

City of Fontana

8353 Sierra Avenue
Fontana, CA 92335



Regular Agenda

Ord. No. 1906 Reso No. 2022-125

Tuesday, September 27, 2022

7:00 PM

Grover W. Taylor Council Chambers

City Council Meeting

Acquanetta Warren - Mayor
Peter A. Garcia - Mayor Pro Tem
John B. Roberts - Council Member
Jesus "Jesse" Sandoval - Council Member
Phillip Cothran - Council Member
Germaine McClellan Key - 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.

Traducción en Español disponible a petición. Favor de notificar al Departamento "City Clerk". Para mayor información, favor de marcar el número (909) 350-7602.

CALL TO ORDER/ROLL CALL:

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

INVOCATION/PLEDGE OF ALLEGIANCE:

- A. Invocation/Pledge of Allegiance:

SPECIAL PRESENTATIONS:

- A. Special Presentations

- A. **A. Mayor Warren and City Council to recognize Corporal Buddy Porch, Officer Christine Tomicic, Probation Officer Jazmyne White and Records Supervisor Vanessa Hernandez as the Fontana Police Department July 2022 Employees of the Month.** [21-1712](#)
- B. **Mayor Warren and City Council to recognize Corporal Thomas Moore, Corporal Luis Valenzuela, Officer Paul Contreras, Officer Shawn Cory, Officer Joshua MacMillian, Officer Kirsten Ryn, Officer Matthew Sherwood, Officer Christine Tomicic, and Secretary Michelle Jared as the Fontana Police Department August 2022 Employees of the Month.**

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** [21-1723](#)
Approve the minutes of the September 13, 2022, Regular City Council Meeting.
Attachments: [Council Meeting September 13, 2022.pdf](#)
- B. **Adoption of Ordinance No. 1904 (Second Reading)** [21-1724](#)
Second Reading/Adoption of **Ordinance No. 1904**, levying special taxes within the City of Fontana Community Facilities District No. 111 (Monterado).
Attachments: [Ordinance No. 1904](#)

- C. Adoption of Ordinance No. 1905 (Second Reading) [21-1725](#)**
Second Reading / Adoption of **Ordinance No. 1905**, authorizing the levy of a Special Tax within Community Facilities District No. 110M.
Attachments: [Ordinance No. 1905](#)
- D. Police Department Monthly Information Update [21-1630](#)**
Accept the Police Department monthly information update for August 2022.
Attachments: [August 2022 Report for City Council \(2\).pptx](#)
- E. Approve Donations of Dog “Arrow” and Present and Future Accompanying K-9 Dog Equipment from Fontana Police K-9 Pals, a California Nonprofit Corporation. [21-1631](#)**
1. Approve the donation of the dog “Arrow” from Fontana Police K-9 Pals, a California nonprofit corporation, to the City of Fontana in order for “Arrow” to become part of the Fontana Police Department’s K-9 Unit.
2. Approve present and future accompanying K-9 dog equipment from Fontana Police K-9 Pals to support the Fontana Police Department’s K-9 Unit operations.
- F. Approve Donations of Dog “Leo” and Present and Future Accompanying K-9 Dog Equipment from Fontana Police K-9 Pals, a California Nonprofit Corporation. [21-1632](#)**
1. Approve the donation of the dog “Leo” from Fontana Police K-9 Pals, a California nonprofit corporation, to the City of Fontana in order for “Leo” to become part of the Fontana Police Department’s K-9 Unit.
2. Approve present and future accompanying K-9 dog equipment from Fontana Police K-9 Pals to support the Fontana Police Department’s K-9 Unit operations.

G. Award a Construction Contract for the Police Facility Fence Installation Project [21-1649](#)

1. Award and authorized the City Manager to execute a construction contract with J & A Engineering Corp. for the construction of the Police Facility Fence Installation Project in the amount of \$358,275.44 and authorize a 10% contingency in the amount of \$35,827.54 (Bid No. SB-03-DE-23).

2. Appropriate \$75,000.00 from PD Capital Facilities Fund 636 to the Police Facility Fence Installation Project No. 36000021.

3. Approve and authorize the City Manager to execute any and all utility agreements, utility easements, and subsequent agreements on behalf of the City of Fontana for the Police Facility Fence Installation Project.

Attachments: [Vicinity Map](#)
[Bid Results](#)
[Bid Detail.pdf](#)

H. Approve Release of K-9 Unit Dog “Wyatt” and Accompanying K-9 Equipment to his Handler Casey Mutter [21-1691](#)

Approve contract No. MS-69-PD-23 between the City of Fontana and Casey Mutter to release K-9 dog “Wyatt” and accompanying K-9 dog equipment, including a kennel, transportation kennel, custom fit muzzle, dogloo, and two leashes, to him.

Attachments: [Agreement to Release K-9 to MUTTER.docx](#)

I. Approve Release of K-9 Unit Dog “Axl” and Accompanying K-9 Equipment to his Handler Bradley Terwilliger [21-1697](#)

Approve contract No. MS-70-PD-23 between the City of Fontana and Bradley Terwilliger to release K-9 dog “Axl” and accompanying K-9 dog equipment, including a kennel, transportation kennel, custom fit muzzle, dogloo, and two leashes, to him.

Attachments: [Agreement to Release K-9 to Terwilliger.docx](#)

J. 2021 Homeland Security Grant (HSGP) [21-1708](#)

1. Accept the 2021 Homeland Security Grant Program subrecipient award in the amount \$40,451 from the Office of Homeland Security.
2. Authorize the Chief of Police or his designee to sign all related grant documents including extensions or modifications for the grant; and expend funds as outlined in the grant agreement.
3. Approve allocation of funds in the amount of \$40,451 in the Grant Fund #301, Project 40200003 - 2021 Homeland Security Grant

Attachments: [FY21 Authorization to Spend Letter - Signed.pdf](#)
[2- FY21 HSGP Law Jurisdiction Allocation.pdf](#)

K. Fontana Police Department to Accept 2002 Pierce Heavy Rescue Vehicle [21-1710](#)

1. Accept 2002 Pierce Heavy Rescue Vehicle (VIN #1K9AF4283YN058185) donation from the San Bernardino County Fire Protection District.
2. Approve a recurring appropriation from the General Fund in the amount of \$12,670 to cover the Operating & Maintenance costs associated with this vehicle.

Attachments: [SBCFPD City Council.pdf](#)

L. Pre-annexation Agreement No. 22-001, between the City of Fontana and Inland Senior Development, LLC Investments, for the provision of sewer service to a 112-Unit Multi-Family Condominium Project located South of Foothill Boulevard, on the West side of Banana Avenue. [21-1716](#)

1. Find that the project is Exempt pursuant to Section No. 15268(b)(4) (Ministerial Project, Utility Connection) of the California Environmental Quality Act (CEQA) and, direct staff to file a Notice of Exemption; and,
2. Approve and authorize the City Manager to execute a Pre-annexation Agreement (No. 22-001) with Inland Senior Development, LLC investments, for the provision of sewer service to a 112-unit multi-family condominium project located south of Foothill Boulevard, on the west side of Banana Avenue.

Attachments: [Attachment No. 1 - Vicinity Map](#)
[Attachment No. 2 - Notice of Exemption](#)
[Attachment No. 3 - Final Pre-Annexation Agreement Inland](#)

**M. Fontana Police Helicopter Service Contract Implementing [21-1721](#)
AS350B2**

1. Approve a Service Agreement between HeliSafe, LLC, a Limited Liability Corporation, and the Fontana Police Department

2. Authorize the City Manager (or his designee) to sign the Service Agreement, all related documentation, and any amendments to continue this cooperative agreement as long as it is in the best interest of the City of Fontana.

Attachments: [HeliSafe year 2 cost sheet with AS350B2.docx](#)

N. Purchase & Sale Agreement - Downtown Fontana Property [21-1738](#)

1. Approve a Purchase & Sale Agreement for the purchase of two parcels of land located on the Spring Street, east of Juniper Avenue in Downtown Fontana, more specifically described as APN #0191-161-17 and #0191-161-28.

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

Attachments: [Attachment No. 1 - Purchase and Sale Agreement](#)

O. Final Acceptance of the Village of Heritage Pool Deck Repair Project (MS-106-PW-22). [21-1686](#)

1. Accept as complete the work performed by Masterseal Corporation for the Village of Heritage Pool Deck Repair project and approve the final construction cost of \$223,200.

2. Authorize the City Engineer/Director of Public Works to file a notice of completion and release the 5% retention.

P. Estoppel Certificate and Assignment Agreement for Ventana at Duncan Canyon [21-1751](#)

Approve Estoppel Certificate and Assignment Agreement for Ventana at Duncan Canyon and authorized the City Manager to enter into said agreement.

Attachments: [Estoppel Certificate Agreement 005\(28058230.1\) \(1\).pdf](#)
[Assignment and Assumption Agreement 003\(28058305.1\).pdf](#)

Approve Consent Calendar Items 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. Quarterly Lien Action for Delinquent Sewer, Rubbish and [21-1715](#)
Weed Abatement Accounts**

1. Authorize staff to complete and record lien notices against real property for those sewer accounts sixty days or more delinquent as described in 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. 2022-125**, 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.

Attachments: [Weed Abatement Resolution September 2022](#)
[Public Hearing Notice - Rubbish](#)
[Public Hearing Notice - Sewer](#)
[Public Hearing Notice - Weed Abatement](#)

CITY MANAGER COMMUNICATIONS:**A. City Manager Communications**

ELECTED OFFICIALS COMMUNICATIONS/REPORTS:

- A. Elected Officials Communications/Reports

ADJOURNMENT:

- A. Adjournment

Adjourn to the next Regular City Council Meeting on October 11, 2022, at 7:00 p.m. in the Grover W. Taylor Council Chambers located at 8353 Sierra Avenue, Fontana, California.



City of Fontana
Action Report
City Council Meeting

File #: 21-1712
Agenda #: A.

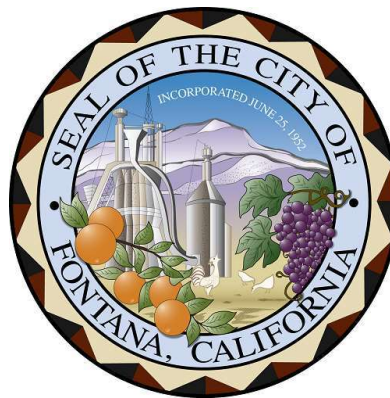
Agenda Date: 9/27/2022
Category: Special Presentation

Special Presentations

Tuesday, September 27, 2022

7:00 P.M.

Grover W. Taylor Council Chambers



City Council

Acquanetta Warren, Mayor

Peter Garcia, Mayor Pro Tem

John Roberts, Council Member

Jesus "Jesse" Sandoval, Council Member

Phillip W. Cothran., Council Member



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1723
Agenda #: A.

Agenda Date: 9/27/2022
Category: Consent Calendar

FROM:
City Clerk

SUBJECT:
Approval of Minutes

RECOMMENDATION:
Approve the minutes of the September 13, 2022, Regular City Council Meeting.

COUNCIL GOALS:

- Create and maintain a dynamic team by promoting stability and predictability by providing consistent policy direction.
- Create and maintain a dynamic team by communicating Goals and Objectives to all commissions and employees.

DISCUSSION:
The City Council will consider approval of the minutes of the September 13, 2022, Regular City Council meeting. 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, September 13, 2022

7:00 PM

Grover W. Taylor Council Chambers

City Council Meeting

Acquanetta Warren - Mayor
Peter A. Garcia - Mayor Pro Tem
John B. Roberts - Council Member
Jesus "Jesse" Sandoval - Council Member
Phillip Cothran - Council Member
Germaine McClellan Key - City Clerk
Janet Koehler-Brooks, City Treasurer

CLOSED SESSION:

A. 6:00 P.M. CLOSED SESSION

The Closed Session meeting of the Fontana City Council was held on Tuesday, September 13, 2022, in the Executive Conference Room at 8353 Sierra Avenue, Fontana, CA 92335. Mayor Warren called the meeting to order at 6:00 p.m. with the following roll call:

ROLL CALL:

Present: Mayor Warren, Mayor Pro Tem Garcia, and Council Member Roberts

Absent: Council Members Cothran and Sandoval

Council Members Cothran and Sandoval entered into Closed Session a 6:03 pm.

PUBLIC COMMUNICATION - CLOSED SESSION:

A. Public Communications - Closed Session

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

CONFERENCE WITH LEGAL COUNSEL: Pending Litigation
Government Code Section 54956.9(d)(1)
Name of Case: Marroush v. Goodland, et al.
Case Number: CIVDS2011421

CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO
GOVERNMENT CODE SECTION 54957.6
City Negotiator: Matt Ballantyne, City Manager and Rakesha
Thomas, Director of Human Resources and Risk Management
Employee Organization(s): Executive Management Team (Non-Represented);
Management/Confidential (COU); Police Benefits Associations (PBA);
Teamsters 1932; City Hall; Public Works

CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Gov. Code section 54956.8)
Property: APN # 0191-161-02
City Negotiator: Phillip Burum, Deputy City Manager
Negotiating Party: Mike Hoch
Under Negotiating: Price and Terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Gov. Code section 54956.8)
Property: APN # 0191-161-29
City Negotiator: Phillip Burum, Deputy City Manager
Negotiating Party: Van Blarcom Family Trust
Under Negotiating: Price and Terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Gov. Code section 54956.8)
Property: APN # 0228-301-50 and 0228-021-46
City Negotiator: Phil Burum, Deputy City Manager
Negotiating Parties: Lamar Central Outdoor, LLC
Under Negotiation: Price and terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Gov. Code section 54956.8)
Property: APN # 0191-161-17 and 0191-161-28
City Negotiator: Phillip Burum, Deputy City Manager
Negotiating Party: Jose Torres and Beatriz Reyes
Under Negotiating: Price and Terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Gov. Code section 54956.8)
Property: APN # 0191-162-09
City Negotiator: Phillip Burum, Deputy City Manager
Negotiating Party: Vincent Hall

Under Negotiating: Price and Terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Gov. Code section 54956.8)

Property: APN # 0191-162-18

City Negotiator: Phillip Burum, Deputy City Manager

Negotiating Party: Eva Sandoval

Under Negotiating: Price and Terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Gov. Code section 54956.8)

Property: APN # 0191-163-27

City Negotiator: Phillip Burum, Deputy City Manager

Negotiating Party: Doris Purola and Carole Peacock

Under Negotiating: Price and Terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Gov. Code section 54956.8)

Property: APN # 0191-162-21

City Negotiator: Phillip Burum, Deputy City Manager

Negotiating Party: American Legion Steele Towne Post 77

Under Negotiating: Price and Terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Gov. Code section 54956.8)

Property: APN # 0191-162-13 & 0191-162-40

City Negotiator: Phillip Burum, Deputy City Manager

Negotiating Party: Kim Family Trust

Under Negotiating: Price and Terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Gov. Code section 54956.8)

Property: APN # 0191-162-07

City Negotiator: Phillip Burum, Deputy City Manager

Negotiating Party: Luisa A Antigua

Under Negotiating: Price and Terms of payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Gov. Code section 54956.8)

Property: APN # 0191-162-06

City Negotiator: Phillip Burum, Deputy City Manager

Negotiating Party: Lancet Contracting Inc.

Under Negotiating: Price and Terms of payment

CONFERENCE WITH LEGAL COUNSEL: Anticipated Litigation

(Gov. Code section 54956.9(d)(2).)

Potential Case: One matter

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 on Tuesday, September 13, 2022, in the Grover W. Taylor Council Chambers located at 8353 Sierra Avenue, Fontana, CA 92335.0

Mayor Warren called the meeting to order at 7:05 p.m.

ROLL CALL:

PRESENT: Mayor Warren, Mayor Pro Tem Garcia, Council Members Cothran, Roberts and Sandoval

ABSENT: None

City Clerk Germaine McClellan Key and City Treasurer Janet Koehler-Brooks were also in attendance.

INVOCATION/PLEDGE OF ALLEGIANCE:

A. Invocation/Pledge of Allegiance

The invocation was led by Fontana Police Department Chaplain Derek Smith, followed by the Pledge of Allegiance led by Council Member Sandoval.

PROCLAMATION:

A. Proclamation

A. [21-1659](#)

A. Mayor Warren and City Council to proclaim the month of September as National Preparedness Month (Emergency Manager Aminah Mears to present).

Emergency Services Officer with the San Bernardino County Office of Emergency Services, Klashay Ray, accepted the proclamation and informed the community of ways to remain prepared in case of an emergency.

B. Mayor Warren and City Council to proclaim the month of September as Senior Center Month (Community Services Supervisor Douglas Johnson to present).

Community Services Supervisor Johnson accepted the proclamation and shared ways that the community is taking part in Senior Center Month.

C. Mayor Warren and City Council to proclaim September 24, 2022, as National Public Lands Day (Community Services Coordinator Jordan Gionet to present).

Community Services Coordinator Gionet accepted the proclamation and shared what National Public Lands Day is and how to get involved.

D. Mayor Warren and City Council to proclaim September 26, 2022, as Human Resources Professional Day (Director of Human Resources and Risk Management Rakesha Thomas to present).

Director of Human Resources and Risk Management Thomas accepted the proclamation and shared a short video highlighting the department.

SPECIAL PRESENTATIONS:

A. Special Presentations

A.

[21-1661](#)

A. Mayor Warren and City Council to recognize Department of Innovation and Technology's Employees of the Year: Allen Fincher, Infrastructure Team; Angel Gonzales, Development Team; Dylan Mansfield, Service Desk Team; Elias Rex, GIS Team; and Stephen Pendleton, Business Analyst Team (Director of Innovation and Technology Jennifer Barcenas to present).

Director of Innovation and Technology Barcenas recognized the department Employees of the Year.

B. Mayor Warren and City Council to recognize Human Resources and Risk Management Department Employee of the Year: Taylor Starling, Human Resources Specialist / Police Department Liaison (Human Resources and Risk Management Director Rakesha Thomas to present).

Director of Human Resources and Risk Management Thomas recognized the department Employee of the Year.

C. Mayor Warren and City Council to swear in new Fontana Police Officer John Isaacs (Chief Green to present).

Mayor Warren swore in new Fontana Police Officer Isaacs with the assistance of his son.

Following Special Presentations, Mayor Warren asked Pastor Dan Carrol with Water of Life Church to come up and provide the Council and public with a quick presentation on the recently printed and released booklet on Citylink.

CLOSED SESSION ANNOUNCEMENT

City Attorney Ruben Duran noted that the Mayor and City Council met on the items listed on the Closed Session agenda, provided direction to City staff and took no reportable actions.

PUBLIC COMMUNICATIONS:

A. Public Communications

The following individuals spoke under public communications:

1. Nasima Kazimi, spoke on concerns of a recent property violation received due to vandalism.
2. Julia Flores, spoke on concerns with housing.
3. Ariana Gallindo, spoke on concerns with housing.
4. Kristen Malaby, spoke on an upcoming event for National Public Lands Day; public assistant programs; and funding allocations for the unhoused.
5. Jasmine Cunningham, spoke on the current State of the City and funding allocations for the unhoused.
6. Angel Ramirez, spoke in support of prior speaker comments (Cunningham).
7. Gabriela Mendez, spoke in support of prior speaker comments (Cunningham) and in support of prior speakers with concerns of housing.
8. Ben, inquired on the opening of Spagi's restaurant; commented on current elections; social media activity; opposition of warehouse development; concerns with lack of affordable housing.
9. Lorena Espinoza asked for assistance with current transportation concerns with the Fontana Unified School District.

Following public comment, Mayor Warren commented on the speakers regarding affordable housing within Fontana and recent funding received.

CONSENT CALENDAR:

Prior to Mayor Warren asking for a motion, the following items were noted for the record:

City staff provided a memo for the Council amending attachment 1 for Consent Calendar Item 'U'. Such amendment was asked to be included in the final motion for the item.

Additionally, City staff asked Council to pull Consent Calendar Item 'Y' from the agenda and motion as the item will be brought back to Council at a future date.

Such items were read out loud for the Council and public's knowledge. There were no oppositions to these changes.

ACTION: Motion was made by Mayor Pro Tem Garcia, seconded by Council Member Roberts, to approve the Consent Calendar Items "A-AB" with the removal of Consent Calendar Item 'Y' from the motion. The motion carried by a roll call vote of 5-0 as follows: AYES: Warren, Garcia, Cothran, Roberts, and Sandoval; NOES: None; ABSTAIN: None

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- A.** Approval of Minutes [21-1662](#)
Approve the minutes of the July 26, 2022, Regular City Council Meeting and the August 25, 2022, Special City Council Meeting.
- B.** Approve Task Order for the Fontana Sewer Master Plan Update [21-1598](#)
Project.
1. Approve and authorize the City Manager to execute a Task Order in the amount of \$478,502 with Albert A. Webb Associates, Inc. for Engineering services for the Fontana Sewer Master Plan Update Project, request for proposal SQ- 87-DE-19-32.
 2. Approve and authorize the use of funds in the amount of \$424,870 from Fund 302 as part of the City's American Rescue Plan Act Expenditure Plan (ARPA).
 3. Approve and authorize the City Manager to execute any future amendments to the Task Order.
- C.** Approve Task Order for the Fontana Storm Drain Master Plan Update Project [21-1603](#)
1. Approve and authorize the City Manager to execute a Task Order in the amount of \$375,130 with David Evans and Associates, Inc. for engineering services for the Fontana Storm Drain Master Plan Update Project, request for proposal SQ- 87-DE-19-33.
 2. Approve and authorize the use of funds in the amount of \$375,130 in Fund 302, Org 3023600 as part of the City's American Rescue Plan Act Expenditure Plan (ARPA).
 3. Approve and authorize the City Manager to execute any future amendments to the Task Order.
- D.** Adoption of Ordinance No. 1897 (Second Reading) [21-1667](#)
Second Reading/Adopt **Ordinance No. 1897**, Approving Zone Change No. 21-002, To Amend The Zoning District Map Designation From General Commercial (C-2) To Light Industrial (M-1) For Approximately 4.49 Acres Located At The Northeast Corner Of Sierra Avenue And Summit Avenue (APN 1118-041-06).
- E.** Adoption of Ordinance No. 1900 (Second Reading) [21-1668](#)
Second Reading/Adoption of **Ordinance No. 1900**, an Ordinance of the City Council of the City of Fontana, approving Development Agreement No. 22-001 for a public benefit fee.
- F.** Adoption of Ordinance No. 1901 (Second Reading) [21-1610](#)
Second Reading / Adopt **Ordinance No. 1901**, an Ordinance of the City Council of the City of Fontana, approving a Zoning District Map amendment to change the zoning on one parcel from Community Commercial (C-1) to Medium Density Residential (R-2).
- G.** Adoption of Ordinance No. 1902 (Second Reading) [21-1665](#)
Second Reading / Adoption of **Ordinance No. 1902**, An Ordinance of the City
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- Council of the City of Fontana Approving Specific Plan Amendment No. 21-001, An Amendment to the Ventana at Duncan Canyon Specific Plan to Modify and Update the Overall Specific Plan by Establishing New Planning Areas and Updating Specific Plan Development Standards. The Proposed Specific Plan Amendment Will Establish Six (6) New Planning Areas (Labeled as Pa1, Pa2, Pa3, Pa4, Pa5, And Pa6) With Four Different Zoning Classifications Which Include Medium Density Residential, High Density Residential, Mixed-Use, And Commercial.
- H.** Adoption of Ordinance No. 1903 (Second Reading) [21-1666](#)
Second Reading/Adoption of **Ordinance No. 1903**, An Ordinance of The City Council of City of Fontana, Approving Specific Plan Amendment 21-007 To Amend Planning Area 12 Comprising Approximately 9 Gross Acres of The Citrus Heights North Specific Plan (APN 1107-262-37) To Allow Development of Single-Family Residential Units.
- I.** Facility Use Agreement with Citrus Development [21-1617](#)
Authorize City Manager to sign a facility use agreement with Citrus Development for use of a 28,000 square foot banquet hall at the northwest corner of Citrus Avenue and South Highland Avenue.
- J.** Adopt a Resolution Summarily Vacating Portions of Lytle Creek Road North of Duncan Canyon Road and South Highland Avenue West of Oleander Avenue [21-1621](#)
Adopt **Resolution No. 2022-112**, Summarily Vacating a portion of real property located north of Duncan Canyon Road, along what is commonly referred to as Lytle Creek Avenue; and a portion of real property located west of Oleander Avenue, along what is commonly referred to as South Highland Avenue, pursuant to the Streets and Highways Code, finding that adequate consideration exists for the transfer of property, once vacated, to the landowner of both parcels adjacent to the property.
- K.** Declaring Surplus Land - A Portion of Lytle Creek Road North of Duncan Canyon Road [21-1656](#)
Approve **Resolution No. 2022-114**, declaring that a portion of Lytle Creek Road North of Duncan Canyon Road as "Exempt Surplus Land" pursuant to the Surplus Land Act, Government Code Section 54221 Et Seq.
- L.** Police Department Monthly Information Update [21-1627](#)
Accept the Police Department monthly information update for July 2022.
- M.** Approve the Measure I Five-Year Capital Project Needs Analysis for Fiscal Years 2023/2024 - 2027/2028 [21-1645](#)
Adopt **Resolution No. 2022-113**, adopting the Measure I Five Year Capital Project Needs Analysis (CPNA) for Fiscal Years 2023/2024 - 2027/2028.
- N.** Approval of Final Map for Tract No. 20382 [21-1646](#)
Approve the Final Map for Tract No. 20382 located south of Foothill Boulevard and west of Banana Avenue; accept easements; and authorize the City Manager to enter into a Subdivision Agreement with the subdivider.

-
- O.** Award a Construction Contract for the Citrus Avenue at Chase Road Traffic Signal Project SB-08-DE-22 [21-1653](#)
1. Award and authorize the City Manager to execute a construction contract with California Professional Engineering for the construction of the Citrus Avenue at Chase Road Traffic Signal Project in the amount of \$713,980 and authorize a 10% contingency in the amount of \$71,398 (Bid No. SB-08-DE-22).
 2. Approve and authorize the City Manager to execute any and all utility agreements, utility easements, and subsequent agreements on behalf of the City of Fontana for the Citrus Avenue at Chase Road Traffic Signal Project.
- P.** Approve Federal Bureau of Investigation Inland Violent Crime Suppression Task Force Cost Reimbursement Agreement [21-1669](#)
1. Approve and authorize the Chief of Police to execute a State and Local Task Force Agreement between the Federal Bureau of Investigation (FBI) Inland Violent Crime Suppression Task Force (IVCSTF) and the Fontana Police Department.
 2. Approve and authorize the Chief of Police to renew said contract annually as long as it remains in the best interest of the City of Fontana.
 3. Increase revenue and expenditure budgets (10140231) in the amount of \$3,229.
- Q.** Approve San Bernardino County District Attorney Victim Advocacy Services Agreement [21-1670](#)
1. Approve the Contract/Agreement between the San Bernardino County District Attorney's Office (Bureau of Victim Services) and the Fontana Police Department to provide Victim Advocacy Services to improve the health, welfare, and quality of life of victims of crime including children.
 2. Authorize the City Manager and the Chief of Police or his assigned designee to sign the Agreement, all related documents, and any amendments to continue this cooperative agreement as long as it is in the best interest of the City of Fontana.
- R.** Approve Crossing Guard Service Agreement between Fontana Unified School District, Etiwanda School District, and the City of Fontana [21-1671](#)
1. Approve Amendment No. 1 of the Crossing Guard Services Agreement with Fontana Unified School District (FUSD), Etiwanda School District (ESD), and the City of Fontana (COF) for a one-year (1) term renewing year two (2) of the contract at the new rate of \$27.35.
 2. Approve a recurring appropriation from General Fund #101 to 10140352.8130 to provide for the annual contract increase over the prior year in the amount of \$150,260.00.

3. Approve a one-time appropriation in the amount of \$6,293.70 which is 50% of the cost for one additional site serviced during the 2021/2022 school year (540 hours at \$23.31 per hour = \$12,587.40).
- S.** Purchase and Sale Agreement - 8436 Sierra Avenue [21-1673](#)
1. Approve a Purchase & Sale Agreement for the sale of 8436 Sierra Avenue, APN # 01911311, located at the southwest corner of Sierra Avenue and Spring Street in Downtown Fontana.
 2. Authorize the City Manager to execute any documents necessary or appropriate to effectuate said approvals and/or agreement.
- T.** Approve the Fontana Unified School District Police (FUSP) and the City of Fontana - Concurrent Jurisdiction [21-1674](#)
1. Approve a Memorandum of Understanding (MOU) between the Fontana Unified School District (FUSD) and the City of Fontana to have their respective Police Departments cooperate to the fullest extent possible within their statutory obligations and responsibilities to provide efficient police services to the citizens and students of the City of Fontana.
 2. Authorize the City Manager and the Chief of Police or his assigned designee to sign the MOU, all related documents, and any amendments to continue this cooperative agreement as long as it is in the best interest of the City of Fontana.
- U.** Amendment of the Conflict-of-Interest Code for the City of Fontana, Pursuant to the Political Reform Act of 1974 [21-1663](#)
- Adopt **Resolution No. 2022-115**, of the City Council of the City of Fontana, California, adopting and approving the amended Conflict-of-Interest Code for the City of Fontana, Pursuant to the Political Reform Act of 1974.
- V.** Award a Professional Services Agreement for Geotechnical Engineering and Materials Testing Services for the Downtown Parking Structure Project SQ-07-DE-23. [21-1648](#)
1. Award and authorize the City Manager to execute a Professional Services Agreement in a not to exceed amount of \$271,518 with Ninyo & Moore Geotechnical and Environmental Sciences Consultants, Inc. for Geotechnical Engineering and Materials Testing Services for the Downtown Parking Structure Project, Request for Proposals SQ-07-DE-23.
 2. Approve and authorize the City Manager to execute any future amendments to the Professional Services Agreement.
 3. Approve and authorize the use of funds in the amount of \$271,518 from Fund 302 as part of the City's American Rescue Plan Act Expenditure Plan (ARPA) revenue loss category.
- W.** Memorandum of Understanding between the Federal Bureau of Investigation (FBI) and the Fontana Police Department [21-1682](#)
1. Approve a Memorandum of Understanding (MOU) between the Federal Bureau of Investigation (FBI) and the Fontana Police Department.

2. Authorize the Chief of Police (or his designee) to sign the MOU, all related documents, and any amendments to continue this cooperative agreement as long as it remains in the best interest of the City of Fontana.
- X.** Approve the Agreement For Use of Range Facilities [21-1683](#)
1. Approve and authorize the Chief of Police to execute the Operational Agreement and any amendments between San Bernardino County Sheriff's Department and the Fontana Police Department for use of range facilities for the period of August 1, 2022, through June 30, 2027, on a fee for service basis.
2. Approve and authorize the Chief of Police to continue said services as long as they remain in the best interest of the City of Fontana.
- Y.** Final Acceptance of the Village of Heritage Pool Deck Repair Project (MS-106-PW-22). [21-1686](#)
1. Accept as complete the work performed by Masterseal Corporation for the Village of Heritage Pool Deck Repair project and approve the final construction cost of \$223,200.
2. Authorize the City Engineer/Director of Public Works to file a notice of completion and release the 5% retention.
- Z.** Final acceptance of Walnut Village Iron Fencing Removal and Installation Project (SB-56-PW-22) [21-1687](#)
1. Accept as complete the work performed by J & A Engineering Corporation for the Walnut Village Iron Fencing Removal and Installation Project and approve the final construction cost of \$494,461.
2. Authorize the City Engineer/Director of Public Works to file a Notice of Completion and release the 5% retention.
- AA.** Fiscal Year 2022-23 Gann Spending Limit [21-1680](#)
Adopt **Resolution No. 2022 - 116** , establishing an Appropriations Limit of \$337,778,231 pursuant to Article XIII(B) of the California Constitution for Fiscal Year 2022-23
- AB.** Award Bid for Pool Chemicals (SB-10-PW-22). [21-1637](#)
Award bid and authorize the Purchasing Office to issue purchase orders for Pool Chemicals, SB-10-PW-22 for a period of two (2) years, renewable for three (3) one-year extensions at the City's sole discretion, for a total of \$152,420 per year for an aggregate amount not to exceed \$609,600 for the five (5) years.
1. SCP Distributors LLC dba Lincoln Aquatics, and
2. Waterline Technologies, Inc.,

PUBLIC HEARINGS:

- A.** Public Hearing and adoption of the Draft HOME-ARP Allocation Plan [21-1681](#)

ACTION: Motion was made by Council Member Roberts, seconded by Mayor Pro Tem Garcia, to approve staff recommendation as follows:

- 1. Open a public hearing to receive public comments on the Draft HOME-ARP Allocation Plan and the proposed expenditure of HOME-ARP funds in compliance with the requirements of the U.S. Department of Housing and Urban Development (HUD) and the City's Citizen Participation Plan;**
- 2. Direct staff to incorporate the public comments into the HOME-ARP Allocation Plan;**
- 3. Review and approve the HOME-ARP Allocation Plan in the amount of \$2,633,658; and**
- 4. Authorize the City Manager or his designee to make necessary changes and submit the HOME-ARP Allocation Plan, execute documents related to the submission of the HOME-ARP Allocation Plan.**
- 5. Authorize the City Manager, or City Manager's designee, to execute and transmit any documents necessary or desirable, including but not limited to purchase agreements that may include acquisitions costs up to the full amount of the allocated funds, to facilitate the timely administration of the HOME ARP Acquisition, Rehabilitation, and Rental Program including but not limited to property purchase agreements.**

The motion was moved by a roll call vote of 5-0 as follows: AYES: Warren, Garcia, Cothran, Roberts, and Sandoval; NOES: None; ABSTAIN: None

- B.** Public Hearing for Consolidated Annual Performance Evaluation Report (CAPER) and Adoption of the Community Development Block Grant-CARES Act (CDBG-CV) Substantial Amendment [21-1625](#)

Mayor Warren opened the public hearing.

City Clerk McClellan Key noted for the record that no written correspondence were received on this item.

Project Specialist Mary Aguilar provided the staff report.

The following individuals spoke in opposition of this item:

1. Jasmine Cunningham
2. Angel Ramirez
3. Gabriel Mendez
4. Ben
5. Ana Gonzalez
6. Cris Smith

Mayor Warren closed the public hearing.

Following public comment, Mayor Warren asked Deputy City Manager Phil Burum and Project Specialist Aguilar to provide clarification on some of the public comment received.

ACTION: Motion was made by Mayor Pro Tem Garcia, seconded by Council Member Cothran, to approve staff recommendation as follows:

- 1. Conduct a public hearing for the Consolidated Annual Performance and Evaluation Report prepared for the U.S. Department of Housing & Urban Development to report on specific Federal housing assistance and community development activities undertaken by the City of Fontana during Fiscal Year 2021-2022; and**
- 2. Conduct a public hearing for the adoption of the Community Development Block Grant-CARES Act (CDBG-CV) funding Action Plan Substantial Amendment prepared for the U.S. Department of Housing & Urban Development; and**
- 3. Authorize the City Manager to execute and transmit any documents necessary to submit the Consolidated Annual Performance and Evaluation Report and Community Development Block Grant-CARES Act (CDBG-CV) Substantial Amendment, along with any comments received during the public hearing and public comment period, to the Department of Housing & Urban Development.**

The motion was approved by a roll call vote of 5-0 as follows: AYES: Warren, Garcia, Cothran, Roberts, and Sandoval; NOES: None; ABSTAIN: None

- C.** Public Hearing on Formation of Community Facilities District No. [21-1692](#)
111 (Monterado)

Mayor Warren asked prior to opening the hearing, if there were any interested persons who wished to file a written protest on this item with the City Clerk. No such protest was presented.

Mayor Warren opened the public hearing.

City Clerk McClellan Key noted for the record that no written correspondence were received on this item.

Accountant Justin Marietta provided the staff report.

With no one interested to speak in favor or opposition of this item, Mayor Warren closed the public hearing.

ACTION: Motion was made by Council Member Cothran, seconded by Council Member Roberts, to approve the following:

1. Adopt Resolution No. 2022-117, of the City Council of the City of Fontana of formation of the City of Fontana Community Facilities District No. 111 (Monterado), authorizing the levy of a special tax within the community facilities district and establishing an appropriations limit for the community facilities district.

2. Adopt Resolution No. 2022-118, of the City Council of the City of Fontana deeming it necessary to incur bonded indebtedness within the City of Fontana Community Facilities District No. 111 (Monterado).

3. Adopt Resolution No. 2022-119, of the City Council of the City of Fontana calling special election for City of Fontana Community Facilities District No. 111 (Monterado).

The following motion was moved by a roll call vote of 5-0 as follows: AYES: Warren, Garcia, Cothran, Roberts, and Sandoval; NOES: None; ABSTAIN: None

City Clerk McClellan Key opened the ballot and read the results of the election. The results were all in favor.

ACTION: Motion was made by Council Member Cothran, seconded by Council Member Roberts, to approve the following:

4. Adopt Resolution No. 2022-120, of the City Council of the City of Fontana declaring results of special election and directing the recording of notice of special tax lien.

5. Read by title only and waive further reading of and introduce Ordinance No. 1904 levying special taxes within the City of Fontana Community Facilities District No. 111 (Monterado); and that the reading of the title constitutes the first reading thereof.

6. Adopt Resolution No. 2022- 121, of the City Council of the City of Fontana authorizing the execution and delivery of a Letter of Credit Agreement and an Acquisition and Funding Agreement.

The following motion was moved by a roll call vote of 5-0 as follows: AYES: Warren, Garcia, Cothran, Roberts, and Sandoval; NOES: None; ABSTAIN: None

- D.** Public Hearing on Formation of Community Facilities District No. [21-1693](#)
110M (Tract 16897)

Mayor Warren asked prior to opening the hearing, if there were any interested persons who wished to file a written protest on this item with the City Clerk. No such protest was presented.

Mayor Warren opened the public hearing.

City Clerk McClellan Key noted for the record that no written correspondence were received on this item.

Accountant Justin Marietta provided the staff report.

With no one interested to speak in favor or opposition of this item, Mayor Warren closed the public hearing.

ACTION: Motion was made by Council Member Roberts, seconded by Council Member Cothran, to approve the following:

1. Adopt Resolution No. 2022-122, of the City Council of the City of Fontana Establishing Community Facilities District No. 110M of the City of Fontana, County of San Bernardino, State of California, and Establishing the Boundaries Thereof.
2. Adopt Resolution No. 2022-123, of the City Council of the City of Fontana Calling a Special Election and Submitting to the Voters of Community Facilities District No. 110M of the City of Fontana, County of San Bernardino, State of California, a Proposition with Respect to the Annual Levy of Special Taxes within said Community Facilities District to Pay the Costs of Certain Services to be provided by the Community Facilities District and a Proposition with Respect to the Establishment of an Appropriations Limit for said Community Facilities District.

The following motion was moved by a roll call vote of 5-0 as follows: AYES: Warren, Garcia, Cothran, Roberts, and Sandoval; NOES: None; ABSTAIN: None

City Clerk McClellan Key opened the ballot and read the results of the election. The results for Proposition 'A' were in favor; results for Proposition 'B' were in opposition.

ACTION: Motion was made by Council Member Roberts, seconded by Council Member Cothran, to approve the following:

3. Adopt Resolution No. 2022-124, of the City Council of the City of Fontana Declaring the Results of the Special Election for Community Facilities District No. 110M of the City of Fontana, County of San Bernardino, State of California, on the Propositions with Respect to (I) The Annual Levy of Special Taxes to Pay the Costs of Certain Services to be provided by the Community Facilities District and (II) The Establishment of an Appropriations Limit.

4. Read by title only, and waive further reading of and introduce Ordinance No. 1905 Authorizing the Levy of a Special Tax within Community Facilities District No. 110M, that the reading of the Title constitutes the first reading thereof.

The following motion was moved by a roll call vote of 5-0 as follows: AYES: Warren, Garcia, Cothran, Roberts, and Sandoval; NOES: None; ABSTAIN: None

NEW BUSINESS:

A. American Rescue Plan Act Update [21-1688](#)

Approve revisions to the American Rescue Plan Act (ARPA) Expenditure Plan, including the leveraged projects, and authorize staff to move forward with projects.

ACTION: Motion was made by Mayor Pro Tem Garcia, seconded by Council Member Roberts, to approve revisions to the American Rescue Plan Act (ARPA) Expenditure Plan, including the leveraged projects, and authorize staff to move forward with projects. The motion was passed by a 5-0 roll call vote as follows: AYES: Warren, Garcia, Cothran, Roberts, and Sandoval; NOES; None; ABSTAIN: None

CITY MANAGER COMMUNICATIONS:

A. City Manager Communications

City Manager Ballantyne clarified that staff will bring reports and updates back to Council in respect to ARPA funds as updates are warranted.

ELECTED OFFICIALS COMMUNICATIONS/REPORTS:

A. Elected Officials Communications/Reports

City Treasurer Koehler-Brooks thanked Chief Financial Officer Brown on her presentation and commented on recently attended community events.

City Clerk McClellan Key commented on recently attended community events; recent attendance at the 2022 Annual Conference of the League of Cal Cities, Long Beach, CA; and congratulated Deputy City Clerk Arocho on recent installment as City Clerks Association of California (CCAC) 2nd Vice President.

Council Member Cothran commented on recently attended community events.

Mayor Pro Tem Garcia commented on recently attended community events; spoke on recent helicopter purchase for the Police Department; and highlighted recent press release with dignitary Secretary of Transportation, Pete Buttigieg.

Council Member Sandoval commented on recently attended community events; sent condolences to the families that have recently loss a loved one; and wished grandson Francisco a happy eighth birthday.

Council Member Roberts echoed Councilmen Sandoval; and highlighted recent press release with dignitary Secretary of Transportation, Pete Buttigieg.

Mayor Warren commented on recent attendance at the 2022 Annual Conference of the League of Cal Cities, Long Beach, CA; discussion of Raise Grant; highlighted recent press release with dignitary Secretary of Transportation, Pete Buttigieg; and finished with a discussion on housing and the un-housed.

ADJOURNMENT:

A. Adjournment

Mayor Warren adjourned the meeting with a moment of silence to honor the following individuals who recently passed away:

Former City Clerk Tonia "Toni" Lewis; Carolayne Swedlove, Morris Automotive; Jack Long, Founder of the Fontana Foundation of Hope; Barbara Chavez, Rialto Planning Commissioner and former Fontana School Board Member; Wilma Callen, Mother of Pam Anderson; Darren Gilbert; and Grace Vargas, Former Mayor of Rialto.

Mayor Warren adjourned the meeting at 10:03 p.m. to the next Regular City Council Meeting on Tuesday, September 27, 2022, at 7:00 p.m. in the Grover W. Taylor Council Chambers located at 8353 Sierra Avenue, Fontana, California.

Ashton R. Arocho, MMC
Deputy City Clerk

THE FOREGOING MINUTES WERE APPROVED AND ADOPTED BY THE FONTANA CITY COUNCIL ON SEPTEMBER 27, 2022.

Germaine McClellan Key
City Clerk



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1724

Agenda #: B.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

City Clerk

SUBJECT:

Adoption of Ordinance No. 1904 (Second Reading)

RECOMMENDATION:

Second Reading/Adoption of **Ordinance No. 1904**, levying special taxes within the City of Fontana Community Facilities District No. 111 (Monterado).

COUNCIL GOALS:

- Practice sound fiscal management by developing long-term funding and debt management plans.

DISCUSSION:

Ordinance No. 1904 was introduced by a vote of 5-0 at the September 13, 2022, Regular City Council Meeting.

No written public communication was received.

FISCAL IMPACT:

None.

MOTION:

Approve staff recommendation.

ORDINANCE NO. 1904

AN ORDINANCE OF THE CITY OF FONTANA LEVYING A SPECIAL TAX WITHIN THE CITY OF FONTANA COMMUNITY FACILITIES DISTRICT NO. 111 (MONTERADO)

WHEREAS, on July 26, 2022, the City Council (the “City Council”) of the City of Fontana (the “City”), pursuant to the Mello-Roos Community Facilities Act of 1982 (the “Act”), adopted a resolution entitled “A Resolution of the City Council of the City of Fontana of Intention to Establish a Community Facilities District Proposed to be Named City of Fontana Community Facilities District No. 111 (Monterado), and to Authorize the Levy of a Special Tax” stating its intention to establish City of Fontana Community Facilities District No. 111 (Monterado) (the “Community Facilities District”), to authorize the levy of a special tax (the “Special Tax”) within the Community Facilities District and to finance certain public facilities (the “Facilities”) and services (the “Services”);

WHEREAS, on September 13, 2022, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act;

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled “A Resolution of the City Council of the City of Fontana of Formation of the City of Fontana Community Facilities District No. 111 (Monterado), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District” (the “Resolution of Formation”), “A Resolution of the City Council of the City of Fontana Deeming it Necessary to Incur Bonded Indebtedness within City of Fontana Community Facilities District No. 111 (Monterado)” and “A Resolution of the City Council of the City of Fontana Calling Special Election for City of Fontana Community Facilities District No. 111 (Monterado),” which resolutions established the Community Facilities District, authorized the levy of the Special Tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of incurring indebtedness, levying the Special Tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District, respectively; and

WHEREAS, on September 13, 2022, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act;

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

Section 1. The City Council hereby authorizes and levies the Special Tax within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the “Rate and Method of Apportionment”). The Special Tax is hereby levied commencing in fiscal year 2022-23 and in each fiscal year thereafter until the last fiscal year in which such Special Tax is authorized to be levied pursuant to the Rate and Method of Apportionment.

Section 2. The City Council may, in accordance with subdivision (b) of Section 53340 of the Act, provide, by resolution, for the levy of the Special Tax in future tax years at the same rate or at a lower rate than the rate provided by this Ordinance. In no event shall the Special Tax be levied on any parcel within the Community Facilities District in excess of the maximum tax specified therefor in the Rate and Method of Apportionment.

Section 3. The Special Tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Rate and Method of Apportionment.

Section 4. The proceeds of the Special Tax shall only be used to pay, in whole or in part, the cost of providing the Facilities and Services and incidental expenses pursuant to the Act.

Section 5. The Special Tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes, unless another procedure is adopted by the City Council.

Section 6. If for any reason any portion of this Ordinance is found to be invalid, or if the Special Tax is found inapplicable to any particular parcel within the Community Facilities District, by a court of competent jurisdiction, the balance of this Ordinance and the application of the Special Tax to the remaining parcels within the Community Facilities District shall not be affected.

Section 7. This Ordinance shall take effect and shall be in force 30 days after the date of its adoption and prior to the expiration of 15 days from the passage thereof shall be published at least once in the *Fontana Herald News*, a newspaper of general circulation, printed and published in the City of Fontana, State of California, together with the names of the City Council members voting for and against the same.

APPROVED AND ADOPTED this ____ day of _____ 2022.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine McClellan Key, 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 September 13, 2022, and was finally passed and adopted not less than five days thereafter on _____, 2022, by the following vote, to wit:

AYES:

NOES:

ABSENT:

City Clerk

Mayor

ATTEST:

City Clerk



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1725

Agenda #: C.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Finance

SUBJECT:

Adoption of Ordinance No. 1905 (Second Reading)

RECOMMENDATION:

Second Reading / Adoption of **Ordinance No. 1905**, authorizing the levy of a Special Tax within Community Facilities District No. 110M.

COUNCIL GOALS:

- Practice sound fiscal management by developing long-term funding and debt management plans.
- Invest in the City's infrastructure (streets, sewers, parks, etc.) by improving the aesthetics of the community through code enforcement, street sweeping, and landscape maintenance.

DISCUSSION:

Ordinance No. 1905 was introduced by a vote of 5-0 at the September 13, 2022, Regular City Council meeting.

No written public correspondence was received on this item.

FISCAL IMPACT:

None.

MOTION:

Approve staff recommendation.

ORDINANCE NO. 1905

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN COMMUNITY FACILITIES DISTRICT NO. 110M.

WHEREAS, the City Council of the City of Fontana, (the “City Council”) has initiated proceedings, held a public hearing, conducted an election and received a favorable vote from the qualified elector relating to the levy of a special tax in a community facilities district, all as authorized pursuant to the terms and provisions of the “Mello-Roos Community Facilities Act of 1982”, being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the “Act”). This Community Facilities District shall hereinafter be referred to as COMMUNITY FACILITIES DISTRICT NO. 105M OF THE CITY OF FONTANA (the “CFD”).

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

Section 1. That the above recital is true and correct.

Section 2. Findings

A) It is necessary that the City Council levy special taxes pursuant to Section 53340 of the Act the payment of the costs of services within and surrounding the area of the CFD (the “Special Tax”), and for payment of administrative expenses incurred in connection with the levy and collection of said Special Tax.

B) The Special Tax to be levied is in compliance with all laws pertaining to said levy, including, without limitation, all applicable provisions of the Act.

C) The Special Tax is levied for the purpose of paying costs relating to the maintenance of street lighting, landscaping, park maintenance, detention basins/water quality systems, and open space facilities within and surrounding the area of the CFD, mailboxes located within the CFD owned by the City with an estimated useful life of five or more years, and paying the incidental expenses incurred by the City in administering the CFD, all in accordance with the Act and Resolution No. 2022-___ of the City.

D) The Special Tax will be levied without regard to property valuation.

Section 3. That the City Council does, by the passage of this Ordinance, authorize the levy of the Special Tax on all parcels of real property within the CFD which are subject to taxation, subject to a maximum Special Tax as defined in Exhibit “A”, the Rate and Method of Apportionment of Special Tax, attached hereto and by this reference made a part hereof.

Section 4. That the City Council is further authorized each year, by resolution, to determine the specific Special Tax rate and amount to be levied for each fiscal year, except that the Special Tax rate to be levied shall not exceed the maximum Special Tax as set forth in Exhibit “A,” but the Special Tax may be levied at a lower rate.

Section 5. Upon the effective date of this Ordinance, the Special Tax shall be and is hereby levied for Fiscal Year 2023-2024 on all parcels of real property within the CFD which are subject to taxation, which are identified in Exhibit “B” attached hereto, and in the amount set forth for each such parcel in said Exhibit “B”. Pursuant to Section 53340 of the Act, commencing in Fiscal Year 2023-2024 such Special Tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected. The Special Taxes shall have the same lien and priority in the case of delinquency as is provided for *ad valorem* taxes.

Section 6. The City Clerk shall immediately following the adoption of this Ordinance transmit a copy of this ordinance to the Board of Supervisors and the County Auditor of the County of San Bernardino (the “County”), together with a request that the Special Tax as levied hereby be collected on the tax bills for the parcels identified in Exhibit “B” hereto along with the ordinary *ad valorem* property taxes, to be levied on and collected from the owners of said parcels commencing in Fiscal Year 2023-2024. The tax collector of the County is authorized to and may deduct reasonable administration costs incurred in collecting the Special Tax.

Section 7. This Ordinance shall take effect thirty (30) days after the date of 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 a newspaper of general circulation, published and circulated in the boundaries of the City and the CFD, and henceforth and thereafter the same shall be in full force and effect.

APPROVED AND ADOPTED this 13th day of September, 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 of said City Council on the 13th day of September, 2022, and was passed and adopted not less than five (5) days thereafter on the 27th day of September, 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



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1630

Agenda #: D.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Police Department

SUBJECT:

Police Department Monthly Information Update

RECOMMENDATION:

Accept the Police Department monthly information update for August 2022.

COUNCIL GOALS:

- Operate in a businesslike manner by creating a memorable customer experience with every interaction.
- Increase citizen involvement by informing the public about issues, program, and accomplishments.
- Concentrate on Inter-governmental relations by establishing partnerships and positive working relationships with other public agencies providing services to residents and local businesses.

DISCUSSION:

The August 2022 monthly information report has been completed. Once the report is accepted by the City Council it will be featured on the Department website.

FISCAL IMPACT:

There is no fiscal impact.

MOTION:

Approve staff recommendation.

2022 CRIME STATISTICS ARE IN NIBRS FORMAT

- As reported to the community in October of 2021, the Fontana Police Department transitioned from Uniform Crime Reporting (UCR) format to the Department of Justice mandated National Incident Based Reporting System (NIBRS).
- There were significant reporting requirement changes, in terms of types of crimes and categories reported.
- As a result, year-to-year comparison reporting is not available due to the new format and crimes reported.
- As an example, Robbery was reported as a Crime Against Person in UCR format but transitioned to a Property Crime under NIBRS.
- It is important to note nothing has changed in the manner your Fontana Police Department investigates crimes.

POLICE DEPARTMENT MONTHLY REPORT

August 2022



NOTEWORTHY EVENTS

- The Fontana Police Department hosted National Night Out at Miller Park
- Lieutenant Fileto hosted an Area 3 community meeting at Dolores Huerta Academy
- The Major Accident Investigation Team (MAIT) conducted a fatal traffic investigation in the area of Foothill and Almeria
- Detectives from the Fontana Police Department's Internet Crimes Against Children (ICAC) Task Force discovered conducted multiple investigations and made several arrests of adults trafficking in Child Sexual Abuse Material (CSAM) over the internet
- The police department hosted a blood drive event
- The Community Outreach and Public Engagement (COPE) unit hosted a playdate in the park event at Martin Tudor Park
- Lieutenant Imhof hosted an Area 4 community meeting at Southridge Middle School
- Officer Venzor organized a birthday event for a child in the community that had all of his birthday money stolen during a burglary
- Lieutenant Binks graduated from the LAPD Advanced Leadership Academy
- Officers volunteered to cook hamburgers at an event at Sunrise Church for seniors



CITYWIDE

- Priority 1 response time- 4:50 (Emergency calls like subject not breathing, shots fired, and other immediate risk to life/safety)
- Calls for service- 10,072
- Total Traffic Accidents- 292
 - Non-Injury- 222, Injury - 70
- Total arrests- 667
 - Hispanic- 405, White- 128, Black- 117, All others races- 17
- Total Group A Offenses- 887
 - Crimes Against Persons- 208
 - Crimes Against Property- 446
 - Crimes Against Society- 233



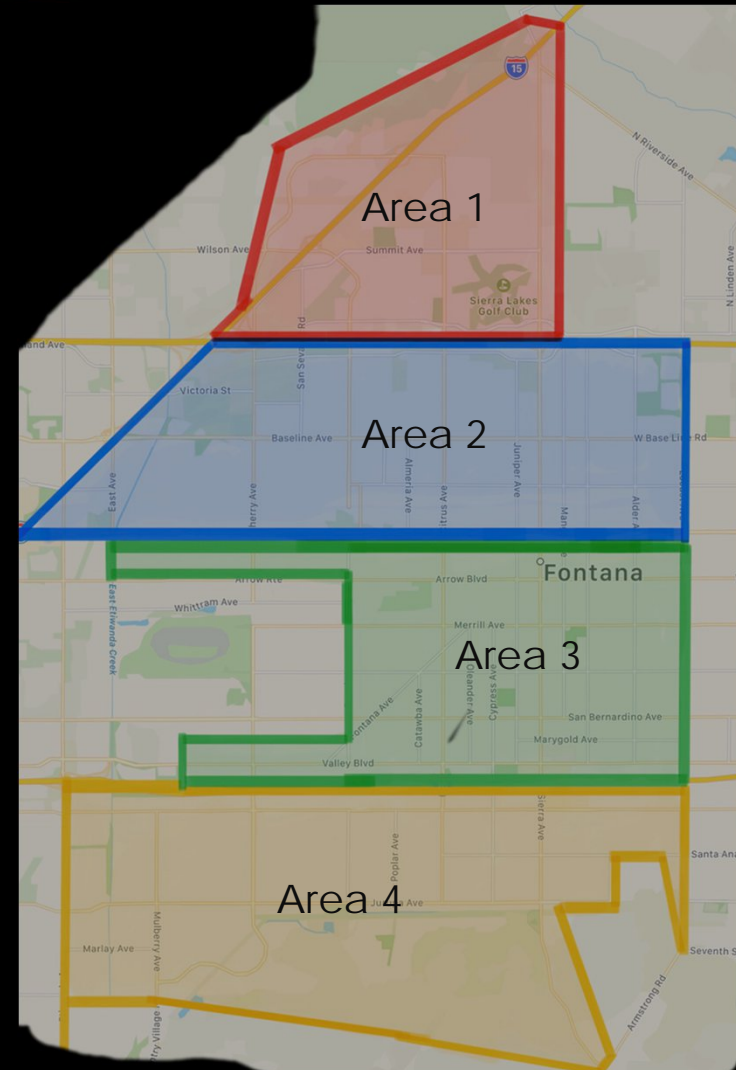
CITYWIDE

- Crimes Against Person- 190
 - Homicide- 1
 - Sex Offenses- 12
 - Assault- 155
 - Kidnapping- 4
 - Other- 18
- Crimes Against Property- 419
 - Robbery- 24
 - Burglary- 47
 - Larceny- 143
 - Destruction of Property- 40
 - Fraud- 53
 - Possession of Stolen Property- 63
 - Motor Vehicle Theft- 36
 - Other Miscellaneous Property Crimes- 13
- Crimes Against Society- 227
 - Drug and Paraphernalia Possession- 186
 - Possession of Child Pornography- 14
 - Possession of Weapons- 27
 - Other Miscellaneous Crimes- 0



CRIMES BY BEAT

- Police Department Beat system is NOT geographically the same as City Council representation Districts
- Beat 1- All area north of 210 Freeway
- Beat 2- All area south of 210 Freeway and north of Foothill
- Beat 3- All area south of Foothill and north of 10 Freeway
- Beat 4- All area south of the 10 Freeway



BEAT 1

AREA COMMANDER IS LIEUTENANT CARLO GRANILLO
EMAIL- CGRANILLO@FONTANA.ORG
DESK- (909) 350-7716

- Total Group A Offenses- 99
- Crimes Against Persons- 26
- Crimes Against Property- 62
- Crimes Against Society- 11



BEAT 2

AREA COMMANDER IS LIEUTENANT ADAM CLABAUGH
EMAIL- ACLABAUGH@FONTANA.ORG
DESK- (909) 854-8004

- Total Group A Offenses- 200
- Crimes Against Persons- 55
- Crimes Against Property- 105
- Crimes Against Society- 40



BEAT 3

AREA COMMANDER IS LIEUTENANT RAUL FILETO
EMAIL – RFILETO@FONTANA.ORG
DESK – (909) 854-8161

- Total Group A Offenses- 400
- Crimes Against Persons- 100
- Crimes Against Property- 182
- Crimes Against Society- 118



Beat 4

AREA COMMANDER IS LIEUTENANT DOUG IMHOF
EMAIL – DIMHOF@FONTANA.ORG
DESK – (909) 350-7707



- Total Group A Offenses- 155
- Crimes Against Persons- 26
- Crimes Against Property- 95
- Crimes Against Society- 34



ADDITIONAL USEFUL INFORMATION

- For more information regarding specific geographical crime data, visit www.crimemapping.com and enter your zip code
- Police Department information line- (909) 350-7740
- Police Department Dispatch non-emergency line- (909) 350-7700
- Anonymous crime reporting (909) 356-TIPS to leave a recorded message
- Report Graffiti on City Property- (909) 350-GONE
- Office of the Chief- (909) 350-7702 or bgreen@fontana.org



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1631

Agenda #: E.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Police Department

SUBJECT:

Approve Donations of Dog "Arrow" and Present and Future Accompanying K-9 Dog Equipment from Fontana Police K-9 Pals, a California Nonprofit Corporation.

RECOMMENDATION:

1. Approve the donation of the dog "Arrow" from Fontana Police K-9 Pals, a California nonprofit corporation, to the City of Fontana in order for "Arrow" to become part of the Fontana Police Department's K-9 Unit.
2. Approve present and future accompanying K-9 dog equipment from Fontana Police K-9 Pals to support the Fontana Police Department's K-9 Unit operations.

COUNCIL GOALS:

- Improve public safety by increasing operational efficiency, visibility and availability.
- Improve public safety by emphasizing community-oriented policing, community involvement, and youth programs.

DISCUSSION:

The City of Fontana Police Department currently has a need for an additional dog to become part of its K-9 Unit. Fontana Police K-9 Pals, a California nonprofit corporation, has a dog named "Arrow" that it desires to donate permanently and irrevocably to the City of Fontana at no cost in order to fulfill the Police Department's needs.

The remaining money from the Stater Bros. charities grant assisted with the purchase of K-9 "Arrow." "Arrow" was purchased for \$8,000 by the Fontana Police K-9 pals. "Arrow" was named after Red Arrow Kennels which has been owned and operated by longtime K-9 Pals President, Lillie Hoyer, who has generously donated her property for the use of our regional K-9 training center. The training center is located on Arrow Boulevard, a major arterial street through Fontana. K-9 "Arrow" has been certified for patrol and will also be attending tracking training in November. He will be cross trained in narcotics detection.

Fontana Police K-9 Pals also desires to donate, on an on-going basis, accompanying K-9 dog equipment in order to support the Police Department's K-9 Unit operations, such as, but not limited to, e-collars, leashes, and toys.

The Police Department would like to receive the donation of "Arrow" into its K-9 Unit and would also

like to receive present and future donations of accompanying K-9 dog equipment for its operations from Fontana Police K-9 Pals.

FISCAL IMPACT:

The acceptance of canine "Arrow" represents a cost savings to the City of \$8,000.00 plus continued savings through additional donations of related equipment from K-9 Pals. On-going maintenance costs for canine "Arrow" are included in the Fiscal Year 2022-2023 budget.

MOTION:

Approve staff recommendation.



City of Fontana

Action Report

City Council Meeting

File #: 21-1632
Agenda #: F.

Agenda Date: 9/27/2022
Category: Consent Calendar

FROM:

Police Department

SUBJECT:

Approve Donations of Dog "Leo" and Present and Future Accompanying K-9 Dog Equipment from Fontana Police K-9 Pals, a California Nonprofit Corporation.

RECOMMENDATION:

1. Approve the donation of the dog "Leo" from Fontana Police K-9 Pals, a California nonprofit corporation, to the City of Fontana in order for "Leo" to become part of the Fontana Police Department's K-9 Unit.
2. Approve present and future accompanying K-9 dog equipment from Fontana Police K-9 Pals to support the Fontana Police Department's K-9 Unit operations.

COUNCIL GOALS:

- Improve public safety by increasing operational efficiency, visibility and availability.
- Improve public safety by emphasizing community-oriented policing, community involvement, and youth programs.

DISCUSSION:

The City of Fontana Police Department currently has a need for an additional dog to become part of its K-9 Unit. Fontana Police K-9 Pals, a California nonprofit corporation, has a dog named "Leo" that it desires to donate permanently and irrevocably to the City of Fontana at no cost in order to fulfill the Police Department's needs.

K-9 "Leo" was purchased with funds received from Stater Bros. charities. Stater Bros. charities provided a \$10,000 grant to the Fontana Police K-9 Pals for the purchase of a new cross trained police dog. K-9 "Leo" was purchased by the Fontana Police K-9 Pals using the Stater Bros. charities grant funds for \$8,000. His name "Leo" comes from one of the founding partners for Stater Bros. who were twin brothers. K-9 "Leo" has been certified for patrol and will be attending human tracing training in November. He will also be cross trained to find explosives and firearms.

Fontana Police K-9 Pals also desires to donate, on an on-going basis, accompanying K-9 dog equipment in order to support the Police Department's K-9 Unit operations, such as, but not limited to, e-collars, leashes, and toys.

The Police Department would like to receive the donation of "Leo" into its K-9 Unit and would also like to receive present and future donations of accompanying K-9 dog equipment for its operations from

Fontana Police K-9 Pals.

FISCAL IMPACT:

The acceptance of canine "Leo" represents a cost savings to the City of \$8,000 plus continued savings through additional donations of related equipment from K-9 Pals. On-going maintenance costs for canine "Leo" are included in the Fiscal Year 2022-2023 budget.

MOTION:

Approve staff recommendation.



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1649

Agenda #: G.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Engineering

SUBJECT:

Award a Construction Contract for the Police Facility Fence Installation Project

RECOMMENDATION:

1. Award and authorized the City Manager to execute a construction contract with J & A Engineering Corp. for the construction of the Police Facility Fence Installation Project in the amount of \$358,275.44 and authorize a 10% contingency in the amount of \$35,827.54 (Bid No. SB-03-DE-23).

2. Appropriate \$75,000.00 from PD Capital Facilities Fund 636 to the Police Facility Fence Installation Project No. 36000021.

3. Approve and authorize the City Manager to execute any and all utility agreements, utility easements, and subsequent agreements on behalf of the City of Fontana for the Police Facility Fence Installation Project.

COUNCIL GOALS:

- Improve public safety by increasing operational efficiency, visibility and availability.
- Invest in the City's infrastructure (streets, sewers, parks, etc.) by maintaining and improving the city's existing infrastructure.
- Invest in the City's infrastructure (streets, sewers, parks, etc.) by providing for the development of new infrastructure.

DISCUSSION:

The City of Fontana determined the need for the installation of wrought iron fencing and vehicular gates to control access near the Police Department (PD) and its parking facilities along Seville Avenue, between Wheeler Avenue and Emerald Avenue.

On August 11, 2022 at 2:00 p.m. the bids for this contract were opened. A total of five (5) bids were received ranging from \$358,275.44 to \$973,970.00. J & A Engineering Corp. is the lowest bidder in the amount of \$358,275.44. The Engineer's estimate was \$320,000.00. After reviewing the proposed bid documents and performing reference checks, Engineering staff has determined J & A Engineering Corp. to be the lowest and responsible bidder.

FISCAL IMPACT:

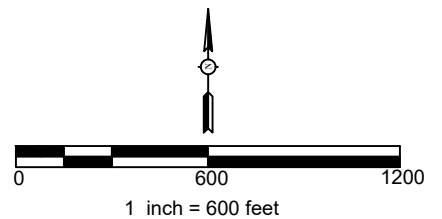
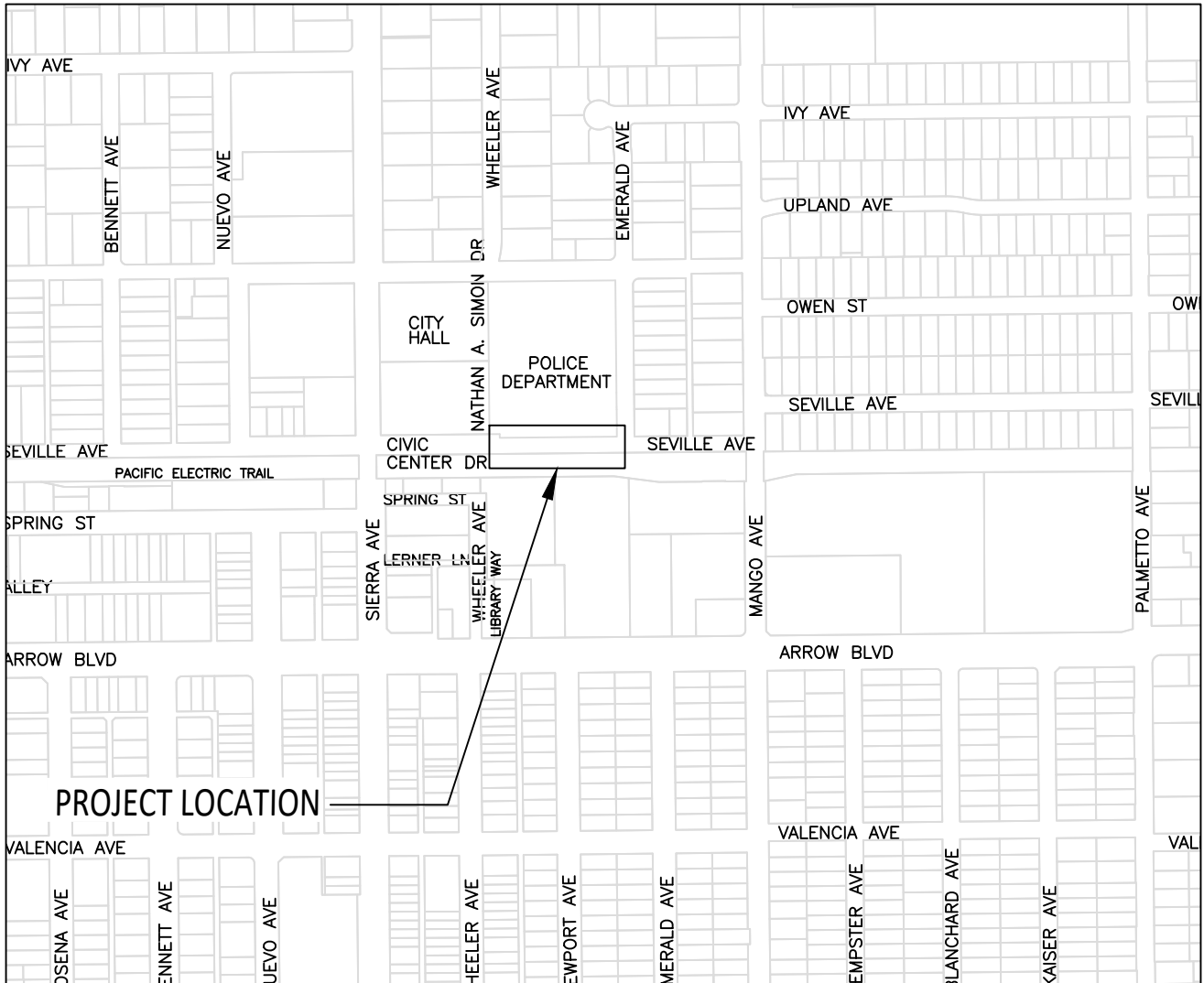
This project is possible through the PD Capital Facilities Fund (Fund 636) and is funded in Fiscal Year 2022-2023 Project No. 36000021, PD Fence on Seville Ave. Project. An additional

appropriation of \$75,000.00 from PD Capital Facilities Fund 636 will be included with the Fiscal Year 2022/2023 First Quarter budget request.

MOTION:

Approve staff recommendation.

POLICE FACILITY FENCE INSTALLATION PROJECT



Bid Results
Police Facility Fence Installation Project
SB-03-DE-23

1. J & A Engineering Corp. Azusa, CA	\$358,275.44
2. Cornejo Construction Company Santa Barbara, CA	\$460,750.00
3. AZ Construction, Inc. La Puente, CA	\$733,231.00
4. CS Legacy Construction, Inc. Walnut, CA	\$854,505.77
5. Elegant Construction, Inc. Irvine, CA	\$973,970.00

Bid Results

Bidder Details

Vendor Name J & A Engineering Corp.
Address 824 N. Todd Avenue
Azusa, California 91702-2228
United States
Respondee Miguel Miranda
Respondee Title Owner
Phone 626-334-3209
Email Admin@jnafence.com
Vendor Type
License #
CADIR

Bid Detail

Bid Format Electronic
Submitted 08/11/2022 1:32 PM (PDT)
Delivery Method
Bid Responsive
Bid Status Submitted
Confirmation # 300848

Respondee Comment

Buyer Comment

Attachments

File Title	File Name	File Type
PD Fence Bid _ Documents.pdf	PD Fence Bid _ Documents.pdf	General Attachment
PD Fence Installation - Bid Bond.pdf	PD Fence Installation - Bid Bond.pdf	Bid Bond

Subcontractors

No Subcontractors

Line Items

Discount Terms No Discount

Item #	Item Code	Type	Item Description	UOM	QTY	Unit Price	Line Total	Response	Comment
GENERAL							\$21,000.00		
1			MOBILIZATION/ DEMOBILIZATION	LS	1	\$12,000.00	\$12,000.00	Yes	
2			CLEARING, GRUBBING, AND MISCELLANEOUS REMOVALS	LS	1	\$4,000.00	\$4,000.00	Yes	
3			BEST MANAGEMENT PRACTICE, WPCP AND NPDES REQUIREMENTS PER BID DOCUMENTS	LS	1	\$5,000.00	\$5,000.00	Yes	
CIVIL-STREET							\$319,725.44		
4			CONSTRUCT 8' BROWN POWDER COATED WROUGHT IRON PEDESTRIAN ACCESS GATE (5' WIDE) WITH PERFORATED METAL SCREEN PER DETAIL "A", SHEET 4, INCLUDING KEYPAD.	EA	1	\$9,800.00	\$9,800.00	Yes	
5			CONSTRUCT 8' BROWN POWDER COATED WROUGHT IRON PEDESTRIAN ACCESS GATE (5' WIDE) WITH PERFORATED METAL SCREEN PER DETAIL "B", SHEET 4, INCLUDING KEYPAD	EA	1	\$9,800.00	\$9,800.00	Yes	
6			CONSTRUCT 8' BROWN POWDER COATED WROUGHT IRON SWING GATE, 12' WIDE, PER DETAIL "B", SHEET 4, AND 1/2 HP HEAVY DUTY MOTOR CONNECTED TO EXIT AND CLOSE LOOP DETECTOR, REMOTE ENTRY AND KEYPAD INSTALLED FOR ROLLING GATE, INCLUDING KNOX BOX TO BE LOCATED PER FIRE DEPARTMENT REQUIREMENTS.	EA	1	\$17,500.00	\$17,500.00	Yes	
7			CONSTRUCT 8' BROWN POWDER COATED WROUGHT IRON PEDESTRIAN ACCESS GATE (5' WIDE) WITH PERFORATED METAL SCREEN PER DETAIL "C", SHEET 5, INCLUDING KEYPAD, ADJACENT 2.5' WIDE FENCE PANELS AND PERFORATED METAL SCREENS.	EA	3	\$8,333.00	\$24,999.00	Yes	
8			CONSTRUCT 8' BROWN POWDER COATED WROUGHT IRON ROLLING GATE, 12' WIDE, PER DETAIL "A", SHEET 4, INCLUDING REQUIRED TRACK AND 1/2 HP (1 FT/SEC) HEAVY DUTY MOTOR WITH EXIT AND CLOSE LOOP DETECTOR, REMOTE ENTRY AND KEYPAD, AND KNOX BOX TO BE LOCATED PER FIRE DEPARTMENT REQUIREMENTS.	EA	1	\$17,500.00	\$17,500.00	Yes	
9			CONSTRUCT 8' BROWN POWDER COATED WROUGHT IRON SWING GATE, 12' WIDE, PER DETAIL "A", SHEET 4, AND 1/2 HP HEAVY DUTY MOTOR CONNECTED TO EXIT AND CLOSE LOOP DETECTOR, REMOTE ENTRY AND KEYPAD INSTALLED FOR ROLLING GATE, INCLUDING KNOX BOX TO BE LOCATED PER FIRE DEPARTMENT REQUIREMENTS.	EA	1	\$17,500.00	\$17,500.00	Yes	
10			CONSTRUCT 8' BROWN POWDER COATED WROUGHT IRON ROLLING GATE, 12' WIDE, PER DETAIL "B", SHEET 4, INCLUDING REQUIRED TRACK AND 1/2 HP (1 FT/SEC) HEAVY DUTY MOTOR WITH EXIT AND CLOSE LOOP DETECTOR, REMOTE ENTRY AND KEYPAD, AND KNOX BOX TO BE LOCATED PER FIRE DEPARTMENT REQUIREMENTS.	EA	1	\$17,500.00	\$17,500.00	Yes	
11			CONSTRUCT 8' BROWN POWDER COATED WROUGHT IRON FENCING PER DETAIL "D", SHEET 5.	LF	430	\$279.07	\$120,000.10	Yes	
12			CONSTRUCT 2' BROWN POWDER COATED FENCING CORED IN EXISTING 8" CMU BLOCK WALL WITH ARROWHEAD/SPEARS PER DETAILS "E" AND "F", SHEET 5	LF	50	\$300.00	\$15,000.00	Yes	
13			CONSTRUCT 2.5' BROWN POWDER COATED FENCING CORED IN EXISTING 8" CMU BLOCK WALL WITH ARROWHEAD/SPEARS PER DETAILS "E" AND "F", SHEET 5.	LF	25	\$125.00	\$3,125.00	Yes	
14			INSTALL 16' HSS 5" X 5" X 1/4" FENCE POST, IN PLACE OF 2" POSTS, FOR CAMERA INSTALLATION PER STRUCTURAL DETAIL, SHEET 2	EA	4	\$3,000.00	\$12,000.00	Yes	
15			REMOVE EXISTING PCC SIDEWALK AND CONSTRUCT 4" DECORATIVE CONCRETE TO MATCH EXISTING COLOR AND PATTERN	SF	482	\$51.87	\$25,001.34	Yes	
16			INSTALL ALL ELECTRICAL SYSTEM IMPROVEMENTS, AS SHOWN ON PLANS, FOR COMPLETE AND FULLY FUNCTIONAL SYSTEM IMPROVEMENTS	LS	1	\$30,000.00	\$30,000.00	Yes	
CIVIL-TRAFFIC							\$17,550.00		
17			TEMPORARY TRAFFIC CONTROL FOR THE ENTIRE PROJECT DURATION	LS	1	\$11,200.00	\$11,200.00	Yes	
18			SIGNING AND STRIPING COMPLETE PER CONTRACT PLANS	LS	1	\$6,350.00	\$6,350.00	Yes	

Line Item Subtotals

Section Title	Line Total
GENERAL	\$21,000.00
CIVIL-STREET	\$319,725.44
CIVIL-TRAFFIC	\$17,550.00
Grand Total	\$358,275.44



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1691

Agenda #: H.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Police Department

SUBJECT:

Approve Release of K-9 Unit Dog "Wyatt" and Accompanying K-9 Equipment to his Handler Casey Mutter

RECOMMENDATION:

Approve contract No. MS-69-PD-23 between the City of Fontana and Casey Mutter to release K-9 dog "Wyatt" and accompanying K-9 dog equipment, including a kennel, transportation kennel, custom fit muzzle, dogloo, and two leashes, to him.

COUNCIL GOALS:

- Improve public safety by increasing operational efficiency, visibility and availability.

DISCUSSION:

The City of Fontana Police Department has a K-9 Unit dog named "Wyatt" that is ready to retire. K-9 "Wyatt", donated by the Fontana Police K-9 Pals, a California nonprofit corporation, has served 6 ½ years. He was directly involved in approximately 24 apprehensions during his tenure. He was also responsible for the seizure of several hundred firearms, as well as the seizure of several pounds of explosive. "Wyatt" has also assisted with the tracking of multiple missing subjects and wanted suspects. "Wyatt" saved an estimated 6,500 man hours with his olfactory ability.

The City of Fontana desires to release "Wyatt" and some of his accompanying K-9 dog equipment to his handler, Casey Mutter, for a fee of \$1.00. Casey Mutter is willing to and desires to give the City of Fontana \$1.00 in exchange for receiving "Wyatt" and some of his accompanying K-9 dog equipment.

FISCAL IMPACT:

Revenue received from the release of K-9 "Wyatt" will be deposited into 10140200.6450.

MOTION:

Approve staff recommendation.

**CITY OF FONTANA
RELEASE OF K-9 DOG AGREEMENT
CONTACT NUMBER: MS-69-PD-23**

This Agreement is made and entered into this **27th day of September 2022**, by and between the **City of Fontana**, a municipal corporation organized under the laws of the State of California with its principal place of business at 8353 Sierra Avenue, Fontana, California 92335 (“City”) and **Casey Mutter** (“Handler”), hereinafter “Agreement.” City and Handler are sometimes hereinafter referred to individually as “Party” and collectively as the “Parties.”

RECITALS

A. City is a municipal corporation organized under the laws of the State of California, with power to sell property.

B. Handler is a police officer in the City’s Police Department K-9 Unit and handles “Wyatt,” who is ready to retire.

C. The City desires to release “Wyatt” and some of his accompanying K-9 dog equipment to Handler for a fee of \$1.00.

D. Handler is willing to and desires to give the City of Fontana \$1.00 in exchange for receiving “Wyatt” and some of his accompanying K-9 dog equipment, including a kennel, transportation kennel, custom fit muzzle, Dogloo, and two leashes (hereinafter “K-9 Dog Equipment”).

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree as follows:

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

2. Payment. Handler agrees to pay the sum of \$1.00 to the City of Fontana by October 31, 2022, in exchange for receiving “Wyatt” as his personal dog along with Wyatt’s accompanying K-9 Dog Equipment

3. Release of “Wyatt” and Accompanying K-9 Equipment. Upon City’s receipt of \$1.00 from Handler for the purpose of releasing “Wyatt” and his accompanying K-9 Dog Equipment to him, City shall so release “Wyatt” and the accompanying K-9 Dog Equipment within thirty (30) days.

4. Acknowledgment. Handler hereby acknowledges that he understands that upon the City releasing “Wyatt” and his accompanying K-9 Dog Equipment to him, they will become Handler’s personal property and the City will retain no proprietary interest in them whatsoever. Handler further acknowledges that he understands that the change of property characterization from City property to Handler’s personal property shall become operative upon the date of

signature (“Effective Date”) of this Agreement. Handler further acknowledges that as of the Effective Date of this Agreement, Handler may not represent to anyone that “Wyatt” is a dog of the City or of the City’s Police Department but may represent that “Wyatt” is a retired dog of the City or the City’s Police Department.

5. Indemnification. As of the Effective Date of this Agreement, to the fullest extent permitted by law, Handler shall defend, indemnify, and hold the City, the City Council, each of the City Councilmembers, its directors, officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage, or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors, or omissions of “Wyatt.” This obligation shall survive any termination of this Agreement.

6. General Release. It is the intention of the Parties that this Agreement is effective as a bar to all actions, causes of action, obligations, costs, expenses, attorney’s fees, damages, losses, claims, liabilities and demands of any character, nature, and kind, known or unknown, suspected or unsuspected; in furtherance of which intention the Buyer expressly waives any and all right and benefit conferred upon him by the provisions of Section 1542 of the California Civil Code, which reads as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

7. Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

8. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original. All counterparts shall be construed together and shall constitute one single Agreement.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE
TO
CITY OF FONTANA
RELEASE OF K-9 DOG AGREEMENT
CONTRACT NUMBER: MS-69-PD-23**

CITY OF FONTANA

CASEY MUTTER

By: _____
Matthew C. Ballantyne
City Manager

Attest:

By: _____
City Clerk

Approved as to form:

By: _____
Best Best & Krieger LLP
City Attorney

By: _____
William P. Green
Chief of Police



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1697

Agenda #: I.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Police Department

SUBJECT:

Approve Release of K-9 Unit Dog "Axl" and Accompanying K-9 Equipment to his Handler Bradley Terwilliger

RECOMMENDATION:

Approve contract No. MS-70-PD-23 between the City of Fontana and Bradley Terwilliger to release K-9 dog "Axl" and accompanying K-9 dog equipment, including a kennel, transportation kennel, custom fit muzzle, dogloo, and two leashes, to him.

COUNCIL GOALS:

- Improve public safety by increasing operational efficiency, visibility and availability.

DISCUSSION:

The City of Fontana Police Department has a K-9 Unit dog named "Axl" that is ready to retire. K-9 "Axl", donated by the Fontana Police K-9 Pals, a California nonprofit corporation, has served 3 ½ years. He was directly involved in multiple apprehensions during his tenure. He was also responsible for the seizure of several hundred pounds of narcotics, as well as the seizure of over \$3 million dollars in cash. "Axl" saved an estimated 3,000 man hours with his olfactory ability.

The City of Fontana desires to release "Axl" and some of his accompanying K-9 dog equipment to his handler, Bradley Terwilliger, for a fee of \$1.00. Bradley Terwilliger is willing to and desires to give the City of Fontana \$1.00 in exchange for receiving "Axl" and some of his accompanying K-9 dog equipment.

FISCAL IMPACT:

Revenue received from the release of K-9 "Axl": will be deposited into 10140200.6450.

MOTION:

Approve staff recommendation.

**CITY OF FONTANA
RELEASE OF K-9 DOG AGREEMENT
CONTACT NUMBER: MS-70-PD-23**

This Agreement is made and entered into this **27th day of September 2022**, by and between the **City of Fontana**, a municipal corporation organized under the laws of the State of California with its principal place of business at 8353 Sierra Avenue, Fontana, California 92335 (“City”) and **Bradley Terwilliger** (“Handler”), hereinafter “Agreement.” City and Handler are sometimes hereinafter referred to individually as “Party” and collectively as the “Parties.”

RECITALS

A. City is a municipal corporation organized under the laws of the State of California, with power to sell property.

B. Handler is a police officer in the City’s Police Department K-9 Unit and handles “Axl,” who is ready to retire.

C. The City desires to release “Axl” and some of his accompanying K-9 dog equipment to Handler for a fee of \$1.00.

D. Handler is willing to and desires to give the City of Fontana \$1.00 in exchange for receiving “Axl” and some of his accompanying K-9 dog equipment, including a kennel, transportation kennel, custom fit muzzle, Dogloo, and two leashes (hereinafter “K-9 Dog Equipment”).

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree as follows:

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

2. Payment. Handler agrees to pay the sum of \$1.00 to the City of Fontana by October 31, 2022, in exchange for receiving “Axl” as his personal dog along with Axl’s accompanying K-9 Dog Equipment

3. Release of “Axl” and Accompanying K-9 Equipment. Upon City’s receipt of \$1.00 from Handler for the purpose of releasing “Axl” and his accompanying K-9 Dog Equipment to him, City shall so release “Axl” and the accompanying K-9 Dog Equipment within thirty (30) days.

4. Acknowledgment. Handler hereby acknowledges that he understands that upon the City releasing “Axl” and his accompanying K-9 Dog Equipment to him, they will become Handler’s personal property and the City will retain no proprietary interest in them whatsoever. Handler further acknowledges that he understands that the change of property characterization from City property to Handler’s personal property shall become operative upon the date of

signature (“Effective Date”) of this Agreement. Handler further acknowledges that as of the Effective Date of this Agreement, Handler may not represent to anyone that “Axl” is a dog of the City or of the City’s Police Department but may represent that “Axl” is a retired dog of the City or the City’s Police Department.

5. Indemnification. As of the Effective Date of this Agreement, to the fullest extent permitted by law, Handler shall defend, indemnify, and hold the City, the City Council, each of the City Councilmembers, its directors, officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage, or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors, or omissions of “Axl.” This obligation shall survive any termination of this Agreement.

6. General Release. It is the intention of the Parties that this Agreement is effective as a bar to all actions, causes of action, obligations, costs, expenses, attorney’s fees, damages, losses, claims, liabilities and demands of any character, nature, and kind, known or unknown, suspected or unsuspected; in furtherance of which intention the Buyer expressly waives any and all right and benefit conferred upon him by the provisions of Section 1542 of the California Civil Code, which reads as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

7. Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

8. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original. All counterparts shall be construed together and shall constitute one single Agreement.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE
TO
CITY OF FONTANA
RELEASE OF K-9 DOG AGREEMENT
CONTRACT NUMBER: MS-70-PD-23**

CITY OF FONTANA

BRADLEY TERWILLIGER

By: _____
Matthew C. Ballantyne
City Manager

Attest:

By: _____
City Clerk

Approved as to form:

By: _____
Best Best & Krieger LLP
City Attorney

By: _____
William P. Green
Chief of Police



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1708

Agenda #: J.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Police Department

SUBJECT:

2021 Homeland Security Grant (HSGP)

RECOMMENDATION:

1. Accept the 2021 Homeland Security Grant Program subrecipient award in the amount \$40,451 from the Office of Homeland Security.
2. Authorize the Chief of Police or his designee to sign all related grant documents including extensions or modifications for the grant; and expend funds as outlined in the grant agreement.
3. Approve allocation of funds in the amount of \$40,451 in the Grant Fund #301, Project 40200003 - 2021 Homeland Security Grant

COUNCIL GOALS:

- Improve public safety by increasing operational efficiency, visibility and availability.
- Improve public safety by minimizing impacts from disasters through emergency and disaster preparedness.

DISCUSSION:

The Office of Homeland Security has made available funding to agencies under the FY 2021 Homeland Security Grant Program. The City of Fontana has received grant funding in the amount of \$40,451. The Fontana Police Department plans to utilize 2021 HSGP funding to purchase various computer equipment, canine equipment/training, and software/hardware products for security information and event management project. If items become unavailable, an amendment to the grantor to identify other priority equipment will be processed.

FISCAL IMPACT:

The City of Fontana will increase revenues in the amount of \$40,451; and increase appropriations for expenditures in the amount of \$40,451 in Grant Fund #301, Project # 40200003-301-A. Appropriate budget adjustments will be submitted to the Budget Office with the 1st Quarter Budget Status Report.

MOTION:

Accept staff recommendation.



Office of Emergency Services

Leonard X. Hernandez
Chief Executive Officer

Daniel Muñoz
Deputy Executive Officer

August 29, 2022

TO: CITY/TOWN GRANT PROGRAM MANAGER

**SUBJECT: FY2021 HOMELAND SECURITY GRANT PROGRAM (HSGP)
AUTHORIZATION TO SPEND**

The California Governor's Office of Emergency Services has approved your FY2021 HSGP project(s). As of the date of this letter, you are authorized to make expenditures using FY2021 Homeland Security Grant Program (HSGP) funds.

Be aware that your project allocation amount may have changed. Take note of the amount located on the attached project worksheet. Should you need to submit a modification request to change your project in any way, including increasing the quantity of items, please do so as soon as possible. The next deadline to submit modification requests is 9/30/22.

During the procurement process, please make sure to follow grant guidelines and requirements. Procurement may not begin on projects requiring an Environmental Historic Preservation or other type of pre-approval, as indicated on the attached project worksheet, until requests are submitted and approval has been obtained.

Please note the following:

1. **First Milestone Deadline:** All projects should be 30% completed by **12/31/22**.
2. **Modifications:** All project changes require pre-approval from Cal OES prior to incurring any costs. Modification requests are due quarterly. Refer to the FY21 Grant Deadlines for submission dates. The scope of work on projects identified as National Priority projects cannot be modified. Changes in quantities on National Priority projects must have FEMA approval.
3. **Procurement:** General procurement standards with open competition must be followed for all federal grant expenditures, according to 2 C.F.R. § 200.318-200.323. Copies of three (3) quotes/bids must be submitted with reimbursement requests.
4. **Noncompetitive Procurement:** Documentation of entity procurement policies must be submitted with reimbursement requests for all noncompetitive procurement. Purchases over \$250,000 will require pre-approval from Cal OES prior to procurement, following up with your governing board or council, if applicable. A cost benefit analysis is required with noncompetitive procurement requests.

BOARD OF SUPERVISORS

COL. PAUL COOK (RET.)
First District

JANICE RUTHERFORD
Second District

DAWN ROWE
Vice Chair, Third District

CURT HAGMAN
Chairman, Fourth District

JOE BACA, JR.
Fifth District

Leonard X. Hernandez
Chief Executive Officer

5. **SAMS Verification:** A print-out of the SAM.gov vendor verification report must be printed prior to procurement for all vendor/contractors and must be submitted with reimbursement requests. *Note: Vendor registration in SAM.gov is not required. However, the vendor must not be debarred or restricted from receiving federal funds, which will appear in your vendor verification report if the vendor has restrictions.*
6. **Performance Bond:** A performance bond is required for any equipment item over \$250,000, or any vehicle, aviation, or watercraft, regardless of the cost.
7. **Audit Requirements:** This subaward is subject to all provisions of 2 C.F.R Part 200, Subpart F – Audit Requirements. Any funds received in excess of current needs, approved amounts, or those found owed as a result of a final review or audit, must be refunded to the State within 30 days upon receipt of an invoice.

Refer to the grant guides for additional procedures and requirements.

If you have any questions, please feel free to contact the Grant's Unit at (909) 388-5832.

Sincerely,



DANIEL MUÑOZ, Deputy Executive Officer
San Bernardino County
Office of Emergency Services

DM/ts

Attachments

FY2021
Homeland Security Grant Program
Law Jurisdiction's Proposed Allocations

No.	Law Jurisdictions	Population (POP)	Percentage based on		Total District Allocation
			Base	POP	
1	Adelanto Sheriff	35,663	\$ 12,000	\$ 4,764	\$ 16,764
2	Apple Valley Sheriff	74,394	12,000	\$ 9,937	\$ 21,937
3	Barstow	24,268	12,000	\$ 3,241	\$ 15,241
4	Chino	89,109	12,000	\$ 11,902	\$ 23,902
5	Chino Hills	82,409	12,000	\$ 11,007	\$ 23,007
6	Colton	54,118	12,000	\$ 7,229	\$ 19,229
7	Fontana	213,000	12,000	\$ 28,451	\$ 40,451
8	Grand Terrace	12,426	12,000	\$ 1,660	\$ 13,660
9	Hesperia Sheriff	96,393	12,000	\$ 12,875	\$ 24,875
10	Highland	55,323	12,000	\$ 7,390	\$ 19,390
11	Loma Linda	24,535	12,000	\$ 3,277	\$ 15,277
12	Montclair	39,490	12,000	\$ 5,275	\$ 17,275
13	Needles	5,248	12,000	\$ 701	\$ 12,701
14	Ontario	182,871	12,000	\$ 24,426	\$ 36,426
15	Rancho Cucamonga	175,522	12,000	\$ 23,445	\$ 35,445
16	Redlands	70,952	12,000	\$ 9,477	\$ 21,477
17	Rialto	104,553	12,000	\$ 13,965	\$ 25,965
18	San Bernardino	217,946	12,000	\$ 29,111	\$ 41,111
19	Twentynine Palms Shriff	29,258	12,000	\$ 3,908	\$ 15,908
20	Unincorporated/Sheriff	322,616	12,000	\$ 43,092	\$ 55,092
21	Upland	78,814	12,000	\$ 10,527	\$ 22,527
22	Victorville	126,432	12,000	\$ 16,888	\$ 28,888
23	Yucaipa	55,712	12,000	\$ 7,441	\$ 19,441
24	Yucca Valley	22,236	12,000	\$ 2,970	\$ 14,970
Total		2,193,288	\$ 288,000	\$ 292,959	\$ 580,959

Population provided by the California Department of Finance
<http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/>



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1710

Agenda #: K.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Police Department

SUBJECT:

Fontana Police Department to Accept 2002 Pierce Heavy Rescue Vehicle

RECOMMENDATION:

1. Accept 2002 Pierce Heavy Rescue Vehicle (VIN #1K9AF4283YN058185) donation from the San Bernardino County Fire Protection District.
2. Approve a recurring appropriation from the General Fund in the amount of \$12,670 to cover the Operating & Maintenance costs associated with this vehicle.

COUNCIL GOALS:

- Improve public safety by increasing operational efficiency, visibility and availability.
- Improve public safety by maximizing fire and emergency medical service resources.

DISCUSSION:

The San Bernardino County Fire Protection District (SBCFPD) declared the 2002 Pierce Heavy Rescue Vehicle as a surplus property that has exceeded the useful life and their departmental needs. The Fontana Police Department formally expressed interest in the vehicle in May 2022 to be use by the Special Weapons and Tactics Team (SWAT) when responding to critical incidents.

The vehicle will be utilized to store and transport all emergency equipment in the event of a critical/tactical incident. Additional General Fund monies need to be requested to pay for the annual O & M associated with vehicle. The generous vehicle donation by SBCFPD has an estimated value of \$6,700. This donation will help support and benefit the Fontana Community.

FISCAL IMPACT:

Recurring appropriations for O & M in the amount of \$12,670.00 are requested for account #10140370-8210. Budget forms will be included in the Police Department First Quarter adjustments.

MOTION:

Approve staff recommendation.

**REPORT/RECOMMENDATION TO THE BOARD OF DIRECTORS
OF SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT
AND RECORD OF ACTION**

August 9, 2022

FROM

DAN MUNSEY, Fire Chief/Fire Warden, San Bernardino County Fire Protection District

SUBJECT

Transfer of Surplus Vehicles to Various Agencies

RECOMMENDATION(S)

Acting as the governing body of the San Bernardino County Fire Protection District:

1. Declare the following vehicles surplus property that no longer meet the needs of the San Bernardino County Fire Protection District:
 - a. 2000 KME Type 1 Fire Engine (Equipment No. 18322/Vehicle Identification Number 1K9AF4283YN058185), which is fully depreciated and has an estimated value of approximately \$6,700.
 - b. 2002 Pierce Heavy Rescue Vehicle (Equipment No. 18607/Vehicle Identification Number 4P1CT02U32A002043), which is fully depreciated and has an estimated value of approximately \$8,400.
2. Approve **Agreement No. 22-761** with the Dagget Fire Department for the transfer of surplus vehicle (Equipment No. 18322) identified in Recommendation No. 1.a. to Dagget Fire Department, at no cost, with San Bernardino County Fire Protection District receiving indemnity and a full release of liability upon transfer of title.
3. Approve **Agreement No. 22-762** with the City of Fontana, by and through its Police Department, for the transfer of surplus vehicle (Equipment No. 18607) identified in Recommendation No. 1.b. to Fontana Police Department, at no cost, with San Bernardino County Fire Protection District receiving indemnity and a full release of liability upon transfer of title.
4. Authorize the Director of the Fleet Management Department to execute all necessary documentation for transfer of title of the surplus property identified in Recommendation No. 1.

(Presenter: Dan Munsey, Fire Chief/Fire Warden, 387-5779)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of the recommended actions will not result in the use of additional Discretionary General Funding (Net County Cost), as there are no costs involved with the transfer of San Bernardino County Fire Protection District (SBCFPD) surplus vehicles to the agencies identified in Recommendation Numbers 2 and 3.

**Transfer of Surplus Vehicles to Various Agencies
August 9, 2022**

Record of Action of the Board of Directors
San Bernardino County Fire Protection District

APPROVED (CONSENT CALENDAR)

Moved: Dawn Rowe Seconded: Col. Paul Cook (Ret.)
Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, SECRETARY

BY *Lynna Monell*
DATED: August 9, 2022



cc: SBCFPD - Munsey w/agrees
 Contractor - C/O SBCFPD w/agree
 File - w/agree
CCM 08/16/2022



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1716

Agenda #: L.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Planning Department

SUBJECT:

Pre-annexation Agreement No. 22-001, between the City of Fontana and Inland Senior Development, LLC Investments, for the provision of sewer service to a 112-Unit Multi-Family Condominium Project located South of Foothill Boulevard, on the West side of Banana Avenue.

RECOMMENDATION:

1. Find that the project is Exempt pursuant to Section No. 15268(b)(4) (Ministerial Project, Utility Connection) of the California Environmental Quality Act (CEQA) and, direct staff to file a Notice of Exemption; and,

2. Approve and authorize the City Manager to execute a Pre-annexation Agreement (No. 22-001) with Inland Senior Development, LLC investments, for the provision of sewer service to a 112-unit multi-family condominium project located south of Foothill Boulevard, on the west side of Banana Avenue.

COUNCIL GOALS:

- To promote economic development by aggressively pursuing annexations.

BACKGROUND:

The City's adopted policy pertaining to annexation states that for certain new development outside of the City requiring City sewer services, a landowner may enter into a Pre-annexation Agreement with the City for the provision of sewer service. A Pre-annexation Agreement simply defers annexation to a time in the future; therefore, the use of a Pre-annexation Agreement is within the scope of the City Council's annexation policy.

As outlined in Government Code Section 56133, state law requires cities to obtain approval from the Local Agency Formation Commission (LAFCO) prior to extending a municipal service outside their corporate limits. The City of Fontana (City) is agreeing to provide a sewer connection prior to annexation of the project site and LAFCO approval is therefore necessary. Upon City Council approval of this Pre-Annexation Agreement, a service boundary modification request will be submitted to San Bernardino LAFCO.

DISCUSSION:

The project involves a 6.7-acre site located south of Foothill Boulevard, on the west side of Banana Avenue. The site is outside of and adjacent to Fontana's City limits and is within the City's Western Sphere of Influence area. The proposed Pre-annexation agreement is for the provision of sewer

service to a 112-unit, multi-family condominium development that was approved by the County of San Bernardino on July 7, 2022.

The parcels are located in the City's unincorporated Western Sphere of Influence area and in keeping with the City's Annexation Policy, a Pre-annexation Agreement is necessary to establish the agreed upon terms between the City and the landowner in order to provide sewer service. Presented below is an outline of the major terms of the agreement; a copy of the PreAnnexation Agreement is attached to this report.

1. The City's Development Impact Fees, as required by the City/County Memorandum of Understanding (MOU), are outlined in Exhibit F of the Pre-annexation Agreement. With the exception of sewer fees and pass-through fees, all other fees are reduced by 50% as the project site is located within the "Infill" area established by City Resolution No. 2007-08.
2. At such time that the City endeavors to annex the area, the landowner consents to annex to the City; upon annexation, the parcels will have a General Plan Land Use Designation of Walkable Mixed-Use Corridors & Downtown (WMXU-1) and Form Base Code, Transitional District in accordance with the City's General Plan and Zoning District Map. During the update of the City's General Plan in 2018, the City's unincorporated sphere of influence was pre-zoned. Therefore, upon annexation, the Transitional District zoning designation would take effect;

ENVIRONMENTAL IMPACT:

Staff has reviewed the proposed project and prepared the following environmental recommendation for the City Council's consideration: There will be no significant environmental impacts caused by this project, therefore, a Notice of Exemption has been prepared pursuant to Section No. 15268 (b) (4) (Ministerial Project, Utility Connection) of CEQA

FISCAL IMPACT:

This project will not have any direct negative fiscal impact.

MOTION:

Approve staff's recommendation.



VICINITY MAP

DATE: September 27, 2022
CASE: Master Case No. 22-066
Pre-Annexation (ANX) No. 22-001

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 Division
8353 Sierra Avenue
Fontana, CA 92335

1. Project Title: **Pre-annexation Agreement (No. 22-001) between the City of Fontana and landowner, for the provision of sewer service to a 112-unit, multi-family condominium project.**
2. Project Location - Specific: **The project site is a rectangularly-shaped property consisting of two parcels (Tentative Tract Map No. 20016) of approximately 6.69 adjusted gross acres and is located south of Foothill Boulevard, on the west side of Banana Avenue.**
3. (a) Project Location - City: **Fontana, CA 92335**
(b) Project Location - County: **San Bernardino**
4. Description of nature, purpose, and beneficiaries of Project: **The purpose of the Pre-annexation Agreement is to provide sewer service to a 112-unit, multi-family condominium development that is outside of Fontana's corporate limits and inside of Fontana's unincorporated sphere of influence.**
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: Exempt under Section No. 15301, Class No. 1, (Existing Facilities) of the California Environmental Quality Act.
 - (e) Declared Emergency.
 - (f) Statutory Exemption. State Code section number: _____
 - (g) Other. Explanation: _____
8. Reason why project was exempt: **The project is for a utility connection, which is considered a ministerial project pursuant to Section No. 15268 (b)(4) of the California Environmental Quality Act (CEQA).**
9. Contact Person: **Salvador Quintanilla, Senior Planner** Telephone: **(909) 350-6656**

Date Received for Filing:

DiTanyon Johnson
Principal Planner

(Clerk Stamp Here)

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Fontana
8353 Siena Avenue
Fontana, California 92335
Attn: City Manager

Exempt from Recording fee
pursuant to Gov't Code § 27383

(Space above for Recorder's use)

PREANNEXATION AGREEMENT

between

CITY OF FONTANA

a California municipal corporation

and

INLAND SENIOR DEVELOPMENT, LLC

[Dated as of _____ for reference purposes only]

PRE-ANNEXATION AGREEMENT

This Preannexation Agreement (“Agreement”) is entered into as of this _____, between the City of Fontana, a California municipal corporation (“City”) and INLAND SENIOR DEVELOPMENT, LLC (“Landowner”), a California Limited Liability Company LLC, with the principal place of business located at 1 Venture, Suite 130, Irvine, CA 92618. City and Landowner are sometimes individually referred to herein and “Party” and collectively as the “Parties.”

WHEREAS, Landowner has fee title to a roughly 6.69-acre piece of property, in unincorporated San Bernardino County, commonly known as APN 0230-031-20 and APN 0230-031-21 (the “Property”), more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference. An Assessor Parcel Map is attached hereto as Exhibit “B” and incorporated by this reference.

WHEREAS, the City is contemplating annexation of certain territory, including Landowner’s Property which is also located within the “Western Sphere of Influence”, as defined in and subject to the Memorandum of Understanding (“MOU”) between the City and County of San Bernardino approved on August 26, 2008, and as it may be amended from time to time, as well as the City’s annexation policy as amended from time to time. A current copy of the MOU is attached hereto as Exhibit “C” and incorporated herein by reference. A current copy of the City’s annexation policy is attached hereto as Exhibit “D” and incorporated herein by reference.

WHEREAS, the City has general planned and pre-zoned the Western Sphere of Influence and, upon annexation, the Property will be zoned Form Based Code, Transitional District in accordance with the City’s Zoning District Map.

in accordance with the City’s Zoning District Map.

WHEREAS, Landowner desires to build [112-unit multi-family condominium development] (“Project”) in compliance with County of San Bernardino Tentative Tract Map No. 20016 (TTM No. 20016) and has requested that the City enter into this Agreement and City desires to provide sewer service to the Project. City has further determined that it is in the best interest of the citizens of the City and the Landowner to encourage the development of this Project.

WHEREAS, Government Code § 56133 allows a public agency, like the City, to extend services by contract, including the provision of sewer services, beyond its jurisdictional reach, provided the San Bernadino County Local Agency Formation Commission (“LAFCO”) approves such a request; and

WHEREAS, the Parties have therefore agreed that it is in their respective interests to request LAFCO approval for the City to provide sewer services to the Property pursuant Government Code § 56133 until such time as the City annexes the Property into the City.

NOW THEREFORE, the Parties agree as follows:

1. EFFECTIVE DATE.

1.1 **Effective Date.** This Agreement will not become effective until the date (“Effective Date”) on which it has been executed by Landowner and has been approved by the City Council, which date is ever later. City shall deliver a fully executed counterpart original of this Agreement to Landowner within ten (10) days from City’s execution of this Agreement.

2. TERMS.

In order to facilitate the annexation of the Property, and the development of this Project the City and Landowner agree to the following:

2.1 City’s Obligation.

(a) **Annexation.** Subject to Section 2.1(c) noted below, upon completion of the annexation of the Property, the Property shall be subject to the same benefits and obligations as other properties zoned Commercial and Residential by the City.

(b) **No Representation or Warranty Regarding Annexation.** Nothing herein shall be deemed as a representation or warranty by City that the annexation of the Property will be completed.

(c) **Zoning.** The Parties acknowledge that the City has pre-zoned the Property, and upon annexation, the Property will be zoned Form Based Code, Transitional District. Notwithstanding the foregoing, or anything to the contrary contained herein, this Agreement shall not limit the right of Landowner to continue any existing legal use upon the Property that is conducted prior to annexation, but is considered a legal nonconforming use following annexation and/or due to future changes to the City’s General Plan or zoning ordinances. The City acknowledges that development of the Property in compliance with TTM No. 20016 and the County Conditions of Approval will be a conforming use under the City’s Form Based Code, Transitional District zoning designation.

(d) **Development Standards.** The Tentative Tract Map (TTM No. 20016) will comply with the County’s Conditions of Approval (see Exhibit “E” for current Conditions of Approval).

(e) **Out Of Agency Service Contract.** Within thirty (30) days from City’s execution of this Agreement, the City will submit the out-of-agency service agreement application for sewer services and sewer connections to the Project.

2.2 Landowner’s Obligations.

(a) **Development Impact Fees.** Landowner shall pay all fees and charges and make all deposits adopted by and in effect by the then applicable City ordinance or resolution, including those fees identified in the MOU as it may be amended from time to time. The amount of the development impact fees to be paid to the City by the developer in connection with the proposed development shall be paid to the City at the time of sewer connection permit issuance for the proposed development. Those fees shall include, but not be limited to, the following:

Fire Facilities (see Exhibit F)

Park Development (residential only) (see Exhibit F)

Storm Drainage Facilities (see Exhibit F)

Sewer Facilities (see Subsections (b) & (c) noted below)

(b) **City Provision of Sewer Service.** The City agrees to provide sewer service and a sewer connection to said Project, provided that (1) such Landowner complies with the City's annexation policy, as it may be amended from time to time (a current copy of which is attached as Exhibit "D"), (2) the Landowner meets all other City requirements and pays all fees imposed by the City pursuant to the Municipal Code and other policies and regulations, as they may be amended from time-to-time, in connection with such sewer service; and (3) the Landowner pays to the City those development impact fees which would be applicable to the Project if it were to occur within city limits as required under the City's current fee schedule and the MOU at the time a sewer connection permit is issued and in the amounts as may be established from time-to-time by the City, provided, however, that the City shall not require the payment of any impact fee which is imposed by the County on the Project to fund the same infrastructure as being funded by the City impact fee.

(c) **Sewer Connection Charges/LAFCO Fee.** Landowner shall pay all fees and charges and make all deposits required by City to connect to and use the sewer. Landowner also agrees to pay any additional fees that may be charged by the Local Agency Formation Commission (LAFCO). Those fees shall include, but not be limited to, the following:

Sewer Deposit (see Exhibit F)

Sewer Connection Permit Fee (see Exhibit F)

City Sewer Master Connection Fee (see Exhibit F)

Sanitary Sewage Facilities Expansion Fee (see Exhibit F)

LAFCO Fee (see Exhibit F)

Landowner agrees to be bound by all City ordinances, rules and regulations respecting the sewer system.

2.3 **Event of Default.** For purposes of this Section 2.3, an "Event of Default" shall mean the occurrence of any of the following during the term hereof:

(a) Landowner materially breaches any of the obligations of this Agreement;

(b) Subject to Section 2.1(c) noted above, if after the issuance of the first building permit, Landowner suspends or ceases construction activities for a period in excess of thirty (30) days;

(c) Landowner makes a material misrepresentation of any fact or item in any document executed by the City with respect to this Agreement;

(d) Upon the attachment, levy, execution or other judicial seizure of any substantial portion of the assets of Landowner, that is not released, expunged, bonded, discharged, or dismissed within thirty (30) days after the attachment, levy, execution or seizure; and

(e) Landowner becomes insolvent or unable to pay Landowners' debts generally as they mature, makes a general assignment for the benefit of creditors, admits in writing Landowners' inability to pay Landowners' debts generally as they mature, file or have filed against it a petition in bankruptcy or a petition or answer seeking a reorganization, arrangement with creditors or other similar relief under the Federal bankruptcy laws or under any other applicable law of the United States of America or any state thereof, or consents to the appointment of a trustee or receiver for it or for a substantial part of Landowner's Property.

2.4 Irrevocable Consent to Annexation. In exchange for the City's commitments hereunder to make the sewer connection available to Landowner, Landowner hereby consents to the annexation of the Property to the City. Provided that City has fully complied with its obligations under this Agreement, Landowner agrees to covenant for itself, its agents, employees, contractors, heirs, successors and assigns (including on behalf of any future owner of a portion of the Property) ("Successors") not any way object to, protest, delay, frustrate or otherwise impede any annexation proceedings concerning the annexation of the Property to the City. Provided that City has fully complied with its obligations under this Agreement, Landowner and its Successors shall cooperate in every reasonable way with the requests of the City, the San Bernardino Local Agency Formation Commission ("LAFCO"), or any other public agency in any proceedings to annex the Property to the City. The Landowner's and its Successor's cooperation shall include, but not be limited to, the filing of all necessary applications, petitions, plans, drawings, and any other documentation or information required by the City, LAFCO, or any other public agency at no cost or expense to Landowner or its Successor.

2.5 Duration of Agreement. This Agreement shall remain in effect until such time as the property is annexed into the City, or upon expiration of the County's land use approvals, including any extensions, or whatever occurs first.

2.6 Property Maintenance. Landowner agrees to maintain the Property in good condition and in compliance with reasonable residential standards. Reasonable standards are defined as the level of maintenance service necessary to keep the appearance and operation of the Property free from visible defects, deterioration, dirt and debris.

2.7 Amendments/Time Extensions. City and Landowner may amend this Agreement by written amendment mutually executed by both parties. Such amendments shall not invalidate this Agreement or relieve or release any Party from its obligations under this Agreement unless expressly stated so by such amendment.

3. GENERAL PROVISIONS.

3.1 **General Compliance.** Landowner agrees to comply with all applicable, federal, state and local laws and regulations, including but not limited to the City's Building, Planning, Fire and Code Enforcement Departments.

3.2 **Waiver of Liability.** Accordingly, Landowner shall waive the City from all liability resulting from any damage to property or unfinished or poor quality work caused by a contractor.

3.3 **Hold Harmless.** Landowner shall hold harmless, defend and indemnify City, and its respective elected officials, directors, officials, officers, attorneys, employees, agents, representatives and volunteers from and against any and all actual or alleged claims, actions, suits, charges, demands, judgments, and expenses (including reasonable attorneys' fees, expert witness fees and court costs) whatsoever that arise out of Landowner's or any of its contractor's performance or non-performance of this Agreement. Landowner shall defend, at Landowner's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought against City and its respective elected officials, directors, officials, officers, attorneys, employees, agents, representatives and volunteers.

3.4 **Suspension or Termination.** City may suspend or terminate this Agreement, in whole or in part, if Landowner materially fails to comply with any term of this Agreement or with any of the rules, regulations or provisions referred to herein; and the City may declare Landowner ineligible for any further participation in City contracts, in addition to other remedies as provided by law.

3.5 **Attorneys' Fees.** In the event of the bringing of an action or suit by a Party against another Party by reason of any breach of any of the covenants contained in this Agreement or any other dispute between the Parties concerning this Agreement, then, in that event, the prevailing Party in such action or dispute, whether by final judgment or out of court settlement shall be entitled to have and recover of and from the other Party all costs and expenses of suit or claim, including actual attorneys' fees. Any judgment or order entered in any final judgment shall contain a specific provision providing for the recovery of all costs and expenses of suit or claim, including actual attorneys' fees (collectively, the "Costs") incurred in enforcing, perfecting and executing such judgment. For the purposes of this Section, Costs shall include, without limitation, attorneys' and experts' fees, costs and expenses incurred in the following: (i) post judgment motions, (ii) contempt proceedings, (iii) garnishment, levy, and debtor and third party examination; (iv) discovery; and (v) bankruptcy litigation. This Section shall survive any expiration or termination of this Agreement.

3.6 **Interpretation.** City and Landowner acknowledge that this Agreement is the product of mutual arms-length negotiation and drafting. Accordingly, the rule of construction which provides the ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this Agreement. In any action or proceeding to interpret or enforce this Agreement, the finder of fact may refer to any

extrinsic evidence not in direct conflict with any specific provision of this Agreement to determine and give effect to the intention of the parties.

3.7 Counterpart Originals; Integration; Modification. This Agreement may be executed in by the Parties in counterparts, all of which together shall constitute a single Agreement. This Agreement constitutes the entire understanding of the Parties with respect to the matters set forth in this Agreement and supersedes any and all writings and oral discussions concerning the same. The performances of City's and Landowner's respective obligations under this Agreement are not intended to benefit any party other than the City or Landowner, except as expressly provided otherwise herein. The foregoing notwithstanding, the City is declared to be an intended third party beneficiary of the Landowner's obligations hereunder,

3.8 No Waiver. Failure to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

3.9 Venue; Jurisdiction; Governing Law. Any legal action or proceeding concerning this Agreement shall be filed and prosecuted in the appropriate court in the County of San Bernardino, California. Each Party hereto irrevocably consents to the personal jurisdiction of the court. This Agreement shall be governed by the laws of the State of California, without regard to conflict of laws principles.

3.10 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.11 Authority to Enter Agreement; Subcontracting; Recordation. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. The Parties agree that this Agreement may be recorded with the San Bernardino County Recorder's Office.

3.12 Non Assignability. Landowner may not assign any of their rights or obligations under this Agreement without the express written consent of the City, which may not be unreasonably withheld or delayed. Notwithstanding the foregoing, Landowner may assign this Agreement, upon written notice to City, to any entity in which Landowner owns a majority and controlling interest. No unpermitted successor or assign of Landowner's rights under this Agreement shall be deemed to possess or be entitled to exercise any such right; provided, however, that the obligations of this Agreement shall nonetheless be binding upon such unpermitted successor or assign.

3.13 Force Majeure. Landowner shall be excused for the period of any delay in the performance of its obligations hereunder, when prevented from so doing by any cause beyond its control including, but not limited to, construction, labor unrest, litigation, unavailability of material, weather, war, acts of God, and refusal or failure of governmental authorities to grant

necessary approvals and permits for construction of the Improvements in the manner contemplated herein (“Force Majeure”).

3.14 **Notices.** All notices required or allowed by this Agreement shall be in writing and addressed as set forth below. Notices shall be deemed received upon (i) actual receipt by the intended recipient if the method of delivery is personal service, messenger service or facsimile transmission, (ii) actual receipt by the intended recipient if the method of delivery is overnight delivery service such as Federal Express or the like, or (iii) three business days after deposit in the United States mail, postage prepaid, return receipt requested. Notices shall be addressed as follows:

If to City:	City of Fontana 8353 Sierra Avenue Fontana, California 92335 Telephone: (909) 350-7654 Facsimile: (909) 350-6613 Attn: City Manager
With a copy to:	Best Best & Krieger LLP 3500 Porsche Way, Suite 200 Telephone: (909) 989-8584 Facsimile: (909) 944-1441 Attn:
If to Landowner:	Inland Senior Development, LLC 1 Venture, Suite 130 Irvine, CA 92618 Telephone: (949) 339-5337 Attn: Mohammad Monshizadeh
With a copy to:	Inland Senior Development, LLC 1 Venture, Suite 130 Irvine, CA 92618 Telephone: (949) 339-5337 Attn: Mohammad Monshizadeh

Any party’s address for notices may be changed by written notice as provided above.

[Signatures on following pages]

SIGNATURE PAGE
TO
PREANNEXATION AGREEMENT

CITY:

BEST BEST & KRIEGER LLP

CITY OF FONTANA
a California municipal corporation

Dated: _____

By: _____
Matthew C. Ballantyne
City Manager

ATTEST:

Germaine McClellan, City Clerk

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP

By: _____
City Attorney

LANDOWNER:

Inland Senior Development, LLC

Dated: _____

By: _____
Mohammad Monshizadeh

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of SAN BERNARDINO)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of SAN BERNARDINO)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

“EXHIBIT A”
TO
PREANNEXATION AGREEMENT

LEGAL DESCRIPTION OF PROPERTY
ASSESSOR PARCEL NOS. 0230-031-20 and 0230-031-21

LEGAL DESCRIPTION:

PARCEL C:

APN: 0230-031-20-0-000
LOT 223 OF TRACT NO. 2102, FONTANA ARROW ROUTE TRACT, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 31, PAGES 11, 12, 13, 14 AND 15, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL D:

APN: 0230-031-21-0-000
THE NORTH 132 FEET OF LOT 226, TRACT NO. 2102, FONTANA ARROW ROUTE TRACT, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 31, PAGES 11, 12, 13, 14 AND 15, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**“EXHIBIT B”
TO
PREANNEXATION AGREEMENT**

ASSESSOR’S PARCEL MAP

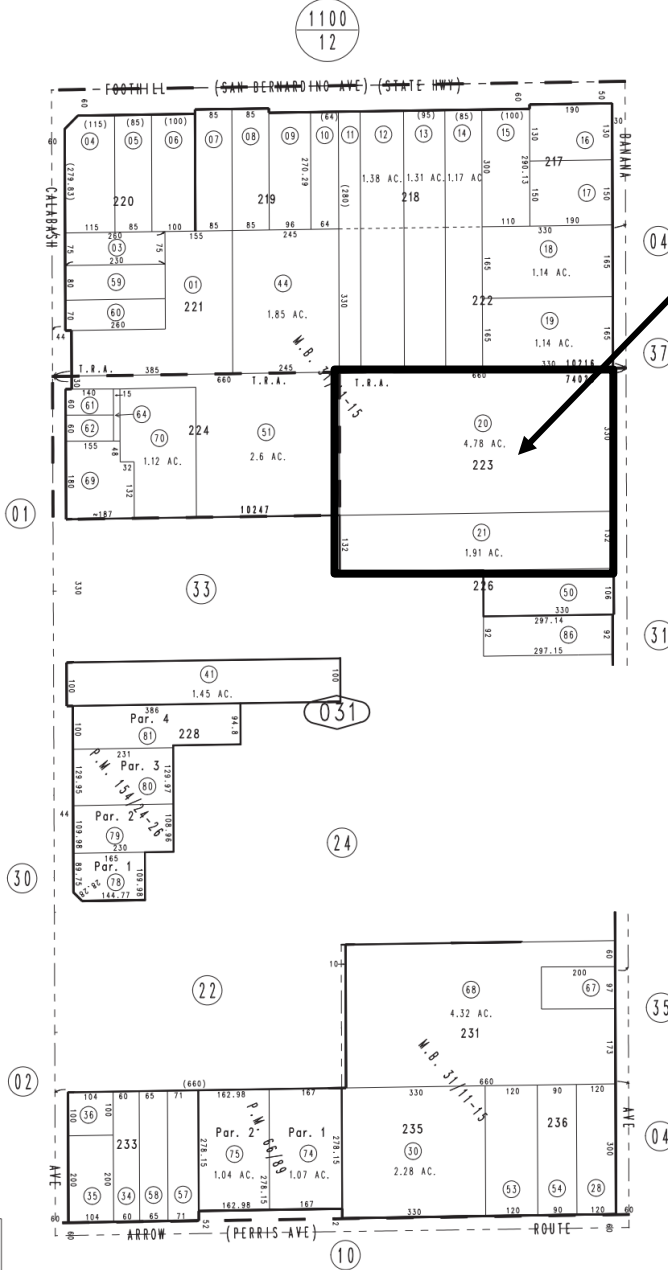
February 2004

Parcel Map No. 13242, P.M. 154/74-26
Parcel Map No. 6888, P.M. 66/88

Pin, N.W. 1/4, Sec. 10
T.1S., R.6W.

Assessor's Map
Book 0230 Page 03
San Bernardino County

REVISED
11/03/20 CW



THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.

Subject Site

Pin, Fontana Arrow Route Tract No. 2102
M.B. 31/11-15

City of Fontana
Fontana Unified
Tax Rate Area
10216 10247 74025

1"=200'

0230 - 03

“EXHIBIT C”
TO
PREANNEXATION AGREEMENT

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF FONTANA AND
COUNTY OF SAN BERNARDINO
(WESTERN SPHERE OF INFLUENCE)

[Attached Behind This Page]

MEMORANDUM OF UNDERSTANDING

**BETWEEN
CITY OF FONTANA
AND
COUNTY OF SAN BERNARDINO
AUGUST 26, 2008**

WESTERN SPHERE OF INFLUENCE

CITY OF FONTANA/COUNTY OF SAN BERNARDINO

**MEMORANDUM OF UNDERSTANDING
(Western Sphere of Influence)**

This Memorandum of Understanding (Western Sphere of Influence) ("Agreement") is entered into between (1) the City of Fontana, a California general law city and municipal corporation ("City") and, (2) the County of San Bernardino, a political subdivision of the State of California ("County"). This Agreement is reference dated as of August 26, 2008. This Agreement will not become effective until the occurrence of the "Effective Date" defined below. If the Effective Date does not occur on or before December 31, 2008, then this Agreement may not thereafter become effective and any prior approvals and/or signatures of the Parties shall be deemed, automatically and without need of further act or instrument by either Party, rescinded and void *ab initio*. The City and the County are sometimes referred to in this Agreement, individually, as a "Party" and, collectively, as the "Parties".

This Agreement will become effective on the date ("Effective Date") on which it has been approved by both the City Council on behalf of the City and the Board of Supervisors on behalf of the County and fully executed counterpart originals have been exchanged between the Parties. The term ("Term") of this Agreement shall commence on the Effective Date and shall automatically end upon the City's annexation of the entire Western Sphere (as defined in Recital A, below), or either Party's election to terminate this Agreement, which election may be made at any time and for any reason (or for no reason), notice of which shall be given as provided by Section 6.

RECITALS

A. Immediately adjacent to the westerly border of the City is an unincorporated area of land located within the County and designated by the San Bernardino County Local Agency Formation Commission ("LAFCO") as the City's Western Sphere of Influence ("Western Sphere"). The Western Sphere is approximately 8.5 square miles in size. A map depicting the boundaries of the Western Sphere is attached as Exhibit "A".

B. The San Bernardino County Redevelopment Agency has previously adopted a redevelopment plan ("Plan") for a redevelopment project area known as the "Speedway Redevelopment Area" ("Project Area"). The boundaries of the Project Area are located entirely within the Western Sphere and are also identified on the attached Exhibit "A".

C. The City provides sanitary sewer services within portions of the Western Sphere. The City owns and maintains the pipes and other transmission infrastructure needed to provide such service, whereas the Inland Empire Utilities Agency ("IEUA") provides wastewater treatment services within portions of the Western Sphere through a series of agreements with the City. The City's current annexation policy is to require any landowner or developer within the Western Sphere who desires to connect to the City's sanitary sewer system to either sign an irrevocable agreement to annex to the City or to complete a pre-annexation agreement. By this Agreement, the City and County have agreed on certain practices and procedures that they intend will facilitate economic development within the Western Sphere.

D. The City and the County acknowledge that the Western Sphere, or some portion of it, may be annexed into the City at some future date. The County further acknowledges that the City's intent in entering into this Agreement includes ensuring that development within the Western Sphere which occurs prior to such annexation be accomplished in a manner that as closely as possible reflects the City's practices and requirements as established in the City's Development Code as it exists from time to time throughout the Term of this Agreement.

E. The Parties recognize that development within the Western Sphere will be enhanced and facilitated by the investment of public funds into the public infrastructure needed to support such development. The chief sources of public funds for such public infrastructure are those fees and charges imposed and collected from developers within the Western Sphere as a condition to the obtaining of building permits and other entitlements for such development. County has a limited program for the collection of such fees. The City, in connection with the pre-annexation agreements described in Recital "C" above, requires developers within the Western Sphere to pay to the City certain of those development impact fees that would otherwise be assessed against such development if it were located within the City's jurisdictional boundaries. As to the Western Sphere, these development impact fees will consist solely of sewer connection and expansion fees, a storm drainage facilities fee, a fire facilities fee, and a park development fee (for residential properties only) (collectively, the "Western Sphere Development Impact Fees" or "Western Sphere DIF"). The Western Sphere DIF shall be charged at the same rates which City charges for similar development projects within the City's incorporated boundaries, as such rates may be amended from time to time. To facilitate the economic development and revitalization of the Western Sphere, the City and the County have agreed that the Western Sphere DIF and the corresponding impact fees collected by the County from projects being developed within the Western Sphere shall be invested into public infrastructure projects located within the Western Sphere as more particularly described in this Agreement.

F. The Parties further recognize that development within the Western Sphere will be enhanced and facilitated by the reinvestment of sales tax revenues generated within the Western Sphere as more particularly described in Section 5 of this Agreement.

AGREEMENT

Section 1. Incorporation of Recitals. The Parties each acknowledge the accuracy of the factual matters set forth in the Recitals and further acknowledge that such facts form the material basis for their entry into this Agreement.

Section 2. County's Obligation to Consult re Development Entitlements and Development Code and Development Standard Changes. The City has reviewed the County's current Development Code and other regulations concerning development within the Western Sphere (collectively, the "County Standards"). Although not identical to City standards, the City is nonetheless satisfied that development which takes place in accordance with the County Standards will be of sufficient quality and character so as to be compatible with the development in the adjoining portion of the City. Accordingly, and in order to foster the continued development of the Western Sphere consistent with the above objective, the County agrees as follows:

2.1 The County shall submit to the City full and complete copies of any and all development or other entitlement permits or applications for development entitlements occurring within the Western Sphere. Such

information shall be provided to the City no less than thirty (30) days prior to the administrative or County Planning Commission hearing at which the development application or other entitlement is to be considered. The City shall promptly review the application and, within twenty (20) days following its receipt from the County, the City will provide written comments to the County for its consideration. The County agrees to reasonably consider the City's comments and, to the extent not in conflict with the County Standards, to incorporate such City-recommended changes as either modifications to or conditions of approval of such entitlement.

2.2 The County shall provide to the City no less than thirty (30) days prior notice of any proposed changes to any of the County Standards, including General Plan amendments and Zoning and Development Code amendments. The County shall review and reasonably respond to any suggested changes and County staff shall incorporate such City-recommended changes for consideration by the County Planning Commission or Board of Supervisors, as applicable.

2.3 The requirements of the foregoing Sections 2.1 and 2.2 shall not operate to modify, waive or abridge any County obligation arising under the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.*) ("CEQA") to provide the City with environmental notice and opportunity to comment as prescribed by CEQA.

2.4 The County shall review and consider a proposed change to the County Standards to make the County Standards consistent with the City's Automatic Fire Sprinkler Systems standards as set forth in City Code Sections 11-26 thru 11-31.

Section 3. City Provision of Sewer Service. To the extent the City/IEUA has available wastewater (sewer) treatment capacity, the City agrees to provide sewer service to and authorize a sewer connection by any landowner requesting such connection and service within the Western Sphere provided that: (1) such landowner complies with the City's annexation policy, as it may be amended from time to time (a current copy of which is attached as Exhibit "B"); (2) the landowner meets all other City requirements and pays the applicable sewer service fees which are imposed by the City pursuant to the City's Municipal Code and other policies and regulations, as they may be amended from time-to-time, in connection with such sewer service; and (3) the landowner pays to the City the Western Sphere DIF which would be applicable to the development if it were to occur in the City at the time a sewer connection permit is issued. Provided, however, that the City shall not require the payment of any development impact fee which is imposed by the County to fund the same infrastructure as being funded by the City impact fee. City agrees that this Agreement will accomplish, in major part, what annexation would provide for the Western Sphere. Therefore, notwithstanding the requirement for a landowner to comply with the City's annexation policy, the City agrees it will not file a formal application with the Local Agency Formation Commission seeking to annex any part of Speedway Redevelopment Area as long as this Agreement is in effect, unless the annexation application is otherwise agreed upon by the City and the County.

Section 4. Use of Development Impact Fees Within Western Sphere. Each year as part of their preparation and approval of their respective Capital Improvement Plans described by Government Code Section 66002, the City and the County shall each use reasonable good faith efforts to include capital improvement/public infrastructure projects within the Western Sphere which will be funded by the Western Sphere DIF (as to the City) and those development impact fees received by the County from development occurring within the Western Sphere. Without limiting the legislative discretion granted to either the City Council or the Board of Supervisors, the Parties agree that, to the extent possible, the following projects shall be given priority in the allocation of Western Sphere DIF and those development impact fees received by the County from development occurring within the Western Sphere:

- 4.1 Sewer Facilities
- 4.2 Storm Drainage Facilities
- 4.3 Park Development: a central park
- 4.4 Fire Facilities

The above list is intended by the Parties to be precatory only and shall not be a binding commitment to fund. The County's Second District Supervisor and City's Mayor are authorized to meet and attempt to resolve any disputes regarding the priority of projects to be funded and/or add new projects, subject to the consent and ratification of the City Council and Board of Supervisors. Actual funding of such projects shall require separate agreements for each specific project, as approved by both the City Council and Board of Supervisors.

Section 5. Sales Tax Allocations. It is the desire of the Parties that a yearly General Fund commitment equal to approximately thirty-seven percent (37%) of the sales tax revenue received by the Parties and attributable to the application of the Bradley – Burns Uniform Sales and Use Tax Law (Revenue and Taxation Code Section 7200, *et seq*) upon taxable sales and lease transactions occurring within the Western Sphere (the “Western Sphere Sales Tax Revenues”) shall be returned to that same area through funding of public improvement projects as approved by both Parties or projects described in Section 4, above, even if, over time, portions of the Western Sphere are incorporated within the City. The County shall provide the City with a Statement of Account upon request of the City. The Statement of Account shall include the following: Western Sphere Sales Tax Revenue received by the County to date for the current Fiscal Year; Western Sphere Sales Tax Revenue applied to public improvement projects under Section 4 above from the date of this Agreement. If the City annexes some or all of the Western Sphere, the City shall provide the same information as to Western Sphere Sales Tax Revenues received by the City to the County upon request. It is the intent of the Parties that the sales tax revenue allocations are to be above and beyond the Parties’ current expenditures in the Western Sphere.

Notwithstanding anything to the contrary in this Agreement, any such Western Sphere Sales Tax Revenues received by the County and/or City, as applicable, shall remain the sole property of the County or City, as applicable, unless and until they have been contractually committed by the owning Party in a separate agreement for a specific project. Notwithstanding anything in this Section 5 or elsewhere in this Agreement to the contrary, the Parties agree that neither Party is making a pledge of Western Sphere Sales Tax Revenues or of their respective General Funds. Both Parties acknowledge that all Western Sphere Sales Tax Revenues must by law be deposited into the receiving Party’s General Fund and is subject to appropriation and expenditure only in accordance with law. Nothing in this Agreement is a representation or agreement by either Party to fund a particular project or to make a particular expenditure, which

actions must be, if at all, authorized by the City Council or Board of Supervisors, as applicable, following all legally required prerequisites.

Section 6. Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective parties may provide in writing for this purpose.

City
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335
Attention: City Manager

County
County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, CA 92415
Attention: County Administrative Officer

Section 7. Integration/Modifications. This Agreement contains the entire understanding of the Parties with respect to the matters set forth in this Agreement and supercedes any and all prior writings and oral discussions concerning the same. This Agreement may not be amended except by a writing duly signed and duly approved by the City and County. This Agreement is not intended to and shall not accrue to the benefit of any person or entity other than the City and the County.

Section 8. Governing Law. This Agreement shall be governed by the procedural and substantive laws of the State of California.

Section 9. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Section 10. Counterpart Originals. This Agreement may be executed by the Parties in counterparts, all of which together shall constitute a single Agreement.

Section 11. Attorney's Fees. If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing Party, shall bear its own costs and attorneys' fees.

Section 12. Authority to Enter into Agreement. City and County both warrant that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind both respective Parties to this Agreement.

[Signatures on following pages]

**SIGNATURE PAGE
TO
MEMORANDUM OF UNDERSTANDING
(Western Sphere of Influence)**

COUNTY:

COUNTY OF SAN BERNARDINO

Paul Biane
Paul Biane, Chairman
Board of Supervisors

Dated: AUG 26 2008

CITY:

CITY OF FONTANA, a California legal law
city and municipal corporation

Kenneth R. Hunt
By: Kenneth R. Hunt
City Manager

Dated: 8/28/08

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

DENA M. SMITH
Clerk of the Board of Supervisors

Dena M. Smith
By: Deputy

Dated: AUG 26 2008

ATTEST:

Sandra Medina, Deputy
City Clerk

Dated: 9/2/08

APPROVED AS TO LEGAL FORM:

RUTH E. STRINGER
County Counsel

Rex A. Hinesley
By: Rex A. Hinesley, Chief Assistant

Dated: 8-19-08

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP

Ray Bais
By: City Attorney

Dated: September 2, 2008

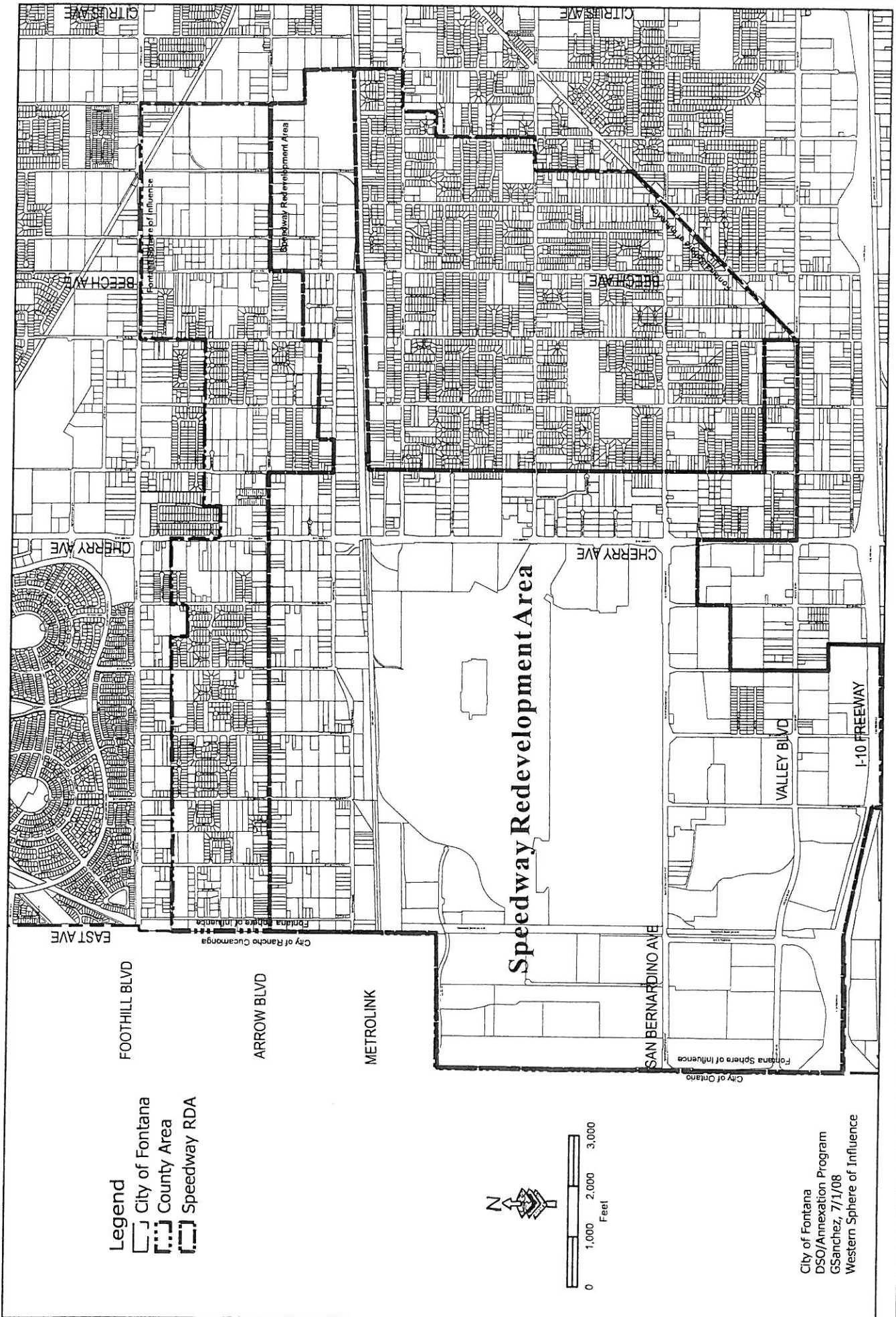
EXHIBIT A
TO
MEMORANDUM OF UNDERSTANDING

WESTERN SPHERE AREA MAP
(See following page.)

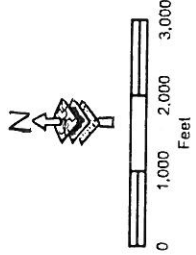


Western Sphere of Influence

CITY OF FONTANA



- Legend**
- City of Fontana
 - County Area
 - Speedway RDA



City of Fontana
DSO/Annexation Program
GSanchez, 7/1/08
Western Sphere of Influence

EXHIBIT B
TO
MEMORANDUM OF UNDERSTANDING

ANNEXATION POLICY
(See following pages.)

RESOLUTION NO. 2006-95

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA AMENDING THE CITY OF FONTANA'S POLICY PERTAINING TO ANNEXATION.

WHEREAS, the City Council of the City of Fontana ("City") has approved a policy pertaining to annexation as noted in Chapter 3 (Land Use Element) of the General Plan;

WHEREAS, the City has determined that in order to promote the City Council's economic and General Plan goals and objectives, amending the City's policy on annexation is an important benefit for the City's economic development;

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

Section 1. Annexations shall be pursued that promote Community balance, quality development, and improvement of the City's economic base as follows:

Annexations may be initiated by the City Council (adopted resolution) or by property owners or registered voters (written petition);

A Plan for Services shall be prepared for all annexations and submitted to the City Council for review and consideration;

A fiscal impact analysis shall be conducted for all annexation areas;

All City and Local Agency Formation Commission (LAFCO) filing fees for annexation must be paid by the applicant.

Section 2. Irrevocable Agreements to Annex for Sewer Service—Existing Development (Contiguous and Non-Contiguous Areas)

An Irrevocable Agreement to Annex is an agreement between the landowner and the City for only sewer service. This agreement outlines that the City shall provide sewer service outside its corporate limits and the landowner agrees not to oppose a future attempt by the City to annex the area. Upon approval by LAFCO, the agreement shall be recorded with the County Recorder's office. Upon recordation, the agreement shall be considered a covenant on the land.

Irrevocable Agreements to Annex may be utilized when sewer service is extended outside the City's corporate limits to an existing residence or an existing commercial or industrial establishment that is experiencing a failing septic system.

Section 3. Irrevocable Agreements to Annex for Sewer Service—New Development (Non-Contiguous Areas)

Irrevocable Agreements to Annex for sewer service may be utilized for new developments for areas that are not contiguous to the City's limits.

Section 4. Preannexation Agreements—New Development (Contiguous and Non-Contiguous Areas)

A Preannexation Agreement may be utilized for new developments for areas that are contiguous or not contiguous to the City's limits. An applicant may wish to consider a preannexation agreement to outline land use designations, development standards, conditional use permits approved by the County of San Bernardino, donation of right-of-way easements, sewer service, and other requirements as necessary.

Annexation may be deferred by use of a Preannexation Agreement if the following conditions are met:

The proposed development is of a quality and design that is comparable to existing City standards.

The development mitigation fees would be paid by the developer as required by all developments in the City. The City would agree to set these mitigation fees aside for use in partnership with County Redevelopment for the creation of the necessary infrastructure to serve the growth needs of the area.

The proposed development would agree to enter into a Preannexation Agreement with the City that would include an Irrevocable Agreement to Annex to the City if and when the area is brought forward for annexation.

The County would agree to use recurring revenues generated by development in the area to support community service needs in the unincorporated area of Fontana.

Section 5. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 13th day of June, 2006.

READ AND APPROVED AS TO LEGAL FORM:

/s/ Clark Alsop
City Attorney

I, Beatrice Watson, 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 13th day of June, 2006 by the following vote to wit:

AYES: Council Members Roberts, Rutherford, Scialdone, Warren

NOES:

ABSENT: Mayor Nuaimi

/s/ Beatrice Watson
City Clerk of the City of Fontana

/s/ Mark N. Nuaimi
Mayor of the City of Fontana

ATTEST:

/s/ Beatrice Watson
City Clerk

“EXHIBIT D”
TO
PREANNEXATION AGREEMENT

CITY’S ANNEXATION POLICY

[Attached Behind This Page]

RESOLUTION NO. 2008-142

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA AMENDING THE CITY OF FONTANA'S POLICY PERTAINING TO ANNEXATION.

WHEREAS, the City Council of the City of Fontana ("City") has approved a policy pertaining to annexation as noted in Chapter 3 (Land Use Element) of the General Plan;

WHEREAS, the City has determined that in order to promote the City Council's economic and General Plan goals and objectives, amending the City's policy on annexation is an important benefit for the City's economic development;

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

Section 1. Annexations shall be pursued that promote Community balance, quality development, and improvement of the City's economic base as follows:

Annexations may be initiated by the City Council (adopted resolution) or by property owners or registered voters (written petition);

A Plan for Services shall be prepared for all annexations and submitted to the City Council for review and consideration;

A fiscal impact analysis shall be conducted for all annexation areas;

All City and Local Agency Formation Commission (LAFCO) filing fees for annexation must be paid by the applicant.

Section 2. Irrevocable Agreements to Annex for Sewer Service—Existing Development (Contiguous and Non-Contiguous Areas)

An Irrevocable Agreement to Annex is an agreement between the landowner and the City for only sewer service. This agreement outlines that the City shall provide sewer service outside its corporate limits and the landowner agrees not to oppose a future attempt by the City to annex the area. Upon approval by LAFCO, the agreement shall be recorded with the County Recorder's office. Upon recordation, the agreement shall be considered a covenant on the land.

Irrevocable Agreements to Annex may be utilized when sewer service is extended outside the City's corporate limits to an existing residence or an existing commercial or industrial establishment that is experiencing a failing septic system.

Section 3. Irrevocable Agreements to Annex for Sewer Service—New Development (Non-Contiguous Areas)

Irrevocable Agreements to Annex for sewer service may be utilized for new developments for areas that are not contiguous to the City's limits.

Irrevocable Agreements to Annex in the Western Sphere of Influence will be subject to the terms of the adopted Memorandum of Understanding (MOU) between the City and County of San Bernardino (copy attached).

Section 4. Preannexation Agreements—New Development (Contiguous and Non-Contiguous Areas)

A Preannexation Agreement may be utilized for new developments for areas that are contiguous or not contiguous to the City's limits. An applicant may wish to consider a preannexation agreement to outline land use designations, development standards, conditional use permits approved by the County of San Bernardino, donation of right-of-way easements, sewer service, and other requirements as necessary.

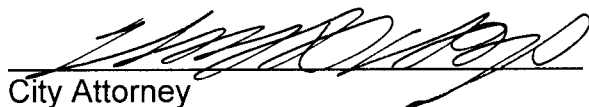
Annexation may be deferred by use of a Preannexation Agreement if the following condition is met:

Preannexation Agreements in the Western Sphere of Influence will be subject to the terms of the adopted MOU between the City and County (copy attached).

Section 5. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 9th day of December, 2008.

READ AND APPROVED AS TO LEGAL FORM:

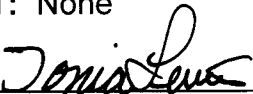

City Attorney

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 at a regular meeting thereof, held on the 9th day of December, 2008 by the following vote to wit:

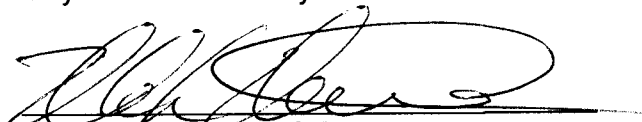
AYES: Mayor Nuaimi, Council Members Roberts, Rutherford, Scialdone, Warren

NOES: None

ABSENT: None



City Clerk of the City of Fontana



Mayor of the City of Fontana

ATTEST:



City Clerk of the City of Fontana

MEMORANDUM OF UNDERSTANDING

**BETWEEN
CITY OF FONTANA
AND
COUNTY OF SAN BERNARDINO
AUGUST 26, 2008**

WESTERN SPHERE OF INFLUENCE

CITY OF FONTANA/COUNTY OF SAN BERNARDINO

**MEMORANDUM OF UNDERSTANDING
(Western Sphere of Influence)**

This Memorandum of Understanding (Western Sphere of Influence) ("Agreement") is entered into between (1) the City of Fontana, a California general law city and municipal corporation ("City") and, (2) the County of San Bernardino, a political subdivision of the State of California ("County"). This Agreement is reference dated as of August 26, 2008. This Agreement will not become effective until the occurrence of the "Effective Date" defined below. If the Effective Date does not occur on or before December 31, 2008, then this Agreement may not thereafter become effective and any prior approvals and/or signatures of the Parties shall be deemed, automatically and without need of further act or instrument by either Party, rescinded and void *ab initio*. The City and the County are sometimes referred to in this Agreement, individually, as a "Party" and, collectively, as the "Parties".

This Agreement will become effective on the date ("Effective Date") on which it has been approved by both the City Council on behalf of the City and the Board of Supervisors on behalf of the County and fully executed counterpart originals have been exchanged between the Parties. The term ("Term") of this Agreement shall commence on the Effective Date and shall automatically end upon the City's annexation of the entire Western Sphere (as defined in Recital A, below), or either Party's election to terminate this Agreement, which election may be made at any time and for any reason (or for no reason), notice of which shall be given as provided by Section 6.

RECITALS

A. Immediately adjacent to the westerly border of the City is an unincorporated area of land located within the County and designated by the San Bernardino County Local Agency Formation Commission ("LAFCO") as the City's Western Sphere of Influence ("Western Sphere"). The Western Sphere is approximately 8.5 square miles in size. A map depicting the boundaries of the Western Sphere is attached as Exhibit "A".

B. The San Bernardino County Redevelopment Agency has previously adopted a redevelopment plan ("Plan") for a redevelopment project area known as the "Speedway Redevelopment Area" ("Project Area"). The boundaries of the Project Area are located entirely within the Western Sphere and are also identified on the attached Exhibit "A".

C. The City provides sanitary sewer services within portions of the Western Sphere. The City owns and maintains the pipes and other transmission infrastructure needed to provide such service, whereas the Inland Empire Utilities Agency ("IEUA") provides wastewater treatment services within portions of the Western Sphere through a series of agreements with the City. The City's current annexation policy is to require any landowner or developer within the Western Sphere who desires to connect to the City's sanitary sewer system to either sign an irrevocable agreement to annex to the City or to complete a pre-annexation agreement. By this Agreement, the City and County have agreed on certain practices and procedures that they intend will facilitate economic development within the Western Sphere.

D. The City and the County acknowledge that the Western Sphere, or some portion of it, may be annexed into the City at some future date. The County further acknowledges that the City's intent in entering into this Agreement includes ensuring that development within the Western Sphere which occurs prior to such annexation be accomplished in a manner that as closely as possible reflects the City's practices and requirements as established in the City's Development Code as it exists from time to time throughout the Term of this Agreement.

E. The Parties recognize that development within the Western Sphere will be enhanced and facilitated by the investment of public funds into the public infrastructure needed to support such development. The chief sources of public funds for such public infrastructure are those fees and charges imposed and collected from developers within the Western Sphere as a condition to the obtaining of building permits and other entitlements for such development. County has a limited program for the collection of such fees. The City, in connection with the pre-annexation agreements described in Recital "C" above, requires developers within the Western Sphere to pay to the City certain of those development impact fees that would otherwise be assessed against such development if it were located within the City's jurisdictional boundaries. As to the Western Sphere, these development impact fees will consist solely of sewer connection and expansion fees, a storm drainage facilities fee, a fire facilities fee, and a park development fee (for residential properties only) (collectively, the "Western Sphere Development Impact Fees" or "Western Sphere DIF"). The Western Sphere DIF shall be charged at the same rates which City charges for similar development projects within the City's incorporated boundaries, as such rates may be amended from time to time. To facilitate the economic development and revitalization of the Western Sphere, the City and the County have agreed that the Western Sphere DIF and the corresponding impact fees collected by the County from projects being developed within the Western Sphere shall be invested into public infrastructure projects located within the Western Sphere as more particularly described in this Agreement.

F. The Parties further recognize that development within the Western Sphere will be enhanced and facilitated by the reinvestment of sales tax revenues generated within the Western Sphere as more particularly described in Section 5 of this Agreement.

AGREEMENT

Section 1. Incorporation of Recitals. The Parties each acknowledge the accuracy of the factual matters set forth in the Recitals and further acknowledge that such facts form the material basis for their entry into this Agreement.

Section 2. County's Obligation to Consult re Development Entitlements and Development Code and Development Standard Changes. The City has reviewed the County's current Development Code and other regulations concerning development within the Western Sphere (collectively, the "County Standards"). Although not identical to City standards, the City is nonetheless satisfied that development which takes place in accordance with the County Standards will be of sufficient quality and character so as to be compatible with the development in the adjoining portion of the City. Accordingly, and in order to foster the continued development of the Western Sphere consistent with the above objective, the County agrees as follows:

2.1 The County shall submit to the City full and complete copies of any and all development or other entitlement permits or applications for development entitlements occurring within the Western Sphere. Such

information shall be provided to the City no less than thirty (30) days prior to the administrative or County Planning Commission hearing at which the development application or other entitlement is to be considered. The City shall promptly review the application and, within twenty (20) days following its receipt from the County, the City will provide written comments to the County for its consideration. The County agrees to reasonably consider the City's comments and, to the extent not in conflict with the County Standards, to incorporate such City-recommended changes as either modifications to or conditions of approval of such entitlement.

2.2 The County shall provide to the City no less than thirty (30) days prior notice of any proposed changes to any of the County Standards, including General Plan amendments and Zoning and Development Code amendments. The County shall review and reasonably respond to any suggested changes and County staff shall incorporate such City-recommended changes for consideration by the County Planning Commission or Board of Supervisors, as applicable.

2.3 The requirements of the foregoing Sections 2.1 and 2.2 shall not operate to modify, waive or abridge any County obligation arising under the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.*) ("CEQA") to provide the City with environmental notice and opportunity to comment as prescribed by CEQA.

2.4 The County shall review and consider a proposed change to the County Standards to make the County Standards consistent with the City's Automatic Fire Sprinkler Systems standards as set forth in City Code Sections 11-26 thru 11-31.

Section 3. City Provision of Sewer Service. To the extent the City/IEUA has available wastewater (sewer) treatment capacity, the City agrees to provide sewer service to and authorize a sewer connection by any landowner requesting such connection and service within the Western Sphere provided that: (1) such landowner complies with the City's annexation policy, as it may be amended from time to time (a current copy of which is attached as Exhibit "B"); (2) the landowner meets all other City requirements and pays the applicable sewer service fees which are imposed by the City pursuant to the City's Municipal Code and other policies and regulations, as they may be amended from time-to-time, in connection with such sewer service; and (3) the landowner pays to the City the Western Sphere DIF which would be applicable to the development if it were to occur in the City at the time a sewer connection permit is issued. Provided, however, that the City shall not require the payment of any development impact fee which is imposed by the County to fund the same infrastructure as being funded by the City impact fee. City agrees that this Agreement will accomplish, in major part, what annexation would provide for the Western Sphere. Therefore, notwithstanding the requirement for a landowner to comply with the City's annexation policy, the City agrees it will not file a formal application with the Local Agency Formation Commission seeking to annex any part of Speedway Redevelopment Area as long as this Agreement is in effect, unless the annexation application is otherwise agreed upon by the City and the County.

Section 4. Use of Development Impact Fees Within Western Sphere. Each year as part of their preparation and approval of their respective Capital Improvement Plans described by Government Code Section 66002, the City and the County shall each use reasonable good faith efforts to include capital improvement/public infrastructure projects within the Western Sphere which will be funded by the Western Sphere DIF (as to the City) and those development impact fees received by the County from development occurring within the Western Sphere. Without limiting the legislative discretion granted to either the City Council or the Board of Supervisors, the Parties agree that, to the extent possible, the following projects shall be given priority in the allocation of Western Sphere DIF and those development impact fees received by the County from development occurring within the Western Sphere:

- 4.1 Sewer Facilities
- 4.2 Storm Drainage Facilities
- 4.3 Park Development: a central park
- 4.4 Fire Facilities

The above list is intended by the Parties to be precatory only and shall not be a binding commitment to fund. The County's Second District Supervisor and City's Mayor are authorized to meet and attempt to resolve any disputes regarding the priority of projects to be funded and/or add new projects, subject to the consent and ratification of the City Council and Board of Supervisors. Actual funding of such projects shall require separate agreements for each specific project, as approved by both the City Council and Board of Supervisors.

Section 5. Sales Tax Allocations. It is the desire of the Parties that a yearly General Fund commitment equal to approximately thirty-seven percent (37%) of the sales tax revenue received by the Parties and attributable to the application of the Bradley – Burns Uniform Sales and Use Tax Law (Revenue and Taxation Code Section 7200, *et seq*) upon taxable sales and lease transactions occurring within the Western Sphere (the “Western Sphere Sales Tax Revenues”) shall be returned to that same area through funding of public improvement projects as approved by both Parties or projects described in Section 4, above, even if, over time, portions of the Western Sphere are incorporated within the City. The County shall provide the City with a Statement of Account upon request of the City. The Statement of Account shall include the following: Western Sphere Sales Tax Revenue received by the County to date for the current Fiscal Year; Western Sphere Sales Tax Revenue applied to public improvement projects under Section 4 above from the date of this Agreement. If the City annexes some or all of the Western Sphere, the City shall provide the same information as to Western Sphere Sales Tax Revenues received by the City to the County upon request. It is the intent of the Parties that the sales tax revenue allocations are to be above and beyond the Parties’ current expenditures in the Western Sphere.

Notwithstanding anything to the contrary in this Agreement, any such Western Sphere Sales Tax Revenues received by the County and/or City, as applicable, shall remain the sole property of the County or City, as applicable, unless and until they have been contractually committed by the owning Party in a separate agreement for a specific project. Notwithstanding anything in this Section 5 or elsewhere in this Agreement to the contrary, the Parties agree that neither Party is making a pledge of Western Sphere Sales Tax Revenues or of their respective General Funds. Both Parties acknowledge that all Western Sphere Sales Tax Revenues must by law be deposited into the receiving Party’s General Fund and is subject to appropriation and expenditure only in accordance with law. Nothing in this Agreement is a representation or agreement by either Party to fund a particular project or to make a particular expenditure, which

actions must be, if at all, authorized by the City Council or Board of Supervisors, as applicable, following all legally required prerequisites.

Section 6. Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective parties may provide in writing for this purpose.

City
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335
Attention: City Manager

County
County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, CA 92415
Attention: County Administrative Officer

Section 7. Integration/Modifications. This Agreement contains the entire understanding of the Parties with respect to the matters set forth in this Agreement and supercedes any and all prior writings and oral discussions concerning the same. This Agreement may not be amended except by a writing duly signed and duly approved by the City and County. This Agreement is not intended to and shall not accrue to the benefit of any person or entity other than the City and the County.

Section 8. Governing Law. This Agreement shall be governed by the procedural and substantive laws of the State of California.

Section 9. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Section 10. Counterpart Originals. This Agreement may be executed by the Parties in counterparts, all of which together shall constitute a single Agreement.

Section 11. Attorney's Fees. If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing Party, shall bear its own costs and attorneys' fees.

Section 12. Authority to Enter into Agreement. City and County both warrant that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind both respective Parties to this Agreement.

[Signatures on following pages]

**SIGNATURE PAGE
TO
MEMORANDUM OF UNDERSTANDING
(Western Sphere of Influence)**

COUNTY:

COUNTY OF SAN BERNARDINO

Paul Biane

Paul Biane, Chairman
Board of Supervisors

Dated: AUG 26 2008

CITY:

CITY OF FONTANA, a California legal law
city and municipal corporation

By: *Kenneth R. Hunt*

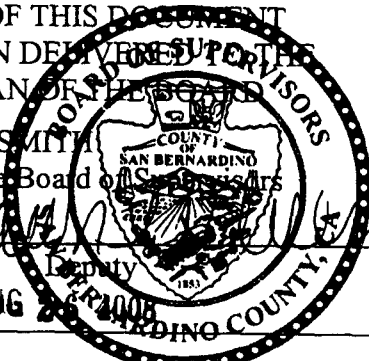
Kenneth R. Hunt
City Manager

Dated: 8/28/08

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

DENA M. SMITH
Clerk of the Board of Supervisors

By: *Dena M. Smith*



Dated: AUG 26 2008

ATTEST:

Sandra Medina, Deputy
City Clerk

Dated: 9/2/08

APPROVED AS TO LEGAL FORM:

RUTH E. STRINGER
County Counsel

By: *Ruth E. Stringer*

Rex A. Hinesley, Chief Assistant

Dated: 8-19-08

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP

By: *Gregory J. Best*

City Attorney

Dated: September 2, 2008

EXHIBIT A
TO
MEMORANDUM OF UNDERSTANDING




WESTERN SPHERE AREA MAP
(See following page.)

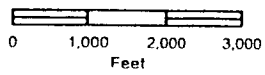
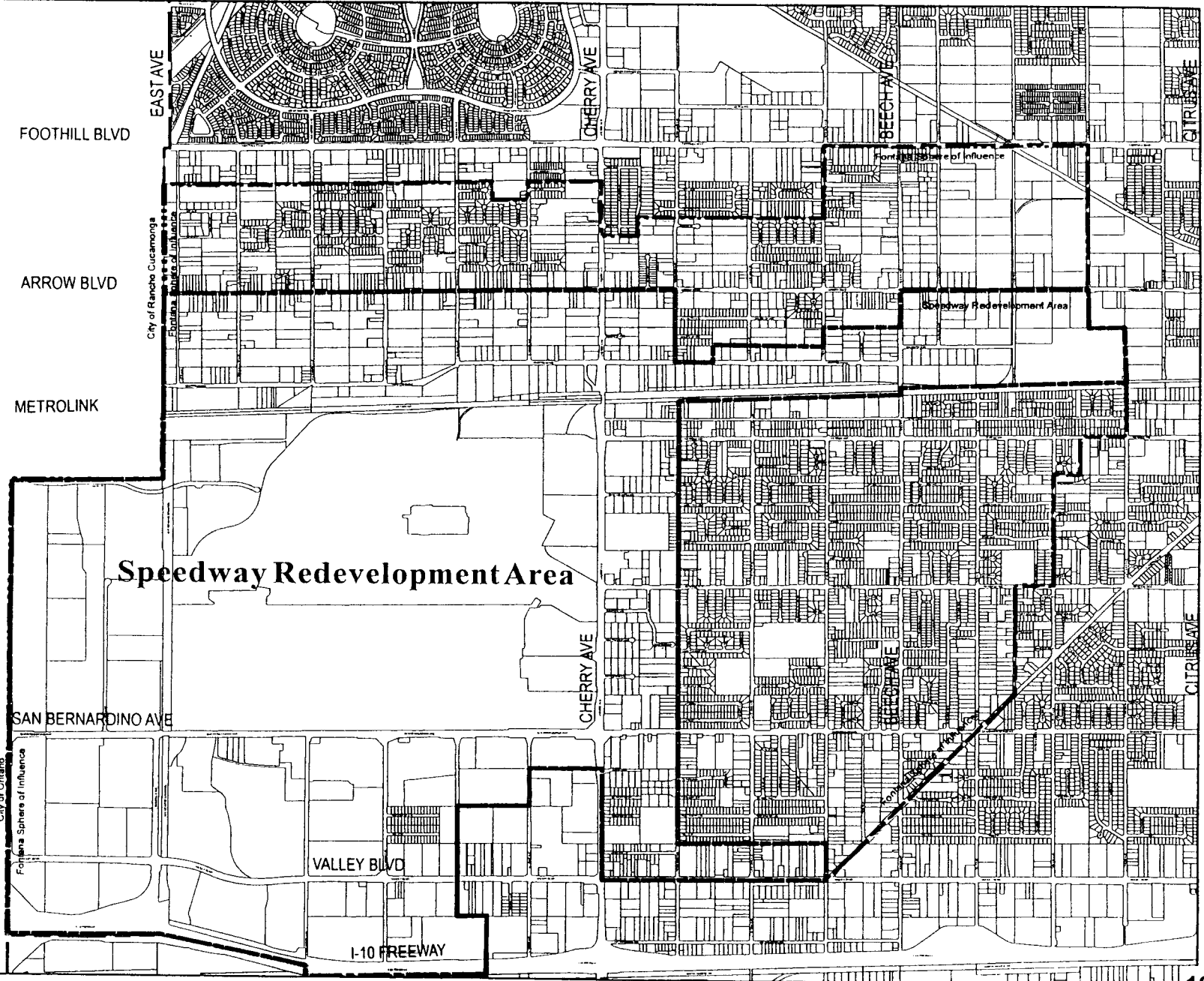
Western Sphere of Influence

CITY OF FONTANA



Legend

-  City of Fontana
-  County Area
-  Speedway RDA



City of Fontana
DSO/Annexation Program
GSanchez, 7/1/08
Western Sphere of Influence

EXHIBIT B
TO
MEMORANDUM OF UNDERSTANDING

ANNEXATION POLICY
(See following pages.)

RESOLUTION NO. 2006-95

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA AMENDING THE CITY OF FONTANA'S POLICY PERTAINING TO ANNEXATION.

WHEREAS, the City Council of the City of Fontana ("City") has approved a policy pertaining to annexation as noted in Chapter 3 (Land Use Element) of the General Plan;

WHEREAS, the City has determined that in order to promote the City Council's economic and General Plan goals and objectives, amending the City's policy on annexation is an important benefit for the City's economic development;

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

Section 1. Annexations shall be pursued that promote Community balance, quality development, and improvement of the City's economic base as follows:

Annexations may be initiated by the City Council (adopted resolution) or by property owners or registered voters (written petition);

A Plan for Services shall be prepared for all annexations and submitted to the City Council for review and consideration;

A fiscal impact analysis shall be conducted for all annexation areas;

All City and Local Agency Formation Commission (LAFCO) filing fees for annexation must be paid by the applicant.

Section 2. Irrevocable Agreements to Annex for Sewer Service—Existing Development (Contiguous and Non-Contiguous Areas)

An Irrevocable Agreement to Annex is an agreement between the landowner and the City for only sewer service. This agreement outlines that the City shall provide sewer service outside its corporate limits and the landowner agrees not to oppose a future attempt by the City to annex the area. Upon approval by LAFCO, the agreement shall be recorded with the County Recorder's office. Upon recordation, the agreement shall be considered a covenant on the land.

Irrevocable Agreements to Annex may be utilized when sewer service is extended outside the City's corporate limits to an existing residence or an existing commercial or industrial establishment that is experiencing a failing septic system.

Section 3. Irrevocable Agreements to Annex for Sewer Service—New Development (Non-Contiguous Areas)

Irrevocable Agreements to Annex for sewer service may be utilized for new developments for areas that are not contiguous to the City's limits.

Section 4. Preannexation Agreements—New Development (Contiguous and Non-Contiguous Areas)

A Preannexation Agreement may be utilized for new developments for areas that are contiguous or not contiguous to the City's limits. An applicant may wish to consider a preannexation agreement to outline land use designations, development standards, conditional use permits approved by the County of San Bernardino, donation of right-of-way easements, sewer service, and other requirements as necessary.

Annexation may be deferred by use of a Preannexation Agreement if the following conditions are met:

The proposed development is of a quality and design that is comparable to existing City standards.

The development mitigation fees would be paid by the developer as required by all developments in the City. The City would agree to set these mitigation fees aside for use in partnership with County Redevelopment for the creation of the necessary infrastructure to serve the growth needs of the area.

The proposed development would agree to enter into a Preannexation Agreement with the City that would include an Irrevocable Agreement to Annex to the City if and when the area is brought forward for annexation.

The County would agree to use recurring revenues generated by development in the area to support community service needs in the unincorporated area of Fontana.

Section 5. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 13th day of June, 2006.

READ AND APPROVED AS TO LEGAL FORM:

/s/ Clark Alsop
City Attorney

I, Beatrice Watson, 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 13th day of June, 2006 by the following vote to wit:

AYES: Council Members Roberts, Rutherford, Scialdone, Warren

NOES:

ABSENT: Mayor Nuaimi

/s/ Beatrice Watson
City Clerk of the City of Fontana

/s/ Mark N. Nuaimi
Mayor of the City of Fontana

ATTEST:

/s/ Beatrice Watson
City Clerk

“EXHIBIT E”
TO
PREANNEXATION AGREEMENT

CONDITIONS OF APPROVAL

[Attached Behind This Page]



Conditions of Approval

Description:

CF - TENTATIVE TRACT MAP - PROPOSED 112 UNIT MULTI-FAMILY RESIDENTIAL

Informational

Land Use Services – Planning

1. Subdivisions - Development Impact Fees: Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances.
2. Revisions: Any proposed change to the approved Project and/or conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Land Use Services for review and approval.
3. Subdivisions- Condition Compliance: Condition compliance confirmation for purposes of Final Map recordation will be coordinated by the County Surveyor.
4. Subdivisions - Project Approval Description (TT/TPM): Tentative Tract Map No. 20016 is a 112-multiple family condominium development on 6.7 acres and may be recorded in compliance with the conditions of approval, the approved stamped tentative map, and the required Composite Development Plan. The Project is located on the west side of Banana Avenue approximately 600 feet south of Foothill Blvd., in the Fontana area of San Bernardino County
5. Subdivisions - Indemnification: In compliance with SBCC §81.01.070, the “developer” shall agree, to defend, indemnify, and hold harmless the County or its “indemnitees” (herein collectively the County’s elected officials, appointed officials (including Planning Commissioners), Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning a map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval. Any condition of approval imposed in compliance with the County Development Code or County General Plan shall include a requirement that the County acts reasonably to promptly notify the “developer” of any claim, action, or proceeding and that the County cooperates fully in the defense. The “developer” shall reimburse the County and its indemnitees for all expenses resulting from such actions, including any court costs and attorney fees, which the County or its indemnitees may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the “developer” of their obligations under this condition to reimburse the County or its indemnitees for all such expenses. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The developer’s indemnification obligation applies to the indemnitees’ “passive” negligence but does not apply to the indemnitees’ “sole” or “active” negligence or “willful misconduct” within the meaning of Civil Code Section 2782.
6. Subdivisions - Project Account (TT/TPM): The Project account number is PROJ-2020-00230. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works and County Counsel). Upon notice, the developer shall deposit additional funds to maintain or return the account to a positive balance. The developer is responsible for all expenses charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$500.00 shall be in the project account at the time of project approval and the initiation of the Condition Compliance Review. Sufficient funds shall remain in the account to cover all estimated charges that may be made during each compliance review. All fees required for processing shall be paid in full prior to recordation.



Conditions of Approval

7. Subdivisions - Additional Permits: The property owner, developer and land use operator are all responsible to ascertain and comply with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies as are applicable to the development and operation of the approved land use and project site. These may include: FEDERAL: STATE: COUNTY: LOCAL:
8. Subdivisions - State and Federal Endangered Species Act: This approval does not relieve the property owner or project proponent of responsibility to comply with State and Federal Endangered Species Acts. If any sensitive species are identified during grading, building or land disturbing activity, all on-site activities must cease, the California Department of Fish and Wildlife (CDFW) and/or U.S. Fish and Wildlife Service (USFWS) (as applicable) must be contacted to discuss specific mitigation measures and to obtain the necessary incidental take permits. Proof of an incidental take permit from the appropriate agency, or letter stating a permit is not required, must be furnished to the Planning Division. All mitigation measures must be agreed upon and implemented prior to construction activity resuming.

On-Going

Land Use Services - Planning

9. Extension of Time: Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval or site plan modifications. (SBCC §86.06.060)
10. Underground Utilities : No new above-ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner that complies with the California Public Utilities Commission General Order 128, and avoids disturbing any existing/natural vegetation or the site appearance.

Prior to Recordation

Land Use Services - Building and Safety

11. Geotechnical (Soil) Report Required: A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to recordation of the final map.
12. Demolition Permit Required Before Recordation: Obtain a demolition permit for any building/s or structures to be demolished. Underground structures must be broken in, back-filled and inspected before covering.

Land Use Services - Land Development

13. Road Dedication/Improvements: The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications and plans for the listed required improvements, designed by a Registered Civil Engineer (RCE), licensed in the State of California. Banana Avenue (Collector Street – 66'): •Road Dedication. A 3-foot grant of easement is required to provide a half-width right-of-way of 33 feet. •Street Improvements. Design curb and gutter with match up paving 22 feet from centerline. •Sidewalks. Design sidewalks per County Standard 109 Type "C". •Driveway Approach. Design driveway approach per 2010 Caltrans Driveway Standard Detail A87A (W=12' min – 26' max) and located per San Bernardino County Standard 130.
14. Slope Easements: Slope rights shall be dedicated, where necessary.



Conditions of Approval

15. Improvement Securities: Any required public road, drainage, WQMP, and/or utility improvements for subdivisions shall be bonded in accordance with County Development code unless constructed and approved prior to recordation. All necessary fees shall be provided in accordance with the latest fee schedule.
16. Road Standards and Design: All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans. Road sections shall be designed to Valley Road Standards of San Bernardino County, and to the policies and requirements of the County Department of Public Works and in accordance with the General Plan, Circulation Element.

Public Works Department – Surveyor’s Office

17. Subdivision Map Act Compliance: A Tentative and Final Map is required in compliance with the Subdivision Map Act and the San Bernardino County Development Code.
18. Non-Interference Letter: Subdivider shall present evidence to the County Surveyor's Office that he has tried to obtain a non-interference letter from any utility company that may have rights of easement within the property boundaries.
19. Easements of Record: Easements of record not shown on the tentative map shall be relinquished or relocated. Lots affected by proposed easements or easement of record, which cannot be relinquished or relocated, shall be redesigned.
20. Final Map Review: Review of the Final Map by our office is based on actual cost, and requires an initial \$8,000.00 deposit. Prior to recordation of the map all fees due to our office for the project shall be paid in full.
21. Title Report: A current Title Report prepared for subdivision purposes is required at the time the map is submitted to our office for review.
22. Final Monumentation: Final Monumentation, not set prior to recordation, shall be bonded for with a cash deposit to the County Surveyor’s Office as established per the current County Fee Ordinance on file with the Clerk of the Board.

END OF CONDITIONS



Conditions of Approval

Record: PROJ-2020-00230

System Date: 05/10/2022

Record Type: Project Application

Primary APN: 0230031210000

Record Status: In Review

Application Name: CONCURRENT FILING -
CONDITIONAL USE PERMIT AND
TENTATIVE TRACT MAP

Description:

CF - CONDITIONAL USE PERMIT - PROPOSED 112 UNIT MULTI-FAMILY
RESIDENTIAL

Informational

Land Use Services – Planning

1. **Project Approval Description (CUP/MUP):** This Conditional Use Permit is conditionally approved to proposing a Conditional Use Permit, in conjunction with a Tentative Tract Map, to construct 112 condominium units in compliance with the San Bernardino County Code (SBCC), California Building Codes (CBC), the San Bernardino County Fire Code (SBCFC), the following Conditions of Approval, the approved site plan, and all other required and approved reports and displays (e.g. elevations). The developer shall provide a copy of the approved conditions and the approved site plan to every current and future project tenant, lessee, and property owner to facilitate compliance with these Conditions of Approval and continuous use requirements for the Project.
2. **Project Location:** The Project site is located on the west side of Banana Avenue approximately 600 feet south of Foothill Blvd., in the Fontana area of San Bernardino County, adjacent to the Fontana City Limits.
3. **Clear Sight Triangle:** Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90 degree angle intersections of public rights-of-way and private driveways. All signs, structures and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC§ 83.02.030) or as otherwise required by County Traffic.
4. **Continuous Effect/Revocation:** All of the conditions of this project approval are continuously in effect throughout the operative life of the project for all approved structures and approved land uses/activities. Failure of the property owner or developer to comply with any or all of the conditions at any time may result in a public hearing and possible revocation of the approved land use, provided adequate notice, time and opportunity is provided to the property owner, developer or other interested party to correct the non-complying situation.
5. **Revisions:** Any proposed change to the approved Project and/or conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Land Use Services for review and approval.



Conditions of Approval

Record: PROJ-2020-00230

System Date: 05/10/2022

County Fire - Community Safety

6. Permit Expiration: Construction permits, including Fire Condition Letters, shall automatically expire and become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred with 180 days of any previous inspection. After a construction permit or Fire Condition Letter, becomes invalid and before such previously approved work recommences, a new permit shall be first obtained and the fee to recommence work shall be one-half the fee for the new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the Fire Condition Letter or Permit may be made in writing PRIOR TO the expiration date justifying the reason that the Fire Condition Letter should be extended.
7. Additional Requirements: In addition to the Fire requirements stated herein, other onsite and offsite improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.
8. Access – 150+ feet : Roadways exceeding one hundred fifty (150) feet in length shall be approved by the Fire Department. These shall be extended to within one hundred fifty (150) feet of and shall give reasonable access to all portions of the exterior walls of the first story of any building.
9. Jurisdiction: The above referenced project is under the jurisdiction of the San Bernardino County Fire Department 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 status, codes, ordinances and standards of the Fire Department.
10. Private Road Maintenance : The applicant shall construct and maintain all such roads. In addition, the applicant shall provide to the Fire Department a signed maintenance agreement as detailed in the General Requirement conditions for ongoing road maintenance and snow removal (where applicable). This shall include all primary and secondary access routes that are not otherwise maintained by a public agency.
11. Sprinkler Installation Letter: The applicant shall submit a letter to the Fire Department agreeing and committing to installation of a fire protection system prior to the building inspection for drywall and insulation.
12. Access – 30% slope : Where the natural grade between the access road and building is in excess of thirty percent (30%), an access road shall be provided within one hundred and fifty (150) feet of all buildings. Where such access cannot be provided, a fire protection system shall be installed. Plans shall be submitted to and approved by the Fire Department.

Land Use Services - Land Development

13. Tributary Drainage: Adequate provisions should be made to intercept and conduct the tributary off site
- on site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties at the time the site is developed.
14. Erosion Control Installation: Erosion control devices must be installed and maintained at all perimeter openings and slopes throughout the construction of the project. No sediment is to leave the job site.



Conditions of Approval

15. Additional Drainage Requirements: In addition to drainage requirements stated herein, other "on-site" and/or "off-site" improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.
16. BMP Enforcement: In the event the property owner/"developer" (including any successors or assigns) fails to accomplish the necessary BMP maintenance within five (5) days of being given written notice by County Public Works, then the County shall cause any required maintenance to be done. The entire cost and expense of the required maintenance shall be charged to the property owner and/or "developer", including administrative costs, attorney's fees and interest thereon at the rate authorized by the County Code from the date of the original notice to the date the expense is paid in full.
17. Continuous BMP Maintenance: The property owner/"developer" is required to provide periodic and continuous maintenance of all Best Management Practices (BMP) devices/facilities listed in the County approved Water Quality Management Plan (WQMP) for the project. Refer to approved WQMP maintenance section.

On-going

Land Use Services - Planning

18. Construction Hours: Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday in accordance with the County of San Bernardino Development Code standards. No construction activities are permitted outside of these hours or on Sundays and Federal holidays.
19. Cultural Resources: During grading or excavation operations, should any potential paleontological or archaeological artifacts be unearthed or otherwise discovered, the San Bernardino County Museum shall be notified and the uncovered items shall be preserved and curated, as required. For information, contact the County Museum, Community and Cultural Section, telephone (909) 798-8570.
20. Extension of Time: Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval or site plan modifications. (SBCC §86.06.060)
21. Lighting: Lighting shall comply with Table 83-7 "Shielding Requirements for Outdoor Lighting in the Mountain Region and Desert Region" of the County's Development Code (i.e. "Dark Sky" requirements). All lighting shall be limited to that necessary for maintenance activities and security purposes. This is to allow minimum obstruction of night sky remote area views. No light shall project onto adjacent roadways in a manner that interferes with on-coming traffic. All signs proposed by this project shall only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign, by direct stationary neon lighting or in the case of an approved electronic message center sign, an alternating message no more than once every five seconds.
22. Underground Utilities: No new above-ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner that complies with the California Public Utilities Commission General Order 128, and avoids disturbing any existing/natural vegetation or the site appearance.
23. Back Out Into Public Roadways: Project vehicles shall not back out into the public roadway.



Conditions of Approval

24. On-going Condition: TCR-1: The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed in CR-1, of any pre-contact and/or historic-era cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with SMBMI, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents SMBMI for the remainder of the project, should SMBMI elect to place a monitor on-site.
25. On-going Condition: TCR-2: Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to SMBMI. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI throughout the life of the project.
26. Additional Permits : The developer shall ascertain compliance with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies that may apply for the development and operation of the approved land use. These may include but are not limited to: a. FEDERAL: b. STATE: c. COUNTY: d. LOCAL:
27. GHG - Operational Standards: The developer shall implement the following as greenhouse gas (GHG) mitigation during the operation of the approved project: a. Waste Stream Reduction. The “developer” shall provide to all tenants and project employees County-approved informational materials about methods and need to reduce the solid waste stream and listing available recycling services. b. Vehicle Trip Reduction. The “developer” shall provide to all tenants and project employees County-approved informational materials about the need to reduce vehicle trips and the program elements this project is implementing. Such elements may include: participation in established ride-sharing programs, creating a new ride-share employee vanpool, designating preferred parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles with benches in waiting areas, and/or providing a web site or message board for coordinating rides. c. Provide Educational Materials. The developer shall provide to all tenants and staff education materials and other publicity about reducing waste and available recycling services. The education and publicity materials/program shall be submitted to County Planning for review and approval. d. Landscape Equipment. The developer shall require in the landscape maintenance contract and/or in onsite procedures that a minimum of 20% of the landscape maintenance equipment shall be electric-powered.
28. Construction Noise : The following measures shall be adhered to during the construction phase of the project: - All construction equipment shall be muffled in accordance with manufacturer’s specifications. - All construction staging shall be performed as far as possible from occupied dwellings. The location of staging areas shall be subject to review and approval by the County prior to the issuance of grading and/or building permits. - All stationary construction equipment shall be placed in a manner so that emitted noise is directed away from sensitive receptors (e.g. residences and schools) nearest the project site.
29. Project Account: The Project account number is PROJ-2020-00230. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works, and County Counsel). Upon notice, the “developer” shall deposit additional funds to maintain or return the account to a positive balance. The “developer” is responsible for all expense charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$2,000.00 must be in the project account at the time the Condition Compliance Review is initiated. Sufficient funds must remain in the account to cover the charges during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use.



Conditions of Approval

30. **Continuous Maintenance** : The Project property owner shall continually maintain the property so that it is visually attractive and not dangerous to the health, safety and general welfare of both on-site users (e.g. employees) and surrounding properties. The property owner shall ensure that all facets of the development are regularly inspected, maintained and that any defects are timely repaired. Among the elements to be maintained, include but are not limited to: a) Annual maintenance and repair: The developer shall conduct inspections for any structures, fencing/walls, driveways, and signs to assure proper structural, electrical, and mechanical safety. b) Graffiti and debris: The developer shall remove graffiti and debris immediately through weekly maintenance. c) Landscaping: The developer shall maintain landscaping in a continual healthy thriving manner at proper height for required screening. Drought-resistant, fire retardant vegetation shall be used where practicable. Where landscaped areas are irrigated it shall be done in a manner designed to conserve water, minimizing aerial spraying. d) Dust control: The developer shall maintain dust control measures on any undeveloped areas where landscaping has not been provided. e) Erosion control: The developer shall maintain erosion control measures to reduce water runoff, siltation, and promote slope stability. f) External Storage: The developer shall maintain external storage, loading, recycling and trash storage areas in a neat and orderly manner, and fully screened from public view. Outside storage shall not exceed the height of the screening walls. g) Metal Storage Containers: The developer shall NOT place metal storage containers in loading areas or other areas unless specifically approved by this or subsequent land use approvals. h) Screening: The developer shall maintain screening that is visually attractive. All trash areas, loading areas, mechanical equipment (including roof top) shall be screened from public view. i) Signage: The developer shall maintain all on-site signs, including posted area signs (e.g. "No Trespassing") in a clean readable condition at all times. The developer shall remove all graffiti and repair vandalism on a regular basis. Signs on the site shall be of the size and general location as shown on the approved site plan or subsequently a County-approved sign plan. j) Lighting: The developer shall maintain any lighting so that they operate properly for safety purposes and do not project onto adjoining properties or roadways. Lighting shall adhere to applicable glare and night light rules. k) Parking and on-site circulation: The developer shall maintain all parking and on-site circulation requirements, including surfaces, all markings and traffic/directional signs in an un-faded condition as identified on the approved site plan. Any modification to parking and access layout requires the Planning Division review and approval. The markings and signs shall be clearly defined, un-faded and legible; these include parking spaces, disabled space and access path of travel, directional designations and signs, stop signs, pedestrian crossing, speed humps and "No Parking", "Carpool", and "Fire Lane" designations. l) Fire Lanes: The developer shall clearly define and maintain in good condition at all times all markings required by the Fire Department, including "No Parking" designations and "Fire Lane" designations.
31. **Expiration**: This project permit approval shall expire and become void if it is not "exercised" within 36 months of the effective date of this approval, unless an extension of time is approved. The permit is deemed "exercised" when either: (a.) The permittee has commenced actual construction or alteration under a validly issued building permit, or (b.) The permittee has substantially commenced the approved land use or activity on the project site, for those portions of the project not requiring a building permit. (SBCC §86.06.060) (c.) Occupancy of approved land use, occupancy of completed structures and operation of the approved and exercised land use remains valid continuously for the life of the project and the approval runs with the land, unless one of the following occurs: - Construction permits for all or part of the project are not issued or the construction permits expire before the structure is completed and the final inspection is approved. - The land use is determined by the County to be abandoned or non-conforming. - The land use is determined by the County to be not operating in compliance with these conditions of approval, the County Code, or other applicable laws, ordinances or regulations. In these cases, the land use may be subject to a revocation hearing and possible termination. PLEASE NOTE: This will be the ONLY notice given of this approval's expiration date. The developer is responsible to initiate any Extension of Time application.

Public Health– Environmental Health Services

32. **Refuse Storage and Disposal**: All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that environmental public health nuisances are minimized. All refuse not containing garbage shall be removed from the premises at least 1 time per week, or as often as necessary to minimize public health nuisances. Refuse containing garbage shall be removed from the



Conditions of Approval

premises at least 2 times per week, or as often if necessary to minimize public health nuisances, by a permitted hauler to an approved solid waste facility in conformance with San Bernardino County Code Chapter 8, Section 33.0830 et. seq.

33. Noise Levels: Noise level shall be maintained at or below County Standards, Development Code Section 83.01.080.

Land Use Services – Land Development

34. WQMP Inspection Fee: The developer shall provide a \$3,600 deposit to Land Development Division for inspection of the approved WQMP. Deposit amounts are subject to change in accordance with the latest approved fee schedule.
35. WQMP: A completed Water Quality Management Plan (WQMP) shall be submitted for review and approval obtained. A \$2,650 deposit for WQMP review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule. The report shall adhere to the current requirements established by the Santa Ana/Mojave Watershed Region. Copies of the WQMP guidance and template can be found at: (<http://cms.sbcounty.gov/dpw/Land/WQMPTemplatesandForms.aspx>).
36. On-site Flows: On-site flows need to be directed to the nearest County road or drainage facilities unless a drainage acceptance letter is secured from the adjacent property owners and provided to Land Development.
37. Drainage Improvements: A Registered Civil Engineer (RCE) shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site drainage flows around and through the site in a safety manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A \$550 deposit for drainage study review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule.
38. Road Dedication/Improvements: The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications and plans for the listed required improvements, designed by a Registered Civil Engineer (RCE), licensed in the State of California. Banana Avenue (Collector Street – 66'):
•Road Dedication. A 3-foot grant of easement is required to provide a half-width right-of-way of 33 feet. •Street Improvements. Design curb and gutter with match up paving 22 feet from centerline. •Sidewalks. Design sidewalks per County Standard 109 Type "C". •Driveway Approach. Design driveway approach per 2010 Caltrans Driveway Standard Detail A87A (W=12' min – 26' max) and located per San Bernardino County Standard 130.
39. Slope Easements: Slope rights shall be dedicated, where necessary.
40. Soils Testing: Any grading within the road right-of-way prior to the signing of the improvement plans shall be accomplished under the direction of a soils testing engineer. Compaction tests of embankment construction, trench back fill, and all sub-grades shall be performed at no cost to San Bernardino County and a written report shall be submitted to the Transportation Operations Division, Permits Section of County Public Works, prior to any placement of base materials and/or paving.
41. Construction Permits: Prior to installation of road and drainage improvements, a construction permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8046, as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.
42. Maintenance Bond: Once all required public road, drainage, WQMP, and/or utility improvements have been constructed and approved, a maintenance bond for a period of one year shall be required to insure satisfactory condition of all improvements. Submit necessary fees, per the latest fee schedule, for new securities.



Conditions of Approval

43. Road Standards and Design: All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans. Road sections shall be designed to Valley Road Standards of San Bernardino County, and to the policies and requirements of the County Department of Public Works and in accordance with the General Plan, Circulation Element.
44. Street Gradients: Road profile grades shall not be less than 0.5% unless the engineer at the time of submittal of the improvement plans provides justification to the satisfaction of County Public Works confirming the adequacy of the grade.
45. Transitional Improvements: Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing, shall be required as necessary.
46. Street Type Entrance: Street type entrance(s) with curb returns shall be constructed at the entrance(s) to the development.
47. Project Specific Conditions: Road Improvements. All required on-site and off-site improvements shall be completed by the applicant, inspected and approved by County Department of Public Works. Completion of road and drainage improvements does not imply acceptance for maintenance by the County.
48. Project Specific Conditions: Structural Section Testing. Prior to occupancy, a thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to the County Department of Public Works.

Prior to Land Disturbance

Land Use Services - Building and Safety

49. Wall Plans: Submit plans and obtain separate building permits for any required retaining walls.
50. Geotechnical (Soil) Report Required Before Grading: A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to issuance of grading permits or land disturbance.
51. Demolition Permit Required Before Grading: Obtain a demolition permit for any building/s or structures to be demolished. Underground structures must be broken in, back-filled and inspected before covering.

Land Use Services - Land Development

52. Grading Plans: Grading and Erosion control plans shall be submitted for review and approval obtained, prior to construction. All Drainage and WQMP improvements shall be shown on the Grading plans according to the approved Drainage study and WQMP reports. Fees for grading plans will be collected upon submittal to the Land Development Division and are determined based on the amounts of cubic yards of cut and fill. Fee amounts are subject to change in accordance with the latest approved fee schedule.
53. Regional Board Permit: Construction projects involving one or more acres must be accompanied by Regional Board permit WDID #. Construction activity includes clearing, grading, or excavation that results in the disturbance of at least one (1) acre of land total.
54. NPDES Permit: An NPDES permit - Notice of Intent (NOI) - is required on all grading of one (1) acre or more prior to issuance of a grading/construction permit. Contact your Regional Water Quality Control Board for specifics. www.swrcb.ca.gov.



Conditions of Approval

55. FEMA Flood Zone: The project is located within Flood Zone X-Shaded and X-Unshaded according to FEMA Panel Number 06071C8651H dated 8/28/2008 and FEMA Panel Number 06071C8635J dated 9/26/2016. Flood Zone X- Shaded will require the lowest floor of structure to be elevated 1 feet above highest adjacent ground in compliance with FEMA/SBC regulations. No elevation requirements for Flood Zone X-Unshaded. The requirements may change based on the most current Flood Map prior to issuance of grading permit.
56. Drainage Improvements: A Registered Civil Engineer (RCE) shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site drainage flows around and through the site in a safety manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A \$750 deposit for drainage study review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule.
57. WQMP Inspection Fee: The developer shall provide a \$3,600 deposit to Land Development Division for inspection of the approved WQMP. Deposit amounts are subject to change in accordance with the latest approved fee schedule.
58. WQMP: A completed Water Quality Management Plan (WQMP) shall be submitted for review and approval obtained. A \$2,650 deposit for WQMP review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule. The report shall adhere to the current requirements established by the Santa Ana/Mojave Watershed Region. Copies of the WQMP guidance and template can be found at: (<http://cms.sbcounty.gov/dpw/Land/WQMPTemplatesandForms.aspx>)
59. San Sevaine Fee: The project site is located within the San Sevaine Drainage Fee area and is subject to a fee of \$4,405 per net developed acre that is to be paid prior to issuance of any grading or building permit. (SBC Ord, No. 3358). Total net developed acreage is 2.63 acres and the fee shall be \$11,585.15.

Public Works – Surveyor’s Office

60. Corner Records Required Before Grading: Pursuant to Sections 8762(b) and/or 8773 of the Business and Professions Code, a Record of Survey or Corner Record shall be filed under any of the following circumstances: a. Monuments set to mark property lines or corners; b. Performance of a field survey to establish property boundary lines for the purposes of construction staking, establishing setback lines, writing legal descriptions, or for boundary establishment/mapping of the subject parcel; c. Any other applicable circumstances pursuant to the Business and Professions Code that would necessitate filing of a Record of Survey.
61. Monument Disturbed by Grading: If any activity on this project will disturb ANY land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying PRIOR to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.

Land Use Services – Planning

62. Grading/Land Disturbance Condition: BIO-1: Construction activities, including vegetation removal, will be conducted outside the general bird nesting season (February 1 through August 31) to avoid impacts to nesting birds. If construction activities cannot be conducted outside the bird nesting season, a preconstruction nesting bird survey by a qualified biologist is required no more than three days prior to any construction activities. Should nesting birds be found on-site, an exclusionary buffer will be established by the qualified biologist. The buffer will be clearly marked in the field by construction personnel under guidance of the qualified biologist. No construction activities will be allowed within this zone until the qualified biologist determines that the young have fledged or the nest is no longer active. A copy of the biologist’s report shall be filed with the County Planning Division upon completion.



Conditions of Approval

63. Grading/Land Disturbance Condition: CUL-1: In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed within TCR-1, regarding any pre-contact and/or historic-era finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.
64. Grading/Land Disturbance Condition: CUL-2: If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to SMBMI for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.
65. Grading/Land Disturbance Condition: CUL-3: If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.
66. Air Quality: Although the Project does not exceed South Coast Air Quality Management District thresholds, the Project proponent is required to comply with all applicable rules and regulations as the South Coast Air Basin is in non-attainment status for ozone and suspended particulates [PM10 and PM2.5 (State)]. To limit dust production, the Project proponent must comply with Rules 402 nuisance and 403 fugitive dust, which require the implementation of Best Available Control Measures for each fugitive dust source. This would include, but not be limited to, the following Best Available Control Measures. Compliance with Rules 402 and 403 are mandatory requirements and thus not considered mitigation measures: a. The Project proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities. 1. The Project proponent shall ensure that watering of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading. Portions of the site that are actively being graded shall be watered to ensure that a crust is formed on the ground surface, and shall be watered at the end of each workday. 2. The Project proponent shall ensure that all disturbed areas are treated to prevent erosion. 3. The Project proponent shall ensure that all grading activities are suspended when winds exceed 25 miles per hour. b. Exhaust emissions from vehicles and equipment and fugitive dust generated by equipment traveling over exposed surfaces, will increase NOX and PM10 levels in the area. Although the Project will not exceed Mojave Desert Air Quality Management District thresholds during operations, the Project proponent will be required to implement the following requirements: 1. All equipment used for grading and construction must be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel. 2. The operator shall maintain and effectively utilize and schedule on-site equipment and on-site and off-site haul trucks in order to minimize exhaust emissions from truck idling.
67. Diesel Regulations: The operator shall comply with all existing and future California Air Resources Board and South Coast Air Quality Management District regulations related to diesel-fueled trucks, which among others may include: (1) meeting more stringent emission standards; (2) retrofitting existing engines with particulate traps; (3) use of low sulfur fuel; and (4) use of alternative fuels or equipment. South Coast Air Quality Management District rules for diesel emissions from equipment and trucks are embedded in the compliance for all diesel fueled engines, trucks, and equipment with the statewide California Air Resources Board Diesel Reduction Plan. These measures will be implemented by the California Air Resources Board in phases with new rules imposed on existing and new diesel-fueled engines.



Conditions of Approval

68. **GHG - Construction Standards:** The developer shall submit for review and obtain approval from County Planning of a signed letter agreeing to include as a condition of all construction contracts/subcontracts requirements to reduce GHG emissions and submitting documentation of compliance. The developer/construction contractors shall do the following: a) Implement the approved Coating Restriction Plans. b) Select construction equipment based on low GHG emissions factors and high-energy efficiency. All diesel/gasoline-powered construction equipment shall be replaced, where possible, with equivalent electric or CNG equipment. c) Grading contractor shall provide and implement the following when possible: - training operators to use equipment more efficiently. - identifying the proper size equipment for a task can also provide fuel savings and associated reductions in GHG emissions. - replacing older, less fuel-efficient equipment with newer models. - use GPS for grading to maximize efficiency. d) Grading plans shall include the following statements: - "All construction equipment engines shall be properly tuned and maintained in accordance with the manufacturers specifications prior to arriving on site and throughout construction duration." - "All construction equipment (including electric generators) shall be shut off by work crews when not in use and shall not idle for more than 5 minutes." e) Schedule construction traffic ingress/egress to not interfere with peak-hour traffic and to minimize traffic obstructions. Queuing of trucks on and off site shall be firmly discouraged and not scheduled. A flag person shall be retained to maintain efficient traffic flow and safety adjacent to existing roadways. f) Recycle and reuse construction and demolition waste (e.g. soil, vegetation, concrete, lumber, metal, and cardboard) per County Solid Waste procedures. g) The construction contractor shall support and encourage ridesharing and transit incentives for the construction crew and educate all construction workers about the required waste reduction and the availability of recycling services.

Public Health– Environmental Health Services

69. **Vector Control Requirement:** The project area has a high probability of containing vectors. A vector survey shall be conducted to determine the need for any required control programs. A vector clearance application shall be submitted to the appropriate Mosquito & Vector Control Program. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.

Prior to Issuance

County Fire - Community Safety

70. **Building Plans:** Building plans shall be submitted to the Fire Department for review and approval.
71. **Combustible Protection:** Prior to combustibles being placed on the project site an approved all-weather fire apparatus access surface and operable fire hydrants with acceptable fire flow shall be installed. The topcoat of asphalt does not have to be installed until final inspection and occupancy.
72. **Fire Fee:** The required fire fees shall be paid to the San Bernardino County Fire Department/Community Safety Division.
73. **Fire Flow Test:** Your submittal did not include a flow test report to establish whether the public water supply is capable of meeting your project fire flow demand. You will be required to produce a current flow test report from your water purveyor demonstrating that the fire flow demand is satisfied. This requirement shall be completed prior to combination inspection by Building and Safety.



Conditions of Approval

74. **Access:** The development shall have a minimum of 3 points of vehicular access. These are for fire/emergency equipment access and for evacuation routes. a. **Single Story Road Access Width.** 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. Other recognized standards may be more restrictive by requiring wider access provisions. b. **Multi-Story Road Access Width.** 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.
75. **Haz-Mat Approval:** The applicant shall contact the San Bernardino County Fire Department/Hazardous Materials Division (909) 386-8401 for review and approval of building plans, where the planned use of such buildings will or may use hazardous materials or generate hazardous waste materials.
76. **Hydrant:** Your project meets fire flow however the fire hydrant shown in your submittal is in excess of the required spacing and/or a substandard fire hydrant. You will be required to install an approved fire hydrant within 300 feet (as measured along vehicular travel- ways) from the driveway on the address side of the proposed structure. This requirement shall be completed prior to combination inspection by Building and Safety.
77. **Primary Access Paved:** Prior to building permits being issued to any new structure, the primary access road shall be paved or an all-weather surface and shall be installed as specified in the General Requirement conditions, including width, vertical clearance and turnouts.
78. **Secondary Access Paved:** Prior to building permits being issued to any new structure, the secondary access road shall be paved or an all-weather surface and shall be installed as specified in the General Requirement conditions including width, vertical clearance and turnouts.
79. **Solar:** Solar / Photovoltaic System Plans. Plans shall be submitted online through EZOP to the Fire Department for review and approval. Plans must be submitted and approved prior to Conditional Compliance Release of Building.
80. **Surface:** Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. Road surface shall meet the approval of the Fire Chief prior to installation. All roads shall be designed to 85% compaction and/or paving and hold the weight of Fire Apparatus at a minimum of 80K pounds.
81. **Water System:** Prior to any land disturbance, the water 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 California Fire Code. The Fire Flow for this project shall be: 1500 GPM for a two hour duration at 20 psi residual operating pressure. Fire Flow is based on a 7457 sq. ft. structure.
82. **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.
83. **Water System Commercial:** A water system approved and inspected by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. Fire hydrants shall be spaced no more than three hundred (300) feet apart (as measured along vehicular travel-ways) and no more than three hundred (300) feet from any portion of a structure.

Land Use Services - Building and Safety

84. **Temporary Use Permit:** A Temporary Structures (TS) permit for non-residential structures for use as office, retail, meeting, assembly, wholesale, manufacturing, and/ or storage space will be required. A Temporary Use Permit (PTUP) for the proposed structure by the Planning Division must be approved prior to the TS Permit approval. A TS permit is renewed annually and is only valid for a maximum of five (5) years.



Conditions of Approval

85. Construction Plans: Any building, sign, or structure to be added to, altered (including change of occupancy/use), constructed, or located on site, will require professionally prepared plans based on the most current adopted County and California Building Codes, submitted for review and approval by the Building and Safety Division.

Land Use Services - Land Development

86. Construction Permits: Prior to installation of road and drainage improvements, a construction permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8046, as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.
87. Regional Transportation Fee: This project falls within the Regional Transportation Development Mitigation Fee Plan Area for the Fontana Subarea. The Regional Transportation Development Mitigation Plan Fee (Plan Fee) shall be paid by a cashier's check to the Land Use Services Department. The Plan Fee shall be computed in accordance with the Plan Fee Schedule in effect as of the date that the building plans are submitted and the building permit is applied for. The Plan Fee is subject to change periodically. Currently, the fee is \$4,671 per unit for Multi Family Use, which includes the 112 units per the site plan dated May 26, 2021. Therefore, the estimated Regional Transportation Fees for the Project is \$523,152.00. The current Regional Transportation Development Mitigation Plan can be found at the following website: <http://cms.sbcounty.gov/dpw/Transportation/TransportationPlanning.aspx>

Public Works – Surveyor's Office

88. Monument Disturbed by Grading: If any activity on this project will disturb ANY land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying PRIOR to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.
89. Corner Records Required Before Grading: Pursuant to Sections 8762(b) and/or 8773 of the Business and Professions Code, a Record of Survey or Corner Record shall be filed under any of the following circumstances:
- Monuments set to mark property lines or corners;
 - Performance of a field survey to establish property boundary lines for the purposes of construction staking, establishing setback lines, writing legal descriptions, or for boundary establishment/mapping of the subject parcel;
 - Any other applicable circumstances pursuant to the Business and Professions Code that would necessitate filing of a Record of Survey.

Land Use Services – Planning

90. Signs: All proposed on-site signs shall be shown on a separate plan, including location, scaled and dimensioned elevations of all signs with lettering type, size, and copy. Scaled and dimensioned elevations of buildings that propose signage shall also be shown. The applicant shall submit sign plans to County Planning for all existing and proposed signs on this site. The applicant shall submit for approval any additions or modifications to the previously approved signs. All signs shall comply with SBCC Chapter 83.13, Sign Regulations, SBCC §83.07.040, Glare and Outdoor Lighting Mountain and Desert Regions, and SBCC Chapter 82.19, Open Space Overlay as it relates to Scenic Highways (§82.19.040), in addition to the following minimum standards:
- All signs shall be lit only by steady, stationary shielded light; exposed neon is acceptable.
 - All sign lighting shall not exceed 0.5 foot-candle.
 - No sign or stationary light source shall interfere with a driver's or pedestrian's view of public right-of-way or in any other manner impair public safety.
 - Monument signs shall not exceed four feet above ground elevation and shall be limited to one sign per street frontage.



Conditions of Approval

Public Health– Environmental Health Services

91. Preliminary Acoustical Information: Submit preliminary acoustical information demonstrating that the proposed project maintains noise levels at or below San Bernardino County Noise Standard(s), San Bernardino Development Code Section 83.01.080. The purpose is to evaluate potential future on-site and/or adjacent off-site noise sources. If the preliminary information cannot demonstrate compliance to noise standards, a project specific acoustical analysis shall be required. Submit information/analysis to the EHS for review and approval. For information and acoustical checklist, contact EHS at (800)442-2283.
92. Water and Sewer - LAFCO: Water and/or Sewer Service Provider Verification. Please provide verification that the parcel(s) associated with the project is/are within the jurisdiction of the water and/or sewer service provider. If the parcel(s) associated with the project is/are not within the boundaries of the water and/or sewer service provider, submit to EHS verification of Local Agency Formation Commission (LAFCO) approval of either: 1. Annexation of parcels into the jurisdiction of the water and/or sewer service provider; or, 2. Out-of-agency service agreement for service outside a water and/or sewer service provider's boundaries. Such agreement/contract is required to be reviewed and authorized by LAFCO pursuant to the provisions of Government Code Section 56133.
93. Sewer Service Verification Letter: Applicant shall procure a verification letter from the sewer service provider identified. This letter shall state whether or not sewer connection and service shall be made available to the project by the sewer provider. The letter shall reference the Assessor's Parcel Number(s).
94. Sewage Disposal: Method of sewage disposal shall be sewer service provided by City of Fontana or an EHS approved onsite wastewater treatment system (OWTS) that conforms to the Local Agency Management Program (LAMP).
95. Existing Wells: If wells are found on-site, evidence shall be provided that all wells are: (1) properly destroyed, by an approved C57 contractor and under permit from the County OR (2) constructed to EHS standards, properly sealed and certified as inactive OR (3) constructed to EHS standards and meet the quality standards for the proposed use of the water (industrial and/or domestic). Evidence, such as a well certification, shall be submitted to EHS for approval.
96. Water Service Verification Letter: Applicant shall procure a verification letter from the water service provider. This letter shall state whether or not water connection and service shall be made available to the project by the water provider. This letter shall reference the File Index Number and Assessor's Parcel Number(s). For projects with current active water connections, a copy of water bill with project address may suffice.
97. Water Purveyor: Water purveyor shall be Fontana WC or EHS approved.
98. Demolition Inspection Required: All demolition of structures shall have a vector inspection prior to the issuance of any permits pertaining to demolition or destruction of any premises. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.

Public Works – Traffic

99. Improvements: The applicant shall design their street improvement plans to include the following:
 - Driveways on Banana Avenue.
 - ✓ The northerly driveway shall be an emergency vehicle access only.
 - ✓ The southerly driveway shall be an exit only. Developer shall install outside the public road right-of-way and maintain, at all times, the appropriate retroreflective signage to clearly communicate and enforce this restriction.



Conditions of Approval

Prior to Final Inspection

County Fire - Community Safety

100. Combustible Vegetation: Combustible vegetation shall be removed as follows: a. Where the average slope of the site is less than 15% - Combustible vegetation shall be removed a minimum distance of thirty (30) feet from all structures or to the property line, whichever is less. b. Where the average slope of the site is 15% or greater - Combustible vegetation shall be removed a minimum one hundred (100) feet from all structures or to the property line, whichever is less.
101. 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 (6) inches in height and with a three quarter (3/4) 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.
102. Fire Alarm - Manual: A manual, automatic or manual and automatic fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a Fire Department approved fire alarm contractor. The 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.
103. Fire Extinguishers: Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.
104. Fire Lanes: The applicant shall submit a fire lane plan to the Fire Department for review and approval. Fire lane curbs shall be painted red. The "No Parking, Fire Lane" signs shall be installed on public/private roads in accordance with the approved plan.
105. Fire Sprinkler-NFPA #13 : An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit plans to the with hydraulic calculation and manufacturers specification sheets to the Fire Department for approval and approval. The contractor shall submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal.
106. Hydrant Marking : Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. In areas where snow removal occurs or non-paved roads exist, the blue reflective hydrant marker shall be posted on an approved post along the side of the road, no more than three (3) feet from the hydrant and at least six (6) feet high above the adjacent road.
107. Illuminated Site Diagram: The applicant shall submit for review and approval a site diagram plan to the Fire Department. The applicant shall install at each entrance to a multi-family complex an illuminated diagrammatic representation of the complex, which shows the location of each unit and each fire hydrant.
108. Key Box : An approved Fire Department key box is required. In commercial, industrial and multi-family complexes, all swing gates shall have an approved fire department Knox Lock.
109. Override Switch : Where an automatic electric security gate is used, an approved Fire Department override switch (Knox ®) is required.



Conditions of Approval

110. Roof Certification: A letter from a licensed structural (or truss) engineer shall be submitted with an original wet stamp at time of fire sprinkler plan review, verifying the roof is capable of accepting the point loads imposed on the building by the fire sprinkler system design.
111. Street Sign: This project is required to have an approved street sign (temporary or permanent). The street sign shall be installed on the nearest street corner to the project. Installation of the temporary sign shall be prior any combustible material being placed on the construction site. Prior to final inspection and occupancy of the first structure, the permanent street sign shall be installed.

Prior to Occupancy

County Fire - Community Safety

112. Inspection by the Fire Department: Permission to occupy or use the building (certificate of Occupancy or shell release) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final".

Land Use Services - Land Development

113. WQMP Improvements: All required WQMP improvements shall be completed by the applicant, inspected and approved by County Public Works. An electronic file of the final and approved WQMP shall be submitted to Land Development Division, Drainage Section.
114. Drainage Improvements: All required drainage improvements shall be completed by the applicant. The private Registered Civil Engineer (RCE) shall inspect improvements outside the County right-of-way and certify that these improvements have been completed according to the approved plans.
115. Structural Section Testing: Structural Section Testing. A thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to County Department of Public Works, for Banana Avenue only. Structural section for the private roads shall be submitted to Land Development.
116. Road Improvements: Condition of Road Improvements. At the time of occupancy for all structures, the condition of all required on-site and off-site improvements shall be acceptable to County Department of Public Works.
117. Structural Section Testing: A thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to County Public Works.
118. LDD Requirements: Landscape Maintenance. Trees, irrigation systems, and landscaping required to be installed on public right-of-way shall be approved by the County Department of Public Works/Current Planning, maintained by the adjacent property owner or other County-approved entity.
119. Road Improvements: All required on-site and off-site improvements shall be completed by the applicant, inspected and approved by County Public Works.



Conditions of Approval

Land Use Services – Planning

120. Condition Compliance: Prior to occupancy/use, all conditions shall be completed to the satisfaction of County Planning with appropriate authorizing approvals from each reviewing agency.
121. Fees Paid: Prior to final inspection by Building and Safety Division and/or issuance of a Certificate of Conditional Use by the Planning Division, the applicant shall pay in full all fees required under actual cost job number PROJ- 2020-00230.
122. Installation of Improvements: All required on-site improvements shall be installed per approved plans.
123. Landscaping/Irrigation: All landscaping, dust control measures, all fences, etc. as delineated on the approved Landscape Plan shall be installed. The developer shall submit the Landscape Certificate of Completion verification as required in SBCC Section 83.10.100. Supplemental verification should include photographs of the site and installed landscaping.
124. Screen Rooftop: All roof top mechanical equipment is to be screened from ground vistas.
125. Shield Lights: Any lights used to illuminate the site shall include appropriate fixture lamp types as listed in SBCC Table 83-7 and be hooded and designed so as to reflect away from adjoining properties and public thoroughfares and in compliance with SBCC Chapter 83.07, "Glare and Outdoor Lighting" (i.e. "Dark Sky Ordinance).
126. GHG - Installation/Implementation Standards: The developer shall submit for review and obtain approval from County Planning of evidence that all applicable GHG performance standards have been installed, implemented properly and that specified performance objectives are being met to the satisfaction of County Planning and County Building and Safety. These installations/procedures include the following: a) Design features and/or equipment that cumulatively increases the overall compliance of the project to exceed Title 24 minimum standards by five percent. b) All interior building lighting shall support the use of fluorescent light bulbs or equivalent energy-efficient lighting. c) Installation of both the identified mandatory and optional design features or equipment that have been constructed and incorporated into the facility/structure.

Public Works - Traffic

127. Roadway Improvements. The applicant shall construct, at 100% cost to the applicant all roadway improvements as shown on their approved street improvement plans.



Conditions of Approval

Record: PROJ-2020-00230

System Date: 06/28/2022

If you would like additional information regarding any of the conditions in this document, please contact the department responsible for applying the condition and be prepared to provide the Record number above for reference. Department contact information has been provided below.

Department/Agency	Office/Division	Phone Number
Land Use Services Dept.	San Bernardino Govt. Center	(909) 387-8311
(All Divisions)	High Desert Govt. Center	(760) 995-8140
Web Site	http://cms.sbcounty.gov/lus/Home.aspx	
County Fire	San Bernardino Govt. Center	(909) 387-8400
(Community Safety)	High Desert Govt. Center	(760) 995-8190
Web Site	https://www.sbcounty.org/	
County Fire	Hazardous Materials	(909) 386-8401
	Flood Control	(909) 387-7995
Dept. of Public Works	Solid Waste Management	(909) 386-8701
	Surveyor	(909) 387-8149
	Traffic	(909) 387-8186
Web Site	http://cms.sbcounty.gov/dpw/Home.aspx	
Dept. of Public Health	Environmental Health Services	(800) 442-2283
Web Site	https://wp.sbcounty.gov/dph/programs/ehs/	
Local Agency Formation Commission (LAFCO)		(909) 388-0480
Web Site	http://www.sbclafco.org/	
Special Districts	Water and Sanitation	(760) 955-9885
	Administration,	
	Park and Recreation,	
	Roads, Streetlights, Television Districts, and Other	(909) 386-8800
<i>External Agencies (Caltrans, U.S. Army, etc.)</i>		<i>See condition text for contact information...</i>

“EXHIBIT F”
TO
PREANNEXATION AGREEMENT
DEVELOPMENT IMPACT FEES

ESTIMATED DEVELOPMENT IMPACT FEES
PER MOU BETWEEN CITY AND COUNTY
(Western Sphere Area)

Impact Fees	Fee Amount	Multiplier	Fee Amount Extended
Fire Facility - Infill Benefit (@ 50% Reduction)			
Multi-Family Low	\$180.00	44	\$7,920.00
Multi-Family High	\$190.00	68	\$12,920.00
Storm Drain Fee - Infill Benefit (@ 50% reduction)			
I-10 North Benefit Area	\$10,479.50	6.7 acres	\$70,212.65
Park Development- Infill Benefit (@ 50% Reduction)			
Multi-Family Low	\$3,239.00	44	\$142,516.00
Multi-Family High	\$3,409.50	68	\$231,846.00
City Sewer Master Connection Fee			
Residential	\$902.00 per du	112 du	\$101,024.00
*IEUA Sewer Expansion Fee Pass Thru**			
Residential	\$7,600.00 per du	112 du	\$851,200.00
City Sewer Connection Permit	\$25.00		\$25.00
Sewer Deposit			
Residential	\$120.84 du [\$32.21 per du x 4/mo]	112 du	\$13,534.08
LAFCO fee**	\$5,725.00		\$5,725.00
TOTAL FEES TO BE COLLECTED:			\$1,436,922.73

*Inland Empire Utility Agency

** Indicates a pass through fee collected for other agencies.



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1721

Agenda #: M.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Police Department

SUBJECT:

Fontana Police Helicopter Service Contract Implementing AS350B2

RECOMMENDATION:

1. Approve a Service Agreement between HeliSafe, LLC, a Limited Liability Corporation, and the Fontana Police Department
2. Authorize the City Manager (or his designee) to sign the Service Agreement, all related documentation, and any amendments to continue this cooperative agreement as long as it is in the best interest of the City of Fontana.
3. Approve a recurring appropriation from the General Fund in the amount of \$319,500 and a one-time appropriation in the amount of \$65,930 to pay for increased program costs.

COUNCIL GOALS:

- Improve public safety by increasing operational efficiency, visibility and availability.
- Concentrate on Inter-governmental relations by establishing partnerships and positive working relationships with other public agencies providing services to residents and local businesses.

DISCUSSION:

In 2021 City Council approved a one-year service agreement with HeliSafe, LLC. The City with the approval of City Council shall have the option, at its sole discretion, to renew the Agreement annually for no more than four (4) additional one-year terms. During the first year of the agreement with the assistance of HeliSafe, LLC, the Police Department was able to purchase an AS350B2 helicopter in May 2022.

The AS350B2 is able to fly in wind conditions that require the R66 helicopters to be grounded. The ability to provide increased service 30% of the time that the R66 would be grounded has an increase cost to the program. Other costs include additional space for storage, variable costs, maintenance, and training. Attached is a breakdown of the Proposal Implementing AS350B2. There is a one-time Retro-Amount (\$65,930.00) for the AS350B2 services provided during the period of May 2022 through July 31, 2022.

Total amount for the first year including the retro amount is \$1,077,175.00. A portion of the funds have already been included in the 2022/2023 Fiscal Budget in the amount of \$691,740.00 utilizing

General Fund (Fund 101) and Grant funds (Fund 322). The current contract remains and continues to provide a significant cost savings under today's industry standards and expectations.

FISCAL IMPACT:

Appropriate Funds in the amount of \$385,430.00 to account # 10140233.8130 to pay for the increased program costs and the one-time retro-amount. The cost of the contract will be paid using a combination of General Fund (Fund 101) and State COPS AB3229 Fund (Fund 322) monies. Budget forms will be included with the First Quarter Budget Report.

MOTION:

Approve staff recommendation.

HeliSafe Management Service

YEAR 2 Cost Sheet with Implementing AS350B2

Calculated on 40 Shift Hours per week (20 flight hours), 1040 Flight Hours per year.

AS350B2 416 hours equates to 40% usage of flight time.

R66 624 hours equates to 60% usage of flight time.

AS350B2 Variable Cost @ 950.00hr Retroactive to May 2022. Total Flight Hours to Date 69.4hrs

	Cost	Billing Unit	Number	Extended Cost	Notes
Management Service Fee	\$6,000.00	Monthly	12 months	\$72,000.00	AS350B2
Aircraft and Asset Storages	\$3,000.00	Monthly	12 months	\$36,000.00	Space for AS350B2
Pilot Services	\$65.00	Hourly	2,080 hours	\$135,200.00	10-hour shift, 4 days a week.
Officer/Observer					Estimated (Not in HeliSafe Budget)
R66 Fuel Costs & Scheduled Maintenance	\$160.00	Hourly	624 per year	\$99,840.00	Based on 624 flight hours.
R66 Reserve For Overhaul	\$195.00	Hourly	624 per year	\$121,680.00	Based on 624 flight hours
AS350B2 Hourly Variable Cost, Fuel, Scheduled Maintenance, Parts, Engine	\$950.00	Hourly	416 per year	\$395,200.00	Based on 416 flight hours.
AS350B2 unscheduled maintenance Component Reserve account	\$136,325.00	Annually	1	\$136,325.00	Unscheduled maintenance and replacement parts as needed. Funds not used during the year will be rolled over to the following years account
Pilot Training	\$15,000.00	Annually	1	\$15,000.00	Training R66/AS350

Operational Cost	\$ 1,011,245.00
Retro-Amount AS350B2	\$ 65,930.00
12-year inspection (Due 2023)	<u>\$ 225,000.00</u>
Total Cost Year 2 of 5:	<u>\$1,302,175.00</u>

Note: Cost sheet is for year 2 of the 5-year contract. Cost is based on a 5-year contract and 3% increase per year (Less 12-year inspection costs for years 2 through 5)



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1738

Agenda #: N.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Planning Department

SUBJECT:

Purchase & Sale Agreement - Downtown Fontana Property

RECOMMENDATION:

1. Approve a Purchase & Sale Agreement for the purchase of two parcels of land located on the Spring Street, east of Juniper Avenue in Downtown Fontana, more specifically described as APN #0191-161-17 and #0191-161-28.
2. Authorize the City Manager to execute any documents necessary or appropriate to effectuate said approvals and/or agreement.

COUNCIL GOALS:

- Promote economic development by concentrating on job creation.
- Promote economic development by pursuing business attraction, retention, and expansion.

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, Orange Avenue to the South, Mango Ave to the East and Juniper Ave to the West. A primary component of this revitalization effort will require the acquisition, demolition, replanning, and redevelopment of several key properties within the area. To facilitate the implementation of this revitalization, the City will be acquiring various properties in Downtown Fontana. Notwithstanding the fact that any structures that exist on parcels being acquired will be demolished and therefore have no future value, parcels are being acquired at market rate based on values attributable to their current use.

The subject properties recently became available for acquisition. The two parcels are currently vacant and include approximately 10,300 square feet of land.

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 the property for the price of \$269,000

- The City of Fontana and sellers Jose Torres and Beatriz Reyes will equally split any/all escrow and title fees 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.

Approval of the Purchase Agreement and acquisition of the subject property 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 purchase of these properties (total cost of approximately \$280,000, including escrow costs and appropriate fees) - in Fund 601 - Capital Reinvestment. Appropriate paperwork will be submitted to the Budget Office with the First Quarter Budget Status Report.

MOTION:

Approve staff recommendation.



DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code)
(C.A.R. Form AD, Revised 12/21)

(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 a 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 SECOND PAGE.**

Buyer Seller Landlord Tenant _____ City of Fontana Date 7-28-22

Buyer Seller Landlord Tenant _____ Date _____

Agent _____ Sierra Realty Fontana, Inc DRE Lic. # 02038519
Real Estate Broker (Firm)

By [Signature] Ken Galasso DRE Lic. # 00570875 Date 7-28-22
(Salesperson or Broker-Associate, if any)

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AD REVISED 12/21 (PAGE 1 OF 2)

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP (AD PAGE 1 OF 2)



Sierra Realty, 9410 Sierra Ave, Fontana CA 92335
Ken Galasso

Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201

Phone: 909.822.1200 Fax: 909.822.0324
www.lwolf.com

0191-161-17 and



FAIR HOUSING & DISCRIMINATION ADVISORY

(C.A.R. Form FHDA, 6/22)

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:** § 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 in, certain classes or categories, such as the following, is prohibited. Other classes, categories or restrictions may also apply.

Race	Color	Ancestry	National Origin	Religion
Age	Sex, Sexual Orientation	Gender, Gender Identity, Gender expression	Marital Status	Familial Status (family with a child or children under 18)
Citizenship	Immigration Status	Primary Language	Military/Veteran Status	Source of Income (e.g., Section 8 Voucher)
Medical Condition	Disability (Mental & Physical)	Genetic Information	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
 - Landlords
 - Sublessors
 - Real estate licensees
 - Real estate brokerage firms
 - Property managers
 - Mobilehome parks
 - Homeowners Associations ("HOAs");
 - Banks and Mortgage lenders
 - Insurance companies
 - Government housing services
 - Appraisers
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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 FHDA REVISED 6/22 (PAGE 1 OF 2)



FAIR HOUSING AND DISCRIMINATION ADVISORY (FHDA PAGE 1 OF 2)

- 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 wheelchair 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 _____

Buyer/Tenant _____ Date _____

Seller/Landlord _____ Jose Torres Date _____

Seller/Landlord _____ Beatriz Reyes Date _____

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FAIR HOUSING AND DISCRIMINATION ADVISORY (FHDA PAGE 2 OF 2)

Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201 www.lwolf.com 0191-161-17 and



POSSIBLE REPRESENTATION OF MORE THAN ONE BUYER OR SELLER - DISCLOSURE AND CONSENT

(C.A.R. Form PRBS, Revised 12/21)

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 Jose Torres Date _____
 Seller Beatriz Reyes Date _____
 Buyer City of Fontana Date 7-28-22
 Buyer _____ Date _____
 Buyer's Brokerage Firm Sierra Realty Fontana, Inc DRE Lic # 02038519 Date _____
 By Ken Galasso DRE Lic # 00570875 Date _____
 Seller's Brokerage Firm Sierra Realty Fontana, Inc DRE Lic # 02038519 Date 7-28-22
 By [Signature] DRE Lic # 00570875 Date _____

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PRBS REVISED 12/21 (PAGE 1 OF 1)

POSSIBLE REPRESENTATION OF MORE THAN ONE BUYER OR SELLER (PRBS PAGE 1 OF 1)

Sierra Realty, 9410 Sierra Ave. Fontana CA 92335 Phone: 909.822.1200 Fax: 909.822.0324 0191-161-17 and
Ken Galasso Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201 www.lwof.com



WIRE FRAUD AND ELECTRONIC FUNDS TRANSFER ADVISORY (C.A.R. Form WFA, Revised 12/21)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335 ("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 [Signature] City of Fontana Date 7-28-22
Buyer/Tenant [Signature] Date
Seller/Landlord [Signature] Jose Torres Date
Seller/Landlord [Signature] Beatriz Reyes Date

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WFA REVISED 12/21 (PAGE 1 OF 1)

WIRE FRAUD AND ELECTRONIC FUNDS TRANSFER ADVISORY (WFA PAGE 1 OF 1)



VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

(C.A.R. FORM VLPA, Revised 6/22)

Date Prepared: July 7, 2022

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 PROPERTY to be acquired is APNs 0191-161-17 and 28, situated in Fontana (City), San Bernardino (County), California, 92335 (Zip Code), Assessor's Parcel No(s). 0191-161-17-0000 and 0191-161-28-0000 ("Property").
 Further Described As _____
 (Postal/Mailing address may be different from city jurisdiction. Buyer is advised to investigate.)
- C. THE TERMS OF THE PURCHASE ARE SPECIFIED BELOW AND ON THE FOLLOWING PAGES.
- D. Buyer and Seller are referred to herein as the "Parties." Brokers and Agents 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) if represented by a real estate licensee. Buyer's Agent is not legally required to give to Seller's Agent the AD form Signed by Buyer. Seller's Agent is not legally obligated to give to Buyer's Agent the AD form Signed by Seller.
- B. **CONFIRMATION:** The following agency relationships are here confirmed for this transaction.
 Seller's Brokerage Firm Sierra Realty Fontana, Inc License Number 02038519
 Is the broker of (check one): the Seller; or both the Buyer and Seller (Dual Agent).
 Seller's Agent _____ License Number 00570875
 Is (check one): the Seller's Agent (Salesperson or broker associate); or both the Buyer's and Seller's Agent (Dual Agent).
 Buyer's Brokerage Firm Sierra Realty Fontana, Inc 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); or both the Buyer's and Seller's Agent (Dual Agent).
- C. More than one Brokerage represents Seller, Buyer. See, Additional Broker Acknowledgement (C.A.R. Form ABA).
- D. **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. TERMS OF PURCHASE AND ALLOCATION OF COSTS: The items in this paragraph are contractual terms of the Agreement. Referenced paragraphs provide further explanation. This form is 16 pages. The Parties are advised to read all 16 pages.

Paragraph #	Paragraph Title or Contract Term	Terms and Conditions	Additional Terms	
A	5, 5B	Purchase Price	\$ <u>269,000.00</u>	<input checked="" type="checkbox"/> All Cash
B		Close of Escrow (COE)	<input checked="" type="checkbox"/> <u>90</u> Days after Acceptance OR on <input type="checkbox"/> _____ (date) (mm/dd/yyyy)	
C	39A	Expiration of Offer	3 calendar days after all Buyer Signature(s) or _____ (date) at 5PM or <input type="checkbox"/> AM/ <input type="checkbox"/> PM	
D(1)	5A(1)	Initial Deposit Amount	\$ <u>10,000.00</u> (<u>3.7</u> % of purchase price) (% number above is for calculation purposes and is not a contractual term)	within 3 (or _____) business days after Acceptance by wire transfer OR <input checked="" type="checkbox"/> within 10 days/ acceptance
D(2)	5A(2)	<input type="checkbox"/> Increased Deposit (Money placed into escrow after the initial deposit. Use form DID at time increased deposit is made.)	\$ _____ (_____ % of purchase price) (% number above is for calculation purposes and is not a contractual term)	Upon removal of all contingencies OR <input type="checkbox"/> _____ (date) OR <input type="checkbox"/> _____
E(1)	5C(1)	Loan Amount(s): First Interest Rate Points	\$ _____ (_____ % of purchase price) Fixed rate or <input type="checkbox"/> Initial adjustable rate, not to exceed _____ % Buyer to pay zero points or up to _____ % of the loan amount	Conventional or, if checked, <input type="checkbox"/> FHA <input type="checkbox"/> VA (CAR Forms FVAC, HID attached) <input type="checkbox"/> Seller Financing <input type="checkbox"/> Assumed Financing <input type="checkbox"/> Subject To Financing Other: _____
E(2)	5C(2)	Additional Financed Amount Interest Rate Points	\$ _____ (_____ % of purchase price) Fixed rate or <input type="checkbox"/> Initial adjustable rate, not to exceed _____ % Buyer to pay zero points or up to _____ % of the loan amount	Conventional or, if checked, <input type="checkbox"/> Seller Financing <input type="checkbox"/> Assumed Financing <input type="checkbox"/> Subject To Financing Other: _____
E(3)	7A	Occupancy Type	Investment, or if checked, <input type="checkbox"/> Primary <input type="checkbox"/> Secondary	
F	5D	Balance of Down Payment	\$ <u>259,000.00</u>	
		PURCHASE PRICE TOTAL	\$ <u>269,000.00</u>	

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Buyer's Initials MS Seller's Initials ST BR



VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 1 OF 16)

Property Address: **APNs 0191-161-17 and 28, Fontana, 92335**

Date: **July 7, 2022**

	Paragraph #	Paragraph Title or Contract Term	Terms and Conditions	Additional Terms
G(1)	5E	Seller Credit, if any, to Buyer	<input type="checkbox"/> \$ _____ (_____ % of purchase price) (% number above is for calculation purposes and is not a contractual term)	Seller credit to be applied to closing costs OR <input type="checkbox"/> Other: _____
G(2)	ADDITIONAL FINANCE TERMS: _____			
H(1)	5B	Verification of All Cash (sufficient funds)	Attached to the offer or <input type="checkbox"/> 3 (or _____) Days after Acceptance	
H(2)	6A	Verification of Down Payment and Closing Costs	Attached to the offer or <input type="checkbox"/> 3 (or _____) Days after Acceptance	
H(3)	6B	Verification of Loan Application	Attached to the offer or <input type="checkbox"/> 3 (or _____) Days after Acceptance	
I	Intentionally Left Blank			
J	19	Final Verification of Condition	5 (or _____) Days prior to COE	
K	26	Assignment Request	17 (or _____) Days after Acceptance	
L	8	CONTINGENCIES	TIME TO REMOVE CONTINGENCIES	
L(1)	8A	Loan(s)	17 (or _____) Days after Acceptance	<input checked="" type="checkbox"/> No loan contingency
L(2)	8B	Appraisal: Appraisal contingency based upon appraised value at a minimum of purchase price or <input type="checkbox"/> \$ _____	17 (or _____) Days after Acceptance	<input checked="" type="checkbox"/> No appraisal contingency Removal of appraisal contingency does not eliminate appraisal cancellation rights in FVAC.
L(3)	8C	<input type="checkbox"/> Purchase of Manufactured Home Buyer has (or <input type="checkbox"/> has not) entered into contract to purchase a personal property manufactured home	17 (or _____) Days after Acceptance <input type="checkbox"/> Shall remain in effect until the Close of Escrow of the Property	REMOVAL OR WAIVER OF CONTINGENCY: Any contingency in L(1)-L(7) may be removed or waived by checking the applicable box above or attaching a Contingency Removal (C.A.R. Form CR) and checking the applicable box therein. Removal or Waiver at time of offer is against Agent advice. See paragraph 8J. <input type="checkbox"/> CR attached
L(4)	8D	<input type="checkbox"/> Construction Loan Financing A draw from the construction loan will not (or will) be used to finance the Property	17 (or _____) Days after Acceptance	
L(5)	8E, 15	Investigation of Property	17 (or <u>60</u>) Days after Acceptance	
		Informational Access to Property Buyer's right to access the Property for informational purposes only is NOT a contingency and does NOT create additional cancellation rights for Buyer.	17 (or _____) Days after Acceptance	
L(6)	8F, 17A	Review of Seller Documents	17 (or <u>60</u>) Days after Acceptance, or 5 Days after receipt, whichever is later	
L(7)	8G, 16A	Preliminary ("Title") Report	17 (or <u>60</u>) Days after Acceptance, or 5 Days after receipt, whichever is later	
L(8)	8H, 11D	Common Interest Disclosures required by Civil Code § 4525 or this Agreement		
L(9)	8I, 9B(2)	Review of leased or liened items (Such as for solar panels or propane tanks or PACE or HERO liens)	17 (or _____) Days after Acceptance, or 5 Days after receipt, whichever is later	
L(10)	8L	Sale of Buyer's Property Sale of Buyer's property is not a contingency, UNLESS checked here: <input type="checkbox"/> C.A.R. Form COP attached		
M		Possession	Time for Performance	
M		Vacant Lot Delivery Property to be delivered subject to tenant rights, if any, except _____.	Upon notice of recordation On COE Date	
N		Documents/Fees/Compliance	Time for Performance	
N(1)	17A	Seller Delivery of Documents	7 (or _____) Days after Acceptance	
N(2)	22B	Sign and return Escrow Holder General Provisions, Supplemental Instructions	5 (or <u>30</u>) Days after receipt	
N(3)	11D(2)	Time to pay fees for ordering HOA Documents	3 (or _____) Days after Acceptance	
N(4)	35	Evidence of representative authority	3 Days after Acceptance	



Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

O	Intentionally Left Blank			
P	Items Included and Excluded			
P(1)	9	Items Included - All items specified in Paragraph 9B are included and the following, if checked: <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____		
P(2)		Excluded Items: <input type="checkbox"/> _____ ; <input type="checkbox"/> _____ ; <input type="checkbox"/> _____ ;		
Q	Allocation of Costs			
	Paragraph #	Item Description	Who Pays (if Both is checked, cost to be split equally unless Otherwise Agreed)	Additional Terms
Q(1)	11E	Natural Hazard Zone Disclosure Report, including tax information	<input type="checkbox"/> Buyer <input checked="" type="checkbox"/> Seller <input type="checkbox"/> Both _____ _____ <input type="checkbox"/> Provided by: _____	<input checked="" type="checkbox"/> Environmental <input type="checkbox"/> Other _____
Q(2)	15B(1)(D)	Environmental Survey	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	Escrow Holder: <u>Bennett Escrow Services Inc</u>
Q(3)		_____ Report	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(4)	22B	Escrow Fees	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input checked="" type="checkbox"/> Both _____ <input type="checkbox"/> Each to pay their own fees	
Q(5)	16	Owner's title insurance policy	<input type="checkbox"/> Buyer <input checked="" type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(6)		Buyer's Lender title insurance policy	Buyer	Unless Otherwise Agreed, Buyer shall purchase any title insurance policy insuring Buyer's lender.
Q(7)		County transfer tax, fees	<input type="checkbox"/> Buyer <input checked="" type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(8)		City transfer tax, fees	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(9)	11D(2)	OA fee for preparing disclosures	Seller	
Q(10)		OA certification fee	Buyer	
Q(11)		OA transfer fees	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	Unless Otherwise Agreed, Seller shall pay for separate HOA move-out fee and Buyer shall pay for separate move-in fee. Applies if separately billed or itemized with cost in transfer fee.
Q(12)		Private transfer fees	Seller, or if checked, <input type="checkbox"/> Buyer <input type="checkbox"/> Both _____	
Q(13)		_____ fees or costs	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(14)		_____ fees or costs	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
R	Additional Tenancy Documents <input type="checkbox"/> Income and Expense Statements <input type="checkbox"/> Tenant Estoppel Certificate			
S	OTHER TERMS: <u>Offer and acceptance subject to approval of the Fontana City Council.</u>			

4. PROPERTY ADDENDA AND ADVISORIES: (check all that apply)

A. PROPERTY TYPE ADDENDA: This Agreement is subject to the terms contained in the Addenda checked below:

- Probate Agreement Purchase Addendum (C.A.R. Form PA-PA)
- Other _____

B. OTHER ADDENDA: This Agreement is subject to the terms contained in the Addenda checked below:

- Addendum # _____ (C.A.R. Form ADM)
- Back Up Offer Addendum (C.A.R. Form BUO)
- Assumed Financing Addendum (C.A.R. Form AFA)
- Septic, Well, Property Monument and Propane Addendum (C.A.R. Form SWPI)
- Buyer Intent to Exchange Addendum (C.A.R. Form BXA)
- Other _____
- Short Sale Addendum (C.A.R. Form SSA)
- Court Confirmation Addendum (C.A.R. Form CCA)
- Seller Intent to Exchange Addendum (C.A.R. Form SXA)

C. BUYER AND SELLER ADVISORIES: (Note: All Advisories below are provided for reference purposes only and are not intended to be incorporated into this Agreement.)

- Buyer's Vacant Land Additional Inspection Advisory (C.A.R. Form BVLIA)
- Fair Housing and Discrimination Advisory (C.A.R. Form FHDA)
- Wire Fraud Advisory (C.A.R. Form WFA)
- Wildfire Disaster Advisory (C.A.R. Form WFDA)
- Trust Advisory (C.A.R. Form TA)
- REO Advisory (C.A.R. Form REO)
- Other _____
- Cal. Consumer Privacy Act Advisory (C.A.R. Form CCPA)
(Parties may also receive a privacy disclosure from their own Agent.)
- Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
- Short Sale Information and Advisory (C.A.R. Form SSIA)
- Probate Advisory (C.A.R. Form PA)
- Other _____

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Buyer's Initials JS

Seller's Initials BR

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 3 OF 16)

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0191-161-17 and



Property Address: **APNs 0191-161-17 and 28, Fontana, 92335**

Date: **July 7, 2022**

5. **ADDITIONAL TERMS AFFECTING PURCHASE PRICE:** Buyer represents that funds will be good when deposited with Escrow Holder.
- A. **DEPOSIT:**
- (1) **INITIAL DEPOSIT:** Buyer shall deliver deposit directly to Escrow Holder. If a method other than wire transfer is specified in paragraph 3D(1) and such method is unacceptable to Escrow Holder, then upon notice from Escrow Holder, delivery shall be by wire transfer.
 - (2) **INCREASED DEPOSIT:** Increased deposit to be delivered to Escrow Holder in the same manner as the Initial Deposit. If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount by signing a new liquidated damages clause (C.A.R. Form DID) at the time the increased deposit is delivered to Escrow Holder.
 - (3) **RETENTION OF DEPOSIT:** Paragraph 36, if initialed by all Parties or otherwise incorporated into this Agreement, specifies a remedy for Buyer's default. Buyer and Seller are advised to consult with a qualified California real estate attorney before adding any other clause specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase. Any such clause shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.
- B. **ALL CASH OFFER:** If an all cash offer is specified in paragraph 3A, no loan is needed to purchase the Property. This Agreement is NOT contingent on Buyer obtaining a loan. Buyer shall, within the time specified in paragraph 3H(1), Deliver written verification of funds sufficient for the purchase price and closing costs.
- C. **LOAN(S):**
- (1) **FIRST LOAN:** This loan will provide for conventional financing UNLESS FHA, VA, Seller Financing (C.A.R. Form SFA), Assumed Financing, Subject To Financing, or Other is checked in paragraph 3E(1).
 - (2) **ADDITIONAL FINANCED AMOUNT:** If an additional financed amount is specified in paragraph 3E(2), that amount will provide for conventional financing UNLESS Seller Financing (C.A.R. Form SFA), Assumed Financing, Subject To Financing, or Other is checked in paragraph 3E(2).
 - (3) **BUYER'S LOAN STATUS:** Buyer authorizes Seller and Seller's Authorized Agent to contact Buyer's lender(s) to determine the status of any Buyer's loan specified in paragraph 3E, or any alternate loan Buyer pursues, whether or not a contingency of this Agreement. If the contact information for Buyer's lender(s) is different from that provided under the terms of paragraph 6B, Buyer shall Deliver the updated contact information within 1 Day of Seller's request.
 - (4) **ASSUMED OR SUBJECT TO FINANCING:** Seller represents that Seller is not delinquent on any payments due on any loans. If the Property is acquired subject to an existing loan, Buyer and Seller are advised to consult with legal counsel regarding the ability of an existing lender to call the loan due, and the consequences thereof.
- D. **BALANCE OF PURCHASE PRICE (DOWN PAYMENT)** (including all-cash funds) to be deposited with Escrow Holder pursuant to Escrow Holder instructions.
- E. **LIMITS ON CREDITS TO BUYER:** 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 any, and made at Close Of Escrow. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit from Seller 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.
6. **ADDITIONAL FINANCING TERMS:**
- A. **VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Written verification of Buyer's down payment and closing costs may be made by Buyer or Buyer's lender or loan broker pursuant to paragraph 6B.
 - B. **VERIFICATION OF LOAN APPLICATIONS:** Buyer shall Deliver to Seller, within the time specified in paragraph 3H(3) 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 3E. If any loan specified in paragraph 3E is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate.
 - C. **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 specified financing. Buyer shall pursue the financing specified in this Agreement, even if Buyer also elects to pursue an alternative form of financing. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in this Agreement but shall not interfere with closing at the purchase price on the COE date (paragraph 3B) even if based upon alternate financing. Buyer's inability to obtain alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.
7. **CLOSING AND POSSESSION:**
- A. **OCCUPANCY:** Buyer intends to occupy the Property as indicated in paragraph 3E(3). Occupancy may impact available financing.
 - B. **CONDITION OF PROPERTY ON CLOSING:**
 - (1) Unless Otherwise Agreed: (i) the Property shall be delivered "As-Is" in its PRESENT physical condition as of the date of Acceptance; (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 or at the time possession is delivered to Buyer, if not on the same date. If items are not removed when possession is delivered to Buyer, all items shall be deemed abandoned. Buyer, after first Delivering to Seller written notice to remove the items within 3 Days, may pay to have such items removed or disposed of and may bring legal action, as per this Agreement, to receive reasonable costs from Seller.
 - (2) Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller and Agents 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 all required permits issued and/or finalized.
 - C. Seller shall, on Close Of Escrow unless Otherwise Agreed and even if Seller remains in possession, provide keys, passwords, codes and/or means to operate all locks, mailboxes, and all items included in either paragraph 3P or paragraph 9. If the Property is a condominium or located in a common interest development, Seller shall be responsible for securing or providing any such items for Association amenities, facilities, and access. Buyer may be required to pay a deposit to the Owners' Association ("OA") to obtain keys to accessible OA facilities.

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Buyer's Initials

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Seller's Initials

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 4 OF 16)

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0191-161-17 and

Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

8. CONTINGENCIES AND REMOVAL OF CONTINGENCIES:

A. LOAN(S):

- (1) This Agreement is, unless otherwise specified in paragraph 3L(1) or an attached CR form, contingent upon Buyer obtaining the loan(s) specified. If contingent, Buyer shall act diligently and in good faith to obtain the designated loan(s). 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 and Buyer is able to satisfy lender's non-appraisal conditions for closing the loan.
- (2) Buyer is advised to investigate the insurability of the Property as early as possible, as this may be a requirement for lending. Buyer's ability to obtain insurance for the Property, including fire insurance, is part of Buyer's Investigation of Property contingency. Failure of Buyer to obtain insurance may justify cancellation based on the Investigation contingency but not the loan contingency.
- (3) Buyer's contractual obligations regarding deposit, balance of down payment and closing costs are not contingencies of this Agreement, unless Otherwise Agreed.
- (4) If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.
- (5) NO LOAN CONTINGENCY: If "No loan contingency" is checked in paragraph 3L(1), obtaining any loan specified is NOT a contingency of this Agreement. If Buyer does not obtain the loan specified, and as a result is unable to purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

B. APPRAISAL:

- (1) This Agreement is, unless otherwise specified in paragraph 3L(2) or an attached CR form, contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the amount specified in paragraph 3L(2), without requiring repairs or improvements to the Property. Appraisals are often a reliable source to verify square footage of the subject Property. However, the ability to cancel based on the measurements provided in an appraisal falls within the Investigation of Property contingency. The appraisal contingency is solely limited to the value determined by the appraisal. For any cancellation based upon this appraisal contingency, Buyer shall Deliver a Copy of the written appraisal to Seller, upon request by Seller.
- (2) NO APPRAISAL CONTINGENCY: If "No appraisal contingency" is checked in paragraph 3L(2), then Buyer may not use the loan contingency specified in paragraph 3L(1) to cancel this Agreement if the sole reason for not obtaining the loan is that the appraisal relied upon by Buyer's lender values the property at an amount less than that specified in paragraph 3L(2). If Buyer is unable to obtain the loan specified solely for this reason, Seller may be entitled to Buyer's deposit or other legal remedies.
- (3) Fair Appraisal Act: The Parties acknowledge receipt of the attached Fair Appraisal Act Addendum (C.A.R. Form FAAA).

C. MANUFACTURED HOME PURCHASE: If checked in paragraph 3L(3), this Agreement is contingent upon Buyer acquiring a personal property manufactured home to be placed on the Property after Close Of Escrow.

D. CONSTRUCTION LOAN FINANCING: If checked in paragraph 3L(4), this Agreement is contingent upon Buyer obtaining a construction loan.

E. INVESTIGATION OF PROPERTY: This Agreement is, as specified in paragraph 3L(5), contingent upon Buyer's acceptance of the condition of, and any other matter affecting, the Property.

F. REVIEW OF SELLER DOCUMENTS: This Agreement is, as specified in paragraph 3L(6), contingent upon Buyer's review of Seller's documents required in paragraph 17A.

G. TITLE:

- (1) This Agreement is, as specified in paragraph 3L(7), contingent upon Buyer's ability to obtain the title policy provided for in paragraph 16G and on Buyer's review of a current Preliminary Report and items that are disclosed or observable even if not on record or not specified in the Preliminary Report, and satisfying Buyer regarding the current status of title. Buyer is advised to review all underlying documents and other matters affecting title, including, but not limited to, any documents or deeds referenced in the Preliminary Report and any plotted easements.
- (2) Buyer has 5 Days after receipt to review a revised Preliminary Report, if any, furnished by the Title Company and cancel the transaction if the revised Preliminary Report reveals material or substantial deviations from a previously provided Preliminary Report.

H. CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES (IF APPLICABLE): This Agreement is, as specified in paragraph 3L(8), contingent upon Buyer's review of Common Interest Disclosures required by Civil Code § 4525 and under paragraph 11D ("CI Disclosures").

I. BUYER REVIEW OF LEASED OR LIENED ITEMS CONTINGENCY: Buyer's review of and ability and willingness to assume any lease, maintenance agreement or other ongoing financial obligation, or to accept the Property subject to any lien, disclosed pursuant to paragraph 9B(2), is, as specified in paragraph 3L(9), a contingency of this Agreement. Any assumption of the lease shall not require any financial obligation or contribution by Seller. Seller, after first Delivering a Notice to Buyer to Perform, may cancel this Agreement if Buyer, by the time specified in paragraph 3L(9), refuses to enter into any necessary written agreements to accept responsibility for all obligations of Seller-disclosed leased or lienied items.

J. REMOVAL OR WAIVER OF CONTINGENCIES WITH OFFER: Buyer shall have no obligation to remove a contractual contingency unless Seller has provided all required documents, reports, disclosures, and information pertaining to that contingency. If Buyer does remove a contingency without first receiving all required information from Seller, Buyer is relinquishing any contractual rights that apply to that contingency. If Buyer removes or waives any contingencies without an adequate understanding of the Property's condition or Buyer's ability to purchase, Buyer is acting against the advice of Agent.

K. REMOVAL OF CONTINGENCY OR CANCELLATION:

- (1) For any contingency specified in paragraph 3L or 8, Buyer shall, within the applicable period specified, remove the contingency or cancel this Agreement.
- (2) For the contingencies for review of Seller Documents, Preliminary Report, and Condominium/Planned Development Disclosures, Buyer shall, within the time specified in paragraph 3L or 5 Days after receipt of the applicable Seller Documents, Preliminary Report, or CI Disclosures, whichever occurs later, remove the applicable contingency in writing or cancel this Agreement.
- (3) If Buyer does not remove a contingency within the time specified, Seller, after first giving Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), shall have the right to cancel this Agreement.

L. SALE OF BUYER'S PROPERTY: This Agreement and Buyer's ability to obtain financing are NOT contingent upon the sale of any property owned by Buyer unless the Sale of Buyer's Property (C.A.R. Form COP) is checked as a contingency of this Agreement in paragraph 3L(10).

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Buyer's Initials

JS

Seller's Initials

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 5 OF 16)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

9. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:

- A. **NOTE TO BUYER AND SELLER:** Items listed as included or excluded in the Multiple Listing Service (MLS), flyers, marketing materials, or disclosures are NOT included in the purchase price or excluded from the sale unless specified in this paragraph or paragraph 3P or as Otherwise Agreed. Any items included herein are components of the Property and are not intended to affect the price. All items are transferred without Seller warranty.
- B. **ITEMS INCLUDED IN SALE:**
 - (1) All EXISTING fixtures and fittings that are attached to the Property;
 - (2) **LEASED OR LIENED ITEMS AND SYSTEMS:** Seller, within the time specified in paragraph 3N(1), shall (i) disclose to Buyer if any item or system specified in paragraph 3P or 9B or otherwise included in the sale is leased, or not owned by Seller, or is subject to any maintenance or other ongoing financial obligation, or specifically subject to a lien or other encumbrance or loan, and (ii) Deliver to Buyer all written materials (such as lease, warranty, financing, etc.) concerning any such item.
 - (3) Seller represents that all items included in the purchase price, unless Otherwise Agreed, (i) are owned by Seller and shall be transferred free and clear of liens and encumbrances, except the items and systems identified pursuant to paragraph 9B(2), and (ii) are transferred without Seller warranty regardless of value. Seller shall cooperate with the identification of any software or applications and Buyer's efforts to transfer any services needed to operate any Smart Home Features or other items included in this Agreement, including, but not limited to, utilities or security systems.
 - (4) 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 3N(1).
 - (5) Seller shall deliver title to the personal property by Bill of Sale, free of all liens and encumbrances, and without warranty of condition.
 - (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.
- C. **ITEMS EXCLUDED FROM SALE:** Unless Otherwise Agreed, all items specified in paragraph 3P(2) are excluded from the sale.

10. ALLOCATION OF COSTS FOR INSPECTIONS, REPORTS AND CERTIFICATES: Paragraphs 3Q(1-3) and (5) 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. Agreements for payment of required work should be specified elsewhere in paragraph 3Q, or 3S, or in a separate agreement (such as C.A.R. Forms RR, RRRR, ADM or AEA).

11. SELLER DISCLOSURES:

- A. **WITHHOLDING TAXES:** Buyer and Seller hereby instruct Escrow Holder to withhold the applicable required amounts to comply with federal and California withholding Laws and forward such amounts to the Internal Revenue Service and Franchise Tax Board, respectively. However, no federal withholding is required if, prior to Close Of Escrow, Seller Delivers (i) to Buyer and Escrow Holder a fully completed affidavit (C.A.R. Form AS) sufficient to avoid withholding pursuant to federal withholding Law (FIRPTA); OR (ii) to a qualified substitute (usually a title company or an independent escrow company) a fully completed affidavit (C.A.R. Form AS) sufficient to avoid withholding pursuant to federal withholding Law AND the qualified substitute Delivers to Buyer and Escrow Holder an affidavit signed under penalty of perjury (C.A.R. Form QS) that the qualified substitute has received the fully completed Seller's affidavit and the Seller states that no federal withholding is required; OR (iii) to Buyer other documentation satisfying the requirements under Internal Revenue Code § 1445 (FIRPTA). No withholding is required under California Law if, prior to Close Of Escrow, Escrow Holder has received sufficient documentation from Seller that no withholding is required, and Buyer has been informed by Escrow Holder.
- B. **MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to § 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Seller nor Agent are required to check this website. If Buyer wants further information, Agent recommends that Buyer obtain information from this website during Buyer's investigation contingency period. Agents do not have expertise in this area.)
- C. **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 Website. (Neither Seller nor Agent are required to check this website. If Buyer wants further information, Agent recommends that Buyer obtain information from this website during Buyer's investigation contingency period. Agents do not have expertise in this area.)
- D. **CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:**
 - (1) Seller shall, within the time specified in paragraph 3N(1), disclose to Buyer whether the Property is a condominium or is located in a planned development, other common interest development, or otherwise subject to covenants, conditions, and restrictions (C.A.R. Form SPQ or ESD).
 - (2) If the Property is a condominium or is located in a planned development or other common interest development with a OA, Seller shall, within the time specified in paragraph 3N(3), order from, and pay any required fee for the following items to the OA (C.A.R. Form HOA-IR): (i) Copies of any documents required by Law (C.A.R. Form HOA-RS); (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; (v) the names and contact information of all OAs governing the Property; (vi) pet restrictions; and (vii) smoking restrictions ("CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the OA and any CI Disclosures in Seller's possession. Seller shall, as directed by Escrow Holder, deposit funds into escrow or direct to OA or management company to pay for any of the above.
- E. **NATURAL AND ENVIRONMENTAL HAZARDS:** Seller shall, within the time specified in paragraph 3N(1), if required by Law: (i) Deliver to Buyer the earthquake guide and environmental hazards booklet, and for all residential property with 1-4 units and any manufactured or mobile home built before January 1, 1960, fully complete and Deliver the Residential Earthquake Risk Disclosure Statement; and (ii) even if exempt from the obligation to provide a 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.

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Buyer's Initials

WJ

Seller's Initials

JT

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 6 OF 16)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

- F. **ADDITIONAL DISCLOSURES:** Within the time specified in paragraph 3N(1), if Seller has actual knowledge, Seller shall provide to Buyer, in writing, the following information:
- (1) **LEGAL PROCEEDINGS:** Any lawsuits by or against Seller, threatening or affecting the Property, including any lawsuits alleging a defect or deficiency in the Property or common areas, or any known notices of abatement or citations filed or issued against the Property.
 - (2) **AGRICULTURAL USE:** Whether the Property is subject to restrictions for agricultural use pursuant to the Williamson Act (Government Code §§ 51200-51295).
 - (3) **DEED RESTRICTIONS:** Any deed restrictions or obligations.
 - (4) **FARM USE:** Whether the Property is in, or adjacent to, an area with Right to Farm rights (Civil Code § 3482.5 and § 3482.6).
 - (5) **ENDANGERED SPECIES:** Presence of endangered, threatened, "candidate" species, or wetlands on the Property.
 - (6) **ENVIRONMENTAL HAZARDS:** Any substances, materials, or products that may be an environmental hazard including, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, and contaminated soil or water on the Property.
 - (7) **COMMON WALLS:** Any features of the Property shared in common with adjoining landowners, such as walls, fences, roads, and driveways, and agriculture and domestic wells whose use or responsibility for maintenance may have an effect on the Property.
 - (8) **LANDLOCKED:** The absence of legal or physical access to the Property.
 - (9) **EASEMENTS/ENCROACHMENTS:** Any encroachments, easements, or similar matters that may affect the Property.
 - (10) **SOIL FILL:** Any fill (compacted or otherwise), or abandoned mining operations on the Property.
 - (11) **SOIL PROBLEMS:** Any slippage, sliding, flooding, drainage, grading, or other soil problems.
 - (12) **EARTHQUAKE DAMAGE:** Major damage to the Property of any of the structures from fire, earthquake, floods, or landslides.
 - (13) **ZONING ISSUES:** Any zoning violations, non-conforming uses, or violations of "setback" requirements.
 - (14) **NEIGHBORHOOD PROBLEMS:** Any neighborhood noise problems, or other nuisances.
 - (15) **SURVEY, PLANS, PERMITS AND ENGINEERING DOCUMENTS:** If in Seller's possession, Copies of surveys, plans, specifications, permits and approvals, development plans, licenses, and engineering documents, if any, prepared on Seller's behalf on in Seller's possession.
 - (16) **VIOLATION NOTICES:** Seller shall disclose any notice of violations of any Law filed or issued against the Property.
- G. **MELLO-ROOS TAX; 1915 BOND ACT:** Within the time specified in paragraph 3N(1), Seller shall: (i) make a good faith effort to obtain a notice from any local agencies that levy a special tax or assessment on the Property (or, if allowed, substantially equivalent notice), pursuant to the Mello-Roos Community Facilities Act, and Improvement Bond Act of 1915, and (ii) promptly Deliver to Buyer any such notice obtained.
- H. **KNOWN MATERIAL FACTS:** Seller shall, within the time specified in paragraph 3N(1), DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including, but not limited to, known insurance claims within the past five years, or provide Buyer with permission to contact lender to get such information (C.A.R. Form ARC), and make any and all other disclosures required by Law.
- I. **SELLER VACANT LAND QUESTIONNAIRE:** Seller shall, within the time specified in paragraph 3N(1), complete and provide Buyer with a Seller Vacant Land Questionnaire (C.A.R. Form VLQ).
- J. **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, 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 of which Buyer is otherwise aware or which are disclosed in reports provided to or obtained by Buyer or ordered and paid for by Buyer.
12. **TENANCY RELATED DISCLOSURES:** Within the time specified in paragraph 3N(1), and subject to Buyer's right of review, Seller shall disclose, make available or Deliver, as applicable, to Buyer, the following information:
- A. **RENTAL/SERVICE AGREEMENTS:** (i) All current leases, rental agreements, service contracts, and other agreements pertaining to the operation of the Property; (ii) A rental statement including names of tenants, rental rates, period or 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 rebate, concession, or other benefit, except as set forth in these documents. Seller represents that the documents to be furnished are those maintained in the ordinary and normal course of business.
 - B. **INCOME AND EXPENSE STATEMENTS:** If checked in paragraph 3R, the books and records for the Property, if any, 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.
 - C. **TENANT ESTOPPEL CERTIFICATES:** If checked in paragraph 3R, Tenant Estoppel Certificates (C.A.R. Form TEC). Tenant Estoppel Certificates shall be completed by Seller or Seller's agent and delivered to tenant(s) for tenant(s) to sign and acknowledge: (i) that tenant(s)' 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. Seller shall exercise good faith to obtain tenant(s)' signature(s), but Seller cannot guarantee tenant(s)' cooperation. In the event Seller cannot obtain signed Tenant Estoppel Certificates within the time specified above, Seller shall notify Buyer and provide the unsigned one that was provided to tenant(s). If, after the time specified for Seller to Deliver the TEC to Buyer, any tenant(s) sign and return a TEC to Seller, Seller shall Deliver that TEC to Buyer.
 - D. **SELLER REPRESENTATIONS:** Unless otherwise disclosed under paragraph 11, paragraph 12, or under any disclosure Delivered to Buyer:
 - (1) Seller represents that Seller has no actual knowledge that any tenant(s): (i) has any current pending lawsuit(s), investigation(s), Inquiry(ies), action(s), or other proceeding(s) affecting the Property of the right to use and occupy it; (ii) has any unsatisfied mechanics or materialman lien(s) affecting the Property; and (iii) is the subject of a bankruptcy. If Seller receives any such notice, prior to Close Of Escrow, Seller shall immediately notify Buyer.
 - (2) Seller represents that no tenant is entitled to any rebate, concessions, or other benefit, except as set forth in the rental service agreements.
 - (3) Seller represents that the documents to be furnished are those maintained in the ordinary and normal course of business and the income and expense statements are and used by Seller in the computation of federal and state income tax returns.
13. **CHANGES DURING ESCROW:**
- A. Prior to Close Of Escrow, Seller may engage in the following acts ("Proposed Changes"), subject to Buyer's rights in paragraph 13B: (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.

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Buyer's Initials

MB

Seller's Initials

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 7 OF 16)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335

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- B. (1) At least 7 Days prior to any Proposed Changes, Seller shall Deliver written notice to Buyer of such Proposed Change
- (2) Within 5 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.
- 14. **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 California Civil Code.
- 15. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**
 - A. Buyer shall, within the time specified in paragraph 3L(5), have the right, at Buyer's expense unless Otherwise Agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations").
 - B. Buyer Investigations include, but are not limited to:
 - (1) Inspections regarding any physical attributes of the Property or items connected to the Property, such as:
 - (A) A general inspection.
 - (B) An inspection for lead-based paint and other lead-based paint hazards.
 - (C) An inspection specifically 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).
 - (D) A phase one environmental survey, paid for and obtained by the party indicated in paragraph 3Q(2). If Buyer is responsible for obtaining and paying for the survey, Buyer shall act diligently and in good faith to obtain such survey within the time specified in paragraph 3L(5). Buyer has 5 Days after receiving the survey to remove this portion of the Buyer's Investigation contingency.
 - (E) Any other specific inspections of the physical condition of the land and improvements.
 - (2) All other Buyer Investigations, such as insurance, not specified above. See, Buyer's Vacant Land Additional Inspection Advisory (C.A.R. Form BVLIA) for more.
 - (3) A review of reports, disclosures or information prepared by or for Seller and Delivered to Buyer pursuant to paragraphs 3, 11, 12, 13, 16A, and 17A.
 - C. 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, which shall not include any holes or drilling through stucco or similar material; or (ii) inspections by any governmental building or zoning inspector or government employee, unless required by Law.
 - D. Seller shall make the Property available for all Buyer Investigations. Seller is not obligated to move any existing personal property. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is delivered to Buyer. Buyer shall, (i) by the time specified in paragraph 3L(5), complete Buyer Investigations and satisfy themselves as to the condition of the Property, and either remove the contingency or cancel this Agreement, and (ii) by the time specified in paragraph 3L(5) or 3 Days after receipt of any Investigation report, whichever is later, give Seller at no cost, complete Copies of all such reports obtained by Buyer, which obligation shall survive the termination of this Agreement. This Delivery of Investigation reports shall not include any appraisal, except an appraisal received in connection with an FHA or VA loan.
 - E. Buyer indemnify and Seller protection for entry upon the 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.
 - F. **BUYER IS STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY AND ALL MATTERS AFFECTING THE VALUE OR DESIRABILITY OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE ITEMS SPECIFIED BELOW. IF BUYER DOES NOT EXERCISE THESE RIGHTS, BUYER IS ACTING AGAINST THE ADVICE OF BROKERS. BUYER UNDERSTANDS THAT ALTHOUGH CONDITIONS ARE OFTEN DIFFICULT TO LOCATE AND DISCOVER, ALL REAL PROPERTY CONTAINS CONDITIONS THAT ARE NOT READILY APPARENT AND THAT MAY AFFECT THE VALUE OR DESIRABILITY OF THE PROPERTY. BUYER AND SELLER ARE AWARE THAT BROKERS DO NOT GUARANTEE, AND IN NO WAY ASSUME RESPONSIBILITY FOR, THE CONDITION OF THE PROPERTY. BROKERS HAVE NOT AND WILL NOT VERIFY ANY OF THE ITEMS IN PARAGRAPH 15, UNLESS OTHERWISE AGREED IN WRITING.**
 - G. **SIZE, LINES, ACCESS, AND BOUNDARIES:** Lot size, property lines, legal or physical access, and boundaries including features of the Property shared in common with adjoining landowners, such as walls, fences, roads, and driveways, whose use or responsibility for maintenance may have an effect on the Property and any encroachments, easements, or similar matters that may affect the Property. (Fences, hedges, walls, and other natural or constructed barriers or markers do not necessarily identify true Property boundaries. Property lines may be verified by survey.) (Unless otherwise specified in writing, any numerical statements by Brokers regarding lot size are APPROXIMATIONS ONLY, which have not been and will not be verified, and should not be relied upon by Buyer.)
 - H. **ZONING AND LAND USE:** Past, present, or proposed laws, ordinances, referendums, initiatives, votes, applications, and permits affecting the current use of the Property, future development, zoning, building, size, governmental permits and inspections. Any zoning violations, non-conforming uses, or violations of "setback" requirements. (Buyer should also investigate whether these matters affect Buyer's intended use of the Property.)
 - I. **UTILITIES AND SERVICES:** Availability, costs, restrictions, and location of utilities and services, including but not limited to, sewerage, sanitation, septic and leach lines, water, electricity, gas, telephone, cable TV, and drainage.
 - J. **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, including mold (airborne, toxic, or otherwise), fungus or similar contaminant, materials, products, or conditions.

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Buyer's Initials MS

Seller's Initials ST

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 8 OF 16)

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- K. **GEOLOGIC CONDITIONS:** Geologic/seismic conditions, soil and terrain stability, suitability and drainage including slippage, sliding, flooding, drainage, grading, fill (compacted or otherwise), or other soil problems.
 - L. **NATURAL HAZARD ZONE:** Special Flood Hazard Areas, Potential Flooding (Inundation) Areas, Very High Hazard Zones, State Fire Responsibility Areas, Earthquake Fault Zones, Seismic Hazard Zones, or any other zone for which disclosure is required by Law.
 - M. **PROPERTY DAMAGE:** Major damage to the Property of any of the structures or non-structural systems and components and any personal property included in the sale from fire, earthquake, floods, landslides, or other causes.
 - N. **NEIGHBORHOOD, AREA, AND PROPERTY CONDITIONS:** Neighborhood or area conditions, including Agricultural Use Restrictions pursuant to the Williamson Act (Government Code §§ 51200-51295), Right to Farm Laws (Civil Code § 3482.5 and § 3482.6), schools, proximity and adequacy of law enforcement, crime statistics, the proximity of registered felons or offenders, fire protection, other government services, availability, adequacy, and cost of any speed-wired, wireless internet connections, or other telecommunications or other technology services and installations, proximity to 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, abandoned mining operations on the Property, 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 Owners' Association requirements, conditions, and influences of significance to certain cultures and/or religions, and personal needs, requirements, and preferences of Buyer.
 - O. **COMMON INTEREST SUBDIVISIONS; OWNER ASSOCIATIONS:** Facilities and condition of common areas (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others), Owners' Association that has any authority over the subject property, CC&Rs, or other deed restrictions or obligations, and possible lack of compliance with any Owners' Association requirements.
 - P. **SPECIAL TAX:** Any local agencies that levy a special tax on the Property pursuant to the Mello-Roos Community facilities Act or Improvement Bond Act of 1915.
 - Q. **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 landlord to terminate a tenancy.
 - R. **MANUFACTURED HOME PLACEMENT:** Conditions that may affect the ability to place and use a manufactured home on the Property.
- 16. TITLE AND VESTING:**
- A. Buyer shall, within the time specified in paragraph 3N(1), be provided a current Preliminary Report by the person responsible for paying for the title report in paragraph 3Q(5). If Buyer is responsible for paying, Buyer shall act diligently and in good faith to obtain such Preliminary Report within the time specified. 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. 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.
 - 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 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. For any lien or matter not being transferred upon sale, Seller will take necessary action to deliver title free and clear of such lien or matter.
 - C. Seller shall within 7 Days after request, give Escrow Holder necessary information to clear title.
 - D. Seller shall, within the time specified in paragraph 3N(1), disclose to Buyer all matters known to Seller affecting title, whether of record or not.
 - E. If Buyer is a legal entity and the Property purchase price is at least \$300,000 and the purchase price is made without a bank loan or similar form of external financing, a Geographic Targeting Order (GTO) issued by the Financial Crimes Enforcement Network, U.S. Department of the Treasury, requires title companies to collect and report certain information about the Buyer, depending on where the Property is located. Buyer agrees to cooperate with the title company's effort to comply with the GTO.
 - F. Buyer shall, after Close Of Escrow, receive a recorded grant deed or any other conveyance document required to convey title (For example, for stock cooperative or tenancy in common, respectively, an assignment of stock certificate or assignment of seller's interest in the real property), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's vesting instructions. The recording document shall contain Buyer's post-closing mailing address to enable Buyer's receipt of the recorded conveyance document from the County Recorder. **THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.**
 - G. Buyer shall receive a Standard Coverage Owner's 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.
- 17. 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 DELIVERY OF DOCUMENTS:** Seller shall, within the time specified in paragraph 3N(1), Deliver to Buyer all reports, disclosures and information ("Reports") for which Seller is responsible as specified in paragraphs 9B, 11A, 11D, 11E, 11F, 11G, 11H, 11I, 11J, 12A, 12B, 12C, 16A, 16D and 35.
 - B. **BUYER REVIEW OF DOCUMENTS; REPAIR REQUEST; CONTINGENCY REMOVAL OR CANCELLATION**
 - (1) Buyer has the time specified in paragraph 3 to: (i) perform Buyer Investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to paragraph 9B(2), and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property; and (ii) Deliver to Seller Signed Copies of Statutory and Other Disclosures Delivered by Seller in accordance with paragraph 11.
 - (2) Buyer may, within the time specified in paragraph 3L(5), 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 Buyer's requests (C.A.R. Form RR or RRRR). If Seller does not agree or does not respond, Buyer is not contractually entitled to have the repairs or other requests made and may only cancel based on contingencies in this Agreement.

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Buyer's Initials

MS

Seller's Initials

ST BR



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- (3) Buyer shall, by the end of the times specified in paragraph 3L (or as Otherwise Agreed), Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement (C.A.R. Form CR or CC). However, if any report, disclosure, or information for which Seller is responsible, is not Delivered within the time specified in paragraph 3N(1), then Buyer has 5 Days after Delivery of any such items, or the times specified in paragraph 3L, whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement. If Delivery of any Report occurs after a contractual contingency pertaining to that Report has already been waived or removed, the Delivery of the Report does not revive the contingency.
 - (4) **Continuation of Contingency:** Even after the end of the time specified in paragraph 3L and before Seller cancels, if at all, pursuant to paragraph 17C, 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 17C(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 Notice to Buyer to Perform, 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 3D(1) or 3D(2) or if the funds deposited pursuant to paragraph 3D(1) or 3D(2) are not good when deposited; (ii) Deliver updated contact information for Buyer's lender(s) as required by paragraph 5C(3); (iii) Deliver verification, or a satisfactory verification if Seller reasonably disapproves of the verification already provided, as required by paragraph 5B or 6A; (iv) Deliver a letter as required by paragraph 6B; (v) In writing assume or accept leases or liens specified in paragraph 8I; (vi) Cooperate with the title company's effort to comply with the GTO as required by paragraph 16E; (vii) Sign or initial a separate liquidated damages form for an increased deposit as required by paragraph 5A(2) and 36; (viii) Provide evidence of authority to Sign in a representative capacity as specified in paragraph 35; or (ix) Perform any additional Buyer contractual obligation(s) included in this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees allocated to Seller in this Agreement and already paid by Escrow prior to cancellation of this Agreement and notification to Escrow.
 - (3) **SELLER RIGHT TO CANCEL; SELLER CONTINGENCIES:** Seller may cancel this Agreement by good faith exercise of any Seller contingency included in this Agreement, or Otherwise Agreed, so long as that contingency has not already been removed or waived in writing.
- D. BUYER RIGHT TO CANCEL:**
- (1) **BUYER RIGHT TO CANCEL; SELLER CONTINGENCIES:** If, by the time specified in this Agreement, Seller does not Deliver to Buyer a removal of the applicable contingency or cancellation of this Agreement, then Buyer, after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees allocated to Seller in the Agreement and already paid by Escrow prior to cancellation of this Agreement and notification to Escrow.
 - (2) **BUYER RIGHT TO CANCEL; SELLER CONTRACT OBLIGATIONS:** If, by the time specified, Seller has not Delivered any item specified in paragraph 3N(1) or Seller has not performed any Seller contractual obligation included in this Agreement by the time specified, Buyer, after first Delivering to Seller a Notice to Seller to Perform, may cancel this Agreement.
 - (3) **BUYER RIGHT TO CANCEL; BUYER CONTINGENCIES:** Buyer may cancel this Agreement by good faith exercise of any Buyer contingency included in paragraph 8, or Otherwise Agreed, so long as that contingency has not already been removed in writing.
- E. NOTICE TO BUYER OR SELLER TO PERFORM:** The Notice to Buyer to Perform or Notice to Seller to Perform shall: (i) be in writing; (ii) be Signed by the applicable Buyer or Seller; and (iii) give the other Party at least 2 Days after Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A Notice to Buyer to Perform or Notice to Seller to Perform may not be Delivered any earlier than 2 Days prior to the Scheduled Performance Day to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 17, whether or not the Scheduled Performance Day falls on a Saturday, Sunday or legal holiday. If a Notice to Buyer to Perform or Notice to Seller to Perform is incorrectly Delivered or specifies a time less than the agreed time, the notice shall be deemed invalid and void and Seller or Buyer shall be required to Deliver a new Notice to Buyer to Perform or Notice to Seller to Perform with the specified timeframe.
- F. EFFECT OF REMOVAL OF CONTINGENCIES:**
- (1) **REMOVAL OF BUYER CONTINGENCIES:** If Buyer removes any contingency or cancellation rights, unless Otherwise Agreed, 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 the non-delivery of any reports, disclosures or information outside of Seller's control and for any Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.
 - (2) **REMOVAL OF SELLER CONTINGENCIES:** If Seller removes any contingency or cancellation rights, unless Otherwise Agreed, Seller shall conclusively be deemed to have: (i) satisfied themselves regarding such contingency, (ii) elected to proceed with the transaction; and (iii) given up any right to cancel this Agreement based on such contingency.
- G. DEMAND TO CLOSE 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 Days after Delivery to close escrow. A DCE may not be Delivered any earlier than 3 Days prior to the Scheduled Performance Day for the Close Of Escrow. If a DCE is incorrectly Delivered or specifies a time less than the agreed time, the DCE shall be deemed invalid and void and Seller or Buyer shall be required to Deliver a new DCE.

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Buyer's Initials

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Seller's Initials

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 10 OF 16)

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Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

- H. **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 and Deliver mutual instructions to cancel the sale and escrow and release deposits, if any, to the Party entitled to the funds, less (i) fees and costs paid by Escrow Holder on behalf of that Party, if required by this Agreement; and (ii) any escrow cancellation fee charged to that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. A release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award. 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 which Party is entitled to the deposited funds (Civil Code § 1057.3). Note: Neither Agents nor Escrow Holder are qualified to provide any opinion on whether either Party has acted in good faith or which Party is entitled to the deposited funds. Buyer and Seller are advised to seek the advice of a qualified California real estate attorney regarding this matter.
18. **REPAIRS:** Repairs shall be completed prior to final verification of condition unless Otherwise Agreed. 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. Buyer acknowledges 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.
19. **FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final verification of the Property condition within the time specified in paragraph 3J, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (i) the Property is maintained pursuant to paragraph 7B; (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).
20. **PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless Otherwise Agreed, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, Seller rental payments, OA regular assessments due 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. Seller shall pay any OA special or emergency assessments due prior to Close Of Escrow. 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 OA special or emergency assessments that are due after Close Of Escrow. Property will be reassessed upon change of ownership. Any supplemental tax bills delivered to Escrow Holder prior to closing shall be prorated and 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). Seller agrees all service fees, maintenance costs and utility bills will be paid current up and through the date of Close Of Escrow. TAX BILLS AND UTILITY BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.
21. **BROKERS AND AGENTS:**
- A. **COMPENSATION:** Seller or Buyer, or both, as applicable, agree 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. **SCOPE OF DUTY:** Buyer and Seller acknowledge and agree that Agent: (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 Agent; (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.
- C. **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 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 representation in this paragraph.
22. **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, 3A, 3B, 3D-G, 3N(2), 3Q, 3S, 4A, 4B, 5A(1-2) 5D, 5E, 11A, 11D(2), 16 (except 16D), 17H, 20, 21A, 22, 26, 32, 34, 35, 39, 40, and paragraph 3 of the Real Estate Brokers Section. If a Copy of the separate compensation agreement(s) provided for in paragraph 21A or paragraph 3 of the Real Estate Brokers Section is deposited with Escrow Holder by Agent, 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.
- B. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder. 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 shall Sign and return Escrow Holder's general provisions or supplemental instructions within the time specified in paragraph 3N(2). Buyer and Seller shall 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 Days, shall pay to Escrow Holder or OA or OA management company or others any fee required by paragraphs 3, 8, 11, or elsewhere in this Agreement.

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Buyer's Initials

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Seller's Initials

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 11 OF 16)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

- C. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within 3 Days after Acceptance. 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 a separate company is providing title insurance. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 11A, Escrow Holder shall deliver to Buyer, Buyer's Agent, and Seller's Agent a Qualified Substitute statement that complies with federal Law. If Escrow Holder's Qualified Substitute statement does not comply with federal law, the Parties instruct escrow to withhold all applicable required amounts under paragraph 11A.
 - D. Agents are not a party to the escrow except for the sole purpose of receiving compensation pursuant to paragraph 21A and paragraph 3 of the Real Estate Brokers Section. If a Copy of the separate compensation agreement(s) provided for in either of those paragraphs is deposited with Escrow Holder by Agent, 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). Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 21A, 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.
 - E. Buyer and Seller acknowledge that Escrow Holder may require invoices for expenses under this Agreement. Buyer and Seller, upon request by Escrow Holder, within 3 Days or within a sufficient time to close escrow, whichever is sooner, shall provide any such invoices to Escrow Holder.
 - F. Upon receipt, Escrow Holder shall provide Buyer, Seller, and each Agent verification of Buyer's deposit of funds pursuant to paragraph 5A(1) and 5A(2). Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify each Agent: (i) if Buyer's initial or any additional deposit or down payment 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.
 - G. 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.
23. **SELECTION OF SERVICE PROVIDERS:** Agents do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Agent or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.
 24. **MULTIPLE LISTING SERVICE ("MLS"):** Agents are authorized to report to the MLS that an offer has been accepted and, upon Close Of Escrow, the sales price and other terms of this transaction shall be provided to the MLS to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS. Buyer acknowledges that: (i) any pictures, videos, floor plans (collectively, "Images") or other information about the Property that has been or will be inputted into the MLS or internet portals, or both, at the instruction of Seller or in compliance with MLS rules, will not be removed after Close Of Escrow; (ii) California Civil Code § 1088(c) requires the MLS to maintain such Images and information for at least three years and as a result they may be displayed or circulated on the Internet, which cannot be controlled or removed by Seller or Agents; and (iii) Seller, Seller's Agent, Buyer's Agent, and MLS have no obligation or ability to remove such Images or information from the Internet.
 25. **ATTORNEY FEES AND COSTS:** 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 attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 37A.
 26. **ASSIGNMENT:** Buyer shall have the right to assign all of Buyer's interest in this Agreement to Buyer's own trust or to any wholly owned entity of Buyer that is in existence at the time of such assignment. Otherwise, Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the separate written consent of Seller to a specified assignee. Such consent shall not be unreasonably withheld. Prior to any assignment, Buyer shall disclose to Seller the name of the assignee and the amount of any monetary consideration between Buyer and assignee. Buyer shall provide assignee with all documents related to this Agreement including, but not limited to, the Agreement and any disclosures. If assignee is a wholly owned entity or trust of Buyer, that assignee does not need to re-sign or initial all documents provided. Whether or not an assignment requires seller's consent, at the time of assignment, assignee shall deliver a letter from assignee's lender that assignee is prequalified or preapproved as specified in paragraph 6B. Should assignee fail to deliver such a letter, Seller, after first giving Assignee a Notice to Buyer to Perform, shall have the right to terminate the assignment. Buyer shall, within the time specified in paragraph 3K, Deliver any request to assign this Agreement for Seller's consent. If Buyer fails to provide the required information within this time frame, Seller's withholding of consent shall be deemed reasonable. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless Otherwise Agreed by Seller (C.A.R. Form AOAA).
 27. **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.
 28. **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) Agent(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) Agent(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, in any, located on or potentially affecting the Property.
 29. **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. Residential properties are not typically covered by the ADA, but may be governed by its provisions if used for certain purposes. The ADA can require, among other things, that building 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 or agent 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 a qualified California real estate attorney, contractor, architect, engineer, or other qualified professional of Buyer or Seller's own choosing to determine to what degree, if any, the ADA impacts that principal or this transaction.
 30. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.

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Buyer's Initials

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Seller's Initials

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 12 OF 16)

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Date: July 7, 2022

31. **COPIES:** Seller and buyer each represent that Copies of all reports, 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.
32. **DEFINITIONS and INSTRUCTIONS:** The following words are defined terms in this Agreement, shall be indicated by initial capital letters throughout this Agreement, and have the following meaning whenever used:
- A. "Acceptance" means the time the offer or final counter offer is fully executed, in writing, by the recipient Party and is Delivered to the offering Party or that Party's Authorized Agent.
 - B. "Agent" means the Broker, salesperson, broker-associate or any other real estate licensee licensed under the brokerage firm identified in paragraph 2B.
 - C. "Agreement" means this document and any counter offers and any incorporated addenda or amendments, collectively forming the binding agreement between the Parties. Addenda and amendments are incorporated only when Signed and Delivered by all Parties.
 - D. "As-Is" condition: Seller shall disclose known material facts and defects as specified in this Agreement. Buyer has the right to inspect the Property and, within the time specified, request that Seller make repairs or take other corrective action, or exercise any contingency cancellation rights in this Agreement. Seller is only required to make repairs specified in this Agreement or as Otherwise Agreed.
 - E. "Authorized Agent" means an individual real estate licensee specified in the Real Estate Broker Section.
 - F. "C.A.R. Form" means the most current version of the specific form referenced or another comparable form agreed to by the Parties.
 - G. "Close Of Escrow", including "COE", means the date the grant deed, or other evidence of transfer of title, is recorded for any real property, or the date of Delivery of a document evidencing the transfer of title for any non-real property transaction.
 - H. "Copy" means copy by any means including photocopy, facsimile and electronic.
 - I. **Counting Days** is done as follows unless Otherwise Agreed: (1) The first Day after an event is the first full calendar date following the event, and ending at 11:59 pm. For example, if a Notice to Buyer to Perform (C.A.R. form NBP) is Delivered at 3 pm on the 7th calendar day of the month, or Acceptance of a counter offer is personally received at 12 noon on the 7th calendar day of the month, then the 7th is Day "0" for purposes of counting days to respond to the NBP or calculating the Close Of Escrow date or contingency removal dates and the 8th of the month is Day 1 for those same purposes. (2) All calendar days are counted in establishing the first Day after an event. (3) All calendar days are counted in determining the date upon which performance must be completed, ending at 11:59 pm on the last day for performance ("Scheduled Performance Day"). (4) After Acceptance, if the Scheduled Performance Day for any act required by this Agreement, including Close Of Escrow, lands on a Saturday, Sunday, or legal holiday, the performing party shall be allowed to perform on the next day that is not a Saturday, Sunday or legal holiday ("Allowable Performance Day"), and ending at 11:59 pm. (5) For the purposes of COE, any day that the Recorder's office in the County where the Property is located is closed, the COE shall occur on the next day the Recorder's office in that County is open. (6) COE is considered Day 0 for purposes of counting days Seller is allowed to remain in possession, if permitted by this Agreement.
 - J. "Day" or "Days" means calendar day or days. However, delivery of deposit to escrow is based on business days.
 - K. "Deliver", "Delivered" or "Delivery" of documents, unless Otherwise Agreed, means and shall be effective upon personal receipt of the document by Buyer or Seller or their Authorized Agent. Personal receipt means (i) a Copy of the document, or as applicable, link to the document, is in the possession of the Party or Authorized Agent, regardless of the Delivery method used (i.e. e-mail, text, other), or (ii) an Electronic Copy of the document, or as applicable, link to the document, has been sent to any of the designated electronic delivery addresses specified in the Real Estate Broker Section on page 16. After Acceptance, Agent may change the designated electronic delivery address for that Agent by, in writing, Delivering notice of the change in designated electronic delivery address to the other Party. Links could be, for example, to DropBox or GoogleDrive or other functionally equivalent program. If the recipient of a link is unable or unwilling to open the link or download the documents or otherwise prefers Delivery of the documents directly, Recipient of a link shall notify the sender in writing, within 3 Days after Delivery of the link (C.A.R. Form RFR). In such case, Delivery shall be effective upon Delivery of the documents and not the link. Failure to notify sender within the time specified above shall be deemed consent to receive, and Buyer opening, the document by link.
 - L. "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.
 - M. "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.
 - N. "Legally Authorized Signer" means an individual who has authority to Sign for the principal as specified in paragraph 39 or paragraph 40.
 - O. "Otherwise Agreed" means an agreement in writing, signed by both Parties and Delivered to each.
 - P. "Repairs" means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
 - Q. "Sign" or "Signed" means either a handwritten or Electronic Signature on an original document, Copy or any counterpart.
33. **TERMS AND CONDITIONS OF OFFER:** This is an offer to purchase the Property on the terms and conditions herein. The individual Liquidated Damages and Arbitration of Disputes paragraphs are incorporated in this Agreement if initiated 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 and to market the Property for backup offers after Acceptance. The Parties have read and acknowledge receipt of a Copy of the offer and agree 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. By signing this offer or any document in the transaction, the Party Signing the document is deemed to have read the document in its entirety.
34. **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 Agreed, 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.

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Buyer's Initials

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Seller's Initials

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 13 OF 16)

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Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

35. LEGALLY AUTHORIZED SIGNER: Wherever the signature or initials of the Legally Authorized Signer identified in paragraph 39 and 40 appear on this 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 Legally Authorized Signer (i) represents that the entity for which that person is acting already exists and is in good standing to do business in California and (ii) shall Deliver to the other Party and Escrow Holder, as specified in paragraph 3N(4), 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).

36. LIQUIDATED DAMAGES:

If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. Release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award. AT THE 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 DID).

Buyer's Initials MS /

Seller's Initials JT, BR

37. MEDIATION:

- A. 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. The mediation shall be conducted through the C.A.R. Real Estate Mediation Center for Consumers (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 Agents(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Agent. Mediation fees, if any, shall be divided equally among the Parties involved, and shall be recoverable under the prevailing party attorney fees clause. 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.
- B. ADDITIONAL MEDIATION TERMS: (i) Exclusions from this mediation agreement are specified in paragraph 38B; (ii) The obligation to mediate does not preclude the right of either Party to seek a preservation of rights under paragraph 38C; and (iii) Agent's rights and obligations are further specified in paragraph 38D.

38. ARBITRATION OF DISPUTES:

- A. 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 Agents(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Agent. The arbitration shall be conducted through any arbitration provider or service mutually agreed to by the Parties, OR _____ . 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. Enforcement of, and any motion to compel arbitration pursuant to, this agreement to arbitrate shall be governed by the procedural rules of the Federal Arbitration Act, and not the California Arbitration Act, notwithstanding any language seemingly to the contrary in this Agreement. The Parties shall have the right to discovery in accordance with Code of Civil Procedure § 1283.05. 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.
- B. EXCLUSIONS: The following matters are excluded from mediation and arbitration: (i) Any matter that is within the jurisdiction of a probate, small claims or bankruptcy court; (ii) an unlawful detainer action; and (iii) 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.
- C. 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.
- D. AGENTS: Agents shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Agents(s) participating in mediation or arbitration shall not be deemed a party to this Agreement.
- E. "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 MS /

Seller's Initials JT, BR



Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

39. OFFER

A. EXPIRATION OF OFFER: This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless by the date and time specified in paragraph 3C, the offer is Signed by Seller and a Copy of the Signed offer is Delivered to Buyer or Buyer's Authorized Agent. Seller has no obligation to respond to an offer made.

B. ENTITY BUYERS: (Note: If this paragraph is completed, a Representative Capacity Signature Disclosure (C.A.R. Form RCSD) is not required for the Legally Authorized Signers designated below.)

- (1) One or more Buyers is a trust, corporation, LLC, probate estate, partnership, holding a power of attorney or other entity.
- (2) This Agreement is being Signed by a Legally Authorized Signer in a representative capacity and not in an individual capacity. See paragraph 35 for additional terms.
- (3) The name(s) of the Legally Authorized Signer(s) is/are: Matthew Ballantyne
- (4) If a trust, identify Buyer as trustee(s) of the trust or by simplified trust name (ex. John Doe, co-trustee, Jane Doe, co-trustee or Doe Revocable Family Trust). If the entity is a trust or under probate, the following is the full name of the trust or probate case, including case #: _____

C. The VLPA has 16 pages. Buyer acknowledges receipt of, and has read and understands, every page and all attachments that make up the Agreement.

D. BUYER SIGNATURE(S):

(Signature) By, [Signature] Date: 7-28-22

Printed name of BUYER: City of Fontana

Printed Name of Legally Authorized Signer: Matthew Ballantyne Title, if applicable, _____

(Signature) By, _____ Date: _____

Printed name of BUYER: _____

Printed Name of Legally Authorized Signer: _____ Title, if applicable, _____

IF MORE THAN TWO SIGNERS, USE Additional Signature Addendum (C.A.R. Form ASA).

40. ACCEPTANCE

A. 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. Seller has read and acknowledges receipt of a Copy of this Agreement and authorizes Agent to Deliver a Signed Copy to Buyer.

Seller's acceptance is subject to the attached Counter Offer or Back-Up Offer Addendum, or both, checked below. Seller shall return and include the entire agreement with any response.

Seller Counter Offer (C.A.R. Form SCO or SMCO)

Back-Up Offer Addendum (C.A.R. Form BUO)

B. Entity Sellers: (Note: If this paragraph is completed, a Representative Capacity Signature Disclosure form (C.A.R. Form RCSD) is not required for the Legally Authorized Signers designated below.)

- (1) One or more Sellers is a trust, corporation, LLC, probate estate, partnership, holding a power of attorney or other entity.
- (2) This Agreement is being Signed by a Legally Authorized Signer in a representative capacity and not in an individual capacity. See paragraph 35 for additional terms.
- (3) The name(s) of the Legally Authorized Signer(s) is/are: _____
- (4) If a trust, identify Seller as trustee(s) of the trust or by simplified trust name (ex. John Doe, co-trustee, Jane Doe, co-trustee or Doe Revocable Family Trust). If the entity is a trust or under probate, the following is the full name of the trust or probate case, including case #: _____

C. The VLPA has 16 pages. Seller acknowledges receipt of, and has read and understands, every page and all attachments that make up the Agreement.

D. SELLER SIGNATURE(S):

(Signature) By, [Signature] Date: _____

Printed name of SELLER: Jose Torres

Printed Name of Legally Authorized Signer: _____ Title, if applicable, _____

(Signature) By, Beatriz Reyes Date: _____

Printed name of SELLER: Beatriz Reyes

Printed Name of Legally Authorized Signer: _____ Title, if applicable, _____

IF MORE THAN TWO SIGNERS, USE Additional Signature Addendum (C.A.R. Form ASA).

OFFER NOT ACCEPTED: _____ / _____ No Counter Offer is being made. This offer was not accepted by Seller _____ (date)
Seller's Initials



Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

REAL ESTATE BROKERS SECTION:

1. Real Estate Agents are not parties to the Agreement between Buyer and Seller.
2. Agency relationships are confirmed as stated in paragraph 2.
3. Cooperating Broker 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.
4. Presentation of Offer: Pursuant to the National Association of REALTORS® Standard of Practice 1-7, if Buyer's Agent makes a written request, Seller's Agent shall confirm in writing that this offer has been presented to Seller.
5. Agents' Signatures and designated electronic delivery address:

A. Buyer's Brokerage Firm Sierra Realty Fontana, Inc Lic. # 02038519
 By [Signature] Ken Galasso Lic. # 00570875 Date 7-28-22
 By _____ Lic. # _____ Date _____
 More than one agent from the same firm represents Buyer. Additional Agent Acknowledgement (C.A.R. Form AAA) attached.
 More than one brokerage firm represents Buyer. Additional Broker Acknowledgement (C.A.R. Form ABA) attached.

Designated Electronic Delivery Address(es):

Email _____ Text # _____

Alternate: _____

if checked, Delivery shall be made to the alternate designated electronic delivery address only.

Address 9410 Sierra Ave. City Fontana State CA Zip 92335

B. Seller's Brokerage Firm Sierra Realty Fontana, Inc Lic. # 02038519
 By _____ Lic. # 00570875 Date _____
 By _____ Lic. # _____ Date _____
 More than one agent from the same firm represents Seller. Additional Agent Acknowledgement (C.A.R. Form AAA) attached.
 More than one brokerage firm represents Seller. Additional Broker Acknowledgement (C.A.R. Form ABA) attached.

Designated Electronic Delivery Address(es) (To be filled out by Seller's Agent):

Email _____ Text # _____

Alternate: _____

if checked, Delivery shall be made to the alternate designated electronic delivery address only.

Address _____ City _____ State _____ Zip _____

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, a deposit in the amount of \$ _____), Counter Offer numbers _____ and _____, and agrees to act as Escrow Holder subject to paragraph 19 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised by _____ that the date of Acceptance of the Agreement is _____

Escrow Holder Bennett Escrow Services Inc 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: _____ / _____ Seller's Brokerage Firm presented this offer to Seller on _____ (date).

Broker or Designee Initials

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525 South Virgil Avenue, Los Angeles, California 90020

VLPA REVISED 6/22 (PAGE 16 OF 16)

Buyer's Initials [Signature] / Seller's Initials [Signature]

VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 16 OF 16)

Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201 www.lwvolf.com 0191-161-17 and



BUYER'S VACANT LAND ADDITIONAL INSPECTION ADVISORY

(C.A.R. Form BVLIA, 11/13)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335 ("Property").

A. IMPORTANCE OF PROPERTY INVESTIGATION: The physical condition of the land and improvements being purchased is not guaranteed by either Seller or Brokers. For this reason, you should conduct thorough investigations of the Property personally and with professionals who should provide written reports of their investigations. 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. Additionally, some inspections, such as those listed below, may be of particular importance when purchasing vacant land.

B. BUYER RIGHTS AND DUTIES: 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. The purchase agreement gives you the right to investigate the Property. If you exercise this right, and you should, you must do so in accordance with the terms of that agreement. This is the best way for you to protect yourself. It is extremely important for you to read all written reports provided by professionals and to discuss the results of inspections with the professional who conducted the inspection. You have the right to request that Seller make repairs, corrections or take other action based upon items discovered in your investigations or disclosed by Seller. If Seller is unwilling or unable to satisfy your requests, or you do not want to purchase the Property in its disclosed and discovered condition, you have the right to cancel the agreement if you act within specific time periods. If you do not cancel the agreement in a timely and proper manner, you may be in breach of contract.

C. SELLER RIGHTS AND DUTIES: Seller is required to disclose to you material facts known to him/her that affect the value or desirability of the Property. However, Seller may not be aware of some Property defects or conditions. Seller does not have an obligation to inspect the Property for your benefit nor is Seller obligated to repair, correct or otherwise cure known defects that are disclosed to you or previously unknown defects that are discovered by you or your inspectors during escrow. The purchase agreement obligates Seller to make the Property available to you for investigations.

D. BROKER OBLIGATIONS: Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as soil stability, geologic or environmental conditions, hazardous or illegal controlled substances, structural conditions of the foundation or other improvements, or the condition of the roof, plumbing, heating, air conditioning, electrical, sewer, septic, waste disposal, or other system. The only way to accurately determine the condition of the Property is through an inspection by an appropriate professional selected by you. If Broker gives you referrals to such professionals, Broker does not guarantee their performance. You may select any professional of your choosing. If you have entered into a written agreement with a Broker, the specific terms of that agreement will determine the nature and extent of that Broker's duty to you. **YOU ARE STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS.**

E. YOU ARE ADVISED TO CONDUCT INVESTIGATIONS OF THE ENTIRE PROPERTY, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

- 1. FINANCE:** Financing the purchase of vacant land finance and especially financing construction loans for the improvement of vacant land can provide particular challenges, including subordination agreements and insurance requirements. Buyer is advised to seek the assistance of reputable lenders in assistance with their decisions regarding financing of the property.
- 2. CONSTRUCTION COSTS:** If Buyer is contemplating building improvements on the property, Buyer is advised that they will have to contact directly any contractors, service providers, suppliers, architects, utility companies regarding the costs of improvements. Buyer is advised to get written bids from all such persons regarding their decision to develop the property.
- 3. UTILITIES:** Unimproved property may or may not have utilities available to the property. Buyer(s) is advised to obtain information from the public or private utility provider about the availability and cost of providing utilities to the property and whether necessary easements are in place to allow such utilities to the property.
- 4. ENVIRONMENTAL SURVEY:** Unimproved land may have had or may have hazardous materials stored upon or under the land or been used by persons engaged in activities exposing the land to hazardous materials. The land may also be host to protected vegetation or animal life. Buyer(s) is advised to satisfy themselves as what hazards or protected plant or animal life are on the property and what impact they may have on Buyer's future plans for the property by seeking the help of a qualified professional.

Buyer's Initials (M) ()

Seller's Initials (J) (BR)

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BVLIA 11/13 (PAGE 1 OF 2)

BUYER'S VACANT LAND ADDITIONAL INSPECTION ADVISORY (BVLIA PAGE 1 OF 2)

Sierra Realty, 9410 Sierra Ave. Fontana CA 92335 Ken Galasso	Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201	Phone: 909.822.1200 www.lwof.com	Fax: 909.822.0324	0191-161-17 and
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Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: _____

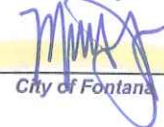
- 5. **NATURAL HAZARDS REPORTS:** Buyer(s) is advised that while certain disclosures are required by state, federal and local laws, hazard disclosure companies can provide additional disclosures for both natural and man-made hazards or nuisances for a cost. Buyer is advised to seek the advice of a natural hazards reporting company regarding additional reports and disclosures that buyer may wish to obtain.
- 6. **SUBDIVISION OF THE PROPERTY:** If Buyer's plans include future subdivision of the property (whether under the Subdivision Map Act of the Subdivided Lands Law) multiple, complex issues regarding city, county, state, and federal laws may be presented. Buyer is strongly advised to seek the advice of California legal counsel familiar with federal, state and local subdivision requirements.

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 providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and (x) 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.

By signing below, Buyer and Seller each acknowledge that they have read, understand, accept and have received a Copy of this Advisory, Buyer is encouraged to read it carefully.


SELLER  Date _____
AuthentiSIGN 7/29/2022 5:30:11 PM GMT
 Jose Torres

SELLER  Date _____
AuthentiSIGN 7/31/2022 5:07:30 AM GMT
 Beatriz Reyes

BUYER  Date _____
 City of Fontana

BUYER _____ Date _____

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BVLIA 11/13 (PAGE 2 OF 2)

BUYER'S VACANT LAND ADDITIONAL INSPECTION ADVISORY (BVLIA PAGE 2 OF 2)

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City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1686

Agenda #: O.

Agenda Date: 9/22/2022

Category: Consent Calendar

FROM:

Public Works

SUBJECT:

Final Acceptance of the Village of Heritage Pool Deck Repair Project (MS-106-PW-22).

RECOMMENDATION:

1. Accept as complete the work performed by Masterseal Corporation for the Village of Heritage Pool Deck Repair project and approve the final construction cost of \$223,200.
2. Authorize the City Engineer/Director of Public Works to file a notice of completion and release the 5% retention.

COUNCIL GOALS:

- Invest in the City's infrastructure (streets, sewers, parks, etc.) by maintaining and improving the city's existing infrastructure.

DISCUSSION:

On April 12, 2022, the City Council awarded a contract to Masterseal Corporation in the amount of \$219,500 and authorized a 10% contingency fund of \$21,950 for the performance of pool deck repair work at the Village of Heritage Pool Deck Repair Project (MS-106-PW-22).

The project was completed on August 5, 2022 at a final construction cost of \$223,200. One (1) contract change order was executed in the amount of \$3,700 during the performance of this contract. All work has been completed to the satisfaction of the City.

This project replaced the existing worn and damaged pool deck coating with a new deck coating that includes a 5-year warranty on labor and materials and has a projected 10-year life expectancy.

FISCAL IMPACT:

The funding for this project was budgeted out of LMD 2 Fund 396 in ORG # 39638205. Remaining funds for this project will be returned to fund balance.

MOTION:

Approve Staff Recommendation



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1751

Agenda #: P.

Agenda Date: 9/27/2022

Category: Consent Calendar

FROM:

Development Services

SUBJECT:

Estoppel Certificate and Assignment Agreement for Ventana at Duncan Canyon.

RECOMMENDATION:

Approve Estoppel Certificate and Assignment Agreement for Ventana at Duncan Canyon and authorized the City Manager to enter into said agreement.

COUNCIL GOALS:

- To promote economic development by concentrating on job creation.
- To promote economic development by pursuing business retention, expansion and attraction.
- To invest in the city's infrastructure (streets, sewers, parks, etc.) by providing
- for the development of new infrastructure.
- To promote affordable housing by construction of high-quality multi-family
- housing which also serves to address the affordability needs of this community.

DISCUSSION:

The developer, HDO4, desires to finance the first phase of the Ventana project. HDO4 has created a single-purpose entity titled Ventana 257, LLC ("SPE"), which will be the entity that receives the loan and assumes responsibility for the development of the first phase. The developer's lender (PNC Bank) has requested that the City execute an Estoppel Certificate and Agreement ("Estoppel") and approve an Assignment and Assumption Agreement ("Assignment").

Patrick Munoz of Rutan & Tucker, the City's Attorney that drafted the original development agreement, has reviewed and approve the content of the certificate and assignment agreement.

FISCAL IMPACT:

None.

MOTION:

Approve staff recommendation.

ESTOPPEL CERTIFICATE AND AGREEMENT

This Estoppel Certificate and Agreement (the “**Estoppel**”) is made as of September _____, 2022 (the “**Effective Date**”), by THE CITY OF FONTANA, a California municipal corporation (“**City**”), in favor of PNC BANK, NATIONAL ASSOCIATION (“**Administrative Agent**”), as Administrative Agent for itself and for the Lenders (as defined below).

WHEREAS, Administrative Agent on its own behalf and on behalf of certain financial institutions (collectively, the “**Lenders**”) will provide Ventana 257, LLC, a California limited liability company (“**SPE**”), a loan (“**Loan**”) pursuant to that certain Construction and Mini Perm Loan Agreement to be entered into on or about the Effective Date (as the same may be amended, modified, supplemented or replaced from time to time, the “**Loan Agreement**”);

WHEREAS, the Loan Agreement will be made in reference to the real property commonly known as Parcel 1 of Parcel Map No. 20327, and which is more specifically described on Exhibit A attached hereto (the “**Property**”);

WHEREAS, the Property is subject to that certain 2020 Disposition Agreement (Ventana at Duncan Canyon), effective as of July 8, 2020, made by and between City and HDO4, LLC, a New Mexico limited liability company (“**HDO4**”), as severed and assigned, in part, to SPE pursuant to the SPE Assignment referenced below (the “**Disposition Agreement**”). Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Disposition Agreement; and

WHEREAS, SPE is a single purpose entity formed and Controlled by HDO4 for the purpose of owning and developing the Property. On or about the Effective Date, HDO4 will, pursuant to an assignment and assumption agreement approved by City assign and convey the Property and all of HDO4’s rights, duties, and obligations under the Disposition Agreement related to the Property to SPE (“**SPE Assignment**”).

NOW THEREFORE, City hereby represents, warrants, covenants, agrees and certifies to Administrative Agent, for its benefit and the benefit of Lenders, as follows:

1. Agreement Effective. The Disposition Agreement is in full force and effect without amendment, modification or supplement.
2. Acknowledgment. City acknowledges and agrees that (a) this Estoppel shall constitute notice from HDO4 and SPE of the making of the Loan to SPE (which Loan will be secured, in part, by the Construction Deed of Trust, Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated on or about the Effective Date (as the same may be amended, restated or replaced from time to time, the “**Deed of Trust**”), that will encumber the Property); (b) the making of the Loan and the giving and recordation (if applicable) of the Deed of Trust, and the SPE Assignment are Permitted Transfers under the Disposition Agreement; and (c) neither the making of the Loan, the execution of the Deed of Trust or the Collateral Assignment, nor

the SPE Assignment does or will constitute a default under the Disposition Agreement.

3. Existing Defaults. To the best of City’s knowledge, there is no existing uncured default by HDO4 or SPE under the Disposition Agreement, nor has any event occurred which, with the passage of time or the giving of notice or both, would constitute such a default. City has neither given nor received any notice of a default under the Disposition Agreement with respect to HDO4, SPE, or the Property.
4. Estoppel.
 - (a) Close of Escrow under the Disposition Agreement occurred on November 5, 2020;
 - (b) The date upon which SPE is required to “Complete Construction within PA6” pursuant to the terms of Section 4.1.1 of the Disposition Agreement is December 8, 2024, subject to extensions due to Unavoidable Delays and other extensions expressly permitted or required under the Disposition Agreement;
 - (c) For purposes of the Disposition Agreement, references to PA6 will be deemed to mean and refer to the Property; and
 - (d) The City and HDO4 have determined the Revised Land Value and have confirmed that no Additional Purchase Consideration is required under the Disposition Agreement with respect to the Property.
5. Notice of SPE Default and Cure Rights. City will give Administrative Agent, at the addresses stated below, concurrent written notice of any SPE default under the Disposition Agreement. Administrative Agent will have right to cure such defaults, provided any cure period provided to SPE under the Disposition Agreement shall not begin to run until such time as Administrative Agent receives written notice of the applicable default from City. Notwithstanding anything to the contrary in the Disposition Agreement, City will nonetheless accept any actions taken by Administrative Agent to cure any SPE default under the Disposition Agreement, and such actions shall cure any SPE default to the same extent had SPE taken such actions.

Address for Notice to Administrative Agent:

PNC Bank, National Association,
as Administrative Agent for itself and certain other Lenders
620 Newport Center Dr., Suite 1100
Newport Beach, CA 92660
Attention: Damon Smith

6. Limitations on Liability of Administrative Agent and Lenders. City acknowledges and agrees that neither Administrative Agent nor Lenders are assuming, nor shall Administrative Agent or Lenders be required to assume, any obligations under the Disposition Agreement, including, without limitation, by virtue of any actions taken by Administrative Agent to cure any default of SPE.

7. Consent to Assignment. As a condition to Administrative Agent's agreement to make the Loan to SPE, Administrative Agent has required that SPE, pursuant to the Deed of Trust and that certain Assignment of Construction and Development Documents, dated on or about the Effective Date (as the same may be amended, restated or replaced, the "**Collateral Assignment**"), assign its rights under the Disposition Agreement to Administrative Agent as additional collateral for the Loan. City hereby consents to the collateral assignment of the Disposition Agreement by SPE to Administrative Agent as additional collateral for the Loan and hereby agrees that if Administrative Agent, its designee or nominee, or any third party should become the successor owner (each and every such person or entity, "**Successor Owner**") of the Property through foreclosure of the Deed of Trust, or acceptance of a deed in lieu thereof, then, notwithstanding anything to the contrary in the Disposition Agreement:
 - (a) The Successor Owner may succeed to the rights and obligations of SPE under the Disposition Agreement as to the Property without City's or any other person's or entity's consent (including SPE), so long as the Successor Owner assumes the obligations of SPE under the Disposition Agreement as to the Property;
 - (b) So long as the Successor Owner assumes the obligations of SPE under the Disposition Agreement as to the Property, the Successor Owner will not be subject to any claims, offsets, defenses or penalties arising as a result of SPE's performance, or failure to perform, under the Disposition Agreement prior to the date that Successor Owner succeeds to the interests of SPE under the Disposition Agreement;
 - (c) Nothing herein modifies, limits or abridges the Guarantor's obligations and liabilities under the Guaranty, which will continue in effect in accordance with its terms;
 - (d) The Successor Owner will not be obligated to execute a guaranty pursuant to Section 2.8 of the Disposition Agreement;
 - (e) In no event will the Successor Owner be obligated to construct any improvements on any Planning Area other than PA6, nor will Successor Owner have any obligations under the Disposition Agreement relating to any property other than the Property;
 - (f) If the Successor Owner is Administrative Agent, a Lender, or an affiliate of either, the Successor Owner will be permitted to Transfer the Property

and assign its interest in the Disposition Agreement without City's consent, so long as the assignee assumes the obligations of SPE under the Disposition Agreement as to the Property; and

- (g) The Successor Owner's liability under the Disposition Agreement shall be limited to its period of ownership of the Property and any such liability shall be limited to the Successor Owner's interest in the Property and no other assets of the Successor Owner.

[Signatures Follow on Next Page]

IN WITNESS WHEREOF, this Estoppel has been executed to be effective as of the Effective Date.

“CITY”

CITY OF FONTANA, a California municipal corporation

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
City Clerk

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER, LLP

By: _____
City Attorney

EXHIBIT A

PROPERTY DESCRIPTION

The land situated in the City of Fontana, the County of San Bernardino, State of California, and is described as follows:

Parcel 1, in the City of Fontana, County of San Bernardino, State of California, as shown on map filed in Book 258, Page(s) 37-48 of Parcel Maps, in the Office of the County Recorder of said County.

Assessor's Parcel Numbers(s): 0226-075-45

ASSIGNMENT AND ASSUMPTION AGREEMENT
(Ventana – Parcel 1 of Parcel Map 20327)

This Assignment and Assumption Agreement (“**Assignment**”) is dated September _____, 2022 (“**Effective Date**”) and is entered into between HDO4, LLC, a New Mexico limited liability company (“**Assignor**”), and VENTANA 257, LLC, a California limited liability company (“**Assignee**”). This Assignment will become effective on the Effective Date.

The City of Fontana, a California municipal corporation (“**City**”), is a signatory to this Assignment solely for purposes of acknowledging and confirming the provisions of Section 2.

RECITALS

A. Assignor has agreed to convey to Assignee all of Assignor’s right, title, and interest in that parcel of vacant land commonly referred to as Parcel 1 of Parcel Map No. 20327 (the “**Land**”). The Land is more particularly described on the attached Exhibit A. The Land is a portion of the “Property” defined and described in the Disposition Agreement (defined below).

B. Assignor and City are parties to that certain “2020 Disposition Agreement (Ventana at Duncan Canyon)” (“**Disposition Agreement**”).

C. Concurrently with the conveyance of the Land to Assignee, (i) Assignor desires to sell, transfer, assign, and convey to Assignee all of Assignor’s rights, duties, benefits, and obligations arising under the Disposition Agreement relating to the Land that accrue on and after the Effective Date (“**Assigned Rights and Obligations**”), and (ii) Assignee desires to assume the Assigned Rights and Obligations.

D. Assignee is a single purpose entity formed and Controlled (as defined in the Disposition Agreement) by Assignor for the purpose of owning and developing the Land.

OPERATIVE PROVISIONS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Assignment and Assumption. As of the date of the conveyance of the Land to Assignee: (a) Assignor assigns, transfers, and conveys the entirety of the Assigned Rights and Obligations to Assignee; (b) Assignee accepts and assumes the entirety of the Assigned Rights and Obligations; (c) Assignor is unconditionally released and discharged from the entirety of the Assigned Rights and Obligations and Assignee is bound by the entirety of the Assigned Rights and Obligations and agrees to faithfully perform the assumed obligations for the benefit of City, subject to the terms and conditions of the Disposition Agreement; and (d) Assignee will indemnify, defend, and hold Assignor harmless from and against all cost, expense, damage, and other monetary and non-monetary claims or losses related to or arising in any way from all actual or alleged breaches of Assignee’s assumed obligations.

2. City's Consent to Conveyance and Assignment. City is executing this Assignment solely for the purpose of (a) indicating its consent and agreement that the conveyance of the Land and the assignment of the Assigned Rights and Obligations to Assignee are Permitted Transfers, as defined and provided in Section 1.1.51.4 and Section 8.2.2 of the Disposition Agreement, and (b) confirming that from and after the date hereof, the Land will not be subject to, nor will Assignee or its successors or assigns have any obligation to comply with, any obligations arising under the Disposition Agreement other than those obligations that specifically relate to the Land.

3. No Other Changes to Disposition Agreement. Except for the assignment by Assignor and assumption by Assignee of the Assigned Rights and Obligations, no term, condition, or obligation set forth in the Disposition Agreement is modified by this Assignment.

ASSIGNOR:

HDO4, LLC, a New Mexico limited liability company

By: _____
Richard Munkvold
Its: Chief Financial Officer
Dated: _____

ASSIGNEE:

VENTANA 257, LLC, a California limited liability company

By: _____
Name: _____
Its: _____
Dated: _____

Acknowledged and agreed for the limited purposes described in Section 2 of this Assignment.

CITY OF FONTANA, a California municipal corporation

By: _____
Name: _____
Title: _____

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER, LLP

By: _____
City Attorney

EXHIBIT A

DESCRIPTION OF THE LAND

The land situated in the City of Fontana, the County of San Bernardino, State of California, and is described as follows:

Parcel 1, in the City of Fontana, County of San Bernardino, State of California, as shown on map filed in Book 258, Page(s) 37-48 of Parcel Maps, in the Office of the County Recorder of said County.

Assessor's Parcel Numbers(s): 0226-075-45



City of Fontana

8353 Sierra Avenue
Fontana, CA 92335

Action Report

City Council Meeting

File #: 21-1715

Agenda #: A.

Agenda Date: 9/27/2022

Category: Public Hearing

FROM:

Finance

SUBJECT:

Quarterly Lien Action for Delinquent Sewer, Rubbish and Weed Abatement Accounts

RECOMMENDATION:

1. Authorize staff to complete and record lien notices against real property for those sewer accounts sixty days or more delinquent as described in 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. 2022-125**, 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.

COUNCIL GOALS:

- To operate in a businesslike manner by becoming more service oriented.
- To practice sound fiscal management by developing long-term funding and debt management plans.
- To improve public safety by increasing operational efficiency, visibility, and availability.

DISCUSSION:

Public Hearings on proposed liens are scheduled quarterly to allow for timely collections and recording of indebtedness. The lien process protects revenues due to the City which would have otherwise been subject to loss through skipped accounts or property transfers.

The proposed lists (one each for sewer, rubbish and weed abatement) are on file with the City Clerk. Each account has had notification by mail regarding the public hearing and intent to record the lien amount, as well as regular billing notification and legal advertisement as required by City Code. Further, with respect to Weed Abatement, all property owners had the opportunity to protest weed abatement citations through an administrative hearing process.

The lists recommended for adoption contain the following:

Type of Account	Number of Properties	Current Lien Amount	Receivables Protected to Date
Sewer	183	\$71,220.68	\$3,886,467.41
Rubbish*	578	\$77,715.61	\$7,925,125.24
Weed Abatement	98	\$56,042.43	\$3,865,466.87

*Collections are payable to Fontana Rubbish

An administrative fee will be included to offset the City's costs to record the lien, as well as the County fee associated with release of the lien to ensure that property titles are cleared once payment has been made. All properties with unpaid liens as of July 1st will be automatically placed on the property tax rolls for collection.

FISCAL IMPACT:

The approval of this item will result in liens in the approximate total amount of \$204,978.72 to be recorded and placed on the County property tax roll for collection. This action will prevent increases in customer charges due to uncollectible accounts. The Sewer lien list receivable amount was included as revenue to the Sewer Operations Maintenance Fund in current and prior budget periods. The recording of Rubbish liens will strengthen Fontana Rubbish's ability to collect, thereby increasing the amount generated by the 12% franchise fee they remit to the City.

MOTION:

Approve staff recommendation.

RESOLUTION NO. 2022-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA
ADOPTING STATEMENT OF UNPAID EXPENSES FOR WEED
ABATEMENT AND IMPOSING A LIEN AGAINST PROPERTY FOR
PAYMENT THEREOF**

WHEREAS, the City of Fontana ("City") has conducted its weed abatement program pursuant to the Fontana City Code, Section 14-1 *et. seq.*;

WHEREAS, at its meeting on September 27, 2022, the City Council discussed and considered all expenses and other costs of abatement which have remained unpaid to date, as specified in the Statement of Unpaid Expenses for Weed Abatement, on file with the City Clerk for public review and incorporated herein by reference ("Statement");

WHEREAS, the City Council has read or heard and considered all evidence and testimony presented to it with respect thereto;

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

Section 1. Based on all evidence and testimony presented to the Council, the Statement is confirmed and adopted.

Section 2. All expenses and other costs noted on the Statement shall be paid to the City no later than September 27, 2022. Any expenses and other costs noted on the Statement which remain unpaid to the City after September 27, 2022 shall constitute a lien upon the real property against which the nuisance was abated, and shall be collected in any lawful means available to the City.

Section 3. The City Clerk is directed to file for recording a "Notice of Lien for Weed Abatement" with the Office of the Recorder for San Bernardino County after September 27, 2022 against those real properties listed on the Statement for any expenses and other costs noted on the Statement which remain unpaid to the City.

Section 4. The Auditor/Controller shall include the amount of the expenses on the bills for taxes levied against the real property against which the expenses have been imposed, and the same shall be collected in the same manner and together with the general taxes for the County of San Bernardino, and shall be subject to the same penalties, interest and collection.

APPROVED AND ADOPTED this 27th day of September, 2022.

READ AND APPROVED AS TO LEGAL FORM:

Resolution No. 2022-

-

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 at a regular meeting on the 27th day of September, 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

CITY OF FONTANA, CALIFORNIA

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT THE CITY COUNCIL OF THE CITY OF FONTANA WILL HOLD A PUBLIC HEARING CONCERNING THE RECORDING OF REAL PROPERTY LIENS AGAINST PROPERTIES SERVED BY THE CITY OF FONTANA RUBBISH COLLECTION CONTRACTOR (BURRTEC WASTE) FOR THOSE ACCOUNTS MORE THAN NINETY DAYS DELINQUENT, AND FURTHER, THE FORWARDING OF SAID LIENS TO THE COUNTY ASSESSOR'S OFFICE FOR ADDITION TO THE EXTENDED PROPERTY TAX ROLLS FOR COLLECTION. COPIES OF THE CERTIFIED LIEN LIST ARE AVAILABLE AT THE UTILITY BILLING DIVISION PUBLIC SERVICE COUNTER, 8353 SIERRA AVENUE, FONTANA, CALIFORNIA.

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.

DATE OF HEARING: SEPTEMBER 27, 2022

TIME OF HEARING: 7:00 P.M.

PLACE OF HEARING: CITY HALL COUNCIL CHAMBERS
8353 SIERRA AVENUE
FONTANA, CA 92335

ANY INTERESTED PARTY MAY APPEAR AT THE HEARING AND PRESENT ANY INFORMATION WHICH MAY BE OF ASSISTANCE TO THE CITY COUNCIL. IF YOU HAVE ANY QUESTIONS CONCERNING THIS MATTER, PLEASE CONTACT THE UTILITY BILLING CUSTOMER SERVICE STAFF AT (909) 350-7670.

PUBLISH: SEPTEMBER 9, 2022
SEPTEMBER 16, 2022

PROOF OF PUBLICATION REQUESTED

CITY OF FONTANA, CALIFORNIA

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT THE CITY COUNCIL OF THE CITY OF FONTANA WILL HOLD A PUBLIC HEARING CONCERNING THE RECORDING OF REAL PROPERTY LIENS AGAINST PROPERTIES SERVED BY THE CITY OF FONTANA SANITARY SEWER SYSTEM FOR THOSE ACCOUNTS SIXTY DAYS OR MORE DELINQUENT, AND FURTHER, THE FORWARDING OF SAID LIENS TO THE COUNTY ASSESSOR'S OFFICE FOR ADDITION TO THE EXTENDED PROPERTY TAX ROLLS FOR COLLECTION. COPIES OF THE CERTIFIED LIEN LIST ARE AVAILABLE AT THE UTILITY BILLING DIVISION PUBLIC SERVICE COUNTER, 8353 SIERRA AVENUE, FONTANA, CALIFORNIA.

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PUBLISH: SEPTEMBER 9, 2022
 SEPTEMBER 16, 2022

PROOF OF PUBLICATION REQUESTED

CITY OF FONTANA, CALIFORNIA

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT THE CITY COUNCIL OF THE CITY OF FONTANA WILL HOLD A PUBLIC HEARING CONCERNING THE RECORDING OF REAL PROPERTY LIENS AGAINST PROPERTIES PROVIDED WEED ABATEMENT SERVICES THROUGH THE CITY'S WEED ABATEMENT PROGRAM FOR THOSE ACCOUNTS THIRTY DAYS OR MORE DELINQUENT AND FURTHER, THE FORWARDING OF SAID LIENS TO THE COUNTY ASSESSOR'S OFFICE FOR ADDITION TO THE EXTENDED PROPERTY TAX ROLLS FOR COLLECTION. COPIES OF THE CERTIFIED LIEN LIST ARE AVAILABLE AT THE CUSTOMER SERVICE DIVISION PUBLIC SERVICE COUNTER, 8353 SIERRA AVENUE, FONTANA, CALIFORNIA.

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.

DATE OF HEARING: SEPTEMBER 27, 2022

TIME OF HEARING: 7:00 P.M.

PLACE OF HEARING: CITY HALL COUNCIL CHAMBERS
8353 SIERRA AVENUE
FONTANA, CA 92335

ANY INTERESTED PARTY MAY APPEAR AT THE HEARING AND PRESENT ANY INFORMATION WHICH MAY BE OF ASSISTANCE TO THE CITY COUNCIL. IF YOU HAVE ANY QUESTIONS CONCERNING THIS MATTER, PLEASE CONTACT THE BUSINESS SERVICES CUSTOMER SERVICE STAFF AT (909) 350-7683.

PUBLISH: SEPTEMBER 9, 2022
SEPTEMBER 16, 2022

PROOF OF PUBLICATION REQUESTED



DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code)
(C.A.R. Form AD, Revised 12/21)

(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 a 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 SECOND PAGE.**

Buyer Seller Landlord Tenant _____ City of Fontana Date 7-28-22

Buyer Seller Landlord Tenant _____ Date _____

Agent _____ Sierra Realty Fontana, Inc DRE Lic. # 02038519
Real Estate Broker (Firm)

By Ken Galasso (Salesperson or Broker-Associate, if any) Ken Galasso DRE Lic. # 00570875 Date 7-28-22

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AD REVISED 12/21 (PAGE 1 OF 2)

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP (AD PAGE 1 OF 2)



Sierra Realty, 9410 Sierra Ave, Fontana CA 92335
Ken Galasso

Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201

Phone: 909.822.1200 Fax: 909.822.0324
www.lwolf.com

0191-161-17 and



FAIR HOUSING & DISCRIMINATION ADVISORY

(C.A.R. Form FHDA, 6/22)

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:** § 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 in, certain classes or categories, such as the following, is prohibited. Other classes, categories or restrictions may also apply.

Race	Color	Ancestry	National Origin	Religion
Age	Sex, Sexual Orientation	Gender, Gender Identity, Gender expression	Marital Status	Familial Status (family with a child or children under 18)
Citizenship	Immigration Status	Primary Language	Military/Veteran Status	Source of Income (e.g., Section 8 Voucher)
Medical Condition	Disability (Mental & Physical)	Genetic Information	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
 - Appraisers
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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 FHDA REVISED 6/22 (PAGE 1 OF 2)



FAIR HOUSING AND DISCRIMINATION ADVISORY (FHDA PAGE 1 OF 2)

- 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 wheelchair 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 _____

Buyer/Tenant _____ Date _____

Seller/Landlord _____ Jose Torres Date _____

Seller/Landlord _____ Beatriz Reyes Date _____

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 525 South Virgil Avenue, Los Angeles, California 90020





POSSIBLE REPRESENTATION OF MORE THAN ONE BUYER OR SELLER - DISCLOSURE AND CONSENT

(C.A.R. Form PRBS, Revised 12/21)

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 Jose Torres Date _____
 Seller Beatriz Reyes Date _____
 Buyer City of Fontana Date 7-28-22
 Buyer _____ Date _____
 Buyer's Brokerage Firm Sierra Realty Fontana, Inc DRE Lic # 02038519 Date _____
 By Ken Galasso DRE Lic # 00570875 Date _____
 Seller's Brokerage Firm Sierra Realty Fontana, Inc DRE Lic # 02038519 Date 7-28-22
 By [Signature] DRE Lic # 00570875 Date _____

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PRBS REVISED 12/21 (PAGE 1 OF 1)

POSSIBLE REPRESENTATION OF MORE THAN ONE BUYER OR SELLER (PRBS PAGE 1 OF 1)

Sierra Realty, 9410 Sierra Ave. Fontana CA 92335 Phone: 909.822.1200 Fax: 909.822.0324 0191-161-17 and
 Ken Galasso Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201 www.lwof.com



WIRE FRAUD AND ELECTRONIC FUNDS TRANSFER ADVISORY (C.A.R. Form WFA, Revised 12/21)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335 ("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 [Signature] City of Fontana Date 7-28-22
Buyer/Tenant [Signature] Date
Seller/Landlord [Signature] Jose Torres Date
Seller/Landlord [Signature] Beatriz Reyes Date

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WFA REVISED 12/21 (PAGE 1 OF 1)

WIRE FRAUD AND ELECTRONIC FUNDS TRANSFER ADVISORY (WFA PAGE 1 OF 1)



VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

(C.A.R. FORM VLPA, Revised 6/22)

Date Prepared: July 7, 2022

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 PROPERTY to be acquired is APNs 0191-161-17 and 28, situated in Fontana (City), San Bernardino (County), California, 92335 (Zip Code), Assessor's Parcel No(s). 0191-161-17-0000 and 0191-161-28-0000 ("Property").
 Further Described As _____
 (Postal/Mailing address may be different from city jurisdiction. Buyer is advised to investigate.)
- C. THE TERMS OF THE PURCHASE ARE SPECIFIED BELOW AND ON THE FOLLOWING PAGES.
- D. Buyer and Seller are referred to herein as the "Parties." Brokers and Agents 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) if represented by a real estate licensee. Buyer's Agent is not legally required to give to Seller's Agent the AD form Signed by Buyer. Seller's Agent is not legally obligated to give to Buyer's Agent the AD form Signed by Seller.
- B. **CONFIRMATION:** The following agency relationships are here confirmed for this transaction.
 Seller's Brokerage Firm Sierra Realty Fontana, Inc License Number 02038519
 Is the broker of (check one): the Seller; or both the Buyer and Seller (Dual Agent).
 Seller's Agent _____ License Number 00570875
 Is (check one): the Seller's Agent (Salesperson or broker associate); or both the Buyer's and Seller's Agent (Dual Agent).
 Buyer's Brokerage Firm Sierra Realty Fontana, Inc 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); or both the Buyer's and Seller's Agent (Dual Agent).
- C. More than one Brokerage represents Seller, Buyer. See, Additional Broker Acknowledgement (C.A.R. Form ABA).
- D. **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. TERMS OF PURCHASE AND ALLOCATION OF COSTS: The items in this paragraph are contractual terms of the Agreement. Referenced paragraphs provide further explanation. This form is 16 pages. The Parties are advised to read all 16 pages.

Paragraph #	Paragraph Title or Contract Term	Terms and Conditions	Additional Terms	
A	5, 5B	Purchase Price	\$ <u>269,000.00</u>	<input checked="" type="checkbox"/> All Cash
B		Close of Escrow (COE)	<input checked="" type="checkbox"/> <u>90</u> Days after Acceptance OR on <input type="checkbox"/> _____ (date) (mm/dd/yyyy)	
C	39A	Expiration of Offer	3 calendar days after all Buyer Signature(s) or _____ (date) at 5PM or <input type="checkbox"/> AM/ <input type="checkbox"/> PM	
D(1)	5A(1)	Initial Deposit Amount	\$ <u>10,000.00</u> (<u>3.7</u> % of purchase price) (% number above is for calculation purposes and is not a contractual term)	within 3 (or _____) business days after Acceptance by wire transfer OR <input checked="" type="checkbox"/> within 10 days/ acceptance
D(2)	5A(2)	<input type="checkbox"/> Increased Deposit (Money placed into escrow after the initial deposit. Use form DID at time increased deposit is made.)	\$ _____ (_____ % of purchase price) (% number above is for calculation purposes and is not a contractual term)	Upon removal of all contingencies OR <input type="checkbox"/> _____ (date) OR <input type="checkbox"/> _____
E(1)	5C(1)	Loan Amount(s): First Interest Rate Points	\$ _____ (_____ % of purchase price) Fixed rate or <input type="checkbox"/> Initial adjustable rate, not to exceed _____ % Buyer to pay zero points or up to _____ % of the loan amount	Conventional or, if checked, <input type="checkbox"/> FHA <input type="checkbox"/> VA (CAR Forms FVAC, HID attached) <input type="checkbox"/> Seller Financing <input type="checkbox"/> Assumed Financing <input type="checkbox"/> Subject To Financing Other: _____
E(2)	5C(2)	Additional Financed Amount Interest Rate Points	\$ _____ (_____ % of purchase price) Fixed rate or <input type="checkbox"/> Initial adjustable rate, not to exceed _____ % Buyer to pay zero points or up to _____ % of the loan amount	Conventional or, if checked, <input type="checkbox"/> Seller Financing <input type="checkbox"/> Assumed Financing <input type="checkbox"/> Subject To Financing Other: _____
E(3)	7A	Occupancy Type	Investment, or if checked, <input type="checkbox"/> Primary <input type="checkbox"/> Secondary	
F	5D	Balance of Down Payment	\$ <u>259,000.00</u>	
		PURCHASE PRICE TOTAL	\$ <u>269,000.00</u>	

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VLPA REVISED 6/22 (PAGE 1 OF 16)

Buyer's Initials MS Seller's Initials ST BR



VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 1 OF 16)

Property Address: **APNs 0191-161-17 and 28, Fontana, 92335**

Date: **July 7, 2022**

	Paragraph #	Paragraph Title or Contract Term	Terms and Conditions	Additional Terms
G(1)	5E	Seller Credit, if any, to Buyer	<input type="checkbox"/> \$ _____ (_____ % of purchase price) (% number above is for calculation purposes and is not a contractual term)	Seller credit to be applied to closing costs OR <input type="checkbox"/> Other: _____
G(2)	ADDITIONAL FINANCE TERMS: _____			
H(1)	5B	Verification of All Cash (sufficient funds)	Attached to the offer or <input type="checkbox"/> 3 (or _____) Days after Acceptance	
H(2)	6A	Verification of Down Payment and Closing Costs	Attached to the offer or <input type="checkbox"/> 3 (or _____) Days after Acceptance	
H(3)	6B	Verification of Loan Application	Attached to the offer or <input type="checkbox"/> 3 (or _____) Days after Acceptance	
I	Intentionally Left Blank			
J	19	Final Verification of Condition	5 (or _____) Days prior to COE	
K	26	Assignment Request	17 (or _____) Days after Acceptance	
L	8	CONTINGENCIES	TIME TO REMOVE CONTINGENCIES	
L(1)	8A	Loan(s)	17 (or _____) Days after Acceptance	<input checked="" type="checkbox"/> No loan contingency
L(2)	8B	Appraisal: Appraisal contingency based upon appraised value at a minimum of purchase price or <input type="checkbox"/> \$ _____	17 (or _____) Days after Acceptance	<input checked="" type="checkbox"/> No appraisal contingency Removal of appraisal contingency does not eliminate appraisal cancellation rights in FVAC.
L(3)	8C	<input type="checkbox"/> Purchase of Manufactured Home Buyer has (or <input type="checkbox"/> has not) entered into contract to purchase a personal property manufactured home	17 (or _____) Days after Acceptance <input type="checkbox"/> Shall remain in effect until the Close of Escrow of the Property	REMOVAL OR WAIVER OF CONTINGENCY: Any contingency in L(1)-L(7) may be removed or waived by checking the applicable box above or attaching a Contingency Removal (C.A.R. Form CR) and checking the applicable box therein. Removal or Waiver at time of offer is against Agent advice. See paragraph 8J. <input type="checkbox"/> CR attached
L(4)	8D	<input type="checkbox"/> Construction Loan Financing A draw from the construction loan will not (or will) be used to finance the Property	17 (or _____) Days after Acceptance	
L(5)	8E, 15	Investigation of Property	17 (or <u>60</u>) Days after Acceptance	
		Informational Access to Property Buyer's right to access the Property for informational purposes only is NOT a contingency and does NOT create additional cancellation rights for Buyer.	17 (or _____) Days after Acceptance	
L(6)	8F, 17A	Review of Seller Documents	17 (or <u>60</u>) Days after Acceptance, or 5 Days after receipt, whichever is later	
L(7)	8G, 16A	Preliminary ("Title") Report	17 (or <u>60</u>) Days after Acceptance, or 5 Days after receipt, whichever is later	
L(8)	8H, 11D	Common Interest Disclosures required by Civil Code § 4525 or this Agreement		
L(9)	8I, 9B(2)	Review of leased or liened items (Such as for solar panels or propane tanks or PACE or HERO liens)	17 (or _____) Days after Acceptance, or 5 Days after receipt, whichever is later	
L(10)	8L	Sale of Buyer's Property Sale of Buyer's property is not a contingency, UNLESS checked here: <input type="checkbox"/> C.A.R. Form COP attached		
M		Possession	Time for Performance	
M		Vacant Lot Delivery Property to be delivered subject to tenant rights, if any, except _____.	Upon notice of recordation On COE Date	
N		Documents/Fees/Compliance	Time for Performance	
N(1)	17A	Seller Delivery of Documents	7 (or _____) Days after Acceptance	
N(2)	22B	Sign and return Escrow Holder General Provisions, Supplemental Instructions	5 (or <u>30</u>) Days after receipt	
N(3)	11D(2)	Time to pay fees for ordering HOA Documents	3 (or _____) Days after Acceptance	
N(4)	35	Evidence of representative authority	3 Days after Acceptance	



Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

O	Intentionally Left Blank			
P	Items Included and Excluded			
P(1)	9	Items Included - All items specified in Paragraph 9B are included and the following, if checked: <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____		
P(2)		Excluded Items: <input type="checkbox"/> _____ ; <input type="checkbox"/> _____ ; <input type="checkbox"/> _____ ;		
Q	Allocation of Costs			
	Paragraph #	Item Description	Who Pays (if Both is checked, cost to be split equally unless Otherwise Agreed)	Additional Terms
Q(1)	11E	Natural Hazard Zone Disclosure Report, including tax information	<input type="checkbox"/> Buyer <input checked="" type="checkbox"/> Seller <input type="checkbox"/> Both _____ _____ <input type="checkbox"/> Provided by: _____	<input checked="" type="checkbox"/> Environmental <input type="checkbox"/> Other _____
Q(2)	15B(1)(D)	Environmental Survey	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(3)		_____ Report	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(4)	22B	Escrow Fees	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input checked="" type="checkbox"/> Both _____ <input type="checkbox"/> Each to pay their own fees	
Q(5)	16	Owner's title insurance policy	<input type="checkbox"/> Buyer <input checked="" type="checkbox"/> Seller <input type="checkbox"/> Both _____	Title Company (If different from Escrow Holder): <u>Orange Coast Title</u>
Q(6)		Buyer's Lender title insurance policy	Buyer	Unless Otherwise Agreed, Buyer shall purchase any title insurance policy insuring Buyer's lender.
Q(7)		County transfer tax, fees	<input type="checkbox"/> Buyer <input checked="" type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(8)		City transfer tax, fees	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(9)	11D(2)	OA fee for preparing disclosures	Seller	
Q(10)		OA certification fee	Buyer	
Q(11)		OA transfer fees	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	Unless Otherwise Agreed, Seller shall pay for separate HOA move-out fee and Buyer shall pay for separate move-in fee. Applies if separately billed or itemized with cost in transfer fee.
Q(12)		Private transfer fees	Seller, or if checked, <input type="checkbox"/> Buyer <input type="checkbox"/> Both _____	
Q(13)		_____ fees or costs	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(14)		_____ fees or costs	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
R	Additional Tenancy Documents <input type="checkbox"/> Income and Expense Statements <input type="checkbox"/> Tenant Estoppel Certificate			
S	OTHER TERMS: <u>Offer and acceptance subject to approval of the Fontana City Council.</u>			

4. PROPERTY ADDENDA AND ADVISORIES: (check all that apply)

A. PROPERTY TYPE ADDENDA: This Agreement is subject to the terms contained in the Addenda checked below:

- Probate Agreement Purchase Addendum (C.A.R. Form PA-PA)
- Other _____

B. OTHER ADDENDA: This Agreement is subject to the terms contained in the Addenda checked below:

- Addendum # _____ (C.A.R. Form ADM)
- Back Up Offer Addendum (C.A.R. Form BUO)
- Assumed Financing Addendum (C.A.R. Form AFA)
- Septic, Well, Property Monument and Propane Addendum (C.A.R. Form SWPI)
- Buyer Intent to Exchange Addendum (C.A.R. Form BXA)
- Other _____
- Short Sale Addendum (C.A.R. Form SSA)
- Court Confirmation Addendum (C.A.R. Form CCA)
- Seller Intent to Exchange Addendum (C.A.R. Form SXA)

C. BUYER AND SELLER ADVISORIES: (Note: All Advisories below are provided for reference purposes only and are not intended to be incorporated into this Agreement.)

- Buyer's Vacant Land Additional Inspection Advisory (C.A.R. Form BVLIA)
- Fair Housing and Discrimination Advisory (C.A.R. Form FHDA)
- Wire Fraud Advisory (C.A.R. Form WFA)
- Wildfire Disaster Advisory (C.A.R. Form WFDA)
- Trust Advisory (C.A.R. Form TA)
- REO Advisory (C.A.R. Form REO)
- Other _____
- Cal. Consumer Privacy Act Advisory (C.A.R. Form CCPA)
(Parties may also receive a privacy disclosure from their own Agent.)
- Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
- Short Sale Information and Advisory (C.A.R. Form SSIA)
- Probate Advisory (C.A.R. Form PA)

VLPA REVISED 6/22 (PAGE 3 OF 16)

Buyer's Initials JS

Seller's Initials BR

BR

VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 3 OF 16)

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0191-161-17 and



Property Address: **APNs 0191-161-17 and 28, Fontana, 92335**

Date: **July 7, 2022**

5. **ADDITIONAL TERMS AFFECTING PURCHASE PRICE:** Buyer represents that funds will be good when deposited with Escrow Holder.
- A. **DEPOSIT:**
- (1) **INITIAL DEPOSIT:** Buyer shall deliver deposit directly to Escrow Holder. If a method other than wire transfer is specified in paragraph 3D(1) and such method is unacceptable to Escrow Holder, then upon notice from Escrow Holder, delivery shall be by wire transfer.
 - (2) **INCREASED DEPOSIT:** Increased deposit to be delivered to Escrow Holder in the same manner as the Initial Deposit. If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount by signing a new liquidated damages clause (C.A.R. Form DID) at the time the increased deposit is delivered to Escrow Holder.
 - (3) **RETENTION OF DEPOSIT:** Paragraph 36, if initialed by all Parties or otherwise incorporated into this Agreement, specifies a remedy for Buyer's default. Buyer and Seller are advised to consult with a qualified California real estate attorney before adding any other clause specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase. Any such clause shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.
- B. **ALL CASH OFFER:** If an all cash offer is specified in paragraph 3A, no loan is needed to purchase the Property. This Agreement is NOT contingent on Buyer obtaining a loan. Buyer shall, within the time specified in paragraph 3H(1), Deliver written verification of funds sufficient for the purchase price and closing costs.
- C. **LOAN(S):**
- (1) **FIRST LOAN:** This loan will provide for conventional financing UNLESS FHA, VA, Seller Financing (C.A.R. Form SFA), Assumed Financing, Subject To Financing, or Other is checked in paragraph 3E(1).
 - (2) **ADDITIONAL FINANCED AMOUNT:** If an additional financed amount is specified in paragraph 3E(2), that amount will provide for conventional financing UNLESS Seller Financing (C.A.R. Form SFA), Assumed Financing, Subject To Financing, or Other is checked in paragraph 3E(2).
 - (3) **BUYER'S LOAN STATUS:** Buyer authorizes Seller and Seller's Authorized Agent to contact Buyer's lender(s) to determine the status of any Buyer's loan specified in paragraph 3E, or any alternate loan Buyer pursues, whether or not a contingency of this Agreement. If the contact information for Buyer's lender(s) is different from that provided under the terms of paragraph 6B, Buyer shall Deliver the updated contact information within 1 Day of Seller's request.
 - (4) **ASSUMED OR SUBJECT TO FINANCING:** Seller represents that Seller is not delinquent on any payments due on any loans. If the Property is acquired subject to an existing loan, Buyer and Seller are advised to consult with legal counsel regarding the ability of an existing lender to call the loan due, and the consequences thereof.
- D. **BALANCE OF PURCHASE PRICE (DOWN PAYMENT)** (including all-cash funds) to be deposited with Escrow Holder pursuant to Escrow Holder instructions.
- E. **LIMITS ON CREDITS TO BUYER:** 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 any, and made at Close Of Escrow. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit from Seller 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.
6. **ADDITIONAL FINANCING TERMS:**
- A. **VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Written verification of Buyer's down payment and closing costs may be made by Buyer or Buyer's lender or loan broker pursuant to paragraph 6B.
 - B. **VERIFICATION OF LOAN APPLICATIONS:** Buyer shall Deliver to Seller, within the time specified in paragraph 3H(3) 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 3E. If any loan specified in paragraph 3E is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate.
 - C. **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 specified financing. Buyer shall pursue the financing specified in this Agreement, even if Buyer also elects to pursue an alternative form of financing. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in this Agreement but shall not interfere with closing at the purchase price on the COE date (paragraph 3B) even if based upon alternate financing. Buyer's inability to obtain alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.
7. **CLOSING AND POSSESSION:**
- A. **OCCUPANCY:** Buyer intends to occupy the Property as indicated in paragraph 3E(3). Occupancy may impact available financing.
 - B. **CONDITION OF PROPERTY ON CLOSING:**
 - (1) Unless Otherwise Agreed: (i) the Property shall be delivered "As-Is" in its PRESENT physical condition as of the date of Acceptance; (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 or at the time possession is delivered to Buyer, if not on the same date. If items are not removed when possession is delivered to Buyer, all items shall be deemed abandoned. Buyer, after first Delivering to Seller written notice to remove the items within 3 Days, may pay to have such items removed or disposed of and may bring legal action, as per this Agreement, to receive reasonable costs from Seller.
 - (2) Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller and Agents 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 all required permits issued and/or finalized.
 - C. Seller shall, on Close Of Escrow unless Otherwise Agreed and even if Seller remains in possession, provide keys, passwords, codes and/or means to operate all locks, mailboxes, and all items included in either paragraph 3P or paragraph 9. If the Property is a condominium or located in a common interest development, Seller shall be responsible for securing or providing any such items for Association amenities, facilities, and access. Buyer may be required to pay a deposit to the Owners' Association ("OA") to obtain keys to accessible OA facilities.

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Buyer's Initials

MS

Seller's Initials

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 4 OF 16)

Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201 www.lwolf.com

0191-161-17 and

Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

8. CONTINGENCIES AND REMOVAL OF CONTINGENCIES:

A. LOAN(S):

- (1) This Agreement is, unless otherwise specified in paragraph 3L(1) or an attached CR form, contingent upon Buyer obtaining the loan(s) specified. If contingent, Buyer shall act diligently and in good faith to obtain the designated loan(s). 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 and Buyer is able to satisfy lender's non-appraisal conditions for closing the loan.
- (2) Buyer is advised to investigate the insurability of the Property as early as possible, as this may be a requirement for lending. Buyer's ability to obtain insurance for the Property, including fire insurance, is part of Buyer's Investigation of Property contingency. Failure of Buyer to obtain insurance may justify cancellation based on the Investigation contingency but not the loan contingency.
- (3) Buyer's contractual obligations regarding deposit, balance of down payment and closing costs are not contingencies of this Agreement, unless Otherwise Agreed.
- (4) If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.
- (5) NO LOAN CONTINGENCY: If "No loan contingency" is checked in paragraph 3L(1), obtaining any loan specified is NOT a contingency of this Agreement. If Buyer does not obtain the loan specified, and as a result is unable to purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

B. APPRAISAL:

- (1) This Agreement is, unless otherwise specified in paragraph 3L(2) or an attached CR form, contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the amount specified in paragraph 3L(2), without requiring repairs or improvements to the Property. Appraisals are often a reliable source to verify square footage of the subject Property. However, the ability to cancel based on the measurements provided in an appraisal falls within the Investigation of Property contingency. The appraisal contingency is solely limited to the value determined by the appraisal. For any cancellation based upon this appraisal contingency, Buyer shall Deliver a Copy of the written appraisal to Seller, upon request by Seller.
- (2) NO APPRAISAL CONTINGENCY: If "No appraisal contingency" is checked in paragraph 3L(2), then Buyer may not use the loan contingency specified in paragraph 3L(1) to cancel this Agreement if the sole reason for not obtaining the loan is that the appraisal relied upon by Buyer's lender values the property at an amount less than that specified in paragraph 3L(2). If Buyer is unable to obtain the loan specified solely for this reason, Seller may be entitled to Buyer's deposit or other legal remedies.
- (3) Fair Appraisal Act: The Parties acknowledge receipt of the attached Fair Appraisal Act Addendum (C.A.R. Form FAAA).

C. MANUFACTURED HOME PURCHASE: If checked in paragraph 3L(3), this Agreement is contingent upon Buyer acquiring a personal property manufactured home to be placed on the Property after Close Of Escrow.

D. CONSTRUCTION LOAN FINANCING: If checked in paragraph 3L(4), this Agreement is contingent upon Buyer obtaining a construction loan.

E. INVESTIGATION OF PROPERTY: This Agreement is, as specified in paragraph 3L(5), contingent upon Buyer's acceptance of the condition of, and any other matter affecting, the Property.

F. REVIEW OF SELLER DOCUMENTS: This Agreement is, as specified in paragraph 3L(6), contingent upon Buyer's review of Seller's documents required in paragraph 17A.

G. TITLE:

- (1) This Agreement is, as specified in paragraph 3L(7), contingent upon Buyer's ability to obtain the title policy provided for in paragraph 16G and on Buyer's review of a current Preliminary Report and items that are disclosed or observable even if not on record or not specified in the Preliminary Report, and satisfying Buyer regarding the current status of title. Buyer is advised to review all underlying documents and other matters affecting title, including, but not limited to, any documents or deeds referenced in the Preliminary Report and any plotted easements.
- (2) Buyer has 5 Days after receipt to review a revised Preliminary Report, if any, furnished by the Title Company and cancel the transaction if the revised Preliminary Report reveals material or substantial deviations from a previously provided Preliminary Report.

H. CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES (IF APPLICABLE): This Agreement is, as specified in paragraph 3L(8), contingent upon Buyer's review of Common Interest Disclosures required by Civil Code § 4525 and under paragraph 11D ("CI Disclosures").

I. BUYER REVIEW OF LEASED OR LIENED ITEMS CONTINGENCY: Buyer's review of and ability and willingness to assume any lease, maintenance agreement or other ongoing financial obligation, or to accept the Property subject to any lien, disclosed pursuant to paragraph 9B(2), is, as specified in paragraph 3L(9), a contingency of this Agreement. Any assumption of the lease shall not require any financial obligation or contribution by Seller. Seller, after first Delivering a Notice to Buyer to Perform, may cancel this Agreement if Buyer, by the time specified in paragraph 3L(9), refuses to enter into any necessary written agreements to accept responsibility for all obligations of Seller-disclosed leased or lienied items.

J. REMOVAL OR WAIVER OF CONTINGENCIES WITH OFFER: Buyer shall have no obligation to remove a contractual contingency unless Seller has provided all required documents, reports, disclosures, and information pertaining to that contingency. If Buyer does remove a contingency without first receiving all required information from Seller, Buyer is relinquishing any contractual rights that apply to that contingency. If Buyer removes or waives any contingencies without an adequate understanding of the Property's condition or Buyer's ability to purchase, Buyer is acting against the advice of Agent.

K. REMOVAL OF CONTINGENCY OR CANCELLATION:

- (1) For any contingency specified in paragraph 3L or 8, Buyer shall, within the applicable period specified, remove the contingency or cancel this Agreement.
- (2) For the contingencies for review of Seller Documents, Preliminary Report, and Condominium/Planned Development Disclosures, Buyer shall, within the time specified in paragraph 3L or 5 Days after receipt of the applicable Seller Documents, Preliminary Report, or CI Disclosures, whichever occurs later, remove the applicable contingency in writing or cancel this Agreement.
- (3) If Buyer does not remove a contingency within the time specified, Seller, after first giving Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), shall have the right to cancel this Agreement.

L. SALE OF BUYER'S PROPERTY: This Agreement and Buyer's ability to obtain financing are NOT contingent upon the sale of any property owned by Buyer unless the Sale of Buyer's Property (C.A.R. Form COP) is checked as a contingency of this Agreement in paragraph 3L(10).

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Buyer's Initials

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Seller's Initials

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 5 OF 16)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

9. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:

- A. **NOTE TO BUYER AND SELLER:** Items listed as included or excluded in the Multiple Listing Service (MLS), flyers, marketing materials, or disclosures are NOT included in the purchase price or excluded from the sale unless specified in this paragraph or paragraph 3P or as Otherwise Agreed. Any items included herein are components of the Property and are not intended to affect the price. All items are transferred without Seller warranty.
- B. **ITEMS INCLUDED IN SALE:**
 - (1) All EXISTING fixtures and fittings that are attached to the Property;
 - (2) **LEASED OR LIENED ITEMS AND SYSTEMS:** Seller, within the time specified in paragraph 3N(1), shall (i) disclose to Buyer if any item or system specified in paragraph 3P or 9B or otherwise included in the sale is leased, or not owned by Seller, or is subject to any maintenance or other ongoing financial obligation, or specifically subject to a lien or other encumbrance or loan, and (ii) Deliver to Buyer all written materials (such as lease, warranty, financing, etc.) concerning any such item.
 - (3) Seller represents that all items included in the purchase price, unless Otherwise Agreed, (i) are owned by Seller and shall be transferred free and clear of liens and encumbrances, except the items and systems identified pursuant to paragraph 9B(2), and (ii) are transferred without Seller warranty regardless of value. Seller shall cooperate with the identification of any software or applications and Buyer's efforts to transfer any services needed to operate any Smart Home Features or other items included in this Agreement, including, but not limited to, utilities or security systems.
 - (4) 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 3N(1).
 - (5) Seller shall deliver title to the personal property by Bill of Sale, free of all liens and encumbrances, and without warranty of condition.
 - (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.
- C. **ITEMS EXCLUDED FROM SALE:** Unless Otherwise Agreed, all items specified in paragraph 3P(2) are excluded from the sale.

10. ALLOCATION OF COSTS FOR INSPECTIONS, REPORTS AND CERTIFICATES: Paragraphs 3Q(1-3) and (5) 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. Agreements for payment of required work should be specified elsewhere in paragraph 3Q, or 3S, or in a separate agreement (such as C.A.R. Forms RR, RRRR, ADM or AEA).

11. SELLER DISCLOSURES:

- A. **WITHHOLDING TAXES:** Buyer and Seller hereby instruct Escrow Holder to withhold the applicable required amounts to comply with federal and California withholding Laws and forward such amounts to the Internal Revenue Service and Franchise Tax Board, respectively. However, no federal withholding is required if, prior to Close Of Escrow, Seller Delivers (i) to Buyer and Escrow Holder a fully completed affidavit (C.A.R. Form AS) sufficient to avoid withholding pursuant to federal withholding Law (FIRPTA); OR (ii) to a qualified substitute (usually a title company or an independent escrow company) a fully completed affidavit (C.A.R. Form AS) sufficient to avoid withholding pursuant to federal withholding Law AND the qualified substitute Delivers to Buyer and Escrow Holder an affidavit signed under penalty of perjury (C.A.R. Form QS) that the qualified substitute has received the fully completed Seller's affidavit and the Seller states that no federal withholding is required; OR (iii) to Buyer other documentation satisfying the requirements under Internal Revenue Code § 1445 (FIRPTA). No withholding is required under California Law if, prior to Close Of Escrow, Escrow Holder has received sufficient documentation from Seller that no withholding is required, and Buyer has been informed by Escrow Holder.
- B. **MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to § 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Seller nor Agent are required to check this website. If Buyer wants further information, Agent recommends that Buyer obtain information from this website during Buyer's investigation contingency period. Agents do not have expertise in this area.)
- C. **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 Website. (Neither Seller nor Agent are required to check this website. If Buyer wants further information, Agent recommends that Buyer obtain information from this website during Buyer's investigation contingency period. Agents do not have expertise in this area.)
- D. **CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:**
 - (1) Seller shall, within the time specified in paragraph 3N(1), disclose to Buyer whether the Property is a condominium or is located in a planned development, other common interest development, or otherwise subject to covenants, conditions, and restrictions (C.A.R. Form SPQ or ESD).
 - (2) If the Property is a condominium or is located in a planned development or other common interest development with a OA, Seller shall, within the time specified in paragraph 3N(3), order from, and pay any required fee for the following items to the OA (C.A.R. Form HOA-IR): (i) Copies of any documents required by Law (C.A.R. Form HOA-RS); (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; (v) the names and contact information of all OAs governing the Property; (vi) pet restrictions; and (vii) smoking restrictions ("CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the OA and any CI Disclosures in Seller's possession. Seller shall, as directed by Escrow Holder, deposit funds into escrow or direct to OA or management company to pay for any of the above.
- E. **NATURAL AND ENVIRONMENTAL HAZARDS:** Seller shall, within the time specified in paragraph 3N(1), if required by Law: (i) Deliver to Buyer the earthquake guide and environmental hazards booklet, and for all residential property with 1-4 units and any manufactured or mobile home built before January 1, 1960, fully complete and Deliver the Residential Earthquake Risk Disclosure Statement; and (ii) even if exempt from the obligation to provide a 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.

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Buyer's Initials

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Seller's Initials

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 6 OF 16)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

- F. **ADDITIONAL DISCLOSURES:** Within the time specified in paragraph 3N(1), if Seller has actual knowledge, Seller shall provide to Buyer, in writing, the following information:
- (1) **LEGAL PROCEEDINGS:** Any lawsuits by or against Seller, threatening or affecting the Property, including any lawsuits alleging a defect or deficiency in the Property or common areas, or any known notices of abatement or citations filed or issued against the Property.
 - (2) **AGRICULTURAL USE:** Whether the Property is subject to restrictions for agricultural use pursuant to the Williamson Act (Government Code §§ 51200-51295).
 - (3) **DEED RESTRICTIONS:** Any deed restrictions or obligations.
 - (4) **FARM USE:** Whether the Property is in, or adjacent to, an area with Right to Farm rights (Civil Code § 3482.5 and § 3482.6).
 - (5) **ENDANGERED SPECIES:** Presence of endangered, threatened, "candidate" species, or wetlands on the Property.
 - (6) **ENVIRONMENTAL HAZARDS:** Any substances, materials, or products that may be an environmental hazard including, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, and contaminated soil or water on the Property.
 - (7) **COMMON WALLS:** Any features of the Property shared in common with adjoining landowners, such as walls, fences, roads, and driveways, and agriculture and domestic wells whose use or responsibility for maintenance may have an effect on the Property.
 - (8) **LANDLOCKED:** The absence of legal or physical access to the Property.
 - (9) **EASEMENTS/ENCROACHMENTS:** Any encroachments, easements, or similar matters that may affect the Property.
 - (10) **SOIL FILL:** Any fill (compacted or otherwise), or abandoned mining operations on the Property.
 - (11) **SOIL PROBLEMS:** Any slippage, sliding, flooding, drainage, grading, or other soil problems.
 - (12) **EARTHQUAKE DAMAGE:** Major damage to the Property of any of the structures from fire, earthquake, floods, or landslides.
 - (13) **ZONING ISSUES:** Any zoning violations, non-conforming uses, or violations of "setback" requirements.
 - (14) **NEIGHBORHOOD PROBLEMS:** Any neighborhood noise problems, or other nuisances.
 - (15) **SURVEY, PLANS, PERMITS AND ENGINEERING DOCUMENTS:** If in Seller's possession, Copies of surveys, plans, specifications, permits and approvals, development plans, licenses, and engineering documents, if any, prepared on Seller's behalf on in Seller's possession.
 - (16) **VIOLATION NOTICES:** Seller shall disclose any notice of violations of any Law filed or issued against the Property.
- G. **MELLO-ROOS TAX; 1915 BOND ACT:** Within the time specified in paragraph 3N(1), Seller shall: (i) make a good faith effort to obtain a notice from any local agencies that levy a special tax or assessment on the Property (or, if allowed, substantially equivalent notice), pursuant to the Mello-Roos Community Facilities Act, and Improvement Bond Act of 1915, and (ii) promptly Deliver to Buyer any such notice obtained.
- H. **KNOWN MATERIAL FACTS:** Seller shall, within the time specified in paragraph 3N(1), DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including, but not limited to, known insurance claims within the past five years, or provide Buyer with permission to contact lender to get such information (C.A.R. Form ARC), and make any and all other disclosures required by Law.
- I. **SELLER VACANT LAND QUESTIONNAIRE:** Seller shall, within the time specified in paragraph 3N(1), complete and provide Buyer with a Seller Vacant Land Questionnaire (C.A.R. Form VLQ).
- J. **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, 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 of which Buyer is otherwise aware or which are disclosed in reports provided to or obtained by Buyer or ordered and paid for by Buyer.
12. **TENANCY RELATED DISCLOSURES:** Within the time specified in paragraph 3N(1), and subject to Buyer's right of review, Seller shall disclose, make available or Deliver, as applicable, to Buyer, the following information:
- A. **RENTAL/SERVICE AGREEMENTS:** (i) All current leases, rental agreements, service contracts, and other agreements pertaining to the operation of the Property; (ii) A rental statement including names of tenants, rental rates, period or 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 rebate, concession, or other benefit, except as set forth in these documents. Seller represents that the documents to be furnished are those maintained in the ordinary and normal course of business.
 - B. **INCOME AND EXPENSE STATEMENTS:** If checked in paragraph 3R, the books and records for the Property, if any, 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.
 - C. **TENANT ESTOPPEL CERTIFICATES:** If checked in paragraph 3R, Tenant Estoppel Certificates (C.A.R. Form TEC). Tenant Estoppel Certificates shall be completed by Seller or Seller's agent and delivered to tenant(s) for tenant(s) to sign and acknowledge: (i) that tenant(s)' 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. Seller shall exercise good faith to obtain tenant(s)' signature(s), but Seller cannot guarantee tenant(s)' cooperation. In the event Seller cannot obtain signed Tenant Estoppel Certificates within the time specified above, Seller shall notify Buyer and provide the unsigned one that was provided to tenant(s). If, after the time specified for Seller to Deliver the TEC to Buyer, any tenant(s) sign and return a TEC to Seller, Seller shall Deliver that TEC to Buyer.
 - D. **SELLER REPRESENTATIONS:** Unless otherwise disclosed under paragraph 11, paragraph 12, or under any disclosure Delivered to Buyer:
 - (1) Seller represents that Seller has no actual knowledge that any tenant(s): (i) has any current pending lawsuit(s), investigation(s), Inquiry(ies), action(s), or other proceeding(s) affecting the Property of the right to use and occupy it; (ii) has any unsatisfied mechanics or materialman lien(s) affecting the Property; and (iii) is the subject of a bankruptcy. If Seller receives any such notice, prior to Close Of Escrow, Seller shall immediately notify Buyer.
 - (2) Seller represents that no tenant is entitled to any rebate, concessions, or other benefit, except as set forth in the rental service agreements.
 - (3) Seller represents that the documents to be furnished are those maintained in the ordinary and normal course of business and the income and expense statements are and used by Seller in the computation of federal and state income tax returns.
13. **CHANGES DURING ESCROW:**
- A. Prior to Close Of Escrow, Seller may engage in the following acts ("Proposed Changes"), subject to Buyer's rights in paragraph 13B: (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.

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Buyer's Initials

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Seller's Initials

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VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 7 OF 16)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

- B. (1) At least 7 Days prior to any Proposed Changes, Seller shall Deliver written notice to Buyer of such Proposed Change
- (2) Within 5 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.
- 14. **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 California Civil Code.
- 15. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**
 - A. Buyer shall, within the time specified in paragraph 3L(5), have the right, at Buyer's expense unless Otherwise Agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations").
 - B. Buyer Investigations include, but are not limited to:
 - (1) Inspections regarding any physical attributes of the Property or items connected to the Property, such as:
 - (A) A general inspection.
 - (B) An inspection for lead-based paint and other lead-based paint hazards.
 - (C) An inspection specifically 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).
 - (D) A phase one environmental survey, paid for and obtained by the party indicated in paragraph 3Q(2). If Buyer is responsible for obtaining and paying for the survey, Buyer shall act diligently and in good faith to obtain such survey within the time specified in paragraph 3L(5). Buyer has 5 Days after receiving the survey to remove this portion of the Buyer's Investigation contingency.
 - (E) Any other specific inspections of the physical condition of the land and improvements.
 - (2) All other Buyer Investigations, such as insurance, not specified above. See, Buyer's Vacant Land Additional Inspection Advisory (C.A.R. Form BVLIA) for more.
 - (3) A review of reports, disclosures or information prepared by or for Seller and Delivered to Buyer pursuant to paragraphs 3, 11, 12, 13, 16A, and 17A.
 - C. 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, which shall not include any holes or drilling through stucco or similar material; or (ii) inspections by any governmental building or zoning inspector or government employee, unless required by Law.
 - D. Seller shall make the Property available for all Buyer Investigations. Seller is not obligated to move any existing personal property. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is delivered to Buyer. Buyer shall, (i) by the time specified in paragraph 3L(5), complete Buyer Investigations and satisfy themselves as to the condition of the Property, and either remove the contingency or cancel this Agreement, and (ii) by the time specified in paragraph 3L(5) or 3 Days after receipt of any Investigation report, whichever is later, give Seller at no cost, complete Copies of all such reports obtained by Buyer, which obligation shall survive the termination of this Agreement. This Delivery of Investigation reports shall not include any appraisal, except an appraisal received in connection with an FHA or VA loan.
 - E. Buyer indemnify and Seller protection for entry upon the 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.
 - F. **BUYER IS STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY AND ALL MATTERS AFFECTING THE VALUE OR DESIRABILITY OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE ITEMS SPECIFIED BELOW. IF BUYER DOES NOT EXERCISE THESE RIGHTS, BUYER IS ACTING AGAINST THE ADVICE OF BROKERS. BUYER UNDERSTANDS THAT ALTHOUGH CONDITIONS ARE OFTEN DIFFICULT TO LOCATE AND DISCOVER, ALL REAL PROPERTY CONTAINS CONDITIONS THAT ARE NOT READILY APPARENT AND THAT MAY AFFECT THE VALUE OR DESIRABILITY OF THE PROPERTY. BUYER AND SELLER ARE AWARE THAT BROKERS DO NOT GUARANTEE, AND IN NO WAY ASSUME RESPONSIBILITY FOR, THE CONDITION OF THE PROPERTY. BROKERS HAVE NOT AND WILL NOT VERIFY ANY OF THE ITEMS IN PARAGRAPH 15, UNLESS OTHERWISE AGREED IN WRITING.**
 - G. **SIZE, LINES, ACCESS, AND BOUNDARIES:** Lot size, property lines, legal or physical access, and boundaries including features of the Property shared in common with adjoining landowners, such as walls, fences, roads, and driveways, whose use or responsibility for maintenance may have an effect on the Property and any encroachments, easements, or similar matters that may affect the Property. (Fences, hedges, walls, and other natural or constructed barriers or markers do not necessarily identify true Property boundaries. Property lines may be verified by survey.) (Unless otherwise specified in writing, any numerical statements by Brokers regarding lot size are APPROXIMATIONS ONLY, which have not been and will not be verified, and should not be relied upon by Buyer.)
 - H. **ZONING AND LAND USE:** Past, present, or proposed laws, ordinances, referendums, initiatives, votes, applications, and permits affecting the current use of the Property, future development, zoning, building, size, governmental permits and inspections. Any zoning violations, non-conforming uses, or violations of "setback" requirements. (Buyer should also investigate whether these matters affect Buyer's intended use of the Property.)
 - I. **UTILITIES AND SERVICES:** Availability, costs, restrictions, and location of utilities and services, including but not limited to, sewerage, sanitation, septic and leach lines, water, electricity, gas, telephone, cable TV, and drainage.
 - J. **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, including mold (airborne, toxic, or otherwise), fungus or similar contaminant, materials, products, or conditions.

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Buyer's Initials MS

Seller's Initials ST

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- K. **GEOLOGIC CONDITIONS:** Geologic/seismic conditions, soil and terrain stability, suitability and drainage including slippage, sliding, flooding, drainage, grading, fill (compacted or otherwise), or other soil problems.
 - L. **NATURAL HAZARD ZONE:** Special Flood Hazard Areas, Potential Flooding (Inundation) Areas, Very High Hazard Zones, State Fire Responsibility Areas, Earthquake Fault Zones, Seismic Hazard Zones, or any other zone for which disclosure is required by Law.
 - M. **PROPERTY DAMAGE:** Major damage to the Property of any of the structures or non-structural systems and components and any personal property included in the sale from fire, earthquake, floods, landslides, or other causes.
 - N. **NEIGHBORHOOD, AREA, AND PROPERTY CONDITIONS:** Neighborhood or area conditions, including Agricultural Use Restrictions pursuant to the Williamson Act (Government Code §§ 51200-51295), Right to Farm Laws (Civil Code § 3482.5 and § 3482.6), schools, proximity and adequacy of law enforcement, crime statistics, the proximity of registered felons or offenders, fire protection, other government services, availability, adequacy, and cost of any speed-wired, wireless internet connections, or other telecommunications or other technology services and installations, proximity to 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, abandoned mining operations on the Property, 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 Owners' Association requirements, conditions, and influences of significance to certain cultures and/or religions, and personal needs, requirements, and preferences of Buyer.
 - O. **COMMON INTEREST SUBDIVISIONS; OWNER ASSOCIATIONS:** Facilities and condition of common areas (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others), Owners' Association that has any authority over the subject property, CC&Rs, or other deed restrictions or obligations, and possible lack of compliance with any Owners' Association requirements.
 - P. **SPECIAL TAX:** Any local agencies that levy a special tax on the Property pursuant to the Mello-Roos Community facilities Act or Improvement Bond Act of 1915.
 - Q. **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 landlord to terminate a tenancy.
 - R. **MANUFACTURED HOME PLACEMENT:** Conditions that may affect the ability to place and use a manufactured home on the Property.
- 16. TITLE AND VESTING:**
- A. Buyer shall, within the time specified in paragraph 3N(1), be provided a current Preliminary Report by the person responsible for paying for the title report in paragraph 3Q(5). If Buyer is responsible for paying, Buyer shall act diligently and in good faith to obtain such Preliminary Report within the time specified. 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. 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.
 - 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 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. For any lien or matter not being transferred upon sale, Seller will take necessary action to deliver title free and clear of such lien or matter.
 - C. Seller shall within 7 Days after request, give Escrow Holder necessary information to clear title.
 - D. Seller shall, within the time specified in paragraph 3N(1), disclose to Buyer all matters known to Seller affecting title, whether of record or not.
 - E. If Buyer is a legal entity and the Property purchase price is at least \$300,000 and the purchase price is made without a bank loan or similar form of external financing, a Geographic Targeting Order (GTO) issued by the Financial Crimes Enforcement Network, U.S. Department of the Treasury, requires title companies to collect and report certain information about the Buyer, depending on where the Property is located. Buyer agrees to cooperate with the title company's effort to comply with the GTO.
 - F. Buyer shall, after Close Of Escrow, receive a recorded grant deed or any other conveyance document required to convey title (For example, for stock cooperative or tenancy in common, respectively, an assignment of stock certificate or assignment of seller's interest in the real property), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's vesting instructions. The recording document shall contain Buyer's post-closing mailing address to enable Buyer's receipt of the recorded conveyance document from the County Recorder. **THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.**
 - G. Buyer shall receive a Standard Coverage Owner's 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.
- 17. 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 DELIVERY OF DOCUMENTS:** Seller shall, within the time specified in paragraph 3N(1), Deliver to Buyer all reports, disclosures and information ("Reports") for which Seller is responsible as specified in paragraphs 9B, 11A, 11D, 11E, 11F, 11G, 11H, 11I, 11J, 12A, 12B, 12C, 16A, 16D and 35.
 - B. **BUYER REVIEW OF DOCUMENTS; REPAIR REQUEST; CONTINGENCY REMOVAL OR CANCELLATION**
 - (1) Buyer has the time specified in paragraph 3 to: (i) perform Buyer Investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to paragraph 9B(2), and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property; and (ii) Deliver to Seller Signed Copies of Statutory and Other Disclosures Delivered by Seller in accordance with paragraph 11.
 - (2) Buyer may, within the time specified in paragraph 3L(5), 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 Buyer's requests (C.A.R. Form RR or RRRR). If Seller does not agree or does not respond, Buyer is not contractually entitled to have the repairs or other requests made and may only cancel based on contingencies in this Agreement.

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Buyer's Initials

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Seller's Initials

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- (3) Buyer shall, by the end of the times specified in paragraph 3L (or as Otherwise Agreed), Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement (C.A.R. Form CR or CC). However, if any report, disclosure, or information for which Seller is responsible, is not Delivered within the time specified in paragraph 3N(1), then Buyer has 5 Days after Delivery of any such items, or the times specified in paragraph 3L, whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement. If Delivery of any Report occurs after a contractual contingency pertaining to that Report has already been waived or removed, the Delivery of the Report does not revive the contingency.
 - (4) **Continuation of Contingency:** Even after the end of the time specified in paragraph 3L and before Seller cancels, if at all, pursuant to paragraph 17C, 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 17C(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 Notice to Buyer to Perform, 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 3D(1) or 3D(2) or if the funds deposited pursuant to paragraph 3D(1) or 3D(2) are not good when deposited; (ii) Deliver updated contact information for Buyer's lender(s) as required by paragraph 5C(3); (iii) Deliver verification, or a satisfactory verification if Seller reasonably disapproves of the verification already provided, as required by paragraph 5B or 6A; (iv) Deliver a letter as required by paragraph 6B; (v) In writing assume or accept leases or liens specified in paragraph 8I; (vi) Cooperate with the title company's effort to comply with the GTO as required by paragraph 16E; (vii) Sign or initial a separate liquidated damages form for an increased deposit as required by paragraph 5A(2) and 36; (viii) Provide evidence of authority to Sign in a representative capacity as specified in paragraph 35; or (ix) Perform any additional Buyer contractual obligation(s) included in this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees allocated to Seller in this Agreement and already paid by Escrow prior to cancellation of this Agreement and notification to Escrow.
 - (3) **SELLER RIGHT TO CANCEL; SELLER CONTINGENCIES:** Seller may cancel this Agreement by good faith exercise of any Seller contingency included in this Agreement, or Otherwise Agreed, so long as that contingency has not already been removed or waived in writing.
- D. BUYER RIGHT TO CANCEL:**
- (1) **BUYER RIGHT TO CANCEL; SELLER CONTINGENCIES:** If, by the time specified in this Agreement, Seller does not Deliver to Buyer a removal of the applicable contingency or cancellation of this Agreement, then Buyer, after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees allocated to Seller in the Agreement and already paid by Escrow prior to cancellation of this Agreement and notification to Escrow.
 - (2) **BUYER RIGHT TO CANCEL; SELLER CONTRACT OBLIGATIONS:** If, by the time specified, Seller has not Delivered any item specified in paragraph 3N(1) or Seller has not performed any Seller contractual obligation included in this Agreement by the time specified, Buyer, after first Delivering to Seller a Notice to Seller to Perform, may cancel this Agreement.
 - (3) **BUYER RIGHT TO CANCEL; BUYER CONTINGENCIES:** Buyer may cancel this Agreement by good faith exercise of any Buyer contingency included in paragraph 8, or Otherwise Agreed, so long as that contingency has not already been removed in writing.
- E. NOTICE TO BUYER OR SELLER TO PERFORM:** The Notice to Buyer to Perform or Notice to Seller to Perform shall: (i) be in writing; (ii) be Signed by the applicable Buyer or Seller; and (iii) give the other Party at least 2 Days after Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A Notice to Buyer to Perform or Notice to Seller to Perform may not be Delivered any earlier than 2 Days prior to the Scheduled Performance Day to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 17, whether or not the Scheduled Performance Day falls on a Saturday, Sunday or legal holiday. If a Notice to Buyer to Perform or Notice to Seller to Perform is incorrectly Delivered or specifies a time less than the agreed time, the notice shall be deemed invalid and void and Seller or Buyer shall be required to Deliver a new Notice to Buyer to Perform or Notice to Seller to Perform with the specified timeframe.
- F. EFFECT OF REMOVAL OF CONTINGENCIES:**
- (1) **REMOVAL OF BUYER CONTINGENCIES:** If Buyer removes any contingency or cancellation rights, unless Otherwise Agreed, 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 the non-delivery of any reports, disclosures or information outside of Seller's control and for any Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.
 - (2) **REMOVAL OF SELLER CONTINGENCIES:** If Seller removes any contingency or cancellation rights, unless Otherwise Agreed, Seller shall conclusively be deemed to have: (i) satisfied themselves regarding such contingency, (ii) elected to proceed with the transaction; and (iii) given up any right to cancel this Agreement based on such contingency.
- G. DEMAND TO CLOSE 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 Days after Delivery to close escrow. A DCE may not be Delivered any earlier than 3 Days prior to the Scheduled Performance Day for the Close Of Escrow. If a DCE is incorrectly Delivered or specifies a time less than the agreed time, the DCE shall be deemed invalid and void and Seller or Buyer shall be required to Deliver a new DCE.

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Buyer's Initials

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Seller's Initials

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Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201 www.lwof.com 0191-161-17 and

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Date: July 7, 2022

- H. **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 and Deliver mutual instructions to cancel the sale and escrow and release deposits, if any, to the Party entitled to the funds, less (i) fees and costs paid by Escrow Holder on behalf of that Party, if required by this Agreement; and (ii) any escrow cancellation fee charged to that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. A release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award. 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 which Party is entitled to the deposited funds (Civil Code § 1057.3). Note: Neither Agents nor Escrow Holder are qualified to provide any opinion on whether either Party has acted in good faith or which Party is entitled to the deposited funds. Buyer and Seller are advised to seek the advice of a qualified California real estate attorney regarding this matter.
18. **REPAIRS:** Repairs shall be completed prior to final verification of condition unless Otherwise Agreed. 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. Buyer acknowledges 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.
19. **FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final verification of the Property condition within the time specified in paragraph 3J, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (i) the Property is maintained pursuant to paragraph 7B; (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).
20. **PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless Otherwise Agreed, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, Seller rental payments, OA regular assessments due 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. Seller shall pay any OA special or emergency assessments due prior to Close Of Escrow. 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 OA special or emergency assessments that are due after Close Of Escrow. Property will be reassessed upon change of ownership. Any supplemental tax bills delivered to Escrow Holder prior to closing shall be prorated and 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). Seller agrees all service fees, maintenance costs and utility bills will be paid current up and through the date of Close Of Escrow. TAX BILLS AND UTILITY BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.
21. **BROKERS AND AGENTS:**
- A. **COMPENSATION:** Seller or Buyer, or both, as applicable, agree 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. **SCOPE OF DUTY:** Buyer and Seller acknowledge and agree that Agent: (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 Agent; (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.
- C. **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 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 representation in this paragraph.
22. **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, 3A, 3B, 3D-G, 3N(2), 3Q, 3S, 4A, 4B, 5A(1-2) 5D, 5E, 11A, 11D(2), 16 (except 16D), 17H, 20, 21A, 22, 26, 32, 34, 35, 39, 40, and paragraph 3 of the Real Estate Brokers Section. If a Copy of the separate compensation agreement(s) provided for in paragraph 21A or paragraph 3 of the Real Estate Brokers Section is deposited with Escrow Holder by Agent, 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.
- B. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder. 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 shall Sign and return Escrow Holder's general provisions or supplemental instructions within the time specified in paragraph 3N(2). Buyer and Seller shall 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 Days, shall pay to Escrow Holder or OA or OA management company or others any fee required by paragraphs 3, 8, 11, or elsewhere in this Agreement.

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Buyer's Initials

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Seller's Initials

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- C. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within 3 Days after Acceptance. 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 a separate company is providing title insurance. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 11A, Escrow Holder shall deliver to Buyer, Buyer's Agent, and Seller's Agent a Qualified Substitute statement that complies with federal Law. If Escrow Holder's Qualified Substitute statement does not comply with federal law, the Parties instruct escrow to withhold all applicable required amounts under paragraph 11A.
 - D. Agents are not a party to the escrow except for the sole purpose of receiving compensation pursuant to paragraph 21A and paragraph 3 of the Real Estate Brokers Section. If a Copy of the separate compensation agreement(s) provided for in either of those paragraphs is deposited with Escrow Holder by Agent, 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). Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 21A, 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.
 - E. Buyer and Seller acknowledge that Escrow Holder may require invoices for expenses under this Agreement. Buyer and Seller, upon request by Escrow Holder, within 3 Days or within a sufficient time to close escrow, whichever is sooner, shall provide any such invoices to Escrow Holder.
 - F. Upon receipt, Escrow Holder shall provide Buyer, Seller, and each Agent verification of Buyer's deposit of funds pursuant to paragraph 5A(1) and 5A(2). Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify each Agent: (i) if Buyer's initial or any additional deposit or down payment 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.
 - G. 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.
23. **SELECTION OF SERVICE PROVIDERS:** Agents do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Agent or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.
 24. **MULTIPLE LISTING SERVICE ("MLS"):** Agents are authorized to report to the MLS that an offer has been accepted and, upon Close Of Escrow, the sales price and other terms of this transaction shall be provided to the MLS to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS. Buyer acknowledges that: (i) any pictures, videos, floor plans (collectively, "Images") or other information about the Property that has been or will be inputted into the MLS or internet portals, or both, at the instruction of Seller or in compliance with MLS rules, will not be removed after Close Of Escrow; (ii) California Civil Code § 1088(c) requires the MLS to maintain such Images and information for at least three years and as a result they may be displayed or circulated on the Internet, which cannot be controlled or removed by Seller or Agents; and (iii) Seller, Seller's Agent, Buyer's Agent, and MLS have no obligation or ability to remove such Images or information from the Internet.
 25. **ATTORNEY FEES AND COSTS:** 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 attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 37A.
 26. **ASSIGNMENT:** Buyer shall have the right to assign all of Buyer's interest in this Agreement to Buyer's own trust or to any wholly owned entity of Buyer that is in existence at the time of such assignment. Otherwise, Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the separate written consent of Seller to a specified assignee. Such consent shall not be unreasonably withheld. Prior to any assignment, Buyer shall disclose to Seller the name of the assignee and the amount of any monetary consideration between Buyer and assignee. Buyer shall provide assignee with all documents related to this Agreement including, but not limited to, the Agreement and any disclosures. If assignee is a wholly owned entity or trust of Buyer, that assignee does not need to re-sign or initial all documents provided. Whether or not an assignment requires seller's consent, at the time of assignment, assignee shall deliver a letter from assignee's lender that assignee is prequalified or preapproved as specified in paragraph 6B. Should assignee fail to deliver such a letter, Seller, after first giving Assignee a Notice to Buyer to Perform, shall have the right to terminate the assignment. Buyer shall, within the time specified in paragraph 3K, Deliver any request to assign this Agreement for Seller's consent. If Buyer fails to provide the required information within this time frame, Seller's withholding of consent shall be deemed reasonable. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless Otherwise Agreed by Seller (C.A.R. Form AOAA).
 27. **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.
 28. **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) Agent(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) Agent(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, in any, located on or potentially affecting the Property.
 29. **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. Residential properties are not typically covered by the ADA, but may be governed by its provisions if used for certain purposes. The ADA can require, among other things, that building 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 or agent 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 a qualified California real estate attorney, contractor, architect, engineer, or other qualified professional of Buyer or Seller's own choosing to determine to what degree, if any, the ADA impacts that principal or this transaction.
 30. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.

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Buyer's Initials

MB

Seller's Initials

ST

BR



VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 12 OF 16)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

31. **COPIES:** Seller and buyer each represent that Copies of all reports, 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.
32. **DEFINITIONS and INSTRUCTIONS:** The following words are defined terms in this Agreement, shall be indicated by initial capital letters throughout this Agreement, and have the following meaning whenever used:
- A. "Acceptance" means the time the offer or final counter offer is fully executed, in writing, by the recipient Party and is Delivered to the offering Party or that Party's Authorized Agent.
 - B. "Agent" means the Broker, salesperson, broker-associate or any other real estate licensee licensed under the brokerage firm identified in paragraph 2B.
 - C. "Agreement" means this document and any counter offers and any incorporated addenda or amendments, collectively forming the binding agreement between the Parties. Addenda and amendments are incorporated only when Signed and Delivered by all Parties.
 - D. "As-Is" condition: Seller shall disclose known material facts and defects as specified in this Agreement. Buyer has the right to inspect the Property and, within the time specified, request that Seller make repairs or take other corrective action, or exercise any contingency cancellation rights in this Agreement. Seller is only required to make repairs specified in this Agreement or as Otherwise Agreed.
 - E. "Authorized Agent" means an individual real estate licensee specified in the Real Estate Broker Section.
 - F. "C.A.R. Form" means the most current version of the specific form referenced or another comparable form agreed to by the Parties.
 - G. "Close Of Escrow", including "COE", means the date the grant deed, or other evidence of transfer of title, is recorded for any real property, or the date of Delivery of a document evidencing the transfer of title for any non-real property transaction.
 - H. "Copy" means copy by any means including photocopy, facsimile and electronic.
 - I. **Counting Days** is done as follows unless Otherwise Agreed: (1) The first Day after an event is the first full calendar date following the event, and ending at 11:59 pm. For example, if a Notice to Buyer to Perform (C.A.R. form NBP) is Delivered at 3 pm on the 7th calendar day of the month, or Acceptance of a counter offer is personally received at 12 noon on the 7th calendar day of the month, then the 7th is Day "0" for purposes of counting days to respond to the NBP or calculating the Close Of Escrow date or contingency removal dates and the 8th of the month is Day 1 for those same purposes. (2) All calendar days are counted in establishing the first Day after an event. (3) All calendar days are counted in determining the date upon which performance must be completed, ending at 11:59 pm on the last day for performance ("Scheduled Performance Day"). (4) After Acceptance, if the Scheduled Performance Day for any act required by this Agreement, including Close Of Escrow, lands on a Saturday, Sunday, or legal holiday, the performing party shall be allowed to perform on the next day that is not a Saturday, Sunday or legal holiday ("Allowable Performance Day"), and ending at 11:59 pm. (5) For the purposes of COE, any day that the Recorder's office in the County where the Property is located is closed, the COE shall occur on the next day the Recorder's office in that County is open. (6) COE is considered Day 0 for purposes of counting days Seller is allowed to remain in possession, if permitted by this Agreement.
 - J. "Day" or "Days" means calendar day or days. However, delivery of deposit to escrow is based on business days.
 - K. "Deliver", "Delivered" or "Delivery" of documents, unless Otherwise Agreed, means and shall be effective upon personal receipt of the document by Buyer or Seller or their Authorized Agent. Personal receipt means (i) a Copy of the document, or as applicable, link to the document, is in the possession of the Party or Authorized Agent, regardless of the Delivery method used (i.e. e-mail, text, other), or (ii) an Electronic Copy of the document, or as applicable, link to the document, has been sent to any of the designated electronic delivery addresses specified in the Real Estate Broker Section on page 16. After Acceptance, Agent may change the designated electronic delivery address for that Agent by, in writing, Delivering notice of the change in designated electronic delivery address to the other Party. Links could be, for example, to DropBox or GoogleDrive or other functionally equivalent program. If the recipient of a link is unable or unwilling to open the link or download the documents or otherwise prefers Delivery of the documents directly, Recipient of a link shall notify the sender in writing, within 3 Days after Delivery of the link (C.A.R. Form RFR). In such case, Delivery shall be effective upon Delivery of the documents and not the link. Failure to notify sender within the time specified above shall be deemed consent to receive, and Buyer opening, the document by link.
 - L. "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.
 - M. "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.
 - N. "Legally Authorized Signer" means an individual who has authority to Sign for the principal as specified in paragraph 39 or paragraph 40.
 - O. "Otherwise Agreed" means an agreement in writing, signed by both Parties and Delivered to each.
 - P. "Repairs" means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
 - Q. "Sign" or "Signed" means either a handwritten or Electronic Signature on an original document, Copy or any counterpart.
33. **TERMS AND CONDITIONS OF OFFER:** This is an offer to purchase the Property on the terms and conditions herein. The individual Liquidated Damages and Arbitration of Disputes paragraphs are incorporated in this Agreement if initiated 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 and to market the Property for backup offers after Acceptance. The Parties have read and acknowledge receipt of a Copy of the offer and agree 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. By signing this offer or any document in the transaction, the Party Signing the document is deemed to have read the document in its entirety.
34. **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 Agreed, 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.

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Buyer's Initials

M

Seller's Initials

ST

BR



VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 13 OF 16)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

35. LEGALLY AUTHORIZED SIGNER: Wherever the signature or initials of the Legally Authorized Signer identified in paragraph 39 and 40 appear on this 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 Legally Authorized Signer (i) represents that the entity for which that person is acting already exists and is in good standing to do business in California and (ii) shall Deliver to the other Party and Escrow Holder, as specified in paragraph 3N(4), 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).

36. LIQUIDATED DAMAGES:

If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. Release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award. AT THE 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 DID).

Buyer's Initials MS /

Seller's Initials JT, BR

37. MEDIATION:

- A. 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. The mediation shall be conducted through the C.A.R. Real Estate Mediation Center for Consumers (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 Agents(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Agent. Mediation fees, if any, shall be divided equally among the Parties involved, and shall be recoverable under the prevailing party attorney fees clause. 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.
- B. ADDITIONAL MEDIATION TERMS: (i) Exclusions from this mediation agreement are specified in paragraph 38B; (ii) The obligation to mediate does not preclude the right of either Party to seek a preservation of rights under paragraph 38C; and (iii) Agent's rights and obligations are further specified in paragraph 38D.

38. ARBITRATION OF DISPUTES:

- A. 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 Agents(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Agent. The arbitration shall be conducted through any arbitration provider or service mutually agreed to by the Parties, OR . 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. Enforcement of, and any motion to compel arbitration pursuant to, this agreement to arbitrate shall be governed by the procedural rules of the Federal Arbitration Act, and not the California Arbitration Act, notwithstanding any language seemingly to the contrary in this Agreement. The Parties shall have the right to discovery in accordance with Code of Civil Procedure § 1283.05. 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.
- B. EXCLUSIONS: The following matters are excluded from mediation and arbitration: (i) Any matter that is within the jurisdiction of a probate, small claims or bankruptcy court; (ii) an unlawful detainer action; and (iii) 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.
- C. 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.
- D. AGENTS: Agents shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Agents(s) participating in mediation or arbitration shall not be deemed a party to this Agreement.
- E. "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 MS /

Seller's Initials JT, BR



Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

39. OFFER

- A. EXPIRATION OF OFFER: This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless by the date and time specified in paragraph 3C, the offer is Signed by Seller and a Copy of the Signed offer is Delivered to Buyer or Buyer's Authorized Agent. Seller has no obligation to respond to an offer made.
- B. ENTITY BUYERS: (Note: If this paragraph is completed, a Representative Capacity Signature Disclosure (C.A.R. Form RCSD) is not required for the Legally Authorized Signers designated below.)
 - (1) One or more Buyers is a trust, corporation, LLC, probate estate, partnership, holding a power of attorney or other entity.
 - (2) This Agreement is being Signed by a Legally Authorized Signer in a representative capacity and not in an individual capacity. See paragraph 35 for additional terms.
 - (3) The name(s) of the Legally Authorized Signer(s) is/are: Matthew Ballantyne
 - (4) If a trust, identify Buyer as trustee(s) of the trust or by simplified trust name (ex. John Doe, co-trustee, Jane Doe, co-trustee or Doe Revocable Family Trust). If the entity is a trust or under probate, the following is the full name of the trust or probate case, including case #: _____

C. The VLPA has 16 pages. Buyer acknowledges receipt of, and has read and understands, every page and all attachments that make up the Agreement.

D. BUYER SIGNATURE(S):

(Signature) By, [Signature] Date: 7-28-22

Printed name of BUYER: City of Fontana

Printed Name of Legally Authorized Signer: Matthew Ballantyne Title, if applicable, _____

(Signature) By, _____ Date: _____

Printed name of BUYER: _____

Printed Name of Legally Authorized Signer: _____ Title, if applicable, _____

IF MORE THAN TWO SIGNERS, USE Additional Signature Addendum (C.A.R. Form ASA).

40. ACCEPTANCE

A. 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. Seller has read and acknowledges receipt of a Copy of this Agreement and authorizes Agent to Deliver a Signed Copy to Buyer. Seller's acceptance is subject to the attached Counter Offer or Back-Up Offer Addendum, or both, checked below. Seller shall return and include the entire agreement with any response.

Seller Counter Offer (C.A.R. Form SCO or SMCO)

Back-Up Offer Addendum (C.A.R. Form BUO)

B. Entity Sellers: (Note: If this paragraph is completed, a Representative Capacity Signature Disclosure form (C.A.R. Form RCSD) is not required for the Legally Authorized Signers designated below.)

- (1) One or more Sellers is a trust, corporation, LLC, probate estate, partnership, holding a power of attorney or other entity.
- (2) This Agreement is being Signed by a Legally Authorized Signer in a representative capacity and not in an individual capacity. See paragraph 35 for additional terms.
- (3) The name(s) of the Legally Authorized Signer(s) is/are: _____
- (4) If a trust, identify Seller as trustee(s) of the trust or by simplified trust name (ex. John Doe, co-trustee, Jane Doe, co-trustee or Doe Revocable Family Trust). If the entity is a trust or under probate, the following is the full name of the trust or probate case, including case #: _____

C. The VLPA has 16 pages. Seller acknowledges receipt of, and has read and understands, every page and all attachments that make up the Agreement.

D. SELLER SIGNATURE(S):

(Signature) By, [Signature] Date: _____

Printed name of SELLER: Jose Torres

Printed Name of Legally Authorized Signer: _____ Title, if applicable, _____

(Signature) By, Beatriz Reyes Date: _____

Printed name of SELLER: Beatriz Reyes

Printed Name of Legally Authorized Signer: _____ Title, if applicable, _____

IF MORE THAN TWO SIGNERS, USE Additional Signature Addendum (C.A.R. Form ASA).

OFFER NOT ACCEPTED: _____ / _____ No Counter Offer is being made. This offer was not accepted by Seller _____ (date)
Seller's Initials

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Buyer's Initials

JB

Seller's Initials

JT

BR



Property Address: APNs 0191-161-17 and 28, Fontana, 92335

Date: July 7, 2022

REAL ESTATE BROKERS SECTION:

1. Real Estate Agents are not parties to the Agreement between Buyer and Seller.
2. Agency relationships are confirmed as stated in paragraph 2.
3. Cooperating Broker 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.
4. Presentation of Offer: Pursuant to the National Association of REALTORS® Standard of Practice 1-7, if Buyer's Agent makes a written request, Seller's Agent shall confirm in writing that this offer has been presented to Seller.
5. Agents' Signatures and designated electronic delivery address:

A. Buyer's Brokerage Firm Sierra Realty Fontana, Inc Lic. # 02038519
 By [Signature] Ken Galasso Lic. # 00570875 Date 7-28-22
 By _____ Lic. # _____ Date _____
 More than one agent from the same firm represents Buyer. Additional Agent Acknowledgement (C.A.R. Form AAA) attached.
 More than one brokerage firm represents Buyer. Additional Broker Acknowledgement (C.A.R. Form ABA) attached.

Designated Electronic Delivery Address(es):

Email _____ Text # _____

Alternate: _____

if checked, Delivery shall be made to the alternate designated electronic delivery address only.

Address 9410 Sierra Ave. City Fontana State CA Zip 92335

B. Seller's Brokerage Firm Sierra Realty Fontana, Inc Lic. # 02038519
 By _____ Lic. # 00570875 Date _____
 By _____ Lic. # _____ Date _____
 More than one agent from the same firm represents Seller. Additional Agent Acknowledgement (C.A.R. Form AAA) attached.
 More than one brokerage firm represents Seller. Additional Broker Acknowledgement (C.A.R. Form ABA) attached.

Designated Electronic Delivery Address(es) (To be filled out by Seller's Agent):

Email _____ Text # _____

Alternate: _____

if checked, Delivery shall be made to the alternate designated electronic delivery address only.

Address _____ City _____ State _____ Zip _____

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, a deposit in the amount of \$ _____), Counter Offer numbers _____ and _____, and agrees to act as Escrow Holder subject to paragraph 19 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised by _____ that the date of Acceptance of the Agreement is _____

Escrow Holder Bennett Escrow Services Inc 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: _____ / _____ Seller's Brokerage Firm presented this offer to Seller on _____ (date).

Broker or Designee Initials

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Buyer's Initials [Signature] / Seller's Initials [Signature]

VACANT LAND PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (VLPA PAGE 16 OF 16)

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BUYER'S VACANT LAND ADDITIONAL INSPECTION ADVISORY

(C.A.R. Form BVLIA, 11/13)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335 ("Property").

A. IMPORTANCE OF PROPERTY INVESTIGATION: The physical condition of the land and improvements being purchased is not guaranteed by either Seller or Brokers. For this reason, you should conduct thorough investigations of the Property personally and with professionals who should provide written reports of their investigations. 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. Additionally, some inspections, such as those listed below, may be of particular importance when purchasing vacant land.

B. BUYER RIGHTS AND DUTIES: 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. The purchase agreement gives you the right to investigate the Property. If you exercise this right, and you should, you must do so in accordance with the terms of that agreement. This is the best way for you to protect yourself. It is extremely important for you to read all written reports provided by professionals and to discuss the results of inspections with the professional who conducted the inspection. You have the right to request that Seller make repairs, corrections or take other action based upon items discovered in your investigations or disclosed by Seller. If Seller is unwilling or unable to satisfy your requests, or you do not want to purchase the Property in its disclosed and discovered condition, you have the right to cancel the agreement if you act within specific time periods. If you do not cancel the agreement in a timely and proper manner, you may be in breach of contract.

C. SELLER RIGHTS AND DUTIES: Seller is required to disclose to you material facts known to him/her that affect the value or desirability of the Property. However, Seller may not be aware of some Property defects or conditions. Seller does not have an obligation to inspect the Property for your benefit nor is Seller obligated to repair, correct or otherwise cure known defects that are disclosed to you or previously unknown defects that are discovered by you or your inspectors during escrow. The purchase agreement obligates Seller to make the Property available to you for investigations.

D. BROKER OBLIGATIONS: Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as soil stability, geologic or environmental conditions, hazardous or illegal controlled substances, structural conditions of the foundation or other improvements, or the condition of the roof, plumbing, heating, air conditioning, electrical, sewer, septic, waste disposal, or other system. The only way to accurately determine the condition of the Property is through an inspection by an appropriate professional selected by you. If Broker gives you referrals to such professionals, Broker does not guarantee their performance. You may select any professional of your choosing. If you have entered into a written agreement with a Broker, the specific terms of that agreement will determine the nature and extent of that Broker's duty to you. **YOU ARE STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS.**

E. YOU ARE ADVISED TO CONDUCT INVESTIGATIONS OF THE ENTIRE PROPERTY, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

- 1. FINANCE:** Financing the purchase of vacant land finance and especially financing construction loans for the improvement of vacant land can provide particular challenges, including subordination agreements and insurance requirements. Buyer is advised to seek the assistance of reputable lenders in assistance with their decisions regarding financing of the property.
- 2. CONSTRUCTION COSTS:** If Buyer is contemplating building improvements on the property, Buyer is advised that they will have to contact directly any contractors, service providers, suppliers, architects, utility companies regarding the costs of improvements. Buyer is advised to get written bids from all such persons regarding their decision to develop the property.
- 3. UTILITIES:** Unimproved property may or may not have utilities available to the property. Buyer(s) is advised to obtain information from the public or private utility provider about the availability and cost of providing utilities to the property and whether necessary easements are in place to allow such utilities to the property.
- 4. ENVIRONMENTAL SURVEY:** Unimproved land may have had or may have hazardous materials stored upon or under the land or been used by persons engaged in activities exposing the land to hazardous materials. The land may also be host to protected vegetation or animal life. Buyer(s) is advised to satisfy themselves as what hazards or protected plant or animal life are on the property and what impact they may have on Buyer's future plans for the property by seeking the help of a qualified professional.

Buyer's Initials (M) ()

Seller's Initials (J) (BR)

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BVLIA 11/13 (PAGE 1 OF 2)

BUYER'S VACANT LAND ADDITIONAL INSPECTION ADVISORY (BVLIA PAGE 1 OF 2)

Property Address: APNs 0191-161-17 and 28, Fontana, 92335 Date: _____

- 5. **NATURAL HAZARDS REPORTS:** Buyer(s) is advised that while certain disclosures are required by state, federal and local laws, hazard disclosure companies can provide additional disclosures for both natural and man-made hazards or nuisances for a cost. Buyer is advised to seek the advice of a natural hazards reporting company regarding additional reports and disclosures that buyer may wish to obtain.
- 6. **SUBDIVISION OF THE PROPERTY:** If Buyer's plans include future subdivision of the property (whether under the Subdivision Map Act of the Subdivided Lands Law) multiple, complex issues regarding city, county, state, and federal laws may be presented. Buyer is strongly advised to seek the advice of California legal counsel familiar with federal, state and local subdivision requirements.

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 providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and (x) 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.

By signing below, Buyer and Seller each acknowledge that they have read, understand, accept and have received a Copy of this Advisory, Buyer is encouraged to read it carefully.


SELLER  Date _____
AuthentiSIGN 7/29/2022 5:30:11 PM GMT
 Jose Torres

SELLER  Date _____
AuthentiSIGN 7/31/2022 5:07:30 AM GMT
 Beatriz Reyes

BUYER  Date _____
 City of Fontana

BUYER _____ Date _____

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