AGENDA
CITY COUNCIL/ SUCCESSOR AGENCY TO THE FOUNTAIN VALLEY AGENCY FOR COMMUNITY DEVELOPMENT/ FOUNTAIN VALLEY HOUSING AUTHORITY
Closed Session 5:15 p.m.
Regular Meeting 6:00 p.m.
Tuesday, April 7, 2020
Council Chambers
10200 Slater Avenue
Fountain Valley, CA 92708
http://www.fountainvalley.org

MEETING ASSISTANCE: In compliance with the Americans with Disabilities Act, anyone needing special assistance to participate in a meeting of the government bodies listed herein should contact the City Clerk’s Office at (714) 593-4445. Notification 72 hours prior to the meeting allows the City to make reasonable arrangements to ensure accessibility to the meeting.

AGENDA COMMUNICATIONS: All revised or additional documents and writings related to an item on this agenda provided to all or a majority of the government body members after distribution of the agenda packet, are available for public inspection (1) in the City Clerk’s Office at 10200 Slater Avenue, Fountain Valley, CA 92708 during normal business hours; and (2) in the Council Chambers at the time of the meeting. Unless directed otherwise by a government body listed herein all actions shall be based on/memorialized by the latest document submitted as a late communication.

PUBLIC COMMENTS/PUBLIC HEARINGS: Persons wishing to address the City Council or other government body listed complete a speaker card and give it to the City Clerk prior to the public comment period. Requests to speak will not be accepted after the public comment session begins without permission of the Mayor/Chair. Speakers must limit remarks to a total of (3) three minutes and address the City Council through the Mayor. Comments to individuals or staff are not permitted. Scheduled Matters, including Public Hearings: Indicate on the card what item you want to address. Unscheduled Matters: Indicate on the card what subject matter you want to address. Comments must be related to issues that are within the jurisdiction of the governing body listed on the agenda. Pursuant to the Brown Act, the governing body may not enter into discussion regarding items not on the agenda.

CONSENT CALENDAR: All matters listed under the Consent Calendar are considered by the governing bodies listed herein to be routine and will be enacted on simultaneously with one motion without discussion unless separate action and/or discussion is requested by a governing body member, staff, or a member of the public.

PUBLIC HEARINGS: Persons wishing to speak in favor of or in opposition to a proposal are given an opportunity to do so during the public hearing. Those wishing to address a governing body during the hearing are requested to complete the speaker card and submit it to the City Clerk prior to the hearing. If a proposed action is challenged in court, there may be a limitation to
raising only those issues raised during the hearing or in written correspondence received by the
governing body at or before the hearing.

Note: The Fountain Valley City Council serves as the Successor Agency to the Fountain
Valley Agency for Community Development (Successor Agency), the Fountain Valley
Housing Authority, and the Fountain Valley Finance Authority. The Actions of the
Successor Agency are separate and apart from the actions of the City Council.

CLOSED SESSION

CALL TO ORDER

5:15 p.m.

PUBLIC COMMENTS

(Closed Session matters only)

Persons wishing to speak on a Closed Session matter are requested to identify themselves by
completing a blue speaker card indicating the item they want to address and to give the card to the
City Clerk prior to the public comment period.

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
   Property: 17565 & 17569 Los Alamos Street, Fountain Valley, CA 92708
   Agency negotiators: City Manager, Attorney for the City, Director of Community Service
   Negotiating parties: City of Fountain Valley and Boys and Girls Club
   Under negotiation: Price and terms of payment

2. THREAT TO PUBLIC SERVICES OR FACILITIES
   Consultation with: City Manager, Attorney for the City, Fire Chief, and Police Chief

3. CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Government Code
   §54957.6.
   Agency Designated Representatives: City Manager, Rob Houston; Budget Analyst, David
   Farone; Human Resources Director, Chelsea Phebus, Attorney for the City, Colin Burns.
   Employee Organizations: Police Officers' Association (POA), Police Officers' Management
   Unit (POMU), Fire Association (FVFA), Fountain Valley Municipal Employees Association
   (Field Services unit), Fountain Valley General Employees Association (FVGEA) and
   Fountain Valley Professional and Technical Employees (P&T), Individually Represented
   Battalion Chiefs

OPEN SESSION

CALL TO ORDER

6:00 p.m.

INVOCATION

SALUTE TO THE FLAG

Council member Steve Nagel

CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AUTHORITY/ROLL CALL

Council Members: Constantine, Harper, Nagel, Mayor Pro Tem/Vice Chair Vo, Mayor/Chair Brothers
ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS

PRESENTATIONS

• Fountain Valley Restaurant Association – Support Local Businesses (Teresa Razo, FVRA Chair and Cambalache Grill Owner/Maggie Le, Assistant to the City Manager)

PUBLIC COMMENTS (Scheduled Matters Only)

Persons wishing to speak on Agenda item(s) are requested to identify themselves by completing a blue speaker card indicating the item they want to address and to give the card to the City Clerk prior to the public comment period. Each person will be given up to 3 minutes to speak on the entire Consent Calendar, 3 minutes to speak on each item pulled from the consent calendar, and 3 minutes to speak on any agendized item(s) not appearing on the Consent Calendar.

READING ORDINANCES

4. Waive the reading in full of all ordinances under consideration and direct the Mayor to read by titles only.

CONSENT CALENDAR

Consent Calendar Items 5 – 11 will be approved simultaneously with one motion, unless separate action/or discussion is requested.

5. Receive and File the Draft Minutes of the March 17, 2020 Regular City Council Meeting Page 6

6. Second Read and Adoption of an Ordinance Repealing Sections 8.55.030, 8.55.040, and 8.55.045 of the Fountain Valley Municipal Code and Adding Section 12.08.095 Storage of Personal Property in the Park Prohibited Page 13

7. Temporary Emergency Relief for the Sale of Alcoholic Beverages by Type 41/47 License Holders Subject to a Conditional Use Permit Page 19

8. Amendment #1 to Contract 13-64 with Motorola Solutions (Previously known as Spillman Technologies, Inc.) to Include Geographic Information Systems Managed Services, in the Amount of $55,000. Page 23

9. Request the City Council Approval for the Appropriation of Grant Funds from the 2019 Emergency Management Performance Grant (EMPG) Program. Page 34
10. Approval of the COVID-19 Emergency Waiver of Pothole Permits (i.e. Right-of-Way Encroachment Permit) Page 44

11. COVID-19 Emergency Waiver of Banner Permit Fees Page 47

PUBLIC HEARINGS
Each person will have up to 3 minutes to speak on each Public Hearing.

12. Public Hearing to consider two appeals of the Planning Commission decision to adopt Resolution 19-38, approving Conditional Use Permit No. 1864, filed by Khosro Habibi to modify the existing car wash operations to allow for an automated express car wash and to add 14 new self-service vacuum/detailing stations located at 10035 Ellis Avenue. (Report by Matt Jenkins, Senior Planner) Page 49

ADMINISTRATIVE ITEMS

13. (1) Review need to Continue Declaration of Local Emergency
   (2) Adopt a Designation of Applicant’s Agent Resolution for Non-State Agencies
   (Report by Colin Burns, Attorney for the City) Page 54


COUNCIL MEMBER ITEMS FOR FUTURE CONSIDERATION

CITY COUNCIL/ SUCCESSOR AGENCY/ HOUSING AUTHORITY/ PUBLIC COMMENTS
(Unscheduled Matters Only)
Persons wishing to speak on an unscheduled matter are requested to identify themselves by completing a blue speaker and to give the card to the City Clerk. Each person will have up to 3 minutes to speak. The City Clerk will call upon those that wish to speak.

CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AUTHORITY AB 1234/GENERAL COMMENTS
ADJOURN THE MEETING OF THE CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AUTHORITY

The next Regular Meeting of the Fountain Valley City Council is April 21, 2020 at 6:00 p.m., in the Fountain Valley Council Chambers, 10200 Slater Avenue, Fountain Valley.
MINUTES OF THE
CITY COUNCIL/ SUCCESSOR AGENCY TO THE FOUNTAIN VALLEY AGENCY
FOR COMMUNITY DEVELOPMENT/ FOUNTAIN VALLEY HOUSING AUTHORITY
Study Session 4:30 p.m.
Closed Session Immediately Following Study Session
Regular Meeting 6:00 p.m.
Tuesday, March 17, 2020
Council Chambers

STUDY SESSION

CALL TO ORDER
4:30 p.m.

PUBLIC COMMENTS
(Study Session matters only)

1. Update on the Crossings Specific Plan Area presented by Brian James, Planning / Building Director and Maggie Le, Assistant to the City Manager

Planning Director Brian James and Assistant to the City Manager Maggie Le presented an update on the Crossings Specific Plan to the City Council.

CLOSED SESSION

CALL TO ORDER
4:58 p.m.

PUBLIC COMMENTS
(Closed Session matters only)

No public comments

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS Property:
(1) Fountain Valley Sports Park Field A
City Negotiators: Rob Houston, City Manager; Rob Frizzelle, Community Services Director, Maggie Le, Assistant to the City Manager, Colin Burns, Attorney for the City
Negotiating Parties: Fountain Valley and Potential Soccer Center
Under negotiation: Price and terms of payment

There was no reportable action taken on this item

3. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (1 potential case)

There was no reportable action taken on this item
4. **THREAT TO PUBLIC SERVICES OR FACILITIES**
Consultation with: City Manager, Attorney for the City, Human Resources Director, Fire Chief, EMS Manager and Police Chief

There was no reportable action taken on this item

5. **CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Government Code §54957.6.**
Agency Designated Representatives: City Manager, Rob Houston, Budget Analyst, David Farone Human Resources Director, Chelsea Phebus, Attorney for the City, Colin Burns
Employee Organizations: Police Officers’ Association (POA), Police Officers’ Management Unit (POMU), Fire Association (FVFA), Fountain Valley Municipal Employees Association (Field Services unit), Fountain Valley General Employees Association (FVGEA) and Fountain Valley Professional and Technical Employees (P&T)

There was no reportable action taken on this item, Council Member Steve Nagel disqualified himself from this item.

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**OPEN SESSION**

**CALL TO ORDER**

6:39 p.m.

**INVOCATION**

Council Member Steve Nagel

**SALUTE TO THE FLAG**

Mayor Cheryl Brothers

**CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AUTHORITY/ ROLL CALL**

Council Members Present: Constantine, Harper, Nagel, Mayor Pro Tem/Vice Chair Vo, Mayor/Chair Brothers
Council Members Absent: None

**ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS**

There were no announcements of supplemental communications

**PRESENTATIONS**

Informational Update on Coronavirus (COVID-19)

Emergency Services Manager Shelley Bruckman presented the City Council and the public with information relating to the COVID-19 Pandemic.

**PUBLIC COMMENTS** (Scheduled Matters Only)

None
CONSENT CALENDAR

6. Receive and File the Draft Minutes of the March 3, 2020 Regular City Council Meeting

**ACTION:** Move to approve Draft Minutes of the February 4, 2020 Regular City Council Meeting

**MOTION:** Vo  **SECOND:** Constantine

**AYES:** Constantine, Harper, Nagel, Vo, Brothers  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

7. Proposed 2020 Legislative Platform

**ACTION:** Move to approve the Proposed 2020 Legislative Platform

**MOTION:** Vo  **SECOND:** Constantine

**AYES:** Constantine, Harper, Nagel, Vo, Brothers  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

8. Second Reading and Adoption of an Ordinance approving Code Amendment No. 20-01 - An Amendment to the Fountain Valley Municipal Code (FVMC) Sections 21.08.055 and 21.90.020 For Accessory Dwelling Units (ADU’s) In Compliance With State Law

**ACTION:** Move to approve the Second Reading and Adoption of an Ordinance approving Code Amendment No. 20-01 - An Amendment to the Fountain Valley Municipal Code (FVMC) Sections 21.08.055 and 21.90.020 For Accessory Dwelling Units (ADU’s) In Compliance With State Law

**MOTION:** Vo  **SECOND:** Constantine

**AYES:** Constantine, Harper, Nagel, Vo, Brothers  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

PUBLIC HEARINGS

9. Conduct a Public Protest Hearing Regarding Proposed Residential Trash Rate Increase in Compliance with Proposition 218; and Adopt a Resolution Establishing the Proposed Residential Trash Rates

Public Hearing Opened 7:09 p.m.
There were 3 written protests received

Public hearing Closed 7:16 p.m.

ACTION: Move to approve the Proposed Residential Trash Rate Increase in Compliance with Proposition 218; and Adopt a Resolution Establishing the Proposed Residential Trash Rates

MOTION: Nagel  SECOND: Vo

AYES: Constantine, Harper, Nagel, Vo, Brothers
NOES: None
ABSENT: None
ABSTAIN: None

10. Extension of Interim Urgency Ordinance Regulating Accessory Dwelling Units and Junior Accessory Dwelling Units to Comply With Government Code Sections 65852.2 and 65852.22

Public Hearing Opened 7:23 p.m.

There were no public comments

Public hearing Closed 7:24 p.m.

ACTION: Move to approve the Extension of Interim Urgency Ordinance Regulating Accessory Dwelling Units and Junior Accessory Dwelling Units to Comply With Government Code Sections 65852.2 and 65852.22

MOTION: Vo  SECOND: Harper

AYES: Constantine, Harper, Nagel, Vo, Brothers
NOES: None
ABSENT: None
ABSTAIN: None

11. Introduction and First Read of an Ordinance Repealing Sections 8.55.0301, 8.55.040, and 8.55.045 of the Fountain Valley Municipal Code and Adding Section 12.08.095 Storage of Personal Property in the Park Prohibited

Public Hearing Opened 7:29 p.m.

There were no public comments

Public hearing Closed 7:30 p.m.

ACTION: Move to approve the Introduction and First Read of an Ordinance Repealing Sections 8.55.0301, 8.55.040, and 8.55.045 of the Fountain Valley Municipal Code and Adding Section 12.08.095 Storage of Personal Property in the Park Prohibited
MOTION: Vo  SECOND: Constantine

AYES: Constantine, Harper, Nagel, Vo, Brothers

NOES: None

ABSENT: None

ABSTAIN: None

12. Adopt a Resolution Establishing an Updated Master Fee Schedule for Fiscal Year 2019/20

Public Hearing Opened 7:39 p.m.

There were no public comments

Public hearing Closed 7:40 p.m.

ACTION: Move to approve a Resolution Establishing an Updated Master Fee Schedule for Fiscal Year 2019/20

MOTION: Nagel SECOND: Vo

AYES: Constantine, Harper, Nagel, Vo, Brothers

NOES: None

ABSENT: None

ABSTAIN: None

ADMINISTRATIVE ITEMS

13. Amendment No. 3 to Contract CON 18-18 with Psomas in an Amount Not to Exceed $681,954 for Project Management, Design Review, and Field Observation of Improvements Related to the I-405 Improvement Project

ACTION: Move to approve Amendment No. 3 to Contract CON 18-18 with Psomas in an Amount Not to Exceed $681,954 for Project Management, Design Review, and Field Observation of Improvements Related to the I-405 Improvement Project

MOTION: Nagel SECOND: Constantine

AYES: Constantine, Harper, Nagel, Vo, Brothers

NOES: None

ABSENT: None

ABSTAIN: None

14. 1) Approval of Amendment No. 2 to CON 18-61 for Construction Management Services for Butler Engineering, Inc. in the Amount of $98,749.80 for Reservoir No. 2 and Pump Station Rehabilitation, Project No. WU846 and in the Amount of $70,468.51 for Walnut Street Storm Drain Pump Station Upgrades, Project No. DF996;

2) Approval of a Budget Amendment of the Fiscal Year 19/20 Water Enterprise Fund (Fund 71) in the amount of $332,567.80
ACTION: Move to approve 1) Approval of Amendment No. 2 to CON 18-61 for Construction Management Services for Butler Engineering, Inc. in the Amount of $98,749.80 for Reservoir No. 2 and Pump Station Rehabilitation, Project No. WU846 and in the Amount of $70,468.51 for Walnut Street Storm Drain Pump Station Upgrades, Project No. DF996; 2) Approval of a Budget Amendment of the Fiscal Year 19/20 Water Enterprise Fund (Fund 71) in the amount of $332,567.80

MOTION: Vo SECOND: Constantine

AYES: Constantine, Harper, Nagel, Vo, Brothers
NOES: None
ABSENT: None
ABSTAIN: None

COUNCIL MEMBER ITEMS FOR FUTURE CONSIDERATION

None

CITY COUNCIL/ SUCCESSOR AGENCY/ HOUSING AUTHORITY/ PUBLIC COMMENTS
(Unscheduled Matters Only)

David Rodeecker
Tony Romano

CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AUTHORITY AB 1234/GENERAL COMMENTS

Council Member Constantine

March 4: Attended the major business expo at Great Wolf Lodge
March 5: Attended the Chamber of Commerce Mixer at the Boardroom OC, the swearing in for our Police Chief Matt Sheppard, and the Advisory Committee for Persons with Disabilities.
March 12: Attended the Arbor Day event with Northcutt Elementary students at Stonecress Park.
March 16: Attended the Fire Department’s “Butler Building Groundbreaking at Fire Station 2

Council Member Nagel

March 5: Attended the SCAG CEHD meeting and the swearing in for our Police Chief Matt Sheppard
March 11: Attended the OCSD Administration Committee Meeting and met with the board chair of OCSD in an attempt to negotiate an agreement in regards to the Crossings Area.
March 12: Attended the Arbor Day event with Northcutt Elementary students at Stonecress Park.
March 16: Attended the Fire Department’s “Butler Building Groundbreaking at Fire Station 2
Council Member Harper

March 12    Attended the Arbor Day event with Northcutt Elementary students at Stonecress Park.
March 16    Attended the Fire Department’s “Butler Building Groundbreaking at Fire Station 2

Mayor Pro Tem Vo

Gave no report but wished everyone stays safe from the COVID-19 Pandemic

Mayor Brothers

March 5    Attended the swearing in for our Police Chief Matt Sheppard
March 6    Attended the Christian Business Mom’s Prayer Breakfast
March 9    Attended the Vector Control Executive Meeting
March 11   Attended the OC LAFCO meeting
March 12   Attended the Arbor Day event with Northcutt Elementary students at Stonecress Park.
March 16   Attended the Fire Department’s “Butler Building Groundbreaking at Fire Station 2

ADJOURN THE MEETING OF THE CITY COUNCIL/SUCCESSOR AGENCY/HOUSING AUTHORITY

Mayor Brothers adjourned the meeting at 8:26 pm to the next Regular Meeting of the Fountain Valley City Council on April 7, 2020 at 6:00 p.m., in the Fountain Valley Council Chambers, 10200 Slater Avenue, Fountain Valley.

Cheryl Brothers, Mayor

Attest:

Rick Miller, City Clerk
CITY OF FOUNTAIN VALLEY
CITY COUNCIL

ACTION REQUEST

TO: Honorable Mayor and Members of the City Council

Agenda Date: April 7, 2020

SUBJECT: Second Read and Adoption of an Ordinance Repealing Sections 8.55.030, 8.55.040, and 8.55.045 of the Fountain Valley Municipal Code and Adding Section 12.08.095 Storage of Personal Property in the Park Prohibited

EXECUTIVE SUMMARY:

Proposed for City Council Second Read and Adoption is an ordinance prohibiting the storage of personal property in city parks and removing previous code sections prohibiting camping, the storage of personal property in public areas, and the defense to those sections pursuant to Martin v City of Boise.

At a noticed public hearing during its meeting on March 17, 2020, the City Council approved the first reading and introduction an ordinance repealing sections 8.55.030, 8.55.040, and 8.55.045 of the Fountain Valley Municipal Code and adding section 12.08.095 Storage of Personal Property in the Park Prohibited. The ordinance was approved in the first meeting without amendment.

The ordinance is now presented to the City Council for second reading and adoption. If approved for second read and adoption by the City Council, the ordinance will take effect in thirty days.

DISCUSSION:

Cities have the authority to regulate conduct upon a street, sidewalk, or other public place or on or in a place open to the public, including parks. (Tobe v City of Santa Ana (1995) 9 Cal.4th 1069, 1109.) Park closure ordinances and ordinances prohibiting the storage of personal property in public parks serve a substantial and legitimate government interest in limiting wear and tear on public park properties in order to further the goal of conserving park property. (See Clark v. Community for Creative Non-Violence (1984) 468 U.S. 288, 299.)

Park closure ordinances and ordinances prohibiting the storage of personal property in public parks are a reasonable time, place, and manner restriction on use of public parks to keep public parks in an intact and attractive condition. (See Clark v. Community for
City Council Action Request
Ordinance Enacting 12.08.095 Storage of Personal Property in the Park Prohibited
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In Tobe v City of Santa Ana, the California Supreme Court upheld an ordinance prohibiting the storage of personal property in public parks, streets, parking lots, and unimproved public areas. Likewise, in Lavan v City of Los Angeles, the Ninth Circuit Court of Appeals held that cities can prohibit persons from storing their personal property on the sidewalk, and seize that property, as long as the City provided pre-seizure notice and stored the property for a reasonable time (90 days) after the seizure to allow homeless persons to retrieve their belongings.

However, in Martin v City of Boise, the Court held that it is unconstitutional for cities to enforce ordinances against homeless persons that prohibit the involuntary act of sleeping outdoors on public property when there are more homeless persons in the jurisdiction than available shelter beds. In light of Martin, it is arguable that enforcing a prohibition of the storage of personal property on public property against homeless persons who are involuntarily sleeping in public due to lack of shelter space violates the constitution.

As a result, the City had previously added section 8.55.045 Limitation to the Municipal Code to provide a defense to prosecution for homeless persons who violated sections 8.55.030 Unlawful camping and 8.55.040 Unlawful storage of personal property in public areas. Nevertheless, Martin did not abrogate cities of their ability to regulate park closure hours to preserve parks for their intended purpose and use by the public. The City has enacted a park closure ordinance prohibiting persons from being in any City park after its posted closing time or closing event. City park closing times or closing events are set forth via separate Council resolution.

The proposed ordinance will remove sections 8.55.030, 8.55.040, and 8.55.045 and enact section 12.08.095 to prohibit the storage of personal property in city parks after the posted closing time or closing event, which is constitutional under Tobe, Lavan, and Martin, as it does not prohibit the storage of personal property on public property by homeless persons who are sleeping in public but, rather the proposed ordinance prohibits the storage of personal property in City parks after park closure. This ordinance will be enforced in conjunction with the City's park closure ordinance, Municipal Code Section 12.08.120 Curfew, prohibiting persons from being the park after closure, to preserve and conserve city park property in an intact and attractive condition for its intended purpose and use by the public. Further, the proposed ordinance provides notice and storage of the personal property for a reasonable time (90 days) as required by Lavan.

ALTERNATIVES:

Alternative No.1: Approve the Second Read and Adoption of an ordinance repealing sections 8.55.030, 8.55.040, and 8.55.045 of the Fountain Valley Municipal Code and adding section 12.08.095 Storage of Personal Property in the Park Prohibited.
Alternative No. 2: Do not adopt the proposed ordinance. This is not recommended as the ordinance is necessary to enforce a prohibition against the storage of personal property in City parks after posted closing times and closing events.

RECOMMENDATION:

Staff recommends Alternative No.1 Approve the Second Read and Adoption of an ordinance repealing sections 8.55.030, 8.55.040, and 8.55.045 of the Fountain Valley Municipal Code and adding section 12.08.095 Storage of Personal Property in the Park Prohibited.

PUBLIC NOTIFICATION:

This item was agendized in compliance with the Brown Act.

Prepared By: Alexandra Halfman, Attorneys for the City

Reviewed By: Colin Burns, Attorney for the City

Approved By: Rob Houston, City Manager

Attachment 1: Proposed Ordinance
ORDINANCE NO._____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
FOUNTAIN VALLEY REPEALING SECTIONS 8.55.030,
8.55.040, AND 8.55.045 OF THE FOUNTAIN VALLEY
MUNICIPAL CODE AND ADDING SECTION 12.08.095
STORAGE OF PERSONAL PROPERTY IN THE PARK
PROHIBITED

WHEREAS, the City Council of the City of Fountain Valley hereby declares that public streets and public areas should be readily available and accessible to residents and the public for their intended purposes; and

WHEREAS, cities have the authority to regulate conduct upon a street, sidewalk, or other public place or on or in a place open to the public, including parks; and

WHEREAS, ordinances prohibiting the storage of personal property in public parks serve a substantial and legitimate government interest in limiting wear and tear on public park properties in order to further the goal of conserving park property; and

WHEREAS, ordinances prohibiting the storage of personal property in public parks are a reasonable time, place, and manner restriction on use of public parks to keep public parks in an intact and attractive condition; and

WHEREAS, City desires to preserve its public parks and the storage of personal property in City parks after park closure hours undermines the city’s ability to preserve its parks for their intended purpose; and

WHEREAS, the City Council finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment).

NOW, THEREFORE, the City Council of the City of Fountain Valley does hereby ORDAIN as follows:
Section 1:
Fountain Valley Municipal Code section “8.55.030 Unlawful camping.” is hereby repealed.

Section 2:
Fountain Valley Municipal Code section “8.55.040 Unlawful storage of personal property in public areas.” is hereby repealed.

Section 3:
Fountain Valley Municipal Code section “8.55.045 Limitation.” is hereby repealed.

Section 4:
Fountain Valley Municipal Code section “12.08.095 Storage of Personal Property in the Park Prohibited.” is hereby added to read as follows:

12.08.095 Storage of Personal Property in the Park Prohibited.

No person shall store or leave personal property in any City park after its posted closing time or closing event unless said person receives written permission from the City Manager, Director of Community Services, or City Council. City park closing times or closing events shall be set forth via separate Council resolution. Any personal property stored or left in any City park after its posted closing time or closing event without written permission from the City Manager, Director of Community Services, or City Council may be seized by City. City shall store said seized personal property for a period of 90 calendar days, during which time the owner can retrieve his or her personal property. City may destroy any personal property left in storage for over 90 days.

Section 5:
If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have passed this ordinance and each
and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would subsequently be declared invalid or unconstitutional.

Section 6:

The City Clerk shall certify to the adoption of this ordinance and cause it to be published as required by law. This ordinance shall become effective thirty (30) days after the date of its adoption.

PASSED AND ADOPTED by the City Council of the City of Fountain Valley at a regular meeting this ___ day of ____________, 2020.

ATTEST:

Rick Miller, City Clerk

Cheryl Brothers, Mayor

Approved as to Form:

HARPER & BURNS LLP

Alexandra Halfman
Attorneys for the City
CITY OF FOUNTAIN VALLEY
CITY COUNCIL
COUNCIL ACTION REQUEST

To: Honorable Mayor and Members of the City Council

SUBJECT: Temporary Emergency Relief for the Sale of Alcoholic Beverages by Type 41/47 License Holders Subject to a Conditional Use Permit

During the COVID-19 emergency, the California Department of Alcoholic Beverage Control (ABC) has granted temporary emergency waivers for off-site consumption imposed through Type 41\(^1\) and 47\(^2\) alcohol licenses. This allows those restaurants that have approved licenses to provide alcoholic beverages along with to-go meals and via drive-thru windows. Detailed information can be found at: https://www.abc.ca.gov/notice-of-regulatory-relief/

In summary, ABC’s emergency waiver states: “In addition to selling manufacturer pre-packaged containers ..., bona fide eating places (i.e., restaurants) selling beer, wine, and pre-mixed drinks or cocktails for consumption off the licensed premises may do so when sold in conjunction with meals prepared for pick-up or delivery. Any such alcoholic beverages must be packaged in a container with a secure lid or cap and in a manner designed to prevent consumption without removal of the lid or cap (e.g., no lids with sipping holes or openings for straws).”

The waiver also states that: “The Department is suspending any conditions on licenses that prohibit licensees from making sales and deliveries of alcoholic beverages to persons in a motor vehicle or to persons outside the licensed premises through a pass-out window or a slide-out tray to the exterior of the premises.”

ABC’s temporary order is contrary to conditions of approval for alcoholic beverage service that the City has imposed through the Conditional Use permit (CUP) process. However, in the spirit of helping our local businesses during this crisis, the City desires to allow the same level of flexibility that ABC has provided by its waiver. Accordingly, the City will temporarily suspend enforcement of conditions that are contrary to ABC’s emergency waiver.

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\(^1\) Type 41 - On Sale Beer & Wine – Eating Place (Restaurant). Authorized the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

\(^2\) Type 47 - On Sale General – Eating Place (Restaurant). Authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises. Authorizes the sale of beer and wine for consumption off the licensed premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
Council Action Request  
Emergency Relief for the Sale of Alcoholic Beverages  
City Council Meeting April 7, 2020
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Typically, a condition of approval imposed by the Planning Commission can only be changed by the Planning Commission. However, since the City Council declared a Local Emergency on March 17, 2020, the City Council granted the City Manager with emergency powers. These powers allow flexibility to rapidly respond to emergencies.

2.57.060 Emergency powers.

In the event of the proclamation of a local emergency as herein provided, or the proclamation of a state of emergency or a state of war emergency by the Governor or the director of the California Office of Emergency Service, the director is empowered to:

(a) Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency, provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council;

(e) Execute all of his or her ordinary power, as well as all of the special powers conferred upon him or her by this chapter, or by resolution adopted pursuant thereto, all powers conferred upon him or her by any statute, agreement approved by the city council, or by any other lawful authority, and in conformity with Section 38791 of the Government Code, to exercise all police power vested in the city by the Constitution and general laws. (Ord. 1506 § 2, 2015)

The decision to maintain consistency with ABC’s emergency waiver and allow local restaurants with approved ABC licenses to provide alcoholic beverages along with to-go meals was made to help ease the financial strain on local businesses that is being caused by the COVID-19 virus. Therefore, this waiver is "reasonably related to the protection of ... property as effected by such emergency." This action must be "confirmed at the earliest practicable time by the city council."

City Manager Emergency Waiver
On March 30, 2020, the City Manager of the City of Fountain Valley issued the following emergency order:

1. During this COVID-19 emergency, it shall not be deemed a violation of any City approval regulating the sale of alcohol for an approved Type 41 and/or Type 47 license holder to sell alcohol from an eating and drinking establishment in conjunction with to-go food orders in conformance with ABC’s temporary emergency waiver. This order does not waive any condition of approval that is not specifically addressed by the ABC emergency waiver, including, but not limited to, hours of operation. This action shall not apply to Type 41 and/or Type 47 license holders that are deemed to be non-compliant with ABC’s temporary emergency waiver, other COVID-19 related emergency orders, and other conditions of approval not related to the off-site sale of alcohol by the Chief of Police or Planning and Building Director.
2. The Chief of Police and Planning and Building Director shall have the authority to ensure that this order is being implemented in accordance with state and local laws. The Chief of Police and Planning and Building Director shall have authority to require any license holder to comply with any and all City approvals, including conditional use permit terms and conditions, when it is deemed necessary to protect the public health, safety, and welfare.

3. The regulatory relief granted herein shall terminate when: (a) the local emergency proclaimed on March 17, 2020, is no longer in effect; or (b) the Governor’s order restricting on-site dining is no longer in effect.

ENVIRONMENTAL REVIEW:

This emergency waiver on off-site sale of alcoholic beverages is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2)(the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3)(there is no possibility the activity in question may have a significant effect on the environment).

FINANCIAL ANALYSIS:

There are no financial impacts to the City budget as a result of this action.

ATTORNEY REVIEW:

The Attorney for the City has reviewed this report.

PUBLIC NOTIFICATION:

The standard City Clerk’s agenda notification process was used for this item.

ALTERNATIVES:

1. Confirm that the temporary emergency waiver allowing restaurants with approved Type 41 and/or Type 47 ABC licenses to provide alcoholic beverages along with to-go meals during the period of the local emergency is reasonably related to the protection of property being impacted by the COVID-19 emergency.

2. Do not confirm that the temporary emergency waiver allowing restaurants with approved Type 41 and/or Type 47 ABC licenses to provide alcoholic beverages along with to-go meals during the period of the local emergency is reasonably related to the protection of property being impacted by the COVID-19 emergency and provide direction.
Recommended Action

Staff recommends that the City Council select Alternative No. 1: Confirm that the temporary emergency waiver allowing restaurants with approved Type 41 and/or Type 47 ABC licenses to provide alcoholic beverages along with to-go meals during the period of the local emergency is reasonably related to the protection of property being impacted by the COVID-19 emergency.

Prepared By: Brian James, Planning and Building Director
Fiscal Review By: Teresa Gonzalez, Accounting Manager
Approved By: Rob Houston, City Manager
CITY OF FOUNTAIN VALLEY
CITY COUNCIL

COUNCIL ACTION REQUEST

To: The Honorable Mayor and Members of the City Council

Agenda Date: April 7, 2020

Subject: AMENDMENT #1 TO CONTRACT 13-64 WITH MOTOROLA SOLUTIONS (PREVIOUSLY KNOWN AS SPILLMAN TECHNOLOGIES, INC.) TO INCLUDE GEOGRAPHIC INFORMATION SYSTEMS MANAGED SERVICES, IN THE AMOUNT OF $55,000

EXECUTIVE SUMMARY:

Geographic Information Systems (GIS) is a framework for gathering, managing, and analyzing data. GIS has become a necessary tool in the receiving, dispatching, and mapping of 911 emergency and standard phone line calls. Amending our agreement with Motorola Solutions to include 4 years of GIS managed services, in the amount of $55,000, will allow the Police Department to accurately identify locations for service in order to reduce response time and increase safety.

DISCUSSION:

When a Police Department dispatcher obtains an address from a caller, that information is entered into the Computer Aided Dispatch (CAD) system. If that location is not recognized by the computer system, the dispatcher must manually “force” the system to accept the address or cross street location. When this occurs, the system will not notify the dispatcher or officer where this address is located and will not map the location. Dispatchers often have to utilize an online mapping system such as Google Maps to find the location in order to dispatch the officer to the proper location. Obviously, this takes valuable time especially when dealing with emergency situations. When “forcing” a location into the computer system, that information cannot be saved and stored for later use, so if the address is given again on a later date, this same process must be repeated again.

We currently have a backlog of 100 addresses that need to be entered using GIS technology. We do not have the ability to update this information on our own. Until the information is properly coded into our computer system, the system does not recognize these locations and creates a delayed response until we can determine the location to dispatch officers.

Each time a new street, new address, new commercial suite, or new business name is
created within the City that location needs to be entered into our system using GIS technology. The State of California has passed new legislation which gives homeowners the right to develop Accessory Dwelling Units (ADUs) on most single family residence properties. These new units are being designated with an "A" at the end of the existing current address. The Police Department has received dozens of these new addresses and the City Planning Dept. tells me dozens more are in the approval process. With City planned residential and commercial expansion, we need to team with Motorola Solutions GIS services in order to update and verify these new locations.

In addition to new locations, Motorola GIS services will provide a "data cleanup" and verify existing locations. They will apply current patches and upgrades to ensure all software is up to date.

Motorola Solutions is the provider of our CAD software. Using Motorola Solutions for GIS services allows for swift and accurate updating of our system to ensure the best Police response possible. An attempt to use a third party vendor for GIS services proved unsuccessful, as they were not familiar with the software and could not accurately input information. A company other than Motorola Solutions does not have the intimate knowledge of their software to be able update information in an accurate and timely manner. Mistakes made by a third party vendor could significantly delay Police response time and result in dire consequences.

Refer to attached statement of work for further details provided by Motorola Solutions.

FINANCIAL ANALYSIS:

Initial deployment of GIS Managed Services in year 1 will cost $19,000. Deployment services include upgrade assistance, initial setup, server maintenance, licensing, as well as other services. For a full list of included services refer to attached statement of work. GIS managed services in year 2, 3, and 4 are $12,000/yr. Total 4- year agreement is $55,000.

The first year funding of $19,000 will be included as part of the 2020-21 General Fund Budget that will be presented to Council on May 12, 2020. The subsequent $12,000 annual maintenance fee will be included with the current maintenance contract for Motorola Solutions (previously Spillman Inc.) and paid for through the Information Systems Internal Service Fund department charges.

Hiring a GIS analyst as an employee of the City would be far more expensive. Based on reputable online employment websites, California salaries for GIS analysts range from $78,000-$82,000 per year.
ATTORNEY REVIEW:

The Attorneys for the City have reviewed this Council Action Request.

PUBLIC NOTIFICATION:

Public notification was accomplished through the normal agenda process.

ALTERNATIVES:

Alternative No. 1: Approve Amendment #1 to Contract 13-64 to include Geographic Information Systems Managed Services in the amount of $55,000.

Alternative No. 2: Do not approve Amendment #1 to Contract 13-64 to include Geographic Information Systems Managed Services in the amount of $55,000.

RECOMMENDATION:

Staff recommends approval of Alternative No. 1: Approve Amendment #1 to Contract 13-64 to include Geographic Information Systems Managed Services in the amount of $55,000.

Prepared by: Tony Luce, Police Captain

Approved by: Matthew L. Sheppard, Chief of Police

Fiscal Review by: Shally Lin, Interim Finance Director

Legal Review by: Colin Burns, Attorney for the City

Approved by: Robert Houston, City Manager

Attachments: Amendment No. 1 to Contract 13-64
Motorola Solutions Quote and Statement of Work
AMENDMENT NO. 1 TO CON 13-64
ADDING GIS MAPPING SERVICES

This FIRST AMENDMENT to CON-13-64 is made and entered into this 7th day of April, 2020, by and between the City of Fountain Valley, a municipal corporation (hereinafter "CITY") and Motorola Solutions, Inc. a corporation (hereinafter "CONSULTANT").

Recitals

WHEREAS, CITY and CONSULTANT’s predecessor-in-interest Spillman Technologies, Inc. (SPILLMAN) previously entered into an Agreement for the Purchase of Police Software and Support Services CON-13-64 dated December 17, 2013, ("AGREEMENT"); and

WHEREAS, in 2016, CONSULTANT acquired SPILLMAN, including its rights and obligations under the AGREEMENT; and

WHEREAS, the parties do now desire to amend and expand the scope of services called for under the AGREEMENT, and provide additional compensation to the CONSULTANT in accordance with the "GIS Managed Services Quote and Scope of Work," attached hereto as Attachment "A" and incorporated herein by reference, to provide GIS Mapping Services ("FIRST AMENDMENT").

NOW, THEREFORE, the parties hereto agree as follows:

1. That the scope of services provided for in the AGREEMENT shall be expanded as provided in Attachment "A".

2. That the compensation provided to CONSULTANT shall be increased by an amount not to exceed $55,000.00 in accordance with Attachment "A".

3. Except as provided in this FIRST AMENDMENT, all other terms and conditions of the AGREEMENT shall remain in effect.

In witness whereof, the parties hereto have entered into this FIRST AMENDMENT the date and year first above written.

ATTEST: 

CITY OF FOUNTAIN VALLEY

__________________________
City Clerk

Mayor

APPROVED AS TO FORM:

MOTOROLA SOLUTIONS, INC.

__________________________
Attorney for the City

By:
Its:
ATTACHMENT A
GIS Managed Services

Customer: Fountain Valley Police Department

Job Description: GIS Data Services for Upgrade & Maintenance

INITIAL DEPLOYMENT

Services Included

<table>
<thead>
<tr>
<th>Service</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upgrade Assistance to Flex Mapping (CAD &amp; Mobile)</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>Initial setup for Managed Services</td>
<td>$10,100.00</td>
</tr>
<tr>
<td>• Develop data management processes and workflows</td>
<td></td>
</tr>
<tr>
<td>• Deployment and training of web map apps</td>
<td></td>
</tr>
<tr>
<td>Spillman FLEX GIS OEM Licensing</td>
<td>$3,900.00</td>
</tr>
<tr>
<td>GIS Server Maintenance</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>• Apply Esri Patches and Upgrades</td>
<td></td>
</tr>
<tr>
<td>• Update of GeoValidation components</td>
<td></td>
</tr>
</tbody>
</table>

Deployment TOTAL $19,000.00
YEARNLY MAINTENANCE

Services Included- 4 Year Term

<table>
<thead>
<tr>
<th>Ongoing Maintenance Breakdown</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Quarterly GIS data updates for GeoValidation and Flex Mapping</td>
<td>$7,000</td>
</tr>
<tr>
<td>• Validate data to verify conformity with product specifications</td>
<td></td>
</tr>
<tr>
<td>• Compilation of GIS datasets to update production data</td>
<td></td>
</tr>
<tr>
<td>• Publishing of GIS services</td>
<td></td>
</tr>
<tr>
<td>• Activation of updated solutions</td>
<td></td>
</tr>
<tr>
<td>GIS Server Maintenance</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>• Apply Esri Patches and Upgrades</td>
<td></td>
</tr>
<tr>
<td>• Update of GeoValidation components</td>
<td></td>
</tr>
<tr>
<td>Spillman FLEX GIS OEM Licensing Maintenance</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>Total For Initial Deployment and Services</td>
<td>$19,000</td>
</tr>
<tr>
<td>Total Per Year GIS Managed Services Maintenance Years 2-4</td>
<td>$12,000</td>
</tr>
<tr>
<td>Year 2</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>Year 3</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>Year 4</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>Total for years 2-4</td>
<td>$36,000.00</td>
</tr>
<tr>
<td>Total for Initial Deployment in Year 1 and Three Years of Maintenance</td>
<td>$55,000.00</td>
</tr>
</tbody>
</table>

Each Year GIS Services Maintenance Will be Invoiced With Spillman Maintenance. Year 2 Maintenance Doesn’t Begin Until One Year After GIS Maintenance Begins

The Customer’s signature below constitutes its agreement to purchase the licenses, products and/or services according to the terms quoted by Spillman Technologies within this document. This document shall serve as an addendum to the Purchase Agreement previously entered into between the Customer and Spillman Technologies. The terms and conditions of the Purchase Agreement, as well as the related License Agreement and Support Agreement, shall apply to the items quoted herein.

Fountain Valley Police Department
Customer Name

Authorized Signature

Date
Print Name and Title
Statement of Work

The purpose for this data cleanup and conversion is to get the mapping data in a format that will be supportable. They are critical and crucial to the proper operation of your Spillman CAD system and your communications center in general. It will also get you ready for upcoming NexGen changes and requirements. A GIS data analysis will be provided which will contain needed updates prior to beginning the mapping cleanup process. The needed changes can be performed by Spillman’s Managed Services. This process takes up to two months from the time of initiation. Once the fixes have been made a final check will be performed with Fountain Valley PD’s involvement.

During the cleanup process, a member of Spillman’s GIS managed services team will work closely with the Spillman Managed Services and the agency systems administrators. The conversion process consists of training on the Spillman schema, assistance as needed with the installation of needed software, the creation of the staging area, locators, production area, services, the setup of Spillman in a practice database, modeling, training on the Arc Manager, the redeployment of the SOE, as well as detailed training on new features and maintenance of GeoValidation.
Pre-Conversion work

Prior to the conversion there are a number of items that need to be completed.

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have Spillman administrator in charge of ongoing support available to work on this project</td>
</tr>
<tr>
<td>Review GeoComm QC checks with managed services team and clean data accordingly to receive Spillman certification</td>
</tr>
<tr>
<td>Apply Spillman patch 1603 or above</td>
</tr>
<tr>
<td>Commission a Windows GIS server running Arc Server version 10.3.1 or above</td>
</tr>
</tbody>
</table>
A kickoff will be held to start the process of data cleanup. The managed services team cover a broad range of topics in order to ensure the highest priorities are dealt with first. Once the conversion process is finished. This week will require daily phone calls and will go over the following:

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Go over Spillman Schema</td>
</tr>
<tr>
<td>Install Geobase.war, SOE, Tools, and locators</td>
</tr>
<tr>
<td>Creating Staging area</td>
</tr>
<tr>
<td>Create Locators</td>
</tr>
<tr>
<td>Create Production Area</td>
</tr>
<tr>
<td>Creating Services</td>
</tr>
<tr>
<td>Setup in Spillman</td>
</tr>
<tr>
<td>Walkthrough – Create Staging</td>
</tr>
<tr>
<td>Walkthrough – Create Locators</td>
</tr>
<tr>
<td>Walkthrough – Create Production Area</td>
</tr>
<tr>
<td>Walkthrough – Create Services</td>
</tr>
<tr>
<td>Walkthrough – Setup in Spillman</td>
</tr>
<tr>
<td>Arc Manager</td>
</tr>
</tbody>
</table>
There will be a testing week allowing users to explore the updates and verify the setup is capturing the data elements needing. During this week, extensive testing of GeoValidation is required in order to ensure that everything is working as expected before cutover. Managed services will manage with any adjustments that may be needed during this week.

There will be a week to cut the changes over to the live system. This will give a foundation to functioning properly, however, it will not be the end of the process. The managed services team will continue to work with Fountain Valley PD to refine and enhance the GIS data to better serve the agency and community.
To: The Honorable Mayor and Members of the City Council

Agenda Date: April 7, 2020

Subject: REQUEST THE CITY COUNCIL APPROVAL FOR THE APPROPRIATION OF GRANT FUNDS FROM THE 2019 EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG) PROGRAM.

EXECUTIVE SUMMARY:

The federal Department of Homeland Security (DHS) has allocated $775,004 to the Orange County Operational Area for the Fiscal Year 2019 Emergency Management Performance Grant (EMPG) program. The City of Fountain Valley is part of the Orange County Operational Area. The amount that each city is eligible to receive is determined by the population of the city and the number of cities that participate in the grant program. The City of Fountain Valley is estimated to be eligible to receive $7,173.00 if all performance measures are met.

One of the requirements of the grant is to have the Agreement to Transfer Funds for the 2019 Emergency Management Performance Grant Program signed by the City Council.

Staff requests the City Council approve the appropriation of grant funds from the 2019 Emergency Management Performance Grant Program.

DISCUSSION:

The purpose of the Fiscal Year 2019 Emergency Management Performance Grant (FY19 EMPG) is to support comprehensive emergency management at the state, tribal, and local levels and to encourage the improvement of mitigation, preparedness, response, and recovery capabilities for all hazards. Funds provided under the EMPG may, and should, be used to support activities that contribute to the grant recipient's capability to prevent, prepare for, mitigate against, respond to, and recover from emergencies and disasters, whether natural or man-made.

The federal Department of Homeland Security (DHS) has allocated $775,004.00 to the Orange County Operational Area. The City of Fountain Valley is part of the Orange County Operational Area. The amount that each city is eligible to receive is determined by the population of the city and the number of cities that participate in the grant program. The City of Fountain Valley is estimated to be eligible to receive up to $7,173.00 if all performance measures are met.

On October 16, 2020 the City of Fountain Valley submitted a provisional application to the Orange County Operational Area to participate in the FY19
Emergency Management Performance Grant Program. Fountain Valley has met all the obligations of the grant program and is eligible for funds providing that the Agreement to Transfer Funds for 2019 Emergency Management Performance Grant Program is signed by the City Council.

It is recommended the City Council approve the appropriation of grant funds from the 2019 Emergency Management Performance Grant Program; and direct staff to amend revenues and expenditures for the 2019/2020 budget in the amount of $7,173.00.

**ALTERNATIVES:**

Alternative No. 1: Approve the appropriation of grant funds from the 2019 Emergency Management Performance Grant Program.

Alternative No. 2: Do not approve the appropriation of grant funds from the 2019 Emergency Management Performance Grant Program.

**FINANCIAL ANALYSIS:**

The 2019 EMPG grant allocation for the City of Fountain Valley is estimated to be $7,173.00, depending on how many jurisdictions apply. The City must provide a 50% match for these funds, which is accomplished through personnel costs expended on the Disaster Preparedness program. Funds from EMPG are utilized to offset the City’s cost of administering this program.

**ATTORNEY REVIEW:**

The Attorney for the City has reviewed and approved the agreement.

**PUBLIC NOTIFICATION/CONTACT:**

The notification for this item is via the City Clerk’s agenda notification process.

**RECOMMENDATION:**

It is recommended that the City Council approve Alternative No. 1, thereby approving appropriation of grant funds for the 2019 Emergency Management Performance Grant Program.
Request for Council Action
Approval of Grant Funds
Page 3

Prepared by:    Michelle Rudaitis, Fire Marshal
Concurred by:   Ron Cookston, Fire Chief
Fiscal Review by:  Finance Department
Approved by:   Rob Houston, City Manager

Attachment 1: Agreement to Transfer Funds
February 25, 2020

Michelle Rudaitis  
Fountain Valley Fire Department  
10200 Slater Ave.  
Fountain Valley, CA 92708

Subject: 
Notification of Application Approval  
FY19 Emergency Management Performance Grant  
Subaward #: 2019-0003, CalOES ID: 059-00000

Dear Michelle Rudaitis,

The California Governor’s Office of Emergency Services (CalOES) has approved the County of Orange application, including the proposed project for your city in the amount of $7,173. A copy of the approved Subaward is enclosed for your records.

All payment requests must be submitted on the Financial Management Forms Workbook. In addition, expenditures can only be made for items listed in the approved Subaward.

Any activities requiring an Environmental and Historic Preservation (EHP) review and approval are prohibited from expending Subaward on those activities until an EHP clearance has been obtained. Failure to adhere to this requirement will result in the de-obligation of Subaward funds.

This Subaward is subject to all policies and provisions of the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996. Any funds received in excess of current needs, approved amounts, or those found owed as a result of a final inspection or audit, must be refunded to the State within 30 days upon receipt of an invoice from CalOES.

Quarterly reports must be prepared and submitted to CalOES, via the Operational Area (OA), for the duration of the performance period or until all activities are completed and the Subaward is formally closed. Failure to submit quarterly reports could result in grant reduction, suspension, or termination.

In order to comply with the Uniform Grant Guidance, the following information is being furnished to you.
<table>
<thead>
<tr>
<th>Requirement</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subrecipient name</td>
<td>Fountain Valley Fire Department</td>
</tr>
<tr>
<td>Subrecipient's DUNS number</td>
<td></td>
</tr>
<tr>
<td>Federal Award Identification Number (FAIN)</td>
<td>EMF-2019-EP-00003</td>
</tr>
<tr>
<td>Federal Award Date:</td>
<td>10/01/2018 – 9/30/2021 (obligated)</td>
</tr>
<tr>
<td>Subaward Period of Performance Start and End Date:</td>
<td>7/01/2019-6/30/2021</td>
</tr>
<tr>
<td>Amount of Federal Funds Obligated by this action</td>
<td>$7,173</td>
</tr>
<tr>
<td>Total Amount of Federal Funds Obligated to the subrecipient</td>
<td>$7,173</td>
</tr>
<tr>
<td>Total Amount of the Federal Award</td>
<td>$27,741,329</td>
</tr>
<tr>
<td>Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)</td>
<td>The purpose of the Emergency Management Performance Grant (EMPG) Program is to provide federal funds to states to assist state, local, and tribal governments in preparing for all hazards. Funds provided under the EMPG must be used to support activities that contribute to the Operational Area’s capability to prevent, prepare for, mitigate against, respond to, and recover from emergencies and disasters, whether natural or man-made.</td>
</tr>
<tr>
<td>Name of Federal awarding agency, pass-through entity, and contact information for awarding official</td>
<td>These funds have been awarded by the Federal Emergency Management Agency, Department of Homeland Security and passed through the California Office of Emergency Services and the County of Orange. The City should contact the Orange County Sheriff’s Department Emergency Management Division at 714-628-7054 as the awarding official.</td>
</tr>
<tr>
<td>CFDA Number and Name</td>
<td>97.042, Emergency Management Performance Grants</td>
</tr>
<tr>
<td>Identification of whether the award is R&amp;D</td>
<td>Due to the small dollar amount of subrecipient awards, using EMPG funds for R&amp;D is not authorized for subrecipients.</td>
</tr>
<tr>
<td>Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&amp;A) costs)</td>
<td>Due to the small dollar amount of subrecipient awards, using EMPG for indirect costs is not authorized for subrecipients.</td>
</tr>
</tbody>
</table>
AGREEMENT TO TRANSFER FUNDS
FOR 2019 EMERGENCY MANAGEMENT PERFORMANCE GRANT PROGRAM

THIS AGREEMENT is entered into this 25 day of February 2020, which date is enumerated for purposes of reference only, by and between the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as “COUNTY,” and ____________________________, a municipal corporation, hereinafter referred to as “SUBRECIPIENT.”

WHEREAS, COUNTY, acting through its Sheriff-Coroner Department, hereinafter referred to as SHERIFF, in its capacity as the lead agency for the Operational Area, has applied for, received and accepted the Emergency Management Performance Grant (hereinafter referred to as “the grant”) from the California Office of Emergency Services (“CalOES”).

WHEREAS, the purpose of the grant is to support comprehensive emergency management at the state, tribal and local levels and to encourage the improvement of prevention, protection, mitigation, response and recovery capabilities for all hazards, as set forth in Attachment A hereto (FEMA Preparedness Grants Manual), which is attached hereto and incorporated herein by reference.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. COUNTY shall transfer to SUBRECIPIENT grant funds, in arrears, as necessary to reimburse SUBRECIPIENT for reasonable and permissible expenditures for the grant purposes. In order to obtain grant funds, SUBRECIPIENT shall comply with the instructions and submit to SHERIFF all required information and documentation, as set forth in Attachment B (FY2019 EMPG Financial Management Forms Workbook), which is attached hereto and incorporated herein by reference.

2. Throughout their useful life, grant property and equipment shall be used by SUBRECIPIENT only for grant purposes in accordance with Attachment A hereto.

3. SUBRECIPIENT shall exercise due care to preserve and safeguard grant property and equipment from damage or destruction and shall provide regular maintenance and such repairs for grant
property and equipment as are necessary, in order to keep said grant property and equipment continually in good working order.

4. If grant property or equipment becomes obsolete, SUBRECIPIENT shall dispose of it only in accordance with the instructions of COUNTY or the agency from which COUNTY received the grant funds.

5. Subrecipient shall submit to the COUNTY grant program reporting documents and information in accordance with requirements set out in the Attachment C (FY2019 Emergency Management Performance Grant Program: California Supplement to the FEMA Preparedness Grants Manual; or, The State Guidance), which is attached hereto and incorporated herein by reference.

6. By executing this Agreement, SUBRECIPIENT agrees to comply with and be fully bound by this Agreement and all applicable provisions of Attachments A, B, C, and D (Standard Assurances for all CalOES Federal Grant Programs) hereto. SUBRECIPIENT shall notify COUNTY immediately upon discovery that it has not abided or no longer will abide by any applicable provision of this Agreement or Attachments A, B, C, or D hereto.

7. SUBRECIPIENT agrees to indemnify, defend and save harmless COUNTY and the agency from which COUNTY received grant funds, and their elected and appointed officials, officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with SUBRECIPIENT's performance of this Agreement, including Attachments A, B, C, and D hereto, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by SUBRECIPIENT in the performance of this Agreement, including Attachments A, B, C, and D hereto.

8. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by duly authorized representatives of the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

9. SUBRECIPIENT may not assign this Agreement in whole or in part without the express written consent of COUNTY.
10. SUBRECIPIENT shall provide to COUNTY all records and information requested by COUNTY for inclusion in quarterly reports and such other reports or records as COUNTY may be required to provide to the agency from which COUNTY received grant funds or other persons or agencies.

11. For a period of three years after the final Federal Financial Report hereunder or until all claims related to this Agreement are finally settled, whichever is later, SUBRECIPIENT shall preserve and maintain all documents, papers and records relevant to the work performed or property or equipment acquired in accordance with this Agreement, including Attachments A, B, C, and D hereto. For the same time period, SUBRECIPIENT shall make said documents, papers and records available to COUNTY and the agency from which COUNTY received the grant funds or their duly authorized representative(s), for examination, copying, or mechanical reproduction on or off the premises of SUBRECIPIENT, upon request, during usual working hours.

12. SUBRECIPIENT and COUNTY shall be subject to examination and audit by the State Auditor General with respect to this Agreement for a period of three years after the final Federal Financial Report hereunder.

13. COUNTY may terminate this Agreement and be relieved of the payment of any consideration to SUBRECIPIENT if a) SUBRECIPIENT fails to perform any of the covenants contained in this Agreement, including the applicable terms of Attachments A, B, C, and D hereto, at the time and in the manner herein provided, or b) COUNTY loses funding under the grant. In the event of termination, COUNTY may proceed with the work in any manner deemed proper by COUNTY.

14. SUBRECIPIENT and its agents and employees shall act in an independent capacity in the performance of this Agreement, including Attachments A, B, C, and D hereto, and shall not be considered officers, agents or employees of COUNTY or SHERIFF or of the agency from which COUNTY received grant funds.

15. By signing this Agreement, SUBRECIPIENT understands and agrees that:

   a. Failure to follow grant guidance, including those detailed below, will result in ineligibility for any reimbursement under the FY19 EMPG:
b. A SUBRECIPIENT representative must attend half of the Orange County Emergency Managers Organization meetings held from July 1, 2019 through June 30, 2020;

c. SUBRECIPIENT must maintain National Incident Management System (NIMS) compliance;

d. For any personnel whose salary is charged to the grant, that specific individual must meet the training and exercise requirements set forth in the grant guidance;

e. Only those expenditures specifically detailed in the Financial Management Forms Workbook are approved for funding; any changes must be pre-approved by the California Office of Emergency Services;

f. SUBRECIPIENT reimbursement requests received after June 30, 2019 will not be accepted.

IN WITNESS WHEREOF, the parties have executed this Agreement in the County of Orange, State of California.

DATED: ______________, 20__

COUNTY OF ORANGE, a political subdivision of the State of California

By __________________________
Sheriff-Coroner
"COUNTY"

APPROVED AS TO FORM
COUNTY COUNSEL

By __________________________
Wendy J. Phillips, Senior Deputy

DATED: ______________, 20__

SUBRECIPIENT __________________________

By __________________________

ATTEST: __________________________
To: Honorable Mayor and Members of the City Council

SUBJECT: Approval of the COVID-19 Emergency Waiver of Pothole Permits (i.e. Right-of-Way Encroachment Permit)

EXECUTIVE SUMMARY:

To help expedite provision for construction of a gas line utility to serve the Welbrook Assisted Senior Living Housing Development during this COVID-19 crisis, the City of Fountain Valley waived a fee for potholing permits on March 26, 2020. The pothole information was a special request by the Public Works Director to identify and protect City’s water main in the easement that may be in conflict with the proposed gas line.

While potholing still requires a permit/right-of-way encroachment, fees will not be charged during this emergency period. This item is being brought before Council after-the-fact to confirm that this action was an appropriate response to the ongoing emergency.

Staff is recommending that the City Council approve of the COVID-19 Emergency Waiver of Pothole Permits (i.e. Right-of-Way Encroachment Permit).

DISCUSSION:

To help expedite provision for construction of a gas line utility to serve the Welbrook Assisted Senior Living Housing Development during this COVID-19 crisis, the City of Fountain Valley waived a fee for potholing permits on March 26, 2020. The pothole information was a special request by the Public Works Director to identify and protect City’s water main in the easement that may be in conflict with the proposed gas line.

While potholing still requires a permit/right-of-way encroachment, fees will not be charged during this emergency period. This item is being brought before Council after-the-fact to confirm that this action was an appropriate response to the ongoing emergency.

Typically, a fee imposed by City Council can only be changed by City Council. However, since the City Council declared a Local Emergency on March 17, 2020, the City Council
granted the City Manager with emergency powers. These powers allow flexibility to rapidly respond to emergencies.

2.57.060 Emergency powers.

In the event of the proclamation of a local emergency as herein provided, or the proclamation of a state of emergency or a state of war emergency by the Governor or the director of the California Office of Emergency Service, the director is empowered to:

(a) Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency, provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council;

(e) Execute all of his or her ordinary power, as well as all of the special powers conferred upon him or her by this chapter, or by resolution adopted pursuant thereto, all powers conferred upon him or her by any statute, agreement approved by the city council, or by any other lawful authority, and in conformity with Section 38791 of the Government Code, to exercise all police power vested in the city by the Constitution and general laws. (Ord. 1506 § 2, 2015)

The decision to waive the right-of-way encroachment permit fees was made for multiple reasons as follows:

1. to expedite/continue the development construction progress
2. to perform necessary research to protect City's water main from the construction activities of installing the gas service line for the Welbrook Senior Living Development and
3. to limit unnecessary public contact with City Hall staff as advised by County Health Department during the COVID-19 virus pandemic.

Therefore, waiving the right-of-way encroachment permit fees is "reasonably related to the protection of ... property as affected by such emergency." This action must be "confirmed at the earliest practicable time by the city council."

Each waiver of encroachment permit fee will be determined case by case.

ENVIRONMENTAL REVIEW:

This reduction in fees is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2)(the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3)(there is no possibility the activity in question may have a significant effect on the environment).
FINANCIAL ANALYSIS:

There is a fee of $259 for a pothole/right-of-way encroachment permit application. Last fiscal year, the total revenue from public works permits was $292,535. During the period of the Local Emergency, the city will see a slight reduction in permit revenue. However, this reduction is immeasurable when balanced against the health of our local businesses and developments.

ATTORNEY REVIEW:

Legal review is not required at this time.

PUBLIC NOTIFICATION:

The standard City Clerk’s agenda notification process was used for this item.

ALTERNATIVES:

Alternative No. 1: Approve of the COVID-19 Emergency Waiver of Pothole Permits (i.e. Right-of-Way Encroachment Permit). This is the recommended action.

Alternative No. 1: Do not approve of the COVID-19 Emergency Waiver of Pothole Permits (i.e. Right-of-Way Encroachment Permit). This is not the recommended action as it does not provide protection of City owned utilities; and delays the development activities in the City of Fountain Valley.

RECOMMENDATION:

It is recommended that the City Council approve Alternative No. 1, which is to approve of the COVID-19 Emergency Waiver of Pothole Permits (i.e. Right-of-Way Encroachment Permit).

Prepared by: Hye Jin Lee, Director of Public Works
Fiscal Review by: Teresa Gonzalez, Accounting Manager
Approved by: Rob Houston, City Manager
To: Honorable Mayor and Members of the City Council

Agenda Date: April 7, 2020

SUBJECT: COVID-19 Emergency Waiver of Banner Permit Fees

To help local business during this COVID-19 crisis, the City of Fountain Valley waived fees for banner permits on March 20, 2020. While a banner permit is still required, fees will not be charged during this emergency period. This item is being brought before Council after-the-fact to confirm that this action was an appropriate response to the ongoing emergency.

Typically, a fee imposed by City Council can only be changed by City Council. However, since the City Council declared a Local Emergency on March 17, 2020, the City Council granted the City Manager with emergency powers. These powers allow flexibility to rapidly respond to emergencies.

2.57.060 Emergency powers.

In the event of the proclamation of a local emergency as herein provided, or the proclamation of a state of emergency or a state of war emergency by the Governor or the director of the California Office of Emergency Service, the director is empowered to:

(a) Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency, provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council;

(e) Execute all of his or her ordinary power, as well as all of the special powers conferred upon him or her by this chapter, or by resolution adopted pursuant thereto, all powers conferred upon him or her by any statute, agreement approved by the city council, or by any other lawful authority, and in conformity with Section 38791 of the Government Code, to exercise all police power vested in the city by the Constitution and general laws. (Ord. 1506 § 2, 2015)

The decision to waive banner permit fees was made to help ease the financial strain on local businesses that is being caused by the COVID-19 virus. Therefore, waiving the banner permit fees is "reasonably related to the protection of ... property as effected by such emergency." This action must be "confirmed at the earliest practicable time by the city council."

ENVIRONMENTAL REVIEW:

This reduction in fees is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2)(the
activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3)(there is no possibility the activity in question may have a significant effect on the environment).

**FINANCIAL ANALYSIS:**

There is a fee of $55 for a banner permit application. Last fiscal year, the total revenue from banner permits was $3,245. During the period of the Local Emergency, the city will see a slight reduction in banner permit revenue. However, this reduction is immeasurable when balanced against the health of our local businesses.

**ATTORNEY REVIEW:**

The Attorney for the City has reviewed this report.

**PUBLIC NOTIFICATION:**

The standard City Clerk's agenda notification process was used for this item.

**ALTERNATIVES:**

1. Confirm that the waiver of banner permit fees during the period of the local emergency is reasonably related to the protection of property being impacted by the COVID-19 emergency.

2. Do not confirm that the waiver of banner permit fees during the period of the local emergency is reasonably related to the protection of property being impacted by the COVID-19 emergency and provide appropriate direction.

**Recommended Action**

Staff recommends that the City Council select Alternative No. 1: Confirm that the waiver of banner permit fees during the period of the local emergency is reasonably related to the protection of property being impacted by the COVID-19 emergency.

Prepared By: Brian James, Planning and Building Director

Fiscal Review By: Teresa Gonzalez, Accounting Manager

Approved By: Rob Houston, City Manager
CITY OF FOUNTAIN VALLEY
CITY COUNCIL
COUNCIL ACTION REQUEST

TO: Honorable Mayor and Members of the City Council

Agenda Date: April 7, 2020

SUBJECT: Public Hearing to consider two appeals of the Planning Commission decision to adopt Resolution 19-38, approving Conditional Use Permit No. 1864, filed by Khosro Habibi to modify the existing car wash operations to allow for an automated express car wash and to add 14 new self-service vacuum/detailing stations located at 10035 Ellis Avenue.

EXECUTIVE SUMMARY:

Due to the developments with the COVID-19 virus and the Governor’s March 19th directive, both appellants have requested to continue the public hearing by at least 30 days. Staff received an email (Attachment #1) from Paige Gosney, attorney for Khosro Habibi (Appellant #1), to continue the appeal by at least 30 days. Subsequently, staff received an email from the attorney of the adjacent property owner, Richard Wilbur (Appellant #2) of the Valley Garden Center, Kevin Monson, to continue the appeal (Attachment #2).

Staff recommends that the City Council continue the public hearing regarding the appeal of Conditional Use Permit No. 1864, filed by Khosro Habibi to modify the existing car wash operations to allow for an automated express car wash and to add 14 new self-service vacuum/detailing stations located at 10035 Ellis Avenue to the date specific of May 12, 2020.

PUBLIC NOTICE:

This item was published in the Fountain Valley View and public notices were posted at City Hall, Recreation Center, and Fountain Valley Library.

RECOMMENDED ACTION:

Staff recommends that the City Council continue the two appeals of Conditional Use Permit No. 1864, filed by Khosro Habibi to modify the existing car wash operations to allow for an automated express car wash and to add 14 new self-service vacuum/detailing stations located at 10035 Ellis Avenue to the City Council meeting date of May 12, 2020.

Prepared By: Matt Jenkins, Senior Planner
Approved By: Brian James, Planning and Building Director
Approved by: Robert Houston, City Manager
From: Paige H. Gosney
To: Matt Jenkins; Brian James
Subject: FW: Notice of Appeal of Planning Commission Imposition of CUP No. 11
Date: Monday, March 30, 2020 8:35:47 AM
Attachments: City Clerk - City of Fountain Valley - Appeal of CUP No. 11.PDF

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Brian / Matt:

I hope all is well and that you and your families are safe and healthy.

We received the attached Notice of Hearing for the FVAW appeal of Condition of Approval No. 11 set for April 7 in the City Council Chambers. Can you please confirm whether the City Council meeting will be in-person or if the City is planning to hold the hearing via videoconference in light of the Governor’s March 19 Order and COVID-19 restrictions?

If the appeal hearing is not planned to be held in-person before the Council, we would like to request that the hearing be continued for 30 days to (hopefully) allow time for the current restrictions to be lifted and the hearing held in the traditional fashion. As I’m sure you can imagine and would agree, moving forward with the appeal via video-conference (using ZOOM or something similar) will significantly disadvantage my client in the presentation of his appeal.

Please let me know at your earliest convenience.

Thanks.

Paige

From: Teri Gallagher
Sent: Monday, March 02, 2020 12:27 PM
To: 'Rick.Miller@FountainValley.org'
Cc: Paige H. Gosney; 'Brian.James@FountainValley.org'; 'Matt.Jenkins@FountainValley.org'; Khosro Habibi; Shahen Hairapetian, Attorney at Law
Subject: Notice of Appeal of Planning Commission Imposition of CUP No. 11

Please see the attached which was hand delivered to the City Clerk this morning. Please let us know if you have any problems opening the attachment.

Thank you,
Teri Gallagher

Paige H. Gosney
Senior Associate
Gresham Savage Nolan & Tilden, PC
1. Privileged and Confidential Communication. The information contained in this email and any attachments may be confidential or subject to the attorney client privilege or attorney work product doctrine. If you are not the intended recipient of this communication, you may not use, disclose, print, copy or disseminate the same. If you have received this in error, please notify the sender and destroy all copies of this message.

2. Notice re Tax Advice. Any tax advice contained in this email, including any attachments, is not intended or written to be used, and cannot be used, by you or any other recipient for the purpose of (a) avoiding penalties that may otherwise be imposed by the IRS, or (b) supporting, promoting, marketing, or recommending any transaction or matter to any third party.

3. Transmission of Viruses. Although this communication, and any attached documents or files, are believed to be free of any virus or other defect, it is the responsibility of the recipient to ensure that it is virus free, and the sender does not accept any responsibility for any loss or damage arising in any way from its use.

4. Security of Email. Electronic mail is sent over the public internet and may not be secure. Thus, we cannot guarantee the privacy or confidentiality of such information.
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To: Robert J. Houston, City Manager  
Cheryl Brothers, Mayor  
Colin Burns, Esq., City Attorney

Dear City Administrators:

I represent Valley Gardens Center ("VGC"), one of the parties appealing Resolution 19-39 of the Planning Commission with regard to the Fountain Valley Auto Wash. I am in receipt of a Notice of Public Hearing, setting the appeal for hearing at an April 7, 2020, meeting of the City Council.

I presume that the matter was calendared for April 7 pursuant to Section 21.60.050(c) of the Municipal Code which states that appeals are to be calendared within 45 days of the filing of the appeal. I also presume that the April 7 meeting of the City Council will be postponed or cancelled due to the ongoing Coronavirus pandemic.

The purpose of this e-mail is to confirm that the April 7 meeting of the City Council will be postponed or cancelled. The City website references a meeting of the City Council on April 7; however, no agenda is posted (even though the April 7 meeting is only seven days from now). If the City is contemplating a meeting of the City Council on April 7 in order to address the car wash appeal, VGC requests that the meeting be postponed or cancelled for several reasons, including the following:

1) The strong recommendations (if not the outright orders) of the County of Orange, State of California, and federal government demand that all public meetings be cancelled until the pandemic is under control.

2) A key participant in the VGC presentation is Dick Wilbur, founder and owner of VGC, who is 83 years of age with existing medical conditions that make him particularly susceptible to the Coronavirus. He is unable to participate in any public meeting on April 7 without facing an unreasonable risk of contracting the Coronavirus. In addition to Mr. Wilbur, there are several other participants over 65 years of age (including myself) who are directly warned not to attend any public events at this time.
3) It is anticipated that the hearing of the above-referenced appeal at a meeting of the City Council will draw an audience of over 100 people (to room capacity), including owners and residents of the Fountain Valley Chateau Blanc townhouse community (directly across Ellis from the car wash), parents of the little children who attend the Montessori school located in VGC (and who are directly affected by the proposed car wash CUP modification), residents of the housing tract immediately east of the car wash, and tenants of the VGC office building immediately north of the car wash. A crowded City Council meeting is the opposite of the public health advice and orders presented by the county, state, and federal governments. A meeting on April 7 will significantly and understandably discourage the attendance and participation of the public out of fear of the Coronavirus (and who can blame them).

4) Nothing in the Municipal Code prevents the City Council from postponing or cancelling the April 7 meeting. The 45-day calendaring is not jurisdictional, especially in light of the current calendaring of the appeal and the ongoing orders of the county, state, and federal governments. One of the possible outcomes presented in the Municipal Code, at Section 21.60.050(f)(2), is the City Council’s return of the matter to the Planning Commission for further deliberation. If the City Council can, without a final decision, return the matter to the Planning Commission for further deliberation, the City Council surely can postpone the hearing until all parties and the public can fully and safely participate.

5) As an appellant, VGC waives any objection to a postponement or cancellation of the April 7 meeting. In fact, VGC demands the postponement or cancellation of the April 7 meeting.

The car wash appeal is certainly important to the appellants; however, the appeal is not more important than the public’s health and the ability of the public to participate fully and safely in the City Council hearing.

Please confirm that the car wash appeal, currently calendared for an April 7 meeting of the City Council, is postponed or cancelled.

Regards,  Kevin Monson
EXECUTIVE SUMMARY

This matter concerns two actions regarding the COVID-19 Pandemic. The first is to review the need to continue the declaration of “local emergency.” The second is to adopt a Resolution designating the City Manager as City’s authorized representative for the purpose of requesting disaster assistance from the State and Federal governments.

DISCUSSION

The Novel Coronavirus (COVID-19) has been widely characterized at the State and National levels as a serious public health emergency. It has been recognized by CDC as a pandemic or a global outbreak of disease. Pandemics happen when a new virus emerges to infect people and can spread between people sustainably. There is little to no pre-existing immunity against the virus. The virus that causes COVID-19 is infecting people and spreading easily from person-to-person.

On January 31, 2020, the Department of Health and Human Services (HHS) declared the COVID-19 a public health emergency in the United States. As part of the emergency declaration, persons returning to the United States through select airports and considered to be at highest risk are being quarantined and monitored by public health officials. Locally, John Wayne Airport is not among this predetermined list of airports. All other returning travelers from China will face a health screening and face up to two weeks of monitored self-quarantine to ensure they pose no health risk.

Different parts of the country are seeing different levels of COVID-19 activity. The United States nationally is in the acceleration phase of the pandemic. The duration and severity of each pandemic phase can vary depending on the characteristics of the virus and the public health response.
City Council Request
April 7, 2020
Page 2

- CDC and state and local public health laboratories are testing for the virus that causes COVID-19.
- All 50 states have reported cases of COVID-19 to CDC.
- U.S. COVID-19 cases include:
  - Imported cases in travelers
  - Cases among close contacts of a known case
  - Community-acquired cases where the source of the infection is unknown.

More cases of COVID-19 are likely to be identified in the United States in the coming days, including more instances of community spread. CDC expects widespread transmission of COVID-19 in the United States and that, in the coming months, most of the U.S. population will be exposed to this virus.

Widespread transmission of COVID-19 could translate into large numbers of people needing medical care at the same time. Schools, childcare centers, and workplaces, may experience absenteeism. Mass gatherings may be sparsely attended or postponed. Public health and healthcare systems may become overloaded, with elevated rates of hospitalizations and deaths. At this time, there is no vaccine to protect against COVID-19 and no medications approved to treat it, however, companies have announced their intent to begin trials and possible treatments. At this point, however, nonpharmaceutical interventions are the most important response strategy to delay the spread of the virus and reduce its impact.

At the State level, on March 4, 2020, the California Governor declared a State of Emergency. He, thereafter, requested and received from the President, a declaration of a major disaster. Numerous orders have been issued by the Governor's office, including an order that non-essential businesses close or order personnel to work from home. All bars, restaurants (with the exception of take-out), and other businesses have been ordered to close.

The County, as well as Fountain Valley and numerous other cities, have declared local emergencies and activated their emergency operations centers. The County Health Department reports there is now epidemiological evidence of community transmission in Orange County, indicating that COVID-19 is spreading in the community. People are being urged to stay home and all residents are asked to practice good hygiene and social distancing.

On March 17, 2020, Orange County Chief Executive Officer authorized emergency regulations and County Health Officer issued a local health officer's order. The order prohibits gatherings of any number of people in the county except as specified; closes bars and other establishments that serve alcohol, and do not serve food; closes on-site dining for restaurants; and strongly recommends those 65 years of age and older and those with a serious chronic medical condition (like heart disease, lung disease, and diabetes) to remain at home. The Governor also issued a stay home order similar to Orange County's order.
As of March 29, 2020, the number of confirmed COVID-19 cases in Orange County was 431, with 7 cases in Fountain Valley.

A local emergency is defined in the California Emergency Management Act as:

"The duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake... or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat..." California Government Code Section 8558(c).

The City Council adopted a Proclamation of Local Emergency on March 17, 2020. The Proclamation authorized the undertaking of extraordinary police powers; provides limited immunity for emergency actions of public employees and governing bodies; authorizes the issuance of orders and regulations to protect life and property (e.g., curfews); and activates pre-established local emergency provisions such as special purchasing and contracting. There is some discussion that State and Federal disaster proclamations confer some of the same powers on cities as local proclamations; however, it is best for the City to adopt and maintain its own Proclamation to provide for the contingency that one or more of the powers conferred by local proclamation are not also conferred by State or Federal Proclamation.

Following the Proclamation of Local Emergency, on March 18, 2020, the City's Emergency Operations Center (EOC) was activated. The EOC is focused on containment, mitigation and recovery. The EOC regularly communicates with the County Health Department, imposed preventative measures to ensure City maintains an adequate work force through a safe working environment to prevent disruption of government services, developed a safety plan to augment normal operations, conducts regular briefings with Department Directors to ensure the City runs in a safe and coordinated manner to mitigate COVID challenges, tracks COVID related costs to submit requests for cost recovery to the State and Federal government, developed contingency plans to implement in the case of a rapid escalation of COVID cases in the County from a public health and emergency response standpoint, and ensures a coordinated message from the City to the public.

The Emergency Services Act typically requires a local agency to review its Proclamation of Local Emergency every 60 days (Gov. Code § 8630(c)); however, the 60-day review requirement was waived for the duration of the emergency by Paragraph 8 of the Governor’s March 4, 2020 Proclamation of a State of Emergency. Nonetheless, there is
a benefit to Council review of the status of the emergency and therefore this matter has been placed before the Council for review. Staff asks that the Council review and find a need for continuing the local emergency.

DESIGNATE AN AGENT

City’s requests for disaster assistance from the State and Federal governments are coordinated though the California Office of Emergency Services (Cal OES). Cal OES requires the Council formally designate an Agent, also referred to as an Authorized Representative, via Resolution. Cal OES has a form Resolution for this purpose. Staff asks the Council adopt the attached Resolution designating the City Manager as the Authorized Representative.

FINANCIAL ANALYSIS:

The estimated costs in responding to COVID-19 are unknown and will vary based on future outbreak. Staff will pursue federal and State reimbursement for costs incurred where available.

ATTORNEY REVIEW:

The Attorney for the City prepared this staff report and resolution.

ALTERNATIVES:

Alternative No. 1: Review and find a need for continuing the local emergency; and Adopt a Designation of Applicant’s Agent Resolution for Non-State Agencies

Alternative No. 2: Find that there is no need for continuing the local emergency.

Alternative No. 3: Do not approve the Designation of Applicant’s Agent Resolution for Non-State Agencies. This is not the recommended action because Cal OES is requiring this Resolution for local agencies that wish to pursue cost recovery.

RECOMMENDED ACTION:

Staff is recommending that the City Council approve Alternative No. 1: Review and find a need for continuing the local emergency; and Adopt a Designation of Applicant’s Agent Resolution for Non-State Agencies

Prepared by: Colin Burns, Attorney for the City

Reviewed by: Bryan McKay, Battalion Chief and EOC Coordinator
Fiscal review by: Teresa Gonzales, Accounting Manager

Approved by: Rob Houston, City Manager

Attachment 1: Resolution
DESIGNATION OF APPLICANT’S AGENT RESOLUTION
FOR NON-STATE AGENCIES

BE IT RESOLVED BY THE
City Council OF THE City of Fountain Valley
(Governing Body) (Name of Applicant)

THAT
City Manager
(Title of Authorized Agent) OR

______________________________
(Title of Authorized Agent) OR

______________________________
(Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the City of Fountain Valley, a public entity established under the laws of the State of California, this application and to file it with the California Governor’s Office of Emergency Services for the purpose of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

THAT the City of Fountain Valley, a public entity established under the laws of the State of California, hereby authorizes its agent(s) to provide to the Governor’s Office of Emergency Services for all matters pertaining to such state disaster assistance the assurances and agreements required.

Please check the appropriate box below:

☐ This is a universal resolution and is effective for all open and future disasters up to three (3) years following the date of approval below.

☐ This is a disaster specific resolution and is effective for only disaster number(s) __________________

Passed and approved this _______day of ________, 20___

Cheryl Brothers, Mayor
(Name and Title of Governing Body Representative)

Michael Vo, Mayor Pro Tempore
(Name and Title of Governing Body Representative)

Patrick Harper, Kim Constantine, Steve Nagel, Council Members
(Name and Title of Governing Body Representative)

CERTIFICATION

I, Rick Miller, duly appointed and City Clerk of City of Fountain Valley, do hereby certify that the above is a true and correct copy of a Resolution passed and approved by the City Council of the City of Fountain Valley on the _______day of ________, 20___.

City Clerk
(Signature) (Title)
STATE OF CALIFORNIA
GOVERNOR’S OFFICE OF EMERGENCY SERVICES
Cal OES 130 - Instructions

Cal OES Form 130 Instructions

A Designation of Applicant’s Agent Resolution for Non-State Agencies is required of all Applicants to be eligible to receive funding. A new resolution must be submitted if a previously submitted Resolution is older than three (3) years from the last date of approval, is invalid or has not been submitted.

When completing the Cal OES Form 130, Applicants should fill in the blanks on page 1. The blanks are to be filled in as follows:

Resolution Section:

Governing Body: This is the group responsible for appointing and approving the Authorized Agents. Examples include: Board of Directors, City Council, Board of Supervisors, Board of Education, etc.

Name of Applicant: The public entity established under the laws of the State of California. Examples include: School District, Office of Education, City, County or Non-profit agency that has applied for the grant, such as: City of San Diego, Sacramento County, Burbank Unified School District, Napa County Office of Education, University Southern California.

Authorized Agent: These are the individuals that are authorized by the Governing Body to engage with the Federal Emergency Management Agency and the Governor’s Office of Emergency Services regarding grants applied for by the Applicant. There are two ways of completing this section:

1. Titles Only: If the Governing Body so chooses, the titles of the Authorized Agents would be entered here, not their names. This allows the document to remain valid (for 3 years) if an Authorized Agent leaves the position and is replaced by another individual in the same title. If “Titles Only” is the chosen method, this document must be accompanied by a cover letter naming the Authorized Agents by name and title. This cover letter can be completed by any authorized person within the agency and does not require the Governing Body’s signature.

2. Names and Titles: If the Governing Body so chooses, the names and titles of the Authorized Agents would be listed. A new Cal OES Form 130 will be required if any of the Authorized Agents are replaced, leave the position listed on the document or their title changes.

Governing Body Representative: These are the names and titles of the approving Board Members. Examples include: Chairman of the Board, Director, Superintendent, etc. The names and titles cannot be one of the designated Authorized Agents, and a minimum of two or more approving board members need to be listed.

Certification Section:

Name and Title: This is the individual that was in attendance and recorded the Resolution creation and approval. Examples include: City Clerk, Secretary to the Board of Directors, County Clerk, etc. This person cannot be one of the designated Authorized Agents or Approving Board Member (if a person holds two positions such as City Manager and Secretary to the Board and the City Manager is to be listed as an Authorized Agent, then the same person holding the Secretary position would sign the document as Secretary to the Board (not City Manager) to eliminate “Self Certification.”
CITY OF FOUNTAIN VALLEY  
CITY COUNCIL  
COUNCIL ACTION REQUEST

To: Honorable Mayor and Members of the City Council

Agenda Date: April 7, 2020

SUBJECT: A Resolution of the City Council of the City of Fountain Valley approving of the Fiscal Year 2020/21 Project List for SB-1 Funds in the Estimated Amount of $1.1 Million toward the Residential Roadway Rehabilitation and Resurfacing Project, Quadrant D7, E1 and F1

EXECUTIVE SUMMARY:

On April 28, 2017, the Governor signed into law Senate Bill 1 (SB-1), the Road Repair and Accountability Act. Administered through the Roadway Maintenance and Rehabilitation Account (RMRA), it will provide for an additional $52.5 billion statewide over the next decade. The major focus of the funding is for pavement rehabilitation to improve the condition of roadways throughout the State. The major revenue generating sources for this new funding are increases in gasoline and diesel tax, an increase in vehicle registration fees that varies depending upon the value of the vehicle, and a $100 vehicle registration fee imposed on zero-emission vehicles.

To be eligible for receipt and use of the funds, agencies must adopt a resolution which identifies each year projects that will utilize SB-1 funding. In addition, there are specific and separate financial reporting requirements each year; as well as a continued Maintenance of Effort (MOE) General Fund spending to ensure that these new SB-1 revenues supplement and not supplant existing spending.

The basic eligible projects include roadway rehabilitation, safety projects, complete street components (such as bike lanes and pedestrian facilities), and traffic control devices. For agencies whose pavement condition index (PCI) is less than 80 (on a scale of 0 to 100), the eligible projects are restricted to those listed above. For agencies whose PCI is greater than 80, the eligible list of projects includes not only those listed above but can also include additional project categories such as roadway capacity improvement projects. The overall PCI for Fountain Valley is 86.1. The overall PCI for residential pavement is 88.3 while the PCI for the arterial system is 82.2. While this strong PCI provides for additional transportation investment opportunities, staff recommends that the funds generated by SB-1 continue to be focused on the City's residential and arterial highway rehabilitation and resurfacing projects. The City has a $9 million backlog on paving projects. It is estimated that the City of Fountain Valley will receive approximately $1 million per year over the 10-yr life of SB-1.
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Staff recommends that the City Council adopt a resolution approving the Fiscal Year 2020/21 Project List for SB-1 funds in the estimated amount of $1.1 Million toward the residential roadway rehabilitation and resurfacing project, Quadrant D7, E1 and F1.

DISCUSSION:

On April 28, 2017, the Governor signed into law Senate Bill 1 (SB-1), the Road Repair and Accountability Act. This act establishes the Roadway Maintenance and Rehabilitation Account (RMRA) and provides for an additional $52.5 billion statewide over the next decade to improve California’s pavement and transportation infrastructure. Funding is generated from an increase in gasoline and diesel fuel taxes, as well as an increase in vehicle registration fees and the initiation of a flat fee for electric vehicles. Below is the basic framework and timelines for implementation of these new revenue sources:

November 2017
- Gasoline excise tax – 12 cent increase (30 cents total)
- Diesel excise tax – 20 cent increase (36 cents total)
- Diesel sales tax – 4 percent increase (5.75% total)

January 2018
- New “Transportation Improvement Fee” applied to vehicle registration fee based on value ($25 to $175 per vehicle)

July 2020
- New $100 zero-emission vehicle fee applied to vehicle registration fee

Each year, the increased revenues statewide will provide funding for the following programs:

- Maintenance and Rehabilitation of State Highways - $1.5 billion
- Maintenance and Repair of State Bridges and Culverts - $400 million
- Maintenance and Rehabilitation of Local Streets and Roads - $1.5 billion
- Matching Funds for Self-Help Voter Initiative Transportation Tax Measures - $200 million
- Bicycle and Pedestrian Projects for Active Transportation Projects (ATP) - $100 million
- Freeway Service Patrol to Assist Stranded Motorists on Freeways - $25 million
- Transit Funding for Increased Service and Access - $750 million
- Trade Corridor Enhancements for Freight Improvements in Trade Corridors - $300 million
- Solutions for Congested Corridor Enhancements - $250 million
- Local Planning Grants for Transportation - $25 million
- Transportation Related Research at State Universities - $7 million
- Workforce Training Programs - $5 million
Funding projections, which will vary due to changes in fuel consumption rates as well as average cost of vehicles, are only available for the next two years. For FY 2017/18, which was only a partial year, Fountain Valley's allocation from RMRA was $332,290. These funds were allocated by the City Council on September 19, 2017 toward the rehabilitation and resurfacing of Euclid Street, from Slater Avenue to Warner Avenue. For FY 2018/19 and for FY 2019/20, the actual and estimated allocations from RMRA were approximately $1 million each year which were allocated by the City Council on June 19, 2018 and on June 25, 2019 towards residential paving projects respectively.

Funds can be used for projects that include road maintenance and rehabilitation, safety projects, complete street components (such as bike lanes and pedestrian facilities), and traffic control devices. For agencies whose pavement condition index (PCI) is less than 80, the focus of the funding is to be on improving pavement condition and eligible projects are limited to the above listed categories. For agencies whose pavement condition index (PCI) is greater than 80, there are more eligible expenditure categories available that can include additional projects such as roadway capacity improvements.

Pavement Condition Index (PCI) is a metric that is common to all agencies throughout the State and is used to provide a measure of the condition of the pavement of each roadway and cumulatively for each agency. It is based upon a scale of 0-100 with 100 representing a brand new or recently rehabilitated street.

To receive funds, agencies must meet the eligible project expenditures commensurate with their PCI, as well as some additional financial commitment and reporting requirements, including:

- Transparency – The City will be required to submit a list of projects annually to the California Transportation Commission (CTC) via the City’s Capital Improvement Program (CIP).

- Complete Streets – To the extent beneficial, cost effective, practicable, and where feasible, projects should incorporate complete street elements that improve the quality of bicycle and pedestrian facilities and that improve safety for all users of transportation facilities.

- Maintenance of Effort (MOE) – The City cannot use this funding to supplant historical funding from its General Fund and must maintain the average General Fund expenditures for transportation related projects.

**Potential Uses**

The City's Pavement Management Program (PMP) identifies the investment necessary to maintain or improve the City's PCI, which is currently 86.1 overall. While this is a relatively strong PCI, approximately 25% of the City's pavement network is in a condition
labeled as fair, poor or very poor. These conditions will only deteriorate over time. There is currently a backlog of approximately $9 million.

Residential Pavement Network - Due to the City's investment in its residential pavement network over the last eight years, the PCI for the residential network has improved to 88.3. There are still a few quadrants that have not yet received the additional new asphalt cap to restore the structural integrity of those streets. Due to the past economic challenges in the City from the 2007 recession, the residential program has fallen behind schedule. Because of that delay, continued deterioration of the remaining residential roadways has led to increased repair costs and, thus, higher overall costs to complete these efforts. The additional funds made possible by SB-1 are proposed to be utilized in the residential roadway program for this next fiscal year after which the funds are proposed to be directed toward the arterial pavement network which is also experiencing pavement decline. After these quadrants are completed, this will likely lead to a slight increase in the overall PCI of the residential network; however, continued investment in those areas that were completed nearly a decade ago will be required in order to preserve the investment made.

Arterial Pavement Network – The City has traditionally made a strong investment in its arterial highway pavement network. It is because of this investment that the City is continually recognized as having among the best pavement condition in the County. The current PCI of the arterial network is 82.2. This has been slowly declining over the past few years as the funding available is not keeping pace with the rising costs of arterial rehabilitation. Previously, the City was able to benefit from an influx of Federal funds about every six to seven years. This provided a boost to the arterial paving condition. In the recent past, the City was able to take advantage of a Federal grant opportunity that provided for the funding of Harbor Boulevard and Edinger Avenue, from Brookhurst to Euclid. Without additional funding, the City's Local Fair Share funds from Measure M are not adequate to keep pace with the arterial pavement network needs. There are several arterial sections of pavement that are showing advanced signs of distress as they have reached the end of the useful life of their previous pavement treatment. Upon conclusion of the additional funding proposed to be dedicated to the residential paving program over this next fiscal year to complete that work and play catch up on scheduling, the additional funding that is made available through SB-1 is proposed to be dedicated to improve the City's arterial pavement PCI.

**FINANCIAL ANALYSIS:**

Funding projections, which will vary due to changes in fuel consumption rates as well as average cost of vehicles, are only available for three fiscal years. For FY 2017/18, which was only a partial year, the allocation from RMRA was $332,290. For FY 2018/19 and FY 2019/20, the allocation from RMRA was approximately $1,043,810 and $1,043,705 respectively. For FY 2020/21, the allocation from RMRA is estimated to be approximately $1,069,977.
In Fiscal Year 2018-19 $320,000 was allocated to the Euclid Street Rehabilitation and Resurfacing project and $945,134 to the Residential Roadway Rehabilitation and Resurfacing project.

For FY 2019/20, approximate $1 million was allocated towards the residential roadway rehabilitation and resurfacing project of the local streets in City Quadrant H3, J1 & J2 bound by Newhope Street, Harbor Boulevard, Edinger Avenue and those bound Harbor Boulevard, the Santa Ana River, Edinger Avenue and the Northern City Limit.

With the approximate $1 million allocation for FY 2020/21, it is proposed that these funds be allocated toward the residential roadway rehabilitation and resurfacing project of the local streets in City Quadrant D7, E1 and F1 bound by Bushard Street, Ellis Avenue, Brookhurst Street, Garfield Avenue, and those bound by Edinger Avenue, Ward Street and Euclid Street.

There are still a few quadrants that have not yet received the additional new asphalt cap to restore the structural integrity of those streets. Due to previous economic challenges in the City, the residential program fell behind schedule. Because of that delay, continued deterioration of the remaining residential roadways has led to increased repair costs and, thus, higher overall costs to complete these efforts.
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It should be noted that the City cannot use this funding to supplant historical funding from its “General Fund” and must maintain the average expenditures for transportation related projects.

ATTORNEY REVIEW:

The Attorney for the City has reviewed and approved the resolution.

ALTERNATIVES:

Alternative No. 1: Adopt a resolution approving the Fiscal Year 2020/21 Project List for SB-1 funds in the estimated amount of $1.1 million toward the residential roadway rehabilitation and resurfacing project, Quadrant D7, E1 and F1. This is the recommended action.

Alternative No. 2: Adopt a resolution approving the Fiscal Year 2020/21 Project List for SB-1 funds in the estimated amount of $1.1 million toward a different project type. This is not recommended. Applying these funds to projects within the other eligible categories does not address the ongoing pavement rehabilitation needs going forward. It is important to continue the City’s long-term commitment to funding roadway maintenance to ensure that the City maintains its high quality roadway infrastructure consistent with the City’s Pavement Management Plan.

RECOMMENDATION:

Staff recommends that City Council approve Alternative No. 1, which is to adopt a resolution approving the Fiscal Year 2020/21 Project List for SB-1 funds in the estimated amount of $1.1 million toward the residential roadway rehabilitation and resurfacing project, Quadrant D7, E1 and F1.

Prepared by: Fatana Temory, Management Aide
Reviewed by: Temo Galvez, Deputy Director of Public Works/City Engineer
Approved by: Hye Jin Lee, Director of Public Works
Fiscal Review by: Teresa Gonzalez, Accounting Manager
Approved by: Rob Houston, City Manager

Attachment: Resolution
RESOLUTION NO._______

RESOLUTION ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2020-21 FUNDED BY SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of City of Fountain Valley are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City of Fountain Valley must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City of Fountain Valley, will receive an estimated $1,069,977 in RMRA funding in Fiscal Year 2020-21 from SB 1; and

WHEREAS, this is the fourth year in which the City of Fountain Valley is receiving SB 1 funding and will enable the City of Fountain Valley to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City of Fountain Valley has undergone a robust public process to ensure public input into our community's transportation priorities/the project list; and

WHEREAS, the City of Fountain Valley used a Pavement Management System to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the communities priorities for transportation investment; and

WHEREAS, the funding from SB 1 will help the City of Fountain Valley maintain and rehabilitate City Quadrants D7, E1 and F1 throughout the City of Fountain Valley this year and similar projects into the future; and

WHEREAS, the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City of Fountain Valley's streets and roads are in good condition and this revenue will help us increase the overall quality of our road system and over the next decade will bring our streets and roads into an excellent condition; and
WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide. SB 1 funds provide the much-needed resources to maintain valuable roadway infrastructure that contributes to the quality of life for the City of Fountain Valley.

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND by the City Council of the City of Fountain Valley, State of California, as follows:

1. The foregoing recitals are true and correct.

2. The following list of newly proposed projects will be funded in-part or solely with Fiscal Year 2020-21 Road Maintenance and Rehabilitation Account revenues:

   **Project Title:** Residential Roadway Rehabilitation Project
   **Project Description:** Residential Roadway Rehabilitation Project in City Quadrants D7, E1 & F1. The project consists of placing a 2 ½” thick asphalt cap that is necessary to maintain a smooth riding surface after years of weathering and continual use; replacing damaged sidewalk and curb & gutter; installing ADA curb ramps; and removing / replacing parkway trees at warranted locations.
   **Project Location:** City Quadrants D7, E1, and F1 are bound by Bushard Street, Ellis Avenue, Brookhurst Street, Garfield Avenue, and those bound by Edinger Avenue, Ward Street and Euclid Street.
   **Estimated Project Schedule:** July 2020 – August 2020
   **Estimated Project Useful Life:** 10-15 years

   PASSED AND ADOPTED by the City Council of the City of Fountain Valley, State of California this 7th day of April, 2020, by the following vote:

   ATTEST:

   ___________________________________________  ___________________________________________
   City Clerk  Mayor

   APPROVED AS TO FORM:

   ___________________________________________
   Attorney for the City
CITY OF FOUNTAIN VALLEY
CITY COUNCIL
COUNCIL ACTION REQUEST

To: Honorable Mayor and Members of the City Council

Agenda Date: April 7, 2020

SUBJECT: Mid-Year General Fund Budget Review for Fiscal Year 2019/20

EXECUTIVE SUMMARY:

It is customary to conduct a Mid-Year Budget Review of all estimated revenues and expenditures at the end of the first six months of the fiscal year. This report provides the City Council with a Mid-Year Budget Review of Fiscal Year 2019/20 as we face an uncertain economic future. The impacts of the COVID-19 pandemic on our revenue will be immediate. The projections presented represent what was tracking to be a year of growth through January 2020 severely impacted by our current events. It should be noted that the fiscally conservative steps the City Council has made over the last several years to ensure reserves are replenished has positioned Fountain Valley with the ability to manage through this period. The attached report also outlines that Fiscal Year 2019/20 will see our forecasted operating revenues fall short of budget by $1.2 million.

DISCUSSION:

Fiscal Year 2019/20 General Fund Operating Budget Overview

The amended budget for the General Fund for Fiscal Year 2019/20 reflects a balanced operating budget where budgeted operating revenues exceed operating expenditures by approximately $9.6 million. In 2019/20, the City is required to pay CalPERS approximately $8.5 million, which includes $3.4 million for the "normal cost" related to the accrual of benefits earned this year and $5.1 million towards the City's $89 million unfunded pension liability. The budgeted operating balance of $9.6 million is used to fund an additional payment to CalPERS of $4 million and a $3 million contribution to the City's 115 Pension Trust (PARS) as identified in the City's 20 Year General Fund Financial Plan. The remaining operating budget balance of just over $1.6 million will be set-aside for reserves.

<table>
<thead>
<tr>
<th></th>
<th>Amended Budget</th>
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</thead>
<tbody>
<tr>
<td>Operating Revenues</td>
<td>$62,252,622</td>
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<tr>
<td>Operating Expenditures</td>
<td>(52,148,656)</td>
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<td>Fire Apparatus Charge (Internal Svc)</td>
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<td><strong>Net Operating Revenues</strong></td>
<td><strong>9,624,966</strong></td>
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<tr>
<td><strong>Over Expenditures</strong></td>
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<tr>
<td>Less:</td>
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<tr>
<td>Additional CalPERS Payment</td>
<td>(4,000,000)</td>
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<tr>
<td>Increase in Reserves Set-Aside for:</td>
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<tr>
<td>Pension Trust Reserves (PARS)</td>
<td>(3,000,000)</td>
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<tr>
<td>Emergency Reserves</td>
<td>(1,000,000)</td>
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</table>
Net Operating Activity* 1,624,966

* Excluding Capital Project Expenditures & Carryovers

Based on the mid-year forecast, General Fund operating results will see our budgeted excess of just over $1.6 million turn into a deficit of $1.3 million. This change is primarily due to the impact of the COVID-19 pandemic on our operating revenues.

### Projected Versus Budgeted Amounts

<table>
<thead>
<tr>
<th>Description</th>
<th>Amended Budget</th>
<th>Projected</th>
<th>Budget Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Projected Operating Revenues</td>
<td>$60,941,112</td>
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</tr>
<tr>
<td>Projected Operating Expenditures</td>
<td>(52,645,888)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Projected Net Operating Revenues</td>
<td>8,295,224</td>
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<tr>
<td>Over Expenditures</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Less Budgeted Net Operating Revenues</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Over Expenditures</td>
<td>(9,624,966)</td>
<td></td>
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<tr>
<td>Projected Net Operating Activity</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Over Budgeted Amounts</td>
<td>($1,329,742)</td>
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</table>

### Fiscal Year 2019/20 General Fund Operating Revenues

As outlined below, the mid-year forecast for General Fund operating revenues for Fiscal Year 2019/20 is approximately $60.9 million, which is $1.2 lower than the amended budget.

<table>
<thead>
<tr>
<th>Operating Revenue</th>
<th>Amended Budget</th>
<th>Projected</th>
<th>Budget Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Revenue:</td>
<td></td>
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</tr>
<tr>
<td>Property Tax</td>
<td>$ 20,508,000</td>
<td>$ 20,510,000</td>
<td>$ 2,000</td>
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<tr>
<td>Franchise Fees</td>
<td>2,014,000</td>
<td>1,919,000</td>
<td>(95,000)</td>
</tr>
<tr>
<td>Bradley-Burns Sales Tax</td>
<td>12,448,000</td>
<td>12,064,511</td>
<td>(383,489)</td>
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<tr>
<td>Public Safety Sales Tax</td>
<td>434,000</td>
<td>417,000</td>
<td>(17,000)</td>
</tr>
<tr>
<td>Measure HH</td>
<td>12,297,000</td>
<td>11,985,488</td>
<td>(311,512)</td>
</tr>
<tr>
<td>Transient Occupancy Tax</td>
<td>1,433,000</td>
<td>1,083,000</td>
<td>(350,000)</td>
</tr>
<tr>
<td>Use of Money &amp; Property</td>
<td>1,797,000</td>
<td>1,801,800</td>
<td>4,800</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>3,420,780</td>
<td>3,534,188</td>
<td>113,408</td>
</tr>
<tr>
<td>Transfers &amp; Contributions</td>
<td>2,400,748</td>
<td>2,354,196</td>
<td>(46,552)</td>
</tr>
<tr>
<td>Total General Revenue</td>
<td>56,752,528</td>
<td>55,669,183</td>
<td>(1,083,345)</td>
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<tr>
<td><strong>Functional Revenue</strong></td>
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<td></td>
<td></td>
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<tr>
<td>Business License</td>
<td>425,500</td>
<td>352,020</td>
<td>(73,480)</td>
</tr>
<tr>
<td>Planning &amp; Building</td>
<td>1,206,525</td>
<td>1,200,886</td>
<td>(5,639)</td>
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<tr>
<td>Police</td>
<td>576,500</td>
<td>510,500</td>
<td>(66,000)</td>
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<tr>
<td>Engineering</td>
<td>272,500</td>
<td>580,620</td>
<td>308,120</td>
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<tr>
<td>Field Services</td>
<td>137,400</td>
<td>167,854</td>
<td>30,454</td>
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<tr>
<td>Fire</td>
<td>1,468,500</td>
<td>1,614,565</td>
<td>146,065</td>
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<tr>
<td>Community Services</td>
<td>1,328,802</td>
<td>845,484</td>
<td>(483,318)</td>
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<tr>
<td>Total Functional Revenue</td>
<td>5,415,727</td>
<td>5,271,929</td>
<td>(143,798)</td>
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<tr>
<td><strong>Total Operating Revenue</strong></td>
<td>$62,168,255</td>
<td>$60,941,112</td>
<td>$ (1,227,143)</td>
</tr>
</tbody>
</table>
Material variances from the amended budget are as follows:

- **Sales & Use Tax (including Measure HH Transaction Tax)** is expected to be one of the City’s hardest hit revenue categories by our current economic environment. Actual results of a positive 1.6% growth through December of 2019 are projected to be met with negative results of up to -3.6% & -14.6% for the quarter’s ended March & June respectively. This will result in the Sales & Use Tax category falling $700,000 below the amended budget.

- **Transient Occupancy Tax** revenues are projected to see a sharp decline beginning with the onset of the pandemic in March of 2020. The City’s hotels are experiencing low occupancy levels as the Federal & County Shelter in Place recommendations are followed. It is projected that the revenues for Transient Occupancy Tax will fall $350,000 below the amended budget.

- **Fire Department Functional Revenue** is projected to be approximately $146,000 higher than what was budgeted, which primarily relates to anticipated mutual aid reimbursement from the California Governor’s Office of Emergency Services (Cal OES), which is largely offset with Fire overtime expense.

- **Public Works – Engineering Functional Revenue** is expected to exceed budgeted revenues by $308,000. The increase in projected revenue from Development Engineering can be attributed to collecting fees from several large projects such as the Orange County Sanitation District Head Quarters Building and the Moiola Park Residences Community, as well as a significant increase in Accessory Dwelling Units (ADUs) construction.

- **Community Services – Functional Revenues** have completely stopped as of March 2020. Athletic programs, field & building rentals, and drop-in visits to the Recreation Center and Founders Village are in a holding pattern as we continue to receive guidance at the various levels of government regarding any potential reopening dates. It is projected that the Community Services functional revenues will fall nearly $500,000 shy of the amended budget.

**Fiscal Year 2019/20 General Fund Operating Expenditures**

As outlined below, the mid-year forecast for General Fund operating expenditures for Fiscal Year 2019/20 is approximately $52.6 million, which is approximately $18,000 over the amended...
Operating Expenditures (1)

<table>
<thead>
<tr>
<th>Operating Expenditures</th>
<th>Amended Budget</th>
<th>Projected</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>$ 1,493,777</td>
<td>$ 1,456,294</td>
<td>$ 37,483</td>
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<td>Finance</td>
<td>1,337,999</td>
<td>1,310,751</td>
<td>27,248</td>
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<td>Fire (2)</td>
<td>11,171,054</td>
<td>11,513,426</td>
<td>342,372</td>
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<td>Human Resources</td>
<td>828,787</td>
<td>741,690</td>
<td>87,097</td>
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<td>Planning &amp; Building</td>
<td>1,431,808</td>
<td>1,474,708</td>
<td>42,900</td>
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<td>Police</td>
<td>16,332,145</td>
<td>16,051,003</td>
<td>281,142</td>
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<td>Public Works</td>
<td>7,114,664</td>
<td>6,859,598</td>
<td>255,066</td>
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<tr>
<td>Recreation &amp; Community Services</td>
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<td>2,643,153</td>
<td>179,004</td>
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<td>Debt Service</td>
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<tr>
<td>Non-Departmental</td>
<td>870,000</td>
<td>1,370,000</td>
<td>500,000</td>
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<tr>
<td>Transfers</td>
<td>8,127,792</td>
<td>8,127,792</td>
<td>0</td>
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<tr>
<td><strong>Total Operating Expenditures</strong></td>
<td><strong>$ 52,627,656</strong></td>
<td><strong>$ 52,645,888</strong></td>
<td><strong>(18,232)</strong></td>
</tr>
</tbody>
</table>

1Operating amounts exclude capital project expenditures & carryovers
2Budget variances are offset with corresponding program revenue

Material variances from the amended budget are as follows:

- **Planning Department** California Senate Bill (SB) 743 requires lead agencies under the California Environmental Quality Act (CEQA) to identify new methodologies for transportation analyses that will "reduce vehicle miles traveled [VMT] and contribute to the reductions in greenhouse gas emissions required in the California Global Warming Solutions Act of 2006." The significance of traffic impacts under CEQA will change from measuring impacts to drivers, to measuring the impact of driving. The change is being made by replacing the traditional Level of Service (LOS) measurement with VMT. The anticipated cost of this study is $49,000.

- **Fire Department** expenditures are projected to be approximately $342,000 higher than what was budgeted. However, projected expenditures include $136,000 of overtime expense attributable to mutual aid response that is reimbursable from Cal OES. The balance of the overage is mostly attributable to additional overtime paid due to vacancies & injuries. Increase budget for Fire Plan Check reviews due to increased activity. The increased cost is offset by corresponding revenues.

- **Salary Savings – Non-Departmental** expenses were adopted during the 19-20 Budget process to include an anticipated vacancy savings of $500,000. During the mid-year review the savings were removed from the Non-Departmental category and placed into the appropriate department that associated savings was recognized. The salary savings is primarily attributable to vacancies in the Police Department ($273,000), Public Works Field Services Division ($147,000), Planning ($122,000) and Human Resources ($104,000).

**Impact of Operating Shortfall**

Based on the mid-year forecast, General Fund operating results are projected to be approximately $1.3 million below the amended budget. The impact of this shortfall to our reserves are as follows:
Policy Mandated:

Adjustment to General Fund Capital Reserves  ($1,329,742)

In accordance with the City’s Fund Balance Reserve Policy, amounts not otherwise restricted or committed are assigned to General Fund Capital Reserves. The City has significant capital improvement expenditures that can be funded on a pay-go basis without the issuance of debt. Specific projects will continue to be identified by staff and may be presented to the City Council during the budget process or throughout the year as capital needs arise. General Fund Capital Reserves, with the adjustment of just over of just under $1.3 million, is projected to end the year with a balance of $13.2 million.

Total Change to Reserves  ($1,329,742)

Mid-Year Budget Amendments

The following General Fund mid-year budget amendments are recommended:

<table>
<thead>
<tr>
<th>General Fund Revenue Amendments</th>
<th>Inc/(Dec)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decrease Bradley-Burns Sales Tax Revenue</td>
<td>(384,000)</td>
</tr>
<tr>
<td>Decrease Measure HH Revenue</td>
<td>(311,000)</td>
</tr>
<tr>
<td>Decrease Transient Occupancy Tax</td>
<td>(350,000)</td>
</tr>
<tr>
<td>Decrease Business License Revenue</td>
<td>(73,000)</td>
</tr>
<tr>
<td>Decrease Community Services Revenue</td>
<td>(480,000)</td>
</tr>
<tr>
<td>Increase Fire Department Functional Revenue attributable to mutual aid reimbursements from Cal OES ($199k) &amp; Fire Plan Check Permit Revenue ($20k)</td>
<td>219,000</td>
</tr>
<tr>
<td>Increase Engineering Program Revenues</td>
<td>308,000</td>
</tr>
<tr>
<td>Total General Fund Revenue Amendments</td>
<td>(1,071,000)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>General Fund Expenditure Amendments</th>
<th>Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increase the Fire Department’s expenditure budget to cover the aforementioned budget variance related to overtime expense that is offset with mutual aid reimbursement revenue / Increase budgeted Fire Prevention expenditures for increased level of Fire Plan Check reviews to be offset by revenues</td>
<td>342,000</td>
</tr>
<tr>
<td>Increase the professional services for Planning – SB 743 (VMT)</td>
<td>49,000</td>
</tr>
<tr>
<td>Total General Fund Expenditure Amendments</td>
<td>391,000</td>
</tr>
</tbody>
</table>

20-Year Financial Plan

The City’s fiscal policy is guided by a 20-Year Financial Plan, which is a comprehensive plan that encompasses the long-term operating and capital needs of the General Fund. The long-term goal is to achieve fiscal sustainability with a balanced operating budget when Measure HH sunsets in 2037. $27 million of additional payments are projected to be made to CalPERS over the next twenty years, which is in addition to the amounts required annually by CalPERS. In addition, the City plans to continue to make additional contributions to the City’s Pension Trust, which is designed to mitigate against CalPERS investment risk. In 2037/38 the City’s pension liability is
expected to be paid off along with all other long-term debt. This 20-Year Financial Plan is utilized and integrated into the City’s annual budget process. The attached 20-Year Financial Plan was updated in October 2019 will be updated again during the 2020/21 budget process.

**Fiscal Year 2020/21 Budget Calendar**

The City is currently in the process of developing the 2020/21 budget and is also updating the City’s 20-Year Financial Plan. A special City Council budget workshop is scheduled for May 12th with the plan to present the formal budget to the City Council for adoption on June 2, 2020.

**ALTERNATIVES:**

**Alternative No.1:**

1) Receive and File the Mid-Year General Fund Budget Review for Fiscal Year 2019/20;

2) Approve the budget amendments to Fiscal Year 2019/20 as recommended in this report; and,

3) Approve the recommended adjustment to reserves as presented in this report.

**Alternative No. 2:**

Do not approve alternative no. 1 and provide staff with direction for evaluating other alternatives to the proposed recommendations.

**RECOMMENDATION:**

Staff recommends Alternative No. 1.

Prepared by: David Faraone, Budget Analyst

Approved by: Rob Houston, City Manager

Attachment 1: 20-Year Financial Plan (October Update)
<table>
<thead>
<tr>
<th>General Fund</th>
<th>20 Year Summary</th>
<th>TWENTY YEAR REVENUE, EXPENSE &amp; FUND BALANCE PROJECTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Pension Liability</td>
<td>68,200,182</td>
<td>69,709,181</td>
</tr>
<tr>
<td>Net OPER Liability</td>
<td>34,855,813</td>
<td>35,452,602</td>
</tr>
<tr>
<td>Total OPER Liability</td>
<td>(15,513,489)</td>
<td>(17,603,372)</td>
</tr>
<tr>
<td>Less OPER Trust (T15) Assets</td>
<td>23,542,374</td>
<td>23,512,218</td>
</tr>
<tr>
<td>2016 Pension Obligation Bonds</td>
<td>14,915,000</td>
<td>14,865,000</td>
</tr>
<tr>
<td>2016 Lease Revenue Bonds</td>
<td>11,115,000</td>
<td>10,940,000</td>
</tr>
<tr>
<td>2017 Clean Renewable Energy Bonds (CREBs)</td>
<td>2,017,812</td>
<td>2,005,477</td>
</tr>
</tbody>
</table>

* Excluding claims payables, compensated absences and Water Utility Bonds.

2 The net CalPERS Pension Liability is estimated at approximately $8.8 million based on the 2019-20 Actuarial Reports that were issued by CalPERS in August 2019, which is calculated using a 7.5% discount rate. In 2015, CalPERS lowered the discount rate from 7.5% to 7%, which has been phased in over a 5-year period.

3 If CalPERS were on average 6.5% to 7.5% over the long-term, the pension liability is estimated to be between $191 million and $315 million. The pension liability is also affected by a number of other factors such as mortality, inflation, etc.

4 The goal is to have sufficient funds available in the City's Pension Trust to cover additional contributions required by CalPERS. The Pension Trust is used to mitigate against CalPERS investment return volatility through diversification when assets are managed in a customized investment strategy that balances risk and return. The Pension Trust is also designed to mitigate against pension contribution volatility since Pension Trust assets can be used to offset unanticipated increases in CalPERS rates.

5 The total liability for other Post-Employment Benefits (OPEB) is estimated to be approximately $343 million (excluding OPEB Trust assets) based on the June 24, 2016 Actuarial Valuation Report, which is calculated using a discount rate of 4.4%. The OPEB liability relates to the retiree health insurance whereby the City contributes to the cost of health insurance for qualified retirees, spouses, and qualified dependents, which varies by targeting group and retiree date. The goal is to have sufficient funds available in the City's OPEB Trust to cover future OPEB benefit payments associated with the "cost subsidy."