

RESOLUTION NO. 2024-114

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, APPROVING A RELEASE AGREEMENT RELEASING CERTAIN REAL PROPERTY FROM THE OBLIGATIONS, CONDITIONS, AND RESTRICTIONS OF THAT CERTAIN DISPOSITION AGREEMENT APPROVED BY THE CITY COUNCIL OF THE CITY OF FONTANA ON JULY 2, 2020 BY AND BETWEEN THE CITY OF FONTANA AND HDO4, LLC

WHEREAS, on July 2, 2020, the City Council of the City of Fontana adopted Resolution No. 2020-78, approving a Disposition Agreement by and between the City of Fontana (“City”) and HDO4, LLC (“HDO4”) (the “Disposition Agreement”) regarding the disposition and development of real property located along Duncan Canyon Road between Citrus Avenue and the I-15 Freeway more specifically described on Exhibit “A” which is attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, among other matters, the Disposition Agreement bound HDO4 to purchasing the property and imposed several restrictions and obligations related to the development of the Property; and

WHEREAS, HDO4 is developing a portion of the Property shown on Exhibit “B” which is attached hereto and incorporated herein by this reference, and which is referred to as the “Subject Property” for various residential and commercial uses associated with the Ventana at Duncan Canyon Specific Plan (“Specific Plan”); and

WHEREAS, the City anticipates that development of the Specific Plan will promote economic growth, community aesthetics, and harmonious development within the City which will benefit the welfare of its residents; and

WHEREAS, market and economic conditions in the City have changed since the parties approved the Disposition Agreement, such that the Disposition Agreement now imposes several barriers on the development of the Subject Property, which, if kept in place, would materially delay the development thereof; and

WHEREAS, in the interest of facilitating development of the Specific Plan at the Subject Property, the City and HDO4 mutually desire to approve the Release Agreement attached hereto as Exhibit “C” and incorporated herein by this reference to release the Subject Property from the obligations and restrictions of the Disposition Agreement while preserving certain preserved claims in favor of the City; and

WHEREAS, approval of this Resolution does not constitute approval by the City of any development of the Property or of other activity on the Property that would have a direct or reasonably foreseeable indirect environmental impact pursuant to the California Environmental Quality Act (CEQA). (Pub. Res. Code, § 21065; 14 Cal. Code Regs., §§ 15060(c)(2), 15064(d), & 15378); and

WHEREAS, in accordance with CEQA, the City Council of the City of Fontana certified the Specific Plan Environmental Impact Report (SCH No. 2005111048) on March 27, 2007 (“Certified EIR”). The Certified EIR adequately addressed the project

impacts associated with the adoption of the Specific Plan. The requirements of the Specific Plan run with the Property regardless of ownership and are not impacted by the Disposition Agreement or the release therefrom. Accordingly, no further environmental review is required in connection with approval of this Resolution pursuant to CEQA Guidelines Sections 15162 through 15164. (14 Cal. Code Regs., §§ 15162–15164); and

WHEREAS, all the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FONTANA DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

Section 1. Recitals and Exhibits. The Recitals set forth above and Exhibits attached to this Resolution are true and correct and are incorporated into this Resolution by this reference.

Section 2. Approval of Release Agreement. The City Council hereby approves the Release Agreement, in substantially the form attached to this Resolution as Exhibit “C”, subject to any non-substantive revisions which do not increase the City’s liability and are approved by the City Attorney, and authorizes the City Manager to sign and enter into the Release Agreement on behalf of the City and direct the City Manager to perform the obligations of the City under the Release Agreement.

Section 3. CEQA. Approval of this Resolution does not constitute approval by the City of any development of the Property or of other activity on the Property that would have a direct or reasonably foreseeable indirect environmental impact pursuant to CEQA. (Pub. Res. Code, § 21065; 14 Cal. Code Regs., §§ 15060(c)(2), 15064(d), & 15378.) Moreover, in accordance with CEQA, the City Council of the City of Fontana certified the Certified EIR, which adequately addressed the project impacts associated with the adoption of the Specific Plan. The requirements of the Specific Plan run with the Property regardless of ownership and are not impacted by the Disposition Agreement or the release therefrom. Accordingly, no further environmental review is required in connection with approval of this Resolution pursuant to CEQA Guidelines Sections 15162 through 15164. (14 Cal. Code Regs., §§ 15162–15164.)

Section 4. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council declares that it would have adopted this Resolution regardless of the invalidity of any particular portion of this Resolution.

Section 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

(Signatures on Following Page)

APPROVED AND ADOPTED this 8th day of October, 2024.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine Key, 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 8th day of October 2024, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk

LEGAL DESCRIPTION OF THE PROPERTY

[Copy from Release Agreement Once Final]

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

[Copy from Release Agreement Once Final]

RELEASE AGREEMENT

[Add Once Final]