PERMIT NO. 21-006,) DESIGN REVIEW PROJECT NO. 21-010 AND DESIGN REVIEW SIGN NO. 21-018.

The proposed project includes the development of the "Citrus Crossroads" commercial retail center, a new local-serving shopping center and grocery consisting of an anchor building and various outlying building pads totaling approximately 53,740 square feet of building(s).

Environmental Determination: An Initial Study (IS) has been prepared for this project pursuant to the California Environmental Quality Act (CEQA). Based on the information in the IS, no significant impact is anticipated as a result of project implementation, with mitigation incorporated. A Mitigated Negative Declaration has been prepared for the City Council's consideration.

Location of Property: The project site is located on the northeast corner of South Highland Avenue and Citrus Avenue (APN: 0240-011-38, -41, -03, -05, -42, -06, -35, and -44 is in Planning Area 1 of the Auto Overlay District.

Date of Hearing: January 25, 2022

Place of Hearing: City Hall Council Chambers
8353 Sierra Avenue
Fontana, CA 92335

Time of Hearing: 7:00 p.m.

Should you have any questions concerning this project, please contact Paul Gonzales, Senior Planner, at (909) 350-6658 or at pgonzales@fontana.org.

ANY INTERESTED PARTY MAY APPEAR AND PRESENT ANY INFORMATION WHICH MAY BE OF ASSISTANCE TO THE CITY COUNCIL. A COPY OF THE APPLICATION AND ENVIRONMENTAL

DOCUMENTATION IS AVAILABLE FOR INSPECTION IN THE PLANNING DEPARTMENT, CITY HALL.

IF YOU CHALLENGE IN COURT ANY ACTION TAKEN CONCERNING A PUBLIC HEARING ITEM, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY AT, OR PRIOR TO, THE PUBLIC HEARING.

Publish: January 14, 2022

File #: 21-1116
Agenda #: C.

Agenda Date: 1/25/2022
Category: Public Hearing

FROM:
Engineering

SUBJECT:
Resolution of Necessity Public Hearing: Assessor Parcel Nos. 0232-201-12 and 0232-201-13

RECOMMENDATION:
1. That the Mayor and City Council conduct a Public Hearing to consider adoption of a proposed Resolution of Necessity, making the following findings:

(a) The public interest and necessity require the proposed project;

(b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) Acquisition of the two vacant parcels (APNs 0232-201-12 and 0232-201-13) is necessary for the proposed project;

(d) The offers required by section 7267.2 of the California Government Code were made; and

(e) The public use for this property is a more necessary use than the use for which the property is appropriated.

2. Adopt **Resolution No. 2022-___,** a Resolution of Necessity by the Fontana City Council, declaring that acquisition of a fee interest in certain real property located in the City of Fontana, San Bernardino County, California, more particularly described as Assessor Parcel Numbers 0232-201-12 and 0232-201-13, by eminent domain, is necessary for the installation of infrastructure improvements within the City of Fontana.

COUNCIL GOALS:
- To invest in the city's infrastructure (streets, sewers, parks, etc.) by providing for the development of new infrastructure.

- To invest in the city's infrastructure (streets, sewers, parks, etc.) by focusing on relief of traffic congestion.
- To invest in the city's infrastructure (streets, sewers, parks, etc.) by creating and promoting community through people, parks, and programs.

DISCUSSION:
On October 9th, 2021, the City Council approved a Sale Agreement between the City of Fontana and Rosemead Properties Inc. for the acquisition of two vacant properties (APNs 0232-201-12 and 0232-201-13) located on the South-West corner of Arrow Blvd. and Citrus Avenue. A Resolution of Necessity hearing and approval is required by the City of Fontana prior to and as a condition to the close of escrow.

The City Council is being asked to consider adoption of a Resolution of Necessity for the interests in APNs 0232-201-12 and 0232-201-13. These properties are required by the City of Fontana for the installation of infrastructure improvements and for the enhanced delivery of Community based services potentially including food and school supply distribution, housing and homeless services assistance through a program ("Project").

The power of eminent domain is used by the City only as a last resort to obtain interests necessary for projects after 1) negotiations have stalled; or 2) the owner has requested that the City proceed directly to eminent domain for tax or other advantages; or 3) the eminent domain process is necessary to clear the title to the property. In this instance, the City and Rosemead Properties, Inc. jointly commissioned an appraisal report that was used as the basis for the settlement negotiations. Appraisals used by the City must use this definition of Fair Market Value. For this Project, the City obtained an appraisal of Assessor Parcel Numbers 0232-201-12 and 0232-201-13 from Jack Alexander, a California certified general appraiser. An offer of just compensation to the property owners pursuant to California Government Code section 7267.2 was not made by the City due to the agreement reached by the parties. This resolution is sought at the request of the property owner. The City does not anticipate using its power of eminent domain to acquire this Property.

The record owner must be afforded an opportunity to appear and be heard at the hearing. A notice of this hearing was sent by first class mail on January 6, 2022 to the record owner in accordance with Section 1245.235 of the California Code of Civil Procedure. The notice stated the City's intent to consider the adoption of a resolution, the right of the property owner to appear and be heard on these issues, and that failure to file a written request to appear may result in a waiver of the right to appear and be heard. The City scheduled this hearing at which all persons who filed a written request in compliance with applicable law may appear and be heard.

DESCRIPTION OF PROPERTY TO BE ACQUIRED:

The properties affected by the proposed acquisition are two contiguous vacant, unoccupied parcels located at the intersection of Citrus and Arrow, in Fontana, with a combined acreage of 202,990 sf. The proposed acquisition consists of a full acquisition. The property will be used for installation of infrastructure improvements and the Project, enabling the enhanced delivery of various programs, services and outreach throughout the Fontana Community. The legal description and depictions are

attached hereto as Exhibit A.

HEARINGS AND REQUIRED FINDINGS:

The recommended action of the City Council at the conclusion of this Public Hearing concerns the acquisition of real property from the property owner, Rosemead Properties, Inc.

California eminent domain law provides that a public entity may not commence with eminent domain proceedings until its governing body has adopted a Resolution of Necessity, which may only be adopted after the governing body has given each party with an interest in the affected property, or their representatives, a reasonable opportunity to appear and be heard on the following matters:

1. The public interest and necessity require the proposed Project;

2. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;

3. The real property to be acquired is necessary for the Project; and

4. The offers of just compensation have been made to the property owner.

In addition, to the extent any of the property sought to be acquired is subject to an existing public use, the City must find that the public use for which the property sought to be acquired and described in the Resolution of Necessity is a more necessary public use to which the property is appropriated.

The above required findings are addressed as follows:

1. The Public Interest and Necessity Require the Proposed Project

The City desires to install infrastructure improvements and enhance and expand the delivery of community-based services (including food and school supply distribution, Housing and Homelessness assistance) by constructing a permanent facility for the Project. Acquisition of the subject property will facilitate those efforts.

2. The Project is Planned or Located in the Manner that will be Most Compatible with the Greatest Public Good and the Least Private Injury

This property is geographically located in Central Fontana - in close proximity to the Downtown Community. Those areas will be the primary focus of installation of infrastructure improvements and future community outreach efforts, making this property an ideal location for the Project.

3. The Real Property Sought to be Acquired is Necessary for the Project

The property to be acquired is located in Central Fontana, and is necessary ~~for~~ the installation of infrastructure improvements and enhance the delivery of community based services and activities

through the Project.

4. The Offer of Just Compensation Was Not Made to the Property Owner

Although the City would otherwise be required in eminent domain proceedings to offer just compensation to the record owners of property sought to be acquired, as established by the approved appraisals and as required by Section 7267.2 of the California Government Code, the City and Rosemead Properties, Inc. reached an agreement for the purchase and sale of this property without the City making the required Government Code offer, and Rosemead Properties, Inc. has waived its right to receive a Government Code offer.

Conducting the Public Hearing and adoption of the proposed Resolution of Necessity will facilitate the acquisition of two vacant properties (APNs 0232-201-12 and 0232-201-13) located on the South-West corner of Arrow Blvd. and Citrus Avenue.

FISCAL IMPACT:
Monies are available for the acquisition of these two properties, totaling approximately $3.1M - in fund 601 - Capital Reinvestment.

MOTION:
Approve staff recommendation.

EXHIBIT "A"

FEE

LEGAL DESCRIPTIONS AND DEPICTIONS

ASSESSOR PARCEL NOS. 0232-201-12 and 0232-201-013

PARCEL 1:

THE WEST ½ OF LOT 193 ACCORDING TO MAP OF ETIWANDA VINEYARDS, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 17, PAGE 29 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDS OF SAID COUNTY.

NOTE: AREA AND DISTANCES COMPUTED TO STREET PURPOSES.

PARCEL 2:

THE EAST ONE-HALF OF LOT 193 OF ETIWANDA VINEYARDS, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 17, PAGE 29 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

NOTE: ARAS AND DISTANCES COMPUTED TO THE RANGE LINE OF THE EAST ALL OTHER AREAS AND DISTANCE COMPUTED TO STREET CENTERS.

(Assessor Parcel Nos. 0232-201-12 and 0232-201-13)

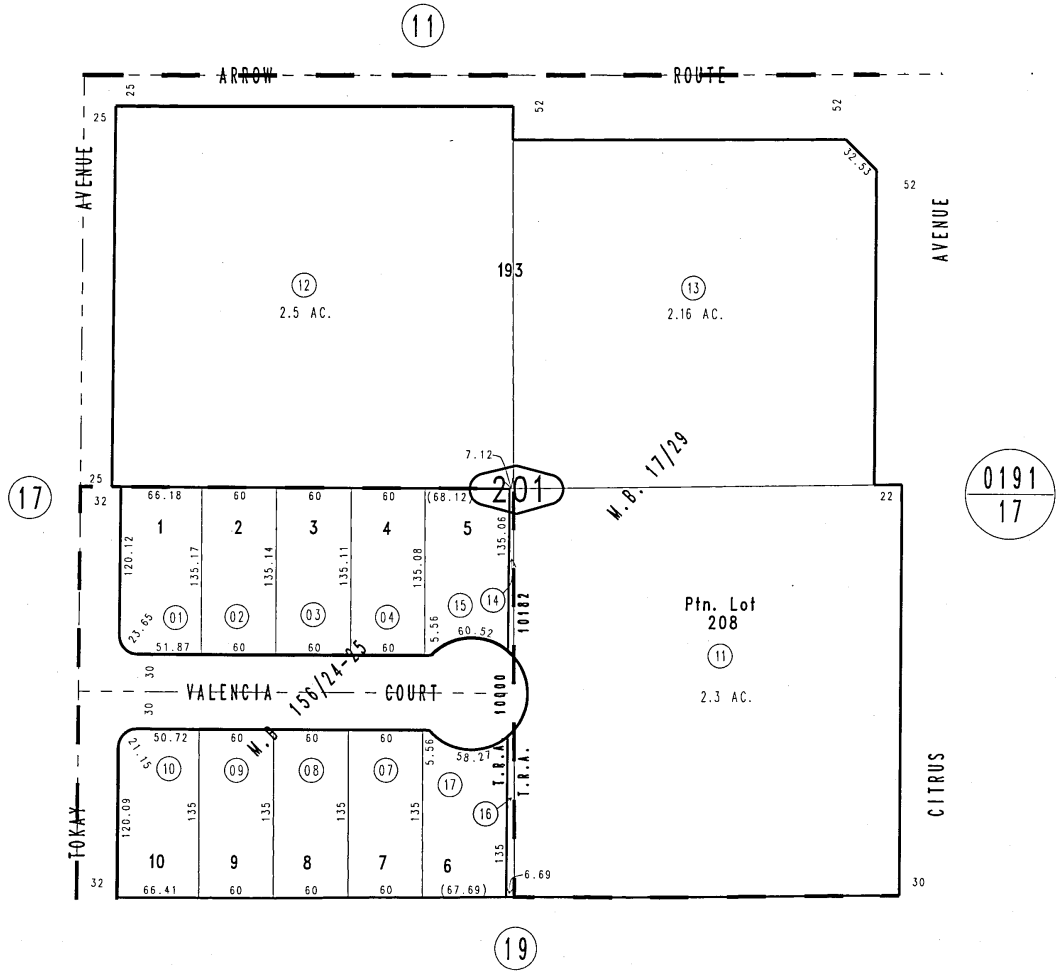
THIS MAP IS FOR THE PURPOSE OF AD VALOREM TAXATION ONLY.

Ptn. Etiwanda Vineyards Tract M.B. 17/29

City of Fontana
Tax Rate Area
10000 10182

0232- 20

1"=100'



February 2004

Tract No. 10514, M.B. 156/24-25

Ptn. S.E.1/4, Sec. 12
T.1S.,R.6W.

Assessor's Map
Book 0232 Page 20
San Bernardino County

REVISED
01/28/09 RM
05/21/09 LH

RESOLUTION NO. 2022-___

A RESOLUTION OF NECESSITY BY THE CITY COUNCIL OF THE CITY OF FONTANA, DECLARING THAT THE ACQUISITION OF A FEE INTEREST IN CERTAIN REAL PROPERTY LOCATED IN THE CITY OF FONTANA, MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NUMBERS 0232-201-12 AND 0232-201-13, BY EMINENT DOMAIN, ARE NECESSARY FOR THE INSTALLATION OF INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF FONTANA, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Fontana (the "City") proposes to acquire a fee interest in certain real property located in the City of Fontana, more particularly described as Assessor Parcel Numbers 0232-201-12 and 0232-201-13, in order to install infrastructure improvements in the City of Fontana, San Bernardino County, California, pursuant to the authority granted to it by section 37350.5 of the California Government Code and sections 1240.010,1240.020 1240.030 of the California Code of Civil Procedure; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, January 25, 2022, at 7:00 p.m., at Fontana City Hall, Grover W. Taylor Council Chambers, 8353 Sierra Avenue, Fontana, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing was held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure;

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

Section 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing and with the California Environmental Quality Act.

Section 2. Public Use. The public use for which the real property ~~are~~ required to be acquired by the City of Fontana for the installation of infrastructure improvements and for construction of a permanent facility for the project, allowing for the enhanced and increased delivery of various services in the City of Fontana, San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

Section 3. Description of Property. Attached and marked as **Exhibit A** is the legal description and assessor map of the interest to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

Section 4. Findings. The City hereby finds and determines each of the following:

(a) The public interest and necessity require the proposed project;

(b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The real property described in **Exhibit A** is necessary for the proposed project; and

(d) The offers required by section 7267.2 of the California Government Code were made.

Section 5. Use Not Unreasonably Interfering with Existing Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to section 1240.510 of the California Code of Civil Procedure.

Section 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

Section 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on

behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for what the real property is being acquired.

Section 8. Effective Date. This Resolution shall take effect upon adoption.

APPROVED AND ADOPTED this 25th day of January, 2022.

_____
Aquanetta Warren, Mayor

ATTEST:

_____
City Clerk of the City of Fontana, California

CERTIFICATION

I, Tonia Lewis, City Clerk of the City of Fontana, California, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City Council at a regular meeting thereof, held on the 25th day of January, 2022, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAINED:

_____
City Clerk of the City of Fontana

Indian Wells
(760) 568-2611
Irvine
(949) 263-2600
Los Angeles
(213) 617-8100
Manhattan Beach
(310) 643-8448
Ontario
(909) 989-8584

BEST BEST & KRIEGER LLP
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Walnut Creek
(925) 977-3300
Washington, DC
(202) 785-0600

Mark A. Easter
(951) 826-8237
mark.easter@bbklaw.com

January 6, 2022

VIA E-MAIL AND US MAIL

Tonia Lewis
City Clerk
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Re: Rosemead Properties, Inc.
Notice of Hearing to Property Owner of Resolution of Necessity Hearing
Scheduled for January 25, 2022
Assessor Parcel Nos. 0232-201-12 and 0232-201-13

Dear Ms. Lewis:

Attached via US Mail is the original Notice of Hearing to Property Owner, with proof of mailing, of the hearing on the adoption of a Resolutions of Necessity which is scheduled for January 25, 2022. A copy of the Notice was timely mailed on January 6, 2022 to the business listed on the proof of mailing. It will be necessary for you to note the proof of mailing of the Notice at the hearing.

Please do not hesitate to contact me should have any questions or concerns.

Very truly yours,

Mark A. Easter
of BEST BEST & KRIEGER LLP

Enclosure
copy: David Edgar (w/Attachment, via email only)

NOTICE OF HEARING TO PROPERTY OWNER

Pursuant to Section 1245.235 of the California Code of Civil Procedure, you are hereby notified that at a regular meeting to be held on Tuesday, January 25, 2022, at 7:00 p.m., at Fontana City Hall, City Council Chambers, 8353 Sierra Avenue, Fontana, California, the City Council of the City of Fontana intends to consider adopting a Resolution of Necessity authorizing the commencement of eminent domain proceedings for the acquisition, for public use, of a fee interest in certain real property which, according to the last equalized county assessment roll, you own. The public uses for which this Resolution of Necessity will be considered are for the installation of infrastructure improvements. The description of the property to be acquired is attached as Exhibit "A" to this notice.

A hearing will be held at the time and place mentioned above. You have the right to appear and be heard on the following matters:

1. Whether the public interest and necessity require the project for which the property is sought to be acquired.
2. Whether the project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
3. Whether the property is necessary for the proposed project.
4. Whether the offer required by Section 7267.2 of the California Government Code has been made.

In compliance with Americans with Disabilities Act of 1990 (42 USC § 12132), the Grover W. Taylor Council Chambers 8353 Sierra Avenue Fontana, CA 92335 is wheelchair accessible, and a portable microphone is available. Upon request, this agenda will be made available in appropriate alternative forms to persons with disabilities, as required by Section 12132

of the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such a request to the City Clerk's Office at (909) 350-7602 at least 48 hours before the meeting, if possible. Any public record, relating to an open session agenda item, that is distributed within 72 hours prior to the meeting is available for public inspection in the Grover W. Taylor Council Chambers 8353 Sierra Avenue Fontana, CA 92335.

Traduccion en Español disponible a peticion. Favor de notificar al Departamento "City Clerk". Para mayor informacion, favor de marcar el numero (909) 350-7602.

This is a public meeting, and the City reserves the right to revert it to an in-person meeting.

Please note that your failure to file a written request to appear and be heard within 15 days after the mailing of this notice may result in the waiver of your right to appear and be heard.

ALL COMMUNICATIONS SHOULD BE ADDRESSED TO:

Tonia Lewis
City Clerk
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

DATE OF HEARING: Tuesday, January 25, 2022
7:00 p.m.

PLACE OF HEARING: City Council Chambers
Fontana City Hall
8353 Sierra Avenue
Fontana, California 92335

DATED: January 6, 2022

BEST BEST & KRIEGER LLP

By: _____

Mark Easter
Henry Castillo
Attorneys for City of Fontana

16498.0001A\34621294.2

EXHIBIT "A"

FEE

LEGAL DESCRIPTIONS AND DEPICTIONS

ASSESSOR PARCEL NOS. 0232-201-12 and 0232-201-013

PARCEL 1:

THE WEST ½ OF LOT 193 ACCORDING TO MAP OF ETIWANDA VINEYARDS, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 17, PAGE 29 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDS OF SAID COUNTY.

NOTE: AREA AND DISTANCES COMPUTED TO STREET PURPOSES.

PARCEL 2:

THE EAST ONE-HALF OF LOT 193 OF ETIWANDA VINEYARDS, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 17, PAGE 29 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

NOTE: ARAS AND DISTANCES COMPUTED TO THE RANGE LINE OF THE EAST ALL OTHER AREAS AND DISTANCE COMPUTED TO STREET CENTERS.

(Assessor Parcel Nos. 0232-201-12 and 0232-201-13)

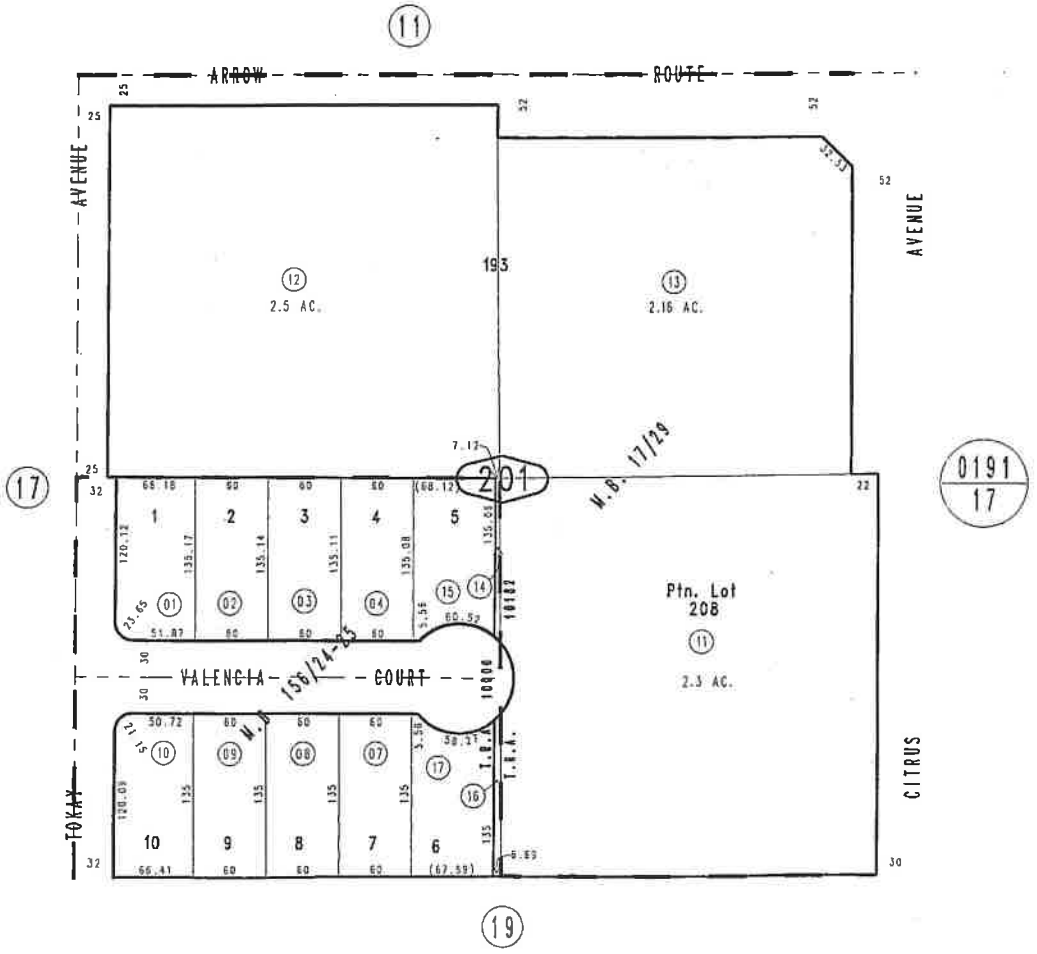
THIS MAP IS FOR THE PURPOSE OF AD VALOREM TAXATION ONLY.

Ptn. Etiwanda Vineyards Tract M.B. 17/29

City of Fontana
Tax Rate Area
10000 10182

0232 - 20

1" = 100'



February 2004

Tract No. 10514, M.B. 156/24-25

Ptn. S.E.1/4, Sec. 12
T.1S.,R.6W.

Assessor's Map
Book 0232 Page 20
San Bernardino County

REVISED
01/26/09 RM
05/21/09 LH

PROOF OF MAILING NOTICE

I, Peggy L. Barnes, acting on behalf of the City of Fontana, hereby certify that on January 6, 2022, I mailed a copy of the attached notice by first-class mail to the following owners of real property located in the County of San Bernardino, State of California, more particularly described as Assessor Parcel Nos. 0232-201-12 and 0232-201-13:

Rosemead Properties, Inc. — Property Owner
Attn: Robert W. Nicholson, Vice President
11142 Garvey Avenue
El Monte, CA 91733-2425

Timothy J. Ryan — Courtesy Copy
San Gabriel Valley Water Co.
P. O. Box 6010
El Monte, CA 91734

Alejandro R. Reyes — Courtesy Copy
San Gabriel Valley Water Co.
11142 Garvey Avenue
El Monte, CA 91733-2425

DATED: January 6, 2022

Peggy Barnes
Peggy L. Barnes

16498.0001A\34621294.2

File #: 21-1135
Agenda #: D.

Agenda Date: 1/25/2022
Category: Public Hearing

FROM:
Planning Department

SUBJECT:
Municipal Code Amendment (MCA) No. 22-01 - Adoption of an Urgency Ordinance of the City Council of the City of Fontana, Amending Sections 13-27 and 13-30 of the Fontana Municipal Code, Amending the Enforcement Authority regarding the City's Environmental Health Code, and Adoption of a Regular Ordinance for Long-Term Implementation of same

RECOMMENDATION:
1. Approve Municipal Code Amendment (MCA) No. 22-01 - Adopt **Urgency Ordinance No. _____**, of the City Council of the City of Fontana, amending sections 13-27 and 13-30 of the Fontana Municipal Code, amending the enforcement authority regarding the City's environmental health code.

2. Read by title only and waive further reading of and introduce **Ordinance No. ___,** an Ordinance of the City Council of the City of Fontana, approving Municipal Code Amendment (MCA) No. 22-01 amending sections 13-27 and 13-30 of the Fontana Municipal Code, amending the enforcement authority regarding the City's environmental health code and the reading of the title constitutes the first thereof.

COUNCIL GOALS:
- To create a team by working together to provide stability and consistent policy direction.
- To improve public safety by emphasizing community-oriented policing and community involvement.

DISCUSSION:

The Municipal Code Amendment (MCA) No. 22-01 being presented for the consideration that would amend sections 13-27 and 13-30 of Article II, Chapter 13, of the Fontana Municipal Code to establish that the City has the authority to enforce its Environmental Health Code. Currently, the Code establishes that the San Bernardino County Department of Environmental Health Services (DEHS) has enforcement authority. This amendment would expand the authority to both the City of Fontana and DEHS. Such action would further the City Council finding that, unless properly regulated, sidewalk vending poses a unique risk to the health, safety, and welfare of the public, including, but not limited to, impacts to traffic, pedestrian safety, mobility, unsanitary conditions involving food preparation, risks to children, and consumer protection.

The existing Ordinance is lacking enforcement provisions and thus enforcement efforts have been hampered by two main issues - the ability to cite for Environmental Health Code violations and limited

staffing resources. In addition, DEHS lacks sufficient staff to be out every weekend and evening when most of these activities take place. Adoption of the proposed amendments to sections 13-27 and 13-30 of the Municipal Code will provide city staff with the authority needed to enforce the Environmental Health Code.

Background:
On September 17, 2018, Governor Brown signed Senate Bill 946 (SB 946), which limits the City's ability to regulate sidewalk vending. The bill took effect on January 1, 2019 and nullified the current restrictions the City places on sidewalk vending and itinerant vendors. With the enactment of SB 946, the Legislature amended California Government Code Sections 51036 and 51069 to decriminalize sidewalk vending. While the bill places many restrictions on the City, the intent behind the bill is to promote entrepreneurship and economic development opportunities for low-income and immigrant communities.

On February 12, 2019, the Mayor and City Council adopted a Code Amendment adding Article XVII to Chapter 15 of the Fontana Municipal Code imposing regulations on sidewalk vending and the current regulations have been in effect for about 36 months.

Staff is recommending an amendment to the City's Municipal Code to strengthen the City's ability to enforce illegal street vending activities due to the significant number of complaints received from businesses and residents of the community.

Environmental:
The Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, Section No. 3.22 and 3.07 of the 2019 Local Guidelines for Implementing CEQA, because it has no potential for resulting in physical change in the environment, directly or indirectly. Pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), Section No. 3.22 and 3.07 of the 2019 Local Guidelines for Implementing CEQA, this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

FISCAL IMPACT:
None.

MOTION:
Approve staff recommendation

ATTACHMENTS:

Attachment No. 1: Urgency Ordinance No. __
Attachment No. 2: Ordinance No. __
Attachment No. 3: Notice of Exemption
Attachment No. 4: Public Hearing Notice

URGENCY ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, APPROVING MUNICIPAL CODE AMENDMENT (MCA) NO. 22-01 TO AMEND SECTIONS 13-27 AND 13-30 OF THE FONTANA MUNICIPAL CODE, AMENDING THE ENFORCEMENT AUTHORITY REGARDING THE CITY'S ENVIRONMENTAL HEALTH CODE

WHEREAS, the City of Fontana, California ("City") is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

WHEREAS, pursuant to the police powers delegated to it by the California Constitution, the City has the authority to enact laws which promote the public health, safety, and general welfare of its citizens, including sidewalk vending, as long as these are consistent with Senate Bill ("SB 946"); and

WHEREAS, in 2018, the California Legislature passed SB 946 which prohibits cities from regulating sidewalk vendors, except in accordance with the provisions of SB 946; and

WHEREAS, according to its terms, SB 946 applies to both charter and general law cities; and

WHEREAS, SB 946 explicitly stated that the legislation did not affect the applicability of Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code, otherwise known as the California Retail Food Code, to a sidewalk vendor who sells food; and

WHEREAS, the City Council finds that this Urgency Ordinance is enacted to protect the public health, safety and welfare, unless properly regulated, sidewalk vending poses a unique risk to the health, safety, and welfare of the public, including, but not limited to, impacts to traffic, pedestrian safety, mobility, unsanitary conditions involving food preparation, risks to children, and consumer protection; and

WHEREAS, the City Council finds that the changes to Sections 13-27 and 13-30 of the Fontana Municipal Code are necessary to make clear the City's authority to enforce its Environmental Health Code; and

WHEREAS, on January 25, 2022, the City Council held a duly noticed public hearing on Municipal Code Amendment (MCA) No. 22-01.

WHEREAS, a notice of the public hearing was published in the local *Fontana Herald* newspaper on Friday, January 14, 2022 and posted at City.

THE CITY COUNCIL OF THE CITY OF FONTANA DOES ORDAIN AS FOLLOWS:

Section 1. Urgency Findings**.** In accordance with California Government Code section 36937 and in order to protect the public health, safety and welfare, the City Council finds the above recitals are true and correct and are incorporated herein by reference as urgency findings in support of the adoption of this urgency ordinance.

Section 2. Section 13-27 of Article II, Chapter 13 of the Fontana Municipal Code is hereby amended to read as follows:

> "Pursuant to Health and Safety Code §§ 480 et seq., 500 et seq., and 1155.5, title 17 of the state Administrative Code and other relevant state law, for the protection of the environmental public health, the issuance of permits and collection of fees, and providing penalties and remedies for the violation of such regulations, there is adopted by the city as its environmental health code that certain code known as the Uniform Environmental Health Code, except as provided in section 13-28. The city designates both the City of Fontana, and any employee thereof, and the county department of environmental health services as the enforcement ~~agency~~ agencies for the purpose of this environmental health code and all state law pertaining to environmental health. Pursuant to Government Code § 50022.6, a copy of such code is on file in the office of the city clerk, and such code is hereby adopted and incorporated as if set out at length in this section."

Section 3. Section 13-30 subsections (a)-(c) of Article II, Chapter 13 of the Fontana Municipal Code are hereby amended to read as follows:

> "(a) It is unlawful for any person to deny access to, interfere with, prevent, restrict, obstruct or hinder the city or the department of environmental health services or their agents acting within the scope of their duty or agency. It shall be unlawful for any person to fail to identify oneself upon lawful request by either the city or the department of environmental health services employees or agents acting within the scope of their duty or agency. Offering physical resistance or bodily attack upon authorized representatives of the city or department of environmental health services acting within the scope of their duty or agency is a misdemeanor, punishable by imprisonment in the county jail for not less than ten days, without the alternative of a fine.
>
> (b) In addition to criminal prosecution, civil action and every other remedy or penalty provided by law, public nuisances

may be abated or enjoined in any action brought by either the city or department of environmental health services, or under circumstances immediately dangerous to public health or safety may be summarily abated by enforcement officers of either the city or department of environmental health services as provided in this article or otherwise in the manner provided by law for the summary abatement of public nuisances.

(c) Except where punishable as a misdemeanor or felony under state law or under this article, any person who violates any provision of the environmental health code adopted by this article shall be guilty of an infraction, and upon conviction thereof shall be punished by a fine of not less than $25.00 but not exceeding $100.00 for a first violation, a fine not exceeding $200.00 for a second conviction within one year, and a fine not exceeding $500.00 for the third conviction within one year; the fourth and additional convictions within one year shall be punishable as misdemeanors and shall be punished by a fine of not less than $250.00 and not more than $1,000.00 or by imprisonment in the county jail for a term not exceeding six months, or both; and such convicted person may, in the discretion of the court, be adjudged, in addition to the penalties provided in this section, to be liable to the city and/or the department of environmental health services for all necessary costs incurred in investigation, discovery, analysis, inspection and cleanup and other actual costs incurred by the city and/or the department of environmental health services or its agents pertaining to the violation."

Section 4. Section 13-30 subsection (e) of Article II, Chapter 13 of the Fontana Municipal Code is hereby added to read as follows:

"(e) Unless otherwise stated in this Chapter, any violation of this Chapter may be prosecuted by the City Attorney and be punishable as an infraction or a misdemeanor in accordance with Section 1-7 of the Fontana Municipal Code."

Section 5. CEQA. The City Council finds that this Urgency Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, Section No. 3.22 and 3.07 of the 2019 Local Guidelines for Implementing CEQA, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), Section No. 3.22 and 3.07 of the 2019 Local Guidelines for Implementing CEQA, that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen

with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Section 6. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Urgency Ordinance is based are located at the City Clerk's office located at 8353 Sierra Avenue, Fontana, CA 92335. The custodian of these records is the City Clerk.

Section 7. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Urgency Ordinance, or any part thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Urgency Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any portion of this Urgency Ordinance is found to be invalid by a court of competent jurisdiction, the balance of this Urgency Ordinance shall not be affected.

Section 8. Certification. City Clerk of the City of Fontana shall certify to the adoption of this Urgency Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under section 36933 of the Government Code of the State of California.

Section 9. Effective Date. This Urgency Ordinance shall become effective immediately upon its adoption with four-fifths vote of the City Council and findings made pursuant to California Government Code section 36937. Within fifteen (15) days after said passage, a summary of this Urgency Ordinance with the names of the Council Members voting for or against the same, shall be published in a newspaper of general circulation in the County of San Bernardino, State of California.

APPROVED AND ADOPTED by the City Council of the City of Fontana, at a regular meeting of the City Council held on the 25th day of January, 2022.

[SIGNATURES ON FOLLOWING PAGE]

READ AND APPROVED AS TO LEGAL FORM:

_____
City Attorney

_____
City Clerk of the City of Fontana

_____
Mayor of the City of Fontana

ATTEST:

_____
City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF FONTANA)

CERTIFICATION

I, Tonia Lewis, City Clerk, hereby certify that the attached is a true copy of Urgency Ordinance No. _____, introduced by the City Council of the City of Fontana, California, at a regular meeting held the 25th day of January, 2022. Urgency Ordinance No. __ was approve passed and adopted at a regular meeting held the 25th day of January, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, APPROVING MUNICIPAL CODE AMENDMENT (MCA) No. 22-01 TO AMEND SECTIONS 13-27 AND 13-30 OF THE FONTANA MUNICIPAL CODE, AMENDING THE ENFORCEMENT AUTHORITY REGARDING THE CITY'S ENVIRONMENTAL HEALTH CODE

WHEREAS, the City of Fontana, California ("City") is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

WHEREAS, pursuant to the police powers delegated to it by the California Constitution, the City has the authority to enact laws which promote the public health, safety, and general welfare of its citizens, including sidewalk vending, as long as these are consistent with Senate Bill ("SB 946"); and

WHEREAS, in 2018, the California Legislature passed SB 946 which prohibits cities from regulating sidewalk vendors, except in accordance with the provisions of SB 946; and

WHEREAS, according to its terms, SB 946 applies to both charter and general law cities; and

WHEREAS, SB 946 explicitly stated that the legislation did not affect the applicability of Part 7 (commencing with Section 113700) of Division 104 of the Health and Safety Code, otherwise known as the California Retail Food Code, to a sidewalk vendor who sells food; and

WHEREAS, the City Council finds that this Ordinance is enacted to protect the public health, safety and welfare, unless properly regulated, sidewalk vending poses a unique risk to the health, safety, and welfare of the public, including, but not limited to, impacts to traffic, pedestrian safety, mobility, unsanitary conditions involving food preparation, risks to children, and consumer protection; and

WHEREAS, the City Council finds that the changes to Sections 13-27 and 13-30 of the Fontana Municipal Code are necessary to make clear the City's authority to enforce its Environmental Health Code.

WHEREAS, On January 25, 2022, the City Council held a duly noticed public hearing on Municipal Code Amendment (MCA) No. 22-01.

WHEREAS, a notice of the public hearing was published in the local *Fontana Herald* newspaper on Friday, January 14, 2022 and posted at City; and

THE CITY COUNCIL OF THE CITY OF FONTANA DOES ORDAIN AS FOLLOWS:

Section 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference as findings in support of this Ordinance.

Section 2. Section 13-27 of Article II, Chapter 13 of the Fontana Municipal Code is hereby amended to read as follows:

> "Pursuant to Health and Safety Code §§ 480 et seq., 500 et seq., and 1155.5, title 17 of the state Administrative Code and other relevant state law, for the protection of the environmental public health, the issuance of permits and collection of fees, and providing penalties and remedies for the violation of such regulations, there is adopted by the city as its environmental health code that certain code known as the Uniform Environmental Health Code, except as provided in section 13-28. The city designates both the City of Fontana, and any employee thereof, and the county department of environmental health services as the enforcement ~~agency~~ agencies for the purpose of this environmental health code and all state law pertaining to environmental health. Pursuant to Government Code § 50022.6, a copy of such code is on file in the office of the city clerk, and such code is hereby adopted and incorporated as if set out at length in this section."

Section 3. Section 13-30 subsections (a)-(c) of Article II, Chapter 13 of the Fontana Municipal Code are hereby amended to read as follows:

> "(a) It is unlawful for any person to deny access to, interfere with, prevent, restrict, obstruct or hinder the city or the department of environmental health services or their agents acting within the scope of their duty or agency. It shall be unlawful for any person to fail to identify oneself upon lawful request by either the city or the department of environmental health services employees or agents acting within the scope of their duty or agency. Offering physical resistance or bodily attack upon authorized representatives of the city or department of environmental health services acting within the scope of their duty or agency is a misdemeanor, punishable by imprisonment in the county jail for not less than ten days, without the alternative of a fine.
>
> (b) In addition to criminal prosecution, civil action and every other remedy or penalty provided by law, public nuisances may be abated or enjoined in any action brought by either the city or department of environmental health services, or under

circumstances immediately dangerous to public health or safety may be summarily abated by enforcement officers of either the city or department of environmental health services as provided in this article or otherwise in the manner provided by law for the summary abatement of public nuisances.

(c) Except where punishable as a misdemeanor or felony under state law or under this article, any person who violates any provision of the environmental health code adopted by this article shall be guilty of an infraction, and upon conviction thereof shall be punished by a fine of not less than $25.00 but not exceeding $100.00 for a first violation, a fine not exceeding $200.00 for a second conviction within one year, and a fine not exceeding $500.00 for the third conviction within one year; the fourth and additional convictions within one year shall be punishable as misdemeanors and shall be punished by a fine of not less than $250.00 and not more than $1,000.00 or by imprisonment in the county jail for a term not exceeding six months, or both; and such convicted person may, in the discretion of the court, be adjudged, in addition to the penalties provided in this section, to be liable to the city and/or the department of environmental health services for all necessary costs incurred in investigation, discovery, analysis, inspection and cleanup and other actual costs incurred by the city and/or the department of environmental health services or its agents pertaining to the violation."

Section 4. Section 13-30 subsection (e) of Article II, Chapter 13 of the Fontana Municipal Code is hereby added to read as follows:

"(e) Unless otherwise stated in this Chapter, any violation of this Chapter may be prosecuted by the City Attorney and be punishable as an infraction or a misdemeanor in accordance with Section 1-7 of the Fontana Municipal Code."

Section 5 CEQA. The City Council finds that this Urgency Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, Section No. 3.22 and 3.07 of the 2019 Local Guidelines for Implementing CEQA, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), Section No. 3.22 and 3.07 of the 2019 Local Guidelines for Implementing CEQA, that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Section 6. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 8353 Sierra Avenue, Fontana, CA 92335. The custodian of these records is the City Clerk.

Section 7. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any portion of this ordinance is found to be invalid by a court of competent jurisdiction, the balance of this ordinance shall not be affected.

Section 8. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 8353 Sierra Avenue, Fontana, CA 92335. The custodian of these records is the City Clerk.

Section 9. Effective Date and Publication. This Ordinance shall take effect thirty (30) days after the date of the adoption and prior to the expiration of fifteen (15) days from the passage thereof, shall be published by the City Clerk at least once in the Herald News, a local newspaper of the general circulation, published and circulation in the City of Fontana, and henceforth and thereafter the same shall be in full force and effect.

APPROVED AND ADOPTED by the City Council of the City of Fontana, at a regular meeting of the City Council held on the 25th day of January, 2022 by the following vote:

READ AND APPROVED AS TO LEGAL FORM:

_____
City Attorney

I, Tonia Lewis, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance adopted by the City Council at a regular meeting on the 25th day of January 2022, and was finally passed and adopted not less than five days thereafter on the 8th day of February 2022, by the following vote to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
City Clerk of the City of Fontana

_____
Mayor of the City of Fontana

ATTEST:

_____
City Clerk

NOTICE OF EXEMPTION

TO: Clerk of the Board of Supervisors
County of San Bernardino
385 N. Arrowhead Avenue, 2nd Floor
San Bernardino, CA 92415-0130

FROM: City of Fontana
Planning Department
8353 Sierra Avenue
Fontana, CA 92335

1. Project Title: **Municipal Code Amendment (MCA) No. 22-01**

2. Project Location - Specific: **Citywide**

3. (a) Project Location - City: **Fontana, CA 92336**
   (b) Project Location - County: **San Bernardino**

4. Description of nature, purpose, and beneficiaries of Project: **Adoption of an urgency ordinance of the City Council of the City of Fontana, amending sections 13-27 and 13-30 of the Fontana Municipal Code, amending the enforcement authority regarding the City's environmental health code.**

5. Name of Public Agency approving project: **City of Fontana**

6. Name of Person or Agency carrying out project: **City of Fontana**

7. Exempt status: (Check one)
   (a) _____ Ministerial project.
   (b) _____ Not a project.
   (c) _____ Emergency Project.
   (d) ___ Categorical Exemption. State type and class number:
   (e) _____ Declared Emergency.
   (f) _____ Statutory Exemption. State Code section number: _____
   (g) __**X**__ Other. Explanation: Exempt pursuant to Sections 15378 and 15061(b)(3) of the State of California Environmental Quality Act ("CEQA") Guidelines, and Section No. 3.22 and 3.07 of the 2019 Local Guidelines for Implementing CEQA, the project has no potential for resulting in physical change in the environment, directly or indirectly.

8. Reason why project was exempt: The Ordinance is exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

9. Contact Person: Rina Leung, Senior Planner Telephone: (909) 350-6566

Date Received for Filing:

_____
DiTanyon Johnson
Principal Planner

(Clerk Stamp Here)

ATTACHMENT NO. 3

FONTANA
CALIFORNIA

NOTICE OF PUBLIC HEARING

Si desea información en Español referente a esta notificación o proyecto, favor de comunicarse al (909) 350-6728.

In compliance with Section No. 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132) and the federal rules and regulations adopted in implementation thereof, the agenda will be made available in appropriate alternative formats to persons with a disability. Should you need special assistance to participate in this meeting, please contact the City Clerk's Department by calling (909) 350-7602. Notification 48 hours prior to the meeting will enable the city to make reasonable arrangements to ensure accessibility to this meeting.

A PUBLIC HEARING HAS BEEN SCHEDULED BEFORE THE CITY COUNCIL OF THE CITY OF FONTANA FOR THE FOLLOWING:

AN URGENCY ORDINANCE OF THE CITY OF FONTANA, CALIFORNIA, AMENDING SECTIONS 13-27 AND 13-30 OF THE FONTANA MUNICIPAL CODE, AMENDING THE ENFORCEMENT AUTHORITY REGARDING THE CITY'S ENVIRONMENTAL HEALTH CODE

AN ORDINANCE OF THE CITY OF FONTANA, CALIFORNIA, AMENDING SECTIONS 13-27 AND 13-30 OF THE FONTANA MUNICIPAL CODE, AMENDING THE ENFORCEMENT AUTHORITY REGARDING THE CITY'S ENVIRONMENTAL HEALTH CODE

Environmental Determination: This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, Section No. 3.22 and 3.07 of the 2019 Local Guidelines for Implementing CEQA, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), Section No. 3.22 and 3.07 of the 2019 Local Guidelines for Implementing CEQA, that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Bernardino in accordance with CEQA Guidelines.

Location: City Wide

Date of Hearing: January 25, 2022

Place of Hearing: City Hall Council Chambers
8353 Sierra Avenue
Fontana, CA 92335

Time of Hearing: 7:00 P.M.

Should you have any questions concerning this project, please contact Patty Nevins**, Director of Planning**, at 909-350-7625 or via email at pnevins@fontana.org

ANY INTERESTED PARTY MAY PROVIDE INFORMATION BY LETTER OR EMAIL WHICH MAY BE OF ASSISTANCE TO THE CITY COUNCIL. A COPY OF THE APPLICATION AND ENVIRONMENTAL DOCUMENTATION IS AVAILABLE FOR INSPECTION. PLEASE CONTACT THE PLANNER LISTED ABOVE.

IF YOU CHALLENGE IN COURT ANY ACTION TAKEN CONCERNING A PUBLIC HEARING ITEM, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE TO THE CITY AT, OR PRIOR TO, THE PUBLIC HEARING.

Publish: January 14, 2022

8353 Sierra Avenue
Fontana, CA 92335

File #: 21-1093
Agenda #: A.

Agenda Date: 1/25/2022
Category: New Business

FROM:
City Manager's Office

SUBJECT:
Amending Fontana Municipal Code Section 2-39 to Increase the Salary for Members of the City Council and Mayor; Introduction and First Reading of Ordinance

RECOMMENDATION:
Read by title only and waive further reading of and introduce **Ordinance No. ____,** Amending Section 2-39 Of The Fontana Municipal Code, Regarding The Salary For Members Of The City Council And Mayor

COUNCIL GOALS:

- To create a team by working together to provide stability and consistent policy direction.
- To increase citizen involvement by developing future leaders.

DISCUSSION:
Government Code Section 36516 controls the salary of council members in general law cities and provides for up to a five percent (5%) annual increase in city council member salaries from the operative date of the last city council salary adjustment. Government Code Section 36516.1 also provides that a directly-elected mayor may receive compensation in addition to the compensation she receives as a council member.

Government Code Section 36516.5 further provides that any change in City Council compensation adopted via ordinance pursuant to Section 36516 shall become effective whenever one or more members of the city council becomes eligible for a salary increase by virtue of the council member beginning a new term of office.

Currently, members of the City Council receive $1,755.00 per month in compensation, which was set in December 2018 by Ordinance No. 1786 and codified in Section 2-39 of the Fontana Municipal Code. The Mayor's additional compensation, according to Section 2-39 of the Fontana Municipal Code, is $1,745.00 per month.

Pursuant to Government Code Section 36516(a), the City Council members are eligible for a 5% increase for each year since the most recent adjustment in 2018. Thus, if the effective date of the compensation adjustment is January 2023, the City Council members and Mayor are entitled to a 5% adjustment for four (4) years. This amounts to an additional $351 per month for the City Council members and an additional $349 per month for the Mayor (($1,755 x 5% x 4 years); ($1,745 x 5 % x 4 years) respectively).

Salary adjustments for members of City Council would be effective beginning January 1, 2023

consistent with Government Code section 36516.5. The salary adjustment for the Mayor would be effective immediately following the effective date of the proposed ordinance.

FISCAL IMPACT:
The proposed ordinance, if implemented, would result in a net increase in salary expenses of $25,248 per year.

MOTION:
Approve staff's recommendation.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA AMENDING SECTIONS 2-39 OF THE FONTANA MUNICIPAL CODE, REGARDING THE SALARY FOR MEMBERS OF THE CITY COUNCIL AND MAYOR

WHEREAS, the City of Fontana, California is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, Article XI, section 7 of the California Constitution grants the City broad discretionary power to "make and enforce within its limits all local police, sanitary, and other ordinances and regulations not in conflict with general laws"; and

WHEREAS, Section 36516 of the Government Code provides the method by which salaries for members of a city council of a city are established and increased; and

WHEREAS, Section 36516(a)(4) of the Government Code provides that a city council of a city may, by ordinance, authorize an increase in salary to members of the city council, so long as such increase does not exceed an amount equal to five percent (5%) for each calendar year from the operative date of the last adjustment of salary; and

WHEREAS, the salary for the members of the City Council of the City pursuant to Ordinance No. 1786 adopted December 11, 2018, is currently set at $1,755.00 per month, with an additional $1,745 per month for the City's directly elected Mayor in accordance with Government Code § 36516.1; and

WHEREAS, the salary for the members of the City Council was set in 2018; and

WHEREAS, the City Council wishes to enact a new ordinance superseding Ordinance No. 1786 and increasing the monthly salary of the members of the City Council and Mayor within the limitations of Government Code Section 36516(a)(4); and

WHEREAS, in order to encourage qualified persons to become members of the City Council and to assure that members of the City Council are compensated comparably to council members of other cities, it is in the best interests of the City to increase the salary of the members of the City Council; and

WHEREAS, a duly noticed public meeting was held at which time this ordinance was considered and at which time all persons wishing to be heard were afforded an opportunity to do so; and

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference as findings in support of this Ordinance.

Section 2. Amendment. Section 2-39 of Article II of Chapter 2 of the Fontana Municipal Code is hereby amended in its entirety to read as follows:

"**Sec. 2-39. - Salaries—Generally.**

> As allowed in Government Code § 36516, each member of the council shall receive as salary the sum of $2,106 per month and in addition to this sum the mayor shall receive an additional $2,094 per month in accordance with Government Code § 36516.1, which shall be payable at the same time and in the same manner as the salaries are paid to other officers and employees of the city."

Section 3. CEQA. The City Council determines that this code amendment is not subject to environmental review under the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines (Cal. Code Regs., § 15000 et seq.) sections 15060(c)(3) and 15061(b)(3). Pursuant to State CEQA Guidelines section 15060(c)(3) and Section 3.01(f) of the City of Fontana 2018 Local Guidelines for Implementing the California Environmental Quality Act, the proposed regulations do not constitute a project under CEQA and have no potential to result in a direct or reasonably foreseeable indirect physical change in the environment. .

Section 4. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 8353 Sierra Avenue, Fontana, CA 92335. The custodian of these records is the City Clerk.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The people of the City of Fontana hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6. Effective Date. This Ordinance shall be effective thirty days following its adoption. The increased salary for the Mayor shall be provided immediately following the effective date of this Ordinance. The increased salaries for members of City Council shall be provided immediately following the seating of one or more

members of City Council at the next municipal election following the effective date of this Ordinance.

Section 7. Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Fontana.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Fontana, California, at a regular meeting of the City Council held on the [ ] day of [month], 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

City of Fontana

_____
Acquanetta Warren, Mayor

ATTEST:

_____
Tonia Lewis, City Clerk

READ AND APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

_____
Ruben Duran, City Attorney

CERTIFICATION

I, Tonia Lewis, City Clerk of the City of Fontana and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance No. ____ is the actual Ordinance No. ____ that was first introduced at a regular meeting of said City Council on the [ ] day of [month], 2022 by the following vote to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Tonia Lewis, City Clerk

8353 Sierra Avenue
Fontana, CA 92335

File #: 21-1119
Agenda #: A. Communications/Reports

Agenda Date: 1/25/2022
Category: Elected Officials

Appointment to the Parks, Community, and Human Services Commission to fill an Unscheduled Vacancy due to the passing of a Commissioner

City Council

Acquanetta Warren, Mayor

Peter Garcia, Mayor Pro Tem

John Roberts, Council Member

Jesse “Jesus” Sandoval, Council Member

Phillip W. Cothran, Council Member